UNITED STATES OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS
FIRST SESSION

## VOLUME 151—PART 3

FEBRUARY 28, 2005 TO MARCH 10, 2005
(PAGES 2899 TO 4422)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 2005

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

United States
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

## SENATE—*Monday, February 28, 2005*

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray. Eternal Spirit, who is the same yesterday, today, and forever, we are transient creatures who long for a sense of permanence. Give us that permanence as we find in You our fixed and abiding center of faith. We praise You because You are changeless, without any variableness in Your judgment and mercy.

Strengthen our lawmakers for the challenges of our time. Keep them in the shadow of Your wings and teach them to show mercy. Use Your powerful arm to rescue our Nation from the hands of all enemies of freedom. Guide each of us on life's journey. Lord, hasten the day when people everywhere will seek and find You. Let the tranquility of Your dominion increase until the Earth is filled with the knowledge of Your love. We pray in Your glorious Name. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, I welcome everyone back from the President's Day recess. I suspect the weather outside today makes our distinguished President pro tempore homesick for his home, Alaska.

As we communicated over the last week, today, in just a few minutes, we will begin debate on the bankruptcy bill, S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The chairman and ranking member are here to begin the opening remarks. Other Members will want to speak, I am sure, this afternoon.

Our agreement provides for debate only today. Therefore, as previously announced, we will have no rollcall votes today. We do have several speakers. I don't expect a lengthy session today. I ask my colleagues to come to the Chamber to make opening statements and keep the afternoon full. I want people to make sure they have that opportunity to speak today, but do not expect a lengthy session because of the weather.

We expect to begin the amendment process on the bill tomorrow. I encourage Members to notify their respective cloakrooms if they intend to offer amendments to this bill. I had the opportunity to talk to the Democratic leader over the recess, as well, and we both agreed we would encourage our caucuses to bring those amendments forward to the ranking member and the chairman so they can be addressed in an efficient and effective way. I expect we will make progress on amendments during tomorrow's session, although it is unlikely we will vote before the policy luncheons. I ask the chairman to consider having a vote shortly after the 2:15 reconvening tomorrow if at all possible.

I understand we are just beginning today, but I encourage the amendment process to begin in the morning. Hopefully, we can debate amendments in the morning.

I thank everyone for their assistance on this snowy Monday and look forward to a very constructive legislative period over the next several weeks. I will say more on the bankruptcy bill tomorrow morning.

Let me say how pleased I am we are moving forward in considering this bill that many people have looked at for longer than 7 years. Over the last 7 years we have passed this bill, or a bill very similar to it, repeatedly, again and again, both in the House and in the Senate.

The reason we have been able to pass the bill is that both sides of the aisle recognize the current system is calling for reform. Personal bankruptcies are skyrocketing and wealthy debtors are walking away from debts they can repay. This abuse is hurting everyone, not just the creditor they owe, but it hurts all who ultimately pay higher fees in prices to cover the loss.

With that, I yield the floor as we begin debate on S. 256, the Bankruptcy Abuse and Prevention Consumer Protection Act of 2005.

### BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 256, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments.

(Strike the part shown in black brackets and insert the parts shown in italic.)

S. 256

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.

Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation agreement practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study and report on reaffirmation agreement process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of personally identifiable information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of name of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Reduction of homestead exemption for fraud.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Limitations on homestead exemption.
Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 325. United States trustee program filing fee increase.
Sec. 326. Sharing of compensation.
Sec. 327. Fair valuation of collateral.
Sec. 328. Defaults based on nonmonetary obligations.
Sec. 329. Clarification of postpetition wages and benefits.
Sec. 330. Delay of discharge during pendency of certain proceedings.
*Sec. 331. Limitation on retention bonuses, severance pay, and certain other payments.*

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditor representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professional persons.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.
Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Sec. 447. Appointment of committee of retired employees.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the FDIC and NCUAB with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy law amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219 Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Bankruptcy Judgeships.
Sec. 1224. Compensating trustees.
Sec. 1225. Amendment to section 362 of title 11, United States Code.
Sec. 1226. Judicial education.
Sec. 1227. Reclamation.
Sec. 1228. Providing requested tax documents to the court.
Sec. 1229. Encouraging creditworthiness.
Sec. 1230. Property no longer subject to redemption.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Direct appeals of bankruptcy matters to courts of appeals.
Sec. 1234. Involuntary cases.
Sec. 1235. Federal election law fines and penalties as nondischargeable debt.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates".
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
Sec. 1309. Clarification of clear and conspicuous.

TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

Sec. 1401. Employee wage and benefit priorities.
Sec. 1402. Fraudulent transfers and obligations.
Sec. 1403. Payment of insurance benefits to retired employees.
*Sec. 1404. Debts nondischargeable if incurred in violation of securities fraud laws.*
*Sec. 1405. Appointment of trustee in cases of suspected fraud.*
Sec. [1404.] *1406.* Effective date; application of amendments.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1501. Effective date: application of amendments.
Sec. 1502. Technical corrections.

## TITLE I—NEEDS-BASED BANKRUPTCY

### SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting "or consents to" after "requests".

### SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**"§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13"**;

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking "but not at the request or suggestion of" and inserting "trustee (or bankruptcy administrator, if any), or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title," after "consumer debts"; and

(III) by striking "a substantial abuse" and inserting "an abuse"; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

"(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

"(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

"(II) $10,000.

"(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a [dependent.] *dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor.* Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

"(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

"(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

"(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

“(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

“(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

“(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

“(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

“(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

“(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

“(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

“(I) documentation for such expense or adjustment to income; and

“(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

“(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

“(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

“(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

“(II) $10,000.

“(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

“(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—

“(A) whether the debtor filed the petition in bad faith; or

“(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

“(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

“(i) a trustee files a motion for dismissal or conversion under this subsection; and

“(ii) the court—

“(I) grants such motion; and

“(II) finds that the action of the attorney for the debtor in filing a case under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

“(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

“(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

“(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

“(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

“(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

“(ii) determined that the petition, pleading, or written motion—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

“(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

“(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

“(i) the court does not grant the motion; and

“(ii) the court finds that—

“(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

“(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

“(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

“(C) For purposes of this paragraph—

“(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association, or organization that—

“(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

“(II) is engaged in commercial or business activity; and

“(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

“(I) a parent corporation; and

“(II) any other subsidiary corporation of the parent corporation.

“(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

“(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

“(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

“(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

“(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

“(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

“(ii) the debtor files a statement under penalty of perjury—

“(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

“(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.”.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

“(10A) ‘current monthly income’—

“(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

"(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

"(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

"(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;".

(c) United States Trustee and Bankruptcy Administrator Duties.—Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The trustee shall—"; and

(2) by adding at the end the following:

"(b)(1) With respect to a debtor who is an individual in a case under this chapter—

"(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

"(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

"(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

"(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.".

(d) Notice.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.".

(e) Nonlimitation of Information.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) Dismissal for Certain Crimes.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".

(g) Confirmation of Plan.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

"(7) the action of the debtor in filing the petition was in good faith;".

(h) Applicability of Means Test to Chapter 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "to unsecured creditors" after "to make payments"; and

(2) by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

"(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.".

(i) Special Allowance for Health Insurance.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

"(A) such expenses are reasonable and necessary;

"(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

"(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.".

(j) Adjustment of Dollar Amounts.—Section 104(b) of title 11, United States Code, is amended by striking "and 523(a)(2)(C)" each place it appears and inserting "523(a)(2)(C), 707(b), and 1325(b)(3)".

(k) Definition of 'Median Family Income'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

"(39A) 'median family income' means for any year—

"(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

"(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;".

(k) Clerical Amendment.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a
case under chapter 11 or 13.".

### SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

### SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.".

### SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

### SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

"(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

"(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.".

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

### "§111. Nonprofit budget and credit counseling agencies; financial management instructional courses

"(a) The clerk shall maintain a publicly available list of—

"(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

"(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

"(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

"(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

"(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

"(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

"(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

"(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

"(A) have a board of directors the majority of which—

"(i) are not employed by such agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

"(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

"(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

"(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

"(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

"(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

"(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Nonprofit budget and credit counseling agencies; financial management instructional courses.".

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".

### SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

## TITLE II—ENHANCED CONSUMER PROTECTION

## Subtitle A—Penalties for Abusive Creditor Practices

### SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

"(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

"(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

"(B) the offer of the debtor under subparagraph (A)—

"(i) was made at least 60 days before the date of the filing of the petition; and

"(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

"(C) no part of the debt under the alternative repayment schedule is nondischargeable.

"(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

"(A) the creditor unreasonably refused to consider the debtor's proposal; and

"(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).".

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

"(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.".

**SEC. 202. EFFECT OF DISCHARGE.**

Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

"(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

"(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

"(2) such act is in the ordinary course of business between the creditor and the debtor; and

"(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.".

**SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.**

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

"(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;"; and

(2) by adding at the end the following:

"(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

"(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

"(3) The disclosure statement required under this paragraph shall consist of the following:

"(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';

"(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';

"(C) The 'Amount Reaffirmed', using that term, which shall be—

"(i) the total amount of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

"(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

"(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

"(i) 'The amount of debt you have agreed to reaffirm'; and

"(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.

"(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

"(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II); or

"(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

"(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

"(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

"(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

"(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

"(i) by making the statement: 'Your first payment in the amount of $ is due on ______ but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

"(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or

"(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

"(I) The following statement: 'Note: When this disclosure refers to what a creditor "may" do, it does not use the word "may" to give the creditor specific permission. The word "may" is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.'.

"(J)(i) The following additional statements:

"'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

"'1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

"'2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

"'3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

"'4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.

"'5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

"'7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

"'Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

"'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

"'6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

"(4) The form of such agreement required under this paragraph shall consist of the following:

"'Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

"'Brief description of credit agreement:

"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"'Signature: Date:

"'Borrower:

"'Co-borrower, if also reaffirming these debts:

"'Accepted by creditor:

"'Date of creditor acceptance:'.

"(5) The declaration shall consist of the following:

"(A) The following certification:

"'Part C: Certification by Debtor's Attorney (If Any).

"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"'Signature of Debtor's Attorney: Date:'.

"(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

"(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

"'1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $ , and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $ , leaving $ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

"'Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:

"'I am not represented by an attorney in connection with this reaffirmation agreement.

"'I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

"(8) The court order, which may be used to approve such agreement, shall consist of the following:

"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

"(l) Notwithstanding any other provision of this title the following shall apply:

"(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

"(2) A creditor may accept payments from a debtor under such agreement that the creditor believes in good faith to be effective.

"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

"(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of such agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.

"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.”.

(b) Law Enforcement.—

(1) In General.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

**“§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules**

“(a) In General.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

“(b) United States Attorneys and Agents of the Federal Bureau of Investigation.—The individuals referred to in subsection (a) are—

“(1) the United States attorney for each judicial district of the United States; and

“(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

“(c) Bankruptcy Investigations.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

“(d) Bankruptcy Procedures.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.”.

(2) Clerical Amendment.—The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

“158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.”.

### SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

“(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2004), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.”.

### SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) Study.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) Report to the Congress.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

## Subtitle B—Priority Child Support

### SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

“(14A) ‘domestic support obligation’ means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

“(A) owed to or recoverable by—

“(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

“(ii) a governmental unit;

“(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

“(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

“(i) a separation agreement, divorce decree, or property settlement agreement;

“(ii) an order of a court of record; or

“(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

“(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;”.

### SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking “First” and inserting “Second”;

(4) in paragraph (3), as so redesignated, by striking “Second” and inserting “Third”;

(5) in paragraph (4), as so redesignated—

(A) by striking “Third” and inserting “Fourth”; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking “Fourth” and inserting “Fifth”;

(7) in paragraph (6), as so redesignated, by striking “Fifth” and inserting “Sixth”;

(8) in paragraph (7), as so redesignated, by striking “Sixth” and inserting “Seventh”; and

(9) by inserting before paragraph (2), as so redesignated, the following:

“(1) First:

“(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

“(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

“(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.”.

### SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

“(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.”;

(2) in section 1208(c)—

(A) in paragraph (8), by striking “or” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.”;

(3) in section 1222(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(4) in section 1222(b)—

(A) in paragraph (10), by striking "and" at the end;

(B) by redesignating paragraph (11) as paragraph (12); and

(C) by inserting after paragraph (10) the following:

"(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(5) in section 1225(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.";

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan";

(7) in section 1307(c)—

(A) in paragraph (9), by striking "or" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.";

(8) in section 1322(a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.";

(9) in section 1322(b)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

"(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and";

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

"(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and";

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting ", and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid" after "completion by the debtor of all payments under the plan".

### SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) under subsection (a)—

"(A) of the commencement or continuation of a civil action or proceeding—

"(i) for the establishment of paternity;

"(ii) for the establishment or modification of an order for domestic support obligations;

"(iii) concerning child custody or visitation;

"(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

"(v) regarding domestic violence;

"(B) of the collection of a domestic support obligation from property that is not property of the estate;

"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

"(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

"(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

"(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

"(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;".

### SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;"; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)"; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";

(B) by inserting "or" after "court of record,"; and

(C) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon.

### SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and

(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

### SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".

### SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date of the filing of the petition" after "dependent of the debtor".

### SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and"; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

"(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and "(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2) or (4) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

### SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

"(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

"(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

"(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

"(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;".

## Subtitle C—Other Consumer Protections

### SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking "or an employee of an attorney" and inserting "for the debtor or an employee of such attorney

under the direct supervision of such attorney";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person, or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as so redesignated—

(i) by striking "Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as so redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

"(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as so redesignated, by striking "or the United States trustee" and inserting "the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any)."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

"(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

### SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

### SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

### SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(iv) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";

(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";

(F) by striking "Such property is—"; and

(G) by adding at the end the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;".

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

"(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.".

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

"(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.".

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting "522(n)," after "522(d),".

### SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "or" at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

"(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

"(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

"(B) only to the extent that such funds—

"(i) are not pledged or promised to any entity in connection with any extension of credit; and

"(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

"(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

"(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

"(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

"(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

"(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;"; and

(2) by adding at the end the following:

“(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.”.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

“(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).”.

### SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

“(3) ‘assisted person’ means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;”;

(2) by inserting after paragraph (4) the following:

“(4A) ‘bankruptcy assistance’ means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;”; and

(3) by inserting after paragraph (12) the following:

“(12A) ‘debt relief agency’ means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

“(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

“(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

“(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

“(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

“(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.”.

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting “101(3),” after “sections” each place it appears.

### SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**“§ 526. Restrictions on debt relief agencies**

“(a) A debt relief agency shall not—

“(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

“(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

“(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

“(A) the services that such agency will provide to such person; or

“(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

“(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

“(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

“(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

“(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

“(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

“(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

“(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

“(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

“(A) may bring an action to enjoin such violation;

“(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

“(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

“(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

“(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

“(A) enjoin the violation of such section; or

“(B) impose an appropriate civil penalty against such person.

“(d) No provision of this section, section 527, or section 528 shall—

“(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

“(2) be deemed to limit or curtail the authority or ability—

“(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

“(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

“526. Restrictions on debt relief agencies.”.

### SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

**“§ 527. Disclosures**

“(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

“(1) the written notice required under section 342(b)(1); and

“(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

“(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

“(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

“(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

### SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

### "§ 528. Requirements for debt relief agencies

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

"528. Requirements for debt relief agencies.".

### SEC. 230. GAO STUDY.

(a) Study.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) Report.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

### SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) Limitation.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

", except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

"(A) such sale or such lease is consistent with such policy; or

"(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

"(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

"(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information' means—

"(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

"(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

"(ii) the geographical address of a physical place of residence of such individual;

"(iii) an electronic address (including an e-mail address) of such individual;

"(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

"(v) a social security account number issued to such individual; or

"(vi) the account number of a credit card issued to such individual; or

"(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

"(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;".

### SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

**"§ 332. Consumer privacy ombudsman**

"(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

"(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

"(1) the debtor's privacy policy;

"(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

"(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

"(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

"(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.".

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "a consumer privacy ombudsman appointed under section 332," before "an examiner".

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"332. Consumer privacy ombudsman.".

### SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

**"§ 112. Prohibition on disclosure of name of minor children**

"The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

"112. Prohibition on disclosure of name of minor children.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting "and subject to section 112" after "section".

## TITLE III —DISCOURAGING BANKRUPTCY ABUSE

### SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court";

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

### SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.".

### SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

"(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;".

### SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

### SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subsection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

"(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

"(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

"(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion."; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking "consumer";

(B) in subsection (a)(2)(B)—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a)"; and

(ii) by striking "forty-five day" and inserting "30-day";

(C) in subsection (a)(2)(C) by inserting ", except as provided in section 362(h)" before the semicolon; and

(D) by adding at the end the following:

"(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

### SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(I) the holder of such claim retain the lien securing such claim until the earlier of—

"(aa) the payment of the underlying debt determined under nonbankruptcy law; or

"(bb) discharge under section 1328; and

"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.".

(c) Definitions.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;"; and

(2) by inserting after paragraph (27), the following:

"(27A) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real property is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

### SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking "180 days" and inserting "730 days"; and

(B) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place"; and

(2) by adding at the end the following:

"If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).".

### SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsections (o) and (p)," before "any property"; and

(2) by adding at the end the following:

"(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(3) a burial plot for the debtor or a dependent of the debtor; or

"(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.".

### SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) Stopping Abusive Conversions From Chapter 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

(b) Giving Debtors the Ability To Keep Leased Personal Property by Assumption.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

"(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

"(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) Adequate Protection of Lessors and Purchase Money Secured Creditors.—

(1) Confirmation of plan.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) Payments.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee;

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

"(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

### SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and “(ii) for purposes of this subparagraph—

“(I) the terms ‘consumer’, ‘credit’, and ‘open end credit plan’ have the same meanings as in section 103 of the Truth in Lending Act; and

“(II) the term ‘luxury goods or services’ does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.”.

### SEC. 311. AUTOMATIC STAY.

(a) In General.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

“(22) subject to subsection (l), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

“(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

“(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;”.

(b) Limitations.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

“(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

“(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

“(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

“(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

“(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

“(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

“(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

“(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

“(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

“(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

“(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

“(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

“(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

“(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

“(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

“(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

“(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

“(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

“(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

“(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

“(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

“(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

“(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

“(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

“(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

“(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

“(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.”.

### SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking “six” and inserting “8”; and

(2) in section 1328, by inserting after subsection (e) the following:

“(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

“(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

“(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.”.

### SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) Definition.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

“(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term ‘household goods’ means—

“(i) clothing;

“(ii) furniture;

“(iii) appliances;

“(iv) 1 radio;

“(v) 1 television;

“(vi) 1 VCR;

“(vii) linens;

“(viii) china;

“(ix) crockery;

“(x) kitchenware;

“(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

“(xii) medical equipment and supplies;

“(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

“(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and "(xv) 1 personal computer and related equipment.

"(B) The term 'household goods' does not include—

"(i) works of art (unless by or of the debtor, or any relative of the debtor);

"(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

"(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

"(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

"(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.".

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

### SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);".

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) provided for under section 1322(b)(5);

"(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

"(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

"(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.".

### SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking ", but the failure of such notice to contain such information shall not invalidate the legal effect of such notice"; and

(C) by adding at the end the following:

"(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

"(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number."; and

(2) by adding at the end the following:

"(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

"(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

"(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

"(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(3) A notice filed under paragraph (1) may be withdrawn by such entity.

"(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

"(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

"(1) file—

"(A) a list of creditors; and

"(B) unless the court orders otherwise—

"(i) a schedule of assets and liabilities;

"(ii) a schedule of current income and current expenditures;

"(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

"(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

"(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

"(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

"(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

"(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;"; and

(2) by adding at the end the following:

"(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

"(2)(A) The debtor shall provide—

"(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

"(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

"(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

"(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

"(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

"(A) at a reasonable cost; and

"(B) not later than 5 days after such request is filed.

"(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

"(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

"(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

"(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

"(4) in a case under chapter 13—

"(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

"(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

"(g)(1) A statement referred to in subsection (f)(4) shall disclose—

"(A) the amount and sources of the income of the debtor;

"(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

"(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

"(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

"(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

"(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

"(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.".

(c)(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

(3) Not later than 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

### SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

"(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

"(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

"(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

"(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.".

### SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.".

### SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

"(4) For purposes of this subsection, the 'applicable commitment period'—

"(A) subject to subparagraph (B), shall be—

"(i) 3 years; or

"(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4; and

"(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."; and

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)".

### SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

### SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) such 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

### SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

**"§ 1115. Property of the estate**

"(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"1115. Property of the estate.".

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

"(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.".

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section".

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge a debtor who is an individual"; and

(2) by adding at the end the following:

"(5) In a case in which the debtor is an individual—

"(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

"(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

"(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

"(ii) modification of the plan under section 1127 is not practicable; and".

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

"(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

"(2) extend or reduce the time period for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

"(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).

"(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.".

### SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

"(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(C) a burial plot for the debtor or a dependent of the debtor; or

"(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

"(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

"(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

"(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

"(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

"(B) the debtor owes a debt arising from—

"(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

"(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

"(iii) any civil remedy under section 1964 of title 18; or

"(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

"(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.".

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting "522(p), 522(q)," after "522(n),".

### SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

"(7) any amount—

"(A) withheld by an employer from the wages of employees for payment as contributions—

"(i) to—

"(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

"(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

"(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

"(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

"(B) received by an employer from employees for payment as contributions—

"(i) to—

"(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

"(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

"(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

"(ii) to a health insurance plan regulated by State law whether or not subject to such title;".

### SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) In General.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking "Notwithstanding" and inserting "Except as provided in subsection (e)(2), and notwithstanding"; and

(2) by striking subsection (e) and inserting the following:

"(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

"(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

"(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.".

(b) Applicability.—This section shall only apply to cases filed after the date of enactment of this Act.

### SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) Actions Under Chapter 7 or 13 of Title 11, United States Code.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) For a case commenced—

"(A) under chapter 7 of title 11, $160; or

"(B) under chapter 13 of title 11, $150.".

(b) United States Trustee System Fund.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;";

(2) in paragraph (2), by striking "one-half" and inserting "three-fourths"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b)" and all that follows through "28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

### SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.".

### SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.".

### SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executory Contracts and Unexpired Leases.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: "other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;"; and

(B) in paragraph (2)(D), by striking "penalty rate or provision" and inserting "penalty rate or penalty provision";

(2) in subsection (c)—

(A) in paragraph (2), by inserting "or" at the end;

(B) in paragraph (3), by striking "; or" at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking "; except that" and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "or of a kind that section 365(b)(2) expressly does not require to be cured" before the semicolon at the end;

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

### SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

"(A) the actual, necessary costs and expenses of preserving the estate including—

"(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

"(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;".

### SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) Chapter 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking "or" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (11) the following:

"(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

"(A) section 522(q)(1) may be applicable to the debtor; and

"(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(b) Chapter 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

"(i) section 522(q)(1) may be applicable to the debtor; and

"(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking "As" and inserting "Subject to subsection (d), as",

(2) in subsection (b) by striking "At" and inserting "Subject to subsection (d), at", and

(3) by adding at the end the following:

"(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

"(1) section 522(q)(1) may be applicable to the debtor; and

"(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).".

### *SEC. 331. LIMITATION ON RETENTION BONUSES, SEVERANCE PAY, AND CERTAIN OTHER PAYMENTS.*

*Section 503 of title 11, United States Code, is amended by adding at the end the following:*

*"(c) Notwithstanding subsection (b), there shall neither be allowed, nor paid—*

*"(1) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—*

*"(A) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;*

*"(B) the services provided by the person are essential to the survival of the business; and*

*"(C) either—*

*"(i) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or*

*"(ii) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;*

*"(2) a severance payment to an insider of the debtor, unless—*

*"(A) the payment is part of a program that is generally applicable to all full-time employees; and*

*"(B) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or*

*"(3) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.".*

## TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

## Subtitle A—General Business Bankruptcy Provisions

### SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

"(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;".

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

"(25) under subsection (a), of—

"(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

"(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

"(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;".

### SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.".

### SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking "10" each place it appears and inserting "30".

### SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

"(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

"(i) the date that is 120 days after the date of the order for relief; or

"(ii) the date of the entry of an order confirming a plan.

"(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

"(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.".

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

### SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

### SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103-394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting "and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods" after "consent of a creditor"; and

(3) by adding at the end the following:

"(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, or any successor to such section 7–209.".

### SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.".

### SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

### SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

### SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a debt (excluding a consumer debt) against a noninsider of less than $10,000," after "$5,000". *Section 1409(b) of title 28, United States Code, is further amended by striking "$5,000" and inserting "$15,000".*

### SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

### SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

### SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any otherwise applicable nonbankruptcy law, or any other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

### SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

### SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

### SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).".

### SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of the filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.".

### SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

### SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

## Subtitle B—Small Business Bankruptcy Provisions

### SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

### SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(51D)," after "101(3)," each place it appears.

### SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

### SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

**"§ 308. Debtor reporting requirements**

"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(b) A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4)(A) whether the debtor is—

"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

### SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

### SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

**"§ 1116. Duties of trustee or debtor in possession in small business cases**

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

"1116. Duties of trustee or debtor in possession in small business cases.".

### SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

### SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).".

### SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

### SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

### SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

### SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

"(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

"(i) for which there exists a reasonable justification for the act or omission; and

"(ii) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

"(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.".

(b) Additional Grounds for Appointment of Trustee.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

### SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

### SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) the debtor has commenced monthly payments that—

"(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

"(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

### SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from an entity other than the debtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);".

### SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) In General.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding after paragraph (6) the following:

"(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.".

(b) Duties of Trustees.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking "and" at the end; and

(2) by adding at the end the following:

"(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and".

(c) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

"(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;".

### SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking "appoint" and inserting "order the appointment of", and

(2) by adding at the end the following: "The United States trustee shall appoint any such committee.".

## TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

### SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) Technical Amendment Relating to Municipalities.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) Conforming Amendment.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

### SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 561, 562," after "557,".

## TITLE VI—BANKRUPTCY DATA

### SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) In General.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

**"§ 159. Bankruptcy statistics**

"(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than July 1, 2008, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by debtors;

"(B) the current monthly income, average income, and average expenses of debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

"(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

"(E) for cases closed during the reporting period—

"(i) the number of cases in which a reaffirmation agreement was filed; and

"(ii)(I) the total number of reaffirmation agreements filed;

"(II) of those cases in which a reaffirmation agreement was filed, the number of cases in which the debtor was not represented by an attorney; and

"(III) of those cases in which a reaffirmation agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders entered determining the value of property securing a claim;

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

**"§ 589b. Bankruptcy data**

"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

"(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

"(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

### SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

“(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

“(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.”.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting “or an auditor serving under section 586(f) of title 28” after “serving in the case”.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) the debtor has failed to explain satisfactorily—

“(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

“(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

### SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

## TITLE VII—BANKRUPTCY TAX PROVISIONS

### SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting “(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “under this title”;

(2) in subsection (b)(2), by inserting “(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)” after “507(a)(1)”; and

(3) by adding at the end the following:

“(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

“(1) exhaust the unencumbered assets of the estate; and

“(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.

“(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

“(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).”.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.”.

### SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

“(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.”.

### SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting “at the address and in the manner designated in paragraph (1)” after “determination of such tax”;

(2) by striking “(1) upon payment” and inserting “(A) upon payment”;

(3) by striking “(A) such governmental unit” and inserting “(i) such governmental unit”;

(4) by striking “(B) such governmental unit” and inserting “(ii) such governmental unit”;

(5) by striking “(2) upon payment” and inserting “(B) upon payment”;

(6) by striking “(3) upon payment” and inserting “(C) upon payment”;

(7) by striking “(b)” and inserting “(2)”; and

(8) by inserting before paragraph (2), as so designated, the following:

“(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

“(i) designate an address for service of requests under this subsection; and

“(ii) describe where further information concerning additional requirements for filing such requests may be found.

“(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.”.

### SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**“§ 511. Rate of interest on tax claims**

“(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

“(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

“511. Rate of interest on tax claims.”.

### SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting “for a taxable year ending on or before the date of the filing of the petition” after “gross receipts”;

(B) in clause (i), by striking “for a taxable year ending on or before the date of the filing of the petition”; and

(C) by striking clause (ii) and inserting the following:

“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

“(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

“(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days.”; and

(2) by adding at the end the following:

“An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.”.

### SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking “assessed” and inserting “incurred”.

### SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking “paragraph” and inserting “section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),”.

### SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:

“(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

“(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

“(B) for a tax or customs duty with respect to which the debtor—

“(i) made a fraudulent return; or

“(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.”.

### SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking “the debtor” and inserting “a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title”.

### SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking “deferred cash payments,” and all that follows through the end of the subparagraph, and inserting “regular installment payments in cash—

“(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

“(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

“(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and”; and

(3) by adding at the end the following:

“(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).”.

### SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: “, except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law”.

### SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Any”; and

(2) by adding at the end the following:

“(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

“(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

“(2) payment of the tax is excused under a specific provision of title 11.

“(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

“(1) the tax was not incurred by a trustee duly appointed or elected under chapter 7 of title 11; or

“(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.”.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting “whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,” before “except”.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by adding “and” at the end; and

(3) by adding at the end the following:

“(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;”.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting “or State statute” after “agreement”; and

(2) in subsection (c), by inserting “, including the payment of all ad valorem property taxes with respect to the property” before the period at the end.

### SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking “before the date on which the trustee commences distribution under this section;” and inserting the following: “on or before the earlier of—

“(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

“(B) the date on which the trustee commences final distribution under this section;”.

### SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting “or equivalent report or notice,” after “a return,”;

(B) in clause (i), by inserting “or given” after “filed”; and

(C) in clause (ii)—

(i) by inserting “or given” after “filed”; and

(ii) by inserting “, report, or notice” after “return”; and

(2) by adding at the end the following:

“For purposes of this subsection, the term ‘return’ means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.”.

### SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting “the estate,” after “misrepresentation,”.

### SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

“(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.”.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

**“§ 1308. Filing of prepetition tax returns**

“(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

“(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

“(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

“(B) for any return that is not past due as of the date of the filing of the petition, the later of—

“(i) the date that is 120 days after the date of that meeting; or

“(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

“(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

“(A) a period of not more than 30 days for returns described in paragraph (1); and

“(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

“(c) For purposes of this section, the term ‘return’ includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.”.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

“1308. Filing of prepetition tax returns.”.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

### SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records,"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

### SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);".

### SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—Section 346 of title 11, United States Code, is amended to read as follows:

**"§ 346. Special provisions related to the treatment of State and local taxes**

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

"(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

"(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

"(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of the order for relief under this title to the extent that—

"(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

"(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

"(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

"(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

"(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

"(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

"346. Special provisions related to the treatment of State and local taxes.".

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

### SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

"(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

"(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.".

## TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

### SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

## "CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

"Sec.

"1501. Purpose and scope of application.

"SUBCHAPTER I—GENERAL PROVISIONS

"1502. Definitions.

"1503. International obligations of the United States.

"1504. Commencement of ancillary case.

"1505. Authorization to act in a foreign country.

"1506. Public policy exception.

"1507. Additional assistance.

"1508. Interpretation.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"1509. Right of direct access.

"1510. Limited jurisdiction.

"1511. Commencement of case under section 301 or 303.

"1512. Participation of a foreign representative in a case under this title.

"1513. Access of foreign creditors to a case under this title.

"1514. Notification to foreign creditors concerning a case under this title.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"1515. Application for recognition.

"1516. Presumptions concerning recognition.

"1517. Order granting recognition.

"1518. Subsequent information.

"1519. Relief that may be granted upon filing petition for recognition.

"1520. Effects of recognition of a foreign main proceeding.

"1521. Relief that may be granted upon recognition.

"1522. Protection of creditors and other interested persons.

"1523. Actions to avoid acts detrimental to creditors.

"1524. Intervention by a foreign representative.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.

"1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

"1527. Forms of cooperation.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"1528. Commencement of a case under this title after recognition of a foreign main proceeding.

"1529. Coordination of a case under this title and a foreign proceeding.

"1530. Coordination of more than 1 foreign proceeding.

"1531. Presumption of insolvency based on recognition of a foreign main proceeding.

"1532. Rule of payment in concurrent proceedings.

### "§ 1501. Purpose and scope of application

"(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

"(1) cooperation between—

"(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

"(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

"(2) greater legal certainty for trade and investment;

"(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

"(4) protection and maximization of the value of the debtor's assets; and

"(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

"(b) This chapter applies where—

"(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

"(2) assistance is sought in a foreign country in connection with a case under this title;

"(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

"(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

"(c) This chapter does not apply to—

"(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

"(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

"(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

"(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

"SUBCHAPTER I—GENERAL PROVISIONS

### "§ 1502. Definitions

"For the purposes of this chapter, the term—

"(1) 'debtor' means an entity that is the subject of a foreign proceeding;

"(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

"(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

"(4) 'foreign main proceeding' means a foreign proceeding pending in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

"(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

"(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

### "§ 1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

### "§ 1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

### "§ 1505. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

### "§ 1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

### "§ 1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

“(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

“(1) just treatment of all holders of claims against or interests in the debtor's property;

“(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

“(3) prevention of preferential or fraudulent dispositions of property of the debtor;

“(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

“(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

### “§ 1508. Interpretation

“In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

## “SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

### “§ 1509. Right of direct access

“(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

“(b) If the court grants recognition under section 1517, and subject to any limitations that the court may impose consistent with the policy of this chapter—

“(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

“(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

“(3) a court in the United States shall grant comity or cooperation to the foreign representative.

“(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

“(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

“(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

“(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

### “§ 1510. Limited jurisdiction

“The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

### “§ 1511. Commencement of case under section 301 or 303

“(a) Upon recognition, a foreign representative may commence—

“(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

### “§ 1512. Participation of a foreign representative in a case under this title

“Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

### “§ 1513. Access of foreign creditors to a case under this title

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

### “§ 1514. Notification to foreign creditors concerning a case under this title

“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

“(2) indicate whether secured creditors need to file proofs of claim; and

“(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

## “SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

### “§ 1515. Application for recognition

“(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

“(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

### “§ 1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

“(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

### “§ 1517. Order granting recognition

“(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

“(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

“(2) the foreign representative applying for recognition is a person or body; and

“(3) the petition meets the requirements of section 1515.

“(b) Such foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

**“§ 1518. Subsequent information**

“From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

**“§ 1519. Relief that may be granted upon filing petition for recognition**

“(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor's assets;

“(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

**“§ 1520. Effects of recognition of a foreign main proceeding**

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

“(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

“(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

“(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

“(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

“(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

**“§ 1521. Relief that may be granted upon recognition**

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

“(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

“(6) extending relief granted under section 1519(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

**“§ 1522. Protection of creditors and other interested persons**

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

“(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

**“§ 1523. Actions to avoid acts detrimental to creditors**

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

“(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

**“§ 1524. Intervention by a foreign representative**

“Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

**“§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives**

“(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

“(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

**“§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives**

“(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

“(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

**“§ 1527. Forms of cooperation**

“Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

### "SUBCHAPTER V—CONCURRENT PROCEEDINGS

### "§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

### "§ 1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

"(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

### "§ 1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

### "§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

### "§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

**"15. Ancillary and Other Cross-Border Cases ........................................... 1501".**

### SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(k) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

### "§ 1410. Venue of cases ancillary to foreign proceedings

"A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

"(1) in which the debtor has its principal place of business or principal assets in the United States;

"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

"(3)(A) a foreign insurance company, engaged in such business in the United States; or

"(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.";

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking ", 304," each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

"(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

"(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension."; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

## TITLE IX—FINANCIAL CONTRACT PROVISIONS

### SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Board determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit,. eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement: a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement: a total return, credit spread or credit swap, option, future, or forward agreement: a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap,future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (12)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Board".

### SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking "other than paragraph (12) of this subsection, subsection (b)(9)" and inserting "other than subsections (b)(9) and (c)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

### SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

"(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

"(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A credit union organized by the Board, for which a conservator is appointed either—

"(I) immediately upon the organization of the credit union; or

"(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.".

### SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the credit union in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

### SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

### "SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

### SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or equity swap, option, future, or forward agreement;

"(V) a debt index or debt swap, option, future, or forward agreement;

"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, weather derivative, or weather option;

"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(iv) any margin loan;

"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(vi) any combination of the agreements or transactions referred to in this subparagraph;

"(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

"(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

"(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) Limitation.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant"; and

(2) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) Fraudulent Transfers of Master Netting Agreements.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) Termination or Acceleration of Securities Contracts.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract"**;

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) Termination or Acceleration of Commodities or Forward Contracts.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) Termination or Acceleration of Repurchase Agreements.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) Liquidation, Termination, or Acceleration of Swap Agreements.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement"**;

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) Liquidation, Termination, Acceleration, or Offset Under a Master Netting Agreement and Across Contracts.—

(1) In general.—Title 11, United States Code, is amended by inserting after section 560 the following:

**"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15**

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) Commodity Broker Liquidations.—Title 11, United States Code, is amended by inserting after section 766 the following:

**"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) Stockbroker Liquidations.—Title 11, United States Code, is amended by inserting after section 752 the following:

**"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) Setoff.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".

(o) Securities Contracts, Commodity Contracts, and Forward Contracts.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";

(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(7) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";

(8) in section 556, by inserting ", financial participant," after "commodity broker";

(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and

(10) in section 560, by inserting "or financial participant" after "swap participant".

(p) Conforming Amendments.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

### SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).".

### SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

### SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

**"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements**

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

### SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

## TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

### SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and as in effect on June 30, 2005, is hereby reenacted.

(2) EFFECTIVE DATE OF REENACTMENT.—Paragraph (1) shall take effect on July 1, 2005.

(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act.

(c) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

### SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(18)," after "101(3)," each place it appears.

### SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

### SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

### SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

### SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d) A plan may not be modified under this section—

"(1) to increase the amount of any payment due before the plan as modified becomes the plan;

"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".

### SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' means—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(2) in section 1203, by inserting "or commercial fishing operation" after "farm"; and

(3) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

**"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .............. 1201".**

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

## TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

### SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

"(27A) 'health care business'—

"(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

"(i) the diagnosis or treatment of injury, deformity, or disease; and

"(ii) surgical, drug treatment, psychiatric, or obstetric care; and

"(B) includes—

"(i) any—

"(I) general or specialized hospital;

"(II) ancillary ambulatory, emergency, or surgical treatment facility;

"(III) hospice;

"(IV) home health agency; and

"(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

"(ii) any long-term care facility, including any—

"(I) skilled nursing facility;

"(II) intermediate care facility;

"(III) assisted living facility;

"(IV) home for the aged;

"(V) domiciliary care facility; and

"(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;".

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

"(40A) 'patient' means any individual who obtains or receives services from a health care business;

"(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;".

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

### SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

### "§ 351. Disposal of patient records

"If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

"(1) The trustee shall—

"(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

"(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

"(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

"(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

"(A) if the records are written, shredding or burning the records; or

"(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"351. Disposal of patient records.".

### SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

"(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

"(A) in disposing of patient records in accordance with section 351; or

"(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and".

### SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

**"§ 333. Appointment of patient care ombudsman**

"(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

"(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

"(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

"(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

"(b) An ombudsman appointed under subsection (a) shall—

"(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

"(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

"(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

"(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

"(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

"333. Appointment of ombudsman.".

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting "an ombudsman appointed under section 333, or" before "a professional person"; and

(2) in subparagraph (A), by inserting "ombudsman," before "professional person".

### SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

"(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

"(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking "and (11)" and inserting "(11), and (12)".

### SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).".

## TITLE XII—TECHNICAL AMENDMENTS

### SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by striking "In this title—" and inserting "In this title the following definitions shall apply:";

(2) in each paragraph (other than paragraph (54A)), by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A), (38), and (54A), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) in paragraph (54A)—

(A) by striking "the term" and inserting "The term"; and

(B) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

### SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

### SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

### SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

### SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking "attorney's" and inserting "attorneys'".

### SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

### SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

### SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

### SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103-394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

### SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

### SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

### SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

### SEC. 1213. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) Applicability.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

### SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

### SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

### SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b),".

### SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

### SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

### SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

### SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

### SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) Sale of Property of Estate.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) Confirmation of Plan of Reorganization.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

"(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) Transfer of Property.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) Applicability.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) Rule of Construction.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

### SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

### SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) Short Title.—This section may be cited as the "Bankruptcy Judgeship Act of 2005".

(b) Temporary Judgeships.—

(1) Appointments.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) Vacancies.—

(A) Districts with single appointments.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) Central district of California.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the court of appeals of the United States for the circuit in which such district is located."; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking "2" and inserting "3"; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . 1".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

### SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;".

### SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

### SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

"(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

### SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

### SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

### SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

"(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price: and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b); or".

### SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)": and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

### SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

### SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

"(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

"(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

"(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

"(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

"(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

"(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

"(C) The parties may supplement the certification with a short statement of the basis for the certification.

"(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

"(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.".

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

### SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting "as to liability or amount" after "bona fide dispute"; and

(B) striking "if such claims" and inserting "if such noncontingent, undisputed claims"; and

(2) in subsection (h)(1), by inserting "as to liability or amount" before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.

### SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

"(14B) incurred to pay fines or penalties imposed under Federal election law;".

## TITLE XIII—CONSUMER CREDIT DISCLOSURE

### SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: __________.' (the blank space to be filled in by the creditor).

"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: .' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: .' (the blank space to be filled in by the creditor).".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also

include recommendations for legislative initiatives, if any, of the Board, based on its findings.

**SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.**

(a) Open End Credit Extensions.—

(1) Credit applications.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "consultation of tax adviser.—A statement that the" and inserting the following: "tax deductibility.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) Credit advertisements.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) In general.—If any"; and

(B) by adding at the end the following:

"(2) Credit in excess of fair market value.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) Non-Open End Credit Extensions.—

(1) Credit applications.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) Credit advertisements.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) Regulatory Implementation.—

(1) In general.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) Effective date.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

**SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".**

(a) Introductory Rate Disclosures.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) Additional notice concerning 'introductory rates'.—

"(A) In general.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) Exception.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) Conditions for introductory rates.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) Definitions.—In this paragraph—

"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) Relation to other disclosure requirements.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".

(b) Regulatory Implementation.—

(1) In general.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) Effective date.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

**SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.**

(a) Internet-Based Solicitations.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) Internet-based solicitations.—

"(A) In general.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) Form of disclosure.—The disclosures required by subparagraph (A) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) Definitions.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

### SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

### SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

### SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

## TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

### SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4) by striking "90" and inserting "180", and

(2) in paragraphs (4) and (5) by striking "$4,000" and inserting "$10,000".

### SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking "one year" and inserting "2 years",

(2) in subsection (a)—

(A) by inserting "(including any transfer to or for the benefit of an insider under an employment contract)" after "transfer" the 1st place it appears, and

(B) by inserting "(including any obligation to or for the benefit of an insider under an employment contract)" after "obligation" the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking "or" at the end,

(B) in subclause (III) by striking the period at the end and inserting "; or", and

(C) by adding at the end the following:

"(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.".

### SEC. 1403. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

"(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

"(1) modified retiree benefits; and

"(2) was insolvent on the date such benefits were modified;

the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.".

### [SEC. 1404. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.]

### *SEC. 1404. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.*

*(a) PREPETITION AND POSTPETITION EFFECT.—Section 523(a)(19)(B) of title 11, United States Code, is amended by inserting ", before, on, or after the date on which the petition was filed," after "results".*

*(b) EFFECTIVE DATE UPON ENACTMENT OF SARBANES-OXLEY ACT.—The amendment made by subsection (a) is effective beginning July 30, 2002.*

### *SEC. 1405. APPOINTMENT OF TRUSTEE IN CASES OF SUSPECTED FRAUD.*

*Section 1104 of title 11, United States Code, is amended by adding at the end the following:*

*"(e) The United States trustee shall move for the appointment of a trustee under subsection*

*(a) if there are reasonable grounds to suspect that current members of the governing body of the debtor, the debtor's chief executive or chief financial officer, or members of the governing body who selected the debtor's chief executive or chief financial officer, participated in actual fraud, dishonesty, or criminal conduct in the management of the debtor or the debtor's public financial reporting.''.*

### *SEC. 1406. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.*

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 1402(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

## TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

### SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

### SEC. 1502. TECHNICAL CORRECTIONS.

(a) CONFORMING AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.—Title 11 of the United States Code, as amended by the preceding provisions of this Act, is amended—

(1) in section 507—

(A) in subsection (a)—

(i) in paragraph (5)(B)(ii) by striking "paragraph (3)" and inserting "paragraph (4)"; and

(ii) in paragraph (8)(D) by striking "paragraph (3)" and inserting "paragraph (4)";

(B) in subsection (b) by striking "subsection (a)(1)" and inserting "subsection (a)(2)"; and

(C) in subsection (d) by striking "subsection (a)(3)" and inserting "subsection (a)(1)";

(2) in section 523(a)(1)(A) by striking "507(a)(2)" and inserting "507(a)(3)";

(3) in section 752(a) by striking "507(a)(1)" and inserting "507(a)(2)";

(4) in section 766—

(A) in subsection (h) by striking "507(a)(1)" and inserting "507(a)(2)"; and

(B) in subsection (i) by striking "507(a)(1)" each place it appears and inserting "507(a)(2)";

(5) in section 901(a) by striking "507(a)(1)" and inserting "507(a)(2)";

(6) in section 943(b)(5) by striking "507(a)(1)" and inserting "507(a)(2)";

(7) in section 1123(a)(1) by striking "507(a)(1), 507(a)(2)" and inserting "507(a)(2), 507(a)(3)";

(8) in section 1129(a)(9)—

(A) in subparagraph (A) by striking "507(a)(1) or 507(a)(2)" and inserting "507(a)(2) or 507(a)(3)"; and

(B) in subparagraph (B) by striking "507(a)(3)" and inserting "507(a)(1)";

(9) in section 1226(b)(1) by striking "507(a)(1)" and inserting "507(a)(2)"; and

(10) in section 1326(b)(1) by striking "507(a)(1)" and inserting "507(a)(2)".

(b) RELATED CONFORMING AMENDMENT.—Section 6(e) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(e)) is amended by striking "507(a)(1)" and inserting "507(a)(2)".

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my capacity as chairman of the Senate Judiciary Committee, I am pleased to join my distinguished colleague from Vermont, the ranking member, in beginning the debate on this very important legislation.

At the outset, I congratulate Senator GRASSLEY for the work he has done over the past decade, and also former chairman, Senator HATCH, for the outstanding job he has done. I thank Senator HATCH especially for filling in for me a week ago Thursday on the executive session when the committee took up the bill and reported it to the Senate.

I thank both Republicans and Democrats on the committee for withholding amendments until the floor.

We had one very extensive hearing. I know there was an interest in having more hearings, but the reality is this issue has been debated and has been heard. There is a very comprehensive idea on both sides as to the underlying merits of the bill.

It is important to note that going back to the 105th Congress the Senate passed a similar bill by a vote of 97 to 1, and subsequently voted to proceed to conference by a vote of 94 to 2. The Senate again took up a similar bill in the 106th Congress and passed legislation again by a wide margin, 83 to 14. The House also passed legislation during the 106th Congress, but President Clinton resorted to a pocket veto, so the bill was not enacted. The Senate took up the bill again in the 107th Congress but never reached agreement with the House on certain language. So here we are today with reform legislation that seeks to protect the interests of the debtors, honest Americans, who need relief from bankruptcy, and still address those who take advantage of the bankruptcy laws.

Bankruptcy is obviously a necessary tool for many people who find they simply are not able to repay their debts. Indeed, the vast majority of bankruptcy filers have nothing with which to pay their creditors. They file for bankruptcy as a last resort. And for them bankruptcy will continue to provide a fresh start.

Unfortunately, at the same time, there are some who use bankruptcy as a means of avoiding debts they have the ability to pay. Some bankruptcy filers have the ability to pay a significant portion of their debts, but the current bankruptcy system, which presumes that most people are acting honestly, does not require them to do so. At a recent Judiciary Committee hearing on the bill, the expert testimony was that up to 10 percent of people who file for bankruptcy have the ability to pay for at least part of their debts.

The consequence of having people avoid their debts when they can pay for them has resulted in having these obligations absorbed by other people in the commercial system. The estimate is that there are some $44 billion in debts discharged annually. There has been an enormous increase in the filings. In recent years, annual bankruptcy filings have exceeded 1.6 million for the first time in history. They more than doubled in the 1980s and again doubled from 1990 to the year 2003.

This legislation is an effort to achieve some balance, balance to see to it that people who genuinely need bankruptcy and cannot pay their debts are able to get the relief in bankruptcy, and at the same time looking at many practices which are in need of reform.

For example, this legislation will require high-income debtors who have the ability to repay some of their debts to do so. The heart of this bill is a means test. It requires the bankruptcy trustee to examine the income and expenses of high-income debtors and determine whether they have the ability to pay something toward their debts. If so, they must complete a chapter 13 reorganization plan, which requires that they repay part of their debts over time before they can have the rest discharged.

The legislation will also bring to an end other abuses that occur under the current bankruptcy system. For example, it closes the "mansion loophole," which allows opportunistic debtors to avoid paying their creditors by buying a house in a State with an unlimited or extremely generous homestead exemption, and then declaring bankruptcy. It extends the statute of limitations for fraudulent use of the homestead exemption to 10 years.

Another provision prevents debtors from purchasing large amounts of luxury goods on credit and then filing for bankruptcy to have that debt discharged. Other provisions will discourage debtors from repeatedly filing for bankruptcy, and then invoking the automatic stay to avoid repaying their creditors.

The legislation also aims at ensuring that debtors cannot escape their spousal and child support obligations by filing for bankruptcy. That is, of course, a very important item, with dodging child support and spousal support being a matter of an enormous problem nationwide. Chapter 13 debtors cannot have a repayment plan approved or their debts discharged until they are current on their spousal and child support obligations.

The legislation will further improve the bankruptcy process for small businesses and enhance bankruptcy protections for family farmers as well as family fishermen. Small businesses that can restructure will still be able to obtain a fresh start. However, for the many small businesses that will never survive a protracted bankruptcy, the bill imposes deadlines to keep cases from languishing and creditors from waiting indefinitely.

In addition, the bill makes it easier for family farmers to obtain bankruptcy protection under Chapter 12, a form of bankruptcy that takes account of the unique concerns of farmers. And, for the first time, family fishermen will also be able to file for Chapter 12 bankruptcy.

Further, the bill contains protections aimed at helping consumers avoid excessive debt and bankruptcy. It requires credit card companies to warn their cardholders that making the minimum payment on a credit card balance can significantly increase the time it takes to pay off the balance. Many credit card practices are extremely deceptive. Credit card companies must also provide certain disclosures in credit card solicitations, including clear indications when an advertised interest rate is merely introductory—again, a practice which is very deceptive. So the bill is aimed at preventing the little guy from being misled, which leads him into bankruptcy.

The legislation further provides that creditors make certain disclosures before debtors can reaffirm their debts so that debtors fully understand the implications of signing a reaffirmation agreement—a technical matter. The legislation requires that debtors receive credit counseling before filing for bankruptcy so they can understand the consequences of filing and are aware of the alternatives to bankruptcy. A little knowledge there can go a long way.

At the outset, I want to acknowledge that there are many low-income people who will not be able to repay any of their debts. The means test will not affect those people. If they are below the median income for their State, the means test will not apply. However, for those who are above the median income, there will be a balance so those who can afford to do so must repay part of their debts, to help prevent the $44 billion in discharged debts from burdening other honest Americans, and part of the commercial system will not be saddled with those obligations.

In analyzing this legislation, it is my concern to ensure that it is fair to the "little guy," the working men and women who need bankruptcy as a last resort and who do not abuse the system.

We had a lively debate in the hearing in the Judiciary Committee. We had a lively hearing. I know there are many amendments which will be offered, and I will have an open mind in considering these amendments as we work through the process. It is a very complicated bill. But it has been analyzed and reanalyzed. Again, it attempts to strike a balance so that the person who needs the discharge in bankruptcy will be able to obtain it, but those who game the system will not be able to do so.

Let me reiterate the comments of the majority leader in urging Senators who have opening statements to come to the floor to offer those opening statements. It will be the objective of Senator Leahy, the ranking member, and myself to try to move through to amendments. It is anticipated there will be amendments.

We have a very active calendar ahead of us. One of the items on the Judiciary Committee agenda that we are moving forward on is asbestos legislation, an issue of tremendous importance, where many Americans are dying from mesothelioma and other deadly ailments from exposure to asbestos, who collect nothing because the companies are bankrupt. Some 74 companies have gone bankrupt, and more are in the process. I filed a draft discussion bill. There have been very extensive negotiations with Republicans and Democrats, and we are anxious to move ahead. We will be taking that issue up on the executive calendar of the Judiciary Committee on Thursday. But I mention that to underscore the importance of moving ahead on this legislation because there will be, doubtless, many amendments, and the sooner they are offered, the sooner we can come to grips with the substance of the bill.

At this time, I yield to my distinguished ranking member, Senator Leahy.

The PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished chairman of the committee, the senior Senator from Pennsylvania, for his opening statement. I know he has worked hard on this matter.

The Senator from Pennsylvania, the Senator from Vermont, and the distinguished President pro tempore have noted that it is spitting snow outside. Unfortunately, some think this is a time for panic. They should go to Alaska. They should go to Vermont. They should go over to the mountains of Pennsylvania.

I say to the President pro tempore, you heard me mention not so long ago that I was back home in Vermont. I was listening to the news, and almost as an afterthought they said: By the way, we should have a dusting of snow tonight; No more than 3 to 5 inches. Down here, of course, everything comes to a screeching halt.

Why I bring this up I have no idea, except that when watching TV crews going out begging to get one shot of a snowflake, I say: Go to Alaska. Go to Vermont. We will show them what real weather is.

Today, we are beginning debate on the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005—a big title for S. 256. But it is an important debate. It is the first time in 4 years the Senate has debated bankruptcy reform legislation. I hope it is going to be a fair and informed and beneficial debate that will improve this bipartisan bill and help us enact bankruptcy reform into law.

Both the chairman and I have worked very hard with Senators on our sides of the aisle. We have tried to move this legislation forward. But we know that bankruptcy is a complex area of law. It has many competing public policy interests between debtors and creditors and even among competing creditors.

The very complex and competing interests involved in achieving fair reforms of our bankruptcy system demand that we work in a bipartisan manner throughout the legislative process.

I mentioned that 4 years ago we debated this issue. I mentioned that because today our Nation has an entirely different face than it did then. We have endured the terrorist attacks of September 11, 2001. We have immersed ourselves in wars in Afghanistan and Iraq. We have witnessed a parade of financial misdeeds—more than misdeeds, financial thefts and skulduggery by major U.S. corporations. We have even watched as pension programs, and the promises of the pension programs, were shortchanged by nearly $100 billion. All these factors have only deepened the financial woes of an already struggling economy. So when we debate this issue today we are discussing real life today, not what it was in 2001.

I think for this legislation to be appropriate and fair, the key provisions have to be carefully examined. If necessary, they have to be modernized, they have to be amended.

Earlier this month, our committee held a bipartisan hearing on bankruptcy reform legislation. As I said, that was our first hearing in 4 years. It was an informed discussion. A week later, the Judiciary Committee held its first markup on bankruptcy legislation in 4 years. During that meeting, we considered 11 amendments, 5 of which were accepted.

They improved the bill. In fact, they were accepted unanimously. I am particularly pleased the committee accepted the Leahy-Grassley amendment that clarifies that any judgment, order, or settlement agreement for violation of securities fraud law after the filing of a bankruptcy case is nondischargeable. In other words, if you want to defraud somebody in securities, if you want to pull some of these big fraud actions we have seen in the past few years, you are not going to escape the consequences by bankruptcy.

During consideration of the Sarbanes-Oxley Act of 2002, Senator Grassley and I worked together to amend the Bankruptcy Code to make judgments and settlements based on security law violations nondischargeable. We wanted to protect the victims' ability to recoup their losses and hold wrongdoers accountable for their actions. This change in the law was based on a Judiciary Committee amendment that Senator Grassley and I introduced to my corporate fraud legislation, S. 2010, the Corporate and Criminal Fraud Accountability Act that was unanimously reported by the Judiciary Committee. It was later adopted as a floor amendment by a vote of 99 to nothing in 2002.

Recently a bankruptcy court wrongly interpreted the new law by finding that a securities fraud judgment, order, or settlement must be in existence at the time the bankruptcy petition is filed to be nondischargeable. That was never intended. This court precedent could result in future courts discharging securities frauds judgments, orders, or settlements that are entered into after a debtor files for bankruptcy.

To give you an idea of what a get-out-of-jail-free card this is, an Enron executive could avoid paying his securities fraud judgment by filing for bankruptcy where the securities fraud litigation is pending. That would be wrong. Neither Republicans nor Democrats who supported that amendment want that to happen. So the Leahy-Grassley amendment, which was accepted by all Members, Republicans and Democrats, in the committee during committee consideration, would remedy that injustice and makes it clear that Congress intended for all securities fraud judgments, orders, or settlements to be nondischargeable.

Another area we have to consider is the economic hardships faced by service members' families. When you get a call to serve your country in Iraq or Afghanistan or elsewhere—and now it is a disproportionate number of guardsmen and reservists who are called up; I watch this as the cochair of the National Guard caucus of the Senate—it can cause loss of family income, the close of a family business, a whole lot of other unexpected expenses. Unfortunately, it is not uncommon for service members and their families to be forced into filing for bankruptcy relief. We have to protect those who are fighting for us. I know Senators Durbin and Nelson have taken an interest in this issue. I look forward to hearing their thoughts on how we can help the situations faced by service members serving our Nation and their families.

I spoke of the financial misdeeds of U.S. corporations. When you talk about Enron and WorldCom, others, it leaves a very bitter taste in the mouths of average Americans. If an average American were to steal $500 or $1,000, they might go to jail. Apparently, if you steel $100 million, $200 million, or $500 million, you are a hero. When it is done, there are no heroes, not to any of us. They have damaged investor confidence. They have shaken our capital markets. Senators Sarbanes, Kennedy, Durbin, Harkin, and Cantwell have prepared amendments to address the ongoing problems caused by corporate abuse.

We must strengthen the financial safety net for hard-working American families who confront illness or injury. Medical problems contribute to about half of all bankruptcies, even though most of those who file had health insurance when they became sick. Many lose their jobs and their insurance because they got sick. Others face thousands of dollars in copayments and deductibles for services not covered by their insurance. Senators Kennedy, Durbin, Clinton, and Corzine will be leading the debate on this issue.

Since we last considered bankruptcy reform legislation, financially troubled companies have shortchanged their pension promises by nearly $100 billion, putting workers approaching retirement age or responsible companies and actually taxpayers at risk. We will hear from Senators Harkin, Rockefeller, and Dayton during debate over this issue.

I know that Senators Grassley, Durbin, Dodd, Feinstein, and others share a commitment to include credit industry reform in a balanced bankruptcy bill. The millions of credit card solicitations made to American consumers in the past year have contributed to the rise in consumer debt and bankruptcy. It is relatively easy to obtain credit. We have heard the stories of a neighbor's dog getting a $3,000 preapproved credit card. Kids go to college and are inundated with preapproved credit cards. So it is relatively easy to obtain them. Not nearly enough is done to ensure that credit is properly managed. Currently, credit card statements fail to include all of the information necessary to allow individuals to make fully informed financial decisions. Additional disclosure is needed to ensure that individuals completely understand the implications of their credit card use.

Senator Akaka intends to offer the credit card minimum payment warning act. I am proud to be an original cosponsor with him. It will provide a wake-up call for consumers by making it very clear what costs they are going to incur if they make only the minimum payments on their credit cards. The personalized information they will receive for each of their accounts will help consumers make informed choices about their debts. In an era of computers, this is not a real burden on the companies.

Senator Feingold, a longtime protector of working middle and lower income families who rely on the ability to resolve overwhelming financial burdens through bankruptcy, is going to offer several amendments to improve this bill. Senator Feingold and I have worked together on bankruptcy reform issues for a long time. I know his expertise and the measures he means to propose will enhance this legislation.

We have to be careful that our efforts to ensure accountability in the bankruptcy process do not inadvertently create problems for privacy and security. We are in an age where personal information—far too much personal information—can be easily digitized and shared. If it falls into the wrong hands, it is abused. Identity theft is one danger, as is tracking and harassing a battered spouse. We can look for accountability, but we have to find ways to minimize the possibilities of abuse.

Four years ago, the committee adopted the Leahy-Hatch amendment to protect the personal privacy of consumers whose information is held by firms in bankruptcy as part of bankruptcy reform legislation. I am pleased this bill retains this proprivacy provision.

Our bipartisan provision permits bankruptcy courts to honor the privacy policies of business debtors. It creates a consumer privacy ombudsman to protect personal privacy in bankruptcy proceedings. I appreciate Senator Hatch's efforts to add important consumer privacy protections to the code.

Unfortunately, the Leahy-Hatch amendment is needed because the customer lists and databases of failed firms now can be put up for sale in bankruptcy without any privacy considerations, even in violation of the failed firm's own public privacy policy against sale of personal customer information to third parties.

Let me just tell you what happened in this case, and it is not untypical. We had an online toy store called Toysmart.com. Toysmart.com wanted to encourage parents to allow their children to go online and, in doing so, they promised on their Web site that personal information voluntarily submitted by visitors to the site—such as name, address, billing information, childhood preferences—would never be shared with a third party. If you are a parent, you would look at that and say: I feel a little bit better about this. I don't want my son or daughter's names out there.

Guess what happened. They filed for bankruptcy in 2000. Even though they had made this promise to parents and children, the personal customer information was put on the auction block. In a way, the bankruptcy court had a catch-22. I suspect the judge realized that this was violating everything every parent thought of, but under the law at that time, there was only one real asset. It was this mailing list. It wasn't the old desks or loading docks or the warehouse. Those were empty. It wasn't the computers. Those would be out of date every few months. The one item of any value was the mailing list. The mailing list that parents had been promised would never go out, the children's names would never be sold, that had to go into bankruptcy. That is why we have the Leahy-Hatch amendment.

The Leahy-Hatch provision included in this legislation adds privacy protections and a consumer privacy ombudsman to the bankruptcy code. We wanted to prevent future cases like Toysmart.com. Once somebody tells you we are going to keep your kids' information confidential, it will be.

We have seen in the news recently the ChoicePoint Inc. breach. It is just the latest example of why we need to take special care with databases containing America's personal information. It is astounding that a company in the business of providing data for background checks and law enforcement purposes failed to assess the legitimacy of its own customers. It sold personal data on 145,000 individuals to scam artists. Many of the victims had no idea that ChoicePoint existed, let alone that the company compiled data. How irresponsible, how wrong. How can the people who run ChoicePoint sleep at night? This is one of the most outrageous things we have heard. How can they possibly hold themselves up as a company? We now find that as this was going on, some of them were making millions of dollars in stock options. This is outrageous. I would hope that the Department of Justice and others are looking at this. How can anybody be this negligent? How can anybody be this criminal? They make millions of dollars, the people running it. Somebody who has a mom and pop somewhere can find, because they were so negligent, because they opened the doors and let the scam artists come in, they may lose their business. Somebody who has a child in college may not be able to pay the tuition. Somebody who is trying to make the rent or the mortgage, living paycheck to paycheck, may not be able to.

Apparently, according to the press this past week, their executives will make millions of dollars on stock while their customers are being clobbered. What shame. And we haven't heard a single one of them step forward and say how ashamed they are by this outrageous action.

It has become all too familiar. In recent years, headlines have recounted how personal information has been compromised and database breaches of government contractors, at banks, at universities, even a blood bank. One hospital on the west coast sends things to be translated in Pakistan. All these secret medical records that you think are so private, they sent it over to Pakistan, and the person in Pakistan said: I want more money.

If you don't give me more money—because I am in Pakistan, and you cannot touch me here—I am going to put all of these people's medical records online. What were they thinking, the people who run this thing? They make a whole lot of money, but, boy, they are clobbering the people who go there. This puts America's most private information at risk not only for financial crimes but for stalking. You can find out who lives alone, who is vulnerable, who could be blackmailed, and find out who may be a victim for scam artists. The administration talks about fighting terrorism. This creates a potential avenue for a terrorist to masquerade as an innocent person.

I have called for a series of hearings on how we ensure data security, privacy and proper use in the information age. I am pleased that Chairman SPECTER has agreed to my request for hearings, and I look forward to these opportunities to consider these issues closely.

We need to take reasonable measures in the bankruptcy process to guide what information will be available publicly and to whom. Debtors are often required to submit documents containing highly personal information. Declaring bankruptcy is challenging enough for those who find themselves in that circumstance, we shouldn't make it worse by creating the possibility that they will be victimized later on. I am submitting an amendment to provide protections in handling personal data in those submissions. These changes reflect current Judicial Conference policy and were included in last term's Hatch-Leahy Federal Courts Improvement Act.

First, my amendment expands the court's discretion to protect information such as social security numbers and passport numbers. The bankruptcy courts are in a unique position to properly balance the need to share information with the need to protect privacy, and we should rely on their good judgment and discretion as much as possible. The amendment draws from the current civil procedure discovery rules to set a standard against which the court can apply its discretion. The amendment also allows individuals to request that the court protect sensitive information before it is placed in the public record. This protection is particularly important given our increasing reliance on electronic filing, where information is immediately available to the public.

Second, my amendment provides important protection for social security numbers. Originally promised to be narrow in purpose and use, social security numbers are now the universal identifier with the key to unlock access to bank accounts and other highly sensitive areas. We must treat these numbers commensurate with their power, and ensure that they are only accessed in appropriate situations by authorized users. My amendment would allow debtors to limit disclosure to only the last four digits of his or her social security number in the notices that are filed with the court. The amendment still protects creditors where necessary, and specifies that creditors who are on the schedule of assets and liabilities should receive the full tax payer identification number in the notices sent specifically to the creditor.

This idea of truncation isn't new. Just last year, we passed the Fair and Accurate Credit Transactions Act of 2003, and that Act required truncation of credit card and debit card numbers on receipts given to cardholders.

As I stand here on the Senate floor, I look at the Presiding Officer, my neighbor from New Hampshire, and I see waiting to speak the other distinguished Senator from New Hampshire. We come from an area where we believe in privacy. We live in a country where we are giving up more and more of our privacy all the time. We have to be careful. We are giving it up not just in corporate areas but in government. Both conservatives and liberals ought to join hands on how much information we are willing to give up on ourselves and allow to go into databanks. An example is what happened with Bank of America, which is one of the dumbest things I have ever seen. All of their records were lost. Good Lord, they send something off or ship it off by plane—not private, but they mail it to a location with backup files of all of their customers. I don't know. I suspect maybe their top executives fly by private jets. Maybe they don't understand that the three Senators on the floor right now fly commercially, and we know how often you get your bags lost or a suitcase lost. They just lost thousands upon thousands upon thousands of files on their customers. How would you like to be a Bank of America customer and wake up and find out they were so stupid and negligent that they lost all your information? They ought to be ashamed of themselves.

But I digress. I mentioned privacy. I have kept an article. It is the only thing I have ever framed that was written about me in one of our newspapers. To put this into context, you have to understand that we live on a dirt road in an old farmhouse. We have an adjoining farm family who kind of watches over the place when we are not there. The reporter in this article drives up on a Saturday with out-of-State license plates and asks the farmer sitting on the porch, "Does Senator LEAHY live up this road?"

The farmer said, "Are you a relative of his?"

He said, "No."

"Are you a friend of his?"

He answered, "Not really."

"Is he expecting you?"

"No."

"Never heard of him."

That is the kind of privacy we like. These people in a cavalier way—like Bank of America and all—are giving information away. We are finding more and more that our own Government is being lax with the information they have. Of course, the information can often be wrong. The third most senior Member of the Senate has been stopped half a dozen times getting on an airplane when going home—something he has been doing for decades—because he is on a terrorist list. He is one of the most recognizable people in America, and he cannot get off this list. You have to kind of ask, how much are we willing to give up and what does it do for us? Bank of America didn't do much of anything. These are some of the reforms included in the bill. I hope we will all look at this carefully and work together closely.

Requiring truncation of social security numbers is similarly reasonable. It provides protection against abuse, but still allows for important information sharing to take place.

These are just some of the reforms that should be included in this bill. I hope that all Senators will give fair and thoughtful consideration to amendments proposed on either side of the aisle. When the Senate works productively and constructively, we can improve legislation on a bipartisan basis. I have worked with Senator GRASSLEY and others to make bipartisan improvements in the past and I hope that we can do that again on this bankruptcy reform legislation.

In particular, I urge my colleagues to give full consideration to an amendment Senator SCHUMER will offer to make sure debts incurred through violence and other illegal acts at health clinics may not be discharged in bankruptcy. Senator SCHUMER has been the leader on ending this bankruptcy abuse and I have always been proud to support his efforts. Any fair bankruptcy reform measure should end abusive bankruptcy filings used to avoid the legal consequences of violence, vandalism and obstruction to deny access to legal health services.

As we move forward with reforms that are appropriate to eliminate abuses in the system, we need to remember the people who use the system, both the debtor and the creditor. We need to balance the interests of creditors with those of the poor and middle class who need the opportunity to resolve overwhelming financial burdens.

These are important subjects that have a real impact on the lives of many people who have already suffered from illnesses or divorce or job loss. We should utilize the expertise of our colleagues on both sides of the aisle to ensure that the Senate passes balanced legislation.

I look forward to continuing to work with Senator GRASSLEY, Senator SPECTER and the rest of my colleagues to make more bipartisan improvements on the Senate floor to enact balanced bankruptcy reform legislation into law.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, we are on the bill, I take it.

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Mr. President, first, it was a pleasure to hear the presentation by the chairman of the Judiciary Committee and the ranking member relative to the bankruptcy bill, which is an extraordinarily important piece of legislation, which has been to the floor before—in fact, too many times. Hopefully, this year we will pass it and send it to the President to be signed. I congratulate the Judiciary Committee for bringing it out. Certainly, it is a piece of legislation that is very important to the commerce of our country and needs to be passed.

### THE BUDGET

I wanted to speak about another subject—specifically, the budget of the United States and the fiscal policy, as we are presently dealing with the funding of the Federal Government. Within the next 3 weeks, hopefully, we will take up a budget in committee and here on the floor of the Senate. The budget is a blueprint of where we are going as a country relative to our spending policies and fiscal policies. What is important to remember is that the budget is just an outline. It doesn't get into too much specific detail of how we function as a Government but, rather, it sets goals that we as a Government wish to pursue in the area of policy relative to spending and relative to taxes.

What we need to focus on, I believe, this year—and I believe Congress did focus on it, and certainly the President did in his budget, which is a very laudable document, and it does focus specifically on these issues—there are two things: the deficit, as we confront as a Nation the short-term liabilities, and what we confront in the long-term.

The deficit in the short term is having an unfortunate impact on our country. It arises for a lot of reasons. I argue that it arises for two primary reasons. First is that in the mid and late 1990s, we started to run very significant surpluses in this Nation as a result of an economic boom known as the Internet bubble—a bubble that is an aberration on the economic landscape. There have been other major bubbles in our history. It is basically when people have created artificial money. The Internet bubble was probably the largest bubble in the history of the world. In many instances, it was an artificial expansion of the economy relative to real productivity and growth. That bubble collapsed, as they do. As a result of that collapse, the economy slowed dramatically, and the revenues to the Federal Government dropped significantly.

The second major cause, obviously, of the deficits we confront today, in my opinion, was the fact that we were attacked on 9/11. We are at war, and as a nation we must fight that war with every tool we have available, and that means fully arming and manning our soldiers. Also, it means regearing ourselves as a nation, retooling as a nation. We have had to make what I would call significant investments in our national security, both in the homeland area, bringing first responders up to speed, in the area of protecting ourselves from biological, chemical, or potentially nuclear attacks, and in the area, obviously, of rearming and retooling our military and our intelligence community across the country and the globe. It has been extremely expensive for us as a nation, but it is money we must spend because we have been attacked, we are at war.

There are people who wish to do us harm in the most heinous way. They want to kill Americans simply because they are Americans. They wish to destroy our culture and Nation because they don't like our freedoms, they don't like the fact that we are prosperous. Those people are still out there, and they must be found and brought to justice, and, most importantly, kept from attacking us here in America. That is a commitment we have made as a nation, and this President has pursued that with a focus.

So we went through a period of significant surpluses in the late 1990s to a period of deficit. That deficit has been rather large. We are now as a nation trying to address that fact. The deficit in the short term is having deleterious effect on our Nation. It is obviously causing us to pass on to our children the debts for the operation of today's Government. You are basically borrowing from the future, and the people who are going to have to pay that are your children, not you, because that note becomes due not in your lifetime—well, maybe in your lifetime—but 10, 15 years from now. Who has to pay it? The people who work 10, 15 years from now, in their taxes. They have less money to keep because they have to pay more taxes. So we are borrowing from our children's future to pay for this deficit.

Second, it is having an impact on our economy internationally. The dollar is weakened in large part because the international community looks at our deficit and says we are not doing a heck of a lot about it.

So we need to address the short-term deficit, and I will get to the specifics of that, how we have done that. But the President's budget has attempted to do that. That is an important public policy issue.

The second largest public policy issue we have is the question of how we deal with the long-term liabilities of our country, liabilities that already exist. What does that mean?

We have basically put in place today a large number of Federal programs that we have to pay for today because these programs survive for as far as the eye can see—infinity. We know they are going to cost money. Most of these programs—the most expensive ones, called entitlements—deal with making sure that people who are retired have a decent lifestyle. This has been a great benefit to our Nation—Social Security, Medicare, Medicaid. These programs have truly improved the quality of life of the American population, especially those who are retired. But as we look into the future, we see huge and very complicated and difficult problems for us as a country as we try to maintain those programs and make sure that people who are retired have a decent lifestyle.

What is driving this major concern, this huge cost which we are going to face as a nation, is a fact which has never existed before in our history. It is called demographics. After World War II, the largest expansion ever in our population occurred. More children were born during a period from about 1946 to about 1955 than at any other period in American history. It is called the baby boom generation.

That generation was so large—and I happen to be a member of it—that it totally restructured every lifestyle event it impacted. As children, that generation caused a massive expansion in schools. As college students, that generation created the huge social concern of the sixties, in the area of rights of African Americans and minorities and the rights of women and, of course, with regard to the issue of how Vietnam was fought. In the seventies and eighties, as that generation went into the workplace, it became the most productive engine of economic wealth this country had ever seen and continues to be a producer of economic wealth.

Now that generation is headed toward retirement, and we know, because everyone is alive today, that generation will be the largest retired generation in the history of our country. We know the benefits structure which we have put in place to help senior citizens through retirement so they can live a decent lifestyle is also in place. When those two merge—this huge generation and that benefits structure called Social Security, Medicare, and Medicaid—it is going to put dramatic demands on our society in the area of costs to pay for the benefits which are in place.

Think of it this way: Almost all the retirement programs we have—Social Security and Medicare especially—were designed with the genius of Franklin Roosevelt. His policy essentially said there will always be many more people working than those retired. So the working Americans can always support the retired Americans.

It was always perceived there would be a pyramid. In fact, in 1950, there were about 16 Americans working for every 1 American retired. That meant programs such as Social Security and Medicare not only generated money to support those who were retired, they actually generated more money than needed to support the people who retired. That is happening today even. But the number of people retiring compared to the number of people working has been changing. It has gone from 16 in 1950 down to about 3½ today. And further into this century, as the baby boom generation retires, it will drop to 2 people working for every 1 person retired.

There is where the problem is. We go from a pyramid to essentially a rectangle. It becomes pretty obvious, if you only have two people working to pay for one person retired, those two people are going to have to pay a lot more in taxes to support that one person retired than if we have 10 people working or 3½ people working, as we have today.

So this creates a huge what is called unfunded liability, contingent liability. We do not know how we are going to pay for this in the outyears. We do know the problem is going to exist, but we do not know how we are going to pay for it.

I want to give you some context of this problem because it is so massive, and we should be so concerned about it.

Entitlements—which basically is what I am talking about, which is Social Security, Medicare, and Medicaid—represent this orange bar on this chart as a percentage of Federal spending. One will see today that orange bar is approximately 56 percent of the Federal Government, with defense spending being about 18 percent of the Federal Government, nondefense spending about 18 percent of the Federal Government, and interest on the Federal debt being about 7 percent.

When the baby boom generation is headed to full retirement, beginning about the year 2015—actually, it starts in the year 2008—there is an explosion in the entitlement spending as a percentage of Federal spending. Defense spending does not change much, discretionary spending does not change much, but retirement spending jumps to 64 percent of the Federal Government. In fact, if it continues on its present track, spending to support Social Security will create this massive problem for us as a nation, which I have alluded to, which is we will have so many programmatic demands placed on the younger working Americans that their taxes will have to go up radically in order to pay for this.

This chart shows it pretty clearly. The historic spending levels of the Federal Government since the year 1960 have been right around 20 percent. That is historic spending. That is all Federal spending in the post-World War II period. But entitlement spending as a percentage of gross national product has always been—or up until now—fairly flat—not flat, going up, but still staying within the 5 to 10-percent range.

However, beginning in the year 2008, it starts to climb precipitously. By the year 2030, Medicare and Social Security spending will be 20 percent of the gross national product. By the year 2040, it will exceed that and be 25 percent of the gross national product. We will essentially be spending more on those two programs alone within a few years, about a decade and a half to two decades, than we spend today on the entire Federal Government.

What does that mean? It means either at that point you do not have any part of the Federal Government—you do not have national defense, you do not have any education programs, you do not have any environmental programs—or you have to jump the tax rates dramatically to pay for Social Security and Medicare expenditures.

What is the implication of this other than we are headed toward clear fiscal disaster? One of the implications is if this graph were carried out to its logical conclusion, the tax rate on working Americans—my children, your children, and our grandchildren—will have to be doubled to support the system.

Another implication is that there is, according to the Comptroller General, approximately $44 trillion of potential liability over the natural lifetime of Social Security, which is deemed to be 75 years, or Medicare. Mr. President, $44 trillion—that is trillion, and I do not even know what a trillion is, but that is what it is—$44 trillion of costs which we have no idea how we are going to pay. We have no idea at all. It is called unfunded liabilities, $44 trillion.

To try to put this in perspective: If you take all the taxes paid into the Federal Government since the beginning of America, all the taxes paid into the Federal Government in U.S. history, that represents $38 trillion. We are talking about a liability that exceeds that number. We are talking about a liability that would actually be about the same as the present value net worth. That is the present value number, by the way. It means it is discounted to today's dollar, which actually would be almost the same as the present net worth of every American.

The present net worth of every American is about $47 trillion. The present liability of just the Medicare and Social Security funds—with not even

Medicaid included in this—is $44 trillion. So essentially we would have to use every dollar of every American, every asset of every American to pay this.

We can see the problem is astronomical, so large, in fact, that many are burying their heads on the issue and saying it does not exist, which is a very unique approach to the problem. Obviously, we are not going to solve it this year or in the next couple of weeks. But what we can do in the next couple of weeks as we address the budget is try to start addressing these two major issues. One is the short-term deficit; the other is this long-term, looming problem which we confront as a nation. And that brings us back to the budget process and why it is important.

It is important because it is the blueprint off which we can begin this process of addressing these huge public policy issues. If we do not address them now, it is like that old television ad, you can pay me now or you can pay me later. When you pay later, the cost is going to be basically unacceptable because if we wait until 2008 or 2015 to start addressing these issues, we are essentially going to have to do something extraordinarily precipitous. We are either going to have to radically cut the benefits of seniors who are retired or we are going to have to radically increase the taxes on our children and their children's children, meaning their quality of life is going to be reduced significantly.

The President sent up a budget which begins the process of trying to address some of these core issues. On the first issue of the deficit, he has proposed a budget which reduces in half the deficit over the next few years. You can see he takes it from about 4.5 percent of GDP, the deficit. That is what we need to look at because the actual numbers do not relate to what their effect is on the economy.

The deficit was projected to be about 4.5 percent of gross domestic product back in 2004, down to approximately 1.3 percent of gross domestic product in 2009, 1.5 percent in 2009. 1.7 percent in 2008, or he reduces it in half. I would be the first to say that in that estimate, especially the 2008 number, there is no accounting for the war. The war is a one-time item, hopefully, or two-time item. We do not expect the war to go on forever. In fact, by 2008, we hope the war to be over relative to Iraq and Afghanistan. It will not be built into the base, and we expect it will not be.

These numbers may be inaccurate in that they may be off in not accounting for the war. But the point is, when you go from 4.5 percent to 1.7 percent, that should still be able to be accomplished whether we are at war, with accounting for the war correctly. We can reduce this deficit, and the President has proposed this.

How has he proposed it? He proposed to do it in a series of ways, but there is a consistency within his proposal, which is this: Basically, he said we have to get fiscal discipline in place. We have to be responsible for how much money we spend, and in order to accomplish that, we are going to have to reduce the rate of growth—we never actually cut spending—reduce the rate of growth of Federal spending right across the board.

So he has essentially proposed goring everybody's ox, and maybe that is the way we have to approach something like this. He suggests we freeze nondiscretionary defense spending, which is going to be difficult, but it is something we have to do. He suggests the defense core budget not rise as fast as it is projected to rise. We are already hearing discussions from many of the defense subcontractors and contractors around the city that they cannot live with that number. So I guess it must be stepping on some toes out there.

He is suggesting in the entitlement accounts—and this is the most important—that we begin to reduce the rate of growth; not cut them but reduce their rate of growth. That is a courageous step but a step that has to be taken.

The only accounting he did not address, quite honestly, was Medicare because of his recent enactment of the Medicare reform bill which I guess they would like to play out a little while before they move into that account. Everybody else has been impacted. He has put in place and suggested a series of enforcement mechanisms which will allow us to accomplish this type of a budget, and we intend to put in even more to accomplish this because the numbers mean nothing if they are not enforceable.

As we move forward in this debate—I see the Senator from Utah is here. He wished to speak at 3 o'clock, and I have gone past my time. I will come back to the topic again and talk a little bit about the tax side of this. As we move forward in this debate, it is critical we understand that we are facing these two huge public policy issues: the need to bring under control the short-term deficit but even more importantly the need to address the long-term entitlement reform question.

I should mention on that point that not only did he address the entitlements, such as Medicaid and some others within the budget, but he has set forth a proposal to address Social Security. That is a courageous act, and that, of course, is one of the key components of any sort of major entitlement reform. We must address the issue of Social Security.

The President has stepped up to the plate, so to speak, to move forward with a plan which will put in place fiscal discipline. As the Senate moves forward, it is our responsibility to pursue this course also, to put in place a budget which is fiscally responsible and which addresses not only the discretionary side of the ledger but the entitlement side of the ledger. That is going to be our challenge. It is very doable. All it takes is a willingness to stand up and recognize that if we do not do it, we will be passing on to our children a nation which does not guarantee them as high a quality of life as we have had because of the burden of taxation which we will be placing on them.

It is our responsibility to move forward in this area, and I look forward to the next few weeks as an opportunity to debate and discuss these proposals even further.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask that my remarks be as in morning business.

THE PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I thank the Chair.

### BOY SCOUTS OF AMERICA LAND TRANSFER ACT OF 2005

Mr. HATCH. Mr. President, I rise today to speak to the Boy Scouts of America Land Transfer Act of 2005. This important legislation will allow the exchange of two small parcels of land between the Utah National Parks Council of the Boy Scouts of America and Brian Head Ski Resort.

In a 1983 land patent, the Bureau of Land Management granted roughly 1,300 acres to the Utah National Parks Council of the Boy Scouts of America to be used as a Boy Scout camp. The Scout camp, known as Camp Thunder Ridge, is situated in the mountains adjacent to Brian Head Ski Resort and near Cedar Breaks National Monument.

At the time the land patent was granted, a local rancher owned a parcel of land adjacent to the camp and another parcel right in the middle of the camp. Several years ago, the rancher gave those lands to Brian Head Ski Resort. The Scouts need to obtain the land, totaling 120 acres, from Brian Head. However, under the patent, land cannot be sold or exchanged without an act of Congress.

While Camp Thunder Ridge is located in a steep, rough, mountainous area, much of the land the Boy Scouts seek is flat, making it particularly important for the camp. Obtaining the land would make it possible for the Scouts to make the camp's shooting area and archery range safer and would allow them to improve and expand their camping facilities. It also would allow for the installation of much-needed septic tanks.

I am a strong supporter of the Boy Scouts of America. The Boy Scouts have a long tradition of instilling strong values in young men.

Scout camps such as Camp Thunder Ridge give young men the opportunity to learn vital skills, fulfil merit badge requirements, and otherwise improve themselves. This small land exchange will allow Camp Thunder Ridge to more fully help these young men learn and grow.

For their part, Brian Head Ski Resort is seeking to expand their operations and have received preliminary approval from local officials. The local planning commission, however, has required them to build an emergency exit from their property. The only place to build such a road is through land owned by the Boy Scouts. The exchange will allow Brian Head to construct the access road and comply with county fire safety regulations.

The Boy Scouts have been working for more than 20 years to secure the lands in question, and Brian Head needs to build a road on lands currently owned by the Scouts. This exchange is desperately needed by both parties, and I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The purpose of this bill is to make our bankruptcy system more fair and efficient. Every citizen has a stake in this bill. It is obvious that bankruptcy filers have a lot at stake in this legislation.

In recent years, the number of bankruptcies has been on the rise, and I understand that today more bankruptcies are filed every year than during the entire decade of the Great Depression, and this chart shows that. It begins in the year 1900. It is basically a flat line until we get to about 1984—actually, 1995—and then it heads straight up. These are bankruptcy filings per 100,000 population, and they have gone up dramatically over the years. Annual bankruptcy filings have now reached about 1.6 million Americans, and this is up significantly since the time we started working on the overhaul of the bankruptcy system now 8 years ago.

One of the key goals of legislation we have before us today is to make sure the system is not abused by the unscrupulous who leave their creditors high and dry. At the same time, the concept of allowing those citizens who have become saddled by debt to use bankruptcy to get a fresh start is firmly entrenched in the American legal system. Gone are the days of debtor prisons.

We want to treat debtors fairly and give those who become overwhelmed by debt a second chance. We do not want to send a signal to those who for whatever reason get into a financial hole that it is okay to go deeper in that hole prior to filing for and become absolved by bankruptcy. We want to give those in debt a fair second chance to bring their fiscal houses in order.

We also want to treat creditors fairly. At the end of the day, it is law-abiding, bill-paying citizens who pay for the bankruptcy of others, regardless of whether the debts involved were taken on by con men or those whose situations simply got out of hand.

As this debate goes forward, it is important for all to understand that according to some experts, a conservative estimate is that every American family pays about $400 a year in a hidden tax associated with bankruptcies, taxes they should not have to pay. I am told that others place the fair estimate of this hidden bankruptcy tax in the range of $550 per person per year. There are numerous examples of people who take advantage of loopholes today at the expense of everyone else tomorrow.

We recently heard from a Wisconsin credit union president who testified before the Judiciary Committee about a young couple who wanted a clean financial slate before they got married. What did they do? They ran up their credit card purchases. One of them prepaid a car loan with the credit union to have the other cosigner released. Then, although they were both employed fulltime, they filed for bankruptcy to wipe out their debt. Their credit union and its members had to absorb the $3,000 in credit card debt and then another couple of hundred dollars on the car itself. Bankruptcy relief was never meant to allow this kind of abuse. Hard-working Americans, including the members of credit unions nationwide, have been victimized by abusers of the current bankruptcy system long enough.

Bankruptcy abuse also hurts our Nation's small businesses. Without reforms from this bill, losses from bankruptcy abuse will continue to break the backs of the Nation's small businesses and retailers, which work with slim profit margins and have even smaller margins for error.

Throughout this debate, I want those who pay their bills in full and on time to understand that our attempt to rebalance some of the aspects of the bankruptcy system will have a positive impact on their pocketbooks each time they go to the store. In effect, we all pay for the bankruptcies of others through this "hidden tax." In some respects, I suppose one could view this bill as a tax cut for the responsible people.

While one large impact of bankruptcy is felt in the wallet, perhaps the most important principle involved in this is when one borrows money, they need to take personal responsibility to pay it back. Personal responsibility is a core American value. This legislation, which has been crafted over years of debate and compromise, reflects that basic value.

We are mindful of the old adage there is no such thing as a free lunch. When some people do not pay their credit card bills, the rest of us pay for them in the form of increased prices. We do not get off. We have to pay for it. Great strain is placed on businesses, particularly small businesses, when customers do not pay for their purchases.

While we want to be fair to those who are in serious debt, we must also be mindful that sometimes it is employees and their families who have to pay through lost salary increases or even pay cuts or job loss when some do not pay their bills. No firm can expand or even maintain its operations or stay in business for long if a substantial portion of goods and services it sells is not paid for by its customers. We all simply have a stake in bankruptcy policy and, therefore, we all have a stake in this bill.

Unfortunately, our current system allows certain people with the ability to repay at least some of their debt load to take advantage of the system at the expense of everyone else. Today, individuals with relatively high incomes can run up substantial debts and then too easily use bankruptcy to get out of honoring them. In the end, all of us pay for those who abuse the system.

As I will describe, one of the key improvements made by this bill is to devise a new and equitable system to see that those who declare bankruptcy will be called upon to repay a fair portion of their past debts with future earnings if they are able to do so. This is the so-called means test that I will describe in a few minutes.

First, I will take a few minutes to highlight some of the key proconsumer provisions of this bill. S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, includes a debtor's bill of rights with new consumer protections to prevent the bankruptcy mills from preying upon those who are uninformed of their legal rights and needlessly pushing them into bankruptcy. This is an important improvement over current law and helps rectify the current practice whereby some, both debtors and creditors alike, lose out in the long run to some shady legal advisers who take their fees and run.

The bill also includes new consumer protections under the Truth in Lending Act, such as new required disclosures regarding minimum monthly payments and introductory rates for credit cards. It protects consumers from unscrupulous creditors with new penalties on creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

Our bill provides penalties on creditors who fail to properly credit planned payments in bankruptcy. It includes credit counseling programs to help people avoid the cycle of indebtedness. This is an important provision for consumers.

Except for those with evil motivations and a willingness to take advantage of the system, no one likes to be in debt. This bill helps consumers learn how to better protect their financial resources. S. 256 provides for a protection of educational savings accounts, and it gives equal protection for retirement accounts or retirement savings in bankruptcy. These provisions will help our children and our parents have adequate resources.

The bankruptcy legislation also contains important changes in current law that will benefit women and children. We have heard some people complain that our bankruptcy laws do not adequately take care of women and children. Through our years of work on this bill, we have tried to make the law more protective in these areas, and this bill accomplishes that goal.

Current law provides that child support obligations are seventh in overall priority among unsecured claims. This bill dramatically changes the world with respect to child support. This bill contains a large set of provisions addressing the treatment of child support, including making domestic support obligations first in priority after certain required expenditures.

I will repeat that for emphasis. Child support goes from seventh to first in priority within its category for repayment under this bill. From seventh in line to top priority, this is a big change. Unfortunately, those who have slow walked this bill for the last 8 years have prevented this important change from taking effect.

The legislation also includes a provision that makes staying current on child support a condition of getting a discharge in bankruptcy. It makes debt discharge in bankruptcy conditional upon full payment of past due child support and alimony. S. 256 makes domestic support obligations automatically nondischargeable without the costs of litigation. It prevents bankruptcy from holding up child custody, visitation, and domestic violation cases. It helps eliminate administrative roadblocks in the current system so children can get the support they need. All of these measures are valuable additions and changes in the bankruptcy laws.

It is in the best interests of women and children to pass this bill. It is a tremendous improvement for children and families over current law. That is why there is such overwhelming support for this legislation from the child support professionals across the country—the very people who go after deadbeats to help get children the financial support they need.

That is not all. Let me cite a few more improvements over current law for women and children.

The bill makes the payment of child support arrears a condition of plan confirmation. It provides stronger and more comprehensive notice requirements and more information for easier child support collection. It provides help in tracking down deadbeats.

It allows for claims against a deadbeat parent's property. It allows for payment of child support with interest by those with means. It facilitates wage withholding to collect child support from deadbeat parents.

As I have just described, there are many important provisions in this bill for children, women, and the aged. I hope that we can finally get this bill to the President's desk for signature. This is a bill that is way overdue.

This legislation, S. 256, also requires extensive new disclosure requirements by creditors in the area of reaffirmations and more judicial oversight of reaffirmations to protect people from being pressured into agreements against their interests.

These are important provisions. Let me explain why.

Reaffirmation agreements commonly occur in conjunction with bankruptcy proceedings when debtors agree to repay a debt they would not otherwise have to pay. These reaffirmation agreements can be very helpful to debtors as they seek to reestablish their good financial status with their creditors as they emerge from bankruptcy.

By increasing disclosure requirements and judicial oversight, the reaffirmation process can operate to the advantage of debtor and creditor alike.

Next, I would like to briefly describe one of the key features of the bill, the means test, and how it relates to, and will improve, the overall operation of our bankruptcy system.

The premise behind the means test is that those who are able to pay all, or some, of their past debts should do so. The means test helps the courts determine who can and who can not repay their debts and, perhaps most importantly, how much they can afford to pay.

The challenge is to set this figure at the right level, neither too high nor too low.

If the figure is set too high, the debtor may be placed in a vicious cycle from which he or she can never escape and get a fair chance to start over. Of course, if the repayment schedule is set too low, the debtors will escape responsibility at the expense of those who they owe.

Through this new means test, in certain circumstances, the bill requires those filing for bankruptcy to pay a fair but not overly burdensome portion of their future earnings.

The means test allows for a straight deduction of actual expenses for the care and support of an elderly, chronically ill, or disabled household member, or member of the debtor's immediate family.

This test allows for a straight deduction for food and clothing expenses.

This test allows for up to $1,500 to be deducted per child for educational purposes.

This test includes an allowance for housing and utilities costs.

This test includes all the categories enumerated under the National Standards, Local Standards and Other National Expenses issued by the Internal Revenue Service.

This test allows for the straight deduction of expenses incurred in maintaining the safety of the debtor and the family of the debtor from family violence.

This test includes a special circumstances safety valve that allows debtors to adjust their income or expenditures based on unforeseen circumstances such as military activation and deployment or unexpected and catastrophic medical conditions.

Finally, this test includes a safe harbor provision which exempts debtors below their respective State median incomes.

After all of these exemptions are applied, including the safe harbor, it is estimated that 90 percent of debtors will not be affected by the changes in the repayment provisions of this bill.

Who constitutes the remaining 10 percent? They are the people who can afford to pay at least some of their debts. And that is what the means test is all about.

All of these changes that I have described are important. Many of us have worked for many years on this bill. Frankly, some of us think this bill has already taken way too many years to complete.

I want to take a few minutes describing the extensive legislative history of the bill. This is important for many reasons. One of those reasons is that this history will reveal that this measure has already been fully debated and this bill reflects literally dozens and dozens of compromises along its 8-year journey.

I will describe the nadir of this bill when President Clinton pocket vetoed the legislation after Congress adjourned in the fall of 2000.

This bill has had broad bipartisan support from the very beginning.

In the Senate, Senators GRASSLEY and BIDEN have been at this for a long time, as have many others on both sides of the aisle.

When we debate amendments over the next few days, I want my colleagues to pay close attention to those who are offering amendments.

If what occurred at the Judiciary Committee mark-up of the bill repeats itself on the floor, it might be the case that many amendments will be offered by that relatively small group of Senators who have steadfastly opposed this bill each step of the way during the last 8 years. If that is the case, we must examine their amendments with both exacting scrutiny and heavy skepticism.

It is one thing to attempt to improve a bill and bring it more to your liking, it is another matter altogether to try to scuttle a bill. This can be a fine line on any bill. But with a bill with the extensive history as this, it is easier to assess who is trying to get this bill over the goal line finally and who is trying to push us out of bounds and into yet another period of legislative overtime.

The House and Senate have been engaged in the process of deliberating on this issue since 1997, back during the 105th Congress. Turning back the clock to 1997, we see that the comprehensive bankruptcy reform bill was developed and passed in both bodies by overwhelming votes. The actual substance of bankruptcy reform legislation has been a bipartisan, bicameral effort.

The successful work by each chamber of Congress in 1997 was followed by the appointment of conferees, negotiations with the House, and, in October of 1998, an overwhelming vote by House Members in favor of the conference report. Unfortunately, the Senate did not complete its vote on final passage before the end of the Congress.

Next, in February of 1999, Congressman Gekas and Senator GRASSLEY reintroduced the same bankruptcy bill agreed to by both bodies during the previous conference committee. That bill passed the House in May by an overwhelming margin. Later that same month, the Senate Judiciary Committee marked up our bill and we reported it from committee.

Finally, in February of 2000, after months of procedural delays and debate on the Senate floor, the reform legislation passed by another impressive margin of 83 to 14.

I suspect this body will approve this bill by a similar lopsided margin when a vote on final passage is taken in this Congress if we can get to a vote on final passage. There are some who have indicated they are going to filibuster this bill. We will have to see. But there have been far too many people, on both sides of the aisle, who promised they would work to get this bill through, and they should fight against any filibuster.

Turning back to the year 2000 after the bipartisan 83–14 vote, the Senate then requested a conference. This should be a routine matter, but the objection of a single Senator blocked the appointment of conferees. As a result, the House and Senate had to turn to an informal conference process.

With a great deal of effort by Members on both sides of the aisle, we reached a compromise agreement on over 400 pages of legislation.

Ultimately, both the House and Senate were able to pass that conference report in another series of decisive votes in the fall of 2000.

However, President Clinton chose to pocket-veto the legislation and (refused to sign it into law, despite the overwhelming support. Once again, the stone pushed by Sisyphus was at the bottom of the mountain.

Representative Gekas introduced the bill, yet again, in January of 2001. The conference report for that bill, H.R. 333, became the backbone of the legislation pending before us today. It too, had overwhelming support, except for what is now understood to be a poison-pill amendment.

I will not take the time today to discuss just how this important comprehensive change in the bankruptcy bill got waylaid in the eleventh hour by this problematical and, many believe, perhaps mostly hypothetical and politically motivated, provision.

We all know that this bill has repeatedly won the overwhelming approval of our colleagues in both Houses of Congress.

Before we began a conference meeting on an earlier version a few years ago I referred to that meeting as being the last leg of a legislative marathon. I was wrong then—but I hope, and I have every confidence, that this floor debate represents the final beginning of that last leg.

We succeeded in finally enacting the class action reform bill 2 weeks ago and I am hopeful that we can duplicate this success with the bankruptcy bill over the next several days.

As many have said, this is a compromise bill that enjoys broad bipartisan support among Democrats and Republicans, and conservatives and liberals.

Even after having worked for 8 years already, we agreed to make some additional compromises in the Judiciary Committee during mark-up 2 weeks ago to satisfy some concerns of our colleagues on the other side of the aisle. Those compromises were difficult to make, but we have made them.

I should add that there are some on our side of the aisle, such as Senator CORNYN, who would like to make additional changes in this bill. He has a very substantial proposal addressing the issue of venue reform. It is an area in which he has special expertise from his experiences with some important bankruptcies that affected many citizens of Texas but were litigated out of State.

There are things I would like to see changed in the bill.

But I also recognize that many have cooperated and compromised in order to reach the state where this legislation is today. Given the extensive and lengthy history of this bill, I think it best for my colleagues to refrain from offering controversial amendments on this vehicle at this time—and I will do so because I know that any further amendments might scuttle this bill.

This bill provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

I want to stress the fact that this legislation does not make it more difficult for people to file for bankruptcy, but it does eliminate some of the opportunities for abuse that exist under the current system.

This is a good bill. We should pass it promptly and send it to the House.

It is possible that during this debate that some may falsely suggest that this bill unfairly treats low-income persons. Let me tell you at the outset that the poor are not affected by the means test. The legislation provides a safe harbor for those who fall below the median income, so they are not subjected to the means test at all. What the means test is designed to do, and what it will do, is to prevent abuse by those who can and should pay a portion of their debts wit future earnings. It will stop the fraud. It will stop the abuse of a system that has been going on through some of these unscrupulous lawyers and bankruptcy helpers.

Another misconception that I have heard again and again from opponents of the bill is that this legislation will not let people file for bankruptcy relief when they need it. The fact is that this legislation does not deny anyone access to bankruptcy relief, it just requires those who have the means to repay their debts based on their income and ability to pay.

It is that simple. It is fair. It is a long overdue change for the better.

Some opponents of this legislation have also claimed that it somehow hurts women and children. This falsehood is particularly disturbing for me to hear, because I have had a long history of advocating for children and families in Congress, and I have worked tirelessly, provision by provision, to make this legislation dramatically improve the position of children and ex-spouses who are entitled to domestic support. I have already told you in some detail why these allegations are baseless and how this bill works to help women and children.

I look forward to participating in this debate.

This is a very good bill.

It represents years of bipartisan, bicameral work. It is time we pass this bill. This President will sign this bill.

I hope that we will not get sidetracked by nonrelevant or counterproductive, controversial amendments on a consensus bill that has been so long in the making.

I hope there will not be any frivolous amendments or amendments designed to kill the bill or message amendments trying to make political points rather than solve the problems we have regarding bankruptcy.

Let us pass this bill for the fourth and final time and get on to other business.

I urge all of my colleagues to support S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMENDING HOWARD BAKER

Mr. HATCH. Mr. President, just before we went into recess on February 17, the distinguished majority leader introduced, and the Senate passed by unanimous consent, a resolution commending the public life of our dear former colleague, Senator Howard Baker. I did not have the opportunity to speak to this resolution then, and I wish to add a few words today.

I commend the current majority leader for taking a few moments from our busy Senate schedule that Friday to introduce and pass a resolution commending a former majority leader, my former colleague and dear friend, Howard Baker, for his lifetime of public service. All of us who know Ambassador Baker, or have had the great pleasure of serving under him, on either side of the aisle, will see this as certainly the least controversial act this Senate will pass this year.

I have known Howard Baker my entire Senate career—there are very few here who came to this body before Senator Baker did, back in 1966. And to know Howard Baker is to know consummate Southern grace and manners, to know a man who it is almost as much a pleasure to disagree with as it is to agree with. In my many years serving with Senator Baker, and under him, as my Republican Leader, when I first arrived, and as the majority leader, during the first 6 years of the Reagan administration, I had a few occasions where we stood on different sides of an issue, but many more where we did the people's business side-by-side. Our cause was always stronger when we had the intelligence and perseverance of Howard Baker on our side, and, on the few occasions where we did disagree, my arguments always had to be stronger because of the scrutiny and deliberation of my colleague's same intelligence and perseverance.

Majority Leader Baker did such a superb job during the first 6 years of the Reagan administration that President Reagan wisely chose him as his Chief of Staff for the last, often difficult, 2 years of his administration. It was a wise choice.

A few years later, Howard Baker made his own very wise choice. After being widowed, he married another one of our most distinguished colleagues, former Senator Nancy Landon Kassebaum. I can honestly say that I have never seen a better collaboration between two Senators I hold in the highest regard.

As we all know, our distinguished former colleague's service to the Nation was not over yet. He served our Nation with great distinction in one of the most important ambassadorial positions we have, the United States Ambassador to Japan.

Mr. President, when they teach civics in our primary and secondary schools today, the textbook writers would be wise to have a lesson on the career of Howard Baker. His character and example, and the policies he advanced, would be admired by all who, unlike some of us, have not had the opportunity to know this man in person. The textbook writers should wait a while longer, however, as I hope and expect that Howard Baker's life of public service continues, for the good of the Nation and the good of all of us. I heartily co-sponsor this resolution and offer my warmest congratulations to former Senator Baker, and his wife, former Senator Kassebaum.

## AFRICAN-AMERICAN HISTORY MONTH

Mr. SARBANES. Mr. President, it is especially appropriate that this year the theme of African-American History Month should be the Niagara Movement, for 100 years ago, in July 1905, the Niagara Movement convened for the first time. It brought together a distinguished group of twenty-nine thinkers, writers, educators, attorneys, ministers and businessmen in the African-American community; among them was the Reverend George Freeman Bragg, for many years the pastor of St. James' Episcopal Church in Baltimore and the author of Men of Maryland, a history of African Americans in Maryland from the earliest days of the colony. Although the participants were scheduled to meet in Buffalo they were unable to find hotel accommodations in that city, and as a consequence they moved to Fort Erie, on the Canadian side of the Falls.

The Niagara Movement symbolized a "mighty current" of protest against all the disabilities and indignities of second-class citizenship to which African-Americans were subjected. It rejected the pernicious "separate but equal" doctrine set out 9 years earlier by the Supreme Court in Plessy v. Ferguson, and all the political, social and economic consequences of that decision. The prospect that African-American citizens of this Nation would at last be guaranteed all the rights and protections of the Constitution had already begun to fade with the end of Reconstruction, in 1876, and Plessy seemed to affirm that although African-Americans might no longer be enslaved, they should never aspire to be full citizens of the Republic. Within the African-American community voices arose urging accommodation and acquiescence; the most prominent, Booker T. Washington's, counseled against seeking political and social rights.

John Hope, an academic who subsequently became one of the founders of the Niagara Movement, offered a ringing rebuttal to this advice:

> In this republic, we shall be less than freemen if we have a whit less than that which thrift, education and honor afford other freemen. If equality, political, economic and social is the boon of other men in this great country of ours, then equality, political, economic and social is what we demand.

When the Niagara Movement met for the first time, it adopted a manifesto that formally rejected accommodation and courageously asserted:

> We claim for ourselves every single right that belongs to a freeborn American, political, civil and social; and until we get these rights we will never cease to protest and assail the ears of America. The battle we wage is not for ourselves alone but for all true Americans.

The movement faced truly daunting challenges. It was met by the public at large with alarm, skepticism and outright hostility—and on the part of the press, by a wall of silence. The annual meeting shifted from one place to another—from Buffalo to Harper's Ferry, to Boston and then to Oberlin, and in its last year to Sea Girt, NJ. Membership never numbered more than a few hundred; and plans to establish chapters in all thirty States were never fully realized. The movement's financial resources were painfully inadequate to the challenge it faced, and its efforts to organize were met by hostility and, worst of all, silence on the part of the press.

Although the movement sank into obscurity, a small number of scholars and commentators have recognized its importance. Among them is John Bambacus, whose 1972 master's thesis, "W.E.B. DuBois and the Niagara Movement," remains a valuable introduction to the subject. Today John Bambacus serves both as the mayor of Frostburg, in Maryland's Allegany County, and also as a member of the faculty of Frostburg State University, where he is an Associate Professor and Director of Frostburg's Public Affairs Institute and Internship Program.

It is clear today that the Niagara Movement was indeed the beginning one hundred years ago of the "mighty current" that became the great civil rights movement of the 20th century and transformed this Nation. And when after a few years the movement faltered, the NAACP emerged in its place.

For Marylanders, the NAACP has very special significance. It is not only that the NAACP, with a membership of some 500,000, nearly 2,000 branch chapters and hundreds of college and youth chapters, has its headquarters in Baltimore. It is not only that the NAACP has worked ceaselessly since its founding 95 years ago to ensure that African-Americans will have access to all the rights and opportunities our country offers, and that by doing so it has made our country a better place for all our people. It is not just the brilliant programs the NAACP has designed and implemented over the years—among them, the historic voter registration projects and the Voter Empowerment Program that grew out of them, the critically important economic empowerment program, and the Academic, Cultural, Technological and Scientific Olympics program that sets a high standard of achievement for young people and challenges them to meet it.

It is also the legacy of Thurgood Marshall, who was born and raised in Baltimore, who received his high-school diploma from Frederick Douglass High School in Baltimore, and who returned to Baltimore after law school at Howard University. It was at Howard, where he was class valedictorian, that Thurgood Marshall became a member of the brilliant team that Dean Charles Hamilton Houston assembled for the express purpose of sweeping away "separate but equal" and establishing the right of African-Americans to full participation in every aspect of American life. Within a year of returning to Baltimore Thurgood Marshall joined the staff of the Baltimore branch of the NAACP. He went on to become the NAACP's chief legal officer and also director of the NAACP Legal Defense and Educational Fund.

In that capacity he led the team that successfully argued the landmark case of Brown v. Board of Education in the Supreme Court, thereby laying the indestructible foundation for transforming the principles set out by the Niagara Movement into the reality of American life.

Marshall did not rest with his triumph in the Brown case. President Kennedy appointed him to the 2nd Circuit Court of Appeals, where of Judge Marshall's 112 rulings that were appealed, every one was later upheld by the Supreme Court. Subsequently President Johnson appointed him to be Solicitor General, and then to sit on the Supreme Court as the Nation's first African-American Justice. Justice Marshall's colleague on the Supreme Court, Justice Brennan, called him—

> the voice of authority . . . the voice of reason . . . [a]nd a voice with an unwavering message: that the Constitution's protections must not be denied to anyone . . .

Thurgood Marshall was a leader among the brilliant and courageous members of the African-American community who dedicated their efforts—and in many cases their lives—to the fundamental principles of equality and respect that were set out in Buffalo 100 years ago by the Niagara Movement. We have come far, but yet we have far to go.

No one has put this more eloquently than Dr. Martin Luther King, Jr. As we approach the end of African-American History Month 2005 we should remember what he told us nearly 50 years ago, in "Facing the Challenge of a New Age":

> . . . our world is geographically one. Now we are faced with the challenge of making it spiritually one. Through our scientific genius we have made of the world a neighborhood; now through our moral and spiritual genius we must make of it a brotherhood. We are all involved in the single process. Whatever affects one directly affects all indirectly. We are all links in the great chain of humanity.

Mr. PRYOR. Mr. President, today marks the end of Black History Month. Each year, we take this opportunity to honor the heritage and extraordinary contributions that African Americans have made in building our Nation.

We have many fallen martyrs in the civil rights movement to honor: Harriet Tubman, the pioneer of the Underground Railroad; Dr. Martin Luther King, Jr., a drum major for justice; Rosa Parks, mother of the civil rights movement; and recently deceased Shirley Chisholm, champion of political firsts; to name only a few.

Arkansas has its own heroes who turned their determination into opportunity for others and helped shape history as a result.

It is perhaps the Little Rock Nine who taught America that "separate" was not "equal." Nine black students—Ernest Green, Elizabeth Eckford, Gloria Ray Karlmark, Carlotta Walls LaNier, Minnijean Borwn Trickey, Terrence Roberts, Jefferson Thomas, Thelma Mothershed Wair and Melba Pattillo Beals—defied hatred and prejudice to attend the all-white Central High School and exercise their right to a better education.

Last year, I worked closely with members of the Little Rock Nine, as well as the former Congressional Black Caucus Chairman, Elijah Cummings, to secure funding to build a Visitor's Center at the Little Rock Central High School in time to commemorate the 50th Anniversary of the school's desegregation crisis. I am thrilled Congress authorized the design funding for this project. We celebrate Black History Month every February, but the Visitor's Center is open to teach stories of the civil rights movement all-year long.

Part of this Visitor's Center will tell the story of civil rights leader Daisy Gatson Bates, who paid a personal and financial price to help the Little Rock Nine succeed. Bates also made significant strides in the courtroom and increasing public awareness through her newspaper, the Arkansas State Press, about the inequality that existed in Arkansas.

Just as Arkansans broke barriers in our schools, they also played a large role in integrating our Nation's military operations, making it the most skilled military in the world. The actions of the Tuskegee Airmen are legendary. Arkansas' own Tuskegee Airmen include: Herbert Clark of Pine Bluff, Richard Caesar of Lake Village, William Mattison of Conway, Woodrow Crockett of Little Rock, James Ewing of Helena, Marsille Reed of Tillar, Jerry Hodges of Heth, and Grandville Coggs of Little Rock.

Before 1940, African Americans were barred from flying for the U.S. military. Civil rights organizations and the black press exerted pressure that resulted in the formation of an African-American flying squadron based in Tuskegee, AL., in 1941. The Tuskegee Airmen established an incredible and unprecedented flying record, most notably completing 200 bomber escort missions over most of central and southern Europe without the loss of a single bomber to enemy aircraft. By the end of World War II, almost 1,000 African Americans had won their wings at Tuskegee Army Air Field. Each airman had his own victories and valor, but in the end, the Tuskegee Airmen knew that never again would anybody deny a man or woman the opportunity to serve our country in any capacity because of the color of his or her skin.

In 1948, President Harry Truman enacted an Executive order which directed equality of treatment and opportunity in all of the U.S. Armed Forces. This order, in time, led to the end of racial segregation in the military forces.

African Americans continue to make remarkable contributions in the fields of mathematics, science, arts, politics and the Armed Forces. Arkansas is blessed to be the home to many of these trailblazers, including Pulitzer Prize winner Maya Angelou, former U.S. Secretary of Transportation Rodney Slater, and many individuals who may not be household names but who make an extraordinary difference in our communities nonetheless.

As we look back at the African Americans who brought us here today, we must also consider those who are history in the making.

The Little Rock Nine and Daisy Gatson Bates knew that education is the great equalizer. Keeping students in school and preparing them for college will pay off in dividends for communities. For students who pursue higher education, the pay margin is significant. In 2002, the average earnings for nongraduates were $18,826; for high school graduates, $27,280; for bachelor's degree holders, $51,194; and for those with advanced degrees, $72,824.

Last week, I traveled towns in the Delta, where some rural areas suffer from unemployment rates two to three times higher than the national average, the poverty rate is more than double the national average, and access to health care is abysmal. I spoke with middle school and high school students, sharing with them a message of commitment and responsibility.

Every child should know that if they take the initiative to work hard and make good grades, this body will stand by them and match that commitment. Standing by our youth means fulfilling the promises we made to them to fully fund the No Child Left Behind Act.

Most students know that the No Child Left Behind Act requires them to take more tests, but they don't understand the overall goal is to improve our schools—in poor neighborhoods and in wealthy school districts—so that they will all be able to compete in the global and technically advanced workplace.

In fulfilling Congress' commitment to our youth, it is imperative that we support programs like the Federal TRIO programs, which help low-income, first-generation college students progress through the academic pipeline from middle school to post-baccalaureate programs.

I recently learned about Jessica, a high school senior who participates in the Upward Bound Program. Through the Federal TRIO program, she received tutoring and technical assistance that she needed to attend college. Jessica took the initiative to make good grades in school, score well on her ACTs, and balance a part-time job at McDonalds. She was accepted at the University of Central Arkansas, her first choice college, and she now awaits scholarship information so she knows for sure whether UCA is in her future.

Oprah Winfrey once said "luck is a matter of preparation meeting opportunity." Preparation is the most important part of the equation. For students to be prepared and compete in the workforce, Congress must support programs like title I, IDEA, TRIO, as well as programs that provide vocational preparation and technology in rural schools. When we underfund or slash funding for them, as the President proposes in his budget proposal, we take opportunity away from them.

African-American students are reaping the benefits of equal opportunity laws passed on to them through the sacrifice of their ancestors. However, too many African-American seniors struggle financially today because they simply did not have the same opportunity in their schools or in the workplace. As a result, 40 percent of African-American seniors rely on Social Security as their only source of income, and the program provides about three-quarters of all retirement income for African-American seniors. Statistics show, in fact, without Social Security, poverty rates for African-American seniors would more than double to 58 percent.

The Social Security safety net is at risk with the President's privatization plan. I hope African-American families in Arkansas and throughout the country will listen closely to the debate on Social Security's future. The President recently stated private accounts are in the best interest of African-Americans because the accounts benefit individuals with a shorter life expectancy. To me that statement means we need to reduce the health care disparity in this country, which is something I hope the Senate will take action on this year. Weakening Social Security is not the answer.

Black History Month presents an occasion to reflect on the great contributions African-Americans have made to our country, and to celebrate the steps we have taken toward equality. But too much is left to be done to simply leave it at that. We must also remind ourselves of the work ahead and meet the commitment of those who seek opportunity.

Mrs. DOLE. Mr. President, this month we mark the 79th celebration of African American Black History Month. What was launched by civil rights pioneer Dr. Carter G. Woodson in 1926 as Black History Week and observed in Black schools and churches today is a month-long national tribute to the tremendous historical contributions of African Americans from all walks of life and professions.

I am so very proud of the rich and vibrant African-American heritage in my home State of North Carolina. Our history is full of trailblazers, including Franklin McCain, Joseph McNeil, Ezell Blair, Jr., and David Richmond, known as the Greensboro Four because of their February 1960 sit-ins at a Woolworth Store counter in Greensboro, NC. Their sit-ins were the first significant event of this type, quickly gaining momentum and attention. In less than a week, the four North Carolina A&T freshmen had been joined by 1,000 other students from local high schools and universities. As the Greensboro News & Record stated earlier this month, the Greensboro sit-in "gave new life to the nation's civil rights movement and helped pave the way for its triumphs later in the decade." These individuals truly laid the foundation for the America we strive to be, where all people are given opportunity and treated fairly, regardless of their skin color.

North Carolina, with its long and proud military history, also produced 21 of the famed Tuskegee Airmen. Trained in Tuskegee, AL, these brave men made up the first African-American military flying unit in World War II. I am proud to cosponsor recently introduced legislation that authorizes the President to award a gold medal on behalf of Congress to the Tuskegee Airmen. These brave soldiers truly left their mark on history not just in battle—their great success helped pave the way for the integration of our Armed Forces in 1948.

North Carolina also has made great strides in higher education. We have 11 historically Black colleges and universities, including Shaw University in Raleigh, founded in 1865 and the oldest HBCU in the South. I was honored to give the commencement address and receive an honorary degree several years ago from Livingstone College, another outstanding historically Black college in my hometown of Salisbury. I also am so very proud that my husband Bob is serving as chairman of a $50 million fundraising campaign at Bennett College in Greensboro, one of only two historically Black women's colleges in America. Bennett College President Dr. Johnnetta Cole is a pioneer in her own right, having received 50 honorary degrees during an impressive career in academia that includes being the first African-American woman to serve as president of Spelman College. And in May 2004, Dr. Cole became the first African-American to serve as chair of the Board of United Way of America.

A short time ago Congress debated legislation to make the birthday of Dr. Martin Luther King, Jr., a national holiday. The floor leader for that legislation was a fellow named Bob Dole. During the final debate, I had the privilege of sitting in the gallery with Coretta Scott King, as we heard Bob deliver these words: "A nation defines itself in many ways; in the promises it makes and the programs it enacts, the dreams it enshrines, or the doors it slams shut. Thanks to Dr. King, America wrote new laws to strike down old barriers. She built bridges instead of walls . . . there is nothing partisan about justice. It is conservative as the Constitution, as liberal as Lincoln, as radical as Jefferson's sweeping assertion that all of God's creation is equal in His eyes." I could not agree more.

Mr. SMITH. Mr. President, I rise again, as I have earlier this month, to honor February as Black History Month. Each February since 1926, we have recognized the contributions of Black Americans to the Nation.

This is no accident; February is a significant month in Black American history. Abolitionist Frederick Douglass, President Abraham Lincoln, and scholar and civil rights leader W.E.B. DuBois were born in the month of February. The 15th amendment to the Constitution was ratified 132 years ago this month, preventing race discrimination in the right to vote. The National Association for the Advancement of Colored People was founded in February in New York City. February 1 was the 45th anniversary of the Greensboro Four's historic sit-in. And on February 25, 1870, this body welcomed its first Black senator, Hiram R. Revels of Mississippi.

In this important month, I have wanted to celebrate some of the contributions made by Black Americans in my home State of Oregon. Since Marcus Lopez, who sailed with Captain Robert Gray in 1788, became the first person of African descent known to set foot in Oregon, a great many Black Americans have helped shape the history of my State. Throughout this month, I have come to the floor to highlight some of their stories. Today, on the last day of Black History Month, I have come to honor one more.

Louis A. Southworth was a blacksmith, fiddler, and farmer. Though a combination of his contagious personality, appealing fiddle playing, and an unwavering devotion to civic duty, he became one of Oregon's most respected and well-liked citizens of his time.

Born into slavery in Tennessee in 1830, he later moved with his family to Oregon in 1851. Although slavery was officially banned in Oregon, it was still practiced with some frequency. While working in the gold mines, Southworth soon found that people greatly enjoyed his musical talents. He was able to parlay his talents on a fiddle into an extra source of income, and at age 28, bought his freedom for $1,000. The phrase "fiddling for freedom" soon caught on, and Louis Southworth become some what of a local hero.

In 1879, he moved with his wife and adopted son to the south bank of the Alsea River. Southworth, with his family and his fiddle, soon won over this small community. He worked as a farmer, and ferried cargo and passengers across the bay to town.

As more people began to move into the community, he donated some of his land to build a local school house and later served as chair of the school board. Along with his new life came a renewed sense of civic duty. Southworth became a dedicated political activist. During the elections of 1890, a strong storm ravaged his small town. Unafraid of the weather, Louis Southworth rigged two oil drums to his boat for buoyancy and rowed across the bay to the polling place. As it turns out, he was the only person to cast a vote in Waldport that day.

Despite the chaotic times in which he lived, Louis Southworth was embraced by his community. Before he died in 1917, his neighbors raised the $300 needed to pay off his mortgage in Corvallis, OR.

Louis Southworth provides one example of a man triumphing over seemingly insurmountable odds. As a Black man living in troubled times, his personality, compassion, work ethic, talents, generosity, and devotion to the community service allowed him to become a respected leader. He was accepted by many of his peers, of all races, religions, and ethnic backgrounds, long before this was common or expected. His legacy of service and kindness is one that lives on today, and one that should be remembered for years to come. On this last day of Black History Month, I believe it is only right to celebrate an Oregonian like Louis Southworth, whose contributions to race relations in Oregon, while great, have not yet received the attention they deserve.

---

## HONORING OUR ARMED FORCES

### CORPORAL MATTHEW REED SMITH, USMC

Mr. HATCH. Mr. President, today I rise to speak on the recent passing of Corporal Matthew Reed Smith of the United States Marine Corps. Corporal Smith was a native of West Valley City, UT, who died in a helicopter crash near the town of Rutbah, Iraq. Corporal Smith was one of 29 Marines and one Navy sailor who lost their lives in that fateful accident. Today, I know the Senate will join me in honoring their memory as heroes who died in performance of their duty. The sacrifice of these brave servicemen will be remembered forever.

Corporal Smith, during his younger years, often dreamed of being in the Armed Forces. I have been told that as a child he would play make-believe with his brothers on the hill in front of their home and that he always insisted on being the "Marine." Nicknamed the "Three Musketeers" by their mother, Corporal Smith and his two brothers grew up doing the things they loved most, camping, hunting, wrestling, and riding their motorbikes in the mountains.

Corporal Smith joined the Marines because "they were the first ones in there." As a Marine, he fought bravely to expel the insurgents from the city of Fallujah. There were times during the fighting when he could hear the bullets whistling past his head. His best friend lost an arm and a leg in the Battle for Fallujah.

Being unable to obtain leave in order to attend the wedding of his brother last March, members of his family made a life-size cutout of Corporal Smith and moved it around the dance floor as the night progressed. On learning of Corporal Smith's death, his family placed the cutout in the living room of their home. That silhouette of Corporal Smith, dressed sharply in his Marine uniform, today remains in our hearts as a symbol that he served his country with honor and courage.

Recently, I had the opportunity to visit a website created to honor him. I was struck by the number of comments and sentiments that clearly showed that Corporal Smith was a true friend and loved by all who knew him. In one particularly moving tribute, a fellow mourner wrote that he could not imagine Corporal Smith departing this life "in any other way than selflessly serving others."

Mr. President, it is a privilege to learn about the extraordinary life of such a man.

## SUSPENSION OF RUSSIA FROM THE G8

Mr. LIEBERMAN. Mr. President, I rise today, along with my good friend Senator McCAIN, to speak about a resolution that is of great importance to the cause of democracy which we have devoted America to advance at home and around the world. In November 2003 Senator McCAIN and I were moved by Russia's failure to adhere to democratic principles to submit a resolution to hold Russia accountable for the commitments Moscow made when first invited to participate in what became known as the G8. Since then, the situation in Russia has deteriorated. I am particularly pleased that Senators BAYH, BURNS, CHAMBLISS, SMITH, and DURBIN have joined as original co-sponsors of this resolution indicating the increasing Senatorial concern over the accelerating erosion of democratic and economic freedom in Russia. As President Bush returns from his meeting with President Putin at the summit in Bratislava, we call once again on the President of the United States and the Secretary of State to work with our partners in the G7 to condition Russia's continued participation in the G8 on Russia's compliance with basic standards of democracy and rule of law.

We have a real stake in Russia's adherence to democratic norms because our commitment to Russia's transition toward democracy is critical to secure a peaceful future with Russia. The G7 nations are highly industrialized countries bound together by fundamental principles of democracy, rule of law, a free market system, and respect for human rights.

The actions of President Putin over the past few years have raised serious concerns about Russia's commitment to these principles. There is a long list of well-documented antidemocratic developments in Russia. The Putin administration has limited freedom of expression in Russia by seizing independent media organizations and suppressing the activities of independent journalists, religious organizations, and nongovernmental organizations that are all integral components of a healthy civil society. The Russian government's dismantling of Yukos and the arrest of its founder Mikhail Khodorkovsky 16 months ago raised serious doubts about Russia's commitment to free market principles and rule of law as well as respect for property and shareholder rights. The Federal Security Services, FSB, play a strong role in Russia's power structures in a manner reminiscent of the KGB in the old regime. President Putin's support for the first fraudulent results in the Ukrainian presidential elections last year exhibited disregard for basic democratic principles. Fortunately, a democratic outcome prevailed in a new vote and Yushchenko's victory—a very positive development for Ukraine's and Russia's democrats.

We were all moved by the horrific attack on the schoolchildren and families of Beslan school last September. There can be no justification for such brutal acts and we condemn them with every fiber of our soul. Our hearts and sympathy go out to the families of these victims as they continue to cope with the loss of their loved ones. The United States condemns terrorism in all forms. But the tragedy of the Beslan school should not be used by President Putin to retreat from democratic reforms. In the wake of the Beslan crisis, President Putin abolished the popular election of regional governors in favor of presidential appointees. These changes to the Russian political system enhance the power of the executive branch, while reducing the checks and balances that make democracies work. As former Secretary of State Colin Powell said, "We understand the need to fight against terrorism . . . but in an attempt to go after terrorists I think one has to strike a proper balance to make sure that you don't move in a direction that takes you away from the democratic reforms or the democratic process."

Allowing Russia to continue its involvement in the G8 and to host the 2006 G8 Summit while continuing to undermine democracy makes mockery of the very principles that bind the G8 countries together. This resolution is not anti-Russian; it is a strong show of support for Russia's democrats who have long urged the United States to not turn a blind eye to undemocratic developments in Russia. Sharing a deeply personal moment from his time in Soviet Gulag, Natan Sharansky recently told a group of Senators how deeply supported he felt when President Reagan gave his famous "evil empire" speech that honestly addressed the oppression of the Soviet system. Since then Russia has come a long way, but we must speak openly in the face of the backsliding we are seeing.

As Secretary of State Condoleezza Rice recently said, "The real deepening of our relations can only take place on the basis of common values." To do otherwise would be to shirk our responsibilities as a leader of the democratic world. And as President Bush said so eloquently in his inaugural and State of the Union addresses, America's security is advanced by the advancement of freedom. This resolution puts those sentiments into concrete action and I urge my fellow Senators to support it.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

In December of 2004, a gay man was attacked outside of his Kansas City home by two unknown assailants. Floyd Elliot reported to authorities that two men held him down, cut him with a knife, and used the knife to burn letters into his skin. It looks as if the assailants were attempting to "brand" a homosexual slur onto the victim's chest. The attack is being investigated as a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

## TRIBUTE TO HARRY T. CORBETT

• Mr. BOND. Mr. President, today I would like to commend Mr. Harry T. Corbett, Postmaster of the Wentzville Post Office, for his 38-year tenure with the United States Postal Service. Mr. Corbett will retire from the U.S. Postal Service on March 3, 2005. Mr. Corbett began his career with the Postal Service in March of 1967 as a substitute city carrier for the Saint Ann, Missouri Post Office. In 1980, he was named Postmaster of the Wentzville Post Office.

In the 38 years between being a substitute city carrier and Postmaster, Mr. Corbett held several positions within the postal system. In 1968, he became a full-time city carrier and was later promoted to the position of Window Distribution Clerk in Saint Ann, Missouri. Three years later, he was reassigned to the Florissant post office as a substitute carrier, then to full-time carrier and then to Distribution Clerk Letter Sorting Machines. In 1974, Mr. Corbett was reassigned to the Saint Louis Mail Processing Plant as a Mail Sorting Machine Clerk. Mr. Corbett obtained his first position of leadership when he was promoted to Foreman Mails EAS Level 15 in December of 1974. Three years later, he was promoted to Supervisor Mails Multi-Position LSM EAS 16. The following year he was promoted to General Foreman Mails EAS 17. Mr. Corbett became Postmaster EAS 18 of the Wentzville, Missouri, Post Office on June 14, 1980. In March 1988, he reached EAS 20 level.

Mr. Corbett is involved in several area organizations and charitable causes, such as the National Association of Postmasters of the United States, the Wentzville Rotary Club, and the Wentzville Chamber of Commerce. He is a member of St. Patrick Church and sits of the Developmental Disability Resource Board of St. Charles County. In addition, he is actively involved in the Crossroads Regional Medical Center Charitable Foundation.

Mr. Corbett has been married to Nancy K. Scott Corbett for 32 years and he has two sons, Bret and Jeff Corbett. Bret is married to Courtney Carrothers Corbett. Mr. Corbett has been blessed with four grandchildren: Mackenzie, Abigail, Emma, and Kaiya. Following his retirement from the United States Postal Service, Mr. Corbett looks forward to golfing, fishing, camping, and traveling. He also plans to spend quality time with his family.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1084. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report entitled "Implementation of the Government in the Sunshine Act Calendar Year 2004" received on February 16, 2005; to the Committee on Rules and Administration.

EC–1085. A communication from the Chair, U.S. Election Assistance Commission, transmitting, pursuant to law, a report entitled "Annual Report to Congress for Fiscal Year 2004" received on February 17, 2005; to the Committee on Rules and Administration.

EC–1086. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Report on DoD Actions to Support Voting Assistance to Armed Forces Outside the U.S." received on February 14, 2005; to the Committee on Armed Services.

EC–1087. A communication from the Publications Control Officer, Department of the Army, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Law Enforcement Reporting" (RIN0702–AA42–U) received on February 16, 2005; to the Committee on Armed Services.

EC–1088. A communication from the Director, Defense Procurement and Acquisition

Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Tax Procedures for Overseas Contracts" (DFARS Case 2003–D031) received on February 17, 2005; to the Committee on Armed Services.

EC–1089. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Small Business Competitiveness Demonstration Program" (DFARS Case 2003–D063) received on February 17, 2005; to the Committee on Armed Services.

EC–1090. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "PAN Carbon Fiber—Restriction to Domestic Sources" (DFARS Case 2004–D002) received on February 17, 2005; to the Committee on Armed Services.

EC–1091. A communication from the Acting Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–1092. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, its semiannual report entitled "Monetary Policy Report" received on February 16, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1093. A communication from the Deputy Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled, "XBRL Voluntary Financial Reporting Program on the EDGAR System" (RIN3235–AJ32) received on February 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1094. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, a report entitled "FY 2006 Budget Justification"; to the Committee on Health, Education, Labor, and Pensions.

EC–1095. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, a report entitled "Justification of Budget Estimates for Fiscal Year 2006" ; to the Committee on Health, Education, Labor, and Pensions.

EC–1096. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company 90, 99, 100, 200, and 300 Airplanes" ((2120–AA64 (2005–0100)) received on February 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1097. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A320 Airplanes" ((RIN2120–AA64 (2005–0102)) received on February 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1098. A communication from the Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Title VI Regulations for FMCSA Financial Assistance Recipients" (RIN2126–AA79) received on February 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1099. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Central GOA Inshore Pacific Cod" received on February 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1100. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–751, "Electronic Recording Procedures Act of 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–1101. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–770, "Technical Amendments Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC–1102. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–742, "Public School Enrollment Integrity Clarification and Board of Education Honoraria Amendment Act of 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–1103. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–757, "First Amendment Rights and Police Standards"; to the Committee on Homeland Security and Governmental Affairs.

EC–1104. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–745, "School Safety and Security Contracting Procedures Act of 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–1105. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–743, "Notice Requirement for Publicly Funded Building Projects Amendment Act of 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–1106. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 15–759, "Child and Youth, Safety and Health Omnibus Amendment Act of 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–1107. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the Government Accountability Office's, "Performance and Accountability Highlights" for fiscal year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1108. A communication from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's annual statement, received on February 8, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1109. A communication from the Secretary, Smithsonian Institution, transmitting, pursuant to law, the Institute's report on competitive sourcing and competitions for fiscal years 2003 and 2004, received on January 25, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1110. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the Foundation's consolidated annual report, received on January 25, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1111. A communication from the Executive Associate Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on competitive sourcing efforts for fiscal year 2004, received on February 7, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1112. A communication from the Office of the Director, National Gallery of Art, transmitting, pursuant to law, the report on competitive sourcing methods for fiscal year 2004, received on February 7, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1113. A communication from the Deputy Director, Office of Administration and Information Management, Office of Government Ethics, transmitting, pursuant to law, the report of a change concerning a vacancy, received February 7, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1114. A communication from the Deputy Director for Administration and Information Management, Office of Government Ethics, transmitting, pursuant to law, the report for competitions completed or initiated in fiscal year 2004, received on February 7, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1115. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Annual Report of the Administration of the Government in the Sunshine Act for Calendar Year 2004, received on February 7, 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1116. A communication from the Under Secretary for Management, Department of Homeland Security, transmitting, pursuant to law, the Department's annual Report to Congress on Fiscal Year 2004 Competitive Sourcing Efforts, received on February 7, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1117. A communication from the Administrator, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the Administration's competitive sourcing initiative, received on February 8, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1118. A message from the President of the United States, transmitting, pursuant to law, a notice stating that the emergency declared with respect to the Government of Cuba on February 24, 1996, as amended and expanded on February 26, 2004, is to continue in effect beyond March 1, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1119. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Extension of Minimum Funding Under the Indian Housing Block Grant Program" ((RIN2577–AC43) (FR–4825–I–03)) received February 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1120. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR part 515, Cuban Assets Control Regulations" received on February 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1121. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Austria; to the Committee on Banking, Housing, and Urban Affairs.

EC–1122. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Periodic Report on the National Emergency With Respect to Zimbabwe" received on February 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1123. A communication from the Deputy Director of Budget, Office of the Budget, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Payment in Lieu of Taxes" (RIN1093–AA09) received on February 28, 2005; to the Committee on Energy and Natural Resources.

## REPORTS OF COMMITTEES

Under the authority of the order of the Senate of February 17, 2005, the following reports of committees were submitted on February 23, 2005:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 47. A bill to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico (Rept. No. 109–7).

S. 74. A bill to designate a portion of the White Salmon River as a component of the National Wilds and Scenic Rivers System (Rept. No. 109–8).

S. 153. A bill to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes (Rept. No. 109–9).

S. 212. A bill to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes (Rept. No. 109–10).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 225. A bill to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land (Rept. No. 109–11).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 254. A bill to direct the Secretary of the Interior to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries (Rept. No. 109–12).

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 156. A bill to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes (Rept. No. 109–13).

By Mr. SPECTER, from the Committee on the Judiciary:

Report to accompany S. 5, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes (Rept. No. 109–14).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself, Mr. SARBANES, and Mr. CORZINE):

S. 468. A bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself, Mr. LOTT, Mr. ROBERTS, Ms. SNOWE, Mr. BAYH, Mr. CHAMBLISS, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DEWINE, Mr. WYDEN, Mr. BOND, Mrs. FEINSTEIN, Mr. HAGEL, and Mr. HATCH):

S. 469. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain from the sale of a principal residence by certain employees of the intelligence community; to the Committee on Finance.

By Mr. DODD (for himself, Mr. GRASSLEY, Mr. JOHNSON, and Mr. WYDEN):

S. 470. A bill to amend the Public Health Service Act to expand the clinical trials drug data bank; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself, Mr. HARKIN, Mr. HATCH, Mrs. FEINSTEIN, Mr. SMITH, and Mr. KENNEDY):

S. 471. A bill to amend the Public Health Service Act to provide for human embryonic stem cell research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 472. A bill to criminalize Internet scams involving fraudulently obtaining personal information, commonly known as phishing; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. 473. A bill to amend the Public Health Service Act to promote and improve the allied health professions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH:

S. 474. A bill to establish the Mark O. Hatfield-Elizabeth Furse Scholarship and Excellence in Tribal Governance Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. JOHNSON (for himself and Mr. ENZI):

S. 475. A bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing for Indians; to the Committee on Indian Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. DEMINT, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. GREGG, Mr. HATCH, Mr. ISAKSON, Mr. LUGAR, Mr. MCCAIN, Ms. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. WARNER, Mr. BAUCUS, Mrs. BOXER, Mr. CARPER, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KOHL, Mr. LEAHY, Mrs. LINCOLN, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. SALAZAR, Mr. SCHUMER, Ms. STABENOW, and Mr. JEFFORDS):

S. Res. 67. A resolution designating the second week of March 2005 as "Extension Living Well Week"; considered and agreed to.

By Ms. COLLINS (for herself, Mr. REED, and Mr. KENNEDY):

S. Res. 68. A resolution designating March 2, 2005, as "Read Across America Day"; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 8

At the request of Mr. ENSIGN, the names of the Senator from Texas (Mr. CORNYN), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

### S. 13

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 13, a bill to amend titles 10 and 38, United States Code, to expand and enhance health care, mental health, transition, and disability benefits for veterans, and for other purposes.

### S. 65

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

### S. 84

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 84, a bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation.

### S. 103

At the request of Mr. TALENT, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

### S. 132

At the request of Mrs. LINCOLN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Ms. STABENOW) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 168

At the request of Mr. BINGAMAN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 168, a bill to reauthorize additional contract authority for States with Indian reservations.

S. 169

At the request of Mr. BINGAMAN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 169, a bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify a route that passes through the States of Texas, New Mexico, Oklahoma, and Kansas as a high priority corridor on the National Highway System.

S. 191

At the request of Mr. SMITH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 285

At the request of Mr. BOND, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 311

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 311, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 329

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 329, a bill to amend title 11, United States Code, to increase the amount of unsecured claims for salaries and wages given priority in bankruptcy, to provide for cash payments to retirees to compensate for lost health insurance benefits resulting from the bankruptcy of their former employer, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 337

At the request of Mr. GRAHAM, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 357

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 357, a bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes.

S. 368

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 368, a bill to provide assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development.

S. 370

At the request of Mr. LOTT, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 370, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 380

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 403

At the request of Mr. ENSIGN, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Texas (Mr. CORNYN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Ohio (Mr. DEWINE), the Senator from Mississippi (Mr. LOTT), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 407

At the request of Mr. JOHNSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 424

At the request of Mr. BOND, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 427

At the request of Mr. JEFFORDS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 427, a bill to amend the Public Utility Regulatory Policies Act of 1978 to provide for a Federal renewable portfolio standard.

S. 438

At the request of Mr. ENSIGN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S.J. RES. 4

At the request of Mr. CONRAD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S.J. Res. 4, a joint resolution providing for congressional disapproval of the rule submitted by the Department of Agriculture under chapter 8 of title 5, United States Code, relating to risk zones for introduction of bovine spongiform encephalopathy.

S. RES. 39

At the request of Ms. LANDRIEU, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Res. 39, a resolution apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation.

S. RES. 55

At the request of Mr. GRAHAM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 55, a resolution recognizing the contributions of the late Zhao Ziyang to the people of China.

S. RES. 59

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Res. 59, a resolution urging the European Union to maintain its arms export embargo on the People's Republic of China.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself, Mr. SARBANES, and Mr. CORZINE):

S. 468. A bill to amend the Higher Education Act of 1965 to enhance the literacy in finance and economics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I rise to reintroduce comprehensive legislation aimed at addressing the issue of economic and financial illiteracy on college campuses. I am referring to the worrisome problems of skyrocketing debt levels, low rates of saving, and the proliferation of unchecked predatory practices by unscrupulous financial institutions among young adults who hold our country's future in their hands. Entitled the College LIFE or College Literacy In Finance and Economics Act, this bill has the support of Senators SARBANES and CORZINE. I thank my colleagues from Maryland and New Jersey for joining me as original cosponsors of this measure. I also thank Senator ENZI, the Chairman of the Health, Education, Labor, and Pensions Committee, for working with me on financial literacy as it affects all constituencies, including college students.

The problem we are working to address with the College LIFE Act is simple. Our college students are many of America's best and the brightest and will go on to become leaders—in business, education, politics, the military, the community—any area you can name. I find it wonderful that many young people are fulfilling their dreams of higher education in numbers that I did not imagine when I was in college. In fact, as reported by the Census Bureau, college enrollment was estimated at 15.9 million for the current school year, compared to 5.7 million in 1965 when the Higher Education Act was enacted. However, I am gravely concerned, both as a member of this body and particularly as a grandparent and great-grandparent, that our young people are entering college without proper direction or good skills for money management or economic decisionmaking.

As we work on increasing access to higher education, we must give students access to tools needed to make sound economic and financial decisions once they are on campus; however, the lack of personal finance and economics standards or implementation of existing standards in elementary and secondary education in a number of States results in many students arriving at college with little understanding of economic concepts like supply and demand or benefits versus costs, or personal finance concepts such as household money management or the importance of maintaining good credit history. Without this basic understanding, college students are not effectively evaluating credit alternatives, managing their debt, and preparing for long-term financial goals, such as saving for a home or retirement.

Imagine life from the point of view of a college student. A young adult leaves his home and travels many miles—thousands of miles in the case of Hawaii students attending mainland colleges—to the campus that holds his hopes and dreams. Perhaps he is not being mindful of how much money he needs for textbooks, school supplies, or student fees. He visits the campus bookstore and walks out with a bag that includes a preapproved credit card application, which he immediately completes and sends. Months later, he has joined other credit card-holding college students who, on average, have credit card balances above $3,000. Sophomore year rolls around and, instead of conferring with his parents about the details of his renewal FAFSA for student financial aid or master promissory note, he is saddled with another $20,000 loan. According to the Census Bureau, average college tuition, room, and board have increased to $29,119 for a four-year private institution and to $9,953 for a four-year public institution. The same scenario repeats itself in junior and senior year. Finally, after completing all coursework, he graduates, finds an entry-level job, and realizes that, after servicing his debt, he has little left to spend on basics such as food, transportation, and rent, much less career clothing or a new briefcase. His lack of knowledge about how to properly use credit has led him to anxiety-causing financial missteps. With appropriate financial and economic literacy, he may have known what debt load to anticipate and made wiser financing and spending decisions while in school.

Instead, she may be on the road to true financial trouble. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt and has nine credit cards. From January through September of 2004, approximately 1.2 million consumers filed for bankruptcy, keeping pace with last year's record level, which is almost half of the number of college diplomas expected to be conferred this year at 2.5 million. Furthermore, the Federal Reserve Board reports that Americans currently pay more than 13 percent of after-tax income to service their debts. We must ensure that our youth make the right decisions to follow a better financial path. This is especially in light of a report cited by Dan Iannicola, Jr., Deputy Assistant Secretary of the Treasury for Financial Education, at a House hearing last Congress, noting that youths spent more than $172 billion in a recent year, and figures from MarketResearch.com noting that typical 8- to 14-year-olds spend—from allowances, jobs, and gifts—nearly $1,300 a year or $25 a week.

The College LIFE Act represents a comprehensive approach to assist upcoming generations of Americans. It proposes four new grant programs that provide resources to encourage experimentation with delivery systems—innovative methods used in or out of the classroom to increase college students' financial literacy. Another grant would allow higher education institutions to share best practices about or create personal finance courses where none exist. A third grant would assist efforts that are looking at the best ways to integrate personal finance and economic education into basic educational subjects, which is especially important as schools are facing challenges under the No Child Left Behind Act and are tempted to focus on subjects being tested for Adequate Yearly Progress. The final grant would train teachers and high school counselors toward increasing financial and economic literacy in grades K-12 so that our college students are prepared when they arrive at college campuses.

The bill also proposes a pilot program for five higher education institutions to encourage students to take a personal finance course and participate in preventive annual credit counseling, working in conjunction with State or local public, private, and nonprofit entities selected by the local education agency or the school, and measuring the effectiveness of efforts in any behavioral changes that may result. It promotes greater collaboration with and support from Federal agencies in the form of the Financial Literacy and Education Commission. Finally, the measure emphasizes the importance of personal finance and economic education and counseling by authorizing these activities as allowable uses in existing Higher Education Act programs, such as TRIO, GEAR UP, and Title III and Title V Serving Institutions.

Furthermore, I intend the reach of this bill to be beyond the traditional college student. Our returning college students are a vital part of society—many who are already community leaders and breadwinners for their families who have already gained valuable work experience that they may use as they learn a new field or continue their undergraduate study in the pursuit of a graduate or doctoral degree. In addition, older adults who are entering higher education for the first time can also be lauded for their enterprising spirit in wanting to better their lives by earning an associates or bachelors degree. I anticipate that the assistance provided through the College LIFE Act will work to provided needed help to many of these students as well.

I am looking forward to continuing to work with my colleagues to have the

College LIFE Act passed or included in the upcoming Higher Education Act reauthorization. I encourage my colleagues' support for this bill.

---

By Mr. ROCKEFELLER (for himself, Mr. LOTT, Mr. ROBERTS, Ms. SNOWE, Mr. BAYH, Mr. CHAMBLISS, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DEWINE, Mr. WYDEN, Mr. BOND, Mrs. FEINSTEIN, Mr. HAGEL, and Mr. HATCH):

S. 469. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain from the sale of a principal residence by certain employees of the intelligence community; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am introducing legislation to extend an important tax benefit to the men and women of the United States Intelligence Community. I am pleased that in keeping with the bipartisan traditions of the Intelligence Committee, every member, Republican and Democrat, is listed as an original cosponsor.

Two years ago, on Veterans Day, President Bush signed into law an important modification to our tax code to ensure that it does not punish those who serve our country in the military and in the U.S. foreign service. Unfortunately, that legislation did not extend to intelligence officers, who serve alongside their military and diplomatic colleagues all around the world and who often face the same tax issues encountered by those individuals. The legislation I am introducing today makes a common sense modification to the capital gains tax exclusion rules to ensure that when selling their homes, intelligence officers do not pay more tax than they would if they did not serve their country.

The men and women of the Intelligence Community, serve with the military in Iraq, Afghanistan, Korea, and numerous other locations where we have U.S. forces deployed. They also serve in U.S. Embassies around the world. Often times they carry an added burden because they must serve undercover. Their families and friends don't know what they do. They live their cover story by day and perform their critical intelligence work by night. They work for all fifteen of the agencies included in the intelligence community and they do a remarkable job. These people are dedicated to their mission and to this country.

These patriotic individuals sacrifice a great deal on behalf of the rest of us. They uproot and relocate their families every few years. They often live in places most of us wouldn't even visit. And they rarely have the quality of life with access to modern luxuries that the rest of us take for granted. To then say that they are going to be penalized by our tax code is unacceptable.

Since 1997, our tax code has allowed Americans to sell their homes without paying taxes on up to $250,000 of capital gains. Married couples can exclude $500,000 in capital gains from taxation. This provision is specifically intended only for principle residences, and therefore, sellers are required to have lived in the homes for at least 2 of the 5 years prior to sale.

In 2003, Congress recognized that this residency requirement was often difficult for members of the armed forces and foreign service to satisfy. If they had been stationed away from home while serving their country, they were essentially punished with higher taxes on the sales of their homes. Congress addressed this injustice by allowing service personnel and foreign service officers who were stationed away from home to suspend the residency requirement for as many as ten years. This change allows, for example, a soldier who spent the last 7 years stationed in Germany to exclude from taxes the capital gains on the sale of his former home in the U.S., as long as he had lived in it for at least 2 of the 5 years prior to his service overseas. The change is effective on all sales after 1997, when the capital gains tax exclusion for home sales was provided to all Americans.

Fairness demands that Congress apply the same rules to intelligence officers serving their country away from home. My legislation simply inserts intelligence officers into the list of those allowed to suspend the 5 year residency test period for up to 10 years while they are stationed away from home.

I intend to work with my colleagues on the Intelligence Committee and the Finance Committee to ensure that this provision is enacted this year.

---

By Mr. DODD (for himself, Mr. GRASSLEY, Mr. JOHNSON, and Mr. WYDEN):

S. 470. A bill to amend the Public Health Service Act to expand the clinical trials drug data bank; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Fair Access to Clinical Trials, FACT, Act. I want to begin by thanking Senator GRASSLEY, Senator JOHNSON, and Senator WYDEN for joining me in introducing this legislation. Our bill will create an electronic databanks for clinical trials of drugs, biological products, and medical devices. Such a databank will ensure that physicians, researchers, the general public, and patients seeking to enroll in clinical trials have access to basic information about those trials. It will require manufacturers and other researchers to reveal the results of clinical trials so that clinically important information will be available to all Americans, and physicians will have all the necessary information to make appropriate treatment decisions for their patients.

Events of the past year have made it clear that such a databank is needed. First, serious questions were raised about the effectiveness and safety of antidepressants when used in children and youth. It has now become clear that the existing data indicates that these drugs may very well put children at risk. However, because the data from antidepressant clinical trials was not publicly available, it took years for this risk to be realized. In the meantime, millions of children have been prescribed antidepressants by well-meaning physicians. While these drugs undoubtedly helped many of these children, they also led to greater suffering for others. Recently, it has been suggested that the risk of antidepressants might even extend beyond children.

The news is similarly disturbing for a popular class of painkillers known as Cox-2 inhibitors. These medicines, taken by millions of Americans, have been associated with an increased risk of cardiovascular adverse events, such as heart attack and stroke. It has been suggested that one of these medicines, which has since been pulled from the market, may be responsible for tens of thousands of deaths.

Unfortunately, antidepressants and Cox-2 inhibitors are just two examples of a story that has become all too common. It has been suggested that negative data might actually have been suppressed; and if this is discovered to be the case, those responsible should be dealt with harshly. However, because of what is known as "publication bias," the information available to the public and physicians can be misleading even without nefarious motives. The simple fact is that a study with a positive result is far more likely to be published, and thus publicly available, than a study with a negative result. Physicians and patients hear the good news, but rarely the bad news. In the end, the imbalance of available information hurts patients.

Our bill would correct the imbalance of information, and prevent manufacturers from suppressing negative data. It would do so by creating a two-part databank, consisting of an expansion of clinicaltrials.gov—an existing registry that is operated by the National Library of Medicine, NLM—and a new database for clinical trial results.

Under the FACT Act, the registry would continue to operate as a resource for patients seeking to enroll in clinical trials for drugs and biological products intended to treat serious or life-threatening conditions—and for the first time, it would also include medical device trials. The new results database would include all trials, except for preliminary safety trials, and would require the submission of results data.

Our legislation would enforce the requirement to submit information to the databank in two ways. First, by requiring registration as a condition of Institutional Review Board, IRB, approval, no trial could begin without submitting preliminary information to the registry and database. This information would include the purpose of the trial, the estimated date of trial completion, as well as all of the information necessary to help patients to enroll in the trial.

Once the trial is completed, the researcher or manufacturer would be required to submit the results to the database. If they refuse to do so, they would be subject to monetary penalties or, in the case of federally funded research, a restriction on future funding. It is my belief that these enforcement mechanisms will ensure broad compliance. However, in the rare case where a manufacturer does not comply, this legislation also gives the Food and Drug Administration, FDA, the authority to publicize the required information.

Let me also say that any time you are collecting large amounts of data and making it public, protecting patient privacy and confidentiality must be paramount. Our legislation would in no way threaten that privacy. The simple fact is that under this bill, no individually identifiable information would be available to the public.

I believe that the establishment of a clinical trials databank is absolutely necessary for the health and well-being of the American public. But I would also like to highlight two other benefits that such a databank will have. First, it has the potential to reduce health care costs. Studies have shown that publication bias also leads to a bias toward new and more expensive treatment options. A databank could help make it clear that, in some cases, less expensive treatments are just as effective for patients.

In addition, a databank will ensure that the sacrifice made by patients who enroll in clinical trials is not squandered. Many patients would be less willing to participate in trials if they understood that the data are unlikely to be made public if the results of the trial are negative. We owe it to patients to make sure that their participation in a trial will benefit other individuals suffering from the same illness or condition.

The problems associated with publication bias have recently drawn more attention from the medical community, and there is broad consensus that a clinical trials registry is one of the best ways to address the issue. Accordingly, the American Medical Association, AMA, has recommended the creation of such a databank, and the major medical journals have established a policy that they will only publish the results of trials that were registered in a public database before the trial began. Our legislation meets all of the minimum criteria for a trial registry set out by the International Committee of Medical Journal Editors.

To its credit, the pharmaceutical industry has also acknowledged the problem, and has created a database to which manufacturers can voluntarily submit clinical trials data. I applaud this step. However, if our objective is to provide the public with a complete and consistent supply of information, a voluntary database is unlikely to achieve that goal. Some companies will provide information, but others may decide not to participate. We need a clinical trials framework that is not just fair to all companies, but provides patients with peace of mind that they will receive complete information about the medicines they rely on.

The American drug industry is an extraordinary success story. As a result of the innovations that this industry has spawned, millions of lives have been improved and saved in our country and around the globe. Because of the importance of these medicines to our health and well-being, I have consistently supported sound public policies to help the industry to succeed. This legislation aims to build upon the successes of this industry, and help ensure that the positive changes to our health care system that prescription drugs have brought are not undermined by controversies such as the ones now surrounding antidepressants and Cox-2 inhibitors, which are at least in part based on a lack of public information. This bill will help ensure that well-informed patients will use new and innovative medicines.

I look forward to working with industry, physicians, the medical journals, patient groups, and my colleagues—including the Chairman and the Ranking Member of the Health, Education, Labor, and Pensions Committee, Senator ENZI and Senator KENNEDY—to move this legislation forward. This bill has already been endorsed by the National Organization for Rare Disorders, Consumers Union, the Elizabeth Glaser Pediatric AIDS Foundation, the American Academy of Child and Adolescent Psychiatry, the American Psychiatric Association, the New England Journal of Medicine, and the National Women's Health Network. I thank these organizations for lending their expertise as we crafted this legislation.

The creation of a clinical trials databank is a critical step toward ensuring the safety of drugs, biological products, and devices in this country—but it should not be the end of our efforts. I believe that other steps are necessary to fully restore patient confidence in the safety of the medicines they rely on. I have already announced my intention to introduce another piece of legislation that will create an Office of Patient Protection within the FDA, which will be responsible for ensuring the safety of prescription drugs once they are on the market. I look forward to introducing this bill in the coming weeks.

Clinical trials are critical to protecting the safety and health of the American public, and for this reason, trial results must not be treated as information that can be hidden from scrutiny. Recent events have made it clear that a clinical trials databank is needed. Patients and physicians agree that such a databank is in the interest of the public health. I urge my colleagues to support this legislation, and I am hopeful that it will become law as soon as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 470

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Access to Clinical Trials Act of 2005" or the "FACT Act".

### SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to create a publicly accessible national data bank of clinical trial information comprised of a clinical trial registry and a clinical trial results database;

(2) to foster transparency and accountability in health-related intervention research and development;

(3) to maintain a clinical trial registry accessible to patients and health care practitioners seeking information related to ongoing clinical trials for serious or life-threatening diseases and conditions; and

(4) to establish a clinical trials results database of all publicly and privately funded clinical trial results regardless of outcome, that is accessible to the scientific community, health care practitioners, and members of the public.

### SEC. 3. CLINICAL TRIALS DATA BANK.

(a) IN GENERAL.—Section 402(j) of the Public Health Service Act (42 U.S.C. 282(j)) is amended—

(1) in paragraph (1)(A), by striking "for drugs for serious or life-threatening diseases and conditions";

(2) in paragraph (2), by striking "available to individuals with serious" and all that follows through the period and inserting "accessible to patients, other members of the public, health care practitioners, researchers and the scientific community. In making information about clinical trials publicly available, the Secretary shall seek to be as timely and transparent as possible.";

(3) by redesignating paragraphs (4) and (5), as paragraphs (8) and (9), respectively;

(4) by striking paragraph (3) and inserting the following:

"(3) The data bank shall include the following:

"(A)(i) A registry of clinical trials (in this subparagraph referred to as the 'registry') of health-related interventions (whether federally or privately funded).

"(ii) The registry shall include information for all clinical trials conducted to test the safety or effectiveness (including comparative effectiveness) of any drug, biological product, or device (including those drugs, biological products, or devices approved or cleared by the Secretary) intended to treat serious or life-threatening diseases and conditions, except those Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device. For purposes of this section, Phase I clinical trials are trials described in section 313.12(a) of title 21, Code of Federal Regulations (or any successor regulations).

"(iii) The registry may include information for—

"(I) Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device with the consent of the responsible person; and

"(II) clinical trials of other health-related interventions with the consent of the responsible person.

"(iv) The information to be included in the registry under this subparagraph shall include the following:

"(I) Descriptive information, including a brief title, trial description in lay terminology, trial phase, trial type, trial purpose, description of the primary and secondary clinical outcome measures to be examined in the trial, the time at which the outcome measures will be assessed, and the dates and details of any revisions to such outcomes.

"(II) Recruitment information, including eligibility and exclusion criteria, a description of whether, and through what procedure, the manufacturer or sponsor of the investigation of a new drug will respond to requests for protocol exception, with appropriate safeguards, for single-patient and expanded protocol use of the new drug, particularly in children, a statement as to whether the trial is closed to enrollment of new patients, overall trial status, individual site status, and estimated completion date. For purposes of this section the term 'completion date' means the date of the last visit by subjects in the trial for the outcomes described in subclause (I).

"(III) Location and contact information, including the identity of the responsible person.

"(IV) Administrative data, including the study sponsor and the study funding source.

"(V) Information pertaining to experimental treatments for serious or life threatening diseases and conditions (whether federally or privately funded) that may be available—

"(aa) under a treatment investigational new drug application that has been submitted to the Secretary under section 360bbb(c) of title 21, Code of Federal Regulations; or

"(bb) as a Group C cancer drug (as defined by the National Cancer Institute).

"(B)(i) A clinical trials results database (in this subparagraph referred to as the 'database') of health-related interventions (whether federally or privately funded).

"(ii) The database shall include information for all clinical trials conducted to test the safety or effectiveness (including comparative effectiveness) of any drug, biological product, or device (including those drugs, biological products, or devices approved or cleared by the Secretary), except those Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device.

"(iii) The database may include information for—

"(I) Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device with the consent of the responsible person; and

"(II) clinical trials of other health-related interventions with the consent of the responsible person.

"(iv) The information to be included in the database under this subparagraph shall include the following:

"(I) Descriptive information, including—

"(aa) a brief title;

"(bb) the drug, biological product or device to be tested;

"(cc) a trial description in lay terminology;

"(dd) the trial phase;

"(ee) the trial type;

"(gg) the trial purpose;

"(hh) the estimated completion date for the trial; and

"(ii) the study sponsor and the study funding source.

"(II) A description of the primary and secondary clinical outcome measures to be examined in the trial, the time at which the outcome measures will be assessed, and the dates and details of any revisions to such outcomes.

"(III) The actual completion date of the trial and the reasons for any difference from such actual date and the estimated completion date submitted pursuant to subclause (I)(hh). If the trial is not completed, the termination date and reasons for such termination.

"(IV) A summary of the results of the trial in a standard, non-promotional summary format (such as ICHE3 template form), including the trial design and methodology, results of the primary and secondary outcome measures as described in subclause (II), summary data tables with respect to the primary and secondary outcome measures, including information on the statistical significance or lack thereof of such results.

"(V) Safety data concerning the trial (including a summary of all adverse events specifying the number and type of such events, data on prespecified adverse events, data on serious adverse events, and data on overall deaths).

"(VI) Any publications in peer reviewed journals relating to the trial. If the trial results are published in a peer reviewed journal, the database shall include a citation to and, when available, a link to the journal article.

"(VII) A description of the process used to review the results of the trial, including a statement about whether the results have been peer reviewed by reviewers independent of the trial sponsor.

"(VIII) If the trial addresses the safety, effectiveness, or benefit of a use not described in the approved labeling for the drug, biological product, or device, a statement, as appropriate, displayed prominently at the beginning of the data in the registry with respect to the trial, that the Food and Drug Administration—

"(aa) is currently reviewing an application for approval of such use to determine whether the use is safe and effective;

"(bb) has disapproved an application for approval of such use;

"(cc) has reviewed an application for approval of such use but the application was withdrawn prior to approval or disapproval; or

"(dd) has not reviewed or approved such use as safe and effective.

"(IX) If data from the trial has not been submitted to the Food and Drug Administration, an explanation of why it has not been submitted.

"(X) A description of the protocol used in such trial to the extent necessary to evaluate the results of such trial.

"(4)(A) Not later than 90 days after the date of the completion of the review by the Food and Drug Administration of information submitted by a sponsor in support of a new drug application, or a supplemental new drug application, whether or not approved by the Food and Drug Administration, the Commissioner of Food and Drugs shall make available to the public the full reviews conducted by the Administration of such application.

"(B) Not later than 90 days after the date of the completion of a written consultation on a drug concerning the drug's safety conducted by the Office of Drug Safety, regardless of whether initiated by such Office or outside of the Office, the Commissioner of Food and Drugs shall make available to the public a copy of such consultation in full.

"(C) Nothing in this paragraph shall be construed to alter or amend section 301(j) or section 1905 of title 18, United States Code.

"(D) This paragraph shall supersede section 552 of title 5, United States Code.

"(5) The information described in subparagraphs (A) and (B) of paragraph (3) shall be in a format that can be readily accessed and understood by members of the general public, including patients seeking to enroll as subjects in clinical trials.

"(6) The Secretary shall assign each clinical trial a unique identifier to be included in the registry and in the database described in subparagraphs (A) and (B) of paragraph (3). To the extent practicable, this identifier shall be consistent with other internationally recognized and used identifiers.

"(7) To the extent practicable, the Secretary shall ensure that where the same information is required for the registry and the database described in subparagraphs (A) and (B) of paragraph (3), a process exists to allow the responsible person to make only one submission."; and

(5) by adding at the end the following:

"(10) In this section, the term 'clinical trial' with respect to the registry and the database described in subparagraphs (A) and (B) of paragraph (3) means a research study in human volunteers to answer specific health questions, including treatment trials, prevention trials, diagnostic trials, screening trials, and quality of life trials.".

(b) ACTIONS OF SECRETARY REGARDING CLINICAL TRIALS.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (k) and (l) as subsections (q) and (r), respectively; and

(2) by inserting after subsection (j), the following:

"(k) FEDERALLY SUPPORTED TRIALS.—

"(1) ALL FEDERALLY SUPPORTED TRIALS.—With respect to any clinical trial described in subsection (j)(3)(B) that is supported solely by a grant, contract, or cooperative agreement awarded by the Secretary, the principal investigator of such trial shall, not later than the date specified in paragraph (2), submit to the Secretary—

"(A) the information described in subclauses (II) through (X) of subsection (j)(3)(B)(iv), and with respect to clinical trials in progress on the date of enactment of the FACT Act, the information described in subclause (I) of subsection (j)(3)(B)(iv); or

"(B) a statement containing information sufficient to demonstrate to the Secretary that the information described in subparagraph (A) cannot reasonably be submitted, along with an estimated date of submission of the information described in such subparagraph.

"(2) DATE SPECIFIED.—The date specified in this paragraph shall be the date that is 1 year from the earlier of—

"(A) the estimated completion date of the trial, as submitted under subsection (j)(3)(B)(vi)(I)(hh); or

"(B) the actual date of the completion or termination of the trial.

"(3) CONDITION OF FEDERAL GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

"(A) CERTIFICATION OF COMPLIANCE.—To be eligible to receive a grant, contract, or cooperative agreement from the Secretary for the conduct or support of a clinical trial described in subsection (j)(3)(B), the principal investigator involved shall certify to the Secretary that—

"(i) such investigator shall submit data to the Secretary in accordance with this subsection; and

"(ii) such investigator has complied with the requirements of this subsection with respect to other clinical trials conducted by such investigator after the date of enactment of the FACT Act.

"(B) FAILURE TO SUBMIT CERTIFICATION.—An investigator that fails to submit a certification as required under subparagraph (A) shall not be eligible to receive a grant, contract, or cooperative agreement from the Secretary for the conduct or support of a clinical trial described in subsection (j)(3)(B).

"(C) FAILURE TO COMPLY WITH CERTIFICATION.—If, by the date specified in paragraph (2), the Secretary has not received the information or statement described in paragraph (1), the Secretary shall—

"(i) transmit to the principal investigator involved a notice specifying the information or statement required to be submitted to the Secretary and stating that such investigator shall not be eligible to receive further funding from the Secretary if such information or statement is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

"(ii) include and prominently display, until such time as the Secretary receives the information or statement described in paragraph (1), as part of the record of such trial in the database described in subsection (j), a notice stating that the results of such trials have not been reported as required by law.

"(D) FAILURE TO COMPLY WITH NOTICE.—If by the date that is 30 days after the date on which the notice described in subparagraph (C) is transmitted, the Secretary has not received from the principal investigator involved the information or statement required pursuant to such notice, the Secretary may not award a grant, contract, cooperative agreement, or any other award to such principal investigator until such principal investigator submits to the Secretary the information or statement required pursuant to such notice.

"(E) SUBMISSION OF STATEMENT BUT NOT INFORMATION.—

"(i) IN GENERAL.—If by the date specified in paragraph (2), the Secretary has received a statement described in paragraph (1)(B) but not the information described in paragraph (1)(A), the Secretary shall transmit to the principal investigator involved a notice stating that such investigator shall submit such information by the date determined by the Secretary in consultation with such investigator.

"(ii) FAILURE TO COMPLY WITH CERTIFICATION.—If, by the date specified by the Secretary in the notice under clause (i), the Secretary has not received the information described in paragraph (1)(B), the Secretary shall—

"(I) transmit to the principal investigator involved a notice specifying the information required to be submitted to the Secretary and stating that such investigator shall not be eligible to receive further funding from the Secretary if such information is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

"(II) include and prominently display, until such time as the Secretary receives the information described in paragraph (1)(B), as part of the record of such trial in the database described in subsection (j), a notice stating that the results of such trials have not been reported as required by law.

"(F) FAILURE TO COMPLY WITH NOTICE.—If by the date that is 30 days after the date on which the notice described in subparagraph (E)(ii)(I) is transmitted, the Secretary has not received from the principal investigator involved the information required pursuant to such notice, the Secretary may not award a grant, contract, cooperative agreement, or any other award to such principal investigator until such principal investigator submits to the Secretary the information required pursuant to such notice.

"(G) RULE OF CONSTRUCTION.—For purposes of this paragraph, limitations on the awarding of grants, contracts, cooperative agreements, or any other awards to principal investigators for violations of this paragraph shall not be construed to include any funding that supports the clinical trial involved.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an investigator other than the investigator described in paragraph (3)(F) from receiving an ongoing award, contract, or cooperative agreement.

"(5) INCLUSION IN REGISTRY.—

"(A) GENERAL RULE.—The Secretary shall, pursuant to subsection (j)(5), include—

"(i) the data described in subsection (j)(3)(A) and submitted under the amendments made by section 4(a) of the FACT Act in the registry described in subsection (j) as soon as practicable after receiving such data; and

"(ii) the data described in clause (I) of subsection (j)(3)(B)(iv) and submitted under this subsection or the amendments made by section 4(a) of the FACT Act in the database described in subsection (j) as soon as practicable after receiving such data.

"(B) OTHER DATA.—

"(i) IN GENERAL.—The Secretary shall, pursuant to subsection (j)(5), include the data described in subclauses (II) through (X) of subsection (j)(3)(B)(iv) and submitted under this section in the database described in subsection (j)—

"(I) as soon as practicable after receiving such data; or

"(II) in the case of data to which clause (ii) applies, by the date described in clause (iii).

"(ii) DATA DESCRIBED.—This clause applies to data described in clause (i) if—

"(I) the principal investigator involved requests a delay in the inclusion in the database of such data in order to have such data published in a peer reviewed journal; and

"(II) the Secretary determines that an attempt will be made to seek such publication.

"(iii) DATE FOR INCLUSION IN REGISTRY.—Subject to clause (iv), the date described in this clause is the earlier of—

"(I) the date on which the data involved is published as provided for in clause (ii); or

"(II) the date that is 18 months after the date on which such data is submitted to the Secretary.

"(iv) EXTENSION OF DATE.—The Secretary may extend the 18-month period described in clause (iii)(II) for an additional 6 months if the principal investigator demonstrates to the Secretary, prior to the expiration of such 18-month period, that the data involved has been accepted for publication by a journal described in clause (ii)(I).

"(v) MODIFICATION OF DATA.—Prior to including data in the database under clause (ii) or (iv), the Secretary shall permit the principal investigator to modify the data involved.

"(6) MEMORANDUM OF UNDERSTANDING.—Not later than 6 months after the date of enactment of the FACT Act, the Secretary shall seek a memorandum of understanding with the heads of all other Federal agencies that conduct clinical trials to include in the registry and the database clinical trials sponsored by such agencies that meet the requirements of this subsection.

"(7) APPLICATION TO CERTAIN PERSONS.—The provisions of this subsection shall apply to a responsible person described in subsections (p)(1)(A)(ii)(II) or (p)(1)(B)(i)(II).

"(l) TRIALS WITH NON-FEDERAL SUPPORT.—

"(1) IN GENERAL.—The responsible person for a clinical trial described in subsection (j)(3)(B) shall, not later than the date specified in paragraph (3), submit to the Secretary—

"(A) the information described in subclauses (II) through (X) of subsection (j)(3)(B)(iv), and with respect to clinical trials in progress on the date of enactment of the FACT Act, the information described in subclause (I) of subsection (j)(3)(B)(iv); or

"(B) a statement containing information sufficient to demonstrate to the Secretary that the information described in subparagraph (A) cannot reasonably be submitted, along with an estimated date of submission of the information described in such subparagraph.

"(2) SANCTION IN CASE OF NONCOMPLIANCE.—

"(A) INITIAL NONCOMPLIANCE.—If by the date specified in paragraph (3), the Secretary has not received the information or statement required to be submitted to the Secretary under paragraph (1), the Secretary shall—

"(i) transmit to the responsible person for such trial a notice stating that such responsible person shall be liable for the civil monetary penalties described in subparagraph (B) if the required information or statement is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

"(ii) include and prominently display, until such time as the Secretary receives the information described in paragraph (1), as part of the record of such trial in the database described in subsection (j), a notice stating that the results of such trials have not been reported as required by law.

"(B) CIVIL MONETARY PENALTIES FOR NONCOMPLIANCE.—

"(i) IN GENERAL.—If by the date that is 30 days after the date on which a notice described in subparagraph (A) is transmitted, the Secretary has not received from the responsible person involved the information or statement required pursuant to such notice, the Secretary shall, after providing the opportunity for a hearing, order such responsible person to pay a civil penalty of $10,000 for each day after such date that the information or statement is not submitted.

"(ii) WAIVERS.—In any case in which a responsible person described in clause (i) is a nonprofit entity, the Secretary may waive or reduce the penalties applicable under such clause to such person.

"(C) SUBMISSION OF STATEMENT BUT NOT INFORMATION.—

"(i) IN GENERAL.—If by the date specified in paragraph (3), the Secretary has received a statement described in paragraph (1)(B) but not the information described in paragraph (1)(A) the Secretary shall transmit to the responsible person involved a notice stating that such responsible person shall submit such information by the date determined by the Secretary in consultation with such responsible person.

"(ii) FAILURE TO COMPLY.—If, by the date specified by the Secretary in the notice under clause (i), the Secretary has not received the information described in paragraph (1)(A), the Secretary shall—

"(I) transmit to the responsible person involved a notice specifying the information required to be submitted to the Secretary and stating that such responsible person shall be liable for the civil monetary penalties described in subparagraph (D) if such information is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

"(II) include and prominently display, until such time as the Secretary receives the information described in paragraph (1)(A), as part of the record of such trial in the database described in subsection (j), a notice stating that the results of such trials have not been reported as required by law.

"(D) NONCOMPLIANCE.—

"(i) IN GENERAL.—If by the date that is 30 days after the date on which a notice described in subparagraph (C)(ii)(I) is transmitted, the Secretary has not received from the responsible person involved the information required pursuant to such notice, the Secretary, after providing the opportunity for a hearing, order such responsible person to pay a civil penalty of $10,000 for each day after such date that the information is not submitted.

"(ii) WAIVERS.—In any case in which a responsible person described in clause (i) is a nonprofit entity, the Secretary may waive or reduce the penalties applicable under such clause to such person.

"(E) NOTICE OF PUBLICATION OF DATA.—If the responsible person is the manufacturer or distributor of the drug, biological product, or device involved, the notice under subparagraphs (A)(i) and (C)(ii)(I) shall include a notice that the Secretary shall publish the data described in subsection (j)(3)(B) in the database if the responsible person has not submitted the information specified in the notice transmitted by the date that is 6 months after the date of such notice.

"(F) PUBLICATION OF DATA.—Notwithstanding section 301(j) of the Federal Food, Drug, and Cosmetic Act, section 1905 of title 18, United States Code, or any other provision of law, if the responsible person is the manufacturer or distributor of the drug, biological product, or device involved, and if the responsible person has not submitted to the Secretary the information specified in a notice transmitted pursuant to subparagraph (A)(i) or (C)(ii)(I) by the date that is 6 months after the date of such notice, the Secretary shall publish in the registry information that—

"(i) is described in subsection (j)(3)(B); and

"(ii) the responsible person has submitted to the Secretary in any application, including a supplemental application, for the drug or device under section 505, 510, 515, or 520 of the Federal Food, Drug, and Cosmetic Act or for the biological product under section 351.

"(3) DATE SPECIFIED.—The date specified in this paragraph shall be the date that is 1 year from the earlier of—

"(A) the estimated completion date of the trial, submitted under subsection (j)(3)(B)(vi)(i)(hh); or

"(B) the actual date of completion or termination of the trial.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—The Secretary shall deposit the funds collected under paragraph (2) into an account and use such funds, in consultation with the Director of the Agency for Healthcare Research and Quality, to fund studies that compare the clinical effectiveness of 2 or more treatments for a disease or condition.

"(B) FUNDING DECISIONS.—The Secretary shall award funding under subparagraph (A) based on a priority list established not later than 6 months after the date of enactment of the FACT Act by the Director of the Agency for Healthcare Research and Quality and periodically updated as determined appropriate by the Director.

"(5) INCLUSION IN REGISTRY.—

"(A) GENERAL RULE.—The Secretary shall, pursuant to subsection (j)(5), include—

"(i) the data described in subsection (j)(3)(A) and submitted under the amendments made by section 4(a) of the FACT Act in the registry described in subsection (j) as soon as practicable after receiving such data; and

"(ii) the data described in clause (I) of subsection (j)(3)(B)(iv) and submitted under this subsection in the database described in subsection (j) as soon as practicable after receiving such data

"(B) OTHER DATA.—

"(i) IN GENERAL.—The Secretary shall, pursuant to subsection (j)(5), include the data described in subclauses (II) through (X) of subsection (j)(3)(B)(iv) and submitted under this section in the database described in subsection (j)—

"(I) as soon as practicable after receiving such data; or

"(II) in the case of data to which clause (ii) applies, by the date described in clause (iii).

"(ii) DATA DESCRIBED.—This clause applies to data described in clause (i) if—

"(I) the responsible person involved requests a delay in the inclusion in the database of such data in order to have such data published in a peer reviewed journal; and

"(II) the Secretary determines that an attempt will be made to seek such publication.

"(iii) DATE FOR INCLUSION IN REGISTRY.—Subject to clause (iv), the date described in this clause is the earlier of—

"(I) the date on which the data involved is published as provided for in clause (ii); or

"(II) the date that is 18 months after the date on which such data is submitted to the Secretary.

"(iv) EXTENSION OF DATE.—The Secretary may extend the 18-month period described in clause (iii)(II) for an additional 6 months if the responsible person demonstrates to the Secretary, prior to the expiration of such 18-month period, that the data involved has been accepted for publication by a journal described in clause (ii)(I).

"(v) MODIFICATION OF DATA.—Prior to including data in the database under clause (ii) or (iv), the Secretary shall permit the responsible person to modify the data involved.

"(6) EFFECT.—The information with respect to a clinical trial submitted to the Secretary under this subsection, including data published by the Secretary pursuant to paragraph (2)(F), may not be submitted by a person other than the responsible person as part of, or referred to in, an application for approval of a drug or device under section 505, 510, 515, or 520 of the Federal Food, Drug, and Cosmetic Act or of a biological product under section 351, unless the information is available from a source other than the registry or database described in subsection (j).

"(m) PROCEDURES AND WAIVERS.—

"(1) SUBMISSION PRIOR TO NOTICE.—Nothing in subsections (k) through (l) shall be construed to prevent a principal investigator or a responsible person from submitting any information required under this subsection to the Secretary prior to receiving any notice described in such subsections.

"(2) ONGOING TRIALS.—A factually accurate statement that a clinical trial is ongoing shall be deemed to be information sufficient to demonstrate to the Secretary that the information described in subsections (k)(1)(A) and (l)(1)(A) cannot reasonably be submitted.

"(3) INFORMATION PREVIOUSLY SUBMITTED.—Nothing in subsections (k) through (l) shall be construed to require the Secretary to send a notice to any principal investigator or responsible person requiring the submission to the Secretary of information that has already been submitted.

"(4) SUBMISSION FORMAT AND TECHNICAL STANDARDS.—

"(A) IN GENERAL.—The Secretary shall, to the extent practicable, accept submissions required under this subsection in an electronic format and shall establish interoperable technical standards for such submissions.

"(B) CONSISTENCY OF STANDARDS.—To the extent practicable, the standards established under subparagraph (A) shall be consistent with standards adopted by the Consolidated Health Informatics Initiative (or a successor organization to such Initiative) to the extent such Initiative (or successor) is in operation.

"(5) TRIALS COMPLETED PRIOR TO ENACTMENT.—The Secretary shall establish procedures and mechanisms to allow for the voluntary submission to the database of the information described in subsection (j)(3)(B) with respect to clinical trials completed prior to the date of enactment of the FACT Act. In cases in which it is in the interest of public health, the Secretary may require that information from such trials be submitted to the database. Failure to comply with such a requirement shall be deemed to be a failure to submit information as required under this section, and the appropriate remedies and sanctions under this section shall apply.

"(6) TRIALS NOT INVOLVING DRUGS, BIOLOGICAL PRODUCTS, OR DEVICES.—The Secretary shall establish procedures and mechanisms to allow for the voluntary submission to the database of the information described in subsection (j)(3)(B) with respect to clinical trials that do not involve drugs, biological products, or devices. In cases in which it is in the interest of public health, the Secretary may require that information from such trials be submitted to the database. Failure to comply with such a requirement shall be deemed to be a failure to submit information as required under this section, and the appropriate remedies and sanctions under this section shall apply.

"(7) SUBMISSION OF INACCURATE INFORMATION.—

"(A) IN GENERAL.—If the Secretary determines that information submitted by a principal investigator or a responsible person under this section is factually and substantively inaccurate, the Secretary shall submit a notice to the investigator or responsible person concerning such inaccuracy that includes—

"(i) a summary of the inaccuracies involved; and

"(ii) a request for corrected information within 30 days.

"(B) AUDIT OF INFORMATION.—

"(i) IN GENERAL.—The Secretary may conduct audits of any information submitted under subsection (j).

"(ii) REQUIREMENT.—Any principal investigator or responsible person that has submitted information under subsection (j) shall permit the Secretary to conduct the audit described in clause (i).

"(C) CHANGES TO INFORMATION.—Any change in the information submitted by a principal investigator or a responsible person under this section shall be reported to the Secretary within 30 days of the date on which such investigator or person became aware of the change for purposes of updating the registry or the database.

"(D) FAILURE TO CORRECT.—If a principal investigator or a responsible person fails to permit an audit under subparagraph (B), provide corrected information pursuant to a notice under subparagraph (A), or provide changed information under subparagraph (C), the investigator or responsible person involved shall be deemed to have failed to submit information as required under this section and the appropriate remedies and sanction under this section shall apply.

"(E) CORRECTIONS.—

"(i) IN GENERAL.—The Secretary may correct, through any means deemed appropriate by the Secretary to protect public health, any information included in the registry or the database described in subsection (j) (including information described or contained in a publication referred to under subclause (VI) of subsection (j)(3)(B)(iv)) that is—

"(I) submitted to the Secretary for inclusion in the registry or the database; and

"(II) factually and substantively inaccurate or false or misleading.

"(ii) RELIANCE ON INFORMATION.—The Secretary may rely on any information from a clinical trial or a report of an adverse event acquired or produced under the authority of section 351 of this Act or of the Federal Food, Drug, and Cosmetic Act in determining whether to make corrections as provided for in clause (i).

"(iii) DETERMINATIONS RELATING TO MISLEADING INFORMATION.—For purposes of clause (i)(II), in determining whether information is misleading, the Secretary shall use the standard described in section 201(n) of the Federal Food, Drug, and Cosmetic Act that is used to determine whether labeling or advertising is misleading.

"(iv) RULE OF CONSTRUCTION.—This subparagraph shall not be construed to authorize the disclosure of information if—

"(I) such disclosure would constitute an invasion of personal privacy;

"(II) such information concerns a method or process which as a trade secret is entitled to protection within the meaning of section 301(j) of the Federal Food, Drug, and Cosmetic Act;

"(III) such disclosure would disclose confidential commercial information or a trade secret, other than a trade secret described in subclause (II), unless such disclosure is necessary—

"(aa) to make a correction as provided for under clause (i); and

"(bb) protect the public health; or

"(IV) if such disclosure relates to a biological product for which no license is in effect under section 351, a drug for which no approved application is in effect under section 505(c) of the Federal Food, Drug, and Cosmetic Act, or a device that is not cleared under section 510(k) of such Act or for which no application is in effect under section 515 of such Act.

"(v) NOTICE.—In the case of a disclosure under clause (iv)(III), the Secretary shall notify the manufacturer or distributor of the drug, biological product, or device involved—

"(I) at least 30 days prior to such disclosure; or

"(II) if immediate disclosure is necessary to protect the public health, concurrently with such disclosure.

"(8) WAIVERS REGARDING CLINICAL TRIAL RESULTS.—The Secretary may waive the requirements of subsections (k)(1) and (l)(1) that the results of clinical trials be submitted to the Secretary, upon a written request from the responsible person if the Secretary determines that extraordinary circumstances justify the waiver and that providing the waiver is in the public interest or consistent with the protection of public health.

"(n) TRIALS CONDUCTED OUTSIDE OF THE UNITED STATES.—

"(1) IN GENERAL.—With respect to clinical trials described in paragraph (2), the responsible person shall submit to the Secretary the information required under subclauses (II) through (X) of subsection (j)(3)(B)(iv). Failure to comply with this paragraph shall be deemed to be a failure to submit information as required under this section, and the appropriate remedies and sanctions under this section shall apply.

"(2) CLINICAL TRIAL DESCRIBED.—A clinical trial is described in this paragraph if—

"(A) such trial is conducted outside of the United States; and

"(B) the data from such trial is—

"(i) submitted to the Secretary as part of an application, including a supplemental application, for a drug or device under section 505, 510, 515, or 520 of the Federal Food, Drug, and Cosmetic Act or for the biological product under section 351; or

"(ii) used in advertising or labeling to make a claim about the drug, device, or biological product involved.

"(o) DEFINITIONS; INDIVIDUAL LIABILITY.—

"(1) RESPONSIBLE PERSON.—

"(A) IN GENERAL.—In this section, the term 'responsible person' with respect to a clinical trial, means—

"(i) if such clinical trial is the subject of an investigational new drug application or an application for an investigational device exemption, the sponsor of such investigational new drug application or such application for an investigational device exemption; or

"(ii) except as provided in subparagraph (B), if such clinical trial is not the subject of an investigational new drug application or an application for an investigational device exemption—

"(I) the person that provides the largest share of the monetary support (such term does not include in-kind support) for the conduct of such trial; or

"(II) in the case in which the person described in subclause (I) is a Federal or State agency, the principal investigator of such trial.

"(B) NONPROFIT ENTITIES AND REQUESTING PERSONS.—

"(i) NONPROFIT ENTITIES.—For purposes of subparagraph (A)(ii)(I), if the person that provides the largest share of the monetary support for the conduct of the clinical trial involved is a nonprofit entity, the responsible person for purposes of this section shall be—

"(I) the nonprofit entity; or

"(II) if the nonprofit entity and the principal investigator of such trial jointly certify to the Secretary that the principal investigator will be responsible for submitting the information described in subsection (j)(3)(B) for such trial, the principal investigator.

"(ii) REQUESTING PERSONS.—For purposes of subparagraph (A)(ii)(I), if a person—

"(I) has submitted a request to the Secretary that the Secretary recognize the person as the responsible person for purposes of this section; and

"(II) the Secretary determines that such person—

"(aa) provides monetary support for the conduct of such trial;

"(bb) is responsible for the conduct of such trial; and

"(cc) will be responsible for submitting the information described in subsection (j)(3)(B) for such trial;

such person shall be the responsible person for purposes of this section.

"(2) DRUG, DEVICE, BIOLOGICAL PRODUCT.—In this section—

"(A) the terms 'drug' and 'device' have the meanings given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act; and

"(B) the term 'biological product' has the meaning given such term in section 351 of this Act.

"(3) INDIVIDUAL LIABILITY.—

"(A) LIMITATION ON LIABILITY OF INDIVIDUALS.—No individual shall be liable for any civil monetary penalty under this section.

"(B) INDIVIDUALS WHO ARE RESPONSIBLE PERSONS.—If a responsible person under subparagraph (A) or (B) of paragraph (1) is an individual, such individual shall be subject to the procedures and conditions described in subsection (k).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 402 of the Public Health Service Act (42 U.S.C. 282), as amended by this section, is further amended by adding at the end the following:

"(s) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section.".

**SEC. 4. REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH.**

(a) AMENDMENTS.—Section 492A(a) of the Public Health Service Act (42 U.S.C. 289a-1(a)) is amended—

(1) in paragraph (1)(A), by striking "unless" and all that follows through the period and inserting the following: "unless—

"(i) the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting the review;

"(ii) such Board has submitted to the Secretary a notification of such approval; and

"(iii) with respect to an application involving a clinical trial to which section 402(j) applies, the principal investigator who has submitted such application has submitted to the Secretary for inclusion in the registry and the database described in section 402(j) the information described in paragraph (3)(A) and subclause (I) of paragraph (3)(B)(iv) of such section."; and

(2) by adding at the end the following:

"(3) COST RECOVERY.—Nonprofit entities may recover the full costs associated with compliance with the requirements of paragraph (1) from the Secretary as a direct cost of research.".

(b) REGULATIONS.—The Secretary of Health and Human Services shall modify the regulations promulgated at part 46 of title 45, Code of Federal Regulations, part 50 of title 21, Code of Federal Regulations, and part 56 of title 21, Code of Federal Regulations, to reflect the amendments made by subsection (a).

**SEC. 5. PROHIBITED ACTS.**

Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh)(1) The entering into of a contract or other agreement by a responsible person or a manufacturer of a drug, biological product, or device with an individual who is not an employee of such responsible person or manufacturer, or the performance of any other act by such a responsible person or manufacturer, that prohibits, limits, or imposes unreasonable delays on the ability of such individual to—

"(A) discuss the results of a clinical trial at a scientific meeting or any other public or private forum; or

"(B) publish the results of a clinical trial or a description or discussion of the results of a clinical trial in a scientific journal or any other publication.

"(2) The entering into a contract or other agreement by a responsible person or a manufacturer of a drug, biological product, or device with an academic institution or a health care facility, or the performance of any other act by such a responsible person or manufacturer, that prohibits, limits, or imposes unreasonable delays on the ability of an individual who is not an employee of such responsible person or manufacturer to—

"(A) discuss the results of a clinical trial at a scientific meeting or any other public or private forum; or

"(B) publish the results of a clinical trial or a description or discussion of the results of a clinical trial in a scientific journal or any other publication.".

**SEC. 6. REPORTS.**

(a) IMPLEMENTATION REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report on the status of the implementation of the requirements of the amendments made by section 3 that includes a description of the number and types of clinical trials for which information has been submitted under such amendments.

(b) DATA COLLECTION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning the extent to which data submitted to the registry under section 402(j) of the Public Health Service Act (42 U.S.C. 282(j)) has impacted the public health.

(2) REPORT.—Not later than 6 months after the date on which a contract is entered into under paragraph (1), the Institute of Medicine shall submit to the Secretary of Health and Human Services a report on the results of the study conducted under such paragraph. Such report shall include recommendations for changes to the registry, the database, and the data submission requirements that would benefit the public health.

Mr. GRASSLEY. Mr. President, earlier today, Senate Bill 470 was introduced. I am pleased to sponsor the Fair Access to Clinical Trials Act of 2005, with Senator DODD. I am co-sponsoring this legislation as part of a sustained effort to restore public confidence in the Federal Government's food and drug safety agency. Enactment of this bill will be a meaningful step toward greater transparency and accountability in clinical trials and the scientific process.

The Food and Drug Administration earned its prized reputation through decades of good work on behalf of the American people. The FDA's drug approval process has long been considered the "Good Housekeeping Seal of Approval." However, the Vioxx disaster and its aftermath have shaken the public's confidence. American consumers demand and deserve assurances that the medicines in their cabinets are safe. The health and safety of the public must be the FDA's first and only concern. Unfortunately, reforms at the FDA are necessary to place that mission front and center once again.

I began my oversight of the FDA last year in response to concerns about the reluctance of the FDA to provide information to the public about the increased suicidal risks for young people taking anti-depressants. Last November, I chaired a groundbreaking hearing on drug safety, the FDA and Vioxx. That hearing and other critical drug safety concerns of the past year highlighted the need for reforms and more stringent oversight of the FDA.

Sometimes congressional scrutiny of agency mismanagement can lead to necessary reforms. Sometimes an agency will act on its own to enhance its credibility. I have been pressing for reforms—both administrative and legislative—to bring about greater responsiveness and transparency at the FDA. The risks and benefits of prescription drugs should be readily available to patients and doctors seeking to make informed decisions.

The FACT Act will expand www.clinicaltrials.gov to create a publicly accessible national data bank of clinical trial information comprised of a clinical trial registry and a clinical trial results database. The legislation will foster transparency and accountability in health-related intervention research and development and ensure that the scientific community and the general public have access to basic information about clinical trials. Importantly, the FACT Act will maintain clinicaltrials.gov as a registry for patients and physicians seeking information about ongoing clinical trials for serious or life-threatening diseases and conditions. The legislation will also prevent companies from withholding clinically important information about their products.

The FACT Act will maintain a clinical trial registry accessible to patients and health care practitioners seeking information related to ongoing clinical trials for serious or life-threatening diseases and conditions; establish a clinical trials results database of all publicly and privately funded clinical trial results regardless of outcome that is accessible to the scientific community, health care practitioners, and members of the public; require the Food and Drug Administration (FDA) to make internal drug approval and safety reviews publicly available; build on the successful model of www.clinicaltrials.gov, which was established in 1997. The web site will continue to be run by the National Library of Medicine at the National Institutes of Health, with assistance from the FDA; apply to clinical trials for drugs, biologics, and medical devices. All trials must be registered in the database in order to obtain approval from a U.S. Institutional Review Board; require that foreign trials that are submitted to the FDA or used in advertising to U.S. physicians be registered in the database at the time of submission; require that researchers promptly disclose the objectives, eligibility criteria, sources of funding, and anticipated timeline of clinical trials. The bill's standards will meet all of the minimum criteria for a trial registry set out by the International Committee of Medical Journal Editors on September 8, 2004; mandate that the results of clinical trials be available to doctors and patients. Recognizing that the peer review process is the best safeguard for scientific accuracy, the bill provides time for researchers to publish their results. The disclosure of important trial results satisfies the recommendation of the American Medical Association; establish strong enforcement mechanisms. The bill will provide for civil monetary penalties of up to $10,000 per day for sponsors who refuse to comply. Monetary penalties will be earmarked for studies that compare clinical therapies; provide authority to audit the completeness and accuracy of the information in the registry; and ensure that the Food and Drug Administration has the authority to correct false or misleading statements about the results of clinical trials.

Later this month I will also introduce legislation to establish an independent office of drug safety in the Food and Drug Administration. Today's legislation is an important step toward reforming the FDA. I urge my colleagues to join me in this effort by cosponsoring this important legislation.

Mr. JOHNSON. Mr. President, today I join several of my colleagues in introducing a very important piece of legislation that will improve access to information about prescription drugs for patients and their doctors. Today, Senators DODD, GRASSLEY, WYDEN and I are introducing the Fair Access to Clinical Trials Act or FACT Act. I commend my colleagues for their hard work on this legislation. I also thank them for their commitment to ensuring that finally, objective, unbiased information can be put in the hands of consumers and doctors, reducing negative outcomes, improving patient care, and ultimately reducing costs of medications.

In recent months, we have learned that certain prescription drugs on the market today may not be as safe as we once thought. GlaxoSmithKline's antidepressant drug, Paxil, was found to increase the risk of suicide among adolescents. Further investigation of this issue indicated that some manufacturers of antidepressants highlighted positive findings of tests on youngsters, while playing down negative or inconclusive ones. In addition, the arthritis medication, Vioxx, was pulled off the market due to negative study findings, and over 27,000 sudden cardiac deaths and heart attacks may have been caused by this medication.

I find it unacceptable that current law does not require that the results of these studies on Paxil and Vioxx be made readily available to doctors and their patients. It is unacceptable that today, much of the information consumers and doctors rely on to make decisions about the medications they use are based on incomplete information. Patients are often swayed by direct-to-consumer drug advertisements and doctors must rely on the information they learn at drug company sponsored conferences. Access to complete information about prescription drugs is an important consumer issue, and that is why I am introducing this legislation that would require pharmaceutical companies to fully disclose clinical drug trial information in a public database before medications are introduced on the shelves.

Under my legislation, all studies on medicines like Paxil and Vioxx would be listed in a public drug trial registry database. The database would include all the studies, both good and bad, the studies that are conducted after the drug is already on the market, and even the studies that are discontinued. Doctors and patients would have access to all different types of information so they could make a clear decision on which drugs are best for any circumstance.

The drug trial database established under this legislation would be accessible to the public on a governmental Web site. The database will include information about the sponsor of the drug trial, the parameters of the study, and the outcome or results of the trial. Medical professionals ought to have complete information available when prescribing medications, and consumers should be aware of all the effects prescription drugs can have when taken over a period of time. Common sense tells us we need transparency in the prescription drug industry when it comes to the effectiveness of medications, and this database works towards that goal and will help to hold drug companies accountable for their products on the market.

I hope the Senate and House will take up this bill and pass it. It addresses an important consumer right-to-know issue that will help to ensure that patients and doctors have the best, most accurate information at their fingertips when making life-altering medical decisions.

---

By Mr. LEAHY:

S. 472. A bill to criminalize Internet scams involving fraudulently obtaining personal information, commonly known as phishing; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am introducing a bill, the Anti-Phishing Act of 2005, which targets a serious threat to the security of the Internet.

Phishing is a rapidly growing class of identity theft scams on the Internet that is causing both short-term losses and long-term economic damage. In the short-term, these scams defraud individuals and financial institutions. Estimated losses from phishing attacks are now in the billions of dollars, and those losses are growing. The short-term losses, however, are just a chapter in a larger story. In the long-term, phishing undermines the public's trust in the Internet. By making consumers uncertain about the integrity of the Internet's complex addressing system, phishing threatens to make us all less likely to use the Internet for secure transactions. If you can't trust where you are on the web, you are less likely to use it for commerce and communications.

Those well versed in popular culture may guess that phishing was named after the phenomenally popular Vermont band, Phish. But phishing over the Internet was in fact named from the sport of fishing, as an analogy for its technique of luring Internet prey with convincing email bait. The "F" is replaced by a "P-H" in keeping with a computer hacker tradition.

Phishing attacks usually start with emails that are, in Internet jargon, "spoofed." That is, they are made to appear to be coming from some trusted financial institution or commercial entity. The spoofed email usually asks the victim to go to a website to confirm or renew private account information. These emails offer a link that appears to take the victim to the website of the trusted institution. In fact the link takes the victim to a phony website that is visually identical to that of the trusted institution, but is in fact run by the criminal. When the victim takes the bait and sends their account information, the criminal uses it—sometimes within minutes—to transfer the victim's funds or to make purchases. Phishers are the new con artists of cyberspace.

Phishing is on the rise. The Anti-Phishing Working Group reports that the number of new phishing messages climbed at a monthly rate of 38 percent in the last six months of 2004. The number of new phishing websites has climbed 24 percent per month since last August. And phishing attacks are increasingly sophisticated. Early phishing attacks were by novices, but there is now evidence that some attacks are backed by organized crime. Some of the attacks these days also include spyware, a type of software that is secretly installed on the victim's computer to surreptitiously capture account information when the victim visits legitimate websites.

In addition, the Internet faces the threat of "pharming." This insidious crime does not rely on email bait. Rather, it attacks web browsers and the Internet's addressing system. The effect is that even individuals who type a desired Internet destination into their web browser may be redirected to a phony web site, with the same disastrous result as clicking on the phony link in a phishing attack.

Some phishers and pharmers can be prosecuted under wire fraud or identity theft statutes, but often these prosecutions take place only after someone has been defrauded. For most of these criminals, that leaves plenty of time to cover their tracks. It has been reported that the average phishing website is active on the Internet for less than six days. Moreover, the mere threat of these attacks undermines everyone's confidence in the Internet. When people cannot trust that websites are what they appear to be, they will not use the Internet for their secure transactions. Traditional wire fraud and identity theft statutes are not sufficient to respond to phishing and pharming.

The Anti-Phishing Act of 2005 protects the integrity of the Internet in two ways. First, it criminalizes the bait. It makes it illegal to knowingly send out spoofed email that links to sham websites with the intention of committing a crime. Second, it criminalizes the sham websites that are the true scene of both types of crime.

There are, of course, important First Amendment concerns to be protected. The Anti-Phishing Act protects parodies and political speech from being prosecuted as Phishing. We have worked closely with various public interest organizations to ensure that the Anti-Phishing Act does not impinge on the important democratic role that the Internet plays.

To many Americans, phishing and pharming are new words. They are certainly a new form of an old crime. They are also very serious, and we need to act aggressively to keep them from eroding the public's trust in online commerce and communication. I look forward to working with others in the Senate in addressing this growing threat to the Internet with effective and responsible action.

---

By Ms. CANTWELL (for herself, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. 473. A bill to amend the Public Health Service Act to promote and improve the allied health professions; to the Committee on Health, Education, Labor, and Pensions.

Ms. CANTWELL. Mr. President, the well-being of the U.S. population depends to a considerable extent on having access to high quality health care which, in turn, requires the presence of an adequate supply of health care professionals. The Congress and the President recognized this need when we passed, and President Bush signed, the Nurse Reinvestment Act in the 107th Congress. Just as with nurses, we must also insure an adequate supply of well-prepared allied health professionals. That is why, today, I am introducing the Allied Health Reinvestment Act with my good colleagues, Senator BINGAMAN of New Mexico and Senator LIEBERMAN of Connecticut.

The allied health professions are many. Those recognized in the act include professionals in the areas of: dental hygiene, dietetics/nutrition, emergency medical services, health information management, clinical laboratory sciences/medical technology, cytotechnology, occupational therapy, physical therapy, radiologic technology, nuclear medical technology, rehabilitation counseling, respiratory therapy, and speech-language pathology/audiology. This is not an exhaustive list, as the act will leave to the discretion of the Secretary of HHS additional professions deemed eligible.

Today, many allied health professions are characterized by existing workforce shortages, declining enrollments in academic institutions, or a combination of both factors. The American Hospital Association, AHA, reports vacancy rates of 18 percent among radiology technicians, 10 percent among laboratory technologists, 15.3 percent among imaging technicians, and 12.7 percent among pharmacy technicians. In addition, the AHA indicates that hospitals are having increasing difficulties recruiting these same professionals over the preceding 2-year period.

In my own State of Washington, the Washington State Hospital Association reports vacancy rates of 14.3 percent among ultrasound technologists, 11.3 percent among radiology technicians, and 10.9 percent among nuclear medicine technologists. These vacancy rates have a real effect on the hospitals in my State. When I meet with hospital officials back home, they always tell me how the lack of technicians affects patient care.

The Bureau of Labor Statistics projected that in the period 1998–2008, the United States would need a total of 93,000 new professionals in clinical laboratory science by creating 53,000 new positions and filling the 40,000 existing vacancies. That averages 9,000 openings per year for technicians, and yet academic institutions are producing only 4,990 graduates annually. If these numbers stay constant, we will be short by 43,100 needed technicians in 2008.

According to the American Hospital Association, declining enrollment in health education programs contributes to the critical shortages of health care professionals. Similarly, data from a November 2002 study of 90 institutions by the Association of Schools of Allied Health Professions, ASAHP, shows a 3-year period of decline in enrollment in cardiovascular perfusion technology, cytotechnology, dietetics, emergency medical sciences, health administration, health information management, medical technology, occupational therapy, rehabilitation counseling, respiratory therapy, and respiratory therapy technician programs. As an indication of a worsening situation, data from the 2002–2003 academic year, alone, show that dental hygiene, physician assistant, and speech-language pathology and audiology should be added to this list.

While having an adequate number of health professionals in our country is key to ensuring access to health care for all of us, certainly one of the key populations for whom a healthy supply of health professionals is vitally important for is our senior population.

The U.S. Census Bureau reports that rapid growth of the population age 65 and over will begin in 2011 when the first of the baby boom generation reaches age 65 and will continue for many years. From 1900 to 2000, the proportion of persons 65 and over tripled, going from 4.1 percent to 12.4 percent.

The baby-boom generation's movement into middle age, a period when the incidence of heart attack and stroke increases, will produce a higher demand for therapeutic services. Medical advances now enable more patients with critical problems to survive, but in order to do so and maintain a high quality of life, these patients may need extensive therapy.

Along with the aging of the population came an increase in the number of Americans living with one, and often more than one, chronic condition. Today, it is estimated that 125 million Americans live with a chronic condition, and by 2020 as the population ages, that number will increase to an estimated 157 million, with 81 million of them having two or more chronic conditions. Twenty-five percent of individuals with chronic conditions have some type of activity limitations. Two-thirds of Medicare spending is for beneficiaries with five or more chronic conditions.

Many individuals with chronic conditions rely on family caregivers. Approximately 9 million Americans provide such services, and on the average, they spend 24 hours a week doing so. Caregivers aged 65–74 provide an average of 30.7 hours of care per week and individuals aged 75 and older provide an average of 34.5 hours per week.

Women are more likely than men to have chronic conditions, in part because they have longer life expectancies. These same women are caregivers to other chronically ill persons. In addition, 65 percent of caregivers are female, and of all caregivers, nearly 40 percent are 55 years of age and older.

Physicians report that their training does not adequately prepare them to care for this type of patient by providing education and offering effective nutritional guidance. Those aspects of care can be provided by allied health professionals, but many of them need better preparation to treat and coordinate care for patients with chronic conditions. While much emphasis is placed on curative forms of care, additional efforts must be devoted to slowing the progression of disease and its effects.

One example of the effectiveness of allied health interventions may be illustrated by a study funded by the National Institute on Aging, the National Center for Medical Rehabilitation Research, and the Agency for Health Care Policy and Research—since renamed the Agency for Healthcare Research and Quality. The investigation showed that significant benefits resulted from a 9-month occupational therapy intervention intended to reduce health-related declines urban, multiethnic, independent-living older adults. The majority of study participants, 73 percent, lived alone and 26 percent reported at least one disability. Important health-related benefits attributable to the intervention continued over a 6-month interval in the absence of further treatment.

The bill my colleagues and I introduce today, like the Nurse Reinvestment Act in the 107th Congress, is intended to provide incentives for individuals to seek and complete high quality allied health education and training. Furthermore, the bill will provide additional funding to ensure that such education and training can be provided to allied health students so that the U.S. healthcare industry with have a supply of allied health professionals needed to support the Nation's health care system in this decade and beyond.

The bill offers allied health education, practice, and retention grants. Education grants will be used to expand the enrollment in allied health education programs, especially by underrepresented racial and ethnic minority students, and provide educational opportunities through new technologies and methods, including distance-learning. Practice grants are intended to establish or expand allied health practice arrangements in noninstitutional settings to demonstrate methods that will improve access to primary health care in rural areas and other medically underserved communities. Retention grants are intended to promote career advancement for allied health personnel.

Grants will also be made available to health care facilities to enable them to carry out demonstrations of models and best practices in allied health for the purpose of developing innovative strategies or approaches for retention of allied health professionals. These grants will be awarded to a variety of geographic regions, and to a range of different types and sizes of facilities, including facilities located in rural, urban, and suburban areas.

Furthermore, this bill will give the Secretary of HHS, acting through the Administrator of HRSA, the authority to enter into an agreement with any institution that offers an eligible allied health education program to establish and operate a faculty loan fund to increase the number of qualified allied health faculty. Loans may be granted to faculty who are pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program.

I am especially proud of the provisions of this legislation regarding the National Health Service Corps program, the brain child of Senator Warren Magnuson of Washington. The NHSC program, of course, encourages students in the health professions such as doctors and dentists to serve in underserved areas throughout our nation in return for loan repayment assistance. And, like the NHSC program, this Allied Health Reinvestment Act will establish a scholarship program that provides scholarships to individuals seeking allied health education in exchange for service by those individuals in rural and other medically underserved areas with allied health personnel shortages.

There are a number of organizations supporting this bill, and I thank them for that support. Among them, the list includes, but is not limited to:

Washington State Hospital Association
Health Work Force Institute (Seattle, WA)
American Association for Respiratory Care
American Association of Community Colleges
American Clinical Laboratory Association
American Dental Hygienists' Association
American Dietetic Association
American Health Information Management Association
American Hospital Association
American Physical Therapy Association
American Society for Clinical Laboratory Science
American Society for Clinical Pathology
American Society of Radiologic Technologists
Association of Academic Health Centers
College of Health Deans
Midwest Regional Deans Group
Myositis Association
National Association of EMS Educators
National Cancer Registrars Association
National Network of Health Career Programs in Two-Year Colleges
Northeast Regional Deans Group

In addition to these organizations, I would also like to express my appreciation to the Association of Schools of Allied Health Professions, ASAHP, for its support of the legislation as well as its ongoing efforts to address the need for allied health professionals and allied health faculty.

ASAHP, founded in 1967, has a membership that includes 108 institutions of higher learning throughout the United States, as well as several hundred individual members. ASAHP publishes a quarterly journal and also conducts an annual survey of member institutions. This annual survey, called the "Institutional Profile Survey," is used for, among other purposes, collecting student application and enrollment data. These data substantiate that there is a pressing need to address existing allied health workforce shortages, which have been further exacerbated by declines in enrollment that have occurred for 4 straight years.

In the survey conducted during the period September–November 2004 for the 2004–2005 class starting in fall 2004, the results from 90 academic institutions indicate that in 16 of the 20 professions studied, available classroom seats were not filled. For example, only 33 percent of enrollment capacity was reached for health information management programs in these schools. Given the emphasis on increasing the use of information technology in health care such as conversion to electronic patient records, that figure is disturbingly low.

Similarly, the survey shows that enrollment levels were low in the following professions: rehabilitation counseling, 44 percent, emergency medical sciences, 66 percent, cytotechnology, 69 percent, and medical technology, 77 percent. Severe workforce shortages already exist in the two laboratory professions and emergency medical personnel will play a key role as first responders in dealing with any bioterrorism incident that might occur.

Using data from the Institutional Profile Survey, as well as the General Accounting Office, U.S. Census Bureau, and other sources, ASAHP has compiled what I believe to be a compelling rationale in its support for the Allied Health Reinvestment Act that Senators BINGAMAN, LIEBERMAN, and I introduce today. I ask unanimous consent that the text of this Rationale for an Allied Health Reinvestment Act from the Association of Schools of Allied Health Professions be printed in the RECORD.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### RATIONALE FOR AN ALLIED HEALTH REINVESTMENT ACT

Led by the Association of Schools of Allied Health Professions, a Washington-DC based organization with 108 colleges and universities as members, a coalition of 30 national organizations supports the enactment of an Allied Health Reinvestment Act.

The well-being of the U.S. population depends to a considerable extent on having access to high quality health care, which requires the presence of an adequate supply of competently-prepared allied health professionals. Workforce, demographic, and epidemiologic imperatives are the driving forces behind the need to have such legislation enacted.

### THE WORKFORCE IMPERATIVE

Many allied health professions are characterized by existing workforce shortages, declining enrollments in academic institutions, or a combination of both factors. Hospital officials have reported vacancy rates of 18 percent among radiologic technologists and 10 percent among laboratory technologists, plus they indicated more difficulty in recruiting these same professionals than two years prior.

Fitch, a leading global rating agency that provides the world's credit markets with credit opinions, indicates that labor expenses due to personnel shortages will continue to plague hospitals and is the biggest financial concern for that sector because it typically costs up to twice normal equivalent wages to fill gaps with temporary agency help.

The Bureau of Labor Statistics (BLS) projects that in the period 1998–2008, a total of 93,000 positions in clinical laboratory science need to be provided in the form of creating 53,000 new jobs and filling 40,000 existing vacancies. Of the 9,000 openings per year, academic institutions are producing only 4,990 graduates annually. BLS projections in 2004 show that nine of the 10 fastest growing occupations are health or computer (information technology) occupations.

Accredited respiratory therapy programs in 2000 graduated 5,512 students—21% fewer than the 6,062 graduates in 1999. In 2001, the number of graduates from these schools fell another 20% to 4,437. The BLS expects employment of respiratory therapists to increase faster than the average of all occupations, increasing from 21% to 35% through 2010. The aging population and an attendant rise in the incidence of respiratory ailments, including asthma and COPD, and cardiopulmonary diseases drive this demand.

Employment growth in schools will result from expansion of the school-age population and extended services for disabled students. Therapists will be needed to help children with disabilities prepare to enter special education programs.

The American Hospital Association has identified declining enrollment in health education programs as a factor leading to critical shortages of health care professionals. That assessment is buttressed by data from 90 institutions belonging to the Association of Schools of Allied Health Professions. The following professions were unable to reach enrollment capacity over a three-year period: cardiovascular perfusion technology, cytotechnology, dietetics, emergency medical sciences, health administration, health information management, medical technology, occupational therapy, rehabilitation counseling, respiratory therapy, and respiratory therapy technician.

Given the level of anxiety over the possibility of terrorist attacks occurring in this country, in a study released by the General Accounting Office (GAO) on April 8, 2003 that focused on the nation's adequacy of preparedness against bioterrorism, it was reported that shortages in clinical laboratory personnel exist in state and local public health departments, laboratories, and hospitals. Moreover, these shortages are a major concern that is difficult to remedy.

Laboratories play a critical role in the detection and diagnosis of illnesses resulting from exposure to either biological or chemical agents. No therapy or prophylaxis can be initiated without laboratory identification and confirmation of the agent in question. Laboratories need to have adequate capacity and necessary staff to test clinical and environmental samples in order to identify an agent promptly so that proper treatment can be started and infectious diseases prevented from spreading.

Meanwhile, the U.S population continues to become more racially and ethnically diverse. A health care workforce is needed that better reflects the population they serve. Practitioners must become more attuned to cultural differences in order to facilitate communication and enhance health care quality.

### THE DEMOGRAPHIC IMPERATIVE

The U.S. Census Bureau reports that rapid growth of the population age 65 and over will begin in 2011 when the first of the baby-boom generation reaches age 65 and will continue for many years. The larger proportions of the population in older age groups result in part from sustained low fertility levels and from relatively larger declines in mortality at older ages in the latter part of the 20th century. From 1900 to 2000, the proportion of persons 65 and over went from 4.1 percent to 12.4 percent.

In the 20th century, the total population more than tripled, while the 65 years and older population grew more than tenfold, from 3.1 million in 1900 to 35.0 million in 2000.

Among the older population, the cohort 85 years and over increased from 122,000 in 1900 to 4.2 million in 2000. Since 1940, this age group increased at a more rapid rate than 65-to-74 year olds and 75-to-85 year olds in every decade. As a proportion of the older population, the 85 and over group went from being four percent of the older population to 12 percent between 1900 and 2000.

### THE EPIDEMIOLOGICAL IMPERATIVE

The baby-boom generation's movement into middle age, a period when the incidence of heart attack and stroke increases, will produce a higher demand for therapeutic services. Medical advances now enable more patients with critical problems to survive. These patients may need extensive therapy.

According to Solucient, a major provider of information for health care providers, profound demographic shifts over the next twenty-five years will result in significant increases in the demand for inpatient acute care services if current utilization patterns do not change. An aging baby-boom generation, increasing life expectancy, rising fertility rates, and continued immigration will undoubtedly increase the volume of inpatient hospitalizations and significantly alter the mix of acute care services required by patients over the next quarter century. Nationwide, demographic changes alone could result in a 46 percent increase in acute care bed demand by 2027. Total acute care admissions could also increase by almost 13 million cases in the next quarter century—a growth of 41 percent from the current number of national admissions. Currently, the aged nationwide account for about 40 percent of inpatient admissions and about 49 percent of beds. By 2027, they could make up a majority of acute care services—51 percent of admissions and 59 percent of beds.

Along with the aging of the population came an increase in the number of Americans living with one, and often more than one, chronic condition. Today, it is estimated that 125 million Americans live with a chronic condition, and by 2020 as the population ages, that number will increase to an estimated 157 million, with 81 million of them having two or more chronic conditions. Twenty-five percent of individuals with chronic conditions have some type of activity limitations. Two-thirds of Medicare spending is for beneficiaries with five or more chronic conditions.

Many individuals with chronic conditions rely on family caregivers. Approximately nine million Americans provide such services, and on the average, they spend 24 hours a week doing so. Caregivers age 65–74 provide an average of 30.7 hours of care per week and individuals age 75 and older provide an average of 34.5 hours per week.

Women are more likely than men to have chronic conditions, in part because they have longer life expectancies. These same women are caregivers to other chronically ill persons. In addition, 65 percent of caregivers are female, and of all caregivers, nearly 40 percent are 55 years of age and older.

Physicians report that their training does not adequately prepare them to care for this type of patient in areas such as providing education and offering effective nutritional guidance. Allied health professionals can provide those aspects of care, but many of them need better preparation to treat and coordinate care for patients with chronic conditions. While much emphasis is placed on curative forms of care, additional efforts must be devoted to slowing the progression of disease and its effects.

---

## S. 473

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Allied Health Reinvestment Act".

### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States Census Bureau and other reports highlight the increased demand for acute and chronic healthcare services among both the general population and a rapidly growing aging portion of the population.

(2) The calls for reduction in medical errors, increased patient safety, and quality of care have resulted in an amplified call for allied health professionals to provide healthcare services.

(3) Several allied health professions are characterized by workforce shortages, declining enrollments in allied health education programs, or a combination of both factors, and hospital officials have reported vacancy rates in positions occupied by allied health professionals.

(4) Many allied health education programs are facing significant economic pressure that could force their closure due to an insufficient number of students.

(b) PURPOSE.—It is the purpose of this Act to provide incentives for individuals to seek and complete high quality allied health education and training and provide additional funding to ensure that such education and training can be provided to allied health students so that the United States healthcare industry with have a supply of allied health professionals needed to support the health care system of the United States in this decade and beyond.

### SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) is amended by adding at the end the following:

## "PART G—ALLIED HEALTH PROFESSIONALS

### "SEC. 799C. DEFINITIONS.

"In this part:

"(1) ALLIED HEALTH EDUCATION PROGRAM.—The term 'allied health education program' means any postsecondary educational program offered by an institution accredited by an agency or commission recognized by the Department of Education, or leading to a State certificate or license or any other educational program approved by the Secretary. Such term includes colleges, universities, or schools of allied health and equivalent entities that include programs leading to a certificate, associate, baccalaureate, or graduate level degree in an allied health profession.

"(2) ALLIED HEALTH PROFESSIONS.—The term 'allied health professions' includes professions in the following areas at the certificate, associate, baccalaureate, or graduate level:

"(A) Dental hygiene.

"(B) Dietetics or nutrition.

"(C) Emergency medical services.

"(D) Health information management.

"(E) Clinical laboratory sciences and medical technology.

"(F) Cytotechnology.

"(G) Occupational therapy.

"(H) Physical therapy.

"(I) Radiologic technology.

"(J) Nuclear medical technology.

"(K) Rehabilitation counseling.

"(L) Respiratory therapy.

"(M) Speech-language pathology and audiology.

"(N) Any other profession determined appropriate by the Secretary.

"(3) HEALTH CARE FACILITY.—The term 'health care facility' means an outpatient health care facility, hospital, nursing home, home health care agency, hospice, federally qualified health center, nurse managed health center, rural health clinic, public health clinic, or any similar healthcare facility or practice that employs allied health professionals.

### "SEC. 799C–1. PUBLIC SERVICE ANNOUNCEMENTS.

"The Secretary shall develop and issue public service announcements that shall—

"(1) advertise and promote the allied health professions;

"(2) highlight the advantages and rewards of the allied health professions; and

"(3) encourage individuals from diverse communities and backgrounds to enter the allied health professions.

### "SEC. 799C–2. STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—The Secretary shall award grants to designated eligible entities to support State and local advertising campaigns that are conducted through appropriate media outlets (as determined by the Secretary) to—

"(1) promote the allied health professions;

"(2) highlight the advantages and rewards of the allied health professions; and

"(3) encourage individuals from disadvantaged communities and backgrounds to enter the allied health professions.

"(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a professional, national, or State allied health association, State health care provider, or association of one or more health care facilities, allied health education programs, or other entities that provides similar services or serves a like function; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

### "SEC. 799C–3. ALLIED HEALTH RECRUITMENT GRANT PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to increase allied health professions education opportunities.

"(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a professional, national, or State allied health association, State health care provider, or association of one or more health care facilities, allied health education programs, or other eligible entities that provides similar services or serves a like function; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) USE OF FUNDS.—An entity shall use amounts received under a grant under subsection (a) to—

"(1) support outreach programs at elementary and secondary schools that inform guidance counselors and students of education opportunities regarding the allied health professions;

"(2) carry out special projects to increase allied health education opportunities for individuals who are from disadvantaged backgrounds (including racial and ethnic minorities that are underrepresented among the allied health professions) by providing student scholarships or stipends, pre-entry preparation, and retention activities;

"(3) provide assistance to public and nonprofit private educational institutions to support remedial education programs for allied health students who require assistance with math, science, English, and medical terminology;

"(4) meet the costs of child care and transportation for individuals who are taking part in an allied health education program at any level; and

"(5) support community-based partnerships seeking to recruit allied health professionals in rural communities and medically underserved urban communities, and other communities experiencing an allied health professions shortage.

### "SEC. 799C–4. GRANTS FOR HEALTH CAREER ACADEMIES.

"(a) IN GENERAL.—The Secretary shall award grants to eligible entities to assist such entities in collaborating to carry out programs that form education pipelines to facilitate the entry of students of secondary educational institutions, especially underrepresented racial and ethnic minorities, into careers in the allied health professions.

"(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be an institution that offers allied health education programs, a health care facility, or a secondary educational institution; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

### "SEC. 799C–5. ALLIED HEALTH EDUCATION, PRACTICE, AND RETENTION GRANTS.

"(a) EDUCATION PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to—

"(1) expand the enrollment of individuals in allied health education programs, especially the enrollment of underrepresented racial and ethnic minority students; and

"(2) provide education through new technologies and methods, including distance-learning methodologies.

"(b) PRACTICE PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to—

"(1) establish or expand allied health practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in rural areas and other medically underserved communities;

"(2) provide care for underserved populations and other high-risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, the homeless, and victims of domestic violence;

"(3) provide managed care, information management, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; or

"(4) develop generational and cultural competencies among allied health professionals.

"(c) RETENTION PRIORITY AREAS.—

"(1) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to enhance the allied health professions workforce by initiating and maintaining allied health retention programs described in paragraph (2) or (3).

"(2) GRANTS FOR CAREER LADDER PROGRAMS.—The Secretary may award grants to and enter into contracts with eligible entities for programs—

"(A) to promote career advancement for allied health personnel in a variety of training settings, cross training or specialty training among diverse population groups, and the advancement of individuals; and

"(B) to assist individuals in obtaining the education and training required to enter the allied health professions and advance within such professions, such as by providing career counseling and mentoring.

"(3) ENHANCING PATIENT CARE DELIVERY SYSTEMS.—

"(A) GRANTS.—The Secretary may award grants to eligible entities to improve the retention of allied health professionals and to enhance patient care that is directly related to allied health activities by enhancing collaboration and communication among allied health professionals and other health care professionals, and by promoting allied health involvement in the organizational and clinical decision-making processes of a health care facility.

"(B) PREFERENCE.—In making awards of grants under this paragraph, the Secretary shall give preferences to applicants that have not previously received an award under this paragraph and to applicants from rural, underserved areas.

"(C) CONTINUATION OF AN AWARD.—The Secretary shall make continuation of any award under this paragraph beyond the second year of such award contingent on the recipient of such award having demonstrated to the Secretary measurable and substantive improvement in allied health personnel retention or patient care.

"(d) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a health care facility, or any partnership or coalition containing a health care facility or allied health education program; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

### "SEC. 799C–6. DEVELOPING MODELS AND BEST PRACTICES PROGRAM.

"(a) AUTHORIZED.—The Secretary shall award grants to eligible entities to enable such entities to carry out demonstration programs using models and best practices in allied health for the purpose of developing innovative strategies or approaches for the retention of allied health professionals.

"(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a health care facility, or any partnership or coalition containing a health care facility or allied health education program; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Secretary shall ensure that grantee represent a variety of geographic regions and a range of different types and sizes of facilities, including facilities located in rural, urban, and suburban areas.

"(d) USE OF FUNDS.—An entity shall use amounts received under a grant under this section to carry out demonstration programs of models and best practices in allied health for the purpose of—

"(1) promoting retention and satisfaction of allied health professionals;

"(2) promoting opportunities for allied health professionals to pursue education, career advancement, and organizational recognition; and

"(3) developing continuing education programs that instruct allied health professionals in how to use emerging medical technologies and how to address current and future health care needs.

"(e) AREA HEALTH EDUCATION CENTERS.—The Secretary shall award grants to area health education centers to enable such centers to enter into contracts with allied health education programs to expand the operation of area health education centers to work in communities to develop models of excellence for allied health professionals or to expand any junior and senior high school mentoring programs to include an allied health professions mentoring program.

### "SEC. 799C–7. ALLIED HEALTH FACULTY LOAN PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with any institution offering an eligible allied health education program for the establishment and operation of a faculty loan fund in accordance with this section (referred to in this section as the 'loan fund'), to increase the number of qualified allied health faculty.

"(b) AGREEMENTS.—Each agreement entered into under this section shall—

"(1) provide for the establishment of a loan fund by the institution offering the allied health education program involved;

"(2) provide for deposit in the loan fund of—

"(A) the Federal capital contributions to the fund;

"(B) an amount provided by the institution involved which shall be equal to not less than one-ninth of the amount of the Federal capital contribution under subparagraph (A);

"(C) any collections of principal and interest on loans made from the fund; and

"(D) any other earnings of the fund;

"(3) provide that the loan fund will be used only for the provision of loans to faculty of the allied health education program in accordance with subsection (c) and for the costs of the collection of such loans and the interest thereon;

"(4) provide that loans may be made from such fund only to faculty who are pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program; and

"(5) contain such other provisions determined appropriate by the Secretary to protect the financial interests of the United States.

"(c) LOAN PROVISIONS.—Loans from any faculty loan fund established pursuant to an agreement under this section shall be made to an individual on such terms and conditions as the allied health education program may determine, except that—

"(1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary;

"(2) in the case of any individual, the total of the loans for any academic year made by an allied health education program from loan funds established pursuant to agreements under this section may not exceed $30,000, plus any amount determined by the Secretary on an annual basis to reflect inflation;

"(3) upon completion by the individual of each of the first, second, and third year of full-time employment, as required under the loan agreement, as a faculty member in an allied health education program, the program shall cancel 20 percent of the principal and interest due on the amount of the unpaid portion of the loan on the first day of such employment;

"(4) upon completion by the individual of the fourth year of full-time employment, as required under the loan agreement, as a faculty member in an allied health education program, the program shall cancel 25 percent of the principal and interest due on the amount of the unpaid portion of the loan on the first day of such employment;

"(5) the loan may be used to pay the cost of tuition, fees, books, laboratory expenses, and other reasonable education expenses;

"(6) the loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the 10-year period that begins 9 months after the individual ceases to pursue a course of study in an allied health education program; and

"(7) such loan shall—

"(A) beginning on the date that is 3 months after the individual ceases to pursue a course of study in an allied health education program, bear interest on the unpaid balance of the loan at the rate of 3 percent per year; or

"(B) subject to subsection (e), if the allied health education program determines that the individual will not complete such course of study or serve as a faculty member as required under the loan agreement under this subsection, bear interest on the unpaid balance of the loan at the prevailing market rate.

"(d) PAYMENT OF PROPORTIONATE SHARE.—Where all or any part of a loan (including interest thereon) is canceled under this section, the Secretary shall pay to the allied health education program involved an amount equal to the program's proportionate share of the canceled portion, as determined by the Secretary.

"(e) REVIEW BY SECRETARY.—At the request of the individual involved, the Secretary may review any determination by an allied health education program under this section.

**"SEC. 799C–8. SCHOLARSHIP PROGRAM FOR SERVICE IN RURAL AND OTHER MEDICALLY UNDERSERVED AREAS.**

"(a) PROGRAM AUTHORIZED.—The Secretary shall establish a scholarship program (referred to in this section as the 'program') to provide scholarships to individuals seeking allied health education who agree to provide service in rural and other medically underserved areas with allied health personnel shortages.

"(b) PREFERENCE.—In awarding scholarships under this section, the Secretary shall give preference to—

"(1) applicants who demonstrate the greatest financial need;

"(2) applicants who agree to serve in health care facilities experiencing allied health shortages in rural and other medically underserved areas;

"(3) applicants who are currently working in a health care facility who agree to serve the period of obligated service at such facility;

"(4) minority applicants; and

"(5) applicants with an interest in a practice area of allied health that has unmet needs.

"(c) PROGRAM REQUIREMENTS.—

"(1) CONTRACTS.—Under the program, the Secretary shall enter into contracts with eligible individuals under which such individuals agree to serve as allied health professionals for a period of not less than 2 years at a health care facility with a critical shortage of allied health professionals in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance in an allied health education program.

"(2) ELIGIBLE INDIVIDUALS.—In this subsection, the term 'eligible individual' means an individual who is enrolled or accepted for enrollment as a full-time or part-time student in an allied health education program.

"(3) SERVICE REQUIREMENT.—

"(A) IN GENERAL.—The Secretary may not enter into a contract with an eligible individual under this section unless the individual agrees to serve as an allied health professional at a health care facility with a critical shortage of allied health professionals for a period of full-time service of not less than 2 years, or for a period of part-time service in accordance with subparagraph (B).

"(B) PART-TIME SERVICE.—An individual may complete the period of service described in subparagraph (A) on a part-time basis if the individual has a written agreement that—

"(i) is entered into by the facility and the individual and is approved by the Secretary; and

"(ii) provides that the period of obligated service will be extended so that the aggregate amount of service performed will equal the amount of service that would be performed through a period of full-time service of not less than 2 years.

"(d) REPORTS.—Not later than 18 months after the date of enactment of this part, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing the program carried out under this section, including statements regarding—

"(1) the number of enrollees by specialty or discipline, scholarships, and grant recipients;

"(2) the number of graduates;

"(3) the amount of scholarship payments made;

"(4) which educational institution the recipients attended;

"(5) the number and placement location of the scholarship recipients at health care facilities with a critical shortage of allied health professionals;

"(6) the default rate and actions required;

"(7) the amount of outstanding default funds of the scholarship program;

"(8) to the extent that it can be determined, the reason for the default;

"(9) the demographics of the individuals participating in the scholarship program; and

"(10) an evaluation of the overall costs and benefits of the program.

**"SEC. 799C–9. GRANTS FOR CLINICAL EDUCATION, INTERNSHIP, AND RESIDENCY PROGRAMS.**

"(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to develop clinical education, internship, and residency programs that encourage mentoring and the development of specialties.

"(b) ELIGIBLE ENTITIES.—To be eligible for a grant under this section an entity shall—

"(1) be a partnership of an allied health education program and a health care facility; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to—

"(1) develop clinical education, internship, and residency programs and curriculum and training programs for graduates of an allied health education program;

"(2) provide support for faculty and mentors; and

"(3) provide support for allied health professionals participating in clinical education, internship, and residency programs on both a full-time and part-time basis.

**"SEC. 799C–10. GRANTS FOR PARTNERSHIPS.**

"(a) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to form partnerships to carry out the activities described in this section.

"(b) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section, and entity shall—

"(1) be a partnership between an allied health education program and a health care facility; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant under this section to—

"(1) provide employees of the health care facility that is a member of the partnership involved advanced training and education in a allied health education program;

"(2) establish or expand allied health practice arrangements in non-institutional settings to demonstrate methods to improve access to health care in rural and other medically underserved communities;

"(3) purchase distance learning technology to extend general education and training programs to rural areas, and to extend specialty education and training programs to all areas; and

"(4) establish or expand mentoring, clinical education, and internship programs for training in specialty care areas.

**"SEC. 799C–11. ALLIED HEALTH PROFESSIONS TRAINING FOR DIVERSITY.**

"The Secretary, acting in conjunction with allied health professional associations, shall develop a system for collecting and analyzing allied health workforce data gathered by the Bureau of Labor Statistics, the Health Resources and Services Administration, other entities within the Department of Health and Human Services, the Department of Veterans Affairs, the Center for Medicare & Medicaid Services, the Department of Defense, allied health professional associations, and regional centers for health workforce studies to determine educational pipeline and practitioner shortages, and project future needs for such a workforce.

**"SEC. 799C–12. ALLIED HEALTH PROFESSIONS TRAINING FOR DIVERSITY.**

"The Secretary shall include schools of allied health among the health professions schools that are eligible to receive grants under this part for the purpose of assisting such schools in supporting Centers of Excellence in health professions education for under-represented minority individuals.

**"SEC. 799C–13. REPORTS BY GENERAL ACCOUNTING OFFICE.**

"Not later than 4 years after the date of enactment of this part, the Comptroller General of the United States shall conduct an evaluation of whether the programs carried out under this part have demonstrably increased the number of applicants to allied health education programs and prepare and submit to the appropriate committees of Congress a report concerning the results of such evaluation.

**"SEC. 799C–14. AUTHORIZATION OF APPROPRIATIONS.**

"There is authorized to be appropriated to carry out this part, such sums as may be necessary for each of fiscal years 2006 through 2011.".

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 67—DESIGNATING THE SECOND WEEK OF MARCH 2005 AS "EXTENSION LIVING WELL WEEK"

Mr. GRASSLEY (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. DEMINT, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. GREGG, Mr. HATCH, Mr. ISAKSON, Mr. LUGAR, Mr. MCCAIN, Ms. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. WARNER, Mr. BAUCUS, Mrs. BOXER, Mr. CARPER, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KOHL, Mr. LEAHY, Mrs. LINCOLN, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. SALAZAR, Mr. SCHUMER, Ms. STABENOW, and Mr. JEFFORDS) submitted the following resolution; which was considered and agreed to:

S. RES. 67

Whereas the health and well-being of the family is crucial to the functioning of the Nation and to providing adults and youth with the necessary skills and knowledge to help them achieve the best quality of life possible;

Whereas psychologically, socially, and emotionally strong families provide strength for future generations;

Whereas Extension is a nationwide educational network through the land-grant universities, funded cooperatively through the Department of Agriculture, State governments, and local county, city, and parish governments;

Whereas Extension provides non-biased, research-based information through informal education to help adults, youth, families, farms, businesses, and communities;

Whereas Extension education programs are developed at the grassroots level to meet local needs, and are available in nearly every county and parish in the United States and its territories, from the biggest to the smallest;

Whereas information offered by Extension is provided by scientists and researchers at land-grant universities, and is made practical and relevant by Extension educators working at the local level;

Whereas Extension Family and Consumer Sciences educators are advocates for education for families so that the families might gain skills for a full and productive life; and .

Whereas the designation of the second week of March 2005 as "Extension Living Well Week" is a fitting tribute to the National Extension Association for Family and Consumer Sciences professionals who provide education that is critical to the quality of life of adults, youth, individuals, and families, including food preparation, food safety, nutrition, financial management, healthy lifestyles, home and work environment and safety, relationship and parenting skills, and much more: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the second week of March 2005 as "Extension Living Well Week";

(2) encourages the people of the United States to take advantage of the educational opportunities that Extension Family and Consumer Sciences educators provide, education that can help them in raising kids, eating right, spending smart, and living well; and

(3) encourages the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for Extension Family and Consumer Sciences educators as they teach adults and youth and promote optimum health and wellness of families in the United States through the "Living Well" campaign.

### SENATE RESOLUTION 68—DESIGNATING MARCH 2, 2005, AS "READ ACROSS AMERICA DAY"

Ms. COLLINS (for herself, Mr. REED, and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 68

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and providing additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. .Seuss, to celebrate reading: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 2, 2005, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in celebration of reading; and

(4) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 14. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 14.** Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes: which was ordered to lie on the table; as follows:

On page 19, strike line 13, and insert the following:

monthly income.

"(8) Paragraph (2) shall not apply if—

"(A) the debtor, or a member of the debtor's family, is a member of the uniformed services (as defined in section 101(a)(5) of title 10); and

"(B) the filing under this title was a direct result of debts incurred as a result of a reduction of income due to a change of status from civilian employment to service on active duty (as defeind in section 101(d) of title 10) as a member of the uniformed services.".

On page 146, strike lines 6 through 19, and insert the following:

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(b) of title 11, United States Code, is amended by adding at the end the following:

``(3) Section 506 shall not apply to a claim described in subsection (a)(5) under circumstances other than those described in section 707(b)(8)—

``(A) if—

``(i) the creditor has a purchase money security interest securing the debt that is the subject of the claim;

``(ii) the debt was incurred during the 910-day period preceding the date on which the petition was filed; and

``(iii) the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor; or

``(B) if—

``(i) the debt was incurred during the 1-year period preceding the date on which the petition was filed; and

``(ii) collateral for the debt that is the subject of the claim consists of anything of value other than the collateral described in subparagraph (A)(iii).''.

On page 259, between lines 7 and 8, insert the following:

**SEC. 605. GAO STUDY OF CAUSES OF BANKRUPTCY FOR MEMBERS OF THE UNIFORMED SERVICES.**

The Comptroller General of the United States shall—

(1) conduct a study of the frequency and causes of bankruptcy by members of the uniformed services; and

(2) provide recommendations to Congress on how to protect members of the uniformed services, and their families, who file for bankruptcy.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, March 8, 2004, at 9:30 a.m., to examine and discuss S. 271, a bill which reforms the regulatory and reporting structure of organizations registered under Section 527 of the Internal Revenue Code.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224-6352.

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 8, 2004, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 179, to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; S. 213, to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico; S. 267, to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes; and S. 305, to authorize the Secretary of the Interior to recruit volunteers to assist with or facilitate the activities of various agencies and offices of the Department of the Interior.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Frank Gladics 202-224-2878 or Amy Millet at 202-224-8276.

## PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask, on behalf of Senator BAUCUS, unanimous consent that Brian Townsend, a detailee from the IRS, be permitted privileges of the floor during consideration of S. 256, including all votes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## EXTENSION LIVING WELL WEEK

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. Res. 67, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 67) designating the second week of March 2005 as ``Extension Living Well Week''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 67) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 67

Whereas the health and well-being of the family is crucial to the functioning of the Nation and to providing adults and youth with the necessary skills and knowledge to help them achieve the best quality of life possible;

Whereas psychologically, socially, and emotionally strong families provide strength for future generations;

Whereas Extension is a nationwide educational network through the land-grant universities, funded cooperatively through the Department of Agriculture, State governments, and local county, city, and parish governments;

Whereas Extension provides non-biased, research-based information through informal education to help adults, youth, families, farms, businesses, and communities;

Whereas Extension education programs are developed at the grassroots level to meet local needs, and are available in nearly every county and parish in the United States and its territories, from the biggest to the smallest;

Whereas information offered by Extension is provided by scientists and researchers at land-grant universities, and is made practical and relevant by Extension educators working at the local level;

Whereas Extension Family and Consumer Sciences educators are advocates for education for families so that the families might gain skills for a full and productive life; and

Whereas the designation of the second week of March 2005 as ``Extension Living Well Week'' is a fitting tribute to the National Extension Association for Family and Consumer Sciences professionals who provide education that is critical to the quality of life of adults, youth, individuals, and families, including food preparation, food safety, nutrition, financial management, healthy lifestyles, home and work environment and safety, relationship and parenting skills, and much more: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the second week of March 2005 as ``Extension Living Well Week'';

(2) encourages the people of the United States to take advantage of the educational opportunities that Extension Family and Consumer Sciences educators provide, education that can help them in raising kids, eating right, spending smart, and living well; and

(3) encourages the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for Extension Family and Consumer Sciences educators as they teach adults and youth and promote optimum health and wellness of families in the United States through the ``Living Well'' campaign.

## READ ACROSS AMERICA DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. Res. 68, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 68) designating March 2, 2005, as ``Read Across America Day''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 68) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 68

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107-110) and the Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and providing additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 2, 2005, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in celebration of reading; and

(4) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

## ORDERS FOR TUESDAY, MARCH 1, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, March 1. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business for 1 hour, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee, and that the Senate then resume consideration of S. 256, the Bankruptcy Reform Act. I further ask consent that at 12:30 p.m., the Senate recess until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow, the Senate will resume consideration of the bankruptcy bill. Today we were able to accommodate several opening statements on the bill, and I hope that we can make real progress in the amendment process tomorrow. We anticipate that amendments will be offered prior to the policy luncheon recess. However, as I mentioned earlier today, I do not anticipate a vote on any amendment until after the policy luncheons. Again, I encourage all Members who may have amendments to the bill to contact the cloakrooms.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, at approximately 11 o'clock tomorrow, when we finish morning business, Senator DURBIN will be here to offer the first amendment. We have had good opening statements by the two managers of the bill. I do not know if Senator HATCH will be managing the bill or Senator SPECTER. It was good to see him here. A long statement by Senator LEAHY, the ranking member of the committee, was given today.

We are going to start offering amendments, and if people want to make statements, there will be time during this bill—there will be quorum calls and they will be able to do that. We are going to try to limit those as much as we can and move forward. Senator DURBIN's amendment will be one relative to bankruptcy.

Mr. FRIST. Mr. President, in terms of scheduling a vote—we will have more information on that tomorrow—again, it will be after the policy luncheon on the first amendment.

## ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:37 p.m., adjourned until Tuesday, March 1, 2005, at 9:45 a.m.

## NOMINATIONS

Executive nominations received by the Senate February 28, 2005:

### DEPARTMENT OF THE TREASURY

JOHN C. DUGAN, OF MARYLAND, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF FIVE YEARS, VICE JOHN D. HAWKE, JR., RESIGNED.

### METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

WILLIAM COBEY, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM EXPIRING MAY 30, 2010, VICE JOHN PAUL HAMMERSCHMIDT, TERM EXPIRED.

### CONSUMER PRODUCT SAFETY COMMISSION

NANCY ANN NORD, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 26, 2005, VICE MARY SHEILA GALL, RESIGNED.

NANCY ANN NORD, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF SEVEN YEARS FROM OCTOBER 27, 2005. (REAPPOINTMENT)

### DEPARTMENT OF ENERGY

JEFFREY CLAY SELL, OF TEXAS, TO BE DEPUTY SECRETARY OF ENERGY, VICE KYLE E. MCSLARROW, RESIGNED.

### OVERSEAS PRIVATE INVESTMENT CORPORATION

CHRISTOPHER J. HANLEY, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2006, VICE GEORGE J. KOURPIAS, TERM EXPIRED.

### EXECUTIVE OFFICE OF THE PRESIDENT

LINDA MORRISON COMBS, OF NORTH CAROLINA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET, VICE LINDA M. SPRINGER.

### IN THE COAST GUARD

FOLLOWING NAMED OFFICER TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53 IN THE GRADE INDICATED:

*To be rear admiral*

SALLY BRICE-O'HARA, 1553

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

*To be rear admiral*

REAR ADM. (LH) LARRY L. HERETH, 6731
REAR ADM. (LH) ROBERT J. PAPP, 7417
REAR ADM. (LH) CLIFFORD I. PEARSON, 4808
REAR ADM. (LH) JAMES C. VAN SLICE, 3714

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. WILLIAM R. LOONEY III, 5052

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. BENJAMIN J. SPRAGGINS, 6740

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. DONNA L. DACIER, 9272

*To be brigadier general*

COL. CHARLES K. EBNER.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. JAMES O. BARCLAY III, 4493
COL. ARTHUR M. BARTELL, 7214
COL. DONALD M. CAMPBELL, JR., 3215
COL. DENNIS E. ROGERS, 6273

### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. ANDREW B. DAVIS, 1872

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. MARK W. BIRCHER, 6018
COL. JOHN M. CROLEY, 9928
COL. DARRELL L. MOORE, 4091

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. DONALD R. GINTZIG, 7788

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. RAYMOND P. ENGLISH, 2452

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. RICHARD R. JEFFRIES, 2602
CAPT. DAVID J. SMITH, 9548

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. MARK F. HEINRICH, 5812
CAPT. CHARLES M. LILLI, 2604

### IN THE AIR FORCE

THE FOLLOWING NAMED STUDENTS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 2114:

*To be captain*

ERIK L. ABRAMES, 1472
ANGELA M. ALBRECHT, 9112
MICHAEL A. AROCHO, 7000
MICAH J. BAHR, 4999
CHRISTOPHER W. BATES, 3558
DAVID K. BIGELOW, 6538

BRANDON J. BINGHAM, 6106
SUSAN J. BITTEL, 3270
DANIEL J. BROWN, 5577
NATHAN F. CLEMENT, 7437
JAMES R. COONEY, 0904
SUSANNAH C. COOPER, 6653
SPENCER J. CURTIS, 2958
JONATHAN A. DAY, 9780
MELISSA J. DOOLEY, 7172
STACY F. FLETCHER, 0592
SCOTT H. FRYE, 2630
JOHN G. GANCAYCO, 2717
HEATHER M. GERST, 1327
JOSE GOROSPE, 5307
FREDERICK P. GROIS III, 3161
SVEN M. HOCHHEIMER, 5751
KYLE F. JARNAGIN, 3480
JULIE C. JERABEK, 5228
ROY L. JOHNSON III, 9411
NANCY L. KESEK, 3994
BRIAN D. LARSON, 6255
JOHN LICHTENBERGER III, 6821
ELEANE M. LEISEMER, 8878
APRIL LIGATO, 3711
LISA R. LOMBARDO, 9425
SHANNON M. MARCHEGIANI, 2087
MARIA E. MAURICIO, 5344
JEFFREY C. MCCLEAN, 2897
RYAN G. K. MIHATA, 9276
MANUEL A. NUNEZ, 7910
VALERIE C. OBRIEN, 7309
ADAM D. PERRY, 6600
KRISTINE K. PIERCE, 7623
BRANDON W. PROPPER, 3981
BEVERLY A. READER, 9425
ANDREW G. REES, 3962
GAIL SKIPPER, 9060
CANDACE S. STAUBITZ, 7480
TRAVIS A. STEPHENSEN, 2861
ROBERT C. SWIFT, 3205
ROGER S. THOMAS, 3765
PAUL A. TILTON, 4739
JAMES R. TOWNLEY, 4034
CHRISTOPHER J. WILHELM, 7972
GREGORY J. WILLIAMS, 3776
PHILIP A. WIXOM, 5548
EMILY B. WONG, 9801
DUOJIA XU, 3375

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

WILLIAM T. MONACCI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

BRIAN J. TENNEY, 2420
KAREN T. WELDEN, 0451

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

DAVID J. BRICKER, 5448
JOHN C. GIUFFRIDA, 6080
PAUL E. JOHNSON, 1202
JAMES L. C. MCKENZIE, 0607
WAYNE A. STELTZ, 3223

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LARRY N BARBER, 5977
GLYGER G BEACH, 4259
DEWAYNE L BREWER, 4726
RONALD A CASTEEL, 0364
DOUGLAS A CASTLE, 8002
THOMAS G COBBS, 6628
TODD W COMBEE, 0628
JAMES R DONNELLY, 0292
JAMES A ELLISON, 1065
ROBERT E FRIEND, JR, 7619
TOMMY W FULLER, 9151
JOHN M HIGGINS, 8463
BRYCE E HOLBROOK, 6545
DONALD W HOLDRIDGE, SR, 5435
GARY W HOWARD, 1906
JOEL P JENKINS, JR, 2563
THOMAS JOSEPH, 4428
KENNETH G KIRK, 3603
LANCE L KITTLESON, 2411
BERT S KOZEN, 9410
IRA I KRONENBERG, 8580
JON K MAAS, 1736
MICHAEL C METCALF, 9427
WILLIAM C METZDORF, 6715
RODNEY K MILLER, 3488
THOMAS W PHELAN, SR, 5095
JOHN C POWLEDGE, 7097
STANLEY E PUCKETT, 8981
DALLAS E SPEIGHT, 3008
DORIAN M STOKER, 6523
JOHN L TROUT, 1337
RICHARD R UHLER, JR, 8662
MICHAEL D WILSON, 0709
STEVEN A WILSON, 1923
DAVID D WORCESTER, 5101

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

HAYS L. ARNOLD, 1651
WILLIAM C. OTTO, 3866

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

JOHN P. GUERREIRO, 9194

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

EVELYN I. RODRIGUEZ, 1570

FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTION 624 AND 3064:

*To be major*

DEMETRES WILLIAM, 4422

### IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

DONALD R BENNETT, 8805
TERESA M BUESCHER, 8363
DANIEL E FREDERICK, 4221
JAMES R MARTIN, 5056
STEPHEN R MERRILL, 5942
BLAINE E MOWREY, 2232
THOMAS L RICHIE, 0197

*To be commander*

BRIAN A ALEXANDER, 8051
STEPHEN C ARCHER, 8227
KEVIN P BARRETT, 3690
KEVIN J BEDFORD, 9938
GREGORY S BLASCHKE, 7946
JEFFREY A CONWELL, 6209
MIGUEL A CUBANO, 1821
JAMES R DUNNE, 1943
ELISE T GORDON, 1930
BRADEN R HALE, 4494
MAUREEN T KENNEDY, 7568
WILLIAM J KLORIG, 7524
TREYCE S KNEE, 6692
THOMAS J MARSHALL, JR, 0504
STEVEN W MOLL, 8273
LOUIS D OROSZ, 2148
JOHN G RAHEB, 8767
JONATHAN W RICHARDSON, 6807
JOEL A ROOS, 3159
MARY K RUSHER, 9956
KEVIN L RUSSELL, 0193
JOHN B SHAPIRA, 5750
DANIEL P SHMORHUN, 3123
ERIC P SMITH, 4223
JOEL A SMITHWICK, 4740
BERNARD P WANG, 5060

*To be lieutenant commander*

BILLY M APPLETON, 9239
PETER J BREWSTER, 1097
DAVID O BYNUM, 6674
LYNN M CARLTON, 5924
GREGORY R CARON, 4805
PHILLIP E CLARK, 8478
RONALD A COOLEY, 8232
TED L CRANDALL, 0709
DAVID R CRUMBLEY, 8076
CURTIS A CULWELL, 9795
DORMAN C DOWLING, 9639
JOHN M ELLWOOD, 1891
CAMERON H FISH, 2138
ROBERT J FITKIN, 9722
DOUGLAS W FLETCHER, 0324
STANLEY W FORNEA, 6946
BRYCE M GIBB, 5901
KATHERINE E GOODE, 2774
MICHAEL L GREENWALT, 6814
MICHAEL E HALL, 9579
THOMAS R HUNT, JR, 0830
TIMOTHY J JANNING, 4257
CARL P KOCH, 6100
MARCUS E LAWRENCE, 6158
MELISSA B MCGUIRE, 1889
GEORGE J MENDES, 2273
JEFFREY S MILNE, 6388
CINDY A MURRAY, 6123
DAVID L NUNNALLY, 3493
MICHAEL J OTT, 6658
JAMES E PATREY, 0204
EDWARD S PEASE, 8230
JAMES C PIERCE, 0160
STEPHEN J SHAW, 1452
FAWN R SNOW, 8264
STEVEN L SOUDERS, 6781
WILLIAM D STALLARD, 8755
EDWARD L TANNER, 0217
ROBERT J VANCE, 8907
ROGER E VANDERWERKEN, 0697
SHANE A VATH, 2329
ROBERT J WERNER, 9272
MARIA T WILKE, 6450
GLEN WOOD, 1337
ERNEST W WORMAN III, 2940
GEORGE B YOUNGER, 9067

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant*

MATTHEW S. GILCHRIST, 0981

# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 1, 2005 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MARCH 2

9 a.m.

Foreign Relations

To hold an oversight hearing to examine foreign assistance.

SD–419

9:30 a.m.

Environment and Public Works

Business meeting to consider S. 131, to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program.

SD–406

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Education.

SD–124

10 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the defense budget.

SD–192

Energy and Natural Resources

To hold hearings to examine the President's proposed budget request for fiscal year 2006 for the Forest Service.

SD–366

10:30 a.m.

Appropriations

Homeland Security Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for states citizenship and immigration services/customs and border protection/immigration and customs enforcement.

SD–138

4:30 p.m.

Armed Services

To receive a closed briefing regarding Department of Defense human intelligence activities.

S–407, Capitol

### MARCH 3

9:30 a.m.

Armed Services

To resume hearings to examine the proposed Defense Authorization Request for Fiscal Year 2006 and the Future Years Defense Program.

SH–216

Foreign Relations

Business meeting to consider an original resolution entitled Foreign Relations Authorization Act, fiscal years 2006 and 2007, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007.

SD–419

Appropriations

Interior Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the U.S. Forest Service.

SD–124

Judiciary

Business meeting to consider pending calendar business.

SD–226

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Veterans Affairs.

SD–138

10 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings to examine the Terrorism Risk Insurance Program.

SD–538

Energy and Natural Resources

To hold hearings to examine the President's proposed budget request for fiscal year 2006 for the Department of Energy.

SD–366

Health, Education, Labor, and Pensions

To hold hearings to examine ensuring drug safety.

SD–106

2:30 p.m.

Judiciary

To hold hearings to examine the nominations of Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, James C. Dever III, to be United States District Judge for the Eastern District of North Carolina, and Robert J. Conrad, Jr., to be United States District Judge for the Western District of North Carolina.

SD–226

Aging

To hold hearings to examine implementation of the Medicare Modernization Act regarding delivering prescription drugs to dual eligibles.

SD–628

### MARCH 7

2 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Michael Jackson, of Virginia, to be Deputy Secretary of Homeland Security.

SD–342

### MARCH 8

9:30 a.m.

Armed Services

To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for fiscal year 2006.

SH–216

Rules and Administration

To hold hearings to examine S. 271, to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees.

SR–301

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the reauthorization of the Commodity Futures Trading Commission.

SD–106

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 179, to provide for the exchange of land within the Sierra National Forest, California, S. 213, to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico, S. 267, to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and S. 305, to authorize the Secretary of the Interior to recruit volunteers to assist with or facilitate the activities of various agencies and offices of the Department of the Interior.

SD–366

2 p.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the Disabled American Veterans.

345 CHOB

### MARCH 9

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

MARCH 10

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Blinded Veterans Association, the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America and the Jewish War Veterans.

345 CHOB

MARCH 15

9:30 a.m.

Armed Services

To resume hearings to examine military strategy and operational requirements from combatant commanders in review of the Defense Authorization Request for fiscal year 2006.

SD–106

MARCH 17

9:30 a.m.

Armed Services

To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed hearing in SH-219.

SD–106

APRIL 14

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.

345 CHOB

APRIL 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.

345 CHOB

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

# SENATE—*Tuesday, March 1, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable TOM COBURN, a Senator from the State of Oklahoma.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Infinite spirit, we praise You for Your mighty deeds. Everything You do is right and no other god compares with You. You alone work miracles and You have let nations see Your mighty power.

Be with our Senators and their staffs. Give them the wisdom to trust You and to follow Your precepts. Make the future bright for them and their loved ones as they seek first to live for You. Give them hearts that refuse to forget those who live on life's margins: The lost, the lonely, and the least. Open their eyes to see the pain in our world. May the words they speak bring life and peace.

Only You, Lord, are our mighty rock. We place our hope in You, for You rule the Earth with justice. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM COBURN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 1, 2005.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM COBURN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. COBURN thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, this morning, following leader time, we will proceed to a period of morning business for up to 60 minutes. That time is divided for the majority for the first 30 minutes and the minority in control of the second 30 minutes. At approximately 11:30 a.m. the Senate will resume consideration of the bankruptcy bill.

Yesterday, we began debate of the bankruptcy bill with several opening statements and made great progress. Today, we expect to begin the amendment process. I understand Senator DURBIN may be able to offer an amendment when we resume the bill this morning.

We will recess from 12:30 until 2:15 today for the weekly policy luncheons.

With respect to the voting schedule, it is my expectation to have votes this afternoon on bankruptcy-related amendments. Most probably we will not vote after 7 o'clock tonight, but as the schedule proceeds we will be able to make those announcements. We will have votes this afternoon.

Given the compressed workweek, I hope to make great progress on the bill this week, spending Monday, Tuesday, Wednesday, Thursday, and Friday on this bill. Hopefully we can complete it this week.

### BANKRUPTCY REFORM

Mr. FRIST. Mr. President, I will address my leader comments this morning to the bill S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This legislation was passed with bipartisan support in the Judiciary Committee on the 17th. Over the last 7 years, it has repeatedly passed this Senate and the House with bipartisan majorities. Yet we still do not have a bill as law. That is the goal in this Congress.

Both sides of the aisle recognize the current system is calling out for reform. Personal bankruptcies are skyrocketing and, at the same time, wealthy debtors are walking away from debts that they have the ability to repay. This abuse does not just hurt the creditor they owe, but it hurts all who end up paying higher fees and higher prices as a result of the system that is out of control.

It is fitting that a Senator from Tennessee is talking about this issue. As it happens, a city in my home State of Tennessee, Memphis, has come to be known as the bankruptcy capital of America. Memphis ranks No. 1 in personal bankruptcy filings if you compare Memphis to 331 metropolitan areas. The total bankruptcy filing rate in Memphis in 2004 was roughly 26 people for every 1,000 residents. That is well over three times the national average.

Bankruptcy has become so common that it has lost the stigma it had even a short generation ago. Today it is just another method for getting out of debt, a tool just to get out of debt. Some folks have even been known to plan their bankruptcy. They buy a house or they buy a car or furniture or whatever else they need and then file a bankruptcy form. They figure they can get the big ticket items upfront, and for everything else they will use cash.

It is not altogether an accident that the Memphis bankruptcy system is what one attorney calls a "well-oiled" machine. It was Memphis's very own U.S. Representative, Walter Chandler, who established a chapter of bankruptcy law with the 1938 Chandler Act. His motivation was simple. America was going through the Great Depression. Times were tough for everyone. Debtors wanted to pay back what they owed, and local businesses needed to stay afloat. Congressman Chandler reformed the system to help those in dire financial trouble go to the courts and work out, appropriately, a payment plan.

Congress has passed, and the courts have upheld, Federal bankruptcy laws for over 100 years. The Constitution gives Congress the express power to "establish uniform laws on the subject of bankruptcies throughout the United States."

And the Supreme Court has stated:

> One of the primary purposes of the Bankruptcy Act is to give debtors a new opportunity in life in a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.

Unfortunately, however, we veered away from this original positive, constructive, good intent. Bankruptcy filings were low during the early part of the 20th century. They were generally tied to whatever the business cycle might have been. In the past two decades, the number of bankruptcies have skyrocketed, actually accelerating during the economic boom, speeding up during the boom of the 1980s and the 1990s. The total number of bankruptcies more than doubled during the 1980s and then doubled, once again, from 1990 to 2003.

For too many people, bankruptcy is no longer a last resort. It has become a first stop. Opportunistic debtors who have the means to repay use the law to evade personal responsibility.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Unlike in Memphis, where filers typically use chapter 13, the overwhelming number of filers nationally—over 70 percent—opt for chapter 7 so they can walk away from their debt.

Where does all this leave us? It leaves us at an historic high of over 1.6 million filings per year. Personal bankruptcies outnumber business bankruptcies by a multiple of more than 45 to 1. Among those filings, we see an increasing number which are fraudulent. In fact, the FBI estimates at least 10 percent of all filings involve fraud of some type. In most of the fraud cases that are identified, the filer in some way hides or pushes their assets over to the side. For example, a debtor would file chapter 7, claiming to have no assets of any kind, but they still drive a luxury sedan, may have a boat in the driveway, and even sport expensive jewelry and clothing.

The result is pretty clear. Every bill you pay, I pay, that the American people pay includes what is a "bankruptcy tax" that amounts to about $400 a year for every man, woman, and child in this country—an unnecessary bankruptcy tax of $400 for every man, woman, and child in this country.

That is what we are addressing on the floor of the Senate this week. For that bankruptcy tax, people say: How do you pay that tax? I was meeting with some Tennesseans earlier this morning. They asked: What do you mean? How do you pay that tax?

The tax is a hidden tax, but you pay it. It is in every electric bill, every phone bill, every mortgage payment you pay, every purchase of furniture, every car loan you obtain—$400 a year. Interest rates are higher, downpayment requirements are larger, grace periods become shorter, and late-payment penalties are astronomical, all because some people are shirking their debt obligations. The people who are hurt most by all of this are the low-income earners.

Say, for example, you have a dishwasher and the dishwasher breaks. The owner would go to the neighborhood store. But because of the high rate of personal bankruptcies, they could not get credit. The store would no longer give credit. The owner, who has this broken dishwasher, cannot afford to pay for it with cash but is denied that opportunity to purchase because credit cannot be issued. The store cannot make the sale. It is those low-income earners who are disproportionately affected by a system that is out of balance.

Without credit, saving up enough money to buy a couch or to even pay for school clothes can become a real hardship. And high interest rates can make using a credit card, as we all know, risky.

Ultimately, bankruptcy abuse by wealthy debtors disproportionately harms those who can least afford it. That is why the Bankruptcy Reform Act enjoys strong bipartisan support, strong support from both sides of the aisle.

It establishes a means test that is based on a fair principle, a simple principle, and that is this, that those who have the means should repay their debts. A simple principle: Those who have the means should repay their debts.

It specifically exempts anyone who earns less than the median income in their State. It also allows every consumer to show special circumstances, if they exist, if they cannot handle a repayment plan. We know the No. 1 reason people file for bankruptcy is because of an unexpected health emergency. If you look at all these filings, that ends up being No. 1. Consequently, in the legislation that is on the floor, we allow every filer to deduct 100 percent of their medical costs.

We also know education is a big outlay for many families. Under bankruptcy reform, parents can deduct private school tuition to protect their children's educational opportunities.

The bill does much more. The bankruptcy bill strengthens protections for child support and alimony payments. It protects patient privacy and care during bankruptcy proceedings that involve health care facilities. It protects consumers from deceptive credit practices that can lead to financial distress, and it protects the system that allows America to be one of the most generous countries when it comes to bankruptcy.

We all know sometimes a person simply gets in over their head or they get socked with an unexpected setback. They are overwhelmed by the bills, and for every step forward there are two or three steps back. Most people in this difficult situation want to do the right thing. It is in their heart to do the right thing. They want to pay their debtors, they want to meet their obligations, but they cannot. What they need is a fresh start.

The legislation before us is thoughtful. It is well considered. It is family centered. It closes unfair loopholes so that the system and the people it is designed to help can get that fresh start and get back on track.

I look forward to the debate today, which I know will be robust. We will be debating amendments and voting on the amendments over the course of the day—indeed, over the week. I am hopeful that by working together in a bipartisan way on a bill we know will be to the benefit of the American people, we will make huge progress today, tomorrow, and the next day, so we can soon have a bill on the floor that will receive overwhelming bipartisan support.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader and the Democratic leader not be charged against morning business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BANKRUPTCY REFORM

Mr. REID. Mr. President, the bankruptcy bill which will shortly be on the floor is a very important piece of legislation. It embodies a principle I agree with: Those who have the means to repay their debts should be required to do so. I believe—I am old-fashioned—that people who borrow money should pay it back.

I supported the bill before, most recently in 2001. I hope to be able to support it again. But a lot has happened in the 4 years since the hearings were held on this bill in addition to the one hearing that was held 2 or 3 weeks ago. There is new evidence—a lot of evidence—about who declares bankruptcy. Medical catastrophes: About half the people who file for bankruptcy file them because of medical emergencies. Also, extended military duty has caused havoc for people who are in the Guard and Reserve, in the State of Nevada especially.

Then, of course, we have the corporate bankruptcies of 2002 and 2003. We still have one of the criminal trials going on with Enron today. The chief executive officer of that company is testifying for the second day. WorldCom was another corporate bankruptcy that created a lot of attention. I believe it should change how we look at bankruptcy.

There are things that have occurred since we last took this piece of legislation up when it passed the Senate overwhelmingly, as I recall with 82 votes. Again, there have been medical emergencies, extended military duty, and corporate bankruptcies. These corporate bankruptcies have left employees without pensions.

Finally, we need to address the ongoing problem of violence. People are trying to say this is an abortion amendment. It is not an abortion amendment. It is about holding individuals who believe they are above the law accountable for their actions when they break the law in a number of instances. I invite everyone to read the amendment. For example, if people commit illegal acts in protest of a clinic that is engaged in lawful research on animals, then they need to be held accountable for their actions. They cannot simply discharge their debts through bankruptcy proceedings because they disagree with the law that they violated. The same holds true for individuals terrorizing reproductive health care clinics and doctors by engaging in violence. All we are saying is these people who commit these acts and break the law should not be able to discharge these debts in bankruptcy.

This amendment is not about abortion. It deals with a number of different scenarios where individuals who have broken the law try to discharge their debts through bankruptcy proceedings because they disagree with the law. So I hope people will look at these amendments on the merits of the amendments. People have tried to say this is an abortion amendment. It is not. I would hope people would look favorably on some of the amendments we offer dealing with corporate bankruptcies, dealing with pensions, dealing with medical catastrophes, and extended military duty.

We have the opportunity to have a good, sound, firm debate and send a bill to the House that takes into consideration the new matters that have appeared since we last passed this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for 1 hour, with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee.

The Senator from Texas is recognized.

## SOCIAL SECURITY

Mrs. HUTCHISON. Mr. President, I rise this morning to talk about the great leadership our President is providing in the area of Social Security.

When Social Security was created in 1935, the average lifespan of an American was about 64, and 54 percent of the workers in our country were expected to live to collect Social Security. So the system was sound and, of course, the actuarial table was sound.

So much has changed—all for the good—in our country. In fact, today our life expectancy is 79 plus for a woman and 74 plus for a man. Yet we know that is going to get better. People are going to live even longer than that and, furthermore, they are going to be healthy. They are going to be able to collect more than they invested in their Social Security.

Our President is looking at the facts. Our President is looking at the statements from the previous administration, President Clinton, who said: There is a red flag here and we better look at Social Security if we are going to start the process of determining what is the right thing to keep Social Security stable.

But it was before that that our President started seeing this looming crisis on the horizon. Today we know from the testimony of the Chairman of the Federal Reserve, Alan Greenspan, that in 2008, the baby boomers are going to start coming into the Social Security system. In 13 years, 2018, the Government will begin for the first time to pay out more than it is collecting. That means we are going to start seeing more encroachment on the deficit. By 2042, the fact is there will be an absolute bankruptcy.

By law today, what happens when that occurs, when bankruptcy is declared, benefits will automatically be cut without any further action of Congress or the President—drastic cuts, probably 25-percent cuts. So if we are going to keep our promise to the people in the system today, to the people in the system 10 years from now, we are going to have to take action to preserve those benefits in a fiscally responsible way. If we are going to keep the promise to people who are 20, 25, 30, 35, we are going to have to do something that is innovative and creative, something that has been tried in other countries, and it has worked, and that is to allow our young people to set aside 2 or 3 percent of their 12 percent in a personal account that they can own themselves and control with investments that would be certified investments. What would be certified is something like a 401(k) offering, something like a total market index and a total bond index or a 50/50 total market/total bond index, something very conservative and proven through all the cycles of the stock market to be much better in return than anything someone could get in Social Security.

Young people overwhelmingly favor this option because they know they will be able to build up and get bigger checks, with less government responsibility, and they will be able to pass to their children what is left over in their accounts when they die so their children will have a nest egg to grow.

This is something the President wants Congress to do, and I am going to help him because I believe it is the right thing to do for our country, for the young people coming into our system, to make sure they have something better if they choose that option.

The important thing that has been missed in much of this debate is that personal accounts are an option. If someone wants to stay in the system exactly as it is now, they have that option. But if they want to go into the new system, which would allow them to take some part of their present tax and have a little more control and absolute ownership, they have it as an option. People 55, 60 will probably not do it, but a lot of people who are 50 and certainly people below 50 are going to look at that, and we will have a huge influx into that new option that will then allow a better future and an ownership that has never been allowed before.

Our President is taking the lead. We have a duty, as Congress, Republicans and Democrats together, to sit down with the President to discuss different plans. Maybe we can take something from this plan and something from that plan. Personally, I will not support raising taxes. I don't think we need to do it if we plan ahead. I will not support raising the limit on the salaries that are now taxed. That is unnecessary if we take steps now to start a transition process that will eventually take more of the burden off Government and make the Social Security system sound. But that is my opinion.

There are others on the other side of the aisle and on our side of the aisle who may have a different view. Some may favor a part of what the President favors. Some may not. The important thing is that we recognize our President's leadership, that he is not saying: I am going to walk away from this. He is saying: I am going to do the right thing. And he is asking Congress to sit down with him. We owe him that because he is trying to do the right thing.

Secondly, it is irresponsible for any sitting Member of the Senate or the House of Representatives not to come to the table. Certainly we have disagreements, but all of us have the same goal. The goal is to save Social Security for future generations and to do it in the least expensive, most efficient, least obtrusive way we possibly can.

I am proud of the President's leadership. I am proud to support him in saying: Yes, we are going to do what is necessary now when it is less painful and less expensive.

I will now turn the rest of our time over to the distinguished Senator from Kansas. I note that he has just returned from Iraq. I think he just returned last night. I appreciate so much his coming to the Senate floor when I am sure he has jet lag. I know he has been through a trying time because like myself and others—we have been to Iraq. We know that it is a tough trip but certainly something worth doing for every sitting Member of Congress. You do learn so much about what our troops need, what they are facing. You want to pat them on the back and let them know how much America appreciates the efforts they are making.

I appreciate Senator BROWNBACK being here this morning. I appreciate very much his willingness to come to the floor and speak.

The PRESIDING OFFICER. The Senator from Kansas.

## IRAQ

Mr. BROWNBACK. Mr. President, I thank my colleague from Texas for her kind comments. I ran into a number of great troops from Texas, from Ft. Hood, TX, and individuals from Texas who are doing a fabulous job, putting their lives on the line and showing the definition of courage and honor. Those guys go right into the face of the fire, and when the fire fight comes when the bullets are flying, they are running towards the fire. It was really a beautiful modern-day story of courage under fire and of doing the right thing.

That right thing is now yielding, in the last week, multiparty elections in Egypt. Mubarak has not stood for elections in 25, 30 years. It is going to do that. With a protest now taking place, the Lebanese Government has withdrawn and is asking Syria to withdraw and to allow democracy to flourish in Lebanon. Saudi Arabia had flawed local elections, but they at least had somewhat of an election.

I met with officials in Iraq who are now discussing how to maintain a balance of power and an open society. The policies in Iraq are yielding enormous fruit—still difficult, still very fragile, but those soldiers who have put so much on the line are really changing the world. I thank my colleague from Texas for her support in that effort. What we are seeing taking place in that region is amazing.

Our troops are in harm's way. We continue to see the number of improvised explosive devices about the same as they have in the past, although our number of wounded troops has gone down in the last 2 weeks about 40 percent, which is encouraging. That also means, apparently, that more of the attacks are directed at the Iraqis. We saw yesterday the horrific tragedy, over 100 Iraqis killed in a massive car bomb, that clearly the insurgency, much of it commanded and controlled out of other countries—and Syria has complicity of allowing some of this operation to take place—has to be pressured against that. But we have to get at that command and control structure of the insurgency and break that to be able to stop some of this incredible carnage that is taking place, people being killed in a country that just seeks to be free, seeks to be an open, fair society. It is difficult. In the early stages of democracy there will be flaws and missteps, but it is really changing the face of the region.

I met with Prime Minister Allawi. I met with the head of the Kurdish group, and Shias, Dr. Joffee. Each is talking about bringing in the Sunnis, working together, creating an open society. I am concerned about the issue of the role of Islam in the constitution. That is clearly one of the key issues being negotiated.

## SUDAN

Mr. BROWNBACK. Mr. President, I want to use most of my time to show some very graphic pictures of the face of genocide that is taking place in Darfur, Sudan. I wish I didn't need to do this. I wish the international community, particularly the United Nations, was acting so that something would take place to prevent this manmade genocide. But this genocide is occurring. It occurs while we are here today. It occurs in large numbers. Eric Reeves is probably the best documenter of Smith College. He estimates between 300,000 and 400,000 Darfurians have been killed in this genocide. I have been there. A number of Members have been there. Villages are being burned out by the Arab militia called Jingaweit. The African Union has not been in power to put in a sufficient number of troops or with enough authority to act to be able to stop this horror.

What I am going to show on the floor are African Union monitors' pictures taken of people who have been killed and brutalized in western Sudan. They are graphic pictures. They are pictures of people who have been brutally killed in this genocide. My hope in showing this is that people will see the face of genocide and action will occur, specifically that the United Nations will take credible action. They have not. They have not taken credible economic action, political action, and they certainly haven't taken anything in the way of credible military action to stop this from occurring.

These pictures come courtesy of Nichol Kristof of the New York Times, who wrote a February 23 article in which some of these pictures appeared titled "The Secret Genocide Archive." In it, Kristof says: "These are just four pictures in a secret archive of thousands of photos and reports that document the genocide currently underway in Darfur. The materials were gathered by African Union monitors, who are about the only people able to travel widely in that part of the Sudan." He goes on to say, "The archive also includes an extraordinary document seized from a janjaweed official that apparently outlines genocidal policies. Dated last August, the document calls for the 'execution of all directives from the president of the republic' and is directed to regional commanders and security officials. 'Change the demography of Darfur and make it void of African tribes,' the document urges." I have yet to determine if that document has been verified, but understand that the State Department is analyzing it for authenticity, and certainly the actions taking place in Darfur today reflect those words.

Finally, Mr. Kristof writes, "I'm sorry for inflicting these horrific photos on you." Mr. Kristof, with all due respect, you need not apologize. It is the world community that needs to apologize for their complete inaction and indifference to this modern genocide.

Over 6 months ago the U.S. Congress declared genocide, followed shortly thereafter with a similar declaration by former Secretary of State Colin Powell. Failure to deem this genocide by the international community, which would force action, has led to death beyond measure and the threat of famine and disease that could wipe out many more thousands. Eric Reeves of Smith College reports, "evidence strongly suggests that total mortality in the Darfur region of western Sudan now exceeds 400,000 human beings since the outbreak of sustained conflict in February 2003." The widely reported official number of deaths, recorded only since last March, is 70,000 and nearly 2 million displaced.

To give you a frame of reference, the tsunami's death toll has been placed at around 200,000. We are talking here about 400,000 deaths in a manmade catastrophe—genocide—in Sudan.

I ask my colleagues, and particularly the international community and the U.N.—and Kofi Annan in particular—how many more thousands of deaths does it take?

Nichol Kristof provided me with additional pictures of the genocide in Sudan. I have these pictures for my colleagues to see, but due to their graphic nature, will not show all of them on television. I will describe each picture for my colleagues though, and would invite them to come and view these pictures in the cloakroom or in my office. The images tell a dark story of tragedy that continues to strike the villages of Darfur.

The first picture shows a child who had his face beaten in, presumably with a rifle butt, in a massacre in Hamada in January.

The next graphic photograph is of a man who was castrated and then shot in the head. This is a common fate of male prisoners taken captive by the janjaweed.

Skeletons litter the ground of Darfur near the sites of massacres. The next photograph is from a massacre in Adwa in December, 2004. It's difficult to determine if this individual was burned or if the corpse's condition is a result of severe decay. It does appear as though this person's last moments were spent fleeing the attack.

The next image is of a man who was one of 107 black Africans killed by Arabs in Hamada in the January massacre.

These photographs, taken by African Union officials on the ground in Darfur, were slipped to Nichol Kristof of the New York Times.

The next photograph is of a girl who was also killed in Hamada in January. The killers do not discriminate between male or female, children or adults.

Another photo is of a more fortunate victim of the attack on Hamada in January. As she displays her injured arm, I can only help but think what kind of traumatic experience she endured and what psychological after-effects she will have to deal with for her entire life.

Another young man did not make it out alive of the attack on Hamada. His blue flip-flops lay nearby.

Finally, a skeleton, from an attack in Adwa in December, still has its wrists bound in this photo. The clothes were pulled down, suggesting that the person had been sexually abused before being killed. If it was a woman, she was likely raped; if it was a man, he was likely castrated.

This is the face of genocide in the World today.

The African Union troops and monitors on the ground have seen these atrocities with their own eyes. I am proud to say that the United States has supported the African Union's peacekeeping efforts on various fronts. To date, the U.S. has contributed over $40 million to the African Union. We have done so with hopes of securing an immediate end to the genocide and humanitarian crisis. Allowing the pictures and documents to remain buried away in a secret file will lend no immediate help to ending this crisis. However, we do believe that if these documents and photographs are made available to international actors including the United States, and other United Nations Security Council member states, we would see immediate action that could end the crisis and foster accountability. I urge the leaders of the African Union to release these documents and photos immediately and for the Government of Sudan to allow complete unimpeded access to the region in discussion. The last public report the African Union posted on their website was dated January 31, 2005. I have heard reports of rape and pillage since that time.

The world community has watched as there have been numerous violations of last year's cease-fire agreement, including attacks aimed at killing innocent civilians and destroying villages. Unfortunately, aid groups have withdrawn from the region, and each day we run the risk of watching the current chaos spin out of control beyond imagination.

Despite numerous bills and resolutions passed in the House and the Senate and several U.N. Resolutions, the international community has failed to act efficiently and effectively to end the crisis. On July 30, 2004, United Nations Security Council passed a resolution in 1556 calling on the government of Sudan to disarm the janjaweed militia and to provide unfettered access for humanitarian relief agencies. The resolution also imposed an arms embargo on "nongovernmental entities and individuals" in Darfur. Essentially, this arms embargo only embargoed the rebels and not the janjaweed who were receiving arms from the government of Sudan.

In September, the Council passed Resolution 1564, calling on the government of Sudan to cooperate with an expanded AU force and threatened sanctions if the government failed to meet the Council's demands. We have seen no sanctions.

Despite all of these actions, the Government of Sudan has not acted to end the violence against civilians, nor have they disarmed the janjaweed, or abided by cease-fire violations, including use of air power against civilians. In addition, reports indicate that the United Nations was undermining the cease-fire through agreements they were making with the Government of Sudan, including authorizing police forces and security forces to patrol IDP areas without approval from the AU Commission. Several weeks ago with my colleague Congressman FRANK WOLF, I called on Kofi Annan to "lead or leave." In other words, he should lead the Security Council to pass a strong, meaningful resolution, or he should resign in protest at the complacency of the world.

The Commission of Inquiry began its three-month mandate on October 25, 2004. The report, which was leaked by the government of Sudan despite agreements with the U.N., has clearly been jaded by inside politics. I fear that we will continue to see lip-service without meaningful action. Somehow, the report has spawned a political debate over where to try the criminals and not on how to effectively and immediately provide security and end the crisis. We are simply buying time for the murderers in Sudan.

The Report of the Commission of Inquiry makes clear the need for appropriate U.N. Security Council action. So it is in the best interest of all, especially the people of Darfur, to avoid protracted debate as to where the trial is taking place. The key is to stop the killing that is taking place in Sudan.

The deployment of African Union peacekeeping troops must be accelerated and expanded immediately. With only 2,000 troops currently in Darfur, and plans for 3,300 total, we must provide the appropriate technical assistance to see that the numbers needed to effectively patrol Darfur are on the ground immediately.

I believe that the United Nations should vote to immediately levy hefty and serious economic and diplomatic sanctions against the government of Sudan, the government-sponsored janjaweed, and any businesses or companies complicit through their government connections. We must insist upon an arms embargo against the Government of Sudan, travel restrictions of Sudanese government officials, and a freeze on the assets of companies controlled by the ruling party that do business abroad. Twenty months after the conflict in Darfur began, not one punitive measure has been imposed on the government of Sudan. It is time to act.

As the United States, European Union, African Union, and others begin deciding what steps are next, my colleague Senator CORZINE and I have decided to introduce a bill called the Darfur Accountability Act. This bill reiterates that the atrocities taking place in Darfur are genocide, it calls for sanctions in the UN Security Council. It also calls for accelerated assistance to the African Union force in Darfur, for the establishment of a military no-fly zone in Darfur, for an extension of the multilateral arms embargo to include the Government of Sudan, and it freezes the assets and property of criminals and denies visas and entry to them while also calling for a multilateral effort to do the same. In addition, it calls for a Special Presidential Envoy for Sudan, and states that the United States supports accountability through a competent international court of justice, and requires that the administration report to Congress on such efforts.

I encourage my colleagues to join us in moving this bill through Congress. We do not have days and weeks to spare when millions of lives are in jeopardy. We cannot grant the Government of Sudan and the janjaweed more time to execute the African tribes in Darfur. I look forward to working with Senator CORZINE and others to see passage of this bill.

I hope these pictures will serve as a reminder to my colleagues that we must act to end this genocide. Members of this body have traveled to Rwanda and to Auschwitz to commemorate genocides of the past. We are doing no victims of genocide a favor by turning a blind eye to the atrocities in Sudan. Let these pictures and stories serve as a reminder of our responsibility to uphold dignity and human rights around the world. We need to act now.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader is recognized.

Mr. DURBIN. Mr. President, it is my understanding that 30 minutes is allotted to the Democratic side.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. I will indicate that if Senator SPECTER from the Judiciary Committee comes to the floor to lay down the bankruptcy bill, I will ask unanimous consent that he be given an opportunity and that our time be preserved in morning business, even though he is given that chance to lay down the bill.

Before my colleague from Kansas leaves—I know he is off to a committee meeting—I thank the Senator for his statement. It is critically important that all of us on both sides of the aisle, Democrat and Republican, make it clear every single day about this senseless killing that is going on in the Darfur region of Sudan.

We had the gentleman who is the subject of "Hotel Rwanda" in Chicago a week ago, Paul Rusesabagina. He saved 1,200 people in Rwanda from genocide. He did not come to brag; he came to beg that we do something about Sudan. He touched my heart. I said I will come back and do everything I can, and every day I will get up and speak, if I have a chance, to remind people that we have to do something as a nation.

I thank the Senator from Kansas for his statement. It was very eloquent. Although I may not agree on every single thing he said, I certainly agree this is a matter of great urgency and immediacy. I thank him for his leadership.

## BANKRUPTCY REFORM

Mr. DURBIN. Mr. President, when Senator SPECTER comes to the floor, soon he will lay down this bill, S. 256. It is about 500 pages. It is a recurring theme on the floor of the Senate. In the 9 years I have served in the Senate, I think a bankruptcy bill has been on the floor almost every year. I know this because when I first came to the Senate, to the Senate Judiciary Committee, I was the ranking Democrat on the subcommittee that wrote the bill. Senator CHUCK GRASSLEY and I came together and crafted what I thought to be a very fair and balanced bill. We were approached by people who said there are a lot of abuses in bankruptcy. There are people filing for bankruptcy who can really pay their debts. So let's try to tighten the process. Those who were irresponsible in their conduct, those who incurred debt and turned to the bankruptcy court and tried to be absolved from their financial responsibilities should be held accountable.

Senator GRASSLEY and I agreed on that. We crafted a bill that was very balanced. The bill passed the Senate 97 to 1. Sadly, it did not go forward. The House had a different idea. After the House got its hands on it, it did not look anything like the bill we originally introduced. The bill kept disappearing, reappearing, disappearing, and reappearing, and here it is again, S. 256. Unfortunately, this version of S. 256 is a far cry from the original balanced approach. This bill is not balanced.

Who wants this bill? That is the most important question to ask about any legislation that comes to the floor. The people who want this bill are the credit card companies and major financial institutions.

Why do they want it? Here is the circumstance. Imagine, if you will, that you and your family are so deeply in debt that there is no way out. It could be because of medical bills you did not anticipate. It might be because somebody lost a job and could not find one. It could be because of a divorce or some other extraordinary situation. Maybe it is a personally owned family business that just fails.

Then you say: What am I going to do? I never dreamed I would reach this point. The law says there is a way out. It is bankruptcy. The law puts you through some pretty tough requirements if you want to file for bankruptcy. You have to go into court and really bear your soul; tell that judge and all of your creditors what you own, and they come in and say: Here is what you owe. Now how much can we collect from what you own?

It is a tough process. For many people it is a sad and embarrassing process. What we find is that many people have no choice; they have reached a point where they cannot pay the debt. There is no way they will be able to pay it off. They are being hammered by bill collectors calling their homes at all hours of the night and day, harassing their children, harassing them, trying to get some money paid on their debt, and they finally say: I cannot take it anymore. I am going to file for bankruptcy. It happens. It happens in families that never dreamed it would happen to them because of circumstances beyond their control.

What is this bankruptcy reform bill all about? The purpose of this bill is to make certain for many people that if you go into court to file for bankruptcy, the slate will not be wiped clean. You will not walk out of that bankruptcy court at the end of the day with no debt. You will end up in a circumstance where you will carry many of these debts to the grave. What kind of debts are we talking about? Credit card debt, other debts you have incurred that will stay with you for a lifetime. No matter what you do under the law, you cannot escape them.

Naturally, the credit card industry and big banks want this bill. They believe if they can hang on forever and will not be discharged in bankruptcy, they will get something back in the process. They believe this bill will discourage people from filing bankruptcy, and people will just labor under this debt they never paid off longer and longer. That is why we are considering this bill. This bill is all about creditors ending up with more money at the end of a bankruptcy.

It is interesting. We had one hearing on this 500-page bill. It has been 4 years since we had a hearing. We had one hearing. The hearing lasted 2 hours and 15 minutes on a 500-page bill. One would think the lead witness at that hearing would be someone from the credit card industry. They want it. They are pushing this bill. Or some banking institution. But when you looked at this array of people at the table before the Senate Judiciary Committee, they were nowhere to be found. They would not come in and sign a witness slip and testify in favor of the bill they created. I am going to explain why they did not. But if you looked in the back of the hearing room beyond the glare of the lights and the cameras, there they sat, row after row of lobbyists for the credit card companies and banks. They may have created this little child, sent it to the floor of the Senate, but they did not want to be associated with it when it came to answering questions. Boy, that tells me a lot. If this is such an innocent bill and such a good bill, why is it that the major credit card companies would not come and testify and explain why they wanted this bill? I think it speaks volumes.

They know what is going on. This is a bill which is going to hurt a lot of ordinary people, folks who, through no fault of their own, end up head over heels in debt and are desperate to start over. Credit card companies and banks want to make it tougher for them, and they will during the course of offering this bill.

This bill will radically alter America's bankruptcy laws, not for the better. If it becomes law, millions of hardworking Americans who have been devastated financially, through no fault of their own, are going to end up in a new sort of debtor's prison from which they may never escape.

We are not talking about people who go to the casino and get wild about their gambling and run their credit card or ATM card to the limit. We are not talking about people who go on a shopping spree for luxury cars. We are talking about ordinary people facing the ordinary demands of life who are swept away by debt they never anticipated. Sadly, this bill makes no distinction between the irresponsible who are in debt and those who have done everything humanly possible and end up in debt.

We had one hearing on this bill on February 10, 2 hours and 15 minutes. As I looked around that room, I thought to myself: There is a reason why the credit card companies will not come forward and speak about this. The reasons are fairly obvious. The bill is not a fair bill.

I would have asked the credit card industry demanding this bill, how are you doing, how is your industry doing, making a profit? If they would have answered me honestly, here is what they would have said: In the year 2003, credit card companies in America enjoyed a $30 billion profit, their highest profit in 15 years. It makes one wonder, does it not, why we are rushing to pass a bill so that people who end up head over heels in credit card debt cannot get out from under it, even in the bankruptcy court. These companies are not hurting. Why are we in such a hurry to give them a pass with this new expanded power to squeeze a few last dollars out of families who have been devastated financially?

You know something else, the majority of people who go to bankruptcy court go there because of medical bills. That is right, medical bills. I will talk about that in a moment.

Supporters of this bill say you are either with them or with the bad guys, the chiselers, the cheaters, the grafters, the drifters, the people they say are trying to game the system of bankruptcy by running up huge credit card debts with no intention of ever repaying.

The truth is, real life is not that black and white. There are people who abuse the bankruptcy laws. I will tell you about a couple of them in a minute. They try to skip out of debts they can afford to pay and, from my point of view, the law ought to hold them responsible, no ifs, ands, or butts.

I support a balanced bankruptcy bill, such as the one Senator GRASSLEY and I put together several years ago. This bill is not balanced. In this bill, in 500 pages, there is not one line, not one word curbing the abuse and deceptive practices of credit card companies and other lenders.

The supporters of this bill condemn people who file for bankruptcy and say they are morally deficient; they do not understand the moral responsibility of paying their debts. What about the moral responsibility of the credit card companies? They flood our mailboxes in America every year with 5 billion preapproved credit card offers, an average of $350,000 in preapproved credit for every family in America. You know it. Go home tonight and look in your mailbox. More likely than not, there will be another solicitation for another credit card.

What about the credit card companies that continue to make high-interest loans to families even when they are obviously teetering on the edge of financial collapse? A couple weeks ago, a member of my staff told me he had taken his family on a flight and signed his son up for frequent flier miles, a pretty smart thing to do. Within a few weeks, his son received a solicitation for a credit card. I told him he ought to be honored. It meant that Tyler, at the age of 3½ years, was obviously on the flight path for success. The credit card industry could not wait to give him a credit card at age 3½. And we joked about it, until the weekend when I told the same story back in Illinois and a fellow said: I have him beat. My 9-month-old daughter was solicited for a credit card.

Is that responsible? Is that responsible by the credit card industry? Is that moral, now that we are talking about moral values? Certainly no 9-month-old or 3½-year-old is going to end up with a credit card. What about 16-year-olds, 17-year-olds, 18-year-olds, college students? That is another issue altogether. Many of them, unprepared to deal with debt, are trying to deal with credit cards.

Supporters of this bill rail against irresponsible consumers. What about irresponsible lenders? In the entire bill, there is nothing that tells the credit card companies, if you are really worried about your losses, exercise better judgment about to whom you lend money.

If I went home tonight to Illinois and told someone Congress is working on a bankruptcy reform bill, they would say: Thank goodness; it is long overdue. It is time we went after those Enron cheaters. It is natural they would say that. In the last few years, America has seen this parade of corporate bankruptcy—Enron, WorldCom, Adelphia, United Airlines, USAir, TWA, LTV Steel, Kmart, Polaroid, Global Crossing, KB Toys—the list goes on and on. Many of the companies that have gone into bankruptcy are associated with scandal. In some cases, the CEOs, many of whom are on trial, and their top officers were paid multimillion-dollar bonuses even as the companies were being run into the ground. Then the companies filed for chapter 11 bankruptcy protection and asked a judge to throw out worker contracts and cancel pension plans and health benefits, leaving thousands of families devastated.

Wouldn't one think in a bankruptcy bill we would go after some of these corporate bankrupt cheaters? Wouldn't one think we would go after these CEOs and officers who got hundreds of millions of dollars from these corporations they never paid back? Wouldn't one think we would hold them accountable because their irresponsible conduct meant the corporation would go bankrupt, could not pay its stockholders, could not pay its employees, could not pay its retirees? Wouldn't that be fair, and wouldn't it be timely? It would. You will not find one word about it in this bill. That is corporations. We are talking about individuals and families. We are going to make it tough on them. There is not a word here about the corporate crooks who are milking these corporations at the expense of employees and retirees.

Want to talk about moral values for a couple minutes? I think exhibit A is some of these corporations, what their officers have done to poor unsuspecting people who worked a lifetime for that corporation, 25, 30, 35 years, showed up to work every day, punching a clock even when they felt sick, thinking: I am doing the right thing for my family. I am saving money for my future, and thank goodness this corporate pension is going to be there for me. Then they retire, and what happens? After these corporate bums milk the corporations dry, they end up canceling the health care and pension of their employees.

Boy, sounds like the subject of a bill which Congress might one day consider, but, no, it will not be today. We do not talk about those people. We are talking about the woman who went in diagnosed with breast cancer, who did not have health insurance and ended up with tens of thousands of dollars of medical bills and found out she could not pay them and in desperation filed for bankruptcy. We are going after her. She is the one who is the target of this legislation, not the corporate officers. We are not going after the insiders. We are going after the ordinary people.

I will give a couple examples of how people game the bankruptcy system, examples that, frankly, when this bill is finished will not even be addressed. Bowie Kuhn, former baseball commissioner, abused the bankruptcy laws. He took advantage of a Florida law which says one's home is exempt from bankruptcy. In other words, if one files bankruptcy they can keep their home.

What did Mr. Kuhn do? He went to Florida and bought a multimillion dollar home with every penny he owned and then filed bankruptcy. So everything he ever had in life was protected. He knew where to go and what to do and he could qualify for this loan.

Burt Reynolds, the actor I used to laugh at in the movies—here is a good laugh: He did the same thing. He bought himself a ranch to protect his assets and then he filed for bankruptcy.

Does this bill go after those millionaires who use the bankruptcy laws the way I described? Nope. Unfortunately, it does not. We are more interested in that woman diagnosed with breast cancer, with medical bills she cannot pay.

The credit card companies are right on one point; we have seen an alarming increase in consumer debt and consumer bankruptcy since they first started pushing for this bill years ago. But we are not talking about economic conditions that have created the household debt crisis in America, the millions of jobs that have been downsized and outsourced and sent overseas, restructured out of existence, the fact that real wages are declining for workers across America. People are working harder and falling further behind.

I see my colleague from the Judiciary Committee. If he is here on behalf of Senator SPECTER to lay down the bill, I yield the floor pursuant to my earlier unanimous consent request to allow Senator SESSIONS to lay down the bill and make a statement if he wishes, and then I will reclaim my morning business time, if there is no objection.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## ORDER OF PROCEDURE

Mr. SESSIONS. Mr. President, I ask unanimous consent that 30 minutes of additional morning business time be set aside at 2:15 today and that Senator BYRD be recognized at that time; provided that following the expiration of the Republican morning business time the Senate resume consideration of Calendar 14, S. 256, the bankruptcy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending committee amendments be agreed to and be considered as original text for the purposes of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am pleased we are able now to move forward with this bankruptcy bill. We have been at it 8 years. It has passed this Senate 3 different times, one time with over 90 votes, and the last time was 83 to 15. It represents many years of steadfast debate and discussion.

I see my colleague from Illinois, Senator DURBIN, has been very active in all of this debate. As a matter of fact, at one time he was sponsoring the bill. He has continued to offer amendments that he believes improve it. Some have been accepted and made a part of the bill, some have not.

I think his evaluation of the legislation is far too negative in terms of the impact it would have on poor people. I believe it is going to benefit poor people. It is going to benefit families. It is going to benefit mothers with children. Clearly, it will do that and it will crack down on abuses.

Are there additional abuses we would like to deal with, one in particular he just mentioned, the homestead exemption? I would like to have gone further. It is in the constitution of quite a number of States that homesteading is so much and Senators have dug in their heels and said this overrides the Florida constitution, the Kansas constitution, the Texas constitution, or I cannot agree to do that on the floor. I will fight this bill and object to it if anyone tries to do that.

So we made some improvements in the abuses on homestead. I think that was the right direction. I wish we could have gone further. Senator HERB KOHL and I would have offered the amendment that could have changed it even more significantly, but perfect is not always achievable. I wish we could do more, but I think we made some real progress. We delineate those steps that tighten it up and make it much more difficult to abuse the homestead exemption. One has to actually live in a house for 2 years in that State or they cannot take advantage of it. That is a step forward and will stop these people from buying a house on the eve of filing bankruptcy. So there are some good things.

With regard to health care, let us talk frankly about health care. Yes, it is a factor in quite a number of bankruptcies. It is not the No. 1 factor. In my view, over half the bankruptcies are clearly not driven by health care, but a large number of them are impacted by health care bills.

The question is this: Will it change the situation for poor people who have health care bills? Will they not be able to take advantage of bankruptcy and wipe those debts out today, just like they would? Well, if they make below the median income—and we think about 80 percent of the filers in bankruptcy make below median income—the law is not going to change. They will still be able to wipe out any debts they have for medical or other reasons.

Then what about if one has a continuing health care debt, and they make above median income but they have a serious medical cost which is recurring regularly, what can they do about that? They will have a harder time going into chapter 13 and paying back some portion of the debts that they owe, people argue, and they are correct, but under this bill the bankruptcy judge can calculate that extra recurring health care debt as part of the expenses and those people would still be able to file under chapter 7, wiping out all of their debts, if that is what they chose to do. If they make above the median income and are able to pay off some of their debts to their doctor and their hospital, why shouldn't they? You mean they have no obligation to pay a hospital that may have spent a lot of money helping them get well or a physician who took care of them and provided medical care to them? If they are making $80,000 a year and in bankruptcy under chapter 13 the judge finds that a person could pay back 25 percent, why should they not pay 25 percent? The judge will not order it unless he believes based on the person's income level they have the ability to repay.

When a person in America undertakes an obligation to pay someone, they ought to pay them, and in any country that is so. We are drifting a bit to suggest there is no real obligation to pay the debts we incur. If we get to that point, then we have eroded some very important fundamental moral principles about commerce in America.

I know Senator DURBIN has an amendment he would like to offer, and I will not delay him from doing that. I have some other things to say in general about the bill, and I can say those later. I believe this is a rational bill. That is why it has such broad support. I believe this bill says plainly and clearly, if one can pay back some of their debts, they ought to do so. There is no reason why somebody making $100,000 who can pay back 20 percent of the debts he owes to the person who fixed his car or the doctor who helped him get well should not pay that back. Why should they wipe out all of those debts?

For the vast majority of people who file, they will be able to file under chapter 7 and wipe out all of their debts if that is what they choose.

I will say one thing further about chapter 13. That is the category of bankruptcy a person would be put into if they were required to pay some of their debts back. Chapter 13 has been a part of bankruptcy law for quite a long time. In my home State of Alabama, over half the bankruptcies are filed under chapter 13. People want to pay their debts. They are behind in their debts. People are bugging them, the phones are ringing, lawsuits are being filed, and they are overwhelmed. They cannot pay all of their debts at once and they file under the bankruptcy law. They say, I want to pay back a percentage of my debts, Judge, and if you will set out a schedule, if you will get these creditors off my back and have them quit calling me, quit suing me, quit sending me demand letters, you set up the schedule, I will pay this one so much a month and this one so much a month. That is a healthy, good thing. We ought to do more of that.

In some States, under 5 percent of the debtors go into chapter 13. That number ought to come up because a lot of those people in some of these States that are so few in choosing chapter 13 should be in chapter 13 for their own self-interest.

One may ask, well, what about these people in Alabama? Are they making them go into chapter 13? No, they have chosen to go into chapter 13 because they want to pay back a portion of their debts. They want to stop the lawsuits from going on. There are other advantages to it, such as being able to keep an automobile and the apartment or the house that one owns in ways that one would otherwise not do.

There are some real advantages of going into chapter 13 rather than chapter 7. Many people choose it and in some areas of the country it is very much underutilized. This will capture only about the top 20 percent. One expert at our committee hearing said about 7 of those will have extra continuing debts that will take them out of it, so it will probably not be much over 10 percent of the filers who will be impacted. But some of those are the biggest offenders. Some of those are the people with the highest income. As a matter of fact, all of them will be people with incomes above the median income. They ought to pay some of their debts back. This bill will say that they must do that.

I think it will help us in many ways to have more integrity in the bankruptcy system. That is why we have such strong support for it. I am sure we will have a full and open debate as we go forward the rest of this week. I hope we will have a vote, and I suspect we will have another strong vote for final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, for clarity I would like to yield back all time in morning business and go to the bill at this point.

The PRESIDING OFFICER. The Senate is on the bill now.

### AMENDMENT NO. 16

Mr. DURBIN. Mr. President, I send an amendment to the desk, and I will ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. STABENOW, Mr. BAYH, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. SCHUMER, and Ms. CANTWELL, proposes an amendment numbered 16.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect servicemembers and veterans from means testing in bankruptcy, to disallow certain claims by lenders charging usurious interest rates to servicemembers, and to allow service members to exempt property based on the law of the State of their premilitary residence)

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if—

"(i) the debtor or the debtor's spouse is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act (50 App. U.S.C. 511(1)));

"(ii) the debtor or the debtor's spouse is a veteran (as defined in section 101(2) of title 38, United States Code); or

"(iii) the debtor's spouse dies while in military service (as defined in section 101(2) of the Servicemembers Civil Relief Act (50 App. U.S.C. 511(2))).

On page 67, between lines 18 and 19, insert the following:

### SEC. 206. DISALLOWANCE OF CLAIMS FILED ON HIGH-COST PAYDAY LOANS MADE TO SERVICEMEMBERS.

(a) IN GENERAL.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period at the end; and

(3) by adding at the end the following:

"(10) such claim results from an assignment (including a loan or an agreement to deposit military pay into a joint account from which another person may make withdrawals, except when the assignment is for the benefit of a spouse or dependent of the debtor) of the debtor's right to receive—

"(A) military pay made in violation of section 701(c) of title 37; or

"(B) military pension or disability benefits made in violation of section 5301(a) of title 38; or

"(11) such claim is based on a debt of a servicemember or a dependent of a servicemember that—

"(A) is secured by, or conditioned upon—

"(i) a personal check held for future deposit; or

"(ii) electronic access to a bank account; or

"(B) requires the payment of interest, fees, or other charges that would cause the annual percentage rate (as defined by section 107 of the Truth in Lending Act (15 U.S.C. 1606)) on the obligation to exceed 36 percent.".

(b) CONFORMING AMENDMENT.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding paragraphs (2), (4), and (6) of subsection (a), a debt is dischargeable in a case under this title if it is based on an assignment of the debtor's right to receive—

"(1) military pay made in violation of section 701(c) of title 37; or

"(2) military pension or disability benefits made in violation of section 5301(a) of title 38.".

On page 132, between lines 5 and 6, insert the following:

### SEC. 234. PROTECTION OF SERVICEMEMBERS' PROPERTY IN BANKRUPTCY.

(a) IN GENERAL.—Section 522(b) of title 11, United States Code, as amended by section 224, is further amended—

(1) in paragraph (1), as redesignated, by striking "either paragraph (2) or, in the alternative, paragraph (3) of this subsection" and inserting "paragraph (2), (3), or (4)";

(2) by redesignating paragraph (4), as added by this Act, as paragraph (5); and

(3) by inserting after paragraph (3), as redesignated, the following:

"(4) If the debtor is a servicemember or the dependent of a servicemember, and the date of the filing of the petition is during, or not later than 1 year after, a period of military service by the servicemember, property listed in this paragraph is—

"(A) property that is specified under subsection (d), notwithstanding any State law that prohibits such exemptions; or

"(B) property that the debtor could have exempted if the debtor had been domiciled in the State of the debtor's premilitary residence for a sufficient period to claim the exemptions allowed by that State.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13A), as added by this Act, the following:

"(13B) 'dependent', with respect to a servicemember, means—

"(A) the servicemember's spouse;

"(B) the servicemember's child (as defined in section 101(4) of title 38); or

"(C) an individual for whom the servicemember provided more than 50 percent of the individual's support during the 180-day period immediately before the petition;";

(2) by inserting after paragraph (39A), as added by this Act, the following:

"(39B) 'military service' means—

"(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

"(i) active duty (as defined in section 101(d)(1) of title 10); and

"(ii) in the case of a member of the National Guard of the United States, service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

"(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

"(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause;";

(3) by inserting after paragraph (40B), as added by this Act, the following:

"(40C) 'period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember—

"(A) is released from military service; or

"(B) dies while in military service;"; and

(4) by inserting after paragraph (51D), as added by this Act, the following:

"(51E) 'servicemember' means a member of the uniformed services (as defined in section 101(a)(5) of title 10;".

On page 191, between lines 11 and 12, insert the following:

### SEC. 322A. EXEMPTION FOR SERVICEMEMBERS.

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is further amended by adding at the end the following:

"(r) If the debtor or the spouse of the debtor is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(1))) or a veteran (as defined in section 101(2) of title 38, United States Code) or the spouse of the debtor dies while in military service (as defined in section 101(2) of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(2))), and the debtor or the spouse of the debtor elects to exempt property—

"(1) under subsection (b)(2), the debtor may, in lieu of the exemption provided under subsection (d)(1), exempt the debtor's aggregate interest, not to exceed $75,000 in value, in—

"(A) real property or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor; or

"(2) under subsection (b)(3), and the exemption provided under applicable law that may be applied to such property is for less than $75,000 in value, the debtor may, in lieu of such exemption, exempt the debtor's aggregate interest, not to exceed $75,000 in value, in any property described in subparagraph (A), (B), or (C) of paragraph (1).".

Mr. DURBIN. Mr. President, I will go to this amendment in a moment, and it is one I hope all Members will listen to carefully because it is an effort to protect our military from the provisions of this bill, particularly in light of the activation of Guard and Reserve units across America and the financial hardship it has created. I will speak to that amendment after I address this bill a few moments more.

I thank my colleague from Alabama. We see this issue differently, but there are some things on which we agree. I think my colleague from Alabama is doing the right thing on the homestead exemption because if you could walk into bankruptcy court having just bought a multimillion-dollar mansion in Florida and then say, I don't want to be held responsible for my debts, and then the court says, Of course, your home you can keep, your home is your castle, and that home is worth millions of dollars, you have just defrauded the system, as far as I am concerned. Here you are with a multimillion-dollar home and these debts and you do not pay your debts, and the States of Florida, Texas, Kansas, and a few others say whatever your home is worth, it is exempt.

It is a loophole in the law. If we are talking about just and right conduct in this situation, then clearly we would change the homestead law. I salute my colleague from Alabama because he has been a leader on this issue. It is unfortunate that we have been unable to reach a better agreement as we go forward on this bill.

Mr. SESSIONS. Will the Senator yield for a brief question?

Mr. DURBIN. I yield for a question without yielding the floor.

Mr. SESSIONS. I don't think the Senator would deny that this new bankruptcy reform bill makes it more difficult than current law to abuse the homestead exemption.

Mr. DURBIN. Yes, I would not.

Mr. SESSIONS. We didn't go as far as we would like to go, but we did make some progress.

Mr. DURBIN. I think the Senator from Alabama is correct. The bill makes an improvement, but it doesn't reflect the combined wisdom of the Senator from Wisconsin and the Senator from Alabama, an amendment I was more than happy to support.

So here is this bankruptcy bill, and we are talking about ordinary Americans going into bankruptcy court. We did a survey. We took a look at 1,900 bankruptcies across the United States and said: What brought you to court? Why did you finally have to file for bankruptcy?

More than half of them said medical bills. Three-fourths of the people who filed for bankruptcy because the medical bills had swamped them, three-fourths of those people had health insurance when they were diagnosed but they didn't have enough. It did not cover enough. Or they lost their job and then they couldn't keep up with it.

Is there one of us—I guess there are some, but is there one of us who believes that we are invulnerable when it comes to medical debt? You know better. You go to the doctor's office thinking everything is just fine and you are diagnosed with a serious illness which results in surgeries, chemotherapy, and long hospital stays. Who among us can say, I'll just write a check; I will cover the difference in my health insurance? Not many. Maybe a handful of people but not many.

So what happens? You go to the hospital. You get treated. When all is said and done you try to get well and go back to work, and there is this huge shadow over your life. They call and they say: We want you to pay.

You pay some, but you can't pay enough and the next thing you know you are consumed with paying this debt, but you just can't do it; it is way beyond your means. What do you do? You do what you can legally do in America today. You go to a court and say: I have to file bankruptcy. I don't have enough assets. I will never be able to pay off this debt.

The court may decide you will never be able to pay off this debt. If they think you can, they may put you on a schedule to make certain payments for a period of time. But say you are a waitress at a diner. You went through breast cancer, surgery, and treatment. You have $50,000 in debt, and what are your assets, $20,000? This will never work. You will never get out from under this debt so you can file for bankruptcy. You can clean the slate. You can start over.

That is the law. It is embarrassing. People don't like to go through it, but they are forced into it.

What this bill says, for those people who get in those circumstances, is we are going to make it tougher for you. Let me give you one little illustration of how they make it tougher.

Imagine you have this huge medical debt hanging over your head. The creditors are not only calling you at home, they are calling your kids at home. The kids are crying, saying: How many more phone calls do we have to take, Mom?

You get to go to bankruptcy court, but you just discovered something. You don't have enough money on hand. You have barely enough to get from paycheck to paycheck, and the attorney says: I will represent you, but there is a $209 filing fee to go into bankruptcy court, and I am going to need at least $500 to start this proceeding as your attorney.

What am I going to do? I have a credit card. I am going to go ahead and take cash out of my credit card to pay the filing fee and to get $500 for the lawyer so I can go to court. If I do that within 70 days of filing bankruptcy, they declare this as a fraudulent transaction that cannot be discharged in bankruptcy. That credit card debt for $740-plus within 70 days of filing is with me forever. The credit card company has me forever until I pay it off.

Some people will say: We have to hold these people to a high moral standard: Pay back your debts, be responsible.

I agree with that. But the law has said for decades that there are some people who can't do that. They reach a point where they cannot physically do it. They are not making enough money and they never will. So you know what I did in the Judiciary Committee? I said to my colleagues in the Judiciary Committee, if this is about your moral responsibilities, let's talk about some of the corporate CEOs that we have heard so much about recently and their moral responsibilities. I used as an illustration Kenneth Lay, CEO of Enron. Mr. Lay took $81 million in loan advances from Enron before the company declared bankruptcy. Do you remember what happened when it declared bankruptcy? Not only did the shareholders lose, the employees lost, the retirees at Enron lost, and retirees across America who had investments in Enron lost, too.

So I said to my friends on the Judiciary Committee: If we are going to hold this woman with her medical bills, who just took a cash advance of $740, to high moral standards, shouldn't we hold Mr. Lay to high moral standards? Shouldn't we look back and see what his corporate activity was?

They said: No. We are just interested in the woman with breast cancer. We don't want to talk about Kenneth Lay.

How about Dennis Koslowski, Tyco chief executive? Do you remember his situation? He had Tyco pay for a $30,000 shower curtain: $30,000 paid by the corporation, and he took a total of $135 million out of the corporation in loans and company payments for his personal use and then went right into bankruptcy. I said to my friends on the Judiciary Committee: How about that? Here is a situation, this corporate executive fleeced his company, pushed them into bankruptcy, hurting millions of people, shouldn't we look back and hold him accountable?

No, we are not interested in Dennis Koslowski, nor WorldCom CEO Bernie Ebbers, who took $408 million. We are interested in the woman, single mother with two kids, who is a waitress, who can't pay her bills for breast cancer. That is who we are interested in.

That tells you what this bill is all about. This bill is all about the bankruptcies of ordinary Americans, ordinary Americans who are seeing their jobs outsourced, ordinary Americans who are seeing their health insurance downsized if they are lucky enough to have it, downsized every year, ordinary Americans who have seen their real wages decline, ordinary Americans who are not even being paid a minimum wage that reflects the cost of getting by in America, ordinary workers who are losing overtime pay because this administration is restricting the rules for eligibility on overtime. These are the people we are after. We are not after those corporate CEOs. We will save them for another day. Right. Don't hold your breath.

Isn't it interesting at a time when health care in America is so hard to come by and so expensive, when the Government is talking about cutting back on Medicaid, when we have no proposals to help people with their health care insurance, when we know it is driving people deeper and deeper into debt and more vulnerability, that we come up with a bill that is going to make it tougher for those who cannot pay their medical bills? It tells you about this Congress and its priorities.

This is our second bill. This is our second highest priority in this session: Do something about that woman with breast cancer. She is going to that bankruptcy court, and it is not morally right.

The credit card industry is pushing this bill big time. I told you earlier in the year 2003 the credit card industry had $30 billion in profit. They don't acknowledge the obvious. If there are abuses in the bankruptcy system there are sections to cover it; 707(b) allows the bankruptcy court to deal with substantial abuses of the rules. That is already in the law. If a bankruptcy judge suspects a person is going to walk on the debts he can pay, the judge orders a trustee to investigate, and if the trustee says the person is hiding assets, the judge can tell the person: I will not discharge your debts.

That is already in the law, and that is the way it should be.

Last year, they investigated over 3,000 cases where they suspected somebody was cheating the bankruptcy system, and it ordered the petitioners to pay their debts in over 95 percent of them.

The system is working. The credit card companies don't need new laws to catch deadbeats. The credit card companies want this law so they can squeeze every last dollar out of decent, hard-working, play-by-the-rules people who have already been devastated economically by traumatic events such as job loss, divorce, and, increasingly, medical problems.

We had a hearing on this bill: 2 hours and 15 minutes. Senator HATCH said, at one point, if this hearing went any longer, it would have cost him his sanity. I won't comment on that. But I think we could have taken a few more minutes on this bill, even invited or subpoenaed the credit card companies to come up and explain why they need this so desperately.

I think we understand what is going on here. The Harvard law and medical schools did a study, the first indepth study of the medical causes of bankruptcy. It is an indepth examination of the records in 1,900 bankruptcy cases filed in five different bankruptcy courts across America, including one in Illinois. It showed that half of the bankruptcies in this country are because of high medical bills.

Listen to these statistics. Two million Americans each year are driven into bankruptcy by medical debt. Three-quarters of them had health insurance when they first got sick. Most of them lost their insurance when they got fired because they were too sick to work anymore, or they were bankrupted by out-of-pocket expenses that policies didn't cover. Are these morally flawed people? Are these irresponsible people who got sick? They are good people who had the misfortune of illness.

Harvard law professor Elizabeth Warren, one of the authors of the study, said:

> These are hard-working, "play by the rules" people who have health insurance and have discovered that they were just one bad diagnosis away from financial disaster. I think that's the real heart of the story. This is about people who thought they were all safe. Accountants, lawyers, teachers, police officers, airline mechanics, members of the National Guard who get sent to Iraq for a year, the family next-door—that is who is going bankrupt in America, families who spend nearly every dollar they earn, not on luxuries but on necessities and basics: childcare, health care, a decent home, and a safe neighborhood. They have very little savings. They are not doing that well. They dip into their savings when they have to. They may even try to take their money out of their 401(k). Maybe they take out a second mortgage. When that money is gone, they turn to credit cards for basics such as food, gas, and doctors' bills. They have done their level best to raise their kids right and honor their obligations. According to Professor Warren, the average American filing for bankruptcy spends more than a year struggling with debts before filing. This is not an impulsive thing. Four out of ten people she interviewed said they had their phones shut off in the 2 years before they filed. More than half skipped doctor or dental appointments because of the cost. More than 40 percent had failed to fill a prescription, and more than one in five had gone without food—without food—because of the cost. By the time they finally gave up and went to bankruptcy court, the average family owed more than a year's salary in debt, other than their mortgage. Getting the last pound of flesh from these families, that is what the bill is all about.

What is the incidence of abuse? We can almost agree on it.

The American Bankruptcy Institute is a nonpartisan research and education organization that says 3 percent of the people who file for bankruptcy could afford to repay—3 percent. This is about 1.1 million who file each year. The rest don't have two nickels to rub together. The credit card industry says it is 10 percent. Even if you accept their own figure, that means 90 percent of the people who file for bankruptcy are flat broke. They should be left alone.

Under current law, these 90 or 97 percent of bankruptcy petitioners show a bankrupt judge how much they owe and how much they earn. It is a simple process. You could fit the paperwork on a single sheet of paper and have room left over.

If the judge agrees the person cannot afford to pay all of his or her debts, the petitioner can file for chapter 7 bankruptcy, and the credit card debt, medical bills, and other unsecured debts can be discharged, wiped away. Bankruptcy is still financially and emotionally draining, but at least the person can stop at zero.

The bill we are considering assumes that the majority of people are out to cheat the system. Despite the fact that even the credit card industry says 90 percent of the people are not, this bill assumes they are.

We create a means test—a means test that adds complication to the process, greater legal bills, and greater legal costs for the person in bankruptcy who is trying to get out from under the problem with the means test.

The way the law works now, bankruptcy judges have the authority and discretion to look at how much debt a person has and how they acquired the debt. Then the judge decides: Is this someone who is trying to game the system? Is this someone who has been dealt some hard blows in life? Is this debt brought on by buying a plasma screen television, or taking that cruise, or is it a desperate effort to pay doctors' bills and buy groceries and not see the house foreclosed on?

The means test in this bill wipes out the judge's discretion. The judge can't look at a real person. The judge looks at numbers on paper. The means test isn't really meant to screen out cheaters. There is already a provision in the law for that. It is designed to trip people up, add legal expenses, and force more families into chapter 13.

This isn't a balanced bill. Unfortunately, the scandals I have talked about at Enron, Tyco, and WorldCom are the subject of a good bankruptcy bill. We are not going to consider that. We don't deal with corporate bankruptcies here, that is over the line. We deal with the bankruptcies of ordinary individuals.

Let me tell you about the amendment I am offering because the people I am offering it on behalf of are far from ordinary. They are mothers, fathers, Americans in our country today. These are the men and women in uniform. I have seen them and you have, too. You have seen them on the news—risking their lives in Iraq, Afghanistan, Korea, and around the world. I have seen them in Illinois, as we send our troops to go serve overseas—in Litchfield, IL, about a month ago. There was not a dry eye in the house. About 100 of them were infantry, activated, standing at attention in the Litchfield High School gymnasium. There we sat with the stands filled with families praying for their safe return. We watched them file by and we shook hands with every one of them, saying: Godspeed. We are on your side. We won't forget you. You are in our thoughts and prayers.

Here comes this bankruptcy bill. Do you know what happens? You end up with men and women in uniform—activated Guard and Reserve, and other active military—sent to battle, sent to combat, where every day their life is at stake, and meanwhile many of them are facing extraordinary hardships at home. They and their families have lost their life's savings which they cannot deal with because they are defending our country.

Military service always involves sacrifice. In times of war, those sacrifices multiply. Extended deployment means long difficult separations. Military service means extraordinary financial hardships.

I asked the GAO to look into issues affecting the economic security of our troops; in other words, what is happening to families' finances when they serve our country and go overseas. There isn't a lot of data. They went back to the 1999 Defense Department survey. In that survey, they found 16,000 Active-Duty members of the military had filed for bankruptcy in the preceding 12 months. That was 1999, 6 years ago.

We know the economic stress on military families has increased dramatically since then. We are at war with 150,000-plus in Iraq and thousands in Afghanistan.

Since September 11, 2001, more than 469,000 National Guard members and Reserves from the Army, Marines, Navy, and Air Force have been called up for combat in Iraq and Afghanistan—the largest deployment of U.S. Guard and Reserve forces in 50 years. Reservists' tours of duty can last up to 24 months today. The Pentagon is considering extending that time limit.

I have a pie chart I would like to show you which demonstrates some of the problems facing the military.

In 2002, the Department of Defense conducted a survey of military spouses. Here is what they found.

Thirty percent—almost one-third—of all military families reported a loss of family income when the spouse was deployed; almost one out of three.

Part-time military—National Guard and Reserve members—were especially hard hit; 41 percent of Guard and Reserve families lost income when a spouse was deployed—41 percent.

Let me just say parenthetically my salute to all of the companies, all of the units of government that have stood behind the men and women in uniform and have said: We will protect your pay while you are gone. We will make sure you don't get penalized. How embarrassing it is to stand here today and tell you that our Federal Government does not stand behind the men and women in the Federal workforce who are activated. We don't make up the difference.

So 41 percent of those Guard and Reserve activated who have lost income include a lot of Federal employees. The average income varied by branch, ranging from an average of $600 lost for Air National Guard members, to $3,800 for Marine Corps reservists.

Senior officers lost an average of $5,000 in lost income and $700 per enlisted member.

Reservists who own their own businesses are especially hard hit. Fifty-five percent of self-employed reservists lost money when they were activated. The average income loss for these families is $6,500.

For reservists with specialized degrees and training, the income loss was even greater. Doctors and registered nurses who are mobilized report an average loss of $9,000. Doctors in private practice lose an average of $25,000. The list goes on.

Many of these families manage to scrape by using their savings and relying on relatives and friends. Some families do all of these things, but their financial problems still become so severe that they have no choice but to file for bankruptcy.

They are the people we are talking about in this bankruptcy bill. We are not talking about someone in a distant State in a circumstance we can't understand. We are talking about an activated member of the Guard and Reserve deployed for a year or 2 years who loses his business and has to file for bankruptcy. The law we are going to pass is going to make it more difficult for that person to file for bankruptcy.

Senator EVAN BAYH is one Member who supports this amendment. He calls it the "patriot penalty." We are penalizing those serving our country by making it tough for them when they become bankrupt because they have lost all of their income serving America.

Let me give you an example.

Ray Korizon is from Schaumburg, IL. Before the Persian Gulf war in 1991, he owned a construction company that employed 26 employees. He lost his business when his Reserve unit was deployed for 6 months. Today, he works for the Federal Government.

Some of the self-employed reservists who have been called to duty in this war are facing similar financial hardships. Army Reserve SGT Patrick Kuberry is one of them. He and a business partner—an Army Reserve colonel—used to own two small restaurants in Denver. Like most owners of small restaurants in Denver, CO, they both worked long hours. They didn't make a lot of money, but they made enough to support their families. Then came 9/11 and the economic downturn. They had to close one of the restaurants. In April 2003, his partner was called up and sent to Afghanistan. In June 2003, Sergeant Kuberry's unit was called up. He spent 11 months in Africa. That was the last blow. Without either man home to work, the remaining restaurant went under. Sergeant Kuberry and his partner were forced to file for personal bankruptcy.

Another story: Rick Parsons and Dave Young are both Army Reserve majors from Rochester, NY. In civilian life, Rick Parsons is a veterinarian in private practice and Dave Young is an accountant. They were shipped out with their unit to Afghanistan for a year. They were nearly wiped out financially. Rick Parsons couldn't find another vet on short notice to run his practice. He earned $70,000 during his year in Afghanistan, but he had to take out a loan for the same amount to save his practice. He figures he was within a month of having to go file for bankruptcy when he got home. Dave Young's wife and father were able to keep the small accounting firm going during the year he was in Afghanistan.

The other units were not so lucky. Another ended up with a mountain of medical bills after developing malaria.

Let me tell you about another person filing for bankruptcy. Kathy Cruz is a bankruptcy attorney in Hot Springs, AR. The State is home to the 39th Infantry Division of the Arkansas National Guard. In October 2003, the division shipped out for 18 months, including 12 months in Iraq. Six months later, the division deployed, the first Guard families began showing up at Kathy Cruz's office desperate for a way to hold on to their homes and avoid bankruptcy. One of her clients, a family with four teenagers, owned a combination gas station and convenience store. The father was a reservist medic. With him in Iraq, there was literally no one to mind the store. So they closed the store. When they got into serious financial trouble, they gave their home back to the mortgage company so it wouldn't be repossessed. Then things got worse.

Is this irresponsible conduct of these people activated to serve America, to risk their lives in combat? While they are risking their lives, everything they own is at risk.

Things got so much worse, the soldier's parents had cosigned the loan for the business, trying to save it. While this soldier was overseas serving America, they had to declare bankruptcy or they would lose their home and the whole family would be on the street. The grandfather is disabled. The grandmother has gone back to work to try to keep the family afloat financially. The whole family recently came to Ms. Cruz in her office in Hot Springs. This is how she described the visit of this family.

> You've got three generations sitting in front of you, scared out of their wits.

Ms. Cruz says she expects to see more such families in the future. In her words, "This is the tip of the iceberg."

Most families try to desperately avoid bankruptcy because of the stigma, the connotation of personal failure and their own moral code that says you pay back what you owe. Many military members and families try doubly hard to avoid it because of the mistaken belief that bankruptcy alone can be grounds for a dishonorable discharge. They are encouraged to believe that, in many cases, by payday lenders that cluster around military bases and communities who are going to let people know inside the base if the soldiers don't pay off.

Let me tell you about loan sharks. Payday lenders are legal loan sharks that offer small, short-term loans at interest rates of 100, 500, even 1,000 percent. When the borrower can't pay back the loan, the payday lender offers them another loan, and then another loan. In fact, a recent study in Iowa found that customers typically roll over interest.

Payday lenders specifically target military members because they know they have a steady source of income, many are young and inexperienced, they have family obligations, they are strapped for cash, and they are easy to find. And, most offensive, payday lenders target military members because they know these are people who are hard working and honest and who believe in personal responsibility and integrity.

Operations like these and others employ former military personnel to solicit soldiers. They use gimmicky, misleading names such as Force One Lending, Armed Forces Loans, Military Financial, and American Military Debt Management Services.

Let me show you this chart of payday lenders in the State of Georgia.

Military loan: Here is an example of one of them. This is what you see on highways and roads leading into many military bases and communities: Store-front pawn dealers, payday loan shops, and "debt consolidation" operations, all trying to lure military members and their families with the promise of fast, easy money which they can never pay off.

This is a store-front payday loan store in King's Bay, GA, just across the State line from a military base in Florida. Note the name of this operation, "Pioneer Military Loans."

Here is another operation on the same highway, "T&C Pawn." Isn't it appropriate that right next door is a unit known as Fleet Cleaners. You get to go to the cleaners in both places.

Retired Navy veteran Peter Kahre made the mistake of taking out a loan with a business like this more than a decade ago when he was stationed at Jacksonville Naval Air Station. He is still haunted by it. When Kahre was deployed in 1996, the "basic sustenance" portion of his military pay was cut by $197 a month because his food was now being prepared onboard. That pay cut, plus the arrival of a new baby, put his family in a bind. So Kahre borrowed $100 from a payday lender.

When he could not repay that loan, he took out another, and another, until he had loans with 10 different payday lenders. He estimates he paid back $20,000 on loans for which he received a total of not more than $3,000, before he was finally forced to file for bankruptcy.

Let me show you some of the ads from the payday lenders in the Army Times to give you an idea what these folks are after. This one is for our men and women in uniform: "INSTANT CASH." "Advanced Pay Loans." "How we beat the competition:" "Bankruptcies OK." They cannot wait to lure the men and women in uniform into these outrageous loans. "Bankruptcy no problem!" In other words: We will lend you money even though we know you probably cannot afford to pay it back.

There is another kind of predatory lender that clusters around military communities. They lend money in exchange—listen to this—for military members and veterans signing over their pension benefits. Imagine, if you will—I have read the case that was reported in the news—a sergeant had married a young woman in the Philippines. He could not afford to bring her to the United States. He went in and pledged his military retirement as collateral for one of these loans.

"Cash now!" Look at this one: "Lump sum paid for pensions. VA disability, VSIs. Credit problems OK!" These are the people we talk about who end up getting snared into these outrageous, usurious loans they will never be able to pay back.

The National Consumer Law Center released an excellent report in May 2003. Every Member of the Senate ought to read it. In it you will find story after story of military members and veterans who have suffered serious financial problems because of predatory lenders.

Now let me tell you about the amendment I am offering. Whether the person is career military or Guard or Reserve, the men and women of our Armed Forces make extraordinary sacrifices to defend our Nation. They put their lives on the line, their comfort, their freedom, their time with their families. They sacrifice their health, even their lives. Many of them make major financial sacrifices.

Today, I am offering an amendment that will give military members who have been forced into bankruptcy because of income loss connected to their service the hope of a second chance.

My amendment does not grant military members any favors. It is not a "get out of debt free" card. The members of the military I have met would not want that kind of special treatment. They are men and women of integrity who want to pay their debts and honor their obligations. This amendment simply protects the people who protect us from the possibility of spending the rest of their lives in a figurative debtor's prison.

Let me show you a chart in reference to the amendment. It has four basic elements. My amendment protects three groups of people: service members, military veterans, and spouses of service members who die in military service.

We protect them in bankruptcy with four provisions.

First, we prevent unscrupulous payday lenders from using bankruptcy courts to fleece military members, veterans, and spouses of service members who die in military service. Any claims based on debt they owe that require payment of interest, fees, or other charges in excess of 36 percent would not be collectible in bankruptcy proceedings.

Second, my amendment exempts members of the armed services, veterans, and spouses of service members who die while in military service from the onerous means test provisions of this bill. Again, this is not a "get out of debt free" card. It simply allows the bankruptcy judge—not an arbitrary and inflexible formula—to determine whether a military member, a veteran, or a surviving spouse of a service member who dies while serving America deserves the protection of chapter 7. It is left to the judge's discretion in these cases when it comes to the military.

Men and women who volunteer to go to war should not have to wage war against the mountain of paperwork this bill creates.

Third, service members face a problem that most other bankruptcy petitioners do not. They do not choose where they live. They are sent on assignment by the military. That can have major economic consequences.

I have a chart that shows some of the homestead exemptions. In other words, when you go to bankruptcy, you can usually protect your home, but every State is different. So if you are assigned, for example, to a base in Florida, there is unlimited protection for your home, if you file bankruptcy while you are in the military. In Ohio, it is $5,000. That is all that is protecting your home. In Nevada, it is $200,000. In Illinois, it is $7,500. If you are stationed in New Jersey, there is no protection at all, no homestead exemption.

So what we have done is to establish a basic homestead exemption. It would say that the members of the military are going to be allowed a $75,000 homestead exemption, or they can choose the exemption in the State in which they file.

There is another portion of this amendment which relates to the personal property that someone could exempt from bankruptcy. That exemption is different from State to State. For my State of Illinois, I remember from when I dealt with bankruptcy law, you can exempt your tools from being taken from you in bankruptcy—a reasonable idea. But for those sorts of things, every State is different.

So what happens to the member of the military who files and happens to be stationed in the State where they file for bankruptcy? We establish a Federal personal property exemption. I think it is reasonable so that the individual serving in the military has that protection.

Let me conclude. I know several Members are here to speak. We say all the time that we owe the men and women who defend our Nation a debt of gratitude we can never repay. That is true. But we can show that we honor their service by protecting them from spending the rest of their lives in a debtor's prison if their service obligations or serious illness or a string of bad breaks forces them to have to file for bankruptcy.

The credit card industry may argue my amendment is not needed because few military members and their families seek bankruptcy protection. No one knows that for sure. But if it is a small number, the protections of my amendment will not hurt this multibillion dollar industry.

Some may say that military members and their families do not deserve the protections of my amendment because they are somehow morally deficient—I cannot wait to hear that argument on the floor—the same charge supporters of the underlying bill make about all people seeking bankruptcy. Well, if opponents of my amendment think members of the U.S. military are lacking in moral fiber, they need to spend a couple afternoons with troops, maybe visit some of our injured soldiers, or go to the veterans hospitals across America. Talk to some of these soldiers struggling to learn to walk on new legs, begging to go back into battle with their units. Tell me they need a lesson in personal responsibility.

This amendment is about the men and women who protect us getting protection from the possibility of a lifetime of debt. It is about giving to those who risk their lives so our children can grow up in freedom the possibility of a second chance for their own lives. We cannot repay the debt we owe these men and women, but we can protect them from having to spend the rest of their lives in debt. That is what my amendment would do. I urge my colleagues—and I hope on a bipartisan basis—to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I share Senator DURBIN's respect for our men and women in uniform. I served over 10 years in the Army Reserve. I have made three trips to Iraq as a member of the Armed Services Committee. We work on those issues on a daily basis.

The last time I was in Iraq we were meeting with soldiers, and I had one tell me his business had been hurt by him being there. He lost income, and he was worried about it. We discussed that with the soldiers there.

Then later he came up to me and said: I want you to know, Senator, one hour from now I am signing up for another 7 years.

It made me proud to know that we have that kind of service personnel who are serving their country well. How we ought to compensate them, how we ought to benefit them is something all of us need to consider. We are having increased compensation plans, increased bonuses for reenlistment, and other increasing benefits for our personnel because we love them. We respect them. We want to affirm them. We want to carry our part of the burden that they are carrying as they serve us in dangerous areas of the globe today.

I want to point out, though, and bring ourselves back to where we are, this is not a bill that deals with American health insurance. It is not a bill that deals with compensation for the military. It is not legislation that should set bank lending rates. That is a Banking Committee issue, and it has been raised against this bill on a number of occasions. We have some credit card changes here, consumer-oriented credit card amendments that I know Senator DURBIN and others have asked for and have been cleared by the Banking Committee. But this is not the place to set banking regulations in a bankruptcy bill.

This legislation is designed to analyze what is occurring in Federal bankruptcy courts every day, to see what is happening there. What we have learned is that over the last 30 years, people have learned to manipulate this system in ways that are not good for the economy. Lawyers, particularly, have advised their clients on ways they can absolutely maximize their benefits under the bankruptcy law. And sometimes we have found that has not been healthy. As a result, these advertisements—and they are on television, in the newspapers, in the free things at the checkout counter where it tells you where you can buy things on sale—tell you how to file for bankruptcy. That is all right. It is a free country. But those of us who set policy and set the rules for the bankruptcy system need to analyze how it is actually working in bankruptcy court. We need to ask ourselves what we should do to make it better. And we need to do some things that help debtors such as single moms, who have bankruptcies filed against their child support and things of that nature, to put them higher up on the list of people who get compensated. We do that.

The testimony is unequivocal that with regard to family breakup, alimony and child support, this bill is a huge step forward for children and their parents who receive those benefits.

There is a lot in here that benefits people on a routine basis who have to go into bankruptcy court. Remember, if you make below median income in America and you file for bankruptcy, you can wipe out, as an absolute right, every debt you owe, no matter how you incurred it, for any reason.

I know Elizabeth Warren. She has been an activist against bankruptcy reform for years. And one thing she puts in her definition of debts arising from health care is gambling debts, for example. I believe those numbers that have been promoted at a recent hearing by her are at best a bit too high. They are really less. Are health care debts a part of this? Yes. Are there people with insurance who still don't have enough money to pay their health care debts? Yes. Do people who don't have insurance have health care debts that help cause them to be unable to pay their debts and go into bankruptcy? Yes. But what if you make $100,000 and you have $75,000 in debt? Under current law, you can go into bankruptcy court and wipe out every one of them. It can be your doctor, your local hospital, your local automobile dealership, your friendly mechanic, anyone you owe in the community—just wipe out those debts. You don't have to pay them.

Lawyers will tell them that. They are advertising how to do that. Beat your landlord. Don't have to pay your rent. Come on down. We will keep you in your house another 6 months by filing bankruptcy, which will stay eviction. And then, when you finally lose that, which you inevitably will lose that contest of eviction, then you wipe out all your debts and rents, and you don't owe anybody anything.

Let me say, there are problems in bankruptcy that this bill has carefully set about to deal with and tried to fix. I am rather proud of it. We have made a lot of progress on dealing with a number of the abuses that exist. But we are not in the business of dealing with health insurance, health care reform. We can't deal with the issue on how we ought to compensate reservists and guardsmen who have been activated.

I will say this with regard to the military issues. My staff has been reviewing the fundamental protections provided to the service men and women under the Soldiers and Sailors Relief Act, originally passed in 1940. It is a tremendous piece of legislation to protect service personnel who are called to active duty from being harassed, abused, or taken advantage of in court.

It remains the law of the land today. It has been strengthened over the past years. When I was in the Army Reserve, I was a U.S. attorney, and sometimes there is a basic officer in the unit, and sometimes in my duties as a jack officer it fell in my lot to brief the personnel on the benefits of it and to represent people who would be abused under the Soldiers and Sailors Relief Act. It has some very good and powerful things in it.

Let me show you how many of the concerns that the Senator has are covered by that act. In 2003, we passed the Service Members Civil Relief Act, which added even more protections. The goal was to financially protect Active-Duty military members, reservists in active Federal service, and National Guard members. The act allows military members to suspend or postpone civil financial obligations during their period of military service. Oftentimes, this can enable them to avoid having to file a bankruptcy.

The information brochure on the Soldiers and Sailors Civil Relief Act, by the Department of Defense, states that it provides an umbrella of protection, and it does. The umbrella of protection created by the act includes these provisions: an interest rate cap of 6 percent on all debts incurred before or during commencement of Active-Duty service. So if you are called to active duty and you entered into a debt that carries a 25-percent interest rate, you can reduce that. It applies to mortgage payments, credit card payments, and car loans. The act provides protection from eviction. It would delay all civil court proceedings, including bankruptcy, until you get back—an automatic delay. If the lawyer says the serviceman is in Iraq—"He has been activated, Your Honor"—this case is stayed. That is what is done immediately. There is no dispute. Foreclosure proceedings are delayed. Divorce proceedings against a service member are stayed.

There is a prohibition on entering of default judgments against Active-Duty military members and the ability to reopen default judgments. In other words, sometimes when the service member is gone, he does not know he has been sued and failed to respond effectively because he is on active duty. The judge is prohibited from taking a default. But if the judge, by mistake or otherwise, enters a default judgment, then that Active-Duty member can have it set aside when he comes back. It is not binding.

The ability to terminate property, residential and automobile leases at will is provided for in this act. In other words, if you enter into a solemn lease agreement for a residence or an automobile and you are called up, all you have to do is write them and say: I have been activated, so I am no longer bound by this lease agreement. It includes the continuation of life insurance of at least $250,000, without requiring premiums to be paid.

The tolling of statutes of limitation—in other words, if you have a lawsuit and you are thinking about filing it and the time for you to file it is about to run and you get called to active duty, that time is extended until you return, and you have time after you return to file any lawsuit because the statute of limitations is tolled. There is temporary relief from mortgage payments, and credit rating protections. In other words, if you are somehow found to be poorly responsive to your debts because you have been activated, you can clear up your credit rating.

There are penalties for landlords and creditors who violate the act and fines of up to $100,000 or imprisonment if they harass a service member contrary to this act while they are serving their country in some distant land. The Supreme Court has even added to the act the ability to help military members in times of financial need by ruling that the act must be read with an eye friendly to those who drop their affairs to answer their country's call. This has been a strong act that provides great protection for our men and women. We all ought to be proud that America has understood this.

Now, let's talk about some of the specific ideas that are in Senator DURBIN's bill. He said it somewhat differently than what he offered in committee. I have not seen amendments until this morning, and I briefly heard his comments and have not had a chance to study it in detail. But he would exempt service members, military Active-Duty members, veterans, and spouses from means tests contained in the bankruptcy bill because a means test will not reflect their real income or real ability to pay debts back. But I don't think that is true.

The bill contains a rebuttal to the means test application when a court finds special circumstances. These are the ones I think we are discussing. A special circumstance that a military member could assert under this bill as it now exists—this bankruptcy bill—would include the fact that their income dropped in recent months due to a call to active duty or there have been excessive expenses arising as a result of being called to active duty. That assertion would keep the means test from applying to the military debt. No special exemption, it would appear, would be necessary for military members on this basis because a call to active duty that causes a drop in income, to me, would be clearly a special circumstance. The bill currently contemplates that, although I think, frankly, we could explicitly state that as a mandatory circumstance.

Second, he asserts that this amendment is necessary to protect military members' homesteads. His amendment would apply to the Federal cap of $125,000 contained in the bill to all service members or allow the service members to choose the exemption level permitted by the State he resided in before becoming a service member. It opens up the homestead compromise we have battled so hard on and dealt with. I don't think it would affect many service members. Many of them live in housing provided by the military. Because the bankruptcy bill requires 2 years of residency in a State before the State homestead exemption can apply, it is highly unlikely that military members will be often covered by it. They move frequently.

The Senator also argues his amendment is necessary to protect service members from predatory loans and high-interest loans. I believe that this concern is well covered by current law. The Soldiers and Sailors Relief Act prevents interest charges greater than 6 percent from being collected on any type of debt owed by an Active-Duty service member. Even debts the service member made before being called to active duty are covered by this interest cap. We have dealt with this issue before. The House had a full debate on it. It was voted down there.

The floor debate on the bankruptcy bill previously, S. 1920, which exempted veterans and others from the means test, was offered by Congresswoman SCHAKOWSKY in opposing the amendment. Chairman SENSENBRENNER pointed out that the means-based test only applies to people with incomes above the median State average. I will repeat that. Anybody who is making above the median income could be impacted by the means test and, therefore, could be ordered to pay back some of the debt they have lawfully incurred. If they are unlawfully incurred, they cannot be made to pay them back. The court won't make them pay it back.

But they could be made to pay back some of those based on how much their income is above median income. If they are making $200,000 a year, the judge may say they have to pay them all back. If they are making $50,000 and they owe $100,000 in debts, the court may conclude they only can pay back $15,000. That is how this will work out in reality.

He points out that factor and notes that anyone who is below the State median income does not qualify on the means-based test and their bankruptcy petition cannot be tossed out of chapter 7 and put into chapter 13 where some debts are paid back.

Chairman SENSENBRENNER also agrees with my analysis that the issues have been taken care of in the most part since 1940 under the Soldiers and Sailors Relief Act which allows for the staying of legal proceedings against anybody on active duty.

I think he points that out. We have some ideas. He makes another point I will not go into at length. I will say this: I am very concerned about our men and women in uniform. I want to make sure there are no loopholes or gaps in the Soldiers and Sailors Relief Act. I want to make sure this bankruptcy act in no way makes it more difficult for our soldiers than what they have today. I will be glad to look at this amendment and study it more carefully and perhaps offer an alternative that would be more constrained and would deal more directly with the problems. A veteran could be someone who has been in the country, off active duty, for quite a long time. I am not sure that adding all veterans to this exemption would be a good idea particularly. I have some real doubts about that.

Mr. President, I state my opposition to the Durbin amendment. I look forward to analyzing it further, and if there are areas in which we can reach accord, I will be pleased to support that. If there are other needs of our service personnel that could be impacted positively by a bankruptcy reform bill, I am prepared to look at that.

I yield the floor.

The PRESIDING OFFICER (Mr. BURR). The Senator from Illinois.

### AMENDMENT NO. 16, AS MODIFIED

Mr. DURBIN. Mr. President, I thank the Senator from Alabama for offering to work with me. It would be my wish and hope that we could find a bipartisan agreement on this issue. Either he or someone who is distributing information on the floor has raised I think a very valid issue about our reference to the term "veteran" in my amendment. What we were thinking of was a situation where some of our active-duty soldiers who are seriously wounded and transferred to hospitals, such as Walter Reed, find themselves needing to be discharged quickly so they can go into the veterans health system. So we included the term "veteran" so it would apply to them as well.

But someone has observed, correctly, by using the term "veterans" we have opened this up very broadly. So I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To protect servicemembers and veterans from means testing in bankruptcy, to disallow certain claims by lenders charging usurious interest rates to servicemembers, and to allow servicemembers to exempt property based on the law of the State of their premilitary residence)

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if—

"(i) the debtor or the debtor's spouse is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act (50 App. U.S.C. 511(1)));

"(ii) the debtor or the debtor's spouse is a veteran (as defined in section 101(2) of title 38, United States Code) and the indebtedness occurred in whole or in part while they were on active military duty; or

"(iii) the debtor's spouse dies while in military service (as defined in section 101(2) of the Servicemembers Civil Relief Act (50 App. U.S.C. 511(2))).

On page 67, between lines 18 and 19, insert the following:

### SEC. 206. DISALLOWANCE OF CLAIMS FILED ON HIGH-COST PAYDAY LOANS MADE TO SERVICEMEMBERS.

(a) IN GENERAL.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period at the end; and

(3) by adding at the end the following:

"(10) such claim results from an assignment (including a loan or an agreement to deposit military pay into a joint account from which another person may make withdrawals, except when the assignment is for the benefit of a spouse or dependent of the debtor) of the debtor's right to receive—

"(A) military pay made in violation of section 701(c) of title 37; or

"(B) military pension or disability benefits made in violation of section 5301(a) of title 38; or

"(11) such claim is based on a debt of a servicemember or a dependent of a servicemember that—

"(A) is secured by, or conditioned upon—

"(i) a personal check held for future deposit; or

"(ii) electronic access to a bank account; or

"(B) requires the payment of interest, fees, or other charges that would cause the annual percentage rate (as defined by section 107 of the Truth in Lending Act (15 U.S.C. 1606)) on the obligation to exceed 36 percent.".

(b) CONFORMING AMENDMENT.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding paragraphs (2), (4), and (6) of subsection (a), a debt is dischargeable in a case under this title if it is based on an assignment of the debtor's right to receive—

"(1) military pay made in violation of section 701(c) of title 37; or

"(2) military pension or disability benefits made in violation of section 5301(a) of title 38.".

On page 132, between lines 5 and 6, insert the following:

### SEC. 234. PROTECTION OF SERVICEMEMBERS' PROPERTY IN BANKRUPTCY.

(a) IN GENERAL.—Section 522(b) of title 11, United States Code, as amended by section 224, is further amended—

(1) in paragraph (1), as redesignated, by striking "either paragraph (2) or, in the alternative, paragraph (3) of this subsection" and inserting "paragraph (2), (3), or (4)";

(2) by redesignating paragraph (4), as added by this Act, as paragraph (5); and

(3) by inserting after paragraph (3), as redesignated, the following:

"(4) If the debtor is a servicemember or the dependent of a servicemember, and the date of the filing of the petition is during, or not later than 1 year after, a period of military service by the servicemember, property listed in this paragraph is—

"(A) property that is specified under subsection (d), notwithstanding any State law that prohibits such exemptions; or

"(B) property that the debtor could have exempted if the debtor had been domiciled in the State of the debtor's premilitary residence for a sufficient period to claim the exemptions allowed by that State.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13A), as added by this Act, the following:

"(13B) 'dependent', with respect to a servicemember, means—

"(A) the servicemember's spouse;

"(B) the servicemember's child (as defined in section 101(4) of title 38); or

"(C) an individual for whom the servicemember provided more than 50 percent of the individual's support during the 180-day period immediately before the petition;";

(2) by inserting after paragraph (39A), as added by this Act, the following:

"(39B) 'military service' means—

"(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

"(i) active duty (as defined in section 101(d)(1) of title 10); and

"(ii) in the case of a member of the National Guard of the United States, service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

"(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

"(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause;";

(3) by inserting after paragraph (40B), as added by this Act, the following:

"(40C) 'period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember—

"(A) is released from military service; or

"(B) dies while in military service;"; and

(4) by inserting after paragraph (51D), as added by this Act, the following:

"(51E) 'servicemember' means a member of the uniformed services (as defined in section 101(a)(5) of title 10;".

On page 191, between lines 11 and 12, insert the following:

**SEC. 322A. EXEMPTION FOR SERVICEMEMBERS.**

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is further amended by adding at the end the following:

"(r) If the debtor or the spouse of the debtor is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(1))) or a veteran (as defined in section 101(2) of title 38, United States Code) if the indebtedness occurred in whole or in part while they were on active military duty or the spouse of the debtor dies while in military service (as defined in section 101(2) of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(2))), and the debtor or the spouse of the debtor elects to exempt property—

"(1) under subsection (b)(2), the debtor may, in lieu of the exemption provided under subsection (d)(1), exempt the debtor's aggregate interest, not to exceed $75,000 in value, in—

"(A) real property or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor; or

"(2) under subsection (b)(3), and the exemption provided under applicable law that may be applied to such property is for less than $75,000 in value, the debtor may, in lieu of such exemption, exempt the debtor's aggregate interest, not to exceed $75,000 in value, in any property described in subparagraph (A), (B), or (C) of paragraph (1).".

Mr. DURBIN. Mr. President, I want to explain briefly so the Senator from Alabama understands. We amended the term "veteran" in the amendment so it only applies to the situation where the veteran's indebtedness in whole or in part occurred during active duty. We were referring to veterans in general, and one person said: What if you were a veteran of World War II many years ago and your indebtedness had nothing to do with it? We have clarified it with this modification that it would be veterans whose indebtedness was incurred in whole or in part during their term of active duty.

I might also say to my colleague from Alabama, we have a legitimate dispute about the Servicemembers' Civil Relief Act. I would like to join with him to find out which one of us is correct because we have been told that this Civil Relief Act does not apply to debts incurred after military service begins. The most significant limitation is that its primary protections apply only to obligations entered into before a person is called to active duty.

So, ironically, it does not protect military families when they need it the most when additional debt is incurred to help make ends meet during active duty. Rather than belabor this point, I would like to join the Senator from Alabama and get to the bottom of it and find out who is right. It is an important point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. SESSIONS. Mr. President, will the Senator yield for a unanimous consent request?

Mr. FEINGOLD. I yield.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside to allow Senator FEINGOLD to offer a first-degree amendment. Before the Chair rules, I indicate that it is my expectation to offer a second-degree amendment to the Durbin amendment or work out an agreement for two side-by-side first-degree amendments. While we are working out that agreement, we are prepared to go forward with the discussion on the Feingold amendment, with the understanding that we would then return and debate the Sessions amendment and the Durbin amendment and dispose of those matters first.

Mr. DURBIN. Reserving the right to object, and I do not plan to object, it is my understanding that my amendment is pending.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. So that any amendment filed subsequently would follow it for consideration.

The PRESIDING OFFICER. If the Feingold amendment is offered, it will be pending, but the understanding of the Chair of what is in the unanimous consent request is that the amendment of the Senator from Illinois would be considered when the Senator from Alabama is ready to second-degree that amendment.

Mr. DURBIN. Thank you, Mr. President. I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

### AMENDMENT NO. 17

Mr. FEINGOLD. Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 17.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a homestead floor for the elderly)

On page 191, between lines 11 and 12, insert the following:

**SEC. 322A. EXEMPTION FOR THE ELDERLY.**

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is amended by adding at the end the following:

"(r) For a debtor whose age is 62 or older on the date of the filing of the petition, if the debtor elects to exempt property—

"(1) under subsection (b)(2), then in lieu of the exemption provided under subsection (d)(1), the debtor may elect to exempt the debtor's aggregate interest, not to exceed $75,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor; or

"(2) under subsection (b)(3), then if the exemption provided under applicable law that may be applied to such property is for less than $75,000 in value, the debtor may elect in lieu of such exemption to exempt the debtor's aggregate interest, not to exceed $75,000 in value, in any such real or personal property, cooperative, or burial plot.".

Mr. FEINGOLD. Mr. President, I am very concerned about the impact of this bankruptcy bill on our senior citizens. Older Americans, far more than the rest of us, often face crushing debt burdens because of the high cost of prescription drugs and other medical expenses, and they need the safety net of bankruptcy relief to deal with their resulting financial troubles. In fact, Americans over 65 are now the fastest growing age group filing for bankruptcy protection.

Older Americans, far more than the rest of us, are often homeowners who have paid off their mortgages over decades of hard work. Their home equity often represents nearly their entire life savings, and their home is often their only significant asset. It is critical we ensure these older Americans are not forced to give up their hard-earned homes—the homes where they have raised their children and planned to spend their retirement—in order to seek the benefit of our bankruptcy system. These are not just pieces of real estate to these people; these are their havens, their sanctuaries, their life's work. Yet the bankruptcy law in its current form does not adequately protect older Americans from a horrible dilemma.

For older homeowners, the homestead exemption in the bankruptcy laws is what should protect them from having to make the horrible decision to give up their homes in order to seek bankruptcy relief. This exemption legally protects the homestead—a personal residence—or some portion of its value from the claims of most creditors. It should mean that senior citizens faced with bankruptcy because they cannot pay off their massive medical expenses are allowed to keep their homes.

In too many cases, this homestead exemption is woefully inadequate. The value of this exemption varies widely from State to State. While Federal law currently creates an alternative homestead exemption of just under $20,000, that low amount is just that, an alternative. Each State gets to decide whether it will allow its debtors to rely on this Federal alternative, and many do not. As a result, some States allow a much higher exemption, but many have a much lower exemption.

In States such as Florida and Texas, there is a homestead exemption with an unlimited dollar value, meaning that any money invested in a home cannot be obtained by creditors. I should note, of course, that this creates other problems, which I will address in a few minutes. But other States allow a very limited value homestead exemption. In many States, the amount of equity a homeowner can protect in bankruptcy has lagged far behind the dramatic rise in home values in recent years. For example, in the State of Ohio, the homestead exemption is only $5,000, and in the Presiding Officer's State of North Carolina, the homestead exemption is $10,000. In this day and age, those paltry exemptions will do no good. We obviously have a problem, and it is hitting our older friends and family members the hardest.

Think about it: In these low homestead exemption States, even indigent elderly homeowners who own a home free and clear worth only $30,000 or $40,000 cannot file for chapter 7 bankruptcy without losing their home. And they may not be able to file a chapter 13 case because they cannot afford to pay creditors the value of their home equity that is not exempt, as required by that chapter. Many elderly homeowners live solely on Social Security benefits, often no more than $800 to $1,000 per month. This is enough to subsist in their paid-off homes, while still paying taxes, utilities and other basic living expenses. But if they lose their homes, they will not be able to rent a decent place to live. Effectively, this means these older homeowners have no bankruptcy relief available to them at all. We have to address this gross inequity before we pass this bill. My amendment would create a uniform federal floor for homestead exemptions of $75,000, applicable only to bankruptcy debtors over the age of 62, protecting the lower- and middle-class senior citizens who need it most.

I will give an example that illustrates why it is so important that we fix this problem and fix it now. Let me tell my colleagues about Mary Bobbit. Mary Bobbit is a 70-year-old widow who lives in North Carolina, where the homestead exemption is only $10,000. According to a local news story, she recently lost her husband to cancer, a battle that left her with more than $175,000 in unpaid medical bills. Her only remaining asset is the home that her family built themselves 26 years ago, a home that she paid off just last year. And now she is faced with a horrible dilemma, because if she files for bankruptcy in North Carolina, she will lose the home that she and her husband worked so hard to build and pay for.

As Mary Bobbit's story shows, this is not a hypothetical problem. Despite the fact that older Americans tend to own their own homes and have greater financial experience compared to the rest of us, they are the fastest growing age group in bankruptcy. In the 1990s, the number of Americans 65 and older filing for bankruptcy tripled. Why is that?

Well, older Americans simply do not have the same resources for their retirement years that they used to. They live on fixed incomes that are not keeping up with rising costs. Fewer and fewer Americans have pensions, and many Americans who are just hitting retirement age lost much of their retirement savings when the stock market bubble burst a few years ago.

But one of the biggest reasons that older Americans go into bankruptcy is the inability to pay medical expenses. Between prescription drug costs and the costs of hospitalization, medical expenses can add up quickly for someone on a fixed income. Medicare simply is not providing the help that many of them need. In fact, medical expenses are the cause of more than half of all bankruptcies filed by debtors over the age of 50.

Another big factor in the rising bankruptcy rate of older Americans is job loss. People who are nearing retirement age and lose their jobs due to mergers and down-sizing can find it very difficult to find a new job. If you are in your late 50s and lose a job, just try to find someone to hire you at the same wages you were making before. It is not easy, and the results can be devastating.

Job loss is also a problem for the increasing percentage of older Americans who are finding that they have to return to work after retirement in order to make ends meet, giving up the American dream of security and leisure in retirement. In fact, nearly half of seniors say they plan to continue working during retirement because they cannot survive financially otherwise. Senior citizens are reporting that if they lose even a low-paying, part-time job at places like McDonald's or Wal-Mart, they may no longer be able to afford their basic living expenses.

Yet another disturbing trend is that the credit card debt of Americans over age 65 increased dramatically in the 1990s, in part thanks to the fact that they can now charge many prescription drug and other medical expenses. I am very disturbed by the idea that seniors would end up having to pay credit card interest rates of even 20 percent in order to pay for the medical treatment they need.

Older Americans are increasingly the victims of unscrupulous predatory lenders. According to the AARP, elderly Americans are three times more likely to be targeted. In fact, according to a Harvard study, nearly one in five older Americans in bankruptcy filed their petition at least in part to avoid constant, harassing, 24-hour-a-day collection calls or other actions.

All of this rather sad picture makes one thing very clear. We are not talking about people who were reckless with their spending and think they can use or manipulate the bankruptcy laws to get out of it. We are talking about responsible people who have worked toward retirement their whole lives, yet whether because of devastating medical costs, job loss, or some other tragedy, find themselves in a financial emergency and are unable to pay their debts. These people turn to the bankruptcy system only as a last resort. They should not also be forced to give up their homes for doing so.

We cannot allow this to continue. We have to fix this problem.

I believe my amendment offers a solution to help them. Federal law should protect the elderly in States where the homestead exemption is very low. The optional Federal bankruptcy exemptions allow a homeowner to protect only a little under $20,000, and even then States can simply ignore that Federal alternative and require their debtors to use the State exemptions, which are often much lower. My amendment would create a uniform Federal floor for homestead exemptions of $75,000, applicable only to bankruptcy debtors over the age of 62. States could no longer impose lower exemptions on their seniors. This would permit senior homeowners to file for bankruptcy without losing what is usually the only significant asset they have: their homes. And if my amendment were adopted, the U.S. Congress would not be the first to acknowledge that this is a problem for the elderly. Both California and Maine have recognized that elderly debtors deserve increased homestead protection. California recently raised the exemption for the elderly to $150,000, and Maine has an exemption for debtors over 60 of $70,000. It is about time we caught up with these forward-thinking State legislators and gave our seniors the protection they need.

I do want to briefly address the very serious problem that I alluded to earlier, which is that some wealthy Americans have exploited the unlimited homestead exemption available in certain States. This certainly is not a new issue; we have had years of debate over the unlimited homestead exemptions in some states that permit wealthy people to file bankruptcy and retain their mansions. One frequently cited example of abuse is Bowie Kuhn, the former baseball commissioner whose law firm went into bankruptcy. After creditors seized his home in the Hamptons and were about to attach his mansion in New Jersey, Mr. Kuhn acquired a multi-million dollar home in Florida and protected it from his creditors. Florida, of course, is one of the States with an unlimited homestead exemption. Section 322 of the bankruptcy bill attempts to address this problem, but does so only for a relatively small number of people. It treats the poor and middle class harshly while still letting some wealthy debtors, who are clearly abusing the system, shelter millions of dollars. I agree with my senior colleague from Wisconsin, Senator KOHL, and the distinguished Senator from Alabama that this loophole must be addressed. Unfortunately, I do not think the homestead exemption limitation in this bill does the job as well as it could, but I am afraid we will have to turn to that issue on another day.

My amendment addresses the flip side of the homestead issue. It has no effect whatsoever on the homestead provision agreed to by Senator KOHL in the 2002 conference, which remains in this new bill. Rather than being concerned with the relatively small number of high-profile wealthy abusers of the system, my amendment is aimed at the thousands upon thousands of elderly homeowners who are being squeezed by medical bills and rising home prices into an untenable position.

Let's be honest. Despite all the investment opportunities available to many in this country, for a very large number of seniors, the only retirement plan they have is this: pay off your house, and live on Social Security. People in that situation can survive, but not if they get hit with a financial emergency, usually a severe medical problem, and live in a State that has a low homestead exemption. We need to help them, and we need to do it now.

The bankruptcy system should provide a safety net for families truly in need of relief. This senior homeowner protection amendment is a reasonable solution to a growing problem. I strongly urge my colleagues to support this amendment, and I ask unanimous consent that a letter of support for this amendment from the AARP be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
*March 1, 2005.*

Hon. RUSSELL D. FEINGOLD,
*Hart Senate Office Building, U.S. Senate, Washington, DC.*

DEAR SENATOR FEINGOLD: Debate on S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005", has begun on the floor of the Senate and we understand that you are prepared to offer an amendment to S. 256 that creates a uniform federal floor for homestead exemptions of $75,000 that is applicable only to bankruptcy debtors over the age of 62. AARP supports this amendment, and urges the Senate to adopt it as part of the legislation to help safeguard older Americans from losing their homes when they find it necessary to file for bankruptcy.

Individuals and families that are near or of retirement age, and confronted with the unavoidable choice of filing for bankruptcy, very often find themselves in an ever tightening vice: at the end of their working careers, with little or no time or opportunity to recover financially, and with very few assets. Experts cite the financial problems of older Americans as being based on an array of factors, among them: job loss, medical expenses, death of a spouse, divorce, financial support for children and grandchildren and less retirement income. But it is job loss and medical expenses that top the list of reasons for indebtedness and bankruptcy.

For millions of older persons, their homes represent their principal financial asset and their personal independence. Today, the federal bankruptcy exemptions allow a homeowner to protect only a little under $20,000 in home equity, and many states allow even less. The dramatic increases in home prices over recent years have caused a special problem for older homeowners who need bankruptcy relief from overwhelming debt that is often due to large medical expenses. The amount of equity a homeowner can protect in bankruptcy has not kept up with the rise in home prices, so that even an indigent elderly homeowner who owns a home worth only $30,000 or $40,000 cannot file a chapter 7 bankruptcy without losing that home and cannot file a chapter 13 case because he cannot afford to pay creditors the value of the equity that is not exempt, as required by that chapter.

The irony of the situation is that under existing law affluent debtors in a number of states are allowed to keep homes of unlimited value. Should we punish the remaining older Americans twice—for having to file for personal bankruptcy under either Chapter 7 or 13, and to lose what often is their only remaining retirement asset?

We urge Members of the Senate to provide this modest bankruptcy relief for older Americans. If you have any questions, please do not hesitate to contact me, or call Roy Green of our Federal Affairs staff at 202-434-3800.

Sincerely,

DAVID CERTNER,
*Director, Federal Affairs.*

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, Senator FEINGOLD has been very alert to the issues of this bill, and he has contributed to this legislation. We have agreed some and disagreed some. We have had a lot of fun discussing the issues, and I know I have learned a good bit from it.

Let me say, frankly, where we are on homestead. That has been an intensely debated matter for 8 years. We have reached a compromise on how to handle homestead, and rather than cracking down on the abuses of those people who move to States with unlimited homesteads, we basically have agreed as a Senate that the States get to decide how much should be exempted under the bankruptcy law. In other words, each State gets to decide.

States need to begin to think about what their limits are and whether they need to change them. The Senator noted that California has raised its exemption for a home. Others will probably do the same, and some have already done so.

It threatens this legislation in a fundamental way if we now go in and say we are going to override the State laws about what the homestead exemption should be. I do not think we should do that. I think it could help kill this bill. I know Senator FEINGOLD is not a fan of it, and I do not think we should do this.

With regard to the abuses in the homestead legislation, we did put in language that cracked down on the ability of someone to move to a State that has a more favorable law and place an unlimited amount of equity into a very expensive home and file bankruptcy and be able to keep that equity which they could then reconvert to cash.

I think that is a problem. I would like to have seen this go farther, but we didn't make that, we didn't reach that bridge. It was a bridge too far. We failed to do that. It is one item in the bill I think we could have done better with, frankly.

I will say this. The exemption, fundamentally, should apply to everyone, 62 above or below, as far as I can see. A young family, I don't know why they would not need the same protections a senior would. Right now they all get the same. It is whatever the State decides.

So I would have to rise in objection to the Feingold amendment on the basis that it is contrary to the State prerogatives in this area, the State deference that we have given repeatedly over the years. It is contrary to that. It would be a Federal imposition of a homestead floor and it is contrary to a very fragile agreement we have reached in this body over what the homestead exemption should be. It could, in fact, jeopardize the successful passage of the bill.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Let me thank the Senator from Alabama, not only for his willingness to engage on the merits of this amendment, but for his willingness to engage on a number of difficult subjects, whether it be the homestead exemption or landlord-tenant issues. When the Senate takes up legislation, we typically start with a good discussion in committee, make some progress toward agreement, and then come to the floor. And when we go to the conference committee between the Houses, we also sometimes manage to come up with an agreement.

It is regrettable, through no fault of the Senator from Alabama, that in this case we are starting this process on the floor. I think had these amendments been taken seriously in committee, we could have found some common ground and not had to take up the time of the whole body, but this is where we are.

I do believe this amendment is a reasonable extension of something in which the Senator from Alabama is already involved. His principal concern about this amendment is apparently that we would be overriding State law in the area of homestead exemptions. But the Senator, as he has indicated, has been a party to an agreement that would do exactly that when it comes to the high end of homestead exemptions. It is not as if I picked a new area where I am suggesting that State laws are inadequate. What I am arguing is that if we are going to be dealing with some of these outrageous abuses of the bankruptcy system perpetrated by the very wealthy, let's also take the opportunity to make sure that the average senior citizen in this country, who desperately wants to protect their home and has to go into bankruptcy, has some minimum protection.

To me, this is not an extreme proposal. We only pass these bankruptcy bills once in a great while. As I understand it, the last one was passed in 1978. There clearly is a trend across the country in places like Maine and California, where legislators are recognizing that there is a special, severe problem for many of our seniors. I agree with the Senator from Alabama, it would be terrific if we could extend this protection to everybody. Perhaps that is something we should consider. But there is a particular problem when it comes to seniors, who have no way of making money anymore, and who are beset with unexpected medical bills, whether it be prescription medicine or some other bills. They are stuck. They don't have any other way to save their home. This problem just cries out for a minimum Federal standard of the kind this amendment proposes.

I hope my colleagues consider this amendment. It is offered in good faith. It is not something that should in any way upend the overall bill because we have already engaged in a discussion about the changes that need to be made at the high end of the homestead exemption, and the bill already includes such a provision. So I ask my colleagues to give an independent and fresh look at this, given how important it is to senior constituents in every State of the Union.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. In my capacity as a Senator from Ohio, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

## UNLIMITED DEBATE IN THE SENATE

Mr. BYRD. Mr. President, in 1939, one of the most famous American movies of all time, "Mr. Smith Goes to Washington," hit the box office. Initially received with a combination of lavish praise and angry blasts, the film went on to win numerous awards and to inspire millions around the globe. The director, the legendary Frank Capra, in his autobiography, "Frank Capra: The Name Above the Title," cites this moving review of the film, appearing in the Hollywood Reporter, November 4, 1942:

> Frank Capra's "Mr. Smith Goes to Washington," chosen by French Theaters as the final English language film to be shown before the recent Nazi-ordered countrywide ban on American and British films went into effect, was roundly cheered. . . .
>
> Storms of spontaneous applause broke out at the sequence when, under the Abraham Lincoln monument in the Capital, the word, "Liberty," appeared on the screen and the Stars and Stripes began fluttering over the head of the great Emancipator in the cause of liberty.
>
> Similarly, cheers and acclamation punctuated the famous speech of the young senator on man's rights and dignity. "It was . . . as though the joys, suffering, love and hatred, the hopes and wishes of an entire people who value freedom above everything, found expression for the last time. . . ."

For those who may not have seen it, "Mr. Smith" is the fictional story of one young Senator's crusade against forces of corruption and his lengthy filibuster—his lengthy filibuster—for the values he holds dear.

My, how things have changed. These days, Mr. Smith would be called an obstructionist. Rumor has it that there is a plot afoot to curtail the right of extended debate in this hallowed Chamber, not in accordance with its rules, mind you, but by fiat from the Chair—fiat from the Chair.

The so-called nuclear option—hear me—the so-called nuclear option—this morning I asked a man, What does nuclear option mean to you? He said: Oh, you mean with Iran? I was at the hospital a few days ago with my wife, and I asked a doctor, What does the nuclear option mean to you? He said: Well, that sounds like we're getting ready to drop some device, some atomic device on North Korea.

Well, the so-called nuclear option purports to be directed solely at the Senate's advice and consent prerogatives regarding Federal judges. But the claim that no right exists to filibuster judges aims an arrow straight at the heart of the Senate's long tradition of unlimited debate.

The Framers of the Constitution envisioned the Senate as a kind of executive council, a small body of legislators, featuring longer terms, designed to insulate Members from the passions of the day.

The Senate was to serve as a check on the executive branch, particularly in the areas of appointments and treaties, where, under the Constitution, the Senate passes judgment absent the House of Representatives.

James Madison wanted to grant the Senate the power to select judicial appointees with the Executive relegated to the sidelines. But a compromise brought the present arrangement: appointees selected by the Executive, with the advice and consent of the Senate confirmed. Note—hear me again—note that nowhere in the Constitution of the United States is a vote on appointments mandated.

When it comes to the Senate, numbers can deceive. The Senate was never intended to be a majoritarian body. That was the role of the House of Representatives, with its membership based on the populations of States. The Great Compromise of July 16, 1787, satisfied the need for smaller States to have equal status in one House of Congress, the Senate. The Senate, with its two Members per State, regardless of population, is, then, the forum of the States.

Indeed, in the last Congress—get this—in the last Congress 52 Members, a majority, representing the 26 smallest States, accounted for just 17.06 percent of the U.S. population. Let me say that again. Fifty-two Members, a majority, representing the 26 smallest States—two Senators per State—accounted for just 17.06 percent of the U.S. population. In other words, a majority in the Senate does not necessarily represent a majority of the population of the United States.

The Senate is intended for deliberation. The Senate is intended for deliberation, not point scoring. The Senate is a place designed, from its inception, as expressive of minority views. Even 60 Senators, the number required under Senate rule XXII for cloture, would represent just 24 percent of the population if they happened to all hail from the 30 smallest States.

So you can see what it means to the smallest States in these United States to be able to stand on this floor and debate, to their utmost, until their feet will no longer hold them, and their lungs of brass will no longer speak, in behalf of their States, in behalf of a minority, in behalf of an issue that affects vitally their constituents.

Unfettered debate, the right to be heard at length, is the means by which we perpetuate the equality of the States. In fact, it was 1917, before any curtailing of debate was attempted, which means that from 1789 to 1917, there were 129 years; in other words, it means also that from 1806 to 1917, some 111 years, the Senate rejected any limits to debate. Democracy flourished along with the filibuster. The first actual cloture rule in 1917 was enacted in response to a filibuster by those people who opposed the arming of merchant ships. Some might say they opposed U.S. intervention in World War I, but to narrow it down, they opposed the arming of merchant ships.

But even after its enactment, the Senate was slow to embrace cloture, understanding the pitfalls of muzzling debate. In 1949, the 1917 cloture rule was modified to make cloture more difficult to invoke, not less, mandating that the number needed to stop debate would be not two-thirds of those present and voting but two-thirds of all Senators elected and sworn. Indeed, from 1919 to 1962, the Senate voted on cloture petitions only 27 times and invoked cloture just 4 times over those 43 years.

On January 4, 1957, Senator William Ezra Jenner of Indiana spoke in opposition to invoking cloture by majority vote. He stated with great conviction:

> We may have a duty to legislate, but we also have a duty to inform and deliberate. In the past quarter century we have seen a phenomenal growth in the power of the executive branch. If this continues at such a fast pace, our system of checks and balances will be destroyed. One of the main bulwarks against this growing power is free debate in the Senate . . . So long as there is free debate, men of courage and understanding will rise to defend against potential dictators . . . The Senate today is one place where, no matter what else may exist, there is still a chance to be heard, an opportunity to speak, the duty to examine, and the obligation to protect. It is one of the few refuges of democracy. Minorities have an illustrious past, full of suffering, torture, smear, and even death. Jesus Christ was killed by a majority; Columbus was smeared; and Christians have been tortured. Had the United States Senate existed during those trying times, I am sure that these people would have found an advocate. Nowhere else can any political, social, or religious group, finding itself under sustained attack, receive a better refuge.

Senator Jenner was right. The Senate was deliberately conceived to be what he called "a better refuge," meaning one styled as guardian of the rights of the minority. The Senate is the "watchdog" because majorities can be wrong and filibusters can highlight injustices. History is full of examples.

In March 1911, Senator Robert Owen of Oklahoma filibustered the New Mexico statehood bill, arguing that Arizona should also be allowed to become a State. President Taft opposed the inclusion of Arizona's statehood in the bill because Arizona' State constitution allowed the recall of judges. Arizona attained statehood a year later, at least in part because Senator Owen and the minority took time to make their point the year before.

In 1914, a Republican minority led a 10-day filibuster of a bill that would have appropriated more than $50,000,000 for rivers and harbors. On an issue near and dear to the hearts of our current majority, Republican opponents spoke until members of the Commerce Committee agreed to cut the appropriations by more than half.

Perhaps more directly relevant to our discussion of the "nuclear option" are the 7 days in 1937, from July 6 to 13 of that year, when the Senate blocked Franklin Roosevelt's Supreme Court-packing plan—one of my favorite presidents.

Earlier that year, in February 1937, FDR sent the Congress a bill drastically reorganizing the judiciary. The Senate Judiciary Committee rejected the bill, calling it "an invasion of judicial power such as has never before been attempted in this country" and finding it "essential to the continuance of our constitutional democracy that the judiciary be completely independent of both the executive and legislative branches of the Government." The committee recommended the rejection of the court-packing bill, calling it "a needless, futile, and utterly dangerous abandonment of constitutional principle . . . without precedent and without justification."

What followed was an extended debate on the Senate floor lasting for 7 days until the majority leader, Joseph T. Robinson of Arkansas, a supporter of the plan, suffered a heart attack and died on July 14. Eight days later, by a vote of 70 to 20, the Senate sent the judicial reform bill back to committee, where FDR's controversial, court-packing language was finally stripped. A determined, vocal group of Senators properly prevented a powerful President from corrupting our Nation's judiciary.

Free and open debate on the Senate floor ensures citizens a say in their government. The American people are heard, through their Senator, before their money is spent, before their civil liberties are curtailed, or before a judicial nominee is confirmed for a lifetime appointment. We are the guardians, the stewards, the protectors of the people who send us here. Our voices are their voices.

If we restrain debate on judges today, what will be next: the rights of the elderly to receive social security; the rights of the handicapped to be treated fairly; the rights of the poor to obtain a decent education? Will all debate soon fall before majority rule?

Will the majority someday trample on the rights of lumber companies to harvest timber or the rights of mining companies to mine silver, coal, or iron ore? What about the rights of energy companies to drill for new sources of oil and gas? How will the insurance, banking, and securities industries fare when a majority can move against their interests and prevail by a simple majority vote? What about farmers who can be forced to lose their subsidies, or western Senators who will no longer be able to stop a majority determined to wrest control of ranchers' precious water or grazing rights? With no right of debate, what will forestall plain muscle and mob rule?

Many times in our history we have taken up arms to protect a minority against the tyrannical majority in other lands. We, unlike Nazi Germany or Mussolini's Italy, have never stopped being a nation of laws, not of men.

But witness how men with motives and a majority can manipulate law to cruel and unjust ends. Historian Alan Bullock writes that Hitler's dictatorship rested on the constitutional foundation of a single law, the Enabling Law. Hitler needed a two-thirds vote to pass that law, and he cajoled his opposition in the Reichstag to support it. Bullock writes that "Hitler was prepared to promise anything to get his bill through, with the appearances of legality preserved intact." And he succeeded.

> Hitler's originality lay in his realization that effective revolutions, in modern conditions, are carried out with, and not against, the power of the State: the correct order of events was first to secure access to that power and then begin his revolution. Hitler never abandoned the cloak of legality; he recognized the enormous psychological value of having the law on his side. Instead, he turned the law inside out and made illegality legal.

That is what the nuclear option seeks to do to rule XXII of the Standing Rules of the Senate.

I said to someone this morning who was shoveling snow in my area: What does nuclear option mean to you?

He answered: Do you mean with Iran?

The people generally don't know what this is about. The nuclear option seeks to alter the rules by sidestepping the rules, thus making the impermissible the rule, employing the nuclear option, engaging a pernicious, procedural maneuver to serve immediate partisan goals, risks violating our Nation's core democratic values and poisoning the Senate's deliberative process.

For the temporary gain of a handful of out-of-the-mainstream judges, some in the Senate are ready to callously incinerate each and every Senator's right of extended debate. Note that I said each Senator. Note that I said every Senator. For the damage will devastate not just the minority party—believe me, hear me, and remember what I say—the damage will devastate not just the minority party, it will cripple the ability of each Member, every Member, to do what each Member was sent here to do—namely, represent the people of his or her State. Without the filibuster—it has a bad name, old man filibuster out there. Most people would be happy to say let's do away with him. We ought to get rid of that fellow: he has been around too long. But someday that old man filibuster is going to help me, you, and every Senator in here at some time or other, when the rights of the people he or she represents are being violated or threatened. That Senator is then going to want to filibuster.

He or she is going to want to stand on his or her feet as long as their brass lungs will carry their voice.

No longer. If the nuclear option is successful here, no longer will each Senator have that weapon with which to protect the people who sent him or her here. And the people finally are going to wake up to who did it. They are going to wake up to it sooner or later and ask: Who did this to us?

Without the filibuster or the threat of extended debate, there exists no leverage with which to bargain for the offering of an amendment. All force to effect compromise between the parties will be lost. Demands for hearings will languish. The President can simply rule. The President of the United States can simply rule by Executive order, if his party controls both Houses of Congress and majority rule reigns supreme. In such a world, the minority will be crushed, the power of dissenting views will be diminished, and freedom of speech will be attenuated. The uniquely American concept of the independent individual asserting his or her own views, proclaiming personal dignity through the courage of free speech will forever have been blighted. This is a question of freedom of speech. That is what we are talking about—freedom of speech. And the American spirit, that stubborn, feisty, contrarian, and glorious urge to loudly disagree, and proclaim, despite all opposition, what is honest, what is true, will be sorely manacled.

Yes, we believe in majority rule, but we thrive because the minority can challenge, agitate, and ask questions. We must never become a nation cowed by fear, sheeplike in our submission to the power of any majority demanding absolute control.

Generations of men and women have lived, fought, and died for the right to map their own destiny, think their own thoughts, speak their own minds. If we start here, in this Senate, to chip away at that essential mark of freedom—here of all places, in a body designed to guarantee the power of even a single individual through the device of extended debate—we are on the road to refuting the principles upon which that Constitution rests.

In the eloquent, homespun words of that illustrious, obstructionist, Senator Smith, in "Mr. Smith Goes to Washington":

> Liberty is too precious to get buried in books. Men ought to hold it up in front of them every day of their lives and say, "I am free—to think—to speak. My ancestors couldn't. I can. My children will."

I yield the floor.

Mr. KENNEDY. Mr. President, I compliment my friend and colleague from West Virginia for his excellent comments about the responsibilities of the Senate under the Constitution and the implications of a parliamentary maneuver that would effectively undermine the constitutional rights of our Members to speak in accordance with the ways our Founding Fathers intended.

Once again, the Senator from West Virginia has spoken eloquently and passionately about this institution and about this Constitution. He is in this body the true student of the American Constitution. There is in this body no one who works to preserve the rights and responsibilities of this institution the way those rights of individuals in this institution, within the framework of the Constitution, were so intended.

We, once again, thank him and urge our colleagues in the Senate to pay close attention to his well thought out, reasoned, compelling, legitimate, and persuasive arguments.

They are enormously important because they reach the heart and soul of this institution and the heart and soul of the whole constitutional framework that our Founding Fathers drafted when they wrote the Constitution. It was an extraordinary contribution to the whole debate that takes place in this body from time to time about the authority and the powers of the institution and the individuals who are elected to serve. We all will benefit from reading his comments closely.

Mr. HATCH. Mr. President, as I listened to the distinguished Senator from West Virginia speak against filibuster reform, I wanted to make a few points that he did not say, at least as far as I could tell. I did not hear every word of his speech, but I did hear enough of it.

Number one, he did not say that killing judicial nominations by filibuster is part of Senate tradition, nor could he have said that because for the first time in history, we have had filibusters of judicial nominees. Only President Bush's judicial nominees have been filibustered by our colleagues on the other side, and in every case where they were filibustered, those nominees had majority support.

So filibustering judges is not a part of the tradition of the Senate, nor has it ever been.

Some have said that the Abe Fortas nomination for Chief Justice was filibustered. Hardly. I thought it was, too, until I was corrected by the man who led the fight against Abe Fortas, Senator Robert Griffin of Michigan, who then was the floor leader for the Republican side and, frankly, the Democratic side because the vote against Justice Fortas, preventing him from being Chief Justice, was a bipartisan vote, a vote with a hefty number of Democrats voting against him as well. Former Senator Griffin told me and our whole caucus that there never was a real filibuster because a majority would have beaten Justice Fortas outright. Lyndon Johnson, knowing that Justice Fortas was going to be beaten, withdrew the nomination. So that was not a filibuster. There has never been a tradition of filibustering majority supported judicial nominees on the floor of the Senate until President Bush became President.

Number two, if I recall it correctly, the distinguished Senator from West Virginia did not say ruling such filibusters out of order is against the rules. I do not believe he said that because it is not against the rules. At least four times in the past, some of which occurred when Senator BYRD, the distinguished Senator from West Virginia, was the majority leader in the Senate, there have been attempts to change the Senate's rules on the filibuster. Admittedly, I think in some of those cases the Senate backed down and changed the rules, but the effort was made to change the rules, and in the eyes of the Senator from West Virginia and others they should have and could have been changed by majority vote.

Let me say, in fact, all of the examples the Senator from West Virginia cited of legislative filibusters would not be affected by the constitutional option. That is a constitutional option that would allow judicial nominees an up-or-down vote.

That is a very important distinction because never before have judicial nominees been filibustered. Never before has one side or the other, in an intemperate way, decided to deprive the Senate as a whole from not just its advice function, but its consent function. We consent, or withhold that consent, when we vote up or down on these nominees.

Filibustering against the legislative calendar items has been permitted since 1917, and with good reason. I, for one, agree that this is a very good rule. But those filibusters happen on the legislative calendar. That is the calendar of the Senate; it is our legislative responsibility. The filibuster rule, Rule XXII, is to protect the minority. Frankly, I would fight for that rule with everything I have. But executive nominees, filibustering on the executive calendar is an entirely different situation. And it is one that was not addressed in Senator BYRD's remarks.

I myself had never looked at this very carefully until this onslaught of filibusters against 11 appellate court judges took place on this floor. Then I started to look at it, and others have, too, and we now realize there is a real disregard of a constitutional principle by these unwarranted and, I think, unjustified and unconstitutional filibusters. In these particular cases, every one of those people—every one—had a bipartisan majority waiting to vote on the floor. This distinction is ultimately the critical one. Should a minority be able to permanently prevent a vote on a majority supported judicial nominee? I think the answer is clearly no, and there is nothing in the distinguished Senator from West Virginia's remarks that contradict that conclusion.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

### AMENDMENT NO. 15

Mr. AKAKA. Mr. President, I rise to speak on amendment No. 15, which I will offer to S. 256.

I thank Senators DURBIN, LEAHY, and SARBANES for working with me on this legislation, the Credit Card Minimum Payment Warning Act, and for cosponsoring the amendment.

Mr. President, during all of 1980, only 287,570 consumers filed for bankruptcy. As consumer debt burdens have ballooned, the number of bankruptcies have increased significantly. From January through September of 2004, approximately 1.2 million consumers filed for bankruptcy, keeping pace with last year's record level. The growth in use of credit cards can partially explain this surge. Revolving debt, mostly compromised of credit card debt, has risen from $54 billion in January 1980 to more than $780 billion in November 2004. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt.

We must make consumers more aware of the long-term effects of their financial decisions, particularly in managing their credit card debt, so that they can avoid financial pitfalls that may lead to bankruptcy.

While it is relatively easy to obtain credit, not enough is done to ensure that credit is properly managed. Currently, credit card statements fail to include vital information that would allow individuals to make fully informed financial decisions. Additional disclosure is needed to ensure that individuals completely understand the implications of their credit card use and the costs of only making the minimum payments as required by credit card companies.

S. 256 includes a requirement that credit card issuers provide additional information about the consequences of making minimum payments. However, this provision fails to provide the detailed information for consumers on their billing statement that our amendment would provide. Section 1301 of the bankruptcy bill would allow credit card issuers a choice of disclosures that they must provide on the monthly billing statement.

The first option included in the bankruptcy bill would require a "Minimum Payment Warning" stating that it would take 88 months to pay off a balance of $1,000 for bank card holders or 24 months to pay off a balance of $300 for retail card holders. It would require a toll-free number to be established that would provide an estimate of the time it would take to pay off the customer's balance. The Federal Reserve Board would be required to establish a table that would estimate approximate number of months it would take to pay off a variety of account balances.

There is a second option that the legislation permits. The credit card issuer could provide a general minimum payment warning and provide a toll-free number that consumers could call for the actual number of months to repay the balance.

Both of these options are inadequate. They do not require the issuers to provide their customers with the total amount they would pay in interest and principal if they chose to pay off their balance at the minimum payment rate. The minimum payment warning included in the first option underestimates the costs of paying a balance off at the minimum payment. Since the average household with debt carries a balance has approximately $10,000 to $12,000 in total revolving debt, a warning based on a much smaller balance, $1,000 or under in this case, will not be helpful. If a family has a credit card debt of $10,000, and the interest rate is a modest 12.4 percent, it would take more than 10½ years to pay off the balance while making minimum monthly payments of 4 percent.

As we make it more difficult for consumers to discharge their debts in bankruptcy, we have a responsibility to provide additional information so that consumers can make better informed decisions. Our amendment will make it very clear what costs consumers will incur if they make only the minimum payments on their credit cards. If this amendment is adopted, the personalized information they will receive for each of their accounts will help them to make informed choices about the payments that they choose to make towards reducing their outstanding debt.

This amendment requires a minimum payment warning notification on monthly statements stating that making the minimum payment will increase the amount of interest that will be paid and extend the amount of time it will take to repay the outstanding balance. The amendment also requires companies to inform consumers of how many years and months it will take to repay their entire balance if they make only the minimum payments. In addition, the total cost in interest and principal, if the consumer pays only the minimum payment, would have to be disclosed. These provisions will make individuals much more aware of the true costs of their credit card debts. The amendment also requires that credit card companies provide useful information so that people can develop strategies to free themselves of credit card debt. Consumers would have to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months.

Finally, our amendment would require that creditors establish a toll-free number so that consumers can access trustworthy credit counselors. In order to ensure that consumers are referred from the toll-free number to only trustworthy organizations, the agencies for referral would have to be approved by the Federal Trade Commission and the Federal Reserve Board as having met comprehensive quality standards. These standards are necessary because certain credit counseling agencies have abused their nonprofit, tax-exempt status and have taken advantage of people seeking assistance in managing their debts. Many people believe, sometimes mistakenly, that they can place blind trust in nonprofit organizations and that their fees will be lower than those of other credit counseling organizations. Too many individuals may not realize that the credit counseling industry does not deserve the trust that consumers often place in it.

Our credit card minimum payment warning legislation has been endorsed by the Consumer Federation of America, Consumers Union, U.S. Public Interest Research Group, and Consumer Action.

I urge my colleagues to support this amendment that will empower consumers by providing them with detailed personalized information to assist them in making better informed choices about their credit card use and repayment. This amendment makes clear the adverse consequences of uninformed choices, such as making only minimum payments, and provides opportunities to locate assistance to better manage their credit card debts.

Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself, Mr. DURBIN, Mr. LEAHY, and Mr. SARBANES, proposes an amendment numbered 15.

Mr. AKAKA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt, and for other purposes)

On page 473, strike beginning with line 12 through page 482, line 24, and insert the following:

**SEC. 1301. ENHANCED CONSUMER DISCLOSURES REGARDING MINIMUM PAYMENTS.**

(a) DISCLOSURES REGARDING OUTSTANDING BALANCES .—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) Information regarding repayment of the outstanding balance of the consumer under the account, appearing in conspicuous type on the front of the first page of each such billing statement, and accompanied by an appropriate explanation, containing—

"(i) the words 'Minimum Payment Warning: Making only the minimum payment will increase the amount of interest that you pay and the time it will take to repay your outstanding balance.';

"(ii) the number of years and months (rounded to the nearest month) that it would take for the consumer to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments;

"(iii) the total cost to the consumer, shown as the sum of all principal and interest payments, and a breakdown of the total costs in interest and principal, of paying that balance in full if the consumer pays only the required minimum monthly payments, and if no further advances are made;

"(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made; and

"(v) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

"(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made.

"(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision specifying a subsequent interest rate or applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then shall apply the adjusted interest rate, as specified in the contract. If the contract applies a formula that uses an index that varies over time, the value of such index on the date on which the disclosure is made shall be used in the application of the formula.".

(b) ACCESS TO CREDIT COUNSELING AND DEBT MANAGEMENT INFORMATION.—

(1) GUIDELINES REQUIRED.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System and the Federal Trade Commission (in this section referred to as the "Board" and the "Commission", respectively) shall jointly, by rule, regulation, or order, issue guidelines for the establishment and maintenance by creditors of a toll-free telephone number for purposes of the disclosures required under section 127(b)(11) of the Truth in Lending Act, as added by this Act.

(B) APPROVED AGENCIES.—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number include only those agencies approved by the Board and the Commission as meeting the criteria under this section.

(2) CRITERIA.—The Board and the Commission shall only approve a nonprofit budget and credit counseling agency for purposes of this section that—

(A) demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides;

(B) at a minimum—

(i) is registered as a nonprofit entity under section 501(c) of the Internal Revenue Code of 1986;

(ii) has a board of directors, the majority of the members of which—

(I) are not employed by such agency; and

(II) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

(iii) if a fee is charged for counseling services, charges a reasonable and fair fee, and provides services without regard to ability to pay the fee;

(iv) provides for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

(v) provides full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, any costs of such program that will be paid by the client, and how such costs will be paid;

(vi) provides adequate counseling with respect to the credit problems of the client, including an analysis of the current financial condition of the client, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

(vii) provides trained counselors who—

(I) receive no commissions or bonuses based on the outcome of the counseling services provided;

(II) have adequate experience; and

(III) have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (F);

(viii) demonstrates adequate experience and background in providing credit counseling;

(ix) has adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan; and

(x) is accredited by an independent, nationally recognized accrediting organization.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have a lot of urgent problems pressing the Nation and this Congress. We have urgent problems with joblessness. We have urgent problems with the coverage of health care and the costs of health care. We have urgent problems with education. We have urgent problems dealing with poverty. We have problems that go to the heart of fairness and opportunity in this Nation. These are real problems of real people, and they test whether our commitment to America's core values is as important to us as we say it is. But we are not spending this month on any of those issues. We are spending most of the time between now and the March recess on a bill that does nothing about any of these problems, that does nothing for Americans facing job problems, health problems, and education challenges. We are spending our time on a bill that was written by the credit card industry for the benefit of the credit card industry. We are spending our time on changes in the bankruptcy law which were opposed by the two distinguished national commissions which studied those laws during the 1970s and 1990s.

This is a bill which is opposed by a long list of organizations representing many millions of real people, organizations representing workers, retired Americans, consumers, women's organizations, civil rights organizations, a large group of distinguished law professors and bankruptcy judges, 1,700 prominent doctors around the country, and even some financial service organizations that are truly responsible lenders and care about their customers. I am talking about people such as the CEO of ING Direct, the sixth largest thrift institution in the Nation; people like the CEO of the second largest credit union in the U.S., the North Carolina State Employees' Credit Union.

This is what the CEO of ING Direct told the committee about the bill:

> The one-sided provisions of this bankruptcy legislation are bad news for consumers, but they are also bad news for the financial service industry. Consumers are our customers. By creating a form of debt imprisonment, this bill will hobble the most important player in the world economy, the American consumer.

Jim Blaine, the CEO of the North Carolina State Employees' Credit Union, had this to say about the bill:

> This bird is a turkey.

So why are we here? Why are we spending our time on this supposed resolution to a nonexistent problem rather than addressing the real problems the Nation faces? It cannot be because the credit card industry needs help. The credit card industry is doing just fine, thank you. The profits of the credit card industry rose from $6.4 billion in 1990 to $20 billion in 2000. By last year, those profits had increased another 50 percent to over $30 billion. Let me say that again. Credit card company profits have gone from $6.4 billion in 1990 to $30.2 billion last year. Why are we spending our time on legislation designed to further enrich what is already one of the most profitable industries in America at the expense of middle-income Americans in financial distress, in most cases through no fault of their own?

This is supposed to be a bill about spendthrifts, about people who abuse the credit system and abuse the bankruptcy system. If that were really what this bill was about, maybe there would be some reason for us to be here. If this were a bill that dealt with the truly incredible abuses of the bankruptcy system that we have seen in the Enron case, in the WorldCom case, in the Adelphia case, and the Polaroid case in my own State, then maybe there would be reason to be spending our time working on this bill.

Look at the Polaroid case in my home State of Massachusetts. Polaroid filed for bankruptcy in 2001. In the months leading up to the company's filing, the corporation made $1.7 million in incentive payments to its chief executive Gary DiCamillo on top of his $840,000 base salary. The company also received bankruptcy court approval to make $1.5 million in payments to senior managers to keep them on board. These managers collectively received an additional $3 million when the company's assets were sold off.

By contrast, just days before Polaroid filed for bankruptcy, it canceled health and life insurance for more than 6,000 retirees and canceled health insurance coverage for workers on long-term disability. It also stopped certain benefits for thousands of workers who were recently laid off. Polaroid workers had been required to pay 8 percent of their pay in the company's employee stock ownership plan, the ESOP programs. When the company declined, their retirement savings were virtually wiped out. Now, that is a real abuse of the bankruptcy system.

But this bill is not about consumers who abuse the system. It is not about corporate executives who have exploited the system to line their own pockets. This is a bill for which the credit card industry hopes to squeeze a few extra dollars a month out of Americans who are out on their luck, people who have been hit hard by medical disasters, guardsmen and reservists who have suddenly been called to duty to serve their Nation, forcing them to leave their families and their businesses behind, people who were fired after years of hard work because their employer sent their jobs abroad. This is not what the Senate should be doing. This legislation is not worthy of the Senate. Our time should be spent helping, not hurting, the working families most in need.

This bill does nothing to protect those hard-working Americans who did everything they could to stave off bankruptcy but were left with no other choice after exhausting their own resources. Yet this Republican bill actually makes it more difficult for good citizens such as these to get the fresh start that the bankruptcy laws are intended to offer.

The idea of a fresh start lies at the heart of our bankruptcy law. In 1833, Supreme Court Justice Joseph Storey, one of the great legal scholars in our history, explained why. He said that bankruptcy laws were intended to divide debtors' remaining assets among their creditors when they could not pay all of their debts, but the purpose was also to relieve unfortunate and honest debtors from perpetual bondage to their creditors. He said that bankruptcy legislation should relieve the debtor from a slavery of mind and body which robs his family of the fruits of his labor.

One hundred years later, the Supreme Court emphasized Justice Story's views. The Bankruptcy Act, it said, is intended to:

> relieve the honest debtor from the weight of oppressive indebtedness, and permit him to start afresh free from the obligations and responsibilities consequent upon business misfortunes.

The power to earn a living, the Court said, is a "personal liberty," and:

> from the viewpoint of the wage-earner there is little difference between not earning at all and earning wholly for a creditor.

In short, the same fundamental values which led this Nation to abolish debtors' prisons, also led us to offer debtors a fresh start. They would be required to use their available assets to pay as much of their debt as they could, but no more. They would have full rights to their own future earnings, so that they would not have to live in perpetual bondage to their past debtors.

That is the essence of our free enterprise system. We encourage entrepreneurs. People can borrow money for a car to go to work, for equipment to start a small business, for a tractor to run a farm, for a boat to start a fishing business. When decent people run into financial trouble, we don't write them off forever. We help them get back on their feet so they can provide for their families and contribute to our economy once again. Otherwise, few in America take the risks that our free enterprise depends on. There is a safety net to stop a free fall.

Yet this legislation turns its back on that spirit of American entrepreneurship. It tells our citizens that they cannot get that fresh start unless they can maneuver through a maze of procedural obstacles created by the credit card companies and debt collection agencies. It imposes paperwork burdens that bankrupt Americans can not afford. It forces them to pay for credit counselors, who may be predatory themselves. It forces them to miss work to go to audits of their meager assets. It requires them to hire a lawyer to mitigate this maze, but then tells the lawyer that any error will make the lawyer personally liable.

In short, this bill does everything the mind of the purveyors of predatory plastic could think up to make their cardholders pay in full, and prevent them from getting the "fresh start" that bankruptcy offers them. Its purpose is to keep the credit card payments rolling in, and prevent that money from being used to feed their children or pay their hospital bills or make their mortgage payments. It labels them as abusers of the system.

Just listen to the words in the summary of the key standard for the "means test" that lies at the heart of this bill. According to this summary, prepared by the Congressional Research Service, you are presumed to be an abuser of the system:

> if current monthly income, excluding allowed deductions, secured debt payments, and priority unsecured debt payments, multiplied by 60, would permit a debtor to pay not less than the lesser of (a) 25 percent of nonpriority unsecured debt or $6000 (or $100 a month), whichever is greater, or (b) $10,000.

Maybe some people can figure that out—most cannot. But that convoluted paragraph determines whether your debts can be discharged in bankruptcy, or not.

This bill is flawed from top to bottom. That is why, since it was first presented to Congress by the credit card industry, it has been opposed by bankruptcy judges, legal scholars, consumer advocates, labor unions, and civil rights groups. They all recognize that its harsh and excessive provisions will have a devastating effect on working families.

It allows credit card companies to put their profits ahead of the well-being of our troops serving in Iraq and Afghanistan. Since 9-11 about half a million reservists and members of the National Guard have been called to active duty, half a world away from their homes and businesses. Many of their families are suddenly facing economic hardship, and their creditors keep calling. They are serving far away, and the small businesses they ran are running into trouble. This bill does nothing to protect the men and women who are fighting for us.

When one reservist left home, his wife had to start leading his construction company, and the company ran into trouble. Their family income plummeted by 80 percent. They lost their savings, lost their credit, and the business is on the rocks—all because a soldier served his country. The troubles of families like that will be even more serious under this bill. Instead of helping to ease the burden, it treats that family like tax evaders or defrauders.

This Republican bill also penalizes innocent victims of today's economy. We are still recovering from the 2001 recession. Nearly 8 million Americans are still unemployed. One in five of those workers has been out of work for more than 6 months. The unemployment insurance safety net they rely on has not been updated to meet today's demands. Jobs in health care, financial services, and information technology are being shipped overseas.

Workers who lose their jobs today have great difficulty finding a new job with comparable wages, benefits, hours, and overall quality. Part-time jobs don't begin to provide the same financial stability—yet today's companies are relying more and more on part-time workers to cut costs. The average part-time worker earns $4 an hour less than a regular full-time worker. Few part-time workers have a health insurance plan or a pension plan.

Huge numbers of working families are being squeezed hard by the current economy. Their ability to live the American dream is increasingly out of reach with each passing year. They find it harder and harder to earn a living—to pay the mortgage, pay the rent, pay their medical bill, pay their food bill, pay their gasoline bill, pay the college bill. Yet the cost of getting by continues to rise faster than family income.

Healthcare costs are out of reach. Health insurance premiums have soared 59 percent in the past 4 years. Drug costs have soared 65 percent.

Housing costs rose 33 percent in the last 4 years. Child care can often cost up to $10,000 a year for one child—more than the cost of tuition at a public college. College costs are rising at double-digit rates. Tuition at public colleges has risen 35 percent in the last 4 years.

Today, hardworking families are balancing on a precarious tower of bills that keep piling. Inevitably, many topple over. They go into debt just to get by. The average family now spends 13 percent of its income to pay debts—the highest percentage since 1986. The average household now has more than $8,000 in credit card debt. More than half of all Americans acknowledge they have too much debt. Three-quarters of that debt is a major reason it's harder to achieve the American dream today. It is no wonder so many families face bankruptcy.

This year, more people will end up in bankruptcy than suffer a heart attack. More people will file for bankruptcy than graduate from college. More children will grow up in families facing bankruptcy than in families facing divorce.

Many of us feel the Bush administration is bankrupt in more ways than one. Its reckless policies are bankrupting the economy and literally bankrupting millions of families. Bankruptcy is up 33 percent since President Bush took office. An American now goes bankrupt every 19 seconds. In Massachusetts, there is a bankruptcy every half hour.

One of the greatest weaknesses of this bill is its failure to address the issue of bankruptcies caused by serious illness or injury. Illness is bankrupting millions of Americans who have done everything right. They have worked hard, played by the rules, earned a good salary, saved their money, even purchased health insurance—only to find all that is not enough.

More than half of all families facing bankruptcy today are facing it because of overwhelming medical costs. They are not irresponsible spendthrifts who bought too much at the mall, or were enticed to go in over their heads in debt by a credit card solicitation they couldn't say no to. They are facing bankruptcy because of a sudden serious illness or a severe injury that caused a mountain of debt they couldn't afford.

The average American facing a serious illness is burdened with more than $13,000 of out-of-pocket expenses, even though they have health insurance. If you have cancer, it is $35,000. That is money you have to pay out of your own pocket for expenses not covered by your health insurance.

If the bill before us passes, those fellow citizens will be penalized twice—once by the failure of the health care system and a second time by the failure of the bankruptcy laws. This bill will only make the second failure even worse.

We need to make sure that bankruptcy continues to be available as a safety net for those Americans—men and women who have spent down their savings on a serious injury or illness, who face huge doctor and hospital bills their insurance didn't cover, who are unable to go back to work after suffering serious medical problems.

They are people such as April Wetherell, a 50-year-old woman from Toms River, NJ, who went back to school after raising her children and received her master's degree in social work. She was serving as a visiting nurse 2 years ago, when she suffered a stroke while recovering from knee surgery. The stroke left her unable to speak, work, or care for her own needs. At the time, April still owed $25,000 in student loans. She had been making payments faithfully on her student loans until her illness left her unable to return to her job. Her health insurance did not cover all her medical costs, and she was left with more than $20,000 in unpaid medical bills. At the time of her stroke, she had about $7,000 in credit card debt, which she had been paying off on time. Even though she had done all the right things, she was forced into bankruptcy because of her serious, incapacitating illness.

Walton Pinkney of Frederick, MD, has been an electrician for more than 10 years. He changed jobs in 2000, and his new employer did not provide health benefits for the first 90 days of employment. Sadly, Walton suffered heart failure during his first month on his new job. His new health plan had not yet taken effect, and he was responsible for more than $45,000 in medical expenses for his heart condition. He tried to return to work, but his employer said his health was too uncertain for him to return. Faced with large medical bills he could not pay after he lost his job, he had to file for bankruptcy in 2003.

Zoraya Marrero is a single mother with three children from Woodbridge, VA. Her oldest child suffers from spina bifida. She received State disability benefits and medical coverage for her child due to the illness. After moving to another State 5 years ago, she no longer qualified for new benefits, and she also had to pay back $60,000 for benefits she had already received. She has been fighting the $60,000 claim and paying her own medical expenses while working in a doctor's office. She cannot afford private insurance, and cannot afford to pay for her son's costly medical care. Overwhelmed by debt, she filed for bankruptcy.

These people had no intention of seeking relief in bankruptcy. They were not "gaming" the system to avoid their responsibilities. They and millions of other Americans in similar circumstances filed for bankruptcy, but only after they had exhausted all the other options—not because they wanted to but because they had to.

In fact, before declaring bankruptcy, they had spent at least 2 years, on average, making very real sacrifices in a futile effort to pay for their health care and make ends meet. One in five went without food. Almost one-third had their electricity shut off.

I am talking about individuals who went into bankruptcy as a result of medical expenses, even though about 65 percent of them had health insurance before they actually went into bankruptcy. That is what they did, according to the Elizabeth Warren report from the Harvard Law School.

One in five went without food, almost a third had their electricity shut off, almost half lost their phone service, many went without needed medical care, and some even moved their elderly parents to less comfortable nursing homes.

As this chart indicates, here is what has happened to the lavish lifestyle of our fellow citizens. These are half of all the bankruptcies at the present time. How did they live, and what did they do for 2 years before filing for bankruptcy? They went without needed medical care, 61 percent; without doctors, 50 percent; utilities turned off, 30 percent; without food, 22 percent; and 70 percent moved their elderly parents to cheaper care facilities.

These are our fellow Americans whom we want to punish with this bankruptcy bill? If you want to go after the spendthrifts, let us do that. But do you think we are going after corporate America in this bankruptcy bill? Read today's newspaper. Here it is: Former WorldCom chief executive, once hailed as one of the most brilliant telecommunications executives, told the packed courtroom, "I don't know about technology; I don't know about finance; also, I don't know about accounting."

There it is. The corporate CEOs will be able to escape.

But do you think these hard-working Americans are going to be able to escape anything with this bill at all to deal with WorldCom, Enron, Polaroid? There is absolutely nothing in here. Yet there is the result of what this legislation does.

Generally around here, we have legislation that is reasonably balanced. Not this piece of legislation. The most profitable industry in the country, 100-percent profits in the last 5 years, and they are out there trying to squeeze some additional money ought of these hard-working Americans. I would have thought at least a majority who were going to write this legislation here in the Senate would have tried to do something about corporate bankruptcies. But, no, no. They are letting those individuals alone, and most of those—we come back a little later to discuss how they profited—a number of them even profited after they went into bankruptcy. There is even one individual who profited after he was convicted of larceny. But we are not dealing with those particular issues.

We often talk in America about safety nets. Social Security is a safety net to guarantee financial security for senior citizens. Poverty programs are safety nets for children and families. Our bankruptcy laws are a safety net for millions of families, too.

Americans who live responsibly, do everything right, and still suddenly fall on hard times deserve a second chance, and the bankruptcy laws give them that chance. They can make a fresh start and pull themselves back up. They have renewed hope for the future.

Unexpected financial setbacks for families should not mean the end of their American dream. They should not lose all hope for themselves and their children. It's the old "cowboy up" philosophy—when you fall off your horse, you pick yourself up, dust yourself off, and start all over again.

When disaster strikes, when storms buffet a community, Americans respond. We see the images on television and immediately we send a donation to help out. That's the American spirit.

But when financial disaster strikes a family—when a business collapses, when medical bills pile up, when a reservist is called up for extended active duty, when workers lose their jobs because of a plant closing or outsourcing—the economic catastrophes can be hidden from view. That is where our bankruptcy laws come in. We got rid of debtors' prisons almost two centuries ago for a reason. It is the American spirit to help these families through financial disasters.

But this bill will destroy that financial safety net for many, many citizens who deserve help.

This legislation is a bonanza for banks and credit card companies, and a nightmare for millions of average Americans. It rewrites the bankruptcy laws in a way that kicks average families while they're down, in order to pad the already high profits of the credit card industry and other lenders. It is greed, pure and simple.

Predatory credit card companies are doing all they can to urge unsuspecting citizens to pile up huge debts on their credit cards. They especially target the elderly, college students, and the working poor. They advertise nationwide. They send out billions of solicitations every year to entice more people to sign up for their cards. The bold type talks about the minimum monthly payments—but you have to read the fine print to see the exorbitant interest payments that inevitably result.

You cannot go to any college campus, any sporting event, or your mailbox without being solicited for another credit card, no matter how many you already have. Young students, still in their teens, are greeted with a deluge of offers from credit card companies. Before they buy books and find the cafeteria, they see credit card offers with credit linlits in the thousands of dollars.

So, in many cases, the very same companies that have been trying to get a bill like this passed for decades and had their lobbyists write this bill for them in 1997, are the ones who caused the indebtedness that they now complain about.

Does this bill do anything abut that? Absolutely not.

A lot has changed since the Senate last looked at this bill 4 years ago. Health costs are way up, health insurance protection is less obtainable and less affordable, hundreds of thousands of families have suffered economically from military callups, unemployment insurance has not been updated.

The economy is still working its way out of a serious downturn. Corporate mismanagement and fraud have become a way of life in the highest echelons of corporate America.

So I say to each of our colleagues, please consider who wrote this bill and why. Please think about your hard-working constituents who will be dealt a double whammy by this bill if they fall on hard times. Please think about what has happened since we last considered the bill. Please keep an open mind as we discuss the serious problems with this bill and the need for many substantial revisions and additions before it is ready to even be considered for adoption by this body.

We do not work for the credit card companies; we work for our constituents. We can do better than this bill for our constituents, and we must do better than this bill for those we represent.

Mr. President, I will unanimous consent to have printed in the RECORD some of the letters opposing the bill. I will not include all of the letters, but I am going to quote from some of them at this time.

First of all, I refer to a letter from ING Direct to the American Bankers Association urging them to reconsider their support for the bill:

> As a member of the American Bankers Association, ING Direct urges you to reconsider your wholesale support for the Bankruptcy Reform Bill currently before the United States Senate. . . . Yet this legislation has not received a thorough review in the last 4 years. It has simply been reproposed without careful thought. . . . It actually encourages further bad lending decisions by removing an important market discipline—the possibility of a clean bankruptcy. Without important changes, millions of consumers, who might otherwise be encouraged into debt by aggressive credit card companies and other lending. They will be unable to clear their names, even if they fall into debt because of an illness or an economic downturn that costs them their employment.
>
> We at ING Direct believe this country is still willing to give working Americans—the engine of our economy, a second chance when debt overwhelms them. This bill seriously limits that second chance. The one-sided provisions of this bankruptcy legislation are bad news for most Americans. But they are also bad news for the financial services industry. By creating a form of debt imprisonment, this bill will hobble the most important player in the world economy—the American working family. For all these reasons, we ask you to reconsider the ABA's support of this bill in its current incarnation.

This is written by Arkadi Kuhlmann who is the president of the company. It is the sixth largest thrift savings company in the country.

The second letter is from the Consumers Union:

> Much evidence suggests that rising consumer bankruptcies are tied to abusive lending practices by creditors. Yet this bill does nothing to address this fundamental problem. Instead, the bill protects predatory lenders who offer credit, with abusive repayment terms, to high-risk consumers. It also provides creditors with additional opportunities to employ strong-arm collection tactics, threatening debtors with new, costly litigation.

Furthermore, the bill protects credit card companies who fail to disclose the true cost of credit they provide to college students and others, who may quickly find themselves trapped in serious debt, ruining their credit ratings for years to come.

This is what they are pointing out.

Furthermore, the bill protects credit card companies who fail to disclose the true cost of credit they provide to college students and others who may quickly find themselves trapped in serious debt, ruining their credit rating for years to come.

I will include those sections. The list goes on. I have a number of letters and communications from consumer groups, from women's groups, children's groups, and from the doctors association that has been formed to bring focus and attention to the impact of this legislation and medical bills on families. I will also include in the RECORD a letter from one of the largest credit unions in the country from North Carolina. I ask unanimous consent that several of these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL WOMEN'S LAW CENTER,
*Washington, DC, February 23, 2005.*

Re: Oppose S. 256, The Bankruptcy Act of 2005

DEAR SENATOR: The National Women's Law Center is writing to urge you to oppose S. 256, a bankruptcy bill that is harsh on economically vulnerable women and their families, but that fails to address serious abuses of the bankruptcy system by perpetrators of violence against patients and health care professionals at women's health care clinics.

This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy. Contrary to the claims of some proponents of the bill, low- and moderate-income filers—who are disproportionately women—are not protected from most of its harsh provisions, and mothers owed child or spousal support are not protected from increased competition from credit card companies and other commercial creditors during and after bankruptcy that will make it harder for them to collect support.

The bill would make it more difficult for women facing financial crises to regain their economic stability through the bankruptcy process. S. 256 would make it harder for women to access the bankruptcy system, because the means test requires additional paperwork of even the poorest filers; harder for women to save their homes, cars, and essential household items through the bankruptcy process; and harder for women to meet their children's needs after bankruptcy because many more debts would survive.

The bill also would put women owed child or spousal support who are bankruptcy creditors at a disadvantage. By increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up an intensified competition for scarce resources between mothers and children owed support and these commercial creditors during and after bankruptcy. The domestic support provisions in the bill may have been intended to protect the interests of mothers and children; unfortunately, they fail to do so.

Moving child support to first priority among unsecured creditors in Chapter 7 sounds good, but is virtually meaningless; even today, with no means test limiting access to Chapter 7, fewer than four percent of Chapter 7 debtors have anything to distribute to unsecured creditors. In Chapter 13, the bill would require that larger payments be made to many commercial creditors; as a result, payments of past-due child support would have to be made in smaller amounts and over a longer period of time, increasing the risk that child support debts will not be paid in full. And, when the bankruptcy process is over, women and children owed support would face increased competition from commercial creditors. Under current law, child and spousal support are among the few debts that survive bankruptcy; under this bill, many additional debts would survive. But once the bankruptcy process is over, the priorities that apply during bankruptcy have no meaning or effect. Women and children owed support would be in direct competition with the sophisticated collection departments of commercial creditors whose surviving claims would be increased.

At the same time, the bill fails to address real abuses of the bankruptcy system. Perpetrators of violence against patients and health care professionals at women's health clinics have engaged in concerted efforts to use the bankruptcy system to evade responsibility for their illegal actions. This bill does nothing to curb this abuse.

The bill is profoundly unfair and unbalanced. Unless there are major changes to S. 256, we urge you to oppose it.

Very truly yours,

NANCY DUFF CAMPBELL,
*Co-President.*
MARCIA GREENBERGER,
*Co-President.*
JOAN ENTMACHER,
*Vice President and Director, Family Economic Security.*

---

NATIONAL CONSUMER LAW CENTER INC.,
*Boston, MA, February 28, 2005.*

DEAR SENATOR: The National Consumer Law Center, on behalf of its low income clients, writes to express our strong opposition to S. 256, the "Bankruptcy Abuse and Consumer Protection Act of 2005." This bill would hurt many Americans who are facing financial problems due to job loss, transition to lower paying jobs, divorce, child-rearing, lack of medical insurance, or predatory lending practices. Although the economy has improved recently for some American families, there are millions of other families that continue to struggle. In fact, real incomes have declined since 1989 for the lowest 60 percent of the American population—including especially single parent households. S. 256 contains a shocking number of provisions which would have a severe impact on families who desperately need to preserve their homes from foreclosure and their cars from repossession, or to focus their income on reasonable and necessary support for dependent children. Here are just a few things the bill's sponsors have failed to discuss:

The key cause of the increase in bankruptcies is surely that more families owe more money. The amount of consumer credit outstanding increased from 789 billion dollars in 1990 to 1.7 trillion dollars in 2001. During this time, there was a steady increase in the amount of debt payments American families made as a percentage of their disposable income. Although the total number of bankruptcies has increased, the number of bankruptcies in relation to the amount of credit outstanding has actually gone down.

A big part of the equation is that some segments of the credit industry, such as credit card companies, make huge profits from lending to American families who cannot afford to pay big card balances and who therefore pay interest on those balances at rates of 29 percent or higher. It is not surprising that when the credit industry sends three billion credit card solicitations each year, they reach some significant portion of American families who will ultimately have financial problems.

The journal Health Affairs recently published a path-breaking joint study by researchers at Harvard Law School and Harvard Medical School that reveals alarming information about the medical causes of bankruptcy. The researchers found that illness and medical bills contributed to at least 46.2 percent, and as many as 54.5 percent of all bankruptcy filings. Families with children were especially hard hit—about 700,000 children lived in families that declared bankruptcy in the aftermath of serious medical problems.

Cutting down the number of bankruptcy filings will not result in savings for the credit industry or for other consumers. The vast majority of debt discharged in bankruptcy would not be paid back in any event, since the debtors involved simply cannot afford to pay. A number of studies have shown that the "means test" will raise little in new money for creditors.

S. 256 contains a variety of poorly conceived provisions which are discussed in more detail in our paper entitled, "What's Wrong with S. 256, Let Us Count the Ways . . .", available at: http://www.nclc.org/. If enacted, S. 256 would:

Subject debtors to a "means test" that fails to screen for abuse and instead penalizes honest debtors by imposing additional costs and filing burdens.

Create a "safe harbor" from the means test for low-income debtors, but still subject them to increased costs and filing requirements.

Require stricter scrutiny of low-income debtors' expenses in chapter 13 than higher income debtors and make some debtors too rich for chapter 7 and too poor for chapter 13.

Erode bankruptcy's fresh start by making more debts nondischargeable in both chapters 7 and 13.

Promote predatory lending by encouraging creditors to take liens on household goods of nominal value.

Create new creditor opportunities for reaffirmation abuses by weakening current debtor protections and giving creditors safe harbor from liability.

Undermine debtors' ability to save homes and cars in chapter 13.

Drastically reduce fundamental protections afforded debtors under the automatic stay.

Provide vast new opportunities for identity theft and other privacy invasion by making public tax returns and sensitive financial documents of consumers who file bankruptcy.

As an organization which represents poor people, the National Consumer Law Center vehemently disputes the credit industry position that S. 256 will not hurt low-income debtors. It is precisely those debtors who would be hurt the most. The myriad new procedural requirements together with the dozens of provisions which give creditors an opportunity to pursue new types of litigation against debtors will raise the cost of bankruptcy for all debtors. Other provisions will take away important rights under current bankruptcy law to save homes from foreclosure and evictions, and to challenge predatory lending practices. Now is not the time to cut back on the availability of a system which provides a second chance to the unfortunate in the form of a fresh financial start.

Sincerely,

WILLARD P. OGBURN,
*Executive Director.*
JOHN RAO,
*Attorney.*

---

A NATIONAL HEALTH PROGRAM, SELECTED MASSACHUSETTS PHYSICIAN CO-SIGNERS,
*Chicago, IL, February 14, 2005.*

DEAR SENATOR KENNEDY: We write, as physicians, to urge rejection of Senate Bill 256, which would make bankruptcy filing more difficult and punitive for millions of Americans driven to financial ruin by medical problems. As health costs spiral upward and insurance coverage shrinks, more and more of our patients find that illness results in financial catastrophe and bankruptcy. Only universal, comprehensive health insurance coverage under a national health insurance plan can really solve this problem. But pending such solution, many families' only chance for financial recovery lies in the limited protections available through the bankruptcy courts.

Last year one million Americans filed for bankruptcy in a last-ditch effort to deal with the fallout from a serious medical problem. Unfortunately, the very week that a Harvard Medical/Law School study documented this fact, legislation was re-filed that would greatly reduce the bankruptcy protections available to the medically bankrupt. S. 256 would drive up costs for every family filing for bankruptcy, regardless of whether the reason is too many trips to the mall or a visit to the emergency room. S. 256 would also narrow bankruptcy protection for all families, increasing the ability of creditors to collect from their debtors after bankruptcy regardless of the reason for bankruptcy, and causing many more families to lose their homes and their cars because of medical problems.

We are particularly worried that more punitive bankruptcy laws will further erode access to care for many families under financial duress and result in preventable suffering and even death. Already, families who file for medical bankruptcy suffer severe privations. According to the Harvard study: 61 percent of medical bankrupts didn't seek medical treatments they needed; 50 percent failed to fill a prescription; 22 percent went without food; 7 percent moved their elderly parents to cheaper care facilities.

We make a plea for the one million sick and injured people who turned to the bankruptcy system for relief last year. Please reject S. 256.

Sincerely,

JULIUS B. RICHMOND, M.D.,
*Past U.S. Surgeon General and Professor Emeritus, Harvard Medical School.*

---

FEBRUARY 14, 2005.

HARVARD STUDY SHOWS LEGISLATION A DANGER TO MILLIONS BANKRUPTED BY MEDICAL BILLS

PHYSICIANS URGE CONGRESS TO REJECT S. 256

On the heels of a major Harvard University study showing that half of all personal bankruptcies are due to illness or medical bills, more than 1,700 American physicians signed a letter released today opposing legislation that would remove protection from patients financially ruined by medical costs.

Bankruptcy law currently offers some protection to the millions of Americans affected by medical bankruptcies each year. If passed, the bill would effectively close bankruptcy as an option and allow creditors to take the homes, cars and other assets of families who suffer a serious illness or injury.

"It's a sad fact that bankruptcy courts have become the last line of defense for the victims of our broken health system," said Dr. David Himmelstein, an Associate Professor of Medicine at Harvard Medical School and lead author of the study. "For many families affected by a costly illness, the limited protections of bankruptcy are the only chance to get back on their feet."

In the letter to the leaders of the Senate Judiciary Committee, which is currently considering the bill, the doctors expressed concern that the new bankruptcy rules would further restrict the ability of patients suffering from medical costs to get needed care for themselves and their families.

"Medical debtors' access to care is already severely compromised: more than 60 percent go without a needed doctor visit and half don't fill a prescription because of the costs," said Dr. Steffie Woolhandler, who is also an Associate Professor of Medicine at Harvard and co-author of the study. "For those unable to seek relief from their debts, the situation will undoubtedly get worse," she said.

The epidemic of medical bankruptcies, which affect 2 million Americans (including 700,000 children) every year, emphasizes the need for comprehensive health insurance coverage under a national health insurance plan according to the signers, who include former U.S. Surgeon General Julius Richmond.

"Current insurance policies offer paltry protection for the average American," said Dr. Quentin Young, National Coordinator of Physicians for a National Health Program. "Most of those who are bankrupted by medical bills are middle class people who had coverage but were mined by the massive holes in their policies. Rejecting this new bankruptcy legislation is just the first step we need to take in healing our sick health system. We need a system of universal, comprehensive Medicare for all."

---

FEBRUARY 28, 2005.

Re: Letter from Responsible Lenders in Opposition to S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act

Hon. WILLIAM FRIST,
*Majority Leader, U.S. Senate.*
Hon. HARRY REID,
*Minority Leader, U.S. Senate.*

DEAR MAJORITY LEADER FRIST AND SENATOR REID: The undersigned financial institutions and associations write in opposition to S. 256. We believe that S. 256 disproportionately harms vulnerable debtors while rewarding creditors who provide excess credit or who impose unfair terms on borrowers. Further, we are concerned that the changes to the bankruptcy code proposed in S. 256 are likely to make more homeowners vulnerable to abusive lending and fraudulent credit counseling practices.

Bankruptcy is first and foremost a means to enable overburdened families to get a fresh start. Nearly all families in the bankruptcy system are there not because they want to evade their obligations, but because they have had a sudden decline in their economic fortunes. More than 90 percent of debtors file for bankruptcy due to unemployment or underemployment, an illness or accident, or divorce. The bulk of the remainder suffered from other legitimate difficulties, including activation for military service, being a victim of crime or natural disasters, or a death in the family.

Abusive lending practices, especially by credit card lenders, are a larger problem than debtor abuse of the bankruptcy system. Growth in the bankruptcy filing rate tends to increase with an increase in the ratio of household debt to household disposable income. Given this fact, the unfettered increase in available credit likely has contributed significantly to the rise in bankruptcy filings in recent years. For example, in 2000 the credit card industry offered almost $3 trillion in credit—more than three times the $777 billion of credit offered in 1993. Excessive credit extension by unscrupulous lenders makes it more difficult for responsible lenders to monitor their debtors and preserve healthy lending portfolios.

Some creditors seem to want to have it both ways: keep interest rates high and underwriting standards loose, while amending the bankruptcy laws to decrease losses resulting from questionable extensions of credit. S. 256 unnecessarily serves the interests of these credit card lenders—who are experiencing record profits—at the expense of the vast majority of families who declare bankruptcy for legitimate reasons. Credit card lenders already cover losses by charging extremely high interest rates at a time of historically low rates, and they are able, should they choose, to limit losses further by tightening underwriting standards. Irresponsible lenders need to be reined in, not rewarded with legislation that further harms suffering families.

S. 256 will effectively deny bankruptcy protection to tens of thousands of innocent lawabiding families who suffer significant setbacks. Many of these families will lose everything they own to creditors while remaining indefinitely subject to their unsecured creditors, unable to ever get back on their feet. Furthermore, by discouraging those who truly need bankruptcy relief from seeking it, S. 256 may increase the number of families that turn instead to unscrupulous lenders and dubious credit counselors who do more harm than good.

First, S. 256 inflexibly forces more borrowers to file under Chapter 13 of the Bankruptcy Code, notwithstanding the fact that an independent academic study on the subject found that less than four percent of debtors who filed under Chapter 7 (where unsecured debt is discharged) couldn't possibly repay any of their unsecured debt under Chapter 13. Some families need to file under Chapter 7 because they cannot afford to meet their housing, car, and student loan obligations (which they generally have to pay under Chapter 7), pay their short-term unsecured debt, and still have money left over for basic household needs. Forcing these people to file under Chapter 13 threatens to exacerbate their suffering without significantly benefiting creditors; you cannot extract blood from a stone. Despite the good-faith repayment efforts of many debtors, historically nearly two-thirds of all Chapter 13 debtors fail to complete their repayment plans even before additional Chapter 7 debtors, who would be even less likely to complete Chapter 13 plans, are forced to enter Chapter 13. Adding insult to injury, S. 256 makes it extremely difficult for borrowers to file a Chapter 7 bankruptcy once a Chapter 13 repayment plan fails, leaving these borrowers entirely unprotected.

Second, S. 256 creates so many disadvantages to filing bankruptcy that severely strapped borrowers may forego filing altogether and instead try to solve their problems by borrowing money on abusive and unfair terms. For instance, S. 256 makes it harder for debtors to save their cars in bankruptcy, makes it easier for creditors to take basic household goods from debtors, and requires additional procedures that delay initiation of a bankruptcy. Desperate borrowers who should be seeking bankruptcy protection may attempt to solve their problems by responding to solicitations from unscrupulous lenders who push abusive home refinance loans, dishonest credit counselors who bilk debtors rather than help them, payday lenders who profit from families caught in a debt trap, or a host of other bad actors.

While as financial institutions and associations we are well aware that there are problems with our bankruptcy system, current judicial discretion is far preferable to the unbalanced bill before you. We therefore urge you to oppose S. 256 and to revisit the issue of bankruptcy in a manner that equitably meets the interests both of lenders and of vulnerable borrowers.

Sincerely,

Martin Eakes, CEO, Self-Help Credit Union.
Jim Blaine, State Employees' Credit Union, North Carolina.
Terry D. Simonette, President & CEO, NCB Development Corporation.
Calvin Holmes, Executive Director, Chicago Community Loan Fund.
Elsie Meeks, Executive Director, First Nations Oweesta Corporation.
Ceyl Prinster, Executive Director, Colorado Enterprise Fund.
Bill Edwards, Executive Director, Association of Enterprise Organizations.
Mark Pinsky, National Community Capital Association.
John Herrera, Board Chair, Latino Community Credit Union.
Fran Grossman, Executive Vice President, ShoreBank Corporation.
Kerwin Tesdell, CEO, Community Development Venture Capital Association.

### AMENDMENT NO. 16

Mr. KENNEDY. Mr. President, I want to speak for a few more moments about the excellent amendment that has been offered by my friend and colleague from Illinois, Senator DURBIN, which I strongly support. Yesterday, in Massachusetts, I had an opportunity to have a meeting with a number of veterans. They actually were disabled veterans. We have 34 Massachusetts young men who have been killed primarily in Iraq. I think we had two killed in Afghanistan, but primarily Iraq. And we have had a number of wounded veterans.

We had a very good meeting about their reentry into the community and what we can do to help them in terms of education, training, and employment. A number of the large companies in Massachusetts have made important commitments to employ veterans, and particularly the disabled veterans. I will mention one: Home Depot, a national company, employed 10,000 veterans last year. They expect to exceed that number this year. It is a very impressive record.

These young people are looking for how they are going to be able to live and have useful, productive, constructive, valuable lives. There is a lot that has to be done, obviously, by the VA and by the various organizations in the State and in the private sector, as well as at the national level, to help them in these ways. We can all be extremely involved and helpful in that endeavor.

One of the central concerns they mentioned during the course of the discussion had to do with the times they heard from a number of their friends and colleagues who were in the Guard and Reserve serving in Iraq. We have 1,000 at the present time serving from Massachusetts and many more in the regular services. They are in the Guard and Reserve. But they told me of the concern their families have in terms of the dangers of bankruptcy and what would happen to these families. I do not think it is enough to say, well, we'll defer this to another day, or the existing laws are going to take care of it. We have a good opportunity to address that. And if we are serious about addressing it, we ought to accept the Durbin amendment. We are either going to be serious about doing this or we are not. The Durbin amendment is a serious effort to address this issue, and it deserves all of our support.

Military families struggle financially for a number of reasons. Often, the low pay for newly enlisted men and women is not enough to support a family. Service men and women are also prey to predatory lending schemes that leave their families high and dry. Military retirees have been victims of pension schemes that destroy their savings. National Guard and reservists often face a loss of income when they are activated and deployed, and their families are left in serious financial distress. Veterans are not getting the federally promised health care benefits they need to stay healthy.

The most recent data available show that in 2003, 20,000 active-duty members filed for bankruptcy. They would be considered active duty, even though they are in the Reserve or Guard because they are on active duty. That is 20,000 members of the Armed Forces whose service to their country resulted in financial ruin. Military service should be the source of pride, growth, and opportunity, not a financial crisis.

That is why Senator DURBIN's amendment is so important. It will ensure fair and strong bankruptcy protections for military families and veterans.

The typical family who files for bankruptcy is at or near poverty at the time they file. It is appalling that America's service men and women, or any veteran, can be plunged into poverty in connection with their service to the Nation.

The base pay for newly enlisted men and women is often between $15,000 and $20,000 a year. That is far from enough to support a family back home. Yet nearly half of all members of the military have dependents who rely on their income. The most recent data shows that more than 6,000 military families are forced to rely on food stamps. Do we hear that? We have 6,000 military families who are forced to rely on food stamps because of low pay. I pay tribute to our friend from Arizona, Senator MCCAIN, who did so much to reduce that number. I am hopeful we can eliminate it during this session of Congress.

In addition, predatory lenders often prey on service men and women. Payday lenders offer high-interest, short-term loans of usually $500 or less, and focus on the military, with their financial inexperience and regular paychecks. These loans result in huge interest rates and often leave the borrower in significant debt that can lead to bankruptcy. The Durbin amendment will protect military members against this shameful practice.

National Guard members and reservists have other types of financial burdens. Since 9/11, 469,000 National Guard members and reservists from the Army, Navy, Marines, and Air Force have been called up for combat tours in Iraq or Afghanistan. That is virtually half a million. Their tours of duty can last for up to 2 years, and the Pentagon is currently considering broadening even that time limit. These deployments can cause extraordinary financial stress for their families.

For example, an Army reservist medic with four teenage kids in Hot Springs, AR left for Iraq, leaving his family's gas station convenience store with no one to operate it. One month later, the family fell into serious financial trouble. They had no choice but to file for bankruptcy.

After the bankruptcy, they couldn't pay their mortgage and had to give up their house. They moved in with the soldier's parents. But because the parents had cosigned on the loan for the store, they were forced to file for bankruptcy, too, or risk losing their own home. The grandfather is disabled, so the grandmother had to go back to work to keep the family financially afloat.

Too many National Guard reservist families face this type of economic distress. Thirty percent of spouses of active reservists report a loss of household income after the reservists' mobilization. Forty percent of all reservists report loss of income. For those who are self-employed, it's even worse. Half of self-employed reservists lose income when they are deployed.

Of spouses who reported lost income, half had monthly decreases from $500 and $2,000 per month, and nearly a quarter lost over $2,000 a month. That's $24,000 a year in lost income that puts a heavy financial squeeze on these families.

With other key expenses rising every year in the Bush administration, it's even harder for military families to make ends meet. Since 2001, health insurance premiums have soared by 59 percent. Prescription drug costs have risen 65 percent. Housing costs are up 33 percent in the last 4 years.

The last thing Congress should do is make it harder for these families when they face bankruptcy. I urge my colleagues to support the Durbin amendment to protect military families.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I listened with a great deal of interest to my colleague's remarks with regard to the bankruptcy. I will have a few things to say about those remarks in just a few minutes.

Mr. President, I rise in support of the bill, S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The essence of this bill is simple. This legislation is designed to make our bankruptcy system more fair and efficient. As well, this bill would cut down on the ability to abuse the current system.

Before I detail some of the abuses of the system that is being abused, I want to make some other points. First, as I said yesterday, this bill has been in the making for 8 years. The Senate passed it three times already. Prior to Senate passage, the Judiciary Committee held an extensive set of hearings and several markups on this bill. This bipartisan, bicameral bill is ripe for passage. I am pleased to report that yesterday the White House released the following statement of the administration policy on the bill. It is short and to the point and it says the following:

> The administration supports Senate passage of S. 256 as reported by the Senate Judiciary Committee. These commonsense reforms to the Nation's bankruptcy laws will help curb abuses of bankruptcy protections, reduce uncertainty in financial markets through improved financial contract netting rules, increase financial education to prevent unnecessary filings and help avoid future credit problems, promote international trade through coordination of cross-border insolvency cases, and provide increased protection for family farmers facing financial distress.

I am pleased that the administration's SAP stressed some of the proconsumer aspects of the bill. While we want to see that those people who borrow money pay it back and that the value of personal property and responsibility is observed, we also want to help keep citizens out of bankruptcy in the first place.

When honest people simply get over their heads financially, we want to give them a fair chance to have a fresh start. Where there are some who are clearly gaming the present system, there are many who find themselves in unfortunate financial circumstances. Given a chance to begin fresh, they can learn from their experiences and once again become the prudent, bill-paying consumers all of us are taught to be.

The data tell us there is a problem and it is a growing problem. Bankruptcy filings are way up, and I mean way up.

We are fortunate to live in a time of unprecedented economic growth. Stretching all the way back to the Presidency of Ronald Reagan, we have generally seen a sustained increase in economic activity. Personal assets and net worth have grown, when compared with individual liabilities. Yet, precisely at this time, bankruptcy filings have blown through the roof.

These facts might help to put it in perspective. Bankruptcies doubled in the 1980s. They doubled again from 1990 to 2003. In 2004 alone, there were 1.6 million more bankruptcies than during the entire Great Depression. There will be more bankruptcies filed this year than in the entire decade of the Great Depression combined.

What explains this dramatic rise in filings? Probably several reasons are at play. Certainly, one of the critical reasons behind the rising tide of filings under the Bankruptcy Code, as years of study document, are the actions of those who flagrantly abuse our generous bankruptcy laws.

Many of those opposed to the bill suggest that bankruptcy filings were up because more and more people face economic hardship. To some extent, this is no doubt true. But we also know, however, that many bankruptcies stem from old-fashioned, outright fraud and abuse.

This potential for abusing the system was not fully anticipated when Congress created our current Bankruptcy Code in 1978. A key purpose of this bill is to help crack down on the abuses of the system. In its simplest terms, our bankruptcy laws attempt to distinguish between those who can and those who cannot repay their debts. When a case is filed under chapter 7 of the Bankruptcy Code, the debtor is required to surrender his assets to a bankruptcy trustee for liquidation and distribution to creditors, except for those assets that are exempt under State or Federal law. Yet under this provision of law, the debtor's future income is protected from creditors.

By contrast, those who file for bankruptcy under chapter 13 retain possession of their assets, but pay all or a portion of their debts through plans approved by the bankruptcy court.

For some contemplating bankruptcy, this makes for a simple strategy: Do everything you can to get into chapter 7. Chapter 7 protects all of your future income from creditors. Once you are protected by chapter 7, you pay off secured creditors—such as your mortgageholder—first.

Only then do unsecured creditors get their chance to get paid back.

Experts tell us about 70 percent of consumer bankruptcy filings are chapter 7 filings, and 95 percent of those make no distribution at all to unsecured creditors.

Let me repeat those statistics because they are important. About 70 percent of consumer bankruptcy filings are chapter 7 filings, and 95 percent of those make absolutely no distribution at all to unsecured creditors.

If you are listening to this debate and you are a creditor, these statistics mean you have only a small chance to be repaid if you are an unsecured creditor.

The problem with this is, according to the FBI, about 10 percent of these chapter 7 filings are fraudulent. So what if only 10 percent of filers are abusing the system? This represents $3 billion in costs that can be recovered rather than being passed along to consumers. You and I and everybody else pay for these abuses of the system. We all end up paying for it. The problem with this is, according to the FBI, about 10 percent of these chapter 7 filings are fraudulent. One can understand the financial motive of a debtor running up his or her unsecured credit card debt to pay down his or her secured mortgage just before filing chapter 7, even though he or she knows full well the debts will never be paid back.

The data suggest to many experts that some relatively high-income debtors truly belong in chapter 13 where they will have to establish a plan for repayment for at least some debts. In theory, our bankruptcy courts have the opportunity to defy chapter 7 filing because of "substantial abuse." Yet with so many bankruptcy filings, our courts are often overwhelmed, and in practice few people are bounced out of chapter 7, no matter their actual ability to repay their debts. It should come as no surprise, then, that a few bad apples who could afford to pay some of their debts actively seek to avoid chapter 13 and get into the often less onerous treatment of chapter 7. A key component of S. 256 is a means test that will help prevent such gaming of the system.

Some have attempted to criticize this commonsense safeguard as somehow taking away bankruptcy protection. Let me be clear. The means test does no such thing. All it does is identify those who can repay at least some of their debts. It makes certain they enter into a chapter 13 reorganization and repayment plan rather than let them simply walk away from their obligations, no matter how steep or outrageous. Believe me, there is strong evidence to support this improvement in the law.

The U.S. Trustee Program has been challenging and documenting abuse now for some time. The following examples show why changes are needed in the current system. The primary function of the U.S. Trustee Program is to identify fraud and abuse in the bankruptcy system. In fiscal year 2002, there were 1,470,430 bankruptcy case filings. With such a large number of filers, there will always be those who will try to game the system.

Although some opponents of the bill may minimize the problem of abuse, consider these facts: The U.S. Trustee Program successfully pursued 5,000 chapter 7 debtors for "substantial abuse" of the bankruptcy system. The program prevented the discharge of an estimated $59 million of unsecured debt through fraudulent chapter 7 filings. In addition, the Trustee Program obtained disgorgement of more than $1.3 million in attorney's fees in consumer and business cases and imposed almost $534,000 in sanctions against attorneys. This indicates that bankruptcy fraud is no small problem and that reforms are in order.

The evidence of fraud is so widespread that many believe it is no longer sufficient to rely on watchdogs to police these abuses after they have occurred. We must take proactive steps to prevent them from happening in the first place. That is what S. 256 does. The means test contained in the bill will provide a uniform standard to bankruptcy judges to evaluate the ability of bankruptcy filers to repay debts. With some people gaming the current system to avoid paying debts they have taken on, we must make sure that the people who file in chapter 7 actually belong in chapter 7. We should not absolve people of their debts when they have the means to pay them back. Bankruptcy law has always meant that.

This is no exaggeration. Just consider these examples, if you will.

I am told one debtor in California sought to discharge $188,000 in unsecured debt. This person had more than $10,000 a month in expenses. She paid $4,500 a month on the mortgage for her house in San Juan Capistrano and then paid another $2,500 a month on rent for an apartment in Silicon Valley. This woman was spending $7,000 a month for two homes. The simple fact was, however, if the woman got rid of just one of the homes, she would likely be able to fund a chapter 13 plan and repay, rather than ignore her debts. This does not seem to me to be too much to ask. In fact, it just makes common sense.

In another instance, a woman in Dallas filed for chapter 7 bankruptcy attempting to discharge $122,527 in credit card debt. But this is not exactly a hard-luck case, by the way. She was a commercial airline pilot who earned $11,500 per month and paid $3,100 per month for a mortgage on a $385,000 home. Some have cast a skeptical eye on her decision to buy a $50,000 Mercedes just before declaring bankruptcy in order to replace the recently repossessed $90,000 Mercedes. If that is what happened, it just plain is not right.

When somebody obtains 36 credit cards, runs up $283,075 in bills, and then tries to discharge that debt through a chapter 7 filing—as I understand was the case of one gentleman in California—it is not enough to sit back and blame aggressive marketing by credit card companies. We have heard that old saw year after year. Frankly, there is a lot of abuse out there.

One person in Miami sought to discharge $163,744 in unsecured debt even though he had the means to purchase $232 in lottery tickets every month.

Then there is the case of a Tampa couple who had a combined monthly income of $7,000 and a monthly budget of $6,756. Included in that budget was a car payment of $965 a month. In addition to their secured debt, they owed $350,000 in unsecured debt. This consisted of $200,000 in credit card debt and $150,000 in personal loans. They attempted a chapter 7 filing. This couple was bringing in more than they were spending, but they wanted to walk away from it all. Yet a review of their banking records showed that one spouse withdrew hundreds of dollars every month at ATM machines at local casinos. They had money to play blackjack but not pay back there debts. Something, it seems to me, is just not right about that.

We are a compassionate nation, but we should not be fools. A discharge of debt is serious business, but for sound public policy reasons, the United States has decided to allow it in certain circumstances. We want to give our neighbors who get in over their heads a chance to get out of their financial troubles.

Frankly, I suspect that for a majority of those individuals who file for bankruptcy, it must be their worst nightmare, but for some, as I just described, it is a way to avoid responsibility. We do not want to encourage bankruptcy for anyone. When a person takes on a debt, that person makes a promise to pay, and they ought to pay it if they have the capacity to do so.

There is something inherently unfair in denying full restitution to creditors. That being said, as a matter of longstanding public policy, we have decided to allow some people a fresh start and the opportunity to discharge their debts through a chapter 7 liquidation. But many fear that in some instances, our lax policing of those who attempt a chapter 7 filing actually encourages additional bankruptcies.

As a matter of public policy, we must say that those relatively high-income debtors, those capable of paying back their substantial debts, should at least pay something back, and that is all we are requiring here. From now on, those who are capable of financial reorganization, rather than outright liquidation, will have to keep their promises or at least some of their promises.

Some opponents of this legislation minimize these abuses. They deride the means test we devised to solve this problem. The fact is, 80 percent of people filing for bankruptcy will be automatically removed from the means test because their incomes fall below the safe harbor of the median State income. Only 20 percent are asked to answer this rather reasonable question: After medical expenses, schooling expenses, health care premiums, living expenses, and a regular budget, do you have an ability to pay back some of your debt?

That is all. Only 10 percent of the people currently filing for bankruptcy will be moved into chapter 13 under this test. Contrary to the image of a crippling lifetime commitment to one's debtors, those repayment plans are only between 3 and 5 years.

Who passes the means test of this bill? Eighty percent are excluded for falling below the State median income. Another 10 percent are excluded after taking into account school, health, and living expenses. So only 10 percent of bankruptcy filers will ever be moved into repayment plans. I do not think it is too much to ask that these relatively high-income debtors, who can afford to pay their debts, pay back some of what they owe.

To the extent that our current Bankruptcy Code encourages some bankruptcies, I am hopeful that this reform will discourage some of them. The experts and data tell us there are some with high salaries, profligate spending habits, and the ability to pay back their debts. Our laws should not be to just allow them to walk away.

The fact that this type of misconduct is occasionally prevented does not undo the need for permanent systemic reform of our laws. For every one person who is discovered in an abuse of the system, it is likely there are many others whose abuses never see the light of day. There is a culture of abuse in our bankruptcy system that should be addressed.

I am told that in Kentucky one debtor filing for chapter 7 protection failed to mention that he had transferred his one-half interest in a Florida house to his son approximately 7 years before filing for bankruptcy. How convenient. He also failed to mention his transfer of stock to his daughter within 1 year of filing. He was unable to account for the disappearance of $1.125 million in assets, including $300,000 in personal property and even $400,000 in race horses. His hope was to discharge almost $1.8 million in unsecured debt and $795,175 in secured debt.

While this may be an outlier case, the underlying problem of abuse is too frequent an occurrence. The point is not that this person is an average filer; the point is that the system is such a mess that someone would even contemplate making this type of a case.

Unfortunately, this misconduct is all too often encouraged by a bankruptcy bar that ushers people into chapter 7 without ever fully considering the client's ability to repay.

The U.S. trustees had to pursue 653 actions seeking disgorgement of debtors' attorney's fees in fiscal year 2002. At the same time, they pursued 243 other actions for attorney misconduct that resulted in $533,813 in sanctions. Over 75 attorneys were referred to State bar associations or other disciplinary boards.

In the Eastern District of Pennsylvania, a U.S. trustee review discovered that in bankruptcy filings it was common to have boilerplate information entered without regard to the individual debtor's circumstances, internally inconsistent information, and missing financial information.

These are bankruptcy factories that appear to attempt to get as many as possible into chapter 7 without so much as a cursory look at the filer's ability to repay his or her loans or debts.

For the most part, I am proud of our bankruptcy laws. When a debtor gets in over his or her head, we do not ask why. We do not cast blame. Instead, we attempt to help that person pay back the debts. Bankruptcy protection gives Americans the ability to pause, to reorganize, to start over. Bankruptcy offers those with unsustainable debts an opportunity for a fresh start. No one here wants to change this fundamental guarantee. No one wants to alter this basic framework. Yet people are taking advantage of this system. Abuses are increasingly rampant and well documented.

When some people game the system to walk away from debts that they are perfectly able to repay, an injustice occurs that has ramifications for our entire economy. And guess who has to pay for their dishonesty. You and I and everybody else because we pay an average of $400 a year for this bankruptcy system. This bill will help to bring it into a forceful, reasonable purpose.

It was estimated that in 1997 alone more than $44 billion of debt was discharged through bankruptcy. This amounts to a loss of $110 million per day. Someone has to pay for this. The American people, you and I and everybody else, end up paying the bill for at least these dishonest people.

According to one estimate, as I have said, these losses translate into a $400-a-year tax on every household in the country. That might not seem like a lot to some, but for many families $400 is a mortgage or a rent payment.

The cost of bankruptcy to taxpayers: $44 billion in debt discharged per year, or $110 million every day, a $400 yearly bankruptcy tax on every household in the country.

For all the reasons I have laid out, I urge my colleagues to support S. 256. This is a good bill. We have been at this legislation too long to allow this commonsense reform to fail.

By the way, this very same bill, with the Schumer amendment, passed with 83 votes. Without the Schumer amendment, the bill that President Clinton pocket-vetoed was basically the same as this, and it passed with 70 votes, meaning a bipartisan passage.

I will make a few comments on the Durbin amendment that seeks to address some potential problems relating to debt carried by members of our military. We all honor our military for their sacrifices, no question about it. While I am supportive of the intent of the underlying Durbin amendment, the fact is, only about 20 percent of those filing for bankruptcy will ever be subject to a means test. Only about half of those will end up having to repay some of their obligations under the means test. That means that only about 10 percent of those filing for bankruptcy will ever have to actually pay back some of their past debts with future earnings.

I suspect the 1 in 10 fraction will be smaller, perhaps much smaller, for those serving in the military. So when my friend from Illinois calls the means test an onerous test, he is overstating the case.

The purpose of the means test is simple. We are trying to determine which debtors can afford to pay a portion of their past debts from their future earnings. The Durbin amendment has several problems, but its goals are well intentioned and I commend him for his efforts. For example, it is my understanding that under the definition of "service member," all of those employed as commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration will qualify for this special treatment. There are few, if any, greater supporters of the commission core of the Public Health Service, but I do not understand why a public health service officer, working side by side with a career civil servant member at the Department of Health and Human Services, should receive any special consideration during bankruptcy proceedings. If a member of the PHS or NOAA is able to pay, as determined by this new means test, which is estimated to affect only 1 in 10 of those filing for bankruptcy today, he or she should pay like any other civil servant or member of the public.

They are well paid. They do not have to go off and borrow beyond their means. They do not have to live beyond their means. They should not have any breaks any better than the regular citizens.

I think the distinguished minority whip has raised and will continue to raise very important points, and I look forward to working with him and the entire Senate to address those points.

If bad actors are preying on our military personnel through nefarious payday loans or other questionable practices, then I encourage Senators SHELBY and SARBANES, the head of our Banking Committee in the Senate, to look into the issue. If there are other social issues that face our military personnel, then we as Members of Congress have an obligation to examine those issues indepth and find the right fixes.

The Durbin amendment also has an additional problem. This involves his creation of a broad exemption to the delicate homestead compromise already so painstakingly embodied in this bill. We have gone over and over it and have finally come to this compromise that does not please everybody, or anybody for that matter, but it is an important compromise and an important aspect of this bill.

We know the Senators from the States of Florida and Texas have made it clear that this issue is important to them. This is an area where we have tried to defer wherever possible to the States, even though other Senators view some of the States' exemptions with skepticism. We should all recognize that opening the door on the homestead provision could work to unravel this bill.

This is also the case with Senator FEINGOLD's amendment on the homestead exemption. This issue is not new. We have debated it year after year, and we have come to a plausible compromise that has passed year after year. This question has been debated over and over again. We have achieved a compromise on the homestead exemption that has demonstrated the ability to win overwhelming support in both Chambers. Both the Durbin amendment and the Feingold amendment tend to upset the balance that has been achieved on this important issue.

As I look at and examine the Durbin amendment, I have identified a few additional concerns. For example, under the terms of the amendment both "real or personal property that the debtor or dependent of the debtor uses as a residence," what does this language mean? How could personal property be used as a residence?

The bottom line is this amendment has many ambiguities. In addition, several of its principal components come into tension with long-settled provisions of this bill such as the homestead and the means test

As all of my colleagues know, there is a right way and a wrong way of doing things. Indeed, many Members of the minority and some of the majority have made that very point with regard to how the USA PATRIOT Act was put together. Senator DURBIN has raised some important issues we must take the time to explore properly, and I believe Senator SESSIONS has appropriately and adequately addressed the central concern of the Senator from Illinois, which is to allow the facts and circumstances of military personnel to be considered in bankruptcy proceedings.

I support S. 256, the bankruptcy bill, and I hope others will as well. We have come very far with this bill, after 8 tough years of work, after repeatedly passing it by overwhelming votes, and then having it shot down because of a killer amendment that gets put on by our colleagues who claim they are working in support of it. We should pass this bill. We should pass it in as clean a form as possible.

Let me say with regard to credit card debt, I think it is a nice, populist appeal here, to blame all the credit card companies for the problems everybody has in our society today. Look, we have an intelligent society, a highly educated society, and I think everybody knows when they take those credit cards and they accrue debt, they are supposed to repay that debt. Frankly, we have far too many people taking advantage of credit cards and not paying their debt.

Where there is fraud, we should go after any credit card company that commits fraud or abuse against our fellow citizens. But this bill does not fail to resolve these issues.

Could we improve this bill? Yes, I think we could improve it. But if we did, some on the other side would say that is too tough of an improvement. Could others on this side improve it? I suppose so. Could some on that side improve it? I would hope so, but so far we have accepted an awful lot of what the other side has wanted. This bill has been passed by overwhelming votes over the last 8 years, at least four times, as I recall it. At one time it passed through both Houses of Congress and was pocket vetoed by President Clinton.

I would like to make one last point. Unfortunately I have to oppose the Feingold amendment on the homestead matter. I think the purported purpose of the amendment is well intentioned, but I am concerned that it may act to upset the delicate balance and painfully negotiated provisions relating to homestead exemptions. This amendment by Senator FEINGOLD is, I know, well intentioned. But this amendment confuses an important and bipartisan issue, namely the care of the elderly, in a way that could sink this important legislation.

I have worked tirelessly to make sure there are provisions in this bill to protect the elderly, along with women and children, and I think every one of my colleagues who has worked with me on this bill recognizes that fact. The simple truth is this amendment and others like it could kill this bill. The reason has nothing to do with a hostility to the elderly or to any other class of persons, but because the homestead provisions have taken years to negotiate and are the result of painful choices and compromises. They are not totally satisfactory to me, either. But the fact of the matter is, it is the best we can do.

There are many Members of this body who would like to see the homestead provisions changed in some fashion, but to accommodate them any further than what presently exists in this bill would force other Senators who are strong supporters of this legislation to oppose it.

My opposition to this amendment has nothing to do with the elderly and I would not object if every State in the Nation passes laws that would put a similar floor or a higher floor under their respective homestead laws, but that choice belongs to the States and not to the Federal Government. There is a long history in bankruptcy law of deference to States on this issue. Nearly every State in the country has vehemently defended their homestead laws.

I must say I think some States wish to change their laws. If they do, that is their prerogative. The purpose of this bill and the purpose of the current homestead provisions is to curb fraud and abuse. The current provisions impose a 10-year look back for fraud. They impose a 2-year domiciliary requirement that is designed to prevent wealthy debtors from moving from States with low homestead exemptions to States with high or unlimited exemptions and then filing for bankruptcy. These provisions are a compromise, a balance of States rights and Federal imperatives under bankruptcy law and we must let the provision stand as written. I oppose the Feingold amendment and I hope my colleagues on the floor will oppose these amendments as well.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see the Senator from Illinois is here. At this point I ask unanimous consent that immediately following this consent it be in order that I offer a first-degree amendment relating to the matter in the Durbin amendment, provided further that there be 60 minutes for debate equally divided on both amendments concurrently; provided further that at the expiration of that debate the Senate proceed to a vote in relation to the Sessions amendment, to be followed by a vote in relation to the Durbin amendment, with no second-degree amendment in order to either amendment prior to the votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Mr. President, if I could, I ask the Senator from Alabama if I could make a unanimous consent request. I ask unanimous consent that Senators BILL NELSON, EDWARD KENNEDY, JOHN KERRY, and HILLARY RODHAM CLINTON be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

### AMENDMENT NO. 16

Mr. SESSIONS. Mr. President, the Senator from Illinois has raised questions concerning the position of military personnel in bankruptcy. I believe his language is overly broad and I believe the concerns he has do not justify the language of his amendment. I cannot support it. I think I will take a minute to discuss his amendment and then discuss the amendment I will offer, which I believe would be more appropriate under the circumstances.

The amendment Senator DURBIN has proposed would create a gaping hole in the means test and in the homestead language—it would exempt certain individuals from those provisions and violate certain principles that have been part of this bankruptcy legislation. As I pointed out earlier today, many of the concerns that are raised here are covered by the Servicemembers Civil Relief Act which we passed in 2003 to modify the Soldiers' and Sailors' Civil Relief Act passed in 1940. The combined acts allow military members to suspend or postpone civil financial obligations during their period in the military service.

Specifically, this act provides as follows. There is an interest rate cap of 6 percent on all debts incurred before the commencement of active-duty service. In other words, before active duty you have a certain rate of income and if you sign up for a note that carries a 10-percent interest, you can have that interest rate reduced to 6 percent while you are activated, on active duty for the United States of America.

There are protections from eviction from your home. It provides for a delay of all civil court proceedings, including bankruptcy and foreclosures of your home; a prohibition on entering default judgments against active-duty personnel members, and the ability to reopen a default judgment if one were to be entered; the ability to terminate property, residential, and automobile leases at will, if you are activated; the continuation of life insurance of at least $250,000 without requiring premiums to be paid; and the tolling of statutes of limitation. In other words, if you are activated and you have a cause of action against someone and you are interrupted in your ability to file that and the time may have otherwise run, the statute of limitations, the time in which you can file a lawsuit, would have run, then you can extend that while you are on active duty.

There is temporary relief for mortgage payments for people on active duty, credit rating protection, penalties for landlords and creditors who violate the act involving fines of up to $100,000 and/or imprisonment. These are a lot of broad protections that indicate to me we are at a point where it would not be necessary or wise to frustrate or undermine or go against the guiding principles that are in this bankruptcy bill. We hammered it out. And I have not agreed with all of them that have been set forth. This is not, in my view, a justification for a very significant carve out to the means test and homestead provisions for those on active duty.

I would have to oppose this Durbin amendment. I believe, however, that we can be more explicit in the legislation and make sure that soldiers, certain persons with medical conditions, and veterans with low income can qualify under the safe harbor of the bill. I am offering an amendment which clarifies that these individuals who may fall under the special circumstances provisions of the bill are explicitly allowed to be covered under the special circumstances provisions of the bill to give them certain advantages. It would deal primarily with the concern that some would be required to pay back a portion of their debt, and this would deal with that.

My amendment includes protections for the following three categories of individuals: those called or ordered to active duty in the Armed Forces, low-income veterans, and individuals with serious medical conditions. These are all situations that we want to make sure the bankruptcy bill's special circumstances clause includes. My amendment does not create a gaping loophole in our legislation. Instead, it makes clear that people capable of paying back their debt should do so, at least in part, but those incapable of paying back their debt due to military service or a serious medical condition may not be required to do so. I hope my colleagues can support this amendment.

I will just say with regard to the homestead exemption included in the Durbin amendment that this would go against a lot of consensus we finally reached on homestead. Senator HATCH referred to it earlier. The fact is we have decided as a Senate and after debate three different times in passing this legislation on this floor by a overwhelming vote each time that we were not going to overrule the States' definition of homestead.

The State of Florida has a high homestead. In my view, it is too high, but it is in Florida law, and the Senator from Florida may well believe that he needs to defend that law. Many of our Senators say: This is our State's law, and I am not going to vote for a bill with an amendment which overrides my State's law on what the homestead should be. I have a personal belief that it is a necessary provision for us to take, but that has been the consensus, so I have to live with it even though I have been concerned on some of the issues.

We have been consistent in not overruling the State definition of homestead. I note that any State legislature could change their homestead any time they want. They can create a separate homestead rule. If they choose for the military, they could raise it or lower it, they can cap it or put a floor on it—whatever they choose. We have decided, as this bill has been through the Congress several times now, to defer to the States on that issue. I believe it would be inappropriate for us to now carve out this exemption to it.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleague from Alabama.

Let me make a couple comments.

First, his amendment, which I will oppose and urge all of my colleagues to oppose, puts servicemen and servicewomen in the category in this bill where they are presumed to be abusers in bankruptcy. That is right. The presumption in his amendment is that if you served in the military and file for bankruptcy, that you are abusing the bankruptcy process. He adds language which says that, and, therefore, we want the judge to take a look at these presumed abusers of the bankruptcy process and consider the fact that they happen to be in the military.

The Senator's amendment is entirely opposite of what we are trying achieve with the Durbin amendment. We are trying to presume the obvious. The men and women serving our country overseas who have been activated in the Guard and Reserve, taken away from their families and their businesses, should be presumed not to be abusive of the process but be presumed to be some of our most important citizens. Why do we want to throw them into the presumption of abusing the bankruptcy process? What I want to do is exactly the opposite. If you are serving our country and you face bankruptcy, we want you to walk into that courtroom and, frankly, get a better shake under the law than you currently get.

First, we don't want you to have to go through the hoops that have been created by the credit card industry and big banks for people who supposedly abuse bankruptcy. No. You put your life on the line for America. You were activated to serve in Iraq, and you risk your life every day for us. You lost your business at home, your family went bankrupt, and yet we are giving you a break in the bankruptcy court, unlike the Sessions amendment, which presumes you are an abuser of the process if a serviceman walks into the bankruptcy court.

The second thing we say is military servicemen don't get to pick the States they live in; they are transferred by the military to different places. But while these transfers of their families are going on, they could go bankrupt. If they go bankrupt, why do you have to make this some sort of roulette game as to what laws apply?

You are in the military and you file for bankruptcy. Then you ought to be able to count on several things:

First, the Federal exemptions on personal property. You know you can always turn to that. That means the things that you can keep in your family, in your household, even if you go through bankruptcy.

Second, the homestead exemption. If you happen to be in a State that is tough and doesn't allow you to protect any part of your equity in your home and you have been transferred there in the military, why use that against men and women who are serving this country? Why wouldn't you say, as our bill does, that we will protect up to $75,000 of your homestead?

Some will say: They may live in a State where it has zero homestead exception. That is true. I plead guilty to the charge that I am favoring the men and women in uniform who file for bankruptcy. I am. Unlike Senator SESSIONS' amendment, which presumes them to be abusive of bankruptcy, I presume the opposite, that men and women in the military don't go into bankruptcy just because it is an interesting thing to do. I think they have proven that they are responsible people when they raise their hand and swear an oath to the United States and are willing to risk their lives for our country. That is the presumption of responsibility that should be given to the men and women in uniform—exactly the opposite of the presumption of Senator SESSIONS. His presumption is that they are abusing the process and we will take a second look at it and we will let them come up with more documentation to prove they are not abusing the process.

The last thing my amendment does is to go after the most abusive creditors of the military men and women in America today. I showed the illustrations earlier. Can you imagine that a loan company would actually say to a sailor, airman, a marine, or soldier, we will loan you the money, but we want you to pledge as collateral for the loan your military retirement pay or your disability pay for your injury overseas serving America? They do it. Maybe they are not supposed to. They do it. And they charge these men and women in uniform the most outrageous interest rates in America. It ought to make the credit card companies blush. These pay day lenders charge 100 percent, 200 percent, 400 percent for these soldiers who are trying to keep their families together while they are serving America. My bill, quite honestly, says we are not going to give those creditors a day in court. Those creditors who charge over 36 percent a year in terms of loans to the military cannot collect them in bankruptcy.

I think that, frankly, is fair to these families because once you get into this "juice loan" racket that these payday loan companies come up with, there is no end in sight. You are sunk. Mr. President, $3,000 in debt turns into $20,000 before you can blink an eye.

Let me tell you a difference between what has been offered by Senator SESSIONS and what I am offering on this floor. The fact is, these groups support my amendment: the Military Officers Association of America, the Air Force Sergeants Association, the National Consumer Law Center, the National Association for the Uniformed Services, the Enlisted Association of the National Guard of the United States, and many other individual leaders in the Guard and Reserve across our country.

They are not supporting the Sessions amendment. I can understand why.

They do not think our service men and women should be presumed abusive of the process. Let me tell you why we need this amendment.

In 1999, 16,000 members of the military in America filed for bankruptcy. Since then, there has been a massive activation of troops, Guard and Reserve, across America. Now we have men and women serving for long periods of time they did not anticipate, with dramatic losses in pay. This cutback in income for these individuals is creating a great hardship.

Thirty percent of all military families report a loss of family income when the spouse is deployed. But listen to the numbers for the National Guard and Reserve. Mr. President, 41 percent of Guard and Reserve families lost income when a spouse was deployed. How do they keep it together? Some of them rely on relatives. Mom and dad step in. They are proud of their son or daughter serving in the military, they say: We will try to keep the wife, for example, who stayed home, and the children, together, while you are overseas. Do not worry about us. Just come home safely.

They make great sacrifices. Some of them walk away from a business. Those are the ones who get hit especially hard, such as reservists who own their own business and who are activated.

Fifty-five percent of self-employed reservists lost money when they were activated. And the average loss was $6,500. For some people, $6,500 may not mean much. But for these families, it may tip them over the edge. You find them making sacrifices for America, and all I am asking is, if the worst outcome occurs, if service to our country leads to an economic catastrophe for a family, and they have nowhere to turn but to bankruptcy court, for goodness' sake, should not this Senate say to these men and women in bankruptcy, We are going to give you a helping hand; you reached out your hand to help America; we are going to help you in the bankruptcy court?

But, no, not with the Sessions amendment. The Sessions amendment does not give them the helping hand. The Sessions amendment presumes that they abuse bankruptcy and says to the judge: Take that into consideration if you want to let them off the hook and want to let them try again to file for bankruptcy. That is cold comfort, cold comfort to the men and women in uniform, risking their lives for America, who know, back home, the terrible economic circumstances their families are facing.

Some people think I am making this up, but I am not. The anecdotal evidence that we received from all over the United States, as well as the reports that we have had from the military groups that are supporting my amendment, tell me a lot of families are right on the edge. They may not be able to survive this situation. I talked about this gentleman, Mr. Korizon, from Schaumberg, IL, activated for the Persian Gulf war, who left behind a construction company with 26 people. After he had been activated for 6 months, he had to file bankruptcy. He served his country. He kept his word. He kept his promise. He risked his life for America. He lost his business. He filed for bankruptcy. Does he deserve any special consideration in court? The other side of the aisle says no. Get in line. Just another one of those bankruptcies. I think he does.

You take a look at SGT Patrick Kuberry, who owned a restaurant in Denver. His partner in the restaurant was also in the military. They were both activated. Before it was over—both of them activated—they lost their restaurant and filed for bankruptcy. They served our country after 9/11. They protected us, the Members of the Senate, and our families. And they paid a heavy price. They lost the only business they had. Should they get a break in bankruptcy court? Of course they should. I think most Americans would agree they should.

The list goes on and on. I think the list tells the story. We have to be sensitive to the fact that this amendment, which I have proposed, is an amendment which addresses the most basic and fundamental need here.

Let me tell you something else. Senator HATCH of Utah came to the floor earlier. Do you know what he said? He said: I can't understand why so many more people are filing bankruptcy today. Well, he is unlikely to read this book, but I wish he would. It is called "The Two-Income Trap," by Elizabeth Warren and her daughter Amelia Warren Tyagi. She analyzes why people are filing bankruptcy. And it is not because they are immoral. People are filing bankruptcy because: Since the 1970s, the number of involuntary job losses is up 150 percent. Since the 1970s, wage earners missing work due to illness or disability are up 100 percent, divorce is up 40 percent, people losing health insurance is up 49 percent, wage earners missing work to care for a sick child or elderly family member is up 1,000 percent-plus.

Now, add to these circumstances the possibility that you just received notice that your Guard unit has been activated, and you have a sick parent at home and you wonder: How in the heck am I going to keep this together? I was here working my job, trying to be a good son, a good daughter, trying to take care of my parent. What is going to happen? How am I going to meet this need?

These are real family circumstances of people who serve in the military. All I am asking is to make sure that if the worst thing happens, if they have to go to bankruptcy court, not that they get off the hook—they are not asking for that—but only that they get fair treatment. I knew the credit industry would oppose this amendment. I knew they would oppose it because I went after the payday loans and these "juice loan" rackets that are taking advantage of the military. They all gather together when you go after one of their own. The predators are treated just like those who are supposed to be respectable. And that is a shame.

I think the credit industry should sit down and have a balanced bill. And I think they ought to sit down at night and thank their lucky stars that men and women in this country step forward every single day and volunteer to keep us safe, to protect our homes and protect our Nation. Is it too much to ask the credit card industry and this big bank lobby that is behind this bill to give them a break in bankruptcy court if the bottom falls out while they are serving America? I cannot imagine it is.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I just want to say how strongly I value the contribution of our men and women in uniform. When I was in the Army Reserve I had the opportunity and the honor to call employers of service men and women whom we believed may have been discriminated against because they were fulfilling a military obligation. When I was a U.S. attorney, I filed a lawsuit against a business that terminated someone I believed, and the jury agreed, had been terminated at least in part because of them being a member of the Guard and Reserve.

We need to make sure our military men and women are protected and that they cannot be taken advantage of. I was in Iraq in January, and I met with soldiers there. One told me about his house. He was not able to keep up the payments. I asked him if he knew about the Soldiers and Sailors Relief Act, and he said yes, that was protecting him. Under that act his house could not be foreclosed on. And JAG officers, back there, helped him deal with that. But he was sharing with me one of his frustrations. He also told me he planned to re-enlist.

But I must react adversely to my colleague's statement that the amendment I offer, which expands protections and guarantees certain protections for military personnel over the present language in the statute, presumes military people who file bankruptcy to be abusers. Now, that is not so.

Look. This is the deal. Let's be real frank about it. What he is raising fundamentally is simply whether a person ought to be handled under chapter 13 or under chapter 7. If a military person's income falls below that of the median income in America, he can file chapter

7 and wipe out every debt he has—zilch, zero, walk away free—just like any other American can. And that has not been changed. And as Senator HATCH has indicated, probably close to 90 percent of American individuals who file for bankruptcy relief will be falling in that category.

Mr. DURBIN. Will the Senator from Alabama yield for a question on my time?

Mr. SESSIONS. All right.

Mr. DURBIN. I just want to ask the Senator a question.

Is it not true that you have amended page 12, section (B)(I) of S. 256, which reads in part: "In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances" such as being called to active duty in the Armed Forces?

So when I say you are presuming that they are abusing bankruptcy, these are the exact words of your amendment.

Mr. SESSIONS. Well, look, this is the deal. My amendment does not presume abuse. The bill already does that if you file for Chapter 7 and you have above median income. My amendment only adds language to give examples of what a "special circumstance" could be.

This is what we are saying here. The way this statute is written, what it says is if you make above median income in America and you can pay back a portion of your debts, you should not be allowed to go under chapter 7 and wipe them all out. I don't think most military people want to be treated differently from that. If they have come back from active duty and are making $200,000 a year or $75,000 or $100,000 and they have a small amount of debt that they can pay back—it may be substantial—but an amount they can pay back, they will be able to go under chapter 13 and during that period of time the court would decide how much of the debt they should pay back based on their income. And if they have extraordinary circumstances, special circumstances as a result of their military duty, the court can exempt them from going into chapter 13, if it feels that is appropriate.

But fundamentally, this bill says if you are making a higher income and you can pay back part of it, why should you not? Not all of it. It is over 5 years. And the way they do it, the money goes to the court. Certain debts on a percentage basis are paid. And at the end of a maximum of 5 years you are wiped out. They don't make you pay for any more than 5 years. So you pay back a portion of what you owe over a period of 5 years.

This is not abusing people. These are people who have incurred debts, and they can pay some of it back. And they pay it. Most people under this legislation will fall in the other category as exists today, and they will wipe out all of their debts. So this is not abusive legislation. That is important to state.

It also specifically protects veterans who are defined by statute today as low-income veterans. They would be covered by this. There are people with medical expenses. That was defined explicitly as a special circumstance, and active-duty personnel.

As one businessman and fellow Senator indicated, we also have to be careful that if we provide too many special protections for service personnel, we could actually drive up their interest rates when they go out to borrow money because a lender may feel they are a greater risk than otherwise would be the case.

I believe we need to give our servicemen special protections. The Servicemember Civil Relief Act does that. It provides that you cannot foreclose your home while you are on active duty. It provides that your interest rate is reduced if you incurred debts before you go on active duty. You can't exceed 6 percent. They can't take a default judgment against you while you are away. Your statute of limitation is tolled so you can file any action you have that might otherwise be fileable while you are away. You can come back and still have time to do it.

I think we ought to continue to look at it. If there are additional things such as loans and other matters that are important for protection of our military, we need to look at it. But credit card, bank interest rates, those matters are not to be dealt with on a bankruptcy court reform bill. Those pieces of legislation are more appropriately and properly under the jurisdiction of the Banking Committee. That is where they need to be decided and debated.

Mr. BIDEN. Mr. President, I appreciate the sentiment behind Senator DURBIN's amendment, but the fact of the matter is that it is not needed. In the first instance, it is simply not the case that the means test in this bill will prevent our men and women in uniform from receiving the full protection of our bankruptcy laws.

The means test will not apply to any one in military service under the median income in their State. The median income in Delaware for a family of four is $72,680. If a staff sergeant at Dover Air Force Base in Delaware had to file for bankruptcy, he would automatically be exempt, at his pay scale of $34,319. So there is no way, under the means test in this bill today, that he would be denied the full protection of chapter 7. That is precisely why I insisted on that safe harbor in the means test two Congresses ago.

So the very assumption behind the amendment, that we need to exempt service men and women from the means test, is wrong. And if a pilot at Dover, who might well fall above the median income, were to file, he would only be subject to movement to chapter 13 if, and only if, he had enough income after deducting all of his normal expenses, to continue to pay some of his bills. And under chapter 13, he could keep his house and other assets, something filers under chapter 7 cannot do.

As Senator HATCH pointed out earlier, and Senator SESSIONS, too, special protections exist in current law—the Soldiers and Sailors Relief Act—that prevent foreclosure on a house, that cap interest payments. The extra protections sought by the Durbin amendment are already in place.

On the point of the payday loans, I agree that is an abuse that should be halted. Truly unscrupulous lenders that take advantage of anyone, in uniform or not, should be put out of business. But that is in fact a matter for banking regulations, not bankruptcy law. This amendment is closing the barn door after the horse is already gone.

Under the bankruptcy reform bill before us, the test to determine a filer's ability to pay specifically allows for the "special circumstances" that could reduce their ability to pay. The Sessions amendment, that we just passed, makes it crystal clear that those special circumstances include service in the armed forces—if that service puts you into a situation where you are unable to pay your legal debts. That can happen to someone called up in the reserves, and it is precisely why that category of special circumstances was put into the bill in the first place.

I could not support this bill if I did not belief that it is already fundamentally fair. This is a bill that received 82 votes the last time the Senate voted on it. I would never call those Senators callous or indifferent to the difficult circumstances our servicemen and women face. They are not. The Durbin amendment assumes all 82 of us got it wrong last time. I do not agree.

With the additional clarification of the Sessions amendment, I am convinced that the concerns raised by Senator DURBIN are fully addressed.

Mr. LEAHY. Mr. President, I stand to voice my support for the amendment offered by my friend and colleague, Senator DURBIN, which will protect our military servicemembers from attempts to penalize them by making it tougher for them to file for bankruptcy, even when the reason they lost all their income is because they answered the call of duty to serve America. I am proud to join my colleague as a cosponsor of this amendment.

We cannot have a thorough debate on bankruptcy reform without considering the economic hardships faced by servicemembers and their families. Calls to serve their country in Iraq, Afghanistan, or elsewhere can cause loss of family income, the closing of a family business, or unexpected expenses.

Unfortunately, it is not uncommon for servicemembers and their families to be forced into filing for bankruptcy relief. We need to protect those who are fighting for us.

I support Senator DURBIN's efforts to protect our soldiers, particularly young recruits and junior officers, from sales of inappropriate insurance and investment products on military bases. It is crucial that servicemen and women who sacrifice for their country not be exploited or taken advantage of through dishonest business practices. It is our duty to ensure that America's military personnel are offered first-rate financial products so they can provide for their families and invest in their futures.

I commend Senator DURBIN for his leadership on this issue, and I urge my colleagues to accept his amendment so we can remedy the financial hardships faced by servicemembers who serve our nation and their families.

### AMENDMENT NO. 23

Mr. SESSIONS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 23.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the safe harbor with respect to debtors who have serious medical conditions or who have been called or ordered to active duty in the Armed Forces and low income veterans)

On page 12, line 10, insert after "special circumstances" the following: ", such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances".

On page 18, line 4, insert after "debtor" the following: ", including a veteran (as that term is defined in section 101 of title 38),".

Mr. SESSIONS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alabama has 15 minutes.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The Sergeant at Arms will restore order in the gallery.

The Senator from Alabama.

Mr. SESSIONS. I thank the Chair.

I do not believe our service men and women should be insulted or are being insulted by the amendment I offered to ensure that they have certain special categories of protection under this act. I think they will welcome the amendment. I do not believe, however, that we need to change the overall idea and concept of the legislation, that homestead should be decided by the States and not by this Federal legislation. And if a serviceman is unable to pay his debts, he will be able to file bankruptcy against those. He will be able to wipe out all those debts. If he is able to pay back a portion, like any other citizen, he would be required to pay back that portion under this legislation. I think that is fair.

We need to be careful that they are not in any way adversely impacted by being overseas defending the interests of this country. I do not believe they are under this legislation.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Alabama. This exchange is a rare and a good occurrence. As I said before, it is dangerously close to debate which we occasionally have in the Senate. I thank the Senator from Alabama for being here, even though we are on polar opposite sides of the debate. There should be more conversation and dialog on the floor such as this, a competition of ideas.

Nothing I said about his amendment reflects on him or his respect for the military. He has served in the military. I have not. I have great respect for him for having done that. But what I am trying to do with this amendment is to show what I think is appropriate respect to the men and women serving in uniform.

The point I made earlier was that the section of the underlying bill where people are presumed to have abused bankruptcy—in other words, they can pay their debts, but they try to get discharged from bankruptcy from their debt—that section is what the Senator from Alabama amended. So he puts into that section the requirement that the court take a look at the fact that the person filing bankruptcy may be in the military. That is all. That is the only point I am trying to make. I do not question his respect for the military in any way at all.

His amendment misses the point completely. Instead of presuming that the men and women who serve our country are abusing the bankruptcy laws when they go to file bankruptcy, I say stick to the current law. The current law allows a bankruptcy judge to make this determination. The new proposal by Senator SESSIONS, the one we are about to vote on, would require the service man or woman to file copious documents, incur additional legal costs, and then, if they are presumed to be abusing bankruptcy, to go through it all over again. What I am trying to do is spare them from that, and maybe it is soft on my part. Maybe I am not tough enough. I am trying to spare them because they are sparing me the worry about the safety of this country. They are serving this country in uniform. They are risking their lives. Yes, maybe I am going a little further than some would. I don't think it is an unreasonable leap. We understand the economic hardships that activation in the military can lead to.

Let me say a word about what used to be known as the Soldiers and Sailors Relief Act, now the Servicemembers Civil Relief Act.

The Senator from Alabama continues to return to it, saying this is their protection. Well, there is some protection in this law as it currently exists, but not nearly enough. This law, as currently written, does not apply to debts incurred after military service begins. So if you are in the military service and have debts that are incurred because you are overseas—your family debts that could lead you into bankruptcy—there is no protection from the Servicemembers Civil Relief Act. The protections are not automatic. You have to go to court and fight for them, too. Imagine that, fighting for your country overseas and being worried about fighting legal battles back home for lien enforcement on autos and other personal property being taken by self-help repossession. It doesn't fully protect servicemembers' spouses or dependents. These protections are not absolute.

If the creditor can show that the proceedings he instituted do not materially affect the serviceman, they can go forward. This bill, as written, doesn't stop debt collection harassment. This bill, as written, is providing protection that is only temporary at best and not long-term solutions to financial problems.

A member of my staff is active military and he is on detail to my office. I always go to him and ask him about these ideas, because he sees it from the eyes of a serviceman. He sent me a little note about Senator SESSIONS' amendment. He says it keeps the troops subject to the means test, but would allow a call or order to active duty in the armed services, to the extent that such special circumstances justify additional expenses or adjustments of current monthly income. This puts the service member at the mercy of someone else's opinion as to what was justified, what was reasonable. He gives an example, and a good one:

Suppose a soldier decides to keep his family in their home rather than move them in with his parents while he is deployed. You can understand why he might—the comfort of their home, schools the kids are used to. Instead of picking them up and saying I am going overseas and you are moving in with mom and dad, he says stay in the home. Senator SESSIONS' amendment would force that soldier to justify his decision to keep the family in their home, made under circumstances that few outside the military can appreciate. What may seem like a reasonable alternative—picking up the wife and kids and sending them to mom's and dad's house to live in the basement, or in an extra bedroom, may not be reasonable in that soldier's eyes.

What I am asking my colleagues in the Senate is, when you look at this

Bankruptcy Code, join me in saying if we are going to give special consideration and help to the men and women in uniform—I don't think that is an unreasonable thing to do; I think we owe it to them—they ought to have a chance to go to court and be spared from this harsh means test and everything included in this bill to prove up where you stand. The judge, the trustee in bankruptcy, and others are going to make the ultimate decision as to whether you receive your bankruptcy.

Secondly, moving these soldiers all around the United States—at least if they file for bankruptcy, give them an option to choose an exemption under Federal law for personal protections and a $75,000 homestead exemption.

Finally, let me say this to these predatory lenders, the payday loan companies. The argument is if you treat them harshly in bankruptcy court, they may not be able to offer these 100-percent, 200-percent, 400-percent interest loans. I hope they go out of business tomorrow, to be honest. A lot of them are snaring these unsuspecting soldiers and marines and sailors into debt they can never get out from under. I think it is horrendous that men and women who serve our country should be subjected to that. I don't think a 36-percent a year annual interest rate, which we allow in the Durbin amendment, is unreasonably low. I think it is a reasonable return for a loan in most circumstances. It is far more than people pay for cars or homes today. They may pay that much on credit cards, if they are not careful. But to say the payday loan lenders are not going to have their day in court to exploit the men and women in uniform, I think, is a reasonable conclusion. It is a conclusion, frankly, that was joined in by a number of military groups that have endorsed this amendment.

For those colleagues following this debate, let me say that, to my knowledge, the Sessions amendment has no support from military families and support groups. It may have the support of the payday loan companies and some of the credit card companies and banks. But supporting my legislation are the Military Officers Association of America, Air Force Sergeants Association, National Association for the Uniformed Services, and the Enlisted Association of the National Guard of the United States. I will stand with my supporters and ask my colleagues to join me in that effort.

Mr. President, at this time I will yield the floor and reserve the remainder of my time. We are under a unanimous consent request, and I note that Senator LEAHY of Vermont has come to lay down an amendment.

If I may get the attention of the Senator from Alabama for a moment. Senator LEAHY is here to lay down an amendment. I would appreciate it if we can amend our unanimous consent request to give the Senator 7 minutes and protect and preserve the time we have remaining in debate.

Mr. SESSIONS. That is acceptable to me.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senator LEAHY be allowed to lay down his amendment and to speak for 7 minutes, and that we return to debate and the previous unanimous consent request.

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

### AMENDMENT NO. 26

Mr. LEAHY. Mr. President, I thank the Senator from Illinois and the Senator from Alabama for their usual courtesies. I ask unanimous consent that it be in order to set aside, under our understanding, the pending amendment so I might introduce an appropriately referred amendment for myself, Senator SNOWE, and Senator CANTWELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Ms. SNOWE, and Ms. CANTWELL, proposes an amendment numbered 26.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict access to certain personal information in bankruptcy documents)

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. PROTECTION OF PERSONAL INFORMATION.**

(a) RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.—Section 107 of title 11, United States Code, is amended by striking subsection (b), and inserting the following:

"(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, may, protect a person with respect to a trade secret or confidential research, development, or commercial information.

"(c) The bankruptcy court, for cause, may protect an individual, with respect to—

"(1) any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title; or

"(2) information contained in a paper described in paragraph (1) that could cause undue annoyance, embarrassment, oppression, or risk of injury to person or property.".

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting "last 4 digits of the" before "taxpayer identification number"; and

(2) by adding at the end the following: "If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.".

Mr. LEAHY. Mr. President, the reason for this amendment—and I realize we will not vote on it today and we may vote on it tomorrow, although it may well be accepted—is one of the facts we have today.

The bankruptcy process requires the submission of many documents containing highly personal information. But we must be careful that our efforts to require documentation for accuracy and accountability do not inadvertently create problems for privacy and security.

We are in an age where personal information can be easily digitized and shared, and when it falls into the wrong hands, easily abused.

Identity theft is one danger. We have only to look to the recent debacle of Choicepoint selling the personal data of 145,000 individuals to scam artists. Many of these individuals have already become victims of identity theft, and they are not alone. Last year alone, 9.3 million people were victimized by identity theft. Another danger is tracking or harassing a former battered spouse. We need to minimize these possibilities, while still allowing for accountability.

We took an important first step by ensuring privacy protections for databases of personal information that become assets in bankruptcy. I was pleased to work closely with my colleagues in providing this protection.

But our responsibilities didn't end there. We also need to ensure reasonable privacy protection for personal information that is submitted by the debtors. I am submitting an amendment that will do just that by enhancing the court's discretion to protect personal information, and by requiring truncation of social security numbers in publicly filed documents. The Judicial Conference supports this amendment and I will ask unanimous consent that the Judicial Conference letter supporting the amendment be printed in the RECORD.

I am pleased that my colleagues Senator SNOWE and Senator CANTWELL have agreed to co-sponsor this amendment. They have been leaders on privacy issues, and I appreciate their support.

First, the amendment addresses court discretion in several ways. It allows the court, for cause, to protect personal identifiers, including the debtor's or other person's name, social security account number, date of birth, driver's license number, passport number, employee or taxpayer identification number, and unique biometric data. The personal identifiers protected under this provision are the same ones defined as "means of identification" under the Identity Theft Assumption Deterrence Act of 1998. This definition is codified as Section 1028(d) of Title 18 of the criminal code.

The amendment also allows the court, for cause, to seal or redact "information that could cause undue annoyance, embarrassment, oppression or risk of injury to person or property." This standard is drawn from the current civil procedure discovery rules—Fed. Rule of Civ. Procedure 26—and would replace the existing standard in bankruptcy court, which only protects individuals against "scandalous or defamatory matter." This change would allow the court to protect information, such as the home or employment address of a debtor, because of a personal security risk, including fear of injury by a former spouse or stalker. It would also allow the court to protect other information normally considered private, such as medical information.

The amendment would also provide persons the opportunity to request protection of sensitive information not only after it is filed with the court, but prior to filing as well. This protection is particularly important in an electronic filing environment, where information once filed is immediately available to the public.

In addition to enhancing court discretion, the amendment also protects social security numbers. Currently, the bankruptcy code requires debtors to include their tax payer identification numbers, which for individuals is almost uniformly his or her social security number, on any notice the debtor gives to creditors.

Because these notices are also filed with the court, the court's files routinely include unredacted social security numbers, creating the potential for abuse by those accessing public court records.

The amendment would simply allow debtors to limit disclosure to only a part of his or her social security number in notices that it files with the court. Specifically the notice to the court would include only the last four digits. The amendment still protects creditors where necessary, and specifies that creditors who are on the schedule of assets and liabilities should receive the full tax payer identification number in the notices sent specifically to the creditor.

The idea of truncation isn't new. Just last year, we passed the Fair and Accurate Credit Transactions Act of 2003, and that Act required truncation of credit card and debit card numbers on receipts given to cardholders. Under that law, only the last 5 digits of credit card and debit card numbers can be printed.

Requiring truncation for social security numbers is similarly reasonable. It provides protection against abuse, but still allows for important information sharing to take place.

The bankruptcy process requires submission of many documents containing highly personal information. I spoke about this on the floor yesterday. We must be careful that our efforts to require documentation for accuracy and accountability do not inadvertently create problems for privacy and security.

We are in an age where personal information can be easily digitized and shared, and when it falls into the wrong hands, easily abused. We know what happens with identity theft. Look at the totally irresponsible, outrageous, unbelievable debacle of Choicepoint, selling the personal data of 145,000 individuals to scam artists. It is hard to think of anything being done more irresponsibly than the executives at Choicepoint, unless it is the executives of Bank of America, who ship the data of their customers by commercial airplane—the same kind of flight we have all taken, and all of us have lost luggage. I said yesterday maybe their executives fly by private planes and they don't know what it is like to fly commercial. The point is their irresponsibility.

Many of the individuals who have had data stolen become victims of identity theft. There were 145,000 individuals whose data was compromised with Choicepoint that we know of now. Some have already become victims of identity theft. Last year alone, 9.3 million people were victimized by identity theft. Another danger is tracking or harassing a former battered spouse. I want to make sure we keep accurate information and that people have to say who they are, but we don't want to allow somebody to go into electronic court files and get Social Security numbers and names and addresses and everything else, and then use that information for identity theft or worse. We need to minimize these possibilities, while still allowing for accountability.

We took an important first step by ensuring privacy protections for databases of personal information that become assets in bankruptcy. I was please to work with my colleagues in providing this protection. But our responsibilities did not end there. We also need to ensure reasonable privacy protection for personal information submitted by the debtors. This amendment will do that by enhancing the court's discretion to protect personal information, and by requiring truncation of social security numbers in publicly filed documents.

I have a letter from the Judicial Conference of the United States, Chief Justice Rehnquist presiding, in which they support this amendment. They strongly support this amendment. These are the courts that are going to have to enforce this.

I ask unanimous consent that the Judicial Conference letter supporting the amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDICIAL CONFERENCE
OF THE UNITED STATES,
*Washington, DC, February 25, 2005.*
Hon. PATRICK J. LEAHY,
*Ranking Democrat, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR SENATOR LEAHY: I am writing today to express the Judicial Conference's support of two proposed amendments to the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" (S. 256). Both amendments to the bill would amend the Bankruptcy Code to effect the Judicial Conference's privacy policy and protect confidential or sensitive information from public disclosure. Your support of these amendments to pending bankruptcy reform legislation would be greatly appreciated.

### SECTION 107 OF THE BANKRUPTCY CODE

This amendment would implement Judicial Conference policy regarding protection of certain information contained in bankruptcy case files from public disclosure by means of four revisions to section 107 of the Bankruptcy Code. First, the amendment would transform former subsection (b)(1) regarding protection of trade secret or confidential research, development, or commercial information into a new subsection (b). No substantive change would be made to this provision.

Second, the amendment would create a new subsection (c) to allow the court for cause to authorize the redaction of personal identifiers to protect a debtor, creditor, or other person from identity theft or other harm. The amendment incorporates by reference section 1028(d)(7) of title 18, United States Code, a provision of the "Identity Theft and Assumption Deterrence Act of 1998," with regard to the types of personal identifiers that may be redacted. These include the debtor's or other person's name, social security account number, date of birth, driver's license number, alien registration number, government passport number, employee or taxpayer identification number, unique biometric data, unique electronic identification number, electronic address or routing code, and telecommunication identifying information or access device. The amendment would also permit the court to exercise its discretion to protect personal identifiers by means other than redaction where appropriate in the circumstances of the case.

Third, this provision would allow the protection of information under subsection ( c) "contained in a paper filed, or to be filed," in a bankruptcy case. This provision is intended to provide persons the opportunity to request protection of the information not only after it is filed with the court, but prior to filing as well. This authority would be especially useful in an electronic filing environment, where information once filed is immediately available to the public.

Finally, this new subsection (c) would have the effect of striking from the current provision "scandalous or defamatory matter" as a basis for protection of a person and instead allow the court for cause to seal or redact "information that could cause undue annoyance, embarrassment, oppression or risk of injury to person or property." This language is drawn from Federal Rule of Civil Procedure 26 regarding the issuance of protective orders in the course of discovery. This new provision would expand the authority of the bankruptcy court to allow the court to protect information, such as the home or employment address of a debtor, because of a personal security risk, including fear of injury by a former spouse or stalker. It would also allow the court to protect other information normally considered private, such as medical information which, if publicly) disclosed, could result in untoward consequences to the debtor or others.

SECTION 342(C) OF THE BANKRUPTCY CODE

This amendment to the bill would amend section 342(c) of the Bankruptcy Code to implement Judicial Conference policy that social security account numbers be protected from public disclosure in court documents.

Section 342(c) of title 11, United States Code, currently requires a debtor to include his or her taxpayer identification number, which for an individual is almost uniformly his or her social security account number, on any notice the debtor gives to his or her creditors. Debtors are required to give such notice in various contexts, including the filing of adversary proceedings, such as a complaint to determine the dischargeability of a debt, or contested matters, such as a motion to avoid a lien impairing an exemption.

As a copy of such notice is required to be filed with the court, court files routine include unredacted social security account numbers of debtors. By requiring only the last four digits of a taxpayer identification number to appear an the notice, the debtor's fun social security account number will no longer appear in the court file and thus be protected from public disclosure.

The amendment also adds a provision to section 342(c) to require that adequate notice of the bankruptcy filing is given to a creditor who is added to the case after the initial notice of the case has been sent. The taxpayer identification number would be treated in the same manner in the notice to a newly added creditor as the number was treated in the initial notice to the original creditors. The debtor is directed to send to the newly added creditors a notice of the bankruptcy filing containing the debtor's full taxpayer identification number, but to include only the last four digits of the number in the copy of the notice filed with the court.

Thank you far your consideration of these proposed amendments. If you have any questions or concerns, please have your staff contact Michael W. Blommer, Assistant Director, at (202) 502-1700.

LEONIDAS RALPH MECHAM,
*Secretary.*

Mr. LEAHY. Mr. President, I am pleased my colleague from Maine, Senator SNOWE, and my colleague from Washington State, Senator CANTWELL, have agreed to cosponsor this amendment. They both have been leaders of privacy issues. I appreciate their support.

Here is what the amendment does: It addresses court discretion in several ways. It allows the court for cause to protect personal identifiers, including the debtor's or other person's name, Social Security account number, date of birth, driver's license number, passport number, employee or tax identification number, and unique biometric data. The personal identifiers protected under this provision are the same ones defined as "means of identification" under the Identity Theft Deterrence Act of 1998. This definition is codified in Section 1028(d) of Title 18 of the criminal code.

The amendment also allows the court, for cause, to seal or redact "information that could cause undue annoyance, embarrassment, oppression or risk of injury to person or property." This standard is drawn from the current civil procedure discovery rules. This change would allow the court to protect information, such as the home or employment address of a debtor because of a personal security risk. Unfortunately, many times that risk is from a former spouse or a stalker. It would also allow the court to protect other information normally considered private, such as medical information.

The amendment would provide persons the opportunity to request protection of sensitive information not only after it is filed with the court, but prior to filing as well. This protection is particularly important in an electronic filing environment, where information once filed is immediately available to the public.

In addition to enhancing court discretion, the amendment also protects Social Security numbers. Currently, the bankruptcy code requires debtors to include their tax payer identification numbers (which for individuals is almost uniformly his or her social security number) on any notice the debtor gives to creditors. Because these notices are also filed with the court, the court's files routinely include unredacted social security numbers, creating the potential for abuse by those accessing public court records.

This amendment would simply allow debtors to limit disclosure to only a part of his or her social security number in notices filed with the court. Specifically the notice to the court would include only the last four digits.

This amendment still protects creditors where necessary, and specifies that creditors who are on the schedule of assets and liabilities should receive the full tax payer identification number in the notices sent specifically to the creditor. What it means is somebody cannot get on line, get all this information, sell it, or do whatever they want to.

The idea of truncation isn't new. Just last year, we passed the Fair and Accurate Credit Transactions Act of 2003, and the Act required truncation of credit card and debit card numbers on receipts given to cardholders. Under that law, only the last 5 digits of credit card and debit card numbers can be printed. Requiring truncation for social security numbers is similarly reasonable. It provides protection against abuse, but still allows for important information sharing to take place.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama.

Mr. SESSIONS. Mr. President, I note that with regard to, I believe the new name for it is the Servicemembers Civil Relief Act, which is the updated Soldiers and Sailors Relief Act, is a good piece of legislation. It provides tremendous protection for our men and women who have been called to active duty and sent around the world to defend our interest. It is very important legislation. We updated it not too long ago, in 2003. Maybe it needs to be updated again.

A bill structuring the rules of procedure for a bankruptcy in America is not the place to enter into debate about the refined procedures that might be necessary to give greater protection than we give today to our service men and women.

I suggest very strongly that to those who disagree there are enough protections, let's consider that. Let's look at that and see if we can do a better job of providing relief. The danger we get into is this: If we start amending what homestead is and having a Federal law dominate state homestead laws, which has not been done in our history, is not the current law, and we have rejected time and again in many different ways, I think we jeopardize the bipartisan consensus we had that led to a vote that passed this legislation last time without the Sessions amendment, which I think provides additional benefits for servicemen. We passed it 83 to 15. I think one time it passed with 97 to 1 votes; another time 78 votes. This is legislation that has had four markups in the Judiciary Committee. We debated it there. We have had long debates on the floor. As a matter of fact, as I recall, we spent 2 weeks on it every time it has been before the Senate, and it is projected we might go 2 weeks again on this legislation.

I know my friend from Illinois is concerned about soldiers. I also know he does not support the bill, or at least has not been a supporter of it. I expect it would not hurt his feelings if this amendment, which would upset the agreements we reached on homestead, led to the defeat of the bill. It would not hurt him at all. We had a Schumer amendment last time on a very discrete issue, a very controversial issue that ended up blocking final passage of the bill. We do not need to do that this time.

I believe there are strong protections for our service men and women. I do not think, as a matter of principle, that a serviceman should be exempt from the means test. The means test is not harsh. It does not mean "mean;" it means "means," income, how much is your income, and if your income is above the median income in America and you can pay back some of those debts, I think anybody ought to do that, if they can. That is the principle of the bill.

We proceed at some risk when we start carving out exceptions. Senator FEINGOLD wants to change the homestead exemption for those over 62. I see the Chair, a distinguished new Senator with a young family. There are a lot of young people out here who bought a house. If we change the homestead law, why just do it for seniors? Why not for everybody? Maybe a family with two or three kids needs protection more than somebody who is 62. I don't know. I am saying, we have dealt with those issues. We have decided we would allow the States to set the homestead limit. That was a good decision, a defensible decision. That is one as a Senate, each time it has come forward, that we have reached that agreement, and I believe we ought to stay with it.

I do not think it reflects any diminishment or lack of respect for the men and women in uniform. I respect them. I care about them. We have done many things for them and I want to do more. I was proud to sponsor the legislation that increased the death benefits from $12,000 to $100,000 and increased the servicemen group life from $250,000 to $400,000. The President has submitted that as part of the supplemental. I hope we get that done. We need to do a lot of things for our military, but altering the bankruptcy bill under the guise of helping our military in a way that could actually jeopardize a bipartisan consensus would be the wrong approach.

I am concerned about it. For that reason I have to object to the Durbin amendment and suggest the amendment I have offered will do the things he wants to see done or needs to be done without jeopardizing our consensus.

I yield the floor and reserve the remainder of my time.

Mr. DURBIN. Mr. President, how much time is remaining in the debate?

The PRESIDING OFFICER. There is 2 minutes 34 seconds remaining in debate.

Mr. DURBIN. On which side?

The PRESIDING OFFICER. On the Senator's side, and 7½ minutes for the Senator from Alabama.

Mr. DURBIN. If only 2½ minutes remain on our side, if I can get the attention of the Senator from Alabama, if he is prepared to close the debate—I ask the Senator from Alabama, it is my understanding he has 7½ minutes remaining; I have 2½ minutes remaining, and 2½ minutes is all I need to close. I do not know if the Senator from Alabama wants to use up more of his time and even it out.

Mr. SESSIONS. In my litigation experience, the plaintiff gets the final word. So the Senator should use his time and I will finish. I may yield back some of that time.

Mr. DURBIN. Fine. Let me do that, then. I ask unanimous consent that before we vote on the Durbin amendment, we have 4 minutes equally divided to explain our positions on the Durbin amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I do not have any objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. The first vote for my Senate colleagues will be on the Sessions amendment. The Sessions amendment changes S. 256, the bankruptcy bill, in the section where the bill establishes a presumption that people are abusing bankruptcy. In other words, they are not entitled to bankruptcy. The Sessions amendment says that the judge should consider whether the person who has filed for bankruptcy is in the active military service and is therefore a special circumstance. So Senator SESSIONS leaves the military men and women in the section of this bill where one presumes to be abusing the law. I do not approach it in that way at all, and that is the reason why the military groups and families are supporting my amendment and not the Sessions amendment.

As I said earlier, Senator SESSIONS certainly respects the military, but we can show our respect for the military by saying if they are activated to serve this country, if they are removed from their family, removed from their job, removed from their business, and terrible things happen and the business fails or their family goes into bankruptcy and they have to go back to America with their life and limbs intact and file in bankruptcy court, we are going to give them special consideration. They did something special for America; we are going to do something special for them. We are not going to make them jump through all the hoops that have been created by this new bankruptcy law that are expensive, time consuming, and loaded with documents that need to be filed. We are going to protect their home for $75,000 worth at least, wherever they happen to be assigned in the military. We are going to protect their basic possessions that they can have after the bankruptcy is over, and we are not going to protect those creditors and lenders which abused them by charging interest rates which were sky high. We will not give them their day in court.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. DURBIN. I urge my colleagues to oppose the Sessions amendment and support the Durbin amendment, which has the endorsement of the military groups and families.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will make a few general points. This is not a harsh bill. People who make below median income can use the same bankruptcy procedures they always have. Spouses and children are going to have a tremendously better position in this bankruptcy bill vis-a-vis their alimony and child support payments than we have ever given them before. There are a lot of good things in this bill.

I reject the suggestion that this is a bill written by credit card companies to meet their special interests. What we have is a bankruptcy court system that is not working well. It is being abused in a lot of different ways.

I do not know how we came up with the idea to use the language—and the Senator is correct, it does say abusing the system. It could just as well as have said people who make above median income will not be guaranteed not to pay back some of their debts because, as a matter of policy, the Congress has decided that if they make above median income and can pay some of their debts back over a period of up to 5 years, if the Court so declares, then they ought to pay some of that back. I do not think that is harsh or mean. And all other debts are being wiped out. People cannot sue you, creditors cannot call on you. Your phones cannot be stopped. People can be fined if they harass you for the collection of those debts. That is not a harsh thing.

The way it was written, it uses that word "abusive," that we consider it an abuse if you file to wipe out all of your debts when you have a higher income. It might have been better to have said we just do not think you ought to not pay something back if you make above median income. That is the way lawyers write language and that is the way we stuck with it, but it should not be taken in any personal way. It is just a statement of policy of the Congress about who ought to pay back their debts.

There is talk like it is a credit card company's fault that someone takes their card and goes out and runs up $3,000 or more in debts on that card, and it is their fault if someone does not pay it back, that they deserve what they get and they gave away $3,000. Who pays for that? It is the consumers in the long run who pay for that.

It has been said that they send credit cards to children. Under American law, if a young person receives a credit card and actually goes out and uses it and it is in his or her name, they do not ever have to pay a dime back. A minor is not bound by such a contract as that. The credit card company would be the total loser in that arrangement.

They are bringing all these issues up about credit cards. They bring the issues up about health care and insurance and people who do not have insurance or do have insurance. They raise the question of the military. They raise the question of old people. But I just point out that we have considered all of that. We have considered that for 8 years now in great detail, and we have hammered out a bill that I believe is fair and just and has received 83 votes in this body last time for final passage. I believe we will see another big vote this time.

The amendment I have offered is a fair solution to the concern of our military men and women. If it is not, we ought to look at the Soldiers and Sailors Relief Act and see if we can make it stronger if that is the right step. Let us keep the bankruptcy law, the court procedures of the Federal bankruptcy system, consistent and harmonious with the philosophy we started with and have carried on with this bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senator MIKULSKI be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I believe the Sessions amendment is before the body. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Does the Senator from Alabama yield back his remaining time?

Mr. SESSIONS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to amendment No. 23.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), the Senator from Texas (Mr. CORNYN) and the Senator from Virginia (Mr. WARNER).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) and the Senator from Texas (Mr. CORNYN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—63

Alexander
Allard
Allen
Baucus
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Collins
Conrad
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich

NAYS—32

Akaka
Bayh
Bingaman
Boxer
Cantwell
Clinton
Corzine
Dodd
Dorgan
Durbin
Feingold
Harkin
Jeffords
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—5

Coleman
Cornyn
Dayton
Inouye
Warner

The amendment (No. 23) was agreed to.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, would the suggestion of an absence of a quorum be in order?

The PRESIDING OFFICER. It would.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mr. FRIST. Mr. President, for the information of Senators, this will be the last rollcall vote tonight. We will be coming in tomorrow at 9:15. We will have 1 hour of morning business. After that morning business, we will have two rollcall votes in all likelihood. So we need people back early in the morning. After that, another amendment will be introduced, and we may well have another vote prior to lunch tomorrow. I have talked to the Democratic leader and the managers on both sides, and that is agreeable. This will be the last rollcall vote tonight.

AMENDMENT NO. 16, AS MODIFIED

The PRESIDING OFFICER. There are 4 minutes evenly divided. Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, the Senator from Illinois has suggested that I go first on his amendment. I know he would like to do the closing argument. He is very good at that.

The Senator from Illinois suggests that we are accusing military persons who file for bankruptcy as abusers if they qualify for the means test. That is an incorrect statement of what we are about with the amendment we just passed and what the bankruptcy bill is about. This legislation provides that if a bankruptcy filer makes above median income—this explains a lot about the bill—then absent special circumstances, a filer can be required to pay back at least a part of the debts they owe, only if they make above median income. It also provides that if their income falls below median income, they can stay in chapter 7 and wipe out all their debts just as they always have. If a debtor's income is above median income and special circumstances apply, they still may be eligible to avoid chapter 13, wipe out all their debts under chapter 7.

The amendment I just offered and just passed explicitly states that when one is called to active military duty in the Armed Forces, that can be a special circumstance that could protect them and provide an additional opportunity to not go into chapter 13.

An expert testified at the committee last week that about 80 percent of the people who file are below median income and that about 7 percent in addition will qualify under the special circumstances. The amendment we just passed protects our servicemen and guarantees they will be considered under special circumstances.

We should vote down this amendment because it also sets a homestead limit in violation of State law and contrary to the philosophy of this bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senator CORZINE be added as a cosponsor of the Durbin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I yield 30 seconds to the Senator from Massachusetts, Mr. KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are having a difficult time enough now in meeting our goals for the Reserve and the Guard. Unless we pass the Durbin amendment, we are going to have a much more difficult time. If you support the Guard and the Reserve and support our troops, you will support the Durbin amendment.

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts.

How many of us have seen men and women going off to serve our country to risk their lives knowing that they are leaving behind families and their businesses and knowing the economic hardship they will face? Some of them are going to be forced into bankruptcy. We have case after case where it has happened. All the Durbin amendment says is, if you have to file bankruptcy after this new bankruptcy reform bill were to become law, the bankruptcy system will consider the fact that you have served our Nation by exempting you from certain aspects of this new bill. We will not push you into a means test, but we will consider your individual circumstances.

We will give you a homestead exemption of $75,000 regardless of where you have been assigned for military duty. We will protect your personal assets with the Federal personal exemption regardless of where you have been assigned to duty and where you have to file bankruptcy.

There are those who say this is a special favor for the armed services. It is, and I believe it should be. They risk their lives for us. They should not risk their home and their finances as well. We ought to stand behind them. Yes, you can vote for the Sessions amendment and for the Durbin amendment as well. They are not inconsistent.

The PRESIDING OFFICER. The question is on agreeing to the Durbin amendment No. 16, as modified.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN) and the Senator from Texas (Mr. CORNYN).

Further, if present and voting, the senator from Minnesota (Mr. COLEMAN) and the senator from Texas (Mr. CORNYN) would have voted "nay."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 58, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—38

Akaka
Bayh
Bingaman
Boxer
Cantwell
Clinton
Conrad
Corzine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Specter
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Baucus
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Collins
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—4

Coleman
Cornyn
Dayton
Inouye

The amendment (No. 16), as modified, was rejected.

Mr. SESSIONS. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am glad we are now finally considering S. 256, the Bankruptcy Reform Act of 2005. Although a few amendments were accepted during the Judiciary Committee markup a couple weeks ago, and we did that to accommodate Democratic Members, this bill is practically identical to the conference report that both the House and Senate conferees signed in the 107th Congress, minus the poison pill abortion amendment.

Many of my colleagues know I have been working on this bill for quite some time now and that there has always been strong bipartisan support for passing bankruptcy reform. I started working on bankruptcy issues in the mid-1990s, and I did that with my colleague, then-former Senator Heflin of Alabama. We served together as either chairman or ranking member of the Administrative Oversight Subcommittee for a period of, I believe, 12 years.

During this period of time, we created what became known as the National Bankruptcy Review Commission. We held numerous hearings in the subcommittee on various topics dealing with the subject of bankruptcy reform.

In the 105th Congress, Senator DURBIN and I passed out of the Senate a bankruptcy bill by a vote of 98 to 1, but it never got to conference.

In the 106th Congress, Senator Torricelli and I worked closely and negotiated many compromises. We were able to vote out of the Senate a Grassley-Torricelli bill by a vote of 83 to 14. The Senate then approved the bankruptcy conference report by a vote of 70 to 28. Mr. President, 53 Republican Senators and 17 Democratic Senators voted for that conference report, but President Clinton pocket-vetoed the bill, and although we had the votes to override it, we were, unfortunately, not to have that opportunity. That is what a pocket veto is all about.

In the 107th Congress, I introduced, with Senator BIDEN, the same language of the conference report agreed to by both the House and Senate in the previous 106th Congress.

We passed the bankruptcy bill by a strong bipartisan vote of 85 to 13, with further changes made to address concerns of Democratic Party members. We went to conference with the House and reached an agreement on a conference report. During that conference committee, numerous amendments were negotiated with Democrats who opposed the bill. We negotiated in good faith, but the inclusion of what has become known as the Schumer abortion language ultimately proved to be unacceptable to the House and we were not able to get to the finish line.

The Senate tried to address the bankruptcy bill in the 108th Congress. The House passed the conference report language without the abortion provisions, but the Senate never took it up. In addition, the House amended a Senate bill with a bankruptcy bill and requested a conference, but Senate Democrats denied us the ability to have a conference on that bill.

So after three Congresses, we are here again in the 109th Congress trying to pass bankruptcy reform. My Democratic colleagues, Senator CARPER and BEN NELSON, have joined me, as well as Senators HATCH, SESSIONS, and others, on this bill, S. 256, the Bankruptcy Reform Act of 2005. The bill continues in the tried and true spirit and tradition of this bill being bipartisan, so we do have that bipartisan support on its introduction, and from the votes we have had on amendments today, it looks like that bipartisanship is still going to hold. So I hope my colleagues will not be fooled when longstanding opponents to this bill, even though they may never number more than 15, vociferously claim that the bankruptcy bill is really controversial and really unnecessary because those statements, made by the very small number of people in this body who do not think we need to do anything on bankruptcy reform, everything they are saying is far from the truth.

I note that throughout the years, we really bent over backward in trying to accommodate Democratic Senators' concerns with the bill's process, even in this Congress. I do not think that it is any surprise to anyone that my position is that the bankruptcy bill is still very much simply unfinished business after all of these compromises throughout now the fourth Congress. This bill has passed both the House and the Senate a total of 11 times between these two Houses of Congress. It is about time that we get the job done now. Hence, simply unfinished business, even though some of my colleagues will try to make this be a totally brand-new debate, just like we were starting over with the purest bill that I would prefer, but because purest bills never get through the Senate, it takes bipartisanship.

We are where we are because of compromise and unfinished business, and hopefully we will move this bill to the House and to the President, somewhat I hope a repeat of what we did 3 weeks ago with the class action tort reform bill. That is why at the beginning of this Congress I reintroduced the bipartisan conference report that was arrived at in the 107th Congress with only one change, and that change is to leave the poison pill of the Schumer abortion language out of it.

Remember that this compromise that I introduced in this year, the 107th Congress, minus the Schumer amendment, otherwise is exactly the same language negotiated when the Democrats had a majority. It was two Congresses ago when Senator JEFFORDS changed from being a Republican to an Independent, sitting with the Democrats. They took over the Congress, and it is that Democratic Senate that negotiated this agreement for the Senate. That is the bill we are working on now as the underlying provision.

The Schumer abortion language that tanked the bill in the House, in the 107th Congress, is left out. Other than that, the bill was basically the exact same language that Senate Members, both Republican and Democrats, have supported.

The reason I did this is because we had reached many carefully crafted compromises and had a good bipartisan product. I did not think that we had to go through committee this time because this bill had been done so many times before, but Majority Leader FRIST insisted that it go through regular order. The Judiciary Committee held a hearing and markup on this bill.

So my colleagues are clear, the committee accepted five amendments to further accommodate Democratic members. The committee also defeated a number of other amendments that were clearly offered to open issues and weaken the bill.

I would like to make my position crystal clear. We have all cooperated and compromised at great length in order to enact this legislation that fixes an unfair bankruptcy regime, provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is often open to abuse. I do not believe there is any need to reopen this bill and to disrupt those many compromises we have already reached with our Democratic colleagues, and more importantly with the House of Representatives.

I hope this clarification on the history and procedural process of the bill will show that, one, the bill is a bipartisan effort; two, that we have been working on bankruptcy reform for too long and have gone over all the fine points of the bill in great detail; and, three, that we have bent over backward to allow a fair process to move forward with this bill.

I discussed the merits of this bankruptcy reform bill. There is broad public support for reforming our bankruptcy system. The vast majority of people believe that individuals who file for bankruptcy protection should be required to pay back some of their debt if they have the ability to do so, and that is precisely what this bankruptcy bill attempts to do.

Most people think it should be more difficult for individuals to file for bankruptcy. Most Americans are tired of paying for high rollers who game the current bankruptcy system and its loopholes to get out of paying their fair share. Most people recognize that too many people are filing for bankruptcy. Too many people are gaming the system, and the numbers are up in historically high proportions in recent years that prove that. Bankruptcy filings were at an alltime high even during the boom years of our economy. Opponents to the bill act as if there is nothing to worry about, but the fact is we have a bankruptcy crisis on our hands.

I want to visit with my colleagues about how this bill will change the way bankruptcy is being treated. Simply put, bankruptcy is a court proceeding where people get their debts wiped away. Every time a debt is wiped away through bankruptcy, somebody loses money. Of course, that is common sense, and when somebody who extends credit has their obligations wiped away in bankruptcy, they are forced to make a decision. Should this loss simply be swallowed as the cost of doing business or are prices raised for other customers to make up for another's losses?

Presently, when individuals file for bankruptcy under chapter 7, a court proceeding takes place and their debts are simply erased. But every time a debt is wiped away through bankruptcy, someone loses money. When someone loses money in this way, he or she has to decide to either assume that loss as a cost of business or raise the price for other customers to make up for that loss.

When bankruptcy losses are infrequent, lenders maybe are able to swallow that loss. But when they are frequent, lenders need to raise prices for other consumers to offset their losses. These higher prices translate into higher interest rates for future borrowers. The result of the bankruptcy crisis is that hard-working, law-abiding Americans have to pay higher prices for goods and services because somebody else did not make good on their obligations to pay. This bill would make it harder for individuals who can repay their debt to file for bankruptcy under chapter 7. This would lessen, then, the upward pressure on interest rates and prices. It is only fair to require people who can repay their debts to pull their own weight. But under current bankruptcy law, an individual can get full debt cancellation in chapter 7 with no questions asked.

The Bankruptcy Reform Act of 2005 asks the very fundamental question of whether repayment is possible by an individual. It is this simple: If repayment is possible, then he or she will be channeled into chapter 13 of the Bankruptcy Code which requires people to repay a portion of their debt as a precondition for limited debt cancellation. In other words, people who have the ability to pay will not get off scot-free anymore.

This bill does this by providing for a means-tested way of steering people who are filers, who can repay a portion of their debts, away from chapter 7 bankruptcy. This test employs a legal presumption that chapter 7 proceedings should be dismissed or converted into chapter 13 whenever the filers earn more than the State median income and can repay at least $6,000 of his or her unsecured debt over a 5-year period of time.

In calculating a debtor's income, living expenses are deducted as permitted under IRS standards for the State and locality where the debtor lives. Legitimate expenses such as food, clothing, medical, transportation, attorney's fees, and charitable contributions are taken into account in this analysis, as provided under Internal Revenue Service guidelines.

Moreover, a debtor may rebut the presumption by demonstrating special circumstances. So the means test takes into account a debtor's income, a debtor's expenses, and allows a debtor to, even beyond that, show special circumstances which would justify adjustments to the means test.

In this way, the bankruptcy reform bill preserves the principle of a fresh start for people who have been overwhelmed by medical debts or sudden, unforeseen emergencies. As stated by the Government Accounting Office, the bill allows for the 100-percent deductibility of medical expenses before examining repayment ability. The bill preserves fair access, then, to bankruptcy for those people who are truly in need.

So that I am crystal clear, people who do not have the ability to repay their debt can still use the bankruptcy system as they would have before. This bill clearly provides that people of limited income can still file under chapter 7 and get that fresh start. There is a specific safe harbor built in for these individuals, so their debts can be wiped away, as is done right now.

I point this out because so often during this debate it is going to be pointed out to you, inaccurately, that somehow poor people are not getting that opportunity for a fresh start. So I want to repeat: There is a safe harbor for poor people. But the free ride is over for people who have higher incomes, and who can repay their debt.

Personal responsibility has been one of the main themes of the bankruptcy reform bill, going back to my first introduction. But even before that, since 1993, the number of Americans who declared bankruptcy has increased, would you believe it, over 100 percent. While no one knows all the reasons underlying the bankruptcy crisis, the data shows that bankruptcies increased dramatically during the same timeframe when unemployment was low and real wages were at an all-time high.

I believe the bankruptcy crisis is, in fact, a moral crisis. People have to stop looking at bankruptcy as a conventional financial planning tool, where honest Americans have to foot the bill for those who do not pay their honest debt. It is clear to me that our lax bankruptcy system must bear some of the blame for the bankruptcy crisis. A system where people are not even asked whether they can pay off their debts obviously contributes to the fraying of the moral fiber of America. Why should people pay their bills when the system allows them to walk away with no questions asked? Why should people honor their obligations when they can take the easy way out through bankruptcy?

I think the system needs to be reformed because it is fundamentally unfair. This bill will promote personal responsibility among borrowers and create a deterrence for those hoping to cheat the system. This bill does more than provide for a flexible means test that gives judges discretion to consider the individual circumstances of each debtor in order to determine whether they truly belong in chapter 7. It also contains tough new consumer protections. But the opponents of this bill do not seem to realize that. So I want them to pay attention as I describe new procedures to prevent companies from using threats to coerce debtors into paying debts which could be wiped away once they are in bankruptcy.

The bill requires the Justice Department to concentrate law enforcement resources on enforcing consumer protection laws against abusive debt collection practices. It contains significant new disclosures for consumers, mandating that credit card companies provide key information about how much they owe and how long it will take to pay off their credit card debts by only making the minimum payment. That is a very important consumer education for every one of us.

Consumers will also be given a toll-free number to call where they can get information about how long it will take to pay off their own credit card balances if they only pay the minimum payment. This will educate consumers and improve consumers' understanding of what their financial situation is.

Credit card companies that offer credit cards over the Internet will be required for the first time ever to fully comply with the Truth In Lending Act, so claims that this bill is unbalanced are off base.

Moreover, the bill makes changes which will help particularly vulnerable segments of our society. Child support claimants are given a higher priority status when the assets of a bankruptcy estate are distributed to creditors.

Here again, I make crystal clear that the bankruptcy bill makes significant improvements for child support claimants. This bankruptcy bill does not hurt them, as opponents of the bill are trying to claim. In fact, the organization, the very organization that specializes in tracking down deadbeat dads, feels this bill will be a tremendous help in collecting child support.

The people on the front lines say the bankruptcy bill is good for collecting child support. An example: The bill provides that parents and State child support enforcement collection agencies are given notice when a debtor who owes child support or alimony files for bankruptcy. Bankruptcy trustees are required to notify child support creditors of their right to use child support enforcement agencies to collect outstanding amounts due.

In addition, the bill requires creditors to provide the last known address of debtors owing support obligations upon the request of the custodial parent.

The bill goes further—requiring that the identity of minor children be protected in bankruptcy proceedings.

Concerns expressed by opponents to the bill about this being a flawed part of it just don't hold water.

The bill also makes great strides in cracking down on very wealthy individuals who abuse the bankruptcy system. If you listen to our critics, you might get the impression that the homestead exemption is a giant loophole that this bill does not deal with, and that we are busy protecting the rich.

The GAO looked at the question of how frequently the homestead exemption is abused by wealthy people in bankruptcy. The GAO found that less than 1 percent of bankruptcies filed in States where there are unlimited homestead exemptions involve homesteads over $100,000. That means 99 percent of bankruptcy filings were not abusive.

This is not a loophole at all. In fact, the provision in this bill with respect to homestead is a significant improvement from current law. There is a Federal cap on homestead exemptions in current law.

Under the current bankruptcy law, the debtors living in certain States can shield from their creditors virtually all of the equity in their home. Consequently, some debtors relocate to these States to take advantage of the mansion loophole provisions that are, in most cases, in their constitution. This bill would take a strong stand against this abuse by requiring that a person be a resident in a State for 2 years before he can claim the State's homestead exemption. Current requirements can be as little as 91 days.

The bill further reduces the intent for abuse by requiring a debtor to own the homestead for at least 40 months before he can use State exemption law. Current law doesn't have any such requirement.

Furthermore, the bill would prevent individuals who have violated security laws or individuals who have engaged in criminal conduct from shielding their homestead assets from those whom they have defrauded or injured. Specifically, if a debtor was convicted of a felony, violated a security law, or committed a criminal act intentionally, or engaged in reckless misconduct that caused serious physical injury or debt, the bill overrides State homestead exemption laws and caps the debtor's homestead at $125,000 as the amount that would be protected.

To the extent that the debtor's homestead exemption was obtained through the fraudulent conversion of nonexempt assets during the 10-year period preceding the filings of the bankruptcy case, this bill requires such exemption to be reduced by the amount attributable to the fraud.

These homestead provisions were delicately compromised between those who believe that the homestead should be capped through Federal law—I am one of those—or others who are uncomfortable with a uniform Federal cap which may violate their own State constitution.

So, please, tomorrow when this debate is conducted on changing this provision that has been so carefully worked out over a period of at least two Congresses, don't believe it when people say we have a gaping loophole. The homestead provisions in the bankruptcy bill will substantially cut down on the abuses that might be referred to.

I would like to talk about another thing this bankruptcy bill does which is so important for those of us who represent agricultural States. This bill makes chapter 12 of the Bankruptcy Code, which gives essential protections to family farmers, a permanent chapter in the Bankruptcy Code. The bill enhances these protections. It makes more farmers eligible for chapter 12. The bill lets farmers in bankruptcy avoid capital gains tax. This is very important because it will free up resources to be invested in farming operations that otherwise would go down the black hole of the Internal Revenue Service. Farmers need this chapter 12 safety net.

In addition, the bankruptcy bill will for the first time create badly needed protections for patients in bankruptcy hospitals and nursing homes. Let me provide an example of what could happen right now without the patient protections contained in this bill.

At a hearing I held on nursing home bankruptcies, I learned about a situation in California where a bankruptcy trustee just showed up at a nursing home on a Friday evening and evicted the residents of that nursing home. The bankruptcy trustee didn't provide any notice whatsoever that this was going to happen. There was absolutely no chance for the nursing home residents to be relocated. The bankruptcy trustee literally put these elderly people out on the street and changed the locks on the doors so that they couldn't get back into the nursing home. The bankruptcy bill will prevent this from ever happening again. These are protections that we will be giving these deserving senior citizens for the first time.

The truth is that bankruptcies hurt real people. It isn't fair to permit people who can repay to skip out on their debts. Yes, we must preserve fair access to bankruptcy for those who truly need a fresh start. This bill does not in any way compromise that century-old principle of our Bankruptcy Code.

This bankruptcy reform act does that—it guarantees a fresh start. It lets those people who can pay their debts live up to their responsibilities as well.

Let us restore the balance. Let us pass this bill. This bill is a product of much negotiation and compromise over three Congresses. It is fair, it is balanced, but, more importantly, it is a bill that once got to President Clinton and he pocket-vetoed it. This bill that passed by overwhelming majorities of both Houses of Congress is long overdue legislation.

I urge my colleagues to support this legislation but, more importantly, help us defeat amendments that are opening all of the carefully crafted compromises that we worked on over the last 3 to 4 years.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THUNE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUPREME COURT'S RULING IN ROPER V. SIMMONS

Mr. KENNEDY. Mr. President, today, the Supreme Court struck down the death penalty for juvenile persons 17 years old or younger. I commend the Court for its wise and courageous decision.

Three years ago, the Supreme Court held that the eighth amendment to the Constitution prohibits the execution of the mentally retarded. In reaching that decision, the Court emphasized the large number of States that had enacted laws prohibiting executions of the retarded after 1989, when the Court had earlier declined to hold them unconstitutional. As the Court observed in reaching its decision 3 years ago to ban them, "It is fair to say that a national consensus has developed" against such executions.

The Court cited several factors showing why executing the mentally retarded is unconstitutional: Mentally retarded persons lack the capacity to fully appreciate the consequences of their actions; they are less able to control their impulses and learn from experience, and are therefore less likely to be deterred by the death penalty; they are more likely to give false confessions, and less able to give meaningful assistance to their lawyers.

Today, the Supreme Court recognized that this logic also applies to the execution of juveniles. The Court cited a number of factors—including the rejection of the juvenile death penalty in the majority of States, the infrequency of its use even where it remains legal, and the consistency of the trend toward abolition of the practice. It concluded that these factors provide "sufficient evidence that today our society views juveniles, in the words used respecting the mentally retarded, as 'categorically less culpable than the average criminal'"

Today's ruling is a welcome victory for justice and human rights. Since the death penalty was reinstated in the United States in 1976, there have been 21 executions of juvenile offenders. In the last 5 years, only the United States, Iran, the Democratic Republic of Congo, and China have executed a juvenile offender. It is long past time that we wipe this stain from our Nation's human rights record.

Other steps need to be taken as well to reform our system of capital punishment.

For too long, our courts have tolerated a shamefully low standard for legal representation in death penalty cases. Some judges have even refused to order relief in cases where the defense lawyer slept through substantial portions of the trial.

I am hopeful that the legislation proposed by our colleagues PATRICK LEAHY and GORDON SMITH in the Senate, and BILL DELAHUNT and RAY LAHOOD in the House, and signed into law by the President last year, will serve to improve the quality of counsel in capital cases.

I am heartened by the strong statement in President Bush's State of the Union Address last month in support of that program. I am also encouraged by the President's pledge to dramatically expand the use of DNA evidence to prevent wrongful convictions.

As we work together to remedy the most flagrant defects in the application of the death penalty, however, we must never lose sight of its basic injustice. Experience shows that continued imposition of the death penalty will inevitably lead to wrongful executions. Many of us are concerned about the racial disparities in the imposition of capital punishment and the wide disparities in the States in its application. The unequal, unfair, arbitrary and discriminatory use of the death penalty is completely contrary to our Nation's commitment to fairness and equal justice for all, and we need to do all we can to correct these fundamental flaws.

I yield the floor.

## RULES OF PROCEDURE—PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the RECORD not later than March 1 of the first year of each Congress. On February 28, 2005, a majority of the members of the Committee on Homeland Security and Governmental Affairs' Permanent Subcommittee on Investigations adopted subcommittee rules of procedure.

Consistent with Standing Rule XXVI, today I am submitting for printing in the RECORD a copy of the rules of the Permanent Subcommittee on Investigations.

I ask unanimous consent that the text of the committe rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

1. No public hearing connected with an investigation may be held without the approval of either the Chairman and the Ranking Minority Member or the approval of a majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The Ranking Minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee majority staff upon the approval of the Chairman and notice of such approval to the Ranking Minority Member or the minority counsel. Preliminary inquiries may be undertaken by the minority staff upon the approval of the Ranking Minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the Ranking Minority Member with notice of such approval to all members.

No public hearing shall be held if the minority Members unanimously object, unless the full Committee on Homeland Security and Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules will govern all closed sessions convened by the Subcommittee (Rule XXVI, Sec. 5(b), Standing Rules of the Senate).

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him.

with notice to the Ranking Minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him, immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48 hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of the Subcommittee, a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its dates and hour. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

Five (5) Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he is testifying, of his legal rights, Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued by the Chairman. The Chairman of the full Committee and the Ranking Minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9.2 Counsel. Witnesse's may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him. If the Chairman or designated Member overrules the objection, he may refer the matter to the Subcommittee or he may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Subcommittee.

9.4 Filing. The Subcommittee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review pursuant to the provisions of Rule 12. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Subcommittee clerk. Subcommittee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

10. Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Chief Counsel or Chairman of the Subcommittee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the Ranking Minority Member waive this requirement. The Subcommittee shall determine whether such statement may be read or placed in the record of the hearing.

11. A witness may request, on grounds of distraction, harassment, personal safety, or physical discomfort, that during the testimony, television, motion picture, and other cameras and lights shall not be directed at him. Such requests shall be ruled on by the Subcommittee Members present at the hearing.

12. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his own testimony whether in public or executive session shall be made available for inspection by witness or his counsel under Subcommittee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his expense if he so requests.

13. Interrogation of witnesses at Subcommittee hearings shall be conducted on behalf of the Subcommittee by Members and authorized Subcommittee staff personnel only.

14. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Subcommittee questions in writing for the cross-examination of other witnesses called by the Subcommittee. With the consent of a majority of the Members of the Subcommittee present and voting, these questions, or paraphrased versions of them, shall be put to the witness by the Chairman, by a Member of the Subcommittee or by counsel of the Subcommittee.

15. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Subcommittee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Subcommittee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Subcommittee for its consideration and action.

If a person requests to appear personally before the Subcommittee pursuant to alternative (a) referred to herein, said request shall be considered untimely if it is not received by the Chairman of the Subcommittee or its counsel in writing on or before thirty (30) days subsequent to the day on which said person's name was mentioned or otherwise specifically identified during a public hearing held before the Subcommittee, unless the Chairman and the Ranking Minority Member waive this requirement.

If a person requests the filing of his sworn statement pursuant to alternative (b) referred to herein, the Subcommittee may condition the filing of said sworn statement upon said person agreeing to appear personally before the Subcommittee and to testify concerning the matters contained in his sworn statement, as well as any other matters related to the subject of the investigation before the Subcommittee.

16. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Subcommittee.

17. No Subcommittee report shall be released to the public unless approved by a majority of the Subcommittee and after no less than 10 days' notice and opportunity for comment by the Members of the Subcommittee unless the need for such notice and opportunity to comment has been waived in writing by a majority of the minority Members.

18. The Ranking Minority Member may select for appointment to the Subcommittee staff a Chief Counsel for the minority and such other professional staff members and clerical assistants as he deems advisable. The total compensation allocated to such minority staff members shall be not less than one-third the total amount allocated for all Subcommittee staff salaries during any given year. The minority staff members shall work under the direction and supervision of the Ranking Minority Member. The Chief Counsel for the minority shall be kept fully informed as to preliminary inquiries, investigations, and hearings, and shall have access to all material in the files of the Subcommittee.

19. When it is determined by the Chairman and Ranking Minority Member, or by a majority of the Subcommittee, that there is reasonable cause to believe that a violation of law may have occurred, the Chairman and Ranking Minority Member by letter, or the Subcommittee by resolution, are authorized to report such violation to the proper State, local and/or Federal authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.

## CELEBRATION OF THE 44TH ANNIVERSARY OF THE PEACE CORPS

Mr. SARBANES. Mr. President, today it is my privilege to recognize the outstanding accomplishments of the Peace Corps as it celebrates its 44th anniversary this week.

Throughout the years, the Peace Corps has endured as one of the most important forces in our Nation's public diplomacy. At its founding in 1961, President Kennedy remarked, "The initial reactions to the Peace Corps proposal are convincing proof that we have, in this country, an immense reservoir of such men and women—anxious to sacrifice their energies and time and toil to the cause of world peace and human progress." Forty-four years on, the tireless efforts of thousands of Peace Corps volunteers have borne out President Kennedy's vision of service to the global community.

Today, nearly 8,000 Americans serving in 72 nations around the world play a vital role in the advancement of education, health care, HIV/AIDS education, and community and agricultural development. And because of its volunteers' ability and willingness to fully integrate into their host communities, the Peace Corps has become a leader in implementing new strategies for development, such as promoting community-based small businesses and microenterprise projects. Aided by these innovations, our volunteers continue to succeed in their mission of helping those most in need while promoting goodwill between Americans and the people they serve. In this time of global adversity, we cannot underestimate the contributions of the Peace Corps toward the causes of equality, opportunity, and peace.

As the Peace Corps embarks on its next 44 years, it will no doubt remain in the forefront of our efforts to expand prosperity and mutual understanding. I extend my congratulations to the Peace Corps and wish it every success in the future.

Mr. FEINGOLD. Mr. President, I am pleased to commemorate the 44th anniversary of the Peace Corps. For decades now, Peace Corps volunteers have generously and honorably served our country by working to build an understanding between the U.S. and foreign nations, and to create better lives for people around the world. Peace Corps volunteers reflect many of the very best impulses of the American people, and I am pleased to honor these volunteers of all backgrounds and ages. I am especially proud to commend the 252 sworn-in volunteers from Wisconsin. Since the Peace Corps' inception in 1961, the people of the State of Wisconsin have served as an important foundation for this program. The University of Wisconsin-Madison provided a training camp for new volunteers during the 1960s and over 2,600 of its alumni have participated in this program. UW Madison is second in the Nation in the number of current serving volunteers, 142. Wisconsin has an historic legacy in the Peace Corps, and I commend those who have done Wisconsin proud.

In 1960, President Kennedy challenged Americans to serve their country by living and working in developing countries. His vision continues to inspire generations. Today, over 178,000 Americans have answered his call by joining the Peace Corps. When I have the opportunity to travel abroad, I am amazed by the lasting impact that this organization and these eager men and women have had around the world.

Serving in 138 countries, Peace Corps volunteers contribute to developing countries, as varied as Ecuador, Mauritania, Azerbaijan, Bangladesh, and Tonga, through a range of talents and skills, from serving as teachers to agriculture workers to HIV/AIDS educators. I am particularly impressed that over 3,[illegible]0 volunteers specifically work to combat global HIV/AIDS. I have traveled to Africa to see up close the devastation this international pandemic has caused, and I continue to be active on this important and urgent issue. I commend all the men and women volunteers who selflessly work to better communities around the world.

On March 1, 2005, as the Peace Corps celebrates its 44th anniversary, its work is particularly relevant to the challenges before our country and our world today. It is so important for Americans to become involved in world affairs, especially through programs such as the Peace Corps. Former Secretary of State Colin Powell and his successor Condoleezza Rice both acknowledge that Americans must make a serious investment in reaching across borders and turning around growing anti-American sentiments abroad. I am constantly impressed by Peace Corps volunteers who devote themselves to personally bridging the gap between people of our country and those beyond our borders, proving by their work our country's commitment to positive changes and mutual understanding. These volunteers amplify the effects of their service when they share their Peace Corps stories and experiences with people back home—with family and friends, in corresponding with classrooms, or in recruiting new volunteers to carry the Peace Corps mission forward.

I congratulate Peace Corps and its volunteers for 44 years of effective and admirable service, and I urge all of my colleagues to continue to work to support this unique and inspiring organization.

## TRIBUTE TO THE TUSKEGEE AIRMEN

Mr. SESSIONS. Mr. President, today, with a great sense of honor and respect, I rise to pay tribute to the Tuskegee Airmen, both for their bravery while fighting for our country's freedom in World War II and for their contributions in creating an integrated U.S. Air Force.

Like many of the heroes of World War II, these brave men left their families at home to fight overseas for the principles of freedom and democracy. Unlike most of their colleagues, these great airmen also fought an enemy of racism and prejudice at home. Thankfully, on both fronts, they were victorious. I am proud to stand today to recognize this great accomplishment, honor their service, and thank them for their dedication to racial equality in the U.S. armed services.

For decades, our military denied African Americans the opportunity to serve in leadership positions in the armed services. Although willing to serve a country that did not yet fully recognize their own civil rights, these men were systematically denied the benefit of skilled training in preparation for war. It was thought that they lacked the qualifications for combat duty or the ability to use sophisticated equipment. In 1941, under pressure from civil rights organizations, the Army Air Force set up a training program in Alabama to experiment with training

African Americans as military pilots. The training for this program took place at the Tuskegee Institute in Tuskegee, AL, the famous school founded by Booker T. Washington on July 4, 1881.

There was doubt among many in the military that African Americans were up to the task, but the Tuskegee Airmen proved them all wrong. Fighter pilots, navigators, bombardiers, and maintenance staffs were successfully trained to be members of the 332nd Fighter Group. The airmen were under the able command of COL Benjamin Davis, Jr., and the highly motivated group flew successful missions over Sicily, the Mediterranean, and North Africa.

By the end of the war, 992 men had graduated from the pilot training programs at Tuskegee, and 450 had seen combat overseas. The Tuskegee Airmen were awarded numerous high honors, including Distinguished Flying Crosses, Legions of Merit, Silver Stars, Purple Hearts, the Croix de Guerre, and the Red Star of Yugoslavia. In all their combat, they never lost a bomber to enemy fighters. A Distinguished Unit Citation was awarded to the 332nd Fighter Group for "outstanding performance and extraordinary heroism" in 1945. By the end of the war, the Airmen had overcome segregation and racial prejudice to become one of the most highly respected fighter groups of World War II.

We must never forget the spirit and dedication of these great patriots. Today, as our Air Force is playing such an important role in the global war on terrorism, the ideas and principles that the Tuskegee Airmen represent remain of the utmost importance. With this in mind, I stand today in support of S. Con. Res. 11, a resolution that Mr. SHELBY and I have submitted to express the sense of Congress that the U.S. Air Force should continue to honor and learn from the great example set by the Tuskegee Airmen. I ask my fellow Senators to support this resolution, and I urge the U.S. Air Force to continue to take note of this important part of its storied history.

## CENTRAL INTERCOLLEGIATE ATHLETIC ASSOCIATION

Mr. ALLEN. Mr. President, I am pleased today to recognize the success of the Central Intercollegiate Athletic Association as they tip off their 60th Men's Basketball Tournament this week.

The Central Intercollegiate Athletic Association, CIAA, is an athletic conference consisting of 12 historically African-American institutions of higher education, including: Bowie State University, Elizabeth City State University, Fayetteville State University, Johnson C. Smith University, Livingstone College, North Carolina Central University, St. Augustine's College, St. Paul's College, Shaw University, Virginia State University, Virginia Union University and Winston-Salem State University.

Established in 1912, the CIAA is the Nation's oldest black athletic conference, rich in history and heritage. The conference is entering its 85th year of athletic competition in which they have reaped continued success and recognition on the field and the court. The CIAA is a premiere member of the National Collegiate Athletic Association, NCAA, Division II and the reputation of their athletic programs, in conjunction with the academic success of their athletes, is a proud legacy for the conference.

The CIAA basketball tournament began humbly in Washington, DC in 1946 and has grown into one of the largest, most prestigious and long-tenured sporting traditions in America, particularly in the South. Started by a group of visionaries led by legendary coach John McClendon, the tournament has come to showcase dynamic basketball that has produced the likes of past NBA stars Earl Monroe, Bobby Dandridge, Charles Oakley, Rick Mahorn and current NBA star Ronald Murray of the Seattle Supersonics. The weeklong affair draws a host of national celebrities and dignitaries for a variety of activities and events. The tournament festivities serve as a sort of homecoming for students, fans and alumni of the conference. In 2004, the tournament drew over 100,000 fans to Raleigh, NC, making it the third largest basketball tournament in the nation, regardless of division.

As a former collegiate athlete, I understand the difficulties faced by institutions of higher education in planning and supporting athletic tournaments. I congratulate the Central Intercollegiate Athletic Association on its rich and sustained history of superb college athletics. The celebration of this 60th Anniversary Basketball Tournament represents a remarkable achievement for those who have worked tirelessly over the past decades to ensure its longevity. I wish the conference and its annual tournament continued success.

## WILLIE McCARTER

Mr. LEAHY. Mr. President, I want to take a few moments today to acknowledge the work and leadership of Willie McCarter who has served for the past 15 years as chairman of the International Fund for Ireland, IFI.

The IFI was conceived by my old friend Tip O'Neill who secured the original funding in 1986. Willie McCarter became involved with the fund in 1989 and became chairman in 1992. Under his tenure, the fund flourished and became an integral economic tool that helped bring peace and understanding in Northern Ireland.

The investments that the IFI made in border counties provided an economic boost to communities that had no hope. In tumultuous times where communities were divided by religion, the IFI sponsored projects that not only created desperately needed jobs but employment where Catholics and Protestants worked side by side.

Marcelle and I have become close friends with Willie and his wife Mary. I know that our friendship will transcend his departure as chairman from the IFI. We look forward to visits with both of them here and in Ireland for many years to come.

The Irish Times interviewed Willie McCarter prior to his stepping down as chairman of the IFI at the end of February. I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Irish Times, Feb. 4, 2005]

### FUND CHAIRMAN PREPARES TO BID A FOND FAREWELL

Willie McCarter, who is stepping down as chairman of the International Fund for Ireland, tells Siobhan Creaton, Finance Correspondent, of its many achievements.

After 15 years as a key figure at the International Fund for Ireland (IFI), Derry-born businessman Willie McCarter is preparing for departure.

At the end of February he will relinquish the chairman's role to Denis Rooney. Mr. Rooney is a chartered quantity surveyor and businessman from Northern Ireland whom the British and Irish governments have hailed as a skilled and able leader for the fund.

Mr. McCarter will be sad to say goodbye but says he is proud of the IFI's contribution towards creating a more stable community in Northern Ireland.

The fund, which has committed 768 million to 5,500 projects in the North and border counties, was set up by the Irish and British governments in 1986 as a vehicle to promote economic regeneration and reconciliation in Northern Ireland and the six border counties.

The late U.S. politician T.P. 'Tipp' O'Neill championed the idea after a visit to Donegal and Derry.

"John Hume brought him to see his grandmother's home outside Buncrana in 1985 and later they went to Derry. That was during the dark days of unemployment and Tipp said he would try to do something to create jobs," Mr. McCarter says.

In Washington, O'Neill's quest to raise financial aid for the region was supported by President Reagan and resulted in the U.S. Government pledging $50 million (EUR 38.4 million) for this purpose.

The British and Irish governments, which had concluded the Anglo-Irish Agreement, used the money to start the IFI in 1986.

It was a controversial vehicle and, having grown out of this agreement, was viewed with deep suspicion by Northern Ireland's Protestant community.

Mr. McCarter, a Protestant, recalls the fund's initial difficulties.

"It had very few friends. It got bound up in the political to-ing and fro-ing around the Anglo Irish Agreement."

In 1989, Mr. McCarter, who was chief executive of Fruit of the Loom, the clothing manufacturer that was rapidly expanding in Donegal and Derry, was asked to get involved.

The US clothing manufacturer had invested in Mr. McCarter's women's underwear manufacturing plant in Buncrana in 1985 and had agreed to invest GBP 18.5 million (EUR 26.8 million) and to grow its workforce in Donegal and Derry to 3,500.

"I was up to my tonsils running Fruit of the Loom," he says. "I spoke to John Holland his mentor in the US about getting involved in the fund. He said it would be very good for me and for the company."

Mr. Holland ended the conversation saying: "I am sure you would be able to do that as well as run the company".

In 1992, his involvement with the fund increased when he took over as chairman.

"The fund was a subtle way to bring people from both communities together. Instead of giving them cups of tea and saying 'let's get reconciled', it used job creation to give people an economic focus. In a low-key way, the fund brought people from both communities into projects to provide a human dynamic and develop relationships that would not have existed in a divided society."

Some of its flagship undertakings include the re-opening of the Shannon-Erne waterway, while many town centres have been given a face-lift with its support.

Mr. McCarter believes the fund's ability to be the first to put its cash on the table to back new projects has been a tremendous asset in terms of providing a kick-start for fresh ideas. Its role in the Shannon-Erne waterway, he says, is a good example of what the fund can do.

"When it was first mentioned, it was regarded as a completely mad project. The fund commissioned a GBP 1 million feasibility study that showed it might work. We later put another GBP 5 million into it and attracted other investment. If the fund hadn't put GBP 1 million down initially, the Shannon-Erne waterway wouldn't have happened," he says.

The fund claims to have played a central role in bringing about the joint marketing of Ireland as a tourist destination by the authorities in the North and the Republic. It has also fostered closer linkages between Cork, Trinity and Queen's universities in the field of microelectronics.

"A lot of initiatives have worked but the fund's role has been forgotten," according to Mr. McCarter. "I am glad that the fund is seen as a fair and reputable dealer. I have worked with very gifted people on the board and in the communities who have made a great contribution."

While US presidents have played a crucial role in supporting the peace process and the IFI's work, its contribution to the fund has been reduced from $25 million to $18.5 million under the Bush administration due to budgetary pressures.

Mr. McCarter says this figure is "not half bad" and suggests that the Bush administration has been misjudged in terms of its commitment to Ireland.

"President Bush may not have the same personal interest as President Clinton but the administration has a very tangible interest in Ireland, the peace process and the fund. Support in the Senate and the House of Representatives remains extremely strong. These people are made of stern stuff. They will see things through until there is a stable society," he says.

While the peace process is currently at an impasse, Mr McCarter believes there is little danger that the enormous strides made, in terms of improving relationships and raising prosperity, will be reversed.

"I don't think it will unravel. Too many people can see the benefits. I have lived in a border area all of my life and can see a tangible change."

Mr McCarter was ousted from Fruit of the Loom in 1997 following differences with its then owner, US corporate raider Bill Farley. The exit of the McCarter family from the business was a blow for the workforce and signalled the end of an era in terms of job security. The workforce has dropped to around 500, with the entire operations to be moved to Morocco over the next three to four years.

"When it goes to Morocco, it will be after 20 years in the north- west. It did a lot of good. Fruit of the Loom led to a lot of people making lives for themselves and was influential in improving the local infrastructure. I will be sorry to see it go. I am very fond of Donegal and Derry, which now need a substantial investment."

In the future, Mr McCarter says his main interest will be in Cooley Distillery, the independent whiskey maker founded by his long-time friend, John Teeling. Mr McCarter is a director and is also on the board of Norish. He is keen to get involved in other businesses.

"I already do quite a lot of work at Cooley and am looking for more non-executive roles," he says. "I would also like to find some way of retaining the many US connections I have made over the years."

## HONORING PATRICIA R. FORBES

Mr. KERRY. Mr. President, I come to the floor today to honor the work, dedication and career of Patricia R. Forbes, a champion for this Nation's small businesses. In just a few days, Patty will be retiring and my office will be losing a truly superb staff member. I cannot think of many people who have contributed as selflessly and as competently in a wonderfully bipartisan fashion as she has.

Prior to joining my staff, Patty served 11 years at the Small Business Administration and spent 4 years directing the staff of then-chair of the Senate Small Business Committee, Senator Dale Bumpers from Arkansas. During Senator Bumpers' chairmanship, Patty served as his majority counsel and later as his deputy staff director and counsel. In her tenure as my staff director and chief counsel on the Senate Committee on Small Business and Entrepreneurship, she has proven to be an invaluable asset to me and the committee.

Patty joined my staff shortly after I became the chair of the Small Business Committee in 1997. Whether it has been developing and implementing an effective small business legislative agenda, preparing legislation, ensuring that adequate appropriations are directed to small business initiatives, preparing hearings, correspondence or speeches, Patty has been an exemplary leader to the staff of the Small Business Committee. Her ability to craft and negotiate meaningful and responsible legislation affecting SBA's programs and the Nation's small businesses has been a driving force behind the bipartisanship and effectiveness of this committee. Senators on both sides of the aisle have grown to respect her expertise, her commitment to small businesses, and her unfailing devotion to her work.

During her career, Patty Forbes has made a significant impact on the lives of millions of entrepreneurs. For 13 years, Patty worked in the Senate fighting to provide small businesses greater access to capital, Government contracts, business counseling and training opportunities, tax relief and a plethora of other items that help this Nation's economy grow and help individuals reach for the American dream. I, along with the entire small business community, have been truly lucky to have had her service over the years.

Patty Forbes is leaving behind a legacy of commitment and capability that has helped many entrepreneurs turn their vision into reality. She can take pride in the work she has done for me, the U.S Senate, and this Nation. Patty Forbes will truly be missed.

## NATIONAL SPORTSMANSHIP DAY

Mr. CHAFEE. Mr. President, today marks the 15th anniversary of National Sportsmanship Day, which is celebrated on the first Tuesday of each March. National Sportsmanship Day was the creation of the Institute of International Sport at the University of Rhode Island, and it is now the largest initiative of its kind in the world.

On March 6, 1990, the Institute celebrated the first National Sportsmanship Day in approximately 3,000 schools. By promoting sportsmanship through this ceremonial day over the ensuing 15 years, the institute has made a positive impact on the lives of hundreds of thousands of young student-athletes. The institute has received thousands of letters and e-mails commending its leadership in this area. National Sportsmanship Day also has spawned many local sportsmanship initiatives, led to the creation of an annual essay contest on sportsmanship in USA Today, and inspired the celebration of sportsmanship days in foreign countries such as Australia and Bermuda.

This year, through the institute's Team Sportsmanship initiative, groups of college athletes will visit their local elementary, middle, and high schools to further a dialogue among youth about sportsmanship and fair play. As evidenced by media reports on drug scandals and on-field fights, the promotion of sportsmanship among youngsters remains a useful and beneficial endeavor.

I applaud this year's participants in National Sportsmanship Day, and congratulate the institute for its ongoing work to instill the best of values in America's youth.

Mr. REED. Mr. President, today, March 1, is National Sportsmanship Day. A project of the Institute for

International Sport at the University of Rhode Island, National Sportsmanship Day is the largest initiative of its kind in the world. Now in its 15th year of promoting the highest ideals of sportsmanship and fair play among America's youth, the day will be observed in over 13,000 schools in all 50 States. The day will involve more than 5 million students, teachers, administrators, coaches, and parents in discussions on the issue of sportsmanship.

National Sportsmanship Day was first championed by Rhode Island Senators Claiborne Pell and the late John Chafee. This year, National Sportsmanship Day will honor these Senators; USA Today, which conducts an annual National Sportsmanship Day essay contest, and its sports editor Monte Lorell; the President's Council on Physical Fitness; the Old Dominican Athletic Conference, which has reinforced the values of sportsmanship among its teams; and Playing for Peace, an international organization which uses basketball and sportsmanship to bring young people together from communities such as Belfast, Northern Ireland and Johannesburg, South Africa.

I am proud Rhode Island is home to the Institute for International Sport and National Sportsmanship Day, and pleased to see the positive influence it has had on youngsters across the Nation during its 15 years of promoting the best in athletics.

## VERMONT ADJUTANT GENERAL MARTHA RAINVILLE

Mr. LEAHY. Since early November, over 1,000 citizen-soldiers from the Vermont National Guard have answered the time-honored call to duty. These proud, strong, and intelligent men and women of the 86th Brigade were activated for service in the Middle East. In some of the most moving series of events I have experienced as Senator, these Vermonters separated from loved ones at various sendoff ceremonies all across the State. They formed into ranks and marched off for training and, eventually, for war. In mobilizing for service, they joined almost 200 members of Vermont's Green Mountain Boys who just returned from their yearlong deployment to Iraq. Watching over this moving sendoff and standing as a strong, intelligent, and assuring presence was the Adjutant General of the State of Vermont, MG Martha Rainville.

Superbly carrying out her responsibilities as Vermont's senior military leader, General Rainville has ensured that these units, as well as any deploying Vermont Guard company, squadron, or detachment, have had the best preparation possible. She always tries to make certain that the Vermont National Guard has the resources to carry out any mission, whether at home or abroad. At the same time, General Rainville has a special empathy for her soldiers and airmen, working to comfort them during the inevitable pains of family separation.

I am very proud that General Rainville has recently been reelected by the Vermont Legislature to the position of Vermont Adjutant General and that, late last year, she was recognized as Vermonter of the Year by the Burlington Free Press, one of Vermont's largest circulation newspapers. General Rainville is a consummate professional, skilled leader, and caring human being. She has had a noticeable effect on the readiness of the 4,000 members of the Vermont National Guard and has become a critical part of the leadership of the entire National Guard, one of our Nation's most cherished institutions. These recognitions are representative of all the Guard members, families, and employers from Vermont who are making huge sacrifices for the war efforts.

Martha Rainville assumed the position of Adjutant General of the State of Vermont in 1997. She gained valuable experience and understanding of the military from her service as a commander of the maintenance unit of the 158th Fighter Wing of the Vermont Air National Guard. When she stood up and said she was ready to take the reigns of the entire Guard, she promised to bring a fresh approach to tackling the Guard's tasks and challenges.

From the first day, General Rainville has brought a careful yet energetic approach to her position. She pays close attention to the day-to-day operations of the Vermont Guard, yet gives her commanders the flexibility to do the job right. This ability to balance small details with a sense of the larger picture has enabled the Vermont National Guard to respond so well to its real-world missions after September 11. From 24-hour air patrols to increasing security along the northern border to deploying for the war in Iraq, the Vermont Guard has responded well due in part to General Rainville's leadership.

Vermont Adjutant General Martha Rainville is a credit to the National Guard, the State of Vermont, and the country as a whole. I am so proud to have seen her move through the ranks in Vermont and assume her critically important role. I know she will continue to provide strong leadership to our proud citizen-soldiers, and I believe she deserves our gratitude, our congratulations, and our thanks.

## IN HONOR OF JUDGE JANE McKEAG

Mrs. BOXER. Mr. President, it is my honor to speak in recognition of Judge Jane McKeag. Judge McKeag has served the last 11 years as a United States Bankruptcy Judge for the Eastern District of California, Sacramento Division.

In addition to her service as a judge, Jane McKeag utilized her expertise to educate the community and improve the bankruptcy system in Sacramento County, the State of California, and the Nation. Her many accomplishments are testament to her strong leadership and devotion to public service. Throughout her career she served the law community as a member of the Ninth Circuit Conference Executive Committee, the Eastern District Uniform Bankruptcy Rules Committee and the Finance Committee of the National Conference of Bankruptcy Judges, as Chair of the Ninth Circuit Bankruptcy Education Committee and the Debtor/Creditor and Bankruptcy Committee of the Business Law Section of the State Bar of California and as President and Vice President of the Bankruptcy and Commercial Law Section of the Sacramento County Bar Association.

Judge McKeag has not only contributed to the betterment of bankruptcy law as a judge, but also as a teacher. She was an Adjunct Professor at McGeorge School of Law and a frequent lecturer for the California Continuing Education of the Bar, the University of California, Davis Law School and the Sacramento County Bar Association. In addition, Judge McKeag spent 2 years as a Peace Corps volunteer in West Africa.

I commend Judge McKeag for dedicating her life to her country and her community. Her accomplishments have touched the lives of many, and her impact on her community and the Nation will be long remembered. I extend my sincere best wishes for her continued health and happiness. Jane McKeag is a distinguished member of the community, and it is with great pleasure that I recognize her today.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlights a separate hate crime that has occurred in our country.

On February 25, 2005, a 21-year-old University of North Carolina student was attacked by as many as six individuals. The perpetrators yelled antigay comments at the victim before returning and assaulting the individual by punching and kicking him. The case has been classified as a hate crime by the Chapel Hill Police and is currently under investigation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ADDITIONAL STATEMENTS

### THE DEATH OF PROFESSOR D. ALLAN BROMLEY

● Mr. LIEBERMAN. Mr. President, I rise to bring my colleagues' attention to the death of Professor D. Allan Bromley, a renowned nuclear physicist, a great Connecticut citizen and a friend, on February 10 at age 78.

Dr. Bromley had an extraordinary life beginning in Westmeath, Ontario, Canada where he was born. He received a B.S. degree with highest honors in 1948 in the Faculty of Engineering at Queen's University in Ontario where he continued his studies receiving a M.S. degree in nuclear physics. In 1952, he earned a Ph.D. degree from the University of Rochester and subsequently has been awarded 32 honorary doctorates from universities around the world. In 1960, he moved to Connecticut where he joined the Yale faculty as an associate professor of physics. He founded and directed the A.W. Wright Nuclear Structure Laboratory at Yale from 1963 to 1989 where he carried out pioneering studies on both the structure and dynamics of atomic nuclei, and he was considered the father of modern heavy ion science. From 1972 to 1993, he held the Henry Ford II Professorship in Physics at Yale and chaired the physics department from 1970 to 1977. He received numerous honors and awards, and I would specifically like to recognize that in 1980 he received the National Medal of Science, the highest scientific honor awarded by the U.S. Not only was he an outstanding physicist, clearly shown by the 500 published papers and the 20 books he authored or edited, but he was an outstanding teacher, and his program at Yale graduated more doctoral students in experimental nuclear physics than any other institution in the world. This is truly an admirable accomplishment especially given the overall drop in U.S. students pursuing degrees in the physical sciences.

As the president of the American Physical Society and as president of the American Association for the Advancement of Science, he was a significant, influential leader in the science policy community. He served as a member of the White House Science Council during the Reagan administration and as a member of the National Science Board in 1988 to 1989, and he was the first person to hold Cabinet-level rank as Assistant to the President for Science and Technology, serving the first President Bush. In this role from 1989 to 1993, he oversaw a five fold increase in staff and budget of the White House Office of Science and Technology Policy. At OSTP, he established an Industrial Technology Directorate, was the first to name four assistant director Presidential appointees, an increase from the one or two appointees made by his predecessors, and also within OSTP, was the first to elevate the social sciences for full recognition. His strong passion for science was clearly evident as he reinvigorated both the Federal Coordinating Committees on Science, Engineering and Technology, now named the National Science and Technology Council NSTC, and the President's Council of Advisory for Science and Technology PCAST. He established the "crosscut" process that helped our science agencies to more effectively interact and develop coherent policy. He was responsible for the first formal published statement of U.S. technology policy and specifically played a key role in expanding the cooperation and partnership between government and private industry in science and research and development. His efforts extended beyond the borders of the U.S. as he established an annual Carnegie informal meeting of science advisors from the G7 and G8 countries where international science cooperation was promoted and established. Clearly, he made OSTP a powerful voice for strong U.S. science during his tenure.

Dr. Bromley served the President during a period of intense debate over U.S. competitiveness, as we confronted tough competitors in Japan and Europe. He helped in the formulation of what became a bipartisan competitiveness agenda, building on and implementing many of the recommendations of the Young Commission that served President Reagan, and the subsequent trade and competitiveness legislation that grew out of those proposals. He stood for an activist role for government-supported science and research and development, working in cooperation with the private sector and our universities to build up our innovation system. While at OSTP, he established a strong collaboration with OMB to strengthen American research and development investment, and science education. He well understood that our Nation's growth and well being were directly tied to our technological progress, and worked hard from the White House to expand that understanding. Dr. Bromley was one of our most effective Presidential science advisors.

Returning to Yale, he worked with President Richard C. Levin on the revival of strong science, especially physical science, at Yale. He helped the university to fashion a billion-dollar reinvestment in science, driven by his understanding that growing innovation capacity at Yale will be crucial to the University's and Connecticut's future, as well as important to the Nation. I am so glad that he was able to see the fruit of President Levin's and his labor start to unfold at Yale in the form of new science programs, science buildings, and science talent.

During these years after he returned to Yale, he remained very active on national science policy. I had the privilege to work with him, and with our current majority leader, Senator FRIST, and former Senator Phil Gramm, on legislation to double on a step-by-step basis our Federal science investment. While we were never able to persuade the House to pass our Senate bill, support for science increased significantly.

Additionally, Dr. Bromley was a member of the U.S. National Academy of Sciences, the American Academy of Arts and Sciences, the Brazilian Academy of Sciences, the Royal South African Academy of Sciences, and the International Higher Education Academy of Sciences in Moscow. He was a member of the Governing Board of the American Institute of Physics and a Benjamin Franklin Fellow of the Royal Society of Arts in London.

Dr. Bromley was not a shy and retiring figure, he was a forceful, "it must be done" gentleman, generally attired in fine suits and elegant bow ties. He also always had an eye on the big picture. I like to think of him in his large corner office in the Old Executive Office Building while at OSTP, gazing at his stunning view of the White House and Blair House. That a scientist wrestled this office out of the hands of the Federal bureaucracy speaks about his insistence on the big picture. And he definitely had a big picture view of U.S. science. He was a team member and team leader in a great generation of U.S. science that successfully faced a new kind of economic competition over innovation, that brought an information technology revolution to the forefront of our society, that pushed for quality in advanced U.S. manufacturing processes, that began to work on the application of technology to environmental problems, and that made astounding advances in fundamental science. He was a direct participant in some of these tasks, a supporter in others, but always an insistent, indefatigable advocate for science advance.

In the words of President Levin of Yale, "in three successive careers, he built our physics department, served the nation with distinction, and thoroughly revitalized engineering at Yale." Dr. Bromley may have physically left our world, but his accomplishments and influences are here with us. I will always remember my friend. My thoughts and prayers are with his family.●

## HONORING BENJAMIN W. TIMBERMAN

• Mr. LAUTENBERG. Mr. President, I rise today to honor Benjamin W. Timberman, a community leader, educator and humanitarian from New Jersey.

Mr. Timberman's career began as a mathematics teacher at Monroe Township Junior High School in Williamstown, NJ. He served in that capacity for 2 years when he was drafted for a 2-year tour of duty in the U.S. Army. Upon his return, he continued his teaching until 1961 when he became vice principal. In 1963, Mr. Timberman was appointed as elementary supervisor for the Monroe Township School District, where he served for 12 years. In 1975, Mr. Timberman reached the penultimate position when he was appointed superintendent of schools, where he served another dozen years. During his 33 years of service to the children of Monroe Township, Mr. Timberman was also the first president of the Monroe Township Education Association.

Mr. Timberman also demonstrated his commitment to his community through his service as an elected official. Like his education career, Mr. Timberman's government career began in 1954 when he was elected to the Elmer Borough Council. He served in that capacity for 7 years before being elected mayor of Elmer in 1963. In 1971, Mr. Timberman was elected to the Salem County Board of Chosen Freeholders where he served for 24 years. With his education background, Mr. Timberman used his position on the Freeholder Board to provide educational opportunities to Salem County residents. Mr. Timberman championed the passage of the bond issue for construction of the Vo-Tech Career Center and advocated for the establishment of the Salem Community College as a degree granting institution.

Despite his retirement from education and government, Mr. Timberman and his wife Mary Lou continue to work in the community as volunteers for Meals-on-Wheels and on visits to a local nursing home to lead residents in a monthly sing-a-long.

It is my honor to recognize Benjamin W. Timberman for his hard work and commitment to make his community a better place. I urge my colleagues to join me in paying tribute to this wonderful human being.•

## MATTIEBELLE WOODS

• Mr. KOHL. Mr. President, I rise today to honor the life of a great and proud Milwaukeean, a courageous social pioneer and journalist and—above all else—a wonderful person. On February 17, Mattiebelle Wood's long life ended at the age of 102. Ms. Woods left a remarkable legacy in her field, in her community and in the Nation.

Mattiebelle Woods was a tremendous woman, and I am proud to honor her life today. She was born in Louisville, KY, in 1902, and moved to Milwaukee when she was just a few years old. In the 1940s, before the days of Martin Luther King and Malcolm X, Ms. Woods was already actively involved in the civil rights movement.

Ms. Woods has rightly been called the First Lady of the Milwaukee press, and as a reporter, her coverage of social events and developments contributed to an increased sense of identity and unity in the local black community. By the 1960s, she had written for the Chicago Defender, the Milwaukee Defender, the Milwaukee Star, and the Milwaukee Globe. In 1964, she joined the Milwaukee Courier and contributed to its very first edition.

Ms. Woods never stopped writing—her final column was published 1 week before her death.

Ms. Woods also energetically participated in politics fighting for the advancement of the African-American community. She became active in the Democratic Party in the late 1940s, and worked persistently to ensure that elected officials worked just as hard as she did for the African-American community.

To those who knew her, she will ultimately be remembered for her lively, beautiful personality. She instilled confidence and pride in countless young people and helped them build the connections that would help them succeed later in life. At the age of 102, Mattiebelle Woods still could be found on the dance floor, loving life.

That love of life, along with her commitment to social justice, has undoubtedly been passed on to all those who knew her.•

## DR. HIRAM C. POLK, JR., TRIBUTE

• Mr. McCONNELL. Mr. President, I rise today to honor a Kentuckian who has dedicated his life to saving the lives of others. Dr. Hiram C. Polk, Jr., the chairman of the University of Louisville's Department of Surgery in Louisville, KY, has become a leader in the medical field due to his relentless push for excellence.

In his 34 years as chairman of the department, Dr. Polk has trained over 200 surgeons who have gone on to become the best in their profession. He is the world's leading authority on surgical wound infections. He developed the now common application of perioperative antibiotics—that is when the patient takes antibiotics before surgery, so the medication is in the patient's tissue during operation.

Under Dr. Polk, the department has provided over $100 million in free health care to Louisville area indigent patients. The department has performed two successful hand transplants and the world's first implantation of an AbioCor artificial heart. And Dr. Polk is an honorary fellow of the very prestigious Royal College of Surgeons in Edinburgh, Scotland, the oldest surgical college in the world.

Dr. Polk has also found time to engage in one of Kentucky's greatest passions—horse racing. He is an owner and breeder of several thoroughbreds, including Mrs. Revere, a four-time stakes winner at the racetrack that is home to the Kentucky Derby, Churchill Downs.

No wonder, then, that upon Dr. Polk's retirement after such a preeminent career, his colleagues have decided to honor him by naming the University of Louisville surgery department the Hiram C. Polk Department of Surgery. He is a model citizen for all Kentuckians, and has earned this Senate's respect.

Mr. President, I ask unanimous consent to print in the RECORD an article from The Louisville Courier-Journal about Dr. Polk's lifesaving career.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier-Journal, Feb. 4, 2005]

### A PASSION FOR EXCELLENCE; U OF L DOCTOR LEAVES ENDURING MARK TRAINING SURGEONS

(By Laura Ungar)

Part drill sergeant, part modern-day Socrates, Dr. Hiram C. Polk Jr. briskly led medical residents and students through University Hospital on early morning rounds this week.

Stopping in front of patients' rooms, Polk called on residents to describe each case, then peppered them with questions.

Sometimes he offered a compliment, such as "Wonderful question" or "That's exactly right." But more often, he displayed a characteristic toughness, and his trainees usually answered, "Yes, sir."

"You're lost," he admonished the group outside one patient's room.

"You're not betting your life," he said to a resident assessing a patient. "You're betting his life."

Polk is stepping down today after more than three decades as chairman of the University of Louisville's surgery department, where he has trained a legion of surgeons—about 230, which U of L officials say is more than any other current surgical chair in the country.

Colleagues say a relentless push for excellence marked Polk's tenure. That has given U of L's program a national reputation as the Marine Corps of surgical residencies and left him with a nickname based on one instance from his early career: "Hiram Fire-em."

But it also has made him a teacher students always remember, a strict father figure who strives to make them better and leaves them with an internal voice telling them to push themselves.

"Dr. Polk demands excellence from his trainees and will not accept mediocrity. And by demanding it, he often gets it," said Dr. Kelly McMasters, a former resident under Polk who is now the Sam and Lolita Weakley Professor of Surgical Oncology and director of U of L's division of surgical oncology.

Polk could go a little too far, "could be too tough," said Dr. Frank Miller, a professor of surgery at U of L.

But Polk makes no apologies. Surgery "is a serious, big deal and you need to take that seriously," he said. "Striving to be the best you can be sometimes means telling people, 'I think that's stupid.' "

Colleagues say Polk, 68, held himself to those same high standards as he has helped build a nationally renowned surgery department.

He has written or co-written hundreds of papers and journal articles, dozens of textbook chapters and numerous books, and served as editor-in-chief of the American Journal of Surgery for 18 years.

He pioneered the practice of giving antibiotics within an hour of surgery to stave off infection, which has become commonplace.

And McMasters said residents who have risen to Polk's challenge earn his loyalty, and return it. "Most people are pathologically loyal to Dr. Polk. He stands by his people 100 percent. . . . He's made my career. While he was firm and strict as a teacher, he also has a very benevolent and loving side."

### LIFE-CHANGING DISCUSSION

Polk attended Millsaps College in his hometown of Jackson, Miss., at the urging of his father. He graduated at the top of his class, and as a favor to a professor, he said, he applied to Harvard Medical School, only to turn down a chance to attend on scholarship because it was too far away. But Harvard sent a premier physiologist to try to persuade Polk to change his mind—an hourlong discussion that determined the direction of his life.

"He reinforced some of what my father said," Polk said. "He said I ought to go, end of discussion."

Polk hated medical school until he got interested in surgery. As a medical resident in St. Louis and a young doctor and academic in Miami, Polk found mentors to emulate. His reputation grew, and universities began to court him.

In 1971, at 35, he became U of L's surgery chairman, lured by the promise of a department with potential, a growing downtown medical community and a closet attraction to the horse-racing scene.

One early decision was to not renew the contracts of six of the residents who were there at the time, earning him the "Fire-em" nickname—although he said he has let only five more people go since then.

Colleagues who knew him during those early years remember how Polk honed his skills in the aging Louisville General Hospital, a relic of an older era with long hallways, an open ward and few of the technological amenities of today. Polk brought residents on bedside rounds there, firing questions at them and demanding good answers, recalled Dr. Gordon Tobin, a U of L professor and director of the division of plastic and reconstructive surgery.

"He fit right in with the other surgeons I met in that era," Tobin said. "The surgical personality is very straightforward and blunt."

Polk's reputation for demanding excellence was a draw for some, said Dr. J. David Richardson, a professor and vice chairman of U of L's surgery department.

"I don't think people have really come here who are really unaware" how demanding it would be, Richardson said. "It's not a place to come and rest on your laurels and enjoy a quiet kind of life."

Dr. William H. Mitchell, a retired surgeon in Richmond, Ky., was among Polk's early residents. He said Polk expected him and his peers to be on their game at 7 a.m. "whether we were bright-eyed and bushy-tailed or not."

"If you ran out of gas, you'd better get pumped up. You were expected to be cogent, coherent and well thought out," Mitchell said.

But Polk was mindful of tailoring questions to a trainee's level of understanding, Mitchell said, and would be hardest on senior residents. Also, many doctors-in-training saw something beneath the harshness—intelligence, skill and passion for his work.

Mitchell remembers a case presented in a conference in which another resident stabilized the fractured jaw of a motorcycle accident victim without calling for backup, even though he had never seen such a fracture.

"He fried him," Mitchell said of Polk's response. "He said: Don't undertake something you've never done without backup."

"No question about it," Mitchell said, "he made all of us better doctors because he made us think about what we're doing."

### FAMILY—AND HORSES

Nurturing residents and building a department required long hours.

"He was busy and gone a lot," said his daughter, Susan Brown, one of two children with his first wife. "My mom kept everything running for us."

That didn't change her love and admiration for him, said Brown, 44. And she said he has taken an active interest in the lives of her three sons, attending sporting events with them and talking medicine with two who have expressed an interest.

Dr. Susan Galandiuk, Polk's 47-year-old second wife, said she understands the long hours and is a workaholic herself. She said Polk routinely gets telephone calls at their East End home from doctors around the country asking for professional and personal advice—and sees this as a compliment, evidence of the relationships he has built over the years.

Some of Polk's rare hours outside of work have been focused on his love of horses. He and Richardson together are owner-breeders whose horses have included Mrs. Revere, a four-time stakes winner at Churchill Downs in the mid–1980s for which a stakes race is named.

Richardson sees things in common between surgery and the horse business, such as the reminders, every time a horse gets hurt, of the fragility of life and success. Polk sees common points, too, but noted: "A good horse is better than a good resident. You love them, and they try hard to be the best they can be."

Polk claims to have mellowed over the years, and links it to his divorce, his remarriage, and the death of Mrs. Revere, whose memory still chokes him up.

He said he also gained new perspective through four major operations, including one for prostate cancer. And he has had to adjust to changing times in medicine; he has been sued for medical malpractice, usually in an administrative capacity, and has had to work within new national rules limiting residents' working hours to 80 a week.

But current trainees and friends haven't noticed a mellowing. Cornelia Poston, a third-year medical student, prepares diligently for rounds by writing questions on note cards, studying the night before and carrying a book called "Pocket Surgery" inside her white coat."

You strive for perfection, and he demands that," said Dr. Bryce Schuster, chief administrative resident. "At times it could be intimidating. But fear is a great motivator."

Mitchell agreed. "The residents still get sweaty palms," he said, "but they still stand and deliver and give a straight answer to a straight question."

To celebrate Polk's career, colleagues, residents and others have launched a $5 million campaign to rename the department in his honor and secure an endowment for clinical, education and research activities.

But his true legacy, colleagues say, may be best symbolized by a picture of a tree in his office, with names of the surgeons he has trained near the many branches.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 79. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1124. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of pollock in statistical area 630 in the Gulf of Alaska" received on February 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1125. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone (Including 3 Regulations): [CGD05–05–008], COTP Western Alaska 05–002], [COTP Western Alaska 05–001]" (RIN1625–AA00) received on February 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1126. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area: [CGD07-04-153], Brunswick, Georgia, Turtle River, in the Vicinity of the Sidney Lanier Bridge" (RIN1625–AA11) received on February 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1127. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations (Including 3 Regulations): [CGD05-04-179], [CGD08-04-036], [CGD08-04-042]" (RIN1625–AA09) received on February 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1128. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations (Including 5 Regulations): [CGD11-05-009], [CGD01-05-006], [CGD01-05-013], [CGD01-05-007], [CGD01-05-008]" (RIN1625–AA09) received on February 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1129. A communication from the Principal Deputy Assistant Secretary of the Army, Department of the Army, Department of Defense, transmitting, pursuant to law, a report relative to the Water Resources Act of 2000 received on February 8, 2005; to the Committee on Environment and Public Works.

EC–1130. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Buena Vista Lake Shrew" (RIN1018–AT66) received on February 28, 2005; to the Committee on Environment and Public Works.

EC–1131. A communication from the Chief Financial Officer, Paralyzed Veterans of America, transmitting, pursuant to law, a report of an audit for fiscal year 2004 received on February 28, 2005; to the Committee on the Judiciary.

EC–1132. A communication from the Federal Liaison Officer, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revision of Search and Examination Fees for Patent Cooperation Treaty Applications Entering the National Stage in the United States" (RIN0651–AB84) received on February 28, 2005; to the Committee on the Judiciary.

EC–1133. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on February 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1134. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the Foundation's Annual Report for the year ending September 30, 2004 received on February 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1135. A communication from the Director, Agency for Healthcare Research and Quality, Department of Health and Human Services, transmitting, pursuant to law, reports entitled "The National Healthcare Quality Report 2004" and "The National Healthcare Disparities Report 2004" received on February 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1136. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—March 2005" (Rev. Rul. 2005-13) received February 28, 2005; to the Committee on Finance.

EC–1137. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Related to Section 936 Termination" (Notice 2005-21) received February 28, 2005; to the Committee on Finance.

EC–1138. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure Modifying and Superseding Rev. Proc. 2000–20" (Rev. Proc. 2005-16) received February 28, 2005; to the Committee on Finance.

EC–1139. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report entitled "Performance Budget Justification for Fiscal Year 2006" received on February 28, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1140. A communication from the General Counsel, Government Accountability Office, transmitting, pursuant to law, a report relative to the Competition in Contracting Act of 1984 received on February 28, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1141. A communication from the Independent Counsel, Office of Independent Council, transmitting, pursuant to law, the Office's 2004 Annual Report; to the Committee on Homeland Security and Governmental Affairs.

EC–1142. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report on assistance provided by the Department of Defense to civilian sporting events during calendar year 2004 received on February 28, 2005; to the Committee on Armed Services.

EC–1143. A communication from the Acting Under Secretary of Defense, transmitting, pursuant to law, four reports relative to the National Defense Authorization Act for Fiscal Year 2005 received on February 28, 2005; to the Committee on Armed Services.

EC–1144. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of the authorization to wear the insignia of the grade of vice admiral; to the Committee on Armed Services.

EC–1145. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of the authorization to wear the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–1146. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of the authorization to wear the insignia of the grade of admiral; to the Committee on Armed Services.

EC–1147. A communication from the Office of Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–1148. A communication from the Principal Deputy Under Secretary of Defense, transmitting, pursuant to law, a report entitled "Cooperative Threat Reduction Annual Report to Congress Fiscal Year 2006" received February 28, 2005; to the Committee on Armed Services.

EC–1149. A communication from the Principal Deputy Undersecretary of Defense, transmitting, pursuant to law, a report relative to The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 received on February 28, 2005; to the Committee on Armed Services.

EC–1150. A communication from the Acting Under Secretary of Defense, transmitting, pursuant to law, a report entitled "Annual Report on the Department of Defense Mentor-Protege Program" received on February 28, 2005; to the Committee on Armed Services.

EC–1151. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Administrator, Bureau for Democracy, Conflict and Humanitarian Assistance, received on February 28, 2005; to the Committee on Foreign Relations.

EC–1152. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 476. A bill to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself and Mr. INOUYE):

S. 477. A bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY:

S. 478. A bill to designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia as the "William B. Bryant Annex; to the Committee on Environment and Public Works.

By Ms. CANTWELL:

S. 479. A bill to amend title 4 of the United States Code to prohibit a State from imposing a discriminatory tax on income earned within such State by nonresidents of such State; to the Committee on Finance.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 480. A bill to extend Federal recognition to the Chickahominy Indian Tribe, the

Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe; to the Committee on Indian Affairs.

By Mr. AKAKA:

S. 481. A bill to amend title 38, United States Code, to extend the period of eligibility for health care for combat service in the Persian Gulf War or future hostilities from two years to five years after discharge or release; to the Committee on Veterans' Affairs.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 482. A bill to provide environmental assistance to non-Federal interests in the State of North Dakota; to the Committee on Environment and Public Works.

By Mr. CORNYN:

S. 483. A bill to strengthen religious liberty and combat government hostility to expressions of faith, by extending the reach of The Equal Access Act to elementary schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER (for himself and Ms. COLLINS):

S. 484. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

By Mr. CRAIG (for himself, Mr. BUNNING, and Mr. BINGAMAN):

S. 485. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 486. A bill to require the Secretary of the Navy to procure helicopters under the VH-3D presidential helicopter fleet replacement program that are wholly manufactured in the United States; to the Committee on Armed Services.

By Mr. NELSON of Nebraska (for himself, Mr. SMITH, Ms. LANDRIEU, and Mr. JEFFORDS):

S. 487. A bill to amend title 10, United States Code, to provide leave for members of the Armed Forces in connection with adoptions of children, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 488. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ALEXANDER (for himself, Mr. KYL, and Mr. CORNYN):

S. 489. A bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 11

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 11, a bill to amend title 10, United States Code, to ensure that the strength of the Armed Forces and the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their service members, and for other purposes.

S. 43

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 43, a bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes.

S. 50

At the request of Mr. INOUYE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 50, a bill to authorize and strengthen the National Oceanic and Atmospheric Administration's tsunami detection, forecast, warning, and mitigation program, and for other purposes.

S. 121

At the request of Mr. DEWINE, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 121, a bill to amend titles 10 and 38, United States Code, to improve the benefits provided for survivors of deceased members of the Armed Forces, and for other purposes.

S. 188

At the request of Mrs. FEINSTEIN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 188, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

S. 196

At the request of Mr. DORGAN, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 196, a bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property.

S. 203

At the request of Mr. THOMAS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 203, a bill to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Wisconsin (Mr. KOHL), the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 270

At the request of Mr. LUGAR, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 270, a bill to provide a framework for consideration by the legislative and executive branches of proposed unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 271

At the request of Mr. MCCAIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 271, a bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes.

S. 285

At the request of Mr. BOND, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 295

At the request of Mr. SCHUMER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 295, a bill to authorize appropriate action in the negotiations with the People's Republic of China regarding China's undervalued currency are not successful.

S. 296

At the request of Mr. KOHL, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 296, a bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 352, a bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes.

S. 363

At the request of Mr. INOUYE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 363, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 382, a bill to amend title

18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 397

At the request of Mr. CRAIG, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from North Carolina (Mrs. DOLE), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from New Hampshire (Mr. GREGG), the Senator from Nebraska (Mr. HAGEL) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 403

At the request of Mr. ENSIGN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 424

At the request of Mr. BOND, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 450

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 450, a bill to amend the Help America Vote Act of 2002 to require a voter-verified paper record, to improve provisional balloting, to impose additional requirements under such Act, and for other purposes.

S. 453

At the request of Mr. SMITH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 453, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an extension of eligibility for supplemental security income through fiscal year 2008 for refugees, asylees, and certain other humanitarian immigrants.

S. 456

At the request of Mr. SMITH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 456, a bill to amend part A of title IV of the Social Security Act to permit a State to receive credit towards the work requirements under the temporary assistance for needy families program for recipients who are determined by appropriate agencies working in coordination to have a disability and to be in need of specialized activities.

S. 467

At the request of Mr. DODD, the names of the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Ms. STABENOW) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. RES. 33

At the request of Mr. LEVIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

S. RES. 44

At the request of Mr. ALEXANDER, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. OBAMA) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. Res. 44, a resolution celebrating Black History Month.

S. RES. 56

At the request of Mr. SPECTER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 56, a resolution designating the month of March as Deep-Vein Thrombosis Awareness Month, in memory of journalist David Bloom.

S. RES. 59

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 59, a resolution urging the European Union to maintain its arms export embargo on the People's Republic of China.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself and Mr. INOUYE):

S. 477. A bill to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DORGAN. Mr. President, I rise today to introduce the Tribal Government Amendments to the Homeland Security Act of 2002. Senator INOUYE joins me in sponsoring this measure.

It is well known that tribal governments serve as the primary instruments of law enforcement and emergency response for the more than fifty million acres of land that comprise Indian country.

More than twenty-five Indian tribes have jurisdiction over lands that are either adjacent to international borders or are directly accessible to an international border by boat. These lands consist of over 260 miles of the 7,400 miles of the international borders the United States shares with Canada and Mexico.

But it is not only tribes located on or near international borders or waters that have a role to play in protecting the Nation's strategic assets. Energy resources located on tribal lands make up a significant snare of the United States' energy resources. Tribal governments hold title to 30 percent of the coal resources west of the Mississippi River, 37 percent of potential uranium resources, and three percent of known oil and gas resources in the United States.

There is also extensive infrastructure located on or near tribal lands that is critical to our Nation's security—including dams, hydroelectric facilities, nuclear power generating plants, oil and gas pipelines, transportation corridors of railroads and highway systems, and communications towers.

Like other governments, tribal governments need the necessary resources to develop their capacities to respond to threats of terrorism including access to information and information warning systems, law enforcement data bases, and health alert systems related to the possible use of chemical and biological warfare.

The Homeland Security Act of 2002 provides the authority for the establishment of the Department of Homeland Security and the various duties and responsibilities of the Department and its employees. Many provisions of the Act reference State and local governments, but unfortunately, Indian tribal governments were erroneously included in the definition of "local government" in the Act as if tribal governments were political subdivisions of each State.

The Federal government has long recognized that Indian tribes are separate, I distinct sovereigns, with which the United States has a government-to-government relationship. The U.S. Supreme Court has consistently sustained this status and the United States' relationship with the tribal governments. The United States' policy of tribal self-governance and self-determination has proven to be the most successful for Indian tribes.

The measure that I introduce today would treat Indian tribes as the separate political entities that they are, consistent with the Federal policy of tribal self-governance and self-determination. The bill amends the Homeland Security Act of 2002 by removing Indian tribes from the definition of "local government" and instead including the terms "Indian tribe" and "tribal government" in the appropriate places where the terms "State" and "local governments" are used.

This bill would also explicitly vest the Secretary of the Department of Homeland Security with the discretionary authority to provide direct funding to Indian tribal governments.

Because Indian tribes are already eligible for funding by virtue of their inclusion in the definition of "local government," this bill will not require additional funding nor will it divert any resources away from States or local governments.

It is clear that Indian tribal governments have a vital role to play in the protection of our Nation's security, and I would urge my colleagues to give their favorable consideration to this measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 477

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Government Amendments to the Homeland Security Act of 2002".

### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is a government-to-government relationship between the United States and each Indian tribal government;

(2) through statutes and treaties, Congress has recognized the inherent sovereignty of Indian tribal governments and the rights of Native people to self-determination and self-governance;

(3) each Indian tribal government possesses the inherent sovereign authority—

(A)(i) to establish its own form of government;

(ii) to adopt a constitution or other organic governing documents; and

(iii) to establish a tribal judicial system; and

(B) to provide for the health and safety of those who reside on tribal lands, including the provision of law enforcement services on lands under the jurisdiction of the tribal government;

(4) tribal emergency response providers, such as tribal emergency public safety officers, law enforcement officers, emergency response personnel, emergency medical personnel and facilities (including tribal and Indian Health Service emergency facilities), and related personnel, agencies, and authorities—

(A) play a crucial role in providing for the health and safety of those who reside on tribal lands; and

(B) are necessary components of a comprehensive system to secure the homeland of the United States;

(5) there are more than 25 Indian tribes that have primary jurisdiction over—

(A) lands within the United States that is adjacent to the Canadian or Mexican border; or

(B) waters of the United States that provide direct access by boat to lands within the United States;

(6) the border lands under the jurisdiction of Indian tribal governments comprises more than 260 miles of the approximately 7,400 miles of international border of the United States;

(7) numerous Indian tribal governments exercise criminal, civil, and regulatory jurisdiction over lands on which dams, oil and gas deposits, nuclear or electrical power plants, water and sanitation systems, or timber or other natural resources are located; and

(8) the involvement of tribal governments in the protection of the homeland of the United States is essential to the comprehensive maintenance of the homeland security of the United States.

(b) PURPOSES.—The purposes of this Act are to ensure that—

(1) the Department of Homeland Security consults with, involves, coordinates with, and includes Indian tribal governments in carrying out the mission of the Department under the Homeland Security Act of 2002 (Public Law 107–296); and

(2) Indian tribal governments participate fully in the protection of the homeland of the United States.

### SEC. 3. TABLE OF CONTENTS; DEFINITIONS.

(a) TABLE OF CONTENTS.—The table of contents of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by striking the item relating to section 801 and inserting the following:

"Sec. 801. Office of State, Tribal, and Local Government Coordination.".

(b) DEFINITIONS.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended—

(1) in paragraph (6), by inserting "tribal," after "State,";

(2) by redesignating paragraphs (9), (10), (11), (12), (13), (14), (15), and (16) as paragraphs (10), (11), (12), (13), (14), (15), (16), and (19), respectively;

(3) by inserting after paragraph (8) the following:

"(9) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians."; and

(4) by inserting after paragraph (16) (as redesignated by paragraph (2)) the following:

"(17) TRIBAL COLLEGE OR UNIVERSITY.—The term 'tribal college or university' has the meaning given the term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

"(18) TRIBAL GOVERNMENT.—The term 'tribal government' means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.".

### SEC. 4. DEPARTMENT OF HOMELAND SECURITY.

(a) SECRETARY; FUNCTIONS.—Section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112) (as amended by section 7402 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458)) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "Office of State and Local Coordination" and inserting "Office of State, Tribal, and Local Government Coordination and Preparedness"; and

(B) in paragraphs (1), (2), and (3), by inserting ", tribal," after "State" each place it appears; and

(2) in subsection (f)—

(A) in paragraph (8), by inserting "tribal," after "State,"; and

(B) in paragraph (10), by striking "Office of State and Local Government Coordination and Preparedness" and inserting "Office of State, Tribal, and Local Government Coordination and Preparedness".

(b) CONFORMING AMENDMENT.—Section 7405 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 112 note; Public Law 108–458) is amended by striking "Office of State and Local Government Coordination and Preparedness" and inserting "Office of State, Tribal, and Local Government Coordination and Preparedness".

### SEC. 5. INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(1) in paragraphs (1), (3), (6), (7)(B), (8), (9), (11), (13), and (16), by inserting ", tribal," after "State" each place it appears; and

(2) in paragraph (17), by inserting "tribal," after "State,".

(b) ACCESS TO INFORMATION.—Section 202(d)(2) of the Homeland Security Act of 2002 (6 U.S.C. 122(d)(2)) is amended by inserting ", tribal," after "State".

(c) PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.—Section 214 of the Homeland Security Act of 2002 (6 U.S.C. 133) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (D)(ii)(II), by striking "General Accounting Office." and inserting "Government Accountability Office;"; and

(B) in subparagraph (E), by inserting ", tribal," after "State" each place it appears;

(2) in subsection (c), by inserting "tribal," after "State,"; and

(3) in subsection (e)(2)(D), by inserting ", tribal," after "State".

(d) ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.—Section 223(1) of the Homeland Security Act of 2002 (6 U.S.C. 143(1)) is amended by inserting ", tribal," after "State".

(e) MISSION OF OFFICE; DUTIES.—Section 232 of the Homeland Security Act of 2002 (6 U.S.C. 162) is amended—

(1) in subsection (a)(2), by inserting "**tribal**," after "**State**,";

(2) in subsection (b)—

(A) in paragraphs (2) and (3), by inserting "tribal," after "State," each place it appears;

(B) in paragraph (6)—

(i) in the matter preceding subparagraph (A), by inserting "tribal," after "State,"; and

(ii) in subparagraph (H), by inserting ", tribal," after "State"; and

(C) in paragraphs (9), (11), and (14), by inserting ", tribal," after "State" each place it appears; and

(3) in subsection (g)(1)(A), by inserting "tribal," after "State,".

(f) NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.—Section 235(d) of the Homeland Security Act of 2002 (6 U.S.C. 165(d)) is amended by inserting "tribal," after "State,".

### SEC. 6. SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY.

(a) RESPONSIBILITIES AND AUTHORITIES OF THE UNDERSECRETARY FOR SCIENCE AND TECHNOLOGY.—Section 302(6) of the Homeland Security Act of 2002 (6 U.S.C. 182(6)) is amended by inserting "tribal," after "State,".

(b) CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.—Section 304(a) of the Homeland Security Act of 2002 (6 U.S.C. 184(a)) is amended by inserting "and the Indian Health Service" after "Public Health Service".

(c) CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING, AND EVALUATION.—Section 308(b) of the Homeland Security Act of 2002 (6 U.S.C. 188(b)) is amended—

(1) in paragraph (1)(A), by striking "colleges, universities," and inserting "colleges

and universities (including tribal colleges and universities),"; and

(2) in paragraph (2)(B), by inserting "(including tribal colleges or universities)" after "universities".

(d) Utilization of Department of Energy National Laboratories and Sites in Support of Homeland Security Activities.—Section 309(d) of the Homeland Security Act of 2002 (6 U.S.C. 189(d)) is amended by inserting ", tribal," after "State".

(e) Homeland Security Institute.—Section 312(d) of the Homeland Security Act of 2002 (6 U.S.C. 192(d)) is amended by inserting "tribal colleges and universities," after "education,".

(f) Technology Clearinghouse to Encourage and Support Innovative Solutions to Enhance Homeland Security.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) in paragraphs (1) and (4) of subsection (b), by inserting "tribal," after "State," each place it appears; and

(2) in subsection (c)(1), by inserting ", tribal," after "State".

### SEC. 7. DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY.

(a) Office for Domestic Preparedness.—Section 430(c)(5) of the Homeland Security Act of 2002 (6 U.S.C. 238(c)(5)) is amended by inserting ", tribal," after "State".

(b) Report on Improving Enforcement Functions.—Section 445(b) of the Homeland Security Act of 2002 (6 U.S.C. 255(b)) is amended by inserting ", tribal," after "heads of State".

### SEC. 8. EMERGENCY PREPAREDNESS AND RESPONSE.

(a) Responsibilities.—Section 502(5) of the Homeland Security Act of 2002 (6 U.S.C. 312(5)) is amended by inserting "tribal," after "State,".

(b) Conduct of Certain Public Health-Related Activities.—Section 505(a) of the Homeland Security Act of 2002 (6 U.S.C. 315(a)) is amended—

(1) by inserting "tribal," after "State,"; and

(2) by inserting "and the Indian Health Service" after "Public Health Service".

### SEC. 9. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

Section 601(c)(9)(B) of the Homeland Security Act of 2002 (6 U.S.C. 331(c)(9)(B)) is amended by inserting "tribal," after "State,".

### SEC. 10. COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS.

(a) Office for State and Local Government Coordination.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 361) is amended—

(1) in the section heading, by inserting ", **TRIBAL,**" after "**STATE**";

(2) in subsection (a)—

(A) by inserting ", Tribal," after "Office for State"; and

(B) by inserting ", tribal," after "relationships with State"; and

(3) in subsection (b), by inserting ", tribal," after "State" each place it appears.

(b) Definitions for Support Anti-Terrorism by Fostering Effective Technologies Act.—Section 865(6) of the Homeland Security Act of 2002 (6 U.S.C. 444(6)) is amended by inserting ", tribal," after "State".

(c) Regulatory Authority and Preemption.—Section 877(b) of the Homeland Security Act of 2002 (6 U.S.C. 457(b)) is amended—

(1) in the subsection heading, by inserting ", Tribal," after "State"; and

(2) by inserting ", tribal," after "State" each place it appears.

(d) Information Sharing.—Section 891 of the Homeland Security Act of 2002 (6 U.S.C. 481) is amended—

(1) in subsection (b)—

(A) in paragraphs (2), (4), (5), (7), (8), and (9), by inserting ", tribal," after "State" each place it appears;

(B) in paragraph (6)—

(i) by inserting ", tribal," after "certain State"; and

(ii) by inserting "tribal," after "State,"; and

(C) in paragraphs (10) and (11), by inserting "tribal," after "State," each place it appears; and

(2) in subsection (c), by inserting "tribal," after "State,".

(e) Facilitating Homeland Security Information Sharing Procedures.—Section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482) is amended—

(1) in subsection (a)(1)(A), by inserting ", tribal," after "State";

(2) in paragraphs (1), (2)(D), and (6) of subsection (b), by inserting ", tribal," after "State" each place it appears;

(3) in subsection (c)—

(A) in the subsection heading, by inserting ", Tribal," after "State"; and

(B) by inserting ", tribal," after "State" each place it appears;

(4) in subsection (e), by inserting ", tribal," after "State" each place it appears;

(5) in subsection (f)—

(A) in paragraph (1), by inserting "tribal," after "State,"; and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by inserting ", tribal," after "State";

(ii) in subparagraph (A), by inserting "tribally or" after "other";

(iii) in subparagraph (B), by inserting ", tribal," after "State"; and

(iv) in subparagraph (D), by inserting "tribal," after "State,"; and

(6) in subsection (g), by inserting ", tribal," after "State".

(f) Report.—Section 893(a) of the Homeland Security Act of 2002 (6 U.S.C. 483(a)) is amended in the second sentence by inserting "tribal," after "State,".

### SEC. 11. DEPARTMENT OF JUSTICE DIVISIONS.

Section 1114(b) of the Homeland Security Act of 2002 (6 U.S.C. 532(b)) is amended by inserting "tribal," after "State,".

### SEC. 12. AMENDMENTS TO OTHER LAWS.

(a) Cyber Security Enhancement Act of 2002.—

(1) Emergency disclosure exception.—Section 2702(b)(8) of title 18, United States Code, is amended by inserting "tribal," after "State,".

(2) Protecting privacy.—Section 2701(b)(1) of title 18, United States Code, is amended by inserting "or Indian tribe" after "or any State".

(b) National Institute of Justice.—Section 202(c)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722(c)(11)) is amended by inserting "tribal," after "State,".

(c) Homeland Security Funding Analysis in President's Budget.—Section 1105(a)(33)(A)(iii) of title 31, United States Code, is amended by inserting ", tribal," after "State".

(d) Authority to Share Electronic, Wire, and Oral Interception Information.—Section 2517(8) of title 18, United States Code, is amended by inserting "tribal," after "State," each place it appears.

(e) Foreign Intelligence Information.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (50 U.S.C. 403-5d) is amended by inserting "tribal," after "State," each place it appears.

(f) Foreign Intelligence Surveillance.—

(1) Information acquired from an electronic surveillance.—Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(k)(1)) is amended by inserting "or Indian tribe" after "subdivision)".

(2) Information acquired from a physical search.—Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825(k)(1)) is amended by inserting "or Indian tribe" after "subdivision)".

(g) Transfer of Certain Security and Law Enforcement Functions and Authorities.—Section 1315 of title 40, United States Code (as amended by section 1706(b)(1) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2316)), is amended—

(1) in subsection (d)(3), by inserting "tribal," after "State,"; and

(2) in subsection (e), by inserting ", tribal," after "State" each place it appears.

### SEC. 13. AUTHORIZATION FOR DIRECT FUNDING.

The Secretary of Homeland Security may provide any funds made available under the Homeland Security Act of 2002 (Public Law 107-296) directly to any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

---

By Mr. LEAHY:

S. 478. A bill to designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia as the "William B. Bryant Annex"; to the Committee on Environment and Public Works.

Mr. LEAHY. Mr. President, I am pleased to call attention to the extraordinary public service of Judge William B. Bryant. Last July, I introduced S. 2619, a bill that would have designated the new annex to the E. Barrett Prettyman United States Courthouse in Washington, D.C., the "William B. Bryant Annex." It was the Senate companion bill to legislation introduced by Congresswoman Eleanor Holmes Norton of the District of Columbia.

While the House bill passed by voice vote, the Senate bill was stalled by objection. There was concern that a courthouse annex be named for a judge still serving. This objection was adhered to despite the numerous exceptions to such a rule, including another exception enacted last year.

It would have been worthy of celebration this last month, during Black History Month, if we could have held such a naming ceremony involving Judge Bryant. Others prevented that from taking place. I believe it important that we continue every month to recognize the extraordinary contributions of African Americans. Congresswoman NORTON has been willing to seek to accommodate those Senators who objected by revising this bill to delay the effective date of the naming until after Judge Bryant steps down from the Court. It is sadly ironic that Judge Bryant's continuing historic service is held against honoring him. He continues to perform duties as a senior Federal judge at the age of 93. I commend Congresswoman NORTON for her efforts and determination. I hope that this change will remove the final impediment and allow the District of Columbia and the Nation to honor Judge Bryant before his 94th birthday this September.

The value of Judge Bryant's service has been recognized by his colleagues. Judge Bryant and his lifelong service to the law was celebrated in a September 16, 2004 Washington Post article. The article details a life spent dedicated to public service.

Judge Bryant began his legal career with the belief that lawyers could make a difference in eliminating the widespread racial segregation in the United States. He became a criminal defense lawyer in 1948, taking on many pro bono cases and was soon recognized by the U.S. Attorney's office for his skills as a defense attorney. The U.S. Attorney's office hired him in 1951 and he became the first African American to practice in Federal court here in the District.

Judge Bryant was nominated by President Johnson to the Federal bench in 1965 and became the first African American Chief Judge for the United States District Court in D.C. Forty years later, Judge Bryant still works at the courthouse four days a week and the Washington Post reports that he handled more criminal trials than any other senior judge on the court last year. Judge Bryant said in an interview with the Post: "I feel like I'm part of the woodwork. I have to think hard to think of a time when I wasn't in this courthouse."

The Washington Post article mentions that E. Barrett Prettyman, Jr., the son of the judge for whom the Federal courthouse is named, praised the recommendation that the annex be named after Judge Bryant. He said that his father "admired Judge Bryant tremendously" and would have wanted the annex to be named after him.

Before my introduction of this bill last year, Chief Judge Thomas F. Hogan of the United States District Court for the District of Columbia, requested for himself and all the other judges on the court that the newly constructed annex be named after Judge Bryant. They appreciate the historic significance of Judge Bryant's service.

I urge the Senate this year to move ahead with this important commendation of Judge Bryant's lifetime of service and dedication to the principles of the Constitution and the law.

I ask unanimous consent that an article and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 16, 2004]

### A LIFETIME OF FAITH IN THE LAW: AT 93, SENIOR JUDGE WILLIAM BRYANT STILL WINS PLAUDITS FOR DEDICATION TO JUSTICE

(By Carol Leonnig)

A few days after the new U.S. District Courthouse opened on Constitution Avenue in the fall of 1952, Bill Bryant walked in to start work as a recently hired federal prosecutor.

More than a half-century has passed, and Bryant's life remains centered on that stately granite building in the shadow of the U.S. Capitol. It's in those halls that he became a groundbreaking criminal defense attorney, a federal judge, and then the court's chief judge—the first African American in that position.

Today, at the age of 93, U.S. District Court Senior Judge William Bryant still drives himself to work at the courthouse four days a week and pushes his walker to his courtroom.

At a recent birthday party for Bryant hosted by Vernon Jordan, fellow Senior U.S. District Court Judge Louis Oberdorfer remarked that there were "only two people in the world who really understood the Constitution" and how it touched the lives of real people.

"That's Hugo Black and Bill Bryant," said Oberdorfer. He had clerked for Justice Hugo L. Black, who retired as an associate justice in 1971 after serving on the Supreme Court for 34 years.

To honor Bryant's life's work, his fellow judges this past spring unanimously recommended that a nearly completed courthouse annex be named for him. The $110 million, 351,000-square-foot addition will add nine state-of-the-art courtrooms and judges' offices to the courthouse and is designed to meet the court's expansion needs for the next 30 years. It is slated to open next spring.

In urging that the building be named for Bryant, his supporters cite his devotion to the Constitution and his belief that the law will produce a just result.

During a rare interview in his sixth-floor office in the federal courthouse, Bryant reached out for a pocket version of the Constitution covered in torn green plastic lying on the top of his desk. Holding it aloft in his right hand, he told stories of his struggling former clients and made legal phrases—"due process" and "equal protection"—seem like life-saving staples.

Though he needs his law clerk's arm to get up the steps to the bench, he is a fairly busy senior jurist. He handled more criminal trials than any other senior judge last year and still surprises new lawyers with his sharp retorts.

"I feel like I'm part of the woodwork," Bryant said. "I have to think hard to think of a time when I wasn't in this courthouse."

He started down his career path inspired by a Howard University law professor who believed that lawyers could make a difference in that time of racial segregation and discrimination. Bryant said he remains convinced today that lawyers can stop injustice whenever it arises.

"Without lawyers, this is just a piece of paper," Judge Bryant said, gesturing with the well-worn Constitution. "If it weren't for lawyers, I'd still be three-fifths of a man. If it weren't for lawyers, we'd still have signs directing people this way and that, based on the color of their skin. If it weren't for lawyers, you still wouldn't be able to vote.

"The most important professions are lawyer and teacher, in my opinion," he said.

Some lawyers complain that Bryant is so rooted in his criminal defense training that he shows some distrust of the prosecution. And his practice of presiding over trials, but asking other judges to sentence the people convicted, has spurred some curiosity. He won't elaborate on the reason, but his friends say he found the new federal sentencing guidelines inflexible and harsh.

A 1993 study found Bryant was reversed 17 percent of the time by appellate judges—the average reversal rate for the trial court.

Chief Judge Thomas F. Hogan presented the proposal to name the annex after Bryant to Del. Eleanor Holmes Norton and Sen. Patrick Leahy (D-Vt.) earlier this year, and they are now trying to get Congress to approve the naming this fall. One member, Sen. James M. Inhofe (R-Okla.), has tried to block it, with his staff pointing to a D.C. policy that buildings not be named after living people.

Norton said numerous courts around the country have been named in honor of living judges, and she said she looks forward to meeting with Inhofe in person to convince him of the wisdom of naming this building, designed by renowned architect Michael Graves, after a barrier-breaking judge.

"This is no ordinary naming," she said. "This is a truly great African American judge whose accomplishments are singular. First African American assistant U.S. attorney. First African American chief judge."

E. Barrett Prettyman Jr., the son of the jurist for whom the federal courthouse in Washington is named, also applauds the proposed annex naming. He said his father "admired Judge Bryant tremendously" and would have endorsed it, too.

"Whenever it's discussed, people brighten right up and think it's a great idea," said Prettyman, himself a former president of the D.C. Bar Association. "I'm sorry it's hit this snag. . . . If you were going to have an exception, my personal opinion is you could not have a better exception than for Judge Bryant."

William Benson Bryant is hailed as a true product of Washington. Though he was born in a rural town in Alabama, he moved to the city soon after turning 1. His grandfather, fleeing a white lynch mob, relocated the extended family here, including Bryant's father, a railroad porter, and his mother, a housewife. They all made their first home on Benning Road, which was then a dirt path hugging the eastern shore of the Anacostia River.

Bryant attended D.C. public schools when the city's black children were taught in separate and grossly substandard facilities. Still he flourished, studying politics at the city's premier black high school, Dunbar, then going on to Howard University. While working at night as an elevator operator, he studied law and met his future wife, Astaire. They were married for 60 years, until her death in 1997.

He and his law classmates—the future civil rights movement's intellectual warriors—worked at their dreams in the basement office of their law professor, Charles Houston. Houston promised the group, which included the future Supreme Court Justice Thurgood Marshall and appellate judge Spottswood Robinson, that lawyers armed with quick minds and the Constitution could end segregated schools and unjust convictions of innocent black men.

"I kind of got fascinated by that," he said. "We all did."

But when Bryant graduated first in his class from Howard's law school, there were no jobs for a black lawyer. He became a chief research assistant to Ralph Bunche, an African American diplomat who later was awarded the Nobel Peace Prize, on a landmark study of American race relations; he then fought in World War II and was discharged from the Army as a lieutenant colonel in 1947.

His first step was to take the bar exam, then hang out a shingle as a criminal defense lawyer in 1948. His skills soon drew the attention of prosecutors in the U.S. Attorney's Office, who liked him even though they kept losing cases to him, and they recommended that their boss hire him. During a job interview, Bryant made a request of George Fay, then the U.S. attorney: "Mr. Fay, if I cut the mustard in municipal court, can I go over to the big court like the other guys?"

No black prosecutor had ever practiced in the federal court—or "big court," as it was called—but Fay agreed. Bryant signed on in 1951 and was handling grand jury indictments in the new federal courthouse the next year.

Bryant vividly recalls a case from that time involving an apartment building caretaker who was on trial on charges of raping the babysitter of one tenant's family.

"I went for him as hard as I could," Bryant said, squaring his shoulders. "I didn't like him, and I didn't like what he did to that girl."

So the young prosecutor sought the death penalty, an option then for first-degree murder and rape. He left the courtroom after closing arguments "feeling pretty good about my case" and awaited the jury's verdict in his third-floor court office. But when a marshal later called out, "Bryant, jury's back," the judge said, "I broke out in a sweat."

He peeked anxiously into the court, saw the jury foreman mouth only the word "guilty." Bryant learned seconds later that the jurors had spared the man's life.

"I was so relieved," he said. "When you're young, you don't know anything. . . . Now I think, murder is murder, no matter who is doing it."

He left the prosecutor's office in 1954 and returned to criminal defense with fellow classmate William Gardner in an F Street law office later bulldozed for the MCI Center. They were partners in Houston, Bryant and Gardner, a legendarily powerful African American firm. Ten judges would eventually come from its ranks.

In those days, Bryant chuckled, he didn't feel so powerful. Judges who remembered his prosecution work kept appointing him to represent defendants who had no money. That was before the 1963 Supreme Court's Gideon decision requiring that indigent defendants be represented by a lawyer—at public expense, if necessary.

"The judge would say, 'Mr. So and So, you say you don't have any money to hire an attorney?' " Bryant recalled. " 'Well, then, the court appoints Mr. Bryant to represent you.' "

Some paid $25 or $50. Some paid nothing.

"There were weeks we paid the help and split the little bit left over for our groceries," he said.

Bill Schultz, Bryant's former law clerk, said Bryant took the cases "out of this sense of obligation to the court and legal system. He was very aware of discrimination, and he always fought for the criminal defendants."

At the time, blacks were barred from the D.C. Bar Association and its law library. Bryant went in anyway, and the black librarian let him.

One of his pro bono clients was Andrew Roosevelt Mallory, a 19-year-old who confessed to a rape after an eight-hour interrogation in a police station. Mallory was convicted and sent to death row. Defending Mallory's rights, a case Bryant took all the way to the Supreme Court in 1957, made him both nervous and famous.

He said he fretted constantly about his client facing the electric chair during the two years the case dragged on. "You talk about worried," he said. "It's something I can't forget."

But the Supreme Court agreed with Bryant that a man accused of a crime is entitled to be taken promptly before a magistrate to hear the charges against him. The court overturned Mallory's conviction and handed down a landmark decision on defendants' rights.

U.S. District Judge Paul Friedman, a longtime fan of Bryant's, said Bryant's legal talents are on display every day in his courtroom, but lawyers are still taken aback by his factual resolve and clear logic when hearing an audiotape recording of his Supreme Court argument in the Mallory case.

"He's clearly a terrific lawyer, but he's mostly a terrific human being," Friedman said. "He sees the best in people, and he really cares about what happens to people."

Bryant remembers that when President Lyndon B. Johnson nominated him to be a judge, he felt elated, confident he had earned his opportunity. But Bryant said a different feeling came over him the day he donned the robes.

"I was sworn in in the morning that day, and Oliver Gasch was sworn in that afternoon," Bryant recalled. "I told Oliver, 'You know, I've been a lawyer for many years, but putting on this robe, I don't feel so sure. This is a serious responsibility.' "

Gasch smiled: "Bill, I don't think it's going to be that hard for you. You know right from wrong."

Bryant oversaw some famous cases, and he freely shared his thoughts when he thought something was wrong.

After presiding over the 1981 trial of Richard Kelly, a Republican congressman caught on videotape taking money from federal agents in a sting operation, Bryant complained that the FBI had set an "outrageous" trap for the Florida representative by stuffing cash in his pocket after he'd refused the bribe several times. He set aside Kelly's conviction.

"The investigation . . . has an odor to it that is absolutely repulsive," Bryant said then. "It stinks."

In handling the longest-running case in the court's history, a 25-year-old case about inhumane and filthy conditions in the D.C. jail, the judge chastised city leaders in 1995. He said he had been listening to their broken promises to fix the problems "since the Big Dipper was a thimble."

In weighing the case of a group of black farmers with similar discrimination complaints against the U.S. Department of Agriculture in 2000, Bryant warned a government lawyer that his argument against a class-action discrimination suit wasn't working: "Either you're dense or I'm dense," he said.

Schultz said the judge simply trusted the combination of facts and the law.

"He always said, 'Don't fight the facts,' " Schultz said. "He thought most of the time the law would end up in the right place."

Bryant acknowledges it's hard sometimes to see lawyers struggle to make their arguments when they have the law and the facts on their side.

"A judge has a stationary gun, and he's looking through the sights," he said. "Unless the lawyer brings the case into the bull's-eye, the judge can't pull the trigger. Good lawyers bring the case into the sights."

Bryant said he was preceded by many great lawyers, which is why the new plan to put his name on a piece of the courthouse gives him conflicting feelings.

"I was flattered, but I thought they shouldn't have done it," Bryant said. "There are so many people who were really giants. I stand on their shoulders."

---

S. 478

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in section 1 shall be deemed to be a reference to the "William B. Bryant Annex".

**SEC. 3. EFFECTIVE DATE.**

This Act takes effect on the date on which William B. Bryant, a senior judge for the United States District Court for the District of Columbia, relinquishes or otherwise ceases to hold a position as a judge under article III of the Constitution.

---

By Ms. CANTWELL:

S. 479. A bill to amend title 4 of the United States Code to prohibit a State from imposing a discriminatory tax on income earned within such State by nonresidents of such State; to the Committee on Finance.

Ms. CANTWELL. Mr. President, today I am introducing legislation to correct a tax injustice affecting my home State of Washington, and all States that do not have a State income tax. My bill, the Nonresident Income Tax Freedom Act, would prohibit States from imposing income taxes on individuals that are not residents of that State. I hear about this issue in the areas of my State that border Oregon and Idaho, both States that have income taxes. In fact, wherever I go in Vancouver and throughout Clark County, I hear time and again from constituents about the unfairness of living in Washington State—a State that does not have an income tax—and working in Oregon—a State that does have an income tax and being taxed on their income earned in Oregon.

According to the Oregon Department of Revenue, in 2002, there were 51,991 Clark County residents working in Oregon. Taxed on their income, these nearly 52,000 individuals remitted $104 million to Oregon that year.

Representing all of Washington State in Congress, it is not lost on me that an additional 30,181 Washington State residents outside of Clark County were also employed in Oregon in 2002, and these 30,000 paid the State of Oregon $49.8 million.

Furthermore, there are Washington State residents working in Idaho. In 2002, 19,467 of them owed the State of Idaho $18.9 million in income taxes.

While I would like to hope that most Washingtonians could find employment in Washington State, and I am grateful for the job opportunities presented to Washingtonians in Oregon, I find it antithetical to notions of lifting up the economy of Washington State to have the incomes of Washington State residents taxed in Oregon.

We have historical roots in this country related to the notion of no taxation without representation. Washington residents being taxed in Oregon is contrary to this whole premise—a premise upon which American independence rested over 200 years ago.

Good tax policy rests on the notion that individual's contribution to the government through taxes brings benefits to those individuals—good schools, navigable roads, safe communities, clean water, and other services.

With incomes taxed in Oregon, Washington residents receive very little benefit for the contributions made to the State of Oregon. Granted, Oregon maintains the infrastructure used by Washingtonians to get to work; but there are a number of benefits that Washington residents never realize from the taxes they pay. For example, Washington State residents employed in Oregon and paying Oregon income taxes do not receive in-State tuition rates for college.

In addition, Washington State residents employed in Oregon and paying Oregon income taxes do not receive the benefit of paying less for fishing licenses. Examples of what this can mean: for 2005, an angling license for Oregonians is $24.75 for the year; for a Washingtonian who pays income taxes in Oregon, his/her angling license is $61.50—a 248-percent increase. The discrepancy in Idaho is even greater. For 2005, a combined hunting/fishing license for an Idaho resident is $30.50 and for a Washingtonian who is paying Idaho income taxes would be charged $181.50 for the same license—a 595-percent increase.

And first and foremost, Washington residents employed in Oregon and paying income taxes are not afforded voting rights in Oregon, thereby being taxed without representation.

The power for Congress to enact legislation to prohibit one State from assessing taxes on nonresidents working within that State exists in the Commerce Clause of the U.S. Constitution, Article I, Section 8, Clause 3. And Congress has exercised this authority in the past.

The Soldiers' and Sailors' Civil Relief Act of 1940 prohibits States from taxing the compensation of nonresident military personnel who are stationed in that State.

In July of 1977, Congress passed, and President Carter signed, legislation prohibiting the States of Virginia and Maryland, or the District of Columbia, from imposing an income tax against Members of Congress who maintain homes in those jurisdictions.

Additionally, with the Amtrak Reauthorization and Improvement Act of 1990, Congress granted tax immunity to employees of interstate railway, aviation, and motor carriers from paying State income taxes to any State other than an employee's State of residence.

It is time for Congress, once again, to utilize its authority under the Commerce Clause to prohibit the imposition of income taxes by States on nonresidents. It is my view that interstate trade in labor is important commerce that deserves to be treated fairly.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 479

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Nonresident Income Tax Freedom Act of 2005".

**SEC. 2. PROHIBITION ON IMPOSITION OF INCOME TAXES BY STATES ON NONRESIDENTS.**

(a) In General.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

**"§ 127. Prohibition on imposition of income taxes by states on nonresidents**

"Except to the extent otherwise provided in any voluntary compact between or among States, a State or political subdivision thereof may not impose a tax on income earned within such State or political subdivision by nonresidents of such State.".

(b) Clerical Amendment.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following new item:

"127. Prohibition on imposition of income taxes by States on nonresidents.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

---

By Mr. CONRAD (for himself and Mr. Dorgan):

S. 482. A bill to provide environmental assistance to non-Federal interests in the State of North Dakota; to the Committee on Environment and Public Works.

Mr. CONRAD. Mr. President, I am introducing the Water Infrastructure Revitalization Act, which authorizes $60 million through the U.S. Army Corps of Engineers to assist communities in North Dakota with water supply and treatment projects.

Imagine if you went to turn on your kitchen faucet one day and no water came out. This scenario became true for thousands in the communities of Fort Yates, Cannonball, and Porcupine just days before Thanksgiving in 2003. The loss of drinking water forced the closure of schools, the hospital and tribal offices for days. About 170 miles upstream, the community of Parshall faces similar water supply challenges as the water level on Lake Sakakawea continues to drop, leaving its intake high and dry. These and other communities in the State have faced significant expenditures in extending their intakes to ensure a continued supply of water. In addition, the city of Mandan faces the prospect of constructing a new horizontal well intake because changes in sediment load and flow as a result of the backwater effects of the Oahe Reservoir have caused significant siltation problems that restrict flow into the intake. These examples barely scratch the surface of the problems faced by many North Dakota communities in maintaining a safe, reliable water supply.

Since 1999, the Corps of Engineers has been authorized to design and construct water-related infrastructure projects in several different States including Wisconsin, Minnesota, and Montana. The State of North Dakota confronts water infrastructure challenges that are just as difficult as those in these other States. In fact, many of these challenges are caused directly by the Corps of Engineers' operations of the Missouri River dams. As a result, it is only appropriate that the Corps be part of the solution to North Dakota's water needs.

The Water Infrastructure Revitalization Act would provide important supplemental funding to assist North Dakota communities with water-related infrastructure repairs. Under the Act, communities could use the funding for wastewater treatment, water supply facilities, environmental restoration and surface water resource protection. Projects would be cost shared, with 75 percent Federal funding and 25 percent non-federal in most instances. However, the bill reduces the financial burden on local communities if necessary to ensure that water rates do not exceed the national affordability criteria developed by the Environmental Protection Agency.

This bill is not intended to compete with or take away funds for the construction of rural water projects under the Dakota Water Resources Act. Instead, it is meant to provide important supplemental funding for communities that are not able to receive funding from the Dakota Water Resources Act. I am pleased that the North Dakota Rural Water Systems Association has recognized the need for additional water project funding and endorsed this bill. It is my hope that this authorization will be included as part of the Water Resources Development Act that will be considered this year.

---

By Mr. CORNYN:

S. 483. A bill to strengthen religious liberty and combat government hostility to expressions of faith, by extending the research of The Equal Access Act to elementary schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORNYN. Mr. President, I rise to introduce legislation to expand the scope of the Equal Access Act, which Congress enacted in 1984 to guarantee equal access for religious and other organizations to the facilities of public secondary schools that receive Federal funding.

Tomorrow morning, the Supreme Court of the United States will hear oral argument in two cases involving the right of State and local governments to erect a public display of the Ten Commandments. One of those cases, Van Orden v. Perry, involves the public display at the State capitol grounds of my home State, the great State of Texas. The other case, McCreary County v. ACLU, arises out of the State of Kentucky.

These two cases are reminiscent of the Supreme Court's consideration last year of the Pledge of Allegiance—which contains the words "under god"—in the matter of Elk Grove Unified School District v. Newdow. The Court rejected the challenge to the Pledge of Allegiance in that case, but strictly on procedural grounds. So the Pledge of Allegiance, like the Ten Commandments, remains under attack and under danger of forced removal from our public square by judicial fiat.

We examined these issues at a hearing of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights I chaired on June 8, 2004. The hearing was entitled "Beyond the Pledge of Allegiance: Hostility to Religious Expression in the Public Square."

That hearing was important, because it reminded us of an even broader, more systemic problem caused by the Supreme Court's previous rulings, than just these disturbing attacks on the Pledge of Allegiance and the Ten Commandments—an unjustifiable hostility to religious expression in public squares across America.

Just as there is bipartisan agreement on the constitutionality of the Pledge of Allegiance, so should there be bipartisan agreement that government should never be hostile to expressions of faith. As President Ronald Reagan stated in 1983: "When our founding Fathers passed the First Amendment, they sought to protect churches from government interference. They never intended to construct a wall of hostility between government and the concept of religious belief itself." And as President Clinton noted in 1995: "Americans feel that instead of celebrating their love for God in public, they're being forced to hide their faith behind closed doors. That's wrong. Americans should never have to hide their faith, but some Americans have been denied the right to express their religion and that has to stop. That has happened and it has to stop."

At the hearing, we heard from citizen witnesses and legal experts alike, who recounted example after example after example of government discrimination against religious expression generally—including both discrimination against religious versus non-religious expression in government speech, as well as discrimination against purely private expressions of faith. Just consider this sample of incidents throughout the Nation—incidents of hostility to religious expression in the public square:

A 12-year-old elementary school student was reprimanded by a public school in St. Louis, MO for quietly saying a prayer before lunch in the school cafeteria, according to a federal lawsuit. The case was settled after the St. Louis School Board announced a new policy protecting the religious expression rights of students. St. Louis Post-dispatch, July 11, 1996.

A second grade school girl in Wisconsin was forbidden from distributing valentines during a Valentine's Day Exchange because her valentines happened to contain religious themes. After a Federal lawsuit was filed, the school district settled the suit by publishing an apology to the student in the Milwaukee Journal Sentinal and issuing a new policy protecting the religious freedoms of its students. Capital Times, Madison, August 29, 2001.

A kindergartener in Dayton, OH was forbidden by her public school teacher from distributing bags of jellybeans with an attached prayer to her classmates, according to a Federal lawsuit. Associated Press, February 8, 2004.

Public high school students in Massachusetts started a Bible club and tried to hand out candy canes with a Biblical passage attached. The school suspended the students for distributing the candy canes. A federal district court issued a temporary injunction against the school. Westfield High Sch. L.I.F.E. Club v. City of Westfield, 249 F. Supp. 2d 98 D. Mass. 2003.

A public school sixth grader in Boulder, CO tried to complete her book report assignment by presenting the Bible, but was forbidden from doing so by her teacher. She was also forbidden from bringing the Bible to school. Only after a lawsuit was threatened did the school eventually back down. Denver Post, December 13, 2002.

According to a Federal lawsuit, a public school teacher at Lynn Lucas Middle School in Houston, TX, punished two sisters for carrying Bibles, confiscated and threw the Bibles into the trash, and threatened to call Child Protective Services, while another teacher forbade a third student from reading the Bible during free reading time and forced him to remove a Ten Commandments book cover from another book. The suit was ultimately resolved out of court. Houston Chronicle, May 24, 2000.

As explained in her Senate testimony, Nashala Hearn, a 12-year-old girl in Muskogee, OK, was suspended for three days by her public middle school for wearing a hijab, a headscarf required by her Islamic faith. The school eventually backed down after intervention by the Justice Department. Senate Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights, June 8, 2004.

A Texas school district refused to hire a public school teacher for the position of assistant principal, because her children attended a private Christian school, in violation of the district's policy that the children of all principals and administrators attend public school. The district's policy was upheld by the Federal district court but subsequently rejected on appeal. Barrow v. Greenville Ind. Sch. Dist., 332 F.3d 844 5th Cir. 2003.

A Vietnam veteran and member of an honor guard at a New Jersey veterans' cemetery was fired for saying "God bless you and this family" to the family of a deceased veteran, even though the family had consented to the blessing beforehand. Winston-Salem Journal, April 26, 2003.

A public library employee in Logan County, KY, was fired for refusing to remove her cross-pendant necklace while at work. A Federal district court subsequently ruled that the library violated her constitutional rights. American Libraries, October 1, 2003.

According to another federal lawsuit, an employee of the Minnesota State Department of Revenue is barred from parking his car in the employee parking lot, because his car displays religious messages such as "God is a loving and caring God." Other employees are allowed to display nonreligious messages on their cars. The employee is similarly barred from displaying religious messages in his office cubicle, even though other employees are allowed to display nonreligious messages in their cubicles. Star-Tribune (Minneapolis), July 2, 2004.

As he explained in his Senate testimony, Barney Clark and other members of the Balch Springs Senior Center in Balch Springs, Texas, were forbidden from singing religious songs and appointing someone to bless their food at the city-owned senior center. The city eventually backed down, but only after a federal lawsuit and intervention by the Justice Department. Senate Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights, June 8, 2004.

I'm grateful to the Liberty Legal Institute, which has been an active champion of religious liberty, and which followed up on their testimony at the hearing last year by filing a 51-page report with the subcommittee last October. The Institute's report documented additional cases of hostility to religion in the public square, and noted the existence of a nationwide campaign to remove religious expressions from the public square—namely, liberal organizations in Washington that actively litigate against equal access for religious organizations in public schools, against school choice programs that give needy students equal access to parochial and nonsectarian schools alike, and against voluntary, student-led religious expression.

Thankfully, and despite the efforts of these organizations, we are starting to win the battle for religious liberty and against hostility to religious expression. The Court has upheld equal access for religious organizations on a number of recent occasions—albeit frequently by narrow, 5-4 majorities—including cases like Rosenberger, Good News Club, Zelman, and Mitchell. And thankfully, the Equal Access Act of 1984 has been affirmed, upheld, and enforced.

But the Equal Access Act applies only to postsecondary schools. It is time that equal access be extended to elementary schools as well, and that is why I introduce this legislation today. I know that Senators will be following closely the Supreme Court's consideration of the Ten Commandments cases and the people's right to display our nation's most revered documents in public squares across America. Regardless of the outcome of those cases, I hope that Senators will also support this effort to extend equal access to all of our nation's public schools.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 483

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EQUAL ACCESS FOR ELEMENTARY SCHOOLS.**

The Equal Access Act (20 U.S.C. 4071 et seq.) is amended—

(1) in section 802—

(A) in subsection (a), by inserting "elementary school or" after "public"; and

(B) in subsection (b), by inserting "elementary school or" after "public"; and

(2) in section 803, by adding at the end the following:

"(5) The term 'elementary school' means a public school that provides elementary education as determined by State law.".

---

By Mr. WARNER (for himself and Ms. COLLINS):

S. 484. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Finance.

Mr. WARNER. Mr. President, today I am introducing legislation to provide some relief for our nation's retired Federal employees from the severe increases in Federal Employee Health Benefit Program (FEHBP) premiums. This measure extends premium conversion to Federal and military retirees, allowing them to pay their health insurance premiums with pre-tax dollars.

The increasing cost of health care is a critical issue, especially to retirees living on a fixed income. In 2005 premiums are expected to rise an average of 7.9 percent for the 8 million Federal employees, retirees and their families that are covered under the FEHBP. This legislation will help to ensure that more Federal and military retirees are able to continue their healthcare coverage with the FEHBP and supplemental TRICARE health insurance plans as premiums continue to rise.

In the fall of 2000 premium conversion became available to current Federal employees who participate in the Federal Employees Health Benefits Program. It is a benefit already available to many private sector employees. While premium conversion does not directly affect the amount of the FEHBP premium, it helps to offset some of the increase by reducing an individual's Federal tax liability.

Extending this benefit to Federal retirees requires a change in the tax law, specifically Section 125 of the Internal Revenue Code. This legislation makes the necessary change in the tax code.

Under the legislation, the benefit is concurrently afforded to our Nation's military retirees as well to assist with increasing health care costs.

A number of organizations representing Federal and military retirees are strongly behind this initiative, including the National Association of Retired Federal Employees, the Military Coalition, the Fleet Reserve Association, and the Association of the U.S. Army.

My support for this legislation spans three Congresses. In the 108th Congress, my premium conversion bill received considerable bipartisan support with 57 cosponsors. It is my sincere hope that this legislation will be passed by Congress this session. I encourage my colleagues to join me in supporting this critical legislation and show their support for our Nation's dedicated Federal civilian and military retirees. I ask unanimous consent that the text of the bill be printed in the RECORD

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 484

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PRETAX PAYMENT OF HEALTH INSURANCE PREMIUMS BY FEDERAL CIVILIAN AND MILITARY RETIREES.**

(a) IN GENERAL.—Subsection (g) of section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by adding at the end the following new paragraph:

"(5) HEALTH INSURANCE PREMIUMS OF FEDERAL CIVILIAN AND MILITARY RETIREES.—

"(A) FEHBP PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an annuitant, as defined in paragraph (3) of section 8901, title 5, United States Code, with respect to a choice between the annuity or compensation referred to in such paragraph and benefits under the health benefits program established by chapter 89 of such title 5.

"(B) TRICARE PREMIUMS.—Nothing in this section shall prevent the benefits of this section from being allowed to an individual receiving retired or retainer pay by reason of being a member or former member of the uniformed services of the United States with respect to a choice between such pay and benefits under the health benefits programs established by chapter 55 of title 10, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2. DEDUCTION FOR TRICARE SUPPLEMENTAL PREMIUMS.**

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

**"SEC. 224. TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.**

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amounts paid during the taxable year by the taxpayer for insurance purchased as supplemental coverage to the health benefits programs established by chapter 55 of title 10, United States Code, for the taxpayer and the taxpayer's spouse and dependents.

"(b) COORDINATION WITH MEDICAL DEDUCTION.—Any amount allowed as a deduction under subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).".

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by redesignating paragraph (19) (as added by section 703(a) of the American Jobs Creation Act of 2004) as paragraph (20) and by inserting after paragraph (20) (as so redesignated) the following new paragraph:

"(21) TRICARE SUPPLEMENTAL PREMIUMS OR ENROLLMENT FEES.—The deduction allowed by section 224.".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 224. TRICARE supplemental premiums or enrollment fees.
"Sec. 225. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 3. IMPLEMENTATION.**

(a) FEHBP PREMIUM CONVERSION OPTION FOR FEDERAL CIVILIAN RETIREES.—The Director of the Office of Personnel Management shall take such actions as the Director considers necessary so that the option made possible by section 125(g)(5)(A) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period, afforded under section 8905(g)(1) of title 5, United States Code, which begins not less than 90 days after the date of the enactment of this Act.

(b) TRICARE PREMIUM CONVERSION OPTION FOR MILITARY RETIREES.—The Secretary of Defense, after consulting with the other administering Secretaries (as specified in section 1073 of title 10, United States Code), shall take such actions as the Secretary considers necessary so that the option made possible by section 125(g)(5)(B) of the Internal Revenue Code of 1986 shall be offered beginning with the first open enrollment period afforded under health benefits programs established under chapter 55 of such title, which begins not less than 90 days after the date of the enactment of this Act.

---

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 486. A bill to require the Secretary of the Navy to procure helicopters under the VH-3D presidential helicopter fleet replacement program that are wholly manufactured in the United States; to the Committee on Armed Services.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation with my colleague Senator DODD that requires that the helicopter fleet built for the President of the United States be made entirely in the United States by American workers using American parts.

This is how it has always been. And this is the way it should stay.

Since President Eisenhower first flew in 1957, American Presidents have logged more than a quarter of a million hours in American helicopters designated Marine One with an unblemished record of safety and performance.

But recently, the Navy chose a new helicopter to replace the current Presidential fleet that was designed overseas and will have substantial portions built overseas.

This model was chosen over another model that would have been wholly built in the United States. This decision is a blow to the pride of the American aviation industry and blows a hole in the wallet of American workers and taxpayers.

Let me make clear that with this bill we are not asking the Navy to pick a helicopter solely because it is American. The Presidential fleet must be made up of helicopters that offer superb performance and safety standards.

But when an American model meets those standards, as was the case with the bids for Marine One, common sense dictates that we "Buy American."

With this contract we are putting the American aviation industry at a long-term competitive disadvantage. The Marine One contract comes with millions of dollars in research money to develop new helicopter technologies. With the Navy's selection of a foreign competitor, these research dollars will now go overseas.

By subsidizing foreign aviation research—mostly in Europe, which already heavily subsidizes its aviation industry—we will be using American taxpayer dollars to make it harder for U.S. companies to stay competitive and compete in domestic and world markets.

With these kinds of disadvantages, we run the risk that we will become increasingly reliant on overseas suppliers of important military equipment, jeopardizing our national security.

Insisting that the American President fly in an American-made helicopter is not a unique or unusual consideration for a national leader.

The Prime Minister of Great Britain doesn't fly in an American helicopter, nor does the Prime Minister of Italy. They both fly in European helicopters. That's fine. They are supporting their workers, helping to sustain their industrial base, and sending a clear signal of national pride to their people.

We should do no less.

Let me stress, I am not seeking to exclude overseas companies from competing in U.S. markets or to exclude them from all military contracts. The United States has a long history of open markets and free and fair competition, and we should not back away from that.

But this is a unique case. We are talking about the most famous helicopter in the world. What message do we send when we outsource such a visible symbol of national pride to others? We send a message that "Built in America" is second-best.

This is just wrong.

American workers have been building and maintaining Presidential helicopters for over half a century. Their performance has been outstanding. We should not punish this service and dedication by using taxpayer dollars to send their jobs to someone else.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 486

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. VH-3D PRESIDENTIAL HELICOPTER FLEET REPLACEMENT PROGRAM PROCUREMENT REQUIREMENT.**

(a) IN GENERAL.—The Secretary of the Navy may not enter into a contract for the procurement of a helicopter under the VH-3D presidential helicopter fleet replacement program unless the contract requires the helicopter to be wholly manufactured in the United States from parts wholly manufactured in the United States.

(b) EXISTING CONTRACTS.—If a contract entered into after December 31, 2004, and before the date of the enactment of this section does not meet the requirements described in subsection (a), the Secretary of the Navy shall terminate such contract.

---

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 488. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with my colleague Senator COLLINS, to introduce legislation, the Commercial Truck Highway Safety Demonstration Program Act, to create a safety pilot program for commercial trucks.

This bill would authorize a safety demonstration program in my home State of Maine that could be a model for other States. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal interstate truck weight limit of 80,000 pounds.

I believe that safety must be the No. 1 priority on our roads and highways, and I am very concerned that the existing interstate weight limit has the unintended impact of forcing commercial trucks onto State and local secondary roads that were never designed to safely handle such heavy commercial trucks. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from Federal weight limits on the Maine Turnpike, the 100-mile section of Maine's interstate in the southern portion of the State, and it was signed into law as part of TEA-21. I have also shared my concerns with the Department of Transportation and the Senate Environment and Public Works Committee to urge them to work with me in an effort to address my concern with the safety of my constituents.

In addition, the Maine Department of Transportation has nearly concluded a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, in order to secure the data necessary to ensure that commercial trucks operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits, 80,000 pounds, on the Interstate System, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads don't. In fact, lower weight limits only encourage more trucks to operate on these very roads, only heightening the wear and tear as well as increasing the potential danger to both drivers and pedestrians.

The legislation I am submitting today would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, States, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Mr. President, I rise to join with my senior colleague from Maine in sponsoring the Commercial Truck Highway Safety Demonstration Program Act, an important bill that addresses a significant safety problem in our State.

Under current law, trucks weighing 100,000 pounds are allowed to travel on Interstate 95 from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, trucks are forced off Interstate 95, which proceeds north to Houlton. Heavy trucks are forced onto smaller, secondary roads that pass through cities, towns and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's interstate highway system forces trucks traveling to and from destinations in these States and provinces to use Maine's State and local roads, nearly all of which have two lanes, rather than four. Consequently, many Maine communities along the interstate see substantially more truck traffic than would otherwise be the case if the weight limit were 100,000 pounds for all of Maine's interstate highways.

The problem Maine faces due to the disparity in truck weight limits affects many communities and is clearly evident in the eastern Maine cities of Bangor and Brewer. In this region, a 2-mile stretch of Interstate 395 connects two major State highways that carry significant truck traffic across Maine. I-395 affords direct and safe access between these major corridors, but because of the existing Federal truck weight limit, many heavy trucks are prohibited from using this multi-lane, limited access highway.

Instead, these trucks, which sometimes carry hazardous materials, are required to maneuver through the downtown portions of Bangor and Brewer on two-lane roadways. Truckers are faced with two options; the first is a 3.5-mile diversion through downtown Bangor that requires several very difficult and dangerous turns. The second route is a 7.5-mile diversion that includes 20 traffic lights and requires travel through portions of downtown Bangor, as well. Congestion is a significant issue and safety is seriously compromised as a result of these required diversions.

A recent study, conducted by the Maine Department of Transportation, found that the accident rate between 2000 and 2003—per 100 million vehicle miles traveled—was more than four times higher on two-lane roads than on the Maine Turnpike, which had four lanes at the time of the study. A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce highway miles, as well as the travel times necessary to transport freight through Maine, resulting in safety, economic, and environmental benefits.

Moreover, Maine's extensive network and local roads would be better preserved without the wear and tear of heavy truck traffic. Most important, however, a uniform truck weight limit will keep trucks on the interstate where they belong, rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the Interstate Highway System would be set at 100,000 pounds for 3 years. During the waiver period, the Secretary would study the impact of the pilot program on safety and would receive the input of a panel on which State officials, and representatives from safety organizations, municipalities, and the commercial trucking industry would serve. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's interstate highway system.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and onto local roads. The legislation Senator SNOWE and I are introducing is a commonsense approach to a significant safety problem in my State. I hope my colleagues will support passage of this important legislation.

---

By Mr. ALEXANDER (for himself, Mr. KYL, and Mr. CORNYN):

S. 489. A bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes; to the Committee on the Judiciary.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 489

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Consent Decree Fairness Act".

**SEC. 2. FINDINGS.**

Congress finds that:

(1) Consent decrees are for remedying violations of rights, and they should not be used to advance any policy extraneous to the protection of those rights.

(2) Consent decrees are also for protecting the party who faces injury and should not be expanded to apply to parties not involved in the litigation.

(3) In structuring consent decrees, courts should take into account the interests of State and local governments in managing their own affairs.

(4) Consent decrees should be structured to give due deference to the policy judgments of State and local officials as to how to obey the law.

(5) Whenever possible, courts should not impose consent decrees that require technically complex and evolving policy choices, especially in the absence of judicially discoverable and manageable standards.

(6) Consent decrees should not be unlimited, but should contain an explicit and realistic strategy for ending court supervision.

**SEC. 3. LIMITATION ON CONSENT DECREES.**

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

**"§ 1660. Consent decrees**

"(a) DEFINITIONS.—In this section:

"(1) The term 'consent decree'—

"(A) means any final order imposing injunctive relief against a State or local government or a State or local official sued in their official capacity entered by a court of the United States that is based in whole or part upon the consent or acquiescence of the parties;

"(B) does not include private settlements; and

"(C) does not include any final order entered by a court of the United States to implement a plan to end segregation of students or faculty on the basis of race, color, or national origin in elementary schools, secondary schools, or institutions of higher education.

"(2) The term 'special master' means any person, regardless of title or description given by the court, who is appointed by a court of the United States under rule 53 of the Federal Rules of Civil Procedure, rule 48 of the Federal Rules of Appellate Procedure, or similar Federal law.

“(b) Limitation on Duration.—

“(1) In general.—A State or local government or a State or local official, or their successor, sued in their official capacity may file a motion under this section with the court that entered a consent decree to modify or vacate the consent decree upon the earlier of—

“(A) 4 years after a consent decree is originally entered by a court of the United States, regardless if the consent decree has been modified or reentered during that period; or

“(B) in the case of a civil action in which—

“(i) a State is a party (including an action in which a local government is also a party), the expiration of the term of office of the highest elected State official who authorized the consent of the State in the consent decree; or

“(ii) a local government is a party and the State encompassing the local government is not a party, the expiration of the term of office of the highest elected local government official who authorized the consent of the local government to the consent decree.

“(2) Burden of proof.—With respect to any motion filed under paragraph (1), the burden of proof shall be on the party who originally filed the civil action to demonstrate that the continued enforcement of a consent decree is necessary to uphold a Federal right.

“(3) Ruling on motion.—Not later than 90 days after the filing of a motion under this subsection, the court shall rule on the motion.

“(4) Effect pending ruling.—If the court has not ruled on the motion to modify or vacate the consent decree during the 90-day period described under paragraph (3), the consent decree shall have no force or effect for the period beginning on the date following that 90-day period through the date on which the court enters a ruling on the motion.

“(c) Special Masters.—

“(1) Compensation.—The compensation to be allowed to a special master overseeing any consent decree under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A of title 18, for payment of court-appointed counsel, plus costs reasonably incurred by the special master.

“(2) Termination.—In no event shall the appointment of a special master extend beyond the termination of the relief granted in the consent decree.”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following:

“§ 1660. Consent decrees.”.

**SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on the date of enactment of this Act and apply to all consent decrees regardless of—

(1) the date on which the final order of a consent decree is entered; or

(2) whether any relief has been obtained under a consent decree before the date of enactment of this Act.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 15. Mr. AKAKA (for himself, Mr. Durbin, Mr. Leahy, and Mr. Sarbanes) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes.

SA 16. Mr. DURBIN (for himself, Ms. Stabenow, Mr. Bayh, Ms. Landrieu, Mr. Leahy, Mr. Levin, Mr. Schumer, Ms. Cantwell, Mr. Nelson, of Florida, Mr. Kennedy, Mr. Kerry, Mrs. Clinton, and Ms. Mikulski) proposed an amendment to the bill S. 256, supra.

SA 17. Mr. FEINGOLD proposed an amendment to the bill S. 256 , supra.

SA 18. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 19. Mrs. FEINSTEIN (for herself and Mr. Kyl) submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 20. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 21. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 22. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 23. Mr. SESSIONS proposed an amendment to the bill S. 256 , supra.

SA 24. Mr. ROCKEFELLER (for himself and Mr. Leahy) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 25. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 26. Mr. LEAHY (for himself, Ms. Snowe, and Ms. Cantwell) proposed an amendment to the bill S. 256, supra.

SA 27. Mr. CHAFEE (for himself and Mr. Reed) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 15.** Mr. AKAKA (for himself, Mr. Durbin, Mr. Leahy, and Mr. Sarbanes) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 473, strike beginning with line 12 through page 482, line 24, and insert the following:

**SEC. 1301. ENHANCED CONSUMER DISCLOSURES REGARDING MINIMUM PAYMENTS.**

(a) Disclosures Regarding Outstanding Balances .—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(11)(A) Information regarding repayment of the outstanding balance of the consumer under the account, appearing in conspicuous type on the front of the first page of each such billing statement, and accompanied by an appropriate explanation, containing—

“(i) the words ‘Minimum Payment Warning: Making only the minimum payment will increase the amount of interest that you pay and the time it will take to repay your outstanding balance.’;

“(ii) the number of years and months (rounded to the nearest month) that it would take for the consumer to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments;

“(iii) the total cost to the consumer, shown as the sum of all principal and interest payments, and a breakdown of the total costs in interest and principal, of paying that balance in full if the consumer pays only the required minimum monthly payments, and if no further advances are made;

“(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made; and

“(v) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

“(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made.

“(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision specifying a subsequent interest rate or applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then shall apply the adjusted interest rate, as specified in the contract. If the contract applies a formula that uses an index that varies over time, the value of such index on the date on which the disclosure is made shall be used in the application of the formula.”.

(b) Access to Credit Counseling and Debt Management Information.—

(1) Guidelines required.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System and the Federal Trade Commission (in this section referred to as the “Board” and the “Commission”, respectively) shall jointly, by rule, regulation, or order, issue guidelines for the establishment and maintenance by creditors of a toll-free telephone number for purposes of the disclosures required under section 127(b)(11) of the Truth in Lending Act, as added by this Act.

(B) Approved agencies.—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number include only those agencies approved by the Board and the Commission as meeting the criteria under this section.

(2) Criteria.—The Board and the Commission shall only approve a nonprofit budget and credit counseling agency for purposes of this section that—

(A) demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides;

(B) at a minimum—

(i) is registered as a nonprofit entity under section 501(c) of the Internal Revenue Code of 1986;

(ii) has a board of directors, the majority of the members of which—

(I) are not employed by such agency; and

(II) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

(iii) if a fee is charged for counseling services, charges a reasonable and fair fee, and provides services without regard to ability to pay the fee;

(iv) provides for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

(v) provides full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, any costs of such program that will be paid by the client, and how such costs will be paid;

(vi) provides adequate counseling with respect to the credit problems of the client, including an analysis of the current financial condition of the client, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

(vii) provides trained counselors who—

(I) receive no commissions or bonuses based on the outcome of the counseling services provided;

(II) have adequate experience; and

(III) have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (F);

(viii) demonstrates adequate experience and background in providing credit counseling;

(ix) has adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan; and

(x) is accredited by an independent, nationally recognized accrediting organization.

---

**SA 16.** Mr. DURBIN (for himself, Ms. STABENOW, Mr. BAYH, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. SCHUMER, Ms. CANTWELL, Mr. NELSON of Florida, Mr. KENNEDY, Mr. KERRY, Mrs. CLINTON, and Ms. MIKULSKI) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if—

"(i) the debtor or the debtor's spouse is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act (50 App. U.S.C. 511(1)));

"(ii) the debtor or the debtor's spouse is a veteran (as defined in section 101(2) of title 38, United States Code); or

"(iii) the debtor's spouse dies while in military service (as defined in section 101(2) of the Servicemembers Civil Relief Act (50 App. U.S.C. 511(2))).

On page 67, between lines 18 and 19, insert the following:

**SEC. 206. DISALLOWANCE OF CLAIMS FILED ON HIGH-COST PAYDAY LOANS MADE TO SERVICEMEMBERS.**

(a) IN GENERAL.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period at the end; and

(3) by adding at the end the following:

"(10) such claim results from an assignment (including a loan or an agreement to deposit military pay into a joint account from which another person may make withdrawals, except when the assignment is for the benefit of a spouse or dependent of the debtor) of the debtor's right to receive—

"(A) military pay made in violation of section 701(c) of title 37; or

"(B) military pension or disability benefits made in violation of section 5301(a) of title 38; or

"(11) such claim is based on a debt of a servicemember or a dependent of a servicemember that—

"(A) is secured by, or conditioned upon—

"(i) a personal check held for future deposit; or

"(ii) electronic access to a bank account; or

"(B) requires the payment of interest, fees, or other charges that would cause the annual percentage rate (as defined by section 107 of the Truth in Lending Act (15 U.S.C. 1606)) on the obligation to exceed 36 percent.".

(b) CONFORMING AMENDMENT.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding paragraphs (2), (4), and (6) of subsection (a), a debt is dischargeable in a case under this title if it is based on an assignment of the debtor's right to receive—

"(1) military pay made in violation of section 701(c) of title 37; or

"(2) military pension or disability benefits made in violation of section 5301(a) of title 38.".

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. PROTECTION OF SERVICEMEMBERS' PROPERTY IN BANKRUPTCY.**

(a) IN GENERAL.—Section 522(b) of title 11, United States Code, as amended by section 224, is further amended—

(1) in paragraph (1), as redesignated, by striking "either paragraph (2) or, in the alternative, paragraph (3) of this subsection" and inserting "paragraph (2), (3), or (4)";

(2) by redesignating paragraph (4), as added by this Act, as paragraph (5); and

(3) by inserting after paragraph (3), as redesignated, the following:

"(4) If the debtor is a servicemember or the dependent of a servicemember, and the date of the filing of the petition is during, or not later than 1 year after, a period of military service by the servicemember, property listed in this paragraph is—

"(A) property that is specified under subsection (d), notwithstanding any State law that prohibits such exemptions; or

"(B) property that the debtor could have exempted if the debtor had been domiciled in the State of the debtor's premilitary residence for a sufficient period to claim the exemptions allowed by that State.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13A), as added by this Act, the following:

"(13B) 'dependent', with respect to a servicemember, means—

"(A) the servicemember's spouse;

"(B) the servicemember's child (as defined in section 101(4) of title 38); or

"(C) an individual for whom the servicemember provided more than 50 percent of the individual's support during the 180-day period immediately before the petition;";

(2) by inserting after paragraph (39A), as added by this Act, the following:

"(39B) 'military service' means—

"(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

"(i) active duty (as defined in section 101(d)(1) of title 10); and

"(ii) in the case of a member of the National Guard of the United States, service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

"(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

"(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause;";

(3) by inserting after paragraph (40B), as added by this Act, the following:

"(40C) 'period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember—

"(A) is released from military service; or

"(B) dies while in military service;"; and

(4) by inserting after paragraph (51D), as added by this Act, the following:

"(51E) 'servicemember' means a member of the uniformed services (as defined in section 101(a)(5) of title 10;".

On page 191, between lines 11 and 12, insert the following:

**SEC. 322A. EXEMPTION FOR SERVICEMEMBERS.**

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is further amended by adding at the end the following:

"(r) If the debtor or the spouse of the debtor is a servicemember (as defined in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(1))) or a veteran (as defined in section 101(2) of title 38, United States Code) or the spouse of the debtor dies while in military service (as defined in section 101(2) of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(2))), and the debtor or the spouse of the debtor elects to exempt property—

"(1) under subsection (b)(2), the debtor may, in lieu of the exemption provided under subsection (d)(1), exempt the debtor's aggregate interest, not to exceed $75,000 in value, in—

"(A) real property or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor; or

"(2) under subsection (b)(3), and the exemption provided under applicable law that may be applied to such property is for less than $75,000 in value, the debtor may, in lieu of such exemption, exempt the debtor's aggregate interest, not to exceed $75,000 in value, in any property described in subparagraph (A), (B), or (C) of paragraph (1).".

---

**SA 17.** Mr. FEINGOLD proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 191, between lines 11 and 12, insert the following:

**SEC. 322A. EXEMPTION FOR THE ELDERLY.**

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is amended by adding at the end the following:

"(r) For a debtor whose age is 62 or older on the date of the filing of the petition, if the debtor elects to exempt property—

"(1) under subsection (b)(2), then in lieu of the exemption provided under subsection (d)(1), the debtor may elect to exempt the debtor's aggregate interest, not to exceed $75,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor; or

"(2) under subsection (b)(3), then if the exemption provided under applicable law that may be applied to such property is for less than $75,000 in value, the debtor may elect in lieu of such exemption to exempt the debtor's aggregate interest, not to exceed $75,000 in value, in any such real or personal property, cooperative, or burial plot.".

---

**SA 18.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 7 and 8, insert the following:

"(v) In addition to the other grounds by which the presumption of abuse may be rebutted under this subparagraph, the debtor may rebut the presumption of abuse by showing catastrophic financial hardship caused by illness, resulting in substantial unreimbursed expenses for necessary medical care, that burdens the debtor to such an extent that the debtor is unable to repay the medical debt over the debtor's lifetime, in the judgement of the court. If the debtor rebuts the presumption of abuse under this clause, the bankruptcy judge shall not dismiss or convert the case to a proceeding under chapter 13 of this title.

---

**SA 19.** Mrs. FEINSTEIN (for herself and Mr. KYL) submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 473, strike line 14 and all that follows through page 482, line 24, and insert the following:

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11) ENHANCED DISCLOSURE UNDER AN OPEN END CREDIT PLAN.—

"(A) IN GENERAL.—A credit card issuer shall provide, with each billing statement provided to a cardholder in a State, the following on the front of the first page of the billing statement in type no smaller than that required for any other required disclosure, but in no case in less than 8-point capitalized type:

"(i) A written statement in the following form: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance.'.

"(ii) Either of the following:

"(I) A written statement in the form of and containing the information described in item (aa) or (bb), as applicable, as follows:

"(aa) A written 3-line statement, as follows: 'A one thousand dollar ($1,000) balance will take 17 years and 3 months to pay off at a total cost of two thousand five hundred ninety dollars and thirty-five cents ($2,590.35). A two thousand five hundred dollar ($2,500) balance will take 30 years and 3 months to pay off at a total cost of seven thousand seven hundred thirty-three dollars and forty-nine cents ($7,733.49). A five thousand dollar ($5,000) balance will take 40 years and 2 months to pay off at a total cost of sixteen thousand three hundred five dollars and thirty-four cents ($16,305.34). This information is based on an annual percentage rate of 17 percent and a minimum payment of 2 percent or ten dollars ($10), whichever is greater.'. In the alternative, a credit card issuer may provide this information for the 3 specified amounts at the annual percentage rate and required minimum payment that are applicable to the cardholder's account. The statement provided shall be immediately preceded by the statement required by clause (i).

"(bb) Instead of the information required by item (aa), retail credit card issuers shall provide a written 3-line statement to read, as follows: 'A two hundred fifty dollar ($250) balance will take 2 years and 8 months to pay off a total cost of three hundred twenty-five dollars and twenty-four cents ($325.24). A five hundred dollar ($500) balance will take 4 years and 5 months to pay off at a total cost of seven hundred nine dollars and ninety cents ($709.90). A seven hundred fifty dollar ($750) balance will take 5 years and 5 months to pay off at a total cost of one thousand ninety-four dollars and forty-nine cents ($1,094.49). This information is based on an annual percentage rate of 21 percent and a minimum payment of 5 percent or ten dollars ($10), whichever is greater.'. In the alternative, a retail credit card issuer may provide this information for the 3 specified amounts at the annual percentage rate and required minimum payment that are applicable to the cardholder's account. The statement provided shall be immediately preceded by the statement required by clause (i). A retail credit card issuer is not required to provide this statement if the cardholder has a balance of less than five hundred dollars ($500).

"(II) A written statement providing individualized information indicating an estimate of the number of years and months and the approximate total cost to pay off the entire balance due on an open-end credit card account if the cardholder were to pay only the minimum amount due on the open-ended account based upon the terms of the credit agreement. For purposes of this subclause only, if the account is subject to a variable rate, the creditor may make disclosures based on the rate for the entire balance as of the date of the disclosure and indicate that the rate may vary. In addition, the cardholder shall be provided with referrals or, in the alternative, with the '800' telephone number of the National Foundation for Credit Counseling through which the cardholder can be referred, to credit counseling services in, or closest to, the cardholder's county of residence. The credit counseling service shall be in good standing with the National Foundation for Credit Counseling or accredited by the Council on Accreditation for Children and Family Services. The creditor is required to provide, or continue to provide, the information required by this clause only if the cardholder has not paid more than the minimum payment for 6 consecutive months, beginning after January 1, 2005.

"(iii)(I) A written statement in the following form: 'For an estimate of the time it would take to repay your balance, making only minimum payments, and the total amount of those payments, call this toll-free telephone number: (Insert toll-free telephone number).'. This statement shall be provided immediately following the statement required by clause (ii)(I). A credit card issuer is not required to provide this statement if the disclosure required by clause (ii)(II) has been provided.

"(II) The toll-free telephone number shall be available between the hours of 8 a.m. and 9 p.m., 7 days a week, and shall provide consumers with the opportunity to speak with a person, rather than a recording, from whom the information described in subclause (I) may be obtained.

"(III) The Federal Trade Commission shall establish not later than 1 month after the date of enactment of this paragraph a detailed table illustrating the approximate number of months that it would take and the approximate total cost to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other additional charges or fees are incurred on the account, such as additional extension of credit, voluntary credit insurance, late fees, or dishonored check fees by assuming all of the following:

"(aa) A significant number of different annual percentage rates.

"(bb) A significant number of different account balances, with the difference between sequential examples of balances being no greater than $100.

"(cc) A significant number of different minimum payment amounts.

"(dd) That only minimum monthly payments are made and no additional charges or fees are incurred on the account, such as additional extensions of credit, voluntary credit insurance, late fees, or dishonored check fees.

"(IV) A creditor that receives a request for information described in subclause (I) from a cardholder through the toll-free telephone number disclosed under subclause (I), or who is required to provide the information required by clause (ii)(II), may satisfy the creditor's obligation to disclose an estimate of the time it would take and the approximate total cost to repay the cardholder's balance by disclosing only the information set forth in the table described in subclause (III). Including the full chart along with a billing statement does not satisfy the obligation under this paragraph.

"(B) DEFINITIONS.—In this paragraph:

"(i) OPEN-END CREDIT CARD ACCOUNT.—The term 'open-end credit card account' means an account in which consumer credit is granted by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an unpaid balance, and the amount of credit that may be extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid and up to any limit set by the creditor.

"(ii) RETAIL CREDIT CARD.—The term 'retail credit card' means a credit card that is issued by or on behalf of a retailer, or a private label credit card, that is limited to customers of a specific retailer.

"(C) EXEMPTIONS.—

"(i) MINIMUM PAYMENT OF NOT LESS THAN TEN PERCENT.—This paragraph shall not apply in any billing cycle in which the account agreement requires a minimum payment of not less than 10 percent of the outstanding balance.

"(ii) NO FINANCE CHANGES.—This paragraph shall not apply in any billing cycle in which finance charges are not imposed.".

---

**SA 20.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 2 and 3, insert the following:

"(VI) In addition, the debtor's monthly expenses shall include the actual, reasonable expenses for operation of transportation and for public transportation, including costs for fuel, maintenance, automobile insurance, and public transportation, to the extent that the actual costs exceed the Local Standards issued by the Internal Revenue Service for operating and public transportation costs.

"(VII) In addition, if a debtor owns a home, the debtor's monthly expenses shall include the actual, reasonable expenses for home maintenance, including costs for repairs, maintenance, taxes, and home insurance. In the case of a debtor who does not own a home, such expenses shall be included to the extent that such expenses cause the debtor's housing expenses to exceed the amounts permitted under the Local Standards issued by the Internal Revenue Service for housing.

"(VIII) In addition, if the debtor owns a motor vehicle for which no secured debt payments are scheduled, or for which secured debt payments are scheduled for less than 60 months, the debtor's monthly expenses shall include the monthly ownership costs permitted by the Internal Revenue Service for the number of months in which no secured debt payment on the vehicle is scheduled, divided by 60. Such additional ownership costs shall be included for each vehicle for which the debtor would be permitted ownership costs under the Internal Revenue Service National Standards.

---

**SA 21.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 2 and 3, insert the following:

"(VI) In addition, the debtor's monthly expenses shall include the reasonably necessary monthly expenses incurred by a debtor who is eligible to receive or is receiving payments under State unemployment insurance laws, the Federal dislocated workers assistance programs under title III of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the successor Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.), the trade adjustment assistance programs provided for under title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), or State assistance programs for displaced or dislocated workers and incurred for the purpose of obtaining and maintaining employment.

---

**SA 22.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, line 8, strike "receive)" and insert "receive) reduced by an amount, if any, that is equal to the amount of child support payments that the debtor's spouse owed to the debtor for such month, but did not pay,".

---

**SA 23.** Mr. SESSIONS proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 12, line 10, insert after "special circumstances" the following: ", such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances".

On page 18, line 4, insert after "debtor" the following: ", including a veteran (as that term is defined in section 101 of title 38),".

---

**SA 24.** Mr. ROCKEFELLER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 498, strike line 20 and all that follows through page 499, line 2, and insert the following:

**SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.**

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4)—

(A) by striking "within 90 days"; and

(B) by striking "but only to the extent" and all that follows through "each individual or corporation" and inserting "but only to the extent of $15,000 for each individual or corporation"; and

(2) in paragraph (5)(B)(i), by striking "multiplied by" and all that follows through "; less" and inserting "multiplied by $15,000; less".

**SEC. 1401A. PAYMENT OF INSURANCE BENEFITS OF RETIREES.**

(a) IN GENERAL.—Section 1114(j) of title 11, United States Code, is amended to read as follows:

"(j)(1) No claim for retiree benefits shall be limited by section 502(b)(7).

"(2)(A) Each retiree whose benefits are modified pursuant to subsection (e)(1) or (g) shall have a claim in an amount equal to the value of the benefits lost as a result of such modification. Such claim shall be reduced by the amount paid by the debtor under subparagraph (B).

"(B)(i) In accordance with section 1129(a)(13)(B), the debtor shall pay the retiree with a claim under subparagraph (A) an amount equal to the cost of 18 months of premiums on behalf of the retiree and the dependents of the retiree under section 602(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(3)), which amount shall not exceed the amount of the claim under subparagraph (A).

"(ii) If a retiree under clause (i) is not eligible for continuation coverage (as defined in section 602 of the Employee Retirement Income Security Act of 1974), the Secretary of Labor shall determine the amount to be paid by the debtor to the retiree based on the 18-month cost of a comparable health insurance plan.

"(C) Any amount of the claim under subparagraph (A) that is not paid under subparagraph (B) shall be a general unsecured claim.".

(b) CONFIRMATION OF PLAN.—Section 1129(a)(13) of title 11, United States Code, is amended to read as follows:

"(13) The plan provides—

"(A) for the continuation after its effective date of the payment of all retiree benefits (as defined in section 1114), at the level established pursuant to subsection (e)(1) or (g) of section 1114, at any time before the confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits; and

"(B) that the holder of a claim under section 1114(j)(2)(A) shall receive from the debtor, on the effective date of the plan, cash equal to the amount calculated under section 1114(j)(2)(B).".

(c) RULEMAKING.—The Secretary of Labor shall promulgate rules and regulations to carry out the amendments made by this section.

---

**SA 25.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 473, between lines 9 and 10, insert the following:

**SEC. 1236. PROTECTION OF COAL INDUSTRY HEALTH BENEFITS.**

Section 9711(g) of the Internal Revenue Code of 1986 (relating to rules applicable to this part and part II) is amended by adding at the end the following new paragraph:

"(3) PROHIBITION ON TERMINATION AND MODIFICATION OF BENEFITS.—Except as provided in subsection (d), the benefits required to be provided by a last signatory operator under this chapter may not be terminated or modified by any court in a proceeding under title 11 of the United States Code or by agreement at any time when such operator is participating in such a proceeding.".

---

**SA 26.** Mr. LEAHY (for himself, Ms. SNOWE, and Ms. CANTWELL) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. PROTECTION OF PERSONAL INFORMATION.**

(a) RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.—Section 107 of title 11, United States Code, is amended by striking subsection (b), and inserting the following:

"(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, may, protect a person with respect to a trade secret or confidential research, development, or commercial information.

"(c) The bankruptcy court, for cause, may protect an individual, with respect to—

"(1) any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title; or

"(2) information contained in a paper described in paragraph (1) that could cause undue annoyance, embarrassment, oppression, or risk of injury to person or property.".

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting "last 4 digits of the" before "taxpayer identification number"; and

(2) by adding at the end the following: "If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.".

---

**SA 27.** Mr. CHAFEE (for himself and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the

United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 196, line 14, insert ", other than redemptions under section 722 of this title," after "claim".

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing, entitled Power Generation Resource Incentives & Diversity Standards, will be held on Tuesday, March 8 at 2:30 p.m., in Room SD–366.

The purpose of the hearing is to receive testimony regarding ways to encourage the diversification of power generation resources. Issues to be discussed include: renewable portfolio standards (RPS) efforts among states and the cost and benefits of a federal RPS program. New approaches to promoting a variety of clean power resources, such as wind, solar, clean coal technology and nuclear power, will also be considered.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Shane Perkins at 202–224–7555.

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAMBLISS. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold two hearings to consider the reauthorization of the Commodity Futures Trading Commission. The first hearing will be held on Tuesday, March 8, 2005, at 10 a.m., in SD–106, Dirksen Senate Office Building. The second hearing will be held on Thursday, March 10, 2005, at 10 a.m., in SR–328A, Russell Senate Office Building. Senator SAXBY CHAMBLISS will preside at both hearings.

For further information, please contact Robert Sturm at 202–224–2035.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 1, 2005, at 9:30 a.m., in open session to receive testimony from combatant commanders on their military strategy and operational requirements, in review of the defense authorization request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 1, 2005, at 2 p.m., to conduct a hearing on the nomination of Mr. Ronald A. Rosenfeld, of Oklahoma, to be a Director of the Federal Housing Finance Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 1, at 10 a.m., to receive testimony on the President's proposed budget for FY 2006 for the Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, March 1, 2005, at 2:15 p.m., to hear testimony on the financial status of PBGC and Administration's defined benefit plan funding proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Tuesday, March 1, 2005, at 9:30 a.m., in SD–106.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, March 1, 2005, at 10 a.m., in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 147, the Native Hawaiian Government Reorganization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, March 1, 2005, at 9:30 a.m., on "Judicial Nominations." The hearing will take place in the Dirksen Senate Office Building Room 226. The tentative witness list will be provided when it is available.

*Witness List*

Panel I: Senators.

Panel II: William Myers, to be United States Circuit Judge for the Ninth Circuit Court of Appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Chris Iavarone, a legal intern with my Judiciary Committee staff, be granted the privilege of the floor during consideration of the bankruptcy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 79, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 79) permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 79) was agreed to.

## STAR PRINT—S. 12

Mr. McCONNELL. Mr. President, I ask unanimous consent that S. 12 be star printed with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENT

The PRESIDING OFFICER. The chair, on behalf of the President pro tempore, and the recommendation of the majority leader, pursuant to 22 U.S.C 2761, as amended, appoints the Honorable THAD COCHRAN of Mississippi as chairman of the Senate delegation to the British American Interparliamentary Group conference during the 109th Congress.

## ORDERS FOR WEDNESDAY, MARCH 2, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:15 a.m. tomorrow, Wednesday, March 2. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period of morning business for 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee, and that the Senate then resume consideration of S. 256, the Bankruptcy Reform Act; provided that there then be 2 minutes of debate equally divided prior to a vote in relation to the Feingold amendment No. 17, to be followed by 2 minutes of debate equally divided prior to a vote in relation to the Akaka amendment No. 15; provided further that no amendment be in order to either amendment prior to those votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. McCONNELL. So tomorrow, Mr. President, the Senate will resume consideration of the bankruptcy bill. We made good progress on the bill today, disposing of two important amendments. There are three amendments currently pending to the bill. Under the previous order, we will have stacked rollcall votes early tomorrow morning in order to dispose of two of those amendments. Those votes are expected to begin shortly after 10:30 in the morning. We expect to be able to continue with additional amendments and votes throughout Wednesday's session of the Senate.

## ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:03 p.m., adjourned until Wednesday, March 2, 2005, at 9:15 a.m.

## NOMINATIONS

Executive nominations received by the Senate March 1, 2005:

### THE JUDICIARY

BRIAN EDWARD SANDOVAL, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE HOWARD D. MCKIBBEN, RETIRED.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL ROBERT R. ALLARDICE, 0051
COLONEL C. D. ALSTON, 3231
COLONEL THOMAS K. ANDERSEN, 8905
COLONEL BROOKS L. BASH, 3966
COLONEL MICHAEL J. BASLA, 6753
COLONEL FRANCIS M. BRUNO, 3512
COLONEL HERBERT J. CARLISLE, 9032
COLONEL GARY S. CONNOR, 3923
COLONEL CHARLES R. DAVIS, 8766
COLONEL DANIEL R. DINKINS, JR., 2842
COLONEL GREGORY A. FEEST, 5242
COLONEL FRANK GORNEC, 1011
COLONEL BLAIR E. HANSEN, 0421
COLONEL MARY K. HERTOG, 9595
COLONEL JIMMIE C. JACKSON, JR., 9118
COLONEL FRANK J. KISNER, 0380
COLONEL JAMES M. KOWALSKI, 3604
COLONEL DONALD LUSTIG, 4218
COLONEL CHRISTOPHER D. MILLER, 9947
COLONEL HAROLD W. MOULTON II5, 917
COLONEL JOSEPH F. MUDD, JR., 8962
COLONEL MARK H. OWEN, 6573
COLONEL ELLEN M. PAWLIKOWSKI, 2245
COLONEL ROBIN RAND, 6920
COLONEL JOSEPH M. REHEISER, 0899
COLONEL JOSEPH REYNES, JR., 5709
COLONEL ALBERT F. RIGGLE, 3194
COLONEL PAUL G. SCHAFER, 7952
COLONEL STEPHEN D. SCHMIDT, 3532
COLONEL MARK S. SOLO, 7827
COLONEL JANET A. THERIANOS, 7369
COLONEL ROBERT YATES, 5708

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL BYRON S. BAGBY, 3934
BRIGADIER GENERAL VINCENT E. BOLES, 8885
BRIGADIER GENERAL THOMAS P. BOSTICK, 3680
BRIGADIER GENERAL HOWARD B. BROMBERG, 2959
BRIGADIER GENERAL SEAN J. BYRNE, 2057
BRIGADIER GENERAL CHARLES A. CARTWRIGHT, 2898
BRIGADIER GENERAL THOMAS R. CSRNKO, 1332
BRIGADIER GENERAL JOHN DEFREITAS III, 7924
BRIGADIER GENERAL ROBERT E. DURBIN, 9354
BRIGADIER GENERAL DAVID A. FASTABEND, 5081
BRIGADIER GENERAL CHARLES W. FLETCHER, JR., 4165
BRIGADIER GENERAL DANIEL A. HAHN, 0301
BRIGADIER GENERAL RHETT A. HERNANDEZ, 7009
BRIGADIER GENERAL MARK P. HERTLING, 3917
BRIGADIER GENERAL JAY W. HOOD, 6271
BRIGADIER GENERAL CHARLES H. JACOBY, JR., 3627
BRIGADIER GENERAL JEROME JOHNSON, 6280
BRIGADIER GENERAL GARY M. JONES, 0483
BRIGADIER GENERAL WILLIAM M. LENAERS, 8865
BRIGADIER GENERAL DOUGLAS E. LUTE, 2691
BRIGADIER GENERAL BENJAMIN R. MIXON, 7168
BRIGADIER GENERAL JAMES R. MYLES, 2299
BRIGADIER GENERAL ROGER A. NADEAU, 8893
BRIGADIER GENERAL DAVID M. RODRIGUEZ, 1850
BRIGADIER GENERAL RICHARD J. ROWE, JR., 5346
BRIGADIER GENERAL JEFFREY J. SCHLOESSER, 3460
BRIGADIER GENERAL JEFFREY A. SORENSON, 3510
BRIGADIER GENERAL ABRAHAM J. TURNER, 5542
BRIGADIER GENERAL ROBERT M. WILLIAMS, 6304
BRIGADIER GENERAL RICHARD P. ZAHNER, 3707

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

STEVEN F. RECK, 4311

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MARK D. MILLER, 3789

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

NANCY B. GRANE, 9306

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

JACK M. DAVIS, 9674

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

RAMON MORALES, 1725
FRANK M. WOOD, 3882

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

RICHARD E. ANDO, JR., 3138
JANUS D. BUTCHER, 7213
RICHARD A. CURTIN, 5427
WADE A. LILLEGARD, 8434
VICTOR G. ONUFREY, 3833
KENNETH S. PAPIER, 3479

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

STEPHEN H. GREGG, 8565
MARYELLEN JADICK, 8887
STEPHEN A. JONES, 9116
ROBERT L. SHAW, 8354

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

JOHN P. ALBRIGHT, 6468
JAMES W. BEDSOLE, 4972
STEVEN A. DAUENHAUER, 8366
JOHN E. LARSON, 2080
MARGARET G. MEIGS, 3370
LOUIS B. MILLER, 3621

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LESTER H. BAKOS, 5309
GUY W. FAVALORO, 0397
RICHARD B. FISCHER, 5809
JAMES H. GILSDORF, 2408
JAMES M. LECLAIR, 5848
GREGORY G. MOVSESIAN, 7495

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

CHARLES M. BOLIN, 1964
MARK R. FAILING, 4951
JOHN T. GOBER, JR., 7168
THOMAS P. HOYLE, 0359
PHILIP V. MILLER, 5285
CHARLES L. PETERS, 0702
DONALD G. SIMPSON, 5295
JAMES E. WILLIAMS, 2826
JAMES A. WITHERS, 1170

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

BRUCE STEUART AMBROSE, 4024
JOHN EDWARD BATTEN IV, 8583
STEPHEN L. DEVITA, 3527
NANCY E. GRIFFIN, 4461
CAROLYN T. HOWELL, 0790
RANDY A. HUMMEL, 1950
ARTHUR E. JACKMAN, JR., 5831
DANA D. JACOBSON, 7528
HARRIS J. KLINE, 2499
MATTHEW R. LAVERY, 2052
JEAN R. LOVE, 3138
KATHY A. MONTGOMERY, 6212
BRADFORD L. TAMMARO, 0129
PATRICIA L. WILDERMUTH, 8658

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

KAREN A. BALDI, 3377
STANLEY E. CHARTOFF, 6556
ERNEST G. DANIELS, 9860
DANIEL D. HOUSSIERE, 4353
KEITH R. KULOW, 8166
JOHN F. LORENTZ, 1484
JAMES E. MANINT, 1985
DANIEL L. MENKES, 0640
ROBERT C. MOORE, 2888
MARY A. NIGRO, 6644
LAWRENCE A. PERIN, 2115
DONALD L. SINDEN, 2080
KIRBY V. C. TURNER, 1706
JON H. WALZ, JR., 7427
PAUL E. WRIGHT, 1455

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

VICKIE Z. BECKWITH, 7616
LENORE L. BORIS, 3582
MARK A. CALDWELL, 7368
HEATHER E. COSMAS, 7635
CLAUDIA L. GIESECKE, 3994
JANET A. HAYHURST, 6267

CARLA S. HELM. 5364
GERALD LEE HODGES. 7527
LISA E. HODGES. 0036
ROBERT B. KELSEY, JR., 0325
KATHY L. LEVALLEY, 4409
DANNA M. LILLY. 8439
CAROL F. MELLOM, 7858
JANICE M. MONTGOMERYSUBER, 9314
JANETTE L. MOOREHARBERT. 3200
CECELIA M. NULL. 1211
VALERIE FORD OREAR, 8512
SHERRY L. PURVISWYNN. 3267
GAYLE SEIFULLIN, 9578

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

PAUL N. AUSTIN. 8007
ELIZABETH J. BRIDGES. 9722
LORRIE J. CAPPELLINO. 7384
KIMBERLY S. COX. 0269
NANCY A. DEZELL, 5238
KONNIE M. DOYLE, 5731
NORMAN J. FORBES, 8033
KATHRYN E. HALL, 3098
SUSAN R. HALL, 2695
JOANNE HENKENIUSKIRSCHBAUM. 994
HARVEY K. HILLIARD. 7819
BARBARA JEFTS, 2918
THOMAS F. LANGSTON. 7926
SOLEDAD LINDOMOON, 3245
THERESE M. NEELY. 4956
JULIA E. NELSON, 1283
JOEL D. RAY, 8044
TERRI J. REUSCH, 5637
CASSANDRA R. SALVATORE. 0339
JUDITH SCHAFFER, 0497
ANGELA L. THOMPSON. 0339
FRANK B. THORNBURG III, 2640
FLORENCE A. VALLEY. 1672

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

EDMUND O. ANDERSON, 8518
JULIAN M. ANDREWS. 8835
ROBERT A. ATHAN. 8406
DANIEL S. BADER V., 2115
STEPHEN F. BAGGERLY. 7215
CONRAD C. BARCHFELD, 7129
CARL F. BESS. JR., 5923
GEORGE G. BOSHAE. 0287
JOSEPH F. BRADBURY, 2544
NORMAN R. BROSI. 0169
ALAN J. BUCK. 7944
WILLIAM D. COBETTO. 8720
PAUL W. COMTOIS, 2446
GARY A. CRANMER. 4869
DOUGLAS D. DELOZIER. 2763
VYAS DESHPANDE. 6501
DAWNE L. DESKINS. 2062
CHARLES F. DICKEY. JR., 2908
ROBERT A. DOEHL. 5867
LEWIS W. DRUMHELLER. 5582
FRED L. FAIRHURST. 9887
GREGORY L. FERGUSON. 7402
DOUGLAS E. FICK. 6030
RONALD P. HAN, JR., 6283
PATRICK C. HARRIS, 5959
JAMES S. HENDERSON. 5159
GORDON W. HOWARD, 4025
KATHRYN L. HULSE. 1240
ARTHUR W. HYATT. JR., 8308
BRADLEY J. JENSEN. 7444
THELMA E. JONES, 0520
BRUCE E. LONAS. 8709
BARRY T. LOWEN. 4879
JAMES CHRISTOPHE LUITHLY. 7914
CHARLES W. MANLEY II. 0352
TONY E. MCMILLAN, 5105
DAVID J. MILLER. 8584
ROBERT T. MONAHAN, 7325
WILLIAM R. MORRIS, 3628
JOHN E. MURPHY, 9499
SHERMAN L. OWENS. 2638
MICHAEL A. PANKAU. 8835
STEPHAN A. PAPPAS, 2291
GREGORY D. PARKER, 3981
ROGER F. PHARO, JR., 8100
MICHAEL J. RAUENHORST, 1876
NATHANIEL S. REDDICKS, 7504
RODNEY D. RUMPF, 6057
MARC H. SASSEVILLE. 7249
MICHAEL G. SCHWAB. 4578
JESSE T. SIMMONS, JR., 2628
RONALD J. SMITH. 6246
THERESA L. SNOW. 9341
RODNEY I. SPAHN. 6590
THOMAS W. STANLEY, 7101
MARK S. SUSA. 7019
THOMAS A. THOMAS, JR., 3098
GLENN K. THOMPSON. 7375
RAY A. TURNER. JR., 4860
JENNIFER L. WALTER. 0754
JOHN C. WASSERBURGER, 3785
SUSAN A. WASSERMAN. 7876
WILLIAM L. WELSH. 0149
DARRELL K. XRICHARDSON, 5930
RICKY G. YODER. 5977
SCOTT A. YOUNG, 8582

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

KENNETH M. FRANCIS. 0551

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

VITO MANENTE. 8857

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

JEFFREY H. WILSON. 3370

# HOUSE OF REPRESENTATIVES—*Tuesday, March 1, 2005*

The House met at 2 p.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, the prophetic voice of Isaias rings across the ages and echoes in every human heart at the beginning of each day and every session of Congress. He says, "Wash yourselves clean. Put away misdeeds from before my eyes. Cease doing evil. Learn to do good. Make justice your aim. Redress the wronged. Hear the orphan's plea. Defend the widow. Come now, let us set things right, says the Lord. Though your sins be like scarlet, they may become white as snow. Though they be crimson red, they may become white as wool."

Lord, may the new fallen snow touch the soul of the Nation. May repentant hearts move beyond pure sentiment to acts of restorative justice.

We have now been given a new day, more time to set things right. May we and may You, O Lord, respond to the prayer of the orphan and the widow, both now and forever.

Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia (Mr. GINGREY) come forward and lead the House in the Pledge of Allegiance.

Mr. GINGREY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 125. An act to designate the courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse".

S. 306. An act to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

The message also announced that pursuant to the provisions of Senate Resolution 105 (adopted April 13, 1989), as amended by Senate Resolution 149 (adopted October 5, 1993), as amended by Public Law 105-275 (adopted October 21, 1998), further amended by Senate Resolution 75 (adopted March 25, 1999), amended by Senate Resolution 383 (adopted October 27, 2000), and amended by Senate Resolution 355 (adopted November 13, 2002), and further amended by Senate Resolution 480 (adopted November 20, 2004), the Chair announces, on behalf of the Majority Leader, the appointment of the following Senators to serve as members of the Senate National Security Working Group for the One Hundred Ninth Congress:

The Senator from Alaska (Mr. STEVENS) President pro tempore.

The Senator from Mississippi (Mr. COCHRAN) (Majority Co-Chairman).

The Senator from Arizona (Mr. KYL) (Majority Co-Chairman).

The Senator from Indiana (Mr. LUGAR).

The Senator from Virginia (Mr. WARNER).

The Senator from Alabama (Mr. SESSIONS).

The Senator from Mississippi (Mr. LOTT) (Majority Co-Chairman).

The Senator from Oregon (Mr. SMITH).

The Senator from Rhode Island (Mr. CHAFEE).

The message also announced that pursuant to section 276d-276g of Title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senator as Chairman of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Ninth Congress:

The Senator from Idaho (Mr. CRAPO).

The message also announced that pursuant to section 154 of Public Law 108-199, the Chair, on behalf of the Majority Leader, appoints the following Senator as Chairman of the Senate Delegation to the United States-Russia Interparliamentary Group conference during the One Hundred Ninth Congress:

The Senator from Mississippi (Mr. LOTT).

The message also announced that in accordance with section 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senator as Chairman of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the One Hundred Ninth Congress:

The Senator from Oregon (Mr. SMITH).

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. CULBERSON) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
*February 18, 2005.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on February 18, 2005 at 9:15 a.m.:

That the Senate agreed to without amendment H. Con. Res. 66.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## MONGOLIAN CONTRIBUTIONS TO FIGHTING THE WAR ON TERROR

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise to thank the country of Mongolia for its contributions in fighting the war on terror. After 9/11 the government of Mongolia expressed its strong support for the United States and offered training opportunities for coalition forces and valuable overflight clearances.

Mongolia has supported coalition operations by contributing troops to both Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.

In fact, Mongolia has deployed four rotations in each country. And even though prior to 2000 Mongolia had not had a national policy of deploying forces beyond its borders, it became the first coalition country to contribute an infantry battalion in Iraq.

The Mongolian military is participating in peacekeeping, providing security to a logistic base in southern central Iraq, escorting convoys, constructing military barracks, medical facilities and local schools. The Mongolian soldiers have proven their bravery and skill over and over, even preventing a suicide attack that could have killed hundreds. For a small country of two and a half million people, these contributions are indeed significant and greatly appreciated, and we thank this important ally.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## SUCCESS STRATEGY FOR IRAQ

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, in speaking to one of my constituents, he offered to tell me that his son was a member of the United States military and had just returned from Afghanistan and was a willing member of this great and wonderful dedicated military ready to go back and do his duty.

As I listened to him with a sense of pride, but also a parental sense of doubt, I could understand because we are looking now at 115 killed by a bomb outside an Iraqi clinic.

Let me read for you a quote: "I am afraid," said Qasmin, 34. "This place should have been well protected. How could the police or Army not recognize that? Don't they know this country is full of terrorism?"

Mr. Speaker, this administration owes us an explanation or a statement regarding the so-called success strategy that will allow our troops to return with dignity.

We want success in Iraq. But the constant bloodshed, the loss of lives of young men and women, the children of our American families going overseas with no road map, no design, no success strategy that will bring them home. We are owed a debate on the floor of the House to determine how we can resolve this matter to bring our troops home and have a success strategy and peace in Iraq. My sympathy to those families who lost their love ones.

## HONORING LANCE CORPORAL DAVID PAYTON

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker I rise today to honor Lance Corporal David Payton, a 21-year-old Marine who was injured while serving our country in Iraq.

On January 30, the same day that millions of Iraqis voted in the country's first free and successful elections, Corporal Payton's compound in Fallujah was hit by a rocket-propelled grenade, which left him with severe burns and scarred lungs from chemical inhalation. He was released from the hospital last week and is continuing his recovery at home in Powder Springs, Georgia, in my 11th Congressional District.

I had the opportunity to visit with Corporal Payton on Friday, and I was impressed by his courage and commitment to this country. Corporal Payton is a former high school wrestling champion; and let me tell you, he is a fighter. He exemplifies what it means to be a soldier, willing to put your life on the line so others can be free.

The Iraqi people are now on the path of freedom and democracy, and Corporal Payton and all of our war fighters deserve our deepest gratitude for the work they have done to secure America and to spread liberty throughout the world.

Mr. Speaker, I ask that Members join me in wishing Lance Corporal David Payton a speedy recovery.

## PROVIDING BETTER RETIREMENT CHOICES TO THE AMERICAN PEOPLE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I strongly believe that all Americans deserve a strengthened retirement. Our current Social Security system is financially broken, outdated, and unable to meet our future retirement needs.

In 1950 there were 16 workers to support every beneficiary. Today there are only 3.3 workers per beneficiary. If Congress does not act soon, Social Security will be unable to meet its obligation to our children and grandchildren. Yesterday, I discussed this issue with fellow South Carolinians and many agree that our Social Security system faces significant problems.

President Bush is boldly leading the way to solve these problems by providing younger Americans with retirement choices and strengthening benefits for today's retirees. Reform offers younger Americans the opportunity to invest their Social Security funds in voluntary personal accounts which will provide higher benefits and allows them to build a nest egg for retirement that the government cannot take away.

As Congress continues to consider Social Security reform, I urge my colleagues to fix our system and provide better retirement choices to the American people.

In conclusion, God bless our troops. And we will never forget September 11.

## INTERNATIONAL CLONING BAN

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last month a U.N. committee approved a resolution calling on nations quickly to adopt and implement legislation "to prohibit all forms of human cloning inasmuch as they are incompatible with human dignity and the protection of human life." Further, the declaration, introduced by Honduras, also called on countries to "prevent the exploitation of women." Cloning requires harvesting eggs from women.

This is significant. While not binding, I find this a hopeful statement about an emerging view towards respecting the sanctity of human life.

In early January I introduced my legislation, which, besides prohibiting Federal funding of human cloning, also expresses the sense of Congress that foreign nations should establish total prohibition on human cloning as well. The U.N. resolution will soon advance to the high court, and our Congress should lend our confidence to them. Please join with me in cosponsoring my bill H.R. 222.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## ACCEPTANCE OF STATUE OF SARAH WINNEMUCCA FOR NATIONAL STATUARY HALL

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 5) providing for the acceptance of a statue of Sarah Winnemucca, presented by the people of Nevada, for placement in National Statuary Hall, and for other purposes, as amended.

The Clerk read as follows:

### H. CON. RES. 5

Whereas Sarah Winnemucca was the daughter of Chief Winnemucca and the granddaughter of the redoubtable Chief Truckee of the Northern Paiute Tribe who led John C. Fremont and his men across the Great Basin to California;

Whereas Sarah, before her 14th birthday, had acquired five languages, including three Indian dialects, Spanish, and English, and was one of only two Northern Paiutes in Nevada at the time who was able to read, write, and speak English;

Whereas Sarah was an intelligent and respected woman who served as an interpreter for the United States Army and the Bureau of Indian Affairs and served as an aide, scout, peacemaker, and interpreter for General Oliver O. Howard during the Bannock War of 1878, in Idaho;

Whereas, in 1883, Sarah published Life Among the Paiutes: Their Wrongs and Claims, the first book written and published by a Native American woman;

Whereas Sarah became a tireless spokeswoman for the Northern Paiute Tribe and in 1879, gave more than 300 speeches throughout the United States concerning the plight of her people;

Whereas Sarah established a nongovernmental school for Paiute children near Lovelock, Nevada, which operated for three years and became a model for future educational facilities for Native American children; and

Whereas Sarah, in fighting for justice, peace, and equality for all persons, represented the highest ideals of America and is hereby recognized as a distinguished citizen of Nevada: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. ACCEPTANCE OF STATUE OF SARAH WINNEMUCCA FROM THE PEOPLE OF NEVADA FOR PLACEMENT IN NATIONAL STATUARY HALL.**

(a) IN GENERAL.—The statue of Sarah Winnemucca, furnished by the people of Nevada for placement in National Statuary Hall in accordance with section 1814 of the Revised Statutes of the United States (2 U.S.C. 2131), is accepted in the name of the United States, and the thanks of the Congress are tendered to the people of Nevada for providing this commemoration of one of Nevada's most eminent personages.

(b) PRESENTATION CEREMONY.—The State of Nevada is authorized to use the rotunda of the Capitol on March 9, 2005, for a presentation ceremony for the statue. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

(c) DISPLAY IN ROTUNDA.—The statue shall be displayed in the rotunda of the Capitol for a period of not more than 6 months, after which period the statue shall be moved to its permanent location.

**SEC. 2. TRANSMITTAL TO GOVERNOR OF NEVADA.**

The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the Governor of Nevada.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it gives me great honor to rise and welcome Nevada's second statue to the National Statuary Hall Collection, located inside of the United States Capitol. This statue, of Sarah Winnemucca, is a welcome addition.

Sarah Winnemucca was a fascinating and intellectual woman who fought for justice, peace, and equality for all persons. Before she reached her 14th birthday, for instance, she had learned three Indian dialects and the Spanish and English languages. She was an interpreter for the United States Army and the Bureau of Indian Affairs and served as an aide, scout, peacemaker, and interpreter for General Olive O. Howard during the Bannock War of 1878, in Idaho.

In 1883 she became the first Native American woman to publish a book, "Life Amongst the Paiutes: Their Wrongs and Claims." In 1879 she gave more than 300 speeches throughout the United States concerning the plight of her people as a spokeswoman for the Northern Paiute Tribe. She went on to found a nongovernmental school for Paiute children near Lovelock, Nevada, which operated for 3 years and became a model for future educational facilities for Native American children. The people of Nevada should be so proud to have such a noble woman in their history, and we have a couple of Members today from Nevada whom I know are going to talk about that, and also very proud to display her likeness in the Nation's Capitol.

Mr. Speaker, it is most fitting that Nevada's statue of Sarah Winnemucca, who represented the highest ideals of America, be welcomed into the Halls of the United States Congress. I am so please to be here today with the gentlewoman from Nevada and the gentleman from Nevada. And with that, I urge passage of the resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. BERKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the Congresswoman from Nevada, I am pleased to support H. Con. Res. 5, which provides for the acceptance of the statue of Sarah Winnemucca, presented by the State of Nevada, for placement in the National Statuary Hall Collection. It also allows for the use of the rotunda of the Capitol on March 9 for a presentation ceremony for the statue.

The Nevada legislature designated Sarah Winnemucca as Nevada's second statue in 2001. The Nevada Department of Cultural Affairs and Nevada's Women's History Project raised the funds necessary to make this statue a reality.

The statue of Sarah Winnemucca will join Nevada's other statue and will be the 99th statue in the overall collection, the eighth statue of a woman, and the fourth statue of a significant American Indian.

Benjamin Victor sculpted the bronze statue of Sarah Winnemucca, which depicts Sarah as a young woman with her hair falling to her waist; a shell flower, for which she was named, in her outstretched right hand; a book under her left arm; and wind fluttering through her dress. The statue encompasses a sense of movement in order to signify the energy that Sarah Winnemucca had throughout her life.

Sarah was born in Nevada in the Northern Paiute Tribe in 1844. She was the daughter of Chief Winnemucca and the granddaughter of Chief Truckee. Sarah's Paiute name meant "shell flower," and according to Nevada folklore, one of Sarah's happiest memories was celebrating the Festival of Flowers every spring when she and all the girls named with flower names would go to see if their flowers that they had been named for were in bloom yet.

By the time Sarah was 14, she had learned five languages, three Indian dialects, English, and Spanish. When she was older, she used these talents as an interpreter for the Bureau of Indian Affairs and the U.S. Army.

Sarah spent her life as a champion of the Paiutes in Nevada and across the country. In 1879 she went on a nationwide speaking tour to teach people about the Indian culture and the difficult life on the Indian reservations. Trying to bridge two seemingly incompatible cultures, Sarah gave more than 400 speeches to publicize the injustices suffered by the Paiutes and met with high officials in the American Government, including President Rutherford B. Hayes, to improve the horrendous conditions of Indians living on the reservations.

☐ 1415

Eventually, Sarah received many promises from our government to make improvements for her people. Unfortunately, our government broke those promises, causing many of her own people to lose confidence in her.

On Sarah's East Coast speaking tour, she secured thousands of signatures on a petition calling for the promised allotment of reservation land to individual Paiutes. Congress passed a bill to that end in 1884, but once again our government did not live up to its commitments.

Sarah, however, never gave up. In 1883, this extraordinary woman wrote a book, "Life Among the Paiutes," which was the first book ever published that was written by a Native American woman. Do keep in mind that while she was publishing this book, women were not even allowed to vote in this country. "In Life Among the Paiutes," Sarah wrote about western history from the perspective of the American Indian.

Sarah was also a dedicated teacher to the Paiute children and established Nevada's first school for Indian children called Peabody's Institute near Lovelock, Nevada. Unfortunately, the school closed within 2 years when Federal funding failed to come through.

On October 17, 1891, Sarah died of tuberculosis at the age of 47. Sarah is remembered in Nevada for her dedication and her strength. She was an author, a teacher, a translator, a negotiator and a spokeswoman for her people. I am proud that Nevada is sharing her legacy with all Americans and international visitors to our Capitol. It is with great pride that I helped sponsor this resolution. The people of the State of Nevada are very proud and very excited about this and are looking forward to the dedication.

Mr. Speaker, I urge adoption of this concurrent resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield 5 minutes to the gentleman from Nevada (Mr. GIBBONS), and appreciate his support for this resolution.

Mr. GIBBONS. Mr. Speaker, I would like to thank my colleague from Ohio for yielding me time to rise in strong support of H. Con. Res. 5, the Sarah Winnemucca Statue Resolution.

As we have heard this afternoon, in 1864, the same year the State of Nevada entered this Union, the National Statuary Hall was designed and designated as a public gallery to honor notable Americans. Each State was bestowed the honor of sending two statues to this public gallery, depicting citizens who were illustrious for their historic renown or for distinguishing civic and military service.

Today, Mr. Speaker, there are 98 statues from all 50 States, but only seven of which are women who are blessing the halls of this Capitol. So today I rise with great honor to bring H. Con. Res. 5 to the floor, which will allow for Sarah Winnemucca to become the 99th statue and the 8th woman in this hallowed hall.

Sarah Winnemucca, whose Indian name says Shell Flower, has a distinguished history and life story, a story that symbolizes the spirit of American acceptance of diversity.

Sarah was born in 1844, and was the daughter of Chief Winnemucca and the granddaughter of prominent Chief Truckee of the Northern Paiute tribe who led John C. Fremont and his men across the Great Basin to California.

By the age of 14, Sarah had learned to speak five languages, which served her well as a post interpreter at Camp McDermitt in Northeastern Nevada.

In addition, Sarah's autobiography, Life Among the Paiutes, was the first book written by a native American woman. It was Sarah's story of the life and customs of the Northern Paiutes and her struggle for justice for her people.

Her national notoriety as a tireless spokeswoman for the Northern Paiute tribe led her many times to Washington, D.C. itself, where she even pleaded her case in front of then President Rutherford B. Hayes.

However, no other time in Sarah's long history of distinction serves as a better example of her courage and strength than when the Bannock War broke out in 1878. During this time, Sarah, without regard for her own life, rescued some of her own tribe from hostile Indians. Also during this campaign, Sarah served as General Oliver Howard's guide, scout and interpreter. In General Howard's own words he called Sarah "the most famous Indian woman of the Pacific Coast" and that "her name should have a place beside the name of Pocahontas in the history of this country," which is exactly what we are doing here today.

It is with Benjamin Victors' artistic talent that he truly captures Sarah Winnemucca's strength, courage and spirit. It will surely be a treat for everyone to witness this magnificent statue.

I would like to thank the work of our Governor and First Lady who were instrumental in facilitating this process, as well as the Nevada's Women's History Project, which raised the necessary private funds to create this statue.

Sarah Winnemucca died in 1891, but her fight for peace, justice and equality for all persons represents the highest values and ideal of this great country even today. Sarah Winnemucca represents Nevada's history with honor, and that is why as both a Nevadan and a U.S. Congressman, I am proud to welcome Sarah Winnemucca into Statuary Hall, so that her spirit will be immortalized in these hallowed halls.

Ms. BERKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nevada (Mr. PORTER) and thank him for his support of this resolution.

Mr. PORTER. Mr. Speaker, I rise today to speak about H. Con. Res. 5, a bill that is presented before Congress by people of the great State of Nevada in order to allow for the placement of our second statue, of Sarah Winnemucca, into National Statuary Hall.

Sarah Winnemucca was born into the Northern Paiute tribe around 1844, as my distinguished colleagues have mentioned this afternoon. Throughout her life, she lived in various parts of Northern Nevada, including Pyramid Lake, McDermitt and Lovelock, Nevada.

Her life came at a time of major historical changes for her people, the Paiutes, and she played a pivotal role in building communications between her people and the settlers while defending the Paiute tribe's rights.

At the time of her birth, the Northern Paiutes and Washoes were the only inhabitants of what is now Northern Nevada. When the settlers started to come through their land, Sarah Winnemucca had to reason between the two very different philosophical views that her family held. Her grandfather, Chief Truckee, welcomed the arrival of his white brothers, whereas her father, Chief Winnemucca, looked upon their arrival with disdain.

Some historians now believe that this inherent conflict between her grandfather and father taught Sarah how to better relate to the new settlers while working to maintain the integrity of the tribe.

Sarah led an incredible life, Mr. Speaker. First introduced to the settlers at the age of six, by the time she was 14, she had acquired five languages, including English and Spanish, a challenge even for today.

By the time Sarah was an adult, immigration had continued to the point where Native Americans started being forced into reservations, ending the days of hunting and gathering for her tribe.

At age 27, Sarah began working as an interpreter at the Bureau of Indian Affairs at Fort McDermitt on the Nevada-Oregon border. As if that was not enough, Sarah even served as an interpreter and scout to the Army, traveling at one point without sleep over 200 miles in 48 hours over all parts of Idaho.

Sarah was a fearless advocate and speaker on behalf of Native American rights throughout the Western United States, Washington D.C., and throughout the Eastern U.S., giving more than 400 speeches on behalf of the Paiutes.

Near the end of her life, Sarah dedicated herself to teaching school to Paiute children and opened a school near Lovelock, Nevada, for Native American children.

Sarah Winnemucca died in 1891 at the age of 47. Although her life was short, she has become a part of Nevada history that will never be forgotten. Sarah is an appropriate tribute to the Silver State, and I am proud to honor her memory as the second representative from Nevada in the National Statuary Hall and in our Nation's Capital, as only the eighth woman ever to be represented.

Mr. Speaker, I am proud to be here today with the other members of our delegation in order to welcome Sarah Winnemucca to our National Statuary Hall. She is an example for all of us to live up to.

Mrs. JONES of Ohio. Mr. Speaker, I rise today to bring recognition to one of the most influential Native American women of the late 19th Century, Sarah Winnemucca, whose statue will be accepted into National Statuary Hall this 1st of March 2005. Statuary Hall, a true testament to the great diversity of our Nation's heroes.

Sarah Winnemucca was born to the Northern Paiute tribe in 1844 near the Humboldt River in Western Nevada. At the time of her birth, Northern Paiute and Washos were the only inhabitants of the land.

At the age of six, she was introduced to caucasians and was at first frightened. She did admire their luxuries and culture. As she grew older, her grandfather, as well as many other Paiute, welcomed their "white brothers." By age 14, she knew five languages and became an interpreter for the military.

As she reached maturity, all Native Americans were moved onto reservations and problems for her people began to mount. During the Bannock War on 1878, many Paiute's were held prisoner and their land was taken. In 1880, Sarah traveled to Washington, DC to plead for the release of the prisoners and the restoration of their land. However, her requests were not granted.

For the remainder of her life, Sarah was dedicated to giving lectures on the East Coast to promote Native American rights. In her lectures, she advocated the idea that her people could and should run their own lives without the interference of Federal authorities. On October 17, 1891, Sarah died of tuberculosis at the age of 47. Just before her death Sarah founded a school for young Indian children in Lovelock, Nevada.

In 1883, she published the first book written by a Native American woman, "Life Among the Paiutes: Their Wrongs and Claims," which gave a Native American viewpoint of settlers in the west. In her book, she wrote of Thocmetony, the name she was given as a young child, and of the legacy for which she aspired, "Somebody will always admire me;

and who will come and be happy with me in the Spirit-land? I shall be beautiful forever there. Yes, she be more beautiful than my shell-flower, my Thocmetony!"

Although it is not the Spirit-land of which she speaks, soon we will all be able to admire her beauty forever in Statuary Hall, and more importantly admire the beauty of her dreams and the work she did to make these dreams a reality.

Mr. NEY. Mr. Speaker, I, again, thank the gentlewoman from Nevada (Ms. BERKLEY) for her support of this resolution.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 5, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 5, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PERMITTING USE OF ROTUNDA OF CAPITOL FOR COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST CEREMONY

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 63) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The Clerk read as follows:

H. CON. RES. 63

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF ROTUNDA FOR HOLOCAUST DAYS OF REMEMBRANCE CEREMONY.**

The rotunda of the Capitol is authorized to be used on May 5, 2005, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is an honor to be on the floor here today with the gentlewoman from Nevada on an important resolution, H. Con. Res. 63.

The United States Holocaust Memorial Museum is mandated by Congress to educate Americans about the history of the Holocaust and to annually honor and remember the victims of this catastrophic, horrible event. As a Nation, we do this on the National Days of Remembrance. The purpose of the Days of Remembrance is to ask all Americans to reflect on the Holocaust, to remember the victims and renew our commitment to democracy and human rights for every person.

House Concurrent Resolution 63, the resolution before us, will provide this year's national ceremony, which will be conducted on May 5, 2005, in the Rotunda of the United States Capitol building.

Mr. Speaker, it is necessary to go through this procedure to use the very sacred center of the Capitol for a ceremony in joint authorization by both the House and the other body because of the significance of this particular location and the significance and importance in this building.

Outlining the importance of this event, there have been several high-profile keynote speakers in the past, including former Secretary of State Colin Powell, Secretary of State Condoleezza Rice and President George W. Bush, among others.

The theme of this year's Days of Remembrance commemoration is entitled "From Liberation to the Pursuit of Justice." The commemoration will honor the courageous individuals, as well as the organizations and countries who attempted to rescue them. How appropriate I believe it is, Mr. Speaker, at this time that we remember the victims of the Holocaust.

In remembering those who took a determined stance against Nazism, we honor the memory of those who perished, and, of course, we are reminded that individuals do have the power and the choice to make a difference in the fight against oppression and murderous hatred.

Evil persists in the world, Mr. Speaker, but our triumph over the perpetrators of the Holocaust reminds us that evil can and will be defeated, but only if we have the courage to stand up to it. This is a vital lesson, one we must never forget. This ceremony will help us to remember it. This ceremony is important.

Again, I want to thank the gentlewoman for supporting this resolution.

Mr. Speaker, I urge Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. BERKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today proudly in support of House Concurrent Resolution 63, authorizing use of the Capitol Rotunda on May 5 of this year for a ceremony sponsored by its United States Holocaust Memorial Council to observe the Days of Remembrance for victims of the Holocaust.

I want to thank the gentleman from Ohio (Mr. NEY) for introducing this, as well as the gentlewoman from California (Ms. MILLENDER-MCDONALD), the original cosponsor of the bill. Unfortunately, she could not be here because of a prior commitment in her congressional district.

The Days of Remembrance ceremony honors those men, women and children who suffered through one of the darkest periods of our history. Every year, the Days of Remembrance recalls different historical events of the Holocaust. This year's theme, "From Liberation to Pursuit of Justice," commemorates the 60th anniversary of the liberation of the concentration camps and the persecution of war criminals at Nuremberg, Germany.

For over 20 years, Congress has approved the use of the Rotunda for this ceremony each spring and every year that I attend I am struck by the two competing feelings that I have: One, the shocking realization that man's inhumanity to man sometimes seems to know no bounds; that a mere 60 years ago, 6 million Jews were exterminated throughout the world, their only transgression being the fact that they were Jewish.

☐ 1430

But I am also struck by the incredible realization that 60 years after the most heinous episode in our civilized world's history here we still are. We are not only survivors, but we have managed to thrive. Every year those who have survived and thrived, their children and grandchildren and now their great grandchildren, gather under the dome of the United States Capitol, the very seat of power of the most important and strongest nation in the world.

I am second-generation American. My grandparents literally walked across Europe to come to this country. My mother's side comes from Salonika, Greece. Prior to World War II, prior to the Nazis, there were approximately 80,000 Jews in Salonika. When the Nazis finished with those Jews, there were only 1,000 left. And I am not presumptuous enough to presume to think that my family would have been among those that were chosen to live.

My father's side from the Russia-Poland border after hundreds and hundreds of years of a thriving culture and civilization were obliterated, exterminated in this Holocaust. Nobody remained. Not the towns. Not the people. Not the culture. But here we are 60 years after the Holocaust. Here I am, a Jewish American, elected to serve her community and her country in the United States Congress, standing on the floor of the United States House of Representatives, alive and free, supporting the resolution honoring those that were lost.

This past January I had the privilege of attending the ceremony commemorating the liberation of Auschwitz. I attended it as part of a congressional delegation. As I walked in the freezing cold and the snow the mile from Auschwitz to Birkenau where the ceremony was taking place, we were surrounded by survivors that were in Auschwitz as children. Now in their late 70s and 80s, each one of them was anxious to talk and tell us when they had been there, what it was like, who they had lost, brothers, sisters, mothers, fathers, entire families obliterated. But there we were. And as we sat there for the few hours for that extraordinary ceremony commemorating that liberation of Auschwitz and the concentration camps, I was struck by the fact that it was truly a miracle that anybody had survived, because there I was sitting with four pairs of socks, boots, a hat, two pairs of gloves, four sweaters, a warm jacket and sitting under a blanket and freezing wondering how these people, how these extraordinary people managed to survive one day. Forget the gas chambers, forget the gruesome medical experiments, forget the random acts of man's inhumanity to man, the incredibility cruelty. Surviving day to day with no clothes, with no blankets, with no food is truly a testament to those people who managed to survive.

The ceremony we are authorizing today honors Holocaust survivors and those lost loved ones. It will also serve as a reminder that we must continue as a civilized people to battle hate and prejudice and violence and demand justice and humanity to all. It does not matter culture, ethnicity, religion, color of our skin. We all deserve to be treated as human beings with dignity. We must not allow this tragedy to ever be repeated again.

I urge my colleagues to join me in supporting passage of this concurrent resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to note that I do not have any further speakers at this time on this bill, but I would note that due to the weather conditions a lot of people are not here; otherwise, we have many, many Members who support this and would be speaking on this. Even though they could not get here in time, many Members' thoughts in support of this resolution are with us now on the floor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my support of H. Con. Res. 63, to allow the use of the Capitol rotunda for a ceremony to commemorate victims of the Holocaust. Our Nation's Capitol is a symbol of freedom and democracy to so many. This resolution gives us a forum to pay service to the victims of the Holocaust. I pray that such a tragedy should never touch the world again.

A Holocaust memorial is not something to be taken lightly, or to be rushed without its due respect. The Holocaust is a product of authoritarian government and evil intentions, and we must continue to study and remember it, lest it be repeated. Hate, genocide, racial supremacism still occur in parts of the world and I believe that we as Americans can still focus our efforts on stopping them before they grow to an uncontrollable magnitude.

My heart goes out to the victims and survivors of Adolf Hitler's death camps. Every time I reexamine the Holocaust, and pay tribute to what happened, I am still shocked and pained by the organized, methodical killing that went on in Europe.

For the 12 million people that Nazi Germany exterminated, we must remember. For each of the 6 million Jews killed, we must respond. For the Gypsies, the gays, the political dissenters and any of the righteous people who spoke out against what they thought was evil—for this we commemorate and remember the Holocaust. It can never happen again.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 63.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 63.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PERMITTING USE OF CAPITOL ROTUNDA FOR CEREMONY TO AWARD CONGRESSIONAL GOLD MEDAL TO JACKIE ROBINSON

Mr. NEY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 79) permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Ms. BERKLEY. Mr. Speaker, reserving the right to object, while I do not intend to object, I would like to give the chairman the opportunity to explain the resolution, and I would also like to acknowledge the gentleman from Massachusetts (Mr. NEAL) for having introduced this resolution.

Mr. NEY. Mr. Speaker, will the gentlewoman yield?

Ms. BERKLEY. I yield to the gentleman from Ohio.

Mr. NEY. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I rise today in support of the House concurrent resolution, a resolution that permits the use of the rotunda for the ceremony to award a Congressional Gold Medal to Jackie Robinson in recognition of his many contributions to our great Nation.

Jackie Robinson was a great American who helped break the racial barrier in baseball. His family will be here for this ceremony. He is so deserving of this honor. I ask support for this legislation. I would note he played for the Brooklyn Dodgers.

I would like to thank the gentlewoman today, not only for this resolution but the others and her time today on three very important resolutions honoring some great Americans.

Ms. BERKLEY. Mr. Speaker, I thank the gentleman for his kind words and urge passage of this important resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 79

*Resolved by the House of Representatives (the Senate concurring)*, That the rotunda of the Capitol is authorized to be used on March 2, 2005, for a ceremony to award a Congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## RECOGNIZING THE BENEFITS AND IMPORTANCE OF SCHOOL-BASED MUSIC EDUCATION

Mr. KUHL of New York. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 45) recognizing the benefits and importance of school-based music education, and for other purposes, as amended.

The Clerk read as follows:

### H. CON. RES. 45

Whereas school music programs enhance intellectual development and enrich the academic environment for students of all ages;

Whereas students who participate in school music programs are less likely to be involved with drugs, gangs, or alcohol and have better attendance in school;

Whereas the skills gained through sequential music instruction, including discipline and the ability to analyze, solve problems, communicate, and work cooperatively, are vital for success in the 21st century workplace;

Whereas the majority of students attending public schools in inner city neighborhoods have virtually no access to music education, which places them at a disadvantage compared to their peers in other communities;

Whereas local budget cuts are predicted to lead to significant curtailment of school music programs, thereby depriving millions of students of an education that includes music;

Whereas the arts are a core academic subject, and music is an essential element of the arts;

Whereas every student in the United States should have an opportunity to reap the benefits of music education; and

Whereas NAMM, the International Music Products Association, highlights during the month of March the important role that school music programs play in the academic and social development of children: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That—

(1) it is the sense of the Congress that music education grounded in rigorous instruction is an important component of a well-rounded academic curriculum and should be available to every student in every school; and

(2) the Congress recognizes NAMM, the International Music Products Association, for its efforts to emphasize the importance of school music programs in the academic and social development of children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KUHL) and the gentleman from Tennessee (Mr. COOPER) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. KUHL).

### GENERAL LEAVE

Mr. KUHL of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 45.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KUHL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Concurrent Resolution 45, which highlights the benefits and importance of school-based music education. I would like to thank my colleague, the gentleman from Tennessee (Mr. COOPER), and my colleague, the gentleman from California (Mr. CUNNINGHAM), for their leadership on this issue and for introducing the resolution we are considering here today.

Research has shown that students' involvement in their school music program is crucial to a complete education. Musical study develops critical thinking and self-discipline skills and improves a child's early cognitive development, basic math and reading abilities, self-esteem, SAT scores, ability to work in teams, spatial reasoning skills, and school attendance.

In an analysis of the United States Department of Education data on more than 25,000 secondary school students, researchers found that students who report consistent high levels of involvement in instrumental music over the middle and high school years show "significantly higher levels of mathematics proficiency by grade twelve," regardless of students' socio-economic status.

A 1999 report by the Texas Commission on Drug and Alcohol Abuse found that individuals who participated in band or orchestra reported the lowest levels of current and lifelong use of alcohol, tobacco, and elicit drugs. So it is not surprising, Mr. Speaker, that children involved with music education are more likely to graduate from high school and attend college and are less likely to be involved with gangs and substance abuse.

In fact, many colleges and universities view participation in the arts and music as a valuable experience that broadens students' understanding and appreciation of the world around them. For these reasons, Mr. Speaker, I support House Concurrent Resolution 45 that recognizes the benefits and importance of school-based music education.

This resolution before the House today is simple and straightforward. It states that it is the sense of this Congress that music education grounded in rigorous instruction is an important component of a well-rounded academic curriculum and should be available to every student in every school. It also recognizes the International Music Products Association for their efforts to designate a Music in School Month in order to highlight an important role that school music programs play in the academic and social development of children.

Music in Our Schools Month began as a single statewide celebration in 1973 and has grown over the decades to encompass a day, a week; and in 1985 March was designated as a month-long celebration of music in our schools.

Music education is important to our children. It can broaden and strengthen their education and improve their lives. I join my colleagues in commending music educators and organizations across the country for the key roles they play in helping our children succeed in school and throughout life.

As former President Gerald Ford said, "Music education opens doors that help children pass from school into the world around them, a world of work, culture, intellectual activity, and human involvement. The future of our Nation depends on providing our children with a complete education that includes music."

Mr. Speaker, I urge my colleagues to support music education in our schools and House Concurrent Resolution 45, which highlights the benefits and the importance of school-based music education.

Mr. Speaker, I reserve the balance of my time.

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first would like to thank my new friend, the gentleman from New York (Mr. KUHL). I believe he took the place of one of the great gentlemen of our time, Mr. Amo Houghton, who represented that area of New York State extremely well for many years. I would also like to thank my good friend from California (Mr. CUNNINGHAM) for his sponsorship of this bill.

This same measure passed the House of Representatives last session by 402 to zero, remarkable widespread and bipartisan support; and I wish we could see that level of support across our great Nation for music education in our schools, because this is truly a worthwhile endeavor.

I have the good fortune of representing Nashville, Tennessee, which as many of you know is Music City, USA. Nashville and the surrounding communities are probably home to more singers, song writers, and talented musicians than perhaps any other community in the world. It is truly a remarkably creative place. We like to say that literally everyone who lives there is a singer, song writer, or musician. It is just that some of them have not cut their demos yet.

There is so much that music offers, and we should be able to support music for its own sake. But as my friend, the gentleman from New York (Mr. KUHL), has already said, music helps so many other endeavors in school as well: math, science. It helps kids of all types as well. It helps our high-achieving kids, and it helps our low-achieving kids. So this is a truly valuable part of our school curriculum. It should be offered in all our schools so all of our children have the chance to learn the joys of music.

I think as many of you all realize, some of the most important intimate moments of our lives are usually associated with a song, a song that we carry in our hearts throughout our days and a song that was written somewhere, sometime by a remarkably talented individual who found that song in his or her heart.

So music is important to our lives. It is important that we cultivate a love for music from the age of our youngest children so that they can grow up and develop their full God-given potential, whether it be music or whether it be math or science or reading or art or any of the other great disciplines that they are learning in our school systems.

☐ 1445

So I would encourage Members to support this resolution.

I would encourage our local school boards across the country not to repeat the mistake that we saw evidenced in that movie called Mr. Holland's Opus. Some of my colleagues may have seen it. It is a story of a fabulous schoolteacher, a music teacher and a school system, who knows where, who taught so well for decades, who taught band, introducing kids to the pleasure of marching music as well as an introduction to other forms of music, and yet, in the case of Mr. Holland, he was terminated by the local school board for lack of funds.

It is important that our children have a broad, balanced education, that it include music, and there is no better time than the month of March for that love of music to demonstrate.

So I appreciate my colleagues in the House. I appreciate the Committee on Education and the Workforce allowing a waiver of the normal jurisdiction so the bill could be brought forward in a timely manner.

Mr. Speaker, I reserve the balance of my time.

Mr. KUHL of New York. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nevada (Mr. PORTER), a member of the Committee on Education and the Workforce.

Mr. PORTER. Mr. Speaker, I thank the gentleman for the time, and I thank my colleague the gentleman from Tennessee (Mr. COOPER) and the gentleman from California (Mr. CUNNINGHAM) for their leadership on this particular resolution.

I am proud to be a cosponsor of H. Con. Res. 45. Representing Clark County, Nevada, one of the fastest growing communities in the country and one of the fastest growing school districts in the country, we also have one of the finest music departments for our children.

I would like to go back in time just for a moment. I am one of those students that, in the early 1960s, had the opportunity to start in the first grade with piano lessons. Of course, I resisted taking these piano lessons. I did not want to go, but I did follow the advice of my mom and dad and later joined the school band, was involved in programs, but I would tell my colleagues from firsthand that music has been a major part of my life.

I know friends that have found it as a career, have made a decision to go into the music field, but it is an art form, and I feel that we have a responsibility as leaders to make sure that this art form is continued and expanded.

I mentioned I have some friends that have moved into the music field. They, too, have been inspiration for me, but as I see what is happening to our children today with the pressures that are upon our families, music is a key way for recreation but also for excitement that music provides. It is truly an art form.

As was mentioned earlier, music is one of those items that I think brings back memories of specific times. We hear a specific song or I play a song today that will bring back memories from years gone by, but life is not a snapshot. It is a moving picture, and as we enjoy those memories of life, music provides one of those avenues for us to share in moments of time, and music should and must remain a major part of our curriculum in our schools.

I have this maybe far-out idea that someday music could be the language of world peace because music crosses all boundaries, all religions, all races, all nationalities, and at some point in time, I truly believe that music can be one of those tools to bring us all together as a Nation and as a country.

Mr. Speaker, I stand here today in support of H. Con. Res. 45 and encourage its passage.

Mr. COOPER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS), my good friend and colleague, a man whose own voice has remarkable musical qualities. It is bass, but it is music.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, I have always been told that music is a universal language, and so I rise today in support of H. Con. Res. 45 to recognize the benefits and importance of school-based music education. Unfortunately, Mr. Speaker, the reality our schools face today is one of budget cuts yet while trying to maintain a well-rounded curriculum for our children. After-school programs, art classes, intramural sports, late bus routes and even music classes are being eliminated.

We know music education helps young minds to develop creatively and express emotions. We know that studies show that early music training can enhance a child's ability to reason and think critically and that children exposed to music at a young age learn better in other subjects.

We also know that children trained in music score significantly higher on reading tests than those who were not.

We know that secondary students who participated in band or orchestra reported the lowest lifetime and current use of all substances such as alcohol, tobacco and other illicit drugs.

The College Board identifies the arts as one of the six basic academic subject areas students should study in order to succeed in college, and the Department of Education agrees by listing the arts as subjects that college-bound middle and junior high school students should take, stating that many colleges view participation in the arts and music as a valuable experience that broadens students' understanding and appreciation of the world around them.

Although the Department of Education sees music education as a prerequisite to college and countless studies have shown the vast impact of music education, it is still missing for too many schools, particularly public schools in inner city neighborhoods having virtually no access to music education. Local budget cuts are depriving approximately 30 million students of an education that includes music.

It is not only at the local level that is forcing schools to abandon music education, but the lack of Federal funding as well. Without music education, so many of our great musicians that we admire today would be doing something else.

Not only musicians, but it has been noted that even the very best entrepreneurs and technical designers in the Silicon Valley industry are nearly, without exception, practicing musicians. The school music program was there for them, and we need to have it there for the next generation of musicians, thinkers and entrepreneurs.

So, Mr. Speaker, I gladly rise in support of this resolution and urge its passage.

Mr. COOPER. Mr. Speaker, I have no more speakers, and I yield back the balance of my time.

Mr. KUHL of New York. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Tennessee (Mr. COOPER), and certainly the gentleman from Illinois (Mr. DAVIS), and my good friend and colleague, the gentleman from Nevada (Mr. PORTER) for lending their melodious vibes to support of this resolution.

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to rise in support of this resolution.

H. Con. Res. 45 recognizes that music education grounded in rigorous instruction is an important component of a well-rounded academic curriculum, and should be available to every student in every school. The serious study of music has been demonstrated to complement other areas of academic study, while also providing students with a substantive background in the arts that will serve them throughout their lives.

This resolution is going to pass today—probably by a near unanimous vote. While all of us who support music education are gratified by that outpouring of congressional support, I must point out that it is insufficient unless backed up by a willingness to help schools offer quality music education programs.

Unfortunately, music education is facing severe cuts in thousands of school districts throughout the Nation, including in the Mt. Diablo Unified School District in my congressional district. Fourth graders in that District may lose their music programs because of budget cuts necessitated in large part because this Congress has failed to follow through on its promises to fund public education adequately. These classes are the foundation for the district's celebrated middle and high school band programs, and eliminating music education would be a loss to those students. Yet the district is struggling to find money for teacher salaries.

Since we passed the No Child Left Behind Act in 2001, both the Bush Administration and the Congress, which is under the control of the President's party, have reneged on the resources our schools urgently need to implement the laudable goals of that law—better accountability, better achievement, better instruction. With the President's latest budget, we are some $40 billion below the funding level we promised teachers, principals, students and parents when we passed the law.

Some may use that underfunding as an excuse to call for a weakening in the law's goal of making sure that every child attends a quality school, is taught by a skilled teacher, and attains educational achievement at grade level. I believe that this nation is strong enough, and wealthy enough, that we can fund both the basic education requirements contained in No Child Left Behind, and classes in the music, arts, drama, social and emotional learning and other topics critical to a child's intellectual and social development. What this Congress has lacked, and continues to lack, is the will. Congress is happy to declare its support for a broad range of goals, but it too often fails to follow through and deliver to those who are depending on us.

So I congratulate the authors of this resolution for reminding us that there is more to education than reading and writing, as critical as they are, and that other areas of instruction can actually enhance student performance in these other core subjects. I will look for similar support from the House when we offer amendments to increase the shamefully low education budgets that are placing our schools and teachers under unnecessary and unfair pressure.

Mrs. JONES of Ohio. Mr. Speaker, I rise to support H. Con. Res. 45, recognizing the benefits and importance of school-based music education.

Music allows us to celebrate and preserve our cultural heritages, and also to explore the realms of expression, imagination, and creation resulting in new knowledge. Therefore, every individual should be guaranteed the opportunity to learn music and to share in musical experiences.

Studies show that learning music can improve math and science skills, language skills, and increase spatial I.Q. Music is also designated a core academic subject in the No Child Left Behind Act (No Child Left Behind Act of 2002, Title IX, Part A, Sec. 9101 (11)).

A research team exploring the link between music and intelligence reports that music training, specifically piano instruction, is far superior to computer instruction in dramatically enhancing children's abstract reasoning skills necessary for learning math and science.

The experiment included four groups of preschoolers: one group received private piano/keyboard lessons; a second group received singing lessons; a third group received private computer lessons; and a fourth group received no training. Those children who receive piano/keyboard training performed 34 percent higher on tests measuring spatial-temporal ability than the others. These findings indicate that music uniquely enhances higher brain functions required for mathematics, chess, science and engineering.

In times of stringent fiscal resources public schools are often compelled to sever certain types of programs like music and arts education. Some schools are forced to seek outside sources of funding for such programs. During times of scare resources and rigorous budget climates many programs valuable to our children's early childhood development have been sacrificed.

Mr. Speaker, I rise to reiterate my support for H. Con. Res. 45 and school-based music education.

Mr. BURGESS. Mr. Speaker, I rise today to commend those who support music education in North Texas. Music serves as both an enjoyable pastime and an important educational tool for our children. On March 1, 2005, I voted in favor of House Concurrent Resolution 45 which recognizes many key benefits of school-based music education.

Specifically, H. Con. Res. 45 recognizes that school-based music programs enhance intellectual development and enrich the academic environment for all ages. Students who participate in music programs are less likely to be involved with drugs, gangs, or alcohol and have better attendance. Additionally, skills gained through sequential music instruction include discipline and the ability to analyze, solve problems, communicate, and work cooperatively which are vital for success in the 21st century workplace.

This House Concurrent Resolution also recognizes music as a core academic subject and that every student in the United States should have an opportunity to reap the benefits of music education.

I voted for H. Con. Res. 45 because of the overwhelming success of these programs in the 26th District. In 2004, the Denton Independent School District and the Lewisville Independent School District, both located in the 26th Congressional District of Texas, were recognized as among the "100 Best Communities for Music Education" in America. On a recent visit to Westlake Academy, I learned that the 5th graders attended mandatory violin lessons as it was shown to greatly improve their mathematics skills.

These school districts realize the great importance of school-based music education. I believe these programs are vital to the overall development of our youth.

I am proud of the education system in Texas; especially our involved parents and teachers at the Denton Independent School District, the Lewisville Independent School District and Westlake Academy who commit their lives and time to fostering our children.

Mr. HOYER. Mr. Speaker, I am pleased to support this resolution, H. Con. Res. 45, recognizing the benefits and importance of school-based music education programs.

I have long been a strong advocate for music education programs, both in my home state of Maryland and nationally. I believe that music education should be available to students of all ages and a part of every student's academic experience.

Music education programs enrich the whole student, and are a critical component to a well-rounded academic curriculum. In my home state of Maryland, educators and administrators have worked to integrate music and arts programs into academic curriculums in order to provide students with these important benefits. At a time when education programs are struggling for adequate funding and state and local governments across the country face tremendous budget pressures, it is more important than ever to highlight and emphasize the importance of music education programs.

Music education can also enhance intellectual development and skills integral to improved learning. Skills learned through the study of music help children become better students. Skills learned through music transfer to improve study skills, communication skills, and cognitive skills. Also, studies have shown that students involved in music classes are less likely to be disruptive, have better attendance, and are more likely to receive academic honors and awards.

Studies have also shown that participation in school-based music education can increase student success. For example, in 2001 the College-Bound Seniors National Report showed that students with coursework in music performance and music appreciation scored notably higher on the SATs than students with no arts participation. Studies have shown that participation in music classes correlate with increased proficiency in mathematics and success in science.

We must place a high value on music education. I am pleased to support this resolution supporting the importance of music education programs and urging that the benefits of music education should be available to every student.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Con. Res. 45 which recognizes the benefits and importance of school-based music education. School music programs not only enhance intellectual development and enrich the academic environment for students, but also provide a creative outlet for children. Children are far less likely to participate in gang or drug related behaviors if they are getting the proper inclusive education they need. As a member of the Congressional Arts Caucus, I find that learning through the arts inspires and motivates children to explore the world and their potential to contribute to it. The expertise acquired through music instruction, including problem solving skills, communication, and work ethic are imperative for success in this centuries workplaces.

As Chairperson and co-founder of the Congressional Children's Caucus, I am troubled by the increasing number of schools and school districts that are cutting their funding for music based education. In my district of Houston, TX, our Governor demand for a 7 percent budget cut in education. Budget cuts such as this negatively affect access to music education. Restricting school music programs places our students at a disadvantage that will adversely affect them later on. A study in the Journal of Research in Music Education found that of 811 minority students, 36 percent identified their music teachers as their role models. This alone indicates the importance of equal opportunity for music based education in all of our nation's schools.

Thanks to organizations such as Community Help In Music Education (CHIME), we are working to ensure every student in the United States should have an opportunity to reap the benefits of music education. In the words of the late President John F. Kennedy, "One of our greatest assets in this country are the talented boys and girls who devote their early lives to music . . . [Music] is a part of American life which I think is somewhat unheralded around the world."

Mr. HIGGINS. Mr. Speaker, I rise today in strong support of H. Con. Res. 45 as offered by my colleague, Mr. COOPER, to acknowledge the importance of music education in our schools. I thank Mr. COOPER for bringing this resolution to the floor today and for bringing this issue to the Congress' attention.

Every student in the United States should have the best education possible. Such an education should be founded on a broad-based curriculum that incorporates instruction in a range of subjects. This includes not only math, science, history and English, but also physical education, music and the arts. An extensive knowledge base gives our children the skills they need to succeed in and enhances their lives.

Music education has innumerable benefits to students, ranging from higher levels of academic performance to improved social and motor skills. School-based music instruction is fundamental in our continuing efforts to improve the education of America's children.

Music adds a vital dimension to the scholastic experience. In the pursuit of quality education in America, teachers aim to boost scores in math and reading tests. Recent studies show that music lessons for young children result in a significant increase in their IQ levels and can help children develop analytical and problem solving skills.

Music can open up doors for a child. It can be a medium for expression, a method for learning and it can open a young student's eyes to career possibilities, faraway cultures or simply allow them to reach the farthest depths of their imagination.

Mr. Speaker, I am proud to stand with my colleagues in recognition of the importance of school music programs and in support of this resolution. Music education must continue to be a part of American education.

Mr. HOLT. Mr. Speaker, I rise in support of H. Con. Res. 45, legislation recognizing the benefits and importance of school-based music education. I was pleased to join my colleagues in passing this bipartisan proposal yesterday in the House of Representatives.

The advantages of studying music are not confined within the artistic sphere. Music education not only allows children a chance to create and appreciate all types of music, but it has been proven once and again that an awareness of the structure of music can actually help children do better in school. There is a growing amount of evidence indicating that young children who are exposed to the fundamentals of music develop stronger abstract reasoning skills, which are crucial for a broad understanding of mathematics and the sciences.

However, many of the advantages of music education cannot be quantified or studied with tests. The creative thinking and self-esteem that emerge from music education are essential for a full and meaningful life. Participation in music education can motivate students to become active members of the education process. Thirty-six percent of minority students reported their music teacher as their role model; a much higher percentage than any other discipline. As a teacher, I recognize this bond between teacher and student as one of the most important aspects of education itself.

In addition, music celebrates two of the most important values of our Nation; diversity and unity. By studying different cultures through the harmony of music, students are able to recognize the values that we all share. No other discipline embodies this spirit more than music education.

Mr. Speaker, music education enhances intellectual development and enriches the academic environment for children of all ages, and as a result enriches our communities as well. I am proud to join with my colleagues in passing this bipartisan resolution in recognition of these facts.

Mr. KUHL of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from New York (Mr. KUHL) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 45, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

---

## CONGRATULATING JEWISH COMMUNITIES ON THEIR SEVEN YEAR COMPLETION OF THE 11TH CYCLE OF THE DAILY STUDY OF THE TALMUD

Mr. PORTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 124) congratulating Jewish communities on their seven year completion of the 11th cycle of the daily study of the Talmud.

The Clerk read as follows:

### H. RES. 124

Whereas the 11th cycle of the daily learning of the 2,711 pages in the Babylonian Talmud, through the Daf Hayomi study program will culminate on March 1, 2005, the 20th day of Adar I 5765 in the Jewish calendar;

Whereas this will complete a formidable 7½ year educational and daily study cycle introduced in 1923 at Agudath Israel's first International Congress in Vienna by Polish Rabbi Meir Shapiro, whose purpose was "to enhance the sense of unity of Jews worldwide";

Whereas Jews throughout the world will be celebrating joyously in honor of the celebration, including 120,000 Jews in North America, and more than 50,000 in 3 major locations in the New York area will be technologically and spiritually linked to hundreds of similar celebrations throughout the world;

Whereas the 10th Daf Yomi cycle was completed on September 28, 1997 with 26,000 people at Madison Square Garden linked by satellite to dozens of communities around the world;

Whereas the teachers and students of the Talmud have displayed the remarkable ability to take individual efforts and combine them in striving toward a common vision and goal; and

Whereas this monumental achievement in study, dedication, perseverance, and persistence is a lesson for contemporary society and for people of good will everywhere: Now, therefore, be it

*Resolved*, That the House of Representatives congratulates the students and teachers of the Daf Yomi program on the occasion of their celebration of the completion of the 11th cycle of the Daf Hayomi, and wishes them well on beginning the 12th cycle.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. PORTER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. PORTER).

### GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 124, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

On behalf of the Committee on Government Reform, I rise in strong support of H. Res. 124. This legislation congratulates the people of Jewish faith across America and around the world on their completion of the eleventh cycle of the Babylonian Talmud. Thousands of Jews worldwide read a page a day of the 2,711-page Talmud for nearly 7½ years.

This incredible reading program, called Dafyomi, ends today, March 1, 2005, after beginning September 29, 1997.

It consists of the Mishnah, which was the original written version of the Oral Torah, and the Gemara which is essentially a commentary on the Mishnah. Together, these two intertwined texts form Talmud, which serves today as an explanation of the law as described in the five books of Moses: Genesis, Exodus, Leviticus, Numbers and Deuteronomy.

Simply put, it was written to help Jews better understand God's will.

It is called the Babylonian Talmud because, at the time of its composition in the 5th century A.D., the contributing rabbis and a significant portion of the Jewish population lived in Babylon, outside the bounds of the Roman Empire. The rabbis contemplated, discussed, argued and told stories to express their positions on the law. They recorded their thoughts, and the end product, the Gemara, accompanied the Mishnah and the two texts became known as the Babylonian Talmud.

Jews began reading Talmud in the current cycles in 1923. A Polish rabbi named Meir Shapiro intended to unite Jews all over the world by having them study the same page each day. For almost 82 years, Jews have done just that, and today marks the end of the 11th cycle of Rabbi Shapiro's vision.

Mr. Speaker, Talmud readers here in America can attend countless celebrations this evening. Tonight, they can also tune in to a simulcast of the worldwide commemoration of the 7½-year cycle completion.

I want to thank my distinguished colleague, the gentleman from New York (Mr. WEINER) for introducing this meaningful resolution. I congratulate the students, the scholars and all people of Jewish faith who will complete this monumental undertaking today.

In southern Nevada, where I am from, we have the fastest growing Jewish community in the country. So I am proud to be here today to talk about this important occasion.

This is a terrific matter for the House to recognize and bring to light for all Americans one of the solemn rituals of Judaism.

It is also important to note that there is no rest for the devoted. As the resolution declares, we all wish our Talmud readers well with the twelfth cycle that begins, believe it or not, tomorrow.

Mr. Speaker, I urge the adoption of H. Res. 124.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Nevada for bringing this resolution to the floor, and I am pleased to yield such time as he might consume to the gentleman from New York (Mr. NADLER), a cosponsor of this resolution.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am proud to join my colleague the gentleman from New York (Mr. WEINER) in sponsoring this resolution on the completion of the 11th cycle of the daily study of the Talmud.

Mr. Speaker, tossed into a stormy sea when his ship was wrecked, the great Talmudic sage, Rabbi Akiva, was given up for lost. This is how he later described his miraculous rescue to Rabbi Gamaliel. He said, "A daf," that is a wood plank, "from the ship suddenly appeared as a salvation, and I just let the waves pass over me."

When Rabbi Meir Shapiro, the rabbi of Lublin, Poland, initiated the programs for Jews all over the world to study the same Dafyomi, that is, daily page of Talmud, he explained the significance of this undertaking by paraphrasing Rabbi Akiva, "A daf is the instrument of our survival in the stormy seas of today. If we cling to it faithfully, all the waves of tribulation will but pass over us."

Mr. Speaker, the latest 7-year cycle of completion of the Talmud will occur in the first month of the Hebrew month of Adar, corresponding to March 1, 2005, which is today. This will complete a formidable 7½-year educational and daily study cycle introduced in 1923 at Agudath Israel's first international Congress in Vienna by Polish Rabbi Meir Shapiro "to enhance the sense of unity of Jews worldwide."

The entire Talmud is covered in 7½ years by those who keep to the prescribed daily pace of one page at a time. By studying the Talmud, groups and individuals throughout the world spend time learning the precious details of Jewish law and life. They are able to step back, to develop a sharply honed understanding of Jewish history and law. People study in every country and every city, in groups, alone, with friends and over the Internet.

☐ 1500

CEOs and cab drivers, doctors and shop owners, of different ages and nationalities come together to learn the Talmud. Tens of thousands, mostly Orthodox Jews, around the globe are on the same page, literally. In the Boro Park section of Brooklyn, in my district, for example, about 200 fathers of young children gather each night at 10 p.m., after their children are asleep.

I am proud that about 50,000 scholars are expected to attend this year's event at Madison Square Garden, the Javitz Convention Center in Manhattan, and Continental Airlines Arena in New Jersey.

In addition, more than 25,000 other Jews in 33 locations, ranging from Mexico City to Melbourne, Australia, from Los Angeles to Tel Aviv, will be linked to these activities via satellite television.

I join in their joy and celebration. This monumental achievement in study, dedication, perseverance, and persistence is a lesson for contemporary society and for people of good will everywhere.

I take this opportunity to congratulate the students and teachers of the Daf Yomi program on the occasion of their celebration of the completion of the 11th cycle of the Daf Hayomi, wish them well on the beginning of the 12th cycle, and urge the passage of this resolution.

And again I thank my friend and colleague, the gentleman from New York (Mr. WEINER), for being the chief sponsor of this, and I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time.

Mr. PORTER. Mr. Speaker, I have no further requests for time at the moment, and I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from New York (Mr. WEINER), the sponsor of this resolution.

Mr. WEINER. Mr. Speaker, I thank the gentleman from Illinois and the gentleman from Nevada for joining in commemorating what is truly a historic day, historic in many ways: historic in that this day arrives every 7 years, but also historic in that it is a celebration of the study of the Talmud, something that has gone back for over 1,500 years.

In celebration of Daf Yomi, what we have is the ultimate egalitarian religious observance. We have, as my colleague, the gentleman from New York (Mr. NADLER), just mentioned, Jews from all walks of life, whether they be cab drivers or whether they be the owners of the big office buildings of Manhattan or Mexico City or Israel or anywhere in between. This is an opportunity where daily there is not the reading of a page a day, there is the intense studying of a page a day. There is the opportunity to learn the true meaning of the Talmud and to pour over the lessons we can bring to our daily lives.

Today, on March 1, 2005, over 120,000 Jews from across North America will be joining together to celebrate the culmination of this, the 11th cycle. To give you a sense for what it means in my hometown of New York, Madison Square Garden will be filled, Nassau Coliseum will be filled, Continental Arena will be filled, the Javitz Center will be filled, all with folks who are studying, at the exact same time, the exact same final page of the Talmud. And also they will be learning the meanings. They will be learning what it means to our daily lives and why it is so important.

Since 1923, hundreds of thousands of Jews worldwide have participated in the study of a daily page as part of a program that helps strengthen Jewish unity and communities. Today's resolution has received bipartisan support.

I am grateful to acknowledge the chairman of the Government Reform Committee, the gentleman from Virginia (Mr. TOM DAVIS); and his staff, Melissa Wojciak and Michael Layman; and the ranking member, the gentleman from California (Mr. WAXMAN); and his staff, Tanya Shand and Zahava Goldman; the majority leader, the gentleman from Texas (Mr. DELAY); the minority leader, the gentlewoman from California (Ms. PELOSI); and 56 Democrats and Republicans, with cosponsors from 23 States.

We have to understand that today, as was pointed out by the gentleman from Nevada, not only do we have the celebration of the culmination of the reading that lasts for 7 years, but immediately we begin to study the very next page starting the cycle again. This sense of renewal is something that brings the Jewish community together. It is a sense of renewal of our spirit, a sense of renewal of our values, and also it is hopefully the time that we renew our commitment to the next generation; that next year Daf Yomi will be even larger and more populated; we will need more stadia, more office buildings, and even more places to join in the celebration.

This is, of course, a tribute to not only Rav Shapiro, who, as was mentioned, at the first World Jewish Congress at the Agudath Israel in Vienna began this program; but it is frankly a tribute to the Agudath Israel movement throughout the world today.

We join in extending congratulations to all of the participants in this program. We join in acknowledging the work of the Agudath Israel of America in particular, and we join in wishing them all good luck, 120,000 students and teachers all across North America in over 40 United States cities. We in the United States Congress join and offer them congratulations, and I urge my colleagues to vote in favor of this resolution today.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume to close for our side.

Mr. Speaker, I am very pleased to join with my colleagues, the gentleman from Nevada (Mr. PORTER), the gentleman from New York (Mr. WEINER), and the gentleman from New York (Mr. NADLER), in support of House Resolution 124, honoring Jewish students and teachers on their 7-year completion of the 11th cycle of the daily study of the Talmud.

Mr. Speaker, the Talmud is considered to be an authoritative record of rabbinic discussions on Jewish law, ethics, customs, legends, and stories. The Talmud is comprised of two components, the Mishnah and the Gemara. It expands on earlier writings in the Torah and it is the basis for all later codes of Jewish law and much of rabbinic literature.

Today, we celebrate the conclusion of the 11th cycle of the Daf Yomi, a Jewish tradition that began over 80 years ago. Daf Yomi was created by Polish Rabbi Meir Shapiro in 1923. He wanted to create a way for Jews across the world to unite and study and pray. Daf Yomi does just that, and it also helps Jewish people to reconnect with their faith and to make it part of their daily lives. In order to complete the Daf Yomi, a person must study the Talmud each and every day for 7 years.

Mr. Speaker, I think that everyone, regardless of their faith and beliefs, can appreciate and respect the profound commitment people must make in order to complete such an impressive task. To celebrate this accomplishment, countless people around the world are expected to gather together and to study in unison in the same manner that those we honor today gathered to study.

In the United States alone, thousands of people are expected to celebrate the occasion. I think that the participants and teachers alike deserve a rousing applause from this body for their shared sense of purpose.

I stand in strong support of this resolution and again want to congratulate each and every person who will participate and all of those for whom it will have meaning.

Mr. Speaker, I yield back the balance of my time.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume to strongly urge all my colleagues to support the adoption of H. Res. 124.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to show my strong support for the resolution and to congratulate the members of the Jewish community for completion of their 7-year study of the Talmud. I would like to thank Representatives ANTHONY WEINER and JERROLD NADLER for introducing this bill and I would also like to thank the majority and minority leadership for bringing it to the floor in such a timely manner and on the appropriate day.

Today marks the completion of 7 years of dedication, study, and communal learning. First introduced in 1927 at Agudath Israel's first international Congress in Vienna by Polish Rabbi Meir Shapiro "to enhance the sense of unity of Jews worldwide," this practice has become widespread among Jews around the world. It is estimated that in North America alone 120,000 members of the Jewish community will celebrate completion of their 7-year study on this day.

These individuals have demonstrated great determination, both spiritual and physical, in completing this task and they must be honored for such action. According to Daf Hayomi study program each individual will read one page of the 2,711 page Talmud a day. In completing this task they have demonstrated great perseverance and will.

The Talmud is a collection of Jewish laws, ethics, and stories that have been read for over 1500 years. The Completion of the 7-year study cycle demonstrates the commitment of the Jewish community to remain true to their history and origin and remain steadfast in their beliefs. For this they truly deserve recognition of their work.

The effects of this communal act of study and learning serves to spiritually unify the Jewish community spread throughout the world and rekindle their sense of union. On this day Jews from around the world will unite in celebration at the completion of this daunting task. The 26,000 that are estimated to celebrate in Madison Square Garden is a testament to the unifying power of the Daf Hayomi study program.

This resolution expresses our veneration of this monumental achievement in study, dedication, perseverance, and persistence. Contemporary society and people of all creeds can appreciate it as a testament to the value of learning. I, once again, would like to thank the distinguished members for introducing this important resolution and voice my strong support.

Mr. PORTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Nevada (Mr. PORTER) that the House suspend the rules and agree to the resolution, H. Res. 124.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 7 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 6 o'clock and 30 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Concurrent Resolution 5, by the yeas and nays.

House Concurrent Resolution 63, by the yeas and nays.

## ACCEPTANCE OF STATUE OF SARAH WINNEMUCCA FOR NATIONAL STATUARY HALL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 5, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 5, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 15, as follows:

[Roll No. 40]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Brown, Corrine
Carson
Gillmor
Gutierrez
Harris
Istook
Kingston
Meeks (NY)
Millender-McDonald
Napolitano
Peterson (PA)
Rush
Stark
Watson
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are advised two minutes remain in this vote.

☐ 1854

Ms. KILPATRICK of Michigan changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERMITTING USE OF ROTUNDA OF CAPITOL FOR COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST CEREMONY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 63.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 63, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 17, as follows:

[Roll No. 41]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof

Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Brown, Corrine
Carson
Gillmor
Gutierrez
Harris
Jenkins
Kingston
Meeks (NY)
Melancon
Millender-McDonald
Murtha
Napolitano
Rush
Stark
Sweeney
Watson
Watt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded there are 2 minutes remaining in this vote.

☐ 1911

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent this evening from this chamber. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 40 and 41.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 444

Mr. CLEAVER. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 444.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## ORDER OF BUSINESS

Mr. HENSARLING. Madam Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Madam Speaker, I rise tonight to enter into a very important discussion that our President has kicked off for the Nation, and that has to do with strengthening and saving Social Security. Social Security has historically been a vital program in the history of America, saving many seniors from poverty, giving them peace of mind and giving them greater security.

Madam Speaker, this is far more important than just a congressional debate to me. It is something that is very personal. You see, my parents are in their seventies. Social Security is part of their retirement. And I am committed to ensure that the Social Security benefits that my parents have earned, that they keep. But, Madam Speaker, not only do I have a sacred obligation to my parents, I have a sacred obligation to my children as well. My children are in diapers. Their world consists of Barney and Big Bird. They do not know about Social Security, but if we do not take action now, Social Security as we know it will not be there for my children.

We have a number of challenges in Social Security. We have the challenge of demographics. When Social Security was first created, there were over 40 workers supporting every one beneficiary. By 1950, we were down to 16 workers for every beneficiary. And today, Madam Speaker, just three workers for every beneficiary. In addition, when Social Security was created, the life span of the average American was 60 years old. You could not even retire and get your benefits until 65. Thanks to the marvels of modern medicine, the life expectancy of seniors today is 77, and increasing.

Another phenomenon we have, because we have fewer people paying into the system, we have declining rates of return. My grandparents enjoyed about a 12 percent rate of return on their Social Security. My parents will enjoy about a 4 percent rate of return on Social Security. I myself about 2 percent. And if we do not reform Social Security, my children will pay more into Social Security than they take out. Madam Speaker, that is simply not fair.

Besides the declining rates of return, we have a large, large deficit that we are facing in the future. The cost of doing nothing is profound. In the year 2008, the Social Security surplus begins to decline and by the year 2018, Social Security begins to go bankrupt. It begins to pay out more money than it takes in. That sea of red ink there, Madam Speaker, adds up to $10.4 trillion. Nobody knows what that is, but I can tell you, that adds up to about $35,000 for every man, woman and child to save Social Security.

☐ 1915

If we do not do that, if we do not write out that check today, future generations are looking at unconscionable options. Number one, people who enter the workforce today, by the time they retire, if we do not take moves to strengthen Social Security now, they will be looking at having their benefits cut by almost a full third. How many seniors can afford to have their Social Security benefits cut by almost a third?

And if we are not looking at massive benefit cuts, we are looking at massive tax hikes. This same group of people, people who enter the workforce today, if we do not take movement today, action today, they are going to be looking at a 42 percent increase in their payroll taxes. What will that do to families in America? How many hundreds of thousands of people will lose their jobs because of that massive tax increase?

But, Madam Speaker, there is a better way. And that better way is to do what the President has suggested, and that is to create personal Social Security accounts that take the best of traditional Social Security, our government guarantee, our inflation control, our social safety net, and add to it elements of the best of what company pension plans offer, and that is real assets that people own, giving workers and families a chance to start their own nest egg and pension grade investments that have proven over time to have a superior rate of return and be safe.

Madam Speaker, some say that this is risky. I say it is risky to leave one's retirement security in Washington. Already Congress has raided the Social Security trust fund over 59 times. They have cut benefits a half dozen times. They have raised taxes 20 times.

Madam Speaker, we need to move to personal Social Security accounts. Working together, Republicans and Democrats, we can save Social Security for my parents. We can save Social Security for my children. We can save Social Security forever.

## SMART SECURITY AND THE UNVARNISHED TRUTH ABOUT IRAQ

The SPEAKER pro tempore (Mrs. BIGGERT). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, there are many truths about America's involvement in Iraq. My truth is that our policies there over the last 2 years have been both immoral and ineffective. With nearly 1,500 American troops killed since the fighting began and another 11,000 injured, the time has come for a drastic change in our role in Iraq.

Leave aside, if my colleagues possibly can, the fact that the President and his team misled us about weapons of mass destruction. Forget for a moment, if they can, that they invented out of whole cloth a link between Saddam Hussein and the 9/11 tragedy. Those lives were bad enough. But their policies, the administration's policies, have also failed to achieve one of their later stated objectives of securing Iraq. The Bush administration is not only dishonest; I believe they are incompetent.

Rather than liberating Iraq, the U.S. invasion and occupation has trapped the nation and its people in a cauldron of violent civil strife. Our presence there has not engendered gratitude but bred resentment in the form of vicious insurgency. It has emboldened Muslim extremists who hate America now more than ever. Neither Iraqis nor Americans nor anyone else in this world is safer because of this war in Iraq.

In fact, a report came from the CIA's National Intelligence Council that concluded Iraq has replaced Afghanistan as the most fertile breeding ground for terrorists. It turns out that the Bush administration was right in their projection that we cannot separate Iraq from the war on terrorism. What they did not tell us is that invading Iraq fulfilled those projections and strengthened the wrong side in the war on terrorism.

Even since the Iraqi election, violence is making democracy a real long shot; and our troops, charged with somehow bringing order to the chaotic situation, are sitting ducks. Perhaps the President should ask the Iraqi people how free they feel when they must dodge bullets just to go to the market or visit a neighbor, when they stand by and watch neighborhoods being destroyed. Even in Afghanistan, which is often cited as a Bush success, there is evidence that the country is being run by warlords and drug dealers.

To help the situation in Iraq, I have introduced H. Con. Res. 35, legislation that will help secure Iraq by withdrawing our troops, which will ensure that America's role in Iraq actually does make America safer. So far 27 of my House colleagues have joined me as co-sponsors of this important legislation.

My plan for Iraq is part of a larger strategy that I call SMART Security, which is a Sensible, Multilateral American Response to Terrorism that will ensure America's security by relying on smarter policies.

Madam Speaker, let me be clear. We would not abandon Iraq and we should not. There is still a critical role for the United States in providing the developmental aid that can help recreate a robust civil society, build schools and water processing plants, and ensure that Iraq's economic infrastructure becomes fully viable.

Instead of troops, we need to send scientists, educators, urban planners, and constitutional experts to help rebuild Iraq's fighting economic and physical infrastructure and help establish a robust and democratic civil society. We need to pursue a new approach, and we need to do that because it has become clear the military option is not working. That is not the ideological statement of someone who opposed the war on principle, though I am that. It is a sober assessment of the situation in Iraq that is now shared across the political spectrum. We must truly support our troops, and the right way to do this is by bringing them home.

## THE FARM BILL

The SPEAKER pro tempore (Mr. CONAWAY). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, recently other members of the House Committee on Agriculture and I met with the Commissioner of Agriculture of the European Union. She was not very complimentary of our current farm bill. She knows it keeps our farm economy very competitive with the European Union. Unfortunately, this commissioner's sentiments mirror the sentiments of many Americans. Many believe that the farm bill is too expensive, and I believe as we write a new budget the farm bill will certainly be on the chopping block.

But I think it is important that we think about and remember a few things as we go into this process. First of all, in looking at the chart here, we can see that the current farm bill, which went into effect in 2002, actually was budgeted to cost $14 billion that year and it cost $13 billion. In 2003 it was budgeted to cost about 18.6 and it cost 12.1. In 2004, which we have just completed, the projected budgetary cost was $17.5 billion, and it actually cost $10.1 billion. So the net effect is that what was supposed to cost roughly $50 billion has cost us $35 billion. So the farm program is one of the few Federal programs that is way under budget and has certainly given the taxpayer a tremendous return on investment.

The other thing that we might want to remember is that during this period of time, we have had a tremendous drought in the western part of the United States. The drought map has looked something like this for about the last 5 years. So interestingly enough, the emergency payments for the drought have been included in these farm bill expenditures. In the past, in the previous farm bill, when we had a drought or we had emergency spending, it was always over and above. But in these cases, part of this 13.2 and part of that 10.1 was emergency spending for drought. So, again, this has been a very efficient and a very lean process, and we think that the farm bill has served a great purpose in that sense.

The other thing, Mr. Speaker, I would like to point out is that we really do not subsidize our farmers anywhere near what some other nations do. For instance, the average farm subsidy per acre in the United States, according to this farm program, is $38 per acre. The European Union's is $295 per acre. So the ratio is about $7 European Union for $1 in the United States. Japan subsidizes their agriculture $3,655 per acre, a ratio of roughly 100 to one.

So why in the world would Japan and Europe subsidize agriculture to that degree? I think part of the reason is that 60 years ago during World War II, they realized how important a food supply was. Their food supply was decimated, and when their populace has been hungry, they begin to realize that

that is something they are going to protect no matter what.

So in summary, Mr. Speaker, I would just like to mention four things regarding the farm bill. First of all, farmers plan their operation based on the farm bill. They are operating loans. Their land payments they have is based on the farm program, and if we start tinkering with it, if we start changing the farm bill in mid-course, we really do not do them justice. We will write a new farm bill in 2007. If we want to make changes, that is certainly the time that we should do that. But we should not do it now when they have one set of assumptions and then have that changed.

Secondly, we currently spend only 9 percent of our income in the United States on food. This is by far the lowest amount of money that people spend, at least proportionate money, that any civilized nation or any developed nation in the country, or in the world, spends at the present time, only 9 percent.

And, thirdly, if we fail to protect our food supply, we may see that what happens to the food supply would be the same as what happened to our petroleum situation. We found suddenly one day that we could purchase oil from OPEC at $10, $11 a barrel. We began to quit exploring in this country, and we began to purchase oil from OPEC. Now we are really 60 percent dependent on overseas sources, and about every 2 or 3 weeks we have to wait to see what OPEC is going to do to see what is going to happen to our fuel prices at the pump. We do not want this to happen, certainly, to our food supply.

So the current farm bill is less expensive than Freedom to Farm. It is working well, and I think we should think long and hard before we make any mid-course changes.

---

## INTRODUCTION OF THE WITNESS SECURITY AND PROTECTION ACT OF 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise on behalf of the countless communities across this Nation that live under a tyranny of fear due to witness intimidation.

Our criminal justice system relies on witnesses to provide essential evidence to law enforcement in the administration of justice. Unfortunately, drug dealers and other criminals employ brutal tactics to silence witnesses, including threats, vandalism, violence, and even murder.

When cases crumble due to witness intimidation, defendants that may be convicted for their crimes are free once again to violate the sanctity of our communities. A National Institute of Justice study concluded: "Witness intimidation is a pervasive and insidious problem. No part of the country is spared and no witness can feel entirely free or safe."

A number of prosecutors interviewed for this study "suspect witness intimidation occurs in up to 75 to 100 percent of the violent crimes committed in some gang-dominated neighborhoods."

With that said, we must acknowledge that witness intimidation is a menacing cancer in our society that, if left untreated, will continue to spread and intensify, undermining the very foundation of our criminal justice system.

□ 1930

Mr. Speaker, witness intimidation is eroding public trust in the government's ability to protect witnesses and demoralizing needed community cooperation to enforce the law.

Around the country, from urban centers to the heartland, reporting crimes can be extremely dangerous and even deadly. On February 4 of this year, WGAL, Channel 8 reported a 10-year-old named Katie Collman was found dead in an Indiana creek. A suspect in her killing confessed he wanted to intimidate little Katie after she witnessed him producing or consuming methamphetamine.

In the city that I call my home, Baltimore City, our State's Attorney reports that at least 25 percent of the nonfatal shooting cases are dismissed due to witness intimidation issues and most murder cases are affected in one way or another. Since September 2004, five witnesses have been shot or murdered.

Mr. Speaker, perhaps nowhere is there an example more clear in illustrating the realities of witness intimidation than in the tragedy that claimed the lives of the Dawson family from my district in East Baltimore City.

In response to Mrs. Dawson's heroic efforts to report intense drug distribution activity in her neighborhood, the Dawson family home was firebombed in the middle of the night on October 16, 2002. This insidious act not only stole the lives of Mr. Dawson and Mrs. Dawson, but also those of their five young children.

Unfortunately, this was not the only serious incident of witness intimidation to surface in Baltimore City. Baltimore Police Detective Thomas Newman was murdered 2 years ago after his testimony in a trial concerning a shooting.

On December 2, 2004 a DVD produced by criminals entitled "Stop the Snitching" surfaced in Baltimore. It graphically illustrates the violent drug culture and the code of silence on the streets that can paralyze entire communities seeking to abide by the law.

"Stop the Snitching" goes so far as to depict grotesque images of three bullet ridden bloody corpses accompanied by the phrase "snitch prevention."

On January 15, 2004, in the North Baltimore community of Harwood, Edna McAbier had her home firebombed in apparent retaliation for her work to purge her community of criminal activity.

I am sure many of my colleagues could recount many other such incidents in their districts.

Regrettably, these examples are representative of a growing problem of bold intimidation that send a clear message to the Nation that cannot be overstated. Those who would cooperate with police in the pursuit of justice face serious retaliation and possibly execution.

Witness protection programs provide an indispensable tool to law enforcement to combat crime and address witness intimidation. The Witness Security Program established in 1970 and administered by the Department of Justice has successfully carried out its charge to protect witnesses testifying in extremely serious Federal cases.

The United States Marshals Service has done an outstanding job of providing witnesses and their family who have been placed in their custody with long-term protection, relocation, new identities, housing, employment, medical treatment and funds to cover the most essential of needs.

In over 30 years, not a single witness has been harmed that followed security procedures while being actively protected by the United States Marshals Service. More to the point, cases involving the testimony of the WSP participants have an 89 percent conviction rate.

Mr. Speaker, I rise today on behalf of the countless communities across this nation that live under a tyranny of fear due to witness intimidation.

Our criminal justice system relies on witnesses to provide essential evidence to law enforcement in the administration of justice. Unfortunately, drug dealers and other criminals employ brutal tactics to silence witnesses, including threats, vandalism, violence, and even murder.

When cases crumble due to witness intimidation, defendants that may be convicted for their crimes are free once again to violate the sanctity of our communities.

A National Institute of Justice study concluded, "Witness intimidation is a pervasive and insidious problem. No part of the country is spared and no witness can feel entirely free or safe."

A number of prosecutors interviewed for this study "suspect witness intimidation occurs in up to 75 percent to 100 percent of the violent crimes committed in some gang-dominated neighborhoods."

With that said, we must acknowledge that witness intimidation is a menacing cancer in our society that, if left untreated, will continue to spread and intensify—undermining the very foundation of our criminal justice system.

Mr. Speaker, witness intimidation is eroding public trust in the government's ability to protect witnesses and demoralizing needed community cooperation to enforce the law.

Around the country, from urban centers to the heartland, reporting crimes can be extremely dangerous and even deadly. On February 4, 2005, WGAL Channel 8 reported, a 10-year-old girl named Katie Collman was found dead in an Indiana creek. A suspect in her killing confessed he wanted to intimidate Katie after she witnessed him producing or consuming methamphetamine.

In the city I call home, the State's Attorney for Baltimore City reports that "at least 25 percent of non-fatal shooting cases are dismissed due to witness [intimidation] issues and most murder cases are affected on some level," and that, since September 2004, five witnesses have been shot or murdered.

Mr. Speaker, perhaps nowhere is there an example more clear in illustrating the realities of witness intimidation than in the tragedy that claimed the lives of the Dawson family from my district in East Baltimore City.

In response to Mrs. Dawson's heroic efforts to report intense drug distribution activity in her neighborhood, the Dawson family home was firebombed on October 16, 2002. This insidious act not only stole the lives of Mr. Dawson and Mrs. Dawson, but also those of their five young children.

Unfortunately, this was not the only serious incident of witness intimidation to surface in Baltimore City. Baltimore Police Detective Thomas Newman was murdered 2 years ago after his testimony in a trial concerning a shooting.

On December 2, 2004, a DVD produced by criminals entitled "Stop Snitching" surfaced in Baltimore. It graphically illustrates the violent drug culture and the code of silence on the streets that can paralyze entire communities seeking to abide by the law.

"Stop Snitching" goes so far as to depict grotesque images of three bullet-ridden, bloody corpses accompanied by the phrase "snitch prevention."

On January 15, 2005, in the North Baltimore community of Harwood, Edna McAbier had her home firebombed in apparent retaliation for her work to purge her community of criminal activity.

I am sure many of my colleagues could recount many other such incidents in their districts.

Regrettably, these examples are representative of a growing problem of bold intimidation that send a clear message to the nation that cannot be overstated—those who would cooperate with police in the pursuit of justice face serious retaliation and possibly execution.

Witness protection programs provide an indispensable tool to law enforcement to combat crime and address witness intimidation. The Witness Security Program, WSP, established in 1970 and administered by the Department of Justice has successfully carried out its charge to protect witnesses testifying in extremely serious federal cases.

The United States Marshals Service, USMS, has done an outstanding job of providing witnesses and their families who have been placed in their custody with long-term protection, relocation, new identities, housing, employment, medical treatment, and funds to cover the most essential of needs.

In over 30 years, not a single witness has been harmed that followed security procedures while being actively protected by the USMS. More to the point, cases involving the testimony of the WSP participants have an 89 percent conviction rate.

In contrast, State witness protection programs are severely under-funded and enjoy virtually no Federal support.

While non-federal witnesses can participate in the WSP under certain conditions, States are required to reimburse the Federal Government for the cost of providing such protection unless a waiver is granted.

As a result, State and local prosecutors often must choose between funding investigations or funding costly, but necessary witness protection programs. This often leads to some jurisdictions providing no witness protection at all.

No one wins when law enforcement officials are forced to make such choices.

That is why I introduced the Witness Security and Protection Act of 2005, H.R. 908. I am proud the esteemed senior Senator from New York, Senator SCHUMER, will be reintroducing a companion bill to this legislation in the Senate.

H.R. 908 would establish within the USMS a Short-Term State Witness Protection Program tailored to meet the needs of witnesses testifying in State and local trials involving homicide, a serious violent felony or a serious drug offense.

H.R. 908 would also authorize $90 million per year in competitive grants for the next 3 years. State and local district attorneys and the U.S. attorney for the District of Columbia, can use these funds to provide witness protection or pay the cost of enrolling their witnesses in the Short-Term State Witness Protection Program within the USMS.

Grants under this legislation would only be awarded to prosecutors in States with high homicide rates to ensure we target those most in need of Federal support.

Improving protection for State and local witnesses will move us one step closer toward alleviating the fears of and threats to prospective witnesses, and help to safeguard our communities from violence.

While we cannot bring back all those who carried a heavy burden of fear due to witness intimidation, we can honor their sacrifice by taking the necessary steps today to fight against that future intimidation.

I urge my colleagues to join me in taking that critical step by cosponsoring, H.R. 908, the Witness Security and Protection Act.

---

## AUSTRALIAN AND COALITION INVOLVEMENT IN IRAQ

The SPEAKER pro tempore (Mr. CONAWAY). Under a previous order of the House, the gentleman from Iowa (Mr. KING) is recognized for 5 minutes.

Mr. KING of Iowa. Mr. Speaker, I come to the floor tonight to make what might be a shocking announcement, and that is an announcement of something that has not been very available in the United States news media, something that needs to be acknowledged on the floor of this Congress. And that is that one of America's most reliable and possibly historically are the most reliable American ally, an American ally that has been with us in virtually every major conflict throughout the 20th century, and is with us today in Iraq as one of our strong coalition partners, joining together with Great Britain and the other 25 or so coalition partners that are there.

The nation of Australia has doubled their troop deployment to Iraq. They have done so at a time when there are other nations that are looking for opportunities to leave that area. And they have done so at a time with historical moment, when we are seeing people marching in the streets of Lebanon reaching out for freedom, acting upon the Bush Doctrine, standing up for freedom. The Australians are standing with us, as they stood with us in World War I, World War II, Vietnam and Korea and, as I said, virtually every major conflict.

The 900 or so troops that are in there now are there to defend, in an interesting irony, they are there to defend the Japanese, who have also deployed to Iraq to provide engineering and other services there in the country at a time when it is pivotal and significant that we help them continue to grasp the freedom that they did when they reached to go to the polls on January 30.

Now, the reason I make this announcement as an announcement is because I think it is pretty difficult for a regular American citizen who watches television every day and reads the paper every day, and maybe even surfs the Internet every day, to even know this significant piece of international news, a piece of international news that was published throughout a great number of Internet services, as well as mainstream media around the world, but not so well in the United States of America.

So, I looked around and I asked the question, how would a person know this?

I came across it because I picked up the Sunday newspaper in Sydney, Australia, and this is what I found. The countries that refuse to surrender, U.S., Australia and Britain, boost their troop numbers.

Great Britain increased their numbers there, as has the United States, as has now Australia. And the national news media that handled it here in this country were few and far between.

So how would a person go about finding this out?

Well, I will go to Al Jazeera's Web page and see if I can find this little piece of information that I happened to have been coincidentally privy to. And I find on Al Jazeera's Web page dated February 22, Australia to send more troops to Iraq.

I did not find that in major newspaper in America, with the exception of the Los Angeles Times and one other newspaper on the west coast. Not the Washington Post. Not the Washington Times. Not the New York Post, not the New York Times. Not generally available to Americans.

Mainstream media broadcast TV, most of the cable networks had a little story, one blip. But on the mainstream media that was not something that came out on Peter Jennings, Brian Williams and not Dan Rather. But it did come out of Al Jazeera.

These are our tried and true allies. The people that stood with us for over a century have doubled their troop commitments out of Australia, and there is a long list of them standing with us as allies, as has Great Britain, and as has a number of the other coalition partners.

We need to recognize them, Mr. Speaker. We need to acknowledge them. We need to thank them for their service, not just to the support of the coalition troops, but their service to the freedom of humanity. And I challenge the news media to pick this up and try to scoop Al Jazeera next time.

## BUSINESS-AS-USUAL WITH FDA NOT GOOD ENOUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GENE GREEN) is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to address the problematic FDA approval process. In recent weeks, we have learned that the Federal Drug Administration has established an independent board to review post-market drug safety issues. We have also learned that the FDA committee issued a recommendation to return Vioxx to the market and keep Bextra and Celebrex on the market.

On the surface, it would seem the FDA has taken measures to address drug safety issues. However, we know all too well the devil is always in the details, and by looking at these details, it is clear that it is just business as usual at the FDA.

Take the committee that issued the recent recommendations on the COX-2 inhibitors. Ten of the 32 drug advisers had ties to the pharmaceutical industry and, in fact, had received consulting fees in the past from the drug manufacturers. I wonder how they voted? Nine to one to keep the drugs on the market.

Without the votes of these industry consultants, the committee would have recommended withdrawal of Bextra from the market and keep Vioxx off the market. We will never know if their votes are the result of an actual conflict of interest.

Yet to stay above the ethical fray, there should not even be an appearance of conflict of interest at the FDA. Their job is too important. With nearly a third of the panel receiving consulting fees from the industry, the appearance of conflict of interest is undeniable.

Unfortunately, the newly-established Drug Safety Oversight Board will suffer from similar problems. Despite the claims that the board will be independent, all but two members of the board will be FDA employees. What is more, the board will include FDA employees from the Office of New Drugs, the entity that approved the drugs in the first place. What incentive would board members truly have to conclude the decisions made by the FDA were mistakes in judgment and should be reversed? Even less likely is the chance that the board members from the Office of New Drugs would vote to reverse their own decisions or those of their closest colleagues when it comes to drug safety.

Mr. Speaker, the makeup of this board is more incestuous than independent, and, unfortunately, this problem pervades the entire FDA approval process, not just approval of pharmaceuticals. We have experienced it in our own efforts to keep silicone breast implants off the market. When the implant manufacturers came before the FDA, 40 percent of the advisory panel was made up of plastic surgeons.

Needless to say, each of the plastic surgeons voted to approve silicone breast implants. There is a conflict of interest if I ever saw one, since plastic surgeons are virtually guaranteed more business if the FDA approves again the use of silicone breast implants.

Despite the panel's recommendation to approve the device, the FDA, thank goodness, recognized the need for additional clinical trials, and rejected that application. Now, with another advisory panel in the works, we face another uphill battle to ensure that decisions are based on science alone, rather than tainted by conflicts of interest.

Like device approval, the FDA approval process for pharmaceuticals no longer reflects public's use of these products. Whereas the FDA approval process is based on clinical trials with small samples and short durations, the drug industry is now geared to treating chronic conditions, such as high cholesterol and arthritis, that affect millions of Americans for decades at a time.

In a rush to get these drugs to market, the FDA relies on preliminary studies with little insight into long-term risk, telling manufacturers they will get conditional approval as long as they conduct post-market studies. The problem is, the FDA has no enforcement authority to mandate these studies. With the drugs on the market and the profits rolling in, the manufacturers have nothing to gain from conducting the post-market studies.

The statistics paint a crystal clear picture. As of September 2003, drug manufacturers agreed to perform 1,338 post-market studies. The FDA has reported, however, that two-thirds of them have not even begun that agreement from September of 2003. All the while, manufacturers can either market these products to physicians or directly to the public, who equate the FDA stamp of approval with safety.

Mr. Speaker, we need to give the FDA the tools to hold drug manufacturers to their agreement to do the post-market studies. If they are fined for non-compliance or barred from direct advertising until the studies are completed, maybe the manufacturers would have an incentive to get moving on these studies.

The FDA's regulatory authority needs some teeth. Creating this Drug Safety Oversight Board takes us in the opposite direction by simply rearranging the deck chairs on a sinking ship. If this is how the FDA intends to get back to business, then business as usual is simply not good enough.

## CHINA CONSIDERING IMPOSITION OF ANTI-SECESSION LAW ON TAIWAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MIKE ROGERS) is recognized for 5 minutes.

Mr. ROGERS of Michigan. Mr. Speaker, I want to bring an important bit of business to the House floor this evening and to Members of the U.S. House, and that is China's consideration of the anti-secession law that they are about to impose on Taiwan.

The anti-secession law is a slap in the face to the recent progress that has been made across the strait in relations with Taiwan and is a bold move to threaten U.S. interests in the region.

Last month, the two sides agreed on the very first nonstop commercial flight between China and Taiwan in more than 50 years. Now China appears to be laying the legal groundwork to legitimize material action against Taiwan.

China is expected to adopt this proposed anti-secession law within this month. However, as Beijing does not allow its citizens or its media objective involvement in their government, the exact nature and time frame of this legislation is known only by a few within the Communist party leadership as China thought it could seek to approve this law under the radar of international scrutiny.

As the United States begins to voice its concern over China's proposed anti-secession law, curiously enough, North Korea announces it has a nuclear weapons program. I do not view these two events as coincidental, given U.S. reliance on China to engage in diplomacy on North Korea's nuclear weapons.

In recent history, there were two impediments to China taking over Taiwan militarily, the legality of the takeover and the technological ability to defeat Taiwan and its allies' defensive capabilities. The anti-secession law covers the first obstacle and China's effort to end the European Union's arms embargo would cover the second. This body has overwhelmingly approved a resolution condemning a lift of the arms embargo, which essentially would amount to a technology transfer.

This, Mr. Speaker, is a serious issue, and Beijing should make no mistake that the United States Congress is paying attention. We are paying attention on the anti-secession law, we are paying attention on their military buildup and modernization, and we are paying attention to their economic growth, built on currency manipulation and the violation of intellectual property rights.

☐ 1945

Mr. Speaker, it is time for this House and this body to stand tall and reach across the ocean and tell the Chinese we will be their friends, but they must be friends and participate in the rules of the rest of the Western world.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 79. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation.

The message also announced that pursuant to section 2761 of title 22, United States Code, as amended, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, appoints the following Senator as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the One Hundred Ninth Congress:

The Senator from Mississippi (Mr. COCHRAN).

## SOCIAL SECURITY AND NO CHILD LEFT BEHIND

The SPEAKER pro tempore (Mr. CONAWAY). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to cover three topics this evening with my colleagues and frame them in a way that suggest that we are lacking in our focus on a domestic policy.

So many of us have just returned from our districts and had the opportunity to interface with our constituents. What has to be a driving issue across America is, of course, the preservation, the saving of Social Security. But allow me to take you down memory lane just for a moment because maybe in this debate as we listen to economists, the Congressional Budget Office, the various committees of the House and various spokespersons and the administration about Social Security, we fail to understand its origins.

In 1929 we know that there was a market crash, Wall Street crash. We look at our history books. We know that a number of individuals of great wealth committed suicide. During the course of a very large depression, President Franklin Delano Roosevelt, who was elected on the concept of restoring our economy, began to think about the whole idea of investment in our domestic policies. The WPA was formed, educational policies were enhanced, opportunities for work were provided, and, yes, Social Security.

At that time, if we look at our statistics, we will find that seniors then were in their forties and fifties and were dying because they were destitute after long years of work. There were no opportunities to be able to protect themselves, provide for their daily needs, and certainly there was no opportunity for children to take care of their parents at that time. The resources were meager. So Social Security became that kind of umbrella, that kind of resource, and it lasted and it was steady through the 1940s, 1950s, 1960s, and 1970s. Then President Reagan and Tip O'Neill came together in the early 1980s and found a way to shore up Social Security for another 50 years.

We find ourselves now in 2005 in what I call the "generational divide," an unfortunate approach to dividing America over this umbrella for a rainy day. Let me first of all say that Social Security is what it is. It is in fact a retirement benefit, but it is also a survivor benefit for those who lost their parents. It allows young people to carry on their lives, and it allows the disabled to live an independent and productive life because of the Social Security benefit.

It is important that this debate be full of a factual content. It is not political. It is not Republican. It is not Democratic. It is really an American debate on how we want to take care of those most needy. What kind of separate umbrella do we provide? Do we eliminate the opportunity for 401(k)? Absolutely not. Private savings account? It is your choice.

Those who are in the generation under 45, under 50 have every right to establish their own private savings account, but it is not a place for Social Security. Social Security stands on its own feet as an investment in those in America, for those who have worked hard and those who may have no other options. And I believe it is important that we maintain Social Security and not break the bank by taking almost a trillion dollars, a trillion dollars to put in a private savings account.

Mr. Speaker, I can assure you in our congressional districts, Republicans and Democrats alike are understanding this issue. They know that this is divide and conquer, and they know it is wrong. Social Security deserves to be saved.

I want to speak very quickly about this whole issue of low-performing schools and not educating America's workforce. The Governors over the past couple of days said that they are hesitant on putting No Child Left Behind in high schools because it is a problem. It is not working.

You can have regulations and yet have, if you will, no dollars; and that is what we are finding in Houston, Texas, the announcement of low-performing schools with no solutions. We are working in Houston, Texas, where the community has now come together, parents and others, forming caucuses around the idea of working to help those low-performing schools and give children an opportunity.

Mr. Speaker, regulatory entanglement is not the answer. Leave No Child Behind has left many children behind. We now have to get our hands involved, our hands on, and we have to work together as Americans but also as community people to ensure that our schools are working to educate our young people.

In Houston just a few days ago, we saw a terrible tragedy of a 6-month-old child abused, sexually abused, physically abused, huge bruises all over this child. This is an epidemic. First, I would like to thank the Texas Children's Hospital and Dr. Lyn in particular and all the doctors in the emergency room that now over the past couple of months have allowed this child to leave the hospital and go to a foster home.

Mr. Speaker, I think it is important to call for hearings here in the United States Congress. The Congressional Children's Caucus will take up this issue to hold hearings, to hear from people around America of the epidemic of child abuse. If nothing else, an innocent child deserves the right to live a beautiful quality of life. The heinous and horrible people, parents or not, that would abuse a child both sexually and physically should be obviously put in the criminal justice system, and more importantly not be allowed to be able to have that child again.

We must protect our children, and I call for these hearings as well as legislation to stop the epidemic of child abuse.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 841, CONTINUITY IN REPRESENTATION ACT OF 2005

Mr. COLE of Oklahoma, from the Committee on Rules, submitted a privileged report (Rept. No. 109-10) on the resolution (H. Res. 125) providing for consideration of the bill (H.R. 841) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 27, JOB TRAINING IMPROVEMENT ACT OF 2005

Mr. COLE of Oklahoma, from the Committee on Rules, submitted a privileged report (Rept. No. 109–11) on the resolution (H. Res. 126) providing for consideration of the bill (H.R. 27) to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PUBLICATION OF THE RULES OF THE COMMITTEE ON VETERANS' AFFAIRS, 109TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BUYER) is recognized for 5 minutes.

**Mr. BUYER. Mr. Speaker, pursuant to clause 2 of rule XI of the Rules of the House, I submit for printing in the RECORD the Rules of Procedure of the Committee on Veterans' Affairs, which were adopted at the organizational meeting of the Committee on February 10, 2005.**

### COMMITTEE RULES OF PROCEDURE FOR THE 109TH CONGRESS

(Adopted February 10, 2005)

### RULE 1—APPLICABILITY OF HOUSE RULES

The Rules of the House are the rules of the Committee on Veterans' Affairs and its subcommittees so far as applicable, except that a motion to recess from day to day is a privileged motion in Committees and subcommittees. Each subcommittee of the Committee is a part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as applicable.

### RULE 2—COMMITTEE MEETINGS AND HEARINGS

#### REGULAR AND ADDITIONAL MEETINGS

(a)(1) The regular meeting day for the Committee shall be at 10 a.m. on the second Wednesday of each month in such place as the Chairman may designate. However, the Chairman may dispense with a regular Wednesday meeting of the Committee.

(2)(A) The Chairman of the Committee may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to the call of the Chairman.

(B) The Chairman shall notify each member of the Committee of the agenda of each regular and additional meeting of the Committee at least 24 hours before the time of the meeting, except under circumstances the Chairman determines to be of an emergency nature. Under such circumstances, the Chairman shall make an effort to consult the ranking minority member, or in such member's absence, the next ranking minority party member of the Committee.

#### WIRELESS TELEPHONE USE PROHIBITED

(b) No person may use a wireless telephone during a Committee or subcommittee meeting or hearing.

#### PUBLIC ANNOUNCEMENT

(c)(1) The Chairman, in the case of a hearing to be conducted by the Committee, and the subcommittee Chairman, in the case of a hearing to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the Committee or the subcommittee determines that there is good cause to begin the hearing at an earlier date. In the latter event, the Chairman or the subcommittee Chairman, as the case may be, shall consult with the ranking minority member and make such public announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Clerk of the Congressional Record and the Committee scheduling service of the House Information Resources as soon as possible after such public announcement is made.

(2) Meetings and hearings of the Committee and each of its subcommittees shall be open to the public unless closed in accordance with clause 2(g) of House rule XI.

#### QUORUM AND ROLLCALLS

(d)(1) A majority of the members of the Committee shall constitute a quorum for business and a majority of the members of any subcommittee shall constitute a quorum thereof for business, except that two members shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(2) No measure or recommendation shall be reported to the House of Representatives unless a majority of the Committee was actually present.

(3) There shall be kept in writing a record of the proceedings of the Committee and each of its subcommittees, including a record of the votes on any question on which a recorded vote is demanded. The result of each such record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting.

(4) A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member. With respect to any record vote on any motion to amend or report, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the report of the Committee on the bill or resolution.

(5) No vote by any member of the Committee or a subcommittee with respect to any measure or matter may be cast by proxy.

#### POSTPONING PROCEEDINGS

(e) Committee and subcommittee chairmen may postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment, and may resume proceedings within two legislative days on a postponed question after reasonable notice. When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

#### CALLING AND INTERROGATING WITNESSES

(f)(1) Committee and subcommittee members may question witnesses only when they have been recognized by the Chairman of the Committee or subcommittee for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member may be extended only with the unanimous consent of all members present. The questioning of witnesses in both Committee and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. Except as otherwise announced by the Chairman at the beginning of a hearing, members who are present at the start of the hearing will be recognized before other members who arrive after the hearing has begun. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority.

(2) Notwithstanding the provisions of paragraph (1) regarding the 5-minute rule, the Chairman after consultation with the ranking minority member may designate an equal number of members of the Committee or subcommittee majority and minority party to question a witness for a period not longer than 30 minutes. In no event shall the Chairman allow a member to question a witness for an extended period under this rule until all members present have had the opportunity to ask questions under the 5-minute rule. The Chairman after consultation with the ranking minority member may permit Committee staff for its majority and minority party members to question a witness for equal specified periods of time.

(3) So far as practicable: (A) each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least 48 hours in advance of the appearance of the witness, a written statement of the testimony of the witness and shall limit any oral presentation to a summary of the written statement; and (B) each witness appearing in a non-governmental capacity shall include with the written statement of proposed testimony a curriculum vitae and a disclosure of the amount

and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(4) When a hearing is conducted by the Committee or a subcommittee on any measure or matter, the minority party members on the Committee shall be entitled, upon request to the Chairman of a majority of those minority members before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of the hearing thereon.

### MEDIA COVERAGE OF PROCEEDINGS

(g) Any meeting of the Committee or its subcommittees that is open to the public shall be open to coverage by radio, television, and still photography in accordance with the provisions of clause 4 of House rule XI.

### SUBPOENAS

(h) Pursuant to clause 2(m) of House rule XI, a subpoena may be authorized and issued by the Committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(i) The Chairman of the full Committee is directed to offer a motion under clause 1 of House rule XXII whenever the Chairman considers it appropriate.

### RULE 3—GENERAL OVERSIGHT RESPONSIBILITY

(a) In order to assist the House in:

(1) Its analysis, appraisal, evaluation of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and

(2) its formulation, consideration and enactment of such modifications or changes in those laws, and of such additional legislation, as may be necessary or appropriate, the Committee and its various subcommittees, consistent with their jurisdiction as set forth in Rule 4, shall have oversight responsibilities as provided in subsection (b).

(b)(1) The Committee and its subcommittees shall review and study, on a continuing basis, the applications, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the Committee or subcommittee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated.

(2) In addition, the Committee and its subcommittees shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the Committee or subcommittee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of the Committee or subcommittee.

(3) Not later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Administration and the Committee on Government Reform, in accordance with the provisions of clause 2(d) of House rule X.

### RULE 4—VICE CHAIRMEN

The Chairman of the full Committee shall designate the Vice Chairman of the Committee and a Vice Chairman of each subcommittee established under Rule 5(a)(1).

### RULE 5—SUBCOMMITTEES

### ESTABLISHMENT AND JURISDICTION OF SUBCOMMITTEES

(a)(1) There shall be four subcommittees of the Committee as follows:

(A) **Subcommittee on Disability Assistance and Memorial Affairs**, which shall have legislative, oversight and investigative jurisdiction over compensation; general and special pensions of all the wars of the United States; life insurance issued by the Government on account of service in the Armed Forces; cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior; burial benefits; the Board of Veterans' Appeals; and the Court of Appeals for Veterans' Claims.

(B) **Subcommittee on Economic Opportunity**, which shall have legislative, oversight and investigative jurisdiction over education of veterans, employment and training of veterans, vocational rehabilitation, veterans' housing programs, readjustment of servicemembers to civilian life, and servicemembers civil relief.

(C) **Subcommittee on Health**, which shall have legislative, oversight and investigative jurisdiction over veterans' hospitals, medical care, and treatment of veterans.

(D) **Subcommittee on Oversight and Investigations**, which shall have oversight and investigative jurisdiction over veterans' matters generally, and over such matters as may be referred to the subcommittee by the Chairman of the full Committee for its oversight or investigation and for its appropriate recommendations. The subcommittee shall only have legislative jurisdiction over such bills or resolutions as may be referred to it by the Chairman of the full Committee. *Provided, however*, that the activities of the Subcommittee on Oversight and Investigations shall in no way limit the responsibility of the other subcommittees of the Committee on Veterans' Affairs for carrying out their oversight duties.

In addition, each subcommittee shall have responsibility for such other measures or matters as the Chairman refers to it.

(2) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of that subcommittee.

(3) On each subcommittee, there shall be a ratio of majority party members to minority party members which shall be consistent with the ratio on the full Committee.

### REFERRAL TO SUBCOMMITTEES

(b)(1) The Chairman of the Committee may refer a measure or matter, which is within the general responsibility of more than one of the subcommittees of the Committee, as the Chairman deems appropriate.

(2) In referring any measure or matter to a subcommittee, the Chairman of the Committee may specify a date by which the subcommittee shall report thereon to the Committee.

### POWERS AND DUTIES

(c)(1) Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman of the Committee and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

(2) Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the Committee, the Chairman of the subcommittee reporting the bill, resolution, or matter to the full Committee, or any member authorized by the subcommittee to do so shall notify the Chairman and the ranking minority party member of the Committee of the Subcommittee's action.

(3) A member of the Committee who is not a member of a particular subcommittee may sit with the subcommittee during any of its meetings and hearings, but shall not have authority to vote, cannot be counted for a quorum, and cannot raise a point of order at the meeting or hearing.

(4) Each subcommittee of the Committee shall provide the Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee as the Chairman of the Committee deems necessary for the Committee to comply with all rules and regulations of the House.

### RULE 6—TRANSCRIPTS AND RECORDS

(a)(1) There shall be a transcript made of each regular and additional meeting and hearing of the Committee and its subcommittees. Any such transcript shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

(2) The Committee shall keep a record of all actions of the Committee and each of its subcommittees. The record shall contain all information required by clause 2(e)(1) of House rule XI and shall be available for public inspection at reasonable times in the offices of the Committee.

(3) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with House rule VII. The Chairman shall notify the ranking minority member of any decision, pursuant to clause 3 or clause 4 of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

---

## EXCHANGE OF SPECIAL ORDER TIME

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana (Mr. BUYER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

---

## MARINE CORPS AND NAVY TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I have introduced H.R. 34, which would expand the name of the Department of the Navy to be Navy and Marine Corps.

Mr. Speaker, we have four services that stand alone that represent the greatness of our men and women in uniform, the Army, the Navy, the Air Force and the Marine Corps. Mr. Speaker, all these services have great heritage and great history. The Marine Corps and the Navy are a team. Both are separate under the Department of Navy. The Marine Corps is not part of the Navy. The Navy is not part of the Marine Corps. It is under the Department of the Navy.

Mr. Speaker, I think it is important to recognize that the four services should be appreciated and recognized separately. I think it is important that the Marine Corps and the Navy, which are a team and remain a team, that the coach of the team, in this case which is the Secretary of the Navy, carry the name Secretary of Navy and Marine Corps.

Mr. Speaker, this is the third year that this bill has been introduced. Each year the House in a bipartisan way sends this bill over to the Senate, but so far the other body has not been willing to accept the House position. Already we have close to 70 Members, both Republican and Democrat, who have joined me again in H.R. 34 to expand the name of the Department of the Navy and Marine Corps.

Mr. Speaker, let me share with you some of the comments from those who have served, the first one being Wade Sanders, who in 1993 to 1998 served as the Deputy Assistant Secretary of the Navy for Reserve Affairs. I want to read from his letter:

> "As a combat veteran and former Naval officer, I understand the importance of the team dynamic, and the importance of recognizing the contributions of team components. The Navy and Marine Corps team is just that, a dynamic partnership, and it is important to symbolically recognize the balance of that partnership."

Let me also read a letter from the former commandant of the United States Marine Corps, General Charles Krulak: "I heartily endorse this bill as an initiative that appropriately honors all of the superb men and women of the Naval Service, sailors and Marines."

Mr. Speaker, very quickly, from the Fleet Reserve Association, which is made up of Navy, Marine Corps and Coast Guardsmen: "And, finally, the Corps as the second most senior armed service should receive the honor it truly deserves, equitable distinction among the military departments in the U.S. defense structure. Recognizing the Corps as an equal partner in a new Department of the Navy and Marine Corps gives the Marines the distinction and esteem they truly deserve."

Mr. Speaker, let me close by pointing out why I believe this is so important. To my left is a blow-up of the citation of the Silver Star presented to the family of a Marine who was killed at Nasiriyah. His name was Michael Bitz.

Mr. Speaker, as you can see at the top, it was in the official heading, the Secretary of the Navy, Washington, D.C. and there is a Navy flag. Mr. Speaker, the Navy and the Marine Corps are a team, and this headline should be as a team.

Let me show you, Mr. Speaker, when I take down the order and we had the graphic department to work with us on this. Let me show you just how dynamic this team is, this Marine who gave his life for his country, and his family received the Silver Star, tell me 15 years down the road, Mr. Speaker, when his children look up at their daddy and their daddy gave his life for this country and he was a Marine. If this was hanging on the wall, the Secretary of the Navy and Marine Corps with the Navy flag and the Marine flag, the team, Mr. Speaker, would that child not be proud of his daddy to know that his father died for this country and he was recognized as a Marine in the heading, Secretary of Navy and Marine Corps?

Mr. Speaker, I intend to come down on the floor at least once a week for the next few weeks and try to get more and more of my colleagues, both Republican and Democrat, to co-sponsor this legislation with me. It is time that the Marine Corps be treated equally and fairly. There are four services, which the Congress has said twice over the last 30 years. We have four services: Marine Corps, Army, Navy, and Air Force. It is time that the Department of the Navy carry the name Navy and Marine Corps.

With that, Mr. Speaker, I want to close by asking God to please bless our men and women in uniform and to bless their families. I ask God to please bless the families who have given a child dying for freedom in Afghanistan or Iraq.

Mr. Speaker, I close by asking God three times, please, God, please, God, please, God, continue to bless America.

## STOP DENIAL OF ARMENIAN GENOCIDE BY TURKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, Ambassador Evans, the U.S. Ambassador to Armenia, recently when meeting with Armenian Americans during visits in several U.S. cities referenced the Armenian genocide. In a series of public statements, Ambassador Evans who has studied Russian history at Yale and Columbia and Ottoman history at the Kennan Institute stated, "I will today call it the Armenian Genocide."

Mr. Speaker, Ambassador Evans' statements did not contradict U.S. policy, but rather articulated the same message that the Bush administration has sent to the public, the only difference in this case is that Ambassador Evans simply assigned the word to the definition that was already provided by President Bush as well as members of his administration.

Breaking with a pattern on the part of the State Department of using alternative and evasive terminology for the Armenian genocide, Ambassador Evans pointed out that "no American official has ever denied it."

Now, Ambassador Evans was merely recounting the historical record which has been attested to by over 120 Holocaust and genocide scholars from around the world. In so doing, he was merely giving a name, the accurate description of genocide, to this very administration's statements on the issue.

President Bush on April 24 of each of the last four years when commemorating the Armenian genocide used the textbook definition of genocide with words and phrases such as "annihilation" and "forced exile and murder." Before him, President Reagan used the word "genocide" in 1981 when describing the annihilation of over 1.5 million Armenians.

□ 2000

In the day of the genocide, our U.S. ambassador, then Henry Morgenthal, had the courage to speak out against the atrocities which he stated were a planned and systematic effort to annihilate an entire race.

In conclusion, Mr. Speaker, I just want to add my name and my voice to all those who, like Ambassador Evans, know the truth and speak it plainly when discussing the Armenian genocide.

## EXCHANGE OF SPECIAL ORDER TIME

Ms. SOLIS. Mr. Speaker, I ask unanimous consent to claim the gentleman from Ohio's (Mr. STRICKLAND) time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, tonight I rise in strong opposition to the Central American Free Trade Agreement, otherwise known as CAFTA, or DR-CAFTA.

CAFTA is largely based on the North American Free Trade Agreement, also referred to as NAFTA.

By signing CAFTA, the Bush administration has ignored the mistakes that we know here in the U.S. because of NAFTA, and in fact, CAFTA is nothing more than what I would say NAFTA-plus.

Ten years ago, NAFTA proponents promised increased wages and economic development in the U.S., Mexico, Canada and promised decreased migration. The agreement has failed on all accounts.

Over 750,000 jobs in the United States have been lost due to NAFTA, and immigration to the U.S. has increased. Through NAFTA, the administration granted a gift to corporate interests who prioritize access to cheap labor first and working families last.

Inadequate free trade agreements not only hurt the U.S. but they also hurt our neighbors.

I recently visited Mexico and saw firsthand for myself the devastating consequences of NAFTA. In the Maquiladora zone in Cuidad Juarez and other border cities, wages are low, union organizing is suppressed and industrial pollution jeopardizes the health and safety of workers and residents.

Now, those same U.S. jobs that were exported to Mexico are being sent to China, leaving the economic situation in many areas of Mexico worse off than before NAFTA.

As in Mexico with NAFTA, CAFTA would cause the loss of family farms and would lure more workers, most of them women, from the rural areas, poor women. CAFTA may create jobs for women, but the working conditions are unimaginable to the American public.

The bulk of these jobs are found in the export processing zones known as the Maquiladoras. Women that work in the Maquiladoras have reported forced pregnancy testing, sexual harassment and physical abuse.

CAFTA does not require compliance with international labor rights and does not protect women from being discriminated against.

In 2001, I traveled to El Salvador and witnessed first hand hundreds of young girls lined up at 5 o'clock in the morning to enter into the sweatshops. It provides for many of the textiles that are now being imported here, going on shifts anywhere from 12 to 14 hours a day.

I am not opposed to trade. So I want to be clear on that. I support free and fair trade. Let me be clear. Fair trade.

We need to level the playing field and enact trade agreements that include meaningful labor and environmental standards that will prevent the exporting of our U.S. jobs and the exploitation of workers abroad.

Our trade policies should lift people out of poverty, not keep them in poverty.

Opposition to CAFTA is strong in Central America, too. In fact, I was contacted, as well as other Members of Congress, by elected officials representing El Salvador, Costa Rica and Honduras. They sent many letters to other Members of Congress asking us and urging us to defeat CAFTA.

CAFTA will mean more job loss and wage decline for American workers, as well as Central American workers. Lack of enforceable labor standards leads to a downward push on U.S. workers' wages, particularly Latino workers.

U.S. Latino workers have been disproportionately hurt by NAFTA because they tend to be concentrated in industries such as textiles and other manufacturing sectors.

While Latinos now represent well over 12 percent of the U.S. workforce, they account for 26 percent of the textile and apparel industry workers, and in California, the State that I represent, Latinos make up an estimated 80 percent of the hardest hit California garment industry. Almost 50 percent of U.S. workers applying for trade adjustment assistance, that this Congress approved, happen to be Latino.

In fact, 51 percent of American voters oppose NAFTA and claim it would hurt workers, wages and hurt our jobs. They also believe that CAFTA would do the same thing. So I know that in my community there is a strong, strong resistance to move forward on any semblance of what NAFTA and now CAFTA-plus would do.

In fact, the league of United Latin American Citizens, LULAC, one of the oldest and largest Latino civil rights organizations in the country, has come out in opposition to CAFTA. LULAC claims that CAFTA falls short of being acceptable and fears it will unleash enormous losses for all workers in the United States, including Central America.

As the only Member of Congress of Central American descent, I understand the importance of supporting efforts to promote sustainable development and preservation of agricultural sectors in regions. However, U.S. policy towards Latin America should go well beyond free trade policies that do little to raise wages and working conditions of the poor.

Mr. Speaker, I would like to also submit for the RECORD information on surveys and a letter from LULAC, as well as to make a notation that a book on CAFTA and free trade, What Every American Should Know, has just been released, and I would urge the public to look it up. It is by the author, Greg Spotts.

### New Poll Sends a Clear Message to Washington: Americans Oppose CAFTA

#### A RESOUNDING NO! ON CAFTA

American voters oppose CAFTA by a solid margin:

A majority of American voters oppose CAFTA! 51% of American voters said they oppose this trade agreement while just 32% support it. After presenting both pros and cons about CAFTA, opposition increased to 54% and support fell to 30%.

Voters oppose CAFTA regardless of their party. Democrats oppose CAFTA by a 53 to 31 percent margin, Independents oppose it by a 53 to 32 percent margin, and Republicans oppose it by a 47 to 37 percent margin.

#### JOBS, JOBS, JOBS

Voters see free trade deals like NAFTA and CAFTA for what they are: catalysts to destroying U.S. jobs.

An overwhelming 74% opposed CAFTA when asked if they would favor or oppose the agreement if it reduced prices they would pay as a consumer but at the cost of jobs for U.S. workers.

Of those American voters who opposed CAFTA, more than half (52%) cited the threat to the U.S. economy and jobs as their primary concern.

#### MANY OTHER SERIOUS CONCERNS WITH CAFTA

When presented with various pro and con arguments about CAFTA, American voters expressed serious concerns with many of the trade agreement's shortcomings, including:

CAFTA's lack of requirements for Central American countries to protect the environment and restrict child labor made 69% of voters less likely to support the trade deal.

CAFTA's impact on moving manufacturing jobs overseas for cheaper labor made 60% of voters less likely to support the trade deal.

CAFTA's negative effect on U.S. sovereignty by allowing foreign corporations to sue the U.S. outside of our judicial system made 56% of voters less likely to support the trade deal.

#### THANKS FOR NOTHING, NAFTA!

CAFTA's "big brother" and model NAFTA was soundly rejected by American voters:

51% of American voters say that NAFTA has been bad for the U.S. economy because cheap imports from abroad have hurt wages and cost jobs here at home and that the U.S. should not pursue free trade agreements with other countries in the future.

---

### Americans Oppose CAFTA Trade Agreement

WASHINGTON, Mar. 1, 2005.—www.AmericansForFairTrade.org today announced the results of a research survey that shows 51% of Americans across all political parties oppose the Central American Free Trade Agreement (CAFTA). CAFTA's model, the North American Free Trade Agreement (NAFTA), was also soundly rejected by a majority of Americans. Voters were primarily concerned with the negative impact CAFTA will have on the American economy along with possible significant job losses.

"The survey clearly shows that a strong majority of Democrats and Independents and almost half of all Republicans oppose CAFTA. These results should send a powerful message to Congress that their constituents will choose their farms and jobs over another flawed trade deal," said Ernest Baynard, Executive Director of www.AmericansForFairTrade.org. "The survey also shows that Americans are all too familiar with the failed promises and negative impact of NAFTA—CAFTA's older brother—and are rightfully wary of more of the same."

www.AmericansForFairTrade.org will host a conference call for members of the media to discuss the survey results today, March 1, 2005 at 12:00 PM (Eastern time). Details about the conference call follow at the end of this release.

The survey found that 51% oppose the CAFTA trade agreement altogether and only 32% support it. Anti-CAFTA sentiment crosses party lines, with Republicans (47 to 37 percent) joining Democrats (53 to 31 percent) and Independents (53 to 32 percent) in opposition to the agreement. Overall opposition to CAFTA is stronger in red states (53 to 31 percent) than in blue states (48 to 34 percent).

The loss of jobs was of greatest concern to American voters. An overwhelming 75% opposed CAFTA when asked if they would favor or oppose the agreement if it reduced consumer prices but caused job losses. Of those who directly opposed CAFTA, more than half cited the threat to the U.S. economy and jobs as their primary concern (52%).

NAFTA destroyed an estimated 880,000 jobs, according to the Economic Policy Institute. In a recent study, the United States International Trade Commission found that the CAFTA will cause significant job losses across many sectors in the U.S. if the agreement is implemented.

While a plurality of Hispanic voters initially support CAFTA (44 to 39 percent), they are more likely to change their opinion about the deal after hearing a series of positive and negative statements about it, ultimately opposing CAFTA by a 47 to 40 percent margin. As with voters overall, loss of American jobs is a significant concern to Hispanic voters.

When presented with various pro and con arguments about CAFTA, American voters expressed serious concerns with many of the trade agreement's shortcomings, including:

Sixty-nine percent of voters said that CAFTA's lack of requirements for Central American countries to protect the environment and restrict child labor makes them less likely to support the deal;

Fifty-six percent said that CAFTA's negative effect on U.S. sovereignty, by allowing foreign corporations to sue the U.S. outside of our judicial system, makes them less likely to support the deal; and

Immigration is also an important concern for voters. When presented with a positive argument that CAFTA will help reduce illegal immigration by providing economic opportunities in the CAFTA countries, 45 percent of voters said it would make them more likely to support the deal. Unfortunately, studies have shown that immigration increased substantially in the years after NAFTA was implemented and many believe CAFTA will strongly follow suit.

Commissioned by www.AmericansForFairTrade.org and conducted by the research firms of Ayres, McHenry & Associates, Inc. and Ipsos-Public Affairs, the non-partisan research was conducted through a telephone survey among registered voters with a Hispanic over-sample on February 1–February 6, 2005. Voters were surveyed on their overall opinion of free trade, their feelings toward NAFTA, and their perception of CAFTA. Voters were questioned about their opinions on CAFTA before and after being presented with various arguments supporting or opposing the agreement. This poll was made available in both English and Spanish.

CAFTA is a trade agreement between the United States and six countries in the Central American region: Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua. Signed into agreement in May 2004, CAFTA has yet to be presented to the U.S. Congress for approval. Trade Promotion Authority mandates that Congress cannot amend the agreement, but can only vote to approve or reject it.

Upon learning more about CAFTA, Hispanic voters are among the demographic groups most likely to swing strongly to oppose the agreement," Baynard continued. "Already many leading Latino, faith-based and labor organizations—in both the United States and Central America—vehemently oppose CAFTA. Our research underscores the fact that Hispanic voters don't support this deal and will play a key role in asking Congress to reject CAFTA when it comes up for a vote this year."

### ABOUT THE SURVEY

This national survey was conducted by Ayres, McHenry & Associates, Inc. and Ipsos-Public Affairs via phone February 1–6, 2005. The survey of registered voters has a national sample of 800 weighted respondents, with an over sample to yield 300 Hispanic respondents. The margin of error is ±3.5% for the national sample and ±5.7% for the Hispanic over-sample.

Addtional details about the poll are available online at www.AmericansForFairTrade.org. Individuals, groups, and other entities are free to cite the results of this poll provided they give proper attribution to www.AmericansForFairTrade.org.

### ABOUT WWW.AMERICANSFORFAIRTRADE.ORG

The www.AmericansForFairTrade.org coalition includes producers of textiles, small and medium sized manufactures, beef and cattle ranchers, farm organizations, organized labor, commodity groups, religious congregations, faith-based organizations and others. To learn more, go to www.AmericansForFairTrade.org.

### ABOUT AYRES, MCHENRY & ASSOCIATES, INC.

Ayres, McHenry & Associates, Inc., is a national public opinion and public affairs research firm located in Alexandria, VA that specializes in providing quality research and strategic advice to corporations, associations, and political candidates.

Roll Call, a widely-read newspaper on Capitol Hill, called the firm "one of the best in the nation." Campaigns & Elections magazine profiled Whit Ayres, the company's president, and Jon McHenry, the company's vice-president, as two of the country's political "movers and shakers." For more information visit www.ayresmchenry.com.

### ABOUT IPSOS-PUBLIC AFFAIRS

Ipsos-Public Affairs is a non-partisan, objective, public affairs company made up of campaign and political polling veterans as well as research professionals, Ipsos-Public Affairs conducts strategic research initiatives for a diverse number of Canadian, American and international organizations. Typically, the division's studies are based on opinion research: not only public opinion but often elite stakeholder, corporate, and media opinion. To learn more, visit www.ipsos-pa.com.

Thomas Riehle is President and C.O.O. of Ipsos-Public Affairs in the U.S. He has over 15 years experience in political polling in Washington D.C., working with governments, corporations, political campaigns, party organizations, lobbying and interest groups, labor unions and industry associations.

### MEDIA CONFERENCE CALL INFORMATION

www.AmericansForFairTrade.org's Executive Director, Ernest Baynard, will join researches Jon McHenry from Ayres, McHenry & Associates, Inc., and Thom Riehle from Ipsos-Public Affairs to discuss this research survey in a conference call with members for the media at 12:00 PM (Eastern time) today. Members of the media in the United States should call (800) 289–0572 to participate. To access the call, use the call title "Americans for Fair Trade." Please not that this call is open to members of the media only.

For members of Spanish-language media, Ms. Ana Iparraguirre, Research Manager from Ipsos-Public Affairs will be available for interviews and to discuss the poll. Ms. Iparraguirre has vast experience designing and conducting both quantitative and qualitative research projects in the U.S. and Latin America. She is a native Spanish speaker with fluency in English.

---

## LULAC OPPOSES CAFTA

WASHINGTON.—The League of United Latin American Citizens (LULAC) joins several immigrant rights and Latino community organizations today on Capitol Hill to oppose the Central American Free Trade Agreement (CAFTA). The groups will present formal letters denouncing CAFTA and demanding that U.S. Members of Congress vote against the proposed free trade agreement.

This month LULAC passed a resolution at its national assembly in opposition of the Central American Free Trade Agreement. The resolution explained the various reasons why CAFTA would cause further harm for U.S. Latinos and Hispanics abroad. "Like NAFTA, the passage of CAFTA would cause more harm than good by further encouraging the relocation of manufacturing jobs to cheaper labor markets pitting U.S. Latinos and Mexicans against citizens of the global south in a race to the bottom," said LULAC National President Hector Flores.

In order to become law, CAFTA must be voted on by the U.S. Congress and those six country's legislative bodies. Business and government forces have been lobbying hard for CAFTA, and this week Salvadoran President Tony Saca met with President Bush about the deal, while trade and labor ministers from the region promoted CAFTA at a press event last week. Meanwhile, labor unions and social organizations in the U.S., Central America, and the Dominican Republic have united in opposition to CAFTA.

"LULAC is firmly committed to addressing the issue of equitable and sustainable economic development for Central America. We fear that CAFTA will unleash enormous losses for workers in the region as it is currently designed. LULAC not only works on economic development issues, but we are equally working to resolve immigration problems in the United States. If CAFTA is enacted, we fear that we will be trying to stem a tide of desperate undocumented immigrants. The proof lies in the results stemming from the North American Free Trade Agreement (NAFTA), which has more than doubled undocumented immigration from Mexico since its enactment," said Gabriela D. Lemus, Ph.D., LULAC National Director of Policy and Legislation.

LULAC's resolution describes the many reasons why CAFTA falls short of being acceptable, including its lack of adequate enforcement provisions for violations of internationally recognized labor and environmental standards; and it provisions that would allow corporations a substantial amount of power to challenge the countries' governmental standards in these areas. Accordingly, LULAC as an organization, resolved to call upon state-level organizations and local chapters to educate members about the negative impacts of NAFTA and the threat CAFTA poses to workers' health and prosperity.

The League of United Latin American Citizens (LULAC) is the oldest and largest Latino organization in the United States. LULAC advances the economic condition, educational attainment, political influence, health, and civil rights of Hispanic Americans through community-based programs operating at more than 700 LULAC councils nationwide.

## OUR TRADE RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, here is the trade record. The United States is moving deeper and deeper into red ink with every major country with which we have a trade agreement. In fact, when we sign the trade agreements, the deficits get worse. Last year, it rung in at well over $600 billion, nearly two-thirds of $1 trillion, money that flows out of this country someplace else.

I rise tonight to join my colleagues in opposition to the newest idea that is being proposed, CAFTA, the Central American Free Trade Agreement. There is nothing free about free trade.

We are united in support of worker rights, the environment, family farmers and working men and women. This is not about us in our country versus people in other countries. It is about supporters of fair trade, teaming up for trade agreements that raise standards of living for everyone, and put people and communities before multinational corporations that pit one Nation against another.

Free trade can only exist among free people. Where that does not exist, trade then equals exploitation of people and communities.

During the 10th anniversary of NAFTA, I led a delegation to Mexico last year to examine NAFTA's trade, economic and social record applications. Unfortunately, NAFTA's story does not have a happy ending. In Mexico, real wages have declined, not increased, as promised. Millions of farmers and rural dwellers have been kicked off their land, fueling an exodus north to the Maquiladora zones that the gentlewoman from California (Ms. SOLIS) so aptly described.

Here, at home, factory after factory continues to shut its doors to the cheap labor of the Maquiladoras, and U.S. workers have been handed pink slips by the thousands, by the hundreds of thousands and the border ecosystem has taken a major hit.

Thousands were told we would have trade surpluses with all of these countries. Well, there is another false one.

Here is Mexico. Ever since NAFTA's signing, we have moved into deeper and deeper trade deficit with the Nation of Mexico, now nearly $50 billion a year, and the same is true with Canada.

How can the Bush administration propose to expand NAFTA to five more countries? I know his father did this for NAFTA, but should we not have learned something by now? I am not sure the President is willing to learn from past mistakes. If something does not work, are we not supposed to fix it? Should we not be fixing this?

The same is true with China. Another agreement was signed with the Nation of China. Have we moved into trade balance with China? Absolutely not. In fact, we have the largest trade deficit in history with China today, now totaling over $170 billion, and the red ink just gets deeper.

With all of its faults, NAFTA's negotiations took 7 years. CAFTA's negotiations took barely one year. One year? Do we really want to base major policy trade decisions on such a rushed process? Do my colleagues know why it only took 1 year? Because Congress and fair trade organizations were shut out. It did not even get a chance to testify. President Bush expects to bring this to the floor for a simple up or down vote under fast track. Is that really the way to develop international trade policy?

Besides, what is the rush? The combined GDP of Central America is equal to one-half of one percent of the United States. What Central America does have is idle hands, not consumers with dollars ready to spend. We should take the time needed to address serious concerns in labor, so those folks can actually earn a decent living, agriculture and their right to eke out a decent living, investment rights and many more topics as we did with the Jordanian trade agreement.

Let the public then get a good look at it here in this Congress and decide do we want more NAFTAs.

The labor provisions of CAFTA are shameful. The only requirement is to enforce laws already on the books, and let me ask, what labor rights exist in El Salvador? They are nonexistent. Would people rather work in the United States or in El Salvador? CAFTA is another example of a rush to the bottom.

Just like the fight over China trade, we are being promised great markets for our goods. They obviously have not happened in China. Two-thirds of Central America's poor live in desperately poor rural regions. They are not going to be rushing out to buy Microsoft Office systems.

Let us be realistic. I support trade with Central America, but free trade ought to occur among free people, and America ought to stand for internationally recognized labor rights, the right to own and farm your land, the right to a clean environment and the right to economic security.

## PUBLICATION OF THE RULES OF THE COMMITTEE ON THE BUDGET FOR THE 109TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, in accordance with clause 2(a) of Rule XI of the Rules of the House of Representatives, I submit for printing in the CONGRESSIONAL RECORD the Rules of the Committee on the Budget for the 109th Congress.

These rules were adopted by the Committee on the Budget by voice vote at an organizational meeting held by the Committee on February 2, 2005.

If there are any questions on the Committee Rules, please contact Paul Restuccia, Chief Counsel of the Budget Committee, at 6–7270.

### RULES OF THE COMMITTEE ON THE BUDGET

### GENERAL APPLICABILITY

*Rule 1—Applicability of House Rules*

Except as otherwise specified herein, the Rules of the House are the rules of the committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege.

### MEETINGS

*Rule 2—Regular meetings*

(a) The regular meeting day of the committee shall be the second Wednesday of each month at 11 a.m., while the House is in session.

(b) The Chairman is authorized to dispense with a regular meeting when the Chairman determines there is no business to be considered by the committee. The Chairman shall give written notice to that effect to each member of the committee as far in advance of the regular meeting day as the circumstances permit.

(c) Regular meetings shall be canceled when they conflict with meetings of either party's caucus or conference.

*Rule 3—Additional and special meetings*

(a) The Chairman may call and convene additional meetings of the committee as the Chairman considers necessary, or special meetings at the request of a majority of the members of the committee in accordance with House Rule XI, clause 2(c).

(b) In the absence of exceptional circumstances, the Chairman shall provide written notice of additional meetings to the office of each member at least 24 hours in advance while Congress is in session, and at least three days in advance when Congress is not in session.

*Rule 4—Open business meetings*

(a) Each meeting for the transaction of committee business, including the markup of measures, shall be open to the public except when the committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, clause 2(g)(1).

(b) No person other than members of the committee and such congressional staff and departmental representatives as the committee may authorize shall be present at any business or markup session which has been closed to the public.

*Rule 5—Quorums*

A majority of the committee shall constitute a quorum. No business shall be transacted and no measure or recommendation shall be reported unless a quorum is actually present.

*Rule 6—Recognition*

Any member, when recognized by the Chairman, may address the committee on any bill, motion, or other matter under consideration before the committee. The time of such member shall be limited to five minutes until all members present have been afforded an opportunity to comment.

*Rule 7—Consideration of business*

Measures or matters may be placed before the committee, for its consideration, by the Chairman or by a majority vote of the members of the committee, a quorum being present.

*Rule 8—Availability of legislation*

The committee shall consider no bill, joint resolution, or concurrent resolution unless copies of the measure have been made available to all committee members at least four hours prior to the time at which such measure is to be considered. When considering concurrent resolutions on the budget, this requirement shall be satisfied by making available copies of the complete Chairman's mark (or such material as will provide the basis for committee consideration). The provisions of this rule may be suspended with the concurrence of the Chairman and Ranking Minority Member.

*Rule 9—Procedure for consideration of budget resolution*

(a) It shall be the policy of the committee that the starting point for any deliberations on a concurrent resolution on the budget should be the estimated or actual levels for the fiscal year preceding the budget year.

(b) In the consideration of a concurrent resolution on the budget, the committee shall first proceed, unless otherwise determined by the committee, to consider budget aggregates, functional categories, and other appropriate matters on a tentative basis, with the document before the committee open to amendment. Subsequent amendments may be offered to aggregates, functional categories, or other appropriate matters, which have already been amended in their entirety.

(c) Following adoption of the aggregates, functional categories, and other matters, the text of a concurrent resolution on the budget incorporating such aggregates, functional categories, and other appropriate matters shall be considered for amendment and a final vote.

*Rule 10—Roll call votes*

A roll call of the members may be had upon the request of at least one-fifth of those present. In the apparent absence of a quorum, a roll call may be had on the request of any member.

### HEARINGS

*Rule 11—Announcement of hearings*

The Chairman shall make a public announcement of the date, place, and subject matter of any committee hearing at least 1 week before the hearing, beginning with the day in which the announcement is made and ending the day preceding the scheduled hearing unless the Chairman, with the concurrence of the Ranking Minority Member, or the committee by majority vote with a quorum present for the transaction of business, determines there is good cause to begin the hearing sooner, in which case the Chairman shall make the announcement at the earliest possible date.

*Rule 12—Open hearings*

(a) Each hearing conducted by the committee or any of its task forces shall be open to the public except when the committee or task force, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, or would compromise sensitive law enforcement information, or would tend to defame, degrade, or incriminate any person, or would violate any law or rule of the House of Representatives. The committee or task forces may by the same procedure vote to close one subsequent day of hearing.

(b) For the purposes of House Rule XI, clause 2(g)(2), the task forces of the committee are considered to be subcommittees.

*Rule 13—Quorums*

For the purpose of hearing testimony, not less than two members of the committee shall constitute a quorum.

*Rule 14—Questioning witnesses*

(a) Questioning of witnesses will be conducted under the five-minute rule unless the committee adopts a motion pursuant to House Rule XI clause 2(j).

(b) In questioning witnesses under the 5-minute rule:

(1) First, the Chairman and the Ranking Minority Member shall be recognized;

(2) Next, the members present at the time the hearing is called to order shall be recognized in order of seniority; and

(3) Finally, members not present at the time the hearing is called to order may be recognized in the order of their arrival at the hearing.

In recognizing members to question witnesses, the Chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority.

*Rule 15—Subpoenas and oaths*

(a) In accordance with House Rule XI, clause 2(m) subpoenas authorized by a majority of the committee may be issued over the signature of the Chairman or of any member of the committee designated by him, and may be served by any person designated by the Chairman or such member.

(b) The Chairman, or any member of the committee designated by the Chairman, may administer oaths to witnesses.

*Rule 16—Witnesses' statements*

(a) So far as practicable, any prepared statement to be presented by a witness shall be submitted to the committee at least 24 hours in advance of presentation, and shall be distributed to all members of the committee in advance of presentation.

(b) To the greatest extent possible, each witness appearing in a nongovernmental capacity shall include with the written statement of proposed testimony a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or sub-grant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

### PRINTS AND PUBLICATIONS

*Rule 17—Committee prints*

All committee prints and other materials prepared for public distribution shall be approved by the committee prior to any distribution, unless such print or other material shows clearly on its face that it has not been approved by the committee.

*Rule 18—Committee publications on the Internet*

To the maximum extent feasible, the committee shall make its publications available in electronic form.

### STAFF

*Rule 19—Committee staff*

(a) Subject to approval by the committee, and to the provisions of the following paragraphs, the professional and clerical staff of the committee shall be appointed, and may be removed, by the Chairman.

(b) Committee staff shall not be assigned any duties other than those pertaining to committee business, and shall be selected without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions.

(c) All committee staff shall be entitled to equitable treatment, including comparable salaries, facilities, access to official committee records, leave, and hours of work.

(d) Notwithstanding paragraphs a, b, and c, staff shall be employed in compliance with House rules, the Employment and Accountability Act, the Fair Labor Standards Act of 1938, and any other applicable Federal statutes.

*Rule 20—Staff supervision*

(a) Staff shall be under the general supervision and direction of the Chairman, who shall establish and assign their duties and responsibilities, delegate such authority as he deems appropriate, fix and adjust staff salaries (in accordance with House Rule X, clause 9(c)) and job titles, and, at his discretion, arrange for their specialized training.

(b) Staff assigned to the minority shall be under the general supervision and direction of the minority members of the committee, who may delegate such authority, as they deem appropriate.

### RECORDS

*Rule 21—Preparation and maintenance of committee records*

(a) A substantially verbatim account of remarks actually made during the proceedings shall be made of all hearings and business meetings subject only to technical, grammatical, and typographical corrections.

(b) The proceedings of the committee shall be recorded in a journal, which shall among other things, include a record of the votes on any question on which a record vote is demanded.

(c) Members of the committee shall correct and return transcripts of hearings as soon as practicable after receipt thereof, except that any changes shall be limited to technical, grammatical, and typographical corrections.

(d) Any witness may examine the transcript of his own testimony and make grammatical, technical, and typographical corrections.

(e) The Chairman may order the printing of a hearing record without the corrections of any member or witness if he determines that such member or witness has been afforded a reasonable time for correction, and that further delay would seriously impede the committee's responsibility for meeting its deadlines under the Congressional Budget Act of 1974.

(f) Transcripts of hearings and meetings may be printed if the Chairman decides it is appropriate, or if a majority of the members so request.

*Rule 22—Access to committee records*

(a) (1) The Chairman shall promulgate regulations to provide for public inspection of roll call votes and to provide access by members to committee records (in accordance with House Rule XI, clause 2(e)).

(2) Access to classified testimony and information shall be limited to Members of Congress and to House Budget Committee staff and staff of the Office of Official Reporters who have appropriate security clearance.

(3) Notice of the receipt of such information shall be sent to the committee members. Such information shall be kept in the

committee safe, and shall be available to members in the committee office.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

### OVERSIGHT

*Rule 23—General oversight*

(a) The committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject of which is within its jurisdiction.

(b) The committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under clause (1)(d) of Rule X of the Rules of the House, and, subject to the adoption of expense resolutions as required by clause 6 of Rule X, to incur expenses (including travel expenses) in connection therewith.

(c) Not later than February 15 of the first session of a Congress, the committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Administration and the Committee on Government Reform in accordance with the provisions of clause (2)(d) of House Rule X.

### REPORTS

*Rule 24—Availability before filing*

(a) Any report accompanying any bill or resolution ordered reported to the House by the committee shall be available to all committee members at least 36 hours prior to filing with the House.

(b) No material change shall be made in any report made available to members pursuant to section (a) without the concurrence of the Ranking Minority Member or by a majority vote of the committee.

(c) Notwithstanding any other rule of the committee, either or both subsections (a) and (b) may be waived by the Chairman or with a majority vote by the committee.

*Rule 25—Report on the budget resolution*

The report of the committee to accompany a concurrent resolution on the budget shall include a comparison of the estimated or actual levels for the year preceding the budget year with the proposed spending and revenue levels for the budget year and each out year along with the appropriate percentage increase or decrease for each budget function and aggregate. The report shall include any roll call vote on any motion to amend or report any measure.

*Rule 26—Parliamentarian's Status Report and Section 302 Status Report*

(a) (1) In order to carry out its duty under sections 311 and 312 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending and revenues as compared to the levels set forth in the latest agreed-upon concurrent resolution on the budget, the committee shall advise the Speaker on at least a monthly basis when the House is in session as to its estimate of the current level of spending and revenue. Such estimates shall be prepared by the staff of the committee, transmitted to the Speaker in the form of a Parliamentarian's Status Report, and printed in the CONGRESSIONAL RECORD.

(2) The committee authorizes the Chairman, in consultation with the Ranking Minority Member, to transmit to the Speaker the Parliamentarian's Status Report described above.

(b) (1) In order to carry out its duty under sections 302 and 312 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending within the jurisdiction of committees as compared to the appropriate allocations made pursuant to the Budget Act in conformity with the latest agreed-upon concurrent resolution on the budget, the committee shall, as necessary, advise the Speaker as to its estimate of the current level of spending within the jurisdiction of appropriate committees. Such estimates shall be prepared by the staff of the committee and transmitted to the Speaker in the form of a Section 302 Status Report.

(2) The committee authorizes the Chairman, in consultation with the Ranking Minority Member, to transmit to the Speaker the Section 302 Status Report described above.

*Rule 27—Activity report*

After an adjournment of the last regular session of a Congress sine die, the Chair of the committee may file any time with the Clerk the committee's activity report for that Congress pursuant to clause (1)(d)(1) of rule XI of the Rules of the House without the approval of the committee, if a copy of the report has been available to each member of the committee for at least seven calendar days and the report includes any supplemental, minority, or additional views submitted by a member of the committee.

### MISCELLANEOUS

*Rule 28—Broadcasting of meetings and hearings*

(a) It shall be the policy of the committee to give all news media access to open hearings of the committee, subject to the requirements and limitations set forth in House Rule XI, clause 4.

(b) Whenever any committee business meeting is open to the public, that meeting may be covered, in whole or in part, by television broadcast, radio broadcast, still photography, or by any of such methods of coverage, in accordance with House Rule XI, clause 4.

*Rule 29—Appointment of conferees*

(a) Majority party members recommended to the Speaker as conferees shall be recommended by the Chairman subject to the approval of the majority party members of the committee.

(b) The Chairman shall recommend such minority party members as conferees as shall be determined by the minority party; the recommended party representation shall be in approximately the same proportion as that in the committee.

*Rule 30—Waivers*

When a reported bill or joint resolution, conference report, or anticipated floor amendment violates any provision of the Congressional Budget Act of 1974, the Chairman may, if practical, consult with the committee members on whether the Chairman should recommend, in writing, that the Committee on Rules report a special rule that enforces the Act by not waiving the applicable points of order during the consideration of such measure.

---

## IRAQ AND THE MIDDLE EAST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, we are going to talk about economic competitiveness in the economy tonight, but before we start on that topic, I just want to draw attention to a couple of things that have appeared in the newspaper and talk about Iraq and the Middle East.

There is an article that I pulled from the wires today, 2,000 demonstrate at an Iraqi bombing site, and this is really quite an amazing story, Mr. Speaker. This is from Baghdad: More than 2,000 people demonstrated Tuesday at the site of a car bombing south of Baghdad that killed 125 people chanting no to terrorism.

Mr. Speaker, our hearts go out to those individuals and their families, those that have lost their lives, and certainly our hearts continue to go out to the families of each and every man and woman in our military service. I think we join with every one of them, all of our military families and with all of these Iraqis who love freedom and are loving having the opportunity to grasp on to freedom, and we join them in saying no to terrorism and standing strong for freedom.

Another article that I saw today from Newsday, Mr. Speaker, some Arabs see beginning of a new era, and I think this is very important that we pay attention to this. One of my colleagues was talking about the headlines that we do not see on some of the national media, some of the leftist media, and I think this one is worthy of a mention.

It was a scene the Arab world's autocratic regimes have dreaded, and through the power of satellite TV, it could catch on as fast as the latest music video. Peaceful, enormous crowds carrying flags and flowers, bringing down a government. What happened in Lebanon this week, analysts say, is the beginning of a new era in the Middle East, one in which popular demand pushes the momentum for democracy and people's will can no longer be disregarded.

Mr. Speaker, our President has said that would happen. Repeatedly, he talks about how in the heart of every man and woman is the desire to be free and to seek that freedom and to have hope and to have opportunity. We have all heard our President say freedom is not our gift to the world: freedom is God's gift to all people.

It is so appropriate that we acknowledge that freedom, that we appreciate the sacrifice that is there for that freedom because it is through the expansion of that freedom that we enjoy the fruits and the benefits of a free society.

One of those is the opportunity to dream big dreams and have great adventure, have great successes and to see that lived out in our lives.

□ 2015

For many Americans, that is the opportunity to reach economic goals; to build businesses, to have a better life for their family. And tonight we are going to spend an hour discussing the Republican policies about encouraging entrepreneurship and economic growth in this great Nation.

We are going to highlight the Republican agenda for creating jobs in America. And it is clear that after battling the recession of 2001, weathering a terrorist attack cost us billions. There are even estimates that the cost to the American economy of September 11 and the travesty that took place there was $2 trillion, a full quarter of our Nation's productivity for a year.

After fighting an expensive global war on terrorism, being in the middle of that fight, we have faced significant challenges and we have made some very wise decisions. Over the past couple of years, despite very heavy criticism from some of our colleagues and from the tax-and-spend liberals, we, as a Congress, have made tax cuts, have reduced the tax burden that the American people are paying.

Mr. Speaker, it is certainly something that I know, as millions of Americans tonight are sitting down at their kitchen tables with pencil and paper and beginning to look at those forms, filling out their Federal income tax filings, that they are noticing the difference that the tax cuts we have passed are making in their lives. Certainly in Tennessee, I know there are Tennesseeans noticing for the first time in 20 years that they have the opportunity to deduct the sales tax they are paying from their Federal income tax filing.

It is amazing to me, and should be troubling to many Americans, that many across the aisle had the audacity to oppose this tax relief we have passed. They have opposed making some of these cuts and reductions. We are trying to be certain that the American public has more money in their pocketbook; that they have the opportunity to decide how to spend that money; and that they have the opportunity to grow those businesses.

We have known that small businesses and working families need tax relief, and we have fought hard to make that happen so that we see the opportunity right there for our economy, for the growth in our economy, for the opportunity for competitiveness not on just a local scale, not just on a local scale, but on a global scale.

Mr. Speaker, our support for tax relief has been vindicated, and we see that in the economic figures that are out there. This past week we found the economy grew faster than expected in the last few months of 2004. They revised the growth estimate up from 3.1 to 3.8. And for a lot of folks who are economic news junkies, they know that 3.8 is a pretty good rate. For those that are casual listeners, that is something we can be proud of, and we can talk about that. A 3.8 percent growth is very substantial.

In February, we had the twenty-first consecutive month, that is twenty-first consecutive months, of increased economic activity in the manufacturing sector. I want to be certain everybody hears and understands that: Twenty-first months of consecutive increases in economic activity in the manufacturing sector. That is nearly 2 years of growth. I think that is absolutely outstanding.

For some of the tool and die manufacturers that are in my district, from some of the manufacturers that we see of various component parts, of items that are being created, how exciting that they are seeing growth; that they are seeing growth in their jobs that they have right there in these local communities.

And that is not all of it. The overall economy grew for the fortieth, that is 4-0, the fortieth consecutive month in February. That is more than 3 years of solid economic expansion.

Mr. Speaker, these are figures that are hard to argue with. That 3.8 percent was our economic growth. That got revised up for the last quarter of 2004. We have had twenty-first consecutive months of increases in productivity in the manufacturing sector. We have had 40 consecutive months of overall economic growth. That means something is working right. Something is working right. Tax relief was needed, and we see that that tax relief is beginning to pay off.

I have another article here. I had the opportunity to do a little reading over the break, Mr. Speaker. This one is from the Financial Times. Look at this headline: "U.S. Chiefs' Confidence Highest in 3 Years." Well, that is a pretty good thing. The people that are running the companies, the people that are deciding whether to expand, whether to make capital investments, whether to create new jobs, they have a great deal of confidence.

It says here: "Confidence in the economy at the U.S. biggest companies has soared to the highest level in 3 years as increasing numbers plan to spend more on capital investment." Well, who would have thunk? You never would have thought that was happening if you were listening to some of our friends across the aisle. Because they do not want to talk about the good news. They do not want to talk about 21 straight months of manufacturing gains, 4-0, 40 consecutive months of overall economic growth.

Here is one that describes the results as "extremely positive"; another one, talking about capital investments by business, "are the best indicators of growth at this stage of recovery," and that this bodes well for the economy. Now, mind you, these are not small businesses. These are big companies. So we are seeing it with our small businesses, and we are seeing it with some of our new companies.

Republicans believe that government must remove the obstacles to growth. And it does not matter if you are a big or small company, it does not matter if you are an entrepreneur, it does not matter if you are new or some of our wonderful companies that have been there for 100 years. We have to get rid of some of the obstacles. And though some of our folks do not like to talk about rolling back taxes, rolling back those taxes is removing an obstacle. Another obstacle is the high cost of compliance with those taxes. Another obstacle is onerous regulation that comes from some of our Federal agencies.

Well, what do you know. When you start rolling that back, making the system easier to comply with, American entrepreneurs expand and they create jobs. That is something, is it not? Get the government out of the way, and you are going to see free enterprise go do what they are geared up to do, do what they are best at doing, do what they dream about doing, what they spend their lives trying to figure out how to do: how to create jobs, how to build a better mousetrap, how to get out there and sell that better mousetrap to people that are ready to buy improved products.

It is a great system. The way this economy works is something to get excited about, and I am thrilled that we have had the opportunity to see this kind of economic growth.

Mr. Speaker, I am joined here on the floor tonight by one of my colleagues, a gentleman from the freshman class I served in in the 108th Congress, the gentleman from Iowa (Mr. KING). He knows a lot about how the economy works. He is a small businessman, a farmer, and he does a lot of thinking when he gets out there on that tractor, and he brings a lot of wisdom to this Chamber.

So, Mr. Speaker, I yield to him at this time.

Mr. KING of Iowa. Mr. Speaker, I thank the gentlewoman for yielding to me and leading us in this important subject matter. I appreciate the opportunity to say a few words.

Before getting to the economy, I want to add some remarks to those of the gentlewoman from Tennessee's discussion with regard to the Middle East. I would like to paint this image in the mind of the people in the country. And that is that as we see people demonstrating in the streets of Lebanon, when they have made the pledge that they are not leaving the public arena until they are a government governed by themselves and that they are a free people, that magnificent display that is going on in Lebanon today, as I watched that, I looked back through my mind's eye and I asked myself where I have experienced anything like that before; where I have seen anything like that in history.

It takes me back to the square in Prague, back in the early 1990s, after the Berlin Wall came down. That was about November 9 when the wall came down, and it echoed into about 1990, right before the Czechs went to the square and stood there with their keys and rattled their keys in the air. They stood for freedom, until today they are a free people.

That miracle of freedom that echoed across Eastern Europe in that time was not something anyone predicted. Yet our President stood just outside this Capitol building on January 20 and gave his second inaugural address, and even the liberal news media understood there was a Bush doctrine, and that was the doctrine of freedom. He said in that address: "If you stand for freedom, we stand with you."

Today, we stand with the Lebanese people, we stand with the Syrians, we stand with the Iranians, and we stand with the Saudis. We stand with all people on this planet that yearn for freedom.

Another thing that has happened there is that the fear factor has disappeared in Lebanon. When the fear factor disappeared, the people could freely stand in the streets. When that fear factor can disappear in Iran, in Syria, in Saudi Arabia, and around the Middle East, they can also come to the streets. Maybe before then.

When that day comes, we will no longer see the habitat that breeds terror, and we will be able to actually stand here today and define a victory in the war on terror, and that is the absence of the habitat that breeds terrorists. And that is freedom.

But to our economy, which is the discussion tonight, I characterize it a couple of ways and add to the gentlewoman's discussion, and that is that our jobs growth in this country has been going on at such a torrid pace that we will soon, within the next 3 months, reach the level of over the last 2 years having had job growth of 1.5 million jobs a year. That is 1½ million jobs a year.

That is an amazingly fast growth, 3.8 percent growth as the gentlewoman said, but that in the face of the trial lawyers skimming 3 percent off the top. And that study tells us that they take the first money. They are standing there taking the first money off our economy. If we want to grow at 3½ percent, just to sustain the growth we need in our infrastructure and to meet the needs of a growing population, then we have to make up for that 3 percent that goes off the top because of the litigation in this country that is rampant.

We took steps in this Congress to rein some of that in. We sent it over to the Senate, where this year they heard us and sent it to the President, and he signed the litigation reform legislation, which will make a difference and make it easier to sustain that kind of growth.

Homeownership is at an all-time high. I think it would compete with anywhere in the world, at 69.2 percent. That is 69.2 percent. Seven out of ten people you meet on the street live in a home they own or are making payments on. Not a rented home, but an owned home. What pride in ownership. And what that does for sending the roots down into our economy and society and keeping our children at home, all of those things are a plus that show up in the bottom line.

Inflation is in check. Personal income is up 8.6 percent. That is so much in the last year that it scares me a little bit, being a 28-year employer; thinking that if personal income is up 8.6 percent, then I would have to be giving my employees a raise of 8.6 percent every year, which is a pretty torrid pace as well to keep up with employment.

Earlier we heard on the floor some remarks that we have a lot of problems with the trade imbalance, and I will not deny we have a trade imbalance. In fact, a year ago it was minus $503 billion a year. The last announcement came out, the annual report came out February 10, and that was a minus $617.7 billion in imbalance in trade. So that is about a 20 percent increase in the negative balance of trade that we have.

Some of those things work out good for our consumers. You can afford to buy a winter coat for your little girl cheaper than you could before. But we cannot go on forever letting foreign interests own U.S. assets and holding them for collateral. So we need to work this thing back to correct the balance of trade, but it is not something that will be done with a policy that says, well, we are concerned about sweat shop labor in El Salvador or those kinds of issues that are essentially out of control.

What is in our control in this Congress are our tax policy, regulatory policy, and that is what we need to focus on. That is why I, years ago, in fact 25 years ago, came to the position and the conclusion that we needed to do some real tax reform.

Now, we have done good things with the Jobs and Growth Act, and they were the right decisions to bring us back from the bursting of the dot-com bubble that happened about 7 or 8 months before the President was inaugurated the first time; and then, of course, the September 11 attacks. I will argue that those two blows to our economy, coupled together, were the greatest blows, the most severe blows ever to the economy of this country; yet we have recovered. The stock market is back and all these statistics are up. But we can do more, and we can do better.

□ 2030

Mr. Speaker, we can do better because there is another level, another destiny for the United States of America. We are reaching for that destiny to inspire all people in the world to reach for freedom and liberty and being able to make their own investments and control their own destiny economically, but we can also set a tax policy that ceases to punish the productivity in America.

Today, today every day when people go to work and punch the time clock or make the sales calls or throw that bale of hay, Uncle Sam stands there with his hand out with the first lien on everyone's labor, on the productivity of America, on your investment interest and on your labor.

Ronald Reagan once said what you tax you get less of. So us, in our wisdom, we tax productivity in America instead of consumption. I suggest we eliminate the IRS, the Tax Code that goes with it, and transfer all of this over to a national sales tax, a consumption tax, a fair tax, H.R. 5 and tax consumption, take all tax off of production and get Uncle Sam out of the way, standing there at the time clock getting his first and the worker getting his later, and change this whole attitude. Productivity will go up in America.

The IRS right now is a trillion dollar drag on an $11 trillion economy when we add the cost of funding them, enforcing them, and the disincentives that are in place that people decide I am not going to make that sales call, I am not going to do that extra overtime, I am not going to make that investment in that farm or industrial factory because the tax burden is too high.

If we take the tax off all productivity, everybody gets the money they earned in their paycheck. Take-home pay goes up 56 percent under a national sales tax, and items on the shelf, their price goes down by an average of 22 percent because there is an imputed cost in everything that is sold. Businesses that provide goods for sales have to impute the cost of the Federal tax in that item. That is an average of 22 percent.

So, for example, if there is a Japanese-made Mazda that is imported from Japan sitting on the dealer's lot at $30,000, and pick your American brand sitting on the other side of the street with a $30,000 sticker price, we remove the Federal tax that is imputed into the American made because it is imputed in the Japanese made overseas. We will see that $30,000 American-made car go down to $23,600, and the Japanese car is still at $30,000. By the time we add the sales tax back in, the

American car is at $30,400 or so, but the Japanese car is around $39,000. We have approximately a $9,000 advantage on those two vehicles of equivalent value that were selling competitively at $30,000 each. We change the tax policy, and competition drives the price out of the American made and now we have an advantage to market American goods.

Mr. Speaker, that is one of the ways that we can address this imbalance of trade because we will build more products here. If we sell more of our products here, that means the jobs that produce them are here. If we import less from foreign countries, that means the jobs that produce those imports are going to have to be producing exports to go to other countries.

We can repair this balance of trade with a national sales tax, a fair tax. We can change this $617.7 billion of red ink to a plus number, and while we are doing that, we remove the penalty for savings and investment. So the capital investment the gentlewoman talked about that really is a great indicator of where our economy is going, capital investment will not be punished. Form the capital, and we will see capital go into technology, research and development, higher ed, all of the things that improve the productivity of the American worker.

By the way, we must improve the productivity of the American worker. We are seeing industrial equipment go overseas as well. And as we see that punch press or lathe going to a developing country and they train their workers how to use that equipment, we will never get those jobs back again. We do not want to compete for the wages that are being paid there either, but we can move our people to the top side with education, research and development and technology capital investment. They have got to produce more. We can do that with technology and a national sales tax, and fix this balance of trade.

We are on the right track, but we can do more. If we go to a national sales tax, we will take America to another destiny yet with our economy.

Mr. Speaker, I urge the President's commission and this Congress to take a good look at real tax reform, not tweak it around the edges. We have done that. We have positioned ourselves well to take America to its next level of destiny, and I am looking forward to the 109th Congress for being a part of that.

Mrs. BLACKBURN. Mr. Speaker, as we talk about the economy and talk about the need to have an economic Renaissance, to see this continue. As I said earlier, we have had 40 consecutive months of economic growth. A lot of times women do not look forward to that 40th birthday, but when we talk about the 40th month of economic growth, that is certainly a date that we want to celebrate.

The gentleman from Iowa (Mr. KING) mentioned tax reform and the cost of 22 cents of every dollar of manufactured good in this Nation being eaten up by compliance, and the importance of us having a wonderful debate about how we lower that cost so that every sector of our economy is going to see greater productivity and is going to see growth.

We know that working on our tax reform issues, working on tort reform issues to eliminate frivolous lawsuits, are going to be a way that we can begin to benefit, that we can see the products that are manufactured here be more competitive in a global marketplace.

As we look at the opportunities for trade in Tennessee, for example, where our exports have increased every year for the past 5 years, and we know that does equal jobs. Over the past 2 years, as the gentleman from Iowa (Mr. KING) said, we created about 2.7 million new jobs, and that will soon in a couple of months be 1.5 million new jobs per year.

There are a couple of industries that have seen good growth in the past couple of months: Apparel, textiles, transportation and equipment, electronic components and equipment, chemicals, industrial and commercial equipment and computers, instruments, photographic equipment, metals, food, wood and wood products. Virtually every State in the Union can claim at least one of these industrial sectors. In fact, one of the things that we have seen about job creation is that in 48 of our 50 States we have seen jobs growth. That is impressive. Over the past year, 48 of our 50 States have seen jobs growth. That is why we are beginning to see this 40 months of overall economic growth, 21 straight months where we are seeing increases in the manufacturing sector, and we know all of this means jobs. It all means jobs that are being created. We know that there is a lot of work ahead that we need to do to be certain that this economy keeps growing.

Mr. Speaker, much of our focus this session is going to be on economic growth, economic competitiveness, doing the things that encourage, that create the right environment. Our government does not create jobs, it is this free enterprise system that creates jobs, and doing things so we help create the right investment, focusing on tax reform and trade issues, on regulatory reform and on energy independence. These are the areas that are going to have a tremendous impact on our economy as it expands. We will continue to see growth in those sectors.

Mr. Speaker, I yield to the gentlewoman from North Carolina (Ms. FOXX) who is new to us this Congress. The gentlewoman from North Carolina (Ms. FOXX) has come to our Congress this year and is serving on the Committee on Education and the Workforce. And much of her focus, even though her Ph.D. is in education, she understands the importance of an educated workforce and lifelong learning and developing the skills that are so necessary to be productive in your job, to be satisfied in your job. The gentlewoman from North Carolina (Ms. FOXX) has some thoughts she would like to share with us tonight on economic competitiveness.

Ms. FOXX. Mr. Speaker, the gentlewoman from Tennessee (Mrs. BLACKBURN) is so eloquent in her words about freedom and the economy and what makes this country great. We have the healthiest economy in the world, and I want to build on the things that my colleagues have said. The reason we have the healthiest economy in the world is because we are the freest people in the world.

I agree with what the President has been saying. If we want to see a good world, we want to see people have all of the rights and privileges, we are going to see freedom throughout the world and we are going to see growing economies. As again the gentlewoman from Tennessee (Mrs. BLACKBURN) said, job creation was up in 48 of the 50 States last year, and unemployment was down in all regions.

I want to talk a little bit about the Job Training Improvement Act which is going to be voted on here tomorrow. The Committee on Education and the Workforce has passed it out of our committee after a great deal of debate. H.R. 27 is called Strengthening America's Job Training System. It builds on the significant reforms made in the bipartisan Workforce Investment Act improvements that were enacted in 1998. While those reforms have provided workers with resources and tools necessary to rejoin the workforce or retrain for better jobs, there were still areas of inefficiency and duplication that were remaining. What H.R. 27 is going to do, among other things, is eliminate duplication and waste. It consolidates three adult job training programs into one consolidated adult funding stream to streamline program administration and reduce inefficiency at the State and local level. This change will enable more job seekers to be served with no reduction in services.

Last week we talked a lot about inefficiency and waste, and this is another one of the ways that we are going to do that. We are going to ensure our one-stop delivery system is demand driven. We are going to remove barriers to job training. The bill eliminates arbitrary provisions of current law that prevent someone from accessing training immediately if appropriate to meet his or her employment goals. State and local areas will have the flexibility to tailor services to meet individual needs, and that is so important to us as we drive down the decisionmaking to the local level.

The bill is also going to protect the rights of faith-based groups to help train and retrain workers. The bill protects the rights of faith-based groups willing to participate in the Nation's job training system. The landmark 1964 Civil Rights Act makes clear that faith-based groups have the right to hire workers on a religious basis, and that such hiring practices do not constitute discrimination.

Former President Clinton signed a number of major laws upholding this right. We are going to strengthen partnerships between businesses and job-training service providers. We are going to improve adult education and enhance vocational rehabilitation. The bill includes a number of provisions designed to strengthen the 1973 Rehabilitation Act in a continuing effort to help individuals with disabilities become employable and achieve full integration.

I want to make a comment about a wonderfully significant thing that happened in the Fifth Congressional District last week related to increasing jobs, and that was that Dell manufacturing broke ground for a $100 million plant in Forsythe County. That plant is Dell's largest anywhere, 527,000 square feet. They are going to hire 700 people in the first year. Workers are going to assemble two of Dell's desktop models, the Dimension and the OptiPlex, in the new plant. The jobs there are going to pay an average of $27,000. We are about 2 weeks away from the start of a process where people can express interest in being hired for the first 200–250 jobs, then Dell will hire another 500 people. Most of these will be people from the Fifth Congressional District.

We are so excited to have Dell manufacturing in Forsythe County. Again, I think this is an indication that the policies of this President and the policies of this Congress are working in terms of reducing taxes and making our South a very good place to bring new jobs.

□ 2045

Mrs. BLACKBURN. I thank the gentlewoman for bringing her perspective to the debate and for celebrating, allowing us to celebrate with the good people of Forsythe County, North Carolina, as they welcome 700 new jobs to their area. How exciting that is, and how exciting for us that we have a program like the workforce development programs that are very successful, that assist in retraining folks.

I know in my 7th Congressional District in Tennessee, we have seen tremendous success with the workforce development program. As a matter of fact, we have a program in Montgomery County, Tennessee, that is really attuned to the needs of our veterans and to our military spouses and our military retirees. And they are going to be honored later this week for their excellent work that they are doing for jobs retraining, helping people focus on the importance of developing and having that career.

Jobs and education, they go hand in hand. They are very important components of our economic competitiveness, just as tax reform, just as tort reform and the other things that we have discussed this evening.

Mr. Speaker, at this time I would like to recognize a member of the freshman class, new to us, but with a tremendous amount of experience in his home State of Texas where he has been a part of the business community, has served as a judge, and is a skilled legislator. The gentleman from Texas (Mr. GOHMERT) is going to speak with us for a few moments about some of the things that are happening in Texas as in the process with our economic competitiveness issues.

Mr. GOHMERT. Mr. Speaker, I would like to thank the gentlewoman from Tennessee. Talking about being well spoken, she certainly is, and I appreciate the way that she is addressing the great things that are beginning to or continuing to happen in the economy.

The economy is growing. One of the things that is not, of course, is Social Security. It continues, as we have been told, to limp along about 1.5 percent, 1.6 percent. But the rest of the economy, where a free market is being allowed to thrive and grow, is helping to create jobs.

Now, there are problems. We have not conquered them all. But what a great time of hope. And I have seen it, and you have expressed it, and you feel it in east Texas. There is an industry that is looking at reopening a plant in Lufkin, Texas. That is exciting, maybe bringing 4 or 500 jobs, plus maybe several hundred more potentially once that occurs.

There is excitement as people think about the potential for helping with tort reform. We were having hearings a couple of weeks ago and finding that one of the drains on the medical economy is the fact that 70 percent of all the massive number of physicians who are sued are dropped without any finding of fault and without paying anything in settlement. Well, that is an area we are working on to help reform, to help eliminate; 70 percent of the physicians that are sued having to be sued and providing a carrot and a stick to correct that form where abuse has occurred.

You know, 9/11 should have sent this economy into depression. Students of history, and I was talking with some students and teachers from Grace High School in Tyler, Texas, and they have been studying a number of aspects of this.

But we should have gone into a full scale depression. But we had a President with courage and with vision. And despite what the naysayers were coming out with, he stood firm. We had tax cuts. And as we found, as President Kennedy knew, as President Reagan established, every time there has been a tax cut, it has helped the economy. Thank God for President Bush and his standing there firm for tax cuts. And we have seen the economy continue to grow.

As the students I talked with earlier from Grace High School had studied, the free market system works. You know the Pilgrims, as you probably know, Congresswoman, they tried a communist form of government. And what they found was that it did not work. They nearly starved to death. So they had to institute free market forces and just, if you do not work you do not eat. And the next thing you know, they are thriving, crops are growing, things are going well again.

And I tell you, we have put way too much trust in government. And I am excited about the potential this government has and to be a part of this Congress with you because I think we have more potential to get this country on the right road than any Congress since the 1930 New Deal Congress.

We can establish free market. We can fix Social Security so young people today can have the benefits of the free market economy instead of struggling in poverty with what little bit Social Security pays. This President, this House, this Senate have such potential and I consider it an honor to be part of it.

As it says above the Speaker's head, "In God We Trust." And we need to make use of the trust that God has given us. And I thank you for the trust with some of your time.

Mrs. BLACKBURN. Mr. Speaker, I want to thank the gentleman from Texas. And I would like to commend him for meeting with the students and working with the students from Grace High School in Tyler, Texas, and for their study, their caring about the free enterprise system and seeking greater information on that. How exciting that they are doing that.

You know, Mr. Speaker, one of the things we are hearing from business schools all across the country, one of the things we are hearing from high schools, from tech schools is that more and more people are saying, I want to be an entrepreneur. I want to start my own business. I want to see if I can grab on to that American Dream of owning my own company, starting a company, having an idea, watching that idea come to fruition in the form of a company that creates jobs.

And it is so encouraging to me that the Republican leadership and our majority in this House is committed to doing the things that are going to be necessary to continue economic growth, long-term sustained economic growth like we have seen over the past 40 months.

I have got another article from washingtonpost.com that I had pulled today. This one is really interesting. Construction spending rose a strong seven-tenths of a percent in January, a month when generally they are not going to see that kind of increase. This pushed total construction activity to a record high of just over $1 trillion at a seasonally adjusted annual rate and followed an even larger 1.2 percent rise in December. What we are seeing is confidence and belief and the fact that people believe in the strength of this economy.

We have a freshman Member from Kentucky (Mr. DAVIS) who has joined this Congress this year. He is with us for just a few moments to talk about some of the good things that are happening in his State. I yield to the gentleman from Kentucky.

Mr. DAVIS of Kentucky. Mr. Speaker, I am impressed with the fact that America is a land of vision and opportunity. My wife's grandparents came through Ellis Island and began literally with nothing. By the second generation, both had become professionals and had made a great impact on their local economies, passed that on to the third generation with their children, adding value, working to create jobs in the long term. I think the exciting thing of the values of this Nation is the people who have come here from every ethnic background, from every nation on this Earth. The great diversity has one thing in common, that is, a unity of vision, of opportunity, of purpose that can be accomplished when we are part of something bigger than ourselves.

When I look at the numbers right now in this Nation from an unemployment standpoint, we stand at 5.2 percent, which is one of the lowest unemployments in the industrialized world, particularly in light of the fact that we are involved in a war that was forced upon us by global terrorists. When I look at the challenges that this Nation has faced, there has been a great turnaround during the last 4 years. More than that, when I look to my own district, to the Fourth District of Kentucky, and the tremendous steps forward that have been made in the manufacturing economy, that have been made in technology and in the creation of jobs and in the development of industry and health sciences, I am excited about our future. I am excited about the potential for our young people to move forward and have the opportunity to create their own future, to create jobs, to start small businesses, to follow in the opportunity that I had when I finished my military service.

After a time in industry, I chose to pursue that vision to start my own company and then end up helping other companies create jobs. I think one of the great things that we see a need for right now is to continue to remove the burden of regulations, to remove the burdensome Tax Code, to remove the impediments to individuals at every level of our economy, from starting their own businesses, from creating jobs in our communities, that will stay in our communities, to keep capital investment in those communities.

I think there are several steps that are important. First, we need to bring about meaningful tax reform. I believe that the tax cuts that were enacted in the last Congress need to be made permanent so that people can keep more of what they earn. I think it is important that the so-called death tax be completely eliminated. The reason why is it has nothing to do with the super-rich. It has to do with jobs in our communities, local farmers, small family farmers, people that own family businesses that have gone on for generations, to make sure that they have the opportunity to keep those jobs in the community. That is a tax that is pernicious.

Indeed, what it does is it hurts the very people it is intended to help because it removes the capital from our local economy. Another thing that is necessary for us to do is to make sure that small business owners have the flexibility to overcome a burdensome Tax Code. If they see the opportunity in a good year to take advantage of capital investment to improve their competitiveness, to increase jobs in the local community or protect the jobs that they have, they should have that flexibility; and I would like to see the ability to expense capital investment made permanent rather than renewing it as we have been doing over the past 18 years.

Education is an important area as well. We need to open up the tremendous opportunities to entrepreneurship that we have in our economy. I met recently with a new division of Northern Kentucky University, a pioneer in the University of Kentucky system. They have their own school of entrepreneurship now to encourage this creation of jobs in the local economy, to show people how they can start a business, how they can add value, how they can help people create a nest egg and a job that will last for the long term and create other jobs that will strengthen our community.

It is also important that we continue to invest in our university systems and vocational and technical education. The reason for this, working with public-private partnerships, working closely with our local communities from the Federal Government is to assure that we are staying on the cutting edge of technology innovation, looking for opportunity for the long term.

In addition, it is also important that we look at reforms that will allow small businesses to function. We need to bring about meaningful health care reform. What does that mean? Small businesses need to have the ability to band together and form associations to reduce the cost of health care. I found in my own business that my premiums, if I had not been elected to Congress, were going to increase 50 percent, from $1,200 to $1,800 a month, just for my family and my business. That is unconscionable. We need to encourage these small businesses and enact regulations that will allow them to cover more of their employees, more of our employees in the long term.

In addition to that, we need to bring about meaningful medical liability reform as part of this health care reform. The reason for that is, first of all, to stop driving our doctors out of practice in many States. For example, in Kentucky we have lost one-third of our OB-GYN doctors in the last 5 years due to medical liability costs. But at a small business and job creation level, it will be a job creator if we have some meaningful liability reforms, not only to keep our doctors but to keep the cost of health care provision low so that we could cover more of our employees and also be more competitive in the long term.

In the end, there are a variety of steps that we can take. I am very excited about the potential of the American people. We have shown in a time of national adversity now that we can compete, that we can have a strong economy, that we can create jobs; and when I look at one of the largest employers in northeastern Kentucky, a very prominent steel mill that is creating jobs, that is hiring, that is competing effectively in the world economy now, I know that we are going to be successful.

Mrs. BLACKBURN. I thank the gentleman from Kentucky for talking with us a few moments about what he is seeing happening and his desire to see some changes take place here in the policies that we will make, the things that we will implement in this Congress, in the 109th Congress.

Mr. Speaker, one of the things that I do a lot and that I had the opportunity to do over the break is to visit with small business owners. I heard repeatedly from them that what they do not want and what they do not need is more taxes, more regulation, and more government. We hear them. The Republicans hear them. This majority hears them. We understand what they are saying. Unfortunately, I have a lot of colleagues who are not listening to these small business owners. I think it is important to note, small businesses in America represent over 90 percent of all employers and employ half of all private sector employees. They pay 44.3 percent of the total U.S. private payroll.

That is our small businesses and entrepreneurs that we have talked about today, the people that are starting businesses, that are creating so many of these jobs. Small businesses generate 60 to 80 percent of the net new jobs growth annually.

□ 2100

That is why it is so important that we carry forth on this commitment to be certain that we have the right environment for an economic renaissance in this country. Small businesses are the Nation's economic engine, and Republicans have worked to reduce their tax burden so that they have the ability to create more jobs. We have passed legislation that will give them more affordable health care options for their employees. Association Health Plans and Health Savings Accounts.

Republicans have passed legislation to stem the tide of frivolous lawsuits, and we are continuing to do more on the tort reform issues.

We are planning and continue to work daily on trade and opening foreign markets for American-made goods so that our employers in our local communities have access to markets around the globe, ways that they can place their products before a world that is ready to buy them. And we are trying to make certain that manufacturers are not being treated unfairly and that they have the opportunity to be competitive in a global marketplace.

Republicans want to pass a comprehensive energy policy so that America's economic growth is not held hostage to foreign energy production. We want to harness more of our domestic energy. We believe excessive government growth in spending crowds businesses out of the marketplace. We know that when there is a need, if government fills that need, then the private or not-for-profit sector does not move in and fill that need. We know that the growth of government needs to be curtailed so that less of the taxpayers' money is being required to pay for the government, so that taxpayers keep that money in their pocket. Reducing the size of government is what we have talked about over the past couple of weeks as we have talked about rooting out waste, fraud, and abuse and reducing the size of the Federal Government.

Mr. Speaker, we have a plan that will drive economic growth, that will continue to drive economic growth. We have had 40 months of overall economic growth. We would like to see another 40 months of economic growth and job creation for Americans. We have had 2.7 million jobs created in just under the past couple of years. We have 21 months where we have seen manufacturing increases. We had our last quarter of 2004 with 3.8 percent economic growth.

The fundamental difference between Republicans and Democrats is that we have a plan to continue to drive economic growth. And all of our small business owners, myself included, we know the cost that regulation imposes and the importance of rolling back regulation.

Among the top complaints that we receive from small business owners has to do with the Federal Tax Code, the cost of compliance. The gentleman from Iowa (Mr. KING) spoke to that earlier. Twenty-two cents of every single dollar of manufactured goods in this Nation is spent in compliance. That is an obstacle that we need to get rid of, and we are committed to working on that. We know this Tax Code is overly complicated, it is time-consuming, and it is incredibly frustrating for millions of small business owners in this Nation. That is why Republicans are committed to a code that is flatter, that is fairer, and absolutely is simpler not only for individuals but for our Nation's small businesses.

Mr. Speaker, all over we have got a plan. It is the better plan. And we know the problems that are facing our Nation's economy. We know the problems that are facing this Nation's employers, whether they be small or whether they be large, whether they are small businesses or whether they are big business. And, Mr. Speaker, one thing that we know for sure in this 109th Congress, we are committed to moving forward on commonsense reforms that will continue to work toward greater effectiveness and greater competitiveness for our Nation's economy.

---

## THE 109TH CONGRESS'S RULES PACKAGE

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 20 minutes as the designee of the minority leader.

Mr. MOLLOHAN. Mr. Speaker, the 109th Congress's rules package, which was adopted this past January on a straight party-line vote, included provisions that made major unfortunate changes in the rules governing consideration of ethics complaints by the Committee on Standards of Official Conduct. I am today introducing a resolution that would amend or repeal those provisions.

There cannot be a credible ethics process in the House of Representatives unless the Committee on Standards of Official Conduct is able to consider complaints against Members and staff in a thorough, efficient, and nonpartisan manner. I am concerned that those provisions of the rules package, if allowed to stand, will seriously undermine the committee's ability to perform this critical responsibility.

The rules package made essentially three changes in the rules governing ethics complaints. The first change is the Automatic Dismissal Rule, which requires the committee to consider an act on any complaint within a period as short as 45 days or else the complaint will be automatically dismissed.

The second is a set of changes that applies where the committee, or an investigative subcommittee, decides to conclude a matter by issuing a letter, notification, or a report that refers to the conduct of a particular Member. These changes provide a number of so-called "due process" rights to such a Member, one of which is the right to demand that the committee establish an adjudicatory subcommittee to conduct an immediate trial on the matter.

The third change concerns the matter of a single attorney representing more than one respondent or witness in a case before the committee. Under this change, the committee is prohibited from requiring that a respondent or witness retain an attorney who does not represent someone else in the case.

Mr. Speaker, turning first to the Automatic Dismissal Rule, the Automatic Dismissal Rule constitutes a radical change in the rules governing the Committee on Standards of Official Conduct's consideration of complaints. From the time the committee came into existence until the adoption of this rule, there was only one way that a complaint filed with the Committee on Standards of Official Conduct could be dismissed, and that is by a majority vote of the committee. Because under the prior rules a complaint could be disposed of only by a committee vote, committee members were required to analyze the claims made in a complaint, to collect and consider additional information on the conduct in issue, and to discuss complaints among themselves in an effort to reach a resolution.

With the enactment of the Automatic Dismissal Rule, the need for this study, fact gathering, and discussion within the committee will be significantly reduced, if not entirely eliminated, in any instance in which five committee members are initially inclined to vote to dismiss the complaint. What incentive would those members have to give genuine consideration to the complaint? Under the new rule, they need do nothing more than sit on their hands and the complaint will disappear.

Of course, this rule change will have its greatest impact on the controversial high-profile complaints that come before the committee, but it is in the handling of complaints of that kind that the committee's credibility is most at stake. In short, while the long-term interests of the House require that committee consideration of all complaints in a reasoned, nonpartisan manner be made, the effect of the Automatic Dismissal Rule will be instead to promote partisanship and deadlock within the committee.

Why was the Automatic Dismissal Rule included in the rules package? The sole rationale that was offered for the Automatic Dismissal Rule was that it would "restore the presumption of innocence." Yet how does the Automatic Dismissal Rule restore the presumption of innocence? If a complaint against a Member is dismissed automatically because of committee inaction over a period as short as 45 days, is that Member in any position to claim vindication or that his conduct has been cleared by the committee? The far more likely effect of a dismissal in those circumstances is that there would continue to be a cloud over that Member. So this rules change, in fact, does no favor for any Member who is the subject of a complaint. And no matter what the impact of the particular Member involved, any automatic dismissal of a valid complaint would do incalculable harm to the image and reputation of the House of Representatives as an institution.

It is also very pertinent to note that about 7 years ago when the report of the House bipartisan task force on ethics reform was before the House, Members had a meaningful opportunity to consider an automatic dismissal rule and they rejected such a proposal on a strong bipartisan vote. At that time the proponents of the rule argued that it would be unfair to a Member to have a complaint pending indefinitely before a deadlocked committee and that the proposed rule was akin to a judge declaring a mistrial when a jury was deadlocked. The fallacy of that argument was exposed when it was pointed out that a judge, in sending a case to the jury, never gives a set number of days for deliberation before a mistrial will be declared because to do that may guarantee that the jury will be deadlocked.

It is also noteworthy that the Automatic Dismissal Rule that was considered and rejected in 1997 gave the committee a far longer period of time to attempt to act on the complaint. That proposal was key to a committee vote on an unsuccessful motion to refer a complaint to an investigative committee, and it provided for automatic dismissal only if the committee failed to dispose of the complaint within 180 days after that vote.

The sheer unreasonableness of the Automatic Dismissal Rule that was enacted in the rules package for this Congress in January is shown in that the amount of time allowed for committee consideration of a complaint is as short as 45 days and cannot exceed 90 days. Because under committee rules a Member is allowed 30 days to file an answer to a complaint, that means the committee may have as few as 15 days to consider a complaint and answer, as well as whatever other facts it is able to gather in that brief period of time, before the complaint is automatically dismissed.

This Automatic Dismissal Rule must be repealed, Mr. Speaker, and it would be repealed upon approval of the resolution that I am offering.

Regarding the provisions of the rules package that provide certain so-called "due process" rights to Members, the resolution that I am proposing does not repeal those provisions in their entirety, but it does make a significant change in them. Where the committee or an investigative subcommittee proposes to issue a letter or other document that includes comments that are critical of a Member's conduct, it is reasonable to provide that Member with certain rights, such as prior notice and a meaningful opportunity to respond.

But the so-called "due process" provision of the rules package goes well beyond this, for they also provide a Member with the right to demand that the committee create an adjudicatory subcommittee to conduct an immediate trial on the conduct in question.

As a practical matter, Mr. Speaker, the effect of granting this right to Members is that the committee no longer has the ability to resolve a complaint by means of a letter that is issued in lieu of undertaking a formal investigation. In other words, under the due process provisions as now in effect, the committee, as a practical matter, now has only two options regarding each of the allegations made in a complaint: send the matter to an investigative subcommittee for a formal investigation or dismiss it.

Why is this so? It is important to understand that the committee would propose to resolve a complaint by the issuance of a letter of the kind referenced here only where it determines that a formal investigation of the matter is not warranted. While these letters are based on and reflect the information available to the committee on the conduct alleged in the complaint, the fact is that as of the time that the committee would propose to issue such a letter, not a single subpoena in the matter would have been issued and not a single witness would have been deposed. Yet these due process provisions confer upon the respondent Member the right to demand an immediate trial regarding that matter, a trial that would take place with no formal investigation ever having been conducted.

□ 2115

No committee that is at all serious about conducting its business would allow itself to be put in that position. The other due process provisions that confer this same right with regard to certain notifications issued by the committee and certain reports issued by investigative subcommittees suffer the same flaw.

The resolution I am proposing corrects this flaw by deleting the Member's right to demand an immediate trial and providing instead that the Member has the right to demand the establishment of an investigatory subcommittee to conduct a formal investigation in the matter in question. Possibly that investigation would conclude that the Member did not violate any law, rule or standard.

But if instead the subcommittee determined that there was substantial reason to believe that a violation had occurred, then there would be a trial before an adjudicatory subcommittee. Under the resolution I am proposing, a Member would also continue to have the rights to prior notice and an opportunity to respond to a letter, notification or report that references that Member's conduct.

Finally, Mr. Speaker, the third change in the rules that was made by the 109th Congress rules package concerns the matter of a single attorney representing more than one respondent or witness in a case before the committee. The rules package added provisions to the rules labeled "right to counsel provisions" that absolutely prohibit the Committee on Standards of Official Conduct from requiring a respondent or witness retain an attorney who does not represent anyone else in the case. My resolution would repeal those provisions.

The committee has had no rule that prohibits a single attorney from representing more than one respondent in a case and neither the committee nor any subcommittee has ever prohibited a party or witness from retaining an attorney who represents someone else in the case. But two separate investigative subcommittees, including the subcommittee that investigated House voting on the Medicare legislation in 2003, specifically raised the concern that multiple representation may impair the fact-finding process and recommended that the committee adopt a rule or policy that addresses this concern.

The reasons for these subcommittees' concern is very clear: Representation of multiple respondents or witnesses by a single attorney potentially seriously undermines any effort by an investigative subcommittee to sequester witnesses and thereby to obtain their full and candid testimony. In fact, in the other case in which the investigative subcommittee raised this concern, the Member who was under investigation had arranged for his own attorney to represent nearly a dozen of the witnesses who had been called before the investigative subcommittee.

We see the problem clearly. Yet the right to counsel provision of the rules package entirely disregards the experience of and the recommendations made by these investigative subcommittees, and they absolutely preclude the committee from taking any action to address this problem. Almost certainly those provisions of the rules package will serve to encourage respondents and witnesses to employ the same counsel in cases before the committee and will thereby make the problem identified by the investigative subcommittee far worse.

In short, Mr. Speaker, no matter what the intent of any of these provisions of the rules package might have been, their effect will be at a minimum to seriously undermine the ability of the Committee on Standards of Official Conduct to consider and act on complaints in a credible way. In particular, the practical effect of the so-called due process provisions now in effect is to substantially eliminate the committee's ability to resolve a complaint short of a formal investigation and thus to force the committee to decide between either dismissing a complaint entirely or sending it to a formal investigation.

Under the new automatic dismissal rule, where there are five committee members whose initial inclination is to vote to dismiss the complaint, the likely result will be an automatic dismissal in a month and a half. Even if a complaint does make it to an investigative subcommittee, the right-to-counsel provisions will make it far more likely that the respondent and witnesses will be represented by the same counsel, and thus will have an opportunity to undermine the subcommittee's work by coordinating their testimony.

Approval of the resolution I am introducing will undo the harm done by these provisions of the rules package. Approval of this resolution will also provide a clear and desperately needed signal to our constituents that the House is firmly committed to protecting its reputation and integrity and that the House does intend to have a fair and effective process for considering and acting upon credible allegations of wrongdoing.

Approval of this resolution, Mr. Speaker, is also necessary for one other reason, and that is to affirm the longstanding principle in the House that major changes in the ethics rules and procedures must be made on a bipartisan basis. When the House revisited its ethics rules and procedures in both 1989 and 1997, the work was done through bipartisan task forces that gave thoughtful consideration to proposals from all Members. In contrast, Mr. Speaker, the changes made in the rules package adopted in January were made on a party line vote, with no input whatsoever from anyone in the minority.

Approval of this resolution will be a critical step in restoring the bipartisanship that is essential if there is to be a meaningful ethics process in the House.

## OPPOSING THE CENTRAL AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for 40 minutes.

### GENERAL LEAVE

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I am joined tonight earlier by the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Ohio (Ms. KAPTUR), who were here to talk in opposition to the Central American Free Trade Agreement. Tonight I am also joined by a freshman, the gentleman from Louisiana (Mr. MELANCON), who has already shown himself to be a leader on the Central American Free Trade Agreement and other trade issues, and we will hear from him in a moment.

Twelve years ago, Mr. Speaker, I stood on this floor in opposition to the North American Free Trade Agreement. In those days, we heard promises from supporters of NAFTA, the trade agreement that included Mexico, Canada and the United States, we heard story after story of how this was going to lift up living standards in Mexico, knock down trade barriers between our country and Mexico and our country and Canada and Canada and Mexico, that it would create prosperity for Mexicans and increase jobs in the United States, creating a whole new integrated economy that would be good for all three countries.

I would display a couple of charts that I brought with me tonight to frankly prove that the 12 years of the North American Free Trade Agreement have not served any of our countries well.

I would start, Mr. Speaker, with showing just the overall trade deficit. In 1992, the first year I ran for Congress, we had a trade deficit in this Congress of $38 billion. That means we actually imported $38 billion more than we sold outside the United States; $38 billion.

The last month of 2004, the last month of the year, the trade deficit was almost $60 billion. It was $38 billion for the year in 1992; it was almost twice that for a month in December.

But you can see what has happened to our trade deficit. This is zero. If it were zero we would be buying and selling in equal amounts. We have gone from $38 billion. In 1994, the trade deficit exceeded $100 billion trade deficit; then $200 billion in 1999. Then when President Bush came to the White House, it got to $400 billion. Then it exceeded $425 billion, then $500 billion. In this past year, the trade deficit is $617 billion.

President Bush had told us in those days back when NAFTA was negotiated in the late 1980s and early 1990s that every $1 billion of trade translated into 19,000 jobs. If you had a trade deficit of $1 billion, it would cost your country 19,000 generally good-paying industrial jobs.

Now our trade deficit is $617 billion, and you can see what that means in job loss. If you want to break it down what happened to the trade deficit per country under NAFTA, you can see what happened to the trade deficit with Canada. Back in 1991, the trade deficit was about $7 or $8 billion with Canada. Now the trade deficit with Canada alone is about $62 billion. That is with Canada.

You can look at the trade deficit with Mexico. In fact, we had a trade surplus with Mexico. The numbers above zero mean we actually sold more to Mexico than we bought. Prior to NAFTA, we had a trade surplus with Mexico of a few billion dollars. Then right here is where NAFTA passed. Look at what happened. It is almost $20 billion for several years in a row. Then it went to about $25 billion. Then President Bush came to the White House and it was $30 billion, then almost $40 billion, then over $40 billion, now coming up on $50 billion. So the trade deficit as a result of NAFTA just grew and grew and grew.

I will show you one more, even though it is not part of the debate and discussion tonight, just because it is the most dramatic of all. This is our bilateral trade deficit as a Nation with China. A dozen years ago it was less than $20 billion with China. You can just see what happened, year after year after year after year. President Bush took office here, the trade deficit jumped from about $80 billion to over $100 billion. Then it was over $120 billion. Our trade deficit with China last year was over $160 billion.

Now, would you not think, and I know that the gentleman from Louisiana (Mr. MELANCON) understands this and other Members on our side of the aisle at least, would you not think when you have this kind of trade deficit, when it looks like this, when the overall U.S. trade deficit has moved this dramatically from just a few billion just a dozen years ago all the way to $617 billion, would you not think you might want to sort of change ideas and do something different, that you might think this trade policy we have simply is not working?

It is not working for American workers. Whether it is the sugar industry in Louisiana or the steel or auto industry in Ohio or textiles in Georgia and North Carolina, or a whole host of other manufacturers, or whether it is computer programmers in the Silicone

Valley, clearly these trade policies are not working. You do not go from a few billion trade deficit to $617 billion in 12 years without something being wrong.

So what is our answer? President Bush's answer is let us pass the Central American Free Trade Agreement. What the Central American Free Trade Agreement does is it adds Central American countries. And then if Congress passes that, President Bush is negotiating something called Free Trade Area of the Americas, and that will add the rest of Latin America.

That will double the population of NAFTA and quadruple the number of low-income workers under NAFTA. So if you think NAFTA has not worked, where we had that trade deficit with Mexico and Canada, where we had almost a zero trade deficit when NAFTA passed, now Canada and Mexico's trade deficit with us is over $100 billion, so if we pass CAFTA, the Central American Free Trade Agreement, then the FTAA, Free Trade Area of the Americas, with four times the number of low-income workers, we are going to see more job loss in our Nation, more problems with our economy, more problems in our communities, hollowed-out industrial towns that simply do not have good paying industrial jobs anymore.

Today marks month number 9 since President Bush signed the Central American Free Trade Agreement. He signed it on May 28, 2004. You wonder why he has not brought the trade agreement to Congress to vote on it. With every other trade agreement President Bush has sent to Congress, the Morocco Trade Agreement, he signed it, 37 days later, Congress passed it. The Singapore Trade Agreement, he signed it, 79 days later it passed. The Chile Free Trade Agreement, he signed it, 48 days later it passed. The Australia Trade Agreement, he signed it, 57 days later it passed.

Well, President Bush signed the Central American Free Trade Agreement on May 28 last year. About 280 days ago have elapsed, because President Bush knows there is so much opposition among the American people and so much opposition in this Congress to these continued, failed trade policies. He would have brought it here if he thought he could pass it, but it is pretty clear that an awful lot of Members, including my freshman colleague from Louisiana that is here and so many others, the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Ohio (Ms. KAPTUR) and the gentleman from New Jersey (Mr. PALLONE) who is joining us in a moment, it is pretty clear these trade policies are not working.

□ 2130

So today marks the end of the ninth month since the President signed the Central American Free Trade Agreement. We are hopeful in this body, many of us, that it never comes to a vote because it is clearly bad trade policy. Instead of passing CAFTA as the President wants, we should instead go back and look at NAFTA, go back and look at our trade policy with China, go back and look at our membership and what we are doing in the World Trade Organization. Instead, President Bush, says, let us move ahead with more trade policy. Even though it may be working for a few investors, it is not working for our families, it is not working for our schools, it is not working for our communities, it is not working for our workers, it is not working for our country.

These kinds of trade deficits, these trade deficits represent lost jobs. They represent disappointment in families. They represent oftentimes divorce and alcoholism, in failed schools, in all the factory closings and lay-offs mean to families, to communities, to our country. And I would hope that President Bush would just decide not to submit the CAFTA to Congress, would instead go back and look at these trade policies and go back and look at these trade agreements, and then make a decision to move in a different direction.

I yield to the gentleman from Louisiana (Mr. MELANCON), a freshman Member who has already done a terrific job in explaining trade issues to his colleagues. He brings a lot of expertise to the table in trade policy, on creating jobs and making our communities and our schools better.

Mr. MELANCON. Mr. Speaker, it is a pleasure to be here tonight. I am here to speak about the CAFTA issue. It is of great concern to me.

I come from the State of Louisiana. That is one of the largest sugar-producing States in this country. During the period of time when the CAFTA was being debated or discussed and negotiated, Mr. Zoellick would go around and tell people in this country that the sugar industry was a dinosaur and that it was not competitive. That was the furthest thing from the truth as possible.

The U.S. sugar industry as well as the Louisiana sugar industry is very competitive by world standards in cost of production, and there are studies and numbers out there that testify to that fact. However, we are sitting here with an agreement that is between ourselves and a number of countries that really does not bring anything to this country.

When you look at the gross product that would be brought by the CAFTA to the United States, it does not exceed the total gross product of the city of Memphis. Now, what is that? That is a political notch on the gun. That is all it is. If you look at the trade agreements that have occurred between the United States and other developed countries, those deals usually are finalized when both parties either walk away unhappy or both parties walk away happy. And what is happening in these trade agreements such as the NAFTA and the CAFTA, the United States is walking away unhappy and the Mexicans and the Central Americans and the Dominican Republic people are walking away happy. Why? Because we are exporting our biggest and cherished thing and that is jobs. We are giving them away. We are turning to a service economy every day.

As the gentleman from Ohio (Mr. BROWN) pointed out, if you look at the trade deficit that has occurred, those are American jobs going out of this country.

Last year I was in Vancouver, Canada, traveling back into the State of Washington, going to Seattle; and it was amazing to sit at the border and watch the traffic come through the check points. Loaded 18-wheelers, full up coming into the United States. Yet the trailers that were coming back on the 18-wheelers were empty. They were lined up going in. They were few and far between coming out.

What does that tell us? That tells us not only our money is leaving but that our jobs are leaving. We are bringing products in. These products were supposed to be brought to us at cheaper prices. If you really look, and we have had this discussion in the sugar arena, these are manufacturers of products that use sugar as an import.

They do not care if there is an American job one as long as they can get their product at a cheaper price somewhere out of this country. That is part of what is going on in these trade agreements as these large multinational corporations are the beneficiaries. We continue to give them tax breaks. We continue to give them favoritism, and they continue to export our jobs and move the economy away from a manufacturing economy to a service economy. We have already given away steel. We have already given away the textile industry. The shrimping industry is about gone with the trade deals that this administration and others have imposed on our fishermen.

Sugar is on the chopping block if the CAFTA is passed, and not just Louisiana sugar, the entire United States sugar industry, some 450,000 people across this great land that will lose their jobs.

In Louisiana and primarily in my district, 27,000 jobs will be lost if the sugar industry goes the way of steel and the textile industry; $2 billion a year in economic impact in the State of Louisiana with gross revenues of approximately $700 million a year. That in Louisiana is a large, large loss should we lose it.

Louisiana cannot stand it. The United States cannot continue to have this drain on the economy. We talk about a good economy. As I ran in my election, in this last election, I cannot tell you that there is a good economy in Louisiana, especially in the Third District of Louisiana. It does not exist. The sugar people are struggling. The shrimpers are going out of business. The boat people have boats tied up. There is something awfully wrong that is going wrong, gone astray; and I think a lot of it has to do with the trade agreements.

Mr. BROWN of Ohio. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY) who has been on this House floor night after night over the years in fighting not just for economic justice but against bad trade agreements and jobs and all that she cares so much about.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for his leadership and expertise on this issue. I tried to get his book at a book store near my home, and I could not find it there. So I hope the gentleman will help me find a copy of his book on trade.

The real question is, what is the goal of our recent trade agreement? If it is to export jobs, to increase the trade deficit, to lower the wages of American workers, to fuel the race to the bottom for workers everywhere, to damage the global environment and to benefit multinational corporations that have really no loyalty to the United States, our economy or our workers, then you would rank our trade agreements as a huge success. And if you like NAFTA, then you will love CAFTA.

But what I want to talk about a little bit tonight is the moral dimension of this question. On June 23 and 24, a delegation of six bishops representing the Catholic Church in Central America came to the United States and met with the bishop secretariat, the chairman of the Domestic and International Policy Committees of the United States Conference of Catholic Bishops and came up with a statement on CAFTA, and I just want to read a couple of things from that.

Number one, I think it puts it in a context that sometimes we do not think about. Number one, it says according to our pastoral vision, which is inspired by the gospel and the church's social teaching, the human person must be at the center of all economic activity. Free trade agreements, such as CAFTA, should be a way of achieving authentic human development that upholds basic values such as human dignity, solidarity, and subsidiarity. Whether such treatments are ethical or not depends on how these values are pursued.

A second point they made: If trade agreements are shaped by a proper moral perspective, they can promote human development while respecting the environment by fostering closer economic cooperation among and within countries and by raising standards of living especially for the poorest and most abandoned. Human solidarity must accompany economic integration so as to preserve community life, protect families and livelihoods, and defend local cultures.

Then they say, in light of the values and principles that we have outlined, and there were more, as well as the situation of the people, we express some of our specific concerns about the potential impact of CAFTA on our countries, especially in Central America. If I could just for a minute say a couple of those.

One, there has not been sufficient information and debate in our countries, they are talking about the Central American countries, about the various aspects of CAFTA and its impact on our societies. This troubles us deeply given the obvious imbalance in power and influence that exists between the United States and the Central American countries and the impact the agreement will have on our peoples, especially in Central America. This lack of dialoguing consensus regarding the treaty is also leading to growing discontent. In Central America this could lead to violence and other civic unrest which could further hinder true democratic reforms and respect for the rule of law.

They are suggesting that CAFTA, among other things, could lead to violence and other civic unrest.

Number two, they talk about in the area of agriculture that there is insufficient attention given to such sensitive issues as the potential impact of U.S. farm supports on Central American farm producers.

And they talk about, number three, while certain labor and environmental provisions are included in the agreement, it is not clear that the enforcement mechanism within CAFTA will lead to stronger protection of fundamental worker rights and the environment.

We are talking about leaders of the Catholic Church in Central America and in the United States who beg us to think about the impact on ordinary people in their countries, in our country, and the moral dimension that has to be considered when we look at important U.S. policy decisions like this. And I think that they have raised very, very important questions that deserve our great attention.

Mr. Speaker, I thank the gentleman for letting me read some of this.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from Illinois (Ms. SCHAKOWSKY). The gentlewoman talks about the moral values behind, or the lack of moral values behind, our trade policy, or the wrong kind of moral values. I think about that we have this trade policy in this country now that it is sort of every man, and I say man, every-man-for-himself trade policy, what can the wealthiest corporations get out of these trade deals, forgetting the workers, forgetting our communities.

Instead of this every-man-for-himself trade policy, we need to understand we are all in this together, and when we have this kind of job loss as those bishops in Central America understand what it means to their communities and where they are the losers, these trade agreements also have obviously caused great hardship in our country. When a factory closes in North Carolina, a textile plant or a steel mill closes in Ohio, or a chemical plant closes in New Jersey, what does that mean to those families and what does that mean to those schools and what does it mean to those children putting pressures on those families because their parents are unemployed and cannot find work and their schools are underfunded and all of that?

When the gentlewoman from Illinois (Ms. SCHAKOWSKY) talks about the moral values underpinning our trade policy, what it does to Mexican or Guatemalan workers who have no real labor standards for fair play in the workplace, what it does to our workers, what it does to sugar workers in Louisiana, it is pretty clear this policy really lacks the traditional moral values that I think built our country and still make us the great country that we are.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PALLONE) and thank him for his outstanding work on job creation and trade.

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for all that he does on this trade issue and is constantly being out there pointing out the shortcomings of all these free trade agreements that this administration, the Bush administration, continues to put before the Congress.

I have to say, I just do not get it. I do not understand how this administration, the Bush administration, continues to push these free trade agreements when there is absolutely no question in my mind and I think most Americans minds that they have been a failure.

Our economy continues to be stagnant. We continue to have plants close. I use in my own district the Frigidaire plant in Edison, the Ford plant in Edison. I could go on and on with the plants that continue to close. We see the continual loss of jobs. We see unemployment at levels that are unacceptable. And there is absolutely no indication that this administration's policy with these continual free trade agreements is accomplishing anything for the people of this country.

The gentleman from Ohio (Mr. BROWN) puts up the chart with the overall U.S. trade deficit which continues to grow worse and every day we see the trade deficit getting worse; and yet at the same time we see the administration coming forward with more of these free trade agreements, in this case for Central America.

☐ 2145

I just have to say I just do not get it. I remember when NAFTA was first proposed going back a few years. The gentleman from Ohio (Mr. BROWN) and I were both here at the time, and we at the time said over and over again that NAFTA was not acceptable, it was not going to do anything to improve the job situation and the economy of the United States, and it was not likely to do anything to improve the wages or the job conditions of Mexican workers, and that is still true.

Anyone who goes to Mexico knows that it has not improved the standard of living for Mexican workers, and at the same time, it has simply drained away valuable jobs from the United States.

This continues to be the case with every one of these agreements. They are not protective of labor and environmental standards. I do not know how many times the administration has come forth and said, well, there is not a problem here because we are going to protect workers in the countries that we would have the free trade agreements with; that we are going to have adequate environmental enforcement. It is simply not true.

I just have some information here that was put out relative to the International Labor Organization. It says, without exception, the national labor systems of the Central American countries fail to meet international standards on freedom of association and the right to organize and bargain collectively.

The ILO, the International Labor Organization, the State Department and independent human rights observers have documented the following examples of the systematic failure to enforce labor laws throughout the Central American region.

Four points. First, delays and obstructions are common in Central American labor ministries. Second, labor ministries not only ignore violations, but are, themselves, complicit in violations of the law in most of these Central American countries. Collusion between labor ministry officials and employers to deny workers their right to organize is a problem. Finally, the judicial branch, the courts, are guilty of systematic enforcement failures in Central America.

We know that there is not going to be adequate protection with regard to labor in these countries. There is not going to be adequate protection in terms of environmental law and environmental standards, and yet we continue to move forward, and it makes absolutely no sense because the economy is stagnant, the trade deficit gets higher and the labor and environmental laws are not being enforced.

So, for the life of me, I do not understand how we continue with these. Again, I have never said that increasing free trade between the United States and other countries is, per se, a bad thing, but this administration has never negotiated, or I should say, rarely has negotiated any trade agreement that is helpful to the United States, and that is what we face here once again.

I do not support it. I hope we can get as many people as possible to understand that we cannot continue this downhill trend. I thank the gentleman from Ohio for all that he does on this subject.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for joining us tonight.

When we look at the trade deficit, as the gentleman from New Jersey (Mr. PALLONE) mentioned, and the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentleman from Louisiana (Mr. MELANCON) mentioned, from $38 billion, at least the first year I ran for Congress a dozen years or so ago, up to $617 billion and growing, it was only $500 in 2003. Last year it was over $600, $617 billion.

When you look at that and you couple it with this profligate spending, tax cuts all that has happened to bring about a $400 billion budget deficit, our trade deficit and our budget deficit, $600-plus billion, $400-plus billion add up to over $1 trillion a year, and most of that money is borrowed from other Nations, whether it is South Korean banks or whether it is the government/Communist Party/interest groups in China or whether it is Japan, banks in Japan or corporations or individuals are borrowing so much, they are buying a piece of the United States every time.

When we run up a trade deficit of $617 billion, we run up a budget deficit of $400 billion, we are selling off our country piece by piece. At the same time, the workers in these other countries are not benefiting, only investors are.

When we come to the House floor and we criticize, if we come criticize CAFTA and NAFTA, we also need to offer something affirmative and positive, and this Congress 5 years ago passed something called the Jordan Free Trade Agreement, not a very large country in terms of distance in miles from here, and not a major economic player in the world, but it was a trade agreement that really lifted up standards. It lifted up workers and environmental standards and was a prototype for what we should be doing.

If the Central American Free Trade Agreement had been written the way the Jordan Free Trade Agreement had, we would be on the floor supporting it, as we all supported the Jordan Free Trade Agreement, but instead, after the Clinton administration negotiated the Jordan Free Trade Agreement, we have gone back to this failed NAFTA model. It is all about investment. It is all about every man for himself trade policy where workers are hurt, communities are hurt, schools are hurt, families are hurt. Investors may make money, but they are the only ones that do, and if any of us who have gone to the border and seen the way that the trade works for families on both sides of the border, how it has worked in a way that environmentally has been a disaster.

The American Medical Association said the most toxic place in the Western hemisphere is along the Mexican-U.S. border on both sides where babies are born with all kinds of defects, where children get sick, where old people cannot breathe well, if they have any kind of bronchial problems. These trade agreements, they are hurting our communities and our jobs and our companies. They are simply the wrong direction and simply no reason we could not pass something like the Jordan trade agreement instead of going in this direction.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, the gentleman was talking about how there are winners and losers, actually a very narrow band of winners with our trade policy, mostly the investors and the multinational corporations, but I notice that because of an inquiry that the gentleman from Ohio (Mr. BROWN) had made, that it was found that public dollars from the Agency for International Development, the USAID office were used to promote the President's trade policy, as I understand it, in violation of Federal and USAID lobbying restrictions, that a $700,000 taxpayer funded grant was actually given to business groups to promote CAFTA in violation of the regulations.

I think that when there is a policy debate for the administration to unfairly use these taxpayer dollars to propagandize, to fund outside organizations, business organizations who stand to gain from the outcome, is really improper, if not illegal activities, and I really want to congratulate the gentleman for looking into this, because the taxpayers deserve a right to know.

Mr. BROWN of Ohio. I thank the gentlewoman for her work on education and health care.

This has become a pattern in the administration where they paid Armstrong Williams, a commentator, I think a couple of hundred thousand dollars to use his position as a media commentator, never disclosed it, but used his position as a media commentator to lobby on the President's behalf on education issues.

They have done the same on health care issues. They set up all kinds of Social Security using taxpayer dollars lobbying for the President's radical privatization of Social Security, and now they actually gave a $700,000 grant, USAID, to business groups in Central America to lobby the government. Imagine that.

If our friends want to come to the House floor to debate this tonight and any other time, we are very willing. We are in front of the American public. There are cameras if people want to watch this at home to have this debate in public, but to use taxpayer dollars to lobby foreign governments or our own government or to convince the American people to do something is just immoral.

Ithink when we look at sort of the values of all of this and the moral questions involved in trade where the elite, the wealthiest people in the world do very well and nobody else much does, and how that is such a betrayal of our moral values as a Nation and then you use taxpayer dollars to undercut that even further, it is just reprehensible, and I would hope President Bush would speak out and say never again will this happen, anybody that ever does anything like this loses his job or her job, no questions asked. I hope the President would speak his own moral values and say this is the wrong thing to do. He has remained silent and continued to do this.

We caught them again, if you will. Who knows how many more times they are going to try to use tax dollars to push this very unpopular agreement through this Congress.

Ms. SCHAKOWSKY. Mr. Speaker, I just wanted to ask a question, maybe my colleague does not know the answer to this, but when the Office of the Inspector General finds this kind of breach of the regulations and the rules, what happens? I mean is this, you were wrong to do this, does nothing happen?

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, they said do not do this anymore; we will quit doing it. Nobody paid a fine. Nobody was penalized. Nobody lost a job. That is just amazing. It is like you break the law and do something untoward and just do not do it again, please, even though 700,000 American taxpayer dollars were flushed down the toilet. It is pretty amazing. It is not exactly law, and I yield to my friend from Louisiana.

Mr. MELANCON. Mr. Speaker, the gentleman speaks of moral issues. If you have ever been to Central America and if you have ever been in a sugar cane field where a 4- and a 5- and a 6-year-old kid is covered with soot and has a cane knife in his hand that is as big as him, but he needs to be there because it is income for the family, where the average family 4 years ago was earning $275 a year, and look, that is not right. That is morally wrong, but there is a need in that country. We ought to be helping that country, but we should not be giving them every job in America.

The gentleman spoke earlier about fast track, trade promotion authority. In the previous administration, the Congress did not want to give that authority, but it has given it in recent administrations, but it is not fast track as it was purported to be. It is actually slow track.

As the gentleman indicated, there were several agreements, there were the Jordan agreement and others that were negotiated, signed, brought to the public for public display and comment and then brought for a vote in the Congress. If, in fact, we are going to do something, let us be consistent and let us be consistent all the way across the board.

What has happened with the CAFTA is that the multinational corporations and this administration know right now they do not have the votes, and I have been in this city when it gins up over an issue, and it scares me to death to think that we are going to be selling America down the road if we pass this CAFTA.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate the gentleman from Louisiana's (Mr. MELANCON) comments, especially what happens when these trade agreements get real close to the date of the vote.

I remember during the China trade agreement that when that came to this Congress, a friend told me there were more corporate jets at National Airport than any other time they would have ever seen. There were corporate leaders that were walking the halls of this Congress telling people they wanted access, telling the Members of Congress they wanted access to 1 billion Chinese customers when, in fact, they really wanted access to 1 billion Chinese workers of all ages, of both genders, of all kinds of people that were going to work at a few cents an hour, in some cases, almost slave labor, too often child laborers, and always underpaid workers, and this is really what these trade agreements are all about. It is pretty clear.

He talks about the immoral value of children in the sugar cane fields, and I have seen the same in coffee fields in Nicaragua, and I have seen the same on the Mexican border where workers are badly treated, underpaid, and as a result, we are not getting what the whole point of trade agreements is which is to lift workers up in other countries so they can then buy American products. We create a middle class in Mexico, we create a middle class in Honduras, and then they buy from our workers and our companies back and forth, and that simply does not happen in these trade agreements because it is all about low income workers.

Ms. SCHAKOWSKY. Mr. Speaker, I just wanted to read one of the statements of the bishops that I think sums up what the gentleman has been saying.

The moral measure of any trade agreement should be how it affects the lives and dignities of poor families and vulnerable workers whose voices should receive special attention in this discussion.

□ 2200

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman for that. I will close with those very appropriate comments. Thank the gentlewoman from Illinois. Thank our new freshman colleague, the gentleman from Louisiana (Mr. MELANCON), thank the gentleman from New Jersey (Mr. PALLONE), and also the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Ohio (Ms. KAPTUR) for their leadership in opposition to the Central American Free Trade Agreement, and for everyone here in pointing out what has happened to our trade policy and how clearly when you go from a $38 billion trade deficit to $617 billion in a dozen years that this is not working. We need to strike out in a new direction.

Mr. KILDEE. Mr. Speaker, I join with many of my colleagues today in expressing my opposition to the Central American Free Trade Agreement (CAFTA).

United States trade policy must put American workers first. I voted against and have been a vigorous critic of NAFTA, and I am concerned about efforts to further expand this bad policy through CAFTA or other harmful free trade agreements. NAFTA has been terrible for American workers, because it encourages corporations to abandon the United States to exploit weak labor and environmental standards in other countries. CAFTA will only further this destructive behavior.

Of vital importance for stopping CAFTA is ensuring that the domestic sugar industry is not being severely damaged or destroyed. Stopping CAFTA could help prevent the loss of hundreds of thousands of U.S. jobs and family farms in sugar producing states across the country. My home state of Michigan is the 4th largest producer of sugar beets in the nation. We have roughly 2,100 sugar beet farmers producing more than 3 million tons of sugar beets. The Michigan sugar industry supports 5,000 jobs and generates an estimated $500 million of economic activity. Michigan's Saginaw Valley and Thumb area produce more than 90 percent of the sugar beets grown east of the Mississippi River. The Michigan Sugar Company plant located in Caro in my Congressional District, has roughly 350 year-around and 1,000 seasonal employees.

CAFTA will flood U.S. markets with foreign sugar and we should not be using this industry as a bargaining chip during trade negotiations. Our sugar program provides the only effective way of dealing with the unfair predatory trade practices in the world dump market for sugar. Without it, the U.S. sugar program cannot be sustained and the domestic industry will certainly collapse. CAFTA unfortunately undermines this important program.

The United States is a world leader, and we must enter into trade agreements that encourage positive standards and quality of life for both the United States and foreign nations. Otherwise, corporations will be allowed to exploit foreign workers while abandoning American workers, who are the most productive in the world. I will not support any trade agreement life CAFTA that continues the United States down this misguided path.

---

## SOCIAL SECURITY

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, I want to thank you for the opportunity, and also Democratic Leader PELOSI, for one more hour, one more week for the Democratic 30-something Working Group.

As you know, over a period of time, from the 108th Congress now to the 109th Congress, we have been coming to the floor sharing information, not only with Members of the House and the other body, but also with the present administration in the White House and with the American people about what is happening for America and what is happening to America.

I must say that it is discouraging to hear some of the things that are coming from the majority side and also coming mainly from the White House on Social Security. And we come to the floor week after week to give voice to those Americans that are educating themselves through the survivor benefits, through Social Security, and also those Americans that are 20, 30, 40, and 50-something that are looking for Social Security to be there for them when they retire; and to make sure that they can get the maximum benefit, especially for those that are in their 50s and 40s, as they start to think about retirement, making sure that Social Security is there for them when they are eligible.

I must say that during the break, as you know, we were on the Presidents' break for some time. And many House Democrats, and some enlightened Republicans, I must add, went back home and started asking their constituents how they felt about Social Security. And many of them came back with positive responses. In fact, they want the maximum benefits out of Social Security, and they want to make sure that it is not privatized. And that was overwhelmingly the message during the Presidents' break. It is not what I am saying; it is what the press reports are saying, either via print or TV media.

And the House Democrats have been out in America and united about opposing the privatization, in opposition to the privatization of Social Security. And over the past 2 weeks, 160 House Democrats have held over 300 townhall meetings, Mr. Speaker. I just want to make sure that that is definitely a note. Not only with the Members, the Members note that that is the case, but to make sure that the American people that we are here to serve understand that we are trying to do all we can.

And in the minority, I must say, here in this House, I want to remind the majority party that if we had the power to call a committee meeting, if we had the power to look into things that may be questionable as it relates to some of the decisions that are being made and some of the abuse of power that is taking place on the executive branch end, then we will have better accountability.

But as it relates to Social Security, we are fighting the good fight. We are working with what we have to go out to the American people to let them know what is going on here under the dome.

Once again, 160 Democratic House Members have gone out and had over 300 townhall meetings in their districts and around their States. And I think that is so very, very important.

Mr. Speaker, we have the gentleman from Ohio (Mr. RYAN) here, who cochairs this 30-something Working Group with me, who I must say that it is just a pleasure being here with the gentleman from Ohio just one more week. I am looking forward as we continue to hit the road and share the information about Social Security and why it is important to many young people throughout the United States of America. But it is just once again a pleasure to share this hour with him.

Mr. RYAN of Ohio. Pleasure. Same here, my good friend. I would also like to just make a couple of opening comments before we get into the nuts and bolts, into the meat of the issue here.

The gentleman from Ohio (Mr. STRICKLAND), who every now and again I join down here doing an Iraq Watch or something on the veterans, he and I held a townhall meeting in Youngstown, Ohio, last week. And we had chairs set up for about 125 people. And the room was packed with 200 people. We had to turn people away at the local library, Boardman Public Library.

It was just amazing because of the amount of concern regarding this issue and how many people want to try to understand what the President's plan is. And as you put it a couple of weeks ago when we were here, we really do not have any of these details. And we do not know exactly what the President's plan is. And he is talking in these very broad concepts, because once you get down to the nuts and bolts of implementation of the privatization accounts, it gets very, very hairy and very, very scary.

And one of the main concerns at the townhall meeting in Youngstown was the concern of having to borrow money to try to implement this system. And when you look at what we have here, and average people understand this, we are running close to a $500 billion deficit just this year. And so we have to go out and we have to borrow that money, and we are borrowing it primarily from the Japanese and the Chinese, which puts our country in a position of weakness.

The one thing the President has said that he wants to for sure do is he wants to have these private accounts, the side accounts. So instead of putting money into the Social Security trust fund, you would put it in this private savings account.

Because the money is getting diverted into the accounts, and we want the current beneficiaries of the program to get what they deserve, we have got to go out over the next 10 years, the first 10 years out from this plan, and we have to borrow $1.4 trillion just to cover the cost of the transition in the first 10 years.

Mr. MEEK of Florida. Mr. Speaker, I would ask my colleague to please repeat that.

Mr. RYAN of Ohio. Yes, certainly. I said that $1.4 trillion must be borrowed in the first 10 years of implementation of a Social Security reform package that includes the private accounts. And, again, I am 31, the gentleman from Florida is 30——

Mr. MEEK of Florida. Something

Mr. RYAN of Ohio. Something. And the money we do pay in, because Members of Congress do pay into the Social Security system, the 6.2 percent that we are putting in now that goes into the trust funds, the President is saying we will be able to take maybe all of that, maybe a portion of that and put it in a side account. In order to make up the difference, so that our grandparents and parents can get what they have put into Social Security and they get the full benefits, we have to borrow $1.4 trillion over the next 10 years. But the massive figure is $5 trillion over the next 20 years.

Now, that is $5 trillion we have to go out and borrow and pay interest on, which I think is probably the best argument for not doing this. We should not implement a program that is going to strap our generation with massive tax increases to pay for this, the $5 trillion, the interest on the $5 trillion, and then end up with a benefit that is not guaranteed. I think when you add all that together, it is a recipe for disaster.

Mr. MEEK of Florida. Well, I can tell my colleague that I am at a loss for words when it comes down to all the Federal jet fuel that has been burned on the U.S. taxpayers' dollars on the flying around the country with no plan and talking about privatization of Social Security.

There are millions of Americans that are benefactors of Social Security. We cannot break our promise to them. For anyone to go and say we will privatize and everything will be fine, the evidence, which we will talk about later on in this hour, is leaning towards benefits being cut as it relates to the privatization. We will be talking about that a little later on.

I am glad to have my colleague, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who was here with us in the past. She had a townhall meeting, a couple of them I think in her district, and so I will now yield to her.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Florida for yielding to me. It is a pleasure to be here with my 30-something colleagues once again.

I did have townhall meetings in south Florida last week. I had three townhall meetings, and more than 500 people attended those meetings. Other than two, two out of those 500 hundred, every single person left with the feeling that they were completely opposed to the President's privatization plan. They understood first and foremost that it is incredibly disturbing that the privatization proposal he has put forward does not even solve the problem.

We, I think, have tried to stress as Democrats that we are not saying there is no problem, that there is a problem that needs to be addressed. But, for example, and one of the examples I used in my meetings, was that the earliest that we have a problem where we are taking in less than we are paying out is in 2042, and many of the studies show that it really could last until 2052. Our generation, when I talk to my friends at home and ask them whether they think Social Security is going to be there, they do not think it will.

Let me just throw out an example. I am 38 years old. In 2042, I will be 75. I will be 85 in 2052. So that shows you that Social Security will be there for our generation. What we need to do is we need to make some changes to Social Security, shore it up, help preserve the safety net; but we need to take the time to do it right. We do not need to perform the radical surgery the President is proposing, and that was the overwhelming message I got from my constituents.

Mr. Speaker, I yield back to the gentleman from Florida.

Mr. MEEK of Florida. I want to be able to share with my colleagues here, and our other colleagues, Mr. Speaker, that this is important. As I explained earlier in this hour, maybe 5 or 6 minutes ago, we do not have the power within this institution, within the House to be able to agenda committee meetings, or agenda meetings or inquiries, or whatever the case may be, although we look forward to that day. Do not get me wrong. I look forward to the gentlewoman from California (Ms. PELOSI) one day becoming Speaker Pelosi. Because some of the things we talk about here on this floor we want to be able to use the power of this House to be able to make things right on behalf of the American people.

Now, we are not just talking about Democratic American people. We are talking about Republican American people, Libertarian, what have you, the Green Party, Democrats, on and on and on. We are talking about the American people in general. But I wanted to take about 4 minutes sharing about what happens when we move in haste.

The President wants us to move in haste. The majority party wants us to move in haste. The majority of the other body wants us to move as though there is some sort of Federal emergency. But there is not a Federal emergency. Social Security will be here. It will not collapse tomorrow or the next day or 10 years from now or even 20 years from now, thanks to the Democratic Speaker and the Republican President Ronald Reagan making sure that Social Security was sound.

I can see the gentleman from Ohio is right there. He is ready. But let me just make my point. I am not giving a locker-room speech; I am just letting our colleagues know that there is not a Federal emergency as relates to Social Security.

Now, here on this floor, and I pointed this out a couple of weeks ago and I want to point it out again, because maybe some of the Members that are watching us now might have missed it. During the Medicare debate here on this floor, when we were locked in this Chamber, well, I would not say locked, I do not want to sensationalize it, we were held here in this Chamber and the vote board was open for over an hour and some change, maybe getting close to 2 hours while the majority side went around twisting arms.

And here, Mr. Speaker, I want to commend some of my colleagues on the majority side that stood on behalf of their constituents but had to break because there were a lot of arms being twisted on the other side.

□ 2215

During the Medicare debate as relates to prescription drugs, the majority hid the true costs that it would cost to deal with prescription drugs. First they said it will only cost $350 billion. That is a lot of money. We were all taken aback by that because that is borrowed money. That is money on a high-interest credit card. That is money that the gentleman from Ohio (Mr. RYAN) talked about earlier, about knocking on the bank of China, saying, Please buy more of our debt.

Then as we move down the road a little bit, it moved up to $400 billion. This is not $4, not $400,000, this is not even $400 million, it was $400 billion. After the debate, the cost jumped up to more than $530 billion. But still that was not enough because when we move in haste, we make mistakes. It is important that we move in a way that not only Members can pay very close attention to what is going on, and that Members will have an opportunity to analyze plans and legislation. And I must add, as the gentleman from Ohio (Mr. RYAN) knows, we do not have a plan from the President or the majority, and I will talk about that later. Now just before we left, just a week before the President's District Work Period, the cost went to $724 billion. Where are we headed? This is borrowed money.

We have that going on, let alone the war in Iraq and Afghanistan. We are about to have an $80 billion supplemental. The majority side here in the House would like for the American people to believe that there is a Federal emergency and Social Security will collapse if we do not act now.

I will tell Members we have a lot on our plate right now. Members heard the gentlewoman from Florida talk about the fact that she will be 84 and still look the same in the future. I am making fun of it, but this is a very serious situation.

I had this on my chart the last time we were here on the floor but I thought I would blow it up because some of the Members I saw said I want a copy of that. I want to make sure Members can see it. There are people running around saying where is the Democratic plan? Our plan is already institutionalized in Social Security. The benefits that people are receiving, the survivor benefits Americans are receiving, that third rail when the Enrons of the world go south on America workers that have been paying into a retirement plan, Social Security is the safety net. And Democrats, our position, is making sure not that we have a Democratic plan, shoring up and making sure even beyond those years far out that Social Security is here for a long time, a bipartisan plan between Democrats and Republicans, and that is what the Democratic leader, the gentlewoman from California (Ms. PELOSI), and the gentleman from Maryland (Mr. HOYER), the Democratic whip, are talking about constantly.

In 1998, President Bush was quoted as saying that he wanted to privatize Social Security as a solution to the financial problems. Chairman Greenspan on the House and on the Senate side said privatization alone will not solve or will not resolve the issue of Social Security. As a matter of fact, if they were to deal with that, then they would have to have tax increases and also cutbacks in traditional programs.

In 2000, during his campaign, Governor Bush basically said he wanted to privatize Social Security. Then in 2001, now President Bush appointed a commission to develop a privatization plan for him.

In December 2001, they followed their charge, and if you were on that commission, you would have had to have made previous statements that you were in favor of privatization, so of course you are going to get recommendations from this commission.

In 2001, the commission gave the President three options for privatization of Social Security.

From December of 2001 through 2004 when the President came here and walked down and spoke in front of us, he was silent on the issue of privatization. Absolutely nothing. No statements, nothing. Did not talk about it. And now in 2004, while running for reelection, there was some mention but no plan. No plan came about after the three options. Members would assume the plan would come the year after, nothing.

Then days after the 2004 election he thought he had the political clout to be able to privatize Social Security. That did not happen. January of this year while at the White House, once again he talked about it and said there is a plan. Now the budget was submitted at the beginning of February, no privatization plan was included. When I say the President said nothing, he is saying nothing because he is not putting forth a plan. Now press accounts say it is not clear if the President is going to offer a plan this year.

Now for all the American people that are sitting at home watching us now and for all those individuals concerned about their benefits, I want to let you know right now it is important that you call your Member of Congress, it is important that your Member of Congress pay very close attention to this.

In closing, I want to let the Members on the majority side, for those that are not with the President, and I must add there are some, there are some from my State, that I commend for their courage and for their standing up to the majority and the President saying they will not sell out their constituents on a hasty plan saying we have to move it through.

Remember I talked about the Medicare issue and how that ended up going all of the way to $724 billion from $350 billion.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, that is a phenomenal outline of a consistent approach on what the plan was, has been, continued to be and now getting closer to try to implement. I think it is an ideological bent that is pushing us because as the gentleman said, we are going to have to go out and borrow the money. I think it is important that we mention what happens when the public side is out in the market borrowing money. The more money we are borrowing, there is less money to be borrowed by private interests which will drive up interest rates because there will be less money out there because we have to keep going out there and borrowing it for our own purposes, whether it is Social Security or running a deficit of $500 billion. That means increased interest rates, for those at home, who want to go out and get a car, get a house, want to go out and borrow some money for whatever reason, interest rates are going to rise if we keep going down the path we are on right now.

One other comment I wanted to make that the gentleman brought up, the administration is trying to say crisis, crisis, crisis. The sky is going to fall in if we do not do something immediately. They used the word "bankrupt." I think the President used the word in the State of the Union address. I am almost positive.

Mr. MEEK of Florida. The gentleman is correct.

Mr. RYAN of Ohio. He said bankrupt. To me bankrupt means there is nothing in the bank. It is belly up, zero. That is how I interpret bankruptcy. Nothing left.

The problem is Social Security will never, ever, ever, go bankrupt because there will always be workers putting money into the system. Now it may not be, if we stay like we are now, it may not always be at the levels we want. Down the line, it may only pay 80 percent of the benefits, but there will always be money in the Social Security system so it will never be bankrupt.

So when the President says bankrupt, he is misleading the public because the gentleman from Florida and I will be paying in for the next 30 some years into the program. So even if you and I are just paying in, it is not bankrupt. It may not have enough funds, but it is not bankrupt.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, one of the things that came up in my town meetings, talking about the debt and privatization would add to in America, the gentleman from Florida and I served with a wise Republican member of the Florida Senate, Senator Jim King, whom when we were engaged in a debate with our House colleagues and it was the State Senate versus the State House and our position in the State Senate was we should not be adding to debt and we should not be continuing to borrow to pay for our needs, he likened that concept to using our MasterCard to pay off our Visa.

Mr. Speaker, that is really the policy that the President is advocating. He appears to think it is okay to add to the debt, make our deficit much more significant, to overrely on nations like China and Japan. I feel an overwhelming sentiment coming from my constituents, and just by applying a little logic, why would we want to leave our constituents' future retirement security in the hands of the economic whims or decisions of foreign governments. That is essentially what is being done when we talk about privatizing Social Security.

The other really big issue that the President has tried to stress and underscore and use to try to relieve the concern that senior citizens may have over his plan, he is saying do not worry, people over 55 and over, we are not going to touch your benefits, nothing is going to happen.

Well, as neutrally as I possibly could, and some people might chuckle about that, I presented that argument in my town meetings last week. And overwhelmingly, my constituents, the constituents of the gentleman from Florida (Mr. MEEK), understood when we have a massive program like we have in Social Security in America, and we are talking about the kinds of numbers and the impact that privatization would have on that program, $1.4 trillion cost to privatize in the first 10 years, and another $3.5 trillion in 10 years after that, when we apply a radical surgical procedure to a program that size, they understand there is no way you are going to avoid impacting them. It is not possible. They are smarter than that.

The other reason for the answer to the question of why senior citizens care about this, assuming they believe the President, say they take the President at his word and believe it will not affect people 55 and older, the reason they care is they understand that our generation, their children and their grandchildren, we are not the generation of savers that they were. They were the generation of savers. We are the generation of racking up our credit card bills and trying to have as much as we possibly can. There is nothing wrong with that, but it needs to be recognized that is a policy where Americans continue to add to their debt and there are eventually consequences to that.

Mr. RYAN of Ohio. It is not a good way to run the government. Although a person may be able to get away with it longer and file personal bankruptcy without the ramifications to society as opposed to privatizing Social Security.

Ms. WASSERMAN SCHULTZ. Exactly. And what the gentleman said about debt in general and making sure that we continue to have sound public policy when it comes to Social Security, these senior citizens understand that because we do not have the savings in generations following them, we have to make sure that we adopt an approach to fixing Social Security that recognizes that the emphasis should be on encouraging savings. There is a way to do that without moving to a radical proposal like privatizing the program.

Chairman Greenspan testified before the Committee on Financial Services and was pretty unequivocal in his testimony before our break about what he believes the direction we should take is.

□ 2230

His focus was absolutely on any policy change that moved away from encouraging a national savings was not a sound one. Almost every one of the comments that he made undermined the President's arguments. He testified in front of our committee that the overriding long-term retirement issue facing the Nation is increasing national savings. Before I yield back, I want to tell my colleagues a really telling story. The thing that I think is important to stress is that Social Security was created in 1935. It was created by Democrats, it was sustained by Democrats, it was improved by Democrats and that has generally been virtually without any Republican support for Social Security. It was not created with Republican votes. It has not been fixed by Republican leadership. The gentleman from Massachusetts (Mr. FRANK), our ranking member on the Committee on Financial Services, asked Chairman Greenspan this question:

Mr. Chairman, in 1935 if you were a Member of Congress, would you have voted for Social Security?

The chairman's response was: I can't answer that question.

I think I will just leave it at that and allow that to underscore where the support for Social Security is. It certainly has not been on the administration's side of the issue.

Mr. RYAN of Ohio. I think that is a telling point and I appreciate her sharing that story because I will use it to further make a point on this. What we have to realize is that this is a program that helps a lot of people, too. It is not just the 70 percent of the program that goes to the retirees. This also has survivorship benefits in it. It also helps people who are disabled, blind, deaf, whatever the situation may be. This is something that brings a lot more value to our society than just the numbers that we put up on boards here in the House Chamber. There is more to this whole deal here than just money. This is about helping people and this was about bringing dignity to people so that they would not have to work until they died. It lifts seniors out of poverty. All our parents and grandparents recognize that. I think if the President says, like he said, 55 and over, you are fine, you are all right, which implies that if you are 55 and under, you better look out because we are not sure what is going to happen. If we really wanted to help kids, students right now, and that is sometimes how he pitches this, hey, these young people would be able to go save in a private account. If you really want to help these college students, increase the Pell grant more than $100 a year for the next 5 years. Let us help these kids reduce their college debt. They are graduating from college on average with about a $20,000 debt already which takes away from our national savings. Why do we not help them with that, as long as they put the money into some kind of long-term pension fund for themselves? There are ways we could get creative here and do this, but to say to dismantle the greatest social program in the history of mankind, I think is pretty foolish. The gentleman from Florida looks as if he has something very important to say.

Mr. MEEK of Florida. I literally could not wait to get here tonight, even though we are here after supper and many of our Members are probably cracking their toes now getting ready to go to bed. But I will tell you this, that it is important. This is so important, not only do I have this notebook, but I have two other notebooks on this issue. This is not, as far as I am concerned, an attack on a Democratic program. This is an attack on the American people. It is our responsibility to make sure that we inform the American people what is going on. Once again, I am not saying that the President is not telling the truth. I am not saying that the majority side is not telling the truth. I am just saying they are inaccurate as it relates to the facts. It is important that we share these facts.

I just wanted to share with the gentlewoman from Florida when she shared that the gentleman from Massachusetts (Mr. FRANK), the ranking member who is a respected Member of this House and has been here for a very long time on the Committee on Financial Services as the majority side and the chairman of the committee and he could not answer the question if he would have voted yes or no.

Forty-eight million Americans receive Social Security. Forty-eight million. Not 4, not 48, not 4,800, not 48,000: 48 million Americans. These retirees and 33 million retired Americans that are already retired receive this information. It is not the Kendrick Meek report.

Mr. RYAN of Ohio. How many people in poverty? Did the gentleman say that?

Mr. MEEK of Florida. No, I have not. I was on my way. Seniors who are living in poverty, that are receiving the benefits, 48 percent of those individuals, of the 43 million, receive Social Security.

Mr. RYAN of Ohio. So they would be in poverty if it was not for Social Security?

Mr. MEEK of Florida. Forty-eight percent of the 43 million.

Mr. RYAN of Ohio. So what is your philosophy on life when you say that you are okay with those people going back into poverty?

Mr. MEEK of Florida. No, I am not okay.

Mr. RYAN of Ohio. I did not say you were okay. I know the gentleman is not okay with that.

Mr. MEEK of Florida. But that is the reason why we are here. People are asking for the Democratic plan. I am asking where is the President's plan? Where is the majority plan? I do not want to go back to 1978 again. We are still talking about philosophy, but if I can just for a second, I have said this and I will say it again verbatim, for the last 3 weeks we have talked about Social Security. Democrats want to strengthen Social Security without slashing benefits that Americans have earned. Private accounts makes Social Security's challenge worse, makes the challenge worse, the private accounts do, we will talk about that in a minute and we have been talking about that, as far as massive benefit cuts and it will increase the national debt. Already in the projection, $427 billion. Who is counting? I am.

Mr. RYAN of Ohio. I do not even think that counts the war.

Mr. MEEK of Florida. That is not even the war. So we are saying, not the Democratic plan, that we know all and we know best. We are not even advocating that. It is the majority side in this House that is saying, oh, we can figure it out because we have the majority and we have stacked all the committees and we can get it through the committee and we can get it to the floor, and if we have to do a Medicare move again, keeping the voting board open for over an hour while we walk around here and put pressure on individuals that have already made a sound decision on how they are going to vote, then we are going to do everything we can as Democrats.

I commend our leadership, need it be in the Committee on Ways and Means, need it be in the Committee on Financial Services, need it be our Democratic leader the gentlewoman from California (Ms. PELOSI), the gentleman from Maryland (Mr. HOYER), all the way to the gentleman from New Jersey (Mr. MENENDEZ) and our Democratic Caucus, and also the gentleman from South Carolina (Mr. CLYBURN) who is our Vice Chair, to let the American people know that this will not happen and that with the President and with the majority side, they are talking about theory, not a plan. And so our plan is to make sure that we do not make life worse for people under 55. Even the President said, if you are over 55, you don't have anything to worry about. This is the same President, with all due respect to my Commander in Chief, that said it would only be $350 billion for Medicare prescription drugs and now we are way up to $724 billion. I am not saying he is not telling the American people the truth, I am just saying that it is inaccurate information. And inaccurate information, when people feel that they have the power to do whatever they want to do, is wrong.

That is why it is important that we take this time out and that is the reason I commend my Democratic colleagues that are here saying, no, having over 300 town hall meetings, and I commend my Republican colleagues, in the minority in the majority, that are saying, no, Mr. President, who I campaigned for, I am not with you on this one. So we want to make sure. That is the reason why we do not have a plan yet, because there is no real plan. I would much rather the President say "thank you" and just move on to another issue because we have a war that is going on right now. Until we are ready to work in a bipartisan way, we should not approach Social Security, until we sit down at the table and to be able to hear both sides and that we can move together. The gentleman from New York (Mr. RANGEL) would be at the White House right now as ranking member of the Committee on Ways and Means if we were hammering out a real bipartisan plan.

The gentleman from Massachusetts (Mr. FRANK) would be at the White House right now as we speak hammering out a real bipartisan plan. Leader PELOSI, when she goes to meet and you know the American people at least once a week, they come together, majority and minority and the leaders come together at the White House, if she were included in that process of hammering out a Social Security plan, maybe, just maybe the American people will benefit. But that is not the case.

I am going to yield to the gentlewoman from Florida, and I hope she will explain at least some of the charts that she has there to be able to share what we are getting ourselves into if we allow the majority side to carry us down, not a yellow brick road but some other color brick road in making Social Security solvent for years and years and years to come.

Ms. WASSERMAN SCHULTZ. I just want to expound on a couple of the things that the gentleman said. Given from the three of us, me being from the opposite gender from the two gentlemen I am here on the floor with, I think it is important to note the effect that privatization would have on women. We have talked about this before but just to give you an idea of what women face when it comes to the comparison to men. In 2003, the average monthly Social Security benefit for a woman was only $798. That is $241 less than the average man's monthly retirement. Women's earnings are still 77 percent relative to men in 2002 dollars. Women who reach retirement age live on average at least 3 years longer than men. So this is a female problem, to say the least. Social Security is the only source of retirement income for one in three unmarried retired women. That is a really significant number.

Without Social Security, 52 percent of white women, 65 percent of African American women and 61 percent of Hispanic women would live in poverty upon retirement. It provides more than half of the total income for female widows and single women. The other thing I wanted to expand upon that the gentleman from Florida talked about is the issue does arise, where is the Democrats' plan? Do my colleagues remember, I think it was a Wendy's commercial, the really famous Wendy's commercial, "Where's the beef?" That is what I would like to know, and my constituents want to know about the President's plan, where is the beef? It is very nice to talk about vague outlines of what you would like to see happen, pie in the sky concepts, but generally in my legislative experience, when a President or a governor in my experience makes a proposal, they usually send the legislative body a bill. They usually get a Member to sponsor it. And then we have an opportunity to dissect it and debate it and then the minority party offers their alternative. It is time. It really is time. It is the President that has laid out that this is a crisis. We call it a long-term challenge. We would be happy to sit down and discuss our approach to that long-term challenge but we are in an apples-to-oranges situation here.

Mr. RYAN of Ohio. We want to be a part of this. I do not want anyone at home sitting there listening to us to think that we do not want to be a part of solving this problem. Not crisis. Problem. Long-term problem. We all have long-term problems. My family has heart disease. I have a long-term heart disease problem, long-term.

Ms. WASSERMAN SCHULTZ. I have some credit card debt.

Mr. RYAN of Ohio. We all have problems. I think this shows really where we are at philosophically, too. I have a school district, Youngstown city school district, over 50 percent of the kids in that school district live in poverty. Seventy percent qualify for free and reduced lunch. That to me is a crisis, immediate, needs to be addressed. Cuts in Medicaid and food stamps, that is a crisis. We need to fix that now. This is long-term.

There are a couple of points I want to make. Let me get to this chart here. This is the U.S. trade deficit with China. This is the country we are borrowing all this money from. It is about $163 billion, maybe a $165 billion trade deficit. We are buying more than we are selling. I just want to show this because I think as we look at the big picture with the $420 billion or $430 billion annual trade deficit, this is all U.S. investment going over to China.

□ 2245

A lot of these job that were in the United States are now in China. Fewer people paying that 6.2 percent into the system, which would certainly help, as opposed to making 8 bucks an hour. The good high-wage jobs that were 18, 20, 25 bucks an hour, 6.2 percent of 25 bucks an hour is a lot more than 6.2 percent of 8 bucks an hour, which is the rate we pay in. So I just wanted to put this up to give everybody some perspective.

And we talked about Alan Greenspan and his testimony. I just want to read a paragraph from Bloomberg News. It is pretty interesting: "Federal Reserve Chairman Alan Greenspan's testimony yesterday before the Senate Banking Committee," a couple weeks ago, "undermined virtually all of the Bush administration's arguments for diverting some Social Security tax payments to fund private retirement accounts. If the hole left in Social Security finances by the diversion were filled by added government borrowing, as proposed by President Bush, creating the private accounts would not add to national savings, and for Greenspan national savings is the overriding long-term retirement issue facing the Nation." Greenspan says we need more national savings. The administration's plan is borrow $5 trillion. Two complete opposite ends of the spectrum.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, let me just say the list is endless for those who are opposed to the President's philosophy and the majority side's philosophy on this. I mean, it is not just House Democrats. It is not just the Democrats of the other body. It is not just Democrats that are out there hopefully wanting to be President one day. I mean, we have a number of individuals.

I just want to name a few while we are here to let them know that we are paying attention to what they are doing. Along with the 300 townhall meetings that House Democrats had, we had a number of other groups that were out there and still out there doing good things and sharing with the American people. I just want to start off with an organization that is out there of retirees, the AARP. They are opposed to the President's plan. And to be a member of the AARP, one has to be kind of middle-aged. I must add. I have been elected a long time. I am not going to call anyone old. But let me tell my colleagues this: one has to be at least middle-aged.

Ms. WASSERMAN SCHULTZ. Fifty.

Mr. MEEK of Florida. Mr. Speaker, one has to be at least middle-aged, and one would have to have experienced life. So they are opposed to this plan, this philosophy of a plan. Nothing is concrete, but what they have heard thus far as it relates to privatization of Social Security they have a problem with. So does the A. Phillip Randolph Institute. So does the African American Ministers' Project. So does the Alliance for Retired Americans. So does the American Association of University Women; American Baptist Churches, USA; the AFL–CIO; the Association of Community Organizations for Reform. Also we have the Campaign for America's Future, the Center on Budget and Policy Priorities, the Center for

Economic Policy and Research, Children's Defense Fund, Coalition on Human Needs.

I mean, I can go on and on and on of these groups, and I have pages and pages and pages. Older Women's League. The "wiser women's league," let us put it that way.

But all of these groups, the League of Rural Voters, I have pages upon pages, and they would fall on the floor if they were not in this binder, of groups that have said it is not a plan; but from what we hear and from the individuals that are saying that they are trying to serve up something to young people, trying to get them to believe that it is cool, that it is okay to gamble on their retirement, they do not agree with it.

A. Phillip Randolph Institute.

African American Episcopal Church.

African American Ministers' Project.

Alliance for Retired Americans.

American Association of University Women.

American Baptist Churches, USA.

AFL–CIO.

Association of Community Organizations for Reform Now (ACORN).

Call to Renewal [Faith].

Campaign for America's Future.

Center on Budget and Policy Priorities (CBPP).

Center on Economic Policy and Research (CEPR).

Children's Defense Fund.

Coalition of Black Trade Unionists (CBTU).

Coalition on Human Needs (CHN).

College Democrats of America (CDA).

Congressional Black Caucus Foundation (CBCF).

Consortium of Citizens with Disabilities (CCD).

Economic Policy Institute (EPI).

Labor Council for Latin American Advancement (LCLAA).

League of Rural Voters.

League of United Latin American Citizens.

The Links, Inc.

MoveOn.org.

NAACP.

National Black Caucus of State Legislators (NBCSL).

National Caucus and Center on Black Aged, Inc. (NCBA).

National Committee to Preserve Social Security and Medicare (NCPSSM).

National Congress of American Indians.

National Council of Churches.

National Council of La Raza.

National Farmers Union.

National Organization for Women (NOW).

National Puerto Rican Coalition.

Older Women's League (OWL).

People for the American Way.

Progressive National Baptist.

Rock the Vote.

USAction.

Women Investing in a Secure Retirement (WISER).

Young Democrats of America (YDA).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I just wanted to expand on something since we are going to try to focus on young people in our caucus. A really good example of what impact this proposal would have on younger people, a 20-year-old who enters the workforce today, over the course of their career would experience a $152,000 loss in their Social Security benefits that they would have otherwise received. It provides disability insurance that young families need. There is no private insurance plan today that can match the disability benefits that Social Security provides. For a worker in her mid-20s with a spouse and two children, Social Security provides the equivalent of a $350,000 disability insurance policy. Most young people cannot afford or obtain that kind of coverage outside of Social Security.

And let us say, God forbid, a young parent dies suddenly. I heard the gentleman from South Carolina (Mr. CLYBURN) today talk about a person who came to one of his townhall meetings whose spouse died when she was 35 years old and Social Security provides the survivor benefits that are left behind for those kids.

To such an extent, most people do not realize Social Security's survivor benefits will replace as much as 80 percent of the earnings for a 25-year-old average-wage worker who dies, leaving two young children and a spouse. That is the equivalent of a $403,000 life insurance policy. And the gentleman from South Carolina (Mr. CLYBURN) talked very poignantly this morning about the gentleman that he has known for years, and had never heard this story, that his 35-year-old wife, when she passed away, could at least rest in peace knowing that her life and her work had provided for her children's future benefit even in death.

And that is the type of rug that we are pulling out from under people if we go in this direction.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I just want to make a comment on the AARP. These attack ads, the same consultant groups that attacked Presidential candidate KERRY, the same groups that did the Swift Boat ads are now attacking AARP, and they are saying that AARP is for gay marriage and against the troops. And the reason I want to comment on that is because their reference is to the Ohio AARP chapter, which was against an issue that was on the ballot in Ohio, and I believe it was Issue 1. The issue was to ban gay marriage, but it was written so broadly that it eliminated civil unions between men and women who were older, who were senior citizens. And I have people in my district, friends of mine, who were married and their spouses passed away and they were senior citizens and they were 70-something-years-old and they had families on both sides and kids and grandkids. They did not want to get married, but they wanted a legal binding contract. So the AARP, obviously, was against that because it took away the civil unions for senior citizens. Now all of a sudden here come the attack ads against AARP just to try to slam them because they are not for the President's proposal.

So I just wanted to clarify that to the folks in Ohio. That is why AARP was against Issue 1 because it is eliminating the ability for two human beings, American citizens, to write a contract between each other, man and woman, a contract not allowed in Ohio.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I guess as we really start to look at this and as we wrap up in the next 3 or 4 minutes, I just want to say tomorrow one of those groups that I did not mention, Rock the Vote, will be having a townhall meeting with some Democratic Senators and will also have a college campus tour as they start to go around and talk about this issue, and Republican Senators that have spoken out against this.

And I must add that the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and I join, in the single digits, I must add, members of the Florida delegation in this House that are opposing the President's philosophy at this time, rightfully so, because their constituents are not with them on this. And that is the way democracy is supposed to work.

We are not up here to fly up here every week and walk around with congressional pins on and showing our card, walking in and out of this Capitol, and saying that we are here to represent ourselves. We are here to represent the people that have sent us here. And believe me, if I were walking around here saying I support the President's philosophy and the majority's philosophy, my constituents, and the gentlewoman from Florida knows them well, would be up in arms. So I am a representation of what they voted for. So that is the reason why we are here.

I want to just add a few more things, and then I will yield to my colleagues to make closing comments. I must say I want to share with the American people again that 48 million Americans are receiving benefits of Social Security; 33 million are retirees already. That is the AARP group, and the AARP is against this. We also have seniors that would be in poverty if it were not for the 48 percent of those are within the 48 million. The average monthly benefit is $955. And Social Security will be solvent, will be there at what we see at present levels for the next 47 years-and-some-change.

So I just want to make sure that people understand there is an issue, but there is not a crisis. There is a concern, but it is not an emergency. So it is important that we realize we have a war going on in Iraq, as a matter of fact, two of them, in Afghanistan. We have this other little thing that we are calling, which is a big issue, $724 billion in the prescription drug plan, and then we also have, and I must add, this supplemental. We have an $80 billion supplemental that is coming before us, and the Department of Homeland Security to protect the homeland is only $40 billion. So when we look at it in the big scheme of things, sheriffs, mayors, elected officials on the local level, they are looking for the dollars to come down, and they can see where they fall as it relates to receiving their fair share of protecting the home front.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, actually what I want to close with is I want to quote the President because the President has said that leadership means not passing problems on to future generations and future Presidents. And I take him at his word, and I am hopeful that we do not go forward with this proposal because this plan to privatize Social Security flies in the face of his stated belief that we need to exercise some leadership and make sure that Social Security is preserved into the future for our generation and for our children's generation. And I look forward to working with both gentlemen.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I hope we continue this discussion. It is nice because it is not a 30-second ad. We can actually talk about the facts and get into a little more discussion.

I want to do this before we go. If there are any 30-somethings or 40-somethings or 20-somethings or anyone out there who wants to e-mail us, it is 30somethingdems@mail.house.gov, or they can get us on our Web site democraticleader.house.gov/30something, but they can send us an e-mail if they have any comments or stories that they want us to share, and we will pick a few next week and maybe read them on the House floor here.

But I think it is important that we recognize that this is long term and bad for our generation for all the reasons that we stated and I think most significantly $5 trillion that we have to borrow primarily from the Chinese.

Mr. MEEK of Florida. Mr. Speaker, it is always a pleasure coming to the floor. We want to thank the gentlewoman from California (Ms. PELOSI), and we appreciate the opportunity to address the House.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. FARR (at the request of Ms. PELOSI) for February 17 on account of a family emergency.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and part of March 2 on account of congressional business in the district.

Mr. GILLMOR (at the request of Mr. DELAY) for today and the balance of the week on account of illness in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. OSBORNE) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today and March 2.

Mr. OSBORNE, for 5 minutes, today.

Mr. KING of Iowa, for 5 minutes, today.

Mr. MIKE ROGERS of Michigan, for 5 minutes, today.

Mr. FORTUÑO, for 5 minutes, March 2.

Mr. BURTON of Indiana, for 5 minutes, today and March 2 and 3.

Mr. GOHMERT, for 5 minutes, March 2.

Mr. HENSARLING, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. POE, for 5 minutes, March 2.

(The following Members (at the request of Mrs. BLACKBURN) to revise and extend their remarks and include extraneous material:)

Mr. NUSSLE, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. SOLIS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 125. An act to designate the courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse"; to the Committee on Transportation and Infrastructure.

## ADJOURNMENT

Mr. MEEK of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock p.m.), the House adjourned until tomorrow, Wednesday, March 2, 2005, at 10 a.m.

## RULES AND REPORTS SUBMITTED PURSUANT TO THE CONGRESSIONAL REVIEW ACT

Pursuant to 5 U.S.C. 801(d), executive communications [final rules] submitted to the House pursuant to 5 U.S.C. 801(a)(1) during the period of May 17, 2004 through January 4, 2005, shall be treated as though received on March 1, 2005. Original dates of transmittal, numberings, and referrals to committee of those executive communications remain as indicated in the Executive Communication section of the relevant CONGRESSIONAL RECORD.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

901. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerances for Emergency Exemptions [OPP–2004–0341; FRL–7691–2] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

902. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fluroxypyr; Pesticide Tolerances for Emergency Exemptions [OPP–2005–0008; FRL–7695–2] received January 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

903. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Quinoxyfen; Pesticide Tolerances for Emergency Exemptions [OPP–2005–0009; FRL–7695–3] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

904. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Chlorfenapyr; Pesticide Tolerance [OPP–2004–0362; FRL–7696–5] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

905. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Bifenazate; Pesticide Tolerances for Emergency Exemptions [OPP–2005–0012; FRL–7696–2] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

906. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's

final rule—Syrups, Hydrolyzed Starch, Hydrogenated; Exemptions from the Requirement of a Tolerance [OPP-2005-0026; FRL-7697–9] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

907. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Quizalofop-ethyl: Pestidide Tolerance [OPP–2004–0324; FRL–7694–4] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

908. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Octanamide, N, N-dimethyl and Decanamide, N, N-dimethyl; Exemptions from the Requirement of a Tolerance [OPP–2005-0031; FRL-7698-3] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

909. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Glyphosate; Pesticide Tolerance [OPP-2005-021; FRL-7697-7] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

910. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clothianidin; Pesticide Tolerance [OPP–2004–0406; FRL–7690–2] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

911. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Avermectin Bl and its delta-8, 9-isomer; Pesticide Tolerance [OPP-2004-0400; FRL–7695–7] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

912. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Acibenzolar-S-methyl; Pesticide Tolerances for Emergency Exemptions [OPP-2004-0214; FRL-7697-8] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

913. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting notification of the 2005 compensation program adjustments, including the Agency's current salary range structure and the performance-based merit pay matrix, in accordance with Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; to the Committee on Agriculture.

914. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Major General Edward Soriano, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

915. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's semiannual Monetary Policy Report pursuant to Pub. L. 106–569; to the Committee on Financial Services.

916. A letter from the Secretary, Department of Commerce, transmitting the annual report on the Emergency Steel Loan Guarantee Program, as required by Section 101(l) of Chapter 1 of Pub. L. 106-51; to the Committee on Financial Services.

917. A letter from the Secretary, Department of Commerce, transmitting the annual report on the Emergency Oil and Gas Guaranteed Loan Program as required by Section 201(h) of Chapter 2 of Pub. L. 106-51; to the Committee on Financial Services.

918. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Austria pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

919. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the Foundation's Annual Report for the year ending September 30, 2004, pursuant to 20 U.S.C. 4513; to the Committee on Education and the Workforce.

920. A letter from the Director, Agency for Healthcare Research and Quality, Department of Health and Human Services, transmitting as required by Sections 913(b)(2) and Section 902(g) of the Healthcare Research and Quality Act of 1999 (Pub. L. 106-129), reports entitled "The National Healthcare Quality Report 2004" (NHQR) and "The National Healthcare Disparities Report 2004" (NHDR); to the Committee on Energy and Commerce.

921. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Priorities List for Uncontrolled Hazardous Waste Sites [FRL–7864–1] received January 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

922. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Georgia: Final Authorization of State Hazardous Waste Management Program Revision [FRL–7864–6] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

923. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Ohio [OH 159–3; FRL–7862-8] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

924. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New York; Low Emission Vehicle Program [Region II Docket No. R02-OAR-2004-NY-0002, FRL-7851-1] received January 26, 2005, pursuant to 5 U.S.C 801(a)(1)(A); to the Committee on Energy and Commerce.

925. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans South Carolina: Definitions and General Requirements [R04–OAR-2004-SC-0002/0003-200421(a); FRL-7863-5] received January 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

926. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical [FRL–7869–5] received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

927. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units [OAR-2002-0033; AD-FRL-7969-9] (RIN: 2060–AK51) received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

928. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations [OAR-2003-0194; FRL-7869–7] (RIN: 2060–AL89) received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

929. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System [FRL-7867-4] (RIN: 2050-AE21) received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

930. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Missouri [R07–OAR–2004–MO–0005 FRL–7867–2] received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

931. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Florida: Citrus Juice Processing [FL–87; FL–89–200501, FRL–7869–2] received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

932. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maine; Portable Fuel Containers [R01–OAR–2004–ME-0003; A-1-FRL-7863-2] received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

933. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Ocean Dumping; De-designation of Ocean Dredged Material Disposal Sites and Designation of New Sites [FRL–7877–9] received February 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

934. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Texas; Revision to the Rate of Progress Plan for the Houston/Galveston (HGA) Ozone Nonattainment Area [R06-OAR-2005-TX-0004; FRL–7872–7] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

935. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Adequacy of Minnesota Municipal Solid Waste Landfill Program [FRL–7873–1] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

936. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the

Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Crosbyton, Texas) [MB Docket No. 04-340, RM–11062] (Union Gap, Washington) [MB Docket No. 04-327, RM–11063] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

937. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations. (Gainesville, Florida) [MB Docket No. 04–31, RM–10852] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

938. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

939. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on International Relations.

940. A letter from the President, African Development Foundation, transmitting a letter fulfilling the annual requirements contained in the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

941. A letter from the Inspector General, Department of Defense, transmitting in compliance with the "Federal Activities Inventory Reform Act of 1998," (Pub. L. 105–270, the FAIR Act), the inventory of commercial and inherently government activities for FY 2004; to the Committee on Government Reform.

942. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Department's 2004 inventory of activities that are not inherently governmental functions as required by Section 2 of the Federal Activities Inventory Reform (FAIR) Act of 1998, Public Law 105–270; to the Committee on Government Reform.

943. A letter from the Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting the 20th Annual Report on the activities and expenditures of the Office of Civilian Radioactive Waste Management, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Energy and Commerce.

944. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2004, pursuant to 5 U.S.C. 552b; to the Committee on Government Reform.

945. A letter from the Chairman, Federal Election Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

946. A letter from the Chairman, Federal Martime Commission, transmitting in accordance with OMB Circular No. A–11, Part 2, and the Government Performance and Results Act, the Commission's Annual Program Performance Report covering FY 2004; to the Committee on Government Reform.

947. A letter from the Counsel to the Inspector General, General Services Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

948. A letter from the Administrator, Small Business Administration, transmitting the Administration's inventories of Commercial and Inherently Governmental Activities for Fiscal Year 2004 as pursuant to the Federal Activities Inventory Reform Act, pursuant to Public Law 105—270, section 2(c)(1)(A); to the Committee on Government Reform.

949. A letter from the Chair, Election Assistance Commission, transmitting the Commission's FY 2004 Annual Report, submitted in accordance with Section 207 of the Help America Vote Act of 2002 (HAVA); to the Committee on House Administration.

950. A letter from the Secretary, Judicial Conference of the United States, transmitting the Conference's February 2005 recommendation for the authorization of additional bankruptcy judgeships and to seek support in passing legislation to create the enclosed list of positions, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.

951. A letter from the Acting Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting the Final Ecosystem Resotoration Feasibility Report and Environmental Impact Statement for the Upper Newport Bay, Orange County, California, pursuant to Section 101(b)(9) of the Water Resources Development Act (WRDA) of 2000; to the Committee on Transportation and Infrastructure.

952. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report on the regulatory status of the National Transportation Safety Board's (NTSB) "Most Wanted" Recommendations to the Department and its Operating Administrations for calendar year ended 2004, pursuant to 49 U.S.C. 1135(d) Public Law 108–168, section 6; to the Committee on Transportation and Infrastructure.

953. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans: Maine; Control of Total Reduced Sulfur From Kraft Pulp Mills [R01–OAR–2004–ME–0002a: A–1–FRL–7876–8] received February 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

954. A letter from the Chairman, Amtrak Board of Directors, National Railroad Passenger Corporation, transmitting Amtrak's annual report to Congress, reviewing the progress the company has made in the past two years and outlining Amtrak's prospects beyond FY05 with and without adequate funding, pursuant to 49 U.S.C. 24315(a)(1); to the Committee on Transportation and Infrastructure.

955. A letter from the Chair, Barry Goldwater Scholarship and Excellence in Education Foundation, transmitting the annual report of the activities of the Goldwater Foundation for FY 2004, pursuant to 20 U.S.C. 4710(b); to the Committee on Science.

956. A letter from the Deputy Secretary, Department of Veterans Affairs, transmitting the Special Medical Advisory Group's Annual Report to Congress for FY 2004, pursuant to 38 U.S.C. 4112(a); to the Committee on Veterans' Affairs.

957. A letter from the Acting Inspector General, Department of Health and Human Services, transmitting A report on the study relating to the use of hospital lifetime reserve days, pursuant to (117 Stat. 2428); to the Committee on Ways and Means.

958. A letter from the Acting Inspector General, Department of Health and Human Services, transmitting a final report on the study of the appropriateness of alternative Medicare payment methodologies for the costs of training medical residents in nonhospital settings, pursuant to Public Law 108—173; jointly to the Committees on Energy and Commerce and Ways and Means.

959. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting a copy of the the Commission's "Report to the Congress: Benefit Design and Cost Sharing in Medicare Advantage Plans," pursuant to 42 U.S.C. 1395w—21 note Public Law 108—173, section 211(h)(2); jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Pursuant to the order of the House on February 15, 2005 the following report was filed on February 25, 2005]*

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 27. A bill to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes; with an amendment (Rept. 109–9). Referred to the Committee of the Whole House on the State of the Union.

*[Submitted March 1, 2005]*

Mr. BOEHNER: Committee on Education and the Workforce. Supplemental report on H.R. 27. A bill to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes (Rept. 109–9, Pt. 2).

Mr. COLE: Committee on Rules. House Resolution 125. Resolution providing for consideration of the bill (H.R. 841) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes. (Rept. 109–10). Referred to the House Calendar.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 126. Resolution providing for consideration of the bill (H.R. 27) to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes (Rept. 109–11). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on the Judiciary was discharged from further consideration. H.R. 841 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

## REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

*[Pursuant to the order of the House on February 17, 2005 the following report was filed on February 25, 2005]*

Mr. NEY: Committee on House Administration. H.R. 841. A bill to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes, with an amendment; referred to the Committee on the Judiciary for a period ending not later than February 24, 2005. (Rept. 109–8, Pt. 1). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOM DAVIS of Virginia (for himself, Mr. PORTER, Mr. WAXMAN, Mr. DAVIS of Illinois, Mr. MORAN of Virginia, Mr. HOYER, Mr. VAN HOLLEN, Mr. WOLF, Ms. NORTON, Mrs. JO ANN DAVIS of Virginia, Mr. COBLE, Mr. KOLBE, and Mr. WYNN):

H.R. 994. A bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER (for himself, Ms. GINNY BROWN-WAITE of Florida, Mr. LEWIS of Kentucky, Mr. MARKEY, Mr. PETERSON of Minnesota, and Mr. WEXLER):

H.R. 995. A bill to amend title 10, United States Code, to provide for the payment of Combat-Related Special Compensation under that title to members of the Armed Forces retired for disability with less than 20 years of active military service who were awarded the Purple Heart; to the Committee on Armed Services.

By Mr. THOMAS:

H.R. 996. A bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust funds, and for other purposes; to the Committee on Ways and Means.

By Mr. KING of Iowa (for himself, Mr. ISTOOK, Mr. DAVIS of Tennessee, Mrs. JO ANN DAVIS of Virginia, Mr. BAKER, Mr. BURTON of Indiana, Mr. GRAVES, Mr. WILSON of South Carolina, Mr. BARTLETT of Maryland, Mr. CHABOT, Mr. WHITFIELD, Mr. GARY G. MILLER of California, Mr. TAYLOR of Mississippi, Mr. JONES of North Carolina, Mr. PAUL, Mr. NEY, Mr. GOODE, Mrs. MYRICK, Mr. CALVERT, Mr. CULBERSON, Mrs. CAPITO, Mr. DOOLITTLE, Mr. GARRETT of New Jersey, Mr. HAYES, Mr. GUTKNECHT, Mr. ALEXANDER, Mr. JENKINS, Mr. SESSIONS, Mr. WICKER, Mr. WAMP, Mr. GINGREY, Mr. BOOZMAN, Mr. ROGERS of Alabama, Mr. SHUSTER, Mr. RAMSTAD, Mr. TAYLOR of North Carolina, Mr. MCHUGH, Mr. COBLE, Mr. KNOLLENBERG, Ms. GINNY BROWN-WAITE of Florida, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Kentucky, Mr. GOODLATTE, Mr. BONNER, Mr. BOEHNER, Mrs. CUBIN, Mr. PLATTS, Mr. PITTS, Mr. PETRI, Mr. ROHRABACHER, Mr. FORBES, Mr. BACHUS, Mr. KLINE, Mr. MANZULLO, Mr. KINGSTON, Mr. PENCE, Mr. TANCREDO, and Mr. MILLER of Florida):

H.R. 997. A bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a uniform rule of naturalization under article I, section 8, of the Constitution; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PICKERING (for himself and Mr. GENE GREEN of Texas):

H.R. 998. A bill to preserve local radio broadcast emergency and other services and to require the Federal Communications Commission to conduct a rulemaking for that purpose; to the Committee on Energy and Commerce.

By Mr. ROGERS of Alabama:

H.R. 999. A bill to require the Secretary of Defense to develop and implement a plan to provide chiropractic health care services and benefits for certain new beneficiaries as part of the TRICARE program; to the Committee on Armed Services.

By Mrs. KELLY (for herself and Mrs. MCCARTHY):

H.R. 1000. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCAUL of Texas:

H.R. 1001. A bill to designate the facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, as the "Sergeant Byron W. Norwood Post Office Building"; to the Committee on Government Reform.

By Mr. FILNER (for himself and Mr. MCHUGH):

H.R. 1002. A bill to amend the definition of a law enforcement officer under subchapter III of chapter 83 and chapter 84 of title 5, United States Code, respectively, to ensure the inclusion of certain positions; to the Committee on Government Reform.

By Mr. BACA (for himself, Mr. GRIJALVA, Mr. SERRANO, and Ms. WATSON):

H.R. 1003. A bill to amend the Federal Credit Union Act to allow greater access to international remittance services, and for other purposes; to the Committee on Financial Services.

By Mr. BAIRD:

H.R. 1004. A bill to amend title 4 of the United States Code to prohibit a State from imposing a discriminatory tax on income earned within such State by nonresidents of such State; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.R. 1005. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over for use in medical research conducted through the Department of Veterans Affairs; to the Committee on Ways and Means, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUMENAUER (for himself, Mr. MANZULLO, Mr. HOLDEN, Mr. MURTHA, Ms. WOOLSEY, Mrs. MCCARTHY, Mr. MORAN of Virginia, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. MARKEY, Mr. BERMAN, Mr. OWENS, Mrs. KELLY, Ms. CARSON, Mr. GEORGE MILLER of California, Mrs. LOWEY, Mr. MICHAUD, Mr. EVANS, Mr. CARDOZA, Mr. BAIRD, Mr. GOODE, Mr. RANGEL, Ms. ESHOO, Mr. ENGLISH of Pennsylvania, Mr. ALLEN, Mr. SCHIFF, Mr. KUCINICH, Ms. BALDWIN, Mr. MCNULTY, Mr. UDALL of New Mexico, Ms. WATSON, Mr. FARR, Mr. CONYERS, Mr. SPRATT, Mr. CUMMINGS, and Mr. SHIMKUS):

H.R. 1006. A bill to amend title 39, United States Code, to provide that the procedures relating to the closing or consolidation of a post office be extended to the relocation or construction of a post office, and for other purposes; to the Committee on Government Reform.

By Mr. CALVERT:

H.R. 1007. A bill to provide for the conveyance of a small parcel of Natural Resources Conservation Service property in Riverside, California, and for other purposes; to the Committee on Agriculture.

By Mr. CALVERT (for himself, Mr. LEWIS of California, and Mr. ISSA):

H.R. 1008. A bill to authorize the Secretary of the Interior to participate in the design and construction of the Riverside-Corona Feeder in cooperation with the Western Municipal Water District of Riverside, California; to the Committee on Resources.

By Ms. DELAURO:

H.R. 1009. A bill to designate the western breakwater for the project for navigation, New Haven Harbor, Connecticut, as the "Charles Hervey Townshend Breakwater"; to the Committee on Transportation and Infrastructure.

By Mr. FOLEY (for himself, Mr. POMEROY, Mr. SHAW, Mr. CANTOR, Mr. TANNER, Mr. ENGLISH of Pennsylvania, Ms. HARRIS, Mr. HOLT, and Mr. TERRY):

H.R. 1010. A bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. CROWLEY, Mrs. LOWEY, Ms. JACKSON-LEE of Texas, Mr. ISRAEL, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1011. A bill to provide financial assistance to the United Nations Population Fund to provide urgent medical and health care to tsunami victims in Indonesia, the Maldives, and Sri Lanka; to the Committee on International Relations.

By Mr. MICHAUD (for himself and Mr. ALLEN):

H.R. 1012. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MORAN of Virginia (for himself and Mr. MCGOVERN):

H.R. 1013. A bill to direct the Consumer Product Safety Commission to promulgate a rule that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Energy and Commerce.

By Mrs. MUSGRAVE:

H.R. 1014. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 1015. A bill to designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia as the "William B. Bryant Annex"; to the Committee on Transportation and Infrastructure.

By Mr. OTTER (for himself, Mr. PAUL, Mr. OBERSTAR, Mr. SIMPSON, Mr. ROSS, Mr. PETERSON of Minnesota, Mr. KILDEE, Mr. SANDERS, Mr. MARSHALL, Mrs. EMERSON, Mr. KENNEDY of Minnesota, Mr. HASTINGS of Washington, Mr. KOLBE, Mr. GORDON, Mr. MCHUGH, and Mr. DAVIS of Kentucky):

H.R. 1016. A bill to amend title XVIII of the Social Security Act to clarify payment for clinical laboratory tests furnished by critical access hospitals under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. SAM JOHNSON of Texas, Mr. MILLER of Florida, Mrs. JO ANN DAVIS of Virginia, Mr. GARRETT of New Jersey, Mr. BARRETT of South Carolina, and Mr. GOODE):

H.R. 1017. A bill to prohibit United States voluntary and assessed contributions to the United Nations if the United Nations imposes any tax or fee on any United States person or continues to develop or promote proposals for such a tax or fee; to the Committee on International Relations.

By Mr. RANGEL:

H.R. 1018. A bill to repeal the requirements under the United States Housing Act of 1937 for residents of public housing to engage in community service and to complete economic self-sufficiency programs; to the Committee on Financial Services.

By Mr. RENZI:

H.R. 1019. A bill to modify the boundary of the Casa Grande Ruins National Monument, and for other purposes; to the Committee on Resources.

By Mr. ROGERS of Michigan:

H.R. 1020. A bill to declare adequate pain care research, education, and treatment as national public health priorities, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Armed Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER:

H.R. 1021. A bill to provide for a prize program to encourage development of space and aeronautics technologies and establish an endowment to further educate and inspire the public's interest in space and aeronautics; to the Committee on Science.

By Mr. ROHRABACHER (for himself, Mr. NADLER, and Mr. WEINER):

H.R. 1022. A bill to provide for a Near-Earth Object Survey program to detect, track, catalogue, and characterize certain near-earth asteroids and comets; to the Committee on Science.

By Mr. ROHRABACHER:

H.R. 1023. A bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; to the Committee on Science.

By Mr. ROHRABACHER (for himself, Mr. CALVERT, Ms. HARMAN, Mr. WELDON of Florida, and Mr. LUCAS):

H.R. 1024. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for investing in companies involved in space-related activities; to the Committee on Ways and Means.

By Mr. ROYCE (for himself, Mr. KANJORSKI, Mr. NEY, Mrs. MALONEY, Mr. JONES of North Carolina, Mr. SHERMAN, Mr. PAUL, Mr. MEEKS of New York, and Mrs. JONES of Ohio):

H.R. 1025. A bill to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien, and for other purposes; to the Committee on Financial Services.

By Mr. SHIMKUS (for himself and Mr. MCCOTTER):

H.R. 1026. A bill to foster cross-border cooperation in Northern Europe; to the Committee on International Relations.

By Mr. SNYDER:

H.R. 1027. A bill to release to the State of Arkansas a reversionary interest in Camp Joseph T. Robinson; to the Committee on Armed Services.

By Mr. TIAHRT:

H.R. 1028. A bill to amend the Occupational Safety and Health Act of 1970 with respect to enforcement provisions; to the Committee on Education and the Workforce.

By Mr. WU (for himself, Mr. SIMMONS, Ms. LEE, Mr. BERRY, Mr. HOLDEN, Ms. WATSON, Mr. WEINER, Mr. HINCHEY, Mr. DOYLE, Mrs. JONES of Ohio, Mr. LANTOS, Mrs. CHRISTENSEN, Ms. BERKLEY, Mr. OLVER, Mr. WEXLER, Mr. MCNULTY, Mr. TOWNS, Mr. WAXMAN, Ms. SLAUGHTER, Mr. MCINTYRE, Mrs. MALONEY, Mr. MARKEY, Mr. MCGOVERN, Mr. SCOTT of Georgia, Mr. BROWN of Ohio, Mr. RAHALL, Mr. PAYNE, Mr. BLUMENAUER, Mr. ABERCROMBIE, Mr. ISRAEL, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. ETHERIDGE, Mr. FORD, Mr. BRADY of Pennsylvania, Mr. GREEN of Wisconsin, Mr. STUPAK, Mr. MCDERMOTT, Mr. BISHOP of Georgia, Ms. MILLENDER-MCDONALD, Ms. BORDALLO, Mr. CUMMINGS, Mr. DELAHUNT, Mr. BOUCHER, Ms. KILPATRICK of Michigan, Mr. GOODE, Mr. FILNER, Mr. OWENS, Mr. UDALL of Colorado, Mr. PALLONE, Mr. HOLT, Mr. UDALL of New Mexico, Ms. ESHOO, Ms. BALDWIN, Mr. CONYERS, Mr. WALSH, Mr. GENE GREEN of Texas, Mr. ROSS, Mr. LARSON of Connecticut, Mr. SPRATT, Mr. LIPINSKI, Mr. TAYLOR of Mississippi, and Mr. PUTNAM):

H.R. 1029. A bill to permit refinancing of Federal student consolidation loans, and to permit students freedom to select a student loan consolidator; to the Committee on Education and the Workforce.

By Mr. WU:

H.R. 1030. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to enter into agreements with private for-profit organizations for the provision of work-study employment; to the Committee on Education and the Workforce.

By Mr. WU:

H.R. 1031. A bill to encourage partnerships between community colleges and four-year colleges and universities; to the Committee on Education and the Workforce.

By Mr. WU:

H.R. 1032. A bill to eliminate the termination date on authority for schools with low default rates to make single disbursements of student loans; to the Committee on Education and the Workforce.

By Mr. WU (for himself, Mr. HASTINGS of Florida, Mr. MCGOVERN, Mr. BROWN of Ohio, Ms. LEE, Mr. GONZALEZ, Mr. TOWNS, Mr. BRADY of Pennsylvania, Mr. CUMMINGS, Ms. KILPATRICK of Michigan, Mr. WEXLER, Mr. KENNEDY of Rhode Island, and Ms. MCCOLLUM of Minnesota):

H.R. 1033. A bill to amend the Internal Revenue Code of 1986 to repeal the limitations on the maximum amount of the deduction of interest on education loans; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts:

H. Con. Res. 79. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation; to the Committee on House Administration. considered and agreed to.

By Mr. EVANS (for himself, Ms. CORRINE BROWN of Florida, Mr. SNYDER, Mr. JONES of North Carolina, Mr. HONDA, Ms. CARSON, Mr. CUMMINGS, Mr. SCOTT of Georgia, Mrs. MCCARTHY, Mr. HASTINGS of Florida, Mr. BISHOP of Georgia, Mr. TOWNS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. JACKSON-LEE of Texas, Mr. MEEKS of New York, Ms. WATERS, Mr. FILNER, Mr. MURTHA, Ms. HARRIS, Mr. HIGGINS, Mr. PAYNE, Ms. MOORE of Wisconsin, Mr. CONYERS, Ms. KILPATRICK of Michigan, and Ms. MILLENDER-MCDONALD):

H. Con. Res. 80. Concurrent resolution commemorating the service to the Nation during World War II of the African-American members of the United States Marine Corps who came to be known as the Montford Point Marines; to the Committee on Armed Services.

By Mr. WEINER (for himself, Mr. NADLER, Mr. ACKERMAN, Mr. BEAUPREZ, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of New York, Mr. BURTON of Indiana, Mr. CANNON, Mr. CANTOR, Mr. CARDIN, Mr. COX, Mr. CROWLEY, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. ENGEL, Mr. FERGUSON, Mr. FILNER, Mr. FOSSELLA, Mr. GRIJALVA, Ms. HARMAN, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. KINGSTON, Mr. LEACH, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY, Mr. MCCOTTER, Mr. MCNULTY, Mr. MENENDEZ, Mr. MICHAUD, Mr. NEY, Mr. NORWOOD, Mr. PALLONE, Mr. PENCE, Mr. PORTMAN, Mr. ROTHMAN, Mr. SANDERS, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ of Pennsylvania, Mr. SHIMKUS, Mr. SOUDER, Mr. TERRY, Mr. TOWNS, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Mr. WAXMAN, Mr. WEXLER, Mr. WOLF, and Mr. WYNN):

H. Res. 124. A resolution congratulating Jewish communities on their seven year completion of the 11th cycle of the daily study of the Talmud; to the Committee on Government Reform. considered and agreed to.

By Mr. BACA (for himself, Mr. GONZALEZ, Mr. HONDA, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mr. MCDERMOTT, Ms. MILLENDER-MCDONALD, Mr. ORTIZ, Mr. OWENS, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. JACKSON of Illinois, Mr. PAYNE, and Mr. TOWNS):

H. Res. 127. A resolution urging the establishment and observation of a legal public holiday in honor of Cesar E. Chavez; to the Committee on Government Reform.

By Mr. CUELLAR (for himself, Mr. BARTON of Texas, Mr. CULBERSON, Mr. AL GREEN of Texas, Mr. MCCAUL of Texas, Mr. CONAWAY, Mr. PAUL, Mr. HINOJOSA, Mr. EDWARDS, Mr. NEUGEBAUER, Mr. GONZALEZ, Mr. BONILLA, Mr. DOGGETT, Mr. ORTIZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BUTTERFIELD, and Mr. SMITH of Texas):

H. Res. 128. A resolution recognizing the 250th anniversary of Laredo, Texas; to the Committee on Government Reform.

By Mr. HUNTER:

H. Res. 129. A resolution providing amounts for the expenses of the Committee on Armed Services in the One Hundred Ninth Congress; to the Committee on House Administration.

By Mr. MANZULLO (for himself and Ms. VELÁZQUEZ):

H. Res. 130. A resolution recognizing the contributions of environmental systems and the technicians who install and maintain them to the quality of life of all Americans and supporting the goals and ideals of National Indoor Comfort Week; to the Committee on Small Business.

By Mr. MOLLOHAN:

H. Res. 131. A resolution amending rule XI of the Rules of the House of Representatives with regard to the procedures of the Committee on Standards of Official Conduct; to the Committee on Rules.

By Mr. WU:

H. Res. 132. A resolution to express the sense of the House of Representatives that the maximum Pell Grant should be increased to $5,800; to the Committee on Education and the Workforce.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. KENNEDY of Minnesota:

H.R. 1034. A bill for the relief of Jose Manuel Guzman-Morales; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 1035. A bill to authorize the Secretary of the department in which the Coast Guard is operating to issue a certificate of documentation with appropriate endorsement for employment in the fisheries and coastwise trade for the vessel MONTAGUE; to the Committee on Transportation and Infrastructure.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. SNYDER, Mr. CARDOZA, Mr. RYAN of Ohio, Mr. AKIN, Mr. FITZPATRICK of Pennsylvania, Ms. KAPTUR, Mr. BROWN of Ohio, Mr. CLEAVER, and Mrs. CAPPS.

H.R. 22: Mr. DICKS, Ms. HARMAN, Mr. FORD, Mr. SHERMAN, Ms. WATSON, Ms. LORETTA SANCHEZ of California, and Mr. CASE.

H.R. 23: Mr. GRIJALVA, Mr. DOGGETT, Mr. EMANUEL, Ms. NORTON, Mr. DEFAZIO, Mr. RUSH, Mr. ALLEN, Mr. FOLEY, Mr. SCHIFF, Mr. GUTIERREZ, Mr. GONZALEZ, Mr. LARSON of Washington, Mr. PAUL, Ms. BORDALLO, Ms. WATSON, Mr. PLATTS, Mr. STRICKLAND, Ms. HOOLEY, Mr. ORTIZ, Mr. SHIMKUS, Mr. OLVER, and Mr. MANZULLO.

H.R. 25: Mr. STEARNS, Mr. SODREL, and Mr. AKIN.

H.R. 29: Mr. ROTHMAN.

H.R. 32: Mr. FEENEY.

H.R. 34: Mr. GALLEGLY, Mr. SKELTON, Mr. PICKERING, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. HERGER, Mrs. DAVIS of California, Mr. CAPUANO, Mr. WHITFIELD, and Ms. BORDALLO.

H.R. 37: Mr. MORAN of Kansas.

H.R. 40: Ms. MCKINNEY and Ms. BORDALLO.

H.R. 50: Mr. BOEHLERT.

H.R. 63: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PALLONE, Mr. TIERNEY, Ms. BORDALLO, Ms. KAPTUR, Mr. ABERCROMBIE, Ms. CORRINE BROWN of Florida, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. BOSWELL, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Ms. ROYBAL-ALLARD, Mr. PAYNE, Mr. LARSEN of Washington, Mr. GRIJALVA, Mr. AL GREEN of Texas, Mr. MEEKS of New York, Mr. LEWIS of Georgia, Mr. MEEHAN, Mr. SANDERS, Ms. WATSON, and Ms. MCKINNEY.

H.R. 64: Ms. ROS-LEHTINEN, Mr. SOUDER, Mr. INGLIS of South Carolina, and Mr. MURPHY.

H.R. 72: Mr. MCCOTTER.

H.R. 97: Mr. SKELTON, Mr. GOODE, and Mr. WHITFIELD.

H.R. 111: Mr. BOEHLERT, Ms. DELAURO, Mr. KILDEE, Mr. KUHL of New York, Mrs. CAPPS, Mr. LEWIS of Kentucky, Mr. RYAN of Ohio, Mr. SERRANO, and Mr. HYDE.

H.R. 114: Mr. POMEROY and Mr. CASE.

H.R. 115: Mr. PLATTS, Mr. SIMMONS, Ms. MCCOLLUM of Minnesota, Mr. VAN HOLLEN, Mr. CASE, Ms. HARMAN, Mr. MCDERMOTT, Mr. NADLER, Mr. FARR, Mr. GUTIERREZ, Ms. MILLENDER-MCDONALD, Mr. MEEHAN, Ms. WATSON, Mr FORD, Mr. ISRAEL, Mr. MCGOVERN, Mr. OLVER, Mr. SCHIFF, Mr. BERMAN, Mr. NEAL of Massachusetts, and Ms. BORDALLO.

H.R. 128: Mr. THOMPSON of Mississippi, Mr. OWENS, Mr. HINOJOSA, Mr. CARDOZA, Mr. MEEK of Florida, and Mr. FOSSELLA.

H.R. 135: Mr. BISHOP of Georgia.

H.R. 137: Mr. BARRETT of South Carolina.

H.R. 147: Mr. PRICE of North Carolina, Mr. ROYCE, Mr. DINGELL, Mr. PASTOR, Mr. KENNEDY of Rhode Island, Ms. LORETTA SANCHEZ of California, Mr. BOYD, Mr. TURNER, Mr. REYES, and Mr. CONAWAY.

H.R. 179: Mr. FEENEY.

H.R. 180: Mr. FEENEY and Mr. WICKER.

H.R. 181: Mr. CALVERT, Mr. CAMP, and Mr. MANZULLO.

H.R. 188: Ms. MOORE of Wisconsin and Ms. KILPATRICK of Michigan.

H.R. 213: Mr. VAN HOLLEN.

H.R. 226: Mr. MCCOTTER.

H.R. 282: Mr. MCHUGH and Mr. WAXMAN.

H.R. 302: Mr. LIPINSKI and Mr. TIERNEY.

H.R. 303: Mrs. DAVIS of California, Mr. PRICE of North Carolina, Mr. DEFAZIO, Ms. BORDALLO, Mr. ETHERIDGE, Mr. WHITFIELD, and Mr. GORDON.

H.R. 311: Mr. ISRAEL, Mr. MATHESON, Mr. CLAY, Mr. FORD, Ms. BEAN, Mr. CAPUANO, Mr. RYAN of Ohio, Mr. STRICKLAND, Mr. BISHOP of New York, Ms. KAPTUR, Mr. SABO, Ms. VELÁZQUEZ, Mr. UDALL of Colorado, Mr. CARDOZA, Mr. GRIJALVA, Mr. PASTOR, Mr. BAIRD, Mrs. TAUSCHER, Mr. AL GREEN of Texas, Mr. HOLT, Mr. WYNN, Mr. GONZALEZ, and Mr. INSLEE.

H.R. 312: Mr. THOMPSON of California.

H.R. 313: Mr. MCHENRY.

H.R. 314: Mr. MCHENRY.

H.R. 333: Mr. UDALL of New Mexico, Ms. MCCOLLUM of Minnesota, Mr. CONYERS, Mr. CUMMINGS, and Mr. CASE.

H.R. 354: Mr. LOBIONDO and Mr. LARSEN of Washington.

H.R. 358: Mr. BEAUPREZ, Ms. ESHOO, Mr. MOORE of Kansas, Mr. BISHOP of Georgia, Mr. MELANCON, Mr. FORD, Mr. PETERSON of Minnesota, Mr. CARDOZA, Mr. CARDIN, Mr. ANDREWS, Mr. GORDON, Mr. ADERHOLT, Mr. WALDEN of Oregon, Mr. CUELLAR, Mr. HUNTER, Mr. BACHUS, Mr. SIMPSON, Mr. WEXLER, and Mr. ROGERS of Michigan.

H.R. 380: Ms. HART, Mr. JEFFERSON, Mr. HASTINGS of Florida, Mr. WELDON of Florida, Mr. BUTTERFIELD, Mr. FEENEY, and Mr. MCINTYRE.

H.R. 389: Mr. SHAYS, Mr. LYNCH, Ms. JACKSON-LEE of Texas, Mr. MEEKS of New York, Mr. RANGEL, Mr. ROHRABACHER, Mr. TANNER, Mr. SIMMONS, Mr. BROWN of Ohio, Mr. SKELTON, Mr. FORD, Mr. CALVERT, Mr. LATOURETTE, Mr. SWEENEY, Ms. SLAUGHTER, and Mr. BACHUS.

H.R. 390: Mr. LIPINSKI and Mr. FORTUÑO.

H.R. 397: Ms. KAPTUR.

H.R. 401: Mr. HOSTETTLER.

H.R. 402: Mr. RUSH.

H.R. 403: Mr. HOSTETTLER.

H.R. 404: Mr. RUSH and Mr. HOSTETTLER.

H.R. 406: Mr. HOSTETTLER and Mr. RUSH.

H.R. 408. Mr. CALVERT and Mr. BACA.

H.R. 414: Mr. REYNOLDS.

H.R. 415: Ms. WOOLSEY, Mr. PRICE of North Carolina, and Mr. GARRETT of New Jersey.

H.R. 419: Mr. MCCAUL of Texas.

H.R. 425: Mr. BROWN of Ohio.

H.R. 438: Mr. SCHIFF, Ms. WATERS, Ms. ESHOO, Ms. SOLIS, Mr. THOMPSON of California, and Mr. SHERMAN.

H.R. 459: Mr. HOSTETTLER and Mr. PALLONE. H.R. 490: Mr. WESTMORELAND.

H.R. 515: Ms. MCCOLLUM of Minnesota, Mr. DAVIS of Alabama, Mrs. JONES of Ohio, and Mr. WEXLER.

H.R. 524: Mr. OWENS.

H.R. 525: Mr. KOLBE, Mr. OXLEY, Mr. CHOCOLA, Mr. FEENEY, and Mr. TURNER.

H.R. 526: Mr. OWENS.

H.R. 533: Mr. DOGGETT, Mr. MORAN of Virginia, Mr. OLVER, Mr. HINCHEY, Mr. PALLONE, and Ms. KILPATRICK of Michigan.

H.R. 534: Mr. BOUSTANY.

H.R. 556: Mrs. TAUSCHER, Mr. BONILLA, Mr. RAMSTAD, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. GEORGE MILLER of California, Mr. MCCOTTER, Mr. PICKERING, and Mr. DAVIS of Florida.

H.R. 557: Mr. HIGGINS.

H.R. 583: Mr. DAVIS of Illinois, Mr. TOWNS, Mrs. MALONEY, Mr. BACHUS, Mr. GRIJALVA, Mr. OLVER, Mr. FARR, Mr. PALLONE, Mr. LANGEVIN, Mr. BONNER, Mr. TOM DAVIS of Virginia, and Mr. DICKS.

H.R. 593: Ms. KILPATRICK of Michigan.

H.R. 602: Mr. CANNON, Mr. OTTER, Mr. PRICE of North Carolina, Mr. PLATTS, Mr. DAVIS of Tennessee, Mr. BROWN of South Carolina, Ms. LEE, Mr. BISHOP of Georgia, Mr. WHITFIELD, Mr. PAUL, Mr. BOSWELL, Ms. HOOLEY, Mr. PAYNE, Mr. WAXMAN, Ms. CORRINE BROWN of Florida, Ms. WOOLSEY, Mr. ABERCROMBIE, Mr. INSLEE, and Mr. UDALL of Colorado.

H.R. 611: Mr. LYNCH.

H.R. 623: Mr. LAHOOD, Mr. OSBORNE, Mr. CANTOR, Mr. BAKER, Mr. GRAVES, Mrs. BLACKBURN, Mr. MORAN of Kansas, Mr. BEAUPREZ, Mr. NEY, and Mr. JENKINS.

H.R. 651: Mr. GERLACH and Ms. HERSETH.

H.R. 652: Mr. KENNEDY of Minnesota, Mr. PAUL, and Mr. PORTER.

H.R. 658: Mr. HOLDEN, Mr. PAUL, and Mr. ENGLISH of Pennsylvania.

H.R. 660: Mr. BACA, Mr. WYNN, Mr. GENE GREEN of Texas, Mrs. MCCARTHY, Mrs. LOWEY, Mr. CONYERS, Mr. TOWNS, Mr. JACKSON of Illinois, Ms. MILLENDER-MCDONALD, Ms. LEE, Ms. KILPATRICK of Michigan, Mr. DAVIS of Illinois, Mr. MCDERMOTT, Mr. OWENS, Ms. SLAUGHTER, Ms. NORTON, Mr. BISHOP of New York, Mr. SCOTT of Georgia, Mr. FORD, Ms. WATERS, Mr. SERRANO, and Mr. GRIJALVA.

H.R. 665: Ms. WOOLSEY, Ms. ESHOO, and Ms. ZOE LOFGREN of California.

H.R. 669: Mr. BOOZMAN, Ms. BORDALLO, Mr. CALVERT, Mr. ANDREWS, and Mr. WOLF.

H.R. 670: Mr. MCCAUL of Texas, Mr. PLATTS, Mr. ROGERS of Michigan, Mr. FILNER, and Mr. LAHOOD.

H.R. 691: Mr. OLVER.

H.R. 693: Mr. OWENS, Mr. WEXLER, Mr. CASE, Ms. HARRIS, Mr. PALLONE, and Mr. VAN HOLLEN.

H.R. 697: Mr. WEXLER, Mr. STRICKLAND, Mr. CONYERS, Mr. BUTTERFIELD, Mr. GEORGE MILLER of California, Mr. PALLONE, Mr. BERMAN, Mr. MCDERMOTT, Mr. HIGGINS, Mr. KILDEE, Mr. MCHUGH, and Mr. VAN HOLLEN.

H.R. 710: Mr. KUCINICH, Ms. LEE, Mr. GEORGE MILLER of California, and Mr. SABO.

H.R. 712: Mr. KENNEDY of Minnesota.

H.R. 722: Mr. PASCRELL.

H.R. 728: Mr. BOUCHER.

H.R. 731: Mr. SIMPSON, Mr. CANNON, and Mr. SALAZAR.

H.R. 752: Mr. FARR.

H.R. 758: Mr. UPTON.

H.R. 759: Mr. MICHAUD, Mrs. DAVIS of California, Mr. BUTTERFIELD, Mr. TIERNEY, Mr. GRIJALVA, Mr. DOGGETT, Mr. LANGEVIN, and Ms. BERKLEY.

H.R. 768: Mr. BRADY of Pennsylvania.

H.R. 772: Ms. SLAUGHTER, Ms. WOOLSEY, Mr. PALLONE, Mr. MCINTYRE, Mr. TAYLOR of Mississippi, Mr. ROSS, Mrs. DAVIS of California, Mr. RUSH, Mrs. MCCARTHY, Ms. WATSON, Mr. HONDA, Mrs. CAPPS, Mr. SPRATT, and Mr. PUTNAM.

H.R. 775: Mr. REHBERG.

H.R. 788: Mr. UDALL of New Mexico and Mr. BOUCHER.

H.R. 793: Mr. MORAN of Virginia, Mrs. CUBIN, Mrs. JO ANN DAVIS of Virginia, Mrs. DRAKE, Mr. MCHUGH, and Mr. RYUN of Kansas.

H.R. 798: Mr. LATOURETTE, Mr. SCHWARZ of Michigan, Mr. TANNER, Mr. FORD, Mr. LIPINSKI, and Ms. HOOLEY.

H.R. 799: Mr. KUCINICH.

H.R. 800: Mr. LATOURETTE, Mr. KUHL of New York, Mrs. BIGGERT, Mr. JINDAL, Mr. ALEXANDER, Mr. ROSS, Mr. RADANOVICH, Mr. POMEROY, Mr. DUNCAN, Mr. WHITFIELD, Mr. POE, Mrs. KELLY, Mr. MCCAUL of Texas, Mr. KINGSTON, Ms. FOXX, Mr. MURTHA, Mr. MURPHY, and Mr. JONES of North Carolina.

H.R. 809: Mr. DREIER, Mr. MACK, Mr. COX, Ms. GRANGER, Mrs. BLACKBURN, Mr. GALLEGLY, Mrs. BIGGERT, Mr. CANNON, Mr. LINDER, Mr. KUHL of New York, and Ms. HART.

H.R. 812: Mr. . OWENS and Mr. RUPPERSBERGER.

H.R. 815: Mr. BARTLETT of Maryland, Mr. SMITH of Texas, Mrs. MYRICK, and Mr. ALEXANDER.

H.R. 818: Ms. SCHAKOWSKY.

H.R. 819: Ms. PRYCE of Ohio.

H.R. 820: Mrs. LOWEY and Mr. MCINTYRE.

H.R. 838: Mr. VAN HOLLEN, Mr. SCHIFF, Mr. WOLF, and Mr. FORD.

H.R. 842: Ms. WATSON.

H.R. 859: Mr. SHUSTER, Mr. RUSH, Mr. PLATTS, and Mr. BOSWELL.

H.R. 871: Mr. BUTTERFIELD, Mrs. MALONEY, Mr. POMEROY, Mr. UDALL of Colorado, Mr. SALAZAR, Mr. MEEHAN, Mr. FORD, Mr. PAYNE, and Mr. EMANUEL.

H.R. 893: Mr. GONZALEZ, Mr. SERRANO, and Mr. WU.

H.R. 895: Mr. OWENS.

H.R. 900: Mr. MCDERMOTT.

H.R. 901: Mr. MCDERMOTT.

H.R. 909: Mr. OWENS.

H.R. 912: Mr. HYDE, Mr. BURTON of Indiana, Mr. ENGLISH of Pennsylvania, Mr. ABERCROMBIE, Ms. HARRIS, and Mr. KUHL of New York.

H.R. 913: Mr. SESSIONS, Mr. CASE, Mr. CHANDLER, Mr. KIND, and Mr. HONDA

H.R. 920: Mr. ENGLISH of Pennsylvania, Mr. WOLF, Mr. GALLEGLY, Mr. WILSON of South Carolina, Ms. HARRIS, Mr. MCCRERY, and Mr. HOEKSTRA.

H.R. 921: Mr. PAYNE, Mr. CLAY, Mr. OWENS, and Ms. WATSON.

H.R. 923: Mr. ANDREWS, Mr. OBERSTAR, and Mr. FILNER.

H.R. 934: Mr. SANDERS, Mrs. LOWEY, Mr. HOLT, Mr. REHBERG, Mr. MENENDEZ, Mr. PRICE of North Carolina, Mr. MCINTYRE, and Mr. ISRAEL.

H.R. 940: Mr. FEENEY.

H.R. 944: Ms. SCHAKOWSKY.

H.R. 952: Mr. VAN HOLLEN, Mr. WEXLER, Ms. SOLIS, Mr. MOLLOHAN, Mr. PALLONE, Mr. CUMMINGS, Ms. WATERS, and Mr. GUTIERREZ.

H.R. 976: Mr. HALL, Mr. SMITH of New Jersey, Mr. HAYES, Mr. THORNBERRY, Mr. MCHUGH, Mr. MORAN of Kansas, and Mr. KUHL of New York.

H.R. 986: Mr. MCINTYRE, Mr. BOUCHER, Ms. LEE, and Mr. ALEXANDER.

H.J. Res. 10: Mr. PETERSON of Minnesota, Mr. HYDE, and Mr. MURPHY.

H. Con. Res. 10: Mr. SMITH of New Jersey.

H. Con. Res. 18: Mr. HERGER, Ms. SCHWARTZ of Pennsylvania, and Mr. MCCOTTER.

H. Con. Res. 31: Mr. PENCE, Mr. MCNULTY, Mr. DAVIS of Illinois, and Mr. BOOZMAN.

H. Con. Res. 32: Mr. PENCE, Mr. MCCOTTER, Mr. WILSON of South Carolina, Mr. BOOZMAN, Mr. WYNN, Mr. CASE, Ms. HARRIS, Mr. CHANDLER, Mr. MACK, and Ms. SCHWARTZ of Pennsylvania.

H. Con. Res. 38: Ms. LEE and Mr. WAXMAN.

H. Con. Res. 42: Ms. BALDWIN, Mr. HENSARLING, Mr. KILDEE, Mr. REYNOLDS, and Mr. WEXLER.

H. Con. Res. 45: Mr. CHANDLER, Mr. MOORE of Kansas, Mr. ISRAEL, Mr. OWENS, Ms. ZOE LOFGREN of California, Mr. BURGESS, Ms. SLAUGHTER, Mr. HOYER, Mr. GRIJALVA, Mr. RYAN of Ohio, and Mr. RANGEL.

H. Con. Res. 47: Mr. KENNEDY of Rhode Island and Mr. HIGGINS.

H. Con. Res. 57: Mr. LARSON of Connecticut, Mr. HASTINGS of Florida, Mr. WYNN, Ms. MCKINNEY, Mr. OWENS, Ms. KILPATRICK of Michigan, Mr. RUSH, Ms. JACKSON-LEE of Texas, Mr. CLAY, Mr. PAYNE, Mr. MCDERMOTT, Mr. CUMMINGS, Mr. BRADY of Pennsylvania, Mr. CONYERS, Ms. KAPTUR, Mr. EMANUEL, and Ms. LEE.

H. Con. Res. 63: Mr. MCCOTTER and Mr. FITZPATRICK of Pennsylvania.

H. Con. Res. 71: Ms. WOOLSEY and Ms. KAPTUR.

H. Con. Res. 76: Mr. FRANKS of Arizona, Mr. AKIN, Mr. SIMMONS, Mr. TANCREDO, Mr. NORWOOD, Mr. GREEN of Wisconsin, Mr. MOORE of Kansas, Mr. KINGSTON, Mr. ENGLISH of Pennsylvania, and Mr. BUTTERFIELD.

H. Res. 37: Mr. LANTOS, Mr. MCNULTY, Mr. WHITFIELD, Mr. WEXLER, and Mr. BOOZMAN.

H. Res. 79: Mr. ORTIZ, Mr. SERRANO, Mr. HINOJOSA, Mr. GRIJALVA, Mr. REYES, Ms. LINDA T. SÁNCHEZ of California, Mrs. NAPOLITANO, and Mr. BACA.

H. Res. 84: Mr. GILLMOR, Mr. MCCOTTER, Mr. ROGERS of Michigan, Mr. PAUL, Mr. DUNCAN, Mr. TURNER, and Mrs. BIGGERT.

H. Res. 85: Mr. FORD, Mr. LARSEN of Washington, Mr. VAN HOLLEN, Ms. ESHOO, Mr. PLATTS, Mr. SMITH of Washington, Mr. HINCHEY, Mr. BROWN of South Carolina, Mrs. NORTHUP, Mr. SANDERS, Mr. SPRATT, and Mr. WILSON of South Carolina.

H. Res. 90: Mr. INSLEE, Mr. LANTOS, Mr. GEORGE MILLER of California, Mr. RANGEL, Mr. ENGLISH of Pennsylvania, Mr. HASTINGS of Florida, and Ms. JACKSON-LEE of Texas.

H. Res. 101: Ms. SCHWARTZ of Pennsylvania, Ms. WATSON, Ms. BERKLEY, Mr. PENCE, Mr. FRANKS of Arizona, Mrs. MALONEY, Mr. GILLMOR, Mr. LANTOS, Mr. MCCAUL of Texas, Mr. DAVIS of Florida, and Mr. EMANUEL.

H. Res. 116: Mr. MCDERMOTT, Mr. DOGGETT, Mr. CONYERS, Mr. CASE, Mr. MEEHAN, Ms. WATSON, and Mr. EMANUEL.

H. Res. 120: Mr. CROWLEY, Mr. LANTOS, Mr. PALLONE, Mrs. CHRISTENSEN, Mr. GRIJALVA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCGOVERN, Mr. SNYDER, Ms. WATSON, Mr. BROWN of Ohio, Mr. OWENS, Ms. BORDALLO, Ms. MILLENDER-MCDONALD, Mr. CASE, Mr. WOLF, Mr. HOLDEN, Mrs. MCCARTHY, Mr. OSBORNE, Ms. KILPATRICK of Michigan, Mr. SCHIFF, Mr. PAYNE, Mr. TOWNS, Ms. MCCOLLUM of Minnesota, Mr. LYNCH, Mrs. MALONEY, Mr. BERMAN, and Mr. KUHL of New York.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 444: Mr. CLEAVER.

# EXTENSIONS OF REMARKS

## SALUTING PARTICIPANTS IN DISASTER RELIEF PLAN IN EAST DEER, PENNSYLVANIA

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to salute all the officers who took part in implementing a disaster relief plan on January 31, 2005 in East Deer. The members of the State Department of Environmental Protection, Coast Guard, Allegheny County hazardous materials experts, along with surrounding fire companies, police, mayors, and other elected officials in the East Deer area all responded in a way to prevent the disaster from spreading to surrounding communities.

At 5:30 a.m. on January 31, a Norfolk Southern train derailed, causing a car of anhydrous hydrogen fluoride to begin leaking. Fortunately, by 6 a.m., police and firefighters began evacuating homes. Bridges in the surrounding area were closed before the morning rush hour, further isolating the leaking car. Those members who responded to the call that morning exemplify the ideals of leadership and bravery.

I ask my colleagues in the United States House of Representatives to join me in honoring these brave offices. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute those citizens who prevented a dangerous situation from escalating into a disaster, and demonstrating public service and the meaning of bravery.

---

## ONE OF THE GREAT FIGURES IN AMERICAN SKIING

### HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. SANDERS. Mr. Speaker, I rise today to celebrate the life of Virginia Cochran, known to generations of Vermont children as Ginny, who died last week at the age of 74.

In 1961 Ginny Cochran and husband, Mickey, created a ski slope in their backyard and opened it as Cochran's Ski Area. In its early years it was a training course for all four Cochran children, Marilyn, Bobby, Barbara Ann, and Lindy. As everyone in Vermont knows, all four proceeded to compete and win in the Olympics and on the World Cup, FIS, and U.S. national circuits.

While Mickey groomed, maintained and expanded the course, Ginny began an afterschool skiing program, which taught generations of Vermont schoolchildren, and countless other families to ski. The 10,000 children who learned to ski at Cochran's all remember with deep fondness the kind, energetic, and passionate woman who taught them.

Ginny's method of teaching was revolutionary. She taught parents to teach their own children to ski. Of course, for every child who was frightened of going down the small instructional hill, for every child who needed help in learning to go up the Mighty Mite ski lift, Ginny was there with advice and support. She encouraged children to extend themselves, to compete not so much against others as with themselves, and to be more than they thought they could be. Every week of the ski season saw Lollipop races at Cochran's, where skiers as young as four and five years of age would compete against Olympic gold medalist Barbara Ann and her mother, Ginny, and World Cup winners Bobby and Marilyn and Lindy.

Today it is no surprise that skiers who learned to ski at Cochran's compete on the U.S. national team, including Ginny's grandson Jimmy, the U.S. National slalom and GS champion, and her granddaughter Jessica, with both silver and bronze in the National championships, have won collegiate championships, like grandson Roger Brown, slalom, and ski for major college ski teams such as Dartmouth, Middlebury and UVM.

More important than such successes, however, are the generations of young people who learned that hard work brings many rewards, including loving what you work at and a maturity which has been shaped by self-discipline as well as joy. Ginny Cochran and her husband, Mickey, knew the importance of combining hard work with pleasure, and taught it to their children and many others. Over the course of decades, with great commitment, Ginny not only taught children to ski, but to take their lives as seriously as she taught them to take skiing. It is a tribute to her as role model that her children, Barbara Ann and Lindy at Cochran's, and Marilyn at Hanover, NH, High School and the Quechee Ski Club, continue the legacy of their mother in teaching young people to ski, and through the lessons learned in skiing, they will reach a rich and fulfilling adulthood. Today, many of her former students are coaches and teachers of skiing.

I know that Cochran's Ski Area, with its Mighty Mite lift and its fast but clearly anachronistic rope tow, will never compete in vertical feet with our State's large ski areas. But Ginny Cochran's work in hewing a ski area out of a forested mountainside in Richmond, Vermont, is not an anachronism: Through the work and commitment and vision she put into it, it remains one of our great Vermont institutions. More importantly, the lives she touched and shaped are part of her enduring legacy to the State of Vermont.

---

## IN HONOR OF MR. MANUEL SANTANA

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. FARR. Mr. Speaker, I rise today to honor Manuel Santana, a devoted member of our community. Mr. Santana was born and raised in Los Angeles. Though he is a favorite local artist and restaurateur, Mr. Santana focused academically on education, psychology and sociology, receiving a degree from Los Angeles State College in 1950.

In 1952, Mr. Santana was recognized as a burgeoning young artist and offered a scholarship to Otis Art Institute. At the Institute, Mr. Santana studied painting and composition with such noteworthy artists as Martin Lubner, Morton Dimonstein and Arnold Mesches.

Since that time, Mr. Santana has been dedicated to the Santa Cruz community, a commitment that has lasted for over 40 years. Mr. Santana's community service includes founding the Martin Luther King Committee, receiving an award as a UCSC Fellow for Merrill College, directing numerous civic organizations, and serving several terms as President of the Cabrillo Music Festival. Mr. Santana's dedication to the arts and our community has enhanced our cultural and artistic intellect and we are most appreciative for his involvement.

In addition to Mr. Santana's dedication to the arts, his profound knowledge of delicious Mexican cuisine is legendary in the 17th District. Mr. Santana owned and operated two Mexican restaurants, both renowned for their menu and atmosphere. Manuel's Mexican Restaurant in Aptos is celebrating its 40th year of operation, a testament to its reputation as a local favorite. Also owned and operated by Mr. Santana is his beautiful and magical Jardines de San Juan located in historic San Juan Bautista.

Mr. Speaker, I would like to express my deepest gratitude to Mr. Santana for his ceaseless support of the arts and community. It truly is an honor to speak on his behalf and I wish him and the Santana family all the best.

---

## IN RECOGNITION OF DAVID J. SALIE

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. ROGERS of Alabama. Mr. Speaker, SFC David J. Salie, 34, of Columbus, Georgia, died on February 14, 2005, in Iraq. Sergeant Salie was assigned to B Company, 2nd Battalion, 69th Armor Regiment, 3rd Infantry Division, based at Fort Benning, Georgia, and according to initial reports died when his military vehicle was struck by an improvised explosive device. He is survived by his wife Deanna; his mother Patricia H. Miers of Phenix City, Alabama; his father Jim Salie of Box Springs, Georgia; and many other family members including his children.

David Salie was eager to serve his country, Mr. Speaker. He served almost 17 years in the Army, including combat tours in the Persian Gulf, Panama and Haiti, and like every other soldier he dutifully left behind his family and loved ones to serve our country overseas.

Words cannot express the sense of sadness we have for his family, and for the gratitude our country feels for his service. Sergeant Salie died serving not just the United States, but the entire cause of liberty, on a noble mission to help spread the cause of freedom in Iraq and liberate an oppressed people from tyrannical rule. He was a true American.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve.

Thank you, Mr. Speaker, for the House's remembrance on this mournful day.

---

## TRIBUTE TO NATIONAL TRUCK EQUIPMENT ASSOCIATION

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. KNOLLENBERG. Mr. Speaker, I rise today to recognize a fine organization in my congressional district, the National Truck Equipment Association, NTEA, which is the leading association supporting the commercial truck and transportation equipment industry.

Established in 1964, the NTEA supports the $86 billion commercial truck and transportation equipment industry. The Association currently represents nearly 1,600 companies that manufacture, distribute, install, sell and repair commercial trucks, truck bodies, truck equipment, trailers and accessories.

The multi-service work trucks produced by NTEA member companies are vitally important to our Nation's economic system and our day-to-day living. Almost all delivery, utility, repair, maintenance, disposal/recycling and emergency services, as well as the construction and agricultural industries, utilize commercial vehicles. These versatile vehicles enable us to deliver goods, construct and repair roads, homes and buildings, transport people, provide emergency fire, medical and rescue services, install and repair utilities, collect trash for disposal and recycling, control snow and ice, and operate farms, among many other services.

At the heart of today's commercial truck and transportation equipment industry are an estimated 4,000 small businesses, many of them family-owned, about 2,000 of which operate as distributorships. In aggregate, the work truck and equipment industry has annual sales of more than $90 billion and employs more than 75,000 people.

This week, NTEA will host its 41st Annual National Truck Equipment Association Convention and Work Truck Show, one of the largest trade events in the United States. The show, which represents the largest gathering of work trucks and equipment in North America, will bring together manufacturers, distributors, fleet managers, leasing companies, dealers, buyers and users of work trucks in all industries in an environment designed to deliver the newest products, encourage peer interaction and enhance professional development.

In honor of this 41st Annual Convention, I want to commend NTEA and its member companies for their significant contributions to the country. I look forward to working together with NTEA to build upon its achievements to make the association even stronger for the future.

---

## HONORING BERKELEY VICE MAYOR MAUDELLE SHIREK

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. LEE. Mr. Speaker, I rise today to honor the life and work of an extraordinary woman and one of my political heroes, Berkeley Vice Mayor Maudelle Shirek. In the nearly four decades Maudelle has spent as an activist, community leader, and elected official in the East Bay, she has exemplified not only what it means to be a true public servant, but through her efforts as a leader and a mentor has inspired countless members of younger generations to become involved in politics and to actively work for positive change within their communities and beyond.

A granddaughter of slaves, Maudelle came to the Bay Area over 60 years ago from Jefferson, Arkansas. Before long she became an activist for fair housing and civil rights for African Americans as well as other disenfranchised populations. She later went on to become an office manager and labor organizer at the Co-Op Credit Union, helping many people get loans to buy their first homes, pay for education or start small businesses, making it possible for many families and individuals in the 9th District to achieve financial stability.

Following her service at the Credit Union, Maudelle went on to found two senior centers. When she worked for the City of Berkeley as Director of the West Berkeley Senior Center, she simultaneously served on the State Executive Board of Service Employees International Union, Local 535, and initiated the first municipal Labor Commission in California. She also founded the New Light Senior Center in 1976, which she still actively oversees. Active in politics throughout this time, she mentored and encouraged others to become active as well. She convinced me, as well as my predecessor in the 9th District, Congressman Ronald Dellums, that to become truly effective in the fight for lasting change, we must become active and directly engaged in politics in our communities.

After decades of service to her community, Maudelle herself became a candidate for public office, and was elected to the Berkeley City Council in District 3 in 1984. Maudelle was the first Berkeley City Councilmember, and one of the first elected officials in the state, to take action against the AIDS pandemic by spearheading efforts to provide educational materials, needle-exchange programs, and housing for AIDS patients. When the county hospital tried to close its facilities serving AIDS patients, she chained herself to the doors to call attention to the plight of AIDS victims. As a result of her efforts, that facility remains open today. Throughout her tenure on the City Council, her dedication to her constituents and commitment to bettering the lives of those in her community earned her the unwavering support of residents within her district, and resulted in seven reelections as well as her election as the Vice Mayor of Berkeley.

Maudelle recently completed her eighth and final term on the Berkeley City Council, but her devotion to her community remains steadfast. At the New Light Senior Center, she continues to work to promote healthy eating habits and lifestyles for all residents, and still does all the shopping for lunches at the Center every Tuesday. She continues to be a role model and a tireless worker for civil and human rights, peace, and justice and persists in the fight to reorder our national priorities. She is a mentor, a friend, and a woman who I look to for advice and care.

On Saturday, February 26, 2005, Vice Mayor Maudelle Shirek will be honored in Berkeley, California for her extraordinary life and accomplishments. Though we recognize and honor the truly incomparable contributions Maudelle has made to our community, we have barely begun to realize the true profundity of her social and political legacy. Maudelle's uncompromising fidelity to her ideals and compassion for people will never cease to be a source of hope, purpose, and conviction for those seeking to continue her work for peace, equality, and justice. Maudelle's vision for a better and more peaceful world is one that transcends time and place, and the lasting effects of the work inspired by that vision will shape the lives of countless individuals for generations to come. On this very special day, I salute, congratulate, and thank Maudelle Shirek for what she has given her community, our country, and the entire world.

---

## TRIBUTE TO ANNIE SELLERS AS SHE CELEBRATES HER 100TH BIRTHDAY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the many family and friends who have gathered to celebrate the 100th birthday of one of our community's most outstanding citizens and my dear friend, Annie Sellers. Since she came to New Haven in 1958, Annie has been an active member of the community—especially with our senior citizens.

Our communities would not be the same without the efforts of those who volunteer their time and energies to make a difference. Advocate, champion, and friend—Annie has always been there to assist those in need. I have been fortunate enough to know Annie for many years and have always been proud to work with her. Her friendship, to both myself and my mother, has meant more to us than words could ever express.

As the founder and director of the Farnum Senior Center, Annie's contributions to the New Haven community have been invaluable. Our seniors face so many challenges which is why organizations like the Farnum Senior Center are so important. Annie recognized this need within her own community and created a place where the seniors of Farnum Courts could gather together—a place where they could discuss issues of importance to them, receive information on the programs and services that are available to them, and where they would always find an advocate ready to meet their needs. It is because of people like Annie—true leaders—that the voices of our seniors never go unheard.

In addition to her work within the Farnum Courts community, Annie has also been an active member of the National Council of Senior Citizens, the National Association of Mature People, and the National Tenants Organization. A member of the Faith Missionary Baptist Church in West Haven for nearly fifty years, she has held various leadership positions within the congregation as well. All of this, and Annie still found the time to raise twelve children of her own and act as a foster mother to numerous other children. Through her compassion, love, and generosity, Annie has quietly touched the lives of many and left an indelible mark on our community.

Through all of her good work, Annie brings a very special gift to our community—that of hope and inspiration. That is why I am proud to stand today to join her twelve children; thirty grandchildren, fifty-nine great-grandchildren; and thirty-five great-great-grandchildren; family, friends, and the New Haven community in marking this remarkable milestone—the 100th birthday of Annie Sellers. Marking a century of life, this very special occasion reflects her extraordinary resilience and strength of spirit. She is a true community treasure—Happy Birthday, Annie!

## CONGRATULATING OFFICERS AND MEMBERS OF EMSWORTH BOROUGH VOLUNTEER FIRE DEPARTMENT

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the officers and members of the Emsworth Borough Volunteer Fire Department on the occasion of the Department's 100th Anniversary. The members of the Fire Department have unselfishly served the citizens of Emsworth for the greater part of the past century and now look forward to continuing their brave service in the 21st century.

The community of Emsworth cites the Volunteer Fire Department as "an organization that has become the backbone of the community." From its inception in 1905, the department has served as a valuable resource to the community. In 1995, the department expanded into providing service for Glenfield Borough, proving that its commitment to service includes not only its citizens, but its local neighbors as well.

I ask my colleagues in the United States House of Representatives to join me in honoring the Volunteer Fire Department of Emsworth. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as the Emsworth Volunteer Firefighters who truly embody the spirit of public service and the meaning of bravery.

## A VERMONT FILMMAKER OF NOTE

### HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. SANDERS. Mr. Speaker, it gives me great pleasure to inform this body that Eugene Jarecki, a filmmaker in Waitsfield, Vermont, has been awarded the Grand Jury Prize at the 2005 Sundance Film Festival. Mr. Jarecki won this prestigious award for his documentary, Why We Fight.

Mr. Jarecki provides a balanced view of what President Eisenhower warned was a danger to democracy: the "military-industrial complex." He interviews, for instance, supporters of the current war in Iraq such as Weekly Standard editor William Kristol and Richard Perle, Chairman of the Defense Policy Board; he also interviews those who warn of dangers which may emerge from the prosecution of that war, talking with Senator JOHN MCCAIN, news anchor Dan Rather, and USAF Lt. Col. (Ret.) Karen Kwiatkowski.

Sundance describes his film succinctly and accurately: "Why We Fight is an inside look at the anatomy of the American war machine, examining how a force so potentially counter to the balance of a democratic society influences American life. Amid the upheaval of the Iraq War, the film follows the personal stories of a group of characters in America's military family.

"Why does America fight? Time and again, why does she seem inclined toward war against an ever changing array of enemies? What are the forces—economic, political, ideological—that shape and propel American militarism? Where do they meet? And what role does the individual play?"

Writing in the New York Times this week in honor of the recently deceased Arthur Miller, fellow playright (and Vermont resident) David Mamet wrote, "Bad drama reinforces our prejudices. It informs us of what we knew when we came into the theater. Good drama survives because it appeals not to the fashion of the moment, but to the problems both universal and eternal, as they are insoluble." Eugene Jarecki makes good films.

The balance in his film, along with the craft and care with which it was made, propelled Jarecki's work to its Sundance Award. As Vermont filmmaker Jay Craven noted, Jarecki's "film emerged as a top Sundance hit precisely because it articulates a view that goes far beyond the seasonal politics of elections to pose larger and enduring questions."

In this era when too often political "spin" substitutes for reasoned analysis and the study of history, Eugene Jarecki has shown us that the media have a vital role to play in educating us about our political and economic past, and about our future. Vermont is as proud of him as the judges at Sundance were; and we are happy that he is once again en route to sharing his cinematic work with the entire nation.

## IN HONOR OF MR. GARY GARMANN

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. FARR. Mr. Speaker, I rise today to honor the life of Gary Garmann, a local architect that brought the beauty of form to the 17th District. Mr. Garmann passed away on January 24, 2005 at age 62. He is survived by his loving wife, Robin, his son, Rees; daughter Jodi; his parents Dorothy and Fritz Garmann, of Silverdale, Washington and his brother Ken Garmann of Yelm, Washington.

Gary came to Santa Cruz in 1977, with a goal to expand his professional goals, and he made his presence known ever since. He helped rebuild the downtown region of Santa Cruz after the devastating Loma Prieta earthquake in 1989, by designing such buildings as LuLu Carpenter's and the Borders building downtown. These beautiful buildings now stand as local landmarks, and a testament to Mr. Garmann's talent as an architect.

Mr. Garmann's generosity and commitment to the community extended far beyond his ability to design beautiful architecture. He also selflessly donated his time to the Kuumbwa Jazz Center, where he sat on the board, as well as the Santa Cruz Museum of Art and History. Mr. Garmann additionally assisted in the planning of the Santa Cruz homeless shelter, giving his time and energy to those most deeply in need.

Mr. Speaker, I would like to express my deepest sympathy to Mr. Garmann's family by celebrating his life and his contribution to society. His beautiful buildings, his generous spirit and his love for others, will stand as a testament to his character long into the future. Mr. Garmann is admired by all for his dedication both to his business and the community and he will be greatly missed.

## IN RECOGNITION OF MR. JESSE POOR

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to Mr. Jesse Poor. Recently Mr. Poor retired as deputy commander of the Anniston Army Depot after 32 years of service. His record speaks for itself, and he is known throughout the community and in the Army for having done an outstanding job throughout his career.

Mr. Poor started at the Anniston Army Depot in 1972 as a trash collector. From those humble beginnings Mr. Poor advanced from factory worker all the way to the John F. Kennedy School of Government at Harvard University where he earned his master's degree. He later returned to the Depot to apply his experience and eventually rose to deputy commander.

During Mr. Poor's tenure the Depot exceeded its financial goals and increased its workload. He supported forward-thinking public-private partnerships, and in part because of his leadership the facility has distinguished itself within the Department of Defense as one of the most efficient of its kind.

The entire Calhoun County community owes Jesse Poor a deep sense of gratitude for his service, and I am honored to be able to recognize his achievements in the House today. Our community will remember his service for years to come.

---

## CONGRATULATING OFFICERS AND MEMBERS OF NORTH HAMPTON VOLUNTEER FIRE DEPARTMENT

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the officers and members of the North Hampton Volunteer Fire Department on the occasion of the Department's 50th Anniversary. The members of the Fire Department have unselfishly served the citizens of Hampton for half a century and now look forward to continuing their brave service in the 21st century.

The members of the North Hampton Volunteer Fire Department plan to celebrate their 50th anniversary with a dinner and dance event on Saturday, March 12, 2005 with cocktails beginning at 6:00, and dinner at 7:00 at the Hampton Banquet Hall.

I ask my colleagues in the United States House of Representatives to join me in honoring the Volunteer Fire Department of North Hampton. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as the North Hampton Volunteer Firefighters who truly embody the spirit of public service and the meaning of bravery.

---

## VERMONT'S GREAT JAZZ MASTER

### HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. SANDERS. Mr. Speaker, Vermont's great jazz saxophonist, Big Joe Burrell, died on February 2 at the age of 80. He was born and spent his early years in Port Huron Michigan. The story of his start in music is legendary. Here is how Brent Hallenbeck recounted it in the Burlington Free Press:

> As a shy 10-year-old, he approached his mother's boss and asked to borrow $5 so he could buy a saxophone.
>
> "Saxophone?" the man asked. "What are you going to do with a saxophone?"
>
> "I'm going to play it," little Joe Burrell told him. And he did, mastering his instrument in the next few years. After serving in the U.S. Army during World War Two, his musical career took off. At an Akron dance he played the opening act for a B.B. King performance, and King thereafter asked Big Joe to play saxophone in his orchestra. He would go on to tour with King for almost two years before meeting up with another major figure in American music, Count Basie.
>
> Basie invited Big Joe to play in his club in New York and would become the major musical influence in Big Joe's life. "Count Basie was the predominant influence on me until the day he died, and still is today," Burrell said in 2002.
>
> Ten years of playing in Canada eventually brought him to Montreal, from where it was an easy journey to play a date in Burlington, Vermont. There he discovered his nephew, Leon Burrell, was a professor of education at the University of Vermont. The meeting was doubly fortuitous: Leon invited Big Joe to live with him, and he made Leon's home his own for many years. And Vermont gained its most well-known, most-well-beloved jazz musician.
>
> Big Joe jammed with fellow musician Paul Asbell, and out of their collaboration was formed an ensemble called The Unknown Blues Band. The core of The Unknown Blues Band included Asbell, Chuck Eller on keyboard, Tony Markellis on bass, and Russ Lawson on drums, and of course, Big Joe. Not only did they make music, but they shaped a whole new generation of musicians. Big Joe, who played with BB King and Count Basie, Etta James and Little Richard, was a formative influence on Trey Anastasio, the guitarist for Phish. In fact, Burrell played guest appearances with Anastasio's band in recent years.
>
> Last year, the Unknown Blues Band celebrated its twenty-fifth anniversary. The band was a Burlington staple, playing at gigs everywhere and most especially at a weekly performance at Halvorson's Upstreet Café in Burlington. Even as age seemed outwardly to slow him down, Big Joe kept performing at his customary high level. Café owner Tim Halvorson told the Free Press, "He'd shuffle in with his walker or a cane, but, boy, as soon as the music started and he got a glass of Canadian Club and he grabbed his saxophone, he was 30 years younger." As his nephew Dr. Leon Burrell said, speaking of his last performance just a month ago, "He went out doing what he did best. It's like a cowboy dying with his boots on."
>
> Big Joe was a big man—not only in physical stature, but big in heart. He loved music, he loved people, and he loved playing in Vermont. Vermont loved him back. He was an emblem of the amazing power of jazz, our nation's preeminent form of music. He showed all who lived in the Green Mountain State how jazz can speak to each of us, directly, deeply; he showed us that the music born in the South and in the big cities of the Mid-west has flowed, like a mighty river, all through our nation. He was an important tributary of that river, and all of us in Vermont who love music will remember Big Joe for that, and for the wonderful performances he gave us, time and again.

## IN RECOGNITION OF MR. GEORGE HAMILTON

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. KNOLLENBERG. Mr. Speaker, I rise today to recognize an extraordinary businessman and exceptional American, George Hamilton, President of Dow Automotive and recently named one of the most powerful African Americans in corporate America.

Since 1988, Black Enterprise has published a list of the most powerful African Americans in corporate America. This year, Mr. Hamilton has been chosen by the magazine for this honor. The list is compiled from the 1,000 largest publicly traded companies and leading international corporations located in the United States. This year Mr. Hamilton is among 75 African Americans honored from 62 companies and twelve industries.

Mr. Hamilton joined the Dow Chemical Company in 1977 as a seller of plastics in the automobile industry. Since coming to the company, Mr. Hamilton has held a number of positions in sales, marketing, development and business operations. Prior to joining Dow Automotive in 2000 he served as North American Commercial Director for Engineering Plastics for the Dow Chemical Company.

While holding his position at Dow Automotive, Mr. Hamilton is also active within many engineering and automotive Boards. He is a proud member of the Society of Automotive Engineers and the Society of Plastics Engineers. Mr. Hamilton also sits on his company's Global Commercial Leadership Network, Corporate Contributions Committee as well as the CEO Council on Diversity.

This is a significant honor for Mr. Hamilton and I wish to congratulate him on his accomplishments and recognition as one of the 75 most powerful African Americans in corporate America.

---

## HONORING SENATOR JOHN VASCONCELLOS

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. LEE. Mr. Speaker, I rise today to honor the outstanding work of California State Senator John Vasconcellos. In the nearly four decades Senator Vasconcellos has served in the California State Legislature, he has worked tirelessly to promote policies which emphasize education and peace, both in government and in local communities.

Senator Vasconcellos was born in San Jose, California, in 1932. He was the eldest of three children born to a Portuguese father and a German mother. Notably, he became the only student in the history of Santa Clara University to serve as Student Body President, to be the Valedictorian of his class, and to win the Nobili Medal, which is awarded to the most outstanding graduate. After completing his undergraduate studies, Senator

Vasconcellos served two years as a lieutenant in the United States Army before returning to Santa Clara University to enroll in law school.

In 1966, Senator Vasconcellos was elected to represent California's 13th district in the State Assembly, a position he would hold for 30 years. During that time, he served on many of the state's most important committees, including the Committee on Ways and Means, the Assembly Education Committee, and the Select Committee on Ethics. During his time as a State Assemblymember, he also spearheaded some of the most important and socially consequential legislation of his time. He was responsible for the creation not only of the first campus childcare program in the nation, but has been a steadfast supporter of student financial aid throughout his career. His commitment to education is demonstrated not only by his creation of the Cal Grant Program 25 years ago, which now serves over 60,000 students each year, but also by his advocacy of the personal and academic development of all children, as evidenced by his creation of the California Task Force to Promote Self Esteem and Personal & Social Responsibility.

After terming out of the California State Assembly in 1996, he was able to run for the open State Senate seat in his district and won. He continued to tirelessly serve the public and the cause of quality children's education in this capacity until his retirement in 2004. Though he no longer holds public office, Senator Vasconcellos continues to work for the improvement and accessibility of education, and has worked to establish a scholarship fund as well as a program for students pursuing careers in early education, and another program aimed at building a network of leaders and activists who focus on education reform, children's issues, health, and ageing.

On Saturday, February 19, 2005, Senator Vasconcellos will be honored in Berkeley, California for these extraordinary accomplishments. Through his commitment to improving education and increasing opportunity for all children, he has not only touched countless lives, but exemplifies the true spirit of public service. I am honored to call him "my friend." On this important occasion, I salute and congratulate Senator Vasconcellos for his invaluable contributions the State of California, our country, and the world.

## HONORING CHRISTY CARLSON ROMANO AS SHE IS RECOGNIZED AS A ROLE MODEL FOR YOUNG PEOPLE EVERYWHERE

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join Speaker James Amann of the Connecticut House of Representatives and Mayor James Richetelli of Milford, Connecticut as they recognize one of the Milford community's brightest stars—Christy Carlson Romano. A literal star of both stage and screen, Christy is a Milford native who has not only shown that talent and hard work can bring great fame and success, but more importantly, how one can use their celebrity to positively impact the lives of others.

Christy is perhaps best known for her current roles on the Disney Channel's "Even Stevens" and for lending her voice to the animated series "Kim Possible." Acting since she was six years old, at only twenty, Christy has developed an extensive background in both theater and screen acting. Her dedication to her craft has given this remarkable young woman a highly respected reputation—especially among her young fans.

However, it is not just her fame that makes Christy such a tremendous role model for young people. Her commitment to her education is a real source of inspiration. This is even more evident when you consider that she has spent the majority of her life balancing both a career and a rigorous academic course load. At twelve she was on the dais of "The Presidents Summit for America's Future" where she met three former U.S. Presidents and as a high school junior she participated in the National Leadership Conference. Today she is a sophomore at Columbia University's Barnard College majoring in Political Science and has already completed a congressional internship with Senator DODD.

In addition to her challenging schedule with her career and studies, Christy still finds time to be active with numerous charitable organizations. The Will Rogers Foundation, the Make a Wish Foundation, the Connecticut Leukemia Society, and the Child Safety Network are just a handful of the groups with which Christy has and continues to be involved. Her good work has certainly touched the lives of many.

Too often, the extraordinary contributions of young people are overlooked. Christy is a shining example of the tremendous impact young people can have on their communities and the lives of others. That is why it is fitting that Christy is honored with the first "Connecticut's Finest Award" and that today will be proclaimed "Christy Carlson Romano Day" in Milford.

Through Christy's extraordinary contributions both on-screen and off, she has become a true role model for young people everywhere. I am pleased to stand today to join her parents, Sharon and Anthony, her sisters Marcella and Jennifer, her brother Anthony, Jr., Speaker Amann, Mayor Richetelli, family, friends, and fans in recognizing Christy Carlson Romano for her outstanding professional and personal achievements. She is truly one of Connecticut's finest.

## CONGRATULATING BEAVER VALLEY BRANCH OF AMERICAN ASSOCIATION OF UNIVERSITY WOMEN ON 75TH ANNIVERSARY

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Beaver Valley Branch of the American Association of University Women on its 75th Anniversary, and recognize the exemplary performance of service that the organization provides the 4th District of Pennsylvania.

Founded in 1930 by seventeen women at Geneva College, the Beaver Valley Branch of the American Association of University Women has worked to promote equality for all women. They have tirelessly advocated for lifelong education and positive social change, and have met on the first Thursday of every month since 1930.

I ask my colleagues in the United States House of Representatives to join me in honoring the Beaver Valley Branch of the American Association of University Women. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute the service of organizations like the Beaver Valley Branch of the American Association of University Women that personify civic pride and make the communities that they live in truly special.

## TRIBUTE TO BABETTE WISE

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise to commend one of my constituents, Babette Wise, on her dedication to substance abuse treatment and prevention in the Washington, DC, area for nearly a quarter of a century.

As a licensed therapist and director of Georgetown University Hospital's Alcohol and Drug Abuse Clinic, Wise has worked with individuals, families, and communities struggling with addiction to alcohol and other drugs. She has helped many people throughout the Washington region transform their lives by providing quality treatment and education.

Her treatment philosophy is based on the acknowledgement that addiction is a disease and that abstinence is the best way to manage the condition. Wise treats her patients with respect and provides a safe place for them to heal.

As a member of the Congressional Caucus on Addiction, Treatment and Recovery, I have gained a greater awareness and respect for the problems associated with addiction, and I am working to promote solutions to these problems. I believe that information, education, and awareness about chemical addiction, as well as access to treatment are the keys to combating this horrific disease.

I applaud Babette Wise and wish her continued success in the years ahead.

## INTRODUCING BILL TO PROHIBIT ANY REMITTANCE OF U.S. VOLUNTARY AND ASSESSED CONTRIBUTIONS TO THE UNITED NATIONS IF THE UNITED NATIONS IMPOSES ANY TAX OR FEE ON ANY UNITED STATES PERSON OR CONTINUES TO DEVELOP OR PROMOTE PROPOSALS FOR SUCH A TAX OR FEE

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. PAUL. Mr. Speaker, I rise today to introduce a bill to prohibit any remittance of U.S. voluntary and assessed contributions to the United Nations if the United Nations imposes any tax or fee on any United States person or continues to develop or promote proposals for such a tax or fee.

The United Nations has for decades been looking for a way to develop and promote a system of direct taxation on American citizens. It is bad enough that the United States has wasted more than $30 billion thus far on this corrupt and inept organization. U.N. bureaucrats want to find a way to put their hands directly in the taxpayer's pocket and do away with the U.S. Government middle man.

A current example of this determination to tax American citizens is the Law of the Sea Treaty. The "International Seabed Authority" created by the Law of the Sea Treaty would have the authority to—for the first time in history—impose taxes on American businesses and citizens. This treaty may be ratified at any time by the U.S. Senate and U.N. taxation of Americans will become a reality.

This is just one of many examples of the United Nations attempting to impose direct taxes on the American people. If we are to retain our sovereignty and our way of life we must reject completely any such attempt. Our forefathers rebelled against English rule over the issue of "taxation without representation is tyranny." It makes no sense at all more than 230 years later to subject ourselves to such a tyrannical arrangement.

I hope my colleagues will join me in supporting this legislation.

## "RAILROAD MAN" RETIRES

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. COSTA. Mr. Speaker, I rise today to honor and wish well in retirement Warren Weber, of Sacmento, CA. Mr. Weber served with the California Department of Transportation for over 40 years, and 8 as the Chief of Caltrans Division of Rail.

Warren graduated from California State University, Los Angeles, and pursued his master's degree in Public Administration at California State University, Sacramento. He began his career in the Urban Planning Department, at th Division of Highways. He moved through the ranks at the California Department of Transportation and served as a Supervising Transportation System Analyst, Chief of Rail Planning and Corridor Studies, Assistant Director of Legislative and local government affairs, and finally Chief of the Division of Rail.

Throughout the years Warren was responsible for various activities. He developed the State Rail Plan coordinating his efforts with various public and private organizations.

## MARY DOLLISON—A MOTIVATING PERSONALITY

### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. PENCE. Mr. Speaker, Mary Dollison, of Muncie, Indiana, sees people's needs and selflessly works to help them. Yet her generosity does not stop there. Mary motivates others to do the same. In this way, she continues to dramatically improve children's lives, and as a result, transform the entire Muncie community. The Muncie Star Press newspaper publicly recognized her outstanding community service on December 31, 2004, when they declared her the "Person of the Year" for her work with Motivate Our Minds (MOM).

What began in 1987 as a group of 20 children in her living room has grown into a program of 350 to 400 students who meet for after-school activities in MOM's permanent facility in downtown Muncie. Starting MOMs and shepherding it to its present form was not always easy, though. Over the years, Mary dealt with major budget shortfalls, the lack of a permanent building, and numerous other potential roadblocks that would have caused other people to give up.

Fortunately, Mary persisted, and succeeded. MOMs secretary Lenella Maxwell says of her, "She is just a very giving and loving person. She has a heart for children. She loves God very much, and her family is important to her. She has a very contagious smile. It's just like magic watching when she works with children. She can bring out the best in them. She has a heart of gold, and she wants to just help people."

Mary recently told the Muncie Star Press, "I'm not happy not working with kids. My reward is just hearing young people or children come back and tell me stories that I've made a difference in their lives. The goal is still the same, help improve the lives of people, and I think education is one of the ways that we can help do that."

Mr. Speaker, I want to thank Mary Dollison for her tireless service to the Muncie community. She truly makes the community, and the world, a better place.

## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. GALLEGLY. Mr. Speaker, on Thursday, February 17, 2005, I was unable to vote on the Motion to Suspend the Rules and Agree to H. Res. 91, Honoring the life and legacy of former Lebanese Prime Minister Rafik Hariri (rollcall 39). Had I been present, I would have voted "yea."

## AIR FORCE VACANCIES

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. STEARNS. Mr. Speaker, as the United States fights the war against terrorism, some members af the Senate have put politics above the needs of our men and women in uniform by not acting on the nominations of a number of high level Air Force positions. The Air Force continues to play a central role in winning the war on terrorism. Yet, on December 8, 2004, the Senate returned four Presidential nominations to the Air Force without action.

The nominations included two nominations for promotion to the rank of lieutenant general as commanders of Numbered Air Forces, one lieutenant general nomination to a key position in the USAF Headquarters Staff, and one nomination to the rank of general as Commander of the Air Combat Command, the largest Air Force combatant command. I call upon the Senate to immediately act on these nominees.

I also ask for unanimous consent to include in the RECORD a letter from the Air Force Association to President Bush urging leadership of the Executive and Legislative branches to resolve these issues at once. Our fighting men and women deserve no less.

AIR FORCE ASSOCIATION,
*Arlington, VA, January 25, 2005.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are a nation at war . . . a war against global terrorism. On December 8, 2004, the Senate returned four Presidential nominations to the United States Air Force without action. The nominations included two nominations for promotion to the rank of lieutenant general as commanders of Numbered Air Forces, one lieutenant general nomination to a key position in the USAF Headquarters Staff, and one nomination to the rank of general as Commander of the Air Combat Command, the largest Air Force combatant command. Today, the leadership of this four star command is temporarily being provided by a lieutenant general at a time when our Air Force is heavily engaged in the Global War on Terrorism. The acting commander is scheduled to take command of a key Numbered Air Force in the Pacific, but this move has also been delayed pending Senate confirmation of the original nominee.

It is reported that the Senate Allied Services Committee has vowed to keep holding nominations of Air Force senior officers until the Pentagon cooperates more fully in regard to the recent issues surrounding the procurement of air refueling aircraft, which now average 43 years of service. These procurement activities resulted from the Air Force implementation of the refueling replacement acquisition strategy directed by the House Armed Services, House Appropriations, and Senate Appropriations Committees.

Despite the fact that the Secretary of the Air Force and the Assistant Secretary of the Air Force for Acquisition have tendered their resignations in order to remove the accountability argument, we still find no action on the general officer nominations. In addition, the USAF is now being led by an Acting Secretary—and on an equally serious note, the Acting Secretary wears three other critically important hats: that of the Under Secretary of the Air Force, the OSD Space Acquisition Chief, and the Director of the National Reconnaissance Office. He will soon add a fifth critical hat as he takes on the responsibilities of the Assistant Secretary of the Air Force for Acquisition.

This vacuum in senior civilian and uniformed leadership has a deleterious impact on our Air Force and the morale of those who serve, and it is adversely impacting the many fine leaders who are committed to serving their nation. Leaving key positions unfilled for lengthy periods can have a significant impact on the ability of the Air Force to execute its mission. Lack of consistent senior leadership and supervision, which led to criminal prosecution, was cited recently in the case of an acquiition official who served approximately 50% of her time without confirmed appointed leaders above her.

Our Air Force faces not only the demands of today's Global War on Terrorism, but is now entering a critical period where the Military Services are engaged in the Quadrennial Defense Review, planning for the future force, and supporting the Base Realignment and Closure efforts in shaping our infrastructure. These activities will result in key decisions that will directly affect the efficiencies and effectiveness of our U.S. Military. The Air Force and its sister services must also address Presidential Budget Decision 753—a critical decision document which will have significant impact on our current and long term force structure and weapons systems effectiveness. These activities require full-time, focused leadership.

It is imperative that we move forward on nominating and confirming the required civilian and uniformed leadership of our Air Force in this especially critical time. We respectfully urge the leadership of the Executive and Legislative Branches to come together to resolve these issues without delay. The leadership requirements of our Air Force must be addressed now so that it can meet its responsibilities in addressing today's critical challenges. Our nation and those who serve it deserve no less, and our future security requires it.

Respectfully,

STEPHEN P. CONDON,
*Chairman of the Board.*

## 44 YEARS LATER, THE PEACE CORPS CONTINUES TO FULFILL ITS MISSION

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. WILSON of South Carolina. Mr. Speaker, the American people are compassionate, generous and eager to help improve the lives of others less fortunate than them. Today I'm honored to recognize the Peace Corps, an organization that provides Americans with an opportunity to promote peace and friendship throughout the world.

Since 1961, over 178,000 Peace Corps Volunteers have served in 138 countries. They offer their time and talents by serving as teachers, business advisors, information technology consultants, health and HIV/AIDS educators, and youth and agricultural workers. Their efforts are spreading hope and goodwill, and they are making a positive difference in the lives of millions of people.

In 2002, President Bush challenged Americans to contribute two years or 4,000 hours of service to their community, the Nation or the world. I am proud of the eleven volunteers from South Carolina's Second district who answered the President's call to service by joining the Peace Corps: Lindsey Bach, Amanda Bell, Catherine Chesnutt, Jennifer Emmert, Kimberly Hardee, Lydia Lester, Hedda McLendon, Rachelle Olden, Roscoe Oswald, Ashlee Painter and Kiva Wilson. Their willingness to serve is extraordinary. They follow a tradition of service established by Warner Montgomery of Columbia who was South Carolina's first Peace Corps volunteer.

I congratulate the Peace Corps on its 44th anniversary.

## BILL TO NAME FEDERAL COURTHOUSE ANNEX AFTER JUDGE WILLIAM B. BRYANT

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. NORTON. Mr. Speaker, this bill has an unusual origin. The Chief Judge of the U.S. District Court for the District of Columbia, for himself and the members of the trial court, visited my office to request that the annex under construction for the E. Barrett Prettyman Federal Building be named for senior U.S. District Court Judge William B. Bryant. Judge Bryant was unaware of the desires and actions of his colleagues, who unanimously agreed to request that the annex be named for the judge. It is rare that Congress names a courthouse or an annex for a judge who has served in that court and even more rare for a judge who is still sitting. However, I am grateful that the House understood the unique importance of Judge Bryant and passed the bill last year. Unfortunately, the bill was stopped in committee in the Senate because of the reluctance to name a building for a seated judge. However, because Judge Bryant richly and uniquely deserves this honor, I have added a section declaring the effective date to be when the judge no longer holds the position. We must pursue this compromise to get the bill through the Senate. We will celebrate this remarkable historic judge and invite him to witness the honor when the bill passes.

Judge Bryant's colleagues, who know his work and his temperament best, have found a particularly appropriate way for our city and our country to celebrate the life and accomplishments of a great judge. I know Judge Bryant personally, I know his reputation in this city, and in the law profession. I know that the request to name the annex for Judge Bryant reflects deep respect for his unusually distinguished life at the bar.

Judge Bryant began his career in private practice in the segregated Washington of the 1940s and 50s; when African American lawyers were barred from membership in the District of Columbia Bar Association and from using the bar law library. He established his legal reputation as a partner in the legendary African-American law firm of Houston, Bryant and Gardner and taught at Howard University Law School. His reputation as an extraordinary trial lawyer led to his appointment as the first black assistant U.S. Attorney for the District of Columbia. He rose to become the first African American to serve as Chief Judge of the U.S. District Court whose members now ask that the annex be named for Judge Bryant.

Particularly for his representation of criminal defendants, Judge Bryant was admired as one of the city's best and most respected lawyers. Among his many notable cases is the landmark *Mallory* v. *United States*, 354 U.S. 449 (1957), where the Supreme Court ruled that an arrested person must be promptly brought before a judicial officer.

Judge Bryant graduated from D.C. public schools, Howard University and Howard Law School, where he was first in his class. After graduation, Judge Bryant served as chief research assistant to Dr. Ralphe Bunche when Bunche worked with Gunnar Myrdal, the famous Swedish economist, in his studies of American racial issues. Judge Bryant served in the U.S. Army during World War II and was honorably discharged as a Lieutenant Colonel in 1947. Judge Bryant, who is 93, took senior status in 1982. He raised a family but, as Chief Judge Thomas Hogan wrote, "lost his beloved wife, Astaire and now lives alone—with this court and the law as the center of his life."

This unusual request from all the judges of the court gives our bill great credibility. I am grateful to the judges of our U.S. District Court here for their thoughtful proposal that honors a Washingtonian of historic proportions. I very much appreciate the many efforts of Senator PATRICK LEAHY to get the bill through the Senate last year and for agreeing once again to be the lead sponsor of this bill. The residents of this city, the court that Judge Bryant has served so well, and the members of the bar here join me in our hope to get the bill passed this year.

## COMMEMORATING WORLD WAR II SERVICE OF MONTFORD POINT MARINES

### HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. EVANS. Mr. Speaker, it is my pleasure to introduce today a resolution along with Representative CORRINE BROWN to commemorate the World War II service of the Montford Point Marines.

On May 25, 1942, the Commandant of the Marine Corps issued instructions to begin recruiting African-Americans for service in World War II. These recruits were placed in a segregated training camp; a portion of Camp

Lejeune in North Carolina called Montford Point. Those segregated soldiers came to be known as the Montford Point Marines. They endured racial discrimination and harassment during their training.

The Montford Point Marines served with honor and distinction in the Pacific theater, assisting in the liberation and defense of the Ellice Islands, Eniwetok Atoll, the Marshall Islands, Kwajalein Atoll, Iwo Jima, Peleliu, the Mariana Islands, Saipan, Tinian, Guam and Okinawa.

Their courage, commitment and heroism drew commendations from fellow soldiers, officers, the Navy as a whole and journalists such as Time Magazine's correspondent Robert Sherrod, who wrote that the African-American forces deserved the Navy's highest possible combat rating.

The Montford Point Marines represent the highest standard of the Marine Corps and their sacrifice and endurance paved the way for future generations of Marines. I believe that it is time that Congress recognizes their achievements and commends their proud service in the face of racial discrimination.

## PERSONAL EXPLANATION

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. ESHOO. Mr. Speaker, due to reasons beyond my control, I was unable to vote February 14 through February 18 of this year. I would like the RECORD to reflect how I would have voted on the following votes.

On rollcall vote No. 32 I would have voted "yea," on rollcall vote No. 33 I would have voted "yea", on rollcall vote No. 34 I would have voted "no," on rollcall vote No. 35 I would have voted "yea", on rollcall vote No. 36 I would have voted "yea," on rollcall vote No. 37 I would have voted "yea," on rollcall vote No. 38 I would have voted "no," on rollcall vote No. 39 I would have voted "yea."

## RECOGNIZING RICHARD JAMES BUTLER ON HIS 73RD BIRTHDAY

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mrs. JONES of Ohio. I rise today to join the many friends of Richard James Butler in recognition of his life and the commemoration of his 73rd birthday. His many years of dedication to his family, community, and service in the United States Army and the United States Postal Service are praiseworthy.

Richard James Butler was born in Cleveland, Ohio on March 6 in of the year 1932 to Samuel Butler and Gladys Butler. The third of eight brothers and sisters, he attended and graduated from East Technical High School where he was a standout on the track team. In 1952, the year after his graduation, showing a strong sense of duty to his country, Richard enlisted in the United States Army and served in the Korean War. He was injured in the line of duty in the Battle of Pork Chop Hill in 1953. For his courage, bravery, and valor, Richard was awarded a Purple Heart.

In 1955, Richard married the object of his affection, Ruth Washington. A man of self-reliance, he undertook in architecture while still employed at the United State Postal Service. He contributed to the design and building of the homes in which he and his beloved Ruth raised their three children: Michael, Marcus, and Marla.

While an employee of the United States Postal Service, Richard was very active in the American Postal Worker's Union serving various offices, including that of Union President. He was also elected to the position of National Business Agent, representing union members in individual disputes with the Postal Service. After retiring from the Postal Service in 1990, Richard continued his work as a National Business Agent until his passing on the morning of July 5, 2002.

He was known as a strong provider, teacher, protector and friend with a smile regarded as one of the warmest. Though we will be greatly missed, his tenacious spirit and untiring love will remain an inspiration to us all.

On behalf of the Congress of the United States and citizens of the 11th Congressional District of Ohio, I join in the celebration of life of Richard James Butler.

## PRODUCT SAFETY NOTIFICATION AND RECALL EFFECTIVENESS ACT OF 2005

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MORAN of Virginia. Mr. Speaker, every year approximately 300 recalls of potentially hazardous and dangerous consumer products are conducted by the Consumer Product Safety Commission. Tragically, many of our constituents are never aware that a product in their home has been recalled due to safety concerns. In recent years more than 11 million potentially injurious products were on the market including baby cribs, strollers, and children's toys. The return rate for these recalled products is less than 20 percent. That means over 8 million life-threatening products are in homes across the Nation.

The main reason the return rate is low is that manufacturers do not have a proper system in place to notify consumers when their product has a defect. This is why I am introducing the Product Safety Notification and Recall Effectiveness Act of 2005.

This legislation requires manufacturers to include a product registration card or offer online product registration for every juvenile product, small household appliance or other product the Consumer Product Safety Commission deems necessary. These registration cards may not include any marketing information which is often a turn-off for consumers. The only use for these cards and the on-line registration is to create a database of necessary information to contact consumers directly in the event of a product recall.

The Product Safety Notification and Recall Effectiveness Act of 2005 will help protect children and families. In 1993, the National Highway Transportation and Safety Administration, NHTSA, introduced a mandatory registration card program for child safety seats similar to what this legislation proposes. A study published regarding this program, found that the registration program resulted in nine times more child safety seats being registered. An increase of 56 percent more seats were brought in for repair. These registration cards are helping to save lives.

This legislation has been endorsed by the Consumer Federation, Consumer Union and several other consumer and safety advocacy groups. They know that something needs to be done to help protect everyone from potentially hazardous items.

I look forward to working with my colleagues to pass this important legislation. We have a responsibility to ensure that every family and every person in our congressional districts are aware of any recall to help improve their safety.

## IN RECOGNITION OF THE RECENT UNITED STATES-JAPAN JOINT STATEMENT ON TAIWAN

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. ANDREWS. Mr. Speaker, in the most significant alteration since 1996 to the United States-Japan Security Alliance, the United States and Japan listed in a joint statement on February 19 the peaceful resolution of the Taiwan Strait issue as a "common strategic objective."

It goes without saying that Taiwan welcomed the move; China on the other hand responded in an irate fashion.

The joint statement comes at a time when China's continued refusal to renounce the use of force against Taiwan is already highlighted by China's announcement 2 months ago that it will enact its so-called "Anti-Secession Law" in the beginning of March—a law which may be used to justify a military attack on Taiwan if Taiwan formally declares independence.

Additionally, China published a Defense Policy White Paper in which it threatened to "crush" Taiwan if the island declares independence, and in which it states that it is the "sacred responsibility" of the PRC army to stop Taiwan from "splitting the country."

The "Taiwan Relations Act," which has regulated the United States-Taiwan relationship since 1979, specifically states that the United States decision to establish diplomatic relations with China in 1979 rests upon the expectation that the future of Taiwan will be determined by peaceful means; and that the United States considers any effort to determine the future of Taiwan by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States.

This "Anti-Secession Law" is a threat to the peace and security of the Western Pacific, and therefore of grave concern to the United

States. I believe it is crucial that we and Japan publicly oppose China's Anti-Secession Law and its Defense White Paper, for these constitute an extremely aggressive move against Taiwan.

Mr. Speaker, United States policy must remain clear that nobody but the people of Taiwan has the right to determine the future of Taiwan. I ask that my colleagues join me in applauding the recent joint statement by the United States and Japan, and reaffirming our continued support for the people of Taiwan.

## EXPRESSING CONCERN OVER CHINA'S INTRODUCTION OF AN ANTI-SECESSION LAW

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. TOM DAVIS of Virginia. Mr. Speaker, in mid January China and Taiwan agreed to allow direct flights between the Chinese mainland and Taiwan during this year's Lunar New Year holidays. This agreement was considered to be a small but important step toward a peaceful, diplomatic resolution. In this vein, it is important that the United States continue to lend help to maintain the crucial balance in relations between China and Taiwan.

In December 2004, China unveiled its plan to introduce legislation that, under certain circumstances, would permit China to legally take military action against Taiwan. Chinese officials claimed the measure was defensive in nature, and that it was in response to radical pro-independence forces in Taiwan that have reached the point of no return. Critics, however, speculate the hard line Taiwanese independence movement that China laments gets much of its oxygen from China's confrontational fervor. Additionally, Beijing denied charges of unilaterally changing the status quo and underscored the measure as an "anti-secession law", as opposed to a "unification law".

Ironically, Beijing's move seems to be breeding a popular clamor within Taiwan spawning a reactionary law in retaliation. Taipei has already begun drafting an "anti-annexation" law, which will likely include an immediate declaration of formal independence and mandate a referendum on any move by China to change the status quo. This type of back-and-forth exchange has the potential to yield grim ramifications on the vision of a peaceful diplomatic resolve.

While this provision may be well intentioned, I am concerned about the adverse effects it could have on the fundamental balance of relations between Taipei and Beijing. Many Taiwanese citizens perceive this law as China using its iron fist to promote its "one country, two systems" vision. Additionally, they have voiced their concern over the unknown particulars in the measure. For instance, how will the anti-secession law define secession? Will it simply be against a formal declaration of independence? These concerns, along with gauging the necessity of such a law, have formed a deep sense of suspicion and reluctance within the Taiwanese.

Mr. Speaker, in closing I would like to accentuate my concern over the ball of yarn this "anti-secession" law could end up unraveling. It is important for the United States to help maintain the balance in cross-strait relations and to discourage against actions that may muddy the proverbial waters. I urge my colleagues to closely examine Beijing's initiative along with the unintended implications it could pose in severely dampening the region's stability.

## RECOGNIZING THE CONTRIBUTION OF BOBBY LYNN CAINE—FIRST AFRICAN AMERICAN TO GRADUATE FROM AN INTEGRATED HIGH SCHOOL

### HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. COOPER. Mr. Speaker, as Black History Month comes to a close, it gives me great pleasure to honor one of America's heroes, Mr. Bobby Lynn Caine. An unassuming resident of Nashville, Tennessee, Mr. Caine was the first African American to graduate from a publicly funded, integrated high school in the South. His story is one of bravery amidst intimidation and hatred, as he persevered to get the education that he and other African Americans so rightfully deserved.

In 1956, the Supreme Court issued its final decree on the historic Brown v. Board of Education, which ended racial segregation in the South. Among those directly affected was a 16-year-old African-American student—Bobby Lynn Caine.

On August 27, 1956, Bobby and eleven other black students made history by desegregating Clinton High School in Tennessee—the first public high school in the South to desegregate. Being the only black student eligible that year to graduate, Bobby knew that segregationists aimed to stop him from completing his education. Faced with an angry mob of protesters and fearing for his life, Bobby and the other black students known as the "Clinton Twelve"—walked through picket lines that grew larger each day. A newspaper account said that "a milling mob of approximately 1,000 gathered at the school." Bobby and the others suffered verbal and physical abuse from the angry mobs gathered at Clinton High School. Nevertheless, with the protection of the State troopers and the National Guard, Bobby and the other black students continued their daily walk through the picket lines and protesters with renewed determination.

Bobby eventually graduated from Clinton High School on May 17, 1957, and went on to earn a bachelor's degree in social work from the Tennessee State University. He also completed course work toward a master's degree. Bobby served his country in the U.S. Army and later enlisted in the Army reserve, from which he retired as Captain after 21 years of service. He now resides in Nashville with his family.

Because of his courage, Bobby helped make it possible for children today of all races and ethnic backgrounds to attend school together and to learn in a safe and peaceful environment. In honor of Black History Month and on behalf of the Fifth Congressional District of Tennessee, I ask you to join me in honoring Bobby Lynn Caine of Nashville, who was a pioneer in the fight to desegregate the South.

## TRIBUTE TO SMSGT ROBERT F. YOUNG, JR.

### HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. WALSH. Mr. Speaker, I rise today to honor the career of SMSgt Robert F. Young. Originally from Rochester, New York, Sergeant Young enlisted in the U.S. Navy through the delayed enlistment program on December 1, 1966, and was called to active duty in February 1967.

After completing basic training at the Great Lakes Naval Training Center, Illinois in May, 1967, Sergeant Young was assigned to the Naval Air Station, North Island, San Diego; California, where he was assigned to Antisubmarine Squadron, VAW 110. In May 1968, Sergeant Young began technical school training as an Aviation Electronics Technician at the Naval Technical Training Center in Memphis, Tennessee. After graduation from the Naval Technical Training Center in November 1968, he was reassigned to the Naval Parachute Testing and Training Facility, Aircraft Maintenance Group, El Centro, California.

On December 30, 1969, Sergeant Young was reassigned to Early Warning Squadron, VAW 111, North Island, Naval Air Station, San Diego, California. While home on leave and prior to reporting to his new duty station, his orders were changed directing him to report to Travis Air Force Base, San Francisco no later than mid-night on January 1, 1970 for reassignment to VAW 111, Early Warning Squadron on board the aircraft carrier CVA 43, the USS *Coral Sea* in the South China Sea in support of combat operations in the Republic of Viet Nam.

On February 27, 1971, Sergeant Young was released from active duty with the U.S. Navy, and had attained the rank of Petty Officer Third Class. After finishing his college education in 1975, he took a managerial position with a large drugstore chain.

On March 29, 1978, Sergeant Young joined the 174th Fighter Wing's Communication's Flight as a traditional guardsman, and in 1979 he accepted a full time position, as an aircraft electronic technician with the 174th Fighter Wing, a position he held until 1985, when he accepted a position with the Defense Contract Management Agency, working as Quality Assurance Representative, from which he will retire in June of 2005.

The 174th Fighter Wing was called to active duty on December 29, 1990, and deployed to Al Kharj Air Base, Kingdom of Saudi Arabia, in support of Operation DESERT SHIELD and Operation DESERT STORM on January 2, 1991. During that time Sergeant Young supported the unit from home station in Syracuse, New York during the unit's deployment. Sergeant Young has deployed with 174th Fighter Wing numerous times, to Germany in support of Cold War operational training exercises. He also deployed with the 174th Fighter Wing in support of Operation Southern Watch in March 2000 and again in August 2001, in support of United Nations contingency operations against Iraq. After the September 11th terrorist attacks, he performed active duty supporting Combat Air Patrol sorties over New York City in support of Operation Noble Eagle. On October 16, 2003, Sergeant Young volunteered for his third Air Expeditionary Force deployment this time in support of the Global War on Terrorism. While deployed to Al Udeid Air Base, Emirate of Qatar, he was attached to the 379th Expeditionary Maintenance Operations Squadron, from October 17, 2003 to December 5, 2003, in support of combat operations in Iraq and Afghanistan during Operation Enduring Freedom and Operation Iraqi Freedom.

Sergeant Young has 31 years of combined military service, 4 years of active duty with the U.S. Navy and the remainder with the New York Air National Guard. He holds an Associate of Science Degree in Accounting and a Bachelor of Business Administration degree.

His military decorations include the Meritorious Service Medal; Air Force Achievement Medal with one oak leaf cluster. He holds the Air Force Outstanding Unit Award with Combat "V" device and five oak leaf clusters; Navy Meritorious Unit Commendation; Navy Good Conduct Medal; Air Reserve Forces Meritorious Service Medal, with eight oak leaf clusters. His military campaign and service awards include the National Defense Service Medal with two bronze service stars; Vietnam Service Medal; Global War on Terrorism Expeditionary Medal; Global War on Terrorism Service Medal; Air Force Expeditionary Service Ribbon with gold combat frame; and the Air Force Longevity Service Ribbon, with six oak leaf clusters; He also holds the Armed Forces Reserve Medal with silver hourglass device, mobilization "M" device, and numeral 4; and the Small Arms Expert Marksmanship Ribbon.

His New York State awards and decorations include the New York State Long and Faithful Service Award, with gold shield device; New York State Defense of Liberty Medal; New York State Exercise Support Ribbon, with two "E" devices.

Without question, Mr. Speaker, Sergeant Young is a very special person. He willingly served his nation, exuding loyalty and pride. For his unrelenting service in the U.S. Navy, U.S. Air Force, and the Air National Guard, Sergeant Young can retire knowing he has earned such a status. I would like to wish him well in his retirement years, as he will now be able to spend more free time with his wife Kristina, and two sons, Sean and Jason. Thank you, Sergeant Young, for all your years of hard work and dedication.

---

## IN HONOR OF GEORGE BONNER

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor George Bonner for his commitment to serving his community and his country. Mr. Bonner was honored at the annual brunch for the Bayonne St. Patrick's Parade Committee, which was held on February 20, 2005.

In 1999, Mr. Bonner began his service with the United States Army Reserve. As a Sergeant, he bravely served for a year in Iraq and Kuwait. For his efforts, Mr. Bonner was honored with two Army Commendation Medals. He was awarded one medal for his training efforts while under attack and the other for his humanitarian aid.

Mr. Bonner graduated from Rutgers University with a degree in history and social studies. A member of the Bayonne County Donegal Association, he will be working at the parade as an assistant to the Grand Marshall.

Today, I ask my colleagues to join me in honoring George Bonner for his community involvement and his brave service to our country.

---

## IN HONOR OF HAROLD McCOY RETIRING MARCH, 2005 46 YEARS OF SERVICE TO THE CITY OF JOPLIN

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. BLUNT. Mr. Speaker, I rise today to honor Harold McCoy on the day of his retirement from 46 years of dedicated service to the City of Joplin. Harold McCoy distinguished himself in Southwest Missouri by his commitment to improving the lives of the citizens in the City of Joplin.

Harold McCoy began his career almost five decades ago as a draftsman in the Engineering Department. He quickly moved on to become the Assistant Director of Public Works and then Director, and Deputy City Manager. During this time of public service Harold McCoy was responsible for the completion of countless projects, which have greatly impacted the prosperity of the region. He expanded, maintained and developed over 430 miles of city streets. Along with other community leaders, he had the vision 36 years ago to maintain the traffic flow through the center of Joplin with the 1–49 Rangeline Bypass. As Director of Public Works, Harold built and expanded three waste water treatment facilities. He was also instrumental in the construction and development of the Joplin Airport, which is vital to the economy of Joplin and Southwest Missouri. Harold has significantly influenced the economic development of this growing district. He was instrumental in bringing businesses and financial opportunities to the City of Joplin, and in supporting the infrastructures of these companies once they arrived.

Harold McCoy's contributions throughout his tenure in public service will not be forgotten. The impact he made on the City of Joplin will continue to serve as a monument to all his hard work and sacrifices.

---

## RECOGNIZING THE CONTRIBUTIONS OF SPECIALIST BRIAN ROBINSON

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. PORTER. Mr. Speaker, I rise today to recognize the contributions of a great American, Specialist Brian Robinson. I honor him today for his heroism in the fight against our global enemies and in fighting for equitable treatment for all Army National Guardsmen.

As a former member of the Nevada Army National Guard, Spc. Robinson has shown valor and honor in combat in Iraq against the aggression of our enemies in the Global War on Terror. Since his return to the United States, overcoming near-fatal injuries and other odds, Spc. Robinson has taken an active stand to ensure that our returning Guardsmen and Reserves get their guaranteed pay and benefits.

The inspirational story of this brave man is one that deserves notice not just for his bravery in combat, but for his determination to reform inequities in services for his fellow guardsmen and soldiers. I encourage each of my colleagues to diligently work to provide, in an accurate and timely manner, pay and benefits to reserve soldiers who have been injured or have become ill fighting in the line of duty. Our troops deserve that much for the sacrifices they have made volunteering to fight to maintain the freedoms we all take for granted.

Mr. Speaker, it is with great pride and heartfelt gratitude that I salute Spc. Robinson for his bravery and sacrifice. I also honor him for his continued determination to find solutions to inequities in our military.

---

## HONORING THE DEDICATION TO PUBLIC SERVICE OF FRIO COUNTY JUDGE CARLOS GARCIA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the distinguished public service of Frio County Judge Carlos Garcia.

Judge Garcia was born in Pearsall, Texas, and attended Pearsall High School. He is a graduate of Durham Business College, and was self-employed until 1986.

He began his career in public service as Frio County Justice of the Peace in 1987. He has been consistently re-elected by the people of Frio County, and currently serves as the presiding officer of the Frio County Commissioners Court.

Outside of his work as a Frio County Judge, Carlos Garcia has played an important role in a wide variety of non-profit organizations. He is a member of the Brush Country Mental Health Retardation Committee, a member of the board of directors of the Community Council of South Central Texas, and Vice-Chair of the South Texas Detention Complex Development Corporation. He was one of the founding members of the IH 35 Economic and Development Coalition, and serves on the Frio-Atascosa Juvenile Board.

Judge Carlos Garcia has consistently worked to make his community stronger, both from the bench and in private life. His tireless, committed service is an example to the rest of us, and I am pleased to have this opportunity to publicly give him my thanks.

## IN HONOR OF MICHAEL DONOVAN

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Michael Donovan for his extensive participation in community endeavors and demonstrated leadership. Mr. Donovan was honored at the annual brunch for the Bayonne St. Patrick's Parade Committee, which was held on February 20, 2005.

Mr. Donovan has devoted decades to community service. He is credited with helping establish the Irish-American League and served as the League's treasurer for three years. He is a member of multiple organizations, including the Knights of Columbus of Hillside, the John F. Cryan Association of South Orange, and the Morley McGovern Association of Roselle Park. In the past, he has served as Chairman of the New Jersey Irish Festival and Grand Marshall of the Bayonne St. Patrick's Parade. This year, he will be working as an assistant to the Grand Marshall.

Born and raised in Bayonne, Mr. Donovan valiantly served his country in the Navy. He was stationed on the destroyer tender USS *Everglades* and the destroyer USS *Eugene A. Green*. Now retired, Mr. Donovan used to work as an industrial photographer and an audio visual technician for the Exxon Company in Linden, New Jersey.

Today, I ask my colleagues to join me in honoring Michael Donovan for his strong commitment to service and his outstanding work in the community of Bayonne.

## IN RECOGNITION OF THE 100TH ANNIVERSARY OF SOUTHWEST MISSOURI STATE UNIVERSITY

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. BLUNT. Mr. Speaker, I rise to pay honor to an institution that celebrates its 100th birthday this month—Southwest Missouri State University at Springfield, Missouri with campuses in West Plains and Mountain Grove. During that century, Southwest Missouri State University, or SMSU as its students and alumni know it, has left its lasting mark of service and academic achievement on the region, the state, the nation and parts of the world.

Southwest Missouri State University was founded March 17, 1905, in Springfield as Missouri State Normal School, Fourth District. With a faculty of 8, and 173 students in a single building on 38 acres of farmland, the school has evolved into the state's second largest institution of higher learning with 61 buildings and a student population of more than 20,800. The faculty has changed too. The 700-member faculty represents a diverse group of researchers, educators, public servants and mentors in 192 fields of study and offers more than 3,300 classes each year. The school's budget exceeds $200 million and its economic impact is an estimated $2 million per day.

Its library, named after former President Duane Meyer, is a shining example of the growth and sophistication of SMSU. The number of books in the library has increased from 600 borrowed books in 1906 to 842,000 books, 928,000 government documents, 1,040,000 microforms, 35,000 audio-visual items, and 180,000 maps today. This year, the library will add its collection of union archives to its offerings available over the Internet.

SMSU has "opened the door of opportunity" for students who have dared to excel for the past century and distinguished themselves in academics, in research, in public service, and in co-curricular activities and sports.

In 1995, SMSU gained further distinction by adopting a statewide public affairs mission. SMSU has had a profound effect on improving the quality of life for citizens in Springfield, the region, and the state.

March 17, 2005 is "Southwest Missouri State University Founders Day." It is part of a year-long celebration of the school's 100 years of service to Missouri. It is an appropriate celebration to mark the significant contributions the institution has made to the citizens of Missouri and the nation over the past 100 years.

The future looks bright for Springfield campus. It has strong, principled leadership, a dedicated faculty that is actively involved in many communities. The school's research goals are expanding and its student body comes from nearly every county in the state.

The evolution of SMSU followed its name. In its 100 years, the institution has had four names—Missouri State Normal School, Fourth District; Southwest Missouri State Teachers College; Southwest Missouri State College; and Southwest Missouri State University—each name changed to more accurately reflect what the institution had become.

Nowhere is that more evident than in the growing ranks of its alumni that include governors, members of Congress, members of the state general assembly, countless local and municipal officials, teachers, civic leaders and business owners. I am proud to be among the 80,000 living SMSU alumni today.

This school has earned the honor of being called Missouri State University. It is a fitting new name for this institution that has provided excellence in higher education, research and public service across the state and continues to expand its service and reach into more communities. I want to wish Missouri's second largest university at Springfield another 100 years of service to, not only the region, but also the entire State of Missouri.

Go Bears!

## RECOGNIZING THE CONTRIBUTIONS OF SERGEANT JOSEPH PEREZ

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. PORTER. Mr. Speaker, I rise today to recognize the contributions of a great American, Sergeant Joseph Perez. I honor him today for his heroism in the fight against our global enemies and in fighting for equitable treatment for all Army National Guardsmen.

As a former member of the Nevada Army National Guard, Sgt. Perez has shown valor and honor in combat in Iraq against the aggression of our enemies in the Global War on Terror. Since his return to the United States, overcoming near-fatal injuries and other odds, Sgt. Perez has taken an active stand to ensure that our returning Guardsmen and Reserves get their guaranteed pay and benefits.

The inspirational story of this brave man is one that deserves notice not just for his bravery in combat, but for his determination to reform inequities in services for their fellow guardsmen and soldiers. I encourage each of my colleagues to diligently work to provide, in an accurate and timely manner, pay and benefits to reserve soldiers who have been injured or have become ill fighting in the line of duty. Our troops deserve that much for the sacrifices they have made volunteering to fight to maintain the freedoms we all take for granted.

Mr. Speaker, it is with great pride and heartfelt gratitude that I salute Sgt. Perez for his bravery and sacrifice. I also honor him for his continued determination to find solutions to inequities in our military.

## RECOGNIZING THE ACHIEVEMENTS OF HAYS COUNTY JUDGE JIM POWERS

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Jim Powers for his many initiatives and accomplishments as a judge and public servant of Hays County, Texas.

Jim Powers was sworn in as Hays County Judge in 1999 and became the first ever Republican to be elected to the seat. Since taking office, Powers has helped make Hays County one of the fastest growing counties in Texas.

Powers has been very instrumental in the growth and infrastructure development of Hays County. He was crucial in a $47 million bond issue to improve and make safer the roads in Hays County. Powers also negotiated the Hunter Road expansion project in San Marcos, which is the second major highway project in Hays County for the last 15 years. In addition, Judge Powers was responsible for purchasing 20 acres of land surrounding the Civic Center for future expansion and development.

Powers has also supported initiatives to preserve and protect the environment. He supported the first ever bond issue in Hays County history for the preservation of parklands and open spaces.

Some of his other accomplishments include cutting taxes, decreasing the county's debt, increasing the county's credit rating, improving the water system, and making government much more efficient in Hays County.

Prior to becoming County Judge, Powers was a successful restaurateur, author, Vice President of the Dripping Springs Independent School District Educational Foundation, and an Executive Director of Family and Marriage Resources. Powers has always adhered to the basic precept of putting people first and motivating those around him. Throughout the years, this formula has brought him success in business, politics and in his personal relationships.

Currently, Judge Powers resides in Dripping Springs with his wife Maripat Mayfield Powers and their four children. Powers is a member and Deacon of the First Baptist Church of Dripping Springs. I am honored to have this opportunity to distinguish Judge Jim Powers for his lifetime of achievement, and to thank him for his continued commitment to the betterment of our community.

---

## IN HONOR OF KEVIN MORAN

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Kevin Moran for his years of leadership and community service. Mr. Moran was honored at the annual brunch for the Bayonne St. Patrick's Parade Committee, which was held on February 20, 2005.

An active member of the community, Mr. Moran has worked with many local organizations. In the past, he was the assistant coordinator of the Summer Youth Employment Program (CETA), which helped find employment for 800 disadvantaged youth. He also served as the administrator of the Lincoln School Community Education Program where he organized the After School Enrichment and Summer Day Camp programs. An advocate of parental involvement, Mr. Moran is committed to participating in activities with St. Peter's Prep, Vroom School, and Holy Family Academy.

Born and raised in Bayonne, Mr. Moran graduated from St. Peter's College with a degree in history and earned a master's degree in educational administration from Kean University. For 23 years, he worked as an educator and served on a variety of committees. He taught at Marist High School, St. Anthony's High School, and the Henry E. Harris School. Since 2000, he has served as principal of the Dr. Walter F. Robinson School.

Mr. Moran is a devoted husband and father of two children. He and his wife, Rosalie, are actively involved in Ireland's 32. He will serve as an assistant to the Grand Marshal for the 2005 parade.

Today, I ask my colleagues to join me in honoring Kevin Moran for his extensive work with community organizations and his demonstrated commitment to serving others.

---

## RECOGNITION FOR THE LOUISVILLE ZOOLOGICAL GARDEN

### HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mrs. NORTHUP. Mr. Speaker, I would to recognize the recent accreditation of the Louisville Zoological Gardens by the American Association of Museums (AAM) which was awarded for the excellence of its animal, botanical and non-living collections. Accreditation by the AAM is the highest honor a museum can receive and is a testament to the professionalism and the public service provided to my community and the nation by the Louisville Zoo.

Founded in 1969, the Louisville Zoo has made tremendous strides to become one of the nation's premier botanical and zoological facilities. To achieve its mission of educating the public about the wonders of animal and plant life and raising awareness for wildlife conservation, the zoo currently has over 1,300 animals exhibited in beautiful natural settings, including some of the rarest species found on the planet. It offers state-of-the-art animal care and award-winning exhibits that educate residents and visitors of all ages. Almost 800,000 people visit the Louisville Zoo each year.

In 1980, the Louisville Zoo obtained its first major professional recognition when it received accreditation by the American Association of Zoos and Aquariums (AZA). In 2003, the AZA presented its Exhibit Award to the Louisville Zoo for outstanding commitment to conservation in the construction of its new, four-acre Gorilla Forest exhibit space which so closely replicated the natural habitats for the gorilla.

Accreditation by the American Association of Museums is a major accomplishment for the Louisville Zoo. It signifies excellence within the museum community and is recognition of the ethical and professional practices employed by the organization.

The process for accreditation is difficult and intensive. Over the period of three years, the Louisville Zoo underwent a thorough self-evaluation, a total audit of all collections, an accounting of business and operating procedures and a review of the procedures and protocols that govern the tasks of plant and animal management. After all this was done, a team of museum association peers conducted an on-site inspection.

As a result of this rigorous review process, very few museums have received this recognition. Only 750 of the Nation's 16,000 museums, or less than 5 percent, are currently accredited and the Louisville Zoo is one of only four institutions in the Commonwealth of Kentucky to receive this honor.

Mr. Speaker, Louisvillians are proud of the achievements of the Louisville Zoo and appreciate the contributions it has made to our community. Recognition by the AAM confirms what Louisville residents have known all along: that the Louisville Zoo provides a first-class experience and education to students and animal lovers of all ages, and it will continue to do so for many years to come. I would like to offer my heartfelt congratulations to all of the Louisville Zoo's staff for this most recent honor.

---

## IN SUPPORT OF THE NATIONAL EATING DISORDERS AWARENESS WEEK

### HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to recognize the efforts of the Eating Disorders Coalition and its affiliated organizations for promoting awareness regarding the need for education, prevention, and treatment of eating disorders. They are commemorating the "National Eating Disorders Awareness Week" from February 27 to March 5th of 2005, and they have been devoted over the years to educate the community and offer help and support to our population to promote the well-being of patients with eating disorders.

Eating disorders include anorexia nervosa, bulimia, and binge eating disorder, and impact millions of Americans each year. The consequences of these disorders could be devastating to the physical and mental health of those afflicted. Although eating disorders affect mainly females, males can be affected by these disorders. We need to educate the general population to recognize the problem and teach them how to seek adequate help. Prevention should start at an early age, and the best method of prevention should be education and the promotion of healthy eating habits and self-esteem.

Please join the efforts of all those who work hard to fight these serious medical conditions, and recognize the important work that the Eating Disorders Coalition and its affiliated organizations do on a daily basis to promote the health of patients with eating disorders.

---

## IN HONOR OF GINA AHEARN

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Gina Ahearn for her years of community involvement and demonstrated leadership. Ms. Ahearn was honored at the annual brunch for the Bayonne St. Patrick's Parade Committee, which was held on February 20, 2005.

A member of the Irish American League for eight years, she has held a variety of positions within the organization, including President, Vice President, Contestant Coordinator, and member of the Parade Committee. In 1999, she was named Irish Woman of the Year. An assistant to the Grand Marshall for the 2005 parade, Ms. Ahearn's community participation also includes coaching the Holy Family Cheerleading Squad. When she is not helping these various groups, she works as a substitute teacher.

Born and raised in Bayonne, Ms. Ahearn holds a degree in business from Rutgers University and a master's degree in education from Kean University. She and her husband are the proud parents of one daughter.

Today, I ask my colleagues to join me in honoring Gina Ahearn for her outstanding leadership and dedication to serving the Bayonne community.

---

## INTRODUCTION OF THE COMMERCIAL TRUCK HIGHWAY SAFETY DEMONSTRATION PROGRAM ACT OF 2005

### HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MICHAUD. Mr. Speaker, today, along my with my good friend TOM ALLEN, I am introducing the Commercial Truck Highway Safety Demonstration Program Act of 2005. This bill would allow Maine to increase the weight limits for trucks on interstate highways, by granting a three-year waiver of federal rules. It mandates a study process that will help demonstrate the positive safety effects of this change, and permit the waiver to be extended pending these safety determinations.

This bill is important both for public safety and economic reasons. The administration of the current 80,000 pound federal weight limit law in Maine has forced heavy tractor-trailer and tractor-semitrailer combination vehicles, traveling into Maine from neighboring States and Canada, to divert onto small State and local roads where higher vehicle weight limits apply under Maine law.

The diversion of those vehicles onto such roads causes significant economic hardships and safety challenges for small communities located along those roads. Permitting heavy commercial vehicles to travel on Interstate System highways in Maine would enhance public safety by reducing the number of heavy vehicles that use town and city streets, and as a result, the number of dangerous interactions between those heavy vehicles and other vehicles such as school buses and private cars.

It would also reduce the net highway maintenance costs in Maine because the Interstate System highways, unlike the secondary roads of Maine, are built to accommodate heavy vehicles and are, therefore, more durable.

Finally, this bill would ensure that Maine can remain competitive in the transportation and manufacturing sectors, and that our neighbors do not pass us by in development. This change is fair, and will promote parity in transportation throughout New England.

I urge my colleagues to support this bill, which will enhance safety, lower maintenance costs, and promote economic development.

---

## HONORING THE SAN LUIS OBISPO CHAMBER OF COMMERCE

### HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mrs. CAPPS. Mr. Speaker, today I rise to recognize the San Luis Obispo Chamber of Commerce, the oldest and largest voluntary organization in San Luis Obispo County, on the occasion of their 100th Anniversary.

Rarely has a local organization done more to improve the quality of life of an entire region than the San Luis Obispo Chamber.

When the Chamber opened in 1905, the railroad had come to town just a few years before, and San Luis was developing an economy that went beyond farming for the first time. Led by CEO Dave Garth for the last 32 years, the Chamber now boasts 1,389 members and a staff of 15.

The Chamber will celebrate its centennial with a dinner at California Polytechnic State University, San Luis Obispo on March 12, 2005. This vibrant and active organization has contributed an enormous amount to a community that I am terribly proud to represent.

---

## IN HONOR OF THOMAS WALSH

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Thomas Walsh for his years of outstanding service to his community and country. Mr. Walsh was honored at the annual brunch for the Bayonne St. Patrick's Parade Committee, which was held on February 20, 2005.

Serving as an assistant to the Grand Marshall this year, Mr. Walsh previously spent twelve years working as the publicity chairman for the parade. Since 1993, he has been the coordinator of the event. An active member of the Bayonne community, Mr. Walsh has been affiliated with numerous organizations, including the National Defense Transportation Association, the Bayonne Elks Club, and the Bayonne PAL Board of Directors.

Mr. Walsh graduated from Trenton State College with a degree in English. Later, he worked in Bayonne as a public information officer before becoming a public affairs specialist for the U.S. Navy Military Sealift Command, Atlantic, and the U.S. Army Fort Hamilton Military Community. Throughout the years, Mr. Walsh has utilized his public relations skills to assist organizations such as Hudson County Cerebral Palsy, the Hudson County Association of Retarded Citizens, and the Bayonne Friends of the Handicapped with publicity.

During his time with the Armed Forces, he received ten Outstanding Performance and Special Act Awards. For the past seven years, he has been teaching at the Police Athletic League Day Care Center where he assists students with school assignments and manages field trips and other recreational events. Mr. Walsh also helps the center by writing funding proposals and press releases. When he is not working with children, he participates in the Military Sealift Command Retirees Association.

Today, I ask my colleagues to join me in honoring Mr. Walsh for his strong leadership and tireless efforts to help others.

---

## PAYING TRIBUTE TO SISTERS, EMPLOYEES, VOLUNTEERS, AND PHYSICIANS OF OSF ST. JOSEPH HOSPITAL

### HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. JOHNSON of Illinois. Mr. Speaker, on March 22, 1880 the Sisters of the Third Order of St. Francis opened St. Joseph's Hospital in Bloomington, Illinois. Today, 125 years later, OSF St. Joseph Hospital remains open and ready to care for the sick.

From the very beginning, the Sisters faced adversity, but with the support of the community the hospital was able to endure. Even those outside the Sisters' religious community joined in caring for the sick, thus establishing a bond between the Sisters and the people of McLean County that is strong to this day.

Over the past 125 years, St. Joseph's Hospital has seen its share of changes. A new St. Joseph's Hospital opened in March of 1968 along Veterans Parkway. Since then many additions have been made, including two new medical plazas, an advanced medicine center, new physician offices, a surgery wing, two urgent care clinics and a musculoskeletal center. In 1987, the hospital's name changed to OSF St. Joseph Medical Center. While the structure and name of St. Joseph's Hospital has changed, the desire and devotion of the Sisters, employees, volunteers and physicians to serve God's people has remained steadfast.

In its 125-year history, OSF St. Joseph Medical Center has accumulated many accomplishments and "firsts". For example, the first successful blood transfusion and Caesarean section in Central Illinois occurred at St. Joseph's in 1929. In addition, St. Joseph's Hospital was home to the first radiation treatments in Bloomington-Normal.

Today, OSF St. Joseph Medical Center cares for over 6,000 inpatients and 250,000 outpatients annually. They also welcome more than 800 babies every year. The Medical Center is now a nationally-recognized leader in the reduction of adverse drug events and surgical safety.

Again Mr. Speaker, I rise to pay tribute to the many generations of Sisters, employees, volunteers and physicians of OSF St. Joseph Medical Center. For 125 years this hospital has served as a tremendous example of the good that can be done when people come together to serve their communities.

## HONORING MEMBERS OF MICHIGAN DIVISION OF THE POLISH AMERICAN CONGRESS

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the members of Michigan Division of the Polish American Congress, as they celebrate the 60th anniversary of the formation of their parent organization.

The Polish American Congress represents close to 10 million Americans of Polish descent and origin. Its members are comprised of fraternal, educational, veteran, religious, cultural, social, business, political organizations and individual membership. The Polish American community prides itself on its deeply rooted commitment to the values of family, faith, democracy, hard work and fulfillment of the American dream. They are present in every state and virtually every community in America, on various social, business and economic levels.

The Polish American Congress promotes civic, educational and cultural programs designed to further not only the knowledge of Polish history, language and culture, but to stimulate Polish American involvement and accomplishments.

The record of the Polish American Congress is a proud one. Indeed, it is as impressive as its fidelity to its historic political aims over the past 60 years. Their accomplishments, which are numerous, include: Representing the aspirations for freedom and self-determination of the Polish people at the United Nations, at international conferences, in the United States Congress, at the national conventions of the major political parties, and before the Presidents of the United States; gaining U.S. backing for Radio Free Europe to inform the peoples of Communist-ruled Eastern Europe about what was happening in their countries and abroad, and effectively defended continued funding for Radio Free Europe and Radio Liberty throughout the Cold War era; contributing more than $200 million in medical and material help to Poles, following the collapse of the Communist-run Polish economy after 1981.

Mr. Speaker, the Polish American Congress, over the past 60 years, has remained a vibrant and effective political action organization, articulating its concerns in Washington and around the country to a host of government and political leaders. I hope my colleagues will join me in honoring this organization and its members. Through their dedicated efforts, 10 million Polish Americans today can feel a sense of pride in having an organization that represents their interests and aspirations.

## IN HONOR OF ADAM CZUBA

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Adam Czuba on being named Sir Knight of the Year by the Knights of Columbus (K of C). Mr. Czuba was recognized at the annual Knight of Honors event on February 26, 2005, in Bayonne, New Jersey.

The Sir Knight of the Year award is a special distinction given to the K of C member who has faithfully and commendably executed his role as a Fourth Degree Knight, has been most helpful in aiding the Past Faithful Navigator, and has demonstrated a thorough understanding and respect for the ideals of the Order.

Mr. Czuba became a Third Degree Knight in 1975 and has spent decades serving the Council and the Assembly. He achieved the rank of Fourth Degree Knight in 2001 and currently serves in the Color Corps. As a dedicated member of the K of C, Mr. Czuba has helped coordinate multiple events and activities for the Order, such as the flea market, bowling league, country western dances, and numerous charity events.

Born and raised in Bayonne, Mr. Czuba has worked for 22 years at the Keystone Folding Box Company. In addition to his involvement with the K of C, Mr. Czuba has served as a Cub Master for the Boy Scouts and is a member of the Hudson County Animal League.

Today, I ask my colleagues to join me in honoring Adam Czuba for his recognition as Knight of the Year, his dedicated work with the K of C, and his outstanding service to the community.

## CONGRATULATING THE NEW ENGLAND COUNCIL

### HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. BASS. Mr. Speaker, Mr. NEAL and I rise today to congratulate The New England Council as they celebrate their 80th anniversary of being a regional voice for the people of New England.

For 80 years The New England Council has been instrumental in uniting the region's business and political leaders to discuss and shape public policies and programs that advance the economic well-being of the region. As a nonprofit alliance of schools, hospitals, corporations, public agencies and other organizations throughout New England, the Council has worked diligently to promote economic growth and a high quality of life in the six-state region.

We commend your leadership in identifying challenges and opportunities and looking for regional solutions on issues including energy, workforce development, healthcare, transportation and education.

Under the leadership of Jim Brett and the Council's esteemed Board of Directors, the Council has played a significant role in both providing a forum and in advocating an agenda that addresses the issues which impact New Englanders and the regional economy.

We applaud the Council's efforts to promote the economic growth of New England and to improve the quality of life for those who live throughout the region.

We ask our colleagues to join us in honoring the 80th anniversary of The New England Council and in wishing the Council continued success as it faces the challenges and possibilities of the 21st century.

## TRIBUTE TO BRUCE M. RAMER

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my very good friend, Bruce M. Ramer, who is receiving the Learned Hand Award at the American Jewish Committee's 25th Anniversary Dinner, March 10, 2005. Bruce is a prominent member of the legal profession, a dedicated leader in the community and a distinguished spokesman in support of human rights.

Bruce began his legal career at the prestigious entertainment law firm of Gang, Tyre, Ramer & Brown, and is currently a partner in the firm. Prior to moving to Los Angeles from New Jersey, he earned a graduate degree at Princeton University, attended Harvard University Law School and was active in the military. The National Law Journal ranks him among the 100 most influential lawyers in America, California Business Lawyer cites him as one of the 100 most powerful lawyers in California, and the Daily Journal places him in the top 100 lawyers in California. Over the many years of our friendship, I have developed enormous admiration for his work and valued his advice.

For more than 30 years, Bruce has supported the American Jewish Committee, AJC. He is the Chair of the AJC's Latino and Latin American Institute. He served as National President from 1998 to 2002, chaired the National Board of Governors, the National Executive Council, the National Board of Trustees, and AJC's Asia and Pacific Rim Institute. He also was the AJC's Western Region Chair and past President of the Los Angeles Chapter. His tireless efforts have helped make the AJC the incredible institution it has become.

Bruce has also provided leadership to many other worthwhile organizations. He is a member of the Board of Directors of the Pacific Council on International Policy, Survivors of the Shoah Visual History Foundation, the Righteous Persons Foundation, the National Foundation for Jewish Culture, the Southern California Committee for the Olympic Games and the Alfred Herrhausen Society for International Dialogue of the Deutsche Bank. He is the Founding Chairman of the Board of Directors of the Geffen Playhouse (UCLA) in Los Angeles, and a member of the Board of Directors of Rebuild LA, LA 2000 Partnership, LA Urban League, United Way, Los Angeles Children's Museum, UCLA School of Medicine and the Jewish Federation Council of Greater Los Angeles. He also served on the Economic Strategy Panel of the State of California and on the American Bar Association Special Committee on Judicial Independence. Many people, organizations, and causes have benefited from his dedication and hard work.

In addition to his professional and civic accomplishments, Bruce and his wife Madeline Smith Ramer have raised four children and are the proud grandparents of two grandsons. It is my distinct pleasure to ask my colleagues to join in saluting my friend, Bruce Ramer, for his successful endeavors on behalf of humanitarian and democratic ideals, his exemplary leadership and for his impressive contributions to the field of law.

## IN HONOR OF TOM SUMOWSKI

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Tom Sumowski on receiving the Emergency Medical Technician, EMT, of the Year award by the Knights of Columbus, K of C. Mr. Sumowski was recognized at the annual Knight of Honors event on February 26, 2005, in Bayonne, New Jersey.

For 5 years, Mr. Sumowski has diligently worked at the McCabe Ambulance Service. A quality EMT, he was recently promoted to the rank of Captain. Known for his dedicated service and compassion, he has earned the respect and admiration of colleagues and friends.

Born and raised in Bayonne, Mr. Sumowski graduated from Seton Hall University and the Bergen County Law and Public Safety Institute.

Today, I ask my colleagues to join me in honoring Tom Sumowski for his exceptional service to the people of Bayonne. As a result of his tireless work in the medical field and his commitment and enthusiasm, he continues to play a vital role in the community and has positively affected countless lives.

## IN RECOGNITION OF DOMINICAN INDEPENDENCE

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. ENGEL. Mr. Speaker, on February 27, 2005, we celebrated the 161st anniversary of Dominican independence and the love of liberty that unites the Dominican Republic and the United States and stands as a symbol of freedom worldwide.

The United States is a stronger and better country for the more than one million Dominicans who live here. New York City is even more culturally rich thanks to the more than 650,000 Dominicans who have settled there. I am proud that so many live in my Congressional District.

We, the United States and the Dominican Republic, give each other strength by our mutual support. Americans have always supported Dominican independence and admire the free and fair elections that have helped to make the country a model for emerging democracies. Our friendship inspires us to work towards even greater democratic and economic development.

We in the United States celebrate Dominican independence and the Dominican spirit, a spirit of liberty and courage—a spirit that values family and faith, education and service—the same spirit that has helped to shape America.

Our nations will work together because our futures are bound to one another. Geography makes us neighbors, but our shared values make us friends—a friendship built on common customs and ideals.

The fight for Dominican independence in 1844 continues to inspire us today. It shows that brave and determined people, committed to a noble cause, can do great good. That was true in the Dominican Republic just as it was true for the United States.

We have come a long way together and we shall continue our journey together with respect and understanding, with mutual support, and with customary respect. Long Live the United States and Viva La Republica Dominicana.

## INTRODUCTION OF THE POST OFFICE COMMUNITY PARTNERSHIP ACT

### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. BLUMENAUER. Mr. Speaker, one reason I came to Congress is to make the Federal government a better partner to communities. One of the simplest ways to achieve that objective does not require new rules or regulations for local or state governments, and it does not require massive outlays of our budget driving us even deeper into deficit. The simplest answer is for the Federal government to follow the same rules that all others must follow.

To this end, I am reintroducing the Post Office Community Partnership Act. This bill outlines minimum community contact procedures that the United States Postal Service must pursue for any proposed closing, consolidation, relocation, or construction of a post office. Simply put, the bill requires the Postal Service to comply with local zoning, planning, or other land use laws.

This legislation has had the bipartisan support of the majority of the House of Representatives and in past Congresses passed the Senate only to become the victim of the politics of postal reform. In recent sessions there have been efforts at more comprehensive legislation that all include some variation of this bill as an enticement for passage. The pressure from our legislation has in fact encouraged some within the Postal Service to make significant progress. I've met with members of the Board of Governors of the U.S. Postal Service, the Postal Rate Commissioners, and the National League of Postmasters, and they have made progress. There are outstanding examples of where they have worked with the local community to make the post office an integral part of a downtown or main street.

It is time, however, to make this relationship something that every community can count on. It is time to make this relationship part of the Postal Service's regular activities. It should not be an exception, it should not require luck or extraordinary political action, and there should be no variation in the commitment to providing the finest examples of being a part of each and every community.

Last year, Congress failed on acting expediently to pass comprehensive postal legislation that included provisions from the Post Office Community Partnership Act. I am hopeful that this hesitation will not be repeated in the 109th Congress. Congress has the opportunity to set the tone for the Postal Service and federal government to become a full partner in the livability of our communities, leading by example so our families are safer, healthier, and more economically secure.

## INTRODUCTION OF H.J. RES. 30 AMENDING THE U.S. CONSTITUTION TO GUARANTEE A RIGHT TO QUALITY HEALTH CARE

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. STARK. Mr. Speaker, I am pleased to join my colleague, Congressman JESSE JACKSON Jr., to introduce an amendment to the US Constitution to guarantee health care as a right in this nation.

The current state of our health care system, if you want to call it a "system," is bleak. Yet, Congress and the White House continue to ignore the problems we face, or worse yet, offer ideological solutions that only exacerbate our current ills. Making changes to the tax code will do nothing to extend high-quality health care to the millions who are left outside of the system today. I am frustrated, as many Americans are, with the lack of leadership on this issue. This is why I have come back to an idea I had more than a decade ago—to force Congress to provide health care of equal high quality for all by guaranteeing this right in our Constitution.

The problems we see today are the same that have been with us for the past century. While some claim that the U.S. has the best health care system in the world, the high-tech medical technologies that are available to some in this country are out of reach to the 45 million uninsured—including eight million children—and millions more who are underinsured and cannot afford this care. Even when people do have health insurance, barebones policies with high out-of-pocket costs help force millions of families into bankruptcy each year. Access to "the best medical care in the world" shouldn't be determined by your income tax bracket.

And for all the praise of the advanced medical technologies available in this country, high-tech does not necessarily equate to high quality. Although the U.S. spends far more than any other nation on medical care, we do not have the best health status. Studies have shown that overall Americans receive the recommended treatment only 50 percent of the time.

Inequities in our system are not only based on what people can afford or where they live. Perhaps the most disturbing finding in recent years is the disparities in access, treatment, and outcomes that exist for people of color. It is unconscionable that the quality of health care may be determined by skin color, rather than need or proven medical practice.

An individual's health is the key to their ability to achieve the unalienable rights of life, liberty, and the pursuit of happiness that this nation was founded on. To ensure these rights are conferred, we must be certain that everyone—regardless of their income, race, education, or job status—can access health care of equal, high quality. Today, only prisoners in the U.S. enjoy this right.

Other countries—both developed and undeveloped—recognize the importance of health care and have guaranteed the right to health care through their constitutions, including Afghanistan, the European Union, Iran, Libya, Saudi Arabia, Somali, and South Africa. Even the provisional constitution of Iraq—written in part by the current Bush Administration—guarantees health care as a right. It is shameful that the U.S., the shining example of prosperity and democracy throughout the world, still leaves so many people on their own when it comes to health care.

For more than 30 years I have served in this body as an advocate for health care for all people. Unfortunately, time and time again I have seen efforts to expand and improve access to health care squashed under the weight of special interests protecting their individual fiefdoms. I firmly believe that until all people have an equal right to high-quality health care guaranteed through the Constitution, their interests will continue to be ignored as those who profit off the existing system maintain their opposition to reform. It's time for a grassroots movement to put the interests of the people first! I look forward to working with the advocacy community to make the shared vision of quality health care for all a reality.

On a final note, I am introducing this amendment today to extend a specific right to all people, which is the purpose of such amendments. Unfortunately, this Congress is likely to consider other amendments to our Constitution that will remove rights and codify discrimination against certain groups of people. Our Nation's most sacred document must never be amended to set aside certain rights for select groups, while barring others from ever realizing these rights. I can only hope that my colleagues take their responsibility to protect equal rights for all people in our democracy as seriously as I do.

---

## 50TH ANNIVERSARY OF JEMEZ SPRINGS

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to acknowledge and honor Jemez Springs, New Mexico on the occasion of its 50th anniversary. The citizens of Jemez Springs celebrated its golden anniversary this past weekend with games, food and a chili cook-off in the Jemez Village Park.

I want to offer my sincere congratulations to Mayor John Garcia and all the residents of Jemez Springs on this historic occasion.

Incorporated in 1955, Jemez Springs' caring citizens, diligent community leaders, superior schools, and growing economy have made for an exceptional and unique civic life for its citizens.

Located in the Jemez River canyon, Jemez Springs is nestled amid the high, volcanically layered mesa walls of the Jemez Mountains. The Village is located along Highway 4, the Jemez Mountain Trail. This scenic route has been designated as a National Scenic Byway, an honor given to only 55 routes in the Nation, historic NM 4, and is the main downtown road. There you can find restaurants, galleries, a natural springs bathhouse and several bed and breakfast inns. Horseback tours, cross country skiing and snowshoeing trips are available.

Native Americans inhabited the area as long ago as the 14th century. These were probably the ancestors of the current residents of nearby Jemez Pueblo. The community of Jemez Springs dates from the 19th century. It was originally known as "Hot Springs" and provided services for area ranchers. Today, the community is still best known for its hot springs which are warmed by geothermal activity beneath the Jemez Mountains. The principal industries in the area are tourism and forestry.

New Mexico may have a shortage of open water, but what it lacks in shoreline it makes up in volcanoes—and hot springs. When the Spanish explorers of the 15th and 16 centuries stumbled across New Mexico's natural hot springs, they discovered the healing properties that the Native Americans had known about for centuries. The Jemez Mountains are the remnants of a volcanic peak more than 14,000 feet high and date from 14 million to about 40,000 years ago. The hot springs in Jemez Springs are a product of the relatively recent eruption of the Valles Caldera. Naturally occurring minerals in the hot springs include acid carbonate, aluminum, calcium, chloride, iron, magnesium, potassium, silicate, sodium, and sulfate.

The spectacular crimson-colored formations known as Red Rocks and the narrow and dramatic walls of the Jemez River valley as well as the surrounding public lands have helped preserve the intimate village setting of Jemez Springs. The U.S. Census in 2000 counted just 375 people in Jemez Springs; 218 women and 157 men.

Major attractions include year-round recreational opportunities in the Santa Fe National Forest, the hot springs, Jemez State Monument, and fishing the Jemez River. Fenton Lake, Bandelier National Monument, and the Valles Caldera National Preserve are also unique features in the region. The community also hosts a Fourth of July celebration and a fiesta in August.

There is a saying that you find so much red in the Jemez Valley because it is the living, beating heart of New Mexico. Indeed, Jemez is where the sky, mesas and the water meet. I am proud to represent Jemez Springs where residents and visitors alike can find both peaceful sanctuary and fun recreation.

Mr. Speaker, today I ask you and my esteemed colleagues to please join me in congratulating Jemez Springs on their five decades of success.

---

## ON THE PASSING OF HELEN ANTON VALANOS

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. HOYER. Mr. Speaker, in the constantly changing world of Capitol Hill, all of us who are privileged to serve here recognize that people come and go—Members, staff, journalists, lobbyists and others.

And, if you work hard and have some luck, you can make your mark and make a difference in this great city and the life of our Nation.

Today, we mourn the loss of a truly wonderful woman who clearly did just that by establishing, along with her husband, one of Washington's enduring institutions—the Monocle restaurant. For 25 years, Helen Anton Valanos and her husband, Conrad ("Connie"), operated the Monocle, which the Washingtonian magazine recently said "remains a Hollywood East of political stars," and "a sort of political refuge flying a white flag . . . a place where Republicans and Democrats mix over food and drink and the bad blood between political parties seems to get bottled and checked at the door."

Mrs. Valanos passed away on January 4th in Boca Raton, Florida, where she had lived since 1985. But the memories of her—like the political lore that has been generated at the Monocle for more than four decades—will always be with us.

She was born in Anderson, Indiana, and graduated from the University of Miami before settling in Washington with Connie in 1950. She worked with her husband in their accounting firm, and then, in 1960, they opened the Monocle. As the Washingtonian recounted: "The Monocle opened with no advertising, no sign outside and all 86 seats filled for lunch." And thus was born, in September 1960, a place to see and be seen.

Today, says John Valanos, who since 1989 has run the restaurant that his parents started, three-quarters of his customers are "people coming to the Hill to do business or to show friends or family what Washington is all about. They stop to see the photos on the wall, to experience some of the history that makes us unique. They say this is where JFK dined, where Mark Russell taped his CNN shows."

During much of that time, as The Washington Post recently noted: "Mrs. Valanos, a stylish presence at the restaurant for 25 years, would leave her bookkeeping duties upstairs, enter the restaurant and sweep through the room, greeting customers and making sure the regulars had a momentary chat with the owner."

The secret to the Monocle's success is not only its proximity to Capitol Hill, its great food and its unique ambience, but also the fact that Connie and Helen—and now their son John—have nurtured a politically nonpartisan establishment and worked to protect the privacy of the public figures who dined there. Personally, I remember going to the Monocle when I was still a Congressional aide in the 1960s, and still go there for dinner and political fund-raisers.

I know that I speak for literally thousands of Members and others in offering my deepest condolences to Connie, John, the Valanos' other son, George, and the entire Valanos family for their loss.

---

## HONORING THE CONTRIBUTIONS OF THE NEVADA STATE SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 1, 2005*

Mr. PORTER. Mr. Speaker, I rise today to recognize the 80th Nevada State Conference of the Nevada State Society Daughters of the American Revolution. It is indeed an honor to salute such an extraordinary group of women committed not only to maintaining a legacy that acknowledges the undaunted efforts of our forefathers as they formed our great nation, but also to honor them for their continued patriotism and commitment to education, our veterans and historic preservation.

When we entered the 21st Century five years ago, the secure and optimistic stride of American strength and prosperity was marred by the outrageous actions of a cowardly few. The Constitutional assurances of domestic tranquility and liberty established in 1787 were seemingly knocked off-balance when our borders and our lives became the victims of foreign terrorism in 2001. Yet, even when we seemed broken by the challenge of this assault, we stood resilient. And like the patriots who fought for democracy and freedom at the infancy of this nation—like shadows of their legacy—we rose strong to proclaim the ideals that are the fabric of this great nation. Like a quilt, the patchwork picture of America—a colorfully authentic composite of her people, her struggles, her history, and her future—remains tethered together by a commitment to our country, a belief in God and the values and virtues of home.

This organization exemplifies the same spirit of patriotism and vision once held by our great forefathers. Whether through their efforts to help finance the educational dreams of diverse groups of Nevadans or the thousands of hours of service they give to our veterans, they reach back into the past to honor those who struggled for freedom and reach forward into the future to pave the way for young Americans who will face newer, broader challenges in perpetuating the vision of democracy.

Likewise, through the perpetual concern they have had for Native American people and participation in the issues that affect them, we all can take part in the appreciation of their rich history and the impact Native Americans have had on Nevada. And now, all of America will remember the Native Americans and their struggle as they gaze upon the statue of Sarah Winnemucca in the United States Capitol, a graceful symbol of a great American woman who spent her life trying to unite men and women who were divided by color and culture.

Mr. Speaker, through every facet of society, the hands of the Nevada State Society Daughters of the American Revolution leave lasting impressions. Today, I salute them for their continued work and service to Nevadans and Americans everywhere.

# SENATE—*Wednesday, March 2, 2005*

The Senate met at 9:15 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, the Author of peace and lover of concord, we thank You for Your goodness and loving kindness. We praise You for our creation, preservation, and all of the blessings of this life.

Guide and govern the Members of this body by Your Holy Spirit. In the heat of their work help them not to forget You but to remember that Your power is available for every challenge. Teach them how to serve You as they should. Help them not to strive primarily for success but for faithfulness.

Strengthen each of us for the challenges of today and tomorrow. Enable us to so live that people will see Your image and glorify Your name. Bless our military as it labors for liberty. We pray in Your powerful Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, March 2, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning following morning business we will resume consideration of bankruptcy reform. Under an order from last night, shortly after resuming the bill we will proceed to two stacked rollcall votes on amendments. The first vote will be on the Feingold homestead amendment, which will be followed by a vote on the Akaka disclosure amendment. The first vote will, therefore, occur approximately at 10:30 this morning, maybe just a little bit later.

For the remainder of the day we will continue working through amendments to the bill. Senators should expect rollcall votes throughout the day. One of the reasons we scheduled the votes early is to get started to build momentum throughout the course of the day. We made great progress on the bill yesterday. I thank all of our colleagues for coming forward with their amendments.

We are systematically addressing each of the amendments, and we will continue to do so over the course of the day and the remainder of this week.

## ACCESS TO SAFE WATER AND SANITATION

Mr. FRIST. Mr. President, I rise today to speak to legislation that will be introduced by myself and others later today that focuses on an issue which has for too long been neglected, not just by our people or our Government but, indeed, peoples around the world. It centers on the issue of access to safe water and sanitation. This legislation focuses on developing countries with specific policies outlined in the legislation. I am pleased we have Members on both sides of the aisle joining me as original cosponsors of this legislation which will be introduced later today.

It boils down to the simple fact that every 15 seconds, a child dies because of a disease contracted from unclean water. Four children have died since I began talking on this particular issue.

Fully 90 percent of infant deaths, of deaths of children less than 5 years of age, relate to waterborne illnesses, a product of lack of access to clean water or inadequate sanitation. In total, water-related illnesses kill 14,000 people a day, and most of them are children. That is over 5 million people a year. It does not include the other millions of individuals who will be debilitated and prevented from living healthy lives.

Globally, in many ways, waterborne disease is a silent tsunami. That is the impact it has on a continuing basis. Now is the time to focus on it. Now is the time to act because these are preventable deaths. Typhoid, cholera, dysentery, dengue fever, trachoma, intestinal helminth infection, and schistosomiasis can all be prevented by simply providing safe water and sanitation. More than 1.1 billion people today lack access to clean water. They do not have access to what we take for granted. We can go to the water faucets and drink water in most parts of this country, but lack of access to that clean water is killing a child every 15 seconds. Malaria, which is a mosquito-borne disease directly linked with stagnant pools of water, kills 1 million people each year. Again, most of those are young children. It is preventable.

Unfortunately, reliable projections suggest that the problem is bad, but projections are that it is getting worse. We know it is getting worse. Water stress and water scarcity, leading to disease-borne and impure water, is increasing. If we look forward to 2025, upwards of two-thirds of the world's population may be subject to water stress.

There are over 260 river basins across the world that are shared by two or more countries that actually share the water basins. There are 13 basins that flow through 5 or more countries. There, water is scarce where it is shared by so many. Yet it is so necessary that scarcity can, historically, result in armed conflict. Clean water seems so simple. It seems so basic. In America, we, for the most part, take it for granted. The rest of the world cannot.

UNICEF reports that over half of the world's schools lack safe water and sanitation. In many parts of the world, including in Africa where I have the opportunity to visit, people travel not just an hour but 3 and 4 hours to provide water on a daily basis for their family. In many ways, it becomes a women's issue globally because in most countries that burden falls upon women who are pulled away from addressing other issues such as their children and family. It takes time going to that water source and carrying it home.

Imagine living in a rural village in Sub-Saharan Africa or East Asia where village members share their water with livestock, where you have contamination occurring on an ongoing basis. Imagine being a grandmother like Mihiret G-Maryam from a small village in Ethiopia who watched five of her grandchildren between the ages of 3 and 8 die from water-related diseases. Before the U.K.-based WaterAid organization intervened in her community,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

constant stomach pain and diarrhea were a fact of life, an accepted fact of life. The foul-smelling contaminated water exposed Mihiret and her neighbors to parasitic diseases. They had no latrines. Human waste, human excretions were everywhere.

As Mihiret testifies:

> It was horrid to see, as well as being unhealthy.

Now, because of the education and investment of WaterAid, together with the local church, her village is clean, and people no longer have to suffer from that chronic stomach ache, pain, and diarrhea. Clean water has literally saved lives. This story demonstrates that proper management and intervention can be a currency for peace and international cooperation.

On my medical missions, I have seen this on a daily basis. Most recently, in January, a bipartisan group of Senators went to East Asia to serve in the aftermath of the December 26 tsunami. As I have mentioned in the Senate, traveling over the Sri Lanka coast for hundreds and hundreds of miles, we could see that devastation was nonstop. We saw the destruction of local water sources, water buckets washed away, and the contamination of wells with saltwater.

We know the statistics: Well over 150,000 people died, and a million lost their homes. Many are still missing as of today. Thousands of children will grow up without their parents. It will take a lot of time and, yes, a lot of resources to rebuild that infrastructure. A lot of people will never recover from the psychological shock, and the scale of the tragedy is difficult to comprehend.

I mention that because if you look at what happened in the tsunami, it illustrates what can happen when one focuses aggressively on relief with clean water. The tsunami poisoned wells, and the routine dependence on water was taken away. That lack of access to clean water introduced the potential for dysentery, for cholera, and for malaria.

As we flew over the coast we could look out the window and see stagnant pools of water that, if left, will become a source of breeding for the mosquitos that ultimately could have led to a malaria epidemic. Those things did not happen because of the rapid relief addressing clean water and sanitation. We participated in these relief efforts. Many participated in some way.

What is critical to understand in the immediate aftermath of the tsunami is that there are long-term solutions to the problem surrounding water which we in this body and our Government have not yet addressed. But when you have a child dying every 15 seconds from a preventable cause—that is, lack of access to clean water—there are things we can do to focus and, hopefully, prevent thousands and thousands of deaths that occur now every week.

March 22nd is designated by the U.N. General Assembly Resolution 58/217 World Water Day and will launch the International Decade For Action. That will launch an initiative called Water for Life. For the decade ahead—that is the next 10 years—from 2005 to 2015, the United States has agreed to work to reduce by one-half "the proportion of people who are unable to reach or afford safe drinking water along with access to basic sanitation."

The President and the administration have taken steps to fulfill these commitments. In August 2002, the Water for the Poor Initiative was launched with the intent to improve sustainable management of fresh water resources in over 70 developing countries. An estimated $750 million was invested in this initiative in 2004.

However, in a time of limited public resources, we find that in that year only a little over 6 percent, or about a 20th of total U.S. foreign assistance funding for water activities, was targeted for sub-Saharan Africa. Yet it is in sub-Saharan Africa that the major problem, for the most part, rests. It is an allocation of resources that we need to examine to see if it is appropriate instead of investing where the problem is. If the objective is to save lives, the allocation of our resources seems to be going to other areas. Sub-Saharan Africa is not only where we have the greatest problem today, but it has the fastest growing population. Thus, they will have some of the greatest need for clean water and sanitation in the future.

As we look at the legislation we will be introducing, we all recognize there is no single piece of legislation that can fully address this huge challenge before us to eliminate these water-related diseases around the world. But I do think this legislation underscores the importance, in a bipartisan way, of continued leadership in this arena of addressing a problem that has been hidden from the world for too long. Alongside Government leadership, many dedicated organizations, private individuals, faith-based organizations, nonprofits, and international governmental organizations are working hard, each in their own ways, to address this challenge.

The bipartisan legislation we are introducing today has three simple objectives.

No. 1, it would make it clear that we would have an unequivocal pronouncement that clean, safe water and sanitation, sound water management, and improved hygiene for people around the world is a major policy goal of the Foreign Assistance Act of 1961. It becomes a major policy goal. It is not today, but it should be. And with this legislation it will be.

Second, it would authorize a 5-year pilot program of $250 million a year to assist those countries that have the highest rates of waterborne diseases. This is what it does: It helps them develop funding mechanisms such as investment insurance, investment guarantees, or loan guarantees of up to 75 percent to develop sustainable—the key word is "sustainable"—water infrastructure systems.

Third, the legislation directs the Secretary of State, along with the Administrator of the USAID, to develop within 180 days a national strategy that would both assess what is being done today and what changes need to be made in order to expand access to safe water and sanitation. This national strategy would be produced in consultation with all of the Federal agencies addressing components of this problem today, along with appropriate international organizations, foreign countries, and U.S. nongovernmental associations and entities.

I will close with mentioning this, as well: In the weeks ahead, I will introduce companion legislation to create a global health corps that will be using the Peace Corps as a model and inspiration. It will allow teams of medical professionals and other volunteers to travel to remote areas to provide medical treatment and public health information. Some of these teams will provide quick assistance when disaster strikes. Some will provide ongoing care in some of the neediest parts of the world. And many of these health volunteers would come from the ranks of experienced doctors, nurses, and medical technicians.

We know that such public health and medical assistance can serve as a currency of peace and a vital tool of public diplomacy. Our assistance to other nations carries the most weight when it involves that personal and intimate contact at the community level, and where it also provides tangible benefits to everyday people. Medical and public health assistance does both of these things. Thus, it can be used as a currency of peace and a vital tool of public diplomacy.

I look forward to the Foreign Relations Committee reporting this legislation in the near future, and I look forward to enacting this legislation expeditiously. Remember, every 15 seconds a child dies somewhere in the world from a waterborne illness because of a lack of access to clean water.

In the short time I have given this statement on the Senate floor, another 50 children have died from diseases we know how to prevent. We must do our part to bring health and hope to the millions of people who need clean water. It is as simple as the glass of water that sits on my desk.

I do thank the Democratic leader. We have been talking and working together on this legislation. I believe this can represent a tremendous bipartisan, ultimately bicameral effort that can reverse a human tragedy that is unfolding before our eyes as a product, at least in part, because of inadequate attention.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, these 50 children who have died during the presentation by the majority leader are children, of course, who have parents, and brothers and sisters in most instances. The grief and heartache is multiplied each day with the death of children. I appreciate very much the majority leader reaching out to make sure this is a bipartisan piece of legislation. I think it sets a good tone that the two leaders are moving forward on an initiative that speaks of the goodness of America. That is what this is all about. We care about children dying, wherever it happens.

We have the unique situation in this Senate that we have one of the leaders, the Republican leader, who is a medical doctor. During his tenure in the Senate, he has traveled the world looking at medical problems that exist and there is no bigger problem than water.

Our former colleague who recently passed away, Paul Simon from Illinois, wrote a book, "Tapped Out." In that book, he mentioned some of the things I have said. The State of Nevada is different from the State of Tennessee. We have what we call rivers, but they are tiny, little. I do not know what they would be called in most States.

The Colorado River is a river that at times can be a mighty river, but the rest of the rivers we have in Nevada are tiny, little rivers. The Truckee River, which supplies the second largest city in Nevada, Reno, with all its water, is a little stream. You can walk across it in most places. The world-famous city of Las Vegas gets 4 inches of rain every year.

We need to do something about the lack of water around the country, and not only the lack of water but the quality of the water. A lot of places have water, but it is not water you can drink and stay healthy with.

I am pleased to join the majority leader in cosponsoring this important legislation. We are going to introduce it later today. Our staffs are working on the language.

With this legislation, we are seeking to do something meaningful for the hundreds of millions of people across the globe who lack safe and clean water. It is something so basic, yet so critical to human life. Improving the delivery and access of clean and safe water, better hygiene and medicine, that is what this bill seeks to achieve.

No one knows more in this body than the majority leader, from his travels in Africa and elsewhere, that over a billion people—and that is probably a figure that is too low—lack access to clean water. Each year, as has been indicated, millions of people die. We do not know how many people, but at least 5 million people die from water-related diseases. More people die from unsafe water than from all forms of violence, including war. Eighty percent of all sickness in the world is attributable to unsafe water and improper sanitation, and they go together in most instances.

These statistics are staggering and disturbing because so much of this disease and despair is preventable. That is what the legislation is all about. We need greater U.S. and international involvement and a more proactive strategy. In addition, we need to fully fund this initiative and the other water programs currently undertaken by our Government.

I am grateful the majority leader will shortly enter into a colloquy with me that directly addresses the strategy and funding problems. We are going to work together. This is bipartisan legislation. The majority leader and I are doing this not for purposes of showing we can do something together, which I think is an important message, but we are actually going to do something. We are going to do more than introduce this legislation. There is going to be more than authorizing legislation. We have a huge budget in the United States. I think we can find money to actually do this. It is important. And we do not have to take from other programs. I hope that is the case.

So I look forward to continuing to work with the majority leader, Senator LEAHY, and Senator MCCONNELL, who are the ranking member and chair of the Appropriations Subcommittee on Foreign Operations, and, of course, Senators LUGAR and BIDEN, who are the chair and ranking member of the Foreign Relations Committee. There are others. But we are going to get working to make sure we do something positive to make sure the world is a safer place.

When people are healthy, they have less problems with raising their children properly. It creates all across the world an influence that is positive and resolves many differences. We know, as is pointed out in the book by Senator Simon, in the future, wars are going to be fought over water, not over territorial boundaries necessarily, unless it does involve water. There is a shortage of water.

If we can do some good work in the Middle East, for example, with water—and here, I have to compliment Israel. Israel, as we speak, does not have the best relations with some of its neighbors, but they have joint water projects that they are working on. There is not a lot of fanfare for that, but they all realize that water is important, as we do.

So again, I compliment and I applaud the majority leader for his initiative. I look forward with anticipation to doing something good for millions and even billions of people around the world.

Mr. FRIST. I am pleased to enter into this colloquy with the distinguished minority leader and I appreciate his cosponsorship of the Currency for Peace Act of 2005.

Mr. REID. I am grateful to the majority leader for raising the critical issue of the lack of safe water in developing countries. It is one of the world's most pressing development challenges which impacts hundreds of millions of people across the globe.

Mr. FRIST. Unsafe water and water-related diseases have far reaching consequences. That is why U.S. Government, acting through the Department of State and the United States Agency for International Development, has been undertaking critically important programs in developing countries to provide clean and safe water, sanitation and hygiene for many years. These life-saving programs should be continued and expanded, wherever possible.

Mr. REID. It is also critical for the United States and the international community to fully recognize the role that unsafe water plays in causing death, disease, poverty, environmental degradation, and instability. An aggressive and timely response is required, and the United States should be at the forefront of that effort. The U.S. Government and other donor nations must develop a more proactive response that commits greater resources and ensures that these resources are allocated where the greatest needs exist.

Mr. FRIST. And while we bolster and enhance our existing programs and strategies, Senator REID and I are pleased to put forward this new initiative that fully acknowledges the role that safe water plays in health and development. In the future, we must find the additional resources to fully fund the Safe Water Act of 2005, without decreasing our support for existing safe water and other foreign assistance programs.

Mr. REID. I fully agree that the initiatives set forth in this act should be fully funded, but not with funds taken from existing and ongoing foreign assistance programs. I look forward to working with Senator FRIST and the White House to obtain full funding for this program in the President's fiscal year 2007 budget and in subsequent years so the United States can implement pilot programs that can eventually be expanded to other countries in the future.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee.

Who seeks recognition?

The Senator from Colorado is recognized.

(The remarks of Mr. SALAZAR and Mr. CORZINE pertaining to the introduction of S. 496 and S. 497 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE PRESIDING OFFICER (Mr. VITTER). The Senator from New Jersey is recognized.

(The remarks of Mr. CORZINE and Mr. DURBIN pertaining to the introduction of S. 495 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Virginia is recognized.

## THE PRESIDENT'S TRIP

Mr. WARNER. Mr. President, the distinguished Senator from Kentucky has yielded to me his time. I will take about 7 or 8 minutes.

It is so important for Members of this body to reflect on the President's most recent trip to Europe. Without being presumptuous, in my judgment, I think it was one of his best, maybe his finest, and in the years to come, I hope he can parallel the achievements of this particular trip.

My views are important, perhaps, but more important are the views of the representatives from nations in Europe to the United States. I had several of the ambassadors visit in my office this week to discuss the President's trip.

I would like to read some quotes from television programs on which these three ambassadors appeared recently. Jean-David Levitte is France's Ambassador, and I have had a particularly warm and productive relationship with this ambassador since he was posted. He has had an extraordinary career. He has been here in Washington a number of times in previous positions.

It is well known he is very close to President Chirac. When asked a question about the relationship between our country in the context of the President's trip, he said as follows:

> Yes, I do think so. Wolf, I participated—I was privileged to participate in the dinner in Brussels between the two Presidents, and it worked very well.

That is his appraisal.

Then Wolfgang Ischinger, Germany's Ambassador, when asked the question, Has the relationship, based on what you know, Mr. Ambassador, improved? he replied:

> Oh, I certainly think so, Wolf. In fact, I don't really think we really needed the meeting in minds. President Bush's visit to Germany this past week, to improve this relationship between the two governments. I think we've been doing quite well over the last year already.

He continued when pressed again:

> I think there has also been substantive movement and change, not only because President Bush, by visiting the European Commission, put to rest the suspicions in this country and in Europe that America might no longer be supportive of the European Union, of the idea of European integration, but also because in the meeting with the German side, in which I had the chance of participating, President Bush, I believe, enhanced the degree of U.S. support. He went a step further in terms of expressing his support for European efforts on Iran.

Then Sir David Manning of Great Britain. I have had a warm and productive relationship through the years with this fine individual, another individual who has been posted to this country on a number of occasions. When asked a similar question about the President's trip, he replied:

> Well, I think we're all very encouraged by the President's visit and, indeed, by Secretary Rice's visit, because this has been an issue that's been discussed by all our heads of government, and much more widely than the three of us here.

The point I make is, as I read through the press reports from these three ambassadors in the United States, they were all very strong on the issue of the success of the President's visit, together with our distinguished Secretary of State.

Then to another subject that President Bush quite properly raised, it is one of concern to this Senator and I think a number of us here in the Senate. I would like to quote from the President on his trip. He said as follows:

> Well, I talked about this issue with President Chirac last night, and Prime Minister Blair.

The issue, if I might step back, is:

> Mr. President, European countries are talking about lifting their 15-year arms embargo on China. What would be the consequences of that? And could it be done in a way that would satisfy your concerns?

The President replied:

> Well, I talked about this issue with President Chirac last night, and Prime Minister Blair, and I intend to talk about it in a couple of hours at the European Union meeting. We didn't discuss the issue at NATO, by the way. And here's what I explained. I said there is deep concern in our country that a transfer of weapons would be a transfer of technology to China, which would change the balance of relations between China and Taiwan, and that's of concern. And they, to a person, said, well, they think they can develop a protocol that isn't—that shouldn't concern the United States. And I said I'm looking forward to seeing it. . . .

Referring to the protocol.

I discussed this with several ambassadors when they came into my office and, indeed, a team is to be forthcoming from the European nations to visit the United States. I think we should hold final judgment until we have had the opportunity, in a courteous way, to reflect on those precautions that the European countries will take in the context of lifting this ban.

But I point out that in my study of the relationship between China and not only the United States and Taiwan but the entire region, they are on a very fast pace to modernize a wide array of weapons—weapons that could, for the first time, begin to pose in the outyears a threat to our fleet units.

I select the fleet units because our concept of the projection of our force forward is dependent on the protection of naval components, particularly our carriers. I see on the horizon grave concerns about lifting this embargo in terms of China's capability militarily in the outyears.

A third subject I would like to cover in the context of the President's visit is he was addressing the challenge to, indeed, all free nations as we participate to try and give support to Israel and the Palestine Government to come to a final consensus to resolve their problems and to bring about a cessation of the turmoil in that region.

I am so deeply grateful the President made the following statement:

> President Bush on his recent trip to Europe stated, "America and Europe have made a moral commitment. We will not stand by as another generation in the Holy Land grows up in an atmosphere of violence and hopelessness."

Yesterday, the Armed Services Committee had a hearing. General Jones, the NATO Commander, was on the stand. I questioned him regarding a concept which General Jones and I have discussed on a number of occasions over the past several years, and that is the possibility of NATO playing a role of peacekeeping on behalf of the Palestinian and Israeli interests. That would have to be at the invitation of both of those Governments.

Why NATO? Our country is very proud of a very long relationship with the State of Israel, an island of democracy in that part of the world. We have very strong ties there, as we should. Correspondingly, Europe has had very strong ties with the Palestinian people through the years. It goes way back. Significant portions of their population have ties to that region. So a NATO peacekeeping force comprised of both the military units from the European nations and some, I would say, proportionate amount of American forces would be perceived as a balanced force and could come, in my judgment, and provide a sense of security to support such frameworks of peace and accords as these two nations could hopefully achieve with our help and the help of other nations.

Again, it would only be at the invitation of the two Governments, but I think it is a concept that I have addressed on this floor many times. Others have likewise; indeed, some prominent journalists whom I respect. I do hope that it be given consideration.

General Jones in his testimony yesterday said it has been brought up in the North Atlantic Council of recent. Other nations are interested in this concept, and I hope our Nation, the United States, can get behind and explore the options.

I thank the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. There is 25½ minutes remaining.

## UNANIMOUS CONSENT AGREEMENT—S. 256

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate resumes the bankruptcy legislation, there be 20 minutes of debate equally divided prior to the vote or in relation to the Feingold amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRESIDENT BUSH'S TRIP TO EUROPE

Mr. McCONNELL. Mr. President, I, along with others, had an opportunity yesterday to get a briefing from the President about his trip to Europe. It was a bipartisan group, well attended, and everyone was quite interested in getting the President's views of the results of his trip.

It is clear that the Iraqi election has transformed the political landscape, not only in the Middle East but in Europe as well.

First in the Middle East, we have witnessed in the last few months the election in Afghanistan on October 9, the election in the Palestinian territories on January 9. We have witnessed the Rose revolution up in Georgia, the Orange revolution in Ukraine. Then we have had the election in Iraq. And in the post-Iraq period, we have seen people take to the streets in Lebanon.

It is clear with the unified message from the French and the Americans that the international community wants, at long last, Syrian troops out of Lebanon—entirely out, not just the troops but the security forces as well—so that the Lebanese elections this spring can be uninhibited by foreigners.

All of this is going on, and added to that we have the President of Egypt saying they are going to have a real election. That has certainly not been the case in Egypt in the past. A real election presumably means real choices with the opposition allowed to speak, participate, and run for office.

We have even seen some elections in Saudi Arabia, though women are not yet allowed to vote. That is a step obviously in the right direction.

What is happening here? I think the Iraqi policy of the President of the United States is transforming the Middle East and transforming European attitudes toward America and the policy in the Middle East. The President's trip last week I think underscores that.

He had unanimous support from NATO, all 26 countries, to do something within their capability to help the Iraqi emerging democracy. The French want to help. The Germans want to help. This is an enormous transformation in Europe, as well as in the Middle East. All of this, I would argue, is a result of the extraordinarily effective war on terror and particularly the Afghanistan and Iraqi chapters.

The President's grand strategy is not just to protect us at home—and that has worked so far; since 9/11 they have not been able to hit us again—but through these policies of transformation, he sort of drained the swamp and made it likely that the kinds of people who tend to join up with these terrorist groups will feel a sense of hopelessness in their own countries because they do not have a chance to influence outcomes and determine their own governments and their own fates.

This is an incredible step in the right direction. Clearly, problems remain, and at the top of the list would have to be Iran and North Korea. With regard to Iran, the President is pursuing a multilateral policy in which the British, the Germans, and the French engage the Iranians, hoping to convince them to follow the policy chosen by Muammar Qadhafi, for example, in Libya, witnessing what happened to Saddam Hussein in Iraq, deciding it would be better to give up weapons of mass destruction and work his way back toward being part of the community of civilized nations. The Europeans hopefully will make that point to the Iranians, and we are looking forward to pursuing a very aggressive policy. Everyone in Europe agrees that a nuclear Iran is simply not an option.

While we do have growing areas of agreement with our European allies, there are some differences. As the Senator from Virginia pointed out, we are not happy about the apparent decision of the European community to trade with China in possibly missile technology or other military equipment that could potentially destabilize Asia and raise the anxiety of the Japanese, for example, and ourselves and exacerbate the cross-straits problem between China and Taiwan. So we do have our differences with the Europeans on that.

The President made it clear that in addition to the public meetings he had with President Putin of Russia, privately he also aggressively emphasized the importance of Russia continuing in a democratic direction and the importance of not unraveling the democratic reforms of the early 1990s if Russia is going to be a place where foreign investment will be willing to go. If there is not a respect for the rule of law and not a free press, not the kind of atmosphere in which one can function, the chances of Russia realizing its aspirations will be significantly set back if President Putin continues down the path he has chosen.

The new Ukrainian President was there. It was very exciting for all of the 26 NATO members to have an opportunity to see this hero. His opponents tried to kill him, and he is still in the process of trying to recover from the poisoning that almost took his life. It was remarkable to see the Ukrainian people take to the streets and demand an honest election, get an honest election, and elect someone who is westward leaning and who wants to bring the Ukraine into the European community and make it a country that can advance the hopes, desires, and aspirations of the Ukrainian people.

Finally, the President indicated he had an extraordinary, uplifting experience in Slovakia. He said he was standing there in the square speaking to the Slovakian people, and he said the best evidence that they have a genuine democracy was that one fellow had a sign up with some kind of anti-Bush comment on the sign. The President said the man stood there quietly holding up his sign during all of the President's speech, and the President pointed out that that was a further illustration that in Slovakia they are free to speak their mind and peacefully protest. The President thought that was a good sign of the stability and effectiveness of the new Slovakian democracy. By the way, that is a country that is making remarkable progress, which is, I am sure, the reason the President chose to go there.

I conclude by saying that President Bush clearly had a good week, and the reason he had a good week is because he has been pursuing policies that are working. Democracy is breaking out, springing up, taking root all through the Middle East, and the Europeans look at that and have to conclude that whether or not they supported the Iraq war initially, that single decision to liberate Iraq could well be the turning point in transforming the Middle East into a place where democracies that respect the rights of minorities, engage in protection of human rights, and have free presses are the wave of the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I ask that the Chair let me know when I have 6 minutes remaining on our time, please.

The PRESIDING OFFICER. The Chair will so inform the Senator.

Mr. CHAMBLISS. President, President Bush has recently concluded an historic and highly productive trip to Europe. During my review of what was said, and more importantly, what was accomplished, I was struck by the number of significant issues that were addressed and how so many of them portend a better future for our important transatlantic relationship. This was a "good news" trip, which might explain why its coverage in the U.S. media was minimal at best.

There is no doubt that relations between the United States and Europe have been strained, especially over the conflict to liberate the people of Iraq. And, as we know, the media seems to thrive on reporting bad news at the expense of the good, which can distort what actually exists.

I know, for example, that reading about the situation in Iraq in the press forms one perception of reality. But, one gets a very different point of view if they visit Iraq and meet with our military personnel who are serving there, as I was able to do recently. One would think that they are talking about two completely different countries. The fact is that Iraq is not all doom and gloom, nor is it yet the place we envision it to become.

It is evolving politically, economically, socially, and yes, it is facing significant challenges from insurgents and terrorists. Yet, thanks to the vision and fortitude of President Bush, the extraordinary men and women in our military and diplomatic service, and the Iraqi people, Iraq is becoming a more secure country working toward its own unique form of representative government.

In Europe, it is my firm belief that we have far more in common than we have differences over foreign policy. Again, the media has tended to focus its reporting on the problems between us, which distorts the reality of our relationship with Europe. And, what is that reality? What are the issues? And, how do we see the transatlantic alliance in the future?

I come to this issue without any "rose colored" glasses. As a congressional delegate to the World Economic Conference in Davos, Switzerland, last January, I experienced first-hand the depth of resentment toward the United States felt by many Europeans. But on that same trip, in a meeting with French President Chirac, I also saw the beginning of the end of this feeling.

We have a vision for Iraq and the Middle East in general that calls for individual freedom and representative government. I do not think that the French, or any other democratic, European nation was opposed to this "vision." Rather, they were skeptical that President Bush could actually move his vision of freedom to becoming a reality in an area of the world pretty much devoid of democratic governments, with a few exceptions like Israel and Turkey.

In our meeting with President Chirac it was clear that he saw that United States polices in Iraq are beginning to work, that freedom might really take root in the Middle East, and that France and the rest of Europe had to be a part of this historic process.

By working together with European leaders, President Bush has put our transatlantic alliance and relations with Europe back on a normal track. We came to agreement on some issues, agreed to work on others, and identified those where we differ.

The list of results and issues addressed by President Bush during his trip is impressive and I want to highlight some of the major ones that fall into several categories:

First, with respect to NATO, all 26 member counties have now agreed to provide some form of assistance to support the NATO mission of training Iraqi defense forces.

With regard to Afghanistan, NATO continues to expand its role as the leader of the International Security Assistance Force, ISAF, and the United States and NATO agreed to work toward merging the United States-led Operation Enduring Freedom and ISAF into one allied command.

With regard to Ukraine, strong support was expressed by NATO Secretary General de Hoop Scheffer and President Bush for the future accession of Ukraine into NATO.

With regard to the E.U., the United States and the E.U. issued a joint statement in support of the people and the Government of Iraq.

United States concerns were clearly expressed to the E.U. about lifting its arms embargo against China.

President Chirac understands these concerns and there will be more United States and E.U. discussions on the embargo.

The United States and Germany announced joint actions on cleaner and more efficient energy policies and on climate change, which will include: Joint activities to develop and deploy cleaner, more efficient energy technologies; Cooperation in advancing climate science; and joint action to address air-pollution and greenhouse gas emissions.

With regard to Iran, the United States and its European allies exchanged views on nuclear weapons in Iran and agreed to that it is not in the world's interest and that a common approach on this issue should be developed.

The United States agreed to take a more proactive role in the European-led negotiations with Iran on its nuclear program.

With regard to Russia, President Bush made clear to President Putin the importance of promoting democracy in Russia.

Both presidents announced cooperation in combating the spread of manportable air-defense systems or MANPADS.

Both agreed that Iran and North Korea should not have nuclear weapons.

Both voiced strong support for a peace agreement between Israel and Palestine.

Presidents Bush and Putin announced six areas, called the Bratislava initiatives, designed to bring Russia and the United States closer together. These initiatives are: nuclear security cooperation, World Trade Organization, energy cooperation, counterterrorism, space cooperation, and humanitarian, social, and people-to-people programs

With regard to Lebanon, President Bush and President Chirac jointly announced their condemnation on the assassination of former Lebanese Prime Minster Rafiq Hariri and pledged their mutual support for a free, independent, and democratic Lebanon.

I began my remarks by stating that President Bush's European trip was historic and productive. The partial list of issues I just mentioned clearly shows how much President Bush and European leaders have moved beyond policy differences over Iraq and that we share a common vision for a peaceful, democratic world. We may not always agree on how to reach our objectives, but we can agree on what those objectives are.

Our remaining challenge to further strengthen our ties with Europe is to change the negative perception that many average Europeans have of the United States. This is where the media can, and should, play a constructive role by balanced reporting on the true state of our relationship with Europe.

Let me repeat that we have far more in common with Europe than the differences between us and President Bush made great strides in promoting our common vision of the world with our allies.

It is now up to the rest of us to reinforce the President's message of working with our European allies, just as it is up to the Europeans to understand that President Bush's goal of promoting freedom around the world is a perpetual one that is in all mankind's interest to promote.

I close by commenting on some statements that were made yesterday in a hearing. In the Senate Armed Services Committee, under the leadership of Senator JOHN WARNER and Senator CARL LEVIN, we had General Jones, General Abizaid, and General Brown, who represent the commands responsible for the Iraqi conflict. In his opening statement, General Abizaid made the comment that as a result of what has happened in Iraq, in Operation Iraqi Freedom, and Afghanistan, we have now seen free and open elections in Afghanistan, and we have seen free and open elections in Iraq. We have seen an election take place in Saudi Arabia that were it not for the conflict in Iraq would never have happened. We have seen the people in Lebanon rise up against their Syrian invaders and put pressure on the Syrian Government to return that country to the people of Lebanon.

We have seen the Government of Libya turn over their nuclear weapons to the IAEA and to the United States for examination, to rid their country of the potential to have any nuclear weapons.

We have seen the leader of Egypt now proclaim he wants to see democratic elections in his country for the first time.

There are any number of instances that have occurred and are going to occur in the Middle East, a part of the world where violence has prevailed for decades, and where the terrorist community has trained and perpetuated itself for decades. Were it not for the vision of President Bush relative to the freedom of the Iraqi people, were it not for the support of Congress and the American people of that vision, and were it not for the strong leadership of our military, the strongest, greatest fighting force in the world, those events General Abizaid ticked off yesterday simply would not have happened.

If he had come in 12 months ago and said here is what is going to happen in the Middle East over the next year, no one would ever have believed that what he said would come to be true. The fact is it did. The fact is the people of Iraq are moving toward freedom and democracy. The fact is that now, after President Bush's highly successful trip to Europe, the Europeans have a better understanding of the importance of the transatlantic alliance working together to promote our president's vision of freedom throughout the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I will take the remaining time on the Republican side. I thank my colleagues, Senator WARNER, Senator McCONNELL, and Senator CHAMBLISS, for laying out the leadership our President has shown in going overseas, talking about our fight for freedom, and showing it is a fight for freedom for every country that has a democracy, and that it should also be a shared responsibility.

I appreciate the President's leadership and our Senators for talking about what is happening. It is incredible, the changes we are seeing in the world because of the President's steadfast determination that we are going to do the right thing, that America will be the banner of freedom throughout the world, and that we could use help from our allies and hopefully they will understand and agree it is a shared responsibility for all the freedom-loving peoples of the world.

## TEXAS INDEPENDENCE DAY

Mrs. HUTCHISON. Mr. President, I want to take a moment, as I do on March 2 every year since I have been in the Senate, and before me Senator John Tower did the same thing, to commemorate Texas Independence Day.

Today is, indeed, the 169th anniversary of the day when a solemn convention of 54 men in a small Texas settlement took a step which had a momentous impact, not only on Texas but on the future of the United States. These 54 men, including my great-great-grandfather Charles S. Taylor from the town of Nacogdoches, met on March 2, 1836. They were in Washington-on-the-Brazos and, after laying out the grievances they had with the Government of Mexico, they declared:

> We therefore . . . do hereby resolve and declare . . . that the people of Texas do now constitute a free, sovereign and independent republic.

They brought the Lone Star Republic into existence with those words. At the time, Texas was a remote territory of Mexico. It was hospitable only to the bravest and most determined of settlers. While few of the men signing the declaration could have predicted Texas's future prosperity, they immediately embarked on drafting a constitution to establish foundations for this new republic.

The signers of the Texas declaration, as their forefathers who signed the American Declaration of Independence in 1776, risked their lives and families when they put pen to paper. They were considered traitors to Mexico because they were in a Mexican territory. But they were going to fight for freedom and independence.

My great-great-grandfather Charles S. Taylor didn't know it at the time, but all four of his children had died when he left home to go and sign the declaration of independence. His wife took the children in what is now called the "runaway scrape," when the women in the Nacogdoches territory took the children to flee from what they thought might be the oncoming Mexican army. In the "runaway scrape," many children died. They were fleeing to Louisiana at the time. But my great-great-grandmother had the same spunk and determination as my great-great-grandfather, so she returned to Nacogdoches and they had nine more children. That was one of the examples that was set by people of that time who believed freedom was worth fighting and dying to achieve.

They spent their last days in Texas, trying to build the Republic and eventually supporting the statehood of Texas coming into the United States of America.

While the convention met in Washington-on-the-Brazos, 6,000 Mexican troops held the Alamo under siege, seeking to extinguish this newly created republic.

Several days earlier, from the Alamo, Col. William Barrett Travis sent his immortal letter to the people of Texas and to all Americans. He knew the Mexican Army was approaching and he knew that he had, really only a few men, under 200 men to help defend the San Antonio fortress. Colonel Travis wrote:

> Fellow Citizens and Compatriots: I am besieged with a thousand or more of the Mexicans under Santa Anna. I have sustained a continual Bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded surrender at discretion, otherwise, the garrison is to be put to the sword, if the fort is taken. I have answered the demand with a cannon shot, and our flag still waves proudly over the wall. I shall never surrender or retreat.
>
> Then I call on you in the name of Liberty, of patriotism, of everything dear to the American character, to come to our aid with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due his honor and that of his country—Victory or Death.

No Texan—no person—can fail to be stirred by Colonel Travis' resolve in the face of such daunting odds.

Colonel Travis' dire prediction came true, 4,000 to 6,000 Mexican troops did lay siege to the Alamo. In the battle that followed, 184 brave men died in a heroic but vain attempt to fend off Santa Anna's overwhelming army. This battle, as all Texans know, was crucial to Texas independence because those heroes at the Alamo held out for so long that Santa Anna's forces were battered and diminished. Gen. Sam Houston gained the time he needed to devise a strategy to defeat Santa Anna at the Battle of San Jacinto a month or so later on April 21, 1836. That battle was won and the Lone Star was visible on the horizon at last.

Each year on March 2, there is a ceremony at Washington-on-the-Brazos State Park where there is a replica of the modest cabin where the 54 patriots pledged their lives, honor, and treasure for freedom.

Every year I honor the tradition Senator John Tower started by reading this incredible letter from the Alamo, written by William Barrett Travis, that showed so much about the kind of men who were willing to stand up and fight for freedom, men we have seen throughout the history of our country, starting in 1776 and going on. Even today, as we know, our young men are in Iraq and Afghanistan, fighting the war on terrorism.

I think it is important for us to remember our history. I am proud to be able to do it. We were a republic for 10 years before we entered the United States as a State. We are the only State to enter the United States as a republic, and we are very proud that we are now a great State, a part of the United States of America, with a vivid history and past.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Feingold Amendment No. 17, to provide a homestead floor for the elderly.

Akaka Amendment No. 15, to require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt.

Leahy Amendment No. 26, to restrict access to certain personal information in bankruptcy documents.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes of debate, equally divided, prior to a vote on amendment No. 17.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate this opportunity to speak further on my amendment which I offered yesterday. I urge my colleagues to support my senior homeowner protection amendment, amendment No. 17.

As I explained yesterday, my amendment would protect senior homeowners who need to file for bankruptcy relief. It would help to ensure that these older Americans do not have to lose their hard-earned homes in order to seek the protection of the bankruptcy system.

The homestead exemption in the bankruptcy laws is supposed to protect homeowners from having to give up their homes in order to seek bankruptcy relief. But in too many States, the homestead exemption is woefully inadequate. The value of this exemption varies widely from State to State. Federal law currently creates an alternative homestead exemption of just under $20,000, but each State gets to decide whether it will allow its debtors to rely on this already low Federal alternative, and most do not. In many States, the amount of equity a homeowner can protect in bankruptcy has lagged far behind the dramatic rise in home values in recent years. For example, in the State of Ohio the homestead exemption is only $5,000, and in the State of North Carolina the homestead exemption is a mere $10,000. Even for States that have no State exemption but allow debtors to use the $20,000 Federal exemption, like New Jersey, the number is just too low in this age of rising housing costs.

My amendment would create a uniform Federal floor for homestead exemptions of $75,000, applicable only to bankruptcy debtors over the age of 62. States could no longer impose lower exemptions on their seniors. If a State's exemption is higher than $75,000, however, that exemption would still apply. My amendment creates a floor, not a ceiling.

Older Americans desperately need this protection. Americans over the age of 65 are the fastest-growing age group filing for bankruptcy protection. Job loss, medical expenses and other crises are wreaking havoc on the finances of our seniors. In the 1990s, the number of Americans 65 and older filing for bankruptcy tripled. They need our help.

Older Americans also are far more likely to have paid off their mortgages over decades of hard work, making the homestead exemption particularly important for them. In fact, more than 70 percent of homeowners age 65 and older own their homes free and clear. For these seniors, their home equity often represents nearly their entire life savings, and their home is often their only significant asset. That means seniors are hit hardest by the very low homestead exemptions in some states.

It has become apparent that when there is no substantive argument against a worthy amendment, we will hear arguments cautioning against the unraveling of delicate compromises and agreements. It has become a convenient and frequent refrain on the floor of the Senate, that amendments cannot be tolerated. That is very troubling, particularly because in the Judiciary Committee we were implored to hold our amendments for the floor and promised that supporters of the bill would work with us to try to resolve our concerns. There is a bait and switch going on here. Bills that come before this body are not sacrosanct. If there is a substantive argument to be made against my amendment, I am eager to hear it and debate it. But it is just not right to say that an amendment will be defeated because the bill must remain "clean" to pass.

It is especially wrong to make that argument when it is just not true. Some amendments might be termed poison pills, but that term does not apply to this amendment.

To be frank, my amendment simply has no bearing whatsoever on the other provision of the bill that addresses the homestead exemption—that is, the provision whose delicate balance we have been so strongly cautioned not to disrupt.

Section 322 of the bill addresses abuses resulting from the fact that some States have unlimited homestead exemptions. An agreement on that provision—often called the Kohl amendment after my senior colleague from Wisconsin, who led the fight against these abuses—was reached in the 2002 conference. Senators from the States that had unlimited homestead exemptions, such as Florida and Texas, objected strenuously to a Federal ceiling preempting their States' unlimited exemptions. They agreed to the provision only when it was modified to its current version, in which the Federal cap applies only to people engaging in fraud and people who purchase property shortly before filing for bankruptcy.

My amendment has no bearing whatsoever on that compromise deal. The Senators who initially objected to Senator Kohl's attempt to limit wealthy debtors' abuse of the homestead exemption are from States where the homestead exemption is already unlimited. In those States, my uniform Federal floor would have absolutely no effect. The unlimited exemption would still apply.

On the other side of the negotiations were people like Senator Kohl who were attempting to prevent wealthy debtors from abusing the homestead exemption by buying multi-million dollar mansions in States with unlimited homestead exemptions. I have not heard them object to giving seniors a uniform homestead exemption that is less than the Federal ceiling provided in Section 322. Once again, my amendment has absolutely no effect on the deal that was cut.

I would also point out that supporters of the bill are perfectly willing to override State decisions with regard to homestead exemptions in certain circumstances. This bill already requires that a Federal maximum exemption apply to prevent abuse by wealthy debtors seeking to hide their assets in a mansion and get rid of their debts through bankruptcy. Why can't we insist on a Federal floor to protect senior citizens? It makes no sense to suggest that this amendment violates State prerogatives on the homestead exemption since the bill already does just that.

So I am having a hard time figuring out who would object to my amendment, and what delicate compromise is going to be undone if my amendment passes. Is anyone going to stand on the floor of the Senate and defend the right of States to harm the elderly by forcing them to sell their homes in order to seek bankruptcy protection? Are we really going to take the States rights argument that far?

So my amendment has nothing to do with compromises already made in this bill. It would not unravel the bill, or upset the compromise on the homestead exemption. Now the credit card companies probably don't like this amendment because it will protect some seniors from having to sell their homes to pay their debts. Once again, the Senate has a choice to make. Will we stand with our senior citizens or with the credit card companies and big banks?

I also want to explain a bit more why I have limited the amendment to debtors age 62 and over. The argument was made yesterday by the Senator from Alabama that a single mother or a young family also would benefit from a larger exemption. But seniors are the people who need the exemption most. Most people in their 20s and 30s do not have $75,000 of equity in their homes, if they own homes at all. Certainly those who are filing for bankruptcy do not. Seniors, on the other hand, have worked their whole lives to payoff their mortgages and guarantee themselves a comfortable place to live in their retirement. They survive on their modest social security benefits precisely because they have no mortgage or rental payments. Are we now going to force them to forfeit their homes because they face such high medical expenses that they have to seek bankruptcy protection?

In addition seniors are typically living on fixed incomes and simply don't have the ability to rebuild wealth that younger people have. Nor can they afford to make payments on a new mortgage. If forced to sell their homes, many older Americans will not be able to afford to rent a habitable, safe place to live. Some can barely afford to the pay the property taxes on their current paid-off homes because of rising real estate assessments.

We need to protect our senior citizens in their retirement years. I strongly urge my colleagues to vote for my amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. HATCH. Mr. President, I rise today in opposition to the Feingold amendment. I explained yesterday why I oppose this provision and would like to summarize my remarks today.

First off, I commend Senator FEINGOLD's commitment to the elderly. He is very sincere in his efforts. We all are concerned about our senior citizens.

I have worked particularly hard on this bill to make sure there are provisions that protect the elderly along with women and children and I think that my colleagues who have worked with me on this bill recognize this fact. We have lots of protections in this bill.

Senator GRASSLEY is the lead sponsor of this bill and he has a long track record of working with the elderly on Social Security and Medicare and other issues, as I do. I serve on the Finance Committee with Senator GRASSLEY, who chairs that committee. We were both proud to have played a role in bringing prescription drug coverage to our seniors under the Medicare program in the landmark medicare reform bill that was enacted last Congress.

My opposition to this amendment has nothing to do with the elderly. I believe that this bill takes their concerns to heart.

I would not object if every State in the Nation passed laws that would put a similar floor—or a higher floor—in their respective homestead laws. But that choice belongs to the States, and not the Federal Government. There is a long history in bankruptcy law of deference to States on issues like homestead provisions.

The hard reality is that nearly every State in the country has vehemently defended their homestead laws. If you do not believe me you can ask the Senators from States like Texas, Florida, and Kansas. They have all been involved in reaching the compromise that has been achieved in this legislation on this issue over the past 8 years.

It is a grand compromise that both sides of the Hill will accept if we vote down the Feingold amendment. The Feingold amendment would bring the bill down.

If some States wish to change their laws, that is their prerogative. A key purpose of this bill, and the purpose of the current homestead provisions, is to curb fraud and abuse.

The provisions of S. 256 impose a 10-year look back for fraud. They impose a 2-year residency requirement that is designed to prevent wealthy debtors from moving from States with low homestead exemptions to States with high or unlimited exemptions and then filing for bankruptcy. They are a compromise—a balance—of States' rights and Federal imperatives under bankruptcy law, and we must let the provisions stand as written. This amendment will upset that balance and could act to bring this bill down.

The reason has nothing to do with a hostility to the elderly, or to any other class of persons, but because the homestead provisions have taken years to negotiate and are the result of difficult choices and compromises. There are many members of this body who would like to see the homestead provisions changed in some fashion, but to accommodate them any further than what presently exists in the bill would likely force other Senators to oppose the legislation.

I urge my colleagues to reject the Feingold amendment, however well intentioned it may be, because this is a grand compromise of a bill that I don't believe the distinguished Senator from Wisconsin has ever supported. The fact of the matter is, if his amendment were agreed to, he would not support this bill. And the reason he would not is because he would not agree to the compromise we have in the bill which the vast majority of Members of Congress on both sides of the aisle in both Houses have agreed to.

I hope we can vote down the Feingold amendment.

I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, first, I want to correct the record. The Senator from Utah is incorrect that I never supported a version of the bankruptcy bill. I did, in 2002 when there was a vote on the Senate floor. Our late colleague from Minnesota and I used to have a little contest about who was the only one to vote "no" on a bill the most. This was a case where Senator Wellstone voted "no" and I actually voted "aye" for a version—a reasonable, balanced version—of a bankruptcy bill when it appeared on one occasion during the past 7 years. Unfortunately, that bill was not accepted and was basically rejected out of hand by those in the House who insisted on an unbalanced, unfair bill.

That is exactly what we have before us today. I reject the argument that this amendment in any way, shape, or form endangers this bill. How can that be the case?

The Senator from Utah has said this bill affects States rights with regard to the homestead exemption. This bill does affect the rights of Florida and Texas to have an unlimited homestead exemption, as it should. The Federal Government has an interest here in making sure wealthy people cannot abuse the system. I support that goal of stopping fraud.

The Federal Government also has an interest in making sure our senior citizens have absolute minimum protection for their homes when they are forced into bankruptcy, particularly because of unanticipated health care costs.

I am not creating some new precedent in this bill. This bill already changes state rules on the homestead exemption, and my amendment has absolutely no impact on the delicate balance achieved with regard to the high end of the homestead exemption.

This amendment is not intended to harm the bill, and, in fact, it does not harm the bill. It is simply trying to bring an element of fairness and balance to the bankruptcy laws with regard to senior citizens who might lose their homes.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, it is my understanding the distinguished Senator from Alabama will have 2 minutes before the Akaka amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. He does not need time from my time at this time.

The PRESIDING OFFICER. There is 1 minute of debate on the majority side.

Mr. HATCH. Mr. President, I would be happy to yield some of my time at this point, and then I will have an additional 1 minute immediately before the vote.

Let me answer my dear colleague from Wisconsin. My point is he has never been for this bill. Frankly, he knows this language in this bill is the result of tremendous compromise between the House and the Senate. His amendment would bring this bill down. All of us would like to make changes. This is a complex bill. I think all of us, if we could be dictator for a day, would put our own imprint on this bill. But this is 8 years of work, and I don't want to see this bill brought down because one person doesn't agree with one provision. In the viewpoint of the distinguished Senator from Wisconsin, most of the protections he doesn't agree with. He is not going to vote for this bill, whether his amendment is agreed to. All his amendment does is create a confusion and a situation where literally this bill could go down.

We have to get this bill in a form which the House will accept, and this is the form in which the House will accept it.

I yield the remainder of my time to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 15

Mr. SHELBY. Mr. President, I appreciate the time.

I rise in opposition to the upcoming amendment submitted by Senator AKAKA. The amendment would amend the Truth in Lending Act and impose significant new compliance mandates and disclosure requirements on lenders.

This amendment makes considerable changes to an area of law squarely within the jurisdiction of the Banking Committee which I chair, and I hope it will not be included in the bankruptcy bill. This is simply not a dispute about asserting the Banking Committee's jurisdiction which we have here. The Akaka amendment, if it were agreed to, would be a significant change to the Truth in Lending Act.

This is a highly complex law, and amendments to it, must be considered carefully, and should be considered in the committee first.

I will be glad and happy to work with the distinguished Senator from Hawaii in that regard. But we have not had an opportunity to look at this, nor to conduct an appropriate examination of the substance involved in the amendment, and, therefore, there is no record upon which to base a judgment here with respect to the soundness of the provision. I don't believe this is either the time or the place for this amendment.

I will oppose the amendment.

VOTE ON AMENDMENT NO. 17

Mr. HATCH. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk proceeded to called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—40

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—59

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Inouye

The amendment (No. 17) was rejected.

AMENDMENT NO. 15

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to the vote on amendment No. 15.

Who yields time?

The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, S. 256 includes a requirement that credit card issuers provide additional information about the consequences of making minimum payments. However, this provision fails to provide the detailed information for consumers on their billing statement that our amendment would provide. Our amendment will make it very clear what costs consumers will incur if they make only minimum payments on their credit cards. If this amendment is adopted, the personalized information they will receive for each of their accounts on their billing statements will help them make informed choices about payments they choose to make toward reducing their outstanding debts.

I urge my colleagues to support this amendment that will empower consumers by providing them with details and personalized information to assist them in making better informed choices about their credit card use and repayment. This amendment makes clear the adverse consequences of uninformed choices, such as making only minimum payments, and provides opportunities to locate assistance to better manage their credit card debt. I thank my cosponsors, Senators DURBIN, LEAHY, SARBANES, and LINCOLN, for their support.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 1 minute.

Mr. SHELBY. Mr. President, this is a very complicated amendment. This is in the jurisdiction of the Banking Committee. It deals with the truth in lending law. We have not had any hearings on this issue. I would be glad to work with the Senator from Hawaii. We can sit down and see if we can do something on this issue. To bring it up on the Senate floor and try to make it part of the bankruptcy bill and bypass the Banking Committee is something we should not do. I hope we will not. I oppose the amendment.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

The question is on agreeing to the amendment of the Senator from Hawaii.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—40

Akaka
Bayh
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—59

Alexander
Allard
Allen
Baucus
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Inouye

The amendment (No. 15) was rejected.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 28

Mr. KENNEDY. Madam President, I ask unanimous consent that we set aside any pending amendments. I send to the desk two amendments and ask they be immediately considered.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 28.

(Purpose: To exempt debtors whose financial problems were caused by serious medical problems from means testing)

On page 19, between lines 13 and 14, insert the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is a medically distressed debtor.

"(B) In this paragraph, the term 'medically distressed debtor' means a debtor who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(i) had medical expenses for the debtor, a dependent of the debtor, or a member of the debtor's household that were not paid by any third party payor and were in excess of 25 percent of the debtor's household income for such 12-month period;

"(ii) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's employment or business income for 4 or more weeks during such 12-month period due to a medical problem of a member of the household or a dependent of the debtor; or

"(iii) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's alimony or support income for 4 or more weeks during such 12-month period due to a medical problem of a person obligated to pay alimony or support.".

AMENDMENT NO. 29

The PRESIDING OFFICER. The clerk will report the second amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 29.

(Purpose: To provide protection for medical debt homeowners)

On page 191, between lines 11 and 12, insert the following:

**SEC. 322A. EXEMPTION FOR MEDICALLY DISTRESSED DEBTORS.**

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is amended by adding at the end the following:

"(r)(1) For a debtor who is a medically distressed debtor, if the debtor elects to exempt property—

"(A) under subsection (b)(2), then in lieu of the exemption provided under subsection (d)(1), the debtor may elect to exempt the debtor's aggregate interest, not to exceed $150,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor; or

"(B) under subsection (b)(3), then if the exemption provided under applicable law specifically for such property is for less than $150,000 in value, the debtor may elect in lieu of such exemption to exempt the debtor's aggregate interest, not to exceed $150,000 in value, in any such real or personal property, cooperative, or burial plot.

"(2) In this subsection, the term 'medically distressed debtor' means a debtor who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(A) had medical expenses for the debtor, a dependent of the debtor, or a member of the debtor's household that were not paid by any third party payor and were in excess of 25 percent of the debtor's household income for such 12-month period;

"(B) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's employment or business income for 4 or more weeks during such 12-month period due to a medical problem of a member of the household or a dependent of the debtor; or

"(C) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's alimony or support income for 4 or more weeks during such 12-month period due to a medical problem of a person obligated to pay alimony or support.".

Mr. KENNEDY. Madam President, I had the opportunity to talk with our floor leaders. Because my amendments are related, I am prepared to discuss or debate these issues and to consider them together, if it is agreeable with the other side. Then we could enter into a time agreement and leave that up to the leadership as to when we might move ahead and vote on them, hopefully back to back, with a brief interlude of, I think, probably 4 minutes evenly divided, so we would have a chance later in the day to describe them.

I do not offer that as a unanimous consent request at this time. I just mention on the floor now that it is my understanding that it will be worked out by the leadership, so Members have some idea as to how we are going to proceed.

These two amendments relate to the health care challenges so many of our fellow citizens are facing in with regard to going into bankruptcy. We know at the present time there are 1.5 million people who go into bankruptcy every year. Half of those people go into bankruptcy because of medical bills. About three-quarters of those individuals who go into bankruptcy because of the medical bills have health insurance, but nonetheless the explosion of costs in health care have added such a burden to these families that they have had to go into bankruptcy. It does seem to me if the purpose of this legislation is to try to deal with spendthrifts and those who are abusers of credit, we ought to be able to distinguish between hard-working Americans, basically middle-class working families who have health insurance or those right on the margin who wish they had health insurance, who perhaps lost their health insurance because of a change in their employment, and then suddenly are facing catastrophic health needs, and those who irresponsibly acquire debt.

What are those types of health needs? We start off with cancer. The average out-of-pocket expenditure, even for families who have insurance, is approximately $35,000. That often is enough to trigger a family to go into bankruptcy because of the limitations it puts on the income of the families. Often it is one of the breadwinners of the family who becomes ill, and it is the loss of that breadwinner's income, not only the medical bills, that in frequent instances drives that family into bankruptcy. I will give some examples of why that happens.

It does seem to me we should not apply the harsher provisions—and they are harsher provisions, what is called the means test—the harsher provisions that put an additional penalty on those families than already exists in the current bankruptcy law. That effectively is what one of the amendments addresses.

The second amendment says if those families are going to go into bankruptcy, then we are going to let them preserve their homestead to the extent of $150,000 of equity in their primary residence through a homestead exemption.

The average cost of a house in this country is $240,000. It is vastly more expensive in my part of the country. In

Massachusetts the cost of housing is the second highest in the country. In many of the areas in the Northeast, in the coastal areas, and even in the heartland of this Nation, housing is much more than $150,000.

What we are trying to say is that it is hard enough, meeting the personal burdens of illness and sickness and disease—in the case I just mentioned in terms of cancer, but those conditions apply as well if you have heart disease, stroke, other kinds of serious illness, or if you have a child who has serious illness: autism, spina bifida, the whole range of challenges which infants have. More often than not, the health insurance proposals, most that I have seen, exclude any complications in the first 10 days of life. That is the time the illness or sickness is detected in many of these children, and that is when the economic spiral down starts.

What we are saying in these two amendments is, No. 1, it is difficult enough to face the pain and anxiety of a serious medical condition. You should not have the more punitive provisions under the means test. We can go into details about how they would be expected to pay a good deal more from the means test even though under the current law they would not have to. They would have their assets and their liabilities and there would have to be a determination for the payment, what assets they have, and then they could start fresh. Under the means test it would mean further obligations for the next 5 years, and the real question is how some of these individuals would be able to survive and, secondly, to say these families face a serious enough problem and they should not lose a home where they have equity of $150,000 or less.

There will be those who say this bill is not about our health care system, which has its good points and has its bad points. We are not debating that today. We ought to debate comprehensive health care for this country, and ways we try to get a handle on health care costs—that is all well and good. But what we have to do if we are going to try to be honest to the consumers and families of this country is talk about what the implications of this legislation are going to be.

One of the serious facts that remains is for those people who have serious indebtedness through no fault of their own, who have worked hard, played by the rules, have gotten health insurance or in other instances lost their jobs, they are not going to be penalized and forced into indentured servitude, basically, for the credit card companies—because they are the principal beneficiaries of these provisions. So it is only fair we say that.

People will say we have homestead laws in this country. They apply across the Nation. The fact is, in most of the parts of the country, the homestead provisions are less than $25,000—$25,000 or less. The fact is, this legislation applies to 50 States, not to one State or two States. It applies to 50 States. It has application to all the people in all 50 States. So if we are going to apply something to all 50 States, why not at least have some uniformity? We think it is difficult enough and tragic enough that you are going to have a health challenge that is going to wipe out your family and perhaps even cause death; we are not going to take a home away that is worth $150,000.

Those are the facts. Those are essentially the provisions. I will mention them in greater detail.

The first amendment exempts from the means test any debtor whose severe medical expenses have caused financial hardship and forced them to file bankruptcy. Financial hardship is defined in the amendment as one of the following: Being out of work for a month or more or unreimbursed medical expenses totaling 25 percent of your income. This is your out-of-pocket, after all the other expenses—25 percent of your income. We estimate that about 20 percent of all bankruptcy filers—this doesn't even reach all of those who are going to be medically bankrupt, but it would reach about 20 percent of all bankruptcy filers in this category. They would be exempted from the means test through these provisions.

The proponents of the bankruptcy bill have said the goal of the bill is to force those individuals who run up bills irresponsibly to take greater personal responsibility.

They claim that people are going to the mall making frivolous purchases such as plasma televisions and designer clothes and then going to bankruptcy court to discharge their debts. Nothing could be further from the truth for the thousands of individuals who are forced into bankruptcy to deal with the debt they were forced to take on to cope with serious medical expenses and the loss of income when they are unable to work due to serious illness or injury.

We had testimony from Professor Elizabeth Warren of the Harvard Law School last week making clear that more than half of those filings for bankruptcy have been forced to do so at least in part due to medical problems and their aftermath. If the goal of the bill is to deal with those individuals who some feel are abusing the bankruptcy process, we ought to protect those individuals who are forced into bankruptcy through no fault of their own.

We will listen to the proponents of the bill say: Look, we want to have people responsible here in the United States of America. Those people who go out and buy the fancy yachts, go to the mall, run up bills, ought to be held accountable. Absolutely, I say. Put me on as a cosponsor. But that ain't what this bill does. As a matter of fact, there is an enormous loophole in this bill that ought to shame its proponents who have left it in there with regard to spendthrifts. We will come to that later.

Let me finish a brief description of these two amendments.

Those who go to bankruptcy court because of cancer or diabetes and heart attacks have not been irresponsible. Those who file for bankruptcy to deal with medical debts incurred when a child was born early with severe complications or an elderly parent needing costly prescription drugs or placement in a nursing home are not irresponsible. These clearly are not the type of debtor the proponents of this bill say they are; the kinds of debts that the proponents of the bill are trying to address. They deserve a chance to make a fresh start, and a specific exemption from the applications of the means test gives them that chance. They will still be subject to the bankruptcy law as it is today but not the additional kinds of punitive aspects that exist in this proposed bill under the means test.

The second amendment provides that medically distressed debtors be allowed to protect, at a minimum, $150,000 of the equity in their primary residence through a homestead exemption.

The enormous increase in medical debt and the bankruptcy cases caused by medical debts, along with the significant increase in real estate prices over the recent years, have led to a new and rapidly growing problem. Families who face insurmountable debt problems following serious medical problems are faced with obtaining relief from their debts in bankruptcy only if they give up their homes. A family should not have to lose their home to obtain relief from debts caused by serious medical problems. These families should not be forced to choose between debt relief and losing their modest homes.

In nearly half of all States, homestead exemptions are less than $25,000. Several States have no homestead exemption. People facing bankruptcy in these States are often forced to give up their home to obtain debt relief.

In a chapter 7 bankruptcy case, the family with equity greater than the State exemption limits can be forced to give up their home. In chapter 13, the family must pay the creditors an amount equal to the equity above the homestead exemption, which they cannot afford. The amount of equity a homeowner can protect in bankruptcy has not kept up with the rise in home prices. This change of $25,000 has been there for years and years. I don't know where you can find a home in this country for $25,000. With incomes of $800 or $1,000 per month, they could live in their current homes, which may be paid off, and have low monthly costs. If they are forced out of their homes, they can't afford to rent a decent place to live. Effectively, these homeowners have no bankruptcy relief available to them. They sell the home, and they are told, OK. They are on a fixed income of Social Security, getting $1,000, perhaps, a month. How are they going to be able to afford to rent the places available to them at $800 to $1,000 and have enough to live on?

The notion of forcing people out of their homes after an illness or an accident is made more outrageous by the fact that in a handful of States, debtors of all kinds—famous sports figures, doctors who drop their malpractice insurance, real estate tycoons—can shelter millions of dollars in homestead.

Do we understand that?

In this legislation, there is a handful of States where individuals can shelter their homes from creditors who won't be able to get access to it. Yet when we say, OK, let us just protect others in other States up to $150,000, they say, No, we are not going to do that, no, because you know the States ought to make the decision. This bill applies to 50 States. If you are going to take that position, why not wipe out the exemption that exists for these handful of other States? Where is the fairness in this bill? Where is the fairness? Why should wealthy individuals be able to shelter their income in half a dozen States and escape all of the harshness of this bill and other hard-working, decent people who have lived in their homes over a lifetime find out their housing disappears as it goes into bankruptcy? Please. Where is the fairness? Where in the world is the fairness?

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. DURBIN. I want to make sure that people following this debate understand what is at issue.

The Senator is talking about someone who, because of the diagnosis of medical illness or treatment of a medical illness, ends up incurring a crushing debt they can't pay back, and their health insurance doesn't cover it. The Senator from Massachusetts is suggesting that those individuals who are facing bankruptcy, at least when it is all said and done, have their homes to return to, to the tune of $150,000, which is a modest home in most places in America. Is that what the Senator from Massachusetts is talking about?

Mr. KENNEDY. The Senator is absolutely correct. The average cost of a home in America is $240,000. We are only talking at $150,000. I am sure the Senator can relate to us the kinds of situations that I see of these three-decker houses, not only in Boston but in many of the older cities and in my State where families have lived there for years and years. They see the increase in the water rate of $50 to $75, and they wonder how they are going to be able to afford it.

What we want to say is to those individuals who are faced with hardship, worked hard all of their lives, more often than not have been able to get health insurance but find out that health insurance is not enough. As a result of cancer, serious heart failure, serious illnesses, diabetes, or a child that needs special kinds of attention, they go in to debt—after it is all said and done, let them list their assets and their liabilities and pay what they need, but don't take their home away from them.

Mr. DURBIN. If the Senator will yield further for a question, as I understand, what the Senator is saying is that in some States you could have a person who was a compulsive gambler who went deeply into debt to the point that they faced bankruptcy, but if they are smart enough to take the remaining assets they owned and put them into a home to the tune of $1 million—if they pick the right State, such as Florida—that compulsive gambler, irresponsible person who goes to bankruptcy court will be protected by the law of Florida, be able to keep their multimillion dollar home. Yet in a State such as Massachusetts or Illinois, if someone faces devastating cancer diagnoses, treatments that costs more than they can ever pay back, they could go to bankruptcy court and loose their homes, but the gambler keeps his multimillion dollar home. In other States, the person who has a medical diagnosis they never expected ends up losing their home under the current law we are considering.

Mr. KENNEDY. Perhaps the Senator can explain how that meets any definition of fairness, how that meets any requirement of treating people equitably.

We have the proponents in the Senate Chamber; they ought to be able to explain that. They have resisted treating the families the same in all parts of the country. This is one of the fatal failures in this one area, the homestead area.

The Senator is absolutely correct. As the Senator knows, we are talking about individuals who have worked hard more often than not, have gotten health insurance and tried to provide for their families, but then that incident occurs, the cancer occurs, the heart failure occurs, the diabetes occurs.

We have a growing aging population. Increases in bankruptcy among the elderly have risen by two or three times in the last 5 years. The basic projections are increasing because they will have increasing health care needs.

We are saying to these individuals who have been part of this American fabric and have helped more often than not in fighting our wars, they have built this country, saved for their children, now they will end up getting thrown out of their home through no fault of their own because they are blighted with some form of cancer.

Mr. DURBIN. If the Senator will yield for a question. I will give an example of a family in my home State of Illinois and what happened to them. Ten years ago, Randall Lemmon and his wife Mary were living in Champaign, IL, downstate Illinois. His wife was diagnosed with an autoimmune disease, sceradoma, a connective tissue disease which can debilitate very quickly. Within months of her diagnosis, Mary experienced the loss of independent functioning and found herself needing assistance with even the most basic tasks in life. She eventually collapsed and went to a nursing home, which was not covered by the family's insurance. Eventually she died, leaving behind her husband, five children, and a $150,000 nursing home bill. As a result, they were forced into bankruptcy.

Currently, in Illinois you can only protect $7,500, up to $15,000 in the value of your home. What could anyone live in for $15,000? Here is Randall Lemmon with five children, and because he was forced into bankruptcy court he would lose his home.

Senator, you are saying, at the minimum, let him at least protect $150,000 in his home to raise the five children after his wife has died in a nursing home; is that what your amendment says?

Mr. KENNEDY. The Senator is absolutely correct. He gives an enormously persuasive argument.

These are hard-working people, as the Senator has pointed out, affected by an illness. They are getting caught up in the system.

This bill was supposed to be about spendthrifts. This bill does not take care of the sheltered income, as the Senator from Illinois points out. It does nothing about the corporate irresponsibility where the corporations go into bankruptcy and leave their workers high and dry and they walk off with the golden parachutes.

We see health care coverage lost for these families who have paid in for 20 or 30 years. WorldCom closed down, Polaroid closed down, Enron closed down, their health benefits are cut off, they get cancer, the bills run up, and what does this bill do? It puts them into indentured servitude to the credit card companies.

We call that fairness? That may be the priority of some in this body, but it is not mine. Who do we in this body represent? The credit card companies who make record profits? They are the principal beneficiary of this legislation: $30 billion in profits last year, and they want $35 billion. The best estimate is the credit card companies are going to get $5 billion more out of this bill.

Who are they going to get it out of? They are going to get it out of that family the Senator from Illinois just discussed.

That is what we are about in the Senate? We have the problems of unemployment, the escalating costs of prescription drugs, 8 million of our fellow citizens unemployed, school tuition going through the roof, and we are talking about an additional $5 billion for the most profitable industry in America. Hello. Hello. That is what we are debating here. It is extraordinary.

I heard this morning that some of our friends on the other side went up to the press to announce their poverty program. Imagine that. This will drive more and more people into poverty, and our friends on the other side announce how they will address poverty in this Nation. And what are we seeing happening with the increase of poverty for children? For the first time, again, infant mortality is going up for minorities in the inner cities.

We have an explosion of asthma in the inner cities of this country, twice the deaths we had 5 years ago as a result of deterioration of conditions. My gosh, and we are debating the credit card company profits. This is what we will do to our fellow citizens?

Let me mention who else is affected. Christopher Heinrichs was diagnosed with melanoma in 2002 after visiting a dermatologist for a routine consultation after discovering a small discoloration. He was given a prognosis of 5 years to live. He was director of operations for a truck parts company. His wife Deborah was a $14-an-hour office worker. They had a joint income of $140,000.

Listen, middle America, listen to what happened to this family. Christopher had good health insurance that covered 90 percent of his hospital costs. He also had disability benefits and life insurance through his employer. The 10 percent cost sharing on Christopher's prescription drugs cost $100 a week. Copayments for three surgeries, seven rounds of chemotherapy added up. Christopher continued to work but was laid off from his job a year after his diagnosis. He had to pay $969 per month to keep his health coverage after he lost his job. Christopher's health insurance had a $100,000 maximum benefits cap which they reached at the same time they learned the cancer had spread to his colon. They had to give up the family car and were ultimately forced to file for bankruptcy in the summer of 2003 and discharge their debt. Christopher died in April 2004 at the age of 47, leaving his widow and two sons, Joshua, 17, and Travis, 14, and left an additional $90,000 in hospital bills for costs after bankruptcy. They also have had a bill for $3,100 for Christopher's cremation.

And we are going after this family with a means test, an additional kind of burden to squeeze out whatever this family is going to be able to try and put together for the next 5 years? That is what the means test does.

Where do you think you get the next $5 billion for the credit card companies? They get it by squeezing these families for $35, $50 a month, $75 a month for the next 5 years.

Kelly Donnelly was diagnosed with skin cancer, September 2003. Her family lived in Oswego, NY, with a joint income of $32,000. They owned a three-bedroom house with a daughter and a second on the way. When Kelly, 26, became too weak to work, she had to quit her drugstore job, leaving the family with only $20,000 in income. Even though Andrew received health insurance from his job, copayments from Kelly's treatment and medication for the new baby who was delivered prematurely so Kelly could undergo cancer surgery, totaled $330 a month. The couple lost their house, filed for bankruptcy in August 2004, were forced to move to an apartment, had to give up the family dog because pets were not allowed there. Because they had defaulted on electric bills they had to put down a $500 deposit to turn on the power in their new apartment. Their medical bills totaled $20,000.

This is what is happening. We are going to put additional burdens, besides the existing bankruptcy law, on those people? This bill does.

I am going to speak about two individuals whom I will call "TT" and "ST" from Minneapolis, MN. They do not want their names mentioned. They had good medical insurance from "T"'s job with the State of Minnesota, but when "T" retired, he could not afford the $941 per month for his health insurance. He paid for a few months, and then he couldn't anymore. "S" was diagnosed with breast cancer in February 2004, after being misdiagnosed in September 2003. "S" was misdiagnosed, as I mentioned, in September 2003, when she had health coverage. The first 3 months of her cancer treatment cost $26,000, and they have no health insurance. They were forced into chapter 13 bankruptcy to try to save their home. Unfortunately, they were unable to make enough to pay the chapter 13 payments to save their home, and they ultimately had to sell it for less than it was worth before it was foreclosed and convert their chapter 13 filing to a chapter 7 case.

We have constant examples. We know one out of four people die from cancer, and we know about one out of four die from heart disease. We know that today. We can look around at any kind of group. These are the statistics. If you have good health insurance, with the exception, perhaps, of the health insurance we have in the Congress of the United States, which we do not extend to the American people—we are pretty well protected, but not those people out there. I am tired, when one person tries to extend the same kind of health care we have to people out there, of people on the other side who say: Well, we are not going to support you. The problem is the health care problem, and we ought to deal with that. This is a bankruptcy issue.

Come on. Come on. They oppose us when we try to pass health care legislation, and then they oppose us when we try to deal with the health care problems that are going to be impacted by the bankruptcy bill. It does not work that way. At the same time, we have all the circumstances that take place in the corporations.

I want to mention the various groups, once again, that are supporting us. We have the American Bar Association. We have about 80 percent of the representatives of the trade union movement, the Alliance for Retired Americans. We have the Consumer Federation of America. We have the Leadership Conference on Civil Rights, which understands that this, as well, affects many minorities in this country. We have the National Women's Law Center because of the impact of this legislation on women. We have Physicians For A National Health Program, some 2,000 doctors—2,000 doctors from across this country—who understand and say: Do not pass this bill because of the health implications. Don't do it, Senate, if you care about what is happening to your fellow citizens out there across this country. They are facing enough challenges with the explosion of health care costs, the explosion of prescription drug costs, and the dramatic decline in health care coverage. Don't do this to them. It is too unfair. It is unwise. But no, no, we are going ahead.

We have support from group after group after group. I think it is time we give consideration and priority to the workers in this country.

I will mention, quickly, a final couple of points to give a bit of an overview about where we are in these medical bankruptcies. Annually, half result from illness: nonmedical causes, 54 percent; medical causes, 46 percent.

This is from the Health Affairs study that was done this year.

We know there is a dramatic increase in the number of uninsured. So it makes a good deal of sense we are going to have an increased number of medical bankruptcies because we are seeing the total number of individuals who are not being covered dramatically increase. Now it is up to 45 million. With all respect, the reason it did not go up higher, is because we had the CHIP program that enrolled several million children. If we had not done that, these figures would be right up through the roof.

Here is the cost. We have not only the coverage issue, but you see the cost of single coverage in 2000 at $2,400; in 2004, $3,600. For families, it has gone from $6,300 to $9,950. There has been an explosion in the costs, an explosion in the number of companies that do not provide coverage, and an explosion in the number of companies switching to part-time employees who do not get benefits like insurance.

We see the difference in the cost for Medicare premiums and Social Security. You wonder why this is a particular burden on seniors? Listen to this. Basically, seniors paid for their Part B premiums with their COLA increases in Social Security. But what we are finding out now is they are falling farther and farther behind in that ability to pay. What you are finding out now is the increase in premiums is 72 percent over the period of the last 4 to 5 years. For Social Security, it is 12 percent. So increasing numbers of seniors on Social Security are unable to keep up with part B premiums. And this does not even include the new prescription drug bill, where you are going to find out it is even more costly.

There are 3.9 million Americans who are affected by bankruptcy. You have 700,000 dependents, 1.3 million children, and the bankruptcy filers, 1.9 million—effectively 4 million of our fellow citizens who are affected by this provision.

As my friend from Illinois pointed out, when you take a look at the failure to deal with, on the homestead issue, the high rollers in States that have high homestead protections versus working families in 90 percent of the other States, that is unfairness.

In my State of Massachusetts, if you talk about the problems of bankruptcy, on the lips of most of the workers would be Polaroid, that great company that started with Ed Land, who was an absolute genius, who developed instant film. And finally, after he left, the company ran into difficult times, and they went bankrupt. I will mention what happened to those individuals.

Polaroid filed for bankruptcy in 2001. In the months leading up to the company's filing, the corporation made $1.7 million in incentive payments to a chief executive, Gary DiCamillo, on top of his $840,000 base salary. The company also received bankruptcy court approval to make $1.5 million in payments to senior managers to keep them on board. These managers, collectively, received an additional $3 million when the company assets were sold off.

By contrast, just before Polaroid filed for bankruptcy, it canceled the health and life insurance for 6,000 retirees, coverage for workers on long-term disability.

Do you understand what we are saying here? Here you have these individuals who lost their coverage. Can you imagine the number of those individuals who do not have health insurance and then run into serious health problems, cancer or heart disease? What happens to them?

This is a typical example. We have other examples of corporate abuse which I will come back to. I hope the Senate—we might not be accepting a lot of amendments—but I would hope the managers could find a way to accept these two amendments. It would make an enormous difference in terms of the legislation and the fairness and its implications for middle America.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I sat here and listened to my dear colleague from Massachusetts, and almost everything he has spoken about is a flaw in the current bankruptcy system we are trying to change. It is the current bankruptcy system that we have been trying to change for 8 solid years. And guess who one of the principal voices against changing it is? Why, none other than my distinguished friend from Massachusetts, and my distinguished friend from Illinois, who make these great populous arguments on the floor that sound so good. I do not want to characterize them in my Utah terminology, but they are not accurate.

How is that for being a person who uses discretion?

If you listened to the distinguished Senator from Massachusetts, you would think this country can spend trillions of dollars solving every person's problem. I have been here 29 years. I have never heard the distinguished Senator from Massachusetts once ask: Where are we going to get the money to pay for this? How do we pay for this? How do we justify it?

It is easy to talk about taking care of everybody in every way, universal health care, and to decry a Medicare reform bill that adds no less than $400 billion, but maybe as much as $750 billion now—according to CBO, OMB, and other analysts—and say it does nothing for the poor when that is exactly what it does do, a lot for the poor.

In the 8 years we have tried to correct these infirmities in the bankruptcy bill, we have not had any help from many who are speaking on this floor criticizing this bill today. They have never been for any change unless it is their change in bankruptcy, changes they could not get through the Senate floor. And we have come up with a bill that has been basically passed by huge majorities every time it comes up on the floor because we are trying to correct some of the things the distinguished Senator from Massachusetts is complaining about.

Yet I do not believe—and I can't speak for him—that we have a chance of having him vote for final passage of this bill. It may be because he differs with part of it, as I do. But I am trying to do the best we can in two legislative bodies that have great difficulty passing legislation as complicated as this with as many nuances and changes as this will make in the current laws that will be for the betterment of people in our society and in our country today.

I rise today in total opposition to these two Kennedy amendments. I commend Senator KENNEDY for his longstanding commitment to health issues. Most of the health care bills that work in this country are Hatch-Kennedy or Kennedy-Hatch bills over the last 28 years. He knows he can't accuse me of not having compassion for the poor and for those who have difficulty. We wouldn't have passed them had it not been for bipartisan efforts of Republicans and Democrats. So don't let anybody get on this floor and act as though only one side cares about the poor. That is not only a joke, it is a sad joke at that.

I know how devoted the Senator from Massachusetts is, and I share his general concerns about people in our society today who are hard-working people. However, I do not believe these two amendments are the answer to their problems. We accepted the Sessions amendment yesterday. It speaks directly to the circumstances surrounding serious medical conditions, which would be a major change over current law that I believe the distinguished Senator from Massachusetts and others, including the distinguished Senator from Illinois, will vote against in the end because they don't agree with some aspects of this bill. I don't agree with some aspects of this legislation, but I have worked my guts out to try and get a compromise here that will help the poor, that will help our society and will make people more honest, that will stop some of the fraud and abuse.

To continually make this sound as though it is a credit card company bill—give me a break.

I note the distinguished Senator from Massachusetts mentioned the Warren study when he says that half or thereabouts of the people go into bankruptcy because of medical conditions. That study is so flawed, nobody who is in their right mind is going to accept everything in it. First of all, it includes all gambling: that is a medical condition. Drug abuse and alcohol abuse, they are medical conditions. I agree maybe that may be. But those are voluntary medical conditions. It may be somebody is crazy because they gamble all the time. I have known compulsive gamblers. But is it a medical condition that justifies allowing people to cheat their creditors, as is going on in this country today? I don't think most people would agree with that. If you look at the statistics in the Warren report, you have to say: My gosh, why would anybody rely on that?

I believe it is worth pointing out that that report includes gambling debts as a medical condition under the rubric of medical expenses. Let's get real.

This bankruptcy bill is fair. It is needed. I pointed out several abuses yesterday, and I am sure will point out more before this debate is over.

The issues the distinguished Senator from Massachusetts has raised are important ones, as far as I am concerned.

Make no mistake about it. But I think we ought to change current law to address them. This bill does to a large degree.

All we hear from Democrats over the years is: We need a means test so the rich pay more. Why are they suddenly against a means test to protect the poor, a means test that requires those who can pay something against their debts rather than every 5 years go into bankruptcy after running up bills galore? Why shouldn't they have to pay or at least try to pay? A means test protects those who are designated poor. And frankly, there are other rules in this new bill that will protect those who are above the means test better than current law.

I would suggest to the distinguished Senator from Massachusetts, if he wants to correct some of these problems—all of which he has raised under current law as though they are going to be caused by this bill—he ought to vote for this bill, because it takes dramatic steps to change in current law the things he has been complaining about and that I happen to be concerned about as much as he is and others on this floor as well on both sides.

For 8 years we have fought to bring both sides of this floor together. For 8 years we have fought to bring both Houses of Congress together. For 8 years we have tried to correct these deficiencies in the Bankruptcy Code. This bill doesn't correct everything, but it does make strides. It does make real efforts to try and not only be fair but to get people to be responsible for their debts when they have the ability to be responsible for their debts.

The issues the distinguished Senator from Massachusetts has raised are important ones. Make no mistake about it. But let me shine a little more light on these issues. The people the distinguished Senator from Massachusetts and the distinguished Senator from Illinois have held out as victims of the means test will be in fact protected by that test. That is what is amazing to me, how we can hear these populous arguments on the floor as though that is reality. We have heard this so many times. As the decibel level goes up, the reality of those arguments is less and less real.

The Sessions amendment yesterday makes sense, trying to do something about what the distinguished Senator from Massachusetts is complaining about. The things he is complaining about are in the current law we are trying to change. The means test protects the poor.

Now are there going to be problems with any bill that comes out of the Congress? Sure. We have to make an effort to do the best we can to resolve these problems and this bill does make the best effort we can between both Houses of Congress to do so.

I might add that the other amendment of the distinguished Senator from Massachusetts provides a homestead exemption for medically distressed debtors. Well, medically distressed debtors should be taken care of under the Sessions amendment because he specifically provides for that.

We had a vote this morning on a homestead amendment. We all know we cannot accept the amendment. It is an issue for the States, pure and simple. The reason we can't is because after 8 years of careful, serious negotiations, after 8 years of that, we have arrived at a compromise that, though imperfect, is the best we can do. That is what legislating is all about. I wish we could make every bill perfect. Unfortunately, we have to deal with imperfect people. Some of us may think we are perfect and that everybody should do exactly what we think they should do. That isn't reality around here.

So we do the best we can. After 8 years, after multiple votes, and after votes overwhelmingly in favor of this bill, because it makes tremendous changes from current law that do protect the poor, and others as well, and those who are losing billions of dollars because of it—at least millions, because of fraud—we are trying to do what has to be done.

Let me make a few remarks about the Kennedy amendment and why it should be rejected. Yesterday, we acted to adopt the Sessions amendment by a broad 63-to-32 bipartisan vote. The Sessions amendment included medical costs as a factor to be considered under the special circumstances provisions under chapter 13. That amendment will allow those who make those decisions to determine whether people are going to be inordinately hurt by being pushed into chapter 13. You have to believe there are idiots in the system who will not resolve these types of major problems, especially the ones the distinguished Senator from Massachusetts has been talking about.

Please recall that under the so-called means test Senators DURBIN and KENNEDY are trying to vilify today—when they are always arguing for means tests for the rich—will only result in about 10 percent of those who file for bankruptcy will be required to repay any of their debts out of future earnings. That is right, only 10 percent right off the bat. Eighty percent of those individuals who make under the median income will ever face the prospect of paying past debts out of future earnings. Of the remaining 20 percent, only about one-half will ever be required to pay. When all is said and done, only about 1 in 10 of those who filed for bankruptcy will ever be required to pay past debt from future earnings under the means test.

Medical expenses will be eligible as a factor in determining if and how much money will be repaid by those relatively few—1 in 10—who qualify under the mischaracterized means test. That is not an onerous test; it is fair. It treats medical expenses fairly. That is what we accomplish with the bipartisan 63-to-32 basically overwhelming vote on the Sessions amendment yesterday.

Now, the Senator from Massachusetts opposes this bill. That is no secret. He has opposed every bill we have brought up here in the last 8 years. We should oppose his amendment because the bill already adequately responds to the subject matter of his amendment. By the way, again, all of the litany of bad things that are happening to people, and especially the hard-working poor, are occurring under the current bankruptcy system we are trying to change and make better.

I will also acknowledge that I wish I could make this bill even better. But in all honesty, we are to a point where if we want to correct the wrongs in society that are occurring in bankruptcy, this is the chance to do it, and then let us work in the future to correct what needs to be corrected in this bill. But this is the only chance we have to correct some of the ills the distinguished Senator from Massachusetts is bringing out here today. I commend him for being concerned about those ills, but if he is, he ought to be voting for this bill because we at least do something about it. It may not be exactly what he wants; it is not exactly what I want; but it is the best we can do when we consider this bicameral legislative body called the Congress of the United States.

Again, I want to speak in favor of S. 256—and I think I have been—the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This issue has become more important over the last 8 years, when we started to work on reforming the system. It is more important than ever today. Bankruptcies are up markedly.

Over the past decade, look at how they have gone up on this chart. From 1947, all the way up to 2003, you can see how, since about the late 1980s, it automatically shoots up like mad. I know people in Utah who run up all the debts they can for 5 years, then go into bankruptcy, and then they do it again. This is happening much more than it should. As we pointed out yesterday, we have more bankruptcies in 1 year now than they had in the whole Depression of 10 years.

The bankruptcy system can be improved. It seems unlikely that consumer bankruptcy abuses are going to get better without this legislation. I will recount some of the glaring facts about this problem. First, we are seeing more bankruptcies filed every year than in the entire decade of the Great Depression, as I have mentioned. Our economy has generally grown over the last 10 years, and we have enjoyed relatively low unemployment and low interest rates. But despite this, we continue to see record numbers of bankruptcy filings every year. Why is that?

One factor may be that too many people view bankruptcy as an easy way to erase their debts, rather than as a means of last resort. This affects all consumers. When creditors are left without payment, they have to pass these costs on to all of the rest of us. It costs us in terms of higher interest rates, higher downpayment requirements, shorter grace periods, higher penalty fees, late charges, and retailers are forced to raise prices, all because of the abuse of the bankruptcy system, which this bill would do a great deal to correct.

If you want to help the poor, vote for this bill because this bill will save the poor at least $400 a year, minimally, for each household. Bankruptcy can also cost job loss among those who are victims of uncollected obligations. Part of the problem with the current bankruptcy system is that it allows certain higher income individuals to wipe away debts that they can and should be required to pay. Some have mischaracterized provisions in the bill that require some individuals to repay past debts with future earnings. The provision in the bill—the so-called means test—applies only to those persons above the median income. Where a higher income debtor has the means to repay, the means test established in the bill would require such debtor to shoulder more responsibility in paying the bills they have incurred. For debtors below the median income—which is over 80 percent of all filings—there would be no presumption of abuse. But even for those above the median with means to repay a substantial part of their debts, a judge would still have the ability to allow a liquidation bankruptcy to proceed in cases of hardship.

This is not the onerous bill that some of my colleagues would have you believe. Throughout the course of the debate over the last four Congresses, we have had different arguments from opponents of this legislation. It is always the same opponents. Some of those failing arguments are rearing their heads again in this debate. And again, the arguments they are making basically criticize current law that we are trying to change with the bankruptcy bill, we believe for the better. Can you find some flaws in this? Of course, and so can I. But it is head and shoulders over current law and over some of the illustrations my friends on the other side have brought up.

Let me take a few minutes to dispel a few of the more prominent myths about the bill. First, some suggested that higher debt burdens have led to the dramatic spike in bankruptcy filings over the last 25 years. The basic measurement for establishing financial distress shows that this is simply not the case. The debt service ratio—a measurement of income to expenses—has remained relatively constant over the last 25 years, as this chart behind me illustrates. The bottom red line shows the bankruptcy filings per 1,000 families from 1980 up until 2001. The black line on the top is the debt service ratio. This shows that bankruptcies have not increased due to a decreased ability to make payments on debt obligations. Examining the lowest 20 percent of income earners shows that even when the debt service ratio in these categories declined or stayed the same, bankruptcies overall still climbed dramatically, as the next chart reveals. The bottom line, as you can see, is consumer liabilities between 1979 and 2001. The red line represents consumer assets between 1979 and 2001. The green line happens to be the consumer net wealth between 1979 and 2001. They have all gone up—even the bottom line, the consumer liabilities—but not very much. The others have gone up much more. The consumer assets and consumer net wealth have gone up much more.

Another measurement of financial distress is net wealth, the amount of assets against liabilities. But this test, too, shows that even as net wealth has soared, as was shown on that prior chart, bankruptcy filings have soared as well.

This chart makes the point. The bottom line is revolving disposable personal income. That has gone up from 1959 to 2003. The red line is the nonrevolving disposable personal income. As one can see, that has gone down. The black line on top is the total disposable personal income which has basically remained the same, except it has gone up a little bit in these past years.

Another exaggerated myth is that increased use of credit cards is the cause for more and more bankruptcies. But, again, the facts strongly suggest this simply is not the case. When there has been an increase in the use of credit card debt, this was largely due to a substitution for other high-interest debt.

The chart behind me shows that while revolving debts, such as credit cards, have increased as a percentage of disposable personal income, there is a corresponding decrease in nonrevolving debt. The net effect is that overall consumer indebtedness has remained roughly the same.

Others have tried to argue that increases in housing costs are a major reason for skyrocketing bankruptcy filings, but the amount of income going into mortgage expenses has remained steady over the years. According to Professor Warren's book, "The Two-Income Trap," which was cited favorably by the distinguished Senator from Illinois, Mr. DURBIN, yesterday, in the early seventies, mortgage payments constituted 14 percent of a typical family's income.

Here is a chart showing the allocation of income. The red part on the left, the large part, which is 46 percent, happens to be discretionary income. The purple small part is health insurance, and that amounts to 3 percent. Discretionary is 46 percent. The mortgage people are paying is now 14 percent, about the same as it has always been, in that little section of red. The yellow is automobile, which is 13 percent of income, and taxes are 24 percent.

In all honesty, 30 years later, according to Professor Warren, this percentage actually fell to 13 percent. As this chart shows, the mortgage went down to 13 percent. Obviously, attributing the rise in the bankruptcy rate to higher mortgage payments does not appear to be borne out by the facts. Further debunking this myth is the fact that default rates on mortgages have also remained fairly steady over the years.

Another prominent myth about this issue is that about 50 percent of all bankruptcy filings is caused by medical debts. We heard the distinguished Senator from Massachusetts in very excited terms talk about these type of debts, medical debts. Undoubtedly, there are many bankruptcies caused by medical debts. This is why this bill makes several exceptions for treatments of health expenses and health insurance, something that does not exist today. These exceptions do not exist today. This is why we were so pleased yesterday that the Senate adopted the Sessions amendment that explicitly identified medical costs as a factor to be taken under consideration by a bankruptcy judge in deciding whether there are special circumstances that affect a debtor's ability to pay.

But the study cited for the proposition that 50 percent of bankruptcies are medically related is misleading at best. This claim is based on the study conducted by Professor Elizabeth Warren, but this study does not even purport to claim that medical bills were the primary basis for half of bankruptcy filings, as the charts of the Senator from Massachusetts seem to indicate; the study merely claims that about half the filings were medically related. This is a distinction with a real difference, but we did not hear the difference as our friend from Massachusetts was describing this. Only a definition of the health problem that is stretched beyond recognition could lead to the conclusion that these filings were medically caused. The study actually classifies gambling as a medical cause. Gracious, come on. Give me a break. Gambling?

Finally, let us look at two other exaggerated explanations for bankruptcy filings: unemployment and divorce. With respect to unemployment, this chart shows that even as unemployment has dropped, bankruptcy filings continue to increase.

Let me refer to this next chart. The red dots represent the unemployment rate. It has been going down since basically 1981. The black dots show the bankruptcies per 1,000 families, and they have gone up dramatically, as one can see. If there was a correlation between unemployment and bankruptcy, we would have expected bankruptcy filings to decrease over the last 25 years, but this obviously has not been the case. In fact, just the opposite has occurred.

Again, on divorce rates, bankruptcies have increased by a huge percentage, even as we have seen a modest decline in the divorce rate over the last 25 or so years. The red line at the bottom shows bankruptcies per 1,000 households. Look how it has gone up since about 1987. The black dots represent the divorce rate per 1,000 households. That went up, but it is now headed down. That is a good thing for our society. I am glad to see that. But the bankruptcy rates keep going up.

The bottom line is that despite the low interest rates, low unemployment, steady debt ratios, and steady increase in net wealth, bankruptcy filings continue to set record highs. Frankly, these facts suggest another reason to explain the increase in bankruptcy filings is that it is simply too easy for some relatively high-income debtors to simply wipe away their debts and stick all the rest of us in society with them, even where they have the means to pay a substantial share of the obligations. It is absolutely unfair to saddle all consumers with the increased costs associated with these off-the-chart levels of filings. This bankruptcy bill we are debating today will cut down on some of these abuses and bring back some sense of accountability to the high-income debtors.

Let me say again, it is one thing to come on this floor and give these wonderful populist talks about how much they love to help the poor when, in fact, this bill will do more to help the poor than all those talks in the world. And to complain about this bill when what they are really doing is complaining about the current system, it is amazing to me.

The only thing I can conclude is some people who make these arguments actually must believe the people out there are really stupid and that populist arguments really count today, like they used to when people did not have the education Americans have today. That is what those populist arguments are all about. It is easy to stand on the floor, shake your fist, scream and shout, and talk about how bad things are when they are bad because we are not changing them. It is amazing to me, absolutely mind-boggling to me.

I respect anybody who wants to change these laws and make them better. The only way we are going to do that is to pass this bill, and the only way we are going to pass this bill through both Houses is to pass this bill without amendment.

If we want to make some changes, let's do it. We have now been 8 years through this stuff, and the same old tired, wornout saw arguments are still being made by the people who complain about the current system as though this bill is going to make the current system worse. It is going to make it better.

Again, I will acknowledge it is not a perfect bill. My gosh, nothing is around here. But it will make a great difference in some of the complaints that have been lodged against current law.

This bankruptcy bill we are debating today will cut down on some of these abuses and bring back some sense of accountability to these high-income debtors. It will stop some of the fraud and abuse that is going on. It will make everybody a little more responsible. We put in a lot of other provisions that make corporate America more responsible as well.

Could we do more? I suspect we could, but not and pass the bill. That is my bottom line right now after 8 years of doing this, after passing it four times overwhelmingly in the Senate and overwhelmingly in the House but not being able to get it signed because the one time it did go to the President, President Clinton pocket vetoed it. So I urge my colleagues to join me in supporting this measure. I hope my colleagues will help us finally pass this important measure because it is long overdue. It will help to resolve an awful lot of the problems that we hear complaints about on the floor today by those who have done everything they could over the last 8 years to kill this bill.

If we passed both of the amendments of the distinguished Senator from Massachusetts, even if we could agree that they were good amendments—and they are not—I guarantee my colleagues he is not going to vote for this bill. He never has, and I do not think he ever will. His reasons are his own, and they are important reasons to him, but I suggest that if our colleagues really mean they want to do something about these awful current situations, this is the bill to do it with. If this bill does not prove to be everything that we would like it to be, let us work in the next session of Congress or immediately thereafter to start trying to make changes that might help.

This bill is a step in the right direction. It is a very important step forward, and we certainly should not allow any killer amendments on this bill that would make it impossible to pass once again.

Hopefully I have been fair to my colleagues. I have tried to be. But I cannot just sit here and let these type of arguments be made without some response, especially since I have heard them over and over again. The complaints are always about current law and some of the aspects of this bill that they just do not like that are essential in order to pass the bill.

So I hope my colleagues will vote against both of these amendments. I am going to do everything in my power to see that they are both defeated.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Texas.

Mr. CORNYN. Mr. President, like the distinguished Senator from Utah, the former chairman of the Judiciary Committee, I agree that this is an important bill whose time has come. As he said, it is not a perfect bill, but it may be the best that we are capable of. Frankly, there is a lot more we could do to make it better.

A few weeks ago, I introduced S. 314, the Fairness in Bankruptcy Litigation Act of 2005. Today, I filed amendment 30 to the comprehensive bankruptcy litigation before us, but at this time I will not call up the amendment. This amendment would provide much needed protection for consumers, creditors, workers, pensioners, shareholders, and small businesses—in short, virtually everyone who is a stakeholder in bankruptcy litigation in this country today. It would do so by reforming the rules governing venue in bankruptcy cases to combat forum shopping, otherwise known as judge shopping, by corporate debtors.

The sad fact is that today judge shopping is endemic in our bankruptcy courts and has led to the abuses of the law, abuses that challenge our national aspiration to be a nation that believes in and actually practices equal justice under the law.

My experience in my former capacity as attorney general of my State, particularly with the Enron bankruptcy, which has gained quite a bit of notoriety, opened my eyes to a very real abuse in our current bankruptcy system and the need to end the current practice of judge shopping. After seeing how that bankruptcy played out, I do not believe that we can only be concerned with the letter of the law. We need to be concerned as well with how that law is administered, venues where those cases are litigated, and necessarily with accountability and accessibility of working men and women, the creditors, and everyone else who is affected by bankruptcy litigation.

My amendment would prevent corporate debtors from moving their bankruptcy thousands of miles away from the communities and the workers who have the most at stake, and it would prevent bankrupt corporations from effectively selecting the judge in their own cases, because picking the judge is not far off from picking the result.

I know that my distinguished colleagues from Delaware do not like this particular amendment, and they have voiced their concerns to me directly and candidly, which I appreciate, but it is principally because their State is the beneficiary of the status quo with huge percentages of all bankruptcies occurring in the United States—that is, in all 50 States—ending up in Delaware and to a lesser extent in New York.

I believe the record is clear that forum shopping hurts people in the overwhelming majority of the States and necessarily the overwhelming majority of our citizens, and that this amendment, if adopted, would serve the national interest.

This reform is good government. It is good for the economy. It is good for consumers. To those concerned, as I have heard those concerns expressed so far in this debate that we have not done enough to combat bankruptcy abuses, particularly on the part of corporate debtors, I ask them to seriously consider this amendment. This amendment would implement a major recommendation from the October 1997 National Bankruptcy Review Commission report and has earned support by prominent bankruptcy professors and practitioners nationwide. It has also gained bipartisan support from people who have seen the problems of the current system up close, including numbers of attorneys general, 24 of whom, along with the Attorneys General of Puerto Rico and the U.S. Virgin Islands, have signed a letter in support of S. 314.

I ask unanimous consent that this letter be printed in the RECORD, following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. This legislation has also been endorsed by the National Association of Credit Management and the Commercial Law League of America. This amendment also protects small businesses, and that is why it has been endorsed by the National Federation of Independent Businesses. Because it protects consumers, it is supported by the Consumer Federation. This amendment would protect and restore the integrity of our civil justice system, and that is why, as I said, it is endorsed by a bipartisan coalition of our Nation's State attorneys general.

This amendment would send a message that we recognize the danger of this growing crisis which negatively affects so many consumers and workers and that we are committed to achieving fairness and truly comprehensive bankruptcy reform.

Sadly, our current bankruptcy venue law has become a target for enormous abuse. It is a problem that has been well documented by scholars in the field, most recently in a comprehensive book published earlier this year by UCLA law professor Lynn M. LoPucki, as well as by Harvard law professor Elizabeth Warren, whose name has been invoked numerous times in this debate, who served as a reporter for the National Bankruptcy Review Commission, as well as Professor Jay L. Westbrook of the University of Texas Law School.

I know that Professor LoPucki has been in contact with the office of virtually every Member of this body, including, it is reported to me, personal contact with 71 Senators. The professor has documented instances of forum shopping by corporate debtors that have harmed consumers and workers in virtually all of our States.

I had personal experience with this abuse during my service as attorney general of the State of Texas. I argued that the Enron Federal bankruptcy litigation should occur in Houston, TX. That seemed to me to be a commonsense argument, of course, because Houston, after all, is where the majority of employees, the majority of pensioners, the majority of creditors and every other stakeholder involved in that bankruptcy was located. Of course, many of these people were victimized by this corporate scandal that occurred, unfortunately, in my State.

Yet that is not where the case ended up, not in Houston, TX, but, rather, in New York. Enron was able to exploit a key loophole in bankruptcy law to maneuver their proceedings as far away from Houston, TX, as possible. They ended up in their desired forum, and that is, as I mentioned, New York. Enron used the place of incorporation of one of its small subsidiaries in order to file their bankruptcy in New York and then used that smaller claim as a basis for shifting all of its much larger bankruptcy proceedings into that same court.

Let me make it clear. This company had 7,500 employees in Houston, but they filed for bankruptcy in New York where it had only 57 employees. This blatant kind of forum shopping, judge shopping, makes a mockery of all of our laws. The commonsense amendment which I have filed will combat such egregious forum shopping by requiring that corporate debtors file where their principal place of business is located or where their principal assets are located, rather than their State of incorporation, and forbidding parent companies from manipulating the venue by first filing through a subsidiary.

Bankruptcy venue abuse is not just bad for our legal system, it hurts America's consumers, creditors, workers, pensioners, shareholders, and small businesses alike. Under the current law, corporate debtors effectively go to the court that they themselves pick. Debtors can forum shop and pick jurisdictions that they think are more likely to rule in their favor. If debtors, in fact, get to pick the jurisdiction, then bankruptcy judges, unfortunately, according to Professor LoPucki and others, have a disturbing incentive to compete with other bankruptcy courts for major bankruptcy litigation by tilting their rulings in favor of corporate debtors and their lawyers. As a result, creditors can also be forced to litigate far away from the real world, their real world location, where costs and inconvenience associated with travel are prohibitive—in fact, leading too many of them to simply give up rather than to expensively litigate their claims in a far-off forum.

This troubling loophole serves to unfairly enable corporate debtors to evade their financial commitments; it badly disables consumers, creditors, workers, pensioners, shareholders, and small businesses from pursuing and receiving reasonable compensation from bankruptcy proceedings.

There are numerous examples. Let me mention three of the more prominent ones.

In 2001, in October, Boston-based Polaroid filed for bankruptcy in Delaware, listing assets of $1.9 billion. Polaroid's top executives claimed that the company was a "melting ice cube" and arranged a hasty sale for $465 million to a single debtor. This same court refused to hear testimony as to the true value of the company and closed the sale in only 70 days. The top executives went to work for the new buyer and received millions of dollars in stock. Meanwhile, disabled employees had their health care coverage canceled. The so-called melting ice cube became profitable the day after the sale became final.

In January of 2002, K-Mart filed for bankruptcy in Chicago, a venue which had reportedly been active in soliciting large corporate debtors to file there. With a workforce of 225,000, K-Mart had more employees than any company that had ever filed for bankruptcy nationwide. The judge in that case let the failed executives take tens of millions of dollars in bonuses, perks, and loan forgiveness. Bankruptcy lawyers also profited, pocketing nearly $140 million in legal fees. But some 43,000 creditors received only about 10 cents on the dollar.

The third example I would like to mention is WorldCom, known for perpetrating one of the biggest accounting frauds in the history of our country, inflating its income by $9 billion. Although based in Mississippi, WorldCom followed Enron to New York bankruptcy court where its managers received the same sort of lenient treatment that I mentioned a moment ago. No trustee was appointed. Indeed, 5 months after the case was filed, the debtors in office when the fraud occurred still constituted a majority on the board. They, in fact, chose their own successors. A top WorldCom executive used money taken from the company to build an exempt Texas homestead, and WorldCom took no action. That executive then used the homestead to buy his way out of his problems with the SEC. Meanwhile, creditors, mostly bondholders, lost $20 billion.

This is not the first time Congress has addressed this important issue. The House Judiciary Subcommittee on Commercial and Administrative Law held a hearing on July 21, 2004, entitled "Administration of Large Business Bankruptcy Reorganizations: Has Competition for Big Cases Corrupted the Bankruptcy System?" Congressman SHERMAN of California has led efforts to champion bankruptcy venue reform in that body.

During the 107th Congress, my colleague from Illinois, Senator DURBIN, introduced S. 2798, the Employee Abuse Prevention Act of 2002, joined by the Senators from Massachusetts, the Senator from Vermont, and the Senator from West Virginia, which also would have reformed bankruptcy venue law. Congressman DELAHUNT of Massachusetts introduced the same legislation in the House.

I believe we need to take the next logical step to respond to this important problem. The American people deserve better from our legal system when it comes to corporate bankruptcies. All bankruptcy cases deserve to be handled fairly and justly, and no corporate debtor should be allowed to escape responsibility by fleeing to a far-flung venue. It is high time we make this important and needed reform.

As I have indicated earlier, I have filed this amendment, but I have not called it up but certainly reserve the right to do so during the course of these proceedings. I have listened closely to the Senator from Utah and others, the Senator from Iowa, the chief sponsor of this legislation, who say that amendments to this bill would endanger its ultimate passage. While I certainly am sympathetic to what they have to say, I still believe these amendments ought to be decided on their merits, not based on perhaps concerns that are expressed about amendments jeopardizing a bill. In fact, I would think, indeed, in every instance the chief sponsor of the bill would ask Senators to refrain from filing any amendments, believing that their bill without amendments would have a better chance of ultimate passage. But that is not how our legislative process works.

I have, nevertheless, decided to refrain from calling up this amendment at this time. As I said, I reserve the right to do so later. I also reserve the right to ask for the yeas and nays and a vote on this amendment. But I have refrained from calling it up out of respect for the managers of this legislation, out of respect for Chairman GRASSLEY, the chief sponsor, and out of respect for the American people, who deserve to have better than they have under the status quo and who deserve to see this bill pass.

I hope I have made clear that judge shopping when it comes to bankruptcy litigation is a cancer that needs to be cut out, corrected, and cured.

I do hope my colleagues in this body will listen, will study this particular piece of legislation, and will lend their support.

I yield the floor.

EXHIBIT 1

MARCH 2, 2005.

RE: S. 314, the Fairness in Bankruptcy Litigation Act of 2005.

Hon. JOHN CORNYN,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR CORNYN: We understand that the United States Senate is about to debate S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. We write to express our hope that, in doing so, the Senate will also take action on S. 314, the Fairness in Bankruptcy Litigation Act of 2005, which we support and which you introduced on February 8, 2005. After all, consistent with the title of S. 256, your legislation to reform the bankruptcy venue laws would indeed help prevent some of the worst abuses we have witnessed in bankruptcy litigation, and provide much needed protection to consumers as well as to the innumerable other parties—large and small alike—that are harmed by opportunistic forum shopping by corporate debtors: creditors, workers, pensioners, retirees, shareholders, and small businesses.

As state attorneys general, we are charged with a solemn duty to enforce the law, to protect consumers, and to combat corporate wrongdoing. It is bad enough that corporate scandals have victimized countless American citizens in recent years. What's worse, many corporations have abused the bankruptcy venue laws and engaged in unseemly forum shopping in order to avoid their financial responsibilities. All too often, corporate debtors have fled their home states to pursue relief in far away jurisdictions—and in search of judges more friendly to the corporations' interests than to the interests of those the corporations have left behind. As you noted in your remarks upon introducing the legislation, literally thousands and thousands of workers, shareholders, retirees, small businesses and countless other Americans are regularly thwarted from protecting their interests and left financially stranded as a result.

Your legislation has already received an impressive and broad range of support, and the undersigned—a bipartisan group of state attorneys general from across the country united in a commitment to protect consumers and curb abusive corporate judge-shopping—is pleased to add its strong support. Not only does S. 314 finally implement a major recommendation from the October 1997 National Bankruptcy Review Commission report, it is supported by innumerable bankruptcy law professors and practitioners nationwide; the National Federation of Independent Business; counsel for the Enron Employees Committee; Brady C. Williamson, who served as chairman of the National Bankruptcy Review Commission; and major national bankruptcy organizations like the National Association of Credit Management, the Commercial Law League of America, and the National Bankruptcy Conference.

We commend your efforts to strengthen our bankruptcy system and protect consumers, creditors, workers, pensioners, shareholders, retirees, and small businesses against unsavory forum shopping by corporate debtors. Passage of S. 314 will end this gamesmanship, help restore credibility to our nation's bankruptcy laws, and safeguard the interests of Americans from all walks of life.

We urge the United States Senate to pursue every means necessary to enact the provisions of your bill into law.

Sincerely,

Scott Nordstrand, Acting Attorney General of Alaska.

Mike Beebe, Attorney General of Arkansas.

Bill Lockyer, Attorney General of California.

John Suthers, Attorney General of Colorado.

Mark Bennett, Attorney General of Hawaii.

Lisa Madigan, Attorney General of Illinois.

Stephen Carter, Attorney General of Indiana.

Charles Foti, Jr., Attorney General of Louisiana.

J. Joseph Curran, Jr., Attorney General of Maryland.

Tom Reilly, Attorney General of Massachusetts.

Mike Cox, Attorney General of Michigan.

Mike Hatch, Attorney General of Minnesota.

Jay Nixon, Attorney General of Missouri.

Patricia Madrid, Attorney General of New Mexico.

Brian Sandoval, Attorney General of Nevada.

Wayne Stenehjem, Attorney General of North Dakota.

Hardy Myers, Attorney General of Oregon.

Roberto Sanchez-Ramos, Secretary of Justice of Puerto Rico.

Patrick Lynch, Attorney General of Rhode Island.

Lawrence Long, Attorney General of South Dakota.

Paul Summers, Attorney General of Tennessee.

Greg Abbott, Attorney General of Texas.

Mark Shurtleff, Attorney General of Utah.

Alva Swan, Attorney General of the Virgin Islands.

Rob McKenna, Attorney General of Washington.

Darrell McGraw, Attorney General of West Virginia.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Thank you, Mr. President.

I have come to the floor today to briefly address the pending legislation. This issue forces us to face a fundamental question about who we are as a country, how we progress as a society, where our values lie as a people, how do we treat our fellow Americans who have fallen on hard times, and what is our responsibility to cushion those falls when they occur. We do so not only out of compassion for others but also knowing that hard times might at any moment fall on ourselves.

The proponents of this bill claim it is designed to curb the worst abuses of our bankruptcy system. I think that is a worthy goal shared by all those in this Chamber, and we can all agree that bankruptcy was never meant to serve as a "get out of jail free" card for use when you foolishly gamble away all your savings and don't feel like taking responsibility for your actions.

But to accomplish that, this bill would take us from a system where judges weed out the abusers from the honest to a system where all the honest are presumed to be abusers, where declaring chapter 7 bankruptcy is made prohibitively expensive for people who have already suffered financial devastation.

With this bill, it doesn't matter if you run up your debt on a trip to Vegas or a trip to the emergency room; you are still treated the same under the law. You still face the possibility that you will never get a chance to start over.

It would be one thing if most people were abusing the system and falling into bankruptcy because they were irresponsible with their finances. I think we need more responsibility with our finances in our society as well as from our Government. But we know that for the most part bankruptcies are caused as a result of bad luck.

We know from a recent study, which was mentioned by the distinguished Senator from Massachusetts, that nearly half of all bankruptcies occur because of an illness that ends up sticking families with medical bills they can't keep up with.

Let me give you as a particular example the case of Suzanne Gibbons, a constituent of mine. A few years back, Suzanne had a good job as a nurse, and a home on Chicago's northwest side. Then she suffered a stroke that left her hospitalized for 5 days. Even though she had health insurance through her job, it only covered $4,000 of the $53,000 in hospital bills. As a consequence of that illness, she was soon forced to leave her full-time nursing job and take a temporary job that paid less and didn't offer health insurance. Then the collection agencies started coming after her for her hospital bills that she couldn't keep up with. She lost her retirement savings, she lost her house, and eventually she was forced to declare bankruptcy. If this bill passes as written without amendment, Suzanne will be treated by the law the same as any scam artist who cheats the system. The decision about whether she can file for chapter 7 bankruptcy would not account for the fact that she fell into financial despair because of her illness.

With all that debt, she would have to hire a lawyer and pay hundreds of dollars more in increased paperwork. After all that, she still might be told she is ineligible for chapter 7 bankruptcy.

As much as we like to believe that the face of this bankruptcy crisis is credit card addicts who spend their way into debt, the truth is it is the face of people such as Suzanne Gibbons. It is the face of middle-class Americans.

Over the last 30 years, bankruptcies have gone up 400 percent. We have had 2,100 more in Illinois this year. We also know what else has gone up: the cost of childcare, the cost of college, the cost of home ownership, and the cost of health care which is now at record highs. People are working harder and longer for less, and they are falling farther and farther behind.

We are not talking about only the poor or even the working poor here. These are middle-class families with two parents who both work at good-paying jobs that put a roof over their heads. They are saving every extra penny they have so their children can go to college and do better than they did. But with just one illness, one emergency, one divorce, these dreams are wiped away.

This bill does a great job helping the credit card industry recover profits they are losing, but what are we doing to help middle-class families to recover the dreams they are losing?

The bankruptcy crisis this bill should address is not only the one facing credit card companies that are currently enjoying record profits. We have to look after those hard-working families who are dealing with record hardships. As Senator DODD, Senator FEINSTEIN, and others have pointed out, this bill also fails to deal with the aggressive marketing practices and hidden fees credit card companies have used to raise their profits and our debt. Charging a penalty to consumers who make a late payment on a completely unrelated credit card is but one example of these tactics. We need to end these practices so that we are making life easier not only for the credit card companies but for honest, hard-working, middle-class families.

If we are going to crack down on bankruptcy abuse, which we should, we should also make it clear we intend to hold the wealthy and the powerful accountable as well.

One example: In my own State, we had a mining company by the name of Horizon that recently declared bankruptcy and then refused to pay its employees the health benefits it owed them. A Federal bankruptcy judge upheld the right of Horizon to vacate the obligations it had made to its workers. The mine workers involved had provided a total of 100,000 years of service and dedication and sacrifice to this company. They had spent their entire lives working hard. They had deferred part of their salaries because there was an assurance that health care would be available for them. These are men and women with black lung disease, with bad backs, with bad necks, and the company made a decision to go back on their promise, saying we will not pay the debt we owe these workers. And a Federal bankruptcy judge said that is OK, you are permitted to do that.

These same workers now are going to have a tough time as a consequence of this bill filing for bankruptcy. The irony should not be lost on this Chamber. It is wrong that a bill would make it harder for those unemployed workers to declare bankruptcy while doing nothing to prevent the bankrupt company that puts them in financial hardship in the first place from shirking its responsibilities entirely.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. OBAMA. I yield.

Mr. KENNEDY. As I understand it, these workers had health insurance that would have protected them as a result of illness and sickness. They had it probably for themselves and their families. What the Senator is saying is obviously in most of these circumstances when they had health insurance, they sacrificed wage increases and other kinds of benefits in order to get that health insurance. As I listened to the Senator, I heard that many of these workers have worked for lifetimes for this company. Now, as a result of the company going into bankruptcy, these workers effectively lost their health care coverage. I imagine a number of them may have some illness, perhaps some health care needs, probably an older population, and the cost to them to replace that kind of family coverage would be rather dramatic.

Mr. OBAMA. It would be prohibitive.

Mr. KENNEDY. Particularly if they are out of work.

What we are talking about here is, if they run into illness and sickness under the existing bankruptcy laws, they have a chance to be able to measure their assets and their creditors to be able to at least go on to another day. They may pay a fearsome price in terms of their own lives, but under the circumstances of the bill as proposed, they would be treated even more harshly.

As I listened to the Senator, he was talking about a rough sense of equity in terms of legislation that we ought to be considering here in the Senate.

Mr. OBAMA. That is an accurate assessment by the distinguished Senator from Massachusetts. I appreciate that amplification.

The central point is, what kind of message does it send when we tell hard-working, middle-class Americans, you have to be more responsible with your finances than the companies you work for? They are allowed to be irresponsible with their finances and we give them a pass when they have bad management decisions, but you do not have a pass when confronting difficulties outside of your control.

We need to reform our Bankruptcy Code so corporations keep their promises and meet their obligations to their workers. I remain hopeful our companies want to do the right thing for workers. Doing so should not be a choice, it should be a mandate.

Senator ROCKEFELLER and I have proposed two amendments to ensure this. I strongly urge my colleagues' support. One will increase the required payments of wages and employee benefit plans to $15,000 per individual from the current level of $4,925. It requires companies that emerge from bankruptcy to immediately pay each retiree who lost health benefits an amount of cash equal to what a retiree would be expected to have to pay for COBRA coverage for 18 months.

The second amendment prevents bankruptcy courts from dismissing companies' Coal Act obligations to pay their workers the benefits they were promised. These companies made a deal to their mine workers. They should be forced to honor that deal. That will be an amendment that hopefully will be added to the pending bill.

This bill gives a rare chance to ask ourselves who we are here to protect, for whom we are here to stand up, for whom we are here to speak. We have to curb bankruptcy abuse and demand a measure of personal responsibility from all people. We all want that. We also want to make sure we are helping middle-class families who are loving their children and doing anything they can to give them the best possible life ahead.

To wrap up, in the 10 minutes I have been speaking, about 30 of those middle class families have had to file for bankruptcy. We live in a rapidly changing world, with an economy that is moving just as fast. We cannot always control this. We cannot promise the changes will always leave everyone better off. But we can do better than 1 bankruptcy every 19 seconds. We can do better than forcing people to choose between the cost of health care and the cost of college. We can do better than big corporations using bankruptcy laws to deny health care and benefits to their employees. And we can give people the basic tools and protections they need to believe that in America your circumstances are no limit to the success you can achieve and the dreams you may fulfill.

While, unfortunately, I cannot support this bill the way it is currently written, I do look forward to working with my colleagues in amending this bill so we can still keep the promise alive.

Mr. KENNEDY. Will the Senator yield for one more question?

Mr. OBAMA. I yield.

Mr. KENNEDY. As I listened carefully to the excellent presentation of the Senator from Illinois on this legislation, this legislation has been presented as though it is for going after spendthrifts, individuals who abuse the credit system, who go out and live life high on the hog, go to the malls, buy the expensive clothes and charge it up. These individuals should not be let off scot-free. I gather from remarks of the Senator from Illinois he agrees with me, that we want accountability for those individuals.

Legislation that ought to be targeted toward those individuals and corrected with a hammer is addressed with a cannon, picking on the working families in its path who face bankrupcy through no fault of their own, as a result of the explosion of health care costs, the explosion of housing costs, explosion of tuition cost, the outsourcing of jobs, the increase in part-time jobs, and the issue of a growing older population which has a greater proclivity toward serious illness and disease such as cancer and stroke, and increasing numbers of individuals who are virtually cast adrift by major companies such as Enron, WorldCom, and Polaroid, and the company from Illinois the Senator has mentioned. The sweep of this legislation is going to be unduly harsh on a lot of hard-working, middle-income families playing by the rules, struggling for their families. They will be treated unjustly.

Mr. OBAMA. That is an accurate statement by the distinguished Senator from Massachusetts. He characterizes it correctly.

I add that all the statistics I have seen indicate one of the fastest growing segments engaged in bankruptcy is senior citizens who I don't think are any different than they were back in the day when we think people were more responsible and more thrifty. I think they are still thrifty and responsible. What has happened is they are experiencing extremely tough times partly because they are having difficulty paying for prescription medicines that are not covered under Medicaid.

Mr. KENNEDY. If the Senator will yield further, the Senator mentions the number of bankruptcies for our senior citizens has tripled in the last 10 years. The average income for those over 65 is $24,000. These are not great populations of free-spending people ringing up large expenses at the mall.

Shouldn't we take a look at the impact of the legislation before the Senate and the impact it will have on our population?

I commend the Senator for bringing this very important fact to the attention of the Senate. We have three times the number of bankruptcies now for our senior citizens. These are not the spendthrifts. Are those the people we are trying to catch with punitive measures in this bankruptcy legislation? I don't think so.

The Senator made a strong point. I thank him.

Mr. DURBIN. Mr. President, I commend my colleague from Illinois because he pointed to several issues in our State which dramatized the problem with this bankruptcy bill. This Horizon Mining Company in southern Illinois when it goes out of business not only shortchanges shareholders but leaves retirees in the lurch. We have reports of individuals who worked a lifetime for this mining company, paid in as they were supposed to, expecting to receive health care benefits after they retired, and then the company files bankruptcy and men and women with serious health issues—black lung and emphysema—find themselves without health care protection before they are eligible for Medicare. These are the people falling into the bankruptcy courts.

Our friends on the other side of the aisle say we need to change bankruptcy law because of moral failures in America, immoral conduct by people walking into the bankruptcy court when they should just pay their bills.

We go to the people who are supposed to monitor abuse in bankruptcy courts and they say of all the bankruptcies filed, only 3 percent—3 out of 100—may fall in that category. The credit card companies say it may be as high as 10 percent—1 out of 10—who should not be filing for bankruptcy. But, still, we are going to change the law for everyone walking into the court.

We find in reality—the Senator from Massachusetts has made this point—we are not talking so much about moral failures leading to bankruptcy, we are talking about economic failures leading to bankruptcy.

Professor Warren from Harvard Law School went out and actually asked the people filing bankruptcy, Why are you here today? What forced you into bankruptcy? Almost half of the people said medical bills. Three-quarters of those filed bankruptcy because the cost of their treatment was more than they could pay; three-fourths of them had health insurance when they were diagnosed, but it was not enough, or they lost their job, or the copays overwhelmed them.

If you are following this debate and you say, isn't it a shame these people did not plan for their future—the man who worked in the mine for 35 years planned for his future. He worked every day and he contributed every day to a pension, believing he would have health care. Guess what. Bankruptcy comes along, and he has no health care.

Take a look at the people walking into bankruptcy court. Did they plan for their future? They had health insurance. But it was not good health insurance. It had limits on it, and a catastrophic illness wiped them out. Is there one of us who believes we are somehow sheltered from this? Well, come to think of it, there may be. It could be Members of Congress believe they are sheltered from this. Do you know why? We have a pretty generous health insurance plan, as most Federal employees do. And when we retire, we are protected by that health insurance plan.

What is the likelihood a Member of Congress or retired Member of Congress will end up in bankruptcy court because of medical bills? Slim to none. So we live in this bubble, those of us in Congress, this bubble of protection, and think the whole world has the benefits we have. They do not.

Senator KENNEDY has been arguing for years to take the same health care Members of Congress receive and offer it to America. Whoa, what a radical idea, another Kennedy extremist position, to take the same health care of Congressmen and offer it to America. If we did that, we would not be talking about medical bankruptcy in the numbers we are facing today. But there are these bankruptcies by people who planned, by people who had health insurance, by people who paid a lifetime into the system believing they protected their family. They are that vulnerable.

Along comes the credit card industry that says: We want to change the bankruptcy law so if you get crushed by medical bills, you cannot get out from under. You keep paying and paying and paying for a lifetime. One of Senator KENNEDY's amendments says, losing your home because of a medical crisis in your family in bankruptcy is a tragedy we should avoid. He is right. Think about it.

I can give you examples. Let me give you one. I say to Senator KENNEDY, I think this illustrates the point you are making. Senator KENNEDY is trying to protect at least $150,000 worth of home for someone who goes into bankruptcy because of a medical crisis. Let me tell you about some people in Illinois.

Joyce Owens raised a son and a foster son and took care of her husband. She worked full time as a paralegal. Everything was fine with her family. She lived in Chatham, IL, 20 miles from my hometown. Then, in April 1997, her two sons Chris and Darrell were hit by a drunk driver. Darrell was killed. Chris, 27 years old, had a severed spinal cord and was rendered a quadriplegic.

Joyce was doing paralegal work at home because she wanted to stay there with her son Chris. He was in a wheelchair and needed help all the time. Slowly, working and caring for her son every day got to be too much and she was laid off.

Then, in 2000, 3 years after the accident, her husband died of a heart attack. He had always told her: Don't worry, I have life insurance. He did not. There was no life insurance. She was left to pay $200,000 in medical bills incurred by her quadriplegic son and the death of her husband.

How about that? Is that a moral failure? What did she do wrong morally? She worked her life to help her family, and when her son was in his worst condition, she did everything she could to help. And then she lost her husband as a helping hand. A moral failure? She tried to declare bankruptcy. Do you know why she did not? She would have lost her home—the home that was set up for her quadriplegic son.

So there she faces the dilemma. There is a lien on her home for the medical bills. She will not give it up because she cannot think of another place where her son can be taken care of. So what does it mean? A lifetime of $200,000 in debt for a woman who is doing her level best to take care of her family. She is one of the victims of this bill.

Under this bill, if she went to bankruptcy court, she would lose her home. She would not have enough equity in it to keep it. What is she going to do with that boy? He is now over 30 years old. She has dedicated the rest of her life to him.

Senator KENNEDY says, if you face that tragedy in your family, we are going to protect your home. When it is all said and done, you get $150,000 worth of home after your medical bills are wiped out. Is this such an outrage to say to the credit card companies, to say to the financial companies: You ought to be a little bit concerned about Joyce Owens of Chatham, IL?

This is a good woman, a good mother, a good wife, from a good family, struggling every day, who is going to be hammered by this bill. She is no moral failure. She, in my view, is a moral standard for all of us to live up to. And this bill is going to penalize her because some Members of Congress think the credit card industry deserves more profit at her expense.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. DURBIN. I am happy to.

Mr. KENNEDY. Because this is a dramatic family circumstance—I think any of us who have listened have found this is too often not the exception but too often is the rule. But aren't there other provisions in this legislation to preserve those homes that are not just the homes of someone who has sacrificed, as she has, to try to preserve the home for her son, but that this legislation, as it exists now, has protections for homes that are worth many, many, many, many, many more times that will escape any kind of threat from bankruptcy because of the homestead exemption? And could the Senator explain to me how we can possibly pass a piece of legislation that is so unfair to some families and gives such extraordinary benefits to others? Where is, possibly, the equity and the fairness?

As a member of the Judiciary Committee, does the Senator not wonder why in the world those who have been the principal sponsors of this legislation have not tried to address that during all the time we have been considering it, whether it was when we considered it 4 years ago or when we considered it in the committee markup? There was absolutely no attempt to do that. There was a strong effort by our friend and colleague Senator KOHL, who did an outstanding job with our last legislation that was before us. I am very hopeful he will offer a similar amendment this time.

But how could we possibly allow a system that is going to take that home from that family the Senator has outlined, and at the same time permit half a dozen different States to be able to have individuals shelter hundreds of thousands of dollars worth of real estate?

Mr. DURBIN. I thank the Senator from Massachusetts. I think people living in Illinois are some of the luckiest people in the world. I think it is a wonderful State. I am proud to represent it. But for Joyce Owens' situation, if she faced the same tragedy with her family and they lived in Florida, Texas, or Kansas, she could keep her home. You may say, why? Well, because the States have different standards—all the States.

What Senator KENNEDY says is, this is national legislation, and we should have a national standard to protect families' homes when they face a medical crisis.

In my State, you cannot protect much, if any, of a home. That is why Joyce Owens will be paying off these bills and facing debt collectors and harassment the rest of her natural life. She has no way out.

The Senator is exactly right; if you happen to live in one of these three States, you hit the jackpot. Do you know what some of the real sharp people do in bankruptcy? Bowie Kuhn—do you remember that name?—former Commissioner of Baseball. A prosperous man, right? Well, he got pretty deeply in debt one day, so he decided to take all of his assets and buy a mansion in Florida and file for bankruptcy. He filed for bankruptcy and got out from under his debts, but they let him keep his multimillion-dollar mansion in Florida. Bowie Kuhn got to keep his mansion. Joyce Owens cannot even keep her home to try to care for her quadriplegic son.

And you say to yourself, my friends on the other side of the aisle, surely in your home States you have people like this. You must be able to find them if you get outside this bubble we live in here and speak to people in the real world. Senator KENNEDY is speaking to people in the real world, and this is what he is hearing. This is what I hear, and what Senator OBAMA and others hear. That is why his amendment is so important.

Yesterday, we lost an amendment that said if you were serving in the

Guard or Reserve, activated to duty in Iraq, and you go over there to serve your country and risk your life for America, and you lose your business and go into bankruptcy because you are overseas serving America—I offered an amendment to say, at least give those soldiers a chance in bankruptcy to protect their homes.

Do you know what happened to that amendment? We lost it, 58 to 38. Many of the 58 Senators who voted against that amendment for the Guard and Reserve are the first ones waving the flag in the Fourth of July parade: How much we love our soldiers.

Where were they yesterday? These great lovers of the American military were nowhere to be found when they had a chance to do something for them when they serve their country and face bankruptcy at home.

Here is a chance for some of our colleagues who talk long and hard about feeling the pain of ordinary families to do something. The Kennedy amendment offers them a chance to do something, to say that in the bankruptcy court, we will acknowledge the disasters that families face across America because of medical bills, and we will do something about it.

I salute the Senator for his leadership, and I look forward to passing the amendment.

Mr. KENNEDY. I see my colleagues, and I want to hear from them. But I welcome the fact that the Senator has brought up the issue of the National Guard and Reserve. There are some in this body who think that with the acceptance of the Sessions amendment we have protected the Guard and Reserves. That is absolutely wrong. The Sessions amendment only refers to the expenditures of health care after the individual has already been submitted to the means test, and it only applies to future expenditures of health care by the Guard or the Reserve. It is my understanding that the trustee already has that flexibility and that authority. I welcome the opportunity to submit with the Senator from Illinois a legal technical analysis of that amendment that will reflect clearly the fact that those guardsmen and reservists who are activated—and I believe the figure is up to 20,000; I know we used the figure 16,000 yesterday, but I believe the figure is closer to 20,000—do not have the protections that the Senator from Illinois wanted to provide for them.

We have to be serious about this. Hopefully, we will not be caught up in cliches and slogans. The Senator from Illinois had an amendment that would have had a direct impact on protecting the Guard and Reserve. The Sessions amendment does not do that because the Sessions amendment only applies to provisions that would apply to future health outlays. Those expenditures could already be considered by the trustee in bankruptcy.

I don't see how those who voted for the Sessions amendment and against the Durbin amendment could believe they have met the responsibilities to our National Guard and Reserves. I appreciate, again, the Senator reminding us about the importance of protecting our troops. We are down in terms of recruitment on the Guard and Reserve to critical numbers. We are not meeting our amount for Reserves and the National Guard at the present time. If we pass this legislation in this form it will be a powerful message to those guardsmen and reservists who are self-employed, out there trying to serve our country under difficult and trying circumstances, and who are in many instances the sole proprietor of a small business, that they get into the Guard and the Reserve at their risk because this legislation will put them at greater risk.

Mr. DURBIN. I thank the Senator from Massachusetts.

We let down the Guard and Reserve yesterday. Military families and groups supported my amendment, but 58 Senators voted against it. They decided that the men and women serving in the military, risking their lives, were not entitled to any breaks when it came to filing bankruptcy because as they were overseas their families and businesses failed. That was the decision yesterday. Fifty-eight Senators said, no, they are not entitled to any special help.

Today we have a chance to give a helping hand to people facing medical crises. Over half of the bankruptcies in America involve people who faced a medical crisis and were crushed by it. They turned to bankruptcy court. Senator KENNEDY gives them a chance in that court to come out with dignity and to start their lives anew. He gives them a chance to keep their homes. Is this unreasonable? I don't think it is. It is only fair. I gladly support the amendments of the Senator and thank him for offering them both.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, a recent study by Professor Elizabeth Warren and her associates at Harvard exposes the flawed rationale for this legislation. According to Professor Warren, about 2 million Americans experienced medical bankruptcy, with half of all bankruptcy filings citing medical causes as a major factor. Among those who cited illness as a cause of bankruptcy, their average reimbursed medical costs since the start of their illness was nearly $12,000, even though more than three-quarters had health insurance at the onset of their illness.

Professor Warren's study found that those who filed for medical bankruptcy did everything they could to keep from filing. In the 2 years before they actually declared bankruptcy, those who filed after suffering a serious illness or injury went through extensive sacrifices as they struggled to pay for their health care and make ends meet. One in five went without food. One-third had their electricity shut off. Half lost their phone service. One in five were forced to move. And many more went without needed health care or couldn't fill a needed prescription. And 7 percent actually had to move an elderly relative to a less expensive home.

According to Professor Warren, families were bankrupted both directly by medical costs and indirectly from lost income when they were physically incapable of working. Diagnoses commonly named by those filing medical bankruptcy include heart disease, trauma or orthopedic problems, cancer, diabetes, pulmonary disease, childbirth related or congenital disorders, ongoing chronic illness, or mental disorders.

Interestingly, most medical bankruptcy filers had health coverage at the onset of their illness. More than three-quarters had coverage, and less than 3 percent voluntarily chose to go without insurance. The majority of those without insurance could not afford to maintain it, while almost 1 in 10 could not obtain coverage because of pre-existing health conditions.

A significant loss of income or years of piling up medical debt because of ongoing medical needs frequently makes bankruptcy unavoidable. The average out-of-pocket cost since the beginning of the filer's illness was significantly higher, averaging $11,854, although many had much higher costs. The average out-of-pocket costs for those with cancer was $35,000, while those families dealing with neurological disorders averaged more than $15,500.

The Harvard study looks at the reality of people who file bankruptcy and what forces them into bankruptcy, and it shows that 50 percent of those debtors had significant medical debt. The proponents of this bill want to ignore this reality because it doesn't fit in with their rhetoric about the bill.

My amendment focuses on those people for whom medical debts and lost income due to illness were the primary factors in their bankruptcies. Their medical debts would have to equal 25 percent or more of their annual income or they have to have lost one month's income due to their illness. This is what it means to be a medically distressed debtor under my amendment. Those families clearly deserve laws that will protect them. As currently written, this bill does not protect those who were forced into bankruptcy by a serious family illness.

The PRESIDING OFFICER. The Senator from New Jersey.

### AMENDMENT NO. 32

Mr. CORZINE. Mr. President, before I call up my amendment, let me compliment the Senator from Massachusetts for his continued argument on behalf of the men and women who work very hard for a living, are put into difficult circumstances because of medical care costs, and end up in a situation that is extraordinarily heavy handed and insensitive to the realities of what is going on with the cost of health care. I compliment him and the Senator from Illinois for looking after our men and women in uniform.

All of these are areas where the overall Bankruptcy Abuse Prevention and Consumer Protection Act is missing the point. So much of what is occurring in the personal bankruptcy area is a function of personal situations, things that are circumstances beyond the control of the individual. I will talk about another one, economically distressed caregivers, in my amendment.

It is impossible to think that we need to use a means test as the basis of how we are solving this problem, particularly when we are taking a completely unbalanced approach and not looking seriously at corporate bankruptcy. Now we read in the paper today, we have these protection trusts that are offshore, and we even learn they are onshore. It was published in the New York Times today about how the wealthy can protect their assets, not even using the homestead. They just set up a trust and it is automatic. They can avoid it. But someone who has grave medical difficulties, and in my amendment, the long-term care situation, there is a lack of fairness that people are just not addressing when we are talking about Bankruptcy Code changes that really are harsh on those people most vulnerable in our society.

I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] proposes an amendment numbered 32.

Mr. CORZINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To preserve existing bankruptcy protections for individuals experiencing economic distress as caregivers to ill or disabled family members)

On page 19, strike line 13, and insert the following:

monthly income.

"(8) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an economically distressed caregiver.".

On page 113, between lines 19 and 20, insert the following:

(4) by inserting after paragraph (14A), as added by this Act, the following:

"(14B) 'economically distressed caregiver' means a caregiver who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(A) experienced a reduction in employment for not less than 1 month to care for a family member, including a spouse, child, sibling, parent, grandparent, aunt, or uncle; or

"(B) who has incurred medical expenses on behalf of a family member, including a spouse, child, sibling, parent, grandparent, aunt, or uncle, that were not paid by any third party payer and were in excess of the lessor of—

"(i) 25 percent of the debtor's household income for such 12-month period; or

"(ii) $10,000."; and

(5) by inserting after paragraph (44), the following:

"(44A) 'reduction in employment' means a downgrade in employment status that correlates to a reduction in wages, work hours, or results in unemployment.".

Mr. CORZINE. Mr. President, economically distressed caregivers are those who have incurred substantial medical debt on behalf of dependent or nondependent family members. This is the easy thing, taking care of mom and dad. It is a normal value concept in America that people look after their seniors. Sometimes that comes at an enormous cost to those families' ability to maintain their employment status or reduced hours or wage levels. Many people have to go on the unemployment rolls.

There are an estimated 44 to 50 million family caregivers in our country, a large number. Nobody really knows the number. These Americans spend anywhere from a few hours a week to 40 hours a week or more taking care of a loved one, sick or disabled.

These individuals provide an enormous service to our society because the costs they take up are not borne by the broader society through Medicaid or other areas, and they provide an enormous benefit to their families. The economic estimate of this value is over $257 billion annually. According to the National Family Caregivers Association, in my home State, there are 830,000 or so family caregivers. So New Jersey has 830,000 of these people in a population of about 8.5 million. Almost 10 percent of the population is involved with family caregiving. The estimated value is just shy of $8 billion.

That unpaid care comes with a real cost. According to Harvard Law School Professor Elizabeth Warren, whom I know Senator KENNEDY has quoted a number of times in the presentation, approximately 125,000 American families in this long-term care situation, family caregiving situation, go and declare bankruptcy each year because of their inability to work. It is really a Hobson's choice about whether they take care of their families or go to work. It puts them in an incredible position of choosing what they think is right for their family or whether they deal with the economic system, which now, according to the means test, will put them into chapter 13. It is an incredible thing that we are foisting on the American people.

I have one anecdote everybody should look to regarding the practical reality of these situations. A young lady from Blackwood, NJ, wrote to my office talking about this bill. She is 31 years old and the sole caregiver for her husband, who is 47 and has Lou Gehrig's disease. He is in a long-term care situation. He will be there for as long as he is able to sustain himself with this tragic disease. They have four young daughters, 11, 7, 2, and 6 weeks old. She is the sole caregiver. She has $40,000 in medical bills, with untold numbers ahead of her. The financial strain for her and her children will put her into bankruptcy. Is this a lady who ought to go directly to chapter 13 because she doesn't meet the median income standard?

It is inconceivable in my mind that we are prepared to let those who are doing very well in life set up these protection trusts that we know about, which protect the wealthy who have fancy homes and homestead rebate situations, and the young woman in Blackwood cannot protect herself, her four daughters, and take care of her husband. This is outside of the realm of reason, and it doesn't make sense economically for the country because what is going to happen is this individual is going to be on charity care or Medicaid to take care of the medical bills of her husband, who has Lou Gehrig's Disease. They are going to turn somewhere, and we are going to pay for it. We have taken away the opportunity for that individual to take care of her family. And $257 billion worth of long-term caregiving is the estimate we have in this society. We are going to put that at risk through this bill. We ought to amend that. We ought to have standards set with regard to individuals who are giving care to their families and those they are responsible for and take care of these 125,000 folks who declare bankruptcy each year and make sure they are not forced into chapter 13. This is a mistake. It is essential that people recognize what we are doing here in a practical sense—undermining that safety net provided to families and individuals. I hope my colleagues will support my amendment and support Senator KENNEDY's because the broader question of medical care is a driving force in over 50 percent of all of the bankruptcies in this country.

It is hard to imagine that we are going to put folks into this indentured servitude, which is only going to lead to most of them using other social services in the country and will rack up even higher costs in Medicaid and charity care. The cost is going to come out, and the credit card companies are going to benefit. It doesn't seem to be a sensible economic practice.

Mr. KENNEDY. If the Senator will yield, those who have been proponents say: Look, we have these spendthrifts who use these credit cards and go to the malls and exceed their credit, and there has to be accountability and responsibility to make sure they are going to effectively be dealt with. So we have, allegedly, this legislation. It has been pointed out during the course of the debate that even the credit card companies say it is less than 10 percent of all filers that fall in to this spendthrift category. Most of the commissions that have studied bankruptcy over a period of time have actually put it at 4 or 5 percent. Nonetheless, we are passing this legislation that is going to have the impact that the Senator has mentioned in terms of those who are involved in long-term care or those who are elderly and have three times the bankruptcies today then they did in the past, with the average income for seniors being $25,000—large spendthrifts, seniors, large spendthrifts. But the tragedy is that they run into the health care challenges, cancer or stroke, and they run up these medical bills, and they will end up losing their homes and with their lives virtually being destroyed.

Does the Senator not agree that we ought to be able to fashion pretty easily legislation to deal with those who are involved in the excesses of spending in relationship to credit, and we ought to have accountability for those people? But that isn't what this bill is, is it? That isn't what this legislation is really all about, is it? Doesn't the Senator agree with me that we could fashion a bill to address the needs that are out there? But this bill isn't it. I would be interested in the Senator's view, as somebody who has had great experience and a background in understanding both credit and the financial world. I believe his views on this would be enormously valuable.

Mr. CORZINE. The Senator from Massachusetts asks the correct question. What is the problem we are addressing here? Is it a narrow problem of a few abusers of the credit system—and the estimates I see are 10 percent or less—and when we address that, are we encompassing far too many people who are situationally disadvantaged by how the bankruptcy system would work in future circumstances?

The Reserve and Guard folks who the Senator from Illinois talked about, the people who are dealing with an out-of-control cost structure in our medical system or long-term caregivers—44 million people who are looking after seniors and disabled in this country are getting not a whit paid for from that. We are going to impose a cost on them that we are going to end up paying back in the Medicaid system? It is just bad economics. It is not even smart public policy, saying, let's do an accounting estimate of what the cost is and the way it is today, where people are providing $257 billion worth of aid, and we are going to turn around and force that into a system. I don't know. Where I came from, we like to look at the costs and the benefits, and we try to identify the right side of the equation.

In my view, this bankruptcy bill is not taking into account these very important situational circumstances. It is going to raise enormously the cost of doing health care business in this country and the cost of recruitment in our military, and the only people who will benefit are the guys who have the smart lawyers who will teach them how to put protective trusts together and move to Florida or wherever the homestead protections are the highest. It is a disaster economically, as well as for individuals' lives.

I appreciate the question. We ought to try to work to amend this legislation so we are dealing with the 10 percent of the people who are trying to avoid paying their bills. Most people do not want to be in bankruptcy.

I ask unanimous consent that a Consumer Federation of America be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. JOHN CORNYN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CORNYN: The Consumer Federation of America applauds your efforts to prevent corporations in financial trouble from fleeing their home states to declare bankruptcy in courts far from their workers, retirees, shareholders and small business vendors. We strongly support S. 314, the Fairness in Bankruptcy Litigation Act of 2005, which would require corporations to declare bankruptcy in the states in which they are headquartered or have their principal assets, as opposed to their state of incorporation. It would also forbid parent companies from filing first through a subsidiary corporation in an effort to manipulate the bankruptcy venue.

The raft of corporate scandals in the last few years has exposed many flaws in a system of market oversight that used to be the envy of the world. Many investors lost faith in our markets, tens of thousands of employees lost their jobs and retirees have lost significant portions of their pension plans. Corporate officers systematically looted their companies and lined their pockets, even as their companies' financial position began to deteriorate.

To add insult to injury, firms like Enron and Worldcom filed for bankruptcy in New York, far from their headquarters in Texas and Mississippi. Other infamous bankruptcies involving the Boston-based Polaroid Corporation and Texas-based Continental Airlines ended up in Delaware courts. By filing for bankruptcy thousands of miles from their principal place of business, these companies were gaming the system. They chose bankruptcy courts well-known for their leniency with debtor corporations. These firms were also shutting out employees, retirees, small business vendors and some creditors from meaningfully participating in the bankruptcy proceeding, making it far more likely that these individuals would end up financially stranded.

Thank you for your efforts to correct this corporate bankruptcy abuse. I strongly urge you to formally offer it as an amendment to bankruptcy legislation, S. 256.

Sincerely,
TRAVIS B. PLUNKETT,
*Legislative Director,*
*Consumer Federation of America.*

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

### AMENDMENT NO. 31

Mr. DAYTON. Mr. President, I call up amendment No. 31 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 31.

Mr. DAYTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the amount of interest that can be charged on any extension of credit to 30 percent)

At the appropriate place, insert the following:

**SEC. ___. TERMS OF CONSUMER CREDIT.**

(a) CAP ON INTEREST CHARGEABLE.—A creditor who extends credit to any consumer shall not impose a rate of interest in excess of an annual rate of 30 percent with respect to the credit extended.

(b) PREEMPTION OF STATE LAW.—The provisions governing rates of interest under subsection (a) shall preempt all State usury laws.

(c) EXEMPTION TO PREEMPTION.—If a State imposes a limit on the rate of interest chargeable to an extension of credit that is less than the limit imposed under subsection (a), that State law shall not be preempted and shall remain in full force and effect in that State.

Mr. DAYTON. Mr. President, I salute my colleague, Senator KENNEDY, for his powerful and heroic statements today on behalf of the people of America who do not have the time or the money to come to Washington or hire expensive lobbyists to press their causes in the Senate. He has championed their concerns for decades now.

I am very proud to have been a member of his caucus a short while ago, listening to him speak the truth about this legislation, which is a totally one-sided assault on real Americans, the folks we see out there in our States who cannot be here because they are working, because they have earned a decent living, a middle-income living, but they are not getting rich, and they are not taking advantage of programs, but they have suffered the kind of personal misfortunes Senator KENNEDY, Senator DURBIN, and others have described—serious injuries, illnesses to themselves, to their spouses, or to their children. But they do not have health coverage, or they actually find out now they have health coverage, but the gaps in that coverage are so large or the copayments are so high they run up debts they cannot afford.

We can talk about people who lost their jobs and often, therefore, their health coverage, which means they have added economic misfortune on to a health crisis. They are the targets of this legislation, the victims of this legislation. It is self-entitled the Bankruptcy Abuse Prevention and Consumer Protection Act. If this bill is a consumer protection act, believe me, the consumers of America are in very serious trouble. This is a Credit Card Company Protection Act. The poor credit card companies of America are the innocent victims, we are being told, if we believe what we are hearing from the other side, of some supposed massive consumer fraud when, in fact, in the 8 years since this legislation was first introduced, the number of credit card solicitations in this country has doubled to 5 billion a year. Between 1993 and 2000, the amount of credit extended to people in this country grew from $77 billion to almost $3 trillion.

During the 8 years of the existence of this legislation, the bankruptcy filings in America have increased by 17 percent, and the credit card company profits have increased by 163 percent, from $11.5 billion to over $30 billion in profits last year. Does that seem like an industry that is facing a financial crisis or is being taken advantage of by people who are trying to get out from under their responsibilities? Not at all. In fact, the opposite. In fact, the opposite is that the credit card companies are taking advantage of Americans, not the other way around.

Some courts around the country have demanded that the credit card companies disclose the amount that remains to be repaid from what was actually borrowed and how much are the fees, the penalties, and the interest rates they are charging. It turns out that with the interest rates conventionally charged and the terms and conditions that are written into these agreements, many of the credit card companies are actually billing two times or more than the amount that is actually borrowed or remains to be paid. Often now it is higher than that.

Here is a form of a loan operation in my home State of Minnesota called Money Centers. Their slogan is: "We make it easy." They make it easy all right. Their annual interest charge is 384 percent. But that is a bargain compared to Check and Go in Wisconsin. Their annual interest charge is 535 percent. Both of them combined do not equal the interest rate that is charged by the County Bank of Rehoboth Beach, DE, whose annual interest rate is 1,095 percent of annual interest charged on the amount that is borrowed. Now that is real abuse. That goes way beyond what we call predatory lending. That is "terroristic" lending. Yet this bill before us does nothing about those lenders' abuses that drive far more people into bankruptcy than what we are hearing about from the other side today.

This legislation does nothing about hospitals and other health care providers who charge uninsured patients much more than they charge their insured patients, or those covered by programs such as Medicare and Medicaid, and then turn around and charge exorbitant interest rates on top of on bills of tens of thousands of dollars to the very people they are supposed to be helping who cannot possibly afford, with moderate incomes, to repay those kinds of costs.

That overcharge for the uninsured is why an overnight stay at a Virginia hospital costs $6,000 if someone is on Medicaid, but it costs $29,000 if it is Paul Shipman who had a heart attack and is uninsured. That is why a woman named Rose Schaffer, who is now being harassed by a hospital collection unit after she suffered a heart attack, said:

> The hospital saved my life, but now they are trying to kill me.

This bill also does nothing about the abuses of bankruptcy laws that allow large corporations to declare bankruptcy, dump their pensions and their retiree health benefits, and then emerge from bankruptcy and leave thousands of innocent victims. I met with some of them just this last week in my State of Minnesota. It is heartbreaking. It makes you want to cry, and then it makes you so angry at the injustice that has occurred to good, hard-working men and women who have worked all their lives, played by the rules, did everything they are supposed to do, did their part, helped build these companies, and now they are retired and the companies go into bankruptcy, such as mining companies. As one of the workers said: A company gets the mine, and we get the shaft. The company comes out of bankruptcy court proceedings and it is profitable again, having left behind its pension obligations and its health obligations to retirees—people who are betrayed, abandoned, and left destitute with no recourse whatsoever.

Those are the terrible and huge abuses of bankruptcy laws that are destroying lives in Minnesota and across this country and are leaving American taxpayers with billions of dollars of unfunded pension obligations that they are going to have to pay rather than the companies that incurred them. This legislation before us does nothing about addressing those abuses.

A spokesperson for the distinguished chairman of the Senate Finance Committee, the author of this legislation, Senator GRASSLEY, said on behalf of Senator GRASSLEY, when he recently reintroduced the legislation:

> People who have the ability to repay some or all of their debts should not be able to use bankruptcy as a financial planning tool so they get out of paying their debts scot-free while honest Americans who play by the rules have to foot the bill.

I do not think any of us would disagree with that; I certainly would not. Then I see these companies using bankruptcy law as a financial planning tool, as a corporate car wash where they can go through and clean their ledgers of these obligations to workers and retirees and come out, reestablish profitability, and these men and women, good Americans, are left behind with nothing.

Again, that is an injustice enough by itself, but the other result is the taxpayers pay the bill. This bill does nothing about that. So my amendment actually adds a real consumer protection clause to the bill that otherwise does not deserve the name. It would limit the maximum annual interest that could be charged by anyone, any lender, to 30 percent.

Now, that tells us how bad things are in this country, that a 30-percent interest charge would actually be a reduction. Right now inflation has been running less than 2 percent annually. The current rate for a 3-month Treasury bill is 2.75 percent. The prime lending rate is 5½ percent. Thirty percent as a ceiling of what could be charged annually is still consumer abuse, but it is a lot better than 384 percent or 1,095 percent. So that is what this amendment would do. It would set a limit of the annual interest rate that could be charged by any lender to 30 percent.

If somebody believes it is not profitable for them to lend money, for whatever reasons, liability, likelihood of repayment, whatever else, that it is not profitable at a 30-percent annual interest, I say it is not a wise loan for the lender and it is not a wise loan for the borrower.

We have too many people in this country who are taking advantage of others and charging these astronomical, shameful, disgraceful, and they ought to be illegal, rates of interest and taking advantage of those people, driving them deeper into debt, many of those that my colleagues have cited as being the culprits in this situation, the nonhealth care borrowers who are running up these credit card debts.

If someone is paying 384-percent interest a year, they are going to run up that debt very fast. If someone is paying 1,095-percent interest on anything they have borrowed, believe me, anybody in this country is going to be needing to file for bankruptcy very fast. This bill does not even mention those abuses.

This amendment would put a real consumer protection clause into this bill and for that reason, as well as basic justice, we should do what this body is supposed to do, which is to stand up and protect Americans. I urge my colleagues to give it their support.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 19

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 19.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. KYL, and Mr. BROWNBACK proposes an amendment numbered 19.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance disclosures under an open end credit plan)

Beginning on page 473, strike line 14 and all that follows through page 482, line 24, and insert the following:

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11) ENHANCED DISCLOSURE UNDER AN OPEN END CREDIT PLAN.—

"(A) IN GENERAL.—A credit card issuer shall provide, with each billing statement provided to a cardholder in a State, the following on the front of the first page of the billing statement in type no smaller than that required for any other required disclosure, but in no case in less than 8-point capitalized type:

"(i) A written statement in the following form: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance.'.

"(ii) Either of the following:

"(I) A written statement in the form of and containing the information described in item (aa) or (bb), as applicable, as follows:

"(aa) A written 3-line statement, as follows: 'A one thousand dollar ($1,000) balance will take 17 years and 3 months to pay off at a total cost of two thousand five hundred ninety dollars and thirty-five cents ($2,590.35). A two thousand five hundred dollar ($2,500) balance will take 30 years and 3 months to pay off at a total cost of seven thousand seven hundred thirty-three dollars and forty-nine cents ($7,733.49). A five thousand dollar ($ 5,000) balance will take 40 years and 2 months to pay off at a total cost of sixteen thousand three hundred five dollars and thirty-four cents ($16,305.34). This information is based on an annual percentage rate of 17 percent and a minimum payment of 2 percent or ten dollars ($10), whichever is greater.'. In the alternative, a credit card issuer may provide this information for the 3 specified amounts at the annual percentage rate and required minimum payment that are applicable to the cardholder's account. The statement provided shall be immediately preceded by the statement required by clause (i).

"(bb) Instead of the information required by item (aa), retail credit card issuers shall provide a written 3-line statement to read, as follows: 'A two hundred fifty dollar ($250) balance will take 2 years and 8 months to pay off a total cost of three hundred twenty-five dollars and twenty-four cents ($325.24). A five hundred dollar ($500) balance will take 4 years and 5 months to pay off at a total cost of seven hundred nine dollars and ninety cents ($709.90). A seven hundred fifty dollar ($750) balance will take 5 years and 5 months to pay off at a total cost of one thousand ninety-four dollars and forty-nine cents ($1,094.49). This information is based on an annual percentage rate of 21 percent and a minimum payment of 5 percent or ten dollars ($10), whichever is greater.'. In the alternative, a retail credit card issuer may provide this information for the 3 specified amounts at the annual percentage rate and required minimum payment that are applicable to the cardholder's account. The statement provided shall be immediately preceded by the statement required by clause (i). A retail credit card issuer is not required to provide this statement if the cardholder has a balance of less than five hundred dollars ($500).

"(II) A written statement providing individualized information indicating an estimate of the number of years and months and the approximate total cost to pay off the entire balance due on an open-end credit card account if the cardholder were to pay only the minimum amount due on the open-ended account based upon the terms of the credit agreement. For purposes of this subclause only, if the account is subject to a variable rate, the creditor may make disclosures based on the rate for the entire balance as of the date of the disclosure and indicate that the rate may vary. In addition, the cardholder shall be provided with referrals or, in the alternative, with the '800' telephone number of the National Foundation for Credit Counseling through which the cardholder can be referred, to credit counseling services in, or closest to, the cardholder's county of residence. The credit counseling service shall be in good standing with the National Foundation for Credit Counseling or accredited by the Council on Accreditation for Children and Family Services. The creditor is required to provide, or continue to provide, the information required by this clause only if the cardholder has not paid more than the minimum payment for 6 consecutive months, beginning after January 1, 2005.

"(iii)(I) A written statement in the following form: 'For an estimate of the time it would take to repay your balance, making only minimum payments, and the total amount of those payments, call this toll-free telephone number: (Insert toll-free telephone number).'. This statement shall be provided immediately following the statement required by clause (ii)(I). A credit card issuer is not required to provide this statement if the disclosure required by clause (ii)(II) has been provided.

"(II) The toll-free telephone number shall be available between the hours of 8 a.m. and 9 p.m., 7 days a week, and shall provide consumers with the opportunity to speak with a person, rather than a recording, from whom the information described in subclause (I) may be obtained.

"(III) The Federal Trade Commission shall establish not later than 1 month after the date of enactment of this paragraph a detailed table illustrating the approximate number of months that it would take and the approximate total cost to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other additional charges or fees are incurred on the account, such as additional extension of credit, voluntary credit insurance, late fees, or dishonored check fees by assuming all of the following:

"(aa) A significant number of different annual percentage rates.

"(bb) A significant number of different account balances, with the difference between sequential examples of balances being no greater than $100.

"(cc) A significant number of different minimum payment amounts.

"(dd) That only minimum monthly payments are made and no additional charges or fees are incurred on the account, such as additional extensions of credit, voluntary credit insurance, late fees, or dishonored check fees.

"(IV) A creditor that receives a request for information described in subclause (I) from a cardholder through the toll-free telephone number disclosed under subclause (I), or who is required to provide the information required by clause (ii)(II), may satisfy the creditor's obligation to disclose an estimate of the time it would take and the approximate total cost to repay the cardholder's balance by disclosing only the information set forth in the table described in subclause (III). Including the full chart along with a billing statement does not satisfy the obligation under this paragraph.

"(B) DEFINITIONS.—In this paragraph:

"(i) OPEN-END CREDIT CARD ACCOUNT.—The term 'open-end credit card account' means an account in which consumer credit is granted by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an unpaid balance, and the amount of credit that may be extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid and up to any limit set by the creditor.

"(ii) RETAIL CREDIT CARD.—The term 'retail credit card' means a credit card that is issued by or on behalf of a retailer, or a private label credit card, that is limited to customers of a specific retailer.

"(C) EXEMPTIONS.—

"(i) MINIMUM PAYMENT OF NOT LESS THAN TEN PERCENT.—This paragraph shall not apply in any billing cycle in which the account agreement requires a minimum payment of not less than 10 percent of the outstanding balance.

"(ii) NO FINANCE CHANGES.—This paragraph shall not apply in any billing cycle in which finance charges are not imposed.".

Mrs. FEINSTEIN. I ask unanimous consent to add Senator BROWNBACK's name to this amendment as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, this amendment is offered on behalf of the Senator from Arizona, Mr. KYL, and myself. Because Senator KYL has an urgent appointment, I will make a very brief statement and then turn it over to Senator KYL, and then I will wrap up. I ask unanimous consent to be able to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, today 144 million Americans have credit cards and they are charging more debt than they have in the past. Let me give one example of that. Credit card debt between 2001 and 2002 increased 8½ percent. Between 1997 and 2002, it increased 36 percent, and between 1992 and 2002, it increased by 173 percent. Forty to 50 percent of all credit card holders make only the minimum payment.

I am a supporter of the bankruptcy bill, but here is the rub: Individuals get six, seven, or eight different credit cards, pay only the minimum payment required, and then end up with debt rolling over their shoulders like a tsunami. That happens in case after case. So that is the predicate for this amendment. It is like Senator AKAKA's amendment, but it is less onerous than the amendment of Senator AKAKA. I will explain that, but first I defer to my cosponsor, the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I thank the Senator from California for deferring because I do have only a moment. I join her in speaking in favor of this amendment and laying it before our colleagues. The point of the bankruptcy reforms is to try to help people get into a position to pay their obligations freely contracted and to try to make sure that creditors get as much of what they are owed as possible. Part of that is to try to help people not get into situations where they are not going to be able to pay their debts, and that is the basic philosophy of this amendment.

One can go too far and put conditions on companies such as credit card companies, for example, that are so onerous that they cannot possibly comply. People want to have ease of dealing with credit cards, but one can also get into a lot of trouble with credit card debt, as everybody acknowledges. It can get away from a person if they are not careful. What this amendment does is to borrow from a California statute that was declared invalid in California by a Federal court only because it was preempted by the Federal law, the Truth In Lending Law, which we are hereby amending, so that that same provision would apply again in California and to the other States as well.

It requires the companies that offer these cards, when they find someone is paying the minimum amount on a monthly basis, to let them know what will happen or what can happen if they continue to do that, which is essentially that a person is going to end up paying a lot of interest and they are going to end up with a huge debt at a certain point in time that they are not aware of. They need to be aware of it. So we are going to tell the person either hypothetically, if it is not possible to do it on an individual basis, or individually, what the consequences of their paying this minimum amount are, a way to try to help people understand what they are doing and thereby better arrange their affairs so they can pay their debts, and therefore the creditors get paid. That is a win/win for everybody.

We have tried to strike the right balance. I think the legislation that was offered by Senator AKAKA was simply seen as unworkable and that is why I opposed it. The concept is not bad; it is that the execution of it would not be possible. We think this strikes a better balance. If our colleagues can demonstrate that somehow or other this is impossible to do, we invite them to demonstrate that. We think it strikes the right balance and yet achieves both of the objectives of helping people keep their affairs straight and making sure all of the creditors get paid.

We will have more to say, but I do only have a moment. I thank Senator FEINSTEIN for her leadership on this issue, for bringing it to my attention and for helping to pursue it today.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Arizona for his cosponsorship on this amendment and also for his friendship as well.

We have talked about credit card debt increasing. Let me talk a little bit about what it is today. It has increased from about $251 billion in 1990 to over $790 billion in the year 2000. That is an increase of 300 percent.

There has been a dramatic rise in personal bankruptcies during these same years. In 1990 there were 718,107 personal bankruptcies. In 2000 that number had almost doubled to 1,217,972 personal bankruptcy filings. In 2004 it went up again, to 1,563,145 personal bankruptcy filings. Many of these personal bankruptcies are from people who get a credit card. It looks alluring. They do not recognize what a 17-, 18-, 19-percent interest rate can do. They pay just the minimum payment. They pay it for 1 year, 2 years—they have something else, they get another card, they get another card, they get another card, they do the same thing.

They get 2 or 3 years down the pike and they find that the interest on the debt is such that they can never repay these cards, and they do not know what to do about it.

We say that the credit card companies have some responsibility. During the first 6 months of the minimum payment of the balance, the credit card companies, under this amendment, would just put forward what they negotiated to put forward in California. There are a couple of options, and it is just really incremental debt sizes. If you have $1,000 worth of debt, and you make the minimum payment, this is what happens. If you have $2,500 worth of debt or $5,000 worth of debt, this is what happens. So there is that scheme and that is in the underlying bill. Or another one, which is $250, $500, or $750 in debt.

After that, if the consumer makes only minimum payments for 6 consecutive months, then this is where the bill comes in. The credit card company is responsible for letting the individual know essentially how much interest they have, and disclose in each subsequent bill the length of time and total cost which is required to pay the debt plus interest.

People have to know this. If they are a minimum-payment person, they have to know what it means to make those minimum payments over a substantial period of time.

The amendment would also require that credit card companies be responsible to put out a 800 number, included on the monthly statement, where consumers can call to get an estimate of the time it would take to repay their balance, if only making minimum payments, and the total amount of those payments. If the consumer makes only minimum payments for these 6 months they, then, receive the 800 number and they can begin to get involved and understand it.

Senator KYL pointed out the differences between our bill and the Akaka amendment. The underlying bill, as I said, provides only for basic payment disclosure. The bill does not require credit card companies to disclose to card holders exactly how much each individual card holder will need to pay, based on his or her own debt, if a card holder is only making minimum payments.

As I said, what we do is after 6 months of these basic minimum payments, then the credit card company must let the individual know: You have X dollars remaining on your debt, the interest is Y, and your payout time will take Z, or whatever it is.

We think this is extraordinarily important. We believe it will minimize bankruptcies. This, I suppose, is what I deeply believe. When companies charge very substantial interest rates, they have an obligation to let the credit card holder know what those minimum payments really mean, in terms of the ability of a minimum payment to completely pay back that debt—how long it takes. I have people close to me I have watched, with six or seven credit cards, and it is impossible for them, over the next 10 or 15 years, to pay off the debt if they continue making just minimum payments. Therefore, they have to find a way to resolve that debt. To date, you have two recourses.

One recourse is you go into a counseling center and they can repackage all this debt for you and put it into one and somehow work out an agreement with the credit card company. I tried to do this for someone. As a matter of fact, the credit card company would not agree to any reduced payment. Or they go into bankruptcy.

These huge numbers of bankruptcy filings show that this is, indeed, a problem. If we are going to have a bankruptcy bill, and I certainly support a bankruptcy bill, it is also important that the credit card companies play their role in disclosure. That disclosure is that if you make a minimum payment, and your interest is 17, 18, 19 percent or even 21 percent, here is what it means in terms of the length of time you will be paying your bill and what it will take to pay that bill.

I think you will have people who are more cautious, which I believe is good for the bankruptcy courts in terms of reducing their caseloads, and also good for American consumers.

I join with Senators KYL and BROWNBACK in presenting this amendment, which is a kind of compromise to the Akaka amendment, in hopes that the Senate will accept it.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank Senator FEINSTEIN for her comments. As I see it, we have probably a couple of little difficulties with amending the Truth in Lending Act—the Banking Committee has jurisdiction over that—how we will go forward. I do agree with the Senator from California that the plain fact is that credit card companies have an interest in getting reliable credit card holders not to pay on time—because they would be making 18 percent or whatever percent interest—if they are reliable people and they pay their debts. So I think sometimes their disclosure is not clear enough on the minimum payment. They put the minimum payment in big print and the total amount due is printed small because I think sometimes they don't really want people to pay it early. Some attention should be given to that, and I would consider their amendment.

Let me repeat what we are about here. We have been hearing all day, virtually, about health care bankruptcies as if this bankruptcy bill does not provide relief for people who have health care debts. It certainly does. What we are about is to reform the procedure of Federal bankruptcy courts in America. All over this country there are Federal courts, bankruptcy courts. They handle the petitions of people who have incurred debts that they say they are unable to repay. They would like to wipe out those debts, not owe anybody anything. Stop the phone calls, stop the lawsuits—nada—not pay what they owe.

We provide for that. As has been stated before, the last numbers we have, 1.6 million people have filed that way.

I would say without doubt that a number of those people who have filed, quite a number, really needed that relief for whatever reason. They got themselves in serious financial trouble. It is interesting that people who manage their money well are very careful with how they spend. They don't run off and buy new cars. They take care of their money carefully. They don't usually end up in bankruptcy court—very seldom. Look around at your neighbors, the people you know who take care. They don't overdress. They drive a modest car. They take care of their money. They are not filing bankruptcy.

Some of them get into trouble through no fault of their own, no doubt. But I am just saying that.

There are advertisements all over America in newspapers and late night TV and cable: Come on down. Wipe out your debts. You don't have to pay what you owe. Just come on and talk to old Joe, your good, friendly bankruptcy attorney, and he will just wipe them all out.

Do you know what they tell them when they come in there? They say: Take out your credit card. I want you to take your paycheck that is coming in now, you pay that to me, pay my fee, and you put everything else on your credit card. Then when you are bankrupt you just wipe that out and you don't have to pay the credit card company.

That is the way it works. We know that. People are following the advice of their lawyer. Lawyers are giving them advice based on what the law allows them to do.

Mr. President, you are a lawyer. When you come in there, the law allows you to tell your client that is what they ought to do and it is going to save them money. Then they do it. It is not illegal. I guess it can't even be said to be unethical, because it is provided for under the Federal bankruptcy law that we in this Senate are responsible for creating, monitoring, and fixing when it is not working right. That is all I am saying. We are not here to deal with the uninsured on a bankruptcy reform bill. We are not here to fix all the language on bank lending and interest rate problems in America on a bankruptcy bill.

This legislation is now up for its fourth time in the Senate. We have already had four markups in Judiciary over 8 years. It is basically the same bill. It is time for us to have some reform. That is all we are saying.

I want to talk about the health care debt. I hate to say it. We have had some demagogic comments. You know, some of them have been down here—not Senators FEINSTEIN and KYL—talking about credit card companies. When they give out money they are bad companies, as though they are the evil forces. I know they have a profit interest. I know they like to get that high interest rate. I know they are not unhappy if my mother sends in by mistake the minium payment rather than the total debt due when she probably would have paid the total debt due if she could read those complicated forms. I am not saying they don't have an interest in making a profit. They do. But the very act of any credit card company that provides money to Americans and then they don't pay it back, who is oppressing whom here? We have class warfare rhetoric going on such as the credit card companies ought to be blamed for providing money to people who do not pay it back. That is just an aside; not particularly valuable, I suppose, in the course of this debate.

We are trying to create a system that allows us to fairly and responsibly wipe out people's debt so they don't have to pay what they owe.

What about medical debt? If you have enough money to pay some of your debt, let me ask you: Should you pay your doctor, should you pay your hospital, or those evil entities? If other people are getting paid money, ought not they to be paid? That is in some sense what is being suggested here.

Let us take a look at what the deal is. This is to repeat, the deal is this: On this reform, people who file for bankruptcy who make above median income may be required by the bankruptcy court to pay at least a portion of what they owe based on their income as they show it to the court. If their income is below median income, they wipe out all their debt, as they always have.

There is a growing concern in America that doctors, lawyers, high-income people run up a bunch of debt, and they have decided they would rather wipe it out than to pay it back, and they go into bankruptcy court. Do you know they can do it? Now a person with a $200,000 a year salary can have $100,000 in debt and go into bankruptcy court and wipe out those debts today and not pay any of it, be free and clear.

Under this bill, they would say, Wait a minute. Your income is high enough. Over 5 years is all they can be made to recompense the debt when they got money or services. We are going to scale out what we think you can pay for at least 5 years so that those people you got money and services from will get something back. You don't get to wipe out all of your debt. That is what we are talking about.

What the experts have told us in the Judiciary Committee, of which I am a member, is that 80 percent of the people who file bankruptcy are below median income. Surprise, surprise. Most people who are filing bankruptcy have lower incomes. So 80 percent will not ever be in the higher level and not be required to pay back any of their debt.

whether they are medical debts, gambling debts, automobile repair debts, whatever those debts are. They won't be required to do that.

In addition, the bill provides for special circumstances, and the court can still not make them have to pay back any of it. The expert witness we had in Judiciary Committee a few weeks ago said that based on his opinion and what he has studied, he felt probably an additional 7 percent would qualify there.

I submitted yesterday, and it was agreed to, the Sessions amendment to the bill that explicitly states health care can be a special circumstance that would cause a person not to go into chapter 13 and the court could find them to stay in chapter 7.

What Senator KENNEDY's amendment would do is provide protection for the rich. It would provide no protection, no benefit whatsoever for poor people—people making below median income. They do not get any benefit out of it. He is providing an amendment that says somebody making $200,000 or $300,000 a year won't have to pay a dime to his local hospital; won't have to pay his doctor bills; won't have to pay his pharmacy. Why? That is not right, in my view.

Not only that, it goes at the core of what this legislation is about—trying to bring some balance into the system to treat poor people fairly; let them wipe out a bit of their debt, and people with some income to pay it back. The court would require them to pay some of that back, depending on the level of that income. I think we need to think about that.

Let me say this: I have been around this bill now since I have been in the Senate. There is a Professor Elizabeth Warren who has been absolutely incredibly determined to defeat this bill. She has written op-eds, and she has distorted this legislation, in my view. She has not accurately stated the facts, and she has been given every opportunity. She was allowed to testify at the last hearing which I referred to. I want to comment on some things that I think are important which this professor ought to be aware of.

On the eve of our hearing, she announced this big, new survey that 54 percent of people in bankruptcy are in bankruptcy because of medical bills. Therefore, we ought to collapse, I suppose, and not have bankruptcy reform on that view.

Let me show you what the accurate numbers are.

Her study involved interviews of certain numbers of people; about 1,700 people as I recall, 1,700 bankruptcy filers they surveyed. They have a very broad definition of what a medical bankruptcy is. Whoever heard of a medical bankruptcy?

I see the Presiding Officer, an attorney from the State of Florida.

There are bankruptcies; you go into bankruptcy. This is not a medical bankruptcy. Medical debts are part of a debt you may owe. Maybe you don't have any medical debt. But it is not medical bankruptcy. It is bankruptcy. According to the column on medical bankruptcy, her definition of medical bankruptcies is gambling debts, and alcohol and drug abuse, in addition. So if you have alcohol, drugs, or gambling, she counts that as a medical bankruptcy. That goes to show you the tilt in her report that she accounted with such great fanfare a few weeks ago.

Now, interestingly, the Department of Justice, which operates the U.S. trustee system in 48 States—they work in the bankruptcy courts. They monitor the bankruptcy courts. They try to watch out for fraud and abuse. They did a survey in 2000 to 2002 on medical cost as a factor in bankruptcy cases. They reviewed 5,203 chapter 7 cases from 48 States. Only slightly more than 5 percent of unsecured debt reported in those cases was medically related from actually looking at their bankruptcy filing.

When you file bankruptcy, you fill out a form. You ask the court to wipe out these debts so you do not have to pay them, and you list your debts. If you do not list a debt, the court cannot wipe it out. Everyone today who chooses to file chapter 7 can wipe out their debts, but they have to list them. All we have to do to determine how much of the total existing debt is based on medical is to look at the files. That is what the U.S. Trustee did. They found 5 percent of the total debt was medically related. They also revealed in their study that 54 percent of the cases listed had no medical debts whatever. Fifty-four percent did not mention any medical bill—not a $25 bill to the doctor or a $50 bill to the pharmacist.

They noted that those who did have medical debts—and it has been suggested that Americans are crushed under huge medical bills; sometimes that happens, I do not deny that—they found that 90 percent of the cases that did have medical debts reported debts of less than $5,000. If you are making $75,000 or $80,000 a year, you might be able to pay back part of that $5,000. So why shouldn't they pay back a portion of that cost? Even in those cases where a medical debt was listed on their petition for bankruptcy, the medical debts only accounted for 13 percent of the total unsecured debt for those files.

That is a completely different picture than what we have been hearing today. This is a completely different picture, I submit, than we have been hearing from Professor Warren, who has opposed bankruptcy reform for any reason she can conjure. I have read her statements, and they have not been objective. This is another example of it. I don't appreciate it. She can say what she chooses. Senators can quote her numbers all they want, but I believe those numbers from the U.S. Trustee Program based on review of actual bankruptcy filings where debts have to be listed are accurate, far more accurate than the other.

Now, if you do have medical debts and those debts tip you over into bankruptcy—maybe you were getting by, and, bam, you have an $8,000 bill you cannot handle and you feel you have to go into bankruptcy. If your income is below median income in America, you wipe out every bit of that debt. For 80 percent of the people, they will be able to do that if that is what they choose. If they make above that higher income level and can pay back, according to the court, some of their hospital debt, they ought to pay it back. I don't apologize for that. That is what we ought to do. That is what this bill strives to do.

As my amendment we passed yesterday explicitly states, if medical causes are a problem and extraordinarily difficult, medical problems can be a factor for the court to allow those with incomes even above median income to go into chapter 7 where you wipe out all your debts rather than chapter 13 where you pay back a portion.

Finally, chapter 13 has many good values. There are many things good about chapter 13. This will shock some of my colleagues. In Alabama, the latest reports I got from our bankruptcy judges are that around 50 percent of the filers in Alabama file under chapter 13. Why would they agree to pay back part of their debts? No. 1, they like paying back their debts. Like under chapter 7, the creditors can no longer call them, they cannot be sued, and they cannot be harassed at their workplace. Any lawsuits filed against them are stayed and stopped. The money is paid to the bankruptcy court. They pay out a percentage to each of the creditors based on the court's finding of how much each is entitled to get. They do this and work their way out of it, and they are happy. They are able to keep their automobile, often, and cram down the value of it. Maybe they bought an automobile for $25,000 and they kept it 3 years. They went into bankruptcy, and it is now worth $15,000. When they recompute the numbers, they only have to pay back $15,000. They actually walk away from paying an obligation they promised the dealer or the bank. It may help them keep a home. There are a lot of reasons why lawyers who represent their clients think chapter 13 is not such a bad thing. In fact, it is in the interest of the client.

Those people I refer to in Alabama who voluntarily choose chapter 13 could choose chapter 7 without any hesitation if they thought it was better. Just because someone is moved into chapter 13 does not mean it is all bad. In fact, many people choose it for a variety of reasons.

Anyone with median income or below or even above who has extensive medical bills will either be able to wipe them all out if they are below median income; if they are above median income, they can be required to pay some of that debt back in monthly payments in a period not to exceed 5 years. That is fair. That is just. Who knows, it might help our hospitals keep their doors open instead of having to close.

I feel strongly about this bill. Every issue that has come up now has come up previously. It is time to move forward. Let's get this bill done, complete this work, and help improve the integrity of the bankruptcy system.

It also provides tremendous benefits for women and children. They have a much higher priority in bankruptcy for alimony and child support. It eliminates the obstructive use of bankruptcy court to block evictions, eliminates a lot of other abuses, and contains some attorney fees in ways that have not been good in the past. There is a lot that is helpful that will streamline our system and make it better.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened with some interest to my colleague and his description of the bankruptcy bill. I have felt for some long while, and have voted that way in the Senate, that the pendulum swung a bit too far in bankruptcy and needed to be adjusted some. I believe the last time we voted in the Senate was 5 years ago.

But I am concerned there is an effort on the floor of the Senate to turn back every single amendment that is being offered, believing that the only body of thought that has any merit at all is that which came out of the committee; that all of the proposals that are offered on the floor of the Senate somehow are without merit; that the adjustments or the approaches that might be helpful to some people who are more vulnerable are provisions without merit.

They may find, it seems to me, if they turn back all of these amendments, that there might not be so much support for the bankruptcy bill as there has been in the past.

Let me talk for a moment about this issue of credit cards. My colleague just spoke about the credit card companies. First of all, let me admit, I think there have been abusive bankruptcies. There is no question about that. It is one of the reasons I believe the pendulum was swung a bit too far and probably should be brought back a bit. But there are two sides to all of this as well.

We have credit card companies these days that blizzard this country with credit cards, wall to wall. Go to a college campus and take a look at every mailbox. Credit card companies want to offer credit cards to people who have no income and no jobs. They say: Take our credit card. Take a second credit card. Take a third and a fourth.

My son was age 10 when he got a preapproved credit card, a submission from Diners Club. He was 10 years old. So I called Diners Club. I said: It's a good thing I got ahold of it before my son did. He would have probably been in France.

I guess a 10-year-old couldn't travel. But the fact is, he probably would have been interested in doing something with that credit card.

They said: Well, it was a mistake.

It was not a mistake. And it is not just Diners Club. Go through the whole list of credit cards. It is not a mistake that they are sending credit cards to people who have no income, people who have no jobs, people who do not have a prospect of income. Do you know why it is not a mistake? Because they take these giant mailing lists and they ship these preapproved credit cards to everybody, understanding that some people are going to get them who should not get them, and they won't pay, and so they will just figure out how to deal with all that with higher charges to everybody else, and at some point they will get relief from Congress, even, on bankruptcy issues.'

It is not just credit cards. Go down the street someday and see the picture window that beckons you, in big red color type, that says: Hey, come over here. Buy our product. We'll give you a zero-percent interest rate until next August. Before you get home, we will send you a rebate check. Come on, buy it. It doesn't matter whether you can afford it or not, buy our product.

Turn on the television set in the morning and hear the advertisement from the company that says: Bad credit? Come and see us. You have not been paying your bills? You have a problem on your credit report? Come and see us. We have credit available for you.

So there are two sides to all of this as well. Those who are blizzarding and papering this country with credit cards and debt, those who know better, even as they do it, ought not come to this Congress and say: Well, now we have some problems. Now we have some defaults. We want you to tighten the bankruptcy laws.

I think if the majority decides that in every circumstance every amendment that is going to be offered in the Senate on these issues is going to be turned away, perhaps they will not have the robust vote on bankruptcy reform they expect.

### SOCIAL SECURITY

Mr. President, I think this issue of bankruptcy in some ways ties to another very significant issue that we are debating in the Congress and will be debating across the country for months; this issue of Social Security. There are so many millions of Americans—tens of millions of Americans—often women, often in their seventies, eighties, and nineties, often living alone, whose only source of income is a Social Security payment each and every month. It is the difference between their ability to live, to eat food, to buy prescription drugs, to pay rent, and their not having the ability to do those things.

You go back to 1935, when Franklin Delano Roosevelt signed the Social Security bill. Fifty percent of America's senior citizens who reached retirement age were living in poverty. In this great country of ours, one-half of our elderly were living in poverty.

What a wonderful country this is in which to live. There is no question about that. We share this globe with 6 billion people—6 billion of them. It is only us who have the opportunity to live in this country. Six billion people are our neighbors. One-half of them have never made a telephone call. One-half of them live on less than $2 a day. A billion and a half people do not have access to clean, potable water every day. We are lucky enough to live here.

But just think, 70 years ago, in this great country, as we were building and creating and expanding our country, one-half of the people who reached retirement age were living in poverty. They helped build this country. They worked hard. They went to work every day. They did not complain. They did the best they could and reached that period of their lives where they had a declining income situation because they were not working anymore. They were retired and living in poverty.

Well, this country did something about that, and it ought to be proud of it. Franklin Delano Roosevelt signed a bill called Social Security. Yes, the same people who are now skeptical about Social Security back then attacked him unmercifully. Social Security was decried as creeping socialism. It was decried as Government interference. The fact is, the Social Security Program created an insurance program that all workers paid into for the purpose of providing a stable insurance policy upon retirement that would always be there, a guaranteed benefit upon retirement that you could count on. And like that, the poverty rate among America's senior citizens went from 50 percent to now slightly less than 10 percent.

This program has lifted tens of millions of Americans out of poverty. It has worked, and worked well. And as this Congress now talks about bankruptcy legislation, let us talk about the issue of that which has prevented so many people from having to file bankruptcy, and that is the Social Security Program that has provided stable, predictable, consistent, and dependable revenue from an insurance program when people retired from their jobs. It has worked, and worked well for over 70 years.

There were some who did not like it in the 1930s and 1940s. They were aggressively opposed to Social Security. Their ideas live on even today. They would like to take the Social Security system apart because they believe it is, in the words of one of the far right conservatives, the "soft underbelly of the liberal welfare state." Those are his direct words.

In 1978, President George W. Bush ran for Congress in Texas, and he said: Social Security will be broke in 10 years. So in 1978, President Bush said Social Security would be flat busted in 10 years, by 1988. Of course, he was not accurate. But he said back then we should go to private accounts in Social Security.

Now, all that says to me is that this is not about economics for this President. It is about philosophy. I am not critical of him for that. He has every right to believe the Social Security system is somehow unworthy, ought to be taken apart, that it ought to be changed to a system of private accounts. The President has the right to believe that. He believed it back in 1978, and he manifested that belief even now as President.

But let's understand, then, that this is not about economics, it is about philosophy. In fact, there is a memorandum dated January 3, which comes from the chief strategist in the White House about Social Security, and let me quote from it. This is from Peter Wehner, who is the chief strategist in the White House on Social Security planning:

> I don't need to tell you that this will be one of the most important conservative undertakings of modern times.

Interesting, isn't it? The first paragraph describes what is happening in the President's proposal, about Social Security as "one of the most important conservative undertakings of modern times." And if accomplished, it will be "one of the most significant conservative governing achievements ever." Again, describing this issue as a "conservative undertaking." Its success is a "conservative governing achievement." And then he connects it to the commitment to the ownership society, control for individuals over their own lives, and so on.

He says:

> If we borrow $1-2 trillion to cover transition costs—

That is the first place this shows up, which is an acknowledgment that everybody understands, that the President never talks about, that in order to go to transitions to private accounts, you have to borrow money—$1 to $2 trillion. That would be borrowing money on top of the largest debt this country has ever experienced. We have the largest fiscal policy deficit in history. We have the largest trade deficit in the history of this country right now. On top of that, the President would propose a $1 to $3 trillion—this says $2 trillion—but $1 to $3 trillion borrowing in order to set up private accounts. It is: Borrow money, put it in the stock market, cut benefits in the underlying Social Security Program—I will get to that in a moment in this memorandum—and hope that somehow it will all come out all right.

Let me read what is the most telling piece in the White House memorandum about the Social Security plan:

> For the first time in six decades, the Social Security battle is one we can win. . . .

It is clear what he is saying. The White House memorandum of the strategy, No. 1, in the front end calls it a conservative undertaking, not just some policy debate about something that will strengthen the country, a conservative undertaking. Then he said:

> For the first time in six decades, the Social Security battle is one we can win. . . .

What is that battle? Go back to Alf Landon in the 1930s, who decried Social Security, and bring it back every decade since; the fact is that there are those who have never wanted Social Security, never liked Social Security, believe it is some sort of Government intrusion in people's lives and they have always wanted to basically get rid of it. That is the battle.

The White House says:

> For the first time in six decades, the Social Security battle is one we can win. . . .

Well, who wins when we decide to begin taking apart one of the most successful things that we have ever done in our history to lift people out of poverty? When you work you pay an insurance premium in your paycheck. It is called FICA and the "I" is for insurance. That is what it stands for. You put it in this fund, and when you retire, Social Security payments will be there for you. They don't belong to someone else, they belong to you. They are yours. And it is not just the old age benefit or the retirement benefit. If along the way you are disabled, there are disability benefits. If along the way the principal wage earner dies and you have children under the age of 18, there are survivor benefits. All of that is available to those workers who are paying these premiums month after month.

It is really interesting and—for me at least—a bit disturbing that we have turned in this country to a debate about me, me, me, and me: When is it my turn? How about me? Forget about the other guy, how about me?

I think both political parties contribute to this country. The notion of self-reliance, coming from the pioneers on the homestead, breaking sod, building log cabins, rolling up their sleeves, doing for themselves, herding cattle on the open range, hard work every day, self-reliance, I understand all that. It is a wonderful ethic that helped build this country. But there is more than that, much more than that because those pioneers on the prairie, the pioneers who homesteaded the prairies where I come from in southwestern North Dakota knew there was more than self-reliance and rolling up your sleeves and handling it yourself. It was also about building a community, building your churches and roads and schools and building the rural electric co-ops to move electricity to the farms. It was about fighting things that were more than just yourself, being a part of something bigger than yourself, fighting for women's rights, worker rights, for equal rights, for minority rights. All of that is also a part of the legacy that has improved this country and lifted it.

Now we come back to this mantra almost every day—centered now around Social Security—what about me, what about mine. I want mine right now.

The Social Security system in many ways is a compact between the generations. It is a compact from my kids to me to my parents and has been for over 70 years. Some people say: Compacts don't matter. Promises don't matter. None of this matters. What matters is what is me, mine, right now, ownership.

I don't know. I wonder sometimes if this country would be the kind of country it is if that attitude prevailed in every circumstance. There are things that we do alone that represent initiative and self-reliance that are very important, that represent the incentive to build and to do better, the incentive for success. But there are other things equally important that represent the things we do together that have helped build a great society, helped build great communities of interest and helped pull each other up as a society. To sacrifice one for the other injures opportunities in this country's future.

I have never quite understood if there is someone in this Chamber who believes there is something more important than their kids. I guess not. Most of us would aspire to do anything for our children. We love our children. We want life to be better for our children.

But following that, we also believe that when our parents reach that period in their life where we call them elderly and they have less income than they used to have and less ability to meet their daily needs and to pay for the high cost of prescription drugs and pay the rent and buy the groceries, all the things they are required to do, that we want to reach out and help them. We believe helping our parents and our grandparents is something that is important as a part of this country's responsibilities. That is what the Social Security system has been about.

We are going to have a lot of discussion about Social Security, and it is going to go from coast to coast. The President has a big old airplane, a 747, a big fat one with a hump on the nose. He has unlimited fuel, and good for him. I respect him. He is our President. He has a right to believe as he does on these issues. He is going to sell this all across the country. But we, too, have an opportunity and a responsibility. I believe strongly that what we have done to build opportunity has included the creation of a Social Security system that I know works.

Our late colleague, Daniel Patrick Moynihan, Moynihan used to say that everyone is entitled to his own opinion, but not to his own facts. My hope is as the President travels around the country, and as we debate here in the Congress, my hope is that we can agree on the basic set of facts.

The facts are contrary to the President's assertion in the State of the Union Address. In the year 2018, the Social Security system will not be taking in less money than it spends. That was the allegation the President made. Not true, just flat not true. According to Social Security actuaries, if we have a very low rate of economic growth, much below that which we experienced in the previous 75 years, if we have that low rate of economic growth, by the year 2042, we will have less revenue coming in to the Social Security system from both payroll taxes and accrued interest on the assets than we will need to be paying out. The Congressional Budget Office says that year is 2052. That is almost a half century from now.

Pick the one you like. In any event, we do not have a crisis in Social Security. It is not going to take major surgery or a major adjustment to make Social Security whole for the long term. Our job ought to be to work together to find a way to strengthen and preserve Social Security for the long term and then strengthen and improve on the other two elements of retirement security. One is pensions, and that is to encourage more employers to offer pensions because only half of American workers are now covered. The second is private investment accounts such as IRAs and 401(k)s outside of Social Security and pensions.

We can, should, and—I hope—will do much more in incentivizing those kinds of investments. But job No. 1 for us ought to be to preserve the basic Social Security system. We can do that. We surely will do that. But first we have to turn back the philosophy of those who write memorandums from the White House and who are the chief strategists, who create the White House plan on Social Security, who say:

> For the first time in six decades, the Social Security battle is one we can win. . . .

Meaning they have never liked it. They didn't support it in the first place, and they would love to begin taking it apart first by creating private accounts; second by, in this memorandum, describing the change in indexing which will cut everyone's benefit in the Social Security Program.

I wanted to make one additional comment. I understand some colleagues are waiting. I intend to offer an amendment on the bankruptcy bill—hopefully tomorrow morning—that deals with something extraneous to bankruptcy but an issue that is important and timely.

At a hearing this morning, the Defense Department told me we are spending $4.9 billion a month in Iraq and Afghanistan. The administration has included zero in its next year's budget for that purpose. But they are asking for an emergency supplemental to fund it.

I have held hearings—my colleague from Illinois has attended those, and I believe my colleague from Florida has as well—on the subject of contracting in Iraq. There is massive waste, fraud, and abuse going on. I will describe a couple of things that have been testified to. Somebody orders 50,000 pounds of nails to be sent to Iraq for construction contracts. It turns out they are the wrong size. You know what happens? They are dumped on the ground—50,000 pounds of nails on the ground in Iraq that are the wrong size. People driving $85,000 brand new trucks. If they run out of gas or something happens to them, they leave the truck and let somebody torch it. Halliburton is alleged to be billing us for serving 42,000 meals a day to our soldiers when, in fact, they are only serving 14,000 meals. They are overbilling us by 28,000 meals a day. It is unbelievable, the massive waste, fraud, and abuse going on.

At a hearing a couple of weeks ago, we had people with pictures that showed they have massive cash in vaults and they say if you are going to pay contractors, tell them to bring a bag and we will fill it with cash. We are talking about the massive wasting of taxpayers' money going to these sole-source contracts for billions of dollars and nobody cares.

My colleague from Illinois introduced a piece of legislation last year on this subject. I talked to him yesterday about an amendment I wanted to introduce on this bill and am going to introduce in the morning, and he will join me. This is a very important issue.

I am happy to yield to the Senator for a question.

Mr. DURBIN. Mr. President, I would like the people following this debate to understand what is being said. We have spent billions of dollars on the war in Iraq, and I voted for every penny of it. If it were my son or daughter over there, I would give them everything they needed to get their mission accomplished and come home safely. I ask the Senator from North Dakota, how many official committee hearings and investigations have there been in Congress looking into the sole-source, multibillion-dollar contracting the Senator has referred to?

Mr. DORGAN. My understanding is, I believe there was only one in the House, and the bulk of that was to defend the company called Halliburton—and there were no such hearings by the standing committees in the Senate. Essentially, there has been no interest in looking at this kind of abuse. The Senator from Illinois was at a DPC hearing we held. We had a guy there who used to purchase towels. He purchased hand towels for soldiers. He held up the towels. He showed us that they are nearly three times the price of the towels they purchased for U.S. soldiers. Why? Because the company wanted its logo on the towel. So they buy a towel with a company logo on it for the soldiers and nearly double-bill the American taxpayer. This is a small issue in itself, but it is an example of what is going on, pervasively.

Mr. DURBIN. If the Senator will yield for another question, the amendment he is going to offer, which I have worked on as well and am honored to join him as a cosponsor, is modeled after the Truman Commission that was created during World War II. Isn't it true that Harry Truman, a Democratic Senator from Missouri, initiated this investigation into what he called profiteering during the war at the expense of soldiers and taxpayers, and was literally examining the practices of a Democratic President, Franklin Roosevelt, with that commission, so that here he was, a Democrat, saying he had a higher responsibility to the taxpayers and soldiers. He was going to investigate the activities of the War Department under a Democratic President. I ask the Senator, was that not the case?

Mr. DORGAN. The Senator from Illinois is correct. President Truman got in his car, as a matter of fact, and began driving around the country to military installations to see what was going on. He came back and said there is something rotten here; a massive amount of waste is going on. He convinced Congress to create the Truman Commission, which was an investigative committee. And he was a Democrat, and there was a Democrat in the White House, but that didn't stop him from investigating.

In this circumstance today, we have a Republican in the White House, Republicans controlling the House and Senate, and they have no interest in doing any oversight hearings. Our colleagues asked the committee: Will you do an oversight hearing on the issues? The answer is no. I have additional examples. How about $7,500 a month rent for an SUV in Iraq? How about Halliburton charging a dollar more for every gallon of gas, compared to what the Department of Defense could have obtained from its own supply office?

How about two guys who show up in Iraq having no money and very little experience and decide they are going to be contractors? They decide to bid on contracts, and they win one. Somebody delivers a suitcase full of $2 million in cash and they are off and running. They soon got over $100 million in contracts. Some of their employees became whistleblowers because they said what was going on was crooked. These people were taking forklift trucks off an airport they were supposed to secure, taking them to a warehouse and repainting them and selling them back. They sold them to the Coalition Provisional Authority. Who is that? The American taxpayer. The Justice Department says it won't join in a false claims action because defrauding the Coalition Provisional Authority in Iraq is not the same as defrauding the American taxpayers. It is unbelievable, the lengths to which some of these people will go to avoid looking truth in the eye.

There is massive waste, fraud, and abuse. Billions of dollars is being abused and wasted and nobody seems to give a whit about it. Senator DURBIN from Illinois introduced legislation, which I was happy to support, in the last Congress on this subject. I don't believe that got a hearing and certainly didn't get to the President's desk. My sense is that in any way we can, in every way we can, on behalf of the American taxpayer, we need to do this. It undermines our support for American soldiers if we don't have oversight. Do you think American soldiers want to be stuck in Iraq doing what their country asked them to do only to find out that those serving them meals are overbilling by 28,000 meals a day, or are double-charging for hauling gasoline in? This makes no sense. The minute you raise any of these things with the one party in this town, they say you are being totally partisan. Well, no, I think we are being a little bit like Harry Truman here. He had the guts to look truth in the eye and say when something going on is rotten, when the American taxpayers are being bilked, tax money is being pilfered, somebody ought to stand up and stop it.

I intend to offer this amendment in the morning. I am proud of the work my colleague has done as well. I have spoken longer than I intended. The Senator from Florida wishes to speak. Let me say that I will be back in the morning to offer this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 37

Mr. NELSON of Florida. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 37.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt debtors from means testing if their financial problems were caused by identity theft)

At the appropriate place, insert the following:

**SEC. ___. IDENTITY THEFT.**

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by redesignating paragraph (27B) as paragraph (27D); and

(2) by inserting after paragraph (27A) the following:

"(27B) 'identity theft' means a fraud committed or attempted using the personally identifiable information of another person;

"(27C) 'identity theft victim' means a debtor who, as a result of an identify theft in any consecutive 12-month period during the 3-year period before the date on which a petition is filed under this title, had claims asserted against such debtor in excess of the least of—

"(A) $20,000;

"(B) 50 percent of all claims asserted against such debtor; or

"(C) 25 percent of the debtor's gross income for such 12-month period.".

(b) PROHIBITION.—Section 707(b) of title 11, United States Code, as amended by section 102(a) of this Act, is further amended by adding at the end the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.".

Mr. NELSON of Florida. Mr. President, I want to make sure and will ask unanimous consent, if need be, that both Senators DURBIN and SCHUMER are listed as cosponsors of the amendment.

The PRESIDING OFFICER. They are currently listed as cosponsors.

Mr. NELSON of Florida. I thank the Chair.

Mr. President, as we debate the merits on this bankruptcy bill, I offer an amendment, and I believe it is critical to improving this piece of legislation. This amendment will create an exemption from the requirements of this bankruptcy bill for victims of identity theft. The long and short of the amendment is, if you have had your identity stolen and charges have been run up on you because your identity was stolen, and if that causes you to go into bankruptcy, then you are going to have an exemption from the provisions of this legislation that said you would not be able to file bankruptcy.

It is carefully tailored as an amendment. It would not apply to every single identity theft victim. Rather, it would require identity theft victims to show they were defrauded out of the minimum dollar amount.

There is an epidemic of identity theft that has plagued millions of Americans. There are 60 Senators in this Chamber who had Bank of America Government credit card information lost or stolen over the weekend. 1.2 million other Americans, including this Senator from Florida, had personal financial information that was lost or stolen. In my particular Senate office, two other of our senior staff members had sensitive financial account information that was compromised in this incident. The lost data tapes could have names, Social Security numbers, and addresses on them.

How long down the road before we find that our Social Security numbers and other personally identifiable privileged financial information come into the hands of the thief to be used in stealing our identity, and we suddenly start finding we have charges we never made.

This phenomenon of identity theft is happening. We saw it in a big case called ChoicePoint, an Atlanta, GA, company that had hundreds of thousands of records purloined as a result of someone disguised as a regular customer of that information broker, and instead their identities are now stolen. Mr. President, 10,000 of those 400,000 stolen we know are in the State of Florida—at least 10,000. This is a phenomenon that is continuing to occur.

Identity thieves typically take advantage of the electronic records to steal people's names, addresses, telephone numbers, Social Security numbers, bank account information, or other personal, financial, and medical data.

If you were a customer of something such as ChoicePoint, an information broker, not only do you have information, such as your credit, which is covered under existing law for protection, but you have a lot of other information in there, such as I mentioned, Social Security numbers and bank accounts. What about job applications, what about drivers' licenses, what about DNA tests, what about the records of all kinds of different medical tests?

This is the alarming theft that is occurring today, and it is not being done with the hammer and crowbar of a typical thief. It is being done by sophisticated methods as we are living in this technological age.

Listen to these alarming statistics. The Federal Trade Commission says 10 million Americans were affected by identity theft last year. Identity theft is now the most common fraud perpetrated on consumers. In 2004, identity theft accounted for 39 percent of consumer fraud complaints, the Federal Trade Commission tells us. And a figure that will blow your mind is that identity theft cost the United States $52 billion last year.

Because identity thieves misuse people's personally identifiable information, some individuals are denied jobs, they are arrested for crimes they did not commit, or they face enormous debts that are not their own.

Last week, in Orlando, I met with six of those victims of identity theft. One of them was an elderly mother who was there with her daughter who, upon the passing of her husband of half a century, the daughter taking over all the financial records, and paying her mother's bills—her mother had always provided for the children's needs, so when the daughter started getting these credit card bills on the mom's credit card of $5,000 and $10,000, she paid them. It was not until a store owner in California, on the other side of the country from where this couple lives in Coca, FL, an alert store owner called and said: We want to make sure that you are willing to have this charge of $26,000 charged to your mother's credit card. Your mother is standing right here in the store in San Francisco to ring up this charge. The daughter, of course, replied: My mother is sitting right here with me in Florida. Obviously, someone is masquerading as my mother with a stolen identity.

The sad result is that even though that $26,000 charge was averted, the daughter had already paid what she thought were the legitimate debts of her mom to the tune of $40,000, and because of that stolen identity, she can never get that back.

What happens if that is a debt that would drive a person like that into bankruptcy? Should that be used against them to prevent them from being able to have bankruptcy? I do not think we want to do that in this legislation.

The law does not require creditors to automatically erase a person's debt arising from identity theft. Creditors sometimes refuse to erase these debts or they allow credit investigations to drag on for years. This leaves some identity theft victims with no choice but to file for bankruptcy.

Let me give some more examples.

Last year, a Pennsylvania woman was victimized by a brazen identity theft. This thief was actually renting a room in the lady's house. The identity thief stole her checks, her bank card, her personally identifiable financial information. Then the thief used that information to wipe out the lady financially. One month before Christmas, this woman was forced to file for bankruptcy relief. Shouldn't this bankruptcy reform bill cut people such as that some slack? I think that is the humane thing to do.

There is another example. It is in New York. An identity thief stole the personal information of a girlfriend, and then he ran up huge debts in the victim's name. Pretending to be the victim, the identity thief took out three personal loans and even purchased two automobiles. In total, the thief ran up a tab of over $300,000. The local postal inspector in the victim's area called it the worst case of identity theft they had ever seen. In that case, the victim had no choice but to file for bankruptcy.

Should not there be an exemption in a case like this? This is a very straightforward amendment. It states that people who have been victims of identity theft and have to file for bankruptcy because of that identity theft should get a break from the stringent means test in the bill. As identity theft becomes more prevalent—and it happened last week with the revelation of ChoicePoint, an information broker, 400,000 people. It could have happened Friday night after 5 when Bank of America released the information that 1.2 million Federal employees' identities had been stolen, including 60 Senators in this Chamber. As it becomes more prevalent, more innocent people are going to encounter this situation.

I think it is only right to be fair to those victims when they file bankruptcy and not to add insult to their injury.

The Consumer Federation of America has endorsed this amendment as being in the best interest of Americans. I urge my colleagues to support this amendment.

Mr. DURBIN. Will the Senator yield for a question?

Mr. NELSON of Florida. Of course, to the distinguished assistant Democratic leader, I yield.

Mr. DURBIN. I must be living under a dark cloud because I not only had my identity stolen several weeks ago, but I am also one of the 60 Senators who, like the Senator from Illinois, was a victim of this apparent theft of a computer tape of official business credit cards of the Senate which compromises our credit cards. In my situation 4 or 5 years ago, I received a phone call from a collection agency in my home in Illinois saying: DURBIN, we finally caught up with you. I do not know if you thought you could get by with this forever. We knew we would find you. You owe our company in Denver, CO, $2,000. I said: I have never been to your company's place in Denver, CO. I have never done business with you. It turned out to be someone using my name and my Social Security number, who had run up several thousand dollars in charges. It took several months to sort it out, but I was lucky. I sorted it out. There are some stories that have come to my office, and I am sure to the Senator's office as well, where it took years before they finally came to the bottom of it.

So I ask the Senator from Florida, for those people who were victims of identity theft, maybe a credit card where charges were run up out of sight, tell me exactly what the Senator's amendment will do to protect them in this new bankruptcy reform we are considering.

Mr. NELSON of Florida. I thank the Senator for his question. Yes, the Senator may well be one of the victims that was not announced until after work on Friday afternoon at 5, but we have identified that it is 60 Senators in this Chamber, along with 1.2 million Federal employees. We are talking about this credit card that is provided for official expenses of Government business, and all your personally identifiable information is on that file. So it may well be that a majority of this Senate finds they could become the victims and experience the similar kind of agony of the six people I just met with in Orlando, that it keeps going on and on and they cannot get their identity back.

I had one who was a truck driver with special permission to drive hazardous materials. His identity is stolen and there is somebody out there driving a truck of hazardous materials who has stolen his identity.

The Senator's specific question is: What does this amendment do? What it does is carve an exemption for the people who have debts that have driven them into bankruptcy because those debts have occurred through no fault of their own. Their identity has been stolen and someone has created a credit card that then runs up bills in their name, that they did not know about, they did not intend, nor could they afford, and as a result, because they cannot get it worked out—and I wish the Senator could hear these victims, how long it takes them to get their identity back—in a timely fashion, they have to file for bankruptcy.

My amendment says this is going to be an exception from all the rigors of the bill that say a person cannot file for bankruptcy.

Mr. DURBIN. If I could further ask the Senator from Florida, this bankruptcy reform is going to affect millions of Americans. About 1 million to 1½ million a year file for bankruptcy, and all of their members of their family, of course, are affected by the bankruptcy so these people filing for bankruptcy have reached a point where their bills are so large they have said: I cannot do it, it is far in excess of what I can ever pay off, and they go into bankruptcy court asking that they have their debts relieved. They give up most of their assets in life and their debts are then paid off partially, as much as they can, and they walk out of the bankruptcy court with a new day ahead of them. That has been the law for a long time.

This bill we are considering says, wait a minute, we may not let you walk out of the court with all of your debts behind you. You may walk out of the court with some of the debts still on your shoulders that you have to keep paying. So if I understand the Senator's amendment, he is saying if the debts we are talking about were incurred not by the person filing bankruptcy but in their name because of identity theft, then for goodness sakes it should not be said at the end of the bankruptcy process that they still have to carry these debts which some criminal has incurred in their name.

Is that my understanding of what the Senator is trying to achieve?

Mr. NELSON of Florida. Indeed, the Senator has put his finger on the problem and the attempted solution to the problem, recognizing that we want to work with the banking industry and the credit card industry so this does not become a loophole that somebody can get out of following the law and be irresponsible about filing bankruptcy. We have even put it in the amendment that there has to be a threshold for the person who would have this exemption because of identity theft. For example, it would have to be a claim against the debtor in excess of $20,000, or 50 percent of all the claims asserted against the debtor, or 25 percent of the debtor's gross income for a 12-month period.

With that reasonable protection, so that somebody is not abusing the law, we come back to the basic issue of fairness.

Mr. DURBIN. If I could ask the Senator from Florida, yesterday we considered an amendment, which the Senator supported and cosponsored, which said take into consideration the members of the National Guard and Reserve who are being activated and sent overseas to Iraq and Afghanistan, risking their lives for America, that if they are gone for a year or more they may have an economic misfortune; maybe that small business they were running fails because they are gone serving their country. So we offered an amendment yesterday which said when it comes to that bankruptcy situation we should be more tolerant, more lenient and more sensitive to these men and women who have risked their lives serving America in the Armed Forces.

When we offered that amendment the Senator from Florida may recall that yesterday some 58 Senators voted against it, many of whom will be the first to welcome these guardsmen and reservists with open arms, thank you for your service to our country. Now Senator KENNEDY has an amendment pending which says, what about the category of Americans who have overwhelming medical bills because of a medical condition they never could have anticipated and they get trapped in bankruptcy? Can we take that into consideration and not hit them as hard as others and not take their homes away from them at the end of the day? Now the Senator comes in with another category, which I think is equally legitimate, of victims of identity theft.

If I understand the Senator from Florida, he is following in the same line of argument, and that is the bankruptcy court should not be blind to reality, to the reality of the guardsmen and reservists serving our country and paying a heavy price at home in terms of their personal finances. Nor should this bill be insensitive to a single mother raising children, diagnosed with breast cancer, who as a waitress with another job cannot pay off her medical bills, or in the Senator's case an elderly person whose identity was stolen and charges were run up beyond anything that she could handle.

It is my understanding that what you are saying is this law should be sensitive to the realities of people who are doing the right thing but are being victimized, either by medical illness or by identity theft. Is that the intention of the Senator?

Mr. NELSON of Florida. The Senator is correct. Indeed, this amendment is saying that under the circumstances, where a person, through no fault of their own, because they have been preyed upon by larceny, by a thief, and bills have been run up because their identity has been stolen, and that happens, tragic as it is, to cause them to go into bankruptcy, that they should be exempted the harsh means test provision of this bill and should be allowed to file Chapter 7 bankruptcy under those circumstances. The stolen identity is enough. The debts run up are enough. The harassment of trying to get your identity back is enough. Lord help them, then when they have to file bankruptcy, that ought to be enough. But to say that they cannot file Chapter 7 bankruptcy under this condition? What are we trying to do to our fellow Americans? This amendment perfects that glaring error and inconsistency.

I yield the floor.

Mr. DURBIN. Mr. President, I thank my colleague from Florida for his leadership on this issue. I am happy to join him as a cosponsor. I would like at this time to offer another amendment which I would like to describe.

### AMENDMENT NO. 38

I ask the pending amendment be set aside, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. COBURN). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. DURBIN), proposes an amendment numbered 38.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To discourage predatory lending practices)

**SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(10) if the creditor has materially failed to comply with any applicable requirement under section 129(a) of the Truth in Lending Act (15 U.S.C. 1639(a)) or section 226.32 or 226.34 of Regulation Z (12 C.F.R. 226.32, 226.34), such claim is based on a secured debt.”.

Mr. DURBIN. Mr. President, there is hardly one of us who has not heard a story that goes as follows: An elderly widow is living in her family home. Her children have moved out. She is getting up in years, but she is happy in her home, exactly where she wants to be. As time goes on, life gets more complicated for her, and someone takes advantage of her. There is a knock on the door and someone says to her: I just took a look at your roof. You must realize it is in terrible condition, and luckily I do roofing. I will be happy to repair your roof. Or, if you put vinyl siding on this old house, you could save so much on your heating bill. Or, did you notice that your basement foundation is starting to crack? That could be dangerous, and luckily I do the work.

You hear the story over and over, that this person—I do not mean to pick on elderly widows; it could be a widower, too—says: Sure, that sounds good. You seem like a nice, bright young man. Why doesn't your company come in and fix my house.

They say: Great. Here is a little contract we would like you to sign to have the home improvements.

They look at it and they say: It is tough for me to read it. I am not a lawyer.

Trust me, it is a standard contract.

They sign on the dotted line.

You have heard this story. Maybe someone in your family has been through this. Then what happens. The work turns out to be shoddy. They do not do what they are supposed to do. The charges are outrageously high. Then you take a look at the contract, and it turns out the contract creates a lien on the property, perhaps another mortgage on the property, perhaps a balloon payment, maybe interest rates that go right through the roof for the unsuspecting person. There are finance companies behind these door-to-door con artists who write out these contracts and end up, when all is said and done, owning the home.

That is not an outrageous story I have told you. It is repeated over and over, day in and day out, in my home State of Illinois and around the country. That is why I am proposing this amendment. This is called predatory lending. You know what a predator is: the animal that goes out trying to devour its prey. Predatory lenders do just that, too. This amendment is designed to penalize the growing number of high-cost predatory mortgage lenders who lead vulnerable borrowers down the path to foreclosure and bankruptcy. It is about balance, something this bankruptcy bill desperately needs.

If we are going to change the bankruptcy laws because too many people go to bankruptcy court, then we must also address predatory lending, which I have described, which is driving too many vulnerable Americans into bankruptcy court. If we are going to make the door to the bankruptcy court harder for consumers to open, then we must also make sure we are not protecting predatory creditors that force consumers to knock on that door.

There is no uniformly accepted definition of predatory lending. It is a lot like the old Supreme Court saying: I will know it when I see it. But high-pressure consumer finance companies have cheated unsophisticated and vulnerable consumers out of millions of dollars using a variety of abusive credit practices. Let me give examples of what they are: hidden and excessive fees and interest rates; lending without regard to the borrower's ability to pay; repeatedly refinancing a loan over a short period of time without any economic gain, known as loan flipping; committing outright fraud and deception, such as intentionally misleading borrowers about the terms of the loan.

Some automobile lenders in the used car industry have gouged consumers with interest rates as high as 50 percent with assessments for credit insurance, repair warranties, and hidden fees, adding thousands of dollars to the cost of an otherwise inexpensive used car. Pawn shops in some States have charged annual rates of interest of 240 percent or more. I could give you a lot more description of these predatory lending practices. Let me just tell you a few stories.

My colleagues who were listening to this debate know I have offered this before. They are likely to say: Here comes DURBIN again with the same old amendment. I am here again as I was in a previous Congress because this problem is still with us today. The last time I called up this amendment on debate on a bankruptcy bill we lost by one vote. This problem has only become worse since Congress defeated that amendment.

As predatory mortgage lending increases, it continues to target lower income women, minorities, and older Americans. In 1998, Senator GRASSLEY of Iowa, my friend and colleague and the author of the bankruptcy bill, held a hearing in the Senate Special Committee on Aging looking into predatory lending. At the hearing, this is what a former career employee of that industry had to say.

Listen to how he described his customers:

> My perfect customer would be an uneducated woman who is living on a fixed income, hopefully from her deceased husband's pension and Social Security, who has her house paid off, is living off credit cards but having a difficult time keeping up her payments, and who must make a car payment in addition to her credit card payments.

This witness acknowledged that unscrupulous lenders specifically market their loans to elderly widowed women, blue-collar workers, people who have not graduated with higher education, people on fixed incomes, non-English speaking, and people who have significant equity in their homes.

That statement was made in 1998, 7 years ago. Six years later, February 2004, the Special Committee on Aging held another hearing on the same subject. At this hearing, held just 1 year ago, this is what a witness from the Government Accountability Office said:

> Consistent observational and anecdotal evidence, along with limited data, indicates that for a variety of reasons, elderly homeowners are disproportionately the targets of predatory lending. Because older homeowners on average have more equity in their homes than younger homeowners, abusive lenders could be expected to target these borrowers and "strip" the equity from their homes. The financial losses older people can suffer as a result of abusive loan practices can result in the loss of independence and security, significant decline in the quality of life.

So has the problem of predatory lending gone away, as my opponents might argue? No, it has gotten worse.

What else has been going on since we first considered this in the Senate?

The AARP Litigation Foundation, which files lawsuits to help seniors, has been party to seven lawsuits since 1998 involving allegations of predatory lending against more than 50,000 elderly Americans. As of February 2004, six of their lawsuits have been settled, and one is still pending.

Minorities are still being targeted by these unscrupulous lenders as well.

According to the Center for Responsible Lending, Hispanic Americans are two and a half times more likely than whites to receive a refinancing loan from one of these lenders. African Americans are more than four times more likely to be targeted.

Let me share a credible article from the Los Angeles Times of February 2004 by Ameriquest, one of the largest subprime lenders. The article includes a story about how they tricked a minority, Sara Landa, from East Palo Alto, CA. She speaks Spanish and limited English.

She entered into a settlement with one of these companies, Ameriquest. After that, it was alleged that Ameriquest employees tricked her into signing a mortgage that required her to pay almost $2,500 a month, far more than her income from cleaning houses. All the negotiations were in Spanish. All the loan documents were in English. The only thing she ever received from Ameriquest in Spanish was a foreclosure notice. It is amazing.

In this same article, you will find statements from many ex-employees of this company, Ameriquest, asserting that while they worked for this company they were engaged in improper and predatory practices.

Mark Bomchill, a former Ameriquest employee, said he left his job because he didn't like the way Ameriquest treated people. He said that the drive to close deals and grab six-figure salaries led many of his fellow employees astray. Listen to what he said. He said:

> They forged documents, hyped customer's credit worthiness and "juiced" mortgages with hidden rates and fees.

Two other former employees said borrowers were often solicited to refinance loans that were not even 2 years old. This happened even though Ameriquest pledged in 2000 not to resolicit customers for at least 2 years. They completely ignored that pledge.

Nearly one in nine mortgages made by Ameriquest last year was a refinance on an existing loan less than 2 years old. The abuses don't end there.

Former Kansas City Ameriquest employees described another predatory practice by the same company where they would fabricate borrowers' incomes and falsify appraisals.

Lisa Taylor, a former loan agent from Sacramento, said she witnessed documents being altered as she walked around the vending machine that people were using as a tracing board, copying borrowers' signatures on an unsigned piece of paper.

If you think these are isolated examples, exaggerated stories, let me refer you to a 2004 GAO study that found that this is a prevalent problem in the subprime mortgage industry—this predatory lending. They found plenty of indications that predatory mortgage lending was a major and growing problem in the year 2004.

According to the 2004 study, in the past 5 years, there have been a number of major settlements resulting from government enforcement acts. I will mention a few.

Household International agreed to pay up to $484 million to homeowners across America to settle allegations by States that it used unfair and deceptive lending practices.

In September 2002, Citigroup agreed to pay $240 million to resolve FTC and private party charges that Associates First Capital Corporation engaged in systematic and widespread abusive lending practices.

In March 2000, First Alliance Mortgage Company settled with the Federal Trade Commission, six States, and the AARP to compensate borrowers more than $60 million because of their deceptive practices to lure senior citizens.

An estimated 28 percent of the 8,700 borrowers in that suit were elderly.

These are documented. While some victims of predatory lending are lucky enough to receive compensation because of these lawsuits, many more have fallen to predatory lenders, and they never can turn to our legal system for help.

Here is an astonishing statistic. Mr. President, 1 in 100 conventional loans ends in foreclosure, but 1 in 12 subprime predatory loans ends in foreclosure. While it might be expected, these loans, because they are made with less creditworthy borrowers, would result in an increased rate of foreclosure, but the magnitude of the differences tells us that there is more at stake here than just the creditworthiness of the borrower.

The Senate Banking Committee held a hearing in July 2001. At that hearing, a report from the Center for Responsible Lending was released which showed the predatory lending practices cost American borrowers an estimated $9.1 billion annually.

Let me tell you why I am offering this amendment. Imagine, if you will, that it is your mother, father, grandmother, or grandfather alone in their home, and they signed this home improvement loan or signed this refinancing, which you learn about months later. You say: Grandma, you didn't tell me that you had somebody come in and do some work, and you didn't tell me you signed these papers. Did anybody read them?

No. He seemed like such a nice man, and he told me it was a standard form.

And you take it over to your family attorney. He says: My goodness. What your grandmother signed here is a remortgage of the property. She owned the home, and now, by buying vinyl siding, she has remortgaged her property and promised to pay back just a few hundred dollars a month to start with, but in a matter of a year or two, it explodes. The balloon pops, and it turns into a $2,000-a-month payment.

How is she going to pay it? Let us assume the worst circumstance—she doesn't pay. The mortgage is foreclosed on. She is about to lose her home, and she files for bankruptcy. She has nothing left on this Earth except a Social Security check, maybe a little pension check, some savings, or meager savings. She goes into bankruptcy court to try to get out from under this burden. Guess who shows up at the bankruptcy court. The same predatory lender shows up saying: We own whatever she owns. She signed this mortgage.

Is it fair? Is it fair for somebody to take in a legal document, a predatory mortgage, that takes advantage of elderly people, and then be protected in the bankruptcy court? I don't think so.

If we are going to hold people coming into bankruptcy court who file for bankruptcy to the high moral standard of paying back their debts, should we not hold the creditors walking into bankruptcy court to a similar high moral standard that they must have followed the law, that they must have engaged in this highly regulated, moral conduct?

The amendment I am offering prohibits a high-cost mortgage lender from collecting on its claim in bankruptcy court if the lender extends credit in violation of existing law—the Home Ownership and Equity Protection Act of 1994, which is part of the Truth in Lending Act.

I am not reinventing the law. I am just saying when you issued this mortgage, you violated the law. You took advantage of a person by violating the law. You cannot then go in court and say protect me with the law. You can't have it both ways. If you broke the law to incur this debt, you can't go in court and ask for the law to protect you to collect the debt.

That seems to me to be just. If you were legal in the way you treated this person, then you can use the law in enforcing your debt. If you were illegal in the way you treated this person, you can't go into court and use the law to collect on that illegally based debt. That is simple.

When an individual falls prey to lenders and files for bankruptcy seeking last resort help, the claim of the predatory lender will not be allowed against a debtor. If the lender failed to comply with the requirements of the Truth in Lending Act for high-cost mortgages, the lender has no claim in bankruptcy court. The law has long recognized the doctrine of unclean hands where a party to an illegal agreement is not able to recover damages from other parties to such an agreement because the claimant itself was the party to an illegality.

My amendment is not aimed at all subprime lenders. The amendment will have no impact whatever on honest lenders who make loans that followed the law even if the loans carry high interest rates or high fees. Instead, it is directed solely at the bottom feeders, the scumbags, the predator lenders. My amendment reinforces current law and will help ensure that predatory lenders do not have a second chance to victimize their customers by seeking repayment in a bankruptcy proceeding.

Second, this amendment is not aimed at technical violations of the Truth In Lending Act. The violations must be material. I specifically made that change in my language to address some of the concerns raised in the first debate.

Third, the amendment does not amend the Truth In Lending Act. There is no question as to whether the Senate Banking Committee has any jurisdiction. We do not change the Truth In Lending Act. I point out the bankruptcy bill does amend that act in some parts. My amendment absolutely does not.

Some may argue the amendment is unnecessary because current law is sufficient. I disagree. I recognize Congress has passed numerous laws that Federal agents and regulators have used to combat predator lending, but predatory lending is on the rise. Many Americans are being cheated and duped by these unscrupulous business people.

President Bush has attempted to promote home ownership as part of the vision of an ownership society. I applaud him. For my wife and me, the first time we purchased a home was a turning point in our lives. We started to look at the world a lot differently. This was our home, on our block, in our neighborhood, in our town. It is an important part of everybody's life. I support that. But unless we rein in the abusive behavior of some in the lending industry, we will be promoting not an American dream, but an American nightmare for thousands of homeowners.

Let me say one more word. The last time I offered this amendment, the most stunning thing I learned was that the major financial institutions in America, the big boys, the blue chips, the best in the industry, oppose my amendment. You think, wait a minute, why would the best financial institutions in America oppose an amendment to stop people from cheating and violating the law in issuing mortgages? I never quite understood. Maybe their logic is this: If we let this amendment in where some of the worst lenders are held to the standard, then maybe the Government will take a closer look at us, too, so let's be opposed to all amendments. Let's try to protect everybody in the industry even if what they are doing is fundamentally unfair and even illegal. That is the best argument I can come up with.

I urge those in the financial industry who may be following this debate and desperately trying to see this bill pass, please be honest about this. Do you want to protect the subprime lenders, these predatory lenders who are engaged in the worst practices in your business? Why in the world would you want them to stay in business? Why would you want to protect them in court when they give lending a bad name, which is your business?

There are an awful lot of examples I can give. Let me mention a few cases before I close. Alonzo Hardaway owned a home in Pennsylvania for 28 years, raised his family there, went through a divorce there, his parents died there, but he no longer lives there. As of summer, he was living in a homeless shelter. Why? Because in 1999 a home remodeler and subprime lender convinced Mr. Hardaway to take a home equity loan for $35,000 at 13-percent interest to redo his kitchen windows and doors. When this 56-year-old man's trash hauling business faltered, he defaulted on his loan, his home was sold at a sheriff's sale and he was evicted in March of 2004. The loan is with The Associates, a large subprime lender later bought by Citigroup, which 2 years ago paid $215 million in fines for unscrupulous lending. That was documented in the Pittsburgh Post-Gazette.

There are many other examples. I mention one or two of particular interest. Here is one of a victim of appraisal fraud known as "house flipping." Ms. Wragg, a retired school aide, found the home of her dreams in a little neighborhood in Brooklyn. It was a classic brick house with a porch, a backyard. She had not originally set out to be an owner, but her eyes drifted to an advertisement offering the home of her dreams. She began her journey.

Now, 2 years later, she said that journey has turned into a nightmare. Her life savings has been depleted by a house she could never afford. The house was appraised at far more than it was worth and Ms. Wragg was given two mortgages she would never have qualified for, carrying costs more than double her income. She blames the mortgage company, the appraiser, the lawyer who represented her, and United Homes, LLC, of Briarwood, Queens, the company that owned the home, placed the ad, and arranged almost everything about closing. This is what she said: I trusted them, because I had never done this before and I didn't know any better.

These cases go on and on. I will not read them into the RECORD. There is one in your community, in your State. Maybe it happened in your family. You have read about them. You have seen them on television. And I am sure you wondered, Who is going to stop this abuse and exploitation? We only stop it when we tell these companies we will not protect you in bankruptcy court. You cannot take away the home of someone if you have engaged in illegal practices in issuing your mortgage.

When we consider the amendments before the Senate on this bankruptcy bill, I hope we will not only hold those walking in the bankruptcy court seeking relief from their debts to high standards of moral conduct, we will also hold the creditors who are seeking repayment of debts to the same conduct, perhaps just legal conduct, which is the only standard I have included in my amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that at 4:55 today, the Senate proceed to vote in relation to the following amendments: Kennedy No. 28, Kennedy No. 29, and Corzine No. 32; provided further that prior to the first vote there be 10 minutes equally divided for debate, and that there be 2 minutes equally divided for debate prior to the second and third vote. I further ask consent that no second-degree amendments be in order to the above amendments prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

### AMENDMENTS NOS. 28 AND 29

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, in America, we believe that if you work hard, meet your family responsibilities, then you should be able to provide for your family. You should be able to afford a decent home for your family in a safe neighborhood. You should be able to send your children to college so they can enjoy lives of opportunity and happiness. You should be able to save for a comfortable retirement after years of disciplined saving and careful planning. That is the American dream. It is a dream of opportunity, of fairness, of infinite hope for the future.

But in recent times, average Americans have had to work harder and harder to fulfill their hopes and dreams. In just the past 4 years, housing prices are up 33 percent, college tuition is up 35 percent, and health care costs are up 59 percent. Families are counting their pennies. And now this Republican Congress wants to make it even harder with this bankruptcy bill.

Corporate CEOs can force their companies into bankruptcy and enrich themselves, but they are not held accountable. This bill ignores their irresponsible actions. But an average American facing cancer can lose everything under this bill: their home, their savings, their hopes, their dreams. They get no second chance.

One day, you are doing well. You have done all the right things. Your family is healthy and happy. And the next day, you discover that you have cancer, and even though you have health insurance, you are left with $35,000 in medical bills. You cash in your savings. You sell your second car. You sell your mother's wedding ring. You take out a second mortgage on your home. But it still is not enough. Half the Americans in bankruptcy face this exact situation. Their illness was bad enough, but now their medical bills are destroying their lives, and this bill adds further injury to their pain.

CEOs can get away with it. They are not held responsible for their companies' bankruptcies. Look at Enron, WorldCom, and Polaroid. But this bill requires average citizens to pay and pay and pay and pay, even when you do not have a dime to your name. And who is first in line to get your money? The credit card companies. They do not care if you are sick. They demand your money—with interest.

My amendments would give those facing illness a real second chance. One amendment says, if you are sick, you do not have to lose your home. It says that if illness forces you into bankruptcy, at least $150,000 of equity that you have built up in your home is yours—no matter what. Fat cats who go into bankruptcy do not lose their mansions. They can build palaces in Florida and Texas, and the bankruptcy courts cannot touch them. So my amendment says, if you get sick, you should at least get some protection for your home, too.

My other amendment says that if your medical bills force you into bankruptcy and they exceed 25 percent of your income, you are not subject to this bill's harsh provisions. You are not penalized under its so-called means test, which would require you to keep paying down on your bills even when you cannot afford it.

Let's give our fellow Americans a chance. They will do their part to rebuild their lives. We should help them, not hurt them.

I urge my colleagues to support these amendments.

I withhold the remainder of my time.

Mrs. CLINTON. Mr. President, I rise to encourage my colleagues to support two amendments that seek to provide some protections to families who face the devastation of medical bankruptcy.

I thank Senator KENNEDY for offering these amendments that I am proud to be a cosponsor of. The first would exempt from the means test debtors whose severe medical expenses have caused their financial hardship and forced them to file for bankruptcy, and the second would provide a homestead exemption to medically distressed debtors of $150,000 in equity in their primary residence.

These amendments are critical and will help ensure that families do not have to declare bankruptcy and lose their homes just because they get sick.

Medical bankruptcy has skyrocketed in recent decades. In 1981, only 8 percent of personal bankruptcy filings were due to a serious medical problem. In contrast, a recent study by researchers from Harvard Law School and Harvard Medical School found that half of personal bankruptcies filed in this country are now due to medical expenses. And what is most astonishing about this is that three-quarters of the medically-bankrupt had health insurance at the onset of their illness.

This means that each year, 2 million families endure the double disaster of illness and bankruptcy. In my State of New York, more than 38,000 of the almost 77,000 personal bankruptcies in

2004 were caused by medical expenses, impacting more than 100,000 New Yorkers.

On average, those bankrupted by medical expenses are middle-class Americans with children who owned their own homes, held jobs, and have completed some college education. Medical debtors are typical Americans who got sick. Their out-of-pocket costs, starting from the onset of illness, averaged almost $12,000, and in the year leading up to bankruptcy their out-of-pocket expenses averaged more than $3,500.

These are families who desperately tried to avoid bankruptcy: more than 20 percent reported going without food; more than 30 percent had a utility shut off, more than 50 percent reported skipping needed doctor visits; and more than 40 percent failed to fill prescriptions in the 2 years leading up to their A bankruptcy filing.

The Harvard study also found that those driven into bankruptcy by medical expenses differ in an important way from other filers: they were more likely to have experienced a lapse in health coverage leading up to their bankruptcy filing. In fact, a lapse in health coverage at some point in the 2 years before filing was a strong predictor of bankruptcy, with almost 40 percent of medical debtors experiencing a lapse in coverage, compared to 27 percent of other filers.

For those bankrupt by medical costs, illness caused financial hardship not just because of medical expenses, but also because the illness forced them to work less or lose their employment entirely. In fact, 35 percent had to work less because of illness, and in many cases to care for someone else. And it is likely reduced work and even the loss of a job because of medical problems that resulted in a lapse in healthcare coverage.

It's easy to see how the face of medical bankruptcy is the typical American worker. An unexpected illness or accident leaves you unable to work or unable to maintain your job full-time, which in turn leaves you with less income to pay your medical expenses. Over time your access to care is diminished because you can't afford the cost-sharing, are not seeking needed care to avoid expenses, or have lost coverage because of reduced work hours or job loss, and ultimately your health insurance coverage lapses. Now you have no assistance with medical expenses and little or no income to pay the bills. It's a vicious cycle. And all because you or a member of your family got sick.

Unfortunately, rapidly rising health care costs will only exacerbate this problem going forward. The number of Americans spending more than a quarter of their income on medical costs climbed from 11.6 million in 2000 to 14.3 million in 2004. And the pressure on employers to reduce benefits and increase cost-sharing as a result of rising health costs is no less.

The solution to this problem is not to punish hard working men and women who on a different day, with different luck, wouldn't be just a typical American who got sick. These Americans are already confronting difficulties because of circumstances beyond their control. Let's not make their situations even worse. We need to adopt these amendments and begin the hard work of addressing the causes of medical bankruptcy and the serious problems that face this nation's health care system.

Again, I thank Senator KENNEDY for his work on these amendments and urge their adoption.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. There is 1 minute 11 seconds.

Mr. KENNEDY. How much time is there for the other side?

The PRESIDING OFFICER. Five minutes 30 seconds.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the time of the quorum call be charged to the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 32

Mr. SESSIONS. Mr. President, how much time is left on this side?

The PRESIDING OFFICER. There is 2 minutes 38 seconds.

Mr. SESSIONS. I would like to comment on Senator CORZINE's amendment No. 32 to exempt "economically distressed caregivers" from the means test. I remind all of my colleagues that people who are economically distressed and have incomes below the median income already will be exempt from the means test. Secondly, I point out that page 10 of the bill is explicit that expenses people incur for the care and support of an elderly, chronically ill or disabled member of their household or family is subtracted from their income, even if they have very high income. This means that the bankruptcy bill we have drafted will still allow people who take care of their sick and aging family members to file for bankruptcy under chapter 7, the chapter that allows you to completely wipe out all your debts.

Let me read directly from page 10 of the statute. In other words, the amendment is covered by the legislation. It came up in committee. We talked about it, and it was adopted. When we talk about monthly expenses, you are trying to determine if your income level exceeds median income level and whether you can afford to pay anything back if you owe some of your debts and you have a higher income. So it reads:

> In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for the care and support of an elderly, chronically ill, or disabled household member or member of debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay such reasonable and necessary expenses.

So we have dealt with that. We tried to consider these things and be reasonable as we calculated this. There was a concern expressed in committee that people might not be able to pay back any of the money because they have debts as a caregiver. That is taken care of already in the statute.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield my remaining time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. May I inquire how much time is available?

The PRESIDING OFFICER. There is 58 seconds available.

Mr. CORZINE. Let me start by saying, I don't understand why we are trying to solve a problem on large swathes of our society in the case of the economically distressed caregivers—there were 44.125 million in bankruptcy last year—why we think 5 percent of the population or 10 percent of the population, of those that are using the bankruptcy laws need to have a whole adjustment in how we approach putting people into bankruptcy to take care of a small percentage of individuals, when in fact including the consideration of deductions of expenses that would go under chapter 13, why we don't want to encourage families to take care of their individuals. I hope my colleagues will support the Corzine amendment which takes care of economically distressed caregivers.

AMENDMENT NO. 28

The PRESIDING OFFICER. The question is on agreeing to amendment No. 28.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. INOUYE) are neccessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—39

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—3

Dodd
Inouye
Santorum

The amendment (No. 28) was rejected.

VISIT TO THE SENATE BY MEMBERS OF THE COMMITTEE ON AGRICULTURE OF THE CANADIAN GOVERNMENT

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent that I be allowed to introduce Members of the Parliament from Canada and that we proceed as in morning business for those introductions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I present the Honorable David Tkachuk, Senator Joyce Fairbairn, and Senator Lan Gustafson, who are Members of the Senate in Canada and members of the Senate Agricultural Committee. Welcome.

(Applause.)

Mr. BURNS. I yield the floor.

AMENDMENT NO. 29

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on Kennedy amendment No. 29.

The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent that the remaining votes of this sequence be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, for the information of our colleagues, we do have two more votes. I cannot yet announce about votes later tonight, but we will do it shortly after the second vote. We would like to continue business, but as soon as we finish that second vote we will be making an announcement as to the future plans tonight. There are two stacked votes.

Tomorrow morning, in all likelihood, we will have debate, and then late in the morning we will have some stacked votes as well. Again, I will say more about that tonight.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in this bankruptcy bill, in several States there are the protections for homesteads of multimillion dollar homes. All this amendment says is that if one has severe medical problems that are going to drive one into bankruptcy, they will be able to have a protection for up to $150,000 in home equity. We know that approximately 50 percent of the total bankruptcies are medically related, and what we are saying is that in those cases where we have the high costs of health care, because of cancer or the sickness of a child, we will carve out a homestead for $150,000 and protect that homestead. That is what this amendment does. We have the protections for much larger homesteads in a number of States. Let us protect our families.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama.

Mr. SESSIONS. Mr. President, there is a great deal of misinformation out about the impact of health care expenses on bankruptcy. Let me just say what the Department of Justice, U.S. Trustee Program, has found by examining 5,000 petitions, where you state exactly what the debts are, that 54 percent of the bankruptcies do not mention health care at all. They say, of the ones that mention health care, only 10 percent show it over $5,000. And of the total debts shown on those forms, only 5 percent represent health care debts. That is No. 1.

No. 2, this bill absolutely protects people and allows them to bankrupt and wipe out their medical debts. If you are below median income, all of it is wiped out. If you are above median income, you may have to pay back some of it. But I say, why should you not pay your hospital if you can? I ask that we vote no.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—39

Akaka
Baucus
Bayh
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—3

Biden
Inouye
Santorum

The amendment (No. 29) was rejected.

Mr. BOND. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 32

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Corzine amendment numbered 32.

Who yields time?

Mr. SESSIONS. Mr. President, this is an amendment that is unjustified, incredibly unjustified. It basically says if you take off one month from work to take care of a family member in need, you can never be put in chapter 13 and pay back some of your debts, even if your income is $500.000 a year.

I think Senator LEAHY offered the amendment in committee. On page 10 it says:

> (II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children and grandchildren of the debtor, the dependents of the debtor, the spouse . . .

And so forth. It is provided for in the bill. This amendment will give an absolute exemption no matter what the person's income is. It absolutely should be voted down.

Mr. CORZINE. This amendment deals with the economically distressed caregivers. There are 44 million of those in America. Mr. President, $257 billion is saved each year by family caregiving. If we value families, we ought to protect them under the harsh changes we are implementing here. I hope people will say we want to reward that. There are 125.000 bankruptcies a year from distressed caregiving. This is one where family values and all of the things that people claim they care about are represented. This ought to be carved out from the bankruptcy reform. I hope my colleagues will support this.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. Mr. President, for the information of our colleagues, this will be the last rollcall vote tonight. We will continue debate tonight on amendments. We will plan on stacking votes on those amendments—not first thing in the morning but late morning or very early afternoon.

Mr. REID. Mr. President, I hope people on our side, if they have amendments to offer, will offer the amendments tonight. If they are bankruptcy-related amendments, we would like to have them tonight.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote.

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—37

Akaka
Bayh
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—60

Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—3

Biden
Inouye
Santorum

The amendment (No. 32) was rejected.

AMENDMENT NO. 24

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to set aside the pending amendments and call up my amendment No. 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

> The Senator from West Virginia [Mr. ROCKEFELLER], for himself and Mr. LEAHY, proposes an amendment numbered 24.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the wage priority provision and to amend the payment of insurance benefits to retirees)

Beginning on page 498, strike line 20 and all that follows through page 499, line 2, and insert the following:

**SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.**

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4)—

(A) by striking "within 90 days"; and

(B) by striking "but only to the extent" and all that follows through" each individual or corporation" and inserting "but only to the extent of $15,000 for each individual or corporation"; and

(2) in paragraph (5)(B)(i), by striking "multiplied by" and all that follows through "; less" and inserting "multiplied by $15,000; less".

**SEC. 1401A. PAYMENT OF INSURANCE BENEFITS OF RETIREES.**

(a) IN GENERAL.—Section 1114(j) of title 11, United States Code, is amended to read as follows:

"(j)(1) No claim for retiree benefits shall be limited by section 502(b)(7).

"(2)(A) Each retiree whose benefits are modified pursuant to subsection (e)(1) or (g) shall have a claim in an amount equal to the value of the benefits lost as a result of such modification. Such claim shall be reduced by the amount paid by the debtor under subparagraph (B).

"(B)(i) In accordance with section 1129(a)(13)(B), the debtor shall pay the retiree with a claim under subparagraph (A) an amount equal to the cost of 18 months of premiums on behalf of the retiree and the dependents of the retiree under section 602(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(3)), which amount shall not exceed the amount of the claim under subparagraph (A).

"(ii) If a retiree under clause (i) is not eligible for continuation coverage (as defined in section 602 of the Employee Retirement Income Security Act of 1974), the Secretary of Labor shall determine the amount to be paid by the debtor to the retiree based on the 18-month cost of a comparable health insurance plan.

"(C) Any amount of the claim under subparagraph (A) that is not paid under subparagraph (B) shall be a general unsecured claim." .

(b) CONFIRMATION OF PLAN.—Section 1129(a)(13) of title 11, United States Code, is amended to read as follows:

"(13) The plan provides—

"(A) for the continuation after its effective date of the payment of all retiree benefits (as defined in section 1114), at the level established pursuant to subsection (e)(I) or (g) of section 1114, at any time before the confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits; and

"(B) that the holder of a claim under section 1114(j)(2)(A) shall receive from the debtor, on the effective date of the plan, cash equal to the amount calculated under section 1114(j )(2) (B).".

(c) RULEMAKING.—The Secretary of Labor shall promulgate rules and regulations to carry out the amendments made by this section.

Mr. ROCKEFELLER. Mr. President, over the last years. as the economy came down from the highs of the 1990s, we have seen devastating corporate bankruptcies and how they can affect workers and their families. I have seen that in my State, and we have all seen that in our States. From the enormous Enron bankruptcy at the end of 2001 to the bankruptcies in my State, Ohio, and Pennsylvania, of Wheeling-Pitt, Weirton Steel, Horizon Natural Resources, and involving also Kentucky, every bankruptcy has brought heartache for workers who had dedicated themselves to employers, many of them for many years.

In many cases, employees and retirees have very limited ability under bankruptcy to recover their wages, to recover their severance or any benefits they are due when companies seek protection from their creditors. Workers deserve better. And as we debate changes to our Nation's bankruptcy laws. Congress must address, in this Senator's judgment, these injustices.

Today I am offering an amendment to strengthen the rights of workers and retirees in bankruptcy. I am very pleased that Senator LEAHY, the distinguished ranking Democrat on the Senate Judiciary Committee, is an original cosponsor of this amendment.

I ask unanimous consent to add Senators DAYTON and OBAMA as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Specifically, the amendment will do two things. First, it would allow employees to recover more of the back pay or other compensation that is owed to them at the time of the bankruptcy.

Second, it will ensure that retirees whose promised health insurance is taken away receive at least some compensation for their lost benefits.

In the simplest terms, employees sell their labor to companies. They toil away in offices and plants and factories and mills and mines because they are promised that at the end of the day they will receive a certain compensation. Many workers then have a difficult time recovering what is owed to them by their employer when their company, as so often happens these days, files for bankruptcy.

Under current law, employees are entitled to a priority claim of up to $4,925. That is it. The legislation we are debating would increase that claim to $10,000, which is better. But even that figure is usually not enough to cover the back wages, vacation time, severance pay, or payment benefits the employees are owed for work done prior to the bankruptcy. Congress needs to update the amount of the priority claim to ensure that more workers are able to receive what is rightfully theirs. My amendment, thereby, would increase the priority claim to $15,000. So we are basically going from $5,000 to $15,000.

My amendment would also eliminate the accrual time period for calculation of priority claims. In too many cases, employees are not able to receive the full amount of the priority claim because the bankruptcy courts have interpreted the accrual period very strictly. Judges do not agree that promised severance pay for accrued vacation time was all earned in the last 90 or 100 days before bankruptcy, even when it might have been. Because there is no uniformity in the way these benefits are earned or paid, the location of the bankruptcy changes the way the wage priority operates and results in costly and time-consuming legislation, litigation over the accrual of benefits. Eliminating the accrual time period streamlines the application of the wage priority and allows employees to recover more of what they have earned.

Another important type of compensation that workers earn is the right to enjoy certain benefits when they retire. Pensions, life insurance, or health care coverage are earned by workers—it is part of the deal—in addition to their weekly paychecks. They have reason to expect these things will be coming to them. We know the nature of the American economy is changing. I do not argue that. Yet sadly we have seen many companies in the past few years abandon the promises they made when they declared bankruptcy.

Sometimes bankruptcy is used as a reason to avoid promises that were made. More and more we see companies taking the easy road by abandoning commitments they made to workers. For retirees who have planned for their golden years based upon the benefits they have earned, losing health insurance could be a devastating blow. That is sort of one of the more obvious statements one can make. Retirees must have the right to reasonable compensation if the company seeks to break its promise to provide health insurance.

Under current law, these retirees receive what is called a general unsecured claim for the value of the benefits they lost. As any creditor will tell you, a general unsecured claim is essentially worthless in most bankruptcies. It means you are at the end of the line and there are not enough assets to go around. This law allows companies to essentially rescind compensation that retirees have earned with virtually no cost to the company. Of course, that is a great deal for the company, but it is spectacularly unfair to the retirees.

Recognizing that so-called legacy costs are often an impossible burden for a company that is trying to emerge from bankruptcy, my amendment would still allow companies in some circumstances to alter the health coverage offered to retirees. However, it would require that the company pay at least some minimum level of compensation to retirees.

Under my proposal, each retiree would be entitled to a payment equal to the cost of purchasing comparable health insurance for a period of 18 months. I will repeat that. Each retiree would be entitled to a payment equal to the cost of purchasing comparable health insurance for a period of 18 months. Of course, 18 months of health insurance coverage is a lot less than many of these retirees are losing, but it can ease the transition as retirees try to make alternative plans, and it will discourage companies from thinking that terminating retiree health coverage is an easy solution or perhaps even part of the reason for seeking bankruptcy in the first place. The retirees would still be entitled to a general unsecured claim for the value of the benefits lost in excess of this one-time payment. This change would ensure that retirees, while still not being made whole on lost benefits, will at least receive some compensation for broken promises.

Mr. President, I understand that many creditors or investors are not able to recover what is rightfully owed to them in the course of bankruptcy, but employees deserve protection that recognizes the unique nature of their dependence on the employer. Any smart investor diversifies his or her portfolio so that a bankruptcy at one company does not bankrupt the investor. Likewise, suppliers and creditors that do business with a company typically have many other clients. That is not the case, however, with workers. They cannot diversify away the risk of working for a bankrupt company. They are there all by themselves, and the financial hardship bankruptcy brings is more devastating to the average worker than the average creditor or supplier. I believe that logic is pretty clear.

The relief provided by this amendment is modest. It will not take the sting out of bankruptcy. By definition, a bankruptcy is a failure, and it is painful for the company's employees, retirees, and also for the business partners. But by this amendment we would make progress toward ensuring that bankruptcies are more fair—more fair to workers who gave their time, energy, and sweat to the company in exchange for certain promised compensation, which then did not turn out to be available.

I encourage my colleagues to support this amendment.

Mr. JOHNSON. Mr. President, I rise to discuss my opposition to the Durbin amendment to S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I have tremendous respect for my colleague from Illinois, and believe he has only the best of intentions with this amendment, which would exempt members of the armed forces from the means testing required under the bill before us.

I have the most profound respect for our servicemen and women, and for our Nation's veterans. Many of you know that my oldest son Brooks is a member of the Armed Forces, and saw active duty in Iraq with the 101st Airborne. But with all due respect, I believe this amendment could in fact harm America's soldiers.

Two years ago, we spent a great deal of time reauthorizing the Fair Credit Reporting Act, the statute governing our Nation's credit granting system. This system is the finest in the world and has essentially opened up access to credit to working Americans throughout this country, regardless of race, gender, marital status, physical location, medical condition, or profession. If someone has the ability to pay, then the credit system allows underwriters to grant credit to that individual without bias.

S. 256 is carefully crafted so we don't reintroduce possible bias into this system. It would be unacceptable to undo the system which has opened doors of opportunity to millions of Americans who in the past who had experienced bias in the lending process.

Under Senator DURBIN's amendment, military personnel filing for bankruptcy would be exempt from the means test and would automatically qualify for a Chapter 7 filing, regardless of whether that person has the ability to repay part of his or her debt.

If this amendment were to pass, potential creditors would have a legitimate concern that loans to military personnel could require different underwriting standards. This could well mean higher interest rates for our soldiers and veterans. Even more disturbing, this would introduce bias into the system against soldiers and veterans—a perverse result and clearly not what this amendment envisions.

The Senator from Illinois raises a concern that none of us should turn our backs on: and that is whether our servicemen and women are fairly compensated, and whether they have the resources they need, particularly during deployment, to take care of their families. I call on the Congress to look carefully at this issue, and to make sure we are doing right by our military personnel and veterans.

But I urge you not to remedy any possible injustices through the bankruptcy courts.

Bankruptcy represents a longstanding commitment in this country to helping people get a fresh start. This principle has never been giving only certain people a fresh start: for example, only if you are a teacher, or a doctor or a soldier. If we started down that road, I'm not sure what would happen to most members of Congress, who tend to be lawyers.

The point is, this safety net should be available when a person truly cannot make good on his or her commitments, no matter who he or she is or what she does for a living.

No matter how noble the individual, no matter how compelling the story behind the economic need, the bankruptcy system must treat people equally and fairly.

This bill establishes a simple means test, which will affect approximately 10 percent of current filers. All it says is, after we've backed out all your current expenses, including your your house payment, your car payment, your child care costs, your education costs, your utility costs, your medical costs, and a whole host of other items, if after backing out all these payments you have the ability to pay back some of your loans, then you should. That's only right. That's only fair. And it shouldn't matter what your profession is.

Americans are an honorable people, and we work hard and play by the rules. If you can pay your debts, you should.

I am also troubled about the message this amendment sends about chapter 13 filings.

The implication is, do anything you can to avoid a repayment plan. The fact is, under the mechanism set forth in this bill, we have an unprecedented opportunity to help debtors rehabilitate their credit rating faster under a chapter 13 proceeding.

I will be working to encourage bankruptcy trustees to report on-time payments under a chapter 13 payment plan to the three major credit bureaus, so that debtors who get back on track will, quite literally, get credit for that discipline.

I also pledge to work with the creditor community to help them understand how these new payment reports might help them evaluate a chapter 13 debtor.

An amendment that automatically steers debtors to chapter 7 is misguided and would give no thought to the potential benefits of a chapter 13 filing.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. DeMINT. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DISCHARGE PETITION—S.J. RES. 4

Mr. CONRAD. Mr. President, today pursuant to 5 U.S.C. 802(c), I have submitted a petition to discharge the Senate Committee on Agriculture, Nutrition, and Forestry from consideration of S.J. Res. 4, a joint resolution providing for congressional disapproval of the rule relating to risk zones for introduction of bovine spongiform encephalopathy, submitted by the Department of Agriculture under chapter 8 of title 5, United States Code, the Congressional Review Act.

### DISCHARGE PETITION

We, the undersigned Senators, in accordance with chapter 8 of title 5, United States Code, hereby direct that the Senate Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of S.J. Res. 4, a resolution providing for congressional disapproval of the rule submitted by the Department of Agriculture relating to risk zones for the introduction of bovine spongiform encephalopathy, and further, that the resolution be placed upon the Legislative Calendar under General Orders.

Kent Conrad, Craig Thomas, Byron Dorgan, Ken Salazar, Harry Reid, Max Baucus, Jay Rockefeller, John Kerry, Conrad Burns, Tim Johnson, Dianne Feinstein, Jeff Bingaman, Barbara Boxer, Dick Durbin, Ron Wyden, Barack Obama, Chuck Schumer, Paul Sarbanes, Carl Levin, Hillary Clinton, Ted Kennedy, Jack Reed, Patrick Leahy, Tom Harkin, Mark Dayton, Russell Feingold, Barbara Mikulski, James Jeffords, Herb Kohl, Jon Corzine, Chris Dodd, E. Benjamin Nelson, Mary L. Landrieu.

## HONORING OUR ARMED FORCES

### SPECIALIST DAKOTAH L. GOODING

Mr. GRASSLEY. Mr. President, I speak today in remembrance of an Iowa soldier who has fallen in service to his country. Specialist Dakotah L. Gooding, a member of the C Troop, 5th Squadron, 7th Cavalry Regiment, 3rd Infantry Division, died on the 13th of February in Balad, Iraq when his vehicle overturned into a canal. He was 21 years old.

SPC Gooding grew up in Keokuk, IA and eventually moved to the Des Moines area. He attended the Scavo Alternative School and Lincoln High School. In the fall of 2000, at the age of 17, Dakotah fulfilled a life-long dream of joining the U.S. Army, following in the footsteps of many family members. He had served in the United States and Korea before going to Iraq. SPC Gooding came to Iraq as part of an Army Special Security Force that helped with voter protection in the recent historic democratic elections.

A cousin mentioned that SPC Gooding knew he had a mission to protect those around the world and those at home. SPC Gooding's mission was a noble one, and he carried it out with the courage and dignity that are so characteristic of our American soldiers. For his dedication and sacrifice, Dakotah deserves our respect and admiration. For family and friends who have felt this loss most deeply, I offer my sincere sympathy. My prayers go out to his wife, Angela, his mother, Judith, his two sisters, and his many other family and friends.

May we always remember with pride and appreciation Specialist Dakotah L. Gooding and all those Americans who have gone before him in service to their country.

## FOREIGN OPERATIONS APPROPRIATIONS

### WORLD COMPASSION

Mr. INHOFE. Mr. President, I know my friend from Kentucky played the key role in conference negotiations on

H.R. 4818, the FY 2005 foreign operations appropriations bill, which were completed last year, and I ask if he is aware of language that was contained in the House report regarding World Compassion's activities in Afghanistan.

Mr. McCONNELL. My staff informs me that the House report encouraged the State Department to review a proposal from this organization.

Mr. INHOFE. My colleagues should know that as a supporter of this group, I continue to encourage the State Department to consider a proposal from World Compassion. This organization's "Shelter, Support, and Skills Training for Afghan Refugee and Displaced Widows and Orphans" Program is an integrated plan that addresses the special needs of widows and their children, many of whom are refugees and internally displaced persons. The program provides shelter, access to clean water, psychosocial support and skills training to enable widows to gain the personal dignity of self-sufficiency.

I would also point out that village leaders have agreed to cooperate with World Compassion on this project. World Compassion has a long, successful track record of working with Afghanis in other programs to provide for their basic needs, and it is my hope that the State Department will help them continue to do so.

Mr. McCONNELL. I appreciate my friend taking the time to highlight the activities of World Compassion and hope that the State Department acts on the recommendations from the House report.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate climes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On Monday, February 28, 2005, two men were severely beaten outside of their hotel room in New Mexico. According to police reports, they were targeted because of their sexual orientation. The two men, who were in an openly gay relationship, were followed back to the hotel by a group of people who were yelling antigay comments at the victims. The assailants than assaulted the two men and fled the scene. The incident is being investigated as a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, I am pleased to join Senator FEINSTEIN as a cosponsor of her legislation to reauthorize the assault weapons ban. I voted for the original 1994 assault weapons ban and for the amendment to reauthorize the ban in the 108th Congress.

When the 1994 assault weapons ban expired on September 13, 2004, criminals and terrorists gained potential easy access to 19 of the highest powered and most lethal firearms produced. In addition to banning 19 specific weapons, the assault weapons ban also prohibited the sale of semiautomatic weapons that incorporated a detachable magazine and two or more specific military features. These features included folding/telescoping stocks, protruding pistol grips, bayonet mounts, threaded muzzles or flash suppressors, barrel shrouds, or grenade launchers. Common sense tells us that there is no reason for civilians to have easy access to guns with these military style features.

During the 108th Congress, I joined with the majority of my Senate colleagues in adopting an amendment to reauthorize the assault weapons ban for another 10 years. However, the bill to which it was attached was later derailed. Despite the overwhelming support of the law enforcement community, the ongoing threat of terrorism, bipartisan support in the Senate, and the pleas of Americans who have already lost loved ones to assault weapons tragedies, the ban was allowed to expire, as the President and the Republican Congressional leadership were unwilling to act.

Despite the National Rifle Association's assertions that the ban is ineffective, unnecessary, and that guns labeled as assault weapons are rarely used in violent crimes, the need for the assault weapons ban is clear. Just last week, AK-47 assault rifles, like the ones included in the original assault weapons ban, were reportedly used in two separate shootings in Texas and California that left four people dead and four others seriously injured, three of whom were police officers. In Tyler, TX, a gunman armed with an AK-47, wearing a military flak jacket and a bulletproof vest, opened fire outside a courthouse, killing his ex-wife and wounding his son. In the ensuing shootout with police, the gunman was reportedly able to fire as many as 50 rounds at police and innocent bystanders before fleeing in his truck. He was finally shot in another gun battle with police a few miles away. The same day in Los Angeles, a man reportedly armed with an AK-47 walked into his workplace and shot two of his coworkers to death following a dispute. He later turned himself in at a Los Angeles police station.

Unfortunately, assault weapons such as the ones reportedly used in these two shootings as well as many other similar assault weapons are once again being legally produced and sold as a result of the expiration of the assault weapons ban. I again urge my colleagues to act to help prevent tragedies like these by enacting a common sense ban on assault weapons.

## SENATOR HIRAM R. REVELS

Mr. OBAMA. Mr. President, I rise to recognize an important anniversary in the history of this Nation.

One hundred and thirty-five years ago on this day, Hiram R. Revels was sworn in as a U.S. Senator from Mississippi. On that day, February 25, 1870, Senator Revels became the first African American to ever serve in the U.S. Congress.

But Hiram Revel's story started in a place very far from Washington, DC. He was born to free parents in 1822 and grew up as an apprentice to a barber in North Carolina. But Hiram wanted to learn more and see more, and so he left for Indiana and then Ohio, where he furthered his education. He was soon ordained a minister by the African Methodist Church, and traveled to congregations all over the Midwest and the South until he finally ended up in Baltimore.

At the beginning of the Civil War, he helped recruit African-American troops for the Union, and he ended up serving as a chaplain for a Mississippi regiment of free Blacks. He stayed in Mississippi after the war, and continued serving as a pastor at various local churches. In 1868, and he ran and was elected alderman. Respected by both Whites and African Americans, he was soon elected as a Mississippi State senator. Then, in 1870, just 5 years after the end of the very war fought for his freedom, Hiram Revels was elected the first African-American U.S. Senator in history.

Like so many of our own, Hiram's story is America's story. The story of the seemingly impossible occurring in a land where good people will give everything to make it possible. The story of hope winning out against all odds. The story of one man's improbable achievement paving the way for so many others.

Did Hiram ever know what he was destined for in that barber shop? When he was sweeping that floor in North Carolina and so many of his brothers and sisters were enslaved, did he ever dream that he would end up a U.S. Senator?

We don't know. But we do know that he did dream of bigger things.

He dreamed of an education, and so even though many kids like him didn't do it, he went to college. He dreamed of helping others, and so even though it involved sacrifice, he became a minister. He dreamed of a free America, and so even though it could have cost him his life, he joined the Union. And he dreamed of lifting up his community, and so even though it wasn't done by people of his color, he ran for office.

He dreamed of making this world a better place, and in doing so, he found a place in history. And so we remember this day—his day—as a symbol of what is possible for those of us who are willing to make it so in this magical place we call America.

## ADDITIONAL STATEMENTS

● Mr. OBAMA. Mr. President, I rise to recognize and remember the life of Earl Langdon Neal.

Mr. Neal was one of the finest lawyers and civic leaders Chicago has ever known. From mayors to citizens, business leaders to college students, he was a trusted friend and inspiring mentor to many—including myself.

Earl earned his law degree from Michigan Law School in 1952. Following graduation, he served his country in the U.S. Army until 1955, when he returned to Chicago to join his father's law firm, Neal & Neal.

On their very first case, Earl and his father were forced to commute 170 miles from Chicago to Lincoln simply because there were no hotels in Lincoln that would accept African Americans. But he went anyway because, as his son has said, it wasn't just a job for Earl—it was a way of life.

It was a way of life that led him to serve the city of Chicago as a special assistant corporation counsel responsible for countless land acquisition projects, including the Dan Ryan Expressway, O'Hare's expansion, and the Chicago city colleges, a way of life that led him to start his own practice and earn a place on the University of Illinois board of trustees, a way of life that made almost every person who came to know him speak of him as a warm, compassionate man who put the well-being of his clients above all else.

Earl's passion for his work wasn't complicated. He simply looked around his community and wanted to make it better. And in so many ways, from the places he made possible, to the people's lives he touched, he did. We honor his life, pray for his family, and will miss him dearly.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 11:23 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 13. Concurrent resolution congratulating ASME on their 125th anniversary, celebrating the achievements of ASME members, and expressing the gratitude of the American people for ASME's contributions.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 5. Concurrent resolution providing for the acceptance of a statue of Sarah Winnemucca, presented by the people of Nevada, for placement in National Statuary Hall, and for other purposes.

H. Con. Res. 45. Concurrent resolution recognizing the benefits and importance of school-based music education, and for other purposes.

H. Con. Res. 63. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

## MEASURES REFERRED

The following concurrent resolution was read the first and the second times by unanimous consent, and referred as indicated:

H. Con. Res. 45. Concurrent resolution recognizing the benefits and importance of school-based music education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

## MEASURES PLACED ON THE CALENDAR

Pursuant to 5 U.S.C. 802(c), the Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following joint resolution, and placed on the calendar:

S.J. Res. 4. A joint resolution providing for congressional disapproval of the rule submitted by the Department of Agriculture under chapter 8 of title 5, United States Code, relating to risk zones for introduction of bovine spongiform encephalopathy.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1153. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report entitled "Monetary Policy Report to the Congress"; to the Committee on Banking, Housing and Urban Affairs.

EC–1154. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Alternative Fuels and Vehicles Rule, 16 C.F.R. Part 309" (RIN3084–0094) received on March 1, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1155. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Citrus Canker; Quarantined Areas" (Docket No. 05–005–1) received on March 1, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1156. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Revision of Regulations for Importing Wheat" ((RIN0579–AB74) (Docket No. 02–057–2)) received on March 1, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1157. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: HI–STORM 100 Revision" (RIN3150–AH64) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1158. A communication from the Director, Office of Congressional Affairs, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: NUHOMS–24PT4 Revision" (RIN3150–AH63) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1159. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Peanuts, Tree Nuts, Milk, Soybeans , Eggs, Fish, Crustacea, and Wheat; Exemption from the Requirements of a Tolerance: Technical Correction" (FRL No. 7689–9) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1160. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, El Dorado County Air Quality Management District (Mountain Counties Portion), Imperial County Air Pollution Control District, and South Coast Air Quality Management District" (FRL No. 7874–6) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1161. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Revised Format of 40 CFR Part 52 for Materials

Being Incorporated by Reference" (FRL No. 7843–2) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1162. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mississippi: Final Authorization of State Hazardous Waste Management Program Revision" (FRL No. 7875–7) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1163. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to California State Implementation Plan, Antelope Valley Air Quality Management District" (FRL No. 7871–1) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1164. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plan for Designated Facilities and Pollutants: Forsyth County, Mecklenburg County and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee" (FRL No. 7877–3) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1165. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to California State Implementation Plan, Great Basin Unified Air Pollution Control District and Ventura County Air Pollution Control District" (FRL No. 7872–4) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1166. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Connecticut; Plan for Controlling MWC Emissions From Existing Municipal Waste Combusters" (FRL No. 7877–6) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1167. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Revised Format of 40 CFR and Part 52 for Materials Being Incorporated by Reference" (FRL No. 7867–5) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1168. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Dyes and/or Pigments Production Waste; Land Disposal Restrictions for Newly Identified Wastes" (FRL No. 7875–8) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1169. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17,1983; and Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983" (FRL No. 7874–9) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1170. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; North Carolina Update to Materials Incorporated by Reference" (FRL No. 7868–7) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1171. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; Control of Total Reduced Sulphur From Kraft Pulp Mills" (FRL No. 7876–8) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1172. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Dumping; Dedesignation of Ocean Dredged Material Disposal Sites and Designation of New Sites" (FRL No. 7877–9) received on March 1, 2005; to the Committee on Environment and Public Works.

EC–1173. A communication from the Secretary, Judicial Conference of the United States, transmitting, pursuant to law, a report on the Recommendation for the Authorization of Additional Bankruptcy Judgeships; to the Committee on the Judiciary.

EC–1174. A communication from the Secretary, Judicial Conference of the United States, transmitting, a draft of proposed legislation entitled "Judicial Reporting Improvement Act"; to the Committee on the Judiciary.

EC–1175. A communication from the United State Trade Representative, transmitting, pursuant to law, a report entitled "2005 Trade Policy Agenda and 2004 Annual Report"; to the Committee on Homeland Security and Governmental Affairs.

EC–1176. A communication from the Assistant Secretary for Legislative Affairs, Department of Homeland Security, transmitting, pursuant to law, a report on the Department's counternarcotics activities for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1177. A communication from the Counsel to the Inspector General, General Services Administration, transmitting, pursuant to law, the report of a nomination to fill the vacant position of Inspector General; to the Committee on Homeland Security and Governmental Affairs.

## REPORT RELATING TO THE INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

Consistent with the authorities relating to official immunity in the interdiction of aircraft engaged in illicit drug trafficking (Public Law 107–108, 22 U.S.C. 2291–4), and in order to keep the Congress fully informed, I am providing a report prepared by my Administration. This report includes matters relating to the interdiction of aircraft engaged in illicit drug trafficking.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 2, 2005.*

## REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO ZIMBABWE—PM 8

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency blocking the property of persons undermining democratic processes or institutions in Zimbabwe is to continue in effect beyond March 6, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on March 5, 2004 (69 FR 10313).

The crisis constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies pose a continuing unusual and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency blocking the property of persons undermining democratic processes or institutions in Zimbabwe and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 2, 2005.*

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 490. A bill to direct the Secretary of Transportation to work with the State of New York to ensure that a segment of Interstate Route 86 in the vicinity of Corning, New York, is designated as the "Amo Houghton Bypass"; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself, Mr. SANTORUM, and Mr. LEAHY):

S. 491. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. REID, and Mr. LUGAR):

S. 492. A bill to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. COCHRAN, Mr. LOTT, and Mr. BUNNING):

S. 493. A bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. LEVIN, Mr. LEAHY, Mr. VOINOVICH, Mr. LIEBERMAN, Mr. COLEMAN, Mr. DURBIN, Mr. DAYTON, Mr. PRYOR, Mr. JOHNSON, Mr. LAUTENBERG, and Mr. CARPER):

S. 494. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CORZINE (for himself, Mr. BROWNBACK, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. TALENT, Mr. DEWINE, and Mr. COBURN):

S. 495. A bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes; to the Committee on Foreign Relations.

By Mr. SALAZAR:

S. 496. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 497. A bill to revitalize our nation's rural communities by expanding broadband services; to the Committee on Finance.

By Mr. BURR (for himself, Ms. LANDRIEU, and Mr. LOTT):

S. 498. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 499. A bill to amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

---

## ADDITIONAL COSPONSORS

S. 8

At the request of Mr. ENSIGN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 132

At the request of Mr. SMITH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 151

At the request of Mr. COLEMAN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

At the request of Mr. PRYOR, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 151, supra.

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 250

At the request of Mr. ENZI, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 250, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

S. 268

At the request of Mr. HARKIN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Kentucky (Mr. BUNNING), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 287

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 287, a bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law.

S. 311

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 311, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 328

At the request of Mr. CRAIG, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 328, a bill to facilitate the sale of United States agricultural products to Cuba , as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000.

S. 334

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 334, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 338

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 338, a bill to provide for the establishment of a Bipartisan Commission on Medicaid.

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 338, supra.

S. 352

At the request of Ms. MIKULSKI, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. KOHL) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 397

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 403

At the request of Mr. ENSIGN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 417

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 417, a bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists.

S. 424

At the request of Mr. BOND, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 425

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 425, a bill to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Vermont.

S. 489

At the request of Mr. ALEXANDER, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. RES. 33

At the request of Mr. LEVIN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

S. RES. 40

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 40, a resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room.

AMENDMENT NO. 15

At the request of Mr. AKAKA, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 15 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 19

At the request of Mrs. FEINSTEIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 19 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 24

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Illinois (Mr. OBAMA) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 24 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 25

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 25 intended to be proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. SANTORUM, and Mr. LEAHY):

S. 491. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Christopher Kangas Fallen Firefighter Apprentice Act, a bill designed to correct a flaw in the current definition of "firefighter" under the Public Safety Officer Benefits Act.

On May 4, 2002, 14-year-old Christopher Kangas was struck by a car and killed while he was riding his bicycle in Brookhaven, PA. The local authorities later confirmed that Christopher was out on his bike that day for an important reason: Chris Kangas was a junior firefighter, and he was responding to a fire emergency.

Under Pennsylvania law, 14- and 15-year-olds such as Christopher are permitted to serve as volunteer junior firefighters. While they are not allowed to operate heavy machinery or enter burning buildings, the law permits them to fill a number of important support roles, such as providing first aid. In addition, the junior firefighter program is an important recruitment tool for fire stations throughout the Commonwealth. In fact, prior to his death Christopher had received 58 hours of training that would have served him well when he graduated from the junior program.

It is clear to me that Christopher Kangas was a firefighter killed in the line of duty. Were it not for his status as a junior firefighter and his prompt response to a fire alarm, Christopher would still be alive today. Indeed, the Brookhaven Fire Department, Brookhaven Borough, and the Commonwealth of Pennsylvania have all recognized Christopher as a fallen public safety officer and provided the appropriate death benefits to his family.

Yet, while those closest to the tragedy have recognized Christopher as a fallen firefighter, the Federal Government has not. The U.S. Department of Justice (DOJ) determined that Christopher Kangas was not eligible for benefits because he was not acting within a narrow range of duties at the time of his death that are the measured criteria to be considered a "firefighter," and therefore, was not a "public safety officer" for purposes of the Public Safety Officer Benefits Act. In order to be eligible for benefits under the Public Safety Officer Benefits Act, an officer's death must be considered the "direct and proximate result of a personal injury sustained in the line of duty." Although the United States Code includes firefighters in the definition of "public safety officer" and specifies a firefighter as "an individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department;" it offers no definition of "line of duty". DOJ had to defer to an arbitrarily narrow definition of "line of duty," as described in the Code of Federal Regulations that restricts activities to the "suppression of fires." DOJ decided that the only people who qualify as firefighters are those who play the starring role of operating a hose on a ladder or entering a burning building. According to this interpretation, those, such as junior firefighters, who play the essential supporting roles of directing traffic, performing first aid, or dispatching fire vehicles do not contribute to the act of suppressing the fire.

Any firefighter will tell you that there are many important roles to play in fighting a fire beyond operating the hoses and ladders. Firefighting is a team effort, and everyone in the Brookhaven Fire Department viewed young Christopher as a full member of their team.

As a result of this DOJ determination, Christopher's family will not receive a $267,000 Federal line-of-duty benefit. In addition, Christopher will be barred from taking his rightful place on the National Fallen Firefighters Memorial in Emmitsburg, MD. For a young man who dreamed of being a firefighter and gave his life rushing to a fire, keeping him off of the memorial is a grave injustice.

The bill I introduce today will ensure that the Federal Government will recognize Christopher Kangas and others like him as firefighters. The bill clarifies that all firefighters will he recognized as such "regardless of age, status as an apprentice or trainee, or duty restrictions imposed because of age or status as an apprentice or trainee." The bill applies retroactively back to May 4, 2002 so that Christopher, as well as three others, can benefit from it.

I urge my colleagues to support this important legislation.

---

By Mr. FRIST (for himself, Mr. REID, and Mr. LUGAR):

S. 492. A bill to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 492

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Water: Currency for Peace Act of 2005".

### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Water-related diseases are a human tragedy, killing and debilitating millions of people annually, preventing millions of people from leading healthy lives, and undermining development efforts.

(2) Providing safe supplies of water, and sanitation and hygiene improvements would save millions of lives by reducing the prevalence of water-borne diseases, water-based diseases, water-privation diseases, and water-related vector diseases.

(3) An estimated 1,800,000 people die of diarrhoeal diseases every year. Ninety percent of these people are children under the age of five who live in developing countries. Simple household and personal hygiene measures, such as household water treatment and safe storage and effective hand washing with soap, reduce the burden of diarrhoeal disease by more than 40 percent.

(4) According to the World Health Organization, 88 percent of diarrhoeal disease can be attributed to unsafe water supply, and inadequate sanitation and hygiene.

(5) Around the world, more than 150,000,000 people are threatened by blindness caused by trachoma, a disease that is spread through poor hygiene and sanitation, and aggravated by inadequate water supply.

(6) Chronic intestinal helminth infections are a leading source of global morbidity, including cognitive impairment and anemia for hundred of millions of children and adults. Access to safe water and sanitation and better hygiene practices can greatly reduce the number of these infections.

(7) Schistosomiasis is a disease that affects 200,000,000 people, 20,000,000 of whom suffer serious consequences, including liver and intestinal damage. Improved water resource management to reduce infestation of surface water, improved sanitation and hygiene, and deworming treatment can dramatically reduce this burden.

(8) In 2002, 2,600,000,000 people lacked access to improved sanitation. In sub-Saharan Africa, only 36 percent of the population has access to improved sanitation. In developing countries, only 31 percent of the population in rural areas has access to improved sanitation.

(9) Improved management of water resources can contribute to comprehensive strategies for controlling mosquito populations associated with life-threatening vector-borne diseases in developing countries, especially malaria, which kills more than 1,000,000 people each year, most of whom are children.

(10) Natural disasters such as floods and droughts threaten people's health. Floods contaminate drinking-water systems with industrial waste refuse, sewage, and human and animal excreta. Droughts exacerbate malnutrition and limit access to drinking water supplies. Sound water resource management can mitigate the impact of such natural disasters.

(11) The United Nations Population Fund report entitled "Water: A Critical Resource" stated that "Nearly 500 million people [suffer from] water stress or serious water scarcity. Under current trends, two-thirds of the world's population may be subject to moderate to high water stress by 2025". Effective water management and equitable allocation of scarce water supplies for all uses will become increasingly important for meeting both human and ecosystem water needs in the future.

(12) The participants in the World Summit on Sustainable Development, held in Johannesburg, South Africa, in 2002, agreed to the Plan of Implementation of the World Summit on Sustainable Development which included an agreement to work to reduce by one-half "the proportion of people who are unable to reach or afford safe drinking water," and "the proportion of people without access to basic sanitation" by 2015.

(13) At the World Summit on Sustainable Development, building on the U.S.-Japan Partnership for Security and Prosperity announced in June 2001 by President Bush and Prime Minister Koizumi, the United States and Japan announced a Clean Water for People Initiative to cooperate in providing safe water and sanitation to the world's poor, improve watershed management, and increase the productivity of water.

(14) At the World Summit on Sustainable Development, the United States announced the Water for the Poor Initiative which committed the United States to provide $970,000,000 over 3 years to increase access to safe water and sanitation services, improve watershed management, and increase the productivity of water. During fiscal year 2004, the United States provided an estimated $817,000,000 in assistance to the Water for the Poor Initiative, including funds made available for reconstruction activities in Iraq, of which $388,000,000 was made available for safe drinking water and sanitation programs.

(15) During fiscal year 2004, the United States provided $49,000,000 in assistance for activities to provide safe drinking water and sanitation in sub-Saharan Africa, an amount that is equal to 6.5 percent of total United States foreign assistance provided for all water activities in the Water for the Poor Initiative.

(16) At the 2003 Summit of the Group of Eight in Evian, France, the members of the Group of Eight produced a plan entitled "Water: A G8 Action Plan" that stated that a lack of water can undermine human security. The Action Plan committed the members of the Group of Eight to playing a more active role in international efforts to provide safe water and sanitation to the world's poor by mobilizing domestic resources in developing countries for water infrastructure financing through the development and strengthening of local capital markets and financial institutions, particularly by establishing, where appropriate, at the national and local levels, revolving funds that offer local currency financings, which allow communities to finance capital-intensive water infrastructure projects over an affordable period of time at competitive rates.

(17) The G8 Action Plan also committed members of the Group of Eight to provide risk mitigation mechanisms for such revolving funds and to provide technical assistance for the development of efficient local financial markets and building municipal government capacity to design and implement financially viable projects and provide, as appropriate, targeted subsidies for the poorest communities that cannot fully service market rate debt.

(18) The United Nations General Assembly Resolution 58/217 of February 9, 2004, proclaimed "the period from 2005 to 2015 the International Decade for Action, 'Water for Life', to commence on World Water Day, 22 March 2005" for the purpose of increasing the focus of the international community on water-related issues at all levels and on the implementation of water-related programs and projects.

### SEC. 3. WATER FOR HEALTH AND DEVELOPMENT.

(a) IN GENERAL.—Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 104C the following new section:

### "SEC. 104D. WATER FOR HEALTH AND DEVELOPMENT.

"(a) FINDING.—Congress makes the following findings:

"(1) Access to safe water and sanitation and improved hygiene are significant factors in controlling the spread of disease in the developing world and positively affecting economic development.

"(2) The health of children and other vulnerable rural and urban populations in developing countries, especially sub-Saharan Africa and South Asia, is threatened by a lack of adequate safe water, sanitation, and hygiene.

"(3) Efforts to meet United States foreign assistance objectives, including those related to agriculture, the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), and the environment will be advanced by improving access to safe water and sanitation and promoting sound water management throughout the world.

"(4) Developing sustainable financing mechanisms, including private sector financing, is critical to the long-term sustainability of improved water supply, sanitation, and hygiene.

"(5) The annual level of investment needed to meet the water and sanitation needs of developing countries far exceeds the amount of Official Development Assistance (ODA) and spending by governments of developing countries, so attracting greater public and private investment is essential.

"(6) Long-term sustainability in the provision of access to safe water and sanitation and in the maintenance of water and sanitation facilities requires a legal and regulatory environment conducive to private sector investment and private sector participation in the delivery of water and sanitation services.

"(7) The absence of robust domestic financial markets and sources for long-term financing are a major impediment to the development of water and sanitation projects in developing countries.

"(8) At the 2003 Summit of the Group of Eight in Evian, France, the members of the Group of Eight produced a plan entitled 'Water: A G8 Action Plan' that contemplated the promotion of domestic revolving funds to provide local currency financing for capital-intensive water infrastructure projects. Innovative financing mechanisms such as revolving funds and pooled-financings have been effective vehicles for mobilizing domestic savings for investments in water and sanitation both in the United States and in some developing countries. These mechanisms can serve as a catalyst for greater investment in water and sanitation projects by villages, small towns, and municipalities.

"(9) The G8 Action Plan also committed members of the Group of Eight to improving coordination and cooperation between donors, and such improved coordination and cooperation is essential for enlarging the beneficial impact of donor initiatives.

"(b) POLICY.—It is a major objective of United States foreign assistance—

"(1) to promote good health and economic development by providing assistance to expand access to safe water and sanitation, promote sound water management, and improve hygiene for people around the world; and

"(2) to promote, to the maximum extent practicable and appropriate, long-term sustainability in the provision of access to safe water and sanitation by encouraging private investment in water and sanitation infrastructure and services.

"(c) AUTHORIZATION.—

"(1) IN GENERAL.—To carry out the policy set out in subsection (b), the President is authorized to furnish assistance, including health information and education, to advance good health and promote economic development by improving the safety of water supplies, expanding access to safe water and sanitation, promoting sound water management, and promoting better hygiene.

"(2) LOCAL CURRENCY.—The President may use payments made in local currencies under an agreement made under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to provide assistance under this section, including assistance for activities related to drilling or maintaining wells.".

(b) CONFORMING AMENDMENT.—Section 104(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(c)) is amended by adding at the end the following new paragraph:

"(9) SAFE WATER.—To provide assistance under section 104D of the Foreign Assistance Act of 1961 to advance good health and promote economic development by improving the safety of water supplies, including programs related to drilling or maintaining wells.".

### SEC. 4. PILOT PROGRAM FOR WATER SUSTAINABILITY INFRASTRUCTURE DEVELOPMENT AND CAPACITY BUILDING.

(a) IN GENERAL.—Section 104D of the Foreign Assistance Act of 1961, as added by section 3, is amended by adding at the end the following new subsection:

"(d) PILOT CLEAN WATER SUSTAINABILITY INFRASTRUCTURE DEVELOPMENT PROGRAM.—

"(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program to assist countries that have a high proportion of the population that is susceptible to water-borne illnesses as a result of a lack of basic infrastructure for clean water and sanitation, the President, in close coordination with the Administrator of the United States Agency for International Development and the Director of the Overseas Private Investment Corporation, is authorized to establish a 5-year pilot program under which the President may—

"(A) provide for the issuance of investment insurance, investment guarantees, or loan guarantees, provide for direct investment or investment encouragement, or carry out special projects and programs for eligible investors to assist such countries in the development of safe drinking water and sanitation infrastructure programs; and

"(B) provide assistance to support the activities described in subparagraphs (A) through (D) of paragraph (2) for the purposes of—

"(i) carrying out the policy set out in subsection (b); and

"(ii) maximizing the effectiveness of assistance provided under subparagraph (A).

"(2) ACTIVITIES SUPPORTED.—Assistance provided to a country under paragraph (1)(B) shall be used to—

"(A) assess the water development needs of such country;

"(B) design projects to address such water development needs;

"(C) develop the capacity of individuals and institutions in such country to carry out and maintain water development programs through training, joint work projects, and educational programs; and

"(D) provide long-term monitoring of water development programs.

"(3) GEOGRAPHIC LIMITATION.—The President may only provide assistance under the pilot program under paragraph (1) to a country based on consultation with Congress.

"(4) ADDITIONAL CRITERIA.—In making determinations of eligibility under this subsection, the President should give preferential consideration to projects sponsored by or significantly involving United States small businesses or cooperatives.

"(5) IMPLEMENTATION.—To the extent provided for in advance in appropriations Acts, the President is authorized to create such legal mechanisms as may be necessary for the implementation of its authorities under this subsection. Such legal mechanisms may be deemed non-Federal borrowers for purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(6) LOAN GUARANTEES.—Notwithstanding any other provision of law, the President is authorized to provide assistance under the pilot program under paragraph (1) in the form of partial loan guarantees, provided that such a loan guarantee may not exceed 75 percent of the total amount of the loan.

"(7) COORDINATION.—The President is authorized to coordinate the activities of each agency or department of the United States to provide to a country assistance for an activity described in subparagraphs (A) through (D) of paragraph (2).

"(8) FEDERAL AGENCY RESPONSIBILITIES.—Under the direction of the President, the head of each agency or department of the United States is authorized to assign, detail, or otherwise make available to the Department of State any officer or employee of such agency or department who possesses expertise related to an activity described in subparagraphs (A) through (D) of paragraph (2).

"(9) REPORT TO CONGRESS.—The President shall annually prepare and submit to the Committee on Appropriations, the Committee on Foreign Relations, and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Appropriations, the Committee on International Relations, and the Committee on Energy and Commerce of the House of Representatives a report concerning the implementation of the pilot program under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective during the 5-year period beginning on the date of enactment of this Act.

### SEC. 5. SAFE WATER STRATEGY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary of State, in close coordination with the Administrator of the United States Agency for International Development and in consultation with other appropriate Federal agencies, appropriate international organizations, foreign governments, United States nongovernmental organizations, and other appropriate entities, shall develop and implement a strategy to further the United States foreign assistance objective to promote economic development by promoting good health through the provision of assistance to expand access to safe water and sanitation, to promote sound water management, and to improve hygiene for people around the world.

(b) CONTENT.—The strategy required by subsection (a) shall include—

(1) an assessment of the activities that have been carried out, or that are planned to be carried out, by the United States to improve hygiene or access to safe water and sanitation by underserved rural or urban poor populations, the countries of sub-Saharan Africa, or in countries that receive assistance from the United States Agency for International Development;

(2) methods to achieve long-term sustainability in the provision of access to safe water and sanitation, the maintenance of water and sanitation facilities, and effective promotion of improved hygiene, in the context of appropriate financial, municipal, health, and water management systems;

(3) methods to use United States assistance to promote community-based approaches, including the involvement of civil society, to further the objectives described in subsection (a);

(4) methods to mobilize and leverage the financial, technical, and managerial expertise of businesses, governments, nongovernmental, and civil society in the form of public-private alliances such as the Global Development Alliances of the Agency which encourage innovation and effective solutions for improving sustainable access to safe water and sanitation;

(5) goals to further the objectives described in subsection (a) and methods to measure whether progress is being made to meet such goals, including indicators to measure

progress and procedures to regularly evaluate and monitor progress;

(6) assessments of the challenges and obstacles that impede the provision of access to safe water and sanitation, as well as the improvement of hygiene practices, critical in developing countries;

(7) assessments of how access to safe water, sanitation, and hygiene programs, as well as water resource programs, effectively support the goal of combating the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS);

(8) assessments of the roles that other countries or entities, including international organizations, could play in furthering such objective and mechanisms to establish coordination among the United States, foreign countries, and other entities;

(9) assessments of the level of resources that are needed each year to further such objective; and

(10) methods to coordinate and integrate programs of the United States to further such objective with other United States foreign assistance programs.

(c) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a report that describes the strategy required by subsection (a).

(2) REPORT.—Not less than once every 2 years after the submission of the initial report under paragraph (1), the President shall submit to Congress a report on the status of the implementation of the strategy and progress made in achieving the objective described in subsection (a).

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated for each of the fiscal years 2006 through 2011 such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) OTHER AMOUNTS.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall be in addition to the amounts otherwise available to carry out this Act, and the amendments made by this Act.

---

By Mr. GRASSLEY (for himself, Mr. COCHRAN, Mr. LOTT, and Mr. BUNNING):

S. 493. A bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRASSLEY. Mr. President. I am reintroducing a bill I proposed in the last Congress to help prepare new teachers to recognize and meet the needs of gifted and talented students. According to the federally funded National Research Center on the Gifted and Talented, the large majority of gifted and talented students spend at least 80 percent of their time in a regular education classroom. Of course, gifted students are not gifted only 20 percent of the time. They are gifted all the time. Unfortunately, the lack of teacher preparation means that gifted students are not being challenged during much of the time they spend in the classroom. Their educational needs are not being met.

Unfortunately, there are many misconceptions about the needs of gifted children. You might say, "Why should we worry about these children? They are the smart ones that the teacher doesn't have to spend so much time on." First of all, I'm not talking about your average straight A student who maybe learns the material easily, but much the same way as other students in the classroom. What makes a child gifted and talented is not how well the child does in school, but how he or she learns. A straight A student may or may not be gifted and a gifted student may not always get good grades in school. Gifted and talented children actually have a different way of looking at the world. They tend to have distinct approaches to learning and interacting socially, and they frequently learn at a different pace, and to different depths, than others their age. The bottom line is that gifted and talented children have unique learning needs that need to be met in order for them to achieve to their potential.

To illustrate this point, I would like to remind the Senate of an example I first cited two years ago while speaking on another piece of legislation related to gifted and talented students. It concerns a young elementary school student from Iowa City named Jose. Jose was not putting much effort into his schoolwork and was getting bad grades. He was a good kid but he also had a tendency to act up in class. He got along with his classmates, but didn't have many friends. Jose's teacher was frustrated and couldn't figure out what to do with him. Still, Jose's parents saw in him a real hunger for learning and had his IQ tested over the summer. It turns out that what the teacher saw as behavior problems or a lack of work ethic were really symptoms of a gifted student who was not being properly challenged. Jose started leaving his regular classroom a couple of times a week to work with a teacher who was trained in meeting the needs of gifted students. As a result of the added stimulation he received, Jose started to enjoy school more, made friends with his gifted peers, and began to succeed with his regular school work.

Jose was fortunate that his parents were so perceptive and were able to have him assessed privately. However, not all parents are in a position to recognize the signs of giftedness or to advocate for their child's needs. Even in schools where there are active gifted and talented programs, many students go unidentified. Moreover, even with pull-out programs like the one I described that supplement the classroom experience and other strategies like grade skipping, it is inevitable that many gifted students will spend much of their time in a regular classroom with non-gifted students of the same age but far different ability levels. This is not necessarily a bad thing, but it means that all classroom teachers should have at least a basic knowledge about how to recognize and meet the needs of gifted and talented students in their classrooms. However, a national survey of third and fourth grade teachers by the National Research Center on the Gifted and Talented found that 61 percent of teachers had no training whatsoever in teaching highly able students.

Only one State currently requires regular classroom teachers to have coursework in gifted education. Some of the techniques used in classrooms to accommodate gifted kids include differentiated curriculum, cluster grouping, and accelerated learning. The time to make sure teachers have the necessary knowledge is when prospective teachers are in their pre-service teacher training programs. If teachers aren't exposed to information and strategies to meet the needs of gifted students in their pre-service training, they may never acquire the necessary knowledge and skills. With the Higher Education Act due for reauthorization, this is the perfect opportunity to encourage schools of education and States to take a greater look at how they can improve teacher preparation programs to integrate instruction on the unique needs of gifted learners.

Title II of the Higher Education Act already contains grants designed to enhance the quality of teacher preparation programs. My bill would simply add allowable uses to these existing grants to provide an incentive for states and teacher training programs to incorporate the needs of gifted and talented students into teacher preparation and licensure requirements. I should point out that this change would not cost the taxpayers any additional money.

Under current law, Title II State grants are awarded directly to States and are to be used to reform State teacher preparation requirements. The law lists seven potential reforms under the allowable uses for grant funds. The first three allowable uses include: strengthening state requirements for teacher preparation programs to ensure teachers are highly competent in their respective academic content areas, reforming certification and licensure requirements with respect to competency in content areas, and providing alternatives to traditional teacher preparation programs. My legislation would add another allowable use, referencing these three reforms, to encourage states to incorporate a focus on the learning needs of gifted and talented students into reforms of state requirements for teacher preparation programs, reforms of state certification and licensure requirements, or new alternative teacher preparation programs. In addition, my bill would add a new allowable use so that States could use grant funds to create or expand new-teacher mentoring programs on the needs of gifted and talented students. This way, new teachers could learn from veteran teachers about how to identify classroom indicators of giftedness and provide appropriate instruction to gifted students.

My bill would also add language to the Partnership Grants, which provide funds to partnerships among teacher preparation institutions, school of arts and sciences, and high-need school districts to strengthen new teacher education. These grants come with three required uses, including reforming teacher preparation programs to ensure teachers are highly competent in academic content areas, providing preservice clinical experience, and creating opportunities for enhanced and ongoing professional development. One allowable use for which a partnership may use funds is preparing teachers to work with diverse populations, including individuals with disabilities and limited English proficient individuals. To this section, my legislation would add gifted and talented students. Recognizing that every teacher could have gifted students in his or her classroom, my bill would also add a new allowable use so that teacher preparation programs could use the funds to infuse teacher coursework with units on the characteristics of high-ability learners. In other words, the idea is not to require additional courses, but rather to discuss how to accommodate for the needs of gifted students throughout the teacher preparation curriculum when new teachers are learning how to present lessons.

Again, my bill does not create a new grant program and doesn't cost any more money. It simply provides an incentive through existing grant programs to encourage States and teacher preparation programs to make sure that new teachers have the skills they will need to identify and meet the unique needs of the gifted and talented students who will be in their classrooms. I think we all recognize how important a quality teacher can be in helping a student achieve. This is no less true with gifted and talented students. Having a teacher that is equipped to meet the unique needs of gifted students can mean the difference between a child hating school and a child loving school; a child falling behind, and a child succeeding beyond all expectations. When a gifted child is left behind, the loss of human potential is doubly tragic. Gifted and talented children are a national resource that we must nurture now for our nation's future. This modest step could reap rewards for generations to come. I urge my colleagues to join me in this investment in our future.

---

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. LEVIN, Mr. LEAHY, Mr. VOINOVICH, Mr. LIEBERMAN, Mr. COLEMAN, Mr. DURBIN, Mr. DAYTON, Mr. PRYOR, Mr. JOHNSON, Mr. LAUTENBERG, and Mr. CARPER):

S. 494. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President. Today I rise to reintroduce the Federal Employee Protection of Disclosures Act, which was unanimously reported out of the Senate Homeland Security and Governmental Affairs Committee last year with strong bipartisan support. I am joined again in this effort by Senator COLLINS, chairman of the committee, whose focus on this issue and willingness to work with me in developing this legislation demonstrates how important it is to ensure that Federal employees are protected when they disclose government waste, fraud, and abuse. I am pleased to be joined by our committee's ranking member, Senator Lieberman.

Once again, I am proud to have the support of Senator CHARLES GRASSLEY and Senator CARL LEVIN, both of whom are longstanding advocates of Federal whistleblowers. My colleagues from Iowa and Michigan championed the 1989 Whistleblower Protection Act and have supported my legislation since 2001. Their support, along with the strong bipartisan support of Senators LEAHY, VOINOVICH, COLEMAN, DURBIN, DAYTON, PRYOR, JOHNSON, LAUTENBERG, and CARPER demonstrates the importance of this good government legislation.

Our legislation will strengthen the protections given to Federal whistleblowers and encourage employees to come forward to disclose government waste, fraud, and abuse. Providing meaningful protection to whistleblowers fosters an environment that promotes the disclosure of government wrongdoing and mismanagement that may adversely affect the American public. If Federal employees fear reprisal for blowing the whistle, we fail to protect the whistleblower, taxpayers, and, in notable instances, national security and our public health.

The most recent example is the disclosure by Dr. David Graham of the Food and Drug Administration, FDA, who exposed problems at the FDA regarding the safety of new pharmaceuticals. By revealing the threat posed to public health and the safety of pharmaceuticals currently on the market, as well as the organizational structure of the Center for Drug Evaluation and Research, CDER, and CDER's internal conflict of interest in evaluating the safety of drugs both pre- and post-marketing, Dr. Graham risked his career to report hazards to our public health.

As a direct result of Dr. Graham's decision to speak publicly, Americans are now more aware of the potential risks of various pharmaceuticals and government leaders are seeking ways to increase transparency of the oversight of new medications. Two weeks ago, the FDA announced the creation of a new Drug Safety Oversight Board to monitor the safety of prescription and over-the-counter drugs on the market more effectively. This new board is aimed at eliminating the conflict of interest found under the current CDER structure as disclosed by Dr. Graham.

Other examples of whistle blowers who uncovered government mismanagement and threats to public safety include: Ms. Colleen Rowley who disclosed institutional problems at the Federal Bureau of Investigation prior to 2001 which affected national security, Mr. Richard Foster, who sought to disclose the actual cost of pending Medicare legislation to Congress, and Border Patrol Agents Mark Hall and Bob Lindemann, who revealed security lapses at our northern border immediately after September 11, 2001.

In spite of the positive changes resulting from their disclosures, we are concerned that the very public struggles these individuals have endured after alerting Americans to waste, fraud, abuse, and security and health violations in the Federal Government may discourage others from coming forward. The root of these struggles lies in part with problems with the current legal structure and interpretation of the Whistleblower Protection Act. As a result of recent court decisions, legitimate whistleblowers have been denied adequate protection from retaliatory I practices. In fact, Federal whistleblowers have prevailed on the merits of their claims before the Federal Circuit Court of Appeals, which has sole jurisdiction over Federal employee whistleblower appeals, only once since 1994.

To address these issues, our legislation would clarify congressional intent regarding the scope of protection provided to whistleblowers; provide for an independent determination as to whether a whistleblower was retaliated against by the revocation of his or her security clearance; establish a pilot program to suspend the Federal Circuit Court of Appeals' monopoly on Federal employee whistleblower cases for a period of five years; and provide the Office of Special Counsel, which is charged with representing the interests of Federal whistleblowers, the authority to file amicus briefs with federal courts in support of whistleblowers.

Several of the provisions in the legislation reflect our efforts to address concerns raised by the Justice Department. While the Department still has objections to the intent of the legislation, partially because of its role in representing the interests of the alleged retaliatory agencies, I will continue to work with the Department. I am optimistic that we can reach an agreement on this good government measure in the near future.

Congress has a duty to provide strong and meaningful protections for Federal whistleblowers. Only when Federal employees are confident that they will not face retaliation will they feel comfortable coming forward to disclose information that can be used to improve government operations, our national security, and the health of our citizens. I look forward to working with my colleagues to make this goal a reality.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 494

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.**

(a) SHORT TITLE.—This Act may be cited as the "Federal Employee Protection of Disclosures Act".

(b) CLARIFICATION OF DISCLOSURES COVERED.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "which the employee or applicant reasonably believes evidences" and inserting ", without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of"; and

(B) in clause (i), by striking "a violation" and inserting "any violation";

(2) in subparagraph (B)—

(A) by striking "which the employee or applicant reasonably believes evidences" and inserting ", without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, of information that the employee or applicant reasonably believes is evidence of"; and

(B) in clause (i), by striking "a violation" and inserting "any violation (other than a violation of this section)"; and

(3) by adding at the end the following:

"(C) any disclosure that—

"(i) is made by an employee or applicant of information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is direct and specific evidence of—

"(I) any violation of any law, rule, or regulation;

"(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

"(III) a false statement to Congress on an issue of material fact; and

"(ii) is made to—

"(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

"(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

"(III) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.".

(c) COVERED DISCLOSURES.—Section 2302(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking "and" at the end;

(2) in subparagraph (C)(iii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) 'disclosure' means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee providing the disclosure reasonably believes that the disclosure evidences—

"(i) any violation of any law, rule, or regulation; or

"(ii) gross management, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.".

(d) REBUTTABLE PRESUMPTION.—Section 2302(b) of title 5, United States Code, is amended by amending the matter following paragraph (12) to read as follows:

"This subsection shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress, except that an employee or applicant may be disciplined for the disclosure of information described in paragraph (8)(C)(i) to a Member or employee of Congress who is not authorized to receive such information. For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence. For purposes of paragraph (8), a determination as to whether an employee or applicant reasonably believes that they have disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee would reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.".

(e) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS; SECURITY CLEARANCES; AND RETALIATORY INVESTIGATIONS.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking "and" after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

"(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;".

"(xii) a suspension, revocation, or other determination relating to a security clearance or any other access determination by a covered agency;

"(xiii) an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section; and".

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking "or" at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

"(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling'; or

"(14) conduct, or cause to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section.".

(3) BOARD AND COURT REVIEW OF ACTIONS RELATING TO SECURITY CLEARANCES.—

(A) IN GENERAL.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

**"§ 7702a. Actions relating to security clearances**

"(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance or access determination, the Merit Systems Protection Board or any reviewing court—

"(1) shall determine whether paragraph (8) or (9) of section 2302(b) was violated;

"(2) may not order the President or the designee of the President to restore a security clearance or otherwise reverse a determination of clearance status or reverse an access determination; and

"(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

"(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regards to a security clearance or access determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall conduct a review of that suspension, revocation, access determination, or other determination, giving great weight to the Board or court judgment.

"(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, access determination, or other determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, other determination, or access determination. A report under this paragraph shall include any proposed agency action with regards to the security clearance or access determination.

"(c) An allegation that a security clearance or access determination was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.

"(d) For purposes of this section, corrective action may not be ordered if the agency demonstrates by a preponderance of the evidence that it would have taken the same personnel action in the absence of such disclosure.".

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

"7702a. Actions relating to security clearances.".

(f) EXCLUSION OF AGENCIES BY THE PRESIDENT.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

"(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency; and

"(II) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or".

(g) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking "agency involved" and inserting "agency where the prevailing party is employed or has applied for employment".

(h) DISCIPLINARY ACTION.—Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

"(3)(A) A final order of the Board may impose—

"(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

"(ii) an assessment of a civil penalty not to exceed $1,000; or

"(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

"(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under paragraph (8) or (9) of section 2302(b), the Board shall impose disciplinary action if the Board finds that the activity protected under paragraph (8) or (9) of section 2302(b) was a significant motivating factor, even if other factors also motivated the decision, for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.".

(i) SPECIAL COUNSEL AMICUS CURIAE APPEARANCE.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) The Special Counsel is authorized to appear as amicus curiae in any action brought in a court of the United States related to any civil action brought in connection with section 2302(b) (8) or (9), or subchapter III of chapter 73, or as otherwise authorized by law. In any such action, the Special Counsel is authorized to present the views of the Special Counsel with respect to compliance with section 2302(b) (8) or (9) or subchapter III of chapter 77 and the impact court decisions would have on the enforcement of such provisions of law.

"(2) A court of the United States shall grant the application of the Special Counsel to appear in any such action for the purposes described in subsection (a).".

(j) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b)(1) of title 5, United States Code, is amended to read as follows:

"(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2), a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

"(B) During the 5-year period beginning on the effective date of the Federal Employee Protection of Disclosures Act, a petition to review a final order or final decision of the Board in a case alleging a violation of paragraph (8) or (9) of section 2302(b) shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2).".

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703(d) of title 5, United States Code, is amended to read as follows:

"(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

"(2) During the 5-year period beginning on the effective date of the Federal Employee Protection of Disclosures Act, this paragraph shall apply to any review relating to paragraph (8) or (9) of section 2302(b) obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting paragraph (8) or (9) of section 2302(b). If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.".

(k) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.".

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement

shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

(l) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (6 U.S.C. 133(c)) is amended by adding at the end the following: "For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.".

(m) ADVISING EMPLOYEES OF RIGHTS.—Section 2302(c) of title 5, United States Code, is amended by inserting ", including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures" after "chapter 12 of this title".

(n) SCOPE OF DUE PROCESS.—

(1) SPECIAL COUNSEL.—Section 1214(b)(4)(B)(ii) of title 5, United States Code, is amended by inserting ", after a finding that a protected disclosure was a contributing factor," after "ordered if".

(2) INDIVIDUAL ACTION.—Section 1221(e)(2) of title 5, United States Code, is amended by inserting ", after a finding that a protected disclosure was a contributing factor," after "ordered if".

(o) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of enactment of this Act.

---

By Mr. CORZINE (for himself, Mr. BROWNBACK, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. TALENT, Mr. DEWINE, and Mr. COBURN):

S. 495. A bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes; to the Committee on Foreign Relations.

Mr. CORZINE. Mr. President, I rise to talk about the Darfur Accountability Act. This is an issue that I and a number of my colleagues have as much passion about and as much conviction and concern as anything that we could speak about on this floor. As we stand here today, 225,000, maybe more, Darfurians in the Sudan have died over the last 2 years. A million and three quarters are displaced, living in camps. Senator BROWNBACK is a cosponsor of the Darfur Accountability Act, along with Senators DEWINE, TALENT, DODD, DURBIN, FEINGOLD, and LIEBERMAN—a bipartisan basis. All believe strongly and passionately that we need to act now.

This bill, which we will be introducing today, provides the tools, the authorities to confront the crisis of humanity that is taking place in Darfur. It can be a reflection of our Nation's commitment to live up to the most solemn promise of our time and our Nation's values—to never stand by quietly while genocide goes forth, while genocide rages in a part of the world. "Never again" is the rallying cry we have all heard from the tragedy of World War II, from the response and understanding of the tragedy of Rwanda and genocides across history. Man's horrific treatment of his fellow man in genocide must be stood up against, must be pushed back against. We must say no.

It has been more than 7 months since the resolution introduced by Senator BROWNBACK and myself declaring the atrocities in Darfur to be declared genocide passed the Senate. It has been more than 7 months since the House of Representatives passed a similar resolution. And it has been 6 months since Secretary of State Colin Powell made the same declaration.

Genocide continues. Just 1 month ago a U.N. commission confirmed a litany of atrocities that have become all too familiar in this situation:

> Government forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur.

It has been going on for 2 years. The report stated that the atrocities were "conducted on a widespread and systematic basis," and that the "magnitude and large-scale nature of some crimes against humanity, as well as their consistency over a long period of time, necessarily imply that these crimes result from a central planning operation."

This is public policy in the Sudan—public policy. Maybe more compelling is a series of articles, two of which I will put into the RECORD, that are reflective of the public and transparent and dogged coverage by a New York Times columnist, Nicholas Kristof, which document completely the nature of the atrocities going on, including, unfortunately, some of the pictorial efforts that bring forth the certainty that genocide is taking place.

I will submit a column written on February 23, "The Secret Genocide Archive," which carries pictures in the New York Times of some of the outcomes of our failure to act. Then there is a second column which I will put into the RECORD. It is in today's paper, March 2, 2005, "The American Witness," where a U.S. marine on the ground, a captain in the Marine Corps, is citing and stating and documenting the continuation of this tragedy in the lives of these people in Darfur.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 2, 2005]

THE AMERICAN WITNESS

(By Nicholas D. Kristof)

American soldiers are trained to shoot at the enemy. They're prepared to be shot at. But what young men like Brian Steidle are not equipped for is witnessing a genocide but being unable to protect the civilians pleading for help.

If President Bush wants to figure out whether the U.S. should stand more firmly against the genocide in Darfur, I suggest that he invite Mr. Steidle to the White House to give a briefing. Mr. Steidle, a 28-year-old former Marine captain, was one of just three American military advisers for the African Union monitoring team in Darfur—and he is bursting with frustration.

"Every single day you go out to see another burned village, and more dead bodies," he said. "And the children—you see 6-month-old babies that have been shot, and 3-year-old kids with their faces smashed in with rifle butts. And you just have to stand there and write your reports."

While journalists and aid workers are sharply limited in their movements in Darfur, Mr. Steidle and the monitors traveled around by truck and helicopter to investigate massacres by the Sudanese government and the janjaweed militia it sponsors. They have sometimes been shot at, and once his group was held hostage, but they have persisted and become witnesses to systematic crimes against humanity.

So is it really genocide?

"I have no doubt about that," Mr. Steidle said. "It's a systematic cleansing of peoples by the Arab chiefs there. And when you talk to them, that's what they tell you. They're very blunt about it. One day we met a janjaweed leader and he said, 'Unless you get back four camels that were stolen in 2003, then we're going to go to these four villages and burn the villages, rape the women, kill everyone.' And they did."

The African Union doesn't have the troops, firepower or mandate to actually stop the slaughter, just to monitor it. Mr. Steidle said his single most frustrating moment came in December when the Sudanese government and the janjaweed attacked the village of Labado, which had 25,000 inhabitants. Mr. Steidle and his unit flew to the area in helicopters, but a Sudanese general refused to let them enter the village—and also refused to stop the attack.

"It was extremely frustrating—seeing the village burn, hearing gunshots, not being able to do anything," Mr. Steidle said. "The entire village is now gone. It's a big black spot on the earth."

When Sudan's government is preparing to send bombers or helicopter gunships to attack an African village, it shuts down the cell phone system so no one can send out warnings. Thus the international monitors know when a massacre is about to unfold. But there's usually nothing they can do.

The West, led by the Bush administration, is providing food and medical care that is keeping hundreds of thousands of people alive. But we're managing the genocide, not halting it.

"The world is failing Darfur," said Jan Egeland, the U.N. under secretary general for humanitarian affairs. "We're only playing the humanitarian card, and we're just witnessing the massacres."

President Bush is pushing for sanctions, but European countries like France are disgracefully cool to the idea—and China is downright hostile, playing the same supportive role for the Darfur genocide that it did for the Khmer Rouge genocide.

Mr. Steidle has just quit his job with the African Union, but he plans to continue working in Darfur to do his part to stand up to the killers. Most of us don't have to go to that extreme of risking our lives in Darfur—we just need to get off the fence and push our government off, too.

At one level, I blame President Bush—and, even more, the leaders of European, Arab and African nations—for their passivity. But if our leaders are acquiescing in genocide, that's because we citizens are passive, too. If American voters cared about Darfur's genocide as much as about, say, the Michael Jackson trial, then our political system would respond. One useful step would be the passage of the Darfur Accountability Act, to be introduced today by Senators Jon Corzine and Sam Brownback. The legislation calls for such desperately needed actions as expanding the African Union force and establishing a military no-fly zone to stop Sudan from bombing civilians.

As Martin Luther King Jr. put it: "Man's inhumanity to man is not only perpetrated by the vitriolic actions of those who are bad. It is also perpetrated by the vitiating inaction of those who are good."

Mr. CORZINE. Mr. President, we are truly at a historic moment. The U.N. Commission confirmed that these atrocities were continuing even as it was doing its investigation. By the way, we just released from the U.S. State Department a report on human rights practices in countries around the world. The February 28 report reconfirmed our own Government's view that what is taking place is genocide.

We bear the responsibility that came out of the Holocaust to remember the horrors that lead to genocide. That is why we passed the genocide convention, and it is time to act. That is what this accountability act is all about. It has a lot of detail in it. But the fact is, it is to get us up and moving. I could use a little more graphic language. We have no right to stand by while human life is being taken day after day and displacement is taking place day after day. All over this country, people of faith of all denominations, student groups, and people from all walks of life are speaking out about this in our churches, our community centers, everywhere. They expect our Government and the international community to act. The time to act is now.

Let me describe the legislation, if I may. First, it reconfirms that genocide continues in Darfur. Last week, Human Rights reported new accounts of rapes, tortures, and mutilations from eyewitnesses. This needs to be dealt with. There is little doubt whatsoever that this continues. Again, I refer to the Kristof articles, which are very graphic in their explanation. Reflecting on time, I will not go through the details. There are many of these accounts.

There is no reason to turn our backs on this issue. Remember the imperative: Never again. This legislation offers specifics about how the genocide should be stopped. It calls for a military no-fly zone in Darfur. This discussion about no-fly zones has been going on for the better part of a year. It is time to make sure that we as an international community, as a nation, stand up and say, let's implement that.

Recent reports state that as recently as January, the Government of Sudan used aircraft and helicopters to impose its desire in implementing its genocide on the people of Darfur along with the jingaweit militia, which are notorious about implementing this.

The legislation also lays out the report for the African Union mission in Darfur. In September of last year, the Senate passed an amendment by Senator DEWINE and myself that sets aside $75 million in aid to the African Union so they could accelerate their monitoring and assistance on the ground in Darfur. So far, we have begun to use some of those resources. I think at this point it is about $20 million. Unfortunately, the authorization was for 3,300 African Union troops on the ground, but there are about 1,800 there today. This is 7 months after our efforts to get this done. We need to stop the killing now. That means we need to get the troops on the ground now; we have to spend the money now. It is absolutely time that we stand up and take notice and move on this issue.

The legislation also provides specifics about what should be done in a new U.N. Security Council resolution, including sanctions that have previously been threatened by the council but never imposed. For instance, we have an arms embargo against the government in Darfur. We don't have an arms embargo against the Government of Sudan. We have one in Darfur. So they can get the guns and military equipment into Khartoum, and I guess we think somehow they are not going to use it where they are actually taking the lives of the people in Darfur. It is crazy that we have such a limited and ineffectual arms embargo on Sudan. We need to act. It is clear that we needed it last summer, and it is clear that we need it today.

I was offered the opportunity to visit Darfur last August during that 30-day period when the U.N. Security Council was examining whether Sudan was moving to correct some of the problems, get control of the jingaweit, and actually respond to the international community's imperative that they change their actions. It was clear then that the only thing that was moving the Sudanese Government was the transparency that both journalists and the international community were providing the people who were on the ground, but they had no real interest in stopping the jingaweit or the tragedy on the ground in Darfur. None. It was only pressure from the outside that was going to have any impact on moving forward.

Unfortunately, from that moment on, we have stepped back. We said we were going to do things, and we did not. Guess what. The tragedy continues and has accelerated in many places, particularly south Darfur. It is time to act.

I will save going through the rest of the pieces of legislation, but I hope my colleagues will keep in mind that we have had over 200,000 deaths and one and three-quarter million people displaced, more or less. Nobody is certain of the numbers. Estimates are that 10,000 people die a month in Darfur. Do we have to wake up and understand that we have "Rwanda 2" on our hands to act? Do we have to have some incredible tragedy at a single point in time for us to act? It is time to put down serious accountability requirements on the Government of Sudan and to act to stop the killing in Darfur. I can only say that there is nothing that reflects our moral values in this country more than standing up to genocide. Our humanity is being challenged, the very essence of who we are as human beings. Genocide is evil. It should be stopped, and we should remember the imperative: Never again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, let me salute the Senator from New Jersey, Mr. CORZINE, as well as Senator BROWNBACK, a Democrat and a Republican, one from the east coast and another from the Midwest, for bringing to the Senate floor today the issue of Darfur. They have been leaders in this issue. I can recall Senator CORZINE as the first Member of the Senate standing up and making a point many months ago about the senseless killing going on in the Sudan and the fact that the United States could not turn a blind eye to this issue. He returned to the floor today with the same message. I commend him for his humanitarian commitment to the poor people who are losing their lives in this conflict.

A little over a week ago in Chicago, IL, we had the visit of a rather famous man. He was a man who none of us knew and, frankly, could not even pronounce his name. He came to tell a story. His name is Paul Rusesabagina. He is the manager of the hotel in Hotel Rwanda, which has become a very famous film. He had a luxury hotel in Rwanda in the midst of the terrible genocide. Because of his personal courage and the fact that he was willing to stand up, he saved over 1,200 lives of people who sought refuge in the hotel, who otherwise would have been hacked to death by machete during the Rwanda genocide. He came to Chicago, to St. Sabinas Church on the South Side, where Father Michael Flager was his host. He told the story of Rwanda. It wasn't just a reminiscence of history; he told us that we needed to look today to the genocides we face in the world. He pointed specifically to Darfur in Sudan.

He asked us what was asked of many during the Rwanda genocide: What will you do now that you know that innocent people are being killed by the hundreds of thousands? What will you do? Will you ignore it because it is so far away? Will you ignore it because it is Africa? Will you ignore it because it may call for sacrifice on the part of U.S. leadership?

It is a challenge he made to us, an interesting challenge from a man who literally risked his life to save others during a genocide. He asked us, in our comfort in America, whether we were willing to risk anything to save these victims in Darfur. He touched my soul, and I told him that when I get back to Washington, I will take to the floor of the Senate and raise this issue as often as I can. I will try everything I can find to move the United States into a stronger position of leadership.

Yesterday, President Bush invited about 20 leaders in Congress to the White House for a briefing on his trip to Europe. It was an excellent briefing. We were allowed to ask questions at the end. I asked the President, with Steven Hadley close at hand: What are we going to do about Darfur? Sadly, the response was what I have heard over and over again from so many different sources: We are going to count on the African Union, a group of soldiers from Africa who are moving into the region. How many soldiers are moving into this region where helpless people are being killed? Their best estimates are 3,000 soldiers. How big is this region? It is about the size of the State of Texas. How in the world can we expect to have an impact on this senseless killing?

That is why I am supporting this Darfur Accountability Act. This bill we are pushing seeks to prod the world to do what it needs to do to stop the genocide in Sudan. "Genocide" is a word this is rarely used in human history. There have been genocides against the Armenian people and the Jewish people during the Holocaust, perhaps in Pol Pot's times in Cambodia, and other times we can point to. Rarely do we use the word. It is a word that is freighted with responsibility. You cannot just say there is genocide in some part of the world and isn't that a shame. We signed a genocide treaty that said once we detect a genocide, we go to international organizations—the United States does—and demand action. So using the word "genocide," as the Bush administration has done, is a good thing because it prods us to do something, but it is a challenge that we must meet on something this timely and important.

This act calls for the United States to call on the United Nations to immediately take action in Darfur. Some will say, well, that is pointless: Russia and China will veto that action in the Security Council. Regardless, we should force the issue to a vote. We should confront the Russians and the Chinese and ask them what they would do in light of this senseless killing.

The horrific stories keep piling up. The jingaweit, the armed militias, running amok in Darfur are killing innocent people right and left. Sudanese aircraft strafed a village in southern Darfur, killing more than 100 men, women, and children, in January, according to Human Rights Watch. The world has witnessed this in Darfur. We know it has happened. We must do something about it. That is why I join my colleague in this request that we take action now, move this Darfur Accountability Act, join Senator CORZINE, join Senator BROWNBACK, and make this happen.

Let me also say this. My closest friend in politics was Paul Simon, who preceded me in the Senate. He spoke out on the Rwandan genocide when very few did. He called on the Clinton administration to do something, and they did not. They look back now with sorrow and some shame that they did not. President Clinton has said that. We do not want to be in that same situation.

The United States should not be a guilty bystander in this genocide. We will be guilty if we do not act. We will be bystanders if we come up with excuses to do nothing. We need to take the risk to save these people, as Paul Rusesabagina did in Rwanda. We can step in today and save and protect innocent lives, call on the United Nations to act, and if they fail to act, take the next step, even if it involves commitments from the United States which may not be immediately popular.

I think the American people will understand. We are a compassionate, caring people who will not stand idly by in the face of a genocide as we did during Rwanda.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 495

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Darfur Accountability Act of 2005".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act.

(3) MEMBER STATES.—The term "member states" means the member states of the United Nations.

(4) SUDAN NORTH-SOUTH PEACE AGREEMENT.—The term "Sudan North-South Peace Agreement" means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) THOSE NAMED BY THE UN COMMISSION.—The term "those named by the UN Commission" means those individuals whose names appear in the sealed file delivered to the Secretary General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Secretary General.

(6) UN COMMISSION.—The term "UN Commission" means the International Commission of Inquiry on Darfur to the United Nations Secretary General.

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in Darfur, Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, "[w]hen we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring".

(3) President George W. Bush, in an address before the United Nations General Assembly on September 21, 2004, stated, "[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide".

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law and carried out other atrocities in the Darfur region.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry into violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564.

(6) United Nations Security Council Resolution 1564 declares that if the Government of Sudan "fails to comply fully" with Security Council Resolutions 1556 and 1564, the Security Council shall consider taking "additional measures" against the Government of Sudan "as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance and cooperation".

(7) United Nations Security Council Resolution 1564 also "welcomes and supports the

intention of the African Union to enhance and augment its monitoring mission in Darfur" and "urges member states to support the African Union in these efforts, including by providing all equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union Mission".

(8) On February 1, 2005, the United Nations released the Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, dated January 25, 2005, which stated that, "[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur", that such "acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity", and that the "magnitude and large-scale nature of some crimes against humanity as well as their consistency over a long period of time, necessarily imply that these crimes result from a central planning operation".

(9) The Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General notes that, pursuant to its mandate and in the course of its work, the UN Commission collected information relating to individual perpetrators of acts constituting "violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes" and that the UN Commission has delivered to the Secretary-General of the United Nations a sealed file of those named by the UN Commission with the recommendation that the "file be handed over to a competent Prosecutor".

### SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) requires member states to freeze the property and assets of, deny visas to, and deny entry to—

(i) those named by the UN Commission;

(ii) family members of those named by the UN Commission; and

(iii) any associates of those named by the UN Commission to whom assets or property of those named by the UN Commission were transferred on or after June 11, 2004;

(B) urges member states to submit to the Security Council the name of any individual that the government of any such member state believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, or crimes against humanity in Darfur, along with evidence supporting such belief so that the Security Council may consider imposing sanctions described in subparagraph (A) against those individuals described in such subparagraph;

(C) imposes sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as—

(i) humanitarian organizations are granted full, unimpeded access to Darfur;

(ii) the Government of Sudan cooperates with humanitarian relief efforts, carries out activities to demobilize and disarm Janjaweed militias and any other militias supported or created by the Government of Sudan, and cooperates fully with efforts to bring to justice the individuals responsible for genocide, war crimes, or crimes against humanity in Darfur;

(iii) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(iv) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(v) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(D) establishes a military no-fly zone in Darfur;

(E) supports the expansion of the African Union force in Darfur so that such force achieves the size and strength needed to prevent ongoing fighting and violence in Darfur;

(F) urges member states to accelerate assistance to the African Union force in Darfur;

(G) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force in the region, international humanitarian organizations, and United Nations monitors;

(H) extends the embargo of military equipment established by paragraphs 7 through 9 of Security Council Resolution 1556 to include the prohibition of sale or supply to the Government of Sudan; and

(I) supports African Union efforts to negotiate peace talks between the Government of Sudan and rebels in Darfur, calls on the Government of Sudan and rebels in Darfur to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004 and subsequent agreements, and urges parties to engage in peace talks without preconditions and seek to resolve the conflict;

(3) the United States should work with other nations to ensure effective efforts to freeze the property and assets of and deny visas and entry to—

(A) those named by the UN Commission;

(B) any individuals the United States believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, and crimes against humanity in Darfur;

(C) family members of any person described in subparagraphs (A) or (B); and

(D) any associates of any such person to whom assets or property of such person were transferred on or after June 11, 2004;

(4) the United States should support accountability through action by the United Nations Security Council, pursuant to Chapter VII of the Charter of the United Nations, to ensure the prompt prosecution and adjudication in a competent international court of justice of those named by the UN Commission;

(5) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that—

(A) humanitarian organizations are being granted full, unimpeded access to Darfur and the Government of Sudan is providing full cooperation with humanitarian efforts;

(B) concrete, sustained steps are being taken toward demobilizing and disarming Janjaweed militias and any other militias supported or created by the Government of Sudan;

(C) the Government of Sudan is cooperating fully with efforts to bring to justice those responsible for genocide, war crimes, or crimes against humanity in Darfur;

(D) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(E) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(F) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(6) the President should work with the African Union and other international organizations and nations to establish mechanisms for the enforcement of a no-fly zone in Darfur;

(7) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence, and member states should support fully this extension;

(8) the President should accelerate assistance to the African Union force in Darfur and discussions with the African Union and the European Union and other supporters of the African Union force on the needs of such force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(9) the President should appoint a Presidential Envoy for Sudan—

(A) to support the implementation of the Sudan North-South Peace Agreement;

(B) to seek ways to bring stability and peace to Darfur;

(C) to address instability elsewhere in Sudan; and

(D) to seek a comprehensive peace throughout Sudan;

(10) United States officials, including the President, the Secretary of State, and the Secretary of Defense, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur;

(11) the Secretary of State should immediately engage in a concerted, sustained campaign with other members of the United Nations Security Council and relevant countries with the aim of achieving the goals described in paragraph (10);

(12) the United States fully supports the Sudan North-South Peace Agreement and urges the rapid implementation of its terms; and

(13) the United States condemns attacks on humanitarian workers and calls on all forces in Darfur, including forces of the Government of Sudan, all militia, and forces of the Sudan People's Liberation Army/Movement and the Justice and Equality Movement, to refrain from such attacks.

**SEC. 5. IMPOSITION OF SANCTIONS.**

(a) FREEZING ASSETS.—At such time as the United States has access to the names of those named by the UN Commission, the President shall take such action as may be necessary to immediately freeze the funds and other assets belonging to anyone so named, their family members, and any associates of those so named to whom assets or property of those so named were transferred on or after June 11, 2004, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control.

(b) VISA BAN.—Beginning at such times as the United States has access to the names of those named by the UN Commission, the President shall deny visas and entry to—

(1) those named by the UN Commission;

(2) the family members of those named by the UN Commission; and

(3) anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(c) ASSET REPORTING REQUIREMENT.—Not later than 14 days after a decision to freeze the property or assets of, or deny a visa or entry to, any person under this section, the President shall report the name of such person to the appropriate congressional committees.

(d) NOTIFICATION OF WAIVERS OF SANCTIONS.—Not later than 30 days before waiving the provisions of any sanctions currently in force with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons therefor.

**SEC. 6. REPORTS TO CONGRESS.**

(a) REPORTS ON STABILIZATION IN SUDAN.—

(1) INITIAL REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to succeed at such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, current status of United States and other assistance to the African Union force, and additional United States assistance needed.

(2) SUBSEQUENT REPORTS.—The Secretary of State, in conjunction with the Secretary of Defense, shall submit not less than every 60 days until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(b) REPORT ON THOSE NAMED BY THE UN COMMISSION.—At such time as the United States has access to the names of those named by the UN Commission, the President shall submit to the appropriate congressional committees a report listing such names.

(c) REPORTS ON ACCOUNTABILITY.—

(1) IN GENERAL.—No later than 30 days after the date of enactment of this Act and every 30 days thereafter, the President shall submit to the appropriate congressional committees a report on the status of efforts in the United Nations Security Council to ensure prompt prosecution and adjudication of those named by the UN Commission in a competent international court of justice.

(2) CONTENT.—The reports required under paragraph (1) shall describe—

(A) the status of any relevant resolution introduced in the United Nations Security Council;

(B) the policy of the United States with regard to such resolutions;

(C) the status of all possible venues for prosecution and adjudication of those named by the UN Commission, including whether such venues have the jurisdiction, personnel and assets necessary to promptly prosecute and adjudicate cases involving such persons; and

(D) any ongoing or planned United States or other assistance related to the prosecution and adjudication of cases involving those named by the UN Commission.

Mr. BROWNBACK. Mr. President, today with several bipartisan colleagues, Senator CORZINE and I introduced the Darfur Accountability Act of 2005. For nearly a year, this body has been aware of the ongoing genocide in Sudan. Last July we declared genocide in Darfur, followed shortly thereafter by the same declaration by former Secretary of State Colin Powell. Yet no punitive measure has been taken by the international community against the Government of Sudan for these egregious human rights violations. Some sources estimate that as many as 400,000 people have died as a result, and nearly 2 million have been displaced from their homes.

Yesterday I spoke on the Senate floor in an attempt to display the face of genocide. Photographs of scorched bodies, castrated men, dead children, and burned villages were provided to me by Nicholas Kristof of the New York Times. These photos do nothing less than display the cruel impunity of those committing genocide. The haunting reality is that the international community has failed on their promise of "never again."

The United Nations should take immediate steps to end this genocide and Kofi Annan should lead the Security Council to pass a strong, meaningful resolution that will immediately change the situation on the ground. There is no longer an excuse; we must call this what this is, and we must immediately act to prevent further pillaging and death. I have called on Annan several times to lead or leave. He should pass a resolution with mechanisms to see that the impunity ends and if he fails to do so, resign in moral protest at the international community's inaction and complacency.

Our bill, the Darfur Accountability Act of 2005, calls for several key measures to be taken, including: a multilateral arms embargo to include the government of Sudan; a no fly zone; multilateral sanctions; targeted sanctions including travel bans and the freezing of assets of criminals; accelerated assistance to AU monitoring troops, and several other items that will secure a peaceful Darfur.

I encourage my colleagues to join us in moving this bill through Congress. We do not have days or weeks to spare when millions of lives are in jeopardy. We cannot grant the government of Sudan and the janjaweed more time to execute the African tribes in Darfur. I look forward to working with Senator CORZINE and other colleagues to see passage of this bill immediately.

---

By Mr. SALAZAR:

S. 496. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

---

By Mr. SALAZAR:

S. 497. A bill to revitalize our nation's rural communities by expanding broadband services; to the Committee on Finance.

Mr. SALAZAR. Mr. President, I rise to speak about two bills I am introducing today and to speak out in support of rural Colorado and rural America. The two bills—one to increase investment in broadband technology in rural areas, and another to permanently fund the payment in lieu of taxes program—are the first bills I am introducing as a Senator. I am proud they are both targeted at rural Colorado.

Over 400 years ago, in 1598, my family helped found the oldest city in what is now these United States. They named the city Santa Fe—the City of Holy Faith—because they knew the hand of God would guide them through the struggles of survival in the ages ahead.

For the next four centuries, that faith in their future guided them to overcome extremely painful and challenging times. As humble and poor farmers, the circumstances of their lives forged the priceless and tireless values of my father Henry and mother Emma. And they instilled those values in their children.

My family has now farmed the same lands in southern Colorado, 110 miles north of Santa Fe, for almost 150 years. On that ranch, we did not have a telephone, and the power lines did not reach us until 1981. Although we were poor in material goods, we were rich in spirit. My parents were part of the World's "greatest generation"—my father a proud veteran of World War II and my mother a proud servant in the War Department. Although neither had a college degree, they taught us about the values and the promise of America. All eight of their children became first-generation college graduates, inspired by their dedication to God, family, community, and country.

As Colorado's U.S. Senator, I am proud of my values and roots in rural Colorado. Rural America is the heart of our great Nation.

The values my parents taught me are the fundamental values that make this country the place I am privileged to call home.

Unfortunately, the America where I grew up is vanishing, left behind by a

Washington DC that has lost touch with what is important to the people of the heartland. I fear that rural Colorado, like the rest of rural America, has become "the forgotten America."

Rural America has given up its sons and daughters to the cause of freedom without hesitation and in numbers that far exceed its proportion of the country's population. It has worked quietly to put food on our tables, and remains humbly grounded, seeking neither praise nor thanks.

Yet when the President reported on the State of the Union, there was not a word on the state of the more than 3,000 counties that make up rural America—not a word. And in the administration's budget, the programs and investments vital to those communities—PILT, block grants, conservation programs, investments in animal and food safety, and investments in technology, schools and law enforcement—were drastically cut.

Last week, I traveled nearly 2,000 miles to every corner of Colorado and convened 17 meetings with elected officials representing Colorado's 64 counties.

In those meetings, I heard the state of rural America in the words of the people who are fighting for their families everyday.

The state of rural America is sadly the state of the forgotten America.

In rural Colorado, residents face lower incomes and are far more likely to be unemployed than people in urban and suburban areas.

In Crowley County, east of Pueblo, there is only one nurse practitioner to serve a county of nearly 6,000 people. If you get sick in Crowley County, you have three choices: wait, go to the emergency room, or hope you get better.

In Routt County, veterans have to travel nearly 200 miles to Grand Junction to see a doctor in the VA clinic. A few months ago, there was no waiting list to see a doctor. Now, there's a waiting list of 400, which means veterans in western Colorado wait 5 months to see a doctor.

The Dolores County Sheriff, Jerry Martin, has to make hiring decisions based not on public security demands but on the ability of his department to provide health care to the prospective employee. Health care premiums have risen 20 percent every year the last 3 years in Dolores County.

Across the State, people told me that their health care premiums dwarf their mortgage payments because in many cases they pay over $1,000 per month for health insurance for their families.

Between 1996 and 2000, one in three of our rural schools saw its enrollment drop more than 10 percent.

Though they continue to excel on State tests, too many of our rural schools have been forced to divert valuable resources to fulfill the unfunded mandates of No Child Left Behind.

In Kiowa, Moffat, and Custer Counties, our teachers are paid much less than teachers in the big cities. In Kit Carson County, where teachers sometimes teach two and three subjects, only half of our teachers right now would meet new Federal standards requiring them to be certified for each subject.

And in the town of Rico, half of Main Street is boarded up: there's a liquor store, but not much else. According to the Kansas City Federal Reserve Bank, that may be part of a larger trend: Main Street in rural Colorado is losing its storefronts at an alarming rate.

Compare those needs to the budget the Administration recently proposed.

While we are facing a shortage of qualified and trained health care employees, the administration budget this year cut health professions training by almost two thirds, $290 million.

While our State tries to deal with a devastating budget crisis, the Administration dramatically reduced funding for the Community Development Block Grants on which towns, from Greeley to Grand Junction to Denver, depend.

For the fifth year in a row, the Administration's budget fails to fulfill the funding promises made in the No Child Left Behind law, but still heaps mandates on local schools.

Moreover, the proposed budget eliminates low-interest loans for students who have the grades but can't afford to go to college and eliminates funding for vocational training that many rural Colorado students use.

The proposed budget cuts $250 million from one of the most successful small business investment programs and decimates USDA investments in rural economic development.

While we combat methamphetamine production and invest precious resources in meth lab clean up, the budget cuts Safe and Drug Free School grants, the COPS program by nearly $500 million, and State and local homeland security training programs by 60 percent.

I want to propose two small steps in my effort to reinvest in rural America. In coming months I intend to introduce measures to strengthen rural law enforcement, revitalize rural health care, invest in Main Street, strengthen rural education, help ensure efficient and equitable sharing of water resources and underscore the values that shape every rural community in Colorado.

The first bill is on the PILT program. I know that education in rural America is funded through a variety of means, including through resources passed to rural counties through the Payment in Lieu of Taxes program.

The idea behind the PILT program is simple. It makes sure that local communities in States like Colorado—States that have seen large parts of land set aside by the Federal Government for public use—do not lose valuable resources from foregone property taxes. Those resources fund programs from education to law enforcement.

Unfortunately, this year the administration's budget is again proposing to cut that funding. Thanks to the efforts of my Democratic and Republican colleagues, such as Senator BINGAMAN, some of that funding has been won back over the last several years, and I am hopeful we will do so again this year.

But our local communities should not have to wait and wonder every year whether their resources for schools, roads and law enforcement will make it into the budget, and that is why I am introducing a bill to make permanent the funding for the payment in lieu of taxes program.

I am also introducing a bill to increase investment in broadband technology in rural communities. Bringing broadband to our rural schools will give our students there access to technology that millions of other students take for granted. With broadband will come world class research and access to AP courses at Colorado's universities. And with broadband we will see the economic development for which rural Colorado has been waiting.

The benefits of this investment do not stop in education and business. Telehealth is increasingly vital in rural Colorado, held back in some cases by the lack of investment in infrastructure. That same infrastructure limits investment opportunities in rural communities.

With this bill I am building on the hard work of others and saying that it is long past time for us to invest in the world class broadband that rural communities need and are right to expect. My bill does that in three ways.

First, it will establish our Nation's first Rural Broadband Office to coordinate all Federal Government resources as they relate to broadband.

Second, it will help broadband providers keep pace with our rapidly changing technology.

And third, it calls on the Congress to live up to its responsibility to fully fund rural utilities.

It has been a long road that has carried me from that ranch in the San Luis Valley, growing up as one of eight siblings and proudly attending college and law school before having the privilege to serve in U.S. Senate.

In all of this, I have never forgotten where I come from. In my office, I have a sign on my desk that reads "No Farms, No Food." Every day I look at it, and I am reminded of just how dependent we are on the people of rural Colorado, and in rural communities all across America.

At a meeting with leaders from Colorado's farmer and rancher community last month, a wheat farmer from southeastern Colorado told me this: "Senator, you'd never believe how many farmers refuse to go to the doctor when they get sick. It's not that they aren't really sick. It's that they can't afford the doctor."

Unfortunately, Mr. President, I do believe that wheat farmer, and I know rural America needs our help.

In America, the most powerful, prosperous, idealistic country the world has ever known, we can do better.

And protecting that way of life—in our churches and town halls, Main Streets and living rooms, ranches and independent drug stores—demands it. Together, we can make sure that no one anywhere in this country feels that he is part of a "Forgotten America" any longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I congratulate my colleague from Colorado. His maiden speech was as brilliant as his life has been. It is an honor to serve with him, when I think about the story of his family and its presence and contribution to this country and the power with which he speaks for those he represents in rural America. This will be one of many speeches that make a great impact on our country. I am honored to serve with him and congratulate him on his initial voyage.

Mr. SALAZAR. Mr. President, I appreciate the comments from the Senator from New Jersey.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 496

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "PILT and Refuge Revenue Sharing Permanent Funding Act".

**SEC. 2. PERMANENT FUNDING.**

(a) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

**"§ 6906. Funding**

"For fiscal year 2006 and each fiscal year thereafter, amounts authorized under this chapter shall be made available to the Secretary of the Interior, out of any amounts in the Treasury not otherwise appropriated and without further appropriation, for obligation or expenditure in accordance with this chapter.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

"6906. Funding.".

(b) REFUGE REVENUE SHARING.—Section 401(d) of the Act of June 15, 1935 (16 U.S.C. 715s(d)) is amended—

(1) by striking "If the net receipts" and inserting the following:

"(1) If the net receipts"; and

(2) by adding at the end the following:

"(2) For fiscal year 2006 and each fiscal year thereafter, the amount made available under paragraph (1) shall be made available to the Secretary, out of any funds in the Treasury not otherwise appropriated and without further appropriation, for obligation or expenditure in accordance with this section.".

S. 497

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Broadband Rural Revitalization Act of 2005".

**SEC. 2. RURAL BROADBAND OFFICE.**

(a) ESTABLISHMENT.—There is established within the Department of Commerce, the Rural Broadband Office.

(b) DUTIES.—The Office shall coordinate all Federal Government resources as they relate to the expansion of broadband technology into rural areas.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Rural Broadband Office shall submit a report to the Congress that—

(1) assesses the availability of, and access to, broadband technology in rural areas;

(2) estimates the number of individuals using broadband technology in rural areas;

(3) estimates the unmet demand for broadband technology in rural areas; and

(4) sets forth a strategic plan to meet the demand described in paragraph (3).

**SEC. 3. FULL FUNDING FOR RURAL BROADBAND SERVICES.**

It is the sense of Congress that the loan program established in section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), which is essential to the economic well-being of small telecommunications providers and to the quality of life for all rural residents, be funded fully.

**SEC. 4. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES FOR RURAL COMMUNITIES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

**"SEC. 191. BROADBAND EXPENDITURES FOR RURAL COMMUNITIES.**

"(a) TREATMENT OF EXPENDITURES.—

"(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

"(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to—

"(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

"(B) the connection of such qualified equipment to any qualified subscriber.

"(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

"(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) LIMITATION.—

"(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service, after the date of the enactment of this Act.

"(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after the date of the enactment of this Act by any person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES.—

"(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of—

"(i) the number of potential qualified subscribers within the rural areas, plus

"(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i), which the equipment is capable of serving with next generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

"(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

"(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

"(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

"(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

"(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

"(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

"(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

"(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

"(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

"(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

"(A) a cable operator,

"(B) a commercial mobile service carrier,

"(C) an open video system operator,

"(D) a satellite carrier,

"(E) a telecommunications carrier,

"(F) any other wireless carrier, providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment; or

"(G) any carrier or operator using any other technology.

"(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

"(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

"(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

"(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

"(D) such services have been purchased by 1 or more such subscribers, and

"(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

"(13) QUALIFIED EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

"(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

"(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

"(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

"(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

"(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

"(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

"(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

"(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

"(A) with respect to the provision of current generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, or

"(ii) any residential subscriber residing in a dwelling located in a rural area which is not a saturated market, and

"(B) with respect to the provision of next generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, or

"(ii) any residential subscriber.

"(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

"(16) RURAL AREA.—The term 'rural area' means any census tract which—

"(A) is not within 5 miles of any incorporated or census designated place containing more than 25,000 people, and

"(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

"(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

"(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

"(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

"(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

"(B) such services can be utilized—

"(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

"(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

"(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

"(B) does not include a commercial mobile service carrier.

"(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

"(f) SPECIAL RULES.—

"(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

"(2) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).".

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(32).".

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by adding at the end the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 191.".

(2) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 191(f)(2).".

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

"Sec. 191. Broadband expenditures for rural communities.".

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16) and (22) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) NO IMPLICATION REGARDING THE NEED FOR NEXT GENERATION INCENTIVE IN URBAN AREAS.—Nothing in this section shall be construed to imply that an incentive for next generation broadband is not needed in urban areas.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act and before the date which is 12 months after the date of the enactment of this Act.

---

By Mr. BURR (for himself, Ms. LANDRIEU, and Mr. LOTT):

S. 498. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BURR. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 498

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Interstate Transmission Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—RELIABLE AND ECONOMIC TRANSMISSION INFRASTRUCTURE

Sec. 101. Transmission infrastructure investment.
Sec. 102. Open nondiscriminatory access.
Sec. 103. Electric transmission property treated as 15-year property.
Sec. 104. Disposition of property.
Sec. 105. Electric reliability standards.

TITLE II—PROTECTING RETAIL CONSUMERS

Sec. 201. Native load service obligation.
Sec. 202. Voluntary transmission pricing plans.

TITLE III—VOLUNTARY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS

Sec. 301. Promotion of voluntary development of regional transmission organizations, independent transmission providers, and similar organizations.

### SEC. 2. FINDINGS.

Congress finds that—

(1) transmission networks are the backbone of reliable delivery of electric energy and competitive wholesale power markets;

(2) the expansion, enhancement, and improvement of transmission facilities, and rules of the road for using the facilities, are necessary to maintain and improve the reliability of electric service and to enhance competitive wholesale markets across the United States and competitive retail markets that have been adopted by nearly the States;

(3) to ensure reliable and efficient expansion, enhancement, and improvement of transmission facilities, the economics of the business of electric transmission and the Federal regulatory structures applicable to the facilities must be improved;

(4) Federal electricity regulatory policy should benefit consumers by providing incentives for infrastructure improvement and by removing barriers to efficient competition, and not be dictated by the imposition of market structures or costly mandates;

(5) slow, burdensome, or duplicative reviews of utility mergers are a disincentive to the efficient disposition of utility assets needed to ensure a reliable and efficient infrastructure;

(6) since efficient competition requires accurate price signals that reflect cost causation, parties that benefit from transmission upgrades should be required to pay for the upgrades;

(7) Federal regulation should not override the interests of local consumers or State laws that ensure reliable service and adequate transmission capacity to serve consumers;

(8) in regions where the formation of regional transmission organizations or similar entities have been formed voluntarily with oversight or approval by States, the Federal Energy Regulatory Commission should have clear authority to approve applications for the organizations that are consistent with the Federal Power Act (16 U.S.C. 791a et seq.);

(9) the States and electricity consumers in each region of the United States, and not the Federal Government, are in the best position to determine how the electric power systems serving their regions should be structured, including whether Regional Transmission Organization formation, traditional vertical integration, or other structures are cost effective for their region; and

(10) mandatory reliability rules, developed and enforced by a self-regulating electric reliability organization, are a vital component of a comprehensive policy to ensure a robust and reliable electricity grid.

## TITLE I—RELIABLE AND ECONOMIC TRANSMISSION INFRASTRUCTURE

### SEC. 101. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

### "SEC. 215. TRANSMISSION INFRASTRUCTURE INVESTMENT.

"(a) Rulemaking Requirement.—Within 1 year after the enactment of this section, the Commission shall establish, by rule, incentive-based (including, but not limited to performance-based) rate treatments for the transmission of electric energy in interstate commerce by any public utility for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. Such rule shall—

"(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance and operation of facilities for the transmission of electric energy in interstate commerce;

"(2) provide a return on equity, determined using a variety of reasonable valuation methodologies, that attracts new investment in transmission facilities (including related transmission technologies);

"(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of such facilities;

"(4) allow recovery of all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 216 of this Act;

"(5) allow a current return in rates for construction work in progress for transmission facilities and full recovery of prudently incurred costs for constructing transmission facilities;

"(6) allow the use of formula transmission rates;

"(7) allow rates of return that do not vary with capital structure; and

"(8) allow a maximum 15-year accelerated depreciation on new transmission facilities for rate treatment purposes.

"(b) Additional Incentives for RTO Participation.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Regional Transmission Organization or Independent System Operator. Incentives provided by the Commission pursuant to such rule shall include—

"(1) recovery of all prudently incurred costs to develop and participate in any proposed or approved RTO, ISO, or independent transmission company;

"(2) recovery of all costs previously approved by a State commission which exercised jurisdiction over the transmission facilities prior to the utility's participation in the RTO or ISO, including costs necessary to honor preexisting transmission service contracts, in a manner which does not reduce the revenues the utility receives for transmission services for a reasonable transition period after the utility joins the RTO or ISO; and

"(3) recovery as an expense in rates of the costs prudently incurred to conduct transmission planning and reliability activities, including the costs of participating in RTO, ISO and other regional planning activities and design, study and other precertification costs involved in seeking permits and approvals for proposed transmission facilities.

The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the RTO or ISO that provides transmission service to such utility.

"(c) Just and Reasonable Rates.—All rates approved under the rules adopted pursuant to this section, including any revisions to such rules, are subject to the requirement of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.".

### SEC. 102. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

### "SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) Transmission Services.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) Exemption.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) Local Distribution Facilities.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) Exemption Termination.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 216, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) Application to Unregulated Transmitting Utilities.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) Remand.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) Other Requests.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) Limitation.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) Transfer of Control of Transmitting Facilities.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) Definition.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).".

### SEC. 103. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and by inserting ", and", and by adding at the end the following new clause:

"(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.".

(b) Alternative System.—The table contained in section 168(g)(3)(B) of the Internal Revenue Code of 1986 (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (E)(vi) the following:

"(E)(vii) .............................. 30".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

### SEC. 104. DISPOSITION OF PROPERTY.

Section 203 of the Federal Power Act (16 U.S.C. 824b) is repealed.

### SEC. 105. ELECTRIC RELIABILITY STANDARDS.

(a) In General.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) (as amended by section 101) is amended by adding at the end the following:

### "SEC. 216. ELECTRIC RELIABILITY.

"(a) Definitions.—For purposes of this section:

“(1) The term ‘bulk-power system’ means—

“(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

“(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

“(2) The terms ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

“(3) The term ‘reliability standard’ means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

“(4) The term ‘reliable operation’ means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

“(5) The term ‘Interconnection’ means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

“(6) The term ‘transmission organization’ means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

“(7) The term ‘regional entity’ means an entity having enforcement authority pursuant to subsection (e)(4).

“(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

“(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

“(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

“(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

“(2) has established rules that—

“(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

“(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

“(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

“(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

“(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

“(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

“(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

“(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

“(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

“(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

“(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

“(A) the Commission finds a conflict exists between a reliability standard and any such provision;

“(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

“(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

“(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

“(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

“(B) files notice and the record of the proceeding with the Commission.

“(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

“(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

“(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

“(A) the regional entity is governed by—

“(i) an independent board;

“(ii) a balanced stakeholder board; or

“(iii) a combination independent and balanced stakeholder board.

“(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) Changes in Electric Reliability Organization Rules.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) Reliability Reports.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) Coordination With Canada and Mexico.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i) Savings Provisions.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) Regional Advisory Bodies.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) Alaska and Hawaii.—The provisions of this section do not apply to Alaska or Hawaii.".

(b) Status of ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 216(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 216(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

## TITLE II—PROTECTING RETAIL CONSUMERS

### SEC. 201. NATIVE LOAD SERVICE OBLIGATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 105(a)) is amended by adding at the end the following:

### "SEC. 217. NATIVE LOAD SERVICE OBLIGATION.

"(a) Meeting Service Obligations.—(1) Any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under 1 or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

"(B) by reason of ownership of transmission facilities, or 1 or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

"(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

"(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

"(b) Allocation of Transmission Rights.—Nothing in this section shall affect any methodology approved by the Commission prior to September 15, 2003, for the allocation of transmission rights by an RTO or ISO that has been authorized by the Commission to allocate transmission rights.

"(c) Certain Transmission Rights.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (a) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

"(d) Obligation To Build.—Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

"(e) Contracts.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection.

"(f) Water Pumping Facilities.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to such facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

"(g) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

"(h) Jurisdiction.—This section does not authorize the Commission to take any action not otherwise within its jurisdiction.

"(i) Effect of Exercising Rights.—An entity that lawfully exercises rights granted under subsection (a) shall not be considered by such action as engaging in undue discrimination or preference under this Act.

"(j) Definitions.—For purposes of this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities or electric cooperatives, provides electric service to end-users.

"(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

"(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

"(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any 1 or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any 1 or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power.".

### SEC. 202. VOLUNTARY TRANSMISSION PRICING PLANS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 201) is amended by adding at the end the following:

### "SEC. 218. VOLUNTARY TRANSMISSION PRICING PLANS.

"(a) In General.—Any transmission provider, including an RTO or ISO, may submit to the Commission a plan or plans under section 205 containing the criteria for determining the person or persons that will be required to pay for any construction of new transmission facilities or expansion, modification or upgrade of transmission facilities (in this section referred to as 'transmission service related expansion') or new generator interconnection.

"(b) VOLUNTARY TRANSMISSION PRICING PLANS.—(1) Any plan or plans submitted under subsection (a) shall specify the method or methods by which costs may be allocated or assigned. Such methods may include, but are not limited to:

"(A) directly assigned;

"(B) participant funded; or

"(C) rolled into regional or sub-regional rates.

"(2) FERC shall approve a plan or plans submitted under subparagraph (B) of paragraph (1) if such plan or plans—

"(A) result in rates that are just and reasonable and not unduly discriminatory or preferential consistent with section 205; and

"(B) ensure that the costs of any transmission service related expansion or new generator interconnection not required to meet applicable reliability standards established under section 216 are assigned in a fair manner, meaning that those who benefit from the transmission service related expansion or new generator interconnection pay an appropriate share of the associated costs, provided that—

"(i) costs may not be assigned or allocated to an electric utility if the native load customers of that utility would not have required such transmission service related expansion or new generator interconnection absent the request for transmission service related expansion or new generator interconnection that necessitated the investment;

"(ii) the party requesting such transmission service related expansion or new generator interconnection shall not be required to pay for both—

"(I) the assigned cost of the upgrade; and

"(II) the difference between—

"(aa) the embedded cost paid for transmission services (including the cost of the requested upgrade); and

"(bb) the embedded cost that would have been paid absent the upgrade; and

"(iii) the party or parties who pay for facilities necessary for the transmission service related expansion or new generator interconnection receives full compensation for its costs for the participant funded facilities in the form of—

"(I) monetary credit equal to the cost of the participant funded facilities (accounting for the time value of money at the Gross Domestic Product deflator), which credit shall be pro-rated in equal installments over a period of not more than 30 years and shall not exceed in total the amount of the initial investment, against the transmission charges that the funding entity or its assignee is otherwise assessed by the transmission provider;

"(II) appropriate financial or physical rights; or

"(III) any other method of cost recovery or compensation approved by the Commission.

"(3) A plan submitted under this section shall apply only to—

"(A) a contract or interconnection agreement executed or filed with the Commission after the date of enactment of this section; or

"(B) an interconnection agreement pending rehearing as of November 1, 2003.

"(4) Nothing in this section diminishes or alters the rights of individual members of an RTO or ISO under this Act.

"(5) Nothing in this section shall affect the allocation of costs or the cost methodology employed by an RTO or ISO authorized by the Commission to allocate costs (including costs for transmission service related expansion or new generator interconnection) prior to the date of enactment of this section.

"(6) This section shall not apply within the area referred to in section 212(k)(2)(A).

"(7) The term 'transmission provider' means a public utility that owns or operates facilities that provide interconnection or transmission service in interstate commerce.".

## TITLE III—VOLUNTARY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS

### SEC. 301. PROMOTION OF VOLUNTARY DEVELOPMENT OF REGIONAL TRANSMISSION ORGANIZATIONS, INDEPENDENT TRANSMISSION PROVIDERS, AND SIMILAR ORGANIZATIONS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 202) is amended by adding at the end thereof the following new section:

### "SEC. 219. PROMOTION OF VOLUNTARY DEVELOPMENT OF REGIONAL TRANSMISSION ORGANIZATIONS, INDEPENDENT TRANSMISSION PROVIDERS, AND SIMILAR ORGANIZATIONS.

"(a) IN GENERAL.—The Commission may approve and may encourage the formation of regional transmission organizations, independent transmission providers, and similar organizations (referred to in this section as 'transmission organizations') for the purpose of enhancing the transmission of electric energy in interstate commerce. Among options for the formation of a transmission organization, the Commission shall prefer those in which—

"(1) participation in the organization by transmitting utilities is voluntary;

"(2) the form, structure, and operating entity of the organization are approved of by participating transmitting utilities; and

"(3) market incentives exist to promote investment for expansion of transmission facilities and for the introduction of new transmission technologies within the territory of the organization.

"(b) CONDITIONS.—No order issued under this Act shall be conditioned upon or require a transmitting utility to transfer operational control of jurisdictional facilities to an independent system operator or other transmission organization.

"(c) COMPLAINT.—In addition to any other rights or remedies it may have under this Act, any entity serving electric load that is denied services by a transmission organization that the transmission organization makes available to other load serving entities shall be entitled to file a complaint with the Commission concerning the denial of such services. If the Commission shall find, after an evidentiary hearing on the record, that the denial of services complained of was unjust, unreasonable, unduly discriminatory or preferential, or contrary to the public interest, the Commission may order the provision of such services at rates and on terms and conditions that shall be in accordance with this Act.".

---

By Mr. DODD:

S. 499. A bill to amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise today to introduce legislation, the Credit CARD Act of 2005 (the Credit Card Accountability Responsibility and Disclosure Act of 2005), designed to protect our Nation's consumers from the predatory practices of the credit card industry.

The Credit CARD Act is substantially the same as legislation I previously introduced in the 108th Congress. As the Senate considers bankruptcy reform legislation, which I believe will adversely impact consumers and inappropriately reward the credit card industry, the Credit CARD Act is needed now more than ever before.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 499

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the "Credit Card Accountability Responsibility and Disclosure Act of 2005" or the "Credit CARD Act of 2005".

### SEC. 2. REGULATORY AUTHORITY.

The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out this Act and the amendments made by this Act.

## TITLE I—ABUSIVE PRACTICES

## Subtitle A—Use of Default Clauses

### SEC. 111. PRIOR NOTICE OF RATE INCREASES REQUIRED.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) ADVANCE NOTICE OF INCREASE IN INTEREST RATE REQUIRED.—

"(1) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan, no increase in any annual percentage rate of interest (other than an increase due to the expiration of any introductory percentage rate of interest, or due solely to a change in another rate of interest to which such rate is indexed)—

"(A) may take effect before the beginning of the billing cycle which begins not less than 15 days after the obligor receives notice of such increase; or

"(B) may apply to any outstanding balance of credit under such plan as of the date of the notice of the increase required under paragraph (1).

"(2) NOTICE OF RIGHT TO CANCEL.—The notice referred to in paragraph (1) with respect to an increase in any annual percentage rate of interest shall be made in a clear and conspicuous manner and shall contain a brief statement of the right of the obligor to cancel the account before the effective date of the increase.".

### SEC. 112. FREEZE ON INTEREST RATE TERMS AND FEES ON CANCELED CARDS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

"(i) FREEZE ON INTEREST RATE TERMS AND FEES ON CANCELED CARDS.—If an obligor referred to in subsection (h) closes or cancels a credit card account before the beginning of the billing cycle referred to in subsection (h)(1)—

"(1) an annual percentage rate of interest applicable after the cancellation with respect to the outstanding balance on the account as of the date of cancellation may not exceed any annual percentage rate of interest applicable with respect to such balance under the terms and conditions in effect before the date of the notice of any increase referred to in subsection (h)(1); and

"(2) the repayment of the outstanding balance after the cancellation shall be subject to all other terms and conditions applicable with respect to such account before the date of the notice of the increase referred to in subsection (h).".

### SEC. 113. LIMITS ON FINANCE AND INTEREST CHARGES FOR ON-TIME PAYMENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

"(j) Prohibition on Penalties for On-Time Payments.—

"(1) Prohibition on finance charges for on-time payments.—In the case of any credit card account under an open end credit plan, where no other balance is owing on the account, no finance or interest charge may be imposed with regard to any amount of a new extension of credit that was paid on or before the date on which it was due.

"(2) Prohibition on cancellation or additional fees for on-time payments or payment in full.—In the case of any credit card account under an open end consumer credit plan, no fee or other penalty may be imposed on the consumer in connection with the payment in full of an existing account balance, or payment of more than the minimum required payment of an existing account balance.".

### SEC. 114. PROHIBITION ON OVER-THE-LIMIT FEES FOR CREDITOR-APPROVED TRANSACTIONS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

"(k) Limitation on Imposition of Over-the-Limit Fees.—In the case of any credit card account under an open end consumer credit plan, a creditor may not impose any fees on the obligor for any extension of credit in excess of the amount of credit authorized to be extended with respect to such account, if the extension of credit is made in connection with a credit transaction which the creditor approves in advance or at the time of the transaction.".

## TITLE II—ENHANCED CONSUMER DISCLOSURES

### SEC. 211. DISCLOSURES RELATED TO "TEASER RATES".

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following:

"(5) Additional notice concerning 'teaser rates'.—

"(A) In general.—An application or solicitation for a credit card for which a disclosure is required under this subsection shall contain the disclosures referred to in subparagraph (B) or (C), as applicable, if the application or solicitation offers, for an introductory period of less than 1 year, an annual percentage rate of interest that—

"(i) is less than the annual percentage rate of interest which will apply after the end of the introductory period; or

"(ii) in the case of an annual percentage rate which varies in accordance with an index, is less than the current annual percentage rate under the index which will apply after the end of the introductory period.

"(B) Fixed annual percentage rate.—If the annual percentage rate which will apply after the end of the introductory period will be a fixed rate, the application or solicitation shall include the following disclosure: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The non-introductory annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].'.

"(C) Variable annual percentage rate.—If the annual percentage rate which will apply after the end of the introductory period will vary in accordance with an index, the application or solicitation shall include the following disclosure: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index and will apply after [insert applicable date]. If the index which will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].'.

"(D) Conditions for introductory rates.—If the annual percentage rate of interest which will apply during the introductory period described in subparagraph (A) is revocable or otherwise conditioned upon any action by the obligor, including any failure by the obligor to pay the minimum payment amount or finance charge or to make any payment by the stated monthly payment due date, the application or solicitation shall include a disclosure of—

"(i) the conditions that the obligor must meet in order to retain the annual percentage rate of interest during the introductory period; and

"(ii) the annual percentage rate of interest that will apply as a result of the failure of the obligor to meet such conditions.

"(E) Form of disclosures.—The disclosures required under this paragraph shall be made in a clear and conspicuous manner, in a format that is at least as prominent as the disclosure of the annual percentage rate of interest which will apply during the introductory period.".

### SEC. 212. PAYOFF TIMING DISCLOSURES.

(a) In General.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

"(i) the outstanding balance in the account at the beginning of the statement period, as required by paragraph (1) of this subsection;

"(ii) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance;

"(iii) the due date, within which, payment must be made to avoid addition charges, as required by paragraph (9) of this subsection;

"(iv) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

"(v) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; and

"(vi) the monthly payments amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made.

"(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

"(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.

"(C) Form of disclosure.—

"(i) In general.—All of the information described in subparagraph (A) shall—

"(I) be disclosed in the form and manner which the Board shall prescribe by regulations; and

"(II) be placed in a conspicuous and prominent location on the billing statement in typeface that is at least as large as the largest type on the statement, but in no instance less than 12-point in size.

"(D) Tabular format.—

"(i) Form of table to be prescribed.—In the regulations prescribed under subparagraph (C), the Board shall require that the disclosure of such information shall be in the form of a table that—

"(I) contains clear and concise headings for each item of such information; and

"(II) provides a clear and concise form stating each item of information required to be disclosed under each such heading.

"(E) Requirements regarding location and order of table.—In prescribing the form of the table under subparagraph (D), the Board shall require that—

"(i) all of the information in the table, and not just a reference to the table, be placed on the billing statement, as required by this subparagraph; and

"(ii) the items required to be included in the table shall be listed in the order in which such items are set forth in subparagraph (A).

"(F) Board discretion in prescribing order and wording of table.—In prescribing the form of the table under subparagraph (C), the Board shall—

"(i) employ terminology which is different than the terminology which is employed in subparagraph (A), if such terminology is easily understood and conveys substantially the same meaning.".

(b) Civil Liability.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: "In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b).

### SEC. 213. REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

"(l) REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.—

"(1) LATE PAYMENT DEADLINE AND POSTMARK DATE REQUIRED TO BE DISCLOSED.—In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, the periodic statement required under subsection (b) with respect to the account shall include, in a conspicuous location on the billing statement—

"(A) the date on which the payment is due or, if different, the date on which a late payment fee will be charged, together with the amount of the fee or charge to be imposed if payment is made after that date;

"(B) the date by which the payment must be postmarked, if paid by mail, in order to avoid the imposition of a late payment fee with respect to the payment; and

"(C) a statement that no late fee may be imposed in connection with a payment made by mail which was postmarked on or before the postmark date.

"(2) DISCLOSURE OF INCREASE IN INTEREST RATES FOR LATE PAYMENTS.—If 1 or more late payments under an open end consumer credit plan may result in an increase in the annual percentage rate the account, the statement required under subsection (b) with respect to the account shall include conspicuous notice of such fact, together with the applicable penalty annual percentage rate, in close proximity to the disclosure required in paragraph (1) of the date on which payment is due under the terms of the account.

"(3) REQUIREMENTS RELATING TO POSTMARK DATE.—

"(A) IN GENERAL.—The date included in a periodic statement pursuant to paragraph (1)(B) with regard to the postmark on a payment shall allow, in accordance with regulations prescribed by the Board under subparagraph (B), a reasonable time for the consumer to make the payment and a reasonable time for the delivery of the payment by the due date.

"(B) BOARD REGULATIONS.—The Board shall prescribe guidelines for determining a reasonable period of time for making a payment and delivery of a payment for purposes of subparagraph (A), after consultation with the Postmaster General and representatives of consumer and trade organizations.

"(4) PAYMENT AT LOCAL BRANCHES.—If the creditor, in the case of a credit card account referred to in paragraph (1), is a financial institution which maintains branches or offices at which payments on any such account are accepted from the obliger in person, the date on which the obliger makes a payment on the account at such branch or office shall be considered as the date on which the payment is made for purposes of determining whether a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, to the extent that such payment is made before the close of business of the branch or office on the business day immediately preceding the due date for such payment.".

## TITLE III—RESPONSIBILITIES IN BANKRUPTCY

### SEC. 311. AMENDMENTS TO THE BANKRUPTCY CODE.

Section 523(a)(2)(C) of title 11, United States Code, is amended by adding at the end the following: "However, this subparagraph shall not apply for any portion of debt incurred under an open end credit plan, as defined in section 103 of the Truth in Lending Act, if the annual rate of interest charged with respect to the account was more than 20 percentage points above the Federal prime lending rate on the last day of month during which the interest was charged.".

## TITLE IV—PROTECTION OF YOUNG CONSUMERS

### SEC. 411. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5), as added by this Act, the following:

"(6) APPLICATIONS FROM UNDERAGE CONSUMERS.—

"(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

"(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

"(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21;

"(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account; or

"(iii) proof by the consumer that the consumer has completed a credit counseling course of instruction by a nonprofit budget and credit counseling agency approved by the Board for such purpose.

"(C) MINIMUM REQUIREMENTS FOR COUNSELING AGENCIES.—To be approved by the Board under subparagraph (B)(iii), a credit counseling agency shall, at a minimum—

"(i) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(I) is not employed by the agency; and

"(II) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(ii) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee; and

"(iii) provide trained counselors who receive no commissions or bonuses based on referrals, and demonstrate adequate experience and background in providing credit counseling.".

### SEC. 412. ENHANCED PENALTIES.

Section 130(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1640 (a)(2)(A)(iii)) is amended by striking "or (iii) in the" and inserting the following:

"(iii) in the case of an individual action relating to an open end credit plan that is not secured by real property or a dwelling, twice the amount of any finance charge in connection with the transaction, with a minimum of $500 and a maximum of $5,000 or such higher amount as may be appropriate in the case of an established pattern or practice of such failures; or

"(iv) in the".

### SEC. 413. RESTRICTIONS ON CERTAIN AFFINITY CARDS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following:

"(m) RESTRICTIONS ON ISSUANCE OF AFFINITY CARDS TO STUDENTS.—No credit card account under an open end credit plan may be established by an individual who has not attained the age of 21 as of the date of submission of the application pursuant to any agreement relating to affinity cards, as defined by the Board, between the creditor and an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), unless the requirements of section 127(c)(6) are met with respect to the obliger.".

---

## AMENDMENTS SUBMITTED AND PROPOSED

SA 28. Mr. KENNEDY proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes.

SA 29. Mr. KENNEDY proposed an amendment to the bill S. 256, supra.

SA 30. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 31. Mr. DAYTON proposed an amendment to the bill S. 256, supra.

SA 32. Mr. CORZINE (for himself, Ms. MIKULSKI, and Mr. LAUTENBERG) proposed an amendment to the bill S. 256, supra.

SA 33. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 34. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 35. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 36. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 37. Mr. NELSON, of Florida (for himself, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON) proposed an amendment to the bill S. 256, supra.

SA 38. Mr. DURBIN proposed an amendment to the bill S. 256, supra.

SA 39. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 40. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 41. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

---

## TEXT OF AMENDMENTS

**SA 28.** Mr. KENNEDY proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 19, between lines 13 and 14, insert the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is a medically distressed debtor.

"(B) In this paragraph, the term 'medically distressed debtor' means a debtor who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(i) had medical expenses for the debtor, a dependent of the debtor, or a member of the debtor's household that were not paid by any third party payor and were in excess of 25 percent of the debtor's household income for such 12-month period;

"(ii) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's employment or business income for 4 or more weeks during such 12-month period due to a medical problem of a member of the household or a dependent of the debtor; or

"(iii) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's alimony or support income for 4 or more weeks during such 12-month period due to a medical problem of a person obligated to pay alimony or support.".

**SA 29.** Mr. KENNEDY proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 191, between lines 11 and 12, insert the following:

### SEC. 322A. EXEMPTION FOR MEDICALLY DISTRESSED DEBTORS.

Section 522 of title 11, United States Code, as amended by sections 224, 308, and 322, is amended by adding at the end the following:

"(r)(1) For a debtor who is a medically distressed debtor, if the debtor elects to exempt property—

"(A) under subsection (b)(2), then in lieu of the exemption provided under subsection (d)(1), the debtor may elect to exempt the debtor's aggregate interest, not to exceed $150,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor; or

"(B) under subsection (b)(3), then if the exemption provided under applicable law specifically for such property is for less than $150,000 in value, the debtor may elect in lieu of such exemption to exempt the debtor's aggregate interest, not to exceed $150,000 in value, in any such real or personal property, cooperative, or burial plot.

"(2) In this subsection, the term 'medically distressed debtor' means a debtor who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(A) had medical expenses for the debtor, a dependent of the debtor, or a member of the debtor's household that were not paid by any third party payor and were in excess of 25 percent of the debtor's household income for such 12-month period;

"(B) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's employment or business income for 4 or more weeks during such 12-month period due to a medical problem of a member of the household or a dependent of the debtor; or

"(C) was a member of a household in which 1 or more members (including the debtor) lost all or substantially all of the member's alimony or support income for 4 or more weeks during such 12-month period due to a medical problem of a person obligated to pay alimony or support.".

**SA 30.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, strike lines 1 through 7, and insert the following:

### SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

(a) CURE OR WAIVER OF DEFECTS.—Section 1406(c) of title 28, United States Code, is amended to read as follows:

"(c) As used in this section—

"(1) the term 'district court'—

"(A) includes the District Court of Guam, the District Court of the Northern Mariana Islands, and the District Court of the Virgin Islands; and

"(B) with regard to cases pending before a bankruptcy court, includes a bankruptcy court; and

"(2) the term 'district' includes the territorial jurisdiction of each district court.".

(b) VENUE IN BANKRUPTCY CASES.—Section 1408 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Except";

(2) in paragraph (1), by striking "or" at the end; and

(3) by striking paragraph (2) and inserting the following:

"(2) in which a case under title 11 concerning the controlling corporation is pending, if—

"(A) the debtor is controlled by another corporation;

"(B) within the 730 days before the date of the debtor's filing under title 11, the financial statements of the debtor have been consolidated with those of the controlling corporation in 1 or more reports filed under section 13 or 15(d) of the Securities Exchange Act of 1934; and

"(C) the controlling corporation is a debtor in a proceeding under title 11; or

"(3) in which a case under title 11 concerning the controlling corporation is pending, if—

"(A) the debtor is a corporation other than a corporation described in paragraph (2);

"(B) the debtor has been controlled by another corporation for not less than 365 days before the date of the filing of the debtor's petition under title 11; and

"(C) the controlling corporation is a debtor in a proceeding under title 11.

"(b) For purposes of subsection (a)—

"(1) if the debtor is a corporation, the domicile and residence of the debtor are located where the debtor's principal place of business is located; and

"(2) the term 'control' has the meaning given that term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

(c) VENUE IN BANKRUPTCY RELATED CASES.—Section 1409(b) of title 28, United States Code, is amended by striking "or a consumer debtor of less than $5,000" and inserting ", a consumer debt of less than $15,000, or a debt (excluding a consumer debt) against a noninsider of less than $10,000,".

**SA 31.** Mr. DAYTON proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

### SEC. ___. TERMS OF CONSUMER CREDIT.

(a) CAP ON INTEREST CHARGEABLE.—A creditor who extends credit to any consumer shall not impose a rate of interest in excess of an annual rate of 30 percent with respect to the credit extended.

(b) PREEMPTION OF STATE LAW.—The provisions governing rates of interest under subsection (a) shall preempt all State usury laws.

(c) EXEMPTION TO PREEMPTION.—If a State imposes a limit on the rate of interest chargeable to an extension of credit that is less than the limit imposed under subsection (a), that State law shall not be preempted and shall remain in full force and effect in that State.

**SA 32.** Mr. CORZINE (for himself, Ms. MIKULSKI, and Mr. LAUTENBERG) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 19, strike line 13, and insert the following:

monthly income.

"(8) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an economically distressed caregiver.".

On page 113, between lines 19 and 20, insert the following:

(4) by inserting after paragraph (14A), as added by this Act, the following:

"(14B) 'economically distressed caregiver' means a caregiver who, in any consecutive 12-month period during the 3 years before the date of the filing of the petition—

"(A) experienced a reduction in employment for not less than 1 month to care for a family member, including a spouse, child, sibling, parent, grandparent, aunt, or uncle; or

"(B) who has incurred medical expenses on behalf of a family member, including a spouse, child, sibling, parent, grandparent, aunt, or uncle, that were not paid by any third party payer and were in excess of the lessor of—

"(i) 25 percent of the debtor's household income for such 12-month period; or

"(ii) $10,000."; and

(5) by inserting after paragraph (44), the following:

"(44A) 'reduction in employment' means a downgrade in employment status that correlates to a reduction in wages, work hours, or results in unemployment.".

**SA 33.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 505, after line 13, add the following:

## TITLE XVI—PERSONAL DATA OFFSHORING PROTECTION

### SEC. 1601. SHORT TITLE.

This title may be cited as the "Personal Data Offshoring Protection Act of 2005".

### SEC. 1602. DEFINITIONS.

As used in this title, the following definitions apply:

(1) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, or venture established to make a profit, or any private, nonprofit organization that collects or retains personally identifiable information.

(2) COUNTRY WITH ADEQUATE PRIVACY PROTECTION.—The term "country with adequate privacy protection" means a country that has been certified by the Federal Trade Commission as having a legal system that provides adequate privacy protection for personally identifiable information.

(3) PERSONALLY IDENTIFIABLE INFORMATION.—The term "personally identifiable information" includes information such as—

(A) name;

(B) postal address;

(C) financial information;

(D) medical records;

(E) date of birth;

(F) phone number;

(G) e-mail address;

(H) social security number;

(I) mother's maiden name;

(J) password;

(K) state identification information;

(L) driver's license number;

(M) personal tax information; and

(N) any consumer transactional or experiential information relating to the person.

(4) TRANSMIT.—The term "transmit" or "transmission" means the use of any instrumentality of interstate commerce, including the mails or any electronic means, to transfer information or to provide access to such information via the Internet or any comparable telecommunications system.

### SEC. 1603. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION FROM UNAUTHORIZED TRANSMISSION.

(a) IN GENERAL.—A business enterprise may transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country with adequate privacy protection, provided that the citizen has been provided prior notice that such information may be transmitted to such a foreign affiliate or subcontractor and has not objected to such transmission.

(b) "OPT-IN" CONSENT REQUIRED FOR COUNTRIES WITHOUT ADEQUATE PRIVACY PROTECTION.—A business enterprise may not transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country without adequate privacy protection unless—

(1) the business enterprise discloses to the citizen that the country to which the information will be transmitted does not have adequate privacy protection and specifies in the disclosure the country to which the information will be transmitted;

(2) the business enterprise obtains consent from the citizen, before a consumer relationship is established or before the effective date of this title, to transmit such information to such foreign affiliate or subcontractor and such consent contains a list that indicates each country to which the information will be sent; and

(3) the consent referred to in paragraph (2) is renewed by the citizen within 1 year before such information is transmitted.

(c) PROHIBITION ON REFUSAL TO PROVIDE SERVICES.—A business enterprise shall not deny the provision of any good or service to, nor change the terms of or refuse to enter into a business relationship with any person based upon that person's exercise of the consent rights provided for in this title or in any other applicable law.

### SEC. 1604. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) UNFAIR AND DECEPTIVE ACT OR PRACTICE.—A violation of this title shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT AUTHORITY.—The Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title.

### SEC. 1605. CIVIL REMEDIES.

(a) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(1) an action based on a violation of this title or the regulations prescribed pursuant to this title to enjoin such violation;

(2) an action to recover for actual monetary loss from such a violation, or to receive $10,000 in damages for each such violation, whichever is greater, or

(3) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (2).

(b) ACTIONS BY STATES.—

(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a violation of this title or the regulations prescribed pursuant to this title, the State may bring a civil action on behalf of its residents to enjoin such violation, an action to recover for actual monetary loss or receive $10,000 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated this title or regulations prescribed pursuant to this title, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this title or regulations prescribed pursuant to this title, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) NOTICE TO AN INTERVENTION OF FEDERAL TRADE COMMISSION.—The State bringing a civil action under this section shall serve prior written notice of any such civil action upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein; and

(C) to file petitions for appeal.

(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this title shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(7) LIMITATION.—Whenever the Federal Trade Commission has instituted a civil action for violation of this title or the regulations prescribed pursuant to this title, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

### SEC. 1606. CERTIFICATION OF COUNTRIES WITH ADEQUATE PRIVACY PROTECTION.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this title, the Federal Trade Commission, after providing notice and opportunity for public comment, shall—

(1) certify those countries that have legal systems that provide adequate privacy protection for personally identifiable information; and

(2) make the list of countries certified under paragraph (1) available to the general public.

(b) CERTIFICATION CRITERIA.—

(1) IN GENERAL.—In determining whether a country should be certified under this section, the Federal Trade Commission shall consider the adequacy of the country's infrastructure for detecting, evaluating, and responding to privacy violations.

(2) PRESUMPTION.—The Commission shall presume that a country's privacy protections are inadequate if they are any less protective of personally identifiable information than those afforded under Federal law or under the laws of any State, or if the Commission determines that such country's laws are not adequately enforced.

(c) EUROPEAN UNION DATE PROTECTION DIRECTIVE.—A country that has comprehensive privacy laws that meet the requirements of the European Union Data Protection Directive shall be certified under this section unless the Federal Trade Commission determines that such laws are not commonly enforced within such country.

### SEC. 1607. EFFECTIVE DATE.

Section 1606 of this title shall take effect on the date of enactment of this title. Sections 1602 through 1605 of this title shall take effect 60 days after the completion of the certification required by section 1606.

**SA 34.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. PROHIBITION OF UNNECESSARY SOLICITATION OF SOCIAL SECURITY NUMBERS.**

(a) In General.—No person may solicit any social security number unless—

(1) such number is necessary in the normal course of business; and

(2) there is a specific use of the social security number for which no other identifying number can be used.

(b) Violation.—

(1) In general.—The Federal Trade Commission may bring a civil action based on a violation of this section.

(2) Penalty.—A civil penalty of not more than $10,000 may be imposed for each violation of this section.

(c) Enforceable.—The Federal Trade Commission shall enforce the provisions of this section.

---

**SA 35.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, after line 22, add the following:

**SEC. 448. COMPENSATION OF BANKRUPTCY TRUSTEES.**

(a) In General.—Section 330(b)(2) of title 11, United States Code, is amended—

(1) by striking "$15" the first place it appears and inserting "$55"; and

(2) by striking "rendered." and all that follows through "$15" and inserting "rendered, which".

(b) Effective Date.—The amendments made by subsection (a)—

(1) shall take effect 90 days after the date of enactment of this Act; and

(2) shall only apply to cases commenced under title 11, United States Code, after such effective date.

---

**SA 36.** Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, strike line 14 and all that follows through page 191, line 11, and insert the following:

**SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.**

(a) Exemption.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is further amended by adding at the end the following:

"(p) As a result of electing under subsection (b)(3)(A) to exempt property, other than the principal residence of a family farmer, under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(3) a burial plot for the debtor or a dependent of the debtor.".

(b) Adjustment of Dollar Amounts.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are further amended by inserting "522(p)," after "522(n)".

---

**SA 37.** Mr. NELSON of Florida (for himself, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. . IDENTITY THEFT.**

(a) Definition.—Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by redesignating paragraph (27B) as paragraph (27D); and

(2) by inserting after paragraph (27A) the following:

"(27B) 'identity theft' means a fraud committed or attempted using the personally identifiable information of another person;

"(27C) 'identity theft victim' means a debtor who, as a result of an identify theft in any consecutive 12-month period during the 3-year period before the date on which a petition is filed under this title, had claims asserted against such debtor in excess of the least of—

"(A) $20,000;

"(B) 50 percent of all claims asserted against such debtor; or

"(C) 25 percent of the debtor's gross income for such 12-month period.".

(b) Prohibition.—Section 707(b) of title 11, United States Code, as amended by section 102(a) of this Act, is further amended by adding at the end the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.".

---

**SA 38.** Mr. DURBIN proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 67, between lines 18 and 19, insert the following:

**SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(10) if the creditor has materially failed to comply with any applicable requirement under section 129(a) of the Truth in Lending Act (15 U.S.C. 1639(a)) or section 226.32 or 226.34 of Regulation Z (12 C.F.R. 226.32, 226.34), such claim is based on a secured debt.".

---

**SA 39.** Mr. KERRY submitted an amendment intended to be proposed by him to bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end the following:

**TITLE XVI—BENEFITS FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES**

**SEC. 1601. EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.**

Section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

**SEC. 1602. GRANT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.**

(a) Authorization of Grants.—Section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B)) is amended by inserting "or grants" after "or a deferred basis)".

(b) Grant Specifications.—Section 7(b)(3) of the Small Business Act (15 U.S.C. 636(b)(3)) is amended by inserting after subparagraph (F) the following:

"(G) Grants made under subparagraph (B)—

"(i) may be awarded in addition to any loan made under subparagraph (B);

"(ii) shall not exceed $25,000; and

"(iii) shall be made only to a small business concern—

"(I) that provides a business plan demonstrating viability for not less than 3 future years;

"(II) with 10 or fewer employees;

"(III) that has not received another grant under subparagraph (B) in the previous 2 years.".

(c) Authorization of Appropriations.—Section 20(e)(2) of the Small Business Act (15 U.S.C. 631 note) is amended by inserting after subparagraph (B) the following:

"(C) Grant assistance for military reservists' small businesses.—There are authorized to be appropriated for grants under section 7(b)(3)(B)—

"(i) $10,000,000 for the first fiscal year beginning after the date of enactment of this subparagraph; and

"(ii) $10,000,000 for each of the 2 fiscal years following the fiscal year described in clause (i).".

---

**SA 40.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. LIMITATION ON USE OF CONSUMER REPORTS.**

(a) In General.—Section 604(d) of the Fair Credit Reporting Act (15 U.S.C. 1681b(d)) is amended to read as follows:

"(d) Limitation on Use of Consumer Report.—

"(1) In general.—A credit card issuer may not use any negative information contained in a consumer report to increase any annual percentage rate applicable to a credit card account, or to remove or increase any introductory annual percentage rate of interest applicable to such account, for any reason other than an action or omission of the card holder that is directly related to such account.

"(2) Notice to consumer.—The limitation under paragraph (1) on the use by a credit card issuer of information in a consumer report shall be clearly and conspicuously described to the consumer by the credit card issuer in any disclosure or statement required to be made to the consumer under this title.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 604(a)(3)(F)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)(3)(F)(ii)) is amended by inserting “subject to subsection (d),” before “to review”.

**SA 41.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . ENHANCED DISCLOSURES UNDER AN OPEN END CONSUMER CREDIT PLAN.**

(a) REPAYMENT TERMS.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(11)(A) Repayment information that would apply to any annual percentage rate applicable to the consumer's account under the credit plan, including information regarding any change in any annual percentage rate charged to the consumer under the plan, appearing in conspicuous type on the front of the first page of the first billing statement prepared following the change, and accompanied by an appropriate explanation, containing—

“(i) the words ‘THERE HAS BEEN A CHANGE IN THE ANNUAL PERCENTAGE RATE FOR YOUR ACCOUNT.’;

“(ii) the words ‘THE PREVIOUS INTEREST RATE:’ followed by the previous annual percentage rate charged to the consumer under the plan; and

“(iii) the words ‘THE CURRENT INTEREST RATE’ followed by the current annual percentage rate charged to the consumer under the plan.”.

(b) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this section.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, March 9 at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Patricia Lynn Scarlett to be Deputy Secretary of Interior and Jeffrey Clay Sell to be Deputy Secretary of Energy.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224-1327.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 2, 2005, at 4:30 p.m., in closed session to receive a classified briefing regarding Department of Defense human intelligence activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 2, 2005, at 10 a.m., to receive testimony on the President's proposed budget for fiscal year 2006 for the Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 2, 2005, at 9 a.m., to hold a hearing on foreign assistance.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 2, 2005, at 2:30 p.m., to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. CORZINE. Mr. President, I ask unanimous consent that Ann-Catherine Blank, a State Department fellow who has been working with my office, be granted the privilege of the floor during consideration of the bill which I am about to introduce.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECOGNIZING CONTRIBUTIONS OF LATE ZHAO ZIYANG TO PEOPLE OF CHINA

Mr. DEMINT. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 55.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 55) recognizing the contributions of the late Zhao Ziyang to the people of China.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DEMINT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 55) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 55

Whereas leading reformist and former Chinese Communist Party Secretary General, Zhao Ziyang, died under house arrest in China on January 17, 2005, at the age of 85;

Whereas Zhao implemented important agricultural, industrial, and economic reforms in China and rose to the prominent positions of premier and Secretary General within the Communist Party despite criticisms of his capitalist ideals;

Whereas, in the early summer of 1989, students gathered in Tiananmen Square to voice their support for democracy and to protest the Communist government that continues to deny them that democracy;

Whereas Secretary General Zhao advised against the use of military force to end the pro-democracy protests in Tiananmen Square;

Whereas, on May 19, 1989, in Tiananmen Square, Zhao warned the tens of thousands of students clamoring for democracy that the authorities were approaching and urged them to return to their homes; an action that illustrated his sympathy for their cause;

Whereas Zhao was consequently relieved of all leadership responsibilities following his actions in Tiananmen Square that summer and was placed under house arrest for the remaining years of his life;

Whereas the Government of China remained indecisive regarding a ceremony for Zhao for several days before allowing a relatively modest ceremony at the Babaoshan Revolutionary Cemetery in Beijing, where Zhao was cremated on January 29, 2005;

Whereas the Government of China's fear of civil unrest resulted in the prohibition of political dissidents and others from the funeral, and the thousands who were in attendance were surrounded in an intimidating environment without adequate time to mourn and grieve;

Whereas news of Zhao's death was announced only in a brief notice by the Communist government and was forbidden to be covered by the radio or national television, while eulogies were erased by censors from memorial websites;

Whereas, upon the announcement of Zhao's death, Chinese news agencies were certain to reference the “serious mistake” committed by Zhao at what they refer to as a political incident in 1989;

Whereas mourning the death of Zhao in the Hong Kong Legislative Council was deemed unconstitutional and lawmakers in Hong Kong were refused the opportunity to observe a moment of silence in honor of his life;

Whereas the death of Zhao has renewed the desire of certain Chinese people for a reassessment of the crackdown in 1989 in order to acknowledge the merit of pro-democracy student demonstrations and complaints of government corruption; and

Whereas Zhao will continue to serve as a symbol of the dreams and purpose of the 1989 Tiananmen Square demonstration, which survived the Tiananmen massacre but which have still not been realized for the people of China: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that Zhao Ziyang made an important contribution to the people of China by providing assistance to the students in Tiananmen Square in 1989, and that through this contribution and his decisions to actively seek reform, Zhao remains a symbol of hope for reform and human rights for the people of China;

(2) expresses sympathy for Zhao's family and to the people of China who were unable to appropriately mourn his death or to celebrate his life;

(3) calls on the Government of China—

(A) to release all prisoners of conscience, including those persons still in prison as a result of their participation in the peaceful pro-democracy protests in Tiananmen Square in 1989; and

(B) to allow those people exiled on account of their activities to return to live in freedom in China; and

(4) stands with the people of China as they strive to improve their way of life and create a government that is truly democratic and respectful of international norms in the area of human rights.

## DESIGNATING MONTH OF MARCH AS DEEP-VEIN THROMBOSIS AWARENESS MONTH

Mr. DEMINT. I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 56.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 56) designating the month of March as Deep-Vein Thrombosis Awareness Month, in memory of journalist David Bloom.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DEMINT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 56) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 56

Whereas deep-vein thrombosis is a condition that occurs when a blood clot forms in one of the large veins, which may result in a fatal pulmonary embolism;

Whereas deep-vein thrombosis is a serious but preventable medical condition;

Whereas deep-vein thrombosis occurs in approximately 2,000,000 Americans every year;

Whereas fatal pulmonary embolism causes more deaths each year than breast cancer and AIDS combined;

Wherease complications from deep-vein thrombosis take up to 200,000 American lives each year;

Whereas fatal pulmonary embolism may be the most common preventable cause of hospital death in the United States;

Whereas the risk factors for deep-vein thrombosis include cancer and certain heart or respiratory diseases;

Whereas pulmonary embolism is the leading cause of maternal death associated with childbirth;

Whereas, according to a survey conducted by the American Public Health Association, 74 percent of Americans are unaware of deep-vein thrombosis;

Whereas National Broadcasting Company correspondent David Bloom died of a fatal pulmonary embolism while covering the war in Iraq;

Whereas Melanie Bloom, widow of David Bloom, and more than 35 members of the Coalition to Prevent Deep-Vein Thrombosis are working to raise awareness of this silent killer; and

Whereas the establishment of March as Deep-Vein Thrombosis Awareness Month in honor of David Bloom would raise public awareness about this life-threatening but preventable condition: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the month of March as "Deep-Vein Thrombosis Awareness Month";

(2) honors the memory of David Bloom; and

(3) recognizes the importance of raising awareness of deep-vein thrombosis.

## PLACEMENT OF STATUE OF SARA WINNEMUCCA IN NATIONAL STATUARY HALL

Mr. DEMINT. I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 5, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 5) providing for the acceptance of a statue of Sarah Winnemucca, presented by the people of Nevada, for placement in National Statuary Hall, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DEMINT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 5) was agreed to.

The preamble was agreed to.

## PERMITTING USE OF THE ROTUNDA OF THE CAPITOL

Mr. DEMINT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 63, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 63) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DEMINT. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 63) was agreed to.

## ORDERS FOR THURSDAY, MARCH 3, 2005

Mr. DEMINT. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate adjourn until 9:30 a.m. on Thursday, March 3. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to consideration of S.J. Res. 4, a resolution of disapproval of the rule submitted by the Department of Agriculture; provided that there be up to 3 hours of debate equally divided, and following the use or yielding back of the time, the Senate proceed to a vote on passage with no intervening action or debate. I further ask consent that following the disposition of S.J. Res. 4, the Senate resume consideration of S. 256, the Bankruptcy Reform Act; provided further that the Senate then proceed to votes in relation to the Dayton amendment, No. 31, to be followed by a vote in relation to the Nelson amendment, No. 37, with no amendments in order to the amendments prior to the votes. Finally, I ask that there be 4 minutes equally divided for debate prior to the second and third votes in that series.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. DEMINT. Mr. President, tomorrow the Senate will first debate a disapproval resolution related to a rule submitted by the Department of Agriculture. Following the use or yielding back of the allocated debate time, the Senate will have a series of three stacked votes. Those votes will be on the disapproval resolution, the Dayton amendment, and the Nelson amendment to the bankruptcy bill. The majority leader has stated that we will continue to process additional bankruptcy-related amendments on Thursday, and therefore rollcall votes will occur throughout the day.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DEMINT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Thursday, March 3, 2005, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate March 2, 2005:

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. BENJAMIN C. FREAKLEY, 0002

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. DONALD L. JACKA, JR., 5508

*To be brigadier general*

COL. JERRY D. LA CRUZ, JR., 0400

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL OPERATIONS, UNITED STATES NAVY AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5033:

*To be admiral*

ADM. MICHAEL G. MULLEN, 9509

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. EVAN M. CHANIK, JR., 9906

# HOUSE OF REPRESENTATIVES—*Wednesday, March 2, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 2, 2005.*

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend James T. Akers, National Chaplain, The American Legion, offered the following prayer:

Our Heavenly Father, in this moment of petition, when our minds and hearts are silent before You, may the prayers of Thy servants in this Chamber be heard.

In the midst of great activity today, make this moment sacred, a moment when answers come and guidance is given. Create in us the grace of thankful hearts, the grace of boldness in standing for what is right, the grace to treat others as we would be treated, and, finally, the grace to be thankful for all that we have and enjoy.

Grant us now a vivid sense of Your being by our side and make us Your partners in seeking wisdom for all matters of State. Give to these leaders of our Nation the inspired plans that shall lead this country in making the American Dream come true for all our citizens.

All of this we lift up to Your Holy Will and ask it in Your Holy Name. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. CUELLAR) come forward and lead the House in the Pledge of Allegiance.

Mr. CUELLAR led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## INTRODUCTION OF THE REVEREND JAMES T. AKERS AS GUEST CHAPLAIN

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. MORAN of Kansas. Mr. Speaker, I am honored today to introduce to my colleagues here in the House the Reverend James T. Akers of Madison, Kansas. Reverend Akers currently serves as the chaplain of the American Legion, and is an ordained priest with the Anglican Orthodox Church in Madison.

Reverend Akers answered the call to the Lord's service when he left public school administration and entered the clergy. He has served his church and has focused his efforts on his colleagues, his comrades, and the American Legion as he tries to meet the spiritual needs of veterans and their families. Since 1992 this chaplain has been the chaplain at Ball-McComb American Legion post in Emporia, Kansas, and has been the American Legion district chaplain twice and for the past 7 years has been the Department of Kansas chaplain. We are honored in Kansas to have him now as the National American Legion chaplain. He is a U.S. Army veteran himself, who fought in the Korean War, and Reverend Akers is not only involved in the American Legion and service to other veterans, but he is also a member of the Disabled American Veterans, the Reserve Officers Association of the United States, and is a Companion of the Military Order of World Wars.

I have known Reverend Akers for a long time now. We often meet people in life who make a tremendous difference just on meeting them. He is a warm and caring and compassionate person who loves his fellow man, and it is a real honor to have him today as our guest chaplain in the United States House of Representatives.

## THE REAL "SURVIVORS" OF PALAU

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Reality TV is very popular these days. "Survivor" was the first of these shows to really break through. This season "Survivor" is being filmed on the island of Palau.

A reader, Major Jerry Wiffler, pointed out to nationalreview.com that this island was also the site of an important battle in 1944. On September 15, 1944, the 1st Marine Division landed on the beaches of Palau in order to protect MacArthur's right flank as he tried to recapture the Philippines. The battle was ferocious, as were most of these island engagements in the South Pacific. Ten thousand and five hundred Japanese troops fought for nearly a month before the marines were able to secure the island, and during this battle, Major Wiffler recalls, eight marines earned the Medal of honor for their actions.

Today the island is best known as the setting for a "reality" TV show that pits people against each other for prize money. Sixty years ago, the island was the site of great bravery and courage, not for the sake of prize money, but for the sake of our Nation and for freedom.

Major Wiffler hoped we would remember this.

## SOCIAL SECURITY TOWN HALL MEETINGS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, this Friday, President Bush plans to take his traveling White House to New Jersey in the hope of convincing New Jersey workers to support his Social Security privatization proposal. I only wish the President would open his event up to New Jerseyans who did not contribute huge amounts to his reelection campaign or who refused to sign a letter saying they are a card-carrying Republican. Maybe then he would hear the public's real concerns about his privatization plan.

Mr. Speaker, the American people simply do not believe the President wants to strengthen Social Security. President Bush keeps on talking about a crisis, but he has even admitted that his own privatization plan does nothing to fix the problems Social Security faces 40 years from now. Instead of fixing a future problem, the President's privatization plan actually jeopardizes the future of Social Security by moving insolvency forward from 2052 to 2031, meaning we would face a real crisis much sooner under the President's plan.

I welcome the President's visit. For 6 weeks, he has been working to build support for his plan, but it has fallen flat with the American people and it will also fall flat in New Jersey.

## JOHN LEWIS'S 65TH BIRTHDAY

(Mr. GINGREY asked and was given permission to address the House for 1 minute.)

Mr. GINGREY. Mr. Speaker, I rise today in honor of the gentleman from Georgia (Mr. LEWIS), who celebrated his 65th birthday last week. It was appropriate that the gentleman from Georgia's (Mr. LEWIS) birthday fell during Black History Month because his involvement in politics began when he was a student activist working to spread the message of nonviolence preached by the Reverend Martin Luther King, Jr. The gentleman from Georgia (Mr. LEWIS) was later involved in some of the most important civil rights events in our Nation's history: The Freedom Rides, the Selma March, and countless other gatherings that helped this country end the era of segregation and move toward an equal and a just society.

Even today, the gentleman from Georgia (Mr. LEWIS) is known for his dedication and persistence. Although we sit on opposite sides of the aisle, I am often inspired by his passion and determination on issues of importance to his constituents.

Mr. Speaker, I ask that the Members join me in congratulating the gentleman from Georgia (Mr. LEWIS) on the occasion of his 65th birthday.

## SOCIAL SECURITY IN THE 32ND CONGRESSIONAL DISTRICT OF CALIFORNIA

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, today I rise to inform President Bush about what my constituents in the San Gabriel Valley and East Los Angeles are saying about Social Security.

In my district where there are nearly 60,000 Social Security beneficiaries, people are very concerned about the risky privatization scheme. To date, my office has held 15 senior center visits, high school visits, parent center visits, and health care facility visits. Over 500 constituents have been contacted about this issue. My constituents at Club America and the Federation of Seniors, whose members reside in east Los Angeles and the San Gabriel Valley, are overwhelmingly opposed to privatizing Social Security. I have received well over 300 letters in the past 2 weeks from people who are very worried about their benefits. In fact, Mr. Raymundo Romero from Los Angeles says: "President Bush is claiming a mandate to privatize Social Security. I'm writing to tell you that he has no mandate from me, or from most other Americans, to cut Social Security benefits or add to America's financial burdens in order to reward Wall Street backers with risky private accounts." And I have about 300 letters that say about the same thing.

So I urge our Members of Congress to reject privatization.

## THE NATIONAL BUDGET

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, the Good Book tells us to know the condition of our flocks and keep careful watch over our herds, for riches do not endure forever.

Tomorrow the budget debate begins here on Capitol Hill as the Committee on the Budget begins the process of writing our Federal budget, and President Bush has sent to Capitol Hill a strong conservative budget that represents a good start as we head down the road to fiscal discipline.

But as the debate begins, let us also insist that we change the way we spend the people's money. Observers of Congress know that it is not bad people who spend the people's money, it is a bad process that has not been fundamentally reformed since 1972. Only through fundamental budget process reform and a budget that represents fiscal discipline will we begin again to restore fiscal discipline to the national budget.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken later today.

## CONGRATULATING ASME ON THEIR 125TH ANNIVERSARY

Mr. AKIN. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 13) congratulating ASME on their 125th anniversary, celebrating the achievements of ASME members, and expressing the gratitude of the American people for ASME's contributions.

The Clerk read as follows:

### S. CON. RES. 13

Whereas in 2005, ASME, incorporated in 1880 as the American Society of Mechanical Engineers, celebrates its 125th anniversary as one of the premier professional organizations focused on technical, educational, and research issues of the engineering community;

Whereas ASME plays a key role in protecting the welfare and safety of the public through the development and promulgation of over 600 codes and standards, including codes governing the manufacture of boilers, pressure vessels, elevators, escalators, petroleum and hazardous liquid pipelines, cranes, forklifts, power tools, screw threads and fasteners, and many other products routinely used by industry and people in the United States and around the world;

Whereas ASME, through its 120,000 members, works diligently to ensure the provision of quality science, technology, engineering, and mathematics education for young people as a way to foster and encourage the advancement of technology;

Whereas industrial pioneers and ASME members such as Thomas Edison, Henry Ford, and George Westinghouse helped to build ASME's engineering society even as ASME was helping to build the economy of the United States;

Whereas ASME members help to ensure the development and operation of quality and technologically advanced transportation systems, including automobile, rail, and air travel;

Whereas ASME members contribute to research and development that identifies emerging and future technical needs in evolving and multidisciplinary areas;

Whereas ASME continues to provide quality continuing education programs designed to keep engineers at the cutting edge of technology; and

Whereas in the aftermath of the terrorist attacks on the United States of September 11, 2001, ASME members have intensified efforts to develop technologies for homeland security and the protection of the critical assets of this Nation: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress—

(1) congratulates ASME on its 125th anniversary;

(2) recognizes and celebrates the achievements of all ASME members;

(3) expresses the gratitude of the people of the United States for ASME's contributions to the health, safety, and economic well-being of the citizenry; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the president of ASME.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. AKIN) and the gentleman from Oregon (Mr. WU) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. AKIN).

☐ 1015

### GENERAL LEAVE

Mr. AKIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. Con. Res. 13.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. AKIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of Senate Concurrent Resolution 13, a resolution recognizing the

American Society of Mechanical Engineers. ASME, on the occasion of its 125th anniversary.

125 years ago, a group of prominent mechanical engineers gathered in the New York offices of the "American Machinist" to form what ultimately became ASME, one of the premier professional engineering organizations for technical education and research issues. Since 1880, ASME has worked to advance technological knowledge and facilitate the transfer of information from research to application.

Significant among ASME's many achievements is its efforts to improve the safety and reliability of equipment, especially boilers. In the year that ASME was founded, nearly 160 boiler explosions occurred in the U.S., each of which brought death and injury. During this period of industrial growth, boilers were becoming larger, more numerous and dangerous.

On March 10, 1905, a boiler explosion at the Brockton Shoe Factory resulted in 58 deaths and 117 injuries and completely leveled the factory. Terrible accidents like Brockton drove the creation of ASME's comprehensive Boiler Code, a set of standards to ensure the reliability and predictability of machine design and production. Quickly adopted by most States, this code virtually eliminated boiler explosions in the United States.

Today, ASME has thousands of volunteers working on committees that combine to issue more than 600 standards, ensuring proper specifications for a wide range of manufactured items. From the pressure valve of boilers to the threads on a screw, these standards ensure that equipment fits and holds safely, protecting American workers and the general public.

Some of our most prominent Americans have helped found ASME and many of our greatest innovators have occupied its board. Many will recognize the names of such members as Thomas Edison, Henry Ford, and George Westinghouse.

ASME continues this proud tradition more than a century later, engaging men and women of substance in emerging and future technical fields and cultivating the next generation of industrial leaders. In fact, ASME fellows can be found in the Halls of Congress and throughout the administration, providing valuable insight on legislation, regulation, and policies related to technology and the practice of engineering. The ASME members are tireless advocates for quality science, technology, engineering, and mathematics education for students of all ages.

For 125 years of service to the U.S., I want to extend my warmest and heartfelt congratulations and sincere appreciation to President Harry Armen and the members of ASME for their strong and inspired leadership. I look forward to our continued association and future ASME achievements.

Mr. Speaker, I reserve the balance of my time.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in strong support of this resolution to commemorate the 125th anniversary of the founding of the American Society of Mechanical Engineers. The American Society of Mechanical Engineers, with its 120,000 members worldwide, is a professional organization focused on technical, educational, and research issues of the engineering and technology communities.

The society has a long and distinguished history in the creation of industrial and manufacturing codes and standards that enhance public safety. It began with technical standards for screw threads and now has developed more than 600 standards, including standards in vital areas such as precision machining, nuclear power generation, and petroleum refining.

The diversity and range of the society's activities is reflected in the variety of its technical divisions, including Aerospace, Management, Materials, Power, Production Engineering, Rail Transportation, Textile Industries and most recently, Information Storage and Processing Systems.

The Society conducts one of the world's largest technical publishing operations, holds numerous technical conferences worldwide, and offers hundreds of professional development courses each year. It also sponsors activities to enhance kindergarten through twelfth grade science education and to attract students to careers in science and engineering.

On the basis of its long and beneficial service to the engineering profession and to the welfare of this Nation, it is entirely appropriate that we recognize the accomplishments of the American Society of Mechanical Engineers and congratulate the society on its 125th anniversary.

Mr. Speaker, I commend this resolution to my colleagues and ask for their support for its passage by this House.

Mr. BOEHLERT. Mr. Speaker, I proudly support S. Con. Res. 13, a resolution to recognize the American Society of Mechanical Engineering (ASME) on the occasion of its 125th anniversary.

Since 1880, ASME has focused upon technical, educational, and research issues as they pertain to engineering. It has played a key role in standardization and safety—developing and promulgating more than 600 codes and standards over its 125-year history.

Significantly, ASME created a comprehensive Boiler Code in reaction to the dangerous widespread boiler explosions that plagued early 20th century America. Following rapid adoption, this code virtually eliminated the scourge of boiler explosions. In updated versions, the code is still in existence today. It serves as a clear example of the value—indeed the necessity—of clear standards to prevent injury and maximize economic output.

Fifty years after its founding, ASME worked to promote precision machining, mass production and commercial transportation—all technologies that triggered enormous productivity gains and opened the nation and the world to American enterprise. Prominent ASME members included pioneers of American technology and industry such as Thomas Edison, Henry Ford and George Westinghouse. At the same time, the human aspect of industrial processes grew into focus: ASME leaders Henry Robinson Towne, Frederick Taylor and James M. Dodge pioneered management practices that reformed labor-management relations.

Today, over 120,000 members comprise ASME, serving the interests of industry, government, academia and the public. ASME members play a key role in providing affordable access to energy and natural resources. Its members work to ensure the quality of scientific research as well as science and technology education. In fact, ASME fellows can be found in the halls of Congress and throughout the Administration providing valuable insight on legislation and helping to shape engineering and technology policy.

Recently, ASME members have risen to the challenge posed by the terrorist attacks on September 11, 2001. Their intensified efforts have developed technologies for homeland security and protected critical assets to our Nation.

On behalf of the 109th Congress, I warmly congratulate ASME for 125 years of service to the United States. I wish to extend my sincere appreciation to President Harry Armen and the members of ASME for their strong leadership and I look forward to future ASME achievement.

Mr. WU. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. AKIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. AKIN) that the House suspend the rules and concur in the Senate Concurrent Resolution, S. Con. Res. 13.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

---

## HUMANITARIAN ASSISTANCE CODE OF CONDUCT ACT OF 2005

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 912) to ensure the protection of beneficiaries of United States humanitarian assistance.

The Clerk read as follows:

H.R. 912

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Humanitarian Assistance Code of Conduct Act of 2005".

### SEC. 2. CODE OF CONDUCT FOR THE PROTECTION OF BENEFICIARIES OF HUMANITARIAN ASSISTANCE.

(a) PROHIBITION.—None of the funds made available for foreign operations, export financing, and related programs under the headings "Migration and Refugee Assistance", "United States Emergency Refugee and Migration Assistance Fund", "International Disaster and Famine Assistance", or "Transition Initiatives" may be obligated to an organization that fails to adopt a code of conduct that provides for the protection of beneficiaries of assistance under any such heading from sexual exploitation and abuse in humanitarian relief operations.

(b) SIX CORE PRINCIPLES.—The code of conduct referred to in subsection (a) shall, to the maximum extent practicable, be consistent with the following six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises:

(1) "Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment.".

(2) "Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defense.".

(3) "Exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior, is prohibited. This includes exchange of assistance that is due to beneficiaries.".

(4) "Sexual relationships between humanitarian workers and beneficiaries are strongly discouraged since they are based on inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian aid work.".

(5) "Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, he or she must report such concerns via established agency reporting mechanisms.".

(6) "Humanitarian agencies are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.".

### SEC. 3. REPORT.

Not later than 180 days after the date of the enactment of this Act, and not later than one year after the date of the enactment of this Act, the President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate a detailed report on the implementation of this Act.

### SEC. 4. EFFECTIVE DATE; APPLICABILITY.

This Act—

(1) takes effect 60 days after the date of the enactment of this Act: and

(2) applies to funds obligated after the effective date referred to in paragraph (1)—

(A) for fiscal year 2005; and

(B) any subsequent fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 912.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the wake of the devastating Indian Ocean tsunami and the genocide in Darfur, we have witnessed untold suffering. And yet, Mr. Speaker, we have learned from other crises situations that people in some crises become victims of additional and incomprehensible violations, sexual exploitation and abuse. The most vulnerable groups, women and children, are at greatest risk.

The passage of the Humanitarian Assistance Code of Conduct Act of 2005 ensures that steps will be taken to protect the most vulnerable people from sexual exploitation and abuse by those providing aid and humanitarian relief operations.

H.R. 912 requires that the United States Government assistance for humanitarian relief operations will be available only to organizations that have adopted a code of conduct incorporating the core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises. These principles include, but are not limited to, the following:

"Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment."

"Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defense."

"Exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior, is prohibited. This includes exchange of assistance that is due to beneficiaries."

Mr. Speaker, passage of the Humanitarian Assistance Code of Conduct Act of 2005 will help ensure the protection of beneficiaries of United States humanitarian assistance. I urge my colleagues to support it.

Mr. Speaker, I would also include a CBO estimate for H.R. 912, which indicates that this legislation has no significant budgetary effect.

Mr. Speaker, in addition to the important provisions of H.R. 912, I would like to inform my colleagues of additional measures contained in a bill I introduced, the Trafficking Victims Protection Reauthorization Act of 2005, H.R. 972, which we will be marking up next week, cosponsored by my good friend and colleague, the gentleman from California (Mr. LANTOS), the gentleman from Missouri (Mr. BLUNT), and a number of other Members of this committee and of this House. That comprehensive legislation is designed to help ensure the protection of vulnerable women and children in post-natural disaster situations.

H.R. 972, among several other things, incorporates stronger child protection and trafficking prevention activities into USAID, State and DOD post-conflict and post-natural disaster relief programs. The measure provides for the Secretary of State and the administrator of USAID to conduct a study regarding the threat and practice of trafficking in persons generated by post-conflict and humanitarian emergencies in foreign countries, and to look at and implement best practices to combat human trafficking in such areas.

It also requires, and I think this is very important, that the Secretary of State certify that prior to approval of a peacekeeping mission or a renewal of the mandate, the Secretary of State would have to guarantee or certify, 15 days before that, that appropriate safeguards are in place to protect vulnerable populations from trafficking and from rape and other kinds of sexual misconduct.

I would point out parenthetically to my colleagues that yesterday we held a day-long hearing on the atrocities committed by U.N. peacekeepers in the Congo, where unfortunately there have been credible and large numbers of allegations made that U.N. peacekeepers have raped 13-year-old, 14-year-old, and 15-year-old girls and older and have offered them $1 or $2 or a loaf of bread in exchange for this exploitation. It is outrageous.

The U.N. for its part, I believe, is committed to trying to rectify and remedy this situation, but more needs to be done; and we need to have in place safeguards to ensure that this kind of misconduct, which is gross and, unfortunately, very, very prevalent, is mitigated and stopped. This bill is another step in that direction; and I applaud the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Texas (Mr. DELAY), and all of those who have sponsored it and brought it to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation. I would first like to thank my good friend and distinguished colleague, the ranking member of the Committee on International Relations Subcommittee on Oversight and Investigations, the gentleman from Massachusetts (Mr. DELAHUNT), for being the principal author of this critically important legislation.

I would also like to express my thanks to my friend, the gentleman from New Jersey (Mr. SMITH); the majority leader, the gentleman from Texas (Mr. DELAY); and the distinguished chairman of the House Committee on International Relations, the gentleman from Illinois (Mr. HYDE), for their outstanding work on this legislation.

Mr. Speaker, the humanitarian instincts of the American people run deep, and each year the United States helps tens of millions of refugees and internally displaced people in conflict zones around the globe. When Afghans streamed back to their homes after the fall of the Taliban, the United States was on hand to help rebuild homes and villages. When the tsunami struck Southeast Asia, the United States, and particularly our military, led the way in providing emergency help, food, medicine and shelter to hundreds of thousands of people who had lost their homes in that horrible tragedy.

Mr. Speaker, I want specifically to commend former Presidents Bush and Clinton for their efforts in this very important undertaking.

As we speak today, the United States is helping more than 20,000 Sudanese refugees who have fled their country for the neighboring country of Chad to escape the bloodshed in Darfur. In acting on our humanitarian impulses, the United States greatly enhances the image of our Nation abroad, but only if these activities are carried out correctly. Avoiding any linkage between the United States assistance and sexual abuse must be a cornerstone principle of our Nation's foreign assistance program.

Over the past year, the United Nations has investigated over 150 allegations of sexual abuse by United Nations peacekeepers in the Democratic Republic of Congo. Women have charged that they have been raped by U.N. peacekeepers, the very military forces specifically sent there to protect and to defend them. There have been charges that children as young as 12 and 13 were bribed with food for sex. Women trying to feed their families were forced to trade sex for money or food or jobs.

While most peacekeepers in the Congo obviously did not participate in these despicable practices, I strongly agree with United Nations Secretary General Kofi Annan who has stated that "the behavior of a few has undermined the contributions of many."

□ 1030

In response to the outrages committed in the Congo, Secretary General Annan has wisely instituted a non-fraternization policy between United Nations Peacekeepers and the local population. This ban forbids United Nations personnel and Peacekeepers from engaging in sex with girls younger than 18, from engaging in commercial sex of any kind, and imposes a curfew of U.N. military contingent.

We further understand that the United Nations, under Secretary For Peacekeeping Operations, is engaged in a far-reaching review that will increase enforcement of sexual abuse laws, providing additional training of peacekeeping troops before they are deployed in the field, and providing better investigatory capacity to ensure that those who violate the guidelines are properly punished.

I commend the United Nations for taking these measures and for making it clear that a new zero tolerance policy will apply to all United Nations peacekeeping troops abroad.

In light of the problems faced by the United Nations as it has carried out its humanitarian mission, the United States must follow suit. We must ensure that all humanitarian organizations receiving American money have firm policies which prevent their employees from sexually abusing the people they were sent to help.

Mr. Speaker, the Humanitarian Assistance Code of Conduct Act of 2005 prohibits funding for refugee, disaster and other humanitarian assistance to humanitarian organizations that failed to adopt a code of conduct consistent with principles adopted by the U.N. interagency standing committee on protection from sexual exploitation and abuse in humanitarian crisis. It is long past time for us to ensure that humanitarian organizations that receive U.S. funding fully comply with these principles. The time for voluntary acceptance is over and mandatory compliance must now begin.

The United States is a most generous Nation, Mr. Speaker, and American humanitarian organizations provide invaluable expertise and hands-on assistance in crisis zones around the globe. With the passage of our legislation, refugees and internally displaced people can have even more confidence that American assistance is distributed according to the highest standards of conduct.

I urge all of my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), the distinguished author of the bill and my good friend.

Mr. DELAHUNT. Mr. Speaker, I thank the ranking member and appreciate his encouragement and support in this particular effort along with his leadership on the full Committee on International Relations on the House side.

Mr. Speaker, as others have said, including the gentleman from California (Mr. LANTOS) and the gentleman from New Jersey (Mr. SMITH), this bill represents yet another step forward in the comprehensive effort to address the international human tragedy of sexual exploitation of women and children. It would mandate that humanitarian relief agencies adopt a code of conduct that would promote protection for potential victims.

As the gentleman from California (Mr. LANTOS) indicated, U.S. funding would only be available if those agencies had expressly articulated and adopted such a policy. The bill enumerates six core principles that incorporate the findings of a task force created by the United Nations in 2002. To mention a few, and I will be repetitive, but I think it is important to repeat because these provisions are of consequence.

Sexual activity with a child under 18 is prohibited regardless of local law. The exchange of sexual favors for any reason is defined as abusive and exploitative behavior. It is humiliating and degrading, and as such, it is prohibited. Where there is a concern of abuse or exploitation on the part of a humanitarian worker, that individual, that humanitarian worker is required, is mandated now, under the provisions of this legislation, to report their suspicions to the proper authorities. And most importantly, humanitarian agencies are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct.

It cannot be denied that as a people and a government, the United States has responded to crisis after crisis. At the same time, Mr. Speaker, it is estimated that 600,000 to 800,000 people, mostly women and children, are trafficked across national borders. It is also estimated that 2 million children, 2 million children are enslaved in the global sex trade. The magnitude of this crisis is immense. And sadly, Mr. Speaker, it goes largely unnoticed. It is an international scandal that needs to be revealed and acknowledged by the international community because that is necessary before we can adequately address it and seek to eradicate it. Information and discussion about this tragic reality is critical because there is widespread agreement that education and awareness, public awareness are the keys to prevention. And if we persist in our collaboration with other governments and stakeholders, including the United Nations, I am convinced that our efforts will result in a significant decline in these unacceptable numbers.

The truth is we are making progress. Since 2001, the U.S. has provided close to $300 million to support anti-trafficking programs in 120 countries. Under the leadership of the gentleman from New Jersey (Mr. SMITH), the Protect Act became law, which allows for the prosecution of U.S. citizens who travel abroad to sexually abuse minors. And in the private sector we secured a commitment from the travel and tourism industry to implement its own code of conduct on child trafficking. And I am confident that the passage of this bill code will build on that progress that we have already observed because it will increase public awareness of this quiet crisis. And hopefully it will impact the cultural attitudes that nurture this behavior, often by silence and acquiescence by looking the other way, by ignoring its existence. And there have been some positive developments.

Recently, the action of the government of Morocco in filing charges against their own troops who purportedly bribed Congolese children with food for sex while serving as U.N. Peacekeepers has to be noted for the record, because I have no doubt that the tangible and cumulative efforts of this Congress and many of the stakeholders contributed in an indirect way do that particular action. Because by our cumulative efforts we have announced to the world, to the international community that this issue is a high priority for the United States and for every American.

The idea for this discrete proposal was generated as a result of a meeting in the Majority Leader's office this past January, and I want to acknowledge his leadership on this issue, I see the gentleman presents in the Chamber now, not only on the bill before us today, but for his long and committed engagement on children's issues.

The Majority Leader has made a difference, and I would be remiss also not to note the contributions made by the gentleman who controls the time for the majority, the gentleman from New Jersey (Mr. SMITH) whose leadership on this whole array, this particular issue and other related issues, can only be described as inspirational. Many are in the debt of the gentleman from New Jersey (Mr. SMITH), many victims across the world.

As a people and a government, the United States responded as we always do in a very positive way to the tsunami in South Asia and to every crisis that besets this planet with passion and incredible generosity. But we cannot lose sight of that unfortunate reality that at such times, there are increased opportunities for sexual predators and those who would traffic for sexual reasons.

So today, once more, we are announcing to the rest of the world that protection of women and children is a top priority for the people of the United States.

Before I conclude, I think it is incumbent upon me to recognize the key members of the staffs on both sides who achieved what I consider to be a thoughtful and obviously bipartisan piece of legislation.

First, let me thank the staff of the Majority Leader's office for their cooperation and hard work enabling us to reach this result. With their customary incredible energy, Cassie Statuto Bevans demonstrated a sincere determination to craft the best legislative proposal to protect women and children who are at risk. I am also grateful for the helpful assistance of Hope Henry in the office of the gentleman from Texas (Mr. DELAY). From the House Committee on International Relations, Renee Austell and Matt McLean provided significant time and expertise helping us to formulate the right approach.

In addition, I would like to acknowledge the import and guidance of my Democratic colleagues on the committee, Pearl Alice Marsh and Robin Roizman. And I would also like to extend my appreciation to Rob Blair with the Subcommittee on Foreign Operations, Export Financing and Related Programs of the House Committee on Appropriations whose timely and insightful guidance throughout this process is much appreciated by me and my own staff.

Finally, I would like to extend my appreciation for the skillful assistance of Mark Synnes in the Office of Legislative Counsel in the drafting of this bill. Myself, and I know the gentleman from Texas (Mr. DELAY) and the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) also appreciate the letters of support that we have received from several leading relief organizations, including InterAction, Save the Children, the American Red Cross, Refugees International, World Vision and UNICEF.

By the way, I also want to acknowledge the assistance and help of my own staffer, Christine Leonard.

Mr. Speaker, with that I urge my colleagues to unanimously approve this legislation.

[From World Vision, Mar. 1, 2005]

STATEMENT OF WORLD VISION ON H.R. 912, THE HUMANITARIAN ASSISTANCE CODE OF CONDUCT ACT OF 2005

WASHINGTON.—World Vision would like to thank House Majority Leader Tom DeLay and Congressman William Delahunt for their ongoing commitment to protecting children from harm and their leadership in drafting H.R. 912, the Humanitarian Assistance Code of Conduct Act of 2005.

World Vision supports this important piece of legislation.

Each year, millions of children are exploited and abused around the world, often in the midst of a disaster, such as the tsunami that impacted South Asia in December 2004. Humanitarian organizations must be part of the first line of defense in protecting these children, and this includes measures for self-accountability and proper conduct.

H.R. 912 helps to ensure this accountability and conduct by prohibiting the funding of relief organizations that have not adopted a code of conduct that provides for the protection of beneficiaries from sexual exploitation and abuse in humanitarian operations.

World Vision has been in the forefront of developing comprehensive child protection policies and codes of conduct among the humanitarian aid community. All organizations that work with children should use every available measure to protect children from harm.

World Vision is a Christian relief and development organization dedicated to helping children and their communities worldwide reach their full potential by tackling the causes of poverty. World Vision serves the world's poor—regardless of religion, race, ethnicity, or gender. In 2004, World Vision operated in nearly 100 countries around the world.

---

UNITED STATES FUND FOR UNICEF,
*New York, NY 10016, March 1, 2005.*

RE: The Humanitarian Assistance Code of Conduct Act of 2005

Hon. TOM DELAY,
*House Majority Leader, Capitol Building, Washington, DC.*

DEAR MR. LEADER: On behalf of the United States Fund for UNICEF, I am writing to offer our thanks for your leadership in introducing the Humanitarian Assistance Code of Conduct Act of 2005. This bipartisan legislation will help reduce the risk of exploitation and abuse of children in complex humanitarian emergencies. We are happy to join the coalition of groups endorsing this important legislation.

UNICEF is committed to a zero tolerance policy toward the sexual abuse and exploitation of children, or any other form of child abuse or exploitation by its staff or those affiliated with UNICEF. As of October of 2003, the United Nations Secretary-General promulgated a bulletin which requires all UN staff to adhere to the six core principles developed by the UN Inter-Agency Standing Committee. We are glad to see these same core principles included in your legislation and extended to all humanitarian relief operations.

Your legislation is a big step forward to the goal of universal application and enforcement of the humanitarian code of conduct. We thank you for your leadership and look forward to working with you on this issue and other child protection issues.

Sincerely,

CHARLES J. LYONS,
*President, U.S. Fund for UNICEF.*

---

AMERICAN COUNCIL FOR
VOLUNTARY INTERNATIONAL ACTION,
*March 1, 2005.*

Rep. TOM DELAY,
*House of Representatives,*
*Washington, DC.*

DEAR REP. DELAY: On behalf of InterAction, the largest alliance of U.S. based nongovernmental organizations working in international humanitarian and development assistance, I write to commend you and Representative Delahunt for your interest and commitment in advancing the protection of beneficiaries of humanitarian assistance and for providing us an opportunity to comment on H.R. 912, The Humanitarian Assistance Code of Conduct Act of 2005. InterAction exists to enhance the effectiveness and professional capacities of our member organizations engaged in international humanitarian efforts. As such, we are committed to promoting the highest standards of ethical and effective performance among our members as we strive towards overcoming poverty, exclusion and suffering in the world.

As you are well aware, most of the victims of conflict and those most often affected by humanitarian crises are women and children. They are also the most vulnerable to further exploitation in the delivery of humanitarian relief. This was dramatically highlighted by the February 2002 report by the United Nations High Commissioner for Refugees and Save the Children-UK containing allegations of widespread abuses of displaced children, particularly young girls, in humanitarian situations.

InterAction immediately established a task force comprised of member CEOs to develop guidelines and recommendations that humanitarian agencies, particularly InterAction members, might take to prevent the abuse of displaced children. The report of the InterAction task force was widely disseminated in the humanitarian community and shared with our donors, partners and policymakers and included the recommendation that humanitarian agencies revise or adopt codes of conduct to reflect the six core principles of the IASC Task Force on Sexual Exploitation and Abuse in Humanitarian Crises. In addition, InterAction amended its own membership standards to include the adoption of a code of conduct against the exploitation of humanitarian beneficiaries by our members. Finally, we continue our efforts to advance and enhance the protection of vulnerable populations in humanitarian situations through our Protection Working Group.

InterAction members appreciate the legislation that has been drafted by you and Mr. Delahunt and appreciated the opportunity to work with your staff in the drafting of this legislation. InterAction strongly supports efforts to require organizations involved in the delivery of humanitarian assistance to adopt codes of conduct to protect beneficiaries from sexual exploitation and abuse. Furthermore, InterAction supports the six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises, which have been widely agreed upon as the guiding principles for such codes of conduct.

We believe that such a code of conduct should be required for organizations providing all manner of humanitarian assistance, not just to refugees and internally displaced. However, we would urge that any requirement for a code of conduct allow humanitarian agencies flexibility in the type of code required and the manner in which it is implemented to reflect the many variables of organizational structure and country environments. Finally, while we understand that this legislation does not carry any funds for training and technical assistance for the affected U.S. government agencies or their implementing partners, we believe that such assistance is necessary and hope that you will address this need in the near future.

We thank you for your interest and commitment to protection of beneficiaries of humanitarian assistance from sexual exploitation and abuse.

Sincerely,

MARY E. MCCLYMONT,
*President and CEO.*

---

[From Save the Children, Mar. 1, 2005]

### STATEMENT OF SAVE THE CHILDREN IN SUPPORT OF H.R. 912, THE HUMANITARIAN ASSISTANCE CODE OF CONDUCT ACT OF 2005

On behalf of Save the Children, the leading independent organization committed to creating real and lasting change in the lives of children in need, we applaud the introduction of H.R. 912, The Humanitarian Assistance Code of Conduct Act of 2005. Introduced by House Majority Leader Tom DeLay and Congressman William Delahunt, we believe that this legislation sends an important message to all organizations providing assistance to refugees and internally displaced people (IDP)—the majority of whom are women and children—that abuse and exploitation will not be tolerated.

Whether as a result of war or natural disaster, a child's vulnerability to abuse is very similar. To survive, women and children in refugee camps are frequently put in a position where they have little choice but to barter with their bodies in order to obtain desperately needed food and assistance. The full extent of sexual exploitation and abuse of children in war and conflict is largely unknown. However, according to UNIFEM in Sierra Leone, 94 percent of displaced families experienced sexual abuse. Furthermore, 40 percent of the population, including 692,000 children, suffered sexual abuse from 1994–1997 at the height of the civil war. In just one camp for displaced persons in Darfur, 15 cases of rape are reported each week.

A joint Save the Children/UNHCR assessment mission looking at refugee and IDP communities in West Africa in October/November 2001 highlighted the fact that these issues need urgent attention. The mission found that a large number of refugee and displaced children, mainly girls, were victims of sexual violence and many more were forced into exploitative relationships in order to obtain food, shelter, healthcare and education. Protection concerns must be integrated into humanitarian services.

As a result of the West Africa report, Save the Children participated in the writing of the Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises six core principles relating to sexual exploitation and abuse by humanitarian workers. Making these principles the standard operating procedures for organizations receiving U.S. Government funding will help ensure that these most vulnerable children and their families are not victimized by those who are sent to help.

---

[From the American Red Cross]

We applaud the efforts of Majority Leader Tom DeLay and Representative William Delahunt. The Humanitarian Assistance Code of Conduct Act of 2005 will go far to help ensure the protection of some of the world's most vulnerable people.

The American Red Cross fully supports the effort to prevent sexual exploitation and abuse in any form, especially when committed against children. As an organization chartered by Congress to bring emergency relief to disaster victims all over the world, we firmly believe that our humanitarian workers should behave in a way that is beyond reproach.

Since 2003, the American Red Cross has integrated the six core principles identified by the Inter-Agency Standing Committee Task Force on Protection within the policies and procedures of the American Red Cross International Services. Making these principles the standard operating procedures for relief organizations will help ensure those most in need are not victimized yet again by those sent in to help. Our organization stands in support of this legislation and thanks Congress for advocating on behalf of those in need of humanitarian assistance.

---

[From Refugees International, Mar. 1, 2005]

### STATEMENT BY KEN BACON, PRESIDENT OF REFUGEES INTERNATIONAL, IN SUPPORT OF THE HUMANITARIAN ASSISTANCE CODE OF CONDUCT ACT (HR 912)

Refugees International (RI) applauds the introduction of HR 912: The Humanitarian Assistance Code of Conduct Act to protect beneficiaries of humanitarian assistance. Since the scandal in Sierra Leone involving 'sex for food' abuses by humanitarian workers in 2002, United Nations agencies and U.S. non-governmental organizations have slowly begun to implement codes of conduct regarding sexual exploitation. The Inter-Agency Standing Committee Code of Conduct, the principles of which are included in this legislation, is testimony to the seriousness with which the responsible members of the humanitarian community have responded to this issue.

However, many contractors and others that have received funding from the U.S. government have not yet faced up to the issue of sexual exploitation in emergency settings. The battle to protect vulnerable women and children from humiliating and degrading behavior is difficult, as is evidenced by the ongoing problems in the Democratic Republic of Congo. By requiring that all U.S. humanitarian funding go to organizations that are working within the framework of the IASC guidelines, Congress is sending a strong message to vulnerable women and children that they have a powerful ally in their struggle for human dignity in the face of overwhelming odds.

As an independent organization that promotes life-saving action for displaced people around the world, RI strongly supports the US Congress's efforts to require all organizations involved in the delivery of humanitarian assistance to adopt a code of conduct to protect vulnerable women and children from sexual exploitation and abuse by those charged with assisting them. We are fully committed to the IASC principles and to advancing the code of conduct throughout the humanitarian community. RI therefore urges all members of Congress to support the vulnerable women and children of the world by passing this bill into law.

☐ 1045

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me the time, and I really thank the gentleman from Massachusetts (Mr. DELAHUNT) for bringing this bill to the floor and particularly the gentleman from California (Mr. LANTOS) and the gentleman from New Jersey (Mr. SMITH) for working hard to make sure it was all right and well. These three gentlemen have worked tirelessly on children's issues, particularly this issue. It is a thankless issue.

Just like people in the United States do not want to talk about abused and neglected children in foster care, people around the world, and particularly governments, do not want to recognize that sex trafficking is going on, slavery is going on, and actual exploitation of children and women is going on around the world. These three men have worked tirelessly on the thankless job to raise this issue, an issue this is vitally important to the lives of many, many people.

Last December, the United Nations Under Secretary for Humanitarian Relief reported that cases of sexual abuse and exploitation by U.N. peacekeeping and humanitarian personnel had reached an unacceptable level.

Victims of natural disasters and civil wars, especially children, are among the most vulnerable people on Earth.

In many places around the world, the security of homes, families and lives rely on the compassion and commitment of international relief organizations. As anyone who has ever seen them in action could tell my colleagues, the men and women who devote their lives to this work, who travel at a moment's notice to help total strangers, survive in desperate straits, arrive on such scenes with wings on their backs.

The very thought that such people could prey upon the women and children under their care is disturbing in the extreme, and yet we must now sadly admit such cases have occurred.

Victims of disasters need our help, and the American people always respond to humanitarian crises with compassion and generosity. That any of our generosity for these victims might be twisted into revictimizing them will not stand.

Assistance must reach those in need of relief, and it must be delivered by organizations and individuals committed to their safety. That is what this bill will do.

The Humanitarian Assistance Code of Conduct Act, the result of cooperation from humanitarian relief organizations, administration officials, and especially the work of the gentleman from Massachusetts (Mr. DELAHUNT) will ensure that from now on the American people need not accept a choice between indifference and abuse.

It will require any organization receiving humanitarian assistance funds from the United States Government adopt a strict code of conduct for its relief workers.

It will prohibit humanitarian relief workers from engaging in sexual contact with minors, soliciting prostitution, and in other ways exploiting the women and children of disaster-ravaged communities.

Such organizations must strongly discourage any sexual relationships between relief workers and beneficiaries' and will immediately terminate any worker who crosses the line.

The best of such groups already adhere to the principles in this bill, groups that have assisted in its development, groups that set a gold standard for every aspect of humanitarian activity; and the adoption of these principles by more and more groups will help eradicate the behavior they specifically prohibit.

This code of conduct will help identify and document at-risk children in devastated regions, reducing the likelihood that such children will fall through the cracks and into the dark world of exploitation, abuse, and even human trafficking.

It is sickening that this bill even merits consideration, Mr. Speaker; but in order to protect some of the world's most vulnerable people, consider it and pass it we must.

The exploitation of women and children who have already lived misery few of us could even imagine at the hands of their would-be rescuers is a corruption of humanity itself. Those responsible for such evil are terrorists of the soul, Mr. Speaker, their crimes of a sort civilization cannot brook.

I urge my colleagues to join me in supporting the gentleman from Massachusetts' (Mr. DELAHUNT) bill and reminding the world the only acceptable level of abuse and exploitation of human life is none.

I, too, want to thank the staff, particularly my staff, Dr. Cassie Bevan, in working on this, the staff of the Committee on International Relations on both sides; and certainly the gentleman from Massachusetts' (Mr. DELAHUNT) staff did excellent work on this issue.

This is an issue that people have to pay attention to, and hopefully this bill will help.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

We have no additional requests for time; but before yielding back, I want to join the gentleman from Massachusetts (Mr. DELAHUNT) in paying tribute to the majority leader and to the gentleman from New Jersey (Mr. SMITH) for their invaluable work on this issue.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, we do have one additional request for time, and I yield such time as he may consume to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I appreciate the gentleman yielding me time, and I just want to rise in strong support for the gentleman from Massachusetts' (Mr. DELAHUNT) bill and a bill supported by the gentleman from Texas (Mr. DELAY), the majority leader, and to thank the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) for always being out front on such important issues.

This bill takes a very meaningful step. It may be small, but it is meaningful to ensure those who are most vulnerable in emergency situations, women and children, are not exploited.

In my work as chairman on the Subcommittee on National Security, Emerging Threats and International Relations, I have had the opportunity to witness the crucial and awe-inspiring work of humanitarian aid organizations around the world. I am, frankly, in awe of organizations like AmeriCares, Save the Children, MercyCorps and so many others. They do extraordinary work.

As an original cosponsor of this legislation, I can clearly state we have no intention of hindering, in any way, the crucial work these and other humanitarian organizations do. In fact, most of the organizations working with the USAID already have adopted policies that protect their beneficiaries.

What we do want to say, however, is that with the U.S. Government's financial assistance comes some responsibility, and so by passing this legislation we will require aid organizations to adopt a code of conduct that protects beneficiaries of their assistance from sexual exploitation and abuse. This is not a burdensome condition.

In fact, the United Nations created a Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises and established a set of six core principles. This legislation clarifies the code of conduct should be consistent with those six principles to the maximum extent practicable.

We can all agree that Americans want to know our foreign assistance is being put to good use and certainly that it is doing no harm. I am sincerely grateful to the gentleman from Massachusetts (Mr. DELAHUNT) and to the gentleman from Texas (Mr. DELAY). It makes me feel encouraged that on a bipartisan basis we can do something that has meaning and frankly will not only bring our country together, but bring this Congress together.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 30 seconds.

We have no further requests for time, and I just want to conclude and again say to my friends on the other side of the aisle, to the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from California (Mr. LANTOS), as well as to the gentleman from Illinois (Mr. HYDE), the chairman of our distinguished Committee on International Relations, to the gentleman from Connecticut (Mr. SHAYS) and, of course, to our majority leader for his leadership on this in ensuring that this very important piece of legislation not only gets expedited treatment but will be passed early and closed enough to the tsunami in order to address some of the problems that were exposed as a result of it.

Children need protection. Women need protection. This bill advances that ball. It is an important and very noble task, and I am glad we have bipartisan consensus on this kind of humanitarian and human rights legislation.

Ms. PRYCE of Ohio. Mr. Speaker, I rise today in support of H.R. 912, the Humanitarian Assistance Code of Conduct Act. I'd like to first thank Majority Leader DELAY and the gentleman from Massachusetts, Mr. DELAHUNT, for their steadfast work on crafting this critical legislation. They have put partisan politics aside to collaborate on a monumental initiative that will establish a clear U.S. policy to protect some of the most vulnerable refugees in the tsunami-affected areas.

It's been over two months since the tsunami devastated villages and neighborhoods across South Asia. Yet while the images we were so used to seeing on television in the days and weeks after the tragedy struck seem to have all but disappeared from the airwaves, lives remain shattered, loved ones are still missing, and communities are still coping with inexplicable loss and devastation.

Individuals and communities around the world have poured out their hearts and opened up their pocketbooks to help victims of the tsunami. And while so much good has come out of something so terrible, there remains a dark and vicious threats that has infiltrated this region for years.

South Asia has been a source and destination for human trafficking for a long time. While efforts are being made to put a stop to this horrific form of modern day slavery, the problem remains prevalent in this region. Natural disasters, like the tsunami, significantly increase the risk for trafficking and exploitation of women and children.

That is why the legislation we're considering on the floor today is important. It takes us another step forward in our global effort to combat human trafficking and the sexual exploitation of women and children. This measure will help insure that the children in the tsunami-affected region who lost family members or the roof over their heads will be protected from those who may try to prey on them.

I urge my colleagues to lend their strong support for this critical legislation.

Mr. SMITH of New Jersey.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 912.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

---

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 55 minutes a.m.), the House stood in recess subject to the call of the Chair.

---

□ 1405

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 2 o'clock and 5 minutes p.m.

---

## PROVIDING FOR CONSIDERATION OF H.R. 27, JOB TRAINING IMPROVEMENT ACT OF 2005

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 126 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 126

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 27) to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Utah (Mr. BISHOP) is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 126 is a structured rule providing for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Education and the Workforce. The rule makes in order only those amendments printed in the Committee on Rules report, and for the time specified in the report. And finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, I am pleased to stand before the House today in strong support of this rule and support of the underlying resolution legislation, H.R. 27, the Job Training Improvement Act of 2005. The gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Subcommittee Chairman MCKEON) and the committee members from both sides of the aisle are to be commended for their diligence and hard work in putting together a comprehensive measure reauthorizing vital job training programs while, at the same time, providing for improvements of those programs aimed at providing greater flexibility, accountability, targeting Federal dollars where they will be most effective and where there is the highest demonstrated need.

Mr. Speaker, my favorite movie of all time has always been "Inherit the Wind." I still think it is Spencer Tracy's greatest role. But in that he, playing the character of Henry Drummond, talks about the other main character, Matthew Harrison Brady, who was a well intentioned, yet flawed, character. And in talking about his death, Drummond says of Brady, a giant once lived in that body. But Matt Brady got lost because he was looking for God too high and up too far away.

Federal Government is a lot like Matt Brady. We are well intentioned, the greatest of desire to serve; but we oftentimes get lost and allow too many people to fall through cracks and harm people because we try to solve problems from too high up and administer programs from too far away.

From this isolated Hall, we often concoct specific standards that fail people who have the needs but do not fit our preconceived standards. Last Wednesday in my district at a town meeting, I met a young lady by the name of Micaela, who offered me also this five-page letter of her efforts and her concerns. She is in need of vocational rehabilitation services, but does not quite fit our standards we have designed.

In her letter she said in her years of trying to receive services that she was told she had too many disabilities, too few disabilities. You could not visually see her disability. She was too young, too old, and too rare of a circumstance. You name it, she had heard it. And she has also been basically told that I am not worth helping, hiring, or even listening to.

Oftentimes the Federal Government, in fact, not oftentimes. The Federal Government's only advantage is that of uniformity. By definition we can deal with people only as objects on a factory conveyor belt designed to meet the Federal factory specifications.

But if we truly believe that people are each individuals, that they have a spark of divinity, that individual needs are there that require individualized help, then we do not need uniformity. What we need is creativity, efficiency, and caring; and that can only be done effectively on the State levels, which is why this particular bill has gone from several years ago, 63 programs, has now taken three funding streams and tried to bring it into one so they could help individual people by trying to apply 70 percent of the funding that has been given to students to those who have been unserved and out of school, to create a demonstration project for personal reemployment accounts to meet individual needs to be addressed by that individual, and to present the President's community college program and tie them all together to give local governments the ability to work with individuals so that Micaela here does not slip through the crack by definition.

Prior to coming to Congress, I had the opportunity, like many of you, of serving in the State legislature, and I was a teacher for a long time. In that position, or those positions, I witnessed firsthand the years of oftentimes Federal programs and mandates shoved on States, on local school districts, on local units of governments with this one-size-fits-all uniform approach. What was often, too often, left out were, quite frankly, the bona fide local needs. A uniform Federal approach stifles innovation with the heavy hand of Federal regulations and professionalism.

The philosophy behind H.R. 27, therefore, is to give Governors as the chief political officer of the States the flexibility over job training programs to promote economic development and jobs based upon local needs, and that way, the States become responsive to employment and to job markets.

Recently, I attended a community college, a community technical college in my district. And I was amazed at the benefits I saw of partnerships with local private industry, government contractors, and local employers coming together. In their diesel program, to find the kinds of materials that were provided by the industry, they have to get hands-on experience for first-rate technicians. And in program after program in that particular college, I saw, through innovation and hard work, the community college has been able to leverage the State and Federal dollars and to attract private contributions for equipment and training that met the need of training qualified workers in the high-tech future.

Vocational rehabilitation services in State after State does the same thing. But these type partnerships are not just allowed in this bill. They are encouraged under this legislation, which is vital in helping provide workers for the competition of the 21st century.

H.R. 27 is strongly supported by a coalition of community colleges which authorizes $250 million for community-based job training grants to strengthen the role of those communities' colleges and to promote the United States' full workforce potential.

We face a 21st-century challenge in an ever-changing technology and the aging American workforce. We must provide States, local workforce boards, Governors flexibility to fit real people with real skills for real jobs. And they vary in need from State to State. We must allow them the opportunity to work together as they see fit to help people like Micaela.

I further support H.R. 27 because it targets Federal funds to groups of youths who are presently underserved, because it provides for individual self-help efforts.

I would like to point out also that H.R. 27 builds upon legislation passed in the 108th Congress, namely H.R. 1261, the Workforce Reinvestment and Adult Education Act of 2003, which was passed by this House.

There may be some who would oppose this bill because it respects both the letter and the spirit of existing law. If there is a problem with existing law, this is not the proper venue for that discussion.

□ 1415

Let us not, in the debate over the rule or the bill, lose focus and lose sight of our goal, which is to help the Micaelas of this Nation who need services, which are and will continue to be distributed fairly without precondition.

It is significant that we not confuse services rendered with the desire of some to sanitize and regulate legally diverse practices, reaffirmed in a rare moment of sanity by the courts, which do not impact the rendering of those employment services. Others beside sanctioned-government programs care and help and are effective, and we ought to forget the old pattern of confrontation and pointless attacks on groups that we see as different; we should join for the common goal of helping people.

Mr. Speaker, this is a good rule, supporting a bill that has been discussed and amended in committee through regular order. The rule allows for three specific amendments to focus discussion on key elements of the proposal. I am looking forward to riveting debate on this bill, with the realization our goal is to help the Micaelas of this world who have been hurt because there have been programs which are too high, too far away, and forgot our purpose of helping real people. I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Utah (Mr. BISHOP) for yielding me the customary 30 minutes.

Mr. Speaker, here we go again. The 109th Congress convened 2 months ago. The Committee on Rules has reported eight rules, including the one we are considering today. None of these rules, not a single one, has been open. The Republican majority is zero for eight on open rules. It is an abysmal record and just continues to prove how out of touch with America, and with the democratic process, this leadership really is.

I oppose this rule and I oppose this bill. The Republican leadership seems to think that the job picture in this country is rosy, but they could not be more wrong. They seem to think jobs are popping out of the woodwork, but it is clear our workers need job training assistance in order to compete in the 21st century workplace.

When we think that the Republican leadership cannot be any more out of touch with the challenges facing working Americans, they bring the Job Training Improvement Act of 2005 to the floor today.

Let us look at the facts. Every day over 85,000 people in this country lose their jobs. Under this administration's watch, the Nation has lost 2.8 million jobs, and 4.3 million formerly middle class Americans have been pushed into poverty. President Bush's failed economic policies have produced a 5.2 percent unemployment rate.

Let us be clear. This slightly lower unemployment rate does not signal a rebounding labor market. In addition to the 8 million Americans who are currently unemployed, there are 5 million unemployed workers who want to work but have given up looking for jobs simply because there are no jobs out there for them. Beyond that, there are 4.5 million people who have accepted low-wage, part-time work simply because they cannot find full-time employment in this weak economy. The real unemployment rate would skyrocket to 9.3 percent by merely including these workers.

And not only are millions of American workers looking for jobs, but the long-term unemployment rate, workers who have been jobless for 6 months or more, is the highest in more than 20 years. Despite these startling statistics, this administration has continued to resist efforts to extend unemployment benefits for the 3.5 million workers who have exhausted their coverage.

The Republicans have mismanaged this economy, and American workers are paying the price through lower pay, reduced benefits, and in too many cases job loss. As if this were not enough, the Republican leadership is trying to enact broad, sweeping changes to the Workforce Investment Act. This bill will do nothing to create new jobs, reduce the number of unemployed people in this country, or sufficiently training workers for jobs. Frankly, this bill is a slap in the face to American workers. Contrary to what we will hear from the Republican leadership, the Job Training Improvement Act will actually make it harder for the unemployed to obtain employment and reemployment training.

Specifically, H.R. 27 would eliminate the employment services system, a program which provides critical job assistance to those unemployed workers hardest hit with the job loss of recent years. In my home State of Massachusetts, this program provides services to nearly 165,000 jobseekers each year, and it has successfully helped 75 percent of them retain employment in less than 6 months.

In addition, this bill block grants adult and dislocated worker funding streams. It allows States to use funds from the Disability and Veteran Employment and Adult Learning Programs to fund expenses at the Workforce Investment Act's centers. The result of this provision will be more bureaucracy and less training for the disabled and veterans.

Given all of the rhetoric that we hear about supporting our troops and providing for our veterans, we should find this provision particularly disturbing. We should be doing everything we can to help veterans find employment instead of slashing the disability and veteran employment and adult learning programs.

Additionally, the bill eliminates existing protections and safeguards against low quality and potentially fraudulent job training providers and permits States to allow these providers to receive Federal funding. It caps at 30 percent the use of funds for services targeting low-income youth, those considered most likely to drop out of school.

If that were not bad enough, this bill also abandons a core principle of our Constitution by repealing civil rights protections written into current law.

Twenty-one years ago, then-Senator Dan Quayle sponsored legislation that provided civil rights protections against religious-based employment discrimination in programs that receive Federal funding. These protections were extended to secular as well as religious organizations. President Reagan signed that bill into law. It is not every day that I praise Dan Quayle, but the nondiscrimination provision he offered is good policy which has served us well. This provision received strong bipartisan support when the Workforce Reinvestment Act was reauthorized in 1998.

However, the Job Training Investment Act shreds these protections by allowing religious organizations to receive Federal funding for job-training activities and social services while also employing religious-based discriminatory practices. In other words, this bill would allow a religious organization that discriminates based on religion, like a Bob Jones University, to get taxpayer money and use that Federal funding to legally discriminate on religious grounds when hiring staff to carry out the job training programs and services in this bill.

But let me be clear, the right of churches, synagogues, mosques and other religious organizations to remain free from government intervention has long been protected under the law, and I am sure my colleagues join me in support of this protection. Congress has always exempted faith-based organizations from antidiscrimination provisions in programs funded by their own money, and we are not proposing that a church or synagogue or mosque be forbidden from using religious criteria in deciding who to hire as a minister or rabbi or imam.

However, that same church, synagogue or mosque should not be permitted to apply for and receive Federal funding for job training and then, as written in this bill, be exempted from Federal civil rights protections. Faith-based institutions should be required, like all other recipients of Federal funds, to adhere to basic civil rights laws, and I cannot even begin to count the number of institutions that have contacted my office in the last few days asking to be held to those same standards.

Last night in the Committee on Rules, I heard my colleagues, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Florida (Mr. HASTINGS) talk about a return to discrimination practices that forced these men and millions of other African Americans to drink from separate drinking fountains and eat at separate lunch counters from white Americans.

How can anyone justify abandoning one of our Nation's most fundamental principles? How can Members believe this is the right position for Congress to advocate? How can Members believe this provision is moral? I certainly cannot find it in myself to do so. This provision is offensive, it is ugly, it is wrong, it is unacceptable. But beyond that, Mr. Speaker, I believe it is unconstitutional and unAmerican.

The gentleman from Virginia (Mr. SCOTT) will offer an amendment to strike this offensive provision from the bill. I hope that my colleagues will join me in voting for the Scott amendment. It is important that we oppose discrimination at every turn, and this is an important vote.

Mr. Speaker, many Democrats offered several high-quality amendments in the Committee on Rules yesterday. Unfortunately, the majority has continued to stifle the democratic process by denying common sense amendments to this bill.

Just because the Republican leadership allowed the Scott amendment to be considered on the floor today does not make this a good rule. Once again, let me remind my colleagues and the American people watching at home that the Republicans have not reported one single open rule this year.

Mr. Speaker, this is an unfair rule, poor policy-making and a bad bill. It is truly a tragedy when a Nation that prides itself on democracy and equality considers and will most likely pass a bill that would permit employment discrimination in federally-funded programs. It is a slippery slope from here on out, and I fear this may just be the beginning. I urge this House to defeat the rule and vote against the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Chairman BOEHNER).

Mr. BOEHNER. Mr. Speaker, I congratulate the gentleman from Utah (Mr. BISHOP) as a new member of the Committee on Rules for his work today on his first rule that he is bringing to the floor of the House.

Today we are considering a rule that would allow for consideration of the reauthorization of the Workforce Investment Act. The Workforce Investment Act, enacted in 1998, brought together some 60 Federal job-training and retraining programs, and put them together and we created these one-stop shops all across America. They are intended to be able to provide training and retraining for American workers who are out of work or workers who simply want to improve their skills so they can move up the economic ladder.

By and large, these one-stop shops have worked very well, but as we reauthorize this law, it is our obligation to take a look at what is working, what could work better, and as we bring this reauthorization forward, there are some important changes that we are bringing to the floor with it.

Mr. Speaker, we want to provide more flexibility for the local workforce boards to do their work by consolidating the funding stream. We want to ensure that more of the funding that is available for this Act goes down to the local county boards, or, in some cases, multiple county jurisdictions. In this bill, we also renew the vocational programs for those who have disabilities, an important part of our workforce.

I think all of us know if we are going to be successful in the 21st century, that America has to do a better job of training and retraining our workforce. The days of going to work for one employer and being there for most of your career are, by and large, over. People are going to change jobs multiple times during their career, and we have to have available to them the kinds of services where they can improve their skills to take that new job of tomorrow.

The reauthorization program that we have today, I think is a good one. There is one amendment that we will debate that we have had considerable debate on over the last several years in this Congress and considered in the committee twice during the markup of this bill. It is on the faith-based language. Members are going to hear an awful lot about it today, but let me give the parameters.

The 1964 Civil Rights Act, the landmark legislation which prevented discrimination in America, allowed for one exception in hiring and that exception was granted to religious organizations where we grant them an exemption if they wished to only hire people of their own faith. That is the law. It has been the law since 1964.

We believe that faith-based providers who may want to offer services, job training services or retraining services, ought not to be denied their rights under the 1964 Civil Rights Act just because they want to help the neediest of the needy and help the poor improve their skills and get a job.

This is a great debate which has gone on for several years. We allow faith-based providers in this bill to provide services without giving up their protections in the 1964 Civil Rights Act. Some believe, and it is certainly their right to have a different opinion, believe that faith-based organizations, even though they have this right, ought to be forced to give it up in order to take Federal funds to help the poorest of the poor.

Now I would argue those who really do believe that is the case ought to go back and amend the 1964 Civil Rights Act, title 7, and not try to do it in this bill. But this provision, and again, we will have ample time to debate it later, I think this provision helps organizations who want to go out and help the needy in their community. It gives them the tools to do it without having to set up a new organization, or denies them the ability and the rights that they have under the 1964 Civil Rights Act.

□ 1430

I think that we have a fair rule before us. I think it will provide for a very meaningful debate today on this reauthorization. I would urge my colleagues to support it.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just reiterate that what we believe is that taxpayer money should not be used by faith-based organizations to discriminate against people based on religion. What we feel is that this provision in this bill is offensive and it turns the clock backwards on civil rights.

Mr. Speaker, I include for printing in the RECORD a letter opposing this bill signed by 67 religious organizations and civil rights organizations that have great concerns not only with the provision on religious-based employment discrimination but on a whole series of other provisions.

FEBRUARY 28, 2005.

DEAR REPRESENTATIVE: The undersigned organizations are writing to urge you to vote against H.R. 27, the Job Training Improvement Act, unless it is modified to address the concerns outlined in this letter; and to oppose any effort to expand the block grant authority in the bill along the lines of the Administration's "WIA Plus" proposal.

H.R. 27 fails to make meaningful improvements to the Workforce Investment Act (WIA) that would enhance the training and career opportunities of unemployed workers. Instead, the legislation would eliminate the dislocated worker training program, undermine state rapid response systems, end the federal-state labor exchange system, roll back protections against religious discrimination in hiring by job training providers, and potentially undermine the stability of other important programs.

In particular, we are concerned about the following provisions in H.R. 27:

NEW BLOCK GRANT

H.R. 27 consolidates into a single block grant the WIA adult and dislocated worker programs with the Wagner-Peyser employment service program and reemployment services for unemployment insurance recipients. In doing so, it will eliminate job training assistance specifically targeted to workers dislocated by off shoring and other economic changes, pit different types of workers against each other, and lead to future funding reductions. The block grant also eliminates the statewide job service, which provides a uniform statewide system for matching employers and jobseekers, replacing it with a multiplicity of localized programs that would have no incentive or ability to cooperate and function as a comprehensive labor exchange system. Eliminating the employment service, which is financed with revenue from the unemployment insurance (UI) trust fund, breaks the connection between the unemployment insurance program and undermines the UI "work test," which ensures that UI recipients return to work as quickly as possible.

INFRASTRUCTURE AND CORE SERVICES FUNDING

A principal criticism of WIA has been the substantial decline in actual training compared to its predecessor, the Job Training Partnership Act. While there are various reasons for the reduction in training, including the sequence of services requirement in current law, the use of WIA resources by local boards and operators to build new one-stop facilities and bureaucracies, without any limitation, has contributed substantially to the decline in training. This is despite the fact that many WIA partner programs also contribute operating funds to one-stop operations.

H.R. 27 gives governors even broader discretion to transfer additional resources from the WIA partner programs to pay for WIA infrastructure and core services costs—without any assurance that more training would result. These programs include the vocational rehabilitation program, veterans employment programs, adult education, the Perkins post secondary career and technical education programs, unemployment insurance, trade adjustment assistance, Temporary Assistance for Needy Families (TANF), and, if they are partners, employment and training programs under the food stamp and housing programs, programs for individuals with disabilities carried out by state agencies, including state Medicaid agencies, and even child support enforcement. By relying on funding transfers from these programs to guarantee resources for WIA infrastructure and core services, H.R. 27 will disrupt and weaken services provided by these non-WIA programs, which also will face substantial pressures for funding reductions in the next few years.

The infrastructure and related provisions start the commingling of funds from these non-WIA programs. In doing so, they transform the original one-stop idea of a better-coordinated workforce system into a mechanism for reducing resources for and block granting these programs in the future. A more effective and simple solution to ensuring adequate training services would be to require that a certain percentage of WIA funds be used for training as provided in previous job training programs and to create a separate WIA funding stream for one-stop operations, if necessary.

PERSONAL REEMPLOYMENT ACCOUNTS

H.R. 27 includes permanent and unlimited authority for the Secretary to conduct "personal reemployment account" (PRA) demonstratious even though the Department of Labor recently initiated a PRA demonstration without strong interest among the states. Although nine states could have participated, only seven are doing so.

Since this demonstration already is in process, we see no justification for this provision and can only surmise that it is an attempt to implement PRAs more broadly, despite a lack of Congressional support for a full-scale program in the past.

Unlike current WIA training programs, the PRAs would limit the cost of training that an unemployment insurance recipient can receive and would bar that individual from WIA training services for a year after the PRA account is established. This is the wrong way to go. With long-term unemployment at historically high levels, there is a much greater need for continued unemployment benefits for the long-term unemployed who have found it so difficult to become reemployed.

RELIGIOUS-BASED EMPLOYMENT DISCRIMINATION

H.R. 27 repeals longstanding civil rights protections that prohibit religious-based employment discrimination by job training providers. These protections have been included in job training programs, which received bipartisan support, since 1982. At no time have the civil rights provisions prohibited religious organizations from effective participation in federal job training programs. This rollback of civil rights protections is especially incongruous in a program designed to provide employment and career opportunities in an evenhanded manner and should be rejected.

WIA PLUS PROPOSAL

The Administration has proposed giving Governors authority to merge five additional programs into the WIA block grant. The proposal would eliminate specialized assistance to unemployed, disabled and homeless veterans, critical job training services for workers under the Trade Adjustment Assistance Act whose jobs have been outsourced or lost to foreign competition, and specialized counseling and customized help for people with disabilities through state vocational rehabilitation agencies. These individuals would have to compete with each other for a declining share of resources without the protections and requirements under current law. Furthermore, the proposal abrogates accountability for the expenditure of federal taxpayer dollars by eliminating program reporting requirements. We strongly urge you to oppose any effort to adopt this misguided plan.

In summary, H.R. 27 strays far from the appropriate mission for federal job training programs of enhancing training opportunities for workers and providing skilled workers for employers. We strongly urge you to oppose this legislation unless amendments are adopted to delete the block grant, PRA demonstration and religious-based discrimination provisions and to modify the infrastructure provisions as recommended.

American Association of People with Disabilities.
American Civil Liberties Union.
American Counseling Association.
American Federation of Government Employees (AFGE).
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).
American Federation of State, County and Municipal Employees (AFSCME).
American Federation of Teachers (AFT).
American Humanist Association.
American Jewish Congress.
American Psychological Association.
American RehabACTion Network.
Americans for Democratic Action (ADA).
Americans for Religious Liberty.
Americans United for Separation of Church and State (AU).
Association for Career and Technical Education.
Baptist Joint Committee.
Brain Injury Association of America.
Brotherhood of Locomotive Engineers and Training.
Campaign for America's Future.
Center for Community Change.
Communications Workers of America (CWA).
Council of State Administrators for Vocational Rehabilitation (CSAVR).
Easter Seals.
Equal Partners in Faith.
Goodwill Industries.
Institute for America's Future.
Interfaith Alliance.
International Association of Machinists and Aerospace Workers.
International Brotherhood of Teamsters.
International Union of Painters and Allied Trades.
National Advocacy Center of the Sisters of the Good Shepherd.
National Alliance For Partnerships in Equity.
National Association of State Directors of Career Technical Education Consortium.
National Association of State Head Injury Administrators.
National Council of Jewish Women.
National Education Association.
National Employment Law Project.
National Head Start Association.
National Immigration Law Center.
National Law Center on Homelessness & Poverty.
National League of Cities.
National Organization for Women.
National Rehabilitation Association (NRA).
National WIC Association.
National Women's Law Center.
NETWORK, A National Catholic Social Justice Lobby.
OMB Watch.
Paralyzed Veterans of America.
Patient Alliance for Neuroendocrine-immune Disorders: Organization for Research and Advocacy.
Plumbers and Pipe Fitters Union.
Professional Employees Department, AFL-CIO.
Protestants for the Common Good.
Service Employees International Union (SEIU).
The Arc of the U.S..
United Cerebral Palsy.
Unitarian Universalist Service Committee.
United Auto Workers (UAW).
United Church of Christ Justice and Witness Ministries.
United Mineworkers of America.
United Steelworkers of America.
USAction.
Welfare Law Center.
Wider Opportunities for Women.
Women Employed.
Women Work! The National Network for Women's Employment.
YWCA USA.
9 to 5, National Association of Working Women.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time, and I rise to oppose this rule to H.R. 27, the Workforce Investment Act. The gentleman from Ohio, the chairman of the committee on which I serve, is correct. The Workforce Investment Act has been successful. The renewal that is proposed to us today, however, is a step backwards; and we will hear a great deal about that.

There were amendments that were proposed that have not been made in order. These amendments would have created a separate authorization for infrastructure funding for one-stop centers, would have struck the provisions regarding personal reemployment accounts. There was an amendment that would have struck the provisions to consolidate the funding of adult, dislocated worker and employment service; and an amendment that I would like to address at this moment that I offered that would have increased the authorization by $750 million for job training programs under the Workforce Investment Act.

Between fiscal year 2002 and fiscal year 2006, Mr. Speaker, funding for the Workforce Investment Act has been reduced by three-quarters of a billion dollars. This is for a program that works. But the funding has been reduced. My amendment would have restored this funding. However, the Committee on Rules did not see fit to accept the amendment. At a time when there are 7.7 million people unemployed, not counting those who have fallen off the rolls, 4.5 million working part-time because they cannot find a full-time job that they need, we should be doing more. Through the one-stop delivery system, job seekers have access to labor market information, job counseling, and job training to help them get back on their feet.

Back in 1998 when this bill, this program, was first passed, David Broder wrote an article. He said: When Senator Paul Wellstone walked off the floor arm in arm with Senator MIKE DEWINE of Ohio, bipartisan I should point out, Paul Wellstone said, "MIKE, this may not be the lead story on the network news, but it's a good piece of work." Well, indeed it was not the lead story on the network news.

David Broder reports, It was hard to find a trace of their bill. The news at that time was overwhelmed, overtaken by scandals. But as says Broder, In communities less consumed by scandal than Washington, the impact of the measure that DEWINE and Wellstone and others had fashioned may be felt in real lives long after the memories of the scandals have faded. In a dynamic economy where technological changes and market shifts are forcing layoffs of some people even as other jobs are being created, the key is to equip workers with needed skills and then link them efficiently to the vacancies.

That is what this legislation is intended to do. It should be authorized at a greater amount. Said Broder back then, The workers will never know the names of the legislators, but they are in their debt.

Unfortunately, the workers who do not get to take advantage of this program because it is underfunded will never know what they have missed, and we have let them down. We should oppose this rule, Mr. Speaker.

Mr. BISHOP of Utah. Mr. Speaker, I yield 8 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me this time. I urge the body to adopt this rule and to pass the bill.

I will be addressing just one particular topic which has been controversial in committee discussions and will be the subject of an amendment later on, and that is turning the clock back on the Civil Rights Act of 1964 and changing what it says. Those who are opposed to this bill on that ground believe that somehow it is wrong to allow religious institutions to receive Federal funds for programs that benefit the public at large, are not restricted to people of particular faith but are operated by organizations that are religiously based.

I have listened carefully to the debate in the committee. We have had this same debate several times in committee. I have yet to understand precisely what the objections are, but it seems that opponents are afraid of two things: one, that this provision in the bill somehow will allow these organizations to discriminate on other grounds in their hiring, which is, first, contrary to the Civil Rights Act, and second, I would say religious organizations are the least likely to discriminate on the basis of race or any of the other forbidden categories.

The other objection appears to be that somehow these churches are going to use this Federal money to try to proselytize, to get people in these programs and then they will say, okay, now isn't this wonderful, you should join this church.

I would like to say, that is also not true. It just does not happen. I can speak from my personal experience. When my wife and I moved to Grand Rapids, Michigan, in 1966 to take on a new position, we looked for a church. In fact, we spent 3 months trying out different churches, looking, trying to find a certain something: we wanted a church in the inner city because we wanted to be able to contribute to solving the problems of the city of Grand Rapids, particularly in the inner city.

And so we joined Eastern Avenue Christian Reformed Church because of its location and because of the attitude of its people. They worked very hard in the community. As an example, they established a community center. There was none at that time either federally funded, State funded, or city funded. The church stepped in and started it. It was on the top story of a ramshackle building which housed a small convenience store in the lower floor. It grew slowly at first, but then took off. Today it is a large community center, one of the best, if not the best, in the city. They purchased a school which was being abandoned, filled up that school, and they now have just successfully completed a $2.5 million capital drive to add on to their facilities and improve them.

Our church started that. We did have and still largely do have religious restrictions on the hiring of individuals, but the facility serves all people in that community. It has brought in medical care workers of all faiths to work and provide medical care and dental care for the recipients in that community.

We started a housing program which turned into the Inner City Christian Federation, and we spun off this organization as well as Baxter Community Center, but they are still largely faith-based organizations. ICCF, the Inner City Christian Federation, developed housing programs, and they had built many houses before Habitat for Humanity started in our community; but ICCF has built and remodeled more houses than almost any organization within the city that I am aware of. Again, it is faith-based. The employees are hired partially on the basis of their faith and their commitment to serving in the inner city and often work for less pay than they could get elsewhere.

Our church, not our individual congregation, but our denomination started a mental health institution, Pine Rest, years ago because the people of our church and of our community were not getting adequate mental care. Today it is one of the largest mental health hospitals in our Nation. It serves many people of different faiths and of no faith, but it is a faith-based institution because their treatment modalities are based, to a large extent, on our beliefs about the nature of people and their interaction with each other. It has been very successful. It has received millions upon millions of dollars of aid from the Federal Government, from the State through community mental health funds and from the local community.

No one has ever said a word about this, that using Federal money for this is improper. The reason is simply that Pine Rest provides services that really are unequaled anywhere else. And so they have received Federal dollars through Medicaid and through Medicare, and State dollars through community mental health. It is an outstanding operation.

Then, finally, something we have ongoing in our church right now. Every Saturday, I wish you could visit our church: you would see people of all races, all colors, all faiths walking in the church basement which we have stocked with food that we have collected from different stores, warehouses and so forth: produce, baked goods, and many different types of perishable food.

We have purchased a truck to go around and collect this on Fridays. And Saturday morning anyone from that city can walk in with no test of their faith, no means test, they can just walk in and say, I need some groceries, and they go through the line. We charge them roughly 10 cents on the dollar because we think it is a good thing for them to feel they have bought something: but a family of four can buy a week's worth of groceries for about $10. That is a good deal. It is staffed by people from our church and from other churches, and it is a very successful operation. If we adopt the Scott amendment, which we will be discussing later, we simply could not do that.

There is one other factor here as well, and that is every church that I am aware of does not have a surplus of money. The people that they hire have to do many different jobs. That is true in our church as well. We have hired individuals who work in the church. Those individuals not only operate programs such as the food program, or getting community centers started, but they also have duties within the church and by necessity, and clearly within the intent of the Civil Rights Act, they are performing religious duties. A church cannot go out and afford to hire a different person to run each different program. You have to be multifaceted to be on the staff of a church, and that is precisely what we have in our church.

For these reasons, and many others I could enumerate, I urge the Congress to pass this rule and this bill, and to defeat the Scott amendment, so that churches and faith-based organizations of other sorts can continue to do their good work for the people of this country without fear of their programs being damaged because they would have to hire additional personnel who do not have a faith compatible with the organization.

I believe the system as we have it now, and have had it since the 1964 Civil Rights Act, has worked, it has worked well, and I urge that we keep it that way and not adopt the Scott amendment.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just say to the gentleman who just spoke that we believe that there are many religious organizations, many faith-based organizations that do incredible work, and they will still be able to do incredible work. What we object to, quite frankly, is the use of taxpayers' money to basically subsidize discrimination. It is not just a concern that those of us who are speaking here have; I submitted a list of close to 70 civil rights and religious organizations that have objections to this provision, including the African American Ministers in Action; American Jewish Committee; the American Jewish Congress; Americans for Religious Liberty; the Anti-Defamation League; the Baptist Joint Committee; Central Conference of American Rabbis; Episcopal Church, USA; the General Board of Church and Society of the United Methodist Church; the National Advocacy Center of the Sisters of the Good Shepherd; National Council of Jewish Women; NETWORK, a national Catholic social justice lobby; Presbyterian Church USA; Protestants For the Common Good; Religious Action Center of Reform Judaism; Texas Faith Network; the Interfaith Alliance; Union for Reform Judaism; United Universalist Association of Congregations; United Church of Christ Justice & Witness Ministries. They go on and on and on. This is a concern that many of the faith-based organizations all across this country share with us.

Mr. Speaker, I yield 6 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard a lot about the amendment I will be offering. I will be offering it in conjunction with the gentlewoman from California (Ms. WOOLSEY), the gentleman from Maryland (Mr. VAN HOLLEN), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Texas (Mr. EDWARDS), and the gentleman from New York (Mr. NADLER) in order to preserve and maintain civil rights protections as they currently appear in the job training laws. Current law prohibits sponsors of job training programs from discriminating based on race or religion, and that policy goes back decades. For decades, our country has prohibited discrimination in hiring with Federal funds.

In 1941, President Roosevelt ordered a prohibition against discrimination in all defense contracts. In other words, since 1941, our national policy has been that even if you can build better and cheaper rifles, the Army will not buy them from you if you discriminate in employment. The Civil Rights Act passed in 1964, and it prohibited discrimination; but it included an exception for religious organizations, but that exception was limited to the context of the religious organizations using their own money. In 1965, President Johnson banned discrimination in all government contracts without exception.

□ 1445

In job training programs specifically, this Congress passed in 1982 the Job Training Partnership Act with bipartisan support. In that Act, Congress included a nondiscrimination clause without exception, and that remains the statutory requirement in job training requirement programs today. That policy will change and discrimination will be allowed if my amendment is not adopted.

So let us be clear. This is not a debate about religious organizations having the right to participate in job training programs. They already do. As the current law stands, and my amendment would keep that law intact, Catholic, Jewish, Lutheran, Baptist, and other religious organizations already get hundreds of millions dollars today to run job training and other federally funded programs. Religious organizations do not need Section 129 in the bill to sponsor federally funded job training programs. They need that section in order to discriminate in hiring with Federal dollars. My amendment would delete Section 129 and maintain the law against discrimination.

Moreover, Mr. Speaker, when the government refuses to prohibit discrimination based on religion, it cannot effectively enforce laws against discrimination based on race or national origin. Many churches are all virtually white; others virtually all black. So if they restrict hiring based on their religious organization, they can effectively discriminate based on race. And if we do not enforce discrimination laws in Federal contracts with secular programs, where is our moral authority to tell private employers who may be devoutly religious that they cannot discriminate with their private money?

Mr. Speaker, for 40 years, if an employer had a problem hiring the best qualified applicant because of discrimination based on race or religion, that employer had a problem because the weight of the Federal Government was behind the victim of discrimination. The underlying, without my amendment, proposes to shift the weight of the Federal Government from supporting the victim of discrimination to supporting some so-called right to discriminate with Federal funds. That is a profound change in civil rights protection.

Mr. Speaker, we have heard the majority try to defend the discrimination with misleading and poll-tested rhetoric. For example, I read in a Dear Colleague that the bill is one that would "restore hiring protections for faith-based organizations participating in federal job training programs." Mr. Speaker, Section 129 does not restore anything. People have not been able to discriminate in Federal contracts since 1965 and specifically not in any job training program since 1982. If anything is being restored, it is the ugly practice of discrimination that existed before the 1960s.

The Dear Colleague went on to say that Congress needs to "continue to uphold the basic civil right of America's religious organizations to hire the staff they judge to be best qualified to carry out their programs and missions when they provide job training assistance." Mr. Speaker, the language fails to say that they can hire whoever they want to promote their religious missions with the church money. But with the Federal money, they have got to hire the best qualified for the Federal mission the tax dollars were appropriated to promote without discrimination. Funds appropriated under this bill are not gifts or grants to churches. They are contracts for government services, and we should honor the tradition begun in 1941, which prohibits discrimination.

And, finally, Mr. Speaker, Dear Colleague talks about barriers that exist to prevent faith-based organizations from fully participating in government-sponsored programs, but it does not say what the barrier is. In fact, the only barrier is one cannot discriminate. Any program that can get funded under the underlying bill could be funded without Section 129 if the sponsoring organization would agree not to discriminate in employment. As a representative said during the debate on the Civil Rights Act of 1964, he said, "Stop the discrimination, get the money; continue the discrimination, do not get the money."

Employment discrimination is ugly. We can put lipstick on a pick, but we cannot pass it off as a beauty queen, and we cannot dress up "we do not hire Catholics and Jews" with poll-tested semantics and euphemisms and pass it off as anything other than ugly discrimination.

Mr. Speaker, religious organizations actively supported the Civil Rights Act 40 years ago. Today they support the nondiscrimination provision in the Workforce Investment Act the way it is and they oppose Section 129.

Mr. Speaker, I urge my colleagues to oppose the bill unless traditional civil rights protections are included.

Mr. BISHOP of Utah. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Florida (Mr. HASTINGS) will control the time of the gentleman from Massachusetts (Mr. MCGOVERN).

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, H.R. 27, the administration's job training reauthorization bill, would, among other misguided actions, harm veterans' employment programs and critical vocational rehabilitation services.

Specifically, this bill would permit States to siphon off Federal resources from already underfunded veterans' employment programs that operate under State "one-stop" centers. Veterans and disabled job seekers do not deserve this.

Mr. Speaker, in the 107th Congress, we passed in a bipartisan manner the Jobs for Veterans Act, legislation to reorganize, update, and improve these very same veterans' employment and training programs. Now is not the time for this bipartisan effort to be unraveled. While our troops are actively engaged in Iraq and Afghanistan and many others suffering from severe injuries and permanent disabilities, now is not the time to reduce the resources for these critical job training programs. Indeed, we need to give these programs the chance to be effective.

Mr. Speaker, I understand that States are facing tremendous fiscal challenges due to the harsh economic times, but clearly taking resources from one chronologically underfunded program is not the answer. The responsible thing for the administration to do, the right thing, would be to adequately support job seekers, especially disabled veterans, as well as to assist the States with infrastructure costs.

Mr. Speaker, this legislation is not responsible and permits already modest resources intended for the Nation's disabled veterans, all who have served our country, to be further diminished.

I oppose this legislation and urge a "no" vote on the underlying legislation. And as a former Marine, I have benefitted from many programs that help veterans with education and training. As a continuation of those efforts, we must not let these people fall through the cracks that we have in our employment laws.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

May I respond simply to the arguments about our veterans because they are so important to us. Let me reiterate that H.R. 27 does not harm worker-retaining programs for veterans. Not one dollar from this account comes that is meant to help veterans with their training. The programs that we already have in place, specifically the Disabled Veterans' Outreach Program, the Local Veterans Employment Representative Program, the Vocational Rehabilitation Program, already are required to contribute to the infrastructure of these one-stop career center programs. Any money that would come to the one-stop center would be coming out of their administrative funds, not from the money going directly to the training of veterans. That is an area that was specifically covered in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

In closing, my friends on the other side have had numerous objections to provisions in H.R. 27. They have a right to do so and I expect it will be warmly discussed in the ensuing discussion of the bill itself. I believe strongly in the ability of our States, Governors, local boards, workforce boards, to be creative and innovative. There is no omniscient power that we have here. People can think for themselves in other parts of this country. And the essence of our government demands that we give them the opportunity to succeed without the benevolent help of the Federal Government.

Our job, might I remind my colleagues, is to make sure the Micaelas of the world never slip through the cracks. I believe, and I have confidence in the ability of local governments to be creative and effective, and I think so does H.R. 27. What we have today is a confusing patchwork of employment, training services. The duplication of those reduces the amount of money we get to use to help Micaelas. Many amendments that we will be discussing on the floor have also been discussed in committee. A lot of other amendments were heard in the committee. This was fully discussed in committee and voted upon.

May I just, in closing, ask us not to lose sight that the goal is service and how to provide training for people which is given without any precondition. Hiring practices that are protected by existing law are that, protected by existing law. If we feel there is a problem with that, then we should attack the existing law, and there are venues to do that. This is not the venue in this particular bill. Faith-based institutions out there, which are not rich, are still nevertheless effective. They care. They have the same goal as we do. Our goal should be to try to join hands to help all the Micaelas in the world solve the problem of employment, retraining, and servicing, not to try to change our friends in other particular ways but to join together on a common front, in a common effort, to help people, not to harm people.

Mr. Speaker, in closing, I urge adoption of the rule and the underlying legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the structured rule that has been reported out of the Committee on Rules for this debate. The party-line vote of 220–204 that we saw in the 108th Congress on the debate of the then H.R. 1261 should evidence the need for the most open debate over the issues. The need for debate arises from disagreement. As representatives of the United States Congress, we all have a duty to fully debate the issues on behalf of our constituents. A restricted rule precludes that opportunity.

Nevertheless, I am pleased that the amendments of my colleagues from Massachusetts, New York, and Virginia respectively have been ruled in order.

Passage of these three important amendments will bring H.R. 27 one step closer to providing more jobs and better opportunities for American workers to receive training for these jobs. Without them and many other suggestions that have been made by our colleagues, this bill fails as to both initiatives. In the short term, extending unemployment benefits, coupled with the assistance that unemployed workers can receive through one-stop service centers, will provide workers with the means to achieve high paying jobs.

We must address the needs of our unemployed now and in a manner that respects the rights of individuals regardless of their faith, while they are struggling to pay their mortgages and to put food on the table for their families. The base bill will fail to address these concerns and squander resources better used to provide immediate help to our unemployed workers.

Mr. Speaker, I urge my colleagues to reject a restrictive rule or to support the amendments offered by Mr. TIERNEY, Ms. VELÁZQUEZ, and Mr. SCOTT.

Mr. BISHOP of Utah. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 3:15 p.m. today.

Accordingly (at 2 o'clock and 56 minutes p.m.), the House stood in recess until 3:15 p.m.

□ 1515

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 3 o'clock and 15 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule xx, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

H. Res. 126, by the yeas and nays;

H.R. 912, by the yeas and nays.

Without objection, the minimum time for electronic voting on the second question will be reduced to 5 minutes, notwithstanding the intervention of remarks concerning the passing of a former Member.

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 27, JOB TRAINING IMPROVEMENT ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, H. Res. 126, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 191, not voting 15, as follows:

[Roll No. 42]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon

Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Fitzpatrick (PA)
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Capuano
Carson
Cleaver
Ferguson
Foley
Gillmor
Harris
Markey
McGovern
Meeks (NY)
Millender-McDonald
Napolitano
Neal (MA)
Ramstad
Sanders

☐ 1545

Mr. BRADY of Pennsylvania, Ms. SCHAKOWSKY and Messrs. BECERRA, CHANDLER, RUPPERSBERGER and TAYLOR of Mississippi changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. HINOJOSA. Mr. Speaker, on the previous vote which was rollcall no. 42, I inadvertently voted "yes." I want the record to reflect that I meant to vote "no."

(Ms. PRYCE of Ohio asked and was given permission to speak out of order for 1 minute.)

## ANNOUNCEMENT OF THE PASSING OF FORMER COLLEAGUE TILLIE FOWLER

Ms. PRYCE of Ohio. Mr. Speaker, I rise today with great sadness to inform the House that our good friend and our distinguished former colleague from Florida, Tillie Fowler, passed away today at 10:30 a.m. Tillie epitomized the very meaning of class, and she was the Southern lady in this House. She was a rare find, an example to all Members of Congress in her patriotism and her bipartisanship, and to women everywhere in her ability to attain the highest levels of power while always putting her family first. Our prayers are with Tillie's family during this difficult time, and we will all miss her greatly.

Her loved ones should know that Tillie left them, our country, and all who had the good fortune to know her a wonderful and lasting legacy.

And, Mr. Speaker, I yield to the gentleman from Florida (Mr. CRENSHAW) for a further announcement.

Mr. CRENSHAW. Mr. Speaker, I thank the gentlewoman for yielding. Tillie had an awful lot of friends in this Chamber. And for those of you that will not be able to go to Jacksonville for the funeral service on Friday, next Tuesday night we have reserved a time of Special Order to celebrate her life and her service. And so if you would like to be part of that celebration, if you would please contact my office.

Tillie was a remarkable woman. She was a rare combination of passionate drive and dedication coupled with just a warm and caring feeling for all the people around her, and she will be missed by not only her family, but her friends in this Chamber, by the people of Florida, as well as the people of this Nation whom she so proudly served. So I am sure you all join as we send our thoughts and prayers to her husband Buck, and her two daughters in this difficult time.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Under the previous order by unanimous consent of earlier today, this next question will be a 5-minute vote.

## HUMANITARIAN ASSISTANCE CODE OF CONDUCT ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 912.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 912, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, answered "present" 1, not voting 16, as follows:

[Roll No. 43]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla

Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McDermott
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

## ANSWERED "PRESENT"—1

McCollum (MN)

## NOT VOTING—16

Allen
Capuano
Carson
Cleaver
Davis (FL)
Ferguson
Foley
Gillmor
Harris
Knollenberg
Markey
McGovern
Meeks (NY)
Millender-McDonald
Napolitano
Sanders

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1557

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. McGOVERN. Mr. Speaker, I was unavoidably detained during rollcall votes 42 and 43. If I were present, I would have voted "nay" on rollcall vote No. 42 and "yea" on rollcall vote No. 43.

## GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 27.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## JOB TRAINING IMPROVEMENT ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 126 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 27.

□ 1557

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 27) to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes, with Mr. TERRY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Michigan (Mr. KILDEE) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we stand here today we continue to see significant progress toward greater economic opportunity and prosperity across the country. More than 2.7 million new jobs have been created over the last 17 months, and the unemployment rate has fallen to 5.2 percent, the lowest level since September 2001. Our economy is strong and it is getting stronger.

The backbone of a strong economy is a well-trained and highly skilled workforce, and it is absolutely critical for workers to have the education and skills necessary to adapt to new opportunities and to move into higher wages.

Federal Reserve Chairman Alan Greenspan agreed with this view when he testified before the Committee on Education and the Workforce last year. The chairman said, "We need to increase our efforts to ensure that as many of our citizens as possible have the opportunity to capture the benefits of the changing economy. One critical element in creating that opportunity is the provision of rigorous education and ongoing training to all members of our society."

Chairman Greenspan this morning testified before Congress and talked about the need to do a better job with our education system and better training and retraining of American workers.

The bill before us, the Job Training Improvement Act, would achieve this objective by strengthening the Nation's job training system. In 1998, Congress established a system of one-stop career centers aimed at providing one convenient central location to offer job training and related employment services. While these reforms have been generally successful, the Workforce Investment Act system is still hampered by bureaucracy and duplication that prevents it from being as effective as it could be for workers and their families.

Our bill includes a number of reforms aimed at strengthening our job training system and better engaging the business community to improve job training services.

Our bill includes a number of reforms. First, requiring State and local workforce investment boards to ensure the job training programs reflect the employment needs in local areas. Secondly, allowing training for currently employed workers so employees can upgrade their skills and avoid layoffs. Third, encouraging the highest caliber providers, including community colleges, to offer training through the one-stop system, and leveraging other public and private resources to increase training and opportunities.

The bill also includes other important reforms. First, it consolidates the three adult WIA training programs, giving States and local communities greater flexibility and enabling more job seekers to be served with no reduction in services.

☐ 1600

In addition, it targets 70 percent of the youth grant funds to out-of-school youth, an underserved population that faces significant challenges in finding meaningful employment.

The bill includes a proposal passed by the House last year introduced by the gentleman from Nevada (Mr. PORTER) to create personal reemployment accounts of up to $3,000 to help unemployed Americans purchase job training and other employment-related services, such as child care, transportation services and housing assistance, giving them the flexibility they need in order to gain meaningful employment. In addition, it includes the President's community college proposal to strengthen the partnership between local businesses, community colleges, and the local one-stop delivery system.

Later today, we will consider an amendment from my colleague from Virginia to strip the faith-based provisions from this bill, an amendment that would deny faith-based providers their rights under the historic 1964 Civil Rights Act. When we considered this bill in committee, we twice rejected it on a bipartisan basis, and I urge all Members to vote against it today. The 1964 Civil Rights Act made clear that when faith-based groups hire employees on a religious basis, it can exercise the group's civil rights liberties and not discriminate under Federal law. In 1987, the Supreme Court unanimously upheld this right.

As my colleagues can see from the chart that I have next to me, former President Bill Clinton signed four laws allowing faith-based groups to staff on a religious basis when they receive those Federal funds. Those four laws are the 1996 welfare reform law; the 1998 Community Services Block Grant Act; the 2000 Community Renewal Tax Relief Act; and the 2000 Substance Abuse and Mental Health Services Administration Act, all allowing faith-based providers to preserve their rights under the 1964 Civil Rights Act.

Our Nation's faith-based institutions have a proven track record in meeting the training and counseling needs of our citizens. Why would we want to deny them the opportunity to help in Federal job training efforts? President Bush repeated this call to empower faith-based providers both during his State of the Union address and again yesterday. I can think of no better place to start than to protect the rights of faith-based groups who are willing to lend a helping hand in providing job training and other critical social services to the most needy of our citizens.

I want to thank the gentleman from California (Mr. MCKEON) for his work in putting this bill together, a bill that is supported by a broad and diverse coalition of groups, including the U.S. Chamber of Commerce, the National Association of Counties, the National Association of Workforce Boards, the National Workforce Association, the Coalition to Preserve Religious Freedom and the Salvation Army, amongst others.

We are part of a dynamic economy that is constantly creating new and different types of jobs, so the knowledge and skills of each job seeker is absolutely critical in determining their success or failure. If we are going to help them succeed, then strengthening our job training programs is essential. The bill, I believe, accomplishes that goal.

Unfortunately, the only plan that my colleagues on the other side have put forward to address the needs of American workers is the status quo. Their plan fails to reduce duplication and inefficiency, it fails to give States and local communities more flexibility, and it fails to take advantage of the positive role that faith-based institutions play in our communities and the success they have in providing critical social services to those most in need.

Mr. Chairman, the status quo is no plan at all. I ask my colleagues to support the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this bill. This bill is nearly identical to the WIA bill that passed this House last Congress on a near party-line vote. It was a bad bill then, and it remains a bad bill now.

H.R. 27 represents a missed opportunity to ensure that more, not less, job training happens for the millions who are unemployed or looking to upgrade their skills. This legislation fails to increase the amount of actual training services that will be provided to unemployed, dislocated, and underemployed workers. Instead, this legislation focuses on moving around and changing the bureaucratic elements of WIA without focusing on getting more resources to the consumers of these programs.

H.R. 27 is largely the same proposal backed by the administration for the past 2 years. Just a few weeks ago, President Bush spoke to individuals in Omaha, Nebraska. There he met a woman in her late 50s who is a mother of three children. She told him that presently she was working three jobs to ensure she could provide for her family. The President's response was the following, and I quote exactly: "Uniquely American, isn't it? I mean, that is fantastic that you're doing that."

What insensitivity. Is this the attitude of this administration when it comes to the challenges of working adults and families? I think this quote from the President speaks for itself. It will go down in history with Marie Antoinette's famous quote: "Let them eat cake."

Mr. Chairman, this bill is not going to help this mother of three or the millions of Americans seeking job training. This bill is objectionable for four primary reasons.

First, the bill block-grants the adult worker, dislocated worker, and employment service program. This effectively repeals the Wagner-Peyser Act and the employment service, the national program used to match job seekers with employment opportunities. Termination of the employment service will translate into higher unemployment and less jobs.

The elimination of the employment service and Wagner-Peyser marks another example of the Republican majority terminating a New Deal program. Wagner-Peyser was first enacted in June of 1933 in the first term of President Franklin Delano Roosevelt. It is shameful that we are eliminating a 70-year-old program that has helped so many achieve and maintain work. In my hometown of Flint, Michigan, we had two parts of the unemployment office, one where you applied for the unemployment benefits and the other where you went in and were seeking a job and they would put the unemployed and an employer together. That would be decimated by this bill.

Second, H.R. 27 allows Governors to siphon off resources currently providing veterans, adult learners, and individuals with disabilities with critical services. Instead of helping vulnerable and needy individuals, these resources would fund infrastructure costs of the one-stop centers. Many of these individuals have nowhere else to turn to receive help, and this bill would exacerbate this problem.

H.R. 27 requires programs which provide these critical services to give up resources, but it also takes away any say over how they are allocated or used. They no longer will have a voice on the local boards. We should not be taking funds from these programs. These lost resources will translate into disruptions and lost opportunities to people who presently rely on these services. We should provide a separate source of funding for these one-stop centers.

Third, the bill allows discrimination in hiring based on religion with WIA funds. The bill turns back the clock on decades of civil rights protections in our job training programs. This is simply wrong. Focus Hope in Detroit, Michigan, is one of the best, if not the best, job training program in the State of Michigan. Focus Hope was run until his death by Father William Cunningham, a classmate of mine in the seminary. He trained thousands of people in inner-city Detroit as a Catholic priest assigned by his bishop there, and he did not care whether those who were training people to run a lathe, to do engineering or whatever it was, he did not care whether they were Catholic, whether they were Protestant, whether they were Morman, Muslim or had no faith at all. All he cared was they knew how to teach what they were teaching. That was a very important and effective program. He did not need to discriminate to carry out his duties. I strongly urge Members to support the Scott amendment today that will be offered later during debate to remedy this major shortcoming in this legislation.

Finally, Mr. Chairman, H.R. 27 creates personal reemployment accounts which voucherize the job training system and cuts individuals off from other training services. The money they do not spend to get a job, they can keep and use for any purpose. Workers do not need a bribe to get back to work. Research on similar schemes have proven that PRAs are not an effective means of providing job training.

Mr. Chairman, this bill does not respond to the needs of underemployed and unemployed individuals. It misses an opportunity to improve our job training system. I urge Members to join me in opposing passage of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from California (Mr. MCKEON), the author of the bill, the chairman of the Subcommittee on 21st Century Competitiveness.

Mr. MCKEON. Mr. Chairman, I rise in strong support of H.R. 27 and thank the gentleman from Ohio for his leadership in bringing this bill to the floor, the Job Training Improvement Act of 2005, which I introduced to strengthen and reauthorize the Nation's job training system as well as adult education and vocational rehabilitation programs. Job training programs must be responsive to the needs of the workforce and improving them is critical. In today's knowledge-based economy, we need to equip Americans with the skills they need to find a new or better job and quickly return to the workforce.

One of the hallmarks of WIA is that in order to encourage the development of comprehensive systems that improve services to both employers and job seekers, local services are provided through a one-stop delivery system. The one-stop centers serve as the front line in helping job seekers return to the workforce. At the one-stop centers, assistance ranges from core services such as job search and placement assistance, access to job listings and an initial assessment of skills and needs, to intensive services such as comprehensive assessments and case management and, if needed, occupational skills training.

Over the last 3 years, I have met with local workforce development leaders, businesses, the administration, researchers, and others to examine how we can improve our Federal job training system. While the Workforce Investment Act of 1998 made dramatic reforms to the Nation's workforce system, I learned that further refinements were necessary to ensure State and local officials have the flexibility they need to effectively target resources toward the unique needs of their communities.

The Job Training Improvement Act builds upon WIA to make it more demand-driven and flexible while reducing unnecessary duplication and inefficiency. H.R. 27 will help strengthen and improve the Nation's locally driven, business-led workforce investment system to help States and localities ensure workers get the training they need to find good jobs.

For example, the bill streamlines the current WIA funding in order to provide more efficient and results-oriented services and programs by combining the adult, dislocated, and employment service funding streams into one funding stream. This will eliminate duplication in service delivery and administrative functions that remain in the system, improving services for individuals.

The bill also ensures the financial contribution of the mandatory partners in the one-stop centers while at the same time it increases the service integration among the partner programs. This will improve access to services through the one-stop delivery system for special populations, such as individuals with disabilities.

In order to ensure greater responsiveness to local area needs and strengthen the private sector's role, the bill simplifies the local and State governance processes. One-stop partner programs will no longer be required to have a seat on the local boards. This will provide for greater representation and influence by local business representatives. Currently, they are frequently frustrated that they are not able to connect with or access resources from the local boards.

Mr. Chairman, I had a couple of my good friends, constituents in my district, that lost their jobs in the defense industry. They came up and thanked me for the help they received from WIA. They were able to get vouchers. One of them went on to become a school teacher, one a worker in the computer industry. This bill works. The new bill that we are passing today will make it better, more efficient and help the people to really get the services they need so we can continue to have the job growth that we have been enjoying the last few months here in the country. I support this strongly.

Mr. KILDEE. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT).

□ 1615

Mr. MCDERMOTT. Mr. Chairman, the question is when is the Congress going to stop letting American businesses and workers down? It is time to roll up our sleeves and chart a path to economic freedom. It is time to govern.

Today the Republicans again ask us to consider a bill with provisions that will make its mark by missing the mark. It inflates government bureaucracy and deflates workers' opportunity. American business needs the best, most qualified workers on earth, but this bill does nothing to reach that goal.

Workers, especially the working poor, need a credible realistic road to economic freedom. This bill is a dead end. Our workforce is in trouble. The "L.A. Times," which I will enter into the RECORD an article from the "L.A. Times," recently reported that the volatility of income for the working poor has doubled in recent years. Income among the working poor now fluctuates by as much as 50 percent annually. One cannot buy a home with a wild fluctuation like that. One cannot plan for their children's college education with income swings like that, and they are lucky to put food on the table.

Mr. Chairman, we need to rethink the systems we have in place to help workers and employers maximize productivity and profitability. We continue to pursue open trade to open our domestic market to foreign competition, but we are not employing the same vigor toward pursuing the means to ensure that our workforce can compete and be the best trained and equipped in the world. This issue, investing in our workforce, transcends social and economic status.

I represent the 7th District of Washington, Seattle, where the economy is driven by manufacturing as well as by innovation and the service industry. Everyone in these industries is competing for their jobs against someone overseas. Making the proper investments and systems to helping the working poor obtain access to job training and education is even more important.

The so-called Personal Reemployment Accounts compel, compel, unemployed workers to take the first job they can get and forego current job training opportunities. Instead of economic independence, this bill produces economic surrender. We can do better.

We ought to significantly invest in continuing education training programs for people in industries that are challenged by global competition. Furthermore, we ought to seriously consider wage insurance. This would enable the working poor to move into jobs that may begin by paying a little less but have greater opportunities for wage growth and economic stability down the road. This bill, even without the bad provisions such as Personal Reemployment Accounts and the provisions that allow workplace discrimination based on religion, does nothing to meet the new challenges that workers and businesses that rely on them face in the new global economy.

The question again, Mr. Chairman, is when will you tell your chairman to start taking these responsibilities seriously rather than playing politics, as we are here today, putting the same bill before us that we have put here before, we know it is not going anywhere, it is a waste of time, and it does nothing for the workers? This is not even an election year.

[From the Los Angeles Times, Dec. 12, 2004]

## THE POOR HAVE MORE THINGS TODAY—INCLUDING WILD INCOME SWINGS

(By Peter G. Gosselin)

"The poor are not like everyone else," social critic Michael Harrington wrote in the 1962 bestseller "The Other America," which helped shape President Johnson's War on Poverty.

"They are a different kind of people," he declared. "They think and feel differently; they look upon a different America than the middle class."

How then to account for Elvira Rojas?

The 36-year-old Salvadoran-born dishwasher and her partner, warehouse worker Jose Maldanado, make barely enough to stay above the official poverty line—$18,810 last year for a family of four. But by working two, sometimes three, jobs between them, they are grabbing at middle-class dreams.

Rojas and Maldanado live in a two-room apartment in Hawthorne but have china settings for 16 tucked in a wooden hutch. Their two young daughters receive health coverage through Medi-Cal but get many of their clothes at Robinsons-May.

The family struggles to meet its monthly bills but has taken on a mountain of credit card debt. They have used plastic to buy a large-screen TV and other luxuries but have also relied on it to cover bare necessities such as rent and emergency-room visits.

"That's why I'm really poor even though I work so hard," Rojas said with a rueful laugh.

Some see circumstances like Rojas' as testament to the economic strides that America has made over the last generation, rather than a reflection of its failures.

"We've won the War on Poverty," asserted Robert Rector, an influential analyst with the Heritage Foundation, a conservative Washington think tank. "We've basically eliminated widespread material deprivation."

But if deprivation is no longer as big a problem, that hardly means all is well. In many ways, Rojas is the new face of the working poor, suffering not so much from a dearth of possessions as from a cavalcade of chaos—pay cuts and eviction notices, car troubles and medical crises—that rattles her finances and nudges her family toward the economic brink.

In this way, Rojas and millions like her are not—as Harrington described them—fundamentally different from most other Americans; they are remarkably similar.

Indeed, today's working poor are experiencing an extreme version of the economic turbulence that is rocking families across the income spectrum. And the cause, no matter people's means, is the same: a quarter-century-long shift of economic risk by business and government onto working families.

Protections that Americans, especially poor ones, once relied on to buffer them from economic setbacks—affordable housing, stable jobs with good benefits, union membership and the backstop of cash welfare—have shriveled or been eliminated. These losses have been only partially offset by an expansion of programs such as the earned-income tax credit for the working poor and publicly provided healthcare.

For the most part, the poor have been left to cope on their own, scrambling from one fragile employment arrangement to the next, doubling up on housing and borrowing heavily.

"Families up and down the income distribution are bearing more economic risk than they did 25 or 30 years ago," said Johns Hopkins University economist Robert A. Moffitt. "But the increase has been especially dramatic among the working poor."

As a result, their earnings are jumping around like never before.

During the early 1970s, the inflation-adjusted incomes of most families in the bottom fifth of the economy bounced up and down no more than 25% a year. By the beginning of this decade, those annual fluctuations had doubled to as much as 50%, according to statistics generated by the Los Angeles Times in conjunction with Moffitt and researchers at several other major universities.

For a family with an income at the 20th percentile—or roughly $23,000 a year in inflation-adjusted terms—that has meant recent annual swings of as much as $12,000. Twenty-five years ago, those swings tended to be no more than $4,300.

The Times' figures are based on the Panel Study of Income Dynamics, a database funded by the National Science Foundation and run by the University of Michigan. In contrast to most economic indicators, which involve taking random samples of different Americans at different times and comparing the results, the panel study has followed the same 5,000 nationally representative families and their offshoots for nearly 40 years.

In supplementing conventional statistics with the panel-study data, the newspaper has sought to explain why Americans in rising numbers report being less financially secure, even as the nation has grown richer overall.

In a nutshell, The Times has found that behind the upward march of most economic averages are increasingly frequent instances of financial setback and hardship for a large swath of the population. Even those in the top-10 percent bracket—making well over $100,000 a year—have seen their incomes grow more volatile and therefore prone to steep dives.

But for the country's 20 million working-poor families, the findings are particularly sobering: They now run the risk of seeing their incomes slashed by half in any given year. That's almost double the volatility experienced by families in the middle of the economic spectrum, the newspaper's findings show.

"The only way to improve your life if you're poor is to be very prudent and make very, very few mistakes like getting fired or splurging and ending up with a lot of debt," said Christopher Jencks, a Harvard University authority on poverty. "Most people aren't that prudent."

### FINDING A FOOTHOLD

Elvira Rojas headed for the U.S. at age 21 in search of two things that were in short supply in her native El Salvador: peace and prosperity.

Combatants in that country's bloody civil war engaged in firefights outside her family's home in Acajutla, and Maldanado had received death threats because of his role as a former military man. In addition, Rojas discovered that the only job she could get with her high school diploma from El Instituto Nacional was at the local fish-packing plant.

The pair arrived in L.A. in May 1989. She quickly found work cleaning houses with two of Maldanado's aunts. He landed a job at a Hawthorne dry-cleaning plant. Between them, they made about $200 a week.

But with the average rent on a one-bedroom apartment in the city then running about $600, they could not afford a first foothold in their new country—a place of their own to live. "I felt bad in the beginning because I had nothing," Rojas said. "I wanted to go home."

With nowhere else to turn, they moved in with one of Maldanado's aunts, her five children and four cousins in a two-bedroom house on Firmona Avenue in Hawthorne. They slept on the kitchen floor.

As the couple began to make more money, they moved into a succession of other apartments. Each was a little larger than the last but still crammed with relatives.

Rojas and Maldanado had few alternatives. During their first years, they were effectively excluded from Federal rent subsidies or State help because they were illegal immigrants.

In 1991, the two gained legal status under a program that allowed people fleeing war in their homelands to be counted as refugees. But their new standing was thrown into question in 1994, when California voters approved Proposition 187. The initiative was designed to cut off state assistance to undocumented immigrants, but many legal ones interpreted the measure as a blanket ban aimed at them too.

Rojas, for one, took no chances; she never applied for housing assistance—or almost any other kind of aid—although it appears from her Social Security records and tax returns that she would have qualified. "I didn't want to be a burden on the government," she explained.

It's probably just as well. By the mid-1990s, the state and federal governments were winding down most of a six-decade-long drive to help poor families meet their housing needs. That effort had begun under President Franklin D. Roosevelt, who decried the conditions gripping America. "I see one-third of a nation ill-housed, ill-clad, ill-nourished," he said in 1937.

In the years that followed, a booming private sector largely solved the food and clothing problems. And a combination of financial market innovations and federal power applied through a battery of agencies—the Veterans Administration, the Federal Housing Administration, Fannie Mae and Freddie Mac—greatly expanded home ownership, especially among the middle class. But that still left what to do for poor families, most of whom could afford only to rent.

Washington's first answer was to have the government build and run housing projects. Some worked. But many degenerated into vertical ghettos, victimized by disastrous design, racial and economic segregation, drugs and crime.

In 1974, President Nixon and Congress turned to another solution: the Section 8 program. Instead of putting up buildings itself, the government would subsidize private developers to construct housing and give poor families vouchers to rent apartments in the open market. But developer subsidies produced cost overruns and political scandals in the 1980s and were largely phased out.

That left only the vouchers, which recently have been cut back. In all, the amount of money that Congress and the president have authorized to be spent on housing assistance has plunged by nearly two-thirds in the last 25 years, from an inflation-adjusted $82 billion in 1978 to $29 billion last year.

Washington's latest answer has been more laissez-faire: offer tax breaks for the creation of low-income housing but otherwise leave it to the marketplace to decide how much gets built. In hot housing markets such as Southern California's, little has.

"We've produced tens of thousands of units recently, but the well's been dry for so long we should have been producing hundreds of thousands," said Jan Breidenbach, executive director of the Southern California Assn. of Non-Profit Housing, which represents many of the region's developers of low-income housing.

In the absence of substantial government help—and with housing prices soaring beyond the reach of even the middle class—most working-poor families have been left to fend for themselves.

By 1997, Rojas and Maldanado thought they had succeeded in doing that. He was making $5,800 a year at the dry-cleaning plant. She was making more than $12,000 dashing between a part-time job at an airline linen service on Prairie Avenue in Hawthorne and a temporary position with Kelly Services, packing magazines, perfume and shampoo in samplers for direct-market mailings.

In the fall of that year, the couple, with another of Maldanado's aunts and her children, moved into a white stucco bungalow on Burin Avenue in Inglewood, not far from Los Angeles International Airport.

Although the house sagged in the middle and had drainage problems, it featured two kitchens and two living rooms, plenty of space for each family. The place cost Rojas and Maldanado $550 a month. That was more than 30% of their earnings, a level the government considers the outer limit of affordable, but it was still something they could bear.

The bungalow "felt good because there were not so many of us," Rojas said. "It was the most room I've ever had." The following year, the two families celebrated Christmas by stringing sparkling lights along the structure's faded blue eaves and inviting neighbors for a party.

### HEADING WEST FOR WORK

Albert Grimes arrived in Los Angeles a few years before Elvira Rojas did, similarly hungry to start over.

He came from Cleveland, where his family was a pillar of the African American community. His father, "Big Joe" Grimes, had returned home from World War II and used the GI Bill to buy a house. He opened a barbershop, founded a youth marching band called B.J.'s Raiders and became a kingmaker of sorts in Cleveland politics.

Albert's uncle, Walter Dicks, ran the municipal workers union and helped the younger Grimes find a job right out of high school on a city sanitation truck. It paid about $15,000, equal to about $30,000 in today's dollars.

But Albert was laid off during one of Cleveland's periodic fiscal crises. In 1985, at the age of 29, he left home and headed West. He had no trouble finding work with one of Los Angeles' big employers.

For most of the postwar era, working Americans could count on big business even more than big government to provide safeguards against economic risk. In a reverse of the current passion for temps, outsourcing and lean workforces, corporate America felt it had a civic duty to offer full-time jobs with good wages and solid benefits, even to those like Grimes with no college education.

"Steady, year-round employment is so right from the standpoint of the employer, so right from the standpoint of the workers and so right for the country as a whole . . . that it is hard to see why we manufacturers have not made more progress in its application," Procter & Gamble Co. President Richard Deupree told a 1948 audience.

As the decades passed, Los Angeles became the hub of the nation's aerospace industry; a second home to U.S. automakers, after Detroit; and a major financial center. Among the region's largest employers: Lockheed Corp., McDonnell Douglas Corp., General Motors Corp., Goodyear Tire & Rubber Co., First Interstate Bank and Security Pacific Bank.

By the late 1970s, the typical L.A. County workplace had nearly 30% more employees than the U.S. average, according to government statistics—a situation that translated into a high level of economic security.

"There is a close correlation between firm size, employment stability and generous compensation," said UCLA economist Sanford Jacoby, who has written extensively about the new risks that working people face. "Big firms underwrote the creation of America's—and Southern California's—blue-collar middle class."

As for Grimes, he found his way to Sears, Roebuck & Co.'s massive warehouse at Olympic Boulevard and Soto Street, where he was hired as a merchandise handler represented by the Teamsters. He did well for himself there. His Social Security records show that his income rose steadily—from $12,000 in 1987 to $20,000 in 1990 (or nearly $28,000 in today's terms). On top of that, his health care was covered.

But in 1992, Sears stumbled, the result of a failed strategy to sell everything from socks to stocks. Grimes, then on leave with a bad back, soon found himself out of a job.

It was a particularly bad time to be without work. The combination of recession and steep cuts in defense spending, brought on by the end of the Cold War, walloped Southern California. Unremitting pressure from low-cost foreign producers and wage competition from new immigrants such as Rojas took a severe toll on unskilled workers like Grimes.

Any chance that he would be rehired by Sears soon evaporated when the company's warehouse and adjacent store were damaged in the L.A. riots. The warehouse was eventually shuttered.

By the time the region bounced back, the nature of employment had changed. Gone were many of the corporate giants that had delivered a generation of blue-collar security. In their place were tens of thousands of relatively small employers whose job-generating capacity is now regularly praised by the nation's leaders but whose instability, often-low wages and meager benefits are less remarked upon.

Government figures show that the average size of a workplace shrank by 18% nationally between its late-1970s peak and last year. The slide was even steeper in L.A. County, with the average size of a workplace plunging 50% to 10 workers. This trend, according to Jacoby, "is one of the most important and least appreciated reasons why so many people are having a tough time making a go of it today."

For several years, Grimes all but vanished from the regular economy. He, his chronically ill girlfriend and the couple's young son lived off a mix of workers' compensation, disability payments and her welfare checks.

In 1995, he resurfaced, this time as a security guard and—befitting the U.S. economy's free-market transformation—a self-employed entrepreneur. "I set myself up as a corporation," he said proudly.

With the help of a friend, Grimes persuaded a string of businesses in a run-down neighborhood along Bixel Street near downtown to hire him.

For three years, he watched over a dental office, a parking garage, a liquor store and a methadone clinic. His earnings climbed from $5,600 when he launched his venture to more than $27,000 two years later. He bought himself a used Pontiac Grand Am, a washer and dryer and a Rent-A-Center living room set.

Then in 1998, he found out how risky the life of an entrepreneur can be: The city bought up the properties along Bixel Street to make way for the Staples Center.

The businesses that employed Grimes closed. Demolition crews flattened the buildings and, along with them, Grimes' income. His earnings that year went clear to zero.

### HIGH HOPES

As Grimes' world caved in on him once more, Rojas' prospects were looking up.

She was still shuttling between her jobs at the airline laundry service and as a packer of sundries when one of Maldanado's cousins told her that the dishwashing department at the Wyndham Hotel on Century Boulevard near LAX was hiring for the 4-to-midnight shift.

The full-time position paid more than $7 an hour and, because the workers were represented by Hotel Employees and Restaurant Employees Local 814, it came with holidays and family health insurance. The latter would prove particularly important when

Rojas suffered a miscarriage in 2001, and her health plan picked up the tab for more than $5,000.

Rojas saw the job as a turning point. Until then, virtually everything she had in her life had belonged to her in-laws. "If we used dishes," she remembered, "they were theirs. If we watched TV, it was theirs."

But all that would change when she went to the Wyndham. "I knew at that point I would have my own things," she said.

By 1998, as Rojas and Maldanado's income more than doubled to $26,000 ($30,500 in today's dollars), the couple began assembling the pieces of a middle-class life.

Rojas bought china by Royal Prestige. She purchased a hutch from Levitz Furniture in which to display the dishes. She and Maldanado acquired a couch, a bed and a dining table. They shelled out for two large-screen TVs and signed up for satellite-dish service.

They bought a 1987 Plymouth Sundance to go with their aging blue Toyota Camry. And they traveled.

"We would go to Las Vegas and Disneyland," Maldanado recalled. "We had more money to spend."

When the first of the couple's two daughters was born the following year, Rojas was so eager for her to be part of the fabric of America that she resisted entreaties to name her Maria after five of Maldanado's aunts, and instead gave her the name Katherine. She would make a similar choice when their second child was born last May, rejecting Maldanado's suggestion of Elvira in favor of Melane.

The new job let Rojas dream about owning a house where, she said, "my daughters can have their own rooms" and "maybe one day I can take care of my grandchildren if I have some."

Meanwhile, any thought of returning to Central America faded away. "Here," said Rojas, "my family will go a lot farther than in El Salvador."

In the summer of 2000, the Wyndham's owners announced that they were closing the hotel for renovations. Rojas remembers hearing ominous rumblings that more would change than the color of the lobby—something about the parking attendants' jobs being contracted out.

But she was not worried. To tide her over during the shutdown, Local 814 had steered her to a job at a unionized Burger King at LAX. The fast-food outlet offered a wage-and-benefit package almost as good as what she was making at the Wyndham.

About a year after it had closed, the hotel on Century Boulevard reopened. Only now, the sign outside read "Radisson." The Wyndham name wasn't the only thing that was gone either. So too was the union—part of a broader trend sweeping corporate America for more than two decades. Unions, which represented 17 percent of the nation's private-sector workforce in the early 1980s, counted only 8 percent as members by last year.

Rojas could have her dishwashing job back. But instead of $8.89 an hour, her top wage at the Wyndham, she said, she'd be pulling down only $7.50 at the Radisson, with no employer-paid family health insurance. She signed on anyway and, to make ends meet, kept her job at Burger King as well.

It was hard running between two jobs again, but the family's income finally seemed to be stabilizing. As it turned out, their financial roller-coaster ride had only just begun.

### SHRINKING WELFARE

For the poor, the most dramatic of all the safety-net cuts that the government has engineered in the last 25 years came in 1996.

That's when a Republican-controlled Congress passed and President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act, overhauling the nation's cash welfare system.

The law sought to push people off the dole and into work. In doing so, it essentially reversed the poverty-fighting strategy that Washington had pursued since the 1960s in which poor Americans were promised a certain minimal standard of living. By last year, the law had reduced the nation's welfare rolls by 3 million families, or one-half, and had sliced inflation—adjusted welfare spending by about $10 billion, or one-third.

These numbers, though, are about all the experts can agree on. Advocates have hailed the measure as a spectacular success, saying it has increased the incomes of many poor people while triggering a steep drop in poverty among black children. Critics have denounced it as a failure, saying that many people are poorer today than they were before the law was changed.

For its part, Grimes' household has remained largely unaffected by the law's "work first" requirements. That's because California has maintained relatively generous benefits and because Grimes' domestic partner, Jacqueline Harvey, has a chronic intestinal disease and is exempt from work requirements. She has thus continued to collect benefits off and on from the state's cash welfare program, CalWORKs. She now receives $583 a month.

But Grimes, in the meantime, has been staggered by another, lesser-known element of the 1996 act—a significant toughening of child-support enforcement rules. This part of the law built on other efforts undertaken since the 1970s to go after absentee parents and compel them to help finance their kids' upbringings.

Grimes and Harvey's son, Albert Jr., was born in 1988. Nine years later, when the elder Grimes applied for custody of a nephew, the Los Angeles County district attorney's office sued him for child support for Albert Jr. The D.A. took action even though Grimes, Harvey and their son had always lived together and, they and several relatives say, Grimes always helped raise the boy.

Nonetheless, Grimes declined to challenge the county, which won a court judgment against him. Grimes said he thought that he had to go along with the support order to obtain custody of his nephew and to ensure that Harvey would continue receiving publicly funded healthcare. It's also unclear whether counting Grimes as a parent in the house would have jeopardized the size of Harvey's welfare checks.

Whether a mix-up or not, the effect on Grimes' finances has been devastating. California courts not only have imposed high monthly support payments—often unrelated to a parent's ability to comply—but also have added interest at a 10 percent annual clip to past-due amounts.

A recent study commissioned by the state found that past-due child-support payments in California have soared to almost $17 billion from $2.5 billion in the last decade. Most of that money, moreover, is earmarked for state coffers—not for the children who need support.

"The system was largely about welfare-cost recovery, not helping families," said Curtis L. Child, who stepped down recently as head of the state Department of Child Support Services, which was created in 2000 to remove enforcement power from county district attorneys and restructure the system. "In imposing these huge judgments on fathers, we're confronting these men with an awful choice: Go underground, which is just what child-support enforcement was intended to stop, or let themselves be financially ruined."

In August 1997, Grimes was ordered to start sending the county $173 a month in current payments, plus an additional amount for past-due support totaling $4,900. When he fell behind after his Bixel Street business collapsed in 1998, the past-due total began to swell. It now tops $8,000.

### PLASTIC SAFETY NET

In one great clap, the 9/11 terrorists brought down the twin towers in New York, shattered Americans' sense of security and shoved Elvira Rojas down the economic ladder.

It took her five days to reach Burger King after the police and military sealed off the airport in the wake of the September 2001 attacks. When she finally was allowed in, Rojas found that her manager had cut her shift to just four hours. Within a couple of weeks, she was laid off.

Things were little better at the nearly deserted Radisson. Rojas' hours there were reduced to practically nothing.

Over the next 15 months, Rojas grabbed whatever hours she could get at the hotel and worked a second job ironing clothes at Hermosa Cleaners in Hermosa Beach. It was a tough schedule even before she got pregnant in 2002. And still it was not enough to keep her family's income from sliding almost 20% from its 1998 high to less than $22,000.

So she and Maldanado turned to what has become one of the few reliable safety nets left for many poor Americans: their credit cards.

In May 2002, Rojas was rushed to the emergency room at Robert F. Kennedy Medical Center in Hawthorne, where she suffered a second miscarriage. This time, with only minimal health insurance from the hotel, she said she had to put $2,000 of her $4,000 medical bill onto her MasterCard.

"I didn't have the money otherwise," she said.

As the credit card industry emerged in the late 1950s and '60s, some expressed concern that even well-provisioned middle-class families would be unable to resist the lure of instant credit. Betty Furness, President Johnson's consumer affairs advisor, warned that credit cards were "modern traps" that would turn Americans into "hopeless addicts."

But over the last 25 years, card issuers have not let up in pushing their products. Instead, they have reached out for ever more low-income households.

Federal Reserve figures show that among families in the bottom fifth of the economy, the percentage of households with credit cards has soared from 11% in the late 1970s to almost 40%. Their average balance on those cards has climbed, in inflation-adjusted terms, from about $825 to more than $2,000.

Some analysts applaud the greater availability of credit. Gregory Elliehausen, of the Credit Research Center at Georgetown University, said the spread of cards and other kinds of lending was part of a sweeping "democratization of finance" that has allowed poor families to operate more efficiently by, for example, buying decent cars to get to work.

Economists Dirk Krueger of the University of Pennsylvania and Fabrizio Perri, a New

York University professor now on sabbatical at the Federal Reserve Bank of Minneapolis, say families of all incomes increasingly rely on loans, rather than on business and government safety nets, in times of trouble. They borrow their way through the bad patches and pay off their debts in flush periods.

The problem comes when there are no flush periods.

Some of the items purchased on Rojas' and Maldanado's credit cards can seem frivolous or extravagant—the TVs, for example, or a $150 set of sepia-toned studio photographs of Katherine and her mom dressed in feather boas and gowns. But most of the charges appear to fit the definition of safety-net spending.

Beyond the emergency room charge, there was $130 for a new fuel pump for Rojas' Toyota and $170 to repair the power steering. There was $300 at the start of September to cover rent and a $1,000 cash advance that Rojas said went to help a brother bring his wife to the U.S. from El Salvador.

Chipping away at what's due on their cards is virtually impossible. That's in large part because the interest the two are charged is about double what a typical middle-class borrower faces. By the time they cover that, there is little left to reduce the balance.

Although the stated interest on the couple's most heavily used cards, a pair of Direct Merchants Bank MasterCards, ranges from 20.49% to 31.99%, a review of recent bills indicates that they are consistently charged close to the higher amount. (The Minnetonka, Minn., bank recently was ordered by federal regulators to pay $3.2 million in penalties for "downselling"—offering low pre-approved rates and then moving customers to higher-rate accounts without fully disclosing the switch. It is not clear that this happened to Rojas and Maldanado.)

Rojas and Maldanado now owe $14,592 on their four credit cards—a burden that financial experts say is appropriate for a household making about $100,000, but not one like theirs.

### FALLING BEHIND

In the spring of 2000, two years after Grimes' Bixel Street business failed, he found a job as a security guard five blocks away at Ernst & Young Plaza.

For a while after the September 2001 terrorist attacks, the building's owners and tenants treated Grimes and his co-workers with newfound respect. Managers listened to his suggestions about how to improve safety at the 41-story structure.

He was promoted to "lobby ambassador," a sort of informal emissary to the building, and then to lobby supervisor. His annual earnings climbed back above $20,000, and he began to imagine himself becoming a director of security.

"My goal was to have a facility of my own," Grimes said. "I thought I should have a situation where I'm in control."

But for most of the last year, Grimes has been anything but in control.

In February, after a dispute with their landlord, he and his family were evicted from their apartment on Fedora Street, where they had lived for several years. All that he was able to save from the place were three mattresses, two chairs and a Sony PlayStation.

By April, he had run through several thousand dollars paying for a $90-a-night motel room while he looked for a new apartment. He and Harvey eventually rented a two-room Hollywood walk-up for $875 a month, or more than 40% of their combined income. Before long, he fell behind again on his court-ordered child-support payments.

In July, things took another turn for the worse. After a series of clashes with his boss, Grimes was ordered out of the Ernst & Young tower and told he would be reassigned. Instead, he quit. For the time being, he is working for the Service Employees International Union on a campaign to organize security guards in the city's high-rise offices.

Grimes is determined to recover from the latest round of reverses. He dreams about what his father had—a house, a secure job—and is convinced he'll fare as well someday. "I'm trying," Grimes said, "to get back to what he had."

### ANOTHER EVICTION

A month after Grimes was forced out of the Ernst & Young tower, Rojas and her family were evicted from the Burin Avenue bungalow where they had lived for seven years. A developer is preparing to raze the place and put in half-million-dollar townhouses.

It's not clear how long they could have afforded to stay there anyway. A week before they moved, Maldanado was laid off from the dry-cleaning plant to make way, he said, for new immigrants who were willing to work for less. He has since gotten a new job, packing items at a warehouse, for minimum wage.

The family's new apartment is so small that the bedroom is a single mass of mattresses and cribs. The hutch and couches fill the living room to overflowing. And the cabinets in the kitchenette are so stuffed that Rojas must store her supply of infant formula in her car trunk.

But the couple has plans—to turn around the slide in their income, to look for a house, to make sure that the girls continue all the way through school. "I don't want them to be struggling like us," Maldanado said.

Rojas is making other plans as well. Soon after arriving in the U.S., she took out a loan to finance her future at the Inglewood Park Cemetery. She now owns two plots at the cemetery's Mausoleum of the Golden West, and recently signed papers to pay $82.79 a month for the next five years to buy two more. By the time Rojas is finished, she will have spent more than $12,000 in total. But she's convinced it's worth it.

"Now if I die, I won't have to worry about my funeral," she said. "I won't leave my family with a financial burden."

The Source of the Statistics and How They Were Analyzed

The Times used the Panel Study of Income Dynamics for its analysis of family income volatility.

The panel study has followed a nationally representative sample of about 5,000 families and their offshoots for nearly 40 years and is the most comprehensive publicly available income and earnings database in the world. It is run by the University of Michigan and principally underwritten by the National Science Foundation. The families' identities are kept confidential.

The Times employed techniques for gauging income volatility that were developed by economists Robert A. Moffitt of Johns Hopkins University and Peter Gottschalk of Boston College. The Times also consulted with Yale University political scientist Jacob S. Hacker, who has conducted his own analysis of income volatility among households in the panel study and has published results linking it to economic risk.

The Times employed two Johns Hopkins graduate students, Xiaoguo Hu and Anubha Dhasmana, to help generate the data. Moffitt guided them and advised the newspaper.

The Times' analysis looked at five-year increments from 1970 to 2000 and examined the annual fluctuations in each family's income.

For example, for a family whose income rose by $5,000 over a five-year span, the paper examined the journey from the lower number to the higher: Did the change occur in steady $1,000 annual increases? Or did the family's income take a big jump in one year and plunge in another?

The Times' basic finding is that the fluctuations in annual income that individual families have experienced have grown larger over the last three decades.

Based on the panel-study sample, The Times estimated the annual income swings, up or down, for 68% of all U.S. families—those who did not have the most extreme fluctuations. As a result, the newspaper's conclusions don't rest on cases outside the mainstream: the movie star whose career dries up overnight, say, or the hourly worker who wins the lottery.

To zero in on working families, The Times focused on men and women 25 to 64 years old whose households had some income. To analyze the working poor, the paper ranked families by their average income during each five-year period. It then concentrated on those in the bottom one-fifth of income earners and especially those right at the 20th percentile.

The average annual income of panel-study families at the 20th percentile is close to the government's official poverty line for a family of four most years.

The analysis looked at pretax income of all family members from all sources, including workplace earnings; investments; public transfers such as jobless benefits, food stamps and cash welfare; and private transfers such as inheritances.

All amounts were adjusted for inflation, expressed in 2003 dollars.

Mr. McKEON. Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska (Mr. OSBORNE), a member of the committee.

Mr. OSBORNE. Mr. Chairman, I would like to particularly thank the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. McKEON), subcommittee chairman, for this bill.

From my perspective this is a good bill. And I think there are several points I would like to make. First of all, it consolidates programs and creates efficiencies. It gives State and local officials more flexibility, which is always important. And the $3,000 reemployment accounts to purchase needed services to ensure reemployment seem to me to be a good idea because ofttimes when a person is trying to get back on their feet, they need to have money to pay for child care. They need transportation. It allows them to get reestablished, and we think this is certainly very helpful. And then it also allows faith-based organizations to offer job training service. We think this is important.

I would like to amplify on that just a little bit. Number one, faith-based organizations often provide services more efficiently than State or Federal agencies. The Salvation Army, Catholic Charities, Jewish Federation are all extremely efficient and they are very cost effective.

Secondly, faith-based organizations often go where others will not go or do not go. In inner cities, and sometimes our rural areas, we find that they are very effective. Faith-based organizations are by law allowed to hire employees to provide services which conform to the mission of the faith-based organization. This right was affirmed by the 1964 Civil Rights Act and the 1987 Supreme Court decision, Corporation of the Presiding Bishop versus Amos. So we think there is ample legal justification for this.

Number four, faith-based organization employees must often wear many hats. For instance, a music director at a church may also work at the job training center in the afternoon. A Sunday school superintendent may also run a Head Start program at the faith-based organization. So it is unreasonable and contrary to establish law to force faith-based organizations to hire employees who do not share the faith-based organization's mission. We think this makes perfect sense.

This is a good bill and I urge support for it.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

I am opposed to this bill because it reflects a misunderstanding of the proper way to build a successful career and a gross misinterpretation of our constitutional tradition.

With respect to its misunderstanding of the best way to build a career, I think that these personal retraining accounts, although clearly well intentioned, have exactly the wrong effect on an unemployed person. The purpose of workforce investment is not to move a person from a position of unemployment to a position of employment for a while. The purpose of the workforce investment is to move a person from dependency to opportunity and eventually to prosperity. The great dividing line in the American economy is whether one has 2 years of college or not. People with more than 2 years of college tend to have stable jobs and high and rising incomes. This bill says to a person who is laid off from an industrial industry or some other employer like that take the first job that comes along.

As the gentleman from Washington (Mr. MCDERMOTT) said, they are virtually compelled to do that. The first job is not always the best job. But, more importantly, from the public's point of view, it may be a temporary job. It will move the person from a period of unemployment to a brief period of reemployment to another period of unemployment. Our goal should not be temporary employment. Our goal should be opportunity and prosperity in the long run.

With respect to the constitutional misinterpretation, the gentleman from Virginia (Mr. SCOTT) will offer an amendment later in this debate that needs to be adopted. We are not opposed to faith-based organizations continuing the work they are presently doing in job training. They do a great job and they should continue. If the gentleman from Virginia's (Mr. SCOTT) amendment passes, that work will not be discontinued. If the gentleman from Virginia's (Mr. SCOTT) amendment passes, here is what will happen: We think that with Federal money a religious organization should not be able to say we will not hire Catholics to serve meals at a clinic. We think with Federal money, an organization should not be able to say we do not hire Jews to do job training. We think with Federal money, people should not be able to say we do not want evangelical Christians or Muslims or Buddhists doing job counseling.

This country started because we wanted to get away from religious persecution and discrimination. It is an abrogation of our constitutional traditions to enshrine that in the law, and that is what this bill does. The gentleman from Virginia's (Mr. SCOTT) amendment corrects that mistake and it should be adopted.

Mr. MCKEON. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I rise in strong support of H.R. 27, the Job Training Improvement Act of 2005. I would like to recognize the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. MCKEON) for their leadership and tireless efforts in bringing this bill to the House floor.

Hard-working families in my district who have been laid off rely on programs like the One-Stop workforce development system, which helps States and communities ensure workers to get the training they need to find good jobs. I like to call the One-Stops "hope centers" because they provide hope to people seeking gainful employment.

For example, my constituent, Jeff Ring, who after 24 years of employment as a steelworker, was laid off. He is a father of three children, eight and younger. He came to the One-Stop and enrolled in training to become a registered nurse. Just last week he received his certification and will begin working at Aultman Hospital and will be making nearly 20 percent more than his previous salary.

In another case, my constituent, Tiffany Birtalan, a single mother raising a teenager, she currently works as a waitress making $2.13 an hour plus tips. She came to the local One-Stop seeking to change careers. Tiffany is now enrolled at a community college and is training to be a dental hygienist. Based on current labor market information and the high demand for this occupation, she will easily make $25 to $30 per hour.

Every day, every day, hard-working people like Jeff and Tiffany walk through the doors of One-Stop across the country seeking assistance. We must do all we can to streamline unnecessary bureaucracy and strengthen allocations so that adequate resources are available to them achieve their hopes and dreams.

Mr. Chairman, this is a good bill, and I would urge my colleagues to support H.R. 27.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I rise to engage the gentleman from Ohio (Chairman BOEHNER) of the Committee on Education and the Workforce in a colloquy.

During our full committee consideration of H.R. 27, I offered and withdrew an amendment to ensure that data on high school-aged students participating in adult education programs is publicly available and reported to our committee.

We already know that 30 percent of our high school students fail to earn diplomas with their peers. In the Hispanic community, that figure is nearly 50 percent. Many of our adult education providers report that high school-aged students are flooding their programs. We cannot continue to allow our high school students to slip through the cracks. Our first step in shining the light on this issue is to make sure that we have accurate and regularly reported data.

At full committee, the gentleman offered to work with me to ensure that these concerns are addressed in the reports that our committee received from the Department of Education.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. HINOJOSA. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I want to thank the gentleman from Texas for raising this issue. Data on young adults participating in adult education programs is important information for our committee as well as for the adult education programs and for school districts to keep in mind as we work to raise our high school completion rates. And it is my understanding that this is information that the Department already collects but has not been a focus in program reporting.

Mr. HINOJOSA. Mr. Chairman, reclaiming my time, the chairman is correct. The Department already collects this data and would be able to highlight this information in its annual report to Congress with very little additional work. It is simply a matter of clearly communicating to the Department that we would like to see focused information on high school-aged students in adult education reported by race, ethnicity, language proficiency, and program enrollment.

I thank the chairman for continuing to work with me and the Department to bring this critical information to the forefront.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. HINOJOSA. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, again I want to thank the gentleman for his work on this issue. I will continue to work with him and the Department to ensure that we have the necessary information to carefully monitor the participation of high school-aged students in adult education programs.

Mr. HINOJOSA. Mr. Chairman, reclaiming my time, I thank the gentleman from Ohio (Chairman BOEHNER) for his comments.

Mr. McKEON. Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. PORTER), a member of the committee, vice chairman of the subcommittee.

Mr. PORTER. Mr. Chairman, I rise today in strong support of H.R. 27, the Job Training Improvement Act of 2005, and I certainly applaud the gentleman from California (Chairman McKEON) and the gentleman from Ohio (Chairman BOEHNER) for their tireless efforts in bringing this important legislation to the floor today.

☐ 1630

As an original cosponsor of this legislation, there are many provisions that will increase the ability of our Nation's workers to achieve greater stability in our ever-changing workforce. I would like to mention one aspect of the bill which I am particularly proud of, the inclusion of Personal Reemployment Accounts as an allowable usage of funds under the pilot and demonstration projects of the Greater Workforce Investment Act.

PRAs will provide American workers who are seeking employment added flexibility to seek the customized training and support services that they need and deserve to expand their career opportunities. As my community of southern Nevada experienced in the wake of September 11, our economy proved to be very vulnerable. As my community rebounded from this blow, Nevadans sought help in adjusting to the realities of the workforce. Those Nevadans who suffered the woes of unemployment sought additional training and support as they sought to increase their career opportunities.

Mr. Chairman, I know that PRAs would have provided my constituents with a valuable option in seeking these services. In fact, many constituents have told me they are excited to have this opportunity in case there is another emergency at some point in time. In fact, one young girl, Lucy, wanted to make sure that there was ample education dollars available; and I assured her there would be.

Besides providing for an individualized approach to reemployment, the PRAs provide an added bonus. Individuals are able to retain the remainder of their account after they return to the workforce. These funds can be used for continued training and support.

As Americans return to work, they continue to face hardships until the benefits of employment become manifest. PRAs can help ease this transition.

Mr. Chairman, I will include for the RECORD a letter from Deputy Secretary of Labor Steven Law demonstrating the administration's continued support of the PRA program.

Mr. Chairman, I urge all of my colleagues to support this important legislation. As our workforce continues to engage the ever-changing economy which we are part of, this reauthorization will provide American workers with the tools they need and deserve to improve their career opportunities. I recommend final passage of the Job Training Improvement Act of 2005.

Mr. Chairman, I include for the RECORD the letter referred to earlier from Steven J. Law, Deputy Secretary of Labor.

DEPARTMENT OF LABOR,
DEPUTY SECRETARY OF LABOR,
*Washington, DC, March 2, 2005.*

Hon. JON PORTER,
*House of Representatives,*
*Washington, DC.*

DEAR CONGRESSMAN PORTER: I would like to thank you for your invaluable and effective advocacy of Personal Reemployment Accounts (PRAs). Like you we believe that PRAs will provide thousands of Americans seeking reemployment with a new and more flexible means to seek customized training that leads quickly to expanded career opportunities.

We are enthusiastic about the launch of PRA demonstration projects in seven states. We are confident that this important pilot program will prove the value of PRAs and, with enactment of your legislation, even more Americans will have access to PRAs.

We look forward to working with you, Chairman BOEHNER, and Chairman McKEON on this innovative plan to help workers in transition. Thank you again for your leadership on this initiative.

Sincerely,

STEVEN J. LAW.

Mr. KILDEE. Mr. Chairman, I yield 4 minutes to the gentlewoman from Washington, D.C. (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I very much appreciate the gentleman yielding me this time.

Mr. Chairman, there are many problems with this bill. I choose to focus on the Scott amendment because it involves a matter in what I think I can safely say is my personal confidence.

I have heard title VII of the 1964 Civil Rights Act called out here repeatedly. It was my great privilege to enforce title VII of the 1964 Civil Rights Act as Chair of the Equal Employment Opportunity Commission, and I have an obligation to step forward to plead with my friends on the other side to make this a bipartisan bill, because its chances of becoming so at least on this matter should be great.

In fact, it is such a good idea to have faith-based organizations involved in the programs of the Federal Government that we have been doing it for decades with billions of dollars to show for it. There may be some ways, I will be the first to say, there are some ways in which this could be strengthened and expanded. But I do not know whose idea it was to allow religious organizations to discriminate. I do not think it could possibly have been the idea of the faith-based communities themselves. I do not believe that churches and synagogues and mosques are stepping forward to say, Even though we have an extraordinary ability to hire only our own folks, we want to make sure we use public dollars to hire only our coreligious partners.

If the language is kept as it is, we will have the first nullification, the first repeal, of civil rights laws since they were initially passed 40 years ago. To our credit, we have steadily built those laws into legislation that came after it, and, yes, into the Workforce Investment Act. We are required to do that. Title VI requires us to do that, the 14th amendment requires us to do that. It required us to do so when the Workforce Investment Act was passed, and it requires us to do so now.

Essentially what the bill states now is that you can hire only Lutherans or Muslims with your own money, and you can hire only Catholics and Jews with the people's money. That is a huge departure from everything that is built into title VII.

I was Chair of the agency and brought forward religious discrimination guidelines. We worked very hard to strengthen the law against religious discrimination and went the extra mile because of the free exercise clause. Thus, today religious organizations, a church or synagogue, for example, can do what no union or business can do. It cannot only use its money to hire its religious members in religious positions; it can use its own money to hire even their own members in secular positions. This is the maximum in religious freedom that is allowed under the Constitution.

Now, if you want to take on public responsibilities, I cannot understand why anybody would say you would not want to spend that money in accordance with the public responsibility in each and every respect. That is how it has always been done. Why the departure now?

If you want public dollars, do so in accordance with public law. That law requires no discrimination on the basis of race, sex, or religion. It would be a horrible setback to now come forward and say that you can in fact discriminate on the basis of religion, of all things. And that is what you would be doing, because, as everybody knows, race and religious identity track one another very, very closely.

Today, when black people go to Catholic Charities or to Lutheran Services they see people of every race and color working there. And do you know what? I have not heard these organizations and the many other faith-based organizations complain that in order to serve my African American community, they sometimes reach out and find black people who are not Catholic and who are not Lutheran, because they do not ask what they are.

We have resisted pressures in this House for repeal of affirmative action, for repeal of goals. Surely we can resist the role back to the bad old days of religious discrimination and a violation of title VII of the 1964 Civil Rights Act.

Mr. McKEON. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from Georgia (Mr. PRICE), a new member of the committee.

Mr. PRICE of Georgia. Mr. Chairman, I thank the chairman and the gentleman from California for allowing me to participate in this debate.

Mr. Chairman, I am somewhat perplexed and disappointed by the tactics from the other side. This is serious business, and simply working to divide our citizens I believe to be counterproductive.

This bill, this bill, will enhance employment; it will increase employment and job retention, plus increase the overall skill level of our labor force. Now, the demagoguery that you hear from the other side on this issue, and, frankly, on every issue, seemingly every issue, frankly is a disservice to this debate and does a disservice to our Nation.

This bill gets more resources to the individual needing it. That is a good thing.

These are very challenging times for many in our workforce. They need more options for assistance, not a one-size-fits-all model or program. Streamlining the one-stop career center system is easier for the client. That is a good thing. It does not harm the Wagner-Peyser money. There are no lost resources.

Greater flexibility in the delivery of core, intensive, and training services allows individuals to receive the most appropriate services specifically for them. That is a good thing. Providing Personal Reemployment Accounts allows those who are unemployed an opportunity to use money for those things that are often that final hurdle to getting a new job, child care, transportation, housing assistance. That is a good thing. Getting more resources to those most in need when they are out of school helps those without other opportunities, and that is a good thing.

Faith-based language in this bill is identical, identical, to four separate pieces of legislation passed during the Clinton administration. There is no discrimination on the provision of services.

With this legislation, we are actively and positively addressing how the Federal Government, and ultimately how each and every citizen, will come together and lend a helping hand to those needing that assistance at a very pivotal time. That is a good thing.

Mr. Chairman, I urge my colleagues to support this bill and move forward in helping those needing to return to the workforce. This is a good thing.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, once again my colleagues on the other side of the aisle are claiming they want to help workers in this Nation. But, as usual, their actions say otherwise.

The newest WIA proposal does nothing more than force workers to compete with each other for services that they have come to expect and services they deserve from the WIA system. WIA one-stops provide important job training services to help those struggling to find work to get resources they need.

If this bill passes, veterans and unemployed adults will be placed second to infrastructure costs. Instead of increasing funding in the bill to address infrastructure needs separately, this bill forces Governors to choose between workers and updating facilities, all from the same pot of money. Limiting this pool of funding will deny workers quality services for reemployment and adult education programs, and that is just plain and simple true.

This bill also sets up a voucher system that will actually decrease the amount of services available to job seekers. Those receiving these new job vouchers will be able to pay for training courses or other job-searching expenses. That sounds great. But the catch is that once a worker takes a voucher, they will lose access to Federal job training programs through WIA for an entire year. Money and services are both critical for many workers to get back on track, particularly when they have become unemployed over and over again, and workers who should not have to make the choice between one or the other are continually faced with the dilemma.

This bill also changes the way in which the government will evaluate the success of WIA programs. Now workers will be judged on how they serve the company they work for rather than on the quality of services they received under WIA. Since when was WIA focused on big business' needs rather than the worker's needs?

The worst part of this bill, however, is that it will write discrimination into the law. At religious institutions receiving WIA funds, those who share the same religious philosophies will have an advantage over those applying for employment that do not subscribe to the same views. Workers can now lose job opportunities through blatant religious discrimination at places our tax dollars are funding. This bill turns WIA into a competitive service provider, rather than an equal opportunity resource for our Nation's unemployed workers.

This is not the way we can help our Nation's workforce, and I urge my colleagues to oppose H.R. 27 as it is written.

The CHAIRMAN. The committee will rise informally.

The Speaker pro tempore (Mr. McKEON) assumed the Chair.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

## MESSAGE FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

□ 1645

The SPEAKER pro tempore (Mr. McKEON). The Committee will resume its sitting.

## JOB TRAINING IMPROVEMENT ACT OF 2005

The Committee resumed its sitting.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Puerto Rico (Mr. Fortuño).

Mr. FORTUÑO. Mr. Chairman, back in 1998, Congress enacted the Workforce Investment Act, which established a system for a one-stop career centers aimed at providing one convenient central location to offer job training and other employment-related services.

While these reforms have largely been a success, the system is still hampered by inefficiency, duplication, and unnecessary bureaucracy. The bill that we are approving today aims to strengthen training services for job seekers accomplishes these goals in several ways: Particularly by streamlining bureaucracy and eliminating duplication; consolidating the three adult WIA training programs, giving States and local communities greater flexibility, and enabling more job seekers to be served with no reduction in services; removing arbitrary barriers that prevent individuals from accessing job training services immediately; strengthening partnerships between local businesses, communities colleges and the local one-stop delivery system; enhancing vocational rehabilitation to help individuals with disabilities; and improving allocation and literacy for adults to ensure they gain the knowledge and skills necessary to find employment, including language proficiency.

I want to thank the chairman on the committee for adopting two amendments I have introduced to enhance further employability of the limited English proficient calculation by providing necessary skills, training and English language instruction. I believe this will help tremendously, especially the Hispanic populations throughout the country.

I believe that the backbone of a strong economy and a strong society is a well-trained and highly-skilled workforce. The bill on the floor today is an excellent source to achieve that goal. This bill includes a number of reforms aimed at strengthening our Nation's job training system and better engaging the business community to improve job training services.

It accomplishes this by requiring State and local workforce investment boards to ensure the job training programs reflect the employment needs in local areas; also allowing training for currently employed workers so employers can upgrade workers' skills and avoid layoffs; encouraging the highest caliber providers, including community colleges, to offer training through the one-stop system; leveraging other public and private resources to increase training opportunities; and increasing connections to economic development programs.

The bill reauthorizes the Rehabilitation Act of 1993, the primary Federal program designed to assist individuals with disabilities to prepare for, obtain and retain employment to live independently; and furthermore, it includes transition services for students with disabilities moving from secondary education into post-secondary activities that can only be determined as a possible alternative to address the needs of those in special needs.

I am convinced that H.R. 27 is a valuable tool to achieve that goal we all have set our minds to. And that is none other than creating a better and strong economy and society that will be prepared to compete in a changing and demanding new world that rises as we speak.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY. Mr. Chairman, I rise to join the chairman of the Committee on Education and the Workforce, the gentleman from Ohio (Mr. BOEHNER), in a colloquy on how certain provisions in this legislation might affect the governance of WIA funding in New York State.

This legislation provides governors the authority to take a portion of funds provided through the authorizing statutes of mandatory partner programs to cover the infrastructure costs of one-stop centers. I am concerned that this may create a constitutional conflict between the Governor of New York and the Board of Regents.

I offered an amendment to remedy this conflict in committee. The amendment I offered was language that is identical to language already included in S. 9. I would ask the chairman if he would commit to working with me and my New York colleagues in conference to resolve this issue.

Mr. BOEHNER. Mr. Chairman, will the gentlewoman yield?

Mrs. MCCARTHY. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I want to thank the gentlewoman for yielding. I pledge to work with her and other interested members of the New York delegation during conference on this legislation to identify and remedy any governance problems which New York may have under this bill. However, it is not clear that the language that the gentlewoman offered in committee that is included in S. 9 fixes the problem in New York and could have other unintended consequences in New York and other States.

So my goal is to ensure that the mandatory partners contribute to the cost of the one-stop infrastructure without causing constitutional problems for States. And as I suggested, I will continue to work with the gentlewoman to achieve this.

Mrs. MCCARTHY. Mr. Chairman, I want to thank the chairman for agreeing to work with us on this issue of importance to New York.

Mr. BOEHNER. Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield two minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I rise in opposition to H.R. 27, the Reauthorization of the Workforce Investment Act.

The Workforce Investment Act was one of these pieces of legislation that actually helps people. It was passed back in 1998. Unfortunately, this is a step backward as it comes before us today. The bill now here would create block grants to fund the adult dislocated worker and employment service programs. And as we know, funding through nearly every past block grant program has led to decreases in funding in just about every education or labor program that was block granted.

In addition, the proposal here would reduce and restrict services for in-school youths. It would fund one-stop infrastructure by siphoning off funds used to serve veterans and individuals with disabilities; and importantly, the legislation before us here would allow discrimination in hiring based on individuals's religious beliefs.

Under current religious law, organizations are free to make employment decisions using religious criteria with their own money. Why should we allow organizations to discriminate with taxpayer dollars? It really would roll back 40 years of civil rights laws and decades of job training laws as we have heard here today.

The Workforce Investment Act was intended to be about helping hard working Americans find jobs and help those who have a job receive training to improve their employment prospects. This is, I repeat, the kind of legislation that could actually help people. These one-stop centers have been a success. But this legislation does not provide adequate authorized funding for them and it changes many of the good features that have been part of the Workforce Investment Act.

We could be closing the skills gap, but unfortunately, the bill does not do that. It is a step backward from the legislation that was passed in 1998.

Mr. KILDEE. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Michigan (Mr. KILDEE) has 5 minutes.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

In summary, I urge a no vote on this bill. In 1998, the gentleman from California (Mr. MCKEON) who is a very good friend of mine, we will always remain friends, we have great respect for one another, we wrote a very good bill in 1998, WIA, and I hope we would do likewise this time; but I find myself unable to support this bill.

The bill, among other things, I do not mean to be harsh, but among other things, encapsulates President Bush's response to the woman in Omaha who told him that she was presently working three jobs to ensure that she could provide for her family. And the President responded, "Uniquely American, isn't it? I mean, that is fantastic that you're doing that."

Mr. Chairman, we can do better than that.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what we have before us is the Reauthorization of the Workforce Investment Act. It was first passed in 1998. These one-stop centers that have been created all over the country to help the people gain skills and to increase their skills are a critical part of what we need to do if we are going to have a successful economy over the next 10, 20 and even 50 years.

What we have done in this reauthorization is tried to make these one-stop centers work even better. We believe that by consolidating the three separate funding streams, three different sets of employees, three different sets of books, we can gain more flexibility for the local workforce boards and thereby freeing up more dollars to be used to actually train workers.

We believe strongly that the youth services money here ought to be directed for the most part to out of school youth, a population that is vastly underserved and we do that in this bill. We also believe that faith-based providers, especially in large urban centers, can provide a very necessary outreach to help those who are really needy have an opportunity to get the kind of training and retraining they need to become productive members of our society.

I think what we have here is a very good bill. And while my friends on the other side of the aisle have some disagreement, I think all of us understand that by and large, this is a good program, that the bill before us is worth the support of my colleagues and I would ask them to do that.

Ms. PELOSI. Mr. Chairman, I rise in opposition to H.R. 27, the Workforce Investment Act Reauthorization.

Today, there are nearly 8 million people who are unemployed and seeking work in this country. There are an additional 5 million workers who want a job but have given up their job search out of frustration. And about one in every five unemployed people—1.7 million Americans—has been jobless for more than 26 weeks.

These sad statistics make a clear point—access to job training services is critical for Americans across the country.

Job training should be a bipartisan priority of this Congress, but this is the second Congress in a row that Republicans have brought to the floor a partisan bill that undermines our job training initiatives.

This Republican bill puts the funding for job training services at risk by consolidating them into a block grant. This is at a time Republicans have already cut funding for job training initiatives under WIA by $750 million since 2002.

The Republican bill eliminates targeted job training for workers who need it the most—those who have lost their jobs to outsourcing and the downturn in our economy.

It allows the states to rob from Adult Education, Veterans' Reemployment, and job training programs for individuals with disabilities to fund more bureaucracy. This would severely jeopardize services to our most vulnerable populations.

Most troubling, this bill sends the message that discrimination will be condoned in federal, taxpayer-funded job training programs.

We all recognize and appreciate the work of faith-based organizations in their service to communities in need. But there is absolutely no evidence that the current law protections have hampered the full participation of faith-based organizations in providing job training services.

This bill, however, would allow religious groups to discriminate on the basis of religion when hiring or firing staff for federally-funded job training initiatives.

It would permit those seeking jobs funded by the federal government to be judged solely on the basis of their religious beliefs and practices, not on their qualifications or ability to do the job.

Instead of promoting the good works of religious organizations, this bill unfairly tarnishes them with the specter of discrimination that they have nobly fought so hard against.

The bill's constitutionally dubious provisions will introduce needless uncertainty and controversy. It will subject religious organizations to legally and morally untenable positions.

That is why this bill is opposed by many religious and civil rights organizations.

The Scott Amendment preserves current law, which permits these organizations to provide job training services with federal funds as long as they do not discriminate.

We can support faith-based organizations without breaking faith with our fundamental American commitment to non-discrimination.

And we can do so much more to support job training services for the millions of American workers who are struggling to find work.

I urge my colleagues to support the Scott Amendment and oppose the Republican bill.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today to voice my opposition to this Job Training Improvement Act because it does nothing to improve job training in our country.

Congress has an opportunity to take the reauthorization of the Workforce Investment Act and address the needs of millions of unemployed Americans. Instead, we are presented with a proposal that reduces the impact of job training programs by cutting funding to traditional job training providers such as the veteran's employment programs and Perkins Vocational Education Programs.

This bill also consolidates the adult, dislocated worker and employment service programs and their funding while repealing the Wagner Peyser Act. Wager Peyser established the Federal performance and accountability standards that ensure our job training programs are quality programs that place able workers in appropriate positions in the workforce.

Furthermore, this bill would allow federally funded job training organizations to question a candidate about their religious beliefs. I've been a Christian all my life. However, I do not feel it is the place of the Federal Government or anyone receiving Federal funds to question a job candidate about their religious beliefs.

At this time, Congress needs to place more resources into workforce training, not reduce job training programs that are successful. The Houston area continues to have an unemployment rate higher than the national average, as does the State of Texas.

This bill will slow down the ability of those who need workforce training from getting it, and right now this economy needs all the help it can get. H.R. 27 is bad public policy and will further slow our efforts to strengthen our economy.

Mrs. BIGGERT. Mr. Chairman, I rise today in support of H.R. 27, the Job Training Improvement Act. Through local and State workforce investment boards, this legislation will strengthen job training programs to meet the needs of local businesses, many of which rely heavily on information technology, IT.

In the span of just two decades, information technology has become a commonplace part of our lives and has also created nearly 10 million jobs in the United States. Information technology is a factor in the productivity and success of many different sectors of our economy. Whether one is an auto mechanic, a dentist, or a farmer, IT skills are essential—and will be increasingly essential—to one's job performance and productivity. Simply put, the IT industry and its workforce are significant contributors to productivity, innovation and global competitiveness.

It is for this reason, Mr. Chairman, that the Committee report encourages States to examine whether providers of training offer the opportunity to obtain an industry-developed and maintained certification or credential. This is important, in as much as it recognizes that the industries themselves are the most qualified to determine what skills their workforce will need to succeed and excel. This is especially true with respect to the constantly changing and ever-evolving IT industry.

Through certification, individuals receive validation of a level of expertise. This, in turn, can increase an individual's ability to find and retain a good job that utilizes that training. Employers also benefit when certification assures a level of skill that an individual could bring to a job.

The success of WIA in expanding the computer skills of Americans—through training and certification—will improve the productivity of every sector of our economy. This in turn will make America more competitive globally and is an effective step toward creating good jobs right here in the United States.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment offered by my colleague the Ranking Member of the Judiciary Subcommittee on Crime, Mr. SCOTT along with Ms. WOOLSEY, Mr. VAN HOLLEN, Mr. FRANK, Mr. EDWARDS, and Mr. NADLER, to the base bill, H.R. 27. As I stated with respect to the rule, H. Res. 126, the party-line vote of 220–204 that we saw in the 108th Congress on the debate of the then H.R. 1261 should evidence the need for the most open debate over the deficiencies that lie within the provisions on the floor. The need for debate arises from disagreement. As representatives of the United States Congress, we all have a duty to fully debate the issues on behalf of our constituents. A restricted rule precludes that opportunity.

I support the Scott-Woolsey-VanHollen-Frank-Edwards-Nadler amendment to H.R. 27 to remove the provision allowing religious discrimination in employment from the underlying bill. A base bill purportedly designed to improve the opportunity to achieve adequate employment is no place to encourage discrimination. In fact, there is no place for religious discrimination in American law just as there should be no place in America for that kind of backwards thinking.

H.R. 27, in its current state, erodes fundamental civil rights protections for the unemployed and the underemployed by exempting faith-based organizations from compliance with the current non-discrimination law. Presently, under our country's existing laws, in Title VII of the Civil Rights Act, employing institutions using private funds were exempt from employment discrimination protections. However, WIA programs are federally funded and as such do not fall under the jurisdiction of the Title VII statute. Simply put: Public funds are not allowed to be used to encourage religious discrimination in employment and that should not change.

Each of my colleagues should understand that without this important amendment, we are advocating the notion that one's ability to provide employment to those who are in need is contingent on the religious institution to which the individual belongs. What if anything is accomplished by attempting to create religious hierarchies in the workplace? What benefit does that provide the employer? None. And thus the language allowing religious discrimination should be stricken from the bill. As should all language that does not add to the well being of job-seekers or employment services.

The Founding Fathers of this country found it necessary to say that no one should be unfairly judged or discriminated against on the basis of their religion. This Congress should do no less. We should not create law that does harm. We should not encourage discrimination of any kind, religious or otherwise.

Surely, this country prides itself on its diversity and its willingness to open its doors to people of different religions, races, and ethnic backgrounds. Yet on the floor of the people's House we are faced with an attempt by the Republicans to create a monolithic sub-culture within our employment training programs. Despite the rhetoric on the other side of the aisle, H.R. 27 as it currently reads will not only result in the loss of jobs for applicants who do not identify with their prospective employer's religious beliefs but more importantly it will cause the loss of quality workers.

The Scott-Woolsey-Van Hollen-Frank-Edwards-Nadler amendment will effectively retain civil rights protections for individuals who seek employment or employment training. This amendment simply retains their freedom of religious choice and their freedom not to be discriminated against due to their religion. This amendment adds nothing to the law rather it maintains current law. Without the addition of this proposal, however, the body elected to serve all of the people of this country will have endorsed employment discrimination with federal dollars. We simply cannot allow this to happen. We must do everything we can to preserve the fundamentals of Head Start. I urge my colleagues to vote to ensure that our job programs are not muddied and degraded by the promotion of religious discrimination. Therefore, I stand in full support of this amendment and I urge my colleagues to do the same.

Mr. MORAN of Virginia. Mr. Chairman, I rise in strong opposition to the Job Training Improvement Act, because it will reduce important job training programs such as the veterans employment programs, Perkins Vocational Educational Program and the Vocational Rehabilitation Program.

This measure consolidates the adult, dislocated worker and employment service programs and funding into a block grant, while also repealing the Wagner Peyser Act and removing many of the federal performance and accountability measurements that make the Workforce Investment Act such an important investment in our nation's workforce.

With the unemployment rate at 5.2 percent, it is reprehensible that this legislation will repeal a dedicated funding stream for one-stop centers where job seekers can learn about job opportunities, apply for aid and receive counseling.

We all know what is going to happen if Workforce Investment Act programs are block-granted.

States are not going to spend that money where it is needed the most, which is to aid job seekers in this troubling economy. Instead, these funds may be used to cover infrastructure and administrative costs. This will go against the true intent of the Workforce Investment Act, which is to invest in our workforce.

Even more troubling is the fact that H.R. 27 reduces preventive in-school youth training programs which keep students from dropping out of school. President Bush has pledged to expand the No Child Left Behind law to high schools and require students to take annual tests in reading and mathematics through 11th grade.

So the president wants to ensure that students and teachers are held accountable for learning standards, but he lacks support for programs that strive to keep kids in school?

As we all know, these workforce investment programs are already critically underfunded. They strive to meet the increasing demands placed upon them in an environment of increasingly inadequate resources. To be effective, these programs cannot sustain these devastating cuts.

Finally, the Workforce Reinvestment and Adult Education Act would eliminate the civil rights protections of Americans, by exempting religious organizations from anti-discrimination requirements.

The message that we are sending to the millions of Americans who are unemployed, who are veterans and those who are in need of economic assistance is that we do not care about keeping them from falling further into an economic crisis.

This bill fails as a reinvestment in our workforce and fails to aid the millions of jobless Americans who need it the most.

I urge all my colleagues to vote in favor of the Scott Amendment which will protect current civil rights protections for employees and job applicants of faith-based organizations.

Mr. CASTLE. Mr. Chairman, I rise in support of H.R. 27, the Job Training Improvement Act, which will reauthorize the Workforce Investment Act (WIA)—programs which provide job training for youths, veterans, and seasonal and migrant workers.

For the past six years WIA has offered a "one-stop delivery system" through which job-seekers have access to labor market information, job counseling, and job training. In addition, they have access to numerous other federal programs that provide services for job seekers. With facilities in Wilmington, Newark, Dover and Georgetown, the "one-stop delivery system" in Delaware has proved to be an efficient tool in training individuals for the workforce.

For example, in Delaware all of our centers are fully equipped with: Internet ready computers, interactive CD–Rom tutorials, fax machine to send resume and cover letters to perspective employers, copy machine, telephone resource center with career manuals including reference books. Delaware also runs an internet site where applicants can post resumes, as well as to search a comprehensive database of job openings. Applicants can also allow Job Scout to search the system for you automatically track wages and trends, training locations and funding available. It also offers bus schedules, links to newspaper classified ads, child care and related information through the family and workplace connection.

The purpose of highlighting the program in Delaware is to provide a real life example of useful it is to have services in one central place. The bill before us today builds on the efficiency of the "one-stop delivery" model by streamlining unnecessary bureaucracy, eliminating duplication, strengthening resource allocation, and improving accountability. I am pleased that we are able to make reforms that build upon successes, and that will ultimately enhance the ability of adults to access services that lead to employment.

I would also like to briefly touch upon the services that are provided for youth under this bill. Under this legislation youth between the ages of 16 and 24 are eligible for a variety of services geared toward graduating high school or gaining the skills necessary for employment. The importance of these services cannot be overstated to these young adults.

With that, I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. MCKEON), and urge my colleagues to support H.R. 27.

Mr. GREEN of Wisconsin. Mr. Chairman, there are towns and neighborhoods across America that have tough problems, social crises, that desperately need to be addressed. Fortunately, there are many organizations in those communities that want to help, and they offer unique and innovative solutions to some of our most challenging needs. We must open doors for them and help them help our neighbors. That begins by removing the barriers that unnecessarily stand in their way.

It is essential that we recognize the importance of government working with faith-based providers to help society. These organizations are a central part of the fabric of communities across America and we need to ensure that we are removing any obstacles that stand in the way of their ability to help.

Faith-based organizations have a federally-protected right to maintain their religious nature and character through those they hire. Organizations willing to serve their communities by participating in federal programs should not be forced to give up that right. We must pass this legislation with a clear message from Congress to our faith-based leaders: we need your service and we want to assist you in delivering for us and for the most vulnerable in our society.

I urge my colleagues to vote against any amendment that would remove the important religious freedom protections these organizations need and deserve.

Mrs. DRAKE. Mr. Chairman, the policies Congress has implemented over the last four years have provided a solid foundation for American workers and businesses to build a strong economy.

With steady job growth over the last 20 months putting over 2.7 million Americans back to work, it is clear that Congress has the right priorities: Working Americans and their families.

American workers need access to job-training in order that they may obtain the skills to perform the jobs of the 21st century.

Americans want more than a job—they want jobs with higher pay and that provide them with meaning and personal satisfaction. They also want a career, a future, and financial independence in retirement.

As our economy shifts from production to service related jobs, and from low-tech to high-tech occupations, Americans need access to education and job training that provides them with the skills they need to perform.

Mr. Chairman, when enacted, this plan will pair workers with the employers who need the skills they offer, and vice versa.

In a dynamic and changing world economy, many Americans are faced with the reality that they might have to change careers multiple times. This plan will strengthen the ties between job training programs, adult education and vocational rehabilitation programs and the people they serve so they can continue to grow in their careers.

Of particular importance to me and my colleagues who support this plan is provision I proposed that is reflected in the bill we're voting on today.

The provision paves the way for added support for disabled veterans who need help finding meaningful work as they transition to the civilian sector after their dedicated service to our nation.

The men and women of our Armed Forces who have given of themselves should not only be honored, but aided as much as possible in starting life again upon their return.

The Job Training Improvement Act is a crucial step in taking the American workforce into the 21st Century, and I encourage my colleagues to support its passage.

Mr. BACA. Mr. Chairman, I rise in opposition to H.R. 27, the Job Training Improvement Act. This bill fails to improve the Workforce Investment Act and falls short of the promises our government made to provide training and career opportunities for the unemployed.

H.R. 27 is fatally flawed and undermines our current national workforce policy.

It eliminates various worker-training programs, rolls back protection against religious discrimination, and potentially damages the stability of important social programs.

We cannot neglect the unemployed, underemployed and dislocated workers of America who need ample and widespread funding for federal job training services.

Despite a suffering economy and high unemployment, this bill undercuts the ability of our government to provide for these vital workers and erodes Congressional authority and accountability over workforce funds.

Under the provisions of H.R. 27, funding will be shifted from WIA partner programs to pay for the WIA infrastructure and core services costs.

This transfer will weaken vital programs such as TANF, adult education, unemployment insurance, child support enforcement, and veterans employment programs.

Why would we threaten these vital social programs by passing a flawed bill that does not even assure more training would result from the transfer of funds?

H.R. 27 also contains explicit discriminatory provisions.

By repealing long-standing civil rights protections that were signed into law by President Reagan, this bill allows job-training providers to discriminate on the basis of religion.

Since 1982, these provisions have been included in the bill and received bipartisan support.

We cannot allow this gross inequity to tear at the fabric of a fundamental American principle—the inalienable right to fair and equal treatment under the law.

This is why I strongly support Congressman Scott's amendment that will restore these basic civil rights and my faith in our legislative process.

We cannot allow ourselves to drastically depart from previous workforce policy by eliminating worker training programs, destabilizing essential social programs, and writing discriminatory provisions into law.

This so-called Workforce Investment Act is not an acceptable or responsible proposal to provide needed services to our nation's unemployed.

I urge my colleagues to join me in voting no on final passage.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 27, the so-called Job Training Improvement Act of 2005.

Today's bill has nothing to do with improving job training for our workforce—far from it. Instead, this bill actually weakens worker protections, opens the door to hiring discrimination, and dismantles the employment service program that helps unemployed workers find jobs.

Apparently the Republicans haven't monitored the weak job market numbers. How else can you explain being so cruel and unfair as to pull the rug out on our nation's unemployed?

Let me remind my Republican colleagues that there are still fewer jobs available in America than when President Bush came to office. Inflation is still growing faster than the average earnings of workers—a fact that is particularly true for low-skilled and low-income workers.

Confronted with such evidence, this Congress should be doing everything we can to bolster workforce investment. Yet, this Republican bill cuts employment and re-employment services at the time they are needed most. It underfunds the Employment Service, Adult, and Dislocated Worker programs by consolidating them into a single block grant. This puts a greater financial burden directly on the states, exacerbating their budget deficits and perversely triggering layoffs among the very state employees who administer these programs. Yet, much worse, it forces unemployed workers and welfare recipients to fight it out for a share of these limited funds.

To add insult to injury, the Republicans give states the right to waive basic worker protections that allow employees to seek redress when they've been treated unfairly. They even allow religious organizations to engage in hiring discrimination in an unholy attempt to turn back a half-century of progress in preventing workplace discrimination.

Current law prohibits employers participating in federal job training programs from discriminating based on race, color, religion, sex, national origin, age disability, or political affiliation or belief. The Republican bill would allow the taxpayer dollars that pay for these job-training programs to go to religious organizations that blatantly discriminate in hiring based on religious beliefs. What next? Will the next Bush initiative include allowing discrimination based on race, sexual orientation or political affiliation?

The vital civil rights provision barring federally-funded religious discrimination has never been controversial and has never been a partisan issue. In fact, the provision was first included in the federal job training legislation that former Senator Dan Quayle sponsored. It passed through a committee chaired by Senator ORRIN HATCH and was signed by President Ronald Reagan.

Throughout its 23-year history, this civil rights provision has not been an obstacle to the participation of religiously affiliated organizations in federal job training programs. Currently, many religious organizations participate in the federal programs and comply with the same civil rights protections that apply to other employers.

But suddenly, under the leadership of the White House, we are being asked to forget the principle of equal opportunity on which our country was founded.

Now is not the time to be rolling back civil rights protections and it certainly isn't the time to be short-changing the unemployed.

Congress ought to be creating solutions to make it easier for folks to find jobs, not more difficult. This Republican bill is clearly not a solution.

I urge my colleagues to vote "no" on H.R. 27.

Mr. SCOTT of Virginia. Mr. Chairman, I submit the following information regarding H.R. 27 for the RECORD.

March 2, 2005.

### The Real Democratic Record on Charitable Choice.

DEAR COLLEAGUE: I wanted to be sure you had a copy of the Real Democratic Record on Charitable Choice. I hope this is helpful as we debate H.R. 27, containing a vast expansion of Charitable Choice to federally-funded job training programs for the first time since 1965.

### THE 2004 DEMOCRATIC PLATFORM

"We honor the central place of faith in the lives of our people. Like our Founders, we believe that our nation, our communities, and our lives are made vastly stronger and richer by faith and the countless acts of justice and mercy it inspires. We will strengthen the role of faith-based organizations in meeting challenges like homelessness, youth violence, and other social problems. At the same time, we will honor First Amendment protections and not allow public funds to be used to proselytize or discriminate. Throughout history, communities of faith have brought comfort to the afflicted and shaped great movements for justice. We know they will continue to do so, and we will always protect all Americans' freedom to worship."

### THE CLINTON ADMINISTRATION RECORD ON CHARITABLE CHOICE

1996—The Clinton Administration submitted amendments as part of its technical corrections package to Congress regarding concerns over the constitutionality of Charitable Choice provisions contained in welfare reform. They filed the following comments with the amendment: "[P]rovisions of sec. 104 and its legislative history could be read to be inconsistent with the constitutional limits. . . . We recommend amending sec. 104 to clarify that it does not compel or allow States to provide TANF benefits through pervasively sectarian organizations, either directly or through vouchers redeemable with these organizations." Congress did not act on those amendments.

1998—The Clinton Administration issued a signing statement placing limitations on the Charitable Choice provisions contained in the Community Services Block Grant: "The Department of Justice advises, however, that the provision that allows religiously affiliated organizations to be providers under CSBG would be unconstitutional if and to the extent it were construed to permit governmental funding of "pervasively sectarian" organizations, as that term has been defined by the courts. Accordingly, I construe the Act as forbidding the funding of pervasively sectarian organizations and as permitting Federal, State, and local governments involved in disbursing CSBG funds to take into account the structure and operations of a religious organization in determining whether such an organization is pervasively sectarian."

2000—The Clinton Administration issued a signing statement placing limitations on the Charitable Choice provisions contained in the reauthorization of the Substance Abuse Mental Health Services Act (SAMHSA): "The Department of Justice advises, however, that this provision would be unconstitutional to the extent that it were construed to permit governmental funding of organizations that do not or cannot separate their religious activities from their substance abuse treatment and prevention activities that are supported by SAMHSA aid. Accordingly, I construe the Act as forbidding the funding of such organizations and as permitting Federal, State, and local governments involved in disbursing SAMHSA funds to take into account the structure and operations of a religious organization in determining whether such an organization is constitutionally and statutorily eligible to receive funding."

Very truly yours,

ROBERT C. "BOBBY" SCOTT,
*Member of Congress.*

---

FEBRUARY 28, 2005.

DEAR REPRESENTATIVE: The undersigned organizations are writing to urge you to vote against H.R. 27, the Job Training Improvement Act, unless it is modified to address the concerns outlined in this letter, and to oppose any effort to expand the block grant authority in the bill along the lines of the Administration's "WIA Plus" proposal.

H.R. 27 fails to make meaningful improvements to the Workforce Investment Act (WIA) that would enhance the training and career opportunities of unemployed workers. Instead, the legislation would eliminate the dislocated worker training program, undermine state rapid response systems, end the federal-state labor exchange system, roll back protections against religious discrimination in hiring by job training providers, and potentially undermine the stability of other important programs.

In particular, we are concerned about the following provisions in H.R. 27:

### NEW BLOCK GRANT

H.R. 27 consolidates into a single block grant the WIA adult and dislocated worker programs with the Wagner-Peyser employment service program and reemployment services for unemployment insurance recipients. In doing so, it will eliminate job training assistance specifically targeted to workers dislocated by off shoring and other economic changes, pit different types of workers against each other, and lead to future funding reductions. The block grant also eliminates the statewide job service, which provides a uniform statewide system for matching employers and jobseekers, replacing it with a multiplicity of localized programs that would have no incentive or ability to cooperate and function as a comprehensive labor exchange system. Eliminating the employment service, which is financed with revenue from the unemployment insurance (UI) trust fund, breaks the connection between the unemployment insurance program and undermines the UI "work test," which ensures that UI recipients return to work as quickly as possible.

### INFRASTRUCTURE AND CORE SERVICES FUNDING

A principal criticism of WIA has been the substantial decline in actual training compared to its predecessor, the Job Training Partnership Act. While there are various reasons for the reduction in training, including the sequence of services requirement in current law, the use of WIA resources by local boards and operators to build new one-stop facilities and bureaucracies, without any limitation, has contributed substantially to the decline in training. This is despite the fact that many WIA partner programs also contribute operating funds to one-stop operations.

H.R. 27 gives governors even broader discretion to transfer additional resources from the WIA partner programs to pay for WIA infrastructure and core services costs—without any assurance that more training would result. These programs include the vocational rehabilitation program, veterans employment programs, adult education, the Perkins post secondary career and technical education programs, unemployment insurance, trade adjustment assistance, Temporary Assistance for Needy Families (TANF), and, if they are partners, employment and training programs under the food stamp and housing programs, programs for individuals with disabilities carried out by state agencies, including state Medicaid agencies, and even child support enforcement. By relying on funding transfers from these programs to guarantee resources for WIA infrastructure and core services, H.R. 27 will disrupt and weaken services provided by these non-WIA programs, which also will face substantial pressures for funding reductions in the next few years.

The infrastructure and related provisions start the commingling of funds from these non-WIA programs. In doing so, they transform the original one-stop idea of a better-coordinated workforce system into a mechanism for reducing resources for and block granting these programs in the future. A more effective and simple solution to ensuring adequate training services would be to require that a certain percentage of WIA funds be used for training as provided in previous job training programs and to create a separate WIA funding stream for one-stop operations, if necessary.

### PERSONAL REEMPLOYMENT ACCOUNTS

H.R. 27 includes permanent and unlimited authority for the Secretary to conduct "personal reemployment account" (PRA) demonstrations even though the Department of Labor recently initiated a PRA demonstration without strong interest among the states. Although nine states could have participated, only seven are doing so.

Since this demonstration already is in process, we see no justification for this provision and can only surmise that it is an attempt to implement PRAs more broadly, despite a lack of Congressional support for a full-scale program in the past.

Unlike current WIA training programs, the PRAs would limit the cost of training that an unemployment insurance recipient can receive and would bar that individual from WIA training services for a year after the PRA account is established. This is the wrong way to go. With longterm unemployment at historically high levels, there is a much greater need for continued unemployment benefits for the long-term unemployed who have found it so difficult to become reemployed.

### RELIGIOUS-BASED EMPLOYMENT DISCRIMINATION

H.R. 27 repeals longstanding civil rights protections that prohibit religious-based employment discrimination by job training providers. These protections have been included in job training programs, which received bipartisan support, since 1982. At no time have the civil rights provisions prohibited religious organizations from effective participation in federal job training programs. This rollback of civil rights protections is especially incongruous in a program designed to provide employment and career opportunities in an evenhanded manner and should be rejected.

### WIA PLUS PROPOSAL

The Administration has proposed giving Governors authority to merge five additional programs into the WIA block grant. The proposal would eliminate specialized assistance to unemployed, disabled and homeless veterans, critical job training services for workers under the Trade Adjustment Assistance Act whose jobs have been outsourced or lost to foreign competition, and specialized counseling and customized help for people with disabilities through state vocational rehabilitation agencies. These individuals would have to compete with each other for a declining share of resources without the protections and requirements under current law. Furthermore, the proposal abrogates accountability for the expenditure of federal taxpayer dollars by eliminating program reporting requirements. We strongly urge you to oppose any effort to adopt this misguided plan.

In summary, H.R. 27 strays far from the appropriate mission for federal job training programs of enhancing training opportunities for workers and providing skilled workers for employers. We strongly urge you to oppose this legislation unless amendments are adopted to delete the block grant, PRA demonstration and religious-based discrimination provisions and to modify the infrastructure provisions as recommended.

American Association of People with Disabilities.

American Civil Liberties Union.

American Counseling Association.

American Federation of Government Employees (AFGE).

American Federation of Labor-Congress of Industrial Organizations (AFL–CIO).

American Federation of State, County and Municipal Employees (AFSCME).

American Federation of Teachers (AFT).

American Humanist Association.

American Jewish Congress.

American Psychological Association.

American RehabACTion Network.
Americans for Democratic Action (ADA).
Americans for Religious Liberty.
Americans United for Separation of Church and State (AU).
Association for Career and Technical Education.
Baptist Joint Committee.
Brain Injury Association of America.
Brotherhood of Locomotive Engineers and Trainman.
Campaign for America's Future.
Center for Community Change.
Communications Workers of America (CWA).
Council of State Administrators for Vocational Rehabilitation (CSAVR).
Easter Seals.
Equal Partners in Faith.
Goodwill Industries.
Institute for America's Future.
Interfaith Alliance.
International Association of Machinists and Aerospace Workers.
International Brotherhood of Teamsters.
International Union of Painters and Allied Trades.
National Advocacy Center of the Sisters of the Good Shepherd.
National Alliance For Partnerships in Equity.
National Association of State Directors of Career Technical Education Consortium.
National Association of State Head Injury Administrators.
National Council of Jewish Women.
National Education Association.
National Employment Law Project.
National Head Start Association.
National Immigration Law Center.
National Law Center on Homelessness & Poverty.
National League of Cities.
National Organization for Women.
National Rehabilitation Association (NRA).
National WIC Association.
National Women's Law Center.
NETWORK, A National Catholic Social Justice Lobby.
OMB Watch.
Paralyzed Veterans of America.
Patient Alliance for Neuroendocrineimmune Disorders; Organization for Research and Advocacy.
Plumbers and Pipe Fitters Union.
Professional Employees Department, AFL–CIO.
Protestants for the Common Good.
Service Employees International Union (SEIU).
The Arc of the U.S.
United Cerebral Palsy.
Unitarian Universalist Service Committee.
United Auto Workers (UAW).
United Church of Christ Justice and Witness Ministries.
United Mineworkers of America.
United Steelworkers of America.
USAction.
Welfare Law Center.
Wider Opportunities for Women.
Women Employed.
Women Work! The National Network for Women's Employment.
YWCA USA.
9to5, National Association of Working Women.

---

American Humanist Association,
*Washington, DC, February 25, 2005.*

Dear Representative: On behalf of the American Humanist Association, the oldest and largest Humanist organization in the nation, I write in opposition to the Job Training Improvement Act (H.R. 27). The Act is included in legislation reauthorizing the Workforce Investment Act of 1998, the main job training program in the United States.

The Job Training Improvement Act eliminates the protection against employment discrimination in federally funded job training programs. If passed the measure would erode civil rights protections in these programs that have been in place since President Ronald Reagan signed the Job Training Partnership Act into law in 1982.

While the AHA supports job training, we urge you to oppose this Act because it would further entrench a constitutionally questionable faith-based initiative and would legally sanction discrimination.

An amendment to reinstate civil rights protections will be offered on the floor by Representative Bobby Scott. We ask you to support this amendment because it would alleviate the civil rights rollback included in the bill.

As Humanists we strive for religious freedom and equal treatment regardless of one's beliefs or lack thereof. As it's written, this legislation gives the freedom for faith-based organizations funded with taxpayer dollars to hire on the basis of religious beliefs, opening the door to religious and ideological employment criteria. Along with other religious, civil rights, labor, education, health, and advocacy organizations, the American Humanist Association opposes H.R. 27.

Sincerely,

Tony Hileman,
*Executive Director.*

---

The American Jewish Committee,
*Washington, DC, February 25, 2005.*

Dear Representative: I write on behalf of the American Jewish Committee, the nation's oldest human relations organization; with more than 150,000 members and supporters represented by 33 chapters nationwide, to urge you to support, if offered, the Scott-Van Hollen-Woolsey amendment to H.R. 27, the Job Training Improvement Act of 2005. We further urge that, absent the amendment, you vote to oppose H.R. 27; without the amendment, the bill would repeal longstanding civil rights protections designed to protect workers in federally-funded job training programs from religious discrimination.

Beginning with the inception of the federal job-training programs encompassed by the Job Training Partnership Act of 1982, religion-based employment discrimination has been prohibited in federally funded job-training programs, including programs operated by religious institutions. The bipartisan Job Training Partnership Act, which included the provision prohibiting religious discrimination that H.R. 27 would now make inapplicable to religious organizations, was originally sponsored by Senator Dan Quayle (R–IN), reported out of the Senate HELP Committee under Chairman Orrin Hatch (R–UT) and signed into law by President Ronald Reagan. In 1998, the provision once again received strong bipartisan support in both the House and the Senate when the Workforce Investment Act combined earlier job-training programs and recodified the original nondiscrimination provision included in the 1982 law.

The nondiscrimination provision that the Scott-Van Hollen-Woolsey amendment would reinstate has, over the past 23 years, allowed religious organizations to participate in federally funded job-training programs while protecting religious liberty and maintaining fundamental civil rights standards. We are committed to maintaining and respecting the autonomy of religious organizations, including their right to look to religious standards when making employment decisions for positions funded with private resources. But preserving the autonomy of those institutions must not entail the wholesale repeal of longstanding civil rights safeguards that protect workers from religious discrimination in federally-funded positions.

Respectfully,

Richard T. Foltin,
*Legislative Director and Counsel.*

---

National Council of Jewish Women,
*Washington, DC, February 23, 2005.*

Dear Representative: On behalf of the 90,000 members and supporters of the National Council of Jewish Women (NCJW), I am writing to you regarding the Job Training and Improvement Act (H.R. 27) introduced by Rep. Howard McKeon (R–CA). This legislation includes dangerous language that would repeal longstanding civil rights protections designed to protect against religious discrimination in employment in federally funded job training programs. I urge you to support an amendment that would strike this provision, or oppose the bill if such an amendment is not included.

Current federal law prohibits discrimination based on religion in federally funded programs. This twenty-three year old provision has worked well, allowing religious organizations to provide essential government services while maintaining their own sectarian identity and America's core commitment to protecting both civil rights and religious liberties. The language in H.R. 27 would remove these existing civil rights protections and allow faith-based groups to discriminate based on religion in their hiring practices. While such discrimination may be appropriate in some situations, such as hiring a rabbi, priest or imam, it has no place in the hiring of providers of secular services funded by taxpayer dollars. Faith-based organizations receiving government funding must be held to the same civil rights standards as other social service providers and doing so has not prevented these groups from partnering with the government to provide important services.

NCJW joins scores of religious leaders, denominational offices, and faith-based organizations in opposition to this divisive and unnecessary legislation. I urge you to oppose the Job Training and Improvement Act and uphold our nation's commitment to eradicating employment discrimination.

For over a century, NCJW has been at the forefront of social change, raising its voice on important issues of public policy. Inspired by our Jewish values, NCJW has been, and continues to be, an advocate for the needs of women, children, and families and a strong supporter of equal rights and protections for everyone.

Sincerely,

Marsha Atkind,
*President.*

---

OMB Watch,
*Washington, DC, February 25, 2005.*

VOTE "NO" ON WIA REAUTHORIZATION UNLESS SCOTT AMENDMENT PASSES! PROTECT CIVIL RIGHTS—STOP FEDERALLY FUNDED RELIGIOUS DISCRIMINATION

Re Scott Amendment to H.R. 27, the Jobs Training Improvement Act.

Dear Representative: OMB Watch strongly urges you to support the Scott Amendment to H.R. 27, the Jobs Training Improvement Act of 2005. The Scott Amendment will restore civil rights protections to people wishing to be employed by religious organizations participating in federally funded programs.

The need for the Scott Amendment is underscored by a decision made by the Supreme Court in Chief Justice Rehnquist's majority opinion in Bowen v. Kendrick, 487 U.S. 589 (1988). The Court stated that although the Constitution does not bar religious organizations from participating in federal programs, it requires (1) that no one participating in a federal program can "discriminate on the basis of religion" and (2) that all federal programs must be carried out in a "lawful, secular manner." Id. at 609, 612.

H.R. 27 seeks to codify discrimination in hiring for federally funded positions by religious organizations. The bill repeals longstanding civil rights protections designed to protect workers against this kind of religious discrimination. Since their inception in 1982, these job training programs have included important civil rights protections against employment discrimination based on religious beliefs in programs that receive federal funding.

The Scott Amendment will make H.R. 27 consistent with Bowen v. Kendrick and President Reagan's original intent when he signed the first Workforce Investment Act in 1988. This twenty-one year old provision has been successfully implemented since the inception of the job training program, allowing religious organizations to provide essential government services while maintaining a commitment to protecting civil rights and religious liberty.

### VOTE "YES" ON THE SCOTT AMENDMENT; VOTE "NO" ON FINAL PASSAGE IF THE SCOTT AMENDMENT FAILS

Although religious employers have the right under Title VII to apply religious tests to employees, the Constitution requires that the direct receipt and administration of federal funds remove that exemption. In addition, the federal government has constitutional obligations reinforced by Bowen v. Kendrick to refrain from religious discrimination. The Scott Amendment will restore the civil rights provisions into H.R. 27.

For these reasons, OMB Watch encourages you to vote "YES" on the Scott Amendment and "NO" on final passage if the Scott Amendment fails. If you have any questions, please contact Jennifer Lowe at 202–234–8494. Thank you for your attention to this matter.

Sincerely,

GARY BASS,
*Executive Director.*

---

PEOPLE FOR THE AMERICAN WAY,
*Washington, DC, February 24, 2005.*

DEAR MEMBER OF CONGRESS: On behalf of the over 675,000 members and supporters of People For the American Way, we are writing to voice our opposition to the Job Training Improvement Act (H.R. 27) as it would repeal longstanding civil rights protections designed to protect workers against religious discrimination in federally-funded job training programs. We urge you not to eliminate the civil rights of thousands of Americans by exempting religious organizations from anti-discrimination requirements established over twenty years ago. These critical requirements were signed into law by President Ronald Reagan in 1982 under the Job Training Partnership Act and were reaffirmed in 1998 during the passage of the retitled Workforce Investment Act (WIA). We ask that you support the Scott amendment which would restore this necessary protection. If Congress were to do otherwise, it would be allowing direct federal funding of discrimination. This is unacceptable.

Maintaining the separation between church and state is fundamental to maintaining the religious freedoms of all Americans. However, this can not be accomplished when organizations receiving federal funds are allowed to deny employment opportunities based upon an individual's religious beliefs.

There is no need to exempt religious organizations from anti-discrimination laws in order to protect the religious identity of that organization. Provisions already exist that allow an organization that is the recipient of federal funds to separate its religious content from the provision of services through the creation an independent 501[c][3] organization. This allows the religious organization to maintain its religious identity without government interference, while also providing needed services in the community.

Any exemption for religious organizations receiving federal funds should not be permitted for it would undermine a half century of public policy aimed at protecting individuals from discrimination in the workplace, and further erode the fundamental protections against discrimination based on one's religion that are absolutely central to our democracy.

We ask that you uphold the religious liberties of all Americans and not allow federal funding of employment discrimination under H.R. 27. Therefore, we strongly urge you to support the Scott amendment, which may be offered on the floor, to restore current law and continue to protect critical civil rights protections within the Job Training Improvement Act. Furthermore, we ask that you vote no on the final passage of H.R. 27 if this amendment is not adopted. Thank you.

Sincerely,

RALPH G. NEAS,
*President.*
TANYA CLAY,
*Deputy Director of Public Policy.*

---

PRESBYTERIAN CHURCH (USA),
*Washington, DC, March 1, 2005.*

DEAR REPRESENTATIVE: As you consider H.R. 27 and the issue of Faith-Based Hiring, I would like to alert you that the official policy of the Presbyterian Church (USA) is to oppose the kind of discrimination that could arise in the name of religion through the passage of this bill. Religious freedom and liberty has been a key component of the beliefs held by members of this historic denomination.

On Charitable Choice/Faith Based Initiatives—The 1988 General Assembly of the Presbyterian Church (USA) "has recognized for many years that, apart from question of constitutionality, the church faces serious issues related to its own liberty of faith and action when it receives government funds. The 1969 General Assembly noted the distinction between "church-controlled" and "church-related" and urged that "temporary or permanent community agencies qualified to receive public funds be established at church initiative to maintain such programs;" and, "if church control was temporarily necessary for start up or experimental programs, that any permanent program resulting . . . be removed from church control and put under the control of independent community-based bodies." Holding that "in the conduct of social services church agencies should accept necessary and proper governmental regulation and supervision . . ." (Minutes, 1988, p. 559).

Also, General Assembly policy has consistently and clearly stated that government has the primary responsibility for caring for the poor, along with the private sector: The 1997 General Assembly stated (and the 1999 General Assembly reaffirmed), "that while the church, voluntary organizations, business, and government must work cooperatively to address the needs of poor persons and communities, the government must assume the primary role for providing direct assistance for the poor" (Minutes, 1997, pp. 553). The General Assembly has noted that the private sector is incapable of caring for the needy on its own. The 1996 General Assembly asserted that "churches and charities, including many Presbyterian congregations and related organizations, have responded generously to growing hunger but do not have the capacity to replace public programs" (Minutes, 1996, p. 784).

As with all institutions and organizations, there will be those who may hold a differing view from that of the parent body. Congress may receive letters from organizations that may cause confusion about where the official policy of the Church is on this issue.

The General Assembly of the Presbyterian Church is the highest governing body of the 216 year denomination. There are approximately 11,500 congregations with 2.5 million members. Please contact me if you have further questions.

Rev. ELENORA GIDDINGS IVORY,
*Director, Washington Office.*

---

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM,
*Washington, DC, February 24, 2005.*

DEAR REPRESENTATIVE: On behalf of the Union for Reform Judaism, whose 900 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis (CCAR) whose membership includes over 1800 Reform rabbis, I strongly urge you to oppose the Job Training and Improvement Act of 2005 (H.R. 27). H.R. 27 does not meet the job training needs of either job seekers or employers and would repeal civil rights laws by permitting government-funded faith-based job training programs to practice religious discrimination in employment.

H.R. 27 fails to make meaningful improvements to the Workforce Investment Act of 1998 and would weaken the federal government's job training programs. H.R. 27 consolidates several worker training programs into a single block grant and gives states broad discretion in their use of funds. Experience with block grants suggests that this wider discretionary power is a precursor to federal funding cuts. Under WIA, states and local governments have also been allowed more discretion in the use of job training funding, and states have used this discretion to fund new job training facilities rather than focus on providing new services.

The Job Training and Investment Act would also appeal civil rights law by permitting government funded faith-based job training programs to engage in religious discrimination when making employment decisions. While the interrelated issues of whether the Constitution permits federally funded religious entities to discriminate in hiring on the basis of religion and the legitimate need to recognize the religious autonomy of churches, synagogues, and houses of worship are complex, government-funded discrimination is deeply problematic on a policy level. The notion that a job notice could be placed in the newspaper seeking employees for a government-funded social service program run by a Protestant church that reads "Jews, Catholics, Muslims need not apply" or "No unmarried mothers will be hired" is profoundly troubling. According to an April 2001 Pew Forum on Religion and Public Life poll, 78 percent of Americans oppose allowing government-funded religious organizations to hire only those who share their religious beliefs.

Religious institution can, and do, play a vital role in helping provide employment services. However, the government must ensure that religious organizations that accept government funding are prohibited from practicing religious discrimination.

We urge you to address the real and distinct needs of different types or workers and job seekers and to protect longstanding civil rights by opposing the Job Training and Improvement Act of 2005 (H.R. 27).

Yours sincerely,
Rabbi DAVID SAPERSTEIN,
*Director and Counsel.*

---

THE INTERFAITH ALLIANCE,
*Washington, DC, February 28, 2005.*

DEAR MEMBERS OF CONGRESS: I write to you today as the president of The Interfaith Alliance, a nonpartisan, national grassroots organization dedicated to promoting the positive and healing role of religion in public life, to urge you to support the amendment, offered by Representative Bobby Scott (D-VA), to the Job Training Improvement Act/H.R. 27 that would restore civil rights protections. If an amendment like this fails, I urge you to oppose the Job Training Improvement Act/H.R. 27 because it is an unjustified assault on religious liberty and civil rights protections.

Section 127, entitled "Non-Discrimination" exempts religious organizations that receive Federal funds from the prohibition of discrimination that is standard practice for all other organizations that contract with the federal government. Specifically, under the subsections entitled "Prohibition of Discrimination Regarding Participation, Benefits and Employment," and "Exemption for Religious Organizations," the bill states, that standard nondiscrimination policies "shall not apply to a recipient of financial assistance under this title that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion . . ."

This provision represents a dramatic shift in government policy towards religion as it repeals longstanding civil rights protections which have traditionally protected people of faith and goodwill from religious employment discrimination in federally funded job-training programs.

Since its inception in 1982, when it was called the Job Training Partnership Act (JTPA), this program has been the largest Federal employment training program in the nation, serving dislocated workers, homeless individuals, economically disadvantaged adults, youths and older workers. When signed into law by President Ronald Reagan, this program contained the very language protecting against religious discrimination that H.R. 27 seeks to repeal.

As an organization comprised of 150,000 people of faith and goodwill spanning over 70 faith traditions, I urge you to support the Scott amendment to the Job Training Improvement Act/H.R. 27 that would restore civil rights protections. If an amendment like this fails, I urge you to oppose the Job Training Improvement Act/H.R. 27 because it is an unjustified assault on religious liberty and civil rights protections.

America's unemployed citizens and those who wish to train them should not be subjected to a religious test under a Federal program. If you need further information on our position on this matter, please do not hesitate to contact Kim Baldwin, Director of Public Policy and Voter Education, at 202-639-6370.

Sincerely,
Rev. Dr. C. WELTON GADDY,
*President, The Interfaith Alliance.*

---

UNITARIAN UNIVERSALIST ASSOCIATION OF CONGREGATIONS, WASHINGTON OFFICE FOR ADVOCACY,
*Washington, DC.*

To: Members of the House of Representatives.

DEAR REPRESENTATIVE: I write on behalf of over 1,000 congregations that make up the Unitarian Universalist Association of Congregations (UUA). Unitarian Universalists have a long and proud history of opposing the convergence of religion and state in ways that compromise both entities. I write today to urge you to oppose provisions in H.R. 27, The Job Training Improvement Act that would do just that.

We ask you to oppose religious discrimination in employment procedures included in Section 128 of H.R. 27. If Section 128 were included as written, The Jobs Improvement Act would allow religious organizations receiving government funds to discriminate on the basis of religion when hiring employees for taxpayer-funded positions. This would jeopardize both civil rights and religious freedom. We urge you to support the amendment offered on the floor by Representative SCOTT that would restore protections contained in current law that guard the freedom of religious belief and expression to all people seeking employment of federally funded positions.

While The Unitarian Universalist Association affirms the critical role of faith as a source of healing in our society, we strongly believe that all legally qualified social service providers should be considered for employment without the imposition of religious tests or proscription. By accepting government funds, houses of worship are—and should remain subject to government oversight, as well as government regulation, including compliance reviews, audits, and upholding the protections against civil rights violations such as religious discrimination.

If an amendment restoring current law by requiring federally funded religious organizations to comply with civil rights protections is not passed on the floor, we urge you to oppose H.R. 27, the Job Training Improvement Act as written. The protection of the religious expression of people of all faiths is the responsibility all Americans, including religious organizations such as ours and legislators such as yourself. We ask for your vote against religious discrimination in the workplace in order to protect the civil rights and religious freedom of all people and remain true to one of the core principles of our nation's commitment to liberty for all.

Sincerely,
ROB KEITHAN,
*Director.*

---

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, WASHINGTON BUREAU,
*Washington, DC, February 25, 2005.*

MEMBERS,
*House of Representatives,*
*Washington, DC.*

Re Support the Scott Amendment to H.R. 27, the Job Training Improvement Act of 2005, which would restore protections against discrimination in current law.

DEAR REPRESENTATIVE: On behalf of the National Association for the Advancement of Colored People (NAACP), the nation's oldest, largest and most widely recognized grassroots civil rights organization, I urge you, in the strongest terms possible to support the amendment being offered by Congressman Bobby Scott to H.R. 27 that would retain the civil rights protections when using federal funds in the current law. If the bill's existing language becomes law, civil rights protections that have been in place for decades will be eliminated and the result will be federally funded discrimination. Given the importance of this issue to the NAACP and our membership, I would also urge you to vote against final passage of the bill should the Scott amendment fail.

Because of our Nation's sorry history of bigotry, for decades it has been illegal to discriminate in employment and make hiring decisions based on race or religion. The only exception is faith-based organizations that are exempted from anti-discrimination provisions in programs using their own money; although until now they had to adhere to basic civil rights laws when using federal monies to support a program.

There should be no question that Faith Based institutions should, like all other recipients of federal funds, adhere to basic civil rights laws when using federal funds. It is a fundamental American principle that no citizen should have to pass someone else's racial, ethnic or religious test to qualify for a taxpayer-funded job and has been the law since 1982 when our federally-funded national job training programs were consolidated under the Job Training Partnership Act. H.R. 27 would eliminate the protections and advancements in the current law, provisions which have never been controversial.

Congressman Scott's amendment would restore protections against religious discrimination in hiring for jobs funded through the Job Training Improvement Act. This amendment is consistent with the civil rights laws passed of the mid-1960's and with the basic principles of our Constitution and would reassert traditional and well-established employment rights, civil rights and anti-discrimination protections.

Make no mistake: enactment of this provision will not make it easier for faith-based organizations to get federal contracts; they still need to apply, compete, and are subject to audit. Any program that can get funded under this bill can get funded anyway: Faith based organizations must simply comply with decades-old civil rights laws; they must not discriminate in hiring.

While there can be no question as to the invaluable role that faith-based organizations have played and continue to play in meeting many of the needs facing our nation today, it is also true that there are a few organizations which may, unfortunately, use religious discrimination as a shield for racial or gender discrimination. Thus I urge you, again in the strongest terms possible, to support Congressman Scott's amendment and ensure that tax dollars are not being used to support discrimination in any form.

Should you have any questions or comments on the NAACP position, I hope that you will feel free to contact me at (202) 463-2940. The NAACP considers this to be a very important civil rights vote, and your position will be relayed to our national membership.

Sincerely,

HILARY SHELTON,
*Director.*

---

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO,
*Washington, DC, February 25, 2005.*

DEAR REPRESENTATIVE: I am writing on behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME) to urge you to vote against H.R. 27, the "Job Training Improvement Act of 2005" and to oppose any effort to expand the block grant authority in the bill along the lines of the Administration's "WIA Plus" proposal.

H.R. 27 fails to make improvements necessary to enhance the training and career opportunities of unemployed workers. Instead, the legislation completely eliminates the dislocated worker training program, undermines state rapid response systems, ends the federal-state labor exchange system, rolls back protections against religious discrimination in hiring by job training providers, and potentially undermines the stability of other important related programs. It also threatens the unemployment insurance-employment service partnership that has served the nation well for over 70 years.

We are especially concerned that H.R. 27 terminates the U.S. Employment Service (ES) system by folding it into a block grant with the WIA dislocated worker and adult training programs. Funded from the federal Unemployment Insurance Trust Fund, the ES has been a key part of the unemployment insurance (UI) system since its inception. Through state employment service agencies, the ES has administered the UI "work test" to determine whether UI claimants are actively seeking work in order to be eligible for UI benefits.

It is highly doubtful that local one-stop centers with multiple mandates could address the reemployment needs of UI claimants and the mandates of the UI law effectively. In addition, shifting the UI work test to one-stop centers, which private companies can operate, would privatize an important eligibility function for the UI program and set the stage for privatizing the administration of UI benefits. This is especially troubling in light of the importance of preserving the confidentiality of employer wage records.

Eliminating the Employment Service also advances a major objective of the Administration: the devolution of the federal unemployment insurance to the states, in effect ending this critical countercyclical program as a national system. Legislation to reduce the Federal Unemployment Tax (FUTA) by 75% over several years and turn the financing of UI operations back to the states has languished in Congress. H.R. 27 accomplishes one phase of this larger plan.

Block granting the dislocated and adult worker training programs with the ES eliminates the distinct objectives of each of these programs. Specifically, it ends targeted job training assistance for workers dislocated by off-shoring and other economic changes, pits different types of workers against each other, and it will lead to future funding reductions. It also replaces the current uniform statewide job service that matches employers and job seekers with a multiplicity of local programs that will have no incentive or ability to cooperate as a comprehensive labor exchange system.

AFSCME also strongly opposes provisions in H.R. 27 that give governors broad discretion to transfer resources from the WIA "partner programs" to pay for WIA infrastructure and core services costs.

By relying on funding transfers from these programs to guarantee resources for WIA infrastructure and core services, H.R. 27 will disrupt and weaken services provided by these non-WIA programs, which also will face substantial pressures for funding reductions in the next few years.

The infrastructure and related provisions begin the commingling of funds from these non-WIA programs and lay the foundation for future block granting of these programs. Any doubts that this is the long term objective should be dispelled by the Administration's current request to modify H.R. 27 to give governors authority to add up to five additional "partner programs" to the block grant created in the legislation ("WIA Plus"). These programs include vocational rehabilitation, trade adjustment assistance, veterans employment and training programs, adult education and food stamp employment and training programs.

In addition to the block grant strategy in the legislation, H.R. 27 includes new demonstration authority for the Department of Labor to operate "personal reemployment account" (PRA) demonstrations. The PRAs would cap the cost of training that unemployment insurance recipients can receive and bar them from receiving free WIA services for a year after the PRA account is established. They represent a further contraction in the assistance the federal government provides workers, and, since the Labor Department already is running an experiment in seven states, they are entirely unnecessary.

Finally, the proposed PRAs or vouchers are complemented by the repeal of longstanding civil rights protections that prohibit religious-based employment discrimination by job training providers. This rollback of civil rights protections, designed to advance direct government funding of pervasively religious institutions, overturns decades of consensus on the need for nondiscriminatory treatment in job training programs and should be rejected. We understand that Rep. Bobby Scott intends to offer an amendment that would restore to the bill the existing civil rights protections. We urge you to support this amendment.

In summary, H.R. 27 is a radical and partisan departure from previous workforce policy. It transforms the original one-stop idea of a better-coordinated workforce system into a mechanism for reducing resources and block granting programs in the future. It would undermine the role of Congress in national workforce policy, erode accountability for the expenditure of workforce funds, and retreat from important civil rights protections that have enjoyed bipartisan support for over 25 years. AFSCME strongly urges you to vote against H.R. 27.

Sincerely,

CHARLES M. LOVELESS,
*Director of Legislation.*

---

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
*Washington, DC, February 17, 2005.*

Honorable JOHN BOEHNER,
*Chairman, House Committee on Education and the Workforce, Washington, DC.*

DEAR CHAIRMAN BOEHNER: On Thursday, February 17, the House Education and Workforce Committee will consider H.R. 27 to reauthorize the Workforce Investment Act. The AFL-CIO urges you to vote against this legislation, because it is a step backward in securing needed training and employment programs for our nation's unemployed and disadvantaged workers.

Good jobs that support families are the foundation of a strong economy and a strong nation, and creating and sustaining good jobs is the number one priority for Americans. Effective and meaningful job training programs and income support for jobless workers combined with job search assistance are key components of a comprehensive jobs strategy. H.R. 27 does nothing to create and sustain good jobs in America. At the same time it consolidates, block grants and cuts the funding for Workforce Investment Act programs designed to help unemployed workers and disadvantaged adults.

In particular, we are concerned about the following provisions in H.R. 27:

### ELIMINATION OF THE EMPLOYMENT SERVICE

The AFL-CIO opposes repeal of the Wagner-Peyser Act, called for under H.R. 27. Repealing the Wagner-Peyser Act eliminates the 60-year-old United States Employment Service (ES), a federal-state partnership that maintains a nationwide, free, publicly administered labor exchange matching job seekers and employers. It is also the first step toward dismantling the critical and historic federal role in the nation's unemployment insurance (UI) system, turning it over entirely to the states. Repealing the Wagner-Peyser Act and block granting ES funds will reduce, privatize and voucherize free public labor exchange programs.

### WIA BLOCK GRANT

H.R. 27 consolidates into a single block grant the WIA adult and dislocated worker programs with the Wagner-Peyser Employment Service program and reemployment services for unemployment insurance recipients. In doing so, it destroys both the dislocated worker program, which has provided assistance to experienced workers permanently dislocated from their jobs, and the statewide job service, which provides a uniform statewide system for matching employers and jobseekers. The block grant will pit different types of workers against each other for assistance and lead to future funding reductions.

### INFRASTRUCTURE FUNDING

H.R. 27 gives Governors broad discretion to transfer additional resources from the WIA partner programs to pay for WIA infrastructure and WIA core services costs—without any assurance that more training would result. By relying on funding transfers from these programs, H.R. 27, guarantees WIA one-stop funding at the expense of disrupting and weakening services provided by these non-WIA programs. A more effective and simple solution to ensuring adequate training services would be to require that a certain percentage of WIA funds be used for training as provided in previous job training programs and to create a separate WIA funding stream for one-stop operations, if necessary.

### PERSONAL REEMPLOYMENT ACCOUNTS

H.R. 27 includes a demonstration program for the Secretary to conduct "Personal Reemployment Account" (PRA) demonstrations even though the Department of Labor recently initiated a PRA demonstration without strong interest among the states. Unlike current WIA training programs, the PRAs would limit the cost of training that an unemployment insurance recipient can receive and would bar that individual from WIA training services for a year after the PRA account is established. This is the wrong way to go. With long-term unemployment at historically high levels, there is a much greater need for continued unemployment benefits for the long-term unemployed who have found it so difficult to become re-employed.

### RELIGIOUS-BASED EMPLOYMENT DISCRIMINATION

We are particularly concerned that this legislation would remove key civil rights protections against religious discrimination in publicly-funded programs. H.R. 27 repeals longstanding civil rights protections that prohibit religious-based employment discrimination by job training providers.

### FUNDING

Since taking office, President Bush has made real cuts in job training and assistance programs to help unemployed and underemployed workers, including Workforce Investment Act programs for adults and dislocated workers and the Employment Service. In inflation-adjusted dollars, these proposed cuts total almost $1.9 billion.

If implemented, the Bush WIA block grant proposals will cut $284 million in real dollars from WIA and Employment Service programs. If implemented, the new "WIA Plus" block grant proposal will cut $354 million in real dollars from current TAA, Vocational Rehabilitation, Adult Education, Veterans Training and Food Stamp Employment and Training Programs. The Bush block grant proposals will mean a total of $638 million in real cuts for existing programs.

### "WIA PLUS" PROPOSALS

Though not part of HR 27, at present, the Bush Administration has proposed a "WIA Plus" initiative that would allow Governors to merge five additional programs into the WIA block grant: Trade Adjustment Assistance; Vocational Rehabilitation; Food Stamps Employment and Training Programs; Adult Education and Veterans Employment and Training Programs.

The legislation allows the Governor to: Ignore the requirements of each statute authorizing these programs. Treat individuals in different parts of the state differently. Consolidate reporting so that no information or tracking is provided on the nature and extent of services to special groups.

The "WIA Plus" proposal should be opposed because it: Bypasses existing public administration requirements permitting these programs to be contracted out. Eliminates the obligation to provide long-term training and income support to workers whose jobs have been outsourced or lost to foreign trade. Eliminates job training and other workforce assistance to unemployed, disabled and homeless veterans and eliminates state veterans employment specialists and disabled veterans employment specialists. Eliminates the specialized counseling and customized help for the disabled provided through state vocational rehabilitation agencies. Forces those in need to compete for a declining share of resources. Contains no assurance that individuals will receive the same quality of service.

For all of these reasons the AFL–CIO urges you to vote against H.R. 27 and oppose any amendments that would implement the Bush Administration's "WIA Plus" program.

Sincerely,

WILLIAM SAMUEL,
*Director, Department of Legislation.*

---

HUMAN RIGHTS CAMPAIGN,
*Washington, DC, March 2, 2005.*

DEAR REPRESENTATIVE: On behalf of the more than 600,000 members of The Human Rights Campaign, we urge support for the Scott Amendment to the Job Training Improvement Act (HR 27) in order to protect workers against religious discrimination in federally-funded job training programs. This Amendment would restore current law and continue to protect critical civil rights protections thus preventing the alteration of a non discrimination policy that has been in place since it was signed into law by President Ronald Reagan. Passing this bill without such amendment will result in religious organizations being able to use Federal money to discriminate based on religion under this Act even when engaging in purely secular job training endeavors.

Absent the adoption of a civil rights amendment on the House floor, we urge you to vote "No" on final passage of H.R. 27.

The 1998 Workforce Investment Act consolidated earlier job-training programs and simply recodified the nondiscrimination provision included in the original Job Training Partnership Act of 1982. The 1998 legislation, which included this nondiscrimination provision, received strong bipartisan support from both the House and Senate at the time of its passage in the 105th Congress. Since its inclusion in the 1982 JTPA, it has enjoyed bipartisan support. This twenty-one year old provision has worked well since the inception of this program, allowing religious organizations to provide government-funded services while maintaining America's bedrock commitment to protecting both civil rights and religious liberty.

In general, we do not object to faith-based organizations providing employment-related services or other social services provided that public funds are not used to discriminate. However as the Nation's largest gay, lesbian, bisexual and transgender civil rights organization, we summarily oppose using Federal funds to discriminate on any basis, including religion, which we have witnessed used as a proxy for sexual orientation and gender identity discrimination.

We strongly urge you to support the Scott Amendment and oppose the unjustified rollback of civil rights protections currently found in H.R. 27. We believe that tax payers should never fund discrimination and urge your support in efforts to restore these important protections.

As always, should you have any questions please do not hesitate to contact Shelley Simpson at 202-216-1586.

Sincerely,

DAVID M. SMITH,
*Vice President for Policy & Strategy.*
CHRISTOPHER LABONTE,
*Legislative Director.*

---

THE COALITION AGAINST
RELIGIOUS DISCRIMINATION,
*February 23, 2005.*

DEAR REPRESENTATIVE: We, the undersigned religious, civil rights, labor, education, health and advocacy organizations are writing to urge you to support Scott amendment to restore critical civil rights protections to the Job Training Improvement Act (H.R. 27), in order to protect workers against religious discrimination in federally-funded job training programs. Since their inception in 1982, these job-training programs have included important civil rights protections against employment discrimination based on religion in programs that receive federal funds. Absent the adoption of a civil rights amendment on the House floor, we urge you to vote "No" on final passage of H.R. 27.

The 1998 Workforce Investment Act consolidated these earlier job-training programs and simply recodified the nondiscrimination provision included in the original Job Training Partnership Act of 1982. The 1998 legislation, which included this nondiscrimination provision, received strong bipartisan support from both the House and Senate at the time of its passage in the 105th Congress. Since its inclusion in the 1982 JTPA, it has enjoyed bipartisan support. The original Job Training Partnership Act was sponsored by then Senator Dan Quayle, and was reported out of the Senate Labor and Human Resources Committee then chaired by Senator Orrin Hatch. Finally, President Ronald Reagan signed into law the Job Training Partnership Act, which contains the very same civil rights provision that H.R. 27 now seeks to repeal as it applies to religious organizations. This 23 year old provision has worked well since the inception of this program, allowing religious organizations to provide government-funded services while maintaining America's bedrock commitment to protecting both civil rights and religious liberty.

We strongly urge you to support the Scott civil rights amendment to H.R. 27 to restore current civil rights law and to oppose the unjustified and unnecessary assault in H.R. 27 on our nation's commitment to eradicating employment discrimination in government-funded jobs.

Sincerely,

AFL–CIO.
American Association of University Women.
American Civil Liberties Union.
American Counseling Association.
American Federation of State, County and Municipal Employees (AFSCME), AFL–CIO.
American Federation of Teachers.
American Humanist Association.
American Jewish Committee.
American Jewish Congress.
Americans for Religious Liberty.
Americans United for Separation of Church and State.
Anti-Defamation League.
Baptist Joint Committee on Public Affairs.
Central Conference of American Rabbis.
Episcopal Church, USA.
Equal Partners in Faith.
Frances Kissling, Catholics for a Free Choice.
General Board of Church and Society of The United Methodist Church.
Hadassah, the Women's Zionist Organization of America.
Human Rights Campaign.
Leadership Conference on Civil Rights.
Legal Momentum (formerly NOW Legal Defense).
NAACP.
National Association of Social Workers.
National Council of Jewish Women.
National Education Association.
National Head Start Association.
National PTA.
OMB Watch.
People For the American Way.
Presbyterian Church (USA), Washington Office.

Service Employees International Union SEIU, AFL-CIO.

Texas Faith Network.

Texas Freedom Network.

The Interfaith Alliance.

The Secular Coalition for America.

Union for Reform Judaism.

Unitarian Universalist Association of Congregations.

United Auto Workers.

United Church of Christ Justice & Witness Ministries.

Women of Reform Judaism.

---

BAPTIST JOINT COMMITTEE,
*Washington, DC, February 25, 2005.*

DEAR REPRESENTATIVE: This week you will be asked to consider the Job Training and Improvement Act (H.R. 27). We write to request your support for the Scott amendment to restore critical civil rights protections. Without the adoption of this amendment, we urge you to reject this legislation because it would allow religious employment discrimination in positions funded with federal dollars.

Some religious organizations qualify for an exemption to the ban on religious discrimination in Title VII of the Civil Rights Act of 1964. We support Title VII's exemption for churches and other religious organizations. This exemption, when applied to privately funded activities and enterprises, appropriately protects the church's autonomy and its ability to perform its mission. Courts have interpreted this exemption not only to apply to clergy, but also to all of the religious organization's employees including support staff, and not only to religious affiliations, but also to religious beliefs and practices. While we support this exemption, we oppose its application in a publicly funded context.

Without the Scott civil rights amendment, H.R. 27 would allow tax-funded employment discrimination on the basis of religion. Allowing government to subsidize religious discrimination with tax dollars is arguably unconstitutional, and in any case, an unconscionable advancement of religion that simultaneously turns back the clock on civil rights.

Religion has flourished in this country since its founding precisely because the institutional spheres of church and state have operated separately. This type of legislation violates the separation of church and state and, therefore, threatens religion. We ask you to oppose H.R. 27 and provide protections from religious employment discrimination in federally funded job training programs.

Sincerely,

K. HOLLYN HOLLMAN.

---

AFRICAN AMERICAN MINISTERS,
*Washington, DC, February 25, 2005.*

*House of Representatives,*
*Washington, DC.*

DEAR MEMBER OF CONGRESS: As pastors and leaders of predominately African American congregations across the country, we urge you to protect the civil rights and religious freedom of all Americans and oppose the discriminatory provisions in the Job Training Improvement Act (H.R. 27). African American religious leaders and activists have worked tirelessly over the past decades to ensure civil rights protections. However, this bill would repeal these longstanding civil rights protections designed to protect workers against religious discrimination in federally-funded job training programs.

We believe that maintaining the separation between church and state is fundamental to maintaining the religious freedoms of all Americans. Therefore, as leaders of our respective congregations, we cannot compromise our principles by supporting legislation that allows religiously-affiliated organizations, to discriminate with Federal taxpayers' dollars. The role of the church is to promote our religious teachings, and this should not be confused with religious intolerance or discrimination.

Since 1982, anti-discrimination requirements have been included in the Job Training Partnership Act, re-titled the Workforce Investment Act in 1998. It is important to recognize that religiously affiliated organizations have not requested an exemption. Furthermore, there is no need to exempt religious organizations from these anti-discrimination laws. Houses of worship can create independent 501(c)(3) organizations in order to separate religious content from the provision of services. This allows our religious organizations to maintain their religious identity without government interference, while also providing needed services in the community.

Not only is the exemption in H.R. 27 unnecessary, it is also detrimental to the fundamental protections against discrimination based on one's religion that are absolutely central to our democracy. The current language in H.R. 27 does not protect the civil rights cherished in our communities, but instead encourages federally-funded discrimination.

For these reasons, we ask that you prevent unnecessary and unacceptable religious discrimination and show your commitment to upholding critical civil rights protections within H.R. 27.

Sincerely,

Reverend TIMOTHY MCDONALD.

BOARD MEMBERS

Rev. Wendell Anthony, Fellowship Chapel United Church of Christ, Detroit, MI.

Rev. Dr. FLoyd W. Davis, High Street Baptist Church, Roanoke, VA.

Elder Kevin A. Ford, St. Paul UCGC, Chicago, IL.

Rev. Julius C. Hope, New Grace Missionary Baptist Church, Highland Park, MI.

Rev. Dr. Arnold W. Howard, Enon Baptist Church, Baltimore, MD.

Rev. Leonard B. Jackson, First A.M.E. Church, Los Angeles, CA.

Rev. Dr. Clarence Pemberton, Jr., The New Hope Baptist Church, Philadelphia, PA.

Rev. James B. Sampson, First New Zion Missionary Baptist Church, Jacksonville, FL.

Rev. L. Charles Stovall, Camp Wisdom UMC, Dallas, TX.

Rev. Dr. Rolen Womack, Jr., Progressive Baptist Church, Milwaukee, WI.

Rev. Albert Love, Love In Action Ministries, 5410 Skyview Drive, SW., Atlanta, GA.

Rev. Robert Shine, Berachah Baptist Church, 2043 Eastburn Ave., Philadelphia, PA.

---

AMERICAN CIVIL LIBERTIES UNION,
*Washington, DC, February 25, 2005.*

Re the Job Training Improvement Act (H.R. 27) Creates an Unconstitutional Loophole Allowing Government-Funded Religious Discrimination.

DEAR REPRESENTATIVE: The American Civil Liberties Union strongly urges you to support the Scott amendment to the Job Training Improvement Act (H.R. 27) to restore current law and to continue to defend critical civil rights protections designed to protect employees against religious discrimination in federally-funded job training programs. Since their inception in 1982, these federally-funded job training programs have included important civil rights protections against employment discrimination. H.R. 27 will create an unconstitutional loophole to the enforcement of this longstanding prohibition against government-funded religious discrimination in Federal job training programs.

H.R. 27 CHANGES LONGSTANDING CIVIL RIGHTS LAW THAT WAS NEVER CONTROVERSIAL

H.R. 27 explicitly authorizes federally-funded religious organizations receiving funds from the Act's job training programs to discriminate against their employees based on religion. Current law prohibits participants in Federal job training programs from discriminating based on race, color, religion, sex, national origin, age, disability, or political affiliation or belief. 29 U.S.C. 2938 (a)(2). H.R. 27 would allow taxpayer dollars to fund religious organizations that discriminate against their employees in the delivery of federally-funded services.

The civil rights provision barring federally-funded religious discrimination has never been controversial. In fact, the provision was first included in the Federal job training legislation that then-Senator Dan Quayle sponsored, which passed through a committee chaired by Senator Orrin Hatch, and was signed by President Ronald Reagan. Throughout its 21-year history, the civil rights provision has not been an obstacle to the participation of religiously-affiliated organizations in Federal job training programs. In fact, many religiously-affiliated organizations participate in the programs and comply with the same civil rights provision that apply to everyone else.

THERE IS LITTLE SUPPORT FOR THE ANTI-CIVIL RIGHTS PROVISION IN THE SENATE

In the 108th Congress, the Senate passed its version of the faith-based initiative after stripping out any provisions that could have created any special advantages for federally-funded religious organizations. The sponsors of the legislation realized that a majority of the Senate supported the eradication of religious discrimination in federally-funded employment positions—and did not want to roll-back any civil rights protections. The civil rights community joins a significant portion of the religious community in urging the House to make the same decision to oppose Federal taxpayer support for religious discrimination by federally-funded employers.

H.R. 27 WOULD REVERSE THE GOVERNMENT'S LONG STANDING PROTECTION AGAINST FEDERALLY FUNDED DISCRIMINATION

H.R. 27 attacks the very core of civil rights protections historically supported by the federal government. More than 60 years ago, one of the first success of the modern civil rights movement was a decision by President Franklin Roosevelt to bar federal contractors from discriminating based on race, religion, or national origin. From that first presidential decision through the Supreme Court's decision allowing the Federal government to deny special tax advantages to Bob Jones University, which claimed a religious right to retain the tax benefits while pursuing racist practices, the Federal government has made the eradication of federally funded discrimination among its highest priorities.

In Bob Jones Univ. v. United States, 461 U.S. 574 (1983), the Supreme Court held that Federal government could deny a religiously-run university tax benefits because the university imposed a racially discriminatory anti-miscegenation policy. Id. at 605. The Court decided that the Federal government's compelling interest in eradicating racial discrimination in education superceded any burden on the university's religious exercise of enforcing a religiously-motivated ban on students interracial dating. Id. at 604.

H.R. 27 would allow a religious organization, such as Bob Jones University, that discriminates based on religion, to participate in Federal job training programs. In a disturbing result, Bob Jones University could be denied tax benefits because of its racist policies toward its students, but could receive Federal job training money under H.R. 27 to discriminate against employees working in the Federal job training program—simply because the employees do not meet Bob Jones University's religious tests. Moreover, in the many religious organizations in which most, if not all, of the adherents are of a single race, the result of federally-funded religious discrimination will effectively be federal funds going to the employment of persons of a single race.

The Federal government clearly has a compelling interest in applying the Workforce Investment Act's current civil rights provision to everyone receiving federal funds—including religious organizations seeking to discriminate on the basis of religion in hiring persons to work in Federal job training programs. H.R. 27 is inconsistent with the leading Supreme Court case on the use of federal funds by religious organizations that discriminate.

There is no meaningful difference between the government prohibiting tax benefits to organizations that discriminate based on race and the Workforce Investment Act's statutory prohibition on discrimination based on religion in Federal job training programs. In fact, the United States itself—during the current Administration—squarely rejected the proposition that intentional religious discrimination gets less protection under the Equal Protection Clause than intentional racial discrimination. In its October 26, 2001 brief defending the religion prong of Title VII from an Eleventh Amendment attack, the United States stated that "[c]ontrary to Defendant's contention that the Supreme Court has 'distinguished claims involving differential treatment on the basis of race and speech from those involving religion,' there can be no doubt that the Equal Protection Clause subjects State governments engaging in intentional discrimination on the basis of religion to strict scrutiny." Brief of Intervenor United States in Endres v. Indiana State Police (N.D. Ind. Oct. 26, 2001) (brief is available on *www.usdoi.gov*). Congress should not now take the position that it cannot or will not enforce a civil rights ban on federal funds going to an organization claiming a right to discriminate based on religion when the Supreme Court specifically authorized the United States to enforce a civil rights ban on federal tax benefits going to an organization making a directly analogous religious exercise claim to discriminate based on race. Thus, the sponsors' statement that the Congress has no duty to fully enforce the nondiscrimination statute is contrary to law—and abandons one of the seminal decisions in civil rights, namely Bob Jones Univ.

### H.R. 27 IS UNCONSTITUTIONAL

H.R. 27 abets unconstitutional employment discrimination based on religion. Its exemption of religious organizations from the prohibition on religious discrimination in the program is contrary to constitutional law and will open the door to government-funded discrimination.

Proponents of allowing religious organizations to use Federal funds to discriminate against their employees argue that their position is consistent with a provision in Title VII of the Civil Rights Act of 1964 that generally permits religious organizations to prefer members of their own religion when making employment decisions. However, that provision does not consider whether federally-funded religious groups can discriminate with federal taxpayer dollars. Moreover, although the Supreme Court upheld the constitutionality of the religious organization exemption in Title VII, Corporation of Presiding Bishop v. Amos, 483 U.S. 327, 336-39 (1987), the Court has never considered whether it is unconstitutional for a religious organization to discriminate based on religion when making employment decisions in programs that the government finances to provide governmental services.

Several courts have considered whether a religious organization can retain its Title VII exemption after receipt of indirect Federal funds, *e.g.*, Siegel v. Truett-McConnell College, Inc., 13 F. Supp.2d 1335, 1344 (N.D. Ga. 1994) (clarifying that its decision permitting a religious university to invoke the Title VII exemption is because the government aid is directed to the students rather than the employer), but only one federal court has decided the constitutionality of retaining the Title VII exemption after receipt of direct Federal funds, Dodge v. Salvation Army, 1989 WL 53857 (S.D. Miss. 1989). In that decision, the court held that the religious employer's claim of its Title VII exemption for a position "substantially, if not exclusively" funded with government money was unconstitutional because it had "a primary effect of advancing religion and creating excessive government entanglement." Id. The analysis applied by the court in Dodge should apply with equal force to the Workforce Investment Act programs that would provide direct Federal funds to religious organizations.

In addition to causing the Establishment Clause violation cited by the court in Dodge, H.R. 27 would also subject the government and any religious employer invoking the right to discriminate with Federal dollars to liability for violation of constitutional rights under the Free Exercise Clause and the Equal Protection Clause. Although mere receipt of government funds is insufficient to trigger constitutional obligations on private persons, a close nexus between the government and the private person's activity can result in the courts treating the private person as a state actor. Rendell-Baker v. Kohn, 457 U.S. 830 (1982).

It is beyond question that the government itself cannot prefer members of a particular religion to work in a federally-funded program. The Equal Protection Clause subjects governments engaging in intentional discrimination on the basis of religion to strict scrutiny. *E.g.*, United States v. Batchelder, 442 U.S. 114, 125 n.9 (1979); City of New Orleans v. Dukes, 427 U.S. 297, 303 (1976). No government could itself engage in the religious discrimination in employment accommodated and encouraged by the proposed rule's employment provision. Thus, the government would be in violation of the Free Exercise Clause and the Equal Protection Clause for knowingly funding religious discrimination.

Of course, a private organization is not subject to the requirements of the Free Exercise Clause and the Equal Protection Clause unless the organization is considered a state actor for a specific purpose. West v. Atkins, 487 U.S. 42, 52 (1988). The Supreme Court recently outlined the conditions necessary to establish that there is a sufficient nexus between the government and the private person to find that the private person is a state actor for purposes of compliance with constitutional requirements on certain decisions made by participants in the government program:

> [S]tate action may be found if, though only if, there is such a 'close nexus between the State and the challenged action' that seemingly private behavior 'may be fairly treated as that of the State itself.' . . . We have, for example, held that a challenged activity may be state action when it results from the State's exercise of 'coercive power,' when the state provides 'significant encouragement, either overt or covert,' or when a private actor operates as a 'willful participant in joint activity with the State or its agents' . . .

Brentwood Academy v. Tennessee Secondary School Athletic Association, 121 S. Ct. 924, (2001) (citations omitted).

The extraordinary role that the current Administration—and the sponsors of H.R. 27—have taken in accommodating, fostering, and encouraging religious organizations to discriminate based on religion when hiring for federally-funded programs creates the nexus for constitutional duties to be imposed on the provider, in addition to the requirements already placed on government itself. The clear intent of the change in the civil rights provision in the Workforce Investment Act is to encourage certain providers receiving federal funds to discriminate based on religion.

The H.R. 27 provision allowing government-funded religious discrimination is part of a growing pattern of congressional, presidential, and regulatory actions taken specifically for the purpose of accommodating, fostering, and encouraging federally-funded private organizations to discriminate in ways that would unquestionably be unconstitutional if engaged in by the federal government itself. For example, in December of last year, President Bush signed Executive Order 13279, which amended an earlier executive order, which had provided more than 60 years of protection against discrimination based on religion by federal contractors. The Bush Order provides an exemption for religious organizations contracting with the government to discriminate in employment based on religion. In addition, the federal government is simultaneously proposing regulations to allow religious organizations to discriminate based on religion in employment for federal programs involving substance abuse counseling, welfare reform, housing, and veterans benefits.

Although religious employers enjoy an exemption from Title VII allowing them to apply religious tests when hiring for positions funded with their own money, the Constitution requires that direct receipt and administration of federal funds removes that exemption. In addition, the federal government itself has constitutional obligations to refrain from religious discrimination or from establishing a religion. H.R. 27 fails to meet any of those constitutional mandates.

For these reasons, the ACLU strongly urges you to support the Scott amendment to H.R. 27. Thank you for your attention to this matter, and please do not hesitate to call Terri Schroeder at 202-675-2324 if you have any questions regarding this issue.

Sincerely,

LAURA W. MURPHY.

*Director.*
TERRI A. SCHROEDER,
*Senior Lobbyist.*

---

AMERICANS UNITED FOR SEPARATION
OF CHURCH AND STATE,
*Washington, DC, February 24, 2005.*

DEAR REPRESENTATIVE: Americans United for Separation of Church and State strongly urges you to support the Scott amendment to the Job Training Improvement Act (H.R. 27). The Scott amendment would restore longstanding civil rights protections in the Workforce Investment Act ("WIA"), which guards workers against discrimination in WIA-funded job training programs. Absent adoption of the Scott Amendment on the House floor, Americans United strongly urges you to vote "No" on final passage of H.R. 27.

Americans United represents more than 75,000 individual members throughout the fifty states, as well as cooperating houses of worship and other religious bodies committed to the preservation of religious liberty. The civil rights rollback contained in H.R. 27 would allow religious organizations operating government-funded programs under WIA to discriminate in employment on the basis of religion, religious practice, or religious beliefs. H.R. 27 thus has serious implications for the protection of civil rights and religious liberty, and must be opposed.

Section 128 of H.R. 27, entitled "Non-Discrimination," exempts religious organizations that receive Federal funds from the prohibition against discrimination on the basis of religion that is standard practice for all other organizations receiving funding under WIA. Since its inception in 1982, when it was called the Job Training Partnership Act ("JTPA"), this program has served as the largest federal employment training service in the nation, serving dislocated workers, homeless individuals, economically disadvantaged adults, youth and older workers. When signed into law by President Ronald Reagan, this program contained the very language protecting against religious discrimination that H.R. 27 seeks to repeal as to religious organizations.

The 1998 WIA consolidated these earlier job-training programs and simply recodified the nondiscrimination provision included in the original JTPA. The 1998 legislation, which included this nondiscrimination provision, received strong bipartisan support from both the House and Senate at the time of its passage in the 105th Congress. The original JTPA was sponsored by then-Senator Dan Quayle, and was reported out of the Senate Labor and Human Resources Committee then chaired by Senator Orrin Hatch. Since its inclusion in the 1982 JTPA, it has enjoyed bipartisan support. This 23-year-old provision has worked well since the inception of this program, allowing religious organizations to provide government-funded services while maintaining America's bedrock commitment to protecting both civil rights and religious liberty.

Americans United strongly urges you to support the Scott amendment and to oppose the unjustified and unnecessary assault in H.R. 27 on our nation's longstanding commitment to eradicating employment discrimination in government-funded jobs. If you have any questions about H.R. 27 or would like further information on any other issue of importance to Americans United, please do not hesitate to contact Aaron D. Schuham, Legislative Director, at (202) 466-3234, extension 240.

Sincerely,

Rev. BARRY W. LYNN,
*Executive Director.*

---

Ms. McCOLLUM of Minnesota. Mr. Chairman, I rise in opposition to H.R. 27, the so-called Job Training Improvement Act of 2005.

Millions of Americans are unemployed today and finding it harder to get a job. According to the Minnesota Department of Employment and Economic Development, job seekers in Minnesota still out-number unfilled jobs by two-to-one.

Unfortunately, H.R. 27 does nothing to put people back to work. It doesn't shorten the lists of people waiting to use the resources at my one stops. It won't meet the needs of the approximately 8,000 Minnesota youth who can't get WIA job-related services every year. Instead, this bill unravels the very programs that ensure these workers have the skills and training they need to find high paying, long-term jobs.

H.R. 27 eliminates targeted programs designed to help both dislocated workers and unemployed adults find a job. It block grants dedicated assistance forcing low-income workers and welfare recipients to compete with dislocated workers for the same limited federal resources.

This bill eliminates dedicated funding for job search services, like Minnesota's Job Bank, which assists thousands of Minnesotans. This funding supports a rapid response system that meets the immediate needs of workers affected by mass layoffs. These changes threaten to break apart Minnesota's statewide workforce development system at the very time when these services are needed most to help unemployed workers find jobs.

In addition, H.R. 27 does nothing to ensure that these limited funds are used for training. It allows governors to take money away from adult education and veterans' job programs and use it to cover bureaucratic costs. Sadly, it also restricts youth funding to out-of-school youth. This will devastate the Building Lives Program, which Ramsey County uses to provide job training services to troubled teens during school hours.

Most concerning, however, is that this bill repeals basic civil rights protections for employees of job training programs by allowing organizations that receive Federal job-training funds to discriminate on the basis of religion.

I speak as a person who was brought up by a Lutheran mother and a Catholic father. I remember when my mother went to church to see her little girl receive her first communion and wasn't made to feel welcome. I don't want to go back to those days. I don't want the children I represent to know how it feels to be kept from fulfilling their dreams or meet their potential because someone doesn't like the church, mosque or synagogue you attend. Yet, this bill leads our country in that direction.

Mr. Chairman, I strongly believe that we must strengthen our workforce investment system to help Minnesotans get back to work. H.R. 27, however, fails to meet that goal and at the same time encourages rolling back civil rights protections. I urge my colleagues to reject this bill today.

Mr. ANDREWS. Mr. Chairman, while I did not support the Workforce Investment Act Reauthorization bill that was passed by this body, I would like to thank Chairman BOEHNER, as well as the Republican and Democratic Committee staffs, for assisting me in adding two significant amendments to the bill.

The first of these amendments relates to domestic microcredit, and ensures that local one-stop centers may use funding to provide information about the benefits of microcredit lending, and the local institutions that provide such loans, to individuals partaking in entrepreneurial training. The second amendment creates a demonstration project which will provide funds to industry consortia for the purpose of workforce training and development. Businesses, institutions of higher education, employee representatives, and workforce development community-based organizations within an industry will be able to join together to identify and address workforce needs within their given industry. These funds can be used to advance worker skills, conduct analyses of skill deficiencies and plans to address them, and develop rigorous training and education programs related to employment in high-growth, high-wage industries. The amendment creates a "win-win" for employers and employees, as it would help employers improve their workforce, and allow employees to obtain the skills necessary to advance their careers.

Again, I feel strongly that these amendments will result in positive changes to current law, and I thank Chairman BOEHNER as well as the Republican and Democratic staffs of the Education and the Workforce Committee for their assistance.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 27

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Job Training Improvement Act of 2005".*

***SEC. 2. TABLE OF CONTENTS.***

*Sec. 1. Short title.*
*Sec. 2. Table of contents.*
*Sec. 3. References.*

*TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998*

*Sec. 101. Definitions.*
*Sec. 102. Purpose.*
*Sec. 103. State workforce investment boards.*
*Sec. 104. State plan.*
*Sec. 105. Local workforce investment areas.*
*Sec. 106. Local workforce investment boards.*
*Sec. 107. Local plan.*
*Sec. 108. Establishment of one-stop delivery systems.*
*Sec. 109. Eligible providers of training services.*
*Sec. 110. Eligible providers of youth activities.*
*Sec. 111. Youth Activities.*
*Sec. 112. Comprehensive programs for adults.*
*Sec. 113. Performance accountability system.*
*Sec. 114. Authorization of appropriations.*
*Sec. 115. Job corps.*
*Sec. 116. Native American programs.*
*Sec. 117. Migrant and seasonal farmworker programs.*

Sec. 118. Veterans' workforce investment programs.
Sec. 119. Youth challenge grants.
Sec. 120. Technical assistance.
Sec. 121. Demonstration, pilot, multiservice, research and multi-State projects.
Sec. 122. Community-based job training.
Sec. 123. Personal Reemployment Accounts.
Sec. 124. Training for realtime writers.
Sec. 125. Business partnership grants.
Sec. 126. National dislocated worker grants.
Sec. 127. Authorization of appropriations for national activities.
Sec. 128. Requirements and restrictions.
Sec. 129. Nondiscrimination.
Sec. 130. Administrative provisions.
Sec. 131. General program requirements.

TITLE II—ADULT EDUCATION, BASIC SKILLS, AND FAMILY LITERACY EDUCATION

Sec. 201. Table of contents.
Sec. 202. Amendment.

TITLE III—AMENDMENTS TO THE WAGNER-PEYSER ACT

Sec. 301. Amendments to the Wagner-Peyser Act.

TITLE IV—AMENDMENTS TO THE REHABILITATION ACT OF 1973

Sec. 401. Findings.
Sec. 402. Rehabilitation Services Administration.
Sec. 403. Director.
Sec. 404. Definitions.
Sec. 405. State plan.
Sec. 406. Scope of services.
Sec. 407. Standards and indicators.
Sec. 408. Reservation for expanded transition services.
Sec. 409. Client assistance program.
Sec. 410. Protection and advocacy of individual rights.
Sec. 411. Chairperson.
Sec. 412. Authorizations of appropriations.
Sec. 413. Conforming amendment.
Sec. 414. Helen Keller National Center Act.

TITLE V—TRANSITION AND EFFECTIVE DATE

Sec. 501. Transition provisions.
Sec. 502. Effective date.

### SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.).

## TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

### SEC. 101. DEFINITIONS.

Section 101 (29 U.S.C. 2801) is amended—

(1) by striking paragraphs (13) and (24) and redesignating paragraphs (1) through (12) as paragraphs (3) through (14), and paragraphs (14) through (23) as paragraphs (15) through (24), respectively;

(2) by inserting after "In this title:" the following new paragraphs:

"(1) ACCRUED EXPENDITURES.—The term 'accrued expenditures' means charges incurred by recipients of funds under this title for a given period requiring the provision of funds for goods or other tangible property received; services performed by employees, contractors, subgrantees, and other payees; and other amounts becoming owed under programs assisted under this title for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

"(2) ADMINISTRATIVE COSTS.—The term 'administrative costs' means expenditures incurred by State and local workforce investment boards, direct recipients (including State grant recipients under subtitle B and recipients of awards under subtitle D), local grant recipients, local fiscal agents or local grant subrecipients, and one-stop operators in the performance of administrative functions and in carrying out activities under this title which are not related to the direct provision of workforce investment services (including services to participants and employers). Such costs include both personnel and nonpersonnel and both direct and indirect.";

(3) in paragraph (6) (as so redesignated), by inserting "(or such other level as the Governor may establish)" after "8th grade level";

(4) in paragraph (10) (as so redesignated)—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C)—

(i) by striking "not less than 50 percent of the cost of the training" and inserting "a significant portion of the cost of training, as determined by the local board"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(D) in the case of customized training with an employer in multiple local areas in the State, for which such employer pays a significant portion of the cost of the training, as determined by the Governor.";

(5) in paragraph (11)(A)(ii)(II) (as so redesignated) by striking "section 134(c)" and inserting "section 121(e)";

(6) in paragraph (14)(A) (as so redesignated) by striking "section 122(e)(3)" and inserting "section 122";

(7) in paragraph (25)—

(A) in subparagraph (B), by striking "higher of—" and all that follows through clause (ii) and inserting "poverty line for an equivalent period;"; and

(B) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively, and inserting after subparagraph (C) the following:

"(D) receives or is eligible to receive free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);";

(8) in paragraph (32) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia,"; and

(9) by striking paragraph (33) and redesignating paragraphs (34) through (53) as paragraphs (33) through (52), respectively.

### SEC. 102. PURPOSE.

Section 106 (29 U.S.C. 2811) is amended by inserting at the end the following: "It is also the purpose of this subtitle to provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities.".

### SEC. 103. STATE WORKFORCE INVESTMENT BOARDS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—Section 111(b) (29 U.S.C. 2821(b)) is amended—

(A) by amending paragraph (1)(C) to read as follows:

"(C) representatives appointed by the Governor, who are—

"(i)(I) the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners;

"(II) in any case in which no lead State agency official has responsibility for such a program or activity, a representative in the State with expertise relating to such program or activity; and

"(III) if not included under subclause (I), the director of the State unit, defined in section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 705(8)(B)) except that in a State that has established 2 or more designated State units to administer the vocational rehabilitation program, the board representative shall be the director of the designated State unit that serves the most individuals with disabilities in the State;

"(ii) the State agency officials responsible for economic development;

"(iii) representatives of business in the State who—

"(I) are owners of businesses, chief executive or operating officers of businesses, and other business executives or employers with optimum policy making or hiring authority, including members of local boards described in section 117(b)(2)(A)(i);

"(II) represent businesses with employment opportunities that reflect employment opportunities in the State; and

"(III) are appointed from among individuals nominated by State business organizations and business trade associations;

"(iv) chief elected officials (representing both cities and counties, where appropriate);

"(v) representatives of labor organizations, who have been nominated by State labor federations; and

"(vi) such other representatives and State agency officials as the Governor may designate."; and

(B) in paragraph (3), by striking "paragraph (1)(C)(i)" and inserting "paragraph (1)(C)(iii)".

(2) CONFORMING AMENDMENT.—Section 111(c) (29 U.S.C 2811(c)) is amended by striking "subsection (b)(1)(C)(i)" and inserting "subsection (b)(1)(C)(iii)".

(b) FUNCTIONS.—Section 111(d) (29 U.S.C. 2811(d)) is amended—

(1) in paragraph (2), by striking "section 134(c)" and inserting "section 121(e)";

(2) by amending paragraph (3) to read as follows:

"(3) development and review of statewide policies affecting the integrated provision of services through the one-stop delivery system described in section 121, including—

"(A) the development of criteria for, and the issuance of, certifications of one-stop centers;

"(B) the criteria for the allocation of one-stop center infrastructure funding under section 121(h), and oversight of the use of such funds;

"(C) approaches to facilitating equitable and efficient cost allocation in one-stop delivery systems; and

"(D) such other matters that may promote statewide objectives for, and enhance the performance of, one-stop delivery systems within the State;";

(3) in paragraph (4), by inserting "and the development of State criteria relating to the appointment and certification of local boards under section 117" after "section 116";

(4) in paragraph (5), by striking "sections 128(b)(3)(B) and 133(b)(3)(B)" and inserting "sections 128(b)(3) and 133(b)(3)"; and

(5) in paragraph (9), by striking "section 503" and inserting "section 136(i)".

(c) ELIMINATION OF ALTERNATIVE ENTITY AND PROVISION OF AUTHORITY TO HIRE STAFF.—Section 111(e) (29 U.S.C. 2821(e)) is amended to read as follows:

"(e) AUTHORITY TO HIRE STAFF.—The State board may hire staff to assist in carrying out the functions described in subsection (d).".

### SEC. 104. STATE PLAN.

(a) PLANNING CYCLE.—Section 112(a) (29 U.S.C. 2822(a)) is amended by striking "5-year strategy" and inserting "2-year strategy".

(b) CONTENTS.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) in paragraph (12)(A), by striking "sections 128(b)(3)(B) and 133(b)(3)(B)" and inserting "sections 128(b)(3) and 133(b)(3)";

(2) in paragraph (14), by striking "section 134(c)" and inserting "section 121(e)";

(3) in paragraph (17)(A)—

(A) in clause (iii) by striking "and";

(B) by amending clause (iv) to read as follows:

"(iv) how the State will serve the employment and training needs of dislocated workers (including displaced homemakers and formerly self-employed and transitioning farmers, ranchers, and fisherman) low income individuals (including recipients of public assistance), individuals with limited English proficiency, homeless individuals, ex-offenders, individuals training for nontraditional employment, and other individuals with multiple barriers to employment (including older individuals); and"; and

(C) by inserting after clause (iv) the following:

"(v) how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities) including the provision of outreach, intake, assessments, and service delivery, the development of performance measures, the training of staff, and other aspects of accessibility to program services, consistent with sections 504 and 508 of the Rehabilitation Act of 1973; and";

(4) in paragraph (18)(D), by striking "youth opportunity grants" and inserting "youth challenge grants"; and

(5) by adding at the end the following new paragraphs:

"(19) a description of the methodology for determining one-stop partner program contributions for the cost of the infrastructure of one-stop centers under section 121(h)(1) and of the formula for allocating such infrastructure funds to local areas under section 121(h)(3); and

"(20) a description of any programs and strategies the State will utilize to meet the needs of businesses in the State, including small businesses, which may include providing incentives and technical assistance to assist local areas in engaging employers in local workforce development activities.".

(c) MODIFICATION TO PLAN.—Section 112(d) (29 U.S.C. 2822(d)) is amended by striking "5-year period" and inserting "2-year period".

### SEC. 105. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) CONSIDERATIONS.—Section 116(a)(1)(B) (29 U.S.C. 2831(a)(1)(B)) is amended by adding at the end the following clause:

"(vi) The extent to which such local areas will promote efficiency in the administration and provision of services.".

(2) AUTOMATIC DESIGNATION.—Section 116(a)(2) (29 U.S.C. 2831(a)(2)) is amended to read as follows:

"(2) AUTOMATIC DESIGNATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph and subsection (b), the Governor shall approve a request for designation as a local area from—

"(i) any unit of general local government with a population of 500,000 or more; and

"(ii) an area served by a rural concentrated employment program grant recipient that served as a service delivery area or substate area under the Job Training Partnership Act (29 U.S.C. 1501 et seq.),

for the 2-year period covered by a State plan under section 112 if such request is made not later than the date of the submission of the State plan.

"(B) CONTINUED DESIGNATION BASED ON PERFORMANCE.—The Governor may deny a request for designation submitted pursuant to subparagraph (A) if such unit of government was designated as a local area for the preceding 2-year period covered by a State plan and the Governor determines that such local area did not perform successfully during such period.".

(b) REGIONAL PLANNING.—Section 116(c)(1) (29 U.S.C. 2831(c)(1)) is amended by adding at the end the following: "The State may require the local boards for the designated region to prepare a single regional plan that incorporates the elements of the local plan under section 118 and that is submitted and approved in lieu of separate local plans under such section.".

### SEC. 106. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) COMPOSITION.—Section 117(b)(2)(A) (29 U.S.C. 2832(b)(2)(A)) is amended—

(1) in clause (i)(II), by inserting ", businesses that are in the leading industries in the local area, and large and small businesses in the local area" after "local area";

(2) by amending clause (ii) to read as follows:

"(ii) a superintendent of the local secondary school system, an administrator of an entity providing adult education and literacy activities that is not a one-stop partner designated under section 121(b)(1)(B), and the president or chief executive officer of a postsecondary educational institution serving the local area (including community colleges, where such entities exist);";

(3) in clause (iv), by striking the semicolon and inserting "and faith-based organizations; and"; and

(4) by striking clause (vi).

(b) AUTHORITY OF BOARD MEMBERS.—Section 117(b)(3) (29 U.S.C. 2832(b) is amended—

(1) in the heading, by inserting "AND REPRESENTATION" after "MEMBERS"; and

(2) by adding at the end the following: "The members of the board shall represent diverse geographic sections within the local area.".

(c) FUNCTIONS.—Section 117(d) (29 U.S.C. 2832(d)) is amended—

(1) in paragraph (2)(B), by striking "by awarding grants" and all that follows through "youth council"; and

(2) in paragraph (4) by inserting ", and ensure the appropriate use and management of the funds provided under this title for such programs, activities, and system" after "area".

(d) AUTHORITY TO ESTABLISH COUNCILS AND ELIMINATION OF REQUIREMENT FOR YOUTH COUNCILS.—Section 117(h) (29 U.S.C. 2832(h)) is amended to read as follows:

"(h) ESTABLISHMENT OF COUNCILS.—The local board may establish councils to provide information and advice to assist the local board in carrying out activities under this title. Such councils may include a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system, a youth council composed of experts and stakeholders in youth programs to advise the local board on activities for youth, and such other councils as the local board determines are appropriate.".

(e) REPEAL OF ALTERNATIVE ENTITY PROVISION.—Section 117 (29 U.S.C. 2832) is further amended by striking subsection (i).

### SEC. 107. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(a) (29 U.S.C. 2833(a)) is amended by striking "5-year" and inserting "2-year".

(b) CONTENTS.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) a description of the one-stop delivery system to be established or designated in the local area, including a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers and participants;";

(2) in paragraph (4), by striking "and dislocated worker";

(3) in paragraph (9), by striking "; and" and inserting a semicolon; and

(4) by redesignating paragraph (10) as paragraph (12) and inserting after paragraph (9) the following:

"(10) a description of the strategies and services that will be initiated in the local area to engage employers, including small employers, in workforce development activities;

"(11) how the local area will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note) including the provision of outreach, intake, assessments, and service delivery, the development of performance measures, the training of staff, and other aspects of accessibility to program services, consistent with sections 504 and 508 of the Rehabilitation Act of 1973; and".

### SEC. 108. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—Section 121(b)(1) (29 U.S.C. 2841(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii) and (v);

(ii) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and by redesignating clauses (vi) through (xii) as clauses (iv) through (x), respectively;

(iii) in clause (ix) (as so redesignated), by striking "and" at the end;

(iv) in clause (x) (as so redesignated), by striking the period and inserting "; and"; and

(v) by inserting after clause (x)(as so redesignated) the following:

"(xi) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.), subject to subparagraph (C)."; and

(B) by adding after subparagraph (B) the following:

"(C) DETERMINATION BY THE GOVERNOR.—The program referred to in clause (xi) of subparagraph (B) shall be included as a required partner for purposes of this title in a State unless the Governor of the State notifies the Secretary and the Secretary of Health and Human Services in writing of a determination by the Governor not to include such programs as required partners for purposes of this title in the State.".

(2) ADDITIONAL PARTNERS.—Section 121(b)(2)(B) (29 U.S.C. 2841(b)(2)(B)) is amended—

(A) by striking clause (i) and redesignating clauses (ii) through (v) as clauses (i) through (iv) respectively;

(B) in clause (iii) (as so redesignated) by striking "and" at the end;

(C) in clause (iv) (as so redesignated) by striking the period and inserting a semicolon; and

(D) by adding at the end the following new clauses:

"(v) employment and training programs administered by the Social Security Administration, including the Ticket to Work program (established by Public Law 106–170);

"(vi) employment and training programs carried out by the Small Business Administration;

"(vii) programs under part D of title IV of the Social Security Act (42 U.S.C. 451 et seq.) (relating to child support enforcement);

"(viii) employment, training, and literacy services carried out by public libraries; and

"(ix) programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental health, mental retardation, and developmental disabilities, State Medicaid agencies, State Independent Living Councils, and Independent Living Centers.".

(b) PROVISION OF SERVICES.—Subtitle B of title I is amended—

(1) in section 121(d)(2), by striking "section 134(c)" and inserting "subsection (e)";

(2) by striking subsection (e) of section 121;

(3) by moving subsection (c) of section 134 from section 134, redesignating such subsection

*as subsection (e), and inserting such subsection (as so redesignated) after subsection (d) of section 121; and*

*(4) by amending subsection (e) of section 121 (as moved and redesignated by paragraph (2))—*

*(A) in paragraph (1)(A), by striking "subsection (d)(2)" and inserting "section 134(c)(2)";*

*(B) in paragraph (1)(B)—*

*(i) by striking "subsection (d)" and inserting "section 134(c)"; and*

*(ii) by striking "subsection (d)(4)(G)" and inserting "section 134(c)(4)(G)";*

*(C) in paragraph (1)(C), by striking "subsection (e)" and inserting "section 134(d)";*

*(D) in paragraph (1)(D), by striking "section 121(b)" and inserting "subsection (b)"; and*

*(E) by amending paragraph (1)(E) to read as follows:*

*"(E) shall provide access to the information described in section 15(e) of the Wagner-Peyser Act (29 U.S.C. 491-2(e)).".*

*(c) Certification and Funding of One-Stop Centers.—Section 121 (as amended by subsection (b)) is further amended by adding at the end the following new subsections:*

*"(g) Certification of One-Stop Centers.—*

*"(1) In general.—The State board shall establish procedures and criteria for periodically certifying one-stop centers for the purpose of awarding the one-stop infrastructure funding described in subsection (h).*

*"(2) Criteria.—The criteria for certification under this subsection shall include minimum standards relating to the scope and degree of service integration achieved by the centers involving the programs provided by the one-stop partners, and how the centers ensure that such providers meet the employment needs of local employers and participants.*

*"(3) Effect of certification.—One-stop centers certified under this subsection shall be eligible to receive the infrastructure grants authorized under subsection (h).*

*"(h) One-Stop Infrastructure Funding.—*

*"(1) Partner contributions.—*

*"(A) Provision of funds.—Notwithstanding any other provision of law, as determined under subparagraph (B), a portion of the Federal funds provided to the State and areas within the State under the Federal laws authorizing the one-stop partner programs described in subsection (b)(1)(B) and participating additional partner programs described in (b)(2)(B) for a fiscal year shall be provided to the Governor by such programs to carry out this subsection.*

*"(B) Determination of governor.—Subject to subparagraph (C), the Governor, in consultation with the State board, shall determine the portion of funds to be provided under subparagraph (A) by each one-stop partner and in making such determination shall consider the proportionate use of the one-stop centers by each partner, the costs of administration for purposes not related to one-stop centers for each partner, and other relevant factors described in paragraph (3).*

*"(C) Limitations.—*

*"(i) Provision from administrative funds.—The funds provided under this paragraph by each one-stop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the limitations with respect to the portion of funds under such programs that may be used for administration.*

*"(ii) Federal direct spending programs.—Programs that are Federal direct spending under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)) shall not, for purposes of this paragraph, be required to provide an amount in excess of the amount determined to be equivalent to the proportionate use of the one-stop centers by such programs in the State.*

*"(iii) Native American programs.—Native American programs established under section 166 shall not be subject to the provisions of this subsection. The method for determining the appropriate portion of funds to be provided by such Native American programs to pay for the costs of infrastructure of a one-stop center certified under subsection (g) shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.*

*"(2) Allocation by governor.—From the funds provided under paragraph (1), the Governor shall allocate funds to local areas in accordance with the formula established under paragraph (3) for the purposes of assisting in paying the costs of the infrastructure of One-Stop centers certified under subsection (g).*

*"(3) Allocation formula.—The State board shall develop a formula to be used by the Governor to allocate the funds described in paragraph (1). The formula shall include such factors as the State board determines are appropriate, which may include factors such as the number of centers in the local area that have been certified, the population served by such centers, and the performance of such centers.*

*"(4) Costs of infrastructure.—For purposes of this subsection, the term 'costs of infrastructure' means the nonpersonnel costs that are necessary for the general operation of a one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including adaptive technology for individuals with disabilities), strategic planning activities for the center, and common outreach activities.*

*"(i) Other Funds.—*

*"(1) In general.—In addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the one-stop partner programs described in subsection (b)(1)(B) and participating partner programs described in subsection (b)(2)(B), or the noncash resources available under such programs shall be used to pay the costs relating to the operation of the one-stop delivery system that are not paid for from the funds provided under subsection (h), to the extent not inconsistent with the Federal law involved including—*

*"(A) infrastructure costs that are in excess of the funds provided under subsection (h);*

*"(B) common costs that are in addition to the costs of infrastructure; and*

*"(C) the costs of the provision of core services applicable to each program.*

*"(2) Determination and guidance.—The method for determining the appropriate portion of funds and noncash resources to be provided by each program under paragraph (1) shall be determined as part of the memorandum of understanding under subsection (c). The State board shall provide guidance to facilitate the determination of appropriate allocation of the funds and noncash resources in local areas.".*

### SEC. 109. ELIGIBLE PROVIDERS OF TRAINING SERVICES.

*Section 122 (29 U.S.C. 2842) is amended to read as follows:*

### "SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

*"(a) In General.—The Governor shall establish criteria and procedures regarding the eligibility of providers of training services described in section 134(c)(4) to receive funds provided under section 133(b) for the provision of such training services.*

*"(b) Criteria.—*

*"(1) In general.—The criteria established pursuant to subsection (a) shall take into account the performance of providers of training services with respect to the indicators described in section 136 or other appropriate indicators (taking into consideration the characteristics of the population served and relevant economic conditions), and such other factors as the Governor determines are appropriate to ensure the quality of services, the accountability of providers, how the centers ensure that such providers meet the needs of local employers and participants, whether providers of training allow participants to attain a certification, certificate, or mastery, and the informed choice of participants under chapter 5. Such criteria shall require that the provider submit appropriate, accurate and timely information to the State for purposes of carrying out subsection (d). The criteria shall also provide for periodic review and renewal of eligibility under this section for providers of training services. The Governor may authorize local areas in the State to establish additional criteria or to modify the criteria established by the Governor under this section for purposes of determining the eligibility of providers of training services to provide such services in the local area.*

*"(2) Limitation.—In carrying out the requirements of this subsection, no personally identifiable information regarding a student, including Social Security number, student identification number, or other identifier, may be disclosed without the prior written consent of the parent or eligible student in compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).*

*"(c) Procedures.—The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds under section 133(b) for the provision of training services, and identify the respective roles of the State and local areas in receiving and reviewing applications and in making determinations of eligibility based on the criteria established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.*

*"(d) Information To Assist Participants in Choosing Providers.—*

*"(1) In general.—In order to facilitate and assist participants under chapter 5 in choosing providers of training services, the Governor shall ensure that an appropriate list or lists of providers determined eligible under this section in the State, accompanied by such information as the Governor determines is appropriate, is provided to the local boards in the State to be made available to such participants and to members of the public through the one-stop delivery system in the State.*

*"(2) Special rule.—An entity that carries out programs under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act', 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) shall be included on the list of eligible providers described in paragraph (1) for so long as such entity remains certified by the Department of Labor.*

*"(e) Agreements With Other States.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept individual training accounts provided in another State.*

*"(f) Recommendations.—In developing the criteria, procedures, and information required under this section, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.*

*"(g) Opportunity To Submit Comments.—During the development of the criteria, procedures, and information required under this section, the Governor shall provide an opportunity*

for interested members of the public, including representatives of business and labor organizations, to submit comments regarding such criteria, procedures, and information.

"(h) ON-THE-JOB TRAINING OR CUSTOMIZED TRAINING EXCEPTION.—

"(1) IN GENERAL.—Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (g).

"(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.".

**SEC. 110. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.**

(a) ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.—Section 123 (29 U.S.C. 2843) is amended to read as follows:

**"SEC. 123. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.**

"(a) IN GENERAL.—From the funds allocated under section 128(b) to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan and shall conduct oversight with respect to such providers.

"(b) EXCEPTIONS.—A local board may award grants or contracts on a sole-source basis if such board determines there are an insufficient number of eligible providers of training services in the local area involved (such as rural areas) for grants to be awarded on a competitive basis under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) is amended by amending the item related to section 123 to read as follows:

"Sec. 123. Eligible providers of youth activities.".

**SEC. 111. YOUTH ACTIVITIES.**

(a) STATE ALLOTMENTS.—

(1) IN GENERAL.—Section 127(a) (29 U.S.C. 2852(a)) is amended to read as follows:

"(a) ALLOTMENT AMONG STATES.—

"(1) YOUTH ACTIVITIES.—

"(A) YOUTH CHALLENGE GRANTS.—

"(i) RESERVATION OF FUNDS.—Of the amount appropriated under section 137(a) for each fiscal year, the Secretary shall reserve 25 percent to provide youth challenge grants under section 169.

"(ii) LIMITATION.—Notwithstanding clause (i), if the amount appropriated under section 137(a) for a fiscal year exceeds $1,000,000,000, the Secretary shall reserve $250,000,000 to provide youth challenge grants under section 169.

"(B) OUTLYING AREAS AND NATIVE AMERICANS.—

"(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), of the remainder of the amount appropriated under section 137(a) for each fiscal year the Secretary shall—

"(I) reserve not more than $\frac{1}{4}$ of one percent of such amount to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities; and

"(II) reserve not more than 1 and $\frac{1}{2}$ percent of such amount to provide youth activities under section 166 (relating to Native Americans).

"(ii) RESTRICTION.—The Republic of Palau shall cease to be eligible to receive funding under this subparagraph upon entering into an agreement for extension of United States educational assistance under the Compact of Free Association (approved by the Compact of Free Association Amendments Act of 2003 (Public Law 108-188)) after the date of enactment of the Job Training Improvement Act of 2005.

"(C) STATES.—

"(i) IN GENERAL.—Of the remainder of the amount appropriated under section 137(a) for a fiscal year that is available after determining the amounts to be reserved under subparagraphs (A) and (B), the Secretary shall allot—

"(I) the amount of the remainder that is less than or equal to the total amount that was allotted to States for fiscal year 2005 under section 127(b)(1)(C) of this Act (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) in accordance with the requirements of such section 127(b)(1)(C); and

"(II) the amount of the remainder, if any, in excess of the amount referred to in subclause (I) in accordance with clause (ii).

"(ii) FORMULAS FOR EXCESS FUNDS.—Subject to clauses (iii) and (iv), of the amounts described in clause (i)(II)—

"(I) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16–19 in each State, compared to the total number of individuals in the civilian labor force who are ages 16–19 in all States;

"(II) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States; and

"(III) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each State, compared to the total number of disadvantaged youth who are ages 16 through 21 in all States.

"(iii) MINIMUM AND MAXIMUM PERCENTAGES.—The Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than 90 percent or greater than 130 percent of the allotment percentage of that State for the preceding fiscal year.

"(iv) SMALL STATE MINIMUM ALLOTMENT.—Subject to clause (iii), the Secretary shall ensure that no State shall receive an allotment under this paragraph that is less than $\frac{3}{10}$ of 1 percent of the amount available under subparagraph (A).

"(2) DEFINITIONS.—For the purposes of paragraph (1), the following definitions apply:

"(A) ALLOTMENT PERCENTAGE.—The term 'allotment percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received through an allotment made under this subsection for the fiscal year. The term, with respect to fiscal year 2005, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) that is received by the State involved for fiscal year 2005.

"(B) DISADVANTAGED YOUTH.—The term 'disadvantaged youth' means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the poverty line.

"(3) SPECIAL RULE.—For purposes of the formulas specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.".

(2) REALLOTMENT.—Section 127 (29 U.S.C. 2552) is further amended—

(A) by striking subsection (b);

(B) by redesignating subsection (c) as subsection (b);

(C) in subsection (b) (as so redesignated)—

(i) by amending paragraph (2) to read as follows:

"(2) AMOUNT.—The amount available for reallotment for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under this section during such prior program year (including amounts allotted to the State in all prior program years that remained available). For purposes of this paragraph, the expended balance is the amount that is the difference between—

"(A) the total amount of funds available to the State under this section during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years that remained available); and

"(B) the accrued expenditures during such prior program year.";

(ii) in paragraph (3)—

(I) by striking "for the prior program year" and inserting "for the program year in which the determination is made"; and

(II) by striking "such prior program year" and inserting "such program year";

(iii) by amending paragraph (4) to read as follows:

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State which does not have an amount available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made."; and

(iv) in paragraph (5), by striking "obligation" and inserting "accrued expenditure".

(b) WITHIN STATE ALLOCATIONS.—

(1) RESERVATION FOR STATEWIDE ACTIVITIES.—Section 128(a) is amended to read as follows:

"(a) RESERVATION FOR STATEWIDE ACTIVITIES.—

"(1) IN GENERAL.—The Governor of a State shall reserve not more than 10 percent of the amount allotted to the State under section 127(a)(1)(C) for a fiscal year for statewide activities.

"(2) USE OF FUNDS.—Regardless of whether the amounts are allotted under section 127(a)(1)(C) and reserved under paragraph (1) or allotted under section 132 and reserved under section 133(a), the Governor may use the reserved amounts to carry out statewide youth activities under section 129(b) or statewide employment and training activities under section 133.".

(2) WITHIN STATE ALLOCATIONS.—Section 128(b) is amended to read as follows:

"(b) WITHIN STATE ALLOCATION.—

"(1) IN GENERAL.—Of the amounts allotted to the State under section 127(a)(1)(C) and not reserved under subsection (a)(1)—

"(A) 80 percent of such amounts shall be allocated by the Governor to local areas in accordance with paragraph (2); and

"(B) 20 percent of such amounts shall be allocated by the Governor to local areas in accordance with paragraph (3).

"(2) ESTABLISHED FORMULA.—

"(A) IN GENERAL.—Of the amounts described in paragraph (1)(A), the Governor shall allocate—

"(i) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16–19 in each local area, compared to the total number of individuals in the civilian labor force who are ages 16–19 in all local areas in the State;

"(ii) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State; and "(iii) 33⅓ percent on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each local area, compared to the total number of disadvantaged youth who are ages 16 through 21 in all local areas in the State.

"(B) MINIMUM AND MAXIMUM PERCENTAGES.—The Governor shall ensure that no local area shall receive an allocation for a fiscal year under this paragraph that is less than 90 percent or greater than 130 percent of the allocation percentage of the local area for the preceding fiscal year.

"(C) DEFINITIONS.—

"(i) ALLOCATION PERCENTAGE.—For purposes of this paragraph, the term 'allocation percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the amount described in paragraph(1)(A) that is received through an allocation made under this paragraph for the fiscal year. The term, with respect to fiscal year 2005, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) that is received by the local area involved for fiscal year 2005.

"(ii) DISADVANTAGED YOUTH.—The term 'disadvantaged youth' means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the poverty line.

"(3) YOUTH DISCRETIONARY ALLOCATION.—The Governor shall allocate to local areas the amounts described in paragraph (1)(B) in accordance with such demographic and economic factors as the Governor, after consultation with the State board and local boards, determines are appropriate.

"(4) LOCAL ADMINISTRATIVE COST LIMIT.—

"(A) IN GENERAL.—Of the amounts allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local boards for the administrative costs of carrying out local workforce investment activities under this chapter or chapter 5.

"(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 5, regardless of whether the funds were allocated under this subsection or section 133(b).".

(3) REALLOCATION.—Section 128(c) (29 U.S.C. 2853(c)) is amended—

(A) in paragraph (1), by striking "paragraph (2)(A) or (3) of";

(B) by amending paragraph (2) to read as follows:

"(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under this section during such prior program year, (including amounts allotted to the local area in prior program years that remain available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

"(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and

"(B) the accrued expenditures during such prior program year.";

(C) by amending paragraph (3)—

(i) by striking "subsection (b)(3)" the first two places it appears and inserting "subsection (b)";

(ii) by striking "the prior program year" and inserting "the program year in which the determination is made";

(iii) by striking "such prior program year" and inserting "such program year"; and

(iv) by striking the last sentence; and

(D) by amending paragraph (4) to read as follows:

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area which does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.".

(c) YOUTH PARTICIPANT ELIGIBILITY.—Section 129(a) (29 U.S.C. 2854(a)) is amended to read as follows:

"(a) YOUTH PARTICIPANT ELIGIBILITY.—

"(1) IN GENERAL.—The individuals participating in activities carried out under this chapter by a local area during any program year shall be individuals who, at the time the eligibility determination is made, are—

"(A) not younger than age 16 or older than age 24; and

"(B) one or more of the following:

"(i) school dropouts;

"(ii) recipients of a secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities) who are deficient in basic skills and not attending any school;

"(iii) court-involved youth attending an alternative school;

"(iv) youth in foster care or who have been in foster care; or

"(v) in school youth who are low-income individuals and one or more of the following:

"(I) Deficient in literacy skills.

"(II) Homeless, runaway, or foster children.

"(III) Pregnant or parents.

"(IV) Offenders.

"(V) Individuals who require additional assistance to complete an educational program, or to secure and hold employment.

"(2) PRIORITY FOR SCHOOL DROPOUTS.—A priority in the provision of services under this chapter shall be given to individuals who are school dropouts.

"(3) LIMITATIONS ON ACTIVITIES FOR IN-SCHOOL YOUTH.—

"(A) PERCENTAGE OF FUNDS.—For any program year, not more than 30 percent of the funds available for statewide activities under subsection (b), and not more than 30 percent of funds available to local areas under subsection (c), may be used to provide activities for in-school youth meeting the requirements of paragraph (1)(B)(v).

"(B) NON-SCHOOL HOURS REQUIRED.—

"(i) IN GENERAL.—Except as provided in clause (ii), activities carried out under this chapter for in-school youth meeting the requirements of paragraph (1)(B)(v) shall only be carried out in non-school hours or periods when school is not in session (such as before and after school or during recess).

"(ii) EXCEPTION.—The requirements of clause (i) shall not apply to activities carried out for in-school youth meeting the requirements of paragraph (1)(B)(v) during school hours that are part of a program that has demonstrated effectiveness in high school youth attaining diplomas.".

(d) STATEWIDE YOUTH ACTIVITIES.—Section 129(b) (29 U.S.C. 2854(b)) is amended to read as follows:

"(b) STATEWIDE ACTIVITIES.—

"(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1) may be used for statewide activities including—

"(A) additional assistance to local areas that have high concentrations of eligible youth;

"(B) supporting the provision of core services described in section 134(c)(2) in the one-stop delivery system;

"(C) conducting evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172, research, and demonstration projects;

"(D) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated region as described in section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance by local areas on the local performance measures;

"(E) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures;

"(F) operating a fiscal and management accountability system under section 136(f); and

"(G) carrying out monitoring and oversight of activities under this chapter and chapter 5.

"(2) LIMITATION.—Not more than 5 percent of the funds allotted under section 127(b) shall be used by the State for administrative activities carried out under this subsection and section 133(a).

"(3) PROHIBITION.—No funds described in this subsection or in section 134(a) may be used to develop or implement education curricula for school systems in the State.".

(e) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Section 129(c)(1) (29 U.S.C. 2854(c) (1)) is amended—

(A) in the matter preceding subparagraph (A), by striking "paragraph (2)(A) or (3), as appropriate, of";

(B) in subparagraph (B), by inserting "are directly linked to one or more of the performance outcomes relating to this chapter under section 136, and that" after "for each participant that"; and

(C) in subparagraph (C)—

(i) by redesignating clauses (i) through (iv) as clauses (ii) through (v), respectively;

(ii) by inserting before clause (ii) (as so redesignated) the following:

"(i) activities leading to the attainment of a secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities);";

(iii) in clause (ii) (as so redesignated), by inserting "and advanced training" after "opportunities";

(iv) in clause (iii) (as so redesignated), by inserting "that lead to the attainment of recognized credentials" after "learning"; and

(v) by amending clause (v) (as redesignated by this subparagraph) to read as follows:

"(v) effective connections to employers in sectors of the local labor market experiencing high growth in employment opportunities.".

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking "secondary school, including dropout prevention strategies" and inserting "secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities), including dropout prevention strategies";

(B) in subparagraph (I), by striking "and" at the end;

(C) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(K) on-the-job training opportunities; and

"(L) financial literacy skills.".

(3) ADDITIONAL REQUIREMENTS.—Section 129(c)(3)(A) (29 U.S.C. 2854(c)(3)(A)) is amended in the matter preceding clause (i) by striking "or applicant who meets the minimum income criteria to be considered an eligible youth".

(4) PRIORITY AND EXCEPTIONS.—Section 129(c) (29 U.S.C. 2854(c)) is further amended—

(A) by striking paragraphs (4) and (5);

(B) by redesignating paragraph (6) as paragraph (4);

(C) by redesignating paragraph (7) as paragraph (5), and in such redesignated paragraph (5) by striking "youth councils" and inserting "local boards"; and

(D) by redesignating paragraph (8) as paragraph (6).

### SEC. 112. COMPREHENSIVE PROGRAMS FOR ADULTS.

(a) TITLE AMENDMENT.—

(1) The title heading of chapter 5 is amended to read as follows:

### "CHAPTER 5—COMPREHENSIVE EMPLOYMENT AND TRAINING ACTIVITIES FOR ADULTS".

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) is amended by amending the item related to the heading for chapter 5 to read as follows:

"CHAPTER 5—COMPREHENSIVE EMPLOYMENT AND TRAINING ACTIVITIES FOR ADULTS".

(b) GENERAL AUTHORIZATION.—Section 131 (29 U.S.C. 2861) is amended—

(1) by striking "paragraphs (1)(B) and (2)(B) of"; and

(2) by striking ", and dislocated workers,".

(c) STATE ALLOTMENTS.—

(1) IN GENERAL.—Section 132(a) (29 U.S.C. 2862(a)) is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall—

"(1) reserve 10 percent of the amount appropriated under section 137(b) for a fiscal year, of which—

"(A) not less than 75 percent shall be used for national dislocated worker grants under section 173, of which up to $125,000,000 may be used to carry out section 171(d);

"(B) not more than 20 percent may be used for demonstration projects under section 171; and

"(C) not more than 5 percent may be used to provide technical assistance under section 170; and

"(2) make allotments from 90 percent of the amount appropriated under section 137(b) for a fiscal year in accordance with subsection (b).".

(2) ALLOTMENT AMONG STATES.—Section 132(b) (29 U.S.C. 2862(b)) is amended to read as follows:

"(b) ALLOTMENT AMONG STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

"(1) RESERVATION FOR OUTLYING AREAS.—

"(A) IN GENERAL.—From the amount made available under subsection (a)(2) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent to provide assistance to outlying areas to carry out employment and training activities for adults and statewide workforce investment activities.

"(B) RESTRICTION.—The Republic of Palau shall cease to be eligible to receive funding under this paragraph upon entering into an agreement for extension of United States educational assistance under the Compact of Free Association (approved by the Compact of Free Association Amendments Act of 2003 (Public Law 108–188)) after the date of enactment of the Job Training Improvement Act of 2005.

"(2) STATES.—Subject to paragraph (5), of the remainder of the amount referred to under subsection (a)(2) for a fiscal year that is available after determining the amount to be reserved under paragraph (1), the Secretary shall allot to the States for employment and training activities for adults and for statewide workforce investment activities—

"(A) 26 percent in accordance with paragraph (3); and

"(B) 74 percent in accordance with paragraph (4).

"(3) BASE FORMULA.—

"(A) FISCAL YEAR 2006.—

"(i) IN GENERAL.—Subject to clause (ii), the amount referred to in paragraph (2)(A) shall be allotted for fiscal year 2006 on the basis of allotment percentage of each State under section 6 of the Wagner-Peyser Act for fiscal year 2005.

"(ii) EXCESS AMOUNTS.—If the amount referred to in paragraph (2)(A) for fiscal year 2006 exceeds the amount that was available for allotment to the States under the Wagner-Peyser Act for fiscal year 2005, such excess amount shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, compared to the total number of individuals in the civilian labor force in all States, adjusted to ensure that no State receives less than 3/10 of one percent of such excess amount.

"(iii) DEFINITION.—For purposes of this subparagraph, the term 'allotment percentage' means the percentage of the amounts allotted to States under section 6 of the Wagner-Peyser Act that is received by the State involved for fiscal year 2005.

"(B) FISCAL YEARS 2007 AND THEREAFTER.—

"(i) IN GENERAL.—Subject to clause (ii), the amount referred to in paragraph(2)(A) shall be allotted for fiscal year 2007 and each fiscal year thereafter on the basis of the allotment percentage of each State under this paragraph for the preceding fiscal year.

"(ii) EXCESS AMOUNTS.—If the amount referred to in paragraph (2)(A) for fiscal year 2007 or any fiscal year thereafter exceeds the amount that was available for allotment under this paragraph for the prior fiscal year, such excess amount shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, compared to the total number of individuals in the civilian labor force in all States, adjusted to ensure that no State receives less than 3/10 of one percent of such excess amount.

"(iii) DEFINITION.—For purposes of this subparagraph, the term 'allotment percentage' means the percentage of the amounts allotted to States under this paragraph in a fiscal year that is received by the State involved for such fiscal year.

"(4) CONSOLIDATED FORMULA.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the amount referred to in paragraph (2)(B)—

"(i) 60 percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

"(ii) 25 percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

"(iii) 15 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States.

"(B) MINIMUM AND MAXIMUM PERCENTAGES.—

"(i) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment under this paragraph for a fiscal year that is less than 90 percent of the allotment percentage of the State under this paragraph for the preceding fiscal year.

"(ii) MAXIMUM PERCENTAGE.—Subject to clause (i), the Secretary shall ensure that no State shall receive an allotment for a fiscal year under this paragraph that is more than 130 percent of the allotment of the State under this paragraph for the preceding fiscal year.

"(C) SMALL STATE MINIMUM ALLOTMENT.—Subject to subparagraph (B), the Secretary shall ensure that no State shall receive an allotment under this paragraph that is less than 2/10 of 1 percent of the amount available under subparagraph (A).

"(D) DEFINITIONS.—For the purposes of this paragraph:

"(i) ALLOTMENT PERCENTAGE.—The term 'allotment percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the amounts described in paragraph (2)(B) that is received through an allotment made under this paragraph for the fiscal year. The term, with respect to fiscal year 2005, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) and under reemployment service grants received by the State involved for fiscal year 2005.

"(ii) DISADVANTAGED ADULT.—The term 'disadvantaged adult' means an individual who is age 22 through 72 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the poverty line.

"(iii) EXCESS NUMBER.—The term 'excess number' means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4½ percent of the civilian labor force in the State.

"(5) ADJUSTMENTS IN ALLOTMENTS BASED ON DIFFERENCES WITH UNCONSOLIDATED FORMULAS.—

"(A) IN GENERAL.—The Secretary shall ensure that for any fiscal year no State has an allotment difference, as defined in subparagraph (C), that is less than zero. The Secretary shall adjust the amounts allotted to the States under this subsection in accordance with subparagraph (B) if necessary to carry out this subparagraph.

"(B) ADJUSTMENTS IN ALLOTMENTS.—

"(i) REDISTRIBUTION OF EXCESS AMOUNTS.—

"(I) IN GENERAL.—If necessary to carry out subparagraph (A), the Secretary shall reduce the amounts that would be allotted under paragraphs (3) and (4) to States that have an excess allotment difference, as defined in subclause (II), by the amount of such excess, and use such amounts to increase the allotments to States that have an allotment difference less than zero.

"(II) EXCESS AMOUNTS.—For purposes of subclause (I), the term 'excess' allotment difference means an allotment difference for a State that is—

"(aa) in excess of 3 percent of the amount described in subparagraph (C)(i)(II); or

"(bb) in excess of a percentage established by the Secretary that is greater than 3 percent of the amount described in subparagraph (C)(i)(II) if the Secretary determines that such greater percentage is sufficient to carry out subparagraph (A).

"(ii) USE OF AMOUNTS AVAILABLE UNDER NATIONAL RESERVE ACCOUNT.—If the funds available under clause (i) are insufficient to carry out subparagraph (A), the Secretary shall use funds reserved under section 132(a) in such amounts as are necessary to increase the allotments to States to meet the requirements of subparagraph (A). Such funds shall be used in the same manner as the States use the other funds allotted under this subsection.

"(C) DEFINITION OF ALLOTMENT DIFFERENCE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'allotment difference' means the difference between—

"(I) the total amount a State would receive of the amounts available for allotment under subsection (b)(2) for a fiscal year pursuant to paragraphs (3) and (4); and

*"(II) the total amount the State would receive of the amounts available for allotment under subsection (b)(2) for the fiscal year if such amounts were allotted pursuant to the unconsolidated formulas (applied as described in clause (iii)) that were used in allotting funds for fiscal year 2005.*

*"(ii) UNCONSOLIDATED FORMULAS.—For purposes of clause (i), the unconsolidated formulas are:*

*"(I) The requirements for the allotment of funds to the States contained in section 132(b)(1)(B) of this Act (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) that were applicable to the allotment of funds under such section for fiscal year 2005.*

*"(II) The requirements for the allotment of funds to the States contained in section 132(b)(2)(B) of this Act (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) that were applicable to the allotment of funds under such section for fiscal year 2005.*

*"(III) The requirements for the allotment of funds to the States that were contained in section 6 of the Wagner-Peyser Act (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) that were applicable to the allotment of funds under such Act for fiscal year 2005.*

*"(IV) The requirements for the allotment of funds to the States that were established by the Secretary for Reemployment Services Grants that were applicable to the allotment of funds for such grants for fiscal year 2005.*

*"(iii) PROPORTIONATE APPLICATION OF UNCONSOLIDATED FORMULAS BASED ON FISCAL YEAR 2005.—In calculating the amount under clause (i)(II), each of the unconsolidated formulas identified in clause (ii) shall be applied, respectively, only to the proportionate share of the total amount of funds available for allotment under subsection (b)(2) for a fiscal year that is equal to the proportionate share to which each of the unconsolidated formulas applied with respect to the total amount of funds allotted to the States under all of the unconsolidated formulas in fiscal year 2005.*

*"(iv) RULE OF CONSTRUCTION.—The amounts used to adjust the allotments to a State under subparagraph (B) for a fiscal year shall not be included in the calculation of the amounts under clause (i) for a subsequent fiscal year, including the calculation of allocation percentages for a preceding fiscal year applicable to paragraphs (3) and (4) and to the unconsolidated formulas described in clause (ii).".*

*(3) REALLOTMENT.—Section 132(c) (29 U.S.C. 2862(c)) is amended—*

*(A) by amending paragraph (2) to read as follows:*

*"(2) AMOUNT.—The amount available for reallotment for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under this section during such prior program year (including amounts allotted to the State in all prior program years that remained available). For purposes of this paragraph, the expended balance is the amount that is the difference between—*

*"(A) the total amount of funds available to the State under this section during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years that remained available); and*

*"(B) the accrued expenditures during such prior program year.";*

*(B) in paragraph (3)—*

*(i) by striking "for the prior program year" and inserting "for the program year in which the determination is made"; and*

*(ii) by striking "such prior program year" and inserting "such program year";*

*(C) by amending paragraph (4) to read as follows:*

*"(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that does not have an amount available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made."; and*

*(D) in paragraph (5), by striking "obligation" and inserting "accrued expenditure".*

*(d) WITHIN STATE ALLOCATIONS.—*

*(1) RESERVATION FOR STATE ACTIVITIES.—Section 133(a) (29 U.S.C. 2863(a)) is amended to read as follows:*

*"(a) RESERVATION FOR STATEWIDE ACTIVITIES.—The Governor of a State may reserve up to 50 percent of the total amount allotted to the State under section 132 for a fiscal year to carry out the statewide activities described in section 134(a).".*

*(2) ALLOCATIONS TO LOCAL AREAS.—Section 133(b) (29 U.S.C. 2863(b)) is amended to read as follows:*

*"(b) ALLOCATIONS TO LOCAL AREAS.—*

*"(1) IN GENERAL.—Of the amounts allotted to the State under section 132(b)(2) and not reserved under subsection (a)—*

*"(A) 85 percent of such amounts shall be allocated by the Governor to local areas in accordance with paragraph (2); and*

*"(B) 15 percent of such amounts shall be allocated by the Governor to local areas in accordance with paragraph (3).*

*"(2) ESTABLISHED FORMULA.—*

*"(A) IN GENERAL.—Of the amounts described in paragraph (1)(A), the Governor shall allocate—*

*"(i) 60 percent on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State;*

*"(ii) 25 percent on the basis of the relative excess number of unemployed individuals in each local area, compared to the total excess number of unemployed individuals in all local areas in the State; and*

*"(iii) 15 percent shall be allotted on the basis of the relative number of disadvantaged adults in each local area, compared to the total number of disadvantaged adults in all local areas in the State.*

*"(B) MINIMUM AND MAXIMUM PERCENTAGES.—The Governor shall ensure that no local area shall receive an allocation for a fiscal year under this paragraph that is less than 90 percent or greater than 130 percent of the allocation percentage of the local area for the preceding fiscal year.*

*"(C) DEFINITIONS.—*

*"(i) ALLOCATION PERCENTAGE.—The term 'allocation percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the amount described in paragraph (1)(A) that is received through an allocation made under this paragraph for the fiscal year. The term, with respect to fiscal year 2005, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the day before the date of enactment of the Job Training Improvement Act of 2005) that is received by the local area involved for fiscal year 2005.*

*"(ii) DISADVANTAGED ADULT.—The term 'disadvantaged adult' means an individual who is age 22 through 72 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the poverty line.*

*"(iii) EXCESS NUMBER.—The term 'excess number' means, used with respect to the excess number of unemployed individuals within a local area, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the local area.*

*"(3) DISCRETIONARY ALLOCATION.—The Governor shall allocate to local areas the amounts described in paragraph (1)(B) based on a formula developed in consultation with the State board and local boards. Such formula shall be objective and geographically equitable and may include such demographic and economic factors as the Governor, after consultation with the State board and local boards, determines are appropriate.*

*"(4) LOCAL ADMINISTRATIVE COST LIMIT.—*

*"(A) IN GENERAL.—Of the amounts allocated to a local area under this subsection and section 128(b) for a fiscal year, not more than 10 percent of the amount may be used by the local boards for the administrative costs of carrying out local workforce investment activities under this chapter or chapter 4.*

*"(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 4, regardless of whether the funds were allocated under this subsection or section 128(b).".*

*(3) REALLOCATION AMONG LOCAL AREAS.—Section 133(c) (29 U.S.C. 2863(c)) is amended—*

*(A) in paragraph (1), by striking "paragraph (2)(A) or (3) of";*

*(B) by amending paragraph (2) to read as follows:*

*"(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under this section during such prior program year (including amounts allotted to the local area in prior program years that remain available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—*

*"(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and*

*"(B) the accrued expenditures during such prior program year.";*

*(C) by amending paragraph (3)—*

*(i) by striking "subsection (b)(3)" the first two places it appears and inserting "subsection (b)";*

*(ii) by striking "the prior program year" and inserting "the program year in which the determination is made";*

*(iii) by striking "such prior program year" and inserting "such program year"; and*

*(iv) by striking the last sentence; and*

*(D) by amending paragraph (4) to read as follows:*

*"(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area which does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.".*

*(e) USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.—*

*(1) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—*

*(A) IN GENERAL.—Section 134(a)(1) (29 U.S.C. 2864(a)(1) is amended to read as follows:*

*"(1) IN GENERAL.—*

*"(A) REQUIRED USE OF FUNDS.—Not less than 50 percent of the funds reserved by a Governor under section 133(a) shall be used to support the provision of core services in local areas, consistent with the local plan, through one-stop delivery systems by distributing funds to local*

*areas in accordance with subparagraph (B). Such funds may be used by States to employ State personnel to provide such services in designated local areas in consultation with local boards.*

*"(B) METHOD OF DISTRIBUTING FUNDS.—The method of distributing funds under this paragraph shall be developed in consultation with the State board and local boards. Such method of distribution, which may include the formula established under section 121(h)(3), shall be objective and geographically equitable, and may include factors such as the number of centers in the local area that have been certified, the population served by such centers, and the performance of such centers.*

*"(C) OTHER USE OF FUNDS.—Funds reserved by a Governor for a State—*

*"(i) under section 133(a) and not used under subparagraph (A), may be used for statewide activities described in paragraph (2); and*

*"(ii) under section 133(a) and not used under subparagraph (A), and under section 128(a) may be used to carry out any of the statewide employment and training activities described in paragraph (3).".*

*(B) STATEWIDE RAPID RESPONSE ACTIVITIES.—Section 134(a)(2) (29 U.S.C. 2864(a)(2)) is amended to read as follows:*

*"(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall carry out statewide rapid response activities using funds reserved as described in section 133(a). Such activities shall include—*

*"(A) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas; and*

*"(B) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials in the local areas.".*

*(C) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(3) (29 U.S.C. 2864(a)(3)) is amended to read as follows:*

*"(3) STATEWIDE ACTIVITIES.—Funds reserved by a Governor for a State as described in sections 133(a) and 128(a) may be used for statewide activities including—*

*"(A) supporting the provision of core services described in section 134(c)(2) in the one-stop delivery system;*

*"(B) conducting evaluations under section 136(e) of activities authorized under this chapter and chapter 4 in coordination with evaluations carried out by the Secretary under section 172, research, and demonstration projects;*

*"(C) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated region as described in section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance by local areas on the local performance measures;*

*"(D) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures;*

*"(E) operating a fiscal and management accountability system under section 136(f);*

*"(F) carrying out monitoring and oversight of activities carried out under this chapter and chapter 4;*

*"(G) implementing innovative programs, such as incumbent worker training programs, programs and strategies designed to meet the needs of businesses in the State, including small businesses, and engage employers in workforce activities, and programs serving individuals with disabilities consistent with section 188;*

*"(H) developing strategies for effectively serving hard-to-serve populations and for integrating programs and services among one-stop partners;*

*"(I) implementing innovative programs for displaced homemakers, which for purposes of this subparagraph may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);*

*"(J) implementing programs to increase the number of individuals training for and placed in nontraditional employment; and*

*"(K) carrying out activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology.".*

*(D) LIMITATION ON STATE ADMINISTRATIVE EXPENDITURES.—Section 134(a) is further amended by adding the following new paragraph:*

*"(4) LIMITATION.—Not more than 5 percent of the funds allotted under section 132(b) shall be used by the State for administrative activities carried out under this subsection and section 128(a).".*

*(2) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(b) (29 U.S.C. 2864(b)) is amended—*

*(A) by striking "under paragraph (2)(A)" and all that follows through "section 133(b)(2)(B)" and inserting "under section 133(b)"; and*

*(B) in paragraphs (1) and (2), by striking "or dislocated workers, respectively" .*

*(3) TECHNICAL AMENDMENT.—Section 134 is further amended by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.*

*(4) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—*

*(A) ALLOCATED FUNDS.—Section 134(c)(1) (29 U.S.C. 2864(c)(1)) (as redesignated by paragraph (3)) is amended to read as follows:*

*"(1) IN GENERAL.—Funds allocated to a local area for adults under section 133(b) shall be used—*

*"(A) to establish a one-stop delivery system as described in section 121(e);*

*"(B) to provide the core services described in paragraph (2) through the one-stop delivery system in accordance with such paragraph;*

*"(C) to provide the intensive services described in paragraph (3) to adults described in such paragraph; and*

*"(D) to provide training services described in paragraph (4) to adults described in such paragraph.".*

*(B) CORE SERVICES.—Section 134(c)(2) (29 U.S.C. 2864(c)(2)) (as redesignated by paragraph (3)) is amended—*

*(i) by striking "who are adults or dislocated workers";*

*(ii) in subparagraph (A), by striking "under this subtitle" and inserting "under the one-stop partner programs described in section 121(b)";*

*(iii) by amending subparagraph (D) to read as follows:*

*"(D) labor exchange services, including—*

*"(i) job search and placement assistance, and where appropriate career counseling;*

*"(ii) appropriate recruitment services for employers; and*

*"(iii) reemployment services provided to unemployment claimants.";*

*(iv) in subparagraph (I), by inserting "and the administration of the work test for the unemployment compensation system" after "compensation"; and*

*(v) by amending subparagraph (J) to read as follows:*

*"(J) assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and".*

*(C) INTENSIVE SERVICES.—Section 134(c)(3) (29 U.S.C. 2864(c)(3) (as redesignated by paragraph (3) of this subsection) is amended—*

*(i) by amending subparagraph (A) to read as follows:*

*"(A) IN GENERAL.—*

*"(i) ELIGIBILITY.—Funds allocated to a local area under section 133(b) shall be used to provide intensive services for adults who—*

*"(I) are unemployed and who have been determined by the one-stop operator to be—*

*"(aa) unlikely or unable to obtain suitable employment through core services; and*

*"(bb) in need of intensive services in order to obtain suitable employment; or*

*"(II) are employed, but who are determined by a one-stop operator to be in need of intensive services to obtain or retain suitable employment.*

*"(ii) DEFINITION.—The Governor shall define the term 'suitable employment' for purposes of this subparagraph."; and*

*(ii) in subparagraph (C)—*

*(I) in clause (v), by striking "for participants seeking training services under paragraph (4)"; and*

*(II) by adding the following clauses after clause (vi):*

*"(vii) Internships and work experience.*

*"(viii) Literacy activities relating to basic work readiness, information and communication technology literacy activities, and financial literacy activities.*

*"(ix) Out-of-area job search assistance and relocation assistance.".*

*(D) TRAINING SERVICES.—Section 134(c)(4) (as redesignated by paragraph (3) of this subsection) is amended—*

*(i) by amending subparagraph (A) to read as follows:*

*"(A) IN GENERAL.—*

*"(i) ELIGIBILITY.—Funds allocated to a local area under section 133(b) shall be used to provide training services to adults who—*

*"(I) after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—*

*"(aa) be unlikely or unable to obtain or retain suitable employment through intensive services under paragraph (3)(A);*

*"(bb) be in need of training services to obtain or retain suitable employment; and*

*"(cc) have the skills and qualifications to successfully participate in the selected program of training services;*

*"(II) select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults receiving such services are willing to commute or relocate;*

*"(III) who meet the requirements of subparagraph (B); and*

*"(IV) who are determined eligible in accordance with the priority system in effect under subparagraph (E).*

*"(ii) DEFINITION.—The Governor shall define the term 'suitable employment' for purposes of this subparagraph.";*

*(ii) in subparagraph (B)(i), by striking "Except" and inserting "Notwithstanding section 479B of the Higher Education Act of 1965 (20 U.S.C. 1087uu) and except";*

*(iii) in subparagraph (D)—*

*(I) by amending clause (iv) to read as follows:*

*"(iv) entrepreneurial training, including providing information about obtaining microcredit loans for the purpose of starting a business, including contact information of microcredit lenders operating within the local area;";*

(II) in clause (viii) by inserting "(including English as a Second Language)" after "activities"; and

(III) by redesignating clause (ix) as clause (x) and inserting after clause (viii) the following:

"(ix) training that integrates occupational skills training and English language acquisition;";

(iv) by amending subparagraph (E) to read as follows:

"(E) PRIORITY.—

"(i) IN GENERAL.—A priority shall be given to unemployed individuals for the provision of intensive and training services under this subsection.

"(ii) ADDITIONAL PRIORITY.—If the funds in the local area, including the funds allocated under section 133(b), for serving recipients of public assistance and other low-income individuals, including single parents, displaced homemakers, and pregnant single women, is limited, the priority for the provision of intensive and training services under this subsection shall include such recipients and individuals.

"(iii) DETERMINATIONS.—The Governor and the appropriate local board shall direct the one-stop operators in the local area with regard to making determinations with respect to the priority of service under this subparagraph.";

(v) in subparagraph (F), by adding the following clause after clause (iii):

"(iv) ENHANCED INDIVIDUAL TRAINING ACCOUNTS.—Each local board may, through one-stop centers, assist individuals receiving individual training accounts through the establishment of such accounts that include, in addition to the funds provided under this paragraph, funds from other programs and sources that will assist the individual in obtaining training services.";

(vi) in subparagraph (G)(iv), by redesignating subclause (IV) as subclause (V) and inserting after subclause (III) the following:

"(IV) Individuals with disabilities."; and

(vii) by adding at the end the following:

"(H) COMPUTER TECHNOLOGY.—In providing training services under subparagraph (G), funds allocated to a local area under this title may be used to purchase computer technology for use by an individual who is eligible pursuant to subsection (A), only if—

"(i) such purchase is part of an ongoing training program; and

"(ii) such purchase is necessary to ensure the individual can participate in such training program.

Any purchase of computer technology under this subparagraph shall remain the property of the one-stop operator.".

(5) PERMISSIBLE ACTIVITIES.—Section 134(d) (as redesignated by paragraph (3)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—

"(A) IN GENERAL.—Funds allocated to a local area under section 133(b) may be used to provide, through the one-stop delivery system—

"(i) customized screening and referral of qualified participants in training services to employers;

"(ii) customized employment-related services to employers on a fee-for-service basis;

"(iii) customer support to navigate among multiple services and activities for special participant populations that face multiple barriers to employment, including individuals with disabilities;

"(iv) employment and training assistance provided in coordination with child support enforcement activities of the State agency carrying out subtitle D of title IV of the Social Security Act;

"(v) activities to improve services to local employers, including small employers in the local area, and increase linkages between the local workforce investment system and employers; and

"(vi) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology.

"(B) WORK SUPPORT ACTIVITIES FOR LOW-WAGE WORKERS.—

"(i) IN GENERAL.—Funds allocated to a local area under 133(b) may be used to provide, through the one-stop delivery system and in collaboration with the appropriate programs and resources of the one-stop partners, work support activities designed to assist low-wage workers in retaining and enhancing employment.

"(ii) ACTIVITIES.—The activities described in clause (i) may include assistance in accessing financial supports for which such workers may be eligible and the provision of activities available through the one-stop delivery system in a manner that enhances the opportunities of such workers to participate, such as the provision of employment and training activities during nontraditional hours and the provision of on-site child care while such activities are being provided."; and

(B) by adding after paragraph (3) the following new paragraph:

"(4) INCUMBENT WORKER TRAINING PROGRAMS.—

"(A) IN GENERAL.—The local board may use up to 10 percent of the funds allocated to a local area under section 133(b) to carry out incumbent worker training programs in accordance with this paragraph.

"(B) TRAINING ACTIVITIES.—The training programs for incumbent workers under this paragraph shall be carried out by the local area in conjunction with the employers of such workers for the purpose of assisting such workers in obtaining the skills necessary to retain employment and avert layoffs.

"(C) EMPLOYER MATCH REQUIRED.—

"(i) IN GENERAL.—Employers participating in programs under this paragraph shall be required to pay a proportion of the costs of providing the training to the incumbent workers. The Governor shall establish, or may authorize the local board to establish, the required portion of such costs, which shall not be less than—

"(I) 10 percent of the costs, for employers with 50 or fewer employees;

"(II) 25 percent of the costs, for employers with more than 50 employees but fewer than 100 employees; and

"(III) 50 percent of the costs, for employers with 100 or more employees.

"(ii) CALCULATION OF MATCH.—The wages paid by an employer to a worker while they are attending training may be included as part of the requirement payment of the employer.".

### SEC. 113. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) STATE PERFORMANCE MEASURES.—

(1) IN GENERAL.—Section 136(b)(1) (29 U.S.C. 2871(b)(1)) is amended—

(A) in subparagraph (A)(i), by striking "and the customer satisfaction indicator of performance described in paragraph (2)(B)"; and

(B) in subparagraph (A)(ii), by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(2) INDICATORS OF PERFORMANCE.—Section 136(b)(2) (29 U.S.C. 2871(b)(2)) is amended—

(A) in subparagraph (A)(i), by striking "(except for self-service and information activities) and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129";

(B) in subparagraph (A)(i)(II), by inserting "and" after the semicolon;

(C) in subparagraph (A)(i)(III), by striking "; and" and inserting a period;

(D) by striking subparagraph (A)(i)(IV);

(E) by amending subparagraph (A)(ii) to read as follows:

"(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance for youth activities authorized under section 129 shall consist of—

"(I) entry into employment, education or advanced training, or military service;

"(II) attainment of secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities); and

"(III) literacy or numeracy gains.";

(F) by striking subparagraph (B); and

(G) by redesignating subparagraph (C) as subparagraph (B), and by adding at the end of such subparagraph (as so redesignated) the following new sentence: "Such indicators may include customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle.".

(3) LEVELS OF PERFORMANCE.—Section 136(b)(3)(A) (29 U.S.C. 2871(b)(3)(A)) is amended—

(A) in clause (i), by striking "and the customer satisfaction indicator described in paragraph (2)(B)";

(B) in clause (ii), by striking "and the customer satisfaction indicator of performance, for the first 3" and inserting "for the 2";

(C) in clause (iii)—

(i) in the heading, by striking "FOR FIRST 3 YEARS"; and

(ii) by striking "and the customer satisfaction indicator of performance, for the first 3" and inserting "for the 2";

(D) in clause (iv)—

(i) by striking subclause (I);

(ii) by redesignating subclauses (II) and (III) as subclauses (I) and (II), respectively; and

(iii) in subclause (I) (as so redesignated)—

(I) by striking "taking into account" and inserting "which shall be adjusted based on";

(II) by inserting ", such as unemployment rates and job losses or gains in particular industries" after "economic conditions"; and

(III) by inserting ", such as indicators of poor work history, lack of work experience, low levels of literacy or English proficiency, disability status, including the number of veterans with disabilities, and welfare dependency" after "program";

(E) by striking clause (v); and

(F) by redesignating clause (vi) as clause (v).

(4) ADDITIONAL INDICATORS.—Section 136(b)(3)(B) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(b) LOCAL PERFORMANCE MEASURES.—Section 136(c) (29 U.S.C 2871(c)) is amended—

(1) in paragraph (1)(A)(i), by striking ", and the customer satisfaction indicator of performance described in subsection (b)(2)(B),";

(2) in paragraph (1)(A)(ii), by striking "subsection (b)(2)(C)" and inserting "subsection (b)(2)(B)"; and

(3) by amending paragraph (3) to read as follows:

"(3) DETERMINATIONS.—In determining such local levels of performance, the local board, the chief elected official, and the Governor shall ensure such levels are adjusted based on the specific economic characteristics (such as unemployment rates and job losses or gains in particular industries), demographic characteristics, or other characteristics of the population to be served in the local area, such as poor work history, lack of work experience, low levels of literacy or English proficiency, disability status, including the number of veterans with disabilities, and welfare dependency.".

(c) REPORT.—Section 136(d) (29 U.S.C. 2871(d)) is amended—

(1) in paragraph (1), by striking "and the customer satisfaction indicator" in both places that it appears;

(2) in paragraph (2)—

(A) in subparagraph (E), by striking "(excluding participants who received only self-service and informational activities); and" and inserting a semicolon;

(B) in subparagraph (F), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(G) the number of participants served and the cost per participant."; and

(3) by adding at the end the following:

"(4) DATA VALIDATION.—In preparing the reports described in this subsection, the States shall establish procedures, consistent with guidelines issued by the Secretary, to ensure the information contained in the report is valid and reliable.".

(d) SANCTIONS FOR STATE.—Section 136(g) (29 U.S.C. 2871(g)) is amended—

(1) in paragraph (1)(A), by striking "or (B)"; and

(2) in paragraph (2), by striking "section 503" and inserting "section 136(i)".

(e) SANCTIONS FOR LOCAL AREAS.—Section 136(h) (29 U.S.C. 2871(h)) is amended—

(1) in paragraph (1), by striking "or (B)"; and

(2) by amending paragraph (2)(B) to read as follows:

"(B) APPEAL TO GOVERNOR.—A local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later than 30 days after the receipt of the appeal.".

(f) INCENTIVE GRANTS.—Section 136(i) (29 U.S.C. 2871(i)) is amended to read as follows:

"(i) INCENTIVE GRANTS FOR STATES AND LOCAL AREAS.—

"(1) INCENTIVE GRANTS FOR STATES.—

"(A) IN GENERAL.—From funds appropriated under section 174, the Secretary may award grants to States for exemplary performance in carrying programs under chapters 4 and 5 of this title. Such awards may be based on States meeting or exceeding the performance measures established under this section, on the performance of the State in serving special populations, including the levels of service provided and the performance outcomes, and such other factors relating to the performance of the State under this title as the Secretary determines is appropriate.

"(B) USE OF FUNDS.—The funds awarded to a State under this paragraph may be used to carry out any activities authorized under chapters 4 and 5 of this title, including demonstrations and innovative programs for special populations.

"(2) INCENTIVE GRANTS FOR LOCAL AREAS.—

"(A) IN GENERAL.—From funds reserved under sections 128(a) and 133(a), the Governor may award incentive grants to local areas for exemplary performance with respect to the measures established under this section and with the performance of the local area in serving special populations, including the levels of service and the performance outcomes.

"(B) USE OF FUNDS.—The funds awarded to a local area may be used to carry out activities authorized for local areas under chapters 4 and 5 of this title, and such demonstration or other innovative programs to serve special populations as may be approved by the Governor.".

(g) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—Section 136 (29 U.S.C. 2871) is further amended by adding at the end the following subsection:

"(j) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs carried out under chapters 4 and 5, and consistent with the requirements of the applicable authorizing laws, the Secretary shall use the core indicators of performance described in subsection (b)(2)(A) to assess the effectiveness of the programs described under section 121(b)(1)(B) that are carried out by the Secretary.".

(h) REPEAL OF DEFINITIONS.—Sections 502 and 503 (and the items related to such sections in the table of contents) are repealed.

### SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

(a) YOUTH ACTIVITIES.—Section 137(a) (29 U.S.C. 2872(a)) is amended by striking "such sums as may be necessary for each of fiscal years 1999 through 2003" and inserting "$1,250,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2011".

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(b) (29 U.S.C. 2872(b)) is amended by striking "section 132(a)(1), such sums as may be necessary for each of fiscal years 1999 through 2003" and inserting "section 132(a), $3,140,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2011".

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137 is further amended by striking subsection (c).

### SEC. 115. JOB CORPS.

(a) INDUSTRY COUNCILS.—Section 154(b) (29 U.S.C. 2894(b)) is amended—

(1) in paragraph (1)(A), by striking "local and distant"; and

(2) by adding after paragraph (2) the following:

"(3) EMPLOYERS OUTSIDE OF LOCAL AREAS.—The industry council may include, or otherwise provide for consultation with, employers from outside the local area who are likely to hire a significant number of enrollees from the Job Corps center.".

(b) INDICATORS OF PERFORMANCE AND ADDITIONAL INFORMATION.—Section 159(c) (29 U.S.C. 2893(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) CORE INDICATORS.—The Secretary shall annually establish expected levels of performance for Job Corps centers and the Job Corps program relating to each of the core indicators for youth identified in section 136(b)(2)(A)(ii)."; and

(2) in paragraph (2), by striking "measures" each place it appears and inserting "indicators".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 161 (29 U.S.C. 2901) is amended by striking "1999 through 2003" and inserting "2006 through 2011".

### SEC. 116. NATIVE AMERICAN PROGRAMS.

(a) ADVISORY COUNCIL.—Section 166(h)(4)(C) (29 U.S.C. 2911(h)(4)(C)) is amended to read as follows:

"(C) DUTIES.—The Council shall advise the Secretary on the operation and administration of the programs assisted under this section.".

(b) ASSISTANCE TO AMERICAN SAMOANS IN HAWAII.—Section 166 (29 U.S.C. 2911) is further amended by striking subsection (j).

### SEC. 117. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

Section 167(d) is amended by inserting "(including permanent housing)" after "housing".

### SEC. 118. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

Section 168(a)(3)(C) (29 U.S.C. 2913 (a)(3)(C)) is amended by striking "section 134(c)" and inserting "section 121(e)".

### SEC. 119. YOUTH CHALLENGE GRANTS.

(a) IN GENERAL.—Section 169 (29 U.S.C. 2914) is amended to read as follows:

### "SEC. 169. YOUTH CHALLENGE GRANTS.

"(a) IN GENERAL.—Of the amounts reserved by the Secretary under section 127(a)(1)(A) for a fiscal year—

"(1) the Secretary shall use not less than 80 percent to award competitive grants under subsection (b); and

"(2) the Secretary may use not more than 20 percent to award discretionary grants under subsection (c).

"(b) COMPETITIVE GRANTS TO STATES AND LOCAL AREAS.—

"(1) ESTABLISHMENT.—From the funds described in subsection (a)(1), the Secretary shall award competitive grants to eligible entities to carry out activities authorized under this section to assist eligible youth in acquiring the skills, credentials and employment experience necessary to succeed in the labor market.

"(2) ELIGIBLE ENTITIES.—Grants under this subsection may be awarded to States, local boards, recipients of grants under section 166 (relating to Native American programs), and public or private entities (including consortia of such entities) applying in conjunction with local boards.

"(3) GRANT PERIOD.—The Secretary may make a grant under this section for a period of 1 year and may renew the grants for each of the 4 succeeding years.

"(4) AUTHORITY TO REQUIRE MATCH.—The Secretary may require that grantees under this subsection provide a non-Federal share of the cost of activities carried out under a grant awarded under this subsection.

"(5) PARTICIPANT ELIGIBILITY.—Youth ages 14 through 19 as of the time the eligibility determination is made may be eligible to participate in activities provided under this subsection.

"(6) USE OF FUNDS.—Funds under this subsection may be used for activities that are designed to assist youth in acquiring the skills, credentials and employment experience that are necessary to succeed in the labor market, including the activities identified in section 129. The activities may include activities such as—

"(A) training and internships for out-of-school youth in sectors of the economy experiencing or projected to experience high growth;

"(B) after-school dropout prevention activities for in-school youth;

"(C) activities designed to assist special youth populations, such as court-involved youth and youth with disabilities; and

"(D) activities combining remediation of academic skills, work readiness training, and work experience, and including linkages to postsecondary education, apprenticeships, and career-ladder employment.

"(7) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the activities the eligible entity will provide to eligible youth under this subsection;

"(B) a description of the programs of demonstrated effectiveness on which the provision of the activities under subparagraph (A) are based, and a description of how such activities will expand the base of knowledge relating to the provision of activities for youth;

"(C) a description of the private and public, and local and State resources that will be leveraged to provide the activities described under subparagraph (A) in addition to the funds provided under this subsection; and

"(D) the levels of performance the eligible entity expects to achieve with respect to the indicators of performance for youth specified in section 136(b)(2)(A)(ii).

"(8) FACTORS FOR AWARD.—In awarding grants under this subsection the Secretary may *consider the quality of the proposed project, the goals to be achieved, the likelihood of successful implementation, the extent to which the project is based on proven strategies or the extent to which the project will expand the knowledge base on activities for youth, and the additional State, local or private resources that will be provided.*

*"(9) EVALUATION.—The Secretary may reserve up to 5 percent of the funds described in subsection(a)(1) to provide technical assistance to, and conduct evaluations of the projects funded under this subsection (using appropriate techniques as described in section 172(c)).*

*"(c) DISCRETIONARY GRANTS FOR YOUTH ACTIVITIES.—*

*"(1) IN GENERAL.—From the funds described in subsection(a)(2), the Secretary may award grants to eligible entities to provide activities that will assist youth in preparing for, and entering and retaining, employment.*

*"(2) ELIGIBLE ENTITIES.—Grants under this subsection may be awarded to public or private entities that the Secretary determines would effectively carry out activities relating to youth under this subsection.*

*"(3) PARTICIPANT ELIGIBILITY.—Youth ages 14 through 19 at the time the eligibility determination is made may be eligible to participate in activities under this subsection.*

*"(4) USE OF FUNDS.—Funds provided under this subsection may be used for activities that will assist youth in preparing for, and entering and retaining, employment, including the activities described in section 129 for out-of-school youth, activities designed to assist in-school youth to stay in school and gain work experience, and such other activities that the Secretary determines are appropriate.*

*"(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.*

*"(6) ADDITIONAL REQUIREMENTS.—The Secretary may require the provision of a non-Federal share for projects funded under this subsection and may require participation of grantees in evaluations of such projects, including evaluations using the techniques as described in section 172(c).".*

*(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) is amended by amending the item related to section 169 to read as follows:*

*"Sec. 169. Youth challenge grants.".*

### *SEC. 120. TECHNICAL ASSISTANCE.*

*Section 170 (29 U.S.C. 2915) is amended—*

*(1) by striking subsection (b);*

*(2) by striking*

*"(a) GENERAL TECHNICAL ASSISTANCE.—";*

*(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c) respectively, and moving such subsections 2 ems to the left;*

*(4) in subsection (a) (as redesignated by paragraph (3))—*

*(A) by inserting "the training of staff providing rapid response services, the training of other staff of recipients of funds under this title, peer review activities under this title, assistance regarding accounting and program operation practices (when such assistance would not be duplicative to assistance provided by the State), technical assistance to States that do not meet State performance measures described in section 136." after "localities,"; and*

*(B) by striking "from carrying out activities" and all that follows up to the period and inserting "to implement the amendments made by the Job Training Improvement Act of 2005"; and*

*(5) by inserting, after subsection (c) (as redesignated by paragraph (3)), the following:*

*"(d) BEST PRACTICES COORDINATION.—The Secretary shall establish a system whereby States may share information regarding best practices with regard to the operation of workforce investment activities under this Act.".*

### *SEC. 121. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH AND MULTISTATE PROJECTS.*

*(a) DEMONSTRATION AND PILOT PROJECTS.—Section 171(b) (29 U.S.C. 2916(b)) is amended—*

*(1) in paragraph (1)—*

*(A) by striking "Under a" and inserting "Consistent with the priorities specified in the";*

*(B) by amending subparagraphs (A) through (D) to read as follows:*

*"(A) projects that assist national employers in connecting with the workforce investment system established under this title in order to facilitate the recruitment and employment of needed workers and to provide information to such system on skills and occupations in demand;*

*"(B) projects that promote the development of systems that will improve the effectiveness and efficiency of programs carried out under this title;*

*"(C) projects that focus on opportunities for employment in industries and sectors of industries that are experiencing or are likely to experience high rates of growth, including those relating to information technology;*

*"(D) projects carried out by States and local areas to test innovative approaches to delivering employment-related services;";*

*(C) by striking subparagraph (E);*

*(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;*

*(E) in subparagraph (F) (as so redesignated, by striking "; and" and inserting a semicolon;*

*(F) by inserting after subparagraph (F) (as so redesignated) the following:*

*"(G) projects that provide retention grants to qualified job training programs upon placement or retention of a low-income individual trained by that program in employment with a single employer for a period of 1 year, provided that such employment is providing to the low-income individual an income not less than twice the poverty line for that individual;";*

*(G) by amending subparagraph (H) to read as follows:*

*"(H) projects that focus on opportunities for employment in industries and sectors of industries that are being transformed by technology and innovation requiring new knowledge or skill sets for workers, including advanced manufacturing; and"; and*

*(H) by adding at the end the following:*

*"(I) projects carried out by States and local areas to assist adults or out of school youth in starting a small business, including training and assistance in business or financial management or in developing other skills necessary to operate a business."; and*

*(2) in paragraph (2)—*

*(A) by striking subparagraph (B); and*

*(B) by redesignating subparagraph (C) as subparagraph (B).*

*(b) MULTISERVICE PROJECTS.—Section 171(c)(2)(B) (29 U.S.C. 2916(c)(2)(B)) is amended to read as follows:*

*"(B) NET IMPACT STUDIES AND REPORTS.—The Secretary shall conduct studies to determine the net impacts of programs, services, and activities carried out under this title. The Secretary shall prepare and disseminate to Congress and the public reports containing the results of such studies.".*

### *SEC. 122. COMMUNITY-BASED JOB TRAINING.*

*Section 171(d) of the Workforce Investment Act of 1998 is amended to read as follows:*

*"(d) COMMUNITY-BASED JOB TRAINING.—*

*"(1) DEMONSTRATION PROJECT.—In addition to the demonstration projects under subsection (b), the Secretary may establish and implement a national demonstration project designed to develop local solutions to the workforce challenges facing high-growth, high-skill industries with labor shortages, and increase opportunities for workers to gain access to employment in high-growth, high-demand occupations by promoting the establishment of partnerships among education entities, the workforce investment system, and businesses in high-growth, high-skill industries.*

*"(2) GRANTS.—In carrying out the demonstration project under this subsection, the Secretary shall award competitive grants, in accordance with generally applicable Federal requirements, to eligible entities to carry out activities authorized under this subsection.*

*"(3) DEFINITIONS.—*

*"(A) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a community college or consortium of community colleges that shall work in conjunction with—*

*"(i) the local workforce investment system; and*

*"(ii) business or businesses in a qualified industry or an industry association in a qualified industry.*

*"(B) QUALIFIED INDUSTRY.—In this subsection, the term 'qualified industry' means an industry or economic sector that is projected to experience significant growth, such as an industry and economic sector that—*

*"(i) is projected to add substantial numbers of new jobs to the economy;*

*"(ii) has significant impact on the economy;*

*"(iii) impacts the growth of other industries and economic sectors;*

*"(iv) is being transformed by technology and innovation requiring new knowledge or skill sets for workers;*

*"(v) is a new or emerging industry or economic sector that is projected to grow; or*

*"(vi) has high-skilled occupations and significant labor shortages in the local area.*

*"(C) COMMUNITY COLLEGE.—As used in this subsection, the term 'community college' means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, or is a tribally controlled college or university.*

*"(4) AUTHORITY TO REQUIRE NON-FEDERAL SHARE.—The Secretary may require that recipients of grants under this subsection provide a non-Federal share, from either cash or noncash resources, of the costs of activities carried out under a grant awarded under this subsection.*

*"(5) USE OF FUNDS.—Grants awarded under this subsection may be used for—*

*"(A) the development, by a community college, in consultation with representatives of qualified industries, of rigorous training and education programs related to employment in a qualified industry identified in the eligible entity's application;*

*"(B) training of adults and dislocated workers in the skills and competencies needed to obtain or upgrade employment in a qualified industry identified in the eligible entity's application;*

*"(C) disseminating to adults and dislocated workers, through the one-stop delivery system, information on high-growth, high-demand occupations in qualified industries;*

*"(D) placing, through the one-stop delivery system, trained individuals into employment in qualified industries; and*

*"(E) increasing the integration of community colleges with activities of businesses and the one-stop delivery system to meet the training needs for qualified industries.*

*"(6) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—*

*"(A) a description of the community college that will offer training under the grant;*

*"(B) an economic analysis of the local labor market to identify high-growth, high-demand industries and identify the workforce issues faced by those industries;*

*"(C) a description of the qualified industry for which training will occur and the availability of competencies on which training will be based;*

*"(D) an assurance that the application was developed in consultation with the local board or boards in the area or areas where the proposed grant will be used;*

*"(E) performance outcomes for the grant, including expected number of individuals to be trained in a qualified industry, the employment and retention rates for such individuals in a qualified industry, and earnings increases for such individuals;*

*"(F) a description of how the activities funded by the proposed grant will be coordinated with activities provided through the one-stop delivery system in the local area or areas; and*

*"(G) a description of any local or private resources that will support the activities carried out under this subsection and allow the entity to carry out and expand such activities after the expiration of the grant.*

*"(7) FACTORS FOR AWARD OF GRANT.—*

*"(A) IN GENERAL.—In awarding grants under this subsection the Secretary shall consider—*

*"(i) the extent of public and private collaboration, including existing partnerships among industries, community colleges, and the public workforce investment system;*

*"(ii) the extent to which the grant will provide job seekers with employment opportunities in high-growth, high-demand occupations;*

*"(iii) the extent to which the grant will expand the local one-stop delivery system's capacity to be demand-driven and responsive to local economic needs;*

*"(iv) the extent to which local businesses commit to hire or retain individuals who receive training through the grant; and*

*"(v) the extent to which the eligible entity commits to make any newly developed products, such as competencies or training curriculum, available for distribution nationally.*

*"(B) LEVERAGING OF RESOURCES.—In awarding grants under this subsection, the Secretary shall also consider—*

*"(i) the extent to which local or private resources, in addition to the funds provided under this subsection, will be made available to support the activities carried out under this subsection; and*

*"(ii) the ability of an eligible entity to continue to carry out and expand such activities after the expiration of the grant.*

*"(C) DISTRIBUTION OF GRANTS.—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographically diverse areas.*

*"(8) PERFORMANCE ACCOUNTABILITY AND EVALUATION.—*

*"(A) PERFORMANCE ACCOUNTABILITY.—The Secretary shall require an eligible entity that receives a grant under this subsection to report to the Secretary on the employment outcomes obtained by individuals receiving training under this subsection using the indicators of performance identified in the eligible entity's grant application.*

*"(B) EVALUATION.—The Secretary may require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).".*

***SEC. 123. PERSONAL REEMPLOYMENT ACCOUNTS.***

*Section 171 of the Workforce Investment Act of 1998 is further amended by adding at the end the following:*

*"(e) PERSONAL REEMPLOYMENT ACCOUNTS.—*

*"(1) DEFINITION.—In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.*

*"(2) DEMONSTRATION PROJECT.—In addition to the demonstration projects under subsection (b), the Secretary may establish and implement a national demonstration project designed to analyze and provide data on workforce training programs that accelerate the reemployment of unemployed individuals, promote the retention in employment of such individuals, and provide such individuals with enhanced flexibility, choice, and control in obtaining intensive reemployment, training, and supportive services.*

*"(3) GRANTS.—*

*"(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make grants, on a competitive basis, to eligible entities to provide personal reemployment accounts to eligible individuals. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.*

*"(B) DURATION.—The Secretary shall make the grants for periods of not less than 2 years and may renew the grant for each of the succeeding 3 years.*

*"(4) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—*

*"(A) a State; or*

*"(B) a local board or consortium of local boards.*

*"(5) USE OF FUNDS.—*

*"(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to provide, through a local area or areas, eligible individuals with personal reemployment accounts. An eligible individual may receive only 1 personal reemployment account.*

*"(B) GEOGRAPHIC AREA AND AMOUNT.—*

*"(i) IN GENERAL.—The eligible entity shall establish the amount of a personal reemployment account for each eligible individual participating, which shall be uniform throughout the area represented by the eligible entity, and shall not exceed $3,000.*

*"(ii) OPTION FOR STATES.—If the eligible entity is a State, the eligible entity may choose to use the grant statewide, if practicable, or only in specified local areas within a State.*

*"(C) ELIGIBLE INDIVIDUALS.—*

*"(i) IN GENERAL.—Each eligible entity shall establish eligibility criteria for individuals for personal reemployment accounts in accordance with this subparagraph.*

*"(ii) ELIGIBILITY CRITERIA REQUIREMENTS.—*

*"(I) IN GENERAL.—Subject to subclause (II), an individual shall be eligible to receive a personal reemployment account under a grant awarded under this subsection if, beginning after the date of enactment of this subsection, the individual—*

*"(aa) is identified by the State pursuant to section 303(j)(1) of the Social Security Act (42 U.S.C. 503(j)(1)) as likely to exhaust regular unemployment compensation and in need of job search assistance to make a successful transition to new employment, or the individual's unemployment can be attributed in substantial part to unfair competition from Federal Prison Industries, Incorporated;*

*"(bb) is receiving regular unemployment compensation under any Federal or State unemployment compensation program administered by the State; and*

*"(cc) is eligible for not less than 20 weeks of regular unemployment compensation described in item (bb).*

*"(II) ADDITIONAL ELIGIBILITY AND PRIORITY CRITERIA.—An eligible entity may establish criteria that are in addition to the criteria described in subclause (I) for the eligibility of individuals to receive a personal reemployment account under this subsection. An eligible entity may also establish criteria for priority in the provision of a personal reemployment account to such eligible individuals under a grant awarded under this subsection.*

*"(iii) TRANSITION RULE.—*

*"(I) PREVIOUSLY IDENTIFIED AS LIKELY TO EXHAUST UNEMPLOYMENT COMPENSATION.—*

*"(aa) IN GENERAL.—At the option of the eligible entity, and subject to item (bb), an individual may be eligible to receive a personal reemployment account under this subsection if the individual—*

*"(AA) during the 13-week period ending the week prior to the date of the enactment of the subsection, was identified by the State pursuant to section 303(j)(1) of the Social Security Act (42 U.S.C. 503(j)(1)) as likely to exhaust regular unemployment compensation and in need of job search assistance to make a successful transition to new employment; and*

*"(BB) otherwise meets the requirements of clause (ii)(I)(bb) and (cc).*

*"(bb) ADDITIONAL ELIGIBILITY AND PRIORITY CRITERIA.—An eligible entity may establish criteria that is in addition to the criteria described in item (aa) for the eligibility of individuals to receive a personal reemployment account under this subsection. An eligible entity may also establish criteria for priority in the provision of such accounts to such eligible individuals under this subsection.*

*"(II) PREVIOUSLY EXHAUSTED UNEMPLOYMENT COMPENSATION.—At the option of the eligible entity, an individual may be eligible to receive a personal reemployment account under a grant awarded under this subsection if the individual—*

*"(aa) during the 26-week period ending the week prior to the date of the enactment of this subsection, exhausted all rights to any unemployment compensation; and*

*"(bb)(AA) is enrolled in training and needs additional support to complete such training, with a priority of service to be provided to such individuals who are training for shortage occupations or high-growth industries; or*

*"(BB) is separated from employment in an industry or occupation that has experienced declining employment, or no longer provides any employment, in the local labor market during the 2-year period ending on the date of the determination of eligibility of the individual under this subparagraph.*

*"(iv) NO INDIVIDUAL ENTITLEMENT.—Nothing in this subsection shall be construed to entitle any individual to receive a personal reemployment account.*

*"(D) LIMITATIONS.—*

*"(i) INFORMATION AND ATTESTATION.—Prior to the establishment of a personal reemployment account for an eligible individual, the eligible entity receiving a grant, through the one-stop delivery system in the participating local area or areas, shall ensure that the individual—*

*"(I) is informed of the requirements applicable to the personal reemployment account, including the allowable uses of funds from the account, the limitations on access to services described in paragraph (7)(A)(iii) and a description of such services, and the conditions for receiving a reemployment bonus;*

*"(II) has the option to develop a personal reemployment plan which will identify the employment goals and appropriate combination of services selected by the individual to achieve the employment goals; and*

*"(III) signs an attestation that the individual has been given the option to develop a personal reemployment plan in accordance with subclause (II), will comply with the requirements under this subsection relating to the personal reemployment accounts, and will reimburse the*

*account or, if the account has been terminated, the grant awarded under this subsection, for any amounts expended from the account that are not allowable.*

*“(ii) PERIODIC INTERVIEWS.—If a recipient exhausts his or her rights to any unemployment compensation, and the recipient has a remaining balance in his or her personal reemployment account, the one-stop delivery system shall conduct periodic interviews with the recipient to assist the recipient in meeting his or her individual employment goals.*

*“(iii) USE OF PERSONAL REEMPLOYMENT ACCOUNTS.—The eligible entity receiving a grant shall ensure that eligible individuals receiving a personal reemployment account use the account in accordance with paragraph (7).*

*“(6) APPLICATION FOR GRANTS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—*

*“(A) if the eligible entity is a State—*

*“(i) assurance that the application was developed in conjunction with the local board or boards and chief elected officials where the personal reemployment accounts shall be made available; and*

*“(ii) a description of the methods and procedures for providing funds to local areas where the personal reemployment accounts shall be made available;*

*“(B) a description of the criteria and methods to be used for determining eligibility for the personal reemployment account, including whether the eligible entity intends to include the optional categories described in paragraph (5)(C)(iii), and the additional criteria and priority for service that the eligible entity intends to apply, if any, pursuant to paragraph (5)(C)(ii)(II);*

*“(C) a description of the methods or procedures to be used to provide eligible individuals information relating to services and providers;*

*“(D) a description of safeguards to ensure that funds from the personal reemployment accounts are used for purposes authorized under this subsection and to ensure the quality and integrity of services and providers, consistent with the purpose of providing eligible individuals with enhanced flexibility, choice, and control in obtaining intensive reemployment, training, and supportive services;*

*“(E) a description of how the eligible entity will coordinate the activities carried out under this subsection with the employment and training activities carried out under section 134 and other activities carried out by local boards through the one-stop delivery system in the State or local area; and*

*“(F) an assurance that the eligible entity will comply with any evaluation and reporting requirements the Secretary may require.*

*“(7) USE OF PERSONAL REEMPLOYMENT ACCOUNTS.—*

*“(A) ALLOWABLE ACTIVITIES.—*

*“(i) IN GENERAL.—Subject to the requirements contained in clauses (ii) and (iii), a recipient of a personal reemployment account may use amounts in a personal reemployment account to purchase 1 or more of the following:*

*“(I) Intensive services, including those type of services specified in section 134(d)(3)(C).*

*“(II) Training services, including those types of services specified in section 134(d)(4)(D).*

*“(III) Supportive services, except for needs related payments.*

*“(ii) DELIVERY OF SERVICES.—The following requirements relating to delivery of services shall apply to the grants under this subsection:*

*“(I) Recipients may use funds from the personal reemployment account to purchase the services described in clause (i) through the one-stop delivery system on a fee-for-service basis, or through other providers, consistent with the safeguards described in paragraph (6)(D).*

*“(II) The eligible entity, through the one-stop delivery system in the participating local area, may pay costs for such services directly on behalf of the recipient, through a voucher system, or by reimbursement to the recipient upon receipt of appropriate cost documentation.*

*“(III) Each eligible entity, through the one-stop delivery system in the participating local area, shall make available to recipients information on training providers specified in section 134(d)(4)(F)(ii), information available to the one-stop delivery system on providers of the intensive and supportive services described in clause (i), and information relating to occupations in demand in the local area.*

*“(iii) LIMITATIONS.—The following limitations shall apply with respect to personal reemployment accounts under this subsection:*

*“(I) Amounts in a personal reemployment account may be used for up to 1 year from the date of the establishment of the account.*

*“(II) Each recipient shall submit cost documentation as required by the one-stop delivery system.*

*“(III) For the 1-year period following the establishment of the account, recipients may not receive intensive, supportive, or training services funded under this title except on a fee-for-services basis as specified in clause (ii)(I).*

*“(IV) Amounts in a personal reemployment account shall be nontransferable.*

*“(B) REEMPLOYMENT BONUS.—*

*“(i) IN GENERAL.—Subject to clause (ii)—*

*“(I) if a recipient determined eligible under paragraph (5)(C)(ii) obtains full-time employment before the 13th week of unemployment for which unemployment compensation is paid, the balance of his or her personal reemployment account shall be provided directly to the recipient in cash; and*

*“(II) if a recipient determined eligible under paragraph (5)(C)(iii) obtains full-time employment before the end of the 13th week after the date on which the account is established, the balance of his or her personal reemployment account shall be provided directly to the recipient in cash.*

*“(ii) LIMITATIONS.—The following limitations shall apply with respect to a recipient described in clause (i):*

*“(I) 60 percent of the remaining personal reemployment account balance shall be paid to the recipient at the time of employment.*

*“(II) 40 percent of the remaining personal reemployment account shall be paid to the recipient after 26 weeks of employment retention.*

*“(iii) EXCEPTION REGARDING SUBSEQUENT EMPLOYMENT.—If a recipient described in clause (i) subsequently becomes unemployed due to a lack of work after receiving the portion of the reemployment bonus specified under clause (ii)(I), the individual may use the amount remaining in the personal reemployment account for the purposes described in subparagraph (A) but may not be eligible for additional cash payments under this subparagraph.*

*“(8) PROGRAM INFORMATION AND EVALUATION.—*

*“(A) INFORMATION.—The Secretary may require from eligible entities the collection and reporting on such financial, performance, and other program-related information as the Secretary determines is appropriate to carry out this subsection, including the evaluation described in subparagraph (B).*

*“(B) EVALUATION.—*

*“(i) IN GENERAL.—The Secretary, pursuant to the authority provided under section 172, shall, directly or through grants, contracts, or cooperative agreement with appropriate entities, conduct an evaluation of the activities carried out under any grants awarded under this subsection.*

*“(ii) REPORT.—The report to Congress under section 172(e) relating to the results of the evaluations required under section 172 shall include the recommendation of the Secretary with respect to the use of personal reemployment account as a mechanism to assist individuals in obtaining and retaining employment.”.*

### *SEC. 124. TRAINING FOR REALTIME WRITERS.*

*Section 171 of the Workforce Investment Act of 1998 is further amended by adding at the end the following:*

*“(f) TRAINING FOR REALTIME WRITERS.—*

*“(1) IN GENERAL.—The Secretary may make competitive grants to eligible entities under paragraph (2)(A) to promote training and placement of individuals as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 723 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.*

*“(2) LIMITATIONS.—*

*“(A) ELIGIBLE ENTITIES.—For purposes of this subsection, an eligible entity is a court reporting or realtime writing training program that—*

*“(i) can document and demonstrate to the Secretary that it meets appropriate standards of educational and financial accountability, with a curriculum capable of training realtime writers, qualified to provide captioning services and includes arrangements to assist in the placement of such individuals in employment as realtime writers; and*

*“(ii) is and entity that—*

*“(I) is an eligible provider of training services under section 122; or*

*“(II) is accredited by an accrediting agency recognized by the Department of Education; and participates in student aid programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).*

*“(B) PRIORITY IN GRANTS.—In determining whether to award grants under this section, the Secretary shall give priority to eligible entities that—*

*“(i) demonstrate the greatest ability to increase their capacity to train realtime writers;*

*“(ii) demonstrate the most promising collaboration with local workforce investment boards, local educational institutions, businesses, labor organizations, or other community-based organization having the potential to train or provide job placement assistance to realtime writers; and*

*“(iii) propose the most promising and innovative approaches for initiating or expanding training or job placement assistance efforts for realtime writers.*

*“(C) DURATION OF GRANT.—A grant under this subsection shall be for a period of 2 years.*

*“(D) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under paragraph (1) to an entity eligible may not exceed $1,500,000.*

*“(3) APPLICATION.—To receive a grant under paragraph (1), an eligible entity shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include—*

*“(A) a description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers;*

*“(B) a description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention;*

*“(C) a description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose;*

*“(D) a description of how the eligible entity will work with local workforce investment*

boards to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are dislocated workers; and

"(E) such other information as the Secretary may require.

"(4) Use of funds.—

"(A) In general.—An eligible entity receiving a grant under paragraph (1) shall use the grant amount for purposes relating to the recruitment, training, assistance, and job placement of individuals (including individuals who have completed a court reporting training program) as realtime writers, including—

"(i) recruitment activities;

"(ii) the provision of training grants to individuals for training in realtime writing;

"(iii) distance learning;

"(iv) design and development of curriculum to more effectively train realtime writing skills and education in the knowledge bases necessary for the delivery of high quality closed captioning services;

"(v) assistance in job placement for upcoming and recent graduates with all types of captioning employers; and

"(vi) encouragement of individuals with disabilities to pursue a career in realtime writing.

"(B) Administrative costs.—The recipient of a grant under paragraph (1) may not use more than 5 percent of the grant amount to pay administrative costs associated with activities funded by the grant.

"(5) Reports.—Each eligible entity receiving a grant under paragraph (1) shall submit to the Secretary, at the end of each year of the grant period, a report which shall include—

"(A) a description of the use of grant amounts by the entity during such year;

"(B) an assessment, utilizing the performance measures submitted by the entity in the application for the grant under paragraph (2)(D), of the effectiveness of activities carried out using such funds in increasing the number of realtime writers; and

"(C) a description of the best practices identified by the entity as a result of the grant for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.".

### SEC. 125. BUSINESS PARTNERSHIP GRANTS.

Section 171 (29 U.S.C. 2916) is further amended by adding at the end the following:

"(g) Business Partnership Grants.—

"(1) Demonstration project.—In addition to the demonstration projects under subsection (b), (d), and (e), the Secretary may make up to 10 competitive grants per year to eligible entities to expand local sector-focused training and workforce development in high growth, high wage industry sectors in one or more regions of particular States.

"(2) Eligible entities.—For purposes of this subsection an eligible entity is a business or business partnership, including associations of single or related industry employers and employee representatives, consortia of such employers, employee representatives, and workforce development community-based organizations, and higher education institutions.

"(3) Use of funds.—Grants awarded under this subsection may be used to—

"(A) provide workforce-directed business services to help employers in targeted industries better retain, support and advance their skilled workers;

"(B) provide capacity building through regional skill alliances, workforce intermediaries, and other collaborative entities to link businesses to public workforce systems and service providers targeted for their industry;

"(C) conduct analyses of skills that are needed in the workforce in such industries currently and in the future to project new market opportunities in particular industries;

"(D) develop rigorous training and education programs related to employment in high-growth, high-wage industries;

"(E) develop skill standards and industry-certified curricula used in preparing workers for employment in such industries;

"(F) train adults and dislocated workers in the skills and competencies needed to obtain or upgrade employment;

"(G) disseminate information on high-growth, high-wage occupations;

"(H) place trained individuals into employment in high-growth, high-wage industries;

"(I) increase integration between training providers, businesses, and the one-stop delivery system to meet the training needs of particular industries.

"(4) Reports.—The Secretary shall track and annually report to the chairmen and ranking minority members of the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate, on the industries receiving grants under this subsection, the performance results of each such grant, and the percentage and amount of grants awarded to eligible entities for programs serving each of the following populations: incumbent workers, dislocated workers, adults, and youth.".

### SEC. 126. NATIONAL DISLOCATED WORKER GRANTS.

(a) In General.—Section 173 (29 U.S.C. 2916) is amended—

(1) by amending the designation and heading to read as follows:

**"SEC. 173. NATIONAL DISLOCATED WORKER GRANTS."**; and

(2) in subsection (a)—

(A) by striking "national emergency grants" in the matter preceding paragraph (1) and inserting "national dislocated worker grants"; and

(B) in paragraph (1), by striking "subsection (c)" and inserting "subsection (b)".

(b) Administration.—Section 173 (29 U.S.C. 2918) is further amended—

(1) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(2) by striking subsection (e) and redesignating subsections (f) and (g) as subsection (d) and (e), respectively.

(c) Eligible Entities.—Section 173(b)(1)(B) (29 U.S.C. 2918(b)(1)(B)) (as redesignated by subsection (b)(1) of this section) is amended by striking ", and other entities" and all that follows and inserting a period.

(d) Participant Eligibility for Military Spouses.—Section 173(b)(2)(A) (29 U.S.C. 2918(b)(2)(A)) (as redesignated by subsection (b)(1) of this section) is amended—

(1) in clause (iii), by striking "; or" and inserting a semicolon;

(2) in clause (iv)(IV) by striking the period and inserting "; or"; and

(3) by inserting at the end the following:

"(v) is the spouse of a member of the Armed Forces who is on active duty or full-time National Guard duty, or who was recently separated from such duties, and such spouse is in need of employment and training assistance to obtain or retain employment.".

(e) Conforming Amendment.—The table of contents in section 1(b) is amended by amending the item related to section 173 to read as follows:

"Sec. 173. National dislocated worker grants.".

### SEC. 127. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL ACTIVITIES.

(a) In General.—Section 174(a)(1) (29 U.S.C. 2919(a)(1)) is amended by striking "1999 through 2003" and inserting "2006 through 2011".

(b) Reservations.—Section 174(b) is amended to read as follows:

"(b) Technical Assistance; Demonstration and Pilot Projects; Evaluations; Incentive Grants.—

"(1) Demonstration and pilot projects.—

"(A) In general.—There are authorized to be appropriated to carry out section 171, $211,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007 through 2011.

"(B) Reservation for community-based job training.—Of the amount appropriated pursuant to subparagraph (A), the Secretary shall reserve up to $125,000,000 for carrying out section 171(d).

"(2) Technical assistance, evaluations.—There are authorized to be appropriated to carry out section 170, section 172, and section 136 such sums as may be necessary for each of fiscal years 2006 through 2011.".

### SEC. 128. REQUIREMENTS AND RESTRICTIONS.

(a) In General.—Section 181(c)(2)(A) (29 U.S.C. 2931(c)(2)(A)) is amended in the matter preceding clause (i) by striking "shall" and inserting "may".

(b) Limitations.—Section 181(e) (29 U.S.C. 2931(e)) is amended by striking "training for" and inserting "the entry into employment, retention in employment, or increases in earnings of".

(c) Reports to Congress.—Section 185(e)(2) (29 U.S.C. 2935(e)(2)) is amended by inserting "and the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate," after "Secretary,".

### SEC. 129. NONDISCRIMINATION.

Section 188(a)(2) (29 U.S.C. 2931(a)(2)) is amended to read as follows:

"(2) Prohibition of discrimination regarding participation, benefits, and employment.—

"(A) In general.—Except as provided in subparagraph (B), no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

"(B) Exemption for religious organizations.—Subparagraph (A) shall not apply to a recipient of financial assistance under this title that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such recipients shall comply with the other requirements contained in subparagraph (A).".

### SEC. 130. ADMINISTRATIVE PROVISIONS.

(a) Program Year.—Section 189(g)(1) (29 U.S.C. 2939(g)(1)) is amended to read as follows:

"(1) In general.—Appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.".

(b) Availability.—Section 189(g)(2) (29 U.S.C. 2939(g)(2)) is amended by striking "each State" and inserting "each recipient".

(c) General Waivers.—Section 189(i)(4) (29 U.S.C. 2939(i)(4)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by inserting ", or in accordance with subparagraph (D)" after "subparagraph (B)"; and

(2) by adding the following subparagraph:

"(D) EXPEDITED PROCESS FOR EXTENDING APPROVED WAIVERS TO ADDITIONAL STATES.—In lieu of the requirements of subparagraphs (B) and (C), the Secretary may establish an expedited procedure for the purpose of extending to additional States the waiver of statutory or regulatory requirements that have been approved for a State pursuant to a request under subparagraph (B). Such procedure shall ensure that the extension of such waivers to additional States are accompanied by appropriate conditions relating the implementation of such waivers.".

### SEC. 131. GENERAL PROGRAM REQUIREMENTS.

Section 195 (29 U.S.C. 2945) is amended by adding at the end the following new paragraphs:

"(14) Funds provided under this title shall not be used to establish or operate stand-alone fee-for-service enterprises that compete with private sector employment agencies within the meaning of section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)). For purposes of this paragraph, such an enterprise does not include one-stop centers.

"(15) Any report required to be submitted to Congress, or to a Committee of Congress, under this title shall be submitted to both the chairmen and ranking minority members of the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.".

## TITLE II—ADULT EDUCATION, BASIC SKILLS, AND FAMILY LITERACY EDUCATION

### SEC. 201. TABLE OF CONTENTS.

The table of contents in section 1(b) is amended by amending the items relating to title II to read as follows:

"TITLE II—ADULT EDUCATION, BASIC SKILLS, AND FAMILY LITERACY EDUCATION

"Sec. 201. Short title.
"Sec. 202. Purpose.
"Sec. 203. Definitions.
"Sec. 204. Home schools.
"Sec. 205. Authorization of appropriations.

"CHAPTER 1—FEDERAL PROVISIONS

"Sec. 211. Reservation of funds; grants to eligible agencies; allotments.
"Sec. 212. Performance accountability system.
"Sec. 213. Incentive grants for States.

"CHAPTER 2—STATE PROVISIONS

"Sec. 221. State administration.
"Sec. 222. State distribution of funds; matching requirement.
"Sec. 223. State leadership activities.
"Sec. 224. State plan.
"Sec. 225. Programs for corrections education and other institutionalized individuals.

"CHAPTER 3—LOCAL PROVISIONS

"Sec. 231. Grants and contracts for eligible providers.
"Sec. 232. Local application.
"Sec. 233. Local administrative cost limits.

"CHAPTER 4—GENERAL PROVISIONS

"Sec. 241. Administrative provisions.
"Sec. 242. National Institute for Literacy.
"Sec. 243. National leadership activities.".

### SEC. 202. AMENDMENT.

Title II (29 U.S.C. 2901 et seq.) is amended to read as follows:

## "TITLE II—ADULT EDUCATION, BASIC SKILLS, AND FAMILY LITERACY EDUCATION

### "SEC. 201. SHORT TITLE.

"This title may be cited as the 'Adult Education, Basic Skills, and Family Literacy Education Act'.

### "SEC. 202. PURPOSE.

"It is the purpose of this title to provide instructional opportunities for adults seeking to improve their literacy skills, including their basic reading, writing, speaking, and math skills, and support States and local communities in providing, on a voluntary basis, adult education, basic skills, and family literacy education programs, in order to—

"(1) increase the literacy of adults, including the basic reading, writing, speaking, and math skills, to a level of proficiency necessary for adults to obtain employment and self-sufficiency and to successfully advance in the workforce;

"(2) assist adults in the completion of a secondary school education (or its equivalent) and the transition to a postsecondary educational institution;

"(3) assist adults who are parents to enable them to support the educational development of their children and make informed choices regarding their children's education including, through instruction in basic reading, writing, speaking, and math skills; and

"(4) assist immigrants who are not proficient in English in improving their reading, writing, speaking, and math skills and acquiring an understanding of the American free enterprise system, individual freedom, and the responsibilities of citizenship.

### "SEC. 203. DEFINITIONS.

"In this title:

"(1) ADULT EDUCATION, BASIC SKILLS, AND FAMILY LITERACY EDUCATION PROGRAMS.—The term 'adult education, basic skills, and family literacy education programs' means a sequence of academic instruction and educational services below the postsecondary level that increase an individual's ability to read, write, and speak in English and perform mathematical computations leading to a level of proficiency equivalent to at least a secondary school completion that is provided for individuals—

"(A) who are at least 16 years of age;

"(B) who are not enrolled or required to be enrolled in secondary school under State law; and

"(C) who—

"(i) lack sufficient mastery of basic reading, writing, speaking, and math skills to enable the individuals to function effectively in society;

"(ii) do not have a secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent and have not achieved an equivalent level of education; or

"(iii) are unable to read, write, or speak the English language.

"(2) ELIGIBLE AGENCY.—The term 'eligible agency'—

"(A) means the primary entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education, basic skills, and family literacy education programs in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively; and

"(B) may be the State educational agency, the State agency responsible for administering workforce investment activities, or the State agency responsible for administering community or technical colleges.

"(3) ELIGIBLE PROVIDER.—The term 'eligible provider' means—

"(A) a local educational agency;

"(B) a community-based or faith-based organization of demonstrated effectiveness;

"(C) a volunteer literacy organization of demonstrated effectiveness;

"(D) an institution of higher education;

"(E) a public or private educational agency;

"(F) a library;

"(G) a public housing authority;

"(H) an institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide adult education, basic skills, and family literacy education programs to adults and families; or

"(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

"(4) ENGLISH LANGUAGE ACQUISITION PROGRAM.—The term 'English language acquisition program' means a program of instruction designed to help individuals with limited English proficiency achieve competence in reading, writing, and speaking the English language.

"(5) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' has the meaning given to that term in section 1208 of the Elementary and Secondary Education Act of 1965.

"(6) FAMILY LITERACY EDUCATION PROGRAM.—The term 'family literacy education program' means an educational program that—

"(A) assists parents and students, on a voluntary basis, in achieving the purposes of this title as described in section 202; and

"(B) is of sufficient intensity in terms of hours and of sufficient duration to make sustainable changes in a family, is based upon scientific research-based principles, and, for the purpose of substantially increasing the ability of parents and children to read, write, and speak English, integrates—

"(i) interactive literacy activities between parents and their children;

"(ii) training for parents regarding how to be the primary teacher for their children and full partners in the education of their children;

"(iii) parent literacy training that leads to economic self-sufficiency; and

"(iv) an age-appropriate education to prepare children for success in school and life experiences.

"(7) GOVERNOR.—The term 'Governor' means the chief executive officer of a State or outlying area.

"(8) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'individual with a disability' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990).

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.

"(9) INDIVIDUAL WITH LIMITED ENGLISH PROFICIENCY.—The term 'individual with limited English proficiency' means an adult or out-of-school youth who has limited ability in reading, writing, speaking, or understanding the English language, and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given to that term in section 101 of the Higher Education Act of 1965.

"(11) LITERACY.—The term 'literacy' means an individual's ability to read, write, and speak in English, compute, and solve problems at a level of proficiency necessary to obtain employment and to successfully make the transition to postsecondary education.

"(12) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given to that term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(13) OUTLYING AREA.—The term 'outlying area' has the meaning given to that term in section 101 of this Act.

"(14) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term 'postsecondary educational institution' means—

"(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

*"(B) a tribally controlled community college; or*

*"(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.*

*"(15) READING.—The term 'reading' has the meaning given to that term in section 1208 of the Elementary and Secondary Education Act of 1965.*

*"(16) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' has the meaning given to that term in section 9101 of the Elementary and Secondary Education Act of 1965.*

*"(17) SECRETARY.—The term 'Secretary' means the Secretary of Education.*

*"(18) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.*

*"(19) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the meaning given to that term in section 9101 of the Elementary and Secondary Education Act of 1965.*

*"(20) WORKPLACE LITERACY PROGRAM.—The term 'workplace literacy program' means an educational program that is offered in collaboration between eligible providers and employers or employee organizations for the purpose of improving the productivity of the workforce through the improvement of reading, writing, speaking, and math skills.*

### *"SEC. 204. HOME SCHOOLS.*

*"Nothing in this title shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, or to compel a parent engaged in home schooling to participate in an English language acquisition program, a family literacy education program, or an adult education, basic skills, and family literacy education program.*

### *"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.*

*"There are authorized to be appropriated to carry out this title $590,127,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007 through 2011.*

## *"CHAPTER 1—FEDERAL PROVISIONS*

### *"SEC. 211. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.*

*"(a) RESERVATION OF FUNDS.—From the sums appropriated under section 205 for a fiscal year, the Secretary—*

*"(1) shall reserve up to 1.72 percent for incentive grants under section 213;*

*"(2) shall reserve 1.75 percent to carry out section 242; and*

*"(3) shall reserve up to 1.55 percent to carry out section 243.*

*"(b) GRANTS TO ELIGIBLE AGENCIES.—*

*"(1) IN GENERAL.—From the sums appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year, subject to subsections (f) and (g).*

*"(2) PURPOSE OF GRANTS.—The Secretary may award a grant under paragraph (1) only if the eligible agency involved agrees to expend the grant in accordance with the provisions of this title.*

*"(c) ALLOTMENTS.—*

*"(1) INITIAL ALLOTMENTS.—From the sums appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 224—*

*"(A) $100,000, in the case of an eligible agency serving an outlying area; and*

*"(B) $250,000, in the case of any other eligible agency.*

*"(2) ADDITIONAL ALLOTMENTS.—From the sums appropriated under section 205, not reserved under subsection (a), and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sums as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.*

*"(d) QUALIFYING ADULT.—For the purpose of subsection (c)(2), the term 'qualifying adult' means an adult who—*

*"(1) is at least 16 years of age;*

*"(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;*

*"(3) does not have a secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent; and*

*"(4) is not enrolled in secondary school.*

*"(e) SPECIAL RULE.—*

*"(1) IN GENERAL.—From amounts made available under subsection (c) for the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau to carry out activities described in this title in accordance with the provisions of this title as determined by the Secretary.*

*"(2) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of Palau shall be eligible to receive a grant under this title until an agreement for the extension of United States education assistance under the Compact of Free Association for the Republic of Palau becomes effective.*

*"(3) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.*

*"(f) HOLD-HARMLESS PROVISIONS.—*

*"(1) IN GENERAL.—Notwithstanding subsection (c), and subject to paragraphs (2) and (3), for fiscal year 2006 and each succeeding fiscal year, no eligible agency shall receive an allotment under this title that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this title.*

*"(2) EXCEPTION.—An eligible agency that receives for the preceding fiscal year only an initial allotment under subsection (c)(1) (and no additional allotment under subsection (c)(2)) shall receive an allotment equal to 100 percent of the initial allotment.*

*"(3) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this title is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.*

*"(g) REALLOTMENT.—The portion of any eligible agency's allotment under this title for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this title, shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this title for such year.*

### *"SEC. 212. PERFORMANCE ACCOUNTABILITY SYSTEM.*

*"(a) PURPOSE.—The purpose of this section is to establish a comprehensive performance accountability system, composed of the activities described in this section, to assess the effectiveness of eligible agencies in achieving continuous improvement of adult education, basic skills, and family literacy education programs funded under this title, in order to optimize the return on investment of Federal funds in adult education, basic skills, and family literacy education programs.*

*"(b) ELIGIBLE AGENCY PERFORMANCE MEASURES.—*

*"(1) IN GENERAL.—For each eligible agency, the eligible agency performance measures shall consist of—*

*"(A)(i) the core indicators of performance described in paragraph (2)(A); and*

*"(ii) employment performance indicators identified by the eligible agency under paragraph (2)(B); and*

*"(B) an eligible agency adjusted level of performance for each indicator described in subparagraph (A).*

*"(2) INDICATORS OF PERFORMANCE.—*

*"(A) CORE INDICATORS OF PERFORMANCE.—The core indicators of performance shall include the following:*

*"(i) Measurable improvements in literacy, including basic skill levels in reading, writing, and speaking the English language and basic math, leading to proficiency in each skill.*

*"(ii) Receipt of a secondary school diploma, General Educational Development credential (GED), or other State-recognized equivalent.*

*"(iii) Placement in postsecondary education or other training programs.*

*"(B) EMPLOYMENT PERFORMANCE INDICATORS.—Consistent with applicable Federal and State privacy laws, an eligible agency shall identify in the State plan the following individual participant employment performance indicators:*

*"(i) Entry into employment.*

*"(ii) Retention in employment.*

*"(iii) Increase in earnings.*

*"(3) LEVELS OF PERFORMANCE.—*

*"(A) ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS.—*

*"(i) IN GENERAL.—For each eligible agency submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for adult education, basic skills, and family literacy education programs authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—*

*"(I) be expressed in an objective, quantifiable, and measurable form; and*

*"(II) show the progress of the eligible agency toward continuously and significantly improving the agency's performance outcomes in an objective, quantifiable, and measurable form.*

*"(ii) IDENTIFICATION IN STATE PLAN.—Each eligible agency shall identify, in the State plan submitted under section 224, expected levels of performance for each of the core indicators of performance for the first 3 program years covered by the State plan.*

*"(iii) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.—In order to ensure an optimal return on the investment of Federal funds in adult education, basic skills, and family literacy education programs authorized under this title, the Secretary and each eligible agency shall reach agreement on levels of student performance for each of the core indicators of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan prior to the approval of such plan.*

*"(iv) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—*

"(I) how the levels involved compare with the eligible agency's adjusted levels of performance, taking into account factors including the characteristics of participants when the participants entered the program; and

"(II) the extent to which such levels promote continuous and significant improvement in performance on the student proficiency measures used by such eligible agency and ensure optimal return on the investment of Federal funds.

"(v) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR SECOND 3 YEARS.—Prior to the fourth program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of student performance for each of the core indicators of performance for the fourth, fifth, and sixth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

"(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(I), the eligible agency may request that the eligible agency adjusted levels of performance agreed to under clause (iii) or (v) be revised.

"(B) LEVELS OF EMPLOYMENT PERFORMANCE.—The eligible agency shall identify, in the State plan, eligible agency levels of performance for each of the employment performance indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this title.

"(c) REPORT.—

"(1) IN GENERAL.—Each eligible agency that receives a grant under section 211(b) shall annually prepare and submit to the Secretary, the Governor, the State legislature, and eligible providers a report on the progress of the eligible agency in achieving eligible agency performance measures, including the following:

"(A) Information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance and employment performance indicators.

"(B) The number and type of each eligible provider that receives funding under such grant.

"(2) INFORMATION DISSEMINATION.—The Secretary—

"(A) shall make the information contained in such reports available to the general public through publication (including on the Internet site of the Department of Education) and other appropriate methods;

"(B) shall disseminate State-by-State comparisons of the information; and

"(C) shall provide the appropriate committees of the Congress with copies of such reports.

### "SEC. 213. INCENTIVE GRANTS FOR STATES.

"(a) IN GENERAL.—From funds appropriated under section 211(a)(1), the Secretary may award grants to States for exemplary performance in carrying out programs under this title. Such awards shall be based on States exceeding the core indicators of performance established under section 212(b)(2)(A) and may be based on the performance of the State in serving populations, such as those described in section 224(b)(10), including the levels of service provided and the performance outcomes, and such other factors relating to the performance of the State under this title as the Secretary determines appropriate.

"(b) USE OF FUNDS.—The funds awarded to a State under this paragraph may be used to carry out any activities authorized under this title, including demonstrations and innovative programs for hard-to-serve populations.

## "CHAPTER 2—STATE PROVISIONS

### "SEC. 221. STATE ADMINISTRATION.

"Each eligible agency shall be responsible for the following activities under this title:

"(1) The development, submission, implementation, and monitoring of the State plan.

"(2) Consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this title.

"(3) Coordination and avoidance of duplication with other Federal and State education, training, corrections, public housing, and social service programs.

### "SEC. 222. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

"(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this title for a fiscal year—

"(1) shall use an amount not less than 82.5 percent of the grant funds to award grants and contracts under section 231 and to carry out section 225, of which not more than 10 percent of such amount shall be available to carry out section 225;

"(2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 223; and

"(3) shall use not more than 5 percent of the grant funds, or $75,000, whichever is greater, for the administrative expenses of the eligible agency.

"(b) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b), each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education, basic skills, and family literacy education programs for which the grant is awarded, a non-Federal contribution in an amount at least equal to—

"(A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education, basic skills, and family literacy education programs in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

"(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education, basic skills, and family literacy education programs in the State.

"(2) NON-FEDERAL CONTRIBUTION.—An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education, basic skills, and family literacy education programs in a manner that is consistent with the purpose of this title.

### "SEC. 223. STATE LEADERSHIP ACTIVITIES.

"(a) IN GENERAL.—Each eligible agency may use funds made available under section 222(a)(2) for any of the following adult education, basic skills, and family literacy education programs:

"(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 231(b), including instruction incorporating the essential components of reading instruction and instruction provided by volunteers or by personnel of a State or outlying area.

"(2) The provision of technical assistance to eligible providers of adult education, basic skills, and family literacy education programs, including for the development and dissemination of scientifically based research instructional practices in reading, writing, speaking, math, and English language acquisition programs.

"(3) The provision of assistance to eligible providers in developing, implementing, and reporting measurable progress in achieving the objectives of this title.

"(4) The provision of technology assistance, including staff training, to eligible providers of adult education, basic skills, and family literacy education programs, including distance learning activities, to enable the eligible providers to improve the quality of such activities.

"(5) The development and implementation of technology applications or distance learning, including professional development to support the use of instructional technology.

"(6) Coordination with other public programs, including welfare-to-work, workforce development, and job training programs.

"(7) Coordination with existing support services, such as transportation, child care, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education, basic skills, and family literacy education programs, for adults enrolled in such activities.

"(8) The development and implementation of a system to assist in the transition from adult basic education to postsecondary education.

"(9) Activities to promote workplace literacy programs.

"(10) Activities to promote and complement local outreach initiatives described in section 243(7).

"(11) Other activities of statewide significance, including assisting eligible providers in achieving progress in improving the skill levels of adults who participate in programs under this title.

"(12) Integration of literacy, instructional, and occupational skill training and promotion of linkages with employees.

"(b) COORDINATION.—In carrying out this section, eligible agencies shall coordinate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a).

"(c) STATE-IMPOSED REQUIREMENTS.—Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this title that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as being imposed by the State or outlying area.

### "SEC. 224. STATE PLAN.

"(a) 6-YEAR PLANS.—

"(1) IN GENERAL.—Each eligible agency desiring a grant under this title for any fiscal year shall submit to, or have on file with, the Secretary a 6-year State plan.

"(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

"(b) PLAN CONTENTS.—The eligible agency shall include in the State plan or any revisions to the State plan—

"(1) an objective assessment of the needs of individuals in the State or outlying area for adult education, basic skills, and family literacy education programs, including individuals most in need or hardest to serve;

"(2) a description of the adult education, basic skills, and family literacy education programs that will be carried out with funds received under this title;

"(3) a description of how the eligible agency will evaluate and measure annually the effectiveness and improvement of the adult education, basic skills, and family literacy education programs based on the performance measures described in section 212 including—

"(A) how the eligible agency will evaluate and measure annually such effectiveness on a grant-by-grant basis; and

*"(B) how the eligible agency—*

*"(i) will hold eligible providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs under this title and regarding the core indicators of performance described in section 212(b)(2)(A); and*

*"(ii) will use technical assistance, sanctions, and rewards (including allocation of grant funds based on performance and termination of grant funds based on nonperformance);*

*"(4) a description of the performance measures described in section 212 and how such performance measures have significantly improved adult education, basic skills, and family literacy education programs in the State or outlying area;*

*"(5) an assurance that the eligible agency will, in addition to meeting all of the other requirements of this title, award not less than one grant under this title to an eligible provider that—*

*"(A) offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education, basic skills, and family literacy education programs; and*

*"(B) attempts to coordinate with support services that are not provided under this title prior to using funds for adult education, basic skills, and family literacy education programs provided under this title for support services;*

*"(6) an assurance that the funds received under this title will not be expended for any purpose other than for activities under this title;*

*"(7) a description of how the eligible agency will fund local activities in accordance with the measurable goals described in section 231(d);*

*"(8) an assurance that the eligible agency will expend the funds under this title only in a manner consistent with fiscal requirements in section 241;*

*"(9) a description of the process that will be used for public participation and comment with respect to the State plan, which process—*

*"(A) shall include consultation with the State workforce investment board, the State board responsible for administering community or technical colleges, the Governor, the State educational agency, the State board or agency responsible for administering block grants for temporary assistance to needy families under title IV of the Social Security Act, the State council on disabilities, the State vocational rehabilitation agency, other State agencies that promote the improvement of adult education, basic skills, and family literacy education programs, and direct providers of such programs; and*

*"(B) may include consultation with the State agency on higher education, institutions responsible for professional development of adult education, basic skills, and family literacy education programs instructors, representatives of business and industry, refugee assistance programs, and faith-based organizations;*

*"(10) a description of the eligible agency's strategies for serving populations that include, at a minimum—*

*"(A) low-income individuals;*

*"(B) individuals with disabilities;*

*"(C) the unemployed;*

*"(D) the underemployed; and*

*"(E) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;*

*"(11) a description of how the adult education, basic skills, and family literacy education programs that will be carried out with any funds received under this title will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency;*

*"(12) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section 231(c)(1), including—*

*"(A) how the State will build the capacity of community-based and faith-based organizations to provide adult education, basic skills, and family literacy education programs; and*

*"(B) how the State will increase the participation of business and industry in adult education, basic skills, and family literacy education programs;*

*"(13) an assessment of the adequacy of the system of the State or outlying area to ensure teacher quality and a description of how the State or outlying area will use funds received under this subtitle to improve teacher quality, including professional development on the use of scientifically based research to improve instruction; and*

*"(14) a description of how the eligible agency will consult with any State agency responsible for postsecondary education to develop adult education that prepares students to enter postsecondary education without the need for remediation upon completion of secondary school equivalency programs.*

*"(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions of the State plan to the Secretary.*

*"(d) CONSULTATION.—The eligible agency shall—*

*"(1) submit the State plan, and any revisions to the State plan, to the Governor, the chief State school officer, or the State officer responsible for administering community or technical colleges, or outlying area for review and comment; and*

*"(2) ensure that any comments regarding the State plan by the Governor, the chief State school officer, or the State officer responsible for administering community or technical colleges, and any revision to the State plan, are submitted to the Secretary.*

*"(e) PLAN APPROVAL.—A State plan submitted to the Secretary shall be approved by the Secretary only if the plan is consistent with the specific provisions of this title.*

### "SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

*"(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education and education for other institutionalized individuals.*

*"(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—*

*"(1) basic skills education;*

*"(2) special education programs as determined by the eligible agency;*

*"(3) reading, writing, speaking, and math programs; and*

*"(4) secondary school credit or diploma programs or their recognized equivalent.*

*"(c) PRIORITY.—Each eligible agency that is using assistance provided under this section to carry out a program for criminal offenders within a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution within 5 years of participation in the program.*

*"(d) DEFINITIONS.—For purposes of this section:*

*"(1) CORRECTIONAL INSTITUTION.—The term 'correctional institution' means any—*

*"(A) prison;*

*"(B) jail;*

*"(C) reformatory;*

*"(D) work farm;*

*"(E) detention center; or*

*"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.*

*"(2) CRIMINAL OFFENDER.—The term 'criminal offender' means any individual who is charged with, or convicted of, any criminal offense.*

## "CHAPTER 3—LOCAL PROVISIONS

### "SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

*"(a) GRANTS AND CONTRACTS.—From grant funds made available under section 211(b), each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area that meet the conditions and requirements of this title to enable the eligible providers to develop, implement, and improve adult education, basic skills, and family literacy education programs within the State.*

*"(b) LOCAL ACTIVITIES.—The eligible agency shall require eligible providers receiving a grant or contract under subsection (a) to establish or operate one or more programs of instruction that provide services or instruction in one or more of the following categories:*

*"(1) Adult education, basic skills, and family literacy education programs (including proficiency in reading, writing, speaking, and math).*

*"(2) Workplace literacy programs.*

*"(3) English language acquisition programs.*

*"(4) Family literacy education programs.*

*"(c) DIRECT AND EQUITABLE ACCESS; SAME PROCESS.—Each eligible agency receiving funds under this title shall ensure that—*

*"(1) all eligible providers have direct and equitable access to apply for grants or contracts under this section; and*

*"(2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.*

*"(d) MEASURABLE GOALS.—The eligible agency shall require eligible providers receiving a grant or contract under subsection (a) to demonstrate—*

*"(1) the eligible provider's measurable goals for participant outcomes to be achieved annually on the core indicators of performance and employment performance indicators described in section 212(b)(2);*

*"(2) the past effectiveness of the eligible provider in improving the basic academic skills of adults and, for eligible providers receiving grants in the prior year, the success of the eligible provider receiving funding under this title in exceeding its performance goals in the prior year;*

*"(3) the commitment of the eligible provider to serve individuals in the community who are the most in need of basic academic skills instruction services, including individuals who are low-income or have minimal reading, writing, speaking, and math skills, or limited English proficiency;*

*"(4) the program—*

*"(A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and*

*"(B) uses instructional practices that include the essential components of reading instruction;*

*"(5) educational practices are based on scientifically based research;*

*"(6) the activities of the eligible provider effectively employ advances in technology, as appropriate, including the use of computers;*

*"(7) the activities provide instruction in real-life contexts, when appropriate, to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;*

*"(8) the activities are staffed by well-trained instructors, counselors, and administrators;*

*"(9) the activities are coordinated with other available resources in the community, such as through strong links with elementary schools and secondary schools, postsecondary educational institutions, one-stop centers, job training programs, community-based and faith-based organizations, and social service agencies;*

*"(10) the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;*

*"(11) the activities include a high-quality information management system that has the capacity to report measurable participant outcomes and to monitor program performance against the performance measures established by the eligible agency;*

*"(12) the local communities have a demonstrated need for additional English language acquisition programs;*

*"(13) the capacity of the eligible provider to produce valid information on performance results, including enrollments and measurable participant outcomes;*

*"(14) adult education, basic skills, and family literacy education programs offer rigorous reading, writing, speaking, and math content that are based on scientifically based research; and*

*"(15) applications of technology, and services to be provided by the eligible providers, are of sufficient intensity and duration to increase the amount and quality of learning and lead to measurable learning gains within specified time periods.*

*"(e) SPECIAL RULE.—Eligible providers may use grant funds under this title to serve children participating in family literacy programs assisted under this part, provided that other sources of funds available to provide similar services for such children are used first.*

### "SEC. 232. LOCAL APPLICATION.

*"Each eligible provider desiring a grant or contract under this title shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—*

*"(1) a description of how funds awarded under this title will be spent consistent with the requirements of this title;*

*"(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education, basic skills, and family literacy education programs; and*

*"(3) each of the demonstrations required by section 231(d).*

### "SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.

*"(a) IN GENERAL.—Subject to subsection (b), of the amount that is made available under this title to an eligible provider—*

*"(1) at least 95 percent shall be expended for carrying out adult education, basic skills, and family literacy education programs; and*

*"(2) the remaining amount shall be used for planning, administration, personnel and professional development, development of measurable goals in reading, writing, speaking, and math, and interagency coordination.*

*"(b) SPECIAL RULE.—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider may negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.*

## "CHAPTER 4—GENERAL PROVISIONS

### "SEC. 241. ADMINISTRATIVE PROVISIONS.

*"(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education, basic skills, and family literacy education programs under this title shall supplement and not supplant other State or local public funds expended for adult education, basic skills, and family literacy education programs.*

*"(b) MAINTENANCE OF EFFORT.—*

*"(1) IN GENERAL.—*

*"(A) DETERMINATION.—An eligible agency may receive funds under this title for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for activities under this title, in the second preceding fiscal year, were not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education, basic skills, and family literacy education programs, in the third preceding fiscal year.*

*"(B) PROPORTIONATE REDUCTION.—Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—*

*"(i) shall determine the percentage decreases in such effort or in such expenditures; and*

*"(ii) shall decrease the payment made under this title for such program year to the agency for adult education, basic skills, and family literacy education programs by the lesser of such percentages.*

*"(2) COMPUTATION.—In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.*

*"(3) DECREASE IN FEDERAL SUPPORT.—If the amount made available for adult education, basic skills, and family literacy education programs under this title for a fiscal year is less than the amount made available for adult education, basic skills, and family literacy education programs under this title for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.*

*"(4) WAIVER.—The Secretary may waive the requirements of this subsection for not more than 1 fiscal year, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.*

### "SEC. 242. NATIONAL INSTITUTE FOR LITERACY.

*"(a) IN GENERAL.—*

*"(1) PURPOSE.—The purpose of the National Institute for Literacy is to promote the improvement of literacy, including skills in reading, writing, and English language acquisition for children, youth, and adults, through practices derived from the findings of scientifically based research.*

*"(2) ESTABLISHMENT.—There is established a National Institute for Literacy (in this section referred to as the 'Institute'). The Institute shall be administered under the terms of an interagency agreement entered into, reviewed annually, and modified as needed by the Secretary of Education with the Secretary of Health and Human Services and the Secretary of Labor (in this section referred to as the 'Interagency Group').*

*"(3) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Health and Human Services, and the Department of Labor.*

*"(4) ADMINISTRATIVE SUPPORT.—The Department of Education shall provide administrative support for the Institute.*

*"(5) DAILY OPERATIONS.—The Director of the Institute shall administer the daily operations of the Institute.*

*"(b) DUTIES.—*

*"(1) IN GENERAL.—To carry out its purpose, the Institute may—*

*"(A) identify and disseminate rigorous scientific research on the effectiveness of instructional practices and organizational strategies relating to programs on the acquisition of skills in reading, writing, and English language acquisition for children, youth, and adults;*

*"(B) create and widely disseminate materials about the acquisition and application of skills in reading, writing, and English language acquisition for children, youth, and adults based on scientifically based research;*

*"(C) ensure a broad understanding of scientifically based research on reading, writing, and English language acquisition for children, youth, and adults among Federal agencies with responsibilities for administering programs that provide related services, including State and local educational agencies;*

*"(D) facilitate coordination and information sharing among national organizations and associations interested in programs that provide services to improve skills in reading, writing, and English language acquisition for children, youth, and adults;*

*"(E) coordinate with the appropriate offices in the Department of Education, the Department of Health and Human Services, the Department of Labor, and other Federal agencies to apply the findings of scientifically based research related to programs on reading, writing, and English language acquisition for children, youth, and adults;*

*"(F) establish a national electronic database and Internet site describing and fostering communication on scientifically based programs in reading, writing, and English language acquisition for children, youth, and adults, including professional development programs; and*

*"(G) provide opportunities for technical assistance, meetings, and conferences that will foster increased coordination among Federal, State, and local agencies and entities and improvement of reading, writing, and English language acquisition skills for children, youth, and adults.*

*"(2) COORDINATION.—In identifying scientifically based research on reading, writing, and English language acquisition for children, youth, and adults, the Institute shall use standards for research quality that are consistent with those established by the Institute of Education Sciences.*

*"(3) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—*

*"(A) IN GENERAL.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such individuals, institutions, agencies, or organizations, to carry out the activities of the Institute.*

*"(B) REGULATIONS.—The Director may adopt the general administrative regulations of the Department of Education, as applicable, for use by the Institute.*

*"(C) RELATION TO OTHER LAWS.—The duties and powers of the Institute under this title are in addition to the duties and powers of the Institute under subparts 1, 2, and 3 of part B of the Elementary and Secondary Education Act of 1965 (commonly referred to as Reading First, Early Reading First, and the William F. Goodling Even Start Family Literacy Program, respectively).*

*"(c) Visiting Scholars.—The Institute may establish a visiting scholars program, with such stipends and allowances as the Director considers necessary, for outstanding researchers, scholars, and individuals who—*

*"(1) have careers in adult education, workforce development, or scientifically based reading, writing, or English language acquisition; and*

*"(2) can assist the Institute in translating research into practice and providing analysis that advances instruction in the fields of reading, writing, and English language acquisition for children, youth, and adults.*

*"(d) Interns and Volunteers.—The Institute, in consultation with the National Institute for Literacy Advisory Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its purpose. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.*

*"(e) National Institute for Literacy Advisory Board.—*

*"(1) Establishment.—*

*"(A) In general.—There shall be a National Institute for Literacy Advisory Board (in this section referred to as the 'Board'), which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.*

*"(B) Qualifications.—The Board shall be composed of individuals who—*

*"(i) are not otherwise officers or employees of the Federal Government; and*

*"(ii) are knowledgeable about current effective scientifically based research findings on instruction in reading, writing, and English language acquisition for children, youth, and adults.*

*"(C) Composition.—The Board may include—*

*"(i) representatives of business, industry, labor, literacy organizations, adult education providers, community colleges, students with disabilities, and State agencies, including State directors of adult education; and*

*"(ii) individuals who, and representatives of entities that, have been successful in improving skills in reading, writing, and English language acquisition for children, youth, and adults.*

*"(2) Duties.—The Board shall—*

*"(A) make recommendations concerning the appointment of the Director of the Institute;*

*"(B) provide independent advice on the operation of the Institute;*

*"(C) receive reports from the Interagency Group and the Director; and*

*"(D) review the biennial report to the Congress under subsection (k).*

*"(3) Federal advisory committee act.—Except as otherwise provided, the Board shall be subject to the provisions of the Federal Advisory Committee Act.*

*"(4) Appointments.—*

*"(A) In general.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.*

*"(B) Vacancies.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.*

*"(5) Quorum.—A majority of the members of the Board shall constitute a quorum, but a lesser number may hold hearings. A recommendation of the Board may be passed only by a majority of the Board's members present at a meeting for which there is a quorum.*

*"(6) Election of officers.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.*

*"(7) Meetings.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.*

*"(f) Gifts, Bequests, and Devises.—*

*"(1) In general.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.*

*"(2) Rules.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out the responsibilities of the Institute or employee, or official duties, in a fair and objective manner, or would compromise the integrity, or the appearance of the integrity, of the Institute's programs or any official involved in those programs.*

*"(g) Mails.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.*

*"(h) Director.—The Secretary of Education, after considering recommendations made by the Board and consulting with the Interagency Group, shall appoint and fix the pay of the Director of the Institute and, when necessary, shall appoint an Interim Director of the Institute.*

*"(i) Applicability of Certain Civil Service Laws.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.*

*"(j) Experts and Consultants.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.*

*"(k) Biennial Report.—*

*"(1) In general.—The Institute shall submit a report biennially to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate. Each report submitted under this subsection shall include—*

*"(A) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in identifying and describing programs on reading, writing, and English language acquisition for children, youth, and adults for the period covered by the report; and*

*"(B) a description of how plans for the operation of the Institute for the succeeding 2 fiscal years will facilitate achievement of the purpose of the Institute.*

*"(2) First report.—The Institute shall submit its first report under this subsection to the Congress not later than 1 year after the date of the enactment of the Job Training Improvement Act of 2005.*

*"(l) Additional Funding.—In addition to the funds authorized under section 205 and reserved for the Institute under section 211, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, or the head of any other Federal agency or department that participates in the activities of the Institute may provide funds to the Institute for activities that the Institute is authorized to perform under this section.*

***"SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.***

*"The Secretary shall establish and carry out a program of national leadership activities that may include the following:*

*"(1) Technical assistance, on request, including assistance—*

*"(A) on request to volunteer community- and faith-based organizations, including but not limited to, improving their fiscal management, research-based instruction, and reporting requirements, and the development of measurable objectives to carry out the requirements of this title;*

*"(B) in developing valid, measurable, and reliable performance data, and using performance information for the improvement of adult education basic skills, English language acquisition, and family literacy education programs;*

*"(C) on adult education professional development; and*

*"(D) in using distance learning and improving the application of technology in the classroom, including instruction in English language acquisition for individuals who have limited English proficiency.*

*"(2) Providing for the conduct of research on national literacy basic skill acquisition levels among adults, including the number of limited English proficient adults functioning at different levels of reading proficiency.*

*"(3) Improving the coordination, efficiency, and effectiveness of adult education and workforce development services at the national, State, and local levels.*

*"(4) Determining how participation in adult education basic skills, English language acquisition, and family literacy education programs prepares individuals for entry into and success in postsecondary education and employment, and in the case of prison-based services, the effect on recidivism.*

*"(5) Evaluating how different types of providers, including community and faith-based organizations or private for-profit agencies measurably improve the skills of participants in adult education basic skills, English language acquisition, and family literacy education programs.*

*"(6) Identifying model integrated basic and workplace skills education programs, including programs for individuals with limited English proficiency coordinated literacy and employment services, and effective strategies for serving adults with disabilities.*

*"(7) Supporting the development of an entity that would produce and distribute technology-based programs and materials for adult education, basic skills, and family literacy education programs using an intercommunication system, as that term is defined in section 397 of the Communications Act of 1934, and expand the effective outreach and use of such programs and materials to adult education eligible providers.*

*"(8) Initiating other activities designed to improve the measurable quality and effectiveness of adult education basic skills, English language acquisition, and family literacy education programs nationwide.".*

## *TITLE III—AMENDMENTS TO THE WAGNER-PEYSER ACT*

### *SEC. 301. AMENDMENTS TO THE WAGNER-PEYSER ACT.*

*The Wagner-Peyser Act (29 U.S.C. 49 et. seq.) is amended—*

*(1) by striking sections 1 through 13;*

*(2) in section 14 by inserting "of Labor" after "Secretary"; and*

*(3) by amending section 15 to read as follows:*

***"SEC. 15. WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.***

*"(a) System Content.—*

*"(1) IN GENERAL.—The Secretary of Labor, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a nationwide workforce and labor market information system that includes—*

*"(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project employment opportunities and conditions at national, State, and local levels in a timely manner, including statistics on—*

*"(i) employment and unemployment status of national, State, and local populations, including self-employed, part-time, and seasonal workers;*

*"(ii) industrial distribution of occupations, as well as current and projected employment opportunities, wages, benefits (where data is available), and skill trends by occupation and industry, with particular attention paid to State and local conditions;*

*"(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and*

*"(iv) employment and earnings information maintained in a longitudinal manner to be used for research and program evaluation;*

*"(B) information on State and local employment opportunities, and other appropriate statistical data related to labor market dynamics, which—*

*"(i) shall be current and comprehensive;*

*"(ii) shall meet the needs identified through the consultations described in subparagraphs (A) and (B) of subsection (e)(2); and*

*"(iii) shall meet the needs for the information identified in section 134(d);*

*"(C) technical standards (which the Secretary shall publish annually) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;*

*"(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;*

*"(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;*

*"(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as—*

*"(i) national, State, and local policymaking;*

*"(ii) implementation of Federal policies (including allocation formulas);*

*"(iii) program planning and evaluation; and*

*"(iv) researching labor market dynamics;*

*"(G) wide dissemination of such data, information, and analysis in a user-friendly manner and voluntary technical standards for dissemination mechanisms; and*

*"(H) programs of—*

*"(i) training for effective data dissemination;*

*"(ii) research and demonstration; and*

*"(iii) programs and technical assistance.*

*"(2) INFORMATION TO BE CONFIDENTIAL.—*

*"(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—*

*"(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes for which the submission is furnished;*

*"(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or*

*"(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i).*

*without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.*

*"(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.*

*"(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.*

*"(b) SYSTEM RESPONSIBILITIES.—*

*"(1) IN GENERAL.—The workforce and labor market information system described in subsection (a) shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.*

*"(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor employment statistics for the system, shall carry out the following duties:*

*"(A) Assign responsibilities within the Department of Labor for elements of the workforce and labor market information system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.*

*"(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.*

*"(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.*

*"(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the workforce and labor market information system described in subsection (a), including the development of consistent procedures and definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1).*

*"(E) Establish procedures for the system to ensure that—*

*"(i) such data and information are timely;*

*"(ii) paperwork and reporting for the system are reduced to a minimum; and*

*"(iii) States and localities are fully involved in the development and continuous improvement of the system at all levels, including ensuring the provision, to such States and localities, of budget information necessary for carrying out their responsibilities under subsection (e).*

*"(c) NATIONAL ELECTRONIC TOOLS TO PROVIDE SERVICES.—The Secretary is authorized to assist in the development of national electronic tools that may be used to facilitate the delivery of core services described in section 134 and to provide workforce information to individuals through the one-stop delivery systems described in section 121 and through other appropriate delivery systems.*

*"(d) COORDINATION WITH THE STATES.—*

*"(1) IN GENERAL.—The Secretary, working through the Bureau of Labor Statistics and the Employment and Training Administration, shall regularly consult with representatives of State agencies carrying out workforce information activities regarding strategies for improving the workforce and labor market information system.*

*"(2) FORMAL CONSULTATIONS.—At least twice each year, the Secretary, working through the Bureau of Labor Statistics, shall conduct formal consultations regarding programs carried out by the Bureau of Labor Statistics with representatives of each of the 10 Federal regions of the Department of Labor, elected from the State directors affiliated with State agencies that perform the duties described in subsection (e)(2).*

*"(e) STATE RESPONSIBILITIES.—*

*"(1) IN GENERAL.—In order to receive Federal financial assistance under this section, the Governor of a State shall—*

*"(A) be responsible for the management of the portions of the workforce and labor market information system described in subsection (a) that comprise a statewide workforce and labor market information system and for the State's participation in the development of the annual plan;*

*"(B) establish a process for the oversight of such system;*

*"(C) consult with State and local employers, participants, and local workforce investment boards about the labor market relevance of the data to be collected and disseminated through the statewide workforce and labor market information system;*

*"(D) consult with State educational agencies and local educational agencies concerning the provision of employment statistics in order to meet the needs of secondary school and postsecondary school students who seek such information;*

*"(E) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);*

*"(F) maintain and continuously improve the statewide workforce and labor market information system in accordance with this section;*

*"(G) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;*

*"(H) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide workforce and labor market information system;*

*"(I) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;*

*"(J) participate in the development of the annual plan described in subsection (c); and*

*"(K) utilize the quarterly records described in section 136(f)(2) of the Workforce Investment Act of 1998 to assist the State and other States in measuring State progress on State performance measures.*

*"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a Governor to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.*

*"(f) NONDUPLICATION REQUIREMENT.—None of the functions and activities carried out pursuant to this section shall duplicate the functions and activities carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).*

*"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry*

out this section such sums as may be necessary for each of the fiscal years 2006 through 2011.

"(h) Definition.—In this section, the term 'local area' means the smallest geographical area for which data can be produced with statistical reliability.".

## TITLE IV—AMENDMENTS TO THE REHABILITATION ACT OF 1973

### SEC. 401. FINDINGS.

Section 2(a) of the Rehabilitation Act of 1973 (29 U.S.C. 701(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7) there is a substantial need to improve and expand services for students with disabilities under this Act.".

### SEC. 402. REHABILITATION SERVICES ADMINISTRATION.

Section 3(a) of the Rehabilitation Act of 1973 (29 U.S.C. 702(a)) is amended—

(1) by striking "Office of the Secretary" and inserting "Department of Education";

(2) by striking "President by and with the advice and consent of the Senate" and inserting "Secretary, except that the Commissioner appointed under the authority existing on the day prior to the date of enactment of the Job Training Improvement Act of 2005 may continue to serve in the former capacity"; and

(3) by striking ", and the Commissioner shall be the principal officer.".

### SEC. 403. DIRECTOR.

(a) In General.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended—

(1) by striking "Commissioner" each place it appears, except in sections 3(a) (as amended by section 402) and 21, and inserting "Director";

(2) in section 100(d)(2)(B), by striking "COMMISSIONER" and inserting "DIRECTOR";

(3) in section 706, by striking "**COMMISSIONER**" and inserting "**DIRECTOR**"; and

(4) in section 723(a)(3), by striking "COMMISSIONER" and inserting "DIRECTOR".

(b) Exception.—Section 21 of the Rehabilitation Act of 1973 (29 U.S.C. 718) is amended—

(1) in subsection (b)(1)—

(A) by striking "Commissioner" the first place it appears and inserting "Director of the Rehabilitation Services Administration"; and

(B) by striking "(referred to in this subsection as the 'Director')"; and

(2) by striking "Commissioner and the Director" each place it appears and inserting "both such Directors".

### SEC. 404. DEFINITIONS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) by redesignating paragraphs (35) through (39) as paragraphs (36), (37), (38), (40), and (41), respectively;

(2) in subparagraph (A)(ii) of paragraph (36) (as redesignated in paragraph (1)), by striking "paragraph (36)(C)" and inserting "paragraph (37)(C)";

(3) by inserting after paragraph (34) the following:

"(35)(A) The term 'student with a disability' means an individual with a disability who—

"(i) is not younger than 16 and not older than 21;

"(ii) has been determined to be eligible under section 102(a) for assistance under this title; and

"(iii)(I) is eligible for, and is receiving, special education under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

"(II) is an individual with a disability, for purposes of section 504.

"(B) The term 'students with disabilities' means more than 1 student with a disability."; and

(4) by inserting after paragraph (38) (as redesignated by paragraph (1)) the following:

"(39) The term 'transition services expansion year' means—

"(A) the first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) for fiscal year 2004 by not less than $100,000,000; and

"(B) each fiscal year subsequent to that first fiscal year.".

### SEC. 405. STATE PLAN.

(a) Coordination With Education Officials and Assistive Technology Programs.—Section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)) is amended—

(1) in subparagraph (D)(i) by inserting ", which may be provided using alternative means of meeting participation (such as video conferences and conference calls)" before the semicolon; and

(2) by adding at the end the following:

"(G) Coordination with assistive technology programs.—The State plan shall include an assurance that the designated State unit and the lead agency responsible for carrying out duties under the Assistive Technology Act of 1998 (29 U.S.C. 3001), as amended, have developed working relationships and coordinate their activities.".

(b) Assessment and Strategies.—Section 101(a)(15) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(15)) is amended—

(1) in subparagraph (A)

(A) in clause (i)—

(i) in subclause (II), by striking "and" at the end;

(ii) in subclause (III), by adding "and" at the end; and

(iii) by adding at the end the following:

"(IV) in a transition services expansion year, students with disabilities, including their need for transition services;"; and

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting after clause (i) the following:

"(ii) include an assessment of the transition services provided under this Act, and coordinated with transition services under the Individuals with Disabilities Education Act, as to those services meeting the needs of individuals with disabilities;"; and

(2) in subparagraph (D)—

(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(B) by inserting after clause (ii) the following:

"(iii) in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title or to postsecondary education or employment;".

(c) Services for Students With Disabilities.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is further amended by adding at the end the following:

"(25) Services for students with disabilities.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State—

"(A) has developed and implemented strategies to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and

"(B) from funds reserved under section 110A, shall carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities that—

"(i) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D);

"(ii) improve the achievement of post-school goals of students with disabilities, including improving the achievement through participation (as appropriate when vocational goals are discussed) in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

"(iii) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities;

"(iv) support the provision of training and technical assistance to State and local educational agency and designated State agency personnel responsible for the planning and provision of services to students with disabilities; and

"(v) support outreach activities to students with disabilities who are eligible for, and need, services under this title.".

### SEC. 406. SCOPE OF SERVICES.

Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a), by striking paragraph (15) and inserting the following:

"(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment, including, in a transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);";

(2) in subsection (b), by striking paragraph (6) and inserting the following:

"(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

"(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

"(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(25)(B), to assist in the transition from school to post-school activities."; and

(3) in subsection (b) by inserting at the end, the following:

"(7) The establishment, development, or improvement of assistive technology demonstration, loan, reutilization, or financing programs in coordination with activities authorized under the Assistive Technology Act of 1998 (29. U.S.C. 3001), as amended, to promote access to assistive technology for individuals with disabilities and employers.".

### SEC. 407. STANDARDS AND INDICATORS.

Section 106(a) of the Rehabilitation Act of 1973 (29 U.S.C. 726(a)) is amended by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following:

"(2) Measures.—The standards and indicators shall include outcome and related measures of program performance that—

"(A) facilitate the accomplishment of the purpose and policy of this title;

"(B) to the maximum extent practicable, are consistent with the core indicators of performance, and corresponding State adjusted levels of performance, established under section 136(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)); and

"(C) include measures of the program's performance with respect to the transition to post-

*school vocational activities, and achievement of the post-school vocational goals, of students with disabilities served under the program.".*

### *SEC. 408. RESERVATION FOR EXPANDED TRANSITION SERVICES.*

*The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following:*

### *"SEC. 110A. RESERVATION FOR EXPANDED TRANSITION SERVICES.*

*"(a) RESERVATION.—From the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Director under subsection (b) to carry out programs and activities under sections 101(a)(25)(B) and 103(b)(6).*

*"(b) CALCULATION.—The Director shall calculate the amount to be reserved for such programs and activities for a fiscal year by each State by multiplying $50,000,000 by the percentage determined by dividing—*

*"(1) the amount allotted to that State under section 110 for the prior fiscal year, by*

*"(2) the total amount allotted to all States under section 110 for that prior fiscal year.".*

### *SEC. 409. CLIENT ASSISTANCE PROGRAM.*

*Section 112(e)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 732(e)(1)) is amended by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:*

*"(D) The Secretary shall make grants to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section. The amount of such grants shall be the same as provided to territories under this subsection. ".*

### *SEC. 410. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.*

*Section 509(g)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 794e(g)(2)) is amended by striking "was paid" and inserting "was paid, except that program income generated from such amount shall remain available to such system for one additional fiscal year".*

### *SEC. 411. CHAIRPERSON.*

*Section 705(b)(5) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(b)(5)) is amended to read as follows:*

*"(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.".*

### *SEC. 412. AUTHORIZATIONS OF APPROPRIATIONS.*

*The Rehabilitation Act of 1973 is further amended—*

*(1) in section 100(b)(1) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(2) in section 100(d)(1)(B) by striking "fiscal year 2003" and inserting "fiscal year 2011";*

*(3) in section 110(c) by amending paragraph (2) to read as follows:*

*"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary, not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1) for each of fiscal years 2003 through 2011.";*

*(4) in section 112(h) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(5) in section 201(a) by striking "fiscal years 1999 through 2003" each place it appears and inserting "fiscal years 2006 through 2011";*

*(6) in section 302(i) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(7) in section 303(e) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(8) in section 304(b) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(9) in section 305(b) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(10) in section 405 by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(11) in section 502(j) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(12) in section 509(l) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(13) in section 612 by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(14) in section 628 by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(15) in section 714 by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011";*

*(16) in section 727 by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011"; and*

*(17) in section 753 by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".*

### *SEC. 413. CONFORMING AMENDMENT.*

*Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 110 the following:*

*"Sec. 110A. Reservation for expanded transition services.".*

### *SEC. 414. HELEN KELLER NATIONAL CENTER ACT.*

*(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking "1999 through 2003" and inserting "2006 through 2011".*

*(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking "1999 through 2003" and inserting "2006 through 2011".*

## *TITLE V—TRANSITION AND EFFECTIVE DATE*

### *SEC. 501. TRANSITION PROVISIONS.*

*The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of this Act.*

### *SEC. 502. EFFECTIVE DATE.*

*Except as otherwise provided in this Act, this Act and the amendments made by this Act, shall take effect on the date of enactment of this Act.*

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–11. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House report 109–11.

### AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment as a designee of the gentleman from Massachusetts (Mr. TIERNEY).

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. KILDEE:

Strike sections 111 and 119.

In section 101(1), strike "paragraphs (13) and" and all that follows through "through (24)" and insert "paragraph (24) and redesignating paragraphs (1) through (23) as paragraphs (3) through (25)".

In section 101(8), strike "; and" and insert a period.

Strike paragraph (9) of section 101.

In the table of contents in section 2 of the bill, strike the items related to section 111 and redesignate succeeding items accordingly.

In the table of contents in section 2 of the bill, strike the item related to section 119 and redesignate succeeding items accordingly.

The CHAIRMAN. Pursuant to House Resolution 126, the gentleman from Michigan (Mr. KILDEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, current law requires that services be provided to both in-school youth and out-of-school youth. Nothing in the Act prevents States from spending all of youth funds on out-of-school youths. In fact, as many as 17 States spend more than 30 percent on out-of-school programs. The majority of States are challenged by current out-of-school requirements.

Eliminating services for in-school youth cuts funding for programs designed to keep youths in school, to develop workforce skills, to prepare for post-secondary education, and provide after school and summer opportunities.

H.R. 27 limits the business community's ability to work with schools and prepare emerging workforces. In many communities, you have that cooperation between the business community and the schools.

H.R. 27 restricts services for rural youths. Many rural in-school programs provide workforce development and on-school support service for students who are at risk for dropping out. I think it is very, very important that we maintain the in-school youth program, and that is the purpose for me offering this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1700

Mr. BOEHNER. Mr. Chairman, I rise in opposition to the gentleman's amendment and yield myself such time as I may consume.

Mr. Chairman, the amendment that is being offered by my friend, the gentleman from Michigan (Mr. KILDEE), would strike all of the positive reforms for youth that are included in H.R. 27. Under current law, funds for the WIA youth program are spread too thinly, as they fund programs that both serve in-school and out-of-school youth.

In the White House, the Disadvantaged Youth Task Force has proposed targeted Federal youth training funds to serve the most in need and to reduce the duplication of services amongst

Federal programs. There are a large number of programs today designed to deal with in-school, at-risk children, and there is really only one program in WIA that is targeted at out-of-school youth.

What we tried to do in this bill was to strike a balance by requiring that 70 percent of the youth program funds go to out-of-school youth, a population that is by and large ignored and that I think these funds ought to be targeted to. We do allow the local workforce boards to use up to 30 percent of their programs for in-school youth: but there are other programs, a half a dozen other programs, targeted at these at-risk children who are in school.

So as a way of trying to bring more synergy to an effort to help out-of-school youth, I think the language we have in the bill strikes the right balance.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the Tierney amendment, and I thank the distinguished gentleman from Michigan (Mr. KILDEE) for yielding me this time and also for his leadership. I also want to thank the gentleman from Massachusetts (Mr. TIERNEY) for his leadership. I know he was very thoughtful in this amendment.

Particularly when we talk about these programs, what comes to mind, and I heard the gentleman from Michigan (Mr. KILDEE) be so eloquent in the Committee on Rules about the effectiveness and the importance of a training program, number one, for the new jobs of the 21st century. I am reminded of the fact that I spent a good part of my time as a locally elected official on the Houston City Council promoting the job training programs of our community that came down through the workforce board commissions in Texas.

When you eliminate summer jobs, you are literally undermining the opportunities for inner-city and rural youth to move to the next level of opportunity. You are extinguishing the right and the exposure that they have for career preparation. You go into these youth training programs and you look at the smiles on the faces of individuals who have come from experiences where there was no work, where their families are unemployed, and where there is no hope and opportunity.

I am very disappointed, in addition, to the cut in youth programs, and the fact that we are now getting rid of the veterans' preference for job training, actually cutting funds. What an outrage. With a million people having served in Afghanistan and Iraq: with the devastation of the impact of those returning veterans, with their emotional problems and injuries, and now we are suggesting to them that they are not worthy of a job preference.

Let me also say that when you block-grant these dollars, you block-grant job training away. That is what this program does; and in particular, it sends away this opportunity.

My last point is that I might beg to differ with the chairman of this particular distinguished committee. There is discrimination in this bill. And, frankly, I think we should follow the Kildee model, who said that he knew a priest in Detroit who had a job training program who made sure that there was no discrimination, whether someone is a Muslim, whether they are Jewish or Catholic or Protestant. A program that is based upon religion and allows someone to deny you the opportunity for a job or a training position under the auspices of being a particular faith and being in charge of that particular program is discrimination under title VII in the 1964 Civil Rights Bill or under any discrimination law that has been passed in America and that exists today.

Frankly, I believe this bill, even in its presence on the floor of the House, should go no further than this House; and I ask my colleagues to support the Tierney amendment, but to oppose the underlying bill.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume just to correct the record.

The gentlewoman who just spoke says that we eliminated a preference for veterans in this bill. The fact is that there is a preference for veterans written into the law. That has not changed at all.

Secondly, the gentlewoman said there are block grants in the underlying bill. There are no block grants. As a matter of fact, the targeting of funds to the local workforce boards in this bill is more structured than it is today under current law, so that at least 75 percent of the funds available back to the States must go to the local workforce investment boards.

Lastly, the gentlewoman said that we have discrimination in this bill. I would just remind the gentlewoman that when our predecessors wrote the 1964 Civil Rights Act, they recognized in title VII that religious organizations ought to be protected in their hiring so that they would not be required to hire anybody that shows up, but could, if they wanted to, only hire those people within their faith.

Now, if people want to disagree with title VII of the 1964 Civil Rights Act, they certainly have that right. They may go to the Committee on the Judiciary and change that law, but let us not try to do it in this bill.

Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. PRICE), a member of the committee).

Mr. PRICE of Georgia. Mr. Chairman, I appreciate the opportunity to speak again on this, and I am astounded, frankly, at the level of misinformation that is coming from the other side.

I think it is important to look at the bill specifically as it defines youth. The definition of youth has changed. The age for when an individual is considered a youth has changed. Currently it is 14 to 21 years. In the bill, it would change it from 16 to 24 years. What that means is that we have more individuals out of school, out of school, who require assistance. And that is one of the reasons the provision is in the bill to change it, so that more individuals out of school will have greater opportunity to access those monies.

It is also important to appreciate this is a Department of Labor program. The Department of Education has a phenomenal number of programs eligible for in-school youth that really dwarfs the amount of money for the out-of-school individuals, 15 to 1 by my count. Some of those programs are title I grants to improve education for the disadvantaged, neglected and delinquent grants to local educational agencies, 21st Century Learning Centers, Safe and Drug-free Schools and community State grants, Bilingual Education Instructional Services, Dropout Prevention Grants, and on and on and on, Striving Readers Grant and Vocational Technical Education.

In summary, no one, no one is decreasing the amount of money to in-school youth for the concerns and the issues that they have. What we are doing is making it so that this bill addresses those individuals that are most in need.

Mr. KILDEE. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts (Mr. TIERNEY), the author of the amendment.

Mr. TIERNEY. Mr. Chairman, I thank the chairman and I thank the gentleman from Michigan (Mr. KILDEE) for taking this amendment to this point.

Just in response to the gentleman's comments a second ago and earlier, the reason for this amendment is that current law takes care of any State that wants to put a higher proportion of funds towards out-of-school youth. It has the flexibility for that. And if they want to move in that direction, they can.

It also allows States like Massachusetts, and at least 17 others, who have a greater need to serve in-school youth for job training purposes, to use their money for that.

What the H.R. 27 bill does is it takes away that flexibility and harms at least 27 States from being able to help the people that they want while it solves a problem that does not exist for the others. The others already can, in fact, serve as many of the people they want out of school.

With respect to this money that is a duplication for it because there are other funds going, none of those other programs have money left over for job training. They are already used up. Most of them are underfunded: Safe and Drug-Free Schools being slashed by the President. Title I, underfunded. You can go right on down the line.

So I hope my colleagues look at this and do not disadvantage those States that need to have the flexibility to serve more in-school youth, and at the same time realize that this amendment harms those who need more out-of-school youth served in no way at all.

Mr. BOEHNER. Mr. Chairman, I yield 30 seconds, the balance of my time, to my friend, the gentleman from Massachusetts (Mr. TIERNEY), who I know has been pressed for time.

Mr. TIERNEY. Mr. Chairman, I thank the chairman very much. This is an example of the collegiality of our Committee on Education and the Workforce. We do not agree often, but we at least have a good collegial time doing it.

I just want to stress the points that I made. And the fact of the matter is that having a mandate that every State put all their money toward out-of-school youth does not help those States that have an in-school youth issue. It also deprives a lot of programs that are working with our business community and in-school youth to get them better equipped to not only support themselves but their families to have them be more self-sufficient when they get out of school. Those programs would be slashed in many States if H.R. 27 were to go through as it is.

We have a great need for these in many States: programs like Girls Inc., Action Inc. and others work that way. I respect the chairman giving me this time to make that point, that this H.R. 27 change is a solution that does not have a problem.

The Acting CHAIRMAN (Mr. BASS). All time having expired, the question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. TIERNEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. KILDEE) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–11.

AMENDMENT NO. 2 OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. VELÁZQUEZ:

In subsection (e)(7)(A)(i) of the matter proposed to be inserted by section 123, add at the end the following:

"(IV) Borrower guarantee fees for loans made pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636(a)).".

The Acting CHAIRMAN. Pursuant to House Resolution 126, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for many unemployed workers, starting a small company provides opportunities for career growth and financial success. But the lack of access to capital prevents many entrepreneurs from starting their own business. The Small Business Administration's 7(a) loan program is a critical source of capital for small businesses, providing 30 percent of all long-term loans to U.S. entrepreneurs.

Despite the success of the 7(a) loan program, the Bush administration has repeatedly underfunded it, implemented a series of caps, imposed burdensome restrictions, and shut down the entire program. In the latest attack on October 1, the President doubled the fees that small businesses must pay to receive a 7(a) loan.

These new up-front fees are limiting the number of small businesses that can afford 7(a) loans. For a loan of $150,000, an entrepreneur must now pay nearly $3,000 in up-front fees, a significant cost for someone trying to start a company. These higher costs have significantly reduced small business use of the 7(a) program, as loan volume has decreased by $500 million since the new fees were implemented. The impact has been so great that this January the SBA made fewer loans than when the administration shut down the entire program last January.

President Bush was wrong when he increased the burden entrepreneurs face in accessing capital. This amendment acknowledges the shortsightedness of that decision. It affirms that new fees on 7(a) loans are hurting small businesses and demonstrates congressional support for using Federal funding to cover the cost of these fees.

A vote for this amendment is a vote against the Bush administration's policy raising the fees on 7(a) loans. It is a vote for our Nation's up-and-coming small business owners.

I have serious reservations about Personal Reemployment Accounts, as they will place severe limits on the amount of training an unemployed worker can receive. However, if Congress is going to establish Personal Reemployment Accounts, then we should provide entrepreneurs with the opportunity to use these resources to secure the capital needed to start small businesses. Unemployed workers should be allowed to use these funds in their accounts to pay for the cost of the 7(a) loan fees, and that is exactly what my amendment will do.

Given President Bush's commitment to creating an ownership society, I am surprised there are not more provisions in this bill to help unemployed workers own small businesses. The goal here is help reduce high unemployment, create a strong workforce, and boost our economy. This cannot be achieved without a stronger commitment to our Nation's entrepreneurs. After all, it was laid-off managers launching their own small businesses that turned our economy around during the last recession.

We need a revival of entrepreneurship in this country that will spur more job creation and grow our economy. To do this, we must take advantage of every opportunity to ensure that capital is accessible and affordable for all start-up small business owners, and we must make it clear that President Bush is failing our Nation's entrepreneurs. This amendment is one of those opportunities, and I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

☐ 1715

Mr. McKEON. Mr. Chairman, although I do not oppose the amendment, I ask unanimous consent to claim the time in opposition.

The Acting CHAIRMAN (Mr. BASS). Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. McKEON. Mr. Chairman, I yield myself such time as I may consume. I guess I was prepared to accept this amendment, or to support this amendment, but the gentlewoman's rhetoric almost decided me not to.

But as I read the amendment, it says the amendment would allow unemployable workers to also use their personal re-employment accounts to cover the borrower guaranty costs associated with small business claims. If we can keep the focus on that, instead of the rhetoric against President Bush, I see no reason to oppose this amendment.

Mr. Chairman, I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself the balance of my time.

On October 1, the Bush administration effectively implemented a tax on U.S. entrepreneurship. By doubling the fees on 7–A loans, the Bush administration has severely limited access to critical source of capital for our Nation's small businesses.

I want to be on record, and I want every Member in this House to be on record about the fact that last July, an amendment to the CJS appropriations that would have protected the 7–A program was approved with strong support. The House was on record then, and we should continue to be on record for the small business community.

This amendment sends a message that Congress is not willing to accept the recent policy decisions of the Bush administration to further burden U.S. entrepreneurs. They are our job creators. They drive our economy and they deserve our support.

Our goal is to fully repeal the freeze on the 7–A loans. While this amendment will not change the fee structure, it will help entrepreneurs afford this vital source of capital. So I therefore urge my colleagues to support this amendment.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Velázquez amendment to H.R. 27 but in strong opposition to the underlying bill. H.R. 27 is a fundamentally flawed and partisan job training bill, which does nothing to address the root causes of why little actual job training services are provided under the Workforce Investment Act.

The Velázquez amendment would compensate for the harm in the Bush administration's policy of raising the fees on 7(a) loans and its proposal to undermine existing job-training programs by establishing an untested job-training voucher program. It addresses these two critical issues by offering a solution that would benefit entrepreneurs by providing them the opportunity to use funds from personal reinvestment accounts to secure the capital needed to start small businesses.

Mr. Chairman, with our high employment rate and the administration's failure to create the number of jobs it promised, entrepreneurship is a viable alternative to unemployment. The Velázquez amendment allows unemployed individuals to use the personal reinvestment accounts to defray the costs of the administration's recent fee increases for the 7(a) loan program. This fee increase on the 7(a) program puts the program out of reach for newly unemployed workers. This amendment would help to defray the cost of the 7(a) loan program for potential borrowers.

Access to capital is the biggest obstacle that entrepreneurs face in starting small businesses. A vote for this amendment is a vote to give unemployed workers resources to invest in their future by securing capital to start small businesses. Not only would this amendment help our Nation's unemployed, it will also boost job creation. After all, small businesses account for approximately 75 percent of the net new jobs added to the economy.

I would like to commend Ranking Member VELÁZQUEZ on her amendment and continued commitment to our Nation's small businesses. I urge my colleagues to support the Velázquez amendment.

Ms. VELÁQUEZ. Mr. Chairman, I yield back the balance of my time.

Mr. McKEON. Mr. Chairman, I ask unanimous consent to reclaim the balance of my time.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from California?

Ms. VELÁZQUEZ. Mr. Chairman, I object.

The Acting CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ) will be postponed.

It is now in order to consider Amendment No. 3 printed in House report 109–11.

### AMENDMENT NO. 3 OFFERED BY MR. SCOTT OF VIRGINIA.

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SCOTT of Virginia:

Strike section 129.

In the table of contents in section 2 of the bill, strike the item relating to section 129, and redesignate succeeding sections accordingly.

The Acting CHAIRMAN. Pursuant to House Resolution 126, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman I yield myself 1 minute and 15 seconds.

Mr. Chairman, I made a previous statement on this amendment during the consideration of the rule, so let me just say that this amendment is offered along with my colleagues, the gentlewoman from California (Ms. WOOLSEY), the gentleman from Maryland (Mr. VAN HOLLEN), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Texas (Mr. EDWARDS) and the gentleman from New York (Mr. NADLER) in order to preserve and maintain civil rights protections as they currently appear in job training law.

Current law prohibits sponsors of job training programs from discriminating in hiring based on race or religion. This amendment will keep the law the way it has been since 1965. We have heard some comments about title VII. Title VII gives the religious organization an exemption to discriminate with its own money. It was never intended to apply to Federal money.

In any event, there has been no discrimination in job training programs with Federal money, whether it is faith-based sponsored or otherwise since 1965.

.Speakers have suggested that religious organizations have barriers to participation. They do not say what the barrier is. The barrier is that you cannot discriminate in employment with the Federal money. Any program that can get funded under this new language in the bill could be funded anyway under the traditional funding, no discrimination, if the sponsor would agree not to discriminate in employment. That has been the rule since 1965.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia.

The Acting CHAIRMAN. The gentleman from Ohio (Mr. BOEHNER) is recognized for 30 minutes.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume. The amendment by my friend from Virginia would actually work against the neediest citizens in our local communities. Faith-based organizations such as churches, synagogues and other faith-based charities are a central part of the fabric of local communities across America. Many of these faith-based institutions provide assistance to the hardest-to-serve individuals because they often go where others will not and serve those others prefer not to serve, and go out of the way to meet people where they are rather than where we would want them to be.

President Bush noted yesterday at a speech that one of the key reasons why many faith-based groups are so effective is the commitment to serve that is grounded in the shared values and religious identity of their volunteers and their employees. In other words, effectiveness happens because people who share faith show up to help a particular organization based on that faith to succeed.

I agree with President Bush that many faith-based organizations can make a vital contribution to Federal assistance programs. Yet this amendment would deny faith-based institutions their rights, under the historic 1964 Civil Rights Act. Considering the proven track record of faith-based providers in meeting the needs of our citizens, why would we want to deny them the opportunity to help in Federal job training efforts?

Unfortunately, in some Federal laws, these faith-based organizations have been stripped of their hiring rights and must relinquish their civil liberties if they choose to participate in Federal service initiatives.

The landmark 1964 Civil Rights Act explicitly protects the rights of religious organizations to take religion into account into their hiring practices. In fact, the Civil Rights Act made clear that when faith-based organizations hire employees on a religious basis, it is an exercise of the organization's civil liberties and not discrimination under Federal law.

Those organizations willing to serve their communities by participating in Federal programs should not be forced to compromise their religious liberties in order to serve those in need. The U.S. Supreme Court in 1987 upheld the rights of faith-based institutions and held that it was constitutional for these groups to take religion into account when making hiring decisions.

Former Democrat President Bill Clinton himself signed four laws explicitly allowing faith-based groups to staff on a religious basis when they receive Federal funds. Those laws are the 1996 Welfare Reform Law, the 1998 Community Services Block Grant Act, the 2000 Community Renewal Tax Relief Act, and the 2000 Substance Abuse and Mental Health Services Administration Act.

President Bush has worked tirelessly to remove the barriers that needlessly discourage faith-based groups from bringing their talents and compassion to Federal initiatives that help Americans in need. And just yesterday, again, he called on Congress to send him the same language protecting religious hiring that President Clinton signed on four other occasions.

The underlying bill answers the President's call and takes advantage of the positive role that faith-based institutions play in our communities in serving those who are most in need. We should not be denying faith-based providers the opportunity to serve the neediest of our citizens. And I urge my colleagues to vote no on the Scott amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), a cosponsor of the amendment.

Ms. WOOLSEY. Mr. Chairman, I will begin by correcting two misunderstandings about this amendment. First, it would not keep faith-based organizations from hiring members of their own religion with their own funds in the exercise of their faith.

Second, it would not keep faith-based organizations from participating in job training programs under this bill. What this amendment says is that if a faith-based organization accepts Federal funds for job training, then in delivering job training, it cannot engage in religious discrimination.

Yesterday President Bush called on Congress, and let me quote, "to judge faith-based groups by results, not by their religion."

Well, current law does judge faith-based organizations by results, not by their religion. But sadly, the supporters of H.R. 27 would allow federally-funded job training programs to judge job applicants by their religion, not by their results.

Under H.R. 27, a faith-based grantee could refuse to hire the best qualified person for the grant or even fire its best worker because they are not the right religion. That is wrong, it is unconstitutional, and it is bad policy.

When people who desperately need a job seek help, they do not care about the religion of the person helping them, they do care that the person helping them was hired because he or she was the best qualified person, and they do care that the person helping them is not concerned about their religion. But when the people providing help are hired because of their own religion, it is naive to think that religion will not permeate the help that they provide, no matter what H.R. 27 says.

The proof of this slippery slope is in the President's words. In talking about a hypothetical federally-funded Methodist alcohol treatment center, he said that the policy should be that "all are welcome, welcome to be saved so they become sober."

I support every American's right to seek salvation through their religion, but our only interest in federally-funded programs should be whether they provide qualified services for which they are funded. No, this amendment does not discriminate against religion, it protects people from discrimination because of their religion.

In closing, I will correct a third misunderstanding, that the faith community opposes this amendment. A wide range of faith-based organizations support this amendment because they recognize that it is not an attack on American religious freedoms, but a defense of those freedoms.

So I thank the gentleman from Virginia (Mr. SCOTT), the gentleman from Maryland (Mr. VAN HOLLEN), the gentleman from Texas (Mr. EDWARDS), and the gentleman from New York (Mr. NADLER) for their commitments to protecting American's liberties and I encourage all Americans to join us in supporting this amendment.

Mr. BOEHNER. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), a cosponsor of the amendment.

Mr. VAN HOLLEN. Mr. Chairman, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time.

First, let me clarify what this amendment is not about. This amendment is not about whether faith-based organizations do a terrific job in our communities and around the world in providing services. They do, and they are doing that every day. Catholic Charities, Jewish Federation, and a whole variety of Protestant denominations currently receive Federal dollars to provide services in our community and around the world. Indeed, many of them receive money today to provide job training services, and they do a good job.

And guess what, today they are doing it under current law which says when they receive those Federal tax dollars, they may not discriminate in who they hire based on religion, and not one of those organizations has come to me and said we could do a better job in providing job training services if only you would let us discriminate based on religion. That is what this is all about.

The Civil Rights Act of 1964 does not say in any way that religious organizations can take taxpayer dollars and then discriminate in their hiring based on religion when they are providing services based on those dollars. The issue is very simple. Taxes are paid by Christians, by Jews, by Muslims, by people of all denominations. We are now using those resources to provide to faith-based organizations, and what the bill would allow people to do is to say to somebody who is coming to apply for a job to provide job training services, you know what, we know you are qualified, we know you have a great education, know you can do a good job in providing job training services, but you are the wrong religion. We do not want you because you are Christian, we do not want you because you are Jewish, we do not want you because you are the wrong religion. That is a terrible message to be sending to people throughout this country. In fact, it is a great irony that in a bill that is designed to provide job training to help more people get jobs, we would put in a provision that would deny someone an opportunity to get a job providing job training based on their religion.

□ 1730

I urge my colleagues to stick with the current law, because what the underlying bill does is eliminate current law and give a green light that allows people to discriminate based on religion, a terrible message to send. Let us not do it.

Mr. BOEHNER. Mr. Chairman, I yield myself 30 seconds. Title VII of the 1964 Civil Rights Act explicitly says that religious organizations in their hiring can hire people of their own faith. Period. That is what it says. It does not say whether you take Federal money or you do not take Federal money. It says that a religious organization can take religion into account in terms of their hiring. Period.

Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I want to further elaborate on the last point in this amendment's attack on religious liberty in the United States, that in fact the interpretation in the Presiding Bishop v. Amos, the Supreme Court unanimously upheld the language permitting religious organizations to staff on a religious basis in matters concerning employment when they receive Federal funds, in a unanimous decision.

Finding that the exemption did not violate the establishment clause, the Supreme Court has made it clear that it is "a permissible legislative purpose to alleviate significant governmental interference with the ability of religious organizations to define and carry out their religious missions."

Even where the content of their activities is secular, in the sense that activities do not include religious teaching, proselytizing, or worship, and it is very important for everybody to understand, we all agree you cannot have prayer, you cannot proselytize, you cannot use government funds for anything but a secular purpose in job training, Justice Brennan, hardly a conservative, said that even if a religious organization is providing job training, which would be a secular thing, it is likely to be infused with a religious purpose. In other words, the motivation of the individuals probably is religious.

He also recognized that churches and other religious entities "often regard the provision of such services as a means of fulfilling religious duty and of providing an example of the way of life a church seeks to foster." He is perhaps one of the greatest liberal justices of all time. And then he recognized that preserving the title VII protections when religious organizations engage in social services is a necessary element of religious freedom.

This attempt to redefine the Supreme Court in today's debate is unfortunate. It is, in my opinion, bigotry against many religious people in the United States who would like to provide assistance to the poor, who would like to leverage their funds, their volunteer time, their churches, but are being told that even though they accept everybody in, even though they cannot proselytize with it, that they are not welcome to participate, they are going to have their liberties taken away.

For example, a case we often hear, well, they can set up a 501(c)3 or not have that reach, but Catholic Charities, an organization that historically has taken funds and it is often held up, the California Supreme Court just said that because Catholic Charities offers secular services to clients and does not directly preach Catholic values, it is therefore not a religious organization. Therefore, the court ruled that Catholic Charities must provide services contrary to their religious principles.

Furthermore, as we take the logical extension of this which we are dealing with in whether we provide buses and computers to private schools and which will certainly come up in education bills in front of our committee, one of the questions is, if those funds run through the bishop's office, does in fact the reach of the funds that go for buses and for computers, which the court has ruled a computer does not do the proselytizing, the software does the proselytizing, will this reach back in because the governance of Catholic Charities ultimately comes back to the bishop's office?

Court rulings are increasingly tilting that direction because we have falsely interpreted what is religious liberty in the United States and that we have to make it clear in these bills which, as the chairman has pointed out, have passed this House multiple times, the President of the United States in many of these was not President Bush pushing a faith-based initiative, but President Clinton. And as the Member from Maryland has pointed out, he did not enthusiastically say this was going to be upheld; but the fact is over the objections of many on his side, he supported it.

Former Vice President Gore has said specifically that religious organizations should not have to change their religious character in order to participate. What does religious character mean? It means that if you are an Orthodox Jewish group and you are going to serve everybody in your community, that you get to be an Orthodox Jewish group; if you are an evangelical group that believes in the resurrection of Jesus Christ, that people who represent your organization should share that belief: if you are a Muslim group, that people who represent that group should share that.

The fundamental question here is, and through my Subcommittee on Criminal Justice and Human Services we held eight hearings across the United States and we had a great debate in every region of the country, but many organizations came forth, whether they were Muslim, Jewish or Christian in some form, and said, we cannot compromise the nature of our faith if you are going to make us change our hiring practices.

So what we are saying, by trying to take away their religious liberty, if they want to provide secular services, that we are discriminating and changing policy contrary to what President Clinton has supported, contrary to what President Bush has supported, contrary to the different nominees of both parties; and it will be a sad day if this Congress after bipartisan efforts for the last 5 to 8 years to push this type of legislation to allow these faith-based groups at the table would go backwards and say, you are no longer welcome, you are not invited to help anymore, you are off the table.

I believe that the Members, and I know one argument is that we had these debates in the middle of the night, I believe Members actually looked at those bills and they knew what they were voting for, and I hope they will not flip-flop today.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3½ minutes to the gentleman from Massachusetts (Mr. FRANK), a cosponsor of the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, the history is ambiguous. Courts have been on both sides. The principle is what is involved. We are told that if we adopt this amendment, we are denying the liberty to religious organizations. The liberty that is being asked, frankly I am disappointed to hear this asserted, and I think the greatest denigration of religious organizations coming forward here are those who are saying this: there are religious groups in this country who are eager to help people in need, but if they get Federal tax dollars to help people in need and they are forced to associate with heathens and unbelievers and infidels, then they will be driven away.

What is so terrible about saying to the Orthodox Jews in Brooklyn who were cited, you want to help the people in Brooklyn, the people you want to help will be black and Hispanic, they will be white and poor and Jewish and Christian, if you really want to help them, on your own, whatever you want to do, you can do. But if you want all of those people in Brooklyn who paid Federal taxes, if you want a share of their Federal taxes to run a program to help them, God forbid, I guess you mean this literally, God forbid you should have to hire one of them.

Martin Luther King said, and it is sadly still true, that one of the most segregated times in America is the hour of worship. So understand that when you empower the religious groups to discriminate based on religion, you will also de facto empower some segregation. Those Orthodox Jewish groups in Brooklyn will hire very few black people in Brooklyn. And if in fact you have a policy that says all the money is going to go in these areas to the religious groups, then what about people who are not religious? The Constitution says you should not discriminate against them. You may not think much of them, but you should not be discriminating against them, but they cannot ever get a job.

And you talk about message. I love this message. What we are going to be saying if you win here in the House of Representatives is, attention all Shiites, do not hire Sunnis. That is your principle. Apparently, we are going to be encouraging the people in Iraq with Iraqi Government money or American Government money, a lot of it is going to Iraq, do you really think you want to send that message to the Shiites that when they try to rebuild their country they should not hire Sunnis?

And what are you saying? That there is something somehow so corrosive about associating with someone of a different religion that it disables you from doing good? What kind of motivation do you impute to these people? You want to do good, but you should not have to associate with one of those people. By the way, even you acknowledge that the people being served have to be of all religions. So this religious purity that apparently is so essential has already been dissolved.

But here is the point: we are being asked to say to Americans, yes, you will pay taxes for this; but the taxes you pay, you are not eligible for a job because you believe in the wrong God. Or you believe in God in the wrong way. You believe in the wrong denomination. Or you do not believe. Again, what are you saying? Is it really the case that religious organizations, that they are somehow so angry towards outsiders, that they feel so unclean that they cannot help people in need if they have to associate with people who are otherwise perfectly qualified, who believe in the mission of this entity, but they do not share the same religion?

I hope we will not so characterize religious people as being so narrow and so biased towards people not of their own religion that they cannot even work with them in this common cause to which you say they are committed.

Mr. SOUDER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in opposition to this amendment. The 1964 Civil Rights Act explicitly protects the rights of religious organizations to take religion into account in their hiring practices. In fact, the Civil Rights Act made clear that when faith-based organizations hire employees on a religious basis, it is an exercise of the organization's civil liberties and does not constitute discrimination under Federal law.

The writers of that legislation understood that a church, a synagogue, a mosque all operate as distinctly religious organizations. They are, therefore, protected under the first amendment's right to the free exercise of religion.

Why are we being asked today, then, to approve an amendment that revokes the constitutional right of faith-based communities to practice their religions freely? This amendment would revoke the constitutionally protected right of faith-based groups to maintain their religious nature and character through those they hire. By denying the rights of religious organizations to hire according to their principles, this amendment declares war between the government and faith-based organizations, it cuts services for people in need, it eliminates the role of faith-based organizations in our government efforts to help.

I doubt that the gentleman from Virginia would support an amendment forcing him to hire staff who oppose his values and priorities as a legislator. Why then are we being asked to call it discriminatory when a Christian or Muslim charity wants to consider the beliefs of potential employees before hiring them? Such practices have been upheld by the United States Supreme Court. If this amendment passes, we might as well revisit the Civil Rights Act itself, since we would be rewriting it today.

Faith-based providers cannot be expected to sustain their religious missions without the ability to employ individuals who share the tenets and practices of their faith. The success of any organization is having everyone on board with its essential principles and vision. The Civil Rights Act secures that right, the Supreme Court protected it, and we should follow suit.

This amendment should be defeated.

Mr. SCOTT of Virginia. Mr. Chairman, we are revisiting the civil rights laws. There has been no discrimination since 1965, and that is exactly what we are revisiting.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of his amendment, and I find it just incredible that all of a sudden discrimination becomes the core of religious organizations, for those of us who have spent almost 40 years working with faith-based organizations in our communities involved in all kinds of public service endeavors, all kinds of delivery of services to people in need, to help members of our community in almost everything, from education to child care to job training to substance abuse to a whole range of activities that are absolutely essential to binding our community together.

Nobody said that discrimination was a fundamental part of this operation all through the sixties and seventies, the eighties or the nineties. None of these organizations ever said they were unable to deliver these services, unwilling to deliver these services, unwilling to help these people whom they have chosen to extend the services of their organization to; when they took Federal money said they could not do this because they needed to discriminate. But all of a sudden now the suggestion is that the basic tenet is that you must be able to discriminate. You must be able to discriminate or you will not deliver these services.

What does it also say about the use of the taxpayers' dollars? If the best person to provide the substance abuse counseling, if the best person to provide the child development, if the best person to provide the job training is not of the same religion, is the taxpayer getting a fair shake when they hire somebody else that does not have those qualifications? Should we not be looking for the best person to provide these services? You cannot maintain your religious character, you cannot maintain the religious character of your organization unless you can discriminate in hiring?

Organizations, again, have never suggested that they have been diminished because they ran a child development center. They have never said they have been diminished because they ran an afterschool program because they could not discriminate. What is this liberty to discriminate against somebody else using Federal dollars? This is absolutely unacceptable.

□ 1745

Mr. SOUDER. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. PRICE), a member of the Committee on Education and the Workforce.

Mr. PRICE of Georgia. Mr. Chairman, I appreciate the opportunity once again to speak on this, and I urge my colleagues to oppose this amendment. The misunderstandings and confusion and frankly the hyperbole is phenomenal coming out of the other side. No one, no one, is encouraging faith-based institutions to discriminate with the language in this bill.

Sometimes I think it is helpful to go back to the original language. We have had a lot of reference to title VII of the Civil Rights Acts of 1964. What it says specifically is "This subchapter shall not apply to an employer with respect to the employment of," et cetera. It does not say anything about the source of the money. Nothing. There is no mention of the source.

There has been some discussion about previous language that many Members on the other side of the aisle have adopted in previous bills, four pieces of legislation under the Clinton administration. President Clinton himself said that no discrimination with employment in the bills that were adopted, and we have heard about them, the welfare reform, the community renewal tax relief, Community Services Block Grant, substance abuse. The gentleman from Virginia (Mr. SCOTT) himself said that there has been no discrimination since 1965.

Well, the exact identical language in this bill was in those. If there is this incredible occurrence that is happening out there with this remarkable discrimination, where are the examples under those bills? Where are the examples of discrimination under those bills that have exactly the same language as this bill that we are promoting here?

I urge my colleagues to oppose this and to be certain, to be certain, there is no intent or desire on anybody on this side of the aisle to encourage discrimination by faith-based institutions.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NADLER), a cosponsor of the amendment.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, since the presidency of Franklin Roosevelt, our Nation has moved inexorably toward the elimination of all forms of discrimination in government contracting and in the private sector. This bill rolls back that commitment that would enshrine the principle of religious discrimination in one of our most important job training programs at a time when many Americans are losing their jobs and need the help these programs offer.

Members on the other sides of the aisle say that this would roll back the ability of churches and synagogues to discriminate on the basis of religion now. Nonsense. They can discriminate. No one tells the Catholic Church they have to hire women priests. No one tells the Catholic Church or any other church or synagogue they have to hire a janitor of a different religion. Nor would this amendment. What this says is that with Federal funds, they cannot discriminate. With their own funds they still can.

President Reagan, who signed the original version of this legislation 23 years ago, did not think it was necessary to allow employment discrimination with Federal funds. No one should ever be told that they cannot hold a job simply because they profess the wrong faith. And why is this necessary? Are religiously affiliated charities unable to participate in federally social services programs? Is there a single Member of this House who has not held secure government funds for such programs? For Catholic Charities? The Federation of Protestant Welfare Agencies? The Jewish Federation, and countless others? We all get these funds. That is no secret.

The only thing required of these organizations is that they play by the same rules as everyone else. They cannot make professing religious faith a precondition of receiving social services paid for with the taxpayers' dollars, and they cannot discriminate in employment when those jobs are paid for with taxpayers' dollars.

We have all heard about the bad old days when signs hung in windows: "No Catholics need apply," "No Jews need apply. Fill in one's favorite denomination. That is wrong. People of every faith pay their taxes, and we have no right to deny them employment paid for by those taxes.

It is wrong. It is unAmerican. It is immoral. It is unnecessary, and it is unprecedented.

These are the armies of compassion. Religious discrimination with taxpayers' dollars is not compassionate. I urge support for the amendment.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Puerto Rico (Mr. FORTUÑO).

Mr. FORTUÑO. Mr. Chairman, the discussion today is really about protecting the mission of those religious organizations that some of the Members here are proposing that we regulate even further in spite of the wonderful job they are doing to work with our social ills. It is also about preserving the strength and integrity of religious organizations that engage in this type of social work. It is not a license we are looking for to impose particular religious beliefs, but a guarantee to protect the administrative integrity that is part of each religious group that engages in this type of work.

Faith-based and community-based organizations are far better suited than a government bureaucracy to address these issues and produce results. Key to their success is a unifying roll they often play in their communities, as well as their proximity to individuals and communities in need.

This is especially true, I must say, of the Hispanic American population. Hispanic Americans traditionally, in following their traditional values and beliefs, often turn to faith-based and community organizations for help. By channeling social services through these organizations, we can avoid losing members of this community in our society.

However, what some today are trying to do here is essentially trying to tell them whom they can hire and whom they cannot hire. I know of different programs actually as we speak here in Washington, D.C. I have a group of six or seven ministers from the northwestern part of Puerto Rico that are visiting with us today, and they have been doing, for a number of years, a wonderful job in terms of working with our younger population. No one from Washington, I repeat, no one from Washington, has a right to tell them whom they can hire and whom they cannot hire. When a faith-based group hires employees on a religious basis, they are exercising their civil liberties. No one from Washington will take that away from them. If denied the right to staff their programs on a religious basis, employees of religious organizations not sharing the religious organization's faith could end up suing to tear down religious art or symbols and perhaps even its religious sounding name.

What is really happening here is there are some people who do not believe that these organizations should be performing the job they are performing.

I ask everyone here to oppose the amendment that has been introduced.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. GRIJALVA).

Mr. GRIJALVA. Mr. Chairman, I rise today in support of the gentleman from Virginia's (Mr. SCOTT) amendment to H.R. 27.

Twenty-three years ago, the Workforce Investment Act was first enacted. It established a commonsense clause prohibiting job discrimination on the basis of religion. WIA then was originally designed to provide funding for secular social services. Clearly, it did not intend to permit government-funded job training programs to engage in religious discrimination when making an employment decision, which is exactly what this bill purports to do.

H.R. 27 would allow faith-based organizations to discriminate not just on the basis of a person's religious affiliation, but also on how closely they follow the tenets of that religion. This would include religious beliefs on medical treatments; procedures; marriage; pregnancy; gender; and, yes, even race.

Under this bill, if a woman providing workforce rehabilitation services in a faith-based organization was found to be using birth control, she could be fired, demoted, or not promoted. Or if a faith-based organization frowned upon women working outside the home, they could deny a woman a job just because of her gender or even deny it to her husband for allowing such a breach of faith.

It is simply unAmerican to set the clock back on the safeguards provided to protected classes, including religion, sex, race, ethnicity, and sexual orientation. H.R. 27 would remove these important protections, allowing faith-based organizations to discriminate on the basis of religion, even regarding the secular social services they provide.

This bill contains the first ever major rollback of civil rights protections that were established over 40 years ago, and many of us, including myself, have profited from those protections and from those rights granted to us 40 years ago. This is an unconscionable change of Federal law, and I cannot support a bill with such provisions.

Mr. Chairman, I urge my colleagues to join me in supporting the Scott amendment and voting "no" on the final passage of this bill that endorses a Federal rollback of decades-old civil rights and privacy protections.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Chairman, I rise in opposition to the Scott amendment, which seeks to strike important protections for religious organizations included in the bill.

I am frankly appalled at the scale of the rhetoric being presented by the minority party on this issue. We know that many religious organizations in our hometowns and across America provide invaluable job training services in our communities. We must help religious organizations, whether they be churches, synagogues, or mosques, maintain their integrity while continuing to provide these vital services to those in need.

This debate is about whether a religious organization should have the ability to select employees who share common values and sense of purpose. This is not saying that they will not hire people of other religions but we will not force them to do so. This is a vital criterion for all organizations, especially religious ones. A secular group, such as Planned Parenthood or the Sierra Club, that receives government money, is currently free to hire based on their ideology and mission but still use Federal funds in accordance with the terms of the program. How can we allow this for groups such as these and not allow it for groups that are religious by nature?

Others who oppose these hiring protections for religious organizations talk about discrimination. The only discrimination that would take place here is if we do not include these protections. Without them we would be discriminating against religious organizations just because they are religious. Religious organizations should be allowed to apply for the same amount of government money for services they provide that nonreligious organizations do. If we deny them these protections, many of them would have to compromise their missions or not apply at all for assistance in implementing these services.

The real question here should be, do we want to be telling religious organizations whom they can hire and cannot hire? No. Nowhere in the Civil Rights Act of 1964 does it state that a faith-based organization loses its rights if it accepts Federal funds.

Our Nation was founded by those fleeing religious persecution and seeking religious freedom. For us to forget that and to place restrictions of this sort on our churches is contrary to the very foundation of this great Nation. I implore each and every one of my colleagues to take a long hard work at what message we would be sending to oppressed people across the globe if we do not include these important protections for religious organizations.

If we approve this amendment, we could be seriously damaging the integrity and mission of these faith-based institutions that only seek to serve our communities.

I urge the Members to oppose this amendment and support these important protections for religious organizations that want to provide job training services to our communities.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, next month my family and I will observe my wife's Jewish tradition and recite the ancient story, the Passover at our family seder. Later this month, I will honor my religious tradition and commemorate Christ's crucifixion on Good Friday and his resurrection on Easter Sunday. And today I will honor the principles behind the United States Constitution and vote for the gentleman from Virginia's (Mr. SCOTT) amendment.

The principle here is that when an organization takes Federal money, it takes with it the responsibility not to discriminate. I do not think we should ever have a situation in this country where an organization takes taxpayers' money collected from everyone and then says if they want to be a job counselor in our agency, they cannot be a Catholic, they cannot be Jewish, they cannot be Muslim, they cannot be an evangelical Christian. Our religious organizations are free and should remain free to discriminate with their own funds. That is the religious liberty that our friends on the other side refer to correctly. But that liberty does not extend to the power to use someone else's money to subsidize the practice of one's religion. That is the establishment of a religion which is specifically precluded by the first amendment of the Constitution.

It would be a travesty to reject the gentleman from Virginia's (Mr. SCOTT) amendment. It would be wholly consistent with the religious principles of this country to adopt it. I would urge its adoption.

□ 1800

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in opposition to the offered amendment. It seems to me in our country right now we have an all-out assault on faith-based groups. Just this week, a court in my home State of Louisiana ruled that school boards were prohibited from having voluntary school board member-led prayers to begin their meetings. Now, this very Chamber, the Supreme Court, and many government entities begin their proceedings with a prayer; and along that line I see nothing wrong with us inviting faith-based groups to be partners with the government in training tomorrow's workforce.

To me, this debate should be about one and only one thing, and that is how do we provide the most effective training for our future workers? Nobody here is arguing that we should have an unlevel playing field. Nobody here is arguing for favoritism for faith-based groups. Rather, we are simply saying, let us level the playing field. Let us invite those who are motivated by faith to help us to train displaced workers, to train tomorrow's workforce.

In my home State of Louisiana, faith-based groups have done a wonderful thing. They have provided health care to those who needed it; they have provided education, housing and shelter to those whose needed it the most.

What is next? If you extend the logic of this amendment, what might be next might be those Catholic hospitals not being able to accept Medicare patients. What might be next might be the Baptist hospitals not being allowed to participate in our State's Medicaid program.

We are not asking for special treatment. All we are saying is let us build on a bipartisan precedent, a precedent set in the Civil Rights Act, a precedent reaffirmed under President Clinton under four different bills. Let us build on that bipartisan precedent of opening the doors and allowing faith-based groups to participate as equal partners.

People of faith pay taxes as well in this country. We are not arguing for special treatment; we are just arguing for a level playing field.

Four different times this Congress saw fit to open those doors to faith-based groups. Four different times President Clinton signed into law four different measures designed to protect the interests and rights of faith-based groups.

Today this bill that we are going to approve later on the floor today simply takes another step forward. It simply says to the faith-based community, we will not discriminate against you. We will not require you to give up your employment rights guaranteed or granted to you by the 1964 Civil Rights Act.

To quote Members from the other side, Senator KERRY and Senator CLINTON, those that have stood before for freedom and plurality, they themselves say. Senator CLINTON in her own words says, "There is no contradiction between support for faith-based initiatives and upholding our constitutional principles." Senator KERRY says, "I know there are some that say that the first amendment means faith-based organizations can't help government. I've never accepted that. I think they are wrong."

In this instance, I find myself in agreement with both Senator KERRY and Senator CLINTON. The first amendment is not designed to protect government, not designed to protect us from faith; it is rather designed to separate church and State. It is, rather, designed to protect faith from government, not the other way around.

So I think we need to stop closing the door to people of faith. We need to stop discriminating against those groups that are motivated by their religious beliefs to help the weakest in society. I rise in opposition to this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we keep hearing that we are discriminating against religious organizations in terms of participation in government contracts. That is not true. The fact is that they can participate. When you talk about a barrier, say what the barrier is. The barrier is, there is a level playing field; you cannot discriminate.

We have also heard a lot about the 1964 Civil Rights Act. What has not been said is since 1965 there has been a specific prohibition against discrimination in Federal contracts. You have not been able to discriminate in a job training program since 1965. In fact, for defense contracts, you have not been able to discriminate since 1941.

We also heard, Mr. Chairman, about the hiring for Planned Parenthood, I believe, and what your position is on abortion or gun control or something. In the 1960s, Mr. Chairman, we passed civil rights laws to respond to our sorry history of bigotry, and we designated specific protected classes where you could not discriminate in employment, race, color, creed, national origin and sex; and you cannot discriminate against those protected classes.

There is a difference between telling somebody they cannot get a job because I do not like your position on gun control and we do not hire blacks or Jews. Race and religion are protected classes; positions on gun control and abortion are not, and there is a difference.

Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, this debate is about one question that each Member and each American should ask himself or herself. This is the question: Should any American citizen have to pass someone else's private religious test to qualify for a tax-funded job? I think the vast majority of Americans would answer that question, absolutely not.

Should the gentleman from Ohio (Mr. BOEHNER), who is the author of this bill, have to come to me if I get a $5 million job computer training grant from the Federal Government under this bill, should the gentleman from Ohio (Mr. BOEHNER) have to come to me and answer a 20-point religious questionnaire? Should the gentleman from Ohio (Mr. BOEHNER) have to say whether or not he believes in Jesus Christ, whether or not he believes in evolution, whether or not he believes in the literal interpretation of the New Testament?

I do not think the gentleman from Ohio (Mr. BOEHNER) should have to answer those kinds of questions to me as a recipient of a $5 million job training grant. And without the Scott amendment, that is exactly what could happen under this bill.

For those who oppose the Scott amendment, let me say what you are endorsing. You are saying it is okay for a church associated with Bob Jones University, at least based on its past philosophy, it can take a $1 million job training grant and pay for a sign that says, No Jews Or Catholics Need Apply Here For a Federally Funded Job. Do you really think that is right?

What the opponents of the Scott amendment are saying is that the members of a white church who received a $1 million job training grant can say to an African American applicant, You do not belong to our church. Even though you are totally qualified for this federally funded job, we are not going to hire you.

What this bill would say, without the Scott amendment, is that someone could say to a single mom trying to find a job in our religious faith, We do not believe single mothers should work, so we are not going to hire you, even though you are fully qualified for this job.

Religious discrimination is wrong. To subsidize it in the year 2005 I find unbelievable. It is unbelievable that on the very day American soldiers are risking their lives in Iraq, and perhaps some have given their lives today in Iraq to give the Iraqis religious freedom, we are debating a bill on the floor of this House that would say an American citizen can be denied a federally funded, tax-funded job for simply one reason, the exercise of your religious faith.

Religious freedom is not just any freedom; it is the first freedom. It is the first freedom enunciated in the Bill of Rights. It is the freedom upon which all other freedoms we cherish in this country are built.

The Founding Fathers thought so much about that freedom, about religious freedom, they put in the first 16 words of the first amendment these words: "Congress shall pass no law respecting an establishment of religion, or prohibiting the free exercise thereof."

If saying that someone has to lose a job to support his or her family because they are exercising their own deeply-felt religious faith, if that is not prohibiting the free exercise of religion, what is? If saying we are going to take away your ability to put food on the table for your children and a job that is paid for by taxpayers, to say that you cannot have that job because you do not pass my private religious test, if that is not prohibiting the free exercise of religion, what is?

The ninth commandment warns people to not bear false witness against thy neighbor. Yet repeatedly I have heard on this floor those say on this side of the floor that supporters of the Scott amendment are opposed to faith-based groups being involved in providing social services.

I would suggest perhaps they should not only preach the Ten Commandments; perhaps they should exercise and practice the ninth commandment, because to make that argument is to suggest that the Baptist Joint Committee, the American Jewish Committee, and numerous other religious groups are somehow opposing faith-based groups' involvement in Federal social service programs. You know that argument is simply not correct.

This amendment, the Scott amendment, is about one question and one question alone: Should any American citizen have to pass another American citizen's private religious test to qualify for a federally funded job? I hope the Members of this House will respect the Founding Fathers and the first amendment and the views of the vast majority of American citizens and say, no, you should not be denied a tax-funded job because of the exercise of your religious faith.

I urge Members on both sides of the aisle to put partisanship and politics aside. Vote for religious freedom. Vote for the Scott amendment.

Mr. BOEHNER. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIRMAN (Mr. BASS). The gentleman from Virginia is recognized for 4 minutes.

Mr. SCOTT of Virginia. Mr. Chairman, this amendment does not propose any new initiative. The adoption of this amendment will simply keep the law the way it has been in job training programs since 1965.

Much has been said about court cases. None of those court cases involved Federal money. They involve church money and what the church can do with its church money; and whether it is religious or secular activities, it is still the church's money, not Federal money.

Since 1965 there has been no discrimination with Federal money, at least until these faith-based initiatives came along. In fact, since 1941 there has been no discrimination in defense contracts, without exception. So if you want to sell the Army some rifles, if you discriminate in employment, the Army will not buy those rifles from you.

Mr. Chairman, a lot has been said about the Clinton administration. Let me say I will be introducing into the RECORD statements made at the signing of those bills outlining the interpretation of the Clinton administration, outlining why there would be no discrimination in employment under the Clinton administration, notwithstanding the language in those various bills.

There has been no discrimination against faith-based organizations. Speakers have suggested that they cannot get contracts. The fact of the matter is that they can get contracts. In fact, anybody that can get funded under the underlying bill could be funded if the organization would simply agree not to discriminate in employment.

In 1964, a gentleman during the debate on the floor said in terms of whether or not you can get the money, "Stop the discrimination, get the money; continue the discrimination, do not get the money."

That is what we are talking about here. Telling somebody that they are not qualified for a federally paid-for job because of religion is wrong. Adopt my amendment and we will keep the law the way it has been since 1965.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIRMAN. The gentleman from Ohio is recognized for 8 minutes.

Mr. BOEHNER. Mr. Chairman, I think it is important that we keep our eye on the target here. The bill before us seeks to help Americans who need job training services or retraining services to help them have an opportunity to participate and succeed in the economy of the 21st century. The question is how best do we deliver those services.

Under the Workforce Investment Act, we set up these one-stop centers all over the country. They have in fact been wildly successful. But we also know that there are pockets of poverty, pockets of people in very dire straits, that are not going to come walking into a one-stop shop. We also know that there are organizations out there that as part of their faith, part of the mission of their faith, go out and help those in need.

□ 1815

Now, what we are trying to do is to make sure that these services get to the people that they need. So in this bill we include protections for those faith-based organizations who may want to participate in this program, give them the opportunity to do that without, without giving up their rights under the 1964 Civil Rights Act.

It is a very simple question that we are down to here. My friends on the other side of the aisle, by and large, want to say if you take one Federal dollar in the pursuit of helping others under this program, you have to give up your rights under the 1964 Civil Rights Act. That is the whole point here.

### POINT OF ORDER

Mr. SCOTT of Virginia. Mr. Chairman, I have a point of order.

If it is true that they cannot discriminate with the Federal money, but can discriminate with the church money, is the statement that the gentleman mentioned, true or not?

The Acting CHAIRMAN (Mr. BASS). The gentleman is not stating a point of order.

The gentleman from Ohio (Mr. BOEHNER) will continue.

Mr. BOEHNER. Mr. Chairman, so the debate here boils down to one of two issues, you believe that if these faith-based organizations want to participate in these programs that they have to give up their rights under the 1964 Civil Rights Act.

We believe and the majority of this House has believed on a number of occasions as we have had this vote, that faith-based organizations who want to help the neediest of the needy should in fact be able to have their rights under the 1964 Civil Rights Act. It is just as simple as that.

So I would ask my colleagues as they look at this bill and look at this amendment to support the work that we have done, to allow these groups to participate. They do good work. There is no reason why that they cannot partner with the Federal Government to help us in our effort to help the neediest of the needy, and to help improve the prospects for job training and retraining to help all Americans participate in the 21st century economy and give them a chance to succeed at the American dream.

Mr. Chairman, I ask my colleagues to vote against the Scott amendment.

Ms. KILPATRICK of Michigan. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia, Mr. SCOTT. As written, the underlying bill will make it legal for faith-based organizations that receive federal funds and run job-training programs to discriminate in their hiring practices.

Throughout my life, I have fought against discrimination wherever it is practiced in our social, cultural, political and economic life. The language contained in this bill goes against that core principle. The president and I have our disagreements, but the one concern we do share is that Sunday is generally regarded as the most segregated day of the week. The bill before us today encourages faith-based organizations to practice discrimination within their employment practices with Federal funds during the workday week.

I support the work of our religious institutions in sponsoring federal programs and delivering vital social and employment programs to our communities. I first sought elected office by the grace of our God and at the urging of my church. But supporters of this bill contend if you do not allow religious organizations to hire members of their own faith, we are denying religious institutions from participating in federal programs that deliver needed services to our local communities. In other words, they argue we are practicing religious bigotry.

Nothing can be further from the truth. In fact, I would suggest that this movement is reminiscent of the days of school desegregation when many parents withdrew their children from public school so they could attend so-called Christian academies for the purpose learning. Why does the federal government want to encourage that kind of action? This bill does just that.

I urge my colleagues to vote "no."

Mr. BOEHNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment by the gentleman from Michigan (Mr. KILDEE), amendment by the gentlewoman from New York (Ms. VELÁZQUEZ), amendment by the gentleman from Virginia (Mr. SCOTT).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT NO. 1 OFFERED BY MR. KILDEE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. KILDEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 222, not voting 11, as follows:

[Roll No. 44]

AYES—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon

Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—222

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Carson
Cleaver
Gillmor
Harris
Jones (OH)
McCrery
Meeks (NY)
Millender-McDonald
Napolitano
Reynolds
Ryan (OH)

☐ 1845

Messrs. LaTOURETTE, NEUGEBAUER, and WALDEN of Oregon, Mrs. MUSGRAVE, and Messrs. FITZPATRICK of Pennsylvania, PETRI, and OTTER changed their vote from "aye" to "no."

Messrs. SPRATT, POMEROY and SHAYS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 2 OFFERED BY MS. VELÁZQUEZ

The Acting CHAIRMAN (Mr. BASS). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 221, not voting 10, as follows:

[Roll No. 45]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Fossella
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Renzi
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—221

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman

Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—10

Carson
Cleaver
Gillmor
Harris
Jones (OH)
McCrery
Meeks (NY)
Millender-McDonald
Napolitano
Reynolds

### ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote) (Mr. BASS). Members are advised that 2 minutes remain in this vote.

□ 1853

Mr. SHAYS changed his vote from "aye" to "no."

Mr. FOSSELLA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 3 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 239, not voting 8, as follows:

[Roll No. 46]

### AYES—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

### NOES—239

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

### NOT VOTING—8

Carson
Cleaver
Gillmor
Harris
Meeks (NY)
Millender-McDonald
Napolitano
Reynolds

□ 1903

Mr. BASS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. BASS). There being no further amendments, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. BASS, the Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 27) to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes, pursuant to House Resolution 126, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KILDEE. Yes, I am, Mr. Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Kildee of Michigan moves to recommit the bill H.R. 27 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith with the following amendment:

After section 127, insert the following new section (and redesignate succeeding sections and conform the table of contents accordingly):

**SEC. 128. ASSISTANCE TO VETERANS RETURNING FROM ACTIVE DUTY AND WORKERS WHO LOSE JOBS DUE TO OFFSHORING.**

The Workforce Investment Act of 1998 is amended by adding after section 174 the following new section:

**"SEC. 175. ASSISTANCE TO VETERANS RETURNING FROM ACTIVE DUTY AND WORKERS WHO LOSE JOBS DUE TO OFFSHORING.**

"(a) Income Support, Job Training, Job Search Assistance, Relocation Allowance.—

"(1) In general.—From the amount authorized under subsection (d), the Secretary shall make grants to States to provide income support, job training assistance, job search assistance, and relocation allowances to—

"(A) individuals who have lost employment due to offshoring; and

"(B) a person who is unemployed and, while on active duty in the Armed Forces, was deployed overseas in support of Operation Enduring Freedom or Operation Iraqi Freedom.

"(2) Veteran eligibility for job training.—With respect to job training assistance under this subsection, a person who served on active duty in the Armed Forces and was deployed overseas in support of Operation Enduring Freedom or Operation Iraqi Freedom shall be eligible regardless of whether such person is employed.

"(b) Assistance.—The benefits provided under this section for such individuals shall be the same as the benefits for such individuals under the Trade Adjustment Assistance program (under subchapter II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.)).

"(c) Offshoring of Jobs.—For purposes of this section, the term 'offshoring' means any action taken by an employer the effect of which is to create, shift, or transfer work or facilities outside the United States.

"(d) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.".

Mr. KILDEE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for 5 minutes.

Mr. KILDEE. Mr. Speaker, my motion to recommit is simple. It provides extra assistance to workers whose jobs have been outsourced and veterans who are returning from conflicts overseas.

Mr. Speaker, half a million jobs have been outsourced over the past 3 years. An additional 830,000 jobs are expected to be outsourced in 2005 and 3.3 million by 2015. Up to 6 million jobs may be sent overseas in the next 10 years. These statistics represent lost jobs for American workers. Fewer jobs means that American workers will struggle to provide for their families and fall further into debt. The administration has turned a deaf ear to the needs of these workers. American workers who lose their jobs due to outsourcing need significant assistance and resources to obtain new employment. This motion would provide this help.

Likewise, many veterans returning from the conflicts in Afghanistan and Iraq may need skills and training to obtain or retain their jobs. Reservists who have spent a year or more overseas have put their careers on hold to serve our country. This amendment would provide the help they need.

Mr. Speaker, I urge Members who want to help our veterans and those who have lost their jobs to outsourcing to support this motion.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Speaker, I would like to thank the gentleman from Michigan for offering this motion to recommit.

Mr. Speaker, we have asked literally hundreds of thousands of our best and brightest, many of them National Guard and Reservists from South Dakota, to serve overseas in Operations Iraqi Freedom and Enduring Freedom. We owe these brave men and women and their families a great deal for their sacrifice during these difficult times. What we owe them is the opportunity to make good on the American Dream that they have fought to defend.

This motion would create an economic transition benefit, similar to Trade Adjustment Act assistance, for service members returning from Iraq and Afghanistan who find themselves without employment. Additionally, too many of the brave men and women who are serving in the National Guard and Reserve forces have returned home to find their jobs gone and their families struggling to make ends meet. While our military personnel are risking their lives in Iraq and Afghanistan, they should not be worrying if their jobs will be there for them when they return home or what they will do if they are not.

This motion to recommit would provide unemployed veterans of Iraq and Afghanistan with income support and intensive employment training and job relocation assistance so that they can successfully transition back into civilian life.

I ask my colleagues to support this motion to recommit. Our returning servicemembers from Iraq and Afghanistan deserve no less.

Mr. KILDEE. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, the outsourcing of good-paying American jobs to other countries is a crisis that touches every community in the United States. Up to half a million jobs have been outsourced over the past 3 years to countries like China, India, and Mexico. This at a time when there are 8 million Americans out of work.

Americans now understand that outsourcing negatively impacts every segment of our economy. Not only have 2.7 million jobs been lost in our once-vibrant manufacturing sector since the beginning of this administration but white collar jobs are being offshored as well. According to one report, 181,000 computer jobs will be moved offshore by the end of 2005. Last year, State and local governments outsourced $10 billion of public projects.

What we are witnessing today is a full-scale erosion of the American workforce, with millions seeking skills to improve their current employment situation. This bill undermines our job training system and our economy alike. This motion seeks to provide assistance to veterans, provide workers who lost their jobs to outsourcing with job training assistance, allowances to relocate to where they can find work and other forms of income support. This bill destroys the functioning elements of our job training system. It does not, quote, improve our delivery of these vital services for unemployed Americans.

I urge my colleagues to support this motion to recommit.

Mr. KILDEE. Mr. Speaker, I urge support for this motion which will address a very urgent problem.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, let us tell the truth about what has happened in job creation in America. Over the last 17 months, 2.7 million new jobs have been created in America. Our economy is strong and our economy is getting stronger. If we look at the underlying bill that we have before us, veterans have a preference to services above all others.

What the gentleman from Michigan proposes here is a brand new program similar to a trade adjustment program that provides up to 2 years of unemployment-type benefits and provides unlimited access to training. But the fact is that unemployed workers have access today, people coming back from Iraq who are unemployed have access to services, and those who may have their jobs lost through outsourcing have, in fact, access to services.

But what also happens under the gentleman's amendment is that they get a preference in this bill. The gentleman creates a new preference here above other types of people who may have lost their jobs. The underlying bill, in fact, will provide more services to more unemployed workers and workers who want to increase their skills who may not be unemployed.

But when we look at this, this is a new program. This is an authorization. There is no appropriation. We all know it will probably take 2 to 5 years for this type of program to be implemented. The fact is I think it is a cruel hoax on those who may be unemployed, who may fall into one of these categories to think that they are going to be eligible for unemployment-type assistance or be eligible for unlimited training when, in fact, there is no appropriation and the fact is the program will take years to implement.

I urge my colleagues to vote against the motion to recommit and support the underlying bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KILDEE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 197, noes 228, not voting 8, as follows:

[Roll No. 47]

AYES—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—228

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Bonner
Carson
Cleaver
Gillmor
Harris
Meeks (NY)
Millender-McDonald
Napolitano

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1933

Mr. GARRETT of New Jersey changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KILDEE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 200, not voting 9, as follows:

[Roll No. 48]

AYES—224

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)

DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hensarling
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tancredo
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Bonner
Carson
Cleaver
Gillmor
Harris
Meeks (NY)
Millender-McDonald
Napolitano
Pelosi

□ 1942

Mr. ROYCE changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CONTINUATION OF NATIONAL EMERGENCY BLOCKING PROPERTY OF PERSONS UNDERMINING DEMOCRATIC PROCESSES OR INSTITUTIONS IN ZIMBABWE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–12)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency blocking the property of persons undermining democratic processes or institutions in Zimbabwe is to continue in effect beyond March 6, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on March 5, 2004 (69 FR 10313).

The crisis constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies pose a continuing unusual and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency blocking the property of persons undermining democratic processes or institutions in Zimbabwe and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 2, 2005.*

## UNITED STATES ASSISTANCE FOR INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–13)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

Consistent with the authorities relating to official immunity in the interdiction of aircraft engaged in illicit drug trafficking (Public Law 107–108, 22 U.S.C. 2291-4), and in order to keep the Congress fully informed, I am providing a report prepared by my Administration. This report includes matters relating to the interdiction of aircraft engaged in illicit drug trafficking.

GEORGE W. BUSH
THE WHITE HOUSE, *March 2, 2005.*

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## WHAT IT MEANS TO SUPPORT AMERICA'S TROOPS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, what does it mean to support America's troops? Does it mean placing a yellow ribbon on the bumper of your car? Does it mean blindly supporting the wars in which they fight? Or does it mean something else entirely?

I believe that supporting our Nation's brave soldiers means honoring, above all else, the promise to never place them in harm's way unless the safety and security of our Nation depends on it. It also means that we properly equip them in battle and then fully care for them once they are home.

□ 1945

Sadly, the war in Iraq has violated all three of the ways that we must support our troops. The very premise of this war violates the trust that our military places in the government. It actually violates the trusts that we will only vote to go to war under circumstances of dire national emergency when our fate as a Nation depends on it.

The war in Iraq was never about a national emergency or America's security. It was about the Bush administration's callous manipulation of the 9/11 tragedy. In the end, it was about promoting the administration's own political causes using the tactic of ridding Iraq of weapons of mass destruction and now, installing their version of a democracy in the Middle East.

The sad irony is that Iraq is now less stable than ever before. And it has never posed a bigger threat to our security here at home. Iraq has become the breeding ground for terrorists of all nationalities whose most common trait is their hatred of the United States.

This war was fought for the worst reasons, not for the security of our country, but to promote the Bush administration's political goals. The fact that the Bush administration has the audacity to label anyone who does not support this false war as being unsupportive of the troops is nothing short of hypocritical.

Mr. Speaker, I hope that the President does not confuse my opposition to this war for a lack of support for those who fight it. In fact, the Bush administration and his team at the Pentagon have demonstrated a potent lack of support for the troops through poor planning, poor planning for the long military operation of Iraq. And by neglecting to provide every soldier with the life-saving body armor needed to survive military combat.

Hundreds of lives could have been saved if our troops had not been left as sitting ducks on the battlefield without the body armor, without the plated armor for Humvees and without what would have saved their lives during battle.

Finally, the Bush administration and the Republicans in Congress have clearly neglected to support the soldiers once they come home. Veterans health care continues to suffer under this administration's reckless fiscal policies, and America has not kept its promise to properly provide for the health care of our soldiers once they have returned from the war.

In fact, one of the champions of veterans in the Republican party, the gentleman from New Jersey (Mr. SMITH) was stripped of his Veterans Affairs Committee chairmanship precisely because he advocated for full support of our veterans. And then, after losing his chairmanship, he was removed from the committee.

What kind of message does that send to our troops currently stationed in Iraq and Afghanistan?

If they think their lives are tough on the battlefield, just wait till they come back home and wait till they need services for either physical or mental health or whatever else they are going to need from us when they return.

Mr. Speaker, I introduced H. Con. Res. 35 with the support of 28 of my colleagues in the House. This legislation will help secure Iraq by withdrawing our troops, which will ensure that America's role in Iraq actually does not make our troops sitting ducks. H. Con. Res. 35 is part of a larger national security strategy that I call SMART security. SMART is a sensible multilateral American response to terrorism. And it will ensure America's security by relying on smarter policies, policies that encourage a commitment to diplomacy, a committee to international cooperation and a commitment to nuclear security. Smart security will actually make our country safer.

## ORDER OF BUSINESS

Mr. FORTUÑO. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Puerto Rico?

There was no objection.

## 88TH ANNIVERSARY OF U.S. CITIZENSHIP FOR PUERTO RICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Puerto Rico (Mr. FORTUÑO) is recognized for 5 minutes.

Mr. FORTUÑO. Mr. Speaker, at the end of the Spanish American War in 1898, Puerto Rico was ceded to the United States and became a territory under the Territorial Clause of the U.S. Constitution. It was not until 1917, by virtue of the passage of the Jones Act, that people born in Puerto Rico were granted the privilege of becoming citizens of this great Nation.

On March 2, 1917, exactly 88 years ago, Puerto Ricans became U.S. citizens. We value our citizenship dearly, and over the years, Puerto Ricans have honored their citizenship by making major contributions to our great Nation. We have distinguished ourselves in the arts, the sciences and sports. But most important of all, courageous Puerto Rican men and women have served their Nation proudly defending our valued principles of freedom around the world.

Puerto Ricans have served with honor and distinction in the Armed Forces of the United States in all wars and conflicts since 1917 to this day, where 3,400 of our men and women are active in our Nation's war on terrorism, including 825 soldiers currently serving in Iraq.

Four Puerto Ricans have received the Congressional Medal of Honor, the highest award given for valor on the battlefield. Today I want to again honor these four Puerto Rican heroes: Private First Class Fernando Garcia, who fought in the Korean War; Private First Class Carlos Lozada, who fought in the Vietnam War; Captain Euripides Rubio, who fought in the Vietnam War; and Specialist Hector Santiago-Colon, who also fought in the Vietnam War.

18,000 Puerto Ricans served in World War I. During World War II, 65,034 Puerto Ricans, including 200 Puerto Rican women, served in the Armed Forces. More than 61,000 Puerto Ricans served in the Korean War during which the 65th Infantry Regiment, comprised mostly of Puerto Rican soldiers, distinguished themselves for bravery.

Actually, I would like to quote tonight General Douglas MacArthur who said in Tokyo on February 12, 1951, and I quote, "The Puerto Ricans forming the ranks of the gallant 65th Infantry on the battlefields of Korea are writing a brilliant record of achievement in battle, and I am proud indeed to have them in this command. I wish that we may have many more like them." and I close the quote.

More than 48,000 Puerto Ricans served in Vietnam. Of these, over 430 were killed and over 3,000 were wounded.

Close to 2,600 Puerto Rico National Guard volunteers and U.S. Army Reserve soldiers were mobilized for Desert Storm.

Puerto Ricans have always responded to the call of defending our Nation and have had no qualms in shedding their blood on the battlefields to defend the cause of liberty.

On February 15 of this year, I visited Private First Class Emanuel Melendez-Diaz from Comerio, Puerto Rico, who is in intensive care in Walter Reed Army Medical Center from injuries suffered in Iraq as part of our global war against terrorism. I was deeply moved by the intense pride his parents show in their son and in the sacrifice he made for our Nation. And yet, I could not help but think that Private First Class Emanuel Melendez-Diaz had not been able to vote for his Commander-in-Chief because he is Puerto Rican. That is morally wrong.

Today we commemorate the 88th anniversary of Congress granting US citizenship to the people of Puerto Rico.

Yet we still cannot vote for our President, cannot vote in this Chamber, cannot vote on legislation that affects us. Congress has an unfinished agenda with Puerto Rico. The 4 million U.S. citizens that live in Puerto Rico should finally be given the opportunity to make an educated, fair and democratic choice regarding their final status preference. After 106 years of territorial status, and 88 years of being U.S. citizens, we are tired of waiting. The people of Puerto Rico deserve better. We have earned our right to be heard.

---

## TEXAS INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GENE GREEN) is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, today, March 2 marks Texas Independence Day, and this morning at the Texas State Cemetery in Austin, Texas, Texans paid tribute with a musket volley salute in full costume to the Texas veterans who are buried there.

Texas cities and towns across the State are holding many important Memorial events in honor of the fact that 169 years ago today, the Texas Declaration of Independence was ratified by the Constitutional Convention of 1836 at Washington-on-the-Brazos.

Less than 100 years after American patriots declared independence from the tyrannical British Empire's military domination, Texas declared its independence from Mexico. After July 4, 1776, democratic government became a birthright for the people of the new world, but one that we would have to fight for.

Like the American patriots driven to revolution by heavy-handed British intervention, Texas declared its independence after many years of living peacefully as part of the Mexican federal republic because Mexico became dominated by military dictatorships.

The seeds of Texas independence were sown in 1824, when a military dictatorship abolished the Mexican constitution.

In the words of the Texas declaration of independence, the Texas people's government have been forcibly changed without their consent from a restricted federative republic composed of sovereign states to a consolidated central military despotism.

The Texas Declaration of Independence also based the justification for revolution on the grounds that the government of Mexico had ceased to protect the lives and liberty and property of the people.

The military dictatorships that had unfortunately captured the Mexican government also did not provide for trial by jury, freedom of religion or public education.

Failure to provide these essential services violates the sacred contract between government and the people.

It is important to remember that the struggle for Texas independence was a political struggle, not an ethnic conflict. In fact, many Texas Hispanics consider themselves Tejanos and not Mexicanos.

Tejanos lived in Texas long before Mexico existed and they moved there for the same reasons Anglos later moved there, freedom to run their own affairs and a wild but productive landscape.

So we are inspired by so many Tejanos that joined the fight for independence when the Mexican government became an exploitive military regime, including Captain Juan Sequin, Lorenzo de Zavala, a future republic of Texas vice president.

When Texans and Tejanos protested the undemocratic changes to Mexico's government, they were thrown in jail and the Mexican Army marched to war on Texas to enforce the decrees of the military dictatorship at the point of a bayonet.

While future President Sam Houston and other delegates signed the Texas Declaration of Independence, Santa Anna's army was besieging the Texans and Tejanos at the Alamo in San Antonio.

The Alamo fell on the morning of March 6, 1836 when Lt. Colonel William Barrett Travis, Tennesseean congressman David Crockett and approximately 200 other Texan and Tejano defenders were killed in action a heroic sacrifice for Texan freedom. On March 27, this same Army massacred over 300 unarmed Texans at Goliad.

Fortunately, Texans and Tejanos achieved their independence several weeks later on April 21, 1836 when approximately 900 Texans and Tejanos of the Texas Army overpowered a much larger Mexican army in the surprise attack at the Battle of San Jacinto.

Texas Independence Day is important to all Americans because it is the event that show the brotherhood of freedom can be stronger than the brotherhood of ethnicity or nationality, as Tejanos proved at Gonzalez, Bexar, Goliad and the Alamo and along the banks of the San Jacinto River and the government of the republic of Texas.

People sometimes wonder what makes Texas and Texans so different and I believe part of that answer is the passion for freedom that gave us the first Texas Independence Day is still alive today. Something about being raised in Texas or even living there for an extended period of time makes Texans less willing to put up with the infringement on our rights, more willing to fight for them. I believe part of that passion comes from knowing Texas history.

'Today we give thanks to the many Texans of all backgrounds that sacrificed for the Texas freedom we enjoy. God bless Texas and God bless America.

## FREE TRADE AGREEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, 12 years ago I came to this house in January 1993 and during that year this Congress debated whether or not to pass the North American Free Trade Agreement. The promises made during NAFTA in 1993 from its supporters were it would create jobs in the U.S., it would raise living standards in Mexico by raising wages, it would encourage and enable Mexicans to buy more American products. It would increase our balance of trade with Canada and Mexico, positively. Those were the promises made by NAFTA.

We have heard those same promises when we passed the PNTR with China. We have heard those same promises on trade agreement after trade agreement. But look what has happened to our trade deficit in that period. Starting in 1992, the year I first ran for Congress our trade deficit was $38 billion. You can see it passes $100 billion in the early 1990s. Almost $200 billion in the mid 1990s. President Bush took office. Goes up to 400 billion, 450 billion, 500 billion. This year our trade deficit was $617 billion. That means that we are buying $617 billion more in products than we are selling. So, what is the President's response? The President's response is the Central American Free Trade Agreement. More of the same, followed he hopes by something called free trade area of the Americas. CAFTA and FTAA will double the population of NAFTA, Mexico, the U.S. and Canada and quadruple the number of low income workers.

☐ 2000

They say that the definition of insanity is doing the same thing over and over and over again and expecting a different result. We are hearing the same promises about CAFTA, that it will raise living standards and raise wages in Central America, that it will create jobs in the United States, that we will export more and more to Central America, that it will reduce our trade deficit. It is the same old song.

It was the same song for NAFTA. It is the same song for NAFTA's dysfunctional cousin CAFTA, the Central American Free Trade Agreement. This President is going to come to Congress and again ask us to pass another free trade agreement that hemorrhages American jobs that costs us, especially manufacturing jobs.

My State under President Bush has lost hundreds of thousands of manufacturing jobs; this country has lost around 2 million manufacturing jobs in the 4 years that George Bush has been President; yet he continues to do the same thing, tax cuts for the wealthiest people in our country, trade agreements that hemorrhage jobs overseas.

Mr. Speaker, just look at the facts. Look at what has happened with our trade deficit. Again, it was $38 billion the year I ran for Congress in 1992. Today it is almost 20 times higher. $617 billion trade deficit. We had a trade surplus with Mexico in 1992. Today we have a $40 billion trade deficit with Mexico.

Again, Mr. Speaker, the President looks at these numbers and he says, let us do more of the same. Clearly our trade policy is not working. Clearly the President is taking the country in the wrong direction on trade. Every trade agreement this Congress has passed from President Bush has been signed by the President and then passed within Congress by about 60 days.

President Bush signed the Central American Free Trade Agreement on May 28. He has yet to try to push it through Congress because he knows the American people oppose the Central American Free Trade Agreement, and he knows the United States Congress opposes this Central American Free Trade Agreement.

Fully 90 percent of Democrats in the House of Representatives plan to vote against CAFTA because Democrats understand, and I hope enough of my Republican colleagues come along, understand that the Central American Free Trade Agreement is bad for our community. It is bad for our families. It is bad for our workers. It simply does not work for our country. It betrays American values of hard work, of being rewarded for hard work. It hurts the poor in both countries. It hurts working people in both countries. It clearly does not promote the right set of moral values for our Nation.

I ask my colleagues to oppose the Central American Free Trade Agreement. It is clear these trade agreements are not working for our country.

## MARK ALAN WILSON, HERO OF SMITH COUNTY, TEXAS

The SPEAKER pro tempore (Mr. FORTENBERRY). Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, last Thursday, February 24, 2005, in the city of Tyler, Texas, gun fire erupted outside the Smith County courthouse. An estranged and enraged ex-husband, irate over a domestic hearing, lay in wait outside the courthouse for his ex-wife and one of his sons who was 23. The courthouse was well secured inside while also having a metal detector inside its entrance. Such security measures probably prevented the soon-to-be murderer from carrying his rifle inside the courthouse and shooting not only his ex-wife and son, but also the many witnesses, jurors, parties and personnel who would have been inside, as had occurred in another courthouse some years ago and miles away.

As the ex-wife left the courthouse, the murderer opened fire hitting her and also her own son. Mark Wilson, a nearby Good Samaritan and hero, immediately without hesitation and without thought for his own safety went into action. He pulled his concealed weapon that he was lawfully carrying and accurately shot the murderer more than once. He could tell he was hitting the murderer, but what he did not know was that that murderer was wearing extensive body armor. That fact allowed the murderer to turn and fire fatal shots at our selfless hero Mark Wilson.

In the process of Mark's firing such accurate shots, he not only hurt the murderer, he also distracted him from the many innocent bystanders in the area.

When hearing the shorts being fired outside the courthouse, two deputies and a Tyler police detective responded by running to the source. Parenthetically, the Army teaches us that the only way to have a chance of surviving an ambush is to turn and run into the source of the ambush. As a trainee, sometimes we wondered if we would actually have the courage to do that when there were real bullets flying.

We do not have to wonder about what Mark and our courageous law enforcement officers at the Smith County courthouse would do when faced with a life-threatening attack. They respond and they respond with courage and clear thinking for the safety of others.

Mark Wilson's heroic actions disrupted the murderer's pattern and provided time for the protective law enforcement officers to respond. As Deputy Sherman Dollison attempted to intervene, he was also hit by the murderer and left for dead and he remains in critical condition at a local hospital.

Smith County and other friends thought mighty highly of Deputy Marlin Suel and Tyler police detective Clay Perrett. They are personal friends and they were both wounded in the ensuing exchange that sent the murderer into his car and fleeing the scene. He was chased by extremely responsive law enforcement as he continued to shoot during the chase. However, the murderer was killed before he could yet kill again.

There was an evil act of anger last Thursday, but there were heroes watching out, ready to act for the salvation of others. It is quite possible that Mark's actions prevented those in the area from becoming a trail of lifeless bodies in addition to saving the life of the murderer's own downed son.

According to the investigation, the rifle the murderer used was not automatic so he had to consciously pull the trigger over and over again to inflict the death and violence that he did.

Mark Wilson himself was able to apply for and receive his concealed handgun permit because the law allowing such was passed in Texas after a callous killer went into a cafeteria years ago and began firing randomly, hitting so many. Back at that time no civilians were there who were legally allowed to have a gun so the killer caused prolonged devastation. To receive a permit for carrying a concealed weapon in Texas, a person has to prove himself consummately law abiding. That described Mark. He was trained and he trained others in self-defensive weaponry. He was 52 years old. He had been a patriot who served all of us in the United States Navy. He was a community volunteer. He loved life to the maximum which included a deep abiding appreciation for Monty Python, all while he worked to make others' lives better in the process.

Yes, he knew how to make friends laugh. He had overcome tough times. He had been entrepreneurial, and he had worked to create good times for himself and others. He had many friends because of his community involvement and his very can-do attitude.

As a tribute to Mark and his courageous heroism, hundreds of people filled the downtown square in Smith County to commemorate his life, his times, and his goodness on Sunday, February 27.

As a member of the United States Navy, he had sworn to defend the Nation against all enemies foreign and domestic. Last Thursday he gave his life while once again defending against an enemy, this time domestic.

For many of us reflecting on Mark's death the words of Jesus of Nazareth capture Mark's spirit: "Greater love hath no man than this: that a man lay down his life for his friend."

Those words came from someone who knew and Mark Wilson's love is what was praised. He stepped up that love a notch by going and laying down his life for people he did not even know. This country, this institution need a memorializing of such a courageous hero as Mark Wilson. His loving parents and dear friends deserve to hear his praises sung once more for the record, and may the retelling of Mark's bravery bring them comfort, bring them hope, and to the hopeless who think there is no one out there who cares. Mark cared and I would be willing to bet his caring will be perpetuated into posterity for others that he has touched.

## PROTECT SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

Mr. RANGEL. Mr. Speaker, I am here because the President has challenged this body and the other to deal with the problem of Social Security. And while the President no longer considers it a crisis, obviously when it reaches the point that you are spending more money than you are taking in, you do have a problem and you do have a challenge and we do have a responsibility.

So I think the President has changed the crisis which would occur according to the Congressional Budget Office out to 2052 and even then it remains a challenge and not really a crisis.

But we do not have a bill so we do not know specifically what the President would want to do. We do know that these types of problems you either have to cut the benefits, extend the age or raise the taxes; but the President has taken all of these things off the table and said we should deal with the question of privatization. I guess the more people in the district that looked at privatization and the more economists that studied it have caused the President to admit that privatization and private accounts and personal accounts has little or nothing to do with the question of solvency, which is basically what we are talking about.

We Democrats know how good this program has been for America. We know that it has been an insurance policy that most working people cannot afford. We know that in addition to the benefits that you get when you retire that we have survivor benefits, we have disability benefits, and we are prepared to take a look at anything as long as these benefits are not cut.

Now, the President would have us to believe that if you are over 55 your benefits would not be cut. To me, a guy from Harlem, it means that if you are under 55 you can depend on your benefits being cut. But still since we do not have a bill we really do not know exactly what we are fighting, but we do know what we want to protect.

It is too unfortunate that many minorities and women because of the inequities of the system, which we hope will be corrected, find themselves more dependent than the rest of the population. This is especially so when we do have a disparity between the life expectancies of men and women which means that for 3 or 4 years women sometimes have to go it alone and many sometimes their working spouses did not have pensions. And so it is abundantly clear that if you take a look at the women that sometimes have to totally survive with their families, Social Security gave them the base, gave them the independence, and gave them the will to move forward.

It is so hard for me who is so proud of having gone to school as a disabled veteran to talk about the G.I. Bill. What has been amazing is that even I had no idea how many people even in this body went to school under the Social Security Disability Act or under the benefits of Social Security. And it is something that you do not say, guess how I went to school, because it was unfortunate financial circumstances.

But now that they see that this program may be in jeopardy because just by changing the formula from a wage formula to a cost-of-living formula. Republicans and Democrats and impartial economists say that the benefits, and that is all of benefits, survivor, retirement, their disability, would be cut by at least 40 percent.

The President has attempted to polarize sometimes the young against the old by saying they are getting a bad deal, or the black males against the white males saying that we have a disparity. But one thing is clear: we cannot openly discuss this until the President fulfills his responsibility and at least brings to us what the heck he is talking about so we are not fighting against things that may never happen.

We know that Republicans are having a difficult time in defining how they would want to assist the President. But I am just saying until the day comes where minorities and women are really equal, this has been a cushion to provide some type of independence.

I close by saying that my beloved mother, who I lost several years ago, worked in a factory and received a small retirement pension check from the International Labor Garment Workers Union, but she also received her Social Security check.

□ 2015

And she would be there every month waiting for the mailman, who knew her, for her Social Security check. She felt so proud that she was independent; that she did not have to ask her children for anything.

Seeing that pride in her, I can see it in so many older women. And I hope that before the President makes this a crises, that he brings us a bill so we can work together on it.

---

## TEXAS INDEPENDENCE DAY

The SPEAKER pro tempore (Mr. FORTENBERRY). Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, I rise today to honor the unique history of the great State of Texas. Today, March 2, marks Texas Independence Day. On this day, 169 years ago, Texas declared its independence from Mexico and its dictator, Santa Anna, the 19th century Saddam Hussein.

In 1836, in the small farm village of Washington-on-the-Brazos, 54 Texians, as they called themselves in those days, gathered to do something bold and courageous: Sign the Texas Declaration of Independence and once and for all "declare that the people of Texas do now constitute a free, sovereign, and independent republic."

As these determined delegates met to declare independence, Santa Anna and 6,000 enemy troops were marching on an old beat-up Spanish mission that we now call the Alamo, where Texas defenders stood defiant, stood determined. They were led by a 27-year-old lawyer by the name of William Barrett Travis. The Alamo and its 186 Texans were all that stood between the invaders and the people of Texas. And behind the cold, dark, damp walls of that Alamo, Commander William Barrett Travis sent the following appeal to Texas requesting aide.

This appeal read in part: "To all the people of Texas and Americans in the world, I am besieged by a thousand or more of the enemy under Santa Anna. I have sustained a continual bombardment and cannon fire for over 24 hours and have not lost a man. The enemy has demanded surrender at its discretion, otherwise the fort will be put to the sword. I have answered that demand with a cannon shot, and the flag still waves proudly over the walls. I shall never surrender or retreat. I call upon you in the name of liberty, patriotism, and everything dear to our character to come to our aid with all dispatch. If this call is neglected, I am determined to sustain myself for as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country. Victory or death. William Barrett Travis, Commander of the Alamo."

After 13 days of glory at the Alamo, Commander Travis and his men sacrificed their lives on the altar of freedom. Those lives lost would not be in vain. Their determination paid off. And because heroes like William Barrett Travis, Davy Crockett, and Jim Bowie held out for so long, Santa Anna's forces took such great losses they became battered, demoralized, and diminished. As Travis said, "victory will cost them more dearly than defeat."

General Sam Houston, in turn, had the time he needed to devise a strategy to rally other Texas volunteers to ultimately defeat Santa Anna at the Battle of San Jacinto on April 21, 1836. The war was over, and the Lone Star flag was visible all across the broad, bold, brazen plains of Texas.

The Alamo defenders were from every State in the United States and 13 foreign countries. They were black, brown, and white, ages 16 through 67, and they were all volunteers. They were mavericks, revolutionaries, farmers, shopkeepers, and freedom fighters. They came together to fight for something they believed in: Freedom.

Freedom has a cost. It always does. It always will. And as we pause to remember those who lost their lives so that Texas could be a free Nation, we cannot forget those Americans that are currently fighting in lands across the seas for the United States' continued freedom and liberty today.

Texas Independence Day is a day of pride and reflection in the Lone Star State. It is a day we remember to pay tribute to heroes like William Barrett

Travis, Jim Bowie, Davy Crockett, Jim Bonham, Sam Houston, and the rest of those volunteers who fought the evil tyrant and terrorist Santa Anna. It was an effort to make Texas free, and that effort was successful.

On this Texas Independence Day, let us not forget those brave men and women in our military that are fighting to preserve and uphold our freedom from a new world threat of terrorism.

Mr. Speaker, I hope that the Congress and the country will join me in celebrating this Texas Independence Day. In Colonel Travis' final letter and appeal for aid, he signed off with three words that I leave with you now: "God and Texas." "God and Texas." "God and Texas." And the rest, as they say, is Texas history.

## PRESIDENT BUSH'S SOCIAL SECURITY PRIVATIZATION PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, this Friday, President Bush plans to take his traveling White House to New Jersey in the hope of convincing New Jersey workers to support his Social Security privatization proposal. For 6 weeks, the President has been working to build support for his plan, but it has fallen flat with the American people and it will fall flat also in New Jersey.

Mr. Speaker, the American people simply do not believe the President wants to strengthen Social Security. President Bush keeps on talking about a crisis, but even he has admitted his own privatization plan does nothing to fix the problem Social Security faces 40 years from now.

The problem is that private accounts eliminate the guaranteed benefits of Social Security and leave benefits to the vagaries of the stock market. Since the money is taken out of the Social Security trust fund to pay for private accounts, the shortfall results in benefit cuts to Social Security recipients, and the Federal Government has to borrow more money and go further in debt to try to make up for the shortfall.

Last week, I held two Social Security town hall forums in different parts of the State. First, I talked with senior citizens in Smithville, just outside of Atlantic City, and next I visited with more than 70 college students in Brookdale, at Brookdale Community College in Monmouth County. Here too the forum was open to all members of the college's political science and history club. I would assume some of the participants were Republicans, but that does not really matter.

The bottom line is that as Members of Congress, Senators, and senior organizations hold forums around the country and explain the President's privatization plan, there is more and more opposition to it. While the President still seems to think his privatization plan is catching on, Congressional Republicans brave enough to have town hall forums heard an earful from supporters of the current Social Security System.

Mr. Speaker, let me just give some examples. From the February 23 edition of the Philadelphia Inquirer: "At two stops, morning at Drexel University; afternoon at Widener University, the Pennsylvania Republican Senator SANTORUM encountered skepticism and hostility as he voiced his support for the White House plan to allow privatization of personal accounts using payroll taxes. He was heckled by protesters, called a liar, and told that his views were unconscionable. Those sentiments ranged across the spectrum."

That is from the Philadelphia Inquirer. From the February 22 Washington Post: "At every stop, Representative PAUL Ryan faced skeptics. Nancy McDonald, 66, who sells securities and insurance, complained in Darien that health care for the uninsured needs to be addressed before Social Security. 'Slow down! Slow down!' She scolded the lawmaker at one point."

And finally, Mr. Speaker, I take a quote from the February 22 Savannah Morning News. "At Armstrong Atlantic State University, the subject of Social Security caused a crowd of 200 to become rowdy. Questions were shouted out. The congressman." Congressman KINGSTON, "was interrupted. And one of Congressman KINGSTON's assistants was booed when she announced an end to the hour-long discussion."

These are just examples. In meeting after meeting Republicans got a chilly reception to the President's Social Security plan. Maybe that is why we heard today that Senate majority leader BILL FRIST thinks the Senate may not be able to take up the President's Social Security privatization plan until next year.

Mr. Speaker, many of my constituents are concerned about the President's plan. Unfortunately, they will not have the opportunity to voice those concerns to the President this Friday morning in Westfield, New Jersey. But we are going to be heard anyway. I have chartered a bus, and I am taking several dozen of my constituents to join people from all over New Jersey at a rally in support of truly strengthening Social Security.

We are going to go with the bus to Westfield, New Jersey, where the President is going to be, and maybe the President will send some of his staffers over so they can really hear from us how their plan is being received outside the White House. It is not being received well, because Americans are finally waking up to the fact that the President's privatization plan is bad for them, bad for Social Security, and bad for America.

## TRIBUTE TO MS. CLARA JENKINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today in honor of an extraordinary member of my community, Clara Jenkins. In the 1950s, Clara helped advance the Civil Rights movement in Georgia by breaking down color barriers at a local hospital.

On August 20, 1951, Clara was hired as the first black nurse at Kennestone Hospital in Cobb County. Now, 1951 was not an easy time to be a black nurse among all-white colleagues. The Brown v. Board of Education ruling, that mandated separate but equal was inherently unequal, was still 3 years away. In 1951, Kennestone Hospital was segregated by floor and ward. Black patients and white patients received their care separately and in unequal surroundings.

But Clara did not let segregation deter her goal of providing care for the sick and the needy. Through her determination and talent, she proved to her colleagues that skill, not skin color, was what mattered most.

Despite having earned a nursing degree right here in Washington, D.C., Clara was not initially allowed to work with white patients. However, over time, doctors and nurses noticed her skill, especially her ability to insert IVs into patients with thin or hard-to-find veins. Clara said her work on parents with darker skin made her adept at finding veins by touch, not sight, a skill the other nurses lacked. Increasingly, white doctors and nurses began asking for Clara's help.

After the 1954 Brown versus Board ruling desegregated Kennestone Hospital, Clara was assigned to several special hospital units. She was asked to head up Kennestone's very first IV team, and later became the only black nurse on the hospital's first coronary team. These were amazing feats for a woman who only a few years earlier had not been allowed to even care for white patients.

As a physician, I had the privilege of working with Clara at Kennestone Hospital. And let me tell you, she is just as respected and beloved now as she was then. In fact, she was one of my favorite nurses. And working with her on the floor, and later when she was a supervisor, always gave me confidence in her ability, her compassion, and her leadership.

I am inspired by Clara Jenkins' ability to prove herself in the face of segregation and discrimination. Clara had a sense of determination and courage that should serve as an inspiration for us all. By asking others to judge her based on skill, not race, she helped break down color barriers for black professionals in Cobb County.

Clara also opened doors for other black nurses. She was once offered a position as head pediatric nurse at Kennestone. But when she turned down the job, another black nurse was selected to head that unit. She brought a greater equality to our hospital.

Clara Jenkins is a skilled nurse and an important member of the Cobb community. Mr. Speaker, I ask that you join me in honoring her legacy.

---

## EXCHANGE OF SPECIAL ORDER TIME

Ms. KILPATRICK of Michigan. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Illinois (Mr. DAVIS).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

---

## PRESIDENT'S PROPOSAL FOR PRIVATIZATION OF SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan (Ms. KILPATRICK) is recognized for 5 minutes.

Ms. KILPATRICK of Michigan. Mr. Speaker, March is Women's History Month, and we are proud to celebrate the contributions that women have made to American society. As mothers, as caregivers, as teachers, as providers, we honor the women in America this month of March.

While home last week, I had an opportunity to hold two town hall meetings. My first meeting was in Wyandotte, Lincoln Park, River Rouge, and Ecorse communities, where we had hundreds of people who came out to hear about the Social Security proposals. My first point to them was that we have no bill. What we are hearing are discussion points, and right now we have no legislation that has come to the House or the Senate. What we are hearing are proposals being made by the President. Mr. Speaker, that calmed a lot of people down, many of whom were women.

As we went on to discuss the problem of Social Security, I advised them that the Social Security trustees have said now that the trust fund is good until the year 2042 at least.

□ 2030

I also told them that per the Congressional Budget Office, the Social Security fund is good until at least 2052, so to calm down, make sure you are okay and do not send anyone the $1 or the $2 that they ask you to save your Social Security. Your Social Security is good.

At our town hall meetings, first in the communities that I mentioned, and then moving on to Detroit, hundreds of citizens, many women, because 24 million women in America right now receive Social Security. Of that number, 7.5 million women disabled receive Social Security. And over 2.7 million children under 18, many of them receive Social Security, and many 18 and under are women. So when we talk about the Social Security issue in our town hall meetings, which were very successful, not combative, giving information, using some of the professors at Wayne State University, such as Professor Dankowski, a professor of gerontology and the aged at the university, we exchanged information.

What my constituents found out at our town hall meetings was that more than 85 percent of Social Security funds that come into Social Security go right back out to beneficiaries. Over 85 percent, and that 14-plus percent is set aside for the trust fund. If we set up private accounts as being proposed by the President and take money out of Social Security, then those people who are current beneficiaries who have paid into the system will have their benefits cut, or we will have to borrow money to make that up.

At a time when we are in deficit spending in this country, it is not the time to borrow. As we discussed Social Security and what is happening with it, good until the year 2042 if you use the Social Security trustees' projections, or 2052 if we use the Congressional Budget Office, we calmed them down and were able to exchange information.

Social Security is the most successful program this country has seen since 1935 when President Roosevelt signed the bill. In 1936, payroll deductions began to be made, and in 1940 the first checks went out to beneficiaries who had been paying into the system. As we know now, many disabled, widowers, and survivors also use their Social Security.

Mr. Speaker, town hall meetings, we have to get out into America. We found that is the best way of communicating to give them the facts so they have the information they need. Without Social Security, women in particular would be living in poverty.

Let us not throw out a good program. Yes, it needs fixing. As a Member who spoke earlier said, there are only three or four options. Either we raise the age, raise the deduction, which is if you make up to $90,000, your Social Security FICA comes out. If you make over $90,000, you do not pay any. I am not advocating that at this point, but that is one of the options, raise the age, increase the limit from which we make the payroll deductions, or cut benefits.

There are not a lot of options, but we have time to do what is right for American citizens. Social Security is a good program. It was never intended to be the end all. It was a tripod: Social Security, pensions, and if you were able to save, then those three sides of the triangle would give Americans a comfortable life in their retirement.

My constituents say do not mess with our Social Security. They want it, they have paid into it, and they believe they are entitled to it. As we continue our discussion, let us remember it is the people of America who we serve who we represent and who have paid in. Keep Social Security sound. Let us tweak it and not throw it out.

---

## HECKLING IS NOT A SOLUTION

The SPEAKER pro tempore (Mr. FORTENBERRY). Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, it has been an interesting experience to be here and listen to the debate tonight on Social Security. I found it interesting in particular to listen to the gentleman from New Jersey read accounts from town hall meetings where Republicans have been attempting to explain the problems that we are facing with Social Security and how many groups, moveon.org, AARP, and others have come to disrupt those meetings.

I do not know if liberals or the Democrats are proud of that, that their supporters are going in to heckle and boo. It seems they are. What does that contribute to the debate? Not much in my opinion. There is a saying that you are entitled to your own opinions, but not to your own facts.

If we look at the facts on Social Security, there are the following: when Social Security started in the 1930s, there were some 42 workers per retiree. In the 1950s, that went to 16 workers per retiree. Today we are down to three workers per retiree. By the time I retire, there will be probably two workers per retiree. You cannot argue with the demographics, and that is where we are headed. Those are the facts. With those facts you have to understand we have got to do something different. This pay-as-you-go system simply is not a model that is going to work with demographics like that.

Fact number two, it was just mentioned a few minutes ago there is a trust fund that is going to pay out until the year 2042. Where is that trust fund and what does it contain? It is a couple of file cabinets in West Virginia that contain a couple of IOUs. There is no trust fund; there is no money. It is just IOUs. As soon as we start taking out more than we are paying in, we are simply going to incur more debt upon debt we already have. You can talk about the year 2042 and we do not have to worry until then, that is assuming there is money in a trust fund. If somebody knows where that money is hidden, please tell us because it simply is not there. It is a file cabinet with IOUs in it.

Fact number three, there is no easy fix. I just heard one so-called solution that we simply lift the earnings cap so people like Bill Gates who make millions of dollars every year would pay more than just Social Security on the first $90,000 of income. That sounds good; but upon review, if we included all of the millionaires and others making more than $90,000 a year, we asked the actuaries what it would do, and it would postpone insolvency just 6 years. So we are just talking on the margins.

Raising the payroll tax, we have done that since the 1930s 19 times. We simply cannot continue to go down that road. I would like to hear somebody seriously propose that. What do we set it at? How much more do we want to tax people?

We have to harness the power of compound interest. We need a new model. That is what the President is proposing. I think it was Albert Einstein who said the most powerful force in the universe is that of compound interest. We have to allow individuals to harness that.

I commend the President for taking the position he has taken. The difference between being a leader and a follower is when you are a leader, you recognize that the people may not be with you and you may need to persuade them and convince them and go out and tell them there is a problem.

There are formidable foes out there, the AARP and others, who will put out information and say there is no problem, there is a trust fund somehow and we do not have to deal with this issue for another 40 years or so. So there is a lot of educating that has to be done. That is what a leader does. A follower says that is where the people are, I do not have to convince them, I just have to join them, and we will just heckle and boo anybody who proposes a solution. That is not leadership, and I am glad the President is actually leading on this, and I commend my colleagues for leading on it as well.

Mr. Speaker, this is a serious issue. There is no more serious debate that we will have in this coming decade domestically than how to deal with this issue. How do we give individuals the freedom to be more secure in their own retirement. I tend to believe that in the end if you present Americans out there two politicians, one who will stand and say, yes, there is a problem, we need a fix, and the other who will say there is no problem, there is a trust fund somewhere that will fix it, I think in the end Americans will believe the politician who fesses up to the fact that there is a problem. Demographics do not lie, and we have to deal with it in the future. I commend the President and those moving towards a real solution and who are presenting actual proposals that will move us in the direction we need to go.

## CONFISCATED PROPERTY IN ETHIOPIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, I am introducing a bill today concerning the Ethiopian Government's confiscation of property owned by U.S. citizens and the Ethiopian Government's arrogance and intransigence in the face of efforts to rectify the situation.

Mr. Speaker, the Berhane family are constituents and friends. They are black African immigrants who fled the establishment of a communist regime in Ethiopia in the 1970s. They now live in Huntington Beach, California. At one time the Berhane family owned the National Alcohol and Liquor Factory, NALF, in the capital of Ethiopia. The Marxist regime that took over Ethiopia expropriated their property and drove the Berhane family into exile. Well, that Marxist government fell more than a decade ago.

The current government agreed in principle to return all illegally expropriated property, but it has steadfastly refused to return the Berhane family's factory, or offer them just compensation. It seems the distillery is one of the confiscated properties that the heavy-handed rulers of Ethiopia refuse to return to its rightful owners. Perhaps that is because this factory is one of the few businesses that makes a profit. The smell of corruption at the highest levels of the Ethiopian Government is hard to miss.

Mr. Speaker, this matter should have been settled long ago. This property should have been returned to the Berhane family or just compensation should have been offered. The Berhane family claim is supported by a finding of the Overseas Private Investment Corporation, which is part of the United States Government. So this is not a matter of determining whether or not the Berhane family has a just claim: it is a matter of arrogance and probably corruption on the part of the Ethiopian hierarchy.

Mr. Speaker, I am introducing legislation today that will prevent Ethiopia from receiving any benefit from U.S. Government sources until it deals honestly and fairly with the claim of these American citizens. It is a tragedy that the Ethiopian Government is risking the well-being of its people because of its intransigence in dealing with a just claim of an American family.

Mr. Speaker, this act withholds all appropriated U.S. Federal dollars to the Federal Democratic Republic of Ethiopia until property claims of American citizens are either returned or the U.S. citizens are justly compensated. With the exception of emergency humanitarian aid, this prohibition on funding includes economic support funds, the Export-Import Bank, foreign military financing, the Global AIDS Initiative, Millennium Challenge Account, and the Overseas Private Investment Corporation. This bill further directs international organizations to be required to oppose aid to Ethiopia under these same conditions.

Mr. Speaker, this type of officially sanctioned rip-off that we see in Ethiopia is outrageous. However, it is not just limited to the gang that rules Ethiopia.

☐ 2045

Mr. Speaker, there are other governments, be they Cuba or Iran, that are equally guilty of this type of theft. I intend to introduce similar legislation in a broader bill denying aid to all of these foreign governments who deny the proper reimbursement to American citizens who have just property claims against them. Part of that bill, which will include Ethiopia as well, will provide that U.S. citizens with legitimate claims against a government like that in Ethiopia will be able to put a legal hold on the American property and assets owned by the government officials of that government.

Mr. Speaker, it is time for us to stand up for justice, especially for the justice of American citizens. These African immigrants who came here fleeing communism had their property confiscated. The government of Ethiopia has time and again suggested that they would return all property that was illegally confiscated. Yet the Berhane family has not had its property returned. They deserve the rights of protection of the United States Government.

We will struggle for this legislation, we will pass this legislation, we will keep this fight up until this family gets justice, this family gets their property returned or gets just compensation.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H. Con. Res. 5. Concurrent resolution providing for the acceptance of a statue of Sarah Winnemucca, presented by the people of Nevada, for placement in National Statuary Hall, and for other purposes.

H. Con. Res. 63. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

## SOCIAL SECURITY

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Connecticut (Mr. LARSON) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. LARSON of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. LARSON of Connecticut. Mr. Speaker, it is my great privilege this evening to be able to address a vital subject to all of America, that of preserving and strengthening Social Security. Many of us have had the opportunity over the break to go back to our districts and hold public forums and hearings and town hall meetings, and the input that we received from our citizens has been extraordinary and insightful.

This evening, we will be joined by distinguished members of our caucus, the gentleman from Michigan (Mr. LEVIN), the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentlewoman from California (Ms. WOOLSEY), and hopefully others who will be joining us as well as we seek to report back to America about what is going on.

We are most fortunate to have the man who has followed in the footsteps of the dearly departed Bob Matsui who was a champion on Social Security. The gentleman from Michigan (Mr. LEVIN) is the leading expert in our caucus and on the Committee on Ways and Means in matters of Social Security and has held these forums and hearings not only in his State but has been on shows and appeared all across this great Nation. I yield to the gentleman from Michigan.

Mr. LEVIN. I thank the gentleman from Connecticut for yielding.

Mr. Speaker, we held three town hall meetings and so many of our colleagues held many, many. It is interesting that our Republican colleagues in Michigan as far as I know during the break held no town hall meetings on Social Security. I think the main reason is it has become increasingly clear that the diversion of Social Security moneys for privatization is a bad deal for everyone, for seniors, for younger workers, for men and for women.

I am glad that the gentleman from Arizona preceded us, because I want to say just a few words. The facts really are allies here of those who are defending Social Security and the facts really are the antagonists of those who want to dismantle it. For example, the gentleman who preceded us from Arizona said that people who are coming to the Republican meetings are coming to heckle. First of all, I do not think there are that many meetings held by our Republican colleagues. Secondly, when the President goes out and holds Social Security forums, the people who can come have to have tickets. They have to be people who are proponents of the President's position. And I just would like to say to everybody, let everybody into the forums that are held by the President as is true of our forums.

Mr. LARSON of Connecticut. So these forums that the President is conducting are not open to the public, that you have to be invited by the President's people? Carl Rove?

Mr. LEVIN. As far as I know, that has been true. There may have been an exception, but I do not think so. So the gentleman is right. These are staged meetings and people who come are screened. For those of us who speak tonight, yourself, myself and others who have held our town hall meetings, there is no screening. We notify the public at large and whoever comes, comes. We have people who have differences of opinion. That was one statement of his that is very, very inaccurate. It is really an insult to the people who want to come to the President's meetings, saying that they come to heckle. The answer is they cannot get in. And they would love to participate in the discussion.

He also mentioned another allegation about the number of workers per retiree, and I think he mentioned 15 to 1 or 16 to 1. That is a figure that existed before Social Security began to make payments. The truth of the matter is that when Social Security began to make payments to retirees, the ratio was 6 to 1. Higher than today, it is true. There is a shortfall that would exist either in 2042 or 2052. After that, according to the CBO, the payments would be 78 percent of the scheduled benefits and according to the actuaries, 72 percent. So the notion that it is headed for bankruptcy, this is the path for bankruptcy, is inaccurate.

Then another thing that the gentleman from Arizona said, it is just a bunch of IOUs. The President of the United States will not say it is just a bunch of paper and I am sure the Secretary of the Treasury will not, or better not. Why? Because the trillions of dollars held in bonds by our creditors, foreign governments and also individuals, have a bond and those are the same bonds held by the Treasury of the United States to cover Social Security payments. The full faith and credit is behind those bonds. There has never been a default. Actually the bonds have been redeemed for Social Security over the years 11 times. So this notion it is just a bunch of paper is really a serious mischaracterization, and I hope that our leaders will never repeat it.

Let me say a word about this compound interest argument. The privatization proposal would do nothing to address the shortfall.

Mr. LARSON of Connecticut. When the gentleman says the privatization proposal, this is the so-called plan that perhaps the President may submit to us?

Mr. LEVIN. There is no comprehensive plan, but what has happened is that the President or his spokespeople have come forth with some proposals. So we have proposals, for example, in the commission report which was called a good blueprint by the President. We have a proposal that would shift from wage indexing to price indexing, would lead to a cut in benefits over time of over 40 percent.

Mr. LARSON of Connecticut. So this privatization plan will lead to a cut of more than 40 percent in benefits. We heard the gentleman from New York (Mr. RANGEL) say earlier that it does not even solve the gap or the supposed problem that the gentleman from Arizona was alluding to. Is that correct?

Mr. LEVIN. This proposal would not address the shortfall, and $1.5 trillion would be diverted from Social Security the first 10 years and a total of $5 trillion over 20 years of privatization.

Mr. LARSON of Connecticut. This is confusing to some of our citizens. The gentleman from Michigan is an expert on this. He has served on the committee. Why does this transfer have to take place? Seniors are asking about this. Some have said, this is like taking a credit card of your own and trying to go out and purchase stock with your credit card in the hope that the stock's returns will exceed both the interest you are paying on that credit card. This is hard to understand for a generation that has relied on Social Security as a guarantee. What actually happens?

Mr. LEVIN. I am glad the gentleman raised that point, because we are going to spend some time talking about the impact of this privatization proposal on women. In future times, you are going to be talking about its impact on other segments of our population. Let me say just a word about this notion, borrow $1.5 trillion the first 10 years, another $3.5 trillion the second 10 years, what this all means and how it would impact on people.

What has Social Security meant? It has meant independence. There are just a couple of facts I want to mention, and they show what Social Security has meant in this case, specifically for women. Four out of 10 widows in our country rely on Social Security for 90 percent or more of their income. So those who want to play around with or really dismantle Social Security are really affecting the lives of people. Another thing, it is not the income alone, but the meaning of that income, because research has shown that Social Security income is key to so many people deciding they continue to live independently. When you compare the life of people before Social Security went into effect and when it did, the number of older women who are widows who are living independently increased the first 25 years of Social Security almost three times. So as was true for my beloved mother has been true for millions and millions of women. Social Security has not been a source of dependence; it has been a source of independence.

Let me just say a few other things about the impact potentially of privatization on women. As we know, women on the average earn less than men, on the average. Social Security has a progressive element to it. And so that means that for women in terms of the replacement of their wages, Social Security is even more important on the average than for men. And also because life expectancy is greater for women than men on the average, if there were private accounts, it would have an especially adverse impact on women.

The gentleman says there is not a comprehensive plan, but there are proposals. In the State of the Union briefing that was done by the White House, they talked about annuitization. There would be a requirement for millions of people to annuitize their private accounts if they existed. So it is not a nest egg that is their own. There would be a requirement of annuitization. And because women on the average live longer, the annuities would cost more.

These are just some of the reasons why when we go to meetings and people can come, they are not screened, men and women, younger and older; and we are going to be talking another day about the deleterious impact on younger workers, but so many of the people who come, women on Social Security, they just say, look, this has meant I can continue to live my own life. That is what is at stake here. And so what we say to everybody is, the gentleman from Arizona said fix it. Yes, they would fix it by dismantling it. The fix would be in for Social Security.

What we say is, we have fought to keep Social Security strong, we did 20 years ago here, and we will continue to fight to keep it strong. The President said, and I close with this, we need to keep Social Security strong, we need to keep it safe; we need to strengthen it. What they would do is to weaken it and dismantle it.

□ 2100

So I thank the gentleman for letting me participate, and I am glad that others can continue with this. We are determined to go everywhere in this country and tell the truth.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, I thank the gentleman from Michigan (Mr. LEVIN) again for his insight and his outstanding service to the Committee on Ways and Means in this United States Congress.

I think Roosevelt said it best when referring to our distinguished colleagues on the other side of the aisle. With regard to Social Security and its impact and the plight that so many citizens go through, he said, they are frozen in the ice of their own indifference, the indifference to what ordinary Americans face on a daily basis.

No one understands that better than the gentlewoman from Illinois (Ms. SCHAKOWSKY), who works on their behalf every single day and fights for them and has done an outstanding job in her district and beyond and also held public hearings and is here this evening to add to this dialogue.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from Connecticut for yielding and giving me the opportunity to speak today.

And I also wanted to particularly emphasize why Social Security has been so important and will continue to be to women. Like many of my colleagues on the Democratic side of the aisle, I had an open forum, a town meeting, on Social Security. Nearly 1,000 people showed up. We could not believe it. We had a room set for about 350. We hoped to fill it at 10 o'clock in the morning on a Monday. I did it along with my two Senators from Illinois, Senators DURBIN and OBAMA, and then we had an overflow room and then an overflow for the overflow room and still had to turn people away, young people, older people, persons on disabilities.

I want to tell my colleagues one story. It may not be obvious at first why this is a story about why Social Security is important to women. A friend of mine, someone I have known for a very long time, a gentleman, middle-aged, got up and talked about something I never knew before. And he was telling about how his first wife died at the age of 35 and left him with their three children, three young children. And he said how Social Security and those benefits made it possible for them to hold the family together and for those children to go on to college. But the other thing that he added, which was so poignant, was that that Social Security benefit enabled his wife, his deceased wife, to keep the promise that she had made to their children to always take care of them. And even now it brings tears to my eyes when I think of that.

So that they could feel it was their mother that was helping enable them to go on to college to be the second generation. They are African-American, and for that family to go on to college. And I thought that was really moving.

In Illinois, we have looked at some of the statistics about how women rely on Social Security more than men do. This is a little bit dryer but important nonetheless. In Illinois, 19 percent of adults receive Social Security benefits. Think of that. Nearly one in five adults, including 21 percent of women and 16 percent of men. About almost a million women and 718,000 men and 116,000 children rely on Social Security benefits. Women represent 5 percent of all the people 65 and older in Illinois who rely on Social Security benefits. And without those benefits, 55 percent of elderly women in Illinois would be poor.

The typical recipient of a Social Security widow's benefit in Illinois, the widow that is left, receives $921 per month. But if we calculate out what we know of the President's proposal, the plan he prefers, and we look down the future at what would the typical widow in Illinois get, that amounts to, instead of the $921 per month, $506 per month or a 45 percent cut in benefits.

So it is no wonder that so many people, young people and older people, came out to this hearing because they are worried. And it was significant to me when young women stood up and said, Do you know who could reap the worst of this privatization plan, it is me, it is us. It is the young women. It is the young people. Because it is we who will see our benefits cut, who will see the debt that is mounting have to be paid off by us.

At the same time we are looking for the jobs that have the benefits, that have the pension plans right now, trying to figure out how we are going to pay off those college loans, and we do not know what our future is going to be if that guaranteed benefit of Social Security is changed into a gamble.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, that is an excellent point, and the gentlewoman from Michigan (Ms. KILPATRICK) made it earlier as well when she stated quite succinctly and clearly. Social Security was never intended to be in and of itself the retirement vehicle. It was, as she pointed out, the third leg of a three-legged stool, having pensions, which we know are under stressed everywhere; personal savings, where it is so difficult for people to save; but the thing that people could count on.

The reason that it came into existence was to provide, as the gentlewoman has pointed out, an absolute guarantee, the full faith and credit of the United States of America standing behind its commitment to its citizens. It is as simple and as fundamental as that and more eloquently stated by our citizens and the young women who have come to forums and hearings and town hall meetings like the gentlewoman's all across this country.

Ms. SCHAKOWSKY. Mr. Speaker, will the gentleman yield?

Mr. LARSON of Connecticut. I yield to the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Mr. Speaker, let me just say that it is no wonder, then, that the women's organizations, bipartisan women's organizations, are opposing this privatization plan. The

American Association of University Women, the League of Women Voters, who go through a very rigorous process in order to come to a position. They are raising all kinds of concerns and say that diverting money from the Social Security trust fund into private accounts could hasten the insolvency of the fund. The result could include a substantial increase in the deficit and significant cuts in some or all of the Social Security's retirement and disability and survivor benefits. The National Women's Law Center, the National Council of Women's Organizations, the Older Women's League, all these organizations are opposed to these risky privatization plans.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, I thank the gentlewoman from Illinois for her insightful comments and for her continued diligent work in this area on behalf of all of our citizens, but especially for all women across this great country of ours.

Mr. Speaker, speaking of a leader on those issues, we are also most fortunate to have the gentlewoman from California with us here this evening who also has done an outstanding job in the caucus and on committee in terms of focusing on the needs of women and children and families all across this great country of ours.

Mr. Speaker, I yield to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Connecticut (Mr. LARSON) for having this late night Special Order on something as absolutely important as Social Security for our seniors, but not just for our seniors. It is actually an insurance for every single American that they could not afford if it were not under the Social Security program, and that is survivor benefits and disability benefits.

Young people just need to step back and think what it would cost them to pay for that insurance on a month-by-month basis. First of all, they would not buy it. It would be too expensive. Then when they needed it, it would not be there, and it is there now.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, did most of the individuals who attended the gentlewoman's forums and public hearings understand that Social Security benefits were not just retirement benefits, that they also provided survivor benefits?

Ms. WOOLSEY. Mr. Speaker, will the gentleman yield.

Mr. LARSON of Connecticut. I yield to the gentlewoman from California.

Ms. WOOLSEY. Actually, Mr. Speaker, I scheduled two town halls. We scheduled two town halls. We ended up having three because the second one was out to the street and we just could not pack another person in. So we committed to a third right after the second. And 80 people stayed and they waited to come in and be there for an entire third of the hearing or town hall. Who I had on my panel, I had the representative of AARP, who has not been a friend to seniors since Medicare reauthorization and the prescription drug plan. And he really redeemed himself in my community, actually.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, the gentlewoman may have heard what the gentleman from Arizona (Mr. FLAKE) said earlier.

Ms. WOOLSEY. They are mad at him now, Mr. Speaker.

Mr. LARSON of Connecticut. Mr. Speaker, it is interesting that they were friends during the Medicare debate but now that they have spoken out against Social Security, they are now a special interest group.

Ms. WOOLSEY. Right, Mr. Speaker. And they are being discounted entirely.

If the gentleman will continue to yield, then we had a representative from the Commission to Save Social Security and Medicare. And then, finally, I had a representative from Rock the Vote, and this young man was so wonderful. All three of them were. It was a perfect panel. And they were in both of my communities with me.

And what I do, because I cannot have one person stand up and talk for 15 minutes, is I give everybody 1 minute. They can give a 1-minute speech. They can ask a very short question and get a 1-minute response, or they can ask a long question and get a short response. But they get a minute. That is all they get. And at first they are all so uncomfortable with it. Then they are so glad that that is how I set it up because they all want to speak. And we would have gone into the wee hours of the night if it had been up to everybody to have their 15-minute speech.

But what they are saying to me is: I am a senior citizen, the majority of people who were there. This is not about me. This is about my kids and their kids. They deserve to have the safety net that we have. And, yes, they need to save on top of it and we all do and that is what is missing in this country. We do not have a savings plan in this country that incentivizes particularly low-income workers to save. But that does not mean they do not need the safety net of Social Security.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, the gentlewoman raises a very excellent point, and, again, it is the same point that was raised earlier by the gentlewoman from Michigan (Ms. KILPATRICK) and also the gentlewoman from Illinois (Ms. SCHAKOWSKY). What we need, and the guarantee that we have provided every American through Social Security, is, as the gentlewoman pointed out, a safety net, a floor from which they cannot fall through. And, as the gentlewoman pointed out, our pension systems are already overstressed. We have gone from defined benefit to defined contribution to companies pulling out, wholesale, from providing benefits, to people's personal savings where, again, the gentlewoman points out the difficulty that people have, the lack of incentives that are there for them to save.

So the question that a lot of the people at my forums ask is why would we introduce an element of risk in the only guarantee that we have on that three-legged stool that prevents us from falling through the floor and into the depths of poverty, which for a woman in this country is so vitally important.

Ms. WOOLSEY. Mr. Speaker, will the gentleman yield?

Mr. LARSON of Connecticut. I yield to the gentleman from California.

Ms. WOOLSEY. Mr. Speaker, women comprise the majority of Social Security beneficiaries. They are much less likely than a man to receive pensions or have a retirement savings. And there are more than 24 million women receiving Social Security benefits. And if these were taken away, most of these women would be left in poverty. I mean what they are talking about on the other side, what the President is talking about, first of all, he does not have a plan. He just has privatization that he is talking about that does nothing to reform and save Social Security, but what he is talking about is insecurity, social insecurity. It is a gamble instead of a sure thing. And the people in the United States of America get it, and they do not like it. And I predict that they are going to pull back from it and they will not reach beyond what the people in their district are telling them.

□ 2115

Their people are booing them. I did not get any boos in my town hall. Did the gentleman?

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, no, I did not. But I think the gentleman from New York (Mr. RANGEL), our distinguished leader on the Committee on Ways and Means, said earlier that clearly the President has asked us to wait until he brings forward a plan. He has withdrawn the fact that this is a crisis, but points out there are problems.

Everyone recognizes that there are problems with Social Security and Social Security needs to be strengthened. But the President further goes on to now admit, as well as the gentleman from New York (Mr. RANGEL) points out, when the actuaries and the financial people have a chance to look at the proposed plan, that it does nothing to solve the problems that the President has spelled out in Social Security.

So one has to come away with thinking as to why would they possibly then want to privatize or introduce risk in the most successful governmental program in the history of this country.

Ms. WOOLSEY. Mr. Speaker, if the gentleman will yield further, who will benefit from a private plan that invests through Wall Street? The President's buddies. It would be great if his buddies could make everybody in this country wealthy, but that will not happen. And when there is a bubble in the economy, like we had the bubble burst 2 years ago, who is going to be holding the problem? It is going to be right here, the Federal Government. Who is going to pay for it? It is going to be the taxpayers. They are not going to let all these seniors who lose their life savings in the stock market go on the streets with no food and no health care and no way to pay their rent. Absolutely we would never do that in this country, or I hope we would not, anyway. So we will do the bailouts.

But in the meantime, there are going to be a lot of people making a lot of money, and those are stockbrokers and securities bankers, and that is not what Social Security is supposed to be about. It is supposed to be a safety net.

In my town halls I was asked, Well, what would you do, Congresswoman? Why do the Democrats not have a plan? Well, actually our plan is knowing that we have got 30 or 40 years, but we can start right now. We can take a look at raising the caps, or removing the caps.

We stop paying on our Social Security as Members of Congress when we reach the $90,000 earnings level. I see no reason why we should not pay throughout the entire year. I see no reason why Bill Gates should not be paying on his billions of dollars the same percentage of those dollars that a middle-income worker pays on what they earn.

I do not see any reason why we should not have a savings plan on top of that, like we have. People say, We want the same kind of plan you have. First of all, a lot of people think that we do not buy into Social Security. That needs to be cleared up right away. Members of Congress have Social Security and we pay into the system, and we then have a savings plan on top of it that would be a plan that I would think every person in this country could have, every working person. And I think the Federal Government should match low-income savings to a point where then the savings will not be matched after you earn enough money. But, by then, do you know what? You would be used to saving. But we do not know how to save in this country. We are spenders. We do not save.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, it might surprise a number of our viewers, because I believe the gentleman from Arizona was talking before about the need to get the facts straight. I believe that the gentleman is correct about that, and there should be an open and honest and frank debate about this issue, and all the various proposals should be laid on the table. The gentleman from New York (Mr. RANGEL) has asked for that, where we still have not seen any plan. We are told by Secretary Bolton and others that it is a "work in progress," that we may see it in the future.

In the meantime, I think a number of our listeners would be interested to know that in 2000, Social Security lifted 7 million senior women out of poverty. This means that without that safety net, without that floor which they cannot fall through because it has the full faith and credit of the American Government, it is the social contract we have with our people who have paid in to this system, that it is there for them. It is a guarantee.

Ms. WOOLSEY. Mr. Speaker, if the gentleman will yield further, it is also a benefit. The formula actually ensures that people at the lower wage earnings get a larger percentage of their wages back than people at the higher end. It is very progressive. It is intended to keep people out of poverty. It is not intended to make rich people richer.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, it might also surprise people too, when we are talking about Social Security, I know for many people, from Hoover to Landon to Friedman to Stockman, that Social Security is anathema. It is something that they would just as soon do away with. Mr. Stockman said it is "a beast that needs to be starved."

When we look at the policies emanating from this administration, you wonder if this is not still the plan that they are marching forward with, to privatize and to further starve the moneys that are needed.

How much money do people receive on average? What does someone get who has worked hard and played by the rules and sacrificed all their life, whether they be people that are currently serving in Afghanistan or Iraq, or whether they are firefighters or our police, or whether they are in the hospitals as nurses or other people?

Ms. WOOLSEY. They do not make a lot.

Mr. LARSON of Connecticut. The monthly retirement benefit for a woman is $798. In America, could you live on $798 a month? This is what the guarantee is. But it does prevent these people from falling into the depths of poverty. It is what Franklin Delano Roosevelt promised to the American people.

Ms. WOOLSEY. Mr. Speaker, if the gentleman will yield further, the reason it is a majority of women at that low wage is that women earn 77 cents to the dollar that a man earns. Women are out of the workforce for a great part of their earning career because they are having the children and raising the children and taking care of their parents and their husband's parents. They are the caregivers. They are not in the workforce as long and they earn less, so they are at the very bottom. But it keeps them out of poverty; and to risk that that would not be there at all, it would throw the whole burden on their children.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, many have said to me in my forums as well, and I am sure the gentlewoman heard the same thing, and I am pleased to announce we have been joined by two distinguished Members from the Great State of California as well to contribute to this dialogue, but many have said at the hearings that I have conducted how Social Security for so many of them is their only source of income, and they look out and they see their pensions disappearing, they see cuts that are being made on a regular basis, and so they ask aloud for the government to please honor, honor, what it has promised and guaranteed them and what they have worked so hard for throughout all of their life.

I think it is important, as the gentleman from Arizona said, that we get the facts out there and expose the myths that have been put forward.

Ms. WOOLSEY. Mr. Speaker, if the gentleman will yield further, this will be my final thought because I think the gentlewomen from California that are here need to take up some of this time, but these are Social Security benefits that cannot be outlived. They are inflation-proof and they can be relied upon, and that is what would change if the system was privatized, and it is women that it would affect to the greatest degree.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentlewoman for articulating that point.

I am pleased now to turn to the gentlewoman from California (Mrs. CAPPS), who also has spoken and held hearings in her district and is here this evening to contribute to this very important dialogue about the strengthening of Social Security and pointing out the direct impact that it has on women who rely so heavily on Social Security.

Mrs. CAPPS. Mr. Speaker, I thank my colleague from Connecticut for this time that we can share together. Now the gentleman has been joined by two colleagues who have been engaged with some of our leaders in the community.

Women's Policy, Incorporated, is a nonprofit organization that provides resources in the way of information and policy awareness and opportunities for us as women to pool our resources intellectually and our moral courage, if you will, to join with Members of the House.

We were recognized this evening, along with one of our pioneer women, Shirley Chisholm, in memory of her, and also today the knowledge that our former colleague, Tillie Fowler, is no longer with us on Earth, people who have paved the way for us as women Members of Congress to join with our colleagues who are of the other gender, but who together recognize that we are speaking on a social program, Social Security, which has now a 70-year history with us.

I am going to ask the gentleman to yield first to my colleague, the gentlewoman from California (Ms. SOLIS), who is the newly elected cochair of the Women's Caucus from our side of the aisle, to join with the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) on the Republican side, to lead our women Members in voicing our concern about women's issues, one of which has got to be Social Security, which impacts women to a greater degree than it does men for the reasons we will state.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, let me echo the sentiments of the gentlewoman and commend the outstanding leadership that has been provided by the gentlewoman from California (Ms. SOLIS).

I yield to the gentlewoman.

Ms. SOLIS. Mr. Speaker, I thank the gentleman so much. I would be remiss if I did not first off thank the gentleman from Connecticut (Mr. LARSON) for being so outstanding and helping us provide this special hour here tonight.

As you know, we were at another engagement honoring women, new Members of Congress as well, and also to be joined with other distinguished Members of our California delegation and our cochair for the Women's Bipartisan Caucus, as well as the Democratic Caucus.

Mr. LARSON of Connecticut. Mr. Speaker, reclaiming my time, I know the gentleman from New York (Mr. RANGEL) left here and spoke earlier, eloquently as always, left here so he could be with you and share remarks with you over there as well.

Ms. SOLIS. Mr. Speaker, if the gentleman will yield further, the gentleman from New York (Mr. RANGEL) did a wonderful job.

I want to thank the gentleman. I cannot think of a more important issue that needs to be discussed at this time in our history than Social Security, and the fact that this administration would lead you to believe that there is a crisis occurring in our country with respect to Social Security.

As the gentleman and I know, some of us held some forums in our district this last week and a half, and we happened to have 15 of those in my districts, and we found resoundingly that people are saying wait a minute, stop the clock; who says there is a crisis here, when we know that this system has been working for so many people.

In my district, I represent 59,000 people who right now receive Social Security, the majority of them being elderly women. It is unfortunately in the district I represent in Southern California, the majority there are minority women, women of color, Hispanic-Latino women.

This is something that I want to talk about, because people do not understand that women work very hard, those that have the ability and chance and sometimes have to for no other reason. If they take time out of that career to raise their children or to care for someone in the family household who is ill, those quarters are missed: they do not pay into the Social Security system. So on the whole, women tend not to be able to obtain the same kind of financial privileges that most males do, and in fact women only get 70 cents on the dollar. So that also adds to the frustration of women not being able to have the full benefits as others in our society, and it hurts.

I want to point this chart out here, if we might, to just go over what some of the myths and maybe realities that need to be pointed out.

Women, as you know, rely more heavily on income from Social Security. That is probably true across the board. Social Security provides well over half, 50.8 percent, of the income of women 65 and older, and just over one-third, 35 percent, for older men's income. So that is a substantial difference there.

□ 2130

Women have to rely on that source. Social Security provides 90 percent or more of the total income for 44 percent of all nonmarried, 44 percent. In these categories, widowed, divorced and never married. So we are talking about single women. Women 56 and older, 74 percent of the older non married African American women rely on this source. 66 percent of older nonmarried Hispanic women rely on this source. Without Social Security over half of all women 65 and older and 40 percent of older men would be poor. Social Security was invented 70 years ago to be that, Social Security, that protection so people could live their lives out of poverty and it is something that we have to keep talking about to educate the public.

Mr. LARSON of Connecticut. The gentlewoman is absolutely correct. And I thank her for pointing that out. I would like to yield to both the gentlewomen from California to finish off the remainder of our time and focus on the specific needs and concerns that you both articulate so well Mrs. CAPPS.

Mrs. CAPPS. Thank you. And thank you to my colleague, the gentlewoman from California (Ms. SOLIS), both of us serving on the Health Subcommittee of Energy and Commerce, where this issue has particular relevance for women and thinking about the health priorities that women always hold dear. We thank our colleague from Ways and Means Committee, the gentleman from Connecticut (Mr. LARSON) for organizing this with us to focus on the effect that Social Security has on womens' lives.

I speak from a public health perspective as someone who is engaged with families in our communities on public health and the devastating effect that privatizing Social Security would have on the majority of its women, recipients who are women.

As has been mentioned already, but I do not think we can say it often enough, women on average earn 77 cents to the dollar, to every dollar that a man makes. Yet, they live longer and rely more heavily. This is a demonstrated fact that women rely more heavily on Social Security to support them in their later years.

Women are more likely to interrupt their careers to stay at home to care for children, therefore are significantly less likely than men to receive a pension. And for those women who do receive a pension, their benefits are about one-half of the benefit that men receive.

Fortunately, Social Security is more than just a retirement program. It is a social insurance program structured to help women such as those Ms. SOLIS and I know very well, to overcome the hurdles that they face after raising families, caring for their parents, working, but not as much as men do, most likely because they have interrupted their careers, then to face widowhood. And I am a widow. I know very well some of the challenges that widows face, to overcome the hurdles of older years.

For example, lower earning workers earn higher benefits relative to what they have paid into Social Security taxes. Social Security also has spousal benefits. For example, a wife gets half of her husband's benefit at age 65 and the full benefit should he die before her as is often the case. But oftentimes this is the sole life support for such a woman in her older years.

Social Security also has survivor benefits that help families when the primary owner has died prematurely. Sometimes and often that primary worker is a man, is the husband, and the provider for the family. So that young widow who is raising now by herself her children and is engaged in all of the other responsibilities that she has, now she is left to live on the Social Security benefit provided her as a survivor. In these cases, benefits are paid to the surviving spouse and dependent children. These are all critically important benefits, important to millions of women and these are all benefits which are at risk of being lost in a privatized system. And I will yield back now for further comment from my colleague from California (Ms. SOLIS).

Ms. SOLIS. Thank you so much. Again, I want to also reiterate as we said earlier, women earn 70 cents on every dollar earned by a man. On the average, that is about $11,000 less income earned each year compared to men. So that is something that we have to put in perspective. And as a result, women have less money to invest in private accounts, so there goes that theory about, gee, we have disposable income to put away to put in a private account. That is not necessarily the case for many people that I represent in my home district. And I know we are hearing a lot from our constituents right now. In fact, in my office alone, we have received well over 300 correspondence saying no privatization. Privatization, what does that mean?

In my opinion, it means that there is going to be money that is actually going to be taken out of their benefits, and in the long run, our young people that are paying, say, would pay into something like that are not going to receive the same return once they are eligible for that. And, in fact, those people that choose not to set up a private account are also going to be penalized. So over the long haul, I do not think that privatizing Social Security is actually going to end what the President is saying is a crisis because it is bankrupt. In fact, it will not do anything to make it solvent. Privatization will not do that. So I think we need to keep this discussion going.

And I would like to point out in this graph here we are talking about women's issues tonight because it is appropriate. This is Women's History Month, the month of March. And why not? Is it fitting to talk about the reality of how women fit into this figure of Social Security and how that piece of pie is divvied up.

And retired workers, for women basically represent 33 percent. Very different from a pie chart that you would see for males. Widows and mothers, 20 percent. Disabled adult children, 1 percent. Wives, 11 percent. Dually eligible, 24 percent. Disabled workers, 10 percent. This is how money is divvied up for these different categories of women who are affected and how the funds are distributed.

I can tell you now this would change dramatically if this whole new privatization effort came in and we changed the criterion formula. I do not want to tinker with it. I have parents right now who are on Social Security and I also have a family member who benefits right now from survivor relief because she also lost her spouse and had three children to raise. They were teenagers and one was a younger child. Two have now gone on to get married. One is still with her. And if it was not for that small check that still helps her out, she probably would have had to sell her home, change her lifestyle, would not be living the comfort life that she does, and I do not mean comfort by being extreme and wealthy or anything. I just mean by being able to hold a family together. And most people do not see that face. They think that it is somebody else

Mrs. CAPPS. If my colleague would yield, thank you. Your numbers and your graph, the pie chart are graphic and significant, and I would like to put a face on that so that I can give you an example from one of the non retirees that I met this past week in my district who are one of the one-third of the Social Security benefits who are not seniors.

Last week, I held discussions with my constituents to hear their thoughts on the President's plan to privatize Social Security. I heard from many women, several in very different circumstances, yet each of them depending on Social Security in order to make ends meet in their lives.

I heard for example from a 54-year old woman from San Luis Obispo County in California who receives Social Security disability payments due to a work-related injury which occurred 8 years ago. At that time, she earned a considerable salary and she and her husband had invested 15 percent of their income to save for retirement. One could point to them as a model for the kind of American family that we like to hold up as an example of people who work hard, earn a good salary, and then are also saving for retirement.

However, an injury prevented her from returning to work so that she and her husband subsequently divorced and her investments that she had carefully set aside plummeted during the market turndown a few years ago. And here she was, ready, she said, to be turned out on to the street after living what she called an exemplary life. As a divorcee with a chronic injury, she is now forced to rely on disability payments. She said to the group, she said, I never thought I would be in the position where that Wednesday of every month that that check comes is like a birthday, it is a big celebration in my life to know that that Social Security check is there for me. She said I never even dreamed about how I would be dependent on this.

And these are the disability payments she and her young daughter now are receiving that are the essential platform for how she is able to live. Though she does gets some income from disability insurance, these payments, these disability payments will end when she turns 65. And when she turns 65, that is just 10 years in the future for her, she is going to have to further rely on Social Security because the majority of her retirement investments were lost in the unstable markets, and that is why she knows very well how important keeping Social Security, that covenant, that trust between generations, because of what the difference is that it has meant in her life. It is designed to be the one thing that is not a risk in the inevitable ups and downs of the market of the stock market.

We cannot afford to jeopardize this critical safety net. Too many of our fellow citizens rely upon it. So we must get the word out that our constituents are telling us and not be fooled by the rhetoric of an administration which is really seeking to gut Social Security.

Social Security, as we know it, has been the cornerstone of American life for the past 70 years. And I believe that my children, daughters and sons, and my grandchildren should be able to enjoy that which we believe in so much. And I know that my colleague has some concluding remarks as well.

Ms. SOLIS. I just want to say how grateful I am to our colleagues in the House for allowing us the opportunity this special hour to have this special presentation on how Social Security, the proposed Social Security changes that the administration is proposing, the Bush administration, would affect our constituents. And, in fact, women are going to be disproportionately affected, and especially if you come from communities of color or you have not had a long history because of maybe illness or because you were raising your children and took time out of the workforce to do that. You are going to be penalized.

And I just want to make it clear for the very young people or those that are looking to put money away and that this privatization is going to help them, they need to understand it is not the same thing as a 401(k). What they put in is not what they are going to bring out. And they need to understand that if we go forward, if the President moves forward with this plan, we are going to have to give up $2 trillion over 10 years that will be paid out. Somebody is going to have to pay that back and it is going to come back in the form of lower benefits for people who go into these private accounts and those that do not.

So I am not for it and I am telling my constituents to call us, to let Members of Congress as well as the administration know where they stand. And I am hearing that there are not quite a few members on the other side of the aisle that are convinced that the plan that the President has is one that truly will address the shortages, the so-called shortages or bankruptcy that might be occurring.

So I am very pleased that we have an opportunity and we will be back as much as we can in the next few weeks to talk more about this very important issue that we know thousands and thousands, if not millions of people rely on a source of income and livelihood.

Just as you said, I have several constituents whose only sole source of income is that one check that comes in.

And maybe 2 or $3 out of that check that can give them a chance to get out of the house to go and have a meal with another friend or to go visit the senior center and pay $1.50 to get a reduced meal to share with others, knowing that they are all in the same kind of situation and they are horrified to hear that someone wants to take it away. So with that, I believe our hour might be up. If not, any concluding remarks?

Mrs. CAPPS. I think the gentlewoman is right, that this is a message that we are echoing here on the floor of the House, that we have been hearing from our constituents. Their voices need to be heard as we debate one of most, if not the most important program that we have as a country determined is important within our values framework, what we believe in, that it is to be an American, that we are going to look out for those who are elders and those who are frail and have disabilities, widows and orphans living among us. There are lots of scripture texts that reinforce the importance of doing this. So we will use the opportunity that we have for Special Orders to do this. And I believe we now will yield back any remainder of the time that we might have.

Mrs. MALONEY. Mr. Speaker, I'd like to thank my Democratic colleagues on the Ways and Means Committee and the Democratic Women's Caucus for organizing this Special Order on this critical topic.

As I have said before the Administration's proposal to cut Social Security in half is bad for every American and is particularly bad for women.

Today, 24 million women get Social Security. Because women tend to live longer and earn less than men, they tend to rely more on Social Security for financial security in their old age.

Women are 60 percent of all recipients at retirement and 75 percent—three quarters of recipients over age 85.

There remains a real wage gap between women and men in this country and that translates into a real pension gap.

According to the Social Security Administration the median earnings of women working full time are only 75 percent of those of men.

The wage gap is much bigger when one looks at it over a working lifetime. Over a 15 year span, women only earn 38 percent of what men earn.

Social Security reduces the poverty rate among women by about 80 percent and is the only source of income for almost 30 percent of retired unmarried women.

For all unmarried women and widows, Social Security makes up over half of their income whereas for unmarried men and couples Social Security only makes up a bit more than a third of their retirement income.

In addition, women rely more than men on spousal benefits, survivor benefits, and disability benefits. Over 80 percent of those receiving disability or survivor benefits are women and children.

Private accounts would hurt women more because of the huge benefit cuts that they entail and because women have less earnings to put in private accounts than men do.

Effectively, private accounts erase the benefits of Social Security in providing financial dignity to older women and would take us back to a time when the majority of widows and orphans lived below the poverty line.

The Administration refuses to show us the numbers on how its proposal would cut benefits to retirees. But we know these cuts are built in.

The Administration's privatization plan cuts benefits more than 40 percent to future generations.

The cuts to spouses, survivors, and recipients of disabled worker benfits would be even deeper. And workers who become disabled or die young would not have worked long enough to build up a private account to help support them or their surviving spouse and children.

In the Town Hall meetings that I held during the recess women were particularly concerned over the loss of benefits that the Administration's proposal would entail. They were right to be concerned. Women have more to lose here.

But we can fight back. We are making progress. Just today, the distinguished Majority Leader of the other body suggested that the Administration might not be able to get a vote on this this year and might have to drop private accounts from any proposal.

This is no time to rest. We must speak out in Special Orders Town Hall meetings and otherwise to make sure Social Security is protected or our mothers for our daughters—and for every American.

Thank you again for organizing this Special Order.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address the devastating impact that privatizing Social Security will have on women, especially African American Women.

Social Security is particularly important to women, especially in my home state of Texas. Without these vital retirement benefits, 564,000 women in the Lone Star State would be classified as poor, according to a report released by the Center for Budget and Policy Priorities.

Currently, Social Security benefits are progressive; that is, those with low wages receive a larger percentage of benefits relative to their earnings than higher income individuals do. This system of progressivism, combined with a cost-of-living adjustment that increases benefits every year, strengthens the safety net for those who are the most economically disadvantaged.

Privatization flows from concerns that many people have about the future of Social Security. Some of those concerns are founded and some are not. We are all well aware that as the post-war baby boom generation ages; the number of retirees relative to the number of workers will increase. These are facts that cannot be changed. However, modest changes, implemented immediately, can give people time to plan for the future and would take us a long way toward resolving the issue.

Privatizing social security is the most radial change, and it assumes that there is magic in diverting some portion of the current social security payroll tax into the private markets. Most privatization plans propose to strip a few percentage points off the Social Security payroll tax and divert them to private individual investment accounts. Most people happily focus on the vision of a few dollars a month growing into millions of dollars over time. Unfortunately, this is a dream and not reality, as we have witnessed in the current stock market.

There are three very important things that should be considered when privatizing Social Security benefits. First, the huge cuts in benefits which would be required under the privatization plans—most as large as a 60% cut in Social Security benefits. For people with large savings from other sources, which may not seem like much, but for most Americans, it would be a drastic reduction in the protections they have to come to rely on.

Next, privatization would be a major change in who bears the risk of saving for retirement. Privatization would shift nearly all the risk to the individual. People who are unwise or unlucky in their investments would suffer. We saw many examples of this in recent stock market falls.

Finally, privatization would increase the Federal deficit by more than a trillion dollars over the next ten years. Taking a mere two percent of payroll away from the Trust Fund could double or triple the size of the deficit. This effect is what some people trivialize as "transition costs." I do not believe it is trivial, and given the other concerns which privatization raises, I think we should look long and hard before we leap in this direction.

How do African-American women fare in privatization proposals currently floating around in Congress? Not good at all.

Although Black women typically live longer lives, their lifetime earnings are usually much lower than their white counter-parts. Under privatization, this lower level would mean black women would be forced to live longer on a smaller amount of money.

Hugh Price, President of the National Urban League and Julian Bond, Chair of the National Association for the Advancement of Colored People, wrote an editorial in the New York Times, on July 26, 2001 addressing African American women and social security. They found that guaranteed government assistance is essential to the African American community. While African Americans make up only 12 percent of the general population, they make up 17 percent of all Americans receiving Social Security benefits and 22 percent of all children's survivors benefits. However, the Administration has been unclear on how disability and survivor benefits would continue to be funded.

A study by the National Urban League counters assertions made by the Administration that African Americans will benefit from private accounts bequeathed to their relatives. According to the study, the typical African American man dying in his thirties would only have enough in his private account to cover less than two percent of the survivor's benefits under current law. This also has a devastating impact on African American women as survivors.

Members of Congress must be fiscally responsible when it comes to making decisions regarding Social Security. Fiscal responsibility entails looking at the whole picture and seeing the effect it may have on ALL individuals in society. I urge my colleagues to make this the inclusive America we continue to represent to the world and ensure that Social Security proposals give everyone some comfort in life.

Mrs. CAPPS. Mr. Speaker, I yield back the balance of my time.

## DIALOG ON SOCIAL SECURITY

The SPEAKER pro tempore (Mr. KUHL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Arizona (Mr. KOLBE) is recognized for 60 minutes as the designee of the majority leader.

Mr. KOLBE. Mr. Speaker, I take the time this evening to rise on a subject that we have just heard a great deal about this last hour, and I certainly invite my colleagues from the Democratic side to stay around. I would be happy to yield part of my time to them so maybe we could begin this dialogue that we heard about in the last hour that is much needed here because I do believe that we do need to have a dialogue.

I have actually been conducting a dialogue on this for a long time. 10 years ago, 10 years ago this spring, Congressman Charlie Stenholm of Texas and I formed the Public Pension Reform Caucus in the House of Representatives to begin to educate members of the House and the American public and staff here in the House about some of the issues, the looming issues of Social Security.

□ 2145

Ten years ago it was as obvious as it is today or perhaps today it is even more obvious, but it was obvious even then because of the demographics that we were facing a problem with Social Security. And we thought that it was time for us to start addressing and to talk about what ought to be done. So tonight we are here to talk about strengthening Social Security.

I heard the word "gutting" Social Security used by the other side a few minutes ago. Nothing could be further from the truth. Nothing could be more like gutting Social Security than to do absolutely nothing. That truly is the way to hollow out Social Security and say to the next generation and the generations that follow that there will not be Social Security. But there is a way that we can strengthen Social Security, make sure that that benefit is there for the women and children that we heard about here, for the low-income person, for the retiree that does not have much else.

We can make sure that it is there. We can do it by coming together, reasoning together and making some suggestions and ideas, coming up with ideas about how we can strengthen Social Security, how we can protect it for the future, how we can protect it for current retirees and how we can make sure that the next generations of retirees have a Social Security benefit.

Now, it is not certainly just our side on the aisle that has been talking about this. We seem to agree on this idea that there is a problem. And even before we began this discussion this year on this, I am delighted to see that there are previous high-ranking Democrats that have been talking about this.

President Clinton in 1998 talked about Social Security and said that, Of all of these achievements, the economic achievements, and our increasing social coherence and cohesion, our increasing efforts to reduce poverty among our younger generation, all of them are threatened by the looming fiscal crisis in Social Security.

That is 7 years ago. President Clinton identified that there was a looming fiscal crisis in Social Security. He did not say Social Security was in danger of going away. He did not say Social Security was in danger of being gutted. He said there was a fiscal crisis, and that is exactly what we face today. It was a cash-flow crisis.

Senator HILLARY CLINTON while she was still first lady, she said that one of the most critical challenges of our time is preserving and strengthening Social Security for future generations.

That is exactly what we are talking about here tonight. We are talking about how can we make sure that Social Security is preserved for those who need it today, how can we make sure it is strengthened for those who will need it in the next generations. That is precisely what we are talking about.

Now, we will look a little bit at some of the dimensions of the problem as to why we do have a problem. And by the way, problem, crisis: there is a lot of talk around here. It is not a crisis. In fact, we are hearing it is not a problem at all. Obviously, President Clinton did not agree with that. Obviously, Senator CLINTON did not agree with that. I have never used the term "crisis," but it is a problem.

You know what happens when you have a problem and you do not do something about it: it becomes a crisis. If you ignore it, the problem becomes a crisis. It is not a crisis today, but we can see the crisis looming in the future. And I can tell you from having introduced the only bipartisan and the only comprehensive Social Security reform bill for these last 8 years, that Former Congressman Stenholm and I introduced and the current Congressman, the gentleman from Florida (Mr. BOYD), and I have introduced it this year, still a bipartisan bill that covers every detail of strengthening Social Security. I can tell you that if you do not work on strengthening and if you do not work on fixing it now, it becomes more difficult in the future.

Every 2 years when we introduce our bill in the next Congress, we have to go back, of course, and recalculate the figures for the fact that 2 years have passed by, the demographics have changed a bit, and it becomes more difficult. It becomes more expensive. It becomes more costly. It becomes harder for the next generation, and it becomes harder for the current generations.

What is the problem? What is the basic problem that we have in Social Security? It is a problem of demographics, that people are living longer. We have more people who are retiring. They are living a longer life. And at the other end we have families that are smaller. They are being started later. And so we have fewer people coming into the workforce.

I have heard here this evening the talk about how this is a social insurance program. It is social insurance. It is social insurance, but the insurance program, the insurance that we have here is a contract between generations because Social Security, and let us make no mistake about this. If we do nothing else this evening, I hope we can convey one thought: Social Security is a pay-as-you-go program.

Taxes are collected today that are paid out in benefits at the end of the month. The contract is between generations, that when the next generation gets ready to retire that there will be somebody there to pay their benefits.

Let me go through this chart and let me yield to my distinguished colleague here because this is the fundamental problem that we face.

In 1950, there were 16 workers paying their taxes for every single person that was receiving Social Security benefits, 16 people working, for every one receiving their benefits. Today there is only 3, 3⅓ people working for every one that is receiving their benefits. When the younger workers retire in 20 years, that is not so young actually, but when people start retiring in 20 years, there will only be two workers that are going to be paying for the taxes for every single beneficiary. That is two people are going to have to pay their taxes each month to equal the benefit that is going to one retiree. That is a huge tax that people are going to have to pay.

The reason is quite simple, as we just said. All the baby boomers begin retiring in the year 2008, and then we have those people living a lot longer, and a smaller number of people coming into the workforce to cover those taxes. That is the essence of the problem that we have got. That is why working together here, Republicans and Democrats, both sides of the aisle here, we need to work together to find a way to strengthen Social Security, to make sure that it is strengthened for the next generation, that we preserve it for the current retirees, but that the young people will have some hope that there will be something there for them.

I know the gentleman from Minnesota (Mr. KLINE) has worked very hard on this issue. I know he has conducted some town halls, which I want to talk about some that I have done recently; and I would like to yield to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding to me.

Before we move further in this discussion, which I am looking forward to this evening, I just wanted to touch on a couple of subjects that my distinguished colleague from Arizona has brought up and some of the things we heard from our colleagues on the other side of the aisle.

First of all, I know that the gentleman from Arizona (Mr. KOLBE) and all of my colleagues on both sides of the aisle really would like to see a strong Social Security program. I have been telling folks, in fact, I was talking to high school students in Minnesota this last week that it is very important to me that Social Security be in place for my 84-year-old mother, and it will be in place for my 84-year-old mother. But I want Social Security to be in place, to be strong, to provide the kind of retirement safety net that our colleagues have been talking about for my 35-year-old son, my 38-year-old daughter, my 3-year-old granddaughter.

The demographics that my colleague has just put up there start to show the problem. And we are going to get into that some more this evening; but I am disheartened, frankly, I am disheartened to hear some of the language that we were listening to earlier.

Our colleagues ascribed some motives that I think are out of place. One of them, for example, said that the President wanted to reward his buddies with his proposal, and that is simply not true. It is not fair and it ascribes a motive that is not there. One of our colleagues said that we want to gut Social Security. That is not true.

I know that the gentleman has been trying year after year after year to, in fact, strengthen Social Security and make sure that not only do the current retirees not lose benefits, but that my daughter, my son, and my grandchildren do not lose benefits either. And I just hope that my colleagues would all understand that our motives are to strengthen Social Security. We should be working together in a bipartisan way as my colleague has been doing to do just that, and I hope that we can move away from some of the harsh rhetoric that we unfortunately have heard tonight and I am afraid that we are going to be hearing in the future.

Mr. KOLBE. Mr. Speaker, I appreciate the comments of the gentleman here, and I think they are on point. I think the gentleman is absolutely correct.

It really does not serve anyone very well to have the kind of harsh rhetoric that we have been hearing about this issue. It is too important to carry on in that kind of a partisan nature.

I remember sitting on this floor when the President of the United States, President Bill Clinton, talked about Social Security reform in 1998 and standing and applauding when he had the courage to get up there and talk about it. In fact, the President then followed up with only one major effort, out-reach effort that he did, and he happened to do it in my congressional district.

I flew with him on Air Force One to Tucson in order to talk about this issue, and I was struck by the amazing grasp of the detail that President Clinton had about the nature of the problem that we were facing. It is exactly the things that we have been talking about and that we will continue to talk about and that President Bush is talking about today.

We have a problem. We need to find a way to fix it. We need to find a way to strengthen Social Security so it will be there for the next generations as well as for current retirees. So we are not talking about taking it away. These kinds of scare tactics, they are not only bogus but they are disheartening as the gentleman from Minnesota (Mr. KLINE) said, but they are also very destructive.

They do not help us find a solution. And if ever we needed to have a bipartisan reach-out to find the solution to this problem, it is on this issue. The American people are watching us to see whether Congress really can reach out to find some way to fix this.

Mr. KLINE. Listening to the debate, the arguments earlier this evening, it was clear that our colleagues recognize that something needs to be done. I know that the gentleman from Connecticut, I believe, said everybody knows that we have got to do something to strengthen Social Security, and other Members have said everybody knows we have to do something. And we heard a couple of proposals and increasing taxes was proposed by the gentleman from California, I believe; but if we know that something has to be done, we ought to be able to move forward and engage in the debates and engage in the discussion about what we are going to actually do to strengthen Social Security.

But I know that not everyone understands the nature of the problem and how quickly it is going to arrive, and, unfortunately, if we do not do something, how quickly it will turn into a crisis. I ask the gentleman to continue the explanation.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from Minnesota (Mr. KLINE) for his comments, and I hope he will continue to engage in this discussion here tonight.

I do want to take a few moments to talk about this particular chart up here because I think it expresses better than anything I could say verbally what the nature of the problem is that we are facing.

Going back, thinking back to the last chart where we talked about how the fewer numbers of people are paying the taxes to support the beneficiaries, the people getting the benefits, this illustrates exactly what that means in terms of the cash that is coming into the Social Security trust fund. The reforms, the changes that were made in 1983 went a long way towards fixing Social Security in the short and the median term; but for the long term, it just kicked the problem down the road. It did not make a permanent fix to it. It just postponed the day of reckoning, postponed the day of reckoning because it increased the taxes. And gradually we are in the process now of raising the retirement age. It made some other things.

So since the late 1980s and early 1990s, we have been collecting more in revenues from Social Security tax than we have been paying out in benefits. That means the Social Security trust fund has been reaping this windfall, if you will. It has had this extra money which we all know really is one arm of the Federal Government that is the Social Security trust fund taking the money and then turning around and loaning it to the Federal Government for part of the operations of the Federal Government. It is really paying part of the deficit, if you will, the operations of the rest of the government.

Now, the trust fund gets some IOUs and some Treasury bills in its name in there, and those are earning some interest. But here is what we have got right now. There are more benefits coming in. But as you can see here this black part up here which is the revenues exceeding the benefits being paid out, it takes a downturn here in just 3 years.

Now, that is the first critical date we need to focus on, the year 2008. It is in the year 2008 where the revenues start to decline and the excess revenues start to decline. And so the deficit, instead of masking more of the deficit each year, it will start masking less and less of the deficit each year.

□ 2200

So we will be doing more borrowing in order to cover the rest of the deficit.

Then, in the year 2018, you can see where these lines cross and the black turns to red. That is where the benefits being paid out exceed the revenues; the taxes that are actually being collected. So the Social Security trust fund has to go back to the Treasury, they have to go and cash in those IOUs they are holding, which means that the Federal Government has to give them cash and replace that borrowing with massive amounts of borrowing over here to cover the deficit.

At that point, they not only have the annual amounts they are covering for each month to cover the benefits, but they also are going to have to be covering the replacement of the IOUs. So the deficit really starts to balloon at that point. And within just a very few short years, up to 2018, the deficit being caused by the Social Security Trust Fund cashing in those IOUs is in the hundreds of billions of dollars a year.

We are going to be faced with a Titanic, a major, a simply major problem that we are going to have to confront at that point. How much do we borrow? How can we keep on borrowing those amounts of money, just to cover the shortfall in Social Security? And this is not saying anything about the shortfall in Medicare or the other kinds of entitlement programs that we have.

We are talking just about Social Security. It is going to be a massive shortfall that we are facing. That is why it behooves us to start thinking about this now.

Now, the third and last date that is currently projected is the year 2042. That is when the IOUs are gone. They have cashed in all the IOUs. Somehow we have managed to borrow the money from the Chinese or Japanese or the Germans, or whoever, to replace that borrowing, and we have managed to get the cash to pay the benefits. But in 2042, the IOUs are gone. There is nothing more for the trust fund to go out and use, except the money that is coming in each month.

At that point, assuming we have done nothing, as some people I have heard tonight over on this side suggest that we do, do absolutely nothing, if we do absolutely nothing, at that point the Social Security benefits would be cut by 27 percent.

Now, is there anybody listening this evening, and my colleague can answer this for himself, is there anybody that really thinks politically, with all the retirees we will have in the year 2042, we could realistically say, gee, your benefits just got cut 27 percent this month. Take it or leave it. That is it.

Obviously, that cannot happen and will not happen, which is why we have to think now about how we will fix this so that it is strengthened for future generations.

Mr. Speaker, I will be happy to yield to the gentleman again.

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding to me. I think it is a terrific graph. The problem is clearly outlined with that big red area that says cash deficits.

I just want to reinforce what the gentleman said about the trust fund: the trust fund not actually having any money in it, having IOUs, having bonds that have to be redeemed through the general fund. And the gentleman, I know, understands full well that it is highly unlikely without some major change that we could reach that 2042 date when the IOUs run out. The impact to all of America between 2018 and 2042, if we do not do something now, would just be catastrophic.

To get back to the gentleman's opening comment about problem or crisis. Certainly it is a problem today, but clearly a crisis when you get into that big red area that says cash deficits. That is why it is so important we should have this debate today: that the American people understand that we are facing a problem which is going to turn into a crisis. We need to get this debate engaged and agree on a solution which will strengthen Social Security.

I know there are many proposals out there. The gentleman has a bipartisan proposal, the President has put forth an outline of a proposal. Our colleague, the gentleman from Wisconsin (Mr. RYAN), and Senator SUNUNU have a proposal, and others, and that debate, that discussion is the one we need to have. If there are others who think that simply the solution is to raise taxes, which was suggested here tonight, then, fine, let us put that discussion into the debate as well. But let us recognize that that red area, that sea of cash deficits is something that is looming.

Now, I am part of that leading edge, or maybe 1 year behind it, of those baby boomers, and it is a rapidly approaching demographic shift that we need to address.

Mr. Speaker, I yield back to the gentleman.

Mr. KOLBE. I thank the gentleman again for his comments. The gentleman is a bit younger than I am. I am afraid I got ahead of the baby boomers on this.

Mr. KLINE. You are one of the few.

Mr. KOLBE. One of the few left around here.

Mr. Speaker, I agree with what my colleague has just said, and I think he is exactly on target. We do need to be thinking about all the different ways in which we could fix this. Certainly taxes is one of the ways we can fix this. Certainly we can do some reduction of benefits. But, really, if you think about it, there are really only three ways you can have a fix or do something to really reform Social Security.

One is increase the revenues. That is increase the amount of taxes you collect; whether you increase the amount of wages subject to the taxation, or whether you raise the rate of taxation, that is the rate of the Social Security tax we are paying today.

The second, of course, is to make some reductions in the benefits. You can make the reductions for future retirees, or whatever, what ever other retirees we are talking about. But you can reduce the benefits.

The third thing is to increase the rate of return on the investment. And that really gets us to the personal accounts, which I want to talk about in just a moment.

But before I do, I thought maybe it might be useful for us to talk a little bit about the town halls that I have been holding, and I know a number of my colleagues have been holding about Social Security. Of course, for me, having had a proposal, a complete proposal introduced in Congress for the last 8 years, and having been talking about this for at least the last 10 years on the floor of this House and in every single town hall I have done, we have been talking about this. And I am talking about in my retirement communities, where everyone who comes to the town hall is 65 and over. I have been talking about this for a long, long time.

So I am not fazed by the fact that a handful of people show up at my most recent town hall and they are, well, let us say fairly vitriolic. They have a few unkind words to say because they have not been there before. And I know these people are coming as a result of some e-mails that were received from different organizations. But by and large, the vast majority of the people that have come to my town halls during this last recess that we had were interested in seriously hearing about the nature of the problem and what kind of fixes we could have.

I think on that score, by the way, the President has won the first round of this battle. My colleagues on the other side that want to deny that there is a problem have lost that battle. Because the polls now show by an overwhelming margin that the American people do think there is a problem with Social Security, and they think Congress needs to fix it, and they think it needs to be the highest priority of Congress to strengthen Social Security. So we have reached over that first hurdle.

Okay, there is a problem. Now, let us get to talking about what are the solutions. What are the things we might do that could make Social Security a better program for the future.

Coming back to my town halls, I just wanted to share this one story. And I do not know if the gentleman from Minnesota has some others that he might want to share, some of the experiences he has had in talking about this, but I had a town hall down in Sierra Vista, which is one of the communities in my district. There is a large military facility down there and we talked about Social Security for 1 hour of the meeting.

I had two women who came up to me after the town hall was over and they both said they were Democrats. And they said they had come to the meeting as a result of an e-mail they had gotten and they had come opposed to reform and very much opposed to the concept of personal accounts. But after hearing the facts and the data, and we did have a real debate because there were plenty of people in the audience that were trying to dispute the things

I was saying, so we had a real discussion about it. But they said after hearing the facts, the data, and the reason why reform is essential, they told me they were supporters of the concept of personal accounts, and that they were going to go away and explain to their Democratic friends why personal accounts are necessary and why we really ought to be doing something to reform Social Security now.

So I say that there is no doubt that if we talk about this issue with our constituents, with the people we represent at home, I think there is no doubt that they will understand that there is a need to do something to strengthen it. I think there is still a lot of uncertainty about what the reform should be. How should we fix it? How should we make it better? How should we strengthen it? But I think there is a growing awareness that we do have a real problem there.

Mr. Speaker, I would be happy to yield again to the gentleman.

Mr. KLINE. I thank the gentleman for yielding once again, and I just want to underscore the point the gentleman made that increasingly our constituents understand that something needs to be done.

This sort of anecdote has been put forth many times before, but just this last week when I was back in my district, I was visiting one of the high schools. I had a group of students, about three classes, and we were discussing a large number of subjects, everything from the war to taxes to education, and one of the subjects was Social Security.

I asked the question, which I am sure many of my colleagues have asked, to those students. I said, how many of you believe that Social Security is going to be there when you retire. Just asked the basic question. Not a hand went up. I thought, well, maybe they are just a little shy and do not want to raise their hand. So I reversed the question. I said, how many of you believe that Social Security will be gone when you retire? And about a third of the hands went in the air.

Now, as the gentleman knows, sometimes when talking to high school students, or Members of Congress for that matter, not everybody is paying full attention, but it was clear to me the young people in my district, and I think across the country, just have no confidence that the Social Security that their grandparents are using and enjoying is going to be there for them. And the gentleman has shown us very graphically what that demographic problem is. I believe that underscores our purpose here to strengthen Social Security. Not to destroy it, not to weaken it, and certainly not to gut it.

I know many of the proposals that have been put forward, the President and many of our colleagues, call for including the personal accounts, which the gentleman is going to talk about and taking advantage of the enormous power of compound interest to create a nest egg which they will have in conjunction with the Social Security program and that will provide the benefits that we were hearing about earlier tonight that women particularly require. We want to make sure that the program is there. We are looking for a way to strengthen it.

Again, I just thank the gentleman for his persistence on this issue and his continued leadership as we move forward in the debate.

Mr. KOLBE. Again, Mr. Speaker, I thank the gentleman from Minnesota for his participation in this discussion here tonight.

Just moving forward a little bit, and I do want to respond to what my colleague said, it reminds me of some experiences I have had. I have been, as I mentioned, talking about this for a lot of years. And I go into high school audiences, where there are seniors that are old enough to kind of understand the issues involved here, or go into college classes and I ask the same questions every time: How many of you think Social Security will be there when you get ready to retire? I almost never have a single hand that goes up. Never a single hand. So they do sense that there is a problem with it.

And they are exactly right, because the numbers we just ran through. Social Security will not be there for them in the same way that it is today. There is no possible way when they get ready to retire that Social Security will be there in the same form. Something will have changed about it. Their benefits will have been reduced, taxes will be increased, or we will come to some other conclusion about a way to reform Social Security.

So they understand what the issue is. And I think, generally speaking, the American people are coming to understand that.

Mr. Speaker, I am happy to yield to the gentleman once again.

Mr. KLINE. I believe that is true.

As I said in my remarks just a moment ago, I know that that was an anecdote that many of our colleagues have expressed, because they have had the same experience of asking young people, high school seniors, college students, others, if they think Social Security is going to be there when they retire. I have never had a hand, I have had the same experience as the gentleman. I have not been asking the question for as many years, but never a hand goes up where they believe it is going to be there.

And what a shame, because they ought to have a system, all Americans ought to have a system that they can count on and that they believe is going to be there. And until we do something to really strengthen the system, they will not have faith that it is there. And they should not, because without that fix it just will not be there in that manner.

Mr. KOLBE. I appreciate the gentleman's comments, and I think what his experience illustrates, as a newer Member of the Congress, is that if you are out there talking about this issue candidly and honestly with the people you represent, your constituents, they are willing to listen to what you have to say. They will not reject out of hand what you are saying.

So I hope we have been able to dispel the notion that there is no problem out there. I hope we have been able to dispel the idea that we need to do absolutely nothing. We do need to do something to strengthen Social Security to make sure it is there for this generation as well as for the next generation.

So that brings us to the ideas of what can we do to make it work.

□ 2215

Now, as I mentioned earlier, there are three things or variations on three things: raise taxes, decrease benefits, or increase the rate of return on investment that we have in Social Security. I happen to believe that we ought to do a little bit of all of those. If you are going to strengthen Social Security, you need to do a little bit of each of those things.

But the heart of that strengthening is increasing the rate of return on the investment we have, and that is why personal accounts are so important. Now, I have heard it said personal accounts do not fix it, and that is accurate. That is right. I have never said personal accounts fix it. Personal accounts are your link to the next generation because you are going to say to the next generation, look, you are going to have to pay just a little bit more to support this defined benefit, and you are going to get a little bit less.

And so the younger person is going to say, what is in it for me. So we can say there is a chance to have a greater return on investment through a personal account. Even though you are paying a little more taxes and getting a little less benefit from the defined benefit part of Social Security, you are going to have a part of it set aside, and it will grow as the country grows, grows as the economy grows, grows as the world economy grows; and that will yield a retirement that is better even with the reductions we are going to have to force. It is going to be better than what we have today.

So the first principle we have to agree on is we do not do anything to change the benefits of people today who are retired or near retirement get. I do not know of a single plan offered by anybody on this side of the aisle or the plan that I have offered along with that side, the only bipartisan bill which has been introduced in Congress, none change it for anybody who is over 55. To everybody that is watching this, if they are over the age of 55, you can turn the television set off because this does not affect you. We are not talking about anything that changes your benefits.

Mr. KLINE. Mr. Speaker, I think that it is critical that all of America understands what the gentleman said is accurate. I have a table that my staff keeps updated almost daily as we start to engage in this debate. I do not know of a single proposal, certainly no serious proposal, that alters in any way, in any way the Social Security program for those my age, or 55 and up. It does not change it a bit. It is the same. You get the same check, the same increases. The program is exactly the same. My 84-year-old mother is going to continue to get her checks in exactly the same way she has been getting them for the last 20 years. The program does not change for her.

I think that is a key piece of this overall picture that we are talking about as we move forward in the debate. There are different programs, and the gentleman from Arizona (Mr. KOLBE) has a program he has been working, others have other proposals. Most of those on this side of the aisle correctly create some sort of a personal account, an account that our younger workers can own, that grows, that has the opportunity to give them a greater return than the current system gives them. It gives them something that they own that they can leave to their heirs. No proposal affects the benefits of any current senior whatsoever.

I think it is important that we understand that as we debate the details of the proposals such as the one that my colleague has, and we have that basic understanding that we are talking about no changes for seniors, an opportunity to increase the return, to take advantage of that interest, increase the rate of return for our younger workers. That is the position we are starting from, not the position that we heard earlier in the evening of gutting Social Security, of trying to do something to help the President's buddies and those other unfortunate things we heard earlier. This is about making sure the program is there for our grandkids like it has been there for our parents.

Mr. KOLBE. Mr. Speaker, the gentleman is exactly correct and on target. Obviously, when we talk about personal accounts, it has not always been that Democrats have opposed that. In fact, when President Clinton in the last 2 years of his term, second term in office, was talking about Social Security reform, talking about it honestly and openly, Democrats began to embrace the concept that maybe there ought to be a greater return on investment; maybe some of the money ought to go into a personal account.

Senator REID, now the minority leader in the United States Senate said, "Most of us have no problem with taking a small amount of the Social Security proceeds and putting it into the private sector." He said that on Fox News in 1999. I think the Senator was correct about that. There are similar kinds of things that have been said by other leaders.

The ranking Democrat on the Committee on Ways and Means said at a press conference at the same time, this was the same time the President was talking about Social Security reform, he said, "I am one Democrat who truly believes that Democrats will not benefit by doing nothing on Social Security." So he recognized the problem, and he believed we should do something.

I say if they do not like the plans that are out there, the plan that the gentleman from Florida (Mr. BOYD) and I have introduced, or other plans introduced by the gentleman from Wisconsin (Mr. RYAN) and the gentleman from Florida (Mr. SHAW) and others, fine, but bring something to the floor that we can start this dialogue, that we can begin this debate.

Coming back to the topic of personal accounts, we just heard a few moments ago the gentlewoman from California talk about how Social Security is so important for women, and she is absolutely right. Social Security is important for women, but Social Security is not very good for women right now. One of the reasons it is not so good, it is because they tend to drop out of the workforce at a certain point, when they are raising children, and so they get less from the system when they get ready to retire.

There are a lot of single women who raised their children. I like to use the analogy of the 48-year-old single mother. She got her kids through school and college, worked herself to the bone, and now they are both over the age of 21, and she drops dead of a heart attack at the age of 48. What does Social Security provide? Zero. Not one dime, because her children are over 21. She is not married; there is no spouse. There is not one dime from Social Security.

Now, if a portion of what she had been paying in those taxes had been put into a personal account, she would have owned something. She would have owned something that she could leave to her heirs; and if she forgot to write that will; it still would have gone to her heirs, which would have been her children. That is the magic of personal accounts. They not only provide a greater retirement benefit, but it is an asset that people own. They own it. They can manage it and figure out what to do with it. They can leave it to their heirs. That is the magic of personal accounts.

As I said, it is the link to the next generation because as I said, personal accounts do not fix the problem. Indeed, if we are going to take a carve-out as I think we should because to add it on is to say just a huge new tax on Social Security, a tax to be added as a burden on the people, if we are going to carve it out of the current amount being paid in retirement taxes, we are going to have in a sense a bigger problem, so we have to do something to make it all balance.

Guess what, you can do it, but you have to make some tough choices, and that is what nobody has been willing to do. Particularly as I listened over here, I do not hear anybody willing to make some of those tough choices. What do we do?

Well, the legislation we have introduced does a little bit of everything. We would make some modest reduction to the Consumer Price Index on which the annual cost-of-living adjustment is made, and that is justified by the superlative index which accounts for durable goods lasting longer today. Alan Greenspan has talked about it. It is a little complicated economic issue, but basically the Consumer Price Index today is a little bit out of whack with the reality of where the inflation rate is actually going.

In our bill, we would increase the amount of income subject to taxes, not increase the wage rate because we do not want to say to the person earning $25,000 we are going to increase your Social Security tax, too; you are going to have less take-home pay. But we are going to say to the person who currently makes over $100,000, you are going to pay more tax because we are going to increase the amount of wages subject to taxation. That is legislation that the gentleman from Florida (Mr. BOYD) and I have introduced. This is not necessarily the President's plan or any official plan on this side of the aisle, but I use it only to illustrate if you make some of these choices, you can fix some of these things.

We would also accelerate the retirement age so we take out that 10-year gap from 65 to 67, we take that out so it goes to 67 a little faster. We do not change the retirement age; we just accelerate the speed at which it goes.

We would make some changes to the benefit structure for younger people, people with personal accounts, make some reduction in their benefits; and you can make Social Security solvent not for 10 years, not for 20 years, not for 40 years, and not even for 70 years, which is the only horizon that the Social Security Administration will look at. But economists have looked at ours and the CBO has looked at ours, and they say it goes as far as the eye can see as being solvent. So we can say to younger people, yes, you are going to pay a bit more in taxes, and, yes, you are going to get a little less benefit; but you are going to have retirement that nobody else has had up to this time. That is what personal accounts do, and that is why I think personal accounts are a critical part of any reform of Social Security.

It is not the be-all, it is not the end-all, it does not answer all of the problems; but it gives some confidence to younger people that there is going to be something in it for them when they get ready to retire. That is why I think the personal accounts are so very important.

Before we wrap up here, let me outline a couple of other ideas.

Again, we are looking at what President Clinton said in that State of the Union address in 1998 where he said, "We are going to hold a White House conference on Social Security in December, and one year from now I will convene the leaders of Congress to craft bipartisan legislation to achieve a landmark for our generation, a Social Security system that is strong in the 21st century."

I am sorry to say because of personal things that occurred after that, we never got around to that. The President's clout here in Congress was diminished, his clout with the American people was diminished. He was not able to carry that off. There is no doubt it takes a great deal of Presidential leadership to carry that out, but President Clinton knew what the problem was, and he identified it at that time.

Much more recently, in fact just today, just today in testimony before the Committee on the Budget, Alan Greenspan, the chairman of the Federal Reserve Board, said, "In my view, a retirement system with a significant personal account component would provide a more credible means of ensuring that the program actually adds overall saving and in turn boosts the Nation capital stock." That is a little bit of economic legalese there, but he is basically saying it is a better way and it adds on the total savings that the United States has if you have personal accounts.

The thing that is important about personal accounts is they belong to every individual and they can be tailored. They can change as circumstances change.

The gentleman from Minnesota (Mr. KLINE) knows this. As Members of Congress, we have exactly what we are talking about doing for Social Security. It is called the Thrift Savings Plan, and all Federal employees have it.

□ 2230

It is a piece of our retirement and it is money that we put in out of our wages that is matched in part by our employer, which in this case is the House of Representatives, and it goes into a personal account that belongs to us and we get a statement every year that tells how much we have invested and we have some choices about where we invest that. No, we do not go out and have to ponder every night looking over the stock pages and deciding which stock to buy because it goes into index funds. We can choose a stock index fund where it buys every stock in that index, we can choose a bond index fund where it buys every bond in that index, or we can choose a Treasury bill.

Want low risk? You have got to assume that Treasury bills are probably the safest thing. The government is not going bankrupt. I think we believe that. The government is not going bankrupt. So you can buy a Treasury bill index fund where it buys all the Treasury bills, medium, short, long-term Treasury bills. It has a lower rate of return, but it is absolutely safe. The nice thing is that as you get close to retirement, you can start to shift that from one account to the other. That is exactly what I have done with mine. I want less volatility. I am getting closer to the age of retirement. I want less volatility, so I moved some of it out of the stock index fund into the Treasury bill fund. That is the beauty of this is it gives you some choices to plan for your own retirement. Social Security does not give you that.

Mr. KLINE. If the gentleman will yield, I would like to take this opportunity to go back to the point that the gentleman made earlier in his example of the 48-year-old single mother. The gentleman from Arizona and I are paying in to Social Security. We are in the Social Security retirement system.

We also have the Thrift Savings Plan that he just described. Should I die today, I would not be able to leave for my children or my grandchildren anything out of the money that I have paid for many years, not quite as many as the gentleman but many years into Social Security, but I can leave and I will leave the money that is in that Thrift Savings Plan because I own it. And it underscores the point that the gentleman made earlier, that one of the terrific benefits about having a system that strengthens Social Security, that has a personal account as a component of that is that that money is absolutely yours, and I believe that in all the proposals that we are going to be debating put forward by the gentleman that we have talked about earlier, that account is owned by the individual and they can leave it to their heirs when they die.

It is a major difference between this proposal and the current system. While it is providing wonderful paychecks for my mother, she does not own that. And I want my children and my grandchildren to own something that is part of their retirement system. Unfortunately, as we said earlier, for those that are 55 and up, we cannot strengthen that program for them. Nothing in the system is going to change for them. Nothing. It is not going to get better. It is not going to get worse. It is exactly the same. But for my kids and my grandkids, what a wonderful thing to have as part of their Social Security an account that they will own like the one that the gentleman was describing, the Thrift Savings Plan that can be tailored to their needs and their age and they will own. They can use it in their retirement or they can leave it to their heirs. I just wanted to step in at that moment to see if we could not underscore the important difference between having an account that you own and one that you do not.

Mr. KOLBE. This discussion about the personal accounts and the kinds of index funds they might be invested in leads me to the two kind of final points that I wanted to make here tonight. We heard on the other side, and the gentleman talked about this a moment ago, the comment that was made tonight saying this is being done for the President's buddies on Wall Street. The truth of the matter is, I have been working at this thing for 8 years with a bill. I have never heard from Wall Street on this. The reason is simple. There really is not much in it for Wall Street. Why? Because you are investing in index funds. My colleague may not know this, and I certainly know that a lot of the American people do not understand this, but the Thrift Savings Plan, the one that he and I are a member of, the management fee for that is two basis points. That is two hundredths of 1 percent. That is what the Wall Street manager gets, two one-hundredths of 1 percent of the assets for management of that.

Why is it so low? That is obviously a fraction of what any IRA or any mutual fund that most people have some kind of an investment in, it is a fraction of that. Why is it so low? Because it is an index fund. You are not doing research. You are not making choices about investments. You are buying every stock in the index fund and so each month when more money comes into the fund, you simply execute buy orders for the funds and as you have to sell it for retirement benefits, you execute sell orders for it. It is very simple in that sense. That is why the management cost is so very, very low. I know we are going to continue to hear that bogus argument, but it is absolutely bogus. It is absolutely false. The one other argument that I wanted to address is the gentleman said earlier on the other side, made this point, why introduce risk in the only guarantee that we have. Well, Social Security has undergone more than 50 changes. I think it is actually a lot more than that, but I know it is more than 50 changes since we introduced it in the 1930s. Fifty times Congress has come along and made changes to it, changed the taxes, changed the benefits. We have changed it and added disability. We have changed it in one way or the other.

So if you want to talk about risk in Social Security, then talk about leaving it in the hands of Congress. That is why the personal savings account eliminates that risk, because it belongs to you. Congress cannot take it away. You have ownership of it and we cannot take it away from you. That is why I think the personal savings accounts are so very, very important. So if we want to talk about risk and we want to talk about reducing risk, let us talk about ways in which we can make sure that people have control over some part and we are only talking about a very small part of the total amount being paid in Social Security taxes, because if I have not made this clear this evening, all the plans we are talking about leave the vast majority of the taxes in the current system, so that it pays beneficiaries today and is going to pay beneficiaries in the future the same kinds of defined benefit that we now get from Social Security.

Mr. Speaker, I appreciate this opportunity this evening to have this dialogue with my friend from Minnesota. I appreciate his comments and I appreciate the passion with which he approaches this issue. I think we both know this is one of the most significant debates I think we will ever have in our lives in this legislative body, because I think it says a great deal not just about the future of Social Security, but it says a great deal about whether we as a Congress are going to have the will to tackle the really tough problems which face us. Social Security, believe it or not, is one of the easier ones. We have to get to Medicare to really look at the very difficult problems that we are facing. But if we can show we have the will to come together and find solutions to strengthening and making Social Security a better retirement system, then I think we can go on to finding ways to strengthen and make Medicare a better health care system for our senior citizens. That is why I know the gentleman from Minnesota is down here tonight, because he believes that and he believes that is exactly what we must do and I believe it very strongly.

In my heart of hearts, I believe that what we are doing here today is to help preserve this system for those who are already retired but also to say to the next generation, we believe that you too should be able to benefit from a retirement system, a Social Security system that will be there for you when you get ready to retire. I believe that this dialogue needs to continue. We have started it this evening, we have joined this debate, and I hope we can have more discussion of these issues, not just with Republicans on one side of the aisle, not just with Democrats on the other side of the aisle but coming together here to carry on these debates and this discussion together and perhaps we can find some kinds of ways in which we can have the solution. I thank the gentleman for his participation.

---

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KUHL of New York). Members are reminded to direct their remarks to the Chair and not to the television audience.

---

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GENE GREEN of Texas) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. MEEHAN, for 5 minutes, today.

Ms. KILPATRICK of Michigan, for 5 minutes, today.

(The following Members (at the request of Mr. GOHMERT) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Mr. FLAKE, for 5 minutes, today.

Mr. BOUSTANY, for 5 minutes, today.

Mr. ROHRABACHER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. RANGEL, for 5 minutes, today.

---

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCDERMOTT, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,919.

---

## ADJOURNMENT

Mr. KOLBE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Thursday, March 3, 2005, at 10 a.m.

---

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

960. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pittsfield and Easthampton, Massachusetts, and Malta, New York) [MB Docket No. 04-67; RM-10856] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

961. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Nevada City, California) [MB Docket No. 04-338; RM-11061] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

962. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Clayton and Raton, New Mexico) [MB Docket No. 04-220; RM-10861] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

963. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Medical Lake, Washington) [MB Docket No. 04-250; RM-11006] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

964. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Great Falls, Montana) [MB Docket No. 04-182; RM-10963] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

965. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Children's Television Obiligations Of Digital Television Broadcasters [MM Docket No. 00-167] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

966. A letter from the Deputy Bureau Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 [CG Docket No. 02-278] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

967. A letter from the Secretary, Department of Agriculture, transmitting the semiannual report of the Inspector General for the 6-month period ending September 30, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

968. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting the report listing the amount of acquisitions made by the Department from entities that manufacture articles, materials, or supplies outside of the United States for FY 2004, pursuant to Public Law 108-199, section 645; to the Committee on Government Reform.

969. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Strategic Plan of the Federal Deposit Insurance Corporation for the years 2005 through 2010, in accordance with the Government Performance and Results Act of 1993; to the Committee on Government Reform.

970. A letter from the Executive Director, National Council on Disability, transmitting the Council's Annual Performance Report to the President and Congress Fiscal Year 2002, as required by the Government Performance and Results Act, pursuant to 31 U.S.C. 1116; to the Committee on Government Reform.

971. A letter from the President and Chief Executive Officer, Little League Baseball, transmitting the Annual Report of Little League Baseball, Incorporated for the fiscal year ending September 30, 2004, pursuant to 36 U.S.C. 1084(b); to the Committee on the Judiciary.

972. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY [CGD01-05-008] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

973. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Fore River, ME [CGD01-05-007] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

974. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Raritan River, NJ [CGD01-05-013] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

975. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Sacramento River, Sacramento, CA [CGD11-05-009] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

976. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Mitchell River, MA [CGD01-05-006] (RIN: 1625-AA09) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

977. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Cypremort, LA [CGD08-04-042] (RIN: 1625-AA09) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

978. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; St. Croix River, MN [CGD08-04-036] (RIN: 1625-AA09) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

979. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Mantua Creek, Paulsboro, NJ [CGD05-04-179] (RIN: 1625-AA09) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

980. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Upper Chesapeake Bay and its tributaries and the C&D Canal, Maryland, Virginia, and Washington, D.C. [CGD05-05-008] (RIN: 1625-AA00) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

981. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zones; Gulf of Alaska, Narrow Cape, Kodiak Island, AK [COTP Western Alaska-05-002] (RIN: 1625-AA00) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

982. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Gulf of Alaska, Sitkinak Island, Kodiak Island, AK [COTP Western Alaska-05-001] (RIN: 1625-AA00) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

983. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757-200, -200PF, -200CB, and -300 Series Airplanes [Docket No. 2001-NM-74-AD; Amendment 39-13861; AD 2004-23-06] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

984. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 884B, 892, 892B, 895 Series Turbofan Engines [Docket No. 2001-NE-17-AD; Amendment 39-13940; AD 2005-01-15] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

985. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasiliera de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. FAA-2004-19050; Directorate Identifier 2004-NM-139-AD; Amendment 39-13900; AD 2004-25-12] received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

986. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines [Docket No. 92-ANE-15-AD; Amendment 39-13916; AD 2004-26-04] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

987. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319 and A320-200 Series Airplanes [Docket No. 2003-NM-135-AD; Amendment 39-13925; AD 2005-01-01] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

988. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-100, -100B, -100B SUD, -200B, -200C, -200F, and -300 Series Airplanes; and Model 747SP and 747SR Series Airplanes; Equipped with Pratt & Whitney JT9D-3 and -7 (except -70) Series Engines or General Electric CF6-50 Series Engines with Modified JT9D-7 Inboard Struts [Docket No. FAA-2004-19200; Directorate Identifier 2003-NM-195-AD; Amendment 39-13927; AD 2005-01-03] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

989. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model 1329 Series Airplanes [Docket No. FAA-2004-18557; Directorate Identifier 2003-NM-174-AD; Amendment 39-13926; AD 2005-01-02] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

990. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 Series Airplanes [Docket No. FAA-2004-18773; Directorate Identifier 2002-NM-312-AD; Amendment 39-13889; AD 2004-25-02] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

991. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757-200 and -200PF Series Airplanes [Docket No. FAA-2005-20009; Directorate Identifier 2003-NM-220-AD; Amendment 39-13937; AD 94-01-10 R2] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

992. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (Raytheon) Beech 200 Series Airplanes [Docket No. FAA-2004-19078; Directorate Identifier 98-CE-17-AD; Amendment 39-13946; AD 98-20-38 R1] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

993. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasiliera de Aeronautica S.A. (EMBRAER) Model EMB-135 and EMB-145 Series Airplanes [Docket No. FAA-2004-18752; Directorate Identifier 2004-NM-107-AD; Amendment 39-13929; AD 2005-01-05] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

994. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767-300 and 767-300F Series Airplanes Equipped with General Electric or Pratt & Whitney Engines [Docket No. 2003-NM-186-AD; Amendment 39-13918; AD 2004-26-06] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

995. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detriot Diesel Allison) 250-B and 250-C Series Turboprop and Turboshaft Engines [Docket No. FAA-2004-18515; Directorate Identifier 2004-NE-12-AD; Amendment 39-13921; AD 2004-26-09] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

996. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 Series Airplanes [Docket No. FAA-2004-18771; Directorate Identifier 2002-NM-313-AD; Amendment 39-13890; AD 2004-25-03] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

997. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-10-10F, MD-10-30F, MD-11F, DC-10-10F, and DC-10-30F Airplanes [Docket No. FAA-2005-20117; Directorate Identifier 2004-NM-248-AD; Amendment 39-13949; AD 2005-02-04] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

998. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-215-6B11 (CL215T Variant) and CL-215-6B11 (CL415 Variant) Series Airplanes [Docket No. FAA-2004-19496; Directorate Identifier 2003-NM-181-AD; Amendment 39-13920; AD 2004-26-08] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

999. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767-200, -300, -300F Series Airplanes [Docket No. FAA-2004-18786; Directorate Identifier 2004-NM-26-AD; Amendment 39-13947; AD 2005-02-02] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1000. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters [Docket No. FAA-2004-19969; Directorate Identifier 2004-SW-43-AD; Amendment 39-13923; AD 2004-26-11] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1001. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The Lancair Company Models LC40-550FG and LC42-550FG Airplanes [Docket No. FAA-2005-20048; Directorate Identifier 2005-CE-01-AD; Amendment 39-13945; AD 2005-02-01] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1002. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Beech 100, 200, and 300 Series Airplanes [Docket No. 2004-CE-01-AD; Amendment 39-13943; AD 2005-01-18] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1003. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767-200, -300, and -300F Series Airplanes [Docket No. 2000-NM-409-AD; Amendment 39-13853; AD 2004-22-25] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1004. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 Series Airplanes; and Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4 605R Variant F Airplanes (Collectively Called A300-600) [Docket No. FAA-2004-19527; Directorate Identifier 2004-NM-71-AD; Amendment 39-13932; AD 2005-01-08] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1005. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; EXTRA Flugzeugbau GmbH Model EA-300 and EA-300/S Airplanes [Docket No. FAA-2004-19443; Directorate Identifer 2004-CE-32-AD; Amendment 39-13942; AD 2005-01-017] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1006. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. Models PA-23-235, PA-23-250, and PA-E23-250 Airplanes [Docket No. FAA-2004-18597; Directorate Identifier 2004-CE-21-AD; Amendment 39-13934; AD 2005-01-10] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1007. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Gulfstream Aerospace LP Model Gulfstream 100 Airplanes; and Model Astra SPX and 1125 Westwind Astra Series Airplanes [Docket No. FAA-2004-19138; Directorate Identifier 2004-NM-102-AD; Amendment 39-13888; AD 2004-25-01] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1008. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; GARMIN International Inc. GTX 33, GTX 33D, GTX 330, and GTX 330D Mode S Transponders [Docket No. FAA-2004-18743; Directorate Identifier 2004-CE-23-AD; Amendment 39-13944; AD 2005-01-19] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1009. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757-200, -200PF, and -200CB Series Airplanes [Docket No. 2003-NM-166-AD; Amendment 39-13936; AD 2005-01-12] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1010. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767-300 Series Airplanes [Docket No. FAA-2005-20010; Directorate Identifier 2003-NM-224-AD; Amendment 39-13938; AD 2005-01-13] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1011. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F Series Reciprocating Engines [Docket No. 2002-NE-33-AD; Amendment 39-13939; AD 2005-01-14] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1012. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines; Correction [Docket No. 92-ANE-15-AD; Amendment 39-13916; AD 2004-26-04] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1013. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the effects of allowing high deductible insurance plans combined with tax favored Medical Savings Account (MSAs) under Medicare, as mandated by the Balanced Budget Act of 1997; jointly to the Committees on Energy and Commerce and Ways and Means.

1014. A letter from the Acting Inspector General, Department of Health and Human Services, transmitting a report on the study of the appropriateness of alternative Medicare payment methodologies for the costs of training medical residents in nonhospital settings together with recommendations as determined by the Inspector General to be appropriate, pursuant to Public Law 108—173; jointly to the Committees on Energy and Commerce and Ways and Means.

1015. A letter from the Special Inspector General for Iraq Reconstruction, transmitting the combined Quarterly Report and Semiannual Report to Congress, pursuant to Section 3001(i) of Title III of the 2004 Emergency Supplemental Appropriations for Defense and for the Reconstruction of Iraq and Afghanistan (Pub. L. 108-106) as amended by Pub. L. 108-375, and the Inspector General Act of 1978 (Pub. L. 95-452); jointly to the Committees on International Relations and Appropriations.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Texas (for himself and Mr. BERMAN):

H.R. 1036. A bill to amend title 17, United States Code, to make technical corrections relating to copyright royalty judges; to the Committee on the Judiciary.

By Mr. SMITH of Texas (for himself and Mr. BERMAN):

H.R. 1037. A bill to make technical corrections to title 17, United States Code; to the Committee on the Judiciary.

By Mr. SENSENBRENNER:

H.R. 1038. A bill to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes; to the Committee on the Judiciary.

By Mr. PICKERING (for himself, Mr. BERRY, Mr. NUNES, Mr. HOLDEN, Mr. MORAN of Kansas, and Ms. HERSETH):

H.R. 1039. A bill to suspend temporarily new shipper bonding privileges; to the Committee on Ways and Means.

By Mr. BURGESS (for himself, Mr. HALL, Mr. BONILLA, Mr. SCOTT of Georgia, and Mr. MCCAUL of Texas):

H.R. 1040. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers a flat tax alternative to the current income tax system; to the Committee on Ways and Means.

By Mr. WELLER (for himself and Mr. BROWN of Ohio):

H.R. 1041. A bill to amend the Social Security Act to provide each American child with a KidSave Account, and for other purposes; to the Committee on Ways and Means.

By Mr. BACHUS (for himself, Mr. SANDERS, Mr. ROYCE, Mr. KANJORSKI, Mr. LATOURETTE, Mr. GUTIERREZ, Mrs. KELLY, Mrs. MALONEY, Mr. RENZI, Mrs. MCCARTHY, Mr. SHERMAN, Mr. NEY, Mr. FEENEY, Ms. HOOLEY, Ms. GINNY BROWN-WAITE of Florida, and Mr. MOORE of Kansas):

H.R. 1042. A bill to amend the Federal Credit Union Act to clarify the definition of net worth under certain circumstances for purposes of the prompt corrective action authority of the National Credit Union Administration Board, and for other purposes; to the Committee on Financial Services.

By Mr. BILIRAKIS (for himself and Ms. DEGETTE):

H.R. 1043. A bill to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency; to the Committee on Energy and Commerce.

By Mrs. CAPITO:

H.R. 1044. A bill to amend title 23, United States Code, to permit the State of West Virginia to allow the operation of certain vehicles for the hauling of coal and coal by-products on Interstate Route 77 in Kanawha County, West Virginia; to the Committee on Transportation and Infrastructure.

By Mr. COSTELLO:

H.R. 1045. A bill to extend the filing deadline for certain Medicare claims to account for a delay in processing adjustments from secondary payor status to primary payor status; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CUBIN:

H.R. 1046. A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself, Mr. GOODE, Mr. MORAN of Virginia, Mr. GOODLATTE, Mr. BOUCHER, Mr. CANTOR, Mrs. DRAKE, Mr. WOLF, and Ms. NORTON):

H.R. 1047. A bill to require the Secretary of the Treasury to mint coins in commemoration of the tragic loss of lives at the Pentagon on September 11, 2001, and to support construction of the Pentagon 9/11 Memorial in Arlington, Virginia; to the Committee on Financial Services.

By Mr. EMANUEL (for himself and Mr. COOPER):

H.R. 1048. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to split refunds and make deposits electronically among certain accounts; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. DAVIS of Tennessee, Mr. LEWIS of Kentucky, and Mr. SOUDER):

H.R. 1049. A bill to amend the Internal Revenue Code of 1986 to exclude certain truck tractors from the Federal excise tax on heavy trucks and trailers sold at retail; to the Committee on Ways and Means.

By Ms. LEE:

H.R. 1050. A bill to establish a living wage, jobs for all policy for all peoples in the United States and its territories, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on the Budget, Armed Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA:

H.R. 1051. A bill to authorize the extension of the supplemental security income program to American Samoa; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 1052. A bill to amend titles XVIII and XIX of the Social Security Act to provide for coverage under the Medicare and Medicaid Programs of incontinence undergarments; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GERLACH (for himself, Ms. HARMAN, Mr. WELDON of Pennsylvania, Mr. KENNEDY of Minnesota, Ms. KAPTUR, and Mr. BURTON of Indiana):

H.R. 1053. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 1054. A bill to establish the Office of Faith-Based and Community Initiatives; to the Committee on Government Reform.

By Ms. HOOLEY:

H.R. 1055. A bill to provide for the designation and funding of high intensity methamphetamine abuse and trafficking areas; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HOOLEY:

H.R. 1056. A bill to amend the Controlled Substances Act with respect to the distribution of pseudoephedrine, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself, Mrs. MALONEY, Mr. TOM DAVIS of Virginia, and Mr. ENGEL):

H.R. 1057. A bill to award a congressional gold medal on behalf of all government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and people aboard United Airlines Flight 93 who helped resist the highjackers and caused the plane to crash, to award a duplicate in silver of such gold medals to the personal respresentative of each such person, to require the Secretary of Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes; to the Committee on Financial Services.

By Mrs. MCCARTHY (for herself, Mr. ANDREWS, Ms. WOOLSEY, and Mr. KILDEE):

H.R. 1058. A bill to amend the Employee Retirement Income Security Act of 1974 to ensure that employees are not improperly disqualified from benefits under pension plans and welfare plans based on the misclassification or reclassification of their status; to the Committee on Education and the Workforce.

By Mr. MEEHAN (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Ms. BALDWIN, Mr. BECERRA, Mr. BERMAN, Ms. BERKLEY, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mr. CAPUANO, Mrs. CAPPS, Mr. CROWLEY, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. ENGEL, Mr. FARR, Mr. FRANK of Massachusetts, Ms. HARMAN, Mr. HINCHEY, Ms. NORTON, Mr. HOLT, Mr. HONDA, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. LANGEVIN, Mr. LANTOS, Mr. LEWIS of Georgia, Ms. LEE, Ms. ZOE LOFGREN of California, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. NADLER, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SHAYS, Ms. SOLIS, Mr. STARK, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mr. VAN HOLLEN, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 1059. A bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as "Don't Ask, Don't Tell", with a policy of nondiscrimination on the basis of sexual orientation; to the Committee on Armed Services.

By Ms. NORTON:

H.R. 1060. A bill to amend the Elementary and Secondary Education Act of 1965 to encourage the implementation or expansion of prekindergarten programs for students 4 years of age or younger; to the Committee on Education and the Workforce.

By Mr. ROHRABACHER:

H.R. 1061. A bill to prohibit United States assistance to the Federal Democratic Republic of Ethiopia until the Ethiopian Government returns all property of United States citizens and entities that has been nationalized, expropriated, or otherwise seized by the Ethiopian Government in contravention of international law, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mr. HERGER, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of

Pennsylvania, Mr. HAYWORTH, Mr. FOLEY, and Mr. SESSIONS):

H.R. 1062. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain improvements to retail space; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. TAYLOR of Mississippi, Mr. PUTNAM, Mr. BOSWELL, Mr. RYAN of Wisconsin, and Mr. KIND):

H.R. 1063. A bill to amend the Internal Revenue Code to restore equity and complete the transfer of motor fuel excise taxes attributable to motorboat and small engine fuels into the Aquatic Resources Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. SIMPSON:

H.R. 1064. A bill to remove the authority of the Ninth Circuit Court of Appeals to sit en banc with fewer than all circuit judges in regular active service; to the Committee on the Judiciary.

By Mr. STEARNS (for himself, Ms. SCHAKOWSKY, and Mr. BROWN of Ohio):

H.R. 1065. A bill to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself and Mr. PAUL):

H.J. Res. 27. A joint resolution withdrawing the approval of the United States from the Agreement establishing the World Trade Organization; to the Committee on Ways and Means.

By Mr. JACKSON of Illinois (for himself, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mr. BUTTERFIELD, Ms. CARSON, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. FATTAH, Mr. FORD, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Ms. LEE, Mr. LEWIS of Georgia, Mr. MEEK of Florida, Mr. MEEKS of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. OWENS, Mr. PAYNE, Mr. RANGEL, Mr. RUSH, Mr. SANDERS, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. STARK, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. VELÁZQUEZ, Ms. WATERS, Ms. WATSON, Mr. WATT, Ms. WOOLSEY, Mr. WYNN, Ms. MCKINNEY, Mr. CLEAVER, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, Mr. RYAN of Ohio, Ms. MILLENDER-MCDONALD, Mr. AL GREEN of Texas, Mr. HOLT, and Mr. DAVIS of Alabama):

H.J. Res. 28. A joint resolution proposing an amendment to the Constitution of the United States regarding the right to vote; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois (for himself, Ms. CARSON, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. FATTAH, Mr. FORD, Mr. GUTIERREZ, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. MEEK of Florida, Mr. OWENS, Mr. RUSH, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. THOMPSON of Mississippi, Ms. VELÁZQUEZ, Ms. WATERS, Ms. WATSON, Mr. WATT, Ms. MCKINNEY, Mr. CLEAVER, Mr. RYAN of Ohio, Ms. MILLENDER-MCDONALD, and Mr. AL GREEN of Texas):

H.J. Res. 29. A joint resolution proposing an amendment to the Constitution of the United States regarding the right of all citizens of the United States to a public education of equal high quality; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois (for himself, Mr. STARK, Ms. CARSON, Mrs. CHRISTENSEN, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. FATTAH, Mr. GUTIERREZ, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. KENNEDY of Rhode Island, Mr. KUCINICH, Mr. MEEK of Florida, Mr. OWENS, Mr. RUSH, Mr. SERRANO, Mr. THOMPSON of Mississippi, Ms. VELÁZQUEZ, Ms. WATERS, Ms. WATSON, Mr. WATT, Ms. MCKINNEY, Mr. CLEAVER, Ms. SCHAKOWSKY, Mr. RYAN of Ohio, Ms. MILLENDER-MCDONALD, and Mr. AL GREEN of Texas):

H.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States regarding the right of citizens of the United States to health care of equal high quality; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States relating to equality of rights and reproductive rights; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 32. A joint resolution proposing an amendment to the Constitution of the United States respecting the right to decent, safe, sanitary, and affordable housing; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States respecting the right to a clean, safe, and sustainable environment; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 34. A joint resolution proposing an amendment to the Constitution of the United States relative to taxing the people of the United States progressively; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois:

H.J. Res. 35. A joint resolution proposing an amendment to the Constitution of the United States respecting the right to full employment and balanced growth; to the Committee on the Judiciary.

By Mr. JACKSON of Illinois (for himself and Mr. FRANK of Massachusetts):

H.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States to abolish the Electoral College and provide for the direct election of the President and Vice President by the popular vote of all citizens of the United States regardless of place of residence; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, and Mr. HYDE):

H. Con. Res. 81. Concurrent resolution expressing the sense of Congress regarding the two-year anniversary of the human rights crackdown in Cuba; to the Committee on International Relations.

By Mr. NEY:

H. Res. 133. A resolution providing amounts from the applicable accounts of the House of Representatives for continuing expenses of standing and select committees of the House from April 1, 2005, through April 30, 2005; to the Committee on House Administration.

By Mr. GEORGE MILLER of California:

H. Res. 134. A resolution requesting the President to transmit to the House of Representatives certain information relating to plan assets and liabilities of single-employer pension plans; to the Committee on Education and the Workforce.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

6. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 23 memorializing the Congress of the United States to award the Congressional Medal of Honor to Major Richard D. Winters; to the Committee on Armed Services.

7. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 5 memorializing the Congress of the United States to award the Medal of Honor to Major Richard D. Winters; to the Committee on Armed Services.

8. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 59 memorializing the President and Congress of the United States to increase the military death gratuity payment and the SGLI maximum benefit and to require the Federal Government to pay the SGLI premiums for members of the armed forces; jointly to the Committees on Armed Services and Veterans' Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MEEHAN:

H.R. 1066. A bill for the relief of Toan Duc Le; to the Committee on the Judiciary.

By Mr. ROHRABACHER:

H.R. 1067. A bill for the relief of John Castellano; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. WU.

H.R. 8: Mr. BOUSTANY, Mr. PICKERING, Mr. PAUL, Mrs. JO ANN DAVIS of Virginia, Mr. RENZI, Mr. SIMPSON, Mr. HYDE, Mr. MACK, Mr. LATOURETTE, Mr. NUSSLE, Mr. BOEHLERT, Mr. HAYES, Mr. SIMMONS, Miss

McMorris, Mrs. Kelly, Mr. Rogers of Michigan, Mr. Kirk, and Mr. Ramstad.

H.R. 13: Mr. Cannon, Mr. McHenry, Mr. Cummings, Ms. Zoe Lofgren of California, Mr. Evans, and Mr. Wamp.

H.R. 21: Ms. Loretta Sanchez of California, Ms. Herseth, Mr. Meek of Florida, Mr. Becerra, Mr. Reyes, Mrs. Maloney, Mr. Meehan, Mr. Lewis of Georgia, Ms. Pelosi, Mr. Brady of Pennsylvania, Ms. DeGette, Mr. Pastor, Mr. Peterson of Minnesota, Mr. Sabo, Mr. Gordon, Mr. Larson of Connecticut, Mr. Levin, Mr. Stupak, Mr. Tierney, Ms. Woolsey, and Mr. Weldon of Florida.

H.R. 22: Mr. Boozman, Ms. Roybal-Allard, Mr. Blumenauer, Mr. Ross, Mr. Baca, Ms. Woolsey, Ms. Zoe Lofgren of California, Mr. Rothman, Mr. Lantos, Mr. Honda, Mr. Berman, and Ms. Millender-McDonald.

H.R. 25: Mr. Ney.

H.R. 32: Mr. Ryan of Ohio, Ms. Watson, and Mr. Fitzpatrick of Pennsylvania.

H.R. 34: Mr. McCotter, Mr. Pence, Mr. Burgess, Mr. Weldon of Florida, Mr. Moore of Kansas, Mr. Bartlett of Maryland, Mr. Smith of New Jersey, Mr. Andrews, Mr. Rohrabacher, and Mr. Hunter.

H.R. 65: Mr. Mollohan and Mr. Hulshof.

H.R. 68: Mrs. Tauscher and Mr. Wynn.

H.R. 113: Mr. Ney and Mr. Oxley.

H.R. 115: Mr. Payne, Mr. Snyder, Mr. Owens, and Mr. Oberstar.

H.R. 136: Mr. Gingrey.

H.R. 179: Mr. Garrett of New Jersey.

H.R. 180: Mr. Garrett of New Jersey.

H.R. 181: Ms. Foxx and Mr. Akin.

H.R. 197: Mr. Ford.

H.R. 198: Mr. Pastor, Mr. Scott of Virginia, Mr. Weiner, Mr. Rangel, and Mrs. McCarthy.

H.R. 224: Mr. Gordon.

H.R. 227: Ms. Slaughter and Mr. Walsh.

H.R. 230: Mr. Latham and Mr. Case.

H.R. 239: Mr. Inglis of South Carolina, Mr. Wicker, and Mr. Souder.

H.R. 274: Mr. Wolf, Mrs. Miller of Michigan, Mrs. Drake, and Mr. Cantor.

H.R. 284: Mr. Allen and Mr. Payne.

H.R. 302: Mr. Gutierrez and Ms. Solis.

H.R. 303: Mr. Edwards, Mr. Boyd, Mr. LoBiondo, Mr. Langevin, Mr. Boswell, Ms. Zoe Lofgren of California, Mr. McGovern, Mr. Abercrombie, and Ms. Pelosi.

H.R. 305: Mr. Conaway, Mr. Neugebauer, Mr. Miller of North Carolina, Mr. Reynolds, Mr. Snyder, and Mr. Green of Wisconsin.

H.R. 341: Mr. Holden, Mr. Larsen of Washington, and Mr. McHugh.

H.R. 354: Mr. McCaul of Texas.

H.R. 358: Mr. Edwards, Mr. Forbes, Mr. Shuster, Mr. Kline, Mr. Israel, Mr. McIntyre, Mr. Weldon of Florida, Mr. Hostettler, Mr. Renzi, Mr. Sherwood, Mr. Putnam, Mr. Duncan, Mr. Bilirakis, Mr. Bonilla, Mr. Towns, Mr. Bartlett of Maryland, Mr. Wamp, Mr. Kolbe, Mr. Petri, Mr. Linder, Mr. Pascrell, Mr. Tanner, Mr. Matheson, Mr. Baker, Mr. Ruppersberger, Mr. Hefley, Mr. Coble, Mr. Boucher, Mr. McCotter, Mr. Pitts, Mr. Carnahan, Mr. Udall of New Mexico, Mr. Higgins, Ms. McKinney, Mr. Oberstar, Mr. Larsen of Washington, Mrs. Lowey, Mr. McHugh, and Mr. Pence.

H.R. 364: Mr. Sessions.

H.R. 376: Ms. Loretta Sanchez of California, Mr. Kanjorski, Mr. Levin, Mr. Carnahan, Mr. Tierney, Mr. Wolf, Ms. Eshoo, Mr. Van Hollen, Mr. Cooper, Mr. Udall of New Mexico, Mrs. Maloney, Mr. Meehan, Mr. Case, Mr. Dingell, Ms. Roybal-Allard, Mr. Brady of Pennsylvania, Mr. Langevin, Mr. Filner, Mr. Wexler, Mr. Ortiz, Ms. Jackson-Lee of Texas, and Ms. Kaptur.

H.R. 380: Mr. Latham.

H.R. 389: Mr. Gary G. Miller of California, Mr. LaHood, Ms. Ginny Brown-Waite of Florida, and Mr. Capuano.

H.R. 420: Mr. Ney.

H.R. 442: Mr. Grijalva, Ms. McCollum of Minnesota, and Ms. Slaughter.

H.R. 454: Mr. Conaway.

H.R. 459: Ms. Linda T. Sánchez of California, Mr. DeFazio, Mr. Neal of Massachusetts, Mr. Delahunt, Mr. Farr, Ms. Kaptur, Mr. Lewis of Georgia, Mr. Clyburn, and Mr. Bishop of Georgia.

H.R. 499: Ms. Lee.

H.R. 500: Mr. Inglis of South Carolina, Mr. Barrett of South Carolina, Mr. Hastings of Washington, Mr. Franks of Arizona, Mr. Herger, and Mr. Pitts.

H.R. 503: Mr. Rush, Mr. Taylor of Mississippi, Mr. Tierney, Mr. Filner, Mr. Menendez, Mr. Simmons, Mr. Wu, Mr. Shaw, Mr. Wilson of South Carolina, Mr. Nadler, Mr. Rothman, Mr. Larsen of Washington, Mr. Kennedy of Rhode Island, and Ms. McCollum of Minnesota.

H.R. 513: Mr. Boyd.

H.R. 524: Mr. Porter.

H.R. 530: Mr. Miller of Florida.

H.R. 535: Mr. Issa.

H.R. 550: Mr. Davis of Florida, Mr. Udall of New Mexico, Mrs. Lowey, Mr. Ackerman, Mr. Boyd, Mr. Meek of Florida, Mr. McNulty, Ms. DeGette, Ms. Jackson-Lee of Texas, Mr. Rothman, and Mr. Davis of Illinois.

H.R. 554: Mr. Baker, Mr. McCotter, and Ms. Foxx.

H.R. 556: Mr. LaHood and Mrs. Capps.

H.R. 558: Mr. Van Hollen, Mr. Michaud, Mr. Brady of Pennsylvania, Mr. Ryan of Ohio, Mr. Holden, Mr. Boswell, and Mr. Cummings.

H.R. 559: Mr. Kucinich, Mr. Rush, Ms. McCollum of Minnesota, Ms. Watson, and Mr. Wexler.

H.R. 581: Mr. Flake and Mr. Emanuel.

H.R. 583: Mr. Platts, Mr. Cummings, Mr. LaHood, Ms. Woolsey, and Mr. Jackson of Illinois.

H.R. 588: Mr. Weiner, Mr. Otter, Mr. Stearns, Mr. Garrett of New Jersey, and Mr. Foley.

H.R. 601: Mr. Moran of Virginia, Mr. Peterson of Minnesota, Mr. Souder, and Mr. Green of Wisconsin.

H.R. 602: Mr. Conyers, Mr. Evans, Mr. Miller of North Carolina, and Mrs. Capito.

H.R. 606: Mr. Gutierrez and Mr. Costa.

H.R. 613: Mr. Calvert.

H.R. 615: Mr. Hayes, Mr. Brown of Ohio, Mr. Gallegly, Mr. Porter, and Mr. Evans.

H.R. 625: Mr. Beauprez.

H.R. 626: Mr. English of Pennsylvania, Mr. Cardin, and Mr. Tanner.

H.R. 650: Mr. Ginny Brown-Waite of Florida and Mr. Souder.

H.R. 651: Mr. Rehberg.

H.R. 669: Mr. Etheridge, Mr. LaHood, and Mrs. Capps.

H.R. 670: Mr. Alexander and Ms. Ginny Brown-Waite of Florida.

H.R. 692: Mr. Gordon.

H.R. 759: Mr. McGovern, Mr. Kennedy of Rhode Island, Mr. Holt, Mrs. Capps, and Mr. Lantos.

H.R. 761: Mrs. Maloney, Mr. Blumenauer, Mr. Neugebauer, and Ms. DeGette.

H.R. 771: Mrs. McCarthy.

H.R. 778: Mr. Miller of Florida.

H.R. 783: Mr. Gerlach, Mr. Ford, Mr. Clay, Mr. Barrett of South Carolina, Mrs. Jo Ann Davis of Virginia, Mr. Souder, and Ms. Schwartz of Pennsylvania.

H.R. 791: Mr. Emanuel, Mr. Holt, Mr. Smith of Washington, Mr. Tierney, Ms. McCollum of Minnesota, Mr. George Miller of California, Mr. Grijalva, Mrs. McCarthy, Mr. Wexler, Mr. Owens, Mr. McGovern, Mr. Cooper, Mr. Abercrombie, Mr. Lantos, Mr. Moran of Virginia, Mr. Payne, Mr. Pallone, Mr. Waxman, and Mr. Shays.

H.R. 793: Mrs. Miller of Michigan and Mr. Moore of Kansas.

H.R. 798: Mr. Costa, Mr. Honda, Ms. Jackson-Lee of Texas, Mr. Gene Green of Texas, and Mr. Boren.

H.R. 799: Mr. Filner.

H.R. 810: Mr. Brady of Pennsylvania, Mr. Thompson of California, Mr. Tierney, Mr. Sanders, Mr. Miller of North Carolina, and Ms. Moore of Wisconsin.

H.R. 817: Ms. DeGette, Mr. Inslee, Mr. Crowley, Mr. Rothman, Mr. Frelinghuysen, Mr. Pascrell, Mr. Moore of Kansas, and Mr. Nadler.

H.R. 818: Mr. Owens.

H.R. 834: Mr. Moran of Virginia and Ms. Eshoo.

H.R. 840: Mr. Smith of New Jersey and Mr. Brown of Ohio.

H.R. 845: Mr. Neugebauer and Mr. Kuhl of New York.

H.R. 870: Mr. Cummings and Mr. Israel.

H.R. 871: Mr. DeFazio and Ms. Eshoo.

H.R. 888: Mr. Barrett of South Carolina.

H.R. 895: Mr. Porter.

H.R. 897: Mr. Rogers of Michigan and Mr. Emanuel.

H.R. 899: Mr. Lincoln Diaz-Balart of Florida.

H.R. 911: Mr. Sam Johnson of Texas and Mr. Goodlatte.

H.R. 920: Mr. Kennedy of Minnesota, Ms. Ginny Brown-Waite of Florida, and Mr. Gordon.

H.R. 923: Mr. Goode and Mrs. McCarthy.

H.R. 924: Mr. Payne.

H.R. 963: Mr. McCaul of Texas.

H.R. 986: Mr. McHugh, Mr. Putnam, and Mr. McCaul of Texas.

H.R. 987: Mr. Israel.

H.R. 997: Mr. LaHood, Mr. Camp, and Mr. Ryun of Kansas.

H.R. 1002: Mr. Abercrombie, Mrs. Biggert, Mr. Bishop of Georgia, Mr. Costello, Mr. Cummings, Mr. Goode, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Holden, Ms. Norton, Ms. Jackson-Lee of Texas, Mr. McDermott, Mr. Meeks of New York, Ms. Millender-McDonald, Mr. Pallone, Ms. Roybal-Allard, Ms. Schakowsky, and Ms. Woolsey.

H.R. 1006: Ms. Lee.

H.J. Res. 10: Mrs. Capito, Mr. Rothman, and Mr. Porter.

H. Con. Res. 27: Mr. Brady of Pennsylvania, Ms. Watson, Mr. Abercrombie, Mr. George Miller of California, Mr. Rush, Mr. Grijalva, Mr. Pallone, Mr. Neal of Massachusetts, Ms. Woolsey, Mr. Strickland, Mr. Oberstar, Mr. Owens, Mr. Rangel, Mr. Doyle, Mr. Dingell, Mr. Berman, Mr. Davis of Illinois, Mr. Smith of Washington, Mr. Sanders, Mr. McGovern, Mr. McNulty, Mr. Al Green of Texas, Mr. Higgins, Mr. Israel, and Mr. Crowley.

H. Con. Res. 32: Mrs. Miller of Michigan.

H. Con. Res. 34: Ms. Loretta Sanchez of California, Mrs. Maloney, Ms. Kaptur, Ms. Baldwin, Mr. Davis of Illinois, Mr. Rothman, Ms. Woolsey, and Mr. Frank of Massachusetts.

H. Con. Res. 42: Mr. Alexander.

H. Con. Res. 65: Mr. English of Pennsylvania and Mr. Chandler.

H. Res. 22: Mr. Garrett of New Jersey.

H. Res. 67: Ms. Harman, Mr. Hinchey, Ms. Moore of Wisconsin, Mr. Van Hollen, Mr. Evans, and Mr. Rothman.

H. Res. 84: Mr. BARRETT of South Carolina.

H. Res. 101: Mr. BERMAN, Mr. HASTINGS of Florida, Mr. MCCOTTER, Ms. SCHAKOWSKY, Mr. CARDOZA, Mr. FORD, Mr. BARRETT of South Carolina, Mr. ISRAEL, Mr. CLEAVER, Mr. WELLER, Mr. BUTTERFIELD, and Mr. ETHERIDGE.

H. Res. 108: Mr. MCCOTTER, Mrs. DAVIS of California, Mr. BURTON of Indiana, Mr. GEORGE MILLER of California, Mr. PALLONE, Mrs. JONES of Ohio, Mr. LANTOS, Mr. HASTINGS of Florida, Mr. WELDON of Pennsylvania, Mr. KING of New York, and Mr. BERMAN.

H. Res. 115: Mr. BROWN of Ohio.

H. Res. 120: Mr. MCCAUL of Texas, Mr. ETHERIDGE, Mr. SMITH of Washington, Ms. ROS-LEHTINEN, and Mr. SMITH of New Jersey.

## PETITIONS, ETC.

Under clause 3 of rule XII,

8. The SPEAKER presented a petition of the City Council of Atlanta, Georgia, relative to Resolution 04-R-1724 supporting the District of Columbia's right to have its elected Representative have full voting rights in the United States House of Representatives and the District of Columbia is the permanent seat of government for the United States and voting rights in our capital is a national concern; and for other purposes; which was referred to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## RECOGNIZING MURAL ARTIST MYRON C. NUTTING AND THE WAUWATOSA COMMUNITY

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STARK. Mr. Speaker, as a graduate of Wauwatosa High School in a Wauwatosa, WI, I rise to pay tribute to Myron C. Nutting, a mural artist, whose work has been restored and will be rededicated on March 6, 2005, at my alma mater.

Myron Chester Nutting was born on October 18, 1890 in Panaca, NV, but moved to Milwaukee in 1934 to work as an art instructor at Layton School of Art under the Federal Arts Program. Before coming to Milwaukee, Nutting had lived and studied in Paris with expatriate artists and writers whom history has been labeled as the "lost generation." At the time, Nutting was considered among the top 15 Wisconsin artists with training both in America and Europe.

Nutting left Milwaukee in 1939, moving to southern California where his artistic life and reputation grew. He was a recognized portrait artist of many southern California clients, a critic and writer, and flourished as a lithographer, oil and water color artist. He died in Los Angeles in 1972.

Nutting had a close relationship with the controversial Irish writer James Joyce as evidenced by portraits he painted in the early 1920s of James Joyce's wife, Nora, their daughter Lucia, and the unfinished portrait of James Joyce himself. All three pieces as well as Mr. Nutting's other art work and personal papers are in collections at Northwestern University, the University of California at Los Angeles, the American Art Archives at the Smithsonian in Washington, and in dozens of smaller museums, galleries, and archives throughout the world.

With regard to his work in Wisconsin, Nutting was commissioned by Charlotte Partridge, State director of the Federal Arts Project at the time, to design and paint two oil-on-canvas murals at the then recently constructed Wauwatosa Senior High School. The work was started in January 1934 and completed the following June. The murals were originally hung on March 2, 1935, but were covered up during a renovation at the school in the mid-1970s. For unknown reasons, the murals were left unsigned. They remained covered up for 30 years until restoration work began 2 years ago when they were rediscovered.

On March 6, 2005, at Wauwatosa High School, the Wauwatosa Historical Society and the school district office will rededicate these two murals that have been beautifully restored in the main lobby of the school. These two 14′ by 4′ murals have been restored to their original museum quality and will be an important educational tool for the school's present and future generations.

More than 190 Wauwatosa High School alumni, as well as many members of the community, have donated more than $125,000 to restore these historical art pieces.

These murals remain the property of the Federal Government and will be registered with the General Services Administration's office of fine arts, which acts as a steward for the preservation of these art pieces.

I join in honoring all alumni, students, the community of Wauwatosa, the many volunteers who have worked for many months to bring these artifacts back to their former glory, as well as the artist, Myron C. Nutting, for all their contributions to work and restoration of the mural pieces. These are all wonderful contributions to the school's valued history and tradition.

---

## INTRODUCTION OF THE WOMEN, CHILDREN, AND INFANT TSUNAMI VICTIM RELIEF ACT OF 2005

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mrs. MALONEY. Mr. Speaker, today I am introducing a bill that will help thousands of women, children, and families who have suffered since the horrific tsunami hit Asia on December 26, 2004. This bill, the Women, Children, and Infant Tsunami Victim Relief Act of 2005, authorizes $3 million to the United Nations Population Fund, UNFPA, to provide severely needed urgent medical and health care to tsunami victims in Indonesia, the Maldives, and Sri Lanka.

UNFPA has made an urgent appeal to donor nations to raise $27.5 million to provide relief to women in Indonesia, Sri Lanka, and the Maldives. Due to its extensive experience responding to emergencies, UNFPA was one of the first respondents in the tsunami-affected areas helping women.

More than 150,000 women are currently pregnant in the tsunami-affected areas, including 50,000 anticipated to give birth during the next 3 months. UNFPA is determined to enhance the likelihood of deliveries occurring in safe and clean conditions by providing emergency care, basic supplies, and helping to rebuild health care facilities.

Disasters put pregnant women at greater than normal risk because of the sudden loss of medical support, compounded in many cases by trauma, malnutrition, disease, or exposure to violence. In times of high stress, pregnant women are more prone to miscarriage or to premature labor, both of which require medical care.

UNFPA works to reduce maternal deaths and illnesses by providing prenatal care, delivery assistance, access to emergency obstetric care, and post-natal care. It provides services to avoid malnutrition, which frequently occurs after natural disasters when food supplies are unavailable or uneven. Vitamin and iron deficiencies, especially anemia, can be fatal for pregnant women and their babies. Nursing women require supplemental funding to ensure their health and that of their baby.

For example, in Sri Lanka, the UNFPA-supported maternal hospital was being flooded, and staff was able to move all patients but one premature infant to safety and it has set up a temporary facility to provide critical health services.

This bill specifies that the funds included can only be used by UNFPA to provide safe delivery kits—soap, plastic sheeting, razor blades, string and gloves—personal hygiene kits—sanitary napkins, soap, laundry detergent, dental supplies—reestablish maternal health services, prevent and treat cases of violence against women and youth, offer psychological support and counseling, and promote access of unaccompanied women to vital services. Each of these issues is a serious problem in the region and will go a long way toward helping save the lives of thousands of women and their children.

These people have suffered enough. We must do everything we can to help them. This is why I ask support from my colleagues for the Women, Children, and Infant Tsunami Victim Relief Act of 2005.

---

## HONORING JACKIE ROBINSON RECEIVING THE CONGRESSIONAL GOLD MEDAL

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. BECERRA. Mr. Speaker, I rise today to celebrate April 15—no, not Tax Day—but that memorable day in 1947 when Jackie Robinson officially broke the color barrier of Major League Baseball by donning a Brooklyn Dodgers uniform.

In the face of great adversity and knowing that the hopes of African-American athletes in all sports rested on his shoulders, Jackie Robinson provided inspiration to all of America in his courageous pursuit of racial equality.

By simply putting on his spikes, wearing his Dodgers uniform, and taking the field on that great day, Jackie Robinson forever changed the landscape of the American sports scene; indeed, he fueled a change in the hearts and minds of our great Nation.

Jackie Robinson stared bitter opposition and oppressive racism in the face, all while achieving unparalleled success. He was named the National League Rookie of the Year in 1947 and earned National League Most Valuable

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Player honors in 1949. In 1962, Jackie became the first African-American to be inducted into the Baseball Hall of Fame.

Known for his gifted batting, blinding speed around the bases, and strong but steady temperament, Jackie Robinson won the respect of teammates and opponents alike. He led the Dodgers to six pennants and their first World Championship as a member of the famed "Boys of Summer" in 1955.

Although he played in New York, Jackie Robinson was actually a southern California local. He grew up in Pasadena, CA, and was a star athlete while attending the University of California at Los Angeles. Jackie's long-standing commitment to Dodgers heritage and his strong Southern California roots make us proud and endear him to Dodgers fans from Brooklyn to Los Angeles and everywhere in between.

Jackie Robinson's sacrifice on and off the field has had a lasting impact on our nation. An athlete, businessman, and civic leader, Jackie helped blaze a trail for the civil rights movement in the years after his career as a player had ended. He conquered countless steep barriers with faith, dignity and grace, and he stands as a noble symbol of change in creating a more just American society for all.

Jackie Robinson's spirit is still with us today. Jackie's life and principles are the basis for the Jackie Robinson Foundation, which keeps his memory alive by providing children of low-income families with leadership and educational opportunities. Perhaps Jackie Robinson himself said it best: "A life is not important, except in the impact it has on other lives."

To honor Jackie for his countless and valuable contributions, Major League Baseball declared in 2003 that on April 15 each year, all Major League clubs will recognize this remarkable athlete and man. That same year my colleagues and I passed legislation honoring Jackie Robinson with a National Day of Recognition and awarding him the Congressional Gold Medal, the highest honor bestowed by Congress. Almost 58 years after Jackie Robinson trotted out to first base in a Brooklyn Dodgers uniform, the President today will present the Congressional Gold Medal to Jackie's wife Rachel, daughter Sharon and son David, along with other members of the Robinson family.

I can think of no better tribute than to proclaim April 15 "Jackie Robinson Day." Jackie's contributions and sacrifices not only changed a sport, but touched a nation. No athlete may have had a greater long-term impact on his sport or society than Mr. Robinson.

Mr. Speaker, it gives me great pride and honor to ask my colleagues to join me today in saluting Mr. Jackie Robinson as the recipient of the Congressional Gold Medal and as a great American most deserving of his National Day of Recognition. Jackie Robinson's contributions have truly helped to make America "one nation."

---

## RECOGNIZING ROBERT HARRISON GLAZE

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Robert (Bob) Harrison Glaze. Bob Glaze served honorably on the City Council of San Leandro, California from 1984 to 2004. He was the youngest Vice Mayor in the city's history.

Bob Glaze was born in Oakland, California, and moved to San Leandro in 1963. He is a graduate of Chabot College and Marina High School, where he served as Athletic Commissioner and Curriculum Council member.

Alameda County and the San Leandro community have benefited from Bob's activism and commitment to make a positive difference. During his tenure on the San Leandro City Council, he served on a variety of Council Committees, including Finance, the Cherry Festival, Quality of Life, School Liaison, Revenue Sharing, Long Range Fire Planning, School Safety, Technology and Policy.

Bob is an Alameda County Fire Commissioner and an alternate member of the Alameda County Transportation Committee, Alameda County Waste Management Authority, Association of Bay Area Governments and the Congestion Management Authority. He is a member of the governing board of the Associated Community Action Program and the Alameda County Training and Employment Program.

His community service extends far and wide. He continues to be active in all areas of Scouting, serving as Scoutmaster, Merit Badge Counselor, District Committee Member, District Finance Chairman, District Chairman as well as Exploring North Commissioner. He was 1993 Scout Jamboree Selection Chairman. Other organizations that have benefited from Bob's leadership include Washington Home Owners Association, Washington Manor Lions' Club, San Leandro Human Resource Commission and the Optimist Club of San Leandro.

Bob Glaze is truly an involved and model citizen. His commitment is exemplary. I join the citizens of San Leandro who will pay tribute to him on his retirement from the City Council and thank him for his countless contributions.

---

## TRIBUTE TO WALTER H. SHORENSTEIN

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished American, Walter H. Shorenstein, who will celebrate his 90th birthday on Friday, March 4, 2005.

Walter H. Shorenstein served our nation as a Major in the United States Air Force. He is an extraordinary American who has made enormous contributions to our communities and our country. He began his career in real estate in 1946 and has built the Shorenstein Company into one of the largest and most highly respected real estate firms in the nation.

Walter Shorenstein has been a valued advisor to Presidents, a generous philanthropist, a noted lecturer and an ardent supporter of education. His numerous sponsorships, board memberships and honors reflect his dedication to art, culture, education, government and philanthropy.

Walter Shorenstein's life has been enriched by his family. His daughter Carole is a producer of Broadway shows, his son, Douglas is President of the Shorenstein Company, and his grandchildren Walter, Gracie, Brandon Jona, Sandra Joan and Daniella are great blessings to him. His lifelong partner in life, Phyllis, died in 1994, and their beloved and brilliant daughter Joan died in 1985.

It is a special privilege for me to honor Walter Shorenstein and to call him my friend.

Mr. Speaker, I ask my colleagues to join me in honoring this good and great American, this outstanding citizen and national treasure. As Mr. Shorenstein celebrates this important milestone, the gratitude and respect of the entire House of Representatives are extended to him.

---

## IN RECOGNITION OF THE 44TH ANNIVERSARY OF THE PEACE CORPS AND IN CELEBRATION OF NATIONAL PEACE CORPS WEEK

### HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mrs. TAUSCHER. Mr. Speaker, I rise today in celebration of National Peace Corps Week and to congratulate the 7,700 Peace Corp Volunteers—including 30 of my constituents—who are serving their country today in 72 countries around the world.

More than 178,000 Peace Corps Volunteers have served in 138 countries since the organization's inception in 1961. Every year, thousands of selfless volunteers share their time and talents by serving as teachers, business advisors, information technology consultants, health and HIV/AIDS educators, and youth and agriculture workers.

Over 3,100 volunteers work directly or indirectly on HIV/AIDS prevention and education activities throughout the world, and support efforts in 10 of the 15 focus countries in the President's Emergency Plan for AIDS Relief.

I praise our nation's Peace Corps volunteers who serve their country and the world as humanitarians, devoting themselves to transferring life-changing knowledge and skills to the people of other nations.

Mr. Speaker, I salute the hundreds of thousands of men and women of this nation who have selflessly served abroad as Peace Corps Volunteers. On this 44th Anniversary of the Peace Corps, I am especially proud to represent 30 such volunteers and I offer them my sincere gratitude.

## IN RECOGNITION OF BROWARD COUNTY TEACHER OF THE YEAR, MS. JASMINE DEBOO

### HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. SHAW. Mr. Speaker, I rise today to honor Ms. Jasmin Deboo, who was awarded Broward County, Florida's Teacher of the Year. Ms. Deboo has dedicated her life to her 5th Grade students at Deerfield Beach Elementary School for the last 11 years.

Ms. Deboo's dedication to her students is quite apparent. She has gone above and beyond the average duties of a teacher by taking on the roles of a surrogate parent and that of counselor helping children deal with personal problems. This style of leadership has allowed Ms. Deboo to become a role model for not only her students, but also for other teachers at her school. Ms. Deboo is a person who has had a positive impact on all those lucky enough to be around her.

Today, we recognize Jasmin Deboo for her accomplishments and her dedication to the students of Broward County, Florida. I congratulate Ms. Deboo on being named the 2005 Broward County Teacher of the Year.

## A TRIBUTE TO THE FIRST CHURCH OF THE NAZARENE OF PASADENA

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. SCHIFF. Mr. Speaker, I rise today to honor the First Church of the Nazarene of Pasadena, California. During the months of February and March, the First Church of the Nazarene of Pasadena will be celebrating its 100th Anniversary.

The church began in 1905 and was led by Founding Pastor Dr. John W. Goodwin with 54 members that met in each others' homes. As the congregation grew, the church moved to Mary Street in 1906, then Raymond Avenue, Mountain Street, and finally Sierra Madre Boulevard, where it resides today. Today the church has over 2000 members, which includes a congregation with nine different cultural backgrounds.

First Church of the Nazarene of Pasadena had several notable Pastors, including Pastor James Dobson, Founder and Chairman of Focus on the Family, and his wife Shirley, who were members for over thirty years. Other Pastors were J.W. Ellis, Earl G. Lee, H.B. London, Dr. Stephen Green, Dr. Jeff Crosno and the current Pastor, Jay Ahlemann.

The church has many programs that serve the community. The Compassionate Ministries program consists of: Helping Hands—a food and clothing facility on the church campus, Church in the Park—service to the homeless on Sunday mornings, El Centro Trabajo—an advocacy organization for day laborers, and a South Central Los Angeles food distribution center. Compassionate Ministries fed and clothed more than 22,000 people last year.

Other programs include PrimeTime which provides fellowship for seniors and Loveline, a phone ministry for homebound seniors. In His Image serves families of special needs children on a weekly basis, providing Sunday School classes, parent connections and support groups, respite events for the parents, an all-inclusive sports program for the entire family, and special events like the Special Olympics Unified Basketball event, San Gabriel Valley Region. Parent Education Seminars, Support Groups through the Recovery Ministries, Sunday School, Sunrise Preschool and Academy of the Arts are also among the many services that the First Church of the Nazarene of Pasadena offers to its members and the community.

I am proud to recognize the First Church of the Nazarene of Pasadena for its 100 years of offering a place of loving care and joyous worship to the people of the San Gabriel Valley and I ask all Members to join me in congratulating the congregation for their remarkable achievements.

## HONORING ROTARY INTERNATIONAL

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KILDEE. Mr. Speaker, I ask the House of Representatives to join me in congratulating Rotary International on celebrating its 100th anniversary. On Saturday, February 26, the Rotary Clubs of Genesee, Shiawasee and Lapeer Counties will celebrate this milestone with a Centennial Gala to be held at Genesys Banquet Center in Grand Blanc, Michigan.

Rotary International, founded on February 23, 1905, is a worldwide organization of business and professional leaders that provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world. Approximately 1.2 million Rotarians belong to more than 31,000 Rotary Clubs located in 166 countries. In Rotary Area Seven, which includes my district, there are almost 600 members making the commitment to address community and international issues.

Rotarians are committed to the motto "Service Above Self' and to "The Four-Way Test" of business ethics, a philosophy that encourages truth, fairness, goodwill, and mutual benefit in all professional actions.

The Four-Way Test:

1. Is it the Truth?
2. Is it Fair to all Concerned?
3. Will it build Goodwill and Better Friendships?
4. Will it be Beneficial to all concerned?

They support efforts to provide educational opportunities and to meet basic human needs because these efforts are essential steps to greater world understanding, goodwill, and peace. The founding of Rotary International encouraged the creation and expansion of service clubs in the 20th century, and these service clubs generated a formalized spirit of community volunteerism throughout the United States and the world.

The PolioPlus program, created by Rotary International to fight the dreaded disease, has helped to vaccinate more than two billion children. They are the only nongovernmental organization to join in partnership with the World Health Organization, the United Nations Children's Fund (UNICEF), and the Centers for Disease Control and Prevention to achieve the goal of the total eradication of polio in 2005. Their work is an outstanding and noteworthy humanitarian effort by a nonprofit organization.

Mr. Speaker, I ask the House of Representatives to join me in congratulating Rotary International on celebrating its 100th anniversary. As a Rotary Club fellowship beneficiary, I can attest to the unwavering support they give to the community and applaud their involvement in the State of Michigan and beyond.

## RECOGNIZING VIRGINIA AND SAMUEL RICHARDSON DURING BLACK HISTORY MONTH

### HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. SABO. Mr. Speaker, it is my honor to take part in the celebration of Black History Month by recognizing distinguished civil and human rights leaders from the state of Minnesota: Virginia and Samuel Richardson.

Samuel Richardson was born in Longview, Texas where he lived until he enrolled in Morehouse College. He moved to Minnesota in 1950 and immediately joined the local branch of the NAACP.

Wanting to see his children grow up in a place that valued equality, Samuel Richardson fought for it in numerous ways, such as by picketing the F.W. Woolworth's in St. Paul to advocate for equal access and jobs for African Americans there. He advocated for fair housing. He marched with Martin Luther King in Washington in 1963. He joined numerous organizations and served as their leader.

Virginia Bardwell Richardson was born in Huntington, Tennessee. She attended the University of Minnesota, became a mother, and has always been passionate about education. She joined local activist organizations and served in leadership positions throughout her entire adult life.

When Samuel was hired by Supermarket giant Applebaum's in a prominent marketing position, he was one of the only black advertising directors west of Chicago. After a long career with Applebaum's, he became the Minnesota State Commissioner of Human Rights. There, he focused on new laws to address discrimination of all kinds, and to promote protections for people with disabilities. He then worked for the State of Minnesota's Department of Education, where he remained from 1971 until 1997.

While raising four children, Virginia was a critical part of volunteer organizations, including Assistant Chair of the Minneapolis Democratic-Farmer-Labor party, Minneapolis Public Schools' quality committee and the Minnesota Epilepsy Board. Almost 25 years ago, she went to work full-time at the PACER Center

(Parent Advocacy Coalition for Educational Rights). Today, she serves as its manager of Parent Training.

Samuel and Virginia are founders of the Bryant Village Initiative. This neighborhood-based organization works to make residents' voices heard about the effectiveness of city and county programs. It also provides critical input to the police department and welfare programs to help make their work more successful.

The Richardsons are heavily involved in the Oakland Methodist Church. Both were active in their children's school Parent Teacher Associations. They have also been active politically, including work on the campaign to help the first black woman Mayor of Minneapolis get her start in politics.

"Most people are simply sitting and waiting to be led. All you have to do is step up and do it," Samuel Richardson said. "You want to see change and you want to see people enjoy all the things the Constitution offers."

Mr. Speaker, this generous activist couple is one example of the critical leadership required for the change that makes our nation a better place. Samuel and Virginia Richardson have advocated for positive change in our country on behalf of African Americans, women, the disabled, and the poor. I can only hope that today we are developing leaders for the future who have the Richardsons' same high level of dedication to public service.

## IN HONOR OF REVEREND GEOFFREY B. CURTISS

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Reverend Geoffrey B. Curtiss on the 25th anniversary of his ministry at All Saints Episcopal Parish and the 30th anniversary of his ordination to the priesthood. The parish will celebrate these important milestones at a service and reception on March 5, 2005, in Hoboken, New Jersey.

During his years as a priest, Rev. Curtiss has gone above and beyond his duties to his parish. With incredible motivation and a sincere desire to improve the lives of others, he has diligently worked to build a network of support services and organizations that have helped revitalize and transform the community. Upon beginning his service in Hudson County, Rev. Curtiss oversaw the consolidation of three, local Episcopal churches into one, now known as the All Saints Episcopal Parish. From the beginning, the church established a precedent for being progressive and accepting and welcoming people from all stages of life and segments of the community. Under Rev. Curtiss's strong leadership and creative vision, the All Saints Episcopal Parish has become more than a place of worship for its nearly 300 congregants; it is well-known for its community outreach initiatives and ministries. In addition to the church, Hudson County benefits from related programs Rev. Curtiss has helped found such as the All Saints Episcopal Day School, the youth ministry known as WOODY, and the Jubilee Family Life Center, which offers an after-school program and summer camp for youth from the Hoboken housing projects.

An influential member of the community, Rev. Curtiss has held numerous leadership positions in the past and continues to be greatly involved. For the Christ Hospital, Rev. Curtiss is the chair of both the Community Relations Committee and the Quality Improvement Committee, vice-chair of the Board of Trustees, and a member of the Transitional Committee. He is the president of the Episcopal Network for Economic Justice and treasurer of the Jubilee Interfaith Organization, which promotes immigrant rights and worker justice.

As president of the Hoboken Clergy Coalition in 1982, Rev. Curtiss was instrumental in the establishment of the Hoboken Shelter for the Homeless. A past president of the Board of Trustees of the Hoboken North Hudson YMCA and past president of the Hoboken Rotary Club, Rev. Curtiss is still an active member of both organizations. He is also a member of the Diocesan Council, the Episcopal Urban Caucus, the Department of Missions Board, the Commission to Dismantle Racism, and the non-profit housing board known as the Union City Renaissance Urban Renewal Associates.

Rev. Curtiss received his bachelor's degree from Gettysburg College and later graduated with a master's degree from the Gettysburg Lutheran Theological Seminary.

Today, I ask my colleagues to join me in honoring Reverend Geoffrey B. Curtiss for his years of dedicated, selfless service to the community. His passion to help those in need and strong leadership cannot be matched—and his work has touched the lives of countless individuals in Hoboken and the greater community. We congratulate him on his important career milestones and we are grateful to have such a positive force supporting and serving the community.

## TRIBUTE TO ARMY PFC MIN S. CHOI

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. GARRETT of New Jersey. Mr. Speaker, it is with profound sorrow that I rise to recognize the loss of a New Jersey resident who served with dignity and honor as a soldier in Iraq. I join his family, friends and members of his community in mourning this great loss.

On Saturday, February 26, Army Private First Class Min S. Choi, 21, of River Vale, New Jersey died in Abertha, Iraq when an explosive device detonated near his military vehicle. Choi was assigned to the Army Headquarters and Headquarters Company, 6th Squadron, 8th Cavalry Regiment, 3rd Infantry Division at Fort Stewart, Georgia.

A resident of River Vale, N.J., Choi attended Pascack Valley High School. PFC Choi and his family emigrated to the United States from South Korea seven years ago. Following graduation in 2003, Choi enlisted in the Army because he wanted to serve his new country, and aspired to become a military officer and a United States citizen. His commitment to his adopted country and home humble us, and underscore how much we must treasure and protect the freedoms and democratic ideals of our great nation.

This loss causes us to reflect on the bravery demonstrated by our men and women in uniform as they carry out their obligations in the face of danger. When their Nation called them to duty to preserve freedom and the security of our neighbors, they answered without hesitation.

Mr. Speaker, it is my sincere privilege to recognize the life of a proud soldier and heroic representative of the State of New Jersey. Army PFC Min S. Choi was an honorable defender of liberty and he deserves our gratitude and respect.

We remember those who have fallen not only as soldiers, but also as patriots who made the ultimate sacrifice for their country. May we keep their loved ones in our thoughts and prayers as they struggle to endure this difficult period and mourn the heroes America has lost.

## TRIBUTE TO PEOPLE OF NAGORNO KARABAKH

### HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. MEEHAN. Mr. Speaker, I rise today to pay tribute to the people of Nagomo Karabakh, who recently celebrated the seventeenth anniversary of their National Freedom Movement.

On February 20, 1988, the courageous people of Nagomo Karabakh officially petitioned the Soviet government to reunite their homeland with Armenia. They sought to correct the injustices of the brutal Stalin regime, under which the ethnic Armenian population of Nagomo Karabakh was involuntarily placed within the borders of Azerbaijan.

Despite the peaceful request by the Nagomo Karabakh Freedom Movement, the central Soviet and Azerbaijani leadership responded with violence, which escalalated to a brutal campaign against the people of Nagomo Karabakh. These brave citizens refused to give up their right to live in freedom on their ancestral land, fighting for the principles of democracy and human rights upon which our own country was founded.

Today, the unwavering strength of the Freedom Movement can be seen in the democratically-elected government of Nagomo Karabakh. As a member of the Congressional Caucus on Armenia Issues, I congratulate the people of Nagomo Karabakh for their steadfast commitment to promoting freedom, democracy and economic development over the past seventeen years.

It is my hope that the past efforts of Nagomo Karabakh to achieve a peaceful secession from Azerbaijan will help bring a peaceful resolution to the ongoing conflict with Azerbaijan.

## RECOGNIZING THE NOMINEES TO OUR NATION'S SERVICE ACADEMIES

---

### HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mrs. CAPITO. Mr. Speaker, today I would like to recognize several outstanding individuals from my district in West Virginia who have been nominated to our nation's service academies.

Making nominations to our nation's service academies is one of my most important duties as a Congresswoman.

These young men and women are all impressive individuals that have clearly demonstrated academic excellence, extracurricular involvement, and athletic achievements.

Their parents, teachers, and advisors should be very proud of their prestigious accomplishments.

I commend their parents and family for encouraging and supporting these young men and women in the pursuit of their dreams.

I am pleased they have decided to pursue military careers.

Those who choose military careers represent the best of West Virginia and ensure our state motto continues to ring true, "Montani Semper Liberi . . . Mountaineers Are Always Free".

There is no better way for them to use their talents.

I extend my sincerest congratulations for their nominations.

I am very proud of them.

These young men and women have my very best wishes for a bright future.

Jeremy Runco, Ranson; Thomas Flanagan, Charles Town; Sheena Huffman, Gerrardstown; Jerome Lademan, Charles Town; Samuel Talbott, Elkins; Tina Weekley, Ravenswood; Blake Chapman, Charleston; Garrett Dilley, Hurricane; Allen Hartley, Charleston; Alex Hemmelgarn, Clay; Matthew Kearns, Cross Lanes; Brian Martin, St. Albans; Jonathan McCormick, St. Albans; Noah Pfost, Ravenswood; Joshua Russell, Nitro; Joshua Suesli, Gassaway.

---

## FOOD SAFETY

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. VAN HOLLEN. Mr. Speaker, I would like to call your attention to the following article, which I submit for the RECORD, written by my constituent, Richard Gilmore. Mr. Gilmore is the President and CEO of the GIC Group. The GIC Group combines experience and strength in research, analysis, and marketing with financial services and asset management. It offers this expertise to the agribusiness and biotechnology industries to help businesses gain access to global and domestic markets, to add value to current agribusiness activities, and to identify new markets.

Upon leaving the Bush Administration, former Secretary of Health and Human Services Secretary Tommy Thompson stated that protecting the safety of the American food supply should be a top priority. Mr. Gilmore's article addresses that issue. While I may not agree with all of Mr. Gilmore's proposals, I recommend this article to every citizen interested in the integrity of the food supply chain and the safety of the food we consume every day.

### U.S. FOOD SAFETY UNDER SIEGE?

(By Richard Gilmore)

When it comes to the prospect of an agroterrorist attack—the use of biological agents against crops, livestock, poultry and fish—US agriculture has rolled out the welcome mat. Integration and consolidation in the industry widen the potential impact of any single attack. Internationalization of the food chain offers limitless possibilities for human consumption contagions, as well as economic and political instabilities. To combat and anticipate potential attacks to the US food chain, greater effort should be placed on designing new disease-resistant varieties of plants and livestock on the basis of genomic information. Stricter regulations and enforcement capabilities should be introduced not only at our borders but at the point of origin where food is grown, procured for processed for domestic consumption within the United States. At the same time, the United States must develop a comprehensive preparedness and prevention strategy of international proportions in close coordination with our trading partners and the private sector.

#### CHANGES IN FOOD PRODUCTION AND REGULATION

The US strategy of protection for the food system, as mapped out in the Homeland Security Presidential Directive/HSPD-9 of January 30, 2004, presupposes that in striving to protect production, processing, food storage and delivery systems within US territory, a credible line of defense will be created to protect the food chain and encourage a thriving agricultural economy. In fact, US agriculture has undergone dramatic change. For crops, 'farm to fork' no longer is confined to a regionally based agricultural system, but now encompasses a highly integrated and consolidated global undertaking. For livestock, 'hoof to home' now takes on a new meaning that includes a high concentration of production, specialization of calf operations, long distance shipping and massive feedlots averaging thousands of head marketed per facility, for both domestic and international consumption. These commercial developments have resulted in previously unimaginable production and handling efficiencies in domestic and export markets.

In 2001, over 70% of processed food in the United States was purchased from other countries, representing almost 30% of final gross product. Fifteen of the top 25 food and beverage companies in the global market are US owned, accounting for about 10% of the global market. US multinational companies account for roughly 6.5%. With greater consolidation on a global scale, interaffiliate trades account for an increasing portion of the value of the food chain. Like other nations, the United States is moving from self-sufficiency to an increasing dependence on other countries for its food supply.

At the same time, the US regulatory infrastructure for food safety is still a work in progress and is hobbled by overdependence on the private sector and underdependence on international cooperation. Whether it is a matter of detection, surveillance or information flow, the US government is currently dependent on the private sector for cooperation and support. To share information, government and industry have established the Food and Agriculture Information Sharing and Analysis Center (ISAC; Washington, DC, USA), which includes key industry association representatives, especially from the processed food and feed sectors.

The Bioterrorism Act of 2002 sets up tracking mechanisms whose effectiveness depends on industry self-reporting. New food import regulations issued by the US Food and Drug Administration (FDA; Rockville, MD, USA) now require prior notification of eight hours for goods arriving by ship, four hours by rail or air and two hours by road. This dependence on the private sector is burdensome for companies and both insufficient and unreliable for ensuring the public's food safety concerns.

Current regulations have evolved since last December, after a reality check of the US government's enforcement capabilities along with industry's feedback and support. The initial regulations failed on both counts and the prospects for the latest regulations remain uncertain. FDA and the Customs & Border Protection Agency (Washington, DC, USA) still have not adequately funded the enforcement infrastructure nor trained personnel to ensure statistically random, uniform inspections under the new prenotification time frames. Industry is called upon to fill the breach but is still relatively unprepared, with insufficient esource commitment to comply fully with the latest regulations.

There remains a remarkable lack of consultation, joint surveillance and shared research with trading partners worldwide. Whether grits or pasta, the US diet still thrives on an international food supply chain. Similarly, food protection and terrorist prevention have to be internationalized, particularly given the advances that continental-wide Europe and Japan have achieved in this regard.

#### THE THREATS

Although no precedent exists for an agroterrorist attack on the food chain, the dire consequences of natural outbreaks provide a glimpse of the potential damage that could be wrought. The scale of the foot-and-mouth disease (FMD) outbreaks in Taiwan in 1997 and in the UK in 2001 or the bovine spongiform encephalopathy (BSE) epidemic in the United Kingdom from 1996 to 2002 was more devastating than previous epidemics because of the size and structure of modern agricultural production. Taiwan was forced to slaughter more than 8 million pigs and suspend its exports. In the United Kingdom, 4.2 million animals were destroyed in 2001 and 2002, with devastating economic consequences. The cost to Taiwan, a major supplier to Japan, was estimated to be over $20 billion. In the United Kingdom, direct compensation payments alone amounted to approximately $9.6 billion. Because of two major outbreaks of BSE, the United Kingdom slaughtered approximately 5.8 million head of cattle (30 months or older), with an impact of up to $8 billion for the 2000–2001 occurrence alone. The 2003 Dutch outbreak of H7N7, a very pathogenic strain of avian influenza virus, resulted in the necessary culling of over 28 million birds out of a total of 100 million. These numbers pale in comparison to the estimates for a terrorist-induced pathogen release at the heart of the international food chain. The range is astonishing, from almost $7 billion due to a contagion of Asiatic citrus canker on Florida's citrus fruit alone to $27 billion in trade losses for FMD.

An array of pathogens could be introduced easily and effectively with assurance of widespread health, economic and political impacts. For livestock, the prime candidates are FMD and African swine fever (ASF). FMD is particularly attractive from a terrorist standpoint because it is a highly contagious viral infection with a morbidity rate of 100% in cattle. ASF is equally effective.

Next on the list are the zoonotic diseases, which offer a different strategy: using animals to infect humans. Brucellosis, though not fatal, results in chronic disease; some paramyxoviruses can be passed through direct contact with animals and feature a mortality rate in humans of 36%; certain arboviruses, such as Japanese encephalitis virus, which is spread by insect vectors, and cutaneous forms of anthrax could be readily introduced in the United States. Animal hides, an import item to the US, are a common carrier of anthrax spores that can be readily inhaled and prove fatal for humans.

When it comes to crop pathogens, the list is equally long and ominous: stem rust for cereals and wheat, southern corn leaf blight, rice blast, potato blight, citrus canker and several nonspecific plant pathogens. Although not transmittable to humans, these pathogens would cut a wide and devastating swath in crop production.

It takes relatively few dollars and little imagination to introduce these deadly pathogens. Just like a crop duster or even hand spray pumps, aerosol would be an effective means to introduce the crop pathogen of choice on plants. A terrorist could also rely on cross border winds or water systems to carry a harmful pathogen from another country into the United States. For animals, the options could be somewhat more imaginative, such as dusting a turkey's feathers with a pathogen agent and then filling small bomblets with the feathers to explode over a targeted area, mushrooming contamination as the feathers drift with the wind to such likely targets as a high density avian population.

### ECONOMIC AND POLITICAL IMPACT

Any agro-terrorist attack on the food chain would create marked economic instability and losses due to dislocational, trade and health effects. Every bushel of wheat, corn or soybeans (all staple food and feed items) in addition to beef carcasses and pork bellies, has a futures contract written in Chicago and on other exchanges in Europe, Asia and Latin America. These contracts are all written on margin positions, meaning that the financial losses on unfulfilled contracts would be a multiple of the contract itself. Apart from stocks, losses could be incurred as a result of the following: loss of business for freight-forwarding companies, cancellations of ocean freight, rail and truck hauls; insurance claims on cargoes; and abrogation of contracts up and down the food chain.

With only a partial and untested 'Bioshield' system in place, one likely scenario is that US politicians would adopt a unilateral response to what is an international problem in the face of a bioterrorist attack. Whether it's cross-border winds or the globalization of our food chain, the fact remains that much of our own vulnerability rests with imported pathogens. The US cannot seal off its territory from these pathogens. By attempting to do so, the government would make matters worse in the absence of uniform international security and surveillance systems.

The appropriate counter-terrorist response requires a global security system for sharing research, findings and coordinating strategies with trading partners where the United States sources and sells much of its food. Present policies risk the kind of economic repercussions experienced with Japan in the aftermath of the three-day soybean embargo imposed by the United States in 1973, which became a major shoku in Japan's economic history. Concern over food security, rooted in the soybean embargo, inspired the first and ultimate line of defense in Japan's resistance to liberalizing international trade rules for the agricultural sector.

### COUNTERATTACKS

The first priority to combat these threats is to invest in the creation of pathogen-resistant crops through genetic engineering. The National Plant Genome Initiative (Washington, DC, USA) is an international collaboration between academia and the private sector to build a plant genome research infrastructure targeted at sequencing model plant species and therefore identifying genes associated with disease resistance. Together with information concerning large-animal genomes—the cattle genome is anticipated soon—genomic information can be applied to develop new strains of plants and livestock resistant to animal and plant pathogens likely to be used by terrorists. The US Department of Agriculture's (Washington, DC, USA) newly sponsored research centers and other joint government and private sector initiatives inside and outside the United States could also contribute to the search for resistant strains of livestock. In addition, short-term virus testing and monitoring measures can be adopted to address the problem of increased susceptibility of livestock to disease due to changes in cattle feeding and meatpacking. The discovery earlier in 2004 of a BSE-infected Holstein cow in the United States demonstrated that the monitoring and surveillance system in place is insufficient for rapid detection purposes.

There is also an immediate need for a stronger set of regulations that feature comprehensive coordination of research, detection and surveillance on both national and international fronts. Private industry partners in this undertaking must be treated equitably and fairly with a greater effort to broaden industry representation. The easiest step that can be taken to strengthen US defenses is to initiate and fund an intensive personnel training program to meet CBPA (Customs and Border Protection Agency) and FDA's ambitious program benchmarks for field operations, including port inspections, staffing and personal training, and industry registrations. We still lack uniform and consistent enforcement standards for industry and government agencies. Although that is the 15-year goal of the Automated Commercial Environment (ACE) run by the US Customs, nothing in place can accommodate different information and reporting systems in both the government and the private sector.

Longer term measures should include accelerated research programs and an integration and internationalization of policy planning and enforcement. Although the target is to create a practical system of defense for the US food chain, new endeavors to foil terrorists also can result in a broader international system of preparedness. Lifting the siege is the first step.

---

# INTRODUCING BILL TO BRING UNIVERSAL FOUR-YEAR-OLD KINDERGARTEN TO D.C. AND NATIONWIDE

## HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
*Wednesday, March 2, 2005*

Ms. NORTON. Mr. Speaker, I am introducing today on Read Across America Day the Universal Pre-Kindergarten and Early Childhood Education Act of 2005 (Universal Pre-K) to begin the process of providing universal, public school pre-kindergarten education for every child, regardless of income. The bill is meant to fill the gaping hole in the President's No Child Left Behind law, which requires elementary and secondary school children to meet more rigorous standards while ignoring the preschool years which can best prepare them to do so. My bill would provide a breakthrough in elementary school education by taking a step at the federal level to provide initial funding and, using such funding, to encourage school districts themselves to add a grade to elementary schooling at age four as an option for every child.

I often read to kids on Read Across America Day. However, symbolic actions won't do as we blithely let the most fertile years for reading go by while we wonder why we can't teach Johnny to read. As the President presses No Child Left Behind into high schools, my bill asks him to begin at the beginning of a child's education.

The Universal Pre-K Act responds both to the huge and growing needs of parents for educational childcare and to the new science showing that a child's brain development, which sets the stage for lifelong learning, begins much earlier than previously believed. However, parents who need childcare for their pre-K age children are rarely able to afford the stimulating educational environment necessary to ensure optimal brain development. Universal Pre-K would be a part of school systems, adding a new grade for 4-year-olds similar to 5-year-old kindergarten programs now routinely available in the United States. Norton said that the bill would eliminate some of the major shortcomings of the uneven commercial day care now available and would assure qualified teachers and safe facilities.

Because of decades of refusal by Congress to approve the large sums necessary for universal health coverage, the Universal Pre-K Act encourages school districts across the United States to apply to the Department of Education for grants to establish 4-year-old kindergartens. Grants funded under Title IV of the Elementary and Secondary Education Act (ESEA) would be available to school systems which agree in turn to use the experience acquired with the federal funding provided by my bill to then move forward, where possible, to phase in 4-year old kindergartens for all children in the school district in regular classrooms with teachers equivalent to those in other grades as part of their annual school district budgets.

The success of high quality Head Start and other pre-kindergarten programs combined with new scientific evidence concerning the importance of brain development in the early years virtually mandate the expansion of early childhood education to all of our children. Traditionally, early learning programs have been available only to the affluent and to lower income families in programs such as Head Start. My bill provides a practiced way to gradually move to universal pre-school education. The goal of the Universal Pre-K Act is to bring the benefits of educational pre-K within reach of the great majority of American working poor, lower middle class, and middle class families, most of whom have been left out.

In a letter to Congress last term opposing private school vouchers, City Council Member Kathy Patterson suggested that instead of vouchers, Congress should fund a number of unfunded D.C. public school priorities, including pre-K education for all 4-year old children. She said that although universal 4-year old pre-K was a top D.C. priority, the city has been able to provide this schooling to only half of its children from local tax revenue.

Compare the cost of day care, most of it offered today with an inadequate educational emphasis, at an average cost of $6,171 per year to the cost of in-state tuition at the University of Virginia, which costs $6,785 per year. Yet, more than 60% of mothers with children under age six work. That proportion is rapidly increasing as more mothers enter the labor force, including mothers leaving welfare, who also have no long term access to child care.

Considering the staggering cost of daycare, the inaccessibility of early education, and the opportunity earlier education offers to improve a child's chances in life, four-year-old kindergarten is overdue. The absence of viable options for working families demands our immediate attention.

---

## RECOGNIZING LOIS GREENE FOR HER CONTRIBUTIONS TO THE LAS VEGAS COMMUNITY

### HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. PORTER. Mr. Speaker, it is with great pleasure that I recognize Ms. Lois Greene for the contributions she has made to the people and communities of the Las Vegas Valley.

Ms. Greene's career of 25 years in banking and finance has enabled her to be an impassioned and pure advocate for small and minority owned businesses. Her commitment to God and her faith has been the key factor in her successful advocacy for non-profit organizations and the faith-based community. Out of her devotion to her ideals, she has helped transform the Las Vegas Valley and has brought hope to the residents that live there.

Without question, her professional leadership in community development has helped Bank West of Nevada achieve and maintain an outstanding compliance rating under the Community Reinvestment Act for the past 10 years. But also as remarkable, has been her work as the "Economic Evangelist," helping lead countless men and women out of financial bondage and toward financial freedom and economic growth through her efforts to wage war on debt. As a result of her leadership, she has been recognized as a "Woman of Distinction," "The Most Influential Woman in Southern Nevada Business" and the "Minority Business Advocate of the Year."

I applaud her for her commitment to improving the lives of southern Nevadans of every age group, but more importantly of our youth. Her life story of humble and impoverished beginnings is one that transcends the color line. It serves as a remarkable example that hard work, determination, compassion and faith in God can overcome the stumbling blocks that were historically designed to oppress American minority groups. Therefore, her accomplishments are a triumph and her story is an example of success with which countless numbers of young people have found inspiration.

Mr. Speaker, in recognition of her accomplishments, I honor her today and during Women's History Month, so that our Nation will be aware of her service and commitment to helping others become self-sufficient and realize their American dream. I am proud to represent her in Nevada's Third District.

---

## HONORING JUDY GUERRA

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. BURTON of Indiana. Mr. Speaker, across America you can find people who make a difference in their community. Usually in quiet unassuming ways every day they help change the lives of people with whom they work and the neighborhoods they call home. Tonight, I rise to pay tribute to one such person, an outstanding and unforgettable woman from Indianapolis, Judy Guerra. Living by the very simple credo, "you get what you give" Judy has made such a tremendous difference in her community.

A mother of two, grandmother to seven, and a successful businesswoman, Judy truly embodies the spirit of community service and friendship that we strive to live by. Whether its sponsoring a local girls little league team, or opening her restaurants for fundraisers for the Multiple Sclerosis Society, the Children's Bureau of Indianapolis, Butler University's Armed Forces Scholarship fund or just the local Christmas food drive, if there is a need, Judy unselfishly and tirelessly gives of herself to meet the challenge headon.

Judy Guerra does not belong to St. Joan of Arc or Christ the King Church but they are the lucky beneficiaries of her generous donations. Why? Because these churches are located in her neighborhood and giving back to all sectors of the community resonates deep within this Hoosier. When senior citizens on fixed incomes visit Judy's "Just Judy's" restaurant it's not unusual for them to receive a larger than normal serving of soup or extra sandwich to accompany the friendly service with a smile. If a local family finds themselves fallen upon hard times they know their troubles can be left at the door as Judy and her daughters will welcome them with open arms and perhaps a sampling of the day's "new recipes." And what makes every small act of concern and each gesture of kindness so remarkable is that they are simply second nature to Judy, as unconscious as breathing. As her friend Maureen Cox said to me in an e-mail, "If there is a national award for generosity, Judy Guerra is our person," and I heartily agree.

Mr. Speaker, Judy Guerra is an amazing woman, an ordinary person who reaches beyond herself in every way to bring hope, and opportunity, friendship and caring to everyone around her. I am proud to call her a fellow Hoosier and privileged to honor her here today.

---

## THE SILVERY MINNOW AGREEMENT

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. UDALL of New Mexico. Mr. Speaker, water is a precious natural resource that we must manage as efficiently as possible. Benjamin Franklin wrote in Poor Richard's Almanac in 1746, "When the well is dry, we know the worth of water." In parts of the West, the well is quickly running dry.

Drought conditions have affected nearly everyone in arid Western States in one way or another. Farmers are being forced to sell livestock, many cities are in various stages of water conservation, and many acres of land have been charred by fire. I believe we must use every tool available to confront these water problems, and doing so remains one of my top priorities.

We need to come at this from many different angles since water shortages present a multitude of complications. That is why I have crafted several pieces of legislation that focus on rural communities, water technology and augmentation, and insidious plant eradication.

I believe the combined effect of those bills plus continued efforts in desalination and formation of a national water council will greatly improve the situation of dry States like New Mexico.

Last week, a historic and long overdue agreement was announced in New Mexico regarding the silvery minnow. After five and a half years of court proceedings, not to mention millions of dollars in legal costs, the City of Albuquerque and an alliance of six environmental groups announced an agreement that will help ensure the endurance of the Rio Grande. The accord signals that water conservation and ecological goals on the Rio Grande are vital.

As part of the agreement, litigants in Silvery Minnow v. Keys agreed to drop any claim on the San Juan-Chama water for minnow purposes, as well as end their protest to Albuquerque's drinking water project and diversion of San Juan-Chama water from the Rio Grande. At the same, the City of Albuquerque has agreed to significant conservation measures that acknowledge the need for water to sustain the river itself as an ecosystem.

The project has been in legal jeopardy because the Endangered Species Act and the city's agreement with the Federal Government to transfer water from the Colorado River to the Rio Grande basin also recognize an essential need to use that water for ecological purposes.

The agreement gives the city and its residents legal relief, while requiring the city to do several things to protect the Rio Grande as a living, flowing, natural system.

Mr. Speaker, I am proud that the agreement reached encompasses a central component that I advanced through legislation in 2003. I introduced the Middle Rio Grande Emergency Water Supply Stabilization Act in an effort to find a common-sense approach to sustainable water management in New Mexico. I knew then that the "solutions" being bandied about were little more than quick-fix answers that would not solve our real water crisis.

My bill dealt with these realities and many other crucial issues. It set up incentives to conserve our water resources and develop collaborative solutions at the local level. It aimed to restore and protect the Rio Grande River and the surrounding Bosque, and encouraged technological solutions for new sources of water and methods to harness such technology to increase water efficiency.

My bill paved the way for the creation of a conservation pool of water to support a living river. This was a very different approach than advanced by others. The Albuquerque City Council and a host of other entities, including conservation groups, farmers, the New Mexico Conference of Churches, and AARP New Mexico endorsed my legislation.

I am pleased that the accord reached by the city and the environmental groups includes my provision. Indeed, for the first time on the Rio Grande space will be allocated in the city's Abiquiu reservoir for water that will be dedicated to environmental purposes, including sustaining endangered species such as the Rio Grande silvery minnow. Under the deal, Albuquerque has committed to provide 30,000 acre-feet of storage space for exclusively environmental purposes.

In addition, the city committed to help fund a $250,000 pilot water leasing program that would pursue agricultural water for environmental purposes, and change its water billing system to allow residents to add $1 per month to their bills to fund environmental water acquisition for the Rio Grande.

While the agreement is welcome, our work is just beginning. The White House's 2006 budget requests $19 million in Bureau of Reclamation funds for the Middle Rio Grande Project. That represents a $10.2 million cut over current spending. At least $4 million would be cut from funds available for activities to maintain compliance with the Endangered Species Act.

In 2003, the Department of the Interior developed a 10-year plan to ensure a manageable balance between endangered species and water use in the Middle Rio Grande. Implementation of that plan, by the department's own estimates, will exceed $230 million. Yet, over the last three years, the Bush administration has only proposed investing $19.4 million.

Making matters worse, the fiscal year 2006 Fish & Wildlife Service budget calls for eliminating $542,000 in funding for the Middle Rio Grande Bosque initiative, labeling it a "lower priority project."

Without support from the Bush administration, it will be more and more difficult to maintain the balance that is desperately needed. I will again do everything I can to see that these disastrous reductions are reversed.

Mr. Speaker, to be a conservationist is to be an optimist. While I wanted all of the stakeholders to reach this agreement much sooner, I am glad that consensus has finally been achieved. It represents a significant step toward a fundamental change in how New Mexico and other Western States think about and manage crucial and limited water resources. As we approach similar confrontations in the coming years, I believe that we can use this historic pact as proof that seemingly divergent parties can reach a mutually acceptable and beneficial agreement.

* * *

## IN HONOR AND REMEMBRANCE OF ROBERT C. "BUDDY" BENSON

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of my dear friend, Robert C. "Buddy" Benson, loving husband, father, grandfather, great-grandfather, civic activist, community leader, humanitarian, United States Veteran, and dear friend and mentor to many. His passing marks a great loss for his family and friends, and also marks a great loss for everyone whose life was touched by his own.

Grounded and humble, Mr. Benson was the quintessential "everyman," yet his seemingly ordinary life belied his extraordinary heart and generous spirit. He would stop whatever he was doing to offer a helping hand. On countless occasions, regardless of the weather, he would stop his car to help stranded motorists. Mr. Benson was a hero to the downtrodden, and consistently reached out to offer assistance to those who struggled in life, leaving a life-long legacy of endless acts of kindness offered to friends and strangers alike.

Dolores Benson, Mr. Benson's beloved wife of 58 years, their seven children, eleven grandchildren and two great-grandchildren were central to his life. The united focus on family and service to others, shared by Mr. and Mrs. Benson, continues to illuminate the hope and promise of a better day for every citizen of this working-class community, from Seven Hills to Parma.

Mr. Benson retired from LTV Steel following 40 years of diligent and honorable work as a millwright. His friendly nature, quick wit and caring heart drew others to him, and he made friends easily. Concerned with the welfare of fellow workers and their families, Mr. Benson became actively involved in the steelworkers union. He held the position of treasurer with the United Steelworkers Local 2265 for 7 years, and served as their Chairman of the Compensation Committee for 35 years.

His life-long interest in politics and strong faith in the notion that "together, we can make a difference," served to enrich our community's Democratic Party. Mr. Benson served as the president of the Seven Hills Democratic Club from 1983 to 1999, and led the effort in organizing several political campaigns. His humble nature precluded him from reveling in awards and accolades. However, his compassionate service to others was often recognized. In 1994, the Seven Hills Democratic Club named him "Democrat of the Year." He was the recipient of citations from the Ohio House of Representatives and the Ohio Senate Committee, which highlighted his humanitarian efforts.

Mr. Benson's faith was anchored by his church, St. Anthony of Padua, where he was also a founding member. He volunteered on many community boards, including Pius X Council, VFW Post 1973, CAMEO, Southwest COPE, (AFL–CIO), and the Finance Committee of St. Anthony's.

Mr. Benson's greatest legacy is reflected in the lives of his family and friends; within the peaceful calm of St. Anthony's Church; within the energy of the Seven Hills Democratic Party, along the halls of Parma City Hall, and within the hearts of everyone whose life was touched by his.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Robert C. "Buddy" Benson. The infinite measure of his heart, his courage, vision and integrity, defined his life and served to lift the lives of countless individuals and families throughout our west side suburbs. Mr. Benson's kindness, energy and compassion will be greatly missed within the hearts of his many friends, including my own. I extend my deepest condolences to his beloved wife, Dolores; His children, Robert, Jacqueline, Patrick, Mary, Elizabeth, Denis and Christine; His grandchildren, Gina, Kimberly, Bryan, Colleen, Robert, Michael, Christopher, Lauren, Christopher, Stephanie and Nicholas; His great-grand daughters, Callie and Allison.

Robert C. "Buddy" Benson lived his life with joy, energy and in unwavering service to others. His eternal faith in humanity and his consistent willingness to give of himself, while asking for nothing in return, will continue to serve as a powerful legacy of hope and possibility throughout our entire community, and his kindness and service will forever live within the hearts of all who knew and loved him well.

* * *

## PERSONAL EXPLANATION

### HON. CHARLIE MELANCON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. MELANCON. Mr. Speaker, on rollcall No. 41, had I been present, I would have voted "yes."

* * *

## IN HONOR AND REMEMBRANCE OF DAVID J. O'REILLY

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of David J. O'Reilly, devoted husband, father, brother, uncle, friend, and dedicated public servant. Mr. O'Reilly's commitment to the safety of Cleveland residents and concern for those less fortunate, defined his tenure of nearly two decades of outstanding public service as a police officer in Cleveland's 4th District.

Mr. O'Reilly, a life-long Clevelander, graduated from Benedictine High School. Throughout his entire adult life, Mr. O'Reilly remained committed to the welfare of his Slavic Village neighborhood. Affectionately known as the "Mayor of Fleet Avenue," Mr. O'Reilly was a role model to neighborhood kids, and was a friend to our most fragile citizens, our homeless. Mr. O'Reilly's bravery and strength as a police officer was equaled by his kind and generous heart. He consistently provided a hot meal or kind word to a person or family in need.

Mr. O'Reilly treated everyone with dignity and respect, regardless of their social status. He was just as comfortable in sharing a conversation with an elected official as he was in sharing lunch with a homeless man. His expansive heart and concern for others extended beyond the 4th District. He volunteered throughout the community, teaching community safety to neighborhood groups, and he also held leadership positions on the boards of many community organizations, including the Holy Name Society, St. Michael Hospital Community Board, and the Cleveland Police Patrolmen's Association.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mr. David J O'Reilly. As a police officer, Mr. O'Reilly dedicated his professional life to the safety of his officers, and the safety of the entire Slavic Village community. I extend my deepest condolences to his beloved wife, Denise; his beloved daughter, Rebecca; his beloved son, James; and also to his extended family and many friends. His courage and kindness will live on forever within the hearts and memories of his family, friends, and the public he so faithfully served.

---

## "JACKIE ROBINSON'S TRYOUT WITH THE BOSTON RED SOX, APRIL 1945"

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. FRANK of Massachusetts. Mr. Speaker, this week the U.S. Congress is honoring one of the true giants of sports history, Jackie Robinson.

There is a little-known chapter in Mr. Robinson's career that is chronicled in the attached narrative. That chapter details an act of courage and creativity in the political life of Boston by Isadore Muchnick, a Boston City Councillor who served in the 1940s in the city. He deserves recognition for his achievement in obtaining a tryout for Jackie Robinson with the Boston Red Sox.

It also puts in context the courage and determination that Jackie Robinson displayed throughout his long and illustrious career in baseball.

It is a privilege for me to place this excerpted chapter, from the book "Shut Out: A Story of Race and Baseball in Boston" by Howard Bryant, into the RECORD.

JACKIE ROBINSON'S TRYOUT WITH THE BOSTON RED SOX, APRIL 1945, EXCERPTED FROM "SHUT OUT: A STORY OF RACE AND BASEBALL IN BOSTON," BY HOWARD BRYANT

Virtually everything about Boston baseball is conditional. What would have happened if . . .

So who knew that on April 16, 1945, the Red Sox would once more approach history's intersection? With FDR on his deathbed and World War II winding down, fate and the last vestige of a city's social conscience conspired and put the Red Sox in a historic position.

At the end of World War II, the question of black rights in America was again relevant. Asking black soldiers to fight and die for the liberty denied them at home created renewed dialogue.

Now, baseball found itself at the center of the argument. Black soldiers could not die on the battlefield and still be prohibited from playing center field in the major leagues.

Segregation was an unbreakable rule. That blacks played in separate leagues was a practice that went largely unquestioned. When debate was stirred, either from a relentless black press or from the few mainstream white reporters who made integration a cause, there was always a reason why the time was not prudent for the majors to open their doors to blacks. The only groups that were truly vociferous in their appeals stood on the fringes of the mainstream.

But during the latter half of 1944 and in the early months of 1945, Eddie Collins was uncomfortable. He was the vice president and general manager of the Red Sox and was now being pressured by Isadore Muchnick, a liberal Jewish city councilor, who demanded the Red Sox begin offering some form of talent evaluation of black players.

It was a threatening concept. Baseball prohibited black players from the major leagues in 1884, and no serious challenges to that authority had arisen. The desire to keep blacks out of the major leagues existed in great degree from the players all the way to the commissioner's office.

Shunned, blacks created their own leagues, and the races played the same game on patently uneven tracks. To some, the very existence of the Negro leagues was proof that blacks didn't care to play in the big leagues.

Yet here was an emboldened Muchnick, potentially unsettling the balance. For emphasis, he approached Collins with a hammer. In those days in Boston, a permit was required to play baseball on Sundays. The city council required a unanimous vote for the permit to be granted. Muchnick told Collins he would withhold his vote unless the Red Sox agreed to sponsor a tryout for black players, a potentially crippling financial blow.

This was a new pressure. Led by Muchnick's threat and with consistent commentary in the black press (and to a lesser degree the mainstream), integration advocates pushed baseball as they hadn't before the war.

Dave Egan from the Boston Record pushed in his column for the Red Sox or the Braves to be consistent with the Boston pedigree and lead the major leagues into a new, integrated era.

Wendell Smith, columnist from the black weekly Pittsburgh Courier, joined Egan in challenging Collins as well as other general managers across the league to offer tryouts to black players. Sam Lacy of the Baltimore Afro-American had vainly tried to push for integration in 1939. In 1945, Lacy and Collins began corresponding about integration.

It was, however, Muchnick's voice and clout that turned a cadre of disparate voices into something of a movement. Mabray "Doc" Kountze, perhaps the preeminent black reporter in Boston, referred to Muchnick as a "white modern abolitionist."

Muchnick was the first person in the modern era to pressure baseball's power structure and come away with a tangible result. The Boston Red Sox would be the first team in the twentieth century to hold a tryout for black players.

"I cannot understand," Muchnick wrote to Collins in late 1944, "how baseball, which claims to be the national sport and which . . . receives special favors and dispensation from the Federal Government because of alleged moral value can continue a pre-Civil War attitude toward American citizens because of the color of their skins." What Collins did next was a clear reflection of both the unassailable mindset of baseball as well as the arrogance of the Red Sox.

"As I wrote to one of your fellow councilors last April," Collins replied to Muchnick in a letter, "I have been connected with the Red Sox for twelve years and during that time we have never had a single request for a tryout by a colored applicant. It is beyond my understanding how anyone could insinuate or believe that all ball players, regardless of race, color or creed have not been treated in the American way so far as having an equal opportunity to play for the Red Sox."

Collins' cordial inaction insulted Muchnick, who pressed further. Collins had no intention of even granting the tryout, but he had badly underestimated Muchnick's tenacity. Collins was used to being in a position of strength when he dealt with baseball issues, but it was clear that he couldn't say a few positive, encouraging words to rid himself of Isadore Muchnick, a man who was determined to see tangible progress. When he received no satisfaction from their written correspondence in 1944, Muchnick alerted Collins to his intention to block the Red Sox from playing baseball on Sundays. It was a potentially crippling blow. In the 1940s, baseball clubs were almost completely dependent upon gate receipts as a revenue source. To infringe on that would surely get the attention of any baseball owner.

Jackie Robinson was fatalistic about the tryout. He didn't believe the Red Sox were serious about integration and wasn't especially thrilled about his own situation. He had only played for the Negro League's Kansas City Monarchs for a few weeks and was already disappointed by the league's air of gambling and disorganization.

When Robinson arrived in Boston, the tryout was delayed for two more days in the wake of Franklin Roosevelt's death.

[It] finally took place at Fenway Park at eleven on the morning of April 16, 1945. Two above-average Negro leaguers, Sam Jethroe and Marvin Williams, joined Jackie Robinson. The players fielded, threw, and took batting practice. [Manager Joe] Cronin sat, according to one account, "stone-faced." Another depicted Cronin barely watching at all. Muchnick marveled at the hitting ability of Robinson, whose mood apparently darkened. Joe Cashman of the Boston Record sat with Cronin that day and reported that the manager was impressed with Robinson. He wrote cryptically, with virtually little comprehension, that he could have been witnessing a historic moment. "Before departing, Joe and his coaches spent some 90 minutes in the stands at Fenway surveying three Negro candidates. Why they came from such distant spots to work out for the Red Sox was not learned."

Robinson himself was satisfied with his performance, although by the time he left Fenway he was smoldering about what he felt to be a humiliating charade. As the three players departed, Eddie Collins told them they would hear from the Red Sox in the near future. None of them ever heard from the Red Sox again.

Eighteen months later, the Dodgers signed Robinson, who would begin a legendary career a year and half later. Jethroe, at age thirty-three, integrated Boston pro baseball with the Braves in 1950 and would become the National League Rookie of the Year. Williams would stay in the Negro leagues, never again coming so close to the majors.

The remaining details of that morning are completely speculative. Robinson never spoke in real detail about the tryout. Joe Cronin never offered a complete account about the tryout except to say that he remembered that it occurred, although he and Robinson would never speak.

Thirty-four years later, Cronin explained the Red Sox position as well as the game's:

"I remember the tryout very well. But after it, we told them our only farm club available was in Louisville, Kentucky, and we didn't think they'd be interested in going there because of the racial feelings at the time. Besides, this was after the season had started and we didn't sign players off tryouts in those days to play in the big leagues. I was in no position to offer them a job. The general manager did the hiring and there was an unwritten rule at that time against hiring black players. I was just the manager.

"It was a great mistake by us. He [Robinson] turned out to be a great player. But no feeling existed about it. We just accepted things the way they were. I recall talking to some players and they felt that they didn't want us to break up their league. We all thought because of the times, it was good to have separate leagues."

Clif Keane would give the day its historical significance. A reporter for the Globe, Keane said he heard a person yell from the stands during the tryout. The words—"Get those niggers off the field"—were never attributed to one person, but they have haunted the Red Sox . . . Numerous Red Sox officials have been credited with the taunt, if it was ever said at all.

What cannot be disputed about the events of that April day are the final results and the consequences that followed. It was an episode from which the reputation and perception of the franchise have never recovered.

"I still remember how I hit the ball that day, good to all fields," Robinson later said. "What happened? Nothing!"

Thus the tryout ended bitterly for Jackie Robinson. But that evening, he accepted a dinner invitation at 9 Powelton Road in Dorchester. It was the home of Ann and Isadore Muchnick, the city councilor who pressured Eddie Collins and arranged the Boston tryout. Why young Robinson, who was 26 at the time, would be invited to dinner made perfect sense to Ann Muchnick. Fifty years later, she would recall the reason with a warm smile. "Because no one else asked him."

Isadore Harry Yaver Muchnick was born on January 11, 1908, in Boston's West End, on a residential neighborhood that no longer exists. There existed among the four children of Joseph and Fannie Muchnick strong beliefs in justice, fairness, competition, accomplishment, and the power of education. All four children of these Russian Jewish immigrants would attend college. Izzy received the first double promotion at the renowned Boston Latin School since Benjamin Franklin. He played goal in college hockey and lacrosse, lettering in lacrosse for Harvard in 1928.

Activism was a trademark for Izzy Muchnick from almost the very beginning. [H]e and his wife Ann were active in HIAS, the Hebrew Immigrants in America Society, and Hadassah, the women's Zionist organization, as well as numerous other Jewish organizations in Boston.

Izzy Muchnick commanded a principled, homespun rhetoric and possessed a natural political sense that would serve him well throughout his life. He taught his children lessons laced with humor, always containing morals of family and simple decency.

Being Jewish in 1940s America carried a considerable weight of prejudice, but Muchnick possessed a skill and integrity that led him to be respected by both the Irish, who controlled city government, and the entrenched Yankees, who dominated Boston's cultural, legal, and financial world. He did this without becoming an outcast from his own community, and such a balance required real political skill.

Muchnick graduated from Harvard College in 1928 and from Harvard Law in 1932. The Yankee law firms that wanted [to hire] him also wanted something else in return for their lucrative offers: A name change. "Muchnick" was too ethnic, too Jewish. It wasn't a request that Muchnick was asked to think over. That was a condition of employment. Muchnick responded by opening up his own law firm.

If there existed in Isadore Muchnick the indignant streak of a person straddling two entrenched worlds, it was in the political realm where he felt he could best remedy injustices. [A]fter being elected to the city council in 1941, Muchnick found himself in constant opposition to the majority. He fought for equal pay for women in the city's patronage jobs and supported a redistricting of the city's schools that would have created some integration of public schools long before the eruptions of the 1970s. He was a classic East Coast liberal.

There was something about Muchnick, something both admirable and self-destructive about his unfailing adherence to his principles. Both of his children would marvel at the number of times their father would align with the underdog. In her personal papers, his wife Ann would note how much her husband gave of himself, often at the expense of more lucrative prospects. He consistently found himself on the minority side of issues.

Perhaps even had he wanted to opt for safer ground, his personal convictions wouldn't allow it. In this regard he found kinship with the uncompromising Robinson.

The duplicity of baseball angered Izzy Muchnick. He was a Red Sox fan, but the game's contradictions conflicted with his worldview. If it was the game that was supposed to represent the goodness of America, the ultimate arena of fairness, how could it be staunchly segregated? How, he wondered, could this impregnable line of segregation—which baseball maintained did not exist—go unchallenged for so long? Blacks were relegated to the inferior Negro leagues, went the baseball rhetoric, because they liked it there.

Perhaps even more than the game's obvious contradictions, it offended Muchnick that its government-endowed protection against competition and uncontested national standing produced in team owners a certain kind of arrogance. Their dance around integration was especially off-putting to a man of his credentials. No law prohibiting black players existed in the league's charter, although no team had fielded a black player since 1884.

For a man for whom standing on the right side of an issue was an absolute must, history would not be kind to Isadore Muchnick.

[H]is reputation, in fact, would be destroyed by one [myth] that would be repeated so often that it became fact. Instead of being known as the first politician to use his clout courageously and confront a resistant power structure, Muchnick emerged as something worse than forgotten, as the opportunistic, oily politician who sought to exploit both Robinson and the black struggle for civil rights.

Al Hirshberg, one of the first Jewish sportswriters in Boston, wrote in his 1973 book What's the Matter with the Red Sox? that Wendell Smith was the architect behind the tryout and that Muchnick saw a solution to a precarious political future:

"Wendell Smith, a television news announcer in Chicago before his death, had been fighting the color line for years as sports editor of a Negro newspaper in Pittsburgh. Because of a quirk in Boston's Sunday baseball law, he saw a chance to force one of the Boston clubs to give black players a tryout in the spring of 1945.

"At the time, although Boston had had Sunday baseball for some years, the law Smith found was that it had to be voted on unanimously for renewal every year by the Boston City Council. One of the council members, Isadore H.Y. Muchnick, represented Roxbury, originally a Jewish stronghold but becoming predominately black. Smith suggested to Muchnick that he could insure a big black vote in his district by withholding his vote for Sunday baseball until one of the two ball clubs tried out a few black players."

In Baseball's Great Experiment: Jackie Robinson and His Legacy, Jules Tygiel wrote that in Boston, "The Red Sox and Braves found themselves in a curious position as they prepared to start the new season. The city council, under the leadership of Isadore Muchnick, a white politician representing a predominately black district, was pressuring the two teams to employ blacks."

Arnold Rampersad's thorough Jackie Robinson: A Biography stated, "behind the tryout was the action of a Boston city councilman and Harvard College graduate Isadore H.Y. Muchnick. In 1944, seeing his constituency change steadily from mainly Jewish to mainly black, Muchnick joined the ragtag band of critics fighting Jim Crow in baseball."

These historical accounts were not only inaccurate but were also a reflection of the crudity of the conventional thinking. The only reason Muchnick would become involved, so went the thinking, was to win a political prize. In the eyes of his children, it was not an innocent journalistic mistake that snowballed. Rather, the result, thought Fran Goldstein, was the permanent besmirching of her father's name. Muchnick was accused of acting to ingratiate himself to a new black constituency, but in 1940, Izzy Muchnick's Mattapan district was 99.69 percent white. In 1950, it was 99 percent white. During that year, 439 nonwhites lived among the district's 51,170 residents. In two of his elections, Muchnick ran unopposed. In short, there was no black vote for Muchnick to exploit, nor was there during the 1940s any difficult election year for him. It wasn't until the middle to late 1960s, after Muchnick was dead, that his old district turned from Jewish to black, which occurred long after Muchnick traded bitter letters with Eddie Collins. Hirshberg once apologized to Muchnick's son David for the error.

Outside of his personal commitment to fairness, Izzy Muchnick had no political motive to act on behalf of blacks. There weren't yet many blacks to work for in the first place.

How Muchnick's name was not only omitted from the Robinson tryout but was also subsequently brutalized in the retellings of the event is open to troubling interpretations.

The truth, however, is that the first American politician to disrupt the idea of segregated baseball and emerge with a result was Isadore Muchnick, the former Hebrew School teacher who could have made a fortune in a Yankee law firm had he only changed his name.

Muchnick pressured the Red Sox to integrate because he was the rare person who—like Robinson—often placed principle in front of political or personal pragmatism.

Glenn Stout, who along with Dick Johnson would write the most complete book ever on the history of the Red Sox franchise, never believed that Muchnick approached the Red Sox with the intention of receiving anything.

"It's much more the opposite. Looking at what he did I'm sure was not very popular. Otherwise, he wouldn't have been the only one hanging out there. You could say that what he did was political suicide."

What did emerge after the failed tryout of 1945 was a legitimate friendship between Jackie Robinson and the Muchnick family. When Robinson was signed by the Dodgers, Muchnick wrote him a letter that read in part, "My congratulations and best wishes to you on your well-deserved promotion to the Brooklyn Dodgers! Since the day when you first came here with Wendell Smith of The Pittsburgh Courier and I arranged for you and two other boys to get a tryout with the Boston Red Sox, I have naturally followed your career with great interest. I have every confidence you will make the grade."

The Muchnick house became a regular stop for Robinson when the Dodgers came to town to play the Boston Braves. After Robinson retired, he sent Muchnick a copy of his autobiography with journalist Carl Rowan with the inscription, "To my friend Isadore Muchnick with sincere appreciation for all you meant to my baseball career. I hope you enjoy 'Wait Til Next Year.' Much of it was inspired by your attitudes and beliefs."

Izzy and Jackie remained in frequent contact over the years. Robinson and one of his sons came to Boston at Muchnick's invitation to speak at a father-and-son breakfast at Muchnick's synagogue. The two men engaged in heated debate about the 1960 presidential election. Muchnick was a lifelong Democrat, and Robinson, in a move he would later regret, backed Nixon.

There was a clear spiritual connection between Robinson and Muchnick. Robinson, battered and weary from the fight, died too young of a heart attack in 1972. He was only fifty-three years old. Isadore Muchnick died nine years earlier, in 1963, but he was just as young, fifty-five at the time. His will to live, David Muchnick believed, was enormous. Over his final five years, Muchnick suffered seven heart attacks. On a rainy night in 1957, Muchnick received a frantic call at 5 A.M. from a former city councilor's wife. Her husband had gone out drinking and had not come home that night. Muchnick crawled out of bed and went out into the drizzly Boston night to look for his old colleague. At 9 A.M., Ann Muchnick received a phone call of her own. Izzy had suffered a major heart attack and had been rushed to Massachusetts General Hospital, which sits in Boston's old West End near Izzy Muchnick's boyhood home.

It was Muchnick who used his influence to push the door open, to force the Red Sox and baseball to publicly face itself. Even if Joe Cronin and Eddie Collins weren't paying attention, Branch Rickey most certainly was. Slowly, the landscape began to change.

In 1998, Ann Muchnick died. She was eighty-nine. In prior years, the daughter asked for family information and the mother obliged with poignant recollections. She wrote that her husband "was a wonderful man . . . helped so many, so many abused his help, took advantage of him. I could name dozens, but better forgotten." They also spoke of Jackie Robinson not as the man spurned by the Red Sox, but as their friend.

"It was the Red Sox's loss," Ann Muchnick said of the whole tryout affair. "It wasn't his loss. Look at the career he had. He lost nothing. It was the Red Sox who lost everything."

In Robinson's autobiography with Carl Rowan lay another tribute to Muchnick. "Without the pushers and the crusaders, the waiters wait in vain; without people like Damon Runyon, and Branch Rickey, Wendell Smith and Isadore Muchnick, Jackie and the Negro might still be waiting for their hour in organized baseball."

In the end, the Robinson tryout failed because the Boston Red Sox were reticent from the outset. Led by Eddie Collins, the club had no real intention of acting beyond that April morning or as history would show for more than a decade thereafter. Within the organization, there was no guiding force, no catalyst with the vision to make integration a reality, and in years to come this would become the critical characteristic of the Boston Red Sox regarding race. Had there been a central figure in Boston, a Branch Rickey or even a Gussie Busch, who provided some form of vision, the Red Sox script would indeed have been different. It is more than a little damning that the months before the tryout and even after, it was Collins who represented the club and not Tom Yawkey, who stood invisible. At a time when the Red Sox stood at the precipice of baseball history, the team's owner lay deep in the background. Tom Yawkey was the only figure in the organization with the power to act boldly, and whether or not he harbored a personal dislike for blacks is secondary to his silence. That silence, in effect, would become a closing indictment. No different than the curved maze of streets in its city, the Red Sox lacked a clear-cut moral direction on race; against this, the combined pioneering spirit of Isadore Muchnick and Jackie Robinson never stood a chance.

---

## IN HONOR AND REMEMBRANCE OF SERGEANT MICHAEL FINKE, JR.

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of United States Marine Corps Sergeant Michael Finke, Jr., who courageously and selflessly rose to the call to duty and made the ultimate sacrifice on behalf of our country.

Sergeant Finke was an exceptional United States Marine and was an equally exceptional human being. His life was characterized by his unwavering sense of duty and commitment to our nation, and above all, his life reflected a deep dedication to, and steadfast focus on his family—his beloved wife Heather, his parents, sisters, brother, grandparents and many friends.

Sergeant Finke grew up in Medina, and shortly after high school graduation, he fulfilled his childhood dream by enlisting in the Marines. His eleven years of service was framed by honor, bravery and duty. Throughout his military journey, Sergeant Finke carried with him a strong foundation of faith, family and community. He quickly ascended through the ranks, and attained the title of Sergeant. His strong intellect and solid sense of integrity evenly matched his exceptional sense of humor and kindness toward others. Sergeant Finke's entire life—civilian and military, reflected his generous heart and sincere concern for the welfare of others. He often and easily offered his assistance to anyone in need, asking for nothing in return.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Sergeant Michael Finke, Jr., whose heroic actions, commitment and bravery will be remembered always. I extend my deepest condolences to the family of Sergeant Finke—his beloved wife Heather; his beloved parents, Sally and Michael Sr.; his beloved stepparents Geoffrey and Nadine; his beloved sisters and brother, Trisha, Tonia and Tim; his beloved grandparents, Wayne Finke and Donna Thompson; and his extended family and friends.

The significant honor, sacrifice, service, and courage that defined the life of Sergeant Michael Finke, Jr., will be forever honored and remembered by the entire Cleveland community and the entire nation. And within the hearts of his family and friends, the bonds of love and memories created in life by Sergeant Finke will never be broken, and will live on for all time.

---

## INTRODUCTION OF A RESOLUTION TO ALLOW HOUSE TO OBTAIN CRITICAL INFORMATION ON OUR NATION'S SINGLE EMPLOYER PENSION PLANS

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. GEORGE MILLER of California. I rise to introduce a resolution for the purpose of allowing the House to obtain critical information about the financial status of our nation's single employer pension plans. Current law requires this valuable information about pension plans to be kept secret. This is wrong. Employees and investors should know all the facts. Employees should be fully informed about financial health of their own plan, and use that information as part of their overall retirement planning. The President says he supports making the information public. I have introduced legislation making this information public. I hope Congress will act on this proposal when we take up pension legislation later this year.

For now, Congress should be fully aware of the financial health of the nation's top pension plans as it debates ways to strengthen defined benefit pension plans. This resolution will insure we get the data to make informed decisions. Recently, the GAO put the Pension Benefits Guaranty Corporation, PBGC, on its "watch list" for the second time in a row. The PBGC recently reported a $23 billion deficit for last year. Overall, PBGC reports that private pension plans are underfunded by some $450 billion, the largest amount in history. The Bush administration recently proposed hiking pension plan insurance premiums by $15 billion over the next 5 years, and proposes billions of dollars in accelerated pension contributions. And yet, we are being asked to consider such a proposal without current and accurate information about any individual company's funding status. This resolution requests the administration to provide us this information within 14 days, while protecting any proprietary information related to the sponsoring company.

## IN HONOR OF DR. DONALD P. BARICH

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Dr. Donald P. Barich, upon the occasion of his retirement after 40 years as a beloved pediatrician within our community. His exceptional expertise and compassionate care of children, from newborn through late teen, has enhanced the well-being of thousands of families throughout our Westside community.

After receiving his Doctor of Medicine from the University of Illinois College of Medicine in 1965, Dr. Barich came to Cleveland Metropolitan Hospital to complete his internship and residency. Beyond his pediatric practice, Dr. Barich was on the frontlines of cutting edge medical research. His respected work has been highlighted by the American Academy of Pediatrics, National and Ohio Chapters; The Cleveland Academy of Medicine; the Case Western Reserve School of Medicine; and the Northern Ohio Pediatric Society. As a Clinical Professor of Pediatrics, Dr. Barich shared his expertise with students at Case Western Reserve University, University Hospitals, Metro Hospital, Southwest General Hospital, Parma Hospital, and Children's Hospital and Medical Center of Akron.

To this day, Dr. Barich continues his vital instruction as Professor of Pediatrics at Case Western University, University Hospitals, Parma Hospital and Southwest General Hospital. The outstanding service and care for every child and every nervous parent has not gone unnoticed. Dr. Barich has been honored on several occasions for his outstanding work as a pediatrician, and was also honored for his service to our country. In 1970, Dr. Barich was awarded the Meritorious Service Award by the United States Air Force at McClellan Air Force Base in California. He has been listed as one of the "Top Docs in Cleveland" for eight years running by Cleveland Magazine.

Mr. Speaker and Colleagues, please join me in honor and recognition of Dr. Donald P. Barich. Dr. Barich's contributions to pediatric medicine throughout our community are immeasurable. Moreover, his pediatric practice is a lasting legacy and reflection of the man himself—compassionate, patient and kind—and his gifted mind and expansive heart served to heal more than broken bones. Dr. Barich's care offered peace and comfort to an anxious child or worried parent, and his work at Pediatric Services, Inc. will be remembered for generations to come.

## IN HONOR AND REMEMBRANCE OF CORPORAL TIMOTHY A. KNIGHT

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of U.S. Marine Corps Corporal Timothy A. Knight, who courageously and selflessly rose to the call to duty and made the ultimate sacrifice on behalf of our country.

Corporal Knight was an exceptional U.S. soldier and was an equally exceptional human being. His life was characterized by his unwavering sense of duty and commitment to our nation, and above all, his life reflected a deep dedication to, and steadfast focus on his family—his beloved wife Gina and beloved daughter, Chloe.

A native of Brooklyn, Corporal Knight graduated from Brooklyn High School. Following graduation, he enlisted in the service, and planned on a career in law enforcement after his military duty was completed. Throughout his journey in the military, Corporal Knight carried with him a strong foundation of faith,family and community. He quickly ascended through the ranks, and attained the title of Corporal. Corporal Knight's strong intellect and solid sense of integrity evenly matched his sense of duty and kindness toward others. Moreover, Corporal Knight's life reflected his generous heart and sincere concern for the welfare of others. He often and easily offered his assistance to anyone in need, without regard to his own sacrifice.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Corporal Timothy A. Knight, whose heroic actions, commitment and bravery will be remembered always. I extend my deepest condolences to the family of Corporal Knight—his beloved wife and high school sweetheart, Gina M. Knight; his beloved baby daughter, Chloe; his beloved parents, W.C. Arrowood and Jeanne Knight; his beloved sisters and brothers, Karen, Michael, Samantha, David, Melanie, Sabrina and Brian; his beloved mother and father-in-law, Jackie Collins and Dean Delligatti; and his many extended family members and friends.

The significant sacrifice, service, and courage that defined the life of Corporal Timothy A. Knight will be forever honored and remembered by the entire Cleveland community, and the entire nation. And within the hearts of his family and friends, especially Gina and Chloe, the bonds of love and memories created in life by Corporal Knight will never be broken, and will live on for all time.

## RECOGNIZING THE PEACE CORPS VOLUNTEERS FROM OREGON'S THIRD DISTRICT

### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. BLUMENAUER. Mr. Speaker, President Kennedy, speaking 44 years ago at the establishment of the Peace Corps, remarked that, "The initial reactions to the Peace Corps proposal are convincing proof that we have, in this country, an immense reservoir of such men and women—anxious to sacrifice their energies and time and toil to the cause of world peace and human progress." What was true in 1961 is true today; Peace Corps Volunteers are an outstanding group of men and women serving the cause of people everywhere.

During this National Peace Corps Week, I want to honor the service and commitment of the Peace Corps Volunteers from Oregon's 3rd Congressional District and express my pride in my fellow Oregonians who have chosen to devote years of their lives in service to others.

In particular, I want to recognize those Peace Corps Volunteers currently serving:

Adela Ardelean in Romania
McKean Banzer-Lausberg in Morocco
Melissa Barber in Mali
Danae Bayley in Kenya
Elizabeth Decker in Azerbaijan
Amad Dorotaj in Mexico
Jeannine Ferguson in Romania
Crista Gardner in Guatemala
Kortney Garrison in Suriname
Christian Gervasi in Azerbaijan
Marisa Heman in Cameroon
Shannon Lawler in El Salvador
Ken Meisel in Tanzania
Brett Meyer in Mali
Angela Newman in Kenya
Cory Owens in Senegal
Joshua Owens in Senegal
Elizabeth Peterson in Cameroon
Andrew Poundstone in Suriname
Kimberly Schneider in Burkina Faso
Amber Schulz in Romania
Hanna Seyl in Malawi
Cory Seig in Namibia
Adrianne Stach in Tanzania
Rebecca Tweed in Vanuatu
Joel Van Allen in East Timor
Jennifer Vomaske in Kenya
Luke White in Nicaragua
Eric Wiley in Bulgaria
Lucille Wilkinson in Guatemala

Brenda Wolsey in Albania
Corinne Wong in Gambia
Marta Young in Peru

Their work to empower people and communities in developing countries is a crucial contribution to creating a safe and prosperous world, building bridges between America and the world, and establishing a better future for people everywhere.

## IN HONOR AND REMEMBRANCE OF JOHN RAITT

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of John Raitt, beloved father, husband, and internationally known stage and cinema artist, whose incredible baritone voice, passion for life and handsome presence transformed the darkened stage into a place that sparked with enchantment, energy and possibility.

Growing up in southern California, Mr. Raitt's deep, harmonious melodies captivated audiences in local venues, from church halls to community clubs, His rising star took flight in 1940, marking his professional debut as a chorus singer in "HMS Pinafore" with the Los Angeles Civic Light Opera. Although he had little operatic training, his voice was as inspiring and powerful as an operatic master. Even his auditions were riveting, as he rendered musical geniuses such as Richard Rodgers and Oscar Hammerstein speechless and inspired.

From premier roles in award-winning theatrical productions such as "Oklahoma!," "Carousel," and "Magdalena," to significant roles in major films such as "The Pajama Game," Mr. Raitt won the hearts of theater goers and critics alike. His love of music and his dedication to his audience never faded, nor did his personal and professional convictions. Mr. Raitt was a man of unwavering strength, kindness and integrity, and he offered everyone and every audience the same enthusiasm, energy and respect—whether playing in a small church hall or performing on a Broadway stage.

Mr. Speaker and Colleagues, please join me in honor and remembrance of John Raitt, whose gift of song and kind heart is a legacy that will rise forever in the hearts of his family and friends, and within the hearts of every person who heard him sing. I offer my deepest condolences to his wife Rosemary; to his daughter Bonnie; to his sons, Steven and David; and to his many extended family members and friends. The gracious and joyous life of John Raitt will forever light our American musical landscape, and his invaluable gifts, reflected through song, stage and family, will be coveted for all time.

## TRIBUTE TO DERBY, CONNECTICUT'S CUB SCOUT PACK 3 AS THEY CELEBRATE THEIR 75TH ANNIVERSARY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Ms. DELAURO. Mr. Speaker, it gives me great pleasure to rise today to join the many alumni, families, and community members who have gathered today to celebrate the 75th anniversary of Derby, Connecticut's Cub Scout Pack 3. This is a tremendous milestone for this outstanding organization and I am honored to have this opportunity to recognize the many invaluable contributions they have made to our community.

The legacy of Derby's Pack 3 begins with three Senior Patrol Leaders of Boy Scout Troop 3, who took on the challenge of creating a program for younger boys interested in Scouting. Because the Boy Scouts of America did not offer such a venue at the time, Manuel Pearson, Francis Barron, and Edmund Strang initially based their program on the English Cubbing program. Three years later, the Boy Scouts of America announced their intentions to adopt a new cubbing program and Pack 3 was officially registered as one of the country's first Cub groups. In fact, Cub Pack 3 has been recognized by the Boy Scouts of America as the Nation's third oldest continuously running pack.

With participants ranging in age from eight to ten years old, the Cub Scouts program instills an invaluable life lesson in these youngsters—the value in serving their communities—a lesson that they will certainly carry with them through their adult and professional lives. From food drives and fundraisers to fire safety training and community activities, they have a direct and positive impact on the lives of others and their community.

It is not just the variety of programs and services these youngsters participate in throughout our community that makes Pack 3 so special. It is the scouting tradition that exists within the Pack itself. Generations of families have begun their scouting experience in Pack 3, with many alumni continuing to stay active in the Pack as adults by becoming committee members, webelos leaders, den leaders, and cubmasters. Just as an example, the eleven Pack 3 officers have an average thirty-three and a half years of service in cubbing. The dedication they have to this organization is a testament to the impact of their own Cub Scout experience.

The strength and longevity of Pack 3 would not be possible without the incredible leadership they have had throughout the course of their history. Founder Ed Strang was only a junior in high school when he first took on the cubbing program as a Senior Patrol Leader. As soon as he was able, Ed became the cubmaster—a position which he held for the better part of sixty-four years. When he was no longer able, Ed turned the reins over to current cubmaster Dan Cyrul who was himself an Eagle Scout with Troop 3. Though Ed is no longer with us, his commitment, generosity, and compassionate spirit will always be reflected in the good work of Pack 3.

Today, as they celebrate their 75th anniversary, alumni and community members will reflect on what Cub Scout Pack 3 has brought to this community and their own lives. Touching the lives of thousands, Pack 3 has left an indelible mark on the City of Derby and I have no doubt that this strong tradition will continue for generations to come. It is with great pride that I rise today to extend my sincere congratulations to Derby's Cub Scout Pack 3 on their 75th anniversary and to extend my very best wishes for many more years of successful service to the community.

## IN HONOR OF THE VIETNAMESE NEW YEAR: TET, 2005—YEAR OF THE ROOSTER

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of the Vietnamese New Year: Tet, 2005—Year of the Rooster. To celebrate the hope and promise of the New Year, the members and leaders of the Vietnamese Community in Greater Cleveland, Inc., will gather at St. Helena Catholic Church to rejoice with family and friends, enjoying Vietnamese culture and performances.

The Tet celebration will include recognition of community volunteers and leaders, and Vietnamese food, dancing and musical entertainment by the Vietnamese youth of Cleveland. Tet is the time of year to pay homage to ancestors, reconnect with family and friends, and celebrate the sense of good will and possibilities, rising like the first light of dawn.

This year also marks the 30th anniversary of the establishment of the Vietnamese Community in Greater Cleveland, Inc. For nearly three decades, this vital coalition of culture has reflected unwavering commitment, service and community outreach to citizens of Vietnamese heritage. The Vietnamese community in Greater Cleveland is a vibrant layer within the colorful fabric of our culturally diverse city—and the Vietnamese Community of Greater Cleveland, Inc. plays a significant role in preserving and promoting the ancient cultural and historical traditions that spiral back throughout the centuries, connecting the old world to the new, spanning oceans and borders—from Vietnam to America.

Mr. Speaker and Colleagues, please join me in honor and recognition of Le Nguyen, President of the Vietnamese Community in Greater Cleveland, Inc., and all members and leaders, past and present, for their dedication and support of Americans of Vietnamese heritage within our Cleveland community. As they celebrate the Vietnamese New Year, the Year of the Rooster, may they hold memories of their past forever in their hearts, and find happiness and peace with the dawning of each new day.

## IN HONOR OF CARL KOCINA

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Carl Kocina of Parma, Ohio, as we commemorate his February 20th birthday—one hundred years young—and still bowling strikes.

Mr. Kocina was born in Trieste, Austria, and arrived at Ellis Island as a young boy of seven. His family settled in Cleveland, and though far from their homeland, they kept alive the musical and cultural traditions of their beloved Austria. He taught himself to play the accordion, and with his brothers, formed the Kocina Trio. The Trio played for many years at social and family events.

Mr. Kocina was instilled with a strong work ethic—a philosophy that he maintains to this day. At 15, he started work in a local factory, and retired fifty years later as a supervisor of a plant that manufactured aircraft parts. Today, his active lifestyle reflects deep joy and energy, both on and off the bowling lanes. Mr. Kocina lives independently, and hones his culinary talents on a regular basis. He is surrounded by family and friends, especially his daughter, Florence Husbeck, granddaughter, Linda Butler, and great-grandson, Grant Butler.

Mr. Speaker and colleagues, please join me in honor and recognition of Mr. Carl Kocina, as we celebrate his 100th birthday. Mr. Kocina continues to be an inspiration to everyone in his life—especially his family and friends. His energy, agility and joy for living serve to highlight the philosophy that life's possibilities and joys are within reach for every one of us, regardless of our chronological age. We wish him many blessings of continued health and happiness today, tomorrow, and for all days to come.

---

## CONGRESSIONAL TRIBUTE TO STATE REPRESENTATIVE SCOTT SHACKLETON

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to thank a retiring Michigan state legislator for his service. State Representative Scott Shackleton has just completed his third and final term representing the 107th District of the Michigan House, which includes Chippewa, Mackinac, and Emmet Counties, as well as a part of Cheboygan County.

I appreciate Representative Shackleton's six years of service to the people of Northern Michigan. Like all of us who represent this rural part of the state, he has worked to make sure our region gets its fair share in his role as Chairman of the House Appropriations Transportation Subcommittee.

I also want to mention Representative Shackleton's family. He and his wife Karen have two young sons, Henry and John. Each of us who has served in public office when we have young children at home know the sacrifices that families make in order to represent our communities. I am sure that the Shackleton family has made those sacrifices, and they deserve our thanks as well.

Mr. Speaker, I ask the House of Representatives to join me in recognizing Representative Shackleton for his service to the people of Northern Michigan, and in wishing him well as he leaves public life.

---

## IN MEMORY OF MAGDALENO SANCHEZ DUENAS

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. HONDA. Mr. Speaker, I rise today to pay tribute to a courageous American, a man who was willing to give everything to this country, but who got far too little in return. Magdaleno Sanchez Duenas was born in Maasin, Philippines on May 27, 1914 into a large loving family with seven brothers and sisters. Mr. Duenas worked several jobs throughout the years, moving in 1937 to Davao City. There, in November 1941 on the eve of World War II, Mr. Duenas was asked to join the impending fight for freedom as a soldier in the U.S. Armed Forces. Mr. Duenas proudly joined the 101st Infantry.

To say Mr. Duenas fought bravely is an understatement. In 1943, he joined guerilla forces living in the mountains. He fought without shoes, living on a diet of "camote" (yams) and "lugaw" (rice porridge). On December 24, 1942, he was captured by the Japanese while gathering food for his fellow freedom fighters. He was immediately interrogated, yet he refused to relinquish any information that would reveal the hiding place of the guerilla forces. That night, Mr. Duenas managed to escape and return to his mountain hiding place. On April 4, 1943, Mr. Duenas helped engineer and carry out a rescue operation that freed ten American soldiers from captivity at the Davao Penal Colony. Mr. Duenas kept them fed and hidden and helped them rejoin the guerilla forces.

For his wartime heroism, Mr. Duenas deserved fame. Tragically, however, this was not why he came into the public eye. Mr. Duenas realized a life-long dream and immigrated to the United States, arriving in Richmond, California in 1992. It was upon his arrival in America that Mr. Duenas and 16 other Filipino American World War II veterans were held in virtual captivity by an abusive landlord who beat them, kept them chained, and fed them only dog food, all the while stealing their monthly Social Security checks. In December 1993, a group of Filipino American advocates discovered the heinous abuses and rescued Mr. Duenas and the other Filipino American heroes that were trapped with him.

During his final years, Mr. Duenas lived quietly in the Tenderloin District of San Francisco. Those who knew him remember him with deep affection as an endearing companion with a knit cap, and a folding two-wheel cart to get around.

It is a equally tragic that Mr. Duenas and his other Filipino veterans still have never received full recognition from our government for their patriotism during World War II. In his final years, Mr. Duenas was featured in two documentaries and his story remains at the center of the battle for veteran Filipinos from our greatest generation. Sadly, Mr. Duenas did not live to see the story through to completion. He died this past weekend, on February 27th, at the age of ninety.

Mr. Speaker, since 1948 every Christmas Mr. Duenas received a token from General Schoetner, one of the ten soldiers he saved those many years ago. This simple, poignant gesture of gratitude is a reminder as Americans, we all owe this man and his comrades more than just a debt of gratitude. We owe them the promise of the full equity.

Mr. Speaker, we cannot allow more brave men like Mr. Duenas to die before we act on legislation introduced by my colleagues Bob Filner and Duke Cunningham, H.R. 302, the Filipino Veterans Equity Act of 2005. This is the gift we owe to all Filipino veterans who fought along side U.S. soldiers during World War II.

---

## HONORING ROBERT WARREN PEARCE'S MILITARY SERVICE TO OUR COUNTRY

### HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. MICA. Mr. Speaker, I rise today to recognize Robert Warren Pearce in honor of his service to our country during World War II.

Mr. Pearce was born in Terra Haute, Indiana, on November 20, 1921, as the younger of two sons of Mr. Owen Pearce, who is the son of immigrants from Wiesbaden, Germany.

At the age of 21, Mr. Pearce resigned from his duties on RDX and bomb development for Dupont and enlisted in the Air Force in 1942. He began cadet training in San Antonio, Texas; and rose to the rank of a First Lieutenant bombardier and gunnery officer on a B–17 in the 452nd Bomber Group of the 8th Air Force, stationed near Attleboro, England.

During World War II, he flew 25 missions as a Deputy Lead that involved the bombing of Wiesbaden, Germany, and food drops over Holland. His squadron also destroyed submarine pens, ammunition factories, and railroad marshalling yards in Berlin. When his bomber crew returned to the United States, Mr. Pearce stayed on in England to teach X Box Navigation and flew additional missions with a new crew.

After an honorable discharge from the U.S. Army Air Corps, Mr. Pearce joined the Reserves where he served until 1957. He married Mary Jane Powers and moved to Ft. Lauderdale, Florida, where he lived for 48 years; and as a successful independent businessman, Robert and Mary Jane Powers raised four sons who shared pride in their father's service to our Nation. Mr. Pearce now resides in Ormond Beach, where he currently courageously battles Parkinson's disease.

Mr. Speaker, because of Mr. Pearce's dedication to our country, I want to take this opportunity to recognize his war service, and ask all Members of the House to join me in celebrating the life and service of a wonderful husband, father and American.

---

## CONGRESSIONAL TRIBUTE TO FOREST PARK HIGH SCHOOL TROJANS FOOTBALL TEAM

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the players, coaches, and managers of the 2004 Forest Park High School Trojans football team in recognition of their outstanding season. After losing 17 seniors from last year's team, the Trojans not only made the playoffs, but made it all the way to the Division 8 State Finals on November 26, 2004, at the Pontiac Silverdome. This group of young men from the Crystal Falls area in Michigan's Upper Peninsula truly deserves our hearty congratulations.

While their 12–2 record is impressive in its own right, the way the Forest Park Trojans won is even more remarkable. After losing their first game of the season, the Trojans made some changes and rose to the occasion, winning their next 12 straight games.

They were a team of young men that brought an unselfish attitude to the game that many college and professional players could learn from. Each one of them knew they had a role to play, and cared more about helping the team win than being the "star." Throughout the season, the team's motto was, "Whatever it takes."

After defeating Baraga High School for the District title, Posen High School for the Regional title, and a dramatic 12–8 win over a Beal City team that seemed unbeatable in the Division 8 semifinal, the Forest Park Trojans faced off against Climax-Scotts High School at the Pontiac Silverdome for the State championship.

The Crystal Falls community was behind their team 110 percent. One call to a local radio station letting people know that they could make donations to help the team, cheerleaders and the band make the trip down-state for the championship game yielded over 100 contributions.

When the big day finally came, the Trojans suffered a heartbreaking loss. But they handled it with the same class and character that got them to the finals in the first place. They realized that they achieved their goal just by playing in that championship game, and that they would be back. Many of the players who are returning next year are already hitting the weight room and looking forward to a new season, and to passing on the tradition of teamwork and hard work that made this season so special.

Mr. Speaker, each member of this team deserves to be recognized, and I want to take a moment to share their names with my colleagues.

Team members: Dan Surface, Clay Roberts, Cory Padilla, Joe Mussatto, Kyle Roberts, Andrew Gussert, David Lesandrini, Brandon Stebbins, Ryne Neyrick (All-U.P. First Team running back and All-State Honorable Mention), Seth Chernach, Joe Chernach (Captain, All-U.P. and All-State first team defensive back and return specialist), Bryan LaChappelle, Erik Peterson, Scott Santilli (Captain, All-U.P. First Team defensive end), Tim Wheeler, Kyle La Vacque, Stefan Randjelovic, Nick McCarthy, Ryan Martin (All-State First Team offensive guard), Kevin Takala, Calix Sholander, Gary Willman, Rob Boussum, Eric Lato, Dustin Skibo, Mark Harrison (All-U.P. First Team lineman), Josh Bicigo, Brian Fabbri, Jody Gillespie, Nikos Kosmopoulos, Brad Anderson, Pat Peterson (All-U.P. First Team tight end), and Josh Novak.

Head Coach Bill Santilli; Assistant Coaches Dave Graff, Gerard Valesano, Bill Todish, Jeff Chernach, and Dan LaPoint; Trainer Mark Nylund; and Managers Bryant Wheeler, L.J. Burns, and David Burns.

Mr. Speaker, I ask the House of Representatives to join me in congratulating the Forest Park High School football team, their classmates, parents, and community on their exceptional season and in wishing them well when they take the field again in the fall.

---

## TRIBUTE TO CAPTAIN MARK FRANCIS McCORMACK

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. HONDA. Mr. Speaker, today I rise to pay tribute to Santa Clara County Fire Captain Mark Francis McCormack, whose life was tragically cut short on Sunday, February 13, 2005. Mark was the first firefighter killed in the line of duty in the 58-year history of the Santa Clara County Fire Department. Members from more than 100 fire departments throughout the State of California gathered at his memorial service to show support for one of their own.

Mark began his career as a firefighter in 1989. He was serious about his work, and was constantly working to improve his skills in order to serve his community better. Mark's hard work showed in 2001 when he received the Award of Valor for his contributions to both the Santa Clara County Fire Department and the community. He was a model firefighter, an enthusiastic team member, and a good friend to his colleagues.

When Mark wasn't fighting fires, he worked as a volunteer counselor for the Alisa Ann Ruch Burn Foundation's Champ Camp, a summer camp in the Sierra Nevada for young burn victims. As a child, Mark was badly burned on an electric stove and had to undergo several surgeries to repair the injury. Mark always found the silver lining in any situation, and that's exactly what he did with his burn experience. He used it to help children realize that they are not alone—to help them realize their inner beauty. Mark was a favorite around camp, serving as a role model to many of the children he met there.

Mr. Speaker, I would like to take this time to say "thank you" to Mark McCormack for devoting his life to helping others, and for his service in keeping my home district safe. And my deepest condolences to his wife, Heather, who wrote to her husband, "You are my life, my hero, and without you my heart will forever be broken." I wish that hearts could be mended with words, and that I could find those magical words to say to you. Heather, please know that my thoughts and prayers are with you, and that your husband was not only your hero, but Santa Clara County's, too.

---

## IN COMMEMORATION OF COATS, NORTH CAROLINA

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. ETHERIDGE. Mr. Speaker, today I rise in commemoration of Coats, North Carolina. On March 5, 2005 Coats will celebrate its 100th Birthday. Coats is located in the Eastern part of my home county, Harnett County in the 2nd Congressional District of North Carolina. Coat's humble beginning is especially personal to me as my great, great Uncle James T. Coats bought the first acres of farmland that would grow to become this warm and hospitable Southern community.

Coat's history is rich with individuals like my uncle, who envisioned a town where future generations could work, live, and raise their families in the bright light of America's promises. I think of Ed Williams and John Talton who were among the first entrepreneurs to establish stores in Coats. I think of John McKay Byrd, a former sheriff of Harnett County, who contributed greatly to the industrial life of the community. And I think of the first mayor, J.K. Stewart who when elected installed the first electric lights in the town.

Coats has never strived to be an urban hub, more comfortable with its small town population of only 1,900. Yet, its residents are proud of their community. As a former Harnett County Commissioner, I have always enjoyed a special connection to the people of Coats, NC. It is a place rooted in appreciation for one's family, faith, and country. The Town of Coats and its residents exemplify the common-sense values of North Carolina that I am so proud to represent in Congress.

Mr. Speaker in closing I would like to send my best wishes and gratitude to the people of Coats, North Carolina in wishing them a Very Happy Birthday. I know that in the future this town will continue to be "a good place to live and make a living."

---

## CONGRESSIONAL TRIBUTE TO NEWBERRY HIGH SCHOOL INDIANS FOOTBALL TEAM

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the players, coaches, and manager of the 2004 Newberry High School Indians football team in recognition of their outstanding season. The 10–3 Indians went to the Michigan Division 7 Semi-Finals, winning the school's first district and regional championships along the way.

Newberry is a small, close-knit community in Michigan's Upper Peninsula that loves its high school sports. This year, the Indians gave them a season to remember. In the fifth week of the season, Newberry faced Munising High School on the road. After a hard fought game, the Indians won 21–14, winning in Munising for the first time in 20 years.

In the last game of the regular season, the Indians renewed an old rivalry with Sault Sainte Marie High School. It had been several years since Newberry and the Soo played for the "Little Brown Jug" but the Indians rolled to a 20–0 victory, reclaiming the Jug.

During the playoffs, Newberry defeated Inland Lakes 44–0 and Manistique 20–8 to win the school's first district title. In the regional finals against McBain, the team was down going into the 4th quarter. But Newberry stuck it out, scoring with just over 7 minutes to go and hanging on for their first regional title. Though they were defeated in the State semifinals, it was by Unionville-Sebewaing, the eventual Division 7 State champions.

In short Mr. Speaker, the Newberry Indians had their finest season in memory, and this was in large part due to the outstanding leadership of the squad's seniors. All year long, they kept the team energized and confident. The Indians always took the field believing they were going to win, have fun and work hard for four quarters.

Quarterback David Carmody, was a particularly strong leader among those graduating seniors. This young remarkable young man brought a unique perspective to the pressures ofthe game: he is a leukemia survivor. Diagnosed in 1996, a 9-year-old David had to face being sidelined from school and sports. After 4 years of treatments, David has been in remission since 2000. His coaches described him as an incredibly calm leader who never let anything on the field phase him. In fact, he often calmed them down during tense moments. In addition to helping lead the Newberry Indians to their best season ever, David was named to the All-Conference 1st Team as both quarterback and defensive back.

But while David's story is extraordinary, each and every member of this team deserves to be recognized for their hard work this year, and I would like to take a moment to share their names with my colleagues.

Team members: Derek Taylor, Andrew Schultz, Luke Shilling, David Carmody (All Conference 1st Team quarterback and defensive back), D.J. Bouchard, Dan Schummer (All-Conference 1st Team receiver and 2nd Team defensive back), Mike Houghton, Tony Perry, Stuart Papist, Mark Brooks, Corey Nicholson, Jake Pann (All-Conference 2nd Team running back), Jeremy Maeder, Zac Sarelle, Chuck Masterson, Nick Christiansen (All-Conference 1st Team linebacker), Zach Clickner, Avery Allison, Jonathon Bontrager, Kyle Ery, Caleb Flory, Mat Conway, David Burke, Ryan Bolda, Alex Herbst, Travis Stokes (All-Conference 1st Team lineman), Dustin Zitnik, Adam Holcomb, Kyle Bryers, Brian Morrison, John Pope, Matt Payment (Detroit Free Press All-State Team, Conference Defensive Player of the Year, All-Conference 1st Team lineman and defensive lineman), Justin Neff (All-Conference 2nd Team defensive lineman), Brandon Wheeler, Jay Thompson, Mark Doke, and Nathan Hines.

Head Coach Brandon Bruce; Assistant Coaches Bruce Dake, Jeff Puckett, Cliff Fossitt Jr., Fred Bryant, Larry White, Bob Cameron, and Randy Fretz; and Manager Derek Dake.

Mr. Speaker, I ask the House of Representatives to join me in congratulating the Newberry High School Indians football team, their classmates, parents, and community on their outstanding season and in wishing them well when they take the field again in the fall.

## ACKNOWLEDGE AND HONOR THE DOCTORS. NURSES AND STAFF OF ST. MARY MERCY HOSPITAL

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the doctors, nurses and staff of St. Mary Mercy Hospital, as they celebrate in receiving the 2005 HealthGrades Distinguished Hospital Award for Clinical Excellence.

In receiving the award, St. Mary Mercy Hospital was ranked in the top 5 percent in the Nation for overall clinical excellence. The hospital also received the Health Grades Distinguished Hospital Award for Patient Safety, ranking them in the top 2 percent in the Nation for patient safety outcomes.

I am proud to report that the awards place St. Mary Mercy Hospital as 1 of 30 hospitals in the Nation to receive both designations within the same year. It is a testament to the dedication, devotion, and determination of the men and women who daily provide a high quality of care to patients.

Mr. Speaker, the heritage of the Felician Sisters is the foundation for St. Mary Mercy Hospital, which for the past 45 years, has been a premier provider of healthcare in our community. Founded by Blessed Mary Angela, whose care for the poor and homeless in Warsaw, Poland gave birth to the Felician congregation, the Felician Sisters were dedicated to a ministry of healing and service, based on Mary Angela's mission of "responding to the needs of the times."

In the spirit of Mary Angela and the Felician Sisters I stand today to commend and applaud the great doctors, nurses and staff of St. Mary Mercy Hospital for their national recognition and accomplishments. More importantly I praise these angels of medicine for upholding the oath of Hippocrates by "maintaining the utmost respect for every human life."

## REPEAL DON'T ASK DON'T TELL

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. FARR. Mr. Speaker, I come to the floor to call attention to important legislation that has been introduced today, The Military Readiness Enhancement Act. I am an original cosponsor of this legislation which would replace "Don't Ask Don't Tell," with a non-discrimination policy for all military personnel.

A decade ago, "Don't Ask Don't Tell" was enacted as a compromise to allow lesbian, gay and bisexual military personnel to serve honorably in the military as long as they didn't disclose their sexual orientation. It was a bad policy then and it's a bad policy now. It has resulted in the discharge of more than 10,000 dedicated and trained military personnel merely on the basis of their sexual orientation.

There are two issues this bill is addressing—military readiness and civil justice.

Military readiness is being compromised by discharging critically needed military linguists to fight the Global War on Terrorism. Shortly after September 11, 2001, we can vividly remember the frantic search for linguists, particularly Arabic and Farsi speakers. But because of "Don't Ask Don't Tell," the Department of Defense has discharged 20 Arabic linguists and 6 Farsi linguists for no other reason than their sexual orientation. No one can dispute that these linguists, who attended the Defense Language Institute located in my congressional district, are mission essential to the Global War on Terrorism. If we didn't think so before, surely we can agree now that language capability and proficiency is just as much of a weapon system as guns and bullets.

Repealing "Don't Ask Don't Tell" is just as much a civil justice issue. It has created a separate class of people who are discriminated against based solely on their sexual orientation. Sixty years ago our military was at the forefront of the civil rights struggle by accepting African Americans as soldiers, sailors and airmen. The Military Readiness Enhancement Act will extend a non-discrimination policy for sexual orientation much as it did in adopting a color-blind non-discrimination policy. Ending racism in the military, which produced military leaders like Colin Powell, the former Joint Chiefs of Staff and Secretary of State, was an advancement of civil rights for all Americans.

The Constitution guarantees equal protection under the law for all citizens. Just because you decide to honorably serve your country by joining the military, doesn't mean you should have to forfeit the right to equal protection under the law.

## THE 1995 BEIJING PLATFORM OF ACTION CONTAINS NO RIGHT TO ABORTION

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. SMITH of New Jersey. Mr. Speaker, it is absolutely clear that the "Programme of Action" produced by both the 1994 Cairo Population Conference and the 1995 Beijing Women's Conference did not create, adopt, endorse, or promote a right to abortion.

I know. I was there in an official capacity at both conferences. The outcomes of both were a remarkable victory for the pro-life movement—those of us who recognize that all human life is sacred and that both legal and illegal abortion is violence against children and the exploitation of women. It was a victory for vulnerable unborn children who would be killed by dismemberment and chemical poisoning and for women who deserve better than the cruelty of abortion.

The outcome was a stunning defeat for the Clinton Administration, which sought to impose an international right to abortion on the entire world.

So why is the Bush Administration seeking to reaffirm that the Beijing consensus did not include a right to abortion? Because clarity, transparency and truthfulness is needed at this time to dispel a pernicious myth—the big lie—promoted by some that these U.N. documents now endorse abortion. Nothing, Mr. Speaker, could be further from the truth.

Over the past 10 years, pro-abortionists have sought to convey the impression that both Cairo and Beijing—by supporting reproductive health, for example—includes the slaughter of unborn children by abortion.

Instead of focusing on women's economic and political empowerment, an end to all forms and manifestations of discrimination, and an end to violence against women, some have sought to distort the Cairo and Beijing consensus to include the killing of girls and boys by abortion.

Yesterday I chaired a hearing on the horrific behavior of U.N. Peacekeepers in the Congo who have raped and sexually exploited girls and young women. As the prime sponsor of the "Trafficking Victims Protection Act of 2000" I take a backseat to no one in promoting women's human rights. Recent scandals, like the Congo or the oil for food scandal, begs the question of honesty and transparency at the U.N.

Despite having no mandate to promote abortion, the U.N. Compliance Committee for the Convention on All Forms of Discrimination Against Women (CEDAW) has recently scolded Mexico, Colombia, Chile, Peru, Zimbabwe, Myanmar, Luxembourg, Ireland, Italy, Croatia, Uruguay, Portugal, Nepal, Northern Ireland, Lichtenstein, Paraguay, and Samoa for their laws and policies on abortion.

In addition, at the end of 2004, the U.N. Human Rights Committee issued a report that absolutely overstepped its bounds and told Poland to repeal their pro-life laws. The report stated, "The State party should liberalize its legislation and practice on abortion." For a U.N. committee that purported to respect fundamental human rights to condemn Poland—and others—for protecting their unborn babies is scandalous. Unborn children deserve respect in law and in practice—these littlest of humans deserve to have their basic human rights protected.

A Center for Reproductive Rights internal document talks about reinterpreting terms and phrases in international declarations, like the Cairo and Beijing documents, to promote abortion and limit parental rights throughout the world. I posted in the December 8, 2003 CONGRESSIONAL RECORD the Center for Reproductive Rights internal documents where one of their trustees said, "We have to fight harder, be a little dirtier." These papers reveal a Trojan Horse of deceit. In their own words, these documents demonstrate how abortion promotion groups are pushing abortion here and abroad, not by direct argument, but by twisting words and definitions. In discussing legal strategies to legalize abortion internationally they go as far as to say, ". . . there is a stealth quality to the work: we are achieving incremental recognition of values without a huge amount of scrutiny from the opposition. These lower profile victories will gradually put us in a strong position to assert a broad consensus around our assertions." The abortion lobby admits they are using deceptive tactics to push abortion on countries that have laws protecting unborn boys and girls.

All the United States wants to do at this conference is to be truthful, nonambiguous and accurate about what the Beijing Programme of Action actually says about abortion and get on with the real work of helping women throughout the world.

---

## CONGRESSIONAL TRIBUTE TO CHARLEVOIX HIGH SCHOOL RAYDERS GIRLS BASKETBALL TEAM

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the players, coaches, and manager of the 2004 Charlevoix High School Rayders Girls Basketball team in recognition of their outstanding season. After an undefeated regular season, the Rayders continued their success in the playoffs, making it to the Class C state finals, and winning district and regional titles along the way.

While their 20–0 regular season, and seven post season wins, are impressive in their own right, the spirit of teamwork and unselfish play that the Rayders brought to the court this year was a shining example of what athletics should be about. All year, these young women, including the team's best players, were willing to play their role and do whatever it took to win.

One of the best examples of this was the team's performance in the state semi-finals and finals. After a year in which every game was a double-digit victory, the Charlevoix Rayders traveled to the Breslin Center in East Lansing, Michigan for the final two rounds of the playoffs where they would face their first stiff competition.

Charlevoix led Flint Hamady for almost all of the semi-final game on December 2, going into the 4th quarter up by ten points. Their opponent was not about to lose without a fight though, and with just under four minutes to go, Flint took a three-point lead. After two free throws by guard Laura Nitchman, All-State center Grace Farrell made a lay up to put the Rayders ahead for the win. The final score was 70–67 sending Charlevoix on to the state finals.

Though they lost to Detroit St. Martin dePorres two days later in the finals, the Rayders knew they had an incredible season. They appreciated the experience of playing in the Breslin Center and competing for the state championship. Just like they had all season, they showed character, class, and heart.

The commitment to success displayed by this team is no surprise to anyone familiar with the city of Charlevoix, which is a warm, close-knit community on Lake Michigan. As always, the "Rayder Nation" was right behind these young women who gave them a season to remember.

Mr. Speaker, each member of this team deserves to be recognized and I want to take a moment to share their names with my colleagues.

Team Members: Madison McKenzie, Madison Ramsey, Jaime Pettis, Laura Nitchman, Liz Jadwin, Stevie Murray, Shannon Dibble, Kari Way, Sara Cross, Genevieve Kochanny, Grace Farrell, Betsy Dennis, Caitlyn Cole, Sally Haselschwardt, and Bethany Pearson.

Head Coach Keith Haske; Assistant Coaches Bret Erskine, Jim Gels, and Liz Grunch; Trainer Joelle Beaudoin; and Manager Chelsey Haske.

Mr. Speaker, I ask the House of Representatives to join me in congratulating the Charlevoix Rayders girls basketball team, their classmates, parents, and community on their success in the 2004 season and in wishing them well when they hit the court again in the fall.

---

## HONORING THE SERVICE OF DOLLY SEELMEYER

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to Dolly Seelmeyer on the occasion of her recent retirement from the United States House of Representatives after 34 years of distinguished Service.

Shortly after she began to work for this august institution, Dolly became the first female photographer in the Office of Photography. To understand the length and breadth of the times she witnessed, one only has to know that when she began her tenure, Richard Nixon was President of the United States and Carl Albert was Speaker of the House. My friend, colleague and fellow Michigander Gerald Ford was Minority Leader of this body. She not only observed, but was able to record for posterity many significant events in the history of this body.

In addition to her expertise as a photographer, Dolly was of tremendous assistance to our offices as she helped us to obtain and preserve visual records of bygone times. Her professionalism and courtesy were always present as she helped us to document the history of the Congress. In addition to her official photos, her office was decorated with wonderful photographs of plants and flowers that she took in her own time.

We thank Dolly for her ongoing assistance in helping us to keep a record of the last quarter of the 20th century and the beginning of the 21st.

Mr. Speaker, I would like to ask that my colleagues join me in thanking Dolly Seelmeyer for her 34 years of commitment and devotion to the House of Representatives and also to join me in wishing her the very best that life has to offer in the future.

## COMMENDING AMERICORPS AND THE WEST SENECA YOUTH BUREAU FOR OUTSTANDING ACHIEVEMENT

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. HIGGINS. Mr. Speaker, I rise today to commend the Americorps program in the town of West Seneca, New York, for its outstanding contributions to our Western New York and to recognize the West Seneca Youth Bureau for its exemplary service to the residents of Erie County and Western New York.

Through its network of more than 2,100 service programs, AmeriCorps has assisted millions of Americans through tutoring, running after school programs, building affordable housing, cleaning parks, and assisting with disaster relief.

A shining example of the significance of AmeriCorps' service to our Nation's communities is the West Seneca Youth Bureau of the town of West Seneca, in Erie County, New York. The West Seneca Youth Bureau hosts seven different AmeriCorps programs, and through these programs, volunteers have provided a broad range of needed services to Western New Yorkers.

West Seneca's Service Action Corps is one of the major donors of food in Western New York, delivering 15,000 pounds of food to local pantries every day. Through Standard Bearer's of America's Promise, AmeriCorps tutors provide young students in Buffalo and Erie County with the tools needed to help them become independent readers. Their Erie County Youth Conservation Corps program teaches marketable skills to at-risk youth so they can use these skills in the professional world. Through YouthBuild, at-risk youth learn basic construction and carpentry skills and gain college credits while building low cost housing for Western New Yorkers in need.

Since its inception, West Seneca AmeriCorps volunteers have shoveled more than one-half million pounds of snow for local residents and businesses, provided area food banks with over 6 million pounds of food, tutored more than 18,000 students, cleaned 150 nature trails, countless parks and playgrounds and cleared hundreds of vacant lots.

AmeriCorps' commitment to education, public safety, the environment and health has made it an incredibly successful organization that I am proud to recognize today. Thanks to the dedicated volunteers of AmeriCorps and the West Seneca Youth Bureau, thousands of my constituents have received much needed education and support. I congratulate the organization for 10 years of service, and look forward to working with them for years to come, and I thank you, Mr. Speaker, for the opportunity to recognize their achievements here today.

## HONORING BG WILLIAM TERPELUK, DEPUTY COMMANDER, 77TH REGIONAL READINESS COMMAND, FORT TOTTEN, NEW YORK

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. NADLER. Mr. Speaker, I rise today to honor BG William Terpeluk. BG William Terpeluk will complete his term as Deputy Commander for the 77th Regional Readiness Command this month. He served from 31 March 2001–30 March 2005, which included valuable service during the events of September 11, 2001, and throughout the War on Terror.

The 77th Regional Readiness Command is the Army Reserve headquarters for over 11,000 Army Reserve soldiers. Approximately 6,500 Army Reserve soldiers have been mobilized in support of Operation Iraqi Freedom and Operation Enduring Freedom. Their service to our Nation is to be commended.

Throughout his career Brigadier General Terpeluk has served with honor and distinction. His military awards include the Meritorious Service Medal with 3 Oak Leaf Clusters, the Army Commendation Medal with 2 Oak Leaf Clusters, the Army Achievement Medal with 1 Oak Leaf Cluster, and the Army Reserve Components Achievement Medal with Silver Oak Leaf Cluster. He has also received the National Defense Service Medal, the Armed Forces Reserve Medal with Silver Hourglass, the Army Service Ribbon and the Overseas Service Ribbons.

Brigadier General Terpeluk is an Infantry Officer who received his commission as a Second Lieutenant through the Reserve Officer Training Corps Program in 1974 from the Virginia Military Institute. After completing the Infantry Course at Fort Benning, Georgia, he served on Active Duty as the Executive Officer, Company E, 3d Battalion, 3d Basic Combat Training Brigade, Fort Dix, NJ.

Throughout his career Brigadier General Terpeluk has served at 79th United States Army Reserve Command, Willow Grove, PA, and in Camp Casey and Camp Howze, Korea.

Today, we honor his service to our city and to our Nation and wish him well in all his future endeavors.

## CARNEY-NADEAU HIGH SCHOOL GIRLS BASKETBALL TEAM

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the players, coaches and managers of the 2004 Carney-Nadeau High School Wolves girls basketball team in recognition of their outstanding season. The 24–2 Wolves went to the Michigan Class D semi-finals this year, winning Conference, District and Regional titles along the way.

Carney-Nadeau may be one of the smallest schools in their division, and in my district, but they have been a force to be reckoned with in the Upper Peninsula and statewide. Their trip to the state semi-finals on December 2nd at the Breslin Center in East Lansing continued their streak of post season success that started with a State Championship in 2001. In 2002, they went to the state semi-finals, and to the regional finals in 2003.

This tradition of excellence motivated the team all season long. But it is a tradition that has deep roots in this small but close-knit Upper Peninsula community. The basketball program is supported by fundraisers run by the players, and the community turns out to demonstrate that the team is important to them, and that they share the young women's pride in their on-court and off-court successes. It also gives them a real sense of ownership of the team and their community.

This support is not surprising when you know that Carney-Nadeau Public Schools is a district with grades K–12 in one building, giving it a family atmosphere where the older students, and especially the athletes, provide strong role-models for the younger ones. This sense of family is perhaps best represented by the team meals that the players' families take turns preparing before each game.

It is hard to talk about the Carney-Nadeau Wolves success this year without mentioning All-State senior Carly Benson. The 6-foot-2 center averaged 22.4 points, 11.1 rebounds, 5.1 blocks, 5.1 steals and 4.8 assists and shot 62 percent this year on her way to being named the Class D Player of the Year. But on this team, all the players are leaders, and the team captain role rotated each game.

Mr. Speaker, each of these players deserves to be recognized, along with the coaches, managers, and school officials that were instrumental to their success, and I want to take a moment to share their names with my colleagues.

Team members: Katee Retaskie, Amanda Poupore, Lacey Retaskie, Meghan Schetter, Carly Benson, Jenny Grabowski, Rachel Kuntze, Roseann Schetter, Laurie Tuinstra, Ashley Folcik, Tarra Moran, and Meghan Marsicek.

Head Coach Paul Polfus, who is 482–120 in 25 years of coaching at Carney-Nadeau; Assistant Coaches Randy Severinsen, and Jon Ray; Trainer Marty Laurila; Managers Matt Polfus, Cory Thiry, Pete Adams, and Jared Benson; Athletic Director Ron Solberg; and Superintendent/Principal Ken Linder.

While their loss to Portland St. Patrick High School was disappointing, I know the Carney-Nadeau Wolves are rightly proud of their outstanding season, and all of the hard work, love, determination, perseverance, optimism, and skill they put in to it.

Mr. Speaker, I ask the House of Representatives to join me in congratulating the Carney-Nadeau girls basketball team, their classmates, parents, and community on their success in the 2004 season and in wishing them well when they hit the court again in the fall.

## ARTICLE ON ATROCITIES IN DARFUR, SUDAN

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention an excellent op-ed article written in today's New York Times by Nicolas D. Kristof titled "The American Witness." I ask that this article be inserted into the record. The op-ed article highlights the atrocities that are now occurring in Darfur, Sudan and the continuing level of indifference that the West has towards the people of Africa. In light of all of the rhetoric we hear from the United States regarding its strong commitment to liberate people from tyrant dictators, spread democracy around the world, and fight terrorism, I am left to wonder if these same principles do not apply to the people of Africa.

Without a doubt, genocide is occurring in Darfur, Sudan, and its government bears responsibility for the mass killings. Last summer, Congress declared the atrocities occurring in Darfur to be genocide, and the Bush Administration reached the same conclusion in September 2004. Nonetheless, the Bush Administration has done little, beyond acknowledging the crime, to engage the international community in stopping the slaughters of tens of thousands of innocent people. While there are no reliable estimates on the number of people killed as a result of the humanitarian crisis, observers estimate that 300,000 people have been killed since the beginning of the recent conflict in 2003. Meanwhile, an estimated 1.6 million people have been displaced from their homes and more than 213,000 people have been forced to seek refuge in neighboring Chad.

Last month, the United Nations released the Report of the International Commission on Inquiry on Darfur which stated that, "[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur" and that such acts "were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity."

Now that the United Nations have substantiated what many of us have known for awhile, it is time that the West to take deliberative action to force the perpetrators of the genocide in Darfur to end the slaughter of innocent civilians. At the behest of the United States, the United Nations Security Council must pass a resolution condemning the crimes against humanity that are occurring in Darfur and impose sanctions against the Government of Sudan if they do not stop the killings. The Security Council should also act to freeze the assets of and deny entry visas to perpetrators of genocide, and extend the arms embargo to the Government of Sudan.

In addition to these actions, the Bush Administration should work with its NATO allies to provide the African Union forces with concrete assistance and peace keeping troops on the ground in Darfur. I encourage the Bush Administration to continue to provide critical logistical and equipment support to the African Union forces. Finally, I also encourage that Administration to reappoint a Special Envoy to Sudan as quickly as possible to ensure that the United States has a visible role in resolving this horrific crisis.

The plight of the people of Darfur should garner great sympathy from the Bush Administration. Now that we know Iraq had no Weapons of Mass Destruction and no connection to the 9–11 attacks, the President claims a mandate to engage in war to liberate oppressed people from tyrannical governments. Should not his so-called God-given mandate compel him to take the lead in getting our friends on the United Nation's Security Council to impose sanctions on the government of Sudan and, if necessary, institute other deliberative measures to stop the killing? After all, if the Bush Administration can send young men and women from poor communities and National Guard and reservists into Iraq to liberate its people from the tyrant forces of Saddam Hussein, then surely we can take steps to get the international community to stop the killing in Sudan and bring the perpetrators to justice.

If we can learn any lessons from history, we should commit ourselves to ensuring that we do not fail the people of Sudan in the manner in which we failed the people of Rwanda where an estimated one million people who were slaughtered in the early 1990's while the world community sat on the sidelines. Only now are Americans learning through the movie Hotel Rwanda how we as a Nation failed a people. The crisis that is occurring in Darfur presents the Bush Administration with an opportunity to resuscitate its reputation in the international community.

[From the New York Times, March 2, 2005.]

THE AMERICAN WITNESS

(By Nicholas D. Kristof)

American soldiers are trained to shoot at the enemy. They're prepared to be shot at. But what young men like Brian Steidle are not equipped for is witnessing a genocide but being unable to protect the civilians pleading for help.

If President Bush wants to figure out whether the U.S. should stand more firmly against the genocide in Darfur, I suggest that he invite Mr. Steidle to the White House to give a briefing. Mr. Steidle, a 28-year-old former Marine captain, was one of just three American military advisers for the African Union monitoring team in Darfur—and he is bursting with frustration.

"Every single day you go out to see another burned village, and more dead bodies," he said. "And the children—you see 6-month-old babies that have been shot, and 3-year-old kids with their faces smashed in with rifle butts. And you just have to stand there and write your reports."

While journalists and aid workers are sharply limited in their movements in Darfur, Mr. Steidle and the monitors traveled around by truck and helicopter to investigate massacres by the Sudanese government and the janjaweed militia it sponsors. They have sometimes been shot at, and once his group was held hostage, but they have persisted and become witnesses to systematic crimes against humanity.

So is it really genocide?

"I have no doubt about that," Mr. Steidle said. "It's a systematic cleansing of peoples by the Arab chiefs there. And when you talk to them, that's what they tell you. They're very blunt about it. One day we met a janjaweed leader and he said, 'Unless you get back four camels that were stolen in 2003, then we're going to go to these four villages and burn the villages, rape the women, kill everyone.' And they did."

The African Union doesn't have the troops, firepower or mandate to actually stop the slaughter, just to monitor it. Mr. Steidle said his single most frustrating moment came in December when the Sudanese government and the janjaweed attacked the village of Labado, which had 25,000 inhabitants. Mr. Steidle and his unit flew to the area in helicopters, but a Sudanese general refused to let them enter the village—and also refused to stop the attack.

"It was extremely frustrating—seeing the village burn, hearing gunshots, not being able to do anything," Mr. Steidle said. "The entire village is now gone. It's a big black spot on the earth."

When Sudan's government is preparing to send bombers or helicopter gunships to attack an African village, it shuts down the cellphone system so no one can send out warnings. Thus the international monitors know when a massacre is about to unfold. But there's usually nothing they can do.

The West, led by the Bush administration, is providing food and medical care that is keeping hundreds of thousands of people alive. But we're managing the genocide, not halting it.

"The world is failing Darfur," said Jan Egeland, the U.N. under secretary general for humanitarian affairs. "We're only playing the humanitarian card, and we're just witnessing the massacres."

President Bush is pushing for sanctions, but European countries like France are disgracefully cool to the idea—and China is downright hostile, playing the same supportive role for the Darfur genocide that it did for the Khmer Rouge genocide.

Mr. Steidle has just quit his job with the African Union, but he plans to continue working in Darfur to do his part to stand up to the killers. Most of us don't have to go to that extreme of risking our lives in Darfur—we just need to get off the fence and push our government off, too.

At one level, I blame President Bush—and, even more, the leaders of European, Arab and African nations—for their passivity. But if our leaders are acquiescing in genocide, that's because we citizens are passive, too. If American voters cared about Darfur's genocide as much as about, say, the Michael Jackson trial, then our political system would respond. One useful step would be the passage of the Darfur Accountability Act, to be introduced today by Senators Jon Corzine and Sam Brownback. The legislation calls for such desperately needed actions as expanding the African Union force and establishing a military no-fly zone to stop Sudan from bombing civilians.

As Martin Luther King Jr. put it: "Man's inhumanity to man is not only perpetrated by the vitriolic actions of those who are bad. It is also perpetrated by the vitiating inaction of those who are good."

---

## HAITI

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Mrs. JONES of Ohio. Mr. Speaker, I rise today to express my support for increased awareness and aid to the impoverished citizens of Haiti.

Haiti gained it's independence in 1804 from France, becoming the first independent Black nation. Today, Haiti has over 8.3 million people, with 80% living in abject poverty. Haiti is one of the most impoverished nations in the Western Hemisphere. Less than 45 percent of all Haitians have access to potable water.

The life expectancy rate in Haiti is only 53 years. The unemployment rate is estimated to be around 60 percent; and the literacy rate is approximately 45 percent. Eighty out of 1,000 Haitian children never see their first birthday. Half the population of Haiti earns $60 or less per year. The total expenditure on health per person is $54 (compared to $4,499 in the USA and $483 in Mexico).

Health conditions in Haiti are very poor. Such examples include:

Haiti is one of the most impoverished nations in the Western Hemisphere and the fourth poorest country in the world.

Ninety percent of all HIV and AIDS infections in the Caribbean are in Haiti: over 300,000 infected people have been identified and deaths from HIV/AIDS have left 163,000 children orphaned.

Haiti's infant mortality rate is staggering: 74 deaths per 1,000 live births and the maternal mortality rate is approximately 1400 deaths for every 100,000.

Only 1 in every 10,000 Haitians has access to a physician, and less than 40 percent of Haitians have access to potable water.

Cases of TB in Haiti are more than ten times as high as those in other Latin American countries.

Tuberculosis remains a major cause of adult mortality; rates are thought to be the highest in the hemisphere. Cases of TB in Haiti are more than ten times as high as those in other Latin American countries.

The United States spends billions of dollars every year supporting various military and foreign operations across the globe and yet, basic human needs such as food, clothing, shelter, and education often have a lower priority in our expenditures. These basic human needs are a right of every citizen on our planet. We should want for our sister and brother, what we would want for ourselves, and put this belief into action.

Mr. Speaker, I rise to reiterate my support for increased awareness and aid to the impoverished citizens of Haiti. I stand with Representative BARBARA LEE and the Congressional Black Caucus to draw attention to the plight of the Haitian people.

## ON THE COUP D'ETAT IN HAITI

### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 2, 2005*

Ms. WATERS. Mr. Speaker, 1 year ago this week, our government was a party to a coup d'etat in Haiti, the Western Hemisphere's poorest country. President Jean-Bertrand Aristide, the democratically-elected President of Haiti, was forced to leave Haiti in a regime change supported by the United States. President Aristide left the country on February 29, 2004, on board a U.S. airplane when U.S. Marines and Embassy officials came to his home in the wee hours of the morning and told him to leave immediately or he and thousands of other Haitians would be killed.

One year later, the tragic results of regime change in Haiti are clear. Haiti is in total chaos. The interim government, which was put in power by the United States and has received unprecedented support from our government, is a complete failure. Violence is widespread, and security is non-existent. Schools are shut down; hospitals are not operating; and roads and infrastructure are in disrepair. Dead bodies are found lying in the streets.

Heavily-armed gangs roam Haiti freely. Many of these gangs consist of former soldiers from the brutal Haitian army, which was disbanded 10 years ago. Residents of poor neighborhoods and members of Lavalas, President Aristide's political party, are murdered without any legal consequences. Members of Haiti's wealthy elite, including American citizen Andy Apaid, are widely suspected of financing the former soldiers and paying gangs to kill Lavalas supporters. In some neighborhoods, Lavalas supporters have taken up arms and begun to fight back against this oppression. So the violence is escalating in Haiti, and no one is safe.

The interim government has been unable to enforce the rule of law, disarm the gangs, or restore the government's authority in the cities controlled by former soldiers. When Interim Prime Minister Gerard Latortue set a deadline of September 15 of last year for all groups holding illegal weapons to disarm, the deadline came and went, but nothing happened.

After the interim government failed to disarm the former soldiers, it resorted to bribing them. According to press reports in January, the interim government agreed to provide payments over a 3-month-period to all of the estimated 6,000 former members of the Haitian army. The payments will average about $4,800 per person—in a country where most people live on less than a dollar a day. The cost of these payments was estimated to be $29 million. The interim government never explained where the funds for these payments would be obtained, but Interim Prime Minister Latortue has already distributed checks to dozens of armed individuals who claim to be former soldiers and who still refuse to turn in their weapons. Is this the conduct of a government that wants to disarm the thugs, or a government that supports them?

Human rights violations are commonplace throughout Haiti. Amnesty International has expressed serious concerns about arbitrary arrests, ill-treatment in detention centers, and summary executions attributed to members of the Haitian National Police. Several members of President Aristide's government and prominent supporters of Lavalas have been detained illegally, including former Prime Minister Yvon Neptune, former Interior Minister Jocelerme Privert, and Haitian singer Anne Auguste. As of February 18, there were over 700 political prisoners in Haiti's jails. Most of these prisoners have been held illegally for months without formal charges.

The incompetence of the interim government has manifested itself in other ways as well. Haiti's government was the only government in the path of Hurricane Jeanne that did not warn or evacuate its citizens when the storm came racing through the Caribbean last September. Jeanne pummeled the United States, Puerto Rico, the Dominican Republic and Barbados as a full-blown hurricane, and killed 34 people in all of those countries combined. She was only a tropical storm when she hit Haiti, but she killed over 3,000 Haitians and left thousands more hungry and homeless, because the interim government was unprepared to protect the Haitian people.

The Provisional Electoral Council, which is responsible for organizing elections, has been discredited by corruption. Roselor Julien, the former president of the Council, resigned last November, warning that other panel members were trying to rig the ballot and the council was not capable of ensuring the elections would be free and fair. The council also does not include any representatives of Lavalas, which continues to enjoy widespread support among the Haitian people despite the imprisonment of its leaders. It is abundantly clear that the council is incapable of organizing free and fair elections. If the current council does manage to organize elections, only the winners will accept the result.

The people of Haiti have suffered tremendously over the past year. They deserve better. They deserve to live in peace and security. They deserve to be warned when hurricanes are headed for their homes. They deserve to know that they can walk to work or buy groceries without having gangs kill them for the food they carry. And they deserve free, fair and democratic elections in which all political parties can participate.

When President Aristide was forced to leave Haiti a year ago, he was told that if he refused to leave, thousands of Haitians would die. Yet, in the 12 months that followed his departure, thousands of Haitians have died, and as long as the interim government continues to fail, there will be no end to the suffering and violence facing the Haitian people.

It is time for the United States Government to accept the fact that regime change has failed in Haiti. The United States must ensure that Haiti disarms the thugs, immediately frees political prisoners, and organizes free and fair elections in order to restore security and democracy to the Haitian people. The United States must also provide the necessary assistance to enable Haiti to reopen schools and hospitals and rebuild Haiti's infrastructure. It is time for the United States to clean up its mess.

## SOCIAL SECURITY IS IMPORTANT FOR WOMEN

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 02, 2005*

Mr. LANTOS. Mr. Speaker, today's debate is an extremely important conversation on the future of Social Security. The simple facts of the matter are that Social Security is not in a state of crisis, it will not go bankrupt and it will always be there for those who contribute to it.

Unfortunately, the plans promoted by this Administration and my Republican colleagues do nothing to address the core issues related to the Trust Fund's solvency. Instead, the issue has been draped in rhetoric in pursuit of an ideological agenda that will not save Social Security but in fact will put it at greater risk. Americans across the country, from Kansas to California and from New Hampshire to New Mexico, whether black or white, man or woman, will have their benefits cut and the financial safety net removed from their retirement. While Republican proposals will hurt everyone, women are particularly at risk. As Republicans regale us with misleading statements and flowery predictions, the cold hard facts of reality reveals a somber picture.

More than 24 million women receive Social Security benefits. They make up 58 percent of seniors who receive Social Security and without it, 53 percent of all senior women would be poor. In 2000, Social Security saved seven million women from poverty. More than seven million women receive disability or survivor benefits. These numbers deserve our undivided attention. The current proposal would cut these benefits by more than 40 percent over the coming decades. If the President's plan were put in to effect, trillions of dollars would be taken out of Social Security, endangering the benefits of current retirees and people with disabilities. These are Americans who have contributed to the Trust Fund their entire working lives and now their guaranteed benefits are endangered. For years we have looked out for our fellow Americans, to lift them up and prove to them that no man, woman or child, regardless of race, religion, or socioeconomic status, will be left behind. Never in my 24 years in Congress have I seen such disregard for our countrymen and women. In a time when we are asking so many to sacrifice so much, this Administration appears ready to dismantle an incredibly successful and equitable program. At the same time, the President's tax policy will cost 3 to 5 times as much as the shortfall predicted by the Social Security Administration (SSA). The Medicare Program is already running a shortfall that is almost 8 times as much as Social Security.

This effort will do nothing to address the real problems facing the Social Security Trust Fund. Social Security plays a unique role in the lives of women. We know women live longer than men and make less in the workplace. Rather than ensure that the Social Security Trust Fund can provide for these women and their families, the Administration wants to cut benefits and create a risky privatization plan that does not guarantee a livable rate of return.

Social Security is truly one of our greatest success stories, virtually eliminating poverty for the aged. While we all agree that important concerns about Social Security should be effectively addressed, I do not believe turning this matter into a crisis should force us to accept what would otherwise be unacceptable. I am concerned that the scenarios suggested by the Administration do not serve us well as we conduct this domestic policy debate. Manufacturing a crisis with an ideological agenda is unacceptable.

Social Security is the core of old-age support and was intended as an income supplement and a crucial safety net for seniors, not a money making scheme. We must preserve Social Security through sound fiscal discipline and legitimate policy adjustments to meet the demands of future generations. Instead of weakening Social Security I believe that it should be strengthened and made more secure ensuring its success for generations to come. We cannot turn Social Security into Social Insecurity.

---

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 3, 2005 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MARCH 7

2 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Michael Jackson, of Virginia, to be Deputy Secretary of Homeland Security.

SD–342

### MARCH 8

9:30 a.m.

Armed Services

To hold hearings to examine military strategy and operational requirements in review of the Defense Authorization Request for fiscal year 2006.

SH–216

Judiciary

To hold hearings to examine the nomination of Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.

SD–226

Rules and Administration

To hold hearings to examine S. 271, to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees.

SR–301

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the reauthorization of the Commodity Futures Trading Commission.

SD–106

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 179, to provide for the exchange of land within the Sierra National Forest, California, S. 213, to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico, S. 267, to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and S. 305, to authorize the Secretary of the Interior to recruit volunteers to assist with or facilitate the activities of various agencies and offices of the Department of the Interior.

SD–366

2 p.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the Disabled American Veterans.

345 CHOB

2:30 p.m.

Energy and Natural Resources

To hold hearings to examine ways to encourage the diversification of power generation resources.

SD–366

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine the future of democracy in the Black Sea area.

SD–419

Judiciary

Terrorism, Technology and Homeland Security Subcommittee

To hold hearings to examine terrorism and the electromagnetic pulse (EMP) threat to homeland security.

SD–226

3 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the challenges facing the Organization for Security and Cooperation in Europe in 2005, focusing on security and human rights.

SD–192

### MARCH 9

9:30 a.m.

Indian Affairs

Business meeting to consider S. 147, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; to be followed by an oversight hearing on trust reform.

SR–485

10 a.m.

Banking, Housing, and Urban Affairs

Business meeting to consider the nomination of Ronald Rosenfeld, of Oklahoma, to be a Director of the Federal Housing Finance Board; to be followed by a hearing to examine the state of the securities industry.

SD–538

Energy and Natural Resources

To hold hearings to examine the nominations of Patricia Lynn Scarlett, of California, to be Deputy Secretary of the Interior, and Jeffrey Clay Sell, of Texas, to be Deputy Secretary of Energy.

SD–366

Health, Education, Labor, and Pensions

Business meeting to consider S. 250, to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act, the Caring for Children Act of 2005, S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, the Patient Safety and Quality Improvement Act of 2005, and any nominations ready for action.

SD–430

Homeland Security and Governmental Affairs

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Homeland Security.

SD–342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

MARCH 10

10 a.m.

Agriculture, Nutrition, and Forestry

To continue hearings to examine the reauthorization of the Commodity Futures Trading Commission.

SR–328A

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Blinded Veterans Association, the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America and the Jewish War Veterans.

345 CHOB

MARCH 15

9:30 a.m.

Armed Services

To resume hearings to examine military strategy and operational requirements from combatant commanders in review of the Defense Authorization Request for fiscal year 2006.

SD–106

MARCH 17

9:30 a.m.

Armed Services

To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed hearing in SH–219.

SD–106

10 a.m.

Commerce, Science, and Transportation

Oceans, Fisheries and Coast Guard Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2006 for the Coast Guard Operational Readiness/Mission Balance.

SR–253

APRIL 14

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.

345 CHOB

APRIL 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.

345 CHOB

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

# HOUSE OF REPRESENTATIVES—*Thursday, March 3, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATOURETTE).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 3, 2005.*

I hereby appoint the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Father of mercies and God of all consolation, You pursue us with untiring love. At certain moments of life, any one of us can be overshadowed by sickness or the death of a colleague, relative, or friend. Be our refuge and our strength, O Lord. Comfort all those who are lost in grief. Dispel the shadow of death with Your bright promise of new life. Lift Your people from their meandering questions of doubt and darkness; lift them into the peace and light that comes from Your presence.

Confirm them in love which never dies but lives on and on. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. PRICE) come forward and lead the House in the Pledge of Allegiance.

Mr. PRICE of Georgia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive ten 1-minute speeches per side.

## FREEDOM FOR JOSE DANIEL FERRER GARCIA

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Jose Daniel Ferrer Garcia, a political prisoner in totalitarian Cuba. Mr. Ferrer Garcia is a peaceful pro-democracy activist in Cuba.

In January 2002, he was forced from a bus and beaten by the tyrant's thugs. In March 2003, 2 years ago, he was arrested as part of the dictator's crackdown on peaceful pro-democracy activists and in a sham trial sentenced to 25 years in the totalitarian gulag because of his support of democracy.

Mr. Ferrer is a brilliant example, Mr. Speaker, of the heroism of the Cuban people. The totalitarian gulag is full of men and women of all backgrounds and ages who represent the best of the Cuban nation. Thousands languish in the gulag because, like Mr. Ferrer, they refuse to accept tyranny.

Mr. Speaker, we must speak out against the grotesque disregard for human rights, dignity, and freedom just 90 miles from our shores. We must demand the immediate and unconditional release of Jose Daniel Ferrer and every political prisoner in totalitarian Cuba.

## TILLIE FOWLER: IN MEMORIAM

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, never before in my years in this House have I taken the floor with such sadness. It is the sadness that penetrates to my very core, for I have lost a dear friend and Congress has lost one of its most distinguished Members.

Everyone was stunned by the news that our former colleague, Tillie Fowler, suffered a massive brain hemorrhage on Sunday. Now that she has died, we mourn her passing with the heaviest of hearts.

Tillie and I were Members of the class of 1992 and for some time the only women serving on the House Committee on Armed Services. She was a source of inspiration, a sister, a soul mate. We can take some comfort in knowing that she did not suffer and that her beloved husband, Buck, and her daughters were by her side. But nothing can bring her back, and she cannot be replaced.

Never partisan and always principled, the Congress and the country are better places because of her service, and she leaves a legacy we all learn from.

I will miss Tillie, my wonderful friend and staunch ally. We looked at the world the same way, through the same kind of eyes, and for me, for a while, the path ahead will be less clear without her.

## SOCIAL SECURITY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, America's Social Security system has been described with nearly every word in the dictionary: crisis, problem, trouble, bankruptcy. One can play the semantics game with Social Security all they want, but the fact of the matter is that Social Security is broken and needs fixing.

Back in 1935 the system worked well. Retirement age back then was 65 and the average life expectancy 63. A pretty good deal for the government. Today, however, Americans are living longer than ever and far more likely to live long enough to get their benefits.

Social Security is not a savings plan. It is a pay-as-you-go system where today's workers support today's retirees and tomorrow's workers support tomorrow's retirees. The number of workers supporting each retiree was 42 when the program started. It is now three, with the payroll taxes on the paychecks of hard-working Americans going up 600 percent over the time when it gets to two.

Just in 3 years, 2008, the government will begin to pay out more in Social Security benefits than it collects in payroll taxes. It does not take a math whiz to understand that the pay-as-you-go system will not provide retirement security for American workers.

Mr. Speaker, it is a problem and must be resolved. I urge my colleagues to join me in solving it.

## MILITARY READINESS ENHANCEMENT ACT

(Mr. MEEHAN asked and was given permission to address the House for 1 minute.)

Mr. MEEHAN. Mr. Speaker, I rise today to urge my colleagues to support H.R. 1059, the Military Readiness Enhancement Act, bipartisan legislation to repeal the military's senseless Don't Ask, Don't Tell policy.

With our troops spread thin in Iraq and Afghanistan, our military is having serious problems meeting personnel requirements. The Army missed its February recruiting goals by 27 percent. Yet under the Don't Ask, Don't Tell, we are discharging thousands of experienced, dedicated servicemembers simply because of their sexual orientation.

Hundreds of people let go under the Don't Ask, Don't Tell policy have skills that are critical to the war on terror, including translators and linguists. These soldiers have the courage to fight and the skills our military needs. There is no reason we should not allow them to serve their country. It is time for Congress to put national security interests first. It is time to repeal the Don't Ask, Don't Tell policy so we can keep the United States military the strongest in the world.

## RECOGNIZING THE CENTENNIAL CELEBRATION OF BAD AXE, MICHIGAN

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, today I rise to recognize the centennial celebration of Bad Axe, Michigan, the capital of Huron County. This beautiful city was founded originally in 1861 in the "thumb area" of Michigan, and it has remained a distinct part of history as it has continued to grow and to prosper over the past 150 years.

Bad Axe is a unique city. In fact, its very name gives it a very unique distinction. It is located in one of the most beautiful areas in the State of Michigan. It is a favorite destination for so many people who love the outdoors, either hunting or fishing or just enjoying the magnificent scenery.

Bad Axe's rich history includes some outstanding Michiganians, including Albert E. Sleeper, who became Michigan's 29th Governor, served from 1917 to 1921, certainly leaving his mark on the entire State as he worked to establish the State highway system and the State park system. So it is fitting that some of the most beautiful State parks are in Bad Axe area.

I am proud to represent this unique city in Congress as it has developed and transformed over the years. From its pioneer beginnings during the Civil War, Bad Axe has managed to leave its mark on history.

Mr. Speaker, I wish the city and its citizens the very best as they celebrate the future and as they remember the past.

## HOMECOMING OF USS "LINCOLN" CARRIER GROUP

(Mr. LARSEN of Washington asked and was given permission to address the House for 1 minute.)

Mr. LARSEN of Washington. Mr. Speaker, today I rise to honor the service of the sailors and Marine Corps of the USS *Abraham Lincoln* Carrier Strike Group who bravely and compassionately served the Nation and the world in the Western Pacific and Indian Ocean in the wake of December's tragic tsunami.

These women and men began their new year by delivering vital food, water, and medicine around the clock to the people of Southeast Asia and the Indian Ocean. They showed the world the values that we represent and why this country is so great.

From January 1 until February 4, carrier group aircraft flew over 1,700 missions in support of Operation Unified Assistance, carrying almost 6 million pounds of supplies. Over 1,200 crew mechanics from the group volunteered to go ashore and help.

Tomorrow I will attend the USS *Lincoln* and USS *Shoup* homecoming to Everett Washington. The VAQ 131 Prowler Squadron out of NAS Whidbey, the Lancers, just returned; and they are all part of Operation Unified Assistance.

Tomorrow, with their return, will be a great day for our country, a great day for our Navy and Marine Corps and for their families to celebrate.

## BUILDING AWARENESS AND UNDERSTANDING ABOUT MENTAL ILLNESS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am honored to discuss how two service organizations in the Second District of South Carolina have joined together on the Nothing to Hide project to promote awareness about mental illness. This project is an educational photo exhibit about families whose lives have been affected by mental health disorders.

By sponsoring the Nothing to Hide project, the Rotary Club of Hilton Head Island, Sunset, and the Mental Health Association of Beaufort and Jasper are addressing the myths and stigmas surrounding mental illness and are helping connect people who suffer from mental illness to the appropriate resources for support, education, and treatment.

Sunset Rotarians have volunteered to oversee the transition of the display during its 8-week tour through Beaufort and Jasper Counties. I would especially like to recognize the good work and leadership of the dedicated volunteers, Ed Dowaschinski, Krista Delgado, and Sandy Leath. Their strong efforts to raise awareness about this issue that affects so many of our friends and family members will help increase understanding throughout our community.

In conclusion, God bless our troops and we will never forget September 11.

## CELEBRATING PEACE CORPS WEEK

(Ms. McCOLLUM of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCOLLUM of Minnesota. Mr. Speaker, this week we celebrate the 44th anniversary of the Peace Corps and the service of current and return Peace Corps volunteers.

Today 7,700 Americans of all ages, including 38 volunteers from my congressional district, are serving our Nation and advancing the cause of peace in cities, towns, and villages in 72 countries around the world.

As we all know, with service also comes sacrifice. So as we celebrate this Peace Corps success, I would like to remember a young Minnesota Peace Corps volunteer, Melissa Mosvick, who died in a bus accident last November while serving our Nation in Morocco. Her service and sacrifice are also honored.

Nearly 180,000 Americans have served our Nation as Peace Corps volunteers these past 44 years. The service and commitment of all Peace Corps volunteers to our Nation and the world is truly a very special gift all Americans can celebrate.

## HONORING COLONEL WILLIAM GLEN GUSTAFSON

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise to honor Colonel William Glen Gustafson of Marietta, Georgia, who sadly passed away last Tuesday.

Throughout his life, Colonel Gustafson served his country and his community. He was a master parachutist and troop commander during two tours of duty in Vietnam. He worked for the American Defense Preparedness Association here in Washington. He served on the academy review committees of former Georgia Senator Sam Nunn and former House Speaker Newt Gingrich. And from 1991 to 1997, he served three terms as chairman of the Cobb County Republican Party.

In all these capacities, Colonel Gustafson exemplified the virtues of honor, dignity, and leadership. His death is a great loss not only for his family but for the entire Cobb community as well. I will always remember the enthusiasm he brought to his work and his commitment to solving every challenge he faced. I will greatly miss his charisma, his leadership, and, most of all, his friendship.

Mr. Speaker, I ask that my colleagues join me in honoring Colonel Gustafson.

## WELCOME HOME G.I. BILL

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, in every major war since the Revolution, the United States Congress has acknowledged our returning veterans for their service and sacrifice. In this proud tradition, last weekend I announced a Welcome Home G.I. Bill for the veterans returning from Iraq and Afghanistan. It is a bold new direction in helping our veterans achieve the success they so rightly deserve and earned.

The Welcome Home bill provides health care for up to 5 years for that member and their family if they cannot get it from their employer or lost it when they were overseas. The Welcome Home bill includes $75,000 for college education and waives the $1,800 fee required for the benefit. And, finally, it will offer them a tax-free $5,000 down payment on a home.

Most importantly, under the plan all returning veterans are treated equally whether they served in active duty, National Guard, or Reserve. Because their experience over there was the same, their benefit over here should be the same.

☐ 1015

The Welcome Home Package is a small token for our appreciation for the debt of gratitude we can never fully repay.

Mr. Speaker, we do not owe our newest veterans a favor. We must repay one.

## SAY NO TO FOREIGN LAW INFLUENCING AMERICAN COURT DECISIONS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, George Washington once said that "history and experience prove that foreign influence is one of the most baneful foes of Republican Government." But the United States Supreme Court has taken to relying on foreign law and foreign documents when issuing opinions.

This week, the Supreme Court ruled that the Constitution forbids the execution of convicted killers who are under the age of 18 when they commit their heinous crimes. Many of us might agree with this decision, but the court used the laws of other countries and foreign documents to determine whether American laws on this should stand. American laws are made by the people chosen by Americans to make them. That is a republic. The court has no right or authority to consider any other basis for legal opinion. In doing so, it only undermines the very structure under which it operates, the consent of the governed as defined by the United States Constitution.

Foreign law is still a baneful foe of our republican government.

## NATIONAL MISSILE DEFENSE SYSTEM A LEMON

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. KUCINICH. Mr. Speaker, Canada has officially opted out of the laughably named National Missile Defense System. We should take a lesson from our neighbors. They knew the NMD has a terrible record; 10 highly artificial and carefully scripted flight intercept tests, only five resulting in hits. One hit occurred when the equivalent of an electronic "hit me" sign was put on a supposed attack missile.

The new booster rocket for the kill vehicle has a one-in-three success rate. That is a one-in-three chance of even getting off the ground. The Pentagon canceled nine of the original 20 tests to focus on building the system instead of testing it.

Today, the NMD benefits no one except a few contractors and their patrons. Meanwhile, the Canadians chose not to buy a lemon. Here we plant a lemon grove and then franchise lemonade stands.

## CONGRATULATING DELL COMPUTER FOR NEW PLANT IN FORSYTH COUNTY, NORTH CAROLINA

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, today I ask my colleagues to join me in congratulating Dell for beginning construction last week on a new $100 million assembly plant in the Fifth District of North Carolina.

The 527,000 square foot facility set to open in Forsyth County this fall will be Dell's largest plant in the world. It will bring jobs to 700 people in its first year and employ up to 1,500 people within 5 years. Most of these jobs are expected to be new and most of them will go to local residents. The plant will join Dell's two other American manufacturing operations in Texas and Tennessee and produce Dell's OptiPlex and Dimension desktop computers.

Dell, which was named Fortune Magazine's "Most Admired Company" for 2004, will be a tremendous asset to the Fifth District. Its presence will attract other businesses and suppliers that will add millions of dollars to the local tax base and bring thousands of new jobs to the region.

I would like to thank the local leaders in Forsyth and surrounding counties for working so hard to make this possible. I am proud of the success in manufacturing coming from the Fifth District and look forward to many prosperous years at Dell.

## WORKING TOGETHER AS DEMOCRATS TO IMPROVE SOCIAL SECURITY FOR ALL AMERICANS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there has been an ongoing discussion with the American public on what is good for them in the future and today. It is interesting that the American public, when you hand them the facts, understand the underpinnings of Social Security. Over 51 percent of them do not agree with the present plans offered by the administration to allegedly solve the solvency question on Social Security.

The American public understands what it means to take $1.5 trillion away from Social Security to establish a private savings account that does not equate to solvency; the American public understands that Social Security is an insurance plan; the American public understands that any solution must be bipartisan; and the American public understands that when you begin to engage and divide a nation on a generational gap, that you are not moving toward a solution, you are only moving toward divisiveness.

Social Security has endured since 1935. It has provided an umbrella on a rainy day. It is an insurance plan, a survivor's benefit, and it allows the disabled to live in dignity.

Fix Social Security, do not destroy it. The plan before us destroys it. We are prepared to work together as Democrats, as Americans, to solve it.

## ECONOMY CONTINUES TO GROW

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the economy continues to grow as a direct result of the President's economic policies and those of the Republican Congress. Here are a few facts to illustrate this.

In January, we saw 146,000 new jobs and witnessed the twentieth consecutive month of job gains in the United States.

The national unemployment rate is down to 5.2 percent, the lowest since September 2001.

Job creation was up in 48 of the 50 States last year, and unemployment was down in all regions of the country.

Mr. Speaker, opposing tax increases and endorsing pro-growth policies has led to job creation. We are increasing consumer confidence and ensuring that the American working families no longer bear the burdens that impede economic growth.

We will continue here in Congress the hard work so that this progress continues.

## WAITING FOR DEMOCRAT PLAN TO FIX SOCIAL SECURITY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, well, the month of January went by and nothing happened. The month of February went by and nothing happened. Here we are, it is March, as a matter of fact, it is March 3rd. It looks like nothing is going to happen from the Democrat side to address Social Security.

One more day has gone, one more day of rhetoric and denouncing what the President is going to do and denouncing what the Republicans are doing and scaring senior citizens. But, still, no plan from the Democrat party to save and protect Social Security.

Now, it is interesting, up until last week they were saying there is no problem, we like it how it is. And yet in a major policy shift for the Democrat party, the Democrat Committee Chairman, Howard Dean, also known as "Screaming Dean," pointed out in a quote at Cornell University, which, as you know, is not exactly a sanctuary for conservative thought in America. Dean pointed out that if Social Security were left alone for 30 years, its benefits would be reduced to 80 percent of what it is now. He acknowledged there were problems.

Thank goodness, hallelujah, we have a Democrat who admits there is a Social Security problem. That means maybe the month of March will not go by. Maybe by the end of March the Democrats will join us and come up with a plan. We welcome their ideas. We solicit their ideas. We want their support.

## WAITING FOR REPUBLICANS TO PUT SOMETHING ON THE TABLE

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, my good friend the gentleman from Georgia (Mr. KINGSTON) motivated me to come to the floor when he suggests that the Democrats do not have a plan for Social Security.

I would say to my good friend, the gentleman from Georgia (Mr. KINGSTON), it is the President of the United States that proposed that Social Security should be privatized. During the last recess, the President's Day recess, Democrats went home, and almost every one of the House Democrats, except 40, held town meetings. I want the gentleman to know that most of his colleagues did not hold town meetings on Social Security at all for the reason that you really do not want to put your plan on the table.

The Democrats are ready when you bring your plan. The last time I looked over there, you all were in charge. I do not recall that we have to do anything at all in that regard.

But we are going to fix Social Security. The question is, are you going to fix Medicare and Medicaid? Are you going to do something about prescription drugs? Are you going to do something about inadequate education, inadequate housing and inadequate jobs in this country? I think that is what we need to be looking at.

We will fix Social Security, if you put something on the table.

## REPUBLICANS SEEKING BIPARTISANSHIP IN FIXING SOCIAL SECURITY

(Mr. COLE of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. COLE of Oklahoma. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding, and want to say to my good friend from Florida that I have always enjoyed working with my distinguished colleague from the south tip of the peninsula of Florida, the great State. But I want to say, even though we are the majority, we still want your ideas. We want the Democrat party to put a plan on the table.

On the subject of town meetings, I personally held nine town meetings. There is a lot of division out there as to what we should do, and that is why it should be done in a bipartisan way, and that is why I think everybody needs to come together.

And Mr. Speaker, I want to say this: I have not introduced the plan. If the gentleman would like to work with me on a plan, I would love to have the Hastings-Kingston bill, or the Kingston-Hastings bill, if we could do that, because I think it is important.

I know the gentleman's fondness for seniors. I have heard the gentleman speak fondly about his mom, and he has heard me speak fondly about my mom, and we owe it to both of them, and that is what we should be doing.

Mr. HASTINGS of Florida. Mr. Speaker, if the gentleman will yield, let us do it.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield further, I am ready to work with the gentleman.

## CONTINUITY IN REPRESENTATION ACT OF 2005

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 125 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 125

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 841) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed 60 minutes, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, on March 1, the Committee on Rules met and granted a structured rule for H.R. 841, the Continuity in Representation Act of 2005. I believe this is a fair rule that allows for a full discussion of the relevant points pertaining to the legislation before us.

Mr. Speaker, H.R. 841 is an important step forward in addressing what are critical shortcomings in America's plan for the continuity of this House in the event of an unexpected disaster or attack.

□ 1030

While I was not a Member of Congress on September 11, 2001, I was in an office directly across LaFayette Park from the White House. Like all Americans, I remember that day in detail. One of the most significant memories I have is the bipartisan response to the tragedy where Members stood on the steps of the Capitol and let it be known to the world that our government would continue to operate.

Mr. Speaker, the response of Congress to 9/11 should never be forgotten. It was a sign to the world that America was strong, that it would persevere and that we would go forward as a Nation. The underlying legislation today does the exact same thing. It takes an important step to ensure the preservation of our Republic and the continuity of our government under the most trying of circumstances.

Mr. Speaker, very simply, this legislation ensures a continuity of operations for the House of Representatives. In the event that more than 100 Members of Congress are killed, the Speaker may announce that "exceptional circumstances" exist and thereby trigger expedited special elections that must occur within 7 full weeks, thus ensuring the continuity of the House of Representatives.

Mr. Speaker, this legislation should not be very divisive based on the fact that a similar measure passed the House by a substantial bipartisan margin of 365 to 97 in the last session of Congress. This legislation ensures the continuity of the people's House. It ensures that the House will still be an elected body chosen by the American public just as the Founders intended.

With that said, let us talk about what the bill is not. It is not an election law bill. It is a continuity bill.

Mr. Speaker, you may well hear many Members describe various provisions today in the context of Federal election law. These measures may have genuine merit. However, they are not relevant to this legislation. Personally, I firmly believe that most Members would agree with me when I suggest that election law should remain essentially a local issue. This is where it resides historically, and this is where it should continue to reside.

Mr. Speaker, we have a clear decision before us today. We can either be responsible in preparing for what we all hope never occurs, or we can engage in pointless bickering over election laws that are historically controlled by the localities. Just a few years ago almost all Members would have viewed a tragedy like September 11 as an unthinkable event, and that is precisely the point. We cannot predict tomorrow. What we do know, however, is that we are engaged in a real, genuine, and taxing global war on terror. This is a generational war and one that will not disappear over night.

Mr. Speaker, simply put, this legislation is about the security and continuity of America's governing institutions. It is an issue of critical importance in establishing an orderly response should the unthinkable occur again.

The legislative history of this bill is clear. This bill originated in direct response to the events of September 11. It is a continuity-in-government bill, not an election reform measure. To confuse the former with the latter by encumbering this bill with extraneous issues would be to lose sight of the fundamental purpose of the legislation. Our job here is to ensure the continuity of the House of Representatives, not reform a state-based electoral process with Federal legislation.

During my time as Secretary of State in Oklahoma, the bombing of the Alfred P. Murrah Federal Building occurred. At that time such an event was considered unthinkable in the United States. That incident and the larger tragedy of 9/11 are a sober warning that we should prepare for the unexpected before it occurs. H.R. 841 is an important part of that preparation, and it also is a tangible sign to terrorists that they will never intimidate this country, change the nature of this House as the elected representatives of the American people, or keep our government from facing any challenges it may face in the future.

Mr. Speaker, let us wait no longer. Let us move forward. And to that end, I would urge all Members to support this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Oklahoma (Mr. COLE) for the time. This is the first rule of which I hope are many that the gentleman and I are managing together. He has already been welcomed to the committee, so I extend those same warm welcomes to him for managing this measure.

Mr. Speaker, I rise today in opposition to this closed rule which limits debate on how this body should operate if it experiences mass causality. This is an issue of grave importance to the American people and the integrity of that democracy in times of dire crisis.

The decision of the majority to place any restrictions on this body prohibiting Members from offering amendments and freely debating the subject is not responsible.

The terrorist attacks of September 11 changed the way that we as a country operate. In turn, Congress has rightfully committed itself to creating policy that protects Americans from future attacks, though I question how successful we have been in our actions. September 11 also presented us with a challenge to consider continuity in the House during a worst-case scenario. In examining such a grim situation, we must foresee what will be needed to regain stability and reassure the American people and the world that our government is going about business as usual.

While I believe that the underlying legislation is an honest attempt to address the concerns which I just raised, the discussion surrounding the issue has been, as one constitutional scholar wrote, embarrassingly partisan. Even more, the product of 3 years of discussion on the issue that the majority is bringing to the floor is incomplete, unrealistic, and fails to consider the implications of changing statute when we should be amending the United States Constitution.

The underlying legislation requires the States to hold special elections within 45 days in the case of extraordinary circumstances. This is a problematic requirement. When the Committee on House Administration took testimony from State and local election officials, it was told that 45 days is not enough time to pull off a primary and general election. Election officials noted that mailing ballots to absentee, overseas, and military voters for a primary and general election and then waiting for their return would alone take more than 45 days. This does not include the time that it takes to print and process ballots.

Should this time period be adopted, it would undoubtedly result in the disenfranchisement of millions, including seniors who vote absentee, our diplomatic corps, and our men and women serving in our Armed Forces.

The majority finally agreed with Democrats and local election officials yesterday that 45 days is not enough time to conduct these critical elections. Late last night we were informed that my friends on the Republican side are now seeking to amend the rule so that they may offer a manager's amendment which will increase the time elections must be conducted from 45 to 49 days. Four days, Mr. Speaker. What can you realistically do in 4 more days?

This is more of a cosmetic and convenient change than substantive. It still sets up a process that will lead to the selection of Members of Congress who are potentially not the real choice of the citizenry. All of this is happening at the same time my friends in the majority have blocked Democratic Members from offering three different amendments to the bill, all of which were germane and all of which were turned in on time. It seems to me that we operate under two rules in the House of Representatives: one for them and one for us.

Later today, Democrats will offer an amendment lengthening the special election period from 45 to 60 days. Our proposal provides elections officials with a more realistic solution to a daunting task most likely overshadowed by grief and angst. I hope that Members of this body will place the integrity of our democracy above petty politics and vote to adopt the Millender-McDonald amendment.

Additionally, the continuity-in-government commission has recommended a different approach. It has suggested that States create lists of possible appointments to seats vacated due to mass causality to ensure that the House can continue to operate while States move forward with their own special elections process. These temporary appointments would serve until States are able to elect representatives in accordance to their own laws.

This is a fair approach and one which should be considered on equal footing as the underlying legislation. Yet, when our colleague, the gentleman from Washington (Mr. BAIRD), offered this proposal in the 108th Congress, as a footnote, the gentleman from Washington's (Mr. BAIRD) wife is about to deliver their child and he might not get here. We are hoping that he does. But he certainly has been a stalwart leader in the effort to do what is necessary to preserve the integrity of this body. When he introduced this proposal, Republicans sought to embarrass him and the commission's ideas for which he was fighting. They set up a vote in the way that it was impossible for the proposal to be given its due consideration. In my view, it was cutthroat politics, and we should not allow for those kind of actions.

Incomplete as it is, the underlying legislation also fails to consider mass causality where the Speaker is a victim and is unable to trigger special elections. It does not address how the House quorum rules will work in the case of mass House vacancies. Perhaps most importantly, the underlying legislation could potentially leave our country without an effective or legitimate legislative branch for the first 6 weeks following a disaster.

Think about it this way: in the first 6 weeks following September 11, the House, this House, authorized the President to use force against terrorists and appropriated $40 billion to address the emergencies in New York and at the Pentagon. If the underlying legislation is dropped, the legitimacy of actions taken by a shorthanded Congress, most likely during a time of war, would always be in question. For me, this scenario is unacceptable.

Regardless of the House's decisions today, States and voters must ultimately approve this process through a constitutional amendment. It took less than 14 months to approve each of the 17th, 18th, 19th, 20th, 21st, 23rd, and 26th amendments respectively. Anyone who suggests that the constitutional amendment process takes years, in my view, is incorrect.

Throughout history, when constitutional amendments have been needed, States and voters have responded. I suspect that they will respond similarly in this case.

All of these concerns underscore the need for this body to consider this legislation in an open and much larger discussion on the continuity of our government during times of mass causality. The effects of our hastiness today may not be felt while any of us are alive, but at some point in the future our successors and our States will be trapped by poor decisions we might make today.

I urge my colleagues to oppose this closed rule.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I want to thank the gentleman for his kind words and I look forward to working with him as we move ahead and I learn from him as I already have in the context of the deliberations of the Committee on Rules.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me time. I want to begin by congratulating him on his superb service on the Committee on Rules.

This is obviously a very important issue to him. He joined the gentleman from Wisconsin (Mr. SENSENBRENNER) and me, along with former Secretary of State Candice Miller and our distinguished colleagues, the gentleman from Ohio (Mr. CHABOT), the gentleman from Texas (Mr. PAUL), and the gentleman from Maryland (Mr. BARTLETT), in co-sponsoring this legislation.

As a former Secretary of State, the gentleman from Oklahoma (Mr. COLE) understands how important this issue is for us to address.

□ 1045

I also want to express appreciation to my colleagues on the other side of the aisle. In the last Congress, while it has not happened in this Congress, I was very pleased that the distinguished ranking minority member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), joined as a cosponsor of this legislation, as well as my good friend and colleague, the gentleman from California (Mr. BERMAN). And it is my hope that we will be able to move ahead in a bipartisan way dealing with this very, very important institutional issue.

We all remember September 11 of 2001. My judgment has often been questioned because I was the last human being to walk out of this building on September 11 of 2001, and probably correctly. I did not think anyone would attack it. And I will say that when I left the building on September 11, 2001, I did so when one of the great Capitol Hill policemen said to me that there was a plane headed towards this building, and we all know now that that is the plane that went down with those very courageous passengers in Pennsylvania.

When we think back on September 11th, obviously it was one of the darkest days in the history of our republic, and it has led us to spend a great deal of time thinking about the unthinkable. Because of September 11th, we have had to ponder things that we would never even possibly consider because of the fact that we had not seen that kind of attack on U.S. soil. But since that time, the Speaker of the House has really stepped up to the plate and done a wide range of things that are designed to ensure that the people's House and, in fact, we hope both Houses of Congress, are able to continue to function.

If you recall on September 11th, late that afternoon, when Members of both Houses of Congress, both political parties, stood on the east front of the Capitol singing God Bless America. The reason that Members stood on the east front of the Capitol was to let the American people and to let anyone know who would want to do us in, that we, as a Nation, are strong, and this institution, the greatest deliberative body known to man, was continuing to function.

So beginning almost immediately after the attacks of September 11th, the Speaker took a number of steps that were designed to maintain the continuity of this great institution. He established the ability to adjourn to an alternative place and to declare an emergency recess. He established the ability to effect a joint leadership recall from a period of adjournment through designees, and the requirement that the Speaker submit to the Clerk of the House a list of designees to act in the case of a vacancy in the Office of the Speaker. And, Mr. Speaker, we all know that at the beginning of this 109th Congress, we included in our opening day rules package the provisions that allow the House to establish a quorum, which could be lowered if we go through a litany of roll call votes that would determine that many Members had been incapacitated and could not actually show up to work here.

I think it is important to note that we provided a number of protections in the use of that rule, including several that have been suggested by the Members of the other side of the aisle. And I have to add, Mr. Speaker, that the Speaker of the House and the minority leader, the gentlewoman from California (Ms. PELOSI), have personally engaged and spent time talking about this very important issue. And it is my hope that we will, at the end of the day, end up with, as I said, a bipartisan compromise.

Some of those recommendations that came from Members of the minority on this issue: Extended roll calls lasting days at a time and excluding any time in recess so that Members can contact the House and let us know that they can come to vote. The availability of the motion to adjourn at any time. The nonpartisan advice of the Sergeant at Arms, the Capitol physician, and the medical and emergency personnel about the state of the membership of this body. And, Mr. Speaker, at the recommendation of the minority, consultation with the minority leader, in accordance with the traditional relationship between the Speaker and the minority leader.

And, finally, it is very important for us to remember that, as I just alluded to, that we have a bicameral legislature. The United States House of Representatives does not operate unilaterally, so there will always be a check on any action taken under the mass incapacitation quorum provision.

What I have been discussing, Mr. Speaker, answers how we will do the people's work if a terrorist attack incapacitates large numbers of us. Now, the Continuity in Representation Act of 2005, which we are considering here today, deals with how we will replenish the House if terrorists kill large numbers of our Members. This legislation calls for special elections to be held within 45 days following such a catastrophe.

The gentleman from Florida (Mr. HASTINGS) has just alluded to something, and while I know we do not enjoy the strong support of the minority on this, we have made a step in that we are going to have a manager's amendment made in order that would allow us to move in the direction of what it is that the minority wants, and that is allowing for 49 days, which would be a full 7 weeks.

Let me say that this legislation addresses a number of very important matters and it incorporates a number of suggestions made, again by Members on the other side of the aisle. They include more than doubling the amount of time for the special elections to occur from 21 days to 45 days. And again we are going even further, to a full 7 weeks.

Protecting overseas military and absentee voters so that they receive additional time in which to return ballots. And I want to thank, particularly, the distinguished ranking minority member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), for his fine work in that area and his commitment to ensure that we address the issue of military and overseas voters.

Protecting civil and voter rights. You will recall when we considered this legislation, which at the end of the day drew large bipartisan support in the 108th Congress, we were able to address the concerns that were raised by the gentleman from North Carolina (Mr. WATT) at the end of the day when we were debating the legislation, and that is included in this. Again, that is a recommendation that came from the minority.

We allow States to have primaries and other options for selection of candidates for the special election so long as the general elections are completed within that period of time, which would be 49 days, excluding districts from the 49-day special election requirement if they already have either a general or special election scheduled, and including the four delegates and the resident commissioner of Puerto Rico within the provisions of the bill.

Now, I mentioned the large bipartisan support. Last year, this legislation passed the House by a vote of 306 to 97. I believe that we need to continue working in a strong bipartisan manner to move this bill through the House and get it to the other body just as expeditiously as possible. In that spirit, I anticipate that we will amend the rule, as I said, to move under this manager's amendment from 45 to 49 days. Again, our attempt to continue to work and address very, very correct concerns that are emerging from the minority.

I also have to say that on this rule itself we are very happy to have made in order the amendment of my colleague and neighbor, the very distinguished gentlewoman from California (Ms. MILLENDER-MCDONALD), who has offered an amendment calling for 60 days. I also want to congratulate her, Mr. Speaker, on her new assignment as the ranking minority member of the Committee on Administration. She is working closely with the gentleman from Ohio (Mr. NEY) I know, and with the gentlewoman from Michigan (Mrs. MILLER), who is going to be managing this legislation, and so we look forward to seeing what I hope is, again, a good bipartisan work product.

I want to talk now, if I can, Mr. Speaker, about how this bill protects what I feel is a very, very key part of our responsibility here: Our representation. When I was an undergraduate at Claremont McKenna College, I had a professor who pounded the Federalist Papers into me. I remember my mentor and the importance of the Constitutional Convention, and the great Connecticut Compromise of July 16 of 1787. And I remember that date because we convened the Congress in Philadelphia to mark the bicentennial of the Connecticut Compromise back on July 16 of 1987.

Of course, the Federalists have been so important in explaining and justifying the actions of the framers as they put the Constitution together. We all know that James Madison was the Father of our Constitution, as well as having been President of the United States, he, as a matter of fact, was a member of the first Committee on Rules. And a relative of mine served on that Committee on Rules at the founding.

Madison wrote extensively about this institution, the House of Representatives in Federalists 52 through 57. And one of the things I believe is very important for us to note is that Madison talked about the absolutely critical importance of this institution being elected.

Now, Mr. Speaker, we all know that the 435 of us who serve as Members of the House of Representatives are the only Federal officials who must be elected before we can serve. In the other body, the United States Senate, people are appointed by their governors if vacancies take place. And we all know from the example of President Ford, one can be appointed to serve as Vice President and President of the United States without having been elected. But no one has ever served in the people's House, this body, without having first been elected. And I think it is important to note that Madison made it clear when he was talking especially about this institution, as he said in Federalist No. 53, "where elections end, tyranny begins."

Mr. Speaker, as I said, we are the only Federal office where no one has served here without having first been elected, and I think that is something we need to do everything we can to maintain.

In Federalist 52 Madison wrote: "It is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on and an intimate sympathy with the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectively secured."

He went on in Federalist 57 and wrote: "Who are to be the electors of the Federal representatives? Not the rich more than the poor, not the learned more than the ignorant, not the haughty heirs of distinguished names more than the humble sons of obscurity and unpropitious fortune. The electors are to be the great body of the people of the United States."

And, Mr. Speaker, Madison rejected the idea that appointment of Members is acceptable to the American public. He said, and I quote: "The right of suffrage is certainly one of the fundamental articles of democratic government and ought not be regulated by the legislature. A gradual abridgement of this right has been the mode in which aristocracies have been built on the ruin of popular forms."

I think it is very important for us to understand that there have been times in our Nation's history where we have faced greater difficulty than the difficulty that we face today, or even greater difficulty than we faced following September 11 of 2001, and that was the Civil War. If we think back to that time of the Civil War, we have to remember that this Capitol was surrounded by troops who were threatening the very being of our Republic. Yet President Lincoln proceeded with elections, understanding how critically important they are for our Republic's survival.

And, of course, we have the newest example of self-determination in the world. The brave people of Iraq recently tasted freedom and the joy of elections. What happened? We had many people saying those elections could not take place. Why? Because there was a great deal of tension. We saw terrorist attacks, and we continue to see that in Iraq. But we know that despite the bombs and the snipers and the fear of death, people exercised that very important right to self-determination. Having faced down aristocracy and tyranny, they knew just how important elections would be for them. We too are a democracy borne out of facing down aristocracy and tyranny ourselves, and we should never forget that for one moment.

Mr. Speaker, I am convinced that as we look at the struggles taking place in Iraq today, that building and reinforcing democratic institutions is crucial for the safety, security, and happiness of a nation's people, whether it is the people of Iraq or the people of the United States of America. That is why when we looked at some of the other options to provide for our continuity as an institution, such as the stand-in appointments provision that the House overwhelmingly defeated last year, we should ask what we lose if we, for one moment, give up on elections.

Some have said that this is different; that we will be dealing with a national emergency. And I say that elections are particularly important during a time of a national emergency. We should not have stand-ins or successors from a list in our back pockets passing laws, declaring war, or suspending habeas corpus. I believe that when we take this very, very unique institution, the people's House, where no one has served without having first been elected, and move away from elections, that we threaten the very basis of our strength as a democratic Nation.

□ 1100

Thus as we look at the very tough challenge of how to preserve our democracy in the face of catastrophe, this legislation is the most responsible way to continue the legitimacy of our government. If we look at the tragic loss of more than 100 Members, the idea of having the States hold special elections in that period of time is something that is doable. People will unite and will remove all obstacles in conducting elections.

Think about it, Mr. Speaker. In the time of a horrible tragedy, feeding and clothing one's family, making sure the roof is over their head, and then playing a role in picking one's leaders, that is all part of the process of rebuilding. And it can be done in a relatively short period of time.

My colleague (Ms. MILLENDER-MCDONALD) and I represent the State of California. A year and a half ago in our home State, we went through a special election—recently, going through an unprecedented situation. We had the recall of a Governor and an election that took place in 55 days. It was not a single congressional district of 650,000 people with two or three candidates. That race had 135 candidates on the ballot, and they were running among a populace of 35 million people. And I am happy to say that that election came off without a hitch. And I should parenthetically say I am happy with the outcome as well, Mr. Speaker.

Let me close by saying that I think it is very important for us to realize again what James Madison was telling us when he said "When elections end, tyranny begins." We should do everything we possibly can to make sure that we keep this House's very, very precious election process.

This rule allows for consideration of measures that address that. It is a very fair rule that again gives the ranking minority member an opportunity to have her proposal considered. I do oppose that proposal because I believe that the notion of moving to 49 days will allow us to work this out very well. And I again thank my colleagues, the gentleman from Ohio (Mr. NEY) and the gentleman from Wisconsin (Mr. SENSENBRENNER) and others, who have worked long and hard on this.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I have great respect for the gentleman from California (Mr. DREIER), and I know that he knows that the 17th amendment of the United States Constitution speaks to continuity.

I also know that he knows that the Congress, for purposes of preserving our institutions, allowed for the development of a continuity-of-government commission. On that commission a significant number of outstanding individuals from America, a broad cross-section of them, came up with the notion that it was critical that we have a constitutional amendment to go forward. Let me name some of the people that were on that commission: Lloyd Cutler; Alan Simpson; Philip Chase Bobbitt; Kenneth Duberstein; Tom Foley, former Speaker of the House; Robert Michel, minority leader; Newt Gingrich, former Speaker of the House; Nicholas B. Katzenbach; Jamie Gorelick; Robert Katzmann; Kweisi Mfume; Lynn Martin; Donna Shalala; and their senior counselors were Norman Orenstein and Thomas Mann.

What they said in the very preamble of their document is the following: We held two public meetings where we heard testimony from experts, and in the course of our investigation, we explored a wide range of options short of a constitutional amendment to ameliorate or solve these problems.

The commissioners, all of those persons that I just identified, shared distaste for frivolous or unnecessary amendments to the Constitution. Unfortunately, because the Constitution dictates the way that vacancies are to be filled in the House and Senate, there is no way to establish a procedure to quickly fill mass vacancies without a constitutional amendment. No less authorities than Robert Michel and Newt Gingrich and Tom Foley and Lloyd Cutler, folks who have studied the Constitution, actively came to that conclusion. I tend to share their view.

And the chairman of the Committee on Rules spoke of James Madison. No greater or eminent scholar that laid the foundation perhaps, other than Jefferson, dealt with all of the issues that they contemplated in their time. But I wonder if Mr. Madison would deem it fair that the House operates with closed rules rather than open rules. We had a vote on whether or not there should be an open rule in this important process for America, and we had an amendment offered by a distinguished Member of this body, the gentleman from Minnesota (Mr. SABO), requiring States to offer same-day voter registration for special elections held in accordance with this bill. Seems reasonable that people would be scattered and other things on their minds in a crisis such as we had experienced on 9/11.

My colleague from New York (Mr. NADLER), who lost more people than all of us combined in the 9/11 tragedy, offered a measure to prohibit deceiving any person as to the time, place, or eligibility requirements of special elections held in accordance with this bill.

And the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, offered an amendment that would require States to equally and fairly distribute election personnel and equipment when it conducts the special elections contemplated in this bill. All three of those civil rights measures went down the tube with the closed rule.

When we open up this institution, we will be able to address matters in a more meaningful way so that the minority can have their amendments contemplated in good kind.

I end by saying that Thomas Mann of the Brookings Institution, who was one of the lead authors of the continuity commission's report, stated in front of the Committee on House Administration the following: "The inability to swiftly constitute the House and Senate would deprive the country of a fully functioning first branch of government at a time of grave national crisis. Unable to achieve a quorum, or relying on a questionable quorum interpretation allowing a small minority, possibly a handful of surviving Members to act for the full Chamber, Congress would be unable to legitimately elect a new Speaker or confirm a new Vice President, both critical links in Presidential succession.

They will be unable to declare war, appropriate funds, pass legislation needed to deal with the attack, confirm Supreme Court and Cabinet appointments, oversee an executive branch possibly run by someone largely unknown to the country, and reassure a stunned Nation that their constitutional democracy is alive and well."

Constitutional democracy, not statutory democracy as we are offering here today.

Mr. Madison offered the 17th amendment to the United States Constitution that has held well through the years with reference to continuity, and we owe no less responsibility to those Founders to be mindful of our responsibilities in that regard by offering up to the American people an appropriate constitutional amendment to be debated and decided by the people of this great country.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself the balance of my time.

In closing, I would like to say I believe the debate has been an excellent discussion underlining many of the substantive concerns of both sides of a complex issue. But let us make one thing clear, this bill is about America's security and the way that Congress will deal with a catastrophe of unprecedented proportions. To ignore this basic fact is to ignore the warnings of history and the tragedy of September 11.

Mr. Speaker, today others have placed this debate in the context of election laws and constitutional issues. I appreciate their concerns, but this is not what this legislation is about. It is about establishing an orderly procedure to ensure the continuity of the House in the aftermath of a catastrophic event. The potential for this was underlined by what occurred on September 11. We cannot ignore those facts or ignore the realities and dangers of a changed international and geopolitical environment. To do so would be irresponsible.

### AMENDMENT OFFERED BY MR. COLE OF OKLAHOMA

Mr. COLE of Oklahoma. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLE of Oklahoma:

At the end of the resolution, add the following:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment specified in section 3(a) shall be in order as though printed as the first amendment in House Report 109–10 if offered by Representative Ney of Ohio or a designee, and the amendment specified in section 3(b) may be in order in lieu of the amendment printed in House Report 109–10 and numbered 1.

Sec. 3(a). The first amendment referred to in section 2, which shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, is as follows:

In section 26(b)(2) of the Revised Statutes of the United States, as proposed to be added by the bill, strike "45 days" and insert "49 days".

(b). The second amendment referred to in section 2 is as follows:

In section 26(b)(2) of the Revised Statutes of the United States, as proposed to be added by the bill, strike "shall take place" and all that follows through "the vacancy exists," and insert the following: "shall take place not later than 60 days after the Speaker of the House of Representatives announces that the vacancy exists,".

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Oklahoma (Mr. COLE) is recognized.

Mr. COLE of Oklahoma. Mr. Speaker, I want to take this opportunity to briefly describe this amendment before going further.

This amendment makes in order another amendment to take one more step toward satisfying the concerns of the minority and the Senate by extending the time limits by which States can hold elections. It is a short extension, but useful in that it allows States to phase their election plans over 7 even weeks. To that end I would urge my colleagues to support this fair rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Oklahoma (Mr. COLE).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. COLE of Oklahoma). Pursuant to House Resolution 125 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 841.

☐ 1113

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 841) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

General debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from California (Ms. MILLENDER-MCDONALD) each will control 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 10 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

☐ 1115

Mrs. MILLER of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation that we are going to be considering today deals with a very, very serious issue, the possibility actually of a tragic attack that would result in the death of a significant number of our colleagues in the House. Though I think it is safe to say that none of us are eager to consider this issue, the events of September 11, 2001, forced this House to consider the ramifications of a successful terrorist attack against this body. On that fateful day, the enemies of freedom clearly targeted the pillars of our Nation. The terrorists attacked the World Trade Center which represented our economic freedom. They attacked the Pentagon which represents our military strength. And, by all accounts, Flight 93 was targeted either at the White House or at this building, both symbols of our form of democratic government and of our freedoms.

In fact, only the heroic actions, the unbelievable bravery of those brave passengers on Flight 93 prevented that particular plane, that particular flight, from reaching its intended target.

And so, Mr. Chairman, we begin to think about the unthinkable, to do our duty and to plan for every eventuality. H.R. 841, the Continuity in Representation Act, provides a very reasonable, very well thought-out mechanism for the reconstitution of the House of Representatives in the event of such a tragedy. The sponsor of the bill, the gentleman from Wisconsin (Mr. SENSENBRENNER), as well as the gentleman from California (Mr. DREIER) and the gentleman from Ohio (Mr. NEY) are to be commended for their great commitment and dedication in crafting this bill and bringing it to the floor today. The Congress must ensure that the government remains strong and stable during and following a terrorist attack, and this legislation would accomplish that goal.

Mr. Chairman, all the other branches of government already have contingency plans in place. In the case of a vacancy, the President would be replaced quickly by the existing line of succession. The courts would be replaced quickly by presidential appointment. The Senate would be reconstituted very quickly through gubernatorial appointment as is outlined in the 17th amendment. Only the House would be unable to function quickly in a time of national emergency.

The Continuity in Representation Act would correct this problem by requiring States to hold special elections to fill vacancies in the House of Representatives not later than 49 days after the vacancy is announced by the Speaker of this House in the extraordinary circumstances that vacancies in representation from the States exceed 100. Mr. Chairman, as we grapple with this issue, we must remind ourselves that the U.S. House of Representatives is the people's House. For the entirety of our national existence, Members of the House have been directly elected by the people. Article 1, section 2 of our Constitution states: "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of elections to fill such vacancies." The key word here is "elections." No event should be reason enough to change this historic and constitutional constant.

The bill under consideration today allows us to remain true to the course charted for us by our Founding Fathers. There have been a number of suggested alternatives to the proposal in this legislation. Some have called for perhaps temporary appointment of the Members of Congress in such an emergency either through gubernatorial appointment like that in the Senate, or even by a sitting Member naming a successor to take the seat in the event of that Member's death.

Any of these ideas would require a constitutional amendment, which would be a change from both tradition and constitutional mandate which expressly calls again for the direct election of Members of the House of Representatives. Concerns have also been expressed regarding the requirement that special elections be completed within 49 days of the Speaker's announcement of 100 existing vacancies in the House would be difficult.

Mr. Chairman, before I came to Congress actually, I was honored to serve as Michigan's Secretary of State for 8 years with a principal responsibility of serving as that State's chief election official, so this is an area that I do have some expertise in. Some have argued and will argue that more time is necessary, but I disagree.

Under this legislation, States would have the option, let me repeat, the option, of eliminating the primary election and permitting political parties recognized by State law to choose their candidates. In turn, this would eliminate the petition requirements and the verification process that accompanies it. Additionally, it is important for us to remember that the U.S. Representative position would really be the only one on the ballot which would dramatically ease printing, programming and testing.

Furthermore, Mr. Chairman, the passage of the Help America Vote Act of 2002, HAVA as we commonly call it, has helped to prepare local election officials more than ever to conduct special elections. HAVA is granting Federal dollars to the States in historic proportions, quite frankly, dollars that they are using to eliminate antiquated election equipment and purchasing new state-of-the-art equipment. States have either constructed or are moving very quickly toward construction of statewide computerized voter registration files, similar to the one that we built in Michigan several years ago. Technology actually allows for these lists to be updated daily so that a clean, up-to-date file can be printed out literally any day of the year anytime, and provided to the polling sites. Obviously this is a fantastic election tool for any election, but particularly so for an expedited election.

Also, States are now moving toward uniformity of voting systems in their precincts. Uniformity of election equipment in a State will enable vendors to always have a camera ready template of the ballot, and then all they literally have to do is fill in the names of the nominees for U.S. Representative and go to print. Having a uniform system will eliminate confusion amongst poll workers and further ease election preparation.

H.R. 841 also protects the ability of military personnel and overseas citizens to participate in a special election by requiring that absentee ballots be transmitted to such voters within 15 days of the Speaker's announcement and that such absentee ballots be counted if they are received not later than 45 days after the State transmits them.

In fact, even now the Department of Defense, the DOD, is moving towards a program where service men and women stationed overseas can actually download their ballots via the Internet.

Some will make the argument, again, that 49 days is simply not enough time for the States to prepare. To that argument, I would simply point out that some States today already have requirements that special elections be held in much less time than the 49-day period. So I believe that argument is obviously moot.

Mr. Chairman, I certainly do not intend to imply that this would be a simple task. There is no question there is lots of hard work. Regardless, it has been my observation and my personal experience that the fine men and women who administer our elections always rise to the occasion to complete the required work on time. I have no doubts that they would do so in a time of national emergency.

While I hope, Mr. Chairman, that we never have to face this situation, we must nonetheless prepare for it. Clearly it is incumbent on us to find a solution to this issue which honors the wishes and the wisdom of the Founding Fathers that the House of Representatives remain the people's House.

Mr. Chairman, it has been said that the price of freedom is remaining ever vigilant. I believe passing H.R. 841 is a step in showing the enemies of freedom that America is remaining ever vigilant. Similar legislation received over 300 votes in the last Congress, and I would, again, ask my colleagues for their strong bipartisan support of this legislation.

Mr. Chairman, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield myself such time as I may consume.

First, let me congratulate the gentlewoman from Michigan in joining our committee, the Committee on House Administration. She is quite an addition to the committee and we congratulate her.

Mr. Chairman, I rise in opposition to H.R. 841 in its current form. While the bill number has changed since last year, the core problems in this legislation remain the same as in last year's bill, H.R. 2844. H.R. 841 is unworkable, unfair and undemocratic. It restricts the franchise and inhibits public participation in the expedited special elections it would create, an especially unfortunate development following so closely after the serious problems revealed in the aftermath of the 2004 elections.

This bill is part of a series of actions by the majority over the last 2 years as advertised in addressing problems of congressional continuity. The stated objective of the legislation is to override State laws in order to hold expedited special elections within 45 days of a catastrophe which may leave more than 100 vacancies in the Chamber. While this goal is laudable, the bill defines a problem, creates an unfunded mandate, but then provides no solution. This legislation dumps the problem onto the States to produce something called an "election" within 45 days, but without the political and democratic substance we associate with campaigns for the House of Representatives.

I want to stress that H.R. 841 has no partisan content. It is simply inadequate to the task of reconstituting the House in a truly democratic fashion. Members on our side of the aisle were split almost down the middle last April in the vote on this legislation because they felt pressured to do something. But the majority voted for it virtually lockstep when not even its principal sponsors could explain how the bill was actually supposed to work. The Senate, not surprisingly, never acted on it. So here we go again.

H.R. 841 contains a wish list of provisions which would set impractical deadlines, ignore the rights of candidates to run and of voters to participate in elections, and create confusion in the aftermath of a national catastrophe when the country needs the stability of established constitutional processes and the legitimacy of the rule of law.

Let us look at some of the specifics of this bill. Among the principal flaws of this legislation are the time frame is much too short for the conducting of special elections in many States. Even States whose present laws contemplate 45 days may not cope in the aftermath of an unknown future crisis which could affect our infrastructure and communications systems nationwide. The House last year rejected a proposal for 75 days in which to conduct these elections. This year, I will offer a compromise amendment proposing 60 days, which is not a magic solution, either, but which at least provides valuable additional flexibility to the States.

The bill represents an unfunded mandate. While States could conduct special elections to fill vacancies even without this bill, it eliminates their flexibility in the scheduling of elections, in the format of the elections and in the costs of elections.

There is insufficient time for voter registration for those wishing to participate in an unscheduled, sudden election for the House. New voters would be blocked out of the system. Why should we prevent full public participation when a Congress, seeking to renew itself, needs the legitimacy which an open democratic system provides?

The bill provides no mechanism for candidates to qualify for the ballot in States which require petition gathering or other potentially time-consuming measures intended to assess the public support and credibility of potential candidates. States are expected to develop some faster method to accomplish these central goals of qualifying candidates to run very early before the bill's trigger is pulled or risk missing the deadline. So which should it be?

This bill assumes that there are instant candidates out there who, upon learning of a vacancy, will decide to run without full consultation with family and friends, or with their potential parties and relevant interest groups and who can instantly arrange financing and instantly have an infrastructure in place to negotiate the campaign finance laws. These steps are extraordinarily difficult even in normal circumstances. Are candidates who can make instant decisions to run and instantly finance their campaigns representative of the full range of political talent of America? More importantly, are they the people we want to give a head start in gaining seats in the House? I do not think we want that, Mr. Chairman.

This bill also allows insufficient time to conduct primary elections in the many States which allow them for special elections. Last year's bill originally banned primaries entirely, but the gentleman from Ohio (Mr. NEY) improved this bill during our committee markup by removing the prohibition on primaries. Nevertheless, the 45-day scheme would still effectively block them in many States.

This bill still allows insufficient time to send, receive and count absentee ballots, even in those States which will not use primaries. Those most likely to face exclusion include Americans abroad and our military personnel stationed and fighting overseas.

Mr. Chairman, this bill contains no mechanism to activate its own provisions in the event the entire House membership is wiped out. If so, what happens next?

☐ 1130

H.R. 841 deals with a practical catastrophe and a partial one, but becomes useless in the event of a total catastrophe. It was suggested on the House floor last year that in the circumstances that the entire House was wiped out, it would be up to the people to come together and make the determination as to the rebuilding process and how it begins. Really? Then how? Is it not the responsibility of Congress to anticipate and find solutions to problems when it enacts laws and not to rely on some vague national town meeting if the bill fails to work? Should we not be settling this issue right now right here in the legislation before us?

The 45-day provision in the bill allows insufficient time to assemble the infrastructure of elections necessary to manage elections competently and fairly. Even in elections, under the best of circumstances, there are inevitably problems with voter registration lists, voting with provisional ballots, transmitting, receiving, and counting absentee ballots, reserving polling places and staffing the polls with voting machines and election workers.

After a catastrophe we can add a potential breakdown in communication systems and other infrastructure, including transportation, along with the potential inability to order voting machines and ballots. Forty-five days is simply not enough time in many States to conduct special elections, especially after a national catastrophe.

Mr. Chairman, this bill represents the wrong choices of values in a democracy. It creates an artificial election timetable aimed at simply creating a result, and that is just Members of the House. The American people deserve real choices, emergency or not.

Mr. Chairman, I reserve the balance of my time.

Mrs. MILLER of Michigan. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 841, the Continuity of Representation Act of 2005.

On September 11, 2001, the fourth hijacked plane was headed toward the Nation's capital. Had it not been for the heroic actions of the passengers of United Flight 93 who forced the plane down over Pennsylvania, Congress's ability to serve the American people may have been severely disrupted.

Currently, there is no mechanism to quickly replace House Members by special election. During the last Congress, the House acted in an overwhelmingly bipartisan fashion to address this deficiency by passing the predecessor of this year's bill by a larger than three to one margin. Unfortunately, the bill was never brought up in the other body because of the objections of one or more anonymous Members of that Chamber. Consequently, the guarantee of the right to elected representation following a catastrophic incident has yet been unnecessarily imperiled.

The legislation before us again today will preserve the people's constitutional right to directly elected representation by providing for the expedited special election of new Members within 49 days of the Speaker's announcement that there are more than 100 House vacancies. The House, unique among all branches and bodies of the entire Federal Government, is rooted in the principle of direct elections, and that principle must be preserved. Current Federal law allows the Presidency and the Senate to consist of entirely the unelected in certain circumstances. Without an elected House, the entire Federal Government could be run and laws could be written without a single branch directly representing the popular will.

Congress has the clear authority to enact the Continuity in Representation Act under article I, section 4 of the Constitution, which allows Congress, at any time by law, to make or alter State election laws. Consistent with the right to chosen representation, the Founders explicitly considered Congress's power to require expedited special elections as the solution to potential discontinuity in government in extraordinary situations. As Alexander Hamilton wrote, the Constitution gives the Congress "a right to interpose" its special election rules on the States "whenever extraordinary circumstances might render that interposition necessary to its safety." The Supreme Court has unanimously approved such clear congressional authority.

Members from both parties have a significant stake in the operation of the House following a terrorist incident, and I am pleased that the legislation before us today is appropriately a product of bipartisan cooperation and input. For example, I worked with the gentleman from Missouri (Mr. SKELTON), ranking member of the Committee on Armed Services, to craft provisions that govern absentee ballots cast by members of the Armed Forces, and overseas voters, whose ballots would be counted if they are received within 45 days after the State transmits them.

Further, I have worked with the gentleman from Michigan (Mr. CONYERS), ranking member of the Committee on the Judiciary, to add a provision that all Federal laws governing the administration of elections for Federal office are explicitly preserved.

During the Committee on House Administration's markup of the bill, a substitute amendment offered by the gentleman from Ohio (Chairman NEY) was adopted, which includes further changes that directly respond to concerns expressed by the minority. First, the current bill continues to allow States the option of having special election candidates selected by parties within 10 days, but would also authorize the States to select such candidates by any other method including primaries provided such method will ensure the State will hold the special election within the 45-day period.

Second, the bill considered today includes a provision that will allow seats left vacant by delegates and resident commissioners to also be filled by special election pursuant to the bill's requirements.

While some take the pessimistic view of the resiliency of the electoral process following an attack on the Nation's capital, I have a different view. I have no doubt that the boundless spirit of the American people will ensure that democracy prevails even in the most pressing conditions.

What I have heard from the opponents of this bill is that they say, well, we cannot have an election put together so quickly. The gentlewoman from Michigan (Mrs. MILLER), I think, has made it quite clear that from her experience as Michigan's Secretary of State and chief election officer that we will be able to do that. And I point out that what this bill does is to ensure the prompt filling of vacant seats in States that have long special election processes.

Virginia is able to fill vacancies in its general assembly by special election within 12 days after the vacancy occurs provided the Governor calls a special election. If Virginia makes that apply to vacancies in the House of Representatives, we are going to have a full Virginia delegation sitting in this Chamber or elsewhere legislating while the States that decide that they want to have more debates and keep the seats vacant will end up sitting unrepresented here.

What this bill does is that it speeds up the process in the slow States, the ones that have lengthy special election processes, including the gentlewoman from California's own State.

The one seat in the House of Representatives that is vacant today is that occupied by our beloved colleague, the late Bob Matsui. He died on January 1. That was 63 days ago, and his seat is still unfilled. There is an election next week to fill the vacancy. But if no candidate in that election gets more than 50 percent of the vote, then we will wait until May 3 to find out who the new Representative from Sacramento, California is.

And what this bill will do is to make sure that California will have a full delegation as quickly as possible, notwithstanding the current State law, while other States fill their delegations up and those Representatives-elect will come to Congress and be seated and be functioning immediately after their election.

Let us make sure that every State as quickly as possible can have adequate representation. Let us pass this bill.

Mr. Chairman, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield myself 30 seconds.

To respond to the gentleman's comments about California, it does show that we do need beyond 45 days to hold a special election, such as in the case of our late friend, Representative Bob Matsui. And also I refer to the committees that were convened to preserve our institution, and it aligns many States where the vacancy days for holding elections were not fewer than 74 days. So those are the number of days that are important that we need to adhere to.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Chairman, this bill does have flaws, as have been identified, and I think the criticisms are fairly taken. And the ranking gentlewoman's amendment is a sound one I will support. But in the end, we do need to have special elections in the case of a catastrophe. I voted for this last year and will vote for it again.

The problem is it misses the point of what happens in the 45 days or, if the gentlewoman from California (Ms. MILLENDER-McDONALD) passes, in the 75 days. What happens then?

I read with some alarm the "Roll Call" article of December 6, 2004, on this subject, and I will quote from that article: "The country is going to be under martial law until we have elections anyway." That was actually said by the gentleman from Ohio (Mr. CHABOT), chairman of the Constitution Subcommittee. And I just must say, is the agenda martial law? Because that appears to be the case, and absent a constitutional amendment to allow for a temporary appointment, we will have martial law and the elimination of a Republic in this country.

Mrs. MILLER of Michigan. Mr. Chairman, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I thank the gentlewoman for yielding me this time.

My good colleague from California raised the exact and critical point. The question is, what happens during those 45 days? We will need to support elections. There is not a single Member of this House who has not supported some form of general election, a special election, to replace the Members at some point. But during that 45 days, what happens?

The Chair of the Constitution Subcommittee says this is what happens: martial law. We do not know who would fill the vacancy of the Presidency, but we do know that the Succession Act most likely suggests it would be an unelected person.

The sponsors of the bill before us today insist, and I think rightfully so, on the importance of elections. But to then say that during a 45-day period we would have none of the checks and balances so fundamental to our Constitution, none of the separation of powers, and that the Presidency would be filled by an unelected member of the Cabinet who not a single member of this country, not a single citizen, voted to fill that position, and that that person would have no checks and balances from Congress for a period of 45 days I find extraordinary. I find it inconsistent. I find it illogical, and, frankly, I find it dangerous.

The gentleman from Wisconsin refused earlier to yield time, but I was going to ask him, if Virginia has those elections in a shorter time period, they should be commended for that. So now we have a situation in the Congress where the Virginia delegation has sent their Members here, but many other States do not have Members here. Do they at that point elect a Speaker of the House in the absence of other Members? And then three more States elect their representatives, temporary replacements, or full replacements at that point. They come in. Do they elect a new Speaker? And if that happens, who becomes the President under the Succession Act?

This bill does not address that question. This bill responds to real threats with fantasies. It responds with the fantasy, first of all, that a lot of people will still survive; but we have no guarantee of that. It responds with the fantasy that those who do survive will do the right thing. We are here having this debate, we have debates every day, because people differ on what the right thing is to do.

I have been in very traumatic situations with people in severe car wrecks and mountain climbing accidents. My experience has not been that crisis imbues universal sagacity and fairness. It has not been that. People respond in extraordinary ways, and we must preserve an institution that has the deliberative body and the checks and balances to meet those challenges.

□ 1145

Many of our States are going increasingly to mail-in ballots. We in this body were effectively disabled by an anthrax attack not long after September 11. I would ask my dear friends, will you conduct this election in 45 days if there is anthrax in the mail and still preserve the franchise of the American people? How will you do that? You have no answer to that question.

I find it extraordinary, frankly, that while saying you do not want to amend the Constitution, we began this very Congress by amending the Constitution through the rule, by undermining the principle that a quorum is 50 percent of the body and instead saying it is however many people survive. And if that rule applies, who will designate it, who will implement it? The Speaker, or the Speaker's designee? Again, not an elected person, as you say is so critical and I believe is critical, but a temporary appointee, frankly, who not a single other Member of this body knows who they are. So we not only have an unelected person, we have an unknown person who will convene this body, and who, by the way, could conceivably convene it for their own election to then become the President of the United States under the Succession Act.

You have refused steadfastly to debate this real issue broadly. You had a mock debate in the Committee on the Judiciary in which the distinguished chairman presented my bill without allowing me the courtesy or dignity to defend it myself. And on that, you proudly say you defend democracy. Sir, I think you dissemble in that regard.

Here is the fundamental question for us, my friends, and it is this: The American people are watching television and an announcement comes on and says the Congress has been destroyed in a nuclear attack, the President and Vice President are killed and the Supreme Court is dead and thousands of our citizens in this town are.

What happens next? Under your bill, 45 days of chaos. Apparently, according to the Committee on the Judiciary Subcommittee on the Constitution chairman, 45 days of marshal law, rule of this country by an unelected President with no checks and balances. Or an alternative, an alternative which says quite simply that the people have entrusted the Representatives they send here to make profound decisions, war, taxation, a host of other things, and those Representatives would have the power under the bill of the gentleman from California (Mr. ROHRABACHER) bill or mine to designate temporary successors, temporary, only until we can have a real election.

The American people, in one scenario, are told we do not know who is going to run the country, we have no Representatives; where in another you will have temporary Representatives carrying your interests to this great body while we deliberate and have real elections. That is the choice.

You are making the wrong choice today if you think you have solved this problem.

Mrs. MILLER of Michigan. Mr. Chairman, I continue to reserve my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in opposition to H.R. 841, and I regret the partisan flavor that seems to have become part of this debate.

Mr. Chairman, this bill offers a solution to a crisis, to a problem that we face, to a challenge that we face, but it is a solution that will not work. I plead with my fellow Republicans to listen to the arguments that have just been made and to determine for themselves whether or not this legislation will do the job that it claims it is intended to do.

I looked at it with an open heart and an open mind and find that I agree with the gentleman from Washington (Mr. BAIRD) that at a time when we need it the most, this bill will leave us in limbo, without leadership, and it will make America vulnerable at a time when we need leadership the most.

I oppose this legislation. This bill focuses on the continuity of the election process rather than the continuity of Congress. The people who wrote this bill got their priorities all mixed up as to what the purpose of this was supposed to be.

Mr. Chairman, the time frame in this bill of 45 days is both too long and too short. Forty-five days is too long to reconstruct the House of Representatives in a time of crisis when decisions need to be made immediately, so in that 45 days, when we are the most vulnerable, this legislation would leave America the most vulnerable.

But 45 days is also too short a period to preserve the democratic representation that we have heard about, because, yes, you could have elections, but it does not allow time for primary elections. So who are those elections going to be all about? Under this law, party bosses rather than party voters will choose the candidates; thus, they will choose the Representatives. This is hollow, a very hollow approach to democracy, suggesting that this would permit people to be elected, when in fact it will be the party bosses that will be deciding who the voters will have a chance to vote on.

The gentleman from Washington (Mr. BAIRD) and I have introduced a bipartisan constitutional amendment that solves the problems that H.R. 841 attempts to address, and it does this without the inevitable limitations of trying to fix a constitutional problem with a simple statute.

House Joint Resolution 26 provides for the immediate replacement of both deceased and incapacitated Members by alternates, who become acting Representatives only until a new Representative is elected. Just as the Vice President of the United States is elected as part of a ticket with the President, alternate Representatives would go on the ballot and be elected as a ticket with their Representative so that in times of crisis, there would be immediate representation for the United States Congress and for the people throughout our country.

H.J. Res. 26 thus solves the constitutional problem that a statute such as H.R. 841 cannot. It provides for both the continuity of Congress and for the continuity of representation for every district in the country, even if only one Representative dies or is in incapacitated. Under our alternative, thus no district would ever be without representation.

H.R. 841, on the other hand, does nothing to address incapacity, and in the case of death, allows as many as 99 districts at a time to go without representation for months.

Under H.J. Res. 26, Acting Representatives would be every bit as much elected officials as the Vice President is, yet would serve only until a new Representative is elected under the fully democratic procedures used by States today. Thus the Rohrabacher-Baird amendment not only solves all the continuity problems, but also preserves the principle that only elected officials may cast a vote in the House of Representatives.

Mr. Chairman, although I oppose the bill before us, the Rohrabacher-Baird amendment is something that can be supported even by those who vote for the bill. I ask my colleagues for their support and co-sponsorship of H.J. Res. 26.

On 9/11 we lived through a crisis that at times seemed bizarre and even surreal. Many otherwise competent leaders were in a state of shock and at one moment when we gathered on the Capitol steps to send a message to the American people, Representative BAIRD and I realized more was needed and began singing God Bless America. All our colleagues joined in. That was the message the American people needed.

Today let's do what is needed for the American people at a time of maximum crisis.

Mr. Chairman, I would ask my fellow Republicans, please give this serious consideration. This is too important an issue to think about in terms of party politics. This is a time of crisis, when American people will be counting on us to do our best and to set up something that will work in a time of crisis.

Mrs. MILLER of Michigan. Mr. Chairman, I continue to reserve my time.

The CHAIRMAN. The Chair would announce that the gentlewoman from Michigan (Mrs. MILLER) has 12.5 minutes remaining, the gentleman from Wisconsin (Mr. SENSENBRENNER) has 2.5 minutes remaining and the gentlewoman from California (Ms. MILLENDER-MCDONALD) has 30 seconds remaining. The order of closing is the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentlewoman from California (Ms. MILLENDER-MCDONALD) and the gentlewoman from Michigan (Mrs. MILLER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the primary opposition to this legislation comes from people who have favored a constitutional amendment to provide for the appointment of substitute Representatives should there be a catastrophe that wipes out a significant part or all of the House of Representatives.

I believe last year, the House of Representatives laid that proposition to rest. We did have a full debate on the floor of the constitutional amendment that both the gentleman from Washington (Mr. BAIRD) and the gentleman from California (Mr. ROHRABACHER) supported. It only got 63 votes. Twenty votes are necessary for the two-thirds majority necessary to propose amendments to the Constitution on any subject, and I believe that the House of Representatives at that time clearly and emphatically spoke in favor of maintaining elections as the only way one could enter the House of Representatives, the people's House.

So now we hear that the 49 days that are proposed in this bill are too short to be able to organize a proper election in a time of crisis. I do not think that is correct. During the Second World War, Great Britain was under attack constantly by the German Air Force, and even during the war they were able to hold special elections to fill vacancies in the House of Commons within 42 days. Democracy prevailed because the people of Great Britain insisted that it do so, and those elections worked and those people who were elected entered the House of Commons with a mandate from the people.

This bill will work just as well in a time of crisis as a way of repopulating the House. We are not going to have appointed Representatives. The constitutional amendment has been overwhelmingly rejected here. So the responsible thing to do is to speed up the special election process, particularly in those States like California where it takes forever to fill a vacancy so that the States can have full representation as quickly as possible.

Pass the bill.

Mr. Chairman, I yield back the balance of my time.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this bill is not a bill that will work. You have heard it from several Members. This bill is unfair and is undemocratic. It has also been shown it is too short a time to conduct special elections in many States. It is insufficient time for voter registration and for those who want to participate in this unscheduled election. New voters will be blocked out of the system entirely. Is this what we want, given the last election of 2004? I think not.

This bill simply represents the wrong choices of values in a democracy. This bill should be voted down.

Mrs. MILLER of Michigan. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the Continuity in Representation Act provides a process to ensure that our democratic government remains stable and orderly during a possible time of great instability. In addition, it preserves the unique status of the House of Representatives by continuing the tradition and the constitutional mandate that every Member of this body must be elected by his or her constituents. In such a time of crisis, the people of this Nation must have a voice in the critical decisions that are being made. This legislation ensures that that will be the case.

The time limit of 49 days that this bill lays out is more than adequate, Mr. Chairman. In fact, a survey of election officials confirmed that this is a realistic time frame, and I will tell you as a former elections official myself, I concur with those findings.

Furthermore, several States already have laws in place that require special elections to be conducted in a shorter period of time than the 49-day limit that this legislation requires. It is a short enough period that the House is reconstituted quickly and loses none of its authority, and, at the same time, it is a long enough period for fair elections to be conducted.

When this issue was before the 108th Congress, Mr. Chairman, the House acted in an overwhelmingly bipartisan fashion and approved the Continuity in Representation Act by a more than three-to-one margin. In fact, H.R. 841 that we consider today has improved on the previous bill by addressing the following reservations that some Members of the House and some of the States had regarding that bill.

First, the special election privilege is extended now to Delegates and Resident Commissioners so that they could be replaced just as quickly as Members.

Second, the legislation explicitly gives States any method that they choose to selects the candidates for special elections. Certainly as an advocate of States' rights, this provision was extremely important to both myself and many of us here in this Chamber.

Finally, the time limit for special elections to be completed has been extended to 49 days from the time of the Speaker's announcement that over 100 vacancies exist. This gives local and State officials 7 full weeks to select candidates, to print ballots and to fully execute those special elections.

☐ 1200

With these changes I am hopeful that the bipartisan support for this legislation will be even greater today than it has been in the past. Mr. Speaker, this is not simply a bill about elections or the best way to replace Members of Congress. Mr. Chairman, this bill is about the strength of our Nation. It is about our ability to secure the homeland, and it does that by ensuring that our democratically elected government is able to respond in the face of an urgent threat.

Homeland security is not a Republican issue. It is not a Democratic issue. This is an issue that affects every single American. Mr. Chairman; and the Congress should act in the interest of America and of democracy.

I urge all of my colleagues to join me in supporting H.R. 841, and I look forward very much to supporting and passing this important and historic legislation.

Mr. PAUL. Mr. Chairman, I am pleased to support H.R. 841, the Continuity in Representation Act, introduced by my distinguished colleague, House Judiciary Committee Chairman JAMES SENSENBRENNER. H.R. 841 provides a practical and constitutional way to ensure that the House of Representatives can continue to operate in the event that more than 100 Members are killed, H.R. 841 thus protects the people's right to choose their Representatives at the time when such a right may be most important, while ensuring continuity of the legislative branch.

Article I section 2 of the United States Constitution grants State governors the authority to hold special elections to fill vacancies in the House of Representatives. Article I, section 4 of the Constitution gives Congress the authority to designate the time, place and manner of such special elections if States should fail to act expeditiously following a national emergency. Alexander Hamilton, who played a major role in the drafting and ratification of the United States Constitution, characterized authority over Federal elections as shared between the States and Congress, with neither being able to control the process entirety. H.R. 841 exercises Congress's power to regulate the time, place and manner of elections by requiring the holding of special elections within 45 days after the Speaker or Acting Speaker declares 100 Members of the House have been killed.

I have no doubt that the people of the States are quite competent to hold elections in a timely fashion. After all, it is in each State's interest to ensure it has adequate elected representation in Washington. The version of H.R. 841 before Congress today was drafted with input from State elections commissioners to make sure it sets realistic goals and will not unduly burden State governments.

I am disappointed that some of my colleagues reject the sensible approach of H.R. 841 and instead support amending the Constitution to allow appointed Members to serve in this body. Allowing appointed Members to serve in "the people's house" will fundamentally alter the nature of this institution and sever the people's most direct connection with their government.

Even with the direct election of Senators, the fact that Members of the House are elected every 2 years while Senators run for statewide office every 6 years means that Members of the House of Representatives are still more accountable to the people than members of any other part of the Federal Government. Appointed Members of Congress simply cannot be truly representative. James Madison and Alexander Hamilton eloquently made this point in Federalist 52:

> As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectively secured.

Mr. Chairman, there are those who say that the power of appointment is necessary in order to preserve checks and balances and thus prevent an abuse of executive power during a time of crisis. Of course, I agree that it is very important to carefully guard our constitutional liberties in times of crisis and that an over-centralization of power in the executive branch is one of the most serious dangers to that liberty. However, Mr. Chairman, during a time of crisis it is all the more important to have Representatives accountable to the people. Otherwise, the citizenry has no check on the inevitable tendency of government to infringe on the people's liberties at such a time. I would remind my colleagues that the only reason we are considering reexamining provisions of the PATRIOT Act is because of public concerns that this act gives up excessive liberty for a phantom security. Appointed officials would not be as responsive to public concerns.

Supporters of amending the Constitution claim that the appointment power will be necessary in the event of an emergency and that the appointed Representatives will only be temporary. However, the laws passed by these "temporary" Representatives will be permanent.

Mr. Chairman, this country has faced the possibility of threats to the continuity of this body several times in our history. Yet no one suggested removing the people's right to vote for Members of Congress. For example, the British in the War of 1812 attacked the city of Washington, yet nobody suggested the States could not address the lack of a quorum in the House of Representatives through elections. During the Civil War, the neighboring State of Virginia, where today many Capitol Hill staffers reside and many Members stay while Congress is in session, was actively involved in hostilities against the United States Government. Yet, Abraham Lincoln never suggested that non-elected persons serve in the House. Adopting any of the proposals to deny the people the ability to choose their own Representatives would let the terrorists know that they can succeed in altering our republican institutions. I hope all my colleagues who are considering rejecting H.R. 841 in favor of a constitutional amendment will question the wisdom of handing terrorists a preemptive victory over republican government.

As noted above, the Framers gave Congress all the tools it needs to address problems of mass vacancies in the House without compromising this institution's primary function as a representative body. In fact, as Hamilton explains in Federalist 59, the "time, place, and manner" clause was specifically designed to address the kind of extraordinary circumstances imagined by those who support amending the Constitution.

In conclusion, I urge my colleagues to support H.R. 841, the Continuity in Representation Act, which ensures an elected Congress can continue to operate in the event of an emergency. This is what the drafters of the Constitution intended. Furthermore, passage of H.R. 841 sends a strong message to terrorists that they cannot alter our republican government.

Mrs. MILLER of Michigan. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 841

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Continuity in Representation Act of 2005".*

***SEC. 2. REQUIRING SPECIAL ELECTIONS TO BE HELD TO FILL VACANCIES IN THE HOUSE IN EXTRAORDINARY CIRCUMSTANCES.***

*Section 26 of the Revised Statutes of the United States (2 U.S.C. 8) is amended—*

*(1) by striking "The time" and inserting "(a) IN GENERAL.—Except as provided in subsection (b), the time"; and*

*(2) by adding at the end the following new subsection:*

*"(b) SPECIAL RULES IN EXTRAORDINARY CIRCUMSTANCES.—*

*"(1) IN GENERAL.—In extraordinary circumstances, the executive authority of any State in which a vacancy exists in its representation in the House of Representatives shall issue a writ of election to fill such vacancy by special election.*

*"(2) TIMING OF SPECIAL ELECTION.—A special election held under this subsection to fill a vacancy shall take place not later than 45 days after the Speaker of the House of Representatives announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy—*

*"(A) a regularly scheduled general election for the office involved is to be held; or*

*"(B) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the chief executive of the State prior to the date of the announcement of the vacancy.*

*"(3) NOMINATIONS BY PARTIES.—If a special election is to be held under this subsection, the determination of the candidates who will run in such election shall be made—*

*"(A) by nominations made not later than 10 days after the Speaker announces that the vacancy exists by the political parties of the State that are authorized by State law to nominate candidates for the election; or*

*"(B) by any other method the State considers appropriate, including holding primary elections, that will ensure that the State will hold the special election within the deadline required under paragraph (2).*

*"(4) EXTRAORDINARY CIRCUMSTANCES.—*

*"(A) IN GENERAL.—In this subsection, 'extraordinary circumstances' occur when the Speaker of the House of Representatives announces that vacancies in the representation from the States in the House exceed 100.*

*"(B) JUDICIAL REVIEW.—If any action is brought for declaratory or injunctive relief to challenge an announcement made under subparagraph (A), the following rules shall apply:*

*"(i) Not later than 2 days after the announcement, the action shall be filed in the United States District Court having jurisdiction in the district of the Member of the House of Representatives whose seat has been announced to be vacant and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.*

*"(ii) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives.*

*"(iii) A final decision in the action shall be made within 3 days of the filing of such action and shall not be reviewable.*

*"(iv) The executive authority of the State that contains the district of the Member of the House of Representatives whose seat has been announced to be vacant shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the announcement of such vacancy.*

*"(5) PROTECTING ABILITY OF ABSENT MILITARY AND OVERSEAS VOTERS TO PARTICIPATE IN SPECIAL ELECTIONS.—*

*"(A) DEADLINE FOR TRANSMITTAL OF ABSENTEE BALLOTS.—In conducting a special election held under this subsection to fill a vacancy in its representation, the State shall ensure to the greatest extent practicable (including through the use of electronic means) that absentee ballots for the election are transmitted to absent uniformed services voters and overseas voters (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act) not later than 15 days after the Speaker of the House of Representatives announces that the vacancy exists.*

*"(B) PERIOD FOR BALLOT TRANSIT TIME.—Notwithstanding the deadlines referred to in paragraphs (2) and (3), in the case of an individual who is an absent uniformed services voter or an overseas voter (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act), a State shall accept and process any otherwise valid ballot or other election material from the voter so long as the ballot or other material is received by the appropriate State election official not later than 45 days after the State transmits the ballot or other material to the voter.*

*"(6) APPLICATION TO DISTRICT OF COLUMBIA AND TERRITORIES.—This subsection shall apply—*

*"(A) to a Delegate or Resident Commissioner to the Congress in the same manner as it applies to a Member of the House of Representatives; and*

*"(B) to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, and the United States Virgin Islands in the same manner as it applies to a State, except that a vacancy in the representation from any such jurisdiction in the House shall not be taken into account by the Speaker in determining whether vacancies in the representation from the States in the House exceed 100 for purposes of paragraph (4)(A).*

*"(7) RULE OF CONSTRUCTION REGARDING FEDERAL ELECTION LAWS.—Nothing in this subsection may be construed to affect the application to special elections under this subsection of any Federal law governing the administration of elections for Federal office (including any law providing for the enforcement of any such law), including, but not limited to, the following:*

*"(A) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), as amended.*

*"(B) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.), as amended.*

*"(C) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.), as amended.*

*"(D) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), as amended.*

*"(E) The Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended.*

*"(F) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), as amended.*

*"(G) The Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), as amended.".*

The CHAIRMAN. No amendment to the committee amendment is in order except those printed or considered as printed in House Report 109–10. Each amendment may be offered only in the order printed or considered as printed in the report, by a Member designated, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment and shall not be subject to a demand for division of the question.

It is now in order to consider the amendment considered to be the first amendment printed in House Report 109–10.

### AMENDMENT OFFERED BY MR. NEY

Mr. NEY. Mr. Chairman, I offer the manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment made in order pursuant to House Resolution 125 offered by Mr. NEY:

In section 26(b)(2) of the Revised Statutes of the United States, as proposed to be added by the bill, strike "45 days" and insert "49 days".

The CHAIRMAN. Pursuant to House Resolution 125, the gentleman from Ohio (Mr. NEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer this manager's amendment, but first I want to thank the gentlewoman from Michigan (Mrs. MILLER). She is our able new committee member. We are so pleased to have the gentlewoman on the Committee on House Administration and thank her for managing this bill.

She is a former Secretary of State. She brings a wealth of knowledge and personal experience regarding running elections to this debate. And of course House Administration does a wide variety of things, but we also oversee Federal election laws, so we appreciate her carrying this bill through, and also her perspectives on it.

And it is a pleasure to be here with the gentlewoman from California (Ms. MILLENDER-McDONALD), our new ranking member. And again, we like the working relationship we have had on the issues.

Mr. Chairman, H.R. 841, the Continuity in Representation Act of 2005 is an important piece of legislation that furthers the vital objective of ensuring that the people's House would continue to function effectively and with legitimacy in the event of a catastrophic terrorist attack in which a large number of House Members would be killed.

This amendment I am introducing today would extend the time frame for holding expedited special elections from 45 days to 49 days. The addition of the extra days would provide additional time for State and local election officials to prepare for expedited special elections and for the voting public to make informed choices.

This amendment also addresses the concerns of those who felt that too little time was provided for conducting expedited special elections. It marks yet another step the majority has been willing to take to accommodate some concerns that have been raised by the minority.

Last Congress, Doug Lewis, executive director of the Election Center, a nonprofit organization representing State and local election officials whose purpose is to promote, preserve and improve democracy, testified before our committee that it appears that elections administrators feel they can conduct an election within as few as 45 days. He had varied opinions on how long, frankly, this process could take. He pointed out, however, that any additional days would enable election officials to better prepare for the election and ensure that the process went forward as smoothly as possible.

When operating under a tight time frame, any additional time can make a difference in the quality of the process. Thus I believe this amendment enables us to better strike the proper balance between the demand to fill House vacancies through special elections in as short a time frame as possible and the need for election officials and the voting public to have the necessary time to get ready for elections and to examine the candidates and the issues.

It is a good important piece of legislation. And I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for carrying this through. And it preserves the fundamental character of the House as a body consisting of only elected Members and allows for reconstitution of that body as quickly as possible if we ever face these terrible circumstances which we hope do not happen. Therefore, I urge my colleagues to support this amendment and the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. I claim the time for the opposition.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume. I oppose this amendment because it does not correct the fundamental flaw of H.R. 841, which is leaving the United States of America at a time of its worst crisis, its worst potential crisis that you can imagine, it leaves the American people in the lurch, leaves them without representative government and without representation in the Congress for 7 weeks. According to this amendment, there will be no representation for the American people at a time when our government needs leadership.

On 9/11 we lived through a crisis which at times seemed bizarre and even surreal. Many otherwise competent leaders were in a state of shock and at that moment, on 9/11, did not necessarily know or were incapable of doing exactly what the right thing was.

Many of us gathered at the Capitol on that fateful day; we gathered on the steps to back up our leadership. The purpose was to send a message to the American people. Representative BARRETT and I realized, once a very short message had been given by our leaders, that the message was not adequate enough. And let me note that on that day, that time of crisis when we were all in confusion, standing on the Capitol about ready to break up, Representative BARRETT and I looked at each other in our eyes and said this is not enough. We are going to start singing God bless America right now. And it was Representative BARRETT and myself that started leading that singing and were joined in by our colleagues.

Let me note that that was the message the American people needed to hear of unity and God bless America at this time.

Let us today do what is needed for the American people at the time of the next crisis. What is happening is we are being offered an alternative that will leave them in the lurch, leave them wanting at the time of maximum crisis. If we do believe in God bless America, let us join in now with the partisan flavor of this debate and do what is right to make sure our people are prepared if our country is ever attacked like this again.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I want to thank my good friend from California (Mr. ROHRABACHER). I will always remember that day, as we all will. His point is well taken.

I understand there is good intent behind the bill before us today and the amendment, but it is not enough. It simply is not. It leaves our country vulnerable for 45 days and that is too long.

The distinguished chairman of the Committee on the Judiciary made some comments recently that suggested that somehow terrorists would oppose this bill and by some implication would favor the bill the gentleman from California (Mr. ROHRABACHER) and I have put forward because it seems to support their autocratic views of government. Nothing could be further from the truth.

In fact, what our bill would do is tell the terrorists, you could come on a single day and set off a nuclear weapon in this town and kill every single Member of us; and though we would be missed, the very next day the Congress would be up and functioning with every single State, every single district having full representation by statesmen and stateswomen at a time of national crisis.

That is what the gentleman from California (Mr. ROHRABACHER) and I are trying to do. We are trying to tell the terrorists, you can kill all of us as individuals, but you will not defeat this institution. You will not defeat the principle of representation. You will not defeat the principles of checks and balances. You will not impose martial law.

Here is the irony. If terrorists hit us today when we finally vote on this, let us suppose a few Democrats do not make it over here. You are leaving this country vulnerable to change in power. If the terrorists were to strike your conference retreat where the President speaks to the Republican House and Senate Members and kill hundreds of House and Senate Members on the Republican side, the Democrats at that point claim the majority. The Democrats at that point elect a Speaker of the House. I am a Democrat, for goodness sakes; but that is not the way to leave our country vulnerable.

You are leaving your own party, you are leaving the will of the people through their elections vulnerable. If we have temporary replacements, you immediately reconstitute the House; you immediately ensure representation; you assure that you maintain the balance of political power; and you do it in an orderly, structured way with no chaos, in a way that is constitutionally valid by definition.

What you have proposed is not necessarily constitutionally valid. It leaves the terrorists able to change our system of government. It depends on a fantasy immediate or quick election. It does not allow really qualified people necessarily to get here and act in time. There are so many things you have left undone.

You are going to try to say that at the start of this year we have solved this problem; let us go home.

You have not solved the problem, and it is a doggone disgrace, and it is a danger to this country.

The other day a gentleman testified before the Committee on the Budget and said this: "The lack of preparation for continuity, for true continuity invites attack."

You are inviting attack. Not preventing attack.

The CHAIRMAN. The gentleman from Ohio (Mr. NEY) has 2 minutes remaining.

Mr. NEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. NEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment number 1 printed in House Report 109–10 or the amendment made in order in lieu thereof.

### AMENDMENT OFFERED BY MS. MILLENDER-MCDONALD

Ms. MILLENDER-MCDONALD. Mr. Chairman, I offer an amendment in lieu of amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment made in order pursuant to H. Res. 125 in lieu of amendment No. 1 printed in House Report 109–10 offered by Ms. MILLENDER-MCDONALD:
>
> In section 26(b)(2) of the Revised Statutes of the United States, as proposed to be added by the bill, strike "shall take place" and all that follows through "the vacancy exists," and insert the following: "shall take place not later than 60 days after the Speaker of the House of Representatives announces that the vacancy exists,".

The CHAIRMAN. Pursuant to House Resolution 125, the gentlewoman from California (Ms. MILLENDER-MCDONALD) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this compromise amendment would change the overall deadline to conduct expedited special elections under extraordinary circumstances to 60 days instead of the 49 which we just voted on.

I urge Members to support 60 days because it is a more practical and realistic deadline, places less burden on the States, and still accomplishes the bill's goals to expedite special elections in a large number of States.

A 60-day deadline would allow more time for States to attempt to implement the election law restructuring, whatever that might be, and require to comply with the bill's goals.

It would also allow some States more options if they wish to preserve their primary elections which at the insistence of the minority are no longer explicitly prohibited by this version of the legislation. But while primaries may no longer be barred, 49 days to hold both a primary and a special election is still a high bar to meet.

Mr. Chairman, I would like to read from a letter that was presented by

Kevin Kennedy, the executive director to the State Elections Board of Wisconsin, the State which the author of the bill comes from. And he states in portions of the letter: "62 days is the minimum time necessary to ensure proper mechanical operation of an expedited special election, consistent with democratic integrity, and offering of all voters the opportunity of a meaningful opportunity to vote."

This is what I am speaking about in my amendment. The principle 49 days is really not enough time; and so, therefore, the bill is really flawed because it decrees that the elections will occur 49 days after the Speaker's announcement. But having said that, what would happen next?

How States which would have to reduce their preexisting time frame for special elections could actually accomplish this is the great unknown. Would it require States' enactments, States' constitutional amendments, popular referenda in some States?

I do not know the answers and the bill's sponsors surely do not know the answers. But 60 days at least provides some additional flexibility in the hands of the decision-makers who must grapple with the jig-saw puzzle of demands the bill places upon them. Sixty days is not a magic bullet any more than 49 days is; but experience as well as decades spent as candidates running for public office teaches us to err on the side of flexibility, especially at a time of potential national crisis.

□ 1215

This amendment is an effort to find common ground after the House rejected a 75-day time frame offered last year by the gentleman from Connecticut (Mr. LARSON). My 60-day amendment also conforms to the recommendations of the Election Center, which represents the Nation's voting registration and election officials and administrators at the city, township, county and State levels. Proponents seeking a truncated time frame for this legislation have often, misleadingly, cited Doug Williams, Executive Director of the Election Center, which, once again, represents the Nation's voting registration and election officials and administrators at the city, township, and State levels, but he has not endorsed this bill, and he has said that 45 days is still too short and that a time frame closer to 60 days would provide States a greater assurance of success. State and local election officials at election process forums over the last 2 years have raised questions about the time frame as well.

In testimony prepared before the Committee on House Administration on September 19, 2003, Mr. LEWIS framed the debate as follows: "What is an election? Is it a date-certain event so that voters can vote? Or is it more than that? Is an election in American democracy really a process that includes time for the identification of candidates, the ability of candidates to mount a campaign, to raise funds, to attract supporters, to inform the voters of what their choices are between the individual contestants, and then going to the polls to make that choice? The point is this: If it is only an event, then we can structure an event in a short time frame and carry out the event as flawlessly as possible. If, however, you define it in the broadest possible terms, then you have to allow the process time to work."

Mr. Chairman, I agree that elections are a process which implement democracy.

Mr. Chairman, I reserve the balance of my time.

Mrs. MILLER of Michigan. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, the amendment proposed by the gentlewoman from California, while certainly a very well-intentioned amendment, is completely unnecessary and, I believe, would severely weaken this bill.

While this amendment would only increase the time limit in which to conduct the special election by 11 days, more than the limit provided for in H.R. 841, it would weaken the power of Congress in a significant way. According to the War Powers Act, when the President has put our Armed Forces into action, Congress must act within 60 days to either approve or to disapprove the use of those troops. Following an attack in which over 100 Members of Congress have been killed, it is quite likely that a military response would be required.

If Congress is not reconstituted within this 60-day period, it would lose its ability to either affirm or disapprove of the executive's use of military actions and, thus, the power of the legislative branch would be diminished. The amendment by the gentlewoman would prevent Congress from acting in this situation. H.R. 841, as it stands, would allow for Congress to reconstitute and to act on such an important matter.

Another argument against this amendment, Mr. Chairman, is that while it is not only dangerous, again it is completely unnecessary. A survey of election officials, as I mentioned earlier, shows that 49 days is a reasonable period of time in which to conduct a special election. And as a former chief elections officer of the State of Michigan, I agree with that assessment. As the legislation currently stands, States would have the option, and let me reiterate again, the States have the option of eliminating the primary election and permitting political parties recognized by State law to choose those candidates.

In turn, this would eliminate the petition requirements, and the verification process that accompanies it. Additionally, it is again very important to remember that the U.S. Representative position would really be the only race on the ballot. Again, dramatically easy printing, programming, and testing.

Furthermore, Mr. Chairman, the passage of the Help America Vote Act of 2002, HAVA, as it is commonly called, has helped prepare election officials more than ever to conduct such a special election. HAVA is granting Federal dollars to the States in historic proportions, dollars that are being used to eliminate antiquated election equipment, and the States are purchasing new state-of-the-art equipment. States have either constructed or are moving towards construction of statewide, computerized voter registration files, similar, as I mentioned, to the one we built in Michigan several years ago.

Technology is allowing these lists to be updated literally daily, so that a clean up-to-date file can be printed out any date of the year and provided to every polling site. Again, a fantastic election tool for any election, but particularly so in this case for an expedited election.

Also, States are rapidly moving towards a uniform system of voting machines. Uniformity of election equipment in a State will enable vendors to always have a camera-ready template on the ballot, and then all they have to do is just fill in the name of the nominees for U.S. Representative and go to print. Having a uniform system will eliminate confusion amongst poll workers and further ease election preparation.

Finally, Mr. Chairman, some States already prescribe that special elections be conducted in a period of time even shorter than this. The gentleman from Wisconsin (Mr. SENSENBRENNER) mentioned the Virginia experience; Minnesota, I believe, requires a 30- or 35-day limit as well. All of this goes to prove that the amendment is completely unnecessary. The only thing that this amendment would effectively do is extend the time period for which some parts of the Nation would not be represented in this body, in the United States House of Representatives. And there is never a good reason to do that, Mr. Chairman.

While it is true that State and local officials must have sufficient time to conduct elections, it is imperative that they be completed as quickly as possible so that there is some semblance of continuity in representation. There should not be any unnecessary delay to this process.

Mr. Chairman, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield 4 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), a former Secretary of State.

Mr. LANGEVIN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise today in opposition to this legislation and am disappointed we are taking up this measure again when we should be debating this issue in a more thoughtful and comprehensive manner. Many of my colleagues, including the gentleman from Washington (Mr. BAIRD), the gentleman from California (Mr. COX), the gentleman from Ohio (Mr. NEY) and the gentlewoman from California (Ms. MILLENDER-MCDONALD) have tried to encourage dialogue on this matter, but this bill simply does not address many of the concerns raised by Members and outside experts during the last 3½ years.

If under H.R. 841 the House experienced the deaths of more than 100 Members, the Speaker could direct States to conduct special elections now within 49 days. Well, Mr. Chairman, I am sure that the authors of this legislation had all the good intentions in the world, but unfortunately we find in the real world, in practice, it does not always work out as we had intended. As a former Secretary of State, I have run numerous elections, and I can tell you that the 49-day limit would constrain election officials' ability to prepare ballots, train poll workers, select polling locations, and inform the voting public about the process.

Mr. Chairman, make no mistake about it, under this limited time frame, there would be voters who would be disenfranchised. The mail ballot process itself can be very cumbersome, and I can guarantee you that very potentially the elderly, people with disabilities, and most especially, our men and women in uniform who are overseas would potentially be disenfranchised by this shortened time frame.

Now, at a time when our Nation would be looking to its government for answers, it will instead face confusion and uncertainty about how its leaders are elected. Mr. Chairman, it would seem to me to be reasonable to support the gentlewoman's amendment to extend the time period to 60 days. At the very least, if we are going to do this, I believe we need to do it the right way, and this would allow us the extra time we would need.

But, Mr. Chairman, my colleague the gentleman from California (Mr. ROHRABACHER) really said it right. Whether it is 49 days or the 60 days, it is really both too long and too short. Even if we were able to hold special elections within the 49 days, that would still be too long for Congress to remain inactive. I want to remind everyone that in the 6 weeks after the attacks of September 11, Congress passed legislation authorizing the use of military force, an airline assistance measure, an economic stimulus bill, the Defense Authorization Act, numerous appropriation bills, the farm bill, legislation pertaining to bioterrorism, victims assistance, and terrorism financing.

H.R. 841 would leave important decisions to a greatly diminished and possibly unrepresentative House. Worse, in the case of widespread incapacitation, the House would be unable to achieve a quorum and become inoperative during a time of crisis. A recent change in House rules tried to circumvent this problem by creating a provisional quorum, which would permit a smaller number of Members to constitute a quorum in emergency circumstances. However, one must question the constitutionality and public support of laws that would be passed by a handful of Members during a time of national crisis.

The House is attempting to address this complex issue over congressional continuity, Mr. Chairman, by passing feel-good legislation and tweaking our internal rules. But I am disappointed that H.R. 841 does not take a comprehensive approach to continuity nor does it address a priority of mine, deciding how Congress could communicate and function if terrorist acts prevented it from meeting in one location.

Mr. Chairman, these matters warrant greater discussion than the limited bill before us, and I urge my colleagues to oppose H.R. 841 so that we can have the full debate that this Congress and our Nation deserves.

Mrs. MILLER of Michigan. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary, who has been a driving force in bringing this legislation to the floor today.

Mr. SENSENBRENNER. Mr. Chairman, I would like to make three points.

First, under the 60-day time frame proposed by the gentlewoman's amendment, the time under the War Powers Act for Congress to make a decision following an attack will have expired and, consequently, less than the full House will make the important decisions relative to under what circumstances American troops will be committed overseas. Under the 49-day time limit, that problem will not exist because the House will be reconstituted and repopulated before the War Powers Act limitation expires.

Secondly, the purpose of this bill is to require special elections to be held in those States with slower special election processes, to be held as quickly as possible within the 49-day period. The gentlewoman from California has read parts of the letter that Mr. Kennedy, who is the Executive Director of the Wisconsin Elections Board has written. I would respond to that simply by saying if Virginia repopulates the House, or its delegation to the House within 12 days and it takes at least 62 days for Wisconsin to do so, 50 days will elapse, or almost 2 months will elapse while Wisconsin has either a reduced or no delegation in the House, but the House keeps on legislating. And that is not fair to the people of my State, and it is not fair to the people of the other States, including the gentlewoman from California's own State that have relatively slow special election procedures.

So that is why this bill is here, is to speed up the process by which States can fill up their delegations to the House so that they will be fully represented when important decisions are made. And should this bill go down and the slow States continue to be really slow, then their delegations will either be nonexistent or have a relatively few number of Members.

Now, the final point I would like to make is that we have heard everybody who is against this bill say that this is too fast and too slow. Well, to speed up the process of repopulating the House, quicker than when special elections can be held, will require a constitutional amendment. We did debate a constitutional amendment and it was defeated by a vote of 63 ayes to 350-plus noes. This House is firmly on record against an appointment procedure however it is done.

So now we have to figure out how to make the special election procedure occur as quickly as possible and yet maintain fairness. The 49 days required under this bill is the way to do it to get people here to make important decisions under the War Powers Act. Sixty days or a longer period of time simply will not cut it. Defeat the amendment and pass the bill.

Ms. MILLENDER-McDONALD. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentlewoman from California has 6 minutes remaining.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN), who is also a former Secretary of State.

□ 1230

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in support of the Millender-McDonald amendment and to express concern for the underlying bill. I am glad we are considering legislation that would address what should be done in the event of a large-scale incapacitation of Congress. It obviously makes sense to do that. It is more essential than ever in a time of national emergency that democracy be preserved.

Our Constitution established the House of Representatives to provide directly elected representation in the event of a catastrophe that must be restored as quickly as possible. We have heard sort of grand, philosophical statements of our allegiance to democracy on the floor of this House; but at the same time, we need to be practical about what actually can work in a time of national crisis.

I think my friends on the other side of the aisle have glossed over the problems that especially military voters, the elderly, others who do not have access on an election day to the polls, the kind of problems that they would face.

I was Secretary of State in the 1980s for 8 years in the State of Ohio, a large State with several million registered voters, a State that has always had a tradition of bipartisan elections conducted fairly. The year of 2004 may have been different where the election machinery frankly was not so well administered as it had been in the past by Secretaries of State of both parties. That aside, I have serious concerns as a former Secretary of State about the legislation we are considering today. Forty-nine days establishes an unrealistic time frame for holding legitimate, fair elections where people have access to the polling booth.

In a national emergency, Congress must be able to provide immediate relief, and this legislation would allow the country to elect representation for those 6 or 7 weeks. You cannot, I believe, hold fair elections, accessible elections, in 49 days. The process simply takes longer than that. Again, military voters, people far away outside the country, in uniform serving our country, elderly voters who do not have access to the polls, the most vulnerable among us, in many ways, that cannot simply do that.

There are alternatives, and I want to answer the concerns of the gentleman from Wisconsin (Chairman SENSENBRENNER). There are alternatives that would create immediate representation while providing a framework for States to conduct elections. I supported legislation last year that, as the gentleman from Wisconsin (Chairman SENSENBRENNER) said, was defeated, but could be considered in the light of understanding how elections actually work in that there needs to be a time line to get candidates on the ballots, to get the ballots printed, to get them sent to the Armed Forces around the world, and get those ballots back in time for an election.

The Baird proposal would allow States to appoint temporary replacements for deceased or incapacitated Representatives. States could then conduct special elections to elect permanent Representatives according to State laws.

I support the Millender-McDonald amendment because appointing the process, if we could do that down the line, and I understand that is not on the table today, but to do them in 45 or 49 days simply is not practical, and too many people will be denied the right to vote.

We want to do this right. We want to refill, if you will, the House of Representatives as quickly as possible, but we want to do it in the most democratic way possible, and ultimately that means giving the election machinery time so that everyone, especially our servicemen and -women overseas, so that everyone has access to the ballots. I think the underlying bill does not do that. I think the Millender-McDonald amendment makes this bill work much better than it does otherwise. I ask support for the Millender-McDonald amendment.

Mrs. MILLER of Michigan. Mr. Chairman, I yield myself the balance of my time.

As I have listened to the debate, I feel more strongly than ever that this amendment would severely weaken the impact of H.R. 841. I urge my colleagues to reject the Millender-McDonald amendment.

Mr. Chairman, I yield back the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I yield myself the balance of my time.

In this book we have, the first "Report of the Continuity of Government Commission," in that it outlined an election in Michigan, Michigan's Third Congressional District where the vacancy occurred in 1993, and the time that was allotted for that election was 178 days, which brought us the distinguished gentleman from Michigan (Mr. EHLERS) who is part of our committee.

Mr. Chairman, in returning to the testimony of Mr. Doug Lewis, executive director of Election Center, after polling election officials from around the country, he summarized the results: "While the responses indicated a variety of dates ranging from the shortest time period of 35 days after determination of who the candidates will be to a period of 4 months, it appears that election administrators feel that they can conduct an election with as few as 45 days. However, the election officials would be far more confident that the interest of democracy would be best served by having up to 60 days to get the elections organized and held. Each additional day beyond the 45 day minimum time frame creates greater confidence in the process."

Mr. Chairman, I prefer to come down on the side of the interest of democracy, and my instincts after campaigns for local, State, and Federal office tell me 49 days is simply too short.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. MILLENDER-McDONALD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. MILLENDER-McDONALD. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. MILLENDER-McDONALD) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 109-10.

### AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered Ms. JACKSON-LEE of Texas:

In section 26(b)(4)(B)(i) of the Revised Statutes of the United States, as proposed to be added by the bill, strike "2 days" and insert "5 days".

In section 26(b)(4)(B)(iii) of the Revised Statutes of the United States, as proposed to be added by the bill, insert after "the action" the following: "(taking into account an opportunity for an expedited appeal of the initial decision)".

In section 26(b)(4)(B)(iv) of the Revised Statutes of the United States, as proposed to be added by the bill, insert after "vacant" the following: "and any citizen of the district or any group of citizens of the State".

The CHAIRMAN. Pursuant to House Resolution 125, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to inquire of the distinguished gentleman from Wisconsin (Chairman SENSENBRENNER), I have an amendment in the nature of a substitute. In the spirit of collegiality, I realize that we have a rule, but I gained a sense that the Committee on House Administration would be supportive of this substitute which would only allow an added 5 days for an appeal from 2 days, less than a week. I would inquire of the chairman of the Committee on the Judiciary, would the gentleman allow that to move forward by unanimous consent? If the gentleman would answer with just a yes or no whether we would be able to move forward with this substitute, I would be delighted to work with the chairman.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I appreciate the gentlewoman yielding.

The membership has been preparing for the debate on this bill with the amendment made in order under the rule. The gentlewoman now wants to submit a new amendment. I do not think that is fair to the membership who have prepared debate on the bill; so the answer is no.

Ms. JACKSON-LEE of Texas. Reclaiming my time, I think they would have followed the gentleman's lead, but I thank the gentleman very much.

Let me move forward with the amendment before us. This is my very point. I encourage my colleagues, both Republicans and Democrats, to look very carefully at the Jackson-Lee amendment, and I ask for their support.

This is the problem we have here today, and that is the continuity and the preservation of this historic and honorable institution, the Members of the United States Congress, really should be a bipartisan process. I am disappointed we are not, even in time of death and tragedy, terrorism, that we cannot find in our hearts and in our intellectual minds the ability to be collegial and to work in an very informed and thoughtful way.

This particular amendment is very succinct, and I ask my colleagues to give it considerable thought and vote for it. One, the amendment has the expansion of the ability of an aggrieved party to file suit for either declaratory or injunctive relief from just 2 days to 5 days. This is a question to answer the needs of the Secretaries of State and the States that when this crisis occurs, that all of them have the procedures in place to be able to fulfill our democratic calling.

This is not a constitutional amendment. I wish it were. But since we are doing this by statute, why not give the opportunity for there to be enough open view and transparency for this to occur?

Number 2 of this amendment is a provision for an expedited appeals process to the United States District Court for matters rising out of the special election process because a 45-day deadline for special State election already places significant constraints on the electoral process and on the citizens represented due to its brevity, taking away the right to an appeal to the U.S. District Court. This gives an expedited appeal.

In addition, this provides for an expansion of the right to sue for declaratory judgment beyond the Governor, but to citizens and classes of citizens.

Mr. Chairman, the gravity of the matter of reconstituting the House of Representatives in the face of catastrophe requires the fullest debate possible. However, due to the fact that a structured rule was reported out of Committee, this body is relegated to saving this severely flawed legislation by way of the only two amendments made in order last Tuesday—those of my colleague, the distinguished Ranking Member of the House Administration Committee and the Jackson-Lee Amendment. The Jackson-Lee Amendment has three essential components which propose to preserve the rights of the States, the voters, and of the spirit of democracy:

The first portion of this amendment, Jackson-Lee #1, reads as follows:

> In section 26(b)(4)(B)(i) of the Revised Statutes of the United States, as proposed to be added by the bill, strike "2 days" and insert "5 days."

This change would amend the section of the bill that deals with the time in which a person(s) may file a lawsuit arising out of the Speaker of the House's announcement of vacancies in the House of Representatives in excess of 100. This change would amend paragraph (4), subparagraph (B)(i) and expand the ability of an aggrieved party to file suit for either declaratory or injunctive party to file suit for either declaratory or injunctive relief from just two (2) days to five (5) days.

Because not every State has a Capital Beltway or even a superhighway system, and because information travels at a different rate in every location, it is important that we establish a fair standard for a filing rule that affects every State in the country. The principle of procedural due process dictates that every citizen of each State have a realistic opportunity to obtain legal relief through our Judicial Branch.

The second portion of this proposal speaks even more to the issue of due process for all citizens. Its text reads as follows:

> In section 26(b)(4)(B)(iii) of the Revised Statues of the United States, as proposed to be added by the bill, insert after "the action" the following: "(taking into account an opportunity for an expedited appeal of the initial decision).".

Because the 45-day deadline for special State elections already places significant constraints on the electoral process and on the citizens represented due to its brevity, taking away the right to an appeal from the U.S. District Court would excessively curtail the procedural due process rights enjoyed by citizens. Given that the time in which a Federal judge has to compose an order disposing of these matters is provided in this bill, an equally expeditious appeals process should be provided so as to maintain consistency with the U.S. Constitution and the commitment to both the 5th and 14th Amendments.

Thirdly, the amendment reads as follows:

> In section 26(b)(4)(B)(iv) of the Revised Statutes of the United States, as proposed to be added by the bill, insert after "vacant" the following: "any citizen of the district or any group of citizens of the State.".

This proposal is very important to protect the interests of all citizens in the various congressional districts in the midst of party politics as well as the certification of classes in legal actions. As the bill is drafted, Section 2, paragraph (4), subparagraph (iv) would confer the right to sue in the event of a vacancy announcement by the Speaker of the House solely to the "executive authority," in the case of Texas, the Governor. Such overly restrictive language almost certainly threatens to deprive the citizens of a right that they should enjoy in the event that the Governor chooses not to participate in a suit for declaratory or injunctive relief pursuant to a vacancy announcement made by the Speaker of the House. In order to protect the rights of every person who truly has an interest in a call for a special election under this Act, this provision must be amended to allow citizens and classes of citizens to sue for relief.

Mr. Chairman, I ask that my colleagues support the voters of each State, the framework of the U.S. Constitution, and the spirit of democracy by supporting the Jackson-Lee Amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge the committee to defeat this amendment, just as it did last year when the gentlewoman from Texas (Ms. JACKSON-LEE) brought it up. The issue is very simple. We want elections. Her amendment wants lawsuits. The way she has phrased her amendment for the lawsuits is that anybody can sue, not just the Governor, to determine whether or not a vacancy actually exists. And also, there is an appeals process in the gentlewoman's amendment that would allow the appeals to be dragged out indefinitely.

When there is a catastrophe that wipes out a significant number of Members of the House, it is in the interest of the public to fill those vacancies as quickly as possible through a fair election. We should not allow anybody to tie up an election call in the courts forever and ever and ever simply because their candidate might not be in a proper position to win the election.

So let us have the people decide when these vacancies will be filled and who will fill them. Let us not allow endless litigation at a time of national catastrophe. Elections can bring people together. They will result in new Representatives coming with mandates rather than having the frustration of lawsuits that go on interminably.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, do I have the right to close?

The CHAIRMAN. The gentlewoman does not.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, this is about chaos and confusion. There is no definition of how the announcement will go out to the people beyond the beltway. A mere extending from 2 days to 5 days to make sure that Americans, even in crisis, have due process and democracy and justice is not too much to ask. I would indulge and beg my colleagues to realize all this does is simply allow for the people of America in crisis to be represented and to be responded to.

Mr. Chairman, I yield 30 seconds to the gentlewoman from California (Ms. MILLENDER-MCDONALD), the ranking member of the Committee on House Administration.

Ms. MILLENDER-McDONALD. Mr. Chairman, I rise in strong support of the Jackson-Lee amendment. A portion of the gentlewoman's amendment seeks to provide an expedited appeals process to the United States District Court for matters arising out of the special election process. We have been talking about this 44, 45, 49-day deadline for special State elections. and it already places significant constraints on the electoral process and on the citizens represented due to its brevity.

Taking away the right of an appeal to United States District Court would excessively curtail the procedural due process rights enjoyed by citizens. I support the gentlewoman's amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman. I yield myself the balance of my time. and thank the gentlewoman for her support.

Again, the idea of this amendment, in the judicial review aspect. one. there is no definitive information about how the information will be disseminated to our States and to citizens in a 2-day period if crisis is occurring. if a terrorist act has occurred. My amendment gives an additional 5 days to guarantee that that notice be given.

In addition, the other aspects of the legislation provides for an expedited time frame. It does not in any way cause a sufficient delay that would not allow us to restore this body to its ability to do business on behalf of the American people. Continuity, tragedy, all equal bipartisanship. I would ask my colleagues to look at this amendment and all it does provide, the enhanced due process. And I think we would not want the terrorists to believe that because of a terrorist act that we have lost our sense of judgment. the Constitution and due process.

After 9/11. we went to New York to show that we are not afraid of the terrorists. I believe we should show that we are not afraid of them by upholding the Constitution and due process on behalf of the American people. Vote for the Jackson-Lee amendment. I ask my colleagues to vote for this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the fatal flaw in this amendment is it does not extend the 49 days under which the election is required to be held under the provisions of this bill.

□ 1245

So the more time we spend in court. the less time the election officials have to be able to organize the election, print the ballots, mail the ballots to absentee voters at home and overseas and get them back in time to be counted.

We have heard an awful lot saying, well, the time frame is just too compact in order to run a fair election. What the gentlewoman's amendment does is that it makes it more compact because every day and every week that is spent tied up in the courts is going to be that much less time for the election machinery to operate.

This is a question very simply of lawsuits versus elections. If you want more lawsuits, vote yes. If you want a quicker and fairer election, vote no. I urge a "no" vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken: and the Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII. proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

The amendment in lieu of amendment No. 1 offered by the gentlewoman from California (Ms. MILLENDER-McDONALD) and amendment No. 2 offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT OFFERED BY MS. MILLENDER-MCDONALD

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment in lieu of amendment No. 1 offered by the gentlewoman from California (Ms. MILLENDER-McDONALD) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device. and there were—ayes 192, noes 229, not voting 12. as follows:

[Roll No. 49]

AYES—192

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Roybal Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Higgins
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe

Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—12

Brown (OH)
Carson
Cunningham
Ford
Harris
Inglis (SC)
Leach
Lewis (GA)
Meeks (NY)
Napolitano
Rothman
Young (AK)

☐ 1314

Mr. CUELLAR and Mr. BRADLEY of New Hampshire changed their vote from "aye" to "no."

Mr. DINGELL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 2 printed in House Report 109-10 offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 239, not voting 11, as follows:

[Roll No. 50]

AYES—183

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Hefley
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—239

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Eshoo
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—11

Brown (OH)
Carson
Cunningham
Ford
Harris
Leach
Lewis (GA)
Meeks (NY)
Napolitano
Rothman
Young (AK)

☐ 1325

So the amendment was rejected.

The result of the vote was announced as above recorded.

### PREFERENTIAL MOTION OFFERED BY MR. BAIRD

Mr. BAIRD. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. BAIRD moves that the Committee do now rise and report the bill H.R. 841 back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. BAIRD) for 5 minutes in support of his motion.

Mr. BAIRD. Mr. Chairman, I rise to make two fundamental points before we proceed to vote on this. The two points are these: This resolution does not solve the real problem and it may create more problems than it purports to solve, and we have to understand that.

It does not solve the problem for this reason: By leaving us without a Congress for 45 days, we essentially impose the opportunity for the executive branch to exert marshal law, and that is not what the Framers of this country had in mind.

This bill, if we do not provide some mechanism for prompt replacement other than this bill, will leave this country governed by an unelected executive, a cabinet member most likely who not a single American elected to that office.

Furthermore, it has a host of problems. It does not address the possibility that one delegation will elect its Representatives more promptly than another. They will come to this body, choose one of its members as Speaker. That person could move on to become the President. Then another delegation comes in, et cetera.

You are essentially leaving this country without a House of Representatives, without checks and balances, without separation of powers, for at least 45 days, assuming an election can be held in 45 days and assuming that the terrorists through an anthrax attack, like they subjected this very Capitol to, will not somehow undermine that ability.

This is reality. We have seen the reality here. We saw those airplanes hit the buildings, we saw the anthrax, and yet we are not truly acting to solve this.

Mr. Chairman, I yield to my distinguished friend, the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I am asking my fellow Republicans to please look at what we are about to do. This solution that we are being offered will not work and will leave the American people vulnerable at a time of maximum crisis.

This is one of the most important votes that we are going to have. What is going to happen in the future if we put this solution in place and there is a crisis? For 45 days after the death or incapacitation of these Members, we will have no government. We will basically be left to marshal law or anything else.

There is an alternative. The people who have written this bill basically have come up with a continuity of elections instead of a continuity of Congress, and they have good motives, but the fact is it will not work. It will create a huge crisis for America at the moment that it needs to have something laid down for them, something solid on which to rely upon at a time of crisis. So, please look at this.

There is an alternative. We did not have to do this by statute. We can do this by constitutional amendment. The gentleman from Washington (Mr. BAIRD) and I have a constitutional amendment which will do that.

So, again, let us not leave a void, which this bill does, for the future Americans who will face the crisis of a generation and leave them in the lurch.

Mr. BAIRD. Mr. Chairman, reclaiming my time, let me make two final points: One, the majority party must understand this: If you are at a Republican Conference retreat and terrorists should strike you and kill the President and Vice President and significant numbers of your side of the aisle, the Democrats under your proposed law will obtain the majority, will elect a Speaker of the House, and that person will then become the President of the United States of America. You are leaving this country vulnerable to that. You must not do it. You must not.

This matter must be taken seriously. It deserves full debate. Whether it is the proposal of the gentleman from California (Mr. ROHRABACHER) and mine or others, we should commit to having this full House seriously consider this. If we do not and we are not fortunate, history will not look kindly upon the jeopardy in which we have left this great Nation.

Vote no on this bill and insist on true debate on true continuity of Congress in a responsible way that protects the balance of power, assures real succession to the presidency, and, most importantly, assures that your constituents will have representation at a time when our Nation may well go to nuclear war, institute a draft, appropriate trillions of dollars, suspend habeas corpus and impose marshal law. You do not want that. But if you stop at this bill, you leave this Nation vulnerable.

Mr. Chairman, if there is no one to speak in opposition, I ask unanimous consent to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

☐ 1330

The CHAIRMAN. There being no further amendment, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Accordingly, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. LATOURETTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 841) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes, pursuant to House Resolution 125, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 841 to the Committee on House Administration with instructions to report the same back to the House forthwith with the following amendment:

In section 26(b) of the Revised Statutes of the United States, as proposed to be added by the bill, insert after paragraph (5) the following new paragraph (and redesignate accordingly):

"(6) MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS IN POLLING PLACES USED IN SPECIAL ELECTIONS.—In carrying out special elections under this subsection, each State shall provide for the minimum required number of functioning and accurate voting systems and poll workers required in each precinct used on the day of the election, using a uniform and nondiscriminatory geographic distribution of such systems and workers based on a ratio of the number of systems and workers per voter, taking into account voter registration statistics for the precinct, the most recent available census data regarding the number of individuals residing within the precinct who are eligible to register to vote, and the level of voter turnout during previous elections held in the precinct.".

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion to recommit would simply require that each State provide a minimum required number of functioning and accurate voting machines and poll workers for each precinct on the day of any special election. I do this and offer the amendment so that we can avoid the misallocation of voting machines and poll workers that occurred last year in the Ohio Presidential election that led to lines of sometimes 10 hours and disenfranchisement of tens of thousands of voters.

Consider the following: in Franklin County in that State, 27 of the 30 wards with the most machines per registered voter showed majorities for Bush while six of the seven wards with the fewest machines delivered the large margins for KERRY. They also found that election officials in Franklin County decided to make due with 2,868 machines even though their analysis showed that 5,000 machines were needed. In Columbus alone it is estimated that the misallocation of machines reduced the number of votes by up to 15,000 votes.

There is also an investigation that revealed the Franklin County election officials reduced the number of election voting machines assigned to downtown precincts and added them to suburbs. They used a formula based not on the number of registered voters but on past turnout. In the Columbus area, the result was that suburban precincts that supported Mr. Bush tended to have more machines per registered voter than those in the inner-city precincts that supported Mr. KERRY.

The Election Protection Coalition testified that more than half the complaints about the long lines they received came from Columbus and Cleveland where a huge proportion of the State's Democratic voters lived.

This should never happen again in an election in our Nation. It is unconscionable to stack the deck so that Americans are forced to wait in the rain in line while others are given the red carpet treatment.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I appreciate the gentleman from Michigan (Mr. CONYERS) for allowing me a moment to speak on this issue.

This is very, very important. I would like to bring to your attention the fact that former Minority Leader Gephardt appointed me to chair a special committee on election reform of the Democratic Caucus. And I have traveled to at least four States talking to people about what had gone wrong in the elections in the 2000 elections.

One of the things that we concentrated on was provisional ballots. And we wrote into the Help America Vote Act that if you went to a polling place and they said your name was not there, that you are to be given a provisional ballot no matter where you went. Little did I know that something had happened in the Help America Vote Act, perhaps, that allowed Ken Blackwell in Ohio to have a different law from everybody else on provisional ballots. And so thousands of people went to polling places and were told they could not vote because they were in the wrong precinct. That is not what we wrote into the law. So we had thousands of ballots that were not counted in Ohio because Mr. Ken Blackwell described his law a lot differently than we had framed the law in the Help America Vote Act.

That is the one place perhaps in America with a law on provisional balloting that does not allow someone who swears that they are registered to vote to be able to vote.

I thank the gentleman for the opportunity to share this information at this important time.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

The motion to recommit would fix the problem raised by the gentlewoman from California (Ms. WATERS), at least for special elections under this bill.

I urge the support of the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Michigan (Mrs. MILLER) is recognized for 5 minutes.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

The language in the motion to recommit is very similar to the language in the Help America Vote Act legislation, HAVA, as it is commonly called, that legislation being H.R. 533. In fact, the gentleman from Michigan (Mr. CONYERS) is not the only Member who has proposed comprehensive election reform. A number of other bills have been introduced by Members on both sides of the aisle proposing amendments to the HAVA bill.

The Committee on House Administration has scheduled hearings on these issues, including in the State of Ohio I would say, and we will be considering all of these bills in due course.

Today is not the time nor is it the place to be debating election reform issues. We are here to provide for continuity and representation of this House and the American people. So let us focus on what needs to be done to provide for expedited special elections so that we can have a functioning House as soon as possible if there is a horrible, catastrophic attack.

Let us leave these other issues for a later day when they can be debated in the proper context.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House.

Mr. HASTERT. Mr. Speaker, our forefathers fought a revolution. They fought a revolution for freedom against a power that at that time was much greater than the sum of this Nation. They fought against private gentry.

George Mason said at the Constitutional Convention that "the people will be represented: they ought therefore to choose their representatives."

This is a conceptual framework that has governed this body for more than 2 centuries. Today, even though times have changed, the spirit of Mason lives on. And with God's blessing we will never have to use this piece of legislation. But we have to seriously consider the issue of the continuity in Congress.

We have specifically designed authority to other Members of this body to call the House back into session should I not be here to do it. We have changed the rules of the House to allow it to function if Members are incapacitated.

Today we debate a bill that calls for the States to provide special elections if more than 100 Members are killed. And yes, even though we have provided for rules if Members are incapacitated, we have a constitutional responsibility to ensure the American people have full representation in this Congress.

Congress has always been for the people and by the people. And in keeping with the great traditions of our country, we need to keep it that way. Last Congress we overwhelmingly passed a very similar bill to the one we are debating today. It was improved by the Congress with various amendments, many from the other side of the aisle, which the gentleman from Ohio (Mr. NEY) has incorporated into this bill. We heard a desire to make sure that this bill specifically allows for primaries; that language is incorporated in this bill. And my good friend, the gentleman from Missouri (Mr. SKELTON), wanted to make sure that the military ballots from overseas were counted. We have incorporated that suggestion into this bill.

I discussed with the Democratic leader the idea of increasing the number of days from 45 to 49, 7 weeks, to provide the 7 weeks for these special elections. I thought it was important to add a few more days. However, 60 days is too long a time for the framework of the national crisis because of our role under the War Powers Act.

The bill we had adopted last Congress with the support of 306 Members was a very good bill. The gentleman from Ohio (Mr. NEY) and the gentleman from Wisconsin (Mr. SENSENBRENNER) have even a better bill this year, and I expect the same overwhelming bipartisan support.

In closing, we face a significant threat. What makes America great is that we can come together during times of national tragedy. And my point is that after September 11, partisan bickering was on the back burner, and we were able to come together and do great things for the American people.

Terrorists hate everything we stand for, especially our democracy. Their whole object is to disrupt and destroy. In the event of the unthinkable, this bill strikes a blow to the heart of the terrorists and allows this body to reconstitute itself as quickly as possible, therefore carrying on the spirit of Mason and of this great Nation.

I urge the defeat of the motion to recommit. I urge the passage of this bill.

Mrs. MILLER of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

### RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for an electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 196, noes 223, not voting 15, as follows:

[Roll No. 51]

AYES—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—15

Carson
Cunningham
Diaz-Balart, M.
Ford
Harris
Issa
Kingston
Leach
Lewis (GA)
Meeks (NY)
Napolitano
Ros-Lehtinen
Rothman
Wamp
Young (AK)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore (Mr. SHIMKUS) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1404

Mr. PORTMAN changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

---

### GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H.R. 841.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

---

### PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The gentlewoman from California (Ms. MILLENDER-McDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, on H.R. 841, I asked for a recorded vote. I was seeking recognition but the mike was not on.

☐ 1400

Mr. Speaker, I stood when the board was being cleared on the last vote which was a motion to recommit. Now I am told that I cannot ask for a recorded vote on H.R. 841, and I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair regrets the gentlewoman's disappointment. After the voice vote on passage of the bill, the Chair surveyed the Chamber and saw no Member seeking recognition to request a recorded vote. So the question stood resolved by voice vote.

Ms. MILLENDER-McDONALD. Mr. Speaker, I beg to differ with the Chair. I was standing at the time. My mike was not on. I kept yelling to the Chair.

The SPEAKER pro tempore. The Chair surveyed the Chamber and saw no one seeking recognition to demand a recorded vote.

Mr. BAIRD. Mr. Speaker, I move to appeal the ruling of the Chair.

The SPEAKER pro tempore. The Chair has not made a ruling subject to appeal.

The Chair has merely explained that he saw no Member seeking recognition to request a record vote. A decision respecting discretionary recognition is not subject to appeal.

## VACATING MOTION TO RECONSIDER ON H.R. 841, CONTINUITY IN REPRESENTATION ACT OF 2005

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent in the interest of civility that the vote on H.R. 841 be vacated and a rollcall be allowed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Without objection, the proceedings whereby the motion to reconsider was laid on the table and by which the bill was passed are vacated.

There was no objection.

## CONTINUITY IN REPRESENTATION ACT OF 2005

The SPEAKER pro tempore. The Chair will put the question by voice vote de novo.

The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

### RECORDED VOTE

Ms. MILLENDER-McDONALD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 329, noes 68, not voting 37, as follows:

[Roll No. 52]

### AYES—329

Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Engel
English (PA)
Etheridge
Evans
Fattah
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lantos
Latham
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meek (FL)
Melancon
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

### NOES—68

Abercrombie
Andrews
Baird
Baldwin
Bean
Berry
Clyburn
Conyers
Davis (AL)
Davis (CA)
Davis (IL)
DeLauro
Dicks
Duncan
Eshoo
Farr
Filner
Gonzalez
Gordon
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (NC)
Jones (OH)
Kennedy (RI)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Lynch
Markey
McCollum (MN)
McGovern
McKinney
Menendez
Millender-McDonald
Miller (NC)
Mollohan
Moran (VA)
Nadler
Oberstar
Olver
Owens
Pallone
Payne
Pelosi
Rohrabacher
Ruhs
Ryan (OH)
Sánchez, Linda T.
Schakowsky
Scott (VA)
Stark
Strickland
Tauscher
Taylor (MS)
Tierney
Van Hollen
Watson
Woolsey

### NOT VOTING—37

Boehlert
Brown Waite, Ginny
Carson
Cramer
Cunningham
Deal (GA)
Delahunt
Emerson
Everett
Feeney
Ford
Gallegly
Graves
Harris
Issa
Kingston
Kuhl (NY)
LaTourette
Leach
McDermott
Meehan
Meeks (NY)
Mica
Napolitano
Obey
Pombo
Ros-Lehtinen
Rothman
Scott (GA)
Slaughter
Spratt
Terry
Tiberi
Wamp
Waters
Weldon (PA)
Young (AK)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1441

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to require States to hold special elections to fill vacancies in the House of Representatives not later than 49 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.".

A motion to reconsider was laid on the table.

Stated for:

Mr. DEAL of Georgia. Mr. Speaker, I inadvertently missed rollcall vote 52 on the final passage of H.R. 841, "Continuity in Representation Act." Had I been present, I would have voted "aye."

Mrs. EMERSON. Mr. Speaker, I regret that my vote was not recorded even though I was present for rollcall No. 52 on H.R. 841, the Continuity in Representation Act. Had I been able to vote, I would have voted "aye" and would like the RECORD to reflect this fact.

Mr. MICA. Mr. Speaker, I was unavoidably detained and was unable to vote on rollcall 52. Had I been present, I would have voted "aye" on this measure.

Mr. KUHL of New York. Mr. Speaker, on rollcall No. 52, on passage of H.R. 841—The Continuity in Representation Act—I was absent due to circumstances beyond my control. Had I been present I would have voted "aye."

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, as indicated by the RECORD, I was present voting this afternoon for all recorded votes except for H.R. 841, the Continuity in Representation Act. Unfortunately my card did not register when I cast my vote for that bill. If it had, it would have read that I voted in favor of H.R. 841.

Mr. WELDON of Pennsylvania. Mr. Speaker, on rollcall vote 52, for H.R. 841, I was not recorded to vote. Had I been recorded, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. ISSA. Mr. Speaker, today I missed four recorded votes. If I had been present for rollcall vote 49, I would have voted "no." If I had been present for rollcall vote 50, I would have voted "no." If I had been present for rollcall vote 51, I would have voted "no." If I had been present for rollcall vote 52, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. WAMP. Mr. speaker, due to a family commitment in Tennessee, I was not present for two votes today, Thursday, March 3, 2005. Had I been present, I would have voted "nay" on the Motion to Recommit H.R. 841—Continuity of Representation Act and "aye" on final passage of H.R. 841.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 25

Mr. LINDER. Mr. Speaker, I ask unanimous consent that the gentleman from Kentucky (Mr. DAVIS) be removed as a cosponsor of H.R. 25.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 3, THE TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 7 to grant a rule which could limit the amendment process for floor consideration of H.R. 3, the Transportation Equity Act: A Legacy for Users. The Committee on Transportation and Infrastructure ordered the bill reported on March 2 and is expected to file its report with the House on Monday, March 7.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules up at H-312 of the Capitol by 1 p.m. next Tuesday, March 8. Members should draft their amendments to the text of the bill as reported by the Committee on Transportation and Infrastructure which will be available for their review March 4 on the Web sites of both the Committee on Rules and the Committee on Transportation and Infrastructure.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr Speaker, for the purpose of informing us of the schedule of the week to come, I yield to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of these bills will be sent to Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday and Thursday, the House will convene at 10 a.m. We will likely consider additional legislation under suspension of the rules, as well as the Transportation Equity Act: A Legacy for Users.

And, finally, I would like to note for all the Members that we are making a change to the schedule that was sent to offices at the beginning of the year. We do not plan to have votes next Friday, March 11.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information. Let me say that I am pleased, and I know our side is and I am sure the gentleman's side is as well and I know the Governors and county officials throughout the country are pleased, to see that the transportation bill is on the floor. This was a bill, as the majority leader knows, that expired, I think, September 30, 2003, and we have done extensions since that time.

It is scheduled for 2 days on the calendar, as I understand, and we just heard the announcement of the Committee on Rules chairman that there may be limitations to amendments in the bill. In light of the fact that I know there are still some substantial questions, this bill was reported out on voice vote unanimously but with one of the most contentious issues, as I understand it, left unresolved in terms of donor/donee States.

Can the majority leader amplify, perhaps, on what the Committee on Rules chairman said in terms of whether we will have general debate on one day and amendments on the next, or does he think he will start considering amendments on the first day of consideration.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's yielding to me. The gentleman is correct in that we really want this bill to move as quickly as possible, get it through the other body, because contract letting is seasonal, particularly in the northern States and that contract letting needs to be done. So we are working as hard as we can to get this bill done.

Since this bill is very similar to the reauthorization that was passed in the last Congress, I would expect that the Committee on Rules would develop a rule that was very similar to that one that was used when we considered this bill last Congress which, if I recall, there were 23 amendments allowed under the rule, a manager's amendment. So we have to see what the Committee on Rules is going to do and see how we can divide the work between Wednesday and Thursday.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his response. And I think the gentleman is correct. There were a substantial number of amendments. I would hope that those Members on either side of the aisle who have substantive amendments to offer, in light of the fact that we have been waiting on this bill for some time, would have ample opportunity on either side of the aisle, and I appreciate the leader's focus on that.

Mr. Speaker, lastly, if I can, can the majority leader tell us what his thoughts are in terms of scheduling, we have 2 weeks left before the Easter work period, with reference to either the supplemental appropriation and/or the budget?

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's yielding to me.

It is our anticipation, or I have been notified by the respective committees, that we will be considering the supplemental from the President and the budget that both committees expect to hold markups on those two bills next week, which would prepare us and give us plenty of time to have both of those bills on the floor the week prior to the Easter recess.

Mr. HOYER. So, Mr. Speaker, it would be his expectation that we would consider both those bills before the break?

Mr. DELAY. The gentleman is correct.

Mr. HOYER. Mr. Speaker, I thank the majority leader for his answers.

□ 1445

## ADJOURNMENT TO MONDAY, MARCH 7, 2005, AND HOUR OF MEETING ON TUESDAY, MARCH 8, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, March 7, 2005; and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, March 8, 2005, for morning hour debate.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Texas?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## APPOINTMENT OF ADDITIONAL MEMBERS TO JOINT ECONOMIC COMMITTEE

The SPEAKER pro tempore. Pursuant to 15 USC 1024(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Joint Economic Committee, in addition to Mr. SAXTON of New Jersey, appointed January 20, 2005:

Mr. RYAN of Wisconsin;
Mr. ENGLISH of Pennsylvania;
Mr. PAUL of Texas;
Mr. BRADY of Texas;
Mr. MCCOTTER of Michigan;
Mrs. MALONEY of New York;
Mr. HINCHEY of New York;
Ms. LORETTA SANCHEZ of California; and
Mr. CUMMINGS of Maryland.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## INCAPACITATED PERSON'S LEGAL PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, soon I will be introducing legislation to give incapacitated individuals their explicit due process rights of habeas corpus when a court orders their death by removal of nutrition, hydration and medical treatment. The Incapacitated Person's Legal Protection Act gives incapacitated persons the same rights of due process available to death row inmates.

The Act will open up an avenue of legal relief currently not clearly available to disabled and incapacitated individuals who are unable to speak for themselves. These individuals can become the subject of a court order affecting their death, such as the case of Terri Schiavo. Terri is a Florida woman who, at age 27, suffered a heart attack and experienced brain damage due to lack of oxygen. While in the hospital, tubes were inserted in her digestive system to provide nutrition and hydration and continue to keep her alive.

Ten years after Terri's unfortunate condition occurred, her husband moved to have the feeding tubes removed intending to end her life. This occurred after Terri received nearly $1.5 million in jury awards and legal settlements. Fortunately for Terri, her parents intervened against the desire of Terri's husband and have stayed her death through legal maneuvering until last week.

On Friday, February 25, Judge George Greer issued an order to remove the nutrition and hydration of Terri on Friday, March 18 at 1 p.m. This order will initiate the starvation death of Terri. To my knowledge, it is unprecedented in law.

All through the Schiavo trial, Terri's parents and husband have been afforded counsel, yet Terri has never been afforded independent counsel, in a matter that will result in her life or death. Terri has had no voice of her own in these legal proceedings, something so fundamental to every adult American, even convicted murderers.

The case of Terri Schiavo deserves a second look by an objective court. For example, despite the court's pronouncement that she is in a persistent vegetative state, evidence exists to the contrary.

Terri is not in a coma as I would define it, and I am a physician. She is not on a respirator or other 24-hour-a-day medical equipment. Terri is responsive to stimuli, such as voices, touch and the presence of people. She can move her head and establish eye contact. Terri can smile, demonstrate facial expressions and cry. She can arch her back and move away or towards voices and people. Terri makes sounds and attempts to vocalize as a way of communication.

As a physician who has cared for people in comas and who were considered in a persistent vegetative state, I have some experience in determining the degree of incapacitation of disabled individuals, and it is a travesty to countenance the notion of putting her to death somehow because she is not able to speak.

Terri and similar incapacitated people should be afforded the same constitutional protection of due process as death row inmates whose lives hang in the balance in judicial proceedings. Because in cases like these, mistakes are not subject to correction. Terri and people similarly situated must have access to de novo review of their case and representation, just like any death row inmate gets.

The Incapacitated Person's Legal Protection Act, which I am going to introduce soon, explicitly recognizes in Federal law the due process protection of habeas corpus appeal for incapacitated individuals who are the subject of a court order to effect their death by removal of nutrition, hydration or medical treatment. It does not apply to circumstances where advanced medical directives are in effect. The Act simply provides a final avenue for review of the case to ensure that a incapacitated person's constitutional rights of due process are maintained and that justice is done.

Now, we know that lawyers are going to file habeas corpus claims about this case, and that is not a surprise and nothing prohibits them from doing so. The Incapacitated Person's Legal Protection Act is needed because the state of the law on this topic needs to be clarified.

These cases are typically reserved for criminal cases. In civil cases like Terri's, the decision to even consider a habeas appeal is at the court's discretion. The Constitution in the 14th Amendment, however, gives Congress the express authority to protect the life of any person by directing the judiciary with respect to the guarantee of due process and equal protection under the law. That is what the Incapacitated Person's Legal Protection Act does. It tells the courts that the due process and equal protection rights of incapacitated persons are explicitly authorized under Federal habeas corpus statutes.

## DEMOCRACY IN THE MUSLIM WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, the terrorists who attacked this country on September 11 emerged from part of the world where oppression of popular will often finds its outlet in Jihadi extremism and hatred of the West, especially the United States.

Throughout much of the Muslim world, brittle, autocratic regimes jealously guard wealth and political power, while the vast majority of the citizens languish in poverty. Despite the Arab world's vast oil wealth and its rich cultural and intellectual history, the region has languished, in large part, because its leaders refused to enact the liberalizations necessary to unleash the power of hundreds of millions of people.

After the 9/11 attacks, the President and other senior administration officials vowed to "drain the swamp" that birthed al Qaeda and other radical Islamists. Now, after two wars, thousands of casualties and hundreds of billions of dollars, the people of the Arab and greater Muslim world are beginning to drain the swamp on their own.

Last fall, the people of Afghanistan, who only 3 years ago were suffering under the medieval yoke of the Taliban, voted in large numbers in that country's first presidential election, and later this year, they will return to the polls to select a new parliament.

In early January, the Palestinian people took concrete steps to end the Arafat era's corruption and embrace of terrorism and elected Mahmoud Abbas as their new president.

Later that month, in an inspiring acts of collective courage, millions of Iraqis defied a vicious insurgency to cast ballots for a new national assembly that will draft a constitution for a permanent Iraqi government.

In the past two weeks, we have seen the people of Lebanon respond to the savage car bombing that claimed the life of former prime minister Rafiq Hariri by peacefully calling for the restoration of Lebanese sovereignty. Lebanon's "cedar revolution" has already invited comparisons with Ukraine's "orange revolution" that swept Viktor Yuschenko into power last December.

Today, Saudi Arabians voted in the second of three regional rounds of municipal elections, the kingdom's first, and last Sunday President Mubarak of Egypt proposed a change to the Egyptian constitution that will provide for direct contested elections of president, and he urged its quick adoption so that this fall's election would be held under the new system.

Individually these developments vary in significance. The Saudi elections, for example, are open only to men, and the Egyptian reforms could end up being an effort to fend off rather than promote democracy. Collectively, however, these stirrings of democracy could be the long-awaited beginning of a seismic shift in the politics of the Muslim world. If so, our national security will be enhanced.

For too long, American foreign policy in the Middle East rested on a Faustian bargain with the ruling elites. Even as the Middle Eastern regimes presided over populations who detested them, successive American administrations provided material and political support. As long as the rulers guaranteed the continued flow of reasonably priced oil, we were willing to ignore the turmoil bubbling beneath them.

To some extent, this policy was fueled by American policy makers' belief that Arab and Islamic societies were somehow incompatible with democracy. It was also the product of a genuine fear of what democracy in the Arab world would mean for American influence in the region. The Iranian revolution of 1979 was seen as a harbinger of what could happen throughout the region if American allied regimes loosened their grip.

After 9/11 and the explosive growth of Islamic radicalism throughout the Muslim world, we have come belatedly to the realization that the best antidote for terrorism is democracy. Much of the hatred towards the United States in the Arab world is a direct consequence of our support for despotic regimes.

The administration and Congress need to continue to push our friends in the region to do more to ensure that the tentative steps that we have seen do lead to a new birth of freedom in the Muslim world.

I am particularly concerned about Egypt and its 73 million people. Egypt is the intellectual, political and cultural heart of the Arab world. It is a long-standing American ally that has played a crucial role in the search for peace between Israel and its Arab neighbors. But even as President Mubarak and the Egyptian government have shown great leadership in the quest for peace, they have dragged their heels when it comes to the political and economic reform that is crucial if Egypt is to remain a regional leader.

Recently the Egyptian government arrested Ayman Nour, the leader of a small pro-democracy party in the Egyptian parliament. Nour's arrest is widely seen as politically motivated and precipitated a decision by Secretary Rice to cancel a planned trip to Cairo this week.

I have introduced a resolution calling on Egypt to release Nour and embrace the reforms just announced by President Mubarak. As an important ally, we must not stand idly by and watch Egypt take steps that threaten not only democracy, but our own security.

Throughout the 20th Century, America fought to expand the reach of liberty and democracy, first against Nazism and fascism, and then against Soviet communism. Now with the dawn of the 21st Century, we are again faced with both the fundamental challenge to our core values and the opportunity to bring those values to millions of people. Mr. Speaker, we can and must both meet the challenge and seize the opportunity.

## THREAT TO UNITED STATES STILL VERY REAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FOSSELLA) is recognized for 5 minutes.

Mr. FOSSELLA. Mr. Speaker, the threat to the United States is still very real. Just yesterday it became public that one of the terrorists responsible for the Madrid train bombings had sketches of New York City's Grand Central Station on his computer.

□ 1500

A few days ago it was reported that Osama bin Laden was caught urging some of his associates to take the threat to the United States once again. Clearly the threat to our country is real, and it is essential that we have a comprehensive strategy for distributing our homeland security grant funding to confront it.

That is why today I am introducing the Responsible Funding For First Responders Act of 2005. The bill reforms the current formula used to distribute homeland security grant money.

Yesterday, our newly confirmed Homeland Security Secretary said, "I think we owe the American people a more focused and priorities driven" funding formula. This bill aims to achieve just that.

Over the past few years, we have gone a long way in fighting terrorism. Last year, Congress passed a meaningful intelligence reform which implements many of the 9/11 Commission's recommendations. However there was one recommendation that we did not address adequately.

The 9/11 Commission explicitly stated "homeland security assistance should be based strictly on assessment of risks and vulnerabilities." This bill would put that recommendation, which I think is common sense to most Americans, into effect.

In introducing the bill, I wish to start the debate anew and begin working towards a meaningful first responders funding reform. Since September 11 homeland security funds have been distributed under a formula that requires a minimum of .75 percent to go to each State, and then the remainder is distributed on what we call a per capita basis.

The block grant formula, where most of the funding has originated, does not consider threat at all. This means that almost 40 percent of the money is distributed equally to each State as a result of that minimum, about $1.5 billion. Congress needs to do better.

This year the President's budget once again distributes all the funds based on threat. His fiscal year 2006 budget request which distributes a little over $1 billion in State homeland security grants is based upon risks, threats, vulnerabilities, and unmet essential capabilities.

Let me say what this bill is not. This bill is not designed to pit one area of the country against another. It is designed, I think again speaking to the common sense and conventional wisdom of the American people, to identify where the vulnerabilities are, identify where the threats exist, identify where the risks are and send the money to those areas accordingly.

Why New York City in particular, for example, I think is still a target, let us look what happened after the first bombing of the World Trade Center that took place in 1993.

In between the bombing in 1993 and the tragic day of September 11, there was a conspiracy to destroy the Holland and the Lincoln tunnels, the George Washington Bridge, the United Nations and the Main Federal Building in Lower Manhattan, as well as a plot to bomb the subway system. The plot was foiled at the last minute by New

York City police officers who broke down the door of two individuals who were putting finishing touches on the device.

Since then major media outlets in New York City were the subject of anthrax attacks. In February of 2003 a seasoned al Qaeda operative named Iyman Faris was in New York City on a mission to destroy the Brooklyn Bridge. Faris fought alongside bin Laden, engaged in a battle which included the wholesale slaughter of Russian prisoners and helped supply al Qaeda fighters more recently with sleeping bags, airline tickets, cash and cell phones.

Nearly 2 years after the destruction of the Trade Center, Faris was in New York City conducting surveillance on the Brooklyn Bridge. Faris reported back to his handlers that "the weather is too hot," meaning that security was too tight for the plot to succeed. He was deterred this time.

New York City nevertheless remains a prime al Qaeda target.

Most recently, just before the 2004 Republican National Convention in New York City, two suspected terrorists were arrested for yet another plot to destroy the subway system, this time near Herald Square in midtown Manhattan.

I think it is in our national interest to move this process forward to a point that just makes sense. It is one thing for Congress to come together and compromise how much of the funding is distributed among the States and towns and villages and cities across the country, for example, agricultural funding or funding for our national security; but when it comes to the lives of the American people and the millions of people who come to our shores annually, it is responsible and above all it is not a Democrat or Republican issue. It is just common sense to send the money where it is needed the most. That is what this bill seeks to do.

---

## TALE OF TWO YOUNG MEN

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, I rise today to speak about two young men. They both grew up in Houston, Texas. They both grew up without any family support. They both were basically raised by others. They were both named Michael. And they both chose careers in the criminal justice system.

Michael Lopez chose in the criminal justice system the career of crime. He started committing violent crimes at the age of 11. He spent a lot of time in and out of the criminal justice system. He was a gang member, a drug abuser, committed numerous robberies against other juveniles, a burglar, and a thug in his own community.

Michael Eakin also chose criminal justice as a career, but he chose it as a police officer. Their paths crossed on a quiet peaceful night in Houston, Texas, after Officer Eakin stopped Lopez and his fellow gang members who were cruising Houston, Texas, looking for criminal opportunities.

When Officer Eakin stopped the vehicle, Lopez jumped from the vehicle, took off running and Officer Eakin made the decision to chase Michael Lopez. After capturing Lopez, Lopez pulled out a pistol, pointed it at point blank range and shot Officer Eakin, and then he fled in the darkness of the night.

Lopez was 17 and on probation for criminal offenses. Eakin was 24 and a rookie police officer. Lopez was charged with capital murder of a police officer. In Texas, a 17-year-old is an adult by State law for criminal law purposes and not a juvenile.

It is a long-established rule of law that the States determine the age of accountability for criminal law purposes. Not the Federal Government, not the Federal courts.

I was the judge in the Lopez case, having been a judge for 22 years in criminal cases. A jury heard the case in my court. A jury found the defendant Michael Lopez guilty of capital murder of a police officer. Court TV even showed this on national television. The same jury unanimously found the defendant would be a continuing threat to society in the future. The jury unanimously found there was no mitigation that would warrant a sentence less than death with Michael Lopez.

The defendant was assessed the death penalty by a jury in 6 hours. During sentencing I referred to the defendant as a street terrorist based upon the evidence in the case. On appeal, the highest court in Texas referred to the defendant as a mean little guy and upheld the death penalty.

Now the Supreme Court has gotten involved in these types of cases and declared once and for all that no one 17 or under can be executed for the crimes that they commit. Citing international court decisions and the so-called evolving United States Constitution, the Court yesterday struck down these types of cases five to four.

The Supreme Court of the United States should not look to foreign courts for guidance but to the United States Constitution because that is what they are sworn to uphold. The Supreme Court once again has discriminated against victims based upon the age of the defendant. Whether or not a person agrees or disagrees with the death penalty, whether or not a person feels the age of accountability should be 17 or 18 or 21, there is no precedent in law that the Supreme Court may arbitrarily say a 17-year-old is a mere child and an 18-year-old is an adult.

The Supreme Court has once again promoted the philosophy that America is becoming the land of excusable conduct in our criminal courts. There should be consequences for criminal conduct even for 17-year-olds.

The Supreme Court has replaced the law of the land with its own personal opinion and European thought. This is an affront to the rule of law, to the Constitution, to the 10th amendment. It is an affront to the peace officers in the United States, and it is an affront to Officer Michael Eakin and his family.

---

## GREEN RIVER KILLER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Washington (Mr. REICHERT) is recognized for 60 minutes as the designee of the majority leader.

Mr. REICHERT. Mr. Speaker, I am a new Member of this body, and I am proud and humble to serve the 8th District of the State of Washington. I am also honored and privileged today to address this body.

My first address is on a very serious note, but I think it is a necessary one for us to talk about because it affects and impacts the young women and children in our community. It is the future of our country.

For 33 years I had the privilege of serving in law enforcement in King County which is the Seattle area of Washington State. And I served in a number of different capacities, but in one of those capacities I served as the lead investigator in the most notorious serial killer case in this Nation's history.

Mr. Speaker, we had a monster who was stalking our young women and children in our community. These were young women and children who were lost; children who were afraid; who in some cases were driven from their homes by domestic violence, drug abuse, alcohol abuse, emotional and physical abuse. Some, though, were lured away from their homes by people who preyed on their weakness and their vulnerability. They were lured into an environment of street life where drugs and alcohol are rampant, where prostitution is rampant; and they were told they were going to live the life of luxury, fast money, fast cars, and freedom. Instead, their lives ended. They just ended. The promises for a better life by these predators were all lies.

Our community was gripped by fear by this monster who literally grabbed our children by the throat and snuffed out their lives, their hopes, and their dreams. This monster struck at the very hearts of our communities: our children. And my purpose today is to stand before you, Mr. Speaker, to tell this story, to honor the victims so that we never forget the victims, to remind us of all the families who are still suffering the losses of their loved ones who have been sentenced to a life sentence without their loved ones.

Lastly, it is to recognize, Mr. Speaker, and officially thank those who worked so hard and so long to solve this case. The nearly 90 detectives in the King County Sheriffs Office which is the lead agency that worked this case for nearly 20 years, the Seattle Police Department, the Kent Police Department, the Washington State Patrol and the State Patrol Lab; the medical examiner's office, the FBI, scientists, civilian staff, volunteers, explorers, search and rescue, prosecutor's office in King County led by Norm Maleng, and the defense team.

I would be remiss, Mr. Speaker, if I did not mention that just last week, as most everyone is aware, the so-called BTK killer was arrested in Wichita, Kansas. I think this House should also recognize and congratulate the community and the law enforcement/criminal justice system in Wichita for bringing that case to a close and bringing some answers to questions that the families of these victims have been asking for over 25 years.

These monsters are in our communities, and I want to tell the story briefly. Sometimes it takes me almost 3 hours to go through this, but I have only an hour, so you will get a brief overview of this case. Let me just tell you about the numbers.

□ 1515

Now, I was 31 years old when I started this case back in 1982 with the first victim. But 48 guilty pleas, 44 recovered victims; four of the victims are unidentified, four are still missing. This case was open for 7,500 days. Over 90-plus King County detectives worked on this case. 15,500 photographs were taken. Over 1,500 cassette tapes, over 10,000 items of evidence were collected. Over half a million pieces of paper were put together.

Twenty to 30 people worked full-time once the arrest was made in our office for about 6 months to complete the document imaging process that cost us nearly $1.2 million. There were 40,000 suspect tips, almost 13,000, actually 40,000 tip sheets on a variety of different leads, but almost 13,000 tips on different people as suspects.

Imagine working one murder case, having 10 suspects and trying to figure out who out of that 10 is that one person who committed the murder. We have 50 murders and nearly 13,000 suspects. And they ranged from attorneys to police officers to people who worked for the post office and truck drivers and iron workers and every walk of life that you could think of.

King County Sheriff's Office spent $2.8 million in 2002 on this case. The prosecutor's office spent a million and a half. The defense spent $2.5 million. There were 12 prosecutors that worked on this case, a combined team. There were almost 20 King County sheriffs deputies and detectives and civilians who worked on that case. After the arrest was made, the defense team had about 16 team members to their effort. And all of this for one monster, one defendant, one person who pled guilty to 48 lives. And it is, in my opinion, he has killed nearly 75, probably more than that.

King County, if you do not know, is in the State of Washington right on Puget Sound. The city of Seattle is the county seat. Green River runs south of Seattle through the countryside and toward the foot hills of the Cascade Mountains.

This case started on July 15, 1982, when the first body, Wendy Coffield, was found floating in the river south of Seattle with a ligature around her neck, a 15-year-old girl from our community.

On August 12, 1982, I was called to the river for the second body, for the first body was in the sheriff's jurisdiction. Debra Bonner was found floating in the river, and she had been strangled.

Three days later, I was called back to the river once again. A rafter had been floating down the river. He looked on the shore line and thought he had found two mannequins. And as he floated down the river, he got closer and discovered that these mannequins, these images, were not mannequins but human bodies.

And as he looked up on the river bank there was a man standing there and there was a pickup truck parked at a turn-out. And the man on the river bank waved at the man on the raft. And they exchanged pleasantries. The man on the river bank walked up the bank, drove away in his truck as the man on the raft waved goodbye.

The man on the raft then called the Police Department. I showed up, and as I was processing the scene, I found a third body on the river bank that we did not know about, that the rafter had not seen.

That man on the river bank was the man that we eventually arrested. And I am not going to say his name today, because I do not want to honor him by having his name mentioned in this very historical place and place of honor.

The evidence we collected off of Wendy Coffield and some of these early victims was very important. This evidence was collected in 1982. It came together in 1987. In 1987 we finally got enough evidence together where we were able to search the home of the person that we finally arrested. A lot of things, pieces of the puzzle started to come together. We collected hundreds of lists. We collected lists of people who were arrested for patronizing prostitutes. We arrested people, or we actually gathered lists of people who were arrested for assaulting women during that period of time. We collected lists of people who were known to fish in the Green River, who had fishing licenses. We collected lists of people who worked in the area, who lived in the area, who were stopped by the police in that area. So we collected list after list after list.

And back in those days we had no computers. You think about 1982 when I started this case, we had no computers. There was no such thing as DNA. There was no automated fingerprint identification system, which is an automated system that compares fingerprints today. Most people are aware of that. In fact, in 1982 I was managing this case on 3 by 5 note cards on a Rolodex file. And a lot of times when I mention the Rolodex file, especially in junior high or high school classes, a hand usually goes up and the question is asked, Sheriff, what is a Rolodex file? That is how far technology has come.

This case was one of hard work, dedication, commitment, and let me tell you, just pure frustration. The detectives, investigators, scientists, and the community involved in helping to solve this case never gave up. They were dedicated to solving this case, to finding the person responsible for this case.

There were so many great suspects in this case. We followed one suspect for nearly 3 or 4 months. We discovered that as we looked at each one of these suspects that fit the profile that the FBI had provided to us to a certain degree were so interesting and were such good suspects that they would use and could use our resources for weeks or months at a time.

In 1982, after we found the three bodies on Sunday, on that following Monday, August 16, we formed the first task force of 25 detectives within the sheriff's office. We thought we had six victims and we worked through 1982. And by the fall of 1982 the administration already started to talk about cutting back and reducing our effort because they felt we had identified the suspect.

By the end of 1982, when we thought we had six victims, we actually had 16 young women killed. We did not even know about the other 10 yet.

In 1983 we spent most of our time collecting bodies, sad to say. Reports of found skeletal remains were coming in continuously. And so we fell behind in following up our tips. And finally, by the end of 1983, a new sheriff was appointed and he decided, you know what, it is time to do something. It is time to investigate this case properly.

He brought a task force together in January of 1984. It was called the enhanced task force. Because by the end of 1983 we thought we had 13 victims, when in reality we had 27 women killed. So we put together a task force made up of the FBI and some of the agencies that I had listed earlier, to nearly come to a number of 80 investigators and personnel who were working on this case together almost 24 hours a day, 7 days a week for years.

And as this case went on, we discovered more bodies. We discovered a body of a young woman who was 9 months pregnant who met this killer on the streets. And here, stop and think about this for a minute. Some people ask why in the world was this case so hard to solve?

Let me just give you some of the reasons. Men who are preying on young women and young girls on the streets for prostitution have picked the most vulnerable victims in our community, in our society.

The only thing they have to do is to drive up on a street corner, roll down the window, open the door and make a deal for sex, and it only lasts a matter of seconds. And the victim is in the car. There is no struggle. There is no screaming. There is nothing that calls attention to the exchange that just took place.

And this young girl gets in that car and drives away into the night, never to be seen again. And in some cases, the victim's body was not found for months and, in one case, 6 years later, the body is finally found.

And so when you find the victim, you identify the victim. And then now as an investigator, as the team continues to move forward and investigate this case, they have to go backwards in time to figure out where this victim was last seen.

And if you are lucky enough to figure out that this was the street corner that this person disappeared from, then you have to determine who the witnesses were, who was there to watch this happen, to watch her drive off into the night; who might have a description of the suspect vehicle or the suspect.

And when you get back to that street corner, you discover that your witnesses are street people, homeless people who are just trying to take care of themselves, who are paying attention to their own lives, who in some cases were drug addicts and alcoholics themselves.

The victims that we needed to identify and learn a lot about in most cases had more than one name, five, six, seven, eight, nine, 10 different names. Sometimes we really did not know which was their true name until months later. They had different birth dates, different addresses, different vehicles and license plates associated with them. They changed their appearance.

The witnesses, if we were lucky again to find those witnesses, all fell into that same category. It would take us months, sometimes years, to track down a person that we knew as a certain name and discover a year later or 2 years later they were actually another person, and they had ID belonging to someone else, and they had a totally different appearance.

So again, I want to stress how patient and how diligent and how persistent the investigators were in this case. And as we moved forward through 1984, still in a mode, really, of collecting human remains, and we were working also on the leads, still falling behind with every discovery of a new body, but hoping that each time we found a new human being, a human remain, hoping that that would be the case that would supply us with the evidence that we needed to solve this case, to break this case open.

Now, I want to mention too that we were quite organized during those days. And I think too, Mr. Speaker, like the BTK case, I heard the chief of police of Wichita say the other day that sometimes the news media was quite critical of the efforts and questioned the capability, ability, and talents of the law enforcement agencies in that region.

We were no different. We were questioned and criticized and ridiculed, and in some cases to the detriment of the investigation. In fact, there is one political cartoon that calls the Green River task force the Green River task farce.

And what happened when that kind of media attention and that criticism would be directed at us, it did not instill a lot of confidence in the community in our ability, when what we wanted was the people in the community to cooperate with us and have confidence that if they called us, their leads would be followed up and they would be followed up.

But they almost got to the point where they were hearing that so much that they said, why call? They are never going to catch the guy. They do not know what they are doing. And they may have had that one little bit of information.

Just to give you a little tip too on some information on how devious this killer was, in one case, he killed a young girl, another teenager, left her body near Sea-Tac Airport.

□ 1530

He came back later. He removed her skull and transported her body part to Portland, Oregon. This is a man who had no respect for human life whatsoever. It also points out the complications of this case when you have a person with that kind of a mind trying to play tricks on the community and the police department, interrupting their abilities and throwing them off in their attempts to solve this case.

Now, the case went on from 1982 through 1983, 1984, 1985, 1986, 1987, 1988, 1989 and 1990 and, finally, the task force is down to one person and we are waiting for that one piece of evidence; the evidence we collected in 1982 from a ligature of one of the victims floating in the river, some paint spheres; the evidence we collected from the three bodies that I talked about near the river bank and the one on the river bank, the DNA.

Actually, back then, it was bodily fluids. We had no concept of what DNA was. It was never talked about. It had not even been discovered yet as a possible tool in this sort of investigation until the late 1980s.

In 1987, we searched the home of the man we finally killed. And during that search we collected everything we could in that home, in the yard, and we asked him to chew on a piece of gauze. We took that gauze and we put it in a test tube. And when DNA science finally evolved to the point where we felt it was safe enough to test the samples that we had collected over the years, we submitted the gauze, we submitted the DNA samples from the victims that I described, and we submitted other DNA samples of five top suspects. We submitted those samples and we came back with a match, a DNA hit from evidence that was taken in 1987 compared to evidence that was collected by the investigators and saved; frozen, preserved and stored.

We had over 10,000 items of evidence, and all of that evidence has been accounted for over these many years. That evidence came together and identified a suspect and we arrested this man on November 30, 2001. We had him on four counts.

When we arrested him, we drove up to his place of work, where he worked for 31 years. He was married for over 13 years to the same woman. He was a member of the community. People were shocked, surprised, and amazed that he was identified as the person responsible for around 50 deaths. We arrested him. We drove up to him and we said, you are under arrest for the murder of four women connected with the Green River cases, and he shrugged his shoulders and he said, okay. He got into the police car and we took him to jail. He was not upset. It was not a big deal.

I share this with you to share a little of his personality. He is a psychopath, a pathological liar, and has no remorse whatsoever about the lives that he took. The women he killed, he killed because he could, and that is what his answer was to that question. When we arrested him, we spent 6 months interrogating him to try to pull out every piece of evidence and all information that we could.

There were three other cases we were able to charge him with, and that evidence came from microscopic paint spheres. Those paint spheres were collected in 1982. Let me give one example.

I mentioned first the body that took 6 years to find. In September of 1982, a young woman was missing. We found her body 6 years later. And as we were processing that scene, we found a piece of cloth at that site where she was buried. It was decomposing, and it decomposed to the point where if you were to try and lift it with your fingers, it would crumble between your fingertips and onto the ground. We collected that, put it together, and we saved it.

In 2002, when the science again was to the point where they could find those microscopic spheres and compare them to the paint at a trucking company where this suspect worked as a truck painter for 31 years, we were able to take that paint from that decomposing piece of cloth and the paint spheres from a ligature that was on a victim who was floating in the river. One might assume that the evidence on the victim had been washed away, but it still had microscopic paint spheres. We were able to collect those, have them examined by the scientists.

Those microscopic paint spheres in 1987 were also discovered in his locker. So we have a connection between three victims who had microscopic paint spheres attached to them, and we also had microscopic paint spheres that were found in his locker at work, which connected him back.

Once we had seven cases on him, his attorneys quickly came to us and said we want to talk to you. We were hoping for that, and I will tell you why. Most people might say this man, if anyone, and I would agree with this, if anyone deserved the death penalty, this man deserved the death penalty. But one of the things that had happened over the years as we worked with the families is we had become friends with the family members. We were their link to their loved ones.

They had questions: Where is my daughter? Is she alive? People were still hoping their daughter could be found. If my daughter is dead, who killed her and why? And, Mr. Speaker, I would say that every one of us in this room today would say I want to know. I would want to know. I would want someone to talk to the guy and find out; find out why and where my daughter is buried. So we did.

We had choices of going forward with seven cases and following that through the court system. We had seven strong cases. But what if he was found not guilty? Stranger things have happened. What if he was found guilty and we went to the penalty phase and the jury decided to give him life in prison without parole. We only had seven cases solved.

We decided to take a chance and interview this monster, and we spent 6 months, as I said before, 6 months interviewing him and pulling out every piece of information and fact that we could about every one of these cases. The last day that I talked to him was on December 31, 2003, before he was sent to prison. I spoke to him for about an hour, and I will never forget what he said to me, the last thing he said. He said, I have killed 71 and you are too stupid to find the others. And it is my belief, as I said earlier, he has probably killed near 80.

So now you have an idea of the difficulty of this case. I have really only scratched the surface of how tough this case was. But the importance of bringing this case to the floor today, Mr. Speaker, is that we must never forget the victims. We must never forget the families whose pain still is being endured today, and we must always be able to say thank you to the men and women in law enforcement, the criminal justice system, and those who are in the forensic science field coming up with new and innovative ways every day to help law enforcement solve these cases, cases like the BTK case.

And then, as a reminder, we need to stop and think about why these young ladies are on the street? I mentioned earlier some of the reasons, but what can we do about it? Are we willing to do anything about it? Yes, there are people out there working with young people on the street, working with young people who are on drugs and alcohol, and we are trying to make a difference there, but it has to start earlier.

One of the places that does that in Seattle, just south of Seattle in a small town called Kent, where I grew up, is a place called the Pediatric Intensive Care Center. This facility takes in babies who have been born to drug-addicted mothers, some of these mothers who have been on the street. These babies are placed into homes where they have a chance to live a life, a real life, the life that I talked about earlier: A life of hope, a life with dreams for those little girls who have dreams.

And you know what, it is our duty, Mr. Speaker, every one of us in this Nation, to protect those dreams, to make sure that the hopes and dreams of our children are not stolen away by something we might do at home and not stolen away by someone who lures them out of our homes with the promise of a better life somewhere else. It is our responsibility to step up and act.

People talk about human trafficking, and it is an international problem. Human trafficking is a problem right here in this country. It happens on our Nation's streets every day. I hope to join with my colleagues here in Congress to begin to make a difference in the lives of our children so that we can protect them and they can enjoy a life of freedom and safety.

I want to end, Mr. Speaker, by reading a list of each of the victims whose lives were taken by this monster in the northwest:

Marcia Fay Chapman; Cynthia Jean Hinds; and Opal Charmaine Mills. She's the one I found on the river bank.

Carol Ann Christensen, Wendy Lee Coffield, Gisele Ann Lovvorn, Debra Lynn Bonner, Marcia Fay Chapman, Cynthia Jean Hinds, Opal Charmaine Mills, Terry Rene Milligan, and Mary Bridget Meehan. She was the one 9 months pregnant.

Debra Lorraine Estes, Linda Jane Rule, Denise Darcel Bush, Shawnda Leea Summers, Shirley Marie Sherrill, Colleen Renee Brockman, Alma Ann Smith, Dolores Williams, Gail Lynn Mathews, Andrea Childers, Sandra Kay Gabbert, Kimi-Kai Pitsor, Marie Malvar, Carol Christensen, Martina Authorlee, Cheryl Wims, Yvonne Antosh, Carrie Rois, Constance Elizabeth Naon, Kelly Marie Ware, Tina Thompson, April Buttram, Debbie Abernathy, Tracy Winston, Maureen Sue Feeney, Mary Sue Bello, Pammy Avent, Delise Plager, Kimberly Nelson, Lisa Yates, Mary West, Cindy Smith, Patricia Barczak, Roberta Hayes, Marta Reeves, Patricia Yellow Robe.

And then there are four others who have not been identified: Unidentified victim number ten, unidentified victim number sixteen, unidentified victim number seventeen, and unidentified victim number twenty.

---

□ 1545

## APPOINTMENT OF MEMBERS TO HOUSE OF REPRESENTATIVES PAGE BOARD

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Pursuant to 2 U.S.C. 88b-3, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the House of Representatives Page Board:

Mr. SHIMKUS, Illinois,

Mrs. CAPITO, West Virginia.

---

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORD (at the request of Ms. PELOSI) for today.

Ms. HARRIS (at the request of Mr. DELAY) for February 28 and the balance of the week on account of a family emergency.

Mr. LEACH (at the request of Mr. DELAY) for today on account of illness.

---

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

(The following Members (at the request of Mr. WELDON of Florida) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. FOSSELLA, for 5 minutes, today.

Mr. POE, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCOTT of Virginia and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,880.

## ADJOURNMENT

Mr. REICHERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until Monday, March 7, 2005, at noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1016. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—United States Standards for Wheat (RIN: 580-AA86) received February 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1017. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Karnal Bunt; Revision of Regulations for Importing Wheat [Docket No. 02-057-2] (RIN: 0579-AB74) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1018. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Brucellosis in Swine; Add Arkansas, Louisana, and Michigan to List of Validated Brucellosis Free States [Docket No. 04-103-2] received February 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1019. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Golden Nematode; Regulated Areas [Docket No. 04-093-2] received February 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1020. A communication from the President of the United States, transmitting a request for FY 2005 supplemental appropriations from the Legislative Branch and the Judicial Branch; (H. Doc. No. 109–14); to the Committee on Appropriations and ordered to be printed.

1021. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—FHA TOTAL Mortgage Scorecard [Docket No. FR-4835-F-03] (RIN: 2502-AI00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1022. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Eligibility of Mortgages on Hawaiian Home Lands Insured Under Section 247 [Docket No. FR-4779-F-02] (RIN: 2502-AH92) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1023. A letter from the Secretary, Department of Education, transmitting the Department's final rule—Scientifically Based Evaluation Methods (RIN: 1890-ZA00) received February [illegible] 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1024. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Secondary Direct Food Additives Permitted in Food for Human Consumption [Docket No. 2003F-0128] received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1025. A letter from the Special Counsel, WCB/CPD, Federal Communications Commission, transmitting the Commission's final rule—Unbundled Access to Network Elements [WC Docket No. 04-313] Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers [CC Docket No. 01-338] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1026. A letter from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule—Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission [ET Docket No. 98-153] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1027. A letter from the Legal Advisor to the Bureau Chief, Media Buerau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Security and Genoa, Colorado) [MB Docket No. 04-367, RM-11070] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1028. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Corydon and Lanesville, Indiana) [MB Docket No. 04-380, RM-11069] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1029. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Weatherford, Blancard, Elmore City, and Wynnewood, Oklahoma) [MB Docket No. 03-181, RM-10758, RM-11123] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1030. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Yazoo City and Benton, Mississippi) [MB Docket No. 04-249, RM-10999] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1031. A letter from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (El Dorado, Arkansas) [MB Docket No. 04-282, RM-11042] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1032. A letter from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Centre Hall, Mount Union, and Huntingdon, Pennsylvania) [MB Docket No. 03-231, RM-10818] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1033. A letter from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Thief River Falls, Minnesota) [MB Docket No. 00-163; RM-9934] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1034. A letter from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Appleton, Wisconsin) [MB Docket No. 04-185; RM-10860] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1035. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliance and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")—received February 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1036. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles—received February 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1037. A communication from the President of the United States, transmitting a report including matters relating to the interdiction of aircraft engaged in illicit drug trafficking, pursuant to Public Law 107–108 22 U.S.C. 2291–4; (H. Doc. No. 109–13); to the Committee on International Relations and ordered to be printed.

1038. A letter from the Acting Chief Counsel (Foreign Assets Control), Department of the Treasury, transmitting the Department's final rule—Cuban Assets Control Regulations—received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1039. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Technical Corrections to the Export Administration Regulations [Docket No. 050202022-5022-01] (RIN: 0694-AD32) received February 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1040. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Revision of License Exception TMP for Activities by Organizations Working to Relieve Human Suffering in Sudan [Docket No. 050209030-5030-01] (RIN: 0694-AD38) received February 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1041. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule—Contributions and Donations by Minors [Notice 2005-4] received February 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

1042. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Document Incorporarted by Reference—American Petroleum Institute (API) 510 (RIN: 1010-AC95) received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1043. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Final Rule to Designate Critical Habitat for the Buena Vista Lake shrew (Sorex ornatus relictus) (RIN: 1018-AT66) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1044. A letter from the Under Secretary and Director USPTO, Department of Commerce, transmitting the Department's final rule—Revision of Search and Examination Fees for Patent Cooperation Treaty Applications Entering the National Stage in the United States [Docket No.: 2005-P-052] (RIN: 0651-AB84) received February 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1045. A letter from the Under Secretary and Director USPTO, Department of Commerce, transmitting the Department's final rule—Changes to Implement the Cooperative Research and Technology Enhancement Act of 2004 [Docket No. 2004-P-034] (RIN: 0651-AB76) received January 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1046. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Revised Jurisdictional Thresholds for Section 8 of The Clayton Act—received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1047. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Adjustments to Civil Monetary Penalty Amounts [Release Nos. 33-8530; 31-51136; IA-2348; IC-26748] received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1048. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area removal; Brunswick, Georgia, Turtle River, in the vicinity of the Sidney Lanier Bridge [CGD7-04-153] (RIN: 1625-AA11) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1049. A letter from the FMCSA Regulatory Officer, Department of Transportation, transmitting the Department's final rule—Title VI Regulations for Federal Motor Carrier Safety Administration Financial Assistance Recipients [Docket No. FMCSA-2002-13248] (RIN: 2126-AA79) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1050. A letter from the Attorney Advisor, RSPA, Department of Transportation, transmitting the Department's final rule—Pipeline Safety; Periodic Updates to Pipeline Safety Regulations [Docket No. RSPA-99-6106; Amdt. 192-94] (RIN: 2137-AD35) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1051. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes [Docket No. FAA-2004-19089; Directorate Identifier 2000-CE-38-AD; Amendment 39-13928; AD 2005-01-04] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1052. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-100 and -200B Series Airplanes [Docket No. FAA-2004-18729; Directorate Identifier 2004-NM-24-AD; Amendment 39-13931; AD 2005-01-07] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1053. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-100, -200B, -200F, -200C, -100B, -300, -100B SUD, -400, -400D, -400F, and 747SR Series Airplanes [Docket No. FAA-2004-18601; Directorate Identifier 2004-NM-34-AD; Amendment 39-13933; AD 2005-01-09] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1054. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211-524 Series Turbofan Engines [Docket No. 2004-NE-19-AD; Amendment 39-13917; AD 2004-26-05] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1055. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworhtiness Directives; Airbus Model A310 Series Airplanes [Docket No. FAA-2004-19560; Directorate Identifier 2004-NM-121-AD; Amendment 39-13930; AD 2005-01-06] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1056. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness DIrectives; Rolls-Royce plc RB211 Trent 700 Series Turbofan Engines [Docket No. 2000-NE-05-AD; Amendment 39-13941; AD 2005-01-16] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1057. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30437; Amdt. No. 453] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1058. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30434; Amdt. No. 3113] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1059. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30433; Amdt. No. 3112] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1060. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30436; Amdt. No. 3115] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1061. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30435; Amdt. No. 3114] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1062. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. FAA-2005-20250; Directorate Identifier 2003-NM-267-AD; Amendment 39-13961; AD 2005-03-05] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1063. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes [Docket No. 2000-CE-38-AD; Amendment 39-13928; AD 2005-01-04] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1064. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A318, A319, A320, A321 Series Airplanes Equipped with Air Cruisers/Aerazur Forward and Aft Passenger Door Emergency Escape Slides [Docket No. FAA-2004-19494; Directorate Identifier 2004-NM-135-AD; Amendment 39-13919; AD 2004-26-07] (RIN: 2120-AA64) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1065. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Certification Procedures for Products and Parts; Type Certificates; Issue of Type Certificates; Suplus Aircraft of the Armed Forces; Correction—received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1066. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Picture Identification Requirements [Docket No. FAA-2002-11666; Amendment No. 61-111] (RIN: 2120-AH76) received January 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1067. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Deutschland (RRD) (Formerly Rolls-Royce plc) Tay 611-8, Tay 611-15, Tay 620-15/20, Tay 650-15, Tay 650-15/10, and Tay 651-54 Turbofan Engines; Correction [Docket No. 2004-NE-11-AD; Amendment 39-13922; AD 2004-26-10] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1068. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Deutschland (RRD) (Formerly Rolls-Royce plc) Tay 611-8, Tay 620-15, Tay 620-15/20, Tay 650-15, Tay 650-15/10, and Tay 651-54 Turbofan Engines [Docket No. FAA-2004-NE-11-AD; Amendment 39-13922; AD 2004-26-10] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1069. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives: Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 2002-NM-182-AD; Amendment 39-13882; AD 2004-24-06] (RIN: 2120-AA64) received February 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1070. A letter from the Chief, Regulations Branch, CBP, Department of Homeland Security, transmitting the Department's final rule—Publication of Administrative Forfeiture Notices [CBP Dec. 05-02] (RIN: 1651-AA48) received February 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1071. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous (Rev. Proc. 2005-15) received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1072. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Specified Liability Losses [Notice 2005-20] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1073. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Return of Partnership Income [TD 9177] (RIN: 1545-BC04) received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1074. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Testimony or Production of Records in a Court or Other Proceeding [TD 9178] (RIN: 1545-BB15) received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1075. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Adjustment to Net Unrealized Built-in Gain [TD 9180] (RIN: 1545-BC29) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1076. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories (Rev. Rul. 2005-12) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1077. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Tax-Exempt Leasing Involving Defeasance [Notice 2005-13] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1078. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rates Update [Notice 2005-19] received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ENGLISH of Pennsylvania (for himself, Mr. Visclosky, Mr. Ney, Mr. Regula, Mr. Aderholt, Mr. Souder, Mr. Wilson of South Carolina, Ms. Hart, Mr. Boehlert, Mrs. Capito, Mr. Murtha, Mr. Oberstar, Mr. Strickland, Mr. Stupak, Mr. Dingell, Mr. Berry, Mr. Bonner, Mr. Burton of Indiana, Mr. Cramer, Mr. Davis of Alabama, Mr. Doyle, Mr. Evans, Mr. Holden, Ms. Kaptur, Mr. Platts, Mr. Ruppersberger, Mr. Spratt, Ms. Kilpatrick of Michigan, Mr. Butterfield, Mr. Hall, Mr. LaHood, Mr. Bishop of Georgia, Mr. Conyers, Mr. Jackson of Illinois, Mr. Kildee, Mr. Rangel, Mr. Shimkus, Mr. Gene Green of Texas, Mr. Bachus, Mr. Brady of Pennsylvania, Mr. Brown of South Carolina, Mr. Brown of Ohio, Mr. Costello, Mr. Levin, Mr. Mollohan, Mr. Murphy, Mrs. Myrick, Mr. Ross, Mr. Ryan of Ohio, Mrs. Jones of Ohio, Mr. Pallone, Mr. Lipinski, Mr. McGovern, Mr. Hayes, Mr. Davis of Illinois, Mr. Cummings, and Mr. Bishop of Utah):

H.R. 1068. A bill to maintain and expand the steel import licensing and monitoring program; to the Committee on Ways and Means.

By Ms. BEAN (for herself, Mr. Emanuel, Mr. Gutierrez, Ms. Slaughter, Mr. Van Hollen, Mr. Towns, Mrs. Maloney, Mr. Lipinski, Mr. McDermott, Ms. Schakowsky, Mr. Brady of Pennsylvania, and Mr. DeFazio):

H.R. 1069. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of electronic data containing personal information, to disclose any unauthorized acquisition of such information, to amend the Gramm-Leach-Bliley Act to require financial institutions to disclose to customers and consumer reporting agencies any unauthorized access to personal information, to amend the Fair Credit Reporting Act to require consumer reporting agencies to implement a fraud alert with respect to any consumer when the agency is notified of any such unauthorized access, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ADERHOLT (for himself, Mr. McCotter, Mr. Pence, Mrs. Jo Ann Davis of Virginia, Mr. Bachus, Mr. Ryun of Kansas, Ms. Foxx, Mr. Barrett of South Carolina, Mr. Wamp, Mr. Wilson of South Carolina, Mr. Rogers of Alabama, Mr. Pitts, Mr. Everett, Mr. Cannon, Mr. Souder, Mr. Cantor, Mr. Price of Georgia, Mr. McIntyre, Mr. Weldon of Florida, Mr. Jones of North Carolina, Mr. Bishop of Utah, Mr. Herger, Mr. Goode, Mr. Hall, and Mr. Lewis of Kentucky):

H.R. 1070. A bill to limit the jurisdiction of Federal courts in certain cases and promote federalism; to the Committee on the Judiciary.

By Mr. DAVIS of Florida (for himself and Mr. Gibbons):

H.R. 1071. A bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate such facilities, and for other purposes; to the Committee on Resources.

By Mr. HINOJOSA (for himself, Mr. Brady of Texas, Mr. Culberson, Mr. Al Green of Texas, Mr. Gene Green of Texas, Mr. Ortiz, Mr. Reyes, Mr. Edwards, Ms. Eddie Bernice Johnson of Texas, Mr. Cuellar, Mr. Gonzalez, Mr. Doggett, Ms. Jackson-Lee of Texas, Mr. Paul, Mr. Sam Johnson of Texas, Mr. Smith of Texas, Mr. Thornberry, Mr. Marchant, Mr. DeLay, Mr. Barton of Texas, Mr. Hensarling, Mr. Sessions, Mr. Burgess, Mr. Carter, Mr. Gohmert, Ms. Granger, Mr. Hall, Mr. McCaul of Texas, Mr. Neugebauer, Mr. Poe, Mr. Conaway, and Mr. Bonilla):

H.R. 1072. A bill to designate the facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, as the "Judge Emilio Vargas Post Office Building"; to the Committee on Government Reform.

By Mr. SAM JOHNSON of Texas (for himself, Mr. Norwood, Mr. Wilson of South Carolina, Mr. Marchant, Mr. Akin, Mr. Flake, Mr. Shadegg, Mr. Kline, Mr. Istook, Mr. Ryun of Kansas, Mrs. Musgrave, Mr. Pitts, Ms. Foxx, Mr. Cantor, Mr. Burton of Indiana, Mr. Westmoreland, Mr. Tiahrt, Mrs. Myrick, Mr. Gingrey, Mr. Radanovich, and Mr. Cole of Oklahoma):

H.R. 1073. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 to inform union members of their rights; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. Norwood, Mr. Wilson of South Carolina, Mr. Marchant, Mr. Akin, Mr. Flake, Mr. Shadegg, Mr. Kline, Mr. Istook, Mr. Ryun of Kansas, Mrs. Musgrave, Mr. Pitts, Ms. Foxx, Mr. Cantor, Mr. Burton of Indiana, and Mr. Westmoreland):

H.R. 1074. A bill to enhance notification to union members of their rights under the

Labor-Management Reporting and Disclosure Act of 1959; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. NORWOOD, Mr. WILSON of South Carolina, Mr. MARCHANT, Mr. AKIN, Mr. FLAKE, Mr. SHADEGG, Mr. KLINE, Mr. ISTOOK, Mr. RYUN of Kansas, Mrs. MUSGRAVE, Mr. PITTS, Ms. FOXX, Mr. CANTOR, Mr. BURTON of Indiana, and Mr. WESTMORELAND):

H.R. 1075. A bill to provide for civil monetary penalties in certain cases; to the Committee on Education and the Workforce.

By Mr. SCHIFF:

H.R. 1076. A bill to authorize the President to detain an enemy combatant who is a United States person or resident who is a member of al Qaeda or knowingly cooperated with members of al Qaeda, to guarantee timely access to judicial review to challenge the basis for a detention, to permit the detainee access to counsel, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG (for himself and Mr. RYUN of Kansas):

H.R. 1077. A bill to improve the access of investors to regulatory records with respect to securities brokers, dealers, and investment advisers; to the Committee on Financial Services.

By Mr. MARKEY (for himself, Mr. EMANUEL, Mrs. CAPPS, Mr. GEORGE MILLER of California, Mr. MCNULTY, and Mr. SANDERS):

H.R. 1078. A bill to strengthen the authority of the Federal Government to protect individuals from certain acts and practices in the sale and purchase of Social Security numbers and Social Security account numbers, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTLETT of Maryland (for himself, Mr. HALL, Mr. WICKER, Mr. MILLER of Florida, Mr. NORWOOD, Mr. SMITH of New Jersey, Mr. WAMP, Mr. PITTS, Mr. CHABOT, Mrs. BLACKBURN, Mr. BAKER, Mr. FORBES, Mr. WELDON of Florida, Mr. ROGERS of Alabama, Mr. SHIMKUS, Mrs. JO ANN DAVIS of Virginia, Mr. DAVIS of Kentucky, Mr. AKIN, Ms. HART, Mr. GINGREY, Mr. PICKERING, Mr. KING of Iowa, Mr. RYUN of Kansas, Mrs. MUSGRAVE, Mr. ADERHOLT, Mr. INGLIS of South Carolina, Mr. DAVIS of Tennessee, Mr. RENZI, Mr. JONES of North Carolina, Mr. STEARNS, Mr. CANTOR, Mr. MCCOTTER, Mrs. MYRICK, Mr. BEAUPREZ, Mr. FRANKS of Arizona, Mr. PENCE, Mr. SAM JOHNSON of Texas, Mr. TERRY, Mr. TIBERI, Mr. DOOLITTLE, Mr. ROGERS of Kentucky, Mr. SOUDER, Mr. BROWN of South Carolina, Mr. KENNEDY of Minnesota, Mr. BOOZMAN, Mr. WHITFIELD, Ms. FOXX, and Mrs. EMERSON):

H.R. 1079. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY (for himself, Mr. THOMPSON of Mississippi, and Ms. SCHAKOWSKY):

H.R. 1080. A bill to regulate information brokers and protect individual rights with respect to personally identifiable information; to the Committee on Energy and Commerce.

By Ms. BERKLEY (for herself, Ms. BORDALLO, Mrs. CHRISTENSEN, Mr. MCNULTY, Mr. PAYNE, Mr. RANGEL, Ms. SCHAKOWSKY, Mr. WAXMAN, Mr. HINCHEY, Mr. ABERCROMBIE, Mr. WEXLER, Mr. OWENS, Mr. JEFFERSON, Mr. GRIJALVA, Mr. BURGESS, Mr. ALLEN, and Mr. CUMMINGS):

H.R. 1081. A bill to amend the Older Americans Act of 1965 to provide information and outreach for the prevention of osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOREN (for himself and Mr. SULLIVAN):

H.R. 1082. A bill to designate the facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, as the "Francis C. Goodpaster Post Office Building"; to the Committee on Government Reform.

By Mr. BOREN (for himself and Mr. COLE of Oklahoma):

H.R. 1083. A bill to amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoesphedrine; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRADLEY of New Hampshire (for himself and Mr. BASS):

H.R. 1084. A bill to authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862, and for other purposes; to the Committee on Resources.

By Mr. BURGESS:

H.R. 1085. A bill to amend title 23, United States Code, relating to design-build contracting; to the Committee on Transportation and Infrastructure.

By Mr. BURGESS (for himself, Mr. BARTON of Texas, and Mr. SESSIONS):

H.R. 1086. A bill to require the Secretary of Transportation to develop and implement an environmental review process for safety emergency highway projects; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUTTERFIELD:

H.R. 1087. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Northeastern North Carolina Heritage Area in North Carolina, and for other purposes; to the Committee on Resources.

By Mr. CASTLE (for himself, Mr. NEY, Mr. GREEN of Wisconsin, Mr. OXLEY, Ms. CARSON, Mr. BACHUS, Mr. GILLMOR, Ms. HARMAN, Mr. ROGERS of Michigan, Mr. WOLF, Mr. MCCAUL of Texas, Mr. DENT, Mr. PLATTS, Mr. WELDON of Pennsylvania, Mr. WILSON of South Carolina, Mr. DELAHUNT, Mr. HOLDEN, Mr. SOUDER, Mr. GILCHREST, Mr. EVANS, Mr. FORBES, Mrs. LOWEY, Mr. OWENS, Mr. BAKER, Mr. KILDEE, Mr. DOYLE, Mr. COSTELLO, Mr. UPTON, Mr. MCGOVERN, Mr. CONAWAY, Mr. BRADY of Texas, Mr. CALVERT, Mrs. CAPITO, Mr. KING of New York, Mr. BARTLETT of Maryland, Mr. DUNCAN, Mr. COX, Mrs. JOHNSON of Connecticut, Mr. KENNEDY of Minnesota, Mr. EHLERS, Mr. MCHUGH, Mr. GOODE, Mr. GARRETT of New Jersey, Mr. MCINTYRE, Mr. FOSSELLA, Mr. ETHERIDGE, Mr. PAYNE, Mr. MCNULTY, Mr. RUPPERSBERGER, Mr. ROSS, Mr. STUPAK, Mr. BISHOP of Georgia, Mrs. JO ANN DAVIS of Virginia, Mr. FLAKE, Mr. REHBERG, Mr. REYNOLDS, Mr. NORWOOD, Mrs. KELLY, Mr. KUHL of New York, and Mr. INGLIS of South Carolina):

H.R. 1088. A bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois:

H.R. 1089. A bill to amend the Higher Education Act of 1965 to improve the opportunity for Federal student loan borrowers to consolidate their loans at reasonable interest rates; to the Committee on Education and the Workforce.

By Mr. DEFAZIO (for himself, Mr. WALDEN of Oregon, Mr. BLUMENAUER, Ms. HOOLEY, Mr. WU, and Mr. GEORGE MILLER of California):

H.R. 1090. A bill to designate a Forest Service trail at Waldo Lake in the Willamette National Forest in the State of Oregon as a national recreation trail in honor of Jim Weaver, a former Member of the House of Representatives; to the Committee on Resources.

By Mr. ENGLISH of Pennsylvania:

H.R. 1091. A bill to amend the Internal Revenue Code of 1986 to provide for small business tax incentives, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to increase the exemption for annual gross volume of sales made or business done by an enterprise, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FLAKE (for himself, Mr. PENCE, Mr. HUNTER, Mr. PETERSON of Minnesota, Mr. SENSENBRENNER, Mr. GORDON, Mr. BURTON of Indiana, Mr. MATHESON, Mr. DOOLITTLE, Mr. CANTOR, Mr. SMITH of New Jersey, Mr. CHABOT, Mr. PAUL, Mrs. JO ANN DAVIS of Virginia, Mr. MCCOTTER, Mr. WILSON of South Carolina, Mr. BOOZMAN, Mr. MCCAUL of Texas, Mr. AKIN, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BRADLEY of New Hampshire, Mr. BRADY of Texas, Ms. GINNY BROWN-WAITE of

Florida, Mr. CALVERT, Mr. CARTER, Mr. CHOCOLA, Mr. CULBERSON, Mr. MARIO DIAZ-BALART of Florida, Mr. DUNCAN, Mr. EVERETT, Mr. FOSSELLA, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY, Ms. HART, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mrs. KELLY, Mr. KING of Iowa, Mr. KLINE, Mr. MCHENRY, Mr. MILLER of Florida, Mr. MURPHY, Mr. NEUGEBAUER, Mr. OTTER, Mr. REHBERG, Mr. RYAN of Wisconsin, Mr. SAXTON, Mr. SHUSTER, Mr. SIMPSON, Mr. SODREL, and Mr. TERRY):

H.R. 1092. A bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program; to the Committee on International Relations.

By Mr. FOSSELLA (for himself and Mr. SWEENEY):

H.R. 1093. A bill to amend the USA PATRIOT Act of 2001 to change the manner of allocation of first responder grant funds; to the Committee on Homeland Security.

By Mr. FOSSELLA:

H.R. 1094. A bill to amend the Internal Revenue Code of 1986 to allow individuals who served in a combat zone as a member of the Armed Forces of the United States to make distributions from qualified retirement plans beginning at age 55 without being subject to the 10-percent additional tax for early withdrawal; to the Committee on Ways and Means.

By Mr. FOSSELLA (for himself, Mr. KING of New York, Mr. FORTUÑO, Mrs. MCCARTHY, Ms. HARMAN, Mr. WEINER, Mr. SAXTON, Mr. DAVIS of Illinois, Mr. MENENDEZ, Mr. BISHOP of New York, Mr. ENGEL, Mr. SHAYS, and Mr. ACKERMAN):

H.R. 1095. A bill to amend the Internal Revenue Code of 1986 to establish and provide a checkoff for a World Trade Center Memorial Fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARRETT of New Jersey (for himself, Mr. PALLONE, Mr. PAYNE, Mr. FERGUSON, Mr. SMITH of New Jersey, and Mr. ANDREWS):

H.R. 1096. A bill to establish the Thomas Edison National Historical Park in the State of New Jersey as the successor to the Edison National Historic Site; to the Committee on Resources.

By Mr. GARRETT of New Jersey:

H.R. 1097. A bill to amend the Internal Revenue Code of 1986 to reduce the Federal tax on fuels by the amount of any increase in the rate of tax on such fuel by the States; to the Committee on Ways and Means.

By Mr. GOODE (for himself, Mrs. JO ANN DAVIS of Virginia, Mr. LAHOOD, Mr. PLATTS, Mrs. CHRISTENSEN, Mr. BISHOP of Georgia, Mr. JONES of North Carolina, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. MORAN of Virginia, Mr. PASTOR, Mr. SOUDER, Mr. WOLF, Mr. FORBES, Mrs. DRAKE, Mr. OWENS, Mr. BOUCHER, Mr. HALL, and Mr. GOODLATTE):

H.R. 1098. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of a refund for use by the Secretary of Health and Human Services in providing catastrophic health coverage to individuals who do not otherwise have health coverage; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HOOLEY (for herself, Mr. ENGEL, and Mr. CASE):

H.R. 1099. A bill to criminalize Internet scams involving fraudulently obtaining personal information, commonly known as phishing; to the Committee on the Judiciary.

By Mr. HOSTETTLER (for himself, Mr. WILSON of South Carolina, Mr. PAUL, Mr. AKIN, Mr. GARRETT of New Jersey, Mr. JONES of North Carolina, Mr. STEARNS, Mr. PENCE, Mrs. JO ANN DAVIS of Virginia, Mr. NORWOOD, Mr. WAMP, Mr. NEUGEBAUER, Mr. BROWN of South Carolina, Mr. CANNON, Mr. GINGREY, Mr. RADANOVICH, Mr. MARSHALL, Mr. PITTS, Mr. DAVIS of Tennessee, Mr. CANTOR, Mr. BACHUS, Mr. BARTLETT of Maryland, Mrs. CUBIN, Mr. RYUN of Kansas, Mr. SAM JOHNSON of Texas, Mr. TIAHRT, Mr. WICKER, Mr. HAYES, Mrs. MYRICK, Mr. BURTON of Indiana, Mr. GRAVES, Mr. MILLER of Florida, Mr. ALEXANDER, Mr. BARRETT of South Carolina, Mr. DUNCAN, Mr. CARTER, Mrs. BLACKBURN, Mr. PUTNAM, Mr. ADERHOLT, Mr. MCHENRY, Mr. DAVIS of Kentucky, Mr. WESTMORELAND, Mr. HALL, Mr. LEWIS of Kentucky, Mr. BOOZMAN, Mr. POE, Mr. ROGERS of Kentucky, Mr. SODREL, and Mr. SMITH of New Jersey):

H.R. 1100. A bill to amend title 28, United States Code, to limit Federal court jurisdiction over questions under the Defense of Marriage Act; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 1101. A bill to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; to the Committee on Resources.

By Mr. ISRAEL:

H.R. 1102. A bill to amend title 10, United States Code, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut (for herself, Mr. HOLT, Mr. EHLERS, Mr. MCDERMOTT, Mr. OLVER, Mr. GILCHREST, Mr. FOLEY, Mr. INSLEE, Mr. ENGEL, Mr. BOEHLERT, Mr. PALLONE, Mr. MARKEY, Mr. SANDERS, Mrs. DAVIS of California, Mr. SHAYS, Mr. CASTLE, Mr. ENGLISH of Pennsylvania, Mr. GRIJALVA, Mr. CASE, Ms. DELAURO, Mr. UDALL of Colorado, Mr. LANTOS, Ms. DEGETTE, Mr. MORAN of Virginia, and Mr. VAN HOLLEN):

H.R. 1103. A bill to require accurate fuel economy testing procedures; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, and Mr. SIMMONS):

H.R. 1104. A bill to repeal the Federal acknowledgment of the Schaghticoke Tribal Nation; to the Committee on Resources.

By Mrs. KELLY (for herself and Mr. SHUSTER):

H.R. 1105. A bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams; to the Committee on Transportation and Infrastructure.

By Mr. KENNEDY of Rhode Island (for himself, Ms. ROS-LEHTINEN, Mr. TOWNS, Mr. OWENS, Ms. MILLENDER-MCDONALD, Mr. KIND, Mr. HINCHEY, Ms. DELAURO, Mr. GUTIERREZ, Mr. LYNCH, Mr. MCNULTY, Mr. MCGOVERN, Mr. MEEHAN, Mr. PLATTS, Ms. KILPATRICK of Michigan, Ms. WOOLSEY, Mrs. NAPOLITANO, Mr. CONYERS, Mr. LANTOS, Mr. STARK, and Mr. HOLDEN):

H.R. 1106. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LARSON of Connecticut (for himself, Mr. CONYERS, Mrs. JONES of Ohio, Mr. CASE, Mr. HOLT, Mr. SHIMKUS, Mr. HINCHEY, Mr. EVANS, Mr. SCHIFF, Mr. MCDERMOTT, Mr. GRIJALVA, Mr. WEINER, Mr. ETHERIDGE, Mr. FRANK of Massachusetts, Mr. CLYBURN, Ms. ESHOO, Mr. SHERMAN, Mr. OWENS, Mr. MCNULTY, Mr. FILNER, and Mr. BUTTERFIELD):

H.R. 1107. A bill to amend the Individuals with Disabilities Education Act to provide full funding for assistance for education of all children with disabilities; to the Committee on Education and the Workforce.

By Mr. LYNCH (for himself, Mr. KING of New York, Mr. TOWNS, Mr. MCDERMOTT, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. ABERCROMBIE, and Mr. CAPUANO):

H.R. 1108. A bill to establish the National Center on Liver Disease Research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LYNCH (for himself, Mrs. MALONEY, Mrs. MCCARTHY, Mr. OWENS, Mr. TIERNEY, Mr. MCDERMOTT, Mr. MCGOVERN, and Ms. LEE):

H.R. 1109. A bill to provide for the security and safety of rail and rail transit transportation systems, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARCHANT:

H.R. 1110. A bill to amend title 23, United States Code, relating to the toll credit toward the non-Federal share payable for certain highway and transit projects; to the Committee on Transportation and Infrastructure.

By Mr. MARCHANT:

H.R. 1111. A bill to amend title 23, United States Code, relating to design-build contracting; to the Committee on Transportation and Infrastructure.

By Mr. MARCHANT:

H.R. 1112. A bill to amend title 23, United States Code, relating to rail line acquisition and relocation projects; to the Committee on Transportation and Infrastructure.

By Mr. McCRERY (for himself, Mr. WELLER, Mr. ENGLISH of Pennsylvania, Mr. JEFFERSON, Mr. LEWIS of Kentucky, Mr. COLE of Oklahoma, Mr. HERGER, and Mr. NUNES):

H.R. 1113. A bill to amend the Internal Revenue Code of 1986 to provide that natural gas distribution lines are 15-year property for depreciation purposes; to the Committee on Ways and Means.

By Mr. McCRERY (for himself, Mr. ENGLISH of Pennsylvania, Mr. SULLIVAN, and Mr. BROWN of Ohio):

H.R. 1114. A bill to amend the Internal Revenue Code of 1986 to modify the small refiner exception to the oil depletion deduction; to the Committee on Ways and Means.

By Mr. McKEON:

H.R. 1115. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the tariff rate for certain mechanics' gloves; to the Committee on Ways and Means.

By Ms. MILLENDER-McDONALD:

H.R. 1116. A bill to direct the Secretary of Homeland Security to carry out activities to assess and reduce the vulnerabilities of public transportation systems; to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PEARCE:

H.R. 1117. A bill to amend title 49, United States Code, relating to the assurance required of owners and operators of airports with respect to long-term leases for construction of hangars; to the Committee on Transportation and Infrastructure.

By Mr. PETERSON of Minnesota (for himself, Mr. ETHERIDGE, Mr. McINTYRE, and Mr. ROSS):

H.R. 1118. A bill to amend the Federal Crop Insurance Act to establish permanent authority for the Secretary of Agriculture to quickly provide disaster relief to agricultural producers who incur crop losses as a result of damaging weather or related condition in federally declared disaster areas, and for other purposes; to the Committee on Agriculture.

By Mr. PETERSON of Pennsylvania (for himself, Mr. McHUGH, Mr. PAUL, Mr. CASE, Mr. BERRY, Mr. RAHALL, Mr. MATHESON, Mr. BOOZMAN, Mr. JOHNSON of Illinois, Mr. SHUSTER, Mr. SANDERS, Mr. MORAN of Kansas, Mr. SWEENEY, Mr. MICHAUD, Mr. CRAMER, Mrs. CUBIN, and Mr. PETERSON of Minnesota):

H.R. 1119. A bill to amend title 49, United States Code, to repeal the essential air service local participation program; to the Committee on Transportation and Infrastructure.

By Mr. RAMSTAD (for himself and Mr. CARDIN):

H.R. 1120. A bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself and Mr. SHAW):

H.R. 1121. A bill to repeal section 754 of the Tariff Act of 1930; to the Committee on Ways and Means.

By Mr. ROGERS of Michigan:

H.R. 1122. A bill to improve traffic safety by discouraging the use of traffic signal preemption transmitters; to the Committee on the Judiciary.

By Mr. SABO:

H.R. 1123. A bill to amend title II of the Social Security Act to establish an effective real annual rate of interest at 4.7 percent for special obligations issued to the Social Security trust funds; to the Committee on Ways and Means.

By Mr. SOUDER (for himself, Mr. BAIRD, Mr. BOEHLERT, Mr. ENGLISH of Pennsylvania, Mr. FORD, Mr. GRIJALVA, Mr. LEWIS of Georgia, Mr. PLATTS, Mr. REICHERT, Ms. ROS-LEHTINEN, Mr. CUMMINGS, Mr. UDALL of Colorado, Mr. EHLERS, Mr. KILDEE, Mr. MICHAUD, Mrs. CAPITO, Mr. SCHWARZ of Michigan, Ms. McCOLLUM of Minnesota, Mr. DUNCAN, Mr. SNYDER, Mr. JENKINS, Ms. BORDALLO, and Mr. RENZI):

H.R. 1124. A bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself and Mr. MURPHY):

H.R. 1125. A bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK (for himself, Ms. WOOLSEY, Mr. CASE, Mr. DAVIS of Illinois, Mr. VAN HOLLEN, Mr. KILDEE, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. GRIJALVA, Mr. PLATTS, Mr. McNULTY, Mr. GENE GREEN of Texas, Ms. LORETTA SANCHEZ of California, Mr. WELDON of Pennsylvania, Mr. LYNCH, Mr. HINCHEY, Mr. BUTTERFIELD, Ms. WASSERMAN SCHULTZ, Mr. SMITH of New Jersey, Ms. SLAUGHTER, Mr. CUMMINGS, Ms. SCHWARTZ of Pennsylvania, Mr. JACKSON of Illinois, Mr. LANTOS, Mr. LAHOOD, Mr. MARKEY, Mr. LEVIN, Ms. CARSON, Mr. MILLER of Florida, Mr. BERMAN, Mr. HASTINGS of Florida, Mr. OWENS, Mr. KIRK, Mr. PALLONE, Mr. SHAW, Mr. FITZPATRICK of Pennsylvania, Mr. EMANUEL, and Mr. GILCHREST):

H.R. 1126. A bill to amend the Federal Water Pollution Control Act to prohibit a publicly owned treatment works from diverting flows to bypass any portion of its treatment facility; to the Committee on Transportation and Infrastructure.

By Mr. TERRY (for himself, Mr. PETERSON of Minnesota, Mr. FORTENBERRY, and Mr. OSBORNE):

H.R. 1127. A bill to reauthorize the renewable energy production incentive and to provide that a qualified renewable energy facility shall not be assigned a priority for eligibility or allocation of appropriated funds on the basis of the energy source used at such facility; to the Committee on Energy and Commerce.

By Mr. THORNBERRY:

H.R. 1128. A bill to amend the Internal Revenue Code of 1986 to allow a credit for carbon dioxide captured from anthropogenic industrial sources and used as a tertiary injectant in enhanced oil and natural gas recovery; to the Committee on Ways and Means.

By Mr. UDALL of Colorado:

H.R. 1129. A bill to authorize the exchange of certain land in the State of Colorado; to the Committee on Resources.

By Ms. WATERS (for herself, Mr. LEACH, Mr. FRANK of Massachusetts, Mr. BACHUS, Mrs. MALONEY, and Ms. LEE):

H.R. 1130. A bill to provide for the cancellation of debts owed to international financial institutions by poor countries, and for other purposes; to the Committee on Financial Services.

By Mr. WELDON of Pennsylvania (for himself, Mr. BASS, Mr. CANTOR, Mr. CLAY, Mr. COSTELLO, Mr. ENGLISH of Pennsylvania, Mr. FITZPATRICK of Pennsylvania, Mr. GALLEGLY, Mr. HALL, Mr. HINCHEY, Mr. HOLDEN, Mr. HYDE, Mrs. JONES of Ohio, Mrs. MALONEY, Mr. McHUGH, Mr. McINTYRE, Mr. OWENS, Ms. PRYCE of Ohio, Mr. REHBERG, Mr. ROGERS of Michigan, Mr. SHIMKUS, Mr. SOUDER, Mr. UPTON, Mr. WILSON of South Carolina, Mr. ACKERMAN, Mr. CARNAHAN, Mr. EVANS, Mr. GILCHREST, Mr. GORDON, Mr. HOLT, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Mr. KILDEE, Mr. LARSON of Connecticut, Mrs. LOWEY, Mr. RUSH, Mr. TOWNS, Mr. WEXLER, and Mr. KENNEDY of Rhode Island):

H.R. 1131. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Ways and Means.

By Mr. WHITFIELD (for himself, Mr. PALLONE, Mr. NORWOOD, and Mr. STRICKLAND):

H.R. 1132. A bill to provide for the establishment of a controlled substance monitoring program in each State; to the Committee on Energy and Commerce.

By Mr. WOLF (for himself, Mr. LANTOS, Mr. SMITH of New Jersey, and Mr. PAYNE):

H.R. 1133. A bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes; to the Committee on International Relations.

By Mr. SCHIFF (for himself, Ms. ROS-LEHTINEN, Mr. ACKERMAN, and Mr. BERMAN):

H. Con. Res. 82. Concurrent resolution expressing the grave concern of Congress regarding the arrest of Ayman Nour, the leader of the al-Ghad party, by the Government of the Arab Republic of Egypt and the support of Congress for continued progress toward democracy in Egypt; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself, Mr. PENCE, Mr. LANTOS, Mr. BURTON of Indiana, Ms. ROS-LEHTINEN, Mr. WOLF, Mrs. JO ANN DAVIS of Virginia, Mr. CHABOT, Mr. PAYNE, Mr. McGOVERN, Ms. KAPTUR, Ms. HARRIS, Mr. ENGEL, Mr. KIRK, Mr. McKEON, Mr. AKIN, Mr. BLUMENAUER, Mr. UDALL of New Mexico, Mr. BERMAN, Mr. ROHRABACHER, and Mr. PRICE of North Carolina):

H. Con. Res. 83. Concurrent resolution urging the appropriate representative of the United States to the 61st session of the United Nations Commission on Human Rights to introduce a resolution calling upon the Government of the People's Republic of China to end its human rights violations in China, and for other purposes; to the Committee on International Relations.

By Mr. DAVIS of Illinois:

H. Con. Res. 84. Concurrent resolution directing the Architect of the Capitol to enter into a contract for the design and construction of a monument to commemorate the contributions of minority women to women's suffrage and to the participation of women in public life, and for other purposes; to the Committee on House Administration.

By Mr. FILNER (for himself and Mr. ISSA):

H. Con. Res. 85. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor law enforcement officers killed in the line of duty and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Government Reform.

By Mr. HOYER (for himself, Mr. VAN HOLLEN, Mr. WOLF, Mr. WYNN, Mr. MORAN of Virginia, and Ms. NORTON):

H. Con. Res. 86. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Mr. DREIER (for himself, Mr. PRICE of North Carolina, Mr. HYDE, Mr. LANTOS, Mr. KIRK, Mr. BILIRAKIS, and Mr. GILLMOR):

H. Res. 135. A resolution providing for the establishment of a commission in the House of Representatives to assist parliaments in emerging democracies; to the Committee on International Relations.

By Mr. CONYERS (for himself, Ms. SLAUGHTER, Mr. WAXMAN, Mr. THOMPSON of Mississippi, Mr. RANGEL, Mr. BERMAN, Mr. BOUCHER, Mr. DEFAZIO, Mr. MCDERMOTT, Ms. WATERS, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. NADLER, Mr. SCOTT of Virginia, Ms. JACKSON-LEE of Texas, Ms. ZOE LOFGREN of California, Mr. MCGOVERN, Mr. SMITH of Washington, Mr. WEXLER, Ms. LEE, Mr. WEINER, Mr. SCHIFF, Mr. CAPUANO, Ms. WATSON, Ms. LINDA T. SÁNCHEZ of California, Mr. VAN HOLLEN, Mr. GEORGE MILLER of California, Mr. OLVER, and Mrs. MALONEY):

H. Res. 136. A resolution directing the Attorney General and the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of those officials relating to the security investigations and background checks relating to granting access to the White House of James D. Guckert (also known as Jeff Gannon); to the Committee on the Judiciary.

By Mr. MORAN of Kansas (for himself, Mr. GOODLATTE, Mr. PETERSON of Minnesota, Mr. BLUNT, Mr. HAYES, Mr. LUCAS, Mr. BOEHNER, Mr. PICKERING, Mrs. MUSGRAVE, Mr. BARROW, Mr. GRAVES, Mr. OSBORNE, Mr. KING of Iowa, Mr. TERRY, Mr. REHBERG, Mr. HULSHOF, Mr. WALDEN of Oregon, Mr. NUSSLE, Mr. PENCE, Mrs. CUBIN, Mr. PETERSON of Pennsylvania, Mr. EVERETT, Mr. SHIMKUS, Mr. MILLER of Florida, Mr. PUTNAM, Mr. CULBERSON, Mr. JENKINS, Mr. GUTKNECHT, Mr. SIMPSON, Mr. OTTER, Mr. GOODE, Mr. NEUGEBAUER, Ms. FOXX, Mr. SCOTT of Georgia, Mr. NUNES, Mr. ROGERS of Alabama, Mr. HOLDEN, Mr. HASTINGS of Washington, Mr. LARSEN of Washington, Mr. KENNEDY of Minnesota, Miss MCMORRIS, Mr. MCCAUL of Texas, Mr. WESTMORELAND, Mr. TIAHRT, Mr. MARSHALL, Mr. SKELTON, Mr. KINGSTON, Mr. BISHOP of Georgia, Mr. CONAWAY, Mr. BOOZMAN, Mr. LATHAM, Mr. ROSS, Mr. BERRY, and Mr. COLE of Oklahoma):

H. Res. 137. A resolution expressing the sense of the House of Representatives regarding the resumption of beef exports to Japan; to the Committee on Ways and Means.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. NUNES, Mr. BOEHNER, Mr. FEENEY, Mr. FERGUSON, Mr. HALL, Mr. RADANOVICH, Mr. SCOTT of Georgia, Mr. MARIO DIAZ-BALART of Florida, Mr. KELLER, Mr. KUHL of New York, Mrs. MYRICK, Mr. BERRY, and Mr. PUTNAM.

H.R. 21: Mr. DOYLE, Mr. MORAN of Kansas, Mr. MORAN of Virginia, Mr. KUCINICH, Mr. NADLER, Mr. RUPPERSBERGER, Ms. SLAUGHTER, and Mr. SHERMAN.

H.R. 22: Mr. SAXTON and Ms. LEE.

H.R. 34: Mr. SIMMONS, Ms. LORETTA SANCHEZ of California, Mrs. MYRICK, Mr. TAYLOR of North Carolina, Mr. BARRETT of South Carolina, and Mr. REYES.

H.R. 43: Mr. SHAW.

H.R. 68: Mr. BERRY, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BOREN, Mr. BOUSTANY, Mr. BRADLEY of New Hampshire, Mr. CAMP, Mrs. CAPPS, Mr. CAPUANO, Mr. CARNAHAN, Mr. CASE, Mr. CONYERS, Mrs. DAVIS of California, Mr. DAVIS of Kentucky, Mr. DREIER, Ms. ESHOO, Mr. FARR, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. GILCHREST, Ms. HARMAN, Mr. HEFLEY, Mr. HINOJOSA, Mr. HOLT, Mr. HONDA, Mr. KUHL of New York, Mr. LANTOS, Mr. LATHAM, Mr. LOBIONDO, Mr. MOLLOHAN, Mr. MORAN of Kansas, Mr. NEAL of Massachusetts, Mr. NEY, Mr. OBERSTAR, Mr. RENZI, Mr. SCOTT of Virginia, Mr. SENSENBRENNER, Mr. SHIMKUS, Mr. TIERNEY, Mr. UDALL of Colorado, and Ms. WATSON.

H.R. 95: Mr. SESSIONS.

H.R. 147: Mr. BOSWELL, Mr. MCCOTTER, Ms. SCHWARTZ of Pennsylvania, Mr. LEWIS of Kentucky, and Mr. SIMPSON.

H.R. 151: Mr. CONYERS, Mr. CLYBURN, Mr. SERRANO, Mr. ETHERIDGE, Mrs. JONES of Ohio, Mr. OWENS, Mr. MCGOVERN, and Mr. PAYNE.

H.R. 187: Mr. RAHALL.

H.R. 213: Mrs. MALONEY and Mr. BERMAN.

H.R. 339: Mr. JENKINS.

H.R. 341: Mr. MATHESON.

H.R. 342: Ms. WATERS and Mr. WYNN.

H.R. 356: Mr. PETERSON of Minnesota, Mr. COLE of Oklahoma, Mr. BONNER, and Mr. RADANOVICH.

H.R. 358: Ms. VELÁQUEZ, Mr. COSTELLO, Mr. BAIRD, Mr. TAYLOR of North Carolina, Mr. KANJORSKI, Mr. HOLDEN, Mr. JOHNSON of Illinois, Mr. PEARCE, Mr. KNOLLENBERG, Mr. COLE of Oklahoma, Mr. BOEHLERT, Mr. CRENSHAW, Ms. HART, Mr. WILSON of South Carolina, Mrs. BIGGERT, Mr. HOYER, Mr. TOM DAVIS of Virginia, Mr. GIBBONS, Mr. DAVIS of Kentucky, Mr. COSTA, Mr. CALVERT, Mr. LATOURETTE, Mr. HOEKSTRA, Mr. VISCLOSKY, Mr. WOLF, Mr. FOSSELLA, and Mr. DREIER.

H.R. 366: Mrs. JO ANN DAVIS of Virginia, Mr. OSBORNE, Mr. MCHUGH, and Mr. NORWOOD.

H.R. 458: Mrs. CAPITO.

H.R. 478: Mrs. NAPOLITANO, Mr. WEXLER, Mr. CASE, Mrs. TAUSCHER, Mrs. MCCARTHY, and Mr. MCINTYRE.

H.R. 485: Mr. BISHOP of Georgia.

H.R. 489: Mr. UDALL of Colorado, Mr. BONILLA, Mr. NEUGEBAUER, Mr. HUNTER, Mr. OSBORNE, Mr. CANNON, Mr. THORNBERRY, Mr. RENZI, and Mr. BEAUPREZ.

H.R. 517: Mr. GEORGE MILLER of California, Mr. RADANOVICH, Mr. BOUCHER, and Mr. BLUMENAUER.

H.R. 525: Mr. PEARCE and Mr. COLE of Oklahoma.

H.R. 529: Mr. RUSH and Mr. OWENS.

H.R. 543: Mr. BROWN of Ohio.

H.R. 552: Mrs. MUSGRAVE, Mr. HYDE, Mr. KLINE, Mr. HALL, and Mr. MILLER of Florida.

H.R. 554: Mr. UPTON.

H.R. 556: Mr. HINCHEY and Mr. BERMAN.

H.R. 558: Ms. ESHOO and Mr. MCINTYRE.

H.R. 567: Ms. MOORE of Wisconsin.

H.R. 568: Mr. LIPINSKI, Mr. HOLT, Ms. JACKSON-LEE of Texas, and Mr. OWENS.

H.R. 572: Mr. COSTELLO and Mr. GOODE.

H.R. 596: Mr. DANIEL E. LUNGREN of California.

H.R. 616: Mrs. MCCARTHY.

H.R. 623: Mr. BARRETT of South Carolina.

H.R. 653: Mr. KIND, Mr. ROSS, Ms. BERKLEY, Ms. HARMAN, and Mr. GEORGE MILLER of California.

H.R. 668: Mr. PAYNE.

H.R. 686: Mr. PAYNE.

H.R. 687: Mr. GERLACH, Mr. MILLER of Florida, Mr. SOUDER, and Mr. GORDON.

H.R. 728: Mr. MILLER of North Carolina.

H.R. 748: Mr. FORTENBERRY.

H.R. 759: Mr. ROTHMAN and Ms. WASSERMAN SCHULTZ.

H.R. 765: Mr. BOYD, Ms. GINNY BROWN-WAITE of Florida, Mr. REYNOLDS, and Mr. FOSSELLA.

H.R. 793: Mr. PALLONE, Mr. WELLER, Mr. PLATTS, Mr. PAUL, Mr. WYNN, and Mr. SCHWARZ of Michigan.

H.R. 795: Mr. CANNON, Mr. COSTELLO, Ms. KILPATRICK of Michigan, Mr. DAVIS of Kentucky, Mr. STARK, and Mr. HAYES.

H.R. 809: Mr. LAHOOD, Mr. BEAUPREZ, Mr. KING of Iowa, and Mr. MILLER of Florida.

H.R. 812: Mr. FILNER, Mr. WYNN, and Mr. PAYNE.

H.R. 840: Mr. MCDERMOTT.

H.R. 846: Mr. LINCOLN DIAZ-BALART of Florida and Mr. SHAW.

H.R. 859: Mr. ALLEN.

H.R. 864: Mr. LEVIN, Mr. SPRATT, Mr. PAYNE, and Mr. MCGOVERN.

H.R. 865: Mr. BERMAN.

H.R. 871: Ms. NORTON and Mr. OLVER.

H.R. 913: Mr. REYNOLDS.

H.R. 927: Mr. HALL.

H.R. 958: Mr. BERMAN.

H.R. 984: Mr. GENE GREEN of Texas.

H.R. 985: Mr. PASTOR, Ms. DELAURO, Ms. BORDALLO, Mr. DENT, Mr. SHAYS, Mr. HINCHEY, Mr. BRADY of Pennsylvania, Mr. CASTLE, Mr. MURPHY, Mr. LAHOOD, Mr. MCINTYRE, Mr. WEINER, Mr. KUHL of New York, Mr. KINGSTON, Mrs. CAPITO, Mrs. EMERSON, Mr. PETRI, Mr. BOOZMAN, Mr. LEACH, Ms. ROS-LEHTINEN, Mr. RAMSTAD, Mr. TOM DAVIS of Virginia, Mrs. DRAKE, Mr. PETERSON of Pennsylvania, Mrs. CUBIN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. KIRK, Mr. HEFLEY, Mr. WOLF, Mr. SIMMONS, Mrs. JO ANN DAVIS of Virginia, Ms. FOXX, Mr. TAYLOR of North Carolina, Mr. PEARCE, Mr. MILLER of Florida, Mr. HAYES, Mr. PITTS, Mr. HERGER, and Mr. PUTNAM.

H.R. 986: Ms. GINNY BROWN-WAITE of Florida and Mr. PAYNE.

H.R. 1006: Mr. LIPINSKI.

H.R. 1039: Mr. MELANCON.

H.J. Res. 23: Mr. KIND, Mr. OBEY, Mrs. TAUSCHER, Mr. SALAZAR, Ms. SOLIS, Ms. HOOLEY, Mr. TANNER, Mr. DAVIS of Tennessee, Mr. HASTINGS of Florida, Ms. WASSERMAN SCHULTZ, Mr. STRICKLAND, Mr. POMEROY, Mr. KUCINICH, Mr. CLEAVER, Mr. RYAN of Ohio, Mr. MATHESON, Mr. UDALL of Colorado, Ms. KAPTUR, and Mr. RAHALL.

H. Con. Res. 10: Mr. WEXLER.

H. Con. Res. 34: Ms. LEE, Mr. UDALL of Colorado, and Mr. STARK.

H. Con. Res. 42: Mr. FOLEY, Mr. MCCAUL of Texas, and Mr. PAYNE.

H. Con. Res. 81: Mr. PASCRELL, Mr. DAVIS of Florida, Mr. GENE GREEN of Texas, Mr. WU, Mr. WEXLER, Mr. ACKERMAN, Ms. WASSERMAN SCHULTZ, Mr. ROTHMAN, Mr. ORTIZ, Mr. DAVIS of Tennessee, Mr. CHANDLER, Mr. PALLONE, Mr. HASTINGS of Florida, Mr. GUTIERREZ, Ms. BERKLEY, Mr. MEEK of Florida, Mr. ANDREWS, Mr. ALEXANDER, Mr. WELDON of Pennsylvania, Mr. SOUDER, Mr. BOEHLERT, Mr. SCHWARZ of Michigan, Mr. EHLERS, Mr. GREEN of Wisconsin, Mr. PENCE, Mr. GOHMERT, Mr. CUNNINGHAM, Mr. DREIER, Mr. RENZI, Mr. FOLEY, Mr. MACK, Mr. COX, Mr. PITTS, Mr. FLAKE, Mr. WELLER, Ms. HARRIS, Mr. ROHRABACHER, Mr. MCCAUL of Texas, Mr. SCHIFF, Mr. LEACH, Mr. HERGER, Mr. BERMAN, Mr. GALLEGLY, and Mr. ENGEL.

H. Res. 16: Mr. UPTON.

H. Res. 70: Mr. BUTTERFIELD, Mr. NEUGEBAUER, Mr. HALL, and Mr. HIGGINS.

H. Res. 84: Mr. CAMP, Mr. PETRI, and Mr. DAVIS of Kentucky.

H. Res. 90: Mr. TOWNS, Mr. OWENS, Mr. WEINER, Mrs. MALONEY, Mr. CHANDLER, Mr. MCNULTY, and Mr. RUSH.

H. Res. 97: Mr. KELLER, Mr. WESTMORELAND, Mr. MCCOTTER, Mr. HERGER, and Mr. TIAHRT.

H. Res. 101: Mr. KING of New York, Mr. MARSHALL, Mr. FOSSELLA, Mr. SCHIFF, Mr. CHANDLER, Mr. DAVIS of Alabama, Mr. PALLONE, and Mr. ISSA.

H. Res. 115: Mr. MICHAUD.

H. Res. 120: Mr. BURTON of Indiana and Mr. WEXLER.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 25: Mr. DAVIS of Kentucky.

# SENATE—*Thursday, March 3, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The Senate will be led in prayer this morning by our guest chaplain, Rev. Kenneth Leal Harrington of Hope United Church of Christ in Alexandria, VA.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Gracious and loving God of all people, we give You thanks for the gift of this day, for all the opportunity it holds to know and embrace Your love. You have given us a world filled with diversity so that we might never forget there are varied ways of knowing You. We pray along with the evangelist John, that we might love one another because You have first loved us.

In this season of repentance You offer us freedom and liberation from our mistakes and You set us on a path of new life. For this gift we give You thanks. Teach us to seek You in all times of our life and to always put You first. Help us never forget that You are the God of second chances.

We pray today for our Senators and the awesome task You have given them in this service to our great country.

You have called people throughout the history of our Nation to come to this room and make the hard decisions that will ensure peace and prosperity for all. For those You have called to be here in this moment in time, we ask that You remind them of the need for humility, compassion, and truthfulness so that they might accomplish the task that is before them. Give them the gift of Your wisdom and integrity that will guide them in their discussions, debates, and dialogues. Help them to recall that in all circumstances it is Your Holy Spirit that guides them.

We offer this prayer in Your Name that unites more than it divides. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from Hawaii is recognized.

## THANKING THE GUEST CHAPLAIN

Mr. AKAKA. Mr. President, I thank our visiting chaplain, the Rev. Kenneth L. Harrington, for giving the opening prayer this morning, and Chaplain Black who joined me to make this possible.

Rev. Ken Harrington is the popular and beloved, respected and well-credentialed pastor of Hope United Church of Christ in Alexandria, my church away from home. Ken is a graduate of the State University of New York, Wesley Theological Seminary in Washington, DC, and the Seminary of Drew University in New Jersey.

Hope Church has been my church away from home for three decades. It was my good fortune to be invited to the church many years ago by my late and cherished friend, Mahina Bailey, and his dear wife, Linda. Mahina was a Hawaiian born in Hawaii, who spent his adult life here.

Over the years, I have gone to many services at Hope and have always been uplifted by the sermons, and since 2000, by the inspiring sermons delivered by Reverend Harrington. Hope Church is a family-friendly church, dedicated to teaching the values of tolerance and inclusivity.

You can actually see this reflected on the diverse faces of its congregation, the result no doubt of the sincerity of its message of inclusivity. The diversity of its congregation is so much like mine at home. Together with inspirational sermons come seeds for thought to be thought through and digested, and practiced in daily life. Foremost among these thoughts, in my mind, is how we can make this a better world for all of us.

I think this is particularly true for Members of Congress in whom a great trust has been placed by our constituents.

As we go through on a daily basis to achieve the greatest good for the greatest number, and have succeeded for the most part but been frustrated at times on issues so dear and right in our hearts, it is good to open our daily session with a prayer and have the spiritual support and guidance of a divine being, to each from his or her own faith.

To end on a lighter note with a ray of optimism for the passage of bills that are near and dear to our hearts, let me say that with all the seriousness that the mission of a church involves, intertwined in its spiritual voyage are social programs. One of Hope's most popular social events is its annual luau, complete with Hawaiian food and entertainment. An oversold event every year where congregants and friends thank the Lord for his bounty.

Reverend Harrington, thank you for being here this morning and thank you for your stewardship of Hope United Church of Christ.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## ORDER OF BUSINESS

Mr. REID. Would the distinguished majority leader yield for a question?

Mr. FRIST. I yield.

Mr. REID. Through the Chair, to my distinguished friend, at 9:45 or thereabouts, we are supposed to talk on the mad cow resolution before the Senate. We have no morning business, as I understand it. I am not going to be here, but I would have a standing objection to any morning business. We have had very few amendments completed on the bankruptcy matter. Maybe the time on morning business could be yielded off the resolution in opposition to that.

It is my understanding the Senator from Iowa is here to speak in morning business.

Mr. GRASSLEY. Five minutes on the beef resolution because I have to go to a committee meeting.

Mr. REID. Fine. I want to make sure we do not get into extended time on morning business because we do not have time.

Mr. FRIST. Mr. President, I understand the Senator from Iowa will speak on the resolution. For scheduling purposes, he will make that statement even if it is before 9:45. Otherwise, as we have discussed, we will proceed after my leader statement to Senator GRASSLEY and then on to the resolution.

## SCHEDULE

Mr. FRIST. Mr. President, this morning following the leader time we will proceed to consideration of Senate Joint Resolution 4, which is a disapproval resolution relating to a Department of Agriculture rule regarding Canadian cattle. The agreement reached last night provides for up to 3 hours of debate on the resolution prior to a vote. We hope to be able to yield back some of that debate time and vote earlier so we can resume consideration of the bankruptcy bill for further progress.

Last night's order also allows for two more stacked votes on bankruptcy-related amendments; therefore, we will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

have three votes today, sometime around noon, depending on the amount of time consumed for the disapproval resolution. In other words, we hope as much of that can be yielded back as possible after debate on the resolution.

Once those votes are completed, I expect the Senate will stay on the bankruptcy bill through the day and possibly into the evening. We will continue to have votes this afternoon and into the evening as necessary to move toward passage of this bill. We have made great progress on the bill thus far. We had five amendments yesterday. We look forward to many amendments today so we can bring this very soon to a resolution. By the end of today, I hope we will have some indication as to when we can complete the bankruptcy legislation.

Members should plan their day today around what will be a very busy session today in that although we will be in session in all likelihood tomorrow, we will not be having rollcall votes tomorrow. We have a lot of work to do.

## SOCIAL SECURITY

Mr. FRIST. Mr. President, I have a brief statement on an issue that is receiving a lot of attention, a lot of work, and a lot of engagement, both in the Senate and the House of Representatives, by the President of the United States and, indeed, all across America. It is on Social Security.

When the 109th Congress convened, I stated that our mission in this Congress over the next 2 years would be to govern with meaningful solutions. Working together, both sides of the aisle, we made a fast start, very effective start, confirming the President's Cabinet and enacting, 2 weeks ago, class action legislation. We are making good progress on the bankruptcy legislation, as I just mentioned, and very soon we will be turning our attention to writing the Government's spending blueprint for the coming year; that is, governing with meaningful solutions.

Congress, at the same time that activity is going on in the Chamber, is tackling many problems and will be tackling these problems in the weeks and months ahead, including Social Security, which we are engaged on in this body every day, whether it is working in our own caucuses or conference or in committees.

Social Security, a critically important, great program which does serve as the cornerstone of support for senior citizens, now faces challenges that threaten its long-term stability and well-being. The facts are there. The facts are crystal clear. They are grounded in demographics that were defined two generations ago. Those demographics cannot be changed.

What the facts lead to is that in 3 years, the baby boomers arrive on the Social Security rolls. That will begin an almost 30-year period where we will have a doubling of the number of seniors compared to what it is today—up to 77 million Americans who will begin to collect those Social Security benefits.

Second, we all know we have fewer and fewer workers paying into the system, also driven by demographics. Forty years ago we had 16 people paying in for every retiree. Today we have three people paying in for every retiree. In 20 or 30 years, we will only have two paying into the system. Those facts cannot be changed.

With this President, this Congress, the 109th Congress, is facing this challenge. The challenge is to fix Social Security for seniors and for near-retirees and for that next generation. We need to do it, and we will do it this year—this year—and not next year. We are working toward that goal.

In just the past 2 months, the majority has worked aggressively and thoroughly to fully understand the nature of the problem. We have worked hard to begin to engage the American people in a dialog about the program. In town meetings all across the country, we have put some of the best minds at work to create solutions. That activity is underway.

We talked about this repeatedly in our own conferences. We have interacted with administration officials. We have interacted with leading experts on the Social Security system. Our Members are hard at work to fix the underlying problems. That is the heart of the challenge in this 70-year-old program we will address this year.

So far, I report to the Senate and my colleagues that together with the President we agree that retirees and near-retirees who entered the system before the scope of this problem became so large will not see benefit changes. The retirees or near-retirees will see no benefit changes.

Second, together with the President, we agree that we must harness the power of the market and give younger Americans the choice—it is voluntary—to give them the choice of personal retirement accounts whose rate of growth—therefore, we know, ultimately, the rate of benefits—will grow faster than traditional Social Security.

Third, together, with the President, we agree that all ideas should be on the table. It is too early for people to be drawing rigid lines in the sand. Thus, we encourage people to continue the discussion, the debate, the understanding of the issue, and the nature of the problem.

Fourth, together, with the President, we agree that we should act this year and not put it off to the future.

For those who insist there is no problem, I simply say, look at the facts. As people increasingly look at the facts—and we are seeing the response around the country—people see the problem is real, that it is significant, and that it is growing.

For those who say we do not need any action, well, if you have a problem that is growing, it is much easier to act now, to take some medicine to cure the problem, than to have some radical surgery in the future.

We need to test the ideas with regard to the scope of the problem and the ideas for solutions in that crucible of public debate. We need to put them to a vote. We must let the people ultimately judge.

I say all this so people will know that our majority is hard at work, every day, on this vital issue. In consultation with the administration and the House of Representatives, we will continue to bring before the Senate meaningful solutions that will make a difference in the lives of our seniors. The assurances of Social Security should be guaranteed. To be able to guarantee those assurances, we must diagnose the problem, and then we must act. We must govern with meaningful solutions, and that is exactly what this Congress will do.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Does the Senator from Iowa seek recognition?

Mr. GRASSLEY. Mr. President, with the permission of the Senator from Georgia, I yield myself 5 minutes.

Mr. CHAMBLISS. No objection.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

## JOINT RESOLUTION ON DISAPPROVAL

Mr. GRASSLEY. Mr. President, I rise to speak on the resolution that comes before us disapproving the actions of the Department of Agriculture on the importation of Canadian beef into the United States. But in doing so, I do not denigrate the efforts that are being made to have a debate on a legitimate public policy issue, but to put it in context.

First, from the standpoint of my chairmanship of the Senate Finance Committee with jurisdiction over international trade, I think this is something for which we have developed policies over the last couple decades, where we have worked very hard to see that several rights can be preserved.

One, probably basic to this debate, is obviously the sovereign right of any country to make sure that it does not in any way allow products into the country that would in any way hurt the health and safety of the consumers of that particular country. I think every trade agreement takes that into consideration.

Within the last 10 or 15 years, we have worked very hard and have included in our trade agreements rules concerning sanitary and phytosanitary measures. These rules require that science, as opposed to political science, be the basis upon which we base decisions as to whether a product is safe to enter the U.S. market.

So I hope during this debate that we keep in mind that we do have commitments to rely on science when making determinations as to whether products are safe. Hopefully, each country respects that. Particularly the United States, being a leader in the rule of law in international trade, ought to do that. But we expect every country that comes under the WTO to do exactly the same, and the same holds with other trade agreements. We also, of course, reserve the right to make sure our food is safe.

For the debate we are in now, I hope we remember that if it had not been for mad cow disease in Canada, there would never be any such discussion before the Senate because over a long period of time we had imports of beef from Canada, and we have been exporting our red meat and other food products to Canada. So if we had not had mad cow disease in Canada, then we would not be debating this issue.

So when it gets to the issue of whether mad cow disease is an issue with Canadian beef coming into the country, then let's remember that decision ought to be made strictly on the sound science of whether that meat is safe. If we are going to make a political decision in place of a scientific decision as to whether Canadian beef should come into the country, then, of course, our purity in international trade is going to be questioned by other countries.

The second point is that, during this very same period of time when we have been having this problem with Canada as to whether their meat is safe to come into the country, we have also been trying to negotiate with the Japanese because we had one mad cow case and the Japanese and other countries are not taking our beef. We have been working over the last several months to get Japan to take our beef based upon the principle that we are following the sanitary and phytosanitary rules, on a scientific basis, for making sure our meat is safe for the Japanese consumers. We do not want to get ourselves into a position where we are going to ignore the science of the safety of meat in Canada versus——

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator's time has expired.

Mr. GRASSLEY. Madam President, I will finish one sentence, if I could.

Mr. CHAMBLISS. I am happy to yield the Senator an additional 30 seconds.

Mr. GRASSLEY. We do not want to get ourselves in a position of having the Japanese say to us our meat is not safe even though it is shown to be safe based on sound science. Since we want our beef to go to Japan because it is safe, then, obviously, if meat is safe coming in from Canada, it has to be received as well.

---

## PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF THE RULE SUBMITTED BY THE DEPARTMENT OF AGRICULTURE RELATING TO RISK ZONES FOR INTRODUCTION OF BOVINE SPONGIFORM ENCEPHALOPATHY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S.J. Res. 4, which the clerk will report by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 4) providing for congressional disapproval of the rule submitted by the Department of Agriculture under chapter 8 of title 5, United States Code, relating to risk zones for introduction of bovine spongiform encephalopathy.

The PRESIDING OFFICER. Under the previous order, there will be up to 3 hours for debate equally divided.

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I rise today in opposition to the resolution and in support of the rule as proposed by the U.S. Department of Agriculture. I do this, first of all, with great appreciation of the efforts of my colleagues to bring this resolution forward. But I must encourage my colleagues to vote against this resolution.

This is not the time to pull the plug on a rulemaking process that is rooted in the best available science and, instead, to be guided by the concerns that seem to be less about science than about trade advantages.

The illustrious chairman of the Finance Committee went into great detail about the trade issues and the fact that the rule change is based on sound science. That is a lot of what I want to talk about initially this morning.

First, I think we need to understand exactly what the resolution seeks to disapprove of today. On January 4, 2005, the U.S. Department of Agriculture published its final rule regarding further reopening of the U.S. border for beef imports from Canada. This rule designates Canada as the first "minimal-risk region" for bovine spongiform encephalopathy, otherwise known as BSE. I will not try that long word again. We are going to call it BSE. It is due to become effective on this Monday, March 7, 2005. The original rule would have allowed bone-in beef from cattle of any age and live cattle under 30 months of age.

The U.S. Department of Agriculture conducted two rounds of public comment and received over 3,300 comments on the proposed rule. Over a period of months, USDA considered these comments, and responses were published with the final rule. The final rule establishes criteria for geographic regions to be recognized as presenting minimal risk of introducing BSE into the United States.

USDA utilized the OIE, which is the International Office of Epizootics, the international body that deals with animal diseases worldwide. Again, this will be referred to as the OIE. The USDA utilized the OIE guidelines, which recommend the use of risk assessment to manage human as well as animal health risks of BSE, as a basis in developing final regulations defining Canada as a minimal-risk country.

The final rule places Canada in the minimal-risk category and defines the requirements that must be met for the import of certain ruminants and ruminant products from Canada. Under the USDA definition, a minimal-risk region can include a region in which animals have been diagnosed with BSE but where sufficient risk mitigation measures are in place to reduce the likelihood of the disease's introduction into the United States.

On January 2, 2005, Canada confirmed its second domestic case of BSE, and a third case 9 days later. The USDA sent a technical team to Canada on January 24, 2005, to investigate Canada's adherence to the ruminant, ruminant feed ban. The results of that investigation were favorable, finding that the Canadian inspection program and overall compliance to the feed ban were good. The technical team's epidemiological report investigating possible links of the positive animals is still pending.

In response to this, on February 9, 2005, Secretary Johanns announced USDA would delay the implementation of that part of the rule allowing for older bone-in beef—that is beef in excess of 30 months old—because the technical team's investigation in Canada would not be complete by March 7.

The current rule now allows imports from Canada of bone-in beef and live cattle under 30 months of age intended for immediate slaughter.

On January 24 of this year, USDA sent a team to Canada to assess the adequacy of Canada's current ruminant feed ban, as previously stated. On February 25, USDA published their report, and in this report USDA stated:

> [T]he inspection team found that Canada has a robust inspection program, that overall compliance with the feed ban is good, and that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population.

Furthermore, the report notes the obvious fact that:

> [T]he Canadian feed ban is not substantially different than the U.S. feed ban.

Those who want to seriously question the adequacy of the Canadian BSE controls should keep in mind that Canada almost perfectly mirrors the controls in place in the United States. The controls for BSE in the United States are sufficient and, according to all the data available, the similar controls in Canada are also sufficient.

We should keep in mind also that the question regarding Canadian beef and cattle imports is not a food safety issue. I repeat, it is not a food safety issue. It is an animal health issue. That is what we are talking about today.

BSE is not spread by contact between people or animals. Safeguards are in place in both the United States and Canada to ensure that no potentially infectious material would ever make it into the human food supply, period.

Internationally accepted science maintains that the removal of certain specified risk materials that contain the prions that cause BSE eliminates the disease's infectivity. Canada has adopted SRM removal requirements that are virtually identical to current U.S. regulations.

In addition, while the Canadians do not view tonsils in cattle under 30 months as SRMs, the U.S. requires that all meat exported from Canada to the United States have the tonsils removed pursuant to U.S. regulations.

Finally, the Food Safety Inspection Service, FSIS, has audited a number of Canadian plants and found them to be in compliance with U.S. BSE requirements, including SRM and small intestine and tonsil removal.

Since all potentially infectious materials are removed from every animal old enough to theoretically exhibit the disease, both in the United States and Canada, it should be clear that this is an animal health debate only. We are all committed to maintaining the highest standards of human health protection. We have those already today, and we will still have those standards after this rule takes effect.

Regarding the issue of animal health, the OIE has affirmed that Canadian BSE control efforts have resulted in a very low risk of BSE in their cattle herd. The best available science in both Canada and the United States tells us that the safeguards in place are protecting animal health also. USDA-APHIS has conducted multiple investigations into Canada's ruminant-to-ruminant feed ban compliance since the May 2003 border closure, and all scientific, risk-based evidence has pointed to resuming beef and cattle trade with Canada.

They have concluded that the Canadian ruminant feed ban, which took effect simultaneously with our own feed ban, is effective in preventing the introduction and amplification of BSE in both Canadian and U.S. cattle herds. We can choose to go down the road of trade protection or we can continue to trust the best science available. I encourage us to stick with sound consensus science.

On January 17 of this year, the National Cattlemen's Beef Association sent a delegation of producers and scientists to Canada to evaluate the effectiveness of that country's BSE control efforts. The National Cattlemen's Beef Association is the largest beef producer organization in the United States, representing both beef producers as well as processors. The outcome of the NCBA review published on February 2 affirms their confidence that the Canadian BSE safeguards are adequate.

Regarding the Canadian feed ban, the NCBA Delegation concluded:

> The Canadian feed industry appears to be in compliance with its feed ban, based on visual inspections and multiple annual audit reports.

They also concluded that Canada's BSE surveillance and proposed import requirements related to animal health were sufficient to protect the U.S. cattle herd, if the border with Canada is opened even further.

While we would never want to formulate U.S. policy merely based on the practices of another country, it is instructive to note that domestically produced beef consumption in Canada is up, not down. It is clear that Canadians are not shipping beef to us that they don't choose to eat themselves.

In 2003, the last year for which numbers are available, Canadian beef consumption increased 5 percent to 31 pounds per person per year. Indications are that consumption in 2004 will be just as strong if not stronger. We can be confident that the beef exports from Canada presently underway and the ones proposed by USDA's rule don't constitute dumping unwanted product in our market but are composed of the same beef that Canadian consumers recognize as wholesome and are buying in increasing quantities.

In the past, a large percentage of Canadian cattle came to the U.S. processing plants for further value-added processing and to provide sufficient livestock numbers to keep in business many U.S. plants near the northern border. Since the closure of the U.S. border to Canadian beef, the Canadian processing capacity increased by 22 percent in 2004 alone.

This means that those processing jobs and all the added carcass value are now increasingly in Canada and no longer in the United States. This may have especially significant impact on U.S. processors in the Pacific Northwest who have relied on Canadian cattle to keep their plants open. In recent months, several U.S. companies have announced that they are suspending operations or reducing hours of operation due to the tightening cattle supplies and lack of an export market. If we keep our border closed to Canadian-slaughtered cattle and bone-in carcasses, then their meat will still come to the United States as boneless cuts because that is already happening with or without this rule. But the added value and jobs that could be in the United States will increasingly be kept in Canada.

Agricultural trade is vital to maintaining a robust agricultural economy in the United States. The future of agriculture in this country, the future of ranching depends upon our ability to export the finest quality of agricultural product of anybody in the world. As the world's largest trading partner, we must base our trade decisions on sound science. We have the most to lose when nontariff trade barriers are enacted.

USDA has made resumption of international trade in U.S. beef a high priority. The United States and Japan have held consultations and agreed that the trade in beef between the two countries should resume given certain conditions and modalities. We have to remember that our beef exporting trade with Japan has been discontinued due to the fact that we found one cow in the United States with BSE, although it turns out that cow originated in Canada and came into the United States.

Japan is one of our largest markets, and it is a critical market for us to reopen. USDA is in the midst of negotiations today for the reopening of that market. Taiwan has also agreed in principle to resume imports of U.S. beef and beef products. Removal of restrictions by some of our major Asian trading partners is on the horizon.

In 2003, we exported $1.3 billion worth of beef products to Japan, $814 million worth of beef to South Korea, and $331 million to Canada. In 2004, after the one BSE positive cow was found in Washington State, we exported essentially zero dollars' worth of beef products to Japan and South Korea and $98 million worth of beef to Canada. These countries are aware of our rulemaking and are watching how we address this issue with Canada. We have a huge stake in seeing worldwide trade in beef resume on the basis of sound science rather than on trade protectionism.

Make no mistake, we are sending a very powerful message today with our actions on this resolution to all of our trading partners. For countries prohibiting beef imports from the United States, whether we continue to adhere to sound science in our dealings with Canada could influence their future actions toward our beef. Canada has met our minimal risk standards, and we must adhere to the policy dictates of sound science or face others using arbitrary standards toward us.

Currently, there is a suit filed in U.S. district court in Billings, MT, challenging USDA's BSE minimal risk region rule. Yesterday, after a hearing, a temporary injunction was granted staying the implementation of the final rule and ordering the two parties to sit down and agree to a schedule for a trial which must take place in the short term because of this being a temporary injunction. At this point in time it would be wise to allow the court proceeding to play out. It would be premature to pass this resolution and interfere with the operations of that court. We can always come back after the judicial proceedings are finished and express our disapproval. It is appropriate for us to allow the third branch of Government to finish their review of this rule, and we should not usurp the judiciary on this matter.

In summary, according to the best science available in our hands today, further opening of the U.S. border to Canadian bone-in beef and cattle under 30 months of age does not pose a serious threat to the U.S. beef herd. It certainly does not increase the risk of human BSE exposure. Recent evaluations of the Canadian cattle industry by the NCBA indicate that there is not a wall of cattle that will flood into the U.S. market from Canada should this rule go into effect.

The Canadian Government, USDA, and the NCBA have all reviewed the Canadian BSE safeguards and found them sufficiently robust and protective for trade to be expanded as this rule proposes. Beef exported from Canada has to meet the same science-based standards that have been successfully protecting our consumers and beef producers for many years.

It has been stated before—and I repeat—that Americans are blessed with the most abundant, affordable, and safest food supply in the world. The action we take today will not make our food supply safer. It merely enforces and encourages the actions of those who would restrict trade with measures not related to sound science.

I encourage my colleagues to say yes to sound science by saying no to this resolution today.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Chair and the chairman of the Agriculture Committee. I respect the chairman of the committee, but on this issue we have a profound difference. Let me alert my colleagues and their staffs who are watching, this is going to be a consequential vote. We are only spending 3 hours on this issue this morning because we are operating under special procedures. But let every colleague of mine understand: They are going to be responsible for the votes they cast today. The risk that is being run here is significant.

Let me remind my colleagues what happened in Europe when mad cow disease got loose on their continent. One hundred forty-eight people died in England alone. Nearly 5 million head of livestock were slaughtered in that country. They found 183,000 head that were infected, and they believe there were 2 million head of livestock infected in England alone that they were not able to complete tests on because of the magnitude of the crisis.

This vote may be critically important to the health of consumers and to the health of an entire industry. Make no mistake. When the question is science, that is precisely what this debate is about. Is, in fact, science being used by our neighbors to the north or are they simply putting regulations on the books that are not enforced?

The record is clear and the facts will demonstrate conclusively, Canada is not enforcing their own regulations that are based on sound science. But if you don't enforce the regulations, if you don't do the inspections, what does it mean? What does it mean to have on the books regulations that are based on sound science if they are not enforced?

I introduced S.J. Res. 4 on February 14 pursuant to the Congressional Review Act. It is a resolution to disapprove of the final rule produced by USDA that designates Canada as a minimal risk region for BSE or mad cow disease.

Let's review the facts. Canada already has four known cases of mad cow disease. That is not speculation. That is not based on some wondering about what is happening in Canada. That is based on facts, four known cases. In addition, they have one case of a cow imported from England positively tested for mad cow disease. So this is not some theoretical discussion we are having today. They have mad cow disease. It is demonstrated.

Now the question is, Should we run the risk of opening our border to livestock imports from Canada when the evidence, I believe, demonstrates clearly they are not enforcing their regulations to reduce the risk to them and to us?

I am taking this action because opening our border to Canadian cattle and expanded beef product imports at this time is risky and, I believe, premature. Allowing the USDA rule to go forward could have very serious consequences for the human and animal health in this country.

Let me be perfectly clear. It has never been my intent to keep the border with Canada closed on a permanent basis. Over the last several weeks, I and many of my colleagues from both sides of the aisle have raised concerns about this rule. Unfortunately, those concerns have fallen on deaf ears. The Secretary of Agriculture has refused to withdraw the rule so sensible modifications could be made. This has left us with no option, other than this process, to stop a bad rule from becoming effective on March 7.

We all know a judge has issued an injunction against the rule, but none of us can know when the judge might withdraw his injunction. Our obligation and our responsibility is clear. This rule can go forward on March 7 absent our action. Reopening the border under the conditions provided in the rule poses, I believe, grave safety risks for our consumers, serious economic risks for the U.S. cattle industry, and it complicates our efforts to reopen export markets.

BSE is an extremely dangerous disease. As I indicated earlier, after it was first identified in England in 1986, England suffered nearly 150 deaths from this disease. Nearly 5 million head of livestock were slaughtered. Around the world, additional human deaths from Creutzfeld-Jacobs disease have been linked to BSE. So we must be very cautious before we consider opening our border to imports from a country known to have BSE.

Again, this is not a matter of speculation. We know they have mad cow disease in that country. Since the European outbreak, scientists from around the world have been engaged in efforts to learn more about the disease. They have developed methods to test, control, and eradicate BSE. Through the international organization for animal health, known as the OIE, experts have designed science-based standards for the safe trade of beef products and live cattle from countries that have, or may have, BSE.

In particular, because BSE is transmitted through livestock feed contaminated with animal protein containing BSE, it is critical that countries adopt measures to ensure that animal protein and other specified risk materials are not present in cattle feed. That is what is so important to understand here. This is a matter of what is in the feed that the cattle are eating. The OIE guidelines require a ban on cattle feed containing meat and bone meal from cattle be in effect for 8 years as the primary means to reduce the likelihood of BSE infecting cattle.

Unfortunately, the USDA does not appear to have followed OIE guidelines in developing its rules. Canada's ban went into effect in August of 1997; that is less than 8 years ago. Even then, the Canadian rules allowed for potential BSE contaminants that were in the feed manufacturing and marketing system. Unfortunately, the way the Canadians put their rule into effect, it allowed potential BSE contaminants to work their way through the industry. Moreover, with respect to Canada, USDA has not done a thorough evaluation to ensure that Canada's cattle feed is not contaminated with animal proteins.

The U.S. has appropriately blocked cattle imports from Canada since Canada confirmed its first case of BSE in May of 2003. Concerns were only heightened when BSE was confirmed in a dairy cow of Canadian origin in Washington State in December of 2003. This case resulted in many important U.S. trading partners banning the importation of U.S. cattle and beef, a situation that continues today.

Let me make this clear. When our friends say we have to open our border so others will open their borders to us, you have it backwards. The reason other countries have closed their borders to our exports is because of their concern about our allowing imports from Canada, when they have known cases of BSE, and when it is quite clear that Canada is not enforcing their regulations to prevent additional outbreaks of this serious disease.

So it is very important that we and USDA move slowly, cautiously, and deliberately, and evaluate all possible risks before reopening our border to Canadian cattle. But the USDA rule doesn't do this. In particular, Canada has not effectively implemented measures to contain and control BSE for 8 years, as required by the OIE. Moreover, USDA has applied a very loose and flexible interpretation to the specific recommendations developed by the OIE.

In fact, it appears that Canada has not dedicated the necessary resources for enforcement and compliance within a large part of its feed manufacturing industry. Colleagues, staffs who are listening, hear this well. There are nearly 25,000 noncommercial, on-farm feed mills in Canada that produce about 50 percent of Canada's livestock feed. Canada has inspected only 3 percent of these facilities over the last 3 years. This is a gaping hole in their compliance program.

Let me repeat for anybody who missed it the first time. In Canada, there are 25,000 on-farm feed mills that are producing feed. Only 3 percent have been inspected in the last 3 years. Are we going to bet the lives of American consumers, bet the economic strength of an entire industry on that kind of a review regime? Is that what we are going to do today? I hope not.

Since USDA announced its final rule designating Canada as a minimum-risk region for BSE, Canada has confirmed two additional BSE cases. Let me repeat that. Since USDA proclaimed Canada to be minimal risk, two more cases of mad cow disease have been discovered. The most recent one is particularly disturbing, because it involves a cow born several months after Canada implemented its ban on animal proteins in cattle feed. Again, let me repeat that. The most recent case of mad cow disease in Canada is in a cow that was born after Canada implemented its ban on animal proteins in cattle feed. Let's connect the dots. Four cases of mad cow disease in Canada and an additional one of a cow imported to Canada from Britain. Half of the Canadian feed industry has been inspected in only 3 percent of the cases over the last 3 years. The most recent cow discovered with the disease was discovered after the Canadian ban on animal proteins in cattle feed was put forward.

What does this tell us? I believe it tells us the Canadian ban has been ineffective. It is not just my belief; we have evidence from Canada's own inspection service. Let's put up the first chart, if we could. This is from the Vancouver Sun, December 16, final edition:

> Secret tests reveal cattle feed contaminated by animal parts: Mad cow fears spark review of "vegetable-only" livestock feeds.

It says that according to internal Canadian Food Inspection Agency documents—obtained by the newspaper through the Access to Information Act—70 feed samples labeled as vegetable-only were tested by the agency between January and March of 2004. Of those, 41, or 59 percent, were found to contain undeclared animal materials.

This is the risk being run if this border is open to Canadian cattle on March 7 of this year. We know what happened in Europe. In England alone, 146 people died. Nearly 5 million head of livestock were slaughtered. Canada has 4 known cases of mad cow disease, and their own inspection service finds that in 59 percent of the cases where they have done testing, material that was not supposed to be present was present—the very material that can lead to the disease. Are we going to run the risk of allowing that to come into the United States?

On February 2, 2005, 1 month ago, the Canadian Food Inspection Agency finally issued a report concerning these very serious charges. Of 65 Canadian samples that received further testing, 54 cases containing animal protein were determined to be proteins that were not prohibited. That is good news. Unfortunately, in 11 cases, or 17 percent, Canada could not rule out the presence of prohibited material.

Since October 2003, our own Food and Drug Administration has issued 19 import alerts concerning imported Canadian feed products that are contaminated with illegal animal proteins. Eight of these import alerts against Canadian livestock feed manufacturers are still in force.

I am getting very able assistance by my colleague from Kansas, Senator ROBERTS. That is high-class help.

Let me repeat this because it is important for my colleagues to understand. Since October of 2003, our own FDA has issued 19 import alerts concerning Canadian feed products contaminated with illegal animal protein. Eight of those import alerts are still in force. Here they are: Muscle tissue in feed, where it is not supposed to be; muscle tissue and blood material in feed, where it is not supposed to be; May 10, 2004, muscle tissue and blood material in feed, where it is not supposed to be; February 5, 2005, mammalian bone and bovine hair in feed; October 28, 2003, suspect muscle tissue and unidentified animal hairs; April 6, 2004, blood and bone material present.

These alerts—every single one of them—are still in force today. Are we going to run the risk here of opening this border before we can be confident that Canada is enforcing their own regulations?

Finally, Canada has recently implemented new rules to further restrict the use of animal protein in livestock feed, as well as in fertilizer.

Listen to this: Canada's own justification for tightening its regulations is to reduce the potential for the cross-contamination of livestock feed products and fertilizers with animal protein that might contain the BSE prions. To me this suggests clearly that even Canadian officials are concerned that the enforcement and compliance with existing regulations may be inadequate.

As I noted in a letter I sent with Senator HARKIN, Senator JOHNSON, and Senator SALAZAR to the Secretary of Agriculture, there is concern that not enough time has elapsed to be certain that Canada's education, surveillance, and testing measures are truly indicative of their level of BSE risk.

The bottom line is this: Canada has not achieved the necessary level of compliance to justify designating it as a minimal risk region. Their failure to enforce their own BSE measures could have serious consequences if USDA proceeds to reopen the border.

What is the risk? First and foremost, it could create potential dangers for consumers in this country. The Consumer Federation of America has registered concern about the ramifications for consumer health and safety if the border reopened and support this resolution. They said:

> The Department of Agriculture's rule to open the border to Canadian cattle and cattle products under 30 months of age is decidedly less stringent than the international standards put forth by the [IOE].
>
> . . . [I]t is important that USDA reconsider its push to open the Canadian border and reexamine the risks that such an action may pose to the U.S. consumers.

It is not just the consumer groups that are concerned. Agricultural groups are concerned as well because this would not only pose a danger to our consumers but to an entire industry.

The National Farmers Union and R-CALF USA have expressed strong support for the resolution because of their concern about ensuring the continued safety and integrity of our domestic cattle industry. This is what the Farmers Union has said:

> . . . National Farmers Union President . . . issued the following statement.
>
> "We believe it is inappropriate to proceed with reopening the border at this time given Canada's most recent discoveries of BSE positive cattle and the uncertainty of how many additional cases will be detected.
>
> I urge members of the United States Senate to support and cosponsor this important resolution."

R–CALF USA said:

> United States cattle producers should not be excluded from protections afforded by the more rigorous science-based BSE standards recognized throughout the world as necessary to effectively manage the human health and animal health risks associated with BSE.

Our major export markets have remained closed to U.S. beef exports.

even though there has been no indigenous case of BSE in the United States. Compared to 2003, our beef product exports are off by over 82 percent. Let's connect the dots. We have four cases of BSE, mad cow, proven in Canada. We have none in the United States. And yet countries we export to have remained closed to us. Why? Because of the risk they see from Canadian cattle coming into our market and being then further shipped to them.

Here is what has happened to our U.S. beef exports: in 2003, $3.2 billion, down to under $600 million in 2004. Prior to the discovery of BSE in Canada, Canada's total live product and beef product exports to the U.S. amounted to over $2.2 billion. In 2004, their exports to the United States were cut in half, $1.2 billion.

U.S. ranchers and our cattle industry have suffered greater trade losses in our overseas markets than Canada has experienced because of U.S. limitations on their sales. In fact, our losses have been twice as big as theirs.

I believe that reopening the border now before we have reached agreement on reopening our export markets will only give our trade partners a further excuse to delay reopening these critical markets for U.S. producers.

We heard earlier a reference to the National Cattlemen's Beef Association, which, prior to the new cases of BSE in Canada, supported reopening the border. They have recently adopted a new policy. It requires 11 conditions to be met before we designate Canada as a minimum-risk region. Of those conditions, only three will be met under the current rule.

Let's be clear, the National Cattlemen's Association has outlined 11 specific items that need to be met. Only three of them have been under the rule. And it is not just a national issue. My State perhaps has as much at stake as any. The North Dakota State Legislature recently passed a resolution urging that our border with Canada remain closed for live cattle and beef product trade. My legislature is overwhelmingly Republican—overwhelmingly. They adopted this resolution overwhelmingly, saying keep this border closed until you can assure us and assure our people that it is safe. They have made a determination that nobody can give that assurance today.

The recent announcement by Secretary Johanns to restrict the importation of Canadian beef products to those from cattle under 30 months of age is a step in the right direction; however, the announcement does not address the unresolved concerns about Canada's compliance with its own feed regulations.

It was my hope that our new Secretary would withdraw the proposal to resume trade when he learned of these serious issues. But it now appears that the only way to stop this rule is for Congress to block it. Therefore, I hope my colleagues will join me in supporting this resolution of disapproval.

At the very least, we ought to delay this rule from being put into effect until we have a better sense of what is happening in Canada. There is an investigation ongoing. Why ever would we decide to go forward and open this border before our own investigation is complete?

Let me conclude as I began by saying to my colleagues, this is a consequential vote. None of us know precisely how great the risk is. What we can say with some certainty is there is risk, and the consequences of a failure to get this right could be enormous. I hope my colleagues think very carefully about this vote.

I thank the Chair and yield the floor.

Mr. CHAMBLISS. Mr. President, I yield 10 minutes to the distinguished Senator from Kansas, Mr. ROBERTS.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the chairman for yielding.

I rise today in opposition to the joint resolution that has been brought forward by the distinguished Senator from North Dakota. This is a great "while I" speech. While I share the Senator's concern, while I share his sense of frustration, while I share his sense of making sure that our beef is safe from BSE, I cannot support the resolution.

I am from Dodge City, KS. This is a town that began during the cattle drives of the Wild West days and which still bases much of its economy on the beef industry. You cannot have anybody more interested, more vitally concerned about the beef industry than this Member. In fact, the number of cattle in Ford County, where Dodge City is located, far outnumbers the citizens of the county. I used to say they were in a lot happier mood.

Not only is the beef industry king in Ford County, Dodge City, southwest Kansas, and the State of Kansas, it is a huge industry representing over $5 billion in annual revenues. We are a State with 6.65 million head of cattle compared to a human population of 2.6 million. Cattle represented 62 percent of the 2003 Kansas agriculture cash receipts, and the processing industry alone employs over 18,700 Kansans. We rank in the top three of virtually every major beef statistic. There are few issues as important to the people of Kansas as the issue of how we handle actions that are related to BSE.

Prior to the discovery of BSE in the United States in December 2003, Kansas was one of the top exporters of beef to the Japanese market. Since that fateful day in December of 2003, Kansas and U.S. beef producers have been locked out of the Japanese market.

We should not still be locked out of that market by taking action like we may do as of today on this vote. The international science—I mean international science in every country concerned—says our cattle under 30 months of age are safe and not at risk for BSE. Yet we have agreed to not send meat from any animals under 20 months of age to Japan. Still that market remains closed to the United States.

The market is not closed because of scientific concerns. It remains closed because of internal Japanese politics, and that is a fact. But we are moving forward, and I am hopeful that by continued pressure from the administration—from the President, the Secretary of State, everybody who has been in contact with the Japanese Government, and this Congress, many Members of Congress—we can somehow reopen that market, we can expedite that process.

But today, be careful what you ask for. We will take a giant step backward in our efforts to reopen markets to Japan—or, for that matter, anywhere—if we vote to approve this resolution. The same international science and guidelines that say that U.S. beef and animals under 30 months of age are safe also say that the beef and animals in Canada under 30 months are safe as well. That is the international standard. That is the sound science standard.

If we vote today to approve this resolution, the United States will be taking the same actions as the Japanese. I am not going to say it is based on politics. I know all of the concerns of my colleagues who are up on the northern border and the long history of those disputes. But we are going to be basing our decision on those concerns instead of sound science. I fear it will have both short-term and long-term ramifications. In the near term, it will undoubtedly set us back in our efforts to reopen the Japanese export market.

How can we argue that they are not basing their decisions on sound science if we cast a vote that is not based on the same sound science? We have staffers today meeting, Agriculture Committee staffers, under the direction of the distinguished chairman, with ambassadors from Japan. If we vote on this today, why meet? What kind of progress could we possibly make? Long term, how can our negotiators in this Congress argue in the international arena that all agricultural issues—not just this issue—including biotech crops, beef hormones, food safety, and any number of other issues should be based on sound science if we ourselves vote on the concerns of individuals?

I have heard some Members talk about they are going to vote for this because they worry about the lumber that is coming in from Canada. Are we about to open a trade war? I am concerned about that. But this is not the way to approach it.

I understand the concerns of many of our producers and of my colleagues who support this resolution. Senator CONRAD—I affectionately call him the agriculture program policy chart man because he has, at last count, 4,153 charts he has brought to the floor since I have had the privilege of serving here—is really a champion explaining rudimentary agriculture program policy, not only to colleagues but to all who watch these proceedings.

So I understand his concern. I did oppose the entry of beef from animals over 30 months of age because it did not make any sense to allow that beef in the United States if we would not allow any cattle over 30 months due to safety concerns. That is a given.

The international science and guidelines are clear on this issue. Animals under 30 months and meat from those animals is safe. If we vote for this resolution today, we will turn our back on the longstanding U.S. position in all international trade negotiations. We are going to hurt our efforts to reopen the Japanese market. We will be setting a very dangerous precedent for future trade policy battles, and Lord knows we are going to have those with the WTO ruling brought by Brazil.

We have too much at risk to base this decision, no matter how difficult it may be, no matter how strong our feelings may be, on the politics and the passion of the moment. The long-term future of the U.S. beef industry may very well turn on this action we take today. I fear that this vote in favor of this resolution will send a negative message that will come back to haunt us on this issue and many other agriculture trade matters for years to come. I do not think we can allow that to happen. So I respectfully disagree with the Senator from North Dakota and I urge the defeat of this resolution.

I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have great respect for the Senator from Kansas. He is my friend. I profoundly disagree with him about the conclusion. I think the risks run the opposite way. We want Japan to open their market to us? Then we better be able to assure them that our market and our supplies are safe. I believe the evidence is overwhelming that Canada is not enforcing their own regulations. Their own tests show it. They are not our tests. Their tests show they are not enforcing the regulations.

I remind my colleagues of the consequences of a failure to get this right. In England, 146 people died. Almost 5 million head were slaughtered. There are four known cases of mad cow in Canada today, and an additional case of a cow imported from England. And we are going to open our border on March 7, when the Canadians' own testing agency shows that in 59 percent of the cases animal matter is present where it is not supposed to be? Is that what we are going to do? I hope not.

I yield 15 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I thank my colleague from North Dakota for his leadership on this crucial issue before the Senate today.

I rise to speak on an issue of enormous significance to consumers, producers, and ranchers in my home State of South Dakota and all across America. The U.S. border is scheduled to be thrown open on March 7, 2005, to Canadian live cattle and other assorted bovine products. While the rule was modified to ensure that live cattle and beef imports come from animals under 30 months of age, which is a modestly helpful adjustment, I retain profound concerns about the lack of scientific basis for the decision to throw open the border and feel that the timing of this administration decision could not possibly be worse for consumers and producers alike.

We have seen four instances of BSE in cattle of Canadian origin, while the United States has not experienced even one indigenous case. In fact, two of these cases were detected after the Department of Agriculture released their final rule. I think those numbers become even more troubling when we compare the annual slaughter populations or total animals slaughtered in that time frame.

There is an overwhelming difference when our neighbors to the north slaughter roughly less than 10 percent of the U.S. slaughter population and yet they have all of the indigenous BSE. I am concerned that the Department of Agriculture's rule is not based all on sound science, and I agree, science ought to be the determining factor.

The USDA has chosen instead to adopt weaker standards in their final rule. Animals entering the United States will not and cannot be tested for BSE and there are no safeguards available to United States producers to relieve the effect of the millions of Canadian cattle lined up at our border.

The final rule establishes minimal-risk regions for BSE and recognizes Canada as a minimal-risk region. However, that rule fails to recognize the internationally accepted standards set forth by the OIE, or World Organization for Animal Health, for minimal-risk regions, which are the only recognized standards that are accepted on a worldwide basis.

Transmission of BSE is, in fact, still unclear and uncertain. Maintaining segregation of the Canadian and American herds to the largest extent possible is the only scientifically sound approach, and USDA's final rule only seeks to mix these cattle populations.

The Bush administration and a Japanese Government panel have discussed certain parameters for importation of American beef. Namely, imported products would be from animals age verified at under 20 months of age and adhere to a certain grade of meat. These criteria were set because of Japanese consumer concerns. I fail to see how allowing the importation of Canadian cattle and products from cattle under 30 months of age into the United States, 10 months older than American beef that could be potentially exported to Japan, can possibly be beneficial for regaining consumer confidence in Japan or for maintaining consumer confidence in the United States.

At one point, we were exporting about 10 percent of our beef to foreign nations, the Japanese being the largest buyer of American beef abroad. The Japanese, because of their own experiences with mad cow disease and human disease in that nation, are understandably very concerned that if they buy beef from another country, they want that beef to, in fact, come from a non-BSE country. It is the United States that jeopardizes our export market by throwing open the doors to a huge tidal wave of Canadian animals into the United States, mixing the whole herds together and then selling that export product or attempting to sell that without being able to identify whether we are, in fact, selling Canadian product or American product to the Japanese or anyone else. It is no wonder that throwing open this border is going to further jeopardize what is already a difficult circumstance for American exporters.

Then for American producers, they wind up with a double whammy. The Canadian import into the United States is roughly equivalent to about 10 percent of our herd, while we lose and further jeopardize an export market that had been 10 percent of our herd. That is a 20-percent swing jeopardizing consumer confidence in the United States and having the potential to have devastatingly negative consequences for livestock producers in America.

I think the time is overdue, and USDA should spend more time being concerned about American livestock producers and a little less time being concerned about the viability of Canadian livestock producers, given the kind of public health and the export consequences this opening the border will entail.

We lost a $1.7 billion export market when Japan shut their borders, and what we need is consistent leadership and guidance from the USDA that recognizes we ought to abide by internationally accepted standards for minimal risk and that a premature opening of that Canadian border not only will serve to undermine consumer confidence in America but will further jeopardize our export market abroad. I believe the Japanese and other countries would love to buy American beef, but they want to know it is American beef that they are buying and not beef that has simply been funneled through our country from BSE-infected nations.

USDA's decision is not only an economic threat for the viability of our rural communities, but it is also a consumer choice issue. Consumer groups have repeatedly voiced concern over this final rule. USDA is accountable and obligated to ensure that our consumers and ranchers are protected, which means keeping our borders closed for now. USDA has not been working for American consumers, ranchers, and producers with this final rule.

There are several steps that should be taken before the Department of Agriculture should even consider opening our border with Canada, and country-of-origin labeling is one of those steps. I have long advocated a mandatory country-of-origin labeling program. The administration delayed COOL for 2 years during closed-door consideration of the 2004 Omnibus appropriations measure. A mandatory country-of-origin labeling program for beef is now not scheduled to be implemented until September 30, 2006. Yet, even lacking that ability of consumers to make knowing choices about the origins of the meat they serve their family, USDA would open the borders to a cattle population that poses a significant risk without even ensuring consumer choice in the grocery store aisle to buy American beef. I introduced bipartisan legislation to ensure that Canadian beef and cattle could not come across the border until country-of-origin labeling is implemented because that is simply the right thing to do, and I am pleased that we have bipartisan support for that measure.

Because USDA insists on plowing ahead with an outrageously ill-timed decision, congressional action is required and we have a congressional resolution of disapproval to consider. An ample number of my Senate colleagues felt this opening the border rule should be set aside and chose to sign their names on the petition to do so. The vote on this resolution is an opportunity to stop a flawed course of action, and I urge my colleagues to vote for this resolution of disapproval. It is crucial that USDA act in a responsible manner and revoke the final rule immediately.

I am hopeful the administration will recognize the message this body will send today about the severity and the urgency of this situation. We need America to side with the best science on the Canadian border. We need America to be prudent relative to the enormous risk to both the livestock economy and the public health in America and the jeopardy of opening the border to our potential export market for beef.

I urge my colleagues to join us in supporting passage of this resolution of disapproval and to send a strong bipartisan message to USDA and to the White House to reverse course, to allow greater time for the best science to determine what in fact is happening in Canada relative to BSE, relative to their feed regime, and to give us an opportunity to be assured we are not endangering either our economy or the public health in the United States of America.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Mr. President, I yield 20 minutes to the distinguished Senator from Colorado, who by profession is a veterinarian and certainly has, in addition to legislative knowledge, professional knowledge about this issue, Mr. ALLARD.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from Georgia for yielding 20 minutes. As the Senator mentioned, animals have been an important part of my life. I grew up on a cattle ranch and I have dedicated my life to animals and animal diseases.

I rise today to tell my colleagues that I do not believe the policy that is now being proposed by the U.S. Department of Agriculture is risky, I do not think it is premature, and I think if we want to protect our cattlemen, we must pursue a policy of opening our borders of free trade. Colorado is one State that has historically benefited from the cattle industry and today it remains an important part of our economy.

I will respond to a few specific points that were mentioned by my colleague on the other side. I will talk briefly about the people who became ill as a result of the BSE prion. It is a form of protein, modified virus, in Europe. The diet of Europeans is markedly different than the American diet in the fact that they view brains and spinal cord tissue as a delicacy. Here in the United States and in Canada, as a part of our processing of meat, we discard our central nervous system tissue, so it does not get into the food supply. We have rigorous enforcement in the United States. Canada has rigorous enforcement. As late as February 22, we had a group of scientists go to Canada, and they reported back to us that the enforcement of the rules and regulations in Canada was very robust, as it is here in the United States.

But I think the most important thing we learned from the outbreak in Europe, and what we have learned with time, is that the prion, the organism that causes mad cow disease, occurs as a result of ruminant upon ruminant. By using that terminology, I mean that there are food supplements that are developed from animals, mostly ruminants, that then are fed back, either calcium or phosphorus, to the animal. When that happens that provides a vehicle for the transmission of the prion, the infectious organism. It doesn't transmit directly animal to animal by live contact or by human to animal by live contact. It is passed in the food supply when you have a ruminant supplement from another ruminant being fed.

Finally, of the three or four cases that we have in Canada, three of those actually were before the provisions were put in place by Canada and the United States to prevent the consumption of ruminant-on-ruminant feeds—except for one case. But that one case occurred very close to 1997. As a result of more rigorous efforts by both Canada and the United States, I believe beef is a good product, and I plan on eating beef. I do not hesitate for one moment talking to my colleagues about how good I think beef is and how we should not be overly concerned about the health effects of beef in our diet.

The closure of our Canadian border has cost Greeley County, CO, which is one of the largest agricultural-producing counties in the United States, alone, $250 million to $300 million over the past year from diminished economic activity due to declining production at one single meatpacking facility. This is a result of the Canadian border closure. Totally, the economic impact of the border closure throughout the United States is $3 billion. The border with Canada should be open based on sound, scientific principles that ensure the integrity and safety of the U.S. cattle food supply.

The U.S. Department of Agriculture approach to these discussions has been rational and science based. Sound science is critical because it separates fact from myth and ignores mad cow hysterics. Television pictures of seizure-stricken cows are intended to draw viewers but do not represent the truth behind the image.

Five other Senators joined me in April of last year in support of the immediate reopening of the Canadian border following these principles. Joining me on a letter to the U.S. Trade Representative were Senators BEN NELSON, Senator CAMPBELL, Senator MURKOWSKI, Senator HATCH, and Senator BROWNBACK.

I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WAYNE ALLARD,
U.S. SENATE,
*Washington, DC, April 6, 2004.*

Hon. ROBERT ZOELLICK,
*Seventeenth Street, NW., Washington, DC.*

DEAR AMBASSADOR ZOELLICK: The purpose of this letter is to bring to your attention our concerns relating to the present economic and trade situation facing the U.S. beef industry as a result of the Canadian border closure. We ask for your assistance to facilitate the immediate reopening of the border to trade in live cattle, based on sound scientific principles that will ensure the integrity and safety of the U.S. cattle inventory and the American food supply.

Since the discovery of BSE in North America, the U.S. beef industry is confronting the most significant challenge in its 105-year history. The economic impact of the border closure has escalated over the past year and the industry is now at a point where difficult decisions are being made to protect long-term job stability. For example, beef processing plants across the country have had to reduce hours significantly to absorb the increasing pressure of the current situation, resulting in job loss and reductions in worker's take home pay. To date, the industry has suffered over a 12 percent reduction in U.S. fed cattle being processed for the domestic and international market place, at an estimated $12 billion loss to the economy and impacting over 80,000 direct and indirect jobs.

As recently demonstrated by the Harvard Center for Risk Analysis (HCRA), there is no body of scientific evidence indicating that there is any potential risk to the American consumer in allowing live Canadian cattle under the age of 30 months to enter the U.S. marketplace destined for fattening or slaughter. Toward this end, the U.S. Department of Agriculture's (USDA) proposed rule to amend its BSE regulations to allow the United States to import live cattle less than 30 months of age from Canada harmonizes the health interests of the American public with the international trade interests of the United States, provided that it is implemented based on sound scientific principles that will ensure the integrity and safety of the U.S. cattle inventory and the American food supply. By encouraging more practical, science-based guidelines relevant to BSE risk management, USDA's proposed rule will help restore the U.S. beef industry's ability to remain competitive in an increasingly global marketplace and protect long-term job stability in the United States.

While the United States cannot unilaterally open trade borders with Japan, Korea and other key trade partners, USDA can act expeditiously with respect to reestablishing live cattle trade with our North American trading partners. We hope that actions can be expedited toward this end as well as with our other trade partners to remove scientifically unjustified barriers to trade.

We appreciate the attention and efforts that you have given this serious matter to date and look forward to continuing to work with you to ensure that adequate and science based protections are in place to ensure open and free trade while also protecting the health and safety of all Americans.

Sincerely,

WAYNE ALLARD,
*United States Senator.*
LISA MURKOWSKI,
*United States Senator.*
ORRIN HATCH,
*United States Senator.*
BEN NELSON,
*United States Senator.*
SAM BROWNBACK,
*United States Senator.*
BEN NIGHTHORSE CAMPBELL,
*United States Senator.*

Mr. ALLARD. The USDA Minimal Risk Region rule should be implemented because it is grounded in solid, sound science and will help end a situation that has wreaked havoc on beef trade for too long. It will protect the integrity of the human supply system and stabilize agricultural trade.

Canada meets the requirements of a minimal risk region, based upon a number of its actions. It has prohibited specific risk material in human food, as we do here in the United States. It placed import restrictions sufficient to minimize exposures to BSE. It has built and structured surveillance for BSE at levels to meet or exceed international guidelines, as we do here. And it has enacted a ruminant-to-ruminant feed ban. Finally, the appropriate epidemiological investigations, risk assessment, and risk mitigation measures have been imposed.

Opening the border with Canada will help restore the beef industry's ability to remain competitive in an increasingly global marketplace and protect long-term job stability in the United States.

I have a chart that reflects Canadian beef exports. If we look over here to 2003 when the mad cow disease began to impact Canada, we can see, obviously, that there was a reduction in billions of pounds of carcass weight that was exported from Canada. But here we are moving from 2004. Not all the figures are in, but they are indicating we are going to get a pretty steep climb back in exports from Canada. And based on projections for 2005, exports from Canada are going to reach a historic high, despite the fact they have had mad cow disease in Canada.

These facts come from a reputable analyst, analyzing firm based in Denver, CO, that traditionally cattlemen have relied on to analyze beef markets throughout the country.

Let's look at the chart for U.S. beef imports from Canada. Obviously, in 2003 we saw a reduction in the amount of beef imports from Canada. Again, this is a million pounds of carcass weight over time. What we see in 2004 is that the imports from Canada have exceeded an all-time high, despite the fact that we have mad cow disease.

The point is, we are importing Canadian beef at record levels. We need to change that policy because processors are moving their plants to Canada. More and more people are going into the Canadian beef business. As a result, we are at risk of losing our own market share of beef.

The Greeley Tribune published an editorial stating that the United States must open its border with Canada. The Tribune is published in Greeley, CO, Colorado's most productive agricultural county.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Greeley Tribune, Mar. 1, 2005]

### OPEN CANADA TO U.S. BEEF SALAZAR MUST FOLLOW ALLARD'S EXAMPLE WITH JAPAN

U.S. Sen. Wayne Allard is to be commended for his letter to the Japanese ambassador last week demanding that the Japanese government reopen its market to U.S. beef products.

Allard was joined by almost 20 other senators in the letter that was hand-delivered to Ambassador Ryozo Kato by Secretary of Agriculture Mike Johanns, who expressed his appreciation to Allard in taking the initiative to address the issue.

In his letter, Allard—a Republican from Loveland and Colorado's senior senator—noted that since the only confirmed case of bovine spongiform encephalopathy (mad cow disease) in the United States, the U.S. government has worked diligently to take the necessary steps to earn the confidence of the Japanese public, in many respects exceeding internationally established scientific requirements. Yet the Japanese government has continued to drag its collective feet in reopening the border.

Allard hinted, rather strongly, that Congress could be forced to take retaliatory actions on Japanese imports—which exceed $118 billion annually—while expressing hope that step would not have to be taken.

Colorado's freshman senator, Ken Salazar, was one of the others who signed the letter.

But at the same time, Salazar has joined eight other Democratic senators who signed a resolution of disapproval of the USDA's proposal to reopen the Canadian border to imports into the United States of live cattle starting this month. Salazar cited safety and accountability as key concerns on that move.

Salazar should reconsider that position.

The Canadian border is already open. Boxes of Canadian beef—beef from the same cattle that are currently being stopped at the border—are flowing into the United States, resulting in a tidy profit for Canadian processors. If science says that beef is safe, then so are the cattle which are producing it.

Economists have estimated that in the first four months the border was open to Canadian beef, Weld County lost about $100 million from diminished economic activity due to the declining production levels at the Greeley beef-packing plant of Swift & Co. alone. That does not include Fort Morgan's Cargill plant.

So keeping the border closed to live cattle is contributing to the outsourcing of U.S. jobs to Canada, which continues to expand its processing industry to handle all its cattle, while the U.S. beef-processing industry shrinks—running about 10 percent below pre-ban averages. The jobs moving to Canada are not likely to return.

Industry officials have determined that reopening the border will not flood the U.S. market because the Canadian market is relatively current. Those Canadian processors have been running six days a week around the clock to process their cattle, then sell the beef in the United States or in the markets where they compete with U.S. beef.

During his campaign, Salazar said he intended to put his constituents ahead of party politics, yet in this case, he sides with primarily Democratic legislators against the Bush Administration.

This position, being pushed by senators without major beef-processing plants, puts Salazar at odds with the best interests of his constituents and his own state. He needs to put science and the people who helped send him to Washington ahead of politics.

We urge the new senator to follow Allard's lead with the Japanese and call for the U.S. border to be opened to live Canadian cattle.

Mr. ALLARD. Many of the supporters of the Resolution of Disapproval argue that because of U.S. policies, U.S. corporations are outsourcing jobs. The border closure has allowed Canada to grow its beef industry and increase its slaughter capacity, making Canada into a global competitor. While U.S. jobs are lost because of an unfair trade policy that allows cheap Canadian meat into the United States, they are being replaced in Canada as it bolsters its beef industry. Estimates will show that Canada will have the industry capacity to replace U.S. beef by May of 2005. Supporters of this resolution support the outsourcing of U.S. jobs.

During the past several years, Canada's annual cattle slaughter has been 3.2 to 3.3 million head. This is equivalent to about 65,000 head of cattle slaughtered per week. In 2004, Canadian slaughter was about 30 percent larger than during 2003. In 2005, Canadian cattle slaughter capacity is expected to increase to about 95,000 head per week. Canada is expanding available slaughter capacity in the country so it can be less reliant on the U.S. market to process animals. Reliance on the U.S. market will continue, but Canada will compete effectively against the United States in the world marketplace.

According to the Canadian Meat Council, since May 2003, the Canadian beef industry has increased its daily beef capacity by more than 30 percent. The additional Canadian slaughter capacity that is available, or planned, will allow the Canadian beef industry to increase cattle slaughter totals by about 25 percent from 2004 to 2007.

Thanks to the border closure, thousands of U.S. workers have been laid off or have had their operations suspended. In Greeley, CO, located in the State's largest agricultural county, nearly 1,000 workers lost their jobs thanks to the closure.

Weekly cattle harvests in Canada are up 14 percent, from 72,000 to 82,000 over the past year, and are expected to rise to 95,000 per week by mid-2005, a 25-percent increase over pre-BSE levels. The jobs that go with that increased production probably will never return to the United States.

Prior to May of 2003, cattle imports from Canada accounted for approximately 4 percent of the U.S. production capacity. A number of these animals were also a part of the U.S.-Canadian Northwest Cattle Feeder Initiative. By allowing them to increase production capacity, we threaten U.S. production and marketing.

The average number of imported Canadian cattle for all purposes, between 1970 and 2003, is 795,563 head per year. The highest level of cattle imports was 1.68 million in 2002, and the lowest was 245,000 in 1986. The Minimal Risk Region rule requires animals to be imported exclusively for slaughter. Dairy, stocker, or other livestock segments are prohibited from importing animals for breeding or other purposes.

Frankly, the Canadian border is already open. Boxed beef is coming across the border from Canada in record numbers, numbers higher than they were before BSE was discovered in Canada, creating a public policy windfall for those companies with processing facilities in Canada while punishing those in the United States. U.S. beef imports from Canada set a record in 2004, approaching 1.2 billion pounds, a 12-percent increase over 2002 levels. During 2005, beef imports from Canada are expected to total 1.2 to 1.3 billion pounds.

Increased Canadian packing capacity is expected to increase beef production to more than 3.7 billion pounds in 2005 and exceed 4 billion pounds in 2007.

The unfair public policy is best illustrated in the following example. Canadian packers can buy a cow for about $17 per hundredweight and sell the processing-grade beef for about $123. He can also buy a fed steer or heifer at about $67 per hundredweight and sell the meat for about $132.

In the United States a cow will cost a packer about $55 per hundredweight, and the beef would sell for about $125. The fed steer or heifer would cost about $85 per hundredweight, and the beef would sell for about $135.

This imbalance has led, in part, to the layoff of thousands of people in the processing industry across our Nation. Eventually it will affect the cattlemen because our markets will be less available for those who have live fat cattle.

The Harvard Center for Risk Analysis has stated there is no body of scientific evidence indicating there is any potential risk to the American consumer in allowing live Canadian cattle under the age of 30 months to enter the U.S. marketplace destined for fattening or slaughter.

I have picked up, as a result of my colleague from North Dakota mentioning the Colorado cattlemen's position—I do have a list of the requirements they are requiring. I have read down through those, and those provisions are being met in the United States, and they are being met in Canada. We have just made a call to the National Cattlemen's Association, and they have indicated to us that they support the position of opposing this resolution. So they understand that the rules and regulations that are being proposed by the U.S. Department of Agriculture do protect the American consumer. They do protect, in the long run, the future of the cattle industry.

I just wanted to call that to the attention of the Members here, and I also want to again refer to my State of Colorado. There are a lot of States that have their economies built upon beef. In Colorado, on exports in general we have about $154 million in trade. We export $97 million. Most of that is in the beef side. We have $51 million of beef that is exported. We import about $97 million. Some of it is live cattle, but a good percentage of it is breads and pastries and cakes and vegetables.

If we do not address this problem, we are going to have a profound impact, in a negative way, on the Colorado beef industry and, throughout the country.

Canada is one of our most important trading partners. Agriculture is a fundamental component of U.S. trade. If we cannot rationally restore the beef and cattle trade with our most important trading partner, I ask the question: How will we ever restore trade on a global scale?

Some 20 Members of the Senate have joined me in sending a letter to the Japanese Ambassador asking him to reduce his import restrictions on beef from the United States. If we don't—and the other countries throughout the world are watching—what we are doing here?

If we don't use good science and if we don't use good sound policy, it is going to have a prolonged impact on our trade policies throughout the world, particularly as it applies to the livestock industry.

From what I understand, USDA appears to support the policies of the World Health Trade Organization. In fact, I think it exceeds what is recommended by the World Health Organization. I think Canada has the same policies, and I think they exceed what is required by the World Health Organization. We are setting the standard for the world.

I feel comfortable in having beef for dinner. When I am asked the question, What's for dinner? I am not going to hesitate to say beef, because I think we have a quality product in this country. I think what is happening in Canada is comparable to what is happening in the United States. I think they are working hard to bring the regulations and rules into compliance with what we have here.

We received a report a week or so ago from a group of scientists who visited Canada, saying they have a robust effort in their rules and regulations, just as we have a robust effort in this country.

Again, when asked the question, What is for dinner? my answer is beef.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. CONRAD. Mr. President, let me say to my colleague, the Senator from Colorado, that in the Conrad family, when asked, What is for dinner? beef is often the answer.

But that is not the question. The question is, Are we going to keep the beef supply safe? The evidence is overwhelming that Canada is not enforcing their own regulations. Their own testing shows they have right now four cases of mad cow identified in Canada.

I suggest to my colleagues that the better part of wisdom is for us not to open this border in a premature way. The risk is too great to our people and to our industry. The Senator cites the National Cattlemen's Beef Association. I met with my representative of the National Cattlemen in my State. They urged me to proceed. They urged me to go to a vote. They urged me to try to carry the vote.

When I look at what the National Cattlemen said, here it is. They put out 11 conditions that need to be met before the border is opened, and only 3 of them have been met. I would be glad at a later point to go right through the 11 conditions they said should be met. We can go right to the eight that are clearly not met. This border should not be opened until these 11 conditions have been met.

I yield 10 minutes to my colleague Senator DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, we have apparently resolved what everybody is going to have for dinner. Apparently it is beef. We haven't resolved who is going to stand on the floor of the Senate this morning and support our farmers and ranchers who produce that beef. That is the question—not what we are eating for dinner. Who is going to stand for the farmers and ranchers on this issue?

It took a nanosecond to hear that we are protectionist this morning. Every thoughtful discussion turns into a thoughtless discussion in a nanosecond around here when it deals with trade, because instantly the subject of protection comes up and the word "protectionism" is used. God forbid that someone should be accused in this Chamber of the Senate of standing up to protect the economic interests of this country. It happens precious few times.

But let me be somebody who says, if that is the charge, I plead guilty. I want to protect our economic interests. I don't want to build walls around this country. I believe expanded trade is helpful. But I also want to stand up for the economic interest of this country when it is at stake.

Let me say one other thing, as I have been listening here. Let us stop walking hat in hand to the Japanese and asking for favors. Let us stop killing another tree to send one more letter to the Japanese. Last year, they had a $74 billion trade surplus with us. Because we had one Canadian cow found in the State of Washington with BSE, the Japanese don't want to eat American beef.

Now we have people who say somehow the Japanese will be more confident to eat American beef, if we allow Canadian cattle to come into this country—cattle from a country where investigations have shown that the feed supply has prohibited animal materials. My colleague Senator CONRAD described it. In December, the Vancouver Sun reported that officials from the Canadian Food Inspection Agency found prohibited animal materials in 141 of 70 samples. Of the feed that was tested, 58 percent was found to have had prohibited animal materials.

So somehow you are going to give the Japanese confidence by allowing Canadian cattle to come into this country on the heels of four examples of mad cow disease in Canada? I don't think so.

I know there is a lot of passion about this issue. Canada is a great big, old, wonderful country with great neighbors. They are a wonderful neighbor of ours. We share thousands of miles of common border. I am heartbroken for the Canadian ranchers. I know it must be tough for them. I wish them no ill will at all. I regret that they have found examples of mad cow disease in Canada. But they have.

Our responsibility is to stand up for the interests of American producers, American farmers, and ranchers. That is our job.

Listen. You all read the papers last summer. The President was going to go to Canada. The speculation last summer was that in discussions with Canada there would be a promise that border would be opened after the election. We all read that—not once, several times. Sure enough, the election comes and goes, and the U.S. Department of Agriculture decides that the border has to be opened. Canada meets every test.

It turns out they don't meet every test. It turns out this is not about sound science. This is about let us pretend. Frankly, some say let us pretend that everything is fine: that there is rigorous testing in Canada; that the testing meets all the requirements; that there is no difficulty, no problems; and, if we allow under the conditions set by the United States Department of Agriculture the import of beef and live animals from Canada, somehow things will turn out fine for us. But, of course, that is not the case. We know that is not the case.

My colleague Senator CONRAD offers this Chamber this morning an opportunity to cast a vote on this issue. I know we have already heard about protectionism, and we have heard this is tough on packing companies, which is another part of this, obviously. But the question for the Congress is, Will it stand up for the interests of American producers? Will it be something that will make it harder to get into international export markets once again with our beef?

I think that it is time—long past the time—for this Congress to cast a vote in support of America's interests here, in support of our country's interests, and our producers' interests.

I can think of dozens of debates on the floor of the Senate where in every circumstance where you talk about the interests of American producers, somehow foreign policy is overwhelming. All of this mishmash, this soft-headed nonsense, of course, comes from the State Department, and from all those in this Chamber who stand up on cue and say, Yes, sir, yes, sir, we certainly don't want to be accused of protectionism when it comes to economic interests. Let us find a high board, and dive right off that old high board.

On this issue, Senator CONRAD says he is not ready to dive, nor am I, nor I think are many in this Chamber ready to simply decide the economic interests of this country, the interests of farmers and ranchers, are to be sacrificed in this circumstance.

A few days before Christmas of 2003, the one instance of BSE, or mad cow disease, was discovered in this country. It wasn't an American cow; it was a Canadian cow sent to this country from Canada. The consequences of that are dramatic, and they have been significant. But, my colleague, as I listened to his opening statement today, described consequences far more severe than that in Europe.

We ought to move with some caution here and with some concern. We ought to move reasonably slowly to make sure we know what we are doing. But that has not been the case with USDA. And, in part, it is because the packing companies are putting on the pressure. It is partly, I think, because the President went to Canada last summer and made some representations. In part, it is because they say they are meeting all these tests. But my colleague Senator CONRAD has taken the mask off all of that.

How does one describe a response to what my colleague Senator CONRAD has said, my colleague Senator JOHNSON has said, and what I have said—that the tests in Canada as reported by the Canadian news and by the Canadian Food Inspection Agency found prohibited animal materials in 58 percent of the cattle feed tested?

I have not heard one person respond to that. Is there a response? If so, I would be happy to yield to someone to offer me a response. Is there anyone here who wants to respond to the proposition that 58 percent of the feed that has been tested, as reported in Canada, had animal parts in it? Is there no response? Doesn't it matter? Don't we care? Or, is this the case where we should ignore the evidence and decide that we came to the Chamber with our own preconceived conditions, opinions, and our own desire to support the President and USDA, and we have to vote that way?

Although I am not going to be on the floor for the entire debate, I hope at some point someone might respond to that proposition.

Evidence is a pretty difficult thing sometimes. The evidence here is compelling and clear. We have people saying that Canada meets all the tests, and then we have the evidence. They don't.

When my colleague Senator BYRD one day was speaking on the floor, he said that the caterpillar, the squirrel, and the eagle, seeing the Earth from exactly the same spot, saw it differently. The caterpillar climbs on a clump of grass, and says, I can see the world. And on the exact same spot, the squirrel climbs the tree and says, I see the world. And at exactly the same spot, the eagle flies overhead, and says, I see the world. All three look at the same spot and see different things. It happens.

But you can't look at the spot Senator CONRAD asks you to look at today and see something different. You can't. The demonstration of that is there is no answer to the proposition that the feed testing in Canada is woefully inadequate. And if you believe that—and apparently you do, because nobody is contesting that—then opening that border at this point, in my judgment, compromises the interests of farmers and ranchers in this country.

Why on Earth would we decide to do that? In whose interest are we here serving? Why would we decide to put someone else's interest first?

There is nothing to be ashamed of, in my judgment, for standing up for this country's interest for a change. Perhaps once, just once today, on this vote we will see evidence of an interest of doing that here in the Senate.

Let me conclude one more time by saying this is not about "protectionism." That is the kind of nonsense thrown around in every trade debate. But it is about protecting America's economic interests. That is what we come to the Senate to do. My hope is when we finally cast this vote, we will have done so this morning.

I yield the floor.

Mr. CHAMBLISS. I yield 10 minutes to the distinguished Senator from Missouri, Mr. BOND.

Mr. BOND. Mr. President, I thank the distinguished chairman of the Agriculture Committee for allowing me this time.

I rise today as cochairman of the beef caucus to speak against Senate Joint Resolution 4, which seeks to condemn the U.S. Department of Agriculture plan to reopen the Canadian border to live cattle.

I concur with the sentiments already expressed by the chairman of the Agriculture Committee and the distinguished agriculturalist from Kansas, Senator ROBERTS. I also learned a great deal from the professional testimony of our Senator, Dr. Allard, from Colorado, about the safety and about the science that goes into the decision made by the U.S. Department of Agriculture.

I note also that this past week, a group of our scientists who visited Canada said their system of protecting the food supply and the beef was robust and certainly could be counted on. As a member of the agriculture posse, I have heard Secretary Johanns, the Secretary of Agriculture, describe the steps they were taking to ensure our beef supply is protected.

We just heard a defense of protectionism. Let me define what protectionism is. Protectionism is, in my view, the use of scare tactics, the use of unsound scientific information, in an attempt to protect our markets. In this case, I believe sound science dictates it is time to open the border. Were it not so, I would not be rising today in support of the Department of Agriculture.

The fact remains, as Senator ALLARD has pointed out, not only is this not based on sound science, the impact of the beef ban has been to create a feeding and slaughter operation in Canada, which is moving the production facilities and jobs out of the United States and into Canada, potentially putting a very harmful impact on our ability to raise, slaughter, and produce the beef we eat in the United States. Yes, beef is what was for dinner last night. Tonight it will be my dinner, and it will continue to be.

Every Member of this body and our constituents back home expect the U.S. Government to work to ensure we have the safest food supply possible. That is why we hire scientists. That is why we hire veterinarians. That is why we devote efforts to make sure it is safe. Unfortunately, all too often, the United States takes the abundance and safety of our food supply for granted. When we are faced with challenges to these expectations, like reports of BSE or mad cow disease in our cattle or our immediate neighbor's, the floodgates of demagoguery from so-called consumer advocates are opened, every mother is frightened into believing she may be jeopardizing her family at the next meal she serves, and markets react.

Statistics and science say the likelihood of you, me, or our children at home eating a BSE-tainted burger or steak not cooked hot enough to kill the pathogen is, on an order of magnitude, less of a threat than many of the other risks we accept in our everyday lives, such as driving our children to school and back.

The alarmism and subsequent waves of fear of BSE threats are seen as opportunities by many of our trading partners who seek to find any excuse to erect trade barriers to our products. These foreign buyers ignore the science, statistics, and history. The U.S. position in the world market is based on the very sound principle that good science should and must prevail. Whether our trade representatives are negotiating exports of genetically enhanced rice or soybeans, meat produced using the most advanced commercial technologies, or as we negotiate reopening of the Japanese beef markets to our own production, sound science is the best negotiating tool we have against the Luddites and naysayers in our potential foreign markets.

We cannot fall prey to the wonderful exuberance of populism in protecting our markets with false or pseudo-science-based claims while expecting the world to accept the products of U.S. farmers who feed the world largely due to our use of the latest technologies.

The Agriculture Department's amended final rule on resumption of beef and live cattle trade with Canada was developed based on the best science at hand and with broad input from the cattle industry. The amended rule restricts imports of beef animals older than 30 months. Also, Canada, as I said earlier, has implemented appropriate BSE prevention standards similar to our stringent domestic firewalls. As I said earlier, this has been confirmed by our scientists who have visited and inspected the operations in Canada. This includes the banning of all ruminant to ruminant feed and effective enforcement. This alone will drastically reduce further contamination in the Canadian beef herds. Sound science should prevail here and in all of our trade negotiations.

I would be remiss if I did not take the opportunity to encourage the USDA, our trade representatives in Japan, to apply sound science and to continue the move to reopening markets in Japan to our beef exports. Recently, I joined with several of my colleagues who also spoke today sending a letter to the Ambassador to Japan saying we would not stand for pseudoscience-based protectionism preventing the export of U.S. beef to Japan.

This past week, I had the opportunity to meet with representatives of the Japanese Diet, the legislative body of Japan. I told them of our interest in providing beef to the consumers of Japan. They assured me that American beef is a very high priority for those Japanese consumers. We said, OK, they want it, we have shown it is going to be safe, it is time to open your markets and provide a significant export opportunity which will serve and reward the U.S. cattle producers.

I hope we will reject this resolution and allow sound science to rule.

(The remarks of Mr. BOND pertaining to the introduction of S. 503 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. I yield 5 minutes to the Senator from South Dakota.

Mr. THUNE. I thank the Senator from North Dakota for yielding the time.

I join today with him and others in the Senate in support of this resolution. I hoped it would not come to this, that we could achieve a result, an outcome short of having to have this debate in the Senate. However, I have to say I wholeheartedly agree with the premise of this resolution: that is, that the rule in question is wrong. It is wrong timing.

Agriculture is the No. 1 industry in South Dakota. The cattle industry, the livestock industry, is the biggest component of that. This industry has an enormous impact on the economy, the gross domestic product in my State. In fact, as noted earlier today by another speaker, we have probably five or six times the number of cattle than we have people in South Dakota.

Growing up on the Plains of western South Dakota, I have witnessed firsthand the incredible work ethic of our livestock producers, the willingness to go out during calving season and fight the elements and conditions, and to work to nurture the herds and bring them to the marketplace, to go through the weather we have to deal with in South Dakota on an ongoing yearly basis, and to haul water and to haul feed to those herds, to get them to where they can take them to the marketplace.

As a member of the House Ag Committee when we were debating the 2002 farm bill, I advocated and fought on behalf of country-of-origin labeling because I believe it is important that American consumers know where their products are coming from. It was included in the 2002 farm bill.

More recently, in the last year or so, this body and the House adopted legislation that would delay the implementation of country-of-origin labeling, which is unfortunate because I think it would alter and change the dimensions of the debate we are having here today.

So I come here today to speak in support of this resolution, and I do so knowing full well that as a three-term Member of the House, I come here with a record supporting free trade. I supported trade promotion authority for both President Clinton and President Bush because I believe our leaders in this country need to have the authority to go out there and make the best possible deals for our agricultural industry and other industries in our country, always reserving the right to vote against those trade agreements if I do not believe they are in the best interests of American agriculture.

I do not harbor any ill will toward Canada. Canada has been an important trading partner in the past and will continue to be in the future. I am hopeful that when this is all said and done we will be able to restore that relationship. But, frankly, this issue is not about protectionism. It is about safety. It is about science. It is about making sure that America's consumers have a safe supply of beef products in this country, and also that those that we do business with overseas, our trading partners, are fully confident in the exports we send their way.

I believe exports are important to America. They are important to agriculture. In this country today, one in every three rows of corn goes to the export markets. We would like to see more of it going into ethanol. I hope it will. But the reality is, we depend heavily upon export markets for the success and prosperity of American agriculture.

So I supported increasing trade opportunities for our producers. But the fact is, we have not been able, at this point, I believe, to provide the level of confidence and assurance to the American consumer and to producers in this country that, in fact, the Canadians are taking the steps necessary to ensure that their herds are 100 percent in compliance with the ruminant feed ban.

My first official act, after being sworn in as a Senator, was to ask the President to delay the opening of the border beyond March 7. I have insisted that decision to open the border be based, first, on two prerequisites: sound science and a return of our foreign cattle export markets—namely, the Pacific rim. This has not been answered.

USDA's own risk assessment in 2002 states the Canadian feed mills were not—were not—100 percent complying with the feed ban. The borders should not be open until that allegation is fully investigated and it is confirmed that the ban is being properly enforced. The most recent assessment completed by the USDA team this year concluded that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population. That is not 100 percent. Cattle imports from Canada should not be accepted until we can be sure feed mills are 100 percent compliant. American consumers need to be assured the meat they are buying at local supermarkets is safe before the border opens, not after, and American cattle producers need to be assured that live cattle coming from Canada are BSE free.

As I said earlier, another important aspect is regaining the Asian cattle export market. If the trade with these countries is not resumed and the border is opened, South Dakota ranchers will be competing against Canadian cattle without the benefit of exporting our cattle to other countries. Since being sworn in as Senator, I have been in ongoing discussions with the USDA and Secretary Johanns trying to find a way to resolve this border issue. I cosponsored legislation to modify the rule to allow only beef products from animals under 30 months of age. In response to that, the USDA then modified their rule to do just that. I appreciate the Secretary's and the administration's work on this matter.

The PRESIDING OFFICER. The Senator from South Dakota has spoken for 5 minutes.

Mr. THUNE. Mr. President, I have to yield, but I simply close by saying, I urge my colleagues to support this resolution to send a strong message to our producers and consumers that we are going to support making sure that the feed ban is being complied with, and we are going to work hard to make sure our export markets are open before this rule is implemented.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from Georgia for yielding some time to me so I can respond to a number of issues that have been brought up.

First of all, I would like to say that the information we have on the food contents is older information. The newest information we have is from a group of scientists that went to Canada to check on their rules and regulations, on their enforcement. These scientists reported back to us on about February 22 of this year, saying that the rules and regulations are being enforced robustly in Canada. That includes the ruminant on ruminant food regulation where you prevent the consumption of ruminant byproducts by other ruminants. I have confidence in these trained scientists who know what they are looking for and have given us the most recent report on what is happening as far as the food on food regulation.

I would also like to go over some of the positions by the Colorado Cattlemen Association as well as the National Beef Association. They support a minimal-risk region classification, and they support it on the following conditions:

No beef or beef products will be imported into the U.S. from cattle over 30 months of age. That is in place.

All imported feeder cattle must be harvested previous to 30 months of age, and the verification processes must be implemented to track and validate harvest age and location. They are doing that with earmarkings as well as brands.

All cattle direct to harvest must be 30 months of age or younger. That is being done. It is a provision in the rules and regulations.

Minimal-risk regions must meet all processing techniques and regulations relating to BSE as set out by the U.S. That is what those scientists were reporting to us as of the 22nd of February.

Adherence and implementation of a U.S. equivalent ruminant to ruminant feed ban. That is a requirement. That is what the scientists report back, that they are complying with the rules and regulations, and we should not have a concern about it.

And then:

> The Colorado Cattlemen's Association is committed to normalizing global trade based on [good] science that protects the health of the beef industry.

And they express that:

> Once our concerns have been adequately addressed, CCA will reconsider our position on opening the Canadian border.

The Colorado Cattlemen Association currently supports the minimal-risk region rules that have been put out by the Ag. and the Colorado Farm Bureau currently supports the Canadian reopening. The Colorado Livestock Association supports the reopening, and the National Cattlemen's Association, which is headquartered in Colorado, supports the Department of Agriculture's provision on minimal risk.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me make a couple quick points. It is true we had an investigation group go to Canada. Here is what they found. They went to seven feed mill operations in Canada. In six of the seven, they found one or more unsatisfactory task ratings. In two of the seven, they found serious failures to ensure prohibited material did not enter the food chain. More seriously, the assessment found that only 3 percent of Canada's on-farm feed manufacturers have been inspected at least once over the last 3 years.

Now we are talking about 25,000 on-farm feed operations. These mills represent one-half of Canadian livestock feed production. Only 3 percent have been investigated, were checked in the last 3 years.

My friends, we are talking about risk. What are the consequences of failure? In England, 146 people died. In England, they had to slaughter 5 million head.

In Europe, these were the headlines, week after week: "French Farmers in Grip of BSE Panic." "World of Europe Suffering for UK Errors." "Mad Cow Disease Kills 500 Dairy Cattle Every Week." "Slaughter to Prevent Disease on Continent."

There were 6 million heads slaughtered. We are talking about substantial risk to our industry, to our consumers. Let's be cautious. Let's not open the border before we are confident Canada is actually enforcing the regulations they have on their books. The evidence is very clear that they are not.

Mr. President, I yield Senator THOMAS 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. THOMAS. Mr. President, we have had a good discussion. I am glad we have. There are a number of parts to it, of course. We have talked a lot about the safety issue, which is key, and to be confident in the things that we have asked Canada to do. We had a hearing with the Secretary some time back. He had his scientists there with him, and they were not certain they had done all the things that they might do. But I think the key is the matter of opening the markets for us.

Our markets for beef have grown in the last number of years. It has been one of the most important things that we have had to export. Most of that growth has been in the Pacific Rim—Asia, Japan, Korea. Of course, now that is closed. Regardless of what you say about how well the Canadians have done, that market is still closed, and it is closed because of Canadian activity or lack of it. That is really the key that we have to look forward to.

I am certainly for trade. As a matter of fact, I am chairman of the Subcommittee on Trade of the Finance Committee. We need to do that. But I am reluctant to see us open this one until we have some arrangement to open Canada and Korea.

You say: Well, this is unfair to Canada. Nevertheless, that is where the problems all came from. That is where the cows came from, the mad cow disease, not the U.S. They came from Canada, and the difficulty has arisen there.

So I guess I just simply want to emphasize that we can talk all we want to, as my friend from Colorado has, about what has been done there. The fact is, we still haven't got our market back. We had good exports. We don't have them now. I am not as concerned about the processors being able to move up to Canada. The cows are here, actually, and that is where they are going to be. So I won't take more time because I know there are many others who need and want to talk.

I hope we can keep in mind that all we are asking is that we have more of an opportunity to deal with opening the markets in Japan, opening the markets in Korea, before we open the market in Canada.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BURNS. Mr. President, I rise today in support of this resolution. I wish it didn't have to come to this. Maybe it is just an exercise, in light of a Federal judge ruling yesterday, when some of the stockmen in my State have chosen to settle this in court rather than what they can get through the policy of Congress.

I reluctantly rise in support of this because I wish that USDA would have listened to those of us who have been saying for two months that this rule has some problems. I want to say up front that I appreciate the new Secretary of Agriculture Johanns's work on this issue. We met with him. He came down and talked to us. He got thrown in on this with a cold hand, and I know he has been working tirelessly to try to respond to everybody's concerns. Then it comes down to the point where you come to the fork in the road that everybody's concerns cannot be fully addressed. I thank him for doing the right thing and restricting the eligible beef cattle to under 30 months old. I feel strongly about that. I appreciate his action. I think when we said we are not going to take products or cattle over 30 months into this country, that was a prudent move.

But there are still lingering concerns. Whenever this whole thing broke out in 2003, I think I was the only one who stood up and said: They have a feed problem because, No. 1, it started with an Angus cow in Alberta, and then the second cow was the Holstein cow that we found in the State of Washington. Then of the two after that, you had one Angus cow, two dairy cows, and one Charolais cow. So we know we don't have a genetic problem.

In this ban, we have to be very careful of another unintended consequence because there is a great exchange of breeding cattle and seed stock production that crosses that border both ways. So we have to have some way to deal with that. The Department of Agriculture is addressing that situation, too. But it hadn't got there yet.

I said from the get-go, it is the feed. And every number that we see coming out of Canada, and even the report of our USDA team does not draw the conclusion that Canada has not really gotten serious about checking feed, livestock, or cattle feed, in Alberta, Saskatchewan, or across the whole country as far as that goes.

That is where we all have a little bit of a problem. Consumer confidence in beef has never been as good as it is right now. It is because we have taken certain steps to make sure that the safety of the food is utmost because losing consumer confidence would be much more costly than anything that we could do.

So, yes, I eat beef. Obviously, I have eaten quite a lot of it. I have never missed a meal, nor do I plan to.

So when we talk about those things that are based on science—and my friend from Colorado, who has points in this debate, is right on target—we have to face the reality of what is best for the cowman. Because in my State, unlike Colorado, we don't have a predominance of processors. We don't even have a lot of feed cattle, but we have cow-calf producers and we deal in older cattle, especially at this time of the year. And, of course, we sell yearlings and feeder calves. Some of those calves will go to Canada under Canada's new rules. That was a positive step.

But if we back off and take a look at this and let the facts come to the top and we consider those facts, we will make better decisions not only for our cattle people but also the consumers of this country. Even when we got the report of the USDA's team back from Canada, we were on break and had little time to look at that report and make a decision: Are they doing what they are supposed to do in order to protect their own livestock people? That is what Canada did. They let their own people down—when you don't enforce the rules of the 1997 ban of certain ingredients in cattle feed.

So what we are saying right now, is that this action furthers the protection of two of the most important economies that we have in this country, and that is our consuming public and our cow-calf producers.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Colorado.

Mr. ALLARD. Mr. President, since the floor manager is not here, I yield myself 5 minutes to respond further.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 5 minutes.

Mr. ALLARD. Mr. President, I want to emphasize again how very important it is that we proceed on this matter using good scientific evidence. I appreciate the statement that was made by the Senator from Montana. He is right in many regards that we need to be sure that we use good science. I feel good about the enforcement of the rules and regulations based on the visit by scientists who just reported back in February. It is the most recent report that we have on the enforcement of the rules and regulations in Canada. They are very competent scientists, very dedicated scientists. And what they reported back to us is valid.

From a trade standpoint, we need to do something for our cattlemen. I believe strongly that what we need to do for the cattleman is get the borders opened because we are importing Canadian beef today. It is boxed beef. The reason that is coming in is because our plants can't economically make it. They are having to pay high prices for beef. They only have a limited supply of beef, and so they are not up to capacity. In the meantime, the processing plants, the beef that they are getting is lower cost beef. And then they are putting that on the world market. They are importing that into the United States.

The result is that we see an expansion of the beef industry in Canada. They have got plans to build more processing plants. They are in the process right now of building more processing plants.

That means there are going to be more people raising cattle in Canada. That means if our processors here don't make it like the one in Colorado, we lose our local markets. We lose an opportunity for our cattlemen to readily get their beef to market. That costs in shrinkage and extra transportation costs, particularly when we look at the cost of gasoline and diesel fuel. So this is a problem that needs to be resolved quickly.

We need to move forward with the guidelines that were laid out. By the way, the principles laid out in the guidelines have been used by the cattle industry in this country to control livestock disease, which also affects humans. The principles are laid out here, things like brucellosis. We know in cattle country what that is all about. We have States classified as brucellosis-free, and there are those having problems with that. The movement of cattle back and forth begins with addressing brucellosis in those States. Using those principles, we have been able to reduce the incidence of brucellosis in this country. It works. They are the same principles we are using on BSE and asking for Canada and the world organizations to apply, where we take minimal-risk countries, such as Canada and the United States, and apply those provisions in a good, scientific way.

That is only part of it. The other part is that during the process you don't increase the risk by handling the processes improperly. No. 1, you don't want to circulate the food and feed it back to the cows, the byproducts. That is a policy that has been adopted here and in Canada, and it is something we have learned since the outbreak in the European Community.

So, again, I also compliment Secretary of Agriculture Johanns for his efforts in trying to protect the beef industry and to use good science. He comes from Nebraska. That is a big beef State, as are many of the other States. But the important thing is to recognize that free trade is a benefit of agriculture. It has benefited particularly the beef industry. We want to make sure we get the border open, and we need to use good science in opening it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I yield 5 minutes to the Senator from Colorado, Mr. SALAZAR.

Mr. SALAZAR. Mr. President, I rise in support of the bipartisan resolution to disapprove the opening of the Canadian border. My position on this is clear. Until we resolve comprehensively the underlying issues comprehensively in the interest of health and safety in support of our family farms and ranchers, we should keep the border closed.

Today, I speak on behalf of those men and women who are on farms and ranches across America, whose livelihood depends on being able to have a quality livestock industry in place in their States. I join organizations such as the Colorado Cattlemen's Association which said it is not now time for us to lift the ban on Canadian imports.

I have spoken with Secretary Johanns about this issue. I have told him that I am for the lifting of the Canadian ban at the appropriate time. For me, that means we are not yet ready to do it because there are too many questions that still have to be answered prior to getting to that decision.

Many of the questions we have asked Secretary Johanns and the Department of Agriculture are questions to which we have not received any answers at this point in time: How many inspectors will we have at the border as the million, more or less, cattle from Canada start coming across the Canadian border and flooding the markets in our Nation? How many cattle will they actually check as they come across the border? How will they determine which of those cattle are 30 months or less of age?

I have been around cattle for most of my life, and I can tell you it is difficult to tell which cows or cattle are more than 30 months of age, or more than 3 or 3½ years. My father might have been able to tell us that. When you are talking about that kind of prediction, we don't have an answer from the Department of Agriculture.

How will the entire BSE risk mitigation system be documented? What are the segregating procedures for the processing of cattle in Canada at this point? How are we integrating the efforts in trying to deal with the BSE issue and opening up markets in South Korea and Japan with the efforts that we are dealing with now in Canada? Those are very serious questions that will impact the American farmer and rancher for a long time to come.

It seems to me it is a very reasonable request that many of us have made to Secretary Johanns—that there ought to be a delay in the opening of the Canadian border until we can have faith that these questions that have been appropriately asked by the ranchers and farmers of America are answered.

With that, I urge my colleagues to join in approval of the resolution. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I yield 5 minutes to the Senator from Idaho, Mr. CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, it is not often that persons speaking on the opposing side of the issue on the floor yield time to someone who might disagree with them. So I am thankful to the chairman of the Agriculture Committee, Senator CHAMBLISS, for being so accommodating.

Yesterday, a judge in Montana said there remains a question of concern as it relates to the science that we hope is well underway in Canada. You have certainly heard my colleagues from Montana and others argue that is a legitimate concern. Senator CONRAD has made that point time and time again. It is fair for us to err on the side of science. That is where we ought to be. That is where our industry is. That is where we ought to demand of the Canadian industry.

Our industry people have been north of the border and they have seen the tremendous progress that has been made. Our Secretary of Agriculture has recognized that progress and, in part, premised his rule on that basis. At the same time, I am one of those who remains skeptical. I think we have to ensure that we cannot take another hit in our agricultural economy. In 2003, May, Canada, boom. And then in December, along came the cow in the lower 48 that stole Christmas. She wasn't green, she was black and white and she pulled the rug out from under the industry just for a moment in time.

Our Secretary of Agriculture effectively stepped in and talked our industry and the consuming public into stability again. Why? Because the cow had come from Canada. We have had our act together in the lower 48 for a good long while, prohibiting the incorporation of animal protein into the feed supply. We have played by the rules, and they have been sustainable, scientific rules, which has assured the American consumer safe, high-quality beef.

But when Canada sneezed and we got the cold, our trading partners backed away. In that backing away, we lost a billion-dollar Japanese market. I have been one saying to my industry in Idaho that I am going to work to force the Canadians to get their act together, while at the same time we are going to assure that we open the Japanese market. Our President has put pressure openly and personally on the Japanese, as has our Vice President and Secretary of State. It is unique and unusual, but it demonstrates the importance of the livestock and cattle industry to this administration and to our country for them to say to the Japanese: Get your act together. We are clean; you know it; you see our science. We are doing the right thing.

Yet the Japanese push back. I cannot in good conscience open a border that brings greater numbers to the lower 48 when the science remains questionable and we have not resumed the Pacific rim markets that are extremely valuable to the livestock industry.

The new Secretary of Agriculture, Secretary Johanns, has been to the Hill. We have talked with him. He is doing the right things. We sent a letter to him in opposition. He backed away for a time. He is pushing the science, and he will continue to do so. But I do believe that a March 7 implementation is premature.

I trust that the judge looking at the evidence in Montana yesterday has the same concerns that are being reflected by the Senator from North Dakota and certainly by this Senator and many of us firsthand.

Actions do produce reactions. There are consequences to our action. The Senator from Colorado has been concerned about the displacement of the packing industry and what it will do, and it is having an impact. I am tremendously concerned that if we do not continue this aggressive pressure, we could lose capacity in the lower 48 as the Canadian industry begins to extend its ability into packing of their livestock products.

Today, in good conscience, I cannot nor will I oppose S.J. Res. 4. I believe we are sending an extremely valuable message to all of the markets involved, including the Canadians. The Canadians do not get it. They see NAFTA as a one-way road. We have been fighting them for 4 years on timber. They do not get it.

The PRESIDING OFFICER. The Senator has used the 5 minutes yielded to him.

Mr. CONRAD. I yield an additional minute.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Idaho is recognized for an additional minute.

Mr. CRAIG. Mr. President, I appreciate that.

The Canadians do not get it in timber and are still rope-a-doping us. The Senator from Montana is in the Chamber. He and I have partnered in trying to get them to get their act together on timber. They do not play the game well when it is one-way traffic. They are doing the same thing in potatoes, and my potato farmers in Idaho are understanding the consequence of losing markets.

Those are the real problems. To our Canadian friends: Listen up. Get your act together in Canada. Play by the rules in NAFTA and resume and remain the good friends and trading partners we have always been. But we will not dislocate economies in the lower 48 for the benefit of economic gain in Canada. That is not equality, and that is not the fair trade that we are looking at.

Let's make sure the science is right. We cannot allow another hit on the livestock industry of the lower 48.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I yield 5 minutes to the Senator from Montana. If he asks for additional time, I will be happy to extend it to him.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, I thank my friend from North Dakota. This is obviously an extremely important matter because it affects the consumption of one of the most valuable staples in the American diet, and that is meat. It also affects the livelihood of so many Americans, the cattle ranchers, and other producers of meat and red meat products in the United States.

Agriculture is our No. 1 industry in Montana, so this is an extremely important matter. We also very much want people in the United States and around the world to be confident that the beef produced in the United States is free of BSE and is the best beef in the world.

Now is not the time to open the border to receive Canadian beef down to the United States. There may be a time—I hope there is a time—in the not too distant future when we can do that. I think the North American market makes sense, where beef can be eventually traded freely between the United States and Canada. After all, we are so close in so many ways. We have the same heritage, the same language. The Canadians and Americans are very similar in their outlook on life, with same values, so forth.

But we in the United States are a little concerned—many of us are—with the direction the U.S. Department of Agriculture has taken on this matter; that is, the Department has been quite secretive, that the Department, in announcing its first rule to open the border for Canadian beef, did not tell us something they knew at that time. What is that? They knew at that time that BSE was just discovered in Canada.

It turned out even after USDA made their announcement of the rule, another case of BSE was found in Canada. There have been several cases of BSE found in Canada. The one case of BSE found in the United States was a Canadian cow, recently imported from Canada. So we are rightfully a little concerned. We are concerned because we want to make sure that the beef produced in both the United States and Canada meets the highest standards.

We have pretty good standards in the United States now to protect against BSE. Probably the best evidence is, to my knowledge, no BSE has been reported south of the border in Native American cattle. I think there are four cases involving Canadian cattle.

The Canadians are clearly concerned about their production; they are clearly concerned about their consumers. The Canadian people want the very best beef. They think their beef is the best beef in the world, just like we think our beef is the best beef in the world. That is fine. Now is not the time to open the border. We have too many questions that are not yet answered.

One is the new science, new research is going on with BSE which USDA is not incorporating at all in its final rule: that is, the rule that is the subject of this resolution. Even with that, we know that our beef is safe. There is no BSE found in the United States, but it probably makes sense for that new research to be incorporated in the final rule so we are all better assured we have the best beef that we want our consumers to have.

This is also important with respect to one of our major trading partners, and that is Japan. About 10 percent of American beef production is exported overseas. About 37 percent of those exports generally go to Japan. But Japan just said, no, and they closed their borders to American beef. It is because of that Canadian cow which had BSE that was found in the United States.

Many times many of us have been over to Japan talking with the Japanese, saying our beef is safe: there is no BSE reported in United States cows. Because BSE has been discovered in Japan in the last several years, the Japanese are very sensitive to the dangers, the hideous dangers of BSE.

I ask the USDA to withdraw this rule. I ask the USDA to make the best use of the new research that is available. There is an evidentiary hearing coming up soon because a judge in Montana ruled the border should be closed. With regard to that investigative hearing the judge has ordered, now is the time to take a long hard look at this issue and to be transparent, to open up to the public, open up to cattle producers, open up to beef packers who have been denied thus far the application of their comments as the Department makes its final determination.

Now is just not the time. I hope there will be a later time. Now is not it.

I thank the Chair for his indulgence.

Ms. CANTWELL. Mr. President, I am voting in favor of S.J. Res. 4, which invokes the Congressional Review Act to disapprove of the U.S. Department of Agriculture's minimal risk rule. I wanted to explain to my colleagues and my constituents my reason for doing so.

I understand that the use of the Congressional Review Act is rare. Congress has successfully used it only once in 2001, and its use should not be undertaken lightly. The Congressional Review Act permitting these rule disapproval resolutions became law in 1996. Although I understand from floor debate today the President intends to veto this resolution if it reaches his desk, if the Senator from North Dakota, Mr. CONRAD, were successful, the result of his actions would be to overturn the minimal risk rule and prohibit USDA from issuing another similar rule unless Congress authorizes the agency to act.

I believe adopting this rule at this time is not the right action for our Nation's consumers and our country's beef industry. As Secretary Johanns stated during his confirmation hearing, reestablishing trade to Japan and other countries is our No. 1 priority. This goal will only be achieved when we prove that we have implemented and enforced dependable BSE firewalls.

Though Canada may have taken action to eliminate some loopholes in its feed ban, and is considering additional rules to ban specialized risk materials or SRMs from animal feed, we should not open our borders until these additional firewalls are in place. And we should be doing more to ensure that our feed is not contaminated by similar loopholes in the United States.

Existing loopholes in the 1997 ruminant-to-ruminant feed ban continue to pose a risk that ruminant materials may find their way into cattle feed.

Although the U.S. Food and Drug Administration promised to close these loopholes and stated that it had reached a preliminary conclusion last July to remove SRM from all animal feed, the agency has failed to act.

Therefore, to address this issue, I have introduced legislation entitled the Animal Feed Protection Act of 2005, S.73, which would ban SRMs from being used in any animal feed. This would eliminate the possibility that ruminant materials are knowingly or accidentally fed to cattle.

Banning SRMs from all animal feed is an important step we can take to fully ensure the safety of ruminant feed, and I hope that the Senate's vote today will encourage our Government and the Canadian Government to act more swiftly on this issue.

Some will argue that I should be convinced by the report APHIS released at the end of February stating that Canada's feed ban compliance is good. I am not convinced.

On January 24, 2005, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, APHIS, sent a team of technical experts to Canada to assess Canada's current feed ban and feed inspection program. The APHIS investigation was initiated in response to Canada's latest case of bovine spongiform encephalopathy, BSE, which came just days after the USDA published its "Minimal Risk Rule" in the Federal Register on January 4, 2005.

The purpose of this investigation was to determine whether the control measures put in place by the Canadian Government are achieving compliance with regard to these regulations. This was a serious investigation. Canada's latest BSE case, reported on January 11, 2005, was particularly alarming because it was discovered in a cow under 7 years of age and was thus born after implementation of the 1997 ruminant-to-ruminant feed ban.

On January 12, 2005, I sent a letter to Secretary Veneman and then-Governor Johanns, requesting that the audit being conducted by APHIS inspectors be given time for a full and fair analysis. The final APHIS report of last week largely repeats information USDA released as part of its risk assessment supporting the minimal risk rule in January. This Senator asked for a full look, if 2 weeks of Canadian inspections yielded compelling evidence that the Canadian feed ban was being fully enforced, this report misses the mark.

I strongly believe that all consumers deserve reassurance that Canadian rendering facilities, feed mills, and ranchers are in compliance with Canada's feed regulations. As you know, the ruminant feed ban has been determined to be arguably the most important BSE risk mitigation measure to protect animal health.

The APHIS report states that "Canada has a robust inspection program, that overall compliance with the feed ban is good and that the feed ban is reducing the risk of transmission of bovine spongiform encephalopathy in the Canadian cattle population."

It is not clear what "good" compliance means. We must provide our trading partners, such as Japan and South Korea, stronger assurances than those provided in this APHIS report.

We must provide them proof that we have done everything possible to control and eradicate this deadly disease as we work to reestablish the trust of their consumers and access to their markets.

It is very important that USDA systematically evaluate all possible risks before reopening the border to Canadian cattle. I do not believe that USDA has completed this level of evaluation.

Therefore, I will be asking the National Academy of Sciences to review the APHIS findings. They should assess whether every aspect critical to evaluating feed regulations and compliance has been addressed in this report or if additional analyses and inspections are needed.

The American public must be assured that Canadian cattle will not increase the risk of BSE in the U.S. Until the American public has been assured, beyond a shadow of doubt, that the Canadians are in full compliance with feed regulations it is prudent that we delay moving forward on reopening the border until this assurance has been made.

The question of what will be best for the U.S. beef industry with respect to reopening the border to Canada is complex. And deciding how best to proceed is not an easy decision to make or an easy step to take.

Segments of the U.S. beef industry are clearly divided on this issue and not in agreement regarding what is best for the future of the U.S. beef industry. This is due in most part because this rule has affected industry segments in vastly different ways.

Although some regions of the U.S. have been hit harder than others, I know we all agree that as a nation, reestablishing the export markets and international market share that the U.S. beef industry once held, is our No. 1 priority. With that common goal in mind, we must use basic common sense and delay going forward with the implementation of this rule at this time.

Therefore, in the interest of reestablishing the trust of our trading partners and preserving the confidence of the American people, I will be voting in favor of this resolution and would urge my colleagues to do the same.

Mr. HARKIN. Mr. President, I support the resolution of the Senator from North Dakota disapproving the U.S. Department of Agriculture's minimal risk rule allowing expanded trade in cattle and beef products from Canada. I take this opportunity to explain my reasons for doing so.

It is critical we restore beef and cattle trade with our trading partners, but we must do it right. Unfortunately, USDA's rule is flawed in several respects that need to be addressed. To the credit of our new Secretary of Agriculture, he swiftly recognized at least one of these significant shortcomings, and delayed USDA's proposal to allow shipment of Canadian beef from cattle over 30 months of age into the United States. USDA's ill-considered approach would have resulted in significant economic hardships for many U.S. beef packers, particularly those that slaughter culled dairy cows as their primary business. Secretary Johanns recognized this, and I commend him for his quick response.

Further recognizing the shortcomings of USDA's rule, the U.S. District Court for the District of Montana has granted the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America's, R-CALF, request for a preliminary injunction barring USDA's minimal risk rule from taking effect. This is the second time that USDA has lost in court on this issue.

While we still await the judge's rationale for this decision, I believe the unfortunate reality is that USDA has largely dug its own hole by failing to follow U.S. legal procedure and scientific guidelines in its rule for further reopening U.S. markets to Canadian cattle and beef. Sadly, it is U.S. producers and processors that bear the brunt of USDA's failings.

I have been concerned that USDA's final minimal risk rule strays from the World Animal Health Organization's—OIE—scientific guidelines in important respects. Specifically, USDA has crafted minimal risk criteria that are weaker than OIE standards specify. For instance, USDA's rule does not spell out what is required to have an effective ruminant-to-ruminant feed ban, an effective BSE surveillance plan, or require a compulsory reporting and investigation system. In fact, USDA seems to have purposefully dropped elements of the OIE guidelines that might have required the United States to classify Canada as a moderate risk country for BSE instead of minimal risk.

At a hearing of the Committee on Agriculture, Nutrition, and Forestry on these issues, USDA attempted to explain these discrepancies by stating that there are redundancies among the several types of measures against BSE, and therefore if a country is weaker in one measure it might compensate in another measure. However, in the case of Canada, USDA has failed to set forth what measures Canada might be stronger in that warrant allowing slippage in others.

I am fully aware that these concerns about Canada are relevant to our systems here in the United States for preventing and detecting the incidence of BSE. Since we first discovered BSE in this country, I have questioned the efficacy of both our restrictions on feeding ruminant byproducts and our BSE surveillance plan. I do not believe there are grave problems that threaten human health, but I do believe there are areas where we need improvement, such as enforcement of our feed rules and the effectiveness of our surveillance efforts.

Ultimately, we need to come to a common agreement with our beef and cattle trading partners regarding an acceptable framework for classifying a country's risk of BSE. If USDA designates a minimal risk region for trading that does not stand up to the scientific principles that are established by OIE, we will hinder those efforts to reopen markets.

It is a sadly ironic footnote to this debate that, were USDA to correct the deficiencies in its rule, it would not prevent any of the Canadian cattle or beef products that USDA has proposed to allow from entering the United States. It would simply necessitate that some additional safeguards be put into place.

Unfortunately, USDA has turned a deaf ear to these valid concerns about the rule, and that is why we find ourselves here today. I hope USDA is listening to today's debate and will take these concerns more seriously. Our objective today is not to shut down trade indefinitely but, rather, to obtain the needed changes in the rule to facilitate the restoration of safe trade in cattle and beef products with countries that have experienced BSE. And that includes reopening now-closed markets for U.S. beef exports.

I urge my colleagues to approve this resolution.

Mr. GRASSLEY. Mr. President, let me be very clear about this. I feel passionately about competition and concentration-based issues.

Last Congress I introduced the Packer Ban, the Transparency Act, which requires packers to purchase pigs and cattle for slaughter from the cash market daily, the 20–10 bill, which limits any packer which owns more than 20 million head of pigs to slaughtering less than 10 million vertically integrated pigs, and a bill to eliminate mandatory arbitration clauses from production contracts, similar to legislation we passed for car dealers.

I feel strongly that we need to empower producers through legislation based on leveling the playing field, but this resolution is not how we should accomplish that goal.

By supporting this resolution we are taking a protectionist position instead of encouraging free trade. We might delay the importation of 900,000 feeders, but ultimately we are potentially putting our entire export market at risk, including the Japanese market.

In the world we lead by example, and if our example is tied to the precautionary nature of this resolution, expect the world to potentially follow suit.

The decision by USDA to re-open the border has been construed as a "rush to judgment". That could not be further from the truth.

The truth of the matter is that we have an obligation to look at the science of the issue and if the science dictates, we should re-open the border. That is where we are today. If someone this morning can demonstrate to me that the science USDA has relied on is faulty, I would be the first person to say we should not move forward, but science must dictate our course, not political will.

Mr. FRIST. Mr. President, I rise in opposition to S.J. Res. 4 that would disapprove the administration's regulations that would reestablish trade with Canada for live cattle under 30 months of age.

As a doctor, I fully appreciate our responsibility to protect the American public's health and safety by making sure our food supply is secure.

At the outset of the bovine spongiform encephalophathy, BSE, scare in December 2003, the former Secretary of Agriculture Ann Venaman worked tirelessly to address this public health concern. That work has continued under the new Secretary of Agriculture Mike Johanns.

Based on the information I have seen, I believe multiple safeguards are in place today both in Canada and the United States to protect human and animal health. Based on a U.S. investigative team that has examined Canada's compliance with a feed ban, based on a strong Canadian surveillance system testing cattle most likely to have had BSE, and, based on a ban on cattle imports into Canada from countries that have had widespread BSE, all reasonable efforts appear to have been taken at this time to minimize the risk of Canadian beef imports into the United States.

Sound science must be a basis to governing our trade relations around the globe. I believe that such science has been applied here and that the administration's regulations on Canadian beef import should proceed.

I ask my colleagues to reject this resolution.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Mr. President, I yield the Senator from Colorado 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLARD. Mr. President, questions were raised earlier about the accuracy of dentition: in other words, looking at the eruption of teeth to identify when the animal is 30 months old. That is pretty exact science. It is very reliable; not to say maybe one or two cows will slip through that are off a month or two. That is why the 30-month period was selected, because this is a disease of slow onset, and when they are under 30 months, we ordinarily do not have to worry about them.

Let us suppose somebody has some concerns about an animal that may be infected with BSE coming across a border. What happens is there are certain rules and regulations where one transfers from Canadian regulation over to American regulation. We only have certain points of entry into the United States, and when that animal comes into the United States, it is very adequately marked. They have ear tags and they are branded so that if something should happen to the ear tags, they still have the brand on the animal.

The only thing that can happen to that animal is it moves into an approved feedlot, it is isolated in that feedlot, for the purpose of slaughter. So that animal then is processed for slaughter. In the processing procedure, all of the central nervous system tissue—the brain, spinal cord—is discarded. It is not used for consumption. If there is a temperature on that animal, it is not slaughtered.

So when one takes into consideration the final steps of the process, they can understand I do not hesitate to suggest that people ought to eat beef. Our beef is safe and the beef processed in this country is safe.

I have a letter dated March 3. It was sent to me and is from Jim McAdams, president of the National Cattlemen's Beef Association. He states flatly that this resolution should be opposed for the following reasons, and he gives six reasons. He says this resolution should be opposed and in its place would urge the Senate to support an effort to open the Japanese, South Korean, and additional markets for U.S. cattle producers.

I thank those 19 Senators who joined me in writing a letter to the Japanese Ambassador to open their markets to American beef.

Mr. McAdams states that the failure to open these markets has cost the U.S. cattle producers $175 per head and a cumulative loss of nearly $5 billion in income. We need the full attention of the Senate to act on this issue, not to act to block science-based trade policies.

Then No. 2 states:

> The resolution supports blocking a science and risk-based analysis and phasing in opening of the Canadian borders. This action does meet the real needs of U.S. cattle producers, as it will give excuses for other countries to block our exports.

Point No. 3 in the letter opposing the resolution:

> The resolution should be opposed and in its place, we urge the Senate to support action to ensure the Canadian government eliminates their blue tongue and anaplasmosis trade barriers for all classes of U.S. cattle exports to Canada.

Think about that.

> The resolution will allow maintaining the status quo with Canada further accelerating the shift of the packing, processing capacity, and jobs from the U.S. to Canada, and hurting U.S. cattle producers.
>
> The resolution ignores the fact that beef is safe. Analysis of the reports by industry and government clearly .indicate that Canada, just like the U.S., has taken the necessary steps to ensure that their beef is safe. This resolution perpetuates fear mongering over nonexistent safety concerns and misrepresents well-documented science doing a disservice to the cattle industry and U.S. consumers.
>
> The USDA has already addressed prior producer concerns of this rule, to the extent that USDA has withdrawn the section of the final rule regarding beef from animals over thirty months.
>
> We urge you to vote NO on this resolution.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the issue before this body is as clear as it can be. This is going to be a consequential vote, make no mistake about it. This may be a vote that Members look back on and, if they vote against this resolution, they may deeply regret that in the future, because if, God forbid, additional mad cow cases come in from Canada, and that awful disease spreads in America, the consequences to this country could be enormous.

We all know what happened in Europe. It is not a matter of speculation. In England, 146 people died. Nearly 5 million head were slaughtered in England alone.

Let us connect the dots. In Canada, we know there are four confirmed cases of mad cow disease from cattle raised in that country. In addition, there is one case of a confirmed BSE positive cow, mad cow, that was imported from England. That is five cases. The most recent was a cow born after Canada supposedly put in the protections. The Canadians' own inspection service found that in 59 percent of the cases where they tested, animal matter was found where it was not supposed to be. That is what heightens the risk of mad cow disease.

Some of those cases, in fairness, have now been resolved. Seventeen percent of the cases have not been. In Canada, there are 25,000 feed-producing entities on farms. They produce half of all the feed in Canada. Only 3 percent have been checked in the last 3 years. There are four known cases of mad cow in Canada. There should be no rush to open this border in the face of that evidence. The risk to this country, the risk to human life, and the risk to this industry is simply too great.

My colleague talks about the National Cattlemen's position. This is what they have said with respect to opening the border. They said there are 11 conditions that should be met, and 8 of them have clearly not been met. I do not know if they have changed their position subsequently, but this is what they outlined, and 8 of these 11 positions have not been met.

In my own State, the cattlemen have told me to go forward with this resolution. My own State legislature, overwhelmingly Republican, has overwhelmingly approved a resolution asking us to keep this border closed until we can have greater confidence that Canada is enforcing their own regulations.

This is a consequential vote. The potential risk to this country is enormous. Anybody who is betting that Canada is enforcing their regulations is making a bet that I do not think stands much scrutiny.

I will end as I began, at least in this part of the debate. When the Canadian media used the Information Act in their country to look at what the Canadian testing authority themselves had found, they looked at 70 tests conducted by the Canadian agency, and they found in 59 percent of the cases, animal matter was present where it was not supposed to be. This is a risk that is not worth taking. The consequences could be far too grave for the American people and the American economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that we proceed as in morning business and that Senator DOLE be recognized for 5 minutes, Senator MARTINEZ for 5 minutes, Senator ALLARD for 3 minutes, and myself for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. DOLE, Mr. MARTINEZ, Mr. CONRAD, and Mr. ALLARD are printed in today's RECORD under "Morning Business.")

### ORDER OF PROCEDURE—S. 256

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the votes in relation to the Dayton and Nelson amendments, which were to follow immediately after the vote on S.J. Res. 4, now be set to occur at 2 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAMBLISS. I further ask unanimous consent that at 12:50 the Senate proceed to a vote on adoption of the pending resolution with the time equally divided between Senators Chambliss and Conrad.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. Mr. President, if I may very briefly sum up, I hope my colleagues will give careful consideration to this vote. This vote would disapprove the ruling from the USDA that the border with Canada should be opened on March 7.

I say respectfully that this runs a risk which we should not take. It is very clear from all of the evidence that Canada is not enforcing the regulations upon which USDA relied in recommending that the border be opened. The consequences to our country could be serious and dramatic.

Let me close by reminding my colleagues that when mad cow disease got loose in England, 146 people died, and nearly 5 million head of livestock were slaughtered. We cannot and we should not run the risk of prematurely opening our border when we know there are four confirmed cases of mad cow disease in Canada, and when we know from the Canadians' own inspection service that in nearly 60 percent of the cases, animal matter was found where it should not have been.

This is a consequential vote. I hope my colleagues will take it seriously. We ought to at least buy time until further investigations are made to assure us that the risk of mad cow disease coming into this country has been reduced in as significant a way as is possible.

I thank my colleagues.

Mr. CHAMBLISS. Mr. President, again I thank my colleague from North Dakota for bringing up this issue. I know it is of critical importance, as do a number of Members of this body. But I must remind folks that as we have gone through the debate here today, we have heard time and time again from those who are opposed to this resolution that this is an issue not of emotion but an issue of sound science. All of the sound science says that the Secretary of Agriculture has made the correct decision and that the border should be opened with Canada for the importation of beef and cattle under 30 months of age.

I want to remind our folks, too, that as you think about how you are going to vote, know and understand that once again the checks and balances system we have in our Constitution is at work on this issue. There was a court decision yesterday. A temporary restraining order was issued relative to the further reopening of the border on Monday. That decision will be decided on the merits after a full hearing from both sides. In this body we have heard contradictory statements. There an impartial judge will make a decision based upon his findings relative to the facts in the case.

This is not a health issue. It is not a health risk to human beings if the border is reopened. This is an issue of animal safety. It should be based upon sound science.

Let me read two things.

First of all, I have a letter from the Secretary of Agriculture dated March 3, 2005, and I want to read two sentences from the letter.

First, the Secretary says:

> If Canadian beef and cattle posed a risk to U.S. human or animal health, USDA would never have proposed reopening the border. Science must be the touchstone governing our trade relations and guiding our actions.

Continued closure of the Canadian border is not justified by the best scientific understanding of BSE risks.

Lastly, let me read a Statement of Administration Policy dated March 3, 2005, from the Executive Office of the President of the United States, Office of Management and Budget, as follows:

> The Administration strongly opposes Senate passage of S.J. Res. 4, a resolution to disapprove the rule submitted by the United States Department of Agriculture (USDA) with respect to establishing minimal risk regions and reopening the Canadian border for beef and cattle imports. USDA's rule is the product of a multi-year, deliberative, transparent, and science-based process to ensure that human and animal health are fully protected. S.J. Res. 4, which would prevent the reopening of our Canadian border, would cause continued serious economic disruption of the U.S. beef and cattle industry, undermine U.S. efforts to ensure that international trade standards are based on science, and impede ongoing U.S. efforts to reopen foreign markets now closed to U.S. beef exports. If S.J. Res. 4 were presented to the President, he would veto the bill.

With that, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CONRAD. How much time remains?

The PRESIDING OFFICER. There is 56 seconds remaining.

Mr. CONRAD. Mr. President, I say quickly in response, no court can relieve the responsibilities of this vote from our Members. Every Member is going to be responsible for the vote we cast. When my colleague says this is not a health issue, I respectfully disagree. This is profoundly a health issue. If mad cow disease is ever unleashed in this country, God forbid, we will find out what an acute health issue it is.

I urge my colleagues to support the resolution. It is the prudent, careful, and cautious thing to do.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER (Mr. MARTINEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—52

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Burns
Byrd
Cantwell
Carper
Clinton
Coburn
Conrad
Corzine
Craig
Crapo
Dayton
Dodd
Domenici
Dorgan
Durbin
Ensign
Enzi
Feinstein
Harkin
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (NE)
Obama
Reed
Reid
Salazar
Sarbanes
Schumer
Sessions
Shelby
Smith
Stabenow
Thomas
Thune
Wyden

NAYS—46

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burr
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
DeMint
DeWine
Dole
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Isakson
Kyl
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Pryor
Roberts
Rockefeller
Santorum
Snowe
Specter
Stevens
Sununu
Talent
Vitter
Voinovich
Warner

NOT VOTING—2

Feingold
Inouye

The joint resolution (S.J. Res. 4) was passed, as follows:

S.J. RES. 4

*Resolved by the Senate and House of Representatives of the United States of America in*

*Congress assembled*, That Congress disapproves the rule submitted by the Department of Agriculture relating to the establishment of minimal risk zones for introduction of bovine spongiform encephalopathy (published at 70 Fed. Reg. 460 (2005)), and such rule shall have no force or effect.

Mr. CONRAD. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

---

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. The Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Leahy Amendment No. 26, to restrict access to certain personal information in bankruptcy documents.

Dayton Amendment No. 31, to limit the amount of interest that can be charged on any extension of credit to 30 percent.

Feinstein Amendment No. 19, to enhance disclosures under an open end credit plan.

Nelson of Florida Amendment No. 37, to exempt debtors from means testing if their financial problems were caused by identity theft.

Durbin Amendment No. 38, to discourage predatory lending practices.

Rockefeller Amendment No. 24, to amend the wage priority provision and to amend the payment of insurance benefits to retirees.

The PRESIDING OFFICER. The Senator from Alabama.

### AMENDMENT NO. 31

Mr. SHELBY. Mr. President, I rise in opposition to the amendment offered by my colleague from Minnesota, Senator DAYTON. Basically, he has offered an amendment to create a Federal usury law. While I understand and appreciate the good intentions of my colleague, I cannot support what amounts to Federal price controls. This is a mode of regulation from a bygone day.

Price controls are a failed experiment that often hurt those who they are intended to help. Even if the price control envisioned in this amendment was never triggered, it would set a very bad precedent.

Credit underwriting is the assessment of the risk. Interest rates are intended to reflect the risk of a particular credit. They have to.

While I appreciate my colleague's concerns, I fear that his amendment will result in credit becoming less accessible to more Americans. Market forces are the best regulator of prices. As chairman of the Banking Committee, which has jurisdiction over consumer credit and price controls, I must oppose this amendment and encourage my colleagues to do so. We are going to have some hearings on similar matters in the Banking Committee, and I hope Senator DAYTON would work with us in that regard.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise to underscore the statement just made by the chairman of the Banking Committee. This issue embraced in this amendment is very far-reaching. There have been no hearings on it. The chairman has indicated he intends to do some hearings on issues relating to the matter that is before us. It does not seem to me to be a wise or prudent course to consider what would, in effect, be a very major legislative step in the absence of appropriate consideration by the committee of jurisdiction; therefore, I intend to also oppose this amendment, primarily on those grounds.

The substance is a complicated issue, and in any event it is very clear it needs to be very carefully examined and considered. I do not think that has occurred in this instance, and I hope my colleagues would perceive the matter in the same way.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

### AMENDMENT NO. 44

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON, proposes an amendment numbered 44.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage)

At the appropriate place, insert the following:

### TITLE ___—FEDERAL MINIMUM WAGE

**SEC. ___01. SHORT TITLE.**

This Act may be cited as the "Fair Minimum Wage Act of 2005".

**SEC. ___02. MINIMUM WAGE.**

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2005;

"(B) $6.55 an hour, beginning 12 months after that 60th day; and

"(C) $7.25 an hour, beginning 24 months after that 60th day;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

**SEC. ___03. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Stnadards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

Mr. KENNEDY. Mr. President, this amendment will increase the minimum wage from $5.15 an hour to $7.25 an hour over roughly a 2-year period. My friend from Pennsylvania, Senator SANTORUM, will offer his own minimum wage amendment, and he will do so later on in the afternoon. We intend to debate this and vote on it, subject to the agreements of the leaders, probably late Monday afternoon, and we will take the opportunity during Monday afternoon to get into greater details. Both Senator SANTORUM and I have agreed that we would each make a brief presentation on this item at this time.

We have not seen an increase in the minimum wage for 8 years. At the present time, the minimum wage has fallen to the second lowest level in the last 45 years. Since 1938, the minimum wage has been increased on eight different occasions. On most of those occasions it has been with bipartisan support. Republicans have recognized that we ought to treat people fairly and decently, and those at the lower level of the economic ladder ought to be able to have a livable wage. President Eisenhower felt that way, President Ford felt that way, and the first President Bush felt that way. We are asking the Senate to join us in going back to having the minimum wage at least increase to a reasonable level.

Now, who are the minimum wage earners? The minimum wage earners are men and women of dignity. Even though they get paid at a minimum wage, they work hard, they take a sense of pride in what they achieve, and they do a hard day's work. More often than not, they not only have one job, but they have two jobs and sometimes even three jobs.

What sort of jobs do the minimum wage workers have? First, many of them are teachers' aides in our school systems, working with the young students of America. Many others are working in our nursing homes, looking after the parents who were part of the "greatest generation," men and women who sacrificed for their own children, men and women who brought this country through the Great Depression. These are men and women of dignity who take a sense of pride in their work.

Beyond that, who are they? This is basically a women's issue because the great majority of the millions of people who would benefit from this minimum wage increase are women. It is a children's issue because a one-third of those women have children. So it is a women's issue and it is a children's issue. It is also a civil rights issue because many who earn the minimum wage are men and women of color. So it is a family issue, a women's issue, a children's issue, a civil rights issue, and, most of all, it is a fairness issue. Americans understand fairness. What they understand is anyone who will work 40 hours a week, 52 weeks of the year, should not have to live in poverty in the United States of America. That is what this issue is all about. That is what the vote will be on, on Monday next, whether we are going to say to millions of our fellow citizens that they will not have to live in poverty, although they will still be earning below the poverty rate.

What the amendment will do is the following. It is the equivalent of 2 years of childcare. It will provide full tuition for a child in a community college, or a year-and-a-half of heat and electricity, or more than a year of groceries, or more than 9 months of rent.

This might not sound like very much to the Members of this body who have seen their pay increase seven times since we have last increased the minimum wage. But we ought to be able to say here and now that we will join the traditions of an Eisenhower, a Ford, and the first President Bush, Democrat and Republican Presidents alike, and say those working Americans who work at some of toughest and most difficult jobs, men and women of pride and dignity, ought to be paid a fair wage. That is what this amendment is about. We look forward to a further debate when we have the opportunity to do so on Monday next.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to temporarily set aside the pending amendments to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 42

Mr. SCHUMER. The amendment is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. BINGAMAN, Mr. DURBIN, and Mrs. FEINSTEIN, proposes an amendment numbered 42.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the exemption for asset protection trusts)

On page 205, between lines 16 and 17, insert the following:

**SEC. 332. ASSET PROTECTION TRUSTS.**

Section 548 of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(e) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the trust or to similar trusts within such 10-year period exceeds $125,000, to the extent that debtor has a beneficial interest in the trust and the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2). For purposes of this subsection, a fund or account of the kind specified in section 522(d)(12) is not an asset protection trust.".

Mr. SCHUMER. Mr. President, I will be very brief. This amendment closes the so-called millionaires loophole. If any of you happened to read yesterday's New York Times, there is in existing law a hidden loophole which basically says if you are a millionaire and want to file a certain trust in one of five States, you can hide all your money even though you declare bankruptcy. So the irony is, in this bill, while we are talking about people who make $35,000 or $40,000 or $45,000 and we want to make sure they do not abuse bankruptcy, the law allows this abuse of bankruptcy.

The Bankruptcy Abuse Prevention and Consumer Protection Act, which I am introducing along with my colleagues Senators DURBIN, FEINSTEIN, and BINGAMAN, and I believe Senator CLINTON as well, will close this loophole.

You do not have to be a resident of these five States, but you can be a millionaire or billionaire and stash away assets: mansions, racing cars, yachts, investments, in a special trust, and you can hold onto that windfall after bankruptcy. That is not fair. We will debate the amendment later this afternoon. I want to notify my colleagues and place it in order on the floor.

The amendment has been read?

The PRESIDING OFFICER. Yes, it was.

Mr. SCHUMER. It is now in order so I will yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. SCHUMER. I am happy to.

Mr. KENNEDY. One of the concerns many of us had in this bill is the interest of fairness. I think fairness ought to be standard for any piece of legislation. As it is currently before us, we will have those who will be able, with their homestead exemption, to preserve homesteads valued at millions and millions of dollars and, on the other side, individuals will lose completely all of their savings because they will lose their homes. There is no fairness there.

The Senator from New York is pointing out in another area the issue of fairness. Those who have resources and have wealth and have the contacts will be able to shelter their resources while basically middle-income working families, the working poor who are trying to get by and have seen an explosion of different costs, on housing, on health care, on tuition, will be buried.

This will be another dramatic example where those who have it will be able to preserve it and those who have been struggling will lose it.

Mr. SCHUMER. I thank my colleague. He is exactly on point. It is outrageous that someone worth millions or billions of dollars can declare bankruptcy and then shield their assets in this trust so they do not come before the bankruptcy court. The Senator, my friend from Massachusetts, is exactly right; we are talking about people who make $45,000 and we are going after them, yet we are allowing millionaires and billionaires to use this loophole. Of course, it is not all millionaires and billionaires, it is a small number who go into bankruptcy and who abuse it. We can close it. We will debate this amendment later this afternoon, but let us hope that we do not have a lockstep, let's vote "no" on everything. It would be hypocritical to say we have to close abuses on middle-income people and not close abuses on the very wealthy.

I will be happy to continue to yield to my friend.

Mr. KENNEDY. I will ask a final question. A third of all the bankruptcies are among those who are earning below the poverty line. Does the Senator think they will be able to take advantage of this loophole?

Mr. SCHUMER. I would say to my colleague from Massachusetts, they can't even afford the lawyer to write the first page of the trust that these others can. Again, the question answers itself. What is good for the goose is good for the gander. What is good for someone below the poverty line certainly ought to be good for millionaires and billionaires who want to abuse the bankruptcy process.

I yield the floor in deference to my colleague from Pennsylvania.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Pennsylvania is recognized.

AMENDMENT NO. 44

Mr. SANTORUM. Mr. President, I understand I only have a couple of minutes, so I will be very brief. I want to speak on the issue of minimum wage. I know the Senator from Massachusetts has offered this amendment on the minimum wage to this package. I will be opposing the Kennedy amendment and will be offering an alternate to this amendment. But let me explain first why I oppose the Kennedy amendment.

First, it doesn't belong on this bill. Even the amendment I will offer as an alternative does not belong on the bill. I have spoken to Senator KENNEDY and others about what I believe is the appropriate place for this discussion. That is the welfare reform bill. It will be a bill that will come here and have a lot of amendments and it focuses on how we help those who are transitioning from welfare to work, how we help them and give them the support they need to be able to have work that pays well enough for them to get out of poverty. I think this discussion fits best, and I would argue has the better chance of actually ending up in a final bill and being sent to the President, on the welfare bill as opposed to here, which I think everyone recognizes is a bill that has been worked on for years and years and years.

We have a bill that has bipartisan support, with the hope of trying to get this to the President at a propitious time. So I would make the argument, No. 1, first and foremost I would oppose the Kennedy amendment on that ground.

Second, I suggest——

Mr. KENNEDY. Will the Senator yield for a question on that part?

Mr. SANTORUM. I only have about 1 minute and I am happy to yield to the Senator from Massachusetts for a brief question.

Mr. KENNEDY. I offered the amendment on the TANF bill last year and the bill was pulled because it was offered as an amendment. So that is part of our frustration.

Mr. SANTORUM. I respect the Senator from Massachusetts. I think there is a little different environment. I think there is a broad group who will deal with the reauthorization of welfare and deal with that and get a bill passed and sent to Congress this year, and you will certainly have my support trying to get that done in a fashion that I believe reinstates work requirements, which have fallen off because of the drop in the welfare rolls across America.

The second reason I oppose the Kennedy amendment is because the increase is too dramatic at this point. We are talking about an over $2 increase, over a 40-percent increase in the minimum wage. While I do support a modest proposal, something about half that amount, I think that is the wise thing to do in this economy, which is not to put a jolt of that nature into what is already a concern about inflation. To be able to put that kind of minimum wage increase in I think would fuel inflationary fears. It would have strong negative repercussions in our economy, broadly.

While I do understand the need now that it has been almost 8 years without a minimum wage increase, I think what I will be offering is a modest one that comports with and will fit within this economy. We do some things to address the issue of small businesses, which the amendment of the Senator from Massachusetts does not do.

We don't want to disproportionally affect those poor communities, or hurt the small business neighborhood store or cleaners or whatever the case may be that is trying to make ends meet by putting this kind of increased cost on them as high as the Kennedy amendment would be, or even as high as what I would suggest, without some sort of relief to compensate very small businesses. I think that would be unwise and it would hurt the community. We want to help by providing more resources. Increasing the minimum wage does not help those small businesses in that community. I think it would have a bad, overall negative effect on the very poor communities of our society.

I see my time is up. I yield the floor.

### AMENDMENT NO. 31

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, there will be 4 minutes equally divided on debate in relation to amendment No. 31.

Who yields time?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, this legislation is entitled "The Bankruptcy Abuse Prevention and Consumer Protection Act." Unfortunately, there is actually very little consumer protection in it.

My amendment would add some much needed consumer protections to the bill and end one of the principal abuses that drives people into bankruptcy—exorbitant interest rates.

My amendment would limit the maximum annual interest rate that could be charged to any consumer by any creditor to 30 percent. Thirty percent is still a very high interest rate—far too high, in my view.

Inflation is currently running around 2 percent. The interest rate on 3-month Treasury bills is 2.75 percent. The prime lending rate is 5.5 percent. So 30 percent is exorbitantly high, but it is much less than the 384 percent that is being charged by money centers in Minnesota, or the 535-percent annual interest rate charged by centers in Wisconsin, or the 1,095-percent interest rate being charged by the County Bank of Rehoboth Beach in Delaware. That is not just predatory lending, that is "terroristic" lending.

My amendment would apply to any rate of interest charged by any creditor to any borrower for any purpose. However, it would not preempt any State, local, or private restriction that imposes a lower rate of interest.

For example, 21 States, which include my home State of Minnesota, cap interest rates for credit cards. Minnesota's ceiling is 18 percent. That would still apply. Yet when money centers operate in Minnesota at 384 percent interest, that limit would be 30 percent.

Again, under my amendment, whenever a creditor is limited to a lower interest rate, that lower rate would apply. Whenever there is no interest cap, or wherever that cap is higher than this amendment's 30-percent limit, then this 30-percent annual interest rate would apply.

I urge my colleagues to support this amendment. It has the support of the Consumer Federation of America, the National Association of Consumer Advocates, and the U.S. PIRG.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, let me just say a few words about why this amendment is not a good amendment and one that should be voted down.

This would cap the interest rate for consumer credit extensions at 30 percent in this country, and, frankly, would preempt many States' usury laws unless the State has a lower interest rate.

In other words, preemption of State laws is something we sought to avoid in this bill. We have refused to do so in the homestead provisions, so there is no reason to touch the State usury laws as well.

There is no dispute that lending agencies are already heavily regulated. We have already restricted usury rates on first-lien loans. Additionally, special usury provisions in the National Bank Act and Federal Deposit Act preempt State usury laws for national State banks.

We did not preempt these State laws haphazardly as we would do today by passing the Dayton amendment.

I believe we should stick with the bill as written. We have taken this into consideration. We have worked long and hard over 8 years to get this right. And, frankly, I think this amendment is an inappropriate amendment and should be voted down.

I hope our colleagues will vote it down.

I yield the remainder of our time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 74, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—24

Akaka
Bayh
Boxer
Byrd
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Feinstein
Harkin
Jeffords
Kennedy
Lautenberg
Levin
Lieberman
Mikulski
Murray
Pryor
Rockefeller
Salazar
Schumer
Stabenow

NAYS—74

Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Cantwell
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Durbin
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kerry
Kohl
Kyl
Landrieu
Leahy
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Obama
Reed
Reid
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—2

Feingold
Inouye

The amendment (No. 31) was rejected.

AMENDMENT NO. 37

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes equally divided for debate in relation to amendment No. 37.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, there is one exception the Senate should consider to this bankruptcy bill in filing bankruptcy, and that is when someone incurs debts due to no fault of their own. When someone incurs debts through no fault of their own because their identity has been stolen and they are forced to go into bankruptcy, why should we force them not to take chapter 7 in bankruptcy, instead to go through chapter 13?

If you don't think identity theft and bankruptcy therefrom is a problem, look at the top consumer complaints of the Federal Trade Commission and notice 39 percent are identity theft. Don't think you are immune from identity theft. Did you hear the news on Friday night that Bank of America has had the records of 1.2 million Federal employees stolen, including 60 Senators in this Chamber? You are potential victims, including this Senator. I am on the list. So why should we not hear the pleas of people all across the land?

A story from Florida where identity was stolen, they ran up $40,000. They can't pay that off. Another case in New York, a friend stole identity and ran up $300,000. The person had no choice but go into bankruptcy. Surely this is an example of an exception to this bill that we should make.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in opposition to the Nelson amendment, although I commend the Senator from Florida in his work on this issue of identity theft. This amendment is written so broadly, it actually invites fraud despite its well-intentioned purposes. I understand there will be several hearings on the issue of identity theft, and I look forward to working with my friend from Florida and my other colleagues to find a solution. But for now, this is written so broadly that I think it actually invites fraud. I hope my colleagues will oppose the amendment because it would cause a lot of difficulty on this bill.

Mr. NELSON of Florida. Will the Senator yield for a clarification?

Mr. HATCH. I am happy to yield.

Mr. NELSON of Florida. Does the Senator realize that in my amendment anyone who incurs less than $20,000 of debt as a result of identity theft would not be eligible to become an exception under the bankruptcy bill?

Mr. HATCH. I do. But it is written so broadly that anybody who claims they have been defrauded, whether they have or have not, qualifies under your amendment. That is way too broad under this bill. I am happy to work with the distinguished Senator, and we will see what we can do later in this Congress. I hope everybody will vote down this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 37.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 61, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—37

Akaka
Baucus
Bayh
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow

NAYS—61

Alexander
Allard
Allen
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—2

Feingold
Inouye

The amendment (No. 37) was rejected.

Mr. McCONNELL. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Mr. President, I ask unanimous consent that Senator BYRD be recognized for up to 10 minutes and that at 3:25 the Senate vote in relation to the Durbin amendment No. 38 with no amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I did not quite understand the last portion of the unanimous consent request. I understand Senator BYRD shall be recognized for 10 minutes, and then what transpires?

Mr. McCONNELL. Then we move to the Durbin amendment, with a vote at 3:25.

Mr. DORGAN. My understanding is Senator BYRD will take 10 minutes. I have no objection to the vote at 3:25, but I ask unanimous consent that the request be modified and I be recognized following Senator BYRD's comments.

Mr. McCONNELL. I ask unanimous consent that Senator DORGAN be recognized at the conclusion of Senator BYRD's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair, and I thank Senator McCONNELL and also my own leadership for the kindness in arranging for me to speak at this time.

(The remarks of Mr. BYRD pertaining to the introduction of S. 515 and S. 514 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are dealing with the bankruptcy bill. I am going to send an amendment to the desk. I ask the pending amendment be set aside so my amendment may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 45

(Purpose: To establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism)

Mr. DORGAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN), for himself and Mr. DURBIN, proposes an amendment numbered 45.

Mr. DORGAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today's RECORD under "Text of Amendments."

Mr. DORGAN. Mr. President, I send that amendment to the desk on behalf of myself and Senator DURBIN, who joins me as a cosponsor of the amendment.

The bankruptcy reform bill on the floor of the Senate today ostensibly deals with the subject of those who would attempt to cheat with respect to filing bankruptcy. We have had a lot of discussion on the floor about the abuse of bankruptcy. There is no question about that; there is some of that. It is called cheating. But there is another form of cheating going on now to which very little attention is paid, and my amendment attempts to deal with it.

I am going to put up a chart that shows $2 million dollars on a table, in a room somewhere in Iraq. These are Americans holding this cash. This cash is to be deposited in a plastic bag to pay contractors in Iraq. The contractors are told "bring a bag and we will fill your bag with cash." That is the way you pay bills over there.

This particular picture was given to us by this gentleman here, who was working in Iraq. He said it was like the Wild West: just bring your bag and fill it with cash.

His testimony, which we heard at a hearing of the Democratic Policy Committee, followed the testimony of others that we have received about the massive waste, fraud, and abuse in contracting that has been going in Iraq. The American taxpayers are taking it on the chin, but none of the authorizing committees of jurisdiction in the U.S. Senate are holding hearings about this.

Well, the Democratic Policy Committee has held some oversight hearings. The testimony at the hearings is absolutely devastating.

Halliburton charges for 42,000 meals to be served in a day to American soldiers. It is determined, however, that the company is only serving 14,000 meals a day. So they are charging the taxpayer for 42,000 meals to be served to soldiers when in fact they are only serving 14,000 meals.

We hear about the payment of $7,500 a month to lease SUV vehicles. We hear about the ordering of 50,000 pounds of nails, that turn out to be of the wrong size, and just get dumped by the side of the road. We hear about $40 to $45 a case for soda pop.

A senior manager from the Defense Department, who used to be in charge of providing fuel for vehicles in war zones, testified that Halliburton was charging $1 more per gallon for gasoline than they should have. There are overcharges adding up to $61 million on that issue alone.

One fellow came to a DPC hearing and he held up towels. He worked for a subsidiary of Halliburton. He ordered towels because the soldiers needed the towels and they got a requisition order. Guess what. KBR, Halliburton's subsidiary, charged nearly double the cost of regular towels because they insisted on having the KBR logo embroidered on the towels. So the U.S. taxpayer gets soaked because the company wants their logo on the towels. It is extraordinary what is happening here, and nobody seems to care that much.

We heard of contractors that were driving $85,000 brand new trucks in the country of Iraq, and whenever they had flat tires or a plugged fuel lines, they abandoned the vehicles and just bought new ones. The American taxpayer is paying for all of that, and nobody seems to care.

Well, in the years of 1940 and 1941, Harry Truman, as we were about to enter World War II, got into his car and drove around this country touring air bases and military installations. He came back and suggested a special committee be impaneled in Congress. That committee became known as the Truman Committee, and was active for several years. They saved, by today's accounts, somewhere close to $15 billion by exposing waste, fraud, and abuse. That was a Democratic Senator working at a time when there was a Democrat in the White House. He didn't care whether anyone was embarrassed. On behalf of the American taxpayer, he insisted that we get to the bottom of waste, fraud, and abuse.

I offer today an amendment that would establish a special bipartisan committee of the Senate on war, reconstruction, and contracting. Four members of the committee would be selected from the majority and three members from the minority. It would have subpoena power, and it would put a magnifying glass on the massive amounts of money being wasted, being abused, and in some cases simply being defrauded from the American taxpayer. We owe it to the American taxpayers to do this.

We have pending right now before this body another request for $82 billion. Most of that is to provide resources for the soldiers, not all of it but most of it. In addition to that, there is some $15 billion to this yet unspent for the reconstruction of Iraq. That is American taxpayers' money which is in the pipeline.

You hear about all of this waste, fraud, abuse, and the whistleblowers, and then you ask, Who is minding the store? Who is looking after all this?

Another witness testified at the hearing we held recently about a company that went to Iraq. Two guys went to Iraq with no experience and no money. They just showed up. They wanted to be a contracting company. Guess what. They won a contract, all right. They had delivered to them $2 million in cash, and they were suddenly a security contractor at the airport. Then their employees turned whistleblowers on them. They said the company was taking forklifts, repainting them, and selling them back, and setting up front companies offshore so they could buy and sell at overinflated charges. A couple of employees turned whistleblowers and they were threatened to be killed for doing it. That company, I am told, got over $100 million in contracting in the country of Iraq.

One final point: Do you know that when the allegation was made that this contractor was ripping off the Coalition Provisional Authority, which was a U.S. creation and represented us in Iraq, the U.S. Justice Department failed to intervene under the False Claims Act because they said defrauding the Coalition Provisional Authority is not the same as defrauding the American taxpayer. There is something fundamentally wrong with that. This amendment would address that as well, by specifying that the investigation called for in this amendment should include the Coalition Provisional Authority spending.

I have the amendment at the desk. I said I offered it on behalf of my colleague, Senator DURBIN, and myself, and I hope others as we move along. I understand this is not strictly a bankruptcy amendment, but we must waste no more time to establish a committee by which there is real oversight in the matter of contracting abuses that waste billions of dollars of the American taxpayers' money.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. BYRD. Actually, the question will be very easy to answer. But for the moment, I must say to the very distinguished Senator that this is one Senator who is not at all surprised at what he found. I can remember when we had Mr. Bremer before the Senate Appropriations Committee to be heard. I asked him, after a while during which he delivered testimony and answered questions, if he would be able to remain or come back before the committee for some additional questions—meaning the same day—if the chairman should ask him to do so. His answer was, "I am too busy."

I came back to our caucus on that day, and I believe he came to the caucus at the same time. I told this to my caucus while Mr. Bremer was there. It was a shocking thing to me—an individual claiming he is too busy, and yet he is asking for quite a great amount of money to be appropriated, $2 billion.

I am not at all surprised at this. I believe as time goes on we will find more and more of these kinds of stories. I congratulate the distinguished Senator on the excellent work he is doing in bringing these things to light.

Now the question: Will the distinguished Senator add me as a cosponsor to his amendment?

Mr. DORGAN. Mr. President, I would be happy to do so.

Mr. President, I ask unanimous consent that the Senator from West Virginia be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Senator.

Mr. DORGAN. I thank the Senator from West Virginia.

I see the hour of 3:25 has arrived. I believe by a previous order we have other business. I appreciate the opportunity to offer my amendment, and hopefully we will have a vote on it at some point in the future.

AMENDMENT NO. 38

Mr. President, I ask for the yeas and nays on the Durbin amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 58, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—40

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Clinton
Collins
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Feingold
Inouye

The amendment (No. 38) was rejected.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 40

Mr. PRYOR. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up amendment No. 40.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 40.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Fair Credit Reporting Act to prohibit the use of any information in any consumer report by any credit card issuer that is unrelated to the transactions and experience of the card issuer with the consumer to increase the annual percentage rate applicable to credit extended to the consumer, and for other purposes)

At the appropriate place, insert the following:

**SEC. ___. LIMITATION ON USE OF CONSUMER REPORTS.**

(a) IN GENERAL.—Section 604(d) of the Fair Credit Reporting Act (15 U.S.C. 1681b(d)) is amended to read as follows:

"(d) LIMITATION ON USE OF CONSUMER REPORT.—

"(1) IN GENERAL.—A credit card issuer may not use any negative information contained in a consumer report to increase any annual percentage rate applicable to a credit card account, or to remove or increase any introductory annual percentage rate of interest applicable to such account, for any reason other than an action or omission of the card holder that is directly related to such account.

"(2) NOTICE TO CONSUMER.—The limitation under paragraph (1) on the use by a credit card issuer of information in a consumer report shall be clearly and conspicuously described to the consumer by the credit card issuer in any disclosure or statement required to be made to the consumer under this title.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 604(a)(3)(F)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)(3)(F)(ii)) is amended by inserting "subject to subsection (d)," before "to review".

Mr. PRYOR. Mr. President, I offer my amendment because I want to address a practice in the credit card industry. Basically, what happens with some card companies—and not all of them, certainly—is they make it a practice to look at their cardholders' credit reports on a monthly basis. When they find that the cardholder has a late payment maybe on a utility bill, or a car note, or whatever the case may be, they will actually raise the interest rate on the cardholder, even though they may have made every credit card payment on time. They use that as a justification to raise the interest rate on the cardholder.

I think that is an unfair practice. It is fraught with all kinds of problems, including the problem that many of these credit reports contain errors. I have certainly been subject to those. I am sure almost every Senator in this Chamber has been subject to an error on their credit report at one time or another. The credit card companies don't take that into consideration. They will routinely increase interest rates. I think it is an unfair business practice.

We are talking about bankruptcy. We all know that one of the main reasons people get into financial trouble is because they have credit cards. Sometimes they abuse them. Sometimes the interest rate is so high that it creates great difficulty on our citizens.

I think this amendment is important. I think it is one we can certainly justify, and I think it is one that, if people take a look at it, they would think this is a bad industry practice and this is a way to, hopefully, decrease the number of bankruptcies and the number of families in America who get into financial trouble, if some of these hidden methods of increasing interest rates are taken away.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 48

Mr. SPECTER. Mr. President, I have sought recognition to support a technical amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 48.

The amendment is as follows:

(Purpose: To increase bankruptcy filing fees to pay for the additional duties of United States trustees and the new bankruptcy judges added by this Act)

On page 194, strike line 13 and all that follows through page 195, line 22, and insert the following:

**SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.**

(a) ACTIONS UNDER CHAPTER 7, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) For a case commenced under—

"(A) chapter 7 of title 11, $200; and

"(B) chapter 13 of title 11, $150."; and

(2) in paragraph (3), by striking "$800" and inserting "$1000".

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);";

(2) in paragraph (2), by striking "one-half" and inserting "75 percent"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b)" and all that follows through "28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES' SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

Mr. SPECTER. Mr. President, this amendment, as I have noted, makes a technical correction to ensure that the bill does not violate our budget laws. It has come to my attention that the bankruptcy bill could draw a potential point of order because of two provisions in S. 256.

The first provision is section 1223 of the bill, which authorizes the creation of 28 new bankruptcy judgeships. According to the CBO's most recent cost estimates for S. 256, these new judges will account for $45 million in direct Federal spending over a 10-year period. Specifically, the mandatory spending would be earmarked for the judges' pay and benefits.

The second provision subject to this amendment, section 325, addresses the filing fees for bankruptcy and amounts that are directed to a trust fund that compensates bankruptcy trustees. Under current practice, a percentage of bankruptcy filing fees paid by a debtor is allocated to a trust fund that compensates bankruptcy trustees, while the remaining percentage of the filing fee is paid into the Treasury and counted as Federal revenue.

Section 325 of the bill, however, will now increase the allocation percentages from the filing fees that are directed to the trust fund. But because the bill's percentage increase will result in a corresponding decrease of Federal revenue, CBO has reported this provision will result in a net revenue loss for the Treasury. Specifically, the Congressional Budget Office estimates the revenue loss at $226 million over 5 years, $456 million over 10 years.

After reviewing this matter with the Budget Committee, we are proposing through this amendment to offset the direct spending from the judgeships and revenue losses from the section 325 percentage by increasing the bankruptcy filing fees in chapters 11 and 7.

The amendment also tries to limit revenue losses by sunsetting after 2 years the increased allocation percentage measure in sections 325(b) and 325 (c). By doing so, we estimate that the bill will provide sufficient offsets to cover the potential budgetary problems facing this bill.

Specifically, the amount of the increased filing fees that is greater than the amount that would have been collected, but for this legislation, is earmarked towards the payment of salaries and benefits for the judges. The remaining amounts from the increased filing fees are also used to offset the Federal revenue loss caused by section 325 for the 2 years that the provision stays in existence. I believe this amendment represents the best way of creating offsets within the bill. It will obviate the need to strike the bankruptcy judgeships provision altogether and, most importantly, allow this bill to survive a potential budget point of order.

To the extent there are concerns that the increase in bankruptcy filing fees will make it more difficult for financially strapped debtors to use chapter 7, let me remind my colleagues that I pushed for an amendment in committee during the 105th Congress to give bankruptcy courts the discretion to waive filing fees for lower income debtors. The committee accepted that amendment and it is now embodied in section 418 of the bill.

This amendment removes a significant procedural obstacle that could jeopardize the prospect of this bill's passage in the Senate. As such, I urge my colleagues to support this amendment.

What this all boils down to is we need new bankruptcy judges. We have to pay their salaries and their health benefits, and we do not want to run afoul of the budget laws which would strike down the entire bill unless we got 60 votes.

Mr. President, in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 49

Mr. DURBIN. Mr. President, I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 49.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect employees and retirees from corporate practices that deprive them of their earnings and retirement savings when a business files for bankruptcy)

On page 499, strike line 3 and all that follows through page 500, line 2, and insert the following:

**SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.**

(a) FEDERAL FRAUDULENT TRANSFER AMENDMENTS.—Section 548 of title 11, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "one year" and inserting "4 years";

(B) in subparagraph (A), by striking "or" at the end;

(C) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(C) made an excess benefit transfer or incurred an excess benefit obligation to an insider, if the debtor—

"(i) was insolvent on the date on which the transfer was made or the obligation was incurred; or

"(ii) became insolvent as a result of the transfer or obligation.";

(2) in subsection (b), by striking "one year" and inserting "4 years"; and

(3) in subsection (d)(2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) the terms 'excess benefit transfer' and 'excess benefit obligation' mean—

"(i) a transfer or obligation, as applicable, to an insider, general partner, or other affiliated person of the debtor in an amount that is not less than 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the calendar year in which the transfer is made or the obligation is incurred; or

"(ii) if no such similar transfers were made to, or obligations incurred for the benefit of, such nonmanagement employees during such calendar year, a transfer or obligation that is in an amount that is not less than 25 percent more than the amount of any similar transfer or obligation made to or incurred for the benefit of such insider, partner, or other affiliated person of the debtor during the calendar year before the year in which such transfer is made or obligation is incurred.".

(b) FAIR TREATMENT OF EMPLOYEE BENEFITS.—

(1) DEFINITION OF CLAIM.—Section 101(5) of title 11, United States Code, is amended—

(A) in subparagraph (A), by striking "or" at the end;

(B) in subparagraph (B), by inserting "or" after the semicolon; and

(C) by adding at the end the following:

"(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))), including an employee stock ownership plan, for the benefit of an individual who is not an insider, officer, or director of the debtor, if such securities were attributable to—

"(i) employer contributions by the debtor or an affiliate of the debtor other than elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon; and

"(ii) elective deferrals (and any earnings thereon) that are required to be invested in such securities under the terms of the plan or at the direction of a person other than the individual or any beneficiary, except that this subparagraph shall not apply to any such securities during any period during which the individual or any beneficiary has the right to direct the plan to divest such securities and to reinvest an equivalent amount in other investment options of the plan;".

(2) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(B) by redesignating paragraphs (6) and (7), as redesignated by section 212, as paragraphs (7) and (8), respectively;

(C) in paragraph (7), as so redesignated, by striking "Sixth" and inserting "Seventh";

(D) in paragraph (8), as so redesignated, by striking "Seventh" and inserting "Eighth";

(E) in paragraph (9), as so redesignated, by striking "Eighth" and inserting "Ninth";

(F) in paragraph (10), as so redesignated, by striking "Ninth" and inserting "Tenth"; and

(G) by striking paragraph (5), as redesignated by section 212, and inserting the following:

"(5) Fifth, allowed unsecured claims for contributions to an employee benefit plan—

"(A) arising from services rendered before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

"(B) for each such plan, to the extent of—

"(i) the number of employees covered by each such plan multiplied by $15,000; less

"(ii) the aggregate amount paid to such employees under paragraph (4), plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

"(6) Sixth, allowed claims with respect to rights or interests in equity securities of the debtor, or an affiliate of the debtor, that are held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) and section 101(5)(C) of this title), without regard to when services were rendered, and measured by the market value of the stock at the time the stock was contributed to, or purchased by, the plan.".

Mr. DURBIN. Mr. President, this is the bankruptcy reform bill. It is about 500 pages long. If I went to Illinois and asked the people I represent what they think we should do when it comes to bankruptcy, I am virtually certain that the first thing they would say to me is, you have to do something about these horrible corporate bankruptcies, Enron, WorldCom, and the list goes on, and the abuses which these officers and CEOs have demonstrated as heads of these corporations, the fact that because they were feathering their own beds when their companies went bankrupt, hurting shareholders, hurting employees, hurting investors in pension plans, and hurting retirees.

I think my constituents in Illinois are right. When it comes to bankruptcy, that is the scandal in America. We read about it every day. There is another criminal trial. Somebody is on trial because of corporate malfeasance that lead to bankruptcy. It is going on right now.

When one takes a look at this 500-page bill, how many pages in this bill address corporate bankruptcies? Five. Ninety-nine percent of this bill hardly relate to corporations at all. Ninety-nine percent relates to individuals and families who, through no fault of their own, in most circumstances, are crushed by debt and go to bankruptcy court. Ninety-nine percent of this bill relates to bankruptcies of people who have a medical diagnosis they never anticipated and end up in treatment incurring medical expenses that their health insurance does not cover. That is almost half of the cases in bankruptcy court.

So this bill is designed to make the bankruptcy process more difficult for those individuals and families to get out from under their debt. That is what this is about. So that at the end of the day, when we pass this legislation—and surely we will—the credit card companies and the banks will end up keeping people in debt longer. So that people facing a crushing debt, when all is said and done, will not be able to walk out of that court, having been declared bankrupt, and start their lives again. That is what this bill addresses.

My amendment goes to the 5 pages about corporate bankruptcy. I believe this: If we are going to hold Americans and families to a high moral standard, if we are going to say to them that before they go into a bankruptcy court, pay their bills and prove to the court that they cannot pay their bills before we let them off the hook, if we are going to say that it is immoral and unjust for someone to go into a bankruptcy court and ask to be declared bankrupt and leave their bills and assets behind, if they, in fact, can pay, then fair enough.

But my amendment says, if we are talking about justice and high moral standards, should we not also talk about these corporate CEOs and insiders? Should they not be held to a high moral standard? Should they not be held to the standard of justice? Sadly, this bill does not do it.

When a corporation files for bankruptcy, their workers are left standing at the back of the line behind all the other creditors. Many of them lose their retirement savings, health care benefits and opportunities to get back to work and back on their feet.

The story of Bethlehem Steel Corporation is a good illustration. After years of decline in the steel industry, Bethlehem Steel dissolved in January of last year. Along with the end of Bethlehem Steel, 95,000 retired steelworker employees, who literally helped build America, lost the health care benefits they were promised. These are workers who, at the expense of their own health, went to work every day, played by the rules, paid into their pension plans, anticipated their health care, and yet because of the bankruptcy of Bethlehem Steel they were left unprotected. They lost their pension. They lost their benefits. They have nothing.

The problem is not limited to just steel companies. WorldCom, a telecommunications company; Adelphia, a cable company; PG&E and Enron, energy companies; Conseco, an insurance company; Financial Corporation of America and HomeFed, banks; United Airlines, U.S. Airways, TWA, all in the transportation business; Texaco, K-Mart, Polaroid, household names. These are some of the once great corporate giants that ended up in bankruptcy. They employed hundreds of thousands of Americans, but once the companies filed for bankruptcy, their employees were left with nowhere to turn.

This bankruptcy bill does not even talk about those bankruptcies and those employees and the problems that they face.

Many of the companies that filed for bankruptcy over the past few years are also associated with world-class scandals: Global Crossing, WorldCom, Adelphia, and, of course, the granddaddy of them all, Enron. Those corporate giant names are synonomous with corruption, malfeasance, and greed; they are synonomous, from my point of view, with immoral corporate conduct and unjust treatment of their shareholders, workers, and retirees.

It is even more painful to think that while the workers and retirees of these scandal-tainted companies were left with little more than their dignity, the corporate executives and the insiders escaped with their treasures.

When companies are headed for bankruptcy, the corporate insiders know it is going to happen long before the worker out in the plant, and that is especially true when these same insiders are cooking the books. They know where the corporate loot is hidden, and they are going to get their hands on it when they can.

One might say that as soon as he saw the tip of the iceberg far ahead of the ship, the captain of the Titanic sneaked out on the deck, jumped in the lifeboat, went overboard with food, water, and life-vests, and left everybody else behind. That is what happened. Bon Voyage!

Let me describe a case study of the worst: Enron. This is the poster child for corporate corruption.

Enron of Houston, TX. During the 1990s, Enron was the envy of every executive in corporate America: creative, aggressive, growing fast, money coming in hand over fist, Fortune 500's top 10 list of assets with close to $100 billion, and doing business in far-flung reaches of commerce.

By the year 2000, Enron stock had increased in value by 1,700 percent since its first shares were issued in the 1980s. It had 21,000 employees in the United States and all around the world.

But not everything was coming up roses for Enron. Behind the glass walls of the corporate skyscraper in Houston, something very opaque was going on.

Listen to these famous names: Ken Lay, Jeff Skilling, Andrew Fastow. The company's top three executives obviously realized their astronomical success was not based on reality or truth. It was based on hype, speculation, and deceit. It was all smoke and mirrors.

Wall Street analysts later were forced to admit that they made out-of-control valuations of this company based on the puffery of these corporate bandits. All the while, these executives cooked up ingenious schemes to move assets on and off the books, create phony partnerships, offshore accounts, and so-called "special purpose entities."

These were just corporate accounting tools designed to move around assets on paper. Why would they do that if they had nothing to hide? Ken Lay, Jeff Skilling, Andrew Fastow, and others at Enron were undeniably the masters of manipulation.

We talk in this bankruptcy bill about what we are going to do with people who are abusing the bankruptcy court. This bill addresses the waitress with a second part-time job who is a single mother raising a couple of children who just was diagnosed with breast cancer and ends up with medical treatment and bills she cannot pay. She is forced finally to go to bankruptcy court.

This bill says, we are going to take care of her. In this bill we will give her a long list of things to do to prove that she is not taking advantage of the bankruptcy court.

But when it comes to these smoothies—Ken Lay, Jeff Skilling, and Andrew Fastow at Enron, and other corporations—this bill is silent. We are for morality when it comes to working families. Obviously, we are not for morality when it comes to these corporate cheats.

They kept the perception up at Enron that they were making money even when they were not, but eventually it fell apart.

On October 16, 2001, Enron reported a third-quarter loss of $618 million and shareholder equity loss of $1.2 billion. The date October 16, 2001, is important. A week later, on October 22, the Securities and Exchange Commission announced an inquiry into the company.

On November 8, 2001, Enron filed an amendment to its financial report revising its income back 4 years to 1997, 4 years of lies, it turns out, once they were caught. They came forward and disclosed $586 million in losses, and obviously investor confidence and their stock values cratered.

The next day Ken Lay entered into a deal with Dynergy Corp. to sell Enron for $10 billion, in a desperate attempt by him to keep that company afloat. A few days later he was forced to admit that Enron was not worth the amount he wanted to sell it for.

Naturally the deal with Dynergy was called off, and on December 2, 2001, Enron filed for bankruptcy.

Let me tell you what happened to two groups of Enron employees during the last few weeks of the company's solvency.

Here is Mr. Lay. Everybody knows his face now. CEO Ken Lay is the man who made over $200 million from Enron stock, and $19 million in bonuses. Other executives in the Enron Corporation received bonuses as high as $5 million. While that was going on, while the company was heading toward a bankruptcy, there were over 5,000 employees who lost their jobs and thousands more who lost millions in retirement savings.

Our bill goes after the employees who lost their jobs. Our bill goes after the employees who lost their health care. Our bill goes after retirees who ended up penniless and were forced into bankruptcy court. We are going to get real tough on them.

But how about Mr. Lay? What price is he going to pay for his misconduct? In this bill, no price at all. Everyone knows about Ken Lay's extravagance.

I won't venture to assert whether Ken Lay had any actual insight or knowledge which he took advantage of insider information as he made sales of stock he held in Enron. Those are decisions for a judge and jury.

But what is certain is that Ken Lay pocketed $81.5 million in loan advances from his company while Enron was cascading toward bankruptcy—$81.5 million for this man who couldn't run his company correctly. All told, he received over $200 million in Enron stock and $19 million in bonuses.

During the same time Jeff Skilling raked in $66.9 million.

The board of directors was sharing in these good times as well. Sixteen members of the corporate board made a combined total of $164 million, just on selling shares they had in the company. If you add all the other corporate insiders and executives at Enron with the corporate directors and all the amounts they pilfered from the company from 1998 to 2001, the grand total comes to well over $1 billion.

Now let's see how the employees at Enron fared.

There is an old country song by Jerry Reed called, "She Got the Goldmine, I Got the Shaft." It could be the theme song for Enron workers.

Of the 21,000 people worldwide who worked for Enron, 12,200 were enrolled in their pension plan. Over 60 percent of the assets in the plan invested in Enron stock and all of Enron's matching contributions went into company stock as well. But the Enron stock, which once sold as high as $90 during its heyday, became worthless. The workers' losses were aggravated during the course of the weeks when they were locked out of the pension plans and could not even sell the stock as the value of the stock was cratering.

Under Federal law, companies are not allowed to let their employees withdraw their investment while the company switches pension plan administrators. And wouldn't you know it, Enron chose to switch their plan administrator on October 16, 2001.

Remember that date? That's the very same date I mentioned earlier, when they announced they were writing off more than $1 billion in charges to their books. This meant that thousands of employees sat by helplessly and watched their retirement plan literally disappear before their eyes.

On October 18, 2001, while Enron workers were frozen out of amending their pension plan, the stock price was down to $32 a share. By the time the hurricane blew over and they finally could get to their funds, Enron stock value plummeted to 26 cents per share. Needless to say, the company went into bankruptcy. The employees at Enron could do nothing but sit by and watch their savings melt away during that time.

Thousands of these employees lost their jobs as a result of the Enron bankruptcy. Hundreds, perhaps thousands, were forced into bankruptcy themselves. But during the months and years that led up to this disaster, 29 Enron insiders and top execs walked away with over $1 billion.

I have talked to some of these Enron executives. There is no good explanation. Sadly, this legislation on bankruptcy we are discussing today will not hold them accountable.

Let me give another case study: Polaroid. This is a company that many of the people in Congress from Massachusetts know all about. It filed for chapter 11 protection on October 12, 2001, just a couple of months before Enron did.

Let me show you the chart on Polaroid. CEO Gary DiCamillo ran the company into the ground but received $1.7 million. Other executives got $4.5 million. Over 6,000 employees lost health and life insurance, and thousands lost severance pay. Forced to invest 8 percent of their pay in company stock, they lost their retirement savings, too.

So these corporate insiders—whether Enron or Polaroid or WorldCom or others—were lining their own pockets, taking money out of the company destined for bankruptcy, and the ultimate losers were the employees and the retirees.

The amendment which I sent to the desk is an attempt to level the playing field for employees, pensioners, and others who find themselves shut out of court when companies they work for file for bankruptcy.

There are two provisions in this amendment to protect employees of bankrupt companies.

First, my amendment would address fraudulent transfers made by corporate insiders, all those huge payouts and loans and bonuses and transactions that went to these corporate executives as the company was headed to bankruptcy, these are payouts that exceed anyone's sense of what is reasonable compensation. Under my amendment, those payouts will have to be scrutinized by the bankruptcy court.

Think about that for a minute. These executives were being rewarded with millions, sometimes hundreds of millions of dollars out of corporations headed for bankruptcy.

Most of the time, you are rewarded with a bonus for a good job. They are being rewarded as their company is heading into debt and eventually disbanding. So they know what is going on. They are grabbing the money before they hit bankruptcy court. The money they grab out of the corporation is at the expense of people who loaned money to the corporation, especially at the expense of their workers and retirees. They end up taking the money that otherwise would have gone into the pension funds and putting it in their own pockets.

My amendment gives the bankruptcy court the tools to investigate and treat these fishy, self-serving deals Ken Lay and Jeff Skilling and Andrew Fastow and others at Enron cut for themselves. It gives the judge the power to review questionable insider transfers. That is only reasonable.

It includes a fair and workable formula for what the court can determine might be excessive.

It also extends the period of time a bankruptcy court can go back and recapture the assets of these executives, a 4-year reachback instead of the 1 year allowed under current law and the 2 years proposed in this bill.

As I described in the Enron example, some of the most outrageous transactions by the Enron executives took place 3 or 4 years before the company filed bankruptcy, so this bill would not even touch them. This bill lets those corporate insiders end up in their mansions with hundreds of millions of dollars squirreled away at the expense of the retirees who lost their pensions and their health care. By recapturing these assets, this provision would make more money available for employees and retirees and act as a deterrent to future corporate executives seeking the same sort of sweetheart deal.

But this is not all about Enron. Let me give you other examples in the headlines today.

WorldCom CEO Bernie Ebbers. He took $366 million in personal loans and his contract called for a $1.5 million yearly pension. Not bad. Mr. Ebbers ought to be proud. His skills and talents as CEO took his company, WorldCom, into the record books as the largest bankruptcy in the history of the United States. While he is grabbing all of the money out of the corporation, it is sinking like a rock.

John Jenkins, the former president of Global Crossing. He took more than $1 million in pension benefits—something called "transitional assistance," consulting fees, and other benefits, as his company was spiraling downward.

Let us take a look at Kmart and its CEO, Chuck Conaway. As Kmart was falling apart, eventually becoming the largest American retailer to file bankruptcy, Mr. Conaway received a $9 million golden parachute. About one-half of it was a severance package. But his former employer decided to give him a little break as he left this bankrupt corporation. A $5 million loan was forgiven. Talk about a Blue Light Special at Kmart, this one takes the cake.

John Rigas of Adelphia Communications took about $1 million per month from the company while he and others used it as their personal piggy bank. According to the indictment from the U.S. Attorney, the Rigas family used company loans to buy Adelphia shares and engage in insider transactions between Adelphia and other companies controlled by the Rigas family. Here is one example of how they fared. Rigas and his sons used $2.3 billion in off-balance-sheet loans from the company to build themselves a private 18-hole golf course at the cost of $13 million. Not bad for a cable guy. He raided his corporation for $2.3 billion at the expense of shareholders and retirees.

What does this bill do to that kind of corporate bandit? Nothing. This bill focuses on the employees who lost their jobs. This bill focuses on the retirees who lost their health care and their pension. This bill makes it tough for them.

This is inspired by our feeling that we need more morality and justice in our bankruptcy courts. But wouldn't you start at the top? Wouldn't you start with the biggest thieves in the business—the people who broke a record when it comes to bankruptcy and raiding these corporations?

These insiders knew what they were doing. They saw their companies going down, and they grabbed everything they could get their hands on. They canceled their workers' pension plans and benefits.

My amendment says we would go back 4 years before the bankruptcy to recover that money and put it in the hands of creditors, employees, and retirees.

The second part of my amendment directly helps employees of these companies with some relief in bankruptcy court. This gives them a place in line as creditors that they currently don't have.

The amendment gives them a priority unsecured claim in bankruptcy for the value of company stock which was held for their benefit in an employee pension plan, unless the plan beneficiary had the option to invest the assets in some other way.

Under current law, these retirees who ended up with the short end of the stick in these retirement plans have nowhere to turn. They are not even in line in priority for these claims. My amendment would fix that.

The amendment determines the value of these claims to be measured by the market value of the stock at the time it was contributed to the plan.

In other words, the employee who was not at fault in the collapse of his employer corporation ought to have a fair claim for the fair value of his contribution to his pension plan as it was valued when he made that contribution. That's only fair.

My amendment is simple, yet necessary. I urge my colleagues to support it.

In conclusion, I am proud of the support of the groups behind this amendment—the U.S. Public Interest Research Group, the National Consumer Law Center, Consumers Union, Consumer Federation of America, Consumer Action, AFL-CIO, United Auto Workers, United Steel Workers of America, and the American Federation of Teachers.

I ask unanimous consent to have their letters of support printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
*Washington, DC, March 3, 2005.*

DEAR SENATOR: The bankruptcy-reform bill currently before the Senate will result in severe injustice to thousands of workers and consumers and we urge you to oppose it. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (S. 256) is basically unchanged from the version drafted by the financial services industry in the mid-1990s, It remains a one-sided attempt to favor creditor interests at the expense of working families who have suffered the loss of a job, high medical bills, and other unforeseen financial emergencies. Senators Rockefeller, Kennedy, Durbin and Feingold will offer amendments to improve this bill, and we urge you to support them.

Supporters of S. 256 suggest that the current system is riddled with "high rollers" who are gaming the system to get out of paying their fair share. To the contrary, studies suggest that 90% of these filing for bankruptcy do so because of circumstances largely outside their control. In recent years, business failures and mass layoffs resulting from corporate fraud have lead to innumerable individual bankruptcies, Rather than correcting deficiencies in current law that fail to protect workers in these circumstances, the bill places new burdens on working families when they are most vulnerable.

We strongly support Senator Rockefeller's amendment to raise the current wage priority cap from $4,950 to $15,000 because the amounts owed to workers frequently exceed the per employee cap. Senator Rockefeller's amendment would also eliminate arbitrary payment rules that prevent workers from collecting compensation owned to them by a bankrupt employer. Importantly, Senator Rockefeller's amendment will compensate workers who lose retiree health benefits by requiring bankrupt companies to provide cash payments for replacement coverage.

The AFL–CIO also urges you to support amendments that will he offered by Senator Kennedy to protect low-income families from means testing and unnecessary paperwork and to protect workers who declare bankruptcy after becoming unemployed because of outsourcing or a mass layoff.

We also support Senator Feingold's amendment to remove provisions that impose substantial new requirements on small businesses attempting to reorganize under Chapter II. There is no justification for increasing the hurdles that small businesses already face in trying to survive financial distress.

Finally, we urge you to support amendments that will be offered by Senator Durbin to restrain bankrupt employers from rewarding corporate insiders and other senior managers with large bonuses and excessive perks at the same time that their employees suffer economic devastation from the loss of a job or their savings in a company 401(k).

In sum, S. 256 is an unnecessarily harsh and one-sided bill that will penalize countless working Americans facing financial crises beyond their control. The AFL–CIO strongly urges you to support the above-mentioned amendments to this deeply flawed bill.

Sincerely,

WILLIAM SAMUEL,
*Director, Department of Legislation.*

---

MARCH 2, 2005.

Hon. RICHARD J. DURBIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DURBIN: The undersigned national consumer organizations applaud you for offering amendments to the Senate bankruptcy bill (S. 256) that would better protect employees and retirees in the event of a corporate bankruptcy. The inclusion of these amendments will bring much-needed balance to a harsh and one-sided bill that would harm many families that have suffered genuine financial misfortune.

The raft of corporate scandals in the last few years has exposed many flaws in a system of market oversight that used to be the envy of the world. Many investors lost faith in our markets, tens of thousands of employees lost their jobs and workers and retirees have lost significant portions of their pension plans.

It is essential that Congress take a comprehensive approach to reform. The Sarbanes-Oxley Act to reform corporate accounting practices took an important first step. It is bringing much needed improvements to the quality and independence of the audits of public companies and help to restore investor confidence. But this law was never intended to give employees and retirees more power to combat the tactics of corporate officers who systematically loot their corporations and line their pockets, even as their companies' financial position starts to deteriorate. To do that, one must change corporate bankruptcy laws.

These amendments will help employees and retirees prevent corporate officers from pillaging their earnings and retirement savings in two of important ways:

It increases the power of bankruptcy judges to nullify fraudulent transfers of benefits and money by corporate officers, and to examine off-book transactions. This will increase the ability of employees to recover assets that have been stripped.

It increases the ability of employees to recover the value of company stock, when the stock was purchased because employees were not allowed to choose other investment options.

These amendments are the important "next step" in reforming our corporate accountability laws. It is being introduced at a time when Congress is poised to pass a personal bankruptcy law that will make it more difficult for moderate-income individuals who have been harmed by economic disruption, corporate scandals and personal misfortune to get a financial fresh start. We commend you for focusing on the kind of bankruptcy reform that will help, not hurt, employees, retirees and working families.

Sincerely,

TRAVIS B. PLUNKETT,
*Legislative Director, Consumer Federation of America.*
EDMUND MIERZWINSKI,
*Consumer Programs Director, U.S. Public Interest Research Group.*
SUSANNA MONTEZEMOLO,
*Policy Analyst, Consumers Union.*
LINDA SHERRY,
*Editorial Director, Consumer Action.*
JOHN RAO,
*Staff Attorney, National Consumer Law Center.*

Mr. DURBIN. Mr. President, these groups and their members know what happened with these companies.

I am troubled by the fact that the Senate has spent this entire week talking about bankruptcy abuse and making it tough for families trying to pay medical bills, making this process more difficult for the guardsmen and reservists who were activated to go overseas to serve our country only to lose their business at home and face bankruptcy when they return.

There is nothing in this bill to help them. There is nothing in this bill to help them with medical bills.

Senator KENNEDY was here on the floor yesterday. He had an extreme suggestion, a radical idea. Senator KENNEDY said, if you lose everything because of medical bills, we are going to protect your little home—$150,000 worth of your home—so that when it is all said and done, as sick as you may be, you will at least have a home. But that proposal was rejected. I am not sure of the vote on that amendment, 58–39, somewhere in that range but a partisan vote. Everyone on this side—virtually everyone—voted against it.

According to that vote, we can't help those people. They have to face the reality. They have to face up to the fact they won't have a home to go to when it is all over.

But what about the mansions these CEOs go to, the millions of dollars they have drained out of these corporations for their own personal benefit to buy mansions, to buy golf courses, to create a lifestyle with $30,000 shower curtains? Are we going to hold them accountable for raiding these corporations and driving them into bankruptcy? The answer is no. Not a word in this bill holds them accountable.

I urge my colleagues. If you can work up a rage over the possibility that someone with medical bills that are overwhelming goes to bankruptcy court seeking relief from their debts, can you work up a little bit of discomfort over these CEOs and bandits of the major corporations? Can you bring yourselves to say maybe we will hold them accountable, too, for their misconduct?

It would be a new day in this Senate, a grand departure from the debate as it has gone down at this point. We have never come close to this yet. I haven't heard a word yet from the other side—not a word on this floor by the supporters of this bankruptcy bill about these corporate bankruptcies and what they have done to hundreds of thousands, if not millions, of unsuspecting investors, workers, and retirees.

The Durbin amendment will give my colleagues a chance to do something about it.

I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LAUTENBERG are printed in today's RECORD under "Morning Business.")

Mr. LAUTENBERG. I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Massachusetts is recognized.

AMENDMENT NO. 49

Mr. KENNEDY. Mr. President, this legislation that we have before us cracks down unfairly on large numbers of hard-working families that are in dire financial straits because of a sudden serious illness or because their loved ones are fighting in Iraq. Yet, this bill blatantly ignores the real abuses in our bankruptcy laws: the corporate abuses that have become epidemic in recent years. It is the worst corporate misconduct since before the Great Depression.

Some of these companies were brought down by outright criminal activities. Many more of them were driven into bankruptcy by the greed and mismanagement of a small group of reckless insiders who ignored their responsibility to their employees and their stockholders alike.

Current law on corporate bankruptcy is grossly inadequate in dealing with these problems. Often, the very insiders whose misconduct brought the company down do very well in bankruptcy. The people who suffer the most are the innocent victims, the employees, the retirees.

Increasingly, the bankruptcy court has become a place where corporate executives go to get permission to line their own pockets and break their promise to their workers and retirees. That kind of abuse is terribly wrong, and it is our responsibility to prevent it.

Instead, we are considering a 500-page bankruptcy bill that virtually ignores this issue. It does nothing to address the corporate looting by high-level insiders. It does nothing to protect a company's workforce from losing their jobs, their health care, and their pensions. This bill should not move forward until those glaring omissions are corrected, and the Durbin amendment is the way to do it.

Take a close look at the examples of executives in some of America's largest corporations, and see how lavishly they benefitted while their companies went into bankruptcy. Top executives made sure they were well provided for at the company's expense. Yet, loyal employees and their families were left to struggle on their own.

A major corporation in Massachusetts, Polaroid, filed for bankruptcy in 2001. In the months leading up to the company's filing, $1.7 million in incentive payments were made to its chief executive officer on top of his $840,000 salary. The company also received the approval of the bankruptcy court to make $1.5 million in payments to senior managers to keep them on board. And these managers collectively received an additional $3 million when the company's assets were sold.

Yet, just days before Polaroid filed for bankruptcy, it canceled the health and life insurance benefits for more than 6,000 retirees. It also canceled the health insurance coverage for workers with long-term disabilities, and halted the severance benefits for thousands of workers who had recently been laid off.

Polaroid employees had been required to contribute to the company's Employee Stock Ownership Plan. When the company failed, their retirement savings were virtually all wiped out.

The loss was devastating for workers like Karl Farmer, a Polaroid engineer in Massachusetts for more than 30 years. He had been required, as had other Polaroid employees, to pay 8 percent of his pay into the company's Employee Stock Ownership Plan. At its peak, this stock was worth over $200,000. But after the company declared bankruptcy, the stock was worthless. And he also lost his severance pay and medical benefits.

Or take Betty Moss of Smryna, GA. Betty and her husband retired and were traveling across the country in their camper when they learned that Polaroid had stopped her severance pay and that they had lost her health insurance and life insurance. Because of the fall in Polaroid stock, her retirement savings plunged from $160,000 to only a few hundred dollars.

The loss of health insurance and life insurance benefits was particularly devastating for long-term disabled workers. With their disabilities, they cannot go back to work, and they have no way to obtain other insurance coverage.

Sally Ferrari of Saugus, MA, was diagnosed with Alzheimer's disease after working for Polaroid for 20 years. In recent years, she required round-the-clock care. Yet, Polaroid cut off her health care benefits in bankruptcy, which meant that her husband had to stay at work full time until he recently passed away in order to provide medical coverage for his wife.

I also have letters from other employees.

> This letter is from David Maniscalco. He was injured while working for Polaroid. Now he is unable to work, and his medical bills are consuming his family's savings and his retirement because Polaroid took away total health care coverage. He points out:
>
> After Polaroid declared bankruptcy, they terminated all the people on long term disability, and terminated all of our Medical, Life and Dental Insurance. I wear a fiberglass back brace and sleep in a hospital bed and am not able to work. My wife changed jobs in order to have medical insurance for herself. And I am on Medicare and a secondary insurance. The cost to us is $895.00 a month for medical insurance alone. The problem is, we're using our retirement money to help with the cost of our medical insurance.

Here you have the corporate officials well taken care of, and the loyal employees were notified with less than 24 hours. And this is how they end up. How? Because they go to bankruptcy court. Does this bill do anything about protecting those individuals? Absolutely zero. Absolutely nothing. Absolutely nothing.

We have here a letter from Elaine Johnson. She lost a lung to cancer. When Polaroid went into bankruptcy, she lost her health insurance, too. She writes:

> When Polaroid declared bankruptcy, I lost my life insurance, medical and dental insurance. Because of my disability, I'm unable to get other insurance and another job.

Once you have these serious illnesses, it is virtually impossible to ever get your health insurance again. I have a son who had osteosarcoma at 12 years old. He, as an individual—he is 43 years old—cannot get a health insurance policy today no matter what he is prepared to pay for it, unless he goes into some kind of group. Why? Because he had cancer at one particular time.

Here you have individuals who have disabilities who are tied into their company's program. The company has made a commitment to them. And then what happens? At the time they go into bankruptcy court, one of the first things that happens is the corporate officials free themselves from the obligations to pay the employees' health insurance, and they are left out in the cold.

The list goes on. Polaroid employees, like Betsy Williams of Waltham, MA, were financially devastated by the loss of medical and health care benefits. Betsy was with Polaroid for 28 years, and she thought, when she came down with lupus, her company's disability, health and life insurance would cover her. She writes:

> When I received an unsigned letter from Polaroid Corporation in July of 2002 stating that I (along with other employees on Long Term Disability) would be terminated by the company and my medical, dental and life insurance benefits would end, I was shocked and dismayed. Unable to work because of my disabilities, my husband (who is also disabled) and I are forced to pay approximately $1,125/month for a Medicare Health plan and an additional $400–$500/month for prescription co-payments, supplies, etc.; no available dental plan, and I was only able to get 50% of my life insurance at an exorbitant rate. We now have two mortgages; our groceries are bought with a credit card; and we are holding on financially by a thread.

There it is. That is the person who is going to get burned with this bill. That is the person who is going to be marched in. That is the person who is going to be required to pay $10, $15, $20 a week. $80 a month on into the future under this bill. But do we do anything about the corporate executives? Absolutely nothing.

And the list goes on. These are hard-working people who were crushed when Polaroid cut their benefits. Yet, while they suffered, Polaroid executives filled their pockets to overflowing.

When the chief financial officer left, she got a $600,000 pension. Recently, she received $1 million in severance pay from Royal Dutch/Shell Company, even though she left under a cloud of scandal. And Polaroid's former president is now the president and CEO of one of the country's largest staff outsourcing companies. He plans to take the company public soon and will reap enormous profits.

Enron, as my friend and colleague, the Senator from Illinois, pointed out, is another flagrant example of massive company looting while employees lost everything. Enron executives cashed out more than $1 billion of company stock when they knew the company was in trouble. And just before the company declared bankruptcy, its top executives were paid bonuses as high as $5 million each to stay on.

Enron workers, however, were forced to hold their company stock until the age of 50. They were subject to blackout periods that executives were not.

They lost a total of $1 billion in retirement savings. Thousands of them lost their jobs. Thousands lost their health insurance. Thousands of them will be dragged into bankruptcy court under this particular legislation.

Yet we have WorldCom, another shameful case. Bernie Ebbers is on trial for corporate fraud. I don't know how many Americans read the newspapers yesterday, but Bernie Ebbers is on trial. He received millions of dollars in personal loans from the company and was originally granted a pension worth $1.5 million a year. This week he denied knowing anything about the biggest accounting fraud in history. "I don't know about technology. I don't know about financing. I don't know about accounting," he claimed.

What about those people I just mentioned who worked for Polaroid all their lives and because of the bankruptcy lost their health insurance, do you think they will be able to give those kinds of answers? Not under this bill.

Ordinary Americans will not have this defense when they are facing bankruptcy. Countless WorldCom employees who honestly knew nothing about the fraud wound up losing their jobs and their retirement.

Another example is the popular retailer Kmart. As Kmart was teetering on the edge of bankruptcy, the company bought two new corporate jets. Once it finally went into bankruptcy, CEO Chuck Conaway was given a $9 million golden parachute. Meanwhile 57,000 Kmart workers lost their jobs, and the company closed 600 stores.

Abuses like these have made the headlines, but this bankruptcy bill doesn't deal with them. It comes down hard on those families who have critical health bills, families who are touched by cancer and heart and stroke, families who have children with disabilities. It comes down hard on those individuals and lets these people off free. And we call that fair? Take away their homes if they live in 40-odd States, but let them keep millionaire homes in Texas and Florida. And they do nothing about it, the proponents of this bill, nothing. Call that fair? Call this bill fair?

We know what it is. It is making the various bankruptcy courts the collection agencies for the credit card companies. Mr. American Taxpayer, you are going to be paying for more bankruptcy judges and staff and buildings because there are going to be so many more people who are going to be thrown into bankruptcy. The fastest growing group of bankruptcy filers is the elderly, individuals fifty-five and older, who are being hit with increased medical costs. As I mentioned the other day, they are seeing increased premiums on Medicare—wait until they get their new prescription drug program and start paying the costs for that, which is an inadequate program that has special provisions in it that have giveaways to the HMOs and to the prescription drug companies. They are just going to end up paying more and more, Mr. American Taxpayer, to support these courts of bankruptcy, and they are going to squeeze our fellow citizens out all the more. Meanwhile other people are getting $9 million golden parachutes.

Senator DURBIN's amendment will stop the travesty of high-level corporate insiders walking away with millions of dollars in bankruptcy while workers and retirees are left empty-handed. This amendment will strengthen the ability of bankruptcy courts to invalidate fraudulent transfers by corporate insiders. The current legislation does zero, nothing. The proponents of this legislation have opposed this effort by the Senator from Illinois. This amendment will strengthen the ability of bankruptcy courts to invalidate fraudulent transfers. Currently the court can only compel the return of money improperly taken out of the company in the preceding year. In many instances the looting has taken place over a number of years, and the court has no authority to go after those lost assets. This amendment will allow bankruptcy judges to reach back as far as 4 years to recover corporate assets.

It also empowers the court to review and set aside the excess benefit transfers made to corporate management while the company was insolvent or which contributed to the company's insolvency. These sweetheart deals often take the form of huge bonuses, golden parachutes, and other payments to corporate executives before the public learns that the company is in trouble. Such payments violate the most basic principle of fiduciary duty, and the bankruptcy court should have the power to correct these wrongs. Every dollar recovered from these outrageous inside deals is another dollar that will be there to compensate workers, retirees, and other creditors.

Finally, our amendment—I welcome the opportunity to cosponsor it with the Senator from Illinois—will give a priority claim in bankruptcy to employees who are forced to invest their retirement savings in employer stock.

Polaroid workers lost their retirement because they were required to invest 8 percent of their pay in their company as a condition of holding their jobs. Workers at Enron were also forced to keep their company stock until the age of 50 and subject to blackout periods during which they couldn't sell their stock, but the company executives could. Under current bankruptcy law, workers have no way to recover from these losses. They deserve a chance to recover some of what they lost. This amendment will provide it.

The issue is simple fairness. We learned even yesterday about the new loophole, about trusts that are going to be created so those individuals who may go into bankruptcy and who have resources can go out and hire a lawyer and shelter their income from any kind of bankruptcy court. But the average worker can't do that. The average worker out there working a lifetime for a company and then dismissed, the company then goes into bankruptcy, can't do that.

They can't hold onto their homes like so many of the wealthiest individuals in our country. In Florida they will be able to do it, but they won't be able to do it in most of the other States. In Texas they can do it, but not in most of the other States. Yet here on the floor of the U.S. Senate, the Senate refused, absolutely refused to show any consideration to home ownership for people who have worked hard all of their lives, just having $150,000 in equity.

This issue is about fairness. If a corporation has gone into bankruptcy, those who ran the ship aground certainly should be not be enriched at the very time those who depend on the company for their livelihood are driven into poverty. Yet that is what happens all too often in corporate bankruptcy today. Any bankruptcy bill which fails to address these critical issues is a cruel hoax on the American people.

I urge my colleagues to support the Durbin amendment, recognizing that bankruptcy reform has to apply to corporations, too.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 42

Mr. SCHUMER. Mr. President, I rise in support of my amendment No. 42 and will call for the yeas and nays on my amendment at the appropriate time.

Mr. President, I rise to speak to my amendment to the Bankruptcy Abuse Prevention and Consumer Protection Act to close an ugly loophole that protects millionaires, while at the same time this bill will punish, among others, veterans' families and sick people with mountains of medical bills.

The front page of yesterday's business section in the New York Times ran a story on a shocking loophole in bankruptcy law that is a windfall for the wealthy, called the millionaire's loophole. Let me read to you a little bit about it. I am going to read from the New York Times here. The headline is:

> Proposed law in bankruptcy has loophole: wealthy could shield many assets in trust.
>
> The bankruptcy legislation being debated by the Senate is intended to make it harder for people to walk away from their credit card and other debts. But legal specialists say the proposed law leaves open an increasingly popular loophole that lets wealthy people protect substantial assets from creditors, even after filing for bankruptcy.

Here is the problem. In five States—Alaska, Delaware, Nevada, Rhode Island and Utah—millionaires and even billionaires can stash away their assets—whether it be a mansion, racing car, a yacht, or any kind of financial asset or investment, or even a suitcase filled with cash—in a special kind of trust, so that they can hold on to that windfall even after filing for bankruptcy. When they file for bankruptcy, these wealthy people, creditors would not be able to reach anything in those trusts. So here you have wealthy people filing for bankruptcy and yet having huge amounts of assets protected in a little trust hidden away.

The bill tries to address the infamous homestead exemption by attaching a $125,000 ceiling to it. But it doesn't matter. A millionaire doesn't need a home to protect his or her assets. All they need is a good lawyer, a pencil, paper, and one of these trusts.

As one legal expert said: With this loophole, the wealthy won't need to buy houses in Florida or Texas to keep their millions. So if anyone is manipulating the system, it is these guys. By the way, you don't have to be in these five States. All you have to do is file the trust in one of these States. My great State of New York, I am happy to say, is blessed with many millionaires. We hope there are more of them. But they should not be allowed to file in Delaware, or Utah, or Alaska a trust that allows them to declare bankruptcy and yet keep their assets. It is a basic way for wealthy people to not pay their debts.

We have heard a lot in this bill about people who gamble profligately and waste their money and declare bankruptcy. That is an abuse that the bill should, in my judgment, close. But then why are we continuing to allow it to remain in the law? It is not this bill that does it; it is in the law. But as we close those methods of using bankruptcy abusively, how can we leave this one open? This "million dollar bankruptcy baby" deserves an Oscar for the best legal loophole for the wealthy. This millionaire's loophole is so bad that it must be knocked out before this fight is over. There is no question that, without this amendment, the bankruptcy laws will continue to make it easier for millionaires to keep their millions than for poor people to simply stay afloat.

I hope my colleagues on the other side of the aisle will join me in that amendment. I know there seems to be some kind of edict that you cannot vote for any amendment. Can we please make an exception for this one? I am sure just about everybody agrees with us. I am joined in this amendment by my colleagues Senators BINGAMAN, DURBIN, FEINSTEIN, and CLINTON; they have cosponsored the amendment. This amendment closes this millionaire's loophole by forcing those who seek to use these trusts to cheat. It only allows them to protect as much as $125,000 in assets in these trusts and not a penny more. In other words, it makes it analogous to what we do for homes in the homestead exemption in this bill.

Again, if we don't want wealthy people to be able to hide their assets in their homes and escape the rigors of the bankruptcy law, why would we allow them to do that in trusts? To clarify, the amendment doesn't adversely affect retirees who have saved for a lifetime to build a retirement nest egg. The solution is straightforward. It is written in the spirit of the bill. In fact, when looking at statements made by some of this bill's greatest champions, you would think they would have no problem accepting this amendment in the bill.

The bill's sponsor is a good man. I am now on his committee. He is known as having a great deal of integrity. Well, here is what Senator GRASSLEY said about the bill. This was in one of his State's local papers: Filing for chapter 7 bankruptcy, he said, "was not intended to be a convenient financial planning tool where deadbeats can get out of paying their debts scot-free, while honest Americans who play by the rules have to foot the bill."

I agree with that statement. This amendment fits the words of Senator GRASSLEY exactly. Why would we not include this amendment in the bill? That is the essence of the amendment we have. Deadbeats exist in all tax brackets. There are some middle-class deadbeats. There are some poor deadbeats, of course. What about the wealthy deadbeats? Why are they treated differently than everybody else?

I hope my friends on the other side of the aisle, because of this grand edict "don't vote for any amendment," don't end up protecting wealthy deadbeats from the same punishment they are doling out to those who are not so financially fortunate.

I have listened to my Republican friends and their concerns about the abuse of our bankruptcy system by gamblers, hustlers, and cheaters. I have listened for a number of years, and I share those concerns. But I hope my colleagues will come to the floor to vote for this amendment that will end the egregious millionaire's loophole. Make no mistake about it, I am not against millionaires and billionaires. I think it is great when an American achieves success and makes a lot of money. But don't declare bankruptcy and hide your assets and shed your debts. The people who should least be able to do this are the wealthy.

I hope my colleagues will vote for this amendment, which will end the egregious millionaire's loophole. We cannot let a few bad apple millionaires evade the system by cutting and running on their debts. This bill, I am afraid, of course, doesn't go after just the bad apples. That is an issue my colleague from Massachusetts has been ably taking up on the floor, as have many other of my colleagues. It actually labels the whole bushel of bankruptcy filers rotten.

I wish the bill made more of a distinction between those who are abusive, who gamble, or who are profligate and try to shake off their debt, and those who have run into real hardship because they are in the military or because they have health care problems. The bill makes no distinction between those two groups and that is wrong. We need to make sure the bill targets the Nation's cheats and not its cheated. I urge my colleagues to close the millionaire's loophole by voting for this amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague from New York, Senator SCHUMER, in offering an amendment which would address a serious loophole in the bankruptcy bill we are now considering it allows rich debtors to unfairly shield assets from their creditors.

In recent years a number of financial and bankruptcy planners have taken advantage of the law of a few States to create what is called an "asset protection trust." These trusts are basically mechanisms for rich people to keep money despite declaring bankruptcy. They are unfair, and violate the basic principle of this underlying legislation that bankruptcy should be used judiciously to deal with the economic reality that sometimes people cannot pay their debts, but to prevent abuse of the system.

This loophole is an example of where the law, if not changed, permits, or even encourages, such abuse.

The amendment is simple: It sets an upper limit on the amount of money that can be shielded in these asset protection trusts, capping the amount at $125,000. This amount parallels the limit placed on the similar "homestead exemption" elsewhere in the bill. The homestead exemption allows some assets to be protected from creditors in bankruptcy where they are in the form a residential home.

The bottom line: Wealthy people will be able to preserve only $125,000 in an asset protection trust.

This amount, $125,000, is not a small sum. It is more than enough to ensure that the debtor is not left destitute. But I believe it is a reasonable amount. It is deliberately based on the now-accepted $125,000 limit for the homestead exemption, which will also remain available to a debtor.

Yesterday the New York Times, in an article entitled Proposed Law on Bankruptcy Has Loophole detailed the potential problem in this bill. The article quotes Professor Elena Marty-Nelson, a law professor at Nova Southeastern University in Florida, who states:

> [i]f the bankruptcy legislation currently [before the Senate] gets enacted, debtors won't need to buy houses in Florida and Texas to keep their millions [t]he millionare's loophole that is the results of these trusts needs to be closed.

Professor Elizabeth Warren of Harvard Law School is also quoted in the article. She notes that:

> [t]his is just a way for rich folks to be able to slip through the noose on bankruptcy and, of course, the double irony for her is that the proponents of this bill keep pressing it as designed to eliminate abuse.

I unanimously consent that the full text of the article be printed in the Record.

[From the New York Times, Mar. 2, 2005]

### Proposed Law on Bankruptcy Has Loophole

(By Gretchen Morgenson)

The bankruptcy legislation being debated by the Senate is intended to make it harder for people to walk away from their credit card and other debts. But legal specialists say the proposed law leaves open an increasingly popular loophole that lets wealthy people protect substantial assets from creditors even after filing for bankruptcy.

The loophole involves the use of so-called asset protection trusts. For years, wealthy people looking to keep their money out of the reach of domestic creditors have set up these trusts offshore. But since 1997, lawmakers in five states—Alaska, Delaware, Nevada, Rhode Island and Utah—have passed legislation exempting assets held domestically in such trusts from the federal bankruptcy code. People who want to establish trusts do not have to reside the five states; they need only set their trust up through an institution in one of them.

"If the bankruptcy legislation currently being rushed through the Senate gets enacted, debtors won't need to buy houses in Florida or Texas to keep their millions," said Elena Marty-Nelson, a law professor at Nova Southeastern University in Fort Lauderdale, Fla., referring to generous homestead exemptions in those states. "The millionaire's loophole that is the result of these trusts needs to be closed."

Yesterday in Washington, Republicans in the Senate beat back the first in a series of Democratic amendments aimed at softening the effects of the bankruptcy bill on military personnel, and the majority leader of the House vowed to get quick approval of the bill if the Senate did not significantly alter it.

"We will grab hold of it just like we did class action if it is a good and clean bankruptcy reform bill," said Representative Tom DeLay, a Texas Republican, referring to the quick action the House took last month on a measure limiting class-action lawsuits.

The Senate bill is favored by banks, credit card companies and retailers, who say it is now too easy for consumers to erase their debts through bankruptcy. It is almost identical to previous versions that have been introduced in Congress, unsuccessfully, since 1998. Perhaps because the current bill was written so long ago, some legal authorities say, it does not address the new state laws that have allowed asset protection trusts to flourish.

"This is just a way for rich folks to be able to slip through the noose on bankruptcy, and, of course, the double irony here is that the proponents of this bill keep pressing it as designed to eliminate abuse," said Elizabeth Warren, a law professor at Harvard Law School. "Yet when provisions that permit real abuse by rich people are pointed out, the bill's proponents look the other way."

Senator Charles E. Grassley, an Iowa Republican, is the main sponsor of the bankruptcy bill. His press secretary, Beth Levine, said the senator's staff was unaware of the trusts and the loophole for the wealthy that they represented. "The senator is always open to suggestions for closing these loopholes," she said.

Money held in asset protection trusts can elude creditors because federal bankruptcy law exempts assets governed by "applicable nonbankruptcy law." Intended to preserve rights to property under state law, the exemption makes it difficult for creditors to get hold of assets that they would not be able to seize through a nonbankruptcy proceeding in state court.

Asset protection trusts have become increasingly popular in recent years among physicians, who fear large medical malpractice awards, and corporate executives, whose assets are at greater peril now because of new laws. The Sarbanes-Oxley legislation, for example, requires chief executives and chief financial officers to certify that their companies' financial statements are accurate; anyone who knowingly certifies false numbers can be fined up to $5 million. In addition, under Sarbanes-Oxley, executives may have to reimburse their companies for bonuses or other incentive compensation they received if their company's financial reports have to be restated in later years. "Given all the notoriety of what we're seeing today, from HealthSouth to WorldCom, there is probably more of an impetus for executives to consider going this route," said Scott E. Blakeley, a lawyer at Blakeley & Blakeley in Irvine, Calif. "And yet in the bankruptcy bill, this topic is not touched."

While it is difficult to quantify how much money is sitting in domestic asset protection trusts, their popularity is undeniable, bankruptcy specialists said. "I've heard figures for foreign asset protection trusts and those probably are in the billions," said Adam J. Hirsch, a law professor at Florida State University. "I haven't seen any figures for domestic asset protection trusts, but they could very well be the same."

Current federal bankruptcy law protects assets held in a type of trust, known as a spendthrift trust, traditionally set up by one family member to benefit another. But current law does not protect the assets of people who set up spendthrift trusts to benefit themselves. And the law limits the purposes of the trusts that qualify for exemption. Retirement planning or paying for education are two approved purposes for such trusts. By contrast, domestic asset protection trusts can be set up by the same people who plan to benefit from them. In addition, there are no caps on the dollar amount of assets they can hold and no restrictions on their purpose, Ms. Marty-Nelson said. One limitation is that the trusts cannot be set up by people who are already insolvent.

The states that allow these trusts do so to attract the significant money management and trustee fees that accompany them, Mr. Hirsch said. "It's what is known in the parlance of legal policy analysis as a race to the bottom," he said.

The authors of the Delaware law, for example, noted when it was passed in 1997 that it was meant to "maintain Delaware's role as the most favored jurisdiction for the establishment of trusts."

In some ways, asset protection trusts are similar to the homestead exemption that keeps homes in Florida, Texas and other states out of the reach of creditors. But the bankruptcy law now under consideration limits this exemption to $125,000 for those who purchased the home within 40 months of their bankruptcy filing or for those who have committed securities fraud.

Ms. Marty-Nelson said the bankruptcy bill should at least apply such a cap to domestic asset protection trusts. Better yet, she said, the bill should exclude these trusts from the federal exemption altogether.

"Congress can and should close this huge loophole," she said.

Mrs. FEINSTEIN. I believe it is critical that we appropriately reform our bankruptcy system, and I applaud the efforts of Senator Grassley and others to do that. But it is important that we ensure that, wherever possible, loopholes subject to abuse are closed. This is just such a loophole. I hope that my colleagues will join me and Senator Schumer in closing this one.

Mr. KENNEDY. Mr. President, the most disturbing thing about this supposed "bankruptcy reform" is the utter lack of fairness and balance in the legislation. It gets tough on working families who are facing financial hardship due to a health crisis, a job loss caused by a plant closing, or a military call up to active duty. The laws of bankruptcy are being changed to wrest every last dollar out of these unfortunate families in order to further enrich the credit card companies.

However, the authors of this legislation look the other way when it comes. to closing millionaire's loopholes and ending corporate abuse. The bill fails to deal effectively with the unlimited homestead exemptions in a few States which allow the rich to hold on to their multi-million dollar mansions while middle class families in other States lose their modest homes. And, the bill totally fails to address the shocking abuse of millionaires hiding their assets in so-called "asset protection trusts," placing them completely beyond the reach of creditors. They can hold on to their wealth merely by signing a paper placing title their bank accounts, stocks, bonds, and other holdings in the name of a trust. The wealthy debtors don't even have to change their residences or put all of their money into a country estate in Florida or Texas. All they need to do is file a trust document in one of the five States that allow this subterfuge. They do not have to relinquish control over their property and it can continue to be used to support their extravagant lifestyle.

Unfortunately, average families facing bankruptcy don't have large bank accounts and stock portfolios so they cannot take advantage of this loophole. Most couldn't even afford to hire a lawyer to set up the trust. However, that's all right because the asset protection trust scam was not designed for them. It was designed to protect millionaire deadbeats, people who ran their companies into the ground leaving their creditors and their former employees holding the bag. It was designed to protect those who took the money and ran.

Somehow the authors of this bill, after eight years of studying the bankruptcy code in search of ways to tighten the law so that more people would be held accountable for their debts—somehow they overlooked this loophole. I wonder how they could have missed this one. I guess they were just too busy finding ways to make working families pay a few more dollars to the credit card companies.

Fortunately, the New York Times did expose this outrageous loophole and Senator SCHUMER has offered an amendment to close it. It will empower the bankruptcy court to reach out and pull the assets in these abusive trusts back into the bankruptcy, using those assets to help pay creditors. The vote on this amendment will be a real test of the sincerity of those who say their goal is to hold debtors more accountable for the money they owe. I would hope that same desire to enforce personal responsibility applies to the millionaire deadbeat who hides his assets as well as the working family struggling to survive.

Mr. GRASSLEY. Mr. President, I oppose the Schumer amendment. This is an issue that just needs more time for us to determine whether there is an abuse that needs to be addressed. We need to ensure that this amendment doesn't have unintended consequences. For instance, it doesn't define the term "asset protection trust" and therefore we aren't even sure what we are being asked to vote on. Further, it not only covers asset protection trusts, but also covers "similar trusts." Until we have had time to really understand whether this is a loophole, and if it is, how to close it in a way that doesn't harm innocent third parties.

In addition, this issue is even more complex because it implicates 50 different State laws. We don't know enough at this point about how it works. This would override at least some State laws, like the homestead cap would. I think it is important to look at this issue, have a hearing and consult with senators whose States might be uniquely affected. Be sure, however, that my opposition to this amendment doesn't mean that I will not ultimately find that this issue needs to be addressed at some future date. I think that all the work we have done on this bill, the compromises we have reached should not be disrupted by this last-minute proposal that has not been well thought out.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a series of stacked votes in relation to the following amendments: Schumer amendment No. 42 and Rockefeller amendment No. 24; further, that no amendments be in order to the amendments prior to the votes; that the second vote be limited to 10 minutes in length; and that there be 1 minute on each side to explain these amendments prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 48

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the pending Specter amendment No. 48 be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 48) was agreed to.

AMENDMENT NO. 42

Mr. MCCONNELL. Mr. President. I ask for the yeas and nays on the Schumer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. Who yields time on the amendment?

Without objection, time is yielded back.

The question is on agreeing to amendment No. 42 offered by the Senator from New York, Mr. SCHUMER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr MCCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Further, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would have voted "no."

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—39

Akaka
Baucus
Bayh
Biden
Bingaman
Byrd
Cantwell
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feinstein
Harkin
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—56

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—5

Boxer
Corzine
Feingold
Inhofe
Inouye

The amendment (No. 42) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, let me announce to all Members that following the next vote we will vote in relation to the Durbin amendment No. 49. We will have an explanation of 2 minutes equally divided. Both of these votes are going to be 10 minutes. We are going to enforce the time on this vote. Everybody please stay in the Chamber at the convenience of all Members so we can finish this vote and the next vote within 10 minutes each, particularly this one.

The PRESIDING OFFICER. There are 2 minutes evenly divided prior to the vote on the Rockefeller amendment.

Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this amendment is critical to making corporate bankruptcies fairer to the people who have worked in those corporations and toiled during the course of their lives and expect, reasonably, at end of their service, to have something to show for it.

My amendment does three things.

First, it allows employees to recover up to $15,000 in backpay or other compensation that is owed them.

Second, my amendment would eliminate the accrual time period for calculation of priority claims. And, if we do not eliminate the accrual period, then increasing wage priority in the bill is meaningless.

Finally, my amendment would provide at least some compensation to retirees whose promised health insurance has been taken away.

Under my proposal, each retiree would be entitled to payment equal to the cost of purchasing comparable health insurance for a period of 18 months.

I encourage the support of my colleagues.

Mr. BYRD. Mr. President, the great union leader, John L. Lewis, spoke of those who sup at labor's table and who have been sheltered in labor's house.

That image thrives in West Virginia, where children are raised to believe that the fruits of their labor ought to yield a decent wage and comfortable living. Many work long hours, concerned less about titles and honors than providing for their families in the present and securing their retirement in old age.

They devote themselves to their labors and take pride in their work and their employer. These workers are committed, hard-working individuals who contribute much and ask for nothing more than simple fairness. And so imagine how they are made to feel—the anguish, frustration, and betrayal they are made to feel—when they learn the pension they worked for, the health benefits they labored for, the security they toiled for, has vanished.

That is what is happening in West Virginia to an alarming degree. Special Metals, Horizon Natural Resources, Weirton Steel, Wheeling-Pitt, Kaiser Aluminum—all have filed for bankruptcy, endangering the health and pension benefits of workers and retirees.

I scold not those who have sought to protect their employees but those scoundrels who have used bankruptcy to abandon their obligations.

It is shattering to those workers and retirees affected. It cripples their faith in the moral values of an honest day's work for an honest day's pay. It's terrifying for retirees who cannot begin new careers. These independent, proud men and women fear becoming a burden to their children and grandchildren.

I understand how they are made to feel, and I seek to help them, as I always have sought to help them. I support the Rockefeller amendment, and I commend my colleague for his endeavors in this regard.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this amendment would provide a nearly fourfold increase in claim amounts and strike the time period. That means it would be much harder to confirm a plan under Chapter 11. It will cost us jobs, because the debtor companies would not be able to survive the bankruptcy process.

My colleague from the Finance Committee is concerned about the co-provisions. Rest assured, they are bad. We all know how many compromises have been made on this bill. This amendment would undo years of hard work.

I urge my colleagues to vote no on this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—40

Akaka
Baucus
Bayh
Bingaman
Byrd
Cantwell
Clinton
Collins
Conrad
Dayton
Dodd
Dorgan
Durbin
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—6

Boxer
Corzine
Feingold
Inhofe
Inouye
Specter

The amendment (No. 24) was rejected.

Mr. FRIST. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. For the information of our colleagues, this will be the last rollcall vote tonight. We will have probably two votes at 5:30 on Monday.

### AMENDMENT NO. 49

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, pursuant to unanimous consent, on the next amendment you should keep in mind Kenneth Lay who, on the road to bankruptcy, took $200 million out of Enron. Bernie Ebbers took $366 million in personal loans out of WorldCom, and John Rigas took $2.3 billion in loans for a golf course—driving the companies into bankruptcy at the expense of the stockholders, employees, and retirees. This amendment reaches back and brings that money to the people who need it. It also gives a claim in bankruptcy for the pension rights that are extinguished in bankruptcy. I ask for Members' support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this is an important matter, but this amendment is too. I ask Members to vote no on the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 49.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—40

Akaka
Baucus
Bayh
Biden
Bingaman
Byrd
Cantwell
Carper
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—6

Boxer
Corzine
Feingold
Inhofe
Inouye
Specter

The amendment (No. 49) was rejected.

Mr. LOTT. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent to speak as in morning business for a couple minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LOTT are printed in today's RECORD under "Morning Business.")

Mr. LOTT. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

AMENDMENT NO. 50

Mr. REID. I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I send an amendment to the desk on behalf of Senator BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 50.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by any vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease)

On page 47, strike lines 12 through 14, and insert the following:

**SEC. 202. EFFECT OF DISCHARGE.**

Section 524 of title 11, United States Code, is amended—

(1) in subsection (g)(1), by adding at the end the following:

"(C)(i) Congress finds that—

"(I) the vermiculite ore mined and milled in Libby, Montana, was contaminated by high levels of asbestos, particularly tremolite asbestos;

"(II) the vermiculite mining and milling processes released thousands of pounds of asbestos-contaminated dust into the air around Libby, Montana, every day, exposing mine workers and Libby residents to high levels of asbestos over a prolonged period of time;

"(III) the responsible party has known for over 50 years that there are severe health risks associated with prolonged exposure to asbestos, including higher incidences of asbestos related disease such as asbestosis, lung cancer, and mesothelioma;

"(IV) the responsible party was aware of accumulating asbestos pollution in Libby, Montana, but failed to take any corrective action for decades, and once corrective action was taken, it was inadequate to protect workers and residents and asbestos-contaminated vermiculite dust continued to be released into the air in and around Libby, Montana, until the early 1990s when the vermiculite mining and milling process was finally halted;

"(V) current and former residents of Libby, Montana, and former vermiculite mine workers from the Libby mine suffer from asbestos related diseases at a rate 40 to 60 times the national average, and they suffer from the rare and deadly asbestos-caused cancer, mesothelioma, at a rate 100 times the national average;

"(VI) the State of Montana and the town of Libby, Montana, face an immediate and severe health care crisis because—

"(aa) many sick current and former residents and workers who have been diagnosed with asbestos-related exposure or disease cannot access private health insurance;

"(bb) the costs to the community and State government related to providing health coverage for uninsured sick residents and former mine workers are creating significant pressures on the State's medicaid program and threaten the viability of other community businesses;

"(cc) asbestos-related disease can have a long latency period; and

"(dd) the only significant responsible party available to compensate sick residents and workers has filed for bankruptcy protection; and

"(VII) the responsible party should recognize that it has a responsibility to work in partnership with the State of Montana, the town of Libby, Montana, and appropriate health care organizations to address escalating health care costs caused by decades of asbestos pollution in Libby, Montana.

"(ii) In this subparagraph—

"(I) the term 'asbestos related disease or illness' means a malignant or non-malignant respiratory disease or illness related to tremolite asbestos exposure;

"(II) the term 'eligible medical expense' means an expense related to services for the diagnosis or treatment of an asbestos-related disease or illness, including expenses incurred for hospitalization, prescription drugs, outpatient services, home oxygen, respiratory therapy, nursing visits, or diagnostic evaluations;

"(III) the term 'responsible party' means a corporation—

"(aa) that has engaged in mining vermiculite that was contaminated by tremolite asbestos;

"(bb) whose officers or directors have been indicted for knowingly releasing into the ambient air a hazardous air pollutant, namely asbestos, and knowingly endangering the residents of Libby, Montana and the surrounding communities; and

"(cc) for which the Department of Justice has intervened in a bankruptcy proceeding; and

"(IV) the term 'Trust Fund' means the health care trust fund established pursuant to clause (iii).

"(iii) A court may not enter an order confirming a plan of reorganization under chapter 11 involving a responsible party or issue an injunction in connection with such order unless the responsible party—

"(I) has established a health care trust fund for the benefit of individuals suffering from an asbestos related disease or illness; and

"(II) has deposited not less than $250,000,000 into the Trust Fund.

"(iv) Notwithstanding any other provision of law, any payment received by the United States for recovery of costs associated with the actions to address asbestos contamination in Libby, Montana, as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall be deposited into the Trust Fund.

"(v) An individual shall be eligible for medical benefit payments, from the Trust Fund if the individual—

"(I) has an asbestos related disease or illness;

"(II) has an eligible medical expense; and

"(III)(aa) was a worker at the vermiculite mining and milling facility in Libby, Montana; or

"(bb) lived, worked, or played in Libby, Montana for at least 6 consecutive months before December 31, 2004."; and

(2) by adding at the end the following:

Mr. KENNEDY. Mr. President, Senator SESSIONS, on the floor yesterday, criticized Elizabeth Warren's study on bankruptcies, and the high percentage of bankruptcy filers who file because of significant debt related to illness and medical costs, uses.

Senator SESSIONS cited a U.S. Trustee Program "survey" from 2002 that looked into medical costs as a factor in bankruptcy. He argued that "only slightly more than 5 percent of unsecured debt reported in those cases was medically related;" "54 percent of the cases listed no medical debts whatsoever. I want to repeat that," he said.

He also said that "they found that 90 percent of the cases that did have medical debts reported debts of less than $5,000."

Elizabeth Warren sent a letter to the Judiciary Committee last month which pointed out many of the problems with this U.S. Trustee Program "survey":

The survey underreported both the breadth and impact of medical bankruptcies because of the way it was conducted.

U.S. trustee's sample was limited only to chapter 7 cases and omitted chapter 13 cases. Families filing for bankruptcy under chapter 7 have an annual median income of $19,000. Therefore, the average medical debt identified by the U.S. trustee—the average is $5,000 for those with medical debt—is quite substantial for those families trying to cope with medical problems. Mr. President, $5,000 in medical debt is more than 25 percent of the annual income for that family.

The petition data used by the Office of the U.S. Trustee does not include any medically related debts charged onto credit cards such as prescription medications, doctors visits, rehabilitation treatments, medical supplies, hospital bills, or even second mortgages that people have put on their homes to pay off hospital bills and other medical expenses, or cash advances, bank overdrafts or payday loans that people have incurred to pay for medical services when they are delivered or to pay medical bills that are outstanding. If any of these bills were paid by being charged on a credit card, then the trustee's survey would not include them in its figures.

For these and other reasons, the petition data gathered by the U.S. Trustee Program provides very little information about medical bankruptcy. This is why it is so important to survey the debtors themselves in order to collect accurate data, the way the Harvard study actually did.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO FORMER CONGRESSWOMAN TILLIE FOWLER

Mrs. DOLE. Mr. President, I rise today with a very heavy heart. And I know the devastation and deep sadness I feel are shared by many in the Capitol, in Washington, and throughout America. For with the passing of former Congresswoman Tillie Fowler, America has lost one of her most accomplished and dedicated public servants, and I have lost one of my most precious friends.

Tillie's remarkable record of public service is well known to many of my colleagues. It began over three decades ago, when she worked as a legislative staff member here on Capitol Hill. Her talents soon attracted the attention of Virginia Knauer, Special Assistant to the President for Consumer Affairs. It was there that Tillie and I worked side by side and bonded as lifelong friends.

Following her marriage, she and her beloved husband, Buck, moved to Florida, where they would raise two wonderful daughters—Tillie Anne, and my goddaughter, Elizabeth. Tillie also devoted her talents and her enormous energy to her community as a volunteer serving in numerous leadership positions. She was President of the Jacksonville City Council—the first woman ever to hold that position, and the first Republican to preside over the council in more than a century. This, despite the fact that the Council consisted of 16 Democrats and only 3 Republicans. Clearly, Tillie's intelligence, integrity, and leadership skills were respected across party lines.

In 1992, Tillie ran for the United States House of Representatives. Her popularity was so great that the incumbent Congressman decided to retire rather than run against her.

As those who served with her know, Tillie quickly earned a reputation as one of the hardest working and most effective Members of Congress. She was recognized as one of the 1 most thoughtful and visionary members of the House Armed Services Committee, and the 8 years she spent in the halls of the Capitol were full of accomplishments.

She became the highest ranking woman on either side of Capitol Hill, when her colleagues selected her as Vice Chair of the Republican Conference.

Term-limiting herself, she retired from Congress, but not from public service. Time and again she was called on by our Nation's leaders to serve in important and sensitive assignments. Defense Secretary Rumsfeld named her Chair—the first female Chair—of the Defense Policy Board Advisory Committee, and he appointed her to lead the seven member panel created by Congress to review misconduct allegations at the Air Force Academy. He turned to her again for a blue-ribbon panel to provide independent professional advice on Iraq's Abu Ghraib prison.

Tillie Fowler was a role model of what a servant of the public should be. And she was the finest friend that one could have. Loyal and caring, she was like a sister to me—always there, always reaching out, always searching for ways in which she could help.

Poet Robert Frost wrote: "As dawn goes down to day: Nothing gold can stay." Tillie was pure gold. She will live forever in my heart.

Bob and I send our strongest support, our love, our prayers to Tillie's family.

Mr. MARTINEZ. Mr. President, I rise today to join my colleague from North Carolina to speak about our great loss, the loss of a great friend, the passing of Congresswoman Tillie Fowler of Jacksonville. Tillie was taken from us suddenly yesterday, passing from this Earth to a better life, and we are sad and shocked by this terrific loss that the State and the Nation has suffered.

In every way, Tillie was a great lady. She had such a unique combination of strengths that she has been referred to as a "steel magnolia." She was ever gracious and kind and a gentle soul, but at the same time she was firm in her convictions. Even though Tillie had left the House of Representatives, people in the highest levels of Government, as pointed out by my colleague from North Carolina, continually sought her advice and counsel.

Most recently she had served on the Defense Policy Board Advisory Committee, which provides counsel to Secretary of Defense Rumsfeld on policy and strategy.

I relied often on her sound judgment and advice. Most recently we were talking about the Mayport Naval Base in Florida and the USS *Kennedy*, and what the Florida delegation should do in order to ensure the long-term viability of Mayport. She was an instrumental adviser to Governor Jeb Bush on the BRAC and BRAC process.

Tillie was a great friend and personal counselor to me. It was only about this time a year ago that she and I were standing near the St. John's River in Jacksonville and she announced her support for my candidacy for the Senate. I am so grateful for her support, and so proud to have had the faith of Tillie Fowler in my candidacy. Her wisdom will be missed, but her legacy is firmly in place.

Tillie Fowler began her life as a public servant shortly after earning her law degree from Emory University. She came to Washington to work for 3 years as a legislative assistant to Representative Robert Stephens of Georgia, and shortly thereafter she went to work at the Nixon White House in the Office of Consumer Affairs.

At the White House, Tillie made one of her dearest lifelong friends, our colleague Senator ELIZABETH DOLE. Tillie and her husband Buck even named one of their daughters Elizabeth in honor of that wonderful friendship. Tillie looked to ELIZABETH DOLE as a role model for working women, as someone who could be strong without being hard edged, and she followed that example of success. I extend to my colleague my deepest condolences on the loss of your good and dear friend.

After her tenure at the White House, she and Buck moved back to Jacksonville, FL, where they settled down to raise a family. She became active in a number of community organizations including the American Red Cross and the Jacksonville Junior League. She eventually ran for the city council in the 1980s, and served for 7 years, the last year as council president. She was the first female, and the first Republican, to serve as the president of the Jacksonville city council.

In 1992 Tillie Fowler became Congresswoman Tillie Fowler and quickly rose to be one of the top ranking women in the House of Representatives. She became vice chairwoman of the House Republican Conference and, for 6 years, chief deputy whip. Congresswoman Fowler served on the House Armed Services Committee and the House Committee on Transportation as well. Both committees allowed her to become a successful advocate for the city of Jacksonville and for the State of Florida. But I think Tillie will always be remembered for her great grasp of defense policy, her impassioned advocacy on behalf of the U.S. military.

In the year 2000, Congresswoman Fowler voluntarily stepped down to honor a pledge she had made to self-limit and return to private life. Without a doubt, the most important legacy left behind by our friend Tillie Fowler is her family—her husband Buck, and their two daughters Elizabeth and Tillie.

Our hearts are with you. Our thoughts and prayers go out to you during this difficult time.

We will miss her greatly and may God bless her.

Mr. CONRAD. Mr. President, I am saddened by the passing of Tillie Fowler. My wife and I had the privilege of traveling with her overseas, and I found her to be a wonderful person. Tillie Fowler had a sparkle in her eye, and she had a warm way about her. We enjoyed her company. I think everybody who dealt with her respected Tillie Fowler's intelligence, her compassion, and her serious interest in making good policy for the country. I respected her contribution to her State and to our country. My wife and I commented many times after that trip what a delightful time we had with Tillie Fowler. We express our condolences to the family as well.

Mr. ALLARD. Mr. President, I join my colleague from North Carolina in expressing my condolences to the family, and express how much I respected Tillie Fowler.

I had an opportunity to say hello to her a little over a week ago. She was so happy and vibrant. Her sudden passing was very much a shock to me. It reminds all of us just how fragile life can be.

I had an opportunity to get to know Tillie Fowler when I served in the U.S. House of Representatives with her. She was a wonderful person and highly respected in the House of Representatives. I do not recall one person in the whole body, whether they opposed or supported her, who had cross words to say to Tillie Fowler. She was always well prepared, always courteous, and always somebody you admired when you served with her and got to know her.

I worked closely with her on a number of defense issues because that was her life's love. I had a chance to get to know her more closely when we had an issue in Colorado with the Air Force Academy. As you may recall, when we set up a commission, which she chaired, it was called the Fowler Commission.

I reflect on the type of respect she garnered from everybody who was around her. When we put her on that commission, we knew she would do a good job. We named the commission after her because of the respect we had for her. It was a difficult task. She did it with honor. She was very hard working and pursued it vigorously. She did a great job.

I join my colleagues in expressing my condolences to the family, and express how much we all loved her. We will miss her. May God bless.

Mr. CHAMBLISS. Mr. President, I know I will be joined by the Presiding Officer in the shock and sadness that exists because of the loss of Tillie Fowler.

Tillie was a friend of mine long before I ever got involved in politics. I have lived in Georgia for 37 years. You can't live in Georgia without knowing the Kidd family. Tillie grew up in Milledgeville, GA. Her dad, Culver Kidd, was a longtime State senator, known as "the silver fox." He was quite a gentlemen and quite a legend in his own time in Georgia politics.

Tillie was a great mentor to me during my 8 years in the House, as I know she was to the Presiding Officer. As I told her husband Buck last night, I fought many battles with her. Of all the people I was associated with in the House and in this body, there was nobody I would rather have had in that foxhole with me when I was fighting a battle than Tillie Fowler. She was a great lady who exemplified everything that is good about the Congress, and she will be dearly missed.

I yield the floor.

## MINORITY RIGHTS

Mr. LAUTENBERG. Mr. President, on Tuesday morning just past, we had our usual Democratic Senate caucus lunch. We discuss lots of things at those lunch meetings. But we were all struck by an appeal from our dearly beloved colleague Senator ROBERT C. BYRD, whom I consider a dear friend of long standing. I have been here over 20 years. When he rose to encourage all of us to resist subverting existing Senate rules to bypass an important process which permitted the minority in the Senate to challenge the Senate Republican majority to run roughshod over the rights of the minority, to exercise longstanding rules that permitted them a voice, Senator BYRD pleaded with us, not as a Democrat, not as a partisan, but as citizens and Senators, to fight to preserve the rights of a minority by being able to use a tactic called a filibuster as a means of protection for the minority.

We have to remember that in the recent elections for President, 57 million people voted for JOHN KERRY, and they were a minority. This Senate decides to ignore those voices and concerns of a minority of that size?

The Senators who voted against cloture recently represented 19 million more constituents than the majority. Can that be constructed as a tyranny of the minority when the Senators who were against cloture represented 19 million people more than the majority who wanted cloture? Tyranny of the minority. Outrageous.

Senator BYRD pleaded with Members to remind our Republican colleagues that such a rules change could once be at their expense, that their constituents could be deprived of their appropriate rights to a voice in legislative or executive matters.

I offer these comments as a prelude to remarks I am about to make. We have seen some ugly personal attacks recently by the Republican Party against our Senate Democratic leader, HARRY REID. He was called an obstructionist. He was referred to in sarcastic and insulting terms, as well as our former majority leader, Senator ROBERT C. BYRD, and Democratic Party chairman Howard Dean.

The other side cannot beat us with the strength of their ideas. They are resorting to the same tactics they used against Senator Daschle—personal attacks on family members and attacks on character. This is shameless behavior.

Not too long ago we had an election in Georgia in which Max Cleland, a former Senator, a triple amputee, was portrayed as being soft on defense. He was being portrayed as a coward when it came to defending our country. He lost three limbs, two legs and an arm, in the defense of his Nation. And they succeeded with these shameless tactics.

We see a continuation of that. It has to stop. Whenever they are short of ideas, they are long on insults, with shameless name-calling.

Yesterday, a group calling itself the Republican Jewish Coalition attacked Senator BYRD over a historical reference he made on Hitler's rise to power in Germany. It was not an anti-Semitic remark. I resent the fact they are raising that kind of an insinuation. I am proud of my America. I am proud of my citizenship and the duty I served my country with when I wore a uniform and that I serve my country with now. I am also proud of my Jewish heritage. I resent it when any group steps up to use the shameless insinuations and challenges and insults being put forward.

Senator BYRD is known by everyone in this Chamber and people who have served for many years past as a great historian. He uses lessons from history to teach. On Tuesday just past, Senator BYRD at our luncheon issued a stern warning before we do anything irresponsible such as changing longstanding Senate rules with this notorious nuclear option which says reduce the numbers needed to object to something the majority has proposed.

That is the structure of democracy. Minority voices are to be heard. We say it in our Constitution. We say it in our courtrooms. It does not matter where.

Senator BYRD's warning came in the form of a lesson of history. He simply said that when you change the rules, you change the laws to suit your convenience, you are engaged in a tyranny. As the saying goes, those who cannot remember the past are condemned to repeat it.

Senator BYRD talked about how a threatened filibuster in this Senate defeated FDR's plan to pack the Supreme Court. We are talking about a Democratic President. That was an option that was available according to the rules that the minority could use. Senator BYRD reminded the Senate the other day how in Germany Adolf Hitler twisted the Reichstag to pass his enabling act, the act that removed the obstructions that were blocking Hitler's plans. It was a historical lesson we should pay attention to. But now, Senator BYRD's words are being twisted by this group.

To show some of the shameless tactics they are using, look at this picture. It shows masked men, obviously suicide bombers, with a child strapped with explosives and suggesting that Democrats are responsible for this kind of a condition. It is an outrage. We will not stand silent when the Republican National Committee encourages this kind of behavior. That is how they beat Max Cleland, and that is how they beat Senator Daschle. We are not going to let them win without telling the American people this is a shameful kind of tactic. They have no scruples when they do something like this.

No one is suggesting the Republicans are a disloyal party or that they have a particular hate design to their association. But when any group associated with the party suggests that suicide bombers are something that Democrats encourage, to trifle with the loss of life that occurred in Israel, and now we see it in Baghdad—how do we feel about our soldiers serving so bravely and gallantly in Iraq, losing their lives? How do we feel about the Iraqis who lost over 100 of their citizens in one day in a suicide bomb attack? We feel terrible.

As a consequence, when something like this, something as scurrilous as this is used, we will condemn it. We are proud of Senator BYRD. He has served this country nobly for many years. Did we disagree with him on some things? Absolutely. We disagree with each other on many occasions. That is what our responsibility is, to disagree when we think something is wrong.

I hope this group will not continue this insinuation that Democrats are disloyal, that Democrats would stand for suicide bombers who kill not only Israelis, who kill our soldiers. Is that what they want to say about Democrats? Perhaps a look in the mirror by people at the top of the administration to examine their own military service and see if they were there to protect the rights of our people.

Use a tactic like this? It cannot work, it shouldn't work, and it won't work.

## TRIBUTE TO MAX M. FISHER

Mr. LOTT. Mr. President, it was with a great deal of sadness that I learned today that one of the great patriots in America, a man from Illinois, Max Fisher, passed away.

Max Fisher has been a great American statesman, a patriot, a public servant, an entrepreneur, and community leader. He lived in Michigan. He has some Illinois roots also. He was born in 1908 to humble beginnings. He built a company that became SPEEDWAY 76. He was the driving force behind the revitalization of the city of Detroit, and he was a close adviser to four U.S. Presidents.

I got to know him quite well during the 1990s. I was able to visit with him personally. I got to know his family. I was so impressed with his commitment to his family, his community, his people, and his Nation.

He was a great American and a righteous man. We have lost one of our great patriots in America today. I wanted to pay special tribute to Max Fisher and his family on this occasion.

## HONORING OUR ARMED FORCES

### STAFF SERGEANT ERIC STEFFENEY

Mr. GRASSLEY. Mr. President, I rise today to honor a soldier who has fallen in service to his country in Iraq. SSG Eric Steffeney of the 18th Ordnance Company died on the 23rd of February near Tuz, Iraq, when an undetected explosive detonated while he cleared the road of landmines. He was 28 years old and is survived by his mother, Annette, his father, Gary, his wife, Theresa, and their three children, Benjamin, Caitlin, and Dennis.

Staff Sergeant Steffeney grew up in Waterloo, IA, where he attended West High School. He graduated from high school early and enlisted in the Army when he was 17 years old. Initially serving as a paratrooper, Staff Sergeant Steffeney eventually joined the Army's bomb squad because he thought it would be more challenging. He was finishing his second tour of duty when he was killed.

Staff Sergeant Steffeney was described as a quiet, loyal, and responsible man who was a good soldier and an all-American boy. Indeed, it is the dedicated and courageous people such as SSG Eric Steffeney who embody the ideals of this great country best and, through the way they lived and gave their lives, keep her people standing proud and strong. I ask all of my colleagues to remember with pride and appreciation this soldier. I give my condolences to the family and friends of Staff Sergeant Steffeney who have felt this loss most deeply. I offer my most sincere gratitude and respect to SSG Eric Steffeney. This country is forever indebted to him and his colleagues for the sacrifices they have made to uphold the ideals which we treasure most as Americans.

### STAFF SERGEANT WILLIAM T. ROBBINS

Mrs. LINCOLN. Mr. President, Today, I rise to honor the life of SSG William Robbins. At home in Arkansas, he was, above all else, a loving family man who devoted himself entirely to his wife and his children. On the front lines of Operation Iraqi Freedom, he was a dedicated soldier who bravely fought to bring security and stability to a nation torn apart by war.

Staff Sergeant Robbins was born and raised in the small, southern Missouri town of Poplar Bluff. He spent his childhood, as many children do, playing with his friends with whom he shared a love for the outdoors. From an early age, he knew he wanted to be a soldier, and regardless of where he was or what he did, that thought was never far from his mind.

In 1990, he moved to Arkansas and settled in the North Little Rock area. It was there he met the love of his life, his future wife Kimberly, and together they would raise two beautiful daughters, 5-year-old Tristan Ellis, and Abigail, who was less than a year old. It was clear to those who knew him best that his family was his pride and joy and he cherished every minute he spent with them. This fun-loving soul had a special affinity for children and at family gatherings was often found with the youngest of the group, playing games and bringing smiles to everyone's faces.

In the Arkansas National Guard, SSG Robbins worked full-time as administrative sergeant at the Guard's armory in Beebe. Last year, he was one of only about a dozen soldiers from the armory mobilized for duty in Operation Iraqi Freedom. It would prove to be a bittersweet time for the Robbins family; just as the family welcomed home William's mother Janice, a major in the Army Reserves returning from a deployment in Germany, they bid him farewell with prayers of a safe return.

Staff Sergeant Robbins' deployment was the first in his 11-year service in the Arkansas National Guard. While in Iraq, he was attached to the 206th Field Artillery Battalion of the 39th Infantry Brigade, and was selected to work in a military advisory capacity with the Iraqi National Guard. As American forces sought to transition more of their security and stabilization responsibilities to the Iraqi people, SSG Robbins advised and trained these civilian volunteers on infantry tactics as well as the fundamental aspects of being a soldier.

Last fall, SSG Robbins took his military leave and was able to return home for a short time. It was a much-needed reprieve from the dangers of Iraq and offered him the opportunity to return to the place he called home and spend time with the people he cared for most. It also offered him the opportunity to explain to Tristan, who was simply too young to fully understand, why her father had been away and when he would be back for good. As best he could, he explained to her the circumstances of his absence and even the possibility that he may not return. He was once a young man with a parent in the military and could relate to the lack of comprehension children often have in these situations. Relying on this perspective, as well as the natural gift he had always shown in relating to children, Tristan's father was able to provide her with some much needed comfort and understanding.

Along with many of the soldiers from the 39th, SSG Robbins' mission was soon coming to an end and he was to scheduled to return to Arkansas in late March or April. Upon his return, he was looking forward to a new job with the Arkansas National Guard at Camp Robinson's Regional Training Institute in North Little Rock. Even more so, he was looking forward to being reunited with his family. When he spoke with Kimberly, he reminded her how very much he loved her and couldn't wait to come home. When he spoke with Tristan, he told her how much he looked forward to seeing her again so he could take her in his arms and swing her like an airplane.

Tragically, he passed away on February 10 from a gunshot wound at his home base at Camp Taji. While the loss for Kimberly and her family will be felt deeply, they have found some solace knowing that his last days were spent doing what he wanted to do, helping people. In the days following his death, it was clear to his family the impact he had on each of their lives. It was also quickly apparent that although he was no longer with them, his presence would always be felt; whether it was the devotion and thoughtfulness evident in the basket of chocolates and Valentine's Day card he sent Kimberly just before his death, the spirit embodied in the eyes of Abigail who turned 1 year old on February 23, or the courage that Tristan, thanks to her father, has shown in trying to understand what has happened. They are lasting examples of not only the remarkable way he led his life, but more importantly, are a testament to the kind of man he was.

My thoughts and prayers go out to the family and friends of William Robbins, and to all those who knew and loved him. His 31 years with us were far too short, but his legacy of love and service to his Nation will remain with us forever.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 2, 2004, Daniel Fetty was brutally beaten to death. Fetta, a 39-year-old deaf and gay man, was allegedly struck repeatedly with bricks and boards by three men in his home town of Waverly, OH. His body was stripped of all clothing and thrown into a dumpster. It is believed that the motivation behind this brutal attack was the sexual orientation of the victim.

I believe that the Government's first duty is to defend its citizens, to defend them against the harm that comes out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## NATIONAL PEACE CORPS WEEK

Mr. COLEMAN. Mr. President, this week is National Peace Corps Week. It is with great pleasure that I send my congratulations to the Peace Corps volunteers serving throughout the world as we celebrate the Peace Corps' 44th year of service.

Currently, more than 7,700 volunteers are answering the call to serve in 72 countries around the world. It is a list that is growing. In an historic agreement focused on science and technology, the Peace Corps entered Mexico last year. And over 20 other countries have expressed interest in establishing a partnership with the Peace Corps.

Peace Corps volunteers have made a 27-month commitment to serve overseas typically in undeveloped or rural areas devoid of many modern necessities such as sanitation, transportation, and electricity. They work to achieve the first goal of the Peace Corps: training and educating people around the world. Volunteers are serving as teachers, business advisors, information technology consultants, agricultural workers, and as HIV/AIDS educators. Today over 3,100 Peace Corps volunteers are helping to implement President Bush's Emergency Plan for AIDS Relief.

Even as they work on their projects to help those in the countries they serve, Peace Corps volunteers become America's unofficial "ambassadors" of goodwill, fulfilling the Peace Corps' second goal of helping to promote a better understanding of America. In the words of former U.S. Ambassador Tibor Nagy: "During my long overseas service, I consistently met two categories of people who were highly favorable toward our country: those who had close contact with Peace Corps volunteers, and those who had studied in the U.S." These kinds of public diplomacy efforts are more important today than ever.

What's more, Peace Corps volunteers' unofficial "ambassador" duties do not conclude when they return home to the United States. Rather, they set about completing the third goal of the Peace Corps by promoting a better understanding of other countries here in America. In this way, Peace Corps volunteers give back much to their communities here at home.

As chairman of the Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs, it is my desire to continue to assist in the growth of Peace Corps, and the well-being of its volunteers. As the Peace Corps continues to expand, I believe it is necessary to provide this agency the resources it needs to continue to ensure volunteer safety, productivity, and satisfaction. And I applaud efforts by the Peace Corps to further diversity our volunteers.

It is my pleasure to recognize 223 Minnesota volunteers who right now are serving our Nation around the globe in countries from Albania to Uzbekistan. I would also like to recognize the over 5,000 returned Peace Corps volunteers who have already represented Minnesota and the United States abroad. Finally, I am happy to join with all past and present Peace Corps volunteers as we celebrate Peace Corps Week 2005. February 28–March 6.

Mr. KOHL. Mr. President, I rise today to recognize the accomplishments of the Peace Corps during National Peace Corps Week—February 28 through March 6.

For 44 years, the Peace Corps has engaged in meaningful work and made innumerable contributions to both America and the countries served by Corps members. Today, more than 2,700 Peace Corps volunteers are working to train men and women in 72 countries to provide for their own needs, as well as to promote mutual understanding between Americans and other cultures.

It gives me great pride to know that the Peace Corps and the people of Wisconsin have a strong relationship. Right now, there are 289 Peace Corps volunteers from Wisconsin, including 137 volunteers from the University of Wisconsin-Madison—more volunteers than any other university in the Nation. The State of Wisconsin can also be proud that the university served as a training ground for many groups bound for service in the early years of the Peace Corps.

To better illustrate the work that Wisconsinites do for the Peace Corps, I would like to share this story of great accomplishment. In August 2004, for the first time, the Peace Corps honored returned volunteers with an award recognizing efforts to promote a better understanding by Americans of other cultures. This award was presented to the Returned Peace Corps Volunteers of the University of Wisconsin-Madison. Since 1987, the group has raised money by selling calendars with pictures of Peace Corps experiences from around the world. The money is used to promote grassroots projects in countries where the volunteers served. The group also works to raise awareness about the Peace Corps and participates in charity events.

This story is both an inspiration and a call to further service. The $98,000 that the Returned Peace Corp Volunteers of Wisconsin-Madison donated over a 2-year period to the Peace Corps Partnership Program is a wonderful and meaningful achievement. It is my hope that other people in Wisconsin and throughout the United States will view these returned volunteers as role models.

In closing, I wish to thank the 171,000 Americans who have served in the Peace Corps since 1961 and extend special recognition to the 4,409 Wisconsinites counted among that number. The work of the Peace Corps has made an extraordinarily valuable difference to so many people throughout the world.

## CELEBRATING WOMEN IN SCIENCE WEEK

Mr. JOHNSON. Mr. President, it is with great honor that I rise today to publicly recognize South Dakota's Women in Science Conference that is taking place March 7–11, 2005.

Hosted by the National Weather Service, this conference introduces junior and senior high school females to the multitude of opportunities available to women in science- and math-related occupations. Studies indicate that, while females thrive in science and mathematics in grade school, far too frequently female students lose interest in these subjects by the time they reach graduation. As Kristine Thompson, a geologist and curator of the Mammoth Site's In-Situ Bonebed notes, "In the past, many girls and young women with an interest in science and math often were redirected to other fields. Although women account for half of the work force, they constitute less than 20 percent of scientists."

Consequently, the National Oceanic and Atmospheric Administration's, NOAA, National Weather Service forecast offices in Aberdeen, Rapid City, and Sioux Falls, in conjunction with local and State agencies, schools, and businesses, are cohosting Women in Science conferences throughout South Dakota. These symposiums, created 5 years ago by the Aberdeen National Weather Service, are designed to foster personal connections between accomplished professional women scientists and female students. The Women in Science Conference creates a unique forum where successful female scholars and professionals meet and hopefully inspire young women to continue developing and cultivating their interests in the natural and physical sciences. To demonstrate the significance of these events, Governor Mike Rounds, by Executive Proclamation, declared this week "Women in Science Week in South Dakota."

Among the notable guests featured throughout the week is keynote speaker Karen Stoos. Karen is a native of Hoven, SD, and is currently a biologist at the Genetics and Molecular Biology Branch of the National Human Genome Research Institute in Bethesda, MD. Other presenters' areas of expertise span the fields of geology, animal science, engineering, medicine, and metrology. Additionally, the National Aeronautics and Space Administration, the National Weather Service, and the Girl Scouts will have exhibits and representatives in attendance. More than 1,000 seventh through twelfth-grade students and teachers are already registered to attend.

I am proud to have the opportunity to share with my colleagues this exciting and significant series of events, and I am very pleased that the conference's efforts are being publicly honored and celebrated. I strongly commend the hard work and dedication of the National Weather Service and all of the sponsors of the Women in Science Conference, as their contributions will positively impact the lives of so many young women in South Dakota.

## COMMENDING IFES

Mr. SALAZAR. Mr. President, we are all very impressed by the results of the Iraqi elections in January. The results exceeded our expectations, and I am hopeful it is evidence that Iraq is moving toward democracy. I wanted to add my voice to the letter sent by Secretary of State Condoleezza Rice commending IFES. Without the tremendous work of our troops who provided security at over 10,000 polling places around Iraq and the work of IFES, these historic elections would not have happened. I ask unanimous consent that the letter from Secretary Rice to IFES President Richard Soudriette dated February 28, 2005, be printed in the RECORD.

There being no objection, the. material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
*Washington, DC, February 28, 2005.*

Mr. RICHARD SOUDRIETTE,
*President, International Foundation for Election Systems, Washington, DC.*

DEAR MR. SOUDRIETTE: On behalf of the Department of State, I would like to offer my thanks for the International Foundation for Election Systems' role in supporting the recent elections in Iraq. On January 30 we saw millions of Iraqis brave intimidation and threats of death to demonstrate their commitment to democracy. We are heartened by this process for the future of vibrant, thriving democracy in Iraq.

The success of this first step in Iraq's transition to democracy is due in no small part to your organization's diligence and the dedication of your highly skilled staff. IFES's guidance on election regulations and operations, complaints adjudication, and public information not only helped to ensure transparency but also served to buoy confidence that these historic elections were indeed credible and transparent. Additionally, IFES's continuing role in building the Independent Electoral Commission of Iraq's capacity for future electoral events will buttress Iraq's evolving democratic institutions.

Thank you again for your great contribution to the future of Iraq. Together, we will help the Iraqi people realize their dream of living in a free and democratic society.

Sincerely,

CONDOLEEZZA RICE.

## ADDITIONAL STATEMENTS

## CASUALTIES IN IRAQ

• Mr. KENNEDY. Mr. President, 1,500 American service men and women have been killed in Iraq, and more than 11,000 have been wounded.

We were all moved by the Iraqi elections last month. I and all Americans support the creation of a legitimate, functioning Iraq Government that guarantees the rights of all Iraqis. We all want democracy in Iraq to take root firmly and irrevocably.

But we also want to know when we will have achieved our mission in Iraq and when our 135,000 soldiers will be able to return home with dignity and honor.

At a March 1 hearing in the Senate Armed Services Committee, General Abizaid, the leader of the Central Command, gave the clearest indication so far about when our mission might end.

General Abizaid said, "I believe that in 2005, the most important statement that we should be able to make is that in the majority of the country, Iraqi security forces will take the lead in fighting the counterinsurgency. That is our goal."

About the capabilities of the Iraqi security forces, General Abizaid said, "I think in 2005 they'll take on the majority of the tasks necessary to be done."

If the Iraqis make the significant progress this year that General Abizaid expects, it is perfectly logical to expect that a large number of American troops will be able to return home.

Our troops are clearly still needed to deal with the insurgency. But there is wide agreement that the presence of American troops is also fueling the insurgency and making it more difficult to defeat.

After the election, the administration announced that 15,000 American troops added to provide security for the elections would return, and additional troops should be able to return this year. Doing so would clearly help take the American face off the occupation and send a clearer signal to the Iraqi people that we have no long-term designs on their country.

In the February 28 edition of US News and World Report, General Abizaid emphasized this basic point. He said "An overbearing presence, or a larger than acceptable footprint in the region, works against you . . . The first thing you say to yourself is that you have to have the local people help themselves."

Deputy Secretary Wolfowitz made the same point in a hearing at the Senate Armed Services Committee on February 3. He said, "I have talked to some of our commanders in the area. They believe that over the course of the next six months you will see whole areas of Iraq successfully handed over to the Iraqi army and Iraqi police."

Before the election, the administration repeatedly stated that 14 of the 18 provinces in Iraq are safe. We heard a similar view in a briefing from Ambassador Negroponte.

If some areas can be turned over to the Iraqis in the next 6 months, as Secretary Wolfowitz indicated, it should be done. It would be a powerful signal to the Iraqi people that the United States is not planning a permanent occupation of their country. If entire areas are being turned over to the Iraqis, we should be able to bring many American troops home.

The road ahead will be difficult because the violence is far from ended. Sixty-six Americans soldiers have been killed in the 31 days since the election an average of two a day. But the election has produced new hope, and the Iraqi people are now forming the Transitional Government that will write a new constitution for the country and hold elections next December for the permanent new government that will lead their new democracy.

We all hope for success in Iraq, and appropriate withdrawals of our forces can clearly be an important factor in achieving that success.

The President's commitment to keeping American troops in Iraq as long as it takes and not a day longer is not enough for our soldiers and their loved ones. They deserve a clearer indication of what lies ahead, and so do the American people. General Abizaid has begun to provide clarification of that very important issue, and I hope the President will as well.•

## HARLEY-DAVIDSON KANSAS CITY ASSEMBLY PLANT

• Mr. TALENT. Mr. President, I rise today to pay tribute to the workers at Harley-Davidson's Kansas City Assembly Plant for their hard work and to salute Harley-Davidson for all of the great things they have done for the State of Missouri since locating the plant here just a few years ago.

Harley-Davidson is the oldest and largest motorcycle manufacturer in the U.S. The Kansas City plant, one of only two Harley-Davidson final assembly plants in the country, produces the Sportster, the Dyna Glide, and the V-Rod, and ships those motorcycles all over the world. The plant, which employs over 900 people, opened in 1998, and has achieved its intended goal of significantly increasing Harley-Davidson's production capacity and productivity.

Every September, the plant hosts an open house for Platte County residents and Harley enthusiasts from across the country to tour the plant and learn about how motorcycles are built. Best of all, anyone with a motorcycle license can take the opportunity to test ride a brand new Harley.

Harley-Davidson's contributions to the Kansas City area are important to job creation and sustaining economic growth, and Missourians are proud to have such an iconic symbol of the American spirit located in our State. I am honored to share their accomplishments with you today, and I wish the workers at the Kansas City Plant success in their future endeavors.•

## MESSAGE FROM THE HOUSE

At 1:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 27. An act to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes.

H.R. 912. An act to ensure the protection of beneficiaries of United States humanitarian assistance.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 27. An act to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 912. An act to ensure the protection of beneficiaries of United States humanitarian assistance; to the Committee on Foreign Relations.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1178. A communication from the Chief, Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "United States—Chile Free Trade Agreement" (RIN1505–AB47) received on March 1, 2005; to the Committee on Finance.

EC-1179. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tsunami Relief" (Notice 2005–23) received on March 1, 2005; to the Committee on Finance.

EC-1180. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Qualified Interest" (TD 9181) received on March 1, 2005; to the Committee on Finance.

EC–1181. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Reorganizations under Section 368(a)(1)(E) and 368(a)(1)(F)" (TD 9182) received on March 1, 2005; to the Committee on Finance.

EC–1182. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "REMIC TEFRA Applicability" (TD 9184) received on March 1, 2005; to the Committee on Finance.

EC–1183. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Uniform Capitalization of Interest Expense in Safe Harbor Sale and Leaseback Transactions" (TD 9179) received on March 1, 2005; to the Committee on Finance.

EC–1184. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Adjustment to Net Unrealized Built-in Gain" (TD 9180) received on March 1, 2005; to the Committee on Finance.

EC–1185. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—December 2004" (Rev. Rul. 2005–12) received on March 1, 2005; to the Committee on Finance.

EC–1186. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax-Exempt Leasing Involving Defeasance" (Notice 2005–13) received on March 1, 2005; to the Committee on Finance.

EC–1187. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Check the Box" (TD 9183) received on March 1, 2005; to the Committee on Finance.

EC–1188. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the Commission's March 2005 report entitled "Medicare Payment Policy"; to the Committee on Finance.

EC–1189. A message from the President of the United States, transmitting, pursuant to law, the 2005 National Drug Control Strategy; to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–28. A resolution adopted by the Legislative Research Commission of the Commonwealth of Kentucky relating to tobacco growers selling their excess 2004 crop; to the Committee on Agriculture, Nutrition, and Forestry.

RESOLUTION

Whereas on October 22, 2004, the President signed into law the Fair and Equitable Tobacco Reform Act of 2004; and

Whereas the tobacco quota buyout legislation represents the most significant change in the tobacco production program since the 1930s; and

Whereas the buyout means there will be no constraints on who can produce tobacco, where it is grown, how much can be marketed, and what the price may be; and

Whereas the tobacco production system will shift to contracting directly with tobacco companies; and

Whereas many quota owners and growers may decide to quit tobacco production altogether; and

Whereas some growers may have excess tobacco remaining from their 2004 crop, but, because of federal laws and regulations, cannot sell it; and

Whereas at least one large tobacco company has indicated it will not accept carryover tobacco, or tobacco produced and harvested in a prior crop year; and

Whereas it is important that tobacco growers be able to sell all their 2004 leaf crop: Now, therefore, be it *Resolved* by the House Agriculture and Small Business Committee of the Kentucky General Assembly:

Section 1. The Agriculture and Small Business Committee strongly urges the United States Congress and the United States Department of Agriculture take the necessary steps to allow tobacco producers to sell the excess tobacco from their 2004 crop.

Secion 2. Copies of this resolution shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, to each member of the Commonwealth's delegation to the Congress of the United States, and to the Secretary of the U.S. Department of Agriculture.

POM–29. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the Medal of Honor; to the Committee on Armed Services.

SENATE RESOLUTION 5

Whereas United States Army and Department of Defense officials are reviewing a recommendation to upgrade Major Winters' Distinguished Service Cross to the Medal of Honor; and

Whereas Major Winters was originally nominated for the Medal of Honor by Colonel Robert F. Sink, commander of the 506th Regiment, for heroic actions on June 6, 1944, during the Allied invasion of Normandy, France, as 1st Lieutenant, Acting Commanding Officer of E Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division, VII corps; and

Whereas Major Winters' extraordinary planning, fighting and commanding on that day 60 years ago in Nazi-occupied Normandy during his regiment's first combat operation saved countless lives and expedited the Allied inland advance; and

Whereas With his company outnumbered by German soldiers, Major Winters destroyed German guns at Brecourt Manor and secured causeways for troops coming off Utah Beach; and

Whereas Major Winters' battle plan for a small-unit assault on German artillery has been taught at the United States Military Academy at West Point; and

Whereas Major Winters accomplished a hazardous mission with valor, inspired his service colleagues through example and effectively organized his company into support and assault teams on the day of invasion in the campaign for European liberation during World War II: Therefore, be it

*Resolved*, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to award the Medal of Honor to Major Richard D. Winters without further delay; and be it further

*Resolved*, That a copy of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–30. A resolution adopted by the General Assembly of the State of Ohio relative to the Clear Skies Act of 2005; to the Committee on Environment and Public Works.

SENATE RESOLUTION 20

Whereas although the nation's air quality has improved significantly since the early 1970's, pollutants such as sulfur dioxide, nitrogen oxide, and mercury continue at levels that cause environmental and public health concerns. Because of those concerns, the United States Environmental Protection Agency has established stricter National Ambient Air Quality Standards, most recently for ozone and particulate matter; and

Whereas currently, 474 counties, including 33 in Ohio, are in nonattainment with the ozone standard and 224 counties, including 32 in Ohio, are in nonattainment with the particulate matter standard. Nonattainment designations place a significant burden on state and local governments, which must develop plans to reduce emissions and come into attainment by a specific date; and

Whereas in order to ensure that the states have the most effective means of attaining the new standards, the Clear Skies Act of 2005 (S. 131) has been introduced in the United States Senate. This legislation not only is based on the successful Acid Rain Programs, it also incorporates a multi-emissions approach that takes advantage of the benefits that would result from controlling multiple pollutants at the same time; and

Whereas the Clear Skies Act balances environmental, energy, and economic needs. For example, it requires power plants to reduce emissions of sulfur dioxide, nitrogen oxide, and mercury by 70% by 2018 and allows the nation to continue burning coal, our most abundant and low-cost energy source, while improving our nation's air quality: Now, therefore be it

*Resolved*, That we, the members of the Senate of the 126th General Assembly of the State of Ohio, urge the Congress of the United States to enact the Clear Skies Act of 2005 in order to improve our nation's air quality and ensure our nation's economic stability; and be it further

*Resolved*, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, the President Pro Tempore and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of the Ohio Congressional delegation, and the news media of Ohio.

POM–31. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the Republic of Poland; to the Committee on the Judiciary.

SENATE RESOLUTION 25

Whereas the Republic of Poland is a free, democratic and independent nation; and

Whereas in 1999 the United States and the Republic of Poland became formal allies when Poland was granted membership in the North Atlantic Treaty Organization; and

Whereas the Republic of Poland has proven to be an indispensable ally in the global campaign against terrorism; and

Whereas the Republic of Poland has actively participated in Operation Iraqi Freedom and the Iraqi reconstruction, shedding blood along with American soldiers; and

Whereas the President of the United States and other high-ranking officials have described the Republic of Poland as "one of our closest friends"; and

Whereas on April 15, 1991, the Republic of Poland unilaterally repealed the visa obligation to United States citizens traveling to Poland; and

Whereas the United States Department of State Visa Waiver Program currently allows approximately 23 million citizens from 27 countries to travel to the United States for tourism or business for up to 90 days without having to obtain visas for entry; and

Whereas the countries that currently participate in the Visa Waiver Program include Andorra, Australia, Austria, Belgium, Brueni, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom; and

Whereas it is appropriate that the Republic of Poland be made eligible for the United States Department of State Visa Waiver Program: Therefore be it

*Resolved*, That the Senate of the Commonwealth of Pennsylvania urge the President and Congress of the United States to make the Republic of Poland eligible for the United States Department of State Visa Waiver Program; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to all members of the Pennsylvania Congressional Delegation and to Przemyslaw Grudzinski, Ambassador of the Republic of Poland to the United States.

POM–32. A resolution adopted by the National Conference of Insurance Legislators relative to the Long-Term Care Partnership Program Act of 2004; to the Committee on Finance.

POM–33. A resolution adopted by the Council of the City of Parma, Ohio relative to the Pell Grant Program; to the Committee on Health, Education, Labor, and Pensions.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Florida:

S. 500. A bill to regulate information brokers and protect individual rights with respect to personally identifiable information; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself, Ms. LANDRIEU, Mrs. DOLE, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Ms. CANTWELL, Ms. MURKOWSKI, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. STABENOW, Mr. VOINOVICH, Mr. AKAKA, Mr. BENNETT, Mr. DURBIN, Mr. LAUTENBERG, Mr. SARBANES, and Mr. PRYOR):

S. 501. A bill to provide a site for the National Women's History Museum in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COLEMAN (for himself, Mr. PRYOR, Mr. DEWINE, and Mr. GRAHAM):

S. 502. A bill to revitalize rural America and rebuild main street, and for other purposes; to the Committee on Finance.

By Mr. BOND (for himself, Mr. TALENT, and Mr. DEWINE):

S. 503. A bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HAGEL (for himself, Mr. DURBIN, Ms. CANTWELL, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 504. A bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 505. A bill to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself, Mr. DURBIN, Ms. CANTWELL, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 506. A bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. REED, and Mr. VOINOVICH):

S. 507. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. LUGAR, Mr. BAYH, Mr. DAYTON, and Mr. KOHL):

S. 508. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself, Mr. LEVIN, Mr. WYDEN, Mr. HARKIN, and Ms. CANTWELL):

S. 509. A bill to improve the operation of energy markets; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WYDEN (for himself and Mr. TALENT):

S. 510. A bill to reduce and eliminate electronic waste through recycling; to the Committee on Finance.

By Mr. DEMINT (for himself, Mr. ALLEN, Mr. BROWNBACK, Mr. COBURN, Mr. ENSIGN, Mr. ENZI, Mr. INHOFE, Mr. SANTORUM, and Mr. VITTER):

S. 511. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself, Mr. ROCKEFELLER, and Mr. REED):

S. 512. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mrs. MURRAY, Mrs. LINCOLN, Mr. KERRY, and Mr. DURBIN):

S. 513. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BYRD:

S. 514. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BYRD:

S. 515. A bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes; to the Committee on Armed Services.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S. 516. A bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes; to the Committee on Foreign Relations.

By Mrs. HUTCHISON:

S. 517. A bill to establish a Weather Modification Operations and Research Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SESSIONS (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. DODD):

S. 518. A bill to provide for the establishment of a controlled substance monitoring program in each State; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON:

S. 519. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SHELBY (for himself, Mr. BROWNBACK, and Mr. BURR):

S. 520. A bill to limit the jurisdiction of Federal courts in certain cases and promote federalism; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. CORNYN, and Mr. SCHUMER):

S. 521. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 522. A bill for the relief of Obain Attouoman; to the Committee on the Judiciary.

By Mr. SALAZAR:

S. 523. A bill to amend title 10, United States Code, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes; to the Committee on Armed Services.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 524. A bill to strengthen the consequences of the fraudulent use of United States or foreign passports and other immigration documents; to the Committee on the Judiciary.

By Mr. ALEXANDER (for himself, Mr. DODD, Mr. ENZI, Mr. KENNEDY, Mr. HATCH, and Mr. ROBERTS):

S. 525. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, and Mrs. MURRAY):

S. 526. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. SCHUMER, and Mrs. CLINTON):

S. 527. A bill to protect the Nation's law enforcement officers by banning the Five-seveN Pistol and 5.7 x 28mm SS190 and SS192 cartridges, testing handguns and ammunition for capability to penetrate body armor, and prohibiting the manufacture, importation, sale, or purchase of such handguns or ammunition by civilians; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. SMITH):

S. 528. A bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. MCCAIN, and Mr. STEVENS):

S. 529. A bill to designate a United States Anti-Doping Agency; to the Committee on Commerce, Science, and Transportation.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 69. A resolution expressing the sense of the Senate about the actions of Russia regarding Georgia and Moldova; to the Committee on Foreign Relations.

By Mr. FRIST (for himself, Mr. CORZINE, Mr. MCCONNELL, Mr. KENNEDY, Mr. ALLEN, Mr. REID, and Mr. ALEXANDER):

S. Res. 70. A resolution commemorating the 40th anniversary of Bloody Sunday; considered and agreed to.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mr. LIEBERMAN, Mr. COCHRAN, Mr. JOHNSON, Mr. HATCH, Mr. KOHL, Ms. MURKOWSKI, Mrs. BOXER, Mr. INHOFE, Ms. LANDRIEU, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, and Ms. MIKULSKI):

S. Res. 71. A resolution designating the week beginning March 13, 2005 as "National Safe Place Week"; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 6

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 6, a bill to amend the Internal Revenue Code of 1986 to provide permanent family tax relief, to reauthorize and improve the program of block grants to States for temporary assistance for needy families and to improve access to quality child care, and to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

### S. 39

At the request of Mr. STEVENS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 39, a bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration .

### S. 132

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

### S. 256

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

### S. 285

At the request of Mr. BOND, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

### S. 333

At the request of Mr. SANTORUM, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

### S. 359

At the request of Mr. CRAIG, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Delaware (Mr. BIDEN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

### S. 360

At the request of Ms. SNOWE, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 360, a bill to amend the Coastal Zone Management Act.

### S. 370

At the request of Mr. LOTT, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 370, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

### S. 380

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

### S. 397

At the request of Mr. CRAIG, the names of the Senator from Tennessee (Mr. FRIST) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

### S. 399

At the request of Mr. COLEMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 399, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet, and for other purposes.

### S. 406

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

### S. 410

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 410, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine.

### S. 414

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 414, a bill to amend the Help America Vote Act of 2002 to protect the right of Americans to vote through the prevention of voter fraud, and for other purposes.

### S. 420

At the request of Mr. KYL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

### S. 424

At the request of Mr. BOND, the names of the Senator from Indiana

(Mr. BAYH) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 476

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 476, a bill to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act.

S. 487

At the request of Mr. NELSON of Nebraska, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 487, a bill to amend title 10, United States Code, to provide leave for members of the Armed Forces in connection with adoptions of children, and for other purposes.

S. 498

At the request of Mr. BURR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 498, a bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida:

S. 500. A bill to regulate information brokers and protect individual rights with respect to personally identifiable information; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I am introducing the Information Security and Protection Act. It has to do with a subject matter about which we have had breaking news over the course of the last several days, and that is identity theft.

Two weeks ago we found out a company named ChoicePoint, a Georgia company, because of the conviction in a plea bargain with someone who had under false pretenses broken into the database of this information broker, had 400,000 individual records stolen and thus subject to the taking of the personal identity of those 400,000 people. Of those we know of, 10,000 of them are in my State, and I can tell you, having met with a group of Floridians we picked at random in the central Florida area I met with a week and a half ago, it has been a tale of extraordinarily horrific circumstances for these Americans when their identity was stolen to, No. 1, stop the theft, and then, No. 2, to reclaim their identity and to get back their identity, for example, with a credit card on which bills have been run up and therefore their credit becomes bad. Trying to get back their good name and their good credit has become a horrific process.

One of the central Floridians I met with is a truckdriver who has a special license to drive trucks with hazardous materials. This particular individual is so frustrated because whenever he goes to this Government agency or that Government agency, they always send him to another one, saying we can't help you. There is someone out there with his identity who keeps violating traffic rules and laws all over the country and he keeps getting summonses to courts in States all over the country, and he can't get back his identity.

That is just one example. Or take the example of the mom recently widowed, so her grown daughter takes over the paying of her bills, and because the mom has always been frugal, the daughter sees a charge on the credit card for $10,000 and thinks, well, my mom is suddenly going to start spending a little on herself. The daughter continues to pay these kinds of bills until she finally gets a call from a store in San Francisco and the clerk says, I want to see if you will approve this $26,000 charge for your mother. And she says, well, that is not my mother because my mother is not in San Francisco, she is here with me in Cocoa, FL right now. Fortunately, the game was up. They stopped that process, but that daughter had already paid $40,000 worth of bills thinking they were legitimate charges by her mother, and she will never get back that $40,000.

These are just a couple of examples of identity theft. But now the problem has gotten to be so much larger because these data collectors, which I call information brokers, with the advance of technology are able to gather billions and billions of records. This particular company that has come to light over the last couple of weeks with the theft of 400,000 records—ChoicePoint is the name of the company—has stored, now listen to this, 17 to 19 billion—that is with a B—records. With that amount of data, they virtually have information on every American. It is not just credit reports that are protected by the Fair Credit Reporting Act. It is Social Security numbers and driver's licenses. It is job applications. It is DNA tests. It is medical records.

With this kind of information, centralized under the control of one company, if there is a penetration of the security of that company, then you see what the invasion of our privacy is about to cause.

Indeed, we are going to be in a situation where no American has any privacy, and we are going to continue to go through this process until we say, enough already, and the people stand up and say: You have to protect our privacy.

That is what the bill I am introducing, the Information Security and Protection Act, sets out to do. It is going to require legal safeguards, put some teeth in the law, that is going to require not just credit reports, which is covered by existing Federal law, but it is going to require these collectors of information who sell them for a profit-making business to have the safeguards to protect the consumers.

Additionally, it is going to have the safeguards for the consumers so they can have access to those records and see if, in fact, they are correct, and if they are not, correct them and have a list of the people who are seeking the information about them.

We had another case come to light a week ago, and that was the case of records that are missing. We do not know if they were destroyed, if they were lost, or if they were stolen, but they are the records of customers of the Bank of America. We are talking about 1.2 million customers. And, oh, by the way, some of those customers are Federal employees who happen to have this particular card. It is the Federal travel card. This card is distributed additionally to the Members of the Senate.

On that stolen or missing information is the very personal and private information of 60 Senators in this Chamber. Let's hope we do not become the victims of identity theft and that we have to go through all of these horrific experiences I have heard in talking with some of my constituents. But, in fact, we may. Until we find out what happened to those records of 1.2 million individuals, Federal employees, then we are subject to these kinds of traumas that come from identity theft.

Today we have learned of a major breach at the Boca Raton based company called SizeNet. It is a part of Lexis-Nexis. Information that was accessed included names, addresses, Social Security and driver's license numbers; not the credit history, medical records, or financial information. This group said—and they put out a statement to the London Stock Exchange—that this was information on 32,000 U.S. citizens. It may have been accessed from one of the databases. The company said the breach, made on its legal and business information service, Lexis-Nexis, which had recently acquired this SizeNet unit, was being investigated by staff and U.S. law enforcement authorities. So here we have another 32,000 U.S. citizens who could possibly be the victims of identity theft.

Are we going to do anything about it? I sure hope so, and I am hopeful that we are going to have the Congress start to take action on a bill Congressman MARKEY in the House, a Member of the House Commerce Committee, and I, a Member of the Senate Commerce Committee, have introduced.

This bill requires the Federal Government to begin to regulate the products offered by information brokers. Under the legislation, the Federal Trade Commission would pass regulations that would empower consumers to have control over the personal information they have compiled in these databases. Consumers would be given, for the first time, the right to find out what files information brokers keep about them, and they would be given the right to make sure the information in the files is correct. They would be given the right to promptly correct the inaccurate information. They would be permitted to find out which people have asked for copies of their personal information.

What would be the responsibility of the information broker? It would require the Federal Trade Commission to come up with standards to ensure that those brokers know to whom they are selling that consumer information and the purposes for which it is being used. Those information brokers would be required to safeguard and protect the privacy of the billions of consumer records they hold.

Under present law, there is no protection unless you fall under a law such as the Fair Credit Reporting Act which protects consumer credit records. But all the amassing of this additional data is not protected under current law.

This bill I am filing also allows Government law enforcers and consumers to bring tough legal actions against the brokers if they violate the new regulations that the FTC would promulgate. Then it clearly gives a nod to the States to pass their own laws that they believe are necessary to effectively regulate information brokers.

This bill is not a catchall bill. This bill is meant to focus very narrowly on information brokers. It instructs the FTC to carve out appropriate regulatory exemptions that are in the public interest. So there is flexibility for the FTC to adjust to different circumstances.

After the FTC passes its new regulations, then the FTC, in our oversight capacity, would be reporting back to us and specifically would be reporting to our committees—the Commerce Committees in both the House and the Senate—and then Congress would determine whether further statutory changes were necessary, as is the prerogative to adjust and adapt as circumstances change.

I want to work with all the people who are involved in this situation. We do not want something that is overreaching, but were are getting to the point that with the advance of technology, something has to be done or virtually none of us will have any privacy.

By the way, there is another reason to pass this legislation. We are in a new kind of war, and that war is against terrorists. The terrorist deals by stealth, and one way is to assume the identity of someone else. If we do not have the protections of all our identities, there is another source for the terrorist.

What is it going to take to spur the Congress into action? I think the time is here. We have three examples in the last 2 weeks—ChoicePoint, Bank of America, and today Lexis-Nexis. I ask for the support of the Senate in passing the Information Protection and Security Act.

---

By Ms. COLLINS (for herself, Ms. LANDRIEU, Mrs. DOLE, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Ms. CANTWELL, Ms. MURKOWSKI, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. STABENOW, Mr. VOINOVICH, Mr. AKAKA, Mr. BENNETT, Mr. DURBIN, Mr. LAUTENBERG, Mr. SARBANES, and Mr. PRYOR):

S. 501. A bill to provide a site for the National Women's History Museum in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing the National Women's History Museum Act of 2005. I appreciate the support of my colleagues who have helped in this important effort and who have agreed to be cosponsors, including Senators LANDRIEU, DOLE, MIKULSKI, HUTCHISON, BOXER, SNOWE, CANTWELL, MURKOWSKI, CLINTON, FEINSTEIN, LINCOLN, MURRAY, STABENOW, VOINOVICH, AKAKA, BENNETT, DURBIN, LAUTENBERG, SARBANES, and PRYOR. I introduced this bill last Congress, and it passed the Senate unanimously.

The need to establish a museum recognizing the contributions of American women is clear. There is currently no national institution in the Washington, D.C. area that is dedicated to the legacy of women's contributions throughout our country's history. Sadly, fewer than 5 percent of the Nation's 2,200 National Historic Landmarks are dedicated to women, a troubling fact given the significant contributions of women throughout our Nation's history.

The proposed legislation would direct the General Services Administration (GSA) to negotiate and enter into an occupancy agreement with the National Women's History Museum, Inc. (NWHM) to establish a museum in the currently vacant Pavilion Annex of the Old Post Office building in Washington, D.C. The NWHM is a nonprofit, nonpartisan, educational institution in the District of Columbia that was created to research and present the historic contributions that women have made to all aspects of human endeavor and to present the contributions that women have made to the Nation in their various roles in family, the economy, and society. In 1999, the President's Commission on the celebrating of Women in American History concluded that "efforts to implement an appropriate celebration of women's history in the next millennium should include,the designation of a focal point for women's history in our Nation's capital," citing the efforts of the NWHM to implement this goal.

The proposed legislation would serve two important purposes: Creating, as the President's Commission recommended, a national women's museum in the District of Columbia and, by designating the Pavilion Annex, utilizing a currently vacant space on Pennsylvania Avenue, considered "America's Main Street."

I would note that, last Congress the Government Accountability Office (GAO) placed real property on its High Risk list noting that vacant and underutilized properties present significant potential risks to Federal agencies including lost dollars because of the need for maintenance and lost opportunities because the property could be put to more beneficial uses. The Annex has been vacant for more than 10 years and it is unclear whether, if at all, GSA will be able to generate a use for the building. While the adjacent Old Post Office is a national historic landmark, the Annex is not and has sat vacant and deteriorating for years, while Federal dollars are used to keep it maintained and secured.

In addition, the proposed legislation would generate revenue from this now vacant property for the Federal Government through rental payments, based on the fair market value. The museum would also benefit the city by drawing an estimated 1.5 million visitors annually to the District and promoting economic activities by attracting tourists.

I believe this legislation is clearly a win-win situation.

There is strong precedent for this type of legislation. In fact, museums in the District of Columbia are historically established by Congress through legislation that authorizes the use of Federal land or buildings. One recent legislative example is the National Museum for African American History and Culture, which identified potential sites for such a Museum. Another example is the National Law Enforcement Museum Act, which authorized the National Law Enforcement Officers' Memorial Fund, Inc. to build a Museum on Federal land. The current Building Museum located in the historic Pension Building was authorized by an act of Congress.

I believe that just as these museums serve very important public purposes of educating visitors about important aspects of our history and culture, so also would a national women's history museum fill a void in telling the story of women in our history.

The most compelling reasons to support this important piece of legislation are the stories of the women in American history, who helped change and shape our Nation: Women who were and are trailblazers such as Sandra Day O'Connor, who was the first woman to serve on the Supreme Court; Sally Ride, who was the first American woman in space; and Madeleine Albright, who was the first woman U.S. Secretary of State. We should ensure that the stories of women with unwavering bravery are told. Women like Harriet Tubman, who led slaves to freedom using the underground railroad, and Rosa Parks, who sparked a movement just by refusing to sit in the back of a bus. A national museum would record this history and tells the stories of these pioneering women, so that others might be inspired by them.

One woman who inspired me and who is my own role model is the woman who served in the Senate seat that I now hold, Maine's own Margaret Chase Smith, who was the first woman nominated for president of the United States by a major political party and the first woman to serve in both houses of Congress. Senator Smith began representing Maine in 1940. She was a woman who embodied the independent spirit of Maine. She was from Skowhegan and was known as a smart, courageous, and independent Member of Congress. Long after it became commonplace for women to serve in the highest ranks of our government, Senator Smith will be remembered in Maine and the Nation for her courage and service.

These women, and many like them, are the reason I am proud to sponsor a bill directing that the Old Post Office Annex be made available to house the National Women's History Museum. Women's history needs a place in our Capital and in our collective American history, so that we all cannot only learn about our past, but also be inspired to make history of our own.

I urge that my colleagues support this important piece of legislation.

By Mr. COLEMAN (for himself, Mr. PRYOR, Mr. DEWINE, and Mr. GRAHAM):

S. 502. A bill to revitalize rural America and rebuild main street, and for other purposes; to the Committee on Finance.

Mr. COLEMAN. Mr. President, traveling throughout rural Minnesota, I see a very real need for the revitalization and rebuilding of Main Streets, and this is why today I am introducing the Rural Renaissance Act with my good friends Senator PRYOR of Arkansas, Senator GRAHAM of South Carolina, and Senator DEWINE of Ohio. This legislation acknowledges that rural America needs significant infrastructure investment if it is to join with the rest of the Nation in an economic recovery, and our bill proposes to apply $50 billion toward this end.

Many Minnesota cities and towns need help with updating or expanding their drinking water supply systems or their wastewater treatment systems. The West Central Initiative and the USDA both estimate that there is a $1.5 billion gap between available local, State, and Federal resources and the amount needed by Minnesota communities. There are similar needs in communities throughout the rest of the Nation. Decaying physical infrastructure needs to be addressed because it impacts more than just health and quality of life. It also impacts the ability of a city or town to build housing, provide services, ensure access to information, and grow jobs. Throughout rural America, progress is being made in many areas, but in others, a lack of funding is impacting the ability of communities to address very critical albeit basic needs. Here is an example of the physical infrastructure challenges facing rural America: The Environmental Protection Agency estimates that communities will need an estimated $300 billion to $1 trillion over the next 20 years to repair, replace, or upgrade drinking water and wastewater facilities, accommodate a growing population, and meet water quality standards.

Current residents and businesses of rural communities face a challenge when it comes to accessing the Internet. This reality means that these cities and towns are set back when it comes to attracting new residents and businesses. While the number of broadband subscribers has risen dramatically in recent years, studies conducted by the FCC, DOC, and USDA all suggest that urban and high-income areas are far outpacing deployment in rural and low-income areas. As a result of these disparities, rural America suffers adverse economic and social consequences. The USDA has reported that in 2000, less than five percent of towns with populations of 10,000 or less had access to broadband. Likewise, the Commerce Department has found that 21.2 percent of Internet users in urban areas have access to high-speed connections, while only 12.2 percent of Internet users in rural areas have this technology.

Housing is essential if communities want to keep the businesses they have or attract new ones. Employers need to know that employees will be able to find housing that they can afford in or near the community. Housing efforts must emphasize new construction and rehabilitation alike. Communities need new units to attract new families and they must have the ability to help residents remodel and renovate existing housing. Housing in rural America is clearly an economic development issue. It is clear that these physical infrastructure needs have substantial financial implications for rural America. Some 1.8 million homes and apartments are moderately or severely substandard. Our Rural Renaissance Act addresses these needs. The impact of doing nothing poses great risks for the future of rural cities and towns.

As you can see, the need for a rural renaissance is clear. Greater Minnesota alone needs almost $7 billion over the next 20 years to modernize infrastructure, accommodate the increasing population, and meet current water quality standards. The cost of bringing high speed Internet access to the rest of rural America is estimated at about $10.9 billion. These are just a couple of examples but the most vivid, I think, are just the closed stores you see up and down our Main Streets. We'd like to turn these towns around like we did in St. Paul, and we can.

Our Rural Renaissance Act will fund these infrastructure improvements—and also provide for community facilities and farmer-owned and value-added projects—by sending $50 billion out to rural America in one to three years at a cost of about $15 billion over 10 years. It can be done through Federal bonds, just as we helped pay for the costs of World War II and as State and locals pay for many infrastructure developments. The key, however, is that these monies will be made available to States and locals, as well as farmer-owned coops and other eligible entities, in the form of grants and low interest loans.

We have seen tremendous support from groups back home and across the country who share a commitment to revitalizing rural America and rebuilding our Main Streets. Those supporting this bill include, the Association of Minnesota Counties, the League of Minnesota Cities, the Minnesota Rural Water Association, the Independent Community Bankers of Minnesota, the Minnesota Rural Electric Association, the University of Minnesota, the Rural Broadband Coalition, the National Council of Farmer Cooperatives, the Telecommunications Industry Association, the American Sugarbeet Growers Association, Land O' Lakes, the Minnesota Corn Growers Association, the AgCountry Farm Credit Services, the AgStar Financial Services, the Farm Credit Services of Grand Forks, the Farm Credit Services of Minnesota Valley, AgriBank, the Minnesota Association of Wheat Growers, the Minnesota Association of Cooperatives, the Wisconsin Federation of Cooperatives, the Minnesota Barley Growers Association, the Minnesota Soybean Growers Association, the Minnesota Nursery and Landscape Association, the America Soybean Association, the Minnesota Association of Townships, the Minnesota Chapter of the National Association of Housing and Redevelopment Officials, and the Red River Valley Sugarbeet Growers Association.

These groups and many others agree with us when we say that we need the Rural Renaissance Act. And we look forward to working with them on this legislation. Together, we can create economic opportunity in rural America and grow jobs.

I ask unanimous consent that the text of the Rural Renaissance Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 502

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rural Renaissance Act".

**SEC. 2. RURAL RENAISSANCE CORPORATION.**

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

**"SEC. 379E. RURAL RENAISSANCE CORPORATION.**

"(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the 'Rural Renaissance Corporation' (hereafter in this section referred to as the 'Corporation'). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

"(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29-301 et seq.) shall apply.

"(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

"(1) issue rural renaissance bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

"(2) establish an allocation plan as required under section 54(f)(2)(A) of such Code,

"(3) establish and operate the Rural Renaissance Trust Account as required under section 54(i) of such Code,

"(4) perform any other function the sole purpose of which is to carry out the financing of qualified projects through rural renaissance bonds, and

"(5) not later than February 15 of each year submit a report to Congress—

"(A) describing the activities of the Corporation for the preceding year, and

"(B) specifying whether the amounts deposited and expected to be deposited in the Rural Renaissance Trust Account are sufficient to fully repay at maturity the principal of any outstanding rural renaissance bonds issued pursuant to such section 54.

"(d) POWERS OF CORPORATION.—The Corporation—

"(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

"(2) may adopt, alter, and use a seal, which shall be judicially noticed,

"(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

"(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

"(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

"(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

"(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

"(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this section, and

"(9) shall have such other powers as may be necessary and incident to carrying out this section.

"(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; INDEPENDENT AUDITS.—

"(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

"(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this section.

"(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

"(4) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of the Corporation each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be available to the public and shall be included in the report required under subsection (c)(5).

"(f) TAX EXEMPTION.—The Corporation, including its franchise and income, is exempt from taxation imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

"(g) MANAGEMENT OF CORPORATION.—

"(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

"(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

"(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

"(C) INDIVIDUALS FROM PRIVATE LIFE.—Five members of the Board shall be appointed from private life.

"(D) FEDERAL OFFICERS AND EMPLOYEES.—Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with rural development.

"(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to rural development processes. Members of the Board shall be appointed so that not more than 4 members of the Board are members of any 1 political party.

"(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 2 shall be appointed for terms of 1 year and 2 shall be appointed for terms of 2 years.

"(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

"(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

"(3) QUORUM.—A majority of the Board shall constitute a quorum.

"(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.".

**SEC. 3. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

### "Subpart H—Nonrefundable Credit for Holders of Rural Renaissance Bonds

"Sec. 54. Credit to holders of rural renaissance bonds.

**"SEC. 54. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(e) RURAL RENAISSANCE BOND.—For purposes of this part, the term 'rural renaissance bond' means any bond issued as part of an issue if—

"(1) 95 percent or more of the proceeds from the sale of such issue are to be used—

"(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

"(B) for deposit in the Rural Renaissance Trust Account for repayment of rural renaissance bonds at maturity,

"(2) the bond is issued by the Rural Renaissance Corporation, is in registered form, and meets the rural renaissance bond limitation requirements under subsection (f),

"(3) except for bonds issued in accordance with subsection (f)(4), the term of each bond which is part of such issue does not exceed 30 years,

"(4) the payment of principal with respect to such bond is the obligation of the Rural Renaissance Corporation, and

"(5) the issue meets the requirements of subsection (g) (relating to arbitrage).

"(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation for each calendar year. Such limitation is—

"(A) for 2006—

"(i) with respect to bonds described in subsection (e)(1)(A), $50,000,000,000, plus

"(ii) with respect to bonds described in subsection (e)(1)(B), such amount (not to exceed $15,000,000,000) as determined necessary by the Rural Renaissance Corporation to provide funds in the Rural Renaissance Trust Account for the repayment of rural renaissance bonds at maturity, and

"(B) except as provided in paragraph (3), zero thereafter.

"(2) LIMITATION ALLOCATED TO QUALIFIED PROJECTS AMONG STATES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the limitation applicable under paragraph (1)(A)(i) for any calendar year shall be allocated by the Rural Renaissance Corporation for qualified projects among the States under an allocation plan established by the Corporation and submitted to Congress for consideration.

"(B) MINIMUM ALLOCATIONS TO STATES.—In establishing the allocation plan under subparagraph (A), the Rural Renaissance Corporation shall ensure that the aggregate amount allocated for qualified projects located in each State under such plan is not less than $500,000,000.

"(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(A) the rural renaissance bond limitation amount, exceeds

"(B) the amount of bonds issued during such year by the Rural Renaissance Corporation, the rural renaissance bond limitation amount for the following calendar year shall be increased by the amount of such excess. Any carryforward of a rural renaissance bond limitation amount may be carried only to calendar year 2007 or 2008.

"(4) ISSUANCE OF SMALL DENOMINATION BONDS.—From the rural renaissance bond limitation for each year, the Rural Renaissance Corporation shall issue a limited quantity of rural renaissance bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in rural America.

"(g) SPECIAL RULES RELATING TO ARBITRAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Rural Renaissance Corporation reasonably expects—

"(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

"(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

"(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

"(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

"(A) the Rural Renaissance Corporation uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

"(B) the following requirements are met:

"(i) The Rural Renaissance Corporation spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

"(ii) The Rural Renaissance Corporation spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

"(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a rural renaissance bond ceases to be such a qualified bond, the Rural Renaissance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) FAILURE TO PAY.—If the Rural Renaissance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(i) RURAL RENAISSANCE TRUST ACCOUNT.—

"(1) IN GENERAL.—The following amounts shall be held in a Rural Renaissance Trust Account by the Rural Renaissance Corporation:

"(A) The proceeds from the sale of all bonds issued under this section.

"(B) The amount of any matching contributions with respect to such bonds.

"(C) The investment earnings on proceeds from the sale of such bonds.

"(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

"(2) USE OF FUNDS.—Amounts in the Rural Renaissance Trust Account may be used only to pay costs of qualified projects, redeem rural renaissance bonds, and fund the operations of the Rural Renaissance Corporation, except that amounts withdrawn from the Rural Renaissance Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of rural renaissance bonds described in subsection (e)(1)(A).

"(3) USE OF REMAINING FUNDS IN RURAL RENAISSANCE TRUST ACCOUNT.—Upon the redemption of all rural renaissance bonds issued under this section, any remaining amounts in the Rural Renaissance Trust Account shall be available to the Rural Renaissance Corporation for any qualified project.

"(j) QUALIFIED PROJECT.—For purposes of this section—

"(1) IN GENERAL.—Subject to paragraph (3), the term 'qualified project' means a project which—

"(A) includes 1 or more of the projects described in paragraph (2),

"(B) is located in a rural area, and

"(C) is proposed by a State and approved by the Rural Renaissance Corporation.

"(2) PROJECTS DESCRIBED.—A project described in this paragraph is—

"(A) a water or waste treatment project,

"(B) a conservation project, including any project to protect water quality or air quality (including odor abatement), any project to prevent soil erosion, and any project to protect wildlife habitat, including any project to assist agricultural producers in complying with Federal, State, or local regulations,

"(C) an affordable housing project,

"(D) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

"(E) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production or processing of ethanol, biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

"(F) a rural venture capital project for, among others, farmer-owned entities,

"(G) a distance learning or telemedicine project,

"(H) a project to expand broadband technology, and

"(I) a rural teleworks project.

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) any project described in subparagraph (E) or (F) of paragraph (2) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

"(B) any project for a farmer-owned entity which is a facility described in paragraph (2)(E) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

"(4) APPROVAL GUIDELINES AND CRITERIA.—

"(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Rural Renaissance Corporation shall consult with the appropriate committees of Congress regarding the development of guidelines and criteria for the approval by the Corporation of projects as qualified projects for inclusion in the allocation plan established under subsection (f)(2)(A) and shall submit such guidelines and criteria to such committees.

"(B) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of subparagraph (A), the term 'appropriate committees of Congress' means the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, and the Committee on Finance of the Senate and the Committee on Agriculture, the Committee on Energy and Commerce, and the Committee on Ways and Means of the House of Representatives.

"(k) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) RURAL AREA.—The term 'rural area' means any area other than—

"(A) a city or town which has a population of greater than 50,000 inhabitants, or

"(B) the urbanized area contiguous and adjacent to such a city or town.

"(3) RURAL RENAISSANCE CORPORATION.—The term 'Rural Renaissance Corporation' means the Rural Renaissance Corporation established under section 379E of the Consolidated Farm and Rural Development Act.

"(4) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Rural Renaissance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

"(5) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(6) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(7) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a rural renaissance bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the rural renaissance bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(8) REPORTING.—The Rural Renaissance Corporation shall submit reports similar to the reports required under section 149(e).".

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) SPECIAL RULE FOR HOLDERS OF RURAL RENAISSANCE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a rural renaissance bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) CORPORATE.—Subsection (g) of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR HOLDERS OF RURAL RENAISSANCE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a rural renaissance bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"SUBPART H. NONREFUNDABLE CREDIT FOR HOLDERS OF RURAL RENAISSANCE BONDS.".

(2) Section 6401(b)(1) of such Code is amended by striking "and G" and inserting "G, and H".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

---

By Mr. BOND (for himself, Mr. TALENT, and Mr. DEWINE):

S. 503. A bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Mr. President, I introduced S. 503, the Education Begins At Home Act. It is at the desk. It is cosponsored by Senators TALENT and DEWINE. I invite my colleagues to look at it and join with me in this significant measure to improve early childhood education and development of our children.

Parents as Teachers has worked in Missouri. It is a program which involves training and assistance for parents of children from birth to 3 years of age. We have had significant improvements in educational achievements. We have identified problems in children. We have solved problems and saved money by avoiding the necessary, expensive, and very difficult remedial efforts. It involves home visits. It involves bringing children of like age groups together. It works at home. It works for the poorest families. It works for very busy two-working-parent families. It works on our military installations.

This measure expands from currently 3,300 children whose parents are in the program nationally to potentially 2.7 million families with young children throughout the United States. The program is presently in all States, in the Union. This expands on it and makes sure we use our early education dollars to the maximum benefit. Get parents involved. Home visits work.

Research has clearly shown that the early years are critical in a child's development and lay the foundation for success in school and in life. The home is the first and most important learning environment for children, and parents are their child's first and most influential teacher.

Through parent education and family support, we can promote parents' ability to enhance their children's cognitive, language, social-emotional and physical development—thereby helping parents to prepare their children for success in school.

It only makes sense to equip parents with the skills they need to help maximize their child's health and development and this is exactly what the Parents at Teachers Program does.

The curriculum is designed to build the foundation of later learning, provide early detection of developmental delays as well as health, vision and hearing problems, prevent child abuse and neglect and increase children's school readiness and school success.

To achieve these goals, Parents as Teachers provides personalized home visits by trained parent educators, group meetings with other new parents and formal screening of vision and hearing.

Twenty-one years ago I pushed the Early Childhood Education Act through the Missouri legislature. During my second term as Governor I signed that ground breaking bill into law which mandated PAT in every school district in the state of Missouri. For me that was the culmination of 5 long years of work.

One might say I was on a mission. And I was. Because in 1981, I found myself in a similar situation to that of the Missouri's current Governor. I was about to be a new father myself.

PAT certainly made a positive difference in my family. PAT helped us through sleepless nights, teething, and learning the ABC's. My son, Sam, was probably one of the first babies to benefit from the Parents as Teachers materials in Missouri. And countless others have benefited since.

What began as an experiment in Missouri has expanded to more than 3,000 sites in all 50 states, and seven foreign countries. Communities all over the world are investing in PAT because the results are positive and the cost is low.

Anecdotally, I can tell you that parents in PAT know that it is a tremendous benefit to them and their children.

The scientifically sound research shows that: At age 3, PAT children are more advanced in language, social development, problem solving and other cognitive abilities, PAT children score higher on kindergarten readiness tests, Children who participate in PAT score higher on standardized measures of reading, math and language in first through fourth grades, parents who participate in PAT are more confident about their parenting and are more involved in their children's schooling—a key component of a child's success in school.

Recognizing that all parents need and deserve support in laying a strong foundation for their child's success I will be introducing the Education Begins at Home Act.

To date over 2 million families nationwide have received the education and support they need through PAT. While this is a tremendous accomplishment, there are more families that can be reached by this exceptional program.

The Education Begins at Home Act makes a bold federal investment in parents by establishing the first, dedicated federal funding stream to support the expansion of Parents as Teachers—or other home visitation programs—at the state and local level.

The $500 million in federal funds over 3 years included in this bill will expand services to over 2.7 million families nationwide.

Ten times more families will be served by PAT under this legislation.

This bill will: provide $400 million over 3 years to states to expand access to PAT, encourage and foster more collaboration between PAT and Early Head Start Grantees, provide $50 million over 3 years to fund innovative ideas and partnerships at the local level to expand access to PAT in communities with limited English proficiency; and provide $50 million over 3 years to reach more military families by expanding access to PAT in schools and community organizations that serve military families.

All babies are born to learn and a parent is a child's first and most important teacher. Parents as Teachers better prepares children for success in school and life and helps parents become more active participants in their child's education.

The expansion of Parents as Teachers is a sound investment in the future of our children and families.

---

By Mr. KYL (for himself and Mr. McCAIN):

S. 505. A bill to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, I am pleased to join today with Senator McCAIN to introduce the Yuma Crossing National Heritage Area Boundary Adjustment Act. This legislation would amend the Yuma Crossing National Heritage Act of 2000, Public Law 106–319, to reduce the size of the heritage area to conform to the area set forth in the Heritage Area Management Plan approved by the Secretary of the Interior in 2002.

The Yuma Crossing Heritage Area was designated in October 2000. It sprung from a preliminary concept plan completed in 1999 by the Heritage Area Task Force. The boundaries proposed in that plan included approximately 22 square miles, extending from the Colorado River on the north and west to the Avenue 7E alignment on the east and the 12th street alignment on the south. These boundaries represented the task force's "best guess" as to the cultural landscape warranting inclusion in the heritage area. This "best guess" was incorporated into the legislation designating the Yuma Crossing National Heritage Area.

During the development of the final Heritage Area Management Plan, which was subject to comprehensive community involvement, it became apparent that the area's boundaries were too large and should be more concentrated along the Colorado River and in historic downtown.

Rather than simply leave the boundaries as they were set in the 2000 legislation, we have heard from the community in Yuma that it is important that we conform the boundaries to those in the agreed-upon Management Plan. Doing so will provide certainty to the heritage area and those private landowners who live within its current boundaries. It will allow the heritage area to meet its management goals and responsibilities without the worry that private property rights may be affected in the future.

This is a non-controversial, straightforward correction. I hope my colleagues will work with me to pass it quickly this year.

---

By Mr. HAGEL (for himself, Mr. DURBIN, Ms. CANTWELL, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 506. A bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

Mr. HAGEL. Mr. President, I rise today with Senator DURBIN to introduce the Public Health Preparedness Workforce Development Act of 2005. This legislation aims to increase the pipeline of qualified public health workers at the Federal, State, local and tribal levels by offering scholarships to students going into the public health field. It also encourages current professionals to stay in the public health field by providing loan repayments in exchange for a commitment of a designated number of years of service in public health.

The average age of lab technicians, epidemiologists, environmental health experts, microbiologists, IT specialists, public health administrators and others who make up the public health workforce is 47, seven years older than the average age of the Nation's workforce. Over the next five years, my State of Nebraska will have more public health workers who are eligible for retirement than any other state in the Nation.

To encourage young people to enter the public health field, this legislation authorizes $35 million per year for scholarships and $195 million per year for loan repayments. Eighty percent of the funds would be dedicated for state and local public health workers, with bonus payments available to those who agree to be placed in under-served areas.

There are critical public health workforce shortages. We cannot afford to lose so many experienced workers just when our public health workforce should be expanding to meet increasing health needs. The ability of the public health system to respond to emerging infectious diseases like West Nile Virus, food-borne illnesses, or bioterrorism relies on a well-trained, adequately staffed public health network at all levels. It is important that we address this problem before it becomes a crisis.

I urge my colleagues to support this legislation.

---

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. REED, and Mr. VOINOVICH):

S. 507. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today, I am pleased to join with Senators LEVIN, STABENOW, REED, and VOINOVICH to introduce the National Invasive Species Council Act—a bill to permanently establish the National Invasive Species Council. I would like to thank my colleagues for their hard work on this legislation.

Recognizing the need for better coordination to combat the economic, ecologic, and health threats posed by invasive species, the federal government established the National Invasive Species Council by Executive Order in 1999. Today, the Council continues to operate and develop invasive species management plans. However, the Council is not as effective as it could be. The GAO reported that implementing these management plans is difficult because the Council does not have a congressional mandate to act. GAO further reported that most of the agencies that have responsibilities under the National Invasive Species Management Plan have not been completing activities by established due dates and that these agencies lack coordination. These are significant problems that must be addressed.

Invasive species are a national threat that we cannot afford to ignore. Many states are trying to combat these species that are threatening their local environments. Examples of such plants and animals include the emerald ash borer, which has been particularly troublesome in my home state of Ohio; the Chinese mitten crab; and hydrilla, considered to be one of the most problematic aquatic plants in the United States. If left unchecked, these and other invasive species pose dangerous environmental, health, and economic threats. Estimates of the annual economic damages caused by invasive species in this nation are as high as $137 billion. It is clear that more must be done.

To combat the serious threats posed by invasive species, we need federal coordination and planning. Our bill would provide just that and on a permanent basis. Under this legislation, the Secretaries of State, Commerce, Transportation, Agriculture, Health and Human Services, Interior, Defense, and Treasury, along with the Administrators of EPA and USAID, would continue to work together through the National Invasive Species Council to develop a National Invasive Species Management Plan.

The duties of the Council are generally to coordinate federal activities in an effective, complementary, cost-efficient manner; update the National Invasive Species Management Plan; ensure that federal agencies implement the Management Plan; and develop recommendations for international cooperation. Additionally, if recommendations are not implemented, agencies would have to report to the Council. The Council is directed to develop guidance for federal agencies on prevention, control, and eradication of invasive species so that federal programs and actions do not increase the risk of invasion or spread non-indigenous species. And finally, the bill would establish an Invasive Species Advisory Committee to the Council.

The National Invasive Species Council could enhance its effectiveness and better protect our environment from invasive species with a congressional mandate. I urge my colleagues to cosponsor this measure so that the Federal Government can better respond to the threat posed by invasive species.

---

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. LUGAR, Mr. BAYH, Mr. DAYTON, and Mr. KOHL):

S. 508. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today I am proud to introduce the Great Lakes Environmental Restoration Act with my colleague, Senator LEVIN. I would like to thank him for all of his hard work on this legislation.

For those who have seen one of the five Great Lakes, it is not difficult to understand their importance. Covering more than 94,000 square miles and draining more than twice as much land, these freshwater seas hold an estimated six quadrillion gallons of water—or one-fifth of the world's surface freshwater. The Great Lakes ecosystem includes such diverse elements as northern evergreen and deciduous forests, lake plain prairies, and coastal wetlands. Over 30 of the basin's biological communities and over 100 species are globally rare or found only in the Great Lakes basin. The 637 State parks in the region accommodate more than 250 million visitors each year, and the Great Lakes basin is home to more than 33 million people—or one-tenth of the U.S. population.

As co-chairs of the Senate Great Lakes Task Force, Senator LEVIN and I have worked together on legislation and other initiatives to protect this natural resource. We secured funding from the National Oceanic and Atmospheric Administration (NOAA) for water level gauges, a replacement ice-breaking vessel, and funding for the Great Lakes Fishery Commission for sea lamprey control. Additionally, Senator LEVIN and I met with the U.S. Trade Representative Office in an effort to prevent Great Lakes water from being diverted abroad. We worked to authorize the Great Lakes Basin Soil Erosion and Sediment Control Program in the 2002 Farm Bill, and three years ago, we joined our colleagues in the House to pass the Great Lakes Legacy Act. This legislation provides up to $50 million per year to the Environmental Protection Agency (EPA) to remove contaminated sediments at Areas of Concern.

These steps are positive, but we are not keeping pace with the problems facing the Great Lakes—the Federal Government simply is not providing the funding to protect them. An April 2003 Government Accountability Office (GAO) report found that the Federal Government spent roughly $745 million over the last ten years on Great Lakes restoration programs. Now consider that the GAO reported that the eight Great Lakes States spent $956 million during that same ten-year period.

There is ample evidence that this current level of commitment is simply not enough to address the challenges. In 2001, there were approximately 600 beach closings as a result of e-coli bacteria. Further, State and local health authorities issued approximately 1,400 fish consumption advisories in the

Great Lakes. In 1978, the United States and Canada amended the Great Lakes Water Quality Agreement to give priority attention to 43 designated Areas of Concern. Since the signing, the Federal Government has not been able to remove any U.S. sites from the Areas of Concern list. Invasive species are one of the largest threats to the ecosystem and the $4.5 billion Great Lakes fishing industry. There are now over 160 aquatic invasive species threatening the Great Lakes. It is imperative that we fix these problems.

For several years, I have been calling for a plan to restore the Lakes. I have been urging the governors, mayors, the environmental community, and other regional interests to agree on a vision for the future of the Great Lakes—not just for the short-term, but for the long-term. It is time for us to come together to develop a plan and put it in place.

The bill we are introducing today builds upon the efforts by those in the Great Lakes states who are working with the congressional delegation and federal officials on the Great Lakes Regional Collaboration group. It provides the funding needed to implement their recommendations.

This legislation would provide the tools needed for the long-term future of the Great Lakes. First, our bill creates a $6 billion Great Lakes Restoration Grant Program to augment existing federal and state efforts to clean, protect, and restore the Great Lakes. An additional $600 million in annual funding will be appropriated through the EPA's Great Lakes National Program Office. The Program Office will provide grants to the Great Lakes States, municipalities, and other applicants in coordination with the Great Lakes Environmental Restoration Advisory Board. This funding will provide the extra resources that existing programs do not have.

While the Great Lakes are a national resource, leaders in the region, not Washington bureaucrats, should set priorities and guide restoration efforts. That is why our bill requires close coordination between the EPA and state and regional interests before grants are released. The Great Lakes Environmental Restoration Advisory Board, led by the Great Lakes governors, will include mayors, federal agencies, Native American tribes, environmentalists, industry representatives, and Canadian observers. This Advisory Board will prioritize restoration projects, such as invasive species control and prevention, wetlands restoration, contaminated sediments cleanup, and water quality improvements. Additionally, this Advisory Board will provide recommendations on which grant applications to fund. The input from the Advisory Board ensures that regional leaders will be critical in determining the long-term future of the Great Lakes.

As the April 2003 GAO study reported, environmental restoration activities in the Great Lakes suffer from lack of coordination. The second goal of this legislation is the codification of the Great Lakes Interagency Task Force to coordinate Federal activities in the Great Lakes region. The EPA's Great Lakes National Program Office would serve as the council leader, and participants would include key federal agencies involved in Great Lakes restoration efforts. The council would ensure that the efforts of federal agencies are coordinated, effective, and cost-efficient.

Lastly, this bill would help address a GAO recommendation that a monitoring system and environmental indicators be developed to measure progress on new and existing restoration programs in the Great Lakes.

Our bill is a major step in the right direction. I would again like to thank my colleague, Senator LEVIN, for his dedication to the Great Lakes and to their restoration. We need to continue to refocus and improve our efforts in order to reverse the trend of additional degradation of the Great Lakes. They are a unique natural resource for Ohio and the entire region—a resource that must be protected for future generations. I ask my colleagues to join me in support of this bill and in our efforts to help preserve and protect the long-term viability of our Great Lakes.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 508

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Environmental Restoration Act".

### SEC. 2. FINDINGS.

Congress finds that—

(1) the Great Lakes and the connecting channels of the Great Lakes form the largest freshwater system in the world, holding $\frac{1}{5}$ of the fresh surface water supply of the world and $\frac{9}{10}$ of the fresh surface water supply of the United States;

(2) 30 years after the date of enactment of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), water quality in the Great Lakes has improved, but the Great Lakes remain in a degraded state;

(3) evidence of the degraded environment of the Great Lakes includes—

(A) a record 599 closings of Great Lakes beaches in 2001;

(B) an increase to 20 percent in the percentage of Great Lakes shoreline that contains polluted sediments; and

(C) the issuance by State and local authorities of 1,400 fish consumption advisories relating to the Great Lakes;

(4) the Great Lakes are sources of drinking water for approximately 40,000,000 people in the United States and Canada;

(5) in the years since the Great Lakes Water Quality Agreement was signed and the United States and Canada agreed to "restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin and give priority attention to the 43 designated Areas of Concern", no sites have been restored in the United States;

(6) it is the responsibility of the Federal Government and State and local governments to ensure that the Great Lakes remain a clean and safe source of water for drinking, fishing, and swimming; and

(7) while the total quantity of resources needed to restore the Great Lakes is unknown, additional funding is needed now to augment existing efforts to address the known threats facing the Great Lakes.

### SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term "Board" means the Great Lakes Environmental Restoration Advisory Board established by section 5(a).

(2) GREAT LAKE.—The term "Great Lake" means—

(A) Lake Erie;

(B) Lake Huron (including Lake Saint Clair);

(C) Lake Michigan;

(D) Lake Ontario;

(E) Lake Superior; and

(F) the connecting channels of those Lakes, including—

(i) the Saint Marys River;

(ii) the Saint Clair River;

(iii) the Detroit River;

(iv) the Niagara River; and

(v) the Saint Lawrence River to the Canadian border.

(3) GREAT LAKES STATE.—The term "Great Lakes State" means each of the States of Illinois, Indiana, Ohio, Michigan, Minnesota, New York, Pennsylvania, and Wisconsin.

(4) GREAT LAKES SYSTEM.—The term "Great Lakes system" means all the streams, rivers, lakes, and other bodies of water in the drainage basin of the Great Lakes.

(5) PROGRAM.—The term "Program" means the Great Lakes Environmental Restoration Grant Program established by section 4(a).

(6) PROGRAM OFFICE.—The term "Program Office" means the Great Lakes National Program Office of the Environmental Protection Agency.

(7) TASK FORCE.—The term "Task Force" means the Great Lakes Interagency Task Force established by section 6(a).

### SEC. 4. GREAT LAKES RESTORATION GRANTS.

(a) ESTABLISHMENT.—There is established a Great Lakes Environmental Restoration Grant Program, to be administered by the Program Office.

(b) GRANTS.—

(1) IN GENERAL.—In coordination with the Board, the Program Office shall provide to States, municipalities, and other applicants grants for use in and around the Great Lakes in carrying out—

(A) contaminated sediment cleanup;

(B) wetland restoration;

(C) invasive species control and prevention;

(D) coastal wildlife and fisheries habitat improvement;

(E) public access improvement;

(F) water quality improvement;

(G) sustainable water use;

(H) nonpoint source pollution reduction; or

(I) such other projects and activities to restore, protect, and assist the recovery of the Great Lakes as the Board may determine.

(2) DISTRIBUTION.—In providing grants under this section for a fiscal year, the Program Office shall ensure that—

(A) at least 1 project or activity is funded in each Great Lakes State for the fiscal year;

(B) the amount of funds received by each Great Lakes State under this section for the fiscal year is at least 6 percent, but not more than 30 percent, of the total amount of funds made available for grants under this section for the fiscal year;

(C) each project or activity for which funding is provided results in 1 or more tangible improvements in the Great Lakes watershed; and

(D) each project or activity for which funding is provided addresses 1 or more priority issue areas identified by the Board for the fiscal year.

(3) GRANT EVALUATION.—

(A) IN GENERAL.—In evaluating grant proposals, the Program Office shall give great weight to the ranking of proposals by the Board under section 5(c)(3).

(B) DECISION NOT TO FUND.—Not later than 30 days after the date of the determination, if the Program Office decides not to fund a grant proposal ranked by the Board as 1 of the top 10 proposals meriting funding, the Program Office shall provide to the Board a written statement explaining the reasons why the proposal was not funded.

(4) FUNDING LIMITATIONS.—Funds provided under the Program shall not be used for any of the following activities:

(A) Design, construction, or improvement of a road, except as required in connection with a sewer upgrade.

(B) Design, implementation, or evaluation of a research or monitoring project or activity, except as required in connection with a project or activity that will result in a tangible improvement to the Great Lakes watershed.

(C) Design or implementation of a beautification project or activity that does not result in a tangible improvement to the Great Lakes watershed.

(D) Litigation expenses, including legal actions to address violations of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or any other environmental law or regulation.

(E) Lobbying expenses (as defined in section 2 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $600,000,000 for each of fiscal years 2006 through 2015.

(2) COST SHARING.—The Federal share of the cost of any project or activity carried out using funds made available under paragraph (1) shall not exceed 80 percent.

(3) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project or activity carried out using funds made available under paragraph (1) may be provided in cash or in kind.

### SEC. 5. GREAT LAKES ENVIRONMENTAL RESTORATION ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a committee to be known as the "Great Lakes Environmental Restoration Advisory Board".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall be composed of 21 voting members (or designees of the members), of whom—

(A) 8 shall be the Governors of the Great Lakes States;

(B) 1 shall be the Director of the Great Lakes National Program Office;

(C) 1 shall be the Secretary of the Interior;

(D) 1 shall be the Director of the National Oceanic and Atmospheric Administration;

(E) 1 shall be the Chief of Engineers;

(F) 1 shall be the Secretary of Agriculture; and

(G) 8 shall be chief executives of cities, counties, or municipalities in the Great Lakes basin and selected by the Steering Committee of the Great Lakes Cities Initiative, including 1 member from each Great Lakes State.

(2) OBSERVERS.—The Board may include observers, including—

(A) the Premiers of the Canadian Provinces of Ontario and Quebec;

(B) a representative of the Government of Canada;

(C) a representative of the State Department;

(D) 8 representatives of environmental organizations (with 1 member appointed by the Governor of each Great Lakes State), including—

(i) Great Lakes United;

(ii) the Lake Michigan Federation;

(iii) the National Wildlife Federation;

(iv) the Sierra Club; and

(v) The Nature Conservancy;

(E) 5 representatives of industry selected by the chairperson of the Board;

(F) the Chairperson of the United States section of the International Joint Committee;

(G) the Vice Chairperson of the United States section of the Great Lakes Fishery Commission;

(H) the Chairperson of the Great Lakes Commission; and

(I) 3 representatives of Native Americans selected by the President.

(3) DATE OF APPOINTMENTS.—The appointment of each member of the Board shall be made not later than 90 days after the date of enactment of this Act.

(4) TERM; VACANCIES.—

(A) TERM.—A member of the Board shall be appointed for 5 years.

(B) VACANCIES.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(5) MEETINGS.—The Board shall meet at the call of the chairperson.

(6) CHAIRPERSON.—The Board shall select a chairperson of the Board from the members appointed under paragraph (1)(A).

(c) DUTIES.—

(1) IN GENERAL.—Before the beginning of the fiscal year, the Board shall determine by majority vote, and shall submit to the Program Office, the funding priority issue areas that shall apply to all grants provided under section 4 during the fiscal year.

(2) GREAT LAKES GOALS.—The priorities shall be based on environmental restoration goals for the Great Lakes that—

(A) are prepared by the Governors of Great Lakes States; and

(B) identify specific objectives and the best methods by which to produce a tangible improvement to the Great Lakes.

(3) GRANTS.—

(A) PROGRAM OFFICE.—The Program Office shall provide to the Board, in a timely manner, copies of grant proposals submitted under section 4.

(B) BOARD.—The Board shall—

(i) review the grant proposals; and

(ii) by a date specified by the Program Office, provide to the Program Office a list of the grant applications that the Board recommends for funding, ranked in order of the applications that most merit funding.

### SEC. 6. GREAT LAKES INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established, in the Environmental Protection Agency, the Great Lakes Interagency Task Force.

(b) PURPOSES.—The purposes of the Task Force are—

(1) to help establish a process for collaboration among the members of the Task Force, the members of the working group established under subsection (e)(1), the Great Lakes States, local communities, tribes, regional bodies, and other interests in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes system;

(2) to collaborate with Canada and binational bodies involved in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes system;

(3) to coordinate the development of consistent Federal policies, strategies, projects, and priorities for addressing the restoration and protection of the Great Lakes system and assisting in the appropriate management of the Great Lakes system;

(4) to develop outcome-based goals for the Great Lakes system relying on—

(A) existing data and science-based indicators of water quality and related environmental factors, and other factors;

(B) focusing on outcomes such as cleaner water, sustainable fisheries, and biodiversity of the Great Lakes system; and

(C) ensuring that Federal policies, strategies, projects, and priorities support measurable results;

(5) to exchange information regarding policies, strategies, projects, and priorities related to the Great Lakes system between the agencies represented on the Task Force;

(6) to coordinate action of the Federal Government associated with the Great Lakes system;

(7) to ensure coordinated Federal scientific and other research associated with the Great Lakes system;

(8) to ensure coordinated development and implementation of the Great Lakes portion of the Global Earth Observation System of Systems by the Federal Government; and

(9) to provide assistance and support to agencies represented on the Task Force in the activities of the agencies related to the Great Lakes system.

(c) MEMBERSHIP AND OPERATION.—

(1) IN GENERAL.—The Task Force shall consist of—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of State;

(C) the Secretary of the Interior;

(D) the Secretary of Agriculture;

(E) the Secretary of Commerce;

(F) the Secretary of Housing and Urban Development;

(G) the Secretary of Transportation;

(H) the Secretary of Homeland Security;

(I) the Secretary of the Army; and

(J) the Chairperson of the Council on Environmental Quality.

(2) OPERATION.—A member of the Task Force may designate to perform the Task Force functions of the member any person who is part of the department, agency, or office of the member and who is—

(A) an officer of the United States appointed by the President; or

(B) a full-time employee of the United States serving in a position with pay equal to or great than the minimum rate payable for grade GS-15 of the General Schedule.

(d) CHAIRPERSON.—The Administrator of the Environmental Protection Agency shall serve as chairperson of the Task Force.

(e) DUTIES.—

(1) GREAT LAKES REGIONAL WORKING GROUP.—

(A) IN GENERAL.—The Task Force shall establish a Great Lakes regional working group to coordinate and make recommendations on how to implement the policies, strategies, projects, and priorities of the Task Force.

(B) MEMBERSHIP.—The working group established under subparagraph (A) shall consist of the appropriate regional administrator or director with programmatic responsibility for the Great Lakes system for each agency represented on the Task Force, including—

(i) the Great Lakes National Program Office of the Environmental Protection Agency;

(ii) the United States Fish and Wildlife Service of the Department of the Interior;

(iii) the National Park Service of the Department of the Interior;

(iv) the United States Geological Survey of the Department of the Interior;

(v) the Natural Resources Conservation Service of the Department of Agriculture;

(vi) the Forest Service of the Department of Agriculture;

(vii) the National Oceanic and Atmospheric Administration of the Department of Commerce;

(viii) the Department of Housing and Urban Development;

(ix) the Department of Transportation;

(x) the Coast Guard in the Department of Homeland Security; and

(xi) the Corps of Engineers.

(2) PRINCIPLES OF SUCCESSFUL REGIONAL COLLABORATION.—The chairperson of the Task Force shall coordinate the development of a set of principles of successful regional collaboration to advance the policy set forth in section 1 of the Great Lakes Interagency Task Force: Executive Order dated May 18, 2004.

(3) REPORT.—Not later than May 31, 2005, and annually thereafter as appropriate, the Task Force shall submit to the President a report that—

(A) summarizes the activities of the Task Force; and

(B) provides any recommendations that would, in the judgment of the Task Force, advance the policy set forth in section 1 of the Great Lakes Interagency Task Force: Executive Order dated May 18, 2004.

### SEC. 7. GREAT LAKES WATER QUALITY INDICATORS AND MONITORING.

(a) IN GENERAL.—Section 118(c)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B)(i) not later than 2 years after the date of enactment of this clause, in cooperation with Canada and appropriate Federal agencies (including the United States Geological Survey, the National Oceanic and Atmospheric Administration, and the United States Fish and Wildlife Service), develop and implement a set of science-based indicators of water quality and related environmental factors in the Great Lakes, including, at a minimum, measures of toxic pollutants that have accumulated in the Great Lakes for a substantial period of time, as determined by the Program Office;

"(ii) not later than 4 years after the date of enactment of this clause—

"(I) establish a Federal network for the regular monitoring of, and collection of data throughout, the Great Lakes basin with respect to the indicators described in clause (i); and

"(II) collect an initial set of benchmark data from the network; and

"(iii) not later than 2 years after the date of collection of the data described in clause (ii)(II), and biennially thereafter, in addition to the report required under paragraph (10), submit to Congress, and make available to the public, a report that—

"(I) describes the water quality and related environmental factors of the Great Lakes (including any changes in those factors), as determined through the regular monitoring of indicators under clause (ii)(I) for the period covered by the report; and

"(II) identifies any emerging problems in the water quality or related environmental factors of the Great Lakes.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by striking subsection (h) and inserting the following:

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section (other than subsection (c)(1)(B)) $25,000,000 for each of fiscal years 2006 through 2010.

"(2) GREAT LAKES WATER QUALITY INDICATORS AND MONITORING.—There are authorized to be appropriated to carry out subsection (c)(1)(B)—

"(A) $4,000,000 for fiscal year 2006;

"(B) $6,000,000 for fiscal year 2007;

"(C) $8,000,000 for fiscal year 2008; and

"(D) $10,000,000 for fiscal year 2009.".

---

By Mrs. FEINSTEIN (for herself, Mr. LEVIN, Mr. WYDEN, Mr. HARKIN, and Ms. CANTWELL):

S. 509. A bill to improve the operation of energy markets; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, in light of the most recent evidence uncovered about Enron's participation in the Western Energy Crisis, I rise today to introduce the Energy Market Oversight Bill with Senators LEVIN, HARKIN, CANTWELL and WYDEN.

This bill would: Improve Price Transparency in Wholesale Electricity Markets. The bill directs the Federal Energy Regulatory Commission to establish an electronic system to provide information about the price and availability of wholesale electricity to buyers, and sellers, and the public.

Prohibit Round Trip Electricity Trades. The bill prohibits the simultaneous buying and selling of the same quantity of electricity at the same price in the same location with no financial gain or loss. Round trip or "wash trades" are essentially bogus trades whereby no electricity changes hands, but the profit from the trades enriches the bottom-line of a company's financial report.

Increase Penalties for Violations of Federal Power Act. Maximum fines for violations of the Federal Power Act are increased from $5,000 to $1,000,000.; and maximum sentences are increased from 2 to 5 years. Current fines are extraordinarily low and therefore provide no deterrence to illegal activity.

Increase Penalties for Violations of Natural Gas Act. The bill increases maximum fines for violations of the Natural Gas Act from $5,000 to $1,000,000.

Prohibit Manipulation in Electricity Markets. Manipulation is prohibited in the wholesale electricity markets and FERC is given discretionary authority to revoke market-based rates for violations. Strangely enough, manipulation of energy markets is not specifically prohibited. This would add language to Part II of the Federal Power Act.

Repeal the "Enron exemption". Repeals the Commodities Future Modernization Act exemption for large traders in energy commodities and applies the anti-manipulation and anti-fraud provisions of the Commodities Exchange Act to all Over the Counter trades in energy commodities and derivatives. In my view, when Congress exempted energy from the Commodity Futures Modernization Act of 2000, it created the playing field for the Western Energy Crisis of 2000 and 2001, and cost millions of people millions of dollars.

Provide CFTC the Tools to Monitor OTC Energy Markets. For Over the Counter trades in energy commodities and derivatives that perform a significant price discovery function, including trades on electronic trading facilities, the bill requires large sophisticated traders to keep records and report large trades to the CFTC. This does not change the law, only applies the law that exists for futures contracts to over the counter trades in the energy markets.

Limit on Use of Data. Requires the Commodity Futures Trading Commission to seek information that is necessary for the limited purposes of detecting and preventing manipulation in the futures and over the counter markets for energy; to keep proprietary trade and business data confidential except when used for law enforcement purposes. This does not require the real-time publication of proprietary data.

No Effect on Non-Energy Commodities or Derivatives. The bill would not alter or affect the regulation of futures markets, financial derivatives, or metals. We have specifically stated on page 20 the following: "The amendments made by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act."

In addition, the bill states: "The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act."

The Western Energy Crisis of 2000–2001 has still not been resolved. Meanwhile, more and more information about Enron's role in the crisis emerges. On February 3, 2005, the Snohomish Public Utility District released transcripts of tapes showing that on January 17, 2001, Enron traders concocted false repairs for a Las Vegas power plant—making power unavailable that would have been delivered to California—on the very same day that supplies were so tight that Northern California experienced a Stage 3 power emergency and rolling blackouts hit as many as 2 million consumers.

By taking the plant offline, Enron was also in direct violation of an Emergency Power Order by U.S. Energy Secretary Bill Richardson that required power generators to make power available to California.

Telephone transcripts between Enron and the Las Vegas plant confirming the effort to falsify repairs read as follows:

> BILL: Rich: Ah, we want you guys to get a little creative.
>
> RICH: OK.
>
> BILL: And come up with a reason to go down.
>
> RICH: OK.
>
> BILL: Anything you want to do over there? Any——
>
> RICH: Ah——
>
> BILL: Cleaning, anything like that?
>
> RICH: Yeah, Yeah. There's some stuff we could be doing.

Enron knew exactly what it was doing when it manipulated the Western Energy markets. Enron traders tested gaming techniques in the California market as early as May 1998, creating imbalances in the California market as a result of loopholes it discovered in the system.

The schemes the company used in 2000-2001 had already been rehearsed in Canada. "Project Stanley" was one such technique—Enron traders inflated energy prices in Alberta, Canada by colluding with other energy marketers.

Enron advocated for "de-regulation" of California's energy markets while drafting language that was full of loopholes it could exploit. Similarly, the company was the main force behind a provision that exempted it from federal oversight. This exemption, known as the "Enron loophole," was created in 2000 when Congress passed the Commodity Futures Modernization Act.

The loophole exempted energy trading from regulatory oversight and excluded it completely if the trade was done electronically.

We must close this loophole in order to prohibit fraud and price manipulation in all over-the-counter energy commodity transactions, and provide the Commodity Futures Trading Commission the authority it needs to investigate and prosecute allegations of fraud and manipulation.

We need to give the CFTC this authority because we learned during the Western Energy Crisis that there was pervasive manipulation and fraud in energy markets, and that FERC and the CFTC were unable or unwilling to use the authority they had to intervene.

We need to give the CFTC this authority because we need regulators to protect consumers and make sure they're not taken advantage of.

We need to give the CFTC this authority because when there are inadequate regulations, consumers are ripped off.

The Western Energy Crisis cost California about $40 billion. California has been asking for $9 billion in refunds. However, given the fact that Enron is in bankruptcy, it would be a miracle if the State receives even half of that amount.

Yet there is nothing preventing another energy crisis from happening again, in my State or elsewhere.

Therefore, we need Federal oversight of our energy markets.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 509

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Markets Improvement Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TRANSPARENCY IN WHOLESALE ELECTRICITY MARKETS

Sec. 101. Market transparency.
Sec. 102. Round trip trading.
Sec. 103. Enforcement.
Sec. 104. Refund effective date.
Sec. 105. Discovery and evidentiary hearings under the Federal Power Act.

TITLE II—MARKET MANIPULATION

Sec. 201. Prohibition of market manipulation.

TITLE III—ENERGY MARKET OVERSIGHT

Sec. 301. Over-the-counter transactions in energy commodities.
Sec. 302. Electronic trading facilities for energy commodities.
Sec. 303. No effect on other authority.
Sec. 304. Prohibition of fraudulent transactions.
Sec. 305. Criminal and civil penalties.
Sec. 306. Conforming amendments.

## TITLE I—TRANSPARENCY IN WHOLESALE ELECTRICITY MARKETS

### SEC. 101. MARKET TRANSPARENCY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

### "SEC. 215. MARKET TRANSPARENCY.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate regulations establishing an electronic information system to provide the Commission and the public with access to such information as is appropriate to facilitate price transparency and participation in markets subject to the jurisdiction of the Commission.

"(b) INFORMATION TO BE MADE AVAILABLE.—

"(1) IN GENERAL.—The system under subsection (a) shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

"(2) PROTECTION OF CONSUMERS AND COMPETITIVE MARKETS.—In determining the information to be made available under the system and the time at which to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from false or misleading information and from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c) AUTHORITY TO OBTAIN INFORMATION.—The Commission shall have authority to obtain information described in subsections (a) and (b) from any electric utility or transmitting utility (including any entity described in section 201(f)).

"(d) EXEMPTION.—The Commission shall exempt from disclosure information that the Commission determines would, if disclosed—

"(1) be detrimental to the operation of an effective market; or

"(2) jeopardize system security.

"(e) APPLICABILITY.—The system under subsection (a) shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).".

### SEC. 102. ROUND TRIP TRADING.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 101) is amended by adding at the end the following:

### "SEC. 216. ROUND TRIP TRADING.

"(a) PROHIBITION.—It shall be unlawful for any person or entity (including an entity described in section 201(f)) knowingly to enter into any contract or other arrangement to execute a round trip trade.

"(b) DEFINITION OF ROUND TRIP TRADE.—In this section, the term 'round trip trade' means a transaction (or combination of transactions) in which a person or entity, with the intent to affect reported revenues, trading volumes, or prices—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or entity electric energy at wholesale; and

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with the other person or entity for the same electric energy at substantially the same location, price, quantity, and terms so that, collectively, the purchase and sale transactions in themselves result in a de minimis or no financial gain or loss.".

### SEC. 103. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) in the first sentence—

(A) by inserting "(including an electric utility)" after "Any person"; and

(B) by inserting ", transmitting utility," after "licensee"; and

(2) in the second sentence, by inserting ", transmitting utility," after "licensee".

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended in the first sentence by inserting "(including a transmitting utility)" after "any person".

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825*l*) is amended in the first sentence by inserting "(including an electric utility)" after "Any person".

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825*o*) is amended—

(1) in subsection (a)—

(A) by striking "$5,000" and inserting "$1,000,000"; and

(B) by striking "two years" and inserting "5 years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "5 years"; and

(2) in subsection (b), by striking "$500" and inserting "$50,000".

### SEC. 104. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended—

(1) in the second sentence, by striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" and inserting "the date of the filing of the complaint nor later than 5 months after the filing of the complaint";

(2) in the third sentence—

(A) by striking "60 days after the" and inserting "of"; and

(B) by striking "expiration of such 60-day period" and inserting "publication date"; and

(3) by striking the fifth sentence and inserting the following: "If no final decision is rendered by the conclusion of the 180-day period that begins on the date of institution of a proceeding under this section, the Commission shall state the reasons why the Commission has failed to do so and shall state its best estimate as to when the Commission reasonably expects to render a final decision.".

### SEC. 105. DISCOVERY AND EVIDENTIARY HEARINGS UNDER THE FEDERAL POWER ACT.

The Federal Power Act is amended—

(1) in section 206 (16 U.S.C. 824e), by adding at the end the following:

"(e) DISCOVERY AND EVIDENTIARY HEARINGS.—On receipt of a complaint by a State or a State Commission under subsection (a), the Commission shall provide—

"(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

"(2) on request of the State or the State Commission and a showing of a dispute as to material facts, an evidentiary hearing."; and

(2) in section 306 (16 U.S.C. 825e)—

(A) by inserting "(a) IN GENERAL.—" before "Any person"; and

(B) by adding at the end the following:

"(b) DISCOVERY AND EVIDENTIARY HEARINGS.—On receipt of a complaint by a State or State Commission under this section, the Commission shall provide—

"(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

"(2) on request of the State or the State Commission and a showing of dispute as to material facts, an evidentiary hearing.".

## TITLE II—MARKET MANIPULATION

### SEC. 201. PROHIBITION OF MARKET MANIPULATION.

(a) IN GENERAL.—Part II of the Federal Power Act (as amended by section 102) is amended by adding at the end the following:

### "SEC. 217. PROHIBITION OF MARKET MANIPULATION.

"(a) IN GENERAL.—It shall be unlawful for any person, directly or indirectly, to knowingly use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance to affect the price, availability, or reliability of the electric energy or transmission services.

"(b) REGULATIONS.—The Commission may promulgate regulations as appropriate in the public interest or for the protection of electric ratepayers to enforce this section.".

(b) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of this Act (including a regulation promulgated under this Act), the Commission may, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.".

## TITLE III—ENERGY MARKET OVERSIGHT

### SEC. 301. OVER-THE-COUNTER TRANSACTIONS IN ENERGY COMMODITIES.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

"(34) INCLUDED ENERGY TRANSACTION.—The term 'included energy transaction' means a contract, agreement, or transaction in an energy commodity that is—

"(A)(i) executed or traded on an electronic trading facility; and

"(ii) entered into on a principal-to-principal basis solely between persons that are eligible commercial entities at the time the persons enter into the agreement, contract, or transaction; or

"(B)(i) executed or traded not on or through a trading facility; and

"(ii) entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction, regardless of the means of execution of the agreement, contract, or transaction.

"(35) ENERGY COMMODITY.—

"(A) IN GENERAL.—The term 'energy commodity' means a commodity (other than an excluded commodity, a metal, or an agricultural commodity) that is used as a source of energy.

"(B) INCLUSIONS.—The term 'energy commodity' includes—

"(i) coal;

"(ii) crude oil, gasoline, heating oil, and propane;

"(iii) electricity; and

"(iv) natural gas.

"(36) ELECTRONIC ENERGY TRADING FACILITY.—The term 'electronic energy trading facility' means an electronic trading facility on or through which included energy transactions are traded or executed.".

(b) OFF-EXCHANGE TRANSACTIONS IN ENERGY COMMODITIES.—Section 2(g) of the Commodity Exchange Act (7 U.S.C. 2(g)) is amended—

(1) by inserting "or an energy commodity" after "agricultural commodity";

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "No provision" and inserting the following:

"(1) IN GENERAL.—No provision"; and

(4) by adding at the end the following:

"(2) TRANSACTIONS IN ENERGY COMMODITIES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and subsection (h)(7), nothing in this Act applies to an included energy transaction.

"(B) PROHIBITED CONDUCT.—

"(i) IN GENERAL.—An included energy transaction shall be subject to—

"(I) sections 5b, 12(e)(2)(B), and 22(a)(4); and

"(II) the prohibitions in sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2).

"(ii) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an included energy transaction shall be subject to the sections specified in clause (i) of this subparagraph, subparagraph (C), and subsection (h)(7).

"(C) REPORTING AND RECORDKEEPING REQUIREMENTS.—

"(i) IN GENERAL.—An eligible contract participant that enters into or executes an included energy transaction that performs, or together with other such transactions performs, a significant price discovery function in the cash market for an energy commodity or in any other market for agreements, contracts, or transactions relating to an energy commodity, or an eligible commercial entity that enters into or executes an included energy transaction described in section 1a(34)(A) shall—

"(I) provide to the Commission on a timely basis the information required under clause (ii); and

"(II)(aa) consistent with section 4i, maintain books and records relating to each included energy transaction, for a period of at least 5 years after the date of the transaction, in such form as the Commission shall require; and

"(bb) keep the books and records open to inspection by any representative of the Commission or the Attorney General.

"(ii) REQUIRED INFORMATION.—

"(I) IN GENERAL.—The Commission shall require that such information regarding included energy transactions be provided to the Commission as the Commission considers necessary to assist in detecting and preventing price manipulation.

"(II) INFORMATION TO BE INCLUDED.—Such information shall include information regarding large trading positions obtained through 1 or more included energy transactions that involve—

"(aa) substantial quantities of the commodity in the cash market; or

"(bb) substantial positions, investments, or trades in agreements or contracts related to energy commodities.

"(III) MANNER OF COMPLIANCE.—The Commission shall specify when and how such information shall be provided and maintained by eligible contract participants and eligible commercial entities.

"(IV) PRICE DISCOVERY TRANSACTIONS.—

"(aa) IN GENERAL.—In specifying the information to be provided under this paragraph, the Commission shall identify the transactions or class of transactions that the Commission considers to perform a significant price discovery function.

"(bb) CONSIDERATIONS.—In determining which included energy transactions perform a significant price discovery function, the Commission shall consider the extent to which—

"(AA) standardized agreements are used to execute the transactions;

"(BB) the transactions involve standardized types or measures of a commodity;

"(CC) the prices of the transactions are reported to third parties, published, or disseminated;

"(DD) the prices of the transactions are referenced in other transactions; and

"(EE) other factors considered appropriate by the Commission.

"(V) PERSONS FILING.—

"(aa) IN GENERAL.—The Commission, in its discretion, may allow large trader position reports required to be provided by an eligible commercial entity to be provided by an electronic energy trading facility if the eligible commercial entity authorizes the facility to provide such information on its behalf.

"(bb) INFORMATION AND ENFORCEMENT.—Nothing in an authorization under item (aa) shall impair the ability of the Commission to obtain information from an eligible commercial entity or otherwise enforce this Act.

"(VI) REGULATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided and maintained under this subparagraph.".

### SEC. 302. ELECTRONIC TRADING FACILITIES FOR ENERGY COMMODITIES.

Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended—

(1) in paragraph (1), by inserting after "an exempt commodity" the following: "other than an energy commodity";

(2) in paragraph (3), by inserting after "an exempt commodity" the following: "other than an energy commodity"; and

(3) by adding at the end the following:

"(7) ENERGY TRANSACTIONS.—

"(A) IN GENERAL.—To the extent that the Commission determines to be appropriate under subparagraph (C), an electronic energy trading facility shall—

"(i) be subject to the requirements of section 5a, to the extent provided in sections 5a(g) and 5d;

"(ii)(I) consistent with section 4i, maintain books and records relating to the business of the electronic energy trading facility, including books and records relating to each transaction in such form as the Commission may require; and

"(II) make the books and records required under this section available to representatives of the Commission and the Attorney General for inspection for a period of at least 5 years after the date of each included energy transaction;

"(iii) make available to the public information on trading volumes, settlement prices, open interest (where applicable), and opening and closing ranges (or daily highs and lows, as appropriate) for included energy transactions; and

"(iv) provide the information to the Commission in such form and at such times as the Commission may require.

"(B) APPLICABILITY OF OTHER PROVISIONS.—

"(i) PARAGRAPH 5.—An electronic energy trading facility shall comply with paragraph (5).

"(ii) PARAGRAPH 6.—Paragraph (6) shall apply with respect to a subpoena issued to any foreign person that the Commission believes is conducting or has conducted transactions on or through an electronic energy trading facility.

"(C) REGULATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided, maintained, or made available to the public under subparagraphs (A) and (B).

"(8) NONDISCLOSURE OF PROPRIETARY INFORMATION.—In carrying out paragraph (7) and subsection (g)(2), the Commission shall not—

"(A) require the real-time publication of proprietary information;

"(B) prohibit the commercial sale or licensing of real-time proprietary information; or

"(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.".

### SEC. 303. NO EFFECT ON OTHER AUTHORITY.

(a) NO EFFECT ON FERC AUTHORITY.—Nothing contained in this title shall affect the jurisdiction of the Federal Energy Regulatory Commission with respect to the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.), the Natural Gas Act (15 U.S.C. 717 et seq.), or other law to obtain information or otherwise carry out the responsibilities of the Federal Energy Regulatory Commission.".

(b) NO EFFECT ON EXCLUDED COMMODITIES.—The amendments made by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

(c) NO EFFECT ON METALS.—The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

### SEC. 304. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

"(a) PROHIBITIONS.—

"(1) IN GENERAL.—It shall be unlawful (A) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, or (B) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of or with, any other person, other than on or subject to the rules of a designated contract market—

"(i) to cheat or defraud or attempt to cheat or defraud the other person;

"(ii) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

"(iii) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for (or, in the case of a contract described in subparagraph (B), with the other person); or

"(iv)(I) to bucket an order represented by the person as an order to be executed, for or on behalf of the other person, on an organized exchange; or

"(II) to—

"(aa) fill an order by offset against the order or orders of the other person; or

"(bb) willfully and knowingly and without the prior consent of the other person, to—

"(AA) become the buyer in respect to any selling order of the other person; or

"(BB) become the seller in respect to any buying order of the other person;

if the order is to be executed on or subject to the rules of a designated contract market.

"(2) LIMITATION.—This subsection does not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery with another person, to disclose to any other person nonpublic information that may be material to the market price of the commodity or transaction, except as necessary to make any statement made to the other person in connection with the transaction not misleading in any material respect.".

### SEC. 305. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation.".

(b) MANIPULATIONS AND OTHER VIOLATIONS.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking "paragraph (a) or (b) of section 9 of this Act" and inserting "subsection (a), (b), or (f) of section 9"; and

(2) by striking "said paragraph 9(a) or 9(b)" and inserting "subsection (a), (b), or (f) of section 9".

(c) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)".

(d) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a-1(d)) is amended by striking "(d)" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CIVIL PENALTIES.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(e) VIOLATIONS GENERALLY.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by striking "(or $500,000 in the case of a person who is an individual)";

(2) by striking "five years" and inserting "10 years"; and

(3) in paragraph (2), by striking "false or misleading or knowingly inaccurate reports" and inserting "knowingly false, misleading, or inaccurate reports".

**SEC. 306. CONFORMING AMENDMENTS.**

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking "section 5b" and inserting "section 5a(g), 5b,";

(2) in subsection (e)(1), by inserting "(1)" after "(g)"; and

(3) in subsection (i)—

(A) in paragraph (1)—

(i) by striking "No provision" and inserting "IN GENERAL.—Subject to subsections (g)(2) and (h)(7), no provision"; and

(ii) in subparagraph (A), by inserting "(1)" after "2(g)"; and

(B) in paragraph (2), by striking "No provision" and inserting "IN GENERAL.—Subject to subsections (g)(2) and (h)(7), no provision".

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting ", or pursuant to an exemption under section 4(c)" after "transaction execution facility".

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting "or an electronic energy trading facility" after "direct the contract market";

(2) by inserting after "liquidation of any futures contract" the following: "or included energy transaction"; and

(3) by inserting "or an electronic energy trading facility" after "given by a contract market".

---

By Mr. WYDEN (for himself and Mr. TALENT):

S. 510. A bill to reduce and eliminate electronic waste through recycling; to the Committee on France.

Mr. WYDEN. Mr. President, the pace of technological innovation offers American consumers an eye-catching array of electronic gadgets. But for every new lap top or HDTV that goes home from the store with a consumer, an old computer or TV gets moved to the garage or shoved into the back of a closet. What to do with the growing amount of trash from the digital economy is a question that Senator TALENT and I believe must be addressed before our landfills are full and foreign countries close their ports to ships loaded down with old US computers. Today we are introducing bipartisan legislation to jumpstart a nationwide electronic waste recycling initiative.

When I was a member of the Commerce Committee, I helped write the ground rules for the digital economy. My goal was to help create a climate that would spur the development of technology so it would become accessible and affordable to all Americans. This approach seems to be working. One measure of the success of the digital economy is the sheer number of computers and electronic gadgets that Americans own. Americans now spend more than $130 billion a year on electronics, from computers to HDTVs.

The boom in consumer spending on electronics and the growth in the digital economy are not without a downside. In one year alone, some 60 million computers and 20 million television sets become obsolete and more than 500 million computers will be discarded in the decade ending in 2007. These obsolete computers alone will result in over 6.3 billion pounds of plastic and 1.6 billion pounds of lead in our landfills or incinerators.

Electronic waste, or e-waste, is not even a blip on the radar screen of most policymakers. There have been a few news articles here and there, but so far they've been buried, well behind page one. I want to tackle the problem of e-waste in the same way we went about solving the Y-2K problem: putting policies in place to help all stakeholders deal with it before it overtakes us.

Some communities across the country have begun to talk about how to deal with the accumulation of electronic waste. A few States, like California and Maine, recently passed laws to get recycling programs going. Several other States, including my own State of Oregon, will likely consider legislation this year. Among the options, some States favor an upfront fee, tacked onto the price of electronics, intended to help pay for the cost of recycling, others are looking at end-of-life fees. No one yet has looked at the approach Senator TALENT and I are proposing.

My own sense is that slapping a fee on consumers for the purchase of a new computer or television is not necessarily the best way to encourage them to drag those old 80-pound computers and TVs out of the basement and get them to a recycling facility. Someone who needs a new one may just pay the fee but leave their old computers and TVs at home. End-of-life fees mean that today's manufacturers and retailers end up paying for e-trash left over from manufacturers that have gone out of business or from off-shore companies.

The bipartisan legislation Senator TALENT and I are introducing today, The Electronic Waste Recycling Promotion and Consumer Protection Act, takes a novel approach to the problem.

First, to get consumers motivated to move their old computers or televisions out of the garage and to a recycling facility, the bill would give them a one-time tax credit based on showing they gave their old computers or televisions to a qualified recycler.

Second, to build up the recycling infrastructure nationwide, the legislation would give manufacturers, retailers and qualified recyclers tax credits over a 3-year period, based on showing that they had recycled a certain amount of e-waste each year and done it in a way that is safe and environmentally sound.

Third, the bill would give the Environmental Protection Agency a year to come up with options for a nationwide e-waste recycling program that would, if approved by Congress, preempt State plans. Manufacturers, retailers and recyclers are going to find it increasingly difficult to deal with a crazy quilt of 50 different State e-waste recycling laws.

These are the incentives, but incentives without teeth won't work. So at the end of 3 years of tax credits, if EPA determines that there are enough recyclers in place, no one who operates a municipal solid waste facility could knowingly accept any computer, computer monitor or television unless the e-waste is to be recycled.

The bill would also ask EPA to consider the benefits of requiring manufacturers who sell computers and TVs to take them back for recycling. And, to make sure we're keeping our own house in order, the legislation would require the federal government to properly recycle its computers.

The goal here is to provide incentives to build a nationwide e-waste recycling infrastructure. EPA estimates that electronic waste already constitutes 40 percent of the lead and 70 percent of the heavy metals found in landfills today. If this waste is not handled properly, there is a real risk that toxins from the lead, mercury and cadmium will leach into the air, soil and water. The health effects of these toxins are well known and include an increased risk of cancer as well as harm to kidneys, the brain and the nervous system.

As one who has worked so hard to foster the digital economy, I believe there is also a duty to assure that e-waste is handled responsibly. Consumers need to know that potentially harmful e-waste is being handled properly and I can't find a reason to add millions of tons of new toxic waste to our environment.

I also believe that the United States, as the leading innovator and consumer of electronic products in the world, has a duty to deal with e-waste responsibly. Sending shiploads full of e-junk that contains harmful lead, mercury and cadmium to poor countries overseas is not my idea of responsible.

Senator TALENT and I have worked with a group of folks that normally don't see eye to eye on such issues. Through many hours of negotiation they have helped us produce a bill that represents a solid first step toward solving this problem. I am pleased that we have support for the approach taken in our legislation from environmental groups and industry groups, ranging from manufacturers like HP and Intel to retailers and solid waste recyclers, like Waste Management. We are committed to continuing to work with them to move the legislation through Congress.

In closing, electronic waste is not going away. It's time to put bipartisan policies in place that will jumpstart the creation of a nationwide e-waste recycling infrastructure so that consumers have access to recycling facilities and get in the habit of recycling these items. I've talked to manufacturers, retailers, recyclers, environmental and consumer groups and they tell me that this issue must be addressed now by a national rather than state-by-state approach. This bill is a commonsense, first step that will help us get a handle on the growing problem of electronic waste.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 510

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Electronic Waste Recycling Promotion and Consumer Protection Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the National Safety Council estimates that—

(A) in 2003, over 60,000,000 personal computers became obsolete and between 1997 and 2007 more than 500,000,000 computers will need to be discarded; and

(B) at an average weight of 70 pounds, this will result in over 6,300,000,000 pounds of plastic and 1,600,000,000 pounds of lead added to the supply of waste needing to be managed;

(2) according to the Environmental Protection Agency—

(A) a computer monitor or television set generally contains 4 to 8 pounds of lead;

(B) mercury, cadmium, and other heavy metals are generally used in such equipment as well; and

(C) households and businesses in the United States often do not discard older computers and televisions when buying newer versions of the same products;

(3) according to experts, the average household may have between 2 and 3 older computers and televisions in storage, and approximately 20,000,000 to 24,000,000 computers and televisions are placed in storage each year;

(4) according to the Environmental Protection Agency, discarded computer, television, and other electronic equipment—

(A) when not discarded in large quantities, is currently managed in most States as municipal solid waste, just like ordinary trash; and

(B) constitute 40 percent of the lead and 70 percent of the heavy metals that are found in landfills and, if not handled properly, can be released into the environment, contaminating air and groundwater and posing a significant threat to human health, including potential damage to kidney, brain, and nervous system function, and cancer in cases of excessive exposure;

(5) materials used in computers, televisions, and similar electronic products can be recovered through recycling, which conserves resources and minimizes the potentially harmful human and environmental health effects of those materials; and

(6) establishing a nationwide infrastructure for electronic waste recycling will—

(A) facilitate access of people in the United States to recycling services; and

(B) improve the efficiency and use of electronic waste recycling.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CATHODE RAY TUBE.—The term "cathode ray tube" means a vacuum tube used to convert an electronic signal into a visual image, for use in a computer monitor, television, or other piece of electronic equipment.

(3) COMPUTER.—

(A) IN GENERAL.—The term "computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device that performs logical, arithmetic, or storage functions.

(B) EXCLUSIONS.—The term "computer" does not include an automated typewriter or typesetter, video game console, portable hand held calculator, personal digital assistant, cellular telephone, or other similar device.

(4) CONSUMER.—The term "consumer" means—

(A) an occupant of a single, detached dwelling unit or a single unit of a multiple dwelling unit who—

(i) has used a computer monitor, a television, or another piece of electronic equipment that contains a display screen or a system unit; and

(ii) used the equipment described in subparagraph (A) at the dwelling unit of the occupant; and

(B) a commercial, educational, or other entity that discarded for recycling not more than 20 display screens or system units per year during the previous 5 years.

(5) DISPLAY SCREEN—

(A) IN GENERAL.—The term "display screen" means a cathode ray tube, flat panel screen, or other similar video display device with a screen size of greater than 4 inches, measured diagonally.

(B) EXCLUSION.—The term "display screen" does not include commercial or industrial equipment, or household appliances, that contain—

(i) a cathode ray tube;

(ii) a flat panel screen; or

(iii) another similar video device.

(6) HAZARDOUS WASTE.—The term "hazardous waste" has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(7) RECYCLE—The term "recycle" means the performance of a process by 1 or more persons by which a display screen or a system unit is—

(A) sorted;

(B) if necessary, transported;

(C) to the maximum extent practicable, separated to recover any component or commodity inside the display screen or system unit that can be reduced to raw materials or products; and

(D) treated such that any remaining material is disposed of properly and in an environmentally sound manner consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(8) SYSTEM UNIT.—The term "system unit" means—

(A) the casing or portion of a computer that contains the central processing unit, which performs the primary quantity of data processing; and

(B) the unit that, together with the memory, forms the central part of the computer, to which peripheral devices may be attached.

(9) UNIVERSAL WASTE.—The term "universal waste" has the meaning given the term in the Environmental Protection Agency Standards of Universal Waste Management established under section 273 of title 40, Code of Federal Regulations (and successor regulations).

**SEC. 4. CREDIT FOR RECYCLING ELECTRONIC WASTE.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**"SEC. 30B. CREDIT FOR RECYCLING ELECTRONIC WASTE.**

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $8 per unit of qualified electronic waste that is collected from consumers and recycled.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any person which—

"(1) collects from consumers and recycles, or arranges for the recycling of, not less than 5,000 units of qualified electronic waste during that person's taxable year,

"(2) submits with the person's tax return documentation of the final destination of all units of electronic waste collected from consumers during the person's taxable year for the purpose of recycling, and

"(3) certifies that all reclamation and recycling carried out by the person was performed by an eligible recycler.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ELECTRONIC WASTE.—The term 'qualified electronic waste' means any display screen or any system unit.

"(2) CONSUMER, DISPLAY SCREEN; RECYCLE; SYSTEM UNIT.—The terms 'consumer', 'display screen', 'recycle', and 'system unit' have the meaning given the terms by section 3 of the Electronic Waste Recycling Promotion and Consumer Protection Act.

"(d) DISALLOWANCE OF CREDIT.—No credit shall be allowed under this section for recycling a unit of qualified electronic waste which is collected from a consumer in a State which has adopted and implemented a statewide program in accordance with State law which mandates or provides incentives for recycling electronic waste, including a mandatory per-unit, upfront charge to consumers for the purpose of recycling electronic waste.

"(e) FINAL REGULATIONS.—

"(1) IN GENERAL.—Not later than the date which is 180 days after the date of the enactment of this section, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall issue such final regulations as may be necessary and appropriate to carry out this section.

"(2) INCLUSION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the regulations issued under paragraph (1) shall include—

"(i) requirements for certifying recyclers as eligible to recycle qualified electronic waste,

"(ii) requirements to ensure that all recycling of qualified electronic waste is performed in a manner that is safe and environmentally sound, and

"(iii) a provision which allows a tax credit under this section to be shared by 2 or more eligible taxpayers, provided that the total tax credit for a unit of electronic waste under this section does not exceed $8.

"(B) LIMITATION.—The Secretary shall not certify a recycler as eligible under this subsection unless the recycler is—

"(i) a taxpayer, or

"(ii) a State or local government.

"(f) TERMINATION.—This section shall not apply with respect to any unit of qualified electronic waste which is recycled after the date which is 3 years after the date on which the final regulations issued pursuant to subparagraph (e) take effect.".

(b) Conforming Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 30B. Credit for recycling electronic waste.".

(c) Effective Date.—The amendments made by this section shall apply with respect to display screens and system units recycled after the date on which the final regulations issued pursuant to section 30B of subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (as added by this section) take effect.

### SEC. 5. CONSUMER CREDIT FOR RECYCLING ELECTRONIC WASTE.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

### "SEC. 25C. CONSUMER CREDIT FOR RECYCLING ELECTRONIC WASTE.

"(a) Allowance of Credit.—In the case of an eligible consumer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $15 for the recycling of 1 or more units of qualified electronic waste.

"(b) Eligible Consumer.—For purposes of this section, the term 'eligible consumer' means any individual—

"(1) with respect to whom a credit under this section has not been allowed in any preceding taxable year, and

"(2) who submits with the individual's tax return such information as the Secretary requires to document that each unit of qualified electronic waste was recycled by a recycler certified by the Secretary pursuant to subsection (d).

"(c) Definitions.—For purposes of this section—

"(1) Qualified electronic waste.—The term 'qualified electronic waste' means any display screen or any system unit.

"(2) Consumer, display screen; recycle; system unit.—The terms 'consumer', 'display screen', 'recycle', and 'system unit' have the meaning given the terms by section 3 of the Electronic Waste Recycling Promotion and Consumer Protection Act.

"(d) Final regulations.—

"(1) In general.—Not later than the date which is 180 days after the date of the enactment of this section, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall issue such final regulations as may be necessary and appropriate to carry out this section.

"(2) Inclusion.—

"(A) In general.—Subject to subparagraph (B), the regulations issued under paragraph (1) shall include—

"(i) requirements for certifying recyclers as eligible to recycle qualified electronic waste, and

"(ii) requirements to ensure that all recycling of qualified electronic waste is performed in a manner that is safe and environmentally sound.

"(B) Limitation.—The Secretary shall not certify a recycler as eligible under this subsection unless the recycler is—

"(i) a taxpayer, or

"(ii) a State or local government.

"(e) Termination.—This section shall not apply with respect to any unit of qualified electronic waste which is recycled after the date which is 3 years after the date on which the final regulations issued pursuant to subsection (d) take effect.".

(b) Conforming Amendments.—

(1) Section 26(a)(1) of the Internal Revenue Code of 1986 is amended by striking "and 25B" and inserting "25B, and 25C".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Consumer credit for recycling electronic waste.".

(c) Effective Date.—The amendments made by this section shall apply with respect to display screens and system units recycled after the date on which the final regulations issued pursuant to section 30B of subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (as added by this section) take effect.

### SEC. 6. PROHIBITIONS OF DISPOSAL WITHOUT RECYCLING.

(a) Display Screen and System Unit Disposal Ban.—

(1) In general.—Effective beginning on the date that is 3 years after the date of enactment of this Act, if the Administrator determines that a majority of households in the United States have sufficient access to a recycling service for display screens and system units, it shall be unlawful for the operator of a landfill, incinerator, or any other facility for the transfer, disposal, or storage of municipal solid waste to knowingly receive from a consumer a display screen or system unit, except for the purpose of recycling or arranging for the recycling of the display screen or system unit by a recycler certified as an eligible recycler by the Administrator.

(2) Procedures.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop and issue guidelines covering waste handlers and waste transfer stations to assist in developing recycling procedures for display screens and system units.

(3) Exemptions.—As part of the guidelines issued pursuant to paragraph (2), the Administrator shall classify display screens and system units as universal waste and provide for the exemption of display screens and system units from the requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) as necessary to facilitate the collection, storage, and transportation of display screens and system units for the purpose of recycling.

(b) Enforcement.—A violation of subsection (a) by any person or entity shall be subject to enforcement under applicable provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

### SEC. 7. RECYCLING OF DISPLAY SCREENS AND SYSTEM UNITS PROCURED BY THE FEDERAL GOVERNMENT.

(a) Definition of executive agency.—In this section, the term "executive agency" has the meaning given the term in section 11101 of title 40, United States Code.

(b) Requirement for recycling.—The head of each executive agency shall ensure that each display screen and system unit procured by the Federal Government—

(1) is recovered upon the termination of the need of the Federal Government for the display screen or system unit; and

(2) is recycled by a recycler certified as an eligible recycler by the Administrator through—

(A) a program established after the date of enactment of this Act by the executive agency, either alone or in conjunction with 1 or more other executive agencies; or

(B) any other program for recycling or reusing display screens and system units.

### SEC. 8. NATIONWIDE RECYCLING PROGRAM.

(a) Study.—

(1) In general.—The Administrator, in consultation with appropriate executive agencies (as determined by the Administrator), shall conduct a study of the feasibility of establishing a nationwide recycling program for electronic waste that preempts any State recycling program.

(2) Inclusions.—The study shall include an analysis of multiple programs, including programs involving—

(A) the collection of an advanced recycling fee;

(B) the collection of an end-of-life fee;

(C) producers of electronics assuming the responsibility and the cost of recycling electronic waste; and

(D) the extension of a tax credit for recycling electronic waste.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report describing—

(1) the results of the study conducted under subsection (a);

(2) 1 or more prospective nationwide recycling programs, including—

(A) a cost-benefit analysis of each program, including—

(i) the cost of the program to—

(I) consumers;

(II) manufacturers;

(III) retailers; and

(IV) recyclers; and

(ii) the estimated overhead and administrative expenses of carrying out and monitoring the program; and

(B) the quantity of display screens and system units projected to be recycled under the program;

(3)(A) the benefits of establishing a nationwide take-back provision that would require, as part of the program, all manufacturers of display screens or system units for sale in the United States to collect and recycle, or arrange for the recycling of, display screens and system units; and

(B) a projection of the quantity of display screens and system units that would be recycled annually under a nationwide take-back provision;

(4)(A) any emerging electronic waste streams, such as—

(i) cellular telephones; and

(ii) personal digital assistants; and

(B) a cost-benefit analysis of including an emerging electronic waste stream in a national recycling program; and

(5) the progress of the Administrator in carrying out section 6, including—

(A) information on enforcement of the prohibition; and

(B) any increase in recycling as a result of the prohibition.

---

By Mr. DEMINT (for himself, Mr. Allen, Mr. Brownback, Mr. Coburn, Mr. Ensign, Mr. Enzi, Mr. Inhofe, Mr. Santorum, and Mr. Vitter):

S. 511. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU–486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and

Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to reintroduce "Holly's Law," a bill that would suspend FDA's approval of RU-486 and direct the GAO to conduct an independent review of the process used by the FDA to approve the drug.

Holly's Law is named in memory of Holly Patterson, an 18-year old woman who died after taking the drug in 2003. RU-486 has killed three women in the United States and many more have been hospitalized with a severe bacterial infection known as septic shock.

RU-486 was approved by the FDA in September of 2000. The FDA approved RU-486 under a special "restricted distribution" approval process known as "Subpart H," reserved only for drugs that treat "severe or life-threatening illnesses," like cancer and AIDS.

Subpart H allows an expedited approval of certain drugs by not subjecting them to the testing and review standards required of all other new drugs. These are important tests necessary to determine the safety and long-term effects of a drug. Clearly, the fact that these tests were not done on RU-486 was a damaging omission considering the death and illness associated with use of the drug.

Due to the serious threat RU-486 poses to women's health, we are asking that Congress suspend FDA's approval of RU-486 until the GAO can provide a report on whether RU-486 should have been deemed "safe and effective" by the FDA.

I am grateful to Senators ALLEN, BROWNBACK, COBURN, ENSIGN, ENZI, INHOFE, SANTORUM and VITTER who have joined me as original cosponsors of this bill. They understand that RU-486 is a dangerous drug that cannot remain on the market while more women die. I urge my colleagues to support Holly's Law to take RU-486 off the market before more women are harmed by it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 511

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "RU-486 Suspension and Review Act of 2005".

### SEC. 2. FINDING.

Congress finds that the use of the drug mifepristone (marketed as Mifeprex, and commonly known as RU-486) in conjunction with the off-label use of misoprostol to chemically induce abortion has caused a significant number of deaths, near deaths, and adverse reactions.

### SEC. 3. SUSPENSION OF APPROVAL OF DRUG COMMONLY KNOWN AS RU-486; REVIEW AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.

(a) IN GENERAL.—Effective on the date that is 15 days after the date of the enactment of this Act:

(1) The approved application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) for the drug mifepristone (marketed as Mifeprex, and commonly known as RU-486) is deemed to have been withdrawn under section 505(e) of such Act (21 U.S.C. 355(e)).

(2) For purposes of sections 301(d) and 304 of such Act (21 U.S.C. 331(d) and 334), the introduction or delivery for introduction of such drug into interstate commerce shall be considered a violation of section 505 of such Act.

(3) The drug misoprostol shall be considered misbranded for purposes of sections 301 and 304 of such Act if the drug bears labeling providing that the drug may be used for the medical termination of intrauterine pregnancy or that the drug may be used in conjunction with another drug for the medical termination of intrauterine pregnancy.

(b) REVIEW AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) IN GENERAL.—The Comptroller General of the United States shall review the process by which the Food and Drug Administration approved mifepristone under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and shall determine whether such approval was provided in accordance with such section. The Secretary of Health and Human Services shall ensure that the Comptroller General has full access to all information possessed by the Department of Health and Human Services that relates to such process.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall complete the review under paragraph (1) and submit to Congress and the Secretary of Health and Human Services a report that provides the findings of the review.

(c) CONTINGENT REINSTATEMENT OF APPROVAL OF DRUG.—If the report under subsection (b) includes a determination by the Comptroller General of the United States that the approval by the Food and Drug Administration of mifepristone was provided in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), the Secretary of Health and Human Services shall publish such statement in the Federal Register. Effective upon the expiration of 30 days after such publication, subsection (a) shall cease to have any legal effect.

---

By Mr. SANTORUM (for himself, Mr. ROCKEFELLER, and Mr. REED):

S. 512. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

Mr. SANTORUM. I rise today to introduce with Senator ROCKEFELLER the bipartisan Fire Sprinkler Incentive Act of 2005. Passage of this Act would serve greatly to help reduce the tremendous annual economic and human losses that fire in the United States inflicts on the national economy and quality of life.

In the United States, fire departments responded to approximately 1.7 million fires in 2002. Annually, over 500,000 of these are structural fires causing approximately 3,400 deaths, around 100 of which are firefighters. Fire also caused some 18.5 million civilian injuries and $10.3 billion in direct property loss. The indirect cost of fire in the United States annually exceeds $80 billion. These losses are staggering. All of this translates to the fact that fire departments respond to a fire every 18 seconds. Every 60 seconds a fire breaks out in a structure, and in a residential structure every 80 seconds.

There are literally thousands of high-rise buildings built under older codes that lack adequate fire protection. Billions of dollars were spent to make these and other buildings handicapped accessible, but people with disabilities now occupying these buildings are not adequately protected from fire. At recent code hearings, representatives of the health care industry testified that there are approximately 4,200 nursing homes that need to be retrofitted with fire sprinklers. They further testified that the billion dollar cost of protecting these buildings with fire sprinklers would have to be raised through corresponding increases in Medicare and Medicaid. In addition to the alarming number of nursing homes lacking fire sprinkler protection, there are literally thousands of assisted living facilities housing older Americans and people with disabilities that lack fire sprinkler protection.

The solution resides in automatic sprinkler systems that are usually triggered within 4 minutes of ignition when the temperature rises above 120 degrees. The National Fire Protection Association (NFPA) has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building that has fully operational sprinklers. Furthermore, sprinklers are responsible for dramatically reducing property loss, from as low as 42 percent to as high as 70 percent depending on the structure.

Building owners do not argue with fire authorities over the logic of protecting their building with fire sprinklers. The issue is cost. This bill would drastically reduce the staggering annual economic toll of fire in America and thereby dramatically improve the quality of live for everyone involved. This legislation provides a tax incentive for businesses to install sprinklers through the use of a 5-year depreciation period, opposed to the current 27.5 or 39-year period for installations in residential rental and non-residential real property respectively. While only a start, the bill will help eliminate the massive losses seen in nursing homes, nightclubs, office buildings, apartment buildings, manufacturing facilities, and other for-profit entities.

This bill enjoys support from a variety of organizations. They include: the American Insurance Association, the

American Fire Sprinkler Association, the California Department of Forestry and Fire Protection, Campus Firewatch, Congressional Fire Services Institute, Independent Insurance Agents & Brokers of America, International Association of Arson Investigators, International Association of Fire Chiefs, International Fire Service Training Association, National Fire Protection Association, National Fire Sprinkler Association, National Volunteer Fire Council, the Society of Fire Protection Engineers, and the Mechanical Contractors Association of America.

The Fire Sprinkler Incentive Act of 2005 provides long-needed safety incentives for building owners that will help fire departments across the country save lives. I ask my colleagues for their support of this important piece of legislation.

---

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mrs. MURRAY, Mrs. LINCOLN, Mr. KERRY, and Mr. DURBIN):

S. 513. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today I am pleased to be joined by Senators KENNEDY, MIKULSKI, HARKIN, BINGAMAN, REED, MURRAY, LINCOLN, KERRY and DURBIN in introducing the Public Safety Employer-Employee Cooperation Act of 2005. This legislation would extend to firefighters and police officers the right to discuss workplace issues with their employers.

With the enactment of the Congressional Accountability Act, State and local government employees remain the only sizable segment of workers left in America who do not have the basic right to enter into collective bargaining agreements with their employers. While most States do provide some collective bargaining rights for their public employees, others do not.

Studies have shown that communities which promote such cooperation enjoy much more effective and efficient delivery of emergency services. Such cooperation, however, is not possible in the States that do not provide public safety employees with the fundamental right to bargain with their employers.

The legislation I am introducing today is balanced in its recognition of the unique situation and obligation of public safety officers. The bill requires States, within 2 years, to guarantee the right of public safety officers to form and voluntarily join a union to bargain collectively over hours, wages and conditions of employment. The bill protects the right of public safety officers to form, join, or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal. In addition, the legislation prohibits the use of strikes, lockouts, sickouts, work slowdowns or any other action that is designed to compel an employer, officer or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of services.

Under this legislation, States would continue to be able to enforce right-to-work laws which prohibit employers and labor organizations from negotiating labor agreements that require union membership or payment of union fees as a condition of employment. The legislation also preserves the right of management to not bargain over issues traditionally reserved for management-level decisions. All States with a State bargaining law for public safety officers that grants rights equal to or greater than the rights provided under this bill would be exempt. The bill also gives States the option to exempt from coverage subdivisions with populations of less than 5,000 or fewer than 25 full time employees.

Labor-management partnerships, which are built upon bargaining relationships, result in improved public safety. Employer-employee cooperation contains the promise of saving the taxpayer money by enabling workers to offer input as to the most efficient way to provide services. In fact, studies have shown that States that give firefighters the right to discuss workplace issues actually have lower fire department budgets than States without those laws.

The Public Safety Employer-Employee Cooperation Act of 2005 will put firefighters and law enforcement officers on equal footing with other employees and provide them with the fundamental right to negotiate with employers over such basic issues as hours, wages, and workplace conditions.

I urge its adoption and ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 513

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Public Safety Employer-Employee Cooperation Act of 2005".

**SEC. 2. DECLARATION OF PURPOSE AND POLICY.**

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms "employer" and "public safety agency" mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term "firefighter" has the meaning given the term "employee engaged in fire protection activities" in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term "substantially provides" means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

### SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

### SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

### SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

### SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

### SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et

seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

---

By Mr. BYRD:

S. 514. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

Mr. BYRD. Mr. President, today I am, again, introducing legislation designed to fulfill an important promise made by the Federal Government to the people of my State and my region some 40 years ago. That promise, building and completing a network of highways through the Appalachian region is known today as the Appalachian Development Highway System or ADHS. I look forward to working with my fellow Senators to have my legislation included in the reauthorization of the Federal-aid Highway Program, a program at the core of Federal infrastructure investment.

Over the course of the 108th Congress, we failed to reauthorize this program. That legislation should have been enacted into law prior to beginning fiscal year 2004. We are now more than one third of the way through fiscal year 2005 and the 109th Congress must initiate new bills to get the job done. I know I speak for many Senators in stressing the need to complete this job during this session of Congress. We must authorize a bill that addresses our deteriorating highways and bridges, and is not squeezed by the artificial funding ceiling that the administration wants.

The administration's own Conditions and Performance Report again reminds us that a great deal more investment in our infrastructure is essential to prevent the further deterioration of our nation's highways and bridges.

At a September 30, 2002 hearing of the Senate Environment and Public Works Committee, Administrator Mary Peters testified that, despite the historic funding increase accomplished through TEA–21, congestion on our roads continues to worsen. Funding for highway infrastructure by all levels of government will have to increase by more than 65 percent or $42.2 billion per year to actually improve the condition of our Nation's highways. A funding increase of more than 17 percent or $11.3 billion is necessary to simply maintain the current poor condition of our highway network, where more than one in four of our Nation's bridges are classified as deficient.

At the end of 2002, I worked doggedly to ensure that the Senate prevailed in the conference with the House on the omnibus appropriations bill for fiscal year 2003 and rejected every penny of the $8.6 billion cut in highway funding proposed by President Bush. In 2003, I was pleased to join with Senators BOND and REID, the respective chairman and ranking member of the Surface Transportation Subcommittee in sponsoring a bipartisan amendment to the budget resolution for fiscal year 2004 boosting funding for our Federal-aid Highway Program by several billion dollars. That amendment commanded 79 votes on the Senate floor.

Mr. President, I am one of only two members still serving in the Congress that had the privilege of casting a vote in favor of establishing the Interstate Highway System. I did so as a Member of the other body back in 1956. Of equal if not greater importance to the transportation needs of my region, however, were the findings of the first Appalachian Regional Commission in 1964, that while the Interstate Highway System was slated to provide historic economic benefits to most of our Nation, the system would bypass the Appalachian region because of the extremely high costs of building highways through Appalachia's rugged topography.

In 1965, the Congress adopted the Appalachian Regional Development Act that promised a network of modern highways to connect the Appalachian region to the rest of the Nation's highway network and, even more importantly, the rest of the Nation's economy. Absent the Appalachian Development Highway System, my region of the country would have been left with a transportation network of dangerous, narrow, winding roads following the path of river valleys and stream beds between mountains.

One of the observations contained in Administrator Peters' testimony back in September of 2002 that especially caught my eye was her statement that "the condition of higher-order roads, such as interstates, has improved considerably since 1993 while the condition on many lower-order roads has deteriorated." The pattern of road conditions mirrors the distribution of wealth in our country. The rich are getting richer while the poor get poorer. That observation becomes especially pertinent when one contemplates the challenge of completing the Appalachian Development Highway System.

We have virtually completed the construction of the Interstate Highway System and have moved on to other important transportation goals. However, the people of my region still wait for the Federal Government to make good on its 40-year-old promise to complete the ADHS. The system is still less than 80 percent complete. My home State of West Virginia is below the average for the entire Appalachian region with only 72 percent of its mileage complete and open to traffic.

Unfortunately, there are still children in Appalachia who lack decent transportation routes to school; and there are still pregnant mothers, elderly citizens and others who lack road access to area hospitals. There are thousands upon thousands of people who cannot obtain sustainable well-paying jobs because of poor roads. The entire status of the Appalachian Development Highway System is laid out in great detail in the Cost to Complete Report for 2002 completed by the Appalachian Regional Commission. This is the most comprehensive report on the status of the Appalachian Development Highway System to date, and I commend the staff of the Appalachian Regional Commission for their hard work on this report. The last report was completed in 1997 just prior to Congressional consideration of TEA–21.

The enactment of TEA–21 signaled a new day in the advancement of the Appalachian Development Highway System. Through the work of the Committee on Environment and Public Works, the House Transportation and Infrastructure Committee, and the administration, we took a great leap forward by authorizing direct contract authority from the Highway Trust Fund to the States for the construction of the ADHS. Up until that point, funding for the Appalachian Development Highway System was limited to uncertain general fund appropriations. By providing the States of the Appalachian region with a predictable source of funds to complete ADHS segments, TEA-21 reinvigorated efforts to keep the promise made to the people of the Appalachian region.

This initiative has been a great success. States are making progress toward the completion of the system. Since the last Cost to Complete Report, 183 miles of the system have been opened to traffic and, the cost to complete the system has been reduced by roughly $1.7 billion in Federal funds.

I am pleased to report that the 13 States, to date, have succeeded in obligating just under 90 percent of the obligation authority that has been granted to them for the completion of the system. A 90-percent obligation rate compares quite favorably to some of the other transportation programs through which the States were granted multiple years to obligate their funds.

According to the ARC's Cost to Complete Report, the remaining Federal funds needed to complete the ADHS as the system was defined at the time that report was completed are now estimated to be $4.467 billion. When adjusted for inflation over the life of the next highway bill, using the standard inflation calculation for highway projects, a total of $5.04 billion will need to be authorized to complete the system. That is a lot of money and I believe that figure deserves some explanation.

The considerable cost of completing the last 20 percent of the ADHS is explained by the fact that the easiest segments of the system to build have already been built. Much of the costs associated with completing the most difficult unfinished segments are driven by the requirement to comply with other Federal laws, especially the laws requiring environmental mitigation measures when building new highways through rural areas. While the $5.04 billion figure may seem large to some of my colleagues, I would remind them that the last highway bill authorized more than $218 billion in Federal infrastructure investment over 6 years. It is my sincere hope and expectation that the next highway bill will authorize an even greater amount.

Of critical importance to this debate is the fact that the unfinished segments of the ADHS represent some of most dangerous and most deficient roadways in our entire Nation. Often lost in our debate over the necessity to invest in our highways is the issue of safety. The Federal Highway Administration has published reports indicating that substandard road conditions are a factor in 30 percent of all fatal highway accidents. I am quite certain that the percentage is a great deal higher in the Applachian region.

The Federal Highway Administration found that upgrading two-lane roads to four-lane divided highways decreased fatal car accidents by 71 percent and that the widening of traffic lanes has served to reduce fatalities by 21 percent. These are precisely the kind of road improvements that are funded through the ADHS. In my state, the largest segment of unfinished Appalachian Highway, if completed, will replace the second most dangerous segment of roadway in West Virginia. So, even those who would question the wisdom of completing these highways in the name of economic development should take a hard look at the fact that the people of rural Appalachia are taking their lives in their hands every day as they drive on dangerous roads. It is time for this Congress, in concert with the administration, to take the last great leap forward and authorize sufficient contract authority to finally complete the Appalachian Development Highway System. If we enact another six-year highway bill with sufficient funds to complete the system, we will finally pay the full costs of the ADHS some 45 years after the system was first promised to the people of my region. The legislation I am introducing today, the "Appalachian Development Highway System Completion Act," will provide sufficient contract authority to complete the system. Importantly, it will guarantee that the states of the Appalachian Region do not pay a penalty, either through the distribution of minimum allocation funds, or the distribution of obligation limitation, for receiving sufficient funds to complete the Appalachian system.

I am very pleased that this administration has taken on the goal of completing the ADHS. In her letter accompanying the Cost to Complete Report, Administrator Peters said "the completion of the ADHS is an important part of the mission of the Federal Highway Administration. We consider the accessibility, mobility and economic stimulation provided by the ADHS to be entirely consistent with the goals of our agency." Ms. Peters further stated that the Appalachian Regional Commission's 2002 Cost to Complete Report, "provides a sound basis for apportioning future funding to complete the system." I thank Mary Peters and the entire Federal Highway Administration for their leadership on this issue and I look forward to working with Ms. Peters and her agency to ensure that this commitment is borne out in the transportation reauthorization legislation that is developed by the Congress.

Completion of a new highway bill will be an enormous task for this Congress—one that is now more than 2 years overdue. As I look back over the many years of my public career, one of the accomplishments of which I am most proud was my amendment providing an additional $8 billion in funding to break the logjam during the debate on the Intermodal Surface Transportation Efficiency Act in 1991. Another was my sponsorship of the Byrd-Gramm-Baucus-Warner Amendment during the Senate debate of TEA–21 in 1998. That effort resulted in some $26 billion in funding being added to that bill and put us on a path to historic funding increases for our nation's highway infrastructure. I look forward again to working with my fellow Senators on completion of a bill that makes the necessary investments in our nation's highways, not just in the Appalachian region but across our entire country.

---

By Mr. BYRD:

S. 515. A bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes; to the Committee on Armed Services.

Mr. BYRD. Mr. President, in recent years, the public profile of the National Guard has changed considerably. Known mainly for the contributions of citizen-soldiers to their States and communities, today the men and women of the National Guard are serving on the front lines in Iraq and Afghanistan, enduring hardships in two of the world's most dangerous places.

In spite of the long deployments, far away from the small towns and big cities that these citizen-soldiers call home, the National Guard continues its work for our States and the American people. Today, I introduce legislation to support a most successful program that has helped the National Guard change the lives of tens of thousands of young Americans.

In 1991, I provided the first funding to establish a pilot program known as the National Guard Civilian Youth Opportunities Program. Over the years, this program has expanded in size and scope and is now known as the National Guard Youth Challenge Program.

The Youth Challenge Program gives high school dropouts the skills they need to turn their lives around. The advantage of using the National Guard to provide a structured environment for these students has been confirmed in studies by the Defense Science Board in 2000, the White House Task Force on Disadvantaged Children in 2003, and the Department of Defense in 2004.

The program now operates 27 academies in 24 States, including West Virginia, Alaska, Hawaii, Georgia, Louisiana, Virginia, Michigan, Florida, Texas, North Carolina, and South Carolina. Over 5,000 cadets are now in training, and more than 58,000 have graduated from the program since 1993. Fully three-quarters of the Youth Challenge graduates have earned their high school diplomas in the program, but the program is at the mercy of shrinking state budgets.

In March 2004, the Department of Defense recommended an increase in Federal support for the program in order to prevent any more closures of Youth Challenge academies. The bill I introduce today would write that recommendation into law, phasing in the additional Federal support over 3 years.

My legislation also proposes to increase the authorization for the Youth Challenge program by $16.3 million, including $6.3 million for the proposed increase in the Federal share of the Youth Challenge Program's cost for Fiscal Year 2006.

My bill authorizes an additional $10 million to provide the first significant per-student increase in funding since the program began. For more than 12 years, the funding of the Youth Challenge Program has remained constant at $14,000 per student, per year. Imagine that. Think of that. At a time when the cost of education is growing by leaps and bounds, the Youth Challenge program has held the line on its budget for more than 12 years.

But such discipline means that there have been cutbacks in teachers, uniforms, and activities. The additional $10 million authorized in my bill would end these cutbacks, and may also be used to open new Youth Challenge academies, giving more at-risk youth a chance to change their lives.

Many of the citizen-soldiers of the National Guard serve our country in distant lands, but their commitment to their communities continues. The legislation I introduce today will strengthen that commitment by expanding the National Guard Youth Challenge Program for disadvantaged youth.

---

By Mrs. HUTCHISON:

S. 517. A bill to establish a Weather Modification Operations and Research Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 517

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Weather Modification Research and Technology Transfer Authorization Act of 2005".

### SEC. 2. PURPOSE.

It is the purpose of this Act to develop and implement a comprehensive and coordinated national weather modification policy and a national cooperative Federal and State program of weather modification research and development.

### SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term "Board" means the Weather Modification Advisory and Research Board.

(2) EXECUTIVE DIRECTOR.—The term "Executive Director" means the Executive Director of the Weather Modification Advisory and Research Board.

(3) RESEARCH AND DEVELOPMENT.—The term "research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(4) WEATHER MODIFICATION.—The term "weather modification" means changing or controlling, or attempting to change or control, by artificial methods the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere.

### SEC. 4. WEATHER MODIFICATION ADVISORY AND RESEARCH BOARD ESTABLISHED.

(a) IN GENERAL.—There is established in the Department of Commerce the Weather Modification Advisory and Research Board.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall consist of 11 members appointed by the Secretary of Commerce, of whom—

(A) at least 1 shall be a representative of the American Meteorological Society;

(B) at least 1 shall be a representative of the American Society of Civil Engineers;

(C) at least 1 shall be a representative of the National Academy of Sciences;

(D) at least 1 shall be a representative of the National Center for Atmospheric Research of the National Science Foundation;

(E) at least 2 shall be representatives of the National Oceanic and Atmospheric Administration of the Department of Commerce;

(F) at least 1 shall be a representative of institutions of higher education or research institutes; and

(G) at least 1 shall be a representative of a State that is currently supporting operational weather modification projects.

(2) TENURE.—A member of the Board serves at the pleasure of the Secretary of Commerce.

(3) VACANCIES.—Any vacancy on the Board shall be filled in the same manner as the original appointment.

(b) ADVISORY COMMITTEES.—The Board may establish advisory committees to advise the Board and to make recommendations to the Board concerning legislation, policies, administration, research, and other matters.

(c) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

(d) MEETINGS.—The Board shall meet at the call of the Chair.

(e) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIR AND VICE CHAIR.—The Board shall select a Chair and Vice Chair from among its members.

### SEC. 5. DUTIES OF THE BOARD.

(a) PROMOTION OF RESEARCH AND DEVELOPMENT.—In order to assist in expanding the theoretical and practical knowledge of weather modification, the Board shall promote and fund research and development, studies, and investigations with respect to—

(1) improved forecast and decision-making technologies for weather modification operations, including tailored computer workstations and software and new observation systems with remote sensors; and

(2) assessments and evaluations of the efficacy of weather modification, both purposeful (including cloud-seeding operations) and inadvertent (including downwind effects and anthropogenic effects).

(b) FINANCIAL ASSISTANCE.—Unless the use of the money is restricted or subject to any limitations provided by law, the Board shall use amounts in the Weather Modification Research and Development Fund—

(1) to pay its expenses in the administration of this Act, and

(2) to provide for research and development with respect to weather modifications by grants to, or contracts or cooperative arrangements, with public or private agencies.

(c) REPORT.—The Board shall submit to the Secretary biennially a report on its findings and research results.

### SEC. 6. POWERS OF THE BOARD.

(a) STUDIES, INVESTIGATIONS AND HEARINGS.—The Board may make any studies or investigations, obtain any information, and hold any hearings necessary or proper to administer or enforce this Act or any rules or orders issued under this Act.

(b) PERSONNEL.—The Board may employ, as provided for in appropriations Acts, an Executive Director and other support staff necessary to perform duties and functions under this Act.

(c) COOPERATION WITH OTHER AGENCIES.—The Board may cooperate with public or private agencies to promote the purposes of this Act.

(d) COOPERATIVE AGREEMENTS.—The Board may enter into cooperative agreements with the head of any department or agency of the United States, an appropriate official of any State or political subdivision of a State, or an appropriate official of any private or public agency or organization for conducting weather modification activities or cloud-seeding operations.

(e) CONDUCT AND CONTRACTS FOR RESEARCH AND DEVELOPMENT.—The Executive Director, with the approval of the Board, may conduct and may contract for research and development activities relating to the purposes of this section.

### SEC. 7. COOPERATION WITH THE WEATHER MODIFICATION OPERATIONS AND RESEARCH BOARD.

The heads of the departments and agencies of the United States and the heads of any other public or private agencies and institutions that receive research funds from the United States shall, to the extent possible, give full support and cooperation to the Board and to initiate independent research and development programs that address weather modifications.

### SEC. 8. FUNDING.

(a) IN GENERAL.—There is established within the Treasury of the United States the Weather Modification Research and Development Fund, which shall consist of amounts appropriated pursuant to subsection (b) or received by the Board under subsection (c).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Board for the purposes of carrying out the provisions of this Act $10,000,000 for each of fiscal years 2005 through 2014. Any sums appropriated under this subsection shall remain available, without fiscal year limitation, until expended.

(c) GIFTS.—The Board may accept, use, and dispose of gifts or donations of services or property.

### SEC. 9. EFFECTIVE DATE.

This Act shall take effect on October 1, 2005.

---

By Mr. SESSIONS (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. DODD):

S. 518. A bill to provide for the establishment of a controlled substance monitoring program in each State; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SESSIONS, Senator DURBIN and Senator DODD in introducing the "National All Schedules Prescription Electronic Reporting Act." Our goal is to help States establish electronic databases to monitor the use of prescription drugs and deal more effectively with the growing national problem of prescription drug abuse.

Over 6 million Americans currently use prescription drugs for non-medical purposes. 31 million say they've abused such drugs at least once in their lifetime. Since 1992, the number of young adults who abuse prescription pain relievers and other addictive drugs has more than tripled. Prescription drug abuse among youths 12 to 17 has soared tenfold.

State programs to monitor addictive medications can help curb this abuse. Currently, 20 States have such programs in place, including Massachusetts, but they vary greatly in the collection and storage of the data, and in the methods for using the databases.

The information contained in these databases is important, because it can be used to identify physicians and patients who encourage the non-medical use of prescription drugs. It can also be used to reduce the diversion of prescription drugs for illegal use.

Our bill authorizes the Secretary of HHS to make grants to States to establish these needed monitoring programs. For States with existing programs, the grants can be used to improve their systems and standardize the data collected to allow easy sharing of the information between the States.

Any such program, however, must include strong safeguards for medical privacy, and make certain that the database cannot be used to put improper pressure on physicians to avoid prescribing essential drugs. The proper treatment of pain, for example, is an enormous medical challenge, but this essential care will be much more difficult if patients fear that their prescription histories will not be protected, or if physicians begin to look over their shoulder every time they prescribe pain medication.

We all share the goal of reaching the right balance between the interests of patients, physicians, and law enforcement, and we think this legislation does that. It requires that in grant applications, States must propose security standards for the electronic databases, including appropriate encryption or other information technology. States also must propose standards for using the database and obtaining the information, including certifications to be sure that requests for information are legitimate. The bill requires the Secretary to provide a follow-up analysis of the privacy protections within two years after enactment.

The national problem of prescription drug abuse worsens every year. Physicians want to treat pain without contributing to addiction. Law enforcement officials want to stop the flow of prescription drugs from pharmacies to the streets. A national prescription drug monitoring program will provide a valuable resource to achieve these goals. I commend Senator SESSIONS for his leadership on this important health issue, and I urge my colleagues to join us in this effort to fight prescription drug abuse.

---

By Mrs. HUTCHISON:

S. 519. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. Mr. President, I rise today to offer a bill that is vital for water conservation in my home State of Texas. This legislation would amend The Lower Rio Grande Valley Water Resources and Conservation Improvement Act of 2000, which was passed with Unanimous Consent in the 106th Congress, to authorize work needed to conserve and enhance water supplies in the Lower Rio Grande Valley. It would do so by improving the water infrastructure used by farmers, ranchers, municipalities and a growing population.

Improving water conveyance infrastructure is the top priority for enhancing water conservation in the Lower Rio Grande Valley. Currently, unprecedented growth coupled with Mexico's past failure to comply with the 1944 Water treaty, reinforces the dire need for water conservation. The Lower Rio Grande Valley depends upon an adequate supply of water. Studies show that water losses resulting from seepage, spills and evaporation exceed 68 billion gallons of water per year, underscoring the pressing demand for improvements which will ensure efficient conservation of water.

By enacting this legislation, 19 additional water districts will enhance their ability to conserve their resources. Residents in the Lower Rio Grande Valley will not be forced to rely on canal systems subject to seepage and evaporation. Improving irrigation systems and updating this 100-year-old water distribution system will provide citizens in South Texas with a sufficient supply of one of nature's most valuable resources. Rather than waiting for the unpredictability of Mother Nature to increase water resources through rainstorms, these communities can rely on more effective water systems.

I look forward to working with my colleagues to pass this measure to help the citizens of the Lower Rio Grande Valley better conserve their water resources. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 519

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2005".

**SEC. 2. AUTHORIZATION OF ADDITIONAL PROJECTS AND ACTIVITIES UNDER THE LOWER RIO GRANDE WATER CONSERVATION AND IMPROVEMENT PROGRAM.**

(a) ADDITIONAL PROJECTS.—Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended by adding at the end the following:

"(20) In Cameron County, Texas, Bayview Irrigation District No. 11, water conservation and improvement projects as identified in the March 3, 2004, engineering report by NRS Consulting Engineers at a cost of $1,425,219.

"(21) In the Cameron County, Texas, Brownsville Irrigation District, water conservation and improvement projects as identified in the February 11, 2004 engineering report by NRS Consulting Engineers at a cost of $722,100.

"(22) In the Cameron County, Texas Harlingen Irrigation District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $4,173,950.

"(23) In the Cameron County, Texas, Cameron County Irrigation District No. 2, water conservation and improvement projects as identified in the February 11, 2004 engineering report by NRS Consulting Engineers at a cost of $8,269,576.

"(24) In the Cameron County, Texas, Cameron County Irrigation District No. 6, water conservation and improvement projects as identified in an engineering report by Turner Collie Braden, Inc., at a cost of $5,607,300.

"(25) In the Cameron County, Texas, Adams Gardens Irrigation District No. 19, water conservation and improvement projects as identified in the March, 2004 engineering report by Axiom-Blair Engineering at a cost of $2,500,000.

"(26) In the Hidalgo and Cameron Counties, Texas, Hidalgo and Cameron Counties Irrigation District No. 9, water conservation and improvement projects as identified by the February 11 engineering report by NRS Consulting Engineers at a cost of $8,929,152.

"(27) In the Hidalgo and Willacy Counties, Texas, Delta Lake Irrigation District, water conservation and improvement projects as identified in the March, 2004 engineering report by Axiom-Blair Engineering at a cost of $8,000,000.

"(28) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 2, a water conservation and improvement project identified in the engineering reports attached to a letter dated February 11, 2004, from the district's general manager, at a cost of $5,312,475.

"(29) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 1, water conservation and improvement projects identified in an engineering report dated March 5, 2004 by Melden and Hunt, Inc. at a cost of $5,595,018.

"(30) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 6, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $3,450,000.

"(31) In the Hidalgo County, Texas Santa Cruz Irrigation District No. 15, water conservation and improvement projects as identified in an engineering report dated March 5, 2004 by Melden and Hunt at a cost of $4,609,000.

"(32) In the Hidalgo County, Texas, Engelman Irrigation District, water conservation and improvement projects as identified in an engineering report dated March 5, 2004 by Melden and Hunt, Inc. at a cost of $2,251,480.

"(33) In the Hidalgo County, Texas, Valley Acres Water District, water conservation and improvement projects as identified in an engineering report dated March, 2004 by Axiom-Blair Engineering at a cost of $500,000.

“(34) In the Hudspeth County, Texas, Hudspeth County Conservation and Reclamation District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $1,500,000.

“(35) In the El Paso County, Texas, El Paso County Water Improvement District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $10,500,000.

“(36) In the Hidalgo County, Texas, Donna Irrigation District, water conservation and improvement projects identified in an engineering report dated March 22, 2004 by Melden and Hunt, Inc. at a cost of $2,500,000.

“(37) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 16, water conservation and improvement projects identified in an engineering report dated March 22, 2004 by Melden and Hunt, Inc. at a cost of $2,800,000.

“(38) The United Irrigation District of Hidalgo County water conservation and improvement projects identified in a March 2004 engineering report by Sigler Winston, Greenwood and Associates at a cost of $6,067,021.”.

(b) INCLUSION OF ACTIVITIES TO CONSERVE WATER OR IMPROVE SUPPLY; TRANSFERS AMONG PROJECTS.—Section 4 of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3067) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

“(c) INCLUSION OF ACTIVITIES TO CONSERVE WATER OR IMPROVE SUPPLY.—In addition to the activities identified in the engineering reports referred to in subsection (a), each project that the Secretary conducts or participates in under subsection (a) may include any of the following:

“(1) The replacement of irrigation canals and lateral canals with buried pipelines.

“(2) The impervious lining of irrigation canals and lateral canals.

“(3) Installation of water level, flow measurement, pump control, and telemetry systems.

“(4) The renovation and replacement of pumping plants.

“(5) Other activities that will result in the conservation of water or an improved supply of water.

“(d) TRANSFERS AMONG PROJECTS.—Of amounts made available for a project referred to in any of paragraphs (20) through (38) of subsection (a), the Secretary may transfer and use for another such project up to 10 percent.”.

### SEC. 3. REAUTHORIZATION OF APPROPRIATIONS FOR LOWER RIO GRANDE CONSTRUCTION.

Section 4(e) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) (as redesignated by section 2(b)) is amended by inserting before the period the following: “for projects referred to in paragraphs (1) through (19) of subsection (a), and $42,356,145 (2004 dollars) for projects referred to in paragraphs (20) through (38) of subsection (a)”.

---

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. CORNYN, and Mr. SCHUMER):

S. 521. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 521

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Hepatitis C Epidemic Control and Prevention Act”.

### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Approximately 5,000,000 Americans are infected with the hepatitis C virus (referred to in this section as “HCV”), and more than 3,000,000 Americans are chronically infected, making HCV the Nation's most common chronic blood borne virus infection.

(2) Nearly 2 percent of the population of the United States have been infected with HCV.

(3) Conservative estimates indicate that approximately 30,000 Americans are newly infected with HCV each year, and that number has been growing since 2001.

(4) HCV infection, in the United States, is the most common cause of chronic liver disease, liver cirrhosis, and liver cancer, the most common indication for liver transplant, and the leading cause of death in people with HIV/AIDS. In addition, there may be links between HCV and certain other diseases, given that a high number of people infected with HCV also suffer from type 2 diabetes, lymphoma, thyroid and certain blood disorders, and autoimmune disease.

(5) The majority of individuals infected with HCV are unaware of their infection. Individuals infected with HCV serve as a source of transmission to others and, since few individuals are aware they are infected, they are unlikely to take precautions to prevent the spread or exacerbation of their infection.

(6) There is no vaccine available to prevent HCV infection.

(7) Treatments are available that can eradicate the disease in approximately 50 percent of those who are treated, and behavioral changes can slow the progression of the disease.

(8) Conservative estimates place the costs of direct medical expenses for HCV at more than $1,000,000,000 in the United States annually, and such costs will undoubtedly increase in the absence of expanded prevention and treatment efforts.

(9) To combat the HCV epidemic in the United States, the Centers for Disease Control and Prevention developed Recommendations for Prevention and Control of Hepatitis C Virus (HCV) Infection and HCV-Related Chronic Disease in 1998 and the National Hepatitis C Prevention Strategy in 2001, and the National Institutes of Health convened Consensus Development Conferences on the Management of Hepatitis C in 1997 and 2002. These recommendations and guidelines provide a framework for HCV prevention, control, research, and medical management referral programs.

(10) The Department of Veterans Affairs (referred to in this paragraph as the “VA”), which cares for more people infected with HCV than any other health care system, is the Nation's leader in HCV screening, testing, and treatment. Since 1998, it has been the VA's policy to screen for HCV risk factors all veterans receiving VA health care, and the VA currently recommends testing for all those who are found to be “at risk” for the virus and for all others who wish to be tested. In fiscal year 2004, over 98 percent of VA patients had been screened for HCV risk factors, and over 90 percent of those “at risk” were tested. For all veterans who test positive for HCV and enroll in VA medical care, the VA offers medications that can help HCV or its complications. The VA also has programs for HCV patient and provider education, clinical care, data-based quality improvement, and research, and it has 4 Hepatitis C Resource Centers to develop and disseminate innovative practices and tools to improve patient care. This comprehensive program should be commended and could potentially serve as a model for future HCV programs.

(11) Federal support is necessary to increase knowledge and awareness of HCV and to assist State and local prevention and control efforts.

### SEC. 3. PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

## “PART R—PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C

### “SEC. 399AA. FEDERAL PLAN FOR THE PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

“(a) IN GENERAL.—The Secretary shall develop and implement a plan for the prevention, control, and medical management of the hepatitis C virus (referred to in this part as ‘HCV’) that includes strategies for education and training, surveillance and early detection, and research.

“(b) INPUT IN DEVELOPMENT OF PLAN.—In developing the plan under subsection (a), the Secretary shall—

“(1) be guided by existing recommendations of the Centers for Disease Control and Prevention and the National Institutes of Health; and

“(2) consult with—

“(A) the Director of the Centers for Disease Control and Prevention;

“(B) the Director of the National Institutes of Health;

“(C) the Administrator of the Health Resources and Services Administration;

“(D) the heads of other Federal agencies or offices providing services to individuals with HCV infections or the functions of which otherwise involve HCV;

“(E) medical advisory bodies that address issues related to HCV; and

“(F) the public, including—

“(i) individuals infected with the HCV; and

“(ii) advocates concerned with issues related to HCV.

“(c) BIENNIAL ASSESSMENT OF PLAN.—

“(1) IN GENERAL.—The Secretary shall conduct a biennial assessment of the plan developed under subsection (a) for the purpose of incorporating into such plan new knowledge or observations relating to HCV and chronic HCV (such as knowledge and observations that may be derived from clinical, laboratory, and epidemiological research and disease detection, prevention, and surveillance outcomes) and addressing gaps in the coverage or effectiveness of the plan.

“(2) PUBLICATION OF NOTICE OF ASSESSMENTS.—Not later than October 1 of the first even numbered year beginning after the date of enactment of the Hepatitis C Epidemic Control and Prevention Act, and October 1 of each even numbered year thereafter, the Secretary shall publish in the Federal Register a notice of the results of the assessments conducted under paragraph (1). Such notice shall include—

“(A) a description of any revisions to the plan developed under subsection (a) as a result of the assessment;

“(B) an explanation of the basis for any such revisions, including the ways in which such revisions can reasonably be expected to further promote the original goals and objectives of the plan; and

“(C) in the case of a determination by the Secretary that the plan does not need revision, an explanation of the basis for such determination.

### “SEC. 399BB. ELEMENTS OF THE FEDERAL PLAN FOR THE PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

“(a) EDUCATION AND TRAINING.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall implement programs to increase awareness and enhance knowledge and understanding of HCV. Such programs shall include—

“(1) the conduct of health education, public awareness campaigns, and community outreach activities to promote public awareness and knowledge about risk factors, the transmission and prevention of infection with HCV, the value of screening for the early detection of HCV infection, and options available for the treatment of chronic HCV;

“(2) the training of healthcare professionals regarding the prevention, detection, and medical management of the hepatitis B virus (referred to in this part as ‘HBV’) and HCV, and the importance of vaccinating HCV-infected individuals and those at risk for HCV infection against the hepatitis A virus and HBV; and

“(3) the development and distribution of curricula (including information relating to the special needs of individuals infected with HBV or HCV, such as the importance of early intervention and treatment and the recognition of psychosocial needs) for individuals providing hepatitis counseling, as well as support for the implementation of such curricula by State and local public health agencies.

“(b) EARLY DETECTION AND SURVEILLANCE.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall support activities described in paragraph (2) to promote the early detection of HCV infection, identify risk factors for infection, and conduct surveillance of HCV infection trends.

“(2) ACTIVITIES.—

“(A) VOLUNTARY TESTING PROGRAMS.—

“(i) IN GENERAL.—The Secretary shall support and promote the development of State, local, and tribal voluntary HCV testing programs to aid in the early identification of infected individuals.

“(ii) CONFIDENTIALITY OF TEST RESULTS.—The results of a HCV test conducted by a testing program developed or supported under this subparagraph shall be considered protected health information (in a manner consistent with regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note)) and may not be used for any of the following:

“(I) Issues relating to health insurance.

“(II) To screen or determine suitability for employment.

“(III) To discharge a person from employment.

“(B) COUNSELING REGARDING VIRAL HEPATITIS.—The Secretary shall support State, local, and tribal programs in a wide variety of settings, including those providing primary and specialty healthcare services in nonprofit private and public sectors, to—

“(i) provide individuals with information about ongoing risk factors for HCV infection with client-centered education and counseling that concentrates on changing behaviors that place them at risk for infection; and

“(ii) provide individuals infected with HCV with education and counseling to reduce the risk of harm to themselves and transmission of the virus to others.

“(C) VACCINATION AGAINST VIRAL HEPATITIS.—With respect to individuals infected, or at risk for infection, with HCV, the Secretary shall provide for—

“(i) the vaccination of such individuals against hepatitis A virus, HBV, and other infectious diseases, as appropriate, for which such individuals may be at increased risk; and

“(ii) the counseling of such individuals regarding hepatitis A, HBV, and other viral hepatides.

“(D) MEDICAL REFERRAL.—The Secretary shall support—

“(i) referral of persons infected with or at risk for HCV, for drug or alcohol abuse treatment where appropriate; and

“(ii) referral of persons infected with HCV—

“(I) for medical evaluation to determine their stage of chronic HCV and suitability for antiviral treatment; and

“(II) for ongoing medical management of HCV.

“(3) HEPATITIS C COORDINATORS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, upon request, provide a Hepatitis C Coordinator to a State health department in order to enhance the management, networking, and technical expertise needed to ensure successful integration of HCV prevention and control activities into existing public health programs.

“(c) SURVEILLANCE AND EPIDEMIOLOGY.—

“(1) IN GENERAL.—The Secretary shall promote and support the establishment and maintenance of State HCV surveillance databases, in order to—

“(A) identify risk factors for HCV infection;

“(B) identify trends in the incidence of acute and chronic HCV;

“(C) identify trends in the prevalence of HCV infection among groups that may be disproportionately affected by HCV, including individuals living with HIV, military veterans, emergency first responders, racial or ethnic minorities, and individuals who engage in high risk behaviors, such as intravenous drug use; and

“(D) assess and improve HCV infection prevention programs.

“(2) SEROPREVALENCE STUDIES.—The Secretary shall conduct a population-based seroprevalence study to estimate the current and future impact of HCV. Such studies shall consider the economic and clinical impacts of HCV, as well as the impact of HCV on quality of life.

“(3) CONFIDENTIALITY.—Information contained in the databases under paragraph (1) or derived through studies under paragraph (2) shall be de-identified in a manner consistent with regulations under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(d) RESEARCH NETWORK.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall—

“(1) conduct epidemiologic research to identify best practices for HCV prevention;

“(2) establish and support a Hepatitis C Clinical Research Network for the purpose of conducting research related to the treatment and medical management of HCV; and

“(3) conduct basic research to identify new approaches to prevention (such as vaccines) and treatment for HCV.

“(e) REFERRAL FOR MEDICAL MANAGEMENT OF CHRONIC HCV.—The Secretary shall support and promote State, local, and tribal programs to provide HCV-positive individuals with referral for medical evaluation and management, including currently recommended antiviral therapy when appropriate.

“(f) UNDERSERVED AND DISPROPORTIONATELY AFFECTED POPULATIONS.—In carrying out this section, the Secretary shall provide expanded support for individuals with limited access to health education, testing, and healthcare services and groups that may be disproportionately affected by HCV.

“(g) STUDY AND REPORT REGARDING VA PROGRAM AND FEDERAL PLAN.—

“(1) STUDY.—The Secretary shall conduct a study to examine the comprehensive HCV programs that have been implemented by the Department of Veterans Affairs (referred to in this subsection as the ‘VA’), including the Hepatitis C Resource Center program, to determine whether any of these programs, or components of these programs, should be part of the Federal plan to combat HCV.

“(2) REPORT.—Not later than 12 months after date of enactment of the Hepatitis C Epidemic Control and Prevention Act, the Secretary shall submit to Congress a report that describes the results of the study required under paragraph (1).

“(3) CONSIDERATION OF REPORT.—The Secretary shall take into consideration the content of the report required under paragraph (2) in conducting the biennial assessment required under section 399AA(c).

“(h) EVALUATION OF PROGRAM.—The Secretary shall develop benchmarks for evaluating the effectiveness of the programs and activities conducted under this section and make determinations as to whether such benchmarks have been achieved.

### “SEC. 399CC. GRANTS.

“(a) IN GENERAL.—The Secretary may award grants to, or enter into contracts or cooperative agreements with, States, political subdivisions of States, Indian tribes, or nonprofit entities that have special expertise relating to HCV, to carry out activities under this part.

“(b) APPLICATION.—To be eligible for a grant, contract, or cooperative agreement under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

### “SEC. 399DD. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part $90,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.”.

### SEC. 4. LIVER DISEASE RESEARCH ADVISORY BOARD.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

### "SEC. 409J. LIVER DISEASE RESEARCH ADVISORY BOARD.

"(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Hepatitis C Epidemic Control and Prevention Act, the Director of the National Institutes of Health shall establish a board to be known as the Liver Disease Research Advisory Board (referred to in this section as the 'Advisory Board').

"(b) DUTIES.—The Advisory Board shall advise and assist the Director of the National Institutes of Health concerning matters relating to liver disease research, including by developing and revising the Liver Disease Research Action Plan.

"(c) VOTING MEMBERS.—The Advisory Board shall be composed of 18 voting members to be appointed by the Director of the National Institutes of Health, in consultation with the Director of the National Institute of Diabetes and Digestive and Kidney Diseases (referred to in this subsection as the 'NIDDK'), of whom 12 such individuals shall be eminent scientists and 6 such individuals shall be lay persons. The Director of the National Institutes of Health, in consultation with the Director of the NIDDK, shall select 1 of the members to serve as the Chair of the Advisory Board.

"(d) EX OFFICIO MEMBERS.—The Director of the National Institutes of Health shall appoint each director of a national research institute that funds liver disease research to serve as a nonvoting, ex officio member of the Advisory Board. The Director of the National Institutes of Health shall invite 1 representative of the Centers for Disease Control and Prevention, 1 representative of the Food and Drug Administration, and 1 representative of the Department of Veterans Affairs to serve as such a member. Each ex officio member of the Advisory Board may appoint an individual to serve as that member's representative on the Advisory Board.

"(e) LIVER DISEASE RESEARCH ACTION PLAN.—

"(1) DEVELOPMENT.—Not later than 15 months after the date of enactment of the Hepatitis C Epidemic Control and Prevention Act, the Advisory Board shall develop (with appropriate support from the Director) a comprehensive plan for the conduct and support of liver disease research to be known as the Liver Disease Research Action Plan. The Advisory Board shall submit the Plan to the Director of National Institutes of Health and the head of each institute or center within the National Institutes of Health that funds liver disease research.

"(2) CONTENT.—The Liver Disease Research Action Plan shall identify scientific opportunities and priorities for liver disease research necessary to increase understanding of and to prevent, cure, and develop better treatment protocols for liver diseases.

"(3) REVISION.—The Advisory Board shall revise every 2 years the Liver Disease Research Action Plan, but shall meet annually to review progress and to amend the Plan as may be appropriate because of new scientific discoveries.".

Mr. KENNEDY. Mr. President, it is a privilege to join Senators HUTCHINSON, SCHUMER, and CORNYN in introducing the Hepatitis C Epidemic Control and Prevention Act. Our goal is to provide for the prevention, control, and treatment of Hepatitis C viral infection through education, surveillance, early detection, and research.

Hepatitis C is the most common, chronic, blood-borne infection in the United States. An estimated 5 million Americans are now infected with the Hepatitis C virus, and 30,000 more are infected every year. The rate of infection continues to rise—between 1990 and 2015, the Centers for Disease Control and Prevention project a 4-fold increase in the number of persons with chronic infection of the virus.

Persons infected with the Hepatitis C virus come from all walks of life, but those at greatest risk include health workers, emergency service personnel, and drug users. Tragically, the majority of infected individuals are unaware of their infection, are not receiving treatment, and are sources of transmission of the virus to others.

Infection with the Hepatitis C virus has serious health effects. It can cause liver disease, including cirrhosis and liver cancer, and is the leading indicator for liver transplants. The illnesses are often life-threatening—up to 10,000 Americans die yearly from Hepatitis C complications, and it is the 7th leading cause of death for men between the ages of 25 and 64. In addition to the human costs, the disease has massive financial implications. Direct costs associated with care are expected to exceed $1 billion a year by 2010. Without intervention, the epidemic is projected to result in costs of over $54 billion by the year 2019.

Greater Federal investment will have a critical role in reversing this silent epidemic. Our Hepatitis C bill will increase public awareness of the dangers of Hepatitis C, and make testing widely available. For those already infected, it will provide counseling, referrals, and vaccination against Hepatitis A and B and other infectious diseases. It will also support research to develop a vaccine against Hepatitis C, just as we now have for Hepatitis A and B. It will create a multiagency Liver Disease Research Advisory Board and mandate a study of programs used by the Veteran's Administration, in order to provide important lessons and models of care for the nation. The Centers for Disease Control and Prevention will increase surveillance activities, and provide Hepatitis C coordinators to provide technical assistance and training to state public health agencies.

This bill will have a major impact on the lives of millions of Americans who are infected by Hepatitis C, and the families and loved ones who care for them. I look forward to working closely with my colleagues to act quickly to pass this needed legislation. I especially commend the impressive work of the students at Robinson Secondary School in Fairfax, VA, for their continuing dedication to informing Members of Congress about this important issue and bringing national attention to it.

---

By Mr. SALAZAR:

S. 523. A bill to amend title 10, United States Code, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes; to the Committee on Armed Services.

Mr. SALAZAR. Mr. President, I rise to introduce a simple piece of legislation. The idea underlying this bill is simple: words matter. How we characterize what we do sends a message, and nowhere is that more clear than in the question of survivor benefits for survivors of military fatalities.

The Senate this year is considering major increases in survivor benefits for military families. That is as it should be, and I am proud to support two specific proposals to increase that assistance.

We have an historic opportunity to raise both the direct DoD assistance and the life insurance payouts to families from $12,420 to $100,000 and to provide an extra $150,000 in life insurance payouts.

We also have an opportunity to allow full concurrent receipt of the DoD's Survivor Benefit Plan and the VA's Dependency & Indemnity Compensation.

We also have the opportunity to improve the help that military survivors get in navigating the bureaucracies of the VA and the DoD to get the benefits they deserve.

And finally we have the opportunity to protect military families from predatory life insurance companies. All of these reforms are needed, and all are within our reach this year.

As I studied this issue, I was struck by the term "Death Gratuity." That is the name for the assistance that taxpayers make available to military survivors. The term gratuity means gift.

I believe that not one of the widows, widowers, or children left behind think of that money as a gift. These families and these heroes are the ones who have given the gift to us. They are the ones who have given the ultimate sacrifice.

I know that the name of the assistance is not as important as the assistance itself, but I am sure that hearing the term "gratuity" is a bitter pill for survivors who have just received the worst news of their lives.

I for one refuse the term "Death Gratuity," and I am introducing legislation today to change it to "Fallen Hero Compensation."

This is a simple change, but it more properly reflects the sacrifices military survivors have made and more properly expresses the gratitude and dignity we owe these families.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 523

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES AS FALLEN HERO COMPENSATION.**

(a) IN GENERAL.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking "have a death gratuity paid" and inserting "have fallen hero compensation paid".

(2) In section 1476(a)—

(A) in paragraph (1), by striking "a death gratuity" and inserting "fallen hero compensation"; and

(B) in paragraph (2), by striking "A death gratuity" and inserting "Fallen hero compensation".

(3) In section 1477(a), by striking "A death gratuity" and inserting "Fallen hero compensation".

(4) In section 1478(a), by striking "The death gratuity" and inserting "The amount of fallen hero compensation".

(5) In section 1479(1), by striking "the death gratuity" and inserting "fallen hero compensation".

(6) In section 1489—

(A) in subsection (a), by striking "a gratuity" in the matter preceding paragraph (1) and inserting "fallen hero compensation"; and

(B) in subsection (b)(2), by inserting "or other assistance" after "lesser death gratuity".

(b) CLERICAL AMENDMENTS.—(1) Such subchapter is further amended by striking "**Death gratuity:**" each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting "**Fallen hero compensation:**".

(2) The table of sections at the beginning of such subchapter is amended by striking "Death gratuity:" in the items relating to sections 1474 through 1480 and 1489 and inserting "Fallen hero compensation:".

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 524. A bill to strengthen the consequences of the fraudulent use of United States or foreign passports and other immigration documents; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, Senator SESSIONS and I are introducing legislation to combat the use of fraudulent immigration documents, particularly passports and other travel documents.

The need to prevent and prosecute passport and travel document fraud is clear, and this bill would increase penalties for the use of fraudulent travel documents.

We know that the threat of terrorism against the United States is real and as the 9/11 Commission Report states, "for terrorists, travel documents are as important as weapons." In order to minimize the threat of terrorism to the United States, we must make every effort to limit the use of fraudulent immigration documents.

The bill Senator SESSIONS and I are introducing would make the use of fraudulent travel documents—such as passports, Border Crossing Cards, Canadian driver's licenses or identification cards, transportation letters for parolees, military identification cards or green cards—an aggravated felony which will mandate detention and increase the likelihood of prosecution.

Today, this is not the case. Instead, fraudulent documents are routinely returned to the offender and individuals are allowed to return home without suffering any consequences from their attempts to circumvent our immigration laws.

Why is this a problem?

Firstly, admission to the United States is a privilege and not a right. We should not tolerate fraud and deception at our ports of entry, particularly because it should be apparent that a terrorist organization as sophisticated as Al Qaeda is well aware of our current procedures and can be expected to take full advantage of them.

Secondly, the 9/11 Commission found that as many as 15 of the 19 hijackers on September 11, 2001 could have been intercepted by border officials, based in part on their travel documents. In fact, all but one of the September 11 hijackers acquired some form of U.S. identification document and some of those documents were acquired by fraud. All of the hijackers opened bank accounts in their names and used passports and other identification documents that appeared valid on their face.

Even before September 11, 2001, the use of fraudulent immigration documents to enter the United States was a threat that we did not sufficiently heed.

Let me give you some known examples of terrorists who have entered, or attempted to enter the United States, with fraudulent travel documents: Ahmed Ajaj and Ramzi Yousef attempted to enter the United States with fraudulent passports. Both were later implicated or convicted in the first World Trade Center bombing in February of 1993.

Ahmed Ressam used a fraudulently obtained Canadian passport, and, in 1999 attempted to cross the border from Canada at Port Angeles in Washington State. A border inspector felt Mr. Ressam looked nervous, and a search of his car turned up a trunk full of bombs. There is some debate about the exact target(s) of the attack; however, it seems likely that Los Angeles International Airport and perhaps the millennium celebrations in Seattle were the intended targets.

It is no secret that: as the 9/11 Commission Report makes clear, Al Qaeda has established a complex international travel network that allowed, and presumably still allows, its operatives to legally travel worldwide to train, conduct reconnaissance or otherwise prepare for an attack. This network included, and presumably still includes, the use of altered and counterfeit passports and visas.

Many countries, including France, Portugal and Saudi Arabia, have reported tens of thousands of passports and travel documents stolen. When these are stolen in large numbers, they are sold on the black market to others.

The 9/11 Commission found that had the immigration system set a higher bar for determining whether individuals are who they claim to be—and ensured consequences for any violations—it could potentially have denied entry, deported or come into further contact with the terrorists that were involved in the September 11, 2001 attack on the United States.

Last year, the Department of Homeland Security Office of the Inspector General issued the following reports on lost and stolen passports: "A Review of the Use of Stolen passports from Visa Waiver Countries to Enter the United States", December 2004; and, "An Evaluation of the Security Implications of the Visa Waiver Program" (April 2004).

I encourage my colleagues to read these reports on the vulnerabilities in our current border security. To summarize, the reports state that: In the United States alone, immigration officials have records for 1.2 million stolen passports.

Aliens applying for admission into the United States using stolen passports have little reason to fear being caught and are usually admitted. It has been standard practice to simply return a fraudulent passport to an individual seeking entry and let them return to their country. This, in effect, is the soft underbelly of the entire passport system.

The Director of the U.S. National Central Bureau of INTERPOL said that for 55 of the 181 INTERPOL countries, there probably were over 10 million lost and stolen passports that might be in circulation.

Law enforcement officials state that lost and stolen passports are the greatest security problem associated with the Visa Waiver Program.

And now that I've mentioned the Visa Waiver Program, let me say a few things about this program.

I believe the Visa Waiver Program is the Achilles heel in our immigration system. This program allows roughly 13 million individuals to enter the United States each year from 27 countries, without a visa—meaning they enter without a thorough background and security check.

Since we do not have in place a fully operational entry and exit program, specifically an exit system, we have no real way of knowing if millions of travelers who entered the United States have left as required.

Last year, Congress extended the deadline for one year for countries participating in the Visa Waiver Program to include biometric indicators in passports to verify the identity of bearers at the request of the Administration.

It is likely this deadline will again need to be extended.

I believe that granting another extension will be another opportunity for terrorists, organized crime rings, petty crooks, counterfeiters and forgers to continue entering the United States virtually unnoticed because we won't be able to confirm that they are who they say they are.

The bottom line is that we must crack down on document fraud if we are to protect our borders. There are thousands, even millions, of lost, stolen and fraudulent international passports, travel documents, driver's licenses and other identity documents in circulation, and we must now allow those to compromise our homeland security.

The purpose of this bill is twofold: first, to give the Department of Justice the incentive to vigorously prosecute all cases involving passport and travel document fraud, as well as certain other egregious cases of immigration document fraud.

Second, by encouraging policies that make these cases a priority for prosecution, it will require that Department of Homeland Security officials not return fraudulent documents to travelers, but instead turn them over to the Department of Justice so that they can institute criminal proceedings.

Unfortunately, the prosecution of immigration document fraud is not a high priority for the Department of Justice, because, although current penalties allow for a sentence of up to 25 years, typically most alien's convicted of travel document fraud serve less than one year in prison.

Also, the immigration consequences of document fraud are relatively minor. Low sentences, coupled with minimal immigration consequences, do not provide much incentive for U.S. Attorneys nationwide to consider the prosecution of immigration document cases a priority nor can they be seen as anything but a slap on the wrists of the offenders.

Senator SESSIONS and I pose a solution to this problem by toughening penalties so that we instill in those seeking to use fraudulent travel and immigration documents a real sense of fear that they will be caught and prosecuted to the fullest extent possible under our laws.

In any kind of meaningful border protection plan, one must have a good sense of who is entering and exiting the country. That simply cannot be known if the individual is using a fraudulent document.

Mr. President, I ask my colleagues to join me in supporting this legislation.

I also ask by unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 524

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FRAUDULENT USE OF PASSPORTS.**

(a) CRIMINAL CODE.—

(1) SECRETARY OF HOMELAND SECURITY.—Section 1546 of title 18, United States Code, is amended by striking "the Commissioner of the Immigration and Naturalization Service" each place it appears and inserting "the Secretary of Homeland Security".

(2) DEFINITION OF PASSPORT.—Chapter 75 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1548. Definition**

"In sections 1543 and 1544, the term 'passport' means any passport issued by the United States or any foreign country.".

(3) CLERICAL AMENDMENT.—The table of sections for chapter 75 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 1548. Definition.".

(b) IMMIGRATION AND NATIONALITY ACT.—Section 101(a)(43)(P) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(P)) is amended to read as follows:

"(P) except for a first offense for which an alien affirmatively shows was committed solely for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent to violate a provision of this Act—

"(i) an offense described in section 1542, 1543, or 1544 of title 18, United States Code (relating to false statements in the application, forgery, or misuse of a passport);

"(ii) an offense described in section 1546(a) of title 18, United States Code, relating to document fraud used as evidence of authorized stay or employment in the United States for which the term of imprisonment is at least 12 months; or

"(iii) any other offense described in section 1546(a) of title 18, United States Code, relating to entry into the United States, regardless of the term of imprisonment imposed.".

**SEC. 2. RELEASE AND DETENTION PRIOR TO DISPOSITION.**

Section 3142(f)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking "or" after the semicolon; and

(2) by adding at the end the following:

"(E) an offense under section 1542, 1543, 1544, or 1546(a) of this title; or".

---

By Mr. ALEXANDER (for himself, Mr. DODD, Mr. ENZI, Mr. KENNEDY, Mr. HATCH, and Mr. ROBERTS):

S. 525. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, today I am here with Senator DODD and on behalf of Senator ENZI and Senator KENNEDY to introduce the Caring for Children Act of 2005 which reauthorizes the Child Care and Development Block Grant, CCDBG, program. This program provides funding to States for child care vouchers.

Across the United States last year low-income parents of 2.3 million children were able to use these certificates or "vouchers" to help pay the cost of child care while the parents worked or continued their education so they could get a better job.

Last year, my home State of Tennessee spent $251,760,528 for child care, much of which came through the CCDBG program. This important program legislates how States are to administer child care. States provide certificates to parents to choose the type of care that best fits their children's needs.

In Tennessee, 1 percent of children receive care in their own home, 19 percent have chosen to place their children in family home care, 5 percent are in group care while the vast majority, 75 percent, are in child care centers. About 24,500 Tennessee families with children are enrolled in some form of subsidized child care, and as of January of this year, 46,591 children were receiving subsidized child care in my home State.

A family of four, which is a typical size for eligible families in Tennessee, is eligible for child care support when their median income is no more than 60 percent of the State's median income. That means that families making $33,000 or less are eligible for some assistance, though they may also have to make a co-payment. For example, a family of four making $32,000 would be required to pay $56 per week for the first child and $42 per week for the second child.

This year we are making the CCDBG program even better with four key improvements.

First, the act increases the quality set-aside from 4 percent, current law, to 6 percent. Eighty percent of parents report that their child care is poor to mediocre, so we need to take steps to improve overall quality of care. The quality set-aside is used to offer training and professional development to child care workers. States can also use quality funds to provide technical assistance to child care facilities to help them enhance learning opportunities for pre-school or school-aged children while in care. Of course, States could choose to do even more, and I am happy to report that my own State of Tennessee spends at least 12 percent on quality improvements.

Second, the act requires States to use at least 70 percent of funds for direct services. This will ensure that more of the money gets into the hands of parents rather than State bureaucracies. Under current law, States vary greatly in what percentage they use for direct services since current language simply specifies that a "significant" portion be used for services.

Third, the legislation emphasizes the importance of school preparedness by adding a new goal: development of pre-reading, prenumeracy, math and language skills for children in care. Research has proven that a child's brain doubles in size between birth and age 3. These are formative years for both physical and cognitive development.

Fourth, the bill establishes a temporary small business competitive grant program to encourage small businesses to work together to provide child care services for employees. Senator ROBERTS developed this innovative $30 million grant program, and I am glad it could be included in the bill.

The CCDBG program is important for supporting parents raising children across the country. One such parent is Tameka Payton. Tameka was nineth grade when she had her first child, Javonta. When she became pregnant, Tameka was a ward of the State. She had grown up with an abusive mother who was addicted to drugs. After being removed from the care of her mother, she was placed in the care of her aunt who also proved abusive. Tameka ran away, and was placed in the foster care system until she was 18. She then had two more children, Jayla and Michael, before finding a family resource center at the Salvation Army that connected her and her children to Tennessee's Family First program.

The Family First program and the child care certificates she receives through this program enabled Tameka to find work and become a better mother. She is currently working 40 hours a week while working on her GED. She is about to take the test. Everyday she brings her children 4, 2, and 1 to the McNeilly Center. Tameka feels confident that not only are her children receiving quality care but also she is learning how to be a better mother. Her children's teachers are receptive and answer all of her questions. She has learned to spend time reading to her children so she can contribute to their education, too.

The Federal CCDBG program funds the child care certificates Tameka receives. Without them, Tameka, and her children, would be in a very different place today.

Tameka's dream is to get her GED and attend Tennessee State University. The support she receives has given her the chance to realize that dream, and make a better life for herself and her children. I expect her hard work to payoff.

Another Tennessee parent who has benefited from the program is Renee Prigmore. Renee is currently a toddler teacher at the McNeilly Center in Nashville. But she first found McNeilly as a parent, not as a teacher. As a single parent of three, she used her child care certificates at McNeilly to leave her kids in quality care while she attended community college.

Renee has attained her degree as a Child Development Associate, CDA. Her children are now 10, 6, and 4 and she is exiting out of the child care program because she is able to provide for her three kids. The child care certificates she received enabled her to take the time to receive that degree and provide for her family.

People like Tameka Payton and Renee Prigmore have used the CCDBG program to build a new and better life for their families. With the introduction of the Caring for Children Act, we can make that program even stronger, so that parents raising children are able to build a better future for their families. I ask my colleagues to join with me in this important endeavor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 525

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Caring for Children Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990

Sec. 101. Short title and goals.
Sec. 102. Authorization of appropriations.
Sec. 103. Lead agency.
Sec. 104. State plan.
Sec. 105. Activities to improve the quality of child care.
Sec. 106. Optional priority use of additional funds.
Sec. 107. Reporting requirements.
Sec. 108. National activities.
Sec. 109. Allocation of funds for Indian tribes, quality improvement, and a hotline.
Sec. 110. Definitions.
Sec. 111. Rules of construction.

TITLE II—ENHANCING SECURITY AT CHILD CARE CENTERS IN FEDERAL FACILITIES

Sec. 201. Definitions.
Sec. 202. Enhancing security.

TITLE III—REMOVAL OF BARRIERS TO INCREASING THE SUPPLY OF QUALITY CHILD CARE

Sec. 301. Small business child care grant program.

## TITLE I—CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990

### SEC. 101. SHORT TITLE AND GOALS.

(a) HEADING.—Section 658A of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 note) is amended by striking the section heading and inserting the following:

**"SEC. 658A. SHORT TITLE AND GOALS.".**

(b) GOALS.—Section 658A(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 note) is amended—

(1) in paragraph (3), by striking "encourage" and inserting "assist";

(2) in paragraph (4), by striking "parents" and all that follows and inserting "low-income working parents;";

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following:

"(5) to assist States in improving the quality of child care available to families;

"(6) to promote school preparedness by encouraging children, families, and caregivers to engage in developmentally appropriate and age-appropriate activities in child care settings that will—

"(A) improve the children's social, emotional, and behavioral skills; and

"(B) foster their early cognitive, pre-reading, and language development, and prenumeracy and mathematics skills;

"(7) to promote parental and family involvement in the education of young children in child care settings; and".

### SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended by striking "subchapter" and all that follows and inserting "subchapter $2,300,000,000 for fiscal year 2006, $2,500,000,000 for fiscal year 2007, $2,700,000,000 for fiscal year 2008, $2,900,000,000 for fiscal year 2009, and $3,100,000,000 for fiscal year 2010.".

### SEC. 103. LEAD AGENCY.

Section 658D(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858b(a)) is amended by striking "designate" and all that follows and inserting "designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter.".

### SEC. 104. STATE PLAN.

(a) LEAD AGENCY.—Section 658E(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(1)) is amended by striking "designated" and inserting "designated or established".

(b) POLICIES AND PROCEDURES.—Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(2)) is amended—

(1) in subparagraph (A)(i)(II), by striking "section 658P(2)" and inserting "section 658T(2)";

(2) by striking subparagraph (D) and inserting the following:

"(D) CONSUMER AND CHILD CARE PROVIDER EDUCATION INFORMATION.—Certify that the State will—

"(i) collect and disseminate, through resource and referral services and other means as determined by the State, to parents of eligible children, child care providers, and the general public, information regarding—

"(I) the promotion of informed child care choices, including information about the quality and availability of child care services;

"(II) research and best practices concerning children's development, including early cognitive development;

"(III) the availability of assistance to obtain child care services; and

"(IV) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch

Act (42 U.S.C. 1766), and the medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.); and

"(ii) report to the Secretary the manner in which the consumer education information described in clause (i) was provided to parents and the number of parents to whom such consumer education information was provided, during the period of the previous State plan.";

(3) by striking subparagraph (E) and inserting the following:

"(E) COMPLIANCE WITH STATE AND TRIBAL LICENSING REQUIREMENTS.—

"(i) IN GENERAL.—Certify that the State (or the Indian tribe or tribal organization) involved has in effect licensing requirements applicable to child care services provided within the State (or area served by the tribe or organization), and provide a detailed description of such requirements and of how such requirements are effectively enforced.

"(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to require that licensing requirements be applied to specific types of providers of child care services.";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "within the State, under State or local law," and inserting "within the State (or area served by the Indian tribe or tribal organization), under State or local law (or tribal law),"; and

(B) in the second sentence, by striking "State or local law" and inserting "State or local law (or tribal law)"; and

(5) by adding at the end the following:

"(I) PROTECTION FOR WORKING PARENTS.—

"(i) REDETERMINATION PROCESS.—Describe the procedures and policies that are in place to ensure that working parents (especially parents in families receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) are not required to unduly disrupt their employment in order to comply with the State's requirements for redetermination of eligibility for assistance under this subchapter.

"(ii) MINIMUM PERIOD.—Demonstrate that each child that receives assistance under this subchapter in the State will receive such assistance for not less than 6 months before the State redetermines the eligibility of the child under this subchapter, except as provided in clause (iii).

"(iii) PERIOD BEFORE TERMINATION.—At the option of the State, demonstrate that the State will not terminate assistance under this subchapter based on a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 1 month, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance of a job training or educational program, as soon as possible.

"(J) COORDINATION WITH OTHER PROGRAMS.—Describe how the State, in order to expand accessibility and continuity of quality early care and early education, will coordinate the early childhood education activities assisted under this subchapter with—

"(i) programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including the Early Head Start programs carried out under section 645A of that Act (42 U.S.C. 9840a);

"(ii)(I) Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

"(II) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.); and

"(III) the Ready-to-Learn Television program carried out under subpart 3 of part D of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6775 et seq.);

"(iii) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act;

"(iv) State prekindergarten programs; and

"(v) other early childhood education programs.

"(K) TRAINING IN EARLY LEARNING AND CHILDHOOD DEVELOPMENT.—Describe any training requirements that are in effect within the State that are designed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and that are applicable to child care providers that provide services for which assistance is made available under this subchapter in the State.

"(L) PUBLIC-PRIVATE PARTNERSHIPS.—Demonstrate how the State is encouraging partnerships among State agencies, other public agencies, and private entities, to leverage existing service delivery systems (as of the date of submission of the State plan) for early childhood education and to increase the supply and quality of child care services for children who are less than 13 years of age.

"(M) ACCESS TO CARE FOR CERTAIN POPULATIONS.—Demonstrate how the State is addressing the child care needs of parents eligible for child care services for which assistance is provided under this subchapter, who have children with special needs, work nontraditional hours, or require child care services for infants and toddlers.

"(N) COORDINATION WITH TITLE IV OF THE SOCIAL SECURITY ACT.—Describe how the State will inform parents receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and low-income parents about eligibility for assistance under this subchapter.".

(c) USE OF BLOCK GRANT FUNDS.—Section 658E(c)(3) the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (A), by striking "as required under" and inserting "in accordance with"; and

(2) in subparagraph (B)—

(A) by striking "The State" and inserting the following:

"(i) IN GENERAL.—The State";

(B) in clause (i) (as designated in subparagraph (A)), by striking "appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)" and inserting "appropriate (which may include an activity described in clause (ii)) to realize any of the goals specified in paragraphs (2) through (8) of section 658A(b)"; and

(C) by adding at the end the following:

"(ii) CHILD CARE RESOURCE AND REFERRAL SYSTEM.—A State may use amounts described in clause (i) to establish or support a system of local child care resource and referral organizations coordinated, to the extent determined appropriate by the State, by a statewide private, nonprofit, community-based lead child care resource and referral organization. The local child care resource and referral organizations shall—

"(I) provide parents in the State with information, and consumer education, concerning the full range of child care options, including child care provided during nontraditional hours and through emergency child care centers, in their communities;

"(II) collect and analyze data on the supply of and demand for child care in political subdivisions within the State;

"(III) submit reports to the State containing data and analysis described in clause (II); and

"(IV) work to establish partnerships with public agencies and private entities to increase the supply and quality of child care services.".

(d) DIRECT SERVICES.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (A), by striking "(D)" and inserting "(E)"; and

(2) by adding at the end the following:

"(E) DIRECT SERVICES.—From amounts provided to a State for a fiscal year to carry out this subchapter, the State shall—

"(i) reserve the minimum amount required to be reserved under section 658G, and the funds for costs described in subparagraph (C); and

"(ii) from the remainder, use not less than 70 percent to fund direct services (as defined by the State).".

(e) PAYMENT RATES.—Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) in subparagraph (A), by striking "The State plan" and all that follows and inserting the following:

"(i) SURVEY.—The State plan shall—

"(I) demonstrate that the State has, after consulting with local area child care program administrators, developed and conducted a statistically valid and reliable survey of the market rates for child care services in the State (that reflects variations in the cost of child care services by geographic area, type of provider, and age of child) within the 2 years preceding the date of the submission of the application containing the State plan;

"(II) detail the results of the State market rates survey conducted pursuant to subclause (I);

"(III) describe how the State will provide for timely payment for child care services, and set payment rates for child care services, for which assistance is provided under this subchapter in accordance with the results of the market rates survey conducted pursuant to subclause (I) without reducing the number of families in the State receiving such assistance under this subchapter, relative to the number of such families on the date of introduction of the Caring for Children Act of 2005; and

"(IV) describe how the State will, not later than 30 days after the completion of the survey described in subclause (I), make the results of the survey widely available through public means, including posting the results on the Internet.

"(ii) EQUAL ACCESS.—The State plan shall include a certification that the payment rates are sufficient to ensure equal access for eligible children to child care services comparable to child care services in the State or substate area that are provided to children whose parents are not eligible to receive child care assistance under any Federal or State program."; and

(2) in subparagraph (B)—

(A) by striking "Nothing" and inserting the following:

"(i) NO PRIVATE RIGHT OF ACTION.—Nothing"; and

(B) by adding at the end the following:

“(ii) NO PROHIBITION OF CERTAIN DIFFERENT RATES.—Nothing in this subchapter shall be construed to prevent a State from differentiating the payment rates described in subparagraph (A) on the basis of—

“(I) geographic location of child care providers (such as location in an urban or rural area);

“(II) the age or particular needs of children (such as children with special needs and children served by child protective services);

“(III) whether the providers provide child care during weekend and other nontraditional hours; and

“(IV) the State's determination that such differentiated payment rates are needed to enable a parent to choose child care that the parent believes to be of high quality.”.

**SEC. 105. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended to read as follows:

**“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

“(a) IN GENERAL.—

“(1) RESERVATION.—Each State that receives funds to carry out this subchapter for a fiscal year shall reserve and use not less than 6 percent of the funds for activities provided directly, or through grants or contracts with resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services.

“(2) ACTIVITIES.—The funds reserved under paragraph (1) may only be used to—

“(A) develop and implement voluntary guidelines on pre-reading and language skills and activities, and prenumeracy and mathematics skills and activities, for child care programs in the State, that are aligned with State standards for kindergarten through grade 12 or the State's general goals for school preparedness;

“(B) support activities and provide technical assistance in Federal, State, and local child care settings to enhance early learning for preschool and school-aged children, to promote literacy, to foster school preparedness, and to support later school success;

“(C) offer training, professional development, and educational opportunities for child care providers that relate to the use of developmentally appropriate and age-appropriate curricula, and early childhood teaching strategies, that are scientifically based and aligned with the social, emotional, physical, and cognitive development of children, including—

“(i) developing and operating distance learning child care training infrastructures;

“(ii) developing model technology-based training courses;

“(iii) offering training for caregivers in informal child care settings; and

“(iv) offering training for child care providers who care for infants and toddlers and children with special needs.

“(D) engage in programs designed to increase the retention and improve the competencies of child care providers, including wage incentive programs and initiatives that establish tiered payment rates for providers that meet or exceed child care services guidelines, as defined by the State;

“(E) evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and

“(F) carry out other activities determined by the State to improve the quality of child care services provided in the State and for which measurement of outcomes relating to improved child safety, child well-being, or school preparedness is possible.

“(b) CERTIFICATION.—Beginning with fiscal year 2006, the State shall annually submit to the Secretary a certification in which the State certifies that the State was in compliance with subsection (a) during the preceding fiscal year and describes how the State used funds made available to carry out this subchapter to comply with subsection (a) during that preceding fiscal year.

“(c) STRATEGY.—The State shall annually submit to the Secretary—

“(1) beginning with fiscal year 2006, an outline of the strategy the State will implement during that fiscal year to address the quality of child care services for which financial assistance is made available under this subchapter, including—

“(A) a statement specifying how the State will address the activities carried out under subsection (a);

“(B) a description of quantifiable, objective measures that the State will use to evaluate the State's progress in improving the quality of the child care services (including measures regarding the impact, if any, of State efforts to improve the quality by increasing payment rates, as defined in section 658H(c)), evaluating separately the impact of the activities listed in each of such subparagraphs on the quality of the child care services; and

“(C) a list of State-developed child care services quality targets quantified for such fiscal year for such measures; and

“(2) beginning with fiscal year 2007, a report on the State's progress in achieving such targets for the preceding fiscal year.

“(d) IMPROVEMENT PLAN.—If the Secretary determines that a State failed to make progress as described in subsection (c)(2) for a fiscal year—

“(1) the State shall submit an improvement plan that describes the measures the State will take to make that progress; and

“(2) the State shall comply with the improvement plan by a date specified by the Secretary but not later than 1 year after the date of the determination.

“(e) CONSTRUCTION.—Nothing in this subchapter shall be construed to require that the State apply measures for evaluating quality of child care services to specific types of child care providers.”.

**SEC. 106. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.**

The Child Care and Development Block Grant Act of 1990 is amended by inserting after section 658G (42 U.S.C. 9858e) the following:

**“SEC. 658H. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.**

“(a) IN GENERAL.—If a State receives funds to carry out this subchapter for a fiscal year, and the amount of the funds exceeds the amount of funds the State received to carry out this subchapter for fiscal year 2005, the State shall consider using a portion of the excess—

“(1) to support payment rate increases in accordance with the market rate survey conducted pursuant to section 658E(c)(4);

“(2) to support the establishment of tiered payment rates as described in section 658G(a)(2)(D); and

“(3) to support payment rate increases for care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3)).

“(b) NO REQUIREMENT TO REDUCE CHILD CARE SERVICES.—Nothing in this section shall be construed to require a State to take an action that the State determines would result in a reduction of child care services to families of eligible children.

“(c) PAYMENT RATE.—In this section, the term ‘payment rate’ means the rate of State payment or reimbursement to providers for subsidized child care.”.

**SEC. 107. REPORTING REQUIREMENTS.**

(a) HEADING.—Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i) is amended by striking the section heading and inserting the following:

**“SEC. 658K. REPORTS AND AUDITS.”.**

(b) REQUIRED INFORMATION.—Section 658K(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i(a)) is amended to read as follows:

“(a) REPORTS.—

“(1) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in paragraph (2) on a monthly basis.

“(2) REQUIRED INFORMATION.—The information required under this paragraph shall include, with respect to a family unit receiving assistance under this subchapter, information concerning—

“(A) family income;

“(B) county of residence;

“(C) the gender, race, and age of children receiving such assistance;

“(D) whether the head of the family unit is a single parent;

“(E) the sources of family income, including—

“(i) employment, including self-employment; and

“(ii) assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));

“(F) the type of child care in which the child was enrolled (such as family child care, home care, center-based child care, or other types of child care described in section 658T(5));

“(G) whether the child care provider involved was a relative;

“(H) the cost of child care for such family, separately stating the amount of the subsidy payment of the State and the amount of the co-payment of the family toward such cost;

“(I) the average hours per month of such care;

“(J) household size;

“(K) whether the parent involved reports that the child has an individualized education program or an individualized family service plan, as such terms are defined in section 602 of the Individuals with Disabilities Education Act; and

“(L) the reason for any termination of benefits under this subchapter, including whether the termination was due to—

“(i) the child's age exceeding the allowable limit;

“(ii) the family income exceeding the State eligibility limit;

“(iii) the State recertification or administrative requirements not being met;

“(iv) parent work, training, or education status no longer meeting State requirements;

“(v) a nonincome related change in status; or

“(vi) other reasons;

during the period for which such information is required to be submitted.

"(3) SUBMISSION TO SECRETARY.—A State described in paragraph (1) shall, on a quarterly basis, submit to the Secretary the information required to be collected under paragraph (2) and the number of children and families receiving assistance under this subchapter (stated on a monthly basis). Information on the number of families receiving the assistance shall also be posted on the website of such State. In the fourth quarterly report of each year, a State described in paragraph (1) shall also submit to the Secretary information on the annual number and type of child care providers (as described in section 658T(5)) that received funding under this subchapter and the annual number of payments made by the State through vouchers, under contracts, or by payment to parents reported by type of child care provider.

"(4) USE OF SAMPLES.—

"(A) AUTHORITY.—A State may comply with the requirement to collect the information described in paragraph (2) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

"(B) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary determines necessary to produce statistically valid samples of the information described in paragraph (2). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.".

(c) PERIOD OF COMPLIANCE AND WAIVERS.—

(1) IN GENERAL.—States shall have 2 years from the date of enactment of this Act to comply with the changes to data collection and reporting required by the amendments made by this section.

(2) WAIVERS.—The Secretary of Health and Human Services may grant a waiver from paragraph (1) to States with plans to procure data systems.

### SEC. 108. NATIONAL ACTIVITIES.

Section 658L of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended to read as follows:

### "SEC. 658L. NATIONAL ACTIVITIES.

"(a) REPORT.—

"(1) IN GENERAL.—The Secretary shall, not later than April 30, 2006, and annually thereafter, prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and, not later than 30 days after the date of such submission, post on the Department of Health and Human Services website, a report that contains the following:

"(A) A summary and analysis of the data and information provided to the Secretary in the State reports submitted under sections 658E, 658G(c), and 658K.

"(B) Aggregated statistics on and an analysis of the supply of, demand for, and quality of child care, early education, and non-school-hour programs.

"(C) An assessment and, where appropriate, recommendations for Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

"(D) A progress report describing the progress of the States in streamlining data reporting, the Secretary's plans and activities to provide technical assistance to States, and an explanation of any barriers to getting data in an accurate and timely manner.

"(2) COLLECTION OF INFORMATION.—The Secretary may make arrangements with resource and referral organizations, to utilize the child care data system of the resource and referral organizations at the national, State, and local levels, to collect the information required by paragraph (1)(B).

"(b) GRANTS TO IMPROVE QUALITY AND ACCESS.—

"(1) IN GENERAL.—The Secretary shall award grants to States, from allotments made under paragraph (2), to improve the quality of and access to child care for infants and toddlers, subject to the availability of appropriations for this purpose.

"(2) ALLOTMENTS.—From funds reserved under section 658O(a)(3) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the amount the State receives for the fiscal year under section 658O bears to the amount all States receive for the fiscal year under section 658O.

"(c) TOLL-FREE HOTLINE.—The Secretary shall award a grant or contract, or enter into a cooperative agreement for the operation of a national toll-free hotline to assist families in accessing local information on child care options and providing consumer education materials, subject to the availability of appropriations for this purpose.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States on developing and conducting the State market rates survey described in section 658E(c)(4)(A)(i).".

### SEC. 109. ALLOCATION OF FUNDS FOR INDIAN TRIBES, QUALITY IMPROVEMENT, AND A HOTLINE.

(a) IN GENERAL.—Section 658O(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(a)) is amended—

(1) in paragraph (2), by striking "not less than 1 percent, and not more than 2 percent," and inserting "2 percent"; and

(2) by adding at the end the following:

"(3) GRANTS TO IMPROVE QUALITY AND ACCESS.—The Secretary shall reserve an amount not to exceed $100,000,000 for each fiscal year to carry out section 658L(b), subject to the availability of appropriations for this purpose.

"(4) TOLL-FREE HOTLINE.—The Secretary shall reserve an amount not to exceed $1,000,000 to carry out section 658L(c), subject to the availability of appropriations for this purpose.".

(b) CONFORMING AMENDMENT.—Section 658O(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(c)(1)) is amended by inserting "(in accordance with the requirements of subparagraphs (E) and (F) of section 658E(c)(2) for such tribes or organizations)" after "applications under this section".

### SEC. 110. DEFINITIONS.

(a) ELIGIBLE CHILD.—Section 658P(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(4)) is amended—

(1) in subparagraph (B), in the matter preceding clause (i), by striking "85 percent of the State median income for a family of the same size" and inserting "an income level determined by the State involved, with priority based on need as defined by the State"; and

(2) in subparagraph (C)—

(A) in clause (i), by striking "a parent or parents" and inserting "a parent (including a legal guardian or foster parent) or parents"; and

(B) by striking clause (ii) and inserting the following:

"(ii)(I) is receiving, or needs to receive, protective services (which may include foster care) or is a child with significant cognitive or physical disabilities as defined by the State; and

"(II) resides with a parent (including a legal guardian or foster parent) or parents not described in clause (i).".

(b) CHILD WITH SPECIAL NEEDS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended by inserting after paragraph (2) the following:

"(3) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means—

"(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act;

"(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act; and

"(C) a child with special needs, as defined by the State involved.".

(c) LEAD AGENCY.—Section 658P(8) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(8)) is amended by striking "section 658B(a)" and inserting "section 658D(a)".

(d) PARENT.—Section 658P(9) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(9)) is amended by inserting ", foster parent," after "guardian".

(e) NATIVE HAWAIIAN ORGANIZATION.—Section 658P(14)(B) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(14)(B)) is amended by striking "Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4))" and inserting "Native Hawaiian organization, as defined in section 7207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)".

(f) REDESIGNATION.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) by redesignating section 658P as section 658T; and

(2) by moving that section 658T to the end of the Act.

### SEC. 111. RULES OF CONSTRUCTION.

The Child Care and Development Block Grant Act of 1990 (as amended by section 110(f)) is further amended by inserting after section 658O (42 U.S.C. 9858m) the following:

### "SEC. 658P. RULES OF CONSTRUCTION.

"Nothing in this subchapter shall be construed to require a State to impose State child care licensing requirements on any type of early childhood provider, including any such provider who is exempt from State child care licensing requirements on the date of enactment of the Caring for Children Act of 2005.".

## TITLE II—ENHANCING SECURITY AT CHILD CARE CENTERS IN FEDERAL FACILITIES

### SEC. 201. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(2) CORRESPONDING CHILD CARE FACILITY.—The term "corresponding child care facility", used with respect to the Chief Administrative Officer of the House of Representatives, the Librarian of Congress, or the head of a designated entity in the Senate, means a child care facility operated by, or under a contract or licensing agreement with, an office of the House of Representatives, the Library of Congress, or an office of the Senate, respectively.

(3) ENTITY SPONSORING A CHILD CARE FACILITY.—The term "entity sponsoring", used

with respect to a child care facility, means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

(4) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B).

(5) EXECUTIVE FACILITY.—The term "executive facility"—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(6) FEDERAL AGENCY.—The term "Federal agency" means an Executive agency, a legislative office, or a judicial office.

(7) JUDICIAL FACILITY.—The term "judicial facility" means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (5)(B)).

(8) JUDICIAL OFFICE.—The term "judicial office" means an entity of the judicial branch of the Federal Government.

(9) LEGISLATIVE FACILITY.—The term "legislative facility" means a facility that is owned or leased by a legislative office.

(10) LEGISLATIVE OFFICE.—The term "legislative office" means an entity of the legislative branch of the Federal Government.

### SEC. 202. ENHANCING SECURITY.

(a) COVERAGE.—

(1) EXECUTIVE BRANCH.—The Administrator shall issue the regulations described in subsection (b) for child care facilities, and entities sponsoring child care facilities, in executive facilities.

(2) LEGISLATIVE BRANCH.—The Chief Administrative Officer of the House of Representatives, the Librarian of Congress, and the head of a designated entity in the Senate shall issue the regulations described in subsection (b) for corresponding child care facilities, and entities sponsoring the corresponding child care facilities, in legislative facilities.

(3) JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts shall issue the regulations described in subsection (b) for child care facilities, and entities sponsoring child care facilities, in judicial facilities.

(b) REGULATIONS.—The officers and designated entity described in subsection (a) shall issue regulations that concern—

(1) matters relating to an occupant emergency plan and evacuations, such as—

(A) providing for building security committee membership for each director of a child care facility described in subsection (a);

(B) establishing a separate section in an occupant emergency plan for each such facility;

(C) promoting familiarity with procedures and evacuation routes for different types of emergencies (such as emergencies caused by hazardous materials, a fire, a bomb threat, a power failure, or a natural disaster);

(D) strengthening onsite relationships between security personnel and the personnel of such a facility, such as by ensuring that the post orders of guards reflect responsibility for the facility;

(E) providing specific, clear, and concise evacuation instructions for a facility, including instructions specifying who authorizes an evacuation;

(F) providing for good evacuation equipment, especially cribs; and

(G) promoting the ability to evacuate without outside assistance; and

(2) matters relating to relocation sites, such as—

(A) promoting an informed parent body that is knowledgeable about evacuation procedures and relocation sites;

(B) providing regularly updated parent contact information (regarding matters such as names, locations, electronic mail addresses, and cell phone and other telephone numbers);

(C) establishing remote telephone contact for parents, to and from areas that are not less than 10 miles from such a facility; and

(D) providing for an alternate site (in addition to regular sites) in the event of a catastrophe, which site may include—

(i) a site that would be an unreasonable distance from the facility under normal circumstances; and

(ii) a facility with 24-hour operations, such as a hotel or law school library.

## TITLE III—REMOVAL OF BARRIERS TO INCREASING THE SUPPLY OF QUALITY CHILD CARE

### SEC. 301. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school-aged children;

(F) the entering into of contracts with local resource and referral or local health departments;

(G) assistance for care for children with disabilities;

(H) payment of expenses for renovation or operation of a child care facility; or

(I) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATION.—With respect to grant funds received under this section, a State may not provide in excess of $500,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the covered entity under the grant);

(2) for the second fiscal year in which the covered entity receives such assistance, not less than 66⅔ percent of such costs ($2 for each $1 of assistance provided to the covered entity under the grant; and

(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the covered entity under the grant.

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State.

(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of covered entities to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term "covered entity" means a small business or a consortium formed in accordance with subsection (d)(3).

(2) SMALL BUSINESS.—The term "small business" means an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

(k) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for the period of fiscal years 2006 through 2010.

(2) EVALUATIONS AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than $2,500,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section.

(l) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2010.

Mr. ENZI. Mr. President, today I am pleased to be joined by Senators KENNEDY, ALEXANDER and DODD in introducing the "Caring for Children Act of 2005" which reauthorizes the Child Care and Development Block Grant (CCDBG). This legislation is essential to continued success with welfare reform because it helps low-income parents find and pay for affordable child care so that they can work.

As members of this body know, child care vouchers provided to parents by States using CCDBG funds greatly facilitate the expansion of child care subsidies and promote parental choice by allowing eligible parents to select their preferred type of care setting and provider, including faith-based providers.

Current law provides States with flexibility in determining how to address the child care needs of low-income families and children, including establishing the eligibility requirements for participation.

The legislation we are introducing today adds even greater flexibility by proposing to eliminate the arbitrary Federal ceiling for eligibility. Removal of this ceiling, previously set at 85 percent of State median income, eliminates any Federal income-based restriction on State determination of who receives benefits. However States must continue to prioritize families based on need.

States provide child care assistance to both TANF and non-TANF families. For the first time the Caring for Children Act requires States and territories to show they are spending at least 70 percent of their mandatory child care money on actual subsidies for child care. For TANF families, families transitioning off TANF, and families at risk of becoming dependent on public assistance an assurance of the State's commitment to providing significant funds for direct assistance is critical.

The bill we are introducing today also addresses factors that in the past made finding care difficult for parents. We have specifically required States to meet the child care needs of parents who have children with special needs, parents who work non-traditional hours, or parents who need child care for infants and toddlers. Additionally, the legislation streamlines and reduces unnecessary paperwork by allowing States to provide assistance to eligible families for six months before re-determining eligibility.

The bill also supports the needs of small business owners and operators, by providing resources for small businesses to join together to provide child care for their employees. This will be of great help for rural areas, where small businesses provide most of the employment opportunities.

Last, but most importantly, the bill responds to, in significant ways, the very disturbing reports about the lack of quality in child care and the lack of tangible results from current investments in quality. The bill before us increases the quality set-aside from 4 to 6 percent and directs child care quality funds toward activities that can really make a difference. Under this bill, States would develop child care quality targets and would be held accountable to reach those targets. Quality funds would be available for States to: develop and implement voluntary guidelines on pre-reading and language skills and prenumeracy and mathematic skills and activities for child care programs in the State; support activities and provide technical assistance to enhance early learning and school preparedness in Federal, State and local child care settings; offer training, professional development and educational opportunities for child care providers that relate to scientifically based curricula and teaching strategies through several means including distance learning; offer incentives for child care providers that meet or exceed State child care services guidelines; evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and other activities that can be shown to improve child safety, child well-being, or school preparedness.

The improvements made to the program by this legislation and the resources it provides will continue to help provide quality child care in my home State of Wyoming, and other rural States. Many families in Wyoming reside in very isolated areas, and by helping to support child care centers in those rural areas, this legislation will help provide high quality child care: a service that many in those communities might otherwise be forced to do without.

This legislation represents a truly bipartisan effort and I look forward to having it signed into law this year. The Caring for Children Act includes some very important changes in our nation's premier child care program that provide families with the assistance they need to work and access to child care that best meets their children's needs.

---

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, and Mrs. MURRAY):

S. 526. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I am pleased to be joined today by Senators DODD, KENNEDY, and MURRAY in once again introducing the Child Care Quality Incentive Act, which seeks to redouble our child care efforts and renew the child care partnership with the States by providing incentive funding to increase payment rates.

This legislation seeks to put high-quality child care within the reach of more working families. As things stand, States too often fund only a fraction of prevailing child care costs.

Under the Child Care and Development Block Grant (CCDBG), States are required to perform market rate surveys every two years. Yet many States disregard them when it comes time to setting their payment rates, the level at which States reimburse child care providers who care for low-income children who receive a child care subsidy. As a result, States are unable to meet the law's promise to give eligible low-income families the same access to child care services as non-eligible families.

At stake are safe, supportive, and educationally enriching environments for children during the formative years that set the stage for future performance in school and beyond. When payment rates are set too low, child care centers that serve low-income children struggle to survive and may have to close. If they choose to stay afloat despite the limited ability of families to pay, the tradeoffs directly impact the quality of care. Such tradeoffs include smaller staffs, underpaid employees with few or no benefits, and limited employee training, educational materials, and community services like health screenings. Those centers that avoid this route may turn low-income children away or be forced out of business.

Under welfare reform we expect the neediest parents to hold jobs to sustain their families. We must also afford them responsible choices to protect their children while they pursue their economic future.

Our legislation creates a new mandatory funding pool under the Child Care and Development Block Grant to help States increase payment rates, while requiring States to set payment rates in line with updated market rate surveys. As such, it will allow more low-income families access to quality child care, and increase the availability of quality child care for all families.

Support for this legislation is strong among leading national organizations such as USA Child Care, the Children's Defense Fund, the YMCA of the USA, Catholic Charities of the USA, the Child Welfare League of America, and many more. A range of local and State organizations and providers have also offered endorsements.

This year, Congress is slated to reauthorize the Child Care and Development Block Grant. I urge my colleagues to join Senators Dodd, Kennedy, Murray, and me in this endeavor to improve the quality of child care by cosponsoring the Child Care Quality Incentive Act and working to include its provisions in the CCDBG reauthorization. The time to bring payment rates in line with market realities is now. Only then will the commitment to offer equal access to quality child care ring true.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 526

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Care Quality Incentive Act of 2005".

### SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress makes the following findings:

(1) Recent research on early brain development reveals that much of a child's growth is determined by early learning and nurturing care. Research also shows that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, increased likelihood of long-term school success, and greater likelihood of long-term economic and social self-sufficiency.

(2) Each day an estimated 13,000,000 children, including 6,000,000 infants and toddlers, spend some part of their day in child care. However, a study in 4 States found that only 1 in 7 child care centers provide care that promotes healthy development, while 1 in 8 child care centers provide care that threatens the safety and health of children.

(3) Full-day child care can cost $4,000 to $12,000 per year.

(4) Although Federal assistance is available for child care, funding is severely limited. Even with Federal subsidies, many families cannot afford child care. For families with young children and a monthly income under $1,200, the cost of child care typically consumes 25 percent of their income.

(5) Payment (or reimbursement) rates, which determine the maximum the State will reimburse a child care provider for the care of a child who receives a subsidy, are too low to ensure that quality care is accessible to all families.

(6) Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. In many instances, low payment rates force child care providers serving low-income children to cut corners in ways that impact the quality of care for the children, including reducing the number of staff, eliminating professional development opportunities, and cutting enriching educational activities and services.

(7) Children in low-quality child care are more likely to have delayed reading and language skills, and display more aggression toward other children and adults.

(8) Increased payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, provide salary increases and professional training, maintain a safe and healthy environment, and purchase basic supplies, children's literature, and developmentally appropriate educational materials.

(b) Purpose.—The purpose of this Act is to improve the quality of, and access to, child care by increasing child care payment rates.

### SEC. 3. PAYMENT RATES.

Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) in subparagraph (A), by striking "to comparable child care services" and inserting "to child care services that are comparable (in terms of quality and types of services provided) to child care services"; and

(3) by inserting after subparagraph (A) the following:

"(B) Payment rates.—

"(i) Surveys.—In order to provide the certification described in subparagraph (A), the State shall conduct statistically valid and reliable market rate surveys (that reflect variations in the cost of child care services by locality), in accordance with such methodology standards as the Secretary shall issue. The State shall conduct the surveys not less often than at 2-year intervals, and use the results of such surveys to implement, not later than 1 year after conducting each survey, payment rates described in subparagraph (A) that ensure equal access to comparable services as required by subparagraph (A).

"(ii) Cost of living adjustments.—The State shall adjust the payment rates at intervals between such surveys to reflect increases in the cost of living, in such manner as the Secretary may specify.

"(iii) Rates for different ages and types of care.—The State shall ensure that the payment rates reflect variations in the cost of providing child care services for children of different ages and providing different types of care.

"(iv) Public dissemination.—The State shall, not later than 30 days after the completion of each survey described in clause (i), make the results of the survey widely available through public means, including posting the results on the Internet.".

### SEC. 4. INCENTIVE GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

(a) Funding.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking "There" and inserting the following:

"(a) Authorization of Appropriations.—There";

(2) in subsection (a), by inserting "(other than section 658H)" after "this subchapter"; and

(3) by adding at the end the following:

"(b) Appropriation of Funds for Grants to Improve the Quality of Child Care.—Out of any funds in the Treasury that are not otherwise appropriated, there is authorized to be appropriated and there is appropriated $500,000,000 for each of fiscal years 2006 through 2010, for the purpose of making grants under section 658H.".

(b) Use of Block Grant Funds.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (B), by striking "under this subchapter" and inserting "under this subchapter (other than section 658B(b))"; and

(2) in subparagraph (D), by inserting "(other than section 658H)" after "under this subchapter".

(c) Establishment of Program.—Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended by inserting "(other than section 658H)" after "this subchapter".

(d) Grants To Improve the Quality of Child Care.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by inserting after section 658G the following:

### "SEC. 658H. GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

"(a) Authority.—

"(1) In general.—The Secretary shall use the amount appropriated under section 658B(b) for a fiscal year to make grants to eligible States, and Indian tribes and tribal organizations, in accordance with this section.

"(2) Annual payments.—The Secretary shall make an annual payment for such a grant to each eligible State, and for Indian tribes and tribal organizations, out of the corresponding payment or allotment made under subsections (a), (b), and (e) of section 658O from the amount appropriated under section 658B(b).

"(b) ELIGIBLE STATES.—

"(1) IN GENERAL.—In this section, the term 'eligible State' means a State that—

"(A) has conducted a statistically valid survey of the market rates for child care services in the State within the 2 years preceding the date of the submission of an application under paragraph (2); and

"(B) submits an application in accordance with paragraph (2).

"(2) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, in addition to the information required under subparagraph (B), as the Secretary may require.

"(B) INFORMATION REQUIRED.—Each application submitted for a grant under this section shall—

"(i) detail the methodology and results of the State market rates survey conducted pursuant to paragraph (1)(A);

"(ii) describe the State's plan to increase payment rates from the initial baseline determined under clause (i);

"(iii) describe how the State will increase payment rates in accordance with the market survey results, for all types of child care providers who provide services for which assistance is made available under this subchapter;

"(iv) describe how payment rates will be set to reflect the variations in the cost of providing care for children of different ages and different types of care;

"(v) describe how the State will prioritize increasing payment rates for—

"(I) care of higher-than-average quality, such as care by accredited providers or care that includes the provision of comprehensive services;

"(II) care for children with disabilities and children served by child protective services; or

"(III) care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3));

"(vi) describe the State's plan to assure that the State will make the payments on a timely basis and follow the usual and customary market practices with regard to payment for child absentee days; and

"(vii) describe the State's plans for making the results of the survey widely available through public means.

"(3) CONTINUING ELIGIBILITY REQUIREMENT.—

"(A) SECOND AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a second or subsequent annual payment under this section only if the Secretary determines that the State has made progress, through the activities assisted under this subchapter, in maintaining increased payment rates.

"(B) THIRD AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a third or subsequent annual payment under this section only if the State has conducted, at least once every 2 years, an update of the survey described in paragraph (1)(A).

"(4) REQUIREMENT OF MATCHING FUNDS.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, the State shall agree to make available State contributions from State sources toward the costs of the activities to be carried out by the State pursuant to subsection (c) in an amount that is not less than 20 percent of such costs.

"(B) DETERMINATION OF STATE CONTRIBUTIONS.—Such State contributions shall be in cash. Amounts provided by the Federal Government may not be included in determining the amount of such State contributions.

"(c) USE OF FUNDS.—

"(1) PRIORITY USE.—An eligible State that receives a grant under this section shall use the funds received to significantly increase the payment rate for the provision of child care assistance in accordance with this subchapter up to the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A).

"(2) ADDITIONAL USES.—An eligible State that demonstrates to the Secretary that the State has achieved a payment rate of the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A) may use funds received under a grant made under this section for any other activity that the State demonstrates to the Secretary will enhance the quality of child care services provided in the State.

"(3) SUPPLEMENT NOT SUPPLANT.—Amounts paid to a State under this section shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under this subchapter or any other provision of law.

"(d) EVALUATIONS AND REPORTS.—

"(1) STATE EVALUATIONS.—Each eligible State shall submit to the Secretary, at such time and in such form and manner as the Secretary may require, information regarding the State's efforts to increase payment rates and the impact increased payment rates are having on the quality of child care in the State and the access of parents to high-quality child care in the State.

"(2) REPORTS TO CONGRESS.—The Secretary shall submit biennial reports to Congress on the information described in paragraph (1). Such reports shall include data from the applications submitted under subsection (b)(2) as a baseline for determining the progress of each eligible State in maintaining increased payment rates.

"(e) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall determine the manner in which and the extent to which the provisions of this section apply to Indian tribes and tribal organizations.

"(f) PAYMENT RATE.—In this section, the term 'payment rate' means the rate of reimbursement to providers for subsidized child care.".

(e) PAYMENTS.—Section 658J(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858h(a)) is amended by inserting "from funds appropriated under section 658B(a)" after "section 658O".

(f) ALLOTMENT.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A)—

(A) by striking "section 658B" and inserting "section 658B(a)"; and

(B) by inserting "and from the amounts appropriated under section 658B(b) for each fiscal year remaining after reservations under subsection (a)," before "the Secretary shall allot"; and

(2) in subsection (e)—

(A) in paragraph (1), by striking "the allotment under subsection (b)" and inserting "an allotment made under subsection (b)"; and

(B) in paragraph (3), by inserting "corresponding" before "allotment".

Mr. KENNEDY. Mr. President, I'm pleased to join my colleagues in introducing the Caring for Children Act of 2005. We were able to work together on both sides of the aisle to prepare this bill to reauthorize the Child Care and Development Block Grant program. The Caring for Children Act reflects our common goals to expand access and improve the quality of child care for children and families throughout the Nation.

Child care is a key issue in both welfare reform and education reform. The success of our welfare system rests on our ability to provide dependable and consistent child care support for low-income families, so that they can work and provide for their families. Improving the quality of child care and the environment in which our children develop is an essential responsibility of our society as a whole, and this legislation can be an important part of our effort in Congress to meet that responsibility.

Today, 65 percent of parents with young children and 79 percent of parents with school age children are in America's workforce. During the working day, 14 million children are cared for by someone other than a parent.

For low-income families and single mothers, child care assistance is a lifeline. Low-income mothers who receive child care assistance are 40 percent more likely to remain employed after 2 years, compared to those who do not receive such support. Yet child care is still unaffordable for far too many families—full-day care can easily cost thousands of dollars a year and become an impossible expense for millions of families.

The Caring for Children Act will expand access to child care and do more to deliver the support that working parents need in obtaining effective child care. The bill supports activities to help parents fmd quality care through State Resource and Referral Centers, so that greater information and outreach to parents will be available.

Child care is a vital support for working parents, and it is also an essential link in preparing young children for school. Research shows that the early environments in which children learn and develop have a profound impact on their later development and on their success in school. Unfortunately, much remains to be done to improve the quality of child care. Nearly half of all kindergarten teachers report that the majority of children in each entering class has specific problems, including difficulty in following directions, lack of even the most basic academic skills, troubled situations at home, or difficulty in relating to other children.

The Caring for Children Act seeks to improve the quality of child care available to low-income children and their families through the Child Care and Development Block Grant. The bill will raise the amount of funds that States must dedicate to quality activities from 4 to 6 percent.

Most important, the Act will promote better child care by focusing on activities that make children ready to learn, and encouraging States to improve child safety and well-being. Funds will be used to provide greater training and support for child care workers, establish voluntary guidelines for school preparedness, and enhance the early learning of young children.

Investments in the child care workforce are also essential to improve the quality of care. Today, only one in seven child care centers provides a level of quality adequate for child development. Thirty states have no preservice training requirements for child care workers. Our bill supports professional development and education opportunities for child care providers to upgrade their skills and to use proven and effective early learning materials and teaching strategies in their work. It encourages states to increase the recruitment and retention of qualified child care staff and reduce the high turnover rates in child care centers.

We must also do more to ensure that states provide timely and adequate payments for high quality care. The Caring for Children Act will improve reimbursement rates for care in the states, and more effectively use the market survey required under current law to establish payment rates. I commend Senator REED for his leadership on those provisions.

Finally, the Caring for Children Act creates a new Federal commitment to serve children in need, including families with infants and toddlers, children with disabilities, and families that require special care during non-traditional work hours. Thanks to Senator HARKIN's leadership, the needs of infants and toddlers will continue to be addressed in this bill.

The Caring for Children Act builds on effective practices already underway in many states, but we still have a long way to go to see that all children have access to good child care. More resources are clearly required, and the need is urgent.

In nearly half the states, eligible children are being placed on waiting lists or being turned away altogether. In Massachusetts, over 16,000 low-income children are on waiting lists.

Instead of responding to this need, the President's budget for Fiscal Year 2006 freezes funding for the Child Care and Development Block Grant. Under the Administration's own calculations, 300,000 fewer low-income children will have access to child care assistance by 2010. Surely, we can do better.

It makes no sense to cut back on child care for low-income children. We need to serve as many needy children as possible. I look forward very much to working with our colleagues on the Finance Committee to make that goal a reality as the reauthorization of the Temporary Assistance for Needy Families Block Grant moves forward this year.

I commend Senators ENZI, ALEXANDER, and DODD for their impressive work on this bill. I urge all of my colleagues in the Senate to support this important legislation and work with us to provide the support for quality child care that low-income families throughout America need and deserve.

---

By Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. SCHUMER, and Mrs. CLINTON):

S. 527. A bill to protect the Nation's law enforcement officers by banning the Five-seveN Pistol and 5.7 x 28mm SS190 and SS192 cartridges, testing handguns and ammunition for capability to penetrate body armor, and prohibiting the manufacture, importation, sale, or purchase of such handguns or ammunition by civilians; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, the tragic attacks of September 11, 2001 reminded us that police are heroes who risk their lives to protect us.

That's why it's so outrageous that a gun manufacturer would design and market a "cop killer" weapon.

Today on the streets of our cities there is a handgun, called the Five-SeveN, that was specifically designed to pierce bulletproof vests like the ones worn by police.

The web site for this gun actually brags that it can pierce protective armor—that it is a potential cop killer.

One of these weapons was recently confiscated by police officer in Camden, NJ, from a suspect charged with trafficking in large amounts of narcotics.

If there had been a gunfight, the police would have been outgunned.

Who knows how many cop-killer guns are on the streets of my State—or yours?

Police across the nation are alarmed by this weapon. The police chief of Jersey City, Robert Troy, recently pleaded with Congress to ban this gun.

That's why I have introduced the Protect Law Enforcement Armor (PLEA) Act to take "cop-killer guns" off the streets. And, I am pleased Senators CORZINE, SCHUMER and CLINTON are co-sponsors of this legislation.

There might be a place for this gun on a battlefield . . . but not near a playground.

Not on our streets.

The cop-killer gun isn't good for hunting. The last time I checked, deer didn't wear bulletproof vests.

It isn't for target shooting.

It isn't even a practical weapon for protection against home intruders.

The cop-killer gun was designed for one thing—piercing the protective armor worn by police officers.

This is a weapon a terrorist or criminal would love: light and easily concealed, yet so powerful that it can penetrate a bullet-proof vest from a distance of more than two football fields.

Armor-piercing bullets are already illegal, but the cop-killer gun has slipped through a loophole in the law.

Simply put, this gun skirts the law by delivering ammunition with unusual velocity, turning otherwise legal bullets into "cop killers."

We can't sit by. We must protect our police.

We must ban the cop-killer gun and close the loophole on cop-killer bullets.

Our police officers risk their lives to protect us . . . but we should reduce that risk as much as possible.

Let's get cop-killer guns off our streets.

Let's pass the PLEA Act.

The PLEA Act is simple. It would ban the Five-seven assault pistol, ban the special armor piecing FN 5.7 x 28mm S 192 ammunition, expand the federal definition of armor piercing ammunition, and require the Attorney General to test any ammunition that is capable of penetrating body armor.

The PLEA Act does not apply to the military and law enforcement. In fact, it specifically exempts sale of armor piercing ammunition to the military and law enforcement.

I encourage my colleagues to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 527

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Protect Law Enforcement Armor Act" or the "PLEA Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) Law enforcement is facing a new threat from handguns and accompanying ammunition, which are designed to penetrate police body armor, being marketed and sold to civilians.

(2) A Five-seveN Pistol and accompanying ammunition, manufactured by FN Herstal of Belgium as the "5.7 x 28 mm System," has recently been recovered by law enforcement on the streets. The Five-seveN Pistol and 5.7 x 28mm SS192 cartridges are legally available for purchase by civilians under current law.

(3) The Five-seveN Pistol and 5.7 x 28mm SS192 cartridges are capable of penetrating level IIA armor. The manufacturer advertises that ammunition fired from the Five-seveN will perforate 48 layers of Kevlar up to 200 meters and that the ammunition travels at 2100 feet per second.

(4) The Five-seveN Pistol, and similar handguns designed to use ammunition capable of penetrating body armor, pose a devastating threat to law enforcement.

(b) PURPOSE.—The purpose of this Act is to protect the Nation's law enforcement officers by—

(1) testing handguns and ammunition for capability to penetrate body armor; and

(2) prohibiting the manufacture, importation, sale, or purchase by civilians of the Five-seveN Pistol, ammunition for such pistol, or any other handgun that uses ammunition found to be capable of penetrating body armor.

**SEC. 3. ARMOR PIERCING AMMUNITION.**

(a) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a projectile that—

"(I) may be used in a handgun; and

"(II) the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor.".

(b) DETERMINATION OF CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

"(2) The standards promulgated pursuant to paragraph (1) shall take into account, among other factors, variations in performance that are related to the type of handgun used, the length of the barrel of the handgun, the amount and kind of powder used to propel the projectile, and the design of the projectile.

"(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers."

**SEC. 4. ARMOR PIERCING HANDGUNS AND AMMUNITION.**

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding after subsection (y):

"(z) FIVE-SEVEN PISTOL.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, import, market, sell, ship, deliver, possess, transfer, or receive—

"(A) the Fabrique Nationale Herstal Five-SeveN Pistol;

"(B) 5.7 x 28mm SS190 and SS192 cartridges; or

"(C) any other handgun that uses armor piercing ammunition.

"(2) EXCEPTIONS.—This subsection shall not apply to—

"(A) any firearm or armor piercing ammunition manufactured for, and sold exclusively to, military, law enforcement, or intelligence agencies of the United States; and

"(B) the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm or armor piercing ammunition by a licensed manufacturer, or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm or ammunition to determine whether paragraph (1) applies to such firearm.".

(b) PENALTIES.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "or (q)" and inserting "(q), or (z)".

---

By Mr. HARKIN (for himself and Mr. SMITH):

S. 528. A bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice; to the Committee on Finance.

Mr. HARKIN. Mr. President, today I, along with Senator SMITH, introduce the Money Follows the Person Act of 2005. This legislation is needed to truly bring people with disabilities into the mainstream of society and provide equal opportunity for employment and community activities.

In order to work or live in their own homes, Americans with disabilities need access to community-based services and supports. Unfortunately, under current Federal Medicaid policy, the deck is stacked in favor of living in an institution. The purpose of this bill is to level the playing field and give eligible individuals equal access to community-based services and supports.

Under our legislation, the Medicaid money paid by states and the Federal government would follow the person with a disability from an institution into the community. This legislation provides 100 percent Federal reimbursement for the community services that an individual needs during the first year that they move out of an institution or nursing home. By fully reimbursing the states, it gives them some additional resources to allow people with disabilities to choose to live in the community.

President Bush first proposed the Money Follows the Person Rebalancing Initiative in his FY '04 budget and indicated that the demonstration project would provide full Federal reimbursement for community services for the first year that an individual moves out of an institution or nursing home. Senator SMITH and I have worked with the disability community and others in drafting this legislation, and we look forward to working with the Administration and our colleagues to enact the Money Follows the Person concept into law.

We have a Medicaid system in this country that is spending approximately two-thirds of its dollars on institutional care and approximately one-third on community services. This bill is an important step toward switching those numbers around.

It is shameful that our federal dollars are being spent to segregate people, not integrate them. It has been 15 years since we passed the Americans with Disabilities Act, which said "no" to segregation. But our Medicaid program says "yes" and we need to change it. This is the next civil rights battle. If we really meant what we said in the ADA in 1990, we should enact this legislation.

The civil right of a person with a disability to be integrated into his or her community should not depend on his or her address. In Olmstead v. LC, the Supreme Court recognized that needless institutionalization is a form of discrimination under the Americans with Disabilities Act. We in Congress have a responsibility to help States meet their obligations under Olmstead. An individual should not be asked to move to another state in order to avoid needless segregation. They also should not be moved away from family and friends because their only choice is an institution.

Federal Medicaid policy should reflect the consensus reached in the ADA that Americans with disabilities should have equal opportunity to contribute to our communities and participate in our society as full citizens. That means no one has to sacrifice their full participation in society because they need help getting out of the house in the morning or assistance with personal care or some other basic service.

This bill will open the door to full participation by people with disabilities in our neighborhoods, our communities, our workplaces, and our American Dream, and I urge all my colleagues to support us on this issue. I want to thank Senator SMITH for his commitment to improving access to home and community based services for people with disabilities.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 528

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Money Follows the Person Act of 2005".

**SEC. 2. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.**

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") is authorized to award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as a "MFP demonstration project") designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of medicaid funds to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition

from an institutional to a community setting.

(4) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

(b) DEFINITIONS.—For purposes of this section:

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term "home and community-based long-term care services" means, with respect to a State medicaid program, home and community-based services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than six months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in an inpatient facility; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term "inpatient facility" means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State medicaid plan for services provided by such institution.

(4) INDIVIDUAL'S AUTHORIZED REPRESENTATIVE.—The term "individual's authorized representative" means, with respect to an eligible individual, the individual's parent, family member, guardian, advocate, or other authorized representative of the individual.

(5) MEDICAID.—The term "medicaid" means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration under such title or under section 1115 of such Act relating to such title).

(6) QUALIFIED HCB PROGRAM.—The term "qualified HCB program" means a program providing home and community-based long-term care services operating under medicaid, whether or not operating under waiver authority.

(7) QUALIFIED RESIDENCE.—The term "qualified residence" means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(8) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(9) SELF-DIRECTED SERVICES.—The term "self-directed" means, with respect to, home and community-based long-term care services for an eligible individual, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State medicaid program consistent with the following requirements:

(A) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(B) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that—

(i) specifies those services which the individual or the individual's authorized representative would be responsible for directing;

(ii) identifies the methods by which the individual or the individual's authorized representative will select, manage, and dismiss providers of such services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(I) is directed by the individual or the individual's authorized representative;

(II) builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities; and

(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(i) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(10) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESS.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least two consecutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2006.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a Statewide area or one or more geographic areas of the State.

(5) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to a qualified residence during each fiscal year of the MFP demonstration project;

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program consistent with applicable requirements, home and community-based long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other barriers to flexibility in the availability of medicaid funds to pay for long-term care services for eligible individuals participating in the project in the appropriate settings of their choice, including costs to transition from an institutional setting to a qualified residence.

(9) MAINTENANCE OF EFFORT AND COST-EFFECTIVENESS.—The application shall contain or be accompanied by such information and assurances as may be required to satisfy the Secretary that—

(A) total expenditures under the State medicaid program for home and community-based long-term care services will not be less for any fiscal year during the MFP demonstration project than for the greater of such expenditures for—

(i) fiscal year 2004; or

(ii) any succeeding fiscal year before the first year of the MFP demonstration project; and

(B) in the case of a qualified HCB program operating under a waiver under subsection (c) or (d) of section 1915 of the Social Security Act (42 U.S.C. 1396n), but for the amount awarded under a grant under this section, the State program would continue to meet the cost-effectiveness requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of medicaid requirements described in subsection (d)(3), including adjustments to maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement systems for home and community-based long-term care services.

(12) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(9)) under the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTION.—A description of how eligible individuals will be provided with the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will provide oversight of eligible individual's receipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which and extent to which the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(9); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order to permit a State to apply institutional eligibility rules to individuals transitioning to community-based care.

(D) PROVIDER AGREEMENTS.—Section 1902(a)(27), in order to permit a State to implement self-directed services in a cost-effective manner.

(4) CONDITIONAL APPROVAL OF OUTYEAR GRANT.—In awarding grants under this section, the Secretary shall condition the grant for the second and any subsequent fiscal years of the grant period on the following:

(A) NUMERICAL BENCHMARKS.—The State must demonstrate to the satisfaction of the Secretary that it is meeting numerical benchmarks specified in the grant agreement for—

(i) increasing State medicaid support for home and community-based long-term care services under subsection (c)(5); and

(ii) numbers of eligible individuals assisted to transition to qualified residences.

(B) QUALITY OF CARE.—The State must demonstrate to the satisfaction of the Secretary that it is meeting the requirements under subsection (c)(9) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) 100 percent of the amount of qualified expenditures made during such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next four fiscal years, subject to paragraph (3).

(3) RE-AWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under medicaid, including under section 1903(a) of the Social Security Act. Nothing in the previous sentence shall be

construed as preventing the payment under medicaid for such expenditures in a grant year after amounts available to pay for such expenditures under the MFP demonstration project have been exhausted.

(f) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to and oversight of States for purposes of upgrading quality assurance and quality improvement systems under medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h) for each of fiscal years 2006 through 2010, not more than $2,400,000 shall be available to the Secretary to carry out this subsection.

(g) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or through grant or contract, shall provide for research on and a national evaluation of the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of projected and actual savings related to the transition of individuals to a qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and the Congress, not later than September 30, 2011, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h) for each of fiscal years 2006 through 2010, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for fiscal year 2006;

(B) $300,000,000 for fiscal year 2007;

(C) $350,000,000 for fiscal year 2008;

(D) $400,000,000 for fiscal year 2009; and

(E) $450,000,000 for fiscal year 2010.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2010.

(i) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as requiring a State to agree to a capped allotment for expenditures for long-term care services under medicaid.

---

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. MCCAIN, and Mr. STEVENS):

S. 529. A bill to designate a United States Anti-Doping Agency; to the Committee on Commerce, Science, and Transportation.

Mr. GRASSLEY. Mr. President, America is a nation of sports fans and sports players. In fact, it is hard to imagine something more influential in today's society than athletics. As children, we grow up emulating our favorite players in the backyard. Year in and year out we watch and hope that this is the year our favorite team makes it to the Super Bowl, the World Series, or the Big Dance. And every 4 years we watch in pride and tally the medals as American athletes compete in the Olympic games.

Every day millions of young people from across the country share the same dream of one day playing in the big leagues. But the reality is that most will never get the chance. In an average year, there are approximately 2 million high school boys playing football, baseball, and basketball. Another 68,000 men are playing the sports in college and 2,500 are participating at the major/professional level. In short, only 1 in 736, or 0.14 percent will ever play professional sports.

With that kind of competition, compounded by the lure of fame, endorsements and multi-million dollar contracts, an increasing number of young athletes are giving in to the seduction of performance enhancing drugs hoping to gain an edge on their peers. And what can you expect when some of the biggest superstars in sports have been found using steroids as a way to improve their performance. But, unlike better athletic gear, better nutrition, and better training, injecting and ingesting performance enhancing drugs as a shortcut to the big leagues jeopardizes the health and safety of young athletes and cheapens the legitimacy of competition.

In an effort to combat the use of performance enhancing drugs at the youth and amateur sports level, I am pleased to be joined by my colleagues Senator BIDEN, Senator MCCAIN and Senator STEVENS in introducing legislation to authorize continued Federal funding for the United States Anti-Doping Agency, USADA. As the anti-doping agency for the United States Olympic movement since 2000, USADA is responsible for ensuring that U.S. athletes participating in Olympic competition do not use performance enhancing drugs. Through its efforts, USADA is establishing a drug free standard for amateur athletic competition. This is achieved through testing, research, education, and adjudication.

USADA conducts nearly 6,500 random drug tests on athletes annually and has made anti-doping presentations to over 3,000 athletes and coaches last year alone. Over the last 2 years, USADA has worked to prevent U.S. Olympic athletes who have used banned substances from participating in the Olympic Games. But for the efforts of USADA, it is possible that more than a dozen elite U.S. athletes would have participated in the Athens Games last Summer and potentially embarrassed the U.S. once their drug use was exposed. USADA also works to fund research, including more than $3 million in grants for anti-doping research over the past 2 years, which is more than any other anti-doping agency in the world. The research and testing standards serve as models for other amateur athletic associations who wish to protect the health of their athletes and the fair competition of sport.

To date, the Federal Government has provided approximately 60 percent of USADA's operational budget, with the remainder of the agency's budget provided by the U.S. Olympic Committee and private funding sources. With continued support and proper funding, USADA could expand and improve upon the programs for anti-doping that already exist and continue to enhance the credibility of U.S. athletes in the eyes of the international sports community.

While the issue of anabolic steroids has received a great deal of national and international attention in the context of professional sports, the importance of stopping steroid abuse extends far beyond the track, baseball diamond, or football field. Instead our focus should be on the health and future of our children. I encourage my colleagues to join in support of this legislation to set the standard for free and fair competition.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 529

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF UNITED STATES ANTI-DOPING AGENCY.**

(a) DEFINITIONS.—In this Act:

(1) UNITED STATES OLYMPIC COMMITTEE.—The term "United States Olympic Committee" means the organization established by the "Ted Stevens Olympic and Amateur Sports Act" (36 U.S.C. 220501 et seq.).

(2) AMATEUR ATHLETIC COMPETITION.—The term "amateur athletic competition" means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete (36 U.S.C. 220501(b)(2)).

(3) AMATEUR ATHLETE.—The term "amateur athlete" means an athlete who meets the eligibility standards established by the national governing body or paralympic sports organization for the sport in which the athlete competes (36 U.S.C. 22501(b)(1)).

(b) IN GENERAL.—The United States Anti-Doping Agency shall—

(1) serve as the independent anti-doping organization for the amateur athletic competitions recognized by the United States Olympic Committee;

(2) ensure that athletes participating in amateur athletic activities recognized by the United States Olympic Committee are prevented from using performance-enhancing drugs;

(3) implement anti-doping education, research, testing, and adjudication programs to prevent United States Amateur Athletes

participating in any activity recognized by the United States Olympic Committee from using performance-enhancing drugs; and

(4) serve as the United States representative responsible for coordination with other anti-doping organizations coordinating amateur athletic competitions recognized by the United States Olympic Committee to ensure the integrity of athletic competition, the health of the athletes and the prevention of use of performance-enhancing drugs by United States amateur athletes.

**SEC. 2. RECORDS, AUDIT, AND REPORT.**

(a) RECORDS.—The United States Anti-Doping Agency shall keep correct and complete records of account.

(b) REPORT.—The United States Anti-Doping Agency shall submit an annual report to Congress which shall include—

(1) an audit conducted and submitted in accordance with section 10101 of title 36, United States Code; and

(2) a description of the activities of the agency.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the United States Anti-Doping Agency—

(1) for fiscal year 2006, $9,500,000;
(2) for fiscal year 2007, $9,900,000;
(3) for fiscal year 2008, $10,500,000;
(4) for fiscal year 2009, $10,800,000; and
(5) for fiscal year 2010, $11,100,000.

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 69—EXPRESSING THE SENSE OF THE SENATE ABOUT THE ACTIONS OF RUSSIA REGARDING GEORGIA AND MOLDOVA

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

### S. RES. 69

Whereas the Organization for Security and Cooperation in Europe (OSCE) evolved from the Conference on Security and Cooperation in Europe (CSCE), which was established in 1975, and the official change of its name from CSCE to OSCE became effective on January 1, 1995;

Whereas the OSCE is the largest regional security organization in the world with 55 participating States from Europe, Central Asia, and North America;

Whereas the 1975 Helsinki Final Act, the 1990 Charter of Paris, and the 1999 Charter for European Security adopted in Istanbul are the principle documents of OSCE, defining a steadily evolving and maturing set of political commitments based on a broad understanding of security;

Whereas the OSCE is active in early warning, conflict prevention, crisis management, and post-conflict rehabilitation;

Whereas Russia and Georgia agreed at the 1999 OSCE Summit in Istanbul on specific steps regarding the withdrawal from Georgia of Russian forces, including military equipment limited by the Treaty on Conventional Armed Forces in Europe (CFE), and committed to resolve other key issues relating to the status and duration of the Russian military presence in Georgia;

Whereas Russia has completed some of the withdrawal from Georgia of military equipment limited by the CFE Treaty in excess of agreed levels, but has yet to agree with Georgia on the status of Russian forces at the Gudauata base and the duration of the Russian presence at the Akhalkalaki and Batumi bases;

Whereas Russia completed the withdrawal from Moldova of its declared military equipment limited by the CFE Treaty, but has yet to withdraw all its military forces from Moldova, as Russia committed to do at the 1999 OSCE Summit in Istanbul;

Whereas Russia made virtually no progress in 2004 toward its commitment to withdraw its military forces from Moldova;

Whereas Moldova has called for a genuinely international peacekeeping force to replace the Russian forces, and insists on the implementation by Russia of its commitment to withdraw its remaining military forces from Moldova;

Whereas Secretary of State Colin Powell stated at the December 2004 OSCE Ministerial in Sofia, Bulgaria, that "Russia's commitments to withdraw its military forces from Moldova, and to agree with Georgia on the duration of the Russian military presence there, remain unfulfilled. A core principle of the CFE Treaty is host country agreement to the stationing of forces. The United States remains committed to moving ahead with ratification of the Adapted CFE Treaty, but we will only do so after all the Istanbul commitments on Georgia and Moldova have been met. And we stand ready to assist with reasonable costs associated with the implementation of those commitments.";

Whereas since June 2004, Russia has called for the closure of the OSCE Border Monitoring Operation (BMO), the sole source of objective reporting on border crossings along the border between Georgia and with the Russian republics of Chechnya, Dagestan, and Ingushetia;

Whereas OSCE border monitors took up their mission in Georgia in May 2000, and prior to the failure to extend the mandate for the BMO in December 2004, OSCE border monitors, who are unarmed, were deployed at nine locations along that border;

Whereas the current rotation of the BMO includes 65 border monitors from 23 countries, including Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, the Czech Republic, Estonia, Finland, France, Hungary, Ireland, Lithuania, Macedonia, Moldova, Poland, Romania, Russia, Slovakia, Turkey, Ukraine, the United Kingdom, and the United States;

Whereas at the December 2004 OSCE Ministerial, Russia blocked renewal of the mandate for the BMO in Georgia;

Whereas Russia has stated that the BMO has accomplished nothing, but it has in fact accomplished a great deal, including observing 746 unarmed and 61 armed border crossings in 2004 and serving as a counterweight to inflammatory press reports;

Whereas in response to Russian complaints about the cost-effectiveness of the BMO, the OSCE agreed in December 2004 to cut the number of monitors and thereby reduce the cost of the BMO by almost half;

Whereas the BMO began shutting down on January 1, 2005;

Whereas the staff of the BMO is now dismantling facilities and is not performing its mission;

Whereas the shutdown of the BMO will become irreversible in the second half of March 2005 and is currently scheduled to be completed by May 2005;

Whereas the United States has reiterated its disappointment over the failure of the Permanent Council of the OSCE to reach consensus on renewing the mandate of the BMO, despite request of Georgia, the host country of the BMO, that the OSCE continue the border monitoring operation, and the consensus of all states but one to extend the mandate for the BMO; and

Whereas United States Ambassador to the United States Mission to the OSCE, Stephan M. Minikes, said in a statement to the OSCE Permanent Council in Vienna on January 19, 2005, that "we believe that the closure of the BMO would remove a key source of peaceful relations and of objective reporting on events at the sensitive border and increase the likelihood of heightened Russia-Georgia tensions.": Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the United States should—

(1) urge Russia to live up to its commitments at the 1999 Organization for Security and Cooperation in Europe (OSCE) Summit in Istanbul regarding Georgia and Moldova;

(2) in cooperation with its European allies, maintain strong diplomatic pressure to permit the OSCE Border Monitoring Operation (BMO) in Georgia to continue; and

(3) if the BMO ceases to exist, seek, in cooperation with its European allies, an international presence to monitor objectively border crossings along the border between Georgia and the Russian republics of Chechnya, Dagestan, and Ingushetia.

Mr. LUGAR. Mr. President, today I submit a resolution expressing the United States Senate's concern about Russia's actions in Georgia and Moldova.

At the Organization for Security & Cooperation in Europe's (OSCE) 1999 conference in Istanbul, Russia signed commitments to withdraw troops from both Georgia and Moldova. While Russia has fulfilled some aspects of those agreements, Russian troops and military bases remain in both countries. In my resolution, I urge Russia to live up to its 1999 Istanbul Commitments.

The resolution also addresses concerns about the OSCE's Border Monitoring Operation (BMO) in Georgia. The BMO, which took up its mission in Georgia in 2000, is the sole source of objective reporting on border crossings along Georgia's border with the Russian republics of Chechnya, Dagestan, and Ingushetia.

Since last June, Russia has called for the closure of the BMO in Georgia. In December, Russia blocked renewal of the mandate for the BMO, stating that it had accomplished nothing. I am disappointed that the OSCE was unable to renew the BMO's mandate. The BMO started shutting down in January and is expected to be fully closed by May.

The future of the BMO mission is uncertain. The United States, in cooperation with its European allies, should work to preserve the BMO in Georgia. But if the BMO is not revived, my resolution calls upon the United States and its European allies to seek an international presence to monitor objectively crossings along Georgia's border.

I am concerned that if Russia does not fulfill its commitments to withdraw troops from Georgia and Moldova, and if the Border Monitoring Operation in Georgia shuts down, the security situation in the region could further deteriorate. The United States must provide strong leadership on these issues.

I ask my colleagues to support this resolution.

## SENATE RESOLUTION 70—COMMEMORATING THE 40TH ANNIVERSARY OF BLOODY SUNDAY

Mr. FRIST (for himself, Mr. CORZINE, Mr. MCCONNELL, Mr. KENNEDY, Mr. ALLEN, Mr. REID, and Mr. ALEXANDER) submitted the following resolution; which was considered and agreed to:

S. RES. 70

Whereas March 7, 2005, marks the 40th anniversary of Bloody Sunday, the day on which some 600 civil rights marchers were demonstrating for African American voting rights;

Whereas Jimmy Lee Jackson was killed February 26, 1965, 2 weeks prior to Bloody Sunday, at a civil rights demonstration while trying to protect his mother and grandfather from a law enforcement officer;

Whereas Congressman John Lewis and the late Hosea Williams led these marchers across the Edmund Pettus Bridge in Selma, Alabama where they were attacked with billy clubs and tear gas by State and local lawmen;

Whereas the circumstances leading to Selma's Bloody Sunday represented a set of grave injustices for African Americans which included—

(1) the murder of Herbert Lee of Liberty, Mississippi for attending voter education classes;

(2) the cutting off of Federal food relief by State authorities in 2 of the poorest counties in Mississippi in order to intimidate residents from registering to vote; and

(3) the loss of jobs or refusal of credit to registered black voters at local banks and stores;

Whereas during the march on Bloody Sunday Congressman Lewis was beaten unconscious, leaving him with a concussion and countless other injuries;

Whereas footage of the events on Bloody Sunday was broadcast on national television that night and burned its way into the Nation's conscience;

Whereas the courage, discipline, and sacrifice of these marchers caused the Nation to respond quickly and positively; and

Whereas the citizens of the United States must not only remember this historic event, but also commemorate its role in the creation of a more just society and appreciate the ways in which it has inspired other movements around the world: Now, therefore, be it

*Resolved*, That Congress commemorates the 40th anniversary of Bloody Sunday.

## SENATE RESOLUTION 71—DESIGNATING THE WEEK BEGINNING MARCH 13, 2005 AS "NATIONAL SAFE PLACE WEEK"

Mr. CRAIG (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mr. LIEBERMAN, Mr. COCHRAN, Mr. JOHNSON, Mr. HATCH, Mr. KOHL, Ms. MURKOWSKI, Mrs. BOXER, Mr. INHOFE, Ms. LANDRIEU, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 71

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 41 states and more than 14,000 locations have established Safe Place programs;

Whereas more than 75,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist;

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week of March 13 through March 19, 2005 as "National Safe Place Week" and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 42. Mr. SCHUMER (for himself, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes.

SA 43. Mrs. CLINTON (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 44. Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON) proposed an amendment to the bill S. 256, supra.

SA 45. Mr. DORGAN (for himself, Mr. DURBIN, and Mr. BYRD) proposed an amendment to the bill S. 256, supra.

SA 46. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 47. Mr. SCHUMER (for himself, Mr. REID, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 48. Mr. SPECTER proposed an amendment to the bill S. 256, supra.

SA 49. Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. DAYTON) proposed an amendment to the bill S. 256, supra.

SA 50. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill S. 256, supra.

## TEXT OF AMENDMENTS

**SA 42.** Mr. SCHUMER (for himself, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 205, between lines 16 and 17, insert the following:

**SEC. 332. ASSET PROTECTION TRUSTS.**

Section 548 of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(e) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the trust or to similar trusts within such 10-year period exceeds $125,000, to the extent that debtor has a beneficial interest in the trust and the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2). For purposes of this subsection, a fund or account of the kind specified in section 522(d)(12) is not an asset protection trust.".

**SA 43.** Mrs. CLINTON (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . SELF-SETTLED TRUSTS.**

Section 541(c)(2) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

" unless—

"(A) the settler of the trust is also a trust beneficiary;

"(B) the trust is a domestic self-settled trust; or

"(C) the trust is a foreign self-settled trust.".

**SA 44.** Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

**TITLE —FEDERAL MINIMUM WAGE**

**SEC. ___01. SHORT TITLE.**

This Act may be cited as the "Fair Minimum Wage Act of 2005".

### SEC. 02. MINIMUM WAGE.

(a) In General.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2005;

"(B) $6.55 an hour, beginning 12 months after that 60th day; and

"(C) $7.25 an hour, beginning 24 months after that 60th day;".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

### SEC. ___03. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) In General.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) Transition.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Stnadards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

---

**SA 45.** Mr. DORGAN (for himself, Mr. Durbin, and Mr. Byrd) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Add at the end the following:

## TITLE XVI—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

### SEC. 1601. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

### SEC. 1602. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the "Special Committee").

### SEC. 1603. PURPOSE AND DUTIES.

(a) Purpose.—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) Duties.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) Investigation of Wasteful and Fraudulent Practices.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) Evidence Considered.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

### SEC. 1604. COMPOSITION OF SPECIAL COMMITTEE.

(a) Membership.—

(1) In general.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) Date.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) Vacancies.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) Service.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) Chairman and Ranking Member.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) Quorum.—

(1) Reports and recommendations.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) Testimony.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) Other business.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

### SEC. 1605. RULES AND PROCEDURES.

(a) Governance Under Standing Rules of Senate.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) Additional Rules and Procedures.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

### SEC. 1606. AUTHORITY OF SPECIAL COMMITTEE.

(a) In General.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) Hearings.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) Issuance and Enforcement of Subpoenas.—

(1) Issuance.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) Enforcement.—In the case of contumacy or failure to obey a subpoena issued

under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) Meetings.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

### SEC. 1607. REPORTS.

(a) Initial Report.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 1603 not later than 270 days after the appointment of the Special Committee members.

(b) Updated Report.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) Additional Reports.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) Findings and Recommendations.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 1603.

(e) Disposition of Reports.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

### SEC. 1608. ADMINISTRATIVE PROVISIONS.

(a) Staff.—

(1) In general.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) Appointment of staff.—

(A) In general.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) Majority staff.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) Minority staff.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) Nondesignated staff.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) Compensation.—

(1) Majority staff.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) Minority staff.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) Nondesignated staff.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) Reimbursement of Expenses.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) Payment of Expenses.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

### SEC. 1609. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

### SEC. 1610. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

---

**SA 46.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, after line 22, add the following:

### SEC. 448. COMPENSATION OF BANKRUPTCY TRUSTEES.

Section 330(b)(2) of title 11, United States Code, is amended—

(1) by striking "$15" the first place it appears and inserting "$55"; and

(2) by striking "rendered." and all that follows through "$15" and inserting "rendered, which".

---

**SA 47.** Mr. SCHUMER (for himself, Mr. Reid, Mr. Leahy, and Mrs. Murray) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 16 and 17, insert the following:

### SEC. 332. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (18), by striking "or" at the end;

(2) in paragraph (19), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (19) the following:

"(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

"(A) an action alleging the violation of any Federal, State, or local statute, including but not limited to a violation of section 247 or 248 of title 18, that results from the debtor's—

"(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

"(I) because that person provides, or has provided, lawful goods or services;

"(II) because that person is, or has been, obtaining lawful goods or services; or

"(III) to deter that person, any other person, or a class of persons, from obtaining or providing lawful goods or services; or

"(ii) damage to, or destruction of, property of a facility providing lawful goods or services; or

"(B) a violation of a court order or injunction that protects access to—

"(i) a facility that provides lawful goods or services; or

"(ii) the provision of lawful goods or services.

Nothing in paragraph (20) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.".

---

**SA 48.** Mr. SPECTER proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 194, strike line 13 and all that follows through page 195, line 22, and insert the following:

### SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) Actions Under Chapter 7, 11, or 13 of Title 11, United States Code.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) For a case commenced under—

"(A) chapter 7 of title 11, $200; and

"(B) chapter 13 of title 11, $150."; and

(2) in paragraph (3), by striking "$800" and inserting "$1000".

(b) United States Trustee System Fund.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

"(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);";

(2) in paragraph (2), by striking "one-half" and inserting "75 percent"; and

(3) in paragraph (4), by striking "one-half" and inserting "100 percent".

(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "pursuant to 28 U.S.C. section 1930(b)" and all that follows through "28 U.S.C. section 1931" and inserting "under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title".

(d) Sunset Date.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) Use of Increased Receipts.—

(1) Judges' salaries and benefits.—The amount of fees collected under paragraphs (1)

and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

---

**SA 49.** Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. DAYTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 499, strike line 3 and all that follows through page 500, line 2, and insert the following:

**SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.**

(a) FEDERAL FRAUDULENT TRANSFER AMENDMENTS.—Section 548 of title 11, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "one year" and inserting "4 years";

(B) in subparagraph (A), by striking "or" at the end;

(C) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(C) made an excess benefit transfer or incurred an excess benefit obligation to an insider, if the debtor—

"(i) was insolvent on the date on which the transfer was made or the obligation was incurred; or

"(ii) became insolvent as a result of the transfer or obligation.";

(2) in subsection (b), by striking "one year" and inserting "4 years"; and

(3) in subsection (d)(2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) the terms 'excess benefit transfer' and 'excess benefit obligation' mean—

"(i) a transfer or obligation, as applicable, to an insider, general partner, or other affiliated person of the debtor in an amount that is not less than 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the calendar year in which the transfer is made or the obligation is incurred; or

"(ii) if no such similar transfers were made to, or obligations incurred for the benefit of, such nonmanagement employees during such calendar year, a transfer or obligation that is in an amount that is not less than 25 percent more than the amount of any similar transfer or obligation made to or incurred for the benefit of such insider, partner, or other affiliated person of the debtor during the calendar year before the year in which such transfer is made or obligation is incurred.".

(b) FAIR TREATMENT OF EMPLOYEE BENEFITS.—

(1) DEFINITION OF CLAIM.—Section 101(5) of title 11, United States Code, is amended—

(A) in subparagraph (A), by striking "or" at the end;

(B) in subparagraph (B), by inserting "or" after the semicolon; and

(C) by adding at the end the following:

"(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))), including an employee stock ownership plan, for the benefit of an individual who is not an insider, officer, or director of the debtor, if such securities were attributable to—

"(i) employer contributions by the debtor or an affiliate of the debtor other than elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon; and

"(ii) elective deferrals (and any earnings thereon) that are required to be invested in such securities under the terms of the plan or at the direction of a person other than the individual or any beneficiary, except that this subparagraph shall not apply to any such securities during any period during which the individual or any beneficiary has the right to direct the plan to divest such securities and to reinvest an equivalent amount in other investment options of the plan;".

(2) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(B) by redesignating paragraphs (6) and (7), as redesignated by section 212, as paragraphs (7) and (8), respectively;

(C) in paragraph (7), as so redesignated, by striking "Sixth" and inserting "Seventh";

(D) in paragraph (8), as so redesignated, by striking "Seventh" and inserting "Eighth";

(E) in paragraph (9), as so redesignated, by striking "Eighth" and inserting "Ninth";

(F) in paragraph (10), as so redesignated, by striking "Ninth" and inserting "Tenth"; and

(G) by striking paragraph (5), as redesignated by section 212, and inserting the following:

"(5) Fifth, allowed unsecured claims for contributions to an employee benefit plan—

"(A) arising from services rendered before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

"(B) for each such plan, to the extent of—

"(i) the number of employees covered by each such plan multiplied by $15,000; less

"(ii) the aggregate amount paid to such employees under paragraph (4), plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

"(6) Sixth, allowed claims with respect to rights or interests in equity securities of the debtor, or an affiliate of the debtor, that are held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) and section 101(5)(C) of this title), without regard to when services were rendered, and measured by the market value of the stock at the time the stock was contributed to, or purchased by, the plan.".

---

**SA 50.** Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 47, strike lines 12 through 14, and insert the following:

**SEC. 202. EFFECT OF DISCHARGE.**

Section 524 of title 11, United States Code, is amended—

(1) in subsection (g)(1), by adding at the end the following:

"(C)(i) Congress finds that—

"(I) the vermiculite ore mined and milled in Libby, Montana, was contaminated by high levels of asbestos, particularly tremolite asbestos;

"(II) the vermiculite mining and milling processes released thousands of pounds of asbestos-contaminated dust into the air around Libby, Montana, every day, exposing mine workers and Libby residents to high levels of asbestos over a prolonged period of time;

"(III) the responsible party has known for over 50 years that there are severe health risks associated with prolonged exposure to asbestos, including higher incidences of asbestos related disease such as asbestosis, lung cancer, and mesothelioma;

"(IV) the responsible party was aware of accumulating asbestos pollution in Libby, Montana, but failed to take any corrective action for decades, and once corrective action was taken, it was inadequate to protect workers and residents and asbestos-contaminated vermiculite dust continued to be released into the air in and around Libby, Montana, until the early 1990s when the vermiculite mining and milling process was finally halted;

"(V) current and former residents of Libby, Montana, and former vermiculite mine workers from the Libby mine suffer from asbestos related diseases at a rate 40 to 60 times the national average, and they suffer from the rare and deadly asbestos-caused cancer, mesothelioma, at a rate 100 times the national average;

"(VI) the State of Montana and the town of Libby, Montana, face an immediate and severe health care crisis because—

"(aa) many sick current and former residents and workers who have been diagnosed with asbestos-related exposure or disease cannot access private health insurance;

"(bb) the costs to the community and State government related to providing health coverage for uninsured sick residents and former mine workers are creating significant pressures on the State's medicaid program and threaten the viability of other community businesses;

"(cc) asbestos-related disease can have a long latency period; and

"(dd) the only significant responsible party available to compensate sick residents and workers has filed for bankruptcy protection; and

"(VII) the responsible party should recognize that it has a responsibility to work in partnership with the State of Montana, the town of Libby, Montana, and appropriate health care organizations to address escalating health care costs caused by decades of asbestos pollution in Libby, Montana.

"(ii) In this subparagraph—

"(I) the term 'asbestos related disease or illness' means a malignant or non-malignant respiratory disease or illness related to tremolite asbestos exposure;

"(II) the term 'eligible medical expense' means an expense related to services for the diagnosis or treatment of an asbestos-related disease or illness, including expenses incurred for hospitalization, prescription drugs, outpatient services, home oxygen, respiratory therapy, nursing visits, or diagnostic evaluations;

"(III) the term 'responsible party' means a corporation—

"(aa) that has engaged in mining vermiculite that was contaminated by tremolite asbestos;

"(bb) whose officers or directors have been indicted for knowingly releasing into the ambient air a hazardous air pollutant, namely asbestos, and knowingly endangering the residents of Libby, Montana and the surrounding communities; and

"(cc) for which the Department of Justice has intervened in a bankruptcy proceeding; and

"(IV) the term 'Trust Fund' means the health care trust fund established pursuant to clause (iii).

"(iii) A court may not enter an order confirming a plan of reorganization under chapter 11 involving a responsible party or issue an injunction in connection with such order unless the responsible party—

"(I) has established a health care trust fund for the benefit of individuals suffering from an asbestos related disease or illness; and

"(II) has deposited not less than $250,000,000 into the Trust Fund.

"(iv) Notwithstanding any other provision of law, any payment received by the United States for recovery of costs associated with the actions to address asbestos contamination in Libby, Montana, as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall be deposited into the Trust Fund.

"(v) An individual shall be eligible for medical benefit payments, from the Trust Fund if the individual—

"(I) has an asbestos related disease or illness;

"(II) has an eligible medical expense; and

"(III)(aa) was a worker at the vermiculite mining and milling facility in Libby, Montana; or

"(bb) lived, worked, or played in Libby, Montana for at least 6 consecutive months before December 31, 2004."; and

(2) by adding at the end the following:

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that S. 476, to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act; and S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992, have been added to the agenda for the hearing previously scheduled before the Subcommittee on Public Lands and Forests, on Tuesday, March 8, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2005, at 9:30 a.m., in open session to receive testimony on the Defense Authorization Request for fiscal year 2006 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 3, at 10 a.m., to receive testimony on the President's proposed budget for fiscal year 2006 for the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, March 3, 2005, at 3 p.m., to conduct a hearing regarding S. 131, Clear Skies Act of 2005.

The hearing will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 3, 2005, at 9:30 a.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, March 3, 2005 at 10 a.m. in SD–106.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee the Judiciary be authorized to meet to conduct a hearing on Thursday, March 3, 2005 at 2 p.m. on "Judicial Nominations." The hearing will take place in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

Panel III: James C. Dever III, of North Carolina, to be United States District Judge for the Eastern District of North Carolina; and Robert J. Conrad, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 3, 2005 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SPECIAL COMMITTEE ON AGING

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Thursday, March 3, 2005 at 2:30 p.m.-5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE 40TH ANNIVERSARY OF BLOODY SUNDAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 70, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 70) commemorating the 40th anniversary of Bloody Sunday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 70) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 70

Whereas March 7, 2005, marks the 40th anniversary of Bloody Sunday, the day on which some 600 civil rights marchers were demonstrating for African American voting rights;

Whereas Jimmy Lee Jackson was killed February 26, 1965, 2 weeks prior to Bloody Sunday, at a civil rights demonstration while trying to protect his mother and grandfather from a law enforcement officer;

Whereas Congressman John Lewis and the late Hosea Williams led these marchers across the Edmund Pettus Bridge in Selma, Alabama where they were attacked with billy clubs and tear gas by State and local lawmen;

Whereas the circumstances leading to Selma's Bloody Sunday represented a set of grave injustices for African Americans which included—

(1) the murder of Herbert Lee of Liberty, Mississippi for attending voter education classes;

(2) the cutting off of Federal food relief by State authorities in 2 of the poorest counties in Mississippi in order to intimidate residents from registering to vote; and

(3) the loss of jobs or refusal of credit to registered black voters at local banks and stores;

Whereas during the march on Bloody Sunday Congressman Lewis was beaten unconscious, leaving him with a concussion and countless other injuries;

Whereas footage of the events on Bloody Sunday was broadcast on national television that night and burned its way into the Nation's conscience;

Whereas the courage, discipline, and sacrifice of these marchers caused the Nation to respond quickly and positively; and

Whereas the citizens of the United States must not only remember this historic event, but also commemorate its role in the creation of a more just society and appreciate the ways in which it has inspired other movements around the world: Now, therefore, be it

*Resolved*, That Congress commemorates the 40th anniversary of Bloody Sunday.

## ORDERS FOR FRIDAY, MARCH 4, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate adjourn until 9:30 a.m. on Friday, March 4. I further ask unanimous consent following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 256, the Bankruptcy Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, tomorrow the Senate will continue consideration of the bankruptcy bill.

We have had a very, very productive week considering a number of amendments and had a number of rollcall votes. In addition, we have reached an agreement, which I will be commenting on shortly with the unanimous consent request, that will allow us to vote on both the Kennedy and Santorum minimum wage amendments Monday afternoon. Those two votes will occur at 5:30, and Senators should plan to be here for those important votes.

We will be in session tomorrow, as I mentioned. There will be no rollcall votes during tomorrow's session. Senators who wish to speak on the bill are encouraged to come to the floor tomorrow morning.

Mr. REID. Mr. President, we have had relatively short days because of some things which happened in the evening. We have done pretty well this week. I think we have close to 15 amendments total. The bankruptcy debate was interrupted as a result of legislation that Senator Nickles and I produced some time ago to take a look at regulations promulgated by the government only be used three times but was used in the mad cow situation. That took up a big chunk of time today.

I think we have done quite well. There are a number of Senators coming here tomorrow to offer amendments on bankruptcy.

It is the contemplation, after having conferred with the Republican leader, that we are going to try to resolve a time to finish the clinic violence amendment. We are trying to do that early next week. I certainly hope we can do that as early as we can.

This week we have really been legislators. It has been very nice.

Mr. FRIST. Mr. President, I concur with the Democratic leader. It has been a productive week, and we are governing with meaningful solutions, and we look forward to completing this bill next week.

Mr. President, I ask unanimous consent, in addition to the Kennedy amendment regarding minimum wage, that it be in order for Senator SANTORUM to offer a first-degree amendment related to the minimum wage issue; provided further that on Monday, March 7, there be 3 hours of debate equally divided between Senators Santorum and Kennedy, or their designees; provided further that at 5:30 on Monday the Senate proceed to a vote on the Kennedy amendment to be followed by a vote on the Santorum amendment with no amendments in order to either amendment, and no further intervening action or debate.

I further ask unanimous consent that if either amendment does not receive 60 votes in the affirmative, then Senate action on the amendment be vitiated and the amendment be immediately withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Friday, March 4, 2005, at 9:30 a.m.

# EXTENSIONS OF REMARKS

## TRIBUTE TO VIRGINIA R. SAUNDERS' 60 YEARS OF FEDERAL SERVICE

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. HOYER. Mr. Speaker, I rise in tribute to Virginia Saunders, Program Operations and Evaluation Specialist for Congressional Documents, in the Office of Congressional Publishing Services at the Government Printing Office, as she approaches her 60th anniversary of dedicated Federal service, May 26, 2005.

Mr. Speaker, this is becoming a habit: Ten years ago, on the occasion of Ms. Saunders' 50th anniversary of Federal service, I rose to recognize Ms. Saunders' achievements, and I expect to do so again ten years from now. Born Virginia R. Frisbie in Darlington, Maryland, on October 11, 1926, Ms. Saunders spent her entire career in service to her fellow Americans. After working briefly at the Federal Bureau of Investigation, she came to the Government Printing Office on February 4, 1946, as a war service junior clerk-typist in the division of public documents, stock section. Two years later, she was promoted to the division of public documents reference section. In February 1951, Ms. Saunders was promoted to indexing clerk and earned subsequent promotions in the same classification. In July 1958, she was promoted to library technician. Becoming a congressional documents specialist in April 1970, she was then promoted to supervisor of the congressional documents section in July 1974. In October 1983, Ms. Saunders assumed the position of congressional documents specialist in the congressional printing management division, customer services, and in September 2004 she was promoted to her current position.

As I pointed out ten years ago, although one may not yet recognize the name of this outstanding GPO employee, the end product of her dedicated efforts is certainly familiar. Ms. Saunders has primary responsibility for the Congressional Serial Set, which is a compilation of all the House and Senate documents and reports issued for each session of Congress. Dummy volumes establishing the format for each edition are prepared and assigned a serial number following each session of Congress. The actual books are produced by GPO's binding division, often as many as 100 volumes per set for each session of Congress. As a chronicle of work of the Congress over the years, the Congressional Serial Set is rivaled only by the CONGRESSIONAL RECORD. While the Serial Set records behind-the-scenes legislative activities for the United States, the CONGRESSIONAL RECORD reflects the "in-session" proceedings. Distributed to the House and Senate libraries, the Archives, the Library of Congress, and depository libraries, the Congressional Serial Set joins the CONGRESSIONAL RECORD in offering students and historians a rich insight into the American system of government. Virginia Saunders makes all that possible.

In late 1989, Ms. Saunders recognized the importance of the depository library program in informing the Nation, and drew upon her then-43 years of GPO experience to submit an employee suggestion regarding the appendix to the Iran-Contra Report to Congress. She suggested that this 40-volume publication, which was printed as both a Senate and House report, be bound only once for the serial set volumes of House and Senate reports that are sent to depository libraries. She further suggested that the Schedule of Volumes, a listing of the bound volumes, contain a notation explaining the missing serial number volumes. The implementation of this suggestion resulted in a reduction of 13,740 book volumes to be bound, saving the Federal Government over $600,000. In recognition of these efforts, she received GPO's top monetary Suggestion Award for that year. In ceremonies held on January 9, 1991, Ms. Saunders received a Presidential letter of commendation under the Quality and Management Improvement Award Program. In his letter to Ms. Saunders, President George H.W. Bush noted, "You have demonstrated to an exceptional degree my belief that Federal employees have the knowledge, ability, and desire to make a difference." As one with the privilege of representing tens of thousands of Marylanders in Federal service, I know this to be true.

In tribute to her work on the Congressional Serial Set, in 1999 Ms. Saunders received the James Bennett Childs Award from the Government Documents Roundtable of the American Library Association. The ALA honored Ms. Saunders' "distinguished contribution to documents librarianship," and paid "grateful recognition" of a lifetime of exceptional achievements in this important field of endeavor.

I know my colleagues and Ms. Saunders' family, friends, and co-workers join me in congratulating her on 60 years of exemplary Federal service. See you in 10 years, Virginia!

---

## RECOGNIZING THE ACHIEVEMENTS OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD MEMBER PAT CAMPOS

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important achievements of United Independent School District Board Member Pat Campos in Laredo, TX in my Congressional District.

Pat Campos was elected to the United I.S.D. Board of Trustees, District 3 seat in May 2003. Campos is the Case Management Director at the Webb County Juvenile Department. She has worked with children and young adults for nearly 25 years.

Campos says her main reason for running for the U.I.S.D. Board of Trustees is to ensure safety in our schools. "As a member of the law enforcement community specializing in juvenile law, I deal on a daily basis with the troubled youth of our community, many of whom come from U.I.S.D. It is time to seriously address violence in our schools," says Campos.

Campos says she hopes to ensure that all students receive the best quality education to prepare them for the future. She says this can only happen when schools are fully staffed with well-qualified and motivated teachers, "I am working to see that teachers and staff have the facilities, supplies, and administrative support necessary to do their job."

Campos says she will use her numerous years of juvenile justice expertise to "promote an environment that is free of drugs, violence, and gang activity in our schools." She adds, "I do not want today's youth to become my clients tomorrow."

In 1982, Campos was named Detention Officer of the Year and in 1990, the Webb County Juvenile Board honored her with a resolution for introducing the first "Operation Kick-It" program to schools in United and Laredo Independent School Districts.

Pat Campos is a member of the Texas Gang Investigators Association, Texas Probation Association, Juvenile Justice Association of Texas, Texas Corrections Association, National Association of Female Executives, and the American Association of University Women, Community Action Agency Board, National Association of Latino Elected Officials, and Webb County Appraisal District Board of Directors, one of two representatives from U.I.S.D. Campos also serves on the school district's Student Expulsion Appeals Committee and is chairperson of the U.I.S.D. Instructional Committee.

Her community service activities include serving as a member of the U.I.S.D. Blue Ribbon Committee, a member of the U.I.S.D. Communications Advisory Committee, a member of the Laredo Safe School Coalition and a member of the Laredo Job Corps Advisory Board.

In years past, Campos has served as a Daisy Girl Scout Leader, Brownie Girl Scout Assistant Leader, and Youth Minister. She has also performed missionary work in Mexico and has served as a Board Member of the Diocese of Laredo Catholic Social Services.

Campos has a Bachelor of Science degree in Criminal Justice from Laredo State University and a Paralegal Certificate from Texas A & M International University.

Mr. Speaker, I am proud to have this opportunity to recognize contributions of United

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Independent School District Board Member Pat Campos.

---

## NATIONAL PEACE CORPS WEEK

### HON. MELISSA L. BEAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. BEAN. Mr. Speaker, I rise today, during National Peace Corps Week, in recognition of the Peace Corps on the 44th anniversary of its founding and of the thousands of volunteers who have done invaluable humanitarian service in countries throughout the world.

The 7,700 volunteers in the field today have left their families and friends in the United States to serve as teachers, business advisors, information technology consultants, health and HIV/AIDS educators, and youth and agriculture workers.

Leaving your comfort zone behind and plunging into work in another country and another culture is a great challenge. I would like to take this time to congratulate the current Peace Corps Volunteers from the Eighth Congressional District of Illinois. Shayne Bell, Heather Breneisen, Brehan Doud, Nina Elisseou, Joshua Friedman, Ryan Giordano, Stacy Greco, Kelly Henshaw, Peter Hicks, Lucie Howe, Kate McCracken, James Norris, Stephenie Park, Kevin Rieder, Diane Sears, John Sears, Debra Stanislawski and Scott Wilhelm are serving in seventeen countries in Africa, Asia, Europe and South America.

These eighteen of my constituents have joined the Peace Corps in support of three goals. The first two goals are to help provide interested countries with trained men and women and to promote a better understanding of Americans by people of other countries. In a time when the United States is taking an ever greater role in the international community, Peace Corps Volunteers present the best of what America can offer to the rest of the world.

When their time in the Peace Corps is complete, I look forward to those volunteers' return to the United States and Illinois' Eighth district to begin work on what could be the Peace Corps' most important goal: to promote a better understanding of other people and cultures by Americans.

Mr. Speaker, I ask my colleagues to join with me today to acknowledge the thousands of Americans who serve and have served as Peace Corps Volunteers. They are a great credit to our country, and we should applaud them.

---

## HONORING CONESTOGA HIGH SCHOOL ON ITS 75TH ANNIVERSARY

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. GERLACH. Mr. Speaker, I rise today to honor Conestoga High School of Berwyn, Pennsylvania on the occasion of its 50th Anniversary.

On March 5, 1954, a groundbreaking ceremony was held for a new senior high school in the Paoli Area High School System. This event was significant because the new and modern high school would be accommodating students from six different communities in Chester County, Pennsylvania and merging them into one, unified school. In an effort to involve the community in the creation of the new school, the school board decided to hold a local competition to name the school. In the end, a ninth grade student suggested the name "Conestoga" because the Old Conestoga Road passes through each of the six communities served by the school. Conestoga became its name to symbolize the connection of these communities.

Construction on the school continued throughout the summer and into the next year. On September 9, 1955, the Conestoga High School opened with a student enrollment of 549 and a faculty of 35. As the school continued to grow and flourish, along came the need for additional space to accommodate the students. In 1959, just four years after the original school was completed, 19 rooms were added to the building. After the completion of the new wing, student enrollment was at an all-time high of 1036.

During the next forty years, Conestoga High School would undergo many changes. In 1967, 20 additional rooms were added to the main building and, in 1981; the school's library was enlarged and named for Karl Zettelmoyer in recognition of his years as principal from 1957 to 1971. Conestoga continued this tradition of recognizing those who had served the school when a new gymnasium was constructed and named for Principal John C. Rittenmeyer.

Just recently, Conestoga has added fourteen general all-purpose classrooms and ten new science labs. The cafeteria was enlarged and modernized to meet the needs of the student body and the entire music area was reconfigured to house the growing interest in the Conestoga High School choir. In the family and consumer sciences lab, the kitchens were completely renovated and reconfigured and a new welcoming and spacious main lobby was built.

Mr. Speaker, I ask that my colleagues join me today in honoring Conestoga High School. Throughout the past 50 years, the school has provided an invaluable exemplary educational service to its students and has contributed greatly to the community. Conestoga High School should be commended for its exceptional record of positive development of the moral, physical, and emotional well-being of the young men and women who have attended the school over the past 50 years.

---

## HUNGARIAN CONTRIBUTIONS TO COALITION EFFORTS IN IRAQ

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. LANTOS. Mr. Speaker, I rise today to share with my colleagues an excellent letter that I recently received from his Excellency András Simonyi, Ambassador of Hungary to the United States, which provides specific detail of his country's support of Operation Iraqi Freedom. Hungary has been particularly supportive of U.S. military efforts in Iraq in implementing training programs for Iraqis and donating millions of dollars in necessary supplies. Such efforts have furthered U.S. objectives in Iraq, and contributed to efforts to bring peace and stability to the region.

Hungary was among the first countries to support Coalition efforts in Iraq, including the training of Free Iraqi Forces (FIF) in Taszár, Hungary in Fall 2002 and the deployment of a transportation battalion of 300 troops to Iraq.

More recently, the Hungarian Government has decided to send 165 troops to the NATO Training and Implementation Mission in Iraq and donate 77 T72 tanks to the Iraqi army. These actions represent the broader goal of the Hungarian Government to support American efforts in Iraq. I urge all my colleagues to read this excellent and informative letter written from Ambassador Simonyi.

Mr. Speaker, I also want to pay tribute to my dear friend András Simonyi. He has been an outstanding representative of Hungary in the United States and has personally made an important contribution to the relations between our two countries.

Mr. Speaker, I ask unanimous consent that the letter of Ambassador Simonyi be placed in the RECORD, and I urge my colleagues to read it.

THE AMBASSADOR OF HUNGARY,
*Washington, March 1, 2005.*

Hon. TOM LANTOS,
*Rayburn House Office Building,*
*Washington, DC.*

DEAR CONGRESSMAN LANTOS: As I am sure that you might be interested, allow me summarize for you to the extent possible Hungary's contribution to the Iraqi stabilization process so far. As you well know, Hungary was among the first to support Coalition efforts in Iraq, including by training the Free Iraqi Forces (FIP) in Taszár. Hungary in Fall 2002 and by deploying a 300-strong transportation battalion to Iraq who served in Al-Hillah. Recently the Hungarian Government decided to send 165 troops to the NATO Training and Implementation Mission in Iraq. Hungary donated 77 T72 tanks to the Iraqi Army. 14 high ranking officers are in Iraq to train Iraqi officers in command and control.

In March 2004 the Hungarian Government sent an aid supply of medical equipment to Basra, total value of appx. 300,000.00 USD.

Donation of 80 cardio-equipment to the Iraqi Ministry of Health in March 2004 for a total value of 1,000,000.00 USD and a training program for experts in 2005.

In October 2004 training of 20 experts in drink-water purification, waste-water and waste management.

Training program for the Iraqi Police for 2004–2005 for a value of 500,000.00 USD.

Training program for 25 Iraqi diplomats starting from March 2005 at Corvinus University.

Training program for Iraqi conductors starting from the first quarter of 2005 to form experts in the well-known Hungarian method to help the development of handicapped children.

Training program for 20 civil servants in Hungary for a period of 10 days in the field of privatization, small business promotion, and banking system in the first quarter of 2005.

50 day training program in Hungary for 20 Iraqi experts in the field of fresh-water fishbreeding.

Four-week training program for 10 Iraqi veterinaries in Hungary starting in the first semester of 2005.

Water management training for 10 Iraqi expert starting from the first semester of 2005.

Financial aid for the Iraqi elections.

Sincerely yours,

ANDRÁS SIMONYI.

---

## CONGRATULATIONS TO CORY ZEBIAN FOR BEING SELECTED AS CHIEF PETTY OFFICER OF THE UNITED STATES NAVAL SEA CADET CORPS

### HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. MARCHANT. Mr. Speaker, I would like to take this opportunity to recognize Cadet Cory Zebian, a Colleyville, Texas, resident, for his appointment to Chief Petty Officer of the United States Naval Sea Cadet Corps. This honor follows years of work and dedication to this youth program, including the completion of regulation U.S. Navy courses, from Basic Military Regulations through Chief Petty Officer. CPO Zebian has shown superior qualities of leadership, patriotism, and expertise that have allowed him to achieve this accomplishment, which is awarded to less than ½ of 1% of the approximately 10,000 Naval Sea Cadets. I congratulate CPO Zebian on his significant feat.

---

## CHINA'S ANTISECESSION LAW

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. GARRETT of New Jersey. Mr. Speaker, it is expected that the People's Republic of China will enact its "anti-secession" law this March. Aimed at eventual reunification with Taiwan, this law will give China a legal basis to invade Taiwan. Clearly, this is a highly provocative law and will change the status quo in the Taiwan Strait.

With the enactment of this law China claims jurisdiction over Taiwan and threatens to use force against Taiwan if Taiwan is found not actively working toward eventual unification with China. China will be Taiwan's sole arbitrator of any dispute between the two.

Mr. Speaker, by enacting this law, China is also challenging the letter and spirit of the Taiwan Relations Act, which says that "any effort to determine the future of Taiwan by other than peaceful means" is "of grave concern to the United States." Indeed, any unilateral effort by the PRC to determine the future of Taiwan challenges America's will to defend the Taiwan Relations Act. We must let the Chinese know that our commitment to the Taiwan Relations Act is total and unwavering. We will not allow China to change the status quo in the Taiwan Strait.

By imposing its form of government on the 23 million people of Taiwan, China tramples on the Taiwanese people's human rights and democratic ideals. Once again, we must not allow this to happen. In the Taiwan Relations Act we read, the "preservation and enhancement of the human rights of all the people on Taiwan are . . . reaffirmed as objectives of the United States." We must let China know that we take human rights and democratic ideals seriously.

It is vitally important that the Bush administration, the U.S. Congress and the international community voice opposition to China's proposed "anti-secession" law. It is a vicious law that will adversely affect Taiwan and the Pacific region. It will upset peace and stability in the Taiwan Strait and bring economic ruin to the whole area.

Mr. Speaker, I join my colleagues in voicing my strong opposition to China's proposed "anti-secession" law.

---

## HONORING THE CONTRIBUTIONS OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD MEMBER RICARDO MOLINA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of United Independent School District Board Member Ricardo Molina in Laredo, TX, in my Congressional District.

Ricardo Molina is a Laredo native and Parliamentarian of the United I.S.D. Board of Trustees. He believes serving on the Board involves keeping in mind the interests of the people in the community. "You have to look out for the taxpayers, students, and the people you serve." Molina's district is composed of the communities of Rio Bravo and El Cenizo.

Molina identifies with students of modest means who struggle for success. In his younger days, Molina was a member of his high school's chapter of the Distributive Education Club of America. "I know what hard work is. To succeed you have to make the best of your situation." Throughout his life Molina has worked in a variety of jobs. He has labored in oil fields, machine shops, and as a field hand picking cotton. Molina is the Director of the Rio Bravo and El Cenizo Community Centers.

As a Trustee, Molina helped initiate the district's dropout recovery program. The program allows students who have left school to pursue a General Equivalency Diploma. Molina also knows the importance of providing educational opportunities for adults. He worked for the establishment of GED and adult education programs in his community.

Molina says he joined the Board because he wanted to do something for the community. "We on the Board are like a family. We look out for the best opportunities for kids." Molina says United ISD has seen numerous changes in the last few years. "We've seen better curriculum, an improvement in our bilingual education program, and lower dropout and teen pregnancy rates." Molina says the schools in his area are good facilities that are well built. "We've been able to add new wings and cafeterias to our many schools." He adds, "UISD is doing a great job of educating our children." He is particularly proud of the many accomplishments made by the schools in the south, especially all the great things happening at United South Magnet School. Molina says, "I will continue to work for the children and taxpayers of United ISD. Nothing is too good for the kids. I wish I could do more."

Molina, working with other board members, has been able to implement many positive changes for the benefit of children, parents, and taxpayers. These changes include increased security at elementary campuses and fighting the increase of gang involvement at schools. Gang Intervention Facilitators have been placed in high schools and their respective feeder campuses. Licensed Chemical Dependency Counselors have been hired to fight drug use by students. Zero tolerance policies and the establishment of k–9 patrols help keep schools drug free.

In addition, one-third of the UISD school bus fleet has been replaced with new school busses. Two-thirds of the school bus fleet has been retrofitted with air conditioning. The second phase of construction has been started at L.B. Johnson High School. There will be additions to Alexander and United South High Schools. A replacement building for United High School will be built and a new middle school will be constructed to relieve overcrowding at Los Obispos Middle School.

Mr. Speaker, I am proud to have this opportunity to recognize United Independent School District Board Member Ricardo Molina.

---

## INTRODUCTION OF THE ADVANCE DEMOCRACY ACT OF 2005

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. LANTOS. Mr. Speaker, earlier today, my good friend and co-chairman of the Congressional Human Rights Caucus, FRANK WOLF, introduced the Advance Democratic Values, Address Nondemocratic Countries, and Enhance (ADVANCE) Democracy Act of 2005. I am delighted to be the principal Democratic cosponsor of this bill. This landmark legislation, which we have been working on for more than a year, was developed in response to ideas that have emerged from outside the government, especially the thoughts and writings of Mark Palmer, who was the U.S. Ambassador to Hungary from 1986 to 1989 during that country's amazingly swift transition from totalitarianism to freedom.

Mr. Speaker, Hungary, where I was born, faced the twin scourges of fascism and communism in the 20th century. Somehow I survived both of these soul-killing political systems and came to the United States, which was then a beacon of hope for those of us living in the darkness of Stalinist-controlled Central Europe.

As a Member of Congress in the intervening years, and as founding co-chair of the Congressional Human Rights Caucus, I have dedicated myself to the cause of human rights, working to eliminate the threats posed by the vestiges of fascism and the encroachment of totalitarianism in this world. It has been my privilege to help promote democracy around the globe—a tradition started by President Wilson at the beginning of the last century and enshrined as a central tenet of U.S. foreign policy since the Carter administration.

In the last few years, we have seen all too clearly how the lack of democracy can create safe havens for nihilistic forces that do not value human life, and this lack of democracy can help extremism flourish.

But recently we also have been given fresh reason for optimism. Who would have predicted in the summer of 2004 that the rule of law would prevail in Ukraine and an "Orange Revolution" would force the creeping influence of authoritarianism to retreat to the East? And just last month, who would have predicted that Syria would begin to lose its grip so quickly on the people of Lebanon?

We must do more to show that the United States is on the side of those who want peaceful change toward democracy and fundamental freedoms, and we must devise new ways to work with our friends around the globe to fan the embers of freedom.

That is what our new bill seeks to do. We are starting by proposing reforms to the State Department and other parts of the U.S. Government so that promoting democracy is a fundamental and central component of our foreign policy. This legislation:

Declares that it is the policy of the United States to promote freedom and democracy as a fundamental component of U.S. foreign policy, to see an end to dictatorial and other nondemocratic forms of government, and to strengthen alliances with other democratic countries to better promote and defend shared values and ideals.

Establishes in statute the Under Secretary for Global Affairs with a strong mandate to promote democracy and fundamental freedoms; expands the duties of the Assistant Secretary for Democracy, Human Rights and Labor to specifically include democracy promotion; and enhances the Human Rights and Democracy Fund controlled by that Bureau.

Establishes a new Office of Democracy Movements and Transitions and separate Regional Democracy Hubs to be points of contact for democracy movements and to promote democratic transitions and democratic consolidation, and creates a Democracy Promotion Advisory Board to provide outside expertise to the Department of State on democracy promotion and to conduct a study on the efficiency and effectiveness of current U.S. democracy assistance.

Requires the Secretary of State to prepare an annual report on democracy that will include a specific action plan, developed in consultation with local organizations, individuals and movements, to promote and achieve transition to democracy in non-democratic countries.

Provides for U.S. embassies to be "islands of freedom" and encourages U.S. ambassadors to promote democracy in non-democratic countries, including by meeting with representatives of democracy movements and speaking out on democracy and human rights in such countries, particularly at universities.

Provides training for State Department personnel on democracy promotion and links promotion and performance awards to effective advocacy and promotion of democracy, particularly in non-democratic countries.

Establishes a Congressional Democracy Award for U.S. government officials who have made an extraordinary effort to promote democracy.

Provides for increased efforts to work with other democratic countries to promote democracy including bilaterally, with the UN and related organizations, the Community of Democracies, and the new Democracy Transition Center being established by European counties in Hungary.

Requires translation of the annual report on democracy, the country reports on human rights practices, the Annual Report on International Religious Freedom, and the annual Trafficking in Persons Report, and requires the creation of a democracy and human rights Internet web site collecting these and other materials related to the promotion of democracy and human rights.

Let me be clear—there are many fine members of the Foreign Service at the Department of State and many dedicated civil servants that are relentless on issues of promoting democracy and protecting human rights, but we can do better. We hope that this legislation will change the Department's culture into one that focuses on freedom, not feel good relationships, and will give a framework and direction to our diplomats as they pursue the promotion of democracy around the world.

Mr. Speaker, in 1956, Hungary was in the midst of a national uprising. The Hungarian people had a real hope of freedom from the yoke of Soviet-installed communism. Then the West stood by while the Soviet Union invaded and extinguished the sparks of revolution in one aggressive wave.

In 1989, we did not make that mistake. The United States and our democratic friends and allies stood with the Hungarian people and helped them and others confront their communist masters and achieve freedom.

The central question of today is whether we will stand with the reformers, as we did in 1989, or stand by as the oppressors take action against them. This legislation will help ensure that we make the right choice and stand with the reformers.

Make no mistake, the achievement of universal democracy is not an easy task, and we have no illusions about that. But as the only remaining superpower and the beacon of hope for so many people around the globe even now, the United States must find a way to promote democracy in this complex world. It in our own interest, it is consistent with our principles and our history, and it is the right thing to do.

---

## "RAILROAD MAN" RETIRES

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. COSTA. Mr. Speaker, I rise today to honor and wish well in retirement Warren Weber of Sacramtnto, California. Mr. Weber served with the California Department of Transportation for over forty years, and eight as the Chief of Caltrans Division of Rail.

Warren graduated from California State University, Los Angeles, and pursued his Master's Degree in Public Administration at California State University, Sacramento. He began his career in the Urban Planning Department, at the Division of Highways. He moved through the ranks at the California Department of Transportation and served as a Supervising Transportation System Analyst, Chief of Rail Planning and Corridor Studies, Assistant Director of Legislative and local government affairs, and finally Chief of the Division of Rail.

Throughout the years Warren was responsible for various activities. Before he became chief of Caltrans Rail, he served for over five years as Caltrans' Assistant Director for Legislative and Local Government Affairs where he was responsible for development of Caltrans' State legislative program. As the chief of the California Department of Transportation's Division of Rail he is responsible for the program management, administration, and marketing of State-supported Amtrak service in California.

To enhance his busy career, Warren also serves on various committees. He is a member of the Transportation Research Board Committee, Local and Regional Rail Freight Transport; Transportation Research Board Committee, Intercity Rail Passenger Systems; National Research Council Committee, Assessment of Federal High-Speed Ground Transportation R & D; and the Board of Directors for the California State Railroad Museum Foundation.

In conjunction with being an active member of several Transportation Research Board committees, Warren has received the AASHTO's President's Modal Award for Rail Transportation and a special recognition award from the American Short Line Railroad Association. He also received the finalist award for State Employee of the Year from the California Film Commission.

Ever the busy character, Warren has authored several papers on multi-modal transportation improvements for intercity corridors.

His time and dedication to the development and implementation of rail programs are to be lauded. Warren has truly been an instrumental player in the transportation sector, and while his retirement will be celebrated, he will also be missed by his many colleagues.

---

## PEACE CORPS CELEBRATES 44TH ANNIVERSARY

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. KAPTUR. Mr. Speaker, on March 1st, the Peace Corps celebrated its 44th anniversary. It is especially fitting in these troubled times that we recognize the quiet dedication of the men and women of the Peace Corps. Since the inception of the Peace Corps in 1961, more than 178,000 Peace Corps volunteers have served in 138 countries, promoting the Peace Corps' mission of world peace and friendship. Today, the program remains phenomenally successful. The Peace Corps has 7,700 volunteers currently in the field, the highest number in 29 years; 5 of those hard working volunteers hail from our 9th District of Ohio.

The Peace Corps is a cross section of our population; recent college graduates work next to retired citizens. Individuals of all races and ethnicities devote their time and dedication, giving of themselves to help people who are less fortunate.

The Peace Corps operates in 72 countries. Just recently Peace Corps volunteers volunteered in Mexico for the first time, and another 20 countries have expressed interest in working with the Peace Corps. Peace Corps volunteers serve as teachers, business advisors, information technology consultants, health and HIV/AIDS educators and youth and agriculture workers. These volunteers serve as ambassadors to the world, promoting international understanding.

During National Peace Corps Week we honor all the volunteers past and present who have brought help and hope to people in need. Peace Corps volunteers serve from Belize to Ghana, Armenia, Mongolia, East Timor and beyond. We honor their service and compassion. I especially would like to thank the volunteers from the 9th District: Gwenna Corvez, Michael Heydt, Lenore Johnsen, Bethany Tebbe and Sarah Wilson, who are serving in Uzbekistan, Dominican Republic, Ukraine, Togo, and Moldova. You bring honor to all of us.

## CELEBRATING NATIONAL PEACE CORPS WEEK FEBRUARY 28 TO MARCH 6, 2004

### HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. MILLENDER-McDONALD. Mr. Speaker, the Peace Corps is celebrating its 44th anniversary on March 1st, and its work has never been more relevant than it is today. Since its inception in 1961, over 178,000 Peace Corps volunteers have served in 138 countries to promote the Peace Corps' mission of world peace and friendship.

There are over 7,700 volunteers now serving in 72 countries around the world—this is the highest number of volunteers in the field in 29 years. Our Peace Corps volunteers work as teachers, business advisors, information technology consultants, health, youth and agriculture workers. With the spread of HIV/AIDS ravaging many countries, more than 3,100 volunteers are working directly or indirectly on HIV/AIDS prevention and education activities throughout the world. In short, Peace Corps volunteers provide valuable knowledge and life-changing skills to people all over the world in all aspects of daily living, altering countless lives in a positive way.

We are a generous nation and pride ourselves in giving, not only monetarily, but of ourselves. As a nation, we recognize the importance of humanitarian service, and host countries are eager for our volunteers because we give with sincerity of cause and commitment to service. Our volunteers spread goodwill and embody America's strength and pride.

During National Peace Corps Week, I would like to salute and honor our men and women who serve abroad as Peace Corps volunteers. I would especially like to mention my constituents who are currently serving in countries ranging from Albania to Swaziland: Anna Gutierrez, Nicole M. Hendrix, Meldy Hernandez, Cliff Okada, Erica Smith and Samrong So.

Thank you for your service. And thanks to the Peace Corps for continuing to encourage and inspire Americans to give so willingly of themselves.

## RECOGNIZING THE CONTRIBUTIONS OF SAN MARCOS MAYOR SUSAN NARVAIZ

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I want to recognize all the efforts the San Marcos Mayor Susan Narvaiz has made to her community. Since she moved to San Marcos in 1995 she has worked for the strengthening of the community in a countless number of ways.

Susan Narvaiz has been very involved in the advancement of the workforce in San Marcos starting with her first major accomplishment to the community through her business Core Strategies, Inc. which provides employment and training to the people along Interstate 35. In 2000 she launched a similar business Sedona Staffing Industrial Development Center which offers free-of-charge training to citizens so they can find work. Both of these services helped a countless number of people receive the necessary training to successfully compete in the modern work force.

Mayor Narvaiz's presence extends for beyond the employment issues she has tackled; she is also an active participant in such organizations as the American Cancer Society and United Way of Hays County. It is also not out of the ordinary to find her supporting the San Marcos High School Basketball and Baseball Boosters Club at a high school function.

There is one role that San Marcos Mayor Susan Narvaiz plays in the community that trumps everything; she is married to Mr. Mike Narvaiz and the mother to six beautiful children. For all the ways she serves San Marcos, I would like to thank Mayor Narvaiz for committing her time and energy to the better of San Marcos.

## INTRODUCTION OF THE DETENTION OF ENEMY COMBATANTS ACT

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. SCHIFF. Mr. Speaker, today I am reintroducing the Detention of Enemy Combatants Act. This legislation authorizes the detainment of "enemy combatants" in the war on terrorism while guaranteeing that they are granted timely access to legal counsel and judicial review.

Earlier this week, a federal judge in South Carolina ruled that the Administration lacks statutory and constitutional authority to indefinitely imprison without criminal charges a U.S. citizen designated as an "enemy combatant." Last month, another federal judge ruled that holding individuals indefinitely as "enemy combatants" unconstitutionally violates their right to due process and that some foreign terror suspects held in Guantanamo Bay can challenge their confinement in U.S. courts. That ruling came some eight months after the U.S. Supreme Court held in Hamdi that while the President has the authority to detain "enemy combatants" captured in the battlefield, detainees are entitled to lawyers and the chance to challenge their imprisonment.

The Court, however, left a host of unanswered questions that Congress should seek to resolve. Justice Scalia, in his dissent, called on Congress to act, noting: "I frankly do not know whether these tools are sufficient to meet the Government's security needs, including the need to obtain intelligence through interrogation. It is far beyond my competence, or the Court's competence, to determine that. But it is not beyond Congress's."

The Supreme Court also side-stepped the case of Jose Padilla and will likely be forced to speak again on these issues should a vacuum still exist due to congressional inaction. Until then, enemy combatant law will continue to be written in a piecemeal fashion through a series of conflicting lower court decisions.

I believe that the federal government must have the authority to detain terrorists as "enemy combatants" to protect the public, gather intelligence and safeguard national security. But we must also ensure that the accused are afforded the due-process rights guaranteed under the Constitution. I am particularly concerned with the detention of U.S. citizens and lawful residents.

In the last Congress, I introduced the Detention of Enemy Combatants Act to authorize the government to detain suspected members or associates of al Qaeda, but requiring that U.S. citizen detainees be granted access to legal counsel and due-process hearings. The bill called for standards to be set for such detentions that distinguish these cases from other Americans held for trial on criminal charges.

While we must grant broad latitude to our armed forces when it comes to protecting national security, American citizens should not be held indefinitely upon the sole determination of one branch of government without access to counsel or proper judicial review of those determinations.

These same concerns have even been echoed by Michael Chertoff, the newly-confirmed Secretary of the Department of Homeland Security and former head of the Criminal Division at the Department of Justice, who has suggested that policymakers now "may need to think more systematically and universally about the issue of combatants" and to "debate a long-term and sustainable architecture for the process of determining when, why, and for how long someone may be detained as an enemy combatant, and what judicial review should be available."

In addition, Viet Dinh, former head of the Justice Department's Office of Legal Policy has called "unsustainable" the government's current insistence on detentions without meaningful oversight or any sort of due process.

I am currently examining ways to heed this invitation for congressional action and hope to introduce a piece of legislation in the near future that establishes specific standards and procedures under which terrorism suspects may be detained as enemy combatants and provided due process.

In the interim, I am reintroducing this piece of legislation in the hope that Congress and the Administration will finally work together to create a workable framework to deal with these matters of significant constitutional import. In addition, I have renewed my call for congressional hearings to examine proposals for congressional action in this area. After the shameful internment of Japanese Americans during World War II, we must be vigilant to protect against the government's decision to detain, perhaps indefinitely, any American without adequate review of the basis of its decision.

---

## TRIBUTE TO YOLANDA GARCIA

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. SERRANO. Mr. Speaker, it is with deep sympathy that I rise today to give a final farewell to an outstanding woman and a dear friend. Ms. Yolanda Garcia passed away on February 17, 2005 at the age of 53. She was an inspiring person who gave so much of herself for the benefit of others. Words can't explain how much she will be missed by all who knew her.

This daughter of the Bronx accomplished so much in her lifetime that it would be impossible for me to sum it all up here today, however; I would like to take a moment to highlight the great contributions she made to the people of my community.

Yolanda was a co-founder of "We Stay/Nos Quedamos" Committee, Inc., a community based organization located in the South Bronx. "Nos Quedamos" was founded as a response to New York City's Melrose Commons Urban Renewal plan which would have displaced some 6,000 people from their residences and businesses. In order to save not only her own home and business but those of her neighbors as well, Yolanda organized tenants, homeowners, property owners, local non-profits, and business people to deliver the message "We Stay/Nos Quedamos". The group won the right to become equal partners with the city of New York in planning for the community's redevelopment. Through "Nos Quedamos", Yolanda coordinated a collaborative, community-based planning process resulting in the creation of a more environmentally friendly plan that created new affordable housing without displacing people from the community.

Yolanda, who lost a son to asthma, struggled mightily to ensure that other families would not have to suffer such a tragedy. She became a strong leader in the South Bronx environmental movement which has blossomed in recent years. Her organization joined the Organization of Waterfront Neighborhoods to fight the expansion and proliferation of waste transfer stations in the South Bronx and teamed up with the South Bronx Clean Air Coalition to shut down a medical waste incinerator that had fouled the air for ten years. In 2000, as a tireless leader in the fight to keep New York City's children safe from asthma, Yolanda established a multi-year partnership with New York University and local nonprofits to conduct research and community education about the causes of the asthma crisis.

No city, state or nation could exist without individuals willing to give all of themselves for the good of the greater population. These individuals often possess qualities that enable them to uplift and inspire their peers. Yolanda Garcia was indeed one of these individuals. After the loss of her son to asthma, Yolanda did not pack her bags and leave the Bronx. She stayed and fought to improve the air quality to ensure that no other mother would have to endure the pain of losing a child. If everyone possessed such love in their hearts we would undoubtedly be able to enjoy heaven here on earth.

As a result of Yolanda's courage to stand up and say: "Nos Quedamos/We Stay", countless children will breathe a little easier and countless residents will be able to live in affordable housing. Although she has passed on, her good works will continue to benefit many generations to come. Surely, that is the mark of a great life.

Mr. Speaker, I am grateful that I had the opportunity to know this selfless, kindhearted gallant woman and as she is laid to rest on this the 3rd day of March 2005 I ask that my colleagues join me in paying tribute to my friend.

---

## HONORING THE UCSB GAUCHO MEN'S SOCCER TEAM

### HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mrs. CAPPS. Mr. Speaker, today I rise to pay tribute to the UCSB Men's soccer team, following a spectacular 2004 season where they placed 2nd in the NCAA.

The Gaucho Men's soccer team finished their remarkable season with a 21–3–1 record. In addition, four players were honored on the 2004 NCAA Men's Soccer College Cup All-Tournament Team. Their season, as well as their performance in the NCAA Championship match, gives all UCSB students, faculty and Alumni something to be very proud of. During the final home matches, community members and students alike flocked to UCSB to support the Gaucho men. The talent of this team has certainly brought UCSB to the forefront of Men's soccer, proving again that UCSB should be known not only for its academics and physical beauty, but also for its many outstanding athletic programs.

Mr. Speaker, raw talent and the ability to beat virtually any opponent are not the only attributes of this team, however. The Gaucho Men are also community volunteers, setting a positive example for their peers and for younger players in the Santa Barbara community. They recently participated in a fitness day at Santa Barbara City College, aimed at encouraging kids and adults alike to maintain healthy lifestyles. Many young people in the Santa Barbara community love to play soccer and being able to interact with the UCSB players is a wonderful opportunity. As a nurse, I understand firsthand the importance of encouraging our youth to get physically active. The Gaucho Men help to achieve this goal by mentoring young players and leading by positive example.

I am so proud to represent the UCSB campus, and the Gaucho Men's soccer team has given me one more reason to boast to my colleagues that Santa Barbara truly is paradise.

---

## INTRODUCTION OF PITKIN COUNTY LAND EXCHANGE LEGISLATION

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. UDALL of Colorado. Mr. Speaker, I am today introducing a bill to provide for completion of a land exchange that involves Pitkin County, Colorado, on one hand and two federal agencies—the Forest Service and BLM—on the other.

The bill would direct a land exchange under which the county would transfer two items to the Forest Service: A 35-acre tract (known as the "Ryan property") near the ghost town of Ashcroft; and 18.2 acres (patented mining claims) on Smuggler Mountain near Aspen, Colorado.

In return, the Federal government would transfer to the county 3 items: A 5.5 acre tract south of Aspen known as the "Wildwood" parcel, which the county will reconvey to private ownership after reserving a permanent public easement for a trail; 5.92 acres in 12 scattered locations on Smuggler Mountain that abut or are near lands now owned by the county; a 40-acre tract of BLM land along the Crystal River, which will be subject to a permanent conservation easement limiting future use to recreational, fish and wildlife, and open space purposes.

The bill requires standard appraisals of all properties involved. If the lands going to the county are worth less than what the county is giving to the federal government, the county will waive additional payment. On the other hand, if the lands provided by the county are worth less than those the county is to receive, the county will either pay cash to equalize or will convey an additional tract (160 acres in the Sellers' Meadow area near Hagerman Pass) to make up the difference.

The bill is fair, balanced, and not controversial. A similar measure (S. 100) has been introduced by Colorado's senior Senator, WAYNE ALLARD, with the cosponsorship of Senator KEN SALAZAR.

For the information of our colleagues, here is a summary of the legislation and a list of groups that have expressed their support for its enactment.

SUMMARY OF PROPOSED PITKIN COUNTY (RYAN PROPERTY) LAND EXCHANGE

UNITED STATES GETS

35 acre Ryan Property in the White River National Forest near Ashcroft and Aspen, Colorado. Forest Service acquisition of property will complete the Ashcroft Preservation Project, which was initiated by the Forest Service in 1980 to consolidate National Forest land ownership in and around the historic Ashcroft Townsite. The Ryan Property and surrounding lands are: (1) an extremely popular sightseeing and recreation destination; (2) heavily used for nordic skiing on public and private trails associated with the Ashcroft touring center; (3) abut the popular Cathedral Lake Trail and Trailhead; and (4) contain historic structures associated with the World War II 10th Mountain Division.

18.2 acre Grand Turk and Pontiac patented mining claims on Smuggler Mountain directly above Aspen. Smuggler Mountain is a heavily used recreational area where the Forest Service is trying to consolidate its ownership, where feasible.

PITKIN COUNTY GETS

5.5 acre "Wildwood" parcel south of Aspen, which will re-conveyed by the County into private ownership. Conveyance will be subject to a permanent public easement for the East of Aspen Trail.

5.92 acres in 12 scattered mining claim remnants on Smuggler Mountain. The 12 parcels (ranging from 1.5 to 0.02 acres in size) abut or are near existing County owned lands.

40 acre BLM parcel (Parcel 79) along the Crystal River near Carbondale, Colorado. Pitkin County must grant BLM a permanent conservation easement on the parcel for continued public access, and limiting future use to recreational, fish and wildlife and open space purposes only. Easement requirement will not reduce parcel's exchange value.

ADDITIONAL EXCHANGE PROVISIONS

Exchange values will be deemed equal if Forest Service appraiser determines approximate equal value. If the appraiser determines value is owed by Pitkin County, the County will additionally convey to the Forest Service the 160 acre Sellar Park property, a Forest inholding currently owned and managed by Pitkin County as open space.

Endorsements: As of September 7, 2004 proposed the exchange has been endorsed by: Aspen Valley Land Trust; Aspen Historical Society; Ashcroft Ski Touring; The Conservation Fund; Crystal River Caucus; Friends of Ashcroft; Wilderness Workshop; Aspen Center for Environmental Studies; Aspen Skiing Company; Board of County Commissioners, Pitkin County; City of Aspen; Crystal Valley Environmental Protection Assn.; Roaring Fork Conservancy; Crystal-Maroon Caucus.

---

## HONORNG THE CONTRIBUTIONS OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD MEMBER FRANCISCO GONZALEZ

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of United Independent School District Board Member Francisco Gonzalez in Laredo, TX in my Congressional District.

Francisco "Pancho" Gonzalez works for Webb County as the Center Director for the Larga Vista Community Center. Besides overseeing the center's operations, a large part of Gonzalez's job consists of meeting with the people in the community he serves and helping them solve a variety of problems. Gonzalez regularly intervenes on behalf of families having difficulties paying their utility bills, or buying food for their families. He is a man who goes out of his way to help others.

Gonzalez says, being on the United ISD Board gives him the chance to help the district move in a positive direction. Gonzalez likens the Board to an eight member team that must work together to realize its full potential. He also realizes that not all ideas come from the top. Gonzalez likes to listen to people's concerns and ideas. "I'm open minded to suggestions. I don't mind giving credit where credit is due."

Gonzalez, a Laredo native, earned a Bachelor in Business Administration degree from Sul Ross State University in Alpine, Texas. Despite his early business training, Gonzalez says he has always been attracted to social work. "I'm going on 20 years in the social services field," Gonzalez said.

He has worked for the Housing Authority of Laredo as a Drug Elimination Program coordinator. In that position, he organized drug prevention workshops and anti-drug activities for housing development residents. He has helped prisoners get their G.E.D.s when he worked with Laredo Junior College while stationed at the Corrections Corporation of America. As an employee with the Laredo-Webb County Health Department, he counseled people and referred them to agencies that could help them with their transportation and medical needs. Gonzalez has worked for the Texas Department of Human Resources, and the Texas Employment Commission. He has also spent time in the private sector, purchasing materials and parts for his father's auto painting business.

He says he enjoys doing community service work. "If it's for a good cause, I'll do it." He was a previous board member with the Gateway Community Health Center where he served as president of the finance committee. He serves as a board member for the Salvation Army and is a court appointed special advocate-CASA. He has also donated time to Cancer Patient Services, United I.S.D.'s anti-drug program, and the Bringing Everyone Special Together organization. Gonzalez says one of the best ways to put his knowledge to good use is to help others in need. "One of my goals is to continue helping people. When I get tired, I seek guidance from the Lord."

Mr. Speaker, I am proud to have this opportunity to recognize the contributions of United Independent School District Board Member Francisco Gonzalez.

---

## STANLEY WARREN REMEMBERED

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. LANTOS. Mr. Speaker, I rise to mourn the loss of a tremendous community leader in San Francisco, Mr. Stanley E. Warren. Stan Warren sadly lost his battle against a brain tumor on January 31, 2005. He led our community with great distinction as the Secretary-Treasurer of the San Francisco Building and Construction Trades Council.

Stan Warren dedicated his professional career to helping his fellow workers build a better life for themselves, their families, and their communities. Born in Fresno, Stan moved to the Bay Area where he attended Sequoia High School and Canada College in Redwood City. At 18, he became an apprentice with the Roofers and Waterproofers Union, Local 40, in San Francisco and worked his way up to Journeyman. Dedicating his efforts to union affairs, Stan was elected business manager for Local 40 in 1994. In 2000, he was elected Secretary-Treasurer of the San Francisco Building and Construction Trades Council with 30 affiliated union locals.

We were all stunned when Stan was diagnosed with a life threatening brain tumor a few years ago. He fought back valiantly and we were encouraged by the improvement he showed. Yet, in recent months the struggle overcame him.

Stan was a powerful advocate for labor in the Bay Area and worked in Washington as an effective voice in support of worker safety, better health care, protecting pensions and the Davis Bacon Act ensuring prevailing wages in federal contracts.

I have always been proud to represent working people in the Bay Area and have worked closely with organized labor. My job has been made easier because I have had the privilege of representing and working with dedicated citizens and leaders like Stan Warren.

Many friends and neighbors recently shared our loss at a memorial service for Stan in Redwood City, CA. Stan's wife Geri, their three sons, Tren, Spencer, and Gage and Stan's parents Troy and Maria Warren proudly know him as a wonderful husband, father, and son. I was proud to know him as a friend. I extend to his family and friends our deepest condolences and ask my colleagues to join me in this expression of sympathy.

---

## HONORING DON DEMERS

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. COSTA. Mr. Speaker, I rise today to honor the memory of Don DeMers of Fresno, California. Mr. DeMers, Fresno County Transportation Authority Executive Director, recently lost his battle against cancer.

Mr. DeMers had a long list of work experience in various places. Prior to becoming Administrator of the Fresno County Transportation Authority, Don was the Manager of

Transportation Planning and Implementation in Anchorage, Alaska. He served as the Executive Director of the Bi-State Planning Agency in Minnesota, and as a stockbroker for Shearson Lehman in Minnesota. Don even spent time in Washington, DC, as a law clerk to a U.S. Attorney.

He was a Phi Beta Kappa graduate of University of North Dakota. Don holds a PhD in Political Science, and a Master's in Political Science/Public Administration. After his education in North Dakota, he attended Georgetown Law School in Washington, DC and the New York Institute of Finance in New York.

Mr. DeMers is survived by his wife, Deborah; sons Robert and wife Dawn, and Tony and wife Teena; daughters Barbarah and husband Michael Livorsi and Tressa and Crystal DeMers; his "pride and joys," eight grandchildren, Nicholas, Alexas, Brogen, Tyler, Lauren, Destany, Kaitlyn and one on the way; and his brothers Jim, Denny and Mike.

Don had a zest for life and a smile and sense of humor that made everybody laugh. He liked skiing, dancing, reading and biking, but most of all, golf with Deborah. All who knew and loved him will miss Don greatly.

## RECOGNIZING 150 YEARS OF SERVICE BY ST. VINCENT MERCY MEDICAL CENTER

### HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. KAPTUR. Mr. Speaker, I am honored to recognize an historic anniversary in my district in Northern Ohio. St. Vincent Mercy Medical Center celebrates 150 years of service. On Wednesday, February 23, 2005, the hospital will mark this sesquicentennial with a dedication and blessing of its Historic Donor Wall and Marguerite d'Youville Sanctuary.

In 1737 Marguerite d'Youville and three friends dedicated their lives to serving the poor. They established a Hospital General, a hostel for the destitute. Because the hospital only admitted men at first, Marguerite took poor women into her home. In 1747, Marguerite and her companions took over the administration of the Hospital General, restored the buildings and provided a combination veteran's hospital, nursing home, orphanage, mental asylum, VD clinic, reformatory for prostitutes, and overflow ward in case of epidemics. The religious order Marguerite thus established was the Grey Nuns. Their successors continue her work.

In 1855 four courageous and idealistic Grey Nuns took their lead from their foundress and traveled from Montreal with a mission to care for the sick and needy in Toledo, Ohio. St. Vincent's hospital was summarily established. The nuns' mission was soon broadened to include the education of health care professionals, patients and families. One hundred and fifty years later, St. Vincent Mercy Medical Center still holds fast to the ideals of Sr. Marguerite d'Youville in its unwavering mission to provide dignified and quality medical care to those in need.

Today, St. Vincent's is a member of the Mercy Health Partners system, a faith-based consortium of six hospitals in Northwest Ohio and Southeast Michigan. St. Vincent's is a Level I certified trauma center, Life Flight air ambulance base, home of the Mercy Children's Hospital and state of the art acute care hospital. With 3,500 employees including almost 1,000 physicians on staff, it is one of our region's primary employers. Nearly 500 volunteers augment the staff.

St. Vincent's has not only taken its hospital mission to heart, but also its role as a community leader. The hospital has transformed the near-downtown corridor on which it is located and maintains an influential and benevolent partnership with the neighborhood in which it is situated.

St. Vincent Mercy Medical Center celebrates 150 years caring for the poor and sick by living Christ's teaching that "Whatever you do to the least among you, that you do unto Me," as the recent photo of Sister Lucius in the hospital atrium, and the scholarship foundation in her name, attest. Onward!

## PUBLIC TRANSPORTATION SYSTEMS VULNERABILITY AND REDUCTION ACT OF 2005

### HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise today to introduce the Public Transportation Systems Vulnerability and Reduction Act of 2005.

Securing our Nation's public transportation system has been a top priority of mine.

For years, governments around the world have recognized that public transportation is a major terrorist target. Until 9/11 the United States has been largely spared the kinds of terrorist campaigns waged against public surface transportation. However, we cannot wait for a tragedy to happen before we address our vulnerabilities.

An October 2001 study released by the Mineta Institute, Protecting Public Surface Transportation Against Terrorism and Serious Crime: An Executive Overview cites that between 1920 and 2000 there have been approximately 900 terrorist attacks and other significant criminal incidents involving public surface transportation systems.

However, all but 14 of these attacks occurred after 1970, the year that marks the beginning of modern terrorism.

Attacks against transportation and transportation infrastructures accounted for 42 percent of all international terrorist attacks, according to the most recent statistics provided by the USDOT Office of Intelligence and Security in 1998.

These statistics play out before our eyes on CNN. Last year alone, we witnessed attacks on public transportation systems in Madrid and Moscow, not to mention the ongoing attacks in the Middle East.

My legislation, The Public Transportation Systems Vulnerability and Reduction Act of 2005 will provide our Nation's transportation systems and workers with the training and funding to help protect our homeland. This legislation will provide funding for:

Ongoing vulnerability assessments which will build continuously on information collected, allowing for easier implementation of new technologies that will assist in averting terrorist attacks on all modes of public transportation.

Training programs for frontline transit employees, ensuring that employees, who are the eyes and ears of transportation systems, are prepared to respond to emergency situations.

Development and implementation of local and regional emergency preparedness plans that fully utilize a community's transportation resources.

Provides $25 million a year, $100 million over 4 years for emergency preparedness and response training.

I ask my colleagues to join me in working to provide our Nation's transportation systems and employees the resources to protect our communities.

I urge you to support the Public Transportation Systems Vulnerability and Reduction Act of 2005.

## AMERICA'S MISLEADING GAS MILEAGE STICKERS

### HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to address an issue that should trouble America's consumers. Seventeen million new cars were sold in 2004 and not one had accurate gas mileage rates posted on the window stickers.

Unbeknownst to America's drivers, the gas mileage stickers on their cars are wrong, inflating fuel economy figures by up to 300 percent. Worse, the EPA has known their tests are to blame. The tests used by the Environmental Protection Agency (EPA) to measure fuel economy are 30 years old and are based on car technology from the late 1970s and 1980s.

The bogus tests results mislead consumers into thinking they are getting better mileage on the road—and a better deal at the gas pump—than they really are. This year alone, American consumers will spend about $20 billion more on gasoline than they expect because of the misleading gas mileage stickers. Talk about a pocket-book issue.

Because changing these tests requires a change in the law, I am proud to introduce the "Fuel Efficiency Truth-in-Advertising Act" with my colleague Congressman RUSH HOLT. My legislation requires the EPA to update its fuel economy testing procedures to reflect today's "real life" circumstances and the use of "real world" gasoline. If this legislation is enacted, when it says 35 miles-per-gallon on the sticker, drivers will get 35 miles-per-gallon on the road.

An example of a flaw in EPA's current method is underestimating highway speeds. The EPA highway cycle assumes an average speed of 48 mph and a top speed of 60 mph. Many State highway speed limits are set at or above 65 mph and government data indicates that fuel economy can drop by 17 percent for modern vehicles that drive at 70 mph instead of 55 mph.

Another flaw is in the type of fuel used for engine certification. Fuels used for engine certification tests are artificial. The EPA uses highly refined fuel, not what we consume in our cars every day. Using these artificial fuels may be fine from a laboratory standpoint, but they don't help drivers when they overstate actual fuel economy.

There's more. The tests assume acceleration and braking rates that don't match reality. They overstate trip lengths. They understate increased idling and stop-and-go traffic in our expanding urban areas. They keep the air-conditioner off, while flipping on the A/C reduces gas mileage by 2.5 miles-per-gallon.

We would not tolerate 30-year-old tests for anything—so why do we allow it for gas mileage? Make no mistake, this is a pocketbook issue for Americans who are pinched by the high price of gasoline. The easy and common-sense steps this bill calls for will give every future car owner the truth—the truth about how their cars will perform, and the truth about how much they're going to spend on gasoline every year.

AAA, the Nation's largest auto club with 47 million members, supports this bill. So does the Union of Concerned Scientists, the Sierra Club and a host of consumer, scientific, and environmental groups.

This broad-based and diverse coalition believes, as I do, that Americans deserve better than the results of a 30-year-old test. We recognize that buying a car is a huge investment in most Americans' lives, and the government should be helping consumers make smart choices, not misleading them.

And so I ask my colleagues to join with me in supporting the Fuel Efficiency Truth in Advertising Act. Do it for the hundreds of thousands of car owners in your districts who deserve the truth—not bogus test results.

## INTRODUCTION OF RESOLUTION OF INQUIRY REGARDING "JEFF GANNON"

## HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CONYERS. Mr. Speaker, I introduce this resolution to inquire whether the Justice and Homeland Security Departments were abused in favoring Mr. Guckert, a fake reporter from a fake news organization. I had hoped that the half dozen congressional and Senate requests for information would have been sufficient. However, to date, they have not even merited a response from the White House or its agencies.

For nearly 3 years, the White House has been granting Mr. Guckert, a right-wing activist with no press credentials, access to the White House briefing room and presidential press conferences. This appears to violate long standing practices of carefully screening contacts with the President.

This special access not only raises security concerns, but calls into question the fundamental fairness of the White House press corps. In fact, the favoritism bestowed on this fake reporter may have violated federal law. Mr. Guckert's efforts as a mouthpiece for the White House likely violated statutes banning the Administration from using appropriated money for propaganda purposes.

Finally, Mr. Guckert has claimed that he had access to a classified Central Intelligence Agency document that revealed the undercover status of Ambassador Joseph Wilson's wife. It's now been over a year and a half since Valerie Plame was maliciously outed, and we appear to be no closer to finding out who in the Administration played with her life for political purposes. I hope this resolution may shed some light on whether Mr. Guckert, the White House's go-to propagandist, also received classified information and from who.

## HONORING THE CONTRIBUTIONS OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD MEMBER WILLIAM JOHNSON

## HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of United Independent School District Board Member William (Bill) Johnson of my Congressional District.

The experience of being on a school board has taught Bill Johnson several things. "Everyone runs with the idea that 'I' can make a difference. But if you're only one vote out of seven it's not going to work. Being on the board has to be a team effort." Johnson says each board member brings a different view of education. "A successful board can harness its members and get them to pull in one direction."

Johnson has always been interested in education. He has taught banking and finance courses at the Laredo Community College and, for the last 10 years, he has taught business through Junior Achievement at United High School. "I like being around educators and kids," Johnson said. In addition, he has served as a little league coach since 1981. "It's a tough job, but I enjoy it."

Johnson, a native of Laredo, has a wife and three children. He graduated from Texas A&M University with a Bachelor's degree in political science. He is a first vice-president at Laredo National Bank.

Overall, Johnson says his experience on the board has been positive. "It's been a good opportunity. You have to work with a lot of different people but it has taught me a lot." One of the lessons Johnson has learned is that being on the board takes a lot of preparation. With the thousands of pages of memos and reports that need to be looked at, Johnson says the board has to make time to study. "When I first joined the board I figured all I had to do was go to about 24 meetings a year." In his first year Johnson had to attend 172 meetings.

"You quickly learn that you need at least four votes to get anything done." According to Johnson, the current United ISD school board may not always agree on everything, but they know how to work well together. The district has several Exemplary and Recognized campuses, whereas before there were none. The district also earned praise from former comptroller John Sharp for saving taxpayers millions of dollars.

Mr. Speaker, I am proud to have this opportunity to recognize the dedication of United Independent School District Board Member William Johnson.

## CHINA'S ANTI-SECESSION LAW

## HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. DUNCAN. Mr. Speaker, I was disappointed to learn that China is drafting an anti-secession law, aimed at annexing Taiwan. The Taiwanese people are very concerned with China's action and understandably so.

China has long presumed that it and Taiwan are unified. However, the reality is, since 1949, they have been two nations existing side by side with neither having control over the other.

The proposed law also assumes that the only outcome of cross-strait negotiation is annexation of Taiwan by China. This would deny the 23 million people of Taiwan the right to decide their own future and would go against the intentions of the Taiwan Relations Act.

Many believe, if enacted, the law would be used to justify the legal basis for the Chinese government to punish anyone speaking or acting against the reunification of Taiwan and China. Moreover, Chinese leaders might that this law permits the use of force against Taiwan if China considers Taiwanese leaders to be engaging in separatist activities.

Clearly, China is seeking to unilaterally change the status quo in the Taiwan Strait. If enacted, this law would destroy any good feelings the Taiwanese people might have gained for China through increasing economic interdependence. It would also make them less willing to sit down and discuss their future with China.

In the end, military tension in the Taiwan Strait will rise, affecting regional peace and stability. This is not in the best interests of either Country.

Mr. Speaker, we should all speak out against China's proposed law. It is a bad law with potentially serious consequences.

## ENGLISH LANGUAGE UNITY ACT OF 2005

## HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. KING of Iowa. Mr. Speaker, I have introduced legislation to make English the official language of the United States Government. The English language is the carrier of liberty and freedom throughout history and the world. For centuries, our common tongue, English, has been the uniting force in this great nation, knocking down ethnic and religious barriers to make us truly one nation. Today, as we rally for unity and patriotism a common means of communication propels us toward our goal.

The English Language Unity Act declares English the language of the United States. Like its predecessors, it does not affect the teaching and study of other languages. It does not deter the use of other languages in the home, community, church, or elsewhere. The Act includes commonsense exceptions to the policy, for international relations, national security, teaching of languages, and preservation of Native Alaskan or Native American languages.

A common language has enabled generations of Americans to realize the dream of American opportunity and freedom. Studies continue to prove those who know English get better jobs, earn more money and receive better health care than those who cannot speak the language. As a result, an emphasis on English decreases reliance on the federal government.

The need for official English appears in our newspapers every day—injuries in the workplace, mistranslations at hospitals, people who are unable to support themselves and their families—all because they could not speak English.

Recognizing a common language is neither racist nor exclusionary. It is a principle enacted by 177 countries worldwide to allow for the transmission of ideas and customs and to allow people of multiple cultures to come together. This bill does not inhibit people from speaking other languages, nor does it attempt to place any limits on culture, religion or customs.

The Unity Act gives newcomers an opportunity to succeed in the United States. It bonds the newcomer with his fellow Americans, allowing both to reach for the highest rung on the economic ladder and provide for a family.

According to the U.S. Department of Education, those with limited English proficiency are less likely to be employed, less likely to be employed continuously, tend to work in the least desirable sectors and earn less than those who speak English. Annual earnings by limited English proficient adults were approximately half of the earnings of the total population surveyed.

Few doubt this reality. In a 1995 poll by the Luntz Research firm, more than 80 percent of immigrants supported making English the official language of the United States. They are joined by 86 percent of all Americans who agree with English as the official language of the United States.

Similar English legislation in the 104th Congress (H.R. 123) drew 197 bipartisan House cosponsors and won a bipartisan vote on August 1, 1996. That spirited effort, led by our late colleague Bill Emerson, is unfinished business that we must attend to for the benefit of all Americans.

I urge my colleagues to co-sponsor The English Language Unity Act of 2005 in the 109th Congress so that we can ensure that all Americans have the opportunity to attain the American dream.

---

## RECOGNIZING NATIONAL KIDNEY MONTH

## HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. KIRK. Mr. Speaker, as co-Chairman of the Congressional Kidney Caucus, I would like to recognize that March is National Kidney Month. The Kidney Caucus partners with groups such as the National Kidney Foundation to increase public awareness of risk factors for chronic kidney disease and emphasize the importance of early detection. Anyone with high blood pressure, diabetes or a family history of kidney disease is at risk.

This March, the National Kidney Foundation is urging all those at risk to undergo a kidney screening. Simple urine and blood tests during a routine doctor's visit can show the earliest signs of kidney damage. According to the National Kidney Foundation, more than 20 million Americans—that's one in nine adults—have chronic kidney disease. More than 20 million more are at increased risk for developing the disease. Nearly half of all Americans with chronic kidney disease are unaware of their condition.

Early detection and intervention can halt the progression of the disease before it reaches kidney failure, at which point there are no other alternatives but dialysis or transplantation. Catching kidney disease at an early stage saves patient's lives and saves the taxpayer tremendous sums otherwise spent on costly dialysis and transplant procedures. Please help me honor National Kidney Month by urging those at risk for kidney disease to take this threat seriously and undergo a screening.

---

## LETTER FROM THE MENTAL HEALTH LIAISON GROUP

## HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. STRICKLAND. Mr. Speaker, I would like to submit the following letter for the CONGRESSIONAL RECORD:

DEAR REPRESENTATIVES STRICKLAND AND MURPHY: The undersigned organizations in the Mental Health Liaison Group, representing patients, health professionals and family members, are pleased to support your legislation, the Medicare Mental Health Copayment Equity Act. Under your legislation, Medicare's historic discriminatory 50 percent coinsurance for outpatient mental health care would be reduced over six years to 20 percent, bringing the coinsurance into line with that required of Medicare beneficiaries for other Part B services.

Simply put, current law discriminates against Medicare beneficiaries who seek treatment for mental illness. This affects elderly and non-elderly Medicare beneficiaries alike when they seek mental health care. According to the 1999 U.S. Surgeon General's report on mental health, almost 20 percent of elderly individuals have some type of mental disorder uncommon in typical aging. In addition, elderly individuals have the highest rate of suicide in the U.S., often the result of depression. The Surgeon General's report states, "Late-life depression is particularly costly because of the excess disability that it causes and its deleterious interaction with physical health. Older primary care patients with depression visit the doctor and emergency rooms more often, use more medication, incur higher outpatient charges, and stay longer at the hospital."

The 50 percent coinsurance requirement also is unfair to the non-elderly disabled Medicare population. Because many of these individuals have severe mental illnesses combined with low incomes and high medical expenses, a 50 percent coinsurance obligation is a serious patient burden. For elderly and non-elderly Medicare beneficiaries alike, Medicare is a critical source of care. Your legislation to ensure that Medicare beneficiaries needing mental health care incur only the same cost-sharing obligations as required of all other Medicare patients would end the statutory discrimination against Medicare beneficiaries seeking treatment for mental disorders.

Thank you for your leadership in addressing this important issue for the nation's 40 million Medicare patients.

Sincerely,

Alliance for Children and Families.

American Academy of Child and Adolescent Psychiatry.

American Association for Geriatric Psychiatry.

American Association of Children's Residential Centers.

American Association of Pastoral Counselors.

American Association of Practicing Psychiatrists.

American Group Psychotherapy Association.

American Mental Health Counselors Association.

American Occupational Therapy Association.

American Psychiatric Association.

American Psychiatric Nurses Association.

American Psychoanalytic Association.

American Psychological Association.

American Psychotherapy Association.

Anxiety Disorders Association of America.

Association for the Advancement of Psychology.

Association for Ambulatory Behavioral Healthcare.

Bazelon Center for Mental Health Law.

Children and Adults with Attention-Deficit/Hyperactivity Disorder.

Clinical Social Work Federation.

Clinical Social Work Guild.

Depression and Bipolar Support Alliance.

Eating Disorders Coalition for Research, Policy & Action.

Ensuring Solutions to Alcohol Problems.

International Society of Psychiatric-Mental Health Nurses.

NAADAC, The Association for Addiction Professionals.

National Alliance for the Mentally Ill.

National Association for Children's Behavioral Health.

National Association for Rural Mental Health.

National Association of Anorexia Nervosa and Associated Disorders (ANAD).

National Association of Mental Health Planning & Advisory Councils.

National Association of Protection and Advocacy Systems.

National Association of Psychiatric Health Systems.

National Mental Health Association.
Suicide Prevention Action Network USA.

## PERSONAL EXPLANATION

### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CLEAVER. Mr. Speaker, on Wednesday March 2, 2005, I was unable to cast my vote on H.R. 27, the Job Training Improvement Act. Had I been present, I would have voted "yea" on rollcall 46, the Scott of Virginia amendment and "nay" on rollcall 48, the final passage of H.R. 27. I also would have voted "yea" on rollcall 43, 44, 45, and 47 and "nay" on rollcall 42.

## HONORING THE ACHIEVEMENTS OF WEBB COUNTY COMMISSIONER JUDITH GUTIERREZ

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important achievements of Judith G. Gutierrez in Laredo, TX in my Congressional District.

Judith G. Gutierrez (Pct. 2) was elected in 1986, she held the office for two consecutive terms. Re-elected in 1999 and again in 2002, she will begin her fourth term of office in January 2003. Throughout her tenure, Gutierrez has taken a hands-on approach to colonia issues.

Former Attorney General Dan Morales appointed Commissioner Gutierrez to the state's Colonia Task Force. Former Governor Ann Richards selected Gutierrez to chair the Regional Review Committee for scoring federally funded projects such as Community Development Block Grants (CDBG) and colonia set-aside funds. She served in this capacity for four years.

Commissioner Gutierrez worked with State legislators in 1989 to pass Senate Bill 2, which created the first colonia legislation, implementing rules to limit unscrupulous development. Senate Bill 2 also authorized the mechanism needed to provide funding for water and sewer improvements. To ensure regulatory enforcement at the local level, she created the Webb County's first Planning Department. This department has been recognized by the Texas Attorney General's office under Generals Morales and Cornyn as the model for colonia regulation and enforcement.

Total grant funds for projects initiated in Webb County during Gutierrez' term in office exceeds $100 million. Since 1992, Commissioner Gutierrez has secured more than $25 million in colonia improvement funds for her precinct alone. Projects have ranged from infrastructure—water, storm drainage, and community centers to educational and health initiatives.

In 1994, Commissioner Gutierrez was Governor Ann Richards' appointee to the South Texas Regional Prosperity Plan and also served on the Environmental Transition Team organized to consolidate the Texas Air Quality Control Board, the Water Commission and selected divisions of the Texas Health Department. In 2003 Governor Rick Perry appointed Commissioner Judith Gutierrez to the South Texas Regional Review Committee.

She is a past President of the South Texas County Judges and Commissioners Association and currently serves as trustee for the Texas Association of Counties Health and Employees Benefits Pool. She has the distinction of being the only commissioner from Webb County to have ever served on the Intergovernmental Relations Steering Committee for the National Association of Counties, based in Washington, D.C.

She is the Secretary for the Texas Council Board of Directors and serves on the board of the Texas Council of Community Mental Health Retardation Centers, Inc. (MHMR). She chairs the County's Villa Antigua Committee, a historical preservation project, as well as the Committee to create the new Webb County Morgue. She was appointed by Judge Mercurio Martinez to serve on the Purchasing Board and to chair an Art Committee for the New Administration Building. She has also been elected in the year 2002 to be President of the Webb County HFC. Commissioner Gutierrez also serves on the Board of Texas Association of Counties 2003 and on the Texas Association of Counties Health and Employee Benefits Pool since 2001. She was recognized as one of the 2003 Tiger Legends for Martin High School. She was recently asked to join the Mercy Health Center Advisory Board for 2003 as well as the Border Area Nutrition Council.

Judith G. Gutierrez was born in Laredo, Texas to Sabino and Olga Garza. She attended Laredo schools and holds an Associate of Arts degree from Laredo Junior College. A successful businesswoman, for more than a decade Gutierrez owned and operated La Hacienda Mexican Restaurant. Commissioner Gutierrez has her Real Estate license and is in the process of securing a Real Estate Brokers license. She is the mother of four and has two grandchildren.

Mr. Speaker, I am proud to have this opportunity to recognize Webb County Commissioner Judith Gutierrez.

## REINTRODUCING "HOLLY'S LAW"

### HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. BARTLETT of Maryland. Mr. Speaker, today, I am reintroducing "Holly's Law"—a bill that would suspend FDA approval of the drug RU–486. This bill has been introduced with 48 cosponsors. Senator JIM DEMINT has reintroduced Holly's Law in the Senate.

Holly's Law is named in memory of Holly Patterson, an 18-year-old Californian who died after taking the drug in 2003. When I tell people that the FDA approved a drug to treat a life-threatening illness that has killed three pregnant women and seriously injured dozens of other pregnant women in the United States, they're shocked. They want to know why the FDA and Congress would allow a drug that kills and injures young women to stay on the market. RU–486 is a drug that always kills babies and sometimes kills and seriously injures healthy young women.

I urge my colleagues to support Holly's Law to take the dangerous and unsafe drug RU–486 off the market.

## TRIBUTE TO AM 1490 WMBM, SOUTH FLORIDA'S FIRST BLACK-OWNED AND OPERATED RADIO STATION—NEW BIRTH BROADCASTING CORPORATION CELEBRATES 10 YEARS IN RADIO

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. MEEK of Florida. Mr. Speaker, I would like to take this opportunity to extend my congratulations to Bishop Victor T. Curry, D.D., Min, President and CEO, and to everyone at the New Birth Broadcasting Corporation as they celebrate their 10th year in radio.

Celebratory events will begin with a community worship service at 7 p.m. on March 9th and will feature Pastor Jeffrey A. Johnson, Sr. of the Eastern Star Church of Indianapolis, Indiana.

Since the purchase of AM 1490 WMBM, the landscape of gospel radio has changed dramatically. WMBM has received local as well as national recognition for its contribution to our local community, for it not only plays the best in gospel music, but it also provides its listeners with late-breaking news and inspirational, life-changing programming. WMBM, the first black-owned and operated station in South Florida, is one of the first radio stations to stream its broadcast via the internet. WMBM also publishes a quarterly nationally distributed magazine and an annual directory of black-owned and supported businesses.

I want to extend my warmest congratulations to Bishop Curry and his staff for doing such an important job so well, and my best wishes for another outstanding decade in broadcasting.

## TAIWAN STRAIT RELATIONS

### HON. FRANK D. LUCAS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. LUCAS of Oklahoma. Mr. Speaker, On December 29 of last year, the Standing Committee of the Chinese National People's Congress took a highly provocative action when it voted to submit an "Anti-Secession Law" to the full Congress which convenes on March 5.

The text of this proposed law was not made public, but there can be no doubt about its intent. It is intended to create in China's national law the legal justification for a military attack against Taiwan.

The law would spell out a range of activities which, if taken by the Taiwanese people and their democratically elected leaders, would legally constitute secession. Many of these activities, such as Constitutional reform and popular referenda, are the mainstay of any democracy. Yet the Chinese would use them as a legal excuse for a military attack.

Mr. Speaker, this proposed "anti-secession" legislation which the National People's Congress plans to take up in March, is a significant and dangerous development. It goes far beyond the usual bellicose verbal threats of Chinese leaders. It would use Chinese national law as a rationale for military aggression against its democratic neighbor.

The United States, for more than 25 years since the passage of the Taiwan Relations Act, has made clear its determination that the future of Taiwan must be decided only by peaceful means, not by force of arms, and that any final determination must be in accord with the wishes of the people of Taiwan.

These are the fundamental building blocks upon which the future of the Taiwan Strait must rest: peace, and mutual consent between both sides. I urge the leadership of the PRC to put aside this ill-considered law as inimical to both peace and goodwill.

## ADMINISTRATION'S BUDGET CUTS TO AMTRAK

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. RAHALL. Mr. Speaker, I wish to discuss the Administration's proposed budget cuts to Amtrak.

I want to be clear from the very beginning: if the Administration's proposed cuts go into effect, Amtrak will not survive. And, in many cases, the millions of people who depend on Amtrak's services will be left with no reliable means of rail transportation. This would result in a serious problem for rail passengers, and represents a tremendous misjudgment by this Administration.

The Administration has made clear its position on Amtrak. The result of their cuts to Amtrak would "lead to the elimination of operations." I am concerned that the "elimination of operations" would result in a significant hardship for the people of southern West Virginia, and Amtrak riders everywhere.

Practically speaking, the millions of passengers who depend on Amtrak's services would be stranded. Those who can afford a car or plane ticket would descend on our already heavily congested roads and airports. Those without the means to purchase an airline ticket or pay for the ever-increasing price of gasoline—and those in rural communities without direct access to airline or highway travel—would be left twisting in the wind.

In West Virginia alone, Amtrak served nearly 51,000 passengers in 2004. Two of the largest cities in the 3rd Congressional District, Huntington and Hinton, represent nearly half that total with nearly 24,000 riders. In addition, Amtrak pumped $3.7 million into the state's economy—which helped foster job creation and economic development opportunities for West Virginians. The economic impact of Amtrak on my state, and states throughout the country, cannot be overlooked.

Importantly, Amtrak is making great strides to improve itself from within. Capital investment is up substantially; a new and detailed five-year plan has been developed; unprofitable services have been eliminated; and significant overhauls and needed maintenance operations have been undertaken. And Amtrak's ridership has, and continues to, increase.

I urge this House, this Congress and this Administration to recognize the improvements Amtrak is making, the need Amtrak fills for millions of Americans and the importance of Amtrak on America's transportation infrastructure.

## IN MEMORY OF MAGDALENO DUENAS

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. PELOSI. Mr. Speaker, I rise to pay tribute to the life of Magdaleno Duenas, a World War II military hero who passed away on February 27 at the age of 90.

We honor and thank him for his courageous military service and the sacrifices he made for our nation, as well as his lifelong struggle on behalf of Filipino veterans of World War II. His life is a symbol of the struggle for total recognition of Filipino veterans and a sad reminder of a shameful page in the history of our nation.

Born and raised in the Philippines, Mr. Duenas joined the 101st Infantry in 1941. In 1943, he joined the guerilla forces in the mountains and was captured by the Japanese while procuring food for American soldiers. Under questioning, Mr. Duenas denied any knowledge of the whereabouts of the American soldiers. He escaped, and helped 10 U.S. soldiers escape the Japanese POW camp.

Mr. Duenas came to the United States to claim his U.S. citizenship and military benefits, and fell into the hands of an abusive landlord in Richmond, Calif. He and 16 other veterans were held in captivity, beaten, chained and fed dog food, while their landlord kept their monthly government checks.

After being rescued, his experience received news coverage. It brought public attention to the plight of elderly Filipino veterans who came to America expecting to receive previously promised veterans' pensions for their honorable U.S. military service, but instead learned that Congress had stripped them of those benefits and recognition.

Thousands of Filipino veterans came to the U.S. seeking equity and have waited 60 years for the promise to be honored. After fighting for more than half a century for their right to U.S. citizenship, other issues related to their health and recognition remain to be addressed. Many live alone in poverty. It is a national tragedy to see our veterans suffer from neglect, despair and hopelessness.

Mr. Duenas moved to San Francisco's Tenderloin district in 1993, where he was vibrant member of our community. This diminutive, gentle man worked tirelessly to improve the experience of Filipino Veterans in the Bay Area.

All these years, he waited for the recognition of the U.S. Government for the services he rendered during WWII. He was featured in two documentaries: Tears of Old and Second Class Citizens. He died still waiting for the full equity bill to be passed by the U.S. Congress. We will not rest until the equity bill becomes law.

Mr. Speaker, we will never forget his struggle on the frontlines of the battlefield and on the frontlines of the fight for equity for Filipino veterans. Mr. Duenas' courage and resolve moves all of us to continue the fight for justice in our country for all people.

We will never forget the sacrifices Mr. Duenas and other Filipino veterans made for our freedom. We must dedicate ourselves as a nation to ensure that America fulfills its moral obligation to those who pay the high price for our freedom.

## HONORING THE CONTRIBUTIONS OF MUNICIPAL COURT JUDGE JESUS GARZA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Judge Jesus Garza in Laredo, TX in my Congressional District.

Judge Jesus Garza was born and raised in Laredo. He is a product of LISD and graduated from J.W. Nixon High School in 1977. Upon graduation he enrolled at the University of Texas and earned a Bachelor of Journalism in 1981. In 1984 he received his Doctorate of Jurisprudence from the Thurgood Marshall School of Law in Houston and was licensed to practice law in the State of Texas in 1985.

Judge Garza was appointed Associate Municipal Court Judge in 1984 and served until 1985 at which time he decided to run for Justice of the Peace. He ran a successful campaign and took office in 1986 and served for 6 years.

In 1993 Judge Garza, "Chuy" as he is known to his friends, was voted into the newly created Webb County County Court at Law #2 and is presently presiding over his second term.

In 1994 Mayor Saul Ramirez appointed Judge Garza to the Economic Advisory Council and selected Co-Chairman by its members.

Mr. Speaker, I am proud to have this opportunity to recognize County Court of Law Judge Jesus Garza.

## IN HONOR OF MARIA PLASENCIA

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mrs. DAVIS of California. Mr. Speaker, I rise today to honor the life of Maria Plasencia, a beloved San Diego activist. Maria passed away on February 1, 2005. She is survived by her parents, Alma and Jesse Plasencia of Crown Point, Indiana, and brother, Jesse Jr. of Schererville, Indiana.

If an issue involved equality and social justice, Maria was among the first to rally her fellow feminists. Last April, as an official and activist in the San Diego Democratic Club, she organized a 500–member San Diego delegation that joined the March for Women's Lives in Washington, DC. After organizing San Diego's effort in the March of Women's Lives—which drew about a million people to Washington—Maria was elected to NOW's national board.

To those who knew her, bringing hundreds of San Diegians for the march in Washington, D.C. exemplified her uncompromising beliefs and her ability to galvanize grass-roots support. Her colleagues describe Maria as energetic and passionate about her beliefs. A diabetic, Maria did not let her condition stand in the way of pursuing her interests or from leading an active life.

In her role as an activist and in her job as an auditor for General Electric Commercial Finance, Maria traveled extensively. She enjoyed meeting new people and seeing the country. Cities and small towns alike fascinated Maria, delighting in each one's population and character.

Maria grew up in Crown Point, Indiana. Her father, a steel mill worker, had come to the United States from Mexico as a young man. Maria became the first member of her family to attend college and graduated with a degree in accounting from the University of Dayton.

Her career brought her to San Diego more than a decade ago. A longtime feminist and supporter of NOW, she jumped wholeheartedly into local politics. Through her volunteering, Maria developed contacts that brought her into the San Diego Democratic Club. Called "a staple of the work crew," Maria quickly distinguished herself through her participation. She was elected Chairwoman of the Women's Caucus in 1999 and Executive Vice President in 2001.

Maria has left behind a legacy. The President of the San Diego Democratic Club had the following to say, "As we do things within our club—increasing its diversity, making it more woman-friendly—it will be in no small part due to the memory of Maria. "

Mr. Speaker, I would like to express my deepest sympathy to Maria Plasencia's family by celebrating her life and contributions to the San Diego community. Maria was admired by so many for her dedication to women's issues and the friendly and effective manner she brought to activities. She will be greatly missed.

## IN SUPPORT OF PASSENGER RAIL

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CASTLE. Mr. Speaker, I rise to disagree with the President's proposal to eliminate federal funding for passenger rail. On February 7, President Bush presented a budget proposal to Congress that contained no funding for Amtrak. As explanation, the provision states: "With no subsidies, Amtrak would quickly enter bankruptcy, which would likely lead to the elimination of inefficient operations and the reorganization of the railroad through bankruptcy procedures. Ultimately, a more rational passenger rail system would emerge, with service on routes where there is real ridership demand and support from local governments—such as the Northeast Corridor."

Last year, Amtrak carried 25 million passengers on 22,000 miles of track with approximately 20,000 employees, including close to 2,000 employees based in my state of Delaware. In addition to operating 300 daily intercity trains, close to 850,000 daily rail commuters throughout the country also depend on operating agreements with Amtrak. While the Administration's goal is apparently to improve passenger rail by shutting it down, I surmise that eliminating federal funding for rail transportation would jeopardize the livelihood, and threaten the safety, of millions of riders and thousands of communities who depend on Amtrak.

No country in the world operates an effective passenger rail system without government subsidies. In fact, countries such as Germany and Japan, which have well-developed passenger rail networks but much smaller populations, invest $3–4 billion annually, over 20 percent of their total transportation spending. In contrast, Amtrak's appropriation of $1.217 billion last year equaled only two percent of the Department of Transportation's $59 billion budget.

Directly, or indirectly, the United States subsidizes all our forms of transportation, with rail receiving the least amount by far. Other modes of transportation operate on predominantly federally owned or federally assisted infrastructure, and rely on government-supported security, research, and traffic controllers. The U.S. Transportation Security Administration alone received $5.2 billion in federal funding for security this year, yet Amtrak sustains its own security force. Unlike aviation, highways, and transit, there is no dedicated fund for investing in passenger rail development.

For fiscal year 2005, the Administration proposed $900 million for Amtrak and budgeted $1.4 billion for each year thereafter. It is apparent that the current proposal to cut funding for passenger rail represents a drastic and dangerous turnaround in the President's policy. Seeking no funds for direct Amtrak expenses and ceding control of the railroad to a bankruptcy trustee, whose sole legal responsibility is to Amtrak's creditors, would put the future of rail travel on very uncertain footing.

Furthermore, the proposed budget provides $360 million to continue commuter rail traffic on the Northeast Corridor, but only after Amtrak ceases operations. As some of my colleagues have recognized, the Administration's proposal anticipates a period during which all Amtrak services, including those on the Northeast Corridor, would by stopped. With over 1,700 trains operating over some portion of the Washington-Boston route each day, states would be devastated if forced to handle the disruption and congestion that terminating Amtrak service would trigger.

In closing, Mr. Speaker, while the President's plan undoubtedly includes some recommendations worth considering, the facts are clear; Amtrak needs federal support to survive, just like highways, ports, and airlines. I am one of many Republicans in Congress eager to improve the safety, efficiency, and ridership of passenger rail. Putting Amtrak on the chopping block directly contradicts this goal. Dozens of reform proposals exist without jeopardizing the viability of Amtrak and they should be openly debated in Congress.

## H.R. 1042, THE NET WORTH AMENDMENT FOR CREDIT UNION ACT

### HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. BACHUS. Mr. Speaker, earlier today, I, along with 15 of my colleagues introduced H.R. 1042, the Net Worth Amendment For Credit Unions Act. This amendment to Section 216 of the Federal Credit Union Act (12 USC 1790d(0)(2)(A)) redefines the term "net worth" for Prompt Corrective Action (PCA) purposes for credit unions. This legislation is needed in order to avoid an unintended consequence caused by an accounting change that the Financial Accounting Standards Board ("FASB") is about to promulgate, requiring credit unions to utilize the "purchase method" of accounting rather than the "pooling of interests" method of accounting to account for credit union mergers.

This amendment does not affect accounting practices; credit unions will be required to use the "purchase method" of accounting for mergers in order to receive a clean audit. It should be noted that FASB itself has stated that it sees no problem with the amendment from an accounting perspective. The legislation does not grant credit unions that currently lack the authority to offer alternative capital accounts the authority to do so, nor does it confer upon the National Credit Union Administration (NCUA) the regulatory authority or discretion to authorize such accounts now or in the future. This amendment is intended to address a narrow and technical accounting issue and in the process simply maintain the status quo so that, in the case of merging credit unions, 2 + 2 can continue to equal 4.

Currently, under the "pooling of interests" method of accounting, if a credit union with $2 million in retained earnings merges with another credit union with $2 million in retained earnings, the surviving credit union has $4 million in retained earnings: 2 + 2 = 4. In the absence of this amendment, when the "purchase method" of accounting becomes mandatory for credit union mergers, if a credit union with $2 million in retained earnings merges with another credit union with $2 million in retained earnings, the surviving credit union will only have $2 million in retained earnings: 2 + 2 = 2! That inequitable conclusion results from the fact that the Federal Credit Union Act defines the "net worth" of a federally-insured credit union as "GAAP retained earnings" and under Generally Accepted Accounting Principles when utilizing the "purchase method" of accounting only $2 million would be categorized as "retained earnings" while the other $2 million would be classified as "acquired equity."

Many credit union mergers are done at the request of the NCUA as a way of dealing in a constructive way with troubled institutions. Accordingly, it is in the public interest to redefine the term "net worth" for PCA purposes so that a credit union is not unfairly penalized and its net worth diminished merely because of an antiquated definition contained in the Federal Credit Union Act. It is with this in mind that I have introduced H.R. 1042 today. I hope that we will be able to move this important legislation for credit unions through the Financial Services Committee and this body in a timely fashion.

## HONORING THE CONTRIBUTIONS OF LAREDO CITY COUNCILMAN ALFREDO AGREDANO

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of Council Member District 1 Alfredo Agredano in Laredo, TX in my Congressional District.

Alfredo Agredano was born on August 28, 1948 in Grafton, North Dakota. He was the second of 9 children born to migrant workers Norberto and Francisca Agredano. After attending elementary schools in Corpus Christi, TX, Mr. Agredano and his family moved back to Laredo, TX at the age of thirteen. From there he attended L.J. Christen Jr. High School and graduated from Martin High School in 1968.

The following year he went on to joining the United States Marine Corps. During his stay, he became a Viet-Nam veteran and received an Honorable Discharge from the Marine Corps with the rank of sergeant. Not only did Mr. Agredano serve his country proudly, he also went on to earn an Associate Degree in Law Enforcement from Laredo Community College.

Mr. Agredano went on to work for the Laredo Fire Department for 7 years. For the past 25 years he has been an employee of the United States Post Office.

As a long life resident of Laredo, TX, Mr. Agredano went on to be elected to the Laredo City Council in 1998 and re-elected in 2002 in which he ran unopposed.

Councilman Agredano has been married to Geraldine Valdez for the past 21 years. He has 8 wonderful children and 3 grandchildren.

Mr. Speaker, I am proud to have this opportunity to recognize the hard work of Councilman Alfredo Agredano.

## EXPRESSING SYMPATHY TO JUDGE JOAN HUMPHREY LEFKOW AND FAMILY

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. EMANUEL. Mr. Speaker, I rise to express my sincere sympathy to Judge Joan Humphrey Lefkow and her entire family after the tragic deaths of her husband, Michael F. Lefkow, and her mother, Donna Grace Humphrey.

The city of Chicago and the entire nation have been shaken by these horrific murders. While we watched the headlines every day this week, we ask ourselves how such terrible crimes could have taken place, and we hope those answers come sooner than later.

Michael Lefkow spent his life fighting to protect civil rights for all Americans—marching with Martin Luther King, Jr., arguing cases before the Supreme Court, and representing the poor and underserved in his law practice. To all who knew and loved him, Michael was a dedicated family man and an active member of his church who used his time and his expertise to make life better for so many others.

Judge Lefkow is also a dedicated public servant, committed to her family and her community and with a reputation for fairness in her judicial decisions.

I want to particularly express sympathy to Michael Lefkow's daughter and Donna Humphrey's granddaughter, Laura, who attended high school on the northwest side of Chicago, won my district's entry in the Congressional Arts Contest in 2003, and volunteered in my Washington office during the summer of 2004.

Mr. Speaker, my prayers and thoughts are with Judge Lefkow, Laura, and the entire Lefkow family in this difficult hour.

## AMTRAK FUNDING

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mrs. JONES of Ohio. Mr. Speaker, I rise to express my dissatisfaction with the President's Fiscal Year 2006 budget that zeroes out funding for Amtrak, eliminates funding for high-speed rail, and provides $360 million to the Surface Transportation Board to maintain existing commuter operations should Amtrak shut down.

The shutdown of Amtrak would cause wide disruption and hardship. Millions of passengers—many of whom can't afford a car or a plane ticket—would be stranded. Millions of travelers would be added to already congested roads and airports.

Residents of 106 U.S. cities, which have no air service and are well over 25 miles away from the nearest airport, would have to find new transportation alternatives.

Amtrak's 20,000 workers would be out on the streets looking for new jobs. Local economies and businesses that have benefited from Amtrak's service would suffer.

Amtrak serves my state of Ohio with four long-distance trains: The Capital Limited (daily Chicago-Cleveland-Pittsburgh-Washington, DC); The Cardinal (tri-weekly Chicago-Cincinnati-Washington, DC-New York); The Lake Shore Limited (daily Chicago-Cleveland-Buffalo-Boston-New York); and The Three Rivers (daily New York-Philadelphia-Akron-Chicago).

During Fiscal Year 2004 Amtrak served the following Ohio locations:

City and ridership; Akron—7,930; Alliance—2,324; Bryan—6,204; Cincinnati—11,632; Cleveland—35,394; Elyria—2,651; Fostoria—1,935; Hamilton—1,483; Sandusky—4,098; Toledo—59,661, and Youngstown—4,417.

Total Ohio Ridership: 137,729.

Amtrak expended $9,567,180 for goods and services in Ohio in Fiscal Year 2004. Much of this money was spent in the following locations: Cleveland, $2,458,778; and Columbus $ 1,540,264.

During fiscal year 2004, Amtrak employed 88 Ohio residents. Total wages of Amtrak employees living in Ohio were $4,609,915 during this period.

The Railroad Retirement and Unemployment programs, which cover employees of all railroads, freight and passenger, would be depleted. According to the Railroad Retirement Board, without the participation of Amtrak, employer and employee payroll taxes would need to be increased from the current 16 percent to 27 percent in 2027. Those tax increases, however, would ultimately be insufficient and serious cash flow problems for Railroad Retirement would begin in 2031.

Cash reserves for the Railroad Unemployment Insurance Account would be exhausted by 2006, and nearly $297 million would have to be borrowed from the Railroad Retirement account to make up for losses. Ultimately, Amtrak's unemployment benefit costs would be borne by other railroads. In Fiscal Year 2004, Ohio had a passenger rail ridership of 137,729.

While the United States once had a passenger rail system that was the envy of the world, a lack of capital investment has stalled the advancement of corridor development throughout the country.

Dependent upon an annual federal appropriation, Amtrak's national network is constantly threatened by under-investment, lack of a clearly articulated federal rail policy, and an uncertain future.

Mr. Speaker, I rise to reiterate my outrage over a budget that cuts out a program that carried 25 million passengers in 2004; operates a nationwide rail network, serving over 500 stations in 46 states on 22,000 miles of track with approximately 20,000 employees; and operates 300 daily intercity trains, approximately 850,000 commuters each day depend on operating agreements with Amtrak, Amtrak-owned infrastructure, or shared operations.

## INTRODUCTION OF "INFORMATION PROTECTION AND SECURITY ACT" AND "SOCIAL SECURITY NUMBER PROTECTION ACT"

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. MARKEY. Mr. Speaker, today I am introducing two bills aimed at protecting the privacy of personally identifiable individual information and making it more difficult for unauthorized persons to obtain access to such data.

In Bonfire of the Vanities, the novelist Tom Wolfe wrote about "The Bororo Indians, a primitive jungle tribe who live along the

Vermelho River in the Amazon Jungles of Brazil." According to Wolfe, the Bororos believed that "there is no such thing as a private self." Instead, they "regard the mind as an open cavity, like a cave or a tunnel or an arcade, if you will, in which the entire village dwells and the jungle grows." Wolfe compared this to the situation faced by his protagonist, Sherman McCoy, who was caught in the middle of a public scandal in the last quarter of the 20th century.

In the 21st century, we now face the prospect of a world in which all of us—not just someone in the midst of scandal—will be forced to live without a private self: with the entire "village" able to obtain access to some of the most personal aspects of our lives.

In the emerging surveillance society of the 21st century, the data mining and information brokerage firms, much like Wolf's Bororo Indians, believe that there is no such thing as a private self. These companies are collecting and selling a vast array of personal information about the American public. For a fee, these companies will tell you someone's Social Security number, their address, phone number, driver's license number, driving record, any criminal record information, court records, insurance claims, divorce records, and even credit and financial information.

Recent press reports indicate that ChoicePoint, an information broker and data mining firm, had allowed a group of Nigerian con artists to get access to names, Social Security numbers, and other personal information about 140,000 Americans, including roughly 1,100 Massachusetts residents. Apparently this is not the first time that ChoicePoint has allowed criminal identity thieves to get access to such information. Two years ago, a similar problem reportedly occurred at the same company.

Unchecked, these companies take advantage of the most valuable possessions that Americans have: their personal identities. Companies like ChoicePoint are playing Russian roulette with the personal information and identities of millions of Americans. If we don't take steps to protect America's consumers soon, it is not a question of whether or not more Americans will lose their privacy—it is question of when will the next ID theft scandal hit. We must take immediate action to protect consumers from more information breaches.

The "Information Protection and Security Act," which I am introducing today in the House, and which Senator NELSON of Florida is introducing in the Senate, would do three basic things:

1. Subject information brokers like ChoicePoint to federal regulation by the Federal Trade Commission, and specifically, require such brokers to comply with a set of new fair information practice rules that the FTC would be required to issue within 6 months of enactment.

2. The FTC rules that the bill mandates will require information brokers to better secure the information in their possession, grant consumers the right to obtain access to and correct information held by the broker, require information brokers to protect information from unauthorized users, and prohibit users of an information broker to obtain the information for impermissible or unlawful purposes.

3. The bill's requirements will be enforceable through the FTC, which would be empowered to bring civil actions to punish and fine violators; the State Attorney's General, who could bring similar actions; and consumers, who would be empowered to bring a private right of action.

My second bill, the "Social Security Number Protection Act," would bring a halt to unregulated commerce in Social Security numbers. This bill would make it a crime for a person to sell or purchase Social Security numbers. Under the bill, the FTC would be given rulemaking authority to restrict the sale of Social Security numbers, determine appropriate exemptions, and to enforce civil compliance with the bill's restrictions. The bill would also authorize the States to enforce compliance, and provide for appropriate penalties.

I look forward to working with my colleagues in the House and the Senate to see to it that these two bills are enacted into law.

---

## RECOGNIZING THE CONTRIBUTIONS OF TEXAS STATE REPRESENTATIVE CARTER CASTEEL

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Carter Casteel for her service to the people of Texas.

Carter Casteel was born in Monahans, Texas. She comes from a family with a tradition of public service; her mother was Monahans city secretary during the community's early founding, and was one of the first women elected to office in West Texas.

Ms. Casteel studied at the University of Texas, where she majored in government and history. She received her Masters from Southwest Texas State University, and moved with her husband and children to New Braunfels.

After a stint as a public school teacher in Comal, she attended law school and began practicing law in 1985. She was elected to the office of Comal County Judge in 1990, and served there until 1999. She was elected to the Texas House of Representatives in 2001, and works to represent the Texas Hill country and its interests.

In addition to her public service career, Carter Casteel has found time to run a successful law practice, Casteel and Casteel, with her son. She has also been involved in a wide variety of community organizations, including the Comal County United Way, Communities in Schools, Habitat For Humanity, and the Texas Historic Courthouse Preservation Committee. She had the honor of being appointed to the Battleship Texas Advisory Board by President George W. Bush, and has served as President of the Comal Independent School District Board of Trustees.

Mr. Speaker, throughout her career, Carter Casteel has been an advocate for education, tax reduction, preservation of natural resources and the community values for which the Hill Country of Texas is known. She has done a great deal of good for her community, and I am pleased to have this opportunity to offer her my thanks.

---

## RECOGNIZING MR. GEORGE HENSEL

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Ms. SOLIS. Mr. Speaker, I rise today to pay tribute to Mr. George Hensel, a recipient of the West San Gabriel Valley Boys and Girls Club Humanitarian Award. This prestigious award is being given to Mr. Hensel to recognize his lifetime achievements and accomplishments.

Mr. Hensel was born and raised in East Los Angeles and served our country honorably as a Merchant Marine from 1942 to 1950. Mr. Hensel has a long history of leadership in the community including: Chairman of the Board of Directors at Beverly Community Hospital; founding President and Board Member Emeritus of Beverly Community Hospital Foundation; Chairman of the Board of Directors at Woodbury University; President and Founder of the California Driving School Association; President and Co-Founder of Driving School Association of the Americans; member of the Board of Directors at Don Bosco Technical Institute; member of the Board of Directors of the Montebello Police Activities League; Chairman of the Montebello Planning Commission; Director of the West San Gabriel Valley Boys and Girls Club; advisory board member of the Salvation Army; Chairman of Assemblyman Jack Fenton's Citizen's Advisory Committee; member of District Attorney Evelle Youngers Citizen's Advisory Committee on crime; President of the East Los Angeles Rotary Club; and President of the Montebello Toastmasters Club. Mr. Hensel remains a Rotarian with 43 years of perfect weekly attendance.

The above community involvement is in addition to Mr. Hensel's significant achievements in his professional and personal life. He has received numerous honors and recognitions culminating in this recognition for his lifetime of accomplishments and community service. His loving family consists of 6 children, 20 grandchildren, 29 great-grandchildren and 6 great-great grandchildren.

Mr. Hensel's contributions are a shining example of positive community involvement and service. It gives me great pleasure to honor Mr. George Hensel for a lifetime of service, dedication and philanthropic involvement.

---

## HONORING THE LIFE OF RAY McKENNA

### HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to Ray McKenna of East Hartford, a community sports leader, champion, and friend, who passed away Tuesday, March 1, 2005.

A hometown hero, Ray defined integrity, commitment, and generosity of spirit and vision to his family and the East Hartford community. For kids like me growing up in East Hartford, the man from Burnside—Ray

McKenna was a legend. At East Hartford High, Ray demonstrated his competitive nature in athletics and excelled at basketball, football and baseball. In 1939, he was the instrumental cog in East Hartford's first Connecticut state basketball championship. With a sense of duty to his country, Ray enlisted in the U.S. Navy during World War II and was stationed in the Philippines and the Aleutian Islands. Upon his return, Ray organized a local fast-pitch softball team, the legendary Burnside Dovelettes in 1947. For 30 years, he lead the Dovelettes to the top of the semipro league with a record of 1,831–339. While employed by the East Hartford Post Office, Ray formed the Marco Polo Explorers basketball team and coached them to 13 New England Basketball Association titles. In 35 years, the semipro team held an unparallel record of 1,123 to 245. Ray also founded and directed the annual Tap-Off Club Hall of Fame dinner to honor East Hartford athletes for 28 years. Although Ray retired from the Post Office in 1985, his long interest in sports continued and he became Sports Editor for the East Hartford Gazette—the most widely read column in the town.

The impact Ray has had on the town of East Hartford is inspirational. In 1984, East Hartford honored Ray's devotion to athletics by dedicating a local sports field in his name. For over two decades, Ray McKenna Field has been the home for baseball teams of all ages, including the Hartford Hawks. In 1985, Ray was presented with the Gold Key, the most prestigious sports' award in the state of Connecticut. The Gold Key is awarded by the Connecticut Sports Writer's Alliance to those like Ray, who have made noteworthy contributions to athletics in Connecticut. Representing one of Connecticut's finest, Ray was also inducted into the New England Basketball Hall of Fame at the University of Rhode Island in 2003.

With all his good works and awards of recognition, Ray will most be remembered for his honest love of the game. He lived everyday giving back to his community and inspired the best in all of us. To Ray, true victory was the result of discipline, confidence, and heart. His giving nature, generous laugh and Irish wit will be missed by all those who knew him. For my family and myself, we will forever treasure and value this wonderful man who so loved the game, the competition, and the camaraderie of sports and made it the centerpiece of his life in East Hartford, the state of Connecticut and throughout the Nation.

Our hearts go out to the entire McKenna family, especially his beloved wife Josephine, his son Michael, and daughters Dorene, Susan and Carol, eight grandchildren and four great-grandchildren.

---

## RECOGNIZING THE CONTRIBUTIONS OF STATE REPRESENTATIVE PATRICK ROSE

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 3, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize State Representative Patrick M. Rose for a lifetime of distinguished public service.

State Representative Patrick Rose is serving his second term as a member of the Texas House of Representatives and currently holds the position of Vice Chair of the House Committee on Civil Practices and is also a member of the Higher Education Committee and the Calendars committee.

He represents the House 45th district which covers Blanco, Caldwell and Hay's Counties. He is working on various state issues such as insurance reform, ethics reform and the public education system. He is a member of the higher Education Committee and works closely with Texas State University on issues such as college affordability and creating scholarships.

His efforts on behalf of his constituents were recognized when he was featured in Texas Monthly as "Rookie of the Year" during his freshman session. He was also honored with the "2003 Civil Justice Leadership Award," the "Texas Medicine's Best" and the "Young Professional of the Year Award." Patrick Rose is a credit to his community and a tremendous resource to his county.

Mr. Speaker, I am honored to have had this opportunity to recognize the many achievements of State Representative Patrick Rose.

# SENATE—*Friday, March 4, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O. God. King Eternal, whose light divides the day from the night. You are more glorious than the eternal mountains. Thank You for choosing us to be Your children and for answering prayer. Guide our feet in the way of peace. Bless our Senators. Incline their hearts to keep Your statutes. Teach them to cheerfully do Your work.

Lord, defend this land from all of its enemies and make America a guardian of liberty. Drive far from us all wrong desires and preserve us with Your mighty power. Help us not to trust in the abundance of our resources or the power of our military. Instead, may we place our complete confidence in the power of Your Name. Let Your kindness, Lord, shine brightly on us. We pray in Your merciful Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## RECOGNITION OF ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. McCONNELL. Mr. President, this morning we will immediately resume the bankruptcy legislation. As announced by the majority leader, there will be no rollcall votes during today's session. I understand additional amendments may be offered today. However, we do not expect a lengthy session.

As a reminder, under the order from last night we will have two votes beginning at 5:30 Monday evening. Those votes are in relation to the minimum wage amendments. Senators should be prepared to be here promptly at 5:30. I further announce it is our intention to file cloture on the bankruptcy legislation in a moment. Although we are filing cloture at this time, we are still working on the timing of that vote and the scheduling of Senator SCHUMER's amendment. We will have more to say on the schedule at the close of business today.

I will send a cloture motion to the desk on the underlying bill.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Leahy amendment No. 26, to restrict access to certain personal information in bankruptcy documents.

Feinstein amendment No. 19, to enhance disclosures under an open end credit plan.

Kennedy amendment No. 44, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Dorgan/Durbin amendment No. 45, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Pryor amendment No. 40, to amend the Fair Credit Reporting Act to prohibit the use of any information in any consumer report by any credit card issuer that is unrelated to the transactions and experience of the card issuer with the consumer to increase the annual percentage rate applicable to credit extended to the consumer.

Reid (for Baucus) amendment No. 50, to amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by a vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos-related disease.

### CLOTURE MOTION

Mr. McCONNELL. I send a cloture motion to the desk on the underlying bill.

The PRESIDENT pro tempore. The clerk will report the cloture motion.

The legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar Number 14. S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

Bill Frist, Arlen Specter, Chuck Grassley, Judd Gregg, Thad Cochran, R.F. Bennett, Wayne Allard, Lindsey Graham, Jeff Sessions, Trent Lott, Rick Santorum, John Warner, John Thune, Orrin Hatch, Lisa Murkowski, Mel Martinez, Sam Brownback.

Mr. McCONNELL. I ask unanimous consent that the live quorum under rule XXII be waived.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCONNELL. For the information of our colleagues, this vote will occur on Tuesday. As I just mentioned, we are working on an agreement for the precise timing of this vote, and we will announce that later this morning.

I yield the floor.

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am pleased we have had a good week of debate on the bankruptcy bill, which I believe is a very important piece of legislation. It is something this Congress has a responsibility to deal with since bankruptcy procedures are Federal court procedures and bankruptcy judges, although not article III judges, are Federal judges.

The court system, over the last 20, 30 years, has grown incredibly. We have gone from a few hundred thousand bankruptcies a year, to 1.6 million personal bankruptcies in 2003. It has been driven by a lot of things. Some say it is economic problems, but our economy compared to other times has not been as bad. We have had some tough years, but we have also had some good years. We have seen bankruptcies exceeding everything that could be based on the economy. I suspect a good part of it is because of the advertising of lawyers in the newspapers.

People who have built up some debt and are having a hard time dealing with it, and creditors are calling, they see an ad that says something like this: Come on down. We can take care of those debts and help you. So people have been filing bankruptcies at a record pace, caused somewhat by these ads. Many of the people work their way out of it; many of them cannot.

We absolutely believe and support the classic American view that you should be able to have a fresh start: that if debts overpower a family or individual, they can go to bankruptcy court and wipe out those debts and not

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

pay a dime. That is the way the law is, no matter the income of the person who files. A person who has a quarter of a million in income today can go into bankruptcy court, if they have, say, $150,000 in debts, debts they could pay if they put their mind to it, they can just wipe out those debts and keep making $250,000 a year and not pay their local banker, their local hospital, doctor, car dealer, or whoever they bankrupt against. It is an unhealthy practice.

We thought a lot about how to deal with the problems and how to deal with the abuses. Having practiced law a good bit, I have a hard time blaming the lawyers who take advantage of the laws that we in Congress have provided. They look at the legal system, they see what helps the debtor the absolute most, and they file the bankruptcy in that fashion, taking full advantage of the law.

It is appropriate for the Senate, for the first time since 1978, to pass a reform of those laws to deal with the problems we know arise, to help people who legitimately need relief from their debts to start afresh. Those who can pay some of it ought not to get off scot-free. That is the fundamental principle of this bill.

Let me mention one of the best things about bankruptcy. When people fall behind in their debts, penalties get assessed against them. They have to take out even higher interest rate loans to stay afloat, and they begin a downward spiral. They have creditors—in most instances, many creditors. These creditors call debtors, they file lawsuits and they file liens against the debtor's property. It can be a crushing, hard time for them.

When they file bankruptcy—either in chapter 7 where all the debts are wiped out, or in chapter 13 where they pay back a portion of those debts—the creditors cannot keep bothering them. They cannot be sued. Any lawsuits that have been filed against them are stayed, stopped. The court manages their money under chapter 13. They wipe away all their debts if they file under chapter 7, and they can start afresh. That is a provision of law in America that is worthy of continuing. But we also see there are some problems and abuses.

As we look at the changes in this legislation, I will mention a few as we get started this morning.

One is there was a consensus of those working on the bill that if individuals had a higher income and could pay back a portion of their debts, at least—perhaps all of them, but most likely not all of them—they ought to do so. Why should they not pay back something if they are able to do so? So we put in the bill a means test.

This has been in the legislation for the last 8 years. It has come before this Congress four separate times. This is the fourth time. And it has received a strong majority vote, bipartisan vote every single time. But for one reason or other, we have not been able to make the bill law. We are going to do that this time, I am confident.

But on the question of, What about the changes? How does it impact a person who would go and file in bankruptcy? We know that 80 percent of the people who file for bankruptcy make below median income. That means under the provisions of this bill, no fundamental changes will occur. They cannot be made to go into chapter 13 unless they choose to do so. They can wipe out all their debts, not pay a single one, under the provisions of chapter 7, unless it is a debt that is not dischargeable, such as a result of an intentional or fraudulent act.

If they make above median income, and there are no special circumstances that apply that might excuse them from that, such as a health problem or a problem with an ill child or something that requires extra expense, then they could be moved into chapter 13, where they pay back a portion of their debts. The judge would decide how much they could pay, and they could be made to pay a portion of those debts for a period of up to 5 years.

We think that is a reasonable and fair approach. In fact, this Senate certainly did during the 107th Congress when we passed a similar bill 83 to 15. So I think that is the basic procedure.

It also provides that before you file in bankruptcy, you should at least examine the possibility of credit counseling. There are credit counseling agencies all over America. They have proven to be effective for a large number of creditors. These agencies are able to negotiate reduced payments for the debtors, to reduce interest rates and to help the debtor sit down and work out a family budget. They bring in the whole family. They sit around the table. They work out a budget. They help teach them how to manage their money. They reduce interest rates. They reduce debts through negotiation. Many families are finding they can work their way out of debt without filing for bankruptcy, without walking out on their solemn obligations and actually feeling better about themselves, as well as learning a lesson for the whole family.

So we say they at least ought to know about this option and ask them to consider that. It can be to go by and have a brief meeting, a discussion, and receive some paperwork on it, and discuss it before they file for bankruptcy. We think that can make a big difference for a lot of people. How many bankruptcies might be avoided by that? I don't know—5 percent, 10 percent—but I think it could be a significant improvement in our system.

We also say that before you can be discharged and finally walk away from your debts, you should go through a financial course on how to manage money because we want to see people manage money wisely, to avoid high interest debts when they can, to keep their interest rates low, their borrowing low, to manage their money wisely. This bill would also require that.

These are things that have gained strong bipartisan support. I know I offered the amendment on credit counseling. I visited credit counseling agencies in Alabama and talked to them. I think they provide a tremendous service for a lot of people.

That is where we are with the fundamentals of the bill. It has, as I said, come before Congress four different times. In 1998, during the 105th Congress, we passed the bill with a 97-to-1 vote. The most recent vote, as I noted, was in 2001, and it was 83 to 15. We reported this bill out of the Judiciary Committee last week with a vote of 12 to 5, with strong bipartisan support again. So we are confident that if we go forward and we have an up-or-down vote on the bill, it will pass. I believe the House of Representatives will pass it again this time, and we can make some progress in that Federal court system that we have the responsibility to monitor.

We have the responsibility to analyze it on a regular basis, and if it is not performing up to standards, we ought to fix it. That is what we are doing. We have had a surge of bankruptcies. We have had a surge of abuses in bankruptcies where people, for example, lawyers, run ads in newspapers saying: Are you about to be evicted from your apartment? File bankruptcy. Call us. And they have their phone number there.

People are filing bankruptcies to stay an eviction for not a house they own but an apartment. That is not legitimate. So when the case is heard in the bankruptcy court, the apartment owner, who oftentimes is a small businessperson or retiree, has to go down to bankruptcy court, hire a lawyer, and then they win because the debtor does not have any property interest in the apartment. The lease has expired. They owe money on it. They are due to be evicted. Then it comes back to the State court for eviction proceedings, and they have to pick that up again. And they extend, for months, their stay in people's houses or apartments through the manipulation of the bankruptcy system. That is one of the things we tightened.

We raised the priority for women and children with regard to alimony and child support. Those payments are going to be far more high on the priority of payments when there is a limited amount of money by the debtor. So now, instead of money going strictly to lawyers or to other debts, it is going to go straight to children for child support and also for alimony. We had testimony in the Judiciary Committee, of which I am a member, from professionals in child support who say this will be a magnificent advance for women and children. We are excited about that potential.

There is so much more in the bill. I believe it is a sound bill. It has been on this floor, as I said, four times. It has been in the Judiciary Committee four times. We have had 15 hearings on the bill. I believe every possible objection has been considered, and I believe we are on the verge of making some positive change in our bankruptcy system. It is certainly overdue.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Montana.

### AMENDMENT NO. 50

Mr. BAUCUS. Mr. President, I rise to speak on my pending amendment, amendment No. 50, to the bankruptcy reform bill. This is an amendment to correct an enormous injustice in my home State. And that is not an understatement. That is accurate. It is very accurate. It is not an overstatement. It is dead on.

My amendment is based on a bill I have introduced in past Congresses to set up a permanent health care trust fund for current and former Libby residents, and former workers at the W.R. Grace vermiculite mine in Libby, MT. The trust fund would help pay for the costs of treating asbestos-related illness caused by exposure to deadly tremolite asbestos and other fibers released by Grace's mining operations.

This amendment would require a company such as W.R. Grace—which has willfully harmed the innocent citizens of Libby, MT—to set up a health care trust fund for its victims before it can emerge from bankruptcy. As a result of this amendment, W.R. Grace cannot emerge from bankruptcy until it has established a trust fund of at least $250 million to cover the cost of health care for the people of Libby.

The people of Libby, the Libby community, and the State of Montana face an immediate health care crisis. This crisis was caused by alarming rates of asbestos-related exposure, disease, and illness.

Former Libby residents face their own personal health care crisis because they are denied access to private health insurance. Why? Because they have been diagnosed with an asbestos-related disease or illness, or show signs that they have been exposed to asbestos. They have been denied insurance for that reason only. Projected health care costs to treat all sick people in Libby, MT, run into the hundreds of millions of dollars.

This dire situation was created because the responsible party in this case, the W.R. Grace Company, which had the mine in Libby, MT, willfully harmed the people of Libby—willfully harmed the people of Libby. There is immense documentation showing that the company knew the mine operations were causing illness, asbestos-related diseases, in the form of tremolite, which is the worst kind of asbestos disease, and caused the death of many people in Libby and the very serious illness of very many people in Montana. The company knew that. They willfully knew that. The documents prove it.

After harming Libby, Grace ignored its responsibility for Libby's health care needs. Grace ignored the harm it inflicted on Libby. They turned their back to it. They showed no accountability. They ignored it even though they knew they were the cause of the disease in Libby.

More than that, the actions of W.R. Grace were criminal. The U.S. Attorney General's Office has filed a historic indictment against current and former W.R. Grace executives for knowingly concealing information about asbestos pollution in Libby. This pollution led to the death of more than 200 people in Libby, and made hundreds of others sick.

Mr. President, I wish you could go to Libby, MT. Go see it. Any Member of this body who would visit Libby, MT, would know exactly what I am talking about and understand why this amendment is needed. Seeing is believing. I know we hear lots of stuff around here. We hear lots of Senators stand up and talk about problems they see. I tell you, Mr. President, I tell my colleagues, if you were to visit Libby, MT—just to see it, spend a couple hours—you would know exactly what I am talking about and you would support this amendment.

It is one of the most tragic situations I have ever seen in my life. That is not an overstatement. It is one of the most tragic situations I have seen in my life. That is why this amendment is so important.

It is also very unfortunate that my amendment is so necessary, but it is. It is vital. It is just. And the people of Libby should not have to hope they will be treated fairly in the Grace bankruptcy. They should know they will be treated fairly and that at the very least they will not have to worry about how to pay for costly medical care. These costs should not be borne by Grace's victims, nor should the taxpayers have to pick up the tab through Medicare or Medicaid or through other publicly funded programs. The responsibility lies squarely with the company that caused the sickness in the first place—W.R. Grace.

Mind you, this is not a company that is struggling. According to Grace's recent financial results, issued in January, W.R. Grace reported that 2004 fourth quarter sales were up 15 percent over the fourth quarter of 2003. And for the full year of 2004—a full year—Grace reported sales of over $2.2 billion, which is a 14-percent increase over the previous year.

That is right. As Libby's economy struggles, and people are waiting for health care, and dying, W.R. Grace's business is booming, with operations in nearly 40 countries. And Libby residents are left to die. They are left to die because of Grace's actions. A Grace spokesman once boasted, as this was happening, "We are very pleased with our business progress and results for 2004."

Ask those who died or who fell ill last year because of W.R. Grace whether they are pleased with the progress and results of 2004. I suspect you will get a different answer.

The Congress cannot make right what happened to Libby. No amendments, no legislation, no resolutions will bring back those who died or prevent the afflicted from getting sicker. But we can ensure that those afflicted do not have to pay health care costs incurred through no fault of their own. And we can ensure that the party responsible—in this case W.R. Grace—does.

I urge my colleagues to support this amendment. It is so important, it is a matter of accountability, it is a matter of fairness, and it is a matter of time before more folks from Libby, MT, get sick as a result of W.R. Grace.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Alaska, the President pro tempore.

Mr. STEVENS. Mr. President, is it proper to speak on a matter not concerning bankruptcy at this time without consent?

The PRESIDING OFFICER. It would take consent.

Mr. STEVENS. Mr. President, I ask unanimous consent to be permitted to speak for up to 10 minutes on a matter not concerning the bankruptcy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

### HIGH ENERGY PRICES

Mr. STEVENS. Mr. President, I hope all Members of Congress saw the news yesterday, that oil prices reached $55 a barrel. Now, some of us reacted with shock and amazement, but others knew the reality that this day would come.

We have witnessed the impact of these high energy prices every time we fill up our gas tanks and pay our heating or electric bills.

These high prices are unsustainable, jeopardizing jobs and threatening the long-term health of our economy. The impact of high energy prices can be seen at all levels of our economy. High energy prices have produced job losses, trade deficits, and constraints on consumer spending and economic growth. Demand for energy in the United States is outstripping supply, and Americans are feeling the impact of

Congress's failure to act to solve the problem. Our people rely on our ability to stabilize energy prices and provide them with the energy resources all of us need.

The good news is that this worsening crisis is avoidable. The United States has the natural resources to increase our energy supply. But inconsistent Government policies discourage the exploration, development, and use of our own energy resources. Almost 30 percent of all the lands in this country are owned by the Federal Government. That is 657 million acres—almost four times the size of Texas. Under those lands lies 90 percent of the predicted undiscovered oil and 40 percent of our undiscovered natural gas. Those public resources are needed to meet our energy needs and secure our future.

Since 1983, access to our Federal lands has declined by 60 percent. Over half of the lands that are designated currently as multiple use—in other words, ones that oil and gas exploration could take place on—are subject to highly restrictive land classifications or lease stipulations which effectively restrict energy exploration and development.

The effect of these policies is clear. In 1981, 91,533 oil and gas wells were drilled in the United States. In 2000, that number declined to 29,284, almost down to 25 percent of what we did some 20 years ago. As a result, crude oil production in the United States is at a 50-year low, and permitting for oil and gas projects on Federal lands that once took 18 months—and that was considered a long time then—can now take up to 10 years. In some instances, it takes 10 years to clear a permit to start exploring for oil on Federal lands. Those delays force companies to pursue projects overseas rather than develop U.S. resources.

Some people have commented upon the fact that the U.S. oil industry is no longer seeking to support the concept of drilling on Alaska's Arctic plain. They have opportunities all over the world where they can proceed much more rapidly than in this country, and there is no question that they need to find oil to meet our needs. What industry is going to put up the money for 10 years to explore for and develop energy here at home when it can go abroad and do that in less than 1 year?

In a hearing before the House Subcommittee on Energy and Mineral Resources, Stephen Entin, a former staff economist for the Joint Economic Committee and currently president of the Institute for Research On the Economics of Taxation, argued that our current policies actually support OPEC, the Organization of the Petroleum Exporting Countries, and enhance its power. By locking up our own lands we have basically manipulated prices because we have restricted competition from American companies, and OPEC reaps the benefits from an inequitable playing field. As a matter of fact, we encourage them to raise prices because our demand constantly increases and our domestic supply constantly decreases. Jobs and energy security have been outsourced, as we seek our energy security in places where there are unfriendly and unstable regimes. I have had personal talks with some members of the oil industry. They know that those are unstable regimes, but they have no alternative.

For every $1 billion we spend to develop petroleum resources domestically we would create 12,500 jobs. That would mean that last year we lost over 1.3 million jobs by importing oil instead of producing it. People wonder why our jobs are going abroad. When we withdraw lands from oil and gas exploration, that is not free. Many people in this country think it is an easy decision and it doesn't cost anything. It is a very expensive policy. We are paying a huge price now because we have locked up our lands and made them inaccessible, when they purportedly are open, by restrictive policies, restrictive stipulations that take so long to comply with that no industry is going to put up the money and wait so long for the opportunity to see if there is oil and gas in those lands.

The American taxpayer picks up the tab, and the American consumer is severely punished by this policy. Consumers are paying more for food, goods, and energy bills. According to Daniel Yergin, an economist from Cambridge Energy Associates, high energy and gasoline prices essentially act as a consumer tax, leaving Americans with less disposable income for travel, home buying, restaurants, and retail establishments, all of what we call our quality of life.

Only yesterday, I received this estimate. It is estimated now that for every one-cent increase for gasoline at the pump, there is $1 billion lost in consumer spending. Just look at the price of gasoline now. The price of gasoline is at an alltime high, and it will not come down. It is going to continue to go up.

In China, 5 years ago only 5 percent of their people were using energy. Now 15 percent are using it. Even at that low rate of 15 percent of their people using energy, talking about oil and gas energy, they have now passed Japan in consumption annually of oil and gas. They are second only to the United States, and only 15 percent of their people are using oil and gas so far. People blame a lot of things for these high prices, but the fact is the world is starting to use oil and gas. We are competing for the world's oil production and ignoring completely our capability to produce right here at home.

Unless Congress acts to ensure greater domestic production of our oil and gas resources, our energy security is jeopardized. I am talking about security. We had one embargo since I have been in the Senate in the 1970s, when we were totally embargoed by OPEC. They would not sell us oil. At that time about 33 percent of our oil was coming in from OPEC countries. Today it is 60 percent. An embargo today would destroy our economy.

There are many people who advocate quick fixes to use alternative sources. I believe there must eventually be alternative sources to oil and gas in our economy, but just relying on them and saying we are going to do it and never bringing that about has led us to the point where we no longer have the capability to produce the oil and gas to meet our needs in the event of national security.

We believe that it is time now that we should review these policies, and one of the key policies, of course, is an area that comes from the development of an area in my State. In 1980, we passed the Alaska National Interest Conservation Lands Act, an act that withdrew over 100 million acres of Alaska's lands for national purposes. One provision in that bill guaranteed the right to explore the Arctic plain, a million and a half acres, for oil and gas, probably even then known as the area most probable to produce substantial quantities of oil and gas. It is estimated to contain 10.4 billion barrels of oil. Just as a comparison, when we first drilled at Prudhoe Bay, the estimate was it might contain 1 billion barrels of oil. We have already produced 16 billion barrels of oil from Prudhoe Bay. In other words, this area now considered to be capable of producing 10.4 billion barrels of oil is probably the last most significant oil and gas area in the country, and we have worked, now since 1981, to try to fulfill the promise made to us in the 1980 bill that that area could be explored.

It is high time that we take action to reduce our dependence on foreign oil. As I said, we rely upon foreign sources for 60 percent of our energy needs. The area of the Arctic plain, 1.5 million acres guaranteed to be available for oil and gas exploration, is there. Allowing exploration and development of this area that is known as ANWR, although it is not part of the refuge until oil and gas development is over, would improve our U.S. balance of trade, reduce the amount of money we spend abroad, and improve our national security by having available the capability to produce that amount of oil.

It is estimated that by 2025, the United States will spend approximately $200 billion on foreign oil and petroleum products. By opening this area, and when it produces, we could save a considerable portion of that by producing our own oil and gas. It means we could create tens of thousands of jobs and contribute greatly to the overall economy.

There is no question that we are now in an energy crisis. Anytime we see $55-dollar-a-barrel oil, that is a crisis. I cannot believe that Congress wants to wait until the price goes up to somewhere around $80. I believe it is going that high unless we start developing our domestic resources and look to alternative supplies of energy right here at home.

I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### STEVE METLI

Mr. JOHNSON. Mr. President, it is with great honor and appreciation that I recognize the leadership and the many achievements of Mr. Steve Metli. Steve will soon retire from his post as city planner for the city of Sioux Falls, SD, a position he has held since 1974. He embodies the highest qualities of public service and has aptly earned the respect and admiration of his colleagues and leaders throughout South Dakota. I am proud to claim Steve as a friend.

Steve Metli consistently addressed challenges with determination and foresight which significantly improved the strength of the local economy and the quality of life in Sioux Falls and thus expanded opportunities for all South Dakotans. His success is rooted in enthusiasm, vision, leadership, and progressive South Dakota values that will undoubtedly continue to echo in the growth and prosperity of the entire region for many years to come.

In 1974, Mayor Rick Knobe appointed him to head an overburdened four-person planning and zoning staff. Since that time, the city has swelled in population from about 75,000 to over 141,000 people, and Sioux Falls has become a major regional center for health, education, culture, recreation, and job growth.

Steve now oversees the city departments of planning, transit, building services, media services, and arena, airport, convention center, and Washington Pavilion.

Steve Metli's fortitude and resolve is evident in his private life as well as his public service. As an adult, he has survived three bouts with cancer, two changes in the form of city government, and the administrations of five mayors—Rick Knobe, Joe Cooper, Jack White, Gary Hanson, and Dave Munson. He devoted significant attention to the Big Sioux River greenway project and on expanding the city's park system, which now consists of 76 parks covering 2,600 acres. He has sought to reinvigorate and revitalize the downtown community. His vision of Sioux Falls downtown centers on the beautiful natural resource of the Big Sioux River.

He led development of the city's growth management plans, which include infrastructure direction as well as parks, schools, and fire services. His vision of the Phillips to the Falls project was recently completed and he stood at the ribbon cutting with the pride of a parent whose child achieved a long-time dream and accomplishment. He has developed plans for the Big Sioux River Greenway, Falls Park and Downtown Development, and served as project manager for the construction of the Sioux Falls Convention Center.

I have greatly appreciated the opportunity to work with Steve. His leadership and vision were critical to the successful growth of the Sioux Falls region. National publications have consistently recognized Sioux Falls as among the best communities of its size in which to live and do business. I am proud to recognize Steve Metli's critically important contributions to the success of the City of Sioux Falls, SD, and to our entire State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### THE HISTORY OF SOCIAL SECURITY

Mr. BAUCUS. Mr. President, the ancient text teaches: "Honor your father and your mother so that you may live long and that it may go well with you in the land the Lord your God is giving you." And Paul noted that "'Honor your father and mother' is the first commandment with a promise—'that it may go well with you and that you may enjoy long life on the earth.'"

That's what Social Security is about. It is about honoring our fathers and our mothers. And like the commandment, Social Security also carries with it a promise. Social Security benefits not just our elders. It also benefits their children, and us all.

Families throughout history have faced uncertainties, old age, disability, and death of the breadwinner. Before Social Security, the extended family provided what economic security they had.

President Franklin Roosevelt described those times:

> In the early days of colonization and through the long years following the worker, the farmer, the merchant, the man of property, the preacher, and the idealist came here to build, each for himself, a stronghold for the things he loved. The stronghold was his home the things he loved and wished to protect were his family, his material and spiritual possessions. His security, then as now, was bound to that of his friends and his neighbors.

In the 18th and 19th centuries, most Americans lived and worked on farms. Before 1840, 9 out of 10 Americans lived in rural areas. And as late as 1880, 7 in 10 did.

This chart on my right shows the degree to which Americans lived in rural America and over time moved to cities. Back in 1790, about 95 percent of Americans lived in rural areas. Right now, the trend line is down to 1990, where about 20 percent lived in rural areas. Everybody else moved to the cities.

Back then, in the early days, life was hard and often short. A boy born in the year 1850 could expect to live 38 years. That is all. By 1900, the male life expectancy rose to about 46 years. As this chart shows, things changed with the Industrial Revolution. America changed from an agricultural to an industrial economy. People moved away from the family farm into the city, and by 1920, most Americans lived in urban areas. The extended family and family farm failed to provide the security they once did.

At the same time, the people of a more prosperous nation began to live longer. As this chart shows, around 1930, a baby boy could expect to live 59 years—13 years longer than in 1900. And a 60-year-old man could expect to live to age 75. More and more Americans had to address the challenges of living into old age.

This chart shows the male life expectancy at birth has risen significantly, from 39 in 1850 to 68 years of age 100 years later, in 1950. Of course, today the lifespan is longer.

Senator Robert Wagner of New York described how the burdens of supporting those growing numbers of seniors fell heavily through a patchy safety net and onto their grown children. He said:

> In truth . . . every civilized community does and must support its old and dependent people in some way. In this country, we have been doing it largely by inefficient relief methods, by shabby pension systems, and by imposing burdens upon millions of younger members of families, with consequent impairment of their industrial efficiency, their morale, and their own opportunities for future independence.

And President Roosevelt looked back on those times, saying:

> Long before the economic blight of the depression descended on the Nation, millions of our people were living in wastelands of want and fear. Men and women too old and infirm to work either depended on those who had but little to share, or spent their remaining years within the walls of a poorhouse. Fatherless children early learned the meaning of being a burden to relatives or to the community.

President Roosevelt saw America's social changes as grounds for a change in government's role. In his June 1934 message to Congress, he said:

> [S]ecurity was attained in the earlier days through the interdependence of members of families upon each other and of the families within a small community upon each other. The complexities of great communities and of organized industry make less real these simple means of security. Therefore, we are compelled to employ the active interest of the Nation as a whole through government

> in order to encourage a greater security for each individual who composes it.

The Great Depression triggered government's response.

As this chart shows, the American economy in 1933 produced barely more than half the output that it did in 1929.

And as the next chart shows, by 1933, a quarter of the American labor force was unemployed.

Look at this next chart. From its 1929 high of 381, the Dow Jones Industrial Average fell to a trough of 41 in 1932. That's nearly a 90 percent drop in the Dow, in just 3 years.

Lifetimes' worth of private accounts evaporated into thin air. Senator Royal Copeland of New York recounted:

> [T]here are thousands of families, I suppose millions, who thought they had prepared for the rainy days, but by reason of the Depression, and the circumstances involved in it, they have come to be almost as bad off as many who were born and have lived all their lives in poverty.

State governments found themselves under an increasing burden. This chart shows unemployed men in line. Senator Daniel Hastings of Delaware said,

> [T]he individual States are laboring under a strained financial condition; with many of them believing that they cannot take care of their own.

As with economic hardship throughout history, the Depression hit widows and orphans particularly hard. This chart shows a careworn 32-year-old woman's face. Congressman William Sirovich of New York painted the picture, in 1935:

> Death, through the loss of the breadwinner, has broken many a home. For centuries the widows, orphans, and dependent children have cried aloud for help and assistance in their tragic periods of economic insecurity. In the past the only recourse for orphaned children was the poorhouse, alsmhouse, and the orphan asylum. The twentieth century of civilization has awakened our citizens to the duty and obligations they owe to these unfortunate orphans.

And Congressman Fred Crawford of Michigan spoke of children with disabilities:

> One only needs to come in contact with a home which is unable to provide any means of relief for a little child who has been stricken with paralysis to appreciate what this will mean to those homes so darkened with the suffering that follows such a catastrophe.

Remember what happened back then. I am not saying we are going to again suffer the same cataclysmic and dire consequences of the Depression. I don't think we will. But we could suffer bad times in the future. The stock market could fall precipitously. Two speakers ago on the floor, the Senator from Alaska was talking about the economy, saying it would be devastated if there was an oil embargo; that would be the end of the American economy. The stock market would clearly fall. We don't know. We live in times that are a little more precarious, uncertain, and it is harder to predict the future. We just don't know. I am presenting these charts and this information to remind us that we don't know. Again, I doubt we will have another depression that severe—we may, but I doubt it. But things can go south sometimes. Things don't always go well all the time.

President Roosevelt sought a comprehensive solution. To that end, in June of 1934, he issued an Executive Order creating the cabinet-level Committee on Economic Security. He charged them to, "study problems relating to the economic security of individuals."

Labor Secretary Frances Perkins chaired the committee, which also included the Treasury Secretary, the Attorney General, the Agriculture Secretary, and the Federal Emergency Relief Administrator. Secretary Perkins relied heavily on her assistant secretary, Arthur Altmeyer, who would become the first Social Security Commissioner.

And to address the need, President Roosevelt and other leading thinkers turned to the idea of "social insurance." President Roosevelt said of social insurance: "This is not an untried experiment. Lessons of experience are available from States, from industries and from many nations of the civilized world. The various types of social insurance are interrelated; and I think it is difficult to attempt to solve them piecemeal. Hence, I am looking for a sound means which I can recommend to provide at once security against several of the great disturbing factors in life—especially those which relate to unemployment and old age."

Social insurance programs began in Europe in the 19th century. By the time America adopted Social Security as a national social insurance program in 1935, 34 European nations and several States in the Union already operated some form of social insurance program—34 nations before 1935.

I am very proud to say my home State of Montana played a leading role when, in March of 1923, it enacted its old age pension law. Montana's was the first State law to stand the test of constitutionality for an old age pension law. Its sponsor was Lester Loble of Helena, MT.

I would like to show a picture of Lester Loble, who later became a State judge, Judge Loble. I knew him. He was a wonderful, wise man. Frankly, I did not know of his history until I did a little research into Social Security and was delighted to find Judge Loble played a prominent role in developing Social Security.

He had been a delegate to the 1921 national convention of the Fraternal Order of Eagles, which had devoted a special focus to pension laws for seniors. Mr. Loble's old age pension law provided each county's fund would pay a modest monthly income—up to $25 a month—to the poorest of Montana's seniors, those earning less than $300 a year.

In a legislative session torn by struggle over taxes on mining property, the bill passed, and Governor Joseph Dixon, a Republican, signed it into law, saying:

> You Eagles have planted this seed and you can no more stop the progress of old age pensions than you can stem the tide of the Pacific Ocean.

In November of 1934, on behalf of President Roosevelt's Committee on Economic Security, Secretary Perkins invited Mr. Loble to Washington, saying:

> We are extending this invitation to you because you have the honor of having been the author of the first old age pension law in this Country.

The committee set to work on the idea of social insurance. Like all insurance, social insurance protects against a defined risk. The insurance pays beneficiaries when they need to bear a large expense, often at times when they would otherwise not be able to provide for themselves. Like all insurance, social insurance spreads the burdens of the risk broadly across a large pool of those who may encounter the risk. When the risk does occur to one beneficiary, the sharing of the risk makes it easier to bear.

Social insurance spreads these risks over the largest possible pool of potential beneficiaries—society as a whole. And social insurance is shaped by broader social objectives, helping to promote the Nation's overall economic security.

President Roosevelt's Committee on Economic Security made its recommendation to Congress in January 1935. The committee reported:

> At least one-third of all our people, upon reaching old age, are dependent upon others for support. . . . There is an insecurity in every stage of life.

They went on:

> Children, friends, and relatives have borne and still carry the major cost of supporting the aged. . . . [T]his burden has become unbearable for many of the children. . . .

They responded to that challenge with a proposal for Social Security, and they concluded:

> The measures we suggest should result in the long run in material reduction in the cost to society of destitution and dependency and we believe will immediately be helpful in allaying those fears which open the door to unsound proposals.

The Finance Committee held hearings on the proposal. At one hearing, Senators watched as several elderly gentlemen who were totally blind were led into the committee room by their guide dogs and told of their life of need. This is before Social Security. Finance Committee Chairman Pat Harrison of Mississippi said:

> I do not know of any committee that was ever moved more than was the Finance Committee.

During the Senate's floor debate on the bill, Senator Wagner from New York said:

> The social security bill embraces objectives that have driven their appeal to the conscience and intelligence of the entire Nation. We must take the old people who have been disinherited by our economic system and make them free men in fact as well as in name. We must not let misfortune twist the lives of the young. We must tear down the house of misery in which dwell the unemployed. We must remain aware that business stability and prosperity are the foundation of all of our efforts. In all of these things we are united, and in this unity, we shall move forward to an era of greater security and happiness.

This chart shows the signing of the Social Security Act. In signing the Social Security Act in August 1935, President Roosevelt said:

> Today a hope of many years' standing is in large part fulfilled. The civilization of the past hundred years, with its startling industrial changes, has tended more and more to make life insecure.

That was in 1935. Think how insecure now.

> Young people have come to wonder what will be their lot when they came to old age. The man with a job has wondered how long that job would last.
>
> This Social Security measure gives at least some protection to . . . millions of our citizens who will reap direct benefits through unemployment compensation, through old-age pensions and through increased services for the protection of children and the prevention of ill health.

President Roosevelt continued:

> We can never insure 100 percent of the population against 100 percent of the hazards and vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and to his family against the loss of a job and against poverty-ridden old age.
>
> The law established two social insurance programs on a national scale to help meet the risks of old age and unemployment: a Federal system of old age benefits for retired workers and a Federal-State system of unemployment insurance.

President Roosevelt saw the 1935 Social Security law as an economic foundation. He said:

> This law . . . represents a cornerstone in a structure which is being built but is by no means complete. It is a structure intended to lessen the force of possible future depressions. It will act as a protection to future administrations against the necessity of going deeply into debt to furnish relief to the needy. The law will flatten out the peaks and valleys of deflation and inflation. It is, in short, a law that will take care of human needs and at the same time provide the United States an economic structure of vastly greater soundness.

President Roosevelt justly concluded:

> If the Senate and House of Representatives in this long and arduous session had done nothing more than pass this bill, the session would be regarded as historic for all time.

President Roosevelt's prophecy that Congress would build on Social Security was soon proved true. The Old-Age Insurance Program had not yet come fully into operation when Congress enacted significant changes. In 1939, Congress added benefits for dependents of retired workers and surviving dependents of deceased workers, and Congress made the first benefits payable in 1940 instead of 1942, as originally planned.

In the 1950s, Congress broadened Social Security to cover many jobs that previously had been excluded.

In 1956, Congress added disability insurance. Benefits were provided for severely disabled workers aged 50 or older and for adult disabled children of deceased or retired workers.

Two years later, in 1958, Congress provided benefits for dependents of disabled workers similar to those already provided for dependents of retired workers.

In 1960, Congress removed the age-50 requirement for disabled worker benefits.

And in 1967, Congress provided disability benefits for widows and widowers aged 50 or older.

There used to be a yearly annual ritual in Congress to provide cost-of-living increases to Social Security beneficiaries. This sometimes happened right before an election. In 1972, Congress did away with this uncertainty and provided for automatic cost-of-living increases in benefits tied to increases in the consumer price index. The 1972 amendments also increased benefits for workers who retired after full retirement age.

In 1977, Congress changed the method of benefit computation to ensure stable replacement rates over time. Earnings included in the computation were to be indexed to account for changes in the economy from the time they were earned.

In 1983, as a consequence of the Greenspan Commission, to strengthen and extend the life of Social Security, Congress made coverage compulsory for employees of the Federal Government and nonprofit organizations. State and local governments were prohibited from opting out of the system once they had joined. The amendments also gradually increased the age of eligibility for full retirement benefits from 65 to 67, beginning with persons who reach the age of 62 in the year 2000.

For certain higher income beneficiaries, benefits became subject to income tax.

In 1996, Congress relaxed earnings limits for seniors who reached the full retirement age.

In 1999, Congress reformed certain provisions under the disability program to create stronger incentives and better supports for individuals to work.

And in 2000, Congress eliminated the earnings for seniors who have reached the full retirement age.

What we now know is Social Security touches almost every American. Social Security covers 96 percent of American workers and their families. In 2003, Social Security provided $471 billion in benefits to 47 million people. One in six Americans collects Social Security benefits today.

In my home State of Montana, 164,000 of our 927,000 residents, or about 18 percent of all Montanans, receive Social Security benefits. Nearly 7 percent of all Montana personal income comes from Social Security payments. Montana ranks fifth among the 50 States in terms of the share of our State's income that comes from Social Security.

Social Security is, in effect, three programs: an earned retirement benefit, a disability insurance policy, and a life insurance policy.

Most people think of Social Security as a retirement program, but 3 in 10 beneficiaries collect survivors' or disability insurance benefits.

Of today's 20-year-olds, 28 percent will become disabled. That is quite startling when one stops to think about it. Of today's 20-year-olds, 28 percent will become disabled, and 17 percent will die before reaching retirement. Look around the room in any college classroom: 3 in 10 students will become disabled, and 2 in 10 will die before retirement. But if a young worker should experience a period of disability, Social Security will provide for the worker and the worker's family. In the same vein, Social Security will provide for the worker's family if the worker experiences an untimely death. For a young married worker with two children, Social Security provides the equivalent of a $400,000 life insurance policy and a $350,000 disability policy. Think of that. For a young married worker today with two children, Social Security provides the equivalent of a $400,000 life insurance policy and a $350,000 disability policy. Only about 3 in 10 workers have access to long-term disability benefits, aside from Social Security.

Social Security provides retirement benefits for retirees who worked at least 10 years. President Roosevelt said:

> There are other matters with which we must deal before we shall give adequate protection to the individual against the many economic hazards. Old age is at once the most certain, and, for many people, the most tragic of all hazards. There is no tragedy in growing old, but there is tragedy in growing old without means of support.

Social Security provides the primary source of income for two-thirds of America's seniors. Stop and think about that a moment. Social Security provides the primary source of income for two-thirds of America's seniors. For one-fifth of our seniors, it provides the only source of income. For one-fifth of our seniors in our country, Social Security is the only source of income. The average retiree benefit is $822 a month, or about $10,500 a year in my State of Montana, and about $900 per month, or about $11,000, nationally.

This is hardly a king's ransom, but as President Roosevelt said on the third anniversary of the law's enactment:

> The act does not offer anyone, either individually or collectively, an easy life—nor was it ever intended to do so. None of the sums of money paid out to individuals in . . . insurance will spell anything approaching abundance. But they will furnish that minimum necessity to keep a foothold; and that is the kind of protection Americans want.

Before Social Security, poverty and dependency threatened all who could no longer work, but with its guarantee of benefits to seniors for life, progressive benefit structure, spousal and survivor benefits, and annual cost-of-living adjustments, Social Security provides a solid foundation of economic security for all workers and retirees.

Look at the effects of this chart. Because of Social Security, poverty among American seniors has fallen from roughly half of seniors in 1935 to roughly a third of seniors in 1959 to 1 out of 10 seniors now. Just think of that. Before Social Security, half of America's seniors were in poverty. That is this bar off to the left. Gradually, fewer of America's seniors were living in poverty. Social Security brought them out of poverty, and so today only 1 in 10 is living in poverty. Just think what would happen if they did not have those current Social Security benefits. Think what would happen to future retirees who had benefits reduced by 50 percent, as would be contemplated under the President's proposal.

Social Security provides a guarantee of economic security for America's workers, for current workers and for retired workers. Social Security protects all Americans, whether they are fortunate and living a long and healthy life or unfortunate and facing early disability or death.

Social Security benefits are adjusted for inflation, so the buying power of beneficiaries does not erode over time. Social Security benefits increase with family size, and they are progressive to ensure that even low wage earners have sufficient income. Beneficiaries cannot outlive their benefits. This is an insurance policy. It is a life insurance policy. Seniors cannot outlive their benefits. Seniors keep getting those monthly benefits as long as they live.

Social Security uses a common system to administer all three programs—retirement, survivors, and disability—resulting in administrative costs of less than 1 percent. Administrative costs of all three, since they are combined with the same administration, are just 1 percent. Think of the administrative and other costs associated with other forms of retirement payments, particularly in the private sector, which we must have, which are important and critical. It is important also to note the factual difference of the administrative costs of some systems compared with some others.

These unequaled benefits make Social Security invaluable for individual workers, retirees, and all Americans.

In future statements I hope to go further into other aspects of Social Security. It is somewhat complicated, but it is somewhat simple—very important. I hope to address how the President's plan would cut benefits, not increase benefits, not stabilize benefits but cut them, and what benefit cuts would mean for Americans. I hope to address the concerns caused by the mounting debt and how the President's plan would make that mounting debt problem worse, not better but worse, much worse—much, much, much worse. I hope to address why we should be concerned about the savings and what changes we should be considering to increase savings in America, both public and private savings.

Yes, Social Security faces long-term challenges. We all know that. We should work hard to address those. We should work together to strengthen Social Security for the long term. We all know we must do that. We want to do that, but we need to do it right. We should no longer endanger the valuable legacy we have built over so many years. It is important, to say the least.

Privatization plans would cut Social Security's funding, weaken the program, and make its problems worse, not better. Plans like option 2 of the President's Social Security Commission would cut benefits by one-third or more for future retirees, even for those who choose not to have a private account. That is important to note. Under the President's plan as we know it so far, Americans who do not choose to have a private account would find their benefits out in the future cut by one-third or more, even if they do not want to participate in the private or personal accounts—whatever one wants to call them.

Those investing in those accounts—personal accounts or private accounts—will be hit twice. Those who do invest, who choose to opt to invest, would be hit twice, as their benefits would be subject to a substantial privatization tax. I am not going to go into great detail, but if one chooses to participate in the President's plan, their total benefits when they retire are going to be less than they would be if there is no change in Social Security, just as long as we find ways to keep it going.

Cuts of this magnitude would leave many seniors in poverty, requiring more taxpayer assistance, not less, and the President's privatization plan would cause the Government to borrow $5 trillion in additional debt in the next 20 years. Five trillion dollars additional of publicly held debt in the next 20 years. Today the publicly held debt is about $4 trillion or $5 trillion. It will practically double over the next 20 years. We cannot do that. That does not make sense. This is not the legacy we should be giving to our kids and grandkids.

Yes, clearly, we should address Social Security. We should stop using Social Security surpluses for other Government purposes. We should save more as a nation. We should address the Government's record budget deficits by restoring fiscal discipline and avoiding massive new debt. We should reinstate enforceable budget restrictions such as the pay-as-you-go rules, and we should work to develop new and innovative ways to help Americans save separate and apart from Social Security.

We should honor the words of Congressman Joseph Monaghan of Montana, who said in April of 1935:

> When the sun of life begins to set upon the aged of our country, the . . . Government should extend to them a relief from the weary toils of the day and to bring relief, comfort, and security to them when the burdens of life are hardest to bear and when the darkening shadows of approaching night begin to fall upon his path to make further toil impossible, to make further travel insecure, a just reward which their toil has merited; an adequate old-age pension and not a pauper's dole.

We should also honor the words of President Roosevelt, who said to Congress in 1934:

> We must dedicate ourselves anew to a recovery of the old and sacred possessive rights for which mankind has constantly struggled: homes, livelihood, and individual security. The road to these values is the way of progress. Neither you nor I will rest content until we have done our utmost to move further on that road.

We should honor our fathers and our mothers. We should honor this important social insurance, honor this protection that keeps our fathers and mothers from these darkening shadows of approaching night. We should do so not just for them, we should do so also because it will help their children. It will help the economy to go well for us. It will help us to live better lives, all the days we are on this good land that the Lord has given us.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I first commend my colleague from Montana for his statement about Social Security and his leadership on that issue. He has been the leader in the Senate in trying to keep us focused on the real importance of maintaining Social Security and avoiding a privatized proposal, and I commend him for it. It is an honor for me to serve with him on the Finance Committee and follow his leadership on this issue.

As we all know, Social Security and proposals to change Social Security are very much the priority today in Washington, and particularly this President. The President just yesterday, I believe, announced that he will take the next 2 months to do a 60-city tour or to at least have events in 60 cities to try to promote his suggestion or his proposal for privatizing Social Security. Of course, this is a decision he has made about how to use the political capital that he saw himself coming out of the last election with.

Social Security is clearly an issue that deserves attention. There will be serious difficulties with Social Security. I believe 38 years from now, with current projections, the system will not be able to pay full benefits. I favor trying to find something that can be done to head that off. I do not believe the President's proposal is the right solution, and I have spoken out on that before.

### FIRST THINGS FIRST

What I want to do today is speak very briefly on a couple of other issues that I believe are more urgent and more priority issues that we in the Congress should be addressing and that the President should be addressing. If we are looking to how to spend the next 60 days, let us focus on first things first. I remember reading a book Peter Drucker wrote many years ago called "The Effective Executive." According to Peter Drucker, one of the attributes of an effective executive was that he or she would work on first things first.

In my view, first things first today in our circumstance is not changing Social Security. First things first is dealing with our budget deficits and dealing with our trade deficits. Unfortunately, I believe we are failing to deal with either of those issues in a responsible way.

First I will talk about the budget deficit. In 2004, we had a record deficit of $412 billion. That was a turnaround from the $128 billion surplus we had 4 years ago. In 2005, this year, the deficit is projected to grow to $427 billion, and clearly this is an unsustainable course. We need to look carefully at the decisions we are making in Washington and what those decisions will do with regard to this very large budget deficit.

The first step in addressing the budget deficit is to make some tough choices in this year's budget. The process starts with the President's recently released proposal, and it will conclude with Congress's actions when we actually appropriate funds.

I support the President's stated intention to cut the deficit in half by 2009, although it is also clear to me that we cannot do so if we adopt his proposed budget. The budget claims to get us to that goal, but, in fact, it falls short because it excludes so many large-ticket items.

The budget does not include the real costs of going forward with the conflicts in Iraq and Afghanistan. The Congressional Budget Office has estimated that cost will be roughly $383 billion over the next 10 years. The President has put in his budget an estimate for $81 billion. We are going to be passing a supplemental appropriation for $81 billion just for current operations in Iraq, to say nothing of the next 5 or 10 years of cost.

The second item the President's budget does not include is anything for these so-called private accounts that the President wants to have us establish in Social Security. Again, the estimate in the President's budget is zero. The phased-in cost of the administration's Social Security plan during the first 10 years is projected at $754 billion, and over 20 years it is projected at $4.5 trillion. The Senator from Montana spoke about that issue.

The third item the budget does not include is anything to deal with the alternative minimum tax. Taxpayers must pay the alternative minimum tax if they have too many deductions and credits and, therefore, otherwise are not paying a sufficient percent of their income in taxes. If we made the President's tax cuts permanent, we would go from roughly 3 million alternative minimum tax payers, which we had last year, to roughly 40 million alternative minimum tax payers at the end of the decade. That is a very expensive proposition. If the tax cuts are to be made permanent, reform of the alternative minimum tax is going to cost a very substantial amount of money: $774 billion is the 10-year cost of reforming the alternative minimum tax during the years 2006 to 2015.

The failure to deal with the short-term cost of our defense budget and the proposal to make recent tax relief permanent is going to leave future generations with no options except to drastically raise taxes or to drastically cut services and benefits. Most of this should be avoidable, but first we need a realistic plan about how to move forward. It is clear that simply cutting discretionary spending accounts, as the President's budget proposes, is not the answer.

To put this in context, the administration estimates that the deficit of 2005 is $425 billion. That is about the same as our entire nondefense discretionary spending for 2005. So you can eliminate all of these departments whose spending levels we are going to be arguing about here over the next several months: the Energy Department, Education Department, Transportation Department, Department of Commerce, Department of Homeland Security. You can eliminate the Department of Homeland Security and you still do not solve the problem of the deficit. No one is proposing to eliminate all of that, but I think it gives you a sense of the magnitude of the problem when you look at the fact that we cannot solve this problem strictly by cutting domestic discretionary spending. That is the point.

As we all know, debt matters. There are three obvious reasons why debt matters. First, debt prevents us from dealing with the costs involved with the aging of our population. Second, we need to find other countries to lend us money as long as we are going to keep running this kind of enormous debt.

We have a chart here that shows where we are getting the money we are borrowing every day, every week, every month. These are the top 10 countries that hold our national debt. Over 60 percent of our debt is purchased by foreign government banks. The top 10 countries are Japan, and we owe them $715 billion; China, $191 billion; United Kingdom, $152 billion; "Caribbean banking centers," we owe $76 billion; South Korea, we owe $69 billion. This was as of November 2004, so all of those figures are now larger than this chart reflects.

A third reason why debt matters is that high deficit levels will eventually result in higher interest rates. All of us know that higher interest rates depress economic activity, hurt consumers, and clearly it does not make sense for us to take action here to adopt budgets that have the ultimate effect of driving up interest rates.

What we need is a real plan, one that can be supported by a majority of the Members of the Congress, one that can become law. We need a budget that is honest. We need to provide voters with clear choices, letting them know what the real impact of different options is.

One of the areas we need to deal with honestly and not just to demagog is the issue of taxes. I believe there is sufficient bipartisan support to make permanent many of the tax provisions that are now scheduled to expire in 2010. For example, the marriage penalty relief, child tax credit, 10-percent income tax bracket—those are provisions that were adopted at the urging of President Bush which enjoy broad support here in the Congress and around the country. We should find a way to make that a permanent part of the tax package that we have earlier adopted.

Even though the administration requested that we make all of the 2001 and 2003 tax cuts permanent, I do not believe there are sufficient votes in the Senate to do that. There are not enough votes because there are enough Senators who realize we do not have the resources to do that. Overall, making all of the tax cuts permanent will put us an additional half trillion dollars in debt over the next 10 years.

Here is the chart that shows what happens after 2010, if you go ahead and do what the President is urging and make all these tax cuts permanent. You can see essentially that 10-year cost, from 2006 to 2015, is $1.6 trillion. This is unsustainable. We need something responsible we can negotiate and on which we can arrive at a consensus. We need a real plan for dealing with our budget deficit.

Let me say a few words also about the trade deficit. As we know, the trade deficit is the difference between what we sell to the rest of the world in goods and services and what they sell to us. On February 10, the Department of Commerce released the trade data for 2004. The trade deficit in 2004 was $617.7 billion. That is a new record for trade deficits for the United States. It is a new record for any country. There is no other country in the world that has ever had such a trade deficit. It was $121 billion more than the previous record of $496 billion we set in 2003.

To emphasize the point a little more, it was a 24-percent increase in 1 year, in spite of 3 straight years of declines in the value of the dollar.

Let me show a couple of charts here. This first one shows what has happened to trade deficits starting in 1992. It went up a little, then sort of leveled off during the mid-1990s, and then it started up again in 1998 and it has been going up ever since and there is no end in sight. I believe this is a major problem. Let me give you the reasons why.

If you look at historical context, in the mid-1980s the Reagan administration found itself in a similar circumstance. This is a more complicated chart, but what it tries to do is show the trade deficit, which is this red line, and also show the value of the dollar compared to other currencies. The trade deficit started up in the mid-1980s, in the Reagan administration. It was a concern then. The Reagan administration was not known for its policies of Government intervention, but the Secretary of the Treasury then understood that something had to be done to deal with this growing trade deficit. The result was the 1985 Plaza Accord, which bound the governments of the then G–7 countries to pursue specific actions related to currency valuations, market access, deregulation, deficit spending, and workforce investment. And the deficit, the trade deficit, came down. The value of the dollar came down relative to other currencies and the trade deficit came down.

What we have now, and this chart makes the point very emphatically, is the value of the dollar went up and in the last 3 years it has been coming down, but the trade deficit continues to go up. This is an unsustainable situation, just as the budget deficit is an unsustainable situation. This affects people throughout the country in very obvious ways.

This chart shows the trade deficit. Again, the red line is going up as compared to manufacturing exports, which have been going down in the last 4 or 5 years. So you have people losing their jobs. You have U.S. companies finding it impossible to export. Accordingly, we have a very serious issue with decline in manufacturing jobs in the United States. It is a long-term decline. It seems to continue unabated. While the trade deficit continues to grow, manufacturing jobs continue to drop.

These charts speak to a very significant problem I believe needs attention. Let me suggest four concrete actions we could take to address the trade deficit.

First, we need to recognize the importance of research and technology development in our own country. Across the board, we need to have targeted investments in critical emerging technologies. We need to see to it that we remain on the cutting edge of new technologies. Unfortunately the administration's budget actually decreases support for science and technology and engineering research and development. In my view, that is moving us in the exact wrong direction.

This chart shows the budgets, proposed budgets the administration has given us for all of these agencies that are very involved in science and technology. You can see, with the exception of one agency, NASA, everyone else is slated for a cut. That is moving us in the wrong direction.

A second step we can take is to actually step up and begin enforcing our trade agreements in a meaningful way. I think we have assumed that other countries will play by the rules, and the more trade agreements we could enter into, the better off we will be. That has not proven to be the case. The administration has done little to make many of these countries abide by their agreements. China is the most salient example. We have a $162 billion trade deficit with that country today. It is up 31 percent from 2004 over 2003. We have lost well over a million jobs to China in the last decade or 15 years. China continues to manipulate the value of its currency, continues to subsidize its exports. I believe it is time the administration insists on better treatment. It needs to start by pressing the Chinese to revalue their currency. We have a circumstance now where everything the Chinese send to us is artificially undervalued and everything we send to them is artificially overvalued, and that hurts us badly.

The third suggestion I have is we need to improve our education and workforce training systems. There is no question we need to have people who can fill these jobs if we are going to hope to attract and retain these jobs. Again, I point to the President's budget and say that it is wrongheaded in the extreme in this regard. The administration proposes elimination of these 48 educational programs. I am not suggesting all of those are meritorious, but many of them are, and many of them are helping local school districts and States to improve their education system.

I think there are many things that can be done. I have various recommendations of bills to try to help. I hope we can seriously push back against the administration on these proposed cuts in education and training, job training funds.

The final point I would suggest is the final concrete action we can take to deal with the trade deficit is to encourage foreign firms to contribute to the U.S. economy, to come here and establish here and create jobs here to a much greater extent than we have in the past. What we need is a national strategy to do the very same thing our States are doing and our local communities are doing, and that is they are working hard to attract business and to create jobs. We need an aggressive effort on the national level to do the same. We need a concerted effort to market the United States to other countries as a place to do business, a good place to do business.

I am working on legislation that I will introduce soon that would increase the U.S. Government's efforts in this regard to establish a very visible, assertive entity where the primary mission would be to promote increased foreign investment in the United States.

Once we take these steps, the four I have outlined, then we at least would have some strategy in place to increase domestic investment and to draw foreign investment to our country to a greater extent. Maybe those actions could help shrink the trade deficit.

We should be working on our highest priority problems, our most urgent problems. It is my firm belief that the budget deficit and the trade deficit are those problems.

Let me finish by saying we should not allow politics as usual to prevail in this 109th Congress. The decline in the value of the dollar and the decisions that we have seen in recent weeks by foreign banks to begin shifting their reserves from dollars to other currencies, those are our signals that financial markets want responsible action by this Government to deal with these two problems, the budget deficit and the trade deficit.

I ask unanimous consent an editorial from earlier this week in the Washington Post be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, that editorial makes the point that these issues deserve attention, and we cannot postpone action on these issues indefinitely. We in Congress and the administration need to get the message that foreign governments and foreign banks are sending to us. We need to face up to the challenge. We need to begin addressing the budget deficit and the trade deficit as first priority issues, and not push them off while we continue to deal with other matters.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Mar. 1, 2005]

DOLLAR JITTERS

Last week brought a warning to economic policymakers on both ends of Pennsylvania Avenue. A rumor that South Korea's central bank had decided to shift its reserves away from dollars triggered a sharp fall in the greenback and a retreat on Wall Street. The fact that the South Koreans later denied this rumor is only half-comforting. Economic logic is pushing Asia's central banks to quit propping up the dollar. If a hollow rumor can rattle the currency, what would a real policy change do?

The dollar's vulnerability reflects the nation's trade deficit. To sustain their appetite for foreign goods, Americans need to convert their dollars into other currencies, depressing the greenback's value. This didn't stop the dollar from being strong in the 1990s, because the trade deficit was smaller then and because foreign investors were hungry for American stocks, bonds and other assets, reflecting the U.S. economy's eviable performance. But now foreign investors' appetite for dollars lags behind Americans' demand for foreign goods and services. The gap is being filled by Asian governments, whose central banks have accumulated vast piles of U.S. bonds in an attempt to slow the dollar's slide.

A year or so ago, a fashionable theory held that this Asian government support could continue indefinitely. Asian policymakers, according to this theory, would prop up the dollar to keep their own currencies competitive. It's true that export-led growth is a quasi-religion in East Asia and that China's dictators fear their grip on power might falter if they can't keep growth and job creation humming. But China and its neighbors have proved themselves capable of fast growth even in periods when they haven't been artificially depressing their own currencies. So it seems dangerous to bet that Asian central banks will think it worth the risk of holding ever-expanding dollar portfolios that can falter on a rumor.

The other optimistic theory is that while Asians may not want to prop up the dollar, they are prisoners of their own policy. By now they've bought so many dollars that if they quit buying, the value of their existing reserves would tank. But what if one central bank worries that others will stop buying dollars first? Such fears could trigger a stampede for the exit.

None of this is to say that a dollar crash is inevitable. The dollar may fall gently, as it has over the past year or so, or a renewed appetite for U.S. assets among private investors could even stabilize its value. But the risk of a currency crash grows every day. In 2003, the United States had to attract $530 billion of foreign capital to finance its purchases of foreign stuff; in 2004 it had to attract $650 billion: this year, it may have to pull in as much as $800 billion. Every year of vast borrowing increases borrowing in later years; as Brad Setser of Oxford University notes, just paying interest on the $800 billion borrowed in 2005 might add $40 billion to the overall 2006 deficit.

To stabilize this house of cards, Congress and the administration should pull the one lever they have: They should reduce the nation's reliance on foreign capital by cutting government borrowing. This isn't going to be possible through spending cuts alone. It's going to take higher taxes.

The PRESIDING OFFICER. The Senator from Tennessee.

FEDERAL CONSENT DECREE FAIRNESS ACT

Mr. ALEXANDER. Mr. President, I thank my colleague, the Senator from Connecticut, for giving me an opportunity to speak, and also my colleague, the Senator from Alabama.

The Senator from Connecticut and I, Senator DODD, on behalf of ourselves, and Senators ENZI, KENNEDY, ROBERTS, and HATCH, yesterday introduced the Caring for Children Act of 2005 which reauthorizes the Child Care Development Block Grant Program. This is a program that is very important to families across this country. I am pleased that our committee is progressing in a bipartisan way on the very important piece of legislation.

Today I want to talk about a piece of legislation I introduced earlier this week. It is called the Federal Consent Decree Fairness Act. It has to do with federalism, with democracy, with responsibilities of State and local government. It has to do with our effort to try to restrain the growth of the cost of Medicaid so that we can properly fund other programs such as higher education, elementary and secondary education, and research. I introduced that legislation, along with Senator PRYOR of Arkansas, who is the lead Democratic sponsor. Senator CORNYN and Senator KYL joined us at that time.

Since that time, 12 other Senators have asked to join us. I ask unanimous consent that the following Senators be added as cosponsors to S. 489, the Federal Consent Decree Fairness Act: Senators MCCONNELL, BENNETT, COCHRAN, CRAIG, DOMENICI, HUTCHISON, INHOFE, LOTT, ROBERTS, SANTORUM, SMITH, and WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. I failed to mention an early sponsor and a principal sponsor, Senator BEN NELSON of Nebraska.

Senator NELSON of Nebraska is a former Governor. Senator PRYOR is a former attorney general. Senator CORNYN is a former attorney general. I am a former Governor. That explains part of our interest in this. Congressman JIM COOPER, by the way, a Democrat from Nashville, will be the principal Democratic sponsor of this legislation in the House. It has strong bipartisan support.

As I will show in a few minutes, it strongly supports the idea of limiting what we call democracy by court decree. Limiting the idea of Federal courts running the Government has strong bipartisan appeal. It has strong support from the left and the right, because democracy by court decree interferes with democracy. It interferes with the ability of voters to elect officials who are accountable, and then throw them out if they don't like what they are doing.

Consent decrees, which are judicial orders based on the consent of the parties engaged in civil court action, can be an effective judicial tool when drawn narrowly, and with respect to State and local policy choices. Congress passes legislation and sets conditions on grants that must be followed by State and local governments. When they are not followed, it is important for citizens to be able to turn to the court to see that their rights and the rule of law are upheld. That is the heart of the idea of federalism.

Unfortunately, in many cases, rather than preserving the separation of powers between the Federal Government and the State government, consent decrees have the opposite effect. What we are seeing in State after State is government policy controlled by courts and judges instead of by Governors, mayors, and legislators.

For example, in Maine in 2003, the Governor had to propose deep cuts to mental health services for children because consent decrees made it almost impossible to restrain other parts of the budget.

In New York City, Latino parents are upset because schools are forcing their children into bilingual education programs when they want them in a different kind of program to learn English. And why is that happening? Because for the last 30 years, bilingual education in New York has been mandated by a consent decree that the schools have no choice but to obey.

In Los Angeles, a consent decree has forced the Metropolitan Transit Authority to spend $110 million per year on improving city buses. That sounds like a good idea. But that is 47 percent of the Metropolitan Transit Authority's budget spent on just buses, leaving the remaining 53 percent to pay for street and freeway improvements, rail systems, transportation planning programs, and the reduction of debt. Meanwhile, ridership on MTA buses increased only marginally in the first 6 years of judicial management, and residents of Los Angeles complain that other MTA services are suffering, and their elected officials are not able to do anything about it because the courts are running the transit authority.

The State of Tennessee has also become a victim of democracy by court decree. Tennessee, like every State, has to balance its budget. I can speak from experience. I did it for 8 years. I know it involves some difficult choices. Our Democratic Governor Bredesen of Tennessee is making some of those choices. But he can't do it because the Federal Government has refused to let him to do what he feels he needs to do to balance the budget.

Late last year, it became apparent that the costs of the Medicaid program in Tennessee are rising at an unsustainable rate. The Medicaid caseload has gone up 40 percent across this country in the last 5 years. When you combine that with sharp increase in the rate of inflation for health care costs over the regular inflation rate, we get a staggering impact, not only on the Federal Government but especially on State Governors who are balancing their budgets. The inevitable result of that is the Governors reach to find somewhere else to get the money to balance their budget. Where does it come from? It comes from education. It comes from especially higher education. In the last 4 years, Federal spending for K–12 education has gone up about 40 percent. In Tennessee, spending for K–12 education over those same 4 years has gone up about 11 percent.

In other words, Federal spending is going up three times the rate of State spending. The reason is Medicaid is eating up the money, and the Governor is unable to control the growth of Medicaid because the Federal court says it can decide better than the Governor can where those dollars ought to be spent. For example, pre-K education is something on which Governor Bredesen wants to spend the money. He can't charter a preschool program, an important program such as I suppose the distinguished Senator from Connecticut is advocating nationally. His hands are tied. Governor Bredesen has tackled TennCare. He ran for office and said, "I wanted to be elected to fix the TennCare Program." He has come up with a plan that would result in Medicaid spending in Tennessee rising only $75 million this year instead of the $650 million it will rise without those changes. But he is constrained by a series of four Federal court consent decrees entered into by his predecessors going back 25 years.

These consent decrees dictate policies on medical screening for children, requiring the States to provide patients with high-cost, brand name prescription drugs, and affecting the ability of States to verify the eligibility of the patients they serve. But most importantly, they deny the voters the opportunity to have a new Governor and a new legislature look at all of their programs and make choices about how and where to spend the money.

In the face of enormous pressures, the Federal courts are going to force Tennessee to maintain programs that the Governor says he would rather not maintain because he would rather spend the money for education.

Governor Bredesen is making painful, difficult decisions. He has proposed cutting 323,000 adults from TennCare and limiting the benefits for the remaining 396,000 adults because he wants to strengthen Tennessee's pre-K and K–12 programs, and have a first-rate system for colleges and universities.

I might emphasize that the services the Governor hopes to limit are not required by the Federal Government. They are optional services that States may or may not offer, according to the Federal law, except they are not as optional as we might think. On January 29, Judge William Haynes, U.S. District Judge, declared he must approve any of those changes. So we have a Federal court judge, not the Governor and legislature, making those decisions.

The Federal Consent Decree Fairness Act contains three main provisions that address many of these concerns. First, it lays out a series of guidelines that will guide Federal courts in approving future consent decrees. Basically, these guidelines follow suggestions which the U.S. Supreme Court made in the year 2004 in a decision in which it expressed concern about the fact that old consent decrees were limiting the actions of newly elected officials and interfering with democracy.

The bottom line of these guidelines is to narrow the consent decrees and encourage the courts to get the decisionmaking back in the hands of the elected officials as soon as possible.

Second, our legislation creates term limits for consent decrees. Fundamentally, it says any new Governor may go into the court and ask the judge to vacate or modify that consent decree; or a Governor or mayor may do that 4 years after the original date of the consent decree.

Seventy-five of the 100 Senators in this body have served in State or local government before. I am sure they can understand the frustration of being elected to fix the schools, or improve the roads, or repair the prisons, or restrain growth of Medicaid, or improve colleges, and discover they don't have the authority to do it because the Governor or mayor 15 years ago entered into a consent decree and the court approved it, and the newly elected official can't change it.

Finally, the bill shifts the burden of proof from the State and local governments to the plaintiffs in the case.

Under current law, State and local governments must prove that a decree is no longer necessary to protect the plaintiffs' rights. In other words, they must prove a negative. Now the plaintiff will have to prove that the court interference with the decisions of elected officials is still needed.

The court still retains full control of the case. The court still retains the ability to protect the rights of Americans. But the court would have instructions to say that if the parties come to you and say, "Mr. Court, Ms. Court, we can't solve this problem, will you approve this consent decree?" The court will say, "I will temporarily get involved in what is your responsibility, but I will do it under a narrowly defined set of terms and very shortly I will make sure that it gets back in the hands of elected officials."

I have in my remarks, which I will submit in complete form for the RECORD, some of the comments of the Supreme Court in Frew v. Hawkins in 2004. The Court took an extraordinary step in inviting the Congress to pass legislation such as this and in suggesting to the Federal courts that they might narrow their consent decrees and as soon as possible get these decisions back in the hands of elected officials.

In other words, the principle here is democracy and whether unelected people or elected people will make the decisions.

This is an especially important piece of legislation at a time when we are considering Medicaid. We are asking States to restrain the growth of Medicaid. We are still spending a lot of money. Over the next 10 years, we propose to spend $1.2 trillion—new dollars. We are not restraining spending much. But if the caseload is growing by 40 percent, and if the cost of health care is rising faster than the normal cost of living, and if we still require Georgia, or Connecticut, or Alabama, or Tennessee, to pay for 43 percent of Medicaid, and we haven't changed the eligibility requirements, and we don't give the States much flexibility, and the Federal court tells the Governors they can't do it, we are giving the States an impossible assignment. The only result will be the gradual destruction of our system of higher education, which is principally funded by State governments.

I strongly urge my colleagues to seriously consider this legislation. I am glad to see 17 Senators of both parties have already signed on. I am glad a leading Democrat in the House, Congressman JIM COOPER, will be sponsoring a version of this bill as well.

I will have printed in the RECORD a series of comments about a book, "Democracy By Decree," which is the scholarship on which this legislation is based. This book is by Ross Sandler and David Schoenbrod, professors at the New York Law School. The book is published by Yale University Press. It has been widely praised by columnists as evenhanded. Among those who praise the scholarship are former Senator Bill Bradley, Ed Koch, Diane Ravitch, John Sexton, president of the New York University and Dean of the NYU Law School, and Chris DeMuth, president of the American Enterprise Policy Institute for Public Policy Research. Not many pieces of scholarship have support from such a broad spectrum.

I ask unanimous consent to have printed after my remarks the complete comments of those individuals I just mentioned, as well as a column by George F. Will in Newsweek on November 28th, saying that "Democracy By Decree" is one of the most important books on governing in the last 10 years. I ask unanimous consent also to have printed an article from the Wall Street Journal on December 31, 2002, by

Thomas J. Main, assistant professor at the School of Public Affairs of Baruch College. I ask unanimous consent that a review of the book by Ross Weiner in the Legal Times also be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit A.)

Mr. SESSIONS. Will the Senator yield for a question?

Mr. ALEXANDER. Of course.

Mr. SESSIONS. Senator ALEXANDER, I appreciate your remarks, having been a U.S. attorney involved in urging certain consent decrees and having been an attorney general and seeing it from the side of the State.

My question is this: What your legislation would do is provide a mechanism to guarantee a periodic review of a consent decree so it would not continue indefinitely. There are many in this country that are well over 20 years in which judges are intimately involved in details of governing and the local people have to seek approval for any of the most minute changes.

This would not eliminate consent decrees. It would not eliminate their enforcement, but it creates a mechanism by which they are periodically reviewed so as to determine whether they should be extended.

Mr. ALEXANDER. The Senator is absolutely right. Perhaps Congressman COOPER had the best phrase. He said the purpose of this legislation is to keep democracy fresh.

The people are entitled to two things. One is to have their constitutional and Federal rights enforced in the Federal courts. This will continue under this legislation. But they are also entitled to have democratically elected leaders that can make the policy decisions and do the governing, which is what we say to the rest of the world.

We are fighting in Iraq and Afghanistan, sacrificing lives and hundreds of billions of dollars to promote the idea that people have a right to elect their own officials, yet we have drifted into the situation somewhere, as in the Tennessee case, where we have four prior consent decrees that will leave in the Federal courts these decisions and the Governor cannot change them. Even though a previous Governor entered into them, the standards are such he cannot change them.

He has a right to go in there and say, Judge, I hope you will review it. The plaintiff, not the Governor, has to persuade the judge that it needs to be continued. And if it does, the court may continue the consent decree if he considers it to be useful.

Mr. SESSIONS. I say to the Senator, I think that is a very thoughtful and important change he is proposing. We need to give it the most serious consideration. It would strike me that it does go to the heart of what democracy is. We created a legislative and executive branch elected by the people and empowered to deal with certain of these issues. It should be only for extraordinary things that a court would maintain extended jurisdiction over the elected representatives.

Mr. ALEXANDER. I thank the Senator from Alabama.

When the word "judges" is mentioned in this Chamber, we automatically divide, especially during this season. That is why I am so glad Senator PRYOR of Arkansas, Senator NELSON of Nebraska, and Congressman COOPER have joined in this. Former Senator Bill Bradley has praised the ideas found in "Democracy by Decree."

This is not a Democratic or Republican idea. Democracy is everyone's idea in this country. One reason it has such broad support is that it is not just the court's fault that this is happening; sometimes Governors and mayors do not want to deal with the prison problem. They do not want to deal with the Medicaid problem, so they unload it on the courts. That hurts the people who should be helped. It deprives the voters of their right to choose elected officials.

The bill has broad bipartisan support. I hope it continues to have. I am grateful to the Senator from Connecticut for giving me an opportunity to make my remarks today before he made his remarks.

### EXHIBIT A

### PRAISE FOR DEMOCRACY BY DECREE

(By Ross Sandler and David Schoenbrod)

"The first book that shows how courts can do their proper job of protecting rights without allowing elected officials off the hook for their proper job of making policy."—Former Senator Bill Bradley

"A fascinating book for someone like me who regretted agreeing to a court-approved consent decree limiting the city's authority in programs involving prisons, welfare, education, homeless shelters, etc."—Ed Koch, former mayor, New York City

"A brilliant, well-written, and brave account of how federal courts have distorted our political system by taking control of complex institutions like schools and prisons—sometimes for decades—instead of enforcing rights, which is their proper domain."—Diane Ravitch, New York University

"With fascinating blow-by-blow accounts, Sandler and Schoenbrod expose how advocates for one interest group inevitably undermine the interests of others and thwart the ability of those in responsibility to balance interests for the common good."—Philip K. Howard, author of The Death of Common Sense

"Democracy by Decree is an impressive and thoughtful analysis of the current court-centered rights culture in which it is too easy for elected officials to 'pass the buck' to courts while taking actions that are blatantly unconstitutional."—Nadine Strossen, president, American Civil Liberties Union, and professor, New York Law School

"Democracy by Decree shows how courts can protect rights and still let mayors and governors do their job."—John Sexton, president of New York University and dean of New York University School of Law

"Sandler and Schoenbrod's account—really a discovery—of the existence of a second government in our midst is meticulous, nuanced, and alarming. By showing how unilateral judicial government undermines both democracy and individual rights, they have done a significant service to both." Christopher DeMuth, president, American Enterprise Institute for Public Policy Research

---

[From Newsweek, Feb. 28, 2005]

### JUDGES AND "SOFT RIGHTS"

(By George F. Will)

On Feb. 15 the New York Times carried this headline: Judge Orders Billions in Aid to City Schools. The derangement of American government, and the decay of democratic sensibilities under rule by the judiciary, are apparent in the fact that such headlines do not enrage, or even startle.

In a case that began 12 years ago, and will surely run at least 12 more, Leland DeGrasse of the New York Supreme Court has decreed that an extra $5.6 billion, a 43 percent increase in the school budget, must be spent on the schools every year—presumably until he decides that the schools are delivering a "sound basic" education. And over the next five years another $9.2 billion must be spent to improve class sizes and facilities.

Why? Because the state constitution says, "The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of the state maybe educated" and this has been interpreted to guarantee a "sound basic" education. Those two adjectives are the slender reeds supporting this latest excess by the imperial judiciary.

In 1993 the Campaign for Fiscal Equity, a self-generated group, unelected and accountable to nobody, sued, charging that the constitution's adjectives were not being fulfilled. Between 1997 and 2003 spending on the city's schools rose $4.8 billion—54.5 percent. But DeGrasse, who apparently thinks he learned in law school how to fix urban education, believes the canard that in primary and secondary education there is a clear causal connection between financial inputs and cognitive outputs—that the best schools are the ones on which the most money is spent. Actually, New York ranks third among the states in per-pupil spending ($11,218; the national average is $7,734). The highest per-pupil spending is in Washington, D.C., which probably has the nation's worst schools.

DeGrasse's ruling is just the latest of thousands of such instances of judicial overreaching involving schools, prisons, hospitals, transportation, environmental policies and other matters. Constitutional or, more often, statutory language stipulates praiseworthy but vague goals to be enforced by courts. Then "public interest" groups, eager to wield the power of elected officials without the tiresome matter of running for office, go to courts.

The courts, with an arrogance often tacitly encouraged by elected officials eager to avoid difficult choices, wander beyond their competence. They do not merely enforce compliance with the law, they dictate in minute detail what shall constitute compliance—e.g., the water temperature in prison showers, the soap used to wash prison floors, the frequency with which prison windows are washed. Really.

In 2003 two professors at the New York Law School, Ross Sandler and David Soenbrod, published "Democracy by Decree: What Happens When Courts Run Government" (Yale), perhaps one of this decade's most important books on governance. They explain how federal standards are attached to federal money by Congress's heroically transmuting aspirations into rights-enforceable claims. Congress has become a bestower of mass-produced rights—to "healthy" air, to "appropriate" education for the handicapped, etc.

These are what Sandler and Schoenbrad call "soft rights": "Traditional common law rights, such as the right against trespass, are typically negative. They tell government what it cannot do. Soft rights, such as the right to healthy air, are typically positive. They tell government what it must do." In practice, judges—unelected, unaccountable and inexpert—often dictate what it must do.

Some political activists have decided that, the dismantling of segregation proved that the primary means of social improvement should be through judicially enforceable rights. And many liberals, frustrated by the public's increasing conservatism, are unwilling to have the patience required by democracy—the politics of persuasion. They know that rights claims can truncate debate and trump policy considerations about the community's conflicting imperatives and priorities. And "public interest" groups have become skilled at getting themselves entitled to control a sphere of public policy. They negotiate consent decrees, many of which have empowered courts-as-legislatures to formulate public policies for 20 or 30 years. All of which confirms Sandler and Schoenbrod's central point: Not all that lawyers do in their various venues amounts to the rule of law, as a democracy ought to understand that.

In responding to DeGrasse's hubris, New York might consider Andrew Jackson's strategy. In 1832 the Supreme Court rendered a decision favoring two imprisoned missionaries in Georgia, a decision Jackson disagreed with, vehemently. He reportedly said: "[Chief Justice] John Marshall has made his decision, now let him enforce it." Marshall could not; the missionaries remained in prison.

New York's Supreme Court can neither tax nor spend. The state legislature is not a party to the suit, so it cannot be held in contempt. Perhaps it should just ignore the court's ruling as noise not relevant to the rule of law. Which happens to be the case.

---

[From the Wall Street Journal, Dec. 31, 2002]

## Closed Doors, Open Season

(By Thomas J. Main)

Ten prisoners in a Philadelphia prison sued Mayor Wilson Goode in the early 1980s claiming that conditions there violated their rights. The result was a consent decree, in 1986, that limited the number of prisoners who could be held in the city's jails.

And the result of the decree itself? "A blood-chilling crime wave," write Ross Sandler and David Schoenbrod. In 18 months, "police rearrested 9,732 defendants released because of the consent decree." They were charged with "79 murders, 959 robberies, 2,215 drug dealing crimes, 701 burglaries, 2,748 thefts, 90 rapes 14 kidnappings, 1,113 assaults, 264 gun-law violations and 127 drunk-driving incidents." This is only one of the hair-raising stories in "Democracy by Decree," (Yale, 280 pages, $30) a critique of astonishing efforts to govern society through the miracle of what the authors call "institutional reform litigation."

The tactic is simple: A crusading lawyer notices that some public entity—a prison, a hospital, an environmental or child-welfare agency—is performing below expectations, as the lawyer sees it. He then finds "parties" willing to say they have been injured and searches for a legal hook—a statute, regulation or right whose violation offers the basis for a lawsuit.

And legal hooks abound. Congress regularly passes laws with sweeping guarantees vaguely phrased. Did the Americans with Disabilities Act (1990) really require curb ramps at every intersection within just five years? Did the Clean Air Act of 1970 really promise that the air will be entirely clean by the end of the decade? (And when, precisely, is air "clean"?) Can schools immediately offer a free and appropriate education to all children with learning disabilities, as the Education for All Handicapped Children Act (1975) seemed to require?

These may be worthy goals, if they are indeed required by statute. But they are not easily achieved. Indeed, state and local governments are likely to act on them as they act on everything else: incrementally, tentatively and piecemeal. Thus it is often possible for public-interest lawyers to make a prima facie case for one violation or another. Not that they need do much more than that. Many public officials—rather than submit to trial and the risk, however slim, of draconian punishment—settle such cases by entering into consent decrees with plaintiffs.

Consent of the sued? Public officials would rather settle than fight.

From this point on, as Messrs. Sandler and Schoenbrod show, the powers of elected officials "are eroded in favor of a negotiating process between plaintiffs' attorneys, various court-appointed functionaries, and lower echelon officials." This controlling group, as the authors call it, "works behind closed doors" to draft complicated decrees. Its members bargain, log-roll and cut deals, and the judges before whom the original suit was brought rarely intervene.

Under such circumstanes, the concerns of ordinary public managers get short shrift. In Jose P. v. Ambach, for instance, a consent decree dictated the terms of "every aspect of [New York's] special education; from staffing to teaching and collecting data." With appendices, it filled 515 pages.

And once a consent decree is agreed on, it is very difficult to change, even in the face of dramatic developments. In 1971, for instance, the New York City Housing Authority was accused of failing to give rent-delinquent tenants due process. The city signed a consent decree that imposed elaborate, court-supervised procedures for eviction. Twenty years later, the crack-cocaine epidemic hit public housing, and everyone—city officials and law-abiding tenants alike—wanted to speed along the eviction of drug-dealers.

The decree's controlling group, however, objected to quicker procedures. Its members even disputed "whether living next door to a drug dealer actually increased the risk of criminal violence." It took two years of legal wrangling before the Housing Authority could make its changes, and by then the tenants had hired new lawyers to fight "against the lawyers who theoretically were representing them."

It should be said that Messrs. Sandler and Schoenbrod do not oppose all public-interest litigation. They note that lawsuits have helped put an end to racial segregation and to the abominable conditions in various prisons and mental institutions. They accept court intervention in even less dramatic cases, as long as some common-sensical reforms are put in place, like opening controlling-group meetings to the public and making it easier to change outdated provisions. They note as well that the rights asserted by Congress are too often "aspirations rather than practical possibilities." In any case, making minute policy adjustments is best left to the political branches of government, not the courts.

One of the book's most striking anecdotes illustrates this. In the early 1990s, New York tried to install sidewalk toilets, only to run into the problem of making them large enough for wheelchairs—as required by regulators interpreting federal law—without making them inadvertent criminal dens. At a public meeting, the spokesmen for the toilets' maker, whose designs were apparently not generous enough, found themselves confronted by angry citizens in wheelchairs. Then in walked another advocate, whose disability, the authors write, "was that he grew to be only about three feet high."

"I don't care about wheelchair accessibility," this man declared belligerently. "I can't reach the higher toilet seat in the wheelchair-accessible toilets. What about that?"

To this question, the law has no good answer.

---

[From the Legal Times, May 5, 2003]

## The Corrosive Consent Decrees

(By Ross Weiner)

Democracy by Decree: What Happens When Courts Run Government is a thought-provoking book about the fundamental issues of democracy, federalism, and separation of powers. Authors Ross Sandler and David Schoenbrod put forward a forceful critique of the consent decrees that often result from institutional reform litigation and have, over time, reduced the power of democratically elected state and local institutions to make public policy choices.

Yet Democracy by Decree is not a wholesale attack on class actions or the consent decrees that often settle these cases. The authors, who both teach at New York Law School, are content to offer reform proposals, but do not advocate removing the judiciary from its important place in protecting the rights of aggrieved plaintiffs. But they do forcefully attack the habit of using courts, and class actions in particular, to make public policy decisions that are better left to the democratically elected.

The authors argue that the courts are the proper forum for remedial action or for limited prospective action to ensure that constitutional rights are not violated, but that institutional reform litigation creates many negative unforeseen consequences when it encroaches upon the elected branches of government by instituting widespread oversight of public institutions.

Sandler and Schoenbrod trace the historical development of institutional reform litigation to the civil rights movement. They argue that the heroic achievements of civil rights era attorneys in dismantling segregation inspired a generation of attorneys to become "public interest" lawyers to fight for social change. Many elected Southern officeholders at the time actively worked to subvert the constitutional rights of their African-American constituents, and this massive resistance forced the judiciary to take over the management of several public institutions to ensure that African-Americans could freely exercise their constitutional rights. They note that the difference between the attitudes of local and state officeholders during the civil rights era and the attitudes of later elected officials is often lost on these public interest attorneys.

The authors argue that, in much of the recent institutional reform litigation, the rights at issue and the behavior of elected officials is less stark than that during the civil rights era. While their policies may in fact violate statutory rights, their intentions are far less nefarious. Rather, this litigation often concerns statutory rights or federal aspirations, while local elected officials attempt to balance public policy choices with their constituencies' own limited financial wherewithal. These officeholders often support the underlying rights being enforced, but are simply unable to muster the public resources to attain those unfunded federal mandates. Such new rights often call for government to provide something to its citizens, unlike a more traditional right, which called for government to refrain from taking something away from the citizenry.

The authors postulate that most of these officeholders are a far cry from the Southern segregationists, but that the public interest lawyers and the judiciary have devised standard remedial actions that do not differentiate between the attitudes of officeholders and the rights being enforced.

Democracy by Decree provides many examples of cases that illustrate the perils and unforeseen consequences of institutional reform litigation. Jose P. v. Ambach, which began in 1979, shows how the judicial process usurped special education policy in New York City.

This case has its roots in the congressional passage of the Education for All Handicapped Children Act. The legislation contained vague goals, but with no clear mechanism outlining for states and localities the means to achieve the nebulous ends outlined in the statute. The federal right to special education created by this statute begat class action litigation to enforce such a right when New York City could not comply with all the goals outlined in the statute.

The litigation ultimately resulted in a court finding New York City in violation of the statute, and affirming a very broad consent decree among plaintiffs and city officials, which mandated many changes to special education policy in New York City. Over the decades in which this decree has been in place, the court and the plaintiffs' attorneys have had the authority to reject or approve all changes to the city's special education program. This has shifted policy-making power from open forums among the elected City Council and city agencies to closed-door negotiations between attorneys.

The authors show how this has led to many unintended consequences, including the locking into place of special education policy designed more than two decades ago, which now may be outdated; the reduction of money available for students in nonspecial education classes; and the awarding to plaintiffs' attorneys of a significant degree of control over a large portion of the city's budget.

An intended consequence of these types of consent decrees is to limit the variety of policy choices available to elected officials. The authors contend that when public interest attorneys were confronting massive resistance, this was the correct choice for the judiciary. But when confronting public officials who attempt to deal with such issues by balancing the proper amount of funding for special and nonspecial education programs, more flexibility is required.

The authors argue that it is sometimes appropriate to restrain the future actions of private citizens indefinitely in private litigation, but in institutional reform litigation—in the absence of an intent to impede the constitutional rights of individuals—present day officeholders should not be allowed to sign away the rights of the people and their future representatives to make public policy choices.

Sandler and Schoenbrod emphasize sympathetically that they, too, were once public interest attorneys. And they avow their admiration for the efforts of civil-rights lawyers to fight segregation. Thus, the tone of the book feels similar to that of a journalist paying homage to Bob Woodward and Carl Bernstein, while attacking the type of journalism that may have developed in the wake of Watergate. Such rhetorical shields appear to be attempts to protect their work from political criticism by public interest attorneys and the lobbying groups they populate. Their homage to the roots of public interest litigation does bolster the credibility of Democracy by Decree, and it is to their merit that they do not resort to the tired clichs often heard in the political arena about judicial activism.

At its heart, Democracy by Decree is an ode to representative government. The authors demonstrate that the judiciary has an important role in protecting the rights of citizens, but argue convincingly that when it comes to making basic public policy choices, representative democracy may not be perfect, but it is often better than any viable alternative.

Mr. ALEXANDER. Mr. President, I am pleased to say that the Senator from Arizona, Mr. KYL, the Senator from Texas, Mr. CORNYN, and the Senator from Nebraska, Mr. NELSON, have joined Senator PRYOR and me in introducing this bill. Congressman JIM COOPER from Tennessee will be introducing similar legislation in the House of Representatives.

This is bipartisan legislation that will help slow down the practice of democracy by decree—Federal courts running State and local governments.

Consent decrees--judicial orders based on the consent of parties engaged in a civil court action--can be an effective judicial tool when drawn narrowly and with respect for State and local policy choices. Congress passes laws and sets conditions on grants that must be followed by State and local governments, and when they are not followed it is important for citizens to be able to turn to the courts to see that the rule of law is upheld. That is at the heart of the idea of federalism.

Unfortunately, in many cases, rather than preserve the separation of powers between the Federal Government and State governments, consent decrees have done just the opposite. What we are seeing in State after State is government policy controlled by courts and judges instead of by Governors, mayors, and legislatures.

In Maine, in 2003, the Governor had to propose deep cuts to mental health services for children because consent decrees made it almost impossible to cut other parts of the budget.

In New York City, Latino parents are outraged because schools are forcing their children into bilingual education programs when the parents want them in all-English classes. Why? Because for the last 30 years, bilingual education in New York has been mandated by a consent decree that the schools have no choice but to obey.

In Los Angeles, a consent decree has forced the Metropolitan Transit Authority to send $110 million per year on improving city buses. That is 47 percent of its budget just on buses, leaving the remaining 53 percent pay for street and freeway improvements, rail systems, transportation planning programs, and the reduction of its debt. Meanwhile, ridership on MTA buses increased only marginally in the first 6 years of judicial management and residents of Los Angeles complain that other MTA services are suffering.

The State of Tennessee has also become a victim of democracy by decree.

In Tennessee, like in every State, governments do not have the luxury we have up here of being able to deficit spend. State governments need to balance the budget, and I can speak from experience when I say that is a process that involves making excruciating choices. In Tennessee, however, Governor Bredesen has had fewer choices to make because the Federal court has refused to let him do what he needs to do to balance the budget.

Late last year, it became apparent that the rising cost of providing Medicaid—and in the case of Tennessee, we have a program called TennCare on a waiver from CMS would result in an additional $650 million in costs to the State of Tennessee in the upcoming 2006 budget. Now, Governor Bredesen has a plan that he says would result in costs only rising $75 million in the next year, but he can not implement it because he is constrained by a series of consent decrees. These consent decrees prescribe policies on medical screenings for children, require the State to provide patients with high-cost, brand-name prescription drugs, and affects the ability of the State to verify the eligibility of the patients it serves.

On the face of it, it sounds like these are all good things. Of course we want children to get screenings that will help prevent serious illness and of course we want to make sure patients have prescription drugs. The problem is that whereas the Federal Medicaid laws say one thing, Federal judges are turning that into a whole series of requirements that States are then bound by for as long as a Federal judge decides it is necessary.

For example, regarding medical screenings for children: Medicaid law—section 1905(r)(5) of the Social Security Act requires that children receive "such other necessary health care, diagnostic services, treatment and other measures . . . to correct or ameliorate defects and physical and mental illnesses under the State plan." Now, from that one line of Federal code, the court entered a consent decree that established a deadline for Tennessee to improve its performance to ensure that 80 percent of eligible beneficiaries were receiving this screening.

Nonetheless, even in the face of enormous budget pressures, the Federal courts are going to force Tennessee to maintain the programs that will keep it on track to meet that 80 percent goal. So Governor Bredesen had to make a painful decision; he had to cut 323,000 adults from TennCare and limit benefits for the remaining 396,000 adults. Let's be clear here—these beneficiaries are people that the State of Tennessee has decided to provide health care services to even though the Federal Medicaid laws do not require the State to do so. These are optional populations and services, and Governor Bredesen was exercising his option not to provide these services.

But hang on a minute. Maybe they are not as optional as we all thought. On January 29, 2005, Judge William J. Haynes, Jr., a U.S. District Court Judge, declared that he must approve any changes to TennCare. So now, the Tennessee State Legislature is waiting for Judge Haynes to make a decision and give the State legislature permission to change the State health insurance program and balance the budget.

In all of these cases, and in many more; we see courts and lawyers making decisions like this. Not just protecting rights, but running the government. Courts are making policy choices that are supposed to be made by elected Governors, mayors, legislators, city councilmen and women, school board members, and any number of other officials.

When courts run the government, that is no democracy. Federal courts are not accountable. They do not have to answer to an electorate for the choices they make. This is not good government.

The Federal Consent Decree Fairness Act contains three main provisions that address many of these concerns.

First, this bill lays out a series of findings that will guide Federal courts in approving future consent decrees. The findings give congressional endorsement to the Supreme Court's call for limiting decrees to make sure they are not unreasonably broad. The findings also advocate the entry of consent decrees that take into account the interests of State and local governments and give due deference to their policy choices. Finally, the findings also make it clear that consent decrees should contain explicit and realistic strategies for ending court supervision.

Second, the bill creates "term limits" for consent decrees. It provides State and local governments with an opportunity to revisit the consent decree after either 4 years or 6 months after the end of the term of the State or local official who consents to the agreement. Four years is a reasonable amount of time to evaluate the success of judicial management and to determine whether or not it is still warranted. Alternatively, a provision allowing a decree to be revisited following the election of new State and local officials will give these officials the opportunity to bring fresh ideas to the table. I am sure that many of my colleagues who served as State and local officials can attest to the frustration of coming into office and having your hands tied by an agreement that the last mayor, attorney general, or Governor made.

Finally, this bill shifts the burden of proof from the State and local governments to the plaintiffs in the case. Under the current law, State and local governments must prove that a decree is no longer necessary to protect plaintiffs' rights; that is, they must prove a negative. They must also show that they have complied substantially with all the terms of the existing decree. However, as I have already mentioned, the terms of these decrees often go far beyond simply upholding the plaintiffs' rights. By shifting the burden of proof, this bill requires the plaintiffs to show that judicial management is still necessary. It allows parents like those concerned about the New York bilingual education programs to make the point that they do not think they still need judicial management of this program.

Passage of my bill will not immediately end the consent decree problem. We have separation of powers in our government, and there is only so much Congress can do. However, what Congress can do, and what I hope to do with this legislation, is level the playing field so that State and local governments can have a fair shot at getting back the authority that is rightfully theirs.

Judicial management has become a national concern. Federal courts are running police departments, school districts, foster care programs, State health insurance programs, and numerous other programs that are rightfully left to the responsibility of State and local elected officials.

No less an authority than the Supreme Court has recognized the overreaching of the Federal courts. In 2004, the court handed down a decision in the Frew v. Hawkins case. Although the court upheld the consent decree in this case, its opinion recognized the dangers of consent decrees and contained some guidance as to how to address these concerns.

I think the Supreme Court's own words say it most effectively:

> The state officials warn that enforcement of consent decrees can undermine the sovereign interests and accountability of state governments. . . . The concerns they express are legitimate ones. If not limited to reasonable and necessary implementations of federal law, remedies outlined in consent decrees involving state officeholders may improperly deprive future officials of their designated legislative and executive powers. They may also lead to federal court oversight of state programs for long periods of time even absent an ongoing violation of federal law.

Referencing a previous Supreme Court decision involving consent decrees, the Court went on to say:

> 'principles of federalism and simple common sense require the [district] court to give significant weight' to the views of government officials. . . . principles of federalism require that state officials with front line responsibility for administering the program be given latitude and substantial discretion.
>
> The federal court must exercise its equitable powers to ensure that when the objects of the decree have been attained, responsibility for discharging the State's obligations is returned promptly to the State and its officials. As public servants, the officials of the State must be presumed to have a high degree of competence in deciding how best to discharge their governmental responsibilities. A State, in the ordinary course, depends upon successor officials, both appointed and elected, to bring new insights and solutions to problems of allocating revenues and resources. The basic obligations of federal law may remain the same, but the precise manner of their discharge may not.

The Federal Consent Decree Fairness Act comes at a time when President Bush has called on Congress to offer more flexibility to State governments to manage Medicaid. That flexibility has to in part address the Federal courts' assumption of judicial control of these programs. This bill is one way of doing that. In a broader sense too, this bill is one small piece of the effort to promote federalism in the United States.

In recent years, it has become the trend to treat States as the wayward little brother of the Federal Government. That was never the intent of the Founding Fathers. State governments provide the basic necessities of life that citizens demand. They are the laboratories that can serve as models of good government that the rest of the country can follow. They are our partners, not our wards. It is time we begin to treat them that way.

This bill is the first of what I hope will be many steps toward restoring the relationship between the Federal Government and the State and local governments that do so much.

Mr. KYL. Mr. President, I join Senators ALEXANDER and PRYOR in introducing the Federal Consent Decree Fairness Act. This important legislation, by placing reasonable limits on the duration of judicial consent decrees, will help restore democratic control over State and local institutions.

Lawsuits against public schools, welfare agencies, and other State and local government agencies and programs often end in judicial consent decrees. Consent decrees are binding, legal agreements between plaintiffs and institutions specifying how a particular problem will be remedied.

Two years ago, two professors at the New York Law School, Ross Sandler and David Schoenbrod, published an important book about the effect of consent decrees on our society: Democracy by Decree: What Happens When Courts Run Government." The professors' book describes how unelected and unaccountable judges and attorneys control many State and local institutions by imposing rigid plans through consent decrees and how these decrees prevent newly elected officials from altering policies in response to the changing wishes of voters. These decrees allow plaintiffs' lawyers and judges to assume the power to make policy and dictate in detail what shall constitute compliance with the decree. They reflect a multitude of motives and often are based on considerations of the moment, yet they can bind public institutions for decades.

While plaintiffs must allege violations of rights when filing their cases, the consent decrees that are produced by the litigation often have little connection with the enforcement of those rights. Instead, the decrees in some cases simply reflect the policy preferences of the controlling group behind the litigation, including the plaintiffs' attorneys and special interest groups.

One example from "Democracy by Decree" illustrates the nature of this phenomenon. When Congress enacted the Education for All Handicapped Children Act, it created a Federal right to special education. This new right required that all handicapped children receive "free appropriate public education." After the law's enactment, local school boards had difficulty complying with the new Federal standards. As a result, parents and children's advocates brought many lawsuits in Federal courts, including a New York case that was titled Jose P. v. Ambach.

The Jose P. case ended with a consent decree that dramatically shifted control over public education in New York. It transferred power over special education from the board of education and elected officials to the Federal court. Judge Nickerson, the U.S. District Court Judge assigned to Jose P., selected a "special master" and extended to him the enormous power to decide what was "appropriate to provide the requisite public education to handicapped children in New York City."

In an affidavit to Judge Nickerson, New York City School Chancellor Macchiarola described how the litigation forced attention to a vast succession of special education and administrative issues, and diverted teachers' attention from the education of children. The special master's orders elevated speed of child placement above all other educational priorities. The mass processing of children with disabilities forced by the order, in turn, directly conflicted with efforts to educate these children. Chancellor Macchiarola wrote:

> I believe that however closely the judgment may have approximated the best professional judgment at a particular time, it is a mistake to elevate any set of practices and procedures to the level of an inflexible mandate. Such an approach robs the school system of the flexibility it needs to adapt to changing circumstances, increasing practical experience with alternative approaches to implementation, and a constantly growing understanding of the nature and dimensions of the educational issues we face.

In April 1984, New York City Mayor Ed Koch created the Beattie Commission to review the city's special education programs. Five years after Judge Nickerson issued the Jose P. consent decree, the city's programs had grown to serve 116,000 children at a cost of $850 million, yet it still did not meet the mandates of Jose P. The Beattie Commission found that special education had been transformed into a program for handling any child who for one reason or another performed at less than expected levels or who caused trouble in the classroom. Eighty-nine percent of all referrals for evaluations were either for poor academic performance, bad behavior, or both. The program had begun to function as a quickly expanding and increasingly expensive general education program.

The New York City Board of Education officials who worked under the decree conceded that Jose P. caused a restructuring of special education, but they emphasized that the scope of the judgment and the detailed procedures that it required shifted attention from what was truly best for the children to a focus on numerical compliance with rigid timelines.

In "Democracy by Decree," Sandler and Schoenbrod explain:

> The most notable fact after more than twenty years of court supervision is the size of the special education program. For the 1999–2000 school year, out of a school system of 1.1 million children, 168,000 received special education—three times the number when Jose P. was filed. Public school costs for these services reached $2.7 billion, 25% of the entire school budget. The board spends in excess of $26,000 per student in special education, nearly three times more than the resources devoted to students in regular education.
>
> Jose P. failed to produce sound special education because it was premised on a basic misunderstanding of institutional change. The court set about to reform a single program in a vast educational structure—a fool's errand because special education could not be reformed without reforming the entire system. What was needed was to overhaul the system, only part of which was special education. The New York City board of education could not stop the gaming of special education unless it also stopped gaming in other areas such as seniority, union perks, principal rights, custodial authority, and inadequate programs of all kinds, from athletics to grammar. What the court order did was cause the board to focus effort on one area of institutional performance without altering the culture of which it was a part. That, and the very rigidity of the Jose P. decree and the process it required, made it more difficult for new mayors, new chancellors, or new boards of education to improve the entire system.

In their handling of cases such as Jose P., the courts have moved away from enforcing rights and toward a managerial process of overseeing the pursuit of general goals.

The Jose P. order and its process could conceivably continue without end. The court never described what the board must do to terminate supervision. Sandler and Schoenbrod plead that our conclusion

> should not be to fix blame on the individuals in charge of the case. They are superbly trained, well intentioned, and widely recognized as outstandingly successful judges and lawyers. Nor should that attention be fixed on questioning the worthy objective of special education. Rather, the failure of such competent people in pursuit of such a needed objective should compel attention on whether we should continue to rely so readily on courts to manage the complex institutions of state and local governments.

Senator ALEXANDER's bill is an important step in addressing the structural failures behind cases like Jose P. I look forward to the bill's consideration in the Senate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before the Senator departs the floor, I commend my colleague from Tennessee for his comments. I will take a close look at them myself.

As usual, the Senator from Tennessee makes an awful lot of sense. The question raised by our colleague from Alabama is an appropriate question. I underscore the last point he made, as well, this idea of dumping on the courts a lot of time to resolve matters which are thorny and difficult. It is a lot easier to do that.

We have learned painfully in the area of education, the area of equalization formulas. 47 States have enacted or required through the courts to provide equalization of funding for elementary and secondary education. I don't know of a single State that has done it yet because the political community has passed the ball on, in a sense, to the courts without addressing the issue in a fundamental way themselves. It is another example of Congress not coming to terms with some of the difficult issues.

My colleague has pointed out the one dealing with Medicaid. I applaud him for his comments. I intend to take a close look at his bill and may join him. I thank him for his comments this morning.

Mr. President, I have been present for most of the votes the past 4 or 5 days but not engaged in the debate on the bankruptcy bill. The reason for my absence is because my wife and I were very blessed on Tuesday morning, in the wee hours, to become parents again. So for the past 4 or 5 days if I looked a little sleepy to my colleagues it is because we have been up with a wonderful new infant. This child arrived a little earlier than expected. I intended to be much more involved in this debate than I have had the ability to. I apologize to my colleagues and to others who have had a strong interest in this legislation.

This morning I would like to take a few minutes and talk generally about the bankruptcy bill, and also to propose a couple of amendments which I will describe briefly. I realize any votes on these amendments may occur on Monday or Tuesday, depending on conversation with the majority in terms of how they will handle these matters.

The fundamental premise behind the bankruptcy bill, as I understand it and in listening to my colleagues over the last 7 or 8 years who have talked about this legislation, is that more and more consumers across this great country of ours are living rather lavish lifestyles and then filing for bankruptcy to avoid paying the debts which they have incurred as a result of their irresponsibility. This is one of the major arguments for this legislation—that bad actors are depriving credit card issuers of money owed to them as a result of people lavishly using these credit cards to acquire whatever products or services they want. This premise, I argue, is categorically and demonstrably false.

Let me, first, begin with the first chart, if I may, which lays out the statistics of what happens to an individual in America in the two years before they file for bankruptcy. I hope it will give my colleagues some sense of what actually is going on with these families. Who are these families? Are these people living lavish lifestyles, accumulating debts that they should have been more responsible about, and then trying to avoid their obligations by declaring bankruptcy?

Health Affairs, a respected organization in this field, did an analysis of what happened in the 2 years prior for people who file for bankruptcy. The study revealed that sixty-one percent of those who filed for bankruptcy during the previous 2 years had gone without needed medical care, 50 percent did not fill doctors' prescriptions they had been given, 30 percent had their utilities shut off, 22 percent went without adequate nutrition and food, and 7 percent moved elderly parents to cheaper care facilities across the country. These are hardly people who are leading what you would call a lavish lifestyle.

In fact, these are people who are desperately trying to hold their families together, who cannot meet the kind of responsibilities despite their best efforts.

Credit card issuers, I point out, are earning enormous amounts of money in income from fees, penalties, and interest charges. As one expert said:

> The idea that companies are losing their shirts on bankruptcies is [just not true at all].

Mr. President, I ask unanimous consent that an article that appeared this morning in the Los Angeles Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Mar. 4, 2005]

### CREDIT CARD FIRMS WON AS USERS LOST

(By Peter G. Gosselin)

WASHINGTON.—In the eight years since they began pressing for the tough bankruptcy bill being debated in the Senate, America's big credit card companies have effectively inoculated themselves from many of the problems that sparked their call for the measure.

By charging customers different interest rates depending on how likely they are to repay their debts and by adding substantial fees for an array of items such as late payments and foreign currency transactions, the major card companies have managed to keep their profits rising steadily even as personal bankruptcies have soared, industry figures show.

As a result, while they continue to press for legislation that would make it harder for individuals to declare bankruptcy, the companies have found ways to make money even on cardholders who eventually go broke.

At the same time, under the companies' new systems, many cardholders—especially low-income users—have ended up on a financial treadmill, required to make ever-larger monthly payments to keep their credit card balances from rising and to avoid insolvency.

"Most of the credit cards that end up in bankruptcy proceedings have already made a profit for the companies that issued them," said Robert R. Weed, a Virginia bankruptcy lawyer and onetime aide to former Republican House Speaker Newt Gingrich.

"That's because people are paying so many fees that they've already paid more than was originally borrowed," he said.

In addition, some experts say, the changes proposed in the Senate bill would fundamentally alter long-standing American legal policy on debt. Under bankruptcy laws as they have existed for more than a century, creditors can seize almost all of a bankrupt debtor's assets, but they cannot lay claim to future earnings.

The proposed law, by preventing many debtors from seeking bankruptcy protection, would compel financially insolvent borrowers to continue trying to pay off the old debts almost indefinitely.

"Until now, the principle in this country has been that people's future human capital is their own," said David A. Moss, an economic historian at Harvard University. "If a person gets on a financial treadmill, they can declare bankruptcy and have what can't be paid discharged. But that would change with this bill."

Debate about the bill continued Thursday, with the Republican-controlled Senate refusing to limit consumer interest rates to 30%. The vote was a bipartisan 74 to 24 to kill a proposed amendment by Sen. Mark Dayton (D-Minn.). Senate passage of the bill is expected next week.

The House has not taken up the issue this year, although it passed a version of the bill last year, as did the Senate. Attempts to reconcile the two bills failed.

Industry officials have sought to minimize the role of credit card companies in pushing for bankruptcy legislation since 1998. They have argued that the bill introduced last month by Republican Senate Finance Committee Chairman Charles E. Grassley of Iowa and supported by President Bush would affect about 5% of the roughly 1.6 million Americans who file for bankruptcy each year.

They have portrayed the measure's principal target as high-income individuals who are abusing the law to escape their debts.

"The bottom line is that there are people out there who are able to pay their bills who are not paying," said Tracey Mills, a spokeswoman for the American Bankers Assn., which represents most of the major credit card companies.

But consumer advocates, many academics and some judges and court officials argue that the bill would sharply reduce the number of Americans able to file for bankruptcy, even in instances where doing so would buy them time to repay their debts.

The critics argue that people unable to file would be at the mercy of increasingly aggressive efforts by lenders—especially credit card companies—to raise fees and boost collections.

People like Josephine McCarthy, for instance, a 71-year-old secretary at the Salem Baptist Church, less than a mile from where the Senate bill is being debating.

According to papers in her recent bankruptcy, McCarthy discovered at about the time of her husband's death in 2003 that the couple had a $4,888 balance on a Providian Financial Corp. Visa card and another $2,020 balance on a Providian Mastercard.

Over the two years from 2002 until early 2004, when she filed for bankruptcy, McCarthy charged an additional $218 on the first card and made more than $3,000 in payments, the court papers show. But instead of her balance going down, finance charges—at what the bankruptcy judge termed a "whopping" 29.99% rate, together with late fees, over-limit fees and phone payments fees—pushed what she owed up to more than $5,350.

In the case of the second card, the papers show that McCarthy charged an extra $203 and made more than $2,000 in payments, but again fees and finance charges pushed the balance up.

McCarthy refused to comment on the case. A spokesman for Providian could not be reached last night.

But court papers show that McCarthy eventually paid all the bills in the case, including back taxes. The way she did it, using provisions of bankruptcy law, illustrates one of the problems with the proposed new law, critics say.

McCarthy had been making mortgage payments on two houses. She wanted to sell one of the houses to pay off her debts, but the house was entangled in legal difficulties. By declaring bankruptcy, she was able to stop the clock on her escalating credit card debts and give her lawyer time to clear up the legal problem, enabling her to sell the house and pay off the bills.

Under the proposed new law, McCarthy, who makes about $55,000 a year, would have had a much harder time qualifying for the bankruptcy protection that allowed her to pay creditors.

"The McCarthy case shows how hard-working people making good incomes can end up in situations that they can't dig themselves out of unless they file for bankruptcy," said Weed, her lawyer.

Credit card companies have come in for harsh criticism in recent years for their penalty fees and the "risk-based pricing" under which they charge customers different interest rates depending on their credit histories and their likelihood of paying.

Consumer advocates have accused firms of not adequately disclosing such controversial practices as universal default, when a company can jack up a cardholder's annual percentage rate, often to "more than 30%, based on the cardholder's performance with another creditor, not the card company.

Regulators and law enforcement officials have accused companies of deceptive practices. In 2000, the U.S. Office of the Comptroller of the Currency and the San Francisco district attorney's office ordered Providian to pay $300 million in restitution after customers complained that the company didn't credit their payments on time and then imposed late fees.

A stream of court cases involving credit card companies has produced public outrage in various parts of the country.

In Cleveland, a municipal court judge tossed out a case that Discover Bank brought against one of its cardholders after examining the woman's credit card bill.

According to court papers, Ruth M. Owens, a 53-year-old disabled woman, paid the company $3,492 over six years on a $1,963 debt only to find that late fees and finance charges had more than doubled the size of her remaining balance to $5,564.

When the firm took her to court to collect, she wrote the judge a note saying, "I would like to inform you that I have no money to make payments. I am on Social Security Disability. . . . If my situation was different I would pay. I just don't have it. I'm sorry."

Judge Robert Triozzi ruled that Owens didn't have to pay, saying she had "clearly been the victim of [Discover's] unreasonable, unconscionable and unjust business practices."

Efforts to reach Owens were unsuccessful A spokeswoman for Discover said she could not comment on the case.

Analysts said that lost in the uproar over particular practices and cases is the fact that the credit card industry has almost completely remade itself in the years since it began pushing for passage of the bankruptcy bill—a makeover that has left some analysts wondering why the industry needs the changes in bankruptcy law.

"The idea that companies are losing their shirts on bankruptcies is a lot of bull," said Robert B. McKinley, chief executive of CardWeb.com, a Frederick, Md., consulting group that tracks the credit card industry. "With these rates and fees, the card industry is a gravy train right now."

Mills, the bankers association spokeswoman, said bankruptcies affected all American households in the form of higher costs and lower returns on investments.

As recently as the late 1980s, credit card companies offered a one-size-fits-all card with a fixed interest rate and an annual fee. Virtually all cards went to middle-class borrowers with good credit histories; issuing cards to poor or high-risk borrowers was almost unheard of.

But in the early 1990s, companies such as AT&T and General Motors began issuing cards with variable rates and no fees, increasing competition. And by the middle of the decade, card companies were finding their traditional middle-class markets saturated.

Their response: lend to riskier customers and make up for the danger of more defaults by charging higher rates and then new fees.

McKinley, the industry analyst, said the firms were helped by a 1996 Supreme Court case that gave card companies new protections against state regulation of fees.

"That really opened the flood gates. It set off a fee frenzy," he said.

Mr. DODD. Taking the Bankruptcy Act goes back to the earliest days of our Republic. Article I, section 8 of the U.S. Constitution mandates that Congress pass laws dealing with bankruptcy. I believe our Founders did so because they realized there was inherent, fundamental value to allowing people who find themselves under difficult circumstances to be able to get out from underneath those circumstances, to discharge their responsibilities to the best extent possible, and then to get back on their feet again. That is a social value from which all Americans benefit.

Now, will there be people who should have been far more responsible? Absolutely. But I happen to believe that the overwhelming majority of people who are forced to file for bankruptcy do so most reluctantly, only because there are no other avenues available to them which they can deal with their problems. We have with a responsibility, to remember what our Founders envisioned in article I, section 8, which calls upon Congress to pass bankruptcy legislation.

I would like to add at the outset of these remarks, if I can, some general understanding of what is happening to American consumers and their indebtedness.

First of all, in terms of household savings, in 1993, the savings rate was 4.3 percent of the gross domestic product nationally. In 2003, it was at 1 percent of gross domestic product. In the third quarter of 2004, savings rates were less than one-half of 1 percent of the gross domestic product. The national savings rate is declining rapidly in this country. At a time when we ought to be doing everything we can to encourage consumers to begin to save more, to participate in their own long-term financial needs, we are going in the exact opposite direction of where we ought to be heading in this country.

Let me add, simultaneously, that according to the Federal Reserve Board, the United States has over $2.1 trillion in consumer debt. Consumer debt is truly skyrocketing. Almost one-half of that $2.1 trillion in consumer debt is revolving credit—to credit cards and home equity loans—nearly $800 billion of the $2.1 trillion.

Our nation's savings rates are less than one-half of 1 percent of our gross domestic product—down from over 4 percent just a few years ago. Our nation's consumer debt has skyrocketed to $2.1 trillion, $800 billion of which is due to credit cards and home equity loans.

We are going in the absolute wrong direction. The questions we ought to be asking as we debate and discuss this bankruptcy bill is: Does this legislation contribute in the 21st century to encouraging more savings? Does it do anything at all to try to reduce consumer debt? Does this bankruptcy bill do anything to reduce the number of bankruptcies and effect the underlying causes of bankruptcy.

Certainly, consumers bear responsibility in terms of how they handle their money and the obligations they incur to those who extend them credit. However, there is a commensurate responsibility, I believe, on the part of those who extend credit. Creditors must make sure they are extending credit in a responsible way, with prudent underwriting standards. If they extend credit to those who can least afford it, charging them incredibly high rates and packed with hidden fees and costs, and with little or no expectation that they will have the ability to repay the debts incurred, then it seems to me that their charges of personal responsibility is wholly inappropriate.

If we are going to try to increase savings rates and reduce consumer debt in this country, then we ought to ask ourselves whether or not this bill before us contributes to those important goals.

Now, again, proponents of this legislation have wrapped themselves, if you will, in the flag of personal responsibility. The real purpose of the legislation, they argue, is to punish those who abuse our bankruptcy system, who raise costs to all consumers. The creditors are being forced, they argue, to raise prices on a variety of goods and services because of so-called bad actors who abuse the Bankruptcy Code. They would like us to believe that those bad actors are the real culprits behind why creditors, such as credit card issuers, are charging these incredibly high rates, using hidden, undisclosed fees and engaging in deceptive predatory practices.

I would like to dispel, if I can, these myths. Nothing in this bill, in my view, is going to help consumers. Let me repeat that. Nothing in this legislation will help consumers. The legislation, I would argue, will only help creditors recover more money from debtors, most of whom have been forced to declare bankruptcy because of emergency medical expenses or due to the loss of a job or as a result of a divorce.

Let me put up the second chart, if I can, to make that point for my colleagues and others who may be interested in this debate. We are told, again, that 46 percent—almost half—of the 1.5 million bankruptcies taken annually are as a result of illness. Mr. President, 46 percent as a result of illness, alone.

I mentioned briefly at the outset the reason I have not been as engaged in this debate over the last 4 days is because of the arrival of my new daughter in the wee hours of Tuesday morning. As I went to the nursery to see my new daughter I looked across the hall of the hospital, located in Northern Virginia. I saw where the premature infants were being cared for in incubators, and I saw the families with their premature infants. Many of the families did not strike me as people living lavish lifestyles at all, struggling with a new infant who is in a very fragile condition inside an incubator.

I do not need to tell anyone the costs associated with those type of medical challenges. I suspect, unfortunately, that a lot of these people do not have health insurance. As I watched them come in and out of that nursery to be with their newborn child in an incubator, I suspected that many of them are going to have costs far beyond anything they ever imagined. The idea, that somehow, we ought to penalize people because of a newborn in their life, who are going to have incredible increased costs, seems to me to be terribly wrongheaded.

As I stated earlier, 46 percent, of the 1.5 million bankruptcies annually occur because of medical causes. Of the remaining 54 percent, we know the majority of that 54 percent is due to job loss and divorce in the country—not the lavish lifestyles of bad actors that the credit card companies would suggest.

This legislation will injure honest, hard-working Americans, in my view, who fall on hard times through no fault of their own.

Let's just take a few steps back, if we can. What is the reason we have bankruptcy laws? The reason we have a Bankruptcy Code is because life, sometimes, just deals people all across our country, regardless of who they are or where they come from, a bad hand. People get dealt a bad hand every now and then. And we happen to believe, as a society, it is important to give people a fresh start in our Nation, an opportunity to overcome the financial misfortunes that have struck them, such as those families I have just described that I watched with premature infants.

This principle is so fundamental to our Nation that our Constitution expressly lists the establishment of uniform bankruptcy laws as a congressional responsibility. It seems that the Framers understood that society is better off if we can find an orderly way to allow people to pay off their debts to the best degree possible. It is critical to helping people to get back on their feet as productive citizens. Regrettably, that principle seems to suffer, in my view, at the hands of this legislation.

Recent evidence supports the idea the vast majority of people who file for bankruptcy do so because of some financial crisis beyond their control that has plunged them into debt they cannot avoid.

A recent study, conducted in early 2005 by a team of researchers at Harvard University, confirmed that nearly half of all people who file for bankruptcy protection do so because of medical or health reasons.

The evidence shows that abusive filings are the exception, not the rule. The median income of the average American family filing for chapter 7 bankruptcy—what do my colleagues think it might be? What is the median income of the average family filing for bankruptcy, these lavish-lifestyle people out there? It is $20,000 a year. That is the average annual income of a person filing for bankruptcy—hardly people living lavish lifestyles. That is according to the General Accounting Office.

The majority of the people who file for bankruptcy are single women who are heads of households, elderly people trying to cope with medical costs, and people who have lost their jobs or families whose finances have been complicated by divorce. For the most part we are talking about working people or elderly Americans on fixed incomes who have fallen on hard times and who need the protection of the Bankruptcy Act to help put them and their lives back together.

It is also worth noting that based on the first three quarters of 2004, the personal bankruptcy rate actually decreased by 2.6 percent. According to the American Bankruptcy Institute, there were actually 50,000 fewer cases from September 2003 to September 2004 than there were in the previous 12-month period, which, of course, begs the question: If bankruptcy rates are falling, why is this legislation necessary?

There is no smoke and there is certainly no fire except for maybe the millions of consumers who are being burned by abusive creditor practices.

The impact this legislation would have on single-parent households is of particular concern to me. Single parents have one of the hardest jobs in America. Most work all day, prepare meals, keep house, help children with their homework, schedule doctor appointments, parent-teacher meetings, and extracurricular activities. Life is very hard for working single parents, and often financial assistance they receive in the form of alimony or child support is critical to keeping their families from falling into poverty. I believe sincerely that this legislation, if enacted, is going to frustrate the efforts of single-parent families to collect child support payments.

I understand that the proponents of this bill believe they have treated single-parent families fairly. But what I worry about is the unintended but perfectly foreseeable consequence of allowing more debts to survive bankruptcy. Let me explain why and what is in this bill today.

For more than 100 years, the Bankruptcy Code has given women and children an absolute preference over all others who have claims on a debtor's estate. Under the well-established rule, if a divorced person files for bankruptcy, the court doesn't require the person's ex-spouse or children to compete with creditors for the funds needed to pay child support and alimony. Instead, for 100 years, alimony and child support have been taken out of the debtor's monthly income first, and if there is anything left over, it is made available to commercial creditors. If there is nothing left over, the commercial or consumer debts are discharged, and the debtor's only remaining obligation is to the ex-spouse and his or her children.

This legislation changes those rules for the first time in 100 years. For the first time we are going to make credit card and other consumer debts essentially nondischargeable so that while a divorced spouse would still be obligated to pay alimony and child support, his or her other unsecured debts remain intact. The proponents of the bill will say this does no harm to the divorced spouses or children because the ex-spouses are still at the front of the collection process. But there is, in my view, a huge practical difference between being first in line and being the only one in line.

Under current law, nonsupport debts are often discharged and debtors can focus entirely on meeting their obligations to their children and current spouses. If this legislation becomes law, that will change for the first time in 100 years. Debtors will not be able to focus on their children; they will, as a matter of law, have to divert limited financial resources to pay back consumer creditors. I believe this change will inevitably lead to conflicts between commercial creditors and single parents who are owed support and alimony payments. Sure, they are going to be first in line, but single parents will be competing with large creditors, creditors who have teams of lawyers who are hired to use every imaginable tactic to see to it that they get their money first. That is what they are going to do. I promise, it is going to happen.

I believe it is a mistake to make single parents compete with teams of lawyers from very well-heeled creditors for the money they need to clothe and feed and educate their children. That is a mistake, and we will regret it.

I understand the perspective that says that all debts incurred should be paid. I don't fundamentally disagree with that. But when debtors simply cannot pay all of their debts, I believe that our laws should protect the interests of children and families first. Under this legislation, child support payments could very well be reduced in order to satisfy an unsecured commercial creditor. In my view, that change will place the well-being of children at a disadvantage and elevate the status of the unsecured creditor. Low-income children and families will be put at a practical disadvantage by this bill and will ultimately suffer greater economic deprivation because they cannot afford to compete with sophisticated creditors.

I have talked a bit about who will be hurt by this legislation. Let me take a few minutes to focus on the big winners, if the legislation passes. The big winner, of course, is the credit card industry. Let me describe the current state of the credit card industry. In a time when access to credit is the easiest and cheapest, credit card companies are making more money than ever, bilking millions of American families by charging what would have been only a few years ago usurious rates and fees, engaging in a series of abusive and deceptive practices which will have drastic long-term consequences. At the same time they are getting more and more Americans deeper and deeper into debt.

I have cited these statistics previously: $2.1 trillion, almost half of that coming from credit cards and home equity loans—the same creditors pushing bankruptcy legislation in Congress to make their debts nondischargeable in the event of a bankruptcy. In effect, we are becoming the collection agency for these companies. The old expression never had a more apt example: the credit card industry wants to have its cake and eat it, too.

Credit card companies are charging consumers higher fees than ever before.

In 1980, credit card fees alone raised $2.6 billion. In the year 2004, credit card fees alone raised over $24.4 billion—$2.6 billion 24 years ago to $24.4 billion. Fees alone. Proponents of this legislation argue that because of increasing default rates, the supposed work of those bad actors, the ones making $20,000 a year on average, credit card companies are being forced to charge more fees.

In fact, the exact opposite is the truth. Consumer bankruptcies actually went down last year by nearly 3 percent, and default rates actually decreased.

A recent American Banker article cites industry expert Robert Hammer, chairman of R.K. Hammer Investment Bankers, who said that the biggest factor in industrywide credit card industry improvement was the 20-basis-point drop in chargeoffs from the year 2003. So I ask again: If default rates are decreasing, why is this legislation necessary?

The truth is, this is the best time in history to be in the credit card business. Last year over 5 billion solicitations were offered to consumers, which is nearly twice as many as only 8 years ago. Despite the assertions that the credit card industry is struggling because of bad consumer behavior, credit card companies have more money than they know what to do with. They are pumping out solicitations in search of new people who will only acquire more and more debt.

Credit card companies are making record profits. Credit Card Management reported in May 2003 that it was the most profitable year ever for credit cards. At a time when interests rates are at historic lows, credit card rates have not followed suit. The industry is engaged in a series of deceptive and abusive practices to take advantage of consumers.

Let me take a few moment to describe a few of these practices. I am not making this up. Credit card companies are finding more ways to effectively increase their income from rates and fees. Abusive practices such as misleading teaser rates which employ bait-and-switch tactics, hidden fees and penalties, and the universal default provisions buried in the fine print are standard operating procedures in the credit card industry today.

One of these abuses, the so-called "universal default", which could more accurately be described as a predatory retroactive interest rate hike. This practice forces a credit card consumer in good standing—one who is paying his or her credit card bills on time—to have his interest rates retroactively jacked up 25 to 30 percent because of an unknown, irrelevant change in his or her spending patterns.

The idea that credit card companies can charge an initial interest rate that would have in the past been outlawed as usurious, and then double or triple that rate for any reason it so chooses is plain wrong, in my view. If a phone bill is inadvertently mailed to the wrong address or you are disputing an amount of a bill and it is not paid on time, does the mortgage rate on your house go up? Of course not. But it does with the credit card industry.

We should stop this practice. At a minimum—and I will offer an amendment shortly—we should make any increase in the rates prospective, not retroactive.

Let me explain why. If you enter into a agreement with a credit card company, and the established rate is set at 15 percent. Despite the fact that you continue to make your monthly payments on time, without exception, you can have your interest rate unexplainably raised. This inexplicable rate hike can occur for whatever reason the creditor sees fit. You have an argument with your automobile company and you decide to withhold a car payment, or you are having a debate with the utility company, so you hold back on your utility bill—under the law today, the credit card company can automatically increase your rates. And to add insult to injury, this new rate retroactively applies for the goods you have already purchased.

I think this practice is completely uncalled for. But if you are going to allow for rates to go up, at a minimum they ought to be prospective, on future purchases.

I would, frankly, like to eliminate it altogether, but I don't think enough people here would support that. At the very least, if you entered into a contract at 15 percent and if you are suddenly forced to pay a higher interest rate, it ought to be on prospective purchases, not to things that you may have bought 1 or 2 years ago. That is patently wrong, and I will offer an amendment to implement this policy.

There is a second practice: credit card companies are focusing on customers who pay their bills on time. Credit card issuers are now providing incentives or rewards to customers for not paying their bills. They get a reward for not paying their bills. They offer up to 3 percent cash back on all credit card purchases, but only during the month when the credit card holder doesn't pay off his or her monthly balance. We have this consumer debt mounting by the hour, and we have credit card companies offering rewards to those who don't pay on time and they are cutting off the card for those who do. It is absolutely incredible.

That underscores how important it is to the credit card industry that consumers get in debt and stay in debt. There are 51 million households that carry balances on the credit cards at an average balance of $11,944. That is the average amount of debt families carry on their credit cards. The current average interest rate is running at about 13 percent. This is at a time when we have the lowest interest rates at 3, 4 percent and we have 13 percent credit card charges. Each of those families is paying credit card interest, on average, of 15 percent a year. Some are having their credit cards cancelled because they simply pay all of their outstanding debt every month. Imagine that. You are paying your bills on time and the credit card company triples your interest rate or cancels your card.

In fact, the credit card industry calls you a "deadbeat" if you pay off your entire balance every month. Why do they call you a deadbeat? The credit card industry has a vested interest to keep you in debt. Failure to do so affects their bottom line. They don't like people to pay off their monthly balances. You could lose your credit card for doing that.

As I have said earlier, the real purpose of this legislation is to help credit card companies make more money. I am not opposed to them making their money, but I think we have a higher obligation here to see that these companies are prevented from engaging in abusive and predatory practices that run contrary directly to stated national goals of increasing savings rates and reducing consumer debt.

I have given you some brief insight into some of the abusive practices of the credit card industry. I would now like to focus on what I believe to be the most egregious trend in the industry, which is targeting our Nation's most vulnerable customers. One of the most troubling developments is the hotly contested battle between credit card issuers to sign up new customers, and the aggressive way they have targeted people under the age of 21, particularly college students. Solicitations going to this age group have become incredibly intense. First, it is one of the few market segments in which every year 25 to 30 percent of the undergraduates are fresh faces entering their first year of college. Second, it is an age group in which brand loyalty can be readily established. Most people hold on to their first credit card for up to 15 years, which, by the way, is probably the amount of time it takes to dig out of the amount of debt they have incurred while in their teens.

Let me share this with my colleagues. It is somewhat amusing, but it is also rather sad. This is a letter that was sent to a 7-year-old child of one of the people in my office. I have crossed out the family name. He has a 7-year-old son. He was amazed to find a brand new American Express card being issued to his son. The card came as a result—according to the offer—of this young elementary schooler's "excellent credit history." It says: You should know about this milestone that you have achieved. With your excellent financial record, our decision was very simple. We want you as a card member. Imagine, a 7-year-old. It reads: "You have the flexibility of a no preset spending limit"—a 7-year-old. There are no limits on how much you can spend on this credit card. He has amply demonstrated his financial responsibility, according to this letter. He has earned this recognition to receive an American Express card at age 7. This type of solicitation happens more and more every single day and yet we need to focus on personal responsibility and not corporate responsibility.

There are 5 million solicitations that go out every year, many going to young children in our society. Obviously, we are talking not just about 7-year-olds here but also to college-age persons. They are vulnerable, these younger people in our society. To extend them large amounts of credit, with no limits, is an act of incredible irresponsibility. Again, I agree that consumers have a duty to be responsible. I will take a back seat to no one in arguing that ought to be the case. However, there needs to be a sense of balance about this. If you are expecting the consumer to be responsible, the issuer of the credit card also has to be responsible. They lack total responsibility when it comes to these solicitations.

I have an amendment that I will offer shortly that places new requirements on credit card companies who solicit to persons under the age of 21. It requires if you are under the age of 21, either demonstrate that you can pay—a lot of people under 21 can pay because they hold jobs, they have made money, and they have saved. Or have somebody cosign—a parent, guardian or other responsible party—the application to get the credit card. Or lastly, the completion of certified credit counseling course. Any one of those three, not all three. It is a very simple and prudent requirement to ask for before issuing credit cards. This ought to be plain common sense, in my view.

We have an obligation to protect and educate our young people. The next generation of American leaders deserves no less than reining in the irresponsible practices of the credit card industry that just pushes these cards out. In fact—and I will touch on this later—universities actually get money into their coffers if they will promote students signing up for credit cards. There are actually fees that come to the universities as a result of the indebtedness of their students. It seems to me we ought to be thinking twice and thinking hard about those practices. Credit card companies are running roughshod over millions of Americans and their families. We should be passing legislation that prevents these types of practices, not padding the credit card industry's pockets, in my view.

The credit card issuers seem to have forgotten the correlation between high interest rates and unsecured debt. Traditionally, unsecured credit issued without collateral and relying only on the integrity of the borrower has a higher default rate. As a result, credit issuers are allowed to charge a higher interest rate in order to make up for expected losses from those higher default rates.

However, this legislation begins to change this deal, changing the Bankruptcy Code to make unsecured debt nondischargeable in the event of a bankruptcy. Record fees, record abuses, record profits, and a record number of Americans are being taken advantage of. I urge my colleagues to reject this legislation.

### AMENDMENT NO. 52

Mr. DODD. Mr. President, I wish to call up two amendments. I believe the first, amendment No. 52, is at the desk. I ask that it be called up.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 52.

The amendment is as follows:

(Purpose: To prohibit extensions of credit to underage consumers)

At the appropriate place, insert the following:

**SEC. . EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.**

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5), the following:

"(6) APPLICATIONS FROM UNDERAGE CONSUMERS.—

"(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

"(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

"(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21;

"(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account; or

"(iii) proof by the consumer that the consumer has completed a credit counseling course of instruction by a nonprofit budget and credit counseling agency approved by the Board for such purpose.

"(C) MINIMUM REQUIREMENTS FOR COUNSELING AGENCIES.—To be approved by the Board under subparagraph (B)(iii), a credit counseling agency shall, at a minimum—

"(i) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(I) is not employed by the agency; and

"(II) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(ii) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee; and

"(iii) provide trained counselors who receive no commissions or bonuses based on referrals, and demonstrate adequate experience and background in providing credit counseling.".

### AMENDMENT NO. 53

Mr. DODD. Mr. President, I ask that amendment No. 52 be laid aside, and I call up amendment No. 53.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 53.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require prior notice of rate increases)

At the appropriate place, insert the following:

**SEC. ___. PRIOR NOTICE OF RATE INCREASES REQUIRED.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) ADVANCE NOTICE OF INCREASE IN INTEREST RATE REQUIRED.—

"(1) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan, no increase in any annual percentage rate of interest (other than an increase due to the expiration of any introductory percentage rate of interest, or due solely to a change in another rate of interest to which such rate is indexed)—

"(A) may take effect before the beginning of the billing cycle which begins not less than 15 days after the obligor receives notice of such increase; or

"(B) may apply to any outstanding balance of credit under such plan as of the date of the notice of the increase required under paragraph (1).

"(2) NOTICE OF RIGHT TO CANCEL.—The notice referred to in paragraph (1) with respect to an increase in any annual percentage rate of interest shall be made in a clear and conspicuous manner and shall contain a brief statement of the right of the obligor to cancel the account before the effective date of the increase.".

**SEC. ___. FREEZE ON INTEREST RATE TERMS AND FEES ON CANCELED CARDS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), is amended by adding at the end the following:

"(i) FREEZE ON INTEREST RATE TERMS AND FEES ON CANCELED CARDS.—If an obligor referred to in subsection (h) closes or cancels a credit card account before the beginning of the billing cycle referred to in subsection (h)(1)—

"(1) an annual percentage rate of interest applicable after the cancellation with respect to the outstanding balance on the account as of the date of cancellation may not exceed any annual percentage rate of interest applicable with respect to such balance under the terms and conditions in effect before the date of the notice of any increase referred to in subsection (h)(1); and

"(2) the repayment of the outstanding balance after the cancellation shall be subject to all other terms and conditions applicable with respect to such account before the date of the notice of the increase referred to in subsection (h).".

Mr. DODD. Mr. President, I briefly mentioned this amendment before. This amendment focuses on a abusive practice that I have to believe all of my colleagues would want to see done away with, this universal default practice. Let me explain what this means.

Under a universal default, which almost all these companies now engage in, it says that credit card companies have the right to raise fees and rates, whenever they want, for any reason I choose. That language actually is included in some of the small print. Again, I believe that consumers have an important responsibility for the debts they incur. However, I think it is patently unfair, that if you are paying your minimum monthly balance to the credit card company, and for whatever reason you are not meeting your obligation to the car payment, the house payment, or the utility bill that you be subject to a universal default clause. And while I think the practice should be banned, if it is part of the credit card agreement, credit card companies are allowed to raise your rates even though you are meeting your obligation to them.

This amendment simply restores some basic fairness in this arrangement. You can raise interest rates—but only prospectively on new purchases. However, it prohibits retroactively rate hikes, that is, raising the interest rate on purchases you may have made a week, a month, a year, or 2 years earlier.

Let me make the point again. I understand why the credit card companies would like to do this. Obviously, they make more money doing it. But I think we have an obligation to see to it that there is a sense of fairness about all of this.

That is what I am trying to do with this amendment. That is all this amendment does. It just says here you cannot apply these rates retroactively. On future purchases, fine. Again, I think the practice of universal default is unfair. If I have a contract with my friend from Alabama at a certain rate and I am meeting my responsibilities to him, he is lending money at 15 percent, and for whatever reason I have a contract with my friend from Georgia, and we have a dispute about my payment obligations to you, my friend from Alabama then can automatically raise my rate to 20 percent, 25 percent, or 30 percent because of my dispute with the Senator from Georgia.

The idea that a credit card company can charge an initial interest rate that would have in the past been outlawed as usurious and then double or triple that rate for any reason it chooses is just plain wrong, in my view.

If a phone bill is inadvertently mailed to the wrong address, you are disputing the bill that is not paid on time, does the mortgage rate on your home go up? No, but apparently your credit card interest rate can.

Record number credit card companies have built-in universal default clauses in their agreements. "Universal default complaints are definitely on the increase at a disturbing rate," says Paul Richard, director of the nonprofit Institute of Consumer Financial Education. More than one-third of all major credit card issuers now say they act on these clauses regularly. A recent survey found that a staggering 39 percent of credit card issuers apply this universal default rate to consumers even if they have no late payment on their credit cards.

A recent New York Times article entitled "Plastic Trap, Soaring Interest Rate Compounds Credit Card Payments for Millions" illustrates the point.

> Ed Sweibel was whittling down his mound of credit card debt at an interest rate of 9.2 percent. The MBNA company had a happy and profitable customer. But this past summer when MBNA suddenly doubled the rate on his account, Mr. Sweibel joined the growing number of irate card holders stunned by lenders' harsh tactics. Mr. Sweibel, 58 years old, a semiretired software engineer in Gilbert, AZ, was not pleased his minimum monthly payment jumped from $502 in June to $895 in July. But what really made him angry, he said, was the sense he was being punished despite having held up his end of the bargain with MBNA. "I paid the bills the minute the envelope hit the desk. All of a sudden in July they swapped it to 18 percent, no warning, no reason. It was like I was blindsided."
>
> Mr. Sweibel had stumbled into the new era of consumer credit in which thousands of Americans are paying millions of dollars each month in fees that they did not expect and that strike them as unreasonable. Invoking clauses tucked into the fine print, lenders are doubling or tripling interest rates with little warning or explanation.

What truly astounds me is the fact that credit card companies view the practice as completely legitimate. In fact, when in fine print they disclose they engage in this practice, the language they use is incredibly brazen. One credit card issuer states in its standard disclosure:

> We may change the rates, fees, and terms of your account at any time for any reason.

Rates, fees, and terms—is there anything left in the credit card contract that a consumer can count on staying the same? I understand why they would want to do this, but, again, I do not understand why the Congress should continue to allow them to continue this practice.

As I pointed out at the outset of these remarks, I carry a copy of the U.S. Constitution with me. In Article I, section 8 of the Federal Constitution—the Framers decided—that it is our job to write the Bankruptcy Code. In the initial draft of the Constitution, the Framers thought this was a significant enough issue. It is hard to find any more complicated or difficult issue than bankruptcy, and yet the Framers said do it.

Why did they do it? Again, the point I tried to make at the outset: The Framers wanted to give people a chance to get back on their feet. If we allow these credit card companies to constantly raise the bar—we will force future generations into never ending indebtedness. In the article I just read, Mr. Sweibel was trying to get rid of his debt and meet his obligations. No matter how diligent he was in paying his bills, his credit card company jacks up his interest rate—almost doubling it in one month because of a disagreement he had with some other obligation.

That is wrong. Again, I understand why the credit card companies may want to get away with it, but we should not let them get away with it. We have an obligation to people, to make sure that people play fair, play by the rules, and act responsibly. It is irresponsible for a credit card company to be able to double and triple the interest rates on someone when they are meeting their obligations of that creditor. I think it is wrong and unfair. If we do not put our foot down and say it is wrong and unfair, they are going to continue to get away with it, and we are never going to see consumers get beyond the mountain of debt they are accumulating.

Almost one-half of the $2.1 trillion in debt is consumer credit-card-related debt. The savings rate is down to less than 1 percent in the country. Consumer debt is skyrocketing, and we are handing these credit card companies a gift they could never have imagined when the Framers of the Constitution were around.

We should not be allowing credit card companies to use farcical excuses to penalize unaware consumers who pay their bills on time.

If a credit card company wants to change the rules of the game, they should not be allowed to reach back and set new terms and conditions to purchases made under previous agreements. This is just plain, basic fairness.

If for some reason a credit card issuer views a customer as an increased credit risk, which is the purported justification for the universal default practice, then it can decide to only lend future credit at a higher rate or with different terms. Also, consumers must be given ample notice of this new credit decision so they can fully understand the changes in the new contract.

This amendment is a necessary addition to the bill. It will not solve all the problems, but it will solve a major one, the universal default clauses.

AMENDMENT NO. 52

I call up amendment No. 52 at this point, the one that was set aside.

The PRESIDING OFFICER. The amendment is already pending.

Mr. DODD. As I touched on briefly before, this amendment seeks to protect the most vulnerable of our nation's consumers—persons under the age of 21. According to Dr. Robert Manning, a professor at Rochester Institute of Technology, one of the fastest growing groups of bankruptcy filers are people under the age of 25.

In fact, the number of bankruptcies among those under the age of 25 is more than 6 times that of only 5 years ago, according to the American Bankruptcy Institute. One of the most troubling developments in the hotly contested battle of credit card issuers to sign up new customers has been the aggressive way in which they target people under the age of 21. Solicitations to this group have become more intense for a variety of reasons which I have mentioned already.

Obviously, we know about consumer loyalties. It is also an age group in which brand loyalty can be established. However, some credit card issuers have gone too far. Again, I am not opposed to people under the age of 21 having credit cards.

Credit cards, are a great asset to a lot of people. I am not opposed to them, but they must be issued and used responsibly.

I mentioned the letter earlier of the 7-year-old, which is just plain ridiculous. What also worries me is what is happening with these younger people on college campuses around the country.

Credit card issuers are deeply involved in the business of enticing colleges and universities to help promote their products. Many colleges receive as much as 1 percent of all student charges from credit card issuers in return for marketing or affinity agreements. Even those colleges that do not enter into such agreements are making money.

Robert Bugai, the President of the College Marketing Intelligence, told the American Banker that colleges charge up to $400 per day for each credit card company that sets up a table on campus. That can run into tens of thousands of dollars by the end of just one semester.

A "60 Minutes II" piece a number of years ago vividly illustrated the impact that credit card debt is having on college students. A crew from the show was on a major public university, and with the use of hidden cameras filmed vendors pushing free T-shirts, hats, and other enticements for credit applications. The "60 Minutes" program revealed that the university was being paid $13 million over 10 years by a credit card company for the right to have a presence on campus and to use the university logo on its cards.

This public university was making money off its students who used credit cards, the report said. As part of the agreement, the university receives four-tenths of a percent of each purchase made with the cards. Unbelievably, this university has a vested interest in getting their students into as much debt as possible.

Again, we have kids who are going—the anecdotal stories of the debt they are incurring is just staggering. We have watched it actually almost double. Debt among this group has gone from around $1,800 a year to over $3,000 a year.

Again, this amendment requires one of three things. Firstly, it requires that one can prove that they have the financial resources to repay debts incurred. That is simple enough. Or have someone cosign the application, or just agree to take a short course in credit counseling. Any one of those three things and a person gets their card.

To push these cards out with no spending limits on them at all, knowing what is inevitably going to happen—bankruptcy—is irresponsible. Again, I understand why the credit card companies want to do it. I do not understand why we want to allow them to do it in such an unfettered way, knowing what we know now. If they were doing this for the first time and we did not know the implications or the effects of their actions, I could understand maybe why some people would be willing to go along with it. But we now know what is happening. We are watching consumer debt among young people double over the last several years.

Why would we not just say, look, prove you can pay your debts, prove you have some financial means, have someone cosign with you, or be willing to take a credit counseling course? These are not heavy burdens to make. It seems to me the very least we could do, again, acting responsibly. If this bill says consumers must act more responsibly, should we not commensurately ask the industry to act responsibly as well?

When universities are collecting $13 million over 10 years in fees to allow a credit card company to be on their campus, and they are getting four-tenths of 1 percent on every purchase made by a student on campus, that is a university encouraging debt among its kids. That is just wrong, in my view.

So we are requiring a cosigner, proving a person has a source of income, or take some counseling so the kids have some idea of what they are getting into.

Again, just some basic statistics, and I will wrap up. Our personal savings rate is at an all-time low. The last quarter in the year 2004, less than one-half of 1 percent was the national annual savings rate. That is down from 4½ percent 10 years ago. It was at 1 percent last year. We are going in the wrong direction in terms of encouraging people to save. Consumer debt is now at $2.1 trillion, and almost half of that, $800 billion, is credit card debt—$2 billion alone in the month of December. The consumer debt is mounting, and there needs to be a commensurate sense of responsibility by these credit card companies. They are making incredible profits with interest rates at 18, 25, 30 percent, when one can borrow money to buy a home for 4½ or 5 percent. Yet credit card companies are charging these incredibly high rates, making staggering profits.

The average income of a person taking the bankruptcy act is $20,000 a year. The reason they are taking the bankruptcy act is because of medical expenses, job loss, or divorce. These are not people living lavishly. Default rates are actually dropping. What is the justification and rationale for a bill that makes it easier for these credit card companies to collect and prevents consumers from getting back on their feet again?

Particularly disturbing to me is this change, after 100 years of law, where we sought to protect single women raising children with child support and alimony payments by allowing the discharge of these other obligations and seeing to it that they would focus on meeting their family obligations. We are now going to have the credit card companies competing with these children and these families, and I do not even have to say who is going to win that battle.

A team of lawyers representing very rich credit card companies are always going to beat that family out there. They are going to get that father, that husband, or that woman, to pay their unsecured debts to that credit card company, and that child and that family will lose. Why, after 100 years, are we changing the law protecting families and children? I think that is a huge mistake. I think it is going to come back to cause us a great deal of pain. This bill needs fundamental change.

I wish people would take time and look at these things. I understand there is a sentiment to reject all amendments, but we ought to ask these companies to act more responsibly. We are not going to do it, but I think, in time, we are going to pay an awful price. When we ought to be encouraging more personal savings, and when we ought to be reducing consumer debt, we are getting more consumer debt and less and less personal savings. We are allowing credit card companies to gouge consumers and never let average people who get into trouble—and, again, a lot of them, through no fault of their own—to get back on their feet again. That is what we ought to be trying to do.

When it is the appropriate time I will ask for votes on these amendments. I realize it will not be until next week. I have taken a lot of time, and I express my appreciation to my friend from Alabama who has been very patient, listening to me going on about this bill, and I thank the Presiding Officer for his patience as well in listening to this, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I want to express my congratulations to Papa DODD on his new daughter, born this week to join her sister Grace. We wish Jackie and the family well. I know how excited he has been over young Grace. I know how excited he is over this one. He said he lost a lot of sleep this week, he is a little tired, but he looked pretty vigorous to me in debate. I wish my sincerest best to you, and my wife Mary sends her regards, too.

I am disappointed Senator DODD is not supportive, as I understand it, of this bill. It is essentially the same bill we passed during the 107th Congress, 83 to 15. It came out of committee with a strong bipartisan vote again this year. This is the fourth time it has come up. It passed one time 97 to 1 in the Senate. This is the fourth time it is up. I believe it will become law this year.

I want to say there are some things here that my good friend has stated that are just not correct. I hope really he will think about and reevaluate some of his conclusions on the legislation. I have to say, there is a small group of leftists who are determined to block this bill. They seem to believe there is something wrong if a corporation, even a credit card company, gives money to an American citizen for them to want to be paid back, and if they don't pay it back, it is the credit card company's fault. They lose their money and they are an evil force here. This is really an odd argument, I suggest.

I also argue, flatly state, that I disagree with the statement that the only purpose of this bill is to help the credit card companies make money. That is absolutely not correct. It is really offensive to suggest that to the 83 Members of this Senate who have been working on this bill for quite a number of years.

Let me say a couple of things that I believe are indisputable. Philip Strauss, attorney for San Francisco Child Support Services, for 28 years enforcing child support obligations, testified before our Judiciary Committee, of which I am a member. I want to deal with some allegations that have been floated by—I think primarily it is the Elizabeth Warren view of this bankruptcy bill. In an effort to smear the bill and defeat the bill, they have conjured up this idea, somehow, that children and spouses are going to be harmed by this bankruptcy bill. It is absolutely incorrect. It is abysmally wrong. Let me tell you what this expert said.

> It is my opinion and the opinion of every professional support collector with whom I have discussed the issue that the support amendments contained as part of the bill, contained in section 211-219 of S. 256, the bankruptcy bill, will revolutionize enforcement of support organizations against debtors in bankruptcy.

Child support obligations will be revolutionized.

This legislation has been endorsed by the National Child Support Enforcement Association. Maybe some of those who have been saying this hurts children ought to interview the professionals—the National Association of Attorneys General, the National District Attorneys Association, both of which have important roles to play in collecting enforcement obligations for children—child support.

Mr. Philip Strauss, the attorney who spent 28 years in bankruptcy court collecting these debts for women and children against spouses and deadbeat dads who bankrupt against their debts, had this to say. The provisions in the bill are "a wish list for child support attorneys." That is what he has been looking for.

Under the current law, if we don't change it by passing this bill, the law that will remain in effect has alimony and child support payments No. 7 on the list of priorities for paying nonsecurity debt—No. 7 in the list. We moved it up to the top. Everybody who knows anything about this bill knows that women and children and their alimony and child support is going to be secured in a way it never has been before. It is offensive what Professor Warren is saying about this bill. This college professor keeps writing things that are not so. I don't know how—I guess she has tenure.

She also is the one who has gone around this country and promoted the idea, and had a press conference a few weeks ago, to announce that medical bills are the cause of everything. She says that all the people filing, half the people plus, 54 percent of the people who file bankruptcy are in bankruptcy court because of medical bills.

What do we know about that as a fact? She had a survey that indicated that. Do you know what we discovered, when you read the fine print of her survey? It includes gambling debts. It includes alcoholism and drug problems.

This is what the United States Trustee Program found in a much more extensive survey. Hers I believe had 1,700 people. This one has 5,203 cases. U.S. trustees are involved in bankruptcy courts in 48 States. They deal with these cases. They were asked to survey the filings in their districts to find out what you list on your filing as your debts, who you owe. You actually list who it is. So, if it is a doctor bill, it is on there. If you don't put it on there you don't wipe out that debt and you remain obligated to pay it, so everybody puts every debt they have on the list so it can be wiped out when they file bankruptcy. What they found was, this professional study of 5,000 cases, not interviewing debtors but looking at what they put on their form, they found that only slightly more than 5 percent of the total unsecured debt reported in those cases was medically related. Only 5 percent was medically related. This is not 50 percent of the cases in bankruptcy being caused by medical—only 5 percent of them, of the total debt, was medical.

It also revealed that 54 percent of the debtors, when they list all their debts, and they have a long list of them, listed no medical debts whatsoever. And of the people who listed some medical debts, 90 percent of those who listed a medical debt listed a medical debt of less than $5,000.

For some people there is no doubt that medical debts are a cause for bankruptcy. I do not doubt that. But this idea that we ought not reform bankruptcy, that we ought to assume that there is no fraud and abuse in bankruptcy and the idea that everybody is in bankruptcy because of medical debts is just not so.

It is just not; it is a fiction. We need to get it out of our heads.

There is another suggestion that poor people are going to have to pay back some of their debt. This is "pressure on poor people," they say; "this is class warfare." Poor people now are going to have to pay back their debt, and they are going to be harmed. We discussed the problem in bankruptcy.

The most offensive, clearly wrong thing about the current bankruptcy problem in America is that people making $200,000 a year, if they run up a couple hundred thousand dollars in debt, those people do not have to pay a dime. They can wipe out the entire debt. Shouldn't they pay some of it back? The average American citizen works hard to pay his or her debts back. They save; they do not take vacations: they do not buy a new car, they buy an older car so they can pay their debt. Some doctors, lawyers—we have examples of them—know how the bankruptcy works. They do not want to pay their debt. They wipe them out when they could easily have paid them back.

We reached a bipartisan consensus to have a means test which received 83 votes on the floor of the Senate the last time. If you make below median income your State, then you don't have to pay anything back. Eighty percent of the people make below median income. Some people who make above median income have special expenses, and we allowed them to take an exception. It really looks as though maybe only 10 to 13 percent of the people who file bankruptcy would be impacted by the means test.

The wealthy, why shouldn't they pay? I ask you, why should somebody not pay the local hospital when they have plenty of money with which to pay their debts?

What happens if you make median income and you don't have special circumstances? What should happen? I think you ought to pay some of it back. That is what the American people think, and that is what this Congress thinks.

What would happen is this: They would move into chapter 13, the bankruptcy chapter, which allows for repayment of a portion of the debt. The judge would look at the person's income, how much he believes they can pay back over a period of no more than 5 years, and order them to pay back some portion of those debts. What is wrong with that?

I hear my colleagues complain about the bill saying: I don't mind rich people paying back. That is what the bill does. It creates a safe harbor, an absolute wall for lower income people, people making below median income in America. Eighty percent of the filers of bankruptcy don't have to go into chapter 13. They don't have to pay a dime back.

Let's just say this: Chapter 13 is not so bad. It has a lot of sanctions. You can keep your car and "cram down" the value of that car, hold on to your house better, and other things that sometimes are an advantage. A lot of States use chapter 13 a lot. In Alabama, almost half of the filers are chapter 13 filers.

Just because somebody is going into chapter 13 and pays some back does not mean they are being oppressed.

"Oh, you know." Well, we are going to complain about credit cards today. A couple of days ago, it was about health insurance, we need to reform health insurance. If we reform health insurance, they argue, we wouldn't have bankruptcy.

If we don't fix credit cards and interest rates and truth in lending and banking issues—they are not part of the Judiciary Committee but part of the Banking Committee's financial lending portfolio of issues—we have to deal with them. We can't deal with bankruptcy. This is a bankruptcy bill.

This bill would create a workable process for filing bankruptcy in Federal court, so fairness occurs based on the debt that people have incurred. If you want to deal with the debts being incurred and giving more money, or have a welfare increase, whatever you want to do, let us propose that somewhere else to give people more money. But once they choose to file bankruptcy, let us create a system that is fair.

Let us say that people who have higher incomes and can pay back some of it, why don't they pay it back?

That is what I think we ought to do.

It has been suggested. We have a lot of complaints. Members of this body like to talk about some minor child getting a credit card.

Let me say that any minor in America who gets a credit card and goes down and runs up $5,000 worth of bills on that credit card does not have to pay a dime. The company that wrongly sent them that credit card eats the $5,000 loss because you can't sue a minor on such a debt. They can't be made to pay it. Who is the loser, if they sent a credit card to some young person and they used it, but the credit card company itself? That is not the issue before us.

Let us fix this bankruptcy bill that allows too much abuse, too much legal cost for people who go to court. Let us keep the legal fees down. Let us make the system fairer. Let us make sure the great protections of a fresh start for Americans is still alive and well. And for those median income and below, there is no change fundamentally in this bill whatsoever except they have to have some financial counseling, some credit counseling, and they can start all over again and wipe out all of their debt. But if they make above that and can pay some of it back, let us have them pay some back.

I don't think that is unfair or unusual or upsetting to most people who considered the bill, and that is why we have had such good support for it.

There was some suggestion that we have seen some reduction in filings. I hear 50,000—50.000 off a number of 1.6 million. About a little over 20 years ago, in 1980, there were 287.000 bankruptcy filings a year. Now they hit 1.6 million, and there is the suggestion that because it has dropped to 1.5, that somehow we ought not to fix this system that we know from experience—and we have been watching it for some time as a problem. Let us fix this problem. Whether it is 1.2 million in bankruptcy, 2 million in bankruptcy, we have a problem with the system. Let us fix it.

Let us treat people fairly. If you can pay some of it back, you shouldn't get off scot-free. If you make below median income, you get to wipe out all of your debts and not pay a dime to the people you owe unless you intentionally and deliberately inflict harm on that.

It is the same law we have always had. Those debts are not dischargeable in bankruptcy.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Department of Justice on the data they have obtained from the U.S. Trustees on the issue of medical debts, and I commend to my colleagues the February 10, 2005, testimony of Philip Strauss before the Senate Judiciary Committee on the benefits of the bill to women and children which he states is indisputable and represents a wish list of items of those who collect child support for women and children.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC.*

Hon. CHARLES E. GRASSLEY,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRASSLEY: This responds to your letter, dated February 5, 2005, requesting information from the Executive Office for United States Trustees (EOUST) concerning medical debts of those who file for bankruptcy protection and the recently published study in the Health Affairs journal ("Market Watch: Illness and Injury As Contributors to Bankruptcy").

It is the practice of the U.S. Trustee Program (USTP) not to comment on data collected and analyses performed by outside researchers for reasons that include difficulties in verifying their data and research methodologies. It is noted in the cited study of 1,771 filers that very broad definitions of "medical bankruptcies" are used. The authors considered a "Major Medical Bankruptcy" to include cases in which debtor reported any of the following: illness or injury as a reason for filing bankruptcy, uncovered medical bills exceeding $1,000 in the past two years, loss of two weeks of work-related income due to illness or injury, or mortgage of home to pay medical bills. The authors considered "Any Medical Bankruptcy" to include cases containing any of the factors above or birth or death in the debtor's family *or* birth or death in the debtor's family or addiction or uncontrolled gambling.

Enclosed in a description of related USTP data and a summary of findings from analysis of a similar but larger sample of bankruptcy cases (5,203) utilizing data from official records during approximately the same time period as the study cited above. It should be noted that reported credit card debt also may reflect medical-related debts, but are not shown in these findings.

In general, the data describing medical-related expenses contained in official documents filed by chapter 7 debtors reveal that slightly more than 5 percent of their general unsecured debt is medical-related. The conclusion that almost 50 percent of consumer bankruptcies are "medical related" requires a broad definition and generally is not substantiated by the official documents filed by debtors.

We hope this information is responsive to your inquiry. If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,

WILLIAM E. MOSCHELLA,
*Assistant Attorney General.*

Enclosure.

---

SUMMARY OF USTP DATA AND FINDINGS ON MEDICAL DEBT

USTP DATA

The USTP database contains 5,203 no asset chapter 7 cases that were closed between 2000 and 2002. The database includes cases filed in 48 States, Washington, DC and Puerto Rico proportionate to chapter 7 filings in each location. The database contains no cases from North Carolina and Alabama, because those States are served by Bankruptcy Administrators. Nearly all of these cases had been filed about 4 months prior to closing.

On each petition we reviewed Schedule F of the petition to see if any medical debts were listed. This would include where the creditor was a doctor, hospital or other treatment facility, medical collection agency, or if the debt was in any way identifiable as being medical in origin.

This accounting would not have identified medical debts charged on credit cards, placed with certain collection agencies, or paid prior to the bankruptcy filings.

FINDINGS

*All Debtors (N = 5,203):*

54 percent listed no medical debt.

Medical debt accounted for 5.5 percent of the total general unsecured debt.

90.1 percent reported medical debts less than $5,000.

1 percent of cases accounted for 36.5 percent of medical debt.

Less than 10 percent of all cases represent 80 percent of all reported medical debt.

*Cases Reporting Medical Debts (N = 2,391):*

Among the debtors reporting medical debt, the average medical debt was $4,978 per case.

78.4 percent reported medical debts below $5,000 (average of $1,212 for this group).

21.6 percent reported 80.9 percent of the total medical debt.

Medical debts accounted for 13.0 percent of the total general unsecured debt for those reporting medical debt.

Mr. SESSIONS. Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Thank you, Mr. President.

First, let me say to my friend, the Senator from Alabama, how much I appreciate his eloquence on this bill and his very successful attempt to explain to the American people, as well as to us, what is at stake here, and to knock down some myths that are being used to try to worry people when, in fact, there is no reason for people to be worried about this legislation.

Indeed, as has been reflected before, this bill will pass as it has previously, and will pass by a large bipartisan majority, and for good reason.

## FREE SPEECH

Mr. CORNYN. Mr. President, I want to turn to another subject briefly.

The reason I changed the subject from bankruptcy to this is provoked by an op-ed piece that I read today, and that others in this body may have read, published in the Washington Post. This article is called "'Nuking' Free Speech," certainly an attention-grabbing headline.

As it turns out, reading the op-ed, it is what I can only describe as a breathless statement made in writing by one of our distinguished colleagues, claiming there are efforts to reinstate majority rule when it comes to the procedures that govern our advice and consent function; that is, the procedures by which we evaluate Federal judges sent to the Senate for our consideration under our advice and consent function.

Somehow, the opponents of reinstating the 200-and-more year tradition of majority rule when it comes to confirming Federal judges have been able to convince the press and others that this represents a nuclear option. Hence, the title and, hence, the first sentence in this op-ed.

It says:

> A "nuclear option" is targeting the Senate.

That is unfortunate because it suggests people who want to reinstate majority rule when it comes to advice and consent on the President's judicial nominees are somehow doing something radical, something dangerous, something potentially catastrophic when, in fact, that is not the case.

As many know, we have seen use of a tactic which has been labeled obstructionist, it is fair to call it; that is, the use of the filibuster, to block the President's judicial nominees from getting an up-or-down vote. Indeed, it is that obstructionist procedure that has never been used in the history of this country before the last Congress. If there is a nuclear tactic being used here, I submit it is the use of that obstruction where a willful minority blocks a bipartisan majority from voting on the President's judicial nominees. That radical change from Senate tradition over the 200-plus years this body has existed is the radical change. For those who believe we ought to restore that tradition which has been taken down a very dangerous road these last 2 years with obstruction, I submit we are doing nothing more than trying to restore that Senate tradition and majority rule; and those who oppose reestablishing majority rule are the ones who are taking a radical, a dangerous position.

The senior Senator from West Virginia, the author of this op-ed, claims that 20 men and women have been renominated by the President to the Federal bench where 7 of those were rejected last year. Plainly, that is false. How can it be said the Senate has rejected a nominee when we were prevented from having an up-or-down vote? Clearly, that is not true.

This op-ed piece goes on to suggest that as a result of those who believe we ought to reestablish this 200-year-long tradition of majority rule when it comes to confirming judicial nominees, this op-ed goes on to say it starts with shutting off debate on judges, but it will not end there. Ultimately, he says, if Senators are denied their right to free speech on judicial nominations, an attack on extended debate on all other matters cannot be far behind.

The distinguished senior Senator from West Virginia has been in the Senate a long time. Much of his service he is justly proud of. But one of the dangers of being in the Senate for a long time is that you go on record making statements which have the potential of contradicting one's current statements. Indeed, that has been the case when it comes to the senior Senator from West Virginia.

For example, the very procedure which he now decries as nuking free speech, he himself championed in 1977, in 1979, in 1980, in 1987. Hardly can it be true that today trying to reinstate majority rule as he himself did on those four occasions on the dates of the years mentioned, hardly can that be nuking free speech. In fairness, he ought to concede what we are doing is nothing radical. Indeed, it is doing the same thing he himself did four times earlier.

The other thing that is unfortunate about this claim made in this op-ed is that it represents the latest in a continuing series of arguments being made in the Judiciary Committee. I am thinking now of the senior Senator from New York, Mr. SCHUMER, who asked the Attorney General, then nominee, Alberto Gonzales, of his opinion on this "nuclear option." Later we heard speeches in the Senate from the distinguished senior Senator from Massachusetts, Mr. KENNEDY, and together the three Senators making speeches, raising fears of alarm about the so-called nuclear option have raised the concern, at least on my part, that if left unresponded to, if the record is left uncorrected, people might indeed begin to believe what we are suggesting by restoring this 200-year tradition of majority rule is radical when it is not.

One of the dangers of being here a while is you may have been on record directly and diametrically opposed to what one is saying today. That is the case with the senior Senator from West Virginia.

In 1979 on this same issue, he said:

> This Congress is not obliged to be bound by the dead hand of the past . . .

He said:

> Any Member of this body knows that the next Congress would not heed that law . . .

He is talking about a hypothetical law where a Congress would pass a bill that says to change this you need a two-thirds majority requirement.

He said:

> Any Member of this body knows that the next Congress would not heed that law and would proceed to change it and would proceed to change it and would vote repeal of it by a majority vote.

The senior Senator from West Virginia was correct in 1979. He is plainly incorrect today in claiming now that a 60-vote threshold is required in order to get an up-or-down vote on the President's judicial nominees.

The senior Senator from Massachusetts, Mr. KENNEDY, spoke on this same matter in 1975—quite a time ago—when he served in this body as a much younger man. He said on this same subject:

> The simple fact is the two-thirds majority required . . .

under the filibuster, under the cloture rules

> is too difficult to obtain. Too much Senate business is too often obstructed. The will of the majority is too easily thwarted. And it is not the Senate, but the Nation's people who suffer the consequences.

I agree with the senior Senator from Massachusetts, speaking in 1975. I disagree with the senior Senator speaking in 2005 on the same subject. He made the case very clearly back then. It is the same case that applies today. He said that the immediate issue is whether a simple majority of the Senate is entitled to change the Senate rules. Although the procedural issues are complex, it is clear this question should be settled by majority vote.

So it is clear from the record that what Senator KENNEDY, Senator BYRD, and Senator SCHUMER himself back in the year 2000 suggested, which was the majority should govern, should be the rule today. It should be the rule when Republicans control the White House and control the Senate. It should be the case were there a Democrat in the White House or the Democrats controlled the Senate. In other words, what we are talking about today is an important principle. And principles should not change with political convenience, which apparently is the case today.

For those who took the same position back then as I and others believe should be applied today, then somehow it is suggested that this majority rule option—which is what I would prefer to call what they refer to as the nuclear option or the constitutional option—that is all we are asking for, a return to that majority rule, which they championed years ago and which they, unfortunately, are obstructing today in suggesting that somehow it is a violation of our rules and of our precedents.

Unfortunately, we learn, those of us who run for office, those of us who are engaged in the rough and tumble of debate in the political arena, we know that an unresponded to allegation or attack is often an attack or an allegation believed. That is why it is so important, to set the record straight.

One of the concerns Senator BYRD expressed in this op-ed, if I can sort of get down to the bottom of it, is he thinks what we are suggesting, the return to majority rule, is somehow going to stifle debate. Well, the fact is, we have had more than 2 years, going on 3 years, to debate the President's judicial nominees who have been filibustered. Surely, any reasonable person would agree that 2 or 3 years is enough debate on any nominee, when all we are asking for is simply an up-or-down vote.

One other distinction I think is noteworthy. What we are talking about is not restricting debate in any way on legislative business, which, of course, is exclusively within the purview of the Congress. And if we want to pass a rule that says we are not going to have an up-or-down vote on legislation unless 60 Senators agree that we should close off debate, I think that is exclusively within our purview because it does not speak to the constitutional authority of power of any other branch of Government.

But when we say—and the President is given the constitutional responsibility to nominate people to the Federal bench—that our advice and consent function cannot occur unless 60 Senators agree to close off debate so we can have an up-or-down vote, that does not merely infringe on our authority as the Senate, it infringes on the constitutional power of this President to nominate good and qualified people to the Federal bench, and then to have a debate, to have a searching inquiry into their qualifications and background, but ultimately then to have a vote, if a majority stand ready to confirm these nominees.

Surely, everyone would agree that it would be wrong to say it takes a 51-percent vote to elect a Democrat to office but it somehow should take a 60-percent vote to elect a Republican to office. In a very odd sort of way, that is an analogy to what Senator BYRD, Senator KENNEDY, Senator SCHUMER, and others on their side of the aisle have suggested.

Why in the world, after more than 200 years, when the practice has been not to filibuster judges but to allow an up-or-down vote when a bipartisan majority stand ready to vote on them, should the rules change when this President is elected to the White House and when Republicans have a majority in the Senate?

Well, of course, that is an unprincipled approach. It is merely a way of saying we have an argument for why we ought to be able to obstruct this President from getting the nominees he wants voted on to the Federal bench. No one is suggesting, of course, that any Senator do anything other than vote their conscience. If any Senator feels there is just cause for them to vote against a nominee, then they should do so. And I trust they will. But no Senator and no group of Senators has the authority to block a bipartisan majority of this Senate from doing its solemn duty under the Constitution. Yet that is precisely what has happened time and time and time again by an obstinate minority who last Congress filibustered 10 different judges, preventing that up-or-down vote from occurring.

We have tried to work with our colleagues on the other side. I remember the Democratic leader, when asked whether his approach to leadership on this and other issues would change with the change of Congress and with his ascension to Democratic leader, said: I would rather dance than fight. What it suggested to me was he was going to be amenable to working together. I know he is a tough advocate for his side of any argument, and as leader has a responsibility to his caucus to represent the views of his caucus. But it suggested to me perhaps we would have a fresh start and a new attitude when it came to judicial filibusters.

But, indeed, time and time again we have seen that is not apparently the case. And while we have not yet had to go to a vote on the floor on these judges who have been filibustered in the past, we will very soon. We know also that in addition to these circuit court nominees, we are likely to have a vacancy to the U.S. Supreme Court before very long, where, believe me, all this will have been merely a prelude to what will be a vigorous debate, which will consume virtually everything else we do, because people understand that those who are unsuccessful in getting their views enacted into law through the political process know that having judges who are confirmed who believe that a judge should be an umpire and enforce political decisions rather than make political decisions from the bench represents a threat to their agenda.

But none of us have the right to use unconstitutional means, which these filibusters are, to prevent the people of this body, to prevent this President, from doing our constitutional duty. For them to suggest trying to restore 200 years of tradition, trying to restore majority rule, doing the very things they themselves have advocated and done in the past, is somehow a nuclear option is blatantly false.

So, unfortunately, it is necessary, for me and others to lay the record straight. I trust that fairminded people, looking at the record, looking at the facts, will realize what we are suggesting is not a nuclear option. What we are suggesting is perhaps a constitutional option. What we are suggesting is a restoration of the majority rule option, but it is nothing radical, and it is, indeed, in keeping not only with the traditions of the Senate but also in keeping with the Constitution and laws of the United States.

The Constitution is abundantly clear when supermajorities are required in order to perform a certain function. For example, to amend the Constitution, it talks explicitly about the requirement of a two-thirds majority and ratification by three-quarters of the States. It is also very clear that a supermajority is required to ratify treaties. But nowhere within that document, that foundation of our laws, the Constitution, is it suggested that more than a majority rule is required in order to provide advice and consent when it comes to the President's judicial nominees.

I appreciate the opportunity and the patience of my friend, the Senator from Georgia, who I know is going to speak next, allowing me to correct the record and I hope better inform the American people and our colleagues about exactly what is going on. What is going on is that we are required to do what the people of our respective States have sent us here to do, and that is to vote. We have a tradition of lengthy debate and opportunity for any Senator to speak their mind on any subject that they care to speak on, but ultimately we are obligated by our oath and by the Constitution that governs all Americans to have an up-or-down vote, especially when a bipartisan majority stands ready to confirm, which is the case here. No Senator, no person, no collection of persons has any right to demand anything more.

Unfortunately, this has gone on for too long. Good and distinguished nominees of this President have not only been denied the opportunity to have an up-or-down vote but unfortunately have been smeared as part of the process far too often. I believe what we need is a fresh start. We need a fair process, one that will apply to Democrats as well as Republicans, and one that will reflect the kind of honor that should be reflected on this institution. Unfortunately, that has not been the case. We have somehow allowed ourselves to veer off the path that the Constitution lays out for us. But we do have a chance, if necessary, if the Democratic leadership is going to persist in this unconstitutional blockade and obstruction of the President's nominees, for us to correct what has gone on for too long. Indeed, I hope that will not be necessary. Ultimately the decision is going to be theirs.

We have been patient. We have explained our position. We have listened carefully to their arguments. We have listened to their objections. Frankly, we find them to be firmly planted on both sides of this issue.

I hope those listening and colleagues in the Chamber will now understand a little bit better about why it is so important for us to reinstate this more than 200-year tradition, indeed this constitutional mandate that binds all of us as Americans to majority rule restoration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### TILLIE FOWLER

Mr. ISAKSON. Mr. President, at this precise minute and this precise hour in Jacksonville, FL, countless friends and admirers are gathering to pay tribute to Tillie Fowler. It is only fitting and proper that in this Chamber this Congress do the same.

For me personally, it is more than just the loss of a colleague. I served with Tillie's dad, Culver Kidd, a State senator in Georgia for years when I served in the legislature—colorful and distinguished, a leading citizen. Her brother Rusty is a warm and trusted friend. Her daughter Tillie worked for me the first 4 years I served in the House of Representatives. I honor, admire, and respect her loving husband Buck who, together with Tillie, has meant so much to me personally in my career.

I know the bible teaches us in the book and chapter of Ecclesiastes that there is a time for everything, a time to live and a time to die. But there are some times that it is so difficult to accept, the loss of one so vibrant and so important, not only to their community but to their country. Such is the case with Tillie Fowler.

I know that her family, gathered today at this moment in Jacksonville, FL, would want us in the Senate and in this Congress, in this building today, to pay tribute to the legacy of Tillie Fowler: an accomplished attorney, a loving wife, a devoted mother, a committed servant of the people she represented, an honored Member of the United States House of representatives, a lady who became the highest elected woman in leadership in the Congress of the United States at the time she ascended to the position of vice chairman of the Republican conference in the majority of the House, respected by both sides of the aisle as the most formidable and knowledgeable member of the Armed Services Committee in the House, one who had the temperament and the ability to calm the waves of partisanship and point to the direction that we all knew we should go, and one that would also stop to help, regardless of the need of an individual.

In fact, on Tuesday of this week, just one day after she was stricken, I was to have had an appointment in my office in the Russell office building with Tillie Fowler. Obviously, because of her illness, she could not come. But the person she was going to introduce me to could. Only a Tillie Fowler would have sent to me the new director of the largest public and charitable hospital in Georgia and the largest trauma center in our State because she was spending part of her time trying to see to it that those that help others got help themselves.

It was an honor for me to serve in the House with Tillie Fowler. It is a privilege for me to stand here today in the Senate and pay tribute to our colleague. On behalf of all the Members of this Senate, we extend our deepest sympathy and condolences to her husband Buck, her daughter Elizabeth, her daughter Tillie, and all of her extended family.

Mr. NELSON of Florida. Mr. President, it was with great sadness that I learned of the passing of Tillie Fowler, a great friend, dedicated public servant, and remarkable woman.

It is difficult to think about Florida politics without thinking about Tillie Fowler. She was a woman with strong values, political acumen and honor. I was lucky to have known her and, more importantly, Florida was lucky to have had her represent us in the U.S. House of Representatives.

She is an inspiration to Floridians and all Americans, and she will be greatly missed.

## MORNING BUSINESS

Mr. ISAKSON. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Late last year, two gay men were attacked when attempting to leave a night club in Tampa, Florida. The men were repeatedly punched and kicked in the head by two assailants. Authorities in Florida have designated this case as a hate crime because the apparent motivation for the vicious attack was the sexual orientation of the two victims.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement

Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## THE MONEY FOLLOWS THE PERSON ACT OF 2005

Mr. SMITH. Mr. President, yesterday I introduced the Money Follows the Person Act of 2005, along with Senator HARKIN.

My job as a Senator is to help protect and defend the freedoms of all Americans. One of the most important freedoms we enjoy is the freedom to choose where we live. For example, many people overlook the importance of being able to choose to live among family and friends and not among strangers.

All too often this basic freedom is denied to older Americans and Americans with disabilities. Currently, we are unnecessarily isolating people with disabilities from their communities, friends, families and loved ones by placing them in institutional care facilities. Many of these Americans should not be in a nursing home or institutional setting. A disabled person can often be better served and integrated into their community by living in community-based homes.

However, recent data indicates that 70 percent of Medicaid dollars are spent on institutional care and only 30 percent are spent on community services for the disabled. This is because Medicaid currently requires that States provide nursing home care for Americans with disabilities, but does not require the same for community-based services. Due to this inequity in Medicaid law many individuals with disabilities and older Americans are forced to live in isolated settings.

In order to preserve the freedoms of our friends and loved ones in the disabled community, we must do something to reverse this trend. It is my privilege today to join my distinguished colleague from Iowa as a cosponsor of the Money Follows the Person Act of 2005. Under this legislation, Oregon's effort to help an individual move out of an institutional facility and into a community home would be 100 percent federally funded for one year. After that first year, the Federal Government would pay the state's normal Medicaid rate.

These incentives can help reintegrate countless older Americans and Americans with disabilities into a setting where they can be more active citizens. Americans everywhere realize the value of integrating persons with disabilities into their communities. It is unfair and unjust to needlessly isolate productive citizens from their communities, regardless of their condition. It is time we work to reintegrate disabled Americans back into our communities. I urge my colleagues on both sides of the aisle to support this important bill and to support the freedom of choice for Americans with disabilities.

## THE "DECADE OF ROMA INCLUSION"

Mr. BROWNBACK. Mr. President, last month, the Prime Ministers of eight Central and Southern European countries met in Sofia, Bulgaria, for their first meeting in what has been dubbed "the Decade of Roma Inclusion." This initiative is designed to spur governments to undertake intensive engagement in the field of education, employment, health and housing with respect to Europe's largest, most impoverished and marginalized ethnic minority, the Roma. The Open Society Institute, the World Bank, the European Commission and the United Nations Development Program—all supporters of this initiative—hope that this effort will result in meaningful improvements over the course of a 10-year period.

In December, a donors' conference pledged $42 million for a Roma Education Fund. But the real goal is to get governments to give more help to their own people from their own budgets, as well as to make better use of the funds already available from organizations like the EU.

The fact is, Romani riots in Plovdiv, Bulgaria, in 2002 and in eastern Slovakia last year should be a wake up call for governments with significant Romani communities. These countries cannot afford to ignore the crushing impoverishment and crude bigotry that so many Roma face on a daily basis. The Decade of Romani Inclusion is all well and good, and I commend the governments that are participating in this initiative. But much more needs to be done to truly advance Romani integration. It must start with a message of tolerance and inclusion from the highest levels of government.

Unfortunately, too often the voices that are heard are those spreading crude stereotypes and inter-ethnic hatred. I am particularly alarmed by what appears to be an increase in anti-roma statements in Bulgaria.

Last summer, the head of one of Bulgaria's leading trade unions, Konstantin Trenchev, broadly characterized all Roma as criminals—and then called for the establishment of vigilante guards to deal with them. More recently, Ognian Saparev, a Member of Parliament from the Bulgarian Socialist Party, dismissed the significance of reports that the Mayor of Pazardzhik has trafficked Romani girls for the benefit of visiting foreigner diplomats. Saparev reportedly claimed that the statutory rape of these girls shouldn't be considered a crime because Romani girls are "mature" at age 14. Significantly, Saparev also gained headlines last year for publishing an inflammatory article about Roma in which he argued they should be forced to live in ghettos.

Even worse statements have come from Russia. Yevgenii Urlashov, a city official in Yaroslavl, recently characterized all Roma as drug dealers and called for them to be deported. Not to be outdone, fellow municipal legislator, Sergei Krivnyuk, said, "residents are ready to start setting the Gypsies' houses on fire, and I want to head this process."

Although nongovernmental human rights groups have condemned this anti-Romani rhetoric, other leaders in Bulgaria and Russia have largely remained silent. But it is critical that public leaders, from all walks of life, speak out against such hate mongering.

Speaking on the occasion of the 60th anniversary of the liberation of Auschwitz, Polish President Kwasniewski noted that "complete extermination was also [intended] to be the fate of the Roma community." It will not do, 60 years after the liberation of Auschwitz, to stand by in silence while Roma are crudely caricatured as criminals, just as they were by the Nazis. And we must not stand by in silence when a member of Parliament dismisses the criminal act of trafficking of children, simply because they are Romani.

## BELARUS—OUTPOST OF TYRANNY

Mr. BROWNBACK. Mr. President, over the course of the last few months, we have witnessed dramatic events in one of Europe's largest countries, Ukraine. The Orange Revolution has clearly shown that people power can bring about peaceful democratic change some thought was not possible in a former Soviet state. As a result, and with the support of the United States, Europe and international organizations such as the Organization for Security and Cooperation in Europe OSCE, Ukraine is on the path to freedom and democracy. Notwithstanding the formidable challenges that remain to overcome the legacy of the past, Ukraine now has a real chance at consolidating its democracy and further integrating into the Euro-Atlantic community.

Unfortunately, the news out of Belarus, Ukraine's neighboring fellow eastern Slavic country to the north stands in stark contrast to the encouraging news coming out of Ukraine. Secretary Rice, in her confirmation testimony, characterized Belarus, along with North Korea, Iran, Cuba, Burma, and Zimbabwe as an outpost of tyranny and asserted that America stands with oppressed people on every continent. Belarus, under Alexander Lukashenka's now 10-year repressive rule, has the worst human rights record of any country in Europe. Lukashenka's regime has increasingly violated human rights and freedoms and has made a mockery of commitments that Belarus freely undertook when it joined the OSCE in 1992.

Nothing has changed for the better since last October's fundamentally flawed parliamentary elections and rigged referendum allowing Lukashenka unlimited terms as president. In November, Lukashenka appointed Viktor Sheiman as head of the powerful Presidential Administration, despite credible evidence linking Sheiman to the disappearances of opposition leaders and a journalist in 1999 and 2000.

The harassment and persecution of civil society has intensified. A top opposition figure, Mikhail Marinich, was sentenced in late December on the charge of stealing, of all things, U.S. government property—in this case, computers—despite the fact that the U.S. Embassy in Minsk makes no claims against Marinich. Clearly, Lukashenka wants to eliminate Marinich as a potential candidate for the 2006 presidential elections.

Other opposition leaders—Valery Levaneuski and Alyaksandr Vasilyeu—continue to serve terms in a minimum security colony after having been found guilty of "public slander" of the Belarusian leader. Their crime? Distributing leaflets urging people to take part in an unauthorized rally. The leaflets contained a satirical poem about Lukashenka. Another example of Belarus' reluctance to promote human rights is the recent refusal to grant a visa to former OSCE Parliamentary Assembly Chairman and Romanian Foreign Minister Adrian Severin, who now serves as the UN Human Rights Commission's Special Rapporteur on Belarus. The Belarusian regime has also clamped down on independent NGOs and prodemocracy political parties with Kafkaesque legal requirements and has mounted a full-fledged assault on independent trade unions. Problems are being experienced by religious communities attempting to operate freely.

As Chairman of the Helsinki Commission, charged with monitoring and encouraging compliance by all 55 participating States with OSCE agreements, I call upon the Belarusian authorities to live up to their freely-undertaken commitments with respect to democracy, human rights and the rule of law. Last October, President Bush signed into law the Belarus Democracy Act, which had been introduced in the Senate by then Helsinki Commission Chairman Senator Campbell and in the House by commission co-chair CHRIS SMITH, stating:

> We welcome this legislation as a means to bolster friends of freedom and to nurture the growth of democratic values, habits, and institutions within Belarus. The fate of Belarus will rest not with a dictator, but with the students, trade unionists, civic and religious leaders, journalists, and all citizens of Belarus claiming freedom for their nation.

It is essential that we in the Congress, together with the administration and the OSCE, keep faith with the courageous people of Belarus struggling to ensure freedom and democratic values for their long-suffering country.

## ADDITIONAL STATEMENTS

### MS. NICOLE WAYANT AND MR. CORMAC O'CONNOR

• Mr. BROWNBACK. Mr. President, I congratulate and honor two young Kansas students who have achieved national recognition for exemplary volunteer service in their communities. Nicole Wayant of Topeka, KS, and Cormac O'Connor of Prairie Village, KS, have just been named State Honorees in The 2005 Prudential Spirit of Community Awards program, an annual honor conferred on only one high school student and one middle-level student in each State, the District of Columbia and Puerto Rico.

Ms. Wayant is being recognized for creating a youth health council to promote the benefits of an active, healthy lifestyle among the students in her school district.

Mr. O'Connor is being recognized for implementing an intergenerational arts program that brought senior citizens and at-risk children together for classes in visual arts, movements, theater and jazz.

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it's vital that we encourage and support the kind of selfless contributions these young people have made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Ms. Wayant and Mr. O'Connor are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought these young role models to our attention—The Prudential Spirit of Community Awards—was created by Prudential Financial in partnership with the National Association of Secondary School Principals in 1995 to impress upon all youth volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. Over the past 10 years, the program has become the Nation's largest youth recognition effort based solely on unity service, with more than 170,000 young people participating since its inception.

Ms. Wayant and Mr. O'Connor should be extremely proud to have been singled out from such a large group of dedicated volunteers. As part of their recognition, they will come to Washington in early May, along with other 2005 Spirit of Community honorees from across the country, for several days of special events, including a Congressional breakfast on Capitol Hill. While here in Washington, ten will be named America's top youth volunteers of the year by a distinguished national selection committee.

I applaud Ms. Wayant and Mr. O'Connor for their initiative in seeking to make their communities better places to live, and for the positive impact they have had on the lives of others. I also salute the other young people in my State who were named Distinguished Finalists by The Prudential Spirit of Community Awards for their outstanding volunteer service. They are Shawn Bryant of Leavenworth, KS, Brad Harris of Saint Paul, KS, Amanda Knox of Clifton, KS, and Creighton Olsen of Larned, KS.

All of these young people have demonstrated a level of commitment and accomplishment that is truly extraordinary in today's world and they deserve our sincere admiration and respect. Their actions show that young Americans can—and do—play important roles in their communities, and that America's community spirit continues to hold tremendous promise for the future.•

### COMMEMORATING THE 50TH WEDDING ANNIVERSARY

• Mr. LUGAR. Mr. President, I bring to the attention of my colleagues a signal anniversary occurring tomorrow, the 50th wedding anniversary of Harry and Judy Maitland.

Harry and Judy Maitland were married in St. Louis, MO on March 5, 1955. Harry, a fellow Navy man, served on the U.S.S *Randolph* during the Korean War. Subsequently, he worked for Missouri Pacific and Union Pacific, and he and Judy were blessed with three children and eleven grandchildren. I join all of their family and friends in congratulating Harry and Judy on their signal anniversary.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-1190. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the report of proposed legislation to authorize appropriations for the Broadcasting Board of Governors for Fiscal Years 2006 and 2007, received on March 3, 2005; to the Committee on Foreign Relations.

EC-1191. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Loss Limitations Rules" ((RIN1545–BA52) (TD 9187)) received on March 3, 2005; to the Committee on Finance.

EC-1192. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2005 Census Count" (Notice 2005-16) received on March 3, 2005; to the Committee on Finance.

EC-1193. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "TD: Diversification Requirements for Variable Annuity, Endowment, and Life Insurance Contracts" ((RIN1545–BB77)(TD 9185)) received on March 3, 2005; to the Committee on Finance.

EC-1194. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Notice 2005-4" (Notice 2005-4) received on March 3, 2005; to the Committee on Finance.

EC-1195. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Durable Medical Equipment Regional Carrier Service Areas and Related Matters" (RIN0938–AL76) received on March 3, 2005; to the Committee on Finance.

EC-1196. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program: Changes to the Medicare Claims Appeal Procedures" (RIN0938–AM73) received on March 3, 2005; to the Committee on Finance.

EC-1197. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Trinity Lakes Viticultural Area" (RIN1513–AA29) received on March 3, 2005; to the Committee on the Judiciary.

EC-1198. A communication from the Chief, Division of Scientific Authority, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Special Rule to Control the Trade of Threatened Beluga Sturgeon (Huso huso)" (RIN1018-AT54) received on March 3, 2005; to the Committee on Energy and Natural Resources.

EC-1199. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Kentucky Regulatory Program" received on March 3, 2005; to the Committee on Energy and Natural Resources.

EC-1200. A communication from the Director, Office of Hearings and Appeals, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Probate of Indian Trust Estates" (RIN1094-AA50) received on March 3, 2005; to the Committee on Indian Affairs.

EC-1201. A communication from the Deputy Assistant Secretary for Labor-Management Programs, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the Annual Report of the Department's Office of Labor-Management Standards, received on March 3, 2005; to the Committee on Health, Education, Labor, and Pensions.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REED (for himself, Mr. HAGEL, Mr. MCCAIN, Mr. KERRY, Mr. BIDEN, Ms. LANDRIEU, Mrs. CLINTON, and Mr. NELSON of Florida):

S. 530. A bill to amend section 691 of title 10, United States Code, to increase the end strengths of the Army and the Marine Corps for fiscal years after fiscal year 2005, and for other purposes; to the Committee on Armed Services.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 531. A bill to amend the Agricultural Adjustment Act to exempt certain identified varieties of tomatoes from agricultural marketing orders; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DEWINE:

S. 532. A bill to reduce temporarily the duty on palm fatty acid distillate; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 533. A bill to amend the Internal Revenue Code of 1986 to clarify that a NADBank guarantee is not considered a Federal guarantee for purposes of determining the tax-exempt status of bonds; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 72. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 397

At the request of Mr. CRAIG, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others

.

S. 407

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 471

At the request of Mr. SPECTER, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 489

At the request of Mr. ALEXANDER, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from Utah (Mr. BENNETT), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. CRAIG), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mrs. HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Mississippi (Mr. LOTT), the Senator from Kansas (Mr. ROBERTS), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Oregon (Mr. SMITH) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. 495

At the request of Mr. CORZINE, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. RES. 56

At the request of Mr. REID, his name was added as a cosponsor of S. Res. 56, a resolution designating the month of March as Deep-Vein Thrombosis Awareness Month, in memory of journalist David Bloom.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself, Mr. HAGEL, Mr. MCCAIN, Mr. KERRY, Mr. BIDEN, Ms. LANDRIEU, Mrs. CLINTON, and Mr. NELSON of Florida):

S. 530. A bill to amend section 691 of title 10, United States Code, to increase the end strengths of the Army and the

Marine Corps for fiscal years after fiscal year 2005, and for other purposes; to the Committee on Armed Services.

Mr. HAGEL. Mr. President, I rise today to join my colleague Senator JACK REED in introducing legislation to increase the size of the United States Army by 30,000 troops and the United States Marine Corps by 5,000 Marines.

In recent testimony before the Senate Armed Services Committee, Army Chief of Staff General Peter Schoomaker testified that the current Army endstrength of 502,400 troops is adequate to fight the Global War on Terrorism if the Army National Guard and Army Reserve can sustain the current active-duty force.

Our current over-dependence on Army National Guard and Army Reserve mobilization is irresponsible policy. This policy threatens to break the United States Army and severely damage our national security.

America should not leverage its security interests upon a Reserve and National Guard force that is already overstressed and over-burdened. There are 100,000 soldiers in the Army National Guard mobilized and serving on active duty. An additional 50,000 Army Reserve soldiers have been mobilized. Many of these reservists are in critical specialty areas and are completing 2 years on active-duty.

The Global War on Terrorism began almost 3½ years ago. Since then, the active-duty Army has grown 5 percent, while the demands placed on our soldiers have skyrocketed. LTG Richard Cody, Vice Chief of Staff of the Army, recently testified to Congress that almost 50 percent of the Army's available manpower is deployed.

The bulk of our active-duty combat soldiers are currently in a cycle of deployment that includes 1 year in Iraq or Afghanistan followed by 1 year at home. The Marine Corps has shortened the cycle to 7 months deployed and 7 months at home. However, these soldiers and Marines are no longer spending time with their families. Instead, their time at home is spent training and preparing to redeploy.

These deployment cycles are just as demanding for our National Guard and Reserve personnel. GEN James Helmly, Commander of the Army Reserve, has told the Pentagon leadership that current personnel and deployment policy threatens to permanently damage the Army Reserve's recruitment and retention.

This policy is not sustainable. It must be changed. In order to effectively meet the global challenges of the 21st century, our efforts must assure Americans that the Army and Marines have a sufficient number of full time, highly trained and fully qualified personnel to do the job.

The Army has over 500,000 soldiers on active duty today. By the end of this year the Army will have over 510,000 soldiers. Later this year the Marine Corps will have over 178,000 Marines on active duty. Yet the Pentagon's Fiscal Year 2006 budget submission only pays for 482,400 soldiers and 175,000 Marines.

The Department of Defense, DoD, has chosen not to fund known costs and instead has deferred an increase in Army endstrength to upcoming supplemental appropriations requests. The leaders of our Armed Forces must have realistic funding in order to conduct realistic wartime planning and execution. The Congress and the American people expect DoD to tell us what our real National Security costs are.

In previous years, Senator REED and I have introduced legislation to increase the size of the Army. In 2003, our first effort to increase Army endstrength by 10,000 troops was simply dismissed by the Pentagon.

Last year, our second effort to increase the size of the Army by 30,000 soldiers resulted in compromise legislation to add 20,000 soldiers to the Army and 3,000 Marines to the Marine Corps. The Pentagon has essentially ignored this provision in last year's Defense Authorization Bill by not funding the increased personnel in the Fiscal Year 2006 budget.

The legislation Senator REED and I introduce today will establish a U.S. Army endstrength of 532,400, which is 30,000 soldiers higher than current levels. It will also establish a U.S. Marine Corps endstrength of 183,000 or an additional 5,000 Marines. Our legislation requires DoD to make these new endstrength levels permanent and requires DoD to pay for it in their annual budgets.

Our effort to increase the endstrength of the Army and the Marines is not a choice between increased manpower versus critical recapitalization, modernization, research, and military construction needs. DoD must have both fully funded.

Article 1, section 8 of the United States Constitution gives Congress the power "to provide the common defense . . . to raise and support Armies . . . to provide and maintain a navy . . . and to make laws which shall be necessary and proper for carrying out the foregoing powers." The Congress must exercise its responsibility to ensure that our Army and Marine Corps remain the best led, best trained, best equipped and most professional fighting force in the world. I urge my colleagues to support this important legislation.

---

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 531. A bill to amend the Agricultural Adjustment Act to exempt certain identified varieties of tomatoes from agricultural marketing orders; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I join today with my colleague from Pennsylvania to introduce the Agricultural Marketing Success Act, legislation that would amend the Agricultural Marketing Act, AMAA, of 1937 by permitting identified tomato varieties operating under an enhanced U.S. Department of Agriculture, USDA, inspection and audit program, the Identity Program, to be exempt from marketing order restrictions. Additionally, my House colleague from Pennsylvania, Representative SHERWOOD is submitting similar legislation.

This legislation would terminate the restrictions imposed on the Ugly Ripe tomato, which is owned and produced by a Pennsylvania tomato company, by the Florida Tomato Committee, FTC. The FTC sets standards pertaining to the shape of round tomatoes grown South and East of the Suwannee River and shipped out of Florida from October 10 through June 15 of each year.

The impetus for this legislation began three years ago when the FTC granted the Ugly Ripe tomato an exemption from the grade standards, pertaining to size and shape, which resulted in robust sales nationwide. However, in the fourth year or growing season, the FTC denied an exemption claiming that the Ugly Ripe did not meet the appropriate shape.

Once the FTC made its decision not to allow an additional exemption for the Ugly Ripe, I was surprised to see that Cherry tomatoes, Roma tomatoes, and Grape tomatoes did continue to receive their exemptions. Therefore, I, along with my colleagues from Pennsylvania, met with USDA Secretary Mike Johanns to discuss the matter and requested that he review the actions taken by the FTC and to use his authority under the AMAA of 1937 to overrule the recommendation of the FTC and grant an additional exemption, which will permit the product to be shipped interstate during the growing season. We were assured by USDA a timely response and subsequently we are offering this legislation to expedite their focus on this important issue. We hope our congressional support assists the Secretary in making his decision.

I urge my colleagues to cosponsor and support this legislation, which would allow the growers of the Ugly Ripe an opportunity to market their product without conforming to an unreasonable standard. It is my hope that this legislation will evoke necessary changes in shape requirements.

---

By Mr. DEWINE:

S. 532. A bill to reduce temporarily the duty on palm fatty acid distillate; to the Committee on Finance.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the attached bill to reduce temporarily the duty on palm fatty acid distillate be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 532

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REDUCTION OF DUTY ON PALM FATTY ACID DISTILLATE.**

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.39.40 | Monocarboxylic fatty acids derived from palm oil (provided for in subheading 3823.19.2000) ...... | 1% | No change | No change | On or before 12/31/2007 | ". |

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

---

By Mrs. HUTCHISON:

S. 533. A bill to amend the Internal Revenue Code of 1986 to clarify that a NADBank guarantee is not considered a Federal guarantee for purposes of determining the tax-exempt status of bonds; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, today I am pleased to introduce a bill to improve the effectiveness of the North American Development Bank (NADBank), which supports water and other important environmental projects along the border region. My bill enhances the capabilities of the NADBank by clarifying IRS rules in order to expand the ways it can help our communities.

The NADBank was created with a mandate to improve the quality of life along the border by financing environmental related projects, such as wastewater treatment. The tools it was given have been limited, and as a result has restricted its effectiveness. To address this issue, the NADBank has evolved over the years with a wider array of products to offer. Legislation I sponsored in the Senate during the last Congress and which became law, for example, allows the NADBank to offer a new combination of grants and loans.

We can do more to reform the NADBank and increase its effectiveness. One tool the NADBank can offer is loan guarantees, which communities could use for debt they issue. The guarantee would increase the credit rating of the debt and result in lower interest rates the issuer would need to offer, thereby making a project more affordable. Under current law, however, the NADBank's guarantee is considered a Federal subsidy. A general principle of Federal tax law is that one cannot receive more than one Federal subsidy. Since communities will always prefer to receive the benefit of a tax-exempt municipal status for their bonds, they never take advantage of the NADBank's loan guarantee. Due to this situation, the NADBank has never used its ability to guarantee a bond.

It does not make sense to consider a guarantee from the NADBank, which is an international institution, as a United States federal government guarantee. Not only does it not make sense, it also inhibits the NADBank's ability to help border communities. My bill addresses this issue by clarifying the tax code to ensure a NADBank guarantee is not considered a federal subsidy. The NADBank guarantees will be treated like those from the Federal Housing Administration, the Veterans' Administration, and the Federal National Mortgage Association and other government-sponsored entities. This will give our border communities an important new tool to use as they address their infrastructure and environmental needs.

It is to everyone's benefit to develop ways to improve the quality of life for our citizens. This is particularly important along our southern border, which faces numerous challenges. I hope my colleagues will support this bill and continue our efforts to make the NADBank as effective as possible.

---

## SUBMITTED RESOLUTIONS

---

### SENATE RESOLUTION 72—PROVIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 72

*Resolved,* That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Lott, Mr. Cochran, Mr. Chambliss, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Cochran, Mr. Lott, Mr. Dodd, and Mr. Schumer.

---

## AMENDMENTS SUBMITTED AND PROPOSED

SA 51. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table.

SA 52. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 53. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 54. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 55. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 56. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 57. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

---

## TEXT OF AMENDMENTS

**SA 51.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, strike line 2 and all that follows through line 4 and insert the following: "tion of a party in interest, may order the".

On page 14, line 7, insert "and reasonable trustee fees based upon the trustee's time in prosecuting the motion," after "fees,".

Beginning on page 14, strike line 10 and all that follows through page 15, line 17, and insert the following:

"(ii) the court grants such motion.

"(B) Any costs and fees awarded under subparagraph (A) shall have the administrative priority described in section 507(a)(2) of this title, and such costs and fees shall be excepted from the discharge described in section 727 of this title in the current or any successor cases filed under this title.

On page 16, strike line 8 and all that follows through line 10 and insert the following: "the".

On page 28, between lines 17 and 18, insert the following:

(1) ADDITIONAL GROUND OF NONDISCHARGEABILITY.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (18) the following:

"(18A) for costs or fees imposed by a bankruptcy court under section 707(b)(4) of this title, whether imposed in the current case or a prior case filed under this title.".

On page 28, line 18, strike "(k)" and insert "(m)".

On page 59, strike lines 16 and 17 and insert the following:

"(5) The declaration shall consist of the following certification:

On page 60, strike line 4 and all that follows through line 10.

On page 182, line 4, strike "**EXPANSION**" and insert "**ENFORCEMENT**".

On page 182, line 7, insert " fraud and abuse exist in the bankruptcy system and that in order to curb this fraud and abuse, Federal bankruptcy courts should vigorously enforce" after "that".

On page 182, line 8, strike "App.)" and insert "App.)."

On page 182, strike line 9 and all that follows through line 19.

On page 459, lines 24 and 25, strike ", even if such amount has been discharged in a prior case under this title".

---

**SA 52.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

### SEC. ___. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5), the following:

"(6) APPLICATIONS FROM UNDERAGE CONSUMERS.—

"(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

"(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

"(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21;

"(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account; or

"(iii) proof by the consumer that the consumer has completed a credit counseling course of instruction by a nonprofit budget and credit counseling agency approved by the Board for such purpose.

"(C) MINIMUM REQUIREMENTS FOR COUNSELING AGENCIES.—To be approved by the Board under subparagraph (B)(iii), a credit counseling agency shall, at a minimum—

"(i) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(I) is not employed by the agency; and

"(II) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(ii) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee; and

"(iii) provide trained counselors who receive no commissions or bonuses based on referrals, and demonstrate adequate experience and background in providing credit counseling.".

---

**SA 53.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

### SEC. ___. PRIOR NOTICE OF RATE INCREASES REQUIRED.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) ADVANCE NOTICE OF INCREASE IN INTEREST RATE REQUIRED.—

"(1) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan, no increase in any annual percentage rate of interest (other than an increase due to the expiration of any introductory percentage rate of interest, or due solely to a change in another rate of interest to which such rate is indexed)—

"(A) may take effect before the beginning of the billing cycle which begins not less than 15 days after the obligor receives notice of such increase; or

"(B) may apply to any outstanding balance of credit under such plan as of the date of the notice of the increase required under paragraph (1).

"(2) NOTICE OF RIGHT TO CANCEL.—The notice referred to in paragraph (1) with respect to an increase in any annual percentage rate of interest shall be made in a clear and conspicuous manner and shall contain a brief statement of the right of the obligor to cancel the account before the effective date of the increase.".

### SEC. ___. FREEZE ON INTEREST RATE TERMS AND FEES ON CANCELED CARDS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), is amended by adding at the end the following:

"(i) FREEZE ON INTEREST RATE TERMS AND FEES ON CANCELED CARDS.—If an obligor referred to in subsection (h) closes or cancels a credit card account before the beginning of the billing cycle referred to in subsection (h)(1)—

"(1) an annual percentage rate of interest applicable after the cancellation with respect to the outstanding balance on the account as of the date of cancellation may not exceed any annual percentage rate of interest applicable with respect to such balance under the terms and conditions in effect before the date of the notice of any increase referred to in subsection (h)(1); and

"(2) the repayment of the outstanding balance after the cancellation shall be subject to all other terms and conditions applicable with respect to such account before the date of the notice of the increase referred to in subsection (h).".

---

**SA 54.** Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IX and insert the following:

## TITLE IX—FINANCIAL CONTRACT PROVISIONS

### SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Board determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a repurchase agreement as defined in section 11(e)(8)(D)(c));

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term (whether or not such repurchase or reverse repurchase is a 'repurchase agreement' as defined in clause (v));

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), (X), or (XI));

"(V) means any margin loan;

"(VI) any extension of credit for the clearance or settlement of securities transactions;

"(VII) any collar/loan transaction related to securities, prepaid forward transaction related to securities, or sale/total return swap transaction related to securities;

"(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(IX) means any combination of the agreements or transactions referred to in this clause;

"(X) means any option to enter into any agreement or transaction referred to in this clause;

"(XI) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X) together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X); and

"(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option:

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction (whether or not such repurchase or reverse repurchase or reverse repurchase transaction is a repurchase agreement as defined in section 11(e)(8)(D)(v)), unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse 'repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap,future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (12)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Board".

### SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking "other than paragraph (12) of this subsection, subsection (b)(9)" and inserting "other than subsections (b)(9) and (c)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

"(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

## SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

"(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

"(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A credit union organized by the Board, for which a conservator is appointed either—

"(I) immediately upon the organization of the credit union; or

"(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.".

### SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the credit union in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS AND DEFINITION OF PERSON.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) MASTER AGREEMENT.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

(2) Person.—Section 11(e)(8)(D)of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended by adding at the end the following:

''(ix) For purposes of this subsection, 'person' shall include any governmental entity and any entity set forth in the definition of 'person' in section of title 1, United States Code.''.

(b) Insured Credit Unions.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

''(vii) Treatment of master agreement as one agreement.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

## SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) Definitions.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(5) by adding at the end the following new paragraph:

''(15) Payment.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) Enforceability of Bilateral Netting Contracts.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be terminated, liquidated, accelerated, and netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(f) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) Enforceability of Clearing Organization Netting Contracts.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) General Rule.—Notwithstanding any other provision of State or Federal law (other than section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be terminated, liquidated, accelerated, and netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) Enforceability of Security Agreements.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) Enforceability of Contracts With Uninsured National Banks, Uninsured Federal Branches and Agencies, Certain Uninsured State Member Banks, and Edge Act Corporations.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

## "SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) In General.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) Liability.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) Regulatory Authority.—

"(1) In general.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) Specific requirement.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) Definitions.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

### SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) Definitions of Forward Contract, Repurchase Agreement, Securities Clearing Agency, Swap Agreement, Commodity Contract, and Securities Contract.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by inserting "as defined in section 761 of this title" after "commodity contract";

(iii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iv) by striking "repurchase transaction, reverse repurchase transaction," and inserting "repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a repurchase agreement as defined in section 101)"; and

(v) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repoparticipant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or equity swap, option, future, or forward agreement;

"(V) a debt index or debt swap, option, future, or forward agreement;

"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, option, future, or forward agreement;

"(IX) an emissions swap, option, future, or forward agreement; or

"(X) an inflation swap, option, future, or forward agreement;

"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor

Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a "repurchase agreement" as defined in section 101);

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee (including by novation) by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), or (x));

"(iv) any margin loan;

"(v) any extension of credit for the clearance or settlement of securities transactions;

"(vi) any collar/loan transaction related to securities, prepaid forward transaction related to securities, or sale/total return swap transaction related to securities;

"(vii) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(viii) any combination of the agreements or transactions referred to in this subparagraph;

"(ix) any option to enter into any agreement or transaction referred to in this subparagraph;

"(x) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), or (ix) together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), or (ix); or

"(xi) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".

(b) Definitions of Financial Institution, Financial Participant, Forward Contract Merchant, Commodity Broker, Corporation, Repoparticipant, Stockbrocker, and Swap Participant.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer (whether or not a 'customer' as defined in section 741) in connection with a securities contract (as defined in section 741) such customer; or

"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity (domestic or foreign) that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding at such time or on any day during the 15-month period prior to the commencement of the case, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) at such time of or any day during the 15-month period prior to the commencement of the case; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);";

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity (domestic or foreign) the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;

(4) by inserting in paragraph (6) after "means" the following: ", whether domestic or foreign,";

(5) by inserting in paragraph (9) the following after "business trust": "(and for purposes of section 109, any trust that enters into one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a) shall be deemed to be a business trust)";

(6) by inserting in paragraph (46) after "entity" the following: "(domestic or foreign)";

(7) by striking in paragraph (53A) "person" and replacing it with "entity (domestic or foreign)" and striking "person's" and replacing it with "entity's"; and

(8) by inserting in paragraph (53C) after "entity" the following: "(domestic or foreign)".

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity (domestic or foreign) that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) by striking paragraph (6) and inserting the following:

"(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;";

(B) by striking paragraph (7) and inserting the following:

"(7) under subsection (a) of this section, of the exercise by a repoparticipant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of related to any swap agreement, or of any contractual right (as defined in section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement or any contract or agreement subject to such agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements or contracts or agreements subject thereto the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e), by inserting "(or for the benefit of)" before "a commodity broker" and by inserting: "or that is a transfer made by or to (or for the benefit of) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency, in connection with a securities contract, as defined in section 741(7), commodity contract, as defined in section 761(4), or forward contract, in each case," after "securities clearing agency,";

(2) in subsection (f), by striking "that is a margin payment, as defined in section 101, 741, or 761 of this title, or settlement payment, as defined in section 101 or 741 of this title," and inserting "(or for the benefit of)" before "repoparticipant";

(3) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement";

(C) by inserting "or financial participant" after "swap participant"; and

(D) by inserting "(or for the benefit of)" before "a swap participant"; and

(4) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to or for the benefit of a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract"**;

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement"**;

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

**"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15**

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

**"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repoparticipants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repoparticipant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

**"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repoparticipants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repoparticipant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,"; and

(4) by adding at the end the following:

"(d) TREATMENT OF CERTAIN DEBTS.—Debts and claims will not be considered as lacking mutuality as a result of such debts or claims being held through one or more securities clearing systems, securities intermediaries, or securities depositories (or nominees thereof), notwithstanding any otherwise applicable nonbankruptcy law to the contrary.".

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 546(f), by inserting "or financial participant" after "repoparticipant" each place such term appears;

(2) in section 546(e), by inserting "financial participant," after "financial institution,";

(3) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(C), by inserting "or financial participant" after "repoparticipant";

(5) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(6) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";

(7) in section 556, by inserting ", financial participant," after "commodity broker";

(8) in section 559, by inserting "or financial participant" after "repoparticipant" each place such term appears; and

(9) in section 560, by inserting "or financial participant" after "swap participant".

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repoparticipants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repoparticipants, and master netting agreement participants.".

### SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).".

### SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D), shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

### SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

**"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements**

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repoparticipant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repoparticipant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repoparticipant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repoparticipant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

### SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

### SEC. 912. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of the Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title and section 502 shall apply with respect to cases commenced or appointments made under any Federal or State law on or after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

### SEC. 913. SAVINGS CLAUSE.

The meanings of terms used in this title are applicable for the purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

---

**SA 55.** Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 473, between lines 9 and 10, insert the following:

**SEC. 1236. DISTRICT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.**

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Nebraska.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

“Nebraska ........ 4.”.

**SA 56.** Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 452, strike line 15 and all that follows through page 458, line 16.

**SA 57.** Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 473, between lines 9 and 10, insert the following:

**SEC. 1236. DISTRICT JUDGESHIPS.**

(a) DISTRICT JUDGESHIP FOR THE NORTHERN DISTRICT OF ALABAMA.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the northern district of Alabama.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Alabama and inserting the following:

| | |
|---|---|
| “Alabama: | |
| Northern | 8 |
| Middle | 3 |
| Southern | 3.”. |

(b) DISTRICT JUDGESHIPS FOR THE DISTRICT OF ARIZONA.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the district of Arizona.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Arizona and inserting the following:

“Arizona ........ 14.”.

(c) DISTRICT JUDGESHIPS FOR THE EASTERN AND SOUTHERN DISTRICTS OF CALIFORNIA.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 3 additional district judges for the eastern district of California; and

(B) 1 additional district judge for the southern district of California.

(2) CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.—The existing judgeship for the eastern district of California authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101–650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to California and inserting the following:

| | |
|---|---|
| “California: | |
| Northern | 14 |
| Eastern | 10 |
| Central | 27 |
| Southern | 14.”. |

(d) DISTRICT JUDGESHIP FOR THE DISTRICT OF IDAHO.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Idaho.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Idaho and inserting the following:

“Idaho ........ 3.”.

(e) TEMPORARY JUDGESHIP FOR THE NORTHERN DISTRICT OF IOWA.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional judge for the northern district of Iowa.

(2) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the northern district of Iowa occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

(f) DISTRICT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Nebraska.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

“Nebraska ........ 4.”.

(g) DISTRICT JUDGESHIPS FOR THE EASTERN DISTRICT OF NEW YORK.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the eastern district of New York.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to New York and inserting the following:

| | |
|---|---|
| “New York: | |
| Northern | 5 |
| Southern | 28 |
| Eastern | 17 |
| Western | 4.”. |

(h) TEMPORARY JUDGESHIP FOR THE EASTERN DISTRICT OF NEW YORK.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate 1 additional judge for the eastern district of New York.

(2) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the eastern district of New York occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

(i) DISTRICT JUDGESHIP FOR THE DISTRICT OF SOUTH CAROLINA.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of South Carolina.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to South Carolina and inserting the following:

“South Carolina ........ 11.”.

(j) DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.—

(1) ADDITIONAL PERMANENT DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Utah.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Utah and inserting the following:

“Utah ........ 6.”.

### PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows and interns be granted floor privileges during the discussion of the bankruptcy bill: Ashley Fingarson, Serena Maxwell, Richard Litsey, and Cuong Huynh.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I ask unanimous consent for the duration of the debate and the votes on S. 256, Beth Meagher of my staff be granted privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I ask unanimous consent for the duration of the debate and the votes on S. 256, Beth Meagher of my staff be granted privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

### UNANIMOUS CONSENT AGREEMENT—S. 256

Mr. ISAKSON. Mr. President, I ask unanimous consent that notwithstanding rule XXII, Senators have until 2:30 p.m. on Monday, March 7 to file first-degree amendments to S. 256, the bankruptcy bill, and until 12 noon on Tuesday, March 8, to file second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROVIDING FOR MEMBERS OF THE JOINT COMMITTEE ON PRINTING AND JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of a resolution at the desk submitted by Senator LOTT of Mississippi.

The PRESIDING OFFICER. The clerk will report resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 72) providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ISAKSON. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 72) was agreed to, as follows:

S. RES. 72

*Resolved*, That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Lott, Mr. Cochran, Mr. Chambliss, Mr. Inouye, and Mr. Dayton.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Stevens, Mr. Cochran, Mr. Lott, Mr. Dodd, and Mr. Schumer.

## ORDERS FOR MONDAY, MARCH 7, 2005

Mr. ISAKSON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, March 7. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 256, the Bankruptcy Reform Act; provided that at 2:30 p.m. the Senate begin 3 hours of debate on the Santorum and Kennedy amendments, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, I further ask unanimous consent that at 10:15, Tuesday, March 8, the Senate proceed to the consideration of the Schumer amendment No. 47; provided further that the time until 12:15 be equally divided in the usual form and that at 12:15 the Senate proceed to a vote on or in relation to the amendment prior to the vote. I further ask consent that, notwithstanding the provisions of rule XXII, the Senate proceed to the vote on invoking cloture at 2:15 on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ISAKSON. Mr. President, on Monday, the Senate will continue its consideration of the bankruptcy bill under an agreement reached yesterday. We will debate the Santorum and Kennedy minimum wage amendments on Monday afternoon. At 5:30 p.m., we will proceed to the two stacked rollcall votes. The first will be on the Kennedy amendment, to be followed by a vote on the Santorum amendment. Additional amendments may be considered during Monday's session as well.

On behalf of the majority leader, I remind my colleagues that cloture was filed on the bill today. Senators have until 2:30 p.m. Monday to file their first-degree amendments to the bill. That vote will occur at 2:15 p.m. on Tuesday. Finally, as a further reminder, the vote in relation to the Schumer amendment will occur at 12:15 p.m. on Tuesday.

## ADJOURNMENT UNTIL MONDAY, MARCH 7, 2005, AT 2 P.M.

Mr. ISAKSON. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of this order.

There being no objection, the Senate, at 1:21 p.m., adjourned until Monday, March 7, at 2 p.m.

## NOMINATIONS

Executive nominations received by the Senate March 4, 2005:

### DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ANTHONY JOSEPH PRINCIPI, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION. (NEW POSITION)

### DEPARTMENT OF ENERGY

DAVID GARMAN, OF VIRGINIA, TO BE UNDER SECRETARY OF ENERGY, VICE ROBERT GORDON CARD, RESIGNED.

### DEPARTMENT OF STATE

CHRISTOPHER R. HILL, OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (EAST ASIAN AND PACIFIC AFFAIRS), VICE JAMES ANDREW KELLY, RESIGNED.

RUDOLPH E. BOSCHWITZ, OF MINNESOTA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be lieutenant colonel*

DAVID C. ABRUZZI, 9025
RICHARD J. ADAMS, 8198
WALLACE L. ADDISON, 7291
RUSSELL G. ADELGREN, 0709
MARK L. * ADKINS, 1349
CARL W. AGAR, 5585
PATRICK A. AHLGRIMM, 6016
GREGORY C. AHLQUIST, 9628
PATRICK N. AHMANN, 6486
THERESA H. AINSWORTH, 8137
WILLARD B. AKINS II, 6945
JACQUELINE A. F. ALBRIGHT, 2807
VINCENT J. * ALCAZAR, 3306
ALEJANDRO J. ALEMAN, 5056
JEFFREY S. ALEXANDER, 3231
EDWARD D. ALLARD, 7261
JAMIE D. ALLEN, 4503
JOHN J. ALLEN, 6201
LISA C. ALLEN, 2172
MARK S. ALLEN, 5707
NEIL T. ALLEN, 1894
YOLANDA B. ALLEN, 5022
THOMAS P. ALLISON, 3379
DAVID L. ALMAND, 1140
THOMAS L. ALTO, 6290
DONATELLA D. ALVARADO, 5269
RICHARD C. AMBURN, 8502
STEVEN J. AMENT, 8305
KATHLEEN F. AMPONIN, 2455
BYRON B. ANDERSON, 2158
CHRISTINA M. ANDERSON, 9545
TIMOTHY D. ANDERSON, 1132
WILLIAM D. ANDERSON, JR., 9851
JOSEPH F. ANGEL, 8673
JOHN S. R. ANTTONEN, 2116
REBECCA J. APPERT, 8279
ANDREW P. ARMACOST, 8473
ERIC L. ARMSTRONG, 7901
RUSSELL K. ARMSTRONG, 3078
DAVID C. ARNOLD, 3135
BRUCE A. ARRINGTON, 5425
CHRISTOPHER B. ASHBY, 9691
JOHN R. ASKREN, 8699
ROBIN D. ATHEY, 9768
LAWRENCE F. AUDET, JR., 2080
MARK C. AUSTELL, 4933
RICHARD J. AUTHIER, JR., 9520
CHRISTOPHER P. AZZANO, 2372
DOYLE R. * BABE, 6678
SCOTT E. BABOS, 7683
LEEMON C. BAIRD III, 1038
STACEE N. BAKO, 3079
SANFORD H. * BALKAN, 5520
DOUGLAS A. BALLINGER, 8023
KEVIN E. BANNISTER, 7968
KEVIN D. BARKER, 4955
DAVID W. BARNES, 6331
BRUCE C. BARTHOLOMEW, 7080
CATHY J. BARTHOLOMEW, 5918
PETER D. BASTIEN, 5790
ANDREW H. BATTEN, 7855
TONY D. BAUERNFEIND, 7569
KRIS A. BAUMAN, 5101
PAUL E. BAUMAN, 8123
DAVID J. BAYLOR, 4186
CHARLES E. BEAM, 7902
JOHN D. BEAN, 2425
BARRY D. BEAVERS, 4104
MATTHEW J. BECKAGE, 7596
BRIAN R. BEERS, 8182
MICHAEL D. BEESON, 3284
PAUL R. BEINEKE, 1246
THOMAS A. * BELL, 7767
WAYNE E. BELL, 3656
EUGENE R. BELMAIN II, 5549
DAVID B. BELZ, 2362
ROBERT E. BENNING, 2839
JAMES M. BENSON, 6010
RALPH E. BENTLEY, 6212
SCOTT I. BENZA, 1535
JEFFREY C. BERGDOLT, 4758
KURT A. BERGO, 5565
CYR LINDA K. BETHKE, 4267
SHAWN B. BEVANS, 6043
BRUCE A. BEYERLY, 3228
SUSHIL R. BHATT, 4264
JAY R. BICKLEY, 9413
TIMOTHY J. BILTZ, 7193
GREGORY A. BINGHAM, 3251
CRAIG S. BIONDO, 8035
DAVID R. BIRCH, 6187
TIMOTHY G. BISHOP, 1759
MARK L. BLACK, 4786
ALEXANDER J. BLANTON, 8068
DAVID P. BLAZEK, 1154
STEVEN J. BLEYMAIER, 6554
GARRY M. BLOOD, 9234
MORRIS C. BLUMENTHAL, 0773
MATTHEW J. BOBB, 9957
GREGORY A. BOERWINKLE, 5493
JAMES M. BOGUSLAWSKI, 7682
JULIE C. BOIT, 0935
RICHARD E. BOLTON, 8462
MICHAEL H. BOND, 5999
ROBERT T. BOQUIST, 5923
DAVID J. BORBELY, 4386
MICHAEL F. BORGERT, 7297
MAUREEN E. BORGIA, 7151
JAMES R. BORTREE, 7267
JAMES BOURASSA, 6269
JESSE BOURQUE, JR., 3535
RANDELL P. BOWLING, 3537
SCOTT E. BOYD, 7182
ROBERT C. BOYLES, 5866
ANDREW R. BRABSON, 0757
SCOTT W. BRADLEY, 4200
ERIC P. BRAGANCA, 2153
CARY L. BRAGG, 2934
JAMES A. BRANDENBURG II, 9438
JOHN A. BRANIN, 3030
JAMES I. BRANSON, 5073
HELEN L. BRASHER, 3557
JAMES E. BRECK, JR., 4013
BRAD A. BREDENKAMP, 4230
PAUL L. BREDHOLT, 6428
PATRICK D. BRENNAN, 6048
RICHARD F. * BRERETON, 7203
MICHAEL F. BRIDGES, 0979
LORING G. BRIDGEWATER, 7689
WILLIAM L. BRIGMAN, 0620
GREGORY S. BRINSFIELD, 9490
DALLAS S. BROOKS, 5854
TODD M. BROST, 8171
JOHN F. BROWER, 4393
GREGORY K. BROWN, 2566
KEVIN W. BROWN, 5393
RAY S. BROWN, 8228
SHERRY A. BROWN, 8746
TIMOTHY P. BROWN, 7340

KENNETH J. BROWNELL, 0540
ROBERT J. BRUCKNER, 7443
JERRY P. BRUMFIELD, 4615
DAVID F. BRUMMITT, 7459
ERIC J. BRUMSKILL, 7198
DALE S. BRUNER, 7687
CHRISTOPHER J. BRUNNER, 9598
ROBERT P. BUBELLO, 4102
ROBERT B. BUCHANAN, 2335
CAMERON E. BUCHHOLTZ, 5897
ROBERT A. BUENTE, 7961
STEVEN C. * BUETOW, 3850
PAUL A. BUGENSKE, 6688
DAVID BUKOVEY, 7171
KURT W. BULLER, 4695
KIMBERLY F. BULLOCK, 3189
KIRK P. BUNCH, 0341
JOHN G. BUNNELL, 3672
JEFFREY B. BURCHFIELD, 4146
PATRICK C. BURKE, 6109
TODD M. BURKHARDT, 9653
TIMOTHY A. BURNS, 4762
SCOTT D. BURNSIDE, 0455
PAUL J. * BURRELL, 3036
STEVEN B. BURTON, 2180
CHARLES K. BUSCH, 7918
CHRISTOPHER S. BUTLER, 8898
DONALD E. BUTLER, 2054
RUDOLPH E. BUTLER III, 6294
ERIC J. BUTTERBAUGH, 0248
BRADLEY J. BUXTON, 2145
TODD C. BYNUM, 8989
PHILIP M. BYRD, 8894
ANGELA M. CADWELL, 1735
SEANN J. CAHILL, 2069
DANIEL B. CAIN, 2437
ROBERT E. J. CALEY, 4537
GREGORY B. CALHOUN, 7344
DANIEL J. CALLAHAN, 3056
ITALO A. CALVARESI, 5769
DAVID C. CAMPASSI, 0716
STEVEN M. CAMPBELL, 5419
MICHAEL O. CANNON, 1105
KENNETH E. CANTERBURY, 8043
ALEJANDRO R. CANTU, 1750
BARRON D. CANTY, 1504
EDWARD J. CARDENAS, 5350
CHRISTOPHER A. CARLSEN, 5402
DANN S. CARLSON, 6673
ERIC N. CARLSON, 9570
KARN L. CARLSON, 8148
ALEXANDER E. CAROTHERS, 1914
ROBERT A. CARPENTER, 5177
VINCENT M. CARR, JR., 1238
KURT J. CARRAWAY, 7113
MATTHEW D. CARROLL, 7266
AURELIA C. CARROLVERSON, 7758
TIM R. CARTER, 1506
JAVIER R. CASANOVA, 9501
WILLIAM M. CASHMAN, 0542
ERIC D. CASLER, 5453
HECTOR CASTILLO, 3753
WILLIAM M. CATHEY, 6301
VINCENT K. CATICH, 0962
MARC E. CAUDILL, 8857
DAVID A. CEBRELLI, 3206
JEFFREY D. CETOLA, 2133
GLENN S. CHADWICK, 9278
KENNETH M. CHAISSON, 6463
JAMES E. CHALKLEY II, 6533
RICHARD M. CHAMBERS, 8750
RICHARD W. CHANCELLOR, 6459
MICHAEL J. CHAPA, 5640
NIKOLAS CHAPAPAS, 2494
MARTIN A. CHAPIN, 2657
DAVID E. CHELEN, 0688
MARC L. CHERRY, 8987
THOMAS E. CHESLEY, 3697
LISETTE D. CHILDERS, 6106
BOGDAN CHOMICKI, 4152
TIMOTHY CHONG, 8941
DIANE M. CHOY, 6013
MIKE G. CHRISTIAN, 7344
MARK K. CIERO, 5674
DANIEL J. CLAIRMONT, 2445
ANDRA B. CLAPSADDLE, 0368
DOUGLAS S. CLARK, 0584
JAMES A. CLARK, 0352
JOHN A. CLARK, 9556
ANDREW A. * CLARKE, 5883
JAMES A. CLAVENNA, 2555
ROGER L. CLAYPOOLE, JR., 7819
SHERMAN M. CLAYTON, 4690
RONALD E. CLEAVES, 2538
ARDYCE M. CLEMENTS, 5262
RODNEY L. CLEMENTS, 3744
CHAD M. CLIFTON, 3176
TERENCE P. CLINE, 1281
DAVID L. CLOE, 6573
KEVIN J. CLOWARD, 5626
JEFFREY H. * COGGIN, 2812
THOMAS C. COGLITORE, 1468
JOHN COLLEY, 5679
WENDELL L. COLLINS, 8759
MIGUEL J. COLON, 3088
MARK E. COLUZZI, 5099
JUAN T. COMMON, 6736
RONALD L. COMOGLIO, 4358
BRIAN D. CONANT, 3410
MONICA K. CONCHOLAR, 4327
STEPHEN R. CONKLING, 3737
MICHAEL R. CONTRATTO, 2823
DAYNE G. COOK, 8637
KAREN L. COOK, 6824
SCOTT P. COOK, 3024
DAVID L. COOL, 0421
DAVID J. COPPLER, 6026
EDWARD R. CORCORAN, 1952
TOBY L. COREY, 0163
MATTHEW J. CORNELL, 3880
SEAN C. CORNFORTH, 1343
DAVID A. CORRELL, 0002
DEREK F. COSSEY, 1006
JAMES A. COSTEY, 3765
BRIAN S. COULTRIP, 1782
JEFFERY M. COX, 9303
JODY D. COX, 2237
MATTHEW D. COX, 6297
KEVIN M. COYNE, 2356
SUHRA E. COYNE, 1382
CHRISTOPHER E. CRAIGE, 5243
KENNETH S. CRANE, 8404
DAVID M. CREAN, 0717
BRIAN L. CREASY, 9502
JAMES A. CREWS, 9550
THOMAS D. CRIMMINS, 3633
GIA C. CROMER, 3235
JEFFREY L. CROW, 6661
WILLIAM P. CROWE, 4838
BRETT E. CROZIER, 9057
HAYWOOD L. CRUDUP, 4912
BRIAN P. CRUICKSHANK, 8828
JACQUELINE CRUM, 0466
BRYAN L. CRUTCHFIELD, 2869
KEVIN M. CRUZE, 7790
MICHAEL G. * CULJAK, 1190
CARNELL C. CUNNINGHAM, 5621
JOHN T. CUNNINGHAM, 9645
MILLER CUNNINGHAM, JR., 2986
JARED P. CURTIS, 3571
MARC E. CWIKLIK, 8933
DANIEL D. CZUPKA, 8088
THOMAS D. DAACK, 1947
DENNIS P. DABNEY, 8149
RICHARD S. DABROWSKI, 9244
TODD S. DAGGETT, 5071
BRYAN T. DAHLEMELSAETHER, 1807
THOMAS K. DALE, 8470
KENNETH J. DALFONSO, 4762
MATTHEW R. DANA, 7092
CHRISTOPHER O. DARLING, 2849
KEVIN J. DAUL, 7296
JUSTIN C. DAVEY, 7556
TERENCE A. DAVEY, 3158
DEREK K. DAVIS, 3273
HARRY A. DAVIS, JR., 7825
JEFFREY A. * DAVIS, 4928
JONATHAN P. DAVIS, 8179
STEPHEN M. DAVIS, 7566
THEODORE L. DAVIS, JR., 6652
JERI L. DAY, 5789
DARRELL S. DEARMAN, 1133
ROD A. DEAS, 4426
JEFFREY A. DEBOER, 7226
MICHAEL E. DEBRECZENI, 2514
JEFFREY W. DECKER, 0274
KIMBERLY JO DECKER, 4246
CHARLES E. DECKETT, 7495
BRENTLY G. DEEN, 0129
DARIN A. DEFENDORF, 3154
GREGORY S. DEFORE, 6079
HARVEY T. DEGROOT, 7517
DENNIS L. DEITNER, 0298
PETER J. DEITSCHEL, 0053
GERARDO DELACRUZMARTINEZ, 2640
JOHN M. DELAPP, JR., 5512
TONY J. DELIBERATO, 3969
MILES A. DEMAYO, 3822
FRANKLIN L. DEMENT, 2681
ANDRE R. DEMPSEY, 7016
JAMES E. DENBOW, JR., 4200
JASON J. DENNEY, 1143
LEANN DERBY, 8414
CHRISTOPHER A. DESIMONE, 2971
TED A. DETWILER, 5501
CHRISTOPHER M. DEVAUGHN, 3168
ROBERT J. DIANTONIO, 8815
ROBERT L. DIAS, 5871
RODNEY L. DICKERSON, 3306
JOHN R. DIERCKS, 4138
BOBBY R. DILLON, 3675
ANTHONY V. DIMARCO, 0227
PERCY A. DINGLE, 8594
JON J. DIX, 6552
KEVIN D. DIXON, 8044
DAVID W. DODGE, 2075
TIMOTHY C. DODGE, 4101
RICHARD A. DOLLESIN, 1516
PAUL B. DONOVAN, 7823
DAVID R. DORNBURG, 3772
JAMES L. DOROUGH, JR., 9505
TRACY K. DORSETT III, 7321
DENIS P. DOTY, 2186
MARK R. DOUGLAS, 7237
RICHARD J. DOUGLASS, 8740
THOMAS R. * DOWDLE, 9261
PATRICK K. DOWLING, 9037
JAMES D. DOWNARD II, 5693
MICHAEL P. DOYLE, 9555
RICHARD A. DOYLE, 9710
TY R. DRAKE, 8582
JAMES H. DRAPE, 4283
DONALD R. DRECHSLER, 6346
DAVID J. DRESSEL, 8498
GARY T. DROUBAY, 0132
BRIAN M. DUBROFF, 4555
JOHN C. * DUFFEK, 4722
DAVID T. DUHADWAY, 6364
CARL R. DUMKE, 3573
KEVIN C. DUNBAUGH, 4082
LOUIS F. DUPUIS, JR., 0971
JAMES A. DURBIN, 9141
JOHN P. DURNFORD, 4790
STEVEN L. DUTSCHMANN, 8408
JAMES P. DUTTON, 2749
ANTHONY T. DYESS, 0889
ALTON D. DYKES, 4055
STEPHEN M. EARLE, 4739
BILLIE S. EARLY, 7295
DARWIN H. EASTER, 2176
DAVID P. EASTERLING, JR., 1936
ERIK H. ECKBLAD, 4929
BRYAN E. * EDMONDS, 8900
DANIEL C. EDWARDS, 7222
JOSEPH E. EDWARDS III, 4543
PHILLIP T. * EDWARDS, 2286
RICHARD J. EDWARDS, 0139
CHRISTOPHER J. EICHORST, 3751
PETER K. EIDE, 4134
KENNETH P. EKMAN, 9373
NEVIN K. ELDEN, 0130
EDWARD C. ELDER III, 5268
ERIK J. ELIASEN, 8518
MICHAEL D. ELIASON, 7051
ALAN W. ELLEDGE, 2262
TODD C. ELLISON, 0193
DOUGLAS H. ENGBERSON, 2625
JOHN T. ENYEART, 4878
ANTON ERET, JR., 8596
MARVIN L. ERICKSON, 6507
CHRISTINE M. ERLEWINE, 9385
MARK B. ESTERBROOK, 4794
KERRY W. EVANS, 3032
MARK W. EVANS, 2615
MICHAEL C. FALLERT, 5528
JAYNE M. FARIS, 2114
CHARLES K. FARMER, 9508
PETER W. FARNEY, 1274
COLIN P. FARRELL, 7082
DAVID S. FARROW, 7757
SAMUEL S. FEDAK, 1243
ANNE MARIE FENTON, 2836
DRILLER L. FIEGEL, 9836
DONALD J. FIELDEN, 3124
AMY H. FIER, 5434
SHAWN D. FILBY, 1652
KAREN A. FINN, 5049
MICHAEL FINN II, 4797
JOHN N. FISCH, 2075
JEFFREY H. FISCHER, 5207
BARRY W. FISHER, 4044
EDWARD B. * FISHER, 0913
MICHAEL R. FISHER, 0505
FREDRIC S. * FITZSIMMONS, 6938
PETER G. FITZSIMMONS, 0744
MICHAEL P. FLAHERTY, 3957
TODD J. FLESCH, 5124
BRIAN J. FLETCHER, 4608
PATRICK M. FLOOD, 9000
KELLY D. FLOREK, 1584
RUEHL F. FLORES, 1105
ROBERT L. FLOYD IV, 3715
VICTOR M. FLOYD, 7882
RICHARD L. FOLKS II, 7542
CHRISTOPHER C. * FOLTZ, 9395
DAVID E. FOOTE, 0068
TERESA L. FOREST, 6183
WILLIAM A. FORKNER, 2402
ANDREAS J. FORSTNER, 6620
JUSTIN C. FORTUNE, 7220
CHRISTOPHER T. FOSTER, 7073
GREG W. FOSTER, 5081
JAMES R. FOURNIER, 3728
MATTHEW J. * FRANDSEN, 8065
GREGORY C. FRANKLIN, 0118
CHAD P. FRANKS, 9359
WENDY K. FRASER, 3645
GINA T. FRATIANI, 9899
THOMAS E. FREDERICKS, 9894
MICHAEL L. FREDLEY, 0036
MICHAEL R. FREY, 8118
SCOTT G. FRICKENSTEIN, 3297
DON C. FULLER III, 3791
MICHAEL L. FUREY, 3153
TALMADGE A. GAITHER, 0430
PAUL A. GALLAHER, 9084
BARRY R. GAMBRELL, 8023
CHADWICK H. GARBER, 7649
JOAN H. GARBUTT, 0957
ALFRED D. GARCIA, 6062
MARIA L. GARCIA, 4733
ROBERT J. GARNER, 8408
RONALD P. GARRETT, 0434
JOHN A. GASNER, 6308
JAMES M. * GATHRIGHT, 0647
KURT H. GAUDETTE, 6692
GRANT G. GEISLER, 1465
ANTHONY W. GENATEMPO, 1865
LYNNANE E. GEORGE, 8934
ROBERT T. GERMANN, 6918
BRIAN E. * GERONIME, 9389
PATRICIA A. GETHING, 8808
MARK A. GIDDINGS, 4060
WILLIAM W. GIDEON, 6121
SCOTT L. GIERAT, 2928
WILLIAM GIESER, 8102

CAMERON L. GILBERT, 4141
RANDALL S. GILHART, 3456
JOHN D. GILLESPIE, 4484
PAUL G. GILLESPIE, 4112
SHAWN P. GILLESPIE, 9786
WILLIAM U. GILLESPIE IV, 9925
GARY S. GIMA, 5907
MARK A. GISI, 8298
JOHN T. GLASSELL, 6065
MARK I. GLYNN, 9405
MICHAEL K. * GNALL, 4433
MATTHEW E. GODA, 2905
REGINA T. GOFF, 3314
TODD J. GONDECK, 7877
PATRICK J. GOOLEY, 4759
GARY E. GORDON, 6159
GERARD GORDON, 1681
GREGORY A. GOSSAGE, 3890
STEVEN F. GOTTSCHALK, 3445
CLAYTON M. GOYA, 0336
JOHNATHAN V. GRAFELMAN, 4741
SCOTT D. GRAHAM, 6403
GARY L. GRAPE, 9088
KATHLEEN M. GRASSE, 4472
ANDREW J. GRAU, 1807
ANN Y. GRAVIER, 2721
CHRISTOPHER P. GRAZZINI, 2516
MICHAEL W. GREEN, 2961
KENNETH M. GREENSTREET, 0922
PAULA D. GREGORY, 4493
CHRISTOPHER E. GREIMAN, 2745
JOHN E. GRENIER, 9830
KYLE D. GRESHAM, 1970
JOHN M. GRIFFIN, 4794
JOY D. GRIFFITH, 6030
JOHN T. GRIVAKIS, 0540
JANET W. GRONDIN, 8063
PAUL M. GROTELUESCHEN, 3480
CLARK M. GROVES, 5096
WILLIAM C. * GRUND, 9415
MICHAEL A. GUETLEIN, 9637
DUANE D. GUNN, 5301
TORRES ALEX X. GUTIERREZ, 5772
GARY S. HAAG, 8506
SEAN M. HACKBARTH, 4697
DAVID G. HADDEN, 6647
BRYAN K. HADERLIE, 2067
GREGORY S. HAEFELE, 8389
CURTIS R. HAFER, 7783
CLAY W. HALL, 0385
MICHAEL J. HALLORAN, 0560
DAVID S. HAMBLETON, 7818
EILEEN R. HAMBY, 6260
ALISON D. HAMILTON, 8026
CHARLES T. HAMILTON, 5782
DANIEL E. HAMILTON, 8344
ROBERT D. HAMILTON, JR., 7605
KELLY D. HAMMETT, 5160
JAMES D. HANKINS, 7053
JOHN T. HANNA, 1905
SCOTT M. HANNAN, 2734
RONALD L. HANSELMAN, JR., 2874
DAVID E. HANSEN, 7385
LISA K. HANSEN, 9665
ALFRED R. HANSON, 7437
KRAIG M. HANSON, 6136
MICHAEL C. HARASIMOWICZ, 8406
DOUGLAS D. HARDMAN, 3381
JEANNE I. HARDRATH, 7633
REGINA HARGETT, 3564
MICHAEL R. HARGIS, 8731
MARK J. HARLOW, 7568
GETTYS N. HARRIS, JR., 2151
KENNETH A. HART, 7291
RICHARD A. HARVEY, 7543
VALERIE L. HASBERRY, 3803
BRIAN E. HASTINGS, 6477
SUSAN E. HASTINGS, 2931
BRETT R. HAUENSTEIN, 2849
TIMOTHY D. HAUGH, 5791
STACEY T. HAWKINS, 4252
RODNEY C. HAYDEN, 4025
TRACEY L. HAYES, 6647
JERRY W. HAYNES II, 3415
JOSEPH H. HAYSLETT, JR., 8206
KIMBERLY LOVING HEARTSONG, 3959
DOUGLAS M. HEATH, 1413
GREGORY L. HEBERT, 4674
JOHN P. HEDRICK, 6840
PATRICK E. * HEFLIN, 2690
CARLIN R. HEIMANN, 0478
STEPHEN W. HEINRICH, 7699
MARK L. HELLEKSEN, 9825
MICHAEL W. HELVEY, 5400
EDWARD J. HENNIGAN II, 3362
LEANNE J. HENRY, 7221
CHRISTOPHER C. HERRING, 9896
CHRISTOPHER J. HESLIN, 7446
MARC V. HEWETT, 4459
ANTHONY A. HIGDON, 0358
JEFFREY L. HIGGINS, 3963
ROBERT W. HIGHLEY, 5131
CHRISTOPHER D. HILL, 3782
ERIC T. HILL, 9840
ROBIN L. HILL, 7051
GREGORY D. HILLEBRAND, 7827
KARL V. HINES, 6935
MICHAEL W. HINZ, 7343
RONALD W. HIRTLE, 8443
MARK A. HIRYAK, 6906
DAVID J. HLUSKA, 9957
CALMA C. HOBSON, 4790
CARL E. HODGES, 7992
JAMES C. HODGES, 2322
JOSEPH A. HOELSCHER, 8113
MICHAEL T. HOEPFNER, 0404
HANS A. HOERAUF, 4067
DAVID J. HOFF, 2138
TIMOTHY J. HOGAN, 2507
MICHAEL W. HOH, 2358
JEFFERY A. * HOLBROOK, 5424
STEPHANIE A. HOLCOMBE, 7200
JAMES F. HOLLIE, 6837
MICHAEL R. HOLMES, 2218
STAN L. * HOLMES, 5542
JERILYN G. HOLSAPPLE, 0174
CAMERON G. HOLT, 6291
WILLIE O. HOLT, JR., 6011
DAVID E. HOOK, 5666
JOHN L. HOOVER, 6302
DAVID J. HORNYAK, 7661
RICHARD B. HUBBARD III, 1092
BRYAN J. HUDGENS, 9172
JED L. HUDSON, 6772
KEVIN J. HUGHES, 9227
PATRICK HUGHES, 1768
RICHARD J. HUGHES, 9545
STEPHEN A. HUGHES, 7189
CHERYL L. HUGULEY, 4164
KIRK W. HUNSAKER, 9870
JAMES D. HUNSICKER, 9101
CLINT H. HUNT, 5504
JOHN T. HUNTER, 4074
BRYAN K. HUNTSMAN, 0271
JEFFREY H. HURLBERT, 0323
LINDA S. HURRY, 1435
STEVEN R. HUSS, 6334
JON E. INCERPI, 3440
ROBERT L. INGEGNERI, 1858
ROBERT E. INTRONE, 1656
CHRISTOPHER J. IRELAND, 0865
CHRISTOPHER D. IRWIN, 3580
EZEKIEL T. ISAIS, 8300
MATTHEW C. ISLER, 9231
DAVID R. IVERSON, 6723
BRICK IZZI, 3332
ROBERT S. JACKSON, JR., 1901
STEPHEN R. JACKSON, 0309
JOHN A. JACOBSON, 2544
DARREN V. JAMES, 1837
GEORGE L. JAMES, 2161
PAUL D. JAMPOLE, 0597
KALEN K. JEFFERS, 6940
MARC E. JEFFERSON, 2518
HENRY C. JENKINS, JR., 2432
JEFFREY J. JENKINS, 6240
MYRA D. JENKINS, 1990
CHARLES R. JENNINGS, 3482
JOSEPH S. JEZAIRIAN, 5419
DAVID A. JOHNSON, 2508
DAVID D. JOHNSON, 5504
DAVID S. JOHNSON, 7324
DONNA L. JOHNSON, 7454
JEFFREY M. JOHNSON, 7996
JOHN H. JOHNSON, 6464
KENNETH F. JOHNSON, 1803
MALCOLM T. JOHNSON, 4253
PAUL T. JOHNSON, 3744
ROGER F. JOHNSON, 2157
SCOTT R. JOHNSON, 9482
TIMOTHY R. JOHNSON, 2342
WILLIAM H. JOHNSON III, 6364
RONALD E. JOLLY, 6787
BARRY W. * JONES, 3406
BENJAMIN F. JONES, 7754
DATHAN B. JONES, 5322
JEFFREY D. * JONES, 2478
JOHN W. JONES, 8985
RICHARD J. JONES, 3464
CURTIS M. JORDAN, 5995
JOSEPH S. JULIAN, JR., 1513
DONALD J. KADERBEK, 6725
RUSSELL T. KASKEL, 1958
RANDY L. KAUFMAN, 4713
ADAM B. KAVLICK, 9142
DAVID A. * KAWECK, 7137
CHRISTY A. KAYSERCOOK, 7744
DAWN D. KEASLEY, 4418
PATRICK D. KEE, 3242
CLIFFORD A. KEENAN, 8413
PATRICK M. KEENAN, 9869
ROBERT B. KEENEY, JR., 1081
TIMOTHY L. KEEPORTS, 4264
D. EDWARD KELLER, JR., 8587
STEVEN E. KELLER, 9032
JAMES H. KELLEY, JR., 1380
KEVIN C. KELLEY, JR., 2872
MICHAEL B. KELLY, 6903
THOMAS A. KELLY IV, 9433
WAYNE N. KELM, 0188
MALCOLM T. KEMENY, 6072
ANDRE L. KENNEDY, 7389
DOUGLAS B. KENNEDY, 0855
KEVIN B. KENNEDY, 2686
PATRICK S. KENNEDY, 2282
STEVEN T. KENNEL, 0254
COREY J. KEPPLER, 4243
VICKIE S. KERSEY, 2974
TIMOTHY G. KETTERER, 5477
EDWARD J. KHIM, 6182
BRIAN C. KIEFFER, 4956
THOMAS J. KILLEEN, 3382
KIRK A. KIMMETT, 2547
DAVID R. KING, 4005
DEAN D. KING, 5579
RICHARD L. KING, JR., 5549
BRADLEY A. KINNEER, 2282
DAVID K. * KLAUS, 5380
KONRAD J. KLAUSNER, 1698
JEFFREY T. KLIGMAN, 9641
WILLIAM J. KLUG, 2002
EDMUND W. KNETIG, 3030
DAVID W. KNIGHT, 1097
HEATHER R. KNIGHT, 0877
CHARLES W. KNOFCZYNSKI, 4981
RICHARD W. KOELLING, JR., 4168
SANDRA J. KOLB, 2715
MICHAEL L. KONING, 0944
BRIAN L. KONKEL, 2172
JAMES L. KOONTZ, 1008
TRACEY D. KOP, 1393
KENNETH L. KORPAK, 7374
IOANNIS KOSKINAS, 2826
STEVEN C. KOVERMAN, 3616
KARL W. KRAAN, 4323
GEORGE S. KRAJNAK, 8214
TODD D. KRATZKE, 5515
RICHARD E. KRAUS, 9031
ROBERT W. KRAUS, 5010
ROBERT C. KRAUSE, 2352
GREGORY J. KRAUT, 5133
JAMES E. KRICKER, 8364
JOHN P. * KRIEGER, 9612
SHANNON E. KRUSE, 3000
JAMES K. KUBINSKI, 2783
DAVID P. KUENZLI, 8033
SCOTT A. KUNKEL, 9510
KURT W. KUNTZELMAN, 8648
KRISTINE T. KUSEKVELLANI, 0119
DONALD P. LAGATOR, JR., 0962
HANS C. LAGESCHULTE, 6939
GEOFFREY A. LAING, 2872
ANDREW A. LAMBERT, 5847
JAY A. LANDIS, 1934
KENNETH M. LANG, 9191
ROWENE J. LANT, 0782
ALFONSO A. LAPUMA, 9925
DOUGLAS N. LARSON, 9081
CAROLYN B. LASALA, 5494
ROBERT H. LASS, 3663
SEAN D. LASSITER, 9975
ARTHUR H. LAUBACH, JR., 2560
OCTAVE P. LAURET III, 4467
JEROME P. LAVELY, 2301
LORI S. LAVEZZI, 7019
CHERYL L. * LAW, 0504
DAVID T. LAWYER, 6816
CRAIG S. LEAVITT, 9898
JEANNIE M. LEAVITT, 4945
MARK T. LEAVITT, 0236
HYON K. LEE, 8591
RUSSELL E. * LEE, 2060
SCOTT T. LEFORCE, 5017
STEVE A. LEFTWICH, 9761
AARON D. LEHMAN, 7948
NORMAN J. LEONARD, 5549
GARY N. LEONG, 6309
JOHN F. LEPORE, JR., 3414
CYNTHIA A. LESINSKI, 0299
JAMES L. LESS, 5597
STEVEN J. LEWIS, 2011
ANITA L. LIGHTFOOT, 9695
JOSEPH M. LIMBER, 2938
TIMOTHY J. LINCOLN, 6978
CHRISTOPHER J. LINDELL, 0681
FRANK J. LINK, 2018
FREDERICK H. LINK, 5864
KENNETH A. LINSENMAYER, 7674
CHRISTOPHER P. LIPNITZ, 5978
WILLIAM JOHN LIQUORI, JR., 1401
WILLIAM C. LIVESAY, JR., 7796
THOMAS K. LIVINGSTON, 0538
MATTHEW J. LLOYD, 6621
STEPHEN E. LLOYD, 7282
STACY LOCKLEAR, JR., 3789
DOUGLAS T. LOEHR, 3433
STEVEN M. LOKEN, 2577
FREDERICK A. LOMBARDI, 9928
JOHN H. LONG, 0643
SCOTT N. LONG, 8597
RANDALL F. LOOKE, 6955
LESTER R. LORENZ, 6563
WILLIAM J. LOREY, 6313
VINCENT J. LOSTETTER, JR., 3523
JEFFREY C. LOVELACE, 5365
DENNIS J. LUCAS, 6808
MARISSA C. LUCERO, 2518
ROY S. LUDVIGSEN, 7522
ROBERT A. LURZ, 0776
JOHN M. LUSSI, 6266
MARK NMN LUTTSCHWAGER, 8555
DANIEL R. LYKINS, 2282
DAVID L. LYLE, 4129
DAVID F. LYNCH, 4237
GREGORY D. LYND, 9171
DONALD D. LYTLE, 4376
MATTHEW M. D. * MACE, 3945
DAVID P. MACK, 5117
JEFFREY D. MACLOUD, 6093
DAVID L. MAHANES II, 9997
JACK W. MAIXNER, 8509
DAVID J. MALONEY, 1524
LORALEE R. MANAS, 0972
MARK H. MANLEY, 6194
CHRISTOPHER R. MANN, 1314
CHRISTOPHER M. MARCELL, 7765

JOSEPH R. MARCINKEVICH, 1337
TODD M. MARKWALD, 3424
TONY R. MARLOWE, 0311
JEFFREY A. MARSDEN, 3402
WILLIAM D. MARSH II, 4861
COREY J. MARTIN, 9249
JOEL L. MARTIN, 1917
JOHN M. MARTIN, 0489
WILLIAM J. MARTIN, 1095
JAMES T. MARX, 2473
ROBERT L. MASON, 0397
MAX R. MASSEY, JR., 6266
RUSSELL A. MATIJEVICH, 2774
JAMES B. MATTILA, 3633
DAVID M. MATTSON, JR., 6909
PATRICIA C. MAULDIN, 9105
JOHN C. MAXWELL, 2367
CHARLES C. MAYER, 5667
GEORGE A. MAYLEBEN, 8666
CLAYTON W. MCANALLY, 0802
PAUL W. MCAREE, 9613
RICHARD T. MCCAFFERTY, 6172
TODD V. MCCAGHY, 4955
KYNA R. MCCALL, 6708
PAUL R. MCCARVER, 7135
MITCHELL T. MCCLAREN, 8130
ROBERT G. MCCORMACK, 7100
JAMES B. MCCORMICK, JR., 0385
CHASE P. MCCOWN, 7744
FRANCIS M. MCDONOUGH, 7018
GEORGE M. MCDOWELL, 5540
JAMES J. MCELHENNEY, 0151
DARYL C. MCELWAIN, 4446
JENNIFER A. MCGARVA, 8690
MARK A. MCGEORGE, 6066
BRIAN P. MCGOLDRICK, 2704
ANDREW MCINTYRE, 8644
JAMES R. * MCIRVIN, 8998
PATRICK J. MCKEEVER, 3635
TIMOTHY J. MCLAIN, 7906
PAUL R. MCLAUGHLIN, 4313
PHILIP M. MCNAIRY, 7212
FRANK R. MCNAMARA, 3079
BRUCE R. MCNAUGHTON, 0731
SAMUEL L. MCNIEL, 6447
FRANK A. MCVAY, 3646
MARC C. MCWILLIAMS, 8340
CHARLES R. MEADOWS, 9028
DEBORAH E. MEADOWS, 8808
BRUNO A. MEDIATE, 0658
JAMES M. MEEK, 4930
BRUNO MELTON, 6382
MICHAEL A. MENDOZA, 8843
WILLIAM E. * MENGERS, 4975
WILLIAM J. MERCHANT, 1094
DANIEL F. MERRY, 7730
CONSTANCE M. MESKILL, 1736
CHARLES E. METROLIS, JR., 4988
EDWARD A. MEYER, 8059
GREGORY S. MEYER, 5279
THOMAS E. MEYER, 8503
JOSEPH F. * MICHELL IV, 0380
SAMUEL P. MILAM, 8666
STEPHEN V. MILIANO, 6446
JOHN C. MILLARD, 3122
DAVID E. MILLER, 1437
PATRICK D. MILLER, 3230
SCOTT C. MILLER, 1864
SUSAN M. MILLER, 0891
TOM D. MILLER, 3296
JOSEPH A. MILNER, 0376
RICHARD K. MILNER, 8401
LOUIS E. MINGO, JR., 7305
JIMMIE L. MITCHELL, JR., 5509
JOHN H. MODINGER, 9064
MATTHEW C. MOLINEUX, 9299
MITCHELL A. MONROE, 8542
MICHAEL G. MONSON, 0125
KENNETH S. S. MONTGOMERY, 1615
KIRK A. * MONTGOMERY, 6813
H NATHAN C. MOONEY, 3171
CHARLES E. MOORE, JR., 2545
WILLIAM L. MOORE, 6848
ERIN R. MORAN, 8224
DAVID J. MORGAN, 4855
DONALD MORGAN, 5820
BRIAN K. MORRIS, 8328
CAIL MORRIS, JR., 2850
MICHAEL E. MORRIS, 6344
WILLIAM F. MORRISON II, 2074
ROBERT L. MOSES, 6475
DEBORA E. MOSLEY, 5967
GERARD A. MOSLEY, 6763
RAY A. MOTTLEY, 9150
DANIEL R. MOY, 1436
ROBERT J. MOZELESKI, 8962
KEVIN M. MUCKERHEIDE, 8335
CHRISTOPHER G. MUELLER, 7513
KYLE D. MULLEN, 3813
DOUGLAS E. MULLINS, 3394
ROBERT B. MUNDIE, 7000
KENNY K. MUNECHIKA, 4533
PORFIRIO H. MUNOZ, JR., 7365
WILLIAM C. * MURPHEY, 7221
BRIAN C. MURPHY, 8564
JOHN E. * MURPHY, 1174
MARK C. MURPHY, 9060
MIMI MURPHY, 2369
IVAN D. MURRAY, 9055
LANCE T. MURRAY, 5244
MICHAEL J. MUSZYNSKI, 8463
DAVID S. MYERS, 1641
JEFFREY B. MYERS, 4630
LEMUEL R. MYERS, JR., 0449
MARCUS S. MYERS, 5107
MICHAEL L. MYERS, 0501
MYLES M. NAKAMURA, 1416
JOHN S. NEHR, 3854
JAMES A. NEICE, JR., 0455
JEFFREY D. NEISCHEL, 7100
BRETT J. NELSON, 4013
MICHAEL S. NELSON, 5725
MARK N. NEULANDER, 7175
BRIAN M. NEWBERRY, 4421
DAVID J. NEWTON, 5721
RANDAL G. * NEWTON, 4694
CLIFTON E. NICHOLS, 1038
ERIC B. NICKISH, 5242
KENT A. NICKLE, 7880
DANA S. NIELSEN, 9631
DOUGLAS J. NIKOLAI, 7116
TREVOR W. NITZ, 3618
JAMES R. NOETZEL, JR., 2372
STEVEN P. NOLL, 4025
WILLIAM R. NOLTE, 9632
DEBRA A. NORTH, 5000
GEOFFREY N. NORTON, 1686
JAMES D. NORTON, 4229
NELSON J. * NOVO, 6088
MICHAEL T. OBERBROECKLING, 0530
BRIAN M. OCONNELL, 9673
MARY J. OCONNOR, 9447
TIMOTHY J. OCONNOR, 5633
GARY L. ODANIEL, 8740
KELVIN B. ODELL, 3020
JOSEPH M. ODER, 8426
MARK J. OECHSLE, 1182
JOHN W. OGDEN, JR., 0385
DAVIS S. OISHI, 5034
CHRISTOPHER J. OLEKSA, 1433
RAFAEL E. OLIVA, 2391
KEVIN A. OLIVER, 4465
FORREST O. OLSON, 0216
PHILLIP G. ONEAL, 4814
DOUGLAS A. OPERSTENY, 3429
DANIEL J. ORCUTT, 8137
JUAN C. ORTIZ, 8561
TROY D. ORWAN, 4285
ERIC R. OSTENDORF, 2744
DEAN R. OSTOVICH, 7536
SHIRLENE D. OSTROV, 7824
LAWRENCE J. OTT, 0614
WILLIAM J. OTT, 7342
RONALD G. OWENS, 9430
DANIEL A. PACHECO, 9034
THOMAS C. * PADGETT, JR., 3522
WILLIAM E. * PAGE III, 5080
THOMAS E. PAINTER, JR., 7106
HANS F. PALAORO, 2157
RICK A. PALO, 0709
GLENN A. PANARO, 2726
RICH Y. PANG, 8480
MICHAEL J. * PAOLI, 6914
ALAN PAOLUCCI, 5972
JOHN A. PAPACHRISTON, 7421
ZANNIS M. PAPPAS, 2873
JOHN A. PARADIS, 1538
THOMAS E. PARENT, 2453
ROBERT S. PARKS, 2259
TODD J. PARKS, 9802
MICHAEL J. PASTIKA, JR., 2630
DAVID M. PATTERSON, 1631
BRETT A. PAUER, 3909
TODD M. PAVICH, 9290
KENNETH A. PAXTON, 0772
JAMES M. PAYNE II, 1358
JOHN D. PEAK, 9024
STEVEN D. PEARSON, 6829
JAMES L. PEASE, 6096
STEPHEN D. PEDROTTY, 2192
KATHY G. PEEL, 6494
TIMOTHY W. PENLEY, 2938
RANDY B. PENSON, 1527
JOHN C. PEPIN, 6496
JEFFREY W. PERHAM, 7977
SEAN W. PERKINS, 6001
WAYNE D. * PERRY, 9889
KENNETH M. PESEK, 4086
BRIAN T. PETERSON, 8930
JOEL T. PETERSON, 0102
RICK T. PETITO, 5994
GILBERT E. PETRINA, JR., 5934
KARL D. PFEIFFER, 4873
ERIC M. * PHARRIS, 7903
KEITH L. PHILLIPS, 1343
RODGER W. PHILLIPS, 3970
BRADLEY R. PICKENS, 6332
DAVID C. PIECH, 1808
MARK A. PIERCE, 2547
CORY M. PINK, 5515
MATTHEW T. PIRKO, 6748
JOHN D. PLATING, 1887
MICHAEL H. PLATT, 5558
FREDRICK G. PLAUMANN, 9429
TERENCE A. PLUMB, 2835
JULIE R. PLUMMER, 5586
DOUGLAS W. POHLMAN, 1003
KELLI B. POHLMAN, 9007
MATTHEW S. POISSOT, 0033
ANTHONY J. POLLIZZI, JR., 5191
STEVEN A. POMEROY, 9290
DANIEL O. PONCEDELEON, 7906
CHRISTOPHER J. POSSEHL, 4152
DANA POWELL, 4056
STEPHEN R. PRATT, 9291
LAWRENCE E. PRAVECEK, 8162
KEITH M. PREISING, 0573
STERETT R. PREVOST IV, 9505
RICHARD D. PROCTOR, 0284
CYNTHIA A. PROVOST, 7128
CHARLES A. PRYOR III, 2261
HOWARD K. PSMITHE, 3746
GARY PUHEK, 8819
GLENN C. QUANBECK, 4726
YVETTE S. QUITNO, 8717
ALLEN C. RABAYDA, 8443
CARL W. RAHN, 0519
LIONEL L. RAMOS, 4500
STEVEN T. RAMSAY, 7172
MARK J. RAMSEY, 6254
JOSEPH R. RARICK, 4704
RICHARD J. RASMUSSEN, 1025
THOMAS R. RAULS, 4073
ERIC D. RAY, 7311
MICHAEL B. REDDING, 6104
EDWIN H. REDMAN, 2642
MARK A. REDMON, 7377
RANDALL REED, 8583
DAVID L. REESE, 0055
GREGORY J. REESE, 1288
DAVID J. REGA, 5786
ADAM S. REMALY, 2837
MARK E. RESSEL, 8260
DAMON R. REYNOLDS, 7784
RONDALL R. RICE, 1585
MICHAEL P. RICHMOND, 2797
JAMES E. RICKMAN, 9774
BRADLEY T. RIDDLE, 3728
DAVID T. RIDDLE, 8191
JOHN J. RIEHL, 5098
THOMAS J. RINEY, 3769
LUIS A. RIOS, 1960
RANDY L. RIVERA, 2546
SCOTT W. RIZER, 8068
GLENN E. ROBERTS, 6851
PETER C. ROBERTS, 8293
RICHARD C. ROBERTS, 6311
FRANKLIN T. ROBINSON, 2835
JOHN D. ROBINSON, 7733
KELLY G. * ROBINSON, 9211
MICHAEL T. ROCHE, 6554
JOHN M. RODEN, 1263
BARRY D. ROEPER, 4020
BRADLEY J. ROGERS, 6731
KENNETH J. ROLLER, 6236
MICHAEL A. ROMERO, 4376
RENE F. ROMERO, 6503
MARK D. ROOSMA, 2734
ELIZABETH A. ROPER, 1442
STEPHEN A. ROSE, 9023
NANCY M. ROWER, 5728
KEVIN M. ROZELSKY, 7248
ERIK K. RUNDQUIST, 4900
JOEL C. * RUSH, 0845
JOSEPH J. RUSHLAU, 5821
RONALD R. RUTLEDGE, 2122
JOHN K. RYAN, 0389
LAURA M. RYAN, 0578
JAMES SABELLA, 1760
IAN R. SABLAD, 4500
CINDY K. SABO, 4365
JOEL A. SAKURA, 9474
LESLEE J. SALECK, 3590
WILLIAM S. SALINGER, 1313
WILLIAM B. SALKIND, 5851
RUSSELL S. SALLEY, 2748
BRADLEY CHANCE SALTZMAN, 6377
MARISSA C. SALVADOR, 3700
DAVID M. SAMPSON, 2002
WILLIAM G. SANDERS, 4789
RALPH A. SANDFRY, 6118
JAIME SANTOS, 6284
MICHAEL E. SANTOS, 2742
SUSAN S. SANTOS, 4066
CHRISTOPHER M. SARTORIUS, 7963
GREGORY W. SAVA, 2062
GLEN A. SAVORY, 0253
BARBARA L. SAWYER, 6990
VINCENT J. SCANNELLI, 0025
ANTHONY SCELSI, 8041
GEORGE W. SCHANTZ, JR., 4794
PAUL A. SCHANTZ, 9744
MICHAEL P. SCHAUB, JR., 3069
SCOTT J. SCHEPPERS, 8733
RAYMOND D. SCHERR, 3625
KEVIN J. SCHIELDS, 0358
DANA R. SCHINDLER, 3683
MICHAEL N. SCHLACTER, 1366
MYRON L. SCHLUETER, 0062
KIRK T. SCHMIERER, 9715
GARY J. SCHNEIDER, 4252
NEAL W. * SCHNEIDER, 6113
JON S. H. SCHOENBERG, 4068
JOHN M. SCHOOT, 9830
KARY R. SCHRAMM, 9626
JEFFREY C. SCHROEDER, 6957
BARTON B. SCHUCK, 6742
RODGER G. * SCHULD, 1224
GREGORY W. SCHULTZ, 2265
JEFFREY K. SCHWEFLER, 7202
WALTER H. SCHWERIN, JR., 3540
BRADLEY S. SEARS, 0819
DAREN A. * SEARS, 1793
JAMES R. SEARS, JR., 4360
THOMAS J. SEBENS, 6600
ANTHONY B. SECRIST, 2701

JOHN T. SELDEN II, 3799
DWAYNE P. SELLERS, 2268
RONALD D. SENGER, 2710
MICHAEL B. SENSENEY, 3382
JORGE F. SERAFIN, 1210
GARY L. SERFOSS, 0702
MARK W. SERGEY, 8918
MAYAN SHAH, 6681
SAMUEL J. SHANEYFELT, 3914
TONY A. SHARKEY, 2588
CHRISTOPHER L. SHARP, 1849
BRUCE W. SHAW, 4812
CHARLES B. SHEA, 8086
WALTER A. SHEARER, 8137
SEAN W. SHEEHY, 8470
RICHARD A. SHEETZ, 6406
RICHARD A. SHELDON, JR., 5843
GREGG A. SHELTON, 5883
NAM N. M. SHELTON, 1695
DAVID J. SHERMAN, 6360
DAVIN M. SHING, 2352
WILMA J. SHIVELY, 6089
MICHAEL K. SHOWER, 8277
ROBERTA L. SHREFFLER, 0045
RICHARD A. * SHUFF, 4008
SAMUEL M. SHULT, 8610
KEVIN D. SIEVERS, 6939
THEODORE R. SIEWERT, 3992
GLENN L. SIGLEY, 6395
SHAWN G. SILVERMAN, 5149
SCOTT C. SIMON, 6625
WILLIAM P. SINGLETARY, 9710
DALE P. SINNOTT, 9599
MATTHEW E. SKEEN, 9330
ANNE E. SKELLY, 2618
KEITH A. SKINNER, 4790
GARY C. SLACK, 5767
THOMAS G. SLOAN, 1798
ANDREW J. SMITH, 1144
BRIAN G. SMITH, 0840
BRUCE M. SMITH, 2053
COLLIN B. SMITH, 7958
COURTNEY V. SMITH, 1163
DARRYL M. * SMITH, 8704
DAVID W. SMITH, 0941
DEVIN E. SMITH, 5254
DOUGLAS S. SMITH, 0832
DUSTIN P. SMITH, 8550
JAMES B. SMITH, 9388
JAMES E. SMITH, 6026
JAMES R. SMITH, JR., 6155
LINDA D. SMITH, 1853
MAUREEN J. SMITH, 3596
REGINALD R. SMITH, 1332
STELLA T. SMITH, 1687
MATTHEW C. SMITHAM, 1313
KERRY J. SMITHERS, 9178
FRANKLIN W. SMYTH, 0571
LAUREL A. SMYTH, 6447
JOHN H. SNELLING, JR., 0463
KATHERINE O. SNYDER, 4888
WILLIAM H. SNYDER, 5538
PETER M. SOLIE, 6267
JEFFREY L. SORENSEN, 3488
RHONDA M. SOTO, 8063
ROBERT S. SPALDING, 3349
STEVEN N. SPANOVICH, 1530
THOMAS R. SPELLMAN, 1849
MERRICE SPENCER, 1778
MICHAEL M. SPENCER, 1323
TANGELA D. SPENCER, 1667
RON L. SPERLING, 4961
GARY M. SPILLMAN, 2517
DARREN D. SPRUNK, 2835
WILLIAM A. STAHL, JR., 0253
JAMES P. STAVER, 9119
MARCUS S. * STEFANOU, 9042
KEVIN M. STEFFENSON, 0290
STEPHEN R. STEINER, 1331
MICHAEL J. STEPHENS, 0146
PETER B. STERNS, 2770
JOHN S. STEWART, 3733
SCOTT M. STEWART, 6426
ALESSANDRA STOKSTAD, 4934
BRYAN M. STOKSTAD, 0673
VICKI J. * STONE, 9143
JOHN J. STOREY, 5756
TODD J. STOVALL, 2878
MICHAEL R. STRACHAN, 3768
ROBERT M. STRESEMAN, 0532
ROBERT M. STRICKLAND, JR., 9131
DOUGLAS E. STROPES, 8493
CARL A. STRUCK, 7091
TIMOTHY A. STRUSZ, 4701
JOHN W. STUBLAR, 4886
JOSEPH L. STUPIC, 4782
JAMES G. STURGEON, 6349
JAMES A. STURIM, 5663
ANTONIO R. SUKLA, 9622
RICHARD E. SURDEL, 2652
ROBERT C. SWARINGEN II, 4265
DAWN MARIE SWEET, 8306
MARK F. SWENTKOFSKE, 7452
MICHAEL A. SWIFT, 5682
MARK J. SYNOVITZ, 9124
TRACY R. SZCZEPANIAK, 3986
CHRISTIAN J. TAFNER, 3756
BRET C. TALBOTT, 1530
KEVIN C. TALIAFERRO, 5372
KERRY L. TARR, 0124
HAROLD A. TAYLOR, JR., 8924
JOHN W. TAYLOR, JR., 5023
JOSEPH A. TAYLOR, JR., 6762
KAREN L. TAYLOR, 4586
MICHAEL T. TAYLOR, 1232
SYLVIA C. TAYLOR, 8821
SCOTT G. TENNENT, 8465
MICHAEL K. TEPLEY, JR., 6395
GARY M. TESTUT, 8303
JOHN R. THAYER, 9404
DAMON M. THEMELY, 4833
THEO THEODOR, JR., 8247
BOB F. THOENS, 4924
DAVID E. THOLE, 6493
DWAYNE E. THOMAS, 4778
EDWARD W. THOMAS, JR., 5706
TROY S. THOMAS, 3658
WILLIAM B. THOMAS, 1093
GREGORY F. THOMPSON, 6543
RANDALL L. THOMSEN, 8569
JEFFREY S. THORBURN, 9754
ROSEMARY L. THORNE, 9309
JENNIFER J. THORPELEWIS, 1182
KEVIN J. THRASH, 8309
RICHARD G. THUERMER, 2481
THOMAS J. TIMMERMAN, 2085
DANIEL W. TIPPETT, 8032
PAUL D. TOBIN, 7090
SCOTT D. TOBIN, 5551
MICHAEL A. TODD, 1855
LESA K. TOLER, 0327
KAREN L. TORRACA, 5855
ANMY D. TORRES, 7489
RAYMOND G. TOTH, 5597
GREGORY J. TOUSSAINT, 5490
WILLIAM R. TRACY, 4801
JEROME T. TRAUGHBER, 1919
VALERIE W. TREFTS, 7104
PETER J. TREMBLAY, 0163
LARRY J. TRENT, 5450
JOHN M. TRUMPFHELLER, 2643
LISA M. TUCKER, 6300
ZENA A. TUCKER, 8290
DONALD J. TUMA, 4731
GREGORY H. TUREAUD, 4755
DANIEL J. TURNER, 2950
RUSSELL J. TUTTY, 8620
LANELL B. TWIGGS, 3550
THOMAS W. TYSON, 0395
WILLIAM M. UHLMEYER, 9045
JOHN F. UKLEYA, JR., 7574
SCOTT G. ULRICH, 4960
WILLIAM K. UPTMOR, 3187
GREGORY N. URTSO, 5485
DAVID E. UVODICH, 7832
JOHN M. VAIL, 1068
GREG A. VALDEZ, 0487
PAUL J. VALENZUELA, 1379
GREGG D. VANDERLEY, 9412
SAMUEL B. VANDIVER, 1168
DALE J. VANDUSEN, 6770
JOHN C. VANHOVE, 2212
BRUCE J. VANREMORTEL, 1890
DAVID A. VANVELDHUIZEN, 0165
TRACY L. VANZUIDEN, 2443
MATTHEW L. VENZKE, 3164
RUBEN VILLA, 8560
KURT A. VOGEL, 3274
JEANETTE M. VOIGT, 7429
KYLE D. VOIGT, 3239
FRED N. * WACKYM III, 1330
MARK I. WADE, 9883
JAMES D. WAGNER, 8533
RAYMOND J. WAGNER, 8795
ALLAN P. WAITE, JR., 8400
CURTIS D. WALKER, 3352
DAVID W. WALKER, 0822
WILLIAM N. WALKER, 9914
STEPHEN B. WALLER, 8291
PAUL B. WALSKI, 2789
ANTHONY W. WANN, 5935
DEAN A. WARD, 9813
JAMES R. * WARD, 0431
HERBERT N. WARDEN IV, 5606
JOHN A. WARDEN IV, 7676
CHRISTINE M. WASDIN, 9479
MICHAEL E. WASHINGTON, 2306
TRACEY L. WATKINS, 8465
PERNELL B. WATSON, 0101
KATHLEEN E. WEATHERSPOON, 5964
ROBERT F. WEAVER II, 2032
JONATHAN D. WEBB, 7637
GREGORY A. WEBER, 6263
ROBERT B. * WEHNER, 3905
TERI L. WEIDE, 1431
BRIAN D. WEIDMANN, 5336
LESTER A. WEILACHER, 1330
MONTE T. WEILAND, 6272
STUART N. WEINBERGER, 5193
PATRICK T. WELCH, 6396
PAUL A. WELCH, 8002
RORY D. WELCH, 6176
CHRISTOPHER M. WELLBORN, 9091
ROBERT G. WELLINGTON, 7206
DAVID L. WENIGER, 2219
JASON S. WERCHAN, 7013
DAWN D. WERNER, 7776
JOHN F. WERNER, 6781
STEVEN W. WESSBERG, 0556
CHARLES N. WEST, 3186
DANE P. WEST, 7225
RITCHIE L. WEST, 9208
FREDERICK H. WESTON, 9798
SEABORN J. WHATLEY III, 6490
PAUL A. WHEELESS, 1481
AUBREY D. WHITE, 2628
KENT B. WHITE, 7875
FRANK A. WHORTON, 1747
RICHARD T. WICKUM, 0535
KENNETH B. WIGGINS, 3714
STEVEN W. WIGGINS, 9226
HENRY T. WILKENS, JR., 3379
BRIAN A. WILKEY, 5457
BRUCE W. WILLETT, 7492
ANTHONY B. WILLIAMS, 0632
FREDERICK D. WILLIAMS, 4139
JAMES B. WILLIAMS, 7246
LYNDON J. WILLIAMS, 8205
NEICKO C. WILLIAMS, 1763
ROBIN B. WILLIAMS, 8059
STEPHEN C. WILLIAMS, 3579
JOHNDAVID W. WILLIS, 5952
MATTHEW B. WILLIS, 1725
CHRISTOPHER S. WILSON, 7082
GLENN J. WINCHELL, 1140
MICHAEL F. WINTHROP, 4212
ERIC C. WINTON, 3721
BRIAN E. WITHROW, 1555
THOMAS J. WITTERHOLT, 3112
THOMAS E. WOLCOTT, 6798
JOSEPH L. WOLFER, 7392
JOHN C. WOMACK, 5798
DAVID M. WOOD, 1113
STEPHEN D. WOOD, 5055
TODD K. WOODRICK, 3460
THOMAS L. WOODS, 6716
JOHN G. WORLEY, 6284
TODD A. WORMS, 2064
CYNTHIA A. WRIGHT, 7837
KURTIS L. WRIGHT, 6467
PATRICK W. WRIGHT, 0428
JOHN D. WROTH, 4596
JAMES E. WURZER, 7226
FRANK D. YANNUZZI, JR., 0950
BRIAN A. YATES, 4419
MONIQUE M. YATES, 3681
DAVID L. YOCKEY, 0672
JEFFREY S. YOCUM, 0273
PETER L. * YORK, 9987
JON E. YOST, 9299
ANTHONY C. YOUNG, 5599
GEORGETTE J. YOUNG, 8904
GREGORY J. YUEN, 8756
JAMES P. ZEMOTEL, 0304
STEPHEN T. ZIADIE, 1384
MICHAEL J. ZIGAN, 6380
MARK A. ZIMMERHANZEL, 2771
MICHAEL J. ZUBER, 5091

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be lieutenant colonel*

STEVEN G. ALLRED, 0860
JOEL O. ALMOSARA, 6561
MARK J. ARMSTRONG, 3073
THOMAS A. BACON, 0604
ANNE H. BARRETT, 5596
MARK J. BATES, 0975
JOHN L. BELL, JR., 5477
WILLIAM T. BENNETT, 2423
GREGORY D. BOBEL, 0244
LINDA L. BONNEL, 3723
LINDA S. BROECKL, 4889
DOUGLAS A. BURKETT, 4783
BRIAN G. CASLETON, 2036
ALICE S. CHAPMAN, 7556
JOHN T. CRIST, 7172
DARRIN L. CURTIS, 7298
RICHARD B. DELEON, 5530
KAREN S. FRALEY, 6416
MARKUS P. GMEHLIN, 1998
MARTHA D. GOFF, 9747
DANIEL J. GOLEN, 9383
REBA E. HARRIS, 5288
JANE E. HEETDERKSCOX, 2214
DAVID A. KAUTH, 9068
NANCY L. KLEIN, 1561
MARK A. LANGE, 3680
ABBIE K. LUCK, 1963
BRIAN B. MEIER, 0853
LUCIA E. MORE, 7814
TIMOTHY J. * MUKODA, 2107
JOSEPH J. NARRIGAN, 5907
RANDALL C. NEDEGAARD, 6600
DAVID K. NELSON, 3965
DEBRA ANN NOTTURNOBAYLEY, 0333
CRAIG A. OLSON, 3675
MARK S. OORDT, 2790
LISA T. PEGUES, 9669
RUSSELL L. PINARD, 1686
RONALD E. PORTE, 1135
PHILIP J. PREEN, 9843
ANDERSON B. ROWAN, 0479
MICHAEL B. SLACK, 0713
DAVID A. SMITH, 6876
CRAIG A. SMYSER, 4935
DAVID M. SONNTAG, 1094
SHARON L. SPRADLING, 7251
STEPHEN J. STOECKER, 9978
RONALD R. STUMBO, 5332
ROYCE M. TERRY, 4592
JONATHAN W. THOMAS, 5680

STEPHEN B. TUELLER, 2338
BRIAN L. WARRICK, 9107
JAMES D. WHITWORTH, 7528
ANNETTE J. WILLIAMSON, 5595
CHRISTOPHER A. D. WILLISTON, 5388
BRAD S. WINTERTON, 3858
JOHN R. WROCKLOFF, 4115

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

STEPHEN M. * ALLEN, 9544
DAVID LEWIS * BUTTRICK, 0426
ALAN * CHOUEST, 4775
JANIS A. B. * DASHNER, 4389
CALVIN D. * DIXON, 7995
RIVES M. * DUNCAN, 5802
CLYDE * DYSON, 0127
RANDALL W. * ERWIN, 0524
RICHARD * FITZGERALD, 9027
MICHAEL E. * GOECKER, 0285
BRYAN S. * HOCHHALTER, 5873
JOHN P. * KENYON, 1430
MAX B. T. * OMANA, 2117
BOYD C. * SHORT, JR., 0692
JOHN F. * TILLERY, 3495
SHELIA M. WILSON, 5605
THEADORE L. * WILSON, 4667

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

TRAVIS R. * ADAMS, 9077
MATTHEW D. ALBRIGHT, 0163
JAMES C. * ALLEN IV, 4222
SUSAN E. * ANSPACH, 2172
LISA M. * BADER, 4746
JOHN A. * BARNETT, 5651
KENNETH J. * BARON, 5921
WILLIAM B. * BELSER, 0742
JULIE A. * BEST, 1091
BRETT L. * BISHOP, 6946
LISA R. * BLACKMAN, 3134
BRIAN G. * BLALOCK, 9086
SAMANTHA E. * BLANCHARD, 9292
KIMBERLY C. * BOEHM, 1448
NATALIE K. * BONETTI, 9587
JAMES E. * BONSON, JR., 6449
BRADLEY G. * BOWERS, 3178
JOHN C. * BOWERS, JR., 7337
LEE A. * BOXBERGER, 4464
MICHAEL D. * BUSBY, 0458
LAURA L. * BUTLER, 9156
ROBERT K. * CAMPBELL, 1494
COLETTE M. * CANDY, 5800
ROSE M. * CANTU, 4792
MICHAEL T. * CARTWRIGHT, 6200
JAMES S. * CAVANAUGH, 9183
CLARA F. * CHAMBERS, 5532
LORI J. * CHUPP, 6651
MICHAEL L. * CLARK, 6209
ELITA L. * CONALLY, 3075
VICTORIA H. * COOMES, 9850
CHRISTOPHER M. * CUTLER, 9168
BRYAN M. * DAVIDSON, 7237
JASON A. * DEESE, 8176
WADE R. * DEMORDAUNT, 9422
DOMEEKA A. * DIXON, 4857
ANNE C. * DOBMEYER, 3415
SAMUEL S. * DUTTON, 2449
ROBERT M. ENINGER, 7439
ROY R. * ESTRADA, 9686
TONYA R. * EVERLETH, 3200
VINCENT D. * FALLS, 1069
DIANE R. * FINCH, 7241
PATRICIA J. * FINKENBERG, 7718
BRIAN M. FITZGERALD, 2116
BRIAN K. * FOUTCH, 2299
TOLANI I. * FRANCISCO, 0043
BRENDA L. * FRYE, 9861
CELENE A. * FYFFE, 4496
TIMOTHY P. * GACIOCH, 8248
TIMOTHY A. * GAMEROS, 0745
JOHN * GRAVGAARD, 0979
PATRICK L. * GRAY, 5722
JULIE V. * GUILL, 1950
ALLISON C. * HANAUER, 7254
VIRGINIA L. * HAYS, 6440
NICOLE R. HENKELMAN, 0625
ARIANNE J. * HENRYKROLL, 5988
STEVEN P. * HIGGINS, 9682
MICHAEL R. * HOBSON, 3202
WILLIAM E. * HUBBARD, JR., 1050
ANGELA M. * HUDSON, 6756
ROBERT P. * IKERD, 8006
SHELDON L. * JACKSON, 1030
BRIDGET M. * JACKSONOAKLEY, 4510
ANTHONY J. * JARECKE, 3992
MIA J. * JENNINGS, 9569
ROBIN J. * JOHNSON, 6348
JACQUELINE A. * JONES, 5587
RODNEY M. * JORSTAD, 5032
WAIKWONG * KAN, 0630
TAMMY C. * KARAMARINOV, 4609
GLENN L. * LAIRD, 4234
JAMES L. * LAMUNYON, 4689
MARK W. * LEHMAN, 3581
CHRISTINA F. * LITTLE, 1215
BRIAN E. * LOGUE, 5331
MICHELLE R. * LOPER, 6685
DANIEL J. * LOVELESS, 1564
JENNIFER J. * MASINO, 9999
SHANNON S. MCDONALD, 3913
TROY E. * MCGILL, 0652
ROBIN E. * MITCHELL, 1416
JOSE L. * MONTANEZ, 4906
CURTIS W. * MORROW, 6778
SANDY * MOY, 0272
SOHRAB M. * NEJAD, 4906
HEATHER A. * NELSON, 9198
PAMELA L. * NOVY, 8945
MICHAEL H. * OSTERHOUDT, 8067
ROBERT K. * OSULLIVAN, 9518
DEANNA S. * PEKAREK, 5017
TREVOR S. * PETROU, 7525
STEVEN C. * PIEKARCZYK, 6100
ROBERT K. * POHL, JR., 7917
MARK A. * POMERINKE, 4317
DAVID L. * PUGH, 6019
MARIA L. * PUGIA, 5942
GERARDO * RAMOS, 0503
DAVID J. * REYNOLDS, 3322
MICHAEL B. * ROPER, 5667
RICHARD I. * SAYLOR, 9385
BRADLEY J. * SCHULTE, 9157
JERILYN M. * SCHWEAR, 3483
STANLEY M. * SEARCY, 8722
MATTHEW J. * SHIM, 8796
JOHN R. * SHIRLEY, 7674
JEANA L. * SKORA, 3579
MICHAEL B. * SMITH, 5970
DEREK J. * SPETEN, 4716
JESSICA R. * SPITLER, 0876
BERNADETTE M. * STEELE, 1452
JULIE M. STOREY, 8920
NISARA * SUTHUN, 8072
JAMES A. * SUTPHEN, 9409
PHILIP E. * TOBIN, 6679
NHUT M. * TRAN, 7815
PETER T. * TRANG, 8251
ROBERT J. * VANECEK, 0203
JORGE G. * VARELA, 2212
JOSEPH M. * VINCH, JR., 1763
MELODY H. * VINSON, 7987
THOMAS W. * WATERS, 9394
DAVID G. WATSON, 5207
CLAUDINE C. N. * WEGA, 6142
CHANTAY P. * WHITE, 5288
LISA C. * WHITNEY, 7137
DELORIA R. * WILSON, 5150
KEITH R. * WILSON, 3423
MICHELLE D. * WINE, 1891
ILAINA M. * WINGLER, 1278
STEPHEN P. * WOLF, 3075
GARY C. * WRIGHT, 0983
WENDY J. * WYSE, 5966

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

CHRISTOPHER N. * AASEN, 4795
CHRISTOPHER C. * ABATE, 4117
DAVID W. ABBA, 2682
GAYLORD L. * ABBAS, 0905
TAMMY L. * ABBETT, 8586
LAIRD S. * ABBOTT, 2513
DAVID J. ABRAHAMSON, 8196
DANIEL R. * ABSHERE, 7886
MELISSA J. * ACHESON, 7677
PHILIP F. ACQUARO, 5751
ALAN B. ADAMS, 5391
DAVID L. * ADAMS, 3421
MATTHEW H. ADAMS, 8285
SHAWNAE L. * ADKINSLACY, 3186
RENE C. E. ADLUNG, 1658
ROBERT S. * AGDINAOAY, 2404
TODD R. * ALCOTT, 1460
LOUIS C. ALDEN, 8735
RODOLFO D. * ALEJANDRO, 7619
JAMES R. ALEXANDER, 3094
STEVEN S. ALEXANDER, 1606
DETROL W. * ALFORD, 2936
CHRISTOPHER D. * ALIPHAT, 5131
JENNIFER J. ALLEE, 7723
CHARLES L. * ALLEN, 1115
MARK A. * ALLEN, 7124
MARK B. ALLEN, 6235
MICHAEL D. ALLEN, 0871
PAUL S. * ALLEN, 0513
MONICA R. ALLORI, 5979
JAMES JAY * ALONZO, 0311
JOHN T. ALPETER, 6212
AARON D. ALTWIES, 5228
ANGEL A. * ALVAREZ III, 0066
STEVEN JEROME * ALVES, 6346
FRANCISCO R. * ALVIDREZ, 5743
BRANDON L. * AMBRUOSO, 8192
ADAM D. ANDERSON, 2675
DAVID J. * ANDERSON, 4666
GREGORY J. ANDERSON, 6088
JASON C. ANDERSON, 9961
MICHAEL P. ANDERSON, 4717
NEIL E. ANDERSON, 9960
TODD W. * ANDRE, 1573
BRIAN A. * ANGELL, 0457
THOMAS P. J. ANGELO, 9573
WILLIAM S. ANGERMAN, 0674
RALPH A. * ANTHENIEN, JR., 6000
DAMON A. ANTHONY, 1180
RICHARD M. * ANTOINE, 4599
RITCHE C. * ANTONIO, 5795
DAVID R. * ANZALDUA, 9066
THOMAS G. * ARANDA, 2658
VALENTINE S. ARBOGAST, 5524
BENITA D. * ARCENEAUX, 7795
WILLIAM B. * ARCHER, 1409
ROBERT J. * ARDIZZONI, 3696
LUIS M. ARES, 0378
HERMON C. * ARMSTRONG, JR., 8295
KEVIN M. * ARMSTRONG, 7494
RICHARD W. ARMSTRONG, 8008
DOUGLAS W. * ASHER, 5109
MOHAMMAD K. * ASIF, 6409
ERIC K. * ASMUSSEN, 0328
MATTHEW D. ATKINS, 5922
KEVIN T. * ATTEBERRY, 7443
LANCE W. * AUG, 9135
CRAIG R. * AUGUSTINO, 4701
CHRISTOPHER E. AUSTIN, 3368
JONATHAN F. * AUSTIN, 6506
TROY C. * AUSTIN, 2201
CHRISTIAN M. * AVERETT, 5154
NICK M. * AVLONITIS, 0929
REX O. AYERS, 1151
MAURICE C. AZAR, 1108
CRAIG R. BABBITT, 9702
ARIANNE M. * BABCOCK, 9000
BRIAN J. * BACARELLA, 1232
JASON T. * BACHELER, 2719
MICHAEL J. BACHTELL, 2714
PAMELA D. BACKEBERG, 5129
NEAL C. * BACON, 1491
RUSSELL R. * BAGNALL, 0780
SCOTT L. * BAGNELL, 5430
JAMES G. * BAILEY, 4163
JASON E. BAILEY, 2196
RICHARD F. * BAILEY, JR., 9940
STEPHEN G. * BAILEY, 5937
TRENT D. * BAINES, 8308
WILLIAM E. BAIRD, JR., 1879
JOHN E. * BAKER, 3886
LARRY E. BAKER, JR., 9293
BRIAN T. BALDWIN, 5213
HOWARD S. * BALDWIN, 7266
JEREMIAH W. * BALDWIN, 6035
CHAD A. BALETTIE, 0370
SHANE M. * BALKEN, 9094
DEAN L. * BALSTAD, 1619
AARON D. * BANDSTRA, 8982
JEFFREY B. * BANKS, 7412
CHRISTOPHER S. * BARACK, 0816
BRIAN C. * BARKER, 2996
STEVEN G. * BARKER, 7660
JOHN V. * BARLETT, 5702
JAMES V. * BARLOW, 9517
JENNIFER M. * BARNARD, 1719
NATHANIEL D. BARNES, 3929
JOHN R. * BARNETT, 8419
DAVID J. BARNHART, 9745
DONALD J. * BARRETT, 7200
JEREME A. BARRETT, 9570
WILLIAM A. BARRINGTON, 7885
BENITO J. * BARRON, 6520
CORI E. * BARRY, 7834
JASON P. * BARRY, 1705
BRIAN Y. BARTEE, 1890
DOUGLAS H. BARTELS, 6927
MICHAEL H. BARTEN, 9214
CHRISTIAN A. * BARTHOLOMEW, 9966
ROBERT R. * BASOM, 9572
CURTIS R. * BASS, 5566
MARK A. * BASS, 5286
THOMAS E. * BASS, JR., 6689
CHRISTOPHER B. BASSHAM, 5582
RICKY T. * BATEMAN, 7118
BRIAN M. BAUMANN, 7227
DOMINIC A. * BAUMANN, 0643
DYLAN S. BAUMGARTNER, 3828
BRYAN J. * BAYER, 7720
DOUGLAS J. * BAYLEY, 8946
ROYCE W. * BEAL, 0918
TODD A. * BEAN, 4188
MICHAEL P. BEASLEY, 9566
TATIANA L. * BEAUCHAMP, 3575
ALAN L. * BEAUMONT, 3342
ERIC V. * BECK, 2908
MITCHELL B. BEDESEM, 8396
BERNARD BEDGOOD II, 3657
VICTOR W. * BEELER, 7271
GARY D. BEENE, 2795
ERIC J. * BEERS, 7987
JASON H. BEERS, 1761
STEPHEN M. * BEHM, 2169
TROY D. BELIN, 8622
KENYON K. BELL, 0077
ANTHONY P. * BELLIONE, 9232
BRENT L. * BELSCHNER, 8274
ROBERT M. * BENDER, 8226
TREVOR B. BENITONE, 3448
ADAM D. BENJAMIN, 1634
CHRISTINE M. * BENJAMIN, 0787
MICHAEL J. BENSON, 9600
BRIAN D. BENTER, 9912
ROBERT A. * BENTON, 3934

JOSEPH A. * BENUCCI, 5555
MARK M. * BENYO, 0954
EDWARD W. * BERG, 2211
SHAWN D. BERNARDINI, 7731
WALTER T. BERRIDGE, 3727
RONALD H. BERZINS, 0979
OSCAR I. * BETANCOURT, 9629
WILLIAM D. BETTS, 5310
KAREN L. * BICE, 5166
JOHN A. * BIDOL III, 0693
BRIAN E. * BIEBEL, 5124
CHRISTOPHER E. * BIEGUN, 5992
MATTHEW J. BIEWER, 0501
ANDREW W. * BIGELOW, 5314
KIRK * BIGGER, 7673
MARK M. * BINKOWSKI, 1383
KATHLEEN R. * BINNS, 5738
CHRISTIAN J. BISBANO, 1621
SEAN C. * BITTNER, 7413
DANIEL A. * BLACK, 3718
MICHAEL R. BLACK, 3558
ANDREW H. * BLAIR, JR., 0195
BRETT R. BLAKE, 4659
TRAVIS F. BLAKE, 8824
MICHAEL S. * BLAKELY, 3790
DENNIS W. * BLANCHARD, 5000
BRYAN A. BLIND, 0895
JAY C. * BLOCK, 9193
TED L. * BLOINK, 9467
SARAH W. BLOODWORTH, 3924
STEVEN M. BOATRIGHT, 2047
JEREMY S. * BOENISCH, 1108
MICHAEL C. * BOGER, 3962
WILLIE L. * BOHLES, 2133
DAVID P. BOHNEN, 7081
KENNETH D. * BOLE, 7942
MICHAEL A. * BOLE, 4064
MICHAEL T. BOLEN, 6642
ROBERT T. BOLINGER, 4907
BARTHOLOMEW G. * BONAR, 2844
CHAD B. BONDURANT, 0728
PETER M. * BONETTI, 9144
DAVID A. * BONIFANT, 7006
OLIVER C. * BONNEY, 1509
CHRISTOPHER A. * BOONE, 8897
STEVEN P. BORDING, 0891
BRAD W. BORKE, 9307
BENJAMIN C. BOTH, 0126
BRIAN J. * BOTKIN, 4737
KENNETH L. * BOTTARI, 4347
NOEL R. BOUCHARD, 4964
JOHN P. * BOUDREAUX, 0941
JEFFREY A. * BOUNDS, 4183
KENNETH D. * BOURLAND, 9750
DANIEL R. BOURQUE, 3936
SHANNON D. * BOUVIER, 7024
PATRICK J. BOWAR, 8483
COOPER D. * BOWDEN, 0518
NEAL E. * BOWEN, 1641
WILLIAM C. * BOWEN III, 9193
WILLIAM D. BOWER, 2549
JOSHUA D. BOWMAN, 4564
DANIEL P. BOYD, 0031
SAMUEL P. * BRABHAM, 2667
DAVID C. BRACKNEY, 7222
BRIAN L. * BRACY, 9253
BENJAMIN L. * BRADDOCK, 4150
ROBERT J. BRADEEN, JR., 1380
SHAWN P. BRADY, 2563
TOBY J. BRALLIER, 9317
STEPHEN B. * BRANCH, 9391
JERRY B. * BRANDAU, 0710
KENNETH B. BRATLAND, 5347
MICHAEL A. * BRAZELTON, 3728
LAWRENCE A. * BREIGHNER, 3359
JOHN E. BREMER, JR., 1195
ROBERT C. * BRENZEL, JR., 6467
THEODORE A. BREUKER, 9145
DENIS * BRICENO, 6844
DAVID E. * BRICKLEY, 0426
BRADLEY E. BRIDGES, 5396
JASON E. * BRIGGS, 3512
ROBERT M. * BRINKER, 6455
KATERINA L. * BRINSON, 5439
JUSTIN Z. BRIZUELA, 5730
MICHAEL E. BROCK, 2567
DAVID A. * BROCKMAN, 3872
PAUL J. BROCKWAY, 7586
KEVIN B. * BROKAW, 3328
CHRISTOPHER J. BROMEN, 0067
JOSHUA D. * BROOKS, 9026
BRIAN R. * BROWN, 1082
CHRISTOPHER J. * BROWN, 2021
DARRAL W. * BROWN, 9910
DAVID E. * BROWN, 5699
JASON M. BROWN, 8259
JEFFRY E. * BROWN, 0980
KATHRYN A. * BROWN, 1621
KYLE D. BROWN, 5964
POLLY S. * BROWN, 5082
VICKIE T. * BROWN, 1652
PAUL A. * BROWNING, JR., 0306
TRAVIS A. * BROWNLOW, 6180
MICHAEL D. * BROX, 1103
TODD P. * BROYLES, 5728
STEPHANIE L. * BRUCE, 2987
KEVIN L. * BRUMMERT, 5891
IRMA E. * BRUSSOW, 7494
FRANK D. BRYANT, JR., 6060
JOHN E. BRYANT, 9068
DAVID R. BUCHANAN, 3235
DOUGLAS A. * BUCHANAN, 3821
MICHAEL S. BUCHER, 5497
TIMOTHY H. BUCK, 0437
CHRISTOPHER BUCKLEY, 3557
STEVEN R. BUCKWALTER, 6242
JEFFREY W. * BUDAI, 3771
CHRISTOPHER M. * BUDDE, 4777
RONALD A. * BUELER, 4651
ROSS M. * BULLOCK, 5926
AMY S. BUMGARNER, 8627
BRUCE M. * BUNCE, 3153
CHRISTOPHER M. BURCH, 8665
ROGER D. * BURDETTE, 0946
PAUL C. * BURGER, 6120
DARRELL O. * BURGHARD, 8752
AARON D. * BURGSTEIN, 6440
DAVID M. * BURKE, 5564
EVE M. BURKE, 4803
WILLIAM H. BURKS, 5939
BRIAN S. * BURNS, 4192
ROBERT E. BURNS, 0590
EARL W. * BURRESS, JR., 1318
STEPHEN T. BURRINGTON, 5769
NORMAND A. BURROUGHS, 7738
SCOTT A. BURROUGHS, 4757
ROBIN R. * BURTON, 9581
DANIEL D. BUSH, 1719
CHAD A. BUSHMAN, 7950
BRANT C. * BUSHNELL, 2312
CHARLES H. * BUTCHER, 7510
KENNETH H. BUTLER, JR., 8290
CHARLES T. * BYRD, JR., 8480
LEONARD D. CABRERA, 3339
ALDO J. * CAHUE, 5990
SCOTT A. * CAIN, 3191
SCOTT A. CAIN, 1728
KEVIN M. * CALHOUN, 9863
JOSE O. * CALIBOSO, 3878
JOHN P. CALLAGHAN, 0774
MATTHEW M. CALLOW, 2256
DOUGLAS S. CAMERON, 9394
RICHARD A. * CAMP, 2687
CRAIG A. CAMPBELL, 4720
GERALD T. * CAMPBELL, 0728
JASON L. * CAMPBELL, 8734
KOFI E. * CAMPBELL, 8578
ROBERT I. * CAMPBELL, 9934
SCOTT C. CAMPBELL, 8011
RICHARD * CAO, 6314
ALEJANDRO * CARAZO, 3331
RUDY W. * CARDONA, 9741
DARRIN L. * CAREY, 2847
RONALD G. * CARL, 6605
PATRICK J. * CARLEY, 9774
MATTHEW J. * CARLISLE, 7715
MARK A. CARLSON, 8184
ROBERT K. CARLSON, 1961
SCOTT A. * CARLSON, 9152
ERIC A. * CARNEY, 6323
PHILIP E. * CARPENTER, 0715
RICHARD A. CARRELL, 0798
SCOTT E. CARRELL, 0863
JOSEPH K. * CARRICO, 0620
KEVIN W. * CARROW, 9968
DEAN J. CARTER, 1236
MARLA L. * CARTWRIGHT, 8022
EDWARD D. CASEY, 8299
MATTHEW N. * CASEY, 9902
RANDALL WILKINS CASON, JR., 6499
BURTON H. * CATLEDGE, 6209
JOSEPH M. CAUTERO, 0543
SCOTT R. CERONE, 5846
MARK L. CHAFE, 8473
CHARLES F. * CHALK, 3591
MARCUS A. CHANEY, 0845
JACQUELINE D. * CHANG, 8443
LEE E. CHASE, 3618
ELLIS K. * CHATTERTON, 8500
ARCHANGE M. * CHAVANNES, 8519
KURT A. * CHELF, 0301
STEVEN R. * CHERRINGTON, 4226
RICHARD W. H. * CHONG, 8935
KARYN L. CHRISTEN, 6682
RICHARD B. CHRISTENSEN, 6192
GREGORY P. * CHRISTIANSEN, 7547
NORMAN E. CHUCHUL, 2702
EUNICE T. * CISKOWSKI, 5188
GARY M. * CIVITELLA, 0023
JAMES M. CLABORN, 5234
JOHN R. * CLARK, 9678
LANCE D. * CLARK, 7711
THOMAS W. * CLARKE, 6357
CHRISTOPHER A. CLAUS, 6406
GREGORY B. * CLAY, 7577
ROBERT K. * CLEMENT, 5028
JOHN V. CLUNE, 4664
DAVID M. COBB, 7880
WESLEY S. * COBB, 7776
SPENCER C. COCANOUR, 5991
BRIAN W. * COCHRAN, 8685
JORDON T. COCHRAN, 5699
SHAWN T. COCHRAN, 1572
JASON J. COCKRUM, 9582
EMANUEL J. * COHAN, 4348
BRANNEN C. COHEE, 9027
OFER * COHEN, 7345
ELENE R. * COLE, 0678
RUTH A. * COLE, 6395
ELBERT L. * COLEMAN, JR., 1839
GREGORY B. COLEMAN, 2321
LESIA J. COLEMANLINZY, 0385
KEVIN A. * COLIN, 4695
STEVEN P. * COLLEN, 1883
CLIFFORD J. * COLLEY, 7680
JAMES E. COLLINS II, 1803
ROY W. COLLINS, 9751
THOMAS R. COLVIN, 7702
MARK A. * COMMENATOR, 9474
JOSHUA W. * CONINE, 0804
DAVID H. CONLEY, JR., 0780
COLIN J. CONNOR, 8041
JOSEPH A. CONTI, 3168
WALFRIDO R. CONTRERAS, 8731
KEVIN J. COOK, 1451
CEIR CORAL, 6612
ALFREDO * CORBETT, 6894
JOHN F. * CORBETT, 2369
PAUL S. * CORMAN, 8065
WALTER T. * CORYELL, 1268
CHARLES R. COSNOWSKI, 6383
JASON W. COSTELLO, 4345
DAVID E. * COTE, 8758
SEAN M. COTTER, 9325
SHAWN T. COTTON, 9123
WILLIAM J. * COULSTON, 6451
LARRY T. * COUNCELL, 8242
WILLIAM E. * COURTEMANCHE, 6181
LANS P. COURTNEY, 6923
SEAN J. * COVENEY, 1274
DAVID L. * COWAN, 8846
MICHAEL A. * COWAN, 6099
MICHAEL T. * COX, 5019
WESLEY P. * COX, 4853
STEVEN G. COY, 7337
CAVAN K. CRADDOCK, 4151
LARA A. * CRAIG, 0240
STACY J. * CRAIG, 3896
JOHN C. * CRANE, 8302
DANE B. CRAWFORD, 3780
JEFFERY S. * CRAWFORD, 7238
KEITH I. CRAWFORD, 7006
WILLIAM C. CRAWFORD, 6422
TERESA E. * CRESIC, 3028
JEFFREY S. * CRIDER, 9206
JOHN A. * CRIER, 2313
STEPHEN C. * CRISTOFORI, 1865
JACKSON Q. * CROCKER, 4588
KEITH G. * CROOK, 7813
WILLIAM W. CROOKS, 3477
JAMES L. * CROPPER III, 4745
LUKE C. G. CROPSEY, 1918
RICHARD C. * CROSS, 3904
BRIAN J. * CROTHERS, 9364
MICHAEL P. CRUFF, 3442
JAY M. * CRYDERMAN, 8833
PETER * CSEKE, JR., 7601
BRANDON L. CUFFE, 4938
JAMES R. CULPEPPER, 3949
GENE F. * CUMMINS, 9273
APRIL D. * CUNNINGHAM, 0304
MICHAEL A. CURLEY, 2343
ADAM B. * CURTIS, 5057
SARA A. * CUSTER, 2912
CAMERON * DADGAR, 9333
PATRICK C. DALEY, 3610
JEFFREY M. DAMBRA, 2595
JOSEPH F. * DAMICO II, 6534
KEVIN T. DAMP, 4987
CHRISTA L. * DANDREA, 1419
EDWARD J. * DANE, 4543
VERNON CHARLES DANIELS II, 0241
RICHARD S. * DANIELSON, 5221
JAMES R. * DARBY, JR., 4391
TODD D. * DARRAH, 3460
TERESA K. * DARROW, 8615
MICHAEL A. * DAVIES, 0406
CHAD J. DAVIS, 5200
LADONNA J. * DAVIS, 3573
MICHAEL T. * DAVIS, 4697
ROBERT G. * DAVIS, 7158
STEVEN T. * DAWSON, 0905
WILLIAM A. DAYTON, 0813
LUIS C. * DE BONO PAULA, 8680
BRANDON WJ * DEACON, 9541
JASON D. DECKER, 7370
JOHN L. DECKER, 9670
THOMAS L. * DEFAZIO, JR., 9142
CHRISTOPHE J. * DEGUELLE, 0304
JOSE K. * DELGADO, 4396
OSCAR * DELGADO, 8026
SHAWN P. * DELL, 1993
JOSEPH * DELLAVEDOVA, 2513
FRANK A. DELSING, 2729
ANTHONY M. DELUCA, 9787
JEFFREY R. * DELVECCHIO, 3661
JUSTIN D. * DEMARCO, 4913
CHAD W. * DENAUGHEL, 4069
WILLIAM S. DENHAM, 5988
ROBERT D. * DEPEW, JR., 6319
JOHN J. * DERESKY, 1615
KY M. * DEROS, 7847
DAVID R. * DETHLEFS, 9790
BRIAN J. * DEUTSCH, 9860
BRIAN M. * DEVANNEY, 3249
LEA L. * DEVINE, 6020
DANIEL A. DEVOE, 8929
BROCK E. DEVOS, 7247
ERIKA L. DEVOS, 0237
NATHAN R. * DIAZ, 7087
JOHN C. * DIBERT, JR., 7865
ANTHONY T. DICARLO, 4447
DEBORAH L. * DICKENSHEETS, 1002
TERI L. * DICKSON, 2641
DUANE JEFFREY * DIESING, 8340
GEORGE T. M. DIETRICH III, 2954

JOSEPH M. DIFIDI, 5091
BAYANI C. DILAG, 5101
JOSEPH J. * DINATALE, 0476
JOSEPH M. DINGMAN, 1204
JENNIFER N. * DINMORE, 7717
MITCHELL K. * DIXON, 8718
MICHAEL R. * DOBSON, 4514
RAY A. * DOCKERY, 7192
MARCUS A. DOMINGUEZ, 2949
MARK R. DOMINGUEZ, 2184
DAVID P. * DONAHUE, 8211
MICHAEL W. * DONAHUE II, 6941
MARK S. * DONNITHORNE, 5262
GERALD A. DONOHUE, 6955
PHILLIP R. DONOVAN, 0035
JAMES B. * DOOLEY, 6588
CHESTER M. * DOOLY, 1437
ERIC R. DOPSLAF, 3670
TOBY G. DORAN, 0433
KELLY B. * DOSER, 0599
DAVID A. * DOSS, 4649
JAMES S. DOUGLAS, 1629
MARC L. * DOUVIA, 9042
BRADLEY F. * DOW, 5900
ELIZABETH S. DOW, 5823
RICHELLE A. * DOWDELL, 1398
JESS W. DRAB, 7295
AARON D. DRAKE, 4022
LYLE K. * DREW, 4011
RUSSELL D. DRIGGERS, 9021
DARRIN B. DRONOFF, 8675
CHARLES M. DROUILLARD, 0244
JOHN J. * DUBELKO, 1770
ALEX E. * DUBOVIK, 5351
KENT K. * DUCKWALL, 8729
JAMES C. * DUECKER, 9161
PAUL * DUFRAINE, 9722
JAMESON H. * DUGDALE, 7519
JOHNATHON L. DULIN, 0943
ROBERT E. DUNKEL III, 7837
KEVIN W. * DUNLOP, 4964
TAMMY L. * DUNNIVANT, 2513
CLIFTON M. * DURHAM, 6919
DAVID A. * DURKIN, 0588
MARK H. * DURKIN, 6275
JEREMY S. DURTSCHI, 7610
DEBORAH KAYE DUSEK, 4914
MATHEW T. * DUSTON, 0522
JONDAVID M. * DUVALL, 7429
NICOLE M. * DYE, 6197
TODD A. * DYER, 8037
STACIA A. EASLEY, 7592
ROBERT K. * EASON, 9852
TODD B. EBERT, 6827
NEAL V. * EBY, 6425
BRYAN D. * ECKART, 6955
ERIC E. * ECKER, 7347
JONATHAN R. ECKERMAN, 5324
CHRISTOPHER K. EDERLE, 2567
JEFFREY B. EDWARDS, 6360
JOHN R. * EDWARDS, 5783
MICHAEL J. EDWARDS, 1852
STEVEN G. * EDWARDS, 6814
JANEL I. EGANA, 6953
MICHAEL H. * EGBALIC, 8412
KRISTOFER E. * EGGEHORN, 2369
JOHN G. * EGGERS, 8754
KEVIN R. * EILERS, 4898
SCOTT T. * EKSTROM, 5678
JEREMY A. * ELDRED, 9995
JOHN D. * ELDRIDGE, 7656
JOHN W. ELLER, 2966
ERIC S. * ELLIOTT, 7745
STAR E. * ELTON, 5589
SCOTT E. * EMERT, 5263
TERRY R. * EMORY, 1767
MATHEW M. * ENENBACH, 1635
MICHAEL W. * ENGEL, 7783
DARRYL A. * ENGELKE, 9285
JEFFREY P. * ENGELKER, 8807
STEVEN G. ENGLAND, 0108
ROBERT H. * EPSTEIN, 4374
CHARLES B. ERICSON, 3513
SCOTT P. ERNST, 3664
JOHNNY M. ERWIN, 3853
RICHARD W. * ESSARY, 9974
GREGORY T. * ESTES, 6569
MICHAEL O. * ESTIRA, 1619
MARK J. * ESTLUND, 2389
EDWARD * ESTRADA, 9462
KURT G. * ETTRICH, 0898
BRAD M. * EVANS, 2478
CRYSTAL * EVANS, 9020
EUGENE G. V. * EVANS, 0955
JARRED R. * EVANS, 5330
VALERIE D. * EVANS, 7551
JASON W. EVENSON, 2679
SCOTT C. EVERS, 4717
ROBERT T. * EWERS III, 4646
CHADWICK F. FAGER, 7641
KEVIN S. * FALLICO, 8661
JASON R. FALLIS, 8421
VICTOR O. * FALSONE, 1217
CHRISTOPHER J. * FARDELL, 8696
WILLIAM B. * FARLOW, 4848
DAVID B. * FARMER, 6499
MARTINE L. * FAUCHER, 5184
MIKE * FAUNDA II, 4617
PAUL W. FEICHTINGER, 7675
NESTOR M. * FELIZ, 7618
JOHN A. * FERKO, 3358
DEREK R. FERLAND, 6693
ANTHONY P. * FERNANDES, 3971
RAY J. * FERNANDEZ, 6285
CHAD E. FEUCHT, 6573
BRANDON M. * FEWER, 9354
ALLAN R. * FIEL, 9169
GLEN A. * FIELDS, 8529
GREGORY J. * FIKE, 4298
CHRISTOPHER A. * FILIPIETZ, 6722
MARK Z. FINIGAN, 4613
MARCO P. * FIORITO, 6677
MARK S. * FISHER, 9641
ROBERT S. * FISHER, 4757
MARK S. * FISSEL, 1218
CRISSIE D. FITZGERALD, 5325
DAVID C. * FITZGERALD, 7408
JOHN M. * FITZHUGH, 7782
ERICKA R. * FLANIGAN, 3694
CRAIG A. * FLEMING, 6977
TODD D. FLEMING, 8356
JUSTIN L. FLETCHER, 0686
RICHARD L. FLETCHER, 8581
DALE J. * FLICK, 3884
TIMOTHY D. FLIETSTRA, 9885
CHRISTINE M. * FLOREK, 6804
KARL R. * FOBES, 5045
DEEDRA D. FOGLE, 4648
MARK B. FOLEY, 5987
SCOTT M. * FOLEY, 3823
KIRK A. * FOLK, 2801
BRANT R. * FOLKEN, 1547
NICHOLAS E. * FOLZ, 9301
JOHNATHAN D. FONTENOT, 8872
JEFFREY P. * FORD, 7997
MARK A. * FORD, 1472
CHARLES B. * FORMAN, 1452
JEFFREY D. * FORSTE, 6003
WILLIAM R. FORSTER, 8904
WILLIAM H. * FOSTER, 3158
JOHN R. * FOUNTAIN, 5493
MARIO FOXBAKER, 4120
ROBERT D. * FRALICK, 3045
ROBERT S. * FRANK, 5998
SETH C. FRANK, 4345
DAMON C. * FRANKLIN, 8267
SHAWN D. FRANKLIN, 8679
LISA S. * FRANZ, 9737
DONNA K. * FRASIER, 9150
LINDEN A. * FRAVEL III, 1508
JOHN C. FRAZIER, 7318
SCOTT A. * FREDRICK, 6217
DAVID B. * FRENCH, 4019
LANCE R. * FRENCH, 6189
SURYA J. FRICKEL, 1238
SCOTT C. FROMM, 6160
TODD D. FRY, 4696
BRANT T. * FRYAR, 8529
JEFFREY L. FRYE, 3040
THOMAS J. * FUHRMANN, 0474
CHRISTOPHER K. * FULLER, 3579
CHARLES G. * GABERT, 2007
DANIEL L. GABLE, 3019
FRANKLIN D. GAILLARD II, 3521
DAVID A. * GALE, 1193
JOSEPH D. * GALLAGHER, 6352
GERALD G. GALLEGOS, 8323
MARC E. * GALLER, 3590
JOSEPH A. * GALLETTI, 0145
WILLIAM C. * GAMBRELL, JR., 8014
JASON A. * GANNON, 9285
JOHN B. * GARBER III, 5481
JACK P. * GARDNER, 5620
RICHARD L. * GARDNER, JR., 6683
CHERYL L. * GARNER, 1506
J. GARNETT, 4558
VIRGIL C. GARRETT, 5588
JAMES E. * GARVEY, JR., 3012
KENNETH R. * GARWOOD, 4580
AVLONITIS EILEEN M. * GARZA, 9999
PATRICK K. * GATES, 3208
DAVID A. GAUCH, 1452
TORY J. * GAULKE, 5143
THOMAS A. GEISER, 1749
BRIAN L. * GERLOFF, 3231
DAVID W. * GERTS, 2899
JUDY P. * GETTYS, 7005
JASON A. GIBSON, 9089
JEFFREY M. GIBSON, 3302
STEVEN B. * GIBSON, 4618
MICHAEL G. * GIEBNER, 1794
KRISTOFER W. GIFFORD, 4079
GROVER C. * GILBERT III, 6307
TROY L. * GILBERT, 7776
MARK R. * GILCHRIST, 1173
TIMOTHY W. GILLASPIE, 5148
DONALD L. GILLES, 5845
SCOTT J. * GILSON, 8604
JOSEPH A. * GIULIANI, 4904
STEVEN A. * GIVLER, 4644
KENNETH D. GJONE, 4772
ROBERT B. * GLASS, 5581
BRADLY A. GLENN, 7081
MARCUS K. * GLENN, 7865
ROBERT A. GODDARD, 0128
ROBERT L. * GODFREY, JR., 9263
MARK E. * GOEHRING, 5961
EDWARD C. * GOETZ, 1921
PIERRY GOIN, 3797
TERRI D. * GONDERMAN, 9276
CELIANN M. GONZALEZ, 5509
JERRY * GONZALEZ, 4058
JASON D. GOOCH, 7581
WILLIAM C. * GOOD, JR., 2999
RICHARD K. * GOODALL, 1433
MICHAEL E. * GOODWIN, 0777
SHERMAN C. * GOODWIN, 4530
CHRISTOPHER E. * GOODYEAR, 3678
CAROL * GORDON, 8511
JOE MOTOS GORDON, 7300
CHRISTOPHER P. * GORE, 6258
DAVID G. * GORE, 7916
DOUGLAS C. GOSNEY, 6678
KELLY A. GOSSEN, 6546
WILLIAM L. * GOTTENBERG, 6437
JAMES M. GOURDE, 5216
JOSEPH G. * GOVOCEK III, 3200
FERDINAND T. * GOZUM, 3817
NATHAN E. GRABER, 3729
BETH D. * GRABORITZ, 0576
SEAN K. GRADNEY, 2370
JENNIFER L. GRANT, 8843
BRADLEY D. GRAVES, 8813
MICHAEL J. * GRAVIER, 0428
GEOFFREY T. * GRAZE, 5444
REANDRE B. * GRECIA, 3086
BRYAN C. GREEN, 1476
CHAD P. GREEN, 4024
JOSHUA D. * GREEN, 0457
PATRICK L. * GREENAWALT, 4227
JEFFREY H. GREENWOOD, 5792
MARCUS H. GREGORY, 9718
BRIAN J. GRELK, 5372
RICHARD * GRESZLER, JR., 9174
GABRIEL J. GRIESS, 3114
ANDREA R. * GRIFFIN, 6505
ALLEN J. * GRIFFIS, 1952
JOHN M. * GRIFFITHS, 5939
SHANNON L. * GRIFFITHS, 5760
LOUIS A. * GRIMAUD, JR., 7270
G. JOHN * GRIMM, 1856
TODD M. * GROOMES, 1778
CHRISTOPHER D. GROSJEAN, 2461
BRIAN J. GROSS, 2234
JASON H. * GROSS, 9256
PETER J. * GROSS, JR., 3679
MELVIN B. * GROVE, JR., 3051
ADAM W. * GROVES, 2623
JOHN M. GROVES, 6177
JULIE A. GRUNDAHL, 1270
SCOTT A. GRUNDAHL, 4624
BREJ E. GRUSKIN, 4163
MARK R. GUERBER, 6446
HARRY S. * GUESS III, 0574
PAUL A. * GUILLORY, 5716
JEFFREY A. * GUIMARIN, 5307
MARTIN H. * GUION, 3498
MICHAEL C. * GUISCHARD, 2305
PETER S. * GUMULAK, 6269
LARRY D. * GUNN, 2393
NICHOLAS O. GUTTMAN, 7754
ROBERT F. * HAAS, 2110
ERIC J. * HABERSBERGER, 2342
JAMES R. HACKBARTH, 9978
CORT O. HACKER, 8151
MICHAEL R. * HACKMAN, 8856
MARK L. * HADDORFF, 7411
ERNEST Y. * HAGA, 9144
ANN M. * HAIBACH, 1876
STEPHANIE D. HALCROW, 9585
JAMES M. * HALE, 2449
MICHAEL J. HALICK, 7086
DANIEL E. * HALL, 9019
DANIEL B. HALSTED, 1462
ERIK J. HALVORSON, 7226
DAVID J. HAMIEL, 1448
CHRISTOPHER E. * HAMILTON, 2255
DENISE M. * HAMILTON, 1481
GREGORY L. * HAMM, 5875
DARIEN J. * HAMMETT, 8080
LINDA M. * HAMPTON, 9946
SCOTT L. * HANES, 6301
JAMES B. * HANNA, 3263
JON T. * HANNAH, 5389
JOHN A. * HANRAHAN, 0233
JOHN C. * HANSEN, 3547
NATHAN M. HANSEN, 0043
RICHARD G. HANSEN, 0743
TIMMY W. * HARBOR, 9361
DAVID B. HARDEN, 2300
CRAIG A. * HARDING, 5232
NATHAN H. * HARDING, 2121
TIMOTHY R. * HARDT, 1752
THOMAS S. * HARPER, 7977
MICHAEL C. HARRELL, 5708
ANDREW H. * HARRIS, 2771
DAVID J. * HARRIS, 5749
DAVID S. * HARRIS, 9291
DEREK W. * HARRIS, 4910
EDWARD C. * HARRIS, 0651
GLENN T. HARRIS, 7013
MARK E. * HARRIS, 1373
ROBERT T. * HARRIS, 5000
RICHARD J. HARRISON, 4049
PAUL L. HARTMAN, 6486
AARON L. HARTZLER, 7718
CLIFFORD A. HARVEY, 0577
EDWARD R. HARVEY, 0225
MICHAEL C. * HARVEY, 8785
EDWARD G. HASKELL, JR., 5373
RANDALL J. * HASKIN, 2340
CHRISTY L. * HASKINS, 9610
BETH A. * HASTINGS, 4384
BRENT R. HATCH, 5513
THOMAS B. * HATLEY, 1115
WALTER C. HATTEMER, 5754

RICHARD T. * HAUBEN, 2239
DAVID R. HAUCK, 4114
ERIC W. * HAUFF, 8219
JOHN A. * HAWES, 2835
DAVID P. HAWORTH, 3343
JEFFREY D. * HAYDEN, 5222
JOHNNA L. * HAYES, 2907
JEFFREY T. HAYNES, 0227
JOHN S. * HAYNES, 0200
JOHN J. * HEAPS, 6622
JAMES A. * HEARN III, 7410
MARC O. * HEDAHL, 2610
BRAD M. * HEDBLOOM, 6300
BRIAN B. * HEINRICH, 2903
ROBERT L. * HENDERSON, 9493
SUZANNE M. * HENDERSON, 0869
JEREMY P. * HENDRIX, 7921
MARC E. * HENRI, 2148
RHONDA S. * HERDT, 2001
BRIAN D. * HERIFORD, 0189
CURTIS L. * HERNANDEZ, 5239
JOSHUA L. HETSKO, 6863
JOEL * HETTINGA, 5844
EUGENE R. * HEUSCHEL III, 8339
WILLIAM E. M. * HEWITT, 8992
JEFFREY D. HEYSE, 2274
JEFFREY D. * HICKMAN, 8427
MARK A. HICKMAN, 3268
JOHN C. * HICKS, 8258
N. GRAHAM HICKS, 3365
JAMES M. * HIGDON, 3353
JOEL E. HIGLEY, 1848
DESTRY RAY * HILL, 5755
JAMES K. * HILL, 4059
LINCOLN B. HILL, 9300
STEPHEN D. * HILL, 4391
MICHAEL K. * HILLS, 6482
RENAE M. HILTON, 9877
MARC J. HIMELHOCH, 9972
JANETTE L. HO, 5299
WILLIAM K. HOBSON, 9495
RUSSELL W. * HOCH III, 6803
GEORGE H. HOCK, JR., 5374
GARY W. * HOCKETT, 3007
DERRICK D. * HODGES, 6096
KENNETH G. * HODGES, 3589
TYLER L. * HODSON, 9492
COLBY D. HOEFAR, 1642
TROY C. * HOEGER, 8972
KEVIN L. * HOFFER, 9019
DONALD L. * HOFFMAN, 4398
JEFFREY N. * HOFFMAN, 9433
JUSTIN R. HOFFMAN, 2214
MARK G. HOFFMAN, 7704
PAUL J. HOFFMAN, 6778
SCOTT A. HOFFMAN, 9002
BRIAN K. * HOLBEIN, 9371
MARK A. HOLBROOK, 9740
CYNTHIA A. * HOLDEN, 7507
ROBERT B. * HOLDSWORTH, 9602
KUM H. * HOLL, 9790
MARK D. HOLLANDSWORTH, 2955
RONALD R. * HOLLENBAUGH, JR., 8618
JEFFRY A. * HOLLMAN, 9897
PHILIP A. * HOLMES, 6405
JACOB J. * HOLMGREN, 0043
BJORN E. * HOLMQUIST, 7357
WILLIAM E. * HOLT, 8203
DEAN M. * HOLTHAUS, 8265
WILLIAM T. * HOOVER, 6877
GREGORY E. HOPKINS, 9165
DOUGLAS W. * HORNE, 3456
EDWARD P. * HORNER, 9103
CHRISTOPHER D. * HOSKINS, 0994
ROBERT A. * HOSKINS, 2272
THOMAS E. * HOSKINS, 0344
JENNIFER S. HOTEN, 4880
DAVID V. * HOTTLE, 0644
DEBORAH L. * HOUCHINS, 6214
TODD M. * HOUCHINS, 9130
JASON D. HOUSER, 7819
CHRISTOPHER J. * HOWARD, 4059
MARGARET L. * HOWARD, 5305
BRIAN C. * HOYBACH, 0298
TIM M. * HUANG, 1029
MICHAEL M. * HUCHKO II, 0977
KEVIN D. HUEBERT, 3198
RICARDO A. * HUERTA, 9163
FREDDRICK M. * HUGHES, JR., 5416
ERIC T. * HULGAN, 4961
DARIN P. * HUMISTON, 8952
CHRISTOPHER G. HUMMEL, 1827
COREY J. * HUMMEL, 2839
ANDREW W. * HUNT, 0733
DENNIS A. * HUNT, 9096
JOHN J. * HUNT, 7758
KENNETH J. * HUNT, 1594
TANYA A. HURWITZ, 3297
JOHN S. * HUTCHESON, 5542
GREGORY E. HUTSON, 1135
RANDOLPH P. * HUTTON, 1392
LUIS U. * IBANEZ, 4686
MICHAEL P. * IMHOLZ, 3727
CHERYL A. INGBER, 4703
TRAVIS L. INGBER, 4170
CHRISTOPHER P. INGLETON, 0715
DARRYL L. * INSLEY, 9991
CHRISTOPHER P. * IRIARTE, 1856
PAUL M. * IRWIN, 2874
ALISEN A. * IVERSEN, 8906
GARY T. * IWICKI, 4393
JACK J. * JACKMAN, JR., 5819
ROBERT * JACKS, JR., 5087
DEBRA D. * JACKSON, 0023
GINA M. * JACKSON, 6932
MICHAEL A. JACKSON, 6428
SCOTT A. * JACKSON, 3567
TIMOTHY W. * JACKSON, 2157
MARLA J. * JACOBS, 0298
DANIEL G. * JACOBSON, JR., 6972
MICHAEL D. * JACOBSON, 0811
KENNETH M. * JAMBOR, 5311
MICHAEL E. * JAMES, 3589
TRAUNA L. JAMES, 1304
JASON M. * JANAROS, 3558
BRUCE A. * JANDREY, 9174
DEAN P. JANKE, 6162
WALTER J. * JANKOWSKI, 9193
DANIEL A. * JANNING, 4980
AMY K. JARDON, 6657
TONY * JARRY, 3449
JOSEPH J. JAVORSKI III, 0216
ROBERT B. JAYME, 1163
SEAN D. * JEDDRIE, 4111
MARK A. * JEFFREY, 7190
JONATHAN E. * JEHN, 0412
BRUCE C. * JENKINS, 3401
ANDREA L. * JENSEN, 8304
BOE J. JENSEN, 5554
ROBERT A. * JENSEN, 6868
ALEX E. * JERNIGAN, 9408
CHRISTOPHER T. * JERZEWSKI, 6611
BRADLEY M. * JESSMER, 7602
CHRISTOPHER B. * JETTE, 6095
JAMES J. * JEWELL, 9042
SCOTT M. * JEWELL, 1332
DARRIN K. * JOHNS, 0447
CAREY JOHANSON * JOHNSON, 2830
DANA T. * JOHNSON, 4202
DARREL G. * JOHNSON, 2432
ERIC A. * JOHNSON, 1628
ERIC D. JOHNSON, 6348
JEFFREY A. JOHNSON, 9898
JEREMY G. * JOHNSON, 5418
JOHN P. * JOHNSON, 0802
KEVIN S. JOHNSON, 8000
MICHAEL J. * JOHNSON, 2463
MICHELE E. * JOHNSON, 7122
RICHARD L. * JOHNSON, JR., 2315
SAM C. JOHNSON, 3181
SCOTT S. JOHNSON, 2462
STEPHAN K. * JOHNSON, 8851
THOMAS N. * JOHNSON, 6665
MICHAEL D. JOHNSTON, 3788
BRENT G. * JONES, 9909
CHRISTOPHER B. JONES, 7140
DONALD A. JONES, 7875
DONALD P. JONES, 9721
GARY D. * JONES, 2591
JEFFREY M. * JONES, 1573
LANCE M. * JONES, 1304
OTIS C. JONES, 3731
PAUL R. JONES, 8891
RICO M. * JONES, 5965
SHAWN R. * JONES, 3335
BRIAN R. JOSEPH, 8509
PAULA M. * JOSEPHSMILLER, 0067
JAMES R. * JOSEPHSON, 7996
JOHN J. JOYCE IV, 0863
BILLEYE S. JUAREZ, 4219
AARON D. * JUDGE, 8025
CURTIS G. * JUELL, 0344
DWIGHT F. JUNIO, 7392
WILLIAM L. * KAGIE, 5281
WILLIAM H. * KALE, 9831
CHRISTIAN D. KANE, 4774
DONNE H. KANG, 5541
RICHARD B. * KARN, 4629
CHRISTOPHER P. KARNS, 6443
DEE J. KATZER, 5380
MATTHEW J. KAUFMANN, 6026
DOUGLAS F. KAUPA, 3559
JOSEPH D. * KAYS, 9537
JUAN A. * KAYS, 7976
CHRISTOPHER S. KEAN, 8601
LEONARD C. * KEARL, 2156
KIERAN F. * KEELTY, 8863
MARK C. * KEENER, 1583
DON M. * KELLEY, 1921
JEFFREY S. * KELMAN, 7583
GREGORY L. * KENDRICK, 3679
BARTON D. * KENERSON, 5498
CATHERINE N. KENNEALLY, 8919
JASON R. * KENT, 7330
MATTHEW S. KENTON, 4336
PETER A. KERR, 5207
JUSTIN D. * KESKEY, 4873
HERBERT L. * KEYSER, 8876
RAY H. * KHAN, 2000
CHRISTOPHER E. KIBBLE, 2842
ROBERT A. * KIELTY, 5912
CHRISTOPHER S. * KILCULLEN, 2844
MICHELLE R. * KIM, 5276
PATTY B. * KIM, 9468
SONNY Y. KIM, 7351
TIMOTHY D. KIMBROUGH, 6068
DAVID B. KINCAID, 5119
ROBERT E. KINERSON, 2420
CAMPBELL NICHOLE J. * KING, 5658
CLIFFORD L. * KING, 9937
JASON S. * KING, 8658
JUDY L. * KING, 9740
ROBERT F. * KING, 8733
RONALD * KING, 6977
GARY W. * KINNEY, JR., 0734
EILEEN M. W. * KIRKLAND, 4461
SHAWN L. * KIRKPATRICK, 8484
JOHN A. * KISSACK, 0152
NIKI J. * KISSIAR, 0045
ROBERT C. * KITTELL, 0730
MICHAEL A. * KLEPPE, 4298
STEVEN R. * KLINE, 7490
STEVEN W. KLINGMAN, 1941
HORST D. E. * KNORRECK, 5181
CHRISTOPHER P. KNOWLES, 1782
CHARLES H. * KNOX, 0832
KENNETH A. * KNOX, 6501
JASON M. * KNUDSEN, 6930
JASON C. * KOBYLSKI, 5623
CHRISTOPHER S. * KOCH, 0668
KARL F. KOCH, 9607
RICHARD T. KOCH, 5263
TIMOTHY A. KODAMA, 0767
KURT A. * KOENIGSFELD, 2147
TERRY A. * KOESTER, 1086
KEVIN W. * KOHL, 9040
SCOTT L. * KOHL, 9321
LAWRENCE P. KOKOCHA, JR., 4074
ERIC J. * KOLB, 1437
MATTHEW E. KONVALIN, 9238
ERIC M. KOPER, 9289
CHRISTOPHER R. * KOPROSKI, 3028
RANDOLPH * KORAM, 6868
JEREMY S. * KOTKIN, 2994
JOSHUA M. * KOVICH, 9535
MATTHEW D. * KOVICH, 3319
STEVEN C. * KRAABEL, 0902
THOMAS M. * KRAMER, 8555
CHERYL L. * KREIFELS, 2851
EDWARD R. * KREINER, 2931
GREGORY KREUDER, 0126
KENNETH S. * KRINER, 9609
MURALI KRISHNAN, 6883
GEORGE J. KRIZ II, 6941
JEFFREY T. KRONEWITTER, 4628
TIMOTHY L. * KRUGER, 7839
HENRY F. KUHLMAN III, 7558
CHRISTOPHER R. * KUNZ, 4106
JOHN P. * KURY, 2247
ANTHONY R. * KUSEK, 1757
JASON J. LABANT, 1658
CHRISTOPHER W. * LABRUM, 7053
FREDERICK J. LACEY IV, 5186
AARON A. LADE, 6836
JOHN R. * LADINO, 7189
JASON B. LAMB, 3617
CHRISTOPHER L. LAMBERT, 9809
BRIAN L. * LAMIRANDE, 9362
JASON A. LAMONT, 0935
VANDY * LAMPKIN, 1262
MICHAEL D. * LAND, 0383
PAUL C. LANDESS, 8698
CHRISTOPHER A. LANE, 9072
THOMAS J. LANG, JR., 1476
EDWARD W. LANGAN, 3207
BRENT T. LANGHALS, 0645
ERIC R. * LAPINE, 7116
GEOFFREY R. * LARKIN, 2363
MATTHEW P. * LARKOWSKI, 6839
MICHAEL A. * LASSEN, 0758
JOSHUA D. * LAVIN, 6614
LEO * LAWSON, JR., 6786
EARL D. * LAYNE, 0690
GLENN D. * LEARN, 6553
DAVID M. * LEARNED, 0557
JOSHUA M. * LECHOWICK, 7498
JASON R. * LEDUC, 1693
CURTIS D. * LEE, 6607
JAMES W. * LEE, 2260
TODD A. * LEGRAND, 2510
KEVIN T. * LEHNERD, 6144
DANIEL W. * LEMON, 0773
JAMES R. * LENZENDORF, 9665
MARCIA E. * LEONARD, 0864
PATRICK E. * LEONARD, 1482
ANDREW C. H. LEONG, 4019
DAVID D. LEROY, 2099
BRIAN A. * LESIAK, 9331
CHARA L. B. * LESNICK, 0164
CHRISTOPHER T. LESNICK, 2829
DOUGLAS R. * LEVAN, 3700
SHERRI J. LEVAN, 3246
RONALD L. LEVY II, 5108
SCOTT S. * LEW, 4544
BRIAN E. * LEWIS, 2716
HARMON S. LEWIS, JR., 3431
MARCUS L. LEWIS, 9792
MARK D. LEWIS, 4881
MATTHEW B. LEWIS, 5967
MIGUEL J. * LEZAUN, 5928
LEWIS C. * LIETCH, 6353
CHARLES A. * LIGHT, 5909
MATTHEW LILJENSTOLPE, 5084
JASON C. LINDGREN, 8125
MARK A. LINDSEY, 2737
PAUL C. * LIPS, 1876
ADAM W. * LITTLE, 9891
REX W. * LITTLE, 6044
TY D. LITTLE, 6398
CHARLES R. * LIVELY, 8154
SANDRA D. * LLEWELLYN, 9455
STEPHEN E. * LLEWELLYN, 2325
FRANK J. LOBASH, 9100
JOSEPH W. LOCKE, 8641
NATHANIEL P. LOCKWOOD, 3094
ROBERT F. LOCKWOOD, JR., 7028

TONY S. LOMBARDO, 5234
PETER D. LOMMEN, 3316
WILLIAM E. * LONG, 9692
BEDE O. LOPEZ, JR., 7297
MICHAEL E. * LOPEZ, 2110
CARRIE L. * LORANGER, 4062
ROBERT D. LORTON, 1959
ALTHEA F. * LOSCHINSKEY, 5455
HARRY T. * LOUGHRAN, 9205
SHANE D. * LOUIS, 0283
GARRETT M. LOWE, 9484
MARY E. * LOWE, 7668
WILLIAM M. LOWE, 2730
DENNY * LOZANO, 4481
CRAIG R. LUCEY, 3818
TRISHA A. D. * LUIKEN, 6215
WALTER C. * LUTHER III, 2841
PHI ANH THI * LUTZ, 4591
BARTON S. * LUX, 4172
STEVEN T. LYGREN, 8885
DAVID J. LYLE, 5549
GARY L. * LYLES, 4197
ANDREW T. LYONS, 1288
MICHAEL P. LYONS, 7591
BRIAN W. MACDONALD, 4730
STEVEN E. MACEDA, 7070
DAVID D. * MACHEN, 2386
DENTON T. * MACK, 9525
TODD P. MACLER, 4157
BERTHA J. * MACMILLAN, 8195
CHRISTOPHER V. MADDOX, 3093
KEVIN M. MAGALETTA, 0655
MICHAEL A. * MAHAN, 2045
WILLIAM J. MAHER, 9681
BENJAMIN R. MAITRE, 2107
THERESA L. * MALASAVAGE, 7189
JAMES S. MALLORY, 6808
KATHLEEN A. * MALONEY, 3581
MICHAEL H. MANION, 8917
ROBERT J. * MANKUS, 7945
SHAMSHER S. MANN, 1074
DANIEL R. MANNING, 1021
JENNIFER A. * MANSHIP, 7670
WESLEY E. * MANSHIP, JR., 8825
SRIKANT * MANTRAVADI, 9792
STEPHANIE A. * MARCH, 8404
FRANK * MARCONI, 6911
LENORE A. * MARENTETTE, 5870
DANIEL J. * MARKHAM, 3180
MADALYN M. MARLATT, 0198
AABRAM G. * MARSH, 6606
ZANE G. MARSHALL, JR., 3844
NICHOLAS J. MARTIN, 4182
RODGER E. * MARTIN, 7790
STUART C. MARTIN, 9156
LISA MARIE * MARTINEZ, 1425
DOROTHY L. * MARTINO, 9638
BRYAN P. * MARTYN, 5260
ROBERT A. MASAITIS, 3231
JOHN T. MASER, 6434
STEVEN M. * MASSEY, 7230
KEVIN B. MASSIE, 5277
JASON A. MASSIGNAN, 8658
MICHAEL L. MATESICK, 4182
STEVEN E. * MATHEWS, 4126
CURTIS M. * MATHIASEN, 7086
AUDREY E. MATHIEU, 1876
MILES L. MATHIEU, 1908
ALICIA A. MATTESON, 1594
GEORGE J. * MATUSAK, 9065
DAVIS H. * MAULDING, 0238
TIMOTHY P. * MAXWELL, 4109
WILLIAM G. * MAXWELL, 2158
GEORGE M. MAY, 3243
MELISSA J. MAY, 0249
MICHAEL J. MAY, 6800
TAMARA M. * MAYER, 1049
LIONEL W. * MAYNARD, JR., 5797
SARAH F. * MAYNARD, 6455
CHRISTOPHER E. MAZZEI, 5335
KENNETH C. * MCADAMS, 5935
DANIEL P. MCALISTER, 6321
THOMAS MCAULEY, 4729
GARY E. * MCBRIDE, 9431
JONATHON W. * MCBRIDE, 9038
GLENN H. MCCADAMS, 2555
BARRETT T. MCCANN, 4703
SEAN M. * MCCARTHY, 5809
MATTHEW R. * MCCARTY, 9369
WILLIAM M. * MCCAW, 3527
CAROL A. * MCCLELLAND, 1741
MICHAEL E. MCCLOUD, 9251
WHITNEY P. MCCLOUD, 4434
REGAN E. MCCLURKIN, 0098
STEVEN W. * MCCOLLUM, 0108
PRESTON J. MCCONNELL, 3482
KEITH A. * MCCORMICK, 3806
CARRIE TARKIN * MCCOY, 8322
KELLY M. * MCCOY, 4564
BRIAN A. * MCCULLOUGH, 3180
KENNETH R. * MCDONALD, 1891
EDWIN F. * MCGEE, 3476
RICO D. * MCGEE, 4212
JAMES R. MCGLONE, 0490
SHAWN M. MCGRATH, 1897
JOHN S. * MCGUIRE, 5769
JEFFREY S. MCGUIRK, 4068
BRIAN T. * MCHENRY, 0547
JAMES A. MCHENRY, 6237
DAVID M. MCILLECE, 9574
JASON B. * MCKAY, 0173
RICHARD A. * MCKEE, 8675
PERRY L. MCKEETHEN, 1217
CLEVELAND S. * MCKENZIE, 8663
DAVID D. * MCKENZIE, 3194
KEVIN J. * MCKINLEY, 9695
JOHN D. * MCKINNEY, 1926
DEREK S. * MCLANE, 8278
LARRY E. * MCLEAN, 8582
RAYMOND S. * MCLEOD, 6399
SHAWN K. MCMANUS, 6408
DAVID C. MCMARTIN, 3475
SUZANNA J. D. * MCNABB, 9041
SHELDON L. * MCNEIL, 2571
MICHAEL L. * MCNEILL, 8206
BRENT S. * MCPHERSON, 1092
JERRY A. * MEADOWS, JR., 3062
OSWALD G. MEDLEY, JR., 3878
GEORGE T. * MELLEN II, 2362
STEPHEN G. MELLOTT, 1810
MATTHEW A. MELOENY, 7029
FREDERICK A. * MENA, 9599
JESSICA Q. * MENASCO, 6592
DAVID S. * MENKE, 0640
KATHRYN A. * MERCER, 0285
MARTIN J. * MERGENTHAL, 2356
JASON S. * MERGL, 0537
KEVIN J. MERRILL, 1467
DANIEL L. * MEYER, 3593
DAVID C. * MEYER, 6077
JACQUELINE T. * MEYER, 5560
NICHOLAS W. MEYER, 5285
ROBERT D. * MEYER, 6593
CHAD L. MEYERING, 0441
ADAM J. MEYERS, 3705
JEFFREY L. MEYERS, 3074
WILLIAM B. * MICKLEY, 5688
CYNTHIA D. * MIGHTEN, 8196
ANDREA C. MILLER, 6845
BETHANY JOHANNA * MILLER, 3549
CHRISTOPHER L. * MILLER, 8747
CRAIG S. * MILLER, 3752
DARRIN S. * MILLER, 5226
DEREK R. MILLER, 2413
FRANCIS K. MILLER, 0912
FRED R. * MILLER, 0321
GARY D. * MILLER, 7221
GERALD B. * MILLER, 0829
JAMES E. * MILLER, 1435
JAY D. * MILLER, 3541
JEFFREY R. * MILLER, 8398
KEITH H. * MILLER, 6564
MARK C. * MILLER, 2180
MATTHEW T. * MILLER, 1500
MICHAEL S. MILLER, 9938
PATRICK C. * MILLER, 6506
RENEE J. * MILLER, 5623
TREVOR W. MILLER, 7931
RAYMOND G. MILLERO, JR., 4792
SEAN T. MILLIKEN, 1746
RICKY L. * MILLS, 5630
CHRISTOPHER J. * MILNER, 6430
THOMAS G. * MINER, JR., 9961
MICHAEL W. MIRANDA, 1204
PHILIP R. * MISCHLER, JR., 8458
ANTHONY C. * MISCISKIA, 9896
ANDREA E. MISENER, 1074
RENEE L. * MITCHELL, 9357
BRAD S. MITCHELTREE, 6720
RANDALL L. * MIZE, 8450
JOHN F. * MOESNER IV, 2939
PAUL D. MOGA, 3517
ROBERT M. MONBERG, 7936
KIMBERLY D. MONCRIEFFE, 4957
FRANCIS J. * MONDO, JR., 1547
JEREMIAH R. MONK, 8759
SCOTT J. * MONROE, 1483
MICHAEL T. * MONTO, 8510
MICHAEL L. * MOODY, JR., 4777
ANDRE F. * MOORE, 4918
JASON G. MOORE, 1740
JON B. MOORE, 2404
ROBERT B. MOORE, 5480
TIMOTHY S. * MOORE, 2450
MATTHEW A. * MORAND, 2741
ERIK M. * MORATZKA, 5023
RICHARD J. * MORBIDELLI, 9189
DAVID J. MORELAND, 1901
BRYCE A. MORGAN, 8697
JAMES L. * MORGAN, 6998
JOSEPH T. MORGAN, 4808
HEATHER L. * MORGENSTERN, 4884
LYNN R. * MORIARTY, 1526
ROGER C. * MORIN, 5093
MICHAEL K. * MORRILL, 3643
MICHAEL S. MORRIS, 9883
SCOTT A. * MORRIS, 2120
DREW D. MORRISON, 8266
JARROD M. * MOSELEY, 3569
JAMES P. MOSS, 0304
WILLIAM R. * MOSSLER, 2082
RICHARD A. MOTT, 1774
TARA J. * MUEHE, 2514
TROY J. * MUELLER, 4497
JAMES D. * MULCEY, 9770
ANTHONY B. MULHARE, 8559
MARK J. MULLARKEY, 5237
JOSE J. * MUNOZ, 1209
MICHAEL R. * MURDERS, 5699
BRIAN J. MURPHY, 8528
SHERRY B. * MURPHY, 9213
THOMAS E. MURPHY II, 5911
TIMOTHY P. MURPHY, 9429
JOHN M. * MURRAY, 3031
OREN K. * MURRAY, 1952
RICHARD M. MURRAY, 6664
DOUGLAS A. MUSSELMAN, 9007
JAMES W. MYERS, 0878
MICHAEL T. * MYERS, 5616
ROBERT L. NANCE, 9423
CRAIG T. * NARASAKI, 7450
DELEON C. * NARCISSE, 9640
ROBERT K. * NASH, 3370
SCOTT C. * NAYLOR, 7774
RICHARD J. * NEAL, 8220
ANGEL M. NEGRON, 4704
BENJAMIN B. * NELSON, 6495
ERIC S. * NELSON, 2471
JOSEPH M. * NELSON, 4749
RICHARD J. * NELSON, 6666
JACK L. NEMCEFF II, 7752
JOHN M. NEMECEK, 8523
LISA A. NEMETH, 6688
ERIC S. * NESMITH, 8681
STANLEY J. NESS, 3245
WESLEY W. * NETCHER, 7017
TY W. * NEUMAN, 3287
BRETT D. * NEVILLE, 6501
JAMES D. * NEWBERRY, 8231
HELEN M. * NEWELL, 6692
DANNY N. * NGUYEN, 2606
PHONG D. NGUYEN, 0925
QUY H. * NGUYEN, 5550
CLAYSON L. * NICHOLSON, 4916
ROBERTA L. * NICHOLSON, 6617
JUSTIN H. * NIEDERER, 9272
ANTHONY K. NISHIMURA, 8598
LOUIS A. * NOBLE, 5537
PHYLLIS D. * NOBLE, 7601
PENELOPE A. * NOE, 5692
PHILLIP L. NOLTEMEYER, JR., 6817
KENNETH R. NOOJIN, 9698
ROBERT W. * NORTH, 7668
JOHN A. NORTHON, 8696
JOHN D. NORTON, 1638
JASON D. * NULTON, 9145
DAVID M. NYIKOS, 9515
SHAWN M. ODONNELL, 5395
PETER W. * OFFERMAN, 4882
BRIAN S. * OGAWA, 2010
PATRICK S. * OHARA, 3587
CLARK R. * OLANDER, 9665
BRADLEY R. * OLIVER, 9907
DAMIAN L. * OLIVIERI, 5052
JAMES P. OLSEN, 8864
MICHAEL E. * OLSEN, 8942
STEVEN W. * OLSONOWSKI, 5038
DAVID R. OMALLEY, 4339
ALAN W. * OMO, 0711
RAY V. ONDREJECH, 8823
JENNIFER L. * ONEAL, 6755
MICHAEL A. * ONEILL, 7314
JAMES S. * OQUINN, 4431
TIMOTHY W. * ORAN, 8446
AINSWORTH M. OREILLY III, 4268
DORA E. * ORENCHICK, 9506
MICHAEL G. * ORENCHICK, 7302
ROWENA Y. * ORMISTON, 7830
WILLIAM A. ORMISTON, 4711
LOUIS E. * ORNDORFF, 8065
JOSE L. * OROZCO, 3117
ESDRAS S. * ORTEGAMENENDEZ, 3876
PEDRO * ORTIZ, JR., 7579
AMY * OSTERHOUT, 0660
HEIDI L. * OSTERHOUT, 4041
ROBERT E. * OSTRANDER, 3003
BRIAN D. OSWALT, 2677
JEFFERY S. * OWEN, 8591
JEFFREY R. OWEN, 4537
STEVEN G. OWEN, 5251
JEFFREY C. * OWENS, 8864
JODY M. * OWENS, 8721
GLADE G. * OXBORROW, 0045
DARIAN J. PADILLA, 7441
THOMAS B. * PALENSKE, 1162
ROBERT H. * PALEO, 6819
JASON R. PALMA, 8572
JAMES R. * PALMER, 7720
KIRSTEN M. PALMER, 5919
NATHAN A. PALMER, 6295
THOMAS S. * PALMER, 7615
DAVID D. * PANGILINAN, 3173
BONNIE LANE COX PAQUIN, 1978
JENNIFER LEA PARENTI, 8969
GERALD J. * PARISH, 1672
CHRISTOPHER M. * PARKER, 3710
DENNIS PARKER, 0754
ERIK J. * PARKER, 7677
GREGORY K. PARKER, 4300
LOUIS A. * PARKER III, 4718
PHILLIP R. PARKER, JR., 0192
CHRISTOPHER L. PARSONS, 5586
MATTHEW A. PASKIN, 8733
BRYAN M. PATCHEN, 8826
BRIAN E. * PATNETT, 8242
ZACHARIAH E. PATRICK, 9844
BRIAN L. PATTERSON, 6641
STEPHEN B. * PAUL, 6081
ERIC C. * PAULSON, 2206
HEIDI A. * PAULSON, 9217
HOLLIS R. * PAYNE III, 6727
JOHN F. PEAK, 3178
JOSEPH C. * PEARSON, 4223
ABDIEL E. PEART, 4977
ROSS D. PEASE, 4437
ROBERT J. * PEDERSEN, 9871

JAY E. PELKA, 4300
JEAN PHILIPPE N. * PELTIER, 5281
CHRISTOPHER L. * PENNINGROTH, 2333
ALLEN L. * PENNINGTON, 7357
WILLIAM D. * PERCIVAL, 4214
JUAN F. * PEREZ, 4185
MANUEL P. PEREZ, 9563
RICARDO * PEREZ, 3447
ERNEST H. * PERKINS, JR., 7251
LOUIS S. PERRET, 5445
STEVEN M. PERRY, 1126
BRYAN R. * PERSOHN, 9479
DOUGLAS E. * PERUCCA, 6227
MICHAEL R. * PERZ, 3613
PHILLIP D. * PETERSEN, 2226
DANA M. * PETERSON, 2042
JOHN W. * PETERSON, 0291
KIRK W. * PETERSON, 1336
LANCE M. * PETERSON, 2656
RONALD F. PETERSON, 1225
CHARITA A. * PETRINA, 6991
KIRK B. * PETTINGILL, 0575
FRANCESCO A. PFAUTH, 5983
MICHAEL J. PFINGSTEN, 2394
ANDREW E. * PHILLIPS, 1796
KIRK N. * PHILLIPS, 0684
MICHAEL E. PHILLIPS, 3004
PETER S. * PHILLIPS, 4461
SUSAN E. PHILLIPS, 1875
SCOTT * PHINNEY, 9492
SUSAN V. * PHIPPS, 5417
TIMOTHY B. PICCIN, 8788
DOUGLAS E. * PIERCE, 5565
JASON D. * PIFER, 8415
DAVID L. PIKE, 7578
JOSEPH E. * PILKUS III, 3621
GARY L. * PILLOW, 0151
MIGUEL A. * PINA, JR., 6071
MARK D. PIPER, 2911
JOHN S. PISZKIN, 0824
CHRISTOPHER A. PLANTE, 7373
MICHAEL S. * PLANTENGA, 0238
JASON L. PLOURDE, 5452
CHARLES J. P. PODOLAK, 8297
DAVID A. * POE, 9218
PATRICK A. POHLE, 5814
MATTHEW G. * POLLOCK, 7496
ROBERT L. * POPE, 7022
PAUL H. * PORTER, 6022
FREDERICK T. PORTIS, 3522
ROBERT W. * POVLICH, JR., 2782
BRADLEY F. * POWERS, 5310
LARRY D. * POWERS, 3957
TAMARA L. PRASSE, 6426
DAVID A. * PREISMAN, 0531
LUIS D. * PREJEAN, 4953
CHRISTOPHER I. * PRICE, 7867
DANIEL L. * PRICE, 0500
SAMUEL T. * PRICE, 1549
STEPHEN C. * PRICE, 2409
CRAIG L. PRICHARD, 7722
NICOLE R. PRICHARD, 5533
MARCUS A. * PRIMM, 3246
JOHN K. PROCTOR, 1367
NORMAN W. * PRUE, JR., 6404
WILLIAM HAROLD * PRUITT, 6346
ANTHONY L. * PUENTE, 3791
DAVID M. * PUGH, 4581
PATRICE A. * PUGH, 2452
CARMINE J. PUNZIANO, 2059
STEPHEN M. * PURDUM, 6014
VARUN PURI, 5076
CHRISTOPHER S. * PUTMAN, 7384
BRADLEY L. * PYBURN, 2236
VAUGHN G. * PYPER, 5119
MICHAEL J. * QUIRK, 5694
ANDREW J. * RADKE, 5065
SEAN A. * RAESEMANN, 6036
RODNEY T. * RAGSDALE, 4020
MICHAEL C. * RAKOCZY, 0991
DAVID RAMIREZ, JR., 9105
EUGENE W. * RAMMING, 3132
CARLOS S. * RAMOS, 9652
JESUS A. RAMOS, 6552
DENNIS S. RAND, 0235
ROBB M. * RANDALL, 1825
VINCENT G. * RANDALL, 0190
MICHELLE E. * RAUCHJOHNSON, 1241
GERALD I. * RAY, JR., 9288
WILLIAM F. * RAY, 8238
PATRICK L. * REAGAN, 6587
CHRISTOPHER T. RECKER, 6677
CLARE H. * REED, 0006
DARIN M. * REED, 3166
ROBERT J. * REED, 7121
SHAD A. REED, 5897
BRUCE A. * REEVES, 9149
PAUL S. REHOME, 6475
GREGORY T. * REICH, 1961
MICHAEL F. * REICHARD, 5480
ERIC S. * REID, 5018
JONATHAN D. * REID, 3847
ADAM D. REIMAN, 1083
LEE A. * REISING, 6820
CHRISTOPHER J. * REIZ, 1858
LENDY G. * RENEGAR, 6371
STEPHEN G. RENY, 1084
KEITH * REPIK, 9020
TIMOTHY J. REUTIMAN, 3582
JODY R. REVEN, 9344
TRAVIS D. REX, 9321
KYLE A. * REYBITZ, 1967
DAVID A. * REYNOLDS, 2591
MICHAEL L. * REYNOLDS, 1198
STEVEN F. * REYNOLDS, 9231
TIMOTHY C. * REYNOLDS, 1588
JON M. RHONE, 2682
DONALD W. RHYMER, 0404
EDWARD J. * RICE, 6458
WALTER C. * RICE III, 9656
VINCENT E. * RICHARD, 9951
GLYNN E. * RICHARDS, 3710
DEAN A. * RICHARDSON, 9016
JOHN K. * RICHARDSON, 9155
NEIL R. * RICHARDSON, 1678
MARK A. * RICHEY, 3783
ALISA C. * RICKS, 7027
TAMMIE L. RIDDER, 1253
STEVEN A. * RIEGEL, 4796
JASON M. * RIERA, 4585
ROBB N. * RIGTRUP, 9314
MICHAEL S. RIMSKY, 1122
RAMIRO * RIOJAS, 4960
MARK A. * RISELLI, 6394
ROBERT S. RISKO, 9814
JOSE L. * RIVERAHERNANDEZ, 7876
TEAKA J. ROBBA, 8771
JASON I. * ROBERSON, 0313
MARCUS L. ROBERTS, 0265
ANGENENE L. * ROBERTSON, 5291
OSCAR G. * ROBERTSON, 4312
BRANDON J. * ROBINSON, 1487
CHRISTOPHER M. * ROBINSON, 1270
JUAN A. ROBINSON, 3697
WILLIAM R. * ROCHE, 7841
MATTHEW K. * RODMAN, 4563
DAVID E. * RODRIGUEZ, 5526
LIONEL * RODRIGUEZ, 2688
GEORGE R. ROELKE IV, 9283
KEITH M. * ROESSIG, 7656
JEREMIAH T. ROGERS, 7046
JAMES G. * ROHRBOUGH, JR., 2150
JOSEPH W. * ROJAS, 1227
AUGUST J. ROLLING, 9720
JENNIFER A. ROLLINS, 6055
JAMES L. * ROMAG, 4943
MATTHEW W. * ROMAN, 5114
SUSAN A. * ROMANO, 5395
ROBERT E. * ROMERO, 7434
DAVID P. * RONDEAU, 7407
WILLIAM T. * RONDEAU, JR., 7427
KEVIN D. * ROOK, 1647
FREDDIE R. * ROSAS, 8468
JASON D. * ROSE, 3037
LEONARD T. * ROSE, 1229
LEE D. ROSKOP, 8499
CLINTON A. ROSS, 8443
KEEL LOY ROSS, 0991
ROBERT J. * ROSS, 9143
TRAVIS J. * ROSS, 4120
ROBERT C. ROSSI, 5955
DOUGLAS ROTHENHOFER, 6169
KENNETH T. * ROTHROCK, 2732
TRACY A. * ROUSE, 1324
KURT P. ROUSER, 4105
BRENDEN G. ROWE, 5789
RYAN L. ROWE, 5364
JAMES S. ROWLEY, 1531
JON K. * RUCKER, 8239
RIP M. * RUCKER, 9097
JOSHUA B. * RUDDELL, 7649
CLIFFORD R. * RUDDER, 8163
KARLA K. RUDERT, 7861
MARTIN F. * RUDY, 1150
THOMAS A. * RUIZ, 1169
THOMAS A. * RUNGE, 6015
JAMES A. RUNTE, 5774
SCOTT P. RUPERT, 9119
RONALD H. * RUPPEL, 8104
COCHANNA E. * RUSH, 6636
CLAY T. * RUSS, 0506
ROBERT L. RUSS, 9432
CHRISTOPHER J. * RUSSELL, 1882
CHRISTOPHER J. * RUSSELL, 1831
NATALIE S. RUSSELL, 5502
ROBIN J. RUSSELL, 8978
TIMOTHY H. RUSSELL, 7371
ANDREW P. * RUTH, 6292
ADAM L. * RUTHERFORD, 8999
ROBB R. * RYAN, 7252
ANDREW J. RYDLAND, 7224
JAY A. SABIA, 0171
ACHILLES * SAKIS, 7864
DAVID C. SALISBURY, 7295
DAVID R. * SALVAGNINI, 4063
SHAUN G. * SALYERS, 5830
DAVID H. SANCHEZ, 5489
ERNEST W. * SANCHEZ, 4079
JERRY D. SANCHEZ, 6039
MATTHEW J. SANDELIER, 9768
BERTON T. * SANDERS, 9181
GILBERT W. SANDERS, 7604
KAREN L. * SANDERS, 7566
MICHAEL C. SANDERS, 0767
STEPHEN T. SANDERS, 8268
STEVEN G. * SANDERS, 7260
JASON R. SANDERSON, 5808
PHILLIP S. * SANDLIN, 7143
KARSON A. * SANDMAN, 4948
DAVID J. * SANFORD, 9747
RICHARD B. * SANKS, 1156
DARIN P. * SANNER, 3720
ALEXANDER SANSONE, 6436
GLENN V. * SANTOS, 6813
BRIAN J. * SATTERLEE, 0482
SUZANNE M. SAULS, 5433
CHARLES H. * SAWDERS III, 9344
TORRENCE W. SAXE, 8494
PAUL M. * SCASNY, 6845
BRIAN E. * SCHAEFFER, 1956
BRIAN M. SCHAFER, 0644
CATHERINE J. SCHAFER, 9445
NATHAN E. * SCHALLES, 8498
JAMES A. SCHARTZ, 4782
JONATHAN P. SCHEER, 7213
GEORGE F. * SCHEERS, JR., 5463
KEITH S. * SCHEIRMANN, 3280
JOSEPH A. * SCHENK, 1478
JAY A. * SCHERER, 3223
TODD A. SCHERM, 5427
JOCELYN J. * SCHERMERHORN, 2770
ALFRED C. I. SCHMUTZER, 8052
PAUL M. * SCHNELL, 2649
MICHAEL C. SCHOENBEIN, 7127
CHAD H. SCHOLES, 0952
THOMAS M. * SCHRAMEL, 0714
MICHAEL J. * SCHREFFLER, 4422
MARK L. * SCHREIBER, 6961
JASON D. * SCHREUDER, 1247
BRIAN K. * SCHROEDER, 2172
ROBERT C. * SCHROETER, 8831
JOHN D. * SCHULIGER, 1334
BRIAN E. SCIANTARELLI, 2454
MICHAEL D. * SCOTT, 5698
PERCIVAL V. * SCOTT, 3752
RANDALL B. * SEALY, 5437
JOHN M. * SEDLACEK, 7265
BRADLEY A. SEGER, 6327
CHARLES K. * SEIDEL, 4053
TIMOTHY A. SEJBA, 7968
KEVIN L. SELLERS, 7614
BRIAN D. * SELLS, 1875
ALAN J. * SENECHEK, 5263
ALAN P. * SERAILE, 5351
KATRINA J. * SEWELL, 6388
STEVEN A. SEWELL, 2338
SEAN D. * SEXTON, 0585
JASON E. * SEYER, 7961
THOMAS P. SEYMOUR, 8015
BRIAN R. * SHAFFER, 4582
NARESH SHAH, 2438
DOUGLAS S. * SHAHAN, 8368
JOHN D. * SHANNON, 9933
MICHAEL A. * SHANNON, 3276
CHRISTOPHER M. * SHEA, 3456
WILLIAM G. * SHEARSTONE, 0357
MELISSA C. * SHEPAN, 5463
SCOTT B. * SHEPARD, 8206
GENE S. * SHERER, 8698
THOMAS P. SHERMAN, 2907
THOMAS S. * SHIELDS, 9915
TODD R. * SHIELDS, 5651
EDISON R. * SHINN, 8891
JOHN R. * SHINOSKIE, 8156
JOSEPH P. * SHIRVINSKY, 3391
TED V. * SHOEPE, 9091
JENNIFER M. SHORT, 7704
RONALD E. * SHOUSE, 5577
JONATHAN D. SHULTZ, 6880
STANTON C. * SHUTTLEWORTH, 5614
BRIAN D. * SIDARI, 8664
NITHYA * SIEU, 0034
ERIC J. * SIKES, 6782
DEZSO V. SILAGYI II, 5205
JOHN T. SILANCE II, 8078
PAUL T. * SILAS, 3825
JOSE R. * SILVA, 5727
JAE B. SIM, 2313
STEPHEN A. SIMKO, 5592
RAYMOND L. * SIMMONS, 5531
MICHAEL J. SIMON, 1451
CHRISTINA L. SIMPERS, 8932
EDMOND C. * SIMS, JR., 6705
COLIN J. * SINDEL, 3786
VINCENT * SIPPLE, 0328
MARTIN A. * SIPULA, 0049
JOSEPH B. * SKIPPER, 4528
CHRISTOPHER M. SKORA, 2263
CHRISTOPHER M. SLATE, 1847
SEAN R. SLAUGHTER, 1154
GAYLE A. * SLEDGE, 3539
MICHAEL A. * SMART, 9795
BRIAN A. SMITH, 5136
DARRELL L. * SMITH, 3023
DOUGLAS S. SMITH, 7404
ERIC A. SMITH, 0696
IAN DODD SMITH, 9819
JAMES A. SMITH, 5052
JAMES P. * SMITH, 7557
JASON A. SMITH, 4449
JASON L. SMITH, 4785
JEFFREY S. SMITH, 0753
LAWRENCE T. * SMITH, 8730
MARK J. SMITH, 7178
SHANNON G. * SMITH, 5908
STACEY L. * SMITH, 9229
STEVEN R. * SMITH, 3387
THOMAS D. * SMITH, 6181
WAYNE L. * SMITH, 5553
WILLIAM R. * SMITH III, 8235
ANTHONY W. * SNODGRASS, 1748
JAMES L. * SNODGRASS, 6849
MICHAEL W. SNODGRASS, 3801
EDWARD C. * SNOW, JR., 2338
GLENN A. * SNOW, 7411
KRISTEN R. * SNOW, 6375

ANDREW C. * SOLLEDER, 6023
PAUL G. SONGY, 6303
MARK SOTALLARO, 3718
VICTOR * SPAHIC, 7301
RYAN M. SPARKMAN, 3917
ERIC D. * SPARKS, 6062
PAUL F. SPAVEN, 1067
JOSEPH L. * SPEIGHT, JR., 8453
BENJAMIN W. * SPENCER, 2915
DAVID A. * SPENCER, 6055
CHAD W. * SPICER, 8851
STEVEN F. SPIEGEL, 5441
TIMOTHY A. * SPIES, 1370
JOHN C. SPITZER, 8975
JOHN D. * SPRAGUE, 1750
ALAN R. SPRINGSTON, 4392
SUSAN M. * STANISH, 4785
MICHAEL R. STAPLES, 0784
LAVERN A. * STARMAN, 8938
ANTHONY C. * STEELE, 0628
JEFFREY R. * STEIN, 5016
SHANE D. STEINKE, 8012
ROBERT A. * STENGER, 5911
DAVID E. * STEPHENS, 8527
JOEL W. STEPHENS, 2031
SCOTT A. * STEVENS, 9996
ALLEN L. STEWART, 0230
BRITTANY D. STEWART, 3500
TRACE B. * STEYAERT, 1308
RUSSELL * STILLING, 2077
MARC A. * STITZEL, 1190
ROBERT M. * STIVERSON, JR., 0466
BRETT C. STOFFEL, 1585
ADAM J. STONE, 2951
ANDREW B. STONE, 4246
DANIEL W. STONE, 8032
VANESSA L. * STONE, 3073
KENNETH B. * STONI, 4060
RONALD P. STOREY, JR., 5985
JASON R. * STOWE, 8346
KERRY L. STRAIT, 8636
STEVEN W. STRASBAUGH, 9544
THOMAS J. * STRASSBERGER, 1972
STEVEN C. * STRAWBRIDGE, 2334
ANDREW J. STREICHER, 0300
JEFFREY D. * STREMEL, 8278
ANTHONY R. * STRICKLAND, 2610
MICHAEL D. STRICKLER, 5637
L. MICHELLE * STRINGER, 1030
MERL A. STRODER, 4285
JEFFREY E. * STROMMER, 6058
DAVID M. * STRONG, 6445
JAMES A. * STRUCKMEYER III, 2296
VICTOR J. * STUKOVSKY, 3419
TIMOTHY D. STUMBAUGH, 3866
STEPHEN J. STUMBO, 4414
STEPHEN G. STURM, 4746
JEFFREY A. STYERS, 8874
MARK C. * SUDDUTH, 5047
DANIEL J. * SULLIVAN, 0547
GERALD D. * SULLIVAN, JR., 7817
DAVID E. * SUMERA, 8274
CHRISTOPHER L. * SUMMERS, 5380
DAVID D. SUNDLOV, 8382
KEITH E. SUROWIEC, 7135
PATRICK J. SUTHERLAND, 4461
TRAVIS C. * SWAN, 8304
MICHAEL R. * SWANSON, 3682
JAMES A. SWEENEY, 5416
PAUL E. * SWENSON, 7441
THOMAS K. * SWOVELAND, 2639
WALTER J. * SYKES, 4440
BENJAMIN J. * TABOR, 0910
DANIEL A. * TADEVICH, 4723
DAVID M. * TALBURT, 3333
JAMES T. * TANDY, JR., 7534
TRAVIS W. * TANKERSLEY, 6062
TIMOTHY N. TART, JR., 3302
ROBERT D. * TARWATER, 3677
BRYAN E. * TASH, 4877
MICHELE M. * TASISTA, 2135
KYLE M. * TATE, 2193
MARK E. * TATE, 8526
MICHAEL S. * TATE, 4055
ROMWALDO L. * TAYAM, 5675
JOSELITO C. * TAYAO, 0198
JEFFREY T. * TAYLOR, 7286
JOSEPH M. * TAYLOR, 4398
LYNN D. * TAYLOR, 6580
CLAY R. TEBBE, 8370
BEVERLY L. H. * TEMPLEMAN, 3343
BRIAN A. * TEMPLIN, 0154
KRISTOFER S. * TERRY, 4382
FRANK A. * TERSIGNI, 6522
ROBERT C. TESCHNER, 6296
JOHN L. * THAXTON, JR., 1913
GARY L. * THEISS, 8714
ALAN F. THODE, 1899
MICHAEL C. THODE, 0385
MICHAEL D. THOMAS, 6798
TIMOTHY G. * THOMAS, 7330
CHRISTOPHER D. THOMPSON, 9056
CHRISTOPHER T. * THOMPSON, 7801
DAVID E. THOMPSON, 7024
MICHAEL A. * THOMPSON, 7747
MICHAEL E. THOMPSON, 7367
STEPHEN W. * THOMPSON, 7896
ANDREW M. * THORNE, 6896
RONALD J. THORNTON, 5123
TIMOTHY W. THURSTON II, 1784
JOHN W. * TIEKEN, JR., 8597
MICHAEL D. * TIEMANN, 5528
TAGG A. * TIMM, 6821
JON K. TINSLEY, 2919
DOUGLAS F. * TIPPET, 8572
STEVEN J. * TITTEL, 7021
TODD L. * TOBERGTE, 1875
JASON W. TODD, 2733
JOSE M. * TOLENTINO, JR., 4251
WILLIAM D. TOLMAN, 2711
GREGORY D. * TOLMOFF, 9013
BRIAN E. * TOLSON, 0696
CHERYL C. TONE, 2108
JASON M. TONE, 7743
HEBER F. * TORO, 3033
CHRISTOPHER R. * TORRES, 1787
JEFFERY A. * TOWNS, 7352
JEREMY N. * TOWNSEND, 8917
SHELBY L. * TOWNSEND, 7642
KATHY L. * TRAVIS, 4753
TIMOTHY G. TREGLOWN, 7720
NICHOLAS G. * TRIAL, 4122
RICARDO L. TRIMILLOS, 0352
TIMOTHY W. TRIMMELL, 4781
SCOTT A. TRINRUD, 9110
ERIC S. TROIL, 8879
ROBERT W. TRUAX, 7065
JOHN S. TRUBE, 4580
REGINALD G. * TRUJILLO, JR., 3122
JUSTIN H. TRUMBO, 7003
MICHAEL E. * TUERS, 7975
TREVOR A. * TULLIE, 1722
CHRISTOHPER A. TUMILOWICZ, 3786
WALLACE R. TURNBULL III, 2199
CARLTON C. * TURNER, 1515
JEREMEY D. TURNER, 8284
KEITH R. TURNER, 9112
LANCE F. TURNER, 9865
STEVEN F. TURNER, 4272
WESLEY L. TURNER, 6015
TROY M. TWESME, 6644
SEAN K. * TYLER, 3003
BRIAN V. * UCCIARDI, 1468
WILLIAM K. * UHRIG, 9165
THOMAS R. ULMER, 2659
THEODORE * UNZICKER, 3178
ERIC V. * UPTON, 6054
PAMELA A. * URSE, 3173
ALBERT R. * VALENTINE, 4243
SUSAN M. * VALENTINE, 5825
THOMAS A. VALENTINE, JR., 3182
MICHELLE * VANCOURT, 9266
DONALD G. * VANDENBUSSCHE, 5062
TRICIA A. * VANDENTOP, 6459
DALE D. * VANDYKE, 4660
MATTHEW S. VANWIEREN, 1481
SAM J. VANZANTEN, 4083
ANTONIO J. * VARGAS, 9198
BYRON J. * VARIN, 0601
JONATHAN E. VEAZEY, 8870
SERGIO J. * VEGA, JR., 3065
CHARLES M. * VELINO, 6239
FRANK R. * VERDUGO, 1539
DURON CAROL M. * VERGARA, 4962
HUGH J. J. * VERHOEF, 5353
ROBERT A. VIETAS, 9960
PAUL D. VILLAGRAN, 6748
PERRY N. * VILLANUEVA, 3710
STEVEN E. * VILPORS, 0125
CRAIG A. * VINCENT, 9730
ROSS C. * VINCENT, 1969
JASON D. * VIRAG, 3409
MARK J. * VITANTONIO, 9303
WINCHESLEY R. * VIXAMA, 3230
NATHAN J. VOGEL, 9046
PATRICIA A. * VOLLMER, 8527
FRANK A. * VONHEILAND, 6676
ERIC W. * VONTROTHA, 3908
ROBERT J. * WAARVIK, 9003
DAVID F. * WACHTEL, 4460
ROBERT S. WACKER, 7096
MATTHEW F. WADD, 4165
SEAN C. * WADE, 6372
PHILLIP L. * WADSWORTH, 1504
FREDERICK W. * WAINWRIGHT, JR., 7483
MICHAEL J. WAITE, 2273
DAVID J. * WAKEFIELD, JR., 3201
ALEXANDER M. * WALAN, 9306
BRIAN J. * WALD, 7544
FERNANDO E. * WALDRON, 6543
LANDON K. WALKER, 8268
ROSALYN L. * WALKER, 3938
SEAN M. * WALKER, 2049
STEVEN D. WALKER, 9211
EUGENE M. * WALL, 7830
TREVOR A. * WALL, 1623
MARK * WALLACE, 7641
ADAM D. WALLEN, 8068
DAVID R. * WALLER, 4654
DAVID C. * WALLIN, 3800
DAVID J. WALSH, 5370
TERRENCE L. * WALTER, 5139
DEMETRIUS * WALTERS, 3615
PATRICK A. * WAMPLER, 6263
BONNIE S. * WARD, 7405
JASON T. WARD, 8990
TRACY T. * WARD, 5056
BRENT H. * WARDELL, 0216
DAVID M. * WARNKE, 7714
JESSE F. * WARREN, 0621
DEVIN M. * WASHINGTON, 8204
ROBERT A. * WASIK, 0724
DANIEL J. WASILAUSKY, 4593
RAQUEL C. WASILAUSKY, 0327
ERIC R. * WATERWORTH, 2385
BRIAN K. WATKINS, 0048
EVAN T. * WATKINS, 5529
ETHEL M. * WATSON, 8915
MICHAEL A. * WATSON, 3133
JEFFREY A. * WAUGH, 3049
BRIAN A. WAYPA, 1779
ERNEST L. WEARREN, JR., 5580
MARK H. * WEBB, 6750
RODRICK L. * WEBB, 7579
DOUGLAS J. * WEBER, 6054
DANIEL L. * WEEKLEY, 2592
JEFFREY R. WEEKS, 0554
MAX C. WEEMS, 4174
THERESA E. * WEEMS, 7051
FREDERIC M. * WEHREY, 5584
JAY A. * WELBORN, 2884
SEAN T. WELSH, 8339
PETER A. WENELL, 0960
BRIAN R. * WERAB, 5602
ANDREW R. WERNER, 1291
ANTHONY E. * WESSEL, 1557
LOUIS * WESSELS, 7165
ROBERT D. * WESTOVER, 4760
CHRISTOPHER J. * WETMORE, 3918
STACY A. WHARTON, 1356
WILLIAM H. WHARTON, 0384
RONALD W. * WHEELER, 6276
ANDREW K. WHIAT, 0244
JEFFREY J. WHITE, 1389
JEROME K. WHITE, 9364
NATHAN A. * WHITE, 2710
WILLIAM C. * WHITE, 6480
RICHARD T. * WHITLOCK, 9343
REAGAN K. WHITLOW, 2152
MATTHEW R. WHITNEY, 2813
KEVIN A. WHITTAKER, 0619
RAYMOND K. * WHYTE, 3553
BRYAN J. WICKERING, 1196
DOUGLAS P. WICKERT, 7804
STEPHEN D. WIER, 8181
JASON B. WIERZBANOWSKI, 9443
DANIEL R. WILCOX, 9982
JOHN D. WILCOX, 4074
TRAVIS S. WILDS, 5626
TODD A. * WILES, 2201
PAUL E. * WILKERSON, 7825
ALLEN L. WILLIAMS, 3792
DAVID E. * WILLIAMS, JR., 1777
KEITH P. * WILLIAMS, 6283
KEVIN L. WILLIAMS, 6056
LEE * WILLIAMS, 7321
LEONARD R. * WILLIAMS, 8106
ROBERT S. * WILLIAMS, 4192
TRENT J. * WILLIAMS, 0427
WARREN S. * WILLIAMS, 2497
WENDELL M. * WILLIAMS, 6754
CHAZ M. * WILLIAMSON, 5205
DAVID A. WILLIAMSON, 2845
DEAN G. * WILLIAMSON, 9892
ERIN C. * WILLINGHAM, 6885
JOHN T. * WILLOUGHBY, JR., 4637
CHARLES T. * WILSON II, 0794
JENNIFER E. * WILSON, 6180
KENNETH W. * WILSON, 4714
KEVIN P. * WILSON, 3624
LYNDA M. Z. * WILSON, 8156
ROBERT A. * WILSON, 0468
KATHRINE M. WINANS, 6859
LORI L. * WINN, 1451
BERT G. WINSLOW, 4573
CHRISTOPHER J. WIRTANEN, 0785
CARL H. * WISWELL, 2600
RYAN E. WOERNER, 7220
JEFFREY C. * WOFFINDEN, 3704
LISA M. * WOFFINDEN, 7305
PAUL M. WOJTOWICZ, 3039
JOHN J. WOLF, 8575
GREGORY C. * WOLFF, 8797
STEPHANE L. * WOLFGEHER, 6579
JEFFERY M. WOLIVER, 1051
TIMOTHY G. WOLLER, 6049
ZUN MAY * WOO, 8512
PAUL C. WOOD, 3107
BRECK A. * WOODARD, 1162
GEORGE S. * WOODWORTH, 6240
LEANDRO T. * WORRELL, 8836
BRIAN J. * WORTH, 9412
SCOTT M. * WURZBURGER, 3787
CHARLES D. * WYATT, 9051
BENJAMIN L. WYBORNEY, 8254
WILLIAM L. * YAEGER, 8437
SURESH * YALAMANCHILI, 2637
JAE K. * YANG, 5723
STEPHEN * YANYECIC, 3256
ERIC M. YAPE, 7688
JAMES N. * YEPEZ, 4058
JOHANNA L. * YOCUM, 2669
JIN B. * YOON, 9599
SOKTAE * YOON, 4685
STEVEN J. YOUD, 1697
MICHELLE T. * YOUNG, 6847
DEREK J. A. YOUNGER, 4837
MILAD F. * YOUSSEF, 6491
PAUL J. * YUSON, 8727
ROBERT B. * ZALANKA, 4969
MATTHEW E. * ZEHR, 5069
JOSEPH B. * ZELL, 3392
ERIC J. ZIHMER, 9228
JEFFREY S. * ZORNES, 5943
BRIAN S. * ZUBEK, 7886
CHRISTOPHER J. ZUHLKE, 7911

KARL D. ZURBRUGG, 1041
STEVE P. * ZURGA, 3201
RONALD J. * ZWICKEL, 4085

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

KENNETH A BEARD, 7751
FRANK S CARUSO, JR, 5226
DAVID H CONNOLLY, 1419
RODERICK L CUTRIGHT, 6420
THOMAS M KANE, 1400
JON R KER, 6791
GREGORY W LIMBERIS, 6741
MORRIS D MOOREHEAD, 5551
DARELL L NEPIL, 4558
WILLIAM D PHELPS, 2973
GEORGE E REYNOLDS III, 8619
MARK L RIDOSH, 2172
KAREN E SEMERARO, 3265

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

*To be colonel*

EDWARD D. ARRINGTON, 6253
THOMAS P. BAKER, 6151
ITALO M. BASTIANELLI, 6567
JEFFREY A. BECKER, 7822
ERIN M. BOHEN, 5441
STEPHEN L. BOLT, 3639
OTTO F. BONETA, 8915
SHERI Y. BOYD, 7737
THOMAS D. BRESLEY, 5922
GEORGE BROUGHTON II, 7717
ARTHUR E. BROWN, 6631
KAREN L. BURMEISTER, 6427
JOHN CAMPBELL, 9802
GREGORY E. CHOW, 5878
GARY W. CLARK, 7797
JOSEPH Y. CLARK, 1077
NORVELL V. COOTS, 2208
CHRISTOPHER A. DILLON, 7547
ERIN P. EDGAR, 1904
JOHN R. EKSTRAND, 6903
CHARLES C. ENGEL, JR., 6163
LILIA A. FANNIN, 2611
GERALD L. FARBER, 4188
JEFFREY A. * FAULKNER, 7758
STEPHEN F. FLAHERTY, 9593
JOHN L. FONTANA, 7279
WAYNE T. FRANK, 5839
BARTON K. GEORGE, 5426
ROGER K. GEORGE, 5692
SEAN D. GHIDELLA, 8854
MONICA B. GORBANDT, 2461
JACKIE A. HAYES, 7278
DUANE R. HOSPENTHAL, 7415
WILLIAM T. HUMPHREY, JR., 3299
DEAN A. INOUYE, 6744
JEFFREY L. JACKSON, 3440
SLOBODAN * JAZAREVIC, 1601
JAMES R. JEZIOR, 7124
LUTHER B. JOHANSEN, 2499
BARBARA JOSLOW, 2021
LISA W. KEEP, 9440
KENNETH R. KEMP, 7671
JEROME H. KIM, 7082
JOSEPH R. KOLB III, 5618
MARK G. KORTEPETER, 1140
DAVID A. KRISTO, 4222
KEVIN M. KUMKE, 9255
WILMA I. LARSEN, 9032
JEFFREY A. LAWSON, 4467
LAWRENCE S. LEPLER, 5436
THOMAS E. LEVOYER, 3656
ANGELA D. LEVY, 1539
EDWARD B. LUCCI, 4636
DONALD R. MCCLELLAN, 1742
JOHN M. MCGRATH, 7828
JAMES W. * MCLANE, 6688
WILLIAM T. MONACCI, 2367
RICKEY C. MYHAND, 3609
ROBERT J. OGLESBY, 4211
COLIN K. OHRT, 0500
FREDERICK V. PALMQUIST, 6970
MARY F. PARKER, 6017
GEORGE D. PATRIN, 9987
ANITA M. PEDERSEN, 9833
GEORGE E. PEOPLES, JR., 9771
GREGORY W. PETERMANN, 2197
MARY E. PORISCH, 6638
WILLARD F. QUIRK, 8481
JAY A. RIDDLE, 7350
RANDAL D. ROBINSON, 2697
MICHAEL J. ROY, 0842
MICHAEL B. * RUSSO, 6246
GLENN D. SANDBERG, 4651
DAVID B. SPROAT, 5523
JAMES D. TERRIO, 7254
SONJA M. THOMPSON, 7227
GLEN E. TOMKINS, 5367
BRIAN K. UNWIN, 1084
DOUGLAS S. WALSH, 6716
ROBERT A. WASCHER, 6304
PETER J. WEINA, 6280
GARY A. WHEELER, 6978
GLENN W. WORTMANN, 5061
JOHN S. XENOS, 5333
CLIFTON E. YU, 2233

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS, AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

*To be major*

STANLEY P. ALLEN, 4123
STEPHEN R. ALSLEBEN, 2109
NANA E. BASSAW, 6142
ALVA R. BENNETT, JR., 1940
JAMES W. BLOUNT, 7763
MITCHELL A. BUTTERWORTH, 7264
SAUL E. CARDONA, 0380
BRIAN P. CRANE, 8068
DEAN A. DARROUX, 4539
LOUIS A. DELTUFO, 9175
DAVID J. DEPPMEIER, 1387
LUCY M. DERGARABEDIAN, 9414
WIESLAW A. DYNEK, 5204
PETER O. FERRIS, 8073
RICHARD D. GARVEY, 9965
KENNETH A. GESCH, 0413
JAMES R. GRIFFIN, 1978
ROBERT H. HART, JR., 8506
JEFFREY A. HORSMAN, 0184
TERRY E. JARVIS, 4385
JOSEPH R. JEFFRIES, 4508
MICHAEL J. KING, 0076
DAVID R. KIRK, 7648
JONATHAN K. LANDON, 8784
HENRY A. LEONARD, 9340
JOHN C. LIM, 4124
LONNIE L. LOCKE III, 0271
BRIAN L. MEAD, 0332
ROY M. MYERS, 6249
DANIEL S. OH, 1430
JOSHUA L. PAIR, 9934
GARY G. PAYNE, 5097
ROBIN W. PIZANTI, 3888
CLARK E. RABE, 6731
PAUL D. RAMSEY, 0982
TIMOTHY L. RIETKERK, 2617
RANDAL H. ROBISON, 8374
JULIE M. ROWAN, 6926
LUIS A. RUIZ, 6145
FELIX SERMON, JR., 9702
JAMES E. SMITH, JR., 1919
TIMOTHY D. SMITH, 1885
BLAN M. STOUT, JR., 6104
JACK J. STUMME, 2560
GREGORY S. THOGMARTIN, 4682
ROBERT F. WILLIAMS, 1297
CHARLES D. WOOD, 1694
HENRY J. YOUNG, 7450

# HOUSE OF REPRESENTATIVES—*Monday, March 7, 2005*

The House met at noon and was called to order by the Speaker pro tempore (Mr. NEUGEBAUER).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 7, 2005.*

I hereby appoint the Honorable RANDY NEUGEBAUER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of unfolding ministry, for Your people, each new day is meant to be a discovery. Even in the ordinary and the routine, an inner dynamic is present. Every day the infant becomes capable of new physical motion and experiences relationships. Deepening marriage reveals more of a person to another, and a new friendship creates common interests in the imagination and in the heart.

May this day, this week, re-create this Nation and this Congress to be open to new possibilities for Your people and of being a catalyst in the world community.

Move us beyond prejudice and self-image, to be dynamically present to You and others now and forever.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a joint resolution of the following title in which the concurrence of the House is requested:

S.J. Res. 4. Joint resolution provided for congressional disapproval of the rule submitted by the Department of Agriculture under chapter 8 of title 5, United States Code, relating to risk zones for introduction of bovine spongiform encephalopathy.

## ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 12 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 8, 2005, at 12:30 p.m., for morning hour debates.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1079. A letter from the Secretary, Department of the Treasury, transmitting a report entitled, "The Use of Technology to Combat Identity Theft," pursuant to Public Law 108–159, section 157(d) (117 Stat. 1968); to the Committee on Financial Services.

1080. A letter from the Secretary, Department of State, transmitting notification of an Accountability Review Board to examine the facts and the circumstances of the loss of life at a U.S. mission abroad and to report and make recommendations, pursuant to 22 U.S.C. 4831 et seq.; to the Committee on International Relations.

1081. A letter from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting in accordance with the Federal Activities Inventory Reform Act of 1998 (FAIR Act), the Year 2004 A-76 Inventory of Commercial Activities for FY 2003; to the Committee on Government Reform.

1082. A letter from the Administrator, General Services Administration, transmitting notification of the new mileage reimbursement rates for Federal employees who use privately owned vehicles while on official travel, pursuant to 5 U.S.C. 5707(b)(1)(A); to the Committee on Government Reform.

1083. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Dodge City, KS. [Docket No. FAA-2004-19325; Airspace Docket No. 04-ACE-54] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1084. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace: Hannibal, MO. [Docket No. FAA-2004-18827; Airspace Docket No. 04-ACE-53] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1085. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace: Dodge City, KS. [Docket No. FAA-2004-19325; Airspace Docket No. 04-ACE-54] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1086. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace: Oberlin, KS. [Docket No. FAA-2004-19326; Airspace Docket No. 04-ACE-55] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1087. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Control Areas 1143L and 1146L. [Docket No. FAA-2004-19671; Airspace Docket No. AWA-07] (RIN: 2120-AA66) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1088. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Nebraska City, NE. [Docket No. FAA-2004-19328; Airspace Docket No. 04-ACE-57] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1089. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Restricted Areas 2932, 2933, 2934, and 2935: Cape Canaveral, FL [Docket No. FAA-2004-19438; Airspace Docket No. 04-ASO-9] (RIN: 2120-AA66) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1090. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Boone, IA [Docket No. FAA-2004-19576; Airspace Docket No. 04-ACE-66] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1091. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; and Modification of Class E Airspace; Grand Island, NE. [Docket No. FAA-2004-18819; Airspace Docket No. 04-ACE-45] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1092. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; and Modification of Class E Airspace; Salina, KS. [Docket No. FAA-2004-18822; Airspace Docket No. 04-ACE-48] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1093. A letter from the Acting U.S. Trade Representative, Executive Office of the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

President, transmitting the 2005 Trade Policy Agenda and 2004 Annual Report on the Trade Agreements Program, pursuant to 19 U.S.C. 2213; to the Committee on Ways and Means.

1094. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Reorganizations under Section 368(a)(1)(E) and Section 368(a)(1)(F) [TD 9182] (RIN: 1545-BD31) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1095. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Guidance Related to Section 936 Termination [Notice 2005-21] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1096. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters (Rev. Proc. 2005-16) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1097. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-13) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; with an amendment (Rept. 109-12). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FOLEY (for himself, Mr. JINDAL, Mr. PORTMAN, Mr. JEFFERSON, Mr. McCRERY, Mr. GALLEGLY, Mr. ISTOOK, Mr. COLE of Oklahoma, Ms. ESHOO, Mr. FITZPATRICK of Pennsylvania, Mr. LUCAS, Mr. SHAW, Mr. CARDIN, Mr. BECERRA, Mrs. JOHNSON of Connecticut, Mr. HERGER, Mr. CAMP, Mr. POMEROY, Mr. NUSSLE, Mr. ENGLISH of Pennsylvania, Mr. THOMPSON of California, Mr. HULSHOF, Mr. LEWIS of Kentucky, Mr. BRADY of Texas, Mr. CANTOR, Ms. HART, Mr. CHOCOLA, Mrs. CHRISTENSEN, Mr. FEENEY, Mr. MILLER of North Carolina, Mr. STRICKLAND, Ms. HARRIS, Mr. MILLER of Florida, Mr. WILSON of South Carolina, Ms. BORDALLO, Mr. SULLIVAN, Mr. MEEK of Florida, Mr. BILIRAKIS, Mr. BOUSTANY, Mr. GENE GREEN of Texas, Mr. RYUN of Kansas, Mr. BOUCHER, Mrs. JO ANN DAVIS of Virginia, Mr. ROGERS of Kentucky, Mr. ETHERIDGE, Ms. WATSON, Mrs. MYRICK, Mr. KUHL of New York, Mr. RUPPERSBERGER, Mr. SMITH of New Jersey, Mr. BARTLETT of Maryland, Mr. KENNEDY of Minnesota, Mr. SOUDER, Mr. BACHUS, Mr. GILLMOR, Mr. MELANCON, Mr. TIAHRT, Mr. FORD, Mr. BISHOP of Georgia, Mr. RENZI, Mr. REICHERT, Mr. BUTTERFIELD, Mr. ALEXANDER, Mr. WEXLER, Mr. PRICE of North Carolina, Mr. McCAUL of Texas, Mr. WELDON of Florida, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. CALVERT, Mr. LANTOS, Mr. CULBERSON, Mrs. NAPOLITANO, Mrs. CAPITO, Mr. BLUMENAUER, Mr. SHUSTER, Mr. CRENSHAW, and Mr. MACK):

H.R. 1134. A bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments; to the Committee on Ways and Means.

By Mr. SHERWOOD:

H.R. 1135. A bill to amend the Agricultural Adjustment Act to exempt certain identified varieties of tomatoes from agricultural marketing orders issued by the Secretary of Agriculture; to the Committee on Agriculture.

By Mr. ENGEL (for himself and Mr. KENNEDY of Rhode Island):

H.R. 1136. A bill to protect the Nation's law enforcement officers by banning the Five-seveN Pistol and 5.7 x 28mm SS190 and SS192 cartridges, testing handguns and ammunition for capability to penetrate body armor, and prohibiting the manufacture, importation, sale, or purchase of such handguns or ammunition by civilians; to the Committee on the Judiciary.

By Mr. HASTINGS of Florida (for himself, Mr. SHAW, Mr. MEEK of Florida, Ms. CORRINE BROWN of Florida, Mr. DAVIS of Florida, Ms. WASSERMAN SCHULTZ, Mr. BOYD, and Mr. WEXLER):

H.R. 1137. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve Federal response to disasters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Miss McMORRIS:

H.R. 1138. A bill to require the conveyance of a small parcel of Federal land in the Colville National Forest, Washington, and for other purposes; to the Committee on Resources.

By Mr. PITTS (for himself, Mr. MARKEY, Mr. SHADEGG, Ms. ESHOO, Mr. NORWOOD, Mrs. CAPPS, Mr. ISSA, Mr. COX, Mr. AKIN, Mr. DEFAZIO, Mr. BARTLETT of Maryland, Mr. MURTHA, Mr. McDERMOTT, Mr. CALVERT, Mr. McCOTTER, Mr. ENGLISH of Pennsylvania, Mr. FILNER, Mr. GILCHREST, Ms. McCOLLUM of Minnesota, Mrs. McCARTHY, Mr. MICHAUD, Mr. KENNEDY of Minnesota, and Mr. MILLER of Florida):

H.R. 1139. A bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services; to the Committee on Energy and Commerce.

By Mrs. DAVIS of California (for herself, Mr. EVANS, Mr. SCHIFF, Ms. CARSON, Mr. McDERMOTT, Mr. UDALL of New Mexico, Mr. GUTIERREZ, Mr. BRADY of Pennsylvania, Mr. CASE, Ms. CORRINE BROWN of Florida, Ms. HERSETH, Mr. BUTTERFIELD, Mr. ISRAEL, Mr. FILNER, Mr. CUNNINGHAM, Ms. McCOLLUM of Minnesota, Mrs. McCARTHY, Mr. FORD, Mrs. CHRISTENSEN, Mr. MATHESON, and Mr. EDWARDS):

H. Con. Res. 87. Concurrent resolution recognizing the positive effect of veterans outreach activities known as Stand Down events on the lives of homeless veterans and commending the organizers of Stand Down events across the Nation; to the Committee on Veterans' Affairs.

## MEMORIALS

Under clause 3 of rule XII,

9. The SPEAKER presented a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 32 supporting the continuation of research and development programs in space science missions in order to take full advantage of the previous investments made in the space stations and other NASA infrastructure, supporting NASA's goal of returning to the moon as well as conducting excursions to Mars and beyond, and memorializing the United States Congress to enact and fully fund the proposed Vision for Space Exploration Program as submitted to the Congress in the FY 2005 budget; to the Committee on Science.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. RYAN of Ohio and Mr. HOLT.

H.R. 47: Mr. ALEXANDER, Mr. WAMP, Ms. FOXX, Mr. HERGER, Mr. BROWN of South Carolina, and Mr. PETRI.

H.R. 203: Mr. HIGGINS.

H.R. 204: Mr. HIGGINS.

H.R. 297: Mrs. CAPPS, Mr. CLAY, Mr. DEFAZIO, Mr. MORAN of Virginia, Mr. MENENDEZ, Mr. ETHERIDGE, Mr. CUMMINGS, Mr. ROTHMAN, Mr. McNULTY, Mr. McGOVERN, Mr. STARK, and Mr. SERRANO.

H.R. 302: Mr. EVANS.

H.R. 354: Mr. CARTER.

H.R. 444: Mr. INSLEE and Mr. MORAN of Virginia.

H.R. 521: Mr. VISCLOSKY, Mr. BROWN of Ohio, Mr. LIPINSKI, and Mr. LOBIONDO.

H.R. 583: Mr. McDERMOTT and Mr. McHUGH.

H.R. 602: Ms. GINNY BROWN-WAITE of Florida, Mr. TIERNEY, Mr. HINCHEY, and Mr. BERMAN.

H.R. 689: Mr. GOODLATTE.

H.R. 1079: Mr. BARRETT of South Carolina, Mr. LEWIS of Kentucky, Mr. SHADEGG, Mr. LIPINSKI, and Mr. WILSON of South Carolina.

H.R. 1080: Mr. EMANUEL.

H.J. Res. 10: Mr. KUHL of New York, Mr. EDWARDS, Mr. BOSWELL, Mr. RYAN of Wisconsin, Mr. PLATTS, Mr. LATHAM, Mr. NEY, Mr. GENE GREEN of Texas, and Mr. KING of New York.

H. Con. Res. 65: Mr. RAMSTAD.

H. Con. Res. 76: Mr. MARIO DIAZ-BALART of Florida and Mrs. JO ANN DAVIS of Virginia.

H. Res. 61: Mrs. DAVIS of California.

H. Res. 90: Mr. ACKERMAN, Mr. SMITH of New Jersey, Ms. BERKLEY, Mr. LYNCH, Mr. WOLF, Mr. MEEKS of New York, Mr. SMITH of Washington, Mr. McCOTTER, and Mr. PAYNE.

# SENATE—*Monday, March 7, 2005*

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Merciful God, Who lives and reigns forever, You know every heart and mind. You are the shield and protection of those whose hearts are right. We thank You for being so near to us. We thank You also for the gift of life and for the blessing of this new day.

Give wisdom to our lawmakers in their work. Let kindness and justice characterize their deliberations. May the decisions they make help build defenses for the weak and shelters for the strangers. Give them words that will bring healing and a renewal of hope.

Destroy the power of evil and give strength to those who follow You. God all powerful, listen and answer, for we trust in You. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Leahy amendment No. 26, to restrict access to certain personal information in bankruptcy documents.

Feinstein amendment No. 19, to enhance disclosures under an open end credit plan.

Kennedy amendment No. 44, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Dorgan/Durbin amendment No. 45, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Pryor amendment No. 40, to amend the Fair Credit Reporting Act to prohibit the use of any information in any consumer report by any credit card issuer that is unrelated to the transactions and experience of the card issuer with the consumer to increase the annual percentage rate applicable to credit extended to the consumer.

Reid (for Baucus) amendment No. 50, to amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by a vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease.

Dodd amendment No. 52, to prohibit extensions of credit to underage consumers.

Dodd amendment No. 53, to require prior notice of rate increases.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today, we are resuming consideration of the bankruptcy legislation. Under the order from last week, at 2:30, we will begin 3 hours of debate in relation to the Kennedy and Santorum amendments regarding minimum wage. That consent agreement provides for two votes to begin at 5:30 today on the Kennedy and Santorum minimum wage amendments.

I do remind my colleagues that a cloture motion was filed on Friday, and that cloture vote will occur at 2:15 on Tuesday. Senators should also be aware that under the provisions of rule XXII, and pursuant to our unanimous consent agreement, all first-degree amendments should be filed by 2:30 today and second-degrees by noon tomorrow. We also have a unanimous consent agreement that provides for a vote in relation to the Schumer amendment at 12:15 p.m. tomorrow, on Tuesday.

With that said, we will have busy sessions over the next couple of days as we try to finish our work on the bankruptcy bill. I do hope we can invoke cloture tomorrow afternoon and bring this bill to a final vote. As all Senators know, if cloture is invoked, germane amendments are still in order, and there could be up to an additional 30 hours of consideration.

Last week, we had a productive week. We had full days of debate and votes. Therefore, I expect we will complete action on the bill either Tuesday or Wednesday of this week.

Mr. President, I would be happy to turn to the Democratic leader.

Mr. President, I would like to make a few comments on another issue now because at 2:30 today we will be going to the debate on the minimum wage amendments.

### PILGRIMAGE TO SELMA AND THE 40TH ANNIVERSARY OF BLOODY SUNDAY

Mr. President, I rise to spend a few moments reflecting on a historical event that occurred 40 years ago today. Historians view the 1965 Selma to Montgomery Voting Rights March as one of the emotional high points of the modern civil rights movement that began in the 1950s.

Yesterday, a number of Members of Congress went on a pilgrimage to Selma and marched across that Edmund Pettus Bridge. I was part of that delegation. I had that opportunity to do that same march in remembrance of the Selma to Montgomery 1965 crossing of that bridge in the past.

From a historical standpoint, as we look back, we recall that 40 years ago today—actually on a Sunday—but 40 years ago today, on that Sunday, on that march, approximately 600 people left historic Brown Chapel and walked a few blocks and then went around the corner and over that Edmund Pettus Bridge, going east toward Montgomery. They went on the other side of that arching bridge, and they encountered local law enforcement officers. The group of officers and some others drove the marchers back across the bridge in a violent episode and series of actions over the next few minutes. They were pushed back the equivalent of several blocks over the bridge and then back to the church.

The activity was chaotic. They had billy clubs, tear gas. Most of us are familiar with the tragic story. That Sunday now has become known, since that time, as Bloody Sunday, and thus today is the 40th anniversary of Bloody Sunday. That Bloody Sunday earned, appropriately, national attention. And much of what happened in terms of the evolution of the civil rights movement, reaching that huge landmark on August 6, 1965, when President Johnson signed the Voting Rights Act, was realized.

Just a couple of comments about the course of the day. Again, it was a large bipartisan delegation of House and Senate Members. We arrived in Selma early yesterday morning and visited two of the museums there. We then went to the church service at the historic Brown Chapel AME, African Methodist Episcopal, Church.

I had the opportunity to visit and worship in that church before, but yesterday it captured me. The church itself was packed. It is a historic church, and there is a large balcony in the back and balconies on either side.

As our delegation, which was probably 40 or 50 House and Senate Members, crowded in with another several

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

hundred people, with the balconies full, you could not help but to imagine what it must have been like 40 years ago—41, 42 years ago. In that period, that church became the real refuge, sense of security for the movement that evolved and really instigated, in many ways, the ability for all Americans to vote today, culminating in that signing by President Johnson later in 1965, on August 6, 1965.

Yesterday, in the church service, Rev. James Jackson, the pastor of that church, opened the service itself. And we had a wonderful sermon that was delivered in commemoration by the Rev. C.T. Vivian. Reverend Vivian was an inspirational speaker in his presentation.

But what was fascinating to me was it was his early participation, really, in Nashville, TN, working alongside others who were there yesterday. Congressman JOHN LEWIS and so many others, that in Nashville that nonviolent movement, and the discipline involved in that movement, was developed. It was developed in meetings, in churches all over Nashville, TN, setting out a defined curriculum based on the great teachings in the Bible and from Gandhi and so many others.

It was that same discipline that yesterday now-Congressman JOHN LEWIS shared with us, as they marched from Brown Chapel, two by two by two, where he and Hosea Williams led that march up on that sidewalk, dressed in their suits, recognizing that once they got over that bridge, or to the peak of that bridge, at the bottom of the hill down there, there were law enforcement officers whom they knew in all likelihood would drive them back.

Yesterday was a gorgeous day. To be able to march arm in arm, linked across that bridge, with people like Congressman JOHN LEWIS and Fred Shuttlesworth, who played such a prominent role in Birmingham, and Bernard Lafayette, a close personal friend of mine who now lives in Connecticut, was a great privilege and a great opportunity.

I share all this with my colleagues to thank those who could be with us but also in recognition of today being that 40th anniversary that, yes, was called Bloody Sunday, but did become a turning point and led to the rights that we all enjoy today, but underscoring the importance of fighting for, with discipline and nonviolence, those rights of justice and equality and freedom.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Oregon.

### ENERGY PRICES

Mr. WYDEN. Mr. President, with crude oil prices at almost $54 a barrel, and OPEC meeting in 9 days, I have come to the floor this afternoon to urge the administration to pursue what they promised: that is, to stand up for our consumers who are facing high oil and gasoline prices.

The news just this last weekend was not good on the pricing front as it relates to the American consumer. The Lundberg survey of American gasoline retailers came out Sunday and confirmed what a lot of Americans suspected. The price of gas is rising high, and it is rising fast.

According to the survey that came out Sunday, the price of gasoline has risen nearly 7 cents per gallon in the last 2 weeks, across the board, for all grades. And the Lundberg survey indicates that this is just the beginning, that higher prices are on the way.

Now, last week, Mr. President and colleagues, I asked the U.S. Secretary of Energy, Mr. Bodman, whether he was going to do what the administration promised: that is, to stand up for the consumer and try to push OPEC as hard as possible to get some pricing relief when they meet in a few days.

Mr. Bodman said, in response to my questions, that he had not made that call and, well, he had a whole lot on his plate. I do not think that is good enough. I think we have to ask this administration, and the President specifically, about using their political capital now to stand up for the American consumer who is getting clobbered by these gasoline and oil prices.

If they are not going to use it now, when are they going to use it? Why not use it on behalf of American consumers when there is such a demonstrable cause and effect between the price of crude oil rising and the price of gasoline rising?

Over the weekend, the Secretary of the Treasury, Secretary Snow, said rising energy prices have the potential to stifle economic growth in the near future. Maybe Secretary Snow is willing to get on the phone with OPEC if Secretary Bodman will not. But I know somebody ought to be doing it. And that is exactly what the President of the United States promised in 2000. He said that if the country elected him, he would push OPEC very hard to try to turn on the spigot and get some pricing relief.

OPEC is making all the usual noises. They are concerned, they have said, about rising prices. They think the market has plenty of oil.

As I said before, OPEC is going to look out for OPEC. The question is whether this administration is going to stand up for the American consumer as they promised in 2000. If the Secretary of Energy won't pick up the phone to do that, the American people deserve a better answer than to say, Well, gosh, I have a whole lot on my plate. If the average American didn't send their tax return in on April 15 saying, Gosh, I have a lot on my plate. I don't think that would be acceptable, not to this administration, not to me, not to anybody. So the excuse doesn't wash when it comes to the Energy Department's duty to go to bat against high oil prices.

We need, at home, on a bipartisan basis, as it relates to OPEC abroad, to stand up for our consumers who are faced with escalating energy prices that seem to go up by the day. I don't think it is right to let OPEC run roughshod over the American consumer and we make no comment other than to say, Gosh, we have a lot on our plate.

Nine days from now OPEC is going to meet. Time is ticking away. But there is still time for the administration to deliver on what they promised to the American people; that is, to protect our consumers from high oil and gasoline prices. I urge they take just that action. If Mr. Bodman won't do it, as he indicated last Thursday, maybe somebody else in the Bush administration will.

I yield the floor.

The PRESIDENT pro tempore. As a Senator from the State of Alaska, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 256 which has been reported.

Mr. McCONNELL. Mr. President, I rise today on behalf of every American who each year is forced unknowingly to pay a hidden tax. We all know we have to pay an income tax, a sales tax, a payroll tax, but what about a bankruptcy tax? You may not have heard of this tax, but you and every other man, woman, and child in America pay it every single year. It is the accumulated cost of higher interest rates on credit, higher downpayments on a car or other essential items, and higher penalty fees and late charges for financial transactions. It is the result of the abuse of America's bankruptcy system which allows people who still have the ability to pay back some or all of their debt to declare bankruptcy and escape responsibility for what they owe.

Somebody has to pay those unpaid bills. And that somebody is you. Companies have no choice but to pass them on to the consumer.

When I mention this bankruptcy tax, you may think I am talking about small change, the kind of money you can find under your couch cushions. You would be wrong. According to a Department of Justice study, the bankruptcy tax amounts to a staggering $400 for every man, woman, and child in America once a year every year. Let me repeat that so I can be sure it soaks in. That is $400 for every man, woman, and child in America once a year every year.

That amount of money would mean a lot to a family in my home State of Kentucky where the median income is $36,936 a year. That means the average Kentuckian has to work 4 days a year to pay the bankruptcy tax. In fact, it is the lower income families who feel the sting of the bankruptcy tax the most. Higher interest rates can stop them from getting access to credit for a home, transportation to a necessary job, or even higher education.

Our bankruptcy system was originally created to give those who were hopelessly mired in debt a way out and a second chance. As long as it was used sparingly and applied only to those who most needed its mercy, it was the compassionate way for America to make sure that none of her neediest became trapped in a lifetime of deficit and despair. But in recent years, too many are abusing the bankruptcy system. Last year nearly 1.6 million individuals filed for bankruptcy, a record high. This number is five times greater than the number of individual bankruptcy filings 20 years ago.

It seems odd so many more Americans would choose bankruptcy over that 20-year period, especially when you recognize that the last 20 years have set new records for economic growth, low unemployment, and low interest rates. The answer to this mystery is fraud and abuse of the bankruptcy system. In fact, the FBI has estimated over 10 percent of all bankruptcy filings involve at least some fraud.

Bankruptcy was created as a ladder to greater economic opportunity. It should not be an escape hatch to avoid responsibility. A few weeks ago this Senate, on a bipartisan basis, passed the moderate, commonsense Class Action Fairness Act to curb some of the abuses of our legal system. It was the first substantive bill passed by this new Congress. It was supported by Democrats and Republicans and has been signed into law by President Bush. I am very pleased that this 109th Congress has started off in a tone of bipartisan agreement and cordiality. I think passing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 can be the next step in furthering that sense of cooperation. Like the Class Action Fairness Act, this bill is a moderate, commonsense bill with bipartisan support. It passed out of the Judiciary Committee with bipartisan support. It has passed this Senate with bipartisan majorities before. It should be entirely within our power to pass it now and send it on to the President for his signature.

Right now individuals have two options for declaring bankruptcy. They may file under chapter 7, surrender their assets to be sold, and then be released from all debt. They start again with a fresh slate, leaving their creditors unpaid.

The second option is to file under chapter 13. In that case an individual must work with a bankruptcy court and draft a payment plan to satisfy as much outstanding debt as possible, given the debtor's income. The problem is too many people are filing under the more lenient chapter 7, leaving their debts unpaid even when they have sizable income and sizable assets. Some are choosing it as an avenue to commit fraud.

The bill currently before the Senate will institute a means test to sort out those who file chapter 7 but actually have the ability to live up to their obligations. This is not a draconian measure, by any means. Only about 7 to 10 percent of chapter 7 filers will be screened out by the means test which will be administered by a bankruptcy court.

Any debtor who earns less than their State's median income—and that includes about 80 percent of the debtors in question—will remain in chapter 7. Those earning more than the State median income will be allowed to deduct certain obligations and expenses from their net worth, thus allowing some of them to also remain in chapter 7. And anyone left will be able to show special circumstances for why they should be allowed to still file under chapter 7. So there will be plenty of opportunities for the neediest among us to file chapter 7 and use the safe haven of bankruptcy as it was originally intended.

Those remaining will be required to file under chapter 13. It is not too much to ask people to pay back what they owe when they clearly have the means to do so. And those who are abusing the system will be exposed. Catching the individuals who are defrauding the system to avoid responsibility will save America $3 billion a year—a good start for reforming our system. That $3 billion rightfully belongs to the American people who are forced to pay the egregious bankruptcy tax. They are being robbed by an unscrupulous few.

It is our responsibility to end the fraud and abuse in the bankruptcy system by passing this bill. It will strengthen our economy, and it is also the right thing to do.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the hour of 2:30 having arrived, there will now be 3 hours of debate, equally divided, on the Santorum and Kennedy amendments.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, we have an hour and a half on our side.

The PRESIDING OFFICER. The Senator is correct.

### AMENDMENT NO. 44

Mr. KENNEDY. Mr. President. I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is laid aside.

Mr. KENNEDY. Mr. President, at 5:30, the Senate will have an opportunity to vote on an increase in the minimum wage, and we have not had an opportunity to increase the minimum wage for some 8 years. The purchasing power of the minimum wage is now probably at its second lowest purchasing level in the history of the minimum wage and is deteriorating every single day, in terms of purchasing power.

These individuals that work at the minimum wage are hard-working individuals, men and women of great pride—primarily women, and women with children, and in many instances men and women of color. Historically, this issue has not been a partisan issue. Republicans and Democrats have joined together to raise the minimum wage because we have believed as a country and as a society that work is important, work should be rewarded, and that men and women who work hard, 40 hours a week, should not have to live in poverty, particularly those who have children. Nonetheless, we have seen that those millions of workers who work hard and work at the minimum wage have been falling farther and farther behind.

People can ask, why is this relevant to the bankruptcy bill? In fact, a third of all bankruptcies take place from people who have income below the poverty level.

What we see on this chart is the fact that the real minimum wage has fallen now to just about $10,000 a year for a family of three. It is about $5,000 below the poverty line. If you are able to get individuals up so they have more purchasing power, particularly against the background which has seen an explosion of health care premiums, housing costs—in my own State of Massachusetts, we have the second highest housing costs of any State in the country. The cost of the general standard of living has put enormous pressure on these individuals that are hard-working and are at the lower end of the economic ladder. So this has a direct relevancy to the bankruptcy bill—trying to raise individuals to a point where they are going to be able to meet their financial obligations; that is extremely important. We have seen, as I just mentioned, over the period of these past 5 years what has happened with health insurance, college tuition, housing, and gasoline.

Most of these minimum wage workers have no such thing as health insurance, few are able to save for college tuition, housing has gone up dramatically, and many of them are dependent upon driving in order to get to available jobs. So they have been enormously impacted by the increase in costs. We have seen that four million more Americans have gone into poverty over the last 4 years. As a result of the census, more than 1 million more children have gone into poverty over the last 4 years.

These statistics tell the story. What also tells the story is this chart, which shows that Americans' work hours have increased more than any other industrialized country in the world. This chart indicates, using a baseline, what has happened from 1970, the last 30 years, in terms of people working. We found out that Americans are working longer and harder than in most other industrial nations in the world. What we find is that they are working longer and harder and, look at the results of working long and hard. They are producing more but making less. The increase in terms of productivity has been anywhere from 25 to 30 percent American workers. Do you think that has been reflected in any increase in the minimum wage? Absolutely not. That is because Congress has been unwilling to increase the minimum wage. As a matter of fact, when I offered this legislation even on the welfare bill, which my friend and colleague from Pennsylvania says is where it belongs, the legislation was pulled last year, rather than having a debate and vote on an increase in the minimum wage.

I offered it on State Department reauthorization because the other side—the Republican leadership—would not give us an opportunity or a vehicle on which to consider this legislation, or by itself, so it was necessary to try to amend existing legislation. They said, oh, no, and they pulled that legislation. When I offered it last year on the class action bill, they pulled the class action bill because they did not want to vote on an increase in the minimum wage.

So we find that Americans are working harder; we find a dramatic increase in productivity; we see explosions in cost; we see the purchasing power of the minimum wage going down to its second lowest level; and we see that so many of these individuals who are below the line of poverty end up in bankruptcy.

This is just the background. There will be those who will say we cannot really afford to have an increase in the minimum wage because it is going to add a great deal to the problems of inflation. Right? Wrong.

First of all, this chart indicates exactly what the impact of the increase in the minimum wage is in our budget. All Americans combined earn $5.4 trillion a year. A minimum wage increase to $7.25 would be less than one-fifth of 1 percent of national payroll. Do we understand that? The payroll is $5.4 trillion a year and we are talking about less than one-fifth of 1 percent. This doesn't have an adverse impact on inflation in terms of this country. We have seen from the various studies, which we will refer to later, that neither does it have in terms of employment.

This is an issue, ultimately, about fairness. That is why this is so important. It is interesting that this Congress has not hesitated to vote itself a pay increase during this period of time, but not for the minimum wage earners. The height of hypocrisy will be this afternoon. The height of hypocrisy will be this afternoon when those individuals in the U.S. Senate say no to $7.25 an hour for hard-working Americans after they have accepted a $28,500 pay increase for themselves over the last 8 years.

Do you understand that? They have been willing to vote on a pay increase for themselves, and we will find out whether they are going to vote for hard-working Americans who are trying to make ends meet and provide for their families and their children.

It is as stark as that. That is what happened. This is where the minimum wage has been since the last increase in 1997. It has been flat over all these years—but not for the Members of Congress. You can understand why Members don't want to vote on increasing the minimum wage; it is because of that.

It is not very surprising to me because we had an increase under the first President Bush. We had an increase in the minimum wage under President Ford and one under President Eisenhower. We have had it in a bipartisan way throughout history. But absolutely not now. The Republican leadership in the House of Representatives and the Senate of the United States says, no way. This is the record of where we have seen it: Dwight Eisenhower, Jerry Ford, the first President Bush, Franklin Roosevelt, John Kennedy, Lyndon Johnson, Jimmy Carter, and Bill Clinton. It has been bipartisan over the period of history.

It is baffling to me why in the world we cannot get an increase now. What is the reason? What is the reason we hear so much about values? Don't we figure that working hard is a value in our society? Don't we think that rewarding work is a value in our society? We will find out this afternoon. We will find out this afternoon, at 5:30, whether our colleagues think that rewarding the men and women who work hard, not just on one minimum wage job but often two or three minimum wage jobs, is a value.

A principal, in surveys of children of these minimum wage workers, asked the children what their biggest complaints are. It is not that they are not able to get Christmas presents at Christmastime. It is not that they cannot afford to buy a birthday present for a fellow student's birthday. It is not that they cannot afford any skates to be able to join the other children skating. It is that they say they don't see their parents enough. They don't see their parents enough. There is not enough time with their parents. That is repeated time in and time out, again and again, as one of the primary concern of the children of minimum wage workers.

Here we are debating the bankruptcy bill that has been written by the credit card companies, which have $30 billion in profits this year and are looking to collect billions of dollars more as a result of this legislation. That is going to turn our bankruptcy courts into collecting agencies for the credit card industry. And we are going to say, oh, no, no, we cannot afford $7.25 for working men and women.

We can afford billions of dollars for the credit card companies—and I mean billions of dollars, probably the most profitable industry in this country—but we cannot afford to have an increase in the minimum wage. No, it adds to the payrolls of companies. It is going to be inflationary. Why are we setting a minimum wage? Let these people work harder.

At 5:30 p.m., we are going to have two votes. One is going to be to increase the minimum wage to $7.25 an hour in three steps: 70 cents 60 days after enactment, 70 cents a year later, and 70 cents a year after that. My friend from Pennsylvania has offered an alternative amendment, the Santorum amendment. For those who are giving some thought to the fact that maybe going to $7.25 is a little bit too much, maybe the Santorum amendment makes more sense. I hope they will listen to me now.

The Santorum amendment gives half of the increase to minimum wage workers with one hand and then—listen to me—takes away minimum wage, overtime, and equal pay rights from over 10 million workers with the other hand. It takes just one page of the Santorum amendment—here is my amendment, Mr. President. It is three pages to raise the minimum wage to $7.25. Here is the Santorum amendment—85 pages. If he was only raising the minimum wage half of what I propose, he would be able to do it in three pages, too. That ought to say something to our colleagues.

What else is in the amendment? It is extraordinary. It takes one page, as I mentioned, to raise the minimum wage, and 84 pages are special interest giveaways that take rights away from workers.

The Senator from Pennsylvania has a record of opposing the increase in the minimum wage, and I understand that. That is his record. He has voted against it at least 17 times in the last 10 years, so today is really no different.

The Santorum amendment will increase the minimum wage by $1.10 cents an hour. It will benefit 1.8 million workers. Do we understand that—1.8 million workers. He goes up to $6.25. Ours goes to $7.25 and benefits 7.3 million directly and an additional 8 million more Americans; 3.4 million of those are parents with children. But Santorum benefits only 1.8 million. He is not just saying we will take $6.25 in place of $7.25; we only want that. Oh, no, he is only covering 1.8 million. That is enormously important.

So what does he do? The Santorum amendment makes more than 10 million workers no longer eligible for the minimum wage, no longer eligible for overtime pay, no longer eligible for equal pay rights by repealing the individual coverage under the Fair Labor Standards Act and raising the threshold to $1 million a year from $500,000. Those workers who work in the small stores that are involved in interstate commerce who are covered under minimum wage, not under Santorum, are excluded. If there is a State minimum wage, they are covered. We have a number of States that do not have any minimum wage whatsoever. Then he raises the level from $500,000 to $1 million as a threshold for the coverage.

This is what he does: By eliminating the individual Fair Labor Standards Act coverage and raising the business exemption to $1 million, the Republican proposal jeopardizes worker protections for over 10 million workers. Those workers will lose minimum wage, overtime, and equal pay protections.

What do I mean by they lose overtime? This is what the Santorum amendment does. Under current law, if the employer wants to work out flexible time with their employees, they can do it as long as it is done within the 40-hour workweek. That is all legitimate and fair. But under the current law, if an employer wants to work a worker 50 hours this week and 30 hours the next, they have 10 hours of overtime. Under the Santorum amendment, they can work 50 hours one week and 30 hours the next and no overtime. This affects millions of workers who are going to find out they are going to get a real pay cut. That is what is in the Santorum amendment.

The Santorum amendment also prohibits States from providing stronger wage protections than the Federal Government for waiters, waitresses, and other employees who rely heavily on their tips for earnings. Do we understand that, Mr. President? The Santorum amendment puts the long Federal arm right at the throats of the States and tells them there is no way they can provide the extra reimbursement to these workers.

In the State of Pennsylvania, employers are required to pay their tipped employees $2.83 an hour. Yet this amendment would deny the hard-working waiters and waitresses the 70 cents an hour employee-provided wages. That is not true in every State, but Pennsylvania made that decision. And here on the floor of the Senate is an amendment to deny the people of Pennsylvania from carrying forward their judgment.

Mr. President, 22-year-old Julie Phillips in Johnstown, PA, is working two part-time jobs—one at minimum wage making $5.15 an hour and another as a waitress at a Chinese restaurant. This amendment would deny Julie 70 cents an hour in wages from her minimum wage job. She would have to rely on unpredictable tips from her second job instead.

The amendment also gives a free pass to violators of a broad range of consumer, environmental, and labor protections by prohibiting the Federal agencies from assessing civil fines for first-time reported violations. It also preempts the ability of States to enforce these laws. The States are enforcing these laws, but under the Santorum amendment, they will be denied the opportunity to enforce those laws. Those laws are there to protect the workers, but he preempts the ability of States to enforce these laws.

Once again, we are on the Senate floor with legislation written by special interests which will help them the most. The bankruptcy bill was written by the credit card companies, the class action bill was written by corporations, deceiving and overcharging their customers, and now we have the minimum wage bill written by the restaurant industry and retailers looking for a way to fatten their bottom lines. If the Republicans were truly interested in raising the minimum wage, they would not have loaded their proposal with these antiworker poison pills that are special interest giveaways. It is hard to believe our Republican colleagues are serious about this thinly veiled attack on low-income workers.

There are many ways to help small businesses without denying rights to millions of minimum wage workers. We worked together in the past to provide reasonable small business tax relief, along with the minimum wage. I would be willing to do that again. Three times in the last Congress, the Republican leadership brought down a bill rather than let us vote on it. So their actions speak louder than words.

A week ago, our Republican friends were touting their so-called antipoverty agenda. But as we see with their agenda, what they really are doing is creating a deeper poverty agenda. If they are truly serious about helping hard-working families rise above the poverty line, they will support our amendment to give a fair raise to America's low-income workers.

It is shameful that in America today, the richest, most powerful Nation on Earth, nearly one-fifth of all children go to bed hungry because their parents are working full time at the minimum wage and still cannot make ends meet. That is a key part of any real antipoverty agenda: ending childhood poverty. But the Republican proposal will actually plunge even more children into poverty.

Mr. President, 3.4 million children have parents who would get an immediate raise under our proposal. Hundreds of thousands of those children will be left behind by the Santorum amendment. The poison pills in the Santorum amendment will be particularly harsh for children. Think about the single mother with two children working as a waitress in Minnesota. Under the Santorum amendment, she will lose her guaranteed right to the minimum wage, leaving her paycheck smaller and her children less secure. Think about a garment worker working 80 hours a week to provide for her family. Her husband, a janitor, relies on overtime as well to pay for food, rent, and clothes for their children. They will lose their overtime coverage under this amendment, and both parents will take a pay cut. Some antipoverty agenda.

According to the Families and Work Institute, among the most important aspects children would most like to change about their working parents are these: They wish their parents were less stressed out by their work; they wish they were less exhausted by their work; and they wish they could spend more time with them. But this amendment will deny overtime for more than 10 million workers, leaving them less time to spend with their children.

What is more, this amendment would tie the hands of Federal and State agencies trying to enforce the Federal laws that protect families, children, and communities. It weakens the gun safety protections under the Brady Act, which could lead to an increase in weapons sales to criminals, jeopardizing our neighbors and children's safety. It weakens environmental laws that require companies to disclose their toxic emissions. It weakens reporting requirements under the Clean Water Act and Safe Drinking Water Act. It undermines consumer protection laws that require companies to report on the safety of their food. These provisions put all Americans, especially children, at risk of increased exposure to pollution, toxic substances, and serious illness from unsafe foods.

We teach our children the importance of hard work. We encourage them to do their best in school and be good citizens. We tell them their reward will be good jobs that fulfill their hopes and dreams and enable them to support healthy families. That is what America is about. But for the 36 million Americans who live and work in poverty today, that dream is unfulfilled. They work as hard as any American—often harder—but too often they are forced into bankruptcy because the minimum wage will not cover their bills and give their families the support they need.

We can no longer turn our back on our fellow citizens, but that is exactly what is happening in the Senate. Raising the minimum wage is critical to preventing the economic free-fall that often leads to bankruptcy. Amending the bankruptcy bill to increase the minimum wage will help many of the people this so-called reform is likely to hurt: low-income families, minorities, and women.

As I mentioned, nearly a third of those who file for bankruptcy are in poverty at the time they file. That is half a million families who are already living below the poverty line and will be plunged into further hardship with this bankruptcy bill, and many of them are minimum wage earners.

In the current economy, millions of Americans are suffering: 8 million are unemployed, 45 million are without health insurance, and 13 million children live in poverty. Poverty has doubled for full-time, full-year workers since the 1970s. Minimum wage employees work 40 hours a week, 52 weeks a year, and they deserve to be fairly paid.

Low-income families are being squeezed in every direction by the economy, and families are just barely balancing on a cliff of piling bills, hoping they will not topple over. Their costs are rising but not their wages.

To make matters worse, the credit card companies prey on low-income workers. They know these workers are desperate. They offer loans at exorbitant interest rates that are made to seem cheaper than they are by three of the most deceptive words in the English language: minimum monthly payment.

While workers struggle, credit card companies reap skyrocketing profits from their hardships. This is not only an economic issue, it is a family issue and women's issue. Divorced women are 300 percent more likely than single or married women to find themselves in bankruptcy court, often because they are owed child support or alimony and cannot collect it. They are trying to raise their children but they face a daunting challenge. This bill will make it harder for them to meet that challenge.

Sixty-one percent of those who will benefit from the minimum wage increase are women and one-third of those women are mothers. The minimum wage is so low today that many workers have to work several minimum wage jobs in order to make ends meet.

Look what our program will do: Raise the minimum wage to $7.25. That is $4,400 to a minimum wage family. That is 2 years of child care. That is full tuition for a community college. That is a year and a half of heat and electricity. It is more than a year of groceries. It is more than 9 months of rent. That may not sound like a lot for people around here, but that means a great deal to the people who can benefit from this.

History clearly shows that raising the minimum wage does not have a negative effect on jobs, employment, or inflation. In the first 4 years after the last minimum wage increase, the economy had its strongest growth in three decades. More than 11 million new jobs were added at a rate of 200,000 a month. Compare that to the 530,000 private sector jobs lost since this administration took office.

Minimum wage will not cause more job losses, but staying the course on failed economic policies will. Overwhelming numbers of our fellow citizens in Nevada and Florida showed the way last November by voting for a higher minimum wage in their States. It is time for the Republican Party to stop obstructing a fair increase in the minimum wage for all employees across the Nation, and I hope that our Members would support this.

I ask unanimous consent that Senators LIEBERMAN, DURBIN, SARBANES, and HARKIN be added as cosponsors to the amendment.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise to oppose the Kennedy amendment. I appreciate very much the Senator's remarks and his commitment and passion on this issue, but I did want to make a couple of brief points before Senator SANTORUM, who is offering an alternative, has a chance to talk about the provisions of his amendment.

While I appreciate the belief of the Senator from Massachusetts, I do think it is important to take a step back and allow this debate to include a sense of what the deeply held concerns are about raising the minimum wage, because it is not all a single-sided story. I do not support the Kennedy amendment because I do not support raising the minimum wage, and the reason is as follows: When the minimum wage is raised, workers are priced out of the market. That is the economic reality that seems to be missing, at least so far, from this discussion.

When the minimum wage is raised, some workers are priced out of the labor market, and we could have a discussion about how many are priced out of the market, what mechanisms we might have to deal with that fact, but it is an economic fact and the proponents of raising the minimum wage like to dismiss this by saying, well, we have a hard time measuring it, or the economy is large, or we have not been able to measure significant increases in inflation as a result of increasing the minimum wage.

I am not talking about inflation necessarily or economic growth. I am talking about the workers themselves who are priced out of the market, and if one does not believe that or they want to dismiss the economics, think about this: If there was not an economic impact, why are we not debating raising the minimum wage to $20 an hour?

Well, the answer is obvious. Because if the minimum wage were raised to $20 an hour, even the proponents of the Kennedy amendment would have to admit it would be cost prohibitive. Thousands, if not millions, of people would be priced out of the market. The number of jobs would shrink. Certainly the number of entry level jobs would be reduced.

Oh, but they say, we are not proposing raising the minimum wage to $20 an hour because we know that is not a good idea. Well, then why are they not proposing to raise it to $10 an hour? Because at $10 an hour they would still have to admit the negative economic effects on prices and on the total number of jobs, especially those at the entry level that would be priced out of the market. So instead they seek a lower level where the negative consequences are much more difficult to measure but they still exist, because it is an economic fact of life that when the minimum wage is raised, people are being priced out of the markets.

The same economic fact is true for $8, $7, or $6 an hour. People are being priced out of the market. I think this is most disturbing because those priced out of the market are the very ones who most need the opportunity. They are entry level workers. They are first-time job seekers. They are people making the transition from welfare to work and they are teenagers experiencing their first time in the labor force. They are the ones who most need that job opportunity to build a foundation to develop the experience that will enable them to earn even more money in the future.

If one does not believe that, they can go to any small business and ask them if they are hiring in at minimum wage—and there are very few firms that do hire in at minimum wage, but if they do, how long those employees actually earn at the minimum wage level. It is not long because once a person has shown 3, 4 or 6 months of ability in a role with an employer, their value has been proven and they are very quickly going to move above whatever the entry level threshold was.

Those who are going to be priced out of the labor market by an increase in the minimum wage are those who most need that first job opportunity, and that is why I strongly disagree with the Senator from Massachusetts and his amendment. The impact may be small, and our economy is $11 trillion. It may only be 10 jobs that are affected or 20,000 or 30,000 who never get that first job opportunity at a job. Unfortunately, it is very difficult to measure 10,000, 20,000, or 30,000 jobs in an economy the size of America's, but it is there. The economic consequences are real. Again, if one does not believe it, if they believe there are no economic consequences, then they should be willing to step down to the Senate floor and offer an amendment to raise the minimum wage to $20 or $30. Or why even stop there?

One final point I do want to make is in regard to a phrase that was used by the Senator from Massachusetts. It was a question or a phrase about rewarding work. The question was whether we were willing to stand up in the Congress or, I suppose, the Senate in particular, and reward work by supporting an increase in the minimum wage.

I have a concern about this phrase because it suggests that as Federal legislators it is our job to reward work. That may sound nice, but it suggests that it is our job to set prices, that it is our job to set wages, that it is our job to decide whether the work any citizen is doing in the economy, in the private sector, is worth a particular amount of money, whose work is worth more than someone else's and what kind of rewards does the Federal Government give the taxpayer for doing their job. That is not the role of the Federal Government. We should not be deciding who gets rewarded for work, whose work is of value and whose work is not of value.

In fact, there are few countries left on Earth where the central government has the responsibility of rewarding work in and of itself, and those are countries such as Cuba and North Korea that decide only the federal government should be able to determine what one earns or does not earn, how much one can charge and or not charge for a given good. Our job is to pass good legislation that creates an economic environment where people have incentives to commit capital to start businesses to create economic opportunity and to create jobs and a good quality of life.

It sounds nice to say we should reward work in the Senate, but the only way to do that in passing Federal legislation is to start and to try to set wages, to try to set prices, and to try to control the levers of the economy. We have seen where that slippery slope can be taken. We do not have to look farther than the former Soviet Union and the former eastern European countries that have rejected that kind of centralized state economy.

I appreciate the passion and the commitment of those on the other side. I think they are wrong on the economics because the economics hurt the very individuals who most need these entry level, first-time job opportunities. They are certainly wrong with the idea that setting prices for labor, setting prices for goods and deciding whose work has value and whose work does not have value should start in Washington, D.C. That is not the way our market economy works.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to offer an alternative to the Kennedy amendment on minimum wage. I listened in part to my colleague from Massachusetts describe that. Obviously I have a slightly different take on what my amendment does than the Senator from Massachusetts suggests, and I will go through that point by point and point out where the Senator from Massachusetts may have exaggerated some of the claims about what destruction this amendment would do to workers in my State or any State.

I start out by suggesting why I am offering an increase in the minimum wage. On this first chart it is important to see this green line which is the percentage of hourly workers who are paid the minimum wage. Since the minimum wage was instituted—actually not since it was instituted but in the last 25 years we can see that the percentage of workers now covered by the minimum wage is actually the lowest it has been in quite some time. It is 2.7 percent of hourly paid workers who now get paid the minimum wage. When one looks at that number, it sort of cries out a bit and says it is time to bring it back up to be not the absolute bottom where no one is paying that and there is effectively no minimum wage—very few people are paid it—to a point which sort of comports with at least recent history. That is what we are trying to accomplish with our amendment, which is to bring it back up to about here.

Our $1.10 increase over a period of 2 years would cover about 7.4 percent of all workers, which is actually slightly higher than it has been over the last 15 years and is a little above historic trends. Senator KENNEDY's increase would actually put it to about almost 17 percent of workers in the economy who would be making minimum wage, which at least going back to the 1970s would be much higher than it has ever been as a percentage of wages.

So I think what we are suggesting is something that comports with the current economy, certainly the way the economy has worked over the last 20-plus years, as opposed to something that harkens back to long ago days where this was not just a minimum, it actually had, as Senator SUNUNU suggested, a dramatic impact on the economy and a potentially very inflationary impact if one looks at where the wages were of this percentage of payroll and we have hyperinflation. You remember the 20-percent mortgages and all the other things that were going on during the time. That set the wages at a very high level. So look at how we are providing a responsible floor for workers without having, as Senator SUNUNU suggested, an impact on the economy, which could be inflationary and damaging to all workers, as well as, particularly, lower wage workers, looking at high rates of inflation, as well as making sure we do not disadvantage businesses by pricing them out of the ability to have workers, and also pricing laborers out of the marketplace.

When you have extraordinarily high rates, as Senator SUNUNU suggested, $20-an-hour, $30-an-hour minimum wage, you are going to be pricing a lot of people out of the workforce.

I think what we are suggesting is a responsible approach. It keeps up with the tradition over the past few years of a responsible floor for a minimum wage. I am very comfortable that our proposal keeps the balance between the ability of lower skill employees to enter the workforce at a wage in which they are compensated for the skills they bring to the job, and at the same time not forcing employers—because, again, see, we are pretty far down on the number of people working at this level—not forcing employers to forego employment with people in that slightly increased amount we are suggesting. So it is not going to hurt employment, it is not going to hurt their businesses dramatically, and to the extent it does, as Senator KENNEDY, at least, described the provisions—I don't know that he accurately described the provisions—we do have provisions in the legislation that deal with the smaller businesses.

It is a general rule in the Federal Government that we have lots of requirements—family and medical leave is one example, but there are others, labor laws—that exempt small businesses. We either do it by the number of employees or, in the case of the Fair Labor Standards Act, by the amount of revenue that employer happens to take in.

In this case, we do raise the cap from $500,000 of revenue for your business as being exempt from this provision to $1.2 million. That provision was set, by the way, back in 1990. If you would have indexed that for inflation, it would be $1.5 million today. So we are not even keeping up with inflation. We are actually well below inflation in the proposal that is being put forward, but we are capturing more small businesses that are not affected.

This just affects the States that sort of tie their minimum wage laws to the Federal laws. If you have a State that has no minimum wage—I think there are six or seven of those—they would stay at the $500,000 level. We left that provision in place, in a sense to protect workers because the States have not spoken on this. But for States that are tied to the Federal level, we raised it. Obviously, if the States want to go back, they are certainly welcome to do so. But it does provide an exemption for smaller businesses—those that are mom-and-pop stores, those who are just starting to build their business—from the Fair Labor Standards Act.

It is important to understand. There are other things I will go through, but before I move off into the other areas of the bill I want to talk about how important it is not to dramatically increase the minimum wage the way Senator KENNEDY has suggested.

What we have seen about overtime is that this is where we are today with the real value, if you add in a combination of the minimum wage and the earned-income tax credit. Why do we say the earned-income tax credit? You heard the Senator from Massachusetts talk about trying to support a family, trying to make a living. I am sure he is not going to go out and try to argue for the teenage son of a wealthy businessman, that we have to make sure they earn a minimum wage because that wealthy businessman's son needs the money. He may need it in his own right, but that is not the purpose of the minimum wage. That is not what it is for.

The argument for the minimum wage is we have to make sure those out there in society whom the Senator from Massachusetts talked about—the young lady in Johnstown, PA, making sure she had coverage. By the way, the provision we authored that Senator KENNEDY said applied to her with the tip credit doesn't apply to the State of Pennsylvania. It is written specifically to exclude States that have spoken on the tip credit. It is only those that have not that this covered. So the young woman in Johnstown, PA, is not covered by the provision. So the example given by the Senator is inaccurate.

But, again, going back to the central point, which is what are we trying to accomplish with the minimum wage, what we are trying to accomplish is helping those people trying to support a family or themselves out there working at low-wage jobs, welfare-to-work—that is the example that is used. I am someone, in my office, who takes that responsibility of making sure those who are on welfare have opportunities for employment and, in fact, in my office we have hired, over the course of my time in the Senate, eight people off of welfare-to-work. I take that responsibility as an employer, and also going out and talking to employers about the importance of giving people who are transitioned off of welfare, trying to make a living for themselves and their families, the opportunity to do so.

One of the ways we have done that is through the earned-income tax credit. What the earned-income tax credit does is target those who are trying to sustain a family. It helps them by building, on top of the minimum wage, some Federal support. But it is targeted support. That earned-income tax credit doesn't go to the teenager who is claimed on his father's income taxes who is a wealthy businessman. It goes to the mom who has two kids, who needs some help from the Federal Government to be able to support those children.

This is much more targeted relief, if you will, than the blunt instrument of a minimum wage increase.

Having said that, in this chart you see a decline—go all the way back to 1939. You see the earned-income tax credit comes in and you see the difference it makes up here recently. We are suggesting to bring it back up by $1.10. If you add $1.10 to $7.22, you are at $8.32, which would be higher than it has ever been with the combination of earned-income tax credit and minimum wage.

So, again, to suggest somehow or another, as the Senator from Massachusetts suggested, that his increase that would bring it off the chart, if you will, is a responsible increase—it is a blunt instrument that would benefit teenage kids of millionaires much more than it would benefit these moms here. Why? Because as you get into the higher income area, the earned-income tax credit goes away, it starts to phase out. So this blunt instrument of the minimum wage helps folks who are not the point of what a minimum wage is all about. When people come out here and say they need the minimum wage, they don't talk about the son of the wealthy businessman as the point. They talk about this mom. Increasing the minimum wage, yes, helps everyone—if you want to say "helps." Obviously, it will hurt many because they will not be able to keep their job at this high rate of pay, for the maybe low skills that the employee may bring to the business.

But here is what we do. What we do is balance it. We raise it slightly to bring the level up to at least this level, which is where it was several years ago when we last raised the minimum wage, without affecting employers and the ability for low-skill workers to get the jobs they need and to hold on to them and not to disproportionately benefit a lot of workers out there making minimum wage who are not the point of the minimum wage, and that is folks who are doing so sort of as a side line and are not in need of Government interference in the market to make sure that they have plenty to eat and a place to sleep.

It is a much more surgical attempt. I think what we are attempting makes a lot more sense, to help those in need more directly, more surgically, than the blunt instrument the Senator from Massachusetts has suggested. I encourage our colleagues, when they look at our amendment, I encourage Republican and Democrat colleagues to look at what we want to accomplish.

Let me talk about another provision the Senator from Massachusetts seemed to focus on quite a bit, which is the issue of flextime. The Senator from Massachusetts talked about how flextime in this legislation is going to force workers into working more than 40 hours a week and deny them all of these—I will not repeat it. Read the transcript. Read the Senator's arguments about how devastating this would be to people, to have flextime imposed upon them.

No. 1, this provision as written does not impose anything. What it says is that the employer and the employee have to enter into a written agreement, where both have to sign, to agree that the employee will work more hours in 1 week—no more than 10 in addition to the 40 hours, in exchange for commensurate hours off the following week. Again, it is mutual agreement. It has to be in writing. Of course, the employee can decide to withdraw himself or herself from that agreement.

I happen to believe that flextime is a good thing. We have several employees in my office who job share, who use flextime. Federal employees have been able to use flextime for a long time. It is something that is very popular in the Federal workforce. What we are trying to do is make it available to others outside. Why? I can tell you an example in my own office. The people who job share and have flexible hours are moms who are in the workplace. Obviously, we have seen a dramatic change in the workplace in the United States since the minimum wage laws and the 40-hour workweek was put in place. This entry into the workforce of nontraditional workers, if you will, has given rise to a lot of workers seeking to have their hours reflected with their obligations at home. What we are trying to do is have the laws of the Federal Government reflect the changing dynamics in the workplace without forcing anybody into a situation where they are not getting fairly compensated.

But as I talked to I don't know how many parents who are friends and neighbors and constituents, they suggested to me the most important thing they would like to get out of the workplace is more flexibility and more time to be able to do the things that their other job—most people think their more important job, and that is being a husband or a wife or a father or a mother—requires them to do at home.

The most amazing thing is the Senator from Massachusetts opposes this. I know many who are supporters of the Kennedy amendment and oppose this, also. We just went on to the AFL–CIO Web site and just pulled off some things. This is their Web site. You can read the small print, the exact Web page:

> Alternative work schedules encompass work hours that do not often necessarily fall inside the perimeters of the traditional and often rigid 8-hour workday or 40 hour work week. Such schedules allow working people to earn a paycheck while having the flexibility to take care of children, older relatives and other needs.

The AFL–CIO says they want that, and we are providing that. And all of a sudden, maybe because we are providing it, maybe because it is in a Republican alternative, maybe this is not a good idea. Again, this is right off the AFL–CIO Web site:

> Changes in the workforce and in the kinds of hours people work are making alternative work schedules increasingly important for working families trying to balance job and family responsibilities.
>
> Suggested family friendly provisions: Compressed work week.
>
> Common examples of things asked are schedules that allow workers to work eight 9-hour days and one 8-hour day for an extra day off every 2 weeks.

Under the provisions we have in this law, that is exactly what we have, allowing a mother or father who wants to stay at home instead of working 10 8-hour days a week, work 9 10-hour days. Work extra hours the days that you work for the day off. Again, that is not allowed under the current law. We would have provided that flexibility. Again, it would be upon a mutual agreement of both the employee and the employer.

Look, there are some suggestions as to how we can make this more explicit, although from everything I read it is very explicit in the legislation as to how that would work. I am certainly happy to sit down and talk with the Senator from Massachusetts and see what we can work out in the future.

What we do in these provisions—yes, we do provide some tax benefits for smaller businesses. We allow for small business expensing. We allow for restaurants to be depreciated. Again, who is going to be affected by this predominantly? It is going to be the restaurant industry that pays employees at this level, and the travel and tourism industry. Those are the folks who will be most affected. Those are the ones paid at the lower end of the wage scale. So, yes, we do provide some support for them because it is going to cost some of these businesses a substantial amount of money.

We want to provide some relief from a Government mandate, mandating additional cost. So we want to provide additional relief in doing so.

What I think we are trying to do is find an acceptable compromise to be able to pass in the Senate.

I candidly don't believe—and I told the Senator from Massachusetts when I spoke to him last week—this is the appropriate place for his amendment. I understand there are a lot of dynamics at play here. But the Senator from Massachusetts feels compelled to offer it on the bankruptcy bill. I don't think there is any secret, after listening to the debate over the past week, that we very much would like to keep this bill on the Senate floor the way it came out of committee and the way it has been forged over a period of three Congresses. This compromise has almost passed this year, and time and time again for the last three Congresses. Now we have an opportunity to actually get this thing signed—passed by the House in the form it is right now on the floor of the Senate, and then to the President.

I was hoping the Senator from Massachusetts would not offer his amendment and would allow this amendment to the minimum wage laws to be offered at a different time. I think we are marking up the welfare reform bill this week. It is an extension of the 1997 act. It is an appropriate place, in my opinion. We are talking about welfare-to-work, and we are talking about helping low-income individuals transition into the workplace and providing them with a quality of life that is family sustaining. I was hoping the Senator from Massachusetts would wait until that time, and maybe we could sit down and work out some sort of compromise that the President would sign. During the campaign, he talked about his willingness to sign a minimum wage proposal similar to what I put forward. I don't think he would support what the Senator from Massachusetts proposed.

If you want to actually do something to bring this level up, and do it in a sort of targeted way that actually helps the people you are really wanting to help focus on—that is, those who are trying to provide for themselves and their families, not working summer jobs or part-time jobs or going to school; that is really what we are focusing on—we can do that in a way that I would argue does not have a poison pill attached to it.

I take great exception to what the Senator from Massachusetts said. These are not poison pills. These are responsible, proworker, pro-small-business provisions that greatly help the people in this new and dynamic workplace of America. It is a very different one than when the 40-hour week was established.

The Senator wants to offer his amendment and lock in a vote. But I hope, candidly, that we don't agree to either amendment at this time, although I would certainly vote for my amendment and vote against the amendment offered by the Senator from Massachusetts.

But I am hopeful that we can get the requisite number of votes down the road on a welfare bill, actually pass this legislation, and get it over to the House. House leadership has not expressed a willingness to bring this up.

Again, as we work on this, we have an opportunity to get it to conference and hopefully be able to do something which provides much more targeted relief to workers who are in need, as opposed to Senator KENNEDY's approach which is very blunt, forceful, and destructive, I would argue, and brings a measure of damage to a lot of lower skilled, lower income workers. And it would be very damaging to business at the same time in that the economy is recovering very nicely right now.

This is a modest approach. It has half the increase the Senator from Massachusetts is suggesting. It focuses on those who are most in need. At the same time, it doesn't hurt the small business community. In fact, it provides a much needed incentive for them to be able to continue to hire employees and grow, which is obviously the ticket to middle-class America.

There are other provisions in the bill that I certainly want to talk about a little later. But we have other speakers. I don't want to use up all the time.

With that, let me yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take a moment or two to respond to my good friend from New Hampshire and then also to the Senator from Pennsylvania with regard to the points they have made.

First of all, I will respond to the Senator from New Hampshire about the question of whether the increase in minimum wage is really good for low-income working people and whether this isn't going to create more problems for working people because of the increase in the minimum wage.

He mentioned, if this was such good medicine—$7.25—why aren't we going for $20 or $25? The obvious simple answer for that is we are talking about a minimum wage, we are not talking about a maximum wage.

I haven't even gotten into discussing what has been happening at the upper end of the economic ladder and the stories over the weekend that showed the bonuses are going to the wealthiest individuals in the corporate world. They have increased astronomically in a period of the last few years.

Since the midthirties, we have had a minimum wage because we believed as a matter of social justice men and women who are going to work in this country and have families should at least have some minimum standard, some minimum safety net; that this society is not the society of survival of the fittest, but it is also a "we" society, not just a "me" society.

There has been a recognition of the importance of the minimum wage.

I will include in the RECORD the support for the increase of the minimum wage.

Mr. President, 552 economists agree, including a number of Nobel laureates. This is a summation of what they say.

We believe that a modest increase in the minimum wage would improve the well being of low-wage workers and would not have the adverse effect that critics have claimed. In particular, we share the view of the Council of Economic Advisers' economic report, that the weight of evidence suggests that the modest increase in the minimum wage has had very little or no effect on employment.

That is what an outstanding group of economists have said. Let us not just take what they have said, let us take a look at the facts in terms of employment and job growth.

If you look over at this chart, you will find the increase in the minimum wage in October of 1996. We had an increase in the minimum wage. In October of 1997, it went up again. The minimum wage increased to $4.75 in 1996, and then it went up to $5.15 an hour.

This red line is an indication of the job growth during this period of time.

I don't accept the arguments that my good friend from New Hampshire has made—that this is going to mean the loss of jobs. It just has not been so.

If you look at the historic lows of unemployment after the minimum wage, if you look again in 1996, the minimum wage went to $4.75, and unemployment went up. It picked up a tenth of a point, but then it started down.

The minimum wage goes up to $5.15, and what happened? It continues to go down.

Here is the last time that we have the increase in the minimum wage, and we see it had absolutely no impact—none, zero—in terms of unemployment, as we reported, for good reason, because it is less than one-fifth of 1 percent of total payroll. So it has no impact in terms of unemployment, and it has virtually no impact in terms of inflation. But it does have an important impact in terms of social justice.

This chart is interesting. It indicates that the States with the higher minium wage add more jobs. These are the 39 States with the minimum wage at $5.15. Their employment growth has been 4.1 percent, and some have been somewhat higher at 6.2 percent.

We have debated this time in and time out. The most inclusive studies were the Card-Krueger studies and the conclusions they have made. They are from Princeton, NJ.

> Contrary to the central prediction of the textbook model of the minimum wage, but consistent with a number of recent studies based on a cross-sectional time series comparison of affected and under-affected communities of unaffected markets or employees, we find no evidence that the rise in New Jersey's minimum wage reduced employment.

This is pretty well established. It has a dramatic impact in other areas.

I listened with interest to the Senator from Pennsylvania talking about the increase in the minimum wage. Better than 60 percent of the increase in the minimum wage goes for the lowest 40 percent on the economic ladder.

Let us look at what has been happening in our country in the recent times since the last increase in the minimum wage.

This is in the area of hunger. We have the survey of hunger and homelessness by the Conference of Mayors. This is December 2004. This is in their summary:

> Officials in the survey estimate that during the past year, requests for emergency food assistance increased by an average of 14 percent, with 96 percent of the cities registering an increase; requests for food assistance by families with children increased by an average of 13 percent; 56 percent of the people requesting emergency food were members of families, children and parents; 34 percent of adults requesting food assistance were employed.

These are people who just can't make it with the $5.15 increase in the minimum wage.

Then I heard about flextime. We are all for flextime. The argument is very simple on the issue of flextime. Our Republican friends want flextime when the employer can decide it. They have flextime now under current minimum wage. They can work that out with regard to flextime, up to 40 hours. Then, if it is going to be more than 40 hours, they have the overtime. But they negotiated that out. That is permitted today under the law.

But that isn't what the Senator's amendment would say. If the employer wants that individual to work 50 hours 1 week, and 30 hours the next week, the employer can make up their mind.

Why is it always the individual employer who makes it up?

It was nice to hear my friend from Pennsylvania say they work it out over in their office, and sometimes they work longer hours.

I would say, by and large, they work it out—the employees work it out.

I doubt very much for many of us in the Senate, if we just told our people what they were going to have to do, if they did not do it in the sense of expectation and teamwork, I don't think we are going to be very much value to many of our constituents.

The fact is, under the Santorum amendment one person makes that decision on flextime, and that is the employer. If the employee says, Look, I have a child who is in a play that I would like to go to, and the employer says, No, you can't go—you don't go.

We tried for many years. I mentioned before the Senator arrived on the floor of the Senate, I think he has been against any increase in the minimum wage 17 times. It is a little difficult to get much encouragement.

I think the Murray amendment asked that an employee would be able to take 24 hours off with sufficient notice because of a child with medical appointments, or because a child might be in a play, or a child might have some special event. I was here many times when the Senator from the State of Washington offered that amendment. It was voted down every single time. The only way we get flextime is when the employer does it. That is not fair. That is not right. He is correct. That is what this bill does. And he will permit the employer to make that judgment.

I want to make another point or two about the U.S. Conference of Mayors study.

Seventeen percent of the homeless people in cities, according to the Conference of Mayors, are employed. Ten percent are veterans.

The demand for emergency shelter is increasing. Seventy percent of the cities are reporting an increase in the last year, and the percentage of cities reporting an increase with homeless families with children is even greater.

This is what is happening. It isn't just the Senator from Massachusetts. This is the Conference of Mayors telling about what is happening in urban and rural America. It is also about growth.

This is the general challenge. We have too many Americans who are now living in poverty.

One in every 10 families, up to 44 million Americans, live poverty—one out of every six children; one out of every five Hispanics; one out of every four Americans. The greatest impact of raising the minimum wage is going to be lifting up Hispanics and African American workers. That is what the statistics demonstrate.

I don't know why we have the imperative of constantly saying no, that we are just not going to help people who are working and want to work.

An interesting point—not a major one—is that when we raise the minimum wage, it not only affects the 15 million lowest income people; some of those people then will not be eligible for some of the other programs. So it saves the taxpayer some money. We move them out and work with the earned-income tax credit. We have the earned-income tax credit that works with families who have children. If there is an increase in the earned-income tax credit, if you have two or three children, that is the way to go. For a single worker, if we are talking about a single mom with one or two children, an increase of the minimum wage is the way to go.

As a society, if you are interested in trying to do something about poverty and working families, you are trying to do something about both of those.

My friend from Iowa is here and I want to mention to him, because he has been a leader in the Senate regarding overtime compensation, under the Santorum amendment, this will take away the overtime rights that exist for minimum wage workers because it excludes 10 million workers from the Fair Labor Standards Act—6 million last year—and it will result in millions losing their overtime coverage.

The second point I mention to my friend from Iowa, in this legislation there is a prohibition for States to enforce their tax credit provisions. We have the tip credit for $2.12 or $2.13, and that is the Federal credit. Under the Santorum amendment, we are taking away any kind of enforcement of that, not just by the Federal Government but the State government.

I brought this up earlier because I want to remind the Senator from Iowa the amendment on the increase in the minimum wage happens to be 3 pages long; his is 85 pages. That includes not only the tip credit, not only eliminating from coverage those workers who work even in companies that are capitalized at $500,000, if they are in interstate commerce—That has been part of the minimum wage since the 1930s—but the Senator from Pennsylvania wants to take out that kind of coverage. Hundreds of thousands of workers will lose their coverage.

I don't understand why he is targeting those individuals. Quite frankly, the most incredible provision in this amendment is to eliminate any kind of enforcement.

The Senator might have difficulty in following all of the points I am raising on the amendment, but on page 14 of the Santorum amendment it sounds very appealing. Small Business Paperwork Reduction; skip over to page 16 and we find out on the bottom of that, line 22, what it is about.

> Notwithstanding any other provision, no State may impose a civil penalty on a small business concern.

And it applies that to every kind of unsafe work conditions, including air pollution, toxic substances, unsafe food. What in the world are we thinking of? Why would we include those? What is the reason we are doing that?

I don't understand it. I can understand the Senator from Pennsylvania saying he wants a lower increase in the minimum wage, but then to have provisions in his amendment which are so punitive to millions of workers—not just on the overtime but in terms of protecting those workers that get the tip credit of $2.12 and then depend on tips for the rest of it, and to say, no, we are not going to enforce the $2.12.

Mr. SANTORUM. Will the Senator yield?

Mr. KENNEDY. Briefly.

Mr. SANTORUM. Mr. President, I point out to the Senator page 20 of my amendment discusses the tip credit. It specifically refers to only States that are covered by this provision as States that do not have a tip credit. I believe it is seven States that are the only States covered by this provision.

So I don't know where you get "millions" of workers.

Mr. KENNEDY. If you read from page 21, the top line from 2 down to line 16, it effectively states: "may not establish or enforce any laws that require employers to tip credit employee."

Mr. SANTORUM. I refer the Senator to line 20 through line 25. If the Senator would read that, he will find that any State which prohibits any portion of employee tips from being considered as wages, so that is the operative language that limits this provision—just in the States that do not allow a tip credit.

Mr. KENNEDY. The Senator understands that every State has to have the tip credit at the present time. They have to have the $2.12.

Mr. SANTORUM. My understanding is that is not the case and there are seven States that do not.

Mr. KENNEDY. Under Federal law at the present time, every State has to have a minimum of $2.13 and then the States can add on top of that. Many of the States do. The State of Pennsylvania has added, I believe, 60 or 70 cents on top of that.

So when you talk about not permitting any States to enforce the tip credit, you are talking all the States. That is the way we read it.

Mr. SANTORUM. I say to the Senator from Massachusetts—

Mr. KENNEDY. If the Senator can clarify that language, we would be glad to work with him.

I see my friend and colleague. We have pointed out the fact that we have not increased the minimum wage now in 8 years. It is at the second lowest purchasing level in nearly 60 years. A third of all those that go into bankruptcy are those below the poverty line. This has a direct relevancy to the underlying bill because we are trying to raise up people with the minimum wage. We are not going to get them up to the poverty line, but we will probably raise up some people as a result of the increase.

Therefore, it is appropriate to this legislation. It is long, long overdue. It seems to me at a time we are doing so much for the credit card industries, companies that have billions of dollars in profits, that we ought to be willing to make work pay.

I know that bothers some Senators. It bothers the Senator from New Hampshire who criticized this and said, Well, we do not want to be like the Soviet Union and like communist countries.

It is interesting that Great Britain just went up to more than $9 for the minimum wage last week. They have the most successful economy in Europe at the present time. They have taken 1.2 million children out of poverty. They have the lowest home mortgages in 50 years. They brought unemployment down. And they are trying to do better for the children that are living in poverty. They have just raised their minimum wage in Great Britain.

I will include the other countries that are not, allegedly, Communist. That includes a good many of the European countries: Belgium, Ireland, U.K., Portugal, France, Spain, and Greece.

I don't think the argument was serious.

Mr. HARKIN. Will the Senator yield?

Mr. KENNEDY. I am happy to yield.

Mr. HARKIN. Did I hear the Senator correctly that someone was suggesting the minimum wage is communistic?

Mr. KENNEDY. I think the argument made by my friend—and I want to be careful about how I explain it. He took issue when I said in the Senate Chamber what I believed, that this is a value issue. We hear a great deal about the importance of values, having work pay, respecting that work is a value issue. It is a family issue that affects children. However, it is a value issue. It indicates that we believe work should pay.

My good friend, and he is my friend from New Hampshire, said that sounded an awful like a government establishing pay like Communist economies did. I don't want to go into it a great deal more.

Mr. HARKIN. If the Senator would yield, it seems we have settled that issue in this country. Going back how many years now have we had a minimum wage?

Mr. KENNEDY. More than 60 years.

Mr. HARKIN. More than 60 years we have had a minimum wage in this country.

I don't have the data with me right now, but I have seen the data that indicates when the minimum wage was higher relative to, say, corporate salaries and what CEOs were making, that, in fact, our country enjoyed a higher standard of living. Is it not true that if people are making a more decent minimum wage, it lifts them out of poverty; they are better able to provide food and clothing and shelter for their kids and their family, better able to pay tuition to go to college.

It seems to this Senator, and I ask my friend from Massachusetts, under the underlying bill, the bankruptcy bill, we are providing all kinds of support, immunities, coverage, for creditors and especially credit card companies; we are providing them all protection, but now when it comes to providing minimum protection for the lowest income people in this country, we cannot seem to do it.

It seems incongruous that we would protect the biggest, but for the smallest we cannot seem to do that.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Massachusetts.

Mr. KENNEDY. The Senator is absolutely right.

I want to catch my friend from Pennsylvania before he walks out. The Senator is quite correct. In a more basic way, this has been something Republicans and Democrats have worked on together. President Eisenhower, the first President Bush, President Ford—all supported an increase. Since the time I have been here we have had bipartisan coalitions. But as the Senator remembers, under the Republican leadership they have refused to do so.

I mention one thing to my friend from Pennsylvania. I have a letter, which I will include in an appropriate place, from Ohio State University, from a professor of law who said the proposed Santorum legislation would also reduce existing protections provided to tip employees by prohibiting State and local governments from enforcing any State or local law that fails to grant a 100 percent tip credit. That is, employers would be allowed under State and local law to pay nothing to tip employees as long as their tips from customers add up to the minimum wage. This provision would even override the laws of States that have eliminated the tip credit entirely or that require tip employees to be paid minimum wage by their employers.

That is the reason I mentioned this earlier. If that was not the intention of the Senator, hopefully we can correct that.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I will be brief. I know the Senator from Iowa is here. I do not want to stop him from making his remarks. I just want to respond to several of the things the Senator from Massachusetts said.

First, I would be happy to look at the letter from the Ohio State professor and see how he, in my opinion, misread the provision we had. I think I am very clear on the intent. If there is some language clarification, I would be happy to sit down and work on that. I know Senator ENZI, of course, from the HELP Committee worked on this language and would be willing to do so also.

A couple of comments. The Senator from Massachusetts talked at length about economists and others who are suggesting that we need—I think I am using the Senator's words—a modest increase in the minimum wage. I did not see any of the charts that he brought out that supported his particular minimum wage increase. And he used the term "modest" repeatedly. I am not sure there would be too many economists in the economy of today who would say a 40-percent increase in the minimum wage would be modest. I think a 40-percent increase, by definition, probably is outside the bounds of what most people would consider modest.

I would make the argument that a 20-percent increase—this is what we are suggesting—a 21-percent increase would probably be extending the bounds of modesty, but it would certainly be much more within what most people consider to be the traditional definition.

I would just like to thank the Senator from Massachusetts for bringing up support for my amendment because I think, in comparing the two, the increase we are putting forth of $1.10 comports very well with what the economists are saying would not be damaging to the economy and fit in very well with what would not be damaging to employees and employers. So the $1.10 fits the modest framework.

Secondly, the issue of flextime. Again, I would just point the Senator to the actual language in the amendment. On page 3 of the amendment, it says:

> Except as provided in paragraph (2), no employee may be required to participate in a program described in this section.

So it is purely voluntary. It says employers may do this. Employees may participate. It provides for a written agreement arrived at with collective bargaining. Obviously, the collective bargaining unit, the labor union, would be responsible for any kind of flextime, which is the way it would be under the law.

Here, with respect to an employee who is not represented by a labor organization: No. 1, "a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment."

Now, again, I would ask the Senator from Massachusetts, if there is stronger language he would like us to use to make sure this is a voluntary agreement and that the employee and employer enter into it willingly—there are quadruple damages if the employer violates this.

Also, the Senator from Massachusetts talks about how onerous this is on employees. The Senator from Massachusetts voted for this with respect to Federal employees. He voted for this provision, as we see here, flextime, for Federal employees on more than one occasion. As you know, we now have this provision, this "onerous" provision, which, I can tell you, my employees do not see as onerous. They see it as something that is of a great benefit to them and their families.

So again, if the Senator from Massachusetts has some tougher language he would like—but I think the language I have read from my amendment—and I am not reading the summary. This is my amendment.

AMENDMENT NO. 128

(Purpose: To promote job creation, family time, and small business preservation in the adjustment of the Federal minimum wage)

In fact, Mr. President, I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 128.

Mr. SANTORUM. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SANTORUM. So I am reading from the text of the amendment. And again, the Senator from Massachusetts may quibble, and certainly has, with the voluntariness of this program. I think the language certainly expresses my intent and the intent of all those who are supporting this amendment, that it is a voluntary program and an employee goes into it knowingly and voluntarily with a written agreement. If there is other language that the Senator from Massachusetts would like, obviously we are not going to do that today, but I would be happy to sit down and see if there is a word that is more voluntary than "voluntary."

I think usually when you use the word "voluntary" that sums up voluntary very well. But if there is a better word for voluntary than the word "voluntary," then I am pretty happy to do so. If there is a better word—whether it is "discretionary"—than the word "may," I am happy to look at a better word than "may." "May" is usually a pretty good word when it describes "you do not have to." "May," that is what we usually use. But if "voluntary" and "may" are not strong enough words, I will be happy enough to sit down with the Senator from Massachusetts and come up with a better one.

I repeat, the Senator from Massachusetts has voted for this for Federal employees, and there are quadruple damages—quadruple damages—for employers who violate this provision and impose this on their workers unknowingly and involuntarily or as a condition of employment. So I would just suggest there are pretty high and threatening damages to employers who abuse this provision.

One final point I want to make. The Senator talks about its importance, that this is the only way we are going to help people out of poverty. I would suggest that is simply not the case. There are lots of ways, in fact, I would say very much more complicated ways that people get out of poverty than just by the blunt instrument of the Government setting minimum wages.

In fact, looking at this chart, the welfare reform bill we passed in 1996 shows just how effective other ways are. Requiring work is the best way. The Senator put up poverty statistics. What he did not tell you is what those numbers looked like before 1996 and the welfare reform law, which I stood on the floor and argued passionately for. And I was called a whole number of things as to what I was going to do to all these poor children.

What happened as a result of the welfare reform bill was that poverty among African-American children, the thing Senator KENNEDY referred to, was at its lowest rate ever by the year 2000. It has crept up slightly during the economic decline of the early part of this decade, but it is going back down.

So the idea that the minimum wage solves these problems is just a fallacy. There are lots of things that work. One of them is work. Another is marriage. We are going to have an opportunity on the floor of the Senate, when the welfare bill comes up, to talk about how we shift Government policy away from, at best—I think it is "at best"—neutrality toward marriage, how we shift Government policy when it comes to interacting with families and being neutral with respect to marriage. See what the huge impact is on the poor, the huge impact on poor communities and poor children, when moms and dads are helped to stay together in marriage and, more importantly, when they are introduced to the concept because many women and, unfortunately, men choose not to marry when children are born out of wedlock.

So there will be plenty of time for debate on this issue of other things we can do. But I can tell you, if you look at all these other things we are studying, the thing that is most powerful is, No. 1, jobs. The concern many have—and there are studies we can put into the RECORD about what the impact of a dramatic increase—not a small increase, as we are proposing, but a dramatic increase—in the minimum wage would have to the employment picture of these very people who came off welfare and their ability to find work and get out of poverty. It will have a dramatically negative impact on them, a 40-percent increase in the minimum wage.

But again, there are positive things we can do as we look to the future. This bill, in my opinion, belongs on welfare legislation, requiring work, more work, which is what is going to be required in this bill, as well as some things to bring fathers back into the home with the Father Initiative that Senator BAYH and Senator DOMENICI and I have been pushing for several years, as well as the marriage initiative that the President has talked about.

This is a complex picture and blunt instruments like minimum wages are not the answer. Yes, I am proposing an increase. I am doing one that I think comports with balancing the interest of low-income workers having a better wage with making sure they have a job in the first place because that is the most important thing. I think we have done so with this $1.10 increase and the provisions I have.

Yes, it is a long amendment. But there are a lot of things in here that I think will add to the quality of life of many workers and certainly help small businesses absorb some of the costs of the increase in the minimum wage.

So with that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa is recognized.

Mr. HARKIN. Parliamentary inquiry: Who controls the time?

The PRESIDING OFFICER. The Senators from Pennsylvania and Massachusetts control the time.

Mr. HARKIN. Mr. President, how much time is left on either side?

The PRESIDING OFFICER. The Senator from Massachusetts has 32½ minutes and the Senator from Pennsylvania has 48 minutes 17 seconds.

Mr. HARKIN. I will take 12 minutes. Will the Chair please remind the Senator when 10 minutes is used up?

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. HARKIN. I appreciate that.

Mr. President, with the increase in the unemployment rate that we learned of last Friday, it is clear we are in the midst of a two-tiered economic recovery. We have one recovery for high-income Americans, for people on Wall Street, and we have a very different recovery for people working on Main Street.

The Neiman Marcus crowd is popping champagne corks, but it is a very different story for Wal-Mart and K-mart shoppers and for the Americans who work at Wal-Mart and K-mart and in other jobs paying low wages. The number of Americans in poverty has increased by more than 4 million since President Bush took office. Nearly 36 million people live in poverty, 13 million children. Among full-time year-round workers, poverty has doubled since the late 1970s, from about 1.3 million then to 2.6 million now. Every day that the minimum wage is not increased, it continues to lose value and workers fall further and further behind.

Unfortunately, the Bush administration's priority is not lifting working Americans out of poverty; its priority is keeping labor costs low for corporate America. But this is not surprising. The President has been quite frank and open about taking care of what he calls his "base."

I strongly support Senator KENNEDY's amendment to raise the minimum wage to $7.25 in three steps. It is long overdue. It has been 5 years since we last had a vote on the minimum wage, and it has been 8 years since we last voted to raise the minimum wage. To have the same purchasing power it had in 1968, the minimum wage would have to be nearly $8.50 today, not $5.15. Since the last increase in 1997, the value has eroded by more than 15 percent.

I noticed that the Senator from Pennsylvania was saying that this would increase the minimum wage by 40 percent. Actually, it is 37 percent that Senator KENNEDY's amendment would raise the minimum wage. In three stages, it would increase it by 37 percent. The Senator from Pennsylvania said this was unprecedented. Under Franklin Roosevelt, it went up 53 percent; under Truman, 47 percent. Under Eisenhower, it went up 33 percent. Under the first President Bush, it went up 25 percent. The point is that since 1997, the last time we raised it, the value has eroded by 15 percent. So if we are going to boost it up over the next 3 years and it increases by 37 percent, you are really only going up by 22 percent more than what it was in 1997. I don't think that is an undue burden on business in America.

Since 1997, the last time we raised the minimum wage, Members of Congress have raised their own pay seven times in the last 8 years by $28,500. Think about that. We vote to raise our pay seven times in 8 years by $28,500, but for minimum wage workers earning $10,700 a year, we can't vote to raise their minimum wage—shame on the Senate.

We have heard in the past that it is mostly teenagers and part-time workers who are working for the minimum wage. That is not the case. The facts are, 35 percent of those earning the minimum wage are the family's sole breadwinners, 61 percent are women, and almost a third of those women are raising children.

The Senate Finance Committee may soon be marking up a welfare reauthorization bill. As the Senate contemplates welfare reauthorization, as we address the goal of moving people from welfare to work, it is especially important we act to raise the minimum wage. Since 1996, we reduced the number of welfare cases by half.

I was intrigued by the chart the Senator from Pennsylvania put up because many of the people who moved off of welfare did not move out of poverty. Why? Because the minimum wage is not a living wage; it is a poverty wage. But an increase to $7.25, such as Senator KENNEDY wants to do, would make a dramatic difference. For a full-time year-round worker, that would add $4,370 in income. That could be a real value to a family living in poverty. For a low-income family of three, let's say one wage earner, single mother, two children, that would be enough money to pay for a year and a half of heat and electricity or a full tuition for a family member pursuing a community college degree.

The Senator from Pennsylvania said what really lifts people out of poverty is more work, not raising the minimum wage. I ask: How can a single mother of two working a minimum wage job work more? What is she supposed to do—work 16 hours a day at the minimum wage? How much more can people be expected to work?

The amendment of the Senator from Pennsylvania changes the 40-hour workweek to an 80-hour work period over 2 weeks, with the maximum that anyone can work in 1 week of 50 hours. Add it up. It doesn't take a mathematician. Eighty hours for 2 weeks; you can work up to 50 hours in 1 week. So you work 50 hours 1 week, 30 hours the next week. Guess what. You just got cheated out of 10 hours of overtime. Before, you would work 40 hours. If you worked 50, you would get 10 hours of overtime. Now you don't get any overtime. That is what is happening to low-income workers in America today.

First of all, we have a bankruptcy bill that slaps them in the face. It makes them pay through the nose. I don't know if anyone read the article in the Washington Post yesterday. I will ask consent to print this article at the conclusion of my remarks. They mention a Ruth Owens in Cleveland who tried for 6 years to pay off a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28 even though she never used the card to buy anything more. So she paid $3,492 on a $1,900 balance, and she still has yet to pay off her balance.

They mention another person, a special education teacher, Fatemeh Hosseini, who worked a second job to keep up with the monthly payment she collectively sent to five banks to try to pay $25,000 in credit card debt. Even though she had not used the cards to buy anything more, her debt nearly doubled to $40,574 by the time she filed for bankruptcy last June.

That is what is happening to poor people. The credit card companies suck them in with a credit card, go out and charge it up, nice and easy. They find they have a $1,900 bill to pay. They start paying a little bit here and there. They miss a couple of payments. All of a sudden they have $5,564 to pay.

Nearly 7.5 million workers would directly benefit from the Kennedy amendment. In Iowa, 87,400 workers would benefit from the increase. That is over 6 percent of Iowa's workforce. The minimum wage needs to be raised to a level that is not a subsistence wage. The way to do that is to raise the minimum wage to a level that respects work, honors it, and rewards work at a reasonable level.

Just last week our friends on the other side of the aisle were touting what they called their "Republican poverty alleviation agenda." I say watch what they do, not what they say. The President sent up a budget request replete with cut after cut to antipoverty programs. Now the Senator from Pennsylvania has launched a new attack on the minimum wage and the 40-hour workweek. Now the Senator from Pennsylvania says he wants to increase the minimum wage, albeit only $1.10 an hour over the next 2 years, about half of the Kennedy amendment. But again, he guts it by ending the 40-hour workweek and going to this 50-hour max, 80-hour work period over 2 weeks.

The PRESIDING OFFICER. The Senator has used 10 minutes to this point.

Mr. HARKIN. I thank the Chair.

Last year, the Bush administration's new rule effectively eliminated overtime pay protection for some 6 million American workers. The Senator from Pennsylvania is opening a second front in the war on the minimum wage and the 40-hour workweek. While 1.2 million workers would qualify for the minimum wage increase under the Santorum amendment, another 6.8 million workers would lose their current minimum wage protection.

As I said, then we get the 80-hour work period for a 40-hour workweek. This has only one purpose: to allow more employers to avoid paying overtime compensation. In my 30 years in Congress, I don't recall such a bold, brazen assault on the compensation of American workers than what we see in the Santorum amendment. It ought to be called the shock-and-awe amendment. Workers get the shock, and corporate America sits back in awe at the latest gift from the party it financed in the last election.

I am proud to stand with Senator KENNEDY to raise the minimum wage to $7.25. The present one, at $5.15, is a poverty wage. It doesn't respect the dignity of their work, including the most humble. As Senator KENNEDY said, of all the issues we are debating, this is a values issue. Think about this compared to all the things we are doing to help the credit card companies with the bankruptcy bill. Think about that. We are going to stick it to low-income people, hard-working Americans like Ruth Owens and Fatemeh Hosseini, and then we are going to stick it to them again by not allowing them to even have an increase in the minimum wage.

I would have hoped that the President would have come and asked for an increase in the minimum wage and got his party in the Congress to work with us to increase it. We have done it under Republican Presidents in the past and Democratic Presidents. I don't know why we cannot do it again.

Mr. President, I ask unanimous consent that the Washington Post article entitled "Credit Card Penalties, Fees Bury Debtors" by Kathleen Day and Caroline E. Mayer, which appeared yesterday, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 6, 2005]

### CREDIT CARD PENALTIES, FEES BURY DEBTORS

(By Kathleen Day and Caroline E. Mayer)

For more than two years, special-education teacher Fatemeh Hosseini worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt.

Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time the Sunnyvale, Calif., resident filed for bankruptcy last June. That is because Hosseini's payments sometimes were tardy, triggering late fees ranging from $25 to $50 and doubling interest rates to nearly 30 percent. When the additional costs pushed her balance over her credit limit, the credit card companies added more penalties.

"I was really trying hard to make minimum payments," said Hosseini, whose financial problems began in the late 1990s when her husband left her and their three children. "All of my salary was going to the credit card companies, but there was no change in the balances because of that interest and those penalties."

Punitive charges—penalty fees and sharply higher interest rates after a payment is late—compound the problems of many financially strapped consumers, sometimes making it impossible for them to dig their way out of debt and pushing them into bankruptcy.

The Senate is to vote as soon as this week on a bill that would make it harder for individuals to wipe out debt through bankruptcy. The Senate last week voted down several amendments intended to curb excessive fees and other practices that critics of the industry say are abusive. House leaders say they will act soon after that, and President Bush has said he supports the bill.

Bankruptcy experts say that too often, by the time an individual has filed for bankruptcy or is hauled into court by creditors, he or she has repaid an amount equal to their original credit card debt plus double-digit interest, but still owes hundreds or thousands of dollars because of penalties.

"How is it that the person who wants to do right ends up so worse off?" Cleveland Municipal Judge Robert J. Triozzi said last fall when he ruled against Discover in the company's breach-of-contract suit against another struggling credit cardholder, Ruth M. Owens.

Owens tried for six years to payoff a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28, even though, like Hosseini, she never used the card to buy anything more. Of that total, over-limit penalty fees alone were $1,158.

Triozzi denied Discover's claim, calling its attempt to collect more money from Owens "unconscionable."

The bankruptcy measure now being debated in Congress has been sought for nearly eight years by the credit card industry. Twice in that time, versions of it have passed both the House and Senate. Once, President Bill Clinton refused to sign it, saying it was unfair, and once the House reversed its vote after Democrats attached an amendment that would prevent individuals such as anti-abortion protesters from using bankruptcy as a shield against court-imposed fines.

Credit card companies and most congressional Republicans say current law needs to be changed to prevent abuse and make more people repay at least part of their debt. Consumer-advocacy groups and many Democrats say people who seek bankruptcy protection do so mostly because they have fallen on hard times through illness, divorce or job loss. They also argue that current law has strong provisions that judges can use to weed out those who abuse the system.

Opponents also argue that the legislation is unfair because it ignores loopholes that would allow rich debtors to shield millions of dollars during bankruptcy through expensive homes and complex trusts, while ignoring the need for more disclosure to cardholders about rates and fees and curbs on what they say is irresponsible behavior by the credit card industry. The Republican majority, along with a few Democrats, has voted down dozens of proposed amendments to the bill, including one that would make it easier for the elderly to protect their homes in bankruptcy and another that would require credit card companies to tell customers how much extra interest they would pay over time by making only minimum payments.

No one knows how many consumers get caught in the spiral of "negative amortization," which is what regulators call it when a consumer makes payments but balances continue to grow because of penalty costs. The problem is widespread enough to worry federal bank regulators, who say nearly all major credit card issuers engage in the practice.

Two years ago regulators adopted a policy that will require credit card companies to set monthly minimum payments high enough to cover penalties and interest and lower some of the customer's original debt, known as principal, so that if a consumer makes no new charges and makes monthly minimum payments, his or her balance will begin to decline.

Banks agreed to the new rules after, in the words of one top federal regulator, "some arm-twisting." But bank executives persuaded regulators to allow the higher minimum payments to be phased in over several years, through 2006, arguing that many customers are so much in debt that even slight increases too soon could push many into financial disaster.

Credit card companies declined to comment on specific cases or customers for this article, but banking industry officials, speaking generally, said there is a good reason for the fees they charge.

"It's to encourage people to pay their bills the way they said they would in their contract, to encourage good financial management," said Nessa Feddis, senior federal counsel for the American Bankers Association. "There has to be some onus on the cardholder, some responsibility to manage their finances."

High fees "may be extreme cases, but they are not the trend, not the norm," Feddis said.

"Banks are pretty flexible," she said. "If you are a good customer and have an occasional mishap, they'll waive the fees, because there's so much competition and it's too easy to go someplace else." Banks are also willing to work out settlements with people in financial difficulty, she said, because "there are still a lot of options even for people who've been in trouble."

Many bankruptcy lawyers disagree. James S.K. "Ike" Shulman, Hosseini's lawyer, said credit card companies hounded her and did not live up to several promises to work with her to cut mounting fees.

Regulators say it is appropriate for lenders to charge higher-risk debtors a higher interest rate, but that negative amortization and other practices go too far, posing risks to the banking system by threatening borrowers' ability to repay their debts and by being unfair to individuals.

U.S. Bankruptcy Judge David H. Adams of Norfolk, who is also the president of the National Conference of Bankruptcy Judges, said many debtors who get in over their heads "are spending money, buying things they shouldn't be buying." Even so, he said, "once you add all these fees on, the amount of principal being paid is negligible. The fees and interest and other charges are so high, they may never be able to pay it off."

Judges say there is little they can do by the time cases get to bankruptcy court. Under the law, "the credit card company is legally entitled to collect every dollar without a distinction" whether the balance is from fees, interest or principal, said retired U.S. Bankruptcy Judge Ronald Barliant, who presided in Chicago. The only question for the courts is whether the debt is accurate, judges and lawyers say.

John Rao, staff attorney of the National Consumer Law Center, one of many consumer groups fighting the bankruptcy bill, says the plight consumers face was illustrated last year in a bankruptcy case filed in Northern Virginia.

Manassas resident Josephine McCarthy's Providian Visa bill increased to $5,357 from $4,888 in two years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058. Those payments, noted U.S. Bankruptcy Judge Stephen S. Mitchell in Alexandria, all went to "pay finance charges (at a whopping 29.99%), late charges, overlimit fees, bad check fees and phone payment fees." Mitchell allowed the claim "because the debtor admitted owing it." McCarthy, through her lawyer, declined to be interviewed.

Alan Elias, a Providian Financial Corp. spokesman, said: "When consumers sign up for a credit card, they should understand that it's a loan, no different than their mortgage payment or their car payment, and it needs to be repaid. And just like a mortgage payment and a car payment, if you are late you are assessed a fee." The 29.99 percent interest rate, he said, is the default rate charged to consumers "who don't met their obligation to pay their bills on time" and is clearly disclosed on account applications.

Feddis, of the banker's association, said the nature of debt means that interest will often end up being more than the original principal. "Anytime you have a loan that's going to extend for any period of time, the interest is going to accumulate. Look at a 30-year-mortgage. The interest is much, much more than the principal."

Samuel J. Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan research group, said that focusing on late fees is "refusing to look at the elephant in the room, and that's the massive levels of consumer debt which is not being paid. People are living right up to the edge," failing to save so when they lose a second job or overtime, face medical expense or their family breaks up, they have no money to cope.

"Late fees aren't the cause of debt," he said.

Credit card use continues to grow, with an average of 6.3 bank credit cards and 6.3 store credit cards for every household, according to Cardweb.com Inc., which monitors the industry. Fifteen years ago, the averages were 3.4 bank credit cards and 4.1 retail credit cards per household.

Despite, or perhaps because or, the large increase in cards, there is a "fee feeding frenzy," among credit card issuers, said Robert McKinley, Cardweb's president and chief executive. "The whole mentality has really changed over the last several years," with the industry imposing fees and increasing interest rates if a single payment is late.

Penalty interest rates usually are about 30 percent, with some as high as 40 percent, while late fees now often are $39 a month, and over-limit fees, about $35, McKinley said. "If you drag that out for a year, it could be very damaging," he said. "Late and overlimit fees alone can easily rack up $900 in fees, and a 30 percent interest rate on a $13,000 balance can add another $1,000, so you could go from $2,000 to $5,000 in just one year if you fail to make payments."

According to R.K. Hammer Investment Bankers, a California credit card consulting firm, banks collected $14.8 billion in penalty fees last year, or 10.9 percent of revenue, up from $10.7 billion, or 9 percent of revenue, in 2002, the first year the firm began to track penalty fees.

The way the fees are now imposed, "people would be better off if they stopped paying" once they get in over their heads, said T. Bentley Leonard, a North Carolina bankruptcy attorney. Once you stop paying, creditors write off the debt and sell it to a debt collector. "They may harass you, but your balance doesn't keep rising. That's the irony."

Mr. HARKIN. Again, I urge my colleagues to disavow the Santorum amendment and support the Kennedy amendment. It is the least we can do for the least among us—to raise their minimum wage, give value to their work. This is a values issue. This is at the heart of it. It is an issue of what kind of country we want, what kind of Congress we are, and what kind of Senators we are.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for the purpose of introducing legislation. My time would be charged against Senator SANTORUM's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. HAGEL pertaining to the introduction of S. 540 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. HARKIN. Will the Senator yield for a unanimous consent request?

Mr. KENNEDY. Yes.

Mr. HARKIN. I ask that the pending amendments be set aside so I can offer a germane filed amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

### AMENDMENT NO. 66

Mr. HARKIN. Mr. President, I call up amendment No. 66.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. DAYTON, and Mr. KENNEDY, proposes an amendment numbered 66.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the accrual period for the employee wage priority in bankruptcy)

On page 498, strike lines 23 and 24, and insert the following:

(1) in paragraph (4), by striking "within 90 days";

Mr. HARKIN. I offer this amendment on behalf of myself, Senators ROCKEFELLER, LEAHY, and DAYTON, and I ask unanimous consent that Senator KENNEDY be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I ask that the amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 44

Mr. KENNEDY. Mr. President, there is a point that I would hope our colleagues would pay close attention to, and that is that the Santorum amendment will eliminate the equal pay provision for women working for companies with sales of less than $1 million. This is enormously important.

The Republican amendment gives pennies to minimum wage workers with one hand. With the other, it takes thousands of dollars away from minimum wage, middle-class, and women workers. As I mentioned earlier, it slowed it up with antiworker poison pills, and the pill that is the hardest to swallow of the Republican amendments effectively denies over 10 million more workers minimum wage, overtime pay, and equal pay protections by eliminating the Fair Labor Standards Act coverage completely.

Currently, all employees who work for employers that are engaged in interstate commerce and have gross annual sales of at least $500,000 are guaranteed Fair Labor Standard protections. But even in businesses that have less than $500,000 in annual sales, the employees still have individual Fair Labor Standard coverage if they are engaged in interstate commerce.

The Santorum amendment raises the $500,000 annual sales threshold to $1 million, as he mentioned, and virtually eliminates this individual Fair Labor Standard coverage, even for workers who are engaged in interstate commerce. It makes one exception for workers engaged in industrial housework.

It allows businesses to pay their workers less than the Federal minimum wage, requires them to work longer hours without overtime pay, and to be able to pay men and women differently.

The gross annual sales threshold was created as a way to determine the employers that are engaged in interstate commerce, not as a way to exempt the workers from the Fair Labor Standards Act.

For over 60 years, Congress has amended the Fair Labor Standards Act to provide even more workers with the minimum wage. Instead of trying to exclude over 10 million workers from the guaranteed minimum wage, we should raise it.

I refer to the paragraph of the Fair Labor Standards Act, paragraph 206, that says each employer shall pay to each of his employees whose work is engaged in commerce, in the production of goods for commerce—that is those who are being paid who are working for companies earning less than $500,000. In the same paragraph it says:

> No employer having employees subject to any provisions of this section shall discriminate.

Those are eliminated. So we don't have equal pay for equal work in the United States. There are only a few areas where we do. It is in this particular area that we do and the Santorum amendment eliminates it for those individuals. I say to our colleagues here in the Senate who care about equal pay for equal work for women, this is a bad deal.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania.

Mr. SANTORUM. I would say in response to the Senator from Massachusetts, my understanding of this legislation, the way it is written, there was an error made in the drafting of the statute such that the threshold had been basically ignored because of the provision to which the Senator from Massachusetts refers. It was a difference between an "and" and an "or" as to how it was written. My understanding is that the intent of the Congress was to exempt small businesses as we do from a variety of different labor laws. I mentioned before the one I am most familiar with, the Family and Medical Leave Act, which has an employee threshold. There are others that have thresholds in the Federal law, where we chose not to include very small businesses in some of the mandates the Federal Government imposes, a variety of different labor mandates. We do so because of the nature of the small business. A lot of these are mom-and-pop businesses, a garage, very small employers, where the burden of complying with a variety of Federal statutes having to do with labor laws when it comes to a small operation can be an onerous one and costly one. It can be a barrier to starting a business.

So many, including Senator HARKIN and Senator REID, your leader, have supported this small business exemption as a clean exemption with no "or" provision, "as engaged in interstate commerce."

Why? Because we understand that Federal law and these kinds of provisions can be very costly to very small businesses and can be a barrier of entry to businesses and can involve them in a cost which they may not be willing to assume.

So there has always been, to my knowledge, in almost every, if not every, Federal labor law a small business exemption, what the Senator from Massachusetts has said there should not be in this case. That is a very legitimate position. I do not think the Members of this body would agree—on either side of the aisle, I might add—that there should be no exemption for any business from this provision of the Fair Labor Standards Act. That is what we attempt to correct, to make that comport with what was broadly agreed was the intent. Unfortunately, it has never been remedied.

If the Senator from Massachusetts wants to make the argument that there should be no businesses exempt from the Federal Fair Labor Standards Act, fine. Make that argument and we will have that debate and we will find out how many votes we have, whether there should be a small business exemption or not. But don't suggest what I am doing here is some sort of subterfuge other than to clarify that there are exemptions for legitimate reasons for very small businesses. The threshold was set at half a million dollars back in 1990. If you index that to inflation, it would be $1.5 million today. We set it at a million, which is lower than the rate of inflation. That is hardly overreaching on the part of this amendment.

If the Senator wants to say there should be no exemption, that all businesses should be covered and there should be no small business exemption to any labor law, fine, if that is what the Senator from Massachusetts wants. Understand the consequences, that Democrats and Republicans for years have understood here, which is these mandates on very small startup businesses in particular, but any small business, can be damaging to the economy in our poorest neighborhoods, in the cleaning services, in the landscape businesses, and a whole host of other small businesses where people are trying to make ends meet by pursuing their entrepreneurial spirit. By putting these kinds of requirements and labor laws and regulations on these small businesses, we damage and destroy the very small businesses in this country.

I do not think that is where most on his side of the aisle are. That may be where the Senator from Massachusetts is. If that is where he is, fine, but I would be very proud to defend that provision that says the smallest businesses in America should not have these kinds of mandates imposed on them by Federal law.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. DURBIN. I am sorry that I just arrived. I am trying to catch up with this debate. Would the amendment reduce the number of workers in America eligible for overtime pay and reduce the number of businesses in America required to pay the minimum wage?

Mr. SANTORUM. I think I was pretty clear about that. The answer is yes. Because we raise the threshold from a half million, small business, to a million. As I said before, the half million threshold was set in 1990. It has not been indexed. I hear a lot of comments about why we should index things here. We should index the minimum wage, we should index a whole host of other things that have the benefit of, in this case, increasing workers' pay. If that is the case, if we thought $500,000 was a legitimate threshold in 1990, I don't know why it should not be indexed to include in real terms that same class of small businesses at this time.

Mr. DURBIN. Will the Senator yield for a further question?

Mr. SANTORUM. I am happy to.

Mr. DURBIN. If the Senator is prepared to double the size of the business from $500,000 to $1 million because it should keep up with inflation, would the Senator be prepared to double the minimum wage of 1990 to what it should be today?

Mr. SANTORUM. I say to the Senator from Illinois, we are increasing—in fact, my amendment does increase the minimum wage by 20 percent.

Mr. DURBIN. By 100 percent?

Mr. SANTORUM. I don't recall exactly what the increase was. I will check and see what the wage was in 1990 as compared to what it is today. We are proposing a modest increase. If the Senator is suggesting it should be a smaller increase, I will be happy to negotiate a smaller increase if it makes the Senator comfortable.

The Senator from Massachusetts is not suggesting it should be a smaller increase. He is suggesting there should be no exemption at all and that there was a provision—and that is what the debate is about—that if they included anyone in interstate commerce, even one employee, that they should be covered. In fact, that is my understanding of how the Labor Department has interpreted this provision. In a sense, there has not been any threshold.

Again, if the Senator from Illinois would like to have a threshold that indexes with the minimum wage, I would be happy to accept that as a reasonable index. But I think to suggest it should not change at all over a period of time does, of course, begin to gather and cover more and more businesses that are small by nature and then again it would be a barrier to entry and a difficulty in sustaining those businesses over time.

I am willing, if there is a legitimate concern about this as to how much we are raising the cap, again, we are willing to negotiate that. That is not what the Senator from Massachusetts is saying. What the Senator from Massachusetts is saying is there should not be any threshold at all; we should keep the zero threshold which exists today in law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The history for interstate workers is that from 1938, when the minimum wage was first passed, the minimum wage has applied to them. That is being changed by the Senator from Pennsylvania. We understand that. That is being changed. It is going to have a profound effect on millions of workers.

It is not only by the provisions, the coverage of the Fair Labor Standards Act, it is not only the payment, but it is also the equal payment.

Second, there have been different rules with regard to retail workers. There was the overall figure of $1 million that was used on retail workers. That was reduced to $500,000 and even down to $250,000. So we have been dealing with this for many times.

The point of the matter is, under the Santorum amendment, the way it is constructed, there will be millions and millions and millions who will be outside the coverage of the Fair Labor Standards Act. That is plain and simple.

Mr. SANTORUM. Will the Senator yield?

Mr. KENNEDY. I only have a few minutes left now. The point I was making earlier, when I offered our amendment, it is 3 pages long, to deal with the increases in the minimum wage for workers. The Senator from Pennsylvania has an 85-page law. He has opposed the minimum wage 17 times in 10 years. Minimum wagers, beware.

Mr. SANTORUM. Mr. President, does the Senator from Massachusetts yield?

Mr. KENNEDY. I have to withhold my remaining time.

Mr. SANTORUM. Mr. President, I would like to correct the record. I have supported the minimum wage on more than one occasion during my time in Congress. When I started in the House, the last minimum wage that passed I supported. Under the Clinton administration, I voted for an increase. I have voted for an increase in the minimum wage in the past. I voted for a similar minimum wage increase in the last session of Congress, or the time before. I have not had any ideological problems supporting minimum wage. I want to correct the record about what the Senator from Massachusetts said.

I would also say with respect to workers not being covered as a result of this provision of raising the threshold, as you know and as the Senator from Massachusetts knows, there are operative State laws which provide worker protections in addition to Federal law. In fact, for the States that do not have operative State laws which provide these worker protections, we leave the threshold at 500-fold. We don't change the threshold for the States that do not have operative worker protections for the things that the Fair Labor Standards Act applies to.

I want to make the record clear. No one is falling through the cracks here. The States that only have Federal law covering this area do not change. The ones that do have State laws change accordingly. Again, many of those State laws will remain in place and cover workers who are not covered under the Fair Labor Standards Act under their own State labor protection laws.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak for 5 minutes, and I ask the Chair to notify me when I have used 4 minutes.

The PRESIDING OFFICER. Does this time come out of the time of the Senator from Massachusetts?

Mr. KENNEDY. I yield 5 minutes.

Mr. DURBIN. Mr. President, Members of the Senate will have a choice in just a few minutes about the future of the minimum wage.

There was a time when we didn't even debate this. There was a time when Democrats and Republicans agreed that every once in a while you have to raise the minimum wage. The cost of living goes up in America. Republican and Democratic Presidents alike said: Can't we come together and reasonably increase the minimum wage so that the poorest among us have a fighting chance for a decent life?

We used to do it that way. When we stopped doing it 8 years ago when Republicans took control of Congress, they decided this was a partisan issue, that good Republicans didn't support an increase in the minimum wage; only Democrats supported it. Today, we have a choice. The choice is very stark.

Senator SANTORUM comes to the Senate floor and says let us raise the minimum wage for 1.8 million Americans. That is a pretty good thing. At least they are going to get some help. But look at Senator KENNEDY's alternative. In his alternative, 7.3 million Americans would have an increase in the minimum wage.

The Santorum Republican approach helps 1 out of 4 of the workers who Senator KENNEDY's approach helps. But it gets worse. In order for Senator SANTORUM to work up the political courage to bring this to the floor, he said: I have to turn around and do something on the business side. So what I will do is to exempt 10 million workers in America from coverage for overtime pay.

Think about that. You can work 50 hours a week at straight time. That is the deal we are going to offer you for a slight increase in the minimum wage. Does that make sense?

He goes further and says we are going to say that fewer businesses in America are required to pay the minimum wage. What a deal. After waiting 8 years, he helps 1 out of 4 of the workers who Senator KENNEDY helps, and for the 1.8 million he helps, he pushes 5 times as many overboard. He says: You are not going to get overtime. I will vote for an increase in minimum wage, but that is just part of the deal.

It is really appropriate that we have this debate on the bankruptcy bill, isn't it, when you think about it? We are going to force some of the most marginal workers, so many of the hardest working people in America, into a position where they can't pay their bills; then our beautiful Bankruptcy Code reform pushed by the credit card industry will make sure they are saddled with debt for a lifetime. That is what this debate comes down to.

In order to bring up the courage on the Republican side to offer any minimum wage increase, they had to offer to the business community this disqualification for overtime pay the incentive that many businesses would not pay a minimum wage, not to mention adhere to the equal pay provisions. Some of these minimum wage workers across America are young, single mothers struggling to raise kids. Sometimes they are working one or two minimum wage jobs. They would like to be paid equal pay in their workplace. Senator SANTORUM thinks that goes too far when it comes to small businesses. I think this is wrong.

We need to get back to the bipartisan consensus we had on minimum wage. If you stand for moral values—wasn't that the big issue in the last campaign?—wouldn't one moral value be as follows: If you get up and go to work every day in America, if you follow the rules and show up for work, you shouldn't live in poverty in America. That is a fact. Some people working every single day at a minimum wage job are living below the poverty line.

Poverty has doubled since the late 1970s. The poverty rolls have increased by 4 million people since President Bush has taken office. The low minimum wage is a big part of that. Minimum wage employees who work 40 hours a week earn $10,750 a year. Think about how you would get by on $10,700 a year. In fact, we say officially that this is $5,000 less than you need to raise a family of three. We acknowledge that. If you go to work, work hard, and are paid the minimum wage, you are going to live in poverty.

We believe on the Democratic side of the aisle that America, if it is a just nation, should move to the point where hard-working Americans get a decent paycheck.

That is what Senator KENNEDY has been fighting for for 8 years. I would be happy to be part of that fight.

I say in conclusion that we talk a lot in the Senate about what our priorities should be. The top priority of this Senate now is to make the bankruptcy laws more difficult for those swamped by medical bills. We have tried to offer amendments to stand up for the activated Guard and Reserve people who are forced into bankruptcy. The Republican side rejected every single amendment we offered. Now we come with a sensible, just amendment to, frankly, raise the minimum wage up to a decent level in America, and what we are offered on the other side of the aisle is an unacceptable alternative.

I yield the floor.

Mr. HATCH. Mr. President, today the Senate will consider two minimum wage amendments to the bankruptcy reform bill, S. 256. Senator TED KENNEDY's minimum wage amendment proposes to increase the minimum wage by $2.10 per hour in three steps over 26 months, and Senator RICK SANTORUM's amendment would raise the minimum wage by $1.10 an hour over 18 months.

I have always believed that increasing the minimum wage is not an effective way to improve living standards for the Nation's working poor. Simply put, raising the minimum wage is a Federal government mandate which creates negative ripples throughout the national economy by making goods and services more expensive for families. Raising the minimum wage closes the doors of many small businesses, and forces companies to move jobs offshore to less costly countries. Such an increase makes it more difficult for many lower skilled U.S. workers to get started in the job market.

Small businesses are the engine for economic growth in America and represent a powerful vehicle for opportunity. A minimum wage increase would negatively affect small businesses across the nation and in my home State of Utah.

For example, Wangsgard's grocery store of Ogden, UT, offers a full line of groceries, along with a meat shop, oven-fresh bakery, fresh produce, a deli and snack bar, coffee counter, garden center and Ace Hardware. Without a doubt, this store really is a one-stop solution.

Phillip Child, president and owner of Wangsgard's grocery store, informs me that a minimum wage increase would force him to reduce jobs. In fact, Mr. Child confirms that of his 93 employees, those who are earning minimum wage are either in high school or living at home with their parents. These employees are not supporting families. With the goal to open a second Wangsgard's grocery store in the near future, Mr. Child is concerned that an increase in minimum wage would certainly cut the number of new jobs available to the community.

I believe education and job-training programs are the key to raising take-home pay. Of course, it's much easier to pose as the champion of the poor and worry about the consequences later. Yet if Congress does move to increase the minimum wage, it should adopt a small, more gradual increase, and offset the negative consequences of a wage hike with measures to protect the small businesses that generate a majority of all new jobs and employ most Americans. That is why I support the Santorum amendment and oppose the Kennedy amendment.

Mr. CORZINE. Mr. President, I rise today to speak in support of Senator KENNEDY's amendment that would amend the Fair Labor Standards Act of 1938 to provide for gradual increases in the Federal minimum wage.

An increase in the Federal minimum wage is long overdue.

It has now been over 7 years since Congress last raised the minimum wage to its current level of $5.15 per hour. Since that last increase, Congress's failure to adjust the wage for inflation has reduced the purchasing power of the minimum wage to record low levels. In fact, after accounting for the loss of real value due to inflation, the purchasing power of the minimum wage has not been this low since the wage increase of 1945.

When Congress last raised the minimum wage in 1996, the wage was raised from $4.75 to its current $5.15. At the time, this modest increase had real results. The adjustment increased the take home pay of nearly 10 million hard working Americans. But with inflation, the real dollar value of that increase is long gone.

So that we are clear, raising the minimum wage is a family issue. So often in this body we talk about family issues. This is our chance to act.

No family gets rich from earning the minimum wage. In fact, the current minimum wage does not even lift a family out of poverty. A person earning the current minimum wage, working 40 hours a week, 52 weeks a year, earns only $10,700—nearly $4,000 below the poverty line for a family of three.

Seven out of every 10 minimum wage workers are adults, and 40 percent of minimum wage workers are the sole breadwinners of their families. Moreover, a disproportionate number of minimum wage workers are women. Sixty percent of the 11 million minimum wage workers are women, and many are single mothers who must put food on the table, make rent payments, and provide childcare. Increasing the minimum wage by a mere $1.50 per hour would mean an extra $3,000 a year for working families. These additional dollars can provide tangible help to these families in the form of groceries, rent, and the ability to pay one's utility bills.

The problems posed by our insufficient minimum wage are stark in my home State of New Jersey.

According to New Jersey Department of Labor statistics, there are just over 181,000 people making minimum wage in the State. While some States have set higher minimum wage levels, New Jersey is like most States—its minimum wage mirrors the Federal minimum wage. But New Jersey is also different because the cost of living in New Jersey far exceeds the national average and working families in the State are unable to make ends meet at the current minimum wage. As a result, minimum wage workers in New Jersey are worse off than minimum wage workers living in other parts of the country.

Let me quantify the severity of this problem in a high-cost State such as New Jersey. Last year, Legal Services of New Jersey released a self-sufficiency study that found that—without private or public assistance—a New Jersey family of four needs a yearly salary of anywhere from $37,516 to $56,670 to make ends meet. Now remember, as I mentioned earlier, an individual earning the current minimum wage, working 40 hours a week, 52 weeks a year, earns only $10,700. What that then means is that in New Jersey, a family of four that has both parents working full-time for the minimum wage would still face an annual shortfall likely in excess of $20,000 in order to cover basic living needs.

While the Kennedy amendment seeks to provide a real wage increase to workers that will help them keep up with the rising cost of living in our Nation, the Santorum amendment offered by my Republican colleagues is a cruel hoax on hard-working Americans.

It is politics over policy, and it is just plain wrong.

The Santorum amendment only provides about half of the minimum wage increase of the Kennedy amendment. It also denies minimum wage, overtime and equal pay rights from over 10 million workers.

The Santorum amendment will increase the minimum wage by a mere $1.10 per hour. This amendment will benefit only 1.8 million workers—5.5 million fewer than the Kennedy amendment.

The difference between an increase to $7.25 and an increase to $6.25 for a minimum wage worker has a real impact on people's lives, particularly in a State such as New Jersey. It means on average 15 fewer months of child care; over a year less of tuition at a community college; 10 fewer months of heat and electricity; 6 fewer months of groceries; and 5 fewer months of rent.

The Santorum amendment denies more than 10 million workers minimum wage, overtime pay and equal pay rights by ending individual Fair Labor Standards coverage and raising the enterprise coverage threshold to $1 million from $500,000.

The Santorum amendment would be the death of the 40-hour workweek and the American weekend. After the Administration's denial last year of overtime protections for 6 million workers, this proposal would further undermine overtime protections by allowing employers to refuse to pay workers up to 10 hours of earned overtime pay every 2 weeks.

That means a pay cut of $3,000 a year for a median income earner—$43,000 per year—and an $800 pay cut for minimum wage workers. Employers are already free to offer more flexible schedules under current law—the only difference is that now they have to pay workers overtime when they work more than 40 hours in a week.

Finally, the Santorum amendment prohibits states from providing stronger wage protections than the Federal standard for tipped employees like waiters and waitresses.

There are some items in the Santorum amendment that can help our small businesses. But this amendment has been so bloated down with provisions that are harmful to American workers that as a whole it is not just bad for workers, it is ultimately bad for business.

All of our hard working families nationwide need and deserve a minimum wage that reflects the increased cost of living in America. It is the least we can do for people who work hard and make a positive contribution to our great Nation.

Let's not dishonor them or their efforts. I urge my colleagues to support the Kennedy amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today in opposition to the amendment offered by Senator KENNEDY which would increase the minimum wage by an unprecedented 41 percent. Apart from its numerous other problems, this proposal is fundamentally flawed because it presumes that Congress, by simply imposing an artificial wage increase, will meaningfully address the real issues of the lowest paid workers. That is simply not the case.

Regardless of the size of a wage increase Congress might impose, the reality is that yesterday's lowest paid worker, assuming he still has a job, will continue to be America's lowest paid worker tomorrow. Advancement on the job and earned wage growth can simply not be legislated. We do a disservice to all concerned—most especially the chronic low-wage worker—to suggest that a Federal wage mandate is the answer. What we need to focus on is not an artificially imposed number but on the acquisition and improvement of jobs and job-related skills. In this context, we should recognize that only 68 percent of the students entering the ninth grade 4 years ago are expected to graduate this year. For minority students, this number hovers around 50 percent. In addition, we continue to experience a dropout rate of 11 percent per year.

These noncompletions and dropout rates and the poor earnings capacity that comes with them cannot be fixed by a Federal wage policy. We always have to keep this in mind. The phrase "minimum wage worker" is an arbitrary designation. A more accurate description and one that should always be at the center of this debate is that we are seeking to address those workers who have few if any skills that they can use to compete for better jobs and command higher wages. The effect may be low wages, but the cause is low skills. In short, the problem is not a minimum wage. The problem is minimum skills.

I had a Workforce Investment Act bill that the Senate 2 years ago passed unanimously. We cannot get a conference committee to do upgrades in skills for 900,000 people a year. That would have upped the minimum wage, and it would have upped it in a true way. If we are to approach this debate in a constructive and candid way, we need to know certain basic principles of economics. Wages do not cause sales. Sales are needed to provide wages. Wages do not cause revenue. Revenue drives wages. Wages can cause productivity, but the productivity has to come first to be able to afford the wages.

Skills, however, operate differently than wages. Skills do create sales. Sales produce revenue. Skills do create productivity. Skills get compensated with higher wages or else the employee simply goes elsewhere for true higher wages. Wage increases without increased sales or higher productivity have to be paid for by higher prices. Higher prices wipe out wage increases. Skills, not artificial wage increases, produce the true net gains in income.

The minimum wage should be for all workers what it is for most: A starting point; a starting point in an individual's lifelong working career. Viewed as a starting point, it becomes clear that the focus needs to be less on where an individual begins his or her working career. Instead, more emphasis should be placed on how an individual can best progress.

Real wage growth happens every day and it is not the function of a Government mandate. It is the direct result of an individual becoming more skilled and therefore more valuable to his or her employer.

As a former small business owner, I know that these entry level jobs are a gateway into the workforce for people without skills or experience. These minimum skills jobs can open the door to better jobs and better lives for low-skilled workers if we give them the tools they need to succeed.

We have a great example in Cheyenne, WY, of minimum skilled workers who were given the tools and the opportunity to reach the American dream. Mr. Jack Price, the owner of eight McDonald's restaurants in Wyoming—everyone likes to use McDonald's for the example—had three employees who started working for McDonald's at minimum wage. Now those three employees, those minimum wage employees, own a total of 20 restaurants. They got the skills.

This type of wage progression and success should be the norm for workers across our country. However, there are some minimum skilled workers for whom stagnation at the lower tier wage is a longer term proposition. The answer for these workers, however, is not simply to raise the lowest wage rung, which raises all the other rungs, which drives up the price and takes away their advantage; rather, these individuals must acquire the training and skills that result in meaningful and lasting wage growth.

We must equip our workers with skills they need to compete in this technology-driven global economy. It is estimated that 60 percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. It is also estimated that graduating students will likely change careers some 14 times in their life, and 10 of those jobs have not even been invented yet.

To support these needs, we need a system in place that can support a lifetime of education, training, and retraining for workers. The end result would be the attainment of goals that provide meaningful wage growth. As legislators, our efforts should better focus on ensuring that the tools and the opportunities for training and enhancing skills over a Worker's lifetime are available and are utilized.

We tried to do that through the Work First Investment Act that got blocked in the last Congress; 900,000 people trained to higher skilled jobs each year. That would have been a lot of people getting higher wages each and every year.

Since 1998, the Democrats have been pushing a drastic increase in the Federal minimum wage except—listen to this—except when they were in the majority, when they controlled this body. In the 18 months from mid-2001 through all of 2002, while the Democrats held the majority they did not bring the minimum wage vote to the floor. The question must be asked, who would really be helped? Who would be hurt by this amendment we have today to raise the minimum wage by an unprecedented 41 percent, to $7.25 an hour.

First, we must realize that the large increase in minimum wage will hurt low-income, low-skilled individuals, the very workers proponents claim they want to help. Let us be clear: Mandated hikes in the minimum wage do not cure poverty. They clearly do not create jobs.

The Congressional Budget Office has said most economists would agree that an increase in the minimum wage rate would cause firms to employ fewer low-wage workers or employ them for fewer hours. That is the CBO estimate of October 18, 1999. In 1999, based on a dollar increase, CBO found that a plausible range of estimates for the potential job losses holds that a 10-percent increase—not a 41-percent increase, a 10-percent increase—in the minimum wage would result in a half to 2 percent reduction in the employment level of teenagers and a smaller percentage reduction for young adults ages 20 to 24. These estimates imply employment losses for an increase in the minimum wage of the amount provided in the 1999 proposal of roughly 100,000 to half a million jobs. Applying that same analysis today could actually double this prediction. Upwards of one million low-wage workers, mostly teenagers and young adults, can expect to lose their jobs or lose opportunities due to the proposal before the Senate for the $2.10 an hour increase.

What every student who has ever taken an economics course knows, if you increase the cost of something—in this case, the minimum wage—you decrease the demand for those jobs. Misleading political rhetoric cannot change the basic principles of supply and demand. The majority of economists continue to affirm the job-killing nature of mandated wage increases.

A recent poll concluded that 77 percent—that is nearly 17,000 economists—believe that a minimum wage hike causes job loss. The argument these economists understand is this: By requiring employers to pay a higher wage for positions they consider entry level, the mandate forces employers to search for higher skilled employees. Moreover, mandated higher entry-level wages force employers to redefine the nature of the job and the expectations they have for their entry-level workers. Unskilled and low-skilled workers without the new qualifications will, therefore, be the first to be displaced and the last to be employed.

In short, Congress can mandate how much employers pay entry-level employees, but they cannot mandate which workers employers pay.

Even Dr. Rebecca Blank, a former member of President Clinton's Council of Economic Advisers, has admitted that without the earned-income credit there would be greater pressure to increase the minimum wage, which has growing disemployment effects as it rises, since it induces employers to substitute away from less-skilled labor toward other technologies.

Let me repeat what President Clinton's Economic Adviser said, because this is something proponents on the Senate floor are unwilling to meet. Minimum wage increases induce employers to substitute away the less-skilled labor toward other technologies. Low-skilled workers will be displaced and lose jobs or will not be hired in the first place.

This massive Federal wage proposal is based on a false assumption that a business that employs 50 minimum wage workers before this wage increase is enacted will still employ 50 minimum wage workers afterwards. Whether a business is in Washington or Wyoming, employers cannot absorb a 41 percent increase in their costs without a corresponding decrease in the number of jobs or of benefits they can provide workers.

So we know there are losers when we raise the minimum wage, but who are the individuals who benefit? While minimum wage supporters often claim the wage floor must be raised in order to lift employees out of poverty, this is simply not the case. Again, the average family income of potential beneficiaries from a $7.25-an-hour minimum wage rate is over $41,000 a year. Clearly, the minimum wage is not a poverty level wage for most employees.

Minimum wage earners who support a family solely based on the wage are actually few and far between. Fully 85 percent—this is very important—of the minimum wage earners live with their parents, have a working spouse, or are living alone without children. Forty percent live with a parent or relative. Twenty-one percent live with another wage earner. Twenty-four percent are single or are the sole breadwinner in a household with no children. And they lack skills. They have minimum skills. They get paid for minimum skills.

Research shows that the poor targeting and other unintended consequences of the minimum wage make it terribly ineffective at reducing poverty in America—the intended purpose of the policy. In fact, two Stanford University economists concluded that a minimum wage increase is paid for by higher prices that hurt poor families the most.

A 2001 study conducted by Stanford University economists found that only one in four of the poorest 20 percent of families would benefit from an increase in the minimum wage. Three in four of the poorest workers would be hurt by a wage hike because they would shoulder the costs of the resulting higher prices.

Artificial wage hikes drive prices up. They have to. You cannot pay the wages without it. Everything but Government spending has to be paid for. To pay a higher minimum wage and other wages that have to go up because of it means prices have to be raised. We should not trick workers into thinking they are earning more when they still cannot pay the bills at the end of the month.

As we discuss the Federal minimum wage, we must keep in mind the dangers, also, of a "Washington knows best" and a "one size fits all" mentality. An increase in the Federal minimum wage is a classic lesson that Washington does not know best and that one size does not fit all. A Federal wage mandate does not account for the cost of living that varies across the country. It costs over twice as much to live in New York City than it does in Cheyenne, WY. However, a Federal minimum wage hike that applies from coast to coast is like saying a bag of groceries in New York City must cost the same as a bag of groceries in Cheyenne. Local labor market conditions and the cost of living determine pay rates, not Federal minimum wage laws dictated from Washington.

Incidentally, that is why Maine has a higher wage rate than the Federal Government. That is why a lot of States have a higher rate. It fits their State. The States can do it without our help. Isn't that amazing.

Now, proponents of a large, federally mandated increase in the minimum wage repeatedly state that the wage floor is too low and that minimum wage earners earn below the poverty line. This argument neglects to figure in the effects of the earned-income credit.

Proponents of large minimum wage increases argue that we should return the starting wage to its 1968 value, when the minimum wage was at its all-time high when adjusted for inflation. However, it is important to note, that the real value of the current minimum wage in 2004 dollars plus the real value of the Earned income credit for a full-time minimum wage employee with two children comes close to matching the 1968 value Democrats claim they are targeting.

As my colleagues are no doubt aware, the earned income credit is a Federal income tax credit for low-income workers that reduces the amount of tax an individual owes, and is frequently returned in the form of a refund. This can supplement incomes by as much as $4,290, for a single adult with two dependents which works out to a cash credit equal to more than $2 per hour paid directly to the worker.

For every dollar in wages earned by a low-income family with two children, the Federal Government provides a tax credit of 40 percent.

Workers with one child have an effective minimum wage rate of $6.90 per hour, $5.15 per hour, plus a 34-percent credit of $1.75 per hour.

Workers with two or more children have an effective minimum wage rate of $7.22 per hour, $5.15 plus a 40-percent credit of $2.07 per hour.

As a household's income rises above around $15,000 per year, the earned income credit begins to be phased out.

It would take a minimum wage increase of around a dollar per hour to reach the "appropriate" 1968 rate, when the earned income credit is applied.

The earned income credit has retained the value of the minimum wage for employed workers with families by supplementing their income while avoiding the adverse effects of minimum wage hikes. In fact, using the earned income credit allows us to more effectively target assistance to those workers raising families on low incomes.

Contrast this targeted policy with massive increases in the minimum wage that inefficiently distribute "assistance" to individuals without children—mostly teenagers from wealthy families. In summary, the earned income credit is ignored by wage-hike proponents because it proves the flaws in their arguments. Regardless of whether their arguments made sense in 1938, or even in 1968, their rhetoric has been overridden by newer policies such as the earned income credit. I prefer to promote modern policies that help the poor, and not to dwell on stale arguments that no longer ring true.

My colleagues on the other side of the aisle suggest that the only time low-income workers receive wage increases is when Congress mandates an increase in the minimum wage. It is preposterous and demeaning to argue that only Congress can give low-wage workers a pay raise. More often than not, it is the workers' own dedication, hard work, and willingness to learn that results in their earning higher wages. Workers who were making the minimum wage when it was last hiked in 1997 have learned job skills, received valuable experience, and, as a result, have earned raises above the minimum wage.

Whenever they seek to increase the minimum wage, the Democrats announce the number of workers who will "benefit" from the mandate. Interestingly, however, that number has shrunk dramatically over the past 6 years.

On September 3, 1998, Senator KENNEDY issued a press release counting the number of minimum-wage-increase beneficiaries at 12 million. That was when his wage hike went up to $6.65 per hour instead of today's $7.25 per hour increase. Today, however, he puts the number at only 7.5 million. That is 4.5 million fewer workers affected by a minimum wage increase. Where did they go?

Where did the other 4.5 million individuals go? They earned raises, on their own, without Congress imposing a Federal wage hike. In fact, statistics show that most minimum-wage workers will earn raises in their first year on the job. These minimum-skilled workers will earn raises as their skills and experience increase.

I share the same goal as Senator KENNEDY—to help American workers find and keep well-paying jobs. Minimum skills—not minimum wages—are the problem. Education and training will solve that problem and lead to the kind of increased wages and better jobs we all want to create for our Nation's workers. Lets get the Workforce Investment Act passed and conferenced so the President can sign it and get higher skills training accelerated.

The PRESIDING OFFICER (Mr. BURR). The Senator's time has expired.

Mr. ENZI. Mr. President, it is a false economy, and if we really wanted to raise it, we would have done something with the Workforce Investment Act, the job training. We would have raised skills, and then employees would have been compensated well.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, I will use leader time for this presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have not been on the floor all day to listen to the debate, but I have listened to part of it. I am stunned by some of the remarks by those opposed to raising the minimum wage. To indicate that people who are drawing minimum wage live with their parents or others—they do because they make so little money. And all the denigration of these entry-level jobs—these are jobs that people have to have filled. They may be low, entry-level jobs, but they are jobs people need. People are not hiring these people out of the goodness of their heart, to say: Well, here is somebody. We'll hire a few minimum wage employees.

There are a few people like that, but the reason you have these minimum wage jobs is because people need results. The employer needs the work done. The employee needs the job.

I have heard on this floor a number of times today people saying: It is pushing a drastic increase in the minimum wage. The minimum wage was valid when it was initiated many years ago. It is valid today. We should at least keep up with the cost of living. Using the logic of those who oppose the increase in the minimum wage with these "drastic," as they say, minimum wage increases, the longer you wait, the less chance there would be to raise it because it would become more "drastic," in their words, all the time. All we are trying to do, all Senator KENNEDY is trying to do, is keep up with the cost of living.

My friend, the distinguished Senator from Wyoming, indicated that during the short time we were in control—of course, a lot of the time we were in charge there was no legislative business going on, but keep in mind that every time we have attempted, no matter who is in the majority in the last 8 years, the Republicans have stopped it, either through an actual filibuster or through some parliamentary maneuver. They have opposed raising the minimum wage.

I think the logic of so doing, that it is a "drastic" increase—I repeat—means that the longer you wait until you attempt to raise the minimum wage, the less chance it would have to pass because it would become, in their minds, more drastic. Think of the poor people who are trying to earn a living with this minimum wage. It becomes very drastic for them.

I was heartened last week to see my Republican colleagues express their commitment to addressing the issue of poverty. Press conferences were held. But I believe the time has come for them to back up their words with action and vote to increase the minimum wage to $7.25 an hour. It is not going to happen. We understand that the marching orders have been given, and they will all walk up here and vote against increasing the minimum wage.

In a country that values work and the opportunity to get ahead, a hard day's work should bring a decent day's pay, whether it is an entry-level job or a job that is a more skilled job. In America, this is not the case as it relates to entry-level work. We have mothers and fathers working full time in minimum wage jobs but still living in poverty, still struggling to get ahead.

I met with some of these workers in Nevada last month. When you talk with them, you begin to understand that increasing the minimum wage is not about helping teenagers earn more from their summer jobs, it is about helping families realize the promise of America. This fact was driven home during a conversation I had with a woman from Reno named Natasha. She is married, has a child, and works as a server in a popular restaurant. She works hard. In fact, the restaurant is one of my favorites. It is in a little strip mall. The restaurant is called Pinocchio's. It is a wonderful restaurant.

She has served me on a number of occasions. She works hard, as does her husband. But with a minimum wage job, she has trouble making ends meet and affording basics, such as food, clothing, and housing. She has tried to get ahead by taking classes at a community college in the area, but she had to cut back because she could not afford to go to school and also pay for what she needed to take care of her family. She earns the minimum wage, plus her tips.

Now, I would say to my friend from Wyoming, the employer is not going to eliminate her job if the minimum wage is increased. He needs somebody to wait those tables, and she is willing to do this because she needs the work. And the tips are not that bad. She is trying to live the American dream by going to school and getting ahead but unable to do it because the minimum wage in this country is not enough money.

Her story is like many others we have all heard, if we listen—stories of families caught in the cycle of poverty, a cycle we can begin to end today by increasing the minimum wage.

An increase in the minimum wage will help 7 million Americans. This may not sound like a lot of money, but to these people it is a lot of money. An increase of this size can help a family heat their home, pay for transportation to work, or can help a mother afford childcare so she does not have to worry about her kids while she is away.

The majority is calling to increase the minimum wage to $6.25 and further attempting to end the 40-hour workweek with what they call flextime. These measures are unacceptable. Raise the minimum wage, not play games with making it easier for employers to stagger the work of employees. They have already, through the President, eliminated overtime in many instances.

First, a nominal increase in the minimum wage will help millions of Americans. This is important. Ending the 40-hour workweek, replacing it with flextime, would deny over 10 million minimum wage workers the ability to earn overtime pay.

We can do better. Helping our families live more productive lives must be our top priority. Providing workers a wage that is consistent with the rising cost of living is both fair and just. I urge my colleagues to pass this increase in the minimum wage.

The distinguished Senator from Massachusetts has spent a lifetime in the national legislature helping people who don't have lobbyists. When Senators walk up to this door here—sometimes we come in by subway—many times we are overwhelmed by lobbyists, so many that we can't work our way through them. But we will not see lobbyists here representing minimum wage workers.

I send to my friend through the Chair my appreciation for a lifetime of work helping those who don't have lobbyists, people who are working like Natasha trying to make ends meet. The minimum wage should be increased. It is a shame that we have to fight for it so hard. Frankly, we have not been successful for 8 years. I say to my friend—and I don't like to hear myself say this—they have their marching orders over there. We are going to lose again.

The people who are in these entry-level jobs are again going to be without an increase. There are people out there who had hope. I am sorry. The marching orders have been given, and there will be no increase.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. KENNEDY. I ask the Chair to let me know when I have used 7 minutes.

Mr. President, we have had a good discussion with my friend and colleague, the Senator from Pennsylvania. During the course of the debate, I did mention that a range of different groups are supporting our position. I will include those endorsements in the RECORD. One I would like to mention is from the Catholic Bishops. This is their position:

> The Catholic Bishops have been long time supporters of the minimum wage. In Catholic teaching, the principle of a living wage is integral to our understanding of human work. Wages must be adequate for workers to provide for themselves and their families in dignity. Because the minimum wage is not a living wage, the Catholic Bishops have supported increasing the minimum wage over the decades.
>
> We are aware that some accommodations are being offered to alleviate possible adverse effects on small businesses . . . that might occur with a modest increase in the minimum wage. However, other changes and modification being contemplated that will affect overtime pay or the 40 hour workweek are unwarranted and unwise. Other workers should not lose minimum wage protection or overtime pay as the price of increasing the wages of America's lowest paid workers. At the very least, such changes to the Fair Labor Standards Act should be considered in the formal legislative process, not attached to a popular increase in the minimum wage as a condition of passage.

They indicate their support for our amendment.

In just a few moments the Senate will have an opportunity to vote either in favor of the Santorum amendment or my amendment. I believe a vote for the Santorum amendment is a vote to deny the minimum wage to more than 10 million workers. Those workers are looking to us for a fair raise to reward their hard work and to help care for their families.

But the Santorum amendment takes away their minimum wage rights entirely. A vote for the Santorum amendment is a vote to deny overtime pay to more than 10 million workers. These workers rely on overtime pay to make ends meet, and overtime pay is compensation for many long hours away from their families.

A vote for the Santorum amendment is a vote for a pay cut for workers who rely on tips—waitresses, taxi drivers, and hairdressers. This is contrary to our values as Americans. We believe that work should have a reward. The Santorum amendment dishonors that. It is an insult to the low-wage workers of this country.

The amendment I offer is about everything that we stand for as a nation.

It is about opportunity. It ensures that every American at least has the opportunity to move up and achieve the American dream. It is about fairness. What is fair about working hard 52 weeks of the year and still living in poverty? What is fair when Members of Congress raise their own salaries seven times, by $28,000, over the last 8 years and refuse to vote for an increase in the minimum wage? What is fair about that? What is fair about executives who pay themselves millions of dollars but can't find a way to pay a decent minimum wage?

It is about making our economy work for everyone, not just the privileged few. There is no doubt that this is one of the central moral questions of our time. It is how we treat the least of those among us. It is why religious leaders have supported a minimum wage increase. The Santorum amendment fails the fundamental obligations of a just and fair society. Under the guise of raising the minimum wage, it cuts overtime pay and leaves out too many individuals.

Who are these minimum wage workers? First of all, they are men and women of dignity. They assist in the classrooms every day to teach the children. They work in nursing homes to help care for the elderly who have sacrificed for their children and have made such a difference for this country. This issue is about women working in our society, because a majority of those who will benefit from this minimum wage increase are women. It is a women's issue. It is a children's issue because a third of those women have children. It is a children's and a women's issue—and a family issue. It is a civil rights issue because so many of the men and women who receive the minimum wage are men and women of color. And most of all, it is a fairness issue.

If there is a value which the American people understand, it is fairness. The American people believe if you work 40 hours a week, 52 weeks of the year, you should not have to live in poverty. They are living in poverty today with the second lowest minimum wage in nearly the last 60 years.

The amendment I offer will provide a helping hand to men and women of dignity to live in a decent and fair respect.

I hope the Senate will accept it.

I yield back my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 44.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent.

The Senator from Nevada (Mr. ENSIGN) and the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 49, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—46

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Coleman
Corzine
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—49

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Collins
Cornyn
Craig
Crapo
DeMint
Dole
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—5

Baucus
Conrad
Ensign
Mikulski
Specter

The PRESIDING OFFICER. Under the previous order, the amendment not having garnered 60 votes in the affirmative, the Senate action on this amendment is vitiated and the amendment is withdrawn.

VOTE ON AMENDMENT NO. 128

The PRESIDING OFFICER. The question is on agreeing to amendment No. 128.

Mr. SANTORUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—38

Allen
Bennett
Brownback
Bunning
Burns
Coleman
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Hagel
Hatch
Hutchison
Kyl
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Talent
Thomas
Thune
Voinovich
Warner

NAYS—61

Akaka
Alexander
Allard
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Collins
Conrad
Cornyn
Corzine
Dayton
DeMint
Dodd
Dorgan
Durbin
Feingold
Feinstein
Gregg
Harkin
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Sununu
Vitter
Wyden

NOT VOTING—1

Mikulski

The PRESIDING OFFICER. Under the previous order, the amendment not having garnered 60 votes in the affirmative, the Senate action on this amendment is vitiated and the amendment is withdrawn.

The Democratic leader.

AMENDMENT NO. 19 WITHDRAWN

Mr. REID. On behalf of Senator FEINSTEIN, I ask unanimous consent that amendment No. 19 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

AMENDMENT NO. 67

Mr. DODD. Mr. President, I ask unanimous consent that the pending amendment be laid aside and that amendment No. 67 be called up, the reading of the amendment be dispensed with, and the amendment laid aside so that the next amendment may be called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 67

(Purpose: To modify the bill to protect families, and for other purposes)

At the end of the bill, add the following:

## TITLE XVI—MODIFICATIONS FOR THE PROTECTION OF FAMILIES

### SEC. 1601. MODIFICATIONS FOR THE PROTECTION OF FAMILIES.

(a) DISMISSAL OR CONVERSION.—Section 707(b)(2)(A)(ii) of title 11, United States Code, as amended by this Act, is further amended—

(1) in subclause (IV), by striking "$1,500" and inserting "$5,000"; and

(2) by adding at the end the following:

"(VI) In addition, the debtor's monthly expenses shall include—

"(aa) taxes and mandatory withholdings from wages;

"(bb) alimony, child, and spousal support payments;

"(cc) legal fees necessary for the debtor's case;

"(dd) pension payments;

"(ee) religious and charitable contributions;

"(ff) union dues;

"(gg) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

"(hh) ownership costs for 1 motor vehicle (or 2 in the case of a joint filing), determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

"(ii) expenses for children's toys and recreation for children of the debtor, tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

"(jj) miscellaneous and emergency expenses.".

(b) Definition of Current Monthly Income.—Section 101(10A)(B) of title 11, United States Code, as amended by this Act, is further amended by inserting "payments received as domestic spousal obligations," after "Social Security Act,".

(c) Property of the Estate.—Section 541 of title 11, United States Code, as amended by this Act, is further amended—

(1) in subsection (a)(5)(B) by inserting "except as provided under subsection (b)(11)," before "as a result"; and

(2) in subsection (b)—

(A) in paragraph (8), by striking "or" after the semicolon;

(B) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(C) by inserting after paragraph (9) the following:

"(10) any—

"(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year and the amount of an applicable child tax credit allowed under section 24 of such Code for such year; and

"(B) advance payment for an earned income tax credit described in subparagraph (A); or

"(11) the right of the debtor to receive domestic spousal obligations for the debtor or dependent of the debtor.".

(d) Protection of Earned Income Tax Credit and Support Payments Under Bankruptcy Repayment Plans in Chapter 12.—Section 1225(b) of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(3) In determining disposable income, the court shall not consider amounts the debtor receives or is entitled to receive from—

"(A) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of the Internal Revenue Code of 1986 for such year and the amount of an applicable child tax credit allowed under section 24 of such Code for such year;

"(B) any advance payment for an earned income tax credit described in subparagraph (A); or

"(C) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.".

(e) Protection of Earned Income Tax Credit and Support Payments Under Bankruptcy Repayment Plans in Chapter 13.—Section 1325(b) of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(5) In determining disposable income, the court shall not consider amounts the debtor receives or is entitled to receive from—

"(A) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year and the amount of an applicable child tax credit allowed under section 24 of such Code for such year;

"(B) any advance payment for an earned income tax credit described in subparagraph (A); or

"(C) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.".

(f) Exemptions.—Section 522(d)(10) of title 11, United States Code, as amended by this Act, is further amended—

(1) in subparagraph (C), by inserting "or" after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking "(E)" and inserting "(D)".

(g) Personal Property.—

(1) Section 521.—Section 521(a)(6) of title 11, United States Code, as amended by this Act, is further amended by striking "of personal property" and inserting "of an item of personal property purchased for more than $3,000".

(2) Section 362.—Section 362(h)(1) of title 11, United States Code, as amended by this Act, is further amended by striking "to personal property" and inserting "to an item of personal property purchased for more than $3,000".

(h) Restoring the Foundation for Secured Credit.—Section 1325(a) of title 11, United States Code, as amended by this Act, is further amended in the flush matter at the end by striking "if the debt was incurred" and inserting "to the extent that the debt was incurred to purchase that thing of value".

(i) Household Goods.—

(1) Definition.—Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(A) by redesignating paragraph (27A) as paragraph (27B); and

(B) by inserting before paragraph (27B) the following:

"(27A) 'household goods '—

"(A) includes tangible personal property normally found in or around a residence; and

"(B) does not include motor vehicles used for transportation purposes;".

(2) For purposes of section 522.—Section 522(f) of title 11, United States Code, as amended by this Act, is further amended by striking paragraph (4).

(j) Limitation on Luxury Goods.—Section 523(a)(2)(C)(i) of title 11, United States Code, as amended by this Act, is further amended—

(1) in subclause (I)—

(A) by striking "$500" and inserting "$1,000";

(B) by striking "90" and inserting "70"; and

(C) by inserting "if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor or the dependents of the debtor" after "nondischargeable"; and

(2) in subclause (II)—

(A) by striking "$750" and inserting "$1,225"; and

(B) by striking "70" and inserting "60".

(k) Exceptions to Discharge.—Section 523 of title 11, United States Code, as amended by this Act, is further amended—

(1) in subsection (c), by inserting "or (14)(A)," after "or (6)" each place it appears; and

(2) in subsection (d), by striking "(a)(2)" and inserting "(a)(2) or (14A)".

### AMENDMENTS NOS. 68 THROUGH 72, AND 119

Mr. DODD. Mr. President, I ask unanimous consent that the pending amendment be laid aside and, on behalf of Senator Kennedy, that amendments Nos. 68, 69, 70, 71, 72 and 119 be called up in turn, that reading of each amendment be dispensed with, that each amendment be laid aside so that the next amendment may be called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

### AMENDMENT NO. 68

(Purpose: To provide a maximum amount for a homestead exemption under State law)

On page 191, between lines 11 and 12, insert the following:

(c) Further Limitation on Homestead Exemption.—Section 522(b) of title 11, United States Code, is amended by adding at the end the following:

"(5) Notwithstanding any other provision of this section, the maximum amount of a homestead exemption that may be provided under State law shall be $300,000.".

### AMENDMENT NO. 69

(Purpose: To amend the definition of current monthly income)

On page 20, line 16, strike "Act," and insert "Act, income from any job in which the debtor is no longer employed, income from any activity which the debtor can no longer engage in due to disability,".

### AMENDMENT NO. 70

(Purpose: To exempt debtors whose financial problems were caused by failure to receive alimony or child support, or both, from means testing)

On page 19, between lines 13 and 14, insert the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor, in any consecutive 12-month period during the 2 years before the date of the filing of the petition, failed to receive alimony or child support income, or both, that such debtor was entitled to receive pursuant to a valid court order, totaling an amount in excess of 35 percent of the debtor's household income for such 12-month period.".

### AMENDMENT NO. 71

(Purpose: To strike the provision relating to the presumption of luxury goods)

Beginning on page 155, strike line 3 and all that follows through page 156, line 5.

### AMENDMENT NO. 72

(Purpose: To ensure that families below median income are not subjected to means test requirements)

On page 28, between lines 21 and 22, insert the following:

**SEC. 102A. PROTECTION OF FAMILIES BELOW MEDIAN INCOME.**

Section 707(b) of title 11, United States Code, as amended by section 102, is further amended—

(1) in paragraph (2)(C), by striking "calculated" and inserting "calculated, except that a debtor described in paragraph (7) need only provide the calculations or other information showing that the debtor meets the standards of such paragraph"; and

(2) in paragraph (7)(A), by striking "No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2)" and inserting "Paragraph (2) does not apply, and the court may not dismiss a case based on any form of means testing,".

### AMENDMENT NO. 119

(Purpose: To amend section 502(b) of title 11, United States Code, to limit usurious claims in bankruptcy)

On page 45, strike lines 22 through 24, and insert the following:

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(10) such claim is for a credit transaction involving a consumer (as defined in section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(g))), and the interest included as part of such claim exceeds the maximum amount allowed by the laws of the State, Territory, or District in which the debtor resides."; and

(2) by adding at the end the following:

### VOTE EXPLANATION

Mr. SPECTER. Mr. President, I have sought recognition to comment on the last two votes. I had traveled with the President to Pittsburgh, PA today so that I was absent during the vote on the Kennedy amendment. Had I been present, I would have voted for the Kennedy amendment. I arrived 7 minutes into the vote on the Santorum amendment. I would like to have made the vote for the first amendment but voted for the Santorum amendment. As between the two, my preference would have been the Kennedy amendment because it raised the minimum wage more, and after a 7½ year hiatus, it seemed to me that that amendment was in order.

I commend Senator KENNEDY for his continuing efforts on the minimum wage, and I commend my distinguished colleague for his efforts which bridged a considerable gap. I wanted to explain or comment for the record why I was absent on the Kennedy amendment but present on the Santorum amendment, even though I would have preferred the Kennedy amendment to the Santorum amendment. But I would have in any event voted for both of them.

The last time Congress voted to raise the minimum wage was in 1996, raising it from $4.25 to $4.75 to eventually $5.15. Since 2000, the number of Americans in poverty has increased by 4.3 million for a grand total of 36 million people, which includes 13 million children. Among full-time, year-round workers, poverty has doubled since the late 1970s from about 1.3 million then to more than 2.6 million. Since 1981 on 10 different occasions, I have voted to increase the minimum wage.

History clearly demonstrates that raising the minimum wage has no adverse impact on jobs, employment, or inflation. In the 4 years after the last minimum wage increase passed, the economy experienced its strongest growth in over three decades. More than 11 million new jobs were added, at the pace of 232,000 per month.

Nearly 7½ million workers will directly benefit from this minimum wage increase while 8 million more will benefit indirectly. That is a total of 15½ million Americans who would get a raise due to this legislation and would enable a working family to afford almost 2 more years of childcare, full tuition for a community college degree, and many other staples for a healthy standard of living. Unfortunately, the current minimum wage fails to meet these standards.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

### AMENDMENT NO. 105

Mr. AKAKA. Mr. President, I ask unanimous consent that the pending amendments be set aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I call up amendment No. 105.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 105.

Mr. AKAKA. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

### AMENDMENT NO. 105

(Purpose: To limit claims in bankruptcy by certain unsecured creditors)

On page 45, strike lines 22 through 24, and insert the following:

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(10) such consumer debt is an unsecured claim arising from a debt to a creditor that does not have, as of the date of the order for relief, a policy of waiving additional interest for all debtors who participate in a debt management plan administered by a nonprofit budget and credit counseling agency described in section 111(a)."; and

(2) by adding at the end the following:

Mr. AKAKA. Mr. President, I ask unanimous consent that my amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

### AMENDMENTS NOS. 87 THROUGH 101

Mr. FEINGOLD. Mr. President, I have filed a number of amendments to this bill, most of which I believe are germane and therefore can be offered and debated and voted on even if cloture is invoked tomorrow. I wanted to make sure that my amendments have been called up prior to cloture so that I am assured of getting a vote on any amendment that is germane. It is not my intention to debate these amendments tonight. That is what this request is designed to do, merely to allow my germane amendments to be voted on prior to a vote on final passage of the bill.

I ask unanimous consent that the pending amendment be laid aside and that each of my amendments Nos. 87 through 101 be called up in turn, that the reading of each amendment be dispensed with, and each amendment in turn be laid aside so that another amendment can become the pending business, and that the last amendment in the list then be laid aside so that the amendment that is now pending is again the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows: '

### AMENDMENT NO. 87

(Purpose: To amend section 104 of title 11, United States Code, to include certain provisions in the triennial inflation adjustment of dollar amounts)

On page 445, strike lines 10 through 13, and insert the following:

**SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.**

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting "101(19A)," after "101(18)," each place it appears;

(2) by inserting "522(f)(3)," after "522(d)," each place it appears;

(3) by inserting "541(b), 547(c)(9)," after "523(a)(2)(C)," each place it appears;

(4) in pagagraph (1), by striking "and 1325(b)(3)" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28"; and

(5) in paragraph (2), by striking "and 1325(b)(3) of this title" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28".

### AMENDMENT NO. 88

(Purpose: To amend the plan filing and confirmation deadlines)

Beginning on page 230, strike line 7 and all that follows through page 231, line 6, and insert the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

### AMENDMENT NO. 89

(Purpose: To strike certain small business related bankruptcy provisions in the bill)

Beginning on page 221, strike line 1 and all that follows through page 240, line 4, and insert the following:

## Subtitle B—Small Business Bankruptcy Provisions

### SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

### SEC. 432. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

### AMENDMENT NO. 90

(Purpose: To amend the provision relating to fair notice given to creditors)

Beginning on page 167, strike line 3 and all that follows through page 169, line 25, and insert the following:

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c), by adding before the period at the end the following: "unless the creditor cannot with reasonable effort identify the account to which the notice applies without the information required by this subsection"; and

(2) by adding at the end the following:

"(e) At any time in a case under chapter 7 or 13 concerning an individual debtor, a creditor may file with the court and serve on the debtor a notice of the address to be used for service of notice on the creditor in that case. Beginning 10 days after the creditor files and serves the notice, any notice that the court or the debtor is required to give shall be given at the address contained in the creditor's notice of address.

"(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

"(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(3) In any case filed under chapter 7 or 13, any notice required to be provided by any party in interest with respect to which a notice is filed under paragraph (1), to such entity later than 120 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(4) A notice filed under paragraph (1) may be withdrawn by such entity.

"(g)(1) Notice given to a creditor other than as provided in this section is not effective until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases by a filing in accordance with subsection (d) or (e) and establishes reasonable procedures so that bankruptcy notices received by the creditor are actually delivered to the person or department, notice is not considered to have been brought to the attention of the creditor until that person or department receives the notice.

"(2) The court may not impose either a sanction under section 362(h) or a sanction that a court may otherwise impose on account of a violation of the stay under section 362(a) or a failure to comply with section 542 or 543 on account of any action of the creditor unless the action occurs after the creditor has received either notice of the commencement of the case effective under this section or other actual notice reasonably calculated to come to the attention of the creditor, the creditor's attorney, the creditor's agent taking the action, or other appropriate person.".

### AMENDMENT NO. 91

(Purpose: To amend section 303 of title 11, United States Code, with respect to the sealing and expungement of court records relating to fraudulent involuntary bankruptcy petitions)

On page 205, between lines 16 and 17, insert the following:

### SEC. 332. FRAUDULENT INVOLUNTARY BANKRUPTCY.

(a) SHORT TITLE.—This section may be cited as the "Involuntary Bankruptcy Improvement Act of 2005".

(b) INVOLUNTARY CASES.—Section 303 of title 11, United States Code, is amended by adding at the end the following:

"(*l*)(1) If—

"(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

"(B) the debtor is an individual; and

"(C) the court dismisses such petition,

the court, upon the motion of the debtor, shall seal all the records of the court relating to such petition, and all references to such petition.

"(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.

"(3) Upon the expiration of the statute of limitations described in section 3282 of title 18, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and for good cause, may expunge any records relating to a petition filed under this section.".

(c) BANKRUPTCY FRAUD.—Section 157 of title 18, United States Code, is amended by inserting ", including a fraudulent involuntary bankruptcy petition under section 303 of such title" after "title 11".

### AMENDMENT NO. 92

(The amendment is printed in today's RECORD under "Text of Amendments.")

### AMENDMENT NO. 93

(Purpose: To modify the disclosure requirements for debt relief agencies providing bankruptcy assistance)

On page 112, strike line 17 and all that follows through page 120, line 24, and insert the following:

"(12A) 'debt relief agency' means any person, other than an attorney or an employee of an attorney, who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

"(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.".

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

### SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**"§ 526. Restrictions on debt relief agencies**

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(A) the services that such agency will provide to such person; or

"(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

"(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

### SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

**"§ 527. Disclosures**

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1); and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM A BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES A BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.'"

### AMENDMENT NO. 94

(Purpose: To clarify the application of the term disposable income)

Beginning on page 24, strike line 9 and all that follows through page 26, line 7, and insert the following:

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

"(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2)(A)(i), shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.".

### AMENDMENT NO. 95

(Purpose: To amend the provisions relating to the discharge of taxes under chapter 13)

On page 265, between lines 18 and 19, insert the following:

**SEC. 707A. DISCHARGE UNDER CHAPTER 13.**

Section 1328(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (2), by striking "(1)(B), (1)(C),";

(2) in paragraph (3), by striking "or" after the semicolon;

(3) in paragraph (4), by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(5) for taxes with respect to which the debtor filed a fraudulent return.".

### AMENDMENT NO. 96

(Purpose: To amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13)

Beginning on page 24, strike line 16 and all that follows through page 26, line 7, and insert the following:

"(2)(A) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(i)(I) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed: and

"(II) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(ii) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(B) However, the debtor's disposable income may be adjusted if the debtor demonstrates special circumstances that justify adjustments of current monthly income for which there is no reasonable alternative, as described in section 707(b)(2)(B) of this title.

"(3)(A) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

"(B) However, this paragraph shall not apply if the debtor demonstrates special circumstances that justify adjustments of current monthly income for which there is no reasonable alternative, as described in section 707(b)(2)(B) of this title, and which bring the debtor's income below the applicable amount set forth in this paragraph.".

(i) Reduction of the Term of the Plan for Certain Debtors.—Section 1329 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding paragraphs (1)(B) and (4) of section 1325(b), if the actual income of the debtor, or in a joint case the debtor and the debtor's spouse, has dropped below the applicable amount stated in section 1325(b)(3), either before or after the petition, and is unlikely to increase above such amounts within 1 year, the debtor's plan may be modified to reduce the term of the plan to a time period equal to or greater than the applicable commitment period in section 1325(b)(4)(A)(i) and the debtor shall not be subject to section 1325(b)(3).".

### AMENDMENT NO. 97

(Purpose: To amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13)

On page 182, between lines 3 and 4, insert the following:

**SEC. 318A. APPLICABILITY OF MEANS TEST AND PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.**

(a) Applicability of Means Test to Chapter 13.—Section 1325(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (2), by inserting "or, if lower and not likely to increase substantially in the 2 months after the order for relief, the debtor's monthly income on the date of the order for relief under this chapter" after "received by the debtor";

(2) in paragraph (3), by inserting "(or, if lower and not likely to increase substantially in the 2 months after the order for relief, the debtor's monthly income on the date of the order for relief under this chapter)" after "if the debtor has current monthly income"; and

(3) in paragraph (4)—

(A) in subparagraph (A)(ii), by striking "debtor and the debtor's spouse combined" and inserting "debtor, and in a joint case the debtor and the debtor's spouse, or, if lower and not likely to increase substantially in the 2 months after the order for relief, the monthly income on the date of the order for relief under this chapter";

(B) in subparagraph (A)(ii)(III), by striking "and" after the semicolon;

(C) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(C) provided that if the debtor's income decreases during the case to less than the amount set forth in subparagraph (A)(ii), and is not likely again to exceed that amount within 1 month, may be reduced to 3 years.".

(b) Chapter 13 Plans to Have a 5-year Duration in Certain Cases.—Section 1322(d) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (1), by striking "debtor and the debtor's spouse combined" and inserting "debtor, and in a joint case the debtor and the debtor's spouse, or, if lower and not likely to increase substantially in the 2 months after the order for relief, the monthly income on the date of the order for relief under this chapter"; and

(2) in paragraph (2), by striking "debtor and the debtor's spouse combined" and inserting "debtor, and in a joint case the debtor and the debtor's spouse, or, if lower and not likely to increase substantially in the 2 months after the order for relief, the monthly income on the date of the order for relief under this chapter".

### AMENDMENT NO. 98

(Purpose: To modify the disclosure requirements for debt relief agencies providing bankruptcy assistance)

On page 112, line 17, insert ", other than an attorney or an employee of an attorney" after "any person".

On page 120, lines 12 and 13, strike "AN ATTORNEY OR" and insert "A".

On page 120, line 19, strike "AN ATTORNEY OR" and insert "A".

On page 120, lines 21 and 22, strike "ATTORNEY OR".

### AMENDMENT NO. 99

(Purpose: To provide no bankruptcy protection for insolvent political committees)

On page 205, between lines 16 and 17, insert the following:

**SEC. 332. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.**

Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(i) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not be a debtor under this title.".

### AMENDMENT NO. 100

(Purpose: To provide authority for a court to order disgorgement or other remedies relating to an agreement that is not enforceable)

On page 63, between lines 3 and 4, insert the following:

"(4) Nothing in this section shall preclude a court from ordering disgorgement of payments accepted, or other remedies under this title or other applicable law, when a creditor has accepted payments under such agreement or in anticipation of such agreement and the agreement is not enforceable.

### AMENDMENT NO. 101

(Purpose: To amend the definition of small business debtor)

Beginning on page 222, strike line 23 and all that follows through page 223, line 21, and insert the following:

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $1,250,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $1,250,000 (excluding debt owed to 1 or more affiliates or insiders);".

Mr. SESSIONS. Mr. President, on the unanimous consent request, reserving the right to object, I know the Senator from Wisconsin has worked hard on the bankruptcy bill and has a number of relevant, germane amendments. I know he cares about the bill. I think he would like to see it die, but he wants to make it better. How many amendments did he have?

Mr. FEINGOLD. Fifteen total. This is not a number that I would actually offer. I will be able to pare that list down, but I wanted to preserve my right to have any germane amendment voted on postcloture.

Mr. SESSIONS. I have great respect for the Senator from Wisconsin, and I will not object if he will use his best judgment and try to avoid as many votes as we can.

Mr. FEINGOLD. Mr. President, I have found the Senator very reasonable in working on these amendments. Certainly some will not be offered, others are not major amendments, others will require votes, but it will be a list significantly smaller than 15.

Mr. SESSIONS. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 121

Mr. TALENT. Mr. President, I ask unanimous consent that the pending amendment be set side and my amendment No. 121 be called up, the reading be dispensed with, and it then be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 121) is as follows:

(Purpose: To deter corporate fraud and prevent the abuse of State self-settled trust law)

On page 500, between lines 2 and 3, insert the following:

(4) by adding at the end the following:

"(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

"(A) such transfer was made to a self-settled trust or similar device;

"(B) such transfer was by the debtor;

"(C) the debtor is a beneficiary of such trust or similar device; and

"(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

"(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

"(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

"(B) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).".

### AMENDMENT NO. 129 TO AMENDMENT NO. 121

Mr. SCHUMER. Mr. President, I offer a second-degree amendment to amendment No. 121, proposed by Senator TALENT.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 129 to amendment No. 121.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the exemption for asset protection trusts)

Beginning on page 1 of the amendment, strike all after (4) and insert the following:

"(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

"(A) such transfer was made to a self-settled trust or similar device;

"(B) such transfer was by the debtor; and

"(C) the debtor is a beneficiary of such trust or similar device.

"(2) Paragraph (1) shall not apply to the trusts specified in section 522(d)(12).".

Mr. SCHUMER. Mr. President, I will be very brief. Late last week, this body, in its wisdom, defeated our amendment to close the millionaire's loophole, an amendment that would allow certain trusts to be set up by anybody, but, of course, they are expensive and only those very wealthy who have a purpose would do it and shield their assets in the trust and then declare bankruptcy and shed their debt.

It meant that if you were very wealthy, and you could afford some fancy lawyers, you were a lot better off than somebody who went bankrupt who made $40,000, $45,000, $50,000, or $55,000. I was hoping the amendment could have been adopted, but it was not.

After that point, a number of my colleagues from the other side said, let's try to work something out. We tried this morning but did not reach agreement. So Senator TALENT, my friend from Missouri, just offered his amendment, which I regret to say does not close the millionaire's loophole at all. It is something of a subterfuge. There are two basic problems with it.

First, you would have to prove that the intent of the filer of the trust was to avoid bankruptcy. I do not have to tell anyone here who is a lawyer that to prove that intent, especially when the filer would want to make sure that intent could not be proven and would leave no paper trail, no documents or anything else, would be next to impossible. So in a sense, it would not close the loophole at all.

But there is a broader point. Whether the intent was to do it or not, why should someone be able to shield millions of dollars of assets and declare bankruptcy? We are trying to close abuses here. Why are the abuses of the wealthy any less worthy of being closed than, say, of the middle class, someone who might gamble their meager assets away?

This amendment removes the requirement that you must prove the intent of setting up the trust was simply to avoid your assets being taken in bankruptcy, as well as doing one other thing. The amendment has another problem with it which deals with pensions, and our amendment corrects that as well.

Their amendment on pensions would subject pensions to these rules, and we do not want to do that. That is quite different than somebody hiding their assets in these trusts. But some of these trusts are used by pension plans. We do not bring pension plans into it. In fact, we take them out.

The Talent amendment has kept the pension proposal. I am sure we will be debating the Talent amendment and my second-degree amendment to the Talent amendment at some point as we move forward on the bankruptcy bill, but I wanted to let my colleagues know what has happened.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, will the Senator from New York yield for a question?

Mr. SCHUMER. I will be happy to yield for a question.

Mr. SESSIONS. Mr. President, we went through a debate last time over the retirement benefits, the savings plans. I thought we capped those at $1 million.

My question to the Senator from New York, Mr. President, is, how confident is he under the bankruptcy bill as written that these trusts will be held by bankruptcy judges as not subject to being part of the assets of the debtor's estate? Is this something about which the Senator from New York is concerned? And we are not sure or do we have any law that will give the Senator cause to believe that they would not be captured as part of the estate?

Mr. SCHUMER. The lawyers we have consulted have said it is pretty clear-cut that these assets would be held immune from bankruptcy. But probably more important than my opinion, there was an article in the New York Times written by a Pulitzer Prize-winning author who is an expert on the Tax Code who checked this out with many different sources, as I read the article, and said it is pretty clear that these assets would be held immune from bankruptcy.

Let me remind my colleague, only five States allow the setting up of these trusts, but neither Alabama nor New York. Citizens in our States could set up these trusts in Utah. I do not remember all the other States. I remember Utah because Senator HATCH came over to me and said: that is my State you are picking on. They could set up these trusts, use the trusts in those States, and they would be immune from bankruptcy, no matter what the jurisdiction.

Mr. SESSIONS. I thank the Senator from New York. It is a matter that could be significant, and I am glad we are discussing it.

Mr. SCHUMER. If my colleague will yield for a minute, I would prefer not to second degree the amendment of my friend from Missouri. I would like to come to a compromise that truly closes this loophole. I know my friend from Iowa, the leader on this bill, had mentioned in his remarks that he was interested in closing this. My colleague from Utah had mentioned that he was interested in closing this, and rather than having a debate on the amendment of the Senator from Missouri and my second degree, if we could come to a compromise that truly closes the loophole without going further, I would be happy to do that.

Mr. SESSIONS. I thank the Senator for that offer and will look forward to taking him up on that.

Mr. SCHUMER. I thank my colleague, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

### AMENDMENTS NOS. 110, 111, 112

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purpose of offering en bloc amendments Nos. 110, 111, and 112.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are as follows:

### AMENDMENT NO. 110

(Purpose: To clarify that the means test does not apply to debtors below median income)

On page 18, strike line 1 and all that follows through "(2)" on line 3, and insert the following:

(7)(A) Notwithstanding paragraph (2), a debtor described in this paragraph need only provide the calculations or other information showing that the debtor meets the standards of this paragraph. Paragraph (2) shall not apply, and the court may not dismiss a case based on any form of means testing,

### AMENDMENT NO. 111

(Purpose: To protect veterans and members of the armed forces on active duty or performing homeland security activities from means testing in bankruptcy)

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if—

"(i) the debtor or the debtor's spouse is a member of the armed forces—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32);

"(ii) the debtor or the debtor's spouse is a veteran (as defined in section 101(2) of title 38), and the indebtedness occurred primarily during a period of not less than 180 days, during which he or she was—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32);

"(iii) the debtor or the debtor's spouse is a reserve of the armed forces, and the indebtedness occurred primarily during a period of not less than 180 days, during which he or she was—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32); or

"(iv) the debtor's spouse died while serving as a member of the armed forces—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32).

### AMENDMENT NO. 112

(Purpose: To protect disabled veterans from means testing in bankruptcy under certain circumstances)

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

"(i) on active duty (as defined in section 101(d)(1) of title 10); or

"(ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

### AMENDMENT NO. 26, AS MODIFIED

Mr. DURBIN. Mr. President, on behalf of Senator LEAHY, I send a modification of amendment 26 to the desk. This amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there objection to the modification?

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 26), as modified, is as follows:

(Purpose: To restrict access to certain personal information in bankruptcy documents)

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. PROTECTION OF PERSONAL INFORMATION.**

(a) RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.—Section 107 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

"(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

"(B) Other information contained in a paper described in subparagraph (A).

"(2) Upon ex parte application demonstrating cause, the court shall provide access to information protected pursuant to paragraph (1) to an entity acting pursuant to the police or regulatory power of a domestic governmental unit.

"(3) The United States trustee, bankruptcy administrator, trustee, and any auditor serving under section 586(f) of title 28—

"(A) shall have full access to all information contained in any paper filed or submitted in a case under this title; and

"(B) shall not disclose information specifically protected by the court under this title:".

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting "last 4 digits of the" before "taxpayer identification number"; and

(2) by adding at the end the following: "If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by striking "subsection (b)," and inserting "subsections (b) and (c),".

Mr. LEAHY. Mr. President, the recent debacles at ChoicePoint and Bank of America remind us that we must vigilantly protect our personal information at all points of vulnerability. The bankruptcy process, which inherently involves the exchange of highly personal information, should be no different.

This is a bipartisan amendment that balances the need to protect personal information with the needs of creditors, regulators and law enforcement to access critical information. The amendment is strongly supported by the non-partisan Judicial Conference, and also by the Center for Democracy and Technology.

I am pleased that my colleagues Senator SNOWE and Senator CANTWELL have agreed to cosponsor this amendment, and that Chairman SPECTER and Senator GRASSLEY worked so closely with us to improve the amendment even further. They have all been leaders on privacy issues, and I appreciate their support.

Our bipartisan amendment does two things. It enhances court discretion to balance the need to know against the need to protect personal information, and it requires truncation of social security numbers in publicly filed documents. This protection is particularly important in an electronic filing environment, where information once filed is immediately available to the public via the Internet.

The amendment allows the court, for cause, to protect personal information. For example, the court can seal or redact information, such as the home or employment address of a debtor, because of a personal security risk, including fear of injury by a former spouse or stalker. The amendment would also give the court the leeway to protect other information normally considered private, such as personal medical records.

Our bipartisan amendment still protects law enforcement and creditors where necessary. A law enforcement provision ensures that police and regulators can get needed information directly from the bankruptcy court, and a creditor protection provision specifies that creditors, including the IRS, receive the full Social Security number of a debtor in the initial notice of the case. Finally, we also clarify that these protections should not limit the access of the trustees, administrators and auditors to necessary information.

We must be careful that our efforts to require documentation for accuracy and accountability do not inadvertently create problems for privacy and security. As modified, the amendment properly balances these concerns, and protects the needs of those who need to know.

This has been a cooperative, bi-partisan effort. I extend special thanks to Senator SNOWE, Chairman SPECTER, and Senator GRASSLEY for all their hard-work in reaching an agreement, and I am pleased to submit this modification.

Ms. SNOWE. Mr. President, I support the amendment offered by my colleague Senator LEAHY, to ensure that the private, personal identification information filed in bankruptcy proceedings does not fall into the hands of identity thieves, violent stalkers, and other persons with criminal intentions. I, along with my colleague Senator CANTWELL, join as cosponsors to the Leahy amendment and urge its adoption by the Senate. This amendment is endorsed by the Judicial Conference of the United States, which is presided over by Chief Justice Rehnquist, and to which Congress regularly defers in the writing of the rules of our Federal court system.

Bankruptcy court filings, like most other court proceedings, are public record, and most papers filed in these cases are publicly available record. This is a good thing, because the administration of justice in our country should not be a secret affair. It is the public's right to know how its courts are meting out justice. The Bankruptcy Code affirmatively adopts this policy.

At the same time, bankruptcy proceedings are unique in that the explicit financial information of the debtor and its creditors are filed with the court, and likewise available for public review. Such information includes not only a person's name and address, but information such as the person's social security number, date of birth, driver's license number, and electronic addresses and routing codes. This information has long been available for public review at our Nation's courthouses. However, in today's information age, more and more Federal courts are making all of their public documents available on-line as well. While this is an advancement in efficiency in most regards, it opens up a great potential for abuse for identity thieves and others who access the Internet with the intent to commit fraud, physical harm, or other crimes.

More and more agencies today gain access to such personal information through publicly available documents. And as the recent computer hacking incident at Choice Point Corporation demonstrates, such personal information can be obtained even from companies in the businesses of collecting and securely storing such information. Moreover, access to such personal, sensitive information could pose serious risks to victims of domestic abuse, stalking, and other violent crime. Because any person with a computer can obtain these court documents, a person's safety and the safety of her property could be seriously put at risk.

Senator LEAHY, Senator CANTWELL, and I have devised this amendment to help prevent these harmful invasions of privacy from ever occurring. Currently the Bankruptcy Code allows courts to issue protective orders to prevent public disclosure of trade secrets and confidential research and commercial information. Our amendment would expand the court's authority to provide for similar protection of the personally identifiable information that I just described, as well as give the court the ability to shield other information if its release would create an undue risk of either identity theft or of injury to an individual's person or property. It further provides that when publicly available notices are filed with the court, only the last four digits of a person's social security number are required to be included in the documents. A separate filing with the full social security number will be sent privately to each party in interest in the bankruptcy proceeding. This amendment also creates an exception to ensure that law enforcement can gain access, and it has the support of the Department of Justice.

Furthermore, I have worked closely with the sponsors of the underlying bill, which I support, to ensure that this amendment does nothing to harm the efficient functioning of the credit and banking industries. Credit reporting agencies often rely on taxpayer identification numbers—most often social security numbers—to determine a person's creditworthiness. To ensure accuracy in such credit reports, we have modified the original language of this amendment to address the industry's concerns without in any way weakening the protections that we seek to enact. The new language strikes the appropriate balance for all concerned, and I understand that the industry finds the modification acceptable.

Giving the sensitive nature of bankruptcy filings and the increased threat of identity theft in today's society, this is a common sense measure to the underlying bankruptcy reform bill, which I support. I am pleased that all sides have come to agreement, and that this amendment will be adopted.

Ms. CANTWELL. Mr. President, I want to thank my colleagues on the Senate Judiciary Committee and others who have worked together for many years, despite considerable differences in the area of bankruptcy reform, to produce a bill that has passed the Senate a number of times. All that said, the bill is far from perfect, and the Senate should take full advantage of this opportunity to take a number of steps to amend this bill and improve it. I have supported amendments that improve the bill in areas where it affects particularly vulnerable consumers and retirees, and I believe we should also address incidents of corporate abuse. There are also ways to bring the bill up to date with modern technology and crime.

For example, I proudly join my colleague from Vermont, Mr. LEAHY, in recommending to all my colleagues the pending Leahy-Cantwell-Snowe privacy amendment, Amendment No. 26. This amendment is an appropriate response to the recent erosion of informational privacy in our society, demonstrated by the ChoicePoint and Bank of America personal informational security breaches, where the personal information of thousands of people was misappropriated by identity thieves.

Consumers should not have to surrender their privacy rights, just to gain access to our Nation's bankruptcy system. There are a number of reasons why it is simply sound practice for bankruptcy courts to join other Federal courts that already have a viable mechanism to file personal information of debtors and others under seal. Identity theft is a predictable outcome when criminals have virtually unfettered access to an obvious public database of people who are already vulnerable in public bankruptcy court files. In some instances, a debtor might be a battered woman, a victim of a stalker or another victim of domestic violence.

and the disclosure of that person's private information may subject her to further abuse. Congress has recognized the need to render private such personal information in court filings in much of the Federal court system, and this body should now add the bankruptcy courts to the list of properly protected public entities. Although I recognize that bankruptcy courts have some discretion to protect "scandalous or defamatory matter," the point or preserving privacy of this information should also be to protect information that could be used to injure the consumer, either financially or even physically. It is also clear that such courts do not have the same ability to do protect information for cause as do other Federal courts. It is time to fix this unjustifiable distinction between the privacy rights of litigants in one kind of Federal court and another. I ask my colleagues to support Leahy-Cantwell-Snowe, because people's economic and even their physical security may be in jeopardy otherwise. Let's not wait for the inevitable abuse of this loophole, which could lead to stolen identities, or physical harm, before we act.

I urge my colleagues to vote for the Leahy-Cantwell-Snowe amendment.

Mr. DURBIN. Mr. President, I rise to speak very briefly about the amendments I have offered this evening to the pending bankruptcy bill. I have found as I traveled back in Illinois and around the country that some people follow the C–SPAN floor debate very closely. Just over this weekend, having traveled to Arizona and Nevada, I am amazed to find people who heard my speech on the bankruptcy bill, which always intrigues me that so many people suffer from insomnia that they watch C–SPAN gavel to gavel, but in all honesty I admire them for their interest in our Government, and I hope that they follow this debate. But if one is a newcomer to this bankruptcy bill debate, I will say a few words about the bill and the amendments which I have offered.

When it comes to the bill itself, which is 510 pages, it will amend the bankruptcy law of America. It is a bill which has been considered for years. We have had versions of this bill over the last 9 or 10 years. I know because years ago I worked with Senator GRASSLEY on one of the first modifications to the Bankruptcy Code. Some of these changes passed the Senate and failed in the House. Some have passed the House and Senate and been vetoed by President Clinton. The bill has had its ups and downs. It never did become law in that period of time.

Now for the second bill of the session, one of the highest priorities on the Republican side of the aisle—they are pushing for the bankruptcy reform bill. When one thinks of all the challenges in America, the obvious question is, why are we considering bankruptcy reform before we would even consider health care in America or doing something about the economy creating jobs or addressing the budget deficit in America or even addressing Social Security? Why is this bankruptcy bill such a high priority? Well, the reason is this bill makes fundamental changes in the law as to which Americans will qualify for bankruptcy.

Bankruptcy, of course, was created in the law of many civilized nations such as the United States because in the old days if one went deeply into debt they could be put in prison. People decided that was barbaric. They said there should reach a point, if one cannot pay their debts, they can be exonerated or have those debts wiped clean from their record and start new, start fresh. That is what bankruptcy is all about.

Chapter 7 of the Bankruptcy Code is that situation. One walks into the court and they say, here are all of my debts, here are all of my assets, and the court should basically liquidate whatever they have, pay off as much of the debt as possible, and at the end of the day they walk out of the court without much left on this Earth but without any debts, wipe the slate clean. That is bankruptcy.

There are other provisions in the Bankruptcy Code, notably chapter 13. Under chapter 13, one walks into court and says: I have more debts than I can pay, but I can pay something. The court then says: We will work out a schedule for what you will pay over a period of time. That is chapter 13. So one does not walk out with their debts relieved, but they may walk out with fewer debts to pay and a schedule to pay them. The court monitors their progress under chapter 13. So in chapter 7, one walks out with the slate clean. Chapter 13, they walk out still paying off their debts.

In came the credit card companies and the major banks to Congress about 10 years ago and said, we believe that too many people are having the slate wiped clean and that they should continue to pay off their debts, even if they think they should be relieved of all liability. The purpose of this bill is to say that people walking into bankruptcy court are now going to have a much more difficult time wiping the slate clean to start over. More likely than not, particularly if they are making more than the median income in America, which is not a huge, princely sum, the credit card industry comes in and says, we want to make sure that if someone comes into court and wants to file bankruptcy, when it is all said and done, they will still have credit card bills to pay, and not just credit card bills. They could be medical bills. They could be any number of different bills. So they pushed hard for 10 years to get this bill passed by the Senate in the hopes that fewer Americans will have an opportunity to start fresh and to start new. So we have been debating for over a week changes in this bill, changes that were designed to take into consideration special circumstances.

I give credit to my friends on the Republican side of the aisle. They have rejected every single change. Let me say what they have rejected so far. I offered an amendment that said if one served in the Guard or Reserve, if they are in the military and they are serving their country overseas and as a result of their service their family or their business goes into bankruptcy, we are not going to be so harsh on them. We are going to give them an easier time of it in bankruptcy because their circumstances serving our country, risking their lives for America, warrant better consideration than some other circumstances. I thought that was a reasonable amendment. I hear all my fellow Senators praising our men and women in uniform, how they are standing behind them. Well, I had veterans groups and military family groups all supporting my amendment. They said this is a reasonable thing to do. A lot of people who are activated end up losing their businesses, and they should be given some consideration in bankruptcy court.

I lost that amendment 58 to 38. Every Republican Senator voted against it. I cannot quite understand why, but that was their position.

Then came Senator KENNEDY. Senator KENNEDY said we just did a survey, and the No. 1 reason people file bankruptcy now is because of medical bills. Senator KENNEDY said if someone has gone through a medical crisis in their life and they have medical bills they cannot pay, we will at least say that when they go into bankruptcy court because of those bills, they can protect a small home, $150,000 home, which in some communities in America would be a very small home. It says that even though one has been through an illness, they had all of these medical bills, they have been forced into bankruptcy, they will have a roof over their head. That amendment was rejected, too. The thought that we would give people and their families facing medical catastrophes a break to be able to keep a home was rejected.

I then offered an amendment that said, what if the creditor is what we call a predatory lender, somebody who breaks the rules, breaks the law—for example, offers a second mortgage on a home at an unreasonable interest rate, hidden charges, balloon payments that prey upon people like senior citizens—what are we going to do when they come to bankruptcy court? Why should we allow them to take away the home of a person if they have broken the law in giving the loan?

I thought that was pretty obvious. A person coming into bankruptcy court as a creditor doesn't have clean hands if they have broken the law with the loan they are trying to enforce. I thought at least we would stand for the law, that we would only enforce legal loans, not illegal loans.

Rejected. It was rejected largely on a party-line vote. Every Republican Senator but one voted against it.

As you can see, as we have gone through these amendments, whether we are talking about men and women in the military, whether we are talking about people with medical bills, whether we are talking about victims of predatory loans, even if we are talking about people who are victims of identity theft—we are all following the news accounts of ChoicePoint where a lot of personal information has been disclosed about individuals. It scares a lot of folks that someone will grab their Social Security number and their identity and run up some bills. It happens. Unfortunately it happens a lot.

Senator BILL NELSON of Florida said if you are a victim of identity theft, you should be given a break in bankruptcy court. They weren't debts you incurred; they were debts incurred by someone who stole your identity. I thought that was a reasonable amendment, too.

Rejected. Every Republican voted against it. They don't want to take into consideration the real-life tragedies and misfortunes that bring someone into bankruptcy court. They want to make sure that at the end of the day the credit card companies and the major financial institutions will get more money from people walking into bankruptcy court.

Senator AKAKA offered an amendment and said, shouldn't these credit card companies disclose more in their monthly statements, these companies that just inundate us with applications for credit cards? Shouldn't their monthly statements at least say: If you make the minimum monthly payment, this is how long it will take to pay off the loan and here is how much you will pay in interest? Is that unreasonable? I don't think it is.

These companies are making huge amounts of money. In 2003 the credit card companies made $30 billion in profit.

So Senator AKAKA offered an amendment that said at least these credit card monthly statements should tell the consumer more so they make the right choices for themselves and their families.

Rejected, again, on a party-line vote, with only one Senator from the Republican side of the aisle voting for it.

You think to yourself, if you can't hold the credit card companies to even that minimum standard, what is this debate all about? We are not creating exceptions for real-life situations. We are not giving consumers more tools to decide what is a reasonable amount of credit. All we are doing is saying, at the end of the day, the credit card companies are going to get their bill and they are going to get more money out of people filing in bankruptcy court.

Time and again in this debate, many of my colleagues, whom I respect much, have said: Senator DURBIN, you have it all wrong. If people make less than the median income in America, they will not be affected by this bill. They are going to be off the hook. You have to be making over the median income to possibly get into a situation where you are going to have to pay off more of your debts.

I have listened to that over and over. My staff and I, over the weekend, read the bill. It turns out that is not the case. In order to prove that you are below median income, you have to go through an expensive and extensive process under this bill. So I felt that it was only reasonable to say to my colleagues: Why don't we give those below median income a better chance to prove that they should not be covered by the provisions in this bill?

We make clear in amendment No. 110 that debtors in bankruptcy falling below median income need only provide calculations or other information showing the debtor's situation satisfies the below-median-income standard.

In other words, you don't have to hire a lawyer. You don't have to incur thousands of dollars of legal debt if you are below median income. You establish that to the court and then you move forward.

Second, the amendment says that a court may not dismiss a case based on any forms of means testing if the current monthly income of the debtor falls at or below the median family income of the applicable State. What the language in my amendment does is reinforce every argument we have heard from the other side of the aisle. Time and again they have said: If you make low income in America, you will not be affected by this bill.

We say: Fine, then let's change the bill and clarify that so a person filing for bankruptcy doesn't have to go through all of the pain and all of the expense of filing all the documents required under this bill.

We had a program under President Clinton not that long ago called the COPS Program—you may remember it—bringing more police back to the communities of America. It was a wildly successful program. It brought thousands of policemen to the State of Illinois and many other States. We ended up having a one-page application for that program. We prided ourselves on the fact that we were not absolutely swamping people in communities with all kinds of Federal paperwork and applications. With one page you could qualify for a COPS grant in your community.

What we are saying here is, shouldn't a person in bankruptcy court, already probably embarrassed by the process, already worried about paying the legal bills, if they are below median income, shouldn't we simplify the process for them?

I am going to give my colleagues a chance to vote on that.

The second thing we do is to return to the issue of veterans and members of the Armed Forces on active duty, and whether they are going to be treated the same in bankruptcy as other people. I will go back to the argument. I think if someone is serving our country, risking their lives for America, to protect me and my home, that we should do everything we can to help them. So we say, in this case, if your indebtedness as a veteran or a member of the military is primarily incurred while you are on active duty, that you can go into the bankruptcy court and escape the worst parts of the means test. It is a way to consolidate some of the arguments made earlier and to try to appeal to my friends on the Republican side of the aisle, for one last time, to be sensitive to some of the real hardships that have been created for families of Guardsmen and Reserves who have been activated.

The last point is one I almost offer in desperation, amendment No. 112. I cannot believe my colleagues have rejected all of these amendments when they relate to men and women in the armed services, but the last amendment relates to disabled veterans, men and women who become disabled as a result of their service in America and face bankruptcy. It is a final appeal to my friends on both sides of the aisle: If you cannot work up sympathy for men and women in uniform serving our country, at least have some concern for those who are disabled and come back and face bankruptcy. Don't put them through these unreasonable tests and standards in this bill. I would think all of us could agree that disabled veterans should be given some sort of a helping hand in this bankruptcy process.

So we will try again with the amendments that we offer. I know some of them will be debated at length. I just sincerely hope this week the supporters of this bill will at least take a little time and consider the possibility of amending this bill.

To my knowledge, the only perfect law that was ever written were the Ten Commandments, and they were not written by Senators. They were written by somebody in higher office.

This bill, as good as it may be, can be better. It should be better. It should be more sensitive to some of the real-world challenges that we face. I hope we will consider these amendments favorably, enact them soon, and make them part of this legislation. It will make a bill which I think is unfair in many respects a lot fairer.

### AMENDMENT NO. 26, AS MODIFIED

One last thing. I ask unanimous consent the Leahy-Snowe privacy amendment No. 26, as modified, be accepted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 26), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would just say Senator DURBIN is an excellent advocate, but this is the fourth time that this bill in substantially this form has been before this body. It has been marked up in the Judiciary Committee four times. We have had weeks on it each time it has come up for debate here. After several weeks of debate, the last time it came up it passed 83 to 15.

The issues that he raises are really covered by the bill. If someone, anyone is disabled and they have a continuing extra medical expense, that would be considered in whether or not they would ever have to pay any of their debts back. If their income is below median income, they would never be required to pay their debts back. All they would have to do is introduce some evidence from their pay stubs or their income tax, what their income is. Certainly we have a right to ask that before we discharge, wipe out, eliminate all debts, as people do when they come into bankruptcy.

I really would just say that we have given great consideration to these issues. We could disagree, but these amendments, for the most part, have been up before. I do not believe that most are going to be accepted. But there is every right of my colleague's side to offer them.

## MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO FRANCIS P. STEAD

Mr. DURBIN. Mr. President, I rise today to pay tribute to Francis P. "Frank" Stead, who passed away at the age of 90 on January 31, 2005, following an extended illness.

Frank Stead and I were neighbors in Springfield, IL starting in 1969 when I returned home to Illinois after graduating from Georgetown University Law School. He was a good neighbor, a good friend, and he will certainly be missed by the many people whose lives he touched.

Frank was one of the many unsung heroes of an era that journalist Tom Brokaw has dubbed "The Greatest Generation." Coming of age during the Great Depression and serving our country during World War II, Frank shared in the values of a generation that helped make our country what it is today: a sense of honor and bravery, a commitment to service, and above all, a love of family and country.

In 1943, at the height of the U.S. action in World War II, Frank enlisted in the U.S. Navy and was assigned to the Pacific theater, leaving behind his sweetheart, Dorothy Mlaker. While on duty in the Pacific, Frank sent a letter to Dorothy proposing marriage. Later, after receiving her acceptance letter, Frank ordered an engagement ring from the catalog of a Chicago jeweler. He sent payment to the jeweler via money order, with instructions for the ring to be mailed to Dorothy. When he was able to take leave, Frank returned to Springfield and wed Dorothy on July 26, 1944.

Frank was honorably discharged from the U.S. Navy in 1945, having been awarded the Asiatic-Pacific and Good Conduct Medals. Upon his return to civilian life, Frank began his 25-year career as a salesman with several of Springfield's finest men's clothiers, including Robert's Brothers, Arch Wilson's, and Myers Brothers.

Frank again answered the call to serve his country when he joined the U.S. Naval Reserve in 1949. He was called to active duty during the Korean war in 1952, and he was stationed with the Department of Defense in Arlington, VA. In 1979, Frank retired from the Naval Reserve, having served 30 years and achieved the rank of chief petty officer yeoman.

Frank demonstrated his commitment to service not only through his career in the military, but also through his many civic activities. He served the community of Springfield as an active member of AFSCME, as a parishioner of Christ the King Catholic Church and Blessed Sacrament Catholic Church, and as a life member of the Knights of Columbus. In addition, Frank Stead served on the board of directors and was past president of Saint John's Hospital Samaritans. He also served on the board of directors of the Illinois chapter of AARP.

In 1974, Frank Stead was appointed executive director of the Springfield Election Commission, serving in that post for 15 years before retiring in 1989. Later, he would serve as a Democratic Precinct Committeeman in Springfield. I came to know Frank and his wife, Dorothy, well through their involvement in Springfield politics. They volunteered countless hours for my campaign when I was running for the House of Representatives.

Frank and Dorothy Stead shared nearly 60 years of marriage before Dorothy passed away on February 4, 2004. They are survived by their four children: one son and three daughters, along with seven grandchildren and four great-grandchildren.

I am honored to have had the opportunity to know this fine member of our Nation's "Greatest Generation." His military service, civic involvement, commitment to his faith, and love of family have left an enduring impression on those of us who had the pleasure of knowing him. He will be missed.

## HONORING OUR ARMED FORCES

### CORPORAL TRAVIS EICHELBERGER

Mr. BROWNBACK. Mr. President, I rise today to honor a truly heroic Kansan, CPL Travis Eichelberger.

Corporal Eichelberger, a member of the 1st Battalion of the 2nd Marine Division, was one of the thousands of valiant young men and women who fought for the cause of liberty in Operation Iraqi Freedom. Sadly, in March 2003, while lying in a shallow foxhole in the sand, a 67-ton Abrams tank rolled over him, crushing his pelvis and severely damaging his lower body. Corporal Eichelberger, a native of Atchison, KS, returned home to the United States for rehabilitation and, in April 2003, was awarded a Purple Heart for his war injuries.

Recently, the Marine Corps realized their terrible mistake. While this brave young man's wounds occurred in a combat zone, he was not injured by hostile fire, a necessary qualification for the Purple Heart. For the sake of the award and all those who have been honored by it, the Marine Corps decided to revoke Corporal Eichelberger's Purple Heart. GEN Michael W. Hagee, Commandant of the Marine Corps, has appropriately personally offered his apologies to Corporal Eichelberger. I, too, extend my sincere sympathies to Corporal Eichelberger and his family during this trying and confusing time. This error has caused significant embarrassment to my fellow Kansan, as well as to the Marine Corps, and we must take care that it is never repeated.

After speaking with Corporal Eichelberger, I sense that his is a resilient spirit—and no one can doubt his courage. Corporal Eichelberger's service and dedication will long be remembered and honored. His unwavering commitment to our great Nation is a badge of honor he can proudly wear for the rest of his life.

I commend Corporal Eichelberger for his distinguished service and sacrifice.

### SECOND LT. RICHARD B. "BRIAN" GIENAU

Mr. GRASSLEY. Mr. President, I rise today in tribute to a noble Iowan who has given his life for his country. 2LT Richard "Brian" Gienau was killed on Sunday, February 27, in Ar Ramadi, Iraq, when his military vehicle was struck by an explosive device. He was 29 years old, a fellow alumnus of my alma mater, the University of Northern Iowa, and a member of A Company, 224th Engineer Battalion, Army National Guard, Burlington, IA.

Second Lieutenant Gienau is remembered as a hard-working family man with a history of military service. He joined the U.S. Navy in 1994 and enlisted in the Iowa Army National Guard in 1999. After graduating in 2003 from University of Northern Iowa, he was commissioned in the Reserve Officers' Training Corps as a second lieutenant. He was mobilized last October.

Second Lieutenant Gienau is survived by his mother, Debbee Way, of Dunkerton, IA, and his father, Richard Gienau, of Waterloo, IA. He also leaves behind a young son. My prayers go out today to his family and friends in their time of loss. Let us today remember his life as we honor his sacrifice on behalf of all of us. We are forever in his debt.

## VOTE EXPLANATION—S.J. RES. 4

Mr. FEINGOLD. Mr. President, because of a family matter I was unable to take part in Thursday's votes. I regret that I was unable to vote on S.J. Res. 4, a resolution to prevent the Department of Agriculture from going forward with its plan to open the Canadian border to beef and cattle imports. I signed the discharge petition to force a vote on the measure and would have voted to delay the reopening. I am pleased that the Senate approved the resolution.

I also regret that I was unable to vote in favor of several worthy amendments that would have improved a bankruptcy bill that is in dire need of improvement. While my votes would not have affected the outcome of any of those votes, it is unfortunate that the amendments were not adopted.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

The assault of two gay men in San Francisco, CA last Wednesday was apparently motivated by the sexual orientation of the victims. Two gay men were approached by a group of men late in the evening. The group of men, which was comprised of men in their early 20s yelling anti-gay slurs, began assaulting the two gay victims. To escape the assault, the two victims ran inside a nearby bar, but were followed by the group of assailants. Both of the men suffered injuries to their face as a result of the beating.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## SERVICEMEMBERS RETURNING TO THE WORKFORCE

Mr. AKAKA. Mr. President, I rise to discuss how fortunate we are as a nation to have a highly-skilled veteran population able to lend their talents to the workforce. I am very pleased to report that many employers in the defense industry are actively recruiting this Nation's veterans. A recent Washington Post article entitled "A Few Good Recruits" highlights the benefits of the defense industry hiring veterans. Companies hiring veterans get highly skilled workers with a deep understanding of the service.

But the reward of hiring veterans is not to be limited to the defense industry. Veterans have skills that make them assets in a variety of occupations. Leadership, integrity, and teamwork—all of which the military teaches—are universal qualities for every industry. I encourage the private sector to consider this in the future when hiring. Veterans possess the skills needed in public service and I encourage officials at all levels of government to recruit veterans.

Our veterans bravely defended our freedoms during their service and it is a great strength of this Nation that after military service is over, our veterans enter the workforce with skills to succeed. It is my hope that both public and private sector employers will take full advantage of this.

I ask unanimous consent that the article from Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 28, 2005]

### A FEW GOOD RECRUITS

(By Ellen McCarthy)

Army Capt. Lonnie Moore lost his right leg and—he thought—his career last April when his convoy was ambushed on the road to Ramadi, in central Iraq. The injury led to some dark days in Walter Reed Army Medical Center as Moore, 29, began his recuperation and contemplated life outside the military.

Within months, however, he had received job offers from a munitions company, an information technology firm, and the Department of Veterans Affairs itself. And that's without sending out a résumé.

"People tend to seek us out," Moore said of the veterans, particularly those who have been injured, returning from Iraq and Afghanistan. "They know we'll be an asset to their companies, and that we're not going to let our injuries stand in the way. . . . Everybody I've known that's gotten out, they're not having a hard time finding jobs."

Through broad initiatives and individual requests, corporations have been actively recruiting veterans of the Iraq and Afghanistan conflicts, turning military hospitals like Walter Reed into de facto hiring centers.

Job offers aren't being handed out carte blanche, and companies say talent and fit are still the main priorities. But executives seeking out wounded soldiers claim that many of the skills acquired in the military are applicable in the private sector—particularly within companies that serve the government. A soldier who has led a platoon into war is probably capable of leading a unit at a private company, executives say. With government contracting in the midst of a boom, the security clearances and knowledge that soldiers bring home with them are also highly valued.

"They've got to be able to talk the language. And you can't teach a person that language, it's a language you can only learn by being part of that culture," said Paul Evancoe, director of military operations at FNH USA Inc., a McLean weapons manufacturer with about 350 employees in the United States and 16 in the Washington area. The company is among those interested in hiring Moore.

The quest to seek an injured vet was both company-driven and personal, said Evancoe, who received a Purple Heart after being shot in Vietnam. Many FNH employees are veterans, so the company's atmosphere and values largely mirror that of the military, he added.

"If you take a guy and immerse him back into that culture . . . it's going to be very positive. It's going to help the healing," Evancoe said. "It's not like I can hire every single guy, but when I have a job, I'm going to search out a veteran."

The Labor Department does not have statistics on the job placement rates of veterans disabled in Afghanistan or Iraq. However, the unemployment rate for veterans was lower than that for nonveterans in 2003, the most recent statistics available from the Bureau of Labor Statistics. That year, veterans had an unemployment rate of 4.5 percent, compared with 5.9 percent for nonveterans.

The same study found that 9 percent of veterans suffered from a service-related disability; their unemployment rate was comparable to that of their non-injured peers.

Jeannie Lehowicz, a vocational counselor stationed at Walter Reed Army Medical Center, said she has a steady stream of inquiries from executives and recruiters—sometimes dozens a week, and typically more than the 50 to 75 soldiers she is working with at any given time.

Most of the companies are government contractors around the Capital Beltway, she says, but calls have come in from firms throughout the country. One day it might be a giant defense contractor from Bethesda, and the next a small biomedical firm from Montana, she said.

"It's overwhelming. You want to respond and say 'Oh here's this guy I've got for you,' but that's not always the case," Lehowicz said.

More than 11,190 service members have been wounded in Iraq and Afghanistan, according to Pentagon statistics. Some have months of rehabilitation left before they'll be released from the hospital, Lehowicz said, and others are more interested in going back to school than getting a job right away. Many are adamant that they will stay in the military despite their disabilities, she added.

Even if they choose another route, the prospect of having opportunities can be an important buoy for wounded soldiers, Lehowicz and others say.

Potential opportunities were on display at a career fair held at Walter Reed in December. Thrown together in a matter of weeks, the event's organizers expected a dozen or so companies to participate. But more firms requested space at the event, and by the night of the fair, more than 30 companies, including BAE Systems PLC, Science Applications International Corp. and Oracle Corp., had set up booths to pass out brochures and collect names.

"The equipment that we work on and maintain for the military is the same as they would have used," said Eugene C. Renzi, president of defense systems at ManTech International Corp., a Fairfax government contractor that sent recruiters to the career fair. "So when they get out of the military, we can put them right to work and utilize the skills they already have."

Joe Davis, spokesman for the Veterans of Foreign Wars, said outreach efforts among government contractors is partly driven by executives with military backgrounds. There is a de facto alumni network, he said, and a collective memory of the way disabled veterans were treated after previous conflicts, particularly Vietnam.

"Who runs the country now? It's the Vietnam era and they vowed never again, and so you got all the corporations, every nonprofit, all the associations and lobby arms doing everything they can," for this generation of soldiers, Davis said.

Contractors like ManTech have another incentive to recruit former soldiers, regardless of disability: Many have security clearances that are in short supply in the workforce, but necessary in order to do an increasing number of government projects.

"If you have a security clearance, you are miles ahead of a person applying to a company without a security clearance," said Edward F. Lawton, head of the Washington area chapter of the American Military Retirees Association. "And even if you're missing a limb, that doesn't mean you're incapable of supporting the military through a company."

But it may mean that jobs are more readily available for soldiers with technical skills and for those willing to work in the Washington area, where many government contractors are based.

That proved to be the case for Brian Garvey, an Army Captain who met his future employer at the Walter Reed career fair.

The platoon leader and father of two young girls was deployed to Iraq last March and for months worked at the Baghdad airport, processing human resources files for soldiers stationed throughout that country.

On Sept. 18, Garvey's unit was assigned a different task—to show a contractor a damaged fence on a highway bridge between the airport and the heavily guarded Green Zone. After assessing the damage, Garvey had just given the signal for his soldiers to return to their vehicles when a suicide bomber drove a car onto the bridge and detonated an explosive—killing two of the crew and wounding 13.

Three days later Garvey was at Walter Reed, recovering from a series of surgeries to repair his hand and remove dozens of pieces of shrapnel from his skin.

"I would say a lot of the time was spent thinking 'What am I going to do? What is the best avenue for my family,'" Garvey recalled of his four-month stay at the hospital. "Up to this point I had been somewhat selfish. It was what I wanted to do. My wife and kids had been making the sacrifices."

Garvey had already been thinking about looking for a private-sector job when he stopped by the career fair, hoping to pick up a few business cards and some ideas. Like most of the 150 soldiers crammed into the hall, Garvey was without a résumé or firm career goals.

He grabbed brochures from such big contractors as Northrop Grumman Corp. and Raytheon Co., but spent the longest time talking to a representative from Alliant Techsystems Inc. (ATK), a Minnesota company that makes weapon systems and munitions. He filled out a card with his basic information and three days later got an e-mail from ATK, asking for a phone interview.

A day-long interview at the company's Elkton, Md., site followed; just before Christmas, Garvey was offered a job. Soon he'll become a program manager at ATK, acting as a liaison between the company's engineers and its primary client—the U.S. military.

"Mentally it does me a lot of good, knowing that I'm not out there searching frantically for a job," said Garvey, who is now back at Fort Hood, waiting for his unit to rotate back from Iraq in March before he will be discharged. "It gives me a sense of security. I know what my future has to offer."

That sense of the future is what a lot of recently wounded soldiers are looking for, said Lehowicz, the VA vocational counselor. When they first return from the battlefield, many focus solely on getting better to return to their unit, she said, but over time they often start thinking about other options.

Moore, the Army Captain, says thoughts of his future now absorb much of his day at Walter Reed. Some days he thinks he would like to stay in the military, to resume life with his friends and become an example for other amputees. But some of the job offers have topped $70,000 and he worries this opportunity may not come around again.

"Veterans are getting good jobs right now," said Moore, who will likely remain in the hospital through March. He recently had a second interview with FNH USA, where he is up for a position as deputy director of military operations.

"I'm not sure if I stay in [the Army] for another five years, if the jobs will still be here."

---

## MEDICAID DRUG REBATE PROGRAM

Mr. GRASSLEY. Mr. President, I am taking this opportunity to talk about the mess we have in the Medicaid Program, a mess that does not properly account for billions of taxpayer dollars. First, allow me to remind everyone about a report released last summer by the Government Accountability Office, GAO. That report on Medicaid Program integrity found that Medicaid's size and diversity made it vulnerable to fraud, waste and abuse. Further, the GAO found that the Centers for Medicare & Medicaid Service, CMS, allocated only $26,000 and only eight employees to work on Medicaid program integrity.

As I said at the time, it does not make sense for CMS to invest so little in Federal oversight when so many Federal taxpayer dollars are at stake. If one considers that Medicaid has surpassed Medicare as the single largest Government health program in the United States, it makes no sense at all. The Congressional Budget Office projects the Federal share of total Medicaid payments for Fiscal Year 2005 at greater than $183 billion. Medicaid's vulnerability to fraud, waste and abuse have also ranked it on the GAO's list of high-risk programs for the past 2 years.

The Medicaid Program continues to pay too much for prescription drugs. CMS estimated that Medicaid expenditures for prescription drugs in Calendar Year 2003 totaled more than $31 billion, triple the $9.4 billion spent in 1994. Each year drug companies pay approximately $6 billion in rebates.

Today, the GAO released a damning report on Medicaid drug spending. Congress established the Medicaid drug rebate program in 1990 to help control spending on drugs. Note that the word choice and intent here was control, not out of control. It should come as no surprise that the GAO's report shows that the drug program has been and continues to be badly mismanaged.

The report—requested by Congressman WAXMAN and me—identified fundamental problems in the program. The mismanagement has been bipartisan and has spanned multiple administrations. According to the GAO, it is a program virtually without regulation. CMS has been sitting on draft regulations since 1995 a decade ago.

It is also a program virtually without oversight. The GAO found that the Office of Inspector General has issued only four audit reports on drug-company reported prices since the inception of the program. Of course, the OIG says in its defense that its efforts have been hampered by unclear CMS program guidance and a lack of documentation by drug companies.

According to the GAO, even when the OIG has managed to identify problems related to the drug companies' reported prices and methodologies for price reporting, CMS has not done much of anything to resolve them.

The drug rebate program is governed by a contractual agreement between the States and each drug company that wants to participate in Medicaid. One of the things that boggles the mind is that this contract allows drug companies to rely upon reasonable assumptions"

Each drug company may craft its own "assumptions" as long as they are consistent with the "intent" of the law. Consequently, because drug companies can pick their own methods, they in effect set their own prices and amount of rebates they pay.

According to the GAO, "CMS does not generally review the methods and underlying assumptions that [drug companies] use to determine [the reported prices], even though these methods and assumptions can have a substantial effect on rebates."

Furthermore, quoting the GAO again, "CMS sometimes identifies price reporting errors . . . but does not follow up with [drug companies] to verify that errors have been corrected".

In sum, the GAO report confirms that neither CMS nor the OIG know the extent to which Medicaid overpays for prescription drugs because the program lacks effective management and oversight. A worse state of affairs is not likely. Drug companies have been profiting for the past years on Medicaid drug pricing. We are dealing with a system that unnecessarily costs taxpayers untold hundreds of millions A not billions of dollars annually. The Medicaid drug rebate program is quite simply a mess—a Medicaid mess.

I urge my colleagues to consider this GAO report and its recommendations.

## ADDITIONAL STATEMENTS

### IN MEMORIAM TO FRANK SOUZA

• Mrs. BOXER. Mr. President, I take this opportunity to honor the memory of one of California's great labor leaders and dedicated social justice activists, Frank Souza. Frank passed away on February 19, 2005. He was 79 years old.

Frank Souza was born in New Bedford, MA in 1925. In 1948, he and his wife Virginia drove across the country to California in search of better job opportunities. Upon his arrival, he took a job with Greyhound as a bus mechanic, and worked there for 13 years. In 1953, Frank became involved in the International Association of Machinists and Aerospace Workers, AFL–CIO.

When I first met Frank many years ago, before I was in elected office, I was struck by his kindness and dedication to working people. That kindness and dedication grew with each passing year. Frank's commitment to social justice earned him the trust and respect of fellow labor activists and allowed him to rise quickly through the ranks at the machinists union. It was not long before Frank was a nationally known leader of the machinists union in northern California. In his capacity as Directing Business Representative of District 190, the largest automotive district of the machinists union in America, Frank was a constant source of pride for both his fellow machinists and the community at large.

Although Frank retired in 1989 after 25 years with the machinists union, he remained an active union leader, holding impressive positions as a machinists union delegate to the National AFL–CIO, vice president of the California Labor Federation for the AFL–CIO, chair of the Western States Trucking Committee for the National Auto Transporters, chair for the Sea Land West Coast negotiating committee, and treasurer for the California Alliance of Retired Americans.

It is not just Frank's accomplishments in the field of labor that made him stand out. Frank was one of the most wonderful people that I have come in contact with in all of my years of public service. His warmth and intelligence were a true inspiration to me. When he talked to me about injustice in the workplace, or in the world, his eyes would tear up. I knew that I could never let him down.

Frank Souza was a deeply loved labor leader who championed the causes of America's working families, not only in this country, but throughout the world. We can take comfort in knowing that future generations will benefit from his spirit, his vision, and his leadership. He taught us about the dignity and soul of working people, and in his memory we won't forget.•

### ELIZABETH A. "BETSY" DUKE

• Mr. ALLEN. Elizabeth A. "Betsy" Duke was recently chosen to be the chairwoman of the American Bankers Association.

The ABA serves as the largest banking trade association in the country, representing most community banks, as well as virtually all large banks of our Nation. She will oversee the day-to-day leadership of the ABA, and all of its 330 employees.

Ms. Duke's one-year term marks the first time that a woman has held this highly visible position, as well as the first since 1951 that the post has been held by a Virginian.

I am confident that Betsy Duke's extensive background in the banking industry, including serving as former director of the Federal Reserve Bank of Richmond and former president of the Virginia Bankers Association has prepared her well for this new and challenging leadership role.

After graduating from the University of North Carolina in 1974 with a degree in drama, Betsy moved back to her native Virginia Beach and found an acting job in a dinner theater. In order to support her dream of becoming an actress, Betsy went looking for a day job. After being turned down by a local dry cleaner, she finally found work as a part-time drive-up bank teller.

The theatrical show in which Betsy was participating in ended about a year later, but by then she had come to a couple of conclusions: that her dream of becoming a great actress would never materialize, and that she really enjoyed her job as a teller. Betsy was soon able to secure a new-accounts job at Bank of Virginia Beach, which changed her life in more ways than one. It was there that she met her mentor, Burt Harrison, who served as the bank's CEO, and a young operations officer and her future husband, Larry Harcum.

As Betsy began taking on more responsibility, she began taking banking courses and was named the bank's accounting officer, but things became complicated when she began dating Larry. The bank had a strict policy regarding this activity, so after a few months, Betsy left the bank to go work at a local car dealership, but was asked to return a few months later by her mentor and bank CEO, Burt Harrison. The very next day, however, Larry quit. Burt quickly caught on, but allowed the two to stay under the condition that they keep their budding romance quiet. About a year later, the two married, but not after receiving the board's approval for the two of them to be able to keep their jobs at the bank. One of the directors actually got confused and thought he was voting on whether or not the two should get married, and voted no.

Betsy's friend, mentor, and boss Burt died suddenly of a heart attack in 1991, and Betsy, who by then had been named president, suddenly found herself thrust into the role of CEO. She and Larry ran the bank successfully for another 10 years until what was now referred to as the Bank of Tidewater was acquired by SouthTrust in 2001. Betsy served as executive vice president for community bank development at SouthTrust.

It was around this time that Betsy Duke became vice-chairman of ABA. Prior to this, she had served as a member of ABA's board of directors. The following year, she was named chairwoman of the ABA.

Betsy Duke is currently executive vice president, Merger Project Team, Wachovia Bank in Virginia Beach. As I previously mentioned, she was executive vice president for Community Bank Development at SouthTrust, but upon the bank's merger with Wachovia, she transferred to the merger integration team.

Beyond her current role as chairman of ABA, her involvement with the organization spans two decades. She began as an instructor for ABA's National School of Bank Investments and has continued in this role to this day. In addition, she has been a member of the trade group's Community Bankers Council, Communication Council, and Grassroots Task Force. Finally she has led the ABA's Government Relations Task Force, and served on its board of directors.

In addition to her bachelor's degree in fine arts from the University of North Carolina, she has a master's degree in business administration from Old Dominion University.

Betsy Duke loves banking. She truly believes that the industry is one of the most important in this country. Betsy believes that no other association comes close to serving the banking industry as does the ABA. I am pleased that Betsy Duke is heading up this great group, not just because she is a Virginian, but because she brings the real life experience needed to continue the successful tradition of the ABA. Congratulations Betsy, you have made your friends, family, and Virginia proud.•

## HONORING MICHAEL CREASEY

• Mr. CHAFEE. Mr. President, today I honor Michael Creasey for his work as the Executive Director of the John H. Chafee Blackstone River Valley National Heritage Corridor. For the last 10 years, Michael has been a driving force in the Blackstone Valley, completing projects, building advocacy and partnerships, and instilling pride in the people who live beside this historic river.

Michael has devoted his career to public service and national park stewardship since 1986. After honing his skills in Utah and New Mexico, he was assigned to the Blackstone Corridor in 1995 as Deputy Director and became the Executive Director in 1999. What a gift he has been! His boundless energy and devotion to the Blackstone Corridor, and his skill in working with the Corridor Commission and its large group of stakeholders, have spawned a revitalization that includes the creation of new jobs, the preservation and enhancement of historic sites, and the restoration of valuable wildlife habitat.

In April 2000, shortly after I came to the Senate, Michael took me on a tour of the Valley to point out some of the Federal and private sector investments that had been made in the Heritage Corridor. I could not help but be impressed with his energy and passion as we viewed the Blackstone River Bikeway—or Riverway, as he has dubbed it—along with renovated mills, a canoe and boat landing, and parks that have been developed since the authorization of the Blackstone Heritage Corridor in 1986. The progress I observed that day was a result of collaboration among the residents of the Valley, State agencies and the Federal Government, and is proof that industrial rivers like the Blackstone can be saved if we all work together.

Above all else, Michael is a "river guy" who understands the significance of the "power of place" and the potential of people to shape their communities. In a recent news article announcing his appointment as superintendent of the Lowell National Historical Park, he states, "It's been a great honor to serve the Corridor Commission for nearly a decade. I have always been impressed with the passion, creative ideas and commitment that the people have had for achieving the Heritage Corridor vision."

The Blackstone River Valley Heritage Corridor is a unique institution that has brought together many divergent groups and raised the national profile of this very special region. I thank Michael for his years of service to this historic slice of Massachusetts and Rhode Island, and I also wish him luck in his new endeavors in Lowell.•

## TRIBUTE TO DR. ADRIAN ROGERS

• Mr. ALEXANDER. Mr. President, some say we are living in the post-Christian era, but you would not have known it yesterday if you were among the 13,829 worshippers, as I was, at the retirement tribute to pastor Adrian Rogers at Bellevue Baptist Church in Memphis. I am a Presbyterian—but Presbyterian or Baptist, believer or nonbeliever, one could not help but be inspired by the services on Sunday and especially by Dr. Rogers himself.

Adrian Rogers is one of America's best-known preachers. His "Love Worth Finding Ministries" is broadcast in more than 150 counties in both English and Spanish. He has authored 17 books, 48 booklets and 78 cassette tapes. He has been elected three times to lead the Southern Baptist Convention.

Dr. Rogers came to Bellevue in Memphis in 1972 when the Church was in Midtown, the enrollment was 9000 and the annual budget was $625,000. Today the church spreads across 375 acres in Cordova, the enrollment is 29,000 and the budget is $21 million.

What impresses me most is not this growth but the man himself. Like his friend Billy Graham, Adrian Rogers has not allowed his fame to diminish him personally. The most moving statements yesterday came from his children who testified that this man who everyone knows can talk the talk always walks the walk at home. Those who know him best say that he practices what he preaches. When he told his congregation, "I am what I am by the grace of God," it was not mock humility.

There was much love expressed yesterday for Joyce Rogers, who Adrian said "is the only girl that I have ever dated." She has sung in the choir, taught Sunday school and been his partner since their marriage in 1951.

Our founders made sure that we do not have a state church but that we do have freedom of religion. As a result of this constitutional guarantee, there is a church of some denomination on almost every American corner. This freedom has also proved to be a nurturing environment for independent leaders such as Adrian Rogers whose good lives attract us and inspire us and lead us to be among the world's most religious people.

No mortal is perfect. I know of one blemish on my friend Adrian Rogers: He is a Florida Gators fan. In the spirit of yesterday, the Christian thing to do is to forgive him.•

## HONORING JOHN "RED" BOURG

• Ms. LANDRIEU. Mr. President, today I wish to honor the life of Mr. John "Red" Bourg, who passed away last October. Red Bourg served his family, his State and his country well, and deserves the recognition of this body.

Red was a devout Christian, and he made a wonderful home in Baton Rouge with his wife Mildred and their two children, Brenda and Ronnie. Red loved and cared for the people of the State of Louisiana and the United States, and worked to improve their quality of life until the day he died.

In addition to being a great family man, Red Bourg served our country in peace and in war. As a young man, he joined the United States Marine Corps and fought in the Korean War, serving with honor and distinction. Years after returning, Red was selected to become the Louisiana State Commander of the Marine Corps League, an impressive honor, for an equally impressive person.

However, Red was best known for his work with the Louisiana AFL-CIO. He worked his way up the union ladder, beginning as a member of the Local 995 International Brotherhood of Electrical Workers, and climbing all the way to become the president of the Louisiana AFL-CIO. Red joined the staff at the AFL-CIO in 1967, becoming the assistant to the president and in 1997, some 30 years later, he became President of that great organization. I think that says a lot about the hard work and determination of the man.

I once again honor my friend, Mr. John "Red" Bourg, for his efforts on Louisiana's behalf. I knew Red my entire adult life and can attest that he is truly missed. I know I speak for many others when I say that Red Bourg will always be fondly remembered for the outstanding service he has rendered to his State and his Nation.•

## HONORING SIBAL HOLT

• Ms. LANDRIEU. Mr. President, today I wish to recognize the service of Sibal Holt, who is the first female and the first African American to serve as the President of the Louisiana AFL-CIO. Firsts like these have become commonplace for this barrier-breaking woman.

She has long been a trailblazer in the State of Louisiana. She became the first African American to be hired into the Bell System and also the first registered lobbyist in the State of Louisiana, both remarkable achievements given the climate of the times.

Sibal Holt has been a selfless steward of her community. She formerly served as the president of the Louisiana American Red Cross, as well as other charitable organizations, such as Volunteer Baton Rouge and the Baton

Rouge Women's Resource Center. Sibal is probably most recognized for her pioneering efforts in voter registration. Holt once led a statewide voter registration drive, resulting in an astounding 70,000 new voters for Louisiana.

But it is the AFL-CIO where she has left her biggest imprint. Sibal began her work at the AFL-CIO in 1975, not surprisingly becoming the first minority selected to join the Executive Board of any State's AFL-CIO. Twenty-two years later, in 1997, she became the union's Secretary/Treasurer, serving in that capacity until she was elected president of the Louisiana AFL-CIO in November 2004, replacing John "Red" Bourg after his untimely death.

I once again congratulate my friend, Sibal Holt, for her groundbreaking accomplishments on behalf of the working class in the State of Louisiana. It is people such as Sibal that continue to make Louisiana such a dynamic State.•

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 539. A bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 177. A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, and for other purposes (Rept. No. 109–15).

S. 178. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes (Rept. No. 109–16).

S. 214. A bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes (Rept. No. 109–17) .

S. 229. A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes (Rept. No. 109–18).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD:

S. 534. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

By Mr. INOUYE (for himself and Ms. CANTWELL):

S. 535. A bill to establish grant programs for the development of telecommunications capacities in Indian country; to the Committee on Indian Affairs.

By Mr. McCAIN:

S. 536. A bill to make technical corrections to laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. BINGAMAN:

S. 537. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN:

S. 538. A bill to educate health professionals concerning substance use disorders and addiction; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARTINEZ:

S. 539. A bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes; read the first time.

By Mr. HAGEL:

S. 540. A bill to strengthen and permanently preserve social security; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 541. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the rate of duty for certain gloves; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. SMITH, Mrs. MURRAY, Ms. CANTWELL, Mr. JOHNSON, and Mr. HARKIN):

S. 542. A bill to amend the Internal Revenue code of 1986 to extend for 5 years the credit for electricity produced from certain renewable resources, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 543. A bill to amend the Internal Revenue Code of 1986 to expand the availability of the cash method of accounting for small businesses, and for other purposes; to the Committee on Finance.

## ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 8

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 29

At the request of Mrs. FEINSTEIN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 29, a bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 114

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 114, a bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes.

S. 151

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 181

At the request of Mr. ENSIGN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles.

S. 188

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 188, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

S. 267

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 290

At the request of Mr. BOND, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 290, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr.

ISAKSON) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 342

At the request of Mr. MCCAIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 342, a bill to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances.

S. 375

At the request of Mr. BAYH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 375, a bill to amend the Public Health Service Act to provide for an influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 397

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 403

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 420

At the request of Mr. KYL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 424

At the request of Mr. BOND, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 450

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 450, a bill to amend the Help America Vote Act of 2002 to require a voter-verified paper record, to improve provisional balloting, to impose additional requirements under such Act, and for other purposes.

S. 461

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 461, a bill to amend title 37, United States Code, to require that a member of the uniformed services who is wounded or otherwise injured while serving in a combat zone continue to be paid monthly military pay and allowances, while the member recovers from the wound or injury, at least equal to the monthly military pay and allowances the member received immediately before receiving the wound or injury, to continue the combat zone tax exclusion for the member during the recovery period, and for other purposes.

S. 471

At the request of Mr. SPECTER, the names of the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 485

At the request of Mr. CRAIG, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 485, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 490

At the request of Mrs. CLINTON, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 490, a bill to direct the Secretary of Transportation to work with the State of New York to ensure that a segment of Interstate Route 86 in the vicinity of Corning, New York, is designated as the "Amo Houghton Bypass".

S. 495

At the request of Mr. KERRY, his name was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 507

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 507, a bill to establish the National Invasive Species Council, and for other purposes.

S. 516

At the request of Mr. MCCAIN, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 516, a bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes.

S. CON. RES. 9

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Con. Res. 9, a concurrent resolution recognizing the second century of Big Brothers Big Sisters, and supporting the mission and goals of that organization.

S. RES. 43

At the request of Mr. REID, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 43, a resolution designating the first day of April 2005 as "National Asbestos Awareness Day".

S. RES. 44

At the request of Mr. ALEXANDER, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 44, a resolution celebrating Black History Month.

S. RES. 71

At the request of Mr. CRAIG, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Illinois (Mr. DURBIN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Res. 71, a resolution designating the week beginning March 13, 2005 as "National Safe Place Week".

AMENDMENT NO. 44

At the request of Mr. KENNEDY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. DURBIN), the Senator from Maryland (Mr. SARBANES) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 44 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 44 proposed to S. 256, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 534. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hard rock mines, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation to eliminate from the Federal tax code percentage depletion allowances for hardrock minerals mined on Federal public lands. I thank Senator CANTWELL for joining me as a cosponsor on this legislation.

President Clinton proposed the elimination of the percentage depletion allowance on public lands in his fiscal year 2001 budget. President Clinton's fiscal year 2001 budget estimated that, under this legislation, income to the Federal treasury from the elimination of percentage depletion allowances for hardrock mining on public lands would total $487 million over 5 years and $1.20 billion over 10 years. The Joint Committee on Taxation estimated that it would save $410 million over 5 years and $823 million over 10 years. Percentage depletion allowances are contained in the tax code for extracted fuel, minerals, metal and other mined commodities. These allowances have a combined value, according to estimates by the Joint Committee on Taxation, of $4.8 billion.

These percentage depletion allowances were initiated by the Corporation Excise Act of 1909. That's right, these allowances were initiated nearly one hundred years ago. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the tax code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration and output. Percentage depletion also makes it possible, however, to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of its capital investment: cost depletion and percentage depletion. Cost depletion allows for the recovery of the actual capital investment—the costs of discovering, purchasing, and developing a mineral reserve—over the period during which the reserve produces income. Under the cost depletion method, the total deductions cannot exceed the original capital investment.

Under percentage depletion, however, the deduction for recovery of a company's investment is a fixed percentage of "gross income," namely, sales revenue from the sale of the mineral. Under this method, total deductions typically exceed the capital that the company invested.

The rates for percentage depletion are quite significant. Section 613 of the U.S. Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 to 22 percent.

In addition to repealing the percentage depletion allowances for minerals mined on public lands, my bill would also create a new fund, called the Abandoned Mine Reclamation Fund. One-fourth of the revenue raised by the bill, or approximately $120 million, would be deposited into an interest-bearing fund in the Treasury to be used to clean up abandoned hardrock mines in States that are subject to the 1872 Mining Law. The Mineral Policy Center estimates that there are 557,650 abandoned hardrock mine sites nationwide and the cost of clearing them up will range from $32.7 billion to $71.5 billion.

There are currently no comprehensive Federal or State programs to address the need to clean up old mine sites. Reclaiming these sites requires the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

In today's budget climate, we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? For more than a century, the mining industry has been paying next to nothing for the privilege of extracting minerals from public lands and then abandoning its mines. Now those mines are adding to the Nation's environmental and financial burdens. We face serious budget choices this fiscal year, and one of those choices is whether to continue the special tax breaks provided to the mining industry.

The measure I am introducing is straightforward. It eliminates the percentage depletion allowance for hardrock minerals mined on public lands while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a government-driven incentive for enhanced mineral production, there is now sufficient reason to adopt a more reasonable depletion allowance that is consistent with depreciation rates given to other businesses. This corporate subsidy is simply not justified.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 534

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2005".

**SEC. 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.**

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by inserting "(other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws)" after "In the case of the mines".

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(f) GENERAL MINING LAWS.—For purposes of subsection (a), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 3. ABANDONED MINE RECLAMATION FUND.**

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following:

**"SEC. 9511. ABANDONED MINE RECLAMATION FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Abandoned Mine Reclamation Trust Fund' (in this section referred to as 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to 25 percent of the additional revenues received in the Treasury by reason of the amendments made by section 2 of the Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2005.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, to the Secretary of the Interior for—

"(A) the reclamation and restoration of lands and water resources described in paragraph (2) adversely affected by mineral (other than coal and fluid minerals) and mineral material mining, including—

"(i) reclamation and restoration of abandoned surface mine areas and abandoned milling and processing areas,

"(ii) sealing, filling, and grading abandoned deep mine entries,

"(iii) planting on lands adversely affected by mining to prevent erosion and sedimentation,

"(iv) prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage, and

"(v) control of surface subsidence due to abandoned deep mines, and

"(B) the expenses necessary to accomplish the purposes of this section.

"(2) LANDS AND WATER RESOURCES.—

"(A) IN GENERAL.—The lands and water resources described in this paragraph are lands within States that have land and water resources subject to the general mining laws or lands patented under the general mining laws—

"(i) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status before the date of the enactment of this section,

"(ii) for which the Secretary of the Interior makes a determination that there is no continuing reclamation responsibility under State or Federal law, and

"(iii) for which it can be established to the satisfaction of the Secretary of the Interior that such lands or resources do not contain minerals which could economically be extracted through remining of such lands or resources.

"(B) CERTAIN SITES AND AREAS EXCLUDED.—The lands and water resources described in this paragraph shall not include sites and areas which are designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.) or which are listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

"(3) GENERAL MINING LAWS.—For purposes of paragraph (2), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 9511. Abandoned Mined Reclamation Trust Fund.".

---

By Mr. INOUYE (for himself and Ms. CANTWELL):

S. 535. A bill to establish grant programs for the development of telecommunications capacities in Indian country; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise today to introduce the Native American Connectivity Act. Senator CANTWELL joins me in sponsoring this measure.

Over 70 years ago, we passed the Communications Act of 1934 and committed "to make available . . . to all the people of the United States . . . a rapid, efficient, Nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges. . . ." It is now 2005, and the Federal Government has yet to fulfill this commitment in Indian country.

Relying on 2000 Census data, the Federal Communications Commission, FCC, estimates that, on average, only 67.9 percent of Indian households located on Indian reservations have telephone service compared to a national average of 95 percent. Even more alarming is that household telephone rates for some tribes, such as the Kickapoo Reservation in Texas and the Navajo Nation, are as low as 33 percent and 38 percent, respectively. Available data also shows that many Native Americans lack access not only to basic telephone service but also to advanced telecommunications services and information technology.

As a result, many Native Americans lack access to emergency 911 services, are unable to secure employment because they do not have telephone service or Internet, and cannot otherwise participate in many daily activities that non-Native Americans take for granted. Moreover, the lack of telecommunications infrastructure impedes the economic development of tribal communities, educational opportunities, language retention and preservation, and access to adequate health care.

Tribal governments and their citizens must have access to the necessary resources to develop their telecommunications capacities. A recent report by the Harvard Project on American Indian Economic Development credited tribal self-governance for improvements in socioeconomic growth at rates that far exceed progress being made nationally. This bill will provide the resources necessary to enhance and strengthen tribal self-determination to address telecommunications needs. As a result, tribal governments should be able to make further gains in socioeconomic conditions.

I urge my colleagues to give their favorable consideration to this measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 535

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Connectivity Act".

### SEC. 2. FINDINGS.

Congress finds that—

(1)(A) disparities exist in the areas of education, health care, workforce training, commerce, and economic activity of Indians due to the rural nature of most Indian reservations; and

(B) access to basic and advanced telecommunications infrastructure is critical in eliminating those disparities;

(2) currently, only 67.9 percent of Indian homes have telephone service, compared with the national average of 95.1 percent;

(3) the telephone service penetration rate on some reservations is as low as 39 percent;

(4) even on reservations and trust land, non-Indian homes are more likely to have telephone service than Indian homes;

(5) only 10 percent of Indian households on tribal land have Internet access;

(6) only 17 percent of Indian tribes have developed comprehensive technology plans;

(7) training and technical assistance have been identified as the most significant needs for the development and effective use of telecommunications and information technology in Indian country;

(8) funding for telecommunications and information technology projects in Indian country remains inadequate to address the needs of Indian communities;

(9) many Indian tribes are located on or adjacent to Indian land in which unemployment rates exceed 50 percent;

(10) the lack of telecommunications infrastructure and low telephone and Internet penetration rates adversely affects the ability of Indian tribes to pursue economic development opportunities; and

(11) primary, secondary, and postsecondary education, job training, health care, disease prevention education, and cultural preservation are greatly enhanced with access to and use of telecommunications technology and electronic information.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote affordable and universal access among Indian tribal governments, tribal entities, reservation-based schools, tribal colleges and universities, and Indian households to telecommunications and information technology in Indian country;

(2) to encourage and promote tribal economic development, self-sufficiency, and strong tribal governments;

(3) to enhance the health of Indian tribal members through the availability and use of telemedicine and telehealth;

(4) to improve the quality of kindergarten, primary, secondary, postsecondary, and job-related training, through enhanced and sustained information technology infrastructure; and

(5) to assist in the retention and preservation of native languages and cultural traditions.

### SEC. 4. DEFINITIONS.

In this Act:

(1) BLOCK GRANT.—The term "block grant" means a grant provided under section 5.

(2) ELIGIBLE ACTIVITY.—The term "eligible activity" means an activity carried out—

(A) to acquire or lease real property (including licensed spectrum, water rights, dark fiber, exchanges, and other related interests) to provide telecommunications services, facilities, and improvements;

(B) to acquire, construct, reconstruct, or install telecommunications facilities, sites, improvements (including design features), or utilities;

(C) to retain any real property acquired under this Act for tribal communications purposes;

(D) to pay the non-Federal share required by a Federal grant program undertaken as part of activities funded under this Act;

(E) to carry out activities necessary—

(i) to develop a comprehensive telecommunications development plan; and

(ii) to develop a policy, planning, and management capacity so that an eligible entity can more rationally and effectively—

(I) determine the needs of the entity;

(II) set long term and short term goals;

(III) devise programs and activities to meet the goals of the entity, including, if appropriate, telehealth;

(IV) evaluate the progress of the programs and activities in meeting the goals of the entity; and

(V) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(F) to pay reasonable administrative costs and carrying charges related to the planning and execution of telecommunications development activities, including the provision of information and resources about the planning and execution of the activities to residents of areas in which telecommunications development activities are to be concentrated;

(G) to increase the capacity of an eligible entity to carry out telecommunications activities, including the development of telecommunications regulations and related regulatory matters;

(H) to provide assistance to institutions of higher education (including tribal colleges and universities) that have a demonstrated capacity to carry out eligible activities;

(I) to enable an eligible entity to facilitate telecommunications development by—

(i) providing technical assistance, advice, and business support services (including services for developing business plans, securing funding, and conducting marketing); and

(ii) providing general support (including peer support programs and mentoring programs) to Indian tribes in developing telecommunications projects;

(J) to evaluate eligible activities to ascertain and promote effective telecommunications and information technology deployment practices and usages among Indian tribes; or

(K) to provide research, analysis, data collection, data organization, and dissemination of information relevant to telecommunications and information technology in Indian country for the purpose of promoting effective telecommunications and information technology deployment practices and usages among tribes.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) an Indian tribe or consortium of Indian tribes;

(B) a tribally chartered organization; or

(C) an Indian organization, intertribal organization, tribal college or university, or a private or public institution of higher education acting under an agreement with an Indian tribe.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) INFORMATION TECHNOLOGY.—

(A) IN GENERAL.—The term "information technology" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(B) INCLUSIONS.—The term "information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

(6) PLANNING.—The term "planning" means community-based planning developed in consultation with the local community based on the needs of the local community.

(7) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(8) TECHNICAL ASSISTANCE.—The term "technical assistance" means the facilitation of skills and knowledge in planning, developing, assessing, and administering eligible activities.

(9) TRAINING AND TECHNICAL ASSISTANCE GRANT.—The term "training and technical assistance grant" means a grant provided under section 6.

(10) TRIBAL COLLEGE OR UNIVERSITY.—The term "tribal college or university" has the meaning given the term "tribally controlled college or university" in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801), except that the term includes an institution listed in the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

(11) TELEHEALTH.—The term "telehealth" means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health, and health administration.

### SEC. 5. BLOCK GRANT PROGRAM.

(a) ESTABLISHMENT.—There is established within the National Telecommunications and Information Administration a Native American telecommunications block grant program to provide grants on a competitive basis to eligible entities to carry out activities under subsection (c).

(b) BLOCK GRANTS.—The Secretary may provide a block grant to an eligible entity that submits a block grant application to the Secretary for approval.

(c) ELIGIBLE ACTIVITIES.—A grant under this section may only be used for an eligible activity.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing specific criteria for the competition conducted to select eligible entities to receive grants under this section for each fiscal year.

### SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.

(a) NOTIFICATION AND CRITERIA.—The Secretary—

(1) shall provide notice of the availability of training and technical assistance grants; and

(2) publish criteria for selecting recipients.

(b) GRANTS.—The Secretary may provide training and technical assistance grants to eligible entities with a demonstrated capacity to carry out eligible activities.

(c) USE OF FUNDS.—A training and technical assistance grant shall be used—

(1) to develop a training program to facilitate local use and maintenance of new telecommunications technologies;

(2) to develop and implement—

(A) telecommunications and information technology work study programs; and

(B) postsecondary telecommunications and information technology-related education, development, planning, and management programs;

(3) to develop a training program for telecommunications employees; or

(4) to provide assistance to students who—

(A) participate in telecommunications or information technology work study programs; and

(B) are enrolled in a full-time graduate or undergraduate program in telecommunications-related education, development, planning, or management.

(d) SETASIDE.—

(1) IN GENERAL.—For each fiscal year, the Secretary shall set aside 10 percent of the amount made available under section 12 for training and technical assistance grants, to remain available until expended.

(2) TREATMENT.—A training and technical assistance grant to an entity shall be in addition to any block grant provided to the entity.

(e) PROVISION OF TECHNICAL ASSISTANCE BY THE SECRETARY.—The Secretary may provide technical assistance, directly or through contracts, to—

(1) eligible entities; and

(2) persons or entities that assist tribal governments.

### SEC. 7. COMPLIANCE.

(a) AUDIT BY THE COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General of the United States may audit any financial transaction involving grant funds that is carried out by a block grant recipient or training and technical assistance grant recipient.

(2) SCOPE OF AUTHORITY.—In conducting an audit under paragraph (1), the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the grant recipient that relate to the financial transaction and are necessary to facilitate the audit.

(b) ENVIRONMENTAL PROTECTION.—

(1) IN GENERAL.—After consultation with Indian tribes, the Secretary may promulgate regulations to carry out this subsection that—

(A) ensure that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other laws that further the purposes of that Act (as specified by the regulations), are most effectively implemented in connection with the expenditure of funds under this Act; and

(B) assure the public of undiminished protection of the environment.

(2) SUBSTITUTE MEASURES.—Subject to paragraph (3), the Secretary may provide for the release of funds under this Act for eligible activities to grant recipients that assume all of the responsibilities for environmental review, decisionmaking, and related action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other laws that further the purposes of that Act (as specified by the regulations promulgated under paragraph (1)), that would apply to the Secretary if the Secretary carried out the eligible activities as Federal projects.

(3) RELEASE.—

(A) IN GENERAL.—The Secretary shall approve the release of funds under paragraph (2) if, at least 15 days prior to approval, the grant recipient submits to the Secretary a request for release accompanied by a certification that meets the requirements of paragraph (4).

(B) APPROVAL.—The approval by the Secretary of a certification shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the laws specified by the regulations promulgated under paragraph (1), to the extent that those responsibilities relate to the release of funds for projects described in the certification.

(4) CERTIFICATION.—A certification shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the tribal government;

(C) specify that the grant recipient has fully assumed the responsibilities described in paragraph (2); and

(D) specify that the tribal officer—

(i) assumes the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each law specified by the regulations promulgated under paragraph (1), to the extent that the provisions of that Act or law apply; and

(ii) is authorized to consent, and consents, on behalf of the grant recipient and on behalf of the tribal officer to accept the jurisdiction of the Federal courts for enforcement of the responsibilities of the tribal officer as a responsible Federal official.

### SEC. 8. REMEDIES FOR NONCOMPLIANCE.

(a) FAILURE TO COMPLY.—If the Secretary finds, on the record after opportunity for an agency hearing, that a block grant recipient or training and technical assistance grant recipient has failed to comply substantially with any provision of this Act, the Secretary, until satisfied that there is no longer a failure to comply, shall—

(1) terminate payments to the grant recipient;

(2) reduce payments to the grant recipient by an amount equal to the amount of payments that were not expended in accordance with this Act;

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by the failure to comply; or

(4) refer the matter to the Attorney General with a recommendation that the Attorney General bring an appropriate civil action.

(b) ACTION BY THE ATTORNEY GENERAL.—After a referral by the Secretary under subsection (a)(4), the Attorney General may bring a civil action in United States district court for appropriate relief (including mandatory relief, injunctive relief, and recovery of the amount of the assistance provided under this Act that was not expended in accordance with this Act).

**SEC. 9. REPORTING REQUIREMENTS.**

(a) ANNUAL REPORT TO CONGRESS.—Not later than 180 days after the end of each fiscal year in which assistance under this Act is provided, the Secretary shall submit to Congress a report that includes—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of funds under this Act during the preceding fiscal year; and

(3) an evaluation of the status of telephone, Internet, and personal computer penetration rates, by type of technology, among Indian households throughout Indian country on a tribe-by-tribe basis.

(b) REPORTS TO SECRETARY.—The Secretary may require grant recipients under this Act to submit reports and other information necessary for the Secretary to prepare the report under subsection (a).

**SEC. 10. CONSULTATION.**

In carrying out this Act, the Secretary shall consult with—

(1) other Federal agencies administering Federal grant programs relating to the development of telecommunications capacities or infrastructure; and

(2) the Government Accountability Office and Indian tribes to determine the proportion of grant funds necessary to address training and technical assistance and eligible activity needs.

**SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.**

A telecommunications project funded under this Act shall comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.) and the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act—

(1) $20,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each subsequent fiscal year.

(b) AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

---

By Mr. MCCAIN:

S. 536. A bill to make technical corrections to laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President. I am pleased to introduce the Native American Omnibus Act of 2005 to amend a variety of Federal statutes affecting Indian tribes and Indian people. This Act contains nineteen provisions, including technical amendments to several laws, extensions of expiring authorizations, and provisions relating to particular Indian tribes, and certain Native American programs.

Section 101, amends the Indian finance act of 1974 to clarify that nonprofit tribal entities are eligible for the BIA Loan Guaranty program. It also raises the limit on the amount of loans to $1.5 billion from $500 million.

Section 102 extends the authorization for the Indian Tribal Justice Technical and Legal Assistance Act to through fiscal year 2010.

Section 103 extends the Indian Tribal Justice Act for three more years.

Section 104 cures a problem specific to New Mexico and the 1924 Indian Pueblo Lands Act. Recently, the New Mexico State Court of Appeals ruled that a change from Indian to non-Indian title for a parcel of land within a Pueblo land grant area eliminated that parcel's status as "Indian Country." This ruling created a jurisdictional void for criminal acts occurring on land within the original Pueblo land grant once its' title has changed. Consistent with existing law, this amendment clarifies that the state maintains jurisdiction over non-Indians, the tribe has jurisdiction over Indians and its members, and the federal government has jurisdiction pursuant to the Major Crimes Act. This amendment does not expand Indian civil jurisdiction and only applies to criminal jurisdiction. I understand that it is uniformly support by all affected parties.

Section 105, conveys approximately 1290 acres of the Lock and Dam #3 lands to the Prairie Island Tribe. The provision prohibits gaming or structures for human habitation on the conveyed lands.

Section 106 is a technical amendment to allow binding arbitration in all contracts and not just leases on the Gila River Indian Community reservation.

Section 107 conveys several parcels of land in the State of Washington to be held in trust for Puyallup Indian Tribes.

Section 108 amends Native American graves Protection and Repatriation Act by clarifying that the term "Native American" refers to a member of a tribe, a people, or a culture that is or was indigenous to the United States.

Section 109, the amends the Fallon Paiute Shoshone Tribe's water rights settlement act to permit the expenditure of six percent of the average market value of the Fund over three years.

Section 110, the Washoe Tribes Lake Tahoe Access Act, corrects the 1990 settlement and includes 24.3 acres of land near Lake Tahoe for the Tribes. The amendment does not affect the number of acres conveyed to the Tribe in the original settlement.

Section 111 amends the Indian Arts and Crafts Act. A major source of tribal and individual income comes from the sale of handmade Indian arts and crafts, but millions of dollars are diverted each year from these artists and tribes by those who reproduce and sell counterfeit Indian goods. Enforcing the criminal law that prohibits the sale of Indian arts and crafts misrepresented as an Indian product is often stalled by the other responsibilities of the FBI including investigating terrorism activity and violent crimes on Indian lands. This amendment supplements the existing federal investigative authority by authorizing other federal investigative bodies, such as the BIA, in addition to the FBI, to investigate these offenses.

Section 112, the Colorado River Indian Reservation Boundary Correction Act, corrects the south boundary of the Reservation by reestablishing the boundary as it was delineated in the original survey.

Section 113, reauthorizes the Native American Programs Act of 1974 and establishes the Inter-Departmental Council of Native American Affairs.

Section 114 amends the Native Hawaiian Education Act to include research and education activities relating to Native Hawaiian law.

Section 121 amends the Carl D. Perkins Vocational Act to include the registration of Indian students in the Spring semester.

Section 122, the Native Nations Leadership, Management and Policy Act of 2005 authorizes funding for leadership training, strategic and organizational development, and research and policy analysis to assist American Indian nations to achieve effective self-governance and sustainable economic development. This provision renews authorized funding for NNI's programs for a period of 10 years, beginning in fiscal year 2007. Dedicated funding for NNI is necessary to ensure the continuation of these important programs without further draining funds from the Udall Foundation's other educational activities.

Section 132 authorizes the Secretary of Homeland Security, to establish a pilot program to enhance an Indian tribe's response to border activity. Some Indian tribes that inhabit land on or easily accessible to the United States and Canada or Mexico, bear extraordinary costs in responding to illegal immigration crossing and drug smuggling and almost always divert funds intended for local services to do so. While Federal and State law enforcement resources may supplement tribal efforts, tribal police, fire and emergency services provide the first and often only response because of their access to the border. A tribe's proximity to the border and its responsibility to the community for public safety and welfare, requires that they respond. This program would enhance tribal first responder capabilities, provide assistance for aerial and ground surveillance technologies, and communication capabilities, and facilitate coordination and cooperation with Federal, State, local and tribal governments in protecting the border. The Secretary may establish the selection criteria for participation in the program including the tribes' proximity to the border and the extent to which border crossing activity impacts existing tribal resources.

Section 201. Authorization of 99 year leases, amends Title 25 USC Section 415 providing for leases of restricted lands by adding several additional tribes to the list of tribes that have requested 99-year lease authority.

Section 202. Certification of rental proceeds, amends Title 25 USC Section 488 to permit actual rental proceeds from a lease to constitute the rental value of that land, and to satisfy the requirement for appraisal of that land.

Section 211. will permit the Navajo Nation's Sage Memorial Hospital to be considered a tribal contractor under the Indian Self-Determination Act, which will allow the hospital to obtain the benefits of coverage under the Federal Tort Claims Act and secure VA drug discounts.

Section 221. amends the American Indian Probate Reform Act of 2004 by correcting provisions relating to non-testamentary disposition, partition of highly fractionated Indian land, and Tribal probate codes.

I look forward to working with my colleagues on both sides of the aisle to enact this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 536

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Omnibus Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS TO LAWS RELATING TO NATIVE AMERICANS

Subtitle A—General Provisions

Sec. 101. Indian Financing Act amendments.
Sec. 102. Indian tribal justice technical and legal assistance.
Sec. 103. Tribal justice systems.
Sec. 104. Indian Pueblo Land Act amendments.
Sec. 105. Prairie Island land conveyance.
Sec. 106. Binding arbitration for Gila River Indian Community reservation contracts.
Sec. 107. Puyallup Indian Tribe land claims settlement amendments.
Sec. 108. Definition of Native American.
Sec. 109. Fallon Paiute Shoshone Tribes settlement.
Sec. 110. Washoe tribe of Nevada and California land conveyance.
Sec. 111. Indian arts and crafts.
Sec. 112. Colorado River Indian Reservation boundary correction.
Sec. 113. Native American Programs Act of 1974.
Sec. 114. Research and educational activities.

Subtitle B—Indian Education Provisions

Sec. 121. Definition of Indian student count.
Sec. 122. Native Nations leadership, management, and policy.

Subtitle C—Border Preparedness

Sec. 132. Border preparedness on Indian land.

TITLE II—OTHER AMENDMENTS TO LAWS RELATING TO NATIVE AMERICANS

Subtitle A—Indian Land Leasing

Sec. 201. Authorization of 99-year leases.
Sec. 202. Certification of rental proceeds.

Subtitle B—Navajo Health Contracting

Sec. 211. Navajo health contracting.

Subtitle C—Probate Technical Correction

Sec. 221. Probate reform.

### SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means the Secretary of the Interior.

## TITLE I—TECHNICAL AMENDMENTS TO LAWS RELATING TO NATIVE AMERICANS

### Subtitle A—General Provisions

### SEC. 101. INDIAN FINANCING ACT AMENDMENTS.

(a) LOAN GUARANTIES AND INSURANCE.—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking "the Secretary is authorized (a) to guarantee" and inserting "the Secretary may—

"(1) guarantee";

(2) by striking "members; and (b) in lieu of such guaranty, to insure" and inserting "members; or

"(2) to insure";

(3) by striking "SEC. 201. In order" and inserting the following:

**"SEC. 201. LOAN GUARANTIES AND INSURANCE.**

"(a) IN GENERAL.—In order"; and

(4) by adding at the end the following:

"(b) ELIGIBLE BORROWERS.—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.".

(b) LOAN APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking "SEC. 204." and inserting the following:

**"SEC. 204. LOAN APPROVAL.".**

(c) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking "SEC. 205." and all that follows through subsection (b) and inserting the following:

**"SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.**

"(a) IN GENERAL.—All or any portion of a loan guaranteed or insured under this title, including the security given for the loan—

"(1) may be transferred by the lender by sale or assignment to any person; and

"(2) may be retransferred by the transferee.

"(b) TRANSFERS OF LOANS.—With respect to a transfer described in subsection (a)—

"(1) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (h); and

"(2) the transferee shall give notice of the transfer to the Secretary.";

(2) by striking subsection (c);

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(4) in subsection (c) (as redesignated by paragraph (3))—

(A) by striking "VALIDITY.—" and all that follows through "subparagraph (B)," and inserting "VALIDITY.—Except as provided by regulations in effect on the date on which a loan is made,"; and

(B) by striking "incontestable" and all that follows and inserting "incontestable.";

(5) in subsection (e) (as redesignated by paragraph (3))—

(A) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(B) by adding at the end the following:

"(2) COMPENSATION OF FISCAL TRANSFER AGENT.—A fiscal transfer agent designated under subsection (f) may be compensated through any of the fees assessed under this section and any interest earned on any funds or fees collected by the fiscal transfer agent while the funds or fees are in the control of the fiscal transfer agent and before the time at which the fiscal transfer agent is contractually required to transfer such funds to the Secretary or to transferees or other holders."; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking "subsection (i)" and inserting "subsection (h)"; and

(B) in paragraph (2)(B), by striking ", and issuance of acknowledgments.".

(d) LOANS INELIGIBLE FOR GUARANTY OR INSURANCE.—Section 206 of the Indian Financing Act of 1974 (25 U.S.C. 1486) is amended by inserting "(not including an eligible Native American owned or operated Community Development Finance Institution)" after "Government".

(e) AGGREGATE LOANS OR SURETY BONDS LIMITATION.—Section 217(b) of the Indian Financing Act of 1974 (25 U.S.C. 1497(b)) is amended by striking "$500,000,000" and inserting "$1,500,000,000".

### SEC. 102. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE.

Sections 106 and 201(d) of the Indian Tribal Justice Technical and Legal Assistance Act (25 U.S.C. 3666, 3681(d)) are amended by striking "for fiscal years 2000 through 2004" and inserting "for fiscal years 2004 through 2010".

### SEC. 103. TRIBAL JUSTICE SYSTEMS.

Subsections (a), (b), (c), and (d) of section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) are amended by striking "2007" and inserting "2010".

### SEC. 104. INDIAN PUEBLO LAND ACT AMENDMENTS.

(a) IN GENERAL.—The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

**"SEC. 20. CRIMINAL JURISDICTION.**

"(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

"(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos' inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or of another Indian tribe, or by any other Indian-owned entity.

"(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian or any Indian-owned entity, or that involves any Indian property or interest.

"(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of an Indian tribe, which offense is not subject to the jurisdiction of the United States.".

### SEC. 105. PRAIRIE ISLAND LAND CONVEYANCE.

(a) IN GENERAL.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) LAND DESCRIPTION.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO–251, GO–252, GO–271, GO–277, GO–278, GO–284, GO–301 through GO–313, GO–314A, GO–314B, GO–329, GO–330A, GO–330B, GO–331A, GO–331B, GO–331C, GO–332, GO–333, GO–334, GO–335A, GO–335B, GO–336 through GO–338, GO–339A, GO–339B, GO–339C, GO–339D, GO–339E, GO–340A, GO–340B, GO–358, GO–359A, GO–359B, GO–359C, GO–359D, and GO–360, as depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

(c) BOUNDARY SURVEY.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176).

(d) EASEMENT.—

(1) IN GENERAL.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) INCLUSIONS.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) OWNERSHIP OF STURGEON LAKE BED UNAFFECTED.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) CONDITIONS.—The conveyance under subsection (a) is subject to the conditions that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) NO EFFECT ON ELIGIBILITY FOR CERTAIN PROJECTS.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) EFFECT OF SECTION.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary to the Secretary of War and the letters of the Secretary of War in response to the Secretary dated August 18, 1937, and November 27, 1937, under which the Secretary granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

### SEC. 106. BINDING ARBITRATION FOR GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS.

(a) AMENDMENTS.—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence—

(A) by striking "Any lease" and all that follows through "affecting land" and inserting "Any contract, including a lease, affecting land"; and

(B) by striking "such lease or contract" and inserting "such contract"; and

(2) in the second sentence, by striking "such leases or contracts entered into pursuant to such Acts" and inserting "Such contracts".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Act of August 9, 1955 (69 Stat. 539, chapter 615) and Public 107–159 (116 Stat. 122).

### SEC. 107. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLEMENT AMENDMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) accept the conveyance of the parcels of land within the Puyallup Reservation described in subsection (b); and

(2) hold the land in trust for the benefit of the Puyallup Indian Tribe.

(b) LAND DESCRIPTION.—The parcels of land referred to in subsection (a) are as follows:

(1) PARCEL A.—Lot B, boundary line adjustment 9508150496: according to the map thereof recorded August 15, 1995, records of Pierce County Auditor, situate in the city of Fife, county of Pierce, State of Washington.

(2) PARCEL B.—Lots 3 and 4, Pierce County Short Plat No. 8908020412: according to the map thereof recorded August 2, 1989, records of Pierce County Auditor, together with portion of SR 5 abutting lot 4, conveyed by deed recorded under recording number 9309070433, described as follows:

That portion of Government lot 1, sec. 07, T. 20 N., R. 4 E., of the Willamette Meridian, described as commencing at Highway Engineer's Station (hereinafter referred to as HES) AL 26 6+38.0 P.O.T. on the AL26 line survey of SR 5, Tacoma to King County line; Thence S88°54′30″ E., along the north line of said lot 1 a distance of 95 feet to the true point of beginning: Thence S01°05′30″ W87.4′ feet: Thence westerly to a point opposite HES AL26 5+50.6 P.O.T. on said AL26 line survey and 75 feet easterly therefrom; Thence northwesterly to a point opposite AL26 5+80.6 on said AL26 line survey and 55 feet easterly therefrom: Thence northerly parallel with said line survey to the north line of said lot 1: Thence N88°54′30″ E., to the true point of beginning.

Except that portion of lot 4 conveyed to the State of Washington by deed recorded under recording number 9308100165 and more particularly described as follows:

Commencing at the northeast corner of said lot 4: Thence N89°53′30″ W., along the north line of said lot 4 a distance of 147.44 feet to the true point of beginning and a point of curvature; thence southwesterly along a curve to the left, the center of which bears S0°06′30″ W., 55.00 feet distance, through a central angle of 89°01′00″, an arc distance of 85.45 feet; Thence S01°05′30″ W., 59.43 feet; Thence N88°54′30″ W., 20.00 feet to a point on the westerly line of said lot 4; Thence N0°57′10″ E., along said westerly line 113.15 feet to the northwest corner of said lot 1; Thence S89°53′30″ east along said north line, a distance of 74.34 feet to the true point of beginning.

Chicago Title Insurance Company Order No. 4293514 Lot A boundary line adjustment recorded under Recording No. 9508150496. According to the map thereof recorded August 15, 1995, records of Pierce County Auditor.

Situate in the city of Fife, county of Pierce, State of Washington.

(3) ADDITIONAL LOTS.—Any lots acquired by the Tribe located in block 7846, 7850, 7945, 7946, 7949, 7950, 8045, or 8049 in the Indian Addition to the city of Tacoma, State of Washington.

### SEC. 108. DEFINITION OF NATIVE AMERICAN.

Section 2(9) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(9)) is amended—

(1) by inserting "or was" after "is"; and

(2) by inserting after "indigenous to" the following: "any geographic area that is now located within the boundaries of".

### SEC. 109. FALLON PAIUTE SHOSHONE TRIBES SETTLEMENT.

(a) SETTLEMENT FUND.—Section 102 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (104 Stat. 3289) is amended—

(1) in subsection (C)—

(A) in paragraph (1)—

(i) by striking "The income of the Fund may be obligated and expended only for the following purposes:" and inserting the following: "Notwithstanding any conflicting provision in the original Fund plan during Fund fiscal year 2004 and during each subsequent Fund fiscal year, 6 percent of the average quarterly market value of the Fund during the immediately preceding 3 Fund fiscal years (referred to in this title as the 'Annual 6 percent Amount'), plus any unexpended and unobligated portion of the Annual 6 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2003, less any negative income that may accrue on that portion, may be expended or obligated only for the following purposes:"; and

(ii) by adding at the end the following:

"(g) Fees and expenses incurred in connection with the investment of the Fund, for investment management, investment consulting, custodianship, and other transactional services or matters."; and

(B) by striking paragraph (4) and inserting the following:

"(4) No monies from the Fund other than the amounts authorized under paragraphs (1) and (3) may be expended or obligated for any purpose.

"(5) Notwithstanding any conflicting provision in the original Fund plan, during

Fund fiscal year 2004 and during each subsequent Fund fiscal year, not more than 20 percent of the Annual 6 percent Amount for the Fund fiscal year (referred to in this title as the ‘Annual 1.2 percent Amount’) may be expended or obligated under paragraph (1)(c) for per capita distributions to tribal members, except that during each Fund fiscal year subsequent to Fund fiscal year 2004, any unexpended and unobligated portion of the Annual 1.2 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2003, less any negative income that may accrue on that portion, may also be expended or obligated for such per capita payments.”; and

(2) in subsection (D), by adding at the end the following: “Notwithstanding any conflicting provision in the original Fund plan, the Fallon Business Council, in consultation with the Secretary, shall promptly amend the original Fund plan for purposes of conforming the Fund plan to this title and making nonsubstantive updates, improvements, or corrections to the original Fund plan.”.

(b) DEFINITIONS.—Section 107 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (104 Stat. 3293) is amended—

(1) by redesignating subsections (D), (E), (F), and (G) as subsections (F), (G), (H), and (I), respectively; and

(2) by striking subsections (B) and (C) and inserting the following:

“(B) the term ‘Fund fiscal year’ means a fiscal year of the Fund (as defined in the Fund plan);

“(C) the term ‘Fund plan’ means the plan established under section 102(F), including the original Fund plan (the ‘Plan for Investment, Management, Administration and Expenditure dated December 20, 1991’) and all amendments of the Fund plan under subsection (D) or (F)(1) of section 102;

“(D) the term ‘income’ means the total net return from the investment of the Fund, consisting of all interest, dividends, realized and unrealized gains and losses, and other earnings, less all related fees and expenses incurred for investment management, investment consulting, custodianship and transactional services or matters;

“(E) the term ‘principal’ means the total amount appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund under section 102(B);”.

### SEC. 110. WASHOE TRIBE OF NEVADA AND CALIFORNIA LAND CONVEYANCE.

Section 2 of Public Law 108–67 (117 Stat. 880) is amended by striking “the parcel” and all that follows and inserting “a portion of Lots 3 and 4, as shown on the United States and Encumbrance Map revised January 10, 1991, for the Toiyabe National Forest, Ranger District Carson –1, located in the S½ of NW¼ and N½ of SW¼ of the SE¼ of sec. 27, T. 15N, R. 18E, Mt. Diablo Base and Meridian, comprising 24.3 acres.”.

### SEC. 111. INDIAN ARTS AND CRAFTS.

(a) CRIMINAL PROCEEDINGS: CIVIL ACTIONS; MISREPRESENTATIONS.—Section 5 of the Indian Arts and Crafts Act of 1990 (25 U.S.C. 305d) is amended to read as follows:

### “SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.

“(a) DEFINITION OF FEDERAL LAW ENFORCEMENT OFFICER.—In this section, the term ‘Federal law enforcement officer’ has the meaning given the term in section 115(c) of title 18, United States Code.

“(b) CRIMINAL PROCEEDINGS.—

“(1) REFERRAL.—On receiving a complaint of a violation of section 1159 of title 18, United States Code, the Board may refer the complaint to any Federal law enforcement officer for appropriate investigation.

“(2) FINDINGS.—The findings of an investigation under paragraph (1) shall be submitted to—

“(A) the Attorney General; and

“(B) the Board.

“(3) RECOMMENDATIONS.—On receiving the findings of an investigation in accordance with paragraph (2), the Board may—

“(A) recommend to the Attorney General that criminal proceedings be initiated under section 1159 of that title; and

“(B) provide such support to the Attorney General relating to the criminal proceedings as the Attorney General determines appropriate.

“(c) CIVIL ACTIONS.—In lieu of, or in addition to, any criminal proceeding under subsection (a), the Board may recommend that the Attorney General initiate a civil action pursuant to section 6.”.

(b) Section 6 of the Indian Arts and Crafts Act of 1990 (25 U.S.C. 305e) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

“(a) DEFINITIONS.—In this section:

“(1) INDIAN.—The term ‘Indian’ means an individual that—

“(A) is a member of an Indian tribe; or

“(B) is certified as an Indian artisan by an Indian tribe.

“(2) INDIAN PRODUCT.—The term ‘Indian product’ has the meaning given the term in any regulation promulgated by the Secretary.

“(3) INDIAN TRIBE.—

“(A) IN GENERAL.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(B) INCLUSION.—The term ‘Indian tribe’ includes an Indian group that has been formally recognized as an Indian tribe by—

“(i) a State legislature;

“(ii) a State commission; or

“(iii) another similar organization vested with State legislative tribal recognition authority.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.”;

(4) in subsection (c) (as redesignated by paragraph (2))—

(A) by striking “of this section”; and

(B) by striking “suit” and inserting “the civil action”;

(5) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

“(d) PERSONS THAT MAY INITIATE CIVIL ACTIONS.—

“(1) IN GENERAL.—A civil action under subsection (b) may be initiated by—

“(A) the Attorney General, at the request of the Secretary acting on behalf of—

“(i) an Indian tribe;

“(ii) an Indian; or

“(iii) an Indian arts and crafts organization;

“(B) an Indian tribe, acting on behalf of—

“(i) the tribe;

“(ii) a member of that tribe; or

“(iii) an Indian arts and crafts organization;

“(C) an Indian; or

“(D) an Indian arts and crafts organizaion.

“(2) DISPOSITION OF AMOUNTS RECOVERED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an amount recovered in a civil action under this section shall be paid to the Indian tribe, the Indian, or the Indian arts and crafts organization on the behalf of which the civil action was initiated.

“(B) EXCEPTIONS.—

“(i) ATTORNEY GENERAL.—In the case of a civil action initiated under paragraph (1)(A), the Attorney General may deduct from the amount—

“(I) the amount of the cost of the civil action and reasonable attorney’s fees awarded under subsection (c), to be deposited in the Treasury and credited to appropriations available to the Attorney General on the date on which the amount is recovered; and

“(II) the amount of the costs of investigation awarded under subsection (c), to reimburse the Board for the activities of the Board relating to the civil action.

“(ii) INDIAN TRIBE.—In the case of a civil action intitated under paragraph (1)(B), the Indian tribe may deduct from the amount—

“(I) the amount of the cost of the civil action; and

“(II) reasonable attorney’s fees.”;

(6) in subsection (e), by striking “(e) In the event that” and inserting the following:

“(e) SAVINGS PROVISION.—If”; and

(7) by striking subsection (f) and inserting the following:

“(f) REGULATIONS.—Not later than 180 days after the date of enactment of the Native American Omnibus Act of 2005, the Board shall promulgate regulations to include in the definition of the term ‘Indian product’ examples of each Indian product to provide guidance and notice to Indian artisans, suppliers of the artisans, and consumers of Indian arts and crafts.”.

(c) CONFORMING AMENDMENT.—Section 1159(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) the term ‘Indian tribe’—

“(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); and

“(B) includes an Indian group that has been formally recognized as an Indian tribe by—

“(i) a State legislature;

“(ii) a State commission; or

“(iii) another similar organization vested with State legislative tribal recognition authority; and”.

### SEC. 112. COLORADO RIVER INDIAN RESERVATION BOUNDARY CORRECTION.

(a) FINDINGS.—Congress finds that—

(1) the Act of March 3, 1865, created the Colorado River Indian Reservation along the Colorado River in Arizona and California for the “Indians of said river and its tributaries”;

(2) in 1873 and 1874, President Grant issued Executive orders to expand the Reservation southward and to secure the southern boundary of the Reservation at a clearly recognizable geographic location in order to forestall encroachment by non-Indians and conflicts with the Indians of the Reservation;

(3) in 1875, Chandler Robbins conducted the Robbins Survey, delineating the new southern boundary of the Reservation, which included the La Paz land as part of the Reservation;

(4) on May 15, 1876, President Grant issued an Executive order establishing the boundaries of the Reservation as the boundaries delineated by the Robbins Survey;

(5) in 1907, as a result of increasingly frequent trespasses by miners and cattle and at the request of the Bureau of Indian Affairs, the General Land Office provided for a resurvey of the southern and southeastern areas of the Reservation;

(6) in 1914, the General Land Office accepted and approved the Harrington Survey, which confirmed the boundaries that were delineated by the Robbins Survey and established by Executive order in 1876;

(7) on November 19, 1915, the Secretary of the Interior reversed the decision of the General Land Office to accept the Harrington Survey, and, on the recommendation of the Secretary on November 22, 1915, President Wilson issued Executive Order 2273 to correct the error in location of the southern boundary line of the Reservation, effectively excluding the La Paz land from the Reservation;

(8) historical evidence compiled by the Department of the Interior supports the conclusion that—

(A) the recommendation of the Secretary in 1915 that the President issue an Executive order to correct an error in locating the southern boundary was in error; and

(B) the La Paz land should not have been excluded from the Reservation; and

(9) the La Paz land continues to hold cultural and historical significance, as well as economic development potential, for the Tribe, which has consistently sought to have the La Paz land restored to the Reservation.

(b) PURPOSES.—The purposes of this section are—

(1) to correct the south boundary of the Reservation by reestablishing the boundary as the boundary was delineated by the Robbins Survey and affirmed by the Harrington Survey;

(2) to restore the La Paz land to the Reservation, subject to Federal law;

(3) to provide for continued public access to the La Paz land for recreational purposes; and

(4) to require the Secretary to ensure that the Reservation boundary, as corrected by this section, is resurveyed and marked in accordance with the public system of surveys extended over the land.

(c) DEFINITIONS.—In this section:

(1) HARRINGTON SURVEY.—The term "Harrington Survey" means the survey of the Reservation conducted by Guy Harrington in 1912.

(2) LA PAZ LAND.—The term "La Paz land" means the approximately 16,000 acres attributed to the Reservation by the Robbins Survey.

(3) MAP.—The term "Map" means the map prepared by the Secretary, acting through the Bureau of Land Management, entitled "Colorado River Indian Reservation Boundary Correction" and dated January 4, 2005.

(4) RESERVATION.—The term "Reservation" means the Colorado River Indian Reservation.

(5) ROBBINS SURVEY.—The term "Robbins Survey" means the survey of the Reservation conducted by Chandler Robbins in 1875.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) TRIBE.—The term "Tribe" includes any tribe a member of which resides on the Reservation.

(d) BOUNDARY CORRECTION.—

(1) IN GENERAL.—The boundaries of the Reservation shall include the boundaries that were delineated by the Robbins Survey, affirmed by the Harrington Survey, including the approximately 15,375 acres of Federal land described as "Land Identified for Transfer to Colorado River Indian Tribes" on the Map.

(2) REVIEW.—The Map shall be available for review at the Bureau of Land Management.

(3) RESURVEY AND MARKING.—The Secretary shall ensure that the boundary described in paragraph (1) is surveyed and clearly marked in accordance with the public system of surveys extended over the land.

(e) RESTORATION OF RIGHTS, TITLE, AND INTEREST.—

(1) IN GENERAL.—Subject to paragraph (2) and other provisions of Federal law, all right, title, and interest of the United States to the land in the boundaries described in subsection (d)(1) that were excluded from the Reservation pursuant to Executive Order 2273 (relating to the southern boundary line of the Reservation)—

(A) are restored to the Reservation; and

(B) shall be held in trust by the United States on behalf of the Tribe.

(2) EXCLUSIONS.—

(A) STATE LAND.—The 2 parcels of land belonging to the State of Arizona (totaling 320 acres and 520 acres, respectively) that are identified on the Map as "State Land" shall be excluded from the land described in paragraph (1).

(B) WATER RIGHTS.—The land described in subsection (d)(1) shall not include any Federal reserve water right to surface water or ground water from any source.

(C) PUBLIC ACCESS.—The public shall have continued access to the land described in subsection (d)(1) for hunting and other recreational purposes in existence on the date of enactment of this Act, in accordance with any rule or regulation promulgated by the Tribe.

(D) ECONOMIC ACTIVITY.—

(i) IN GENERAL.—The land described in subsection (d)(1) shall be subject to any right-of-way, easement, lease, or mining claim in existence on the date of enactment of this Act.

(ii) RECLAMATION PROJECTS.—The United States reserves the right to continue any reclamation project relating to the land described in subsection (d)(1) in existence on the date of enactment of this Act, including the right to access and remove mineral materials for maintenance of the Colorado River.

(iii) ADDITIONAL RIGHTS-OF-WAY.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant any additional right-of-way (including an expansion or renewal of an existing right-of-way) for a road, utility, or another accommodation to an adjoining landowner or holder of a right-of-way (or their successors and assigns) if the Secretary determines that—

(I) the proposed right-of-way is necessary to the applicant;

(II) the acquisition of the proposed right-of-way will not cause significant harm to the Tribe; and

(III) the proposed right-of-way—

(aa) complies with part 169 of title 25, Code of Federal Regulations; and

(bb) is consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust land.

(iv) EXCEPTION FOR ROADS AND UTILITIES.—Section 169.3 of title 25, Code of Federal Regulations, shall not apply to the expansion or renewal of a right-of-way in existence on the date of enactment of this Act for a road or utility.

(v) FEES.—If the holder of a lease, easement, or right-of-way substantially complies with all terms of the lease, easement, or right-of-way, the fees charged for the renewal of the lease, easement, or right-of-way under this section shall be not greater than the applicable Federal rate for such a lease, easement, or right-of-way at the time of the renewal.

(e) GAMING.—Land taken into trust under this section shall not—

(1) be considered to have been taken into trust for gaming; or

(2) be used for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

### SEC. 113. NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) INTRA-DEPARTMENTAL COUNCIL ON NATIVE AMERICAN AFFAIRS.—Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended by striking "There" and all that follows and inserting the following: "There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner and the Director of the Indian Health Service shall serve as co-chairpersons of the Council. The co-chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsections (a) through (c) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated—

"(1) to carry out section 803(d), $8,000,000 for each of fiscal years 2006 through 2010; and

"(2) to carry out provisions of this title other than section 803(d) and any other provision having an express authorization of appropriations, such sums as are necessary for each of fiscal years 2006 through 2010.

"(b) LIMITATION.—Not less than 90 percent of the funds made available to carry out this title for a fiscal year (other than funds made available to carry out sections 803(d), 803A, 803C, and 804, and any other provision of this title having an express authorization of appropriations) shall be expended to carry out section 803(a).";

(2) by redesignating subsection (d) as subsection (c); and

(3) by striking subsection (e).

(c) REPORTS.—Section 811A of the Native American Programs Act of 1974 (42 U.S.C. 2992–1) is amended—

(1) by striking the section heading and all that follows through "each year," and inserting the following:

**"SEC. 811A. REPORTS.**

"Every 5 years, the Secretary shall"; and

(2) by striking "an annual report" and inserting "a report".

### SEC. 114. RESEARCH AND EDUCATIONAL ACTIVITIES.

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

"(K) research and educational activities relating to Native Hawaiian law;".

## Subtitle B—Indian Education Provisions

### SEC. 121. DEFINITION OF INDIAN STUDENT COUNT.

Section 117(h) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327(h)) is amended by striking paragraph (2) and inserting the following:

"(2) INDIAN STUDENT COUNT.—

"(A) IN GENERAL.—The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally-controlled postsecondary vocational and technical institution, as determined in accordance with subparagraph (B).

"(B) DETERMINATION.—

"(i) ENROLLMENT.—For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

"(I) in the case of the fall term, the third week of the fall term; and

"(II) in the case of the spring term, the third week of the spring term.

"(ii) CALCULATION.—For each academic year, the Indian student count for a tribally-controlled postsecondary vocational and technical institution shall be the quotient obtained by dividing—

"(I) the sum of the credit-hours of all Indian students enrolled in the tribally-controlled postsecondary vocational and technical institution (as determined under clause (i)); divided by

"(II) 12.

"(iii) SUMMER TERM.—Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.

"(iv) STUDENTS WITHOUT SECONDARY SCHOOL DEGREES.—

"(I) IN GENERAL.—A credit earned at a tribally-controlled postsecondary vocational and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

"(II) PRESUMPTION.—The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.

"(III) CREDITS TOWARD SECONDARY SCHOOL DEGREE.—No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.

"(v) CONTINUING EDUCATION PROGRAMS.—Any credit earned by an Indian student in a continuing education program of a tribally-controlled postsecondary vocational and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit-hour basis in accordance with the system of the institution for providing credit for participation in the program.".

### SEC. 122. NATIVE NATIONS LEADERSHIP, MANAGEMENT, AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the policy of the United States favors self-determination for Indian tribes;

(2) consistent with the policy described in paragraph (1), Indian tribes are increasingly taking control of the affairs of the tribes in order to realize in practice most of the status afforded the tribes in treaties, court decisions, and legislation;

(3) as a result of the increasing control of the tribes, tribes require enhanced leadership preparation and greater access to information relating to research and analysis of successful models for tribal government and business operations, similar to the information regularly available to Federal, State, and local government agencies;

(4) enabling Indian tribes to develop strong leadership and governing policy is consistent with Federal policy supporting tribal self-determination and increases the likelihood that tribal governments will achieve political and economic self-determination; and

(5) during the last 5 years, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, in cooperation with the Native Nations Institute at the University of Arizona, pursuant to section 6(7) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604(7)), has provided to Indian tribes the leadership and management training, policy analysis, and research of the quality and type required to assist Indian tribes to achieve self-determination.

(b) DEFINITIONS.—Section 4 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602) is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) the terms 'Indian tribe' and 'tribe' have the meaning given the term 'Indian tribe' in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);".

(c) AUTHORITY OF FOUNDATION.—Section 7(a)(1) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)(1)) is amended by striking subparagraph (C) and inserting the following:

"(C) FIELDS OF STUDY.—

"(i) IN GENERAL.—The Foundation may award scholarships, fellowships, internships, and grants to eligible individuals in accordance with this Act for study in fields relating to the environment and Native American and Alaska Native health care and tribal public policy.

"(ii) MINIMUM CRITERIA.—A scholarship, fellowship, internship, or grant awarded under this section shall be awarded to an eligible individual that meets the minimum criteria established by the Foundation.

"(iii) STATE-RECOGNIZED TRIBES, BANDS, NATIONS, AND GROUPS.—Notwithstanding the definition of 'Indian tribe' under section 4, the Foundation may make an award under this section to an individual that is a member of a Native American tribe, band, nation, or other organized group or community that is recognized by a State.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5609) is amended by striking subsection (c) and inserting the following:

"(c) TRAINING IN TRIBAL LEADERSHIP, MANAGEMENT, AND POLICY.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out section 6(7)—

"(A) $2,500,000 for each of fiscal years 2007 and 2008;

"(B) $4,000,000 for each of fiscal years 2009 and 2010; and

"(C) $13,500,000 for each of fiscal years 2011 through 2016.

"(2) LIMITATIONS.—An appropriation made pursuant to this subsection shall not be subject to section 7(c).".

## Subtitle C—Border Preparedness

### SEC. 132. BORDER PREPAREDNESS ON INDIAN LAND.

Subtitle D of title IV of the Homeland Security Act of 2002 (6 U.S.C. 251 et seq.) is amended by adding at the end the following:

### "SEC. 447. BORDER PREPAREDNESS PILOT PROGRAM ON INDIAN LAND.

"(a) DEFINITIONS.—In this section:

"(1) INDIAN LAND.—The term 'Indian land' means—

"(A) all land within the boundaries of any Indian reservation; and

"(B) any land the title to which is—

"(i) held in trust by the United States for the benefit of an Indian tribe or individual; or

"(ii) held by any Indian tribe or individual—

"(I) subject to a restriction by the United States against alienation; and

"(II) over which an Indian tribe exercises governmental authority.

"(2) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized by the Secretary as—

"(A) eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) possessing powers of self-government.

"(3) TRIBAL GOVERNMENT.—The term 'tribal government' means the governing body of an Indian tribe.

"(b) PURPOSE.—The purpose of this section is to require the Secretary, acting through the Under Secretary for Border and Transportation Security, to establish a pilot program for tribal governments on Indian land located on or near the border of the United States with Canada or Mexico in order to—

"(1) facilitate the coordination of the response of an Indian tribe to a threat to the security of an international border of the United States with the responses of Federal, State, and local governments;

"(2) enhance the capability of an Indian tribe as a first responder to an illegal crossing of an immigrant over an international border of the United States; and

"(3) provide assistance to Indian tribes in the use by the tribes of effective aerial and ground surveillance technologies, integrated communication systems and equipment, and personnel training.

"(c) PILOT PROGRAM.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Undersecretary for Border and Transportation Security, shall provide funds and other assistance to tribal governments in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) USE OF FUNDS AND ASSISTANCE.—

"(A) IN GENERAL.—A tribal government shall use any funds or assistance provided under paragraph (1) consistent with the purposes of this section.

"(B) ADMINISTRATION BY TRIBAL GOVERNMENTS.—A tribal government that receives any funds or assistance under paragraph (1) shall administer the funds or assistance in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(3) SELECTION CRITERIA.—In selecting a tribal government to receive funds or assistance under paragraph (1), the Secretary may take into consideration—

"(A) the distance between the Indian land in the jurisdiction of the tribal government and an international border of the United States;

"(B) the extent to which a border enforcement effort effects the resources of the Indian tribe; and

"(C) the interests of the Indian tribe.

"(d) REPORTS.—

"(1) TRIBAL GOVERNMENTS.—

"(A) IN GENERAL.—Not later than 1 year after receiving funds or assistance under subsection (c), a tribal government shall submit to the Secretary a report in such a manner and containing such information as the Secretary may require.

"(B) INCLUSION.—A report under subparagraph (A) shall include a description of—

"(i) any funds or assistance received by the tribal government under this section;

"(ii) the use of the funds or assistance by the tribal government; and

"(iii) any obstacle encountered by the tribal government in administering the funds or assistance.

"(2) SECRETARY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing—

"(A) the information contained in the reports under paragraph (1);

"(B) the degree of success of the Secretary in implementing the pilot program; and

"(C) any recommendation, including a legislative recommendation, of the Secretary relating to the pilot program.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2008.".

## TITLE II—OTHER AMENDMENTS TO LAWS RELATING TO NATIVE AMERICANS

### Subtitle A—Indian Land Leasing

#### SEC. 201. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by striking "Moapa Indian reservation" and inserting "Moapa Indian Reservation,";

(2) by inserting "the reservation of the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation,";

(3) by inserting "the" before "Yavapai-Prescott";

(4) by inserting "the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe," after "the Cabazon Indian reservation,";

(5) by striking "Washington,," and inserting "Washington,";

(6) by inserting "land held in trust for the Prairie Band Potawatomi Nation," before "land held in trust for the Cherokee Nation of Oklahoma";

(7) by inserting "land held in trust for the Fallon Paiute Shoshone Tribes," before "land held in trust for the Pueblo of Santa Clara"; and

(8) by inserting "land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

#### SEC. 202. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91–229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

### Subtitle B—Navajo Health Contracting

#### SEC. 211. NAVAJO HEALTH CONTRACTING.

The Navajo Health Foundation/Sage Memorial Hospital in Ganado, Arizona, shall be considered to be a tribal contractor under the Indian Self-Determination and Education Assistance Act for the purposes of section 102(d) and subsections (k) and (o) of section 105 of that Act (25 U.S.C. 450f(d), 450j) provided that the Hospital remains the authorized tribal organization (as defined in section 4 of that Act (25 U.S.C. 450b)) of the Navajo Nation.

### Subtitle C—Probate Technical Correction

#### SEC. 221. PROBATE REFORM.

(a) NONTESTAMENTARY DISPOSITION.—Subsection (a)(2)(D)(iv)(I)(aa) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) (as amended by section 3(a) of the American Indian Probate Reform Act of 2004 (Public Law 108–374)) is amended—

(1) by striking "clause (iii)" and inserting "this subparagraph"; and

(2) in subitem (BB), by striking "any co-owner" and inserting "not more than 1 co-owner".

(b) APPLICABLE FEDERAL LAW.—Subsection (h)(2) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) (as amended by section 3(d) of the American Indian Probate Reform Act of 2004 (Public Law 108–374)) is amended—

(1) by inserting "specifically" after "pertains"; and

(2) in subparagraph (B), by striking "allotted lands" and inserting "trust or restricted allotments".

(c) PARTITION OF HIGHLY FRACTIONATED INDIAN LAND.—Subsection (d) of section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) (as amended by section 4 of the American Indian Probate Reform Act of 2004 (Public Law 108–374)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (G)(ii)(I), by striking "a higher value of the land" and inserting "a value of the land that is equal to or greater than that of the earlier appraisal"; and

(B) in subparagraph (I)(iii)—

(i) in subclause (III), by inserting "(if any)" after "this section"; and

(ii) in subclause (IV)(bb), by striking "to implement this section" and inserting "under paragraph (5)"; and

(2) in the second sentence of paragraph (5), by striking "shall" and inserting "may".

(d) PURCHASE OPTION AT PROBATE.—Subsection (p)(6) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) (as added by section 6(a)(2) of the American Indian Probate Reform Act of 2004 (Public Law 108–374)) is amended—

(1) in the first sentence, by striking "Proceeds" and inserting the following:

"(A) IN GENERAL.—Proceeds"; and

(2) by striking the second sentence and inserting the following:

"(B) HOLDING IN TRUST.—Proceeds described in subparagraph (A) shall be deposited and held in an account as trust personalty if the interest sold would otherwise pass to—

"(i) the heir, by intestate succession under subsection (a); or

"(ii) the devisee in trust or restricted status under subsection (b)(1).".

(e) TRIBAL PROBATE CODES.—Section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205) is amended—

(1) in subsection (b)(3), by striking subparagraph (A) and inserting the following:

"(A) the date that is 1 year after the date on which the Secretary makes the certification required under section 8(a)(4) of the American Indian Probate Reform Act of 2004; or"; and

(2) in paragraph (2)(A)(i)(II)(bb) of subsection (c) (as amended by section 6(a)(3) of the American Indian Probate Reform Act of 2004 (Public Law 108–374)), by inserting "in writing" after "agrees".

(f) EFFECTIVE DATE.—The amendments made by this section take effect as if included in the American Indian Probate Reform Act of 2004 (Public Law 108–374).

---

By Mr. BINGAMAN:

S. 537. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the landmark report Mental Health: A Report of the Surgeon General brought the hidden mental health crisis to the attention of the U.S. public. According to that report, 13.7 million of the Nation's children and adolescents, twenty percent, have a diagnosable mental disorder, the most common of which include Anxiety Disorder, Attention Deficit/Hyperactivity Disorder (ADHD) and Depression. Unfortunately, only one out of five of those in need will receive mental health care. One of the primary reasons for this across the Nation is that mental health services to help treat children are in short supply. Long waiting lists for children seeking care, even those in crisis, are not uncommon. In New Mexico, it's estimated that 56,000 children and adolescents have a mental or emotional disorder. Of these, almost 20,000 have serious emotional disorders. As of June 2003, there were only 13 licensed child and adolescent psychiatrists to serve the entire State of New Mexico. In addition, there are fewer trained psychologists and social workers per 100,000 population in New Mexico than the country as a whole. Children with untreated mental disorders are at a higher risk for school failure and dropping out, violence, drug abuse, suicide, and criminal activity. A 2002 report documented that approximately one in seven youth in New Mexico detention centers incarcerated because mental health care is not available. From January to December 2001, 718 New Mexico youth were collectively incarcerated for 31.3 years just to wait for a mental health treatment opening. Clearly, something needs to be done to address this growing shortage of these important health professionals.

The Surgeon General states that there is a dearth of child psychiatrists, appropriately trained clinical child psychologists, or social workers. Nationwide, 3,543 urban, suburban, and rural localities have been designated Mental Health Professional Shortage Areas by the Federal Government due to their severe lack of psychiatrists, psychologists, social workers and other professionals to serve children and adults. According to the U.S. Bureau of Health Professions, the demand for the services of child and adolescent psychiatrists is projected to increase by 100 percent by 2020, while the number of these professionals is expected to increase by only 30 percent resulting in a shortage of over 4,000 child and adolescent psychiatrists by that year. The National Center for Education Statistics within the U.S. Department of Education reports that the national average student-to-school counselor ratio in U.S. schools is 513:1, more than double the recommended ratio of 250:1.

In the United States, there are approximately 7,000 child and adolescent psychiatrists and only 300 new child and adolescent psychiatrists are trained each year. In 2000, the Bureau of Health Professions projected that between 1995 and 2020, the use of child and adolescent psychiatrists will increase by 100 percent.

While the Nation as a whole is experiencing a shortage of mental health professionals, the problem is most acute in the rural areas. In NM for example, 4/5 of the psychiatrists in NM are located in Bernalillo and Santa Fe Counties. This area is also home to 70 percent of the psychologists, 53 percent of counselors and 47 percent of the social workers—leaving the rest of the State at a severe disadvantage.

It is in response to the mental health workforce crisis that I rise with my colleagues Senator Collins of Maine, Senator Harkin of Iowa, Senator Dodd of Connecticut, Senator Kennedy from Massachusetts, Senator Reed from Rhode Island and Senator Sarbanes of Maryland, to offer The Child Healthcare Crisis Relief Act. This bill creates incentives to help recruit and retain child mental health professionals providing direct clinical care, and to improve, expand, or help create programs to train child mental health professionals. It provides loan repayment and scholarships for child mental health and school-based service professionals as well as internships and field placements in child mental health services and training for paraprofessionals who work in children's mental health clinical settings. This bill also provides grants to graduate schools to help develop and expand child and adolescent mental health programs. It allows for an increase in the number of Child and Adolescent Psychiatrists permitted under the Medicare Graduate Medical Education Program and, extends the Board Eligibility period for residents and fellows from four years to six years.

Finally, this bill asks the Secretary to prepare a report on the distribution and need for child mental health and school-based professionals with respect to specialty certifications, practice characteristics, professional licensure, practice types, locations, education, and training, broken down by State so that we may better comprehend the mental health workforce needs that are facing our Nation.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 537

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Health Care Crisis Relief Act".

### SEC. 2. FINDINGS.

Congress finds the following:

(1) The Center for Mental Health Services estimates that 20 percent or 13,700,000 of the Nation's children and adolescents have a diagnosable mental health disorder, and about ⅔ of these children and adolescents do not receive mental health care.

(2) According to "Mental Health: A Report of the Surgeon General" in 1999, there are approximately 6,000,000 to 9,000,000 children and adolescents in the United States (accounting for 9 to 13 percent of all children and adolescents in the United States) who meet the definition for having a serious emotional disturbance.

(3) According to the Center for Mental Health Services, approximately 5 to 9 percent of children and adolescents in the United States meet the definition for extreme functional impairment.

(4) According to the Surgeon General's Report, there are particularly acute shortages in the numbers of mental health service professionals serving children and adolescents with serious emotional disorders.

(5) According to the National Center for Education Statistics in the Department of Education, there are approximately 513 students for each school counselor in United States schools, which ratio is more than double the recommended ratio of 250 students for each school counselor.

(6) According to a year 2000 estimate of the Bureau of Health Professions, the demand for the services of child and adolescent psychiatry is projected to increase by 100 percent by 2020.

(7) The development and application of knowledge about the impact of disasters on children, adolescents, and their families has been impeded by critical shortages of qualified researchers and practitioners specializing in this work.

(8) According to the Bureau of the Census, the population of children and adolescents in the United States under the age of 18 is projected to grow by more than 40 percent, from 70,000,000 to more than 100,000,000 by 2050.

### SEC. 3. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended by adding at the end the following:

### "SEC. 771. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

"(a) Loan Repayments for Child and Adolescent Mental Health Service Professionals.—

"(1) Establishment.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program of entering into contracts on a competitive basis with eligible individuals (as defined in paragraph (2)) under which—

"(A) the eligible individual agrees to be employed full-time for a specified period of at least 2 years in providing mental health services to children and adolescents; and

"(B) the Secretary agrees to make, during the period of employment described in subparagraph (A), partial or total payments on behalf of the individual on the principal and interest due on the undergraduate and graduate educational loans of the eligible individual.

"(2) Eligible individual.—For purposes of this section, the term 'eligible individual' means an individual who—

"(A) is receiving specialized training or clinical experience in child and adolescent mental health in psychiatry, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling and has less than 1 year remaining before completion of such training or clinical experience; or

"(B)(i) has a license in a State to practice allopathic medicine, osteopathic medicine, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling; and

"(ii)(I) is a mental health service professional who completed (but not before the end of the calendar year in which this section is enacted) specialized training or clinical experience in child and adolescent mental health services described in subparagraph (A); or

"(II) is a physician who graduated from (but not before the end of the calendar year in which this section is enacted) an accredited child and adolescent psychiatry residency or fellowship program in the United States.

"(3) Additional eligibility requirements.—The Secretary may not enter into a contract under this subsection with an eligible individual unless the individual—

"(A) is a United States citizen or a permanent legal United States resident; and

"(B) if enrolled in a graduate program (including a medical residency or fellowship), has an acceptable level of academic standing as determined by the Secretary.

"(4) Priority.—In entering into contracts under this subsection, the Secretary shall give priority to applicants who—

"(A) are or will be working with high priority populations;

"(B) have familiarity with evidence-based methods in child and adolescent mental health services;

"(C) demonstrate financial need; and

"(D) are or will be—

"(i) working in the publicly funded sector;

"(ii) working in organizations that serve underserved populations; or

"(iii) willing to provide patient services—

"(I) regardless of the ability of a patient to pay for such services; or

"(II) on a sliding payment scale if a patient is unable to pay the total cost of such services.

"(5) Meaningful loan repayment.—If the Secretary determines that funds appropriated for a fiscal year to carry out this subsection are not sufficient to allow a meaningful loan repayment to all expected applicants, the Secretary shall limit the number of contracts entered into under paragraph (1) to ensure that each such contract provides for a meaningful loan repayment.

"(6) Amount.—

"(A) Maximum.—For each year of the employment period described in paragraph

(1)(A), the Secretary shall not, under a contract described in paragraph (1), pay more than $35,000 on behalf of an individual.

“(B) CONSIDERATION.—In determining the amount of payments to be made on behalf of an eligible individual under a contract described in paragraph (1), the Secretary shall consider the income and debt load of the eligible individual.

“(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

“(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2006 through 2010.

“(b) SCHOLARSHIPS FOR STUDENTS STUDYING TO BECOME CHILD AND ADOLESCENT MENTAL HEALTH SERVICE PROFESSIONALS.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to award scholarships on a competitive basis to eligible students who agree to enter into full-time employment (as described in paragraph (4)(C)) as a child and adolescent mental health service professional after graduation or completion of a residency or fellowship.

“(2) ELIGIBLE STUDENT.—For purposes of this subsection, the term ‘eligible student’ means a United States citizen or a permanent legal United States resident who—

“(A) is enrolled or accepted to be enrolled in a graduate program that includes specialized training or clinical experience in child and adolescent mental health in psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling; or

“(B) is enrolled or accepted to be enrolled in an accredited graduate training program of allopathic or osteopathic medicine in the United States and intends to complete an accredited residency or fellowship in child and adolescent psychiatry.

“(3) PRIORITY.—In awarding scholarships under this subsection, the Secretary shall give—

“(A) highest priority to applicants who previously received a scholarship under this subsection and satisfy the criteria described in subparagraph (B); and

“(B) second highest priority to applicants who—

“(i) demonstrate a commitment to working with high priority populations;

“(ii) have familiarity with evidence-based methods in child and adolescent mental health services;

“(iii) demonstrate financial need; and

“(iv) are or will be—

“(I) working in the publicly funded sector;

“(II) working in organizations that serve underserved populations; or

“(III) willing to provide patient services—

“(aa) regardless of the ability of a patient to pay for such services; or

“(bb) on a sliding payment scale if a patient is unable to pay the total cost of such services.

“(4) REQUIREMENTS.—The Secretary may award a scholarship to an eligible student under this subsection only if the eligible student agrees—

“(A) to complete any graduate training program, internship, residency, or fellowship applicable to that eligible student under paragraph (2);

“(B) to maintain an acceptable level of academic standing (as determined by the Secretary) during the completion of such graduate training program, internship, residency, or fellowship; and

“(C) to be employed full-time after graduation or completion of a residency or fellowship, for at least the number of years for which a scholarship is received by the eligible student under this subsection, in providing mental health services to children and adolescents.

“(5) USE OF SCHOLARSHIP FUNDS.—A scholarship awarded to an eligible student for a school year under this subsection may be used to pay for only tuition expenses of the school year, other reasonable educational expenses (including fees, books, and laboratory expenses incurred by the eligible student in the school year), and reasonable living expenses, as such tuition expenses, reasonable educational expenses, and reasonable living expenses are determined by the Secretary.

“(6) AMOUNT.—The amount of a scholarship under this subsection shall not exceed the total amount of the tuition expenses, reasonable educational expenses, and reasonable living expenses described in paragraph (5).

“(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Scholarship Program established in subpart III of part D of title III.

“(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2006 through 2010.

“(c) CLINICAL TRAINING GRANTS FOR PROFESSIONALS.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, and in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to accredited institutions of higher education to establish or expand internships or other field placement programs for students receiving specialized training or clinical experience in child and adolescent mental health in the fields of psychiatry, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling.

“(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

“(A) have demonstrated the ability to collect data on the number of students trained in child and adolescent mental health and the populations served by such students after graduation;

“(B) have demonstrated familiarity with evidence-based methods in child and adolescent mental health services; and

“(C) have programs designed to increase the number of professionals serving high priority populations.

“(3) REQUIREMENTS.—The Secretary may award a grant to an applicant under this subsection only if the applicant agrees that—

“(A) any internship or other field placement program assisted under the grant will prioritize cultural competency;

“(B) students benefitting from any assistance under this subsection will be United States citizens or permanent legal United States residents;

“(C) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

“(D) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

“(4) APPLICATION.—Each institution of higher education desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require including a description of the experience of such institution in working with child and adolescent mental health issues.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2006 through 2010.

“(d) PROGRESSIVE EDUCATION GRANTS FOR PARAPROFESSIONALS.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, and in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to State-licensed mental health nonprofit and for-profit organizations, including accredited institutions of higher education, (in this subsection referred to as ‘organizations’) to enable such organizations to pay for programs for preservice or in-service training of paraprofessional child and adolescent mental health workers.

“(2) DEFINITION.—For purposes of this subsection, the term ‘paraprofessional child and adolescent mental health worker’ means an individual who is not a mental health service professional, but who works at the first stage of contact with children and families who are seeking mental health services.

“(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to organizations that—

“(A) have demonstrated the ability to collect data on the number of paraprofessional child and adolescent mental health workers trained by the applicant and the populations served by these workers after the completion of the training;

“(B) have familiarity with evidence-based methods in child and adolescent mental health services; and

“(C) have programs designed to increase the number of paraprofessional child and adolescent mental health workers serving high priority populations.

“(4) REQUIREMENTS.—The Secretary may award a grant to an organization under this subsection only if the organization agrees that—

“(A) any training program assisted under the grant will prioritize cultural competency;

“(B) the organization will provide to the Secretary such data, assurances, and information as the Secretary may require; and

“(C) with respect to any violation of the agreement between the Secretary and the organization, the organization will pay such liquidated damages as prescribed by the Secretary by regulation.

“(5) APPLICATION.—Each organization desiring a grant under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require including a description of the experience of the organization in working with paraprofessional child and adolescent mental health workers.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2006 through 2010.

"(e) CHILD AND ADOLESCENT MENTAL HEALTH PROGRAM DEVELOPMENT GRANTS.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to increase the number of well-trained child and adolescent mental health service professionals in the United States by awarding grants on a competitive basis to accredited institutions of higher education to enable such institutions to establish or expand accredited graduate child and adolescent mental health programs.

"(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

"(A) demonstrate familiarity with the use of evidence-based methods in child and adolescent mental health services;

"(B) provide experience in and collaboration with community-based child and adolescent mental health services;

"(C) have included normal child development education in their curricula; and

"(D) demonstrate commitment to working with high priority populations.

"(3) USE OF FUNDS.—Funds awarded under this subsection may be used to establish or expand any accredited graduate child and adolescent mental health program in any manner deemed appropriate by the Secretary, including improving the coursework, related field placements, or faculty of such program.

"(4) REQUIREMENTS.—The Secretary may award a grant to an accredited institution of higher education under this subsection only if the institution agrees that—

"(A) any child and adolescent mental health program assisted under the grant will prioritize cultural competency;

"(B) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

"(C) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2006 through 2010.

"(f) DEFINITIONS.—In this section:

"(1) HIGH PRIORITY POPULATION.—The term 'high priority population' means a population that has a significantly greater incidence than the national average of children who have serious emotional disturbances, children who are racial and ethnic minorities, or children who live in underserved urban or rural areas.

"(2) MENTAL HEALTH SERVICE PROFESSIONAL.—The term 'mental health service professional' means an individual with a graduate or postgraduate degree from an accredited institution of higher education in psychiatry, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family counseling, school counseling, or professional counseling.

"(3) SPECIALIZED TRAINING OR CLINICAL EXPERIENCE IN CHILD AND ADOLESCENT MENTAL HEALTH.—The term 'specialized training or clinical experience in child and adolescent mental health' means training and clinical experience that—

"(A) is part of or occurs after completion of an accredited graduate program in the United States for training mental health service professionals;

"(B) consists of at least 500 hours of training or clinical experience in treating children and adolescents; and

"(C) is comprehensive, coordinated, developmentally appropriate, and of high quality to address the unique ethnic and cultural diversity of the United States population.".

**SEC. 4. AMENDMENTS TO SOCIAL SECURITY ACT TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.**

(a) INCREASING NUMBER OF CHILD AND ADOLESCENT PSYCHIATRY RESIDENTS PERMITTED TO BE PAID UNDER THE MEDICARE GRADUATE MEDICAL EDUCATION PROGRAM.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended by adding at the end the following:

"(iii) INCREASE ALLOWED FOR TRAINING IN CHILD AND ADOLESCENT PSYCHIATRY.—In applying clause (i), there shall not be taken into account such additional number of full-time equivalent residents in the field of allopathic or osteopathic medicine who are residents or fellows in child and adolescent psychiatry as the Secretary determines reasonable to meet the need for such physicians as demonstrated by the 1999 report of the Department of Health and Human Services entitled 'Mental Health: A Report of the Surgeon General'.".

(b) EXTENSION OF MEDICARE BOARD ELIGIBILITY PERIOD FOR RESIDENTS AND FELLOWS IN CHILD AND ADOLESCENT PSYCHIATRY.—

(1) IN GENERAL.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(A) in clause (i), by striking "and (v)" and inserting "(v), and (vi)"; and

(B) by adding at the end the following:

"(vi) CHILD AND ADOLESCENT PSYCHIATRY TRAINING PROGRAMS.—In the case of an individual enrolled in a child and adolescent psychiatry residency or fellowship program approved by the Secretary, the period of board eligibility and the initial residency period shall be the period of board eligibility for the specialty of general psychiatry, plus 2 years for the subspecialty of child and adolescent psychiatry.".

(2) CONFORMING AMENDMENT.—Section 1886(h)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(F)) is amended by striking "subparagraph (G)(v)" and inserting "clauses (v) and (vi) of subparagraph (G)".

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to residency training years beginning on or after July 1, 2006.

**SEC. 5. CHILD MENTAL HEALTH PROFESSIONAL REPORT.**

(a) STUDY.—The Administrator of the Health Resources and Services Administration (in this section referred to as the "Administrator") shall study and make findings and recommendations on the distribution and need for child mental health service professionals, including—

(1) the need for specialty certifications;

(2) the breadth of practice types;

(3) the adequacy of locations;

(4) the adequacy of education and training; and

(5) an evaluation of best practice characteristics.

(b) DISAGGREGATION.—The results of the study required by subsection (a) shall be disaggregated by State.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress and make publicly available a report on the study, findings, and recommendations required by subsection (a).

**SEC. 6. REPORTS.**

(a) TRANSMISSION.—The Secretary of Health and Human Services shall transmit a report described in subsection (b) to Congress—

(1) not later than 3 years after the date of the enactment of this Act; and

(2) not later than 5 years after the date of the enactment of this Act.

(b) CONTENTS.—The reports transmitted to Congress under subsection (a) shall address each of the following:

(1) The effectiveness of the amendments made by, and the programs carried out under, this Act in increasing the number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

(2) The demographics of the individuals served by such increased number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

---

By Mr. BIDEN:

S. 538. A bill to educate health professionals concerning substance use disorders and addiction; to the Committee on Health, Education, Labor, and Pensions.

Mr. BIDEN. Mr. President, I rise today to introduce legislation to address the problem of substance abuse in our country.

The Robert Wood Johnson Foundation has called substance abuse America's No. 1 health problem. I don't think that overstates it.

Most of us knows someone—a family member, maybe a neighbor, a colleague, or a friend—who is addicted to drugs or alcohol. In fact, nearly 15 million people in this country abuse alcohol or are alcoholics. More than 19 million use drugs, and an estimated 4 million are in need of treatment but not receiving it.

Drug and alcohol abuse has far-reaching consequences. It exacerbates social ills. It is a public safety problem. It is a public health problem. It is a public expenditure problem. There is an undeniable correlation between substance abuse and crime. Eighty percent of the 2 million men and women behind bars today have a history of drug and alcohol abuse or addiction or were arrested for a drug-related crime. Illegal drugs are responsible for thousands of deaths each year. They fuel the spread of AIDS and hepatitis C. They contribute to child abuse, domestic violence, and sexual assault. And we all pay the price.

It costs this Nation almost $275 billion in law enforcement, criminal justice expenses, medical bills, and lost earnings each year. That means that preventing and treating substance abuse makes sense. It makes good criminal justice sense. It makes public health sense. It makes budgetary sense. Not to mention the fact that it is the right thing to do.

Yet there remains a reluctance to recognize substance abuse as a health issue. There is a reluctance to accept addiction as a disease. It is a reluctance that has kept public policy from asserting that addicts should be in treatment. Whether addicts are in prison or out, it seems to me, treatment is the only legitimate choice.

But it is not only about increasing access to treatment. It is also about moving treatment into the medical mainstream. Unless family doctors, nurses, physician assistants, and social workers can identify addiction when they see it, unless they know how to intervene, we will never make any real progress.

That aspect of the challenge came into sharp focus for me when I read a report a few years ago by the National Center on Addiction and Substance Abuse at Columbia University, CASA.

That report said that fewer than 1 percent of doctors presented with the classic profile of an alcoholic older woman could diagnose it properly. Eighty-two percent misdiagnosed it as depression, some treatments for which are dangerous when taken with alcohol. A follow-up study showed that 94 percent of primary care physicians fail to diagnose substance abuse when presented with the classic symptoms, and 41 percent of pediatricians fail to diagnose illegal drug use in teenage patients.

No one recognizes this problem better than the doctors themselves. Fewer than one in five—only 19 percent—feel confident about diagnosing alcoholism. And only 17 percent feel qualified to identify illegal drug use. Having said that, even if they diagnose it, most doctors don't believe that treatment works.

Among practitioners, as well as policymakers, we need to get the message out loud and clear: Addiction is a chronic relapsing disease, and as with other such diseases, while there may not be a cure, medical treatment can help control it.

The medical professionals have to be educated to recognize the signs of substance abuse and to pursue the effective therapies that are available. That is why I am introducing legislation to help train medical professionals to prevent and recognize addiction and refer patients to treatment if they need it. Representative PATRICK KENNEDY will introduce companion legislation in the House of Representatives.

Like treatment, training works. According to a study published in the Brown University Digest of Addiction Theory and Application, 91 percent of health professionals who took part in training on addiction at Boston University were using the techniques they learned 1 to 5 years later.

Every family doctor does not need to be an addiction specialist, but they do need to be able to recognize the signs. And they need to know what help is available.

My legislation does the following three things: authorizes $9 million in grants to train medical generalists to recognize substance abuse in their patients and their families and know how to properly refer them for treatment; authorizes $6 million to fund substance abuse faculty fellows at educational institutions to teach courses on substance abuse, incorporate substance abuse issues into to required courses at the institution, and educate health professionals about issues related to non-therapeutic uses of prescription medications; and establishes centers of excellence at medical centers or universities across the United States to (1) initiate, promote and implement training, research and clinical activities related to special areas of substance abuse and (2) provide opportunities for interdisciplinary collaboration in curriculum development, clinical practice, research and policy analysis. The bill authorizes $6 million for this purpose.

These are additional steps—and, in my view, crucial ones to help bridge the divide between research and practice. They will help chip away at the incredible substance abuse-related costs we face each year in human as well as monetary terms.

I hope my colleagues will join me to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 538

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Health Professionals Substance Abuse Education Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Illegal drugs and alcohol are responsible for thousands of deaths each year, and they fuel the spread of a number of communicable diseases, including AIDS and Hepatitis C, as well as some of the worst social problems in the United States, including child abuse, domestic violence, and sexual assault.

(2) There are an estimated 19,500,000 current drug users in America, nearly 4,000,000 of whom are addicts. An estimated 14,800,000 Americans abuse alcohol or are alcoholic.

(3) There are nearly 27,000,000 children of alcoholics in America, almost 11,000,000 of whom are under 18 years of age. Countless other children are affected by substance abusing parents or other caretakers. Health professionals are uniquely positioned to help reduce or prevent alcohol and other drug-related impairment by identifying affected families and youth and by providing early intervention.

(5) Drug addiction is a chronic relapsing disease. As with other chronic relapsing diseases (such as diabetes, hypertension and asthma), there is no cure, although a number of treatments can effectively control the disease. According to an article published in the Journal of the American Medical Association, treatment for addiction works as well as treatment for other chronic relapsing diseases.

(6) Drug treatment is cost effective, even when compared with residential treatment, the most expensive type of treatment. Residential treatment for cocaine addiction costs between $15,000 and $20,000 a year, a substantial savings compared to incarceration (costing nearly $40,000 a year), or untreated addiction (costing more than $43,000 a year). Also, in 1998, substance abuse and addiction accounted for approximately $10,000,000,000 in Federal, State, and local government spending simply to maintain the child welfare system. The economic costs associated with fetal alcohol syndrome were estimated at $54,000,000,000 in 2003.

(7) Many doctors and other health professionals are unprepared to recognize substance abuse in their patients or their families and intervene in an appropriate manner. Only 56 percent of residency programs have a required curriculum in preventing or treating substance abuse.

(8) Fewer than 1 in 5 doctors (only 19 percent) feel confident about diagnosing alcoholism, and only 17 percent feel qualified to identify illegal drug use.

(9) Most doctors who are in a position to make a diagnosis of alcoholism or drug addiction do not believe that treatment works (less than 4 percent for alcoholism and only 2 percent for drugs).

(10) According to a survey by the National Center on Addiction and Substance Abuse at Columbia University (referred to in this section as "CASA"), 94 percent of primary care physicians and 40 percent of pediatricians presented with a classic description of an alcoholic or drug addict, respectively, failed to properly recognize the problem.

(11) Another CASA report revealed that fewer than 1 percent of doctors presented with the classic profile of an alcoholic older woman could diagnose it properly. Eighty-two percent misdiagnosed it as depression, some treatments for which are dangerous when taken with alcohol.

(12) Training can greatly increase the degree to which medical and other health professionals screen patients for substance abuse. It can also increase the manner by which such professionals screen children and youth who may be impacted by the addiction of a parent or other primary caretaker. Boston University Medical School researchers designed and conducted a seminar on detection and brief intervention of substance abuse for doctors, nurses, physician's assistants, social workers and psychologists. Follow-up studies reveal that 91 percent of those who participated in the seminar report that they are still using the techniques up to 5 years later.

(13) The total economic costs of untreated addiction is estimated to be $274,800,000,000. Arming health care professionals with the information they need in order to intervene and prevent further substance abuse could lead to a significant cost savings.

(14) A study conducted by doctors at the University of Wisconsin found a $947 net savings per patient in health care, accident, and criminal justice costs for each individual screened and, if appropriate, for whom intervention was made, with respect to alcohol problems.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the ability of health care professionals to identify and assist their patients in obtaining appropriate treatment for substance abuse;

(2) improve the ability of health care professionals to identify and refer children and youth affected by substance abuse in their families for effective treatment; and

(3) help establish an infrastructure to train health care professionals about substance abuse issues and the impact on families.

### SEC. 3. HEALTH PROFESSIONALS SUBSTANCE ABUSE EDUCATION.

Part D of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended by adding at the end the following:

### "SEC. 544. SUBSTANCE ABUSE EDUCATION FOR GENERALIST HEALTH PROFESSIONALS.

"(a) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary shall carry out activities to train health professionals (who are generalists and not already specialists in substance abuse) so that they are competent to—

"(1) recognize substance abuse in their patients or the family members of their patients;

"(2) intervene, treat, or refer for treatment those individuals who are affected by substance abuse;

"(3) identify and assist children of substance abusing parents;

"(4) serve as advocates and resources for community-based substance abuse prevention programs; and

"(5) appropriately address the non-therapeutic use of prescription medications.

"(b) USE OF FUNDS.—Amounts received under this section shall be used—

"(1) to continue grant support through cooperative agreements to the Association for Medical Education and Research in Substance Abuse (AMERSA) Interdisciplinary Faculty Development Project;

"(2) to continue grants to the Association for Medical Education and Research in Substance Abuse (AMERSA) Interdisciplinary Faculty Development Project; and

"(3) to support the Addiction Technology Transfer Centers counselor training programs to train substance abuse counselors and other health professionals such as dental assistants, allied health professionals including dietitians and nutritionists, occupational therapists, physical therapists, respiratory therapists, speech-language pathologists and audiologists, and therapeutic recreation specialists.

"(c) COLLABORATION.—The Secretary shall participate in interdisciplinary collaboration and collaborate with other nongovernmental organizations with respect to activities carried out under this section.

"(d) ACADEMIC CREDITS.—The Secretary shall encourage community colleges and other academic institutions determined appropriate by the Secretary to recognize classes offered by the Addiction Technology Transfer Centers for purposes of academic credit.

"(e) EVALUATIONS.—The Secretary shall conduct a process and outcome evaluation of the programs and activities carried out with funds received under this section, and shall provide annual reports to the Secretary and the Director of the Office of National Drug Control Policy.

"(f) DEFINITIONS.—In this section—

"(1) the term 'health professional' means a allopathic or osteopathic physician, advanced practice nurse, physician assistant, social worker, psychologist, pharmacist, dental health professional, psychiatrist, allied health professional, drug and alcohol counselor, or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification; and

"(2) the terms 'allopathic or osteopathic physician', 'nurse', 'physician assistant', 'advanced practice nurse', 'social worker', 'psychologist', 'pharmacist', 'dental health professional', and 'allied health professional' shall have the meanings given such terms for purposes of titles VII and VIII of the Public Health Service Act (42 U.S.C. 292 et seq and 296 et seq.).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $9,000,000 for each of fiscal years 2006 through 2010. Amounts made available under this subsection shall be used to supplement and not supplant amounts being used on the date of enactment of this section for activities of the types described in this section.

### "SEC. 545. SUBSTANCE ABUSE INTERDISCIPLINARY EXPERT EDUCATOR.

"(a) ESTABLISHMENT.—The Secretary shall establish and administer a substance abuse faculty fellowship program through grants and contacts under which the Secretary shall provide assistance to eligible institutions to enable such institutions to employ interdisciplinary faculty who will serve as advanced level expert educators (referred to in this section as 'expert educators').

"(b) ELIGIBILITY.—

"(1) INSTITUTIONS.—To be eligible to receive assistance under this section, an institution shall—

"(A) be an accredited medical school or undergraduate or graduate nursing school, or be an institution of higher education that offers one or more of the following—

"(i) an accredited physician assistant program;

"(ii) an accredited dental health professional program;

"(iii) a graduate program in pharmacy;

"(iv) a graduate program in public health;

"(v) a graduate program in social work;

"(vi) a graduate program in psychology;

"(vii) a graduate program in marriage and family therapy; or

"(viii) a graduate program in counseling; and

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) QUALIFICATIONS FOR EXPERT EDUCATORS.—To be eligible to receive an advanced level expert educator faculty appointment from an eligible institution under this section, an individual shall prepare and submit to the institution an application at such time, in such manner, and containing such information as the institution may require. Expert educators should have advanced level training in education about substance use disorders and expertise in such areas as culturally competent and gender specific prevention and treatment strategies for vulnerable populations (such as adults and adolescents with dual diagnosis, older individuals, children in families affected by substance abuse, and individuals and families involved in the criminal justice system) and will serve as resources and advisors for health professional training institutions.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible institution shall utilize assistance received under this section to provide one or more fellowships to eligible individuals. Such assistance shall be used to pay a sum of not to exceed 50 percent of the annual salary of the individual under such a fellowship for a 5-year period.

"(2) FELLOWSHIPS.—Under a fellowship under paragraph (1), an individual shall—

"(A) devote a substantial number of teaching hours to substance abuse issues (as part of both required and elective courses) at the institution involved during the period of the fellowship;

"(B) incorporate substance abuse issues, including the impact on children and families, into the required curriculum of the institution in a manner that is likely to be sustained after the period of the fellowship ends (courses described in this subparagraph should be provided as part of several different health care training programs at the institution involved); and

"(C) educate health professionals about issues related to the nontherapeutic use of prescription medications.

"(3) EVALUATIONS.—The Secretary shall conduct a process and outcome evaluation of the programs and activities carried out with amounts appropriated under this section and shall provide annual reports to the Director of the Office of National Drug Control Policy and the appropriate committees of Congress.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $6,000,000 for each of the fiscal years 2006 through 2010. Amounts made available under this subsection shall be used to supplement and not supplant amounts being used on the date of enactment of this section for activities of the types described in this section.

### "SEC. 546. CENTER OF EXCELLENCE.

"(a) IN GENERAL.—The Secretary shall establish centers of excellence at medical centers or universities throughout the United States to—

"(1) initiate, promote, and implement training, research, and clinical activities related to targeted issues or special areas of focus such as brief intervention in general health settings, children and families affected by substance abuse, older individuals, maternal and child health issues, individuals with dual diagnosis, prevention in the general health setting, and clinical practice standards for primary care providers; and

"(2) provide opportunities for interdisciplinary collaboration in curriculum development, course development, clinical practice, research and translation of research into practice, and policy analysis and formulation.

"(b) USE OF FUNDS.—Centers of excellence established under subsection (a) shall use funds provided under this section to—

"(1) disseminate information on evidence-based approaches concerning the prevention and treatment of substance use disorders; and

"(2) assist health professionals and alcohol and drug treatment counselors to incorporate the latest research into their treatment practices.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $6,000,000 for each of the fiscal years 2006 through 2010.".

---

By Mr. HAGEL:

S. 540. A bill to strengthen and permanently preserve social security; to the Committee on Finance.

Mr. HAGEL. Mr. President, when I began my first campaign for the U.S. Senate in 1995, I published a booklet entitled "Where I Stand." I wrote it because the first obligation of a candidate is to tell voters what you believe. In that booklet, I wrote:

> The Social Security system must be preserved, protected, and improved. We have made this covenant with our senior citizens. However, the long-term future of the Social Security system is in peril. If we do not get

> this issue resolved soon, this Nation faces an entitlement disaster, eroding the trust between grandchildren and grandparents. We must explore every option in order to fix and strengthen our Social Security system. This will require bold leadership.

A decade later, those words still define my position on Social Security. Social Security has been one of the most important and successful Government programs in the history of America. Almost every American family over the last 70 years has been touched by Social Security. In signing the Social Security Act of 1935, Franklin Roosevelt said:

> None of the sums of money paid out to individuals in assistance or insurance will spell anything approaching abundance. But they will furnish that minimum necessity to keep a foothold, and that is the kind of protection Americans want.

A fundamental point that President Roosevelt made was that Social Security was not intended to replace the personal responsibility of individuals saving for and preparing for their own retirements. Social Security was never intended to be a substitute for a retirement or savings plan. It is a safety net for people. Social Security is an insurance contract that protects the most vulnerable in our society from falling into poverty. But Social Security is actuarially unsustainable with its present commitments to future generations.

Today, I am introducing comprehensive Social Security reform legislation. I began my day in Nebraska this morning with some of the people who would be most affected by my bill—America's next generation. It is their generation that will be asked to sustain the future of Social Security.

My generation, the baby boom generation, has been the largest and most productive workforce in the history of man. The impending retirement of the 77 million-strong baby boom generation will impact every aspect of our economy, Government, and society—Medicare and Medicaid, health care, our workforce, and our competitive position in a world filled with countries much younger than ours. The next generation of Americans will respond to these challenges as every generation of Americans has responded to challenges—with innovation and hard work.

However, my generation has a moral obligation to ensure that future generations do not have to bear an increasingly heavy burden of providing retirement resources for future generations. That is why we must reform Social Security. It is a 1935 model trying to operate in a 21st century world. It will soon be incapable of delivering the promises and resources that it was built to provide 70 years ago.

Last week, in testimony before the House Budget Committee, Federal Reserve Chairman Alan Greenspan urged Congress to act on modernizing entitlement programs sooner rather than later. He warned that, unless we act now to meet the huge unfunded liabilities facing our entitlement programs, there will be severe economic consequences for our Nation. Chairman Greenspan is right.

America's largest entitlement programs—Social Security, Medicare, and Medicaid—are on a trajectory that cannot be sustained. For fiscal year 2006, the Congressional Budget Office tells us that 64 percent of the $2.5 trillion Federal budget will be obligated to mandatory spending, of which 42 percent is for Medicare, Medicaid, and Social Security. Those are tax dollars that are committed—money that cannot be used for anything else.

Each year, the percentage of the Federal budget obligated to funding entitlement programs grows larger and larger. The current unfunded liability for Social Security over the next 75 years—this is the horizon that the Social Security Administration uses to calculate benefits and expenditures—is $3.7 trillion. That means over the next 75 years, we are obligated to make the commitments of the retiree benefits a reality. Yet we have $3.7 trillion of debt. We don't know where and how we are going to get that $3.7 trillion. We are now $3.7 trillion in debt in the current obligations over the next 75 years for Social Security. Medicare's unfunded liability is nearly $28 trillion. These liabilities are in addition to America's current national debt of $7.5 trillion.

Medicare costs are growing faster than any other Government or entitlement program. As we see health care costs continue to rise, coupled with the growing number of retirees, it will only continue to put more and more pressure on our Federal budget and squeeze out money for important discretionary Government programs such as education, roads, parks, and housing.

Last Congress, we passed an enormous expansion of Medicare. I voted against it. I thought it was bad policy and would add hundreds of billions of dollars to an already unsustainable program. I am supportive of efforts to reopen the Medicare reform bill and fix it. But for political reasons, I doubt that will happen soon, although we will be forced to deal with it in the future.

The Social Security system is not in crisis today, but there is clearly a crisis on the horizon. In 2018, more money will be paid out of Social Security than comes in. In 2042, the Social Security trust fund will be insolvent. Beyond the next 75 years, there is only a black hole of unfunded liability for future generations. The longer we do nothing, the more difficult it will be to protect Social Security and the promise our Government made to future generations of Americans.

This reality is daunting, but there is good news in all of this. The system can be fixed. It is within our power to preserve the Social Security net for this Nation. It has been done before. In 1983, President Reagan worked with congressional Democrats and Republicans to make tough choices and extend the life of Social Security. Dealing with this problem now means less dramatic and difficult choices later. The earlier we confront the reality of the coming crisis, the more options we will have to come up with a wise and sustainable course of action.

Allow me to now lay out the main points of the Social Security reform bill that I will introduce today.

My bill would ensure the vitality of Social Security for future generations. There are no easy choices to fix the demographic challenges and realities facing Social Security. Understanding this, we must make choices that address the problem responsibly and fairly.

My bill would make changes to Social Security only—only—for those Americans under the age of 45. No American age 45 or older will see a change in Social Security or their benefits. For Americans under 45, my bill would provide the option of voluntary personal accounts. Providing personal accounts is good policy for both the long-term viability of Social Security and for individuals. Government should be about empowering individuals and enhancing personal freedoms and their futures. Personal accounts help do this for those under 45.

My bill would continue to provide a guaranteed Social Security benefit from the Social Security trust fund. Under my plan—under any plan—Americans still need the security of knowing that the portion of their Social Security benefits that comes from the traditional Social Security system will be guaranteed. My bill will continue to guarantee survivor and disability benefits as they currently are.

Social Security provides benefits for more than 6 million spouses and children of breadwinners who have died prematurely or have become disabled. For these families, their benefits should not be touched.

I know something about this. When I was 16 years old, my father died. The Social Security benefits my mother received were critical in helping her raise four young boys in Nebraska. I well remember my mother's relief when that Social Security check arrived each month.

We must remember that the first obligation of Social Security is to the most needy Americans. My bill does not raise taxes. I believe we can fix Social Security without raising taxes. We need to begin reforming Government programs so they do not become so large and so expensive that future taxpayers will be unable to pay for them. Young wage earners and small businesses are the most vulnerable to tax increases, and they would be the ones most adversely affected by higher taxes to save Social Security.

Additionally, whenever we increase the cost of labor, we hurt our competitive position in the world and make job creation more difficult. This is not abstract economic theory; it is reality that has an impact on every future American.

Those are the principles that form the foundation of the bill I will introduce today. Here is how it would work.

Upon passage of the bill, Americans 44 and younger would be given two voluntary options. One, they can invest 4 percent of their payroll tax into a personal investment account modeled on the same accounts now offered to all Federal Government employees. I participate and my staff participates in this program. The remainder of their payroll tax contribution would continue to go into the traditional Social Security system. Option 2, individuals can continue to invest their entire payroll tax in the traditional Social Security system.

If they choose the personal account option, then individuals will be able to invest in the same five funds that collectively make up the current Federal Thrift Savings Plan—again, the program that I am in, Members of Congress are in, and Federal Government employees are in.

The first is the common stock index fund. Over the last 10 years, this fund has earned an average annual rate of return of 11.99 percent.

The second fund is the fixed income index investment fund. Over the last 10 years, this fund has earned an average annual rate of return of 7.72 percent.

The third is the Government securities investment fund, and over the last 10 years, it has earned an average annual rate of return of 5.75 percent.

The fourth is the small capitalization index. Over the last 10 years, it has earned an average annual rate of return of 11.84 percent.

Fifth is the international stock index fund. Over the last 10 years, it has earned an average annual rate of return of 5.45 percent.

These five funds provide a range of excellent investment options.

My bill would also provide a default account for those Americans who, for whatever reason, do not want to deal with choosing a fund or funds for their accounts. This fund would invest differently in an individual's early working years than in their later working years.

The Thrift Savings Plan has been a success for Government employees. Last year, returns on the different accounts ranged from just over 4 percent to 20 percent, and in the last 10 years, the returns have been between 5.5 and 12 percent. Compare this with the 3-percent return provided by Treasury bonds that Social Security now invests in today.

These private accounts are in addition to the guaranteed Social Security benefits and personal savings pensions and retirement account programs individuals build up during their working years.

Under my bill, personal accounts would be administered by a board within the Social Security Administration called the Social Security investment board. The board would be composed of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Chairman of the Securities and Exchange Commission, and two Senate-confirmed appointments nominated by the President. One of the President's appointments would serve as chairman of the board.

Upon retirement, those who choose to enroll in a personal account will have two accounts: their personal account and their traditional Social Security benefits account. They will be required to convert a portion of their personal account to an annuity which, when added to their guaranteed Social Security, would be at least 135 percent of poverty. There is no such guarantee in our Social Security system today. The remainder of the personal account will be theirs to spend as they wish. It could be used to help with health care costs and retirement living costs, or it could even help an account holder's children or grandchildren put a downpayment on a home or pay college tuition.

There are those who say that allowing individuals to invest through personal accounts is too risky. Their concerns are serious, and they deserve a serious response. Under my plan, no person is required to have a personal account. An individual who does not want to invest can keep all of their money in the traditional Social Security system.

I believe the policies which enhance personal freedom and responsibility encourage the ethic of saving and limit the role of Government in their lives. These are the policies which will be more flexible and successful for America's future.

It is true that there is no guarantee with market-based investments; however, the historic success of markets is not a theory, it is a fact. Columnist George Will pointed out in a recent Washington Post column that in no 15-year period over the past eight decades has the growth of stocks ever been negative. In no 20-year period has the average growth been less than 3 percent, which exceeds the rate of return on Social Security assets today. This includes down times, significant down periods in the stock market.

We are blessed in America. We are blessed in America because the vast majority of Americans live healthier, longer lives than they did a few decades ago. Continued advances in medicine, education, and personal health will continue to increase not only the length of our lives, but also the quality of our lives, providing opportunities for older Americans to remain healthy, vital, and productive members of the workforce.

When Social Security was created in 1935, there were too many workers and not enough jobs. According to the Social Security Administration, in 1950, there were 16.5 workers per retiree. Incentives were created to move people out of the workforce. This dynamic is changing. Today there are 3.3 workers for every retiree. In 25 years, there will be about 2 workers for each retiree.

Why is this important? This is important because Social Security is a transfer program. The money comes in and the payroll taxes from the workers go out at the end of the month to the retirees.

So when there are less workers, there is less money coming into the system. My bill makes three adjustments to Social Security that will make it solvent for future generations. First, my bill would raise the current full benefit retirement age by 1 year from 67 to 68. Second, my bill would maintain the current earlier retirement age at 62 but would adjust benefits for those who choose to retire early.

Currently, workers who retire early today receive 70 percent of their full retirement benefits. My bill will provide these early retirees with 63 percent of the traditional benefits.

Third, currently an individual's base Social Security benefit is determined by two factors: their average income over 35 years and the wage index. My bill adds a third component, life expectancy. We are living longer. That means as we live longer, we will draw more from the Social Security fund.

Over the life of the program Social Security benefit calculations have never been adjusted to reflect increased life expectancy. By factoring increased life expectancy into the base benefit calculation, the rate of increase in benefit payments will be slow. No other changes will be made to the annual consumer price indexing of benefit increases.

In addition to making Social Security solvent, these adjustments can help confront the challenges of increasing Medicare costs and shortages in the workforce. It is important to protect the option of early retirement, but our laws need to encourage individuals to stay in the workforce, not leave it.

Medicare costs, Medicaid costs, and labor shortages can be significantly reduced by keeping people healthy, vital, happy, and productive in the workforce. My bill pays for these changes in Social Security by using the existing $3.7 trillion unfunded liability to ensure the long-term health of the Social Security system. Doing nothing will mean at the end of 75 years, Social Security will have chewed up $3.7 trillion in taxpayer money to help keep Social Security solvent, but it will not, and we will still have an insolvent program with trillions of dollars more of unfunded liabilities staring us in the face.

In recent testimony before the Senate, Alan Greenspan said Social Security's total unfunded liability could be as high as $10 trillion over the life of the program. I have introduced this bill because I believe that leaders have a responsibility to deal with the great challenges of their time, not defer them, not make excuses for them, but to try to fix them and come up with solutions.

I do not hold my bill up as the only way to address the solvency of Social Security. It is one way. There may be better ways. No comprehensive bill will be immune from critical evaluation, nor should it be. However, I think my bill is a commonsense, responsible, and fiscally accountable place to start.

All Americans need to ask tough questions about the future of Social Security. We need to begin the process of refining ideas to forge the best, most responsible policy for the future of Social Security.

President Bush deserves great credit for making the modernization of Social Security a central part of his second-term agenda. There is no possibility for success in modernizing Social Security without strong Presidential leadership.

As I said at the beginning of my speech, Social Security is one of the most important and successful Government programs in American history. Since 1935, it has provided a safety net for our society's most vulnerable. We have a high moral obligation to ensure that future generations continue to benefit from this safety net and social contract we have with our citizens. But in order to do this, we must fix the system.

This is a personal issue for me. Forty years from now a young mother in Columbus, NE, may be left to raise four children on her own. I want her family to have the same access to the same safety net that my family had, and the promise that no matter where one starts in life, with a little help they can finish where they want.

I am 58 years old. I am at the front of the baby boom generation. My daughter is 14 years old. My son is 12 years old. I do not want to fail their generation. That means addressing these entitlement program issues now, while we have time to do it in a wise, careful, and responsible way. This is a defining debate for today's leaders. Doing nothing is irresponsible and cowardly. It is in America's interest to deal with our challenge today. We have it in us to do what needs to be done. We can preserve, protect, and improve Social Security for all future generations of Americans.

I send my bill to the desk and ask that it be assigned to the appropriate committee.

I yield the floor.

The PRESIDING OFFICER. The bill will be received and appropriately dealt with.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 540

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Saving Social Security Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INVESTMENT-BASED SOCIAL SECURITY

Sec. 101. Establishment of an investment-based option for social security benefits.

"PART B—INVESTMENT-BASED SOCIAL SECURITY

"Sec. 250. Definitions.
"Sec. 251. Election to waive eligibility.
"Sec. 252. Social security savings accounts for employees (SAFE accounts).
"Sec. 253. SAFE Investment Fund.
"Sec. 254. Distributions.
"Sec. 255. Social Security Investment Board.

Sec. 102. Adjustments to primary insurance amounts under part A of title II of the Social Security Act for investing workers with SAFE accounts.
Sec. 103. Tax treatment of investment-based social security.
Sec. 104. Study on use of private annuities for SAFE account distributions.
Sec. 105. Study regarding financial literacy.

TITLE II—DEBT-BASED SOCIAL SECURITY

SUBTITLE A—ADJUSTMENTS

Sec. 201. Modification to retirement age.
Sec. 202. Modification of PIA factors to reflect changes in life expectancy.
Sec. 203. Actuarial adjustment for retirements.

SUBTITLE B—MAINTENANCE OF SOCIAL SECURITY TRUST FUNDS

Sec. 211. Maintenance of adequate balances in the social security trust funds.

## TITLE I—INVESTMENT-BASED SOCIAL SECURITY

### SEC. 101. ESTABLISHMENT OF AN INVESTMENT-BASED OPTION FOR SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended—

(1) by inserting before section 201 the following:

**"PART A—DEBT-BASED SOCIAL SECURITY";**

and

(2) by adding at the end the following:

## "PART B—INVESTMENT-BASED SOCIAL SECURITY

### "SEC. 250. DEFINITIONS.

"For purposes of this part—

"(1) INVESTING WORKER.—The term 'investing worker' means any individual—

"(A) who after the date of enactment of this part—

"(i) receives wages on which there is imposed a tax under section 3101(a) of the Internal Revenue Code of 1986; or

"(ii) derives self-employment income on which there is imposed a tax under section 1401(a) of the Internal Revenue Code of 1986; and

"(B) who was born on or after January 1, 1961, and does not make an election to waive investment-based social security under this part as provided under section 251(a).

"(2) SOCIAL SECURITY SAVINGS ACCOUNTS FOR EMPLOYEES (SAFE ACCOUNT).—The term 'social security savings accounts for employees' or 'SAFE Account' means an account established for an investing worker within the SAFE Investment Fund under section 252.

"(3) SAFE INVESTMENT FUND.—The term 'SAFE Investment Fund' or 'Fund' means the fund established under section 253.

"(4) SOCIAL SECURITY INVESTMENT BOARD.—The term 'Social Security Investment Board' or 'Board' means the board established under section 254.

"(5) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

### "SEC. 251. ELECTION TO WAIVE ELIGIBILITY.

"(a) ELECTION TO WAIVE ELIGIBILITY FOR SAFE ACCOUNTS.—

"(1) IN GENERAL.—Any individual may elect to waive eligibility under this part in such form and manner as prescribed by the Board at any time after such individual attains the age of 18 and before such individual attains the age of 25. Such election shall be irrevocable.

"(2) INDIVIDUAL BORN BEFORE JANUARY 1, 1981.—Notwithstanding paragraph (1), in the case of any individual born after December 31, 1960, and before January 1, 1981, such individual may elect to waive eligibility under this part in such form and manner as prescribed by the Board at any time before January 1, 2007. Such election shall be irrevocable.

"(b) DISPOSITION OF SAFE ACCOUNT.—In the case of any individual who makes an election under paragraph (1), any assets in such individual's SAFE Account shall be paid to the Federal Old-Age and Survivors Insurance Trust Fund, and such individual's eligibility for benefits under part A shall be determined as if such Account had never been established.

### "SEC. 252. SOCIAL SECURITY SAVINGS ACCOUNTS FOR EMPLOYEES (SAFE ACCOUNTS).

"(a) ESTABLISHMENT OF SAFE ACCOUNTS.—Not later than 30 days after the date on which an individual first becomes an investing worker, the Social Security Investment Board shall establish a SAFE Account for such individual in the SAFE Investment Fund.

"(b) CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Federal Old-Age and Survivors Insurance Trust Fund to the SAFE Investment Fund, for crediting by the Social Security Investment Board to the SAFE Account of an investing worker, an amount equal to the SAFE Account contribution amount with respect to each investing worker.

"(2) SAFE ACCOUNT CONTRIBUTION AMOUNT.—For purposes of paragraph (1), the term 'SAFE Account contribution amount' means, with respect to an investing worker for a calendar year, the product derived by multiplying—

“(A) the sum of the total wages paid to, and self-employment income derived by, such individual during such calendar year; by

“(B) 4 percent.

“(c) Designation of Investments.—

“(1) Initial designation.—

“(A) In general.—Not later than 10 days after an account is established for an investing worker under subsection (a), the investing worker shall designate to which investment funds within the SAFE Investment Fund contributions to such account under subsection (b) shall be allocated.

“(B) Default allocation.—

“(i) In general.—If no designation is made pursuant to paragraph (1), the Board shall allocate such contributions in accordance with the life-span investment option.

“(ii) Life-span investment option.—For purposes of this section, the life-span investment option shall provide for the management and investment of funds within an investing worker's SAFE account on the basis of the age of the investing worker in accordance with regulations established by the Board. In establishing regulations with respect to the life-span investment option under this subparagraph, the Board shall consider—

“(I) with respect to the youngest investing workers, investing 80 percent of such funds in stocks and 20 percent of such funds in bonds; and

“(II) with respect to the oldest investing workers, investing 35 percent of such funds in stocks and 65 percent of such funds in bonds.

“(2) Subsequent designations.—At least twice each year, an investing worker may redesignate the allocation of investments funds within the SAFE Investment Fund to which contributions with respect to such investing worker are allocated.

“(d) Time Designation Takes Effect.—A designation under subsection (c) shall take effect with respect to contributions made beginning more than 14 days after the date of the designation.

“(e) Investing Worker's Property Right in the SAFE Account.—Each SAFE Account designated by an investing worker is the sole property of the worker.

“(f) Form of Designations.—Designations under this section shall be made—

“(1) on W-4 forms (or any successor forms); or

“(2) in such other manner as the Social Security Investment Board may prescribe in order to ensure ease of administration.

### “SEC. 253. SAFE INVESTMENT FUND.

“(a) In General.—There shall be established and maintained in the Treasury of the United States a SAFE Investment Fund in the same manner as the Thrift Savings Fund under sections 8437 (excluding paragraphs (4) and (5) of subsection (c) thereof), 8438, and 8439 of title 5, United States Code, insofar as such sections are not inconsistent with the provisions of this part.

“(b) Investment Earnings Report.—

“(1) In general.—At least annually, the SAFE Investment Fund shall provide to each investing worker a SAFE Investment Status Report. Such report may be transmitted electronically upon the agreement of the investing worker under the terms and conditions established by the Social Security Investment Board.

“(2) Contents of report.—The SAFE Investment Status Report, with respect to a SAFE Account, shall provide the following information:

“(A) The total SAFE Account contributions made in the last quarter, the last year, and since the Account was established.

“(B) The amount and rate of return earned for each period described in subparagraph (A).

“(C) A projection of how much the investing worker will have available on the date the worker attains normal retirement age if such contributions and earnings continue at the same rate during the remaining period ending with such date.

“(c) Maximum Administrative Fee.—The SAFE Investment Fund shall charge each investing worker in the Fund a single, uniform annual administrative fee not to exceed 0.57 percent of the value of the assets invested in the worker's SAFE Account.

### “SEC. 254. DISTRIBUTIONS.

“(a) Date of Initial Distribution.—Except as provided in subsection (b)(4), distributions may only be made from a SAFE Account of an investing worker on and after the earliest of—

“(1) the date the investing worker attains normal retirement age, as determined under section 216; or

“(2) the date on which funds in the investing worker's SAFE Account are sufficient to transfer to the Federal Old-Age and Survivors Insurance Trust Fund—

“(A) an amount equal to the old-age insurance amount (as calculated under subsection (b)(1)(B)); and

“(B) an amount equal to the survivor's insurance amount (as calculated under subsection (b)(2)(B)).

“(b) Form of Distribution.—

“(1) Federal annuity payment.—

“(A) In general.—On the date determined under subsection (a), so much of the balance in an investing worker's SAFE Account as does not exceed the old-age insurance amount shall be transferred to the Federal Old-Age and Survivors Insurance Trust Fund and the investing worker shall be entitled to a Federal annuity payment.

“(B) Old-age insurance amount.—For purposes of this section, the old-age insurance amount is an amount which is sufficient to provide a Federal annuity payment which, when added to the investing worker's monthly benefit under part A, is equal to one-twelfth of 135 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

“(C) Federal annuity payment.—For purposes of this section, the term ‘Federal annuity payment’ means a monthly payment from the Federal Old-Age and Survivors Insurance Trust Fund in an amount determined by the Social Security Investment Board based on the amount transferred to the Federal Old-Age and Survivors Insurance Trust Fund under subparagraph (A) and the life expectancy of the investing worker (determined under reasonable actuarial assumptions).

“(2) Family or survivor benefits for related individuals.—

“(A) In general.—On the date determined under subsection (a), in the case of an investing worker whose SAFE Account has funds in excess of the amount required to be transferred under paragraph (1)(A), so much of such excess funds as does not exceed the survivor's insurance amount shall be transferred to the Federal Old-Age and Survivors Insurance Trust Fund and any related individual shall be entitled to a survivor's payment at the time such related individual meets the applicable requirements for a monthly payment under section 202.

“(B) Survivor's insurance amount.—For purposes of this section, the survivor's insurance amount is an amount, determined by the Social Security Investment Board under rules established by such Board, which is sufficient to provide survivor's payments to all related individuals.

“(C) Survivor's payment.—For purposes of this section, the term ‘survivor's payment’ means a monthly payment from the Federal Old-Age and Survivors Insurance Trust Fund in an amount which, when added to such related individual's monthly benefit (or projected monthly benefit) under this title, is equal to the benefit such related individual would be entitled to under section 202 if the investing worker had waived the application of this part.

“(D) Related individual.—For purposes of this section, the term ‘related individual’ means, with respect to an investing worker, any individual entitled to benefits under section 202 based on the wages or self-employment income of such worker.

“(3) Payment of excess SAFE account funds.—To the extent funds remain in an investing worker's SAFE Account after the transfer required under paragraphs (1) and (2), such excess assets shall be payable to the worker in such manner and in such amounts as determined by the worker.

“(4) Distribution in the event of death.—If the investing worker dies before the date determined under subsection (a), the balance in the worker's SAFE Account shall be distributed in the following manner:

“(A) Not more than an amount equal to the survivor's insurance amount shall be transferred to the Federal Old-Age and Survivors Insurance Trust Fund.

“(B) The remainder (if any) shall be distributed in a lump sum, under rules established by the Social Security Investment Board, to the investing worker's estate, subject to applicable State laws.

### “SEC. 255. SOCIAL SECURITY INVESTMENT BOARD.

“(a) Establishment.—There is established within the Social Security Administration a Social Security Investment Board (in this Act referred to as the ‘Board’).

“(b) Composition.—The Board shall be composed of—

“(1) 2 members from the private sector appointed by the President, of whom 1 shall be designated by the President as Chairman;

“(2) the Secretary of the Treasury;

“(3) the Chairman of the Federal Reserve Board; and

“(4) the Chairman of the Securities and Exchange Commission.

“(c) Advice and Consent.—Appointments under subsection (b)(1) shall be made by and with the advice and consent of the Senate.

“(d) Membership Requirements.—Members of the Board appointed under subsection (b)(1) shall have substantial experience, training, and expertise in finance, investments, or insurance.

“(e) Length of Appointments.—

“(1) Terms.—A member of the Board appointed under subsection (b)(1) shall be appointed for a term of 6 years, except that of the members first appointed under subsection (b)(1)—

“(A) the Chairman shall be appointed for a term of 6 years; and

“(B) the remaining member shall be appointed for a term of 3 years.

“(2) Vacancies.—

“(A) In general.—A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

“(B) Completion of term.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(3) EXPIRATION.—The term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office; or

"(B) 1 year after the member's term is scheduled to expire.

"(f) DUTIES.—The Board shall—

"(1) maintain SAFE Accounts and the SAFE Investment Fund in the same manner as the Thrift Savings Accounts and the Thrift Savings Fund are maintained by the Thrift Savings Board;

"(2) review and approve the budget of the Board;

"(3) establish policies for the administration of this part; and

"(4) carry out any other duties specified under this part.

"(g) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—The Board may—

"(A) adopt, alter, and use a seal;

"(B) direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this part and the policies of the Board;

"(C) upon the concurring votes of 4 members, remove the Executive Director from office for good cause shown; and

"(D) take such other actions as may be necessary to carry out the functions of the Board.

"(2) MEETINGS.—The Board shall meet—

"(A) not less than once each month; and

"(B) at additional times at the call of the Chairman.

"(3) EXERCISE OF POWERS.—

"(A) IN GENERAL.—Except as provided in paragraph (1)(C), the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board. Three members of the Board shall constitute a quorum for the transaction of business.

"(B) VACANCIES.—A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

"(h) COMPENSATION.—

"(1) IN GENERAL.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such member is engaged in performing a function of the Board.

"(2) EXPENSES.—A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of title 5, United States Code, while traveling away from such member's home or regular place of business in the performance of the duties of the Board.

"(i) APPOINTMENT OF EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board.

"(2) REQUIREMENTS.—The Executive Director shall have substantial experience, training, and expertise in finance, investments, and insurance.

"(3) DUTIES.—The Executive Director shall—

"(A) carry out the policies established by the Board;

"(B) invest and manage the SAFE Investment Fund in accordance with the investment policies established by the Board;

"(C) administer the provisions this part; and

"(D) prescribe such regulations (other than regulations relating to fiduciary responsibilities) as may be necessary for the administration of this part.

"(4) ADMINISTRATIVE AUTHORITY.—The Executive Director may—

"(A) appoint such personnel as may be necessary to carry out the provisions of this part;

"(B) subject to approval by the Board, procure the services of experts and consultants under section 3109 of title 5, United States Code;

"(C) secure directly from an executive agency, the United States Postal Service, or the Postal Rate Commission any information necessary to carry out the provisions of such part and the policies of the Board;

"(D) make such payments out of sums described in subsection (l) as the Executive Director determines are necessary to carry out the provisions of such part and the policies of the Board;

"(E) accept and use the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized by section 5703 of title 5, United States Code, including per diem as authorized by section 5702 of such title;

"(F) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director's functions to such employees under the Board as the Executive Director may designate and authorize such successive redelegations of such functions to such employees under the Board as the Executive Director may consider to be necessary or appropriate; and

"(G) take such other actions as are appropriate to carry out the functions of the Executive Director.

"(j) DISCHARGE OF RESPONSIBILITIES.—The members of the Board shall discharge their responsibilities solely in the interest of SAFE Account holders and beneficiaries under this part.

"(k) ANNUAL INDEPENDENT AUDIT.—The Board shall annually engage an independent qualified public accountant to audit the activities of the Board.

"(l) SOURCE OF FUNDS.—Payments authorized under this section shall be paid from administrative fees charged in accordance with section 253(c).

"(m) SUBMISSION OF BUDGET TO CONGRESS.—The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to Congress under section 1105 of title 31, United States Code.

"(n) SUBMISSION OF LEGISLATIVE RECOMMENDATIONS.—The Board may submit to the President, and, at the same time, shall submit to each House of Congress, any legislative recommendations of the Board relating to any of its functions under this part or any other provision of law.".

(b) EFFECTIVE DATE AND NOTICE REQUIREMENTS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to designations of accounts made with respect to payroll periods beginning on or after January 1, 2007.

(2) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—Not later than January 1, 2007, the Commissioner of Social Security shall—

(i) send to the last known address of each eligible individual a description of the program established by the amendments made by this section, that shall be written in the form of a pamphlet in language that may be readily understood by the average worker;

(ii) provide for toll-free access by telephone from all localities in the United States and access by the Internet to the Social Security Administration through which individuals may obtain information and answers to questions regarding such program; and

(iii) provide information to the media in all localities of the United States about such program and such toll-free access by telephone and access by Internet.

(B) ELIGIBLE INDIVIDUAL.—For purposes of this paragraph, the term "eligible individual" means an individual who, as of the date of the pamphlet sent pursuant to subparagraph (A), is indicated within the records of the Social Security Administration as being credited with 1 or more quarters of coverage under section 213 of the Social Security Act (42 U.S.C. 413).

(C) MATTERS TO BE INCLUDED.—The Commissioner of Social Security shall include with the pamphlet sent to each eligible individual pursuant to subparagraph (A)—

(i) a statement of the number of quarters of coverage indicated in the records of the Social Security Administration as of the date of the description as credited to such individual under section 213 of such Act and the date as of which such records may be considered accurate; and

(ii) the number for toll-free access by telephone established by the Commissioner pursuant to subparagraph (A)(ii).

### SEC. 102. ADJUSTMENTS TO PRIMARY INSURANCE AMOUNTS UNDER PART A OF TITLE II OF THE SOCIAL SECURITY ACT FOR INVESTING WORKERS WITH SAFE ACCOUNTS.

(a) IN GENERAL.—Section 215 of the Social Security Act (42 U.S.C. 415) is amended by adding at the end the following:

"Adjustment of Primary Insurance Amount in Relation to Deposits Made to SAFE Accounts

"(j)(1) Except as provided in paragraph (2), an individual's primary insurance amount as determined in accordance with this section (before adjustments made under subsection (i)) shall be equal to—

"(A) the amount which would be so determined without the application of this subsection, multiplied by

"(B) 1 minus the ratio of—

"(i) the sum of—

"(I) the total of all amounts which have been credited pursuant to section 252(b) to the SAFE Account held by such individual; plus

"(II) accrued interest on such amounts compounded annually up to the date of initial benefit entitlement based on the earning of the individual's SAFE Account, assuming an interest rate equal to the projected interest rate of the Federal Old-Age and Survivors Trust Fund; to

"(ii) the expected present value of all future benefits paid based on the individual's earnings, as of the date of initial benefit entitlement based on such earnings, assuming future mortality and interest rates for the Federal Old-Age and Survivors Trust Fund used in the intermediate projections of the most recent Board of Trustees report under section 201.

"(2) In the case of an individual who becomes entitled to disability insurance benefits under section 223, such individual's primary insurance amount shall be determined without regard to paragraph (1).".

(b) CONFORMING AMENDMENT TO RAILROAD RETIREMENT ACT OF 1974.—Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by adding at the end the following:

"(s) In applying applicable provisions of the Social Security Act for purposes of determining the amount of the annuity to which an individual is entitled under this Act, section 215(j) of the Social Security Act and part B of title II of such Act shall be disregarded.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to computations and recomputations of primary insurance amounts occurring after December 31, 2006.

### SEC. 103. TAX TREATMENT OF INVESTMENT-BASED SOCIAL SECURITY.

(a) IN GENERAL.—

(1) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

### "PART IX—INVESTMENT-BASED SOCIAL SECURITY

"Sec. 530A. Investment-based social security.

### "SEC. 530A. INVESTMENT-BASED SOCIAL SECURITY.

"(a) GENERAL RULE.—The SAFE Investment Fund and each SAFE Account are exempt from taxation under this subtitle. Notwithstanding the preceding sentence, a personal social security savings account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(b) DISTRIBUTIONS.—

"(1) FEDERAL ANNUITY PAYMENT.—Any Federal annuity payment (as defined under section 254(b)(1) of the Social Security Act) shall be treated as a social security benefit for purposes of section 86.

"(2) DISTRIBUTION OF EXCESS ASSETS.—Any distribution from a SAFE Account under section 254(b)(3) of the Social Security Act shall be includible in gross income under rules under section 72.

"(c) DEFINITIONS.—For purposes of this section—

"(1) SAFE ACCOUNT.—The term 'SAFE Account' means an account established under section 252(a) of the Social Security Act.

"(2) SAFE INVESTMENT FUND.—The term 'SAFE Investment Fund' means the fund established under section 253 of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 of such Code is amended by adding after the item relating to part VIII the following new item:

"PART IX. INVESTMENT-BASED SOCIAL SECURITY.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006

### SEC. 104. STUDY ON USE OF PRIVATE ANNUITIES FOR SAFE ACCOUNT DISTRIBUTIONS.

(a) IN GENERAL.—The Social Security Investment Board shall conduct a study on the use of annuities provided by private-sector financial institutions for the distribution of SAFE account funds under section 254 of the Social Security Act.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Social Security Investment Board shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report describing the results of the study under subsection (a).

### SEC. 105. STUDY REGARDING FINANCIAL LITERACY.

(a) STUDY.—

(1) IN GENERAL.—The Social Security Investment Board shall conduct a thorough study of all matters relating to programs to increase the financial literacy of Americans.

(2) MATTERS STUDIED.—The matters studied by the Social Security Investment Board shall include—

(A) existing Federal and non-Federal financial literacy programs, including a review and performance evaluation of such programs;

(B) the coordination of existing Federal and non-Federal financial education efforts; and

(C) ideas for new public initiatives to increase the financial literacy of all Americans.

(b) RECOMMENDATIONS.—The Social Security Investment Board shall develop recommendations on—

(1) streamlining existing financial literacy programs;

(2) increasing financial literacy for all Americans; and

(3) new avenues for public-private partnerships in financial literacy.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Social Security Investment Board shall submit a report to the President and to Congress which shall contain a detailed statement of the findings and conclusions of the Social Security Investment Board, together with its recommendations for such legislation and administrative actions as it considers appropriate.

## TITLE II—DEBT-BASED SOCIAL SECURITY

## Subtitle A—Adjustments

### SEC. 201. MODIFICATION TO RETIREMENT AGE.

Section 215(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by inserting "and before January 1, 2023," after "December 31, 2021," in subparagraph (E);

(3) by striking the period at the end of subparagraph (E) and by inserting "; and"; and

(4) by adding at the end the following:

"(F) with respect to an individual who attains early retirement age after December 31, 2022, 68 years of age.".

### SEC. 202. MODIFICATION OF PIA FACTORS TO REFLECT CHANGES IN LIFE EXPECTANCY.

Section 215(a)(1) of the Social Security Act (42 U.S.C. 415(a)(1)(B)) is amended by redesignating subparagraph (D) as subparagraph (F) and by inserting after subparagraph (C) the following:

"(D)(i) For individuals who initially become eligible for old-age insurance benefits in any calendar year after 2023, each of the percentages under clauses (i), (ii), and (iii) of subparagraph (A) shall be multiplied by the applicable factor for such year with respect to each year after 2023 and before the year following the year of initial eligibility.

"(ii) For purposes of clause (i), the term 'applicable factor' means the actuarial number, expressed as a percentage and determined by the Commissioner of Social Security after taking into account the actuarial reduction under section 202(q) (without regard to the amendments made by section 203 of the Saving Social Security Act of 2005), representing the historical increase in longevity of life for the most recent year .

"(E) For any individual who initially becomes eligible for disability insurance benefits in any calendar year after 2023, the primary insurance amount for such individual shall be equal to the greater of—

"(i) such amount as determined under this paragraph, or

"(ii) such amount as determined under this paragraph without regard to subparagraph (D) thereof.".

### SEC. 203. ACTUARIAL ADJUSTMENT FOR RETIREMENTS.

(a) IN GENERAL.—Section 202(q) of the Social Security Act (42 U.S.C. 402(q)) is amended—

(1) in paragraph (1)(A), by striking "$\frac{5}{9}$" and inserting "the applicable old-age benefit fraction (determined under paragraph (12)(A))", and by striking "$\frac{25}{36}$" and inserting "the applicable spousal benefit fraction (determined under paragraph (12)(B))"; and

(2) by adding at the end the following:

"(12) For purposes of paragraph (1)(A)—

"(A) the 'applicable old-age benefit fraction' for an individual who attains the age of 62 in—

"(i) any year before 2024, is $\frac{5}{9}$;

"(ii) 2024, is $\frac{7}{12}$;

"(iii) 2025, is $\frac{11}{18}$;

"(iv) 2026, is $\frac{23}{36}$;

"(v) 2027, is $\frac{2}{3}$; and

"(vi) 2028 or any succeeding year, is $\frac{25}{36}$; and

"(B) the 'applicable spousal benefit fraction' for an individual who becomes eligible for wife's or husband's insurance benefits in—

"(i) any year before 2024, is $\frac{25}{36}$;

"(ii) 2024, is $\frac{13}{18}$;

"(iii) 2025, is $\frac{27}{36}$;

"(iv) 2026, is $\frac{7}{9}$;

"(v) 2027, is $\frac{29}{36}$; and

"(vi) 2028 or any succeeding year, is $\frac{5}{6}$.".

(b) MONTHS BEYOND FIRST 36 MONTHS.—Section 202(q) of such Act (42 U.S.C. 402(q)) (as amended by subsection (a)) is amended—

(1) in paragraph (9)(A), by striking "five-twelfths" and inserting "the applicable fraction (determined under paragraph (13))"; and

(2) by adding at the end the following:

"(13) For purposes of paragraph (9)(A), the 'applicable fraction' for an individual who becomes eligible for old-age, wife's, or husband's insurance benefits in—

"(A) any year before 2024, is $\frac{5}{12}$;

"(B) 2024, is $\frac{16}{36}$;

"(C) 2025, is $\frac{16}{36}$;

"(D) 2026, is $\frac{17}{36}$;

"(E) 2027, is $\frac{17}{36}$; and

"(F) 2028 or any succeeding year, is $\frac{1}{2}$.".

(c) ELIGIBILITY.—Section 202(q) of such Act (as amended by the preceding provisions of this section) is amended further by adding at the end the following new paragraph:

"(14) For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, such individual would be entitled to such benefit for such month.".

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who, in connection with old-age, wife's, and husband's insurance benefits under title II of the Social Security Act, become eligible for such benefits (within the meaning of section 202(q)(14) of such Act (as amended by this subsection)) in years after 2023.

### Subtitle B—Maintenance of Social Security Trust Funds

### SEC. 211. MAINTENANCE OF ADEQUATE BALANCES IN THE SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

"(o) In addition to amounts otherwise appropriated under the preceding provisions of this section to the Trust Funds established under this section, there is hereby appropriated for each fiscal year to each of such Trust Funds, from amounts in the general fund of the Treasury not otherwise appropriated, such sums as may be necessary from time to time to maintain the balance ratio (as defined in section 709(b)) of such Trust Fund, for the calendar year commencing during such fiscal year, at not less than 100 percent. The sums to be appropriated under the preceding sentence shall be determined by the Commissioner of Social Security and certified by the Commissioner to each House of the Congress not later than October 1 of such fiscal year. In making such determination and certification, the Commissioner shall use the intermediate actuarial assumptions used by the Board of Trustees of the Trust Funds in its most recent annual report to the Congress prepared pursuant to subsection (c)(2). The Commissioner shall also transmit a copy of any such certification to the Secretary of the Treasury, and upon receipt thereof, such Secretary shall promptly take appropriate actions in accordance with the certification.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning after the date of the enactment of this Act.

---

By Mr. DORGAN (for himself, Mr. SMITH, Mrs. MURRAY, Ms. CANTWELL, Mr. JOHNSON, and Mr. HARKIN):

S. 542. A bill to amend the Internal Revenue code of 1986 to extend for 5 years the credit for electricity produced from certain renewable resources, and for other purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I am joined by Senator SMITH of Oregon and several of our colleagues in introducing legislation to extend the soon-to-expire tax credits in Federal law that incentivize the development and use of renewable energy.

Mr. President, as you know, Federal policymakers have been working over the past couple of years to pass comprehensive energy reforms that will encourage greater domestic energy production, increase energy efficiency and improve the nation's overall energy security by reducing our dependence on imported sources of energy.

This country imports more than 60 percent of its oil from abroad, and Americans have watched as oil and gas prices—and their energy bills—have skyrocketed, in large part due to the threat of disruptions to energy supplies in volatile regions of the Middle East. The evidence also suggests that the United States is ramping up its demand for imported natural gas. At a recent Senate Energy Subcommittee hearing, for example, we heard about plans to build thirty-one new liquefied natural gas terminals in this country. The reason for this activity is that the United States is projected to import about 28 percent of our natural gas supply by the year 2025. Clearly, something must be done to reduce our reliance on energy imports. I hope that we will complete work on a comprehensive energy bill in this Congress that will help us do so.

However, there are some fiscal policies already in place that will help us move toward greater energy independence and diversity. Current law's Federal income tax credit for facilities producing electricity from wind and other renewable energy sources is among the most important of these polices. In fact, we are told by energy developers year after year that the renewable energy production tax credit, PTC, is absolutely essential for bringing renewable energy-generated electricity to the marketplace at a competitive rate. Today, for example, our country has over 6,700 megawatts of wind energy capacity, or enough electric capacity to serve about 1.6 million homes. And all that electricity is generated on U.S. soil, producing U.S. jobs.

Last year, Congress extended the availability of the PTC and expanded it to cover other forms of renewable energy—including geothermal and solar. I supported this effort. However, I am frustrated that Congress continues to undermine its own effort to develop domestic renewable energy resources by failing to ensure that the PTC is available for a longer term.

In North Dakota, we have abundant renewable energy resources including wind. In fact, North Dakota's wind development potential is so great that many energy experts call North Dakota the "Saudi Arabia" of wind energy. And the PTC is critical for the continued growth of this industry in North Dakota, Oregon, and elsewhere. But the PTC, which is found in Section 45 of the Tax Code, is also scheduled to expire at the end of this year.

That is why Senator SMITH and I are introducing a bipartisan bill today to extend the Section 45 tax credits for producers who place new renewable energy facilities in service before January 1, 2011. Our five-year extension bill also continues the indexing of the credits for inflation and extends alternative minimum tax relief as provided under current law. Finally, the bill includes provisions to ensure that tax-exempt cooperatives, municipal utilities and Indian tribes can receive the benefit of the tax credits for their investments in renewable energy.

Billions of dollars of expected investments by the renewable energy industry will, once again, be put on hold if we fail to extend the credit. Inexplicably, Congress has allowed the PTC to expire three times since its inception in 1992. When this happens, the industry suffers a huge drop in investment and many good-paying jobs are lost. Failing to promptly extend the credit this year will prevent new renewable energy facilities from coming on line and lead to layoffs by the businesses that support this industry, including wind tower and turbine blade manufacturers.

The bottom line is that short-term extensions of the renewable energy tax credit creates a boom and bust cycle of short-term planning, painful layoffs and higher than necessary project costs. Financial lenders stop providing the capital needed for wind energy projects about 4 to 6 months before the credit is scheduled to expire because of the uncertainty surrounding the future availability of the credit. This uncertainty inevitably leads to a rush to complete projects at higher costs, and those costs are passed along to consumers.

In conclusion, I will be working hard with Senator SMITH and others to get this legislation passed by the Senate as soon as possible. Unless we act quickly, renewable energy developers will, once again, be forced to suspend or cancel new projects that move us toward energy independence and create significant economic opportunities for a rural state like North Dakota.

Mr. President, I am pleased that this legislation has already been endorsed by the American Wind Energy Association, the American Corn Growers Association and others interested in renewable energy development. I urge my colleagues to work with us to get this measure enacted into law early in this session of the 109th Congress.

---

By Ms. SNOWE:

S. 543. A bill to amend the Internal Revenue Code of 1986 to expand the availability of the cash method of accounting for small businesses, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to re-introduce a bill that I offered last year that I hope will be the first in a series of proposals to simplify the Tax Code for small business owners. Once enacted, these provisions will reduce not only the amount of taxes that small businesses pay, but I believe they also will reduce the administrative burden that saddles small companies in trying to satisfy their tax obligation.

Let me begin by saying how pleased I am that the President has made simplifying the Tax Code one of his top priorities for his second term. Clearly, a world-class economy such as that of the United States requires a world-class revenue collection system, meaning we need a Tax Code that is simple, consistent, and fair. For that reason, I look forward to seeing the recommendations that the President's tax reform panel will offer on how best we can reform the current Tax Code to improve its efficiency and strengthen our overall economy.

In the interim, the proposal that I am re-introducing today will simplify the code by permitting small business owners to use the cash method of accounting for reporting their income if they generally earn fewer than $10 million during the tax year. Currently, only those taxpayers that earn less than $5 million per year are able to use the cash method. By increasing this threshold to $10 million, more small businesses will be relieved of the burdensome record-keeping requirements that they must deal with currently in paying their income taxes.

Before I talk about the specifics of this particular provision, let me first explain why it is so critical that we simplify the Tax Code. As you know, Mr. President, small businesses are the backbone of our nation's economy. According to the Small Business Administration, small businesses represent 99 percent of all employers, employ 51 percent of the private-sector workforce, and contribute 51 percent of the private-sector output.

Yet, the despite the fact that small businesses are the engine that drives our improving economy, the current tax system imposes entirely unreasonable burdens on them when they try to satisfy their tax obligations. As you know, the current tax code imposes a large, and expensive, burden on all taxpayers in terms of satisfying their reporting and recordkeeping obligations. The problem, though, is that small companies are disadvantaged most in terms of the money and time spent in satisfying their tax obligation vis-a-vis larger firms.

For example, according to the Small Business Administration's Office of Advocacy, small businesses spend more than 8 billion hours each year filling-out government reports, and they spend more than 80 percent of this time on completing tax forms. What's even more troubling is that companies that employ fewer than 20 employees spend nearly $6.975 per employee in tax compliance costs, and this amount is nearly 60 percent more than companies spend with more than 500 employees.

These statistics are disconcerting for several reasons. First, the fact that small businesses are being required to spend so much money on compliance costs means they have fewer earnings to reinvest into their business. This, in turn, means that they have less money to spend on new equipment or on worker training, which unfortunately has an adverse effect on their overall production and the economy as a whole.

Second, the fact that small business owners are required to make such a sizeable investment of their time into completing paperwork means they have less time to spend on doing what they do best—namely running their business and creating jobs.

Let me be clear, however, that I am in no way suggesting that small business owners are unique in having to pay income taxes, and I am certainly not expecting them to receive a free pass. In order to benefit from the freedoms and protections that our great country provides, individuals and businesses alike are required to pay taxes, and this duty inevitably imposes some minimum administrative and opportunity cost. What I am asking for, though, is a fairer, simpler Tax Code that allows small companies to satisfy this obligation without having to expend the amount of resources that they do currently.

For that reason, the package of proposals that I hope to introduce will provide not only targeted, affordable tax relief to small business owners, but they also will simplify the rules that exist currently. By simplifying the Tax Code, small business owners will be able to satisfy their tax obligation in a cheaper, more efficient manner, and they consequently will be able to invest more time and resources into their business.

As I mentioned earlier, the provision that I am introducing today will permit more taxpayers to use the cash method of accounting rather than the accrual method. Generally, current law permits only those taxpayers that earn fewer than $5 million in gross receipts during the tax year to use the cash method in reporting their income. In addition, current law precludes taxpayers that have inventory from using the cash method. This means that thousands of small businesses that should be entitled to report their income and expenses under the cash method of accounting are required to follow the accrual method, which tends to impose additional financial and administrative costs that should be eliminated.

My bill changes these existing rules so that more small businesses will be able to use the cash method. In short, my bill increases the gross receipts test under current law to $10 million and indexes this higher threshold to account for inflation. As the current $5 million threshold is clearly outdated, it makes little sense to have such an obsolete standard for this most important provision.

My bill also changes current law to permit those taxpayers with inventory to qualify for the cash method of accounting. Notably, however, my bill will not give these taxpayers an opportunity to simply recover costs associated with these otherwise inventoriable assets in the year of purchase. Rather, my bill will require these taxpayers to account for such costs as if they are a material or supply that is not incidental. This standard already exists under current law, and it is one with which many small businesses are already familiar. As such, this less-burdensome standard should ease the existing compliance burden for eligible taxpayers and allow them to devote more time and resources to their business.

Importantly, these changes will not reduce the amount of taxes a small business pays by even one dollar. Indeed, the overall amount of taxes a qualifying small business pays will remain the same. Rather, this bill simply permits more taxpayers to report income and account for costs in the year of the receipt or expenditure. Clearly, this method is much easier and simpler for small taxpayers, and it will reduce both their time and monetary expenditures spent on complying with the Tax Code.

## AMENDMENTS SUBMITTED & PROPOSED

SA 58. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table.

SA 59. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 60. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 61. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 62. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 63. Mr. LEVIN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 64. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 65. Mr. ROCKEFELLER (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 66. Mr. HARKIN (for himself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. DAYTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 67. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 68. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 69. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 70. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 71. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 72. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 73. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 74. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 75. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 76. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 77. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 78. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 79. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 80. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 81. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 82. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 83. Mr. KENNEDY (for Mr. LEAHY (for himself and Mr. SARBANES)) proposed an amendment to the bill S. 256, supra.

SA 84. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 85. Ms. CANTWELL (for herself, Mr. ENSIGN, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 86. Ms. CANTWELL (for herself, Mr. ENSIGN, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 87. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 88. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 89. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 90. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 91. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 92. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 93. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 94. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 95. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 96. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 97. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 98. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 99. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 100. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 101. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 102. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 103. Mr. LEAHY (for himself and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 104. Mr. GRAHAM (for himself, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 105. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 106. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 107. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 108. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 109. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 110. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 111. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 112. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 113. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 114. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 115. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 116. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 117. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 118. Mr. KYL (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 119. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 120. Mr. LEVIN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 121. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 256, supra.

SA 122. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 123. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 124. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 125. Mr. LAUTENBERG (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 126. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 127. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 128. Mr. SANTORUM proposed an amendment to the bill S. 256, supra.

SA 129. Mr. SCHUMER proposed an amendment to amendment SA 121 submitted by Mr. TALENT to the bill S. 256, supra.

## TEXT OF AMENDMENTS

**SA 58.** Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ——. CERTAIN OBLIGATIONS UNDER THE COMMUNICATIONS ACT OF 1934.**

Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end the following:

"(p) APPLICATION OF BANKRUPTCY LAWS.—

"(1) IN GENERAL.—The bankruptcy laws may not be applied—

"(A) to avoid, to discharge, to stay, or to set-off any pre-petition or post-petition debt obligation to the United States arising from an auction under section 309(j) of this Act;

"(B) to stay the payment obligations of the debtor to the United States if those obligations were a condition of the grant or retention of a license under this Act;

"(C) to prevent the automatic cancellation of a license under this Act pursuant to Commission rules for failure to comply with any monetary or nonmonetary condition for holding a license issued by the Commission, including the automatic cancellation of a license for failure to pay a monetary obligation of the debtor to the United States, whether or not dischargeable in a bankruptcy case, when due under an installment plan arising from an auction under section 309(j) of this Act, except that, upon cancellation of such license, the United States shall have an allowed unsecured claim for any outstanding debt to the United States with respect to such canceled license, and that such unsecured debt may be recovered by the United States under its rights as a creditor under this title or other applicable law;

"(D) to avoid, to discharge, or to set-off the pre-petition or post-petition payment obligation of a telecommunications carrier to contribute to the universal service fund, North American Numbering Plan, or other similar telecommunications funding mechanism established by Federal law; or

"(E) to avoid, to discharge, or to set-off the payment obligation of an entity subject to a pre-petition forfeiture or post-petition order or notice of apparent liability entered by the Commission pursuant to regulations of the Commission.

"(2) DEBTOR TO HAVE NO INTEREST IN PROCEEDS OF AUCTION.—A debtor in a proceeding under the bankruptcy laws shall have no right or interest in any portion of the proceeds from a subsequent auction of any license reclaimed by the Commission for failure to pay a monetary obligation of the debtor to the United States in connection with the grant or retention of a license under this Act.

"(3) SECURITY INTERESTS.—Notwithstanding any other provision of law, including State Uniform Commercial Codes, the Commission may—

"(A) establish rules and procedures governing security interests in licenses issued by the Commission, or the proceeds of the sale of such licenses; and

"(B) establish an office within the Commission for the recording and perfection of such security interests without regard to otherwise applicable State law.

"(4) BANKRUPTCY LAWS DEFINED.—In this subsection, the term 'bankruptcy laws' means title 11, United States Code, and any otherwise applicable Federal or State law regarding insolvencies or receiverships, including any Federal law enacted or amended after the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 not expressly in derogation of this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bankruptcy cases filed after the date of enactment of this Act.

---

**SA 59.** Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### SEC. ——. CERTAIN OBLIGATIONS UNDER THE COMMUNICATIONS ACT OF 1934.

(a) IN GENERAL.—Subchapter III of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**"§ 561. Application with Communications Act of 1934**

"(a) IN GENERAL.—The bankruptcy laws may not be applied—

"(1) to avoid, to discharge, to stay, or to set-off any pre-petition or post-petition debt obligation to the United States arising from an auction under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j));

"(2) to stay the payment obligations of the debtor to the United States if those obligations were a condition of the grant or retention of a license under that Act;

"(3) to prevent the automatic cancellation of a license under that Act pursuant to Commission rules for failure to comply with any monetary or nonmonetary condition for holding a license issued by the Commission, including the automatic cancellation of a license for failure to pay a monetary obligation of the debtor to the United States, whether or not dischargeable in a bankruptcy case, when due under an installment plan arising from an auction under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), except that, upon cancellation of such license, the United States shall have an allowed unsecured claim for any outstanding debt to the United States with respect to such canceled license, and that such unsecured debt may be recovered by the United States under its rights as a creditor under this title or other applicable law;

"(4) to avoid, to discharge, or to set-off the pre-petition or post-petition payment obligation of a telecommunications carrier to contribute to the universal service fund, North American Numbering Plan, or other similar telecommunications funding mechanism established by Federal law; or

"(5) to avoid, to discharge, or to set-off the payment obligation of an entity subject to a pre-petition forfeiture or post-petition order or notice of apparent liability entered by the Commission pursuant to regulations of the Commission.

"(b) DEBTOR TO HAVE NO INTEREST IN PROCEEDS OF AUCTION.—A debtor in a proceeding under the bankruptcy laws shall have no right or interest in any portion of the proceeds from a subsequent auction of any license reclaimed by the Commission for failure to pay a monetary obligation of the debtor to the United States in connection with the grant or retention of a license under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

"(c) SECURITY INTERESTS.—Notwithstanding any other provision of law, including State Uniform Commercial Codes, the Commission may—

"(1) establish rules and procedures governing security interests in licenses issued by the Commission, or the proceeds of the sale of such licenses; and

"(2) establish an office within the Commission for the recording and perfection of such security interests without regard to otherwise applicable State law.

"(d) DEFINITIONS.—In this section:

"(1) BANKRUPTCY LAWS.—The term 'bankruptcy laws' means this title and any otherwise applicable Federal or State law regarding insolvencies or receiverships, including any Federal law enacted or amended after the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 not expressly in derogation of this section.

"(2) COMMISSION.—The term 'Commission' means the Federal Communications Commission.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Application with Communications Act of 1934".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bankruptcy cases filed after the date of enactment of this Act.

---

**SA 60.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 47, strike lines 12 through 14, and insert the following:

### SEC. 202. EFFECT OF DISCHARGE.

(a) INJUNCTION AFTER CONFIRMATION OF BANKRUPTCY PLAN OF REORGANIZATION.—

(1) IN GENERAL.—Section 524(g)(2)(B)(ii)(IV)(bb) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", or, if such a vote is not obtained with respect to any such class of claimants so established, the plan satisfies the requirements for confirmation of a plan under section 1129(b) that would apply to such class if the class did not accept the plan for purposes of section 1129(a)(8) (whether or not the class has accepted the plan)".

(2) EFFECTIVE DATE; APPLICATION.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply with respect to cases under title 11 of the United States Code, which were commenced before, on, or after such date.

(b) VIOLATION OF INJUNCTION; EXCEPTION.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

---

**SA 61.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, between lines 5 and 6, insert the following:

### SEC. 234. DISALLOWANCE OF CLAIM IF BASED ON EXTENSION OF CREDIT TO CERTAIN INDIVIDUALS UNDER 21 YEARS OF AGE.

Title 11, United States Code, as amended by this Act, is further amended by inserting after section 112 the following:

**"§ 113. Disallowance of claim if based on extension of credit to certain individuals under 21 years of age**

"(a) IN GENERAL.—In making a determination of whether to disallow a claim under this title, the court shall consider if the claim is based upon an extension to an individual of unsecured credit and the factors listed in subsection (b) are present. The factors listed in subsection (b) may be the basis for a disallowance of a claim under this title.

"(b) FACTORS.—The factors under this subsection are the following: if the individual, at the time unsecured credit was extended—

"(1) was under 21 years of age;

"(2) did not have a co-obligor on such unsecured credit who was a parent or spouse of the individual:

"(3) had an income level that was below or at the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))); and

"(4) already had 5 or more unsecured credit cards.".

---

**SA 62.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, between lines 5 and 6, insert the following:

### SEC. 234. DISALLOWANCE OF CLAIM IF BASED ON EXTENSION OF CREDIT TO CERTAIN INDIVIDUALS UNDER 21 YEARS OF AGE.

Title 11, United States Code, as amended by this Act, is further amended by inserting after section 112 the following:

**"§113. Disallowance of claim if based on extension of credit to certain individuals under 21 years of age**

"(a) IN GENERAL.—In making a determination of whether to disallow a claim under this title, the court shall consider if the claim is based upon an extension to an individual of unsecured credit and the factors listed in subsection (b) are present. The factors listed in subsection (b) may be the basis for a disallowance of a claim under this title.

"(b) FACTORS.—The factors under this subsection are the following: if the individual, at the time unsecured credit was extended—

"(1) was under 21 years of age;

"(2) did not have a co-obligor on such unsecured credit who was a parent or spouse of the individual;

"(3) had an income level that was below or at the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))); and

"(4) already had 6 or more unsecured credit cards.".

---

**SA 63.** Mr. LEVIN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table: as follows:

At the appropriate place, insert the following:

### SEC. _____. CALCULATION OF FINANCE CHARGE DURING GRACE PERIOD.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) CALCULATION OF FINANCE CHARGE DURING GRACE PERIOD.—A creditor may not impose a finance charge with respect to any amount paid on time.".

---

**SA 64.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

## TITLE XVI—TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

### SEC. 1601. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

"(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

"(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

"(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

"(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

"(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking "a qualified disaster relief payment" and inserting "qualified disaster relief payments and qualified disaster mitigation payments".

(B) Subsection (e) of section 139 of such Code is amended by striking "and (f)" and inserting ", (f), and (g)".

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.".

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received in taxable years ending after December 31, 2003.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions in taxable years ending after December 31, 2003.

---

**SA 65.** Mr. ROCKEFELLER (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 500, strike lines 7 through 11, and insert the following:

(1) by redesignating subsection (*l*) as subsection (n); and

(2) by inserting after subsection (k) the following:

"(*l*) Notwithstanding any other provision of this section, the benefits required to be provided by a last signatory operator under chapter 99 of the Internal Revenue Code of 1986, may not be terminated or modified by any court in a proceeding under this title.

"(m) If the debtor, during the 180-day period ending

---

**SA 66.** Mr. HARKIN (for himself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. DAYTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes: as follows:

On page 498, strike lines 23 and 24, and insert the following:

(1) in paragraph (4), by striking "within 90 days";

---

**SA 67.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the end of the bill, add the following:

## TITLE XVI—MODIFICATIONS FOR THE PROTECTION OF FAMILIES

### SEC. 1601. MODIFICATIONS FOR THE PROTECTION OF FAMILIES.

(a) DISMISSAL OR CONVERSION.—Section 707(b)(2)(A)(ii) of title 11, United States Code, as amended by this Act, is further amended—

(1) in subclause (IV), by striking "$1,500" and inserting "$5,000"; and

(2) by adding at the end the following:

"(VI) In addition, the debtor's monthly expenses shall include—

"(aa) taxes and mandatory withholdings from wages;

"(bb) alimony, child, and spousal support payments;

"(cc) legal fees necessary for the debtor's case;

"(dd) pension payments;

"(ee) religious and charitable contributions;

"(ff) union dues;

"(gg) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

"(hh) ownership costs for 1 motor vehicle (or 2 in the case of a joint filing), determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

"(ii) expenses for children's toys and recreation for children of the debtor, tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

"(jj) miscellaneous and emergency expenses.".

(b) DEFINITION OF CURRENT MONTHLY INCOME.—Section 101(10A)(B) of title 11, United States Code, as amended by this Act, is further amended by inserting "payments received as domestic spousal obligations," after "Social Security Act,".

(c) PROPERTY OF THE ESTATE.—Section 541 of title 11, United States Code, as amended by this Act, is further amended—

(1) in subsection (a)(5)(B) by inserting "except as provided under subsection (b)(11)," before "as a result"; and

(2) in subsection (b)—

(A) in paragraph (8), by striking "or" after the semicolon;

(B) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(C) by inserting after paragraph (9) the following:

"(10) any—

"(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year and the amount of an applicable child tax credit allowed under section 24 of such Code for such year; and

"(B) advance payment for an earned income tax credit described in subparagraph (A); or

"(ii) the right of the debtor to receive domestic spousal obligations for the debtor or dependent of the debtor.".

(d) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 12.—Section 1225(b) of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(3) In determining disposable income, the court shall not consider amounts the debtor receives or is entitled to receive from—

"(A) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of the Internal Revenue Code of 1986 for such year and the amount of an applicable child tax credit allowed under section 24 of such Code for such year;

"(B) any advance payment for an earned income tax credit described in subparagraph (A); or

"(C) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.".

(e) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 13.—Section 1325(b) of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(5) In determining disposable income, the court shall not consider amounts the debtor receives or is entitled to receive from—

"(A) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year and the amount of an applicable child tax credit allowed under section 24 of such Code for such year;

"(B) any advance payment for an earned income tax credit described in subparagraph (A); or

"(C) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.".

(f) EXEMPTIONS.—Section 522(d)(10) of title 11, United States Code, as amended by this Act, is further amended—

(1) in subparagraph (C), by inserting "or" after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking "(E)" and inserting "(D)".

(g) PERSONAL PROPERTY.—

(1) SECTION 521.—Section 521(a)(6) of title 11, United States Code, as amended by this Act, is further amended by striking "of personal property" and inserting "of an item of personal property purchased for more than $3,000".

(2) SECTION 362.—Section 362(h)(1) of title 11, United States Code, as amended by this Act, is further amended by striking "to personal property" and inserting "to an item of personal property purchased for more than $3,000".

(h) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, as amended by this Act, is further amended in the flush matter at the end by striking "if the debt was incurred" and inserting "to the extent that the debt was incurred to purchase that thing of value".

(i) HOUSEHOLD GOODS.—

(1) DEFINITION.—Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(A) by redesignating paragraph (27A) as paragraph (27B); and

(B) by inserting before paragraph (27B) the following:

"(27A) 'household goods '—

"(A) includes tangible personal property normally found in or around a residence; and

"(B) does not include motor vehicles used for transportation purposes;".

(2) FOR PURPOSES OF SECTION 522.—Section 522(f) of title 11, United States Code, as amended by this Act, is further amended by striking paragraph (4).

(j) LIMITATION ON LUXURY GOODS.—Section 523(a)(2)(C)(i) of title 11, United States Code, as amended by this Act, is further amended—

(1) in subclause (I)—

(A) by striking "$500" and inserting "$1,000";

(B) by striking "90" and inserting "70"; and

(C) by inserting "if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor or the dependents of the debtor" after "nondischargeable"; and

(2) in subclause (II)—

(A) by striking "$750" and inserting "$1,225"; and

(B) by striking "70" and inserting "60".

(k) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, as amended by this Act, is further amended—

(1) in subsection (c), by inserting "or (14)(A)," after "or (6)" each place it appears; and

(2) in subsection (d), by striking "(a)(2)" and inserting "(a)(2) or (14A)".

---

**SA 68.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 191, between lines 11 and 12, insert the following:

(c) FURTHER LIMITATION ON HOMESTEAD EXEMPTION.—Section 522(b) of title 11, United States Code, is amended by adding at the end the following:

"(5) Notwithstanding any other provision of this section, the maximum amount of a homestead exemption that may be provided under State law shall be $300,000.".

---

**SA 69.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 20, line 16, strike "Act," and insert "Act, income from any job in which the debtor is no longer employed, income from any activity which the debtor can no longer engage in due to disability,".

---

**SA 70.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 19, between lines 13 and 14, insert the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor, in any consecutive 12-month period during the 2 years before the date of the filing of the petition, failed to receive alimony or child support income, or both, that such debtor was entitled to receive pursuant to a valid court order, totaling an amount in excess of 35 percent of the debtor's household income for such 12-month period.".

---

**SA 71.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 155, strike line 3 and all that follows through page 156, line 5.

---

**SA 72.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 28, between lines 21 and 22, insert the following:

**SEC. 102A. PROTECTION OF FAMILIES BELOW MEDIAN INCOME.**

Section 707(b) of title 11, United States Code, as amended by section 102, is further amended—

(1) in paragraph (2)(C), by striking "calculated" and inserting "calculated, except that a debtor described in paragraph (7) need only provide the calculations or other information showing that the debtor meets the standards of such paragraph"; and

(2) in paragraph (7)(A), by striking "No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2)" and inserting "Paragraph (2) does not apply, and the court may not dismiss a case based on any form of means testing.".

---

**SA 73.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, between lines 13 and 14, insert the following:

"(8)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is a victim of offshoring.

"(B) In this paragraph—

"(i) the term 'victim of offshoring' means a debtor who, during the 2 year period before the date of the filing of the petition, lost a job in connection with offshoring; and

"(ii) the term 'offshoring' means any action taken by an employer the effect of which is to create, shift, or transfer employment positions or facilities outside the United States and which results in an employment loss.".

---

**SA 74.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 499, strike line 3 and all that follows through page 500, line 2, and insert the following:

### SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, as amended by section 907, is further amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "one year" and inserting "4 years";

(ii) by inserting "(including any transfer to or for the benefit of an insider under an employment contract)" after "any transfer";

(iii) by inserting "(including any obligation to or for the benefit of an insider under an employment contract)" after "any obligation";

(iv) in subparagraph (A), by striking "or" at the end;

(v) in subparagraph (B)—

(I) in clause (ii)—

(aa) in subclause (II), by striking "or" at the end;

(bb) in subclause (III), by striking the period at the end and inserting "; or"; and

(cc) by adding at the end the following:

"(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business."; and

(II) by striking the period at the end and inserting "; or"; and

(vi) by adding at the end the following:

"(C) made an excess benefit transfer or incurred an excess benefit obligation to an insider, general partner, or other affiliated person of the debtor, if the debtor—

"(i) was insolvent on the date on which the transfer was made or the obligation was incurred; or

"(ii) became insolvent in part as a result of the transfer or obligation.";

(2) in subsection (b), by striking "one year" and inserting "2 years"; and

(3) in subsection (d)(2)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(F) the terms 'excess benefit transfer' and 'excess benefit obligation' mean—

"(i) a transfer or obligation, as applicable, to an insider, general partner, or other affiliated person of the debtor in an amount that is not less than 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the calendar year in which the transfer is made or the obligation is incurred; or

"(ii) if no such similar transfers were made to, or obligations incurred for the benefit of, such nonmanagement employees during such calendar year, a transfer or obligation that is in an amount that is not less than 25 percent more than the amount of any similar transfer or obligation made to or incurred for the benefit of such insider, partner, or other affiliated person of the debtor during the calendar year before the year in which such transfer is made or obligation is incurred.".

---

**SA 75.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 502, between lines 17 and 18, insert the following:

### SEC. 1407. VENUE OF CASES UNDER TITLE 11.

Section 1408 of title 28, United States Code, is amended to read as follows:

**"§ 1408. Venue of cases under title 11**

"(a) Except as provided in section 1410, a case under title 11 may be commenced—

"(1) if the debtor is not a corporation, in the district court for the district—

"(A) in which the debtor's domicile, residence, principal place of business in the United States, or principal assets in the United States have been located—

"(i) during the 180-day period immediately preceding the date of the commencement of the case; or

"(ii) for a longer portion of such 180-day period than the debtor's domicile, residence, principal place of business in the United States, or principal assets in the United States were located in any other district; or

"(B) in which there is pending a case under title 11 concerning the debtor's affiliate, a general partner of the debtor, or a partnership in which the debtor is a general partner;

"(2) if the debtor is a corporation, in the district court for the district—

"(A) in which the debtor's principal place of business in the United States or principal assets in the United States have been located—

"(i) during the 180-day period immediately preceding the date of the commencement of the case; or

"(ii) for a longer portion of such 180-day period than the debtor's principal place of business in the United States or principal assets in the United States were located in any other district; or

"(B) in which there is pending a case under title 11 concerning another corporation that directly or indirectly owns, controls, or holds with power to vote 50 percent or more of the outstanding voting securities of the debtor, if—

"(i) not later than 2 years before the date of the filing of the petition in the debtor's case, the debtor's financial statements were consolidated with those of the other corporation in 1 or more reports filed under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78(m) and 78o(d); or

"(ii) the debtor has been controlled by the other corporation for not less than 1 year before the date of the filing of the petition in the debtor's case.

"(b) In this section, the definitions in section 101 of title 11 shall apply.".

---

**SA 76.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 502, between lines 17 and 18, insert the following:

### SEC. 1407. FAIRNESS IN BANKRUPTCY LITIGATION.

(a) SHORT TITLE.—This section may be cited as the "Fairness in Bankruptcy Litigation Act of 2005".

(b) VENUE IN BANKRUPTCY CASES.—Section 1408 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Except";

(2) in paragraph (1), by striking "or" at the end; and

(3) by striking paragraph (2) and inserting the following:

"(2) in which a case under title 11 concerning the controlling corporation is pending, if—

"(A) the debtor is controlled by another corporation;

"(B) within the 730 days before the date of the debtor's filing under title 11, the financial statements of the debtor have been consolidated with those of the controlling corporation in 1 or more reports filed under section 13 or 15(d) of the Securities Exchange Act of 1934; and

"(C) the controlling corporation is a debtor in a proceeding under title 11; or

"(3) in which a case under title 11 concerning the controlling corporation is pending, if—

"(A) the debtor is a corporation other than a corporation described in paragraph (2);

"(B) the debtor has been controlled by another corporation for not less than 365 days before the date of the filing of the debtor's petition under title 11; and

"(C) the controlling corporation is a debtor in a proceeding under title 11.

"(b) For purposes of subsection (a)—

"(1) if the debtor is a corporation, the domicile and residence of the debtor are located where the debtor's principal place of business is located; and

"(2) the term 'control' has the meaning given that term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

(c) CURE OR WAIVER OF DEFECTS.—Section 1406(c) of title 28, United States Code, is amended to read as follows:

"(c) As used in this section—

"(1) the term 'district court'—

"(A) includes the District Court of Guam, the District Court of the Northern Mariana Islands, and the District Court of the Virgin Islands; and

"(B) with regard to cases pending before a bankruptcy court, includes a bankruptcy court; and

"(2) the term 'district' includes the territorial jurisdiction of each district court.".

---

**SA 77.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, strike lines 1 through 7, and insert the following:

### SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

(a) TITLE 11 CASES.—Section 1408 of title 28, United States Code, is amended to read as follows:

**"§ 1408. Venue of cases under title 11**

"(a) Except as provided in section 1410, a case under title 11 may be commenced—

"(1) if the debtor is not a corporation, in the district court for the district—

"(A) in which the debtor's domicile, residence, principal place of business in the United States, or principal assets in the United States have been located—

"(i) during the 180-day period immediately preceding the date of the commencement of the case; or

"(ii) for a longer portion of such 180-day period than the debtor's domicile, residence, principal place of business in the United States, or principal assets in the United States were located in any other district; or

"(B) in which there is pending a case under title 11 concerning the debtor's affiliate, a general partner of the debtor, or a partnership in which the debtor is a general partner;

"(2) if the debtor is a corporation, in the district court for the district—

"(A) in which the debtor's principal place of business in the United States or principal assets in the United States have been located—

"(i) during the 180-day period immediately preceding the date of the commencement of the case; or

"(ii) for a longer portion of such 180-day period than the debtor's principal place of business in the United States or principal assets in the United States were located in any other district; or

"(B) in which there is pending a case under title 11 concerning another corporation that directly or indirectly owns, controls, or holds with power to vote 50 percent or more of the outstanding voting securities of the debtor, if—

"(i) not later than 2 years before the date of the filing of the petition in the debtor's case, the debtor's financial statements were consolidated with those of the other corporation in 1 or more reports filed under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78(m) and 78*o*(d)); or

"(ii) the debtor has been controlled by the other corporation for not less than 1 year before the date of the filing of the petition in the debtor's case.

"(b) In this section, the definitions in section 101 of title 11 shall apply.".

(b) RELATED CASES.—Section 1409(b) of title 28, United States Code, is amended by striking "or a consumer debt of less than $5,000" and inserting ", a consumer debt of less than $15,000, or a debt (excluding a consumer debt) against a noninsider of less than $10,000,".

---

**SA 78.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking "or" after the semicolon;

(2) in paragraph (9), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(10) if such claim is for a credit transaction involving a consumer as defined in section 103(h) of the Truth in Lending Act (15 U.S.C. §1602(g)), interest included as part of such claim exceeds the amount allowed by the laws of the State, Territory or District where the debtor resides.

---

**SA 79.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 132, between lines 5 and 6, insert the following:

### SEC. 234. CUSTOMER RIGHT TO PARTICIPATE IN BANKRUPTCY PROCEEDINGS.

Section 1109(b) of title 11, United States Code, is amended by inserting "a customer of the debtor or a bona fide nonprofit representative of customers of the debtor," after "a creditor,".

---

**SA 80.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 179, strike line 1 and all that follows through page 182, line 3, and insert the following:

### SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Section 1322(d) of title 11, United States Code, is amended to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years.".

---

**SA 81.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 155, strike line 8 and all that follows through line 20, and insert the following:

"(I) consumer debts owed to a single creditor for a purchase of a single item for more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $1500 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

---

**SA 82.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 196, strike line 7 and all that follows through line 21.

---

**SA 83.** Mr. KENNEDY (for Mr. LEAHY (for himself and Mr. SARBANES)) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 215, strike lines 3 through 18, and insert the following:

### SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14)(B) of title 11, United States Code, is amended by inserting ", within five years before the date of the filing of the petition," after "was not".

---

**SA 84.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 480, strike line 20, and insert the following:

in by the creditor).

"(11a)(A) Repayment information that would apply to any annual percentage rate applicable to the consumer's account under the credit plan, including information regarding any change in any annual percentage rate charged to the consumer under the plan, appearing in conspicuous type on the front of the first page of the first billing statement prepared following the change, and accompanied by an appropriate explanation, containing—

"(i) the words 'THERE HAS BEEN A CHANGE IN THE ANNUAL PERCENTAGE RATE FOR YOUR ACCOUNT.';

"(ii) the words 'THE PREVIOUS INTEREST RATE:' followed by the previous annual percentage rate charged to the consumer under the plan; and

"(iii) the words 'THE CURRENT INTEREST RATE' followed by the current annual percentage rate charged to the consumer under the plan.

"(B) Any creditor who fails to comply with subparagraph (A), shall not be entitled to use the benefits and presumptions provided to creditors under section 707(b)(2) of title 11, United States Code.".

---

**SA 85.** Ms. CANTWELL (for herself, Mr. ENSIGN, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 407, line 5, strike the period and insert the following: ; and

(3) by adding at the end the following: "Notwithstanding any other provision of this title, contractual rights do not permit a trustee to collect any termination payment, fee, or charge under a terminated contract for the sale of electricity if a governmental agency having jurisdiction over the debtor's wholesale sales of electricity in the interstate market has made a finding that the debtor engaged in manipulation of the electricity market and revoked the debtor's authority to make any market based sales of electricity. The preceding sentence shall take effect on the date of enactment of that sentence and shall be applicable to any termination payment, fee, or charge that has not yet been determined pursuant to a final, non-appealable order to be owed to the debtor.".

---

**SA 86.** Ms. CANTWELL (for herself, Mr. ENSIGN, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### SEC. . MANIPULATIVE CONDUCT BARRING RIGHT TO TERMINATION PAYMENTS.

(a) IN GENERAL.—Title 11 of the United States Code is amended by adding after section 562, as added by this Act, the following:

### "SEC. 563. MANIPULATIVE CONDUCT BARRING RIGHT TO TERMINATION PAYMENTS.

" Notwithstanding any other provision of this title, a trustee may not collect any termination payment, fee, or charge under a terminated contract for the sale of electricity if a governmental agency having jurisdiction over the debtor's wholesale sales of electricity in the interstate market has—

"(1) made a finding that the debtor engaged in manipulation of the electricity market; and

"(2) revoked the debtor's authority to make any market based sales of electricity.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act and shall be applicable to any termination payment, fee, or charge that has not yet been determined pursuant to a final, non-appealable order to be owed to the debtor.

---

**SA 87.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 445, strike lines 10 through 13, and insert the following:

### SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting "101(19A)," after "101(18)," each place it appears;

(2) by inserting "522(f)(3)," after "522(d)," each place it appears;

(3) by inserting "541(b), 547(c)(9)," after "523(a)(2)(C)," each place it appears;

(4) in pagagraph (1), by striking "and 1325(b)(3)" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28"; and

(5) in paragraph (2), by striking "and 1325(b)(3) of this title" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28".

---

**SA 88.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 230, strike line 7 and all that follows through page 231, line 6, and insert the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

---

**SA 89.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 221, strike line 1 and all that follows through page 240, line 4, and insert the following:

## Subtitle B—Small Business Bankruptcy Provisions

### SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

### SEC. 432. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

---

**SA 90.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 167, strike line 3 and all that follows through page 169, line 25, and insert the following:

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c), by adding before the period at the end the following: "unless the creditor cannot with reasonable effort identify the account to which the notice applies without the information required by this subsection"; and

(2) by adding at the end the following:

"(e) At any time in a case under chapter 7 or 13 concerning an individual debtor, a creditor may file with the court and serve on the debtor a notice of the address to be used for service of notice on the creditor in that case. Beginning 10 days after the creditor files and serves the notice, any notice that the court or the debtor is required to give shall be given at the address contained in the creditor's notice of address.

"(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

"(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(3) In any case filed under chapter 7 or 13, any notice required to be provided by any party in interest with respect to which a notice is filed under paragraph (1), to such entity later than 120 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

"(4) A notice filed under paragraph (1) may be withdrawn by such entity.

"(g)(1) Notice given to a creditor other than as provided in this section is not effective until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases by a filing in accordance with subsection (d) or (e) and establishes reasonable procedures so that bankruptcy notices received by the creditor are actually delivered to the person or department, notice is not considered to have been brought to the attention of the creditor until that person or department receives the notice.

"(2) The court may not impose either a sanction under section 362(h) or a sanction that a court may otherwise impose on account of a violation of the stay under section 362(a) or a failure to comply with section 542 or 543 on account of any action of the creditor unless the action occurs after the creditor has received either notice of the commencement of the case effective under this section or other actual notice reasonably calculated to come to the attention of the creditor, the creditor's attorney, the creditor's agent taking the action, or other appropriate person.".

**SA 91.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 205, between lines 16 and 17, insert the following:

### SEC. 332. FRAUDULENT INVOLUNTARY BANKRUPTCY.

(a) SHORT TITLE.—This section may be cited as the "Involuntary Bankruptcy Improvement Act of 2005".

(b) INVOLUNTARY CASES.—Section 303 of title 11, United States Code, is amended by adding at the end the following:

"(l)(1) If—

"(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

"(B) the debtor is an individual; and

"(C) the court dismisses such petition,

the court, upon the motion of the debtor, shall seal all the records of the court relating to such petition, and all references to such petition.

"(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.

"(3) Upon the expiration of the statute of limitations described in section 3282 of title 18, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and for good cause, may expunge any records relating to a petition filed under this section.".

(c) BANKRUPTCY FRAUD.—Section 157 of title 18, United States Code, is amended by inserting ", including a fraudulent involuntary bankruptcy petition under section 303 of such title" after "title 11".

---

**SA 92.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 33, strike line 1 and all that follows through page 45, line 6, and insert the following:

### SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

"(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

"(3) The court may waive the requirements of paragraph (1), based on the sworn statement filed by the debtor under section 521(b)(3). The court may condition the waiver on the debtor's meeting the requirements of paragraph (1) within a specified period of time after the court's waiver.".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section, or if the court finds that exigent circumstances merit a waiver of the requirements of this paragraph (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1), or if the court finds that exigent circumstances merit a waiver of the requirements of this paragraph.

"(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.".

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements of subsection (a), an individual debtor, other than a debtor who is excused by section 109(h)(2) from meeting the requirements of section 109(h)(1), shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor;

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1); or

"(3) a sworn statement that sets forth exigent circumstances that preclude the filing of a certificate including—

"(A) the debtor is facing foreclosure, garnishment, attachment, eviction, levy of execution, utility shutoff, or similar claim enforcement procedure that would deprive the debtor of property or necessary services before the debtor could obtain counseling;

"(B) the debtor is unable to obtain counseling services due to lack of transportation, incapacity, or disability;

"(C) the debtor attempted to obtain counseling within the five-day period immediately before filing bankruptcy but was unsuccessful in obtaining counseling for circumstances beyond the debtor's control;

"(D) the debtor cannot afford costs associated with the counseling program; or

"(E) the debtor met the requirements of section 109(h)(1) and a certificate was unavailable, lost, or unreasonably denied.".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

### "§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses

"(a) The clerk shall maintain a publicly available list of—

"(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

"(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

"(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

"(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

"(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

"(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

"(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

"(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

"(A) have a board of directors the majority of which—

"(i) are not employed by such agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

"(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

"(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

"(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

"(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and

"(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

"(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

"(A) has been effective in assisting a substantial number of debtors to understand personal financial management;

"(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management; and

"(C) if a fee is charged for such course, is offered for a reasonable fee and offered to all persons without regard to ability to pay the fee.

"(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

"(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

"(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

"(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

"(A) any actual damages sustained by the debtor as a result of the violation; and

"(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.".

(2) Clerical amendment.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"111. Nonprofit budget and credit counseling agencies; financial management instructional courses.".

(f) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

"(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

"(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.".

---

**SA 93.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 112, strike line 17 and all that follows through page 120, line 24, and insert the following:

"(12A) 'debt relief agency' means any person, other than an attorney or an employee of an attorney, who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

"(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.".

(b) Conforming Amendment.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

### SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) Enforcement.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**"§ 526. Restrictions on debt relief agencies**

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(A) the services that such agency will provide to such person; or

"(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

"(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) Conforming Amendment.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

**SEC. 228. DISCLOSURES.**

(a) Disclosures.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

**"§ 527. Disclosures**

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1); and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM A BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES A BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.'"

---

**SA 94.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 24, strike line 9 and all that follows through page 26, line 7, and insert the following:

(h) Applicability of Means Test to Chapter 13.—Section 1325(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

"(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2)(A)(i), shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.".

---

**SA 95.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 265, between lines 18 and 19, insert the following:

**SEC. 707A. DISCHARGE UNDER CHAPTER 13.**

Section 1328(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (2), by striking "(1)(B), (1)(C),";

(2) in paragraph (3), by striking "or" after the semicolon;

(3) in paragraph (4), by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(5) for taxes with respect to which the debtor filed a fraudulent return.".

---

**SA 96.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 24, strike line 16 and all that follows through page 26, line 7, and insert the following:

"(2)(A) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(i)(I) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

"(II) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(ii) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(B) However, the debtor's disposable income may be adjusted if the debtor demonstrates special circumstances that justify adjustments of current monthly income for which there is no reasonable alternative, as described in section 707(b)(2)(B) of this title.

"(3)(A) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

"(B) However, this paragraph shall not apply if the debtor demonstrates special circumstances that justify adjustments of current monthly income for which there is no reasonable alternative, as described in section 707(b)(2)(B) of this title, and which bring the debtor's income below the applicable amount set forth in this paragraph.".

(i) Reduction of the Term of the Plan for Certain Debtors.—Section 1329 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding paragraphs (1)(B) and (4) of section 1325(b), if the actual income of the debtor, or in a joint case the debtor and the debtor's spouse, has dropped below the applicable amount stated in section 1325(b)(3), either before or after the petition, and is unlikely to increase above such amounts within 1 year, the debtor's plan may be modified to reduce the term of the plan to a time period equal to or greater than the applicable commitment period in section 1325(b)(4)(A)(i) and the debtor shall not be subject to section 1325(b)(3).".

---

**SA 97.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 182, between lines 3 and 4, insert the following:

**SEC. 318A. APPLICABILITY OF MEANS TEST AND PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.**

(a) Applicability of Means Test to Chapter 13.—Section 1325(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (2), by inserting "or, if lower and not likely to increase substantially in the 2 months after the order for relief, the debtor's monthly income on the date of the order for relief under this chapter" after "received by the debtor";

(2) in paragraph (3), by inserting "(or, if lower and not likely to increase substantially in the 2 months after the order for relief, the debtor's monthly income on the date of the order for relief under this chapter)" after "if the debtor has current monthly income"; and

(3) in paragraph (4)—

(A) in subparagraph (A)(ii), by striking "debtor and the debtor's spouse combined" and inserting "debtor, and in a joint case the debtor and the debtor's spouse, or, if lower and not likely to increase substantially in the 2 months after the order for relief, the monthly income on the date of the order for relief under this chapter";

(B) in subparagraph (A)(ii)(III), by striking "and" after the semicolon;

(C) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(C) provided that if the debtor's income decreases during the case to less than the amount set forth in subparagraph (A)(ii), and is not likely again to exceed that amount within 1 month, may be reduced to 3 years.".

(b) Chapter 13 Plans To Have a 5-year Duration in Certain Cases.—Section 1322(d) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (1), by striking "debtor and the debtor's spouse combined" and inserting "debtor, and in a joint case the debtor and the debtor's spouse, or, if lower and not likely to increase substantially in the 2 months after the order for relief, the monthly income on the date of the order for relief under this chapter"; and

(2) in paragraph (2), by striking "debtor and the debtor's spouse combined" and inserting "debtor, and in a joint case the debtor and the debtor's spouse, or, if lower and not likely to increase substantially in the 2 months after the order for relief, the monthly income on the date of the order for relief under this chapter".

---

**SA 98.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 112, line 17, insert ", other than an attorney or an employee of an attorney" after "any person".

On page 120, lines 12 and 13, strike "AN ATTORNEY OR" and insert "A".

On page 120, line 19, strike "AN ATTORNEY OR" and insert "A".

On page 120, lines 21 and 22, strike "ATTORNEY OR".

---

**SA 99.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 205, between lines 16 and 17, insert the following:

**SEC. 332. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.**

Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(i) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not be a debtor under this title.".

---

**SA 100.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 63, between lines 3 and 4, insert the following:

"(4) Nothing in this section shall preclude a court from ordering disgorgement of payments accepted, or other remedies under this title or other applicable law, when a creditor has accepted payments under such agreement or in anticipation of such agreement and the agreement is not enforceable.

---

**SA 101.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 222, strike line 23 and all that follows through page 223, line 21, and insert the following:

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $1,250,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $1,250,000 (excluding debt owed to 1 or more affiliates or insiders);".

---

**SA 102.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 14, strike line 1 and all that follows through page 16, line 13, and insert the following:

"(4) The court, on its own initiative or on the motion of a party in interest may order the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

"(A) a trustee files a motion for dismissal or conversion under this subsection; and

"(B) the court grants such motion.

"(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

"(i) the court does not grant the motion; and

"(ii) the court finds that—

"(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

"(II) the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

---

**SA 103.** Mr. LEAHY (for himself and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 215, strike lines 3 through 18.

---

**SA 104.** Mr. GRAHAM (for himself, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 473, after line 9, by inserting the following:

**"SEC. 1236. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.**

Section 507(a) of title 11, United States Code, as amended by sections 212 and 253, is amended by adding at the end the following:

"(11) Eleventh, allowed unsecured claims of customs brokers (as defined in section 641 of the Tariff Act of 1930 (19 U.S.C. 1641)) and sureties (as provided in section 623 of the Tariff Act of 1930 (19 U.S.C. 1623)) for duties, taxes, or other charges paid to the United States Customs Service on behalf of the debtor arising out of the importation of merchandise entered for consumption within one year before the date of the filing of the petition.".

---

**SA 105.** Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 45, strike lines 22 through 24, and insert the following:

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(10) such consumer debt is an unsecured claim arising from a debt to a creditor that does not have, as of the date of the order for relief, a policy of waiving additional interest for all debtors who participate in a debt management plan administered by a nonprofit budget and credit counseling agency described in section 111(a)."; and

(2) by adding at the end the following:

---

**SA 106.** Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, strike lines 22 through 24, and insert the following:

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(10) such claim is based on a debt that is secured by, or conditioned upon—

"(A) a personal check held for future deposit; or

"(B) electronic access to a bank account."; and

(2) by adding at the end the following:

---

**SA 107.** Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, strike line 14 and all that follows through line 17 and insert the following:

**SEC. 222. SENSE OF CONGRESS.**

It is the sense of Congress that the Financial Literacy and Education Commission, in consultation with State and local governments and non-profit and private sector entities, should work, as part of the Commission's national strategy to improve the financial literacy and education of all Americans (including for those in elementary school or secondary school or enrolled in other institutions of learning), to improve financial education and literacy campaigns, including those that are curricula based, that have the goal of reducing the number of individuals who file for bankruptcy.

---

**SA 108.** Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. LIMITING CLAIMS ARISING FROM VIOLATIONS OF STATE LAW.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(10) such claim is for a secured debt that would otherwise be enforceable against the debtor, and, in connection with such secured debt, a party other than the debtor violated any applicable State law that related to—

"(A) interest, fees, or other charges imposed in connection with such agreement, including—

"(i) fees paid to third parties, such as yield spread premiums and other payments made to mortgage brokers, whether by the debtor, the debtor, or a third party; and

"(ii) charges for premiums for insurance, debt cancellation, and debt suspension products, whether such product was voluntary or involuntary and whether the beneficiary of such product is the debtor, the creditor, or a third party;

"(B) consideration of the ability of the debtor to repay such secured debt;

"(C) fees imposed if the debtor repays all or part of such secured debt before it is due;

"(D) amortization of such secured debt, including without limitation negative amortization and balloon payments;

"(E) refinancing of debt;

"(F) counseling of the borrower prior to consummation of the transaction from which the secured debt arose; or

"(G) any other matter that the court determines to be relevant to the fair disposition of the claim, with due consideration of the intent of the applicable State law.".

---

**SA 109.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 473, between lines 9 and 10, insert the following:

**SEC. 1236. MANAGEMENT OF BUSINESS DEBTORS.**

(a) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended—

(1) in section 321(a), by striking "7, 12," each place it appears and inserting "12";

(2) in section 326—

(A) in subsection (a), by striking "disbursed or turned over" and inserting "disbursed, turned over, or, solely for the purposes of section 331, held for disbursement or turnover"; and

(B) in subsection (c), by striking "(c)" and all that follows through "in the case,", and inserting the following:

"(c) If more than 1 person serves as trustee in the case—

"(1) the compensation of each such person shall be determined without regard to subsection (a) or (b); and

"(2)";

(3) in section 327(d), by striking "as attorney or accountant" and inserting "in any professional capacity";

(4) in section 328—

(A) in subsection (a)—

(i) by striking "or on a contingent fee basis" and inserting ", on a fixed or percentage fee basis, or on a contingent fee basis and with indemnification and exculpation"; and

(ii) by striking "different from the compensation" and inserting ", indemnification, or exculpation different from the compensation, indemnification, or exculpation"; and

(B) in subsection (b), by striking "as attorney or accountant" and inserting "in any professional capacity";

(5) in section 347(a)—

(A) by striking "726, 1226, or 1326 of this title" and inserting "726, 1101, 1226, or 1326";

(B) by striking "7, 12, or 13 of this title" and inserting "7, 11, 12, or 13"; and

(C) by striking "into the court and disposed of under chapter 129 of title 28" and inserting "to the United States Trustee System Fund, established under section 589a of title 28"; and

(6) in section 362(h), by striking "individual" and inserting "entity".

(h) CHAPTER 11.—Chapter 11 of title 11, United States Code, is amended—

(1) in section 1107, by adding at the end the following:

"(c) The court, on request of a party in interest, and after notice and a hearing, may appoint an individual as the responsible person for the debtor in possession—

"(1) who shall manage and operate the affairs of the debtor (as defined by rule 9001(5) of the Federal Rules of Bankruptcy Procedure);

"(2) who shall not be required to be an officer or employee of the debtor;

"(3) who shall not be considered an insider of the debtor; and

"(4) whose designation shall not vitiate the liability of any other person chargeable under the law with the duties imposed upon the debtor under this title or by any other provision of law."; and

(2) in section 1114(d), by striking "shall appoint" and inserting "shall direct the United States trustee to appoint".

---

**SA 110.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 18, strike line 1 and all that follows through "(2)" on line 3, and insert the following:

(7)(A) Notwithstanding paragraph (2), a debtor described in this paragraph need only provide the calculations or other information showing that the debtor meets the standards of this paragraph. Paragraph (2) shall not apply, and the court may not dismiss a case based on any form of means testing.

---

**SA 111.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if—

"(i) the debtor or the debtor's spouse is a member of the armed forces—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32);

"(ii) the debtor or the debtor's spouse is a veteran (as defined in section 101(2) of title 38), and the indebtedness occurred primarily during a period of not less than 180 days, during which he or she was—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32);

"(iii) the debtor or the debtor's spouse is a reserve of the armed forces, and the indebtedness occurred primarily during a period of not less than 180 days, during which he or she was—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32); or

"(iv) the debtor's spouse died while serving as a member of the armed forces—

"(I) on active duty (as defined in section 101(d)(1) of title 10); or

"(II) performing a homeland defense activity (as defined in section 901(1) of title 32).

---

**SA 112.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 13, between lines 13 and 14, insert the following:

"(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

"(i) on active duty (as defined in section 101(d)(1) of title 10); or

"(ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

---

**SA 113.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 452, strike line 15 and all that follows through page 458, line 16, and insert the following:

**SEC. 1223. BANKRUPTCY JUDGESHIPS.**

(a) SHORT TITLE.—This section may be cited as the "Bankruptcy Judgeship Act of 2005".

(b) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—The following temporary judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) Four additional bankruptcy judgeships for the middle district of Florida.

(4) One additional bankruptcy judgeship for the northern district of Florida.

(5) Two additional bankruptcy judgeships for the southern district of Florida.

(6) Two additional bankruptcy judgeships for the northern district of Georgia.

(7) Two additional bankruptcy judgeships for the southern district of Georgia.

(8) One additional bankruptcy judgeship for the northern district of Indiana.

(9) One additional bankruptcy judgeship for the eastern district of Kentucky.

(10) Four additional bankruptcy judgeships for the district of Maryland.

(11) Four additional bankruptcy judgeships for the eastern district of Michigan.

(12) One additional bankruptcy judgeship for the northern district of Mississippi.

(13) One additional bankruptcy judgeship for the southern district of Mississippi.

(14) Two additional bankruptcy judgeships for the district of Nevada.

(15) One additional bankruptcy judgeship for the district of New Jersey.

(16) One additional bankruptcy judgeship for the northern district of New York.

(17) Two additional bankruptcy judgeships for the southern district of New York.

(18) One additional bankruptcy judgeship for the eastern district of North Carolina.

(19) One additional bankruptcy judgeship for the western district of North Carolina.

(20) One additional bankruptcy judgeship for the southern district of Ohio.

(21) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(22) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(23) One additional bankruptcy judgeship for the western district of Pennsylvania..

(24) One additional bankruptcy judgeship for the district of Puerto Rico.

(25) One additional bankruptcy judgeship for the district of South Carolina.

(26) Two additional bankruptcy judgeships for the western district of Tennessee.

(27) One additional bankruptcy judgeship for the eastern district of Texas.

(28) One additional bankruptcy judgeship for the district of Utah.

(29) One additional bankruptcy judgeship for the eastern district of Virginia.

(c) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIP.—

(1) IN GENERAL.—The temporary bankruptcy judgeship authorized for the northern district of Alabama under section 3(a)(1) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) is extended until the first vacancy occurring in the office of a bankruptcy judge in such district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring not less than 5 years after the date of enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeship referred to in paragraph (1).

(d) TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.—The bankruptcy judgeship shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

(e) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware under section 3(a)(3) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(2) SOUTHERN DISTRICT OF ILLINOIS.—The temporary bankruptcy judgeship authorized for the southern district of Illinois under section 3(a)(4) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(3) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico under section 3(a)(7) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(f) TECHNICAL AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking "3" and inserting "4";

(2) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(3) in the item relating to the middle district of Florida, by striking "8" and inserting "12";

(4) in the item relating to the northern district of Florida, by striking "1" and inserting "2";

(5) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(6) in the item relating to the northern district of Georgia, by striking "8" and inserting "10";

(7) in the item relating to the middle district of Georgia, by striking "2" and inserting "3";

(8) in the item relating to the southern district of Georgia, by striking "2" and inserting "4";

(9) in the item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . . . . . . . . . 1";

(10) in the item relating to the southern district of Illinois, by striking "1" and inserting "2";

(11) in the item relating to the northern district of Indiana, by striking "3" and inserting "4";

(12) in the item relating to the eastern district of Kentucky, by striking "2" and inserting "3";

(13) in the item relating to the district of Maryland, by striking "4" and inserting "8";

(14) in the item relating to the eastern district of Michigan, by striking "4" and inserting "8";

(15) in the item relating to the northern district of Mississippi, by striking "1" and inserting "2";

(16) in the item relating to the southern district of Mississippi, by striking "2" and inserting "3";

(17) in the item relating to the district of Nevada, by striking "3" and inserting 5";

(18) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(19) in the item relating to the northern district of New York, by striking "2" and inserting "3";

(20) in the item relating to the southern district of New York, by striking "9" and inserting "11";

(21) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(22) in the item relating to the western district of North Carolina, by striking "2" and inserting "3";

(23) in the item relating to the southern district of Ohio, by striking "7" and inserting "8";

(24) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(25) in the item relating to the middle district of Pennsylvania, by striking "2" and inserting "3";

(26) in the item relating to the western district of Pennsylvania, by striking "4" and inserting "5";

(27) in the item relating to the district of Puerto Rico, by striking "2 and inserting "4";

(28) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(29) in the item relating to the western district of Tennessee, by striking "4" and inserting "6";

(30) in the item relating to the eastern district of Texas, by striking "2" and inserting "3";

(31) in the item relating to the district of Utah, by striking "3" and inserting "4"; and

(32) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".

---

**SA 114.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 454, strike line 15 and all that follows through page 457, line 22, and insert the following:

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(A) in the item relating to the eastern district of California, by striking "6" and inserting "7";

(B) in the item relating to the central district of California, by striking "21" and inserting "24";

(C) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(D) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(E) in the item relating to the southern district of Georgia, by striking "2" and inserting "3";

(F) in the item relating to the district of Maryland, by striking "4" and inserting "7";

(G) in the item relating to the eastern district of Michigan, by striking "4" and inserting "5";

(H) in the item relating to the southern district of Mississippi, by striking "2" and inserting "3";

(I) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(J) in the item relating .to the eastern district of New York, by striking "6" and inserting "7";

(K) in the item relating to the northern district of New York, by striking "2" and inserting "3";

(L) in the item relating to the southern district of New York, by striking "9" and inserting "10";

(M) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(N) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(O) in the item relating to the middle district of Pennsylvania, by striking "2" and inserting "3";

(P) in the item relating to the district of Puerto Rico, by striking "2 and inserting "4";

(Q) in the item relating to the western district of Tennessee, by striking "4" and inserting "5";

(R) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6";

(S) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(T) in the item relating to the district of Nevada, by striking "3" and inserting "4";

(U) in the item relating to the northern district of Alabama, by striking "5" and inserting "6"; and

(V) in the item relating to the eastern district of Tennessee, by striking "3" and inserting "4".

(c) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—The temporary bankruptcy judgeships authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to permanent bankruptcy judgeships.

(d) AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(3) Four additional bankruptcy judgeships for the middle district of Florida.

(4) One additional bankruptcy judgeship for the northern district of Florida.

(6) Two additional bankruptcy judgeships for the northern district of Georgia.

(7) One additional bankruptcy judgeship for the southern district of Georgia.

(8) One additional bankruptcy judgeship for the northern district of Indiana.

(9) One additional bankruptcy judgeship for the eastern district of Kentucky.

(10) One additional bankruptcy judgeship for the district of Maryland.

(11) Three additional bankruptcy judgeships for the eastern district of Michigan.

(12) One additional bankruptcy judgeship for the northern district of Mississippi.

(14) Two additional bankruptcy judgeships for the district of Nevada.

(17) One additional bankruptcy judgeships for the southern district of New York.

(19) One additional bankruptcy judgeship for the western district of North Carolina.

(20) One additional bankruptcy judgeship for the southern district of Ohio.

(23) One additional bankruptcy judgeship for the western district of Pennsylvania.

(26) One additional bankruptcy judgeships for the western district of Tennessee.

(27) One additional bankruptcy judgeship for the eastern district of Texas.

(28) One additional bankruptcy judgeship for the district of Utah.

(e) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIP.—

(1) IN GENERAL.—The temporary bankruptcy judgeship authorized for the northern district of Alabama under section 3(a)(1) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) is extended until the first vacancy occurring in the office of a bankruptcy judge in such district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring not less than 5 years after the date of enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeship referred to in paragraph (1).

(f) TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.—The bankruptcy judgeship shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

(g) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware under section 3(a)(3) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(2) SOUTHERN DISTRICT OF ILLINOIS.—The temporary bankruptcy judgeship authorized for the southern district of Illinois under section 3(a)(4) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(3) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico under section 3(a)(7) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(h) TECHNICAL AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking “3” and inserting “4”;

(2) in the item relating to the district of Delaware, by striking “1” and inserting “6”;

(3) in the item relating to the middle district of Florida, by striking “8” and inserting “12”;

(4) in the item relating to the northern district of Florida, by striking “1” and inserting “2”;

(5) in the item relating to the southern district of Florida, by striking “5” and inserting “7”;

(6) in the item relating to the northern district of Georgia, by striking “8” and inserting “10”;

(7) in the item relating to the middle district of Georgia, by striking “2” and inserting “3”;

(8) in the item relating to the southern district of Georgia, by striking “2” and inserting “4”;

(9) in the item relating to the middle and southern districts of Georgia, by striking “Middle and Southern . . . . . . . . . . . . . . . 1”;

(10) in the item relating to the southern district of Illinois, by striking “1” and inserting “2”;

(11) in the item relating to the northern district of Indiana, by striking “3” and inserting “4”;

(12) in the item relating to the eastern district of Kentucky, by striking “2” and inserting “3”;

(13) in the item relating to the district of Maryland, by striking “4” and inserting “8”;

(14) in the item relating to the eastern district of Michigan, by striking “4” and inserting “8”;

(15) in the item relating to the northern district of Mississippi, by striking “1” and inserting “2”;

(16) in the item relating to the southern district of Mississippi, by striking “2” and inserting “3”;

(17) in the item relating to the district of Nevada, by striking “3” and inserting 5”;

(18) in the item relating to the district of New Jersey, by striking “8” and inserting “9”;

(19) in the item relating to the northern district of New York, by striking “2” and inserting “3”;

(20) in the item relating to the southern district of New York, by striking “9” and inserting “11”;

(21) in the item relating to the eastern district of North Carolina, by striking “2” and inserting “3”;

(22) in the item relating to the western district of North Carolina, by striking “2” and inserting “3”;

(23) in the item relating to the southern district of Ohio, by striking “7” and inserting “8”;

(24) in the item relating to the eastern district of Pennsylvania, by striking “5” and inserting “6”;

(25) in the item relating to the middle district of Pennsylvania, by striking “2” and inserting “3”;

(26) in the item relating to the western district of Pennsylvania, by striking “4” and inserting “5”;

(27) in the item relating to the district of Puerto Rico, by striking “2 and inserting “4”;

(28) in the item relating to the district of South Carolina, by striking “2” and inserting “3”;

(29) in the item relating to the western district of Tennessee, by striking “4” and inserting “6”;

(30) in the item relating to the eastern district of Texas, by striking “2” and inserting “3”;

(31) in the item relating to the district of Utah, by striking “3” and inserting “4”; and

(32) in the item relating to the eastern district of Virginia, by striking “5” and inserting “6”.

---

**SA 115.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 452, strike line 15 and all that follows through page 458, line 16, and insert the following:

**SEC. 1223. BANKRUPTCY JUDGESHIPS.**

(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 2005”.

(b) AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) Two additional bankruptcy judgeships for the middle district of Florida.

(4) Two additional bankruptcy judgeships for the southern district of Florida.

(5) Two additional bankruptcy judgeships for the northern district of Georgia.

(6) One additional bankruptcy judgeship for the southern district of Georgia.

(7) Three additional bankruptcy judgeships for the district of Maryland.

(8) Two additional bankruptcy judgeships for the eastern district of Michigan.

(9) Two additional bankruptcy judgeships for the district of Nevada.

(10) One additional bankruptcy judgeship for the district of New Jersey.

(11) Two additional bankruptcy judgeships for the southern district of New York.

(12) One additional bankruptcy judgeship for the eastern district of North Carolina.

(13) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(14) One additional bankruptcy judgeship for the district of South Carolina.

(15) Two additional bankruptcy judgeships for the western district of Tennessee.

(16) One additional bankruptcy judgeship for the district of Utah.

(17) One additional bankruptcy judgeship for the eastern district of Virginia.

(c) TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the district of Puerto Rico.

(B) One additional bankruptcy judgeship for the northern district of New York.

(C) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(D) One additional bankruptcy judgeship for the district of Maryland.

(E) One additional bankruptcy judgeship for the northern district of Mississippi.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the southern district of Georgia.

(2) VACANCIES.—

(A) IN GENERAL.—The first vacancy in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge,

shall not be filled.

(B) TERM EXPIRATION.—In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in subparagraph (A), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

(3) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(A) IN GENERAL.—The temporary bankruptcy judgeships authorized for the northern district of Alabama and the eastern district of Tennessee under paragraphs (1) and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years or more after the date of enactment of this Act.

(B) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeships referred to in this paragraph.

(d) TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.—The bankruptcy judgeship shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

(e) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware under section 3(a)(3) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(2) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico under section 3(a)(7) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(f) TECHNICAL AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking “3” and inserting “4”;

(2) in the item relating to the district of Delaware, by striking “1” and inserting “6”;

(3) in the item relating to the middle district of Florida, by striking “8” and inserting “10”;

(4) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(5) in the item relating to the northern district of Georgia, by striking "8" and inserting "10";

(6) in the item relating to the middle district of Georgia, by striking "2" and inserting "3";

(7) in the item relating to the southern district of Georgia, by striking "2" and inserting "3";

(8) in the item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . . . . . . . . . . 1";

(9) in the item relating to the district of Maryland, by striking "4" and inserting "7";

(10) in the item relating to the eastern district of Michigan, by striking "4" and inserting "6";

(11) in the item relating to the district of Nevada, by striking "3" and inserting 5";

(12) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(13) in the item relating to the southern district of New York, by striking "9" and inserting "11";

(14) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(15) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(16) in the item relating to the district of Puerto Rico, by striking "2 and inserting "3";

(17) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(18) in the item relating to the western district of Tennessee, by striking "4" and inserting "6";

(19) in the item relating to the district of Utah, by striking "3" and inserting "4"; and

(20) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".

---

**SA 116.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 452, strike line 15 and all that follows through page 458, line 16, and insert the following:

**SEC. 1223. BANKRUPTCY JUDGESHIPS.**

(a) SHORT TITLE.—This section may be cited as the "Bankruptcy Judgeship Act of 2005".

(b) AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) Four additional bankruptcy judgeships for the middle district of Florida.

(4) One additional bankruptcy judgeship for the northern district of Florida.

(5) Two additional bankruptcy judgeships for the southern district of Florida.

(6) Two additional bankruptcy judgeships for the northern district of Georgia.

(7) Two additional bankruptcy judgeships for the southern district of Georgia.

(8) One additional bankruptcy judgeship for the northern district of Indiana.

(9) One additional bankruptcy judgeship for the eastern district of Kentucky.

(10) Four additional bankruptcy judgeships for the district of Maryland.

(11) Four additional bankruptcy judgeships for the eastern district of Michigan.

(12) One additional bankruptcy judgeship for the northern district of Mississippi.

(13) One additional bankruptcy judgeship for the southern district of Mississippi.

(14) Two additional bankruptcy judgeships for the district of Nevada.

(15) One additional bankruptcy judgeship for the district of New Jersey.

(16) One additional bankruptcy judgeship for the northern district of New York.

(17) Two additional bankruptcy judgeships for the southern district of New York.

(18) One additional bankruptcy judgeship for the eastern district of North Carolina.

(19) One additional bankruptcy judgeship for the western district of North Carolina.

(20) One additional bankruptcy judgeship for the southern district of Ohio.

(21) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(22) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(23) One additional bankruptcy judgeship for the western district of Pennsylvania.

(24) One additional bankruptcy judgeship for the district of Puerto Rico.

(25) One additional bankruptcy judgeship for the district of South Carolina.

(26) Two additional bankruptcy judgeships for the western district of Tennessee.

(27) One additional bankruptcy judgeship for the eastern district of Texas.

(28) One additional bankruptcy judgeship for the district of Utah.

(29) One additional bankruptcy judgeship for the eastern district of Virginia.

(c) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIP.—

(1) IN GENERAL.—The temporary bankruptcy judgeship authorized for the northern district of Alabama under section 3(a)(1) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) is extended until the first vacancy occurring in the office of a bankruptcy judge in such district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring not less than 5 years after the date of enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeship referred to in paragraph (1).

(d) TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.—The bankruptcy judgeship shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

(e) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware under section 3(a)(3) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(2) SOUTHERN DISTRICT OF ILLINOIS.—The temporary bankruptcy judgeship authorized for the southern district of Illinois under section 3(a)(4) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(3) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico under section 3(a)(7) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(f) TECHNICAL AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking "3" and inserting "4";

(2) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(3) in the item relating to the middle district of Florida, by striking "8" and inserting "12";

(4) in the item relating to the northern district of Florida, by striking "1" and inserting "2";

(5) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(6) in the item relating to the northern district of Georgia, by striking "8" and inserting "10";

(7) in the item relating to the middle district of Georgia, by striking "2" and inserting "3";

(8) in the item relating to the southern district of Georgia, by striking "2" and inserting "4";

(9) in the item relating to the middle and southern districts of Georgia, by striking "Middle and Southern . . . . . . . . . . . . . . . 1";

(10) in the item relating to the southern district of Illinois, by striking "1" and inserting "2";

(11) in the item relating to the northern district of Indiana, by striking "3" and inserting "4";

(12) in the item relating to the eastern district of Kentucky, by striking "2" and inserting "3";

(13) in the item relating to the district of Maryland, by striking "4" and inserting "8";

(14) in the item relating to the eastern district of Michigan, by striking "4" and inserting "8";

(15) in the item relating to the northern district of Mississippi, by striking "1" and inserting "2";

(16) in the item relating to the southern district of Mississippi, by striking "2" and inserting "3";

(17) in the item relating to the district of Nevada, by striking "3" and inserting 5";

(18) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(19) in the item relating to the northern district of New York, by striking "2" and inserting "3";

(20) in the item relating to the southern district of New York, by striking "9" and inserting "11";

(21) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(22) in the item relating to the western district of North Carolina, by striking "2" and inserting "3";

(23) in the item relating to the southern district of Ohio, by striking "7" and inserting "8";

(24) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(25) in the item relating to the middle district of Pennsylvania, by striking "2" and inserting "3";

(26) in the item relating to the western district of Pennsylvania, by striking "4" and inserting "5";

(27) in the item relating to the district of Puerto Rico, by striking "2 and inserting "4";

(28) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(29) in the item relating to the western district of Tennessee, by striking "4" and inserting "6";

(30) in the item relating to the eastern district of Texas, by striking "2" and inserting "3";

(31) in the item relating to the district of Utah, by striking "3" and inserting "4"; and

(32) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6".

---

**SA 117.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 454, strike line 15 and all that follows through page 457, line 22, and insert the following:

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 152(a)(2) of title 28, United States Code, is amended—

(A) in the item relating to the eastern district of California, by striking "6" and inserting "7";

(B) in the item relating to the central district of California, by striking "21" and inserting "24";

(C) in the item relating to the district of Delaware, by striking "1" and inserting "6";

(D) in the item relating to the southern district of Florida, by striking "5" and inserting "7";

(E) in the item relating to the southern district of Georgia, by striking "2" and inserting "3";

(F) in the item relating to the district of Maryland, by striking "4" and inserting "7";

(G) in the item relating to the eastern district of Michigan, by striking "4" and inserting "5";

(H) in the item relating to the southern district of Mississippi, by striking "2" and inserting "3";

(I) in the item relating to the district of New Jersey, by striking "8" and inserting "9";

(J) in the item relating to the eastern district of New York, by striking "6" and inserting "7";

(K) in the item relating to the northern district of New York, by striking "2" and inserting "3";

(L) in the item relating to the southern district of New York, by striking "9" and inserting "10";

(M) in the item relating to the eastern district of North Carolina, by striking "2" and inserting "3";

(N) in the item relating to the eastern district of Pennsylvania, by striking "5" and inserting "6";

(O) in the item relating to the middle district of Pennsylvania, by striking "2" and inserting "3";

(P) in the item relating to the district of Puerto Rico, by striking "2 and inserting "4";

(Q) in the item relating to the western district of Tennessee, by striking "4" and inserting "5";

(R) in the item relating to the eastern district of Virginia, by striking "5" and inserting "6";

(S) in the item relating to the district of South Carolina, by striking "2" and inserting "3";

(T) in the item relating to the district of Nevada, by striking "3" and inserting "4";

(U) in the item relating to the northern district of Alabama, by striking "5" and inserting "6"; and

(V) in the item relating to the eastern district of Tennessee, by striking "3" and inserting "4".

(c) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—The temporary bankruptcy judgeships authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to permanent bankruptcy judgeships.

---

**SA 118.** Mr. KYL (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, line 13, strike "45" and insert "60".

---

**SA 119.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 45, strike lines 22 through 24, and insert the following:

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (8), by striking "or" at the end;

(B) in paragraph (9), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(10) such claim is for a credit transaction involving a consumer (as defined in section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(g))), and the interest included as part of such claim exceeds the maximum amount allowed by the laws of the State, Territory, or District in which the debtor resides."; and

(2) by adding at the end the following:

---

**SA 120.** Mr. LEVIN (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 495, strike line 8, and insert the following:

or more consecutive months.

"(i) CALCULATION OF FINANCE CHARGE DURING GRACE PERIOD.—A creditor may not impose a finance charge with respect to any amount paid on time."

---

**SA 121.** Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 500, between lines 2 and 3, insert the following:

(4) by adding at the end the following:

"(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

"(A) such transfer was made to a self-settled trust or similar device;

"(B) such transfer was by the debtor;

"(C) the debtor is a beneficiary of such trust or similar device; and

"(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

"(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

"(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

"(B) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 781 and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).".

---

**SA 122.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 65, after line 21, insert the following:

**SEC. 203A. AMENDMENT OF ATTORNEY PROVISIONS.**

(a) BANKRUPTCY SCHEDULES.—Section 707(b) of title 11, United States Code, as amended by this Act, is further amended by striking paragraph (4).

(b) REAFFIRMATION.—Section 524(k) of title 11, United States Code, as amended by this Act, is further amended by striking paragraph (5).

---

**SA 123.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 15, strike line 18 and all that follows through page 17, line 6, and insert the following:

"(5) Subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

"(A) the court does not grant the motion; and

"(B) the court finds that—

"(i) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

"(ii) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

---

**SA 124.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, lines 4 and 5, strike "This Act may be cited as the Bankruptcy Abuse and Consumer Protection Act of 2005." and insert "This Act may be cited as the Credit Card Company Profitability Act of 2005.".

---

**SA 125.** Mr. LAUTENBERG (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. LIMITATIONS ON PENALTIES DUE TO LATE PAYMENTS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) LIMITATIONS ON PENALTIES DUE TO LATE PAYMENTS.—

"(1) LIMITATIONS ON INTEREST RATE INCREASES.—

"(A) ADVANCE NOTICE REQUIRED.—In the case of a credit card account under an open end credit plan, the creditor shall provide written or electronic notice to the obligor of its intention to increase the annual rate of interest applicable to the account due to a delinquency, and the effective date of such increase, not later than 15 days before that effective date.

"(B) OPPORTUNITY TO REMEDY DELINQUENCY.—Except as provided in subparagraph (C), no increase in an annual rate of interest applicable to a credit card account under an open end credit plan due to a delinquency may be imposed if the obligor makes the payments required to bring the account up to date or to bring the outstanding balance below the amount of credit authorized to be extended with respect to the account, as applicable, during the 15-day period prescribed by subparagraph (A).

"(C) EXCEPTION FOR REPEATED DELINQUENCY.—Subparagraph (B) shall not apply to an increase in an annual rate of interest in any case in which the obligor has been delinquent with respect to the subject account on 3 separate occasions during the 12-month period immediately preceding the date of the increase.

"(3) RELATION TO STATE LAWS.—No provision of this subsection shall be construed to annul, alter, or affect or exempt any person subject to the provisions of this subsection from complying with, the laws of any State with respect to delinquency fees and penalties, except to the extent that those laws are inconsistent with any provision of this subsection and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.

"(4) DEFINITIONS.—For purposes of this subsection an obligor is 'delinquent' or a 'delinquency' exists, if the obliger has, with respect to the subject credit card account—

"(A) failed to make payment on or before the due date for such payment; or

"(B) exceeded the amount of credit authorized to be extended with respect to the account of the obligor.".

---

**SA 126.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . LIMITS ON FINANCE AND INTEREST CHARGES FOR ON-TIME PAYMENTS.**

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON PENALTIES FOR ON-TIME PAYMENTS.—

"(1) PROHIBITION ON FINANCE CHARGES FOR ON-TIME PAYMENTS.—In the case of any credit card account under an open end credit plan, where no other balance is owing on the account, no finance or interest charge may be imposed with regard to any amount of a new extension of credit that was paid on or before the date on which it was due.

"(2) PROHIBITION ON CANCELLATION OR ADDITIONAL FEES FOR ON-TIME PAYMENTS OR PAYMENT IN FULL.—In the case of any credit card account under an open end consumer credit plan, no fee or other penalty may be imposed on the consumer in connection with the payment in full of an existing account balance, or payment of more than the minimum required payment of an existing account balance.".

---

**SA 127.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 16 and 17, insert the following:

**SEC. 332. ASSET PROTECTION TRUSTS.**

Section 548 of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(e) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the trust within such 10-year period exceeds $1,000,000, to the extent that debtor has a beneficial interest in the trust and the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2). For purposes of this subsection, a fund or account of the kind specified in section 522(d)(12) is not an asset protection trust.".

For purposes of this amendment, an asset protction trust is defined as:

A trust settled by the debtor for the benefit of the debtor directly or indirectly, where the beneficial interests of the trust are otherwise protected by state law from begin alienated, either voluntarily or involuntarily, before they are distributed to the beneficiaries.

---

**SA 128.** Mr. SANTORUM proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

### —ASSISTANCE FOR WORKERS AND SMALL BUSINESSES

**SEC. 00. SHORT TITLE.**

This title may be cited as the "Worker and Small Business Assistance Act".

### Subtitle A—Minimum Wage Adjustment

**SEC. ___01. MINIMUM WAGE.**

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.70 an hour, beginning on the date that is 6 months after the date of enactment of the Worker and Small Business Assistance Act; and

"(B) $6.25 an hour, beginning on the date that is 1 year after the date on which the wage takes effect under subparagraph (A);".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 6 months after the date of enactment of this Act.

### Subtitle B—Workplace Flexibility

**SEC. 11. SHORT TITLE.**

This subtitle may be cited as the "Workplace Flexibility Act".

**SEC. ___12. BIWEEKLY WORK PROGRAMS.**

(a) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

**"SEC. 13A. BIWEEKLY WORK PROGRAMS.**

"(a) VOLUNTARY PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

"(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

"(b) BIWEEKLY WORK PROGRAMS.—

"(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

"(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

"(B) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved.

"(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

"(A) AGREEMENT.—The program may be carried out only in accordance with—

"(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or "(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

"(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

"(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

"(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

"(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

"(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

"(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

"(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

"(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

"(c) PROHIBITION OF COERCION.—

"(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule.

"(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"(d) DEFINITIONS.—In this section:

"(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

"(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

"(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

"(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

"(5) EMPLOYEE.—The term 'employee' means an individual—

"(A) who is an employee (as defined in section 3);

"(B) who is not an employee of a public agency; and

"(C) to whom section 7(a) applies.

"(6) EMPLOYER.—The term 'employer' does not include a public agency.

"(7) OVERTIME HOURS.—The term 'overtime hours' when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

"(8) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).".

(b) REMEDIES.—

(1) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting "(A)" after "(3)";

(B) by adding "or" after the semicolon; and

(C) by adding at the end the following:

"(B) to violate any of the provisions of section 13A;".

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after "7 of this Act" the following: ", or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A"; and

(II) by striking "wages or unpaid overtime compensation and" and inserting "wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and";

(ii) in the second sentence, by striking "wages or overtime compensation and" and inserting "wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and"; and

(iii) in the third sentence—

(I) by inserting after "first sentence of such subsection" the following: ", or the second sentence of such subsection in the event of a violation of section 13A,"; and

(II) by striking "wages or unpaid overtime compensation under sections 6 and 7 or" and inserting "wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or"; and

(B) in subsection (e)—

(i) in the second sentence, by striking "section 6 or 7" and inserting "section 6, 7, or 13A"; and

(ii) in the fourth sentence, in paragraph (3), by striking "15(a)(4) or" and inserting "15(a)(4), a violation of section 15(a)(3)(B), or".

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

### SEC. ___13. CONGRESSIONAL COVERAGE.

Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and section 12(c)" and inserting "section 12(c), and section 13A"; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking "The remedy" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the remedy"; and

(B) by adding at the end the following:

"(2) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation."; and

(3) in subsection (c), by striking paragraph (4).

### SEC. 14. TERMINATION.

The authority provided by this subtitle and the amendments made by this subtitle terminates 5 years after the date of enactment of this Act.

## Subtitle C—Small Business Fair Labor Standards Act Exemption

### SEC. 21. ENHANCED SMALL BUSINESS EXEMPTION.

(a) IN GENERAL.—Section 3(s)(1)(A)(ii) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(1)(A)(ii)) is amended by striking "$500,000" and inserting "$1,000,000".

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) shall not apply in any State that does not have in effect, or that does not subsequently enact after the date of enactment of the Worker and Small Business Assistance Act, legislation applying minimum wage and hours of work protections to workers covered by the Fair Labor Standards Act of 1938 as of the day before the date of enactment of the Worker and Small Business Assistance Act.

### SEC. ___22. SCOPE OF EMPLOYMENT.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)), in the matter preceding paragraph (1), and section 7(a)(1) of such Act (29 U.S.C. 207(a)(1)), are amended by striking "who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce," and inserting "who in any workweek is engaged in industrial homework subject to section 11(d) and engaged in commerce or in the production of goods for commerce, or who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce,".

## Subtitle D—Small Business Paperwork Reduction

### SEC. ___31. SMALL BUSINESS PAPERWORK REDUCTION.

(a) IN GENERAL.—Section 3506 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act"), is amended by adding at the end the following:

"(j)(1) In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of such agency shall provide that no civil fine shall be imposed on the small business concern unless, based on the particular facts and circumstances regarding the violation—

"(A) the head of the agency determines that the violation has the potential to cause serious harm to the public interest;

"(B) the head of the agency determines that failure to impose a civil fine would impede or interfere with the detection of criminal activity;

"(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

"(D) the violation is not corrected on or before the date that is 6 months after the date of receipt by the small business concern of notification of the violation in writing from the agency; or

"(E) except as provided in paragraph (2), the head of the agency determines that the violation presents a danger to the public health or safety.

"(2)(A) In any case in which the head of an agency determines under paragraph (1)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (1)(E), determine that a civil fine should not be imposed on the small business concern if the violation is corrected within 24 hours of receipt of notice in writing by the small business concern of the violation.

"(B) In determining whether to provide a small business concern with 24 hours to correct a violation under subparagraph (A), the head of the agency shall take into account all of the facts and circumstances regarding the violation, including—

"(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

"(ii) whether the small business concern has made a good faith effort to comply with applicable laws, and to remedy the violation within the shortest practicable period of time; and

"(iii) whether the small business concern has obtained a significant economic benefit from the violation.

"(C) In any case in which the head of the agency imposes a civil fine on a small business concern for a violation with respect to which this paragraph applies and does not provide the small business concern with 24 hours to correct the violation, the head of the agency shall notify Congress regarding such determination not later than 60 days after the date that the civil fine is imposed by the agency.

"(3) With respect to any agency, this subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by such agency if such small business concern previously violated any requirement regarding collection of information by such agency.

"(4) In determining if a violation is a first-time violation for purposes of this subsection, the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.

"(5) Notwithstanding any other provision of law, no State may impose a civil penalty on a small business concern, in the case of a first-time violation by the small-business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.

"(6) For purposes of this subsection, the term 'small business concern' means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to such section.".

(b) Effective Date.—The amendment made by this section shall apply to any violation occurring on or after October 1, 2004.

### Subtitle E—Small Business Regulatory Relief

#### SEC. ___41. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) In General.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

"(a) Compliance Guide.—

"(1) In general.—For each rule for which an agency head does not make a certification under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule, and shall entitle such publications 'small entity compliance guides'.

"(2) Publication of guides.—The publication of each guide under this subsection shall include—

"(A) the posting of the guide in an easily identified location on the website of the agency; and

"(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

"(3) Publication date.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

"(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

"(B) not later than the date on which the requirements of that rule become effective.

"(4) Compliance actions.—

"(A) In general.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

"(B) Explanation.—The explanation under subparagraph (A)—

"(i) shall include a description of actions needed to meet requirements to enable a small entity to know when such requirements are met; and

"(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that assist a small entity in meeting such requirements.

"(C) Procedures.—Procedures described under subparagraph (B)(ii)—

"(i) shall be suggestions to assist small entities; and

"(ii) shall not be additional requirements relating to the rule.

"(5) Agency preparation of guides.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.".

(b) Technical and Conforming Amendment.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting "and entitled" after "designated".

### Subtitle F—Minimum Wage Tip Credit

#### SEC. 51. TIPPED WAGE FAIRNESS.

Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) in paragraph (2), by inserting before the period the following: ": *Provided*, That the tips shall not be included as part of the wage paid to an employee to the extent they are excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee"; and

(2) adding at the end the following: "Notwithstanding any other provision of this Act, any State or political subdivision of a State which, on and after the date of enactment of the Worker and Small Business Assistance Act, prohibits any portion of a tipped employee's tips from being considered as wages in determining if such tipped employee has been paid the applicable minimum wage rate, may not establish or enforce any such law, ordinance, regulation, or order with respect to tipped employees unless such law, ordinance, regulation, or order permits a tip credit in an amount not less than an amount equal to—

"(A) the cash wage paid such employee which is required under such law, ordinance, regulation, or order on the date of enactment of such Act; and

"(B) an additional amount on account of tips received by such employee which amount is equal to the difference between such cash wage and the minimum wage rate in effect under such law, ordinance, regulation, or order or the minimum wage rate in effect under section 6, whichever is higher.".

### Subtitle G—Small Business Tax Relief

#### SEC. 60. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## PART I—PROVISIONS RELATING TO ECONOMIC STIMULUS FOR SMALL BUSINESSES

#### SEC. ___61. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) Cash Accounting Permitted.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

"(g) Certain Small Business Taxpayers Permitted to Use Cash Accounting Method Without Limitation.—

"(1) In general.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

"(2) Eligible taxpayer.—For purposes of this subsection—

"(A) In general.—A taxpayer is an eligible taxpayer with respect to any taxable year if—

"(i) for all prior taxable years beginning after December 31, 2004, the taxpayer (or any predecessor) met the gross receipts test of subparagraph (B), and

"(ii) the taxpayer is not subject to section 447 (determined without regard to subsection (c)(2) thereof) or 448 (determined without regard to subsection (b)(3) thereof).

"(B) Gross receipts test.—A taxpayer meets the gross receipts test of this subparagraph for any prior taxable year if the average annual gross receipts of the taxpayer for the 3-taxable-year period ending with such prior taxable year does not exceed $10,000,000. The rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of the preceding sentence.".

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

"(1) IN GENERAL.—An eligible taxpayer shall not be required to use inventories under this section for a taxable year.

"(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If an eligible taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2004, such property shall be treated as a material or supply which is not incidental.

"(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' has the meaning given such term by section 446(g)(2).".

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

### SEC. ___62. MODIFICATION OF TREATMENT OF QUALIFIED RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION DEDUCTION.

(a) EXTENSION OF TREATMENT.—Clause (v) of section 168(e)(3)(E) (defining 15-year property) is amended by striking "2006" and inserting "2009".

(b) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

"(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building or an improvement to a building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any property placed in service after the date of the enactment of this Act.

### SEC. 63. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 179 (relating to election to expense certain depreciable business assets) is amended by striking "2008" each place it appears and inserting "2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

## PART II—REVENUES

### SEC. ___71. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

### "SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

### SEC. ___72. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

**SEC. 73. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.**

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after March 2, 2005, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

**SEC. 74. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.**

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by striking section 7874 and inserting the following:

**"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.**

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

"(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by striking the item relating to section 7874 and inserting the following:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

"(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

"(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

"(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

"(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

"(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

"(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State."

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

(f) EFFECTIVE DATE.—Except as provided in subsection (e)(2), the amendments made by this section shall take effect as if included in the American Jobs Creation Act of 2004.

### SEC. 75. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

### "SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) Exclusion for certain gain.—

"(A) In general.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) Cost-of-living adjustment.—

"(i) In general.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) Determination of tax with respect to property.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) Termination of postponement.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) Interest.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) Exempt Property; Special Rules for Pension Plans.—

"(1) Exempt property.—This section shall not apply to the following:

"(A) United States real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) Specified property.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) Special rules for certain retirement plans.—

"(A) In general.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) Treatment of subsequent distributions.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) Treatment of subsequent distributions by plan.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) Applicable plans.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) LONG-TERM RESIDENT.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

“(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

“(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and

“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

“(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

“(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

“(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

“(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

“(E) TAX DEDUCTED AND WITHHELD.—

“(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

“(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

“(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

“(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

“(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

“(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

“(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

“(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

“(i) QUALIFIED TRUST.—The term ‘qualified trust’ means a trust which is described in section 7701(a)(30)(E).

“(ii) VESTED INTEREST.—The term ‘vested interest’ means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

“(iii) NONVESTED INTEREST.—The term ‘nonvested interest’ means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

“(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

“(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

“(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

“(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

“(B) OTHER DETERMINATIONS.—For purposes of this section—

“(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

“(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

“(I) the methodology used to determine that taxpayer's trust interest under this section, and

“(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

“(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

“(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after April 1, 2005.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after April 1, 2005.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after April 1, 2005, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

### SEC. ___76. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term "applicable taxpayer" means a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A).

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 77. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.**

Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

**SEC. 78. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

"(A) IN GENERAL.—In the case of a debt instrument which—

"(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

"(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.".

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

"For the treatment of contingent payment convertible debt, see section 1275(d)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

---

**SA 129.** Mr. SCHUMER proposed an amendment to amendment SA 121 submitted by Mr. TALENT to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Beginning on page 1 of the amendment, strike all after (4) and insert the following:

"(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

"(A) such transfer was made to a self-settled trust or similar device;

"(B) such transfer was by the debtor; and

"(C) the debtor is a beneficiary of such trust or similar device.

"(2) Paragraph (1) shall not apply to the trusts specified in section 522(d)(12).".

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 15, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 175, a bill to establish the Bleeding Kansas and Enduring Struggle for Freedom National Heritage Area, and for other purposes; S. 322, a bill to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, and for other purposes; S. 323, a bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes, and S. 429, a bill to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Brian Carlstrom at (202) 224-6293.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Monday, March 7, 2005, at 2 p.m. to consider the nomination of Michael Jackson to be Deputy Secretary of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that John Anderson of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that Robert Preiss, congressional fellow on my staff, be granted the privilege of the floor for the duration of the session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR STAR PRINT—S. 6

Mr. SESSIONS. Mr. President, I ask unanimous consent that S. 6 be star printed with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE READ THE FIRST TIME—S. 539

Mr. SESSIONS. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 539) to amend title 28, United States Code, to provide the protection of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

Mr. SESSIONS. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV. I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

## ORDERS FOR TUESDAY, MARCH 8, 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, March 8. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 256, the Bankruptcy Reform Act; provided that at 10:15 the Senate resume consideration of the Schumer amendment as provided under the previous order. I further ask unanimous consent that the Senate recess following the conclusion of the vote on the Schumer amendment until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. SESSIONS. Mr. President, tomorrow the Senate will continue its consideration of the bankruptcy bill. Under a previous order, at 10:15, we will resume consideration of the Schumer amendment. There will be 2 hours of debate prior to the 12:15 p.m. vote in relation to the Schumer amendment. That will be the first vote of the day.

Immediately following the party luncheons, the Senate will proceed to a vote on the motion to invoke cloture on the bankruptcy reform bill. It is my hope and expectation that cloture will be invoked. Following the vote, we will continue the amending process. There are over 35 amendments still pending, and we will begin working through those amendments tomorrow afternoon. Therefore, additional votes should be expected throughout the afternoon tomorrow.

## ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:32 p.m., adjourned until Tuesday, March 8, 2005, at 9:45 a.m..

# EXTENSIONS OF REMARKS

## RESOLUTION RECOGNIZING THE IMPORTANCE OF STAND DOWN

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 7, 2005*

Mrs. DAVIS of California. Mr. Speaker, I rise today to recognize a national tradition that has helped thousands of America's veterans escape homelessness and recover from drug and alcohol dependence.

In 1988, two Vietnam veterans shared a vision. Dr. Robert Nachison and Mr. John Van Kuren wanted to take action to help their fellow veterans struggling with homelessness or addictions.

Dr. Nachison and Mr. Van Kuren developed a plan to hold a three-day event in San Diego to bring together the resources veterans would need to turn their lives around for the better. Their vision brought food, shelter, counseling, drug and alcohol treatment all in one place 17 years ago in San Diego. They called this event "Stand Down."

Dr. Nachison himself said he thought it would be a one-time event. He had no idea that within a few years, almost every major city in the United States would stage its own Stand Down or similar event.

Since then, thousands of homeless veterans across the nation have received the assistance they need and have escaped the streets because of the assistance at Stand Down.

Mr. Speaker, I attend Stand Down in San Diego each year and have met veterans who have the courage to seek help. I have heard dozens and dozens of moving stories.

Johnny Bonds, for instance, is a Navy veteran from San Diego. He began to drink heavily and became an alcoholic by the time he left the service.

Mr. Bonds was separated from his wife and young daughter as the drinking began to take its toll.

He lived for six years on the streets in Southern California and continued to drink heavily. In 1996, he attended the annual Stand Down in San Diego seeking food and shelter for the night.

He had no idea Stand Down would completely change his life.

Over the three days, he learned of a drug and alcohol treatment program administered by the Vietnam Veterans of San Diego. He enrolled and completed the program within a few months.

Mr. Bonds, now 52 years old, has been sober for years and never again spent one night on the streets. He has maintained a full-time job.

He was also reunited with his daughter after 20 years apart. Today, he visits her on a regular basis.

Mr. Bonds' story is not uncommon. Stand Down provides our homeless veterans with a tremendous opportunity.

Since 1988, thousands of veterans have taken advantage of this opportunity and are living better lives today.

I am introducing a resolution honoring Dr. Robert Nachison and Mr. John Van Kuren for acting on their vision and for providing thousands of veterans with another chance at life.

This resolution also recognizes the veterans who attend Stand Down and who have the courage to do what it takes to live productive lives.

---

## FIRST ANNIVERSARY OF HAITIAN COUP

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 7, 2005*

Mr. RANGEL. Mr. Speaker, March 1st marked a solemn anniversary for the people of Haiti. It was the first anniversary of the forced removal of the President Jean Bertrand Aristide, the nation's democratically elected leader. In many ways, conditions are worse since Aristide's removal because of the widespread destabilization and human-rights violations perpetrated by the lawless elements which overthrew the Aristide government.

There is presently increased violence in Haiti as Aristide supporters have intensified protests demanding his return from exile in South Africa. The protests have resulted in armed conflicts involving street gangs, police, U.N. peacekeepers, and protesters, killing more than 250 people.

A telling statistic is that since Aristide fell, more people have been killed in one year than were killed in the three years of Aristide's government. To add to the political crisis, Haiti has suffered natural disasters which have created economic devastation in the country. Flooding devastated Haiti in May and September, killing thousands. Instability has hampered the delivery of humanitarian aid, which is critical to a country where 80 percent of the population lives below the absolute poverty line of $150 per year.

As we mark this anniversary of the overthrow of President Aristide, it is helpful to look at how it occurred. After months of increasing tension and instability, the Haitian conflict came to a head in March of 2004. With rebel forces moving toward the capital of Port-au-Prince, and no support from the United States, or France, the country's President Jean Bertrand Aristide was forced to leave the country.

Supreme Court Chief Justice Boniface Alexandre was sworn in as President on February 29 in accordance with a constitutionally mandated succession plan. Regardless, the events surrounding Aristide's departure precipitated an upsurge in violence and instability in the country.

It should be pointed out that the Caribbean Community (CARICOM) had sought to mediate the situation before Aristide's removal. It had called for a tripartite commission, consisting of one representative each from Aristide's Lavalas party, the civil opposition, and the international community. The proposal was accepted by Aristide, but rejected by the opposition. Interestingly, after Aristide's removal, the opposition accepted a similar proposal.

This was not taken lightly by CARICOM, which viewed the opposition's initial rejection of the proposal as proof that they were solely interested in ousting Aristide. As a result, CARICOM has refused to recognize the current government and still views Aristide as the legitimate leader of Haiti. They have additionally called for a U.N. investigation into Aristide's removal.

In addition, several Congressmen, including myself and other members of the Congressional Black Caucus, have criticized the Bush Administration for President Aristide's forced departure from Haiti. As we see it, the Bush Administration refused to provide any assistance to stop the escalating violence in Haiti until Aristide resigned. This has damaged our global reputation as guardians of democratically elected governments.

We have also displayed a willingness to allow democratically elected governments to be dismantled if they fall out of favor with our Administration. Many Congressmen have called for independent investigations into what amounted to a coup d'état, and the extent, if any, of U.S. involvement. This is vital, as the suspicious nature of Aristide's removal will no doubt continue to erode the credibility of the current Haitian government.

Concerns have also been raised about the civil opposition, collectedly known as the Democratic Platform in Haiti. Many question the right of the civil opposition to participate in an interim government, given their rejection of political solutions that did not involve Aristide's resignation, including the one proposed by CARICOM and supported by the United States.

Many also question the degree of cooperation between the formal opposition and the armed rebels who forced President Aristide from power, though the opposition denies any link to the rebels. Observers have warned that if there is a link, the rebels will soon demand recompense for their assistance—mainly reconstitution of the Haitian military, which was disbanded under Aristide's tenure. Reluctance on the part of the current leadership to acquiesce could result in conflict.

In response to the crisis, the U.N. authorized a Stabilization Mission in Haiti (MINUSTAH). Haitian Prime Minister Gerard Latortue requested more troops from the U.S., to help the U.N. contingent in establishing security. With the exception of a 200 soldier humanitarian mission arriving throughout the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

month of February, the Administration has no plans to increase its military presence in the country, beyond its current contingent of six.

An agreement between the interim government, the U.N., and the OAS was entered into on August 23, 2004 to hold presidential, parliamentary, and local elections in late 2005. Members of former President Aristide's Lavalas party have threatened to boycott the elections in response to what they view as sustained and systematic persecution at the hands of the current government.

All this begs the question why did we allow this to happen? While the answer to that question remains a mystery, the crisis currently facing Haiti as a result of the decision to remove President Aristide from office will continue without any prospect of peace until a legitimate government is established.

## HONORING THE MEMORY OF EDNA F. MEYERHOFER OF CHEEKTOWAGA, ERIE COUNTY, NEW YORK

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 7, 2005*

Mr. HIGGINS. Mr. Speaker, I rise today to pay tribute to the life and memory of a great Western New Yorker: Mrs. Edna F. Meyerhofer of Cheektowaga, NY. Sadly, Mrs. Meyerhofer passed away on February 24 at the age of 74.

Mrs. Meyerhofer was a loyal wife, mother and grandmother, and was a dedicated Roman Catholic, showing great commitment to her faith and to her community. At her church, North Cheektowaga's Infant of Prague, she was an active member of the Parent-Teacher Guild, the Bishops Committee, the Altar & Rosary Society, and Parish Life Committee. Mrs. Meyerhofer was also a Hospice volunteer, and served as a member of the Hanford Bay Association.

After working professionally as a secretary for Westinghouse Electric Corporation, like so many others of her generation, Mrs. Meyerhofer began work in the home, as a devoted mother of two daughters and three sons—a source of great pride for her and her husband George. Her two daughters, Mary Harris and Rose Tracy, and her three sons, George, Paul and Mark, are outstanding members of their own respective communities, and learned well at their parents' knees the importance of family, faith and community, as they seek to extend this family tradition to Mrs. Meyerhofer's 12 grandchildren.

While I regret not knowing Edna Meyerhofer well, I do know her son, Mark, very well. Mark serves honorably as Chief of Staff to New York State Assembly Majority Leader Paul A. Tokasz, and is well known and universally respected in his own right for his community, governmental and political accomplishments in the Town of Cheektowaga and throughout Erie County. Again, these were lessons undoubtedly learned at the Meyerhofer dinner table: that to whom much is given, much is expected, and that there is an understood responsibility to contribute back to one's own community.

Mrs. Meyerhofer consistently helped her community and those in need. In addition to her family, many other Western New Yorkers will miss her generosity, compassion and loyalty to her community. I thank the Speaker and my colleagues in the House for this opportunity to pay tribute to her memory here today.

## CHINA'S PROPOSED ANTI-SECESSION LAW

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 7, 2005*

Mr. MEEK of Florida. Mr. Speaker, the United States maintains and has maintained for several decades extensive commercial and cultural relations with the people of Taiwan. In this context, I am concerned about China's proposed anti-secession law. I understand that the premise of this law is that China and Taiwan are now unified and that China has the right to punish anyone expressing separatist sentiments or engaging in separatist activities. A further concern is that this law provides justification for China to legally push for unification of Taiwan by force, which is the worst-case scenario.

Consideration of this proposal is coming at a time when both China and Taiwan have taken conciliatory steps toward each other, including the initiation of holiday charter flights that begin in late January 2005, which are the first nonstop commercial air traffic across the Taiwan Straight in 55 years, and both China and Taiwan have signaled they might be willing to restart talks relating to the status of Taiwan.

Understandably, the 23 million people of Taiwan are very upset over this proposed law, for they have lived under a full-fledged democracy and enjoyed the highest standards of freedom and human rights. In view of the importance of Taiwan to the United States, China and indeed, the entire international community, I urge Chinese leaders to exercise caution and wisdom and not adopt this confrontation and destabilizing approach to Taiwan.

We do not seek any military confrontation in the Taiwan Strait, now or ever. The government of Taiwan has signaled that it stands ready to discuss and negotiate any issue with China. Clearly negotiation is the most desirable approach, and I urge both China and Taiwan to continue progress in this direction.

## TRIBUTE TO THE BRONX AFRICAN-AMERICAN HISTORY PROJECT

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 7, 2005*

Mr. SERRANO. Mr. Speaker, I rise today in support of the Bronx African-American History Project which is dedicated to finding, promoting and preserving the history of African Americans in the Bronx, New York.

Fordham University's Department of African American Studies and the Bronx County Historical Society have launched the African American History Project in order to respond to the growing demand for information about Blacks in the Bronx from schools, churches and community organizations. The goal of the project is to create and collect the resources necessary to tell the story of African Americans in the Bronx and to get that story out to the public through lectures, media appearances, books, articles, public exhibitions, and documentary films. This important project has been operating for over two years. During that period its research team—headed by Dr. Mark Naison, Dr. Peter Derrick, Brian Purnell, Patricia Wright, Delores Munoz, and Colleen McCafferty—have accumulated more than 100 interviews and catalogued countless personal records and mementos for preservation and public education purposes.

The Bronx is home to the eighth largest concentration of African Americans in the country, but unfortunately not much has been written about this diverse population. As a result, events such as the migration of upwardly mobile black families from Harlem to the Bronx in the 1930's and 1940's; the development of the Bronx's eclectic musical culture fusing jazz, rhythm and blues, Latin Music and Calypso; the rise of Black political leadership in the Bronx or the migration of West Indians and West Africans to the Borough have been missing from textbooks and oral histories. Now this history will be available to the world thanks to the Bronx African-American History Project.

Mr. Speaker, Aristotle once stated: "If you would understand anything, observe its beginning and its development." As a result of the extraordinary efforts of Fordham University, the Bronx County Historical Society, and active citizens such as Leroy Archible, Harriet McFeeters, Nathan Dukes, James Pruitt, Robert Gumbs, and the late Arthur Crier Jr., the world will be able to observe the beginning and development of the African-American community in the Bronx and thus gain a deeper understanding of its rich and beautiful history. I ask my colleagues to join me in paying tribute to all who have been integral in the development of The Bronx African-American History Project.

## REMARKS IN SUPPORT OF TAIWAN

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 7, 2005*

Mr. BOEHLERT. Mr. Speaker, recent reports suggest that the People's Republic of China may embark on a dangerous path that could destabilize the region. The PRC may be seeking passage of an "anti-secession" bill in a careless attempt to justify use of force against Taiwan. As everyone in this legislative body knows, Mr. Speaker, the PRC has never decried force as a means to take control of Taiwan, and this sort of provocative measure only serves to further corrode productive dialogue.

As the democratic leader in the global world, we cannot stand for unilateral action by the PRC against Taiwan. To echo the words of the Taiwan Relations Act, "any effort to determine the future of Taiwan by other than peaceful means" is "of grave concern to the United States." As two productive, industrialized nations charged with helping usher the world into the 21st century, it is imperative that the PRC and Taiwan work out their differences through peaceful dialogue.

Given the recent tragedies that crippled South East Asia, now is not the time to threaten stability across the Taiwan Strait. If the "anti-secession" bill were to become "law", the prosperity of 23 million people on Taiwan would be threatened. The Taiwanese live in a thriving, multi-party democracy. We cannot allow the light of Asian democracy to dim under the threat of military action. I urge my colleagues find their voices and oppose the passage of the anti-secession law.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 8, 2005 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### MARCH 9

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the Department of Defense science and technology budget and strategy.

SR–325

Environment and Public Works

Business meeting to consider S. 131, to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program.

SD–406

Indian Affairs

Business meeting to consider S. 147, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; to be followed by an oversight hearing on trust reform.

SR–485

10 a.m.

Banking, Housing, and Urban Affairs

Business meeting to consider the nomination of Ronald Rosenfeld, of Oklahoma, to be a Director of the Federal Housing Finance Board; to be followed by a hearing to examine the state of the securities industry.

SD–538

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Army.

SD–192

Energy and Natural Resources

To hold hearings to examine the nominations of Patricia Lynn Scarlett, of California, to be Deputy Secretary of the Interior, and Jeffrey Clay Sell, of Texas, to be Deputy Secretary of Energy.

SD–366

Finance

Business meeting to consider the Personal Responsibility and Individual Development for Everyone (PRIDE) Act, and the nominations of Harold Damelin, of Virginia, to be Inspector General, Department of the Treasury, and Raymond Thomas Wagner, Jr., of Missouri, to be a Member of the Internal Revenue Service Oversight Board.

SD–628

Health, Education, Labor, and Pensions

Business meeting to consider S. 250, to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act, the Caring for Children Act of 2005, S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, the Patient Safety and Quality Improvement Act of 2005, and any nominations ready for action.

SD–430

Homeland Security and Governmental Affairs

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Homeland Security.

SD–342

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

1 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the Russian-Syrian connection and threats to democracy in the Middle East and the great OSCE region.

SD–226

2:30 p.m.

Intelligence

To receive a closed briefing on intelligence matters.

SH–219

3 p.m.

Budget

Business meeting to markup the concurrent resolution on the budget for fiscal year 2006.

SD–608

### MARCH 10

9:30 a.m.

Armed Services

To hold hearings to examine the review of Department of Defense detention operations and detainee interrogation techniques.

SH–216

Appropriations

Interior Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of the Interior.

SD–124

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Agriculture, Nutrition, and Forestry

To continue hearings to examine the reauthorization of the Commodity Futures Trading Commission.

SR–328A

Budget

Business meeting to resume markup of the concurrent resolution on the budget for fiscal year 2006.

SD–608

Commerce, Science, and Transportation

Business meeting to consider S. 148, to establish a United States Boxing Commission to administer the Act, S. 361, to develop and maintain an integrated system of ocean and coastal observations for the Nation's coasts, oceans and Great Lakes, improve warnings of tsunamis and other natural hazards, enhance homeland security, support maritime operations, S. 39, to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration, S. 362, to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, S. 364, to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities, S. 50, to authorize and strengthen the National Oceanic and Atmospheric Administration's tsunami detection, forecast, warning, and mitigation program, S. 268, to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, National Telecommunication and Information Admininstration authorization, Coast Guard nominations, NOAA Corps nominations, and adoption of committee rules for the 109th Congress.

SR–253

Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Environmental Management and Radioactive Waste Management in the Department of Energy.

SD–116

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Blinded Veterans Association, the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America and the Jewish War Veterans.

345 CHOB

2 p.m.

Appropriations

District of Columbia Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for funding for Federal foster care initiatives in the District of Columbia.

SD–192

2:30 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine recent developments involving the security of sensitive consumer information relating to identity theft.

SD–538

MARCH 11

9:30 a.m.

Foreign Relations

To hold hearings to examine the nominations of R. Nicholas Burns, of Massachusetts, to be an Under Secretary of State, C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State, and John B. Bellinger, of Virginia, to be Legal Adviser of the Department of State.

SD–419

MARCH 14

2:30 p.m.

Judiciary

Immigration, Border Security and Citizenship Subcommittee

Terrorism, Technology and Homeland Security Subcommittee

To hold hearings to examine strengthening enforcement and border security, focusing on the 9/11 Commission staff report on terrorist travel.

SD–226

MARCH 15

9:30 a.m.

Armed Services

To resume hearings to examine military strategy and operational requirements from combatant commanders in review of the Defense Authorization Request for fiscal year 2006.

SD–106

Foreign Relations

To hold hearings to examine the nominations of Joseph R. DeTrani, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for the Six Party Talks, and John Thomas Schieffer, of Texas, to be Ambassador to Japan.

SD–419

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Labor.

SD–124

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine school nutrition programs.

SH–216

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold oversight hearings to examine ensuring the success of the National Security Personnel System, focusing on the proposed regulations jointly published by the Department of Defense and Office of Personnel Management for the National Security Personnel System.

SD–342

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 175, to establish the Bleeding Kansas and Enduring Struggle for Freedom National Heritage Area, S. 322, to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, S. 323, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and S. 429, to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

SD–366

MARCH 16

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Health and Human Services.

SD–138

MARCH 17

9:30 a.m.

Armed Services

To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed hearing in SH–219.

SD–106

10 a.m.

Commerce, Science, and Transportation

Oceans, Fisheries and Coast Guard Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2006 for the Coast Guard Operational Readiness/Mission Balance.

SR–253

APRIL 14

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.

345 CHOB

APRIL 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.

345 CHOB

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

# SENATE—*Tuesday, March 8, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Lord and Ruler, Your Name is wonderful. We see Your glory in the heavens above and in the beauties of the Earth. Give us this day our marching orders. We seek Your wisdom. Guide our priorities so that we glorify Your Name. May even our thoughts be acceptable to You. Help our words and actions to be strengthened by Your precepts. Give us enough humility to acknowledge our dependence on You, for even our heartbeats are borrowed.

Strengthen our Senators for today's journey. Listen to their longings and give them Your peace. Protect and sustain their loved ones. We pray in Your strong Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI, a Senator from the State of Alaska, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 8, 2005.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Madam President, this morning the Senate will resume debate on the bankruptcy legislation. Under the order, at 10:15 this morning we will begin 2 hours of debate on Senator SCHUMER's amendment related to abortion clinics. That vote will, therefore, occur at 12:15 today. Following that vote, the Senate will recess until 2:15 for our weekly policy luncheons to meet. When we return to session at 2:15, the Senate will proceed to vote on invoking cloture on the underlying bankruptcy bill. I hope and expect the Senate will be able to invoke cloture this afternoon so that we will be able to vote on passage this week. We will have germane amendments to consider postcloture and, therefore, additional votes can be expected.

## BANKRUPTCY REFORM

Mr. FRIST. Madam President, we have made tremendous progress on the bankruptcy bill over the last 2 weeks. Republicans and Democrats have stood together to support a bankruptcy reform package that the House will pass and the President will sign into law. The Senate has resisted attempts to renegotiate hard-fought compromises and legislate on unrelated issues. I do thank my colleagues, our colleagues, for staying focused on the bankruptcy bill.

There have been many attempts to sidetrack the Senate on this bill. But let me just take a moment to reiterate why we need bankruptcy reform and what this bill really does.

The bill before us establishes a means test based on a simple, fair principle: those who have the means should repay their debts. Personal bankruptcies are skyrocketing, and wealthy debtors are walking away from debts that they had the ability to repay. Opportunistic debtors who have the means to repay use the law to evade personal responsibility.

This abuse does not hurt the creditor only, it hurts all who pay higher fees and prices as a result. Every bill that you and I pay, that our families pay, includes a "bankruptcy tax" of about $400 a year per household. That tax is figured into every bill, every phone bill, every electric bill, every mortgage payment, every furniture purchase or car loan we pay. Interest rates are higher, downpayment requirements are larger, grace periods become shorter, late payment penalties become astronomical—all because some people are shirking their debt obligations.

This legislation is targeted to ensure that wealthy debtors who can pay their debts do so. It specifically exempts anyone who earns less than the median income in their State, and it also allows every consumer to show special circumstances if they cannot handle a repayment plan.

We know that one reason people file for bankruptcy is because of unexpected medical emergencies. Consequently, this legislation allows every filer to deduct 100 percent of their medical costs. We also know that education is a big outlay for many families. Under bankruptcy reform, parents can deduct private school tuition to protect their children's educational opportunities.

In addition, the bankruptcy bill strengthens protections for child support and alimony payments. It protects patient privacy and care during bankruptcy proceedings that involve health care facilities. It protects consumers from deceptive credit practice that can lead to financial distress, and it protects the system that allows America to be one of the most generous countries when it comes to bankruptcy.

There remain, however, some misconceptions about this bill that should be dispelled. The first regards our protections for Active-Duty military personnel and veterans. Some opponents of the bill charge that we do not adequately address the needs of our combat men and women who suffer financially.

Madam President, it should go without saying that the Senate and the American people deeply honor our men and women in uniform. Every day, these young soldiers sacrifice to protect us and to defend the freedom we enjoy. We are indebted to them for the dangers they face on the field, and we are indebted to their families they leave in order to fight for that freedom.

That is why last Tuesday we passed the Sessions amendment to help clarify protections for our military and others under a safe harbor in the bill. This provision, which passed with 63 votes, makes explicitly clear that Active-Duty military and low-income veterans are protected by the safe harbor. In addition, it also protects debtors with serious medical conditions.

On this issue, the other side has created a red herring designed to score political points and shift the debate away from bankruptcy abuse. Another red herring is the charge that the bankruptcy bill sacrifices consumers to benefit credit card companies. The truth is that the bill before us includes several carefully negotiated amendments that expressly protect credit card holders.

Among its beefed-up consumer protections are increased disclosure requirements for credit card statements and mandates that credit card companies assist borrowers in determining how long it will take to pay off their credit card balances, additional disclosures to borrowers buying and refinancing their homes, and additional disclosures regarding credit card introductory rates and new disclosures related to credit card late fees.

These protections are the result of lengthy and careful negotiation. Additional measures should be properly addressed in the Banking Committee. As Senator SESSIONS has pointed out, we are debating a bankruptcy bill designed to create a fair and commonsense process in the Federal courts.

Moreover, the bill before us has passed this body three times, with overwhelming bipartisan support. In the 105th Congress, it passed by a vote of 97 to 1. In the 106th Congress, it passed 83 to 14. And again in the 107th Congress, it passed by a vote of 82 to 16.

It is time to take action on this much needed reform that is supported by both sides of the aisle.

I am confident that by working together we can get this done in this Congress, this week, and see bankruptcy reform signed into law. I encourage our Members, this afternoon, to vote for cloture so we can bring this bill to fruition, to make it the reality we know the American people deserve.

It is long past time to stop the abuses of the Bankruptcy Code. The legislation before us is thoughtful. It is built on common sense. It offers the opportunity to give the system, and the people it is designed to help, a fresh start. In short, it promises to deliver meaningful solutions that will keep America moving forward.

Madam President, I yield the floor.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Dorgan/Durbin amendment No. 45, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Pryor amendment No. 40, to amend the Fair Credit Reporting Act to prohibit the use of any information in any consumer report by any credit card issuer that is unrelated to the transactions and experience of the card issuer with the consumer to increase the annual percentage rate applicable to credit extended to the consumer.

Reid (for Baucus) amendment No. 50, to amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by an vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease.

Dodd amendment No. 52, to prohibit extensions of credit to underage consumers.

Dodd amendment No. 53, to require prior notice of rate increases.

Kennedy (for Leahy/Sarbanes) amendment No. 83, to modify the definition of disinterested person in the Bankruptcy Code.

Harkin amendment No. 66, to increase the accrual period for the employee wage priority in bankruptcy.

Dodd amendment No. 67, to modify the bill to protect families.

Kennedy amendment No. 68, to provide a maximum amount for a homestead exemption under State law.

Kennedy amendment No. 69, to amend the definition of current monthly income.

Kennedy amendment No. 70, to exempt debtors whose financial problems were caused by failure to receive alimony or child support, or both, from means testing.

Kennedy amendment No. 72, to ensure that families below median income are not subjected to means test requirements.

Kennedy amendment No. 71, to strike the provision relating to the presumption of luxury goods.

Kennedy amendment No. 119, to amend section 502(b) of title 11, United States Code, to limit usurious claims in bankruptcy.

Akaka amendment No. 105, to limit claims in bankruptcy by certain unsecured creditors.

Feingold amendment No. 87, to amend section 104 of title 11, United States Code, to include certain provisions in the triennial inflation adjustment of dollar amounts.

Feingold amendment No. 88, to amend the plan filing and confirmation deadlines.

Feingold amendment No. 89, to strike certain small business related bankruptcy provisions in the bill.

Feingold amendment No. 90, to amend the provision relating to fair notice given to creditors.

Feingold amendment No. 91, to amend section 303 of title 11, United States Code, with respect to the sealing and expungement of court records relating to fraudulent involuntary bankruptcy petitions.

Feingold amendment No. 92, to amend the credit counseling provision.

Feingold amendment No. 93, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 94, to clarify the application of the term disposable income.

Feingold amendment No. 95, to amend the provisions relating to the discharge of taxes under chapter 13.

Feingold amendment No. 96, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Feingold amendment No. 97, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Feingold amendment No. 98, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 99, to provide no bankruptcy protection for insolvent political committees.

Feingold amendment No. 100, to provide authority for a court to order disgorgement or other remedies relating to an agreement that is not enforceable.

Feingold amendment No. 101, to amend the definition of small business debtor.

Talent amendment No. 121, to deter corporate fraud and prevent the abuse of State self-settled trust law.

Schumer amendment No. 129 (to amendment No. 121), to limit the exemption for asset protection trusts.

Durbin amendment No. 110, to clarify that the means test does not apply to debtors below median income.

Durbin amendment No. 111, to protect veterans and members of the armed forces on active duty or performing homeland security activities from means testing in bankruptcy.

Durbin amendment No. 112, to protect disabled veterans from means testing in bankruptcy under certain circumstances.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I understand that at 10:15, the Senator from New York is to be recognized to offer an amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. Madam President, this bankruptcy bill is mean-spirited and unfair. In anything like its present form, it should and will be an embarrassment to anyone who votes for it. It is a bonanza for the credit card companies, which made $30 billion in profits last year, and a nightmare for the poorest of the poor and the weakest of the weak.

It favors the credit card companies, the giant banks, and the big car loan companies at every turn. It favors the worst of the credit industry—the interest rate gougers, the payday lenders, and the abusive collection agencies. It hurts real people who lose their savings because of a medical crisis or lose their jobs because of outsourcing or suffer major loss of income because they were called up for duty in Iraq or Afghanistan.

It protects corporate interests at the expense of the needs of real people. It does absolutely nothing about the glaring abuses of the bankruptcy system by the executives of giant companies such as Enron, WorldCom, and Polaroid, who lined their own pockets but left thousands of employees and retirees out in the cold.

It favors companies like MBNA, a top credit card issuer, with over $80 billion in loans, which has contributed $7 million to Federal candidates, a half a million dollars to President Bush alone, and spent over $20 million in lobbying, since 1997, when their lobbyists wrote this bill.

On the other side are people like special ed teacher Fatemeh Hosseini on the front page of Sunday's Washington

Post. She fell on hard times when her husband left her and their three children. After her credit card debt reached $25,000, she stopped using the cards and took a second job to try to pay down that debt. She paid $2,000 a month but was hit with very high interest rates, which were raised even higher because of missed payments, heavy late fees, and over-limit penalties.

She made no new purchases, but by last June her $25,000 debt had nearly doubled to almost $50,000. The longer she tried to pay what her statements told her were her minimum payments, the more her debt went up. When all of her salary was going for payments, she had no choice: she was forced into bankruptcy, in the hope of getting the "fresh start" the Nation has long provided to its working people when they hit bottom.

This bill says to companies like MBNA: We'll help you scare that teacher out of going into bankruptcy by making the bankruptcy process expensive and burdensome to people like her. If we can't scare her away, we will help you squeeze your high interest rates out of her for a few years longer, even though she can't possibly pay off the amount she owes. We will take sides with companies like you and against people like her.

That is what this bill says. We all know that is wrong. How could the Senate possibly do something so immoral and unreasonable and unfair to our constituents when they are most in need of our help? Where are the vaunted values our colleagues talk about so much? Why didn't the Judiciary Committee do something about this travesty before it reached the floor? Why haven't we fixed it on the floor after more than a week of debate?

This bill was bulldozed through the committee on the pretense that we should not deal with its serious problems there but should wait until it reached the full Senate for serious negotiations and basic improvements. We were assured that there would be good-faith discussions and compromises and that all reasonable amendments would be given fair consideration.

But now there has been no good faith at all—no meaningful discussions, no negotiation, no real consideration of any of the very reasonable amendments that have been proposed to give this bill some shred of balance and fairness. On the contrary, the Republican leadership has invoked the strictest possible party discipline. When individual Republicans say they want to support or offer constructive amendments, they are ordered not to do so. Even when a Republican identifies a serious gap in the bill, such as the very basic jurisdiction outrage pointed out by Senator CORNYN, an outrage that has prejudiced workers and retirees in almost every State, the Republican leadership said no and refused to let the amendment be called up.

The excuse for this bad faith and breach of promise is itself bizarre. The Republican leaders say they cannot upset the delicate compromise reached two Congresses ago, but the only real compromise was the one that had the Schumer amendment in it, and this year's bill doesn't have that amendment in it. In committee Senator SCHUMER discussed his amendment, but I didn't see the other side jumping up to adopt it in order to restore and preserve the so-called compromise. The floor leaders have not indicated that they plan to accept this amendment to restore and preserve the supposed compromise.

Let's be clear—any pretense of protecting a previous compromise disappeared when the bill's sponsors unilaterally took the Schumer amendment out of the bill before introducing it this year. So there is no compromise before us in the first place. What's more, even the 2001 bill is now totally obsolete.

A great deal has happened in the past 4 years that helps us understand the real issues in this bill and shows that abuse of the system by consumers is not the real problem. We have now felt the full impact of the Bush economic decline, the broad record levels of sustained unemployment.

We have seen an explosion of medical costs, prescription drug costs, and health insurance costs. We have seen job after job eliminated or downgraded or outsourced.

A half million guardsmen and reservists have been called to active duty in Afghanistan or Iraq, leaving their families and their jobs and their small businesses behind to suffer the economic consequences, but this Senate said no to the Durbin amendment.

We have seen the enormous harm caused to employees and retirees by corporate mismanagement and fraud at major companies like Enron and WorldCom and Polaroid, which abused the bankruptcy laws to avoid their obligation to their own loyal workers. We have seen credit card rates go higher and higher and higher, as high as 30 percent or more, plus fees and penalties and charges, raising credit card profits by another $10 billion, even as general interest rates remain low.

We have seen the credit card companies use a self-help remedy for the problems they create by their own indiscriminate and predatory marketing practices. They charge still higher risk-based rates to the very same people who can't even afford the lower bait-and-switch rates.

We now know a lot more about the abuse of bankruptcy this bill was supposedly designed to address. Four years ago we were told we were a nation of bankruptcy abusers. But now, thanks to the careful study of actual bankruptcy case files, we know the truth. We know that 50 percent of the families who go bankrupt have suffered from serious medical problems and have exhausted their savings. Most of those families had paid for health insurance, but it still left them with no financial protection from serious illness or accidents.

If the family is impacted by cancer, you know right at the outset, even if they have health insurance, they are going to have a $35,000 bill. If it is the heart or stroke, it may be $20,000. If they have a child, spina bifida, autism, other kinds of serious children's diseases, it is going to be $15,000 to $20,000. We know that right at the start. And in too many instances, that is just enough to throw hard-working Americans into the bankruptcy system and the harsh provisions of this legislation. Most of these families tried in every possible way to avoid bankruptcy for years. They gave up food and medicine and utilities and other necessities of life and even transferred their elderly parents into less adequate nursing homes in order to try and avoid bankruptcy. But facts like these don't bother the sponsors of this bill. They just make it up as they go along.

In the past week, for example, some of us offered amendments that would exempt people from the burdensome procedures in this bill if their finances were devastated by medical problems or because they were called up for military duty, and they were voted down. Instead the bill's sponsors introduced and adopted a devious amendment that they said would do what our amendment did. But, of course, it did nothing of the kind. It simply added some words about medical costs and military callups in a way that did not change the real substance of the committee's bill.

The sponsors also said our amendments exempting those below the median income from the means test were unnecessary because low-income filers were already exempt. If they really mean what they say about no means testing for people below the median income, then they should not be refusing to accept our amendment which makes that exemption absolutely clear.

Another Democratic amendment would have placed a generous limit of 30 percent on the interest rates any credit card company could charge. It very carefully stated that it would not change the status quo in States which already had lower limits. That didn't stop the bill's supporters from claiming that the bill would be an intrusion on States rights because it would lift the limit in States with a lower limit.

And perhaps the most outrageous claim of all, one which I thought was dead and buried after it was dragged out in 2001, was dragged out again—a big blue chart and all—and further inflated in their debate. The sponsors repeated the old chestnut that every American family is paying $400 a year in a hidden bankruptcy tax for abuses that this bill would stop. Only now they say this mysterious tax has risen to $550 per person per year.

How is the original $400 number calculated? The debts discharged from all consumer bankruptcies each year are about $40 billion. There are 100 million families in the United States. Therefore, those consumer bankruptcies must be costing each family $400 per family. But this phony math assumes that every dollar discharged in bankruptcy, 100 percent, could have been collected in full, if not for the massive abuse of the system by every consumer who goes bankrupt.

It assumes that the credit card companies and payday lenders and other lenders who collect this debt under the bill would somehow distribute it to all 100 million American families instead of keeping it for themselves. Obviously, neither of these assumptions is true. Even the bill's supporters have long ago conceded that the maximum conceivable amount recoverable from the consumer bankruptcies is about 10 percent of the total. Other estimates conclude that the real number is a small fraction of that.

We don't have to guess what a responsible lender's loss from bankruptcy abuse might be. The lead-off pro-bill witness at our hearing on the bill was the head of the Wisconsin community credit union, testifying for the national credit union lobby. He told us in the last 9 years his credit union has had an average of 10 bankruptcies a year from 11,000 members. He estimated that the 9-year loss from abusive cases was $15,000 to $75,000, with the higher figure based on an unlikely assumption of 15 percent abuse. His credit union's loss from possible abuse spread across its entire membership was 15 to 74 cents a year per member—not per every family in his county or state, but just his members. Yes, a real 15 cents instead of the mythical $400 dollars we have heard about for years on this floor.

Why is that lender's loss from abuse so low? Because that credit union cares about its members, who are also its owners. It gives them a credit level appropriate to their finances, and does not promote across-the-board increases in credit limits. It routinely monitors credit card debt for signs of trouble. When members hit hard times, the credit union does not pounce on them. It looks for ways to help them out. In short, it is a careful and responsible lender, not a predatory lender.

Hello? Could this tell us something about the real problem here? Perhaps the credit card companies who are really pushing this bill should think again about having solicitation desks every fifty feet in the airport, offering gifts to anyone who signs up for a card. Perhaps they should think twice about offering multiple cards to young college students. Perhaps they should not encourage people to raise their card limits recklessly or send them pre-printed checks against their accounts in junk mailings. Perhaps they should not send monthly statements urging their customers to pay only the monthly minimum and pile up their debt.

This bill does nothing to prevent the enticements that the credit card companies use to run up their profits. It does nothing to prevent the real abuses of the system by those who use unlimited homestead exemptions or "protective" trusts to hide tens of millions of dollars from the bankruptcy process.

We still have time for common sense amendments on all of these issues, but unless there is a change in direction, Republican party discipline will be invoked to defeat them.

In fact, the present bankruptcy system has an effective way of dealing with real abusers. Bankruptcy judges can and do deny the petitions of those who have defrauded or abused the bankruptcy process. The corporate sponsors of this bill know that, but their real motivation is only partly to squeeze millions more dollars from the people who do get into the bankruptcy system.

The more insidious purpose of this bill is to frighten people away from the system altogether, by making it so burdensome and expensive, that they delay filing for bankruptcy or never file. That way, the predatory lenders can continue to collect excessive interest and fees and penalties month after month from people who cannot afford to pay them.

What this bill does to catch the very small number of potential abusers—most of whom can be caught and screened out under the existing system—is to impose huge new paperwork and filing and counseling and other barriers on all those who seek to enter the system, whether they are above or below the median income level, and whether or not there is the slightest indication that they are trying to game the system.

Why else would the bill place such strict and intolerable personal liability on the bankruptcy lawyer for mistakes made in the detailed information provided by the client? In Boston and throughout the country, pro-bono lawyers from leading firms now lend a hand with bankruptcy filings to people down on their luck. The sponsors know that if this bill passes, those firms will not let their lawyers do that public interest work, because the risk will be too high.

There is so much wrong with this bill that we must take the time to get it right. That is why we must have a serious discussion and negotiation and amendment process.

That is why we must defeat tomorrow's cloture vote and continue to seek a bill that is not an embarrassment to the Senate and the fundamental principle of fairness and simple justice for all. It's wrong, deeply wrong, for the Senate to rubber-stamp the greed of the credit card industry.

In a few moments, the Senator from New York will be recognized. I wanted to add a word of support for his amendment. His amendment is not about abortion. It is about violence. Those who promote the culture of life should not be encouraging acts of violence against any members of our society. There is no legitimate reason to oppose this amendment. Those who break the law through violence and intimidation should not have bankruptcy as a shield.

Finally, in a vote later this afternoon, the Senate will declare its true loyalties. Do we stand with low- and middle-income families who fall on hard times, or do we stand with the credit card companies looking for higher and higher profits at any cost? If we are true to our values, we will stand with America's families and defeat this bill because above all else, America stands for freedom and fairness and opportunity. There is nothing fair about a single parent struggling to make ends meet only to be gouged by credit card companies with double-digit rates. There is no freedom in falling ill with cancer and facing a mountain of medical bills only to be hounded by credit card companies to pay them first.

And what is fair when an average American who has done everything right still has to go alone into bankruptcy court and stand up against the big credit card companies and all their might and try to make a fresh start?

I am reminded of the words of Leviticus in the 25th chapter which reads: If one of your brethren becomes poor and falls into poverty among you, then you shall help him, like a stranger or a sojourner, that he may live with you. Take no usury or interest from him, but fear your God that your brother may live with you. You shall not lend him your money for usury nor lend him your food at a profit.

One glance at the story of Fatemeh Hosseini shows that even when you try your hardest to repay your debts, you are met by the cold, cruel world of the credit card companies. With our vote this afternoon, we have an opportunity to live up to the words of Leviticus and our basic values as Americans and vote against this bill.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts for his leadership on this legislation. The bill we are considering today, S. 256, is the bankruptcy reform bill. For American families who have been absolutely devastated by medical bills, by loss of jobs from outsourcing of jobs overseas, by family circumstances beyond their control, this bill makes it more difficult to go to bankruptcy court to put whatever they have on the table and to try to start anew. It was written by the financial industry, by credit card companies, and big banks in an effort to make certain that people in debt never get out of debt. They want to make certain that debt will hound you and trail you for a lifetime.

When Senator KENNEDY offers an amendment and says should we not at least say to people who have been devastated by a medical crisis in their family and go through bankruptcy that they will have a roof over their heads, that we will protect their home for $150,000 worth of value, the Republicans on this side of the aisle said no. They should put that home up, lose it if necessary, if they want to file for bankruptcy.

I offered an amendment that said what about the Guard and Reserve units, men and women who are serving overseas leaving behind businesses that go bankrupt? Should we not give them some consideration in this bill? Should not the harshest aspects of this bill not apply to men and women in uniform serving our country? The Republican side of the aisle said no; apply the law as harshly as possible to these soldiers as you would to everyone else.

Time and again, as we have offered amendments to try to stand up for those who were struggling in America to get by in a tough economy, in difficult times, facing family disasters, the Republican side of the aisle said it is more important that the credit card companies get another dollar from those families. It is more important that the banks prevail. Even if the loans they offered in the first place are illegal, we have to stand by the credit industry.

The credit industry will win this battle. American families, American soldiers, and those struggling with medical bills will be the losers.

I hope before this bill is completed that a few basic amendments that show common decency and common sense will prevail.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the hour of 10:15 a.m. having arrived, the Senate will proceed to the consideration of amendment No. 47 to be offered by the Senator from New York. The time until 12:15 p.m. will be equally divided for debate.

Does the Senator offer the amendment?

AMENDMENT NO. 47

Mr. SCHUMER. Mr. President, I offer the amendment, and I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. REID, Mr. LEAHY, Mrs. MURRAY, and Mrs. FEINSTEIN, proposes an amendment numbered 47.

Mr. SCHUMER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the discharge, in bankruptcy, of a debt resulting from the debtor's unlawful interference with the provision of lawful goods or services or damage to property used to provide lawful goods or services)

On page 205, between lines 16 and 17, insert the following:

**SEC. 332. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.**

Section 523(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (18), by striking "or" at the end;

(2) in paragraph (19), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (19) the following:

"(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

"(A) an action alleging the violation of any Federal, State, or local statute, including but not limited to a violation of section 247 or 248 of title 18, that results from the debtor's—

"(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

"(I) because that person provides, or has provided, lawful goods or services;

"(II) because that person is, or has been, obtaining lawful goods or services; or

"(III) to deter that person, any other person, or a class of persons, from obtaining or providing lawful goods or services; or

"(ii) damage to, or destruction of, property of a facility providing lawful goods or services; or

"(B) a violation of a court order or injunction that protects access to—

"(i) a facility that provides lawful goods or services; or

"(ii) the provision of lawful goods or services.

Nothing in paragraph (20) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.".

Mr. SCHUMER. Mr. President, I hope everybody will pay attention to this debate, which has been going on intermittently in the Chamber for the last 4 or 5 years. Not much has changed, except the votes of some of my colleagues, if you can believe the press reports.

Let me start by saying I believe in bankruptcy reform. It is very wrong for people to abuse the code. But reform should be across the board, it should be applied fairly. It should not be just for some interests. When some interests are abused, we legislate on that, but when other interests are abused, we do not. It should not sweep under the rug people who have real needs, as the amendments of some of my colleagues—the Senator from Massachusetts and the Senator from Illinois—have tried to address. A reform bill should not contain a trove of treats for some supposed victims of the system, such as banks and credit card companies, but leave others shivering in the cold.

For this reason, the bankruptcy bill before us today does not do the trick. It has many deficiencies and, to my mind, a glaring, gaping hole. While the bill supporters give lipservice to fairness, they have carved out a loophole for those who use violence, for those who seek to use bankruptcy for a purpose it was never intended. It is a loophole that I cannot live with, and, once upon a time, in a different world, the vast majority of Senators agreed with me and voted to close this loophole.

Most of you are already familiar with this provision. After all, most of you have voted for it before. Indeed, this is identical language; there is not a single word change in this amendment, the Schumer-Reid amendment, from the amendment that was added to the bill a few years ago. This identical language was contained in the compromise bill we have heard so much about this past week.

Along with Senator REID, I am reintroducing the provision that would close this loophole once and for all. I am pleased that Senators LEAHY, FEINSTEIN, and MURRAY are also cosponsors of the amendment.

Put simply, the Schumer-Reid amendment would end the ability of violent extremists to hide behind bankruptcy laws to escape court-imposed debts. The amendment is very simple: If you use violence or the threat of violence to achieve a goal, a political goal, and you are successfully sued—as you should be—by the person or persons you have used violence against, you cannot then go back home to a bankruptcy court and say, protect me. Has anyone who ever envisioned the bankruptcy law felt that it should be used to protect those who use violence or threats of violence? I doubt it.

There is talk by some of "peaceful protests." As I will talk about later, the bill explicitly protects peaceful protests but not violence or the threat of violence. It doesn't matter if you are an extremist in the pro-life movement or the animal rights movement or any other movement; if you believe you are so right that you have the ability to take the law into your own hands and threaten others and do violence to others because your knowledge and feelings are superior to everybody else's, you are wrong. That is not American. Again, you should not be allowed to use the Bankruptcy Code to protect yourself from a rightfully imposed civil remedy.

This amendment could really be called the Schumer-Reid-Hatch amendment because in 2001 Senator HATCH sat down with me and together we worked out this compromise. We worked out this precise language in a bipartisan fashion over 4 years ago. There is only one difference—that since we worked out this compromise, which a large number of colleagues on the other side of the aisle supported, including those who disagree with me on the issue of choice, we have found that a small group in the House has been able to block the bill if it had this amendment in it. There is no reconsideration of the merits of the amendment. There is no argument made against the amendment that hasn't been made before and rejected overwhelmingly by this body. It is simply allowing a small few in the other body to dictate what we are doing here.

If reason and logic prevail, this amendment would be considered among the least controversial and most sensible fixes to the current bill. If bipartisanship and consistency were the order of the day, this provision, which was unceremoniously stripped from the current bill, would pass again overwhelmingly. The bill is intended to curb abuses of the Bankruptcy Code. But why are we curbing abuses when the victim is a credit card company or a bank but not anybody else? Why not also when the victim is a woman pursuing her constitutional rights? Does that woman have any less rights than a bank or credit card company, or a doctor pursuing a living, doing what he believes is right and what is allowed by law, according to the Supreme Court and enshrined in the Constitution, and this doctor tries to prevent people from hounding his children, from threatening them with violence, and then you say, no, we are going to protect the credit card companies and the banks but not that doctor, not that woman: is that fair? Is this bill fair and balanced?

We want to reform bankruptcy; there are abuses. But why are we only reforming the abuses that affect some and not others? Why are we only reforming the abuses that affect some of the most powerful interests and not those who are weaker or more helpless?

In the current climate, I am sad to say that there appears to be an edict from the leadership on the other side to vote down every amendment, no matter what its wisdom for efficacy. That is not what the Senate is about, that is not what America is all about, and that is not what our constituents sent us here to do. It would be a tragedy if that sort of marching-in-lockstep attitude affected the Schumer-Reid amendment.

Let me take a minute to describe the history of this amendment, to refresh the recollection of many of my colleagues who may have forgotten it. Let me tell you what happened. Of course, Roe v. Wade was passed by the Supreme Court in 1973. Many opposed Roe v. Wade; they felt it was against their religious beliefs. I respect those religious beliefs. A large movement of protests developed, the vast majority of which was peaceful. The former bishop in my home of Brooklyn would stand in front of a clinic every week and pray the rosary. That is an American thing to do. That is a peaceful protest. But there were some—an extreme few—who decided that they were so right, that what they heard from God prevailed over what anybody else heard from God, and that they should take the issue into their own hands. Some used the methods of blockade, passive resistance. Others went further. They would put acid on clinics that would render them useless—a destruction of personal and private property, if there ever was. They would threaten doctors. They would follow their children going home from school and harass them. Inhumane. They would even encourage people to kill doctors. We know doctors who were killed.

This protest movement was largely successful. It shut down about 80 percent of the clinics in America. There were some States and many counties where a woman who was seeking her own right to choose would not get that right, and, as a result, a number of us worked on a law—I was a sponsor in the House, and I believe Senator BOXER was a sponsor in the Senate—that would give the clinics that offered people a way to effect their right to choose some help. The law made it a Federal crime to use violence or the threat of violence against clinics. That was necessary because you had large jurisdictions where the elected sheriff said, I will not enforce the law, taking matters into his own hands.

As we were discussing what to do with this bill, I remember a meeting in New York, and a young woman from one of the defense funds that represent women said: Why don't you include the right to sue, so if the Federal Government is unwilling or slow and cumbersome in protecting this Federal right, the clinic could sue. We put it in the bill as an afterthought, but it really proved to be the hope and the salvation of the clinics because they began to sue those who would blockade them when police forces would not enforce the law.

There was Dobbs Ferry in New York, where they wanted to enforce the law. They had a police force of three, and hundreds of people were protesting violently and blockading—not peacefully—and the police force was overwhelmed. But the right to sue opened up these clinics and, once again, the constitutional right, available voluntarily to women.

No woman is forced to avail herself of this right; it is choice. That is what it is all about—choice. Your beliefs may be different from mine, but I respect yours; I hope you respect mine. I am not imposing mine on you, and you should not impose yours on me, particularly when they are deeply held religious beliefs. That is America.

So the clinics were open again. Many of these violent protesters sort of faded away. They realized the legislatures were going to keep the Roe v. Wade law, that they could not succeed in overturning it. If you believe the polls, over 60 percent of Americans support the right to choose. They had turned to violence and threats of violence, and now the FACE law had stymied them in that decidedly un-American way to enforce your views or effect your views. So we offered an amendment.

I skipped one point. Some of the more militant of these groups—the militant of the militant—came up with a new way to avoid these civil suits that the FACE law allowed. They said: Go back and declare bankruptcy once you are sued, and then they cannot pursue the money judgment used against you. This was made particularly difficult because most of the groups that used violence or threats of violence were not indigenous. They were not from the local community. There were a lot of people against the clinics in the legal community, but they, like most Americans, effected their views peacefully. But these were sort of roving bands of groups from across the country. They would be sued successfully, and then they would each go back to their home jurisdiction and file for bankruptcy.

It was impossible for these clinics, most of which were small and not terribly well funded, to then file after they won the first suit—a burden enough to them. They should not have had to do it. It should have been the Federal Government or the local government enforcing the law. But they went back home, declared bankruptcy, and the clinics were not able to pursue each of those suits in their home States.

An example is that of the notorious Nuremberg files case that took place in Portland, OR. The defendants created, in that case, a Web site that collected personal information about providers of abortion, clinic staff, law enforcement officials, judges, and even Senators. The site listed the names of those wounded in gray type and for those who had been killed—including Dr. Barnett Slepian in my State who was murdered in front of his family in 1998—they crossed out the names, as if they had achieved something good.

Doctors and their families targeted by this Web site had to wear bulletproof vests, install security systems, and take other precautions. As one witness testified before the Judiciary Committee, speaking of the targeted doctors:

> They are not secure in their homes or in their offices. They do not sit by windows in restaurants, and they even refrain from hugging their children in front of open windows.

Can you imagine? Under the FACE law, the victimized doctors sued these violent radicals who would threaten them. Judges and juries sided with the victims and issued verdicts. For example, there was a $109 million verdict against the Nuremberg defendants. In another case, Operation Rescue President Randall Terry ran up $1.6 million in fines on account of his acts of clinic violence. But did these violent extremists pay up? No. They instead filed for bankruptcy to avoid responsibility for their heinous acts. In fact, many of these public defendants publicly bragged about being judgment proof and thumbed their noses at their victims, forcing years of protracted litigation.

Randall Terry, for example, blithely filed for bankruptcy to avoid paying his debts. And the Nuremberg file defendants forced bankruptcy litigation for years in six different jurisdictions to avoid their debts. Some of the extremist groups even recruited people and had as a criteria for admission to the group that you make yourself judgment proof. One radical group, for instance, the American Coalition of Life Activists, drafted its Constitution to state that members of the organization "must have their assets protected from possible civil lawsuits (judgment proof)."

As one can imagine, with these tactics, it took years to enforce the judgments against these violent radicals, and victimized doctors, families, and clinics could not get the justice they deserved. We all know that the wheels of justice are sometimes too slow, but tactics such as this made a mockery of our system.

So when the bankruptcy bill came before the Senate back in 1999, I offered an amendment to stop this awful abuse of the system. It made sense. It was not adding a new issue to the bill. The bill was supposed to deal with abuses of bankruptcy, and if there was ever an abuse of bankruptcy, what these violent extremists did was an abuse of the bankruptcy law. No one, when they wrote the bankruptcy law, thought the Randall Terrys of the world deserved protection.

When I offered the amendment, Senator HATCH and others—some pro-choice, some pro-life—came to me and said: Why are we singling out pro-life activists who engage in violence and take the law into their own hands? What about other extremists who abuse the Bankruptcy Code by using violence or the threat of violence?

They were right. So we sat down. We had a fruitful discussion. From this, Senator HATCH and I worked out a compromise with which everyone could live. We hammered out an amendment that was not particular to the issue of the clinics but dealt with anybody who would use violence or the threat of violence in the same way—blockades, arson, whatever. They, too, if they had a judgment against them, could not go to bankruptcy court and successfully ask for protection.

The amendment we have does not mention the word "abortion" or "choice." It simply talks about anyone who uses violence. It would be applied with equal force and vigor to animal rights activists, to the environmental extremists in the ELF movement. It only affects, frankly, those on the far right or the far left who believe they are so morally superior to all of us that they can avoid this constitutional democracy and, with violence, take actions into their own hands. Anyone who violently or misguidedly blocks access to services, whether in the name of the pro-life movement, the animal rights movement, the environmental movement, or any other movement, would lose the ability to hide behind the Bankruptcy Code.

It would apply equally. It did apply equally to pro-life extremists and ecoterrorists, one on the far right and one on the far left. Indeed, if militants in the pro-choice movement should block a facility that was pushing abstinence, it would apply to them, too. If violent atheists blocked access or burned down a church, it would apply to them. It applies to anybody who uses violence and then seeks protection of the Bankruptcy Code.

This amendment is not about abortion, as its critics attack it. It did have its origins there because that is where violence was used, but now, after the Schumer-Hatch compromise, it is an amendment simply about the rule of law, something everyone of any political party, of any political belief who is an American—when you swear your loyalty to the Constitution of the United States, you are basically swearing loyalty to the rule of law.

Let me underscore this: It does no harm, none, not 2-percent harm, not 1-percent harm, not .1-percent harm; it does zero harm to legitimate protesters who do not engage in violence or threats of violence. The amendment expressly states that "nothing in this provision shall be construed to affect any expressive conduct, including peaceful picketing or peaceful demonstration, protected from legal prohibition by the first amendment to the Constitution of the United States." If you protest peacefully, you are protected. If you use violence or the threat of violence, you are not. That is the American way, and we made it clear.

People who are against this amendment say it stands in the way of peaceful protests. I ask them to cite me a single example where that has happened. It has not.

This was a fair amendment. It applied to anyone who used violence to effect their means and, in overwhelming numbers, Democrats and Republicans supported it. Virtually all of my Republican colleagues now on the Judiciary Committee, including some leading pro-life Senators, supported it—Senators HATCH, GRASSLEY, KYL, and SESSIONS. I take off my hat to them. They were being fair. I am sure they received a little pressure: Don't do this. Maybe there were some winks: Hey, maybe this violence is OK because we feel so passionately about an issue. But they stood up. To their credit, these Senators, even though they are staunchly pro-life, were reasonable and sensible about the issue.

Then on March 15, 2001, a bankruptcy bill, largely identical to the one before us today, except that it had the Schumer-Reid-Hatch language in it, passed in the Senate by a vote of 83 to 15. Only two Republicans voted against it, and that was for reasons other than this amendment.

Then, of course, the bill was sent to the House. It looked like as if would pass. I supported the bill with this amendment in it. I have always said I will be for the bill with this amendment because I think this amendment is so important, even though I am not happy with other provisions in the bill. I am, frankly, less happy today with the other provisions in the bill.

The bill was sent to the other body, and a fight ensued within the Republican caucus. A large number, probably a majority of the Republican caucus, wanted to support the bill, but a small number who were the most fervent in their pro-life beliefs said no bill. The Republican leadership in the House said since this divides our caucus, even though a vast majority of the House would have supported the legislation, in my judgment, they pulled the bill.

So now we are back to where we are today. We have basically the same compromise as last year but without the Schumer-Hatch compromise. All I am doing today is adding that compromise word for word. Again, not a comma, jot, or tittle has been changed in the bill.

I have watched while amendment after amendment offered by Democratic Senators to end abuses and close loopholes has been beaten back because of an edict that this "negotiated compromise"—not negotiated certainly with many of us on this side—should be delivered pristine to the House.

Republicans defeated an amendment to protect veterans because it was not part of the compromise. That was offered by the Senator from Illinois, Mr. DURBIN. For example, a National Guard man or woman, a reservist sent overseas does not make the same money they made before, and maybe they have to go into bankruptcy. Do we want to come down like a hammer on these people the same as we would come down on somebody who squandered whatever money they had in Las Vegas gambling? Absolutely not. But the amendment was defeated.

There was an amendment that was defeated to protect victims of identity theft. I believe that was done by my colleague from Florida, Senator NELSON, because it was not part of the compromise.

Senator KENNEDY has eloquently spoken of those who have to go into bankruptcy because they do not have adequate health insurance or any health insurance, and they are putting their every last nickel to save their husband or their wife or their mother or their father or their child. Again, no protection.

An amendment I offered which said millionaires could not abuse the code by setting up a trust and putting all their assets in this trust and then declaring bankruptcy and shedding themselves of debt also was not allowed because of the compromise.

Mr. President, do you know what was part of the original compromise? The Schumer-Reid amendment or, more correctly, the Schumer-Reid-Hatch amendment. Yet this provision was stripped from the current bankruptcy bill.

If Senator HATCH continues to suggest we should honor the grand compromise from last time and not change it, then let's do it for everybody. Let's not just take out this provision.

What, I ask, has changed since the bill of this language passed by a vote of 85 to 13? Absolutely nothing. It was a good law then, it is a good law now. On what basis can my colleagues now oppose the Schumer-Reid amendment because it targets, among others, those who take the law into their own hands to oppose a woman's right to choose? That is nonsense. Senator REID is the lead cosponsor of the amendment, and he is pro-life. And as I have said, the language is not particular to abortion.

Let me ask my Republican colleagues a question. I hope they are listening: Would my Republican colleagues oppose a broadly worded murder statute because, among other things, prosecutors could bring charges against someone who killed a doctor who would provide abortion services? Would they oppose a neutrally drafted arson statute because men and women who burn down health clinics might come under its ambit?

There is no moral reason, no legal reason, no logical reason, for Senators who once overwhelmingly supported this language to now oppose the Schumer-Reid amendment. Some of my colleagues have said they are still in favor of this amendment but do not want the entire bankruptcy bill to be held up because of it. My purpose is not to hold up the bankruptcy bill, and I think my colleagues on the other side who worked with me over the years on this bill understand that. My purpose is to preserve the rights of those who seek to do constitutionally protected acts in the face of violence.

So I ask my colleagues to please think about what they are doing. If they vote against this amendment, they are voting against the rule of law. If they vote against this amendment, they are voting against the fundamental way we do things in America. If they vote against this amendment, many of my colleagues are voting exactly the opposite of what they did a few years ago. I ask my colleagues not to change their vote because of political expediency. If my colleagues turn their back on this amendment now, it will be a turnaround, an about-face, on fairness, on reform, and on bipartisanship.

As I have said, this is not pro-choice or pro-life. It is pro rule of law and it is antiviolence. No matter how strongly people feel—and I respect people's passions; I respect their passions whether they come from religion or politics or anything else—the greatest danger our Republic faces is apathy, so people who feel passionately are good. Because someone feels passionately, they should not be allowed to take the law into their own hands and then hide like a coward behind the bankruptcy law.

Just as we are trying to end the abuses of the bankruptcy law when it affects banks, we should also end abuses of that law when it affects victims of violence. It is vital that we make the law perfectly clear that debts incurred by violent extremists who take the law into their own hands are nondischargeable, and that is all this amendment does, no more or no less. If we do not, individuals and organizations seeking to shut down public facilities, whether they be clinics, powerplants or animal laboratories, will continue to force victims of clinics and other violence into a world of perpetual litigation by using the Bankruptcy Code as it was never intended.

I ask my colleagues to support this amendment. Most of them did once and they should do so again.

I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, my colleague from Alabama is in the Chamber. I was going to ask that the time be equally divided as we were in the quorum call and not charged to myself, but if my colleague from Alabama is taking the time, then that is moot.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Senator from New York. As someone who has worked hard on this bankruptcy legislation for the 8 years I have been in the Senate, I have learned a political lesson that no matter how much bipartisan support a bill has, how much momentum it has, how needed it is, things can go awry.

In the last passage of this bill, Senator SCHUMER offered, and aggressively argued, for the amendment that we are debating today. The leadership on this side of the aisle said, OK, we will accept it. I realized that it was problematic for a number of reasons. I opposed the amendment, but it passed, and without a whole lot of objection, I suppose, from this side. The truth is it then became the single factor in the House's rejection of the bankruptcy bill, a bill that passed this body by a vote of 83 to 15. It was really a remarkable sort of event.

Let me just say a few things about the bankruptcy procedure. It has long been a fundamental principle of bankruptcy that while a bankrupt individual may bankrupt against their lawful debts, wipe them all out, and pay none of those debts, it has always been the law that a bankrupt may not discharge, may not wipe out, erase the debts that they incur as a result of intentional or willful misconduct.

If a debtor lists debts that arise from an intentional wrong against someone, the trustee in bankruptcy or a creditor or any of the creditors can object to that discharge, and they would note that it should not be wiped out, it should not be discharged, because it is a debt that arises from a willful, wrongful act.

The court then considers that and determines whether or not the debt should be wiped out and whether or not it was a debt that arose from a nondischargeable reason like willfulness.

Senator SCHUMER's amendment says that willful violators of abortion clinic protest prohibitions, and really a lot of other protestors, it appears to me—maybe unions, civil rights, environmental, I think he has said that they are covered here—he says that if willful violators of abortion clinics and these others included in his bill are sued and a judgment is rendered against this protestor under Federal law, then automatically those judgments are not subject to discharge; the court does not review it; they remain a debt of the protestor for their life, and they can be pursued by collection attempts for as long as that debt exists, and it can be for some time.

What we do know is this: Abortion clinic protestors have been sued for misbehavior at abortion clinics under the FACE Act. Some of these people have been relentless in their actions and have acted repeatedly in violation of law, and they have been sued. Judgments have been rendered against them. Most of them do not violate the law. As the Senator has said, the archbishop prays the rosary and conducts lawful acts, demonstrating his concern over the taking of what I consider to be life by the abortion act, and this is a free country and they are allowed to do that. But there are certain things that one cannot do in that protest, and a number of people in the past, a lot more than is currently happening, frankly, violated those prohibitions of the FACE Act. They have been sued and judgments have been rendered against them.

We also know that some of those protestors who had judgments rendered against them went to bankruptcy court and sought to wipe out their debts and not pay these debts for their protests, to discharge them from bankruptcy.

Finally, we know that under the current law, and under the law that is in the bankruptcy bill that is moving forward today, it has not changed on this point. That law prohibits the discharge of debts arising from willful acts. In every single case that the courts have considered petitions for discharge, in these abortion FACE Act violation cases, the bankruptcy court has refused to discharge the debt. They say, no, it was a willful act and you cannot discharge it; you still owe it. And the abortion clinic plaintiff or doctors or whoever is victimized can continue to pursue collection wherever they go. They can file garnishments against people's wages, file judgments against their property and pursue them aggressively and steadfastly to collect that debt. That is what the law has said every single time, and there is not much dispute about that. I do not think the Senator from New York would dispute that.

By his amendment, the Senator from New York, because of his concern over these very few cases, frankly, but he is concerned about it and has raised the issue a number of times, has managed, as a result of his successful passing of that amendment on this Senate floor 2 years ago, to cause the bankruptcy bill and all of its important parts to actually die and not become law because the House refused to accept it. Because of his concern, I know he has offered this again.

What he would want to say, and what his amendment says, I think fairly stated, is that a protestor and not just abortion clinics but any number of protestors who are sued under Federal law, and a judgment is rendered against them, Senator SCHUMER would want to make that judgment automatically not dischargeable, automatically without review by the court or any examination of the facts of the situation, to say it should not be discharged and will remain a permanent debt of the protestor.

I know the Senator said we all voted for this and there was some sort of agreement. I really do not think there was an agreement about this. As I recall, it came up in the Judiciary Committee. Chairman HATCH was trying to move the bill forward, as he frequently does, and allowed it to become accepted by a voice vote without any big todo. It came up to the floor and was debated again, and a decision was made that we would just allow it to pass. It was not that big a deal as people saw it at the time.

I opposed it. I did not feel good about targeting these kinds of cases. I thought that the current law was acceptable and we should not go in this direction, but it passed and I voted for final passage of the overall bankruptcy bill. So I think that is why the Senator says I and others voted for it. A lot of people voted for the bill on final passage that may not have voted for the amendment on the floor.

Regardless of that, the question is, now what should we do? I would just note that there are a number of reasons why I think this should not be a part of the bill. First, as I have noted, these protestors have lost every single case in which they have sought to discharge debts arising from judgments under the FACE Act. The current bankruptcy law and this bill will say flatly that such debts are not dischargeable if the injury is the result of a willful, malicious act, as these violations for the most part are.

So, first, it is not necessary, and I would again note that the bill covers more than just abortion protestors. There could be any number of protestors. I think about the situation where maybe somebody from Alabama goes up to the southern district of New York and gets sued up there and a big judgment is rendered against them for taking a position unpopular in New York or maybe, as has happened in the past, people from New York have come down to Alabama and have been involved in protests and could have judgments rendered against them in local courts. So the Senator would say that under no circumstances, when that judgment were to appear on a discharge petition in bankruptcy court, would the court have any authority to look behind it. This Federal bankruptcy judge would have no authority to look behind this judgment to see if it was willful or intentional as the current law and the law has always been in bankruptcy, to my recollection, pretty much from the history of bankruptcy law. He would not look behind it and he would decide automatically it is a judgment not dischargeable. I am not sure that is good policy. I am not sure we want to do that. As a matter of fact, I do not think it is. I think the current law works. We should not do this. The Schumer amendment is bad policy. I disagree with it. I do not think it is the biggest deal in the entire world, but I think under the legal system and the principles of this bill, we would be better off allowing the bankruptcy court to consider these debts and examine them to make sure they meet the standards of discharge.

There is a big practical reason. This bill has passed the Senate four times by an overwhelming vote. One time I think it was 97 to 1. It has been marked up in the Senate Judiciary Committee four times, and it has not been lightly considered on the floor of the Senate. It has been the subject of hours and hours and days of debate. We are already into the second week on this bill. After all the debate and all the hoopla we have had, and so many other issues, we continue to pound away at this legislation for reasons that I am unable to fathom. But we are moving forward. I believe we will pass it again.

What is the practical reason? The House of Representatives rejected this bill the last time for the sole reason of the Schumer amendment. It is unbelievable. As much as we had in this bill, all the pages of this legislation, one little amendment killed this legislation, an amendment that I believe is bad policy, certainly not necessary, and I submit could result in killing this legislation again if we move it forward.

So let's not do it. Let's not do this. Let's not go beyond the bill that we have now, that came out of the Judiciary Committee with a bipartisan vote, an overwhelming vote out of the Judiciary Committee to come to the floor without the Schumer amendment in it. Let's not add this amendment and jeopardize the passage of the bill.

Let's not add this amendment and perhaps take a step, I submit with all seriousness, that could curtail protests and freedom of expression in America. Sure the protesters have lost every time. I believe they should have lost every time under the law. But there may be some times, under some of these provisions of Federal law, that could result in judgments that legitimate protesters were simply standing up under hostile circumstances in a hostile jurisdiction for what they truly believe in, and then the bankruptcy judge has no ability whatsoever to prohibit this judgment from sticking against them perhaps for the rest of their lives.

I don't know.

I don't think the law is failing in this regard, and I do not think the law is being abused in this regard. I think it is being handled well. We do not need this amendment for the reasons I stated, and for other reasons, frankly, that I will not state at this time.

I urge the rejection of the Schumer amendment and note with pleasure that Senator HATCH, the former chairman of the Judiciary Committee, now a senior Republican member of it who has worked on this legislation since the beginning, is on the Senate floor. I am pleased to yield to him.

Mr. HATCH. I thank my colleague.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate the remarks of my colleague. As usual, he has done a very good job in outlining what is involved in this bankruptcy bill, and I believe he deserves a lot of credit for the hard work he has done on the floor.

Mr. President, comes now the Schumer amendment or, should I say, comes again the Schumer amendment. I rise to speak in opposition to this amendment. Been there. Done that. In fact, I have been there and done that a few times.

I have been around here long enough to know a poison pill when I see one. And make no mistake about it, this has become a classic poison pill amendment.

I have worked in good faith for several years to attempt to neutralize the counterproductive effects of this amendment. But no matter how we try to adjust the language, we cannot overcome the basic flaw in the amendment: The Schumer amendment is a solution in search of a problem.

I oppose this amendment. It is no secret that I am genuinely fond of the senior Senator from New York. While I frequently disagree with him on issues, I respect enormously his political skills.

Even when from my perspective he is wrong—such as the leadership role he has played in organizing the first permanent filibusters of majority-supported judicial nominations—I know that he always tries to act in a heartfelt manner that advances his political agenda.

We have been able to achieve compromises on many issues over the years. Senator SCHUMER and I have worked together on many crime issues. For example, we have worked on language pertaining to the designation of high-intensity drug trafficking areas.

Over a period of years we have tried to work together on the subject matter of the pending amendment to the bankruptcy bill. I have always been willing to work with him and others in the interest of passing the bankruptcy reform bill.

From the beginning of this debate, many others and I have long contended that his amendment is unnecessary on its own merits. The amendment which we consider today appears to seek to guarantee the collection of civil and criminal penalties arising from criminal violations of the 1994 Freedom of Access to Clinic Entrances Act. The purpose of the Schumer amendment is to make clear that those who are fined due to attacks on abortion clinics are prevented from being able to discharge these fines and civil judgments resulting from such attacks through bankruptcy proceedings.

My friend from New York has pushed a hot button. He must know that. Injecting the polarizing politics of abortion into the bankruptcy bill, most would have to agree, does not appear to be calculated to help the passage of the bankruptcy bill. Quite the opposite, the Schumer amendment has become a wedge issue that has stopped the bill in the past and, today, can threaten the passage of this important bipartisan bill that enjoys broad bicameral support.

I urge my colleagues to vote against the Schumer amendment. Let me first explain my substantive objections and then I will describe my procedural, pragmatic, and political concerns with the Schumer amendment.

At the outset, it should be understood that in its best light the Schumer amendment is a belts-and-suspender proposition that attempts to solve a problem which, as far as I can tell, has never actually occurred.

We have been debating this bill for 8 years, and I am still unaware of any actual case in which a person who has been fined for harming a person or property in connection with any unlawful protests against, or attacks on, abortion clinics, has had any subsequent fines or financial penalties discharged through bankruptcy. At our markup of this legislation in February of 2001—more than 4 years ago, Senator Schumer said in justification of the amendment:

> . . . this is a vital amendment. I am not going into all the details . . . I will not catalogue them except to tell you that when Maria Vullo testified and anyone else did, they said without the Schumer Amendment we would go back to the days before 1994 when the clinics were closed by some who had felt . . . that they were more moral than the rest of us. . . .

Certainly that prophesy has not come to pass in the 4 years subsequent to the time that Senator SCHUMER made that statement back in 2001.

I am unaware of a systemic shutdown of the network of abortion clinics in this country over the past four years. Nor am I aware of any evidence of the use of the bankruptcy code as a mechanism of escaping financial responsibility for acts of violence against abortion clinics or their personnel, or for that matter, any other criminal enterprise.

The reason for this outcome is simple: Current law prevents such an outcome. Section 523(a)(6) of the bankruptcy code already prohibits the discharge of debts through willful or malicious injury to a person or property, and section 523(a)(12) makes restitution orders resulting from a criminal conviction nondischargeable through bankruptcy.

Nothing in this bill changes these provisions in the law. Moreover, a growing body of case law confirms the adequacy of these provisions when it comes to enforcing judgments arising from FACE Act violations.

In Behn v. Buffalo GYN Womenservices, a 1999 decision in Federal bankruptcy court in Senator SCHUMER's home State, the court rejected an attempt to discharge a civil award debt resulting from an abortion protest.

So it was rejected.

In Bray v. Planned Parenthood of Columbia/Willamette, decided in 2000, a bankruptcy court in Maryland rejected the attempt to discharge debts resulting from an Oregon case in which a Web site produced by anti-abortion extremists threatened the lives of those working in these clinics. The 2001 Treshman decision in a Maryland bankruptcy court confirmed that such actions will not be tolerated by permitting discharge of restitution or judgment through bankruptcy.

Randall Terry, the founder of Operation Rescue, is living proof of the adequacy of these laws. His Web site now solicits contributions after he was completely bankrupted as a result of actions found to be violative of the FACE Act.

From a purely legal perspective, it seems fair to say that what we have here is a solution in search of a problem. This is actually confirmed by the most recent testimony of my colleague from New York's star witness on this subject, Maria Vullo.

Way back when this amendment was first suggested back in 1998 or 1999, several cases were still pending. But now these cases have been resolved. And in every instance, the courts have refused a discharge of these debts.

In answer to a question of Chairman SPECTER in connection with the Judiciary Committee's last hearing on bankruptcy reform, held only 3 weeks ago, Ms. Maria Vullo acknowledged that she was ultimately successful under current law in all six bankruptcy courts where she acted to help prevent such improper bankruptcy discharges of abortion clinic-related fines.

There you have it. The primary litigator in these cases testified that she has won in all of her cases under existing law. This should help lead us to the conclusion that there is no compelling legal reason to change the law. There is an old saying: If it ain't broke, don't fix it.

We are not talking just belts and suspenders, we are talking belts, suspenders, *and* an elastic waist band. Discharges related to FACE Act violations have not been permitted under current law.

Our laws are clear. We discourage, prevent, and punish abusive filings, including those related to those offenses that occur in connection with abortion clinics. Again, to my knowledge, there is a complete absence of cases demonstrating the problem that this amendment seeks to address. This is not surprising.

Our bankruptcy laws already act to prevent, have prevented, and will act in the future to prevent precisely the problem that Senator SCHUMER is worried about, but cannot, it appears, document. The truth of the matter is that, on the merits, this is just an unnecessary amendment. Yet this amendment has already scuttled bankruptcy reform on two occasions.

In 2000 essentially the same bankruptcy bill passed this body with 83 votes and then 70 votes. It was vetoed by President Clinton in the waning days of his second term for failing to include this amendment. Then in the 107th Congress, the House of Representatives rejected even a twice-amended—and moderated—Schumer amendment.

Now that it is clear that the courts will not discharge these debts, the proponents of this amendment have slightly but subtly changed their tune. Now the alleged issue of concern is that some will nevertheless continue to attempt to discharge such fines and penalties—that is, sometime, some place, someone will try to use the bankruptcy code to shield illicit acts involving attacks on abortion clinics.

Some argue the amendment is justified on the supposed need to codify the general prohibition of section 523(a)(6) against discharging debts accrued in connection with willful or malicious injury to a person or property with a special provision of law geared solely toward abortion clinic-related violence. The fact is, however, current bankruptcy law, along with the ever growing body of precedents on this subject, make it clear that attorneys will not be inclined to make these frivolous and abusive filings in the future.

Rule 9011 of the Federal Rules of Bankruptcy Procedure already allows sanctions against attorneys who participate in submissions to delay proceedings and needlessly increase the cost of litigation. It says a frivolous action without evidentiary support can be punished. I guess it is true that particular bankruptcy courts may sometime in the future eventually be faced with a filing by someone asking for improper discharge of debts, but that is just the nature of litigation within the bankruptcy system and the American system of justice.

Having the right to bring a claim in our system is very different from winning that claim. For each case that goes to trial, there is a winner and a loser. Trying to get around the bankruptcy code and case law precedents in the manner feared by supporters of the Schumer amendment is a losing case under current law.

Courts decide cases on the basis of the law and the particular facts in front of them. That bankruptcy courts will have to undertake their normal and traditional role of reviewing all relevant aspects of individual filings that may, or may not, include these improper and unsustainable claims related to abortion clinic damages is hardly a grave injustice.

And for what it is worth, the success of the FACE Act and the decisions of bankruptcy courts that hold those debtors to account appears to have resulted in an ever dwindling number of judgments that must be litigated.

This is an issue that is being overhyped.

The current statutes are clear.

The case law is clear.

The paucity of evidence of such claims for abortion clinic-related violence and injuries being routinely, or even infrequently, made in bankruptcy proceedings, reflects the fact that the word is out that the statutes and case law already prevent the problem that the Schumer amendment allegedly solves.

Moreover, I would like to add that section 319 of this bill expresses the sense of the Senate that all signed and unsigned documents submitted to a bankruptcy court must be preceded by a reasonable inquiry to verify that this information is well grounded in fact and warranted by existing law or based on a good faith argument for an extension, modification, or reversal of existing law.

I am hopeful that this sense-of-the-Senate provision will help spread the word even further.

When the Schumer amendment burst upon the floor in 2000, I worked in good faith to make this questionably meritorious issue more palatable to Members on my side of the aisle.

In particular, I wanted to help alleviate the concerns of those who, as I, hold strong pro-life views. We are sensitive to the fact that the original Schumer amendment could reasonably be interpreted as affecting first amendment rights to protest against what we believe is the unjustifiable practice of abortion.

It is my recollection that the original Schumer language back in 2000 also addressed attempted or alleged harassment, interference, and obstruction. Many believed that this language was way too broad and could have potentially implicated the actions of peaceful anti-abortion protestors who were simply exercising their freedom of speech.

Nevertheless, for a variety of reasons, mostly political rather than legal or policy, the Schumer amendment was accepted. One of the key factors was that it appeared to some at the time that the amendment was offered in part to give then-Vice President Gore an opportunity to possibly cast a tie breaking abortion vote during the Presidential election year of 2000.

I cannot say for certain that this was the case. But if it was, it probably would not have been the first time that Presidential politics played out on the floor of the Senate.

Before the February 2, 2000, vote on the Schumer amendment, I said the following on the Senate floor:

> Although I believe this amendment to be tremendously flawed, the majority leader, Senator Grassley, and I recommend that Members on both sides vote for this amendment. We will, in good faith, in conference correct the amendment and resolve these problems at that time. With this amendment accepted, nobody will be able to demagogue this issue politically in the context of true bankruptcy reform. We pledge to work with our friends on both sides of the aisle who are interested in this issue during conference to make sure the law is clear, that the due respect for the first amendment, and debts arising from violent acts cannot be discharged in bankruptcy.

This is hardly a ringing endorsement and certainly nothing near an absolute commitment to retain this language at any cost or contingency.

Nevertheless, in the 106th Congress the bankruptcy bill, with this flawed language, passed the Senate with 83 votes.

Eventually during the House-Senate conference committee the Schumer abortion clinic-specific amendment was not contained in the conference report. The bankruptcy legislation, without the Schumer language still passed the Senate with a strong bipartisan 70 votes.

Unfortunately, President Clinton then pocket vetoed the bill passed by both the House and Senate.

Early in the 107th Congress, I worked with Senator SCHUMER on compromise language that moved away from the incendiary abortion clinics-specific language to a more general and neutrally-phrased provision related to "lawful good and services." This provision was adopted by a unanimous voice vote of the Judiciary Committee on February 28, 2001.

I would note for the record that despite this compromise, Senator SCHUMER voted against the bill on final approval in the Judiciary Committee.

On July 17 , 2001, this bill passed the Senate by a vote of 82–16.

The House-passed version of the bankruptcy bill in the 107th Congress once again did not contain comparable language. I might add that the House passed its bill by a strong bipartisan vote of 306–108 on February 26, 2001.

At this point Senator SCHUMER and I worked with Representatives HENRY HYDE and JOHN CONYERS and others to fashion an acceptable compromise.

This compromise was rejected.

Frankly, at the time, I would have preferred that the compromise be accepted and this already overdue bill be signed into law.

However, I can well understand the frustration of many of my colleagues in the House being asked to adopt a watered-down version of an amendment without meaningful legal effect derived from the inflammatory original version of the Schumer amendment that addresses a problem that apparently does not exist in the first place.

Rather than go down this fruitless road again, I ask my colleagues to vote down the Schumer amendment for once and all.

Not only is it unlikely that the House will accept it, the Senate should not accept it either.

One important difference from the situation of 3 and 4 years ago is that we now have, as I discussed earlier, a more definitive picture of how the courts will interpret the application of section 523(a)(6) in the context of abortion-clinic related claims.

In short, the courts have not and will not allow fines or judgments stemming from the willful or malicious injury to a person or property to be discharged in bankruptcy whether they arise out of illicit actions against abortion clinics that violate the FACE Act, or, for that matter, any other of the literally dozens of other injuries that can be conjured up relating to willful or malicious injury to a person or property.

No one would, or should, take seriously any amendment that purported to state explicitly that fines or judgments incurred from yelling fire in a crowded theater could not be discharged through bankruptcy.

Nor should we support the Schumer amendment when we know it is both unnecessary and divisive.

You do not have to be pro-life to be against the Schumer amendment. You just have to conclude that 8 years is enough time to have worked on one bill that has repeatedly engendered broad bipartisan support.

And to hold up this legislation once again over an incendiary, extraneous, redundant poison pill amendment is just not right.

I always try to seek a compromise or accommodation with my colleagues whenever it is productive to do so and consistent with my principles.

In this case it is simply not possible to do so in a productive manner absent any sign from the House that its Members are receptive to such a compromise.

Having worked on this issue for several years, I have reached the conclusion that the inherent volatility of the subject matter of the original Schumer amendment has made it nearly impossible to arrive at a neutral language resolution to this undocumented problem at this time.

Moreover, the well-known by now impasse over the acceptability of compromise language is compounded by the simple fact that there is, to my knowledge, no compelling evidence that there is a problem requiring a legislative fix.

To a certain extent, this is an exercise that demonstrates why it can be harder to fix a hypothetical problem than a real problem.

Frankly, that we would even be considering an amendment based on the 2001 Judiciary Committee markup language, rather than the revised 2001 conference report language, hardly seems like a step in the right direction. To use an expression that my friend from New York sometimes uses himself, reverting to the earlier language may seem to some a bit like a poke in the eye.

I suspect that this is unintentional on the part of my friend from New York. I wish we could have worked this out, and I thought we did work it out.

But as I look at all the facts and circumstances, including the developments in the actual cases brought and decided over the last few years, I can only conclude that there is even stronger evidence today than there was in 2000 and 2001 that this amendment is simply unnecessary.

While I attempted in good faith to resolve this problem 4 years ago, time seems to have proven that those I who looked askance at this compromise in the first place were correct in their assessment of the lack of necessity for this amendment.

I ask my colleagues to oppose the amendment of my distinguished friend from New York for these reasons. It is important that we get this bankruptcy bill finished. It is extremely important that we get it done. If this amendment is added, it isn't going to get done again, and we will be in the ninth year next year, frankly, probably 2 years from now because we will never get what really has to be done in the best interests of bankruptcy reform.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I would like to ask my colleague a question, but, first, I will make a couple of points.

First of all, nothing has changed since we all supported the Schumer-Reid-Hatch amendment of a few years ago. The basic purpose then was not to make sure that cases in bankruptcy court did not come out on the side of those who were victims of violence. It was just impossible to pursue the claims of bankruptcy.

My good friend from Utah cites Maria Vullo. She is a successful lawyer in New York who donated her own time which she estimated at one of our hearings to be worth over $1 million. She believed passionately that those who used violence should be stopped. Not every clinic has it. And, of course, if you go through the bankruptcy proceedings, you will win. Clinics don't have the ability to do that; first, to fight in court on the issue of violence and then to go back to the bankruptcy court.

I say in all due respect to my good friend from Utah, he knew that then, and he knows it now. It is the same issue. The very issue that he says we don't need this law was brought up in 2000 and 2001. My good colleague was then good enough to admit we did need the law even though we couldn't find cases, and even though there were no cases in bankruptcy court where the Randall Terrys of the world prevailed. You would never have the successful suit.

That is why these fanatical groups are insisting that bankruptcy be used.

I make another point to my colleague. If the amendment is unnecessary now, why wasn't it unnecessary then?

I make this point to my colleagues: The merits have not changed. Exactly the situation that prevailed in 2000 and 2001 prevails in 2005.

What has happened is people have done a 180-degree about-face because of a small group in the House who do not represent the mainstream views of the House or of even the Republican Party in the House but who have insisted on not going forward with a bill with this worthy amendment in it. An amendment that was praised, a compromise that was hailed a few years ago is every bit as valid today as it was then.

I know it is difficult and awkward for people to say, well, never mind, but we cannot let this issue just die. The rule of law is too important. Fairness is too important. What is good and beautiful about America is too important.

We will ask our colleagues to stick with their convictions that they have had over the last few years and not do an about-face simply because a small group of industry leaders says we must have this bill no matter what.

Senator HATCH spoke for a long period of time. I wanted to rebut him. He did not want to do it on his time.

The PRESIDING OFFICER. The Senator from New York does control time. The Senator can yield time to the Senator from California, but in doing so the Senator will lose his right to the floor.

Mr. SCHUMER. I yield 10 minutes to my friend and colleague from California, and cosponsor of this legislation, Senator FEINSTEIN.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from New York.

We are both members of the Judiciary Committee. We had an opportunity to discuss and debate this amendment in the Judiciary Committee.

Senator SCHUMER's amendment is a critical amendment. Essentially, when this body in 1994 passed the Freedom of Access to Clinic Entrances Act, we said that individuals should be able to go into clinics without being obstructed. The law was very clear.

The law also has led to successful criminal and civil judgments against groups that use intimidation and outright violence to prevent people from obtaining or providing reproductive health services.

This law would be seriously damaged if we do not close this loophole that has allowed some antiabortion extremists to use bankruptcy to shield their assets. The Senator from New York mentioned the founder of Operation Rescue, Randall Terry, who said in 1998 after filing for bankruptcy:

> I have filed a chapter 7 petition to discharge my debts to those who would use my money to promote the killing of the unborn.

In my home State of California there was a similar incident involving a man by the name of John Stoos and several other people in 1989 who were sued by the operators of a Sacramento abortion clinic for allegedly blocking the clinic's entrance and harassing patients. A judge ordered Stoos and others to pay nearly $100,000 in attorney's fees incurred by the clinic. As a result, Stoos filed for personal bankruptcy, listing that debt among many he could not pay. These actions are clear evidence of abuse of the bankruptcy system. This bankruptcy bill should stop them.

I hope the Schumer amendment would be accepted by this Senate.

Let me use this time to speak a bit more generally about this bill. I voted for this bill when it left committee. I have decided to vote against this bill in the Senate. I want to say why. In committee, we were asked to withhold all amendments to the floor. We knew the bill was not a perfect bill. We have seen it improved over the years. We knew it was better than the House bill. And with all complicated, difficult bills, the tradition of the Senate has always been the floor debate and discussion. In a majority of times as a product of floor debate and discussion, problems in the bill can be remedied.

We knew there were problems in the bill. For example, I have an amendment which I have withdrawn which says that the credit card companies should, in fact, notify a minimum payer how long it would take that payer of a credit card, if he only paid the minimum amount of interest, to pay off the debt. Senator AKAKA had a similar amendment. It was summarily defeated. I had an amendment; I had two Republican cosponsors. I learned it would also be summarily defeated. Thanks to Senator SHELBY and Senator SARBANES, the Banking Committee has taken an interest in this and in the future and will take a look at it.

Nonetheless, the fact of the matter is this bill is all for the credit card companies. I know there is credit card fraud. I know that has to be met. I felt the bill was important to pass. However, I also felt the bill should be balanced and that we should see that the consumer is also protected in this process, protected with notice of what a minimum payment means, and also, frankly, protected against high interest rates.

Senator DAYTON moved an amendment which would limit interest rates on credit cards to 30 percent. The amendment was summarily defeated. The fact is with penalties, with other charges, with high interest rates—and many companies have interest rates, believe it or not, well in excess of 30 percent—a minimum payer cannot ever pay the full debt because the interest on the debt, if combined with certain penalties and/or fixed payments, becomes such that it overwhelms the principal. Many people do not know that.

The fact is 40 percent of credit card holders pay off their debt every month; 40 percent make only the minimum payment; and 20 percent are kind of 50/50 in that category. For those 60 percent who are generally people who are not as informed, not as able to pay back their bill, who may have one, two, three, four, five, six different credit cards, because this is a credit economy, credit card companies have been able, with very little interest to the payer of the debt, to solicit huge fees, penalties, and interest rates. This is plain wrong.

If we are unable to correct it, which I had hoped would be corrected by these amendments that have been presented, I cannot vote for this bill as long as these gross injustices remain.

Let's for a moment look at the 30-percent interest rate. It is very high. Inflation is about 2 percent. The interest rate on 3-month Treasury bills is 2.75 percent. The national average lending rate on a 30-year mortgage is 5.59 percent. Yet an amendment to limit interest rates on credit cards to 30 percent went down dramatically.

I mention there are companies that are charging high annual interest rates. Some charge 384 percent, 535 percent. Amazingly, one Delaware-based company has charged 1,095 percent, according to the Minnesota chapter of the National Association of Consumer Bankruptcy Attorneys.

The Washington Post, the Los Angeles Times, other major newspapers have pointed out where fees, rates, and charges have buried debtors. They have pointed out a multitude of cases. A special education teacher from my home State worked a second job to keep up with $2,000 in monthly payments. She collectively went to five banks to try to pay $25,000 in credit card debt. Even though she did not use her cards to buy anything else, her debt doubled to $49,574 by the time she filed for bankruptcy last June. Effectively, interest payments are half of the debt. She will never be able to pay that off.

To push people like this from chapter 7 into chapter 13, when what is the problem is interest rates and penalty fees that truly do victimize an unsuspecting individual—how could this Senate do that, if someone is going to charge a 100-percent interest rate?

One of my own staff members found that simply getting a credit card cash advance resulted in an immediate 3 percent fee which was simply added to the interest rate.

The result is even the most careful credit card users find themselves often swamped, particularly those who can only afford to make a minimum payment, and the fees, charges, and interests pile up, making it virtually impossible to ever pay off the debt.

This amendment would have been a meaningful addition to the bill. It certainly would have added fairness. It certainly would have sent a signal to credit card companies that the sky is not the limit. Yet it was defeated.

Senator SCHUMER's asset protection trust, of which I was a cosponsor, was another indication of where wealthy people could shelter assets and not have to pay back in chapter 13. These are some of the inequities.

In recent years a number of financial and bankruptcy planners have taken advantage of the law of a few States to create what is called an "asset protection trust." These trusts are basically mechanisms for rich people to keep money despite declaring bankruptcy.

They are unfair, and violate the basic principle of this underlying legislation—that bankruptcy should be used judiciously to deal with the economic reality that sometimes people cannot pay their debts, but to prevent abuse of the system.

This loophole is an example of where the law, if not changed, permits, or even encourages, such abuse.

The amendment was simple. It set an upper limit on the amount of money that could be shielded in these asset protection trusts, capping the amount at $125,000.

The bottom line: Without this amendment, wealthy people will be able to preserve significant sums of money in an asset protection trust, effectively retaining their assets while wiping away their debts.

The proposed cap amount, $125,000, is not a small sum. It is more than enough to ensure that the debtor is not left destitute. I believe it is a reasonable amount—it is deliberately based on the now-accepted $125,000 limit for the homestead exemption, which will also remain available to a debtor.

I would also like to say a few words about my concerns about what appears to be a new policy in the Senate.

It appears that the Republican leadership has decided that rather than honoring the 200 plus year tradition of the Senate as a deliberative body, the Senate should be run like the House of Representatives. There appears to be a new process being implemented in which the Senate should no longer seriously consider amendments on the floor to improve bills.

We are now in the middle of the second major piece of legislation where the majority has decided that amendments by the minority will be rejected wholesale regardless of the merits.

It appears that even when serious problems in the underlying legislation are raised and even when the Republican leadership agrees that the problem exists, amendments offered by the minority will be rejected.

In fact, when the Judiciary Committee was marking up the bill, Senators were asked not to offer amendments and instead offer them on the floor. Statements were made by the Acting-Chairman like, "I know we are going to go through this on the floor and I don't see any reason to keep us here all day and all night"; and, "[You will] have every opportunity to present these amendments on the floor."

Yet, upon reaching the floor, Senators have found that their amendments are not being considered on the merits.

It is the Senate's job to carefully debate, carefully consider, and pass the very best laws we can. But now the Senate is being asked to simply pass legislation as drafted, regardless of its content.

This lack consideration and care does a disservice to the Senate and to the Senators who work hard to reach compromises and find common ground. But more importantly, it does a disservice to the American people.

We are here to develop the best policy we can, not to simply play political games and jam through legislation for the sake of expediency.

As I began, I want to be clear. I support bankruptcy reform legislation, and I support many of the provisions in the underlying bill. However, throughout this process many important issues have been raised that identify serious problems that must be addressed. The Senate has been and should remain a deliberative body that seeks to draft the best legislation we can. Unfortunately, that is not what we are doing.

And unfortunately, based on these concerns, I regret that I am no longer able to support the bankruptcy legislation. I do not believe the bill before us is balanced. There remain many serious problems that must be addressed before I am ready to support the legislation. I have decided because of the summary disposition of amendments by the other side, this Democrat Member is going to vote "no" in the Senate.

Thank you, Mr. President, and I yield the floor.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask the time be charged equally on both sides during the quorum call.

The PRESIDING OFFICER. Without objection, the time during the quorum call will be charged evenly to both sides.

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I yield myself as much time as I may consume from the Republican side of the agenda.

I thank my colleagues for this good debate on an important issue that does not belong on this bill. There are several key reasons, clear reasons why this amendment of the Senator from New York should be rejected. This is an important piece of legislation, the bankruptcy legislation. This amendment brings the most difficult social issue we have of our day into this debate. It does not belong here. It is not the right place to do this. We have plenty of pro-life issues to come before this Senate, and not to tie the bankruptcy bill up would be an important thing to do.

The membership opposes this amendment because, as we learned in previous Congresses, it is a poison pill.

The amendment is meant to kill the overall bankruptcy reform bill. I would hope that is not what the author's intent is. But that is the effect of this amendment. It kills the bill.

If the author of this amendment wants bankruptcy reform to move forward, it is something that needs to move forward. I have voted against bankruptcy reform in the past because I didn't think it was proper. I thought particularly we have problems on homestead provisions that we have been able to get worked out over the years we have been considering this legislation. Now we have that worked out as many other pieces have been refined over the 6 years this has been considered.

Now is not the time to add this most contentious issue into the debate. It is not the proper place, and it is time that we move the bill forward, move it to the House and to the President for signature.

Bankruptcy reform is an important matter. It would be my desire for my colleague not to offer the amendment so that we can focus on the particular critical issue facing our Nation in the form of the need for fundamental bankruptcy reform.

Aside from the abortion issue, I am deeply concerned about what I believe to be a lack of fairness and justice embodied in this amendment. There is a fundamental fairness issue involved with this amendment. No one in this Chamber condones violent crime. I am certain that everyone believes violent crime should be prosecuted to the fullest extent of the law. While the pending amendment is presented as a way to address violent crime, it would primarily and inappropriately intimidate and harm peaceful protesters. In fact, were the Schumer amendment to become law, no crime would even be necessary to trigger its sanctions. Merely violating a Federal or State civil statute, such as a minor trespass, would be enough to place a violator in financial jeopardy.

Historically this legislative body has fashioned criminal and bankruptcy penalties in a manner proportional to the gravity of the offense and the degree of injury and culpability. If enacted, this amendment would be a radical break with this tradition of prudence and fairness. For example, under current law, there are only a few extreme cases where a debtor is prevented from seeking discharge of his or her debts through bankruptcy protection. For example, instances in which discharge of debt is prohibited include intentional financial wrongdoing, such as fraud and embezzlement, or cases where the debtor has created a grave unjustifiable risk to human life, such as injury caused by drunk driving. Those are appropriate.

The Schumer amendment would put a peaceful pro-life protester who, in the course of exercising his or her first amendment rights, simply steps in the wrong place—trespassing—on a par with embezzlers or drunk drivers. Should the price of constitutional freedom be the risk of financial ruin? Amazingly, this amendment says yes. The amendment says that people who protest and who do no physical harm, have no malicious intent should be singled out for harsh treatment.

While I make no excuse for violations of the law, I have to ask again: Should not the gravity of the punishment correspond with the offense? I don't think that is at all the case in this particular amendment.

A literal reading of the Schumer amendment would strip a peaceful protester of bankruptcy protection should he or she simply step in the wrong place while leafleting or even praying the rosary. Whether the fine involved is $10 or $1 million, we are talking about a peaceful individual and families with young children who should not be forced to risk paying this price simply for doing what the Constitution permits.

Fairness and the great tradition of our first amendment freedoms counsel against the adoption of this amendment.

I urge my colleagues to vote against it. It kills the bankruptcy bill. It is against fundamental fairness and freedom for people to exercise their right of free speech.

I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I rise to support the Schumer amendment to the bankruptcy legislation presently before the Senate.

The amendment provides that debts or judgments arising from acts of violence and threats of violence cannot be discharged in bankruptcy proceedings. While this provision was drafted in previous Congresses to specifically apply to reproductive health service providers and abortion clinics, it has been expanded this year with the help of some of our Republican colleagues.

The amendment now addresses violence and intimidation aimed at blocking access to any type of lawful good or service. The Schumer amendment now applies to anyone who threatens, intimidates, or harms another person in the course of a lawful practice in places like houses of worship, the workplace and restaurants.

Supporters of the bankruptcy bill argue that this amendment should be defeated because any amendment to so-called compromise bankruptcy legislation would upset the apple cart, causing the House of Representatives to reject it.

I cannot understand how this Senate could could fail to pass an amendment that would simply prevent perpetrators of violence from hiding behind our bankruptcy laws. Where is the justice in permitting such a practice?

For the past week, supporters of the bankruptcy legislation have consistently talked about personal responsibility and the need to prevent people from abusing the bankruptcy process.

In fact, the centerpiece of this legislation is a means test that presumes chapter 7 filers are abusing the bankruptcy laws because their monthly income increases by as little as $100.

The Schumer amendment is intended to prevent extremists and fanatics from abusing our bankruptcy laws to shield themselves from paying fines and fees imposed by a court of law after they have endangered someone's livelihood.

These attacks are more common that one might imagine. Since 1977, there have been 7 murders, 17 attempted murders, 41 bombings, 171 arsons, 100 butyric acid attacks, and 655 threats targeting abortion providers alone.

In total, there have been more than 4,000 cases of stalking, burglaries, kidnappings, assaults, anthrax threats, invasions, attempting bombing and acts of vandalism, perpetrated against people who were performing or offering a legal procedure. And in case after case, after the perpetrators of these acts of intimidation and violence are brought to justice, they hide behind the bankruptcy code to shield themselves from assuming responsibility for their actions.

As Senator SCHUMER has said, this issue is neither pro-choice nor pro-life; it is "pro-rule-of-law and anti-violence."

While we have a right to disagree with the law in this country, and a right to try to change the law, no person has the right to take the law into his own hands.

I have followed this issue for a long time. The first blockade of an abortion clinic occurred in Cherry Hill, NJ, in 1987.

The first murder of an abortion provider occurred 12 years ago, on March 10, 1993, when Dr. David Gunn was slain during an antiabortion protest at a Pensacola, FL clinic. Since then, there have been six more murders.

In 1994, responding to a rash of violence against abortion providers around the country, I asked the United States attorney to convene a task force to ensure that all appropriate measures were being taken to protect women and doctors and to prosecute those who threatened them with violence.

Later that year, Congress enacted the Freedom of Access to Clinic Entrances, FACE, Act, which established Federal criminal and financial penalties for those who employ violence and intimidation to prevent persons from obtaining or providing reproductive health services.

Unfortunately, the perpetrators of violence have used our bankruptcy laws to evade responsibility and escape the financial penalties that were part of the FACE Act. For example, former Operation Rescue president Randall Terry has filed for bankruptcy to avoid paying more than $1.6 million in fines and fees that he owes as a result of his illegal actions.

We must not allow those who would take the law into their own hands and commit acts of violence against their fellow citizens to hide behind our laws when it suits their purposes. We must not allow our bankruptcy laws to be abused as a shield for violence.

I encourage my colleagues to support the Schumer amendment.

Mr. SCHUMER. Mr. President, we have 11 minutes on our side. How much time remains left on the other side?

The PRESIDING OFFICER (Mr. BURR). There is 10 minutes remaining on the minority side and 15 minutes on the majority side.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the last 5 minutes be reserved for me and the previous 5 minutes to whoever wants to speak for the other side.

The PRESIDING OFFICER. Without objection, 5 minutes will be reserved on each side to be allocated from that side's time remaining.

Mr. SCHUMER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding there is 6½ minutes on the Democratic side.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I will use a minute and a half of that now.

Mr. President, I am happy today to rise as a cosponsor of the Schumer amendment. This amendment would ensure that debts arising from unlawful acts of violence cannot be discharged from bankruptcy.

America is a nation of laws. One might not always agree with the law or how it is interpreted, but that does not entitle you to willfully violate the law. The right to express disagreement is to seek change through peaceful means. It is never appropriate to resort to violence or intimidation in violation of the law. Here in the Senate we express policy differences through civil discourse and resolve them through the political process, not through violence. We debate in this body passionately but in a manner of respect and civility in an attempt to persuade others of the merits of our position, and that is the purpose of the debate. Those who resort to violence are violating not only our laws but our American principles and values. They are violating what we call the rule of law on which this country was founded.

Unfortunately, some who break the law are using a loophole in the Bankruptcy Code to avoid paying the fines and penalties assessed against them as a result of their illegal activities. This amendment will ensure that individuals who engage in such acts of violence, intimidation, or threats, cannot hide in bankruptcy from the penalties imposed on them from violating the law.

I emphasize that this amendment is not about the right to abortion, nor does it single out anti-abortion protestors. This amendment applies to anyone who violates a law related to the provision of lawful goods and services. It applies to any extremist who will turn to violence to protest lawful activities.

For example, this amendment would apply to animal rights activists who engage in illegal tactics to shut down a lawful animal research center. There are many people who think that using animals for medical research is immoral and wrong, but this does not entitle those people to come in and trash one of those facilities, as has been happening. It would apply to an ecoterrorist who engages in illegal tactics to intimidate car dealerships or timber companies from doing business with people they think they should not do business with. It would apply to an arsonist who starts a fire at a church to deprive worshippers of the right to practice their religion. All of these extremists must be held accountable for their actions, and none should be permitted to discharge their debts in bankruptcy.

It is true that some of the worst abuses of this kind have been anti-abortion extremists who have terrorized reproductive health care workers. They have directed thousands of acts of violence against abortion providers, including bombings, arson, death threats, kidnappings, assaults, and murders. When a man by the name of Barnett Slepian, who was a father of four, a husband, was a victim, I was the first person to come to the Senate floor and say that is wrong. When violence occurred at a Planned Parenthood clinic—I believe that is where it was—someplace in the South, I came to the floor immediately to say that one cannot violate the law because they disagree with what a lawful business is doing.

Dr. Slepian was an obstetrician/gynecologist. He provided health care to women and delivered babies and, on occasion, he performed abortions. He was at a downtown clinic, and he worked there specifically because he believed it was important he give his expert advice to people who were poor. Because of this, one night he was in his living room, and someone with a high-powered rifle shot and killed him while he was there with his family.

I did not know this doctor, but I learned after his death that he was an uncle of a woman who worked for me. The woman was from Reno. She was a good employee. Of course, she was heartbroken over the fact that her uncle had been murdered. The person who did this was not only a murderer but should be seen as a terrorist.

What is going on in Iraq today? We have these extremists, these terrorists, who do not like what is going on there, and so they are committing these criminal acts. They are taking the law into their own hands.

The man responsible for killing Dr. Slepian was extradited from France a few years ago where he had fled. His name was James Kopp. Kopp was part of an organized network of violent extremists, including a group that called itself the Army of God. The group and others similar to it have engaged in a long campaign of violence.

In 1994, we passed the Freedom of Access to Clinic Entrances, called FACE, which established Federal criminal and financial penalties for those who employed violence to prevent persons from obtaining or providing reproductive health services. The FACE Act is essential to protecting the lives of women and health care providers.

Unfortunately, some of the people charged under this act are filing for bankruptcy to avoid accountability for their illegal acts of terrorism. As an example, defendants in the so-called Nuremburg files case have tried to nullify years of court proceedings by filing a chapter 7 proceedings.

What are the Nuremburg files? Listen to this one: They posted on a Web site the names, addresses, and license plate numbers of people who worked in these health care facilities. They even posted pictures of their target's families, all members, and they would list them—father, son, mother, brother, whatever it might be—and places where their children waited for the school bus. Doctors who still worked appeared in plain text on the Web site, a person who had been wounded was grayed out; and those who had been murdered, including Dr. Slepian, had a line through their names.

It is intolerable that the groups which incite these heinous acts of violence can discharge their civil penalties in bankruptcy, but that is exactly what happened. If we want to prevent future acts of violence, including clinic violence, it seems to me that we need to have a specific provision in the bankruptcy law to prevent discharge of violence-related debts. That is what this amendment is all about.

I do not support abortion, but this amendment is not about abortion. It is about holding responsible those who commit illegal acts and believe that they are above the law. This amendment is about preserving the rule of law.

I cannot imagine how this amendment is causing a concern or a problem. Are we now to believe that there are people who are telling members of the majority, do not do this, we want to go and commit acts of violence, we want to commit crimes, and do not vote against us because you will prevent us from filing bankruptcy? That is what this is all about. Should not we as a body say that if one goes out and does these terrible acts, where they kill people, they maim people—one of their latest tricks is they figured out this acid which is some kind of a chemical compound, and they walk into these facilities and they throw it all over. It cannot be washed out. It cannot be steamed out. The only thing one can do is tear the facility down. Should they not be held responsible?

I cannot believe we are going to have a bill as important as this bankruptcy bill jeopardized because of the terrorists who are out there waiting to file bankruptcy. That is what this is all about. People are out there wanting to commit crimes, waiting to commit crimes, saying, do not pass this because if you pass it I will not be able to file bankruptcy. I just think it is beyond my ability to comprehend that people who know they are violating the law, they are killing people, they have this Web site that they are soliciting murder.

And we are going to condone this activity under the guise that this is a choice, this is a pro-life/pro-choice issue and we cannot get involved. This is not about abortion. It is about maintaining the law.

I am so disappointed that the majority is going to go along with the ability of people to commit crimes and terror and discharge them in bankruptcy.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. SCHUMER. Mr. President, what is the status of the time on both sides?

The PRESIDING OFFICER. The majority has 11 minutes remaining. The Senator from New York has the last 5 minutes.

Mr. GRASSLEY. Mr. President, I rise in strong opposition to the Schumer amendment which would make debts incurred in connection with violations of the Freedom of Access to Clinic Entrances Act nondischargeable in bankruptcy. This amendment has been a poison pill to enactment of the bankruptcy bill and must be defeated.

On two previous occasions, CRS performed research for us and told us that FACE debts had never been discharged in bankruptcy. Just recently, I asked CRS to perform an updated search on reported decisions considering the dischargeability of liability incurred in connection with violence at reproductive health clinics by abortion protesters. CRS confirmed that this amendment is not necessary. The CRS memo identified only one reported case, which found the debt to be nondischargeable under the bankruptcy law's discharge exception for willful and malicious injury. So this amendment is not necessary. Even Senator SCHUMER's own witness at the Senate Judiciary Committee hearing on the bankruptcy bill testified that in all the cases that she had litigated, the court had always found that the debts incurred under the FACE Act were nondischargeable in bankruptcy.

My colleagues make a big deal out of the fact that some of us on this side have supported amendments similar to this one before. The truth is, when the Schumer abortion amendment was offered in 1999 to the comprehensive bankruptcy bill, Vice President Gore was campaigning for the Democrat nomination. His opponent, Senator Bradley, was alleging that Vice President Gore was not sufficiently pro-choice. Vice President Gore's allies in the Senate were maneuvering to create a tie vote on the Schumer amendment so Gore could "break the tie" to improve his political standing.

To avoid this, most Republicans voted in favor for the Schumer amendment. Thus, that vote in the 106th Congress was not a vote on the merits of the Schumer amendment.

The Schumer amendment was included in the 107th Congress bankruptcy bill. But the fact is that in the 107th Congress, the Schumer amendment killed the bankruptcy conference report because the House would not take it. Thus, the Schumer amendment is a poison pill and must be defeated.

Let me reiterate that in two previous memos, CRS concluded that the Schumer amendment is unnecessary because abortion protester debts are already not dischargeable in bankruptcy. We have just updated this research and CRS has confirmed that FACE Act violations are not dischargeable in bankruptcy. The proponent's own witness testified before the Judiciary Committee that none of these debts have ever been discharged in bankruptcy. The reality is that the Schumer amendment is just a political ploy designed to generate opposition to the bankruptcy bill. The Schumer amendment is a poison pill which will kill the bankruptcy bill. This amendment must be defeated, and I urge my colleagues to oppose it.

The PRESIDING OFFICER. Does the Senator from Iowa ask unanimous consent to yield back the remaining time?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. The Senator from New York is recognized for his final 5 minutes.

Mr. SCHUMER. Mr. President, in conclusion, I would like to rebut some of the comments of my colleague from Utah who said this amendment was not necessary, and he talked about Maria Vullo, the lawyer who represented the clinic in the Nuremberg files case.

Here is the major point. She did not collect any money in that case. Despite spending $1 million of her own money, pro bono, despite relitigating in six bankruptcy courts, she was unable to collect any dollars. This is the point we are making. Perhaps at the end of the day you will get a nominal victory if you go all around the country chasing these fanatics in bankruptcy court, but you cannot collect. That is why the American Coalition of Life Activists, a violent fringe anti-choice group, actually requires its leaders to be judgment proof.

Here is the bottom line: This amendment, which was supported by so many on the other side, is being dropped, not because it is wrong but for expediency, so there will not have to be a bloody battle in the House between those who are on the Republican side, between those who are more probusiness and those who are vehemently opposed to this amendment. I will not denigrate the pro-life movement by labeling them that way because the pro-life movement cannot be for these violent groups.

This amendment is for the rule of law. This amendment says you cannot use violence against any group to achieve a political end and then, when you are sued civilly, use the bankruptcy courts for protection. That has never been what the bankruptcy courts were intended to be. It is neutral on terms of what issue. Yes, it might be extremists who are against abortion. It also might be extremists on the left side, on the environmental side who burn buildings or houses or cars. Are we going to, as a society, condone that type of activity?

I will tell you, if we defeat this amendment, that is what we are doing. Make no mistake about it, make no mistake about any of the subterfuges. To me, this amendment and the rule of law and the American way of life that this amendment stands for are more important than the rest of the bankruptcy bill.

The bankruptcy bill, whether you are for it or not, twists the dials a little bit with regard to the balance between creditors and debtors. I assure you that was not on the Founding Fathers' minds when they wrote the Constitution and created the Republic.

What this amendment does goes right to the heart of what America is all about. It says those who use violence to achieve their political goals cannot get a benefit, in this case bankruptcy. It, in my judgment, as I said, is more important than the rest of the bill.

So I ask my colleagues on the other side to rise to the occasion. Do not let arguments of expediency persuade you. That is the slow road to oblivion. That is the tortured path to undoing step by step, bit by bit, as the river creates a canyon, the way of life that we love. No matter how strongly one feels about something, their job is to persuade others to their viewpoint, not to take the law into their own hands and use violence. And if they do, they should not be allowed to use the Bankruptcy Code or anything else to prevent just civil or criminal action against them.

I ask my colleagues to look into their hearts, to examine what this amendment does, and to have the same courage—courage of conviction and courage of a fair compromise—that we showed a few years ago. I urge support of this amendment.

I yield the floor.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 47 offered by the Senator from New York. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Stabenow
Wyden

NAYS—53

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Corzine

The amendment (No. 47) was rejected.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, in a few hours we will be voting on cloture for this bill. I would just like to take a minute or two and remind everyone why it is time to end the debate on this bill.

It has been 8 long years of consideration on this legislation. We have all compromised a great deal. Not everyone got their preferred language or amendments. Not everyone is happy with the current legislation.

But I think everyone would have to agree that we have given thoughtful consideration and fair opportunity to all suggestions on the bill throughout the years of debate.

Over the years, we modified the homestead exemption.

We modified the means test.

We provided for sanctioning attorneys who file abusive claims.

And we hindered creditors who would try to collect through predatory lending practices.

All of these changes, among scores of others, came from my Democratic colleagues.

After all this, just 2 weeks ago, we took 5 more Democratic amendments in the Judiciary Committee markup.

And yet almost everyone of the pending amendments today touches upon the areas where we have previously compromised.

At a certain point, the time comes to move forward with what we have. Given how far we have come on this bill already over the last 8 years, and considering all the compromises that have been made, we may get no bankruptcy bill at all if we try to take more amendments.

The lopsided votes in favor of this bill in the past—with 70, 83, and even 97 votes in this Chamber—reveal that we are left with only a small minority of opposition. The fact is that a large majority of this body recognizes that we are not doing anything radical in this bill.

We simply ask that higher-income filers who can pay their bills, should pay their bills. It is as simple as that. There is no reason to ask the vast majority of bill-paying consumers to pick-up the tab when those with means do not repay their obligations.

After 8 long years, we have compromised every which way we can. The remaining amendments being proposed are just further adjustments of adjustments to adjustments that were already made during this process.

There is simply no reason to continue to holdup this bill through the amendment process. The longer we delay, the greater the chances for mischief. The more we stall this measure, the more likely we open it to political, message amendments that can only act to stall work on this bill.

A time comes when you just have to say enough is enough. Eight years should be long enough to pass one bill.

I urge my colleagues to join me in voting for cloture.

Mr. BAUCUS. Mr. President, I want to explain my decision to oppose closure on the Bankruptcy bill. I have offered an amendment to this bill modeled on legislation I have introduced to set up a permanent health care trust fund for current and former Libby residents, and former workers at the W.R. Grace vermiculite mine in Libby, MT. The trust fund will help pay for medical costs associated with treating asbestos-related disease or illness caused by exposure to deadly tremolite asbestos and other fibers released by Grace's mining operations.

I offered this amendment to this bill because it presented an opportunity to make whole the people of Libby, who have suffered, while preventing a company like W.R. Grace, which has filed for bankruptcy, from emerging from that bankruptcy without setting up a health-care trust fund for its victims.

I have worked very hard to make sure the people of Libby, MT, are protected in any asbestos legislation to come before Congress; to include special provisions in an asbestos bill for Libby residents that take into account the unique kind of health impacts associated with exposure to the deadly asbestos fibers from the W.R. Grace vermiculite mine.

For years, I have been committed to securing a common sense solution for the residents of Libby. I strongly believe that too many people have suffered, and they deserve fair compensation. I will do everything in my power to help Libby make their community whole again and to make sure their long-term health care needs are met. Passing bankruptcy legislation, with consideration of my asbestos amendment is essential. I will fight to get additional protections for Libby residents and then work to pass the bill.

Unfortunately, we have not had an opportunity to vote on this amendment, and it has been judged to be nongermane. The bankruptcy bill is all about responsibility and accountability. This amendment tries to hold W.R. Grace accountable for its actions. Because we were not able to vote on this amendment, I can not support limiting debate on this bill.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will proceed to a vote on a motion to invoke cloture on S. 256. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 14, S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

Bill Frist, Arlen Specter, Chuck Grassley, Judd Gregg, Thad Cochran, R.F. Bennett, Wayne Allard, Lindsey Graham, Jeff Sessions, Trent Lott, Rick Santorum, John Warner, John Thune, Orrin Hatch, Lisa Murkowski, Mel Martinez, Sam Brownback.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant journal clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 69, nays 31, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—69

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Landrieu
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—31

Akaka
Baucus
Bayh
Bingaman
Boxer
Cantwell
Clinton
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Levin
Mikulski
Murray
Obama
Reed
Reid
Rockefeller
Sarbanes
Schumer
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 69, the nays are 31. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. McCONNELL. I ask unanimous consent that Senator DOLE be recognized for up to 15 minutes as in morning business, after which Senator JACK REED of Rhode Island be recognized for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. DOLE and Mr. REED are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Illinois.

### AMENDMENT NO. 40 WITHDRAWN

Mr. DURBIN. Mr. President, on behalf of Senator PRYOR, I ask unanimous consent amendment No. 40 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, now that we are postcloture, the number of amendments is limited, and the type of amendments will be limited. I have three pending amendments before the Senate relative to the bankruptcy bill.

For those of you who have not followed the debate on this bill, this bill will change the bankruptcy law in America. Today, many people go into bankruptcy court because they have no place to turn. They have more debt than they can possibly pay.

One of the major reasons people reach this point in life, the No. 1 reason people go to bankruptcy court is medical bills. Three-fourths of the people in bankruptcy court with medical bill problems had health insurance when they were diagnosed with their illness. If you think, I don't have to worry about bankruptcy court because I have health insurance, so do these people. What happened? They got sick. The bills started piling up. Maybe they lost their job and their health insurance and couldn't afford to pay the COBRA premium, which people have to pay once they have lost a job and health insurance. They gave up on their health insurance, and the bills started stacking up. It reached the point for these folks where they had nowhere to turn. They faced $50,000, $100,000, or $200,000 in medical bills they could never pay off for the rest of their lives. In desperation, and with some embarrassment, people then went to bankruptcy court and said: I have no place to turn. I just can't do it.

A court says: What do you owe? Give us all our assets. What do you have in checking and savings? How much is your home and your car worth? Furniture, everything—what is it all worth? Where are your debts? We will let you walk out of bankruptcy court with very little left, but your debts will be gone.

That happens to people. More often than not, medical bills drive them there.

There are other reasons. You lose your job. How many people have you met in their fifties in America—I have met many in Illinois—who had a great career and a great job and lost it, then went out looking for a comparable job only to learn they were "too old for the market"? There they sat, taking a job that paid less, trying to maintain a family and household that was basically financed with a higher salary not that long ago. In desperation, they try to keep things together, and it starts to fall apart. The debts they incurred when they had a good job they cannot handle anymore.

What else happens to people? Some people live on the margins already. Some single mothers trying to raise kids are in a situation where finally something happens to them—a medical bill, an unforeseen circumstance—and they are stuck in bankruptcy court.

The credit industry comes in and says: We have to do something about these payments. We have to make it more difficult for them to walk out of that bankruptcy court having given up their assets with their debts basically behind them. So the law is changed here in this 500-page bill written by the credit card industry, written by the financial industry, to make it more difficult for a person to walk out of court with their debts behind them. They make sure in this bill that it is more likely for many that they will walk out of court still paying, on and on. As little as $165 a month is enough to say that you will never be forgiven in bankruptcy. You will just keep paying and paying. The creditors will keep calling and calling. That is what the credit industry wanted. They worked hard for 9 years. They are going to win this battle.

We came to the Senate floor and said, at least let us carve out some people who really should be treated differently. I am sorry that the marines who were here earlier didn't stick around. I wish they could have. I wish they could have heard the debate on the floor of the Senate when I offered an amendment and said: If you activate a guardsman or a reservist for a year or a year and a half and they go over to serve their country as they promised, leaving behind a restaurant or a small business which falls into bankruptcy while they are gone—and it has happened—shouldn't we give them a break in bankruptcy court? For goodness' sakes, these people aren't morally deficient; they are our best, and they are serving our country. They are protecting you, me, and everyone else.

I put in an amendment that said, at least for the men and women in the military who face this kind of bankruptcy—and it happens—let us give them a break in this bill. Let us not put them through the harshest parts of this bill. I lost the amendment 58 to 38. Many of the Senators who go back home and cheer the troops and how much we love them and how much we want to stand behind them couldn't wait to vote with Visa and MasterCard and against the Army, Navy, Marine Corps, Air Force, and Coast Guard. That is what it came to. We lost that amendment.

Senator KENNEDY came to the Senate floor and said: If you get swamped with a medical crisis in your family and go into bankruptcy court trying to get out from under something you will never pay off, shouldn't you, when it is all over, at least be able to go home? Shouldn't you have a roof over your head when it is all over if it is medical bills that put you in bankruptcy court? He offered an amendment and said: Let us at least protect $150,000 in equity in your home that you can go back to after bankruptcy.

Think about that. What will $150,000 buy you? In Springfield, IL, it buys you a nice little house. What does it buy you in Washington, Boston, New York, and California? Not much. But when we offered that amendment, only 40 Senators voted for it and 58 or 59 voted against it.

The argument behind this bill originally was that too many people went to bankruptcy court because of their moral failure. They didn't understand that they can't game the system, they can't use it in a way that is fundamentally unjust and immoral by going to bankruptcy court when you shouldn't go. But in the two examples I have given you, does that argument apply? Is there something fundamentally wrong with the values of men and women in uniform serving our country who can't keep that business afloat back home? Of course not. Is there something fundamentally wrong with a person who feels as if he is on top of the world, goes in for a diagnosis at the doctor, and ends up with a life-threatening disease which costs hundreds of thousands of dollars where his health insurance fails him? Is that a moral failure? It is a failing of Congress. It is a failing of your Government to deal with the realities of the challenges of life, whether it is health care or service in the military.

We went in and argued: What if you were the victim of an identity theft? And it happens; it happened to me. What if someone steals your identity and runs up bills in your name? It can happen to anyone listening to this debate. Senator BILL NELSON of Florida said, in that situation; if all the bills that have swamped you are not even bills of your creation, shouldn't we give you a break under this tough new bankruptcy bill? Overwhelmingly, on a partisan rollcall, the answer was, no. No. Ultimately you shouldn't be discharged from bankruptcy even if those weren't your debts.

We said: What if the people lending the money to you break the law while they are lending it to you? What if they take—and you know this story; it happens in every community. What if they take advantage of an elderly widow or widower living in that little home they have always had? They knock on the door: Boy, you sure could use a new roof, Ma'am. Luckily, I have a company out here that will do it if you just sign a few papers.

The next thing you know, you have one of these phony, predatory lenders coming in with a subprime mortgage with a balloon clause, and grandma's little house disappears. He looked so trustworthy. He seemed like such a nice man. He told me this was a standard contract. Yes, I signed it. I should have called you, but I just signed it.

What about those people? Should they be able to take away her home; go to bankruptcy court and stand in line with all the other creditors and say, Treat me like another legal creditor? I didn't think so.

So I offered an amendment saying those people should not have the advantage of going to court if they have broken the law in the way they make the loan. I didn't have a chance on that amendment. Those who are supporting this bill did not want to talk about that. One Republican Senator supported me. Just one.

Time and again, whether we are talking about victims of bankruptcy who deserve a little help, or whether we are talking about those gaming the system from the creditor's side, we found this stone wall that separates this Chamber. The Republican side does not want to consider any changes to this bill. The credit card industry has written it, and they are sticking with it.

The only perfect laws ever written were written by God and Moses, as far as I am concerned. All of the rest are amendable. All the rest can be improved. Here we assume that if it was generated by the largest credit card companies in America, we cannot argue with them.

One of the best arguments that has been made is, this bill does not apply to people who make less than the median income. That has been a point made over and over and over again during the course of this debate. Why is it important? Because this new law imposes a brandnew set of requirements in bankruptcy court for those who are above the median income. At least that is the argument.

Let me show this listing of all the documents that now have to be filed in bankruptcy court. It is pretty long. I used to practice law. I know it takes time to fill these out. You sit down with your client. You say: Get your income tax returns. Get all the checks you can find. Let's sit down. This will take some time. This is the current requirement under the law. So it is not as if you walk into bankruptcy court, sign your name, and wave and leave out the other door. It is a long process.

During the course of the process, your creditors and the trustee in bankruptcy decide whether you are telling the truth. If you aren't, they will throw you out of court on your ear. That is the way it ought to be.

Now comes this bill which says these papers are not enough. Here we have the new means test. This is an example of what you have to do in addition to all the current requirements to file bankruptcy. This is the means test in this bill. It not only adds to the complexity of this process, it adds to the cost. So here you are without enough money to pay your bills, trying to figure out how to come up with a filing fee of $200, how to pay that lawyer who is going to represent you in bankruptcy, and along comes this bill which says let me give you some more paperwork to fill out before you can qualify for bankruptcy.

The argument has been made over and over again in the Senate that people below the median income do not have to go through this. My amendment will clarify that, amendment No. 110. We want to make it clear that if you have below the median income, you do not have to go through the means test. In other words, on the first line up here, "current monthly income," if you have proof your current monthly income is in the lower income categories, supposedly protected from this bill, that ought to be the end of the story.

It is not now. I want to clarify that. I want to make sure that Members of the Senate who have come to the Senate and said people below a median income could not have to worry about this bill, really mean what they say. I emphasize and underscore my amendment does not in any way relieve those filing for bankruptcy from meeting all the other requisite steps. They still need to complete a lot of forms and schedules outlining assets and liability. We add language that makes it abundantly clear that a court may not dismiss a case based on any formal means testing if the current monthly income of the debtor falls at or below the median family income of the applicable State. The language I offered merely reinforces what Members of the Senate on both sides of the aisle, particularly on the Republican side of the aisle, have said over and over and over again from the beginning of the debate.

Let's look at the statement of my friend and colleague, Senator ORRIN HATCH. Here is what Senator HATCH said in the Senate:

> It is possible that during this debate some may falsely suggest that this bill unfairly treats low-income persons. Let me tell you at the outset that the poor are not affected by the means test. The legislation provides a safe harbor for those who fall below the median income, so they are not subjected to the means test at all.

But they are. Under the current language of this bill, it is not clear that they are exempt from the means test, as Senator HATCH has argued.

Now, let's take a statement from Senator FRIST, the Republican leader of the Senate. Senator FRIST, on March 1, last week, said:

> It [the Bankruptcy Reform Act] establishes a means test that is based on fair principle, a simple principle, and that is this, that those who have a means should repay their debts. A simple principle: Those who have the means should repay their debts. It specifically exempts anyone who earns less than the median income in their State.

That is what my amendment says. If you earn less than the median income, finish the forms that are already provided in bankruptcy court, the new law does not affect you. But if you earn over the median income, you have to fill out more forms. So it means the lower income people, just as Senator HATCH and Senator FRIST have said, will not have to go through the extra expense and the extra time of going through mountains of paperwork.

Let me also take a quote from Senator SESSIONS from Alabama who has been on the Senate floor in support of this bill. Here is what he said:

> Chairman Sensenbrenner pointed out that the means-based test only applies to people with incomes above the median state average. Anyone below the state median income does not qualify on the means-based test and their bankruptcy petition cannot be tossed out of chapter 7 and put into chapter 13 where some debts are paid back.

That is as clear as can be. Senator SESSIONS told us that. Now we have another statement from Senator SESSIONS:

> I remind all of my colleagues that people who are economically distressed and if the income is below the median income already will be exempt from the means test.

So my challenge to all those who made those statements is, prove it. Prove it by voting for this amendment. Prove it that if you establish that you have an income below the median income in your area, that you do not have to go through this means test. They have all said it. Now they will have a chance to vote on it.

Let me speak to one of my other amendments. I tried earlier in my first amendment to protect the soldiers activated and fighting overseas who lost their businesses. I failed, 58 to 38. I was surprised by that rollcall, but I watched what happens. Virtually every amendment has failed. As I said, some view this as holy writ. I just view it as a product of the credit industry, their best hope of something they want to pass in the Senate.

So I will offer amendment No. 111 to exempt certain veterans and current members of the Armed Forces from the onerous administrative burdens resulting from the means test. We say in this amendment it applies to members and spouses of members of the Armed Forces on active duty performing a homeland defense activity under title 32, veterans or their spouses whose indebtedness occurred primarily during a 6-month or longer period of active duty or performance of a homeland defense, reservists of the Armed Forces or their spouses, same situation, surviving spouses of those who died while serving as a member of the Armed Forces.

We take a category of Americans to whom we all owe such a great debt of gratitude and say if their debts overwhelm them because they are serving our country, we are going to give them a break, a chance to avoid this lengthy, expensive means test in this bill. I hope my colleagues will reconsider their earlier vote against this amendment. This is a much more compact, succinct, and limited break for those who are serving.

The last amendment I will offer, amendment No. 112, is if I fail on the previous amendment. Let me tell you what it says. It provides an exemption from the means test only for disabled veterans who incurred their indebtedness primarily during a period of service. It covers service on active duty or during a National Guard homeland security operation. Certainly we can give something of a break to these Americans who have given so much to us.

I go out to Walter Reed Hospital. Many of the men and women who have been injured are amputees. I remember one in particular. I said: How are you?

He said: My rehab is coming along just fine. I think I will be great. I have my new leg. I am learning how to walk on it. I would like to go back to my unit, but I am going to go back home. I am a little bit concerned. I had a job back home. I was an automobile mechanic. I don't know if I will be able to return to that job.

That situation for that man and for so many others reflects this change in their life. Yes, they will receive disability payments, but some of them, because of the serious injuries they have faced—head injuries, the loss of both hands, the loss of both legs—will not be able to return to the life they had before. Some of them may find they can't keep up with the debts that have been incurred while they have served our country. Is it possible the Members of the Senate, for disabled veterans, would give them a break if they are forced into bankruptcy because of debts incurred while they served our country? That is my last amendment.

I hope it doesn't reach that point. I hope all of us who come to the floor to give important speeches in tribute to the men and women in uniform will cast important votes on behalf of those men and women.

The credit card industry is important to America. I think they can do a better job in the business in which they are involved. They ought to take care, with the flood of credit cards that they send to everybody under the sun—the 3-and-a-half-year-old little boy of an attorney on my staff, a 9-month-old daughter of a friend of mine, all receiving credit card applications. They are throwing them at America. Many Americans, without thinking twice, are signing up, going more deeply in debt than they should.

The monthly statement from the credit card company—I am telling you this as a lawyer—flip that over and try to read the fine print. Senator AKAKA of Hawaii said: Shouldn't they tell you at least if you make a minimum monthly payment how much it is going to cost you over the period of time it will take to pay it off? Simple enough. The credit card industry opposed it. It was defeated on the floor. The idea of giving Americans more information so they can make the right credit decisions was defeated on the floor.

You have to believe the industry that opposed providing that information is an industry that doesn't care if you go head over heels in debt. They think they are going to win. They are certainly going to win if this bill passes because that credit card debt is going to hang on for a lifetime. You won't be able to shake it. When we hear the stories of people who are going to be victimized, I hope we will think twice about the wisdom of this legislation.

The trustees in bankruptcy were asked to take a look at what percentage of people filing for bankruptcy were fraudulent, had no business in court. They came up with the number 3 percent, 3 out of 100 are fraudulent and should not be in court. Most of them are discovered. The credit card industry said, no, it is much larger. It is 10 percent, 1 out of 10. This bill doesn't apply to the 10 percent of fraudulent filers. This bill applies to every filer in bankruptcy. That is why many of us think it is fundamentally unfair.

I can read the votes. I have been around Congress to know this is going to pass. I certainly hope with these three amendments that my colleagues will take some time and consider whether they want to live up to what they have said. If they want to exempt lower income families from the means test, my amendment lets them do it. If they do believe we owe something to the men and women in uniform, my amendment gives them a chance to vote that way. And if for no other reason they want to show some sympathy and concern for disabled veterans who have given so much to our country, they will have a chance with amendment No. 112.

I hope the solid wall of opposition to every single amendment will break down. I hope my colleagues will take the time to read and consider these amendments. It will be a lot easier to face the people back home if we at least give some flexibility to this bill when it comes to these important exceptions.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am proud of the bipartisan bankruptcy bill moving forward. We were excited over the strong vote for cloture to bring this debate to an end, 66 or more votes for cloture. That was a tremendous bipartisan show of support. I know my friend, the Senator from Illinois, opposes the bill. He has offered a lot of amendments. Fundamentally he doesn't like the bankruptcy bill. At one point he did. At one point he was a sponsor of it. For whatever reason he is now not supporting the bill. That is all right.

Our goal with regard to the bankruptcy bill was to continue the historic privilege that Americans can wipe out debts and have a fresh start. However, since the new bankruptcy bill was passed in 1978—that is the new one we are now under, a big bankruptcy reform—then we had about 200,000 filers in bankruptcy. Now there are 1.6 million filers in bankruptcy. A lot of people are using bankruptcy as a way to avoid paying their just debts. We wrestled with that. There was a lot of concern that something is out of sync, that the classic American moral value that you ought to pay your debts if you can ought to be honored.

At the same time we ought to create a circumstance in which people can start over. As many Americans have learned, if they fall behind in payment of debts, creditors call. You can have lawsuits filed against you. Families get embarrassed. Court orders get issued. Those kinds of things can be upsetting to a family. Sometimes you get so far behind there is no way you can get out of it. That is what bankruptcy is for. So we looked at it and tried to figure how we could reach the right balance.

How do we crack down on those who want to get off scot-free, not pay their debts, when they have the money to pay them, and do we protect those who need a fresh start? First, let me tell you the power of bankruptcy. A person making $200,000 a year, who owes maybe $150,000 in various debts, can go into bankruptcy court and file bankruptcy today and get all those debts discharged, when he or she could easily have paid back most of them. That is the way the system works. You read one of those ads and call one of those guys or ladies who advertises in the free newspaper at the checkout counter, and they tell you to call your bankruptcy lawyer and wipe out your debts. People do it—sometimes only after talking to that lawyer who only gets paid, frankly, if the client retains him to file a bankruptcy. They may have other alternatives to get out of that financial difficulty and they may not understand that.

What I want to emphasize is that we decided to create a bright line, a rule that would apply easily across the country in bankruptcy court, and that is what we are doing—amending the law of bankruptcy court, which is a Federal court, under Federal law. All bankruptcies are done in Federal bankruptcy court, so it is our responsibility to deal with the problems in that court. So we created a bright line rule.

If you make below median income and you owe debts, you can wipe them out, as you always have. You don't have to pay your doctor, your hospital, the automobile mechanic down the street who fixed your car, your brother-in-law back for his loan, the credit card company, or anybody else you owe—the bank, the credit union, wipe them out. So if you make below median income, the law is basically still the same for the debtor; he wipes it out. We had expert testimony in the Judiciary Committee, of which I am a member, that said 80 percent of the people who file bankruptcy make below median income, only 20 percent above. We said what about people who make above median income, but they might have special circumstances? Maybe they have a child who has a high monthly expense. Maybe the debtor himself is disabled, with extraordinary medical expenses, or things of that nature. We said we would make an exception for those people who have extraordinary expenses, and the estimates show that would add another 7 to 10 percent who would be able to automatically file under the median income and, therefore, would not have to pay any of their debts back under this other provision of bankruptcy law, chapter 13. So we agreed on that.

That is the bill that passed. That means test philosophy passed this Senate, one time, 97 to 1. It passed three times in this body. The last time we voted on it, it was 83 to 15 to pass the bankruptcy bill. We had the Schumer amendment on it—which we voted down recently—at that time, and the House of Representatives refused to take the bill and pass it. It died because of the Schumer amendment, which was a maddening thing for those of us who had been working on it for 4 years. I thought it was unbelievable that such a small but poison pill could kill the legislation. I have heard a lot of times about how a poison pill can kill a piece of legislation. Since I have been in the Senate, I have never seen a more perfect example of a poison pill. It came back up. Senator SCHUMER offered it and we voted it down earlier today.

This bill will not have the poison pill in it. We sent it over there with bipartisan support every time and, for one reason or another, it didn't become law. The House supports it. I am confident if we pass this legislation, without the Schumer amendment, it will pass the House of Representatives and go to the President for signature. I emphasize all this to say there is nothing wrong with the means test. People who make high incomes—lawyers, doctors and accountants are examples—and file bankruptcy, wiping out all their debts, who don't care who got hurt by their failure to pay and they care only about themselves, this will crack down on those people who are abusing this system. I don't think there is anything wrong with it. I believe it is the right thing to do.

As a matter of fact, I hear even those who oppose the bill say they don't oppose the bill, but they have spent all the time trying to confuse this, suggesting that poor people are going to have to pay something back. The chances are, if they are poor and are making below median income in America, they won't have to pay back anything. What if they make above median income? Perhaps they will have to pay back a portion of their debts. The bankruptcy judge, under certain circumstances, may order that they pay back a certain percentage. They can be made to pay a certain percentage of those debts back through the court, and it is distributed on a fair basis to the creditors who have claims against the debtor for a period not to exceed 5 years. That is what is commonly and legally known as chapter 13.

A lot of people all over America choose chapter 13 and agree to pay back their debts because they think it is the right thing to do, and it has some personal advantages. A lot of people find it hard to believe, but in my home State of Alabama, about one-half of the filers in bankruptcy court choose to file under chapter 13. What happens when you go into chapter 13? All the phone calls have to stop. You cannot be sued. If a lawyer tries to execute a judgment against your property after you filed in bankruptcy under either chapter 7 or 13, they are in contempt of court immediately. The family gets to calm down. The court helps set up a repayment schedule for a part of the debts the debtor owes, and their paycheck may go to the bankruptcy court and they parcel it out to the various creditors, and the debtor gets to keep a certain amount to live on, whatever he or she needs. That is the way chapter 13 works. It is not oppression to go into chapter 13. Almost half of the people in my State who file bankruptcy choose to file under chapter 13.

Well, Senator DURBIN quoted me. I was impressed that out of all those out here, he quoted me. I suppose he quoted me correctly, but maybe he was a little bit incorrect in interpreting what I had to say, or perhaps I spoke in a way he did not understand. I thought I was clear. I said in my remarks that if you make below median income, you are not subject to the means test. I guess that technically may be a misspeaking. What I meant was you are not required to pay anything back under chapter 13. He said, well, why fill out the forms? Well, you fill out the forms to see whether your income falls below the median income in America; that is why you fill out the forms. Surely, people would expect you, if you want to ask a U.S. bankruptcy court in whatever State in America you are in and you want to ask them to discharge your debts, and you want them to order that you do not owe anybody you have been owing for the last 10 years, and your debts are built up and you don't want to pay any of them a dime, surely it is not too much to ask somebody to show what their income is, to bring in a payroll stub to see what your paycheck is, and bring in an income tax return to see what you have been showing on your income tax. What is wrong with that? They say, oh, we have all these documents. I am telling you, I don't think we ought to be shocked that before a court wipes out maybe hundreds of thousands or tens of thousands of dollars in debt, they at least find out how much income the guy has and how much property. What if they own 500 acres of land out in the country? Should they not have to declare their assets?

Why should they keep property, stocks, bonds, or anything else of value and not pay the people they solemnly committed to pay? If they have assets, let's find out what they are. That is all we are talking about.

How are you going to tell whether a person qualifies for a means test if you do not have them produce some information about their income? I do not think that is oppression, and I do not think people are being oppressed if a credit card company lets them have $5,000 and they do not pay a dime of it back. I do not think a person is being oppressed. This is not some sort of anti-capitalist body. People get money all the time. They borrow money. They promise to pay it back. If nobody pays back their debts, everybody who uses a credit card will find their costs going up. Every bank loan will go up; every housing loan will go up. We have to have integrity, but we are going to give people—1.6 million of them a year last I heard—the ability to wipe out their debts. For probably 90 percent of them, they can wipe out all of them if they choose, and for the remaining 10 percent, they may have to pay some back. Some of those people absolutely ought to be paying back some of their debts.

We are all just victims here. It is so discouraging to me to hear skilled Members of this body talk about the American people as if they are just victims and pawns. I have seen the polls. Overwhelmingly, the American people believe you ought to pay your credit card debt back rather than pay other things because they know their interest rates are higher there. Frankly, I think everybody ought to reduce their credit card debt. They ought to chop them up and throw them away.

I was glad that my children—my two daughters and son—when they were off at college had a credit card. I told them not to use it unless they had to, but if they were out on the road and the car broke down, or something happened, I trusted them to use that credit card. What a wonderful thing. Anywhere in America—actually anywhere in the world—you can stick that card in a machine and out pops money. And if you pay it on time, you hardly pay any interest.

I am not here to condemn the credit card companies, and I reject and am offended by the repeated suggestion that this bill is supposed to do nothing but protect credit card companies. That is false. It demeans the integrity of the Members of this Senate, in my view, who have worked hard on a bipartisan basis, 85 to 15, the last time we passed this legislation. I guess that is all they have to say when they complain about the bill.

We talked about the military, and I am concerned about our military. I offered—and I was pleased that the President made part of his supplemental appropriations bill—an amendment to increase the death benefits of our soldiers, raising the basic death benefit from $12,000 to $100,000 and increasing the SGLI, Servicemen's Group Life Insurance, to $400,000 from $250,000, retroactive to the beginning of the war on terrorism. It will help all those families.

I, like other Senators, visited soldiers in the hospital at Walter Reed. I visited them in Germany. I have been in Iraq three times. I have talked with all the families from Alabama who have lost soldiers in the war. I served in the Army Reserve for 10 years, missing by several years being activated in the first Gulf War. Some of my best friends are still in the Army Reserve. I understand what they are going through. I talked with them in Iraq in January of this year. Some have suffered financial difficulties as a result. We know that.

I offered the amendment that would make clear and explicit that a service man or service woman who has been activated and is not able to pay their debts would, in fact, be a special circumstance that could keep them from having to pay back their debts under chapter 13, and they would be able to wipe out all their debts. No matter what their debts are, if their income is below median income, they get to wipe them out anyway. It is just in that top 20 percent, they may need special circumstances.

I defined it, and we passed—at the same time, Senator DURBIN's amendment was voted down—to give them that special protection. I think that was the right way to do it. Senator DURBIN had an automatic guaranteed set-aside for them in a way that I think was not as appropriate as the route the Senate chose to take. But he got a vote on his amendment and I got a vote on my amendment.

I also recall, for those who are listening, that we do have a powerful Soldiers and Sailors Relief Act that has been updated. That is the new title. The old, classical Soldiers and Sailors Relief Act says if you are off on active duty serving your country, you cannot be sued, they cannot take a judgment against you, they cannot foreclose on your home, and there are a host of other protections for them.

They have those protections. Plus, when you come back, you can bankrupt against any of the debts you may have. If you make above median income, the judge can consider and should consider military service as a special circumstance. I think that is the right way to do it. I believe we did the right thing on that issue.

It really hurts me to hear people suggest, because they are unhappy with this bill and they filed an amendment that was not adopted exactly like they wanted it, that we who adopted the amendment to deal with this issue are insensitive to military men and women serving America.

Those are some of my thoughts, Mr. President. I think the bill does a lot of good. There are some things about which we have not talked. We had the critics dominate the debate and point out everything they think is wrong and offer amendments. Senator FEINGOLD has 15 amendments. Remember now, this is the fourth time this bill has been on this floor. The last time, we debated over 2 weeks on the legislation with amendment after amendment. This time we are going to be 2 weeks on it. I think we debated 2 weeks the other two times. There has been extensive debate. We have had debate and amendments offered in the Judiciary Committee likewise on these issues where Senator FEINGOLD, Senator DURBIN, and others serve.

We have tried to be fair and open. Everybody has had a chance to raise their concerns, but it is time to vote and get this bill in the barn and move on to other issues.

I want to mention a couple points that are so important for people in America who are having a hard time. Women and children who are victims of divorce and separation, deadbeat dads—what about that issue?

In the course of our deliberations, we made a bipartisan commitment to raise the top debts that arise from alimony or child support to the highest level of a bankruptcy court. In other words, when there is a limited amount of money, the bankruptcy judge decides who gets paid first. In the past, they have always paid the lawyers and the court fees, and then they had some other things, and then women and children came along. We raised women and children to the top of the list. Of course, that is one reason they are unhappy with the bill—trust me. We also put some other provisions in it to reduce some of the litigation that goes on in bankruptcy court.

We raised women and children to the top of the list. The National Child Support Group and the National District Attorneys Association that handles child support issues said it is absolutely a fact that women and children have a substantial benefit under this act. One person said it is a veritable wish list for helping women and children who are owed child support and alimony to collect those debts. And they get paid even above so many other people.

Also, I note that secured creditors are next, and the unsecured creditors, such as the credit card people, and those with personal notes and bills, such as your local gas station. Those debts come in as unsecured debts, and they are further down the list.

We do not raise credit cards above people. We actually raised women and children up to the highest group. So I think there are a lot of good things in it, including a requirement that people who want to pay their debts, cannot handle their money and manage it well, must attend a financial management course before being discharged from bankruptcy. We want to see people manage their money well, get rid of those credit cards, contain their spending and manage their money wisely. That is what we would like to see them do. That is what the bill requires.

It also says a person at least ought to talk with a credit counselor. These exist all over America. Many times they can help people manage their money. They get the whole family around the table, they talk honestly about what their financial situation is, what their debts are, and how they would have to be paid back. They have the ability to call the bank, the credit card company, or the mortgage company and say: We believe this client could file bankruptcy, but if you will allow them to reduce their payment to you for the next year and pay down some of these critical debts they owe, we will get back to you in full speed. We will help them achieve that. We will work out a budget with them.

Many creditors agree to extend—some even forgive a part of their debts in order to help debtors so they do not have to file bankruptcy, and they learn something in the process. They do not have to go into credit counseling. They can go straight to the lawyers and file bankruptcy in the traditional way. I think some may decide that maybe this is the better alternative for them.

If they go in response to one of those late night ads on television, or one of those newspaper ads to the bankruptcy mill, they are not going to get that information in most instances, although some lawyers, I am sure, do give them advice.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SESSIONS. Yes.

Mr. DURBIN. We are having an exchange, and maybe since we are both in the Chamber we can at least come to an agreement on our disagreement. And I will yield some of my own time if it reaches the point where the Senator thinks it is taking advantage of his time.

Mr. SESSIONS. I was about to yield the floor, but, please, go ahead.

Mr. DURBIN. If the Senator would stay for a few moments, I would like to see if we can get to an agreement on our disagreement.

Right now, under current law, when I go into chapter 7 filing for bankruptcy, I am bound by the requirements of the Bankruptcy Code under section 521 to file a list of my creditors, unless the court orders otherwise, a schedule of assets, liability, current income, current expenditures, and statement of debtor's financial affairs and more when it comes to consumer debt currently. That is what happens when one goes into bankruptcy court—and that is this sheath of paper—they have to fill these things out. These are the documents that get one into court.

Mr. SESSIONS. I would just add, one has to list those debts, and if they do not list them they are not discharged and they can still be liable for them. So the debtor has to list his or her debts.

Mr. DURBIN. So one has to be careful. They better put all of their debts down if they want to have them discharged.

Mr. SESSIONS. Right.

Mr. DURBIN. In comes the new law, and the new law says if one is below median income, that is the end of the story. They continue as currently required under chapter 7. They do not have to go through and prepare and file this means test which is required here because they are not required to.

Page 18 of the bill, no one can challenge a person if in the case of a debtor in a household of one person, the median family income of the applicable State is applicable. So this is the point that has been made over and over, again that having filed the basic documents in bankruptcy, if it is then established that one is below the median income, end of the story. This bill does not apply. That is the way I understood it.

My amendment is trying to clarify it to make sure that is the way the Senator understands it. In other words, if I have done all of the basic filing and I disclose my monthly income and I am below median income, then I do not have to fill out the forms for the means test; it does not apply to me.

I quoted the Senator earlier, Senator FRIST, and Senator HATCH, who have all said that on the Senate floor. My amendment clarifies that and says that unequivocally, after someone has filed their basic documents, if they demonstrate their monthly income is below the median income, they do not have to fill out the forms for the means test as to what they can pay over the next 10 years. They are not covered by that.

Is that the Senator's understanding of what this law says?

Mr. SESSIONS. I think that is my understanding of it.

Mr. DURBIN. Well, my amendment is only trying to clarify that. That is all it is doing. What I just described to the Senator is to say unequivocally, if someone files the initial documents currently required under chapter 7 and demonstrates to the court that their monthly income is below a median income, they do not have to fill out all of the additional paperwork required in the means test, which is substantial and expensive. If the Senator feels as I do, that that is what the law says or should say, I hope the Senator will look at my amendment. It is not a trick amendment. It is just trying to clarify that point.

Mr. SESSIONS. I would be glad to review the amendment. It would appear clear to me that one does need to meet certain basic filing requirements.

Mr. DURBIN. Absolutely.

Mr. SESSIONS. So the income can be determined, and we did step that requirement up to require more in connection with income tax return filings and things of that nature.

I know the Senator is a member of the Judiciary Committee and has worked hard on this bill, so I respect his concern over this issue. I am not one who believes we have a problem, but I will be willing to look at it.

Mr. DURBIN. If the Senator would be kind enough to review my amendment, I would appreciate it very much.

I yield to the Senator.

Mr. SESSIONS. I yield the floor.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 89

Mr. FEINGOLD. Mr. President, I call up amendment No. 89 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is once again pending.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator KERRY, who is the ranking member of the Small Business Committee, be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, we have spent a great deal of time debating and trying to improve provisions of this bill that affect consumer bankruptcies. Most of my colleagues may not even be aware that this bill actually contains provisions that make significant changes to portions of the Bankruptcy Code that relate to small businesses. They may not realize it, but it does. Subtitle B of title IV of the bill is entitled "Small Business Bankruptcy Provisions," and I doubt more than a handful of people in this body have any idea what is in the subtitle.

The subtitle includes a number of new restrictions and requirements for small businesses that want to reorganize under chapter 11. That is right, these are requirements and restrictions for small businesses that do not apply to large companies. I was shocked when this came to my attention, but there it is in black and white, subtitle B, "Small Business Bankruptcy Provisions."

These are not provisions to help small businesses, as one might expect from a bill that is going through the Senate. No, these provisions penalize small businesses. They make it harder for small businesses to reorganize in order to survive.

Here is an example. Section 434 would require regular reports on the small business's profitability. They will have to report all kinds of things: profitability, cash receipts and disbursement, requirements to be in compliance with postpetition requirements, timely filing of tax returns, and "such other matters as are in the best interests of the debtor and creditors."

This is a mountain of information. Mom-and-pop operations will have to spend a great deal of time pulling these reports together, and the reports probably will not even be useful. Creditors and judges examining a debtor's profitability rely on cash disbursements and receipts, not self-reporting, because they are more informative and less subject to manipulation. It seems to me these reports will not be of much use to anyone, but they will be quite burdensome for a small business to produce on a regular basis.

What is the penalty for failure to jump through this bureaucratic hoop? Dismissal. Again, not for large corporations, mind you, which have armies of accountants to handle paperwork like this, but for the small entrepreneurs who could be spending that time keeping their businesses afloat instead of producing these piles of paper for some government file which basically no one will ever use.

I do not want to have to go back to Wisconsin and have to explain to a grocery store owner who is already working late into the night, trying to pull her business through a financial crisis, that the Federal Government has decided to keep her even longer to put together a report that nobody even plans to read. I am very concerned, almost ashamed of this Chamber to think I would have to tell her that if she were a big corporation, if she were the big chain of huge grocery stores, then the law would not require this of her. It would not treat her this way.

Professor Elizabeth Warren wrote, when the same language was proposed during the 107th Congress:

> A decision by Congress in 2001 that small businesses should bear greater costs, face shorter deadlines, file more papers and lose any flexibility that a supervising judge might provide is a decision to shut down small businesses simply because they are small.

That is what Professor Warren wrote.

I can see no justification for imposing burdens on small business in the bankruptcy code that will not be imposed on large corporations. It has always been our responsibility as legislators to protect small businesses. My amendment calls on us to fulfill that responsibility in a very significant way. It would simply strike a number of the provisions in title IV, subtitle B of the bill.

Small businesses are the backbone of the American economy. According to the Small Business Administration, small firms represent 99.7 percent of all employers and pay 44 percent of the total U.S. private payroll. Small businesses have generated from 60 to 80 percent of the net new jobs created annually over the last decade. I can't figure out why, for the life of me, we are trying to make life harder for small businesses.

What is particularly puzzling is that I have heard a number of my colleagues complain about the burdens that they believe federal regulations impose on small businesses. The head of the Small Business Administration recently testified before the Small Business Committee that "[s]ome of the heaviest burdens borne by small business in America are the result of unnecessary federal regulation and red-tape." If my colleagues share that belief—and even if they don't—why would we want to impose further Federal regulations and red tape on small business chapter 11 bankruptcies?

The worst thing about this attack on small business is that it is utterly unprovoked. Another provision of this bill would impose harsh deadlines on small businesses seeking to reorganize under chapter 11, but these deadlines are apparently designed to solve a problem that doesn't exist. The bill's drafters perhaps believed, back in 1998, that chapter 11 offers a shelter for failing small businesses, allowing them to delay the inevitable and die a lingering death to the detriment of their creditors. But this is just not the case.

The bill would impose an arbitrary 300-day hard deadline for a small business to file its reorganization plan. But a recent study of small business bankruptcy cases by Professor Douglas Baird of the University of Chicago Law School and Professor Edward Morrison of Columbia Law School shows that this deadline is completely counterproductive. According to this study, more than half of small business chapter 11 cases that fail—in other words, those that are dismissed, or converted to chapter 7 liquidations—are terminated within 4 months of filing. Over 70 percent are terminated within 6 months. By 300 days more than 90 percent have already left the system. In other words, the 300-day deadline imposed by this bill will affect a very small percentage of small business plans that are actually bound for failure. It constrains the discretion of bankruptcy judges, without any apparent justification for doing so, since reorganization cases without merit are already being terminated in a timely manner.

Instead of protecting the system against abuse by small businesses doomed to eventual failure, this bill will punish primarily small businesses that would otherwise succeed. Professors Baird and Morrison found that of the small businesses that successfully reorganize under chapter 11, nearly 40 percent need more than 300 days to do so. In other words, the facts show that by 300 days, most failing small businesses have already failed but many viable small businesses are still struggling. We should be helping them, not terminating them. Forcing small businesses capable of successfully reorganizing into chapter 7 liquidation proceedings is bad for their creditors, and tragic for the entrepreneurs who will see their livelihoods and their hard work over years or even generations needlessly destroyed.

Compare the hard deadline in the bill to what happens in the bankruptcies of large corporations. United Airlines filed for chapter 11 protection in December 2002. That is over 2 years ago. And the court has continually allowed the effort to come up with a reorganization plan that the creditors can accept to continue rather than force the airline to liquidate. We still don't know what will happen in that case, but clearly it is worth trying to save that company, with all its employees and devoted customers. Why don't we want to allow the courts to exercise the same flexibility for small businesses? Are they just not as important as the big corporations like United? Is that the message the Senate is trying to send with this bill? I can hardly believe that my colleagues want to send that message. But this could have a big impact on the ability of small businesses across the country to survive, so I urge my colleagues to take a close look at this amendment.

These new burdens on small businesses are simply wrong. Congress simply should not be in the business of forcing viable small businesses into liquidation. And why are large corporations seeking to reorganize not similarly burdened? Do the bill's drafters think that large businesses are more important than small businesses, so we should give them extra time to reorganize?

There is an additional irony here when you compare the requirements we put on large and small businesses in bankruptcy that my colleagues should consider. Large companies are often subject to a variety of reporting requirements by the federal securities laws that are not applicable to small businesses. But the SEC often exempts companies in chapter 11 from those requirements. At the same time that large companies are often excused from onerous reporting because of their bankruptcy, this bill puts additional reporting requirements on small businesses. Where is the fairness in that?

If there is a crisis with small business bankruptcies, I am not aware of it. Professor Warren, one of the country's leading bankruptcy experts, was one of the authors of a 1999 Small Business Administration study. That study found that one-third of bankrupt businesses had less than $100,000 in debts and almost four out of five had less than half a million dollars in debts. What is more, almost half—45 percent—of the small businesses had one or no employees when they filed for bankruptcy. These numbers don't give me any reason to think that small business bankruptcies are such a serious problem that we need to enact special provisions targeting them.

Bankruptcy experts tell me that these small business provisions are just crazy. But they have been in the bill forever, and most of the focus is on the consumer provisions when we debate this bill. Someone needs to stand up and say, "Wait a second. Why are we discriminating against small businesses in the bankruptcy laws?" I can't think of a single bill in my entire time in the Congress—over 12 years—where a single law on the books treats small businesses worse than big corporations. That is the opposite of what we usually do in this body. We always protect small businesses. Why is this bill any different?

When I offered this amendment in the Judiciary Committee, I heard two arguments against it. The first was that the provisions were recommended by the National Bankruptcy Commission. This is a very odd argument, coming from the same people who completely ignored the commission's work on consumer bankruptcy issues and drafted a bill largely in response to the credit industry's recommendations. But more importantly, I have been told that the commission provisions were created by certain commissioners who wanted to reform chapter 11 for all companies, large and small. The big companies came in and said: "No, don't do that to us. Those deadlines are too restrictive." Here is what happened. The recommendation was amended to apply only to small businesses. There was no showing that there are more abuses in small business bankruptcies than in chapter 11 filings for large companies. Small businesses apparently just didn't have the right lobbyists watching the process. So they got stung by these wrongheaded provisions that live on year after year in this bill without anyone coming forward to explain why they are necessary or useful.

The second argument that came up in the committee was that small businesses support this bill. That is true, at least for some small businesses. But they don't necessarily support the particular provisions that I am talking about. They may not even know about these provisions. Small businesses, like large businesses, support the bill because it makes it harder for consumers to file for bankruptcy. But I doubt very much that they want the law changed to make it harder for struggling small businesses to reorganize under chapter 11.

This is an important example of how this bill fails to reflect lessons we have learned in the years since it was first proposed. Given the recent history of large-scale corporate bankruptcies and scandals, the way this bill cracks down on small businesses is not only misguided, it is shocking. We should be focusing our energies on the real problem, not penalizing small businesses.

I urge adoption of this amendment, and I hope that small businesses all across this country will be watching this debate. Those people who think the Senate is devoted to the interests of small businesses may be in for a rude awakening if this amendment is not agreed to.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed in morning business and I also ask unanimous consent that the time be counted as postcloture time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DEWINE and Mr. DODD are printed in today's RECORD under "Morning Business.")

Mr. DEWINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 67

Mr. DODD. Mr. President, I call up amendment No. 67.

The PRESIDING OFFICER. That amendment is pending.

Mr. DODD. Mr. President, this amendment—we have checked with the Parliamentarian—is a germane amendment to the bill. It was filed prior to the appropriate time, at the hour of 2:30 p.m. yesterday. Let me explain what this amendment does and why I am offering it this afternoon.

I am offering this amendment to enable parents to meet the needs of their children. We just heard our good friend and colleague from Ohio talk about Mothers Against Drunk Driving and the problems that occur with underage drinking. It is appropriate, after that discussion, that I offer this amendment because it is not unrelated, we know the difficulty of single parenthood, of how hard it is for single parents, the overwhelming majority of whom are women, to try to raise children on their own, all of the pressures of holding down jobs and managing a family. It will not come as any great surprise to my colleagues to know that a significant percentage of underage drinking and children who have problems with the juvenile justice system and other related issues come from broken homes, unfortunately. The tremendous pressures of a single head of household holding down a job and keeping their family together is not easy.

This amendment I am offering today on this bankruptcy bill relates to these familial circumstances, and it comes in several parts. I am going to take a few minutes and explain this amendment and why I believe it is important.

Very simply, during the financial crisis of living through a bankruptcy, children should be protected to the maximum extent possible. That is my strong belief. I believe it is the belief of all of us. Regardless of one's politics or ideology, I think we all understand that when a family is going through bankruptcy, we ought to do what we can to protect the innocent. Whatever one's feelings may have been about the parents, about their responsibility or irresponsibility, children should not be penalized because of the sins or the faults of their parents. This amendment is designed to at least attempt, under those trying circumstances of a family going through bankruptcy, to protect those who are innocent—the children—to the maximum extent possible.

About 39 percent of those filing bankruptcy in the United States are single women raising children, almost 40 percent. About 29 percent, almost 30 percent of those filing for bankruptcy are men, and 32 percent of households filing for bankruptcy are married couples. So we are talking about 70 percent of those who are filing fall into the area of single parents and their problems related to it. While there may be some people who are trying to scam the system—and there certainly are, and I do not argue with that point at all—I believe most people do not file bankruptcy lightly. It is a highly emotional time and one of financial crisis.

The most common reasons for 90 percent of women filing for bankruptcy include medical emergencies, job loss, and divorce. Women are especially vulnerable because they tend to have lower incomes and fewer assets and are more likely to be caring for children on their own.

If my colleagues truly cared, and I believe they do, about protecting mothers and the innocent children who are caught up in the tremendously disruptive time of bankruptcy, I think they will end up supporting this amendment. At least I hope they do. If our colleagues truly care about marriage and strengthening marriages, they also would support this amendment. I cannot think of many more things more stressful on a marriage than filing bankruptcy.

My amendment covers four main areas to protect children during this turbulent and emotional time. The amendment would modify the means test to provide greater flexibility and reasonableness when calculating a debtor's ability to pay. Allowable expenses are broadened to ensure that parents, whether married or divorced, can still support their children as they live through a bankruptcy.

For example, the amendment would allow a single mother, recently deserted by her husband, raising children who has filed for bankruptcy to continue paying education expenses for her child. Let us say that the mother, being a religious person and from a family that had used parochial schools for generations, is struggling to keep her child in one of these parochial schools. In this case, her 10 year old son has gone to a parochial school since kindergarten. It is where his friends go. After being fairly shy and withdrawn, he has begun to thrive there, has developed close relationships with several of his teachers. The mother was able to obtain a hardship reduction in tuition from the archdiocese, reducing the tuition to $3,500 a year.

Under the means test in the pending legislation, under our bankruptcy bill, this mother could not file chapter 7 or chapter 13 if she continued to send her son to parochial school. The means test allows only $1,500 for tuition and any other education expenses—not enough for any religious school. We are not talking about some fancy prep school or boarding school; we are talking about a basic parochial school education, which in many areas of the country costs around $5,000 per year, sometimes even slightly more. One of my neighbors told me that the parochial high school his son attends costs roughly $8,000 a year.

The child did not file for bankruptcy. Why during this turbulent time should the child be ripped away from his circle of friends and moral mentors? This should be a time when the child needs his friends and trusted teachers the most, his circle of security, particularly during a time of separation by parents and a bankruptcy.

The amendment would allow expenses associated with employment, such as child care, and it would allow alimony and child support to be used as intended to cover the needs of children in the household. Particularly with children, there are emergency expenses that arise, and any means test ought to reflect that reality.

Second, this amendment would ensure that support payments and other funds, such as refunds from the earned income tax credit or child tax credit, intended for the current needs of children do not become the property of the bankruptcy estate with the corollary potential of being distributed to creditors. Money intended to support children and their needs should go to children who need it, not creditors, in my view. Why should the earned income tax credit or the refundable child credit be yanked away from supporting children so that the depth of poverty in which they may live becomes even greater?

Thirdly, the amendment enables debtors going through bankruptcy to keep personal property normally found in or around the home, excluding automobiles. This would ensure that in bankruptcy situations, families with children are able to keep, without fear of repossession, household goods that typically have no resale value.

Fourth, the amendment would ensure that debtors are not forced into bankruptcy court to seek to prove that some of these items have any value for resale and would necessarily have to be added, forced into bankruptcy court to prove these items were not luxury goods.

This amendment, which I had hoped the managers of the bill would agree to, it is more technical than anything else. I am sorry it is not being accepted, because it goes to the very heart of what many of us have talked about and tried to accomplish over the years since bankruptcy laws were first modernized and adopted over a century ago in 1903. This amendment deals with families and spouses, with child support issues and where they come into context of priorities when it comes to discharging responsibilities under the Bankruptcy Act.

In 2003, as much as $95 billion in child support payments remained uncollected in the United States. It is a staggering sum of money and makes a huge difference to children growing up under adverse circumstances. It is estimated that one out of every other child living in poverty could be taken out of poverty if we were able to collect child support. Forget about appropriations or tax provisions we may adopt, if we could just collect the $95 billion in unpaid child support, we could virtually eliminate poverty in one out of every two children growing up under those circumstances in the United States.

The bankruptcy bill before us is going to make it more difficult in many ways for those families out trying to find those spouses who owe this child support to make it available. Thus, I believe we are going to exacerbate the problem of children who rely on child support and families who rely on alimony being able to get those resources to minimize the effects that a divorce and separation can cause.

When one excludes the ability to receive the financial support necessary to make ends meet, the problem becomes, obviously, even more pronounced, and children bear the price. Again, I repeat, whatever one may feel about the parents and their irresponsibility, putting themselves and their families in jeopardy, we ought to be highly sensitive to what happens to children. It is not their fault that their parents are filing bankruptcy. I do not believe necessarily it is the parents' fault either in many instances, with medical expenses, with divorce and job loss being the reason a large percentage of bankruptcies occur.

Putting aside that for a moment, whether one agrees with those numbers, I do not know of a single person in this Chamber who would disagree with what I am about to say. Children should not have to pay the price of their parents' mistakes, and yet that is what we are going to do with this bill if we do not take some steps to try to correct the situation.

Since 1903, our Nation's bankruptcy laws have been guided by the firm principle that women and children must be first in the distribution line of available assets during a bankruptcy proceeding. For over a century, debt owed to children and families has been nondischargeable. Thus, if a head of a household fails financially, whatever remaining assets he has could be used to spare his spouse or ex-spouse and his children from impoverishment. We do this because those who are most vulnerable in our society deserve the most protection.

Today's bill, the Bankruptcy Abuse Prevention and Consumer Protection Act, would fundamentally alter this delicate balance achieved after a century of jurisprudence. We are altering the bankruptcy landscape for the benefit of credit card industry without understanding or recognizing what the consequences for families will be. Women and children will be disproportionately affected by this legislation unless it is amended, which is what I am trying to do with the amendment now before us.

Whether as debtors filing for bankruptcy themselves or as creditors, three-quarters of a million women will be affected this year by the bankruptcy system, and it is estimated that as many as 1 million women will be affected in the coming year. I agree with those of my colleagues who think the bankruptcy law needs to be reformed and tightened. I do not disagree at all with that. But in my view it is possible to enact legislation that tightens the laws without depriving debtors and their families of reasonably necessary living expenses to care for their children.

As this legislation is currently drafted, however, the credit card industry is protected, more protected than they have ever been. Unfortunately, families are not, in my view. This bill could turn the lives of children and families literally upside-down.

I think it is enough of an emotional roller coaster for a parent to file bankruptcy, but I think to elevate the needs of the credit card companies over the needs of children is simply wrong. I am greatly concerned about the means test, which requires the trustee in bankruptcy to review all chapter 7 cases for ability to pay debts under a rigid IRS formula devised originally for delinquent taxpayers, now to be applied to bankruptcies. These standards neither take into consideration differences in the cost of living from region to region, nor do they ascribe rational expenses for the use of individual families. In my view, these rigid standards will deprive children and families of reasonably necessary living expenses.

While moving child support to a first priority among unsecured creditors in chapter 7 sounds good, it is virtually meaningless, however.

Listen to this. Fewer than 4 percent of chapter 7 debtors have anything to distribute to unsecured creditors. Listen to that again. Fewer than 4 percent of chapter 7 debtors have anything to distribute to unsecured creditors. That is to say 96 percent of these debtors have nothing to give out. So saying under chapter 7, "you are first in line," means absolutely nothing except to 4 percent of those debtors. First in line when there is nothing means nothing. This is not a protection for women and families. It sounds good, but it is totally hollow when it comes to seeing to these children and these families whom, for 100 years, we have done a better job of protecting.

Additionally, because the means test increases the potential for dismissing chapter 7 cases, this bill channels many debtors into the 5-year, chapter 13 repayment plans, even though we know for a fact that two-thirds of such plans fail today. What will families live on during this time? What are proponents of this legislation going to do, go back to the time of Charles Dickens or debtors prisons?

Under chapter 13, the bill would require that larger payments be made to credit card companies. As a result, payments of past-due child support would be made in smaller amounts and over a longer period of time, thus increasing the risk that children will not receive the support they need and the full debt would never be paid.

Mothers and children would be in direct competition with credit card companies employing well-financed collection departments. How do you think mothers and children will fare when it comes down to competing? It is hard enough under the present system for these people to collect the $95 billion they are owed in one single year in child support, when they now are going to also have to compete, under chapter

13, with credit card companies who are well heeled and in a far better position financially, with teams of lawyers, to go after these debtors. I do not believe anybody could rationally conclude that a mother raising two or three children on her own, with limited resources, is going to be able to hire the lawyers to compete with the credit card companies going after the debtor husbands in these cases.

Those are the practical realities. So for children and families, this bill makes life a lot worse because of exactly what I have explained: we are moving people out of chapter 7, where there was nothing much to give anyway, into chapter 13, where it becomes far easier for larger amounts of these resources, larger payments, to be made to the credit card companies.

I am very concerned about the provisions of the legislation that make certain credit card debt nondischargeable. While the family support provisions added to this legislation are positive improvements, they have not cured the problems caused by the other provisions of the bill. In fact, they are negated by them, in my view. These are provisions that give far greater collection rights to the credit card lenders and fewer, in my view, to families and children.

This bill elevates credit card debt to a presumed nondischargeable status. If a debtor purchases items or services on credit from a single creditor within 90 days of bankruptcy, and such items exceed $500 in value, these items would be presumed luxuries.

Listen to that again. Within 90 days, if you make purchases from a single creditor exceeding $500, they are presumed luxuries—in 90 days—3 months.

Again, if you are a single parent with two or three kids, over 90 days $500 is not a huge amount when you are talking about groceries or other essentials. Over a 3-month period—stretch it out and do the math—$500 over 90 days is really, in 21st century dollars, even if you go to the best discount stores, not going to be enough to make it. Current law allows up to $1,225 to be discharged within 60 days of bankruptcy. The bill as reported would limit it to $500 within 90 days, as I have said. The amendment I will offer when the time comes to vote on it will allow not $500 but less than $1,200 to $1,000 within 70 days. So it is less than 90, a bit more than 60. It is less than $1,200 under current law but certainly more than $500 to get you to $1,000.

Again, I don't think this is any great luxury. You are trying to meet the needs of your family. To declare them to be luxuries—it doesn't seem a lot to me. Over a 90-day period it is not that hard to spend $501 at Wal-Mart to meet kids' needs. Most would agree such purchases are not luxuries. In 90 days alone, a family with children could exceed $500 on other expenses that arise with children.

My amendment requires creditors to prove at a hearing that such items were not reasonably necessary for the maintenance and support of the debtor and her dependents, shifting the burden to creditors rather than the parents. If the creditor wants to make the case, let them do it, but don't lay the burden for $501 on a single mother with young kids to hire lawyers to go in and make the case these are not luxury items. I shift the burden over to the creditors. If they want to make the case, they can do so.

I don't know what the proponents of this legislation are intending here, other than to protect the credit card companies at the expense of children. If you have $501 of food, medicine, and clothing expenses, and it is incurred within the last 90 days, then you have to go to court and spend money to prove these are not luxuries—food, medicine, and clothing. This point is one I find stunning in its potential implications. By the very fact that you are in bankruptcy court, how are you going to hire a lawyer to go in and prove that $501 was for necessities and not luxuries? We need to be far more practical than that, it seems. To go to Wal-Mart and buy food and clothes for your children, necessities they may need, that is considered a luxury if it is more than $500.

If you are a single woman as a creditor, then you must wait until your ex-husband tries, or does not try, to defend a similar purchase. If he is unsuccessful, there will be less money for him to pay child support.

So on either side of the equation, if you are the woman raising children on your own, either as a debtor or a creditor, this places tremendous burdens on your family. If this section is sustained in the bill, then I urge the President to veto it, which I am told he would not do, but I hope he would. This legislation, regardless of what else is here, I think putting credit card debt ahead of kids is just wrong.

I think all my colleagues are probably familiar with the popular TV ad where a father takes his son to a baseball game, they rack up maybe $100 in costs—tickets, parking, hot dogs, sodas, maybe a popcorn to share and a small souvenir. The tag line in the commercial says: "Cost of the memory—priceless."

What the commercial doesn't tell you about is the memory may be priceless, but if the next day that dad is unlucky enough to lose his job, have a heart attack, incur enormous hospital expenses without health insurance, and can't make his minimum payments on time, the credit card companies are only too happy to turn priceless into pricey. Unfortunately, pricey for the family with finance charges, overcharges, penalty fees, and other means, can turn a dream into a nightmare.

This bill allows families to take a backseat to lenders, if lenders say their claims are secured by the debtors' property. For the first time in over 100 years, we have allowed these heretofore unsecured creditors to get into the bankruptcy courthouse. Currently, child and family support, taxes, and student loans are not dischargeable debts. For the first time in a century, the proposed legislation before us would bring into this unique category these other creditors—i.e., credit card companies—which will make the competition for scarce assets that much more fierce. These creditors have historically been unsecured because they have received the benefit of high interest and finance charges. Now they are becoming effectively secured creditors.

With all of these concerns in mind, the amendment I am offering this afternoon seeks to address some of these problems. I hope these efforts will win broad bipartisan support. I have been terribly disappointed that there has been no willingness to even talk about some of these amendments. I don't know why we can't do this. This is not the end of the session. We are only in the month of March.

This is an important bill. I understand that. But it is going to have huge implications for years to come if we don't sit down and listen to each other carefully to try to work out some of these matters so we can put a bill together. Yes, it may require a conference; it may require some negotiation. But isn't that a wiser course to follow than to rubberstamp a proposal because the other body doesn't want to sit down in conference on the bankruptcy bill, particularly when we are talking again about the most vulnerable in our society; that is, our children?

Again, I emphasize what I said at the outset. We are talking about the innocents here. I don't want them to fall prey to the claim that people taking bankruptcy are guilty of something somehow.

Again, if you accept the notion that most people who file bankruptcy are not doing so lightly. I don't know of anyone who likes to admit they are so messed up in every way possible that they put themselves in that situation. Are there people who take advantage? Yes. I know that is true. As we try to cure that problem, let us not create more problems for those who through no fault of their own find themselves in that situation; and, even worse yet, those who are completely innocent who find themselves so disadvantaged that the ability of parents—particularly single women raising children—to find it harder and harder to collect those child support payments they desperately need to lift these children out of poverty, to make ends meet in the 21st century, with companies going bankrupt every day. We must see to it that those families who are already going through an awful lot don't find themselves going through even more.

This amendment is a modest attempt to readjust this section of the bill, to inject some practicalities, to say that as we consider the rights of credit card companies we are not going to forget the rights of children, so we will put some reasonable ceiling in here to make it possible for everyone to be a winner, so people can go to bankruptcy court to get themselves out of debt, get on their feet again, see to it that creditors are going to have an opportunity to collect the obligations that are owed them, and not penalize those who ought not be a part of this debate in any consideration.

I urge my colleagues to think about these amendments. I know it means changing the bill. I know it may mean going to a conference for a day or two. But I urge my colleagues to at least look at these proposals. If they make some sense, as some of them do, can't we sit down and try to resolve some before we go ahead and pass a bill that I think many may regret down the road when we consider the implications for those who are going to be adversely affected by this legislation?

I also would like to add as part of the RECORD a couple of pieces of correspondence that speak to these particular issues. One is from the National Women's Law Center, a letter dated February 23, 2005. I will not read the whole letter. Let me read a couple of paragraphs, because they go to the heart of what I am talking about here.

The letter reads:

> S. 256 would make it harder for women to access the bankruptcy system because the means test requires additional paperwork of even the poorest filers, harder for women to save their homes, cars and essential household items through the bankruptcy process and harder for women to meet their children's needs after bankruptcy because many more debts would survive. The bill also would put women owed child or spousal support who are bankruptcy creditors at a disadvantage by increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others. The bill would set up an intense competition for scarce resources between mothers and children owed support and these commercial creditors during and after bankruptcy.

The letter goes on.

I ask unanimous consent that the letter from the National Women's Law Center be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL WOMEN'S LAW CENTER,
*Washington, DC, February 23, 2005.*

Re oppose S. 256, the Bankruptcy Act of 2005.

DEAR SENATOR: The National Women's Law Center is writing to urge you to oppose S. 256, a bankruptcy bill that is harsh on economically vulnerable women and their families, but that fails to address serious abuses of the bankruptcy system by perpetrators of violence against patients and health care professionals at women's health care clinics.

This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy. Contrary to the claims of some proponents of the bill, low- and moderate-income filers—who are disproportionately women—are not protected from most of its harsh provisions, and mothers owed child or spousal support are not protected from increased competition from credit card companies and other commercial creditors during and after bankruptcy that will make it harder for them to collect support.

The bill would make it more difficult for women facing financial crises to regain their economic stability through the bankruptcy process. S. 256 would make it harder for women to access the bankruptcy system, because the means test requires additional paperwork of even the poorest filers; harder for women to save their homes, cars, and essential household items through the bankruptcy process; and harder for women to meet their children's needs after bankruptcy because many more debts would survive.

The bill also would put women owed child or spousal support who are bankruptcy creditors at a disadvantage. By increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up an intensified competition for scarce resources between mothers and children owed support and these commercial creditors during and after bankruptcy. The domestic support provisions in the bill may have been intended to protect the interests of mothers and children; unfortunately, they fail to do so.

Moving child support to first priority among unsecured creditors in Chapter 7 sounds good, but is virtually meaningless; even today, with no means test limiting access to Chapter 7, fewer than four percent of Chapter 7 debtors have anything to distribute to unsecured creditors. In Chapter 13, the bill would require that larger payments be made to many commercial creditors; as a result, payments of past-due child support would have to be made in smaller amounts and over a longer period of time, increasing the risk that child support debts will not be paid in full. And, when the bankruptcy process is over, women and children owed support would face increased competition from commercial creditors. Under current law, child and spousal support are among the few debts that survive bankruptcy; under this bill, many additional debts would survive. But once the bankruptcy process is over, the priorities that apply during bankruptcy have no meaning or effect. Women and children owed support would be in direct competition with the sophisticated collection departments of commercial creditors whose surviving claims would be increased.

At the same time, the bill fails to address real abuses of the bankruptcy system. Perpetrators of violence against patients and health care professionals at women's health clinics have engaged in concerted efforts to use the bankruptcy system to evade responsibility for their illegal actions. This bill does nothing to curb this abuse.

The bill is profoundly unfair and unbalanced. Unless there are major changes to S. 256, we urge you to oppose it.

Very truly yours,

NANCY DUFF CAMPBELL,
*Co-President.*
MARCIA GREENBERGER,
*Co-President.*
JOAN ENTMACHER,
*Vice President and Diretor, Family Economic Security.*

Mr. DODD. Mr. President, I want to quote a letter from the Children's Defense Fund, again expressing their concern about these sections of the bill. I will read from this letter as well.

> The Children's Defense Fund is writing to urge you to oppose S. 256, the bankruptcy bill, that would hurt many Americans facing financial problems through job loss, divorce, child rearing, lack of medical insurance, or predatory lending practices. This bill would inflict hardship on more than 1 million economically vulnerable women and families who are affected by the bankruptcy system each year. Medical emergency, job loss and family breakup are important factors which account for nine out of ten filing for bankruptcy. The bill would also hurt women who are owed child or spousal support by men who file bankruptcy. The bill would make it far more difficult for women to collect support because credit card companies and other commercial creditors will have greater claims to the debtor's resources during and after bankruptcy. Being first among unsecured creditors in chapter 7 bankruptcy is meaningless when over 95 percent of debtors have no resources to pay unsecured creditors.
>
> In chapter 13, the bill would require larger payments to be made to many commercial creditors resulting in smaller payments to past-due child support over longer periods of time increasing the risk that child support debts will not be paid in full. And after the bankruptcy is over, more and more debts owed to commercial creditors will survive, and mothers and children owed support are not a match for the collection departments of the commercial credit industry.
>
> S. 256 contains a number of provisions which would have a severe impact on families trying to regain their economic stability through the bankruptcy process.

The letter goes on. Those are pertinent paragraphs when it comes to the amendment which I am offering here today.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILDREN'S DEFENSE FUND,
*March 3, 2005*

Re Oppose S. 256, The Bankruptcy Act of 2005.

DEAR SENATORS: The Children's Defense Fund is writing to urge you to oppose S. 256, a bankruptcy bill that would hurt many Americans facing financial problems due to job loss, divorce, child-rearing, lack of medical insurance, or predatory lending practices. This bill would inflict hardship on more than one million economically vulnerable women and families who are affected by the bankruptcy system each year. Medical emergency, job loss or family breakups are factors which account for nine out of ten filings.

The bill would also hurt women who are owed child or spousal support by men who file for bankruptcy. The bill would make it more difficult for mothers to collect support because credit card companies and other commercial creditors will have greater claims to the debtor's resources during and after bankruptcy. Being first among unsecured creditors in Chapter 7 bankruptcy is meaningless when over 95 percent of debtors have no resources to pay unsecured creditors. In Chapter 13, the bill would require larger payments to be made to many commercial creditors, resulting in smaller payments of past-due child support over a longer period of time, increasing the risk that child support debts will not be paid in full. And after the bankruptcy is over, more more debts owed to commercial creditors will survive—and mothers and children owed support are not a match for the collection departments of the commercial credit industry.

S. 256 contains a number of provisions which would have a severe impact on families trying to regain their economic stability through the bankruptcy process. S. 256 would make it harder for women to access the bankruptcy system. Low and moderate income families are not protected from many of the bill's harsh provisions. Parents who desperately need to preserve their homes from foreclosure or prevent their families from being evicted, or keep a car to get a work, would find it more difficult to do so. And, when the bankruptcy process was over, parents already facing economic disadvantage would find it harder to focus their income on reasonable and necessary support for dependent children because many more debts would survive.

Passage of the bankruptcy bill would make it harder for families struck by financial misfortune to get back on track. It would benefit the very profitable credit card industry at the expense of the modest-income families who represent the great majority of these who declare bankruptcy. Congress should not enact reform that puts women and children at greater risk. The bill is profoundly unfair and unbalanced. Unless there are major changes to S. 256, we urge you to oppose it.

Very truly yours,

DEBORAH CUTLER ORTIZ,
*Director of Family Income and Jobs.*

Mr. DODD. Mr. President, the Association for Children for Enforcement of Support is supporting this amendment and opposes the legislation. The American Association of University Women, American Medical Women's Association, the Business and Professional Women of the United States, the Center for Law and Social Policy, the Center for the Childcare Workforce, Child Welfare League of America, the National Council of Jewish Women, the National Organization for Women, the National Partnership for Women and Families, the YWCA of the United States—all are groups which support the amendment and oppose this legislation.

Again, I realize the hour is late. We are getting closer to passage of this bill. I don't think it is so late, however, not to try to make some modest changes in this legislation that I think would go a long way to providing some relief for families.

Again, this is one of the areas of law that is written into our Constitution. Article I, section 8 of the U.S. Constitution, drafted back in the 18th century, specifically provided and called upon the Congress of the United States to enact bankruptcy laws. To understand why they did so, go back and look at the Federalist Papers. They talked about doing it as an opportunity for people to get back on their feet again. That was the idea—to see to it that creditors could be compensated to the maximum extent possible, but that also those filing for bankruptcy would begin a new chapter in their lives, to get on their feet again.

It seems to me we ought to be trying to do that with this legislation, not only helping the creditors collect what is due them, but simultaneously making it possible for good people to get a fresh start.

If in the process of helping the creditors get paid we make it more difficult for people to get on their feet again, we are lacking the balance which I think we ought to be striking with this bill.

I urge my colleagues not to necessarily rely on what I have said here today, but to review these sections of the bill and ask yourself realistically whether in this day and age the kind of caps we are putting on, kind of forcing people into the chapter 13 category, if we are not exactly undoing what we have done for 100 years to modern bankruptcy laws.

The modern bankruptcy laws put not only families first but they also left them alone. If you were dealing with child support and alimony, once you paid those, or set up a payment schedule, whatever is left over, you dispensed to your creditors, you were not only the first in line, you were the only one in line. This changes that. You can be first in line under this bill, but you are not the only one in line, and other people in line have far more resources and strength to be able to compete for those debtors' funds to compensate these creditors. It puts families at a disadvantage.

There are a lot of other reasons to be concerned about this bill. I know my colleagues care about children. I know they care about families. They want to see these innocents have a chance for a decent life. This bankruptcy bill, if not amended, will make it far more difficult to achieve those goals.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask consent that at 5:45 today the Senate proceed to a vote on or in relation to the Feingold amendment No. 89, with the time equally divided in the usual form until the vote; provided further that no amendments be in order to the amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I ask the action we just took be vitiated. I will wait until Senator DURBIN gets to the floor and I will reoffer the consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that at 5:45 today the Senate proceed to a vote on or in relation to Feingold amendment No. 89, with the time equally divided in the usual form until the vote; provided further that no amendments be in order to the amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. If the majority whip would yield for a question, I have three germane amendments pending. I think others are in the same position, including Senator FEINGOLD. It is my hope to move as quickly as possible to a quick, limited debate, for just very short periods of time, and then to vote on these amendments in an effort to keep the bill moving forward. I ask the Republican whip whether or not there are plans to call any other votes today or early tomorrow.

Mr. McCONNELL. Mr. President, I might say to my friend from Illinois, we have been reviewing amendments. I am hopeful we can have some discussion between now and the vote about how we proceed from here.

Mr. DURBIN. I thank the Senator.

Mr. McCONNELL. I yield the floor.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 89

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. I ask unanimous consent that Senator FEINGOLD have 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Senator from Idaho.

Mr. President, we are about to vote on an amendment that will tell this Nation's small businesses whether we stand with them. This bill includes a number of new restrictions and requirements for small businesses that want to reorganize under chapter 11. These requirements and restrictions for small businesses don't apply to large companies. I was shocked when this came to my attention, but there it is in black and white: Subtitle B. Small Business Bankruptcy Provisions. And these are not provisions to help small businesses as one might expect from a bill that is going through the United States Senate. No, these provisions penalize small businesses. They make it harder to reorganize in order to survive.

These new provisions are entirely unnecessary. There is no crisis in small business bankruptcies. And a new study shows. that most failed attempts at chapter 11 reorganization are concluded within 300 days, which is the hard deadline in the bill. But 40 percent of reorganizations that succeed take longer than 300 days. That means that this bill is going to make some small businesses fail that don't have to. That is an absurd result. Remember the United Air Lines Chapter 11 reorganization is over two years old and it is still going on. Why shouldn't small businesses get that kind of leeway if there is a chance they can pull through?

These provisions haven't received nearly the attention in this body that the portions of the bill that deal with consumer bankruptcies have received. We need to take these provisions out. Doing so won't have any effect on the core provisions of this bill. But it will prevent a real injustice from being done to small businesses. Forcing a small business to liquidate rather than reorganize is bad for creditors, bad for consumers, and bad for small businesses. I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, Chairman GRASSLEY would ask for a no vote, as would Senator HATCH.

The PRESIDING OFFICER. The question is on agreeing to the Feingold amendment No. 89.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. ISAKSON.) Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 59, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—41

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—59

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The amendment (No. 89) was rejected.

Mr. FRIST. Mr. President, for the information of our colleagues, we are making great progress on the bill. We are in the cloture period. We will not have further rollcall votes tonight, although we will keep the clock running in the cloture period and we will continue debate over the course of tonight. So we are here. We do encourage people who do want to speak on the bill to come and speak.

Tomorrow morning we will, after discussion on both sides of the aisle with the managers, have a series of stacked rollcall votes in the morning in order to not have rollcall votes tonight. But we are on the bill. The clock will continue to run, and debate should continue. There will be no rollcall votes tonight, stacked votes tomorrow. We would expect to finish this bill in all likelihood sometime tomorrow, late tomorrow.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that the pending amendments be set aside so I may call up amendment No. 62, and then I will ask it be laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, will the Senator restate her request?

The PRESIDING OFFICER. The Senator will suspend. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California (Mrs. BOXER) proposes an amendment numbered 62.

Mr. SESSIONS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Would the Senator propound her unanimous consent request again?

Mrs. BOXER. I think it has already been agreed to.

Mr. SESSIONS. I sought recognition.

The PRESIDING OFFICER. The Chair did not hear the Senator originally; however, precedent allows the Senator to reserve the right to object at this time.

Mr. SESSIONS. Will the Senator restate her unanimous consent? There was noise on the floor, and I just did not hear it.

The PRESIDING OFFICER. The Senator will suspend a moment.

Will the Senator from California restate her request.

Mrs. BOXER. I ask unanimous consent the pending amendment be set aside so I may call up amendment No. 62. It would then be my intent to ask it be laid aside. I believe we have an agreement that I be given 10 minutes in the morning, followed by a vote at a time both sides can agree to.

The PRESIDING OFFICER. Is there objection? The Senator from Alabama.

Mr. SESSIONS. I object at this time, but I would check with our colleagues, and if that is acceptable—I could check that, but I would object at this time.

Mrs. BOXER. Mr. President, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 111 WITHDRAWN

Mr. DURBIN. Mr. President, I ask consent my pending amendment No. 111 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 62

Mr. DURBIN. Mr. President, I ask unanimous consent the pending amendments be set aside so that Senator BOXER may call up amendment numbered 62.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 62.

Mrs. BOXER. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the potential disallowance of certain claims)

On page 132, between lines 5 and 6, insert the following:

**SEC. 234. DISALLOWANCE OF CLAIM IF BASED ON EXTENSION OF CREDIT TO CERTAIN INDIVIDUALS UNDER 21 YEARS OF AGE.**

Title 11, United States Code, as amended by this Act, is further amended by inserting after section 112 the following:

**"§ 113. Disallowance of claim if based on extension of credit to certain individuals under 21 years of age**

"(a) IN GENERAL.—In making a determination of whether to disallow a claim under this title, the court shall consider if the claim is based upon an extension to an individual of unsecured credit and the factors listed in subsection (b) are present. The factors listed in subsection (b) may be the basis for a disallowance of a claim under this title.

"(b) FACTORS.—The factors under this subsection are the following: if the individual, at the time unsecured credit was extended—

"(1) was under 21 years of age;

"(2) did not have a co-obligor on such unsecured credit who was a parent or spouse of the individual;

"(3) had an income level that was below or at the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))); and

"(4) already had 6 or more unsecured credit cards.".

Mrs. BOXER. I ask unanimous consent the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I thank my colleagues very much.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate resumes the bankruptcy bill tomorrow morning, the Senate begin 10 minutes of debate equally divided on each of the following amendments in the order mentioned below; provided further that following that debate the Senate begin a series of votes on or in relation to the amendments in that same order; provided that no amendment be in order to the amendments prior to the ordered votes. I further ask that there be 2 minutes equally divided for debate between the votes after the first vote and, lastly, that all votes in this sequence after the first vote be limited to 10 minutes in length.

The amendments are Durbin, No. 110; Harkin, No. 66; Boxer, No. 62; Dodd, No. 67.

I further ask unanimous consent that notwithstanding the adjournment of the Senate, all time overnight until the Senate resumes consideration of the bill be counted under the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, my amendment, cosponsored by my friend and colleague, Senator CANTWELL, would greatly assist the many victims of domestic violence whose physical well-being or whose children's physical well-being would be threatened by summary eviction as a result of filing or bankruptcy. I ask unanimous consent that the text of our amendment be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. The connection between domestic violence, economic abuse, and housing is overwhelming. Women and children who are fleeing domestic violence make up a significant portion of the homeless population. According to the United States Conference of Mayors, 57 percent of cities surveyed identified domestic violence as a primary cause of homelessness.

These women and children are homeless because in their desperate attempt to leave their abusers they find themselves with few, if any, funds with which they can support themselves. Victims of domestic violence have a tough time finding room at emergency homeless or domestic violence shelters, and often fail to find adequate housing because affordable, long-term housing is not available in so many communities. If housing is available there are often long waiting lists. Victims face unique causes of their financial hardships due to the fact that batterers frequently harass their victims at work, and survivors are often fired or cannot maintain steady employment resulting in losing the ability to pay for housing. Faced with the lack of stable housing, finances and services, victims must choose between life with an abusive partner and life on the streets.

Our amendment would provide leniency for women and children who are affected by domestic violence and would, in fact, help victims to move forward and start new lives. Without the threat of losing their housing, women and children who are survivors of domestic violence will not be forced to a situation where they are homeless or returning to their abuser.

This amendment would modify the bankruptcy code to ensure better protection for victims of domestic violence by granting them relief from summary eviction from their rental housing. Relief may be granted only under the condition that the debtors certify under penalty of perjury that they are victims of domestic violence whose physical well-being or whose children's physical well-being would be threatened through eviction. our amendment would not allow families to take advantage of the system, but it will be a life-saver for those who would face danger if they lost their homes.

This amendment is supported by the National Coalition Against Domestic Violence, the National Network To End Domestic Violent and the Family Violence Prevention Fund. I ask unanimous consent to print in the RECORD letters from those groups voicing that support.

There being no objection, the material was ordered to be printed in the Record, as follows:

MARCH 7, 2005.

DEAR SENATOR: As national organizations working to address the varied needs of victims of domestic violence, we urge you to support Senator Leahy's proposed amendment to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, S. 256. This provision is essential for the many victims of domestic violence whose physical well-being or whose children's physical well-being would be threatened by summary eviction as a result of filing for bankruptcy.

Economic abuse is an integral part of domestic violence. Abusers often assert economic control by forbidding their victims from working, giving them little or no access to family finances, or destroying their credit. Many battered women have current or former partners who actively interfere with their efforts to work, harass them at work, threaten them and their children, withhold transportation or childcare, or beat them so severely that they cannot work. These victims are sometimes pushed into filing for bankruptcy as a result of this abuse.

Evicting these victims from their homes not only exacerbates an already difficult situation, but also puts many families in direct danger. On average, it takes six to ten months to secure housing. During this time, victims would be forced to stay at emergency homeless or domestic violence shelters. Unfortunately, those shelters are often full; in 2003, 32% of the requests for shelter by homeless families went unmet due to the lack of emergency shelter beds available. Even when space is available, most shelters limit the length of stay to 30 days.

Faced with this lack of housing and services, victims must choose between life with an abusive partner or life on the streets. Studies indicate that victims of domestic violence often return to their abusers because they cannot find long-term or transitional housing. At the other extreme, more than 50% of homeless women and children are homeless because they are fleeing domestic violence. Once homeless, women are at high risk for experiencing further violence. Many studies have found that 90–100% of homeless women have been physically or sexually assaulted.

The tremendously negative impact of such evictions becomes greater when victims with children are forced out of their homes. Children without a home are in fair or poor health twice as often as other children, and have higher rates of asthma, ear infections, stomach problems, and speech problems. Homeless children are also more likely to experience mental health problems, such as anxiety, depression, and withdrawal. They are twice as likely to experience hunger, and four times as likely to have delayed development. School-age homeless children face barriers to enrolling and attending school, including transportation problems, residency requirements, inability to obtain previous school records, and lack of clothing and school supplies.

Individuals claiming relief under this provision would be required to testify, under penalty of perjury, that they were victims of domestic violence and that they or their children would be in physical jeopardy if they were evicted. Thus, this amendment will not allow families to take advantage of the system, but will be life-saving for those who would be in danger if they lost their homes.

We urge you to support Senator Leahy's amendment and provide this much needed assistance to domestic violence victims.

Sincerely,

ALLISON RANDALL,
*National Network to End Domestic Violence.*
JILL MORRIS,
*National Coalition Against Domestic Violence.*
KIERSTEN STEWART,
*Family Violence Prevention Fund.*

---

NATIONAL COALITION AGAINST
DOMESTIC VIOLENCE,
*February 28,2005*

Senator PATRICK LEAHY,
Russell Senate Office Building,
*Washington, DC.*

DEAR SENATOR LEAHY: It is with great support that I write to you on behalf of the National Coalition Against Domestic Violence and the more than 3,000 local shelter programs that we represent to thank you for your efforts to assist those individuals that are or have been impacted by the vast epidemic of domestic violence. '

Women fleeing domestic violence make up a significant portion of the homeless population. According to The United States Conference of Mayors (December, 1999) 57 percent of cities surveyed identified domestic violence as a primary cause of homelessness. Therefore, amending the bankruptcy code, as proposed in S. 256, with a provision that provides leniency on persons who are affected by domestic violence would, in fact, help victims to move forward and start new lives. Without the threat of losing their housing victims will not be forced to a situation where they are homeless or returning to their abuser.

Victims of domestic violence often cannot find adequate housing. One very important—reason is that affordable, long term housing is not available in their communities. If housing is available there are often long waiting lists or the abuser is able to quickly locate and begin abusing the survivor at her new residence. Secondly, due to the fact that batterers frequently harass their victims at work, survivors are often fired or cannot maintain steady employment resulting in loss ability to pay for housing. Lastly victims of domestic violence are forced to remain in abusive relationships because of financial dependency and the lack of stable housing. The amendment to S. 256 recognizes that victims of domestic violence are in a dangerous situation and should not be forced from housing due their financial difficulties.

We commend you on your efforts to ensure that those who are affected by domestic violence are taken into consideration when the Senate reviews this legislation.

Sincerely,

JILL MORRIS,
*Public Policy Director.*

Mr. LEAHY. Congress must recognize that victims of domestic violence face dangerous situations and should not be forced from housing due to their financial difficulties. We cannot force women and children who have endured domestic violence from safe spaces that provide the stability needed to make a new life.

EXHIBIT 1

(Purpose: To protect victims of domestic violence who file for bankruptcy from summary eviction if their physical well-being is threatened)

On page 156, line 18, insert ", unless the debtor certifies under penalty of perjury that the debtor is a victim of domestic violence whose physical well-being or whose children's physical well-being would be threatened if relief from the stay is granted" before the semicolon.

## REGULATING CREDIT CARDS

Mrs. FEINSTEIN. I appreciate the willingness of the chairman and ranking member of the Banking Committee to work with Senators KYL, BROWNBACK, and me on this important issue. And I understand that the Banking Committee has an interest in regulating credit cards.

I would like to state here, for the record, the key points of the agreement that we have arrived at:

Senators SHELBY and SARBANES have agreed to hold a hearing within 6 months on the substance of the amendment to the Bankruptcy Bill that Senator KYL, BROWNBACK, and I offered, on increasing notice to credit card holders who pay only their minimum monthly payments. I understand that this hearing will address a set of issues relating to credit cards and consumer rights. However, I also understand that Senators SHELBY and SARBANES will ensure that the substance of agreement, will be directly considered, and will be an area of focus, during that hearing, and that I will be afforded the opportunity to testify.

I understand that Senators SHELBY and SARBANES will work with me, with Senator KYL, and with members of the Banking Committee to ensure that this issue and my bill are carefully considered. My bill would give those consumers who make only the minimum required payments for 6 months detailed notice about the interest and length of time that it will take them to pay their own individual debt and interest.

Because the chairman and ranking member of the Banking Committee agree to take these actions, I will agree to withdraw my amendment. Do Senators SHELBY and SARBANES agree?

Mr. SHELBY. I absolutely agree with Senator FEINSTEIN and look forward to working with the Senator.

I say to Senator SARBANES, through the course of the debate on the bankruptcy bill it has become clear that there are many Senators who have concerns about numerous aspects of the credit card industry.

I want to indicate for the record that I share many of these concerns. Furthermore, I want to point out that I am aware of his particular concerns as well as those of Senators KYL and FEINSTEIN.

Mr. SARBANES. I thank Chairman SHELBY and Senator FEINSTEIN. I appreciate their interest in this matter and believe these are serious issues that merit further attention.

Mr. SHELBY. I fully agree and therefore I am willing to commit to holding a hearing in the Banking Committee to examine the practices within the credit card industry. I believe it is our responsibility to develop a complete record on these matters so that we can make informed judgments as to whether we need to take any specific actions.

I look forward to obtaining input from Senator SARBANES and from Senators KYL and FEINSTEIN in putting together this hearing.

Mr. SARBANES. I thank Chairman SHELBY for his leadership on this issue. I look forward to working with the Senator on developing a hearing at which the Banking Committee will receive testimony on credit care disclosures and other practices. A number of Senators have raised significant issues regarding the credit card industry and I appreciate the Senator's willingness to examine them and hear all interested Senators.

Mr. SHELBY. I agree.

Mr. SARBANES. I will support the Chairman's efforts.

---

## MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

---

## COMMEMORATING THE 60TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

Mrs. DOLE. Mr. President: this month marks the 60th anniversary of the victory at Iwo Jima. That battle is remembered as one of the bloodiest in Marine Corps history. Approximately 70.000 American and 22.000 Japanese troops engaged in a month long battle for the Pacific Island that was critical to the air bombardment of mainland Japan. The heroic achievements of our nation's warriors throughout this treacherous battle attest to the courage and character not only of the brave men who fought there, but of our nation as a whole.

The island of Iwo Jima consists of coarse volcanic sand that impeded the movement of men and machines as they struggled up the beach. Unable to dig fighting holes, the Marines were sitting ducks for the Japanese gunners hiding in a network of caves. Suribachi, the 550-foot volcanic mountain at the island's southern end, allowed Japanese gunners to zero in on every inch of the landing beach. Blockhouses and pillboxes flanked the landing areas, leading historians to describe the attack as "throwing human flesh against reinforced concrete." The 36-day assault on Iwo Jima resulted in more than 23,200 Americans wounded, and another 6,800 who paid the ultimate price.

The battle, which involved the largest number of Marines committed to a single operation during World War II, featured superior service cooperation. The Navy-Marine Corps team functioned as a model of efficiency. To make victory possible, more than 450 ships massed in the surrounding waters. Among those ships was the aircraft carrier USS *Saratoga*, and on board that ship was my brother, John Hanford. Having graduated from Duke University and joined the Navy at 19, he became an aviation supply officer. John's battle station was a 20 millimeter gun battery, where he led a 15-man team. Tasked with laying an impenetrable curtain of anti-aircraft fire, the 20 millimeter batteries provided the ship's last line of defense from attacking Japanese Zeros and kamikazes.

The *Saratoga* was part of the legendary Task Force 58, commanded by the superb strategist, Vice Admiral Marc Mitscher, who executed a diversionary air bombardment of Japan on the initial days of the Iwo Jima assault. On February 21st, the *Saratoga* and three destroyers moved south, to provide direct air support for the Marines on Iwo Jima. Although the 20 millimeter batteries were effective out to a mile, the low cloud layer that day as the *Saratoga* came on station, forced my brother and the rest of the crew to mount a desperate, close-in defense of the ship.

In full view of Mt. Suribachi, the *Saratoga* was subjected to two waves of Japanese air attacks. During the first wave, her radar picked up a large threat, estimated at 20 to 25 planes. Despite the deadly anti-aircraft fire, within 3 minutes three bombs plunged into the *Saratoga*, immediately followed by four kamikaze hits.

Her crew fought fires blazing in the hangar deck, and her planes were directed to land on the nearby escort carriers. Roughly 2 hours later, five kamikazes targeted her again. Four were shot down but one dropped a bomb, which exploded over her flight deck before the plane itself bounced over the side. During the air attacks, the crew could see the USS *Bismarck* being struck by a kamikaze and minutes later sinking with a crew of 218 aboard. The *Saratoga*'s losses were 192 sailors and Marines wounded, 123 killed or missing. And, as a youngster growing up in Salisbury, NC, I well remember my revered big brother coming home on what was called "survivor's leave."

Though extremely costly, the ability to launch and recover aircraft on Iwo Jima was critical to the strategic bombing campaign and ultimately to the American victory in the Japanese theater. The island's capture served to increase the operating range, payload, and survival rate of the big bombers. While the monthly tonnage of high explosives dropped on Imperial Japan increased eleven-fold during March alone, the greatest value of Iwo Jima was to serve as an emergency landing field for crippled B-29s returning from bombing runs. By war's end, a total of 2,400 bombers carrying over 27,000 crewmen made forced landings on the island. Without control of Iwo Jima, many of these men would have been lost at sea. Noted one B-29 pilot, "whenever I landed on the island, I thanked God for the men who fought for it."

One of the many heroes of the fierce land battle was PFC Jack Lucas, born and raised in North Carolina. He is the Nation's youngest Medal of Honor recipient of the 20th century and the youngest Marine ever to receive that award. Anxious to fight for his country, this son of a tobacco farmer forged his mother's signature and enlisted in the Marine Corps at age 14. Frustrated with an assignment to a training command, he stowed away on a ship bound for Iwo Jima. Six days after his 17th birthday, he and three other men were attacked by grenades. The men jumped into a shallow hole; as a grenade landed next to them, Private Lucas threw his body over it. When another grenade landed close by, Private Lucas pulled it under him and absorbed the blasts of both grenades with his body, saving his fellow Marines from certain injury and possible death. Miraculously, he survived. Bob and I have had the privilege of several visits with Jack and his wonderful wife.

Private Lucas is a representative of what has been hailed as "The Greatest Generation." As evidenced by America's triumphs in numerous conflicts since World War II, the traits, the spirit of the Greatest Generation have certainly been passed on. Today, approximately 14,000 Marines of the Second Marine Expeditionary Force, based in North Carolina, are in the process of deploying to Iraq to continue fighting for freedom. I am very proud to recognize 41 Marine lieutenants who are sitting in the gallery today. These young men and women are the newest bearers of the torch of freedom so proudly carried by the Iwo Jima veterans. This platoon of recently commissioned officers is about to finish training, and in a few short months many of them will find themselves in direct combat supporting the global war against terrorism.

I applaud their selfless act, volunteering to serve our Nation during this time of war; they represent our Nation's best. I have no doubt that these young officers will have the privilege of leading many men and women who possess the same qualities of tenacity and valor displayed by Private Lucas.

I could not agree more with Jack Lucas who recently said, "I am so proud of the people who serve today, whether in peacetime or in war. You can't do anything better than serve America . . . I love our government and our military and I think it's the most honorable thing a man or woman can do".

The battle of Iwo Jima resulted in 27 Medals of Honor being awarded to Marines and sailors, many posthumously, more than awarded for any other operation during World War II. Commander of the Pacific Fleet, ADM Chester Nimitz, immortalized the spirit of the battle noting that "among the Americans who served on Iwo Island, uncommon valor was a common virtue." The Marines present here today, as well as all of our military members serving around the globe, are continuously making sacrifices to protect our freedoms. I am certain that they, too, possess the uncommon valor which has made our Nation so strong in the past, and will keep her strong well into the future.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. DOLE. Yes.

Mr. DURBIN. At the outset, I thank my colleague from North Carolina for coming to the floor and reminding us of this wonderful chapter in American history, where the men who were on Iwo Jima and all the men and women who fought in World War II demonstrated such uncommon valor that inspires us even to this day. The story the Senator has told us of Mr. Lucas is nothing short of incredible: This 14-year-old boy performed feats of courage which are almost unparalleled. In fact, as the Senator noted, he is the youngest recipient of the Congressional Medal of Honor, which I am sure is a great source of pride.

The first job I ever had as a college intern in the Senate was for Senator Paul Douglas of Illinois, who enlisted in the Marine Corps at the age of 50 and went through training at Parris Island, fought in Okinawa and was injured, as Senator Bob Dole was injured, with a serious injury to his left arm.

I have always had a special spot in my heart for the men and women who serve in the Marine Corps, and I just want to join the Senator from North Carolina in making certain that this is bipartisan and nonpartisan in our salute to the Marine Corps, all the men and women in uniform, and particularly the great veterans of World War II and Iowa Germany.

Mrs. DOLE. I thank the Senator for his comments.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I, too, want to commend Senator DOLE for her stirring comments about the valiant Marines on Iwo Jima. My brother was a Marine officer. I followed not in the Marine Corps but to West Point, so one of us was right.

## SOCIAL SECURITY REFORM

Mr. REED. Mr. President, I rise today to express my deep concern about the direction that the President is taking the country in terms of our Nation's commitment to providing retirement security to the elderly and income security to the disabled, widows, and survivors. I am speaking, of course, about the President's plan for privatizing Social Security.

President Bush writes in his recently released Economic Report of the President, "The greatest fiscal challenges we face arise from the aging of our society." Yet his annual Economic Report devotes little more than a page and a half to this important subject.

As his Economic Report reveals, the President has no real plan to address the fiscal challenges arising from the retirement of the baby boom generation, let alone a plan to fix Social Security. All the President has is an unaffordable plan to create private retirement accounts, with few specifics and many unanswered questions.

That is not stopping the President from barnstorming the country telling the American people that Social Security is a sinking ship and private accounts are the lifeboats into which we should jump. But the administration is manufacturing a crisis that does not exist in order to dismantle Social Security.

Despite the administration's claims, Social Security will remain solvent for nearly 50 more years. Even after that, Social Security would still be able to pay 70 to 80 percent of benefits. Modest changes to the system would enable Social Security to pay full benefits well beyond the next 50 years.

No other retirement system or Fortune 500 company in the United States can make that same claim. In fact, the weakness of traditional pensions makes Social Security look like the most secure part of our retirement system right now.

To put the problem into perspective, making the Bush administration's four enacted tax cuts permanent would cost three to five times more than the Social Security shortfall over the next 75 years.

For over 60 years, Social Security has provided a dependable and predictable stream of income to retired or disabled workers, their dependents and their survivors. Forty-eight million men, women, and children rely on Social Security benefits each month to help them live with dignity. The benefits are protected from inflation and one cannot outlive them.

Social Security is an insurance program, not an investment plan, and private accounts would destroy much of the insurance value of the program. More than one-quarter of Social Security benefits go to survivors and disabled workers and their families, and these benefits would be at risk under the President's proposal.

We all acknowledge the long-term fiscal imbalance of the Social Security trust fund. However, it is equally critical to recognize that the President's private accounts do absolutely nothing to address this imbalance, as a senior administration official recently acknowledged. In fact, diverting payroll tax revenues exacerbates insolvency and accelerates the date of trust fund imbalance.

For obvious reasons, the President has not mentioned this or other facts that are so critical to the Social Security trust fund. His privatization scheme requires cutting benefits by more than 40 percent, even for those who choose not to invest in privatized accounts.

Those choosing a private account could be hit with an additional "privatization tax" of 70 percent or more of the value of their account, which would be deducted from their Social Security benefits upon retirement.

President Bush has urged Congress to fix Social Security for younger workers and not pass on the problem to future generations. However, the President's plan for private accounts would place a huge burden on our children and grandchildren by increasing Federal debt by over $750 billion in just the next 10 years. This debt would rise to nearly $5 trillion over the first 20 years that the plan is in place.

The President's private accounts would cut Social Security's funding, weaken the program, and make its financial problems worse, not better. In short, private accounts pose a serious threat to the future economic security of all Americans, particularly the most vulnerable members of our society.

This is why last week I joined 41 of my fellow Democratic senators in calling on the President to publicly and unambiguously abandon his support for private accounts funded with Social Security dollars or cuts in guaranteed benefits.

At a time when our country is saving so little and fewer employers are offering traditional pension plans, Social Security's predictable, inflation-protected benefits that can't be outlived occupy a critical role in ensuring our retirement security.

Before we can roll up our sleeves and delve into the very serious question of shoring up Social Security for all, we must set aside ideology and acknowledge the demographic and fiscal challenges facing this bedrock retirement security program.

I want to work with President Bush to promote personal wealth and saving through investment, but not at the cost of Social Security. I urge the President to take private accounts off the table so that we might achieve bipartisan agreement to strengthen Social Security for the long-term and enhance the retirement security of all Americans.

I yield the floor.

## "MADD AT GM" CAMPAIGN

Mr. DEWINE. Mr. President, I come to the Senate this afternoon in disbelief and sadness and a little anger. I am angry, sad, at the blatant disregard for common sense in a new ad campaign being promoted by a prominent trade association.

The American Beverage Licensees, or ABL, has launched a campaign entitled "MADD at GM"—MADD referencing Mothers Against Driving Drunk, with the aim of stopping the charitable donations General Motors gives to Mothers Against Drunk Driving.

ABL claims that MADD has a "neoprohibitionist agenda." Yes, the neoprohibitionist agenda is what they claim.

They claim that MADD "wants to criminalize social drinking by preventing designated drivers from drinking before they get behind the wheel." Apparently in their world, designated drivers ought to be able to have a few drinks before getting on the road. In most people's world, that defies all common sense.

In honor of MADD's 20th anniversary in 2000, General Motors made a commitment to contribute $2.5 million over 5 years to MADD to combat underage drinking, for underage drinking prevention, and drunk driving victim assistance, a very laudable goal. I applaud General Motors for doing this. But what has happened is, with General Motors' funding commitment now expired, ABL has seen this as the perfect opportunity to attack General Motors. They are attacking a noble cause, and their attack makes no sense.

ABL's smear campaign against General Motors and MADD has taken many forms—an Internet Web site, print advertisements, TV ads during NASCAR events, and through promotional materials distributed at bars, restaurants, and other ABL member locations throughout the country. I have brought two of these ads with me to the Senate floor this afternoon. Let me show the first ad.

This first advertisement plays off the well-known board game Monopoly. It explicitly states that by purchasing a General Motors car, any American is funding his or her own arrest. How absurd. It suggests that because General Motors supports MADD and MADD is against drinking and driving that somehow General Motors is to blame if you get arrested for being over the legal drinking limit. But last time I checked, in this country we arrest people who have broken the law. And in this case that is drinking too much before you get behind the wheel.

Let me show the second ad, just as outrageous. This advertisement, again from the MADD at GM campaign, contradicts common sense as much as the first one did. As you can see here, the man in the ad is posing for his mug shot. But instead of holding his arrest number, he is holding a sign stating that his arrest was sponsored by General Motors. That is what it says.

General Motors didn't get this man arrested. Drinking and driving did. The ad further states that General Motors supports the arrest of social drinkers through its charitable donations to MADD. But that isn't the case at all. The simple fact is that if you drink too much and you get in a car and drive, you break the law. It doesn't matter if you label it as social drinking or not; what is wrong is wrong.

This ad says that "MADD spends millions provided by GM to fund their roadblock promotion campaign. They're using your money to arrest you."

That roadblock campaign is a program I strongly support and I know many Members of the Senate support as well. It is also a program that the Traffic Safety and Law Enforcement Campaign bill that Senator LAUTENBERG and I are introducing today would help fund.

Let me show a third ad. This ad, however, is from MADD. In it you can see a note from LT Carl McDonald about his daughter Carlie. It reads:

> This is my precious little girl, Carlie. I always told her, "I will love you as long as there are stars in the sky." She would always smile, look up at me and say, "I love you more than there are stars in the universe." These words are now inscribed on her tombstone. At the tender age of five she was killed by a drunk driver—her mother. If you think it can't happen to you—think again. Please don't drink and drive.

This was an ad brought to us by MADD.

The ad has more teeth in it than the other two ads combined. We all know the truth; that is, drinking and driving is deadly. MADD is doing all it can do to help save lives and get drunk drivers off the road.

I think what is so alarming and irritating and makes us all so mad is this campaign that is targeted against MADD, Mothers Against Drunk Drivers, an organization that has done so much good in this country in all 50 States.

I first came in contact with MADD when I was a State senator back in the early 1980s. We had a little boy, a 7-year-old boy by the name of Justin Beason, who was tragically killed by a drunken driver in my home county. As a result, I introduced a bill in our State legislature, a tough drunk-driving bill. I can truthfully say it was through the support of MADD and MADD's members who went to the legislature, lobbied the legislature, testified in front of the State legislature, wrote letters—if it wasn't for MADD, that bill would not have become law.

It is an organization that reminds us every day of the horrible tragedies and about people like Carlie—little children who lose their lives on highways every week because of drivers who were drinking. This organization has been so viciously attacked by this trade organization. It is an organization made up of many parents who have lost children, and many times husbands who have lost wives, and wives who have lost husbands—all to drunk drivers. It is a good organization. It is an organization we should all support. It is an organization of which we should all be proud. Anyone who attacks it, I just don't understand.

Here are some statistics to think about: 69 percent of our youth died in alcohol-related fatalities in the year 2000 involved young drinking drivers. Of the 42,000 people killed in all of the traffic accidents in 2003, 40 percent—well over one-third—were due to alcohol. Further, since MADD's founding in 1980, drunk-driving deaths have dramatically decreased from 26,179 in 1982 to 17,013 in the year 2003. Clearly, MADD and other anti-drunk-driving campaigns are having an impact. We have begun to change the culture in this country. In part, we have corporations such as General Motors to thank having helped MADD in their cause. While deaths due to drunk driving have decreased in large part through the great work of MADD, the job is certainly not finished. As long as people are put into danger because someone got behind the wheel after drinking alcohol, we have work to do. General Motors and MADD are not criminalizing social drinkers, they are working together to simply save lives.

Today, I am introducing six transportation safety bills. I introduced them last year and am doing so again because I want to see them get passed and signed into law and see lives saved. They are commonsense bills that will, in fact, save lives. I think all of us care about keeping our roads safe. That is also why I again commend MADD and General Motors. I also commend the National Highway Traffic Safety Administration for its efforts to keep drunk drivers off the road and its prosafety agenda. They are all doing what is right and what needs to be done to protect our children and our families when they get into a car and get on the road.

Mr. President, I yield the floor.

Mr. DODD. Mr. President, before my colleague goes, I want to once again say to my good friend from Ohio how much I appreciate his leadership. I am a principal cosponsor with my colleague on this very important bill dealing with underage drinking. We have wonderful sponsors in the House as well, in a bipartisan way, to try to make a difference.

The Senator has laid out very categorically what the facts are, which is that this is a massive problem in this country, and a growing one, unfortunately, with the age of people who are becoming regular users of alcohol dropping all the time. While certainly parents have to do more at the local level, more efforts need to be made. We also think it is incumbent upon us at a national level to be supportive of those efforts, to help provide resources and guidance to try to reverse this trend.

I didn't want my friend to leave the floor without expressing to him my deep sense of gratitude—not only on this issue but on countless other issues affecting families and children. MIKE DEWINE of Ohio has been as good a champion as this body has seen in a long time on these issues. There are very few issues that have given me as much pleasure to work on as issues with children. On behalf of all of us in this country—he represents Ohio well, but in this regard he is making a difference all across the country. On their behalf, I thank him.

Mr. DEWINE. Mr. President, I thank my colleague for the very kind remarks. Senator DODD has been a real partner on so many issues affecting children. He and I have worked together. Whenever we want to find someone to advocate for children, CHRIS DODD is there. My colleague is always a great champion for children.

On the issue of drinking and driving, underage drinking and highway safety, Senator DODD has been a true champion. I thank my colleague for coming to the floor. Again, I look forward to continuing to work with him in the years ahead.

Mr. LAUTENBERG. Mr. President, I join my colleague from Ohio, Senator DEWINE, and call attention to an unseemly lobbying effort to discredit one of our Nation's most revered public safety organizations, the Mothers Against Drunk Driving, MADD, and one of our Nation's largest automakers, General Motors.

Each year, General Motors donates money to MADD to support its campaign against drunk driving. In response to this, the alcohol special interest lobby is spending $10 million to finance a lobbying campaign—or as some might call it, a smear campaign.

This campaign is aimed at scaring and intimidating corporate donors like GM so they will stop giving money to safety organizations like MADD. Apparently the alcohol lobby thinks it is bad for its business to crack down on drunk driving, which kills 17,000 Americans each year and injures over 500,000.

Ten million dollars is not an insignificant amount of money. After all, the Federal Government only spends $30 million each year on public law enforcement campaigns to educate people on drunk driving awareness and prevention.

What a shame. Imagine if the alcohol lobby would spend $10 million to educate people and prevent drunk driving, instead of bullying GM. Many of the customers they lose each year to drunk driving crashes could probably be saved, along with thousands of innocent Americans. That sounds like a much better investment than financing a smear campaign that will cost lives.

I am one of the most ardent opponents of drunk driving in the Senate, and I see the results of the good work we do here to help save the lives of our constituents from the scourge of drunk driving. Over the years, I have battled against the alcohol lobby to pass effective laws to reduce drunk driving.

In 1986 I authored legislation and worked with Senator ELIZABETH DOLE, who was Secretary of the Department of Transportation at the time, to raise the minimum drinking age from 18 to 21. President Reagan signed my bill into law, and MADD officials were there with us. In 2000 Senator DEWINE and I teamed up to get a bill passed establishing .08 blood alcohol concentration level as the nationwide threshold for drunk driving.

These are the kind of smart, common-sense initiatives that MADD supports. And these are the kind of initiatives that save lives. Combined, these two measures are estimated to save some 1,500 lives a year.

Federal public awareness campaigns against drunk driving are also having a tangible impact. We need to step up these program, which is why Senator DEWINE and I will soon introduce a bill to increase funding for this effort. What we don't need is a $10 million misinformation program from the alcohol industry.

Drunk driving is no joke. It kills and maims thousands of people in American each year, and costs $9 billion in additional health care and other costs. MADD is trying to stanch the flow of blood on our highways, and they are doing a good job of it. GM, to its credit, supports MADD. They deserve our encouragement, and they deserve for us to stand up against this vicious smear campaign.

I intend to work with Senator DEWINE to let Americans know the truth about the alcohol lobby's smear campaign, to counter the alcohol lobby's lies with the truth, and to fight for legislation that reduces drunk driving and saves lives across our country.

---

## AMENDMENTS TO VARIOUS REGULATIONS OF THE COMMITTEE ON RULES AND ADMINISTRATION:

Mr. LOTT. Mr. President, I would like to give notice to Members and staff of the Senate that the Committee on Rules and Administration ("Committee") has approved amendments to four Committee regulations. Pursuant to Title V of the Rules of Procedure for the Committee and having provided advance notice of our intention to approve the following amendments to regulations, we hereby approve said amendments effective February 1, 2005.

1. The following regulations are approved as amended:

A. Committee Regulations for Furniture, Accessories and Special Allowances Policy for Senate Office Buildings, as amended by adding, deleting and substituting as follows:

Delete the second sentence in item 5 which reads "However, once modular is chosen for a suite, it shall remain a part of that suite regardless of which Senator occupies the space."

Under Section A in item 5, delete "A." and the words "of funding for this program" and substitute "and the order in which the request is received."

Delete Sections B and C in item 5.

Delete item 7.

At the end of second sentence in item 8 add the following: "or through the Senate Furniture web system."

Under Section A in item 8 delete the words "to be transferred to the intended office" at the end of the sentence and substitute "by the Committee on Rules and Administration prior the transfer."

At the end of first sentence in item 9 add the following: "available for viewing through the Senate Furniture web system (http://senate.aoc.gov)"

Under Standard Furniture and Accessories, Senators' Suites—

1. Delete "Chairs—Ergonomic (with or without arms)"
2. Delete "Chairs—Folding Chairs"
3. After "Chairs—Conference" add "(with or without arms)"
4. Delete "Chairs—Reception" and substitute "Chairs—Desk (with or without arms)"
5. Delete "Chairs—Reception (without arms)"
6. Delete "Chairs—Secretary"
7. Delete "Coats—Rack"
8. Add "Credenza—(Conference room & Front office only)"
9. Delete "Desk—Secretary" and substitute "Desk—L-Shape"
10. After "Fireplace—Screens" add "(Russell SOB only)"
11. After "Fireplace—Tools" add "(Russell SOB only)"
12. After "Lighting—Ceiling (Chandelier)" delete "Fixtures (Reception and Conference Rooms in Russell SOB only, no more than 2 total)" and add "in Russell SOB only. (Reception Rooms, Conference Rooms and Senator's Personal Office, limited to 3 total)"
13. After "Lighting—Floor Lamps" add "2 per office"
14. Delete "Lighting—Reading Lamps"
15. Delete "Magazine Rack"
16. Delete "Microfilm Cabinets"
17. Delete "Modular Furniture—Limited to Hart SOB for now)"
18. Delete "Partitions—Textures (i.e. wood)"
19. After "Refrigerator—Medium" add "Not to exceed 3 total"
20. Delete "Stand—Smoke (Ashtray)"
21. Delete "Tables—Folding"
22. Delete "Window—Venetian Blinds (2 inch, Russell and Dirksen SOB's only)"
23. Delete "Window—Mini Blinds (Hart SOB only)"

Under Senators' Personal Offices—

1. Delete "(Bathroom)—(Vanity under sink)*"
2. Delete "(Bathroom)—(Cabinet over/next to sink)*"
3. Delete "Chairs—Reception" and add "Chairs—Side (with arms or without arms)"
4. Delete "Chairs—Reception (without arms)"
5. After "Chairs—Overstuffed" add "(Historic)"
6. Delete "Lighting—Reading Light"
7. After "Lighting—Ceiling (Chandelier)" delete "Fixture (Russell SOB only) and add "in Russell SOB only, (Reception Rooms, Conference Rooms and Senator's Personal Office, limited to 3 total)"
8. Delete "TV Cabinet" and add "TV/VRC Cabinet"
9. Delete "VRC Cabinet"
10. Delete "Upholstery Fabric"
11. Delete "Wardrober"
12. Delete "Window—Curtains or Draperies"
13. Delete "Window—Venetian Blinds (wood or metal)"
14. Delete "Window—Mini Blinds"
15. Delete "* Standard part of building structure"

After heading "For Loan (for Meetings and Related" add "Functions)"

A copy of the Committee Regulations governing Furniture, Accessories and Special Allowances Policy for Senate Office Buildings, as amended, is included as Attachment A.

B. Committee Regulations Governing Senate Travel and Travel Promotional Awards, as amended, by deleting paragraphs five and six in Section II(A)(3)(b) and related Appendix A and substituting as follows:

> Travel promotional awards (e.g. free travel, travel discounts, upgrade certificates, coupons, frequent flyer miles, access to carrier club facilities, and other similar travel promotional items ("Travel Awards")) obtained by a Member, officer or employee of the Senate while on official travel may be utilized for personal use at the discretion of the Member or officer pursuant to this section. Travel Awards may be retained and used at the sole discretion of the Member or officer only if the Travel Awards are obtained under the same terms and conditions as those offered to the general public and no favorable treatment is extended on the basis of the Member, officer or employee's position with the Federal Government. Members, officers and employees may only retain Travel Awards for personal use when such Travel Awards have been obtained at no additional cost to the Federal Government. It should be noted that any fees assessed in connection

with the use of Travel Awards shall be considered a personal expense of the Member, officer or employee and under no circumstances shall be paid for or reimbursed from official funds. Although this paragraph permits Members, officers and employees of the Senate to use Travel Awards at the discretion of the Member or officer, the Committee encourages the use of such Travel Awards (whenever practicable) to offset the cost of future official travel.

A copy of the Committee Regulations governing Senate travel and Travel Promotional Awards, as amended, is included as Attachment B.

C. Committee Regulations for the Senate Health and Fitness Facility by the Office of the Architect of the Capitol, as amended, by deleting paragraph (d), Section 3 and substituting as follows:

The Facility and its equipment shall be available for use by all Members of the United States Senate upon the payment of fees as determined by the Chairman and the Ranking Member of the Committee on Rules and Administration. The Chairman and Ranking Member of the Committee on Rules and Administration shall notify the Secretary of the Senate of the amount of any fees to be charged hereunder and direct the Financial Clerk of the Senate to collect such fees from those Members desiring to use the Facility.

A copy of the Committee Regulations governing the Senate Health and Fitness Facility, as amended, is included as Attachment C.

D. Committee Regulations governing Public Transportation Subsidy, as amended by deleting and substituting as follows:

In the first sentence of Section 2, substitute "(P.L. 105–178)" for "(P.L. 105–78)".

In the first sentence of Section 2, substitute "$105" for "$100".

In item (a) of Section 4, substitute "$105" for "$100".

In the second sentence of third paragraph of Section 6, substitute "employee" for "employer".

In item (c) of Section 7, substitute "$105" for "$100".

A copy of the Committee Regulations governing Public Transportation Subsidy, as amended, is included as Attachment D.

### ATTACHMENT A—FURNITURE, ACCESSORIES AND SPECIAL ALLOWANCES POLICY FOR SENATE OFFICE BUILDINGS

(Approved September 27, 1989)

(Amended June 29, 1994)

(Amended February 28, 2004)

1. Pursuant to 40 U.S.C. 174c, furnishings for offices in the Senate Office Buildings are supplied and maintained by the Architect of the Capitol through his representative, the Superintendent of the Senate Office Buildings. Matters of general policy are subject to the approval of the Senate Committee on Rules and Administration.

2. Effective on the date of adoption of this policy by the Senate Committee on Rules and Administration, the Superintendent of the Senate Office Buildings shall undertake to survey the physical quality of all furnishings presently assigned to offices. Thereafter, a survey will be conducted on an annual basis. Office heads, as defined in the Senate Equipment Regulations, should work with the Superintendent's Office to identify furnishings that do not meet an acceptable level of quality.

3. When the survey is completed, all items on the Standard Furniture and Accessories list that are in disrepair will be declared "surplus" and/or repaired. This does not preclude repairs as needed irrespective of survey timing. No furnishings will be delivered to an office unless they are functional and in quality condition.

4. The Superintendent's Office will maintain a full inventory of all furnishings assigned to designated suites, including documentation of furnishings provided from the Standard Furniture and Accessories list, and items purchased from the Senators' special furniture and accessory allowance.

5. Senators with suites in the Russell or Dirksen Buildings shall have the option of using traditional or modular furniture to create an effective office environment. [However, once modular is chosen for a suite, it shall remain a part of that suite regardless of which Senator occupies the space.] A Senator electing to use modular furniture in Russell or Dirksen shall use the modular system in the suite except for the Senator's personal office, reception room, and conference room.

[A.] Modular furniture will be offered to Senators in Russell and Dirksen based upon the availability *and the order in which the request is received.* [of funding for this program.]

[B. Modular furniture will be offered to Senators with suites in the Russell and Dirksen Buildings on a seniority basis until all Senators have had the opportunity to elect to use modular furniture.

[C. Senators not electing initially to use modular furniture in Russell or Dirksen must wait until all other Senators on the current list have been offered modular furniture and have elected to accept or have declined. The updated seniority list shall apply after Senate moves.]

6. Senators in the Hart Building shall utilize modular furniture as the basic system of furnishing. The actual system of furniture in place in a suite in the Hart Building shall remain in the same suite regardless of which Senator occupies the space.

In the Hart Building, traditional furniture may be chosen for the Senator's personal office, the Chief of Staff's office, the reception area and the conference room.

[7. Modular panels shall not be provided in any private offices.]

8. Only a Senator or the designated office head of each Senate office will have the authority to request furniture and furnishings in an office. Such requests may be made by submitting a "Request for Service", letter *or through the Senate Furniture web system.* Written confirmation of a telephone request to the Superintendent of the Senate Office Buildings also will be accepted. Office heads should be designated in writing and a file of these names will be maintained by the Superintendent's Office.

The transfer of furniture from one official office inventory to another may be authorized based upon the following:

A. All furniture items to be transferred from one Senate office or Committee to another Senate office or Committee must be authorized *by the Committee on Rules and Administration prior the transfer.* [to be transferred to the intended office.]

B. The Senator, Committee Chairman or designated office head must agree to the release of the furniture on a Request for Furniture form providing for the removal of those items from their office inventory. Additional furniture intended to replace the furniture proposed for transfer shall be requested simultaneously on a Request for Furniture form.

C. The Senator, Committee Chairman or designated office head receiving the transferred furniture must agree to its receipt on a Request for Furniture form so that the furniture can be incorporated into their office inventory.

The Superintendent shall adjust the official office inventories based upon completion of the issuance or return of furniture items.

9. The Architect of the Capitol will maintain in stock an inventory of the following items, referred to hereafter as the Standard Furniture and Accessories list, *available for viewing through the Senate Furniture web system (http://senate.aoc.gov):*

#### STANDARD FURNITURE AND ACCESSORIES—SENATORS' SUITES

Bookcase—See Shelves; Chair Mats; [Chairs—Ergonomic (with or without arms); [Chairs—Folding Chairs]; Chairs—Conference *(with or without arms)*; Chairs—*Desk* [Reception] *(with or without arms)*; [Chairs—Reception—without arms]; Chairs—Executive; [Chairs—Secretary]; Coats—Tree; [Coats—Rack]; *Credenza—(Conference room & Front office only)*; Desk—Computer; Desk—Half size; Desk—Flat Top Executive; Desk—[Secretary] *L-Shape.*

Fans & Heaters; File Cabinets—Lateral 2-Drawer; File Cabinets—Lateral 5-Drawer; File Cabinets—2-Drawer; File Cabinets—5-Drawer; Fireplace—Screens *(Russell SOB only)*; Fireplace—Tools *(Russell SOB only)*; Footrests—Furniture or Computer; Lighting—Ceiling (Chandelier) [Fixtures (Reception and Conference Rooms in Russell SOB only, no more than 2 total)] *in Russell SOB only (Reception Rooms, Conference Rooms and Senator's Personal Office, limited to 3 total)*; Lighting—Floor Lamps *(2 per office)*; [Lighting—Reading Lamps]; Lighting—Desk/Table Lamps; [Magazine Rack]; [Microfilm Cabinets]; Mirrors—(One per suite standard); [Modular Furniture—(Limited to Hart SOB for now).

[Partitions—Textured (i.e. wood)]; Partitions—Acoustical; Racks—Pamphlets; Refrigerator—Medium *(Not to exceed 3 total)*; Shelves—Open Shelves (Book); Shelves—Desk Organizers; Shelves—Cabinets (with doors); Sofa—Love seat; Sofa—Couch; [Stand—Smoke (Ashtray)]; Stand—Telephone; Stand—Plant; Tables—Conference; Tables—Round; Tables—Computer; Tables—Coffee; Tables—End; [Tables—Folding]; Tables—Other (assorted sizes); TV Stand; [Window—Venetian Blinds (2-inch, Russell and Dirksen SOBs only); [Window—Mini Blinds (Hart SOB only)].

#### SENATORS' PERSONAL OFFICES

[(Bathroom)—(Vanity-under sink*); [(Bathroom)—(Cabinet-over/next to sink)*]; Cabinet—Telephone; Chairs—High Back (Desk); Chairs—*Side* [Reception]-(with arms *or without arms*); [Chairs—Reception-without arms]; Chairs—Wingback; Chairs—Overstuffed *(Historic)*; Credenza; Desk; Lighting—Table Lamp; Lighting—Floor Lamp; [Lighting—Reading Light]; Lighting—Ceiling (Chandelier) [Fixture (Russell SOB only)] *in Russell SOB only, (Reception Rooms, Conference Rooms and Senator's Personal Office, limited to 3 total)*; Lighting—Mantle Fixtures (Russell SOB only); Lighting—Wall (Sconce) Fixtures (Russell SOB only); Lighting—Rheostat.

Mirror; Refrigerator—Compact; Shelves—Bookcases; Shelves—Cabinet; Sofa—Love seat; Sofa—Couch; Table—Coffee; Table—End; TV/*VCR* Cabinet; [VCR Cabinet; [Upholstery Fabric; [Wardrober; [Window—Curtains or Draperies; [Window—Venetian Blinds (wood or metal); [Window—Mini Blinds.

[*Standard part of building structure]

For Loan (for Meetings and Related *Functions*)

Blackboards, Easels, Folding Tables, Piano (small charge for tuning), Podiums, Stacking Chairs.

10. A Special Furniture and Accessory Allowance will be authorized to the Architect of the Capitol for the purpose of furnishing a Senator's personal office, reception room and conference room when a Senator is elected/reelected for a term of office. This will be in addition to the furnishings requested from the Standard Furniture and Accessories list and only will be authorized during the first year of each Senator's new term of office. Such amount will be determined by the Senate Committee on Rules and Administration as a recommendation for appropriation to the Architect of the Capitol to become available for the Senator's term of office. Provisions will be made for Senators to purchase through this special allowance furniture and accessory items which are unique to their offices and/or home state. All acquisitions from this allowance will be made by the Architect of the Capitol in consultation with the office head.

11. A "Request for Service" or other written request for furnishings will be acknowledged within five working days reflecting appropriate disposition of the request. If requests are made for items critical to the function of the office which are not on the Standard Furniture and Accessory list or are out of stock, and delivery/restock is not anticipated for three months or greater, an office head may submit a request in writing to the Chairman of the Senate Committee on Rules and Administration. If requests are made for special items, as part of the Special Furniture and Accessory Allowance, appropriate information should be attached from a commercial supplier or a catalogue from which the items are available. If favorably acted upon by the Rules Committee, an approval to purchase will be forwarded to the Architect's Office.

12. Certain furniture and accessory items may be built to published plans, including typewriter racks and table platforms for computer work stations, open shelves and sorting racks for desks and tables, and bookshelves, in accordance with a standard catalogue provided by the Superintendent. An office head may submit a written request for an item by identifying it from the Superintendent's catalogue of sketches.

13. Office heads may submit to the Senate Committee on Rules and Administration at any time a request to add items to the Standard Furniture and Accessory list. The Committee, in consultation with the Architect of the Capitol, will review the list annually to ensure that items continue to meet the needs of Senate offices acknowledging changing technology and staff environments.

14. Furnishings secured through the Architect of the Capitol from the Senators' Special Furniture and Accessory Allowance may be returned at the request of the office head to the Architect's inventory. They then may be purchased at a depreciated price with a Senator's personal funds or as a charge to the Special Furniture and Accessory Allowance. All returns will be made without credit to the original purchaser's Special Furniture and Accessory Allowance.

15. The Committee on Rules and Administration, in consultation with the Architect of the Capitol, will monitor requests for nonstandard items to preserve the architectural conformity of the Senate Office Buildings.

16. Furniture is not authorized by statute to be purchased through a Senator's Official Personnel and Office Expense Account. However, T.V. stands and V.C.R. stands are considered accessories to equipment and may be purchased in a manner consistent with the statutes and regulations governing the purchase of standard and non-standard equipment.

17. All furniture and accessories, whether chosen from the Standard list or purchased from the Senators' Special Furniture and Accessory Allowance, remain the property of the Architect of the Capitol. Senators will be responsible for any furniture stolen, lost, or otherwise unaccounted for, and reimbursement for all losses will be made in an amount equal to the fair market value of such furniture after applying an appropriate depreciation.

18. The implementation of this policy is subject to the availability of appropriated funds to the Architect of the Capitol.

Approved: Committee on Rules and Administration.

CHRISTOPHER J. DODD,
*Ranking Member.*
TRENT LOTT,
*Chairman.*

---

## Attachment B

### II. TRANSPORTATION EXPENSES

### (A) COMMON CARRIER TRANSPORTATION AND ACCOMMODATIONS

Transportation includes all necessary official travel on railroads, airlines, helicopters, steamboats, buses, streetcars, taxicabs, and other usual means of conveyance. Transportation may include fares and such expenses incidental to transportation such as baggage transfer; official telegraph, telephone, radio, and cable messages in connection with items classed as transportation; steamer chairs, steamer cushions, and steamer rugs at customary rates actually charged; staterooms on steamers.

### 1. TRAIN ACCOMMODATIONS

(a) Sleeping-car accommodations: The lowest first class sleeping accommodations available shall be allowed when night travel is involved. When practicable, through sleeping accommodations should be obtained in all cases where more economical to the Senate.

(b) Parlor-car and coach accommodations: One seat in a sleeping or parlor car will be allowed. Where adequate coach accommodations are available, coach accommodations should be used to the maximum extent possible, on the basis of advantage to the Senate, suitability and convenience to the traveler, and nature of the business involved.

### 2. STEAMER ACCOMMODATIONS

Staterooms: First-class accommodation will be allowed when stateroom is included in cost of passage or is a separate charge.

### 3. AIRPLANE ACCOMMODATIONS

(a) First-class and air-coach accommodations: It is the policy of the Senate that persons who use commercial air carriers for transportation on official business shall use less than first-class accommodations instead of those designated first-class with due regard to efficient conduct of Senate business and the travelers' convenience, safety, and comfort.

(b) Use of United States-flag air carriers: All official air travel shall be performed on United States-flag air carriers except where travel on other aircraft (1) is essential to the official business concerned, or (2) is necessary to avoid unreasonable delay, expense, or inconvenience.

When a traveler finds he/she will not use accommodations which have been reserved for him/her, he/she must release them within the time limits specified by the carriers. Likewise, where transportation service furnished is inferior to that called for by a ticket or where a journey is terminated short of the destination specified, the traveler must report such facts to the proper official. Failure of travelers to take such action may subject them to liability for any resulting losses. "No show" charges, if incurred by Members or staff personnel in connection with official Senate travel, shall not be considered payable or reimbursable from the contingent fund of the Senate. Senate travelers exercising proper prudence can make timely cancellations when necessary in order to avoid "no show" assessments. Service fees for preparation or mailing of passenger coupons shall not be reimbursable.

In the event that a Senate traveler is denied passage on a flight for which he/she held a reservation and this results in a payment of any rebate, this payment shall not be considered as a personal receipt by the traveler, but rather as a payment to the Senate, the agency for which and at whose expense the travel is being performed. Such payments shall be submitted to the appropriate individual for the proper disposition when the traveler submits his/her expense account. Through fares, special fares, commutation fares, excursion, and reduced-rate round trip fares should be used for official travel when it can be determined prior to the start of a trip that any such type of service is practical and economical to the Senate. Round-trip tickets should be secured only when, on the basis of the journey as planned, it is known or can be reasonably anticipated that such tickets will be utilized.

Each Chairman, Senator, or Officer of the Senate may, at his/her discretion, authorize in extenuating circumstances the reimbursement of penalty fees associated with the cancellation of through fares, special fares, commutation fares, excursion, and reduced-rate round trip fares.

[Discount coupons, frequent flyer mileage, or other evidence of reduced fares, obtained on official travel, shall be turned in to the office for which the travel was performed so that they may be utilized for future official travel. "Any travel award that accrues by reason of official travel of a Member, officer, or employee of the Senate shall be considered the property of the office for which the travel was performed and may not be converted to personal use (2 U.S.C. 1436(a), as amended)." However, this shall not apply to any travel awards relating to air transportation for a Member of the Senate, or their spouse, son, or daughter, between the Washington metropolitan area and the Home State of that Member. It should be noted that any fees assessed in connection with the use of travel awards for a spouse, son, or daughter of a Member, shall be considered a personal expense of the traveler and shall not be reimbursed from official funds.

[It is the traveler's responsibility to turn in to the appropriate individual all promotional materials which would provide free or reduced costs for future travel. These should be integrated into the office's plans for future official travel. Even in those instances when the coupons are non-transferable or carry an impending expiration date, and it appears that the office will not be able to use them. they are still Senate property and should not be converted to personal use. except in the case of separating Members, Officers and employees as provided in Appendix A. The administrator of each office shall account for all bonuses acquired for travel from official appropriated funds.]

*Travel promotional awards (e.g. free travel, travel discounts, upgrade certificates, coupons, frequent flyer miles, access to carrier club facilities, and other similar travel promotional items ("Travel Awards")) obtained by a Member, officer or employee of the Senate while on official travel may be utilized for personal use at the discretion of the Member or officer pursuant to this section. Travel Awards may be retained and used at the sole discretion of the Member or officer only if the Travel Awards are obtained under the same terms and conditions as those offered to the general public and no favorable treatment is extended on the basis of the Member, officer or employee's position with the Federal Government. Members, officers and employees may only retain Travel Awards for personal use when such Travel Awards have been obtained at no additional cost to the Federal Government. It should be noted that any fees assessed in connection with the use of Travel Awards shall be considered a personal expense of the Member, officer or employee and under no circumstances shall be paid for or reimbursed from official funds. Although this paragraph permits Members, officers and employees of the Senate to use Travel Awards at the discretion of the Member or officer, the Committee encourages the use of such Travel Awards (whenever practicable) to offset the cost of future official travel.*

In case a person, for his/her own convenience, travels by an indirect route or interrupts travel by direct route, the extra expense will be borne by the traveler. Reimbursement for expenses shall be allowed only on such charges as would have been incurred by the official direct route.

Transportation by bus, streetcar, subway, or taxicab, when used in connection with official travel, will be allowed as an official transportation expense.

---

### [APPENDIX A

### [PURCHASE OF BONUS AIRLINE MILEAGE BY SEPARATING MEMBERS, OFFICERS AND EMPLOYEES OF THE SENATE

[In Opinion B–24607, the General Counsel of the General Accounting Office made the following determination:

["Frequent flyer points are usually nontransferable and of no value to the government after the departure of the Member or staff person. Therefore, if the Senate determines as a matter of sound administration that its travel regulations should provide for disposing of frequent flyer mileage in exchange for payment of a reasonable sum of money from a departing Member or staff person, we see no objection to such a regulation."

[Although Senate Travel Regulations prohibit the personal use of bonus mileage accrued at government expense, the Senate also recognizes that when Members, Officers, and employees separate from Senate service, any frequent flyer mileage remaining in their name is no longer of any value to the Senate. However, the Government would recoup at least some of the value of the lost bonus mileage if separating Members, Officers, and employees are permitted to purchase such mileage upon their separation from Senate service. Permitting such an exception to the general prohibition on use of frequent flyer mileage would make good administrative sense.

[Therefore, Members, Officers, and employees, upon their separation from Senate service, may obtain permission from the Committee on Rules and Administration to convert to personal use any remaining airline bonus mileage accrued in their name at Senate expense, provided that the separating Member, Officer, or employee reimburses the Senate a reasonable sum of money for all mileage they wish to use. For purposes of this provision, a "reasonable sum of money" shall be determined by the Committee based upon: (1) the number of tickets which may be obtained from the unused mileage; and (2) valuation of such tickets at the applicable government rate. The determination of the Committee regarding reasonable reimbursement shall be final. Any funds received under this policy shall be deposited in the United States Treasury—Miscellaneous receipts account.]

---

### Attachment C

### REGULATIONS FOR THE SENATE HEALTH AND FITNESS FACILITY BY THE OFFICE OF THE ARCHITECT OF THE CAPITOL

(Approved April 28, 1992)

(Effective May 1, 1992)

**SEC. 1. SCOPE AND APPLICABILITY.**

These regulations, promulgated by the Committee on Rules and Administration under authority of Senate Resolution 286, agreed to April 9, 1992, establish the policy, procedures, and management authority and responsibility for the United States Senate Health and Fitness Facility under the direction of the Architect of the Capitol.

**SEC. 2. AUTHORIZED PARTICIPANTS.**

For purposes of these regulations, authorized participants shall include Members of the United States Senate who elect to use the Facility and who pay the fees in accordance with Section 4 of these regulations.

**SEC. 3. SENATE HEALTH AND FITNESS FACILITY.**

1. There is hereby established the Senate Health and Fitness Facility which shall be operated under the supervision and management of the Architect of the Capitol, subject to rules, regulations, and policies approved by the Committee on Rules and Administration. Equipment of such Facility shall be located in the Russell Senate Office Building and the Hart Senate Office Building and at any other location within the space allotted for the use of the United States Senate as the Architect may determine, subject to the approval of the Committee on Rules and Administration.

2. The Facility shall consist of the Senate gym located in the Russell Senate Office Building and the tennis courts located in the Hart Senate Office Building, and all the equipment, furnishings, and fixtures situated therein.

3. The Facility shall continue to provide all the services and equipment now provided at those existing locations and such additional services, facilities and equipment as the Architect may determine to provide, with the approval of the Committee on Rules and Administration.

[4. The Facility and its equipment shall be available to all Members of the United States Senate upon payment of an annual fee of $400.]

*The Facility and its equipment shall be available for use by all Members of the United States Senate upon the payment of fees as determined by the Chairman and the Ranking Member of the Committee on Rules and Administration. The Chairman and Ranking Member of the Committee on Rules and Administration shall notify the Secretary of the Senate of the amount of any fees to be charged hereunder and direct the Financial Clerk of the Senate to collect such fees from those Members desiring to use the Facility.*

**SEC. 4. AUTHORIZATION FOR FEES.**

The provisions of Title 40 United States Code 193d, to the extent they prohibit sales on Capitol grounds or in the Senate office buildings, shall not be applicable to any fees charged for membership or any service or activity of the Facility.

**SEC. 5. RESPONSIBILITIES OF THE SECRETARY OF THE SENATE.**

Members who choose to use the Facility shall notify the Secretary of the Senate in writing, and authorize the Secretary of the Senate to withhold the annual fee on a monthly basis from their pay, or make a direct payment of the annual fee to the Secretary of the Senate. The election of withholding shall become effective at the beginning of a pay period. The Secretary of the Senate shall notify the Architect of the names of those Members whose fees are withheld, or otherwise collected, and remit such payments to the United States Treasury as miscellaneous receipts, unless otherwise provided by law.

**SEC. 6. RESPONSIBILITIES OF THE ARCHITECT OF THE CAPITOL.**

Supervision and management of the Facility are the responsibility of the Architect of the Capitol, subject to rules, regulations, and policies approved by the Committee on Rules and Administration.

**SEC. 7. RULES.**

All rules heretofore adopted by the Committee on Rules and Administration pertaining to the Senate gym and to the Senate tennis courts shall continue in full force and effect as rules pertaining to the Facility, until amended or modified by that Committee.

**SEC. 8. EFFECTIVE DATE.**

These regulations shall take effect May 1, 1992.

---

### ATTACHMENT D

### CHAPTER 2 (U.S. SENATE HANDBOOK): APPENDIX A—PUBLIC TRANSPORTATION SUBSIDY REGULATIONS

Committee on Rules and Administration, United States Senate, effective August 1, 1992

(Amended October 1, 2004)

**SEC. 1. POLICY.**

It is the policy of the Senate to encourage employees to use public mass transportation in commuting to and from Senate offices.

**SEC. 2. AUTHORITY.**

The Tax Reform Act of 1986, as amended by the Transportation Equity Act for the 21st Century [(P.L. 105-78)] *(P.L. 105-178)* allows employers to give employees as a tax free "de minimis fringe benefit" transit fare media of a value not exceeding [$100] *$105* per month. The Fiscal Year 1991 Treasury-Postal Appropriations Act (Pub. L. 101-509) allows Federal agencies to participate in state or local government transit programs that encourage employees to use public transportation.

**SEC. 3. DEFINITIONS.**

(a) Public Mass Transportation—A transportation system operated by a State or local government, e.g. bus or rail transit system.

(b) Fare Media—A ticket, pass, or other device, other than cash, used to pay for transportation on a public mass transit system.

(c) Office—Refers to a Senate employee's appointing authority, that is, the Senator, committee chairman, elected officer, or an official of the Senate who appointed the employee. For purposes of these regulations, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee, whose appointing authority is the Senator holding such position.

(d) Qualified Employee—An individual employed in a Senate office whose salary is disbursed by the Secretary of the Senate, whose salary is within the limit set by his or her appointing authority for participation in a transit program under these regulations, and who is not a member of a car pool or the holder of any Senate parking privilege.

(e) Qualified program Refers to the program of a public mass transportation system that encourages employees to use public transportation in accordance with the requirements of Pub. L. 101–509 whose participation in the Senate program in accordance with these regulations has been approved by the Committee on Rules and Administration.

**SEC. 4. PROGRAM REQUIREMENTS.**

(a) Each office within the Senate is authorized to provide to qualified employees under its supervision a de minimis fringe employment benefit of transit fare media of a value not to exceed the amount authorized by statute currently not to exceed **[**$100**]** *$105* per month.

(b) Each appointing authority may establish a salary limit for participation in this program by his or her employees. If such salary limit is established, all staff paid at or below that limit, and who meet the other criteria established in these regulations, must be permitted to participate in this program.

(c) For purposes of these regulations, an individual employed for a partial month in an office shall be considered employed for the full month in that office.

(d) The fare media purchased by participating offices under this program shall only be used by qualified employees for travel to and from their official duty station.

(e) Any fare media purchased under this program may not be sold or exchanged although exchanges of Metro Card Media for transportation on the Virginia Railway Express (VRE) or the Maryland Transit Administration's MARC trains are permissible.

(f) In addition to any criminal liability, any person misusing, selling, exchanging or obtaining or using a fare media in violation of these regulations shall be required to reimburse the office for the full amount of the fare media involved and may be disqualified from further participation in this program.

**SEC. 5. OFFICE ADMINISTRATION OF PROGRAM.**

Each office electing to participate in this program shall be responsible for its administration in accordance with these regulations, shall designate an individual to manage its program, and may adopt rules for its participation consistent with these regulations.

An employee who wishes to participate in this program shall make application with his or her office on a form which shall include a certification that such person is not a member of a motor pool, does not have any Senate parking privilege (or has relinquished same as a condition of participation), will use the fare media personally for traveling to and from his or her duty station, and will not exchange or sell the fare media provided under this program. The application shall include the following statement:

This certification concerns a matter within the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under 18 U.S.C. § 1001.

Safekeeping and distribution of fare media purchased for an office is the responsibility of the program manager in that office. Participating offices may not refund or replace any damaged, misplaced, lost, or stolen fare media.

**SEC. 6. SENATE STATIONERY ROOM RESPONSIBILITIES.**

The only program currently available in the Washington, D.C. metropolitan area at this time is Metro Pool, a program established through Metro by the District of Columbia. Transit benefits will be provided through Metro Pool for participating offices in the Washington, D.C. area. The Committee on Rules and Administration shall enter into an agreement with Metro Pool for purchase of fare media by the Senate Stationery Room as required by participating offices on a monthly basis.

A participating office shall purchase the fare media with its authorized appropriated funds from the Senate Stationery Room through its stationery account pursuant to 2 U.S.C. § 119.

Each office shall present to the Senate Stationery Room [two copies of] the certification referred to in section 7 of these regulations. A new certification shall be submitted when an **[**employer**]** *employee* is added to or deleted from the program. The Stationery Room shall make available to the Senate Rules Committee Audit Section a monthly summary of office participation in this program. In addition, the Stationery Room may not refund or replace any damaged, misplaced, lost, or stolen fare media that has been purchased through the office's stationery account.

**SEC. 7. CERTIFICATION.**

The certification required by section 6 shall be approved by the appointing authority and shall include the name, and social security number of each participating employee within that office, and the following statements:

(a) Each person included on the list is currently a qualified employee as defined in Section 3.

(b) No person included on the list has any current Senate parking privilege and that no parking privileges will be restored to any person on the list during the period for which the fare media is purchased.

(c) That each month's fare media for each participating employee does not exceed the maximum dollar amount specified in statute (currently **[**$100**]** *$105*).

**SEC. 8. OTHER PARTICIPATING PROGRAMS.**

Section 6 provides for procedures for participation by Washington offices in the Metro Pool program established through Metro by the District of Columbia. Additional programs in the Washington, D.C. metropolitan area, or programs offered in other locations where Members have offices that meet the requirements of the law and these regulations, may be used for qualified employees, subject to the following requirements:

(A) Authorization

The public transit system shall submit information to the Committee on Rules and Administration that it participates in an established state or local government program to encourage the use of public transportation for employees in accordance with the provisions of Pub. L. 101–509 and these regulations. If the program meets the requirements of the statute and these regulations and is approved by the Committee on Rules and Administration, any Senate office served by such transit system may provide benefits to its employees pursuant to these regulations.

(B) Procedures

(1) A qualified program operating in the Washington, D.C. metropolitan area that permits purchase arrangements similar to those provided by the Metro Pool program shall participate in the Senate program in accordance with the procedures set forth in Section 6.

(2) A qualified program operating in the Washington, D.C. metropolitan area that does not have purchase arrangements similar to Metro Pool, or a qualified program located outside that metropolitan area, that permits purchases directly by an office, may make arrangements for purchase of media directly with a participating office. Such an office may provide for direct payment to that system and shall submit the certification in accordance with Section 7.

(3) In the case of a qualified program that does not permit purchase arrangements as provided in paragraphs (1) or (2) above, an office may provide for reimbursement to a qualified employee and shall submit a certification in accordance with Section 7.

(C) Documentation

The following documentation must accompany a voucher submitted under paragraph 8(B)(2) or (3):

(1) A copy of the Rules Committee approval, in accordance with section 8(A), with the first voucher submitted for that transit program, provided subsequent vouchers identify the transit program.

(2) The certification.

(3) Proof of purchase of the fare media.

(D) Voucher Guidance

In the case of a Senator's state office, reimbursement for payment to either a qualified transit system, or a qualified employee shall be from the Senators' Official Personnel and Office Expense Account (SOP & OEA) as a home state office expense on a seven part voucher.

In the Washington, D.C. metropolitan area, reimbursement for payment to either a qualified transit system, or a qualified employee shall be as follows:

(1) in the case of a Senator's office from the SOP & OEA as an "other official expense" (discretionary expense).

(2) in the case of a Senate committee or administrative office as an "Other" expense.

**SEC. 9. SPECIAL CIRCUMSTANCES.**

Any circumstances not covered under these regulations shall be considered on application to the Committee on Rules and Administration.

**SEC. 10. EFFECTIVE DATE.**

These regulations shall take effect on the first day of the month following date of approval.

## REVEREND WILLIAM WEBB

Mr. REID. Mr. President, I rise today to recognize Rev. William Webb, a strong and compassionate leader in the Reno-Sparks community.

Throughout his life, Reverend Webb has demonstrated tremendous perseverance, dedication, and generosity. Born and raised in a small, poor town in southern Arkansas, he was the only student in his eighth grade class to continue on to high school. Despite facing racism and segregation, Reverend Webb remained strongly committed to his education, attending Philander Smith College and receiving his master's degree at Virginia Union University.

Reverend Webb first came to Reno-Sparks area 40 years ago to serve as a minister at Second Baptist Church. His strong and energetic leadership has helped grow Second Baptist Church from a congregation of fifty church members to more than three hundred. Reverend Webb has also challenged his ministry and his community to serve those in need, organizing food drives and other charitable activities throughout his time in Northern Nevada. He has also served as president of the Nevada-California Interstate Missionary Baptist Convention for 22 years.

I am pleased to say that the City of Reno recently honored Reverend Webb's contributions to the community by renaming the roundabout at Clear Acre and Wedekin Road, William C. Webb Circle. Reverend Webb has led a distinguished life and career, and please join me in thanking him for his tremendous service to the Reno-Sparks community.

## SPARKS, NV

Mr. REID. Mr. President, it gives me great pleasure to celebrate the founding of Sparks, NV 100 years ago this week.

In 1904, the Southern Pacific Railroad wanted to straighten its route through northern Nevada. This required them to move from their switching yard at Wadsworth to another location, a hamlet originally known as Harriman. Many residents moved with the railroad, and they brought most of Wadsworth's buildings with them.

Shortly thereafter, the city changed its name to Sparks, in honor of John Sparks, who served as Nevada governor from 1903 to 1908 and who owned a ranch near the city.

Unlike many cities of the day, Sparks was a planned community with wide streets, ample parks, and impressive buildings. As the railroad's power waned in the 1950s, these traits allowed Sparks to become a picturesque, residential community.

Ground was broken for the first hotel in Sparks in 1903. The building was named after its first owner, Charles Walstab, and was the only hotel in Sparks until 1911. In 1920, the hotel was purchased by Frank Gardella and Frank Pasutti who changed the hotel's name to the Lincoln. People came from far and wide for the Lincoln's home-style meals, including chicken and ravioli. Many old-time patrons remember when it served free lunches and beer cost only a nickel. The building still stands on Victorian Avenue, and today is home to several small businesses.

The Soroptimist Club International was founded in Sparks in 1958. The Sparks' Soroptimist club was formed to make a difference for women, focusing their extensive efforts on volunteer service in the community. They sponsored the Miss Nevada Pageant and Nevada Girl's State. Additionally, the Soroptimists awarded scholarships to young women graduating from Sparks High School, raised money for books at the Sparks Library, and donated to the Gray Ladies Indigent Fund for the State Hospital.

However, no history of Sparks would be complete without mentioning John Ascuaga, a developer and entrepreneur who built Sparks' first casino: the Nugget. In May of 1958, the Nugget's ambassador became a part of the town's fabric. The "Tall Cowboy" appropriately arrived on the railroad, in pieces. When assembled, Last Chance Joe, stood thirty-two feet tall at the entrance to the Nugget.

I would also like to recognize Tony Armstrong, the former mayor of Sparks who died in January of this year. Tony's personality, his vision for the city, his management skills, and his deep humanity made him a terrific mayor and an outstanding man. It was Tony who first contacted me about the Sparks' centennial. I miss Tony and it is fitting to recognize him on this day, which he would have enjoyed so much. I wish his successor, Gino Martini, all the best and look forward to working with him on projects important to Sparks.

Finally, it is remarkable that Sparks has retained its Victorian architecture and charm. The city beckons to us as a relic of a gentler and more beautiful time. It is truly one of the jewels of northern Nevada.

A century has passed since the City of Sparks was founded. I hope you will join me in celebrating this lovely Nevada community's centennial.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

According to the San Francisco Chronicle, a participant in a Davis, CA, gay-pride parade was assaulted last summer. The apparent motivation for the attack was the sexual orientation of the victim.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## NOPEC

Mr. LEAHY. Mr. President, I, again, join in the introduction of our NOPEC bill. I am sincerely sorry that this bill has not yet become law, and I hope that the situation we face as a nation will lead the Senate to recognize the toll that the OPEC producers are exacting from the American people. As gasoline prices continue to skyrocket, exceeding $2 a gallon in many communities, we must have a real correction. As heating oil prices have soared, the President needs to take notice. Without correction and containment, consumers across the nation will continue to suffer.

The relentless increases in gasoline prices are not the result of natural supply issues. Rather, they are largely due to market manipulation by OPEC, a cartel of those controlling production and supply of oil from the Middle East. When the Antitrust Subcommittee of the Committee on the Judiciary held its hearing on gas prices last year, experts from several fields, both in and out of government, confirmed for us what we already suspected: The higher prices are due to the OPEC cartel that sets production quotas for it members and prevents the free market from setting crude oil prices. The testimony at that hearing revealed that most of the gasoline price increase can be explained by OPEC's unfair production quotas.

The artificial pricing scheme enforced by OPEC affects all of us, not the least of whom are hardworking Vermont farmers. As USDA's Cooperative Extension Office in New Hampshire recently found, the increasing energy costs may add $5,000 or more to the total costs of operating a 100-head dairy operation in the Northeast. In addition, soaring prices have affected a variety of industries across the United States, and will likely force many Americans to make tough choices about family travel.

Over the last year, I have expressed concern that gasoline prices would simply continue to rise. I have hardly been alone in that belief, and I am sorry to say that my prediction has borne fruit. Sadly, that fruit is bitter for those forced to pay ever higher prices to go about their daily lives. This week, the average price for regular gasoline reached $2.00 per gallon. Our economy, our farmers, and our families need relief now. They also need good policy. In the absence of White House leadership, Congress should provide law enforcement the tools needed to fight anticompetitive practices.

If OPEC were simply a foreign business engaged in this type of behavior, it would already be subject to American antitrust law. It is wrong to let OPEC producers off the hook just because their anticompetitive practices come with the seal of approval of the member nations. I urge the Senate to support this bill and to say "No" to OPEC.

---

## SAVING THE IRRAWADDY DOLPHIN

Mr. LEAHY. Mr. President, I rise today to discuss an issue which, while not one that you would likely read about on the front page of the newspapers, is important nonetheless. It concerns the alarming rate of deterioration of the habitat of the Irrawaddy Dolphin in Southeast Asia. Recent statistics indicate that there are fewer than 100 Irrawaddy left in the world.

The International Union for the Conservation of Nature has placed the Irrawaddy Dolphin on its list of critically endangered species. The primary reasons for this sharp decline include destructive fishing practices, such as the use of dynamite or electric current, and mercury runoff from gold mines. These practices are leading to the extinction of an entire species.

Why should we care? Perhaps a quote from President John Kennedy provides the best answers to this question. In a 1963 address at American University, President Kennedy said ". . . in the final analysis, our most basic common link, is that we all inhabit this small planet, we all breathe the same air, we all cherish our children's futures, and we are all mortal."

I know every Member of the Senate wants to make the world a better place for our children and grandchildren. I am almost as certain that ensuring the survival of the Irrawaddy dolphin, an extraordinary species, would be something that we could do to help achieve this goal.

Congress has spoken on this issue. In the Senate report that accompanied last year's Foreign Operations Appropriations Act, Congress directed the U.S. Agency for International Development, USAID, to devise a strategy to help reverse the habitat decline of the Irrawaddy dolphin.

Some important nongovernmental organizations are already working on this issue, including the Wildlife Conservation Society and the Bronx Zoo in their Species Survival Program partnership. I hope USAID's strategy, which is due shortly, will be a first step in forming a public-private partnership that will prevent the Irrawaddy dolphin from going the way of the dodo and the passenger pigeon.

Once a species is gone, it is gone forever. We need to be sure this does not happen.

---

## MANHATTAN PROJECT NATIONAL HISTORICAL PARK STUDY ACT

Mr. BINGAMAN. Mr. President, I briefly would like to say how pleased I am that the Manhattan Project National Historical Park Study Act was enacted in the last Congress. That Act, Public Law 108-340, directs the Secretary of the Interior to conduct a special resource study to assess the national significance, suitability, and feasibility of designating one or more of the historically significant sites associated with the Manhattan Project as a unit of the National Park System. The significance of the Manhattan Project to this Nation—and indeed the world—would be difficult to overstate, and I believe that passing this bill was an important step in fulfilling our responsibility to ensure that society neither forgets nor misunderstands it.

Mr. DEWINE. Mr. President, I thank my distinguished colleague, Senator BINGAMAN, for sponsoring that measure, and I appreciated the support of Senator DOMENICI and our colleagues from Tennessee and Washington.

The Manhattan Project stands as one of the great technological achievements of the 20th century. Therefore, it is appropriate to recognize the historical importance of the sites most closely associated with the development of the atomic bomb. This legislation has begun a process for the Secretary of the Interior to provide that recognition.

I want to call attention to the critical contributions made in Dayton, OH, toward the Manhattan Project, under what became known as the "Dayton Project." Because the Dayton Project was shrouded in secrecy, its contribution has long been overlooked. Yet, the technological achievements of the Dayton Project were among the most important to the completion of the Manhattan Project. It was in Dayton that scientists discovered how to trigger the chain reaction that unleashed the power of the atom. To continue that effort, the Atomic Energy Commission established the Mound Laboratory in Miamisburg, just southeast of Dayton.

As my colleague explained, the act directs the Secretary of the Interior to study three specifically named sites associated with the history of the Manhattan Project. I would like to ask the distinguished Senator if there is the opportunity for sites associated with the Dayton Project to be recognized?

Mr. BINGAMAN. The legislation directs the Secretary to include within the study the "historically significant sites associated with the Manhattan Project." While the bill lists three of those sites, it does not limit the study to only those sites. Additional sites may be included, and it leaves that decision to the discretion of the Secretary, in consultation with the Secretary of Energy and other interested Federal, State, tribal, and local officials, representatives of organizations, and members of the public. So, by those terms, there certainly is the opportunity for sites such as the Dayton Project to be included in the study.

Mr. DEWINE. I thank the Senator from New Mexico.

---

## INTERNATIONAL WOMEN'S DAY

Mr. FEINGOLD. Mr. President, I am pleased to commemorate International Women's Day, celebrated on March 8. International Women's Day gives us all an opportunity to reflect on women's accomplishments around the world and to reaffirm our commitment to continuing the vitally important work of securing and advancing women's rights, particularly their health, education, and security.

Today, we can all marvel at the outstanding contributions that women make every day to their communities, their countries, and the entire world. We can reflect on the work of Wangari Maathai, the Kenyan Nobel Peace Prize winner, whose brave and insistent voice on behalf of human rights and environmental protection found an audience not just on the global stage, and not just among elites in government, but among the women of her country, who have made the Green Belt Movement a success. We can celebrate the bravery of Afghan women, who have participated in elections even as the memory of the Taliban's brutal repression of their rights remains so fresh. Women accounted for 41 percent of the October 2004 vote in Afghanistan, and women hold 102 seats of Afghanistan's Constitutional Loya Jirga. We can reflect on the wonderful welcome that Dora Bakoyiannis, the mayor of Athens, extended to the world during this year's Olympic ceremonies.

But in too many parts of the world, the basic human rights of women are violated with impunity. Human rights groups continue to report rampant violence, abuse, and rape of tens of thousands of women and children by militants in Eastern Congo who are rarely, if ever, brought to justice. The murders of more than 370 women in the Chihuahua state of Mexico since 1993 remain unsolved. Thirty more women have been killed there since 2004 and the lack of progress in these cases of brutal violence and sexual assault against women from the cities of Juárez and Chihuahua is deeply disturbing. The internally displaced women of Darfur, Sudan, too often are confronted with a horrible choice—collect firewood and risk being raped by jinjaweit militia, or watch their children go hungry. I have authored or cosponsored legislative initiatives to address each of these crises, but I know that solutions will require hard work over the long term. I also support the U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW. Ratification of the treaty would send an important message to the international community about our commitment to the rights of women and girls.

The global, rapid progression of HIV/AIDS infection, especially in women, is undeniable. More than 40 million adults and children are infected with HIV/AIDS and over 20 million are women. UNAIDS reports that women and girls in sub-Saharan Africa make up 57 percent of HIV-positive persons in this region. Sub-Saharan Africa is the only region in which women are infected with the virus at a higher rate than men. In sub-Saharan Africa, between the ages of 15 to 24, there are on average 36 women testing positive for HIV for every 10 males. As the ranking member of the Senate Foreign Relations Committee's Subcommittee on African Affairs, I have had the opportunity to travel to numerous countries in Africa and see firsthand the devastating toll that HIV/AIDS and other infectious diseases are taking on the people of this continent. We must find concrete ways to address the special vulnerabilities of women and girls in our HIV/AID prevention and treatment programs.

Nearly 100 million children worldwide are not receiving an education, nearly two-thirds of them female. In countries such as Uganda and Nigeria, some teachers are expected to instruct anywhere from 175 to 215 students, single-handedly. The education of girls regularly takes a back seat to that of their male siblings and to the needs of the family in many parts of the world. In order to combat global diseases, halt violence against women, and enhance women's rights, ensuring girls are educated must be a global community priority.

In short, while there are shining examples of progress in women's rights, we have much more to do. I urge my colleagues to join me in supporting the efforts I have described and others to improve the lives of women.

## ADDITIONAL STATEMENTS

### REMEMBERING MAX FISHER

• Mr. SANTORUM. Mr. President, today I would like to reflect on the passing of Max Fisher. On March 3, 2005, Max Fisher passed away at his home in Franklin, MI. The Fisher family has suffered a tremendous loss, and I offer them my condolences and deepest sympathy during this difficult time.

Max Fisher was born in my hometown of Pittsburgh, PA. He was a quiet leader who led mostly by example. He inspired his neighbors through his love for and dedication to this country. As the head of several Jewish-American organizations including the United Jewish Appeal, the Council of Jewish Federations, the National Jewish Coalition, and the American Jewish Committee, Max Fisher was able to influence policy with regard to Israeli-American relations and lead an international campaign for Israel after the Arab-Israeli War in 1967.

Max Fisher was a respected friend and adviser to many Republican Presidents and Secretaries, as they sought Max's wisdom in Middle East affairs.

Max not only leaves behind a legacy in the Jewish community and the world of politics, but also a wonderful family. My thoughts and prayers are with the Fisher family during the days and months ahead.•

### TRIBUTE TO SAMUEL T. DANIELS

• Mr. SARBANES. Mr. President. With the death on January 6th, 2005, at the age of 82 of Samuel Thornton Daniels, Sr., my city of Baltimore and the State of Maryland lost a distinguished citizen, a courageous and far-sighted leader, a source of inspiration and, especially, a beloved friend.

Sam Daniels, the Grand Master, was known to his fellow members of the Prince Hall Masons simply as "The Grand," and grand he was. A Baltimorean through and through, he was born in the city and educated at Douglass High School and Coppin State College. He married his beloved wife Gladys, a fellow student at Coppin, and together for more than 60 years they went on to raise a new generation of Baltimoreans. Sam made our community a better place for all its people.

Service to others came naturally to Sam Daniels. He interrupted his college studies to serve in the Army in World War II, returning to Coppin State to receive his degree in 1948. When the Korean War conflict broke out 2 years later, Sam returned to military service, and reached the rank of captain before receiving his honorable discharge. Soon thereafter he joined Gladys as a teacher in the Baltimore public school system.

In the mid-1950s, Sam Daniels set out on the path that was to shape his life's work. It was not just that he joined the civil rights movement; rather, in innumerable ways he shaped it and he led it. His professional commitments tell part of the story: Maryland Commission on Interracial Problems and Relations; Baltimore Community Relations Commission; Baltimore Equal Employment Opportunity Commission; and then, starting in 1967 and continuing for more than two decades, the Baltimore Council for Equal Business Opportunity, or CEBO. During the 1960s, in addition to his other commitments, Sam also worked for the AFSCME local unions representing Baltimore's municipal workers. In 1968 he was named to the city's school board by then-Mayor D'Alessandro, where his intelligence, his principles, his clear vision, and his wise and generous temperament all combined to make him, as the mayor was to observe, "a calming influence on the board during an unsettling time." Sam balanced his professional commitments with his role in The Prince Hall Masons, whose Grand Master he was to become and who knew and loved him as "The Grand." Under his leadership The Prince Hall Masons grew to have 5,000 members and to play a major role in the historic movement toward civil rights. When Dr. King came to Baltimore in October 1964, Sam Daniels stood among the leaders who welcomed him to the Prince Hall Masons Lodge. In everything he did he challenged us to make our Nation live up to its ideals.

Of all his many accomplishments, Sam Daniels considered CEBO the most important. It began modestly enough with a grant from the Ford Foundation, but over more than two decades under Sam Daniels' leadership CEBO became one of the first business development organizations in the country, helping to create opportunities for entrepreneurship and business where precious few existed for Baltimore's African-American community and along with those opportunities, new hopes, new plans, and new dreams. Sam Daniels has been described as a "giant" and an "icon," and surely these words reflect the critical role he played in expanding the opportunities for African American entrepreneurship and wealth-building, which has meant so much to the city that he served in so many different ways.

Sam Daniels was a giant and an icon in other ways as well in character and temperament. Mayor D'Alessandro, who nearly 40 years ago appointed him to the school board, remembers him as "an absolutely decent human being," and his pastor, the Reverend Marion C. Bascom, calls him "the most giving human being this city has ever known." In the words of George L. Russell, the former city solicitor and judge, "he was a temperate person who conveyed a great deal of wisdom." He was a great man and a great citizen, and he has left us all a magnificent legacy. We will miss him, and our thoughts are with his wife Gladys, his children, and his grandchildren.

The Baltimore Sun paid tribute to Sam Daniels in an obituary published on January 8, 2005. I ask that it be printed in the RECORD.

The material follows.

[From the Baltimore Sun, Jan. 8, 2005]

### SAMUEL T. DANIELS, 82, LEADER IN LOCAL CIVIL RIGHTS STRUGGLE

(By Jacques Kelly)

Samuel T. Daniels, a local leader in the civil rights movement who championed African-American business enterprise and led the Prince Hall Masons for nearly four decades, died Thursday at Levindale Hebrew Geriatric Center of complications from a fall and a brain illness. The Northwest Baltimore resident was 82.

Mr. Daniels had retired in 1989 after more than 20 years as executive director of the Baltimore Council for Equal Business Opportunity, a private organization that encouraged black participation in business. He was also a past grand master of the 5,000–member Prince Hall Lodge, an African-American Masonic organization.

"He was an absolutely decent human being and an integral part of the Baltimore civil rights movement in the 1960s," said former Mayor Thomas J. D'Alesandro III, who named Mr. Daniels to the city school board in December 1968. "He was tough, decent, orderly and competent. He was an articulate spokesman for the black community."

"He was the most giving human being this city has ever known," said the Rev. Marion C. Bascom, Mr. Daniels' pastor and friend. "Samuel outstretched his hand to just about everyone I've ever known."

Born in Baltimore and raised on Druid Hill Avenue, he was a 1940 graduate of Frederick Douglass High School and earned a bachelor's degree in education from what is now Coppin State University. He served in the Army in World War II and the Korean War, attaining the rank of captain.

For eight years, he taught in city public schools, including the old Henry H. Garnet School at Division and Lanvale streets.

In 1958, he was named executive secretary of the Baltimore Community Relations Commission and simultaneously worked for Baltimore Municipal Employees Local 44 of the American Federation of State, County and Municipal Employees. In 1961, he attended the Harvard Business School's trade union program.

Mr. Daniels was a school board member from 1969 to 1971. "He was a calming influence on the board during an unsettling time," said Mr. D'Alesandro.

Mr. Daniels became head of the Prince Hall Masons in the early 1960s and was among the leaders who welcomed the Rev. Martin Luther King Jr. to Baltimore on Oct. 31, 1964. Dr. King's visit, including an appearance at the lodge's temple on Eutaw Place, was on behalf of President Lyndon B. Johnson's election campaign.

In a 1999 article in The Sun, Mr. Daniels recalled that day and how Baltimore was becoming aggressive in its pursuit of civil rights. The rally filled the temple.

"They became friends after that visit," said Mr. Daniels' wife of more than 60 years, the former Gladys Eva Wise.

Friends said that Mr. Daniels paid travel expenses so that young civil rights advocates could attend the 1965 marches in Selma, Ala.

"He had been central to the advancement of black people in Baltimore," said George L. Russell Jr., a lawyer and former city solicitor and judge. "He was a man who carried a great deal of dignity. He was a temperate person who conveyed a great deal of wisdom."

In 1967, Mr. Daniels became director of CEBO, an organization initially supported by the Ford Foundation. A decade later, Mr. Daniels told The Sun that his most important accomplishment had been helping African-American business owners establish relationships with large commercial banks.

He also pointed to many black-owned businesses, including the Super Pride grocery chain, as proof that his council was working.

In 1982, Mr. Daniels called for voter mobilization in black communities.

"Legislation, more than anything else, influences our lives daily, monthly, weekly and eternally," he said at a meeting reported in The Evening Sun. "If we are not a voting people, those in office are not going to care about us."

Mr. Daniels was the recipient of many community honors and testimonials. A room has been named after him at Coppin, and Morgan State University awarded him an honorary degree in 2000.

Mr. Daniels was a longtime member of Douglas Memorial Church.

Mr. Daniels will lie in state from 10 a.m. to 6 p.m. Wednesday at the Willard W. Allen Masonic Temple, 1301 Eutaw Place.

Kappa fraternal services will be held at 6:30 p.m. Wednesday and be followed by Masonic services at 7:30 p.m. Mr. Daniels will rest in a sanctuary named in his honor.

A family hour wake will begin at 11 a.m. Thursday. The funeral service begins at noon and will be followed by interment at Arbutus Cemetery.

In addition to his wife, Mr. Daniels is survived by two sons, Samuel T. Daniels Jr., chief inspector for the city liquor board, and Van B. Daniels, a manager for the Maryland Lottery; a brother, Edward Daniels; and three grandchildren. All are of Baltimore.●

## HONORING CLIFF MANLEY

● Mr. JOHNSON. Mr. President, the Vermillion High School class of 1965, of which I am a member, will be celebrating its 40th reunion this summer in Vermillion, SD and will be paying tribute to former VHS Principal Cliff Manley with the unveiling of a handsome plaque in his honor.

Ms. Michelle Rydell, the editor of the Vermillion High School newspaper, "The Vermillionaire," recently wrote an excellent column in that newspaper about the class of 1965 and the extraordinary career of Cliff Manley. I ask that this article be printed in the Record.

The article follows:

[From the Vermillionaire]

### CLASS OF 1965 PAYS TRIBUTE

(By Michelle Rydell)

"When we were young and green, you tried to bend us in the right direction. Now that we are old and bent, we look at the path you lit and say, 'Thank you, Mr. Manley, for helping us set our course. You made a difference.'"

It is with fond remembrance that the class of 1965 dedicates these words to former Vermillion High School principal, Clifford Manley. Manley was not simply an authoritative figure—he was a friend to all students. VHS alumni remember him as someone with a firm hand yet a soft heart. According to former students, he had a sense of humor that shone through even when he had to be firm with one of his students. He was very personable with both his peers and those under him. According to one class member, "Mr. Manley loved all of his students. Of course, there was still a degree of fear when we had to go to the principal's office, But he loved kids—he was a great man."

They also remember him as someone who was always present for extra-curricular activities and who loved watching sports. A former coach himself, Manley made it an objective to support not only the school but his students as well. It if perhaps for his dedication that he is most well-known. As principal, Manley did everything from teaching to coaching, and most importantly, serving as a mentor and role model for his students.

Manley's service and dedication is the reason the class of 1965 (which, incidentally, was the last class to graduate from the old Vermillion High School) has dedicated a plaque in remembrance of his gracious spirit. The plaque, featuring a picture of Manley set against a picture of the old high school and decorated with red birds to signify the class' ever-present Tanager pride, will be hung in the high school in the coming month.

The plaque had recently been hanging in the Sioux Valley Dakota Gardens, where Manley's wife Helen now lives. The plaque was displayed at the Dakota Gardens in order that Helen's children and friends might get the opportunity to see it during Christmas, but now that the holidays are over Helen is giving the plaque to the high school to display. The plaque will stay in the school as a lasting tribute to the man who not only taught his students as a biology teacher and principal, but a man who inspired them on a personal level as well.

VHS students will be some of the first people to see the plaque. The plaque is designated to be revealed at the class of 1965's 40th reunion, which will be occurring this coming summer. The reunion, therefore, will be not only be a time of fellowship for former students to rediscover their classmates, but it will also be a time for students to remember the principal who had such an impact on so many students' lives and take a moment to reflect on their appreciation for his service.

It is hard to find those special people in life who make such an impression that after forty years they are still considered memorable and special. Yet many agree that Manley was such a person. His dedication to Vermillion High School has been remembered and appreciated throughout the decades, and despite the fact that he has since passed away, he is not forgotten. His works live on through the school and through the lives of the many he has touched. It's not always easy to be a disciplinarian and friend, yet Manley managed to do both. As a result, he is remembered not only as a loving husband, father and grandfather, but also as a beloved principal, mentor and friend.●

## PROFESSOR RON SHAFFER

● Mr. FEINGOLD. Mr. President, it is with great sadness that I note the recent passing of Professor Ron Shaffer, a man who dedicated his career to helping communities discuss and plan their economic development.

Ron joined the faculty of the University of Wisconsin-Madison in 1972, the same year he received a doctorate in agricultural economics, and he soon became a pillar of that great institution. For three decades, until his retirement from UW in 2001, Ron was one of the State's—if not the country's—leading experts on community economics and he wrote extensively on the subject. But, throughout his many years in academia, Ron always remained focused on the real world applications of his teaching. Economic development was not an abstract concept for him—it was a way to help people live better, happier, more productive lives. Particularly in the decade he spent as director of the University of Wisconsin Center for Community Economic Development, Ron devoted himself to bolstering the many and varied rural communities that are the backbone of Wisconsin.

Ron won many honors and accolades throughout his career. His work attracted international attention, and he was called upon by governments from Australia to Norway to advise on local economic development policies. In a particularly fitting move, the year he retired from UW, the National Rural Development Partnership established the Ron Shaffer Award, to be given annually for outstanding collaboration in rural America.

But I suspect that none of the honors he won mattered as much to Ron as the love and companionship of his family and friends. They loved his decency, his compassion, and his willingness to lead a patient ear. They admired him for the courage with which he handled his diagnosis of ALS, or Lou Gehrig's Disease. It was typical of Ron that he used his illness as an opportunity to advocate for others afflicted with this terrible disease—after all, he spent his life helping others. He will be sorely missed as a husband, a father, a friend, and a deeply good and giving man.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 9:55 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 841. An act to require States to hold special elections to fill vacancies in the House of Representatives not later than 49 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

The message also announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee, in addition to Mr. SAXTON of New Jersey, appointed January 20, 2005: Mr. RYAN of Wisconsin, Mr. ENGLISH of Pennsylvania, Mr. PAUL of Texas, Mr. BRADY of Texas, Mr. MCCOTTER of Michigan, Mrs. MALONEY of New York, Mr. HINCHEY of New York, Ms. LORETTA SANCHEZ of California, and Mr. CUMMINGS of Maryland.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 539. A bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1202. A communication from the Inspector General, General Services Administration, transmitting, pursuant to law, the Administration's Audit Report Register for the period ending September 30, 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–1203. A communication from the Chief Executive Officer, Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the Corporation's 2004 Annual Program Performance Report; to the Committee on Homeland Security and Governmental Affairs.

EC–1204. A communication from the Deputy Secretary of Veterans' Affairs, transmitting, the Department of Veterans Affairs' Special Medical Advisory Group's Annual Report to Congress for Fiscal Year 2004; to the Committee on Veterans' Affairs.

EC–1205. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the City of Weirton Including the Clay and Butler Magisterial Districts SO2 Nonattainment Area and Approval of the Maintenance Plan: Correction" (FRL No. 7882-4) received on March 7, 2005; to the Committee on Environment and Public Works.

EC–1206. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plan: Revised Format for Materials Being Incorporated by Reference for South Dakota" (FRL No. 7878-6) received on March 7, 2005; to the Committee on Environment and Public Works.

EC–1207. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona" (FRL No. 7875-2) received on March 7, 2005; to the Committee on. Environment and Public Works.

EC–1208. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Pennsylvania; Delegation of Authority" (FRL No. 7880-4) received on March 7, 2005; to the Committee on Environment and Public Works.

EC–1209. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Nashville, Tennessee" (FRL No. 7881-7) received on March 7, 2005; to the Committee on Environment and Public Works.

EC–1210. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Incorporation by Reference of Approved State Hazardous Waste Management Program" (FRL No. 7877-4) received on March 7, 2005; to the Committee on Environment and Public Works.

EC–1211. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Kern County Air Pollution Control District" (FRL No. 7878-3) received on March 7, 2005; to the Committee on Environment and Public Works.

EC–1212. A communication from the Director, Office of Human Capital Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary of Energy, received on March 7, 2005; to the Committee on Energy and Natural Resources.

EC–1213. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, the Administration's proposed budget for Fiscal Year 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1214. A communication from the Inspector General, Department of Agriculture, transmitting, pursuant to law, the Department's investigative report of the Forest Service fatalities that occurred in the Cramer Fire in the Salmon-Challis National Forest in Idaho on July 22, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1215. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, a report relative to the Administration's notification of its 2005 compensation program adjustments; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1216. A communication from the Chief, Program Design Branch, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Food Stamp Program High Performance Bonuses" received on March 7 , 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1217. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clofentezine; Pesticide Tolerance" (FRL No. 7699-8) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1218. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenbuconazole; Time-Limited Pesticide Tolerance" (FRL No. 7699-2) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1219. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the State of Michigan, et al.; Final Free and Restricted Percentages for the 2004-2005 Crop Year" (FVO4-930-2 FR) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1220. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pistachios Grown in California; Establishment of Continuing Assessment Rate and Reporting Requirements" (FVO4-983-2 FR) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1221. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sweet Cherries Grown in Designated Counties in Washington, Establishment of Minimum Size and Maturity Requirements for Lightly Colored Sweet Cherry Varieties" (FV04-923-1 FR) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1222. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Products in the Far West; Revision of the Salable Quantity and Allotment Percentage of Class 3 (Native) Spearmint Oil for the 2004–2005 Marketing Year" (FV04–985–2 IFR–A) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1223. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Beef Promotion and Research; Reapportionment" (LS–04–09) received on March 7, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1224. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Public Works Center Maintenance and Repair of Building and Structures in San Diego, CA.; to the Committee on Armed Services.

EC–1225. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, the Office of the Inspector General's report on inventory of commercial and inherently government activities for fiscal year 2004; to the Committee on Armed Services.

EC–1226. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Government Source Inspection Requirements" (DFARS Case 2002–D032) received on March 7, 2005; to the Committee on Armed Services.

EC–1227. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Bonds" (DFARS Case 2003–D033) received on March 7, 2005; to the Committee on Armed Services.

EC–1228. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Resolving Tax Problems" (DFARS Case 2003–D032) received on March 7, 2005; to the Committee on Armed Services.

EC–1229. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Annual Report for Fiscal Year 2004 of the Commerce Department's Bureau of Industry and Security ; to the Committee on Commerce, Science, and Transportation.

EC–1230. A communication from the Federal Liaison Office, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Correspondence with the United States Patent and Trademark Office" (RIN0651–AB86) received on March 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1231. A communication from the Secretary of the Commission , Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Revised Jurisdictional Thresholds for Section 7A of the Clayton Act; Notice" (RIN3084–AA91) received on March 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1232. A communication from the Secretary of the Commission, Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Premerger Notification; Reporting and Waiting Period Requirements; Final Rule" (RIN3084–AA91) received on March 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1233. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Technical Corrections to the Export Administration Regulations" (RIN0694–AD32) received on March 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1234. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Denied Persons and Specially Designated Nationals" (RIN0694–AD43) received on March 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1235. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revision of License Exception TMP for Activities by Organizations Working to Relieve Human Suffering in Sudan" (RIN0694–AD38) received on March 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1236. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the Department's Capital Investment Plan for Fiscal Years 2006–2010; to the Committee on Commerce, Science, and Transportation.

EC–1237. A communication from the Board of Trustees, National Railroad Retirement Investment Trust, transmitting, pursuant to law, a report relative to the Trust's operations and financial condition; to the Committee on Finance.

EC–1238. A communication from the Chief, Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Extension of Import Restrictions Imposed on Certain Categories of Archaeological Material from the Prehispanic Cultures of the Republic of El Salvador" (RIN1505–AB56) received on March 7, 2005 ; to the Committee on Finance.

EC–1239. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Wage Credits for Veterans and Members of the Uniformed Services" (RIN0960–AF90) received on March 7, 2005; to the Committee on Finance.

EC–1240. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Medicare Contracting Reform: A Blueprint for a Better Medicare" received on March 7, 2005; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 55. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado (Rept. No. 109–19).

S. 57. A bill to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000 (Rept. No. 109–20).

S. 276. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota (Rept. No. 109–21).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 301. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont (Rept. No. 109–22).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JEFFORDS (for himself, Mr. GREGG, Mr. ENZI, Mr. BINGAMAN, Mr. FRIST, and Mrs. MURRAY):

S. 544. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THOMAS (for himself and Mr. KYL):

S. 545. A bill to amend the Internal Revenue Code of 1986 to create Lifetime Savings Accounts; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. KYL):

S. 546. A bill to amend the Internal Revenue Code of 1986 to provide for retirement savings accounts, and for other purposes; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. KYL):

S. 547. A bill to amend the Internal Revenue Code of 1986 to provide for employer retirement savings accounts, and for other purposes; to the Committee on Finance.

By Mr. CONRAD (for himself and Mr. ROBERTS):

S. 548. A bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ALLARD (for himself, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. SALAZAR, and Mr. THUNE):

S. 549. A bill to extend a certain high priority corridor in the States of Colorado, Nebraska, South Dakota, and Wyoming; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself, Mr. OBAMA, Ms. SNOWE, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. SCHUMER, Mr. SMITH, and Mr. KERRY):

S. 550. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLARD:

S. 551. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Colorado Springs, Colorado, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. AKAKA:

S. 552. A bill to make technical corrections to the Veterans Benefits Improvement Act of 2004; to the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN (for herself and Mr. ALLEN):

S. 553. A bill to amend title 23, United States Code, to provide for HOV-lane exemptions for low-emission and hybrid vehicles; to the Committee on Environment and Public Works.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 554. A bill for the relief of Ashley Ross Fuller; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. LEAHY, Mr. GRASSLEY, Mr. FEINGOLD, Ms. SNOWE, Mr. SCHUMER, Mr. DURBIN, Mr. LEVIN, Mrs. BOXER, Mr. WYDEN, Mr. CORZINE, and Mr. DAYTON):

S. 555. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 556. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

By Mr. COBURN:

S. 557. A bill to provide that Executive Order 13166 shall have no force or effect, to prohibit the use of funds for certain purposes, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID (for himself, Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mrs. BOXER, Mr. JOHNSON, Mr. SALAZAR, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KENNEDY, Mrs. LINCOLN, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN):

S. 558. A bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt; to the Committee on Armed Services.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 559. A bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes; to the Committee on Foreign Relations.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 560. A bill to enhance disclosure of automobile safety information; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 561. A bill to improve child safety in motor vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 562. A bill to amend title 23, United States Code, to improve the highway safety improvement program and provide for a proportional obligation of amounts made available for the highway safety improvement program; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 563. A bill to improve driver licensing and education, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 564. A bill to improve traffic safety by discouraging the use of traffic signal preemption transmitters; to the Committee on the Judiciary.

By Mr. DEWINE (for himself and Mr. LAUTENBERG):

S. 565. A bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself, Mr. KENNEDY, Mr. CORZINE, and Mr. LAUTENBERG):

S. 566. A bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled; to the Committee on Finance.

By Mr. LUGAR:

S. 567. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself and Mr. FEINGOLD):

S. 568. A bill to balance the budget and protect the Social Security Trust Fund surpluses; to the Committee on the Budget.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. CORZINE, and Mrs. BOXER):

S. 569. A bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN:

S. Res. 73. A resolution honoring the life of Enrique "Kiki" Camarena; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mrs. CLINTON, Mr. LUGAR, Mr. KOHL, Mrs. MURRAY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. BOXER, Mr. BAYH, Ms. LANDRIEU, Mr. JOHNSON, Mr. JEFFORDS, Mr. LEVIN, Mr. FEINGOLD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. KERRY, Mr. OBAMA, Mr. SALAZAR, Mr. KENNEDY, Ms. MIKULSKI, Mrs. LINCOLN, Mr. HATCH, Mrs. FEINSTEIN, and Mr. REID):

S. Res. 74. A resolution designating March 8, 2005, as "International Women's Day"; considered and agreed to.

By Mr. SPECTER (for himself, Mr. SARBANES, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. CORZINE, Mr. CRAIG, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. INHOFE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, and Mr. WYDEN):

S. Res. 75. A resolution designating March 25, 2005, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; considered and agreed to.

By Mr. SANTORUM:

S. Con. Res. 15. A concurrent resolution encouraging all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent; to the Committee on Finance.

## ADDITIONAL COSPONSORS

### S. 8

At the request of Mr. ENSIGN, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Alabama (Mr. SHELBY), the Senator from Nebraska (Mr. NELSON), the Senator from Utah (Mr. HATCH) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 37

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 132

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 147

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 268

At the request of Mr. HARKIN, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Florida (Mr. NELSON), the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 331

At the request of Mr. JOHNSON, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 335

At the request of Mr. LIEBERMAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 335, a bill to reauthorize the Congressional Award Act.

S. 338

At the request of Mr. SMITH, the names of the Senator from New York (Mrs. CLINTON), the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. PRYOR) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 338, a bill to provide for the establishment of a Bipartisan Commission on Medicaid.

S. 345

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 345, a bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 403

At the request of Mr. ENSIGN, the names of the Senator from Montana (Mr. BURNS), the Senator from Louisiana (Mr. VITTER), the Senator from Alabama (Mr. SHELBY), the Senator from Nebraska (Mr. NELSON), the Senator from Texas (Mrs. HUTCHISON), the Senator from Missouri (Mr. TALENT), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 424

At the request of Mr. BOND, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the names of the Senator from Utah (Mr. BENNETT) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 483

At the request of Mr. CORNYN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 483, a bill to strengthen religious liberty and combat government hostility to expressions of faith, by extending the reach of The Equal Access Act to elementary schools.

S. 484

At the request of Mr. WARNER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 506

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 520

At the request of Mr. SHELBY, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 520, a bill to limit the jurisdiction of Federal courts in certain cases and promote federalism.

S. 525

At the request of Mr. ALEXANDER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 525, a bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes.

S. 533

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 533, a bill to amend the Internal Revenue Code of 1986 to clarify that a NADBank guarantee is not considered a Federal guarantee for purposes of determining the tax-exempt status of bonds.

S. 534

At the request of Mr. FEINGOLD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 534, a bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes.

S. 539

At the request of Mr. MARTINEZ, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 539, a bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

S. RES. 40

At the request of Ms. LANDRIEU, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 40, a resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room.

AMENDMENT NO. 47

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 47 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 67

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 67 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

### AMENDMENT NO. 89

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 89 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

---

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mr. KYL):

S. 545. A bill to amend the Internal Revenue Code of 1986 to create Lifetime Savings Accounts; to the Committee on Finance.

---

By Mr. THOMAS (for himself and Mr. KYL):

S. 546. A bill to amend the Internal Revenue Code of 1986 to provide for retirement savings accounts, and for other purposes; to the Committee on Finance.

---

By Mr. THOMAS (for himself and Mr. KYL):

S. 547. A bill to amend the Internal Revenue Code of 1986 to provide for employer retirement savings accounts, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, today I rise to introduce the Savings Account Vehicle Enhancement, or "SAVE," initiative, comprised of three separate bills to create, respectively, Lifetime Savings Accounts, Retirement Savings Accounts, and Employer Retirement Savings Accounts.

Much attention has been focused lately on the retirement security of Americans, but the focus thus far has centered primarily on Social Security. It is imperative that we remember that Social Security was never intended as a primary income source for retirees, but rather as a safety net and a supplement to private savings. The bills I introduce today focus on private savings, for both pre-retirement expenses and retirement security.

My reasons for introducing these bills are threefold. First of all, it is important that we address the appallingly-low personal savings rate in this country. Personal savings rates in the United States since 1960 have reached a new low at less than 2 percent. These bills will encourage additional savings and reduce the temptation for individuals to tap into retirement savings for other, pre-retirement purposes.

Secondly, our tax code is entirely too complex and contributes to lack of participation in the tax-preferred vehicles that already exist. These bills, by allowing individuals to accumulate tax-free interest and by streamlining current savings vehicles, represent an important step toward fundamental tax reform.

Finally, as the Social Security system strains under increasing pressure, it is even more important that we provide a better, more responsive, simpler system for Americans to accumulate personal savings for retirement.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

### S. 545

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lifetime Savings Account Act of 2005".

**SEC. 2. LIFETIME SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Subchapter F of Chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

**"PART IX—LIFETIME SAVINGS ACCOUNTS**

**"SEC. 530A. LIFETIME SAVINGS ACCOUNTS.**

"(a) GENERAL RULE.—A Lifetime Savings Account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) LIFETIME SAVINGS ACCOUNT.—For purposes of this section, the term 'Lifetime Savings Account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries and which is designated (in such manner as the Secretary shall prescribe) at the time of the establishment of the trust as a Lifetime Savings Account, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a qualified rollover contribution described in subsection (d)—

"(A) no contribution will be accepted unless it is in cash, and

"(B) contributions will not be accepted for the calendar year in excess of the contribution limit specified in subsection (c)(1).

"(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan.

"(3) No part of the trust assets will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of his account is nonforfeitable.

"(5) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(c) TREATMENT OF CONTRIBUTIONS AND DISTRIBUTIONS.—

"(1) CONTRIBUTION LIMIT.—

"(A) IN GENERAL.—The aggregate amount of contributions (other than qualified rollover contributions described in subsection (d)) for any calendar year to all Lifetime Savings Accounts maintained for the benefit of an individual shall not exceed $5,000.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any calendar year after 2006, the $5,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

"(2) DISTRIBUTIONS.—Any distribution from a Lifetime Savings Account shall not be includible in gross income.

"(d) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a contribution to a Lifetime Savings Account—

"(1) from another such account of the same beneficiary, but only if such amount is contributed not later than the 60th day after the distribution from such other account,

"(2) from a Lifetime Savings Account of a spouse of the beneficiary of the account to which the contribution is made, but only if such amount is contributed not later than the 60th day after the distribution from such other account, and

"(3) before January 1, 2007, from—

"(A) a qualified tuition program pursuant to section 529(c)(3)(E), or

"(B) a Coverdell education savings account pursuant to section 530(d)(9).

"(e) LOSS OF TAXATION EXEMPTION OF ACCOUNT WHERE BENEFICIARY ENGAGES IN PROHIBITED TRANSACTION.—Rules similar to the rules of paragraph (2) of section 408(e) shall apply to any Lifetime Savings Account.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account or an annuity contract issued by an insurance company qualified to do business in a State shall be treated as a trust under this section if—

"(1) the custodial account or annuity contract would, except for the fact that it is not a trust, constitute a trust which meets the requirements of subsection (b), and

"(2) in the case of a custodial account, the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or annuity contract treated as a trust by reason of the preceding sentence, the person holding the assets of such account or holding such annuity contract shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a Lifetime Savings Account shall make such reports regarding such account to the Secretary and to the beneficiary of the account with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required.".

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) a Lifetime Savings Account (as defined in section 530A),".

(2) EXCESS CONTRIBUTION.—Section 4973 of such Code is amended by adding at the end the following new subsection:

"(h) EXCESS CONTRIBUTIONS TO LIFETIME SAVINGS ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—In the case of Lifetime Savings Accounts (within the meaning of section 530A), the term 'excess contributions' means the sum of—

"(A) the amount by which the amount contributed for the calendar year to such accounts (other than qualified rollover contributions (as defined in section 530A(d))) exceeds the contribution limit under section 530A(c)(1), and

"(B) the amount determined under this subsection for the preceding calendar year, reduced by the excess (if any) of the maximum amount allowable as a contribution under section 530A(c)(1) for the calendar year over the amount contributed to the accounts for the calendar year.

"(2) SPECIAL RULE.—A contribution shall not be taken into account under paragraph (1) if such contribution (together with the amount of net income attributable to such contribution) is returned to the beneficiary before July 1 of the year following the year in which the contribution is made.".

(c) FAILURE TO PROVIDE REPORTS ON LIFETIME SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following new subparagraph:

"(F) section 530A(g) (relating to Lifetime Savings Accounts).".

(d) ROLLOVERS FROM CERTAIN OTHER TAX-FREE ACCOUNTS.—

(1) QUALIFIED STATE TUITION PLANS.—Paragraph (3) of section 529(c) of the Internal Revenue Code of 1986 (relating to distributions) is amended by adding at the end the following new subparagraph:

"(E) ROLLOVERS TO LIFETIME SAVINGS ACCOUNTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to the qualified portion of any distribution which, before January 1, 2007, and within 60 days of such distribution, is transferred to a Lifetime Savings Account (within the meaning of section 530A) of the designated beneficiary. This subparagraph shall only apply to distributions in accordance with the previous sentence from an account which was in existence with respect to such designated beneficiary on December 31, 2004.

"(ii) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means the amount equal to the sum of—

"(I) the lesser of $50,000 or the amount which is in the account of the designated beneficiary on December 31, 2004,

"(II) any contributions to such account for the taxable year beginning after December 31, 2004, and before January 1, 2006, and

"(III) any earnings of such account for such year.

"(iii) LIMITATION.—The sum of the amounts taken into account under clause (ii)(II) with respect to all accounts of the designated beneficiary plus any amounts with respect to such designated beneficiary taken into account under section 530(d)(9)(B)(ii) shall not exceed the sum of $5,000 plus the earnings attributable to such amounts.".

(2) COVERDELL EDUCATION SAVINGS ACCOUNTS.—Subsection (d) of section 530 of such Code (relating to tax treatment of distributions) is amended by inserting at the end the following new paragraph:

"(9) ROLLOVERS TO LIFETIME SAVINGS ACCOUNTS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the qualified portion of any amount paid or distributed from a Coverdell education savings account to the extent that the amount received is paid, before January 1, 2007, and not later than the 60th day after the date of such payment or distribution, into a Lifetime Savings Account (within the meaning of section 530A) for the benefit of the same beneficiary. This paragraph shall only apply to amounts paid or distributed in accordance with the preceding sentence from an account which was in existence with respect to such beneficiary on December 31, 2004.

"(B) QUALIFIED PORTION.—For purposes of this paragraph, the term 'qualified portion' means the amount equal to the sum of—

"(i) the amount which is in the account of the beneficiary on December 31, 2004,

"(ii) any contributions to such account for the taxable year beginning after December 31, 2004, and before January 1, 2006 and

"(iii) any earnings of such account for such year.

"(C) LIMITATION.—The sum of the amounts taken into account under subparagraph (B)(ii) with respect to all accounts of the beneficiary plus any amounts with respect to such beneficiary taken into account under section 529(c)(3)(E)(ii)(II) shall not exceed the sum of $5,000 plus the earnings attributable to such amounts.".

(e) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"PART IX. LIFETIME SAVINGS ACCOUNTS".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### S. 546

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Retirement Savings Account Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. RETIREMENT SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Section 408A (relating to Roth IRAs) is amended to read as follows:

**"SEC. 408A. RETIREMENT SAVINGS ACCOUNTS.**

"(a) IN GENERAL.—Except as provided in this section, a retirement savings account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) RETIREMENT SAVINGS ACCOUNT.—For purposes of this title, the term 'retirement savings account' means an individual retirement plan (as defined in section 7701(a)(37)) which—

"(1) is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a retirement savings account, and

"(2) does not accept any contribution (other than a qualified rollover contribution) which is not in cash.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) CONTRIBUTION LIMIT.—Notwithstanding subsections (a)(1) and (b)(2)(A) of section 408, the aggregate amount of contributions for any taxable year to all retirement savings accounts maintained for the benefit of an individual shall not exceed the lesser of—

"(A) $5,000, or

"(B) the amount of compensation includible in the individual's gross income for such taxable year.

"(2) SPECIAL RULE FOR CERTAIN MARRIED INDIVIDUALS.—In the case of any individual who files a joint return for the taxable year, the amount taken into account under paragraph (1)(B) shall be increased by the excess (if any) of—

"(A) the compensation includible in the gross income of such individual's spouse for the taxable year, over

"(B) the aggregate amount of contributions for the taxable year to all retirement savings accounts maintained for the benefit of such spouse.

"(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to a retirement savings account may be made even after the individual for whom the account is maintained has attained age 70½.

"(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY BEFORE DEATH.—Notwithstanding subsections (a)(6) and (b)(3) of section 408 (relating to required distributions), the following provisions shall not apply to any retirement savings account:

"(A) Section 401(a)(9)(A).

"(B) The incidental death benefit requirements of section 401(a).

"(5) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to a retirement savings account unless it is a qualified rollover contribution.

"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (1).

"(6) ROLLOVERS FROM PLANS WITH TAXABLE DISTRIBUTIONS.—

"(A) IN GENERAL.—Notwithstanding sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16), in the case of any contribution to which this paragraph applies—

"(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

"(ii) section 72(t) shall not apply, and

"(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any contribution before January 1, 2007, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any contributions during a taxable year may not be changed after the due date (including extensions of time) for filing the taxpayer's return for such taxable year.

"(B) CONTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any qualified rollover contribution to a retirement savings account (other than a rollover contribution from another such account).

"(C) CONVERSIONS OF IRAS.—The conversion of an individual retirement plan (other than a retirement savings account) to a retirement savings account shall be treated for purposes of this paragraph as a contribution to which this paragraph applies.

"(D) ADDITIONAL REPORTING REQUIREMENTS.—Trustees and plan administrators of eligible retirement plans (as defined in section 402(c)(8)(B)) and retirement savings accounts shall report such information as the Secretary may require to ensure that amounts required to be included in gross income under subparagraph (A) are so included. Such reports shall be made at such time and in such form and manner as the Secretary may require. The Secretary may provide that such information be included as additional information in reports required under section 408(i) or 6047.

"(E) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH A 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to which subparagraph (A)(iii) applied, the following rules shall apply:

"(i) ACCELERATION OF INCLUSION.—

"(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from retirement savings accounts for such taxable year which are allocable under subsection (d)(3) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

"(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

"(ii) DEATH OF DISTRIBUTEE.—

"(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

"(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any retirement savings account to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date (including extensions of time) for filing the spouse's return for the taxable year which includes the date of death.

"(F) 5-YEAR HOLDING PERIOD RULES.—If—

"(i) any portion of a distribution from a retirement savings account is properly allocable to a qualified rollover contribution with respect to which an amount is includible in gross income under subparagraph (A)(i),

"(ii) such distribution is made during the 5-taxable year period beginning with the taxable year for which such contribution was made, and

"(iii) such distribution is not described in clause (i), (ii), or (iii) of subsection (d)(2)(A),

then section 72(t) shall be applied as if such portion were includible in gross income.

"(7) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to a retirement savings account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(8) COST-OF-LIVING ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2006, the $5,000 amount under paragraph (1)(A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING RULES.—If any amount after adjustment under subparagraph (A) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) EXCLUSION.—Any qualified distribution from a retirement savings account shall not be includible in gross income.

"(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 58,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) to which section 72(t)(2)(F) applies (if such payment or distribution is made before January 1, 2009).

"(B) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.

"(3) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a retirement savings account, such distribution shall be treated as made—

"(A) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the retirement savings account, does not exceed the aggregate contributions to the retirement savings account, and

"(B) from such contributions in the following order:

"(i) Contributions other than qualified rollover contributions with respect to which an amount is includible in gross income under subsection (c)(6)(A)(i).

"(ii) Qualified rollover contributions with respect to which an amount is includible in gross income under subsection (c)(6)(A)(i) on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under subparagraph (B)(ii) shall be allocated first to the portion of such contribution required to be included in gross income.

"(4) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to retirement savings accounts and other individual retirement plans.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified rollover contribution' means—

"(A) a rollover contribution to a retirement savings account of an individual from another such account of such individual or such individual's spouse, or from an individual retirement plan of such individual, but only if such rollover contribution meets the requirements of section 408(d)(3), and

"(B) a rollover contribution described in section 402(c), 402A(c)(3)(A), 403(a)(4), 403(b)(8), or 457(e)(16).

"(2) COORDINATION WITH LIMITATION ON IRA ROLLOVERS.—For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a retirement savings account) to a retirement savings account.

"(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

"(1) a simplified employee pension or a simple retirement account may not be designated as a retirement savings account, and

"(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(1).

"(g) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income (as defined in section 401(c)(2)). Such term does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. Such term shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in section 71(b)(2)(A). For purposes of this subsection, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in section 1402(c)(6).".

(b) ROTH IRAS TREATED AS RETIREMENT SAVINGS ACCOUNTS.—In the case of any taxable year beginning after December 31, 2005, any Roth IRA (as defined in section 408A(b) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) shall be treated for purposes of such Code as having been designated at the time of the establishment of the plan as a retirement savings account under section 408A(b) of such Code (as amended by this section).

(c) CONTRIBUTIONS TO OTHER INDIVIDUAL RETIREMENT PLANS PROHIBITED.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (1) of section 408(a) is amended to read as follows:

"(1) Except in the case of a simplified employee pension, a simple retirement account, or a rollover contribution described in subsection (d)(3) or in section 402(c), 403(a)(4), 403(b)(8), or 457(e)(16), no contribution will be accepted on behalf of any individual for any taxable year beginning after December 31, 2005. In the case of any simplified employee pension or simple retirement account, no contribution will be accepted unless it is in cash and contributions will not be accepted for the taxable year on behalf of any individual in excess of—

"(A) in the case of a simplified employee pension, the amount of the limitation in effect under section 415(c)(1)(A), and

"(B) in the case of a simple retirement account, the sum of the dollar amount in effect under subsection (p)(2)(A)(ii) and the employer contribution required under subparagraph (A)(iii) or (B)(i) of subsection (p)(2).".

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Paragraph (2) of section 408(b) is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively, and by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) except in the case of a simplified employee pension, a simple retirement account, or a rollover contribution described in subsection (d)(3) or in section 402(c), 403(a)(4), 403(b)(8), or 457(e)(16), a premium shall not be accepted on behalf of any individual for any taxable year beginning after December 31, 2005.", and

(B) by amending subparagraph (C), as redesignated by subparagraph (A), to read as follows:

"(C) the annual premium on behalf of any individual will not exceed—

"(i) in the case of a simplified employee pension, the amount of the limitation in effect under section 415(c)(1)(A), and

"(ii) in the case of a simple retirement account, the sum of the dollar amount in effect under subsection (p)(2)(A)(ii) and the employer contribution required under subparagraph (A)(iii) or (B)(i) of subsection (p)(2), and".

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 219 is amended to read as follows:

**"SEC. 219. CONTRIBUTIONS TO CERTAIN RETIREMENT PLANS ALLOWING ONLY EMPLOYEE CONTRIBUTIONS.**

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount contributed on behalf of such individual to a plan described in section 501(c)(18).

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of—

"(1) $7,000, or

"(2) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year.

"(c) BENEFICIARY MUST BE UNDER AGE 70½.—No deduction shall be allowed under this section with respect to any contribution on behalf of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

"(d) SPECIAL RULES.—

"(1) MARRIED INDIVIDUALS.—The maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(2) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

"(e) CROSS REFERENCE.—For failure to provide required reports, see section 6652(g).".

(B) Section 25B(d) is amended—

(i) in paragraph (1)(A), by striking "(as defined in section 219(e))", and

(ii) by adding at the end the following new paragraph:

"(3) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

"(A) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

"(B) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).".

(C) Section 86(f)(3) is amended by striking "section 219(f)(1)" and inserting "section 408A(g)".

(D) Section 132(m)(3) is amended by inserting "(as in effect on the day before the date of the enactment of the Retirement Savings Account Act)" after "section 219(g)(5)".

(E) Subparagraphs (A), (B), and (C) of section 220(d)(4) are each amended by inserting ", as in effect on the day before the date of the enactment of the Retirement Savings Account Act" at the end.

(F) Section 408(b) is amended in the last sentence by striking "section 219(b)(1)(A)" and inserting "paragraph (2)(C)".

(G) Section 408(p)(2)(D)(ii) is amended by inserting "(as in effect on the day before the date of the enactment of the Retirement Savings Account Act)" after "section 219(g)(5)".

(H) Section 409A(d)(2) is amended by inserting "(as in effect on the day before the date of the enactment of the Retirement Savings Account Act)" after "subparagraph (A)(iii))".

(I) Section 501(c)(18)(D)(i) is amended by striking "section 219(b)(3)" and inserting "section 219(b)".

(J) Section 6652(g) is amended by striking "section 219(f)(4)" and inserting "section 219(d)(2)".

(K) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 219 and inserting the following new item:

"Sec. 219. Contributions to certain retirement plans allowing only employee contributions.".

(2)(A) Section 408(d)(4)(B) is amended to read as follows:

"(B) no amount is excludable from gross income under subsection (h) or (k) of section 402 with respect to such contribution, and".

(B) Section 408(d)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed the dollar amount in effect under subsection (a)(1) or (b)(2)(C), as the case may be, paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount which is excludable from gross income under subsection (h) or (k) of section 402, as the case may be, for the taxable year for which the contribution was paid—

"(i) if such distribution is received after the date described in paragraph (4),

"(ii) but only to the extent that such excess contribution has not been excluded from gross income under subsection (h) or (k) of section 402.".

(C) Section 408(d)(5) is amended by striking the last sentence.

(D) Section 408(d)(7) is amended to read as follows:

"(7) CERTAIN TRANSFERS FROM SIMPLIFIED EMPLOYEE PENSIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.".

(E) Section 408 is amended by striking subsection (j).

(F)(i) Section 408 is amended by striking subsection (o).

(ii) Section 6693 is amended by striking subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(G) Section 408(p) is amended by striking paragraph (8) and by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(3)(A) Section 4973(a)(1) is amended to read as follows:

"(1) an individual retirement plan,".

(B) Section 4973(b) is amended to read as follows:

"(b) EXCESS CONTRIBUTIONS TO SIMPLIFIED EMPLOYEE PENSIONS AND SIMPLE RETIREMENT ACCOUNTS.—For purposes of this section, in the case of simplified employee pensions or simple retirement accounts, the term 'excess contributions' means the sum of—

"(1) the excess (if any) of—

"(A) the amount contributed for the taxable year to the pension or account, over

"(B) the amount applicable to the pension or account under subsection (a)(1) or (b)(2) of section 408, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the maximum amount excludable from gross income for the taxable year under subsection (h) or (k) of section 402 over the amount contributed to the pension or account for the taxable year.

For purposes of this subsection, any contribution which is distributed from a simplified employee pension or simple retirement account in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed.".

(C) Section 4973 is amended by adding at the end the following new subsection:

"(h) EXCESS CONTRIBUTIONS TO CERTAIN INDIVIDUAL RETIREMENT PLANS.—For purposes of this section, in the case of individual retirement plans (other than retirement savings accounts, simplified employee pensions, and simple retirement accounts), the term 'excess contribution' means the sum of—

"(1) the aggregate amount contributed for the taxable year to the individual retirement plans, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the plans which were included in gross income under section 408(d)(1), and

"(B) the distributions out of the plans for the taxable year to which section 408(d)(5) applies.

For purposes of this subsection, any contribution which is distributed from the plan in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed.".

(4)(A) Sections 402(c)(8)(B), 402A(c)(3)(A)(ii), 1361(c)(2)(A), 3405(e)(1)(B), and 4973(f) are each amended by striking "Roth IRA" each place it appears and inserting "retirement savings account".

(B) Section 4973(f)(1)(A) is amended by striking "Roth IRAs" and inserting "retirement savings accounts".

(C) Paragraphs (1)(B) and (2)(B) of section 4973(f) are each amended by striking "sections 408A(c)(2) and (c)(3)" and inserting "section 408A(c)(1)".

(D) Subsection (f) of section 4973 is amended in the heading by striking "ROTH IRAS" and inserting "RETIREMENT SAVINGS ACCOUNTS".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

S. 547

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EMPLOYER RETIREMENT SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Subpart A of part 1 of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 401 the following new section:

**"SEC. 401A. EMPLOYER RETIREMENT SAVINGS ACCOUNTS.**

"(a) IN GENERAL.—A defined contribution plan shall not fail to meet the requirements of section 401(a) merely because the plan includes an employer retirement savings account arrangement.

"(b) EMPLOYER RETIREMENT SAVINGS ACCOUNT ARRANGEMENT.—An employer retirement savings account arrangement is any arrangement which is part of a plan which meets the requirements of section 401(a)—

"(1) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash,

"(2) under which amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election—

"(A) may not be distributable to participants or other beneficiaries earlier than—

"(i) severance from employment, death, or disability,

"(ii) an event described in subsection (g),

"(iii) the attainment of age 59½, or

"(iv) upon hardship of the employee, and

"(B) will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years,

"(3) which provides that an employee's right to the employee's accrued benefit derived from employer contributions made to the trust pursuant to the employee's election is nonforfeitable, and

"(4) which does not require, as a condition of participation in the arrangement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the period permitted under section 410(a)(1) (determined without regard to subparagraph (B)(i) thereof).

"(c) APPLICATION OF NONDISCRIMINATION STANDARDS.—

"(1) CONTRIBUTION PERCENTAGE REQUIREMENT.—An arrangement shall not be treated as an employer retirement savings account arrangement for any plan year unless—

"(A) the contribution percentage for eligible highly compensated employees for the plan year does not exceed 200 percent of such percentage for all other eligible employees for the preceding plan year, or

"(B) the contribution percentage of nonhighly compensated employees for the preceding plan year exceeded 6 percent.

"(2) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—An arrangement shall be treated as meeting the requirements of paragraph (1)(A) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) CONTRIBUTION REQUIREMENT.—The requirements of this subparagraph are met if, under the arrangement, the employer is required to make contributions to a defined contribution plan on behalf of each eligible employee who is not a highly compensated employee in an amount equal to at least 3 percent of the employee's compensation. For purposes of this subparagraph, elective deferrals and employee contributions shall not be taken into account in determining the amount of contributions the employer makes to the plan.

"(C) SPECIAL RULES FOR MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—If an employer takes matching contributions into account for purposes of subparagraph (B), the requirements of such subparagraph shall be treated as met only if the matching contributions on behalf of each employee who is not a highly compensated employee are equal to 50 percent of the elective deferrals of the employee to the extent that such elective deferrals do not exceed 6 percent of the employee's compensation.

"(ii) ALTERNATIVE PLAN DESIGNS.—If the rate of any matching contribution with respect to any rate of elective deferral is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contributions increases, and

"(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(iii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective deferral of a highly compensated employee at any rate of elective deferral is greater than that with respect to an employee who is not a highly compensated employee.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this subparagraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) unless the requirements of paragraphs (2) and (3) of subsection (b) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraph (B) are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) unless such requirements are met without regard to section 401(l), and, for purposes of section 401(l), employer contributions under subparagraph (B) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements of subparagraph (B) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.

"(3) CONTRIBUTION PERCENTAGE.—For purposes of paragraph (1), the contribution percentage for an eligible employee for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(A) the sum of the elective deferrals, matching contributions, employee contributions, and qualified nonelective contributions paid under the plan on behalf of each such employee for such plan year, to

"(B) the employee's compensation for such plan year.

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) MULTIPLE ARRANGEMENTS.—If 2 or more plans which include employer retirement savings account arrangements are considered as 1 plan for purposes of section 401(a)(4) or 410(b), all such arrangements included in such plans shall be treated as 1 arrangement.

"(B) EMPLOYEES IN MORE THAN 1 ARRANGEMENT.—If any highly compensated employee is a participant under 2 or more employer retirement savings account arrangements of the employer, for purposes of determining the contribution percentage with respect to such employee, all such arrangements shall be treated as 1 arrangement.

"(C) USE OF CURRENT YEAR.—An employer may elect to apply paragraph (1) (A) or (B) by using the plan year rather than the preceding plan year. An employer may change such an election only with the consent of the Secretary.

"(D) 1ST PLAN YEAR.—In the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the contribution percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this clause, the contribution percentage of nonhighly compensated employees determined for such first plan year.

"(E) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether an employer retirement savings account arrangement meets the requirements of section 410(b)(1), the employer may, in determining whether the arrangement meets the requirements of this subsection, exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).

"(5) EXCEPTIONS.—

"(A) GOVERNMENTAL PLANS.—A governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof) shall be treated as meeting the requirements of this subsection.

"(B) TAX EXEMPT PLANS.—

"(i) IN GENERAL.—A plan not described in subparagraph (A) which is maintained by an organization described in section 501(c)(3) shall be treated as meeting the requirements of this subsection for any plan year if the plan provides that all employees of such organization may elect to have the employer make contributions of more than $200 pursuant to a salary reduction agreement if any employee of the organization may elect to have the organization make contributions pursuant to such agreement.

"(ii) EXCEPTION.—Clause (i) shall not apply to any plan if under the plan—

"(I) matching contributions may be made on behalf of any employee, or

"(II) an employee may make contributions other than elective deferrals.

"(iii) EXCLUSION.—For purposes of clause (i), there may be excluded any employee who is—

"(I) a participant in another employer retirement savings account arrangement of the organization,

"(II) a nonresident alien described in section 410(b)(3)(C), or

"(III) subject to the conditions applicable under section 410(b)(4), a student performing services described in section 3121(b)(10) or an employee who normally works less than 20 hours per week.

"(6) COORDINATION WITH SUBSECTION (a)(4).—A cash or deferred arrangement shall be treated as meeting the requirements of subsection (a)(4) with respect to contributions if the requirements of paragraph (1) are met.

"(d) OTHER REQUIREMENTS.—For purposes of this section—

"(1) BENEFITS (OTHER THAN MATCHING CONTRIBUTIONS) MUST NOT BE CONTINGENT ON ELECTION TO DEFER.—An employer retirement savings account arrangement of any employer shall not be treated as such an arrangement if any other benefit is conditioned (directly or indirectly) on the employee electing to have the employer make or not make contributions under the arrangement in lieu of receiving cash. The preceding sentence shall not apply to any matching contribution made by reason of such an election.

"(2) COORDINATION WITH OTHER PLANS.—Any employer contribution made pursuant to an employee's election under an employer retirement savings account arrangement shall not be taken into account for purposes of determining whether any other plan meets the requirements of section 401(a) or 410(b). This paragraph shall not apply for purposes of determining whether a plan meets the average benefit requirement of section 410(b)(2)(A)(ii).

"(e) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means any employee who is eligible to benefit under the employer retirement savings account arrangement.

"(2) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(3) MATCHING CONTRIBUTION.—The term 'matching contribution' means—

"(A) any employer contribution made to a defined contribution plan on behalf of an employee on account of an employee contribution made by such employee, and

"(B) any employer contribution made to a defined contribution plan on behalf of an employee on account of an employee's elective deferral.

"(4) ELECTIVE DEFERRAL.—The term 'elective deferral' means any employer contribution described in section 402(g)(3).

"(5) QUALIFIED NONELECTIVE CONTRIBUTIONS.—The term 'qualified nonelective contribution' means any employer contribution (other than a matching contribution) with respect to which—

"(A) the employee may not elect to have the contribution paid to the employee in cash instead of being contributed to the plan, and

"(B) the requirements of paragraphs (2) and (3) of subsection (b) are met.

"(6) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).

"(f) ARRANGEMENT NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED.—

"(1) IN GENERAL.—An employer retirement savings account arrangement shall not be treated as failing to meet the requirements of subsection (c)(1)(A) for any plan year if, before the close of the following plan year—

"(A) the amount of the excess contributions for such plan year (and any income allocable to such contributions) is distributed, or

"(B) to the extent provided in regulations, the employee elects to treat the amount of the excess contributions as an amount distributed to the employee and then contributed by the employee to the plan.

Any distribution of excess contributions (and income) may be made without regard to any other provision of law.

"(2) EXCESS CONTRIBUTIONS.—For purposes of paragraph (1), the term 'excess contributions' means, with respect to any plan year, the excess of—

"(A) the aggregate amount of employer contributions actually paid over to the trust on behalf of highly compensated employees for such plan year, over

"(B) the maximum amount of such contributions permitted under the limitations of subsection (c)(1)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of the contribution percentages beginning with the highest of such percentages).

"(3) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess contributions for any plan year shall be made to highly compensated employees on the basis of the amount of contributions by, or on behalf of, each of such employees.

"(4) ADDITIONAL TAX UNDER SECTION 72(t) NOT TO APPLY.—No tax shall be imposed under section 72(t) on any amount required to be distributed under this subsection.

"(5) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of subsection (b)(3), a matching contribution shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under paragraph (2) or an excess deferral under section 402(g)(2)(A).

"(6) CROSS REFERENCE.—For excise tax on certain excess contributions, see section 4979.

"(g) DISTRIBUTIONS UPON TERMINATION OF PLAN.—

"(1) IN GENERAL.—An event described in this subsection is the termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).

"(2) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(A) IN GENERAL.—A termination shall not be treated as described in paragraph (1) with respect to any employee unless the employee receives a lump sum distribution by reason of the termination.

"(B) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph, the term 'lump-sum distribution' has the meaning given such term by section 402(e)(4)(D) (without regard to subclauses (I), (II), (III), and (IV) of clause (i) thereof). Such term includes a distribution of an annuity contract from—

"(i) a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501(a), or

"(ii) an annuity plan described in section 403(a).

"(h) SPECIAL RULES FOR SMALL EMPLOYERS.—

"(1) IN GENERAL.—An arrangement maintained by an eligible employer shall not fail to meet the requirements of this section merely because contributions under the arrangement on behalf of any employee are made to an individual retirement plan (as defined under section 7701(a)(37)) established on behalf of the employee.

"(2) ELIGIBLE EMPLOYER.—For purposes of paragraph (1), the term 'eligible employer' means, with respect to any year, an employer which had no more than 10 employees who received at least $5,000 of compensation from the employer for the preceding year. An eligible employer who establishes and maintains an arrangement under this subsection for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible employer, the preceding sentence shall not apply.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations permitting appropriate aggregation of plans and contributions.

"(j) TRANSITION RULES.—

"(1) DEEMED ERSAS.—Any arrangement which, as of December 31, 2005—

"(A) is part of a plan meeting the requirements of section 401(a), and

"(B) is—

"(i) a qualified cash or deferred arrangement (as defined in section 401(k)(2)), or

"(ii) subject to the requirements of section 401(m),

shall be treated as an employer retirement savings account arrangement and subject to the requirements of this title applicable to such an arrangement for plan years beginning after December 31, 2005.

"(2) ELECTABLE ERSAS.—

"(A) IN GENERAL.—If an employer makes an election under this paragraph with respect to any applicable arrangement, such arrangement shall be treated as an employer retirement savings account arrangement and subject to the requirements of this title applicable to such an arrangement for plan years beginning after December 31, 2005.

"(B) APPLICABLE ARRANGEMENT.—For purposes of subparagraph (A), the term 'applicable arrangement' means an arrangement which, as of December 31, 2005, is—

"(i) an arrangement under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

"(ii) an eligible deferred compensation plan (within the meaning of section 457(b)) maintained by an eligible employer described in section 457(e)(1)(A),

"(iii) a simplified employee pension (within the meaning of section 408(k)) for which an election is in effect under paragraph (6) thereof, or

"(iv) a simple retirement account (within the meaning of section 408(p).".

(b) ELECTIVE DEFERRALS.—Section 402 of such Code is amended—

(1) in subsection (e)(3), by inserting ", an employer retirement savings account arrangement (as defined in section 401A(b))," after "section 401(k)(2))" , and

(2) in subsection (g)(3)(A), by inserting ", or an employer retirement savings account arrangement (as defined in section 401A(b))," before "to the extent".

(c) TERMINATION OF CONTRIBUTIONS TO OTHER PLANS.—

(1) 401(k) PLANS.—Section 401(k) of such Code is amended by adding at the end the following new paragraph:

"(13) TERMINATION.—This subsection shall not apply to any plan year beginning after December 31, 2005.".

(2) 403(b) ANNUITY CONTRACTS.—Section 403(b) of such Code is amended by adding at the end the following new paragraph:

"(14) TERMINATION.—No elective deferral (as defined in section 402(g)(3)) may be contributed under this subsection by an employer, and no amount may be transferred under an eligible rollover, for an annuity contract after December 31, 2006.".

(3) GOVERNMENTAL 457 PLANS.—Section 457 of such Code is amended by adding at the end the following new subsection:

"(h) TERMINATION.—No amount may be deferred under this subsection under a plan maintained by an eligible employer described in subsection (e)(1)(A), and no amount may be transferred under an eligible rollover to an eligible deferred compensation plan maintained by such an employer, after December 31, 2006.".

(4) SARSEPS.—Subparagraph (H) of section 408(k)(6) of such Code is amended by adding at the end the following new sentence: "No amount may be contributed under this paragraph to a simplified employee pension by an employer, and no amount may be transferred to a simplified employee pension maintained under this paragraph under an eligible rollover, after December 31, 2006.".

(5) SIMPLE IRAS.—Section 408(p) of such Code is amended by adding at the end the following new paragraph:

"(11) TERMINATION.—No amount may be contributed under this paragraph to a simple retirement account after December 31, 2006.".

(d) OTHER CONFORMING CHANGES.—

(1) Section 401 of such Code is amended by striking subsection (m).

(2) Section 7701(j) of such Code (relating to tax treatment of Federal Thrift Savings Fund) is amended—

(A) in paragraph (1)(C), by striking "section 401(k)(4)(B)" and inserting "section 401A(d)(1)", and

(B) in paragraph (2), by striking "section 401(k)" and inserting "section 401A".

(3) The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, submit such technical and other conforming changes as are necessary to carry out the amendments made by this section.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part 1 of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 401 the following new item:

"Sec. 401A. Employer Retirement Savings Accounts.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

(g) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(C)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 401A of the Internal Revenue Code of 1986 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) GOVERNMENTAL PLAN.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (A) shall be applied by substituting "2009" for "2007".

(C) CONDITIONS.—This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date the legislative or regulatory amendment described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

---

By Mr. CORZINE (for himself, Mr. OBAMA, Ms. SNOWE, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, .Mr. SCHUMER, Mr. SMITH, and Mr. KERRY):

S. 550. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Microbicides Development Act of 2005. I am very pleased to be introducing this bipartisan bill along with my colleagues, Senators SNOWE, OBAMA, BINGAMAN, CANTWELL, CLINTON, DODD, DURBIN, FEINSTEIN, KENNEDY, LAUTENBERG, LEAHY, MIKULSKI, MURRAY, SCHUMER, and SMITH. I thank my colleagues for their support of this important legislation, which we believe is vital to the pursuit of combating the global HIV/AIDS crisis.

Today we are celebrating International Women's Day. Not only should we celebrate the achievements of women nationally and globally today, but we should also promise to redouble our efforts to improve the lives of women around the globe. I can't think of an issue more deserving of our attention in the United States Senate than that of the toll that HIV/AIDS is having on women and their children around the world.

Today, nearly half of the 37 million adults now living with HIV worldwide are women. The U.N.'s new Epidemic Update released in late 2004 shows that women and girls are increasingly affected by the disease in each region of the world and the epidemic continues to worsen. Women are the new face of AIDS. Approximately 7,000 women are infected with HIV everyday. The biggest rise in HIV/AIDS among women is occurring in East Asia, which has seen a 56 percent infection rate increase, followed by the region of Eastern Europe and Central Asia.

Notably, these are areas of the world that are not currently included in the President's AIDS initiative (PEPFAR). I would like to note that later this week I will be introducing legislation to make India eligible for PEPFAR assistance. It is estimated that by 2010, India could have 20 million HIV infected individuals up from five million currently and women are at the center of the rapid growth of the disease.

I would like to quote from a recent news article in USA Today, which discusses the HIV/AIDS vulnerabilities that women confront.

> "In this male-dominated society, ironclad traditions surrounding marriage leave women little say over their sexual or reproductive lives. So many married men bring HIV home to their wives that married women are one of India's highest-risk groups. Nearly half of all new HIV infections occur in women, and studies indicate that 90 percent of women with HIV were virgins when they married and remained faithful to their husbands."

This statement describes the plight of women in so many societies and countries where women simply do not have the economic or political power to insist that their husbands use condoms or abstain from having sex outside of marriage. The typical woman who gets infected with HIV has only one partner—her husband. This trend devastates families and puts children at risk.

This astounding reality bears restating: The single greatest risk factor for a woman in the developing world of contracting the HIV virus is being married.

Women need HIV-prevention tools that they can control to safeguard their health and that of their families and communities. Unfortunately, there exists absolutely no HIV or STD prevention method that is within a woman's personal control. Condom use must be negotiated with a partner. We are all aware that for too many women, particularly low-income women in the developing world and many in our own country who rely upon a male partner for economic support, there is no power of negotiation. We know these women are at risk—yet, we expect them to protect themselves without any tools.

Today we have the opportunity to invest in groundbreaking research that can produce these tools, and ultimately, empower women. Microbicides are self-administered products that women could use to prevent transmission of STDs, including HIV/AIDS. I say "could", because due to insufficient research investments, no microbicides have been brought to market. This legislation would expand Federal investments for microbicide research at the National Institutes for Health (NIH), the Centers for Disease Control and Prevention (CDC), and the United States Agency for International Development (USAID).

In addition to encouraging new investments in microbicide research, the Microbicides Development Act will expedite the implementation of the NIH's five-year strategic plan for microbicide research, as well as expand coordination among federal agencies already involved in this research, including NIH, CDC, and the United States Agency on International Development (USAID).

Perhaps most importantly, the legislation calls for the establishment of a Microbicide Research and Development Branch within the National Institute of Allergy and Infectious Diseases.

The National Institutes of Health, principally through the National Institute of Allergy and Infectious Diseases (NIAID), spends the majority of Federal dollars in this area. However, microbicide research at NIH is currently conducted with no single line of administrative accountability or specific funding coordination. In addition, other Federal agencies such as CDC and USAID undertake microbicides research and development activities. Because there is no Federal coordination, however, there is the risk that inefficiencies and duplication of effort could result. Through a variety of committees Congress has requested that NIH and its Office of AIDS Research provide Congress with a "Federal coordination plan" for research and development in this area, but formal submission of this plan has been repeatedly delayed.

A unit dedicated to microbicide research and development at the NIH is essential to providing the appropriate staff and funding for the coordination of these activities at the NIH and across agencies.

Microbicides may not be a magic bullet, but they are essential to addressing the HIV/AIDS crisis. With leading scientists concluding that a vaccine is likely to be at least 10 years away, we need to make a strong commitment to developing complementary prevention tools such as microbicides.

Microbicides are a public health good for which the social benefits are high but economic incentives to private investment are low. Despite the potential market size, neither pharmaceutical nor major biotech companies have made large investments in the field because development is costly and the likelihood of finding an effective product is unknown. Like other public health goods, such as vaccines, public funding must fill the gap left by market failure.

The cost of developing the existing pipeline of microbicide candidate products has been estimated at $775 million over five years. This investment should generate a number of safe, effective microbicides by 2010. Currently, however, U.S. Federal funding for microbicides is only about $88.8 million annually and is spread across all areas of microbicide research, not just product development.

As for any pharmaceutical or health care product, the key to developing safe, effective, affordable and accessible microbicides is sufficient investment. If we are to realize the promise of microbicides and the lifesaving properties they may provide, then additional public funding must be made available for research and development. The Microbicide Development Act of 2005 will help us achieve this goal.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 550

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Microbicide Development Act".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Women and girls are the new face of HIV/AIDS, and are increasingly affected by the disease in each region of the world. Women account for nearly ½ of the 37,000,000 adults living with HIV and AIDS worldwide as of 2005. Approximately 7,000 women are newly infected with HIV each day.

(2) Because of their social and biological vulnerabilities, young women are particularly at risk. In Sub-Saharan Africa, 76 percent of the young people (between ages 15 and 24) with HIV are girls under 20.

(3) When women become infected with HIV, they can pass along the infection to their children during pregnancy, labor and delivery, or breast-feeding. The most effective way to halt mother-to-child transmission is to ensure that mothers are not infected in the first place.

(4) An increasing number of women who become infected with HIV have only 1 sexual partner, their husband. Unfortunately, marriage is not necessarily effective protection against HIV, because to protect themselves from HIV, women have to rely on their male partners to be faithful or to use condoms. Many women in the developing world are unable to insist on mutual monogamy or negotiate condom use, especially in long-term relationships.

(5) Scientists are working on a promising new prevention tool that could slow down the spread of the HIV/AIDS epidemic, microbicides. Formulated as gels, creams, or rings, microbicides inactivate, block, or otherwise interfere with the transmission of the pathogens that cause AIDS and other sexually transmitted diseases ("STD"s). Microbicides could allow a woman to protect herself from disease.

(6) Married couples need a method of HIV protection that will allow them to conceive a child and start a family. No existing HIV prevention method also allows conception. Microbicides are being developed to allow women to both conceive children and protect themselves from HIV.

(7) Households in developing countries often dissolve when a mother dies. In the hardest hit countries, the number of children who are orphaned by AIDS is increasing dramatically.

(8) Women in the United States also need HIV prevention tools like microbicides. AIDS is now the number 1 cause of death among African-American women between the ages of 25 and 34.

(9) In addition to HIV, other STDs continue to be a major health threat in the United States. The United States has the highest rates of sexually transmitted diseases of any industrialized nation. Nineteen million STD infections occur every year. It is estimated that by age 25, ½ of all sexually active people in the United States can expect to be infected with an STD.

(10) HIV and AIDS represent a threat to national security and economic well being, with direct medical costs of up to $15,500,000,000 per year. The pandemic undermines armies, foments unrest, and burdens the United States military.

(11) As the Nation's largest single provider of HIV/AIDS care, the Veterans Affairs health care system spent $359,000,000 to provided care to more than 20,000 American veterans with HIV/AIDS in fiscal year 2004.

(12) The microbicide field has achieved an extraordinary amount of scientific momentum, with several first-generation candidates now in large scale human trials around the world. At same time, new products, based upon recent advances in HIV treatment, have advanced into early safety trials.

(13) Microbicides are a classic public health good for which the social benefits are high but the economic incentive to private investment is low. Like other public health goods, such as vaccines, public funding must fill the gap. Microbicide research depends in large part on Government leadership and investment.

(14) The Federal Government needs to make a strong commitment to microbicide research and development. Three agencies—the National Institutes of Health ("NIH"), the Centers for Disease Control and Prevention ("CDC"), and the United States Agency of International Development ("USAID")—have played important roles in the progress to date, but further strong, well-coordinated, and visible public sector leadership will be essential for the promise of microbicides to be realized.

(15) As of 2005, microbicide research at NIH is conducted under several institutes with no single line of administrative accountability, no specific funding coordination, and highly variable levels of interest and commitment across institute leadership. Only a few NIH staff can claim microbicides as their sole focus.

(16) The President's Emergency Plan for AIDS Relief ("PEPFAR") recognizes the urgency of developing safe and effective microbicides to prevent HIV. In addition, NIH documents state that "the US government is firmly committed to accelerating the development of safe and effective microbicides to prevent HIV," recognizing that microbicides may provide "one of the most promising preventative interventions given that could be inexpensive, readily

available, and widely acceptable". But as of 2005, NIH spends barely 2 percent of its HIV/AIDS research budget on microbicides. As more microbicide candidates are advanced into later-stage clinical trials and development costs rise correspondingly, 2005 funding levels are simply inadequate.

(17) USAID and the CDC have expanded their microbicide portfolios, but without overall Federal coordination, costly inefficiencies and unproductive duplication of effort may result. USAID sustains strong partnerships with public and private organizations working on microbicide research, importantly including clinical trials in developing countries where its experience is extensive. USAID is well positioned to facilitate the introduction of microbicides once they are available. The CDC also engages in critical microbicide research and clinical testing, and has a long history of conducting field trials in developing countries.

(18) HIV prevention options available as of 2005 are not enough. HIV prevention strategies must recognize women's needs and vulnerabilities. If women are to have a genuine opportunity to protect themselves, their best option is the rapid development of new HIV-prevention technologies like microbicides, which women can initiate and control.

## TITLE I—MICROBICIDE RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH

### SEC. 101. OFFICE OF AIDS RESEARCH; PROGRAM REGARDING MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Subpart I of part D of title XXIII of the Public Health Service Act (42 U.S.C. 300cc-40 et seq.) is amended by inserting after section 2351 the following:

### "SEC. 2351A. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

"(a) Federal Strategic Plan.—

"(1) In general.—The Director of the Office of AIDS Research shall—

"(A) expedite the implementation of a Federal strategic plan for the conduct and support of microbicide research and development; and

"(B) annually review and, as appropriate, revise such plan, to prioritize funding and activities in terms of their scientific urgency.

"(2) Coordination.—In implementing, reviewing, and prioritizing elements of the plan described under paragraph (1), the Director of the Office of AIDS Research shall coordinate with—

"(A) other Federal agencies, including the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, involved in microbicide research;

"(B) the microbicide research community; and

"(C) health advocates.

"(b) Expansion and Coordination of Activities.—The Director of the Office of AIDS Research, acting in coordination with other relevant institutes and offices, shall expand, intensify, and coordinate the activities of all appropriate institutes and components of the National Institutes of Health with respect to research and development of microbicides to prevent the transmission of the human immunodeficiency virus ('HIV') and other sexually transmitted diseases.

"(c) Microbicide Development Unit.—In carrying out subsection (b), the Director of the National Institute of Allergy and Infectious Diseases shall establish within the Division of AIDS in the Institute, a clearly defined organizational unit charged with carrying out microbicide research and development. In establishing such unit, the Director shall ensure that there are a sufficient number of employees dedicated to carrying out the mission of the unit.

"(d) Microbicide Clinical Trials.—In carrying out subsection (c), the Director of the National Institute of Allergy and Infectious Diseases shall assign priority to ensuring adequate funding and support for the integration of basic science and clinical research, with particular emphasis on implementation of trials leading to product licensure.

"(e) Reports to Congress.—

"(1) In general.—Not later than 6 months after the date of enactment of the Microbicide Development Act, and annually thereafter, the Director of the Office of AIDS Research shall submit to the appropriate committees of Congress a report that describes the strategies being implemented by the Federal Government regarding microbicide research and development.

"(2) Contents of reports.—Each report submitted under paragraph (1) shall include—

"(A) a description of activities with respect to microbicide research and development conducted and supported by the Federal Government;

"(B) a summary and analysis of the expenditures made by the Director of the Office of AIDS Research during the preceding year for activities with respect to microbicide-specific research and development, including basic research, preclinical product development, clinical trials, and process development and production;

"(C) a description and evaluation of the progress made, during the preceding year, toward the development of effective and acceptable microbicides; and

"(D) a review of scientific and programmatic obstacles to expediting the commercial availability of microbicide products.

"(3) Appropriate committees of congress defined.—In this subsection, the term 'appropriate committees of Congress' means the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

"(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.".

## TITLE II—MICROBICIDE RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION

### SEC. 201. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended—

(1) by transferring section 317R so as to appear after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following:

### "SEC. 371S. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

"(a) Development and Implementation of the Microbicide Agenda Supported by the Centers for Disease Control and Prevention.—The Director of the Centers for Disease Control and Prevention shall fully implement such Centers' topical microbicide agenda to support microbicide research and development. Such an agenda shall include—

"(1) conducting laboratory research in preparation for, and support of, clinical microbicide trials;

"(2) conducting behavioral research in preparation for, and support of, clinical microbicide trials;

"(3) developing and characterizing domestic populations and international cohorts appropriate for Phases I, II, and III clinical trials of candidate topical microbicides;

"(4) conducting Phases I and II clinical trials to assess the safety and acceptability of candidate microbicides;

"(5) conducting Phase III clinical trials to assess the efficacy of candidate microbicides;

"(6) providing technical assistance to, and consulting with, a wide variety of domestic and international entities involved in developing and evaluating topical microbicides, including health agencies, extramural researchers, industry, health advocates, and nonprofit organizations; and

"(7) developing and evaluating the diffusion and effects of implementation strategies for use of effective topical microbicides.

"(b) Personnel.—The Centers for Disease Control and Prevention shall ensure that there are sufficient numbers of dedicated employees for carrying out the microbicide agenda under subsection (a).

"(c) Report to Congress.—

"(1) In general.—Not later than 1 year after the date of enactment of the Microbicide Development Act, and annually thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the appropriate committees of Congress, a report on the strategies being implemented by the Centers for Disease Control and Prevention with respect to microbicide research and development. Such report shall be submitted alone or as part of the overall Federal strategic plan on microbicides compiled annually by the National Institutes of Health Office of AIDS Research as required under section 2351A.

"(2) Contents of report.—Such report shall include—

"(A) a description of activities with respect to microbicides conducted or supported by the Director of the Centers for Disease Control and Prevention;

"(B) a summary and analysis of the expenditures made by such Director during the preceding year, for activities with respect to microbicide-specific research and development, including the number of employees of such Centers involved in such activities;

"(C) a description and evaluation of the progress made, during the preceding year, toward the development of effective and acceptable microbicides; and

"(D) a review of scientific and programmatic obstacles to expediting the commercial availability of microbicide products.

"(3) Appropriate committees of congress defined.—For the purposes of this subsection, the term 'appropriate committees of Congress' means the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

"(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.".

### TITLE III—MICROBICIDE RESEARCH AT THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

### SEC. 301. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Section 104A of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b-2) is amended by adding at the end the following new subsection:

"(h) MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.—

"(1) DEVELOPMENT AND IMPLEMENTATION OF THE MICROBICIDE AGENDA.—The head of the Office of HIV/AIDS of the United States Agency for International Development, in conjunction with other offices of such Agency, shall develop and implement a program to support the development of microbicides products for the prevention of the transmission of HIV and other diseases, and facilitate wide-scale availability of such products after such development. The program shall be known as the 'microbicide agenda' and shall include—

"(A) support for the discovery, development, and preclinical evaluation of topical microbicides;

"(B) support for the conduct of clinical studies of candidate microbicides to assess the safety, acceptability, and effectiveness of such microbicides in reducing the transmission of HIV and other sexually transmitted diseases;

"(C) support for behavioral and social science research relevant to microbicide development, testing, acceptability, and use;

"(D) support for preintroductory and introductory studies of safe and effective microbicides in developing countries; and

"(E) facilitation of access to microbicides by women at highest risk of contracting HIV or other sexually transmitted diseases, at the earliest possible time.

"(2) STAFFING.—The head of the Office of HIV/AIDS shall ensure that the Agency has a sufficient number of dedicated employees to carry out the microbicide agenda.

"(3) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Microbicide Development Act, and annually thereafter, the Administrator of the Agency shall submit to the appropriate committees of Congress a report on the activities of the Administrator to carry out the microbicide agenda and on any other activities carried out by the Administrator related to microbicide research and development.

"(B) CONTENTS OF REPORT.—Each report submitted under subparagraph (A) shall include—

"(i) a description of activities with respect to microbicides conducted or supported by the Administrator;

"(ii) a summary and analysis of the expenditures made by the Administrator during the preceding year for activities with respect to microbicide-specific research and development, including the number of employees of the Agency who are involved in such activities;

"(iii) a description and evaluation of the progress made during the preceding year toward the development of effective and acceptable microbicides;

"(iv) a review of scientific and programmatic obstacles to expediting the commercial availability of microbicide products; and

"(v) a description of the activities carried out to increase the availability of microbicides approved to prevent the transmission of HIV or other sexually transmitted diseases.

"(C) CONSULTATION.—The Administrator shall consult with the Director of the Office of AIDS Research of the National Institutes of Health in preparing a report required by subparagraph (A).

"(D) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this paragraph, the term 'appropriate committees of Congress' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this subsection.".

---

By Mr. AKAKA:

S. 552. A bill to make technical corrections to the Veterans Benefits Improvement Act of 2004; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today I introduce a bill that would provide a technical correction to the Veterans Benefits Improvements Act of 2004.

Last session, the law that allowed severely disabled members of the Armed Forces to receive specially adapted housing grants from the Department of Veterans Affairs (VA), while still on active duty, was inadvertently repealed. This was an oversight that occurred when the law was changed that authorized the Secretary of Veterans Affairs to provide specially adapted housing for veterans whose disability is the result of the loss, or loss of use, of both upper arms above the elbow.

Currently, only veterans are statutorily eligible for adapted housing grants. Congress originally intended eligibility for both disabled veterans and servicemembers, as was the case before the change in law last Session.

The correcting language in my bill would again provide the adapted housing benefit to disabled servicemembers in need of accommodations as they return to their homes. The adapted housing benefit is essential for providing an adequate standard of living for our disabled servicemembers. The benefit provides necessary modifications to servicemembers' homes to accommodate their disabilities.

I ask that we continue to make every effort to ensure that those servicemembers who have sacrificed to defend Freedom receive the benefits that they deserve. We owe it to these great men and women to pass this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 552

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.

Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454), is further amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) by inserting after "(c)" the following: "ASSISTANCE TO MEMBERS OF THE ARMED FORCES.— ";

(B) in paragraph (1)—

(i) in the first sentence, by striking "paragraph (1), (2), or (3)" and inserting "subparagraph (A), (B), (C), or (D) of paragraph (2)"; and

(ii) in the second sentence, by striking "the second sentence" and inserting "paragraph (3)"; and

(C) in paragraph (2)—

(i) in the first sentence, by striking "paragraph (1)" and inserting "paragraph (2)"; and

(ii) in the second sentence, by striking "paragraph (2)" and inserting "paragraph (3)"; and

(3) in subsection (a)(3), by striking "subsection (c)" in the matter preceding subparagraph (A) and inserting "subsection (d)".

### SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect immediately after the enactment of the Veterans Benefits Improvement Act of 2004 (Public Law 108-454).

---

By Mrs. FEINSTEIN (for herself and Mr. ALLEN):

S. 553. A bill to amend title 23, United States Code, to provide for HOV-lane exemptions for low-emission and hybrid vehicles; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce a bill with Senator ALLEN that would allow hybrids to access High Occupancy Vehicle (HOV) lanes.

California and other States, such as Arizona, Colorado, and Georgia, do not want to risk losing their Federal highway dollars by acting without a waiver from the Department of Transportation to implement laws permitting hybrid vehicles to use HOV lanes.

Virginia has decided to take that risk because the benefit of having more fuel efficient cars on the roads is greater.

This bill would allow the Department of Transportation to grant such a waiver to States.

The purpose of this bill is to encourage Americans to buy and drive hybrids, which provide an innovative solution to help reduce our thirst for gasoline.

Allowing hybrids into HOV lanes is a low-cost and quick incentive to promote the use of hybrids.

Hybrid vehicles are more fuel efficient than cars powered by internal combustion engines and they emit fewer greenhouse gases that lead to global warming.

Burning less gas can also help us to gain independence from foreign sources of energy.

The cost of hybrid technology will decrease by bringing more hybrids into the market.

And, people can make smarter, more fuel efficient, less polluting choices while getting to and from work faster.

Several States, including my State of California, have acted on their own to permit hybrid vehicles to use HOV lanes.

Current Federal law, however, only grants States the flexibility to allow electric or natural gas powered vehicles to drive in the HOV lanes with a single passenger.

Right now, there are approximately 20,000 high-mileage hybrid car owners in California waiting to take advantage of a State law that went into effect on January 1, 2005. This State law, sponsored by assemblywoman Fran Pavley, allows hybrid vehicles that get 45 miles-per-gallon or better to use diamond or HOV lanes until 2008.

As California has 40 percent of the Nation's carpool lanes, high-mileage hybrid owners stand to gain a significant benefit for driving these cars.

Some critics have expressed concerns that HOV lanes will get overloaeded, but each State can stop the program if congestion becomes a problem.

Hybrids only account for a fraction of the cars sold today—43,435 hybrids out of a total of 16.7 million vehicles were sold in 2003!

If States want to act to encourage their citizens to drive more fuel efficient, less polluting vehicles, we need to give them the tools to do so.

It is my hope that Congress will pass this bill quickly so that hybrid drivers in California, Georgia, Colorado and elsewhere can take advantage of the HOV lanes.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 553

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HOV-LANE EXEMPTION FOR LOW-EMISSION AND HYBRID VEHICLES**

Section 102(a)(2) of title 23, United States Code, is amended—

(1) by striking the first sentence and inserting the following:

"(A) IN GENERAL.—Notwithstanding paragraph (1), a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle is—

"(i)(I) certified as meeting the inherently low-emission vehicle evaporative emission standard under part 88 of title 40, Code of Federal Regulations (or a successor regulation) (including a vehicle produced before or during the 2004 model year that meets that standard); and

"(II) labeled in accordance with section 88.312-93(c) of title 40, Code of Federal Regulations (or a successor regulation); or

"(ii) a motor vehicle that—

"(I) draws propulsion energy from onboard sources of stored energy produced or stored by—

"(aa) an internal combustion or heat engine using combustible fuel; and

"(bb) a rechargeable energy storage system that provides at least 5 percent of the maximum available power; and

"(II) meets such other requirements or criteria as may be specified by the State."; and

(2) in the second sentence, by striking "Such permission" and inserting the following:

"(B) REVOCATION.—The permission under subparagraph (A)".

---

By Mr. DEWINE (for himself, Mr. KOHL, Mr. LEAHY, Mr. GRASSLEY, Mr. FEINGOLD, Ms. SNOWE, Mr. SCHUMER, Mr. DURBIN, Mr. LEVIN, Mrs. BOXER, Mr. WYDEN, Mr. CORZINE, and Mr. DAYTON):

S. 555. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with my colleagues—Senators KOHL, LEAHY, GRASSLEY, FEINGOLD, SNOWE, SCHUMER, DURBIN, LEVIN, BOXER, WYDEN, CORZINE, and DAYTON—to introduce the No Oil Producing and Exporting Cartels Act of 2005 (NOPEC). This legislation would give the Department of Justice and Federal Trade Commission legal authority to bring an antitrust case against the Organization of Petroleum Exporting Countries (OPEC).

Every consumer in America knows that gasoline prices have reached record highs recently. Likewise, the price of home heating oil has dramatically increased. These price increases have been acutely painful to people in my home State of Ohio.

Moreover, the rise in jet fuel prices is crippling our already weak airline industry. One of the main reasons that many U.S. airlines have not been able to make a profit has been due to skyrocketing jet fuel costs. For example, in the fourth quarter of 2004, Continental Airlines' jet fuel costs were $453 million, which was a 48 percent increase compared to last year, and Delta's jet fuel costs were $385 million, which was 76 percent increase compared to last year. No wonder so many U.S. airlines are teetering on the edge of bankruptcy or are already in bankruptcy.

What is the cause of these high gas and fuel prices? There are a number of factors at play, but there is clear agreement among industry experts about the primary cause of high gas and fuel prices—and that is the increase in imported crude oil prices. Who sets crude oil prices? OPEC does. The unacceptably high price of imported crude oil is a direct result of price fixing by the OPEC nations to keep the price of oil unnaturally high.

OPEC's hunger for ill-gotten gains is astounding. It seems its appetite can never be satisfied. For example, despite the fact that oil prices recently hit the historic high of $55 a barrel, OPEC members met in December 2004 and decided to cut the output of oil by another 1 million barrels. When demand is high and supplies are cut, that means prices will increase. Nonetheless, OPEC cut production. This is an outrage.

OPEC is probably the most notorious example of an illegal cartel in the world today. It is an affront to the principle that markets should be free. Nation after nation has adopted antitrust laws that make it illegal to fix prices. In 1998, the Organization for Economic Cooperation and Development, then composed of 29 member nations, issued a formal recommendation denouncing price fixing. OPEC's continued actions, in ongoing defiance of American and international antitrust norms, should not be tolerated.

Until now, however, OPEC has effectively received a "free pass" from prosecution under U.S. antitrust laws. For over two decades, enforcement has been constrained by two related court opinions. In 1979, a Federal district court found that OPEC's price-setting decisions were "governmental" acts. As a result, they were given sovereign status and protected by the Foreign Sovereign Immunities Act. Subsequently, in 1981, a Federal court of appeals declined to consider the appeal of that antitrust case based on the so-called "act of state" doctrine, which holds that a court will not consider a case regarding the legality of the acts of a foreign nation.

Our bill would effectively reverse these decisions. It makes it clear that OPEC's activities are not protected by sovereign immunity and that the Federal courts should not decline to hear a case against OPEC based on the "act of state" doctrine. As a result, under NOPEC, the Department of Justice and the Federal Trade Commission could bring an antitrust enforcement action against OPEC's member nations. This bill would force OPEC to begin pricing in a competitive, free-market manner or face the possibility of civil or criminal antitrust prosecution.

Senator KOHL and I have introduced this bill three times before—in 2000, 2001, and 2004. We intend to keep fighting for American consumers and businesses so that they will not be fleeced by OPEC in the future.

NOPEC says to OPEC: When you want to do business with America, you must abide by our antitrust laws and the rules of the free market. And when OPEC, one day, abides by the rules of the free market, we will all see lower oil and gas prices.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 555

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "No Oil Producing and Exporting Cartels Act of 2005" or "NOPEC".

### SEC. 2. SHERMAN ACT.

The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

### "SEC. 7A. OIL PRODUCING CARTELS.

"(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

"(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

"(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

"(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

"(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

"(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

"(d) ENFORCEMENT.—The Attorney General of the United States and the Federal Trade Commission may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.".

### SEC. 3. SOVEREIGN IMMUNITY.

Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking "or" after the semicolon;

(2) in paragraph (7), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(8) in which the action is brought under section 7A of the Sherman Act.".

Mr. KOHL. Mr. President, I rise today to introduce, with Senator DEWINE and 11 co-sponsors, of the No Oil Producing and Exporting Cartels Act of 2005 ("NOPEC"). It is time for the U.S. government to fight back on the price of oil and hold OPEC accountable when it acts illegally. This bill will hold OPEC member nations to account under U.S. antitrust law when they agree to limit supply or fix price in violation of the most basic principles of free competition.

Our bill will authorize the Attorney General and Federal Trade Commission to file suit against nations or other entities that participate in a conspiracy to limit the supply, or fix the price, of oil. In addition, it will expressly specify that the doctrines of sovereign immunity and act of state do not exempt nations that participate in oil cartels from basic antitrust law. Senator DEWINE and I have introduced this bill in each of the last three Congresses. This legislation was the subject of an extensive hearing at the Antitrust Subcommittee last year, and subsequently passed the Judiciary Committee without dissent. It is now time, in this new Congress, to finally pass this legislation into law and give our nation a long needed tool to counteract this pernicious and anti-consumer conspiracy.

Throughout the last year, consumers all across the Nation have watched gas prices rise to previously unimagined levels. As crude oil prices exceeded $40, then $50 and then $55 per barrel, retail prices of gasoline over $2.00 per gallon became commonplace. While prices temporarily receded for short periods, the general trend was significantly upwards, and rising even today. We now hear predictions that the price of crude oil may soon break the $60 barrier, and oil industry analysts even say $80 per barrel is not unthinkable. And one fact has remained consistent—any move downwards in price would end as soon as OPEC decided to cut production. The price of crude oil danced to the tune set by OPEC members. Such blatantly anti-competitive conduct by the oil cartel violates the most basic principles of fair competition and free markets and should not be tolerated.

Real people suffer real consequences every day in our nation because of OPEC's actions. Rising gas prices are a silent tax that takes hard-earned money away from Americans every time they visit the gas pump. Higher oil prices drive up the cost of transportation, harming thousands of companies throughout the economy from trucking to aviation. And those costs are passed on to consumers in the form of higher prices for manufactured goods. Higher oil prices mean higher heating oil and electricity costs. Anyone who has gone through a Midwest winter can tell you about the tremendous personal costs associated with higher home heating bills.

We have all heard many explanations offered for rising energy prices. Some say that the oil companies are gouging consumers. Some blame disruptions in supply. Others point to the EPA requirement mandating use of a new and more expensive type of "reformulated" gas in the Midwest or other "boutique" fuels around the country. Some even claim that refiners and distributors have illegally fixed prices. On this issue, Senator DEWINE and I have repeatedly asked the Federal Trade Commission to investigate these allegations. As a result of our requests, the FTC has put a task force in place to find out if those allegations were true. While we continue to urge the FTC to be vigilant, the FTC has to date found no evidence of illegal domestic price fixing as a cause of higher gas prices. And we conducted our own inquiry in the Antitrust Subcommittee last year which found no basis to challenge the FTC's conclusions.

But one cause of these escalating prices is indisputable: the price fixing conspiracy of the OPEC nations. For years, this conspiracy has unfairly driven up the cost of imported crude oil to satisfy the greed of the oil exporters. We have long decried OPEC, but, sadly, no one in government has yet tried to take any action. Our bill will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. The bill will not authorize private lawsuits, but it will authorize the Attorney General or FTC to file suit under the antitrust laws for redress. Our bill will also make plain that the nations of OPEC cannot hide behind the doctrines of "Sovereign Immunity" or "Act of State" to escape the reach of American justice. In so doing, our bill will overrule one twenty-year old lower court decision which incorrectly failed to recognize that the actions of OPEC member nations was commercial activity exempt from the protections of sovereign immunity.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Some critics of this legislation have argued that suing OPEC will not work or that threatening suit will hurt more than help. I disagree. Our NOPEC legislation will, for the first time, enable our antitrust authorities to take legal action to combat the illegitimate price-fixing conspiracy of the oil cartel. It will, at a minimum, have a real deterrent effect on nations that seek to join forces to fix oil prices to the detriment of consumers. This legislation will be the first real weapon the U.S. government has ever had to deter OPEC from its seemingly endless cycle of price increases. There is nothing remarkable about applying U.S. antitrust law overseas. Our government has not hesitated to do so when faced with clear evidence of anti-competitive conduct that harms American consumers. A few years ago, for example, the Justice Department secured record fines totaling $725 million against German and Swiss companies engaged in a price fixing conspiracy to raise and fix the price of vitamins sold in the United States and elsewhere. Their behavior harmed consumers by raising the prices consumers paid for vitamins every day and plainly needed to be addressed. As this and other cases show, the mere fact that the conspirators are foreign nations is no basis to shield them from violating these most basic standards of fair economic behavior.

Even under current law, there is no doubt that the actions of the international oil cartel would be in gross violation of antitrust law if engaged in by private companies. If OPEC were a group of international private companies rather than foreign governments, their actions would be nothing more than an illegal price fixing scheme. But OPEC members have used the shield of "sovereign immunity" to escape accountability for their price-fixing. The Foreign Sovereign Immunities Act, though, already recognizes that the "commercial" activity of nations is not protected by sovereign immunity. And it is hard to imagine an activity that is more obviously commercial than selling oil for profit, as the OPEC nations do. Our legislation will establish that the sovereign immunity doctrine will not divest a U.S. court from jurisdiction to hear a lawsuit alleging that members of the oil cartel are violating antitrust law.

The suffering of consumers across the Nation in the last year has made me more certain than ever that this legislation is necessary. Between OPEC's repeated decisions to cut oil production and the FTC's conclusion for the last several years that there is no illegal conduct by domestic companies responsible for rising gas prices, I am convinced that we need to take action, and take action now, before the damage spreads too far.

I urge my colleagues to support our legislation so that our Nation will finally have an effective means to combat this price-fixing conspiracy of oil-rich nations.

---

By Mr. MCCAIN:

S. 556. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by my colleague in the House of Representatives, Congressman RICK RENZI, in introducing legislation to authorize a special resources and land management study for the Walnut Canyon National Monument in Arizona. The study is intended to evaluate a range of management options for public lands adjacent to the monument to ensure adequate protection of the canyon's cultural and natural resources.

For several years, local communities adjacent to the Walnut Canyon National Monument have debated whether the land surrounding the monument would be best protected from future development under management of the U.S. Forest Service or the National Park Service. The Coconino County Board and the Flagstaff City Council have passed resolutions concluding that the preferred method to determine what is best for the land surrounding Walnut Canyon National Monument is by having a Federal study conducted. The recommendations from such a study would help to resolve the question of future management and whether expanding the monument's boundaries could compliment current public and multiple-use needs.

The legislation also would direct the Secretary of the Interior and the Secretary of Agriculture to provide recommendations for management options for maintenance of the public uses and protection of resources of the study area.

Mr. President, this legislation would provide a mechanism for determining the management options for one of Arizona's high uses scenic areas and protect the natural and cultural resources of this incredibly beautiful monument. I urge my colleagues to support its passage.

---

By Mr. REID (for himself, Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mrs. BOXER, Mr. JOHNSON, Mr. SALAZAR, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KENNEDY, Mrs. LINCOLN, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN):

S. 558. A bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt; to the Committee on Armed Services.

Mr. REID. Mr. President, I rise today to again introduce a bill along with my colleagues Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mrs. BOXER, Mr. JOHNSON, Mr. SALAZAR, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KENNEDY, Mrs. LINCOLN, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN.

Nothing is more important than keeping America safe. The key to our security is a professional, well-trained military. And in order to attract the dedicated soldiers we need, we must honor our commitment to America's veterans. Most everyone in the Senate knows about the ban on concurrent receipt . . . and our veterans certainly know about the hardship it causes.

This is the outdated and unfair policy that prevents disabled veterans from collecting both their military retirement pay and disability compensation at the same time. Under current law, a retired disabled veteran must deduct from his retirement pay, dollar for dollar, the amount of any disability compensation he receives.

In many cases, this totally wipes out the veteran's retirement pay. The end result is that the disabled military retiree loses all of the value of his 20 or more years of service to our Nation. We don't subject any other Federal retiree to this kind of offset, only our disabled military retirees. So this policy amounts to a special tax on our disabled veterans . . . men and women who have already sacrificed so much for our Nation.

When this situation was first brought to my attention a few years ago by a veteran from Nevada, I could hardly believe it. It seemed too outrageous to be true. And to this day, I can't understand why it has taken so long to correct the problem. Because to me, it just goes without saying that we should treat our disabled veteran with honor . . . with dignity . . . and with respect.

The members of this Senate share my feelings. For the past years, the Senate has passed measures to end the ban on concurrent receipt. I want to especially thank Senators LEVIN and WARNER for their support of this issue, year after year. Thanks to their strong leadership we have made some progress each year.

In 2003 we passed a measure to allow concurrent receipt for those who are 100 percent disabled. Last year we made that change immediate, instead of being phased in over 10 years. This will benefit as many as 50,000 severely disabled veterans. But there are still hundreds of thousands of disabled veterans who need our help.

We would not dream of leaving a soldier behind on the battlefield. And we should not walk away from our disabled veterans now, when they need our help. Frankly, I can't understand why the administration is even debating whether this policy should be changed for veterans whose disabilities make them unemployable. The fact is, many veterans with a disability rated at less than 100 percent cannot get or hold a job because of their disabilities.

And a 10-year phase-in simply isn't fair for these veterans, because many of them will never live to see the benefits. They deserve immediate help. We have to take care of these veterans—now. If the administration doesn't want to do it, then Congress will be forced to legislate the necessary changes. Taking care of veterans is the right thing to do because we must never forget the sacrifices they made to protect our freedom.

Taking care of our veterans is also a key to winning the war on terror. In our all-volunteer military, it is critical to attract and retain professional, dedicated soldiers.

These people serve because they love America. They don't expect to get rich in the military but they do expect that we will honor our commitments to provide health care and other benefits for them and their families.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 558

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Retired Pay Restoration Act of 2005".

**SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

(a) FINDINGS.—Congress finds the following:

(1) For more than 100 years before 1999, all disabled military retirees were required to fund their own veterans' disability compensation by forfeiting one dollar of earned retired pay for each dollar received in veterans' disability compensation.

(2) Since 1999, Congress has enacted legislation every year to progressively expand eligibility criteria for relief of the retired pay disability offset and further reduce the burden of financial sacrifice on disabled military retirees.

(3) Absent adequate funding to eliminate the sacrifice for all disabled retirees, Congress has given initial priority to easing financial inequities for the most severely disabled and for combat-disabled retirees.

(4) In the interest of maximizing eligibility within cost constraints, Congress effectively has authorized full concurrent receipt for all qualifying retirees with 100-percent disability ratings and all with combat-related disability ratings, while phasing out the disability offset to retired pay over 10 years for retired members with noncombat-related, service-connected disability ratings of 50 percent to 90 percent.

(5) In pursuing these good-faith efforts, Congress acknowledges the regrettable necessity of creating new thresholds of eligibility that understandably are disappointing to disabled retirees who fall short of meeting those new thresholds.

(6) Congress is not content with the status quo.

(b) SENSE OF CONGRESS.—It is the sense of Congress that military retired pay earned by service and sacrifice in defending the Nation should not be reduced because a military retiree is also eligible for veterans' disability compensation awarded for service-connected disability.

**SEC. 3. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN ADDITIONAL MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.**

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.—Such section is further amended—

(1) in subsection (a), by striking the final sentence of paragraph (1);

(2) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) in subsection (d) (as so redesignated), by striking subparagraph (4).

(c) CLERICAL AMENDMENTS.—

(1) The heading for section 1414 of such title is amended to read as follows:

**"§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".**

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

**SEC. 4. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.**

(a) ELIGIBILITY FOR TERA RETIREES.—Subsection (c) of section 1413a of title 10, United States Code, is amended by striking "entitled to retired pay who—" and all that follows and inserting "who—

"(1) is entitled to retired pay, other than a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(2) has a combat-related disability".

(b) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) CLERICAL AMENDMENT.—The heading for paragraph (3) of section 1413a(b) of such title is amended by striking "RULES" and inserting "RULE".

(2) SPECIFICATION OF QUALIFIED RETIREES FOR CONCURRENT RECEIPT PURPOSES.—Subsection (a) of section 1414 of such title, as amended by section 2(a), is amended—

(A) by striking "a member or" and all that follows through "retiree')" and inserting "an individual who is a qualified retiree for any month";

(B) by inserting "retired pay and veterans' disability compensation" after "both"; and

(C) by adding at the end the following new paragraph:

"(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is entitled to retired pay, other than in the case of a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(B) is also entitled for that month to veterans' disability compensation.".

(3) STANDARDIZATION WITH CRSC RULE FOR CHAPTER 61 RETIREES.—Subsection (b) of section 1414 of such title is amended—

(A) by striking "SPECIAL RULES" in the subsection heading and all that follows through "is subject to" in paragraph (1) and inserting "SPECIAL RULE FOR CHAPTER 61 DISABILITY RETIREES.—In the case of a qualified retiree who is retired under chapter 61 of this title, the retired pay of the member is subject to"; and

(B) by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

---

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 559. A bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, as we stand here today women and children are suffering the ravages and privations of war and natural disasters. They are suffering food shortages and lack the most basic necessities in so many nations around the world. Five million people have been affected by the tsunami. Of that 5 million, 1.5 million are children, many alone and parentless, vulnerable to human trafficking, forced recruitment into military service or worse.

We can help. We can do our share by making sure U.S. programs do their share.

Today, I am introducing—along with Senator LUGAR—the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005, to make vulnerable people, especially women and children, an absolute priority of our foreign assistance programs. As a Nation, as a people, we probably should do more, but we certainly can do no less than to ensure the international community has a system in place to prevent the exploitation of so many lost, vulnerable, suffering women and children who are struggling to survive the most God-awful conditions imaginable.

Over the past fifty years the nature of war has changed dramatically. In today's world, 90 percent of the casualties in any war are civilians, most of them women and children. Since 1990, more than 2 million children have been killed, and 6 million maimed or injured as a result of a war somewhere in this world.

It is extraordinary to think that, in what we believe is the most sophisticated, technologically advanced period in world history, rape has become a routine weapon of war used at will by bands of marauding military forces—some of them young boys—everywhere from Burma to Bosnia, and from Sierra Leone to Sudan.

Forced displacement of civilians, rather than being one of the unfortunate results of war is now a deliberate tactic of war.

Look at Darfur in the last 18 months.

Civilians have been targeted by Khartoum in one of the most horrific genocides we have seen in recent years. Homes have been bombed, and villages attacked. Government sponsored militia are destroying crops and have fouled the water supply. They're burning homes, leaving mothers no choice but to flee for their lives and their children's lives.

Civilians forced to flee during war find their way to camps, but instead of relative safety what do they find? They find more suffering. The camps become virtual prisons. Women and girls are beaten and raped if they venture outside the camps for firewood.

When I recently read a report by a United Nations investigatory team which states that a number of U.N. peacekeepers—U.N. peacekeepers, mind you—deployed to protect civilians from ethnic violence in the eastern Democratic Republic of Congo were sexually exploiting girls as young as 13 years old, it reinforced my belief that we cannot stand by any longer. Something must be done and this bill only begins to do it. Let me read you what that report said:

> Interviews with Congolese women and girls confirmed that sexual contact with peacekeepers occurred with regularity, usually in exchange for food or small sums of money . . ."
>
> . . . "Many of the contacts involved girls under the age of 18."

What's more horrifying to me: the investigators found that the abuse was going on while they were there, on the ground, conducting the investigation. These incidents as well as allegations of sexual exploitation by camp residents and humanitarian workers in refugee camps in West Africa and Nepal in 2002 are incredible, real life examples of the sad fact that women and children remain vulnerable even in the very places they flee for safety.

This bill seeks to do something about it.

It enhances the U.S. government's ability to see that women and children are protected before, during, and after a complex humanitarian emergency. It directs the Secretary of State to designate a special coordinator for protection issues who will be charged with making sure our embassies and consular posts are made aware of the warning signs that an emergency which may put the lives and safety of women and children at risk is imminent.

It directs the coordinator to compile a watch list of such countries and regions so that the Agency for International Development can plan to meet potential need. It prohibits U.S. funding for relief agencies that do not sign a code of conduct that outlaws improper exploitative relationships between aid workers and recipients.

It expresses the Sense of Congress that the U.N. Department of Peacekeeping Operations should improve its mechanism to prevent and respond to allegations of sexual exploitation and abuse by peacekeepers.

It establishes a fellowship with the AID for someone with expertise and skills in preventing and responding to violence and exploitation of those made vulnerable by war.

It calls upon the United States Executive Director of the International Bank of Reconstruction and Development to try to make sure World Bank demobilization, disarmament, and reintegration programs extend the same benefits that ex-combatants receive to women and children who were associated with them.

As it now stands, women and children who were used as cooks and porters and so called "wives," a euphemism for women who were kidnaped to serve as sexual slaves, may well not be given a single thing through these programs—nothing with which to rebuild their lives despite the fact that they were not there by choice. Yet the very people who forced them into such conditions receive assistance with no qualms or reservations.

Finally, it amends the Foreign Assistance Act to authorize programs and activities specifically aimed at making people—especially women and children—who are affected by humanitarian emergencies safer from further exploitation and abuse.

This bill is by no means a panacea, but it is a decent beginning. It is the least we can do to mitigate the extraordinary violence against women and children in times of war and natural disasters the results of which we see all too often in a world that seems to have gone mad.

To do nothing in the face of it would be sinful, inhumane, and wrong.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 559

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Findings.

TITLE I—PROGRAM AND POLICY COORDINATION

Sec. 101. Requirement to develop integrated strategy.
Sec. 102. Designation of coordinator.

TITLE II—PREVENTION AND PREPAREDNESS

Sec. 201. Reporting and monitoring systems.
Sec. 202. Protection training and expertise.

TITLE III—PROTECTION OF REFUGEES AND INTERNALLY DISPLACED PERSONS

Sec. 301. Codes of conduct.
Sec. 302. Health services for refugees and displaced persons.
Sec. 303. Economic self-sufficiency of vulnerable populations affected by a humanitarian emergency.
Sec. 304. International military education and training.
Sec. 305. Sense of Congress regarding actions of United Nations peacekepers.

TITLE IV—PROTECTION OF VULNERABLE POPULATIONS AFFECTED BY A HUMANITARIAN EMERGENCY

Sec. 401. Report regarding programs to protect vulnerable populations.
Sec. 402. Protection assistance.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AGENCY.—The term "Agency" means the United States Agency for International Development.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) CHILDREN.—The term "children" means persons under the age of 18 years.

(4) COORDINATOR.—The term "coordinator" means the individual designated by the Secretary under section 102(a).

(5) DEPARTMENT.—The term "Department" means the Department of State.

(6) EXPLOITATION OF CHILDREN.—The term "exploitation of children" includes—

(A) adult sexual activity with children;

(B) kidnapping or forcibly separating children from their families;

(C) subjecting children to forced child labor;

(D) forcing children to commit or witness acts of violence, including compulsory recruitment into armed forces or as combatants; and

(E) withholding or obstructing access of children to food, shelter, medicine, and basic human services.

(7) HIV.—The term "HIV" means the human immunodeficiency virus, the virus that causes the acquired immune deficiency syndrome (AIDS).

(8) HUMANITARIAN EMERGENCY.—The term "humanitarian emergency" means a situation in which, due to a natural or manmade disaster, civilians, including refugees and internally displaced persons, require basic humanitarian assistance.

(9) INTER-AGENCY STANDING COMMITTEE.—The term "Inter-Agency Standing Committee" means the Inter-Agency Standing Committee established in response to United Nations General Assembly Resolution 46/182 of December 19, 1991.

(10) PROTECTION.—The term "protection" means all appropriate measures to provide the physical and psychological security of, provide equal access to basic services for, and safeguard the legal and human rights of, individuals.

(11) SECRETARY.—The term "Secretary" means the Secretary of State.

(12) SEX TRAFFICKING.—The term "sex trafficking" has the meaning given the term in section 103 of Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(13) SEXUAL EXPLOITATION AND ABUSE.—The term "sexual exploitation and abuse" means causing harm to a person through—

(A) rape;

(B) sexual assault or torture;

(C) sex trafficking and trafficking in persons;

(D) demands for sex in exchange for employment, goods, services, or protection; and

(E) other forms of sexual violence.

(14) TRAFFICKING IN PERSONS.—The term "trafficking in persons" has the meaning given the term "severe forms of trafficking in persons" in section 103 of Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(15) VULNERABLE POPULATIONS.—The term "vulnerable populations" means those people, such as women, children, the disabled, and the elderly, who by virtue of their status are at a disadvantage in obtaining or accessing goods and services.

**SEC. 4. FINDINGS.**

Congress makes the following findings:

(1) The nature of war has changed dramatically in recent decades, putting civilians, especially women and children, at greater risk of death, disease, displacement, and exploitation.

(2) In the last decade alone, more than 2,000,000 children have been killed during wars, while more than 4,000,000 have survived physical mutilation, and more than 1,000,000 have been orphaned or separated from their families as a result of war.

(3) The use of rape, particularly against women and girls, is an increasingly common tactic in modern war.

(4) Civilians, particularly women and children, account for the vast majority of those adversely affected by humanitarian emergencies, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements for murder, abduction, forced military conscription, involuntary servitude, displacement, sexual abuse and slavery, mutilation, and loss of freedom.

(5) Large-scale natural disasters, such as the tsunami that struck South East Asia, South Asia, and East Africa on December 26, 2004, and claimed over 200,000 lives, are particularly threatening to children, who are often orphaned or separated from their families.

(6) Traditionally, the response to such humanitarian emergencies has focused on providing food, medical care, and shelter needs, and has placed less emphasis on the safety and security of those affected by a humanitarian emergency.

(7) Refugee women and girls face particular threats because of power inequities, including being forced to exchange sex for food and humanitarian supplies, and being at increased risk of rape and sexual exploitation and abuse due to poor security in refugee camps.

(8) In some circumstances, humanitarian agencies have failed to make individuals affected by a humanitarian emergency, especially women and children, aware of their rights to protection and assistance, to give them access to effective channels of redress, and to make humanitarian workers aware of their duty to respect these rights and provide adequate assistance.

(9) Refugee and displaced women face heightened risks of developing complications during pregnancy, suffering a miscarriage, dying, being injured during childbirth, becoming infected with HIV or another sexually transmitted infection, or suffering from posttraumatic stress disorder.

(10) Despite the heightened risks for women during a humanitarian emergency, women's needs for specialized health services have often been overlooked by donors and relief organizations, which are focused on providing food, water, and shelter.

(11) There is a substantial need for the protection of civilians, especially women and children, to be given a high priority during all humanitarian emergencies.

## TITLE I—PROGRAM AND POLICY COORDINATION

### SEC. 101. REQUIREMENT TO DEVELOP COMPREHENSIVE STRATEGY.

(a) IN GENERAL.—The Secretary shall, in consultation with the Administrator of the United States Agency for International Development, develop a comprehensive strategy for the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency. The strategy shall include—

(1) measures to address the specific protection needs of women and children;

(2) training for personnel to respond to the specific needs of such vulnerable populations; and

(3) measures taken to comply with section 301.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report setting forth the strategy described in subsection (a).

### SEC. 102. DESIGNATION OF COORDINATOR.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall designate an individual within the Department or the Agency as the coordinator to be responsible for the oversight and coordination of efforts by the Department and the Agency to provide protection for vulnerable populations, especially women and children, affected by a humanitarian emergency.

(b) CONSULTATION REQUIREMENT.—The Secretary shall consult with the Administrator of the United States Agency for International Development in making a designation under subsection (a).

(c) NOTIFICATION.—Not later than 5 days after designating an official as a coordinator under subsection (a), the Secretary shall inform the appropriate congressional committees of such designation.

## TITLE II—PREVENTION AND PREPAREDNESS

### SEC. 201. REPORTING AND MONITORING SYSTEMS.

(a) DUTIES OF COORDINATOR.—The coordinator shall—

(1) develop and maintain a database of historical information about occurrences of sexual exploitation and abuse, and other exploitation, of children during a humanitarian emergency;

(2) establish a reporting and monitoring system for United States diplomatic missions to collect and submit to the coordinator information that indicates that vulnerable populations, especially women and children, are being targeted for or are at substantial risk of violence or exploitation in humanitarian emergencies;

(3) assist United States diplomatic missions in developing responses to situations where there is a substantial risk of sexual exploitation and abuse or exploitation of children that may occur during a humanitarian emergency; and

(4) develop mechanisms for the receipt and distribution of reports to and from the public and relevant nongovernmental and international organizations of evidence of sexual exploitation and abuse and exploitation of children during a humanitarian emergency.

(b) CONSULTATION.—In carrying out duties under paragraphs (1) and (2) of subsection (a), the Coordinator shall consult with inter-governmental organizations and nongovernmental organizations.

### SEC. 202. PROTECTION TRAINING AND EXPERTISE.

(a) FELLOWSHIP PROGRAM.—The Administrator of the United States Agency for International Development is authorized to establish a fellowship program at the Agency to increase the expertise of the personnel of the Agency in developing programs and policies to carry out activities related to the protection of vulnerable populations, especially women and children, affected by a humanitarian emergency.

(b) TERM OF FELLOWSHIP.—An individual may participate in a fellowship under this section for a term of not more than 3 years.

(c) NUMBER OF FELLOWS.—The Administrator is authorized to employ up to 10 fellows at any one time under this program.

(d) QUALIFICATION.—An individual is qualified to participate in a fellowship under this section if such individual has the specific expertise required—

(1) to develop and implement policies and programs related to the protection of vulnerable populations, especially women and children; and

(2) to promote the exchange of knowledge and experience between the Agency and entities that assist the Agency in carrying out assistance programs.

## TITLE III—PROTECTION OF REFUGEES AND INTERNALLY DISPLACED PERSONS

### SEC. 301. CODES OF CONDUCT.

None of the funds made available by the Department or Agency to provide assistance under section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) or overseas assistance under section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) may be provided to a primary grantee or contractor for the purpose of providing assistance to refugees or internally displaced persons unless such grantee or contractor has adopted a code of conduct that is consistent with the 6 core principles recommended by the Inter-Agency Standing Committee. To the extent practicable, a grantee or contractor that has adopted such a code of conduct shall ensure that subgrantees and subcontractors of such grantee or contractor have adopted, or agree to act in accordance with, such a code of conduct.

### SEC. 302. HEALTH SERVICES FOR REFUGEES AND DISPLACED PERSONS.

(a) PROVISION OF HEALTH SERVICES TO VULNERABLE POPULATIONS AFFECTED BY HUMANITARIAN EMERGENCIES.—The coordinator shall seek to ensure that organizations funded by the Department and the Agency for the purpose of responding to a humanitarian emergency coordinate and implement activities needed to respond to the health needs of vulnerable populations, especially women and children, as soon as practicable and not later than 30 days after the onset of a humanitarian emergency.

(b) ACTIVITIES DEFINED.—The activities referred to in subsection (a) include activities to—

(1) prevent and manage the consequences of sexual violence;

(2) reduce transmission of HIV;

(3) provide obstetric care; and

(4) develop a plan to integrate women's health services into the primary health care services provided during a humanitarian emergency.

### SEC. 303. ECONOMIC SELF-SUFFICIENCY OF VULNERABLE POPULATIONS AFFECTED BY A HUMANITARIAN EMERGENCY.

(a) AMENDMENTS TO MICROENTERPRISE ACT OF 2000.—Section 102 of the Microenterprise for Self-Reliance Act of 2000 (22 U.S.C. 2151f note) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (B), (C), and (D) and subparagraphs (C), (D), and (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) Women displaced by armed conflict are particularly at risk, lacking access to traditional livelihoods and means for generating income."; and

(2) in paragraph (13)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

"(B) Particular efforts should be made to expand the availability of microcredit programs to internally displaced persons, who historically have not had access to such programs.".

(b) AMENDMENT TO THE FOREIGN ASSISTANCE ACT.—Section 256(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2212(b)(3)) is amended by inserting after "clients" the following: ", including women microentrepeneurs,".

### SEC. 304. INTERNATIONAL MILITARY EDUCATION AND TRAINING.

Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended—

(1) by striking "or (iv)" and inserting "(iv)"; and

(2) by striking "rights." and inserting "rights, or (v) improve the protection of civilians, especially women and children, including those who are refugees or displaced persons.".

### SEC. 305. SENSE OF CONGRESS REGARDING ACTIONS OF UNITED NATIONS PEACEKEEPERS.

It is the sense of Congress that—

(1) the Secretary-General of the United Nations should strengthen the existing ability of the United Nations Department of Peacekeeping Operations to protect civilians, especially women and children, from sexual exploitation and abuse by personnel in peace operation missions by—

(A) directing the Department of Peacekeeping Operations to identify nongovernmental organizations and local community officials to receive and communicate to senior level mission officials credible reports from civilians of sexual exploitation and abuse;

(B) ensuring that there is a mechanism in place for all credible allegations of sexual exploitation and abuse to be brought to the attention of senior level mission officials in an expedited fashion;

(C) developing missions based rapid response teams to investigate allegations of sexual exploitation and abuse;

(D) improving informational programs for United Nations personnel on their responsibility not to engage in acts of sexual exploitation and abuse and the sanctions for such actions;

(E) identifying troop contributing countries that refuse to investigate allegations of sexual exploitation and abuse by nationals serving in peacekeeping missions;

(F) permanently excluding individuals found to have engaged in sexual abuse or exploitation, as well as troop contingent commanders and civilian managerial personnel complicit in such behavior, from participating in future United Nations peacekeeping missions; and

(G) demanding that troop contributing countries—

(i) thoroughly investigate cases in which their nationals have been alleged to have engaged in sexual abuse or exploitation which on United Nations peacekeeping missions; and

(ii) punish those found guilty of such misconduct;

(2) troop contributing states should ensure that their soldiers are properly trained on United Nations guidelines regarding proper conduct towards civilians, in particular those guidelines that address gender-based violence, before participating in United Nations peace operation missions;

(3) the United Nations should suspend payment of peacekeeping funds to countries when there is credible evidence of sexual exploitation and abuse by troops of such countries that are participating in peacekeeping operations, and the governments of such countries are not investigating or punishing such conduct; and

(4) the Secretary should consider a suspension of United States military assistance to countries that do not—

(A) investigate allegations of sexual exploitation and abuse by troops participating in United Nations peacekeeping operations; or

(B) hold perpetrators of such abuse and exploitation accountable.

## TITLE IV—PROTECTION OF VULNERABLE POPULATIONS AFFECTED BY A HUMANITARIAN EMERGENCY

### SEC. 401. ACTIONS TO SUPPORT PROTECTION.

(a) PROGRAMS OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.—The United States Executive Director of the International Bank for Reconstruction and Development should take steps to ensure that disarmament, demobilization, and reintegration programs developed and funded by the International Bank for Reconstruction and Development provide benefits to former combatants that are comparable to the benefits provided by such programs to other individuals.

(b) REPORT REGARDING PROGRAMS TO ASSIST CIVILIAN POLICE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on all current programs being conducted by the Department or the Agency to assist foreign countries with the enforcement of the laws of such countries that are designed to protect women and children and improve accountability for sexual exploitation and abuse.

### SEC. 402. PROTECTION ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

### "SEC. 135. ASSISTANCE FOR THE PROTECTION OF VULNERABLE POPULATIONS DURING HUMANITARIAN EMERGENCIES.

"(a) AUTHORITY.—Notwithstanding any other provision of law, and subject to the limitations of subsection (b), the President is authorized to provide assistance for programs, projects, and activities to promote the security of, provide equal access to basic services for, and safeguard the legal and human rights of civilians, especially women and children, who are affected by a humanitarian emergency. Such assistance shall include programs—

"(1) to build the capacity of nongovernmental organizations to address the special protection needs of vulnerable populations, especially women and children, affected by a humanitarian emergency;

"(2) to support local and international nongovernmental initiatives to prevent, detect, and report exploitation of children and sexual exploitation and abuse, including through the provision of training humanitarian protection monitors for refugees and internally displaced persons;

"(3) to conduct protection and security assessments for refugees and internally displaced persons in camps or in communities for the purpose of improving the design and security of camps for refugees and internally displaced persons, with special emphasis on the security of women and children;

"(4) to provide, when practicable, education during a humanitarian emergency, including structured activities that create safe spaces for children, in particular girls;

"(5) to reintegrate and rehabilitate former combatants and survivors of a humanitarian emergency, including through education, psychosocial assistance and trauma counseling, family and community reinsertion, medical assistance, and strengthening community systems to support sustained reintegration;

"(6) to establish registries and clearinghouses to trace relatives and begin family reunification, with a specific focus on helping children find their families;

"(7) to provide interim care and placement for separated children and orphans, including monitoring and followup services;

"(8) to provide legal services for survivors of sexual exploitation, abuse, or torture, including the collection of evidence for war crimes tribunals and advocacy for legal reform; and

"(9) to provide to local law enforcement personnel working in areas affected by a humanitarian emergency training in human rights law, particularly as it relates to the protection of women and children.

"(b) AVAILABILITY OF ASSISTANCE.—Amounts made available to carry out this part and chapter 4 of part II may be made available to carry out this section.".

Mr. LUGAR. Mr. President, I rise to comment on International Women's Day and to join Senator BIDEN in introducing the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005.

Today is International Women's Day, a day on which we celebrate the progress of women and rededicate ourselves to overcoming the inequities facing women around the globe. In many places in the world, discrimination continues to deny women and girls full political and economic equality. The lives and health of women and girls continue to be endangered by violence that is directed at them simply because they are female. In recognition of these issues, I co-sponsored a Resolution with Senators BIDEN and CLINTON commemorating International Women's Day and reaffirming the Senate's commitment to improving the status of women worldwide.

In addition, I am co-sponsoring with Senator BIDEN the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005, which the Committee on Foreign Relations supported as an amendment to our Foreign Affairs Authorization Act for fiscal years 2006 and 2007. During humanitarian emergencies, women and children become more vulnerable to a range of abuses including sexual exploitation, trafficking and gender-based violence. Our bill seeks to ensure that U.S. foreign assistance programs are a force for protecting women, children, and other vulnerable populations in the wake of military conflict and natural disasters.

The recent tsunami tragedy in the Indian Ocean region has highlighted this important issue. Tens of thousands of children have lost family members and friends and are coping with unspeakable trauma. Nearly 35,000 children have been orphaned, and many more have been separated from their families. These children face the imminent threats of hunger, disease, and diarrhea. Beyond these dangers, children are vulnerable to being trafficked for sexual exploitation, forced labor, or conscription. Without their families, the children orphaned by the tsunami lack protection from predators who would profit from their tragedy.

During many of the humanitarian crises that we have witnessed over the last decade, including Rwanda, Bosnia, and Sudan, we have learned that women and children are uniquely vulnerable to sexual violence and exploitation. Over the course of the past year, the world has heard accounts of rape at the camps in Darfur in Western Sudan. Our bill aims to improve the ability of the United States to protect women and children, like those in the tsunami-affected region and in Darfur, from the additional dangers they face during a humanitarian emergency. Our bill calls for a coordinator for protection issues and a strategy to improve our ability to protect and respond to the needs of women and children in such crises. Our bill authorizes funding for the specific health care needs of women during an emergency, the establishment of registries and clearinghouses to trace relatives and help children find their families, and legal services for survivors of sexual exploitation and abuse. In addition, the bill requires that any organization receiving U.S. funds to assist in a humanitarian emergency have in place a code of conduct forbidding its employees from sexually abusing the victims of the crisis. Finally, our bill urges the United Nations to strengthen its policies concerning sexual abuse and exploitation by UN personnel involved in UN peacekeeping operations. I am hopeful that Senators will join me in backing this legislation.

---

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 560. A bill to enhance disclosure of automobile safety information; to the Committee on Commerce, Science, and Transportation.

---

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 561. A bill to improve child safety in motor vehicles; to the Committee on Commerce, Science, and Transportation.

---

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 562. A bill to amend title 23, United States Code, to improve the highway safety improvement program and provide for a proportional obligation of amounts made available for the highway safety improvement program; to the Committee on Environment and Public Works.

---

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 563. A bill to improve driver licensing and education, and for other purposes; to the Committee on Commerce, Science, and Transportation.

---

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 564. A bill to improve traffic safety by discouraging the use of traffic signal preemption transmitters; to the Committee on the Judiciary.

---

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 565. A bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, the number one killer of those between the ages of 4 and 34 in this country today is auto fatalities. If you look at those between the ages of 16 and 25, the figures are even more exaggerated. We all know that in this country over 42,000 Americans lose their lives every year in auto accidents. That figure stays fairly constant. The last year we have figures for is 2003, and in that year, 42,643 of our fellow citizens lost their lives.

In fact, in the next 12 minutes, to be precise, at least one person will be killed in an automobile accident in this country, while nearly six people will be injured in just the next 60 seconds.

This is a tragedy that we as a society are much too willing to tolerate. If a foreign enemy were doing this to us, we would not tolerate it. We would be up in arms. Someone said it is the equivalent of a 747 airplane going down every two days in this country. If that were happening, of course, it would be on CNN; we would be demanding an explanation. Yet, these auto fatalities that occur, hour-by-hour, day-by-day, just go on, and for some reason, we have become immune to it, hardened to it. They just continue.

I come to the Floor today to discuss five bills—five bills that my staff and I have been working on for a few years now—five bills that I will be introducing, but hope will be incorporated in the transportation bill we will be considering in the next several weeks. These bills are commonsense, practical ways to save lives. Each bill is built on solid evidence of what will, in fact, make a difference. These are bills that will, in fact, save lives.

Last year, the Senate passed each of these bills as a part of the SAFE-TEA transportation bill. I want to thank Senators INHOFE, JEFFORDS, BOND, REID, and MCCAIN for their assistance in making that happen. Our former colleague Senator HOLLINGS was also instrumental in clearing these bills. So, what I'm talking about today is a set of bills that has already enjoyed the support of the Senate, and I believe we ought to pass each and every one of them again this year as a part of the transportation reauthorization. In particular, I look forward to working with Senators STEVENS, LOTT, and INOUYE on the Commerce Committee portion of my transportation safety package.

I am thankful for the support and assistance of Senator ROCKEFELLER as the lead co-sponsor on the first several bills—the vehicle safety bills—as well as Senator LAUTENBERG'S leadership as my chief co-sponsor on the drunk driving prevention campaign bill. Both Senators are great leaders on highway safety, and I'm pleased to be working with them this year in an effort to get these bills signed into law.

The first bill we call "Stars on Cars." While its name is cute, its focus is quite serious. When you go to buy a new car, there is a large label in the window detailing the price, features, gas mileage, and other information about the vehicle. This label is referred to in the auto industry as the "Monroney Label" after a former member of this body, Senator MONRONEY from Oklahoma. We all know what the sticker looks like.

But, what we may not know is that most of the content on that sticker is mandated by the Federal Government. The mileage per gallon has been on there for a number of years. The Federal government says that your city mileage has to be on there and your highway mileage has to be on there. It has to tell you whether the vehicle has air-conditioning. It has to tell you whether it has a stereo. It has to tell you a whole bunch of other stuff.

One piece of information is not on there—and that is the vehicle's safety rating.

The funny thing is that in the vast majority of cases, you have already paid to have the Federal Government—specifically the National Highway Traffic Safety Administration (NHTSA)—spend millions of dollars to test that very car and others like it. In fact, the National Highway Traffic Safety Administration has put that information up on the Internet. Nonetheless, the basic fact is that when you go in to buy that car, that information is not available to you. It is not available to the American consumer in the one place where it would make a difference—where you buy the car, at the dealership.

Doing this right wouldn't cost the taxpayers another dime. The car companies are already printing the labels. Under this legislation, we would add a new section to the label titled "Government Safety Information." The new section would clearly lay out information from each of the government crash tests—frontal crash impact, side impact, and rollover resistance. For vehicles that haven't been tested yet, the label will say so. We would show the ratings pure and simple, as graphical star ratings on the label, just like many automakers do in their commercials.

The bill requires that this be done in a manner that can be clearly understood by your average car buyer, with short explanations as to what each rating means.

What impact would this have? I happen to believe the consumer is better off with more information than less information on whatever we are talking about. The consumer ought to know what the Government does. The consumer ought to know that type of information. The consumer would make better choices. Consumers care about safety. They will make better choices, and in all likelihood, they are going to choose safer vehicles and more lives will, in fact, be saved.

It just makes good common sense to do this. We have worked hard to fashion a bill that gets this life-saving information to consumers in a way that is sensitive to the concerns of automakers, as well as the NHTSA. We've reached out to a broad coalition to craft our bill for 2005, and I look forward to working with interested parties to continue to improve and shape the language contained in it. In the end, this bill is my number one safety priority for passage into law this year.

The second bill we call "Safe Kids and Cars." Cars, unfortunately, are involved in child deaths at unbelievable rates. According to NHTSA data, automobile accidents happen to be the leading cause of death in the United States for children age 4 and up, and are right among the top causes for those ages 0 to 3.

More than cancer, more than homicide, more than fire, more than drowning, more than anything else, auto accidents are the source of child fatalities. We have a problem. And, while I congratulate auto manufacturers, safety groups, and NHTSA for working hard on this issue, there's more work to be done. Anything we can do to make a car safer for our kids, we should be doing it. Complacency is not an option.

The focus of this bill is to improve data collection and vehicle testing with regard to some specific dangers that small children face. NHTSA has done an excellent job in terms of working from solid data, and this is one area where unfortunately we just don't have enough data to move forward. Likewise, we need the tools to perform effective vehicle tests once we have those numbers, and my bill contains measures to see to it that we develop these tools.

In terms of testing, child-size dummies are an area where NHTSA needs to review its testing and look for areas where increased use of these dummies would lead to increased safety, or a better understanding of how crash forces impact small children. My bill directs NHTSA to conduct a full review of test procedures and incorporate these child dummies when and where suitable. We also ask the agency to give a status update on the extremely important Hybrid-III 10-year-old child test dummy.

The rest of the bill focuses on an emerging danger for small children often referred to as "non-traffic, non-crash" accident situations. These are incidents in which interaction between an automobile and a child leads to injury or death when the vehicle is not on the road, or where no actual crash has occurred. Instead, these are incidents that happen in parked cars, driveways, parking lots, and other very common situations. Unfortunately, these common situations can be deadly under the wrong circumstances.

A prime example of "non-traffic, non-crash" dangers to small children has to do with dangerous power window switches. In many cases, children are left alone in a vehicle and manage to inadvertently activate a power window switch—a situation which can lead to the window moving up and crushing a limb or other part of the child's body. Some children are killed almost instantaneously by the force of the rising window. These incidents are not terribly frequent, but they are preventable at almost no cost to consumers and manufacturers.

Power windows are an area where NHTSA has taken action since I last introduced the child safety bill, and I want to pause to thank Dr. Jeffrey Runge, NHTSA Administrator; Janette Fennel, President of the safety advocacy group Kids and Cars; and several other groups for their work to make the new power window safety rule possible. The new rule, which I helped announce in Columbus late last year, will lead to the elimination of unsafe power window switches—switches that can be accidentally tripped by children with ease—in every car and light truck sold in the United States. It is clearly a step in the right direction, and it will save lives.

Unsafe power window switches show one kind of "non-traffic, non-crash" danger children face today. Were it not for a one-time study of death certificates by NHTSA, we would have no government data whatsoever on how widespread this problem happens to be. We would not know much about other types of "non-traffic, non-crash" dangers, such as backover incidents and heat exhaustion in closed vehicles. These are areas where there is a clear need for better data collection and testing. My bill tackles each head-on.

The "Safe Kids and Cars" bill directs NHTSA to continue pushing forward on "non-traffic, non-crash" incidents by instituting, for the first time, regular collection of data on these kinds of accidents. With time and some solid data, we may be able to tackle other kinds of "non-traffic, non-crash" problems in the future. Understanding the problem is the first step.

A third bill has to do with dangerous road intersections. Every State has them. Most States, fortunately, rank these roads. They keep a list of the bad ones. But, amazingly, there are many States that keep this information secret and don't tell the public.

Again, citizens have a right to know this information. What would you do with the information? As a parent, I might tell my 16-year-old not to go that way to the movie. At least I have the right to have that information and would be able to say go another way. It might take another 10 minutes, but go that way. Don't go by that intersection. Don't go on that curvy road. State Departments of Transportation already have that information.

Each State should provide that information to the public. They already know it, and they should provide it. Policymakers need to know that to make decisions about how to spend money in that state and what roads to fix.

I would like to briefly talk about a woman by the name of Sandy Johnson and her mother Jacqueline. On October 5, 2002, Sandy and Jacqueline were killed in a car crash at a dangerous intersection near Columbus.

What they did not know as they drove into that intersection—and what countless other area residents who used the roads that cross through it did not know at the time—was that this particular intersection was known at that time by the Ohio Department of Transportation to be a very dangerous area. In fact, ODOT had indeed known that information for quite some time. Perhaps if Sandy Johnson had known that she would have taken a different route that day. We will never know.

Following the tragic death of his wife and his mother-in-law, Dean Johnson initiated a campaign to tackle the issue of dangerous roads and dangerous intersections, not just in Ohio, but across the country. He has tried with varying results from state to state to get information on dangerous roads and intersection locations out to the public so tragedies like the one involving his wife could be prevented.

As I have in the past, I would like to thank Dean Johnson for his dedication to this very important public safety issue and for the progress he has made in my home State of Ohio and elsewhere in terms of getting critical life-saving information out to citizens through the Sandy Johnson Foundation. His assistance has been an asset in crafting this legislation, and I look forward to working with him in the future.

My bill requires that safety information be disclosed to the public as an eligibility requirement for a new Federal safety funding program—the Highway Safety Improvement Program. States seeking additional Federal dollars for safety construction projects will have to take the quick and easy step of identifying their danger spots, ranking them according to severity, and then disclosing them to the public. I believe this is the least we can ask from States in exchange for large chunks of federal aid.

In some cases, States would like to release the data but fear the legal ramifications of doing so. My bill contains a fix for this that provides the same kind of protection States already enjoy for other types of highway safety data. In other words, no legal harm could come to a State for releasing lists of dangerous locations under this bill.

Further, States need to find ways to get safety experts, law enforcement, engineers, transportation officials, and the general public working together to identify and correct dangerous locations. I've borrowed language in my bill from last year's Senate-passed SAFE-TEA bill—excellent language drafted and passed by Senator INHOFE and the Environment and Public Works Committee that creates incentives for States to foster this kind of collaboration. Collaboration between these entities is essential to finding quick, effective solutions to fatalities arising from dangerous intersections, as well as long stretches of roadway that account for high crash rates. I am including the Committee's language on Highway Safety Improvement Programs in my bill because I strongly believe that it is a step in the right direction.

The fourth bill I am introducing has to do with driver education. Teen driving is an area where fatality rates are extremely high and unfortunately where programs across the country are not getting the job done.

Above average crash and fatality rates may be inevitable for teenage drivers, but they can certainly be reduced substantially from present-day levels. The Federal Government cannot run driver education. It is clearly a State responsibility. But it can play a small, productive role.

For decades, our attempt to address this problem—standard classroom-based driver education—has been ineffective or worse, inspiring false confidence in students and parents alike that graduates are ready to drive safely. Fortunately, we've started to move in a new direction as a nation, with 41 States adding innovative graduated driver licensing (GDL) laws to their ongoing driver education efforts. These new laws have been proven to be effective in reducing accident and fatality rates. While my bill contains language to raise the bar on GDL laws and make them more effective, its real emphasis is on finding a better way with respect to driver education.

Revitalized driver education needs to be data-driven and cognizant of the limitations associated with classroom-based instruction. It must utilize new ways of inculcating young drivers with the knowledge and skills they need to avoid unnecessary high-risk situations, particularly in the first six months behind the wheel. Integration of driver education with the graduated driver licensing process to maximize the safety value of both programs also must be addressed.

Past failures in our Nation's history with regard to driver education are not a reason to abandon these programs. They are a reason to go back to the drawing board to re-invent more effective means of promoting safe driving.

A recent study by the National Institutes for Health sheds some light on the problem. The study suggests that due to their unique brain development, risk tolerance, and other tendencies—teen drivers are naturally inclined toward increased danger on the roads. Clearly, some methods used in driver education today aren't getting the message through, and in some areas, the message may never get through independent of who does the teaching.

NHTSA and its research partners must find ways to tailor the content and delivery of driver education so that it recognizes these realities and focuses on areas where novice drivers can learn the skills necessary to be safer drivers. A NHTSA pilot program is currently under way with several states to test out updated "best practices" driver education models—not mandates, not national standards, but just best practices.

My bill responds to the call for national leadership in driver education and licensing made at a recent National Transportation Safety Board forum by creating a Driver Education and Licensing Improvement Program within NHTSA. The new Improvement Program will provide NHTSA with the resources and time it needs to run the pilot program and then evaluate the results to see what works and what doesn't.

Once this pilot program has run its course, my bill provides a modest amount of grant funding to supply states with the resources and technical expertise necessary to implement the "best practices" model in a way that fits their specific needs and circumstances. The grants will be competitively awarded, and also will be available for fulfillment of several other state needs with regard to novice driver education and licensing. This grant program is 100 percent voluntary, and my bill has been crafted carefully to ensure that the prerogatives of States are protected in every manner.

The areas ripe for improvement are numerous: instructor certification, curriculum improvement, outreach to increase parental involvement, enforcement of graduated driver licensing laws, and follow-up testing to ensure program effectiveness. These are just a few examples. By creating a National Driver Education and Licensing Improvement Program within NHTSA, and tasking that program to come up with best practices, we can help States interested in improving their programs do so without having to expend the time and resources necessary to "re-invent the wheel" on their own.

I have worked for over a year with NHTSA, the American Driver Training and Safety Education Association, the Governors' Highway Safety Association, the American Motor Vehicle Administrators' Association, AAA, the Driving School Association of America, Advocates for Auto and Highway Safety, and several other groups to come up with the bill that will be introduced today. Its contents are a compromise that reflects significant input from each of these fine organizations, and I believe we are now at a point where the road ahead toward safer, more effective driver education and licensing programs is clear. The goals set by this bill are clear, and the means to achieve them are provided for in full. The time has come to take serious action on driver education and licensing in this country.

Lastly, I'd like to introduce the Safe Intersections Act of 2005. This bill would criminalize the unauthorized sale or use of mobile infrared transmitters, also known as "MIRTs."

A MIRT is a remote control for changing traffic signals. These devices have been used for years by ambulances, police cars, and fire trucks, and maintenance crews, allowing them to reach emergencies faster. As an ambulance approaches an intersection where the light is red, the driver engages the transmitter. That transmitter then sends a signal to a receiver on the traffic light, which changes to green within a few seconds. This is a very useful tool when properly used in emergency situations.

In a 2002 survey, the U.S. Department of Transportation found that in the top 78 metropolitan areas, there are 24,683 traffic lights equipped with the sensors. In Ohio, there is a joint pilot project underway by the Washington Township Fire Department and the Dublin Police Department to install these devices. Other areas in Ohio where they are in use include Mentor, Twinsburg, Willoughby, and Westerville. Here in the District of Columbia, emergency services across the country, law enforcement officers, fire departments, and paramedics utilize this technology to make communities safer.

However, recently it has come to light that this technology may be sold to unauthorized individuals—individuals who want to use this technology to bypass red lights during their commute or during their everyday driving. MIRT was never intended for this use.

MIRT technology—in the hands of unauthorized users—could result in traffic problems, like gridlock, or even worse, accidents in which people are injured or killed.

Let me quote from an ad that was posted on the Internet auction site, eBay:

"Tired of sitting at endless red lights? Frustrated by lights that turn from green to red too quickly, trapping you in traffic? The MIRT light changer used by police and other emergency vehicles Change the Traffic Signal Red to Green [for] only $499.00. Traffic Signal Changing Devices—it's every motorist's fantasy to be able to make a red traffic light turn green without so much as easing off the accelerator. The very technology that has for years allowed fire trucks, ambulances, and police cars to get to emergencies faster—a remote control that changes traffic signals—is now much cheaper and potentially accessible."

This ad demonstrates the extent to which the potential widespread sale and possession of MIRT technology by drivers would be a hazard to public safety and must be stopped before it starts. The Congressional Fire Service Institute, Ohio Fire Alliance, and several other organizations have come out in support of this measure. I look forward to working with my colleagues to ensure that it becomes law.

The sixth bill I am introducing today is a bi-partisan bill aimed at reducing the number of drinking and driving deaths and injuries on our roads. Tragically, our Nation has experienced increases in alcohol-related traffic fatalities three of the past four years. In 2003—the last year for which full statistics are available—17,013 Americans died in alcohol-related incidents. This total represents 40 percent of the 42,643 people killed in traffic incidents.

The bill I am introducing today along with Senator LAUTENBERG—the Traffic Safety Law Enforcement Campaign Act—would require states to conduct a combined media/law enforcement campaign aimed at reducing drunk driving fatalities. Specifically, the law enforcement portion consists of sobriety checkpoints in the District of Columbia and in the 39 States that allow them and saturation patrols in those states that do not. The Centers for Disease Control estimate that the sobriety checkpoints proposed in the underlying bill may reduce alcohol related crashes by as much as 20 percent. Law enforcement officials from across the United States underscored this point in a recent conference sponsored by MADD, making high visibility enforcement campaigns a top priority. More than 75 percent of the public has indicated in NHTSA polls their support for sobriety checkpoints. In fact, NHTSA has concluded that 62 percent of Americans want sobriety checkpoints to be used more often.

These six bills will go a long way. They are common sense. They will make a difference. This is something I have been interested in for many years, going back to my time in the Ohio Legislature 20 years ago when I introduced the drunk driving bill, and we were able to pass a tough drunk driving bill in the Ohio Legislature. I worked for .08. It was very controversial in the Senate, but we were able to pass .08. Senator LAUTENBURG and I worked on that.

Anytime you lose 42,643 Americans every year, highway safety is something we all have to be concerned about.

I know the SAFE-TEA highway bill is not on the Floor yet, but I have seen it, and of course was pleased to support it on the Floor last year. As passed by the Senate in 2004, the bill goes farther than any highway bill regard to safety. This year's bill from the Environment and Public Works Committee will enable the same great progress on highway safety. I congratulate the authors.

In the weeks ahead, I look forward to working with the respective committees and outside organizations on the bills I have described above as amendments to the 2005 SAFE-TEA bill. But, I want to make it very clear that these bills and amendments are not in any way critical of the underlying bill. In fact, I hope they will be complementary and simply add to a good product that is already a good product and will help to improve it.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

## S. 560

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Stars on Cars Act of 2005".

### SEC. 2. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) in subsection (e), by striking "and" at the end;

(2) in subsection (f)—

(A) in paragraph (3), by inserting "and" after the semicolon; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(g) if 1 or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

"(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

"(4) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2006, the Secretary of Transportation shall issue regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a).

(c) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2006, if the regulations under subsection (b) are prescribed not later than August 31, 2005; or

(2) September 1, 2007, if the regulations under subsection (b) are prescribed after August 31, 2005.

### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration—

(1) $15,000,000 for fiscal year 2006;

(2) $8,134,065 for fiscal year 2007;

(3) $8,418,760 for fiscal year 2008;

(4) $8,713,410 for fiscal year 2009; and

(5) $9,018,385 for fiscal year 2010.

## S. 561

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Kids and Cars Act of 2005".

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) REVIEW PROCESS REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a review process to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the review process under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) PUBLIC INPUT.—The Secretary of Transportation shall solicit and consider input from the public regarding the review process under paragraph (1).

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the

Secretary shall publish a report regarding the implementation of this section. The report shall include information regarding the current status of the Hybrid-III 10 year old child test dummy.

(b) CHILD SAFETY INFORMATION PROGRAMS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall supplement ongoing consumer information programs relating to child safety with information regarding hazards to children in nontraffic, noncrash accident situations.

(2) ACTIVITIES TO SUPPLEMENT INFORMATION.—In supplementing such programs, the Secretary shall—

(A) utilize information collected in the database maintained under subsection (e) regarding nontraffic, noncrash injuries, as well as other relevant data from private organizations, to establish priorities for the program;

(B) address ways in which parents can mitigate dangers to small children arising from preventable causes, including backover incidents, hyperthermia in closed vehicles, and accidental activation of power windows;

(C) partner with national child safety research organizations and other interested organizations with respect to the delivery of program information; and

(D) make information related to child safety available to the public via the Internet and other means.

(c) REPORT ON VEHICLE VISIBILITY.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to Congress on the extent to which driver visibility of the area immediately surrounding [light passenger vehicles] and obstructions to such visibility affect pedestrian safety, including the safety of infants and small children, in nontraffic, noncrash situations.

(d) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to prevent deaths and injuries to small children resulting from vehicle blind spots and backover incidents.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall maintain a database of, and regularly collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) REGULATIONS.—The Secretary shall prescribe regulations regarding how to structure and compile the database. The Secretary shall solicit and consider input from the public regarding data collection procedures and the structure of the database maintained under paragraph (1).

(3) DEADLINES.—The Secretary shall—

(A) complete the prescription of regulations and the consideration of public input under paragraph (2) not later than September 1, 2006; and

(B) commence the collection of data under paragraph (1) not later than January 1, 2007.

(4) AVAILABILITY.—The Secretary shall make the database maintained under paragraph (1) available to the public.

S. 562

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Safe Streets and Highways Act of 2005".

**SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

**"§ 148. Highway safety Improvement program**

"(a) DEFINITIONS.—In this section:

"(1) DRIVER CONDITIONING.—The term 'driver conditioning' means the process by which drivers learn to respond to specific road conditions and traffic patterns that generally remain consistent over time, making the driver susceptible to error when confronted with minor changes in those road conditions or traffic patterns.

"(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

"(II) construction of a railway-highway crossing safety feature; or

"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

"(vii) construction of a traffic calming feature;

"(viii) elimination of a roadside obstacle;

"(ix) improvement of highway signage and pavement markings, including improvements designed to implement minimum retroflectivity standards in compliance with section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1564), and signage designed to identify high-crash locations or address driver conditioning hazards;

"(x) installation of a priority control system for emergency vehicles at signalized intersections;

"(xi) installation of a traffic control or other warning device at a location with high accident potential;

"(xii) safety-conscious planning;

"(xiii) improvement in the collection and analysis of crash data;

"(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

"(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters; or

"(ii) enforce highway safety laws.

"(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits to the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 25 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2005 through 2010, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.".

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program".

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before "At least" the following: "For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.".

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be—

"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

"(2) apportioned in accordance with section 104(b)(5).".

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

S. 563

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Driver Licensing and Education Improvement Act of 2005".

**SEC. 2. DRIVER LICENSING AND EDUCATION.**

(a) NATIONAL DRIVER LICENSING AND EDUCATION IMPROVEMENT PROGRAM.—Section 105 of title 49, United States Code, is amended by adding at the end the following:

"(f)(1) There is established, within the National Highway Traffic Safety Administration, the National Driver Licensing and Education Improvement Program.

"(2) The National Driver Licensing and Education Improvement Program shall—

"(A) provide States with services for coordinating the motor vehicle driver education and licensing programs of the States;

"(B) develop, and make available to the States, a cooperatively developed, research-based model for novice driver motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing;

"(C) carry out such research and undertake such other activities that the Administrator determines appropriate to develop and continually improve the model described in subparagraph (B);

"(D) provide States with voluntary technical assistance for the implementation and deployment of the model described in subparagraph (B) through pilot programs and other means;

"(E) develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(b)(1)(D) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States;

"(F) develop programs identifying best practices for the certification of driver education instructors;

"(G) provide States with financial assistance under section 412 of title 23 for—

"(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

"(ii) the establishment or improved administration of multistage graduated licensing systems; and

"(iii) the support of other improvements in motor vehicle driver education and licensing programs;

"(H) evaluate the effectiveness of the comprehensive model recommended under subparagraph (B); and

"(I) perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

"(3) Not later than 3 years after the date of enactment of the Driver Licensing and Education Improvement Act of 2005, the Administrator shall submit to Congress a report on the progress made by the National Driver Licensing and Education with respect to the functions described in paragraph (2).".

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**"§ 412. Driver education and licensing**

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall establish a program to provide grants to States to—

"(A) improve motor vehicle driver education programs; and

"(B) establish and improve the administration of graduated licensing systems, including systems described in section 410(b)(1)(D).

"(2) PROGRAM ADMINISTRATION.—The Secretary shall administer the program established under this section through the National Driver Licensing and Education Improvement Program.

"(b) RULEMAKING.—

"(1) ELIGIBILITY REQUIREMENTS.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations, which describe the eligibility requirements, application and approval procedures and standards, and authorized uses of grant funds awarded under this section.

"(2) USE OF FUNDS.—The regulations issued under this subsection shall authorize the use of grant funds—

"(A) for quality assurance testing, including followup testing to monitor the effectiveness of—

"(i) driver licensing and education programs;

"(ii) instructor certification testing; and

"(iii) other statistical research designed to evaluate the performance of driver education and licensing programs;

"(B) to improve motor vehicle driver education curricula;

"(C) to train instructors for motor vehicle driver education programs;

"(D) to test and evaluate motor vehicle driver performance;

"(E) for public education and outreach regarding motor vehicle driver education and licensing; and

"(F) to improve State graduated licensing programs and carry out related enforcement activities.

"(3) CONSULTATION REQUIREMENT.—In prescribing regulations under this subsection, the Secretary shall consult with—

"(A) the heads of such Federal departments and agencies as the Secretary considers appropriate on the basis of relevant interests or expertise;

"(B) appropriate officials of the governments of States and political subdivisions of States; and

"(C) other experts and organizations recognized for expertise, with respect to novice drivers, in—

"(i) graduated driver licensing;

"(ii) publicly administered driver education; or

"(iii) privately administered driver education.

"(c) MATCHING REQUIREMENT.—The amount of grant funds awarded for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.

"(d) PROHIBITED ACTIVITIES.—Grant funds provided to States under this section may not be used to finance—

"(1) the day-to-day operational expenses, including employee salaries and facilities costs, of publicly or privately administered driver education programs; or

"(2) the activities described in subparagraphs (A) through (C) of subsection (b)(2) in fiscal year 2006 or 2007.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"412. Driver education and licensing.".

(c) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 2006 through 2010 to carry out section 412 of title 23, United States Code, as added by subsection (b).

(2) AVAILABILITY.—Funds appropriated pursuant to paragraph (1) for fiscal years 2006 and 2007 may be used for the National Driver Licensing and Education Improvement Program established under section 105(f) of title 49, United States Code.

(e) GRANTS FOR SUPPORT OF ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—

(1) REVISED ELIGIBILITY REQUIREMENTS.—Section 410(b)(1)(D) of title 23, United States Code, is amended to read as follows:

"(D) GRADUATED LICENSING SYSTEM.—A multiple-stage graduated licensing system for young drivers that—

"(i) authorizes the issuance of an initial license or learner's permit to a driver on or after the driver's 16th birthday;

"(ii) makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater;

"(iii) provides for a learning stage of at least 6 months and an intermediate stage of at least 6 months; and

"(iv) applies the following restrictions and features to the stages described in clause (iii) and to such other stage or stages as may be provided under State law:

"(I) A restriction that not more than 2 passengers under age 18 may occupy a vehicle while it is being operated by a young driver.

"(II) Nighttime driving restrictions applicable, at a minimum, during the hours between 10:00 p.m. and 5:00 a.m.

"(III) Special penalties (including delays in progression through the stages of the graduated licensing system) for violations of restrictions under the system and violations of other State laws relating to operation of motor vehicles.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

### S. 564

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Safe Intersections Act of 2005".

**SEC. 2. SAFE INTERSECTIONS.**

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

**"§ 39. Traffic signal preemption transmitters**

"(a) OFFENSES.—

"(1) SALE.—A person who knowingly sells a traffic signal preemption transmitter in or affecting interstate or foreign commerce to a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, shall, notwithstanding section 3571(b) of title 18, United States Code, be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(2) USE.—A person who makes unauthorized use of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any mechanism that can change or alter a traffic signal's phase time or sequence.

"(2) UNAUTHORIZED USE.—The term 'unauthorized use' means use of a traffic signal preemption transmitter by a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity. The term 'unauthorized use' does not apply to use of a traffic signal preemption transmitter for classroom or instructional purposes.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

### S. 565

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Traffic Safety Law Enforcement Campaign Act".

**SEC. 2. TRAFFIC SAFETY LAW ENFORCEMENT CAMPAIGNS.**

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish a program to conduct at least 3 high-visibility traffic safety law enforcement campaigns each year.

(b) FOCUS.—The campaigns shall focus on—

(1) reducing alcohol-impaired driving;

(2) increasing seat belt use; and

(3) a combination of reducing alcohol-impaired driving and increasing seat belt use.

(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section for the development, production, and use of broadcast and print media advertising in carry out this section.

(d) EVALUATION AND REPORT.—The Administrator shall evaluate the effectiveness of the campaigns at the end of each year and, not later than 90 days after the end of each year, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that sets forth the findings, conclusions, and recommendations of the Administrator with respect to the program.

**SEC. 3. FUNDING.**

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than from the Mass Transit Account) to the Administrator to carry out this Act $150,000,000 for each of fiscal years 2006 through 2011, of which—

(1) $48,000,000 shall be used for each fiscal year for nationwide advertising by the Administration;

(2) $48,000,000 shall be made available each fiscal year by the Administrator to States for advertising;

(3) $48,000,000 shall be made available each fiscal year by the Administrator to States for traffic safety law enforcement; and

(4) $6,000,000 shall be available to the Administrator for evaluation of the program under section 2.

(b) PROGRAM STANDARDS.—Within 120 days after the date of enactment of this Act, the Administrator shall promulgate program standards and criteria for the use of funds under subsection (a)(2) and (3) that will ensure the effective and appropriate use of such funds in accordance with this Act, taking into account State efforts, needs, administrative resources, and priorities.

(c) APPORTIONMENT.—The Administrator shall apportion funds under subsection (a)(2) and (3) among the States on the same basis as funds are apportioned among the States under section 402(c) of title 23, United States Code.

---

By Mr. ROCKEFELLER (for himself, Mr. KENNEDY, Mr. CORZINE, and Mr. LAUTENBERG):

S. 566. A bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, millions of seniors and disabled Americans are facing a major disruption in their health care when the Medicare prescription drug law goes into effect on January 1, 2006. On that singular date, 6.4 million dual eligibles—individuals who are eligible for both Medicare and full Medicaid benefits—will lose their Medicaid prescription drug coverage regardless of whether they have obtained coverage through a Medicare Part D prescription drug plan and regardless of whether their Part D plan's coverage is as broad as their State's Medicaid coverage. Such a short transition period leaves no time to address the inevitable problems that will occur with a transition of this magnitude.

Dual eligibles should have as smooth a transition as possible to Medicare prescription drug coverage. Unfortunately, a smooth transition is not what will happen under current law. The Medicare prescription drug law only requires a six-week transition period for dual eligibles, from November 15, 2005, to January 1, 2006. This is the largest transition of individuals from one insurance program to another, public or private, and it is unrealistic to believe that such a huge transition can take place in the span of six weeks.

Moving a large number of seniors and people with disabilities to an entirely new system for prescription drug coverage is a major undertaking. Dual eligibles will require adequate outreach, education, and time to adjust to a change of this magnitude. The stakes are extremely high for this population. Over half are limited in activities of daily living. Many live alone or in nursing homes. And, in comparison to other Medicare beneficiaries, dual eligibles are much more likely to have heart disease, pulmonary disease, diabetes, or Alzheimer's. Therefore, it is absolutely critical that we get this transition right the first time.

The Centers for Medicare and Medicaid Services (CMS) has taken several steps to improve the transition of the dual eligibles from Medicaid to Medicare. However, I fear these steps do not go far enough. Automatic enrollment does not guarantee that beneficiaries will know that they have been enrolled in a new Medicare drug plan or know how to access necessary prescription drugs using that drug plan. Once beneficiaries are enrolled, they are likely to experience ongoing confusion about covered drugs, authorized pharmacies, and the Medicare appeals process.

In its June 2004 report to Congress, the Medicare Payment Advisory Commission (MedPAC) suggested that even large, private employers need at least six months to transition their employees' drug coverage from one pharmacy benefit manager to another. The two large employers that MedPAC studied had 25,000 and 75,000 employees, respectively. The states and the federal government are taking on a far more complex task with 6.4 million dual eligibles, and should have at least six months to transition the duals to Medicare in order prevent major disruptions in access to prescription drugs.

I am pleased to be joined today by my distinguished colleagues in the Senate, Senators KENNEDY, CORZINE, and LAUTENBERG, as well my distinguished co-sponsor in the House of Representatives, Congressman TOM ALLEN of Maine, in introducing the Medicare Dual Eligible Prescription Drug Coverage Act of 2005. This important legislation would extend the dual eligible transition period to six months in order to achieve the best possible health outcomes for some of our Nation's most vulnerable citizens. An extended timeframe would give states enough time to carry out comprehensive education and outreach initiatives. It would also give seniors and individuals with disabilities time to explore their options and gradually transition to Medicare Part D.

Specifically, the Medicare Dual Eligible Prescription Drug Coverage Act of 2005 would extend the availability of Medicaid prescription drug coverage for six months while still allowing the Part D benefit to be implemented as scheduled. Since states would be temporarily supplementing Medicare Part D, they would be fully relieved of any "clawback" responsibilities during the six-month transition. This legislation would also provide dedicated resources for education and outreach to the dual eligibles, including additional resources for State Health Insurance Assistance Programs (SHIPs). Finally, the Medicare Dual Eligible Prescription Drug Coverage Act would require CMS to share drug utilization data with state Medicaid programs so that states can appropriately coordinate non-prescription drug coverage for the duals.

This is an issue of fundamental fairness. The Medicare law provides Medicare beneficiaries who are not dually eligible for Medicaid six months to transition to Medicare prescription drug coverage. Dual eligibles should not be treated any differently. Medicare's universality is something I fought hard for during the Medicare debate. I strongly believe low-income seniors and disabled individuals should not be excluded from Medicare benefits because of their income levels. The Medicare law should not merely support the principle of universality in statute. It must also support universality in fact, and that means Medicare beneficiaries who are dually eligible for Medicaid must also be given enough time to make a smooth transition to Medicare.

I look forward to working with my colleagues to pass this important legislation. I ask that the full text of this bill, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 566

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medicare Dual Eligible Prescription Drug Coverage Act of 2005".

**SEC. 2. FINDINGS.**

The Senate finds the following:

(1) Individuals who are dually eligible for benefits under the medicare program and full benefits under the medicaid program—

(A) are among the most vulnerable populations in our society; and

(B) require adequate outreach, education, and timing in order to adjust to changes in our health care delivery system.

(2) The transition of 6,400,000 dual eligibles from prescription drug coverage under the medicaid program to prescription drug coverage under part D of the medicare program is the largest transition ever of individuals from one insurance program to another.

(3) In its June 2004 report to Congress, the Medicare Payment Advisory Commission (MedPAC) suggested that large, private employers with 75,000 employees or less need at least 6 months to transition their employees' drug coverage from one pharmacy benefit management company to another such company. The States and the Federal Government are taking on a far more complex task with 6,400,000 dual eligibles having to make the transition described in paragraph (2).

(4) Timely access to prescription drugs leads to higher quality of life and prevents avoidable emergency room visits, hospitalizations, and premature nursing home placements.

(5) Since even a short-term gap in prescription drug coverage could have serious health consequences for dual eligibles, Congress must work to guarantee as smooth a transition as possible for dual eligibles so that no dual eligible is without prescription drug coverage even for one day.

**SEC. 3. CONTINUING STATE COVERAGE OF MEDICAID PRESCRIPTION DRUG COVERAGE TO MEDICARE DUAL ELIGIBLE BENEFICIARIES FOR 6 MONTHS.**

(a) SIX-MONTH TRANSITION.—For prescriptions filled during the period beginning on January 1, 2006, and ending on June 30, 2006, section 1935(d) of the Social Security Act (42

U.S.C. 1396u–5(d)) shall not apply and, notwithstanding any other provision of law, a State (as defined for purposes of title XIX of such Act) shall continue to provide (and receive Federal financial participation for) medical assistance under such title with respect to prescription drugs as if such section 1935(d) had not been enacted.

(b) Application.—

(1) Medicare as primary payer.—Nothing in subsection (a) shall be construed as changing or affecting the primary payer status of a prescription drug plan or an MA–PD plan under part D of title XVIII of the Social Security Act with respect to prescription drugs furnished to any full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396u–5(c)(6)) during the 6-month period described in such subsection.

(2) Third party liability.—Nothing in subsection (a) shall be construed as limiting the authority or responsibility of a State under section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) to seek reimbursement from a prescription drug plan, an MA–PD plan, or any other third party, of the costs incurred by the State in providing prescription drug coverage described in such subsection.

### SEC. 4. DELAY IN IMPLEMENTATION OF MEDICAID CLAWBACK PAYMENTS.

Notwithstanding section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5(c)), a State or the District of Columbia shall not be required to provide for a payment under such section to the Secretary of Health and human Services for any month prior to July 1, 2006.

### SEC. 5. EDUCATION AND OUTREACH TO DUAL ELIGIBLES REGARDING PRESCRIPTION DRUG COVERAGE AND MONITORING OF THE TRANSITION OF DUAL ELIGIBLES TO PRESCRIPTION DRUG COVERAGE UNDER MEDICARE.

(a) MMA Amounts.—Notwithstanding any other provision of law, of the amounts appropriated for the Centers for Medicare & Medicaid Services under section 1015(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2446), the following rules shall apply:

(1) Education and outreach to duals.—$100,000,000 shall be used to provide education and outreach, including through one-on-one counseling and application assistance, to full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))) regarding prescription drug coverage under part D of title XVIII of the such Act. Of such amount—

(A) at least $20,000,000 (but in no case more than $50,000,000) shall be used to award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4) to provide such education and outreach; and

(B) the remaining amount shall be used to provide funding to community-based organizations that work with full-benefit dual eligible individuals (as so defined) in order to provide such education and outreach.

(2) Monitoring impact on duals.—

(A) In general.—$50,000,000 shall be used by the Centers for Medicare & Medicaid Services, in consultation with the Centers for Disease Control and Prevention, the Administration on Aging, and the Social Security Administration, to develop and implement a standardized protocol to collect data from health departments and other sources in 10 representative urban and rural communities on the impact of the transition of full benefit dual eligible individuals (as so defined) from prescription drug coverage under the medicaid program to prescription drug coverage under part D of the medicare program. Such protocol shall be implemented by not later than July 1, 2005.

(B) Monitoring.—The protocol developed under subparagraph (A) shall include for the monitoring of the following information with respect to such full benefit dual eligible individuals:

(i) Emergency room visit rates.

(ii) Hospitalization rates.

(iii) Nursing home placement rates.

(iv) Deaths.

(C) Collection by PDPs and MA–PDs.—The protocol developed under subparagraph (A) shall require that such data be collected by the prescription drug plans and the MA–PDs in which the individuals are enrolled and include information on race and ethnicity.

(D) Reports.—Not later than January 1, 2006, and July 1, 2006, the Administrator of the Centers for Medicare & Medicaid Services, in consultation with the Centers for Disease Control and Prevention, the Administration on Aging, and the Social Security Administration, shall submit a report to Congress on the implementation of the protocol under subparagraph (A).

(b) New Amounts.—There are appropriated to the Secretary of Health and Human Services, to be transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, for fiscal year 2005 and each subsequent fiscal year, an amount not to exceed $50,000,000 (or if greater, an amount equal to $1 multiplied by the number of individuals entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title for the year) in order award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4).

(c) Extension of Availability of Amounts Appropriated Under MMA.—Section 1015(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2446) is amended by striking "September 30, 2005" and inserting "September 30, 2006".

### SEC. 6. COLLECTION AND SHARING OF DUAL ELIGIBLE DRUG UTILIZATION DATA.

(a) In General.—Section 1860D–42 of the Social Security Act (42 U.S.C. 1395w–152) is amended by adding at the end the following new subsection:

"(c) Collection and Sharing of Dual Eligible Drug Utilization Data.—

"(1) Plan requirement.—A PDP sponsor of a prescription drug plan and an MA organization offering an MA–PD plan shall submit to the Secretary such information regarding the drug utilization of enrollees in such plans who are full-benefit dual eligible individuals (as defined in section 1935(c)(6)) as the Secretary determines appropriate to carry out paragraph (2).

"(2) Collection and sharing of data.—The Secretary shall collect data on the drug utilization of full-benefit dual eligible individuals (as so defined). The Secretary shall share such data with the States and the District of Columbia in as close to a real-time basis as possible.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

### SEC. 7. GAO STUDY ON THE CLAWBACK FORMULA.

(a) Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study on the clawback formula contained in section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5(c)), as added by section 103(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2155).

(2) Requirements.—The study conducted under paragraph (1) shall include a full examination of—

(A) disincentives for States to enroll full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))) in the medicaid program or part D of title XVIII of the Social Security Act;

(B) the 6-month delay in States receiving rebate data;

(C) the prescription drug cost containment measures implemented by States after 2003; and

(D) issues relating to States having to pay more for prescription drug coverage for full benefit dual eligible individuals (as so defined) than they otherwise would have if the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2066 et seq.) had not been enacted.

(b) Report.—Not later than April 1, 2006, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a) together with such recommendations as the Comptroller General determines appropriate.

---

By Mr. LUGAR:

S. 567. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President. Today I rise to introduce the Nonprofit Athletic Organization Protection Act of 2005. I am pleased to join with my good friend and colleague, Representative Mark Souder, in introducing this measure. This legislation is based on a bill that was introduced in the last legislative session.

I believe that this legislation is very important to encouraging health promotion in our country. The United States has invested a tremendous number of resources in providing our children with the ability to promote fitness through sports. In every town in America, you will find boys and girls playing America's most popular sports: baseball, soccer, football, and, of course, basketball. A recent study by the Sporting Goods Manufacturers Association showed that in 2000 at least 36 million American children played on at least one team sport. Of those 36 million, 26 million children between the ages of 6 and 17, played on an organized team in an organized league. A study by Statistical Research, Inc. for the Amateur Athletic Foundation and ESPN found that 94 percent American children play some sport during the year.

The ability for children to participate in sporting events provides our society many benefits that government cannot provide. Studies have shown that these benefits include betterment to a child's health, academic performance, social development and safety. The most obvious benefit of organized sports is physical fitness. The National Institute of Health Care Maintenance has identified physical activity such as sports as a key factor in the maintenance of a healthy body. Lack of physical activity, along with unhealthy eating habits, has been identified as the leading cause of obesity in children. The center notes: "Physical activity provides numerous mental and physical benefits to health, including reduction in the risk of premature mortality, cardiovascular diseases, hypertension, diabetes, depression, and cancers." A Cooper Institute for Aerobics Research study indicated, "Low fitness outranks fatness as a risk factor for mortality." By encouraging our children to participate in organized sports, we increase physical fitness and fight obesity.

A second benefit in the participation of organized sports is an increase in academic performance. The National Institute of Health Care Maintenance has highlighted "a recent large-scale analysis reported by the California Department of Education [has shown] that the level of physical fitness attained by students was directly related to their performance on standardized achievement measures." When we encourage our children to participate in organized sports, we increase the ability for them to achieve academically.

A third benefit for young people who participate in organized sports is that they learn positive social development. Organized sports teach values of teamwork, fair play, and friendly competition. Success in organized sports is also a vital self-esteem builder in many children.

These three benefits have been widely discussed on the floor of the Senate and we have acted to implement several programs designed to reduce obesity and increase fitness, educational standards and the social well-being of our children.

The fourth benefit to participation in organized youth sports, providing a safe place to play, is a topic that has not received as much attention as the first three. Nonetheless, it is no less important. Fewer kids are simply going outside to play, due to the attraction of TV, video games, and the Internet, combined with parents' safety concerns about letting children run around outside unsupervised. As a result, organized sports teams are an increasingly important source of safe physical activity in children. The American Academy of Pediatrics has stated, "In contrast to unstructured or free play, participation in organized sports provides a greater opportunity to develop rules specifically designed for health and safety."

One primary reason why organized sports provide such an opportunity for safe play is that non-profit, volunteer organizations establish rules to provide a safe place to play. These organizations are made up of professional people who are in the business of providing children a fun and safe avenue for athletic exercise. Organizations like the Boys and Girls Club, the National Council of Youth Sports, the National Federation of State High School Associations and others exist largely to establish rules in order to minimize the risk of injury our children face while participating in sports. No matter how well these organizations perform their work, however, boys and girls will be injured.

Over the last several years, more and more of these rule making bodies have become targets for lawsuits seeking to prove that the rule maker was negligent in making the rules of play. These lawsuits claim that had a different rule been in place, the injury would not have happened. Indeed, these suits place rule makers into a Catch-22. A child can be injured in almost any situation no matter how a rule is written. The result has been to have more and more lawsuits.

As a consequence, the insurance premiums of these organizations have risen dramatically over the past several years. In his testimony before the House Judiciary Committee last year, Robert Kanaby the Executive Director of the National Federation of State High School Associations testified that:

"Over the last three years, the annual liability insurance premiums for the National High School Federation have increased three-fold to about $1,000,000. We have been advised by experts that given our claims experience and the reluctance of insurers to offer such coverage to an organization 'serving 7,000,000 potential claimants,' the premiums will likely increase significantly in years to come. Since we operate on a total budget of about $9,000,000, such an increase would be, to put it mildly, problematical."

The costs have increased to the point where it is possible that these organizations will cease from providing age appropriate rules and the safety of youth sports will decline.

Because of this problem, I join, once again, with Representative MARK SOUDER in introducing the Nonprofit Athletic Organization Protection Act of 2005. This legislation will eliminate lawsuits based on claims that a nonprofit rulemaking body is liable for the physical injury when the rules was made by a properly licensed rulemaking body that has acted within the scope of its authority. Lawsuits may be maintained if the rule maker was grossly negligent or engaged in criminal or reckless misconduct. This reasonable legislation will help sports rule makers to do their job. If we do not pass this legislation, it is likely that rule makers will eventually close their doors since they will be unable to afford the insurance needed to provide a safe sporting environment.

No one who has participated in the debate surrounding this problem has disagreed that the current lawsuit culture needs reform. Instead, concerns have arisen that the remedy was overly broad preventing lawsuits against rule makers on other issue.

To remedy these concerns, the legislation introduced today contains a provision that explicitly says that lawsuits involving "antitrust, labor, environmental, defamation, tortuous interference of contract law or civil rights law, or any other federal, state, or local law providing protection from discrimination" are not barred by this bill. This provision was worked out between the civil rights groups, including the National Women's Law Center and the National Federation of State High School Associations, in an effort to alleviate this concern.

As many of my colleagues know, I am a runner. I enjoy the activity and the positive effect that running and athletics have played in my life. I would hope that my nine grandchildren will be able to have an opportunity to participate in organized sports and that lawsuits against rule makers for allegedly faulty rules will not prevent these organizations from functioning properly. I look forward to the consideration and passage of the Nonprofit Athletic Organization Protection Act of 2005 during the 109th Congress.

---

By Ms. SNOWE (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. CORZINE, and Mrs. BOXER):

S. 569. A bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services, to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today, on International Women's Day, to introduce the Women's Health Office Act with my colleague, Senator BARBARA MIKULSKI.

Historically, women's health care needs have been ignored or poorly understood, and women have been systematically excluded from important health research. We heard just this week about a landmark example. One federally-funded study examined the ability of aspirin to prevent heart attacks in 20,000 medical doctors, all of whom were men, despite the fact that heart disease is the leading cause of death among women. When a benefit was found in men, many physicians assumed that the same protective effect applied to women. Just this week, after research on women was finally conducted, we learned that the effect of aspirin on women appear to be quite different. We are simply not protected in the same way men are protected. It is tragic that so much of our medicine has been based on such assumptions.

Today we recognize that both genders should benefit equally from medical research and health care services. Yet equity does not yet exist in health care, and we have a long way to go. Knowledge about differences in women—in symptoms of disease, and in appropriate measures for prevention and treatment—frequently lags far behind our knowledge of men's health.

We must also recognize that some diseases—such as ovarian cancer and endometriosis—affect only women. Other diseases affect women disproportionately—such as osteoporosis. We also see differences in health care access between men and women. These simply must be reflected in our health policy.

It is for these reasons that we are again introducing the Women's Health Office Act. This legislation provides permanent authorization for offices of women's health in five federal agencies: the Department of Health and Human Services; the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality; the Health Resources and Services Administration; and the Food and Drug Administration. Currently only two women's health offices in the Federal Government have statutory authorization; the Office of Research on Women's Health at the National Institutes of Health and the Office for Women's Services within the Substance Abuse and Mental Health Services Administration.

With some offices established, but not authorized, the needs of women could be compromised without the consent of Congress. We must create statutory authority for these offices, to ensure that health policy flows from fact, not assumption. Improving the health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment and the delivery of services—and this bill will ensure that.

I must also note today, on International Women's Day, that of all the disease threats to women, few rival the threat of AIDS. Increasingly, the face of the individual with HIV-infection is a woman's. Tragically, it is often the woman's husband who places her at risk, yet in many societies, the status of women makes her use of prevention difficult. One promising way to counter the risk of HIV infection is the development of an effective microbicide—a typical product which women could use to reduce their risk of contracting HIV. A number of scientists are working to develop such a product. If successful, this could prevent millions of infections, and would be a practical means of prevention in much of the world where options for women are so few. For this reason I again join Senator CORZINE today in introducing the Microbicides Development Act. This legislation will establish a coordination of this development at the NIH to reduce the toll of AIDS. Just today we read of a promising new microbicide which appears to show great promise. We must ensure that the promise of microbicides become reality for millions of women. This research is spread over multiple Institutes at NIH, and definitely will benefit from the coordination and integration which this Act will instill.

Today, on a day when we recognize both the achievements and contributions of women, it is fitting, that we provide the support and opportunity to facilitate the continued progress of women, I call on my colleagues to join me in supporting this legislation, which will ensure better health for our mothers, our sisters, our daughters, both here and abroad.

Ms. MIKULSKI. I rise to introduce the Women's Health Office Act with my colleague, Senator OLYMPIA SNOWE. The Women's Health Office Act authorizes and strengthens women's health offices or officers at Federal health agencies in the Department of Health and Human Services. This legislation will make sure that men and women get equal benefit from Federal investments in medical research and health care services.

Today, doctors, scientists, Members of Congress, and the American public know that women and men have different bodies and different health care needs. Diseases like ovarian cancer and endometriosis affect only women. Women are four times more likely to develop osteoporosis than men and according to some estimates, half of all women over 50 will fracture a bone because of osteoporosis in her lifetime.

Despite these differences, men's health needs have set the standard for our health care system and our health care research agenda. Women have been systematically excluded from medical research because decision-makers said that our hormone cycles complicated the results. One study on heart disease risk factors was conducted on 13,000 men—and not one women. But the results of studies like these were applied to both men and women. This neglect puts women's health and lives at risk.

That's why my colleagues and I took action. More than a decade ago, I worked with OLYMPIA SNOWE, TED KENNEDY, TOM HARKIN, and other women in the House to get an Office of Research on Women's Health at the National Institutes of Health, NIH. In 1993, I worked with these same women and Galahads in Congress to make sure that the women's health office would stay at NIH by putting it into law.

This office at NIH has made a real difference in how women are treated for certain illnesses. We now know that men and women often have different symptoms before a heart attack. Women's symptoms are more subtle, like nausea and back pain. Knowing these symptoms means women can get to the hospital sooner and can be treated earlier. That's turning women's health research into life-saving information.

I am proud that there are now women's health offices or officers at nearly every federal health agency at the Department of Health and Human Services. Like the one at NIH, women's health offices mean that women's health needs are always at the table. These offices at the Food and Drug Administration, FDA, the Centers for Disease Control and Prevention, CDC, and the Health Resources and Services Administration, HRSA, make sure women are included in clinical drug trials, reach out to low-income and minority women to make sure they are getting vaccines and cancer screenings, and work with health care providers to put research on women's health into practice. Recent questions about the risks and benefits of mammography and hormone replacement therapy remind us that women's health offices are as important as ever.

Right now, many of these offices—and the important work they do—could be eliminated or cut back without the consent of Congress. That is why this bill is so important. This bill would put women's health offices into our nation's lawbooks.

The Women's Health Office Act does more than protect the status quo. It keeps us moving forward on women's health. It gives women's health offices a clear, consistent framework throughout the department. By writing them into law, it gives women's health offices the stature they need to be strong, effective advocates for women's health within the Federal Government. This legislation coordinates women's health activities within each agency, to identify needs and set goals. The Women's Health Office Act centralizes overall coordination throughout the Department of Health and Human Services, to clarify lines of accountability and chart a clear course on women's health. Finally, it authorizes funding for these women's health offices or officers, to make sure that we put our nation's priorities in the federal checkbook as well as the Federal lawbooks.

I would like to thank Senator OLYMPIA SNOWE for leading the way on this important legislation. As Dean of the Senate women, I will continue to fight to get this bill signed into law and to make progress to improve the health of American women.

## SUBMITTED RESOLUTIONS

---

### SENATE RESOLUTION 73—HONORING THE LIFE OF ENRIQUE "KIKI" CAMARENA

Mr. BIDEN submitted the following resolution: which was referred to the Committee on the Judiciary:

S. RES. 73

Whereas Enrique "Kiki" Camarena, a Special Agent of the Drug Enforcement Administration for 11 years, was abducted and brutally murdered by drug barons in 1985;

Whereas Enrique Camarena dedicated his life to serving the law enforcement community and the Nation as a whole and was the devoted husband of Geneva Alvarado and loving father of Enrique, Daniel, and Eric;

Whereas Enrique Camarena received 2 Sustained Superior Performance Awards and a Special Achievement Award while serving the Drug Enforcement Administration:

Whereas Enrique Camarena's dedication to reducing the scourge of drugs eventually cost him his life;

Whereas "Camarena Clubs" to combat drug abuse have been created in high schools across the Nation to honor his memory;

Whereas Enrique Camarena is honored each year during National Red Ribbon Week; and

Whereas the 20th Anniversary of Enrique Camarena's death will be specially honored on March 9, 2005, at the Drug Enforcement Administration headquarters: Now, therefore, be it

*Resolved*, That the Senate—

(1) mourns the loss of Enrique "Kiki" Camarena;

(2) recognizes the contributions of Enrique Camarena to our National efforts to combat drug abuse;

(3) admires the courage and dedication of Enrique Camarena in his work as a Special Agent of the Drug Enforcement Administration;

(4) expresses gratitude for the legacy left by Enrique Camarena; and

(5) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Enrique Camarena.

Mr. BIDEN. Mr. President, I rise today to submit a resolution to commemorate the outstanding life and tragic but courageous death of Enrique "Kiki" Camarena, a Special Agent of the Drug Enforcement Administration.

Enrique grew from a boy in the small town of Mexicali in Baja California, Mexico to a man as a United States Marine. During his two year tour as a Legal Clerk with the Marine Corps in San Diego, Enrique received the National Defense Service Medal. It was during this time that Enrique first demonstrated his dedication to the United States.

Following his honorable discharge from the Marine Corps in 1970, Enrique demonstrated his courage as a fireman for the City of Calexico while demonstrating his intelligence as a student at Imperial Valley College, where he earned an Associates degree in 1972. It was also in 1970 that Enrique Camarena first showed his interest in law enforcement by joining the Calexico, CA Police Department. In May 1973, he began what would be his life-long fight against drug abuse when he was assigned to El Centro, CA, where he served for 13 months as a Narcotics Investigator for Imperial County.

Those 13 months as a Narcotics Investigator proved to be a life-altering time for Enrique. In June 1974, he took his determination to dismantle drug organizations to the Federal level, as a Special Agent of the Drug Enforcement Administration. During his time with DEA, Special Agent Camarena returned to his hometown in California for several years prior to his assignment in Guadalajara, Mexico, which began in July 1981.

During his 11 years with DEA, Special Agent Enrique Camarena received two Sustained Superior Performance Awards and a Special Achievement Award. Each award recognized Enrique's dedication to the fight against drug abuse and determination to scourge our country of illegal drugs.

His frustration with the drug trade was perhaps most evident by a statement that would later prove to be prophetic: He asked, "What's gonna have to happen? Does somebody have to die before anything is done? Is somebody going to have to get killed?"

On Thursday, February 7, 1985, at 2:00 p.m., Special Agent Camarena left the American Consulate in Guadalajara to meet his wife for lunch. Having come dangerously close to unlocking a multi-billion drug pipeline, Enrique was awaiting a reassignment, which was just three weeks away. Enrique never met his wife for lunch that day and he never received his reassignment.

As he neared his truck that afternoon, five men approached him and shoved him into a car. By February 10, DEA Administrator Francis "Bud" Mullen had flown to Guadalajara and to help begin the search for Enrique.

On March 5, Enrique's body was found on a ranch outside of the town of Zamora, Mexico, approximately 60 miles outside of Guadalajara. Autopsy reports indicated that Special Agent Camarena had been tortured and beaten. Three days after his body was discovered, twenty years ago today, he was returned to the United States for burial.

Following the death of Special Agent Enrique Camarena and the press attention that the killing generated, "Camarena Clubs" started throughout the El Cajon, CA area. These "Camarena Clubs" were formed to create a united front against drug abuse among students, teachers and others in the community.

The summer of 1985 saw a surge in national interest in Enrique's memory and the problems of drug abuse. The Virginia Federation of Parents and the Illinois Drug Education Alliance called on every American to wear red ribbons to symbolize their commitment to help reduce the demand for drugs in their communities. Since then, the Red Ribbon campaign has taken on national significance.

Red Ribbon Week is celebrated annually in cities across the country. The DEA and many other drug abuse prevention organizations around America help to sponsor this annual event. In Delaware, the Substance Abuse Awareness Committee sponsors Red Ribbon Week each October to take a visible stand against drugs through the symbol of the Red Ribbon.

Special Agent Enrique Camarena was a devoted husband to Geneva "Mika" Alvarado and a loving father to three sons, Enrique, Daniel and Eric. Today, I ask that the United States Senate formally recognize the life and death of Kiki, as his family lovingly calls him, to place official emphasis on the impact he made on America.

---

### SENATE RESOLUTION 74—DESIGNATING MARCH 8, 2005, AS "INTERNATIONAL WOMEN'S DAY"

Mr. BIDEN (for himself, Mrs. CLINTON, Mr. LUGAR, Mr. KOHL, Mrs. MURRAY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. BOXER, Mr. BAYH, Ms. LANDRIEU, Mr. JOHNSON, Mr. JEFFORDS, Mr. LEVIN, Mr. FEINGOLD, Mr. DODD, Mr. SARBANES, Mr. CORZINE, Mr. KERRY, Mr. OBAMA, Mr. SALAZAR, Mr. KENNEDY, Ms. MIKULSKI, Mrs. LINCOLN, Mr. HATCH, Mrs. FEINSTEIN, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 74

Whereas all over the world, women are contributing to the growth of economies, participating in the world of diplomacy and politics, and improving the quality of the lives of their families, communities, and nations;

Whereas discrimination continues to deny women full political and economic equality and is often the basis for violations of women's basic human rights;

Whereas worldwide, the lives and health of women and girls continue to be endangered by violence that is directed at them simply because they are female;

Whereas worldwide, violence against women includes rape, genital mutilation, sexual assault, domestic violence, dating violence, honor killings, human trafficking, dowry-related violence, female infanticide, sex-selection abortion, forced pregnancy, forced sterilization, and forced abortion;

Whereas the World Health Organization asserts that domestic violence causes more deaths and disability among women aged 15 to 44 than cancer, malaria, traffic accidents, and war;

Whereas worldwide, 130,000,000 girls and young women have been subjected to female genital mutilation;

Whereas worldwide, at least 1 in 3 females has been beaten or sexually abused in her lifetime;

Whereas worldwide, 20 to 50 percent of women experience some degree of domestic violence during marriage;

Whereas 1 in 4 women in the United States have been raped or physically assaulted by an intimate partner at some point in their lives;

Whereas somewhere in the United States, a woman is battered, usually by her partner, every 15 seconds;

Whereas more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas battering is the leading cause of injury to women aged 15 to 44 in the United States;

Whereas it is estimated that 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas worldwide, women account for ½ of all cases of HIV/AIDS, and in Africa, young women are 3 times more likely to contract the virus than men;

Whereas worldwide, sexual violence, including marital rape, has been denounced as a major cause of the rapid spread of HIV/AIDS among women;

Whereas between 75 and 80 percent of the world's millions of refugees are women and children;

Whereas illegal trafficking worldwide for forced labor, domestic servitude, and sexual exploitation involves between 1,000,000 and 2,000,000 women and children each year, of whom approximately 50,000 are transported to the United States;

Whereas ⅔ of the world's nearly 1,000,000,000 illiterate individuals are women;

Whereas ⅔ of the children denied primary education are girls;

Whereas these educational failures have serious consequences for the global economy and the United States national security, as well as for tens of millions of girls who are losing the chance to discover their worth and importance as global citizens;

Whereas girls who are educated are more likely to have healthy and stable families, lower mortality rates, higher nutrition levels, and delayed sexual activity, and have less chance of contracting HIV/AIDS or having unwanted pregnancies;

Whereas in most countries, women work approximately 2 times more unpaid time than men do;

Whereas women work ⅔ of the world's working hours and produce ½ of the world's food, yet earn only 10 percent of the world's income and own less than 1 percent of the world's property;

Whereas 3 in 10 households are maintained by women with no husband present;

Whereas rural women produce more than 55 percent of all food grown in developing countries;

Whereas it is estimated that women and girls make up more than 70 percent of the poorest people in the world;

Whereas worldwide, women earn less, own less property, and have less access to education, employment, and health care than do men;

Whereas microcredit is a stunningly simple, inexpensive tool that can forever alter the economic landscape for the better;

Whereas women now make up 80 percent of the world's 70,000,000 microcredit borrowers, and from India to Nicaragua to South Africa to Costa Rica, women are proving that small loans can transform individual lives, families, and entire communities;

Whereas nations should take steps to ensure the full participation and representation of women in political conferences, committees, plenaries, and parliaments;

Whereas social investment, particularly investments in women and girls, should be an integral part of foreign policy;

Whereas despite extraordinary advances, women still comprise the majority of the world's poor, illiterate, and uneducated, remain under-compensated for the work they do, still do not have adequate access to medical care in too many countries, are underrepresented in leadership positions in government and business, and continue to be targeted for unspeakable atrocities in war and conflict;

Whereas March 8 has become known as International Women's Day for the last century, and is a day on which people, who are often divided by ethnicity, language, culture, and income, come together to celebrate a common struggle for women's equality, justice, and peace;

Whereas the dedication and successes of those working all over the world to end violence against women and girls and fighting for equality should be recognized; and

Whereas the people of the United States should be encouraged to participate in International Women's Day: Now, therefore be it

*Resolved*, That the Senate—

(1) designates March 8, 2005, as International Women's Day;

(2) reaffirms its commitment to—

(A) improve women's access to quality health care, including HIV/AIDS prevention and treatment;

(B) end and prevent violence against women, including the trafficking of women and girls worldwide, and ensure that the criminals who engage in these activities are brought to justice;

(C) end discrimination and increase the participation of women in decisionmaking positions in government and the private sector;

(D) extend full economic opportunities to women, including access to microfinance and microenterprise; and

(E) strengthen the role of women as agents of peace because women are among the best emissaries for easing religious, racial, and ethnic tensions, crossing cultural divides, and reducing violence in areas of war and conflict; and

(3) encourages the people of the United States to observe "International Women's Day" with appropriate programs and activities.

## SENATE RESOLUTION 75—DESIGNATING MARCH 25, 2005, AS "GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY"

Mr. SPECTER (for himself, Mr. SARBANES, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. CORZINE, Mr. CRAIG, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. INHOFE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 75

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you";

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete that presented the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas, throughout the 20th century, Greece was 1 of only 3 nations in the world, beyond the former British Empire, that was allied with the United States in every major international conflict;

Whereas President George W. Bush, in recognizing Greek Independence Day, said, "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom . . . [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror. . . . America and Greece are strong allies, and we're strategic partners.";

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, arrested and convicted key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's successful "law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism";

Whereas Greece was extraordinarily responsive to United States requests during the war with Iraq, as Greece immediately granted unlimited access to its airspace and the base in Souda Bay, and many United States ships delivering troops, cargo, and supplies to Iraq were refueled in Greece;

Whereas the Olympic Games came home in August 2004 to Athens, Greece, the land of their ancient birthplace 2,500 years ago and the city of their modern revival in 1896;

Whereas Greece received world-wide praise for its extraordinary handling of over 14,000 athletes from 202 countries and over 2,000,000 spectators and journalists and did so efficiently, securely, and with its famous Greek hospitality;

Whereas the unprecedented Olympic security effort in Greece for the first post-9/11 Olympics included a record-setting expenditure of over $1,390,000,000 and assignment of over 70,000 security personnel, as well as the utilization of an 8-country Olympic Security Advisory Group which included the United States;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2005, marks the 184th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 25, 2005, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

## SENATE CONCURRENT RESOLUTION 15—ENCOURAGING ALL AMERICANS TO INCREASE THEIR CHARITABLE GIVING, WITH THE GOAL OF INCREASING THE ANNUAL AMOUNT OF CHARITABLE GIVING IN THE UNITED STATES BY 1 PERCENT

Mr. SANTORUM submitted the following concurrent resolution; which was referred to the Committee on Finance:

### S. CON. RES. 15

Whereas individual charitable giving rates among Americans have stagnated at 1.5 to 2.2 percent of aggregate individual income for the past 50 years;

Whereas a 1 percent increase (from 2 percent to 3 percent) in charitable giving will generate over $90,000,000,000 to charity;

Whereas charitable giving is a significant source of funding for health, education, and welfare programs; and

Whereas a 1 percent increase in charitable giving may reduce the Federal deficit, reduce the call for tax increases, and provide funds to benefit our national health, education, and welfare goals: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress encourages all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

Mr. SANTORUM. Mr. President, I rise today to submit a resolution that encourages all Americans to increase their charitable giving with the goal of increasing charitable giving in the United States by 1 percent.

I am proud to be a citizen of such a charitable nation. However, individual charitable giving rates among Americans have stagnated over the past 50 years. On average, Americans donate 2 percent of their aggregate income to charitable causes. A 1-percent increase to 3 percent could generate up to $90 billion annually. Further, a 1-percent increase in charitable giving has the potential to reduce the Federal deficit, reduce the call for tax increases, and provide our national health, education, and welfare programs with much needed assistance in performing their duties.

I also realize the Government's role to make it easier for Americans to be charitable. As legislators, we must provide incentives for charitable giving, opportunities for low-income families to build individual assets, and support faith-based and secular organizations as they provide charitable social services. I remain committed to promoting increased opportunities for the less fortunate to obtain help through faith-based and community organizations.

There are people all around the country waiting to give more to charity—they just need a little push. The CARE Act gives that in the form of a series of targeted tax incentives. The bill provides $2 billion in food-donation incentives that would allow farmers, restaurants and corporations to give more of their surplus food to local food banks and soup kitchens. America's Second Harvest estimates this provision translates into an additional 878 million meals for the hungry over the next 10 years.

In addition, the CARE Act removes the tax penalties that are preventing larger-dollar donors from rolling over their IRA account funds to assist a wide range of charities, including foundations, colleges and universities. If the CARE Act passes, individuals will be able to give 30 percent more in tax-free IRA contributions than would otherwise be possible.

The spirit of giving is part of what makes America great. I submit this resolution to remind us all that more can be done to assist the needy. I encourage my colleagues to support this resolution.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 130. Mr. TALENT submitted an amendment intended to be proposed to amendment SA 121 submitted by Mr. TALENT to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table.

SA 131. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 50 proposed by Mr. REID (for Mr. BAUCUS) to the bill S. 256, supra; which was ordered to lie on the table.

SA 132. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 133. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 134. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 115 submitted by Mr. BIDEN and intended to be proposed to the bill S. 256, supra; which was ordered to lie on the table.

SA 135. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 117 submitted by Mr. BIDEN and intended to be proposed to the bill S. 256, supra; which was ordered to lie on the table.

SA 136. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 54 submitted by Mr. BENNETT and intended to be proposed to the bill S. 256, supra; which was ordered to lie on the table.

SA 137. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 130.** Mr. TALENT submitted an amendment intended to be proposed to amendment SA 121 submitted by Mr. TALENT to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(4) by adding at the end the following:

"(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

"(A) such transfer was made to a self-settled trust or similar device;

"(B) such transfer was by the debtor;

"(C) the debtor is a beneficiary of such trust or similar device; and

"(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

"(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

"(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

"(B) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).

"(3) This subsection shall take effect 1 day after the date of enactment of this subsection.".

**SA 131.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 50 proposed by Mr. REID (for Mr. BAUCUS) to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 202. EFFECT OF DISCHARGE.

(a) INJUNCTION AFTER CONFIRMATION OF BANKRUPTCY PLAN OF REORGANIZATION.—

(1) IN GENERAL.—Section 524(g)(2)(B)(ii)(IV)(bb) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", or, if such a vote is not obtained with respect to any such class of claimants so established, the plan satisfies the requirements for confirmation of a plan under section 1129(b) that would apply to such class if the class did not accept the plan for purposes of section 1129(a)(8) (whether or not the class has accepted the plan)".

(2) EFFECTIVE DATE; APPLICATION.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply with respect to cases under title 11 of the United States Code, which were commenced before, on, or after such date.

(b) VIOLATION OF INJUNCTION; EXCEPTION.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

---

**SA 132.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 202. EFFECT OF DISCHARGE.

(a) INJUNCTION AFTER CONFIRMATION OF BANKRUPTCY PLAN OF REORGANIZATION.—

(1) IN GENERAL.—Section 524(g)(2)(B)(ii)(IV)(bb) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", or, if such a vote is not obtained with respect to any such class of claimants so established, the plan satisfies the requirements for confirmation of a plan under section 1129(b) that would apply to such class if the class did not accept the plan for purposes of section 1129(a)(8) (whether or not the class has accepted the plan)".

(2) EFFECTIVE DATE; APPLICATION.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply with respect to cases under title 11 of the United States Code, which were commenced before, on, or after such date.

(b) VIOLATION OF INJUNCTION; EXCEPTION.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

---

**SA 133.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 202. EFFECT OF DISCHARGE.

(a) INJUNCTION AFTER CONFIRMATION OF BANKRUPTCY PLAN OF REORGANIZATION.—

(1) IN GENERAL.—Section 524(g)(2)(B)(ii)(IV)(bb) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", or, if such a vote is not obtained with respect to any such class of claimants so established, the plan satisfies the requirements for confirmation of a plan under section 1129(b) that would apply to such class if the class did not accept the plan for purposes of section 1129(a)(8) (whether or not the class has accepted the plan)".

(2) EFFECTIVE DATE; APPLICATION.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply with respect to cases under title 11 of the United States Code, which were commenced before, on, or after such date.

(b) VIOLATION OF INJUNCTION; EXCEPTION.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

---

**SA 134.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 115 submitted by Mr. BIDEN and intended to be proposed to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, between lines 16 and 17, insert the following:

(3) SOUTHERN DISTRICT OF ILLINOIS.—

(A) IN GENERAL.—The temporary bankruptcy judgeship authorized for the southern district of Illinois under section 3(a)(4) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(B) TECHNICAL AMENDMENT.—The item relating to the southern district of Illinois in section 152(a)(2) of title 28, United States Code, is amended by striking "1" and inserting "2".

---

**SA 135.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 117 submitted by Mr. BIDEN and intended to be proposed to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 1 through 14, and insert the following:

(U) in the item relating to the northern district of Alabama, by striking "5" and inserting "6";

(V) in the item relating to the eastern district of Tennessee, by striking "3" and inserting "4"; and

(W) in the item relating to the southern district of Illinois, by striking "1" and inserting "2".

(c) CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—The temporary bankruptcy judgeships authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the eastern district of Tennessee, and the southern district of Illinois under paragraphs (1), (3), (4), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to permanent bankruptcy judgeships.

---

**SA 136.** Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 54 submitted by Mr. BENNETT and intended to be proposed to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted by amendment (No. 54), insert the following:

### TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Board determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a repurchase agreement as defined in section 11(e)(8)(D)(v));

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), (X), or (XI));

"(V) means any margin loan;

"(VI) means any extension of credit for the clearance or settlement of securities transactions;

"(VII) means any collar/loan transaction related to securities, prepaid forward transaction related to securities, or sale/total return swap transaction related to securities;

"(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(IX) means any combination of the agreements or transactions referred to in this clause;

"(X) means any option to enter into any agreement or transaction referred to in this clause;

"(XI) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X); and

"(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement' as defined in section 207(c)(8)(D)(v));

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), (X), or (XI));

"(V) means any margin loan;

"(VI) means any extension of credit for the clearance or settlement of securities transactions;

"(VII) means any collar/loan transaction related to securities, prepaid forward transaction related to securities, or sale/total return swap transaction related to securities;

"(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(IX) means any combination of the agreements or transactions referred to in this clause;

"(X) means any option to enter into any agreement or transaction referred to in this clause;

"(XI) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X); and

"(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a repurchase agreement as defined in section 11(e)(8)(D)(v)), consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

"(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

"(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraph (12)" and inserting "paragraphs (9) and (10)";

(ii) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(iii) by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);"; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);".

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Board".

### SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) Federal Deposit Insurance Corporation.—

(1) In general.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) Clarification.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) Walkaway clauses not effective.—

"(i) In general.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) Technical and conforming amendment.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

(b) National Credit Union Administration Board.—

(1) In general.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking "other than paragraph (12) of this subsection, subsection (b)(9)" and inserting "other than subsections (b)(9) and (c)(10)"; and

(B) by adding at the end the following new subparagraphs:

"(F) Clarification.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

"(G) Walkaway clauses not effective.—

"(i) In general.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

"(ii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(2) Technical and conforming amendment.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

### SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-Insured Depository Institutions.—

(1) Transfers of Qualified Financial Contracts to Financial Institutions.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) Transfer of qualified financial contracts.—

"(A) In general.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) Transfer to foreign bank, foreign financial institution, or branch or agency of a foreign bank or financial institution.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) Transfer of contracts subject to the rules of a clearing organization.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) Definitions.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) Notice to qualified financial contract counterparties.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(3) Rights against receiver and conservator and treatment of bridge banks.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) Certain rights not enforceable.—

"(i) Receivership.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) Conservatorship.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) Notice.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

"(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

"(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.".

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A credit union organized by the Board, for which a conservator is appointed either—

"(I) immediately upon the organization of the credit union; or

"(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.".

### SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the credit union in default: or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

### SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS AND DEFINITION OF PERSON.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) MASTER AGREEMENT.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

(2) PERSON.—Section 11(e)(8)(D)of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended by adding at the end the following:

"(ix) For purposes of this subsection, 'person' shall include any governmental entity and any entity set forth in the definition of 'person' in section 1 of title 1, United States Code.".

(b) INSURED CREDIT UNIONS.—

(1) MASTER AGREEMENT.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

(2) PERSON.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by adding at the end the following:

"(ix) For purposes of this subsection, 'person' shall include any governmental entity and any entity set forth in the definition of 'person' in section 1 of title 1, United States Code.".

### SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than section 11(e) of the Federal Deposit Insurance Act, section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be terminated, liquidated, accelerated, and netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than section 11(e) of the Federal Deposit Insurance Act, section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than section 11(e) of the Federal Deposit Insurance Act, section 207(c) of the Federal Credit Union Act, and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be terminated, liquidated, accelerated, and netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than section 11(e) of the Federal Deposit Insurance Act, section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

### "SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

**SEC. 907. BANKRUPTCY LAW AMENDMENTS.**

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by inserting "as defined in section 761 of this title" after "commodity contract";

(iii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;";

(iv) by striking "repurchase transaction, reverse repurchase transaction," and inserting "repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a repurchase agreement as defined in this section)"; and

(v) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or equity swap, option, future, or forward agreement;

"(V) a debt index or debt swap, option, future, or forward agreement;

"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, option, future, or forward agreement;

"(IX) an emissions swap, option, future, or forward agreement; or

"(X) an inflation swap, option, future, or forward agreement;

"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a "repurchase agreement" as defined in section 101);

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee (including by novation) by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), or (x));

"(iv) any margin loan;

"(v) any extension of credit for the clearance or settlement of securities transactions;

"(vi) any collar/loan transaction related to securities, prepaid forward transaction related to securities, or sale/total return swap transaction related to securities;

"(vii) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(viii) any combination of the agreements or transactions referred to in this subparagraph;

"(ix) any option to enter into any agreement or transaction referred to in this subparagraph;

"(x) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), or (ix), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), or (ix); or

"(xi) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;".

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, FORWARD CONTRACT MERCHANT, COMMODITY BROKER, CORPORATION, REPO PARTICIPANT, STOCKBROCKER, AND SWAP PARTICIPANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer (whether or not a 'customer' as defined in section 741) in connection with a securities contract (as defined in section 741) such customer; or

"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding at such time or on any day during the 15-month period prior to the date of the filing of the petition, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) at such time or on any day during the 15-month period prior to the date of the filing of the petition; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);";

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;"; and

(4) by striking in paragraph (53A) "person" and replacing it with "entity" and striking "person's" and replacing it with "entity's".

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and".

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e), by inserting "(or for the benefit of)" before "a commodity broker";

(2) in subsection (f), by inserting "(or for the benefit of)" before "repo participant";

(3) in subsection (g) (as added by section 103 of Public Law 101-311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement";

(C) by inserting "or financial participant" after "swap participant"; and

(D) by inserting "(or for the benefit of)" before "a swap participant"; and

(4) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to (or for the benefit of) a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract"**;

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement"**;

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement"**;

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

**"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15**

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

**"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

**"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";

(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(7) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.";

(8) in section 556, by inserting ", financial participant," after "commodity broker";

(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and

(10) in section 560, by inserting "or financial participant" after "swap participant".

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.

"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

### SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).".

### SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

### SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

**"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements**

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

### SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

### SEC. 912. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to cases commenced or appointments made under any Federal or State law before the effective date of this Act.

### SEC. 913. SAVINGS CLAUSE.

The meanings of terms used in this title are applicable for the purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

---

**SA 137**. Mr. LEAHY submitted an amendment to be proposed by him to the bill S. 256, to amend title 11 of the

United States Code, and for other purposes, which was ordered to lie on the table; as follows:

On page 156, line 18, insert ", unless the debtor certifies under penalty of perjury that the debtor is a victim of domestic violence whose physical well-being or whose children's physical well-being would be threatened if relief from the stay is granted" before the semicolon.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAMBLISS. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing to discuss school nutrition programs. The hearing will be held on Tuesday, March 15, 2005, at 10 a.m. in SH–216, Hart Senate Office Building. Senator SAXBY CHAMBLISS will preside.

For further information, please contact the Committee at 224–2035.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Tuesday, March 8, 2005. The purpose of this hearing will be to consider the reauthorization of the Commodity Futures Trading Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 8, 2005, at 9:30 a.m., in open and closed session to receive testimony from unified and regional commanders on their military strategy and operational requirements, in review of the defense authorization request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 8, 2005, at 5 p.m., in closed session to receive a classified briefing regarding current operations in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 8 at 2:30 p.m.

The purpose of the hearing, entitled Power Generation Resource Incentives & Diversity Standards, is to receive testimony regarding ways to encourage the diversification of power generation resources. Issues to be discussed include: Renewable Portfolio Standards (RPS) efforts among states and the cost and benefits of a federal RPS program. New approaches to promoting a variety of clean power resources, such as wind, solar, clean coal technology and nuclear power, will also be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, March 8, 2005, at 10 a.m., to hear testimony on "Physician-Owned Specialty Hospitals: In the Interest of Patients of a Conflict of Interest?"

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 8, 2005, at 2:30 p.m. to hold a hearing on the Black Sea Strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, March 8, 2005 at 9:30 a.m. on "Judicial Nominations." The hearing will take place in the Dirksen Senate Office Building Room 226. The tentative witness is attached.

Agenda:

PANEL I: Senators.

PANEL II: Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON RULES AND ADMINISTRATION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, March 8, 2005, at 9:30 a.m., to conduct a hearing to examine and discuss S. 271, a bill which reforms the regulatory and reporting structure of organizations registered under Sections 527 of the Internal Revenue Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 8, 2005 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON PUBLIC LANDS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Tuesday, March 8 at 10 a.m.

The purpose of the hearing is to receive testimony on S. 179, to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; S. 213, to direct the Secretary of the Interior to convey certain federal land to Rio Arriba County, New Mexico; S. 267, to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes; and S. 305, to authorize the Secretary of the Interior to recruit volunteers to assist with or facilitate the activities of various agencies and offices of the Department of the Interior; S. 476, to authorize the Boy Scouts of America to exchange certain land in the state of Utah acquired under the Recreation and Public Purposes Act; and S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Terrorism, Technology, and Homeland Security be authorized to meet to conduct a hearing on "Terrorism and the EMP Threat to Homeland Security," on Tuesday, March 8, 2005, at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Panel I: Dr. Lowell Wood, Commissioner, Congressional EMP Commission, Livermore, CA; Dr. Peter Pry, Senior Staff, Congressional EMP Commission, Washington, DC; Dr. Peter Fonash, National Communications System Deputy Manager (Acting), Department of Homeland Security, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, I ask unanimous consent Alison Thompson, a Marine fellow on Senator DOLE's staff, be granted privileges of the floor for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE PLACED ON THE CALENDAR—S. 539

Mr. GRASSLEY. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The Senator is correct. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

> A bill (S. 539) to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

Mr. GRASSLEY. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, and after consultation with the Majority Leader, pursuant to Public Law 106-286, appoints the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: The Senator from Nebraska, Mr. HAGEL, Chairman; the Senator from Kansas, Mr. BROWNBACK; the Senator from Oregon, Mr. SMITH; the Senator from South Carolina, Mr. DEMINT; and the Senator from Florida, Mr. MARTINEZ.

## INTERNATIONAL WOMEN'S DAY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 74, submitted earlier today by Senators BIDEN, CLINTON, LUGAR, KOHL, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 74) designating March 8, 2005, as "International Women's Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Today, March 8, is International Women's Day. This day provides a special opportunity for us to reflect on the status of women throughout the world and to think about what we can do to improve the health and well-being of some of the world's most vulnerable women.

Today, I would like us to think about Uganda, where I sat on a porch with mothers who were HIV-positive. These mothers were gathering scrapbooks, photos, notes, and little memorabilia of their lives to leave to their children. Their children, playing in the yard, had already lost one parent, and were now about to lose a second.

I would like us to think about South Africa, where I saw women waiting for hours on wooden benches, inside a clinic made from old rail cars, in the hope that they might be sick enough to qualify for antiretroviral treatment for HIV.

And, I would like us to think about Bangladesh, where I saw women who had known nothing but poverty, but who, thanks to a tiny loan, had become entrepreneurs. They were offering cell phone service to their villages, made possible by their ownership of a single, solar-powered cell phone.

The stories of women like these from around the world are often stories of great sadness, but also stories of hope. The health and economic well-being of these women and their families are deeply intertwined. If we can improve one, we may be able to improve the other as well.

The connection between health and economic well-being is clearly apparent in two areas of international assistance: fighting HIV/AIDS, and providing family planning.

Women are now the face of AIDS in many parts of the world. In sub-Saharan Africa, 57 percent of those infected with HIV are women. Younger women are at particular risk. They are three times more likely than young men to be infected. This striking statistic, according to Stephen Lewis, the United Nations Secretary General's Special Envoy for HIV/AIDS in Africa, "is unprecedented in the history of the pandemic and . . . perhaps the most ominous warning of what is yet to come."

HIV/AIDS exploits and widens the inequities that make women more vulnerable. Women may have fewer economic opportunities, making them dependent on others for simple survival. When a family's resources are limited, any available money may go first for care and treatment for the men. Where women do not have rights to property, a husband's death can leave a widow and her children with literally nothing except infection with HIV. Women are also too often at risk for sexual violence and coercion.

The list of problems is long. It is clear that to win the fight against HIV/AIDS, we must address the many and wide-ranging impacts of the disease on women. Our strategies to fight HIV/AIDS should include approaches such as microcredit programs that provide women with small loans. These loans, often as small as $10, enable women to start businesses to sustain themselves and their families. We should also support efforts to keep girls in school, using education's effectiveness as a "social vaccine" against HIV infection. We should work to make prevention, care, and treatment accessible to women. We must address the problem of gender-based violence and intimidation.

And, as part of our strategy, we should also support promising women-centered technologies such as microbicides. This is why I am a cosponsor of the Microbicides Development Act being introduced today. This bill calls on the Federal Government to accelerate and coordinate research and development of microbicides.

Family planning is another area that can have important benefits for women's health and economic well being. The World Bank has called family planning "a development success story" because it contributes so greatly not just to women's health and opportunities, but also to the social and economic development of entire societies. Family planning improves economic and educational opportunities for women and their families. It also has a direct effect on health.

Worldwide, over half a million women die each year from pregnancy or delivery. Family planning makes pregnancy safer by reducing unintended pregnancies and by allowing couples to space births, giving mothers' bodies more time to recover between pregnancies. Spacing births 3 to 5 years apart can prevent the deaths of women and children. It decreases a mother's risk of dying from childbirth by 2.5 times, and also decreases by 2.5 times the baby's risk of dying before the age of five.

Unfortunately, many couples still lack access to family planning care. Worldwide, an estimated 200 million women want to delay the birth of their next child or stop childbearing altogether, but lack access to effective contraceptive methods.

Fully funding this unmet need for contraceptives could reduce abortions by 22 million, infant deaths by 1.4 million, and pregnancy-related deaths by 142,000. Improving access to family planning care is also a wise economic investment. Studies from Mexico, Thailand, Egypt, and Vietnam have found that every dollar spent on family planning saves $8 to $31 in government expenditures.

The United States has been a leading supporter of family planning programs since the 1960s. For family planning's many benefits to women's health and lives, I hope we will continue our leadership in this area.

Today, on International Women's Day, we have an opportunity to recognize the progress that has been made in advancing the health and economic well-being of women. We also have an obligation to renew our commitment to providing the care that is needed to help some of the world's most vulnerable women and their families.

When we face challenges, we must not be deterred. When we experience success, we ought not to become complacent. Winston Churchill reminds us, "Success is not final, failure is not fatal: it is the courage to continue that counts." The women that I have met in Uganda, South Africa, and Bangladesh have all had the courage to continue. We too must continue our efforts to improve the health and lives of women around the world.

Mrs. CLINTON. Mr. President, today we commemorate International Women's Day. Discussions that will take place this week in celebration of International Women's Day allow women leaders, policy makers and experts from governments around the world to take stock of our progress and recommend concrete steps for future action.

I commend U.N. Secretary General Kofi Annan for using his platform at the United Nations to advocate on behalf of women's rights. More than most, the Secretary General knows firsthand that global progress depends on securing the rights of women worldwide. I am grateful to him for raising his voice on behalf of women and for the pivotal role the U.N. continues to play in advancing women's rights on every continent.

About 2 weeks ago, I had the privilege of traveling to Iraq, Afghanistan and Pakistan with some of my colleagues on the Senate Armed Services Committee. I visited U.S. troops and had a chance to see the extraordinary work these dedicated men and women are doing under extremely trying circumstances.

I also spent a few very valuable moments with Iraqi and Afghan women, just as I had done on a previous visit to Iraq and Afghanistan during Thanksgiving in 2003. What I saw, and what I heard from these women, was both inspiring and unnerving. In many ways the experiences of Iraqi women, and their counterparts in Afghanistan, underscore the opportunities unfolding for women all over the globe. But they also represent an enduring truth—that no matter how far we have come and how much hope is on the horizon, women must continue to work, struggle, and fight for every ounce of progress we make. Even then there are no guarantees.

Ten years ago, women from 189 countries came together for the United Nations Fourth World Conference on Women in Beijing. It was a gathering that lasted only a few days, but it changed the world.

We were women of all colors, races, ethnicities, languages, and religious backgrounds. Yet we knew that, as women, we shared common aspirations and dreams, as well as concerns and worries about the futures of our families and our communities.

In Beijing, after years, decades, indeed centuries, we broke our silence. Together we spoke up and we spoke out.

We spoke out on behalf of women and their daughters, mothers and sisters; women who were underpaid, under-educated and undervalued; women who were deprived of the right to go to school, earn a living, see a doctor, own property, get a loan, cast a vote or run for office; women who were persecuted, abused, violated, even killed because there were no laws to protect them or no enforcement of the laws that were supposed to protect them.

Although some governments and officials doubted that a United Nations conference on women would have an impact, what transpired in Beijing was the beginning of a global movement. It was a global movement focusing attention on the issues that matter most in the lives of women and their families: access to education, health care, jobs and credit, and the opportunity to enjoy the full range of political, legal and human rights.

We called on governments around the world to promote and protect women's rights unequivocally and to act on the ideal that "women's rights are human rights and human rights are women's rights."

We made our case that global progress depends on the progress of women; that democratic institutions cannot thrive and survive without the participation of women; that market economies cannot grow and prosper without the inclusion of women; that societies are not truly free and just without legal protections and rights for women; that a nation cannot advance into the 21st century and in the Information Age without educated, literate women.

Today, as we face new and daunting enemies—from stateless terrorism to the global pandemic of HIV/AIDS to the scourge of human trafficking—we are learning that our Nation and our world cannot be secure or at peace if women are denied the right to fulfill their God-given potential at home, at school, at work, at the ballot box, in the courthouse and in the board room.

The Beijing Conference got us going. Governments, working with NGOs, used the Beijing Platform for Action as a road map. In the 10 years since, many have taken significant steps in the right direction.

From Mongolia to Indonesia to Tajikistan, we are seeing more equitable laws protecting women from discrimination, abuse and violence. From Gambia to Chile more women are getting elected or appointed to leadership roles in government. Our global movement is having a profound impact around the world.

Turkey recently passed sweeping legislative reforms to protect the rights of women with regard to rape and honor killings.

In Ethiopia, a center funded by the U.S. Agency for International Development opened last summer to offer medical assistance and counseling to women and girls who are victims of human trafficking.

Morocco instituted new family law that gives women equal rights to make decisions about marriage, divorce custody and alimony.

In Afghanistan, for the first time, a woman, Dr. Masooda Jalal, ran for the presidency. And Habiba Sarobi was just appointed governor of one of Afghanistan's central provinces. She is the first woman to hold a provincial government post in Afghanistan.

In Mexico, Amalia Garcia became the third women ever to be elected governor of a state in her country.

In Iran, Dr. Shirin Ebadi, a woman lawyer, judge, and human rights activist, was awarded the Nobel Peace Prize in 2003.

The following year in Kenya, Wangari Maathai, the deputy minister of the environment, won the Nobel Peace prize for her efforts to protect the environment and advance opportunities for poor women.

In the United States, the Clinton administration launched the Vital Voices democracy initiative to help women around the globe build democratic institutions and market economies in their own countries. During my husband's administration, I was honorary chair of the President's Interagency Council on Women, whose job was to follow up on Beijing and make sure that policies and programs relating to women and girls were a priority in every federal agency.

President Clinton's administration was the first ever to understand that social investment particularly investments in women and girls should be an integral part of foreign policy. Secretary Madeleine Albright led the charge, and I am grateful for her energy and vision.

These achievements might not have been possible without the galvanizing effects of Beijing. We should all be very proud of the work we have done here in the United States, as well as around the world, to advance the Beijing agenda and ensure that we continue to make progress on all of these fronts.

But where do we go from here?

Despite our advances, women still comprise the majority of the world's poor, illiterate and uneducated. Women remain undercompensated for the work they do in every country on Earth. Women in too many countries still do not have adequate access to medical care or the fundamental right to plan their own families. Women are underrepresented in leadership positions in government and business. Women continue to be targeted for unspeakable atrocities in war and conflict.

At this very moment, women and girls in some parts of the world are being forced into marriages they do not want. They are dying of HIV/AIDS in disproportionate numbers. They are getting trapped in the bondage of international trafficking rings. They are being subjected to rape, mutilation and murder as a tactic or prize of war. They are left diseased, destitute and dying in refugee camps.

In too many instances, the march to globalization has also meant the marginalization of women and girls. That has to change.

This week's events offer an opportunity not just to assess our progress and pat ourselves on the back. We also must reaffirm the goals laid out in the Beijing platform for action and adopt our strategies to meet the new and complex challenges of the 21st century.

Specifically:

One, we must continue to improve access to quality health care, including reproductive and sexual health and HIV/AIDS prevention and treatment.

When women and girls are healthy, we all benefit from lower rates of maternal and child mortality, improved public health, a decline in population growth, a more productive work force and more stable families.

Among the most serious health crises facing women today is HIV/AIDS. About half of those infected worldwide are women. In Africa, young women are three times more likely to contract the virus than men. A vicious cycle of poverty, inadequate health care, illiteracy, sexual coercion and gender-based violence make this a daunting problem with implications well beyond the developing world.

That is why Senator BOXER and I proposed an amendment to the Global AIDS bill that would provide assistance to foreign countries to combat HIV/AIDS, tuberculosis and malaria.

We also have to ensure that women enjoy the fundamental right to plan their own families and that they have access to family planning services.

This is not an easy issue. There are people with equally strong passions and convictions on both sides. But we should all be able to agree that we want every child born in this country and around the world to be wanted, cherished and loved. And the best way to achieve that is to educate the public about reproductive health and how to prevent unsafe and unwanted pregnancies.

Research shows that the primary reason that teenage girls abstain is because of their religious and moral values. We should embrace this and support programs that reinforce the idea that abstinence at a young age is not just the smart thing to do; it is the right thing to do. But we should also recognize what works and what does not work and the jury is still out on the effectiveness of abstinence-only programs. I do not think this debate should be about ideology, it should be about facts. We have to deal with the choices young people make and not only the choices we want them to make. We should use all the resources at our disposal to ensure teens are getting the information they need to make the right decisions.

Today, roughly 20 million women worldwide risk unsafe abortions every year. About 68,000, most of them in developing countries, die in the process. Many more suffer horrific injuries. The World Health Organization estimates that about 600,000 women die each year from pregnancy-related causes. Many times that number suffer grievous injury. Many of these deaths could be prevented by providing women with the information and means to choose the size and spacing of their families.

Yet, the Bush administration is making it more difficult for women in these situations to receive safe medical care. Under the global gag rule, none of our foreign aid dollars can go to foreign NGOs that provide abortions beyond cases of rape, incest or endangerment to the mother. Or provide abortion counseling or advocate the legalization of abortion in their countries.

In places such as Nepal and Afghanistan, which suffer from some of the highest maternal mortality rates in the world, clinics funded by our government provided a full range of health services to women and girls. But with the Bush administration's reinstatement of the global gag rule, those funds have dried up; the doors to the clinics are closed. When I visited Afghanistan two years ago and recently, Afghan women asked that the U.S. renew women's health assistance for that country.

Practically speaking, making it harder for women to get information, counseling and family planning services is a counterproductive policy. It does nothing to reduce abortion; in fact, it may do quite the opposite. Without access to contraception and family planning services, there will be more unwanted pregnancies. Without access to adequate medical care, many pregnant women will die undergoing unsafe abortions.

There is no reason why governments cannot help educate women and assist girls and women with their health care needs. It is the most effective way to reduce abortions and improve the health and well-being of women and their families.

Two, we must prevent violence against women, and that includes the trafficking of women and girls worldwide, and we must make sure that the criminals who engage in these activities are brought to justice and not allowed to go free.

For all the benefits of globalization, modern technology and instant communications, there are dark sides. One of the most insidious is the crime and heinous human rights violation of human trafficking.

As many as 800,000 men, women and children are trafficked across international borders each year, lured by the promise of jobs or a better life, only to find themselves trapped in prostitution, forced labor and debt bondage.

I will never forget visiting a school in northern Thailand that took in young girls whose lives were ruined by prostitution and taught them vocational skills. Many of the girls had contracted HIV/AIDS. I remember crouching in front of a teenage girl in a wheelchair who was so ill that she could barely raise her hands to greet me. The girl had been sold into prostitution by her family because they were desperate for money. She had escaped her brothel, returned home, and was sold again. She died a few days after my visit.

I also met with women leaders from Eastern and Central Europe and our government launched campaigns in Lviv, Ukraine, and in Istanbul to combat trafficking. I am proud that in March of 1998, President Clinton condemned human trafficking as a violation of human rights and outlined the prevention, protection and prosecution framework and strategy which led to the first anti-trafficking bill, which he signed into law in 2000.

Now the Senate must ratify the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. Our government played a major role in developing this Protocol that has led many countries around the world to enact new antitrafficking legislation and we and other member states must ratify it. So far 79 countries have ratified it and I believe that it is past time for our country to provide clearer leadership to other countries who have not yet ratified this landmark instrument of international cooperation.

But more is needed. I am heartened that since we initially helped bring global attention to this issue that our work continues to grow. But I am equally concerned that current efforts have not yet achieved the concrete results desperately needed by the victims of trafficking like the girls I visited whose lives were ravaged by their servitude. We have a deep responsibility to all of trafficking's victims to do better and I am committed to continue to work on their behalf.

In a related area, the U.S. and other nations must, for moral and economic reasons, support efforts to curb all forms of violence against women, be it mass rapes in Bosnia and Darfur or battered women suffering in the silence of their own homes in America.

Three, we must continue to increase participation of women in decision-making positions in government and the private sector.

Women are on the front lines when it comes to issues involving their children, their families and their communities. But too often their voices are not part of the political dialogue. We need to make sure that women have every opportunity to make their voices heard, to be part of civic life and to contribute to the formation of policies and programs that will affect their lives and the lives of those around them.

NGOs have been a critical element of promoting women's human rights. They were the voice for women in Afghanistan during the dark days of the Taliban. Thanks to organizations such as the Vital Voices Global Partnership, more and more women around the world are learning the skills necessary to run political organizations and campaigns, build political networks and win elective office. As more women enter the political arena, research shows that their presence raises the standards of ethical behavior, lowers corruption and makes political institutions more responsive to constituents.

We have seen women in Rwanda win nearly half the seats in their parliament during the 2003 elections. Their active participation makes Rwanda stronger.

We have seen Afghan women refuse to sell their voter registration cards to tribal warlords and defy expectations by voting. Their active participation makes Afghanistan stronger.

We just saw Iraqi women refuse to run away from polling stations in January despite the enormous risk and sometimes flying bullets. Their active participation will make Iraq stronger.

We were all moved by photos of women and men on Election Day in Iraq holding up their ink-stained fingers, showing their courage and determination to vote freely in their country's first democratic elections. We were encouraged that a significant number of women were candidates and won.

The wide participation in this election gives us good reason to be cautiously optimistic that Iraq is on the path to building a stable and secure democratic government. But there are also troubling signs: Women have been targeted for retribution, with tragic consequences. Women have been attacked for wearing Western dress or promoting progressive ideas. I have been told that fear of violence has kept some women confined to their homes.

And so it is important that we recognize and applaud the progress that has been made, and that we remain vigilant for the future. We cannot become complacent and see women freed from one tyranny only to be imprisoned by another: the tyranny of violence or of extremism.

Decisions are being considered right now in Iraq that will determine the role that women have in governance, under the law and in society.

To ensure that Iraqi women are not marginalized under their new government, their rights must be ensured, their personal security guaranteed and their access to opportunity protected.

Four, we must extend full economic opportunities to women, including access to microfinance and microenterprise.

It seems obvious that, with women making up more than half of the world's population, global prosperity depends on women having the right to education, jobs, property ownership and credit. Yet it is only relatively recently that this fact became more widely accepted. Over the past several decades we have seen the enormous benefits accrued when women are given even a small slice of the economic pie.

Microcredit is one of those stunningly simple, inexpensive tools that can forever alter the economic landscape for the better. Women now make up 80 percent of the world's 70 million microcredit borrowers. From India to Nicaragua to South Africa to Costa Rica, women are proving that small loans can transform individual lives, families and entire communities.

Five, we must ensure that the doors of primary education are open to every girl—and boy—in every country and on every continent.

If there is a domino effect at work here, it begins with primary education. Today, 55 percent of girls in sub-Saharan Africa do not complete primary school. This failure has real consequences for our global economy and our national security, not to mention for tens of millions of children with limitless potential who are losing the chance to discover their worth and importance as global citizens.

Girls who are educated are more likely to have healthy and stable families, lower mortality rates, higher nutrition levels, delayed sexual activity and less chance of contracting HIV/AIDS or having unwanted pregnancies. Educated children also correlate to increases in the GDP.

Equally important today, the education of children in the developing world is one of our best weapons against terror. We cannot just win the military battles; we have to win the hearts and minds of hundreds of millions of people around the world, many of them between the ages of 15 and 24. We have to educate them, and we have to engage them in discussions about our future.

I am pleased to have introduced the Education For All Act last year, which calls for a clear, global strategy to achieve universal global education by 2015. By dramatically increasing our investment in global education, the legislation would make educating children, including girls, a top priority of U.S. foreign policy.

No country can do this alone. We need other reform-minded countries to step up to the plate. We need to leverage the strength and resources of private voluntary organizations. We have to work together to achieve this goal.

Six, we must strengthen the role of women as agents of peace because we know that women are among our best emissaries when it comes to easing religious, racial and ethnic tensions, crossing cultural divides, and reducing violence in areas of war and conflict.

War and conflict disproportionately impact women, yet women are rarely included in peace negotiations or the peace process. Too many societies continue to view women's roles narrowly, thus losing the chance to benefit from the special wisdom and insights that women offer.

In Rwanda, Sierra Leone and Colombia, women have formed groups to support orphans and widows left in the wake of genocide and have advocated for peace.

The 2004 U.N. Report of the High Level Panel on Threats, Challenges and Change recommends that in order to more capably resolve conflicts between states, the U.N. should engage in greater consultation with important voices from civil society, especially those of women, who are often neglected during peace talks.

The report goes on to say that in order to protect civilians, the Security Council, U.N. agencies and Member States should fully implement Resolution 1325 on women, peace and security, which passed unanimously in 2000; it is the first resolution ever passed by the Security Council that specifically addresses the impact of war on women, and women's contributions to conflict resolution and sustainable peace.

From my own experiences, I know that women can serve as tremendously courageous and effective peace brokers. I have listened to women from Central America talk about combating domestic violence after helping end real combat in deadly civil war. I have seen Catholic and Protestant women meet over tea, finding common ground amidst the conflict of Northern Ireland. I have seen Bosnian, Croat, and Serbian women bridge their differences by working together, eating together and learning side by side.

Finally, it is time to ensure that women have equal opportunity for meaningful representation in all areas of decision-making. Not just token positions. We need to be partners in developing budgets, writing laws, serving in security forces, dispensing justice, conducting business and serving in government.

Doing all of these things is not just the right thing to do. It is the smart thing to do. Stronger, healthier, fulfilled and productive women are the key to building stronger societies.

Ten years after Beijing, politicians and policymakers around the globe have become increasingly sophisticated at talking about gender equality and the important role women play in society. Political speeches, election outreach and advertisements all suggest a growing acceptance of women's rights. But listen carefully to the words, match them to their deeds and you will see that we still have a lot of work to do.

It is not enough to enshrine equal rights in a constitution. It is a critical first step, but nations have to interpret and actively enforce equal rights for women. We are working with women in Iraq to make sure this happens and that their rights are not eroded under a new government.

It is not enough to say women deserve a voice in politics. Nations have to take steps to ensure the full participation and representation of women in their conferences and committees, their plenaries and parliaments. Our sisters in Nigeria are struggling with this as we speak. Although the constitution guarantees equal rights, Nigerian women have been virtually excluded from the political process.

It is not enough to say we want to educate our girls and give women economic opportunities. Women must be able to safely conduct business, have access to loans and participate fully in economic activities. They must have a say in how society allocates its resources.

It is not enough to say violence targeted against women is wrong. Nor is it acceptable to excuse violence against women as a cultural norm. Violence against women is not cultural. It is criminal, and laws must be written and enforced to punish perpetrators of any and all forms of violence against women.

During this week, women on all continents, who are often divided by national boundaries and by ethnic, linguistic, cultural, economic and political differences, come together to celebrate International Women's Day. It is a time to reflect on our commitment to the ideals of equality, justice, peace and development for women around the world.

Let us use this occasion to redouble our efforts on behalf of the hundreds of millions of women worldwide who rely on us to speak up and speak out for them because they cannot speak up for themselves.

Let us keep women's rights on the world's agenda. Let us continue to mobilize and galvanize until every woman and every girl is able to exercise her human rights and achieve her full potential.

Women represent our best hope for democracy, stability, prosperity, peace and security as we look forward into this new century.

Mrs. FEINSTEIN. Mr. President, gender equality is critical to peace and prosperity around the world. As we become more interconnected, it is crucial that the rights of women are recognized by all countries as fundamental human rights because countries which value women's rights are more stable, freer, and more prosperous. Therefore, it is befitting that I rise today to commemorate, March 8, 2005, International Women's Day.

The genesis of International Women's Day comes from a number of provocative moments in history. On March 8, 1857, women working in the textile and clothing industry in New York City staged a protest demanding better working conditions and higher wages. More than 50 years later on March 8, 1908, 15,000 women marched through New York City in support of voting rights, shorter work hours, and an end to child labor.

It is because of these strong and courageous women that we recognize today as International Women's Day. They lit the torch for gender equality and passed it down through the generations to us. We have a duty and a responsibility to continue their noble work and I am ready to do so by ensuring that the voices of women from around the world are heard loud and clear.

Mohandas K. Gandhi once said, "There is no occasion for women to consider themselves subordinate to men." Yet, even today, there are places around the world where this is not the case. If the United States aims to be a great champion of the rights of women and girls for the rest of the world, we must do more to promote respect for women as well as increase their participation in every aspect of a country's civic, political, and economic life. Today, I would like to highlight several issues related to women that require decisive leadership: the role of women in Iraq and Afghanistan, international family planning programs, and the Convention to Eliminate All Forms of Discrimination Against Women.

We all know that Iraq can only complete a peaceful transition to a country based on the rule of law, human rights, and democracy with the full participation of women. One year ago today, the United States sought to assist Iraq on this path when the Department of State established the Iraqi Women's Democracy Initiative along with the U.S. Iraqi Women's Network. Through these grants, the U.S. reached out to Iraqi women and informed them of the importance of their vote and role in the new Iraq.

On January 30, 2005, the world watched as 58 percent of Iraqi voters turned out for an election in which 25 percent of the candidates running were women. In the months following the elections, special training will focus on constitution drafting, legal reform, and the legislative process, so that women may ensure their rights are enshrined in the new constitution. While I am encouraged by recent positive events, we must remain vigilant and encourage our Iraqi friends to put the active and meaningful participation of women in the new Iraq at the top of their agenda.

Last year, Women for Women International commissioned a survey of Iraqi women and found that despite ethnic educational, religious, and economic differences, an overwhelming majority of women in Iraq support a strong role for themselves in the new Iraq. Of the women surveyed, 94 percent want to secure legal rights for women, 84 percent want the right to vote on the final Constitution, and 95 percent think there should be no restrictions on education. It is the duty of the United States to assist Iraqi women in realizing these goals and I encourage my colleagues to continue to support funding for women's initiatives in Iraq.

One of the great success stories of our campaign against terrorism is the liberation of the women and girls of Afghanistan from the brutal oppression of the Taliban regime. Under the Taliban, women in public were forced to cloak themselves in shroud-like burkas while being accompanied by a male relative or else risk being beaten mercilessly. Most Afghan women were restricted by the Taliban from working, receiving an education, from visiting doctors, and from receiving humanitarian aid.

The women of Afghanistan have the opportunity to build a better life for themselves and their families. More and more women in Afghanistan are getting an education, earning a living, receiving medical attention, and participating in public life.

In fact, I was pleased to hear that Hamid Karzai made history last week when he appointed Habiba Sarabi as Afghanistan's first female provincial governor.

During the Taliban regime, Ms. Sarabi fled from Kabul to Pakistan. Following the removal of the Taliban from power in 2001, she was selected for Mr. Karzai's cabinet and instantly became a hero not just for women and girls, but for all Afghans. Her story is truly a testament to the remarkable turnaround taking place in Afghanistan.

Nevertheless, obstacles still remain that prevent women and girls from reaching their full potential.

A recent U.N. report from UN Secretary General Kofi Annan to the Economic and Social Council's Commission on the Status of Women states:

> while the status of women and girls has improved, overall progress has been uneven. The volatile security situation and traditional social and cultural norms continue to limit women's and girls' role in public life and deny them the full enjoyment of their rights. The massive needs in terms of reconstruction of infrastructure and strengthening of human capacity, including in the fields of education and health care, will require the sustained attention and support of national actors and the international community for many years to come.

Our victory in Afghanistan will be lost if women and girls are not afforded basic human rights and equal opportunity. The United States must not forget our commitment to provide a better future for Afghan women of all ages, and I urge my colleagues to stay the course and support additional assistance for education, health care, and democracy training for women and girls in the years ahead.

Once again, as we commemorate International Women's Day, I regret to point out that the Senate has still not acted on the Convention to Eliminate All Forms of Discrimination Against Women. The Convention, which was adopted by the UN General Assembly in 1979, has been ratified by 179 countries to date, including every other democracy in the world.

By ratifying the Convention, states commit themselves to take appropriate steps to eliminate discrimination against women in political and public life, law, education, employment, health care, commercial transactions, and domestic relations.

I am shocked and disappointed that the United States has failed to ratify this Convention. Every year we fail to ratify this important Convention, we compromise our ability to lead the world as the torchbearer for women's rights. Not only would signing the Convention reaffirm our Nation's leadership role on these issues, it would bring us closer with our friends and allies who have already ratified the pact. I urge the Senate to act on the Convention this year.

The United Nations Population Fund UNFPA is the single largest global source for maternal health and family planning programs, working in over 140 countries.

Nevertheless, since 2002, the Bush administration has withheld over $90 million in vital U.S. contributions to UNFPA because of its perceived ties with China's family planning program and policies. The administration has taken these actions despite a report from a State Department fact finding team that the UNFPA in no way supported or was involved in coercive abortions or involuntary sterilization. As a result of administration actions, millions of poor women and families have been deprived of desperately needed care.

The work of UNFPA benefits women in need around the world. In the wake of the horrific tsunami that struck South Asia, UNFPA has been working to ensure that women and girls in this area are receiving the care they need. UNFPA's priorities are reproductive health, including safe childbirth, prevention of violence against women and girls, and psychosocial counseling for those affected by the 26 December tsunami.

In early January, UNFPA asked for $28 million to support its tsunami-related work in Indonesia, Sri Lanka, and Maldives as part of the United Nations interagency Flash Appeal. A month later, over 70 per cent of the requested funding had been received or pledged from various donors, including Germany, Japan, the Netherlands, China, Norway, and New Zealand. The United States is absent from this list.

No women should be prevented from receiving the assistance she deserves to plan and care for healthy families. We need to ensure that women have access to the educational and medical resources they need to control their reproductive destinies and their health so they will be able to better their own lives and the lives of their families.

Women are the backbone of our global society. They are our mothers, our sisters, our daughters, and our grandmothers. They nurture us and teach us the lessons of life and how to be a better person. As such, I am proud to commemorate March 8, 2005, as International Women's Day.

There are many great issues facing women and the United States. However, I am confident and optimistic we can address problems such as family planning, the burgeoning roles of women in Iraq and Afghanistan, and eliminating all forms of discrimination against women.

As a United States Senator, I truly believe it is our duty as the leader of the free world to address and seek workable solutions to every problem that women face around the world. We can—and we must.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the Record, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 74) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 74

Whereas all over the world, women are contributing to the growth of economies, participating in the world of diplomacy and politics, and improving the quality of the lives of their families, communities, and nations;

Whereas discrimination continues to deny women full political and economic equality and is often the basis for violations of women's basic human rights;

Whereas worldwide, the lives and health of women and girls continue to be endangered by violence that is directed at them simply because they are female;

Whereas worldwide, violence against women includes rape, genital mutilation, sexual assault, domestic violence, dating violence, honor killings, human trafficking, dowry-related violence, female infanticide, sex-selection abortion, forced pregnancy, forced sterilization, and forced abortion;

Whereas the World Health Organization asserts that domestic violence causes more deaths and disability among women aged 15 to 44 than cancer, malaria, traffic accidents, and war;

Whereas worldwide, 130,000,000 girls and young women have been subjected to female genital mutilation;

Whereas worldwide, at least 1 in 3 females has been beaten or sexually abused in her lifetime;

Whereas worldwide, 20 to 50 percent of women experience some degree of domestic violence during marriage;

Whereas 1 in 4 women in the United States have been raped or physically assaulted by an intimate partner at some point in their lives;

Whereas somewhere in the United States, a woman is battered, usually by her partner, every 15 seconds;

Whereas more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas battering is the leading cause of injury to women aged 15 to 44 in the United States;

Whereas it is estimated that 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas worldwide, women account for ½ of all cases of HIV/AIDS, and in Africa, young women are 3 times more likely to contract the virus than men;

Whereas worldwide, sexual violence, including marital rape, has been denounced as a major cause of the rapid spread of HIV/AIDS among women;

Whereas between 75 and 80 percent of the world's millions of refugees are women and children;

Whereas illegal trafficking worldwide for forced labor, domestic servitude, and sexual exploitation involves between 1,000,000 and 2,000,000 women and children each year, of whom approximately 50,000 are transported to the United States;

Whereas ⅔ of the world's nearly 1,000,000,000 illiterate individuals are women;

Whereas ⅔ of the children denied primary education are girls;

Whereas these educational failures have serious consequences for the global economy and the United States national security, as well as for tens of millions of girls who are losing the chance to discover their worth and importance as global citizens;

Whereas girls who are educated are more likely to have healthy and stable families, lower mortality rates, higher nutrition levels, and delayed sexual activity, and have less chance of contracting HIV/AIDS or having unwanted pregnancies;

Whereas in most countries, women work approximately 2 times more unpaid time than men do;

Whereas women work ⅔ of the world's working hours and produce ½ of the world's food, yet earn only 10 percent of the world's income and own less than 1 percent of the world's property;

Whereas 3 in 10 households are maintained by women with no husband present;

Whereas rural women produce more than 55 percent of all food grown in developing countries;

Whereas it is estimated that women and girls make up more than 70 percent of the poorest people in the world;

Whereas worldwide, women earn less, own less property, and have less access to education, employment, and health care than do men;

Whereas microcredit is a stunningly simple, inexpensive tool that can forever alter the economic landscape for the better;

Whereas women now make up 80 percent of the world's 70,000,000 microcredit borrowers, and from India to Nicaragua to South Africa to Costa Rica, women are proving that small loans can transform individual lives, families, and entire communities;

Whereas nations should take steps to ensure the full participation and representation of women in political conferences, committees, plenaries, and parliaments;

Whereas social investment, particularly investments in women and girls, should be an integral part of foreign policy;

Whereas despite extraordinary advances, women still comprise the majority of the world's poor, illiterate, and uneducated, remain under-compensated for the work they do, still do not have adequate access to medical care in too many countries, are underrepresented in leadership positions in government and business, and continue to be targeted for unspeakable atrocities in war and conflict;

Whereas March 8 has become known as International Women's Day for the last century, and is a day on which people, who are often divided by ethnicity, language, culture, and income, come together to celebrate a common struggle for women's equality, justice, and peace;

Whereas the dedication and successes of those working all over the world to end violence against women and girls and fighting for equality should be recognized; and

Whereas the people of the United States should be encouraged to participate in International Women's Day: Now, therefore be it

*Resolved*, That the Senate—

(1) designates March 8, 2005, as International Women's Day;

(2) reaffirms its commitment to—

(A) improve women's access to quality health care, including HIV/AIDS prevention and treatment;

(B) end and prevent violence against women, including the trafficking of women and girls worldwide, and ensure that the criminals who engage in these activities are brought to justice;

(C) end discrimination and increase the participation of women in decisionmaking positions in government and the private sector;

(D) extend full economic opportunities to women, including access to microfinance and microenterprise; and

(E) strengthen the role of women as agents of peace because women are among the best emissaries for easing religious, racial, and ethnic tensions, crossing cultural divides, and reducing violence in areas of war and conflict; and

(3) encourages the people of the United States to observe "International Women's Day" with appropriate programs and activities.

## GREEK INDEPENDENCE DAY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 75, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 75) designating March 25, 2005, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 75) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 75

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you";

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete that presented the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas, throughout the 20th century, Greece was 1 of only 3 nations in the world, beyond the former British Empire, that was allied with the United States in every major international conflict;

Whereas President George W. Bush, in recognizing Greek Independence Day, said, "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom . . . [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror. . . . America and Greece are strong allies, and we're strategic partners.";

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, arrested and convicted key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's successful "law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism";

Whereas Greece was extraordinarily responsive to United States requests during the war with Iraq, as Greece immediately granted unlimited access to its airspace and the base in Souda Bay, and many United States ships delivering troops, cargo, and supplies to Iraq were refueled in Greece;

Whereas the Olympic Games came home in August 2004 to Athens, Greece, the land of their ancient birthplace 2,500 years ago and the city of their modern revival in 1896;

Whereas Greece received world-wide praise for its extraordinary handling of over 14,000 athletes from 202 countries and over 2,000,000 spectators and journalists and did so efficiently, securely, and with its famous Greek hospitality;

Whereas the unprecedented Olympic security effort in Greece for the first post-9/11 Olympics included a record-setting expenditure of over $1,390,000,000 and assignment of over 70,000 security personnel, as well as the utilization of an 8-country Olympic Security Advisory Group which included the United States;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2005, marks the 184th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 25, 2005, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

## ORDERS FOR WEDNESDAY, MARCH 9, 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate adjourn until 9:30 a.m. on Wednesday, March 9. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee; provided that following morning business the Senate resume consideration of S. 256, the Bankruptcy Reform Act, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. GRASSLEY. Tomorrow, following morning business, the Senate will continue its consideration of the bankruptcy bill. Under the agreement reached tonight, we will have up to 40 minutes of debate on a series of amendments, which will be followed by four stacked rollcall votes. That will be on these amendments. The first vote will be in relation to the Durbin paperwork amendment, and that vote will begin at approximately 11:30 tomorrow morning. For the remainder of the day, we will continue working through the amendments to the bankruptcy bill. There are a number of amendments pending, and it is my hope that most of them will not require rollcall votes.

Earlier today, cloture was invoked on the bill by an overwhelming margin. It is the leadership's intention to complete action on the bill during Wednesday's session.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:18 p.m., adjourned until Wednesday, March 9, 2005, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate March 8, 2005:

### DEPARTMENT OF STATE

DANIEL FRIED, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (EUROPEAN AFFAIRS), VICE A. ELIZABETH JONES, RESIGNED.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. JAMES J. DOUGHERTY III, 8516
COL. PATRICIA C. LEWIS, 2054

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be admiral*

VICE ADM. GARY ROUGHEAD, 6126

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. BARRY M. COSTELLO, 3332

# HOUSE OF REPRESENTATIVES—*Tuesday, March 8, 2005*

The House met at 12:30 p.m.

## MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

## IN DEFENSE OF THE POSTING OF THE TEN COMMANDMENTS

Mr. STEARNS. Mr. Speaker, last week a few of us had the opportunity to attend the opening arguments at the United States Supreme Court for two cases about the public display of the Ten Commandments.

These cases are very interesting because not only are they specifically about the Ten Commandments, but in a larger sense, they are about the long-running dispute over the so-called separation of church and state. I say so-called, because there is not one word in the Constitution that mentions this alleged separation of church and state.

And for over 150 years, the Supreme Court barely referenced this infamous phrase at all. The establishment clause of the first amendment provides that "Congress shall make no law respecting an establishment of religion." For over 150 years, this was commonly understood to mean that the Federal Government cannot establish a national religion as the English did with the Anglican Church.

But ever since cases like Everson in 1947; Engel, 1961; Lemon, 1971; and Wiseman in 1992, a handful of judges have interpreted the first amendment's establishment clause, misinterpreted, I might add in my view, to exclude more and more expressions of religion from the public square.

Now we are at the point where children are not allowed to pray in public schools. The mildest nonsectarian invocations are forbidden at public events, the Boy Scouts are ostracized for mentioning God in their oath, and even the words "under God" in the Pledge of Allegiance are under fire.

Perhaps these Ten Commandments cases will be the turning point in the legal war against religion. We need to have a commonsense approach towards the relationship between religion and the State. That is why I was particularly interested to hear Justice Scalia's take on this case.

He was his usual straightforward and honest self in his questions. He asked the ACLU lawyer, "If a legislature can open its session with the public present with a prayer, why can it not, in the same building, post the Ten Commandments?" He also called the Ten Commandments "a symbol of the fact that Government derives its authority from God, which seems to me an appropriate symbol to put on Government grounds."

Justice Scalia also logically noted that those who oppose the Ten Commandments on public grounds would "also think that Thanksgiving proclamations are also unconstitutional, which were recommended by the very first Congress, the same Congress that proposed the first amendments."

Mr. Speaker, this is an issue that the American people care about deeply. In fact, according to a recent AP poll, 76 percent of Americans support these religious displays, which Justice Scalia alluded to when he said the Ten Commandments send "a profoundly religious message, but it is a profoundly religious message believed in by a vast majority of the American people."

The irony of the Supreme Court hearing on these cases last week and of the outright hostility that the Court has displayed against religion in recent years is that above the head of the Chief Justice of the Supreme Court is a concrete display of the Ten Commandments.

And close to these commandments is a marble sculptured relief of Moses himself, the great lawgiver. And let us not forget that at the beginning of each session at the Court, the crier opens with the proclamation: "God save the United States and this Honorable Court."

I agree with Justice Scalia and with the vast majority of the American people. In fact, to quote former Supreme Court Justice William O. Douglas: "We are a religious people whose institutions presuppose a supreme being." That is why I have introduced legislation to display the Ten Commandments in the Capitol.

Mr. Speaker, the fact of the matter is that the Ten Commandments are a historical document that contains moral, ethical, and legal truisms that any person of any religion or even an atheist can recognize and appreciate. They present a concise set of values that represent the moral background of this Nation and our common view on right and wrong.

I believe that they promote a commitment to decency, which is why I have them hanging in my office. We start off every day with prayer and the Pledge of Allegiance. Over the Speaker's rostrum it is posted, "In God we Trust."

There are statues and representations of religious figures scattered throughout the Capitol and House buildings. Posting the Ten Commandments would fit right in and would merely serve to remind Members that we have the responsibility as lawmakers to be as fair and just as possible. Certainly a reminder of God's law would be appropriate as we consider the Nation's laws.

## SUPPORT FOR FREEDOM AND HUMAN RIGHTS

The SPEAKER pro tempore (Mr. PENCE). Pursuant to the order of the House of January 4, 2005, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, we come to the floor to speak to the American public. Sometimes we come to speak to one another.

It is in that spirit of speaking to my fellow Members of Congress that I rise today. Like you, I was horrified when the pictures at the Abu Ghraib prison first came forward, and then the additional admission of abuse, mistreatment, indeed, torture at the hands of people that we were responsible for.

And it seems, Mr. Speaker, that this is not an isolated set of circumstances. Indeed, there are more stories coming out of torture and death of detainees, and of extraordinary rendition, where people the United States is concerned with, we allow them to be transported to other dictatorships where we know that they will be abused.

I have been horrified as the stories start to come out, broadly reported in the press; and from Amnesty International, and the Red Cross. I, like you, my fellow Members of Congress, am horrified that the United States would be lumped into the same categories as countries that we are trying to encourage to honor human rights. Syria, Egypt, Morocco, Saudi Arabia look to be countries where we have allowed people or sent them to be tortured.

This took on a decidedly local flavor for me as press accounts came out that a shadow, perhaps illegal dummy, front company, Bayard Foreign Marketing, LLC, in my home town of Portland, Oregon, was used to transport these people.

It appears to have been this company, organized in violation of Oregon law, to hide the true nature and breadth of this extraordinary rendition program. It is important for us as Members of Congress to be clear. Torture is morally wrong. It is not just a quaint idea that some people feel that it is morally wrong, but it is immoral.

Additionally, torture is a bad idea for intelligence purposes. The experts tell us that if you attempt to drown, beat, shock, freeze people, deprive them of sleep long enough, they will admit to almost anything you want them to admit to, but it is not the soundest basis upon which to base our intelligence decisions.

Furthermore, when prisoners are tortured, it taints the case against them; makes it impossible to bring them to justice in a court of law; and, sadly, it puts Americans at risk. The reason that we obey these quaint notions against torture is not just because it is morally wrong but tactically it puts Americans at risk in uniform and not.

Mr. Speaker, I am concerned about how Congress can sit on the sidelines and let the press and human rights groups do our job. Well, actually, they can only do part of our job. They can get the truth out, and that ought to be something that each Member of Congress ought to be concerned about. But being able to fix abuses, to hold responsible parties accountable for violation of human rights, a United States policy and perhaps law, that is our job.

Mr. Speaker, in the history of this country perhaps a half billion Americans have lived; only 11,571 Americans have been privileged to be Members of Congress. Who do we represent in this matter? Yes, we listen to special interests, those with strong political voices. We listen to the voters. We listen to the press. But at the end of the day, the things that matter most to us, I am convinced, are our family, our friends, the outstanding men and women who work for us here on Capitol Hill, who are almost like family. How can we look them in the eye when such a cloud hangs over America's honor?

I strongly urge each of my colleagues to look deep into their hearts and think about what they are going to do to provide the answer to their friends, their family, their neighbors, their staff about what we are doing to protect America's honor and to protect the abuse of human rights wherever it may be.

## INTERNATIONAL WOMEN'S DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, today is International Women's Day, and I come before the body this morning to salute our Iraqi women friends. I have with me a group of e-mails that I have received the past couple of days from the Iraqi women that we have been working with; and they are expressing their thanks to our military men and women who have fought so diligently and have worked right alongside with them and with their country to help their country go through successful elections, to recognize the freedom that they have sought and that they have fought for and longed for for 30 years. So it is with great excitement today that they are communicating with us as a free people and as free women.

Not only are they grateful to our military, Mr. Speaker, they are grateful to those of us in the Congressional Iraqi Women's Caucus, from both sides of the aisle here in this body, a group that has come together to walk with them as they walk toward opportunity and hope and freedom.

I would like to express my thanks for the leadership in that caucus to our former colleague, Ms. Dunn, who put a tremendous amount of leadership in this, and to the gentlewoman from Texas (Ms. GRANGER) and the gentleman from Nebraska (Mr. OSBORNE), who are continuing to work and lead this group as we seek to help the Iraqi women.

I would like to share with the body some of the e-mails and some of the communication that has been expressed from these women as women and as free people to speak on International Women's Day.

This e-mail says: this is the second year Iraqi women have contributed to this important international gathering as free and independent people. They had a goal of 25 percent representation rights for women in the National Assembly in Iraq. Iraqi women have reached a target beyond that, with 31 percent representation. Spectacular. Spectacular.

□ 1245

Another, "Iraqi women are now in the future that we all dreamed of. Iraqi women are heroes. They deserve to be leaders. They deserve to participate in building the bright future for their children. We owe our brave brothers and partners their support and understanding. Together, we all celebrate the International Women's Day."

And another, "This day, March 8, is a sign of civilization and democracy. Let us celebrate together."

Another, "Your voice is reaching other countries in the Middle East. Our sisters in Saudi Arabia, Bahrain, and Kuwait are also rising. People are speaking out and enjoying democracy. Congratulations to all, celebrating the spirit and courage and contributions of Iraqi women who have added to the vitality, the richness, and the diversity of Iraqi life. In this amazing transformation to democracy in our country, we must recognize women's historic accomplishments and always honor those who have left us behind to carry through."

Mr. Speaker, I am so encouraged by the voices of freedom that we hear in this budding democracy. I stand today to salute the Iraqi women and to encourage them as they continue to work toward freedom, hope and opportunity in their country.

## NO PLAN FOR SOCIAL SECURITY SOLVENCY

The SPEAKER pro tempore (Mr. PENCE). Pursuant to the order of the House of January 4, 2005, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, the President of the United States, despite confusion in the press, does not have a plan to ensure the long-term financial solvency of Social Security. His privatization plan would actually reduce Social Security's income and accelerate its financial problems. His privatization commission, which met a few years ago, did have some solutions to the financial solvency of Social Security. Generally, their preferred solution was to dramatically reduce future benefits, to change from wage indexing to price indexing, which means a young person who retires in 40 years would see generally a Social Security benefit reduced by 40 percent, far in excess of the predicted possible shortfalls that Social Security might have if we did nothing.

Now the President says he has not recommended that. He has not recommended dramatic reductions in benefits; it is just on the table. He has also said increasing the retirement age is on the table, and it is already programmed to go up to 67 by 2020. We are going to have people 70 years old logging in the Oregon forests and working other back-breaking jobs across America. But he says that is just on the table. He has not recommended that yet.

He did, in an encouraging manner, leave open the door a tiny bit to a fair solution, which would be lifting the cap on wages. Only people who earn less than $90,000 a year pay Social Security taxes on all their income. He left that door open.

In fact, I have introduced a plan in the last 30 Congresses which would fully ensure the future of Social Security by lifting the cap, reducing taxes for those who earn less than $94,000, and people who earn more than $94,000 pay more in taxes. But that door was promptly slammed by the Republican leaders in Congress. No, they are not going to do that. That would benefit working people too much.

So we are back to the point where the Republicans do not have a plan to ensure the financial security of Social Security. They do have a plan to make it worse, to carve out resources, to redirect income from Social Security into a privatization plan.

Some people get excited when they hear privatization. They think: It is my money; I can do what I want with it. No. Here are the details. They are detailed in this proposal, very detailed. Wage earners can divert 4 percent, two-thirds of their contribution. They can divert it into government-chosen conservative, as the President says, index funds that will be managed by a company chosen by the government. You could not touch your money, could not borrow against it, like people in 401(k)s, or withdraw it early. The government would control the money until retirement, and then the government would compute a bill, and the bill would be how much your taxes would have earned in the Social Security trust fund plus inflation plus management fees, and they give you that bill.

If investments did not do well, the wage earners might end up writing a check to the Federal Government when they retired. No privatization account for them. Other people who did pretty well will see they have to pay that money back to the government, and then the government will say your Social Security benefits are really low. This is the President's so-called privatization plan. The government would force, force people retiring to buy an annuity, to bring their Social Security benefit for their predicted lifetime up to the predicted poverty level. It would force people to do that. What a boon for the private insurance industry. Of course, these would not be guaranteed by anybody. You buy one of those plans. That insurance company goes broke. Sorry, you just lost everything.

So instead of an assured benefit under Social Security, taxpayers would be purchasing a very expensive annuity that does not have survivor's benefits, is not indexed for inflation, unlike Social Security, but then very few people maybe, according to a Wall Street Journal article a couple of weeks ago, none of the people in all probability, but maybe a few would do even better, and they could keep that extra money.

So we would undermine the guaranteed benefit indexed for cost of living with survivor's and disabilities benefits for all working Americans so maybe a few could do better, but the insurance companies could do a lot better. The brokers who manage the accounts could do a lot better, but other people would be left in the cold.

And what about survivor and disabilities benefits? They cannot talk about that, because it is impossible. You are 18 years old. You go into the so-called optional account. You save every penny you are allowed to invest. At 24, you are tragically hurt in an accident. You are not capable of working for the rest of your life, and you can withdraw your $8,000 in your Social Security private account and live on that. No, you cannot.

We need to deal with disability benefits, survivor's benefits and financial problems of Social Security, and the President has not done that with his so-called privatization plan.

## INCAPACITATED PERSONS LEGAL PROTECTION ACT

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. WELDON) is recognized during morning hour debates for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise to speak on the legislation I have just introduced, the Incapacitated Persons Legal Protection Act, enrolled as H.R. 1151. This legislation's immediate intent is to deal with the issues surrounding Terry Schiavo.

I practiced medicine for 15 years prior to my election to the House of Representatives. I still see patients once a month, and I was involved in numerous cases involving situations like this.

Terry has been described in the press as being in a vegetative state, and I believe that she is not, absolutely that she is not. The correct term to describe Terry Schiavo is brain-damaged, severely brain-damaged, but you can see her on videos. Now the judge will not let people such as myself go in there to see her even though the family would like me to be able to examine her. But according to the family, she is the same way. She is responsive. She will look at you, attempt to vocalize. She will attempt to kiss her parents.

The judge in the case, Judge Greer, has tried to dismiss these obvious behaviors indicating that she does have a higher level of functioning and she should not be described as vegetative, as primitive reflexes. And I would assert as a physician that it is extremely dangerous to walk down that kind of a path, where you have somebody with mental retardation, disability or any type of brain injury and you start ascribing obvious human-like behavior on the part of these individuals as being primitive reflexes and that these people are expendable.

Terry is under a court order to withdraw food and water. This is unprecedented in our legal history. Previous cases that received national notoriety, like the Karen Ann Quinlan case, involved family and physicians mutually recognizing that this person did not have a chance of surviving and wanting to withdraw, in the case of the Quinlan case, a respirator, and the court going along with it because the clinicians involved did not want to be prosecuted for manslaughter or murder.

In this case, there is a dispute. The husband wants to terminate food and water, and the family, in the form of the mother and father, vehemently being opposed to it.

The judge has stepped in, and I think he has made some clinical judgments that are not really founded in good clinical science. I am certain if doctors put an EEG on her, we would see extensive brain waves indicating activity in the visual cortex and in the speech centers, and she should not be defined as vegetative.

My bill, H.R. 1151, Incapacitated Persons Legal Protection Act, would simply extend to Terry Schiavo the same benefits currently afforded death row inmates, and she is under a death warrant, death by essential dehydration. It would allow her to receive legal representation, the same kind of legal representation that death row inmates receive. Currently, she does not have her own attorney. Her parents have an attorney. Her attorney has an attorney. Under this bill, she would get legal representation. It would allow for a more detailed review of the case.

As a clinician, she has gotten, to my knowledge, according to the family I have spoken to, no therapy since 1993. I know from having worked with stroke victims and therapists, you can sometimes give these people thicken liquids, and they are able to swallow. Evidently, Terry, prior to the termination of her therapy, was working with a speech therapist and was able to say a few words. She may be able to survive without a tube.

Another important point I want to make here, there was a $1.56 million medical malpractice settlement that was provided for her care. Much of that has been spent on legal fees trying to end her life. This is not a case where the State is spending a lot of money. The resources are there to take care of her needs in the future. Her parents do not want to see her dying of starvation and thirst. I think it is fully appropriate for us to step in, for her to have a right, the same right a death row inmate gets, and to allow, hopefully, review in front of a Federal judge reviewing all of the facts in this case. When doctors really look at the facts, I think it is very, very hard to justify ending her life in such a way.

So I would encourage all of my colleagues to sign on and support the bill and, most importantly, for our leadership on both sides of the aisle to allow expedited review. If not, her tube is scheduled to come out March 18.

## THE VALUES OF DEMOCRACY

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Ohio

(Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, something terribly wrong has happened in the House of Representatives. I am not talking about, from a partisan standpoint, the Republican takeover in 1995. I am not even talking about the ascension of Newt Gingrich to the Speakership. What I am talking about is the ascension of a new kind of House leaders who have run this institution even as former Speaker Gingrich has said, not in the fairest possible way, basically in an unprecedented way. We have seen things in the House of Representatives in the last couple of years that we have literally never seen.

I want to tell a story and spell out what I mean by this one example. Beginning a couple of years ago, at 2:54 a.m. on a Friday in March, the House of Representatives cut veterans' benefits by three votes.

At 2:39 a.m. on a Friday in April, the House slashed education and health care benefits by five votes.

At 1:56 a.m. on a Friday in May, the House passed the Leave No Millionaire Behind tax-cut bill by a handful of votes.

At 2:33 a.m. on a Friday in June, the House passed the first round of the Medicare privatization bill by one vote.

At 12:57 a.m. on a Friday in July, the House eviscerated Head Start by one vote.

After returning from summer recess, at 12:12 a.m. on a Friday in October, the House voted $87 billion for Iraq.

☐ 1300

Always on a Thursday night, Friday morning, always in the middle of the night, always after the public has turned their TV sets off and gone to bed and after most of the media which sits up there has left. As I said, always on a Thursday night, because if it gets in the paper at all, it would appear then in the Saturday paper, the paper that is the least read paper of the week.

That was just the beginning. Then came the Medicare vote. The final round of the Medicare vote took place in November. The debate began at midnight on a Friday night in November. The debate took 3 hours. The vote began at 3 a.m. Members of Congress are given this card, which we stick in a little black box on the House floor to vote. The votes as we all know are then recorded electronically. Almost all of us went down and cast our votes. Pretty soon after the vote was called at 3 o'clock in the morning, the privatization of Medicare, the most important piece of domestic legislation that probably anybody in this body had ever voted on, at 3 o'clock in the morning the vote began, as I said. We are normally given 15 minutes, an extra 5 minutes sometimes, to cast our votes. Normally not much more than that.

At 3:30 the vote was still on. At 4 o'clock, an hour after the vote had begun, an hour after most of us voted, the vote was 216 "yes" and 218 "no." At about 4:15, the Republican leadership, the Speaker of the House, the majority leader, the chairman of the committee that the gentleman from New Jersey and I are on that wrote the bill began to go around to recalcitrant Members of their party, Republican Members who had voted "no," trying to get them to change their vote. It is now 4:30. They woke up the President of the United States who from his living quarters at the White House got on the phone and began to try to lobby the 26 or 27 Members of the Republican side who had voted "no" on Medicare. They all stood their ground.

At about 4:45, the Republican leaders surrounded Nick Smith, a Republican from Michigan, who told his story on the radio the next day. He had already announced his retirement. His son was running for his seat. He was told that if he changed his vote, they would come up with $100,000 for his son's campaign. When he said no, they said, if you do not change your vote, we will come up with $100,000 for your son's opponent's campaign.

Congressman SMITH, under great duress with great courage, said, Nothing doing. Incidentally, his son later lost the primary. Finally, it is 5 o'clock. It is 216–218. It is 5:30. It is 216–218. It is 5:45 in the morning. It is still 216 "yes," 218 "no." Two hours and 55 minutes after the vote was called, two Republicans, one from Idaho and one from Arizona, came out of the cloakroom, walked down here, picked up one of these green cards, you cannot use the plastic electronic card that late in the voting, marked the card, changed their vote, sheepishly handed it to the House Clerk, the Speaker then gaveled the vote closed, and that is how Medicare privatization passed.

We have seen in this body a new legacy of one-party rule, legislative strong-arming and abuses of power never before seen under leaders of either party in this House of Representatives, hiding votes from the American public under the cover of darkness. We spend plenty of time, Mr. Speaker, passing votes on naming post offices in the middle of the day and doing important controversial votes at night.

Mr. Speaker, this abuse of power has to stop.

## SOCIAL SECURITY

The SPEAKER pro tempore (Mr. PENCE). Pursuant to the order of the House of January 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, last Friday, President Bush quickly stopped in on Westfield, New Jersey, to talk to a bunch of his supporters about his Social Security privatization proposal. The Westfield, New Jersey, stop was part of a 6-week push to convince Americans that the Social Security program faces an immediate crisis. The President did not do as well as he wanted, and so now he has hired a couple of public relations experts to run a war room at the Social Security Administration. The administration is also beginning a 60-day push to convince voters that his privatization plan is the best thing for both seniors today and young people tomorrow.

Mr. Speaker, President Bush has failed in convincing Americans that his plan is the way to go because he has even admitted that privatization does nothing to fix the solvency problem Social Security faces in the year 2052. As the President goes around the country pitching his privatization plan, he continues to exaggerate Social Security's current fiscal state. Last Friday in Westfield, he claimed, "The safety net has a hole in it," and he continues to say that the whole system goes broke in 2042.

That is simply not true. Based on the most current estimates from the nonpartisan Congressional Budget Office, Social Security is fully solvent until 2052, meaning that every benefit that has been promised to seniors, the disabled, and survivors can be paid through that year. Imagine that. There is no other government program that is fully funded for the next 47 years. And President Bush calls this a crisis?

The President is also wrong when he says the program goes broke in 2042, because, as I stated, it is not only fully solvent another decade after that, but what exactly happens in 2052? When President Bush says Social Security goes broke, most would believe there is no money left after 2052 in Social Security. After all, if you look at Webster's Dictionary, it defines "broke" simply as "penniless." Again, this is another fabrication because even after 2052, the Social Security system would still have enough money to be able to pay out 80 percent of all guaranteed benefits. That does not sound broke to me: 100 percent to 2052, 80 percent after that. How is that a crisis? How is that broke?

Again, the President exaggerates the solvency of Social Security. But what has he proposed that will extend that solvency beyond 2052? The answer is, nothing, as of today. Last Friday in New Jersey, the President said, "We've got to make sure we save the safety net for future generations." But even the President has admitted that his privatization plan does nothing to extend the solvency of Social Security. In fact, because the President's plan would take money out of the Social Security trust fund to pay for these private accounts, Social Security would actually become insolvent more than

20 years earlier under President Bush's plan.

Mr. Speaker, for 70 years, Social Security has improved the lives of millions of Americans. Nearly 47 million people receive Social Security benefits, including more than 32 million retired workers. Of those, two-thirds receive more than half of their retirement income from Social Security, meaning that without the guaranteed benefit of Social Security, more than two-thirds of today's seniors would be living in extreme poverty.

Social Security gave our parents and our grandparents independence. Democrats, Mr. Speaker, are willing to work with the President in a bipartisan fashion to address Social Security's future, but we simply refuse to support the President's privatization proposal because it dismantles the independent Social Security program. Our seniors now have a guaranteed benefit. They would not have one if we adopt the President's plan. And it does nothing to solve the Social Security solvency problem, again, in 2052.

I think our seniors deserve better. We deserve a President that tells us the truth about what is going on. There is no crisis. Let us sit down together on a bipartisan basis and see what we can do to come up with a solution other than privatization.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 8 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 2 p.m.

## PRAYER

The Reverend E. Terri LaVelle, Program Director, The Faith & Politics Institute, Washington, D.C., offered the following prayer:

God of compassion, grace, mercy, reconciliation, we are coming boldly to the throne of grace to obtain mercy and find grace to help in the time of need. Thank You for these, my brothers and sisters elected to serve the common good of all humanity. Give divine guidance and wisdom individually and collectively as they carry out their sworn duties.

Give them ears to hear, and hearts to discern what the needs are, and boldly meet the challenges even when it involves making hard and uncomfortable choices.

God, Your word states that You have not given us a spirit of fear but of love, power, and a sound mind. Empower this congressional body to operate in love, Godly power, and with sound minds. Your word says that we have been given the word and ministry of reconciliation.

Let these, Your servants called Congresswomen and Congressmen, be servants of reconciliation domestically and globally. In the name that is above every name, Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PRICE of Georgia. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PRICE of Georgia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. BURGESS) come forward and lead the House in the Pledge of Allegiance.

Mr. BURGESS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## SOCIAL SECURITY IS NOT SECURE

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, you know Social Security is quickly becoming social insecurity for millions of Americans approaching retirement. Let us take a step back for a moment and take the politics and the pundits and rhetoric out of the debate, and let us examine the most overlooked aspect of what has been discussed thus far, the facts.

Fact: Social Security is safe for today's seniors, but is in serious danger for our children and our grandchildren. Fact: since the 1950s, the number of retirees has been rising faster than the number of workers. And fact: without reforms, Social Security is not sustainable in the long run.

Mr. Speaker, the system is not in crisis; the system is not in limbo. The system which worked well for many, many years is now broken.

Payroll taxes have been raised 20 times since the 1930s to keep the system functioning, and that is no longer an option. Soon Social Security will be paying out more than it takes in. No matter which side of the aisle you are on, if things continue the way they are, there will be no security for our children and our grandchildren.

## RAISE THE MINIMUM WAGE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, Republicans in the Senate yesterday showed that they have no interest in helping millions of working families who clock 40 hours a week at their jobs for the minimum wage. Today, millions of hard-working Americans are working harder for less and less money.

Since the minimum wage has not increased in 8 years, these workers' paychecks are simply not increasing as the cost of living increases every year. Because congressional Republicans refuse to act, the real value of the minimum wage is not worth nearly as much as past minimum wages.

Consider that if a minimum wage this year provided the same wage to workers today, including cost-of-living adjustments, as it provided to workers in 1968, the minimum wage today would be $8.88 per hour, rather than $5.15 per hour. That is a big difference, and I believe working families living on the minimum wage feel the pinch every day.

Raising the minimum wage also raises the wages of all low-income workers, not just those below the poverty line. Mr. Speaker, Americans who work 40 hours a week should not be living in poverty. It is time congressional Republicans in both Houses join us in supporting an increase in the minimum wage.

## STRENGTHENING SOCIAL SECURITY NOW

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in appreciation of President Bush seeking to strengthen our Social Security system.

When Social Security was conceived in the mid-1930s, the average age of life expectancy in the United States was 60.

Today the average American's life expectancy is over 77.

Americans are now receiving benefits over longer periods of time because we are so grateful they are living longer. Our current Social Security system is financially broken, outdated, and unable to meet the retirement needs of our children and grandchildren.

If we fail to act now, we will burden further generations with dramatically higher taxes, massive new borrowing, or sudden and severe cuts to Social Security benefits or other government programs. In 1998, President Bill Clinton said, "My fellow baby boomers, let me say that none of us wants our own retirement to be a burden to our children and to their efforts to raise our grandchildren."

Seven years later, we still have not solved the problems facing Social Security.

Congress must act soon to provide younger Americans with retirement choices and strengthen benefits for today's retirees. We need to fix the system now, once and for all.

In conclusion, God bless our troops, and we will never forget September 11.

## REFORMING MEDICAL LIABILITY

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, 2 years ago this month, this House passed a meaningful bill to reform medical liability in this country. Since that time, of course, the other body has failed to even have a vote on this important piece of legislation, so now we are going to see this legislation again in this Congress.

But in the 2 years that have intervened, in my home State of Texas, we passed a bill and a constitutional amendment that allowed caps on noneconomic damages within the State of Texas. I think it would behoove this House to examine what has happened in the State of Texas since that time.

Since then, medical liability insurers have returned to the State. We had fallen from 17 insurers to two, and now we stand at 14, with several insurers having come back into the State with rates that were flat or, in fact, lower. In fact, Texas Medical Liability Trust, my old insurer of record, has dropped rates from 12 percent right after the constitutional amendment passed and another 5 percent this year, for a total of 17 percent.

But most importantly, Mr. Speaker, the Cristus Health Care System in south Texas, a self-insured hospital system, realized a $12 million savings in the first 9 months of this legislation, money that was put back into nurses' salaries, capital expansion, the types of things that we want hospitals to be doing, not paying for noneconomic damages.

## THERE THEY GO AGAIN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Howard Dean, the new duly elected chairman of the Democratic Party, had quite a kick-off tour recently. He started off by making racially insensitive remarks about African Americans and Republicans. Then he said he "hates Republicans and everything they stand for." Next he told a group of activists in Kansas that Republicans are evil. The battle between Democrats and Republicans, he said, is a "struggle between good and evil, and we are the good."

It would be easy to write this off as just another Dean rant. But a woman in the audience, and remember, this is Kansas, hardly a left-wing bastion, said Dean did not go far enough. He was too conservative, she said.

Mr. Dean is the leader of a major political party. Even if his demagoguery is too timid for some activists, he represents the Democratic Party and its views, and his comments are yet further confirmation that the rhetoric of the left is eroding our political discourse.

## PAYING TRIBUTE TO SAMUEL FRANCIS, A BRILLIANT AND BRAVE WRITER

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, I rise today to pay tribute to a fellow Tennessean, but a man whom I never had the privilege of meeting. Samuel Francis was a nationally syndicated newspaper columnist and a leading voice of traditional conservatism. He passed away several days ago, just after the Congress had gone into recess, at the too-young age of 57 from complications after heart surgery.

No two people, not even husbands and wives or best friends, agree on everything; and I did not always agree with Sam Francis. But I admired his courage. He was politically incorrect on almost everything, which made him right on most things, but also very controversial. He was a leading critic of neo-conservatives, Big Government conservatives who really are not very conservative at all.

Raised in Chattanooga, Tennessee, Dr. Francis had a bachelor's degree from Johns Hopkins and master's and Ph.D. degrees from the University of North Carolina.

Sam Francis did not believe in world government and multiculturalism. He was a patriotic American who put his own country first and was a brilliant and brave writer.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

## PROVIDING AMOUNTS FOR CONTINUING EXPENSES OF STANDING AND SELECT COMMITTEES OF THE HOUSE FROM APRIL 1, 2005 THROUGH APRIL 30, 2005

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 133) providing amounts from the applicable accounts of the House of Representatives for continuing expenses of standing and select committees of the House from April 1, 2005, through April 30, 2005, as amended.

The Clerk read as follows:

H. RES. 133

*Resolved*, That there shall be available from the applicable accounts of the House of Representatives such amounts as may be necessary for continuing expenses of standing and select committees of the House for the period beginning on April 1, 2005, and ending on April 30, 2005, on the same terms and conditions as amounts were available to such committees for the period beginning at noon on January 3, 2005, and ending at midnight on March 31, 2005, pursuant to clause 7 of rule X of the Rules of the House of Representatives (or, in the case of the Committee on Homeland Security, on the same terms and conditions as amounts were available to such Committee for such period pursuant to House Resolution 10, agreed to January 4, 2005).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from New Jersey (Mr. HOLT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 133. It is a pleasure to be here today with the gentleman from New Jersey (Mr. HOLT); and I also want to mention our ranking member, the gentlewoman from California (Ms. MILLENDER-MCDONALD). As we go through the process here, it is going to be a privilege and a pleasure to work with her and all the Democrats and Republicans on the committee to provide for the funding resolution.

Mr. Speaker, today I rise in support of House Resolution 133, which provides interim funding for the standing select committees of the House from April 1, 2005, through April 30, 2005. The rules of the House provide interim funding for committees until March 31 of 2005. This resolution will extend that funding for an additional month, thereby allowing the Committee on House Administration the time needed to put together the committee funding resolution that will, once passed, fund the committees for the duration of the 109th Congress.

This is nothing unusual. We have done this in the past. The committee chairmen and ranking members will appear Thursday of this week and the following Wednesday to present their budget requests to the committee, and that will be all the committee Chairs.

As the House will be out of session for the final 2 weeks of March for the Easter district work period, floor consideration of the committee funding resolution really will not be practical or possible, therefore, before March 31; and, therefore, it necessitates passage of this interim funding resolution. That is why we are here today. I therefore urge my colleagues to support resolution 133; it is needed.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the distinguished gentleman from Ohio in supporting House Resolution 133, providing interim funding for standing and select committees of the House through April 30, 2005.

As most chairmen and ranking members know, funding for House committees would expire March 31 without this resolution.

☐ 1415

I would like to thank the chairman for ensuring the committees will have the resources to continue operating while the Committee on House Administration processes their funding requests for the 109th Congress.

President Woodrow Wilson from my home State of New Jersey said it well when he said here on the floor, "Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work."

Yes, we have to keep the committees going, and I support the chairman in this effort. The Committee on House Administration's ranking member, the gentlewoman from California (Ms. MILLENDER-MCDONALD), who is returning from her district, has asked me to stand in for her and asked me to specifically relay that she is looking forward to working with the chairman on hearings this week and next week. She is especially keen to ensure that in this Congress committee minorities will receive at least one-third of all committee resources.

Now, I, speaking as a member of the Commission on Congressional Mailing Standards, which is commonly known as the Franking Commission, am concerned about problems with the increased abuse of the frank by one or more committee chairs for blatantly, I would have to say, blatantly political purposes. And I am hopeful that the Committee on House Administration will address this issue through the upcoming Committee Funding Resolution and take appropriate action to stop any such abuses.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman for supporting this resolution today and also look forward to working with the Congresswoman and ranking member.

When the gentleman from California (Mr. THOMAS) chaired the Committee on House Administration, he pushed towards the one-third and always provided one-third at that time to the ranking member, the gentleman from Maryland (Mr. HOYER). We have kept in that tradition, together with the gentleman from Connecticut (Mr. LARSON) and also with the current ranking member, the gentlewoman from California (Ms. MILLENDER-MCDONALD). I am very happy to say that last session, with the gentleman from Connecticut (Mr. LARSON), we achieved the two-thirds/one-third, and we need to continue to do that. And I think that is the only fair way, and we need to evaluate how the two-thirds and one-third is split.

Again, with the gentleman from Connecticut (Mr. LARSON), we did that. It was a great achievement that was started by the gentleman from California (Mr. THOMAS).

As far as the issue of the committees, although I do not see any abuse that has occurred, as far as retooling the rules and regs of the House, we are always willing to sit and talk about that.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say many Americans wonder why the resources for the committees are not divided one-half/one-half. Well, they should understand that it is traditional, now that the majority party would have most of the committee staff, most of the committee resources, and so two-thirds/one-third division has become traditional and that is what the gentlewoman from California (Ms. MILLENDER-MCDONALD) is hoping to achieve. I thank the chairman for his consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 133, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. NEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 133.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## SUPPORTING THE DESIGNATION OF A YEAR OF LANGUAGES

Mr. PORTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 122) expressing the sense of the House of Representatives regarding the study of languages and supporting the designation of a Year of Languages.

The Clerk read as follows:

### H. RES. 122

Whereas the people of the United States have growing social, cultural, and economic ties to the international community that present new challenges as the United States seeks to communicate with and understand international partners from different language and cultural backgrounds;

Whereas communities across the United States are welcoming many new neighbors, friends, employees, and citizens from many countries throughout the world;

Whereas increased language learning is a critical national interest and is necessary to maintain the economic edge the United States has in the worldwide marketplace;

Whereas developing a workforce that is skilled in languages and cultural understanding is vital for conducting international commerce;

Whereas both the 2000 Cox Commission and the National Intelligence Council have reported that a shortfall of experts in foreign languages, particularly the languages of Asia and the Middle East, has seriously hampered information gathering and analysis within the intelligence community of the United States;

Whereas studying other languages has been shown to contribute to increased cognitive skills, better academic performance, and a greater understanding of others, while also providing life-long learning opportunities;

Whereas language education in the 21st century includes a commitment to the study of long sequences of world languages, beginning in early grades and continuing throughout the academic career of an individual, in order to develop the levels of proficiency needed to effectively communicate with people from other cultures at home and abroad; and

Whereas the American Council on the Teaching of Foreign Languages, along with its affiliate organizations, is urging the public to support increased language education for students, which will expand the cultural and literary horizons of adult learners and strengthen the position and security of the United States throughout the world: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that—

(1) the study of languages contributes to the intellectual and social development of a student and the economy and security of the United States;

(2) there should be a Year of Languages in the United States, during which language study is promoted and expanded in elementary schools, secondary schools, institutions of higher education, businesses, and government programs; and

(3) the President should issue a proclamation calling upon the people of the United States to—

(A) encourage and support initiatives to promote and expand the study of languages; and

(B) observe a Year of Languages with appropriate ceremonies, programs, and other activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. PORTER) and the gentleman from New Jersey (Mr. HOLT) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. PORTER).

### GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 122.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 122. This resolution expresses the importance of foreign language study and supports the designation of a Year of Languages. Increased language learning is a critical national interest and is necessary to maintain the economic edge of the United States as well as serving to better secure our national interest abroad.

Currently, 9.3 percent of Americans speak their native language and another language fluently, compared to 52.7 percent of Europeans.

Foreign language education has long been determined to increase a student's cognitive and critical thinking abilities. The Elementary and Secondary Education Act names foreign language study as a part of a core curriculum, and the Higher Education Act denotes that foreign language study is vital to secure the future economic welfare of the United States. Therefore, language education in our Nation's schools should begin in early grades and continue throughout the student's entire academic career.

By designating a Year of Languages, this Congress highlights the importance of foreign languages and cultural understanding in our schools, our workforces and our society. The celebration of languages will serve as a look to the future for Americans who will be entering the workforce at a time when international understanding, cross-cultural awareness and linguistic capacity are increasingly important for their success in the world.

In light of the attacks of September 11, 2001, the American intelligence community stresses that individuals with proper foreign language expertise are greatly needed to work on important national security and foreign policy issues. As we enter into a time that requires an increased understanding of world cultures, foreign language study and requisite knowledge in languages is vital for meeting 21st century security challenges properly, effectively and efficiently.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to speak at some length about this because it is really so important to our country. I would like to thank the leadership for allowing us to bring up this resolution which expresses the sense of the House of Representatives regarding the study of languages and supporting the designation of a Year of Languages. I would like to thank the gentleman from Ohio (Mr. TIBERI) for co-sponsoring the resolution.

Under the guidance and guardianship of the American Council on the Teaching of Foreign Languages, 2005 will be celebrated as the Year of Languages in the United States. These celebrations will take place in a variety of settings including elementary and secondary schools and post-secondary institutions as well as at events at local and State and national levels across America. It is an opportunity to focus on America's need to focus our attention on the social and economic benefits of studying other languages and cultures around the world and on the importance of these studies to our national security.

This initiative will seek to influence the full range of language programs in the United States schools and communities, and I think the campaign plan will capture the attention and, I hope, the interest of all Americans with the involvement and assistance of teachers, administrators and local officials. If the United States is going to continue to play an important role in the global economy and in the business world and to be the leader politically, and I would say militarily, we must be able to understand and communicate with other cultures around the world.

According to a 2002 survey from Healthy Companies International, the average number of languages spoken by American business executives is less than one and a half, compared with say 3.9 languages spoken on average by business executives in the Netherlands.

The goals of the Year of Languages are four: To expand the public's understanding of the role of language in all aspects of people's lives, in society and in the future of human and international relations; to promote the importance of language learning and language proficiency, urging every American to commit to learning other languages; to build awareness of the diversity of languages that now play an integral part of everyday life in our country; and to promote the formation of a national task force to study and strengthen national policy on language learning and teaching and to make recommendations to strengthen U.S. policy.

Some members of the public and the media might question why, with our unparalleled military and economic power, Americans need to learn languages of the world. Does not everyone speak English anyway? So they say.

Well, the reasons to launch a government-wide effort to build a pipeline of professionals with advanced foreign language capabilities, I think, should be self-evident to Americans. Let me quote a statement. "The United States today carries new responsibilities in many quarters of the globe, and we are at a serious disadvantage because of the difficulty of finding persons who can deal with the foreign language problems."

Those are not my words. Those are the words of former U.S. Secretary of State John Foster Dulles, spoken in 1953. What was true in the post-World War II world of 1953 is even more true in the post-9/11 world of 2004 and 2005.

Our national deficiency in the languages and cultures of critical areas around the world is compromising American security interests. And in addition to diminishing our opportunities economically and culturally, the deficiency is making our troops overseas more vulnerable and, I would argue, the American people less safer.

A few years after John Foster Dulles spoke these words, Russia launched a small beeping sphere above the Earth known as Sputnik. Americans were shocked, even fearful, and Congress, saying America would never be caught flat-footed again, passed the National Defense Education Act in 1958 that did much to overhaul the teaching of science and math and also provided some assistance for the study of languages.

September 11, 2001, was also a wake-up call for us. If we fail to address one of the most serious problems facing our Nation, we will not have risen to the challenge of September 11, 2001. The 9/11 joint inquiry reported a year and a half ago that our intelligence community is at 30 percent readiness in languages critical to national security. A

State Department commissioned report from a year ago found that our government has only 54, or at that time, only 54 genuine Arabic speakers working in the entire Foreign Service.

A year or so ago, I asked David Kay, the former head of the Iraq Survey Group, how many on his 1,400 member team spoke Arabic and understood the technology of weapons of mass destruction. Well, he said he could count on the fingers of one hand.

I posed similar questions to some members of the special forces who had been combing the mountains of Afghanistan looking for Osama bin Laden. I asked how many of them spoke Pushtu. Well, they responded, they had picked some up during the year they had been there. Although our special forces represent some of the best trained forces in the world, we are clearly not giving them the skills they need. If Osama bin Laden is truly American public enemy number one, how do we expect to track him down if we cannot speak the languages of the people who are hiding him?

As Dr. David Chu, the U.S. Undersecretary of Defense, said in his opening remarks at the National Language Conference last June, we need "a permanent change in our approach to the peoples and cultures of the rest of the world."

☐ 1430

Our need to understand the world is a prime national security concern.

He went on, "National security concerns have taken us from the streets of Manhattan to the mountains of Afghanistan and to the resort cities of Bali. Our economy has brought workers here to America and sent jobs to 100 countries around the world. Our health is affected by conditions and events in China, Britain, Africa and South America. Criminal cartels and corrupt officials hundreds of miles beyond our borders have an immediate impact on our streets, in our schools and our homes. Within one generation, we have become integrated into the world as never before." Those are the words of the Undersecretary of Defense Dr. Chu.

While the Defense Department, the State Department and our intelligence agencies have recently turned their attention to the language problem, their approach remains focused on immediate needs. They are stepping up recruitment efforts, and they are expanding the language education programs in Monterey, here in Washington and elsewhere, and these are promising and necessary changes, but they only scratch the surface.

They do not deal with the problem of the pool. From what pool will they be recruiting the linguists for the Defense Department, the State Department, our intelligence agencies?

The root of the problem, I think, is in our schools. If we are to address adequately the language shortage in the Federal Government, we have to look past the issues of immediate recruitment and foreign language training. Federal language schools are building on a poor language foundation. We must design and implement a Federal language strategy that begins at the earliest years of education and continues through college.

Mr. Speaker, consider the following facts: Al Qaeda and similar terrorist elements operate in over 75 countries where hundreds of languages and dialects are spoken. However, 99 percent of American high school, college and university programs concentrate on a few, mostly European, languages. According to figures from a couple of years ago, 2002, more college students study Ancient Greek than Arabic, Korean, Persian, Pashto and a number of other languages put together. Nothing against Ancient Greek, but certainly it is an important area of study, but the shortage of training in Arabic, Korean, Persian, Pashto and a long list of others should be cause for concern.

Out of 1.3 million graduates at America's colleges and universities, 17, two years ago, earned a bachelor's or advanced degree in Arabic, according to the Department of Education. 17. In Chinese, the language spoken by billions of people, 217 degrees were granted, according to the Department of Education. That is compared with almost 3,000 in French, more than 8,000 in Spanish. We need to improve not just the number of degrees but the quality of education throughout the educational years.

In addition to the resolution before us today, I have introduced the National Security Language Act, legislation that would expand the Federal investment in education in foreign languages of critical need. It would provide Federal incentives for high school students to study languages in college. It would give universities resources to expand language programs overseas, and it would identify Americans with preexisting language abilities for recruitment.

The bill would create an international flagship language initiative that would provide Federal grants to specific universities and colleges to establish high-quality, intensive, in-country language study programs in countries around the world. It would establish a science and technology advanced language grant program for institutions of higher education to establish programs that encourage students to develop foreign language proficiency as they study science, engineering and other technologies.

The bill would provide loan forgiveness of up to $10,000 for undergraduate students in foreign languages. It would encourage early northern language studies by establishing grants for foreign language partnerships between local districts and foreign language departments at institutes of higher education.

It would create a commission of national study of foreign language heritage and a Federal marketing campaign to identify heritage communities with native speakers of critical foreign languages and market to them the need to pursue the study of languages.

I believe the next step then would be to increase the supply line of students who have strong language skills, and this can only be done through the K-through-12 system. The Council for Basic Education recently released a study. Foreign language instruction experienced decreases in instruction time as reported by principals, particularly in high minority schools. Whereas in low minority schools, 9 percent of the principals reported a decrease in time spent studying languages; 11 percent reported an increase. But in minority schools, schools with a high proportion of minority students, there was a 23 percent decline in instructional time, with only 9 percent of the principals reporting an increase. In other words, this is also a matter of our educational divide in this country.

In addition to developing a lifelong ability to communicate with people from other countries and backgrounds, other benefits include improved overall school performance and improved problem solving skills. Students of foreign languages tend to score higher on standardized tests. And results from the Scholastic Aptitude Test show that students who had studied a foreign language for 4 or more years outscored other students on the verbal and math portions of the test. This is according to the college board SAT as reported in 2003.

Knowledge of a second language also seems to coincide with high academic achievement. It is not just whether a school has a rigorous program, although certainly that helps, but time spent in studying foreign languages means that students earn better grades in college and are less likely to drop out.

There are all sorts of reasons to study foreign languages, and studying the language, learning a language at any age is beneficial. Some studies have shown that the brain is more open to linguistic development in the early years. I have certainly seen that in my own grandchildren and children. When children have an early start to a long sequence of language instruction that continues through high school and college, they will be, studies have shown, able to achieve levels of fluency in that and to pick up other languages. Nevertheless, older children and adults can still be successful at learning a second or third or fourth language. Although the level of attainment is a little more predictable for us older learners, it is still worth doing.

In 1958, as I said, Congress responded to Sputnik by passing the National Defense Education Act. It focused on science and engineering and, to some extent, on languages. Immediately after September 11, Americans found themselves once again facing a Sputnik moment. Americans realized that we were caught flatfooted and unprepared to deal with not just hatred around the world but hatred that was turned into vicious attacks.

We need a national commitment to languages on a scale of the NDEA, the National Defense Education Act, and Mr. Speaker, I think today's resolution that will, among other things, recognize 2005 as the year of languages is a start toward making that commitment.

Mr. Speaker, I would like to reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I reserve the balance of my time.

Mr. HOLT. Mr. Speaker, may I ask the time remaining on each side?

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from New Jersey (Mr. HOLT) has 3½ minutes remaining.

Mr. HOLT. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. DAVIS), my colleague.

Mrs. DAVIS of California. Mr. Speaker, I rise in support of House Resolution 122.

For years, we have known that, to be competitive in the world, Americans must acquire the language capacity to speak with our counterparts. Personally, for myself, when my husband was stationed in Japan during the Vietnam War, we lived in a Japanese community, and with my toddler and baby there, I learned some minimal Japanese so that I could speak with and spend time with my neighbors in a way that was really meaningful to both of us. We became friends, and the importance of language study became so real to me in those days.

In San Diego, we are keenly aware that so many of our residents are bilingual. Indeed, in our schools, students come from homes where English is not spoken. Over a hundred languages are represented in our schools.

As a school board member, I have worked hard to develop better training of foreign language instructors and to bring in more initiatives that recognize the diverse languages in our schools, but I must say that that issue really did not progress nearly as much as I would like, and in fact, today, we still have issues around certifying teachers in many different languages.

Critically, we are also so aware that our service members must be equipped with even the basic ability to speak with the citizens of Iraq and with the citizens of Afghanistan. So I am proud that our service personnel in Camp Pendleton are now being given that very introductory language instruction from our higher education institutions.

It is clearly appropriate that we establish a year of languages to focus on the importance of developing proficiency in a language other than English, and it must be a strong initiative that we bring forward. It will only be meaningful, however, if we only move forward and we develop a kind of strategic plan so that we find the resources, and more than anything, we find the will to make foreign language development an integral part of our daily lives.

I salute my colleague for bringing this forward. I thank him very much because I think it has to be the kind of initiative that goes beyond many of our dreams for this area. It must have the kind of applicability that says this is important to us; this is important to our country.

Mr. HOLT. Mr. Speaker, I yield myself such time as I may consume, and I am delighted to hear that my colleague has studied Japanese.

Mr. Speaker, I ask that my colleagues pass this resolution and work with me on other language projects to see that we address this Sputnik moment that this country faces and that we work hard to address our poor, I would use that word, language proficiency here in the United States, for reasons of culture, for reasons of economics and for reasons of national security.

I urge the passage of H. Res. 122.

Mr. Speaker, I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be a supporter of H. Res. 122, a bill brought before the House of Representatives by my colleague Rush Holt. 2005 is The Year of Languages, which is a nationwide initiative to raise the American public's awareness regarding the importance of learning languages.

The goals of the Year of Languages initiative are simple. We want to expand the public's understanding of the role played by languages in all aspects of people's lives, in society and in the future of human and international relations. This is also an opportunity to promote the importance of language learning and language proficiency, urging every American to commit to learning other languages.

By focusing on such goals, we will build awareness of the diversity of languages that now play an integral part of everyday life in our country. Ultimately, this can promote the formation of a national task force to study and strengthen national policy on language learning and teaching and to make recommendations to strengthen U.S. policy.

The Year of Languages is being marked by events at the national, regional and local levels. American Council on the Teaching of Foreign Languages (ACTFL) has organized a national media campaign and educational and promotional materials designed to boost interest among learners of all ages, including public service announcements for television, radio, and print media.

Thank you, Merci, Gracias, Danka and Todah.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, as a member of the Education and Workforce and the International Relations committees, I rise in strong support of H. Res. 122, Mr. HOLT's resolution to support and encourage the study of languages in the United States.

The promotion and expansion of language studies will ensure our nation's ability to compete in a global marketplace of the 21st Century. The United States needs a skilled workforce in government, national security, the scientific community and business who possess the language and cross-cultural skills to successfully engage our global community.

While colleges and universities across the U.S. provide for the study of languages and employ teachers and scholars in specialized languages, they have not had the resources or the incentives to recruit, retain, and graduate students in specialized languages at a rate equal to the demand. We need more students to study languages for the strength of our economy and for the security of U.S. interests here at home and abroad.

The federal government provides incentives for the study of math, science, and engineering because we have recognized the value of encouraging strong graduation rates in those areas. We should have the same recognition for the value that foreign language proficiency adds to other professional degrees.

At the University of Minnesota, between July 1, 2003 and June 30, 2004, while fourteen bachelor's degrees in East Asian languages were conferred, zero Masters and PhDs in East Asian languages were conferred. During the same time, zero degrees in Arabic languages were conferred at any level. And, zero degrees were conferred in South Asian languages at either the bachelor's or advanced degree levels.

In contrast, Chinese students as well as men and women from countries in the Middle East, India, and across the globe come, to the United States to study math, engineering, biology, and medicine—in English—their second or even third language. How many Americans have the ability or incentive to live in China and obtain an advanced understanding of the Chinese language? In Japan? In South Korea? The learning gap between the U.S. and countries in Europe and Asia is widening in math and science. Language acquisition is an essential component of our nation retaining our competitive edge.

I commend Mr. HOLT for his leadership on this important issue and, again, offer my strong support.

Mr. PORTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. PORTER) that the House suspend the rules and agree to the resolution, H. Res. 122.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 1445

## APPOINTMENT OF MEMBERS TO CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to 22 U.S.C. 276d, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Canada-United States Interparliamentary group:

Mr. MANZULLO, Illinois, Chairman

Mr. MCCOTTER, Michigan, Vice Chairman

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 2 o'clock and 45 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1832

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PUTNAM) at 6 o'clock and 31 minutes p.m.

## PERMISSION FOR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE TO FILE SUPPLEMENTAL REPORT ON H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure may file a supplemental report on the bill, H.R. 3, to authorize funds for federal-aid highways, highway safety programs, and transit programs, and for other purposes, at any time before midnight, March 8, 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on approving the Journal, and on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

Approval of the Journal, de novo.

House Resolution 133, by the yeas and nays.

House Resolution 122, by the yeas and nays.

The first and third electronic votes will be conducted as 15 minute votes. The second vote in this series will be a 5-minute vote.

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question on agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 29, not voting 26, as follows:

[Roll No. 53]

### YEAS—378

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larson (CT)
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—29

Baldwin
Capuano
English (PA)
Filner
Fossella
Gutknecht
Hastings (FL)
Hefley
Hinchey
Hooley
Kucinich
Larsen (WA)
Latham
LoBiondo
McDermott
Miller, George
Oberstar
Olver
Otter
Pastor
Peterson (MN)
Sabo
Schakowsky
Taylor (MS)
Thompson (MS)
Udall (CO)
Udall (NM)
Waters
Weller

### NOT VOTING—26

Baird
Barrow
Bass
Bean
Berkley
Boucher
Brady (PA)
Carson
Clay
Cleaver
Crowley
Herseth
Higgins
Kanjorski
Kennedy (RI)

Leach
Lee
McCarthy
Meeks (NY)
Moore (WI)
Ramstad
Stark
Stupak
Towns
Wasserman Schultz
Weiner

☐ 1904

Mr. LoBIONDO and Mr. WELLER changed their vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

## PROVIDING AMOUNTS FOR CONTINUING EXPENSES OF STANDING AND SELECT COMMITTEES OF THE HOUSE FROM APRIL 1, 2005, THROUGH APRIL 30, 2005

The SPEAKER pro tempore (Mr. PUTNAM). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 133, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 133, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 27, as follows:

[Roll No. 54]

YEAS—406

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—27

Baird
Barrow
Bass
Bean
Berkley
Boucher
Brady (PA)
Carson
Clay
Cleaver
Crowley
Herseth
Higgins
Kanjorski
Kennedy (RI)
Leach
Lee
McCarthy
Meeks (NY)
Moore (WI)
Ramstad
Sanders
Stark
Stupak
Towns
Wasserman Schultz
Weiner

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1916

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## SUPPORTING THE DESIGNATION OF A YEAR OF LANGUAGES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 122.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. PORTER) that the House suspend the rules and agree to the resolution, H. Res. 122, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 37, as follows:

[Roll No. 55]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley

Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—37

Baird
Barrow
Bass
Bean
Berkley
Blumenauer
Boucher
Brady (PA)
Carson
Clay
Cleaver
Conyers
Crowley
Gutierrez
Herseth
Higgins
Hunter
Jackson-Lee (TX)
Johnson (CT)
Kanjorski
Leach
Lee
McCarthy
Meeks (NY)
Moore (WI)
Ramstad
Sanders
Schakowsky
Simpson
Stark
Stupak
Towns
Walden (OR)
Wasserman Schultz
Weiner
Wolf
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHAW) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1933

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ELECTION OF MEMBER TO COMMITTEE ON VETERANS' AFFAIRS

Mr. GINGREY. Mr. Speaker, I offer a resolution (H. Res. 139) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 139

*Resolved*, That the following Member be and is hereby elected to the following standing committee of the House Representatives:

Committee on Veterans' Affairs: Mr. Burton of Indiana to rank after Mr. Stearns.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## SMART SECURITY AND INTERNATIONAL WOMEN'S DAY 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, earlier this week, the United Nations High-Level Panel on Threats, Challenges and Change released a report to correspond with International Women's Day 2005, which is today, March 8, 2005.

Since March is also Women's History Month, it is important to discuss the proven link between gender equality and global security and development. There is an important link here, but it is one that we seldom discuss.

The UN's comprehensive report addresses the inter-connectedness of gender equality and the threats that most affect our world: International security, extreme poverty, environmental degradation and diseases such as HIV/AIDS, malaria and tuberculosis.

Because women constitute a greater proportion than men of the world's poorest people, women stand to gain the most from the alleviation of extreme poverty. And because women around the world experience higher illiteracy rates than men, they also stand to gain more from education programs, particularly in the world's poorest countries where opportunities to receive quality instruction are extremely scarce.

The link between poverty and illiteracy and global insecurity is clear. The bipartisan 9/11 Commission that addressed the terrorist attacks of September 11, 2001 acknowledged that poverty, illiteracy and despair do not cause terrorism, but they do breed conditions in which terrorism is created.

That is why any attempt to address international security must include a discussion about high poverty and illiteracy rates. And because women are burdened disproportionately by poverty and illiteracy, any attempt to address those plights must begin by addressing the excessive degree to which women are affected.

Even in America, women who work full-time year-round earn only 76 cents for every $1 that their male counterparts earn. And every day, in nearly every country in the world, women are beaten, raped and killed. This crisis of violence against women has reached the most dire magnitude in countries like Sudan and Congo and Angola, where rape and brutality towards women is used as a political tool and an act of war.

The international trafficking of women and girls is also a huge problem. Trafficking, the process by which women are sold into sexual slavery, is particularly rampant in Africa and in Southeast Asia.

For those who do not believe there to be an issue of concern for the United States, think again. The trafficking of women reinforces the vicious cycle that continually prevents women from earning a decent living wage, keeping them in slavery and keeping them from receiving the same quality of education as men. This in turn reinforces the root cause of global instability that often gives rise to terrorism.

Fortunately, there is a way to address this crisis. It is called SMART security for the 21st century. SMART is a Sensible Multilateral American Response to Terrorism. SMART security addresses the security of women by urging educational opportunities for women and girls. Studies have proven that the more girls that are enrolled in schools in developing countries, the more the population of that country stabilizes. And the more stable the country, the more violence decreases. In fact, domestic violence lessens and crime levels decrease in line with educational opportunities.

We must prevent future acts of the terrorism, and SMART security is a way to do it. Instead of trying to spread democracy through the barrel of a gun, like we have been in Iraq, let us spread it through books, by increasing educational opportunities for women and girls. Today, International Women's Day, let us make it a priority to ensure that women in the poorest countries receive the educational opportunities they need and deserve.

Just as important, women need to be encouraged and allowed to participate in the political process in every country if we are to see a more secure world. And above all else, we must remember that if international security efforts fail to include women, then they are excluding more than half of the world's population. Let us include all of the world's population and let us secure our world for the 21st century.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Illinois (Mr. EMANUEL).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## SUPPORTING NATIONAL MANUFACTURING WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, we all support American manufacturers: every Member of Congress should. But feel-good resolutions such as the one we are voting on this week will do little to cure our manufacturing ills.

We are running record trade deficits each year. When I first ran for Congress in 1992, the U.S. trade deficit, as you can see on this chart, was $38 billion. The trade deficit last year, after 12 years of misplaced trade policy, 12 years of misplaced tax policy and 4 years of a Bush administration that has totally ignored manufacturing, we now see a trade deficit of $617 billion. From $38 billion to $617 billion in a space of only 13 years.

The U.S. has become the world's largest debtor nation, over $2.5 trillion in 2002. The dollar continues to lose value in world markets.

Last year, we had the opportunity to pass Crane/Rangel, a bipartisan bill to help the American manufacturing industry by encouraging them to produce goods in the United States. But instead, we passed an alternative that, as usual, gave handouts to multinational corporations and did little to nothing for our family-owned manufacturing facilities.

My State of Ohio has lost more than 170,000 manufacturing jobs since 2001, and the remaining small manufacturing businesses are struggling to keep the doors open. The manufacturing extension program, MEP, is an important resource that helps small manufacturers in Ohio and across the country to help improve efficiency, increase competitiveness and stay in business. Despite this success, the President is asking in his budget to eviscerate MEP.

In 2003, when MEP was funded at $111 million, Ohio, although only receiving a small fraction of that funding, that modest investment produced impressive results. MEP helped more than 2,700 Ohio businesses to create or retain more than 1,100 jobs, increase sales by $20 million, cut costs by $47 million, increase investments by $58 million. That is exactly the sort of helping hand Ohio and the Nation's small manufacturers need.

Then the President proposed an MEP funding cut of 88 percent, ended up signing a law a couple of years ago that cut it almost that much. Not surprisingly, services to Ohio businesses dropped significantly. This year, the President's budget request asked for a funding cut of another 50 percent. Less than $1 million per State will be left for MEP. We should be supporting a funding level five times that amount because it would mean more tax revenue, more jobs, more success for U.S. manufacturers.

Ohio's Republican governors urge the President to change his position on MEP. Working men and women from my State and across the Nation understand that our economic future is at stake. We should pass a bill this week ensuring increased MEP funds over the President's request, but this body probably will not do it.

To support our Nation's manufacturing, we should pass a bill to stop China from manipulating its currency by artificially pegging it below the dollar. China starts outs with a 40 percent advantage over American manufacturers by this illegal act, not to mention having no minimum wage and forced labor camps and child labor and all the other advantages, artificial advantages if you will, in a free marketplace that China has. But I do not think that legislation to deal with currency manipulating will be on the House floor this week.

To support our Nation's manufacturers, we should pass such a bill making sure China plays fair and meets its World Trade Organization obligations, but I do not see a bill on the floor this week to do that.

To support our Nation's manufacturing, we should pass the bill of the gentleman from Maryland (Mr. CARDIN), the Foreign Debt Ceiling Act of 2005, that would create an emergency trade review group at the U.S. Trade Representative's Office to develop a plan of action if the trade deficit is above 5 percent of U.S. GDP or if foreign debt climbs above 25 percent of GDP. But that is not being considered this week either.

The manufacturing industry is the backbone of our country. This industry, these workers, these communities built America. And when these industries suffer, our communities suffer, our families suffer, our schools suffer, our Nation is hurt. Yet many in Congress continue to support measures that move these jobs overseas. Let us be clear about whom we should support.

Congratulate manufacturers, is what the resolution on the floor will do and nothing else this week, who have remained in the U.S. and refrained from sending manufacturing jobs overseas. But it is not just about keeping our middle class strong; we should be concerned about national security. Without a strong manufacturing base, there can be no strong reliable national security in this country.

Mr. Speaker, I hope that we, finally, in this Congress adopt a manufacturing policy.

□ 1945

## ORDER OF BUSINESS

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore (Mr. GOHMERT). Is there objection to the request of the gentleman from Texas?

There was no objection.

## SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, the American people are hearing a lot of information about our Social Security system, and I am sure they have got legitimate questions: Is there a crisis or not? If there is a crisis, then is there a trust fund or not? If there is not a trust fund, where did it go, who took it and when?

There are, of course, those who say that there is no crisis, that we have a system that is awash in cash and can fund all future benefits but it needs minor tweaking to ensure solvency.

Perhaps crisis is the wrong word. Captive may be a better selection because certainly we are held captive by our demographics. If our current system is to work and work well, we need large numbers of young people to pay into the system, and we need retirees to live relatively short intervals after their retirement; but in fact, neither of these situations reflects reality.

Birth rates are down in this country, although not to the degree as seen in some Western European countries, still resulting in a smaller pool of younger workers to support retirees. Life expectancy is up, largely because of the unbelievable advances in medical care that have occurred in the last 70 years since 1935. Both situations are arguably good news, but they do portend a serious situation for our Social Security system.

For example, in the country of Japan there are now four retirees to be supported by every new job that is created. It becomes extremely difficult to remain competitive in such an environment. Raising taxes to deal with the Social Security shortfall arguably has been done several times in the past 70 years; but, unfortunately, that makes the problem even worse. The old axiom states that you tax what you do not want, but surely we want jobs for tomorrow's Americans, but increasing the payroll tax may mean ultimately there are fewer such jobs.

In 1937, the Supreme Court ruled that excess Social Security funds were to be placed in the general revenue fund. Mr. Speaker, that is what happened to the trust fund. In fact, nonnegotiable government instruments housed in a metal filing cabinet in West Virginia represent the surplus in Social Security, and that surplus has been spent over the last several decades by Congress. Congress spent the money, Congress wrote out an IOU for the money, and we continue to write IOUs for the interest.

Mr. Speaker, where is the fairness in a system that holds captive 12 percent of the country's payroll and pays no interest on the money? This, I think, is the heart of the problem. What Albert Einstein described as the miracle of compound interest is denied to American workers.

What are the solutions that might be there for us to help with Social Security? We could cut benefits. I did not come to Congress to do that. We could raise taxes. Not this guy.

There are, of course, those who feel that growth in the economy will help those two workers that are going to have to support every retiree into the future; and I will tell my colleagues, Mr. Speaker, I will bet on the American economy every time, but I am not sure if we can improve productivity to that degree.

Mr. Speaker, what we can do is take those excess funds being paid into Social Security and place them into individual accounts that would not be accessible to government spenders and not be accessible to congressional appropriators. Allow these accounts to earn interest by following a conservative investment strategy, and now perhaps we begin to see the opportunity to preserve Social Security and ensure its solvency well into the future.

The question is always asked how to pay for this transition. I have already excluded a tax increase or benefit cut as a viable mechanism. The money to finance the transition would have to be borrowed; and in fact, this does not represent new debt because the obligation has already been incurred. The borrowing is only to refinance an obligation that already exists, a situation analogous to refinancing a mortgage.

Mr. Speaker, we should always be for good government. The principle of good government would suggest that the current obligation is present, but we are not acknowledging its presence. By financing the transition, we can convert an unknown obligation into bonded indebtedness. It becomes a marketable instrument; and that, in fact, would be a commitment to good government.

Financial markets are not known for their courage. They do not like uncertainty; and, clearly, the uncertainty of monetizing the Social Security debt in the future is one that they will deal with fairly severely. But by making that a known obligation, we are giving the markets more comfort into what our intentions are with regard to the unfunded Social Security liability.

Mr. Speaker, I would like to close with a quotation that was delivered in this House some years ago: "Voluntary contributory annuities by which individual initiative can increase the annual amounts received in old age. It is proposed that the Federal Government assume one-half of the cost of the old-age pension plan, which ought ultimately to be supplanted by self-supporting annuity plans."

These words were spoken in this Chamber 70 years ago by Franklin Delano Roosevelt, the father of Social Security.

Mr. Speaker, it is our obligation to deal with this problem this year. I applaud the President for pushing it on the national agenda, and I look forward to the debate.

## ORDER OF BUSINESS

Mr. KIND. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## THE DREAM LIVES ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

Mr. KIND. Mr. Speaker, 40 years ago yesterday on March 7, 1965, events in Selma, Alabama, became a seminal moment for the advancement of civil rights in our country. Last weekend, I had the privilege to join one of my heroes, the gentleman from Georgia (Mr. LEWIS), who was also one of the leaders of the nonviolent civil rights movement, to retrace his steps across the Edmund Pettus Bridge where America's long march to freedom met a roadblock of violent resistance. The day became known as Bloody Sunday.

By 1965, the cause of equality and human dignity had already seen much progress and setbacks: the Supreme Court decision of Brown v. Board of Education, Rosa Parks's defiance on a bus in Montgomery, the breaking of a color barrier at Ole Miss, the historic March on Washington, the assassinations of Medgar Evers and President Kennedy, the bombing deaths of four little girls at the 16th Street Baptist Church in Birmingham, Alabama, the Mississippi freedom summer, the passage of the Civil Rights Act of 1964.

But on this Bloody Sunday, about 600 people, young and old, put their lives on the line and met the unbridled force of racism for the most basic American right, the right to vote and be full participants in our democracy. The Alabama State Patrol was waiting for them at the other side of the Pettus Bridge and attacked them with clubs, tear gas, and dogs.

The gentleman from Georgia (Mr. LEWIS) was beaten so badly he believed he was going to die. The images were captured on TV. When the movie "Judgment at Nuremberg" was interrupted with the news, many people watching the movie first thought that it was a continuation of the movie depicting brutal Nazi oppression, until they realized that this was happening in America, right now. People's shock moved the political world.

One week after Bloody Sunday, President Johnson spoke to the Nation. In inspiring words, he said: "At times, history and fate meet in a single time and a single place to shape a turning point in man's unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma. Their cause must be our cause."

Two weeks after Bloody Sunday, Dr. Martin Luther King and the gentleman from Georgia (Mr. LEWIS) led 4,000 people across the Pettus Bridge on their 54-mile march to Montgomery. Six months later, President Johnson signed the Voting Rights Act, proclaiming that the right to vote is the most powerful instrument ever devised for breaking down injustice and destroying the terrible walls which imprison all people merely because they are different from each other.

Soon the Voting Rights Act will be up again before Congress for reauthorization. We should do it sooner rather than later. We should make it permanent, rather than for short periods, so we do not have to revisit the issue and debate its provisions. Surely there is enough common interest and bipartisan support to accomplish this.

Their cause 40 years ago this week still must be our cause to overcome today. For as long as the power of America's diversity is diminished by acts of discrimination and violence against people just because they are black, Hispanic, Asian, Jewish, Muslim or gay, we still must overcome.

As long as the gap between rich and poor continues to spread in our Nation, with some and not all having access to health care, we still must overcome.

As long as children of color are more likely to live in poverty, die sooner, and less likely to graduate high school and go on to college, we still must overcome.

As President Bush stated during his recent trip to Europe: "We cannot carry the message of freedom and the baggage of bigotry at the same time. All our nations must work to integrate minorities into the mainstream of society, and to teach the value of tolerance to each new generation."

President Clinton pointed out 5 years ago at the Pettus Bridge that these challenges already have existing bridges waiting to be crossed. He said: "These bridges stand on the strong foundations of our Constitution. They were built by our forebears through silent tears and weary years. They are waiting to take us to higher ground."

But there is still much work to be done. In the words of Martin Luther King, Jr.: "Human progress never rolls on the wheels of inevitability. It comes through the tireless efforts of people willing to be co-workers with God."

We remember the event of 40 years ago this week not only to honor the courage, sacrifice and accomplishments by those like the gentleman from Georgia (Mr. LEWIS) and so many more, but also to rededicate ourselves to their unfinished work: the pursuit of justice, love, tolerance and human rights, in our country and throughout the world.

## HONORING INTERNATIONAL WOMEN'S DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, today is International Women's Day, a day we honor women and their contributions to the American way of life. American women, from the frontier era to the space age, have steadily blazed the trails and stayed the course to bring recognition of the accomplishments of women not only in the United States but across the world and across the seas.

Each of us can identify at least one woman who forever marked our life in a positive way. My grandmother lived to her late nineties and was always the most influential person in my life. In the 1950s, after my grandfather was killed by a drunk driver, she went to work as a clerk in the ladies' ready-to-wear section of a department store; and while she would have continued to work there, they forced her to quit at the age of 75.

She taught me the values of public service, and this is why I have dedicated my life to public service. She was the most influential woman in my life. All of us have people like that, women who have influenced us in a positive way. Those American women, they are a rare breed.

In other countries, like Iraq, where I recently traveled on a fact-finding mission, women recount the decades of torture and execution and oppression they experienced under the tyrant and dictator Saddam Hussein. For most women it has only been since our toppling of that vicious and murderous tyrant that they have been allowed to pursue opportunities that we take for granted, like employment. On the historic election day, which I was privileged to observe this year, for many Iraqi women this was their first chance to ever vote.

Yet as encouraging as these illustrations are, millions of women are victims to a destructive force known as domestic violence. In fact, in the United States alone, according to the National Domestic Violence Hotline, nearly one-third of American women report being physically or sexually abused by a boyfriend or a husband at some point in their life. Moreover, the Department of Justice's statistics show that in 2003 alone 9 percent of all murder victims were killed by their spouse or their partners. Eighty percent of those victims were females.

□ 2000

Mr. Speaker, this is a serious problem, not just for our Nation's women but also for our Nation's families. It is a serious problem for children, children that live in those homes with all of that serious, serious turmoil.

Domestic abuse scars children through the images of violence and fighting; the ramifications if they try to intervene; the emotional anguish they suffer for years. Domestic abuse in some cases results in withdrawal or unhealthy perfectionism, and in other cases they act it out.

The American Psychological Association Presidential Task Force on Violence and the Family concluded in 1996 that a child's exposure to the father abusing the mother is the strongest risk factor for transmitting violent behavior from one generation to the next. In addition, the American Medical Association has calculated that family violence costs taxpayers in the range of $5 billion to $10 billion a year in medical expenses.

It is not only a family problem and a criminal problem; it is a health issue. Domestic violence costs us in police and court costs, shelters, foster care, sick leave, and nonproductivity.

As a former judge and founder of the Congressional Victims' Rights Caucus, this epidemic is of great alarm to me. I believe we must work to eliminate this domestic abuse while protecting the victims that have already resulted from this trend.

Mr. Speaker, I hope that all of us on this day, as we recognize the worth of women, are determined to make sure that they live in a safe environment in their homes.

## IN HONOR OF TILLIE FOWLER, FORMER MEMBER OF CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. CRENSHAW) is recognized for 60 minutes as the designee of the majority leader.

### GENERAL LEAVE

Mr. CRENSHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CRENSHAW. Mr. Speaker, last Wednesday we announced on the floor of this House that our former colleague, Tillie Fowler, had passed away that day. She suffered a stroke on Monday and went to the hospital and never recovered from that. It was a sad day for all of us, and there were so many Members that served with Tillie that wanted to honor her life and her achievements that we asked for this time tonight to celebrate her life, to celebrate the contributions that she made not only to her community, not only to the State of Florida, but to the Nation as a whole; and so that is why we are here tonight.

Tillie Fowler was one of those unique individuals that could balance so many things in her life. I never had the chance to actually serve with Tillie because we were from the same hometown and while she served on the city council at the local level, I was serving in the State government; and when she left the Congress in 2000, I ran to take her seat. But I knew her as a friend for 35 years, and I watched her involve herself in the community, and I watched her get involved in local politics; I watched her become a United States

House of Representative representative from the Fourth Congressional District. Through all of that, I saw the way that she loved her children, the way that she loved her husband, Buck, and the way that she loved her community.

I can remember so many times, as we would come back, because she was in Washington working with a large law firm, that we would ride a plane here and ride a plane back to Jacksonville and her husband, Buck, was always there at the airport to greet her and give her a big hug. So I just think there are so many people here that cared so much about her, because not only was she tough in what she tried to do but, more than anything, she just liked people. She cared about people, whether they were important people or just people she would see on the street. She had a way of making everybody feel at ease.

So, Mr. Speaker, I am saddened by her death, but I am proud of the legacy that she leaves behind her; and I know that Members here tonight share in that.

Mr. CRENSHAW. Mr. Speaker, I rise today to join with my colleagues in celebrating the life and accomplishments of former Congresswoman Tillie Kidd Fowler. Ms. Fowler passed away suddenly last week but leaves a proud legacy of achievement and integrity.

Tillie Fowler was born in 1942 and grew up in Milledgeville, Georgia. Her father, state Senator Culver Kidd, was a legendary Democratic political figure in the Georgia Legislature for over 40 years and her mother, Katherine, was active in the community. She received both her bachelor's degree and law degree from Emory University.

After law school, she moved to Washington, DC and worked as a congressional staffer for Representative Robert Stephens (D–GA) and later as Counsel in the White House Office of Consumer Affairs under President Richard Nixon. In 1968, she married attorney L. Buck Fowler and in 1971 moved to Jacksonville, Florida. Shortly thereafter, she put her professional career on hold to raise her daughters, Tillie Anne and Elizabeth. During this time she served as the President of the Junior League of Jacksonville (1982–83), chaired the Florida Humanities Council (1989–91) and was active in a number of other charitable organizations, including the American Red Cross and Volunteer Jacksonville.

She returned to political public service when she was elected to the Jacksonville City Council in 1985. She became that body's first Republican and first woman President.

Tillie Fowler was elected to Congress in 1992, winning a seat that had been held by a Democrat for 42 years. She secured an appointment to the House Armed Services committee, the only Republican woman on that committee at the time. Her subcommittee assignments included Readiness, Personnel and Military Construction. In 1997, she was appointed by the Speaker of the House to a task force created to investigate allegations of sexual harassment and abuse at U.S. military training bases.

She also served on the Transportation & Infrastructure Committee, and in the 106th Congress she was named Chairman of the newly created Subcommittee on Oversight, Investigations and Emergency Management.

In 1998, she was chosen by her Republican colleagues to be the Vice Chairman of the Republican Conference, making her the highest-ranking woman in the U.S. Congress when she retired. She also served for six years as a Deputy Majority Whip.

A year and a half before the terrible events of September 11, 2001, she drafted the Preparedness Against Terrorism Act of 2000 (H.R. 4210). Her bill would have centralized the Federal government's anti-terrorism efforts by creating the President's Council on Domestic Terrorism Preparedness within the White House. Many of her proposed reforms were enacted in the legislation creating the Department of Homeland Security.

Her reputation as a knowledgeable and articulate U.S. Representative resulted in her appointment to several boards outside of her committee responsibilities: U.S. Naval Academy Board of Visitors; Stennis Center for Public Service Board of Trustees, Vice Chairman; Defense Department's Centers for Security Studies Board of Visitors; and the House Page Board, Chairman.

Upon her departure from Congress, Representative Fowler's extraordinary efforts to ensure a strong United States military were recognized by the Secretary of the Navy and the Secretary of Defense. She received the Navy's Distinguished Public Service Award and the Department of Defense Medal for Distinguished Public Service. These are the highest civilian awards given by the Navy and the Department of Defense.

Shortly after leaving Congress, she was appointed by the Speaker of the House to the Commission on the Future of the Aerospace Industry which was created by Congress to assess the aerospace industry in the global economy, particularly in relationship to the national security of the United States. The Center for Strategic & International Studies also named her to its Distinguished Congressional Fellows panel.

She was appointed to the Defense Policy Board Advisory Committee by Defense Secretary Donald Rumsfeld in 2001. In May of 2003, the Secretary named her as Chairman of the prestigious board which advises the Secretary of Defense on issues central to strategic planning for the department. She is the first woman to serve of Chairman of the Defense Policy Board in its 20-year history. She also serves on the Chief of Naval Operations' Executive Panel whose purpose is to advise the CNO on questions related to national seapower.

In the spring of 2003, she was appointed by the Secretary of Defense to lead the seven-member panel created by Congress to review sexual misconduct allegations at the U.S. Air Force Academy. The panel conducted a 90-day study of the policies, management, organizational practices and cultural elements of the Academy that may have been conducive to alleged sexual misconduct. The panel's final report was delivered to the Secretary of Defense and the Congress on September 22, 2003.

When allegations of prisoner abuse by U.S. military personnel at Abu Ghraib prison in Iraq surfaced in May 2004, the Secretary of Defense again turned to Representative Fowler. The Secretary appointed her along with two former Secretaries of Defense and a retired four-star general, to a blue-ribbon panel charged with providing the Secretary with independent, professional advice on issues related to the allegations of prisoner mistreatment.

And finally, Mr. Speaker, this House was a better place for Tillie Fowler's service. She was a remarkable woman with a rare combination of passionate drive and dedication for what she believed and a caring spirit for the people around her. She made people feel at ease and she always did anything she could to help others. During lifetime of service she exhibited a striking presence of personality, integrity and intellect that will be sorely missed.

Mr. Speaker, I would like to yield to our conference chairman, the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Florida for yielding to me and for hosting this Special Order honoring Tillie's life and her legacy. It is a wonderful tribute that Tillie deserved. The outpouring of emotion and praise here tonight, in Jacksonville, and all over the Nation proves how special a person Tillie Fowler was.

Universally respected and trusted, Tillie was a model public servant. She was also a model parent, a model spouse, and most importantly to me, a model friend. Lucky enough to have found her calling at an early age, Tillie became an aide to Congressman Robert Stephens from Georgia shortly after earning her law degree from Emory University. Her talents were quickly recognized, and she soon found herself in the Office of Consumer Affairs in the Nixon White House. There she met her good lifelong friend, now Senator ELIZABETH DOLE.

Following her public service early in life, Tillie and her husband moved to Florida and began their family. They raised two lovely daughters, Tillie Anne and Elizabeth. While in Florida, Tillie mastered one of the most important skills for a woman in politics: balancing her family and her desire to serve. Tillie always put her family first and, at the same time, found the energy to serve her community, first in the Jacksonville City Council and then as its chair.

In 1993, Tillie came to Washington as a Member of Congress, the same year I did; and we became fast friends. As my classmate, she was more than a colleague. Together we entered what was then, and still now to some extent, a man's world. We relied on each other for strength and for guidance, and shared the experience of being freshmen women together, two of only three in our Republican class that year.

From those first days in Congress, I recognized Tillie as a savvy politician but also as a selfless soul. She followed her convictions with tenacity and with courage. More than just a Member of Congress, Tillie Fowler was a patriotic legislator who let her conscience guide her through the most treacherous halls of Congress oftentimes. She earned respect from her colleagues, both men and women, Democrat and Republican; and she had no enemies that I ever knew of.

As Vice Chair of the House Republican Conference, Tillie set the standard for women in our leadership. She worked tirelessly on issues that affected the entire Nation. She was an active proponent of a strong military, and even went on to advise the Defense Department. She knew her stuff and she was never shy about speaking her mind, confident that her insight was valuable, and it was.

Tillie had the ability to disagree with you with a smile on her face all the while. She showed America that women legislators need not be relegated solely to women's issues: that we care about the same issues that men do, but with just a little different perspective. And today, International Women's Day, it is truly appropriate that we honor and celebrate the life of one of our Nation's finest.

Tillie was a friend to me, a great friend in times of sadness and in times of joy. I will miss her friendship and her guidance and know that there are countless others among us to whom she meant so much. Our prayers continue to be with Tillie's family, her two wonderful daughters and her husband, Buck; but her loved ones should know that Tillie left them, our country, and all who had the very, very good fortune to know her a wonderful and lasting legacy.

Mr. Speaker, I yield back to the gentleman from Florida.

Mr. CRENSHAW. Mr. Speaker, I yield now to the gentleman from Texas (Mr. DeLay), the distinguished majority leader of the House.

Mr. DeLAY. Mr. Speaker, I thank the gentleman from Florida for taking this Special Order in memory of Tillie Fowler.

Mr. Speaker, I rise to remember a warrior. Tillie Kidd Fowler, wife, mother, friend and patriot, died 6 days ago and left behind her a legacy of service all will admire but few will match.

She was as good a friend as she was a politician and was superb in both roles because no matter what hat she was wearing, it was still the same Tillie underneath. When word reached Washington last week that Tillie had left us, we all remembered the same things: we remembered her courage, her tenacity, and we remembered her leadership.

There was no national security issue about which she was not an expert. There was not a branch of our military that did not seek her guidance and help in promoting the policies that keep our Nation safe. And there was not a serviceman or -woman in uniform who did not have a loyal and caring friend in the gentlewoman from Jacksonville.

Her retirement from Congress, as anyone who knew Tillie could have guessed, did not in any way signal her retirement from public service. In the years after she left us, she helped lead public investigations into sexual misconduct at the Air Force Academy and prison abuse in Iraq. The wrongdoers in those cases up and down the chains of command, like her political opponents over the years, learned the hard way why Representative Fowler earned the nickname "Steel Magnolia."

She had also served since 2001 on the Pentagon's Defense Policy Board, advising Secretary Rumsfeld on strategy and policy during the tumultuous last 4 years.

Whatever the situation, Tillie Fowler's motivation was service: service to her family, to her community, to her country. For that reason, far more than for her many career and legislative achievements, last week this country lost a hero.

Decades from now, Mr. Speaker, when we too have left this building and, indeed, this world; when the controversies of our age are largely forgotten, the service and integrity that defined Tillie Fowler's life will still be remembered. She was a woman, good and true, who said things worth saying, did things worth doing, and served causes worth serving.

When you think about it, what more can you say about anyone? Tillie Fowler was always admired, Mr. Speaker, and now she will be missed.

Mr. CRENSHAW. Mr. Speaker, I yield to the gentleman from Florida (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Florida (Mr. Crenshaw) for arranging this Special Order.

As all of my colleagues probably know, as we remember Tillie it is always easy to remember the great, wonderful stories of an incredible life. When she left Congress, I knew how proud she was of the gentleman from Florida (Mr. Crenshaw) replacing her, if you can replace anyone in this world. She knew the important things for her community, for her Nation were to be able to lead in a strong collective voice on national security. In that effort, she was the most incredible of spokespersons.

She was an incredibly strong voice for Jacksonville, a stronger voice for women, a role model for any person striving to serve in public life, and an incredible friend to all who knew her. There was not a day that went by that she did not mention Buck or her children, Elizabeth or Tillie, Jr. Whether it was just a casual comment; that she was heading back to see them at home this weekend; that they had just bought a condo at the beach; that they were getting ready to embark on another adventure; or that Tillie, Jr. had got a job, it was always about her family that she shared the joys of her life in service here.

I know Buck, Elizabeth, and Tillie, Jr. that your hearts ache, but they certainly do not ache alone. I will always remember her generosity of spirit and the time she took for a new Member of this Congress. Her first question whenever she saw you, in that gorgeous Southern accent, was "How are you, dear?" "How is your day?" "How can I help?"

She had a little ceremonial leather chair that was a beautiful antique. And when she was leaving Congress, she rolled it down to my office and said, "You always admired this chair. I want you to have it." I hope the office of the Capitol architect does not come looking for it, but I do have Tillie's chair.

When I ran for the Senate, I remember her coming from across town, sitting in my office and asking me if I really wanted to do this and if I knew what I was getting into. I told her I thought I did. And she said, well, if you are ready for the challenge, I am ready to saddle up and ride alongside you. And she never, never wavered in her support.

When I would go to Jacksonville and meet new friends, they would first ask me, what does Tillie think; what does Tillie think of your chances; does Tillie support you; and if Tillie supports you, that is good enough for me.

□ 2015

This business of politics, it is incredible when that universal voice of a community would always first ask, regardless of party, what does Tillie think?

As we honor her memory and pray for her soul, we thank God that he gave us a chance to get to know her. And those that did not, you missed an incredibly vivacious, talented and smart woman. We honor her commitment to this Nation and the legacy she leaves behind. And we pray for Buck and her kids, as they struggle through these dark days and as they reflect on her life, they know, yes, she was larger than life, but she was simply and modestly just Tillie. That is how she would want to be remembered, and we remember her in that way, a hero among us, a great patriot, a loving mother and wife, a superb human being. We pray for her soul.

Mr. CRENSHAW. Mr. Speaker, I yield to the gentleman from Florida (Mr. Shaw).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is difficult to express in words the feeling that we have outpouring here this evening for Tillie and our remembrance of her. She was always strong but gentle, brilliant yet reasonable. She had all of the types of things that we really need to look for in our leaders.

Emily, my wife, and I had a very unique relationship with Tillie. When married Members come to Congress, they are assigned by the congressional spouses what we call a little brother or little sister. And Emily loved to remind Buck that he was her little brother. We had a friendship that went beyond being just colleagues; it went outside of this Chamber, outside of this Capitol. The friendship that evolved is one that I will always remember.

We had a service down in Jacksonville just a few days ago. Two plane loads came down to be at that service from both the Pentagon as well as from this great body here. The outpouring that we saw in that community was really beautiful. The military was there. Both sides of the church were flanked by soldiers from all of the services, and the service ended up with a flyover, which I am sure Tillie would have loved. I remember the preacher in that small church. The church was absolutely full. People were standing in the front yard of the church just to hear the service and be near those so close to Tillie. The preacher talked about one of the greatest gifts man has is your memory. Tillie will always live in our memory. We love her, and we really just absolutely will never forget how wonderful she was and what a great influence she was and how she left her mark permanently on this body, her community and her country.

Mr. CRENSHAW. Mr. Speaker, I yield to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I represent the western part of Jacksonville and flew down for the funeral for Tillie Fowler and was quite moved. We lost a great leader. For Florida, she was a strong advocate, and we will miss Tillie quite a bit.

For 8 years, I had the privilege and honor of working with her in Congress on behalf of the people of Jacksonville. I feel a great deal of sympathy and extend prayers for her husband, Buck, and her two daughters, Tillie Ann and Elizabeth. Tillie and I worked on the Cecil Field Navy Master Jet Base when it showed up on the base closure. Many a night we were working together shoulder to shoulder trying to figure out how we could prevent the Navy from closing this important Navy jet base. Unfortunately, we did not succeed, but I learned a lot from her.

She combined humility with ambition. She had dedication, but she had grace. She was a woman of many talents. What the remarkable thing about Tillie was, you would talk to her and say, Tillie, I do not want to do that. She could get other people to do what they did not want to do, and in the end, they liked doing it somehow because of her leadership. It is a remarkable trait. She had a profound impact on all of the people she worked with, and she touched all of us.

Jacksonville used to be a small town. It is a much larger town, and that is largely attributable, I think, to Tillie Fowler's activities. It has 1 million people. The city is recognized as a growing urban center. It hosted the Super Bowl recently, a feat very few cities have had the opportunity to claim. Jacksonville maintains a strong commitment to armed services, and has two major Naval facilities there. The successful transformation of Jacksonville over the past two decades owes much to Tillie Fowler. She worked on behalf of the area as a volunteer and as an elected official at the local and Federal level. This dedication to public service is really a family trait.

While making a run for Congress in 1992, she offered to limit herself to four terms. All of us went up to her after she was in the midst of trying to decide to tell her, I think your constituents would be very happy if you continue serving, but she was quite principled, and she said she was going to leave Congress and honor her four terms. In fact, I believe the leadership asked her to stay. She accomplished many of the goals she set out to achieve.

Mr. Speaker, we have lost more than an experienced lawmaker, public servant; we lost a good friend. She was a good friend to the people of Florida and to all of the men and women of our armed services. God bless Tillie Fowler.

Mr. Speaker, last week our nation lost a great leader and Florida lost a strong advocate with the death of Tillie Fowler. For eight years, I had the privilege and honor of working with her in Congress on behalf of the people of Jacksonville. I miss my former colleague and my friend, and my prayers are with her husband Buck and their two daughters, Tillie Ann and Elizabeth.

We worked together on the Brae commission when they had Cecil Field Navy master jet base on the closure list. We worked many nights together.

She combined humility with ambition, and dedication with grace. As a women of many talents, she could get other people to do what they didn't want to do and to like it. She had a profound impact on all of the lives she touched throughout her life.

Not so long ago, Jacksonville was looked upon as a small city supporting paper mills, a commercial port, and military bases. Today, the Jacksonville area numbers one million people and the city is recognized as a vibrant, growing urban center. Most recently it hosted the Super Bowl, a feat only a few cities can claim. Although it has shed some of its past, Jacksonville maintains its strong commitment to our armed services as the host to major military facilities.

The successful transformation of Jacksonville over the past two decades owes much to Tillie Fowler. She worked on behalf of the area as a volunteer, and as an elected official at the local and federal levels. This dedication to public service is a family trait.

Tillie's father, Culver Kidd, served for 42 years in the Georgia legislature, and her mother, Katherine Kidd, was a community leader. Tillie learned about civic and local involvement in Milledgeville, Georgia. I should point out that Milledgeville has contributed a great deal to this nation. It was also the home of the distinguished writer Flannery O'Connor and the long-time Chairman of the House Armed Services Committee, Carl Vinson.

From her small hometown, Tillie pursued her education at Emory University in Atlanta earning a B.A. in political science and later a J.D. Armed with her law degree, Tillie came here to Washington, D.C., and worked on the staff of Congressman Robert Stephens of Georgia. Her strong talents were soon recognized and she was brought to the White House as a counsel in the Nixon Administration.

During this period, Tillie not only expanded her professional horizons, she met and married a fellow attorney, L. Buck Fowler. In 1971, she moved with her husband to Jacksonville, Florida; where she set about the important job of raising a family. Although she put her career on hold, Tillie did not ease up on public service. She volunteered her efforts as the President of the Junior League of Jacksonville, with the American Red Cross, and other charitable groups.

In 1985, she returned to the political scene with her election to the City Council and served on the council from 1985 through 1992. In 1989, she became President of the Jacksonville City Council, the first Republican and the first woman to hold that position. Although she retired from the council in 1992, her political career was just changing direction; she then successfully ran for Congress.

Congresswoman Fowler returned to Washington with an ambitious agenda. She vowed to make Mayport Naval Station a top priority, and she succeeded. Through her position on the Armed Services Committee, she built a reputation as an advocate of a strong national defense. She improved the nation's commitment to military personnel and facilities in her district, throughout the nation, and around the world. Although a woman with a petite figure, she cast a giant shadow in support of our armed services: generals and admirals always knew her by her first name.

While making her first run for Congress in 1992, Mrs. Fowler offered to limit herself to four terms. Although she was asked by her leadership and her colleagues to reconsider, Tillie is stepping down after four terms. After all, she had accomplished the goals she set out to achieve.

We have lost more than an experienced lawmaker and public servant; we have lost a good friend. In fact, Mrs. Fowler was a good friend to the people of Florida, and perhaps more importantly, to the men and women of our armed services.

Mr. CRENSHAW. Mr. Speaker, I yield to the gentlewoman from Florida (Ms. CORRINE BROWN) who also represents part of Jacksonville.

Ms. CORRINE BROWN of Florida. Mr. Speaker, my favorite hymn is "Let the Work I Have Done Speak For Me."

I think that more than anything explains our friend and former colleague, Tillie Fowler. My prayers and deepest regret goes out to her immediate family, Buck and their two girls, Tillie Ann and Elizabeth.

Tillie and I shared a lot. We were in the great class of 1992. We said that was the class, the year of the woman. One distinguished objective to describe Tillie was she was a tremendous fighter. She struggled for what she believed in and for the betterment of the people in the region she served. Above all, Tillie loved her country, and she fought hard to protect it. She distinguished herself in the area of military and, in particular, fighting for women's rights in the military.

I also served with Tillie on the Committee on Transportation and the Infrastructure, and we crossed party lines numerous times to work together to do what was best for the city of Jacksonville and North Florida. I almost said Georgia because I know that my colleague is here, and he is going to speak from Georgia, but her roots came from Georgia. She came from a political family. One could tell she was a lady, a southern lady.

We all must pass this way, but, hopefully, when we do, we can look back on all of the things that Tillie Fowler has done, not just for the community but for the entire country, to make this place a better place because Tillie Fowler has passed here. When you are born, you get a birth certificate. And when you die, you get a death certificate. And the only thing that really matters is that dash on your tombstone in between. Tillie, let the work she has done speak for her because she has done a great job for our community.

I was deeply saddened to hear of the sudden passing of my former colleague, Tillie Fowler. My prayers and deepest regrets go out to her and her immediate family, Buck, and her two girls, Tillie Ann and Elizabeth.

Tillie and I shared a lot in common. In fact, in 1992, we came up to Washington together as members of the same class of elected representatives. This class was so dynamic, and filled with so many new and soon to be influential women members, that it was referred to as "The Year of the Woman."

One distinct adjective to describe Tillie is that she was a tremendous fighter. She struggled hard for what she believed in, and for the betterment of the people and the region she served. Above all, Tillie loved her country, and fought hard to protect the freedoms we enjoy—even the freedom to disagree. Tillie was a woman of great distinction, highly respected, and was always extremely active in her community. She served our country well, particularly in her strong support of the military, specializing in issues concerning women's roles and rights within the military. She was also a woman with strong leadership qualities and one who believed in the value of volunteerism and community service.

I also served with Tillie on the Transportation Committee, and we crossed party lines numerous times to work together to do what was best for the city of Jacksonville and North Florida as a whole.

In closing, my heart and prayers go out to Tillie's dear family during this difficult time.

Mr. CRENSHAW. Mr. Speaker, I yield to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, Tillie Fowler was a giant in this Congress. Though she served only four terms, 100 percent faithful to her pledge to limit her service in this House, she rose to our elected leadership, and she kept us focused on national security as our highest priority. She was called the Steel Magnolia because she was a hybrid of a southern belle and a marine drill sergeant. She was best known for her roles on the Committee on Armed Services and in the House leadership where she consistently was the voice of the military, calling for a defense budget and defense resources always sufficient to keep America strong.

It was Tillie's intellect and her willingness to work across the aisle that advanced her to a preeminent position as vice chairwoman of the House Republican Conference and as a deputy minority whip for 6 years. I worked with Tillie in our House leadership and on the House Policy Committee and on such special projects as the Speaker's Working Group on Russia.

Today, as the chairman of the Committee on Homeland Security, I miss Tillie Fowler more than ever because nowhere was her national leadership more in evidence than in her work toward terrorism preparedness. As a member of the Committee on Transportation and Infrastructure, her top priority was the country's preparedness for a domestic terror attack. She found overlap inadequacies among the Federal agencies, the many agencies that were responsible in those days for terrorism preparedness, and she tried to fix it.

A year and a half before 9/11, she drafted the Preparedness Against Terrorism Act of 2000. If we had followed her farsighted advice, the Congress would have placed top priority on elevating and consolidating the Federal Government's anti-terrorism efforts by creating a Presidential Council on Domestic Terrorism Preparedness. Tillie's legislation was not passed in the 106th Congress, but we soon came to realize through the tragic events of 9/11 that her focus and her proposed reforms were vitally necessary. As a result, many of her recommended reforms are included in what is now law, the Homeland Security Act.

She was truly the guardian angel of our national security. Tillie Fowler, our friend and colleague, dedicated her life to her community and our Nation. It was an honor to serve with her, and it will be an honor to carry on her work to ensure that America is always prepared so we may be always free. Our prayers are with her husband, Buck; with her daughters, Tillie Ann and Elizabeth; and with her entire family.

Tillie Fowler was a giant in this Congress. Though she served only four terms—100 percent faithful to her pledge to limit her service in this House—she rose to the Leadership of our ranks, and kept us focused on our national security as our highest priority.

She was called the "Steel Magnolia"—because she was a hybrid of a Southern belle and a Marine drill sergeant.

She was best known for her roles on the Armed Services Committee and in the House Leadership, where she was consistently the voice of the military, calling for a defense budget sufficient to ensure a strong America.

It was Tillie's intellect, and willingness to work across the aisle, that advanced her to a preeminent position of leadership as Vice Chairwoman of the House Republican Conference, and as a deputy majority whip for six years.

I had the wonderful opportunity to serve with Tillie in the elected Leadership, on the House Policy Committee, and on such vital national security projects as the Speaker's Advisory Group on Russia.

Today, as the Chairman of the Homeland Security Committee, I miss Tillie Fowler more than ever, because nowhere was her national leadership more in evidence than in her work toward terrorism preparedness.

As a member of the Committee on Transportation and Infrastructure, her top priority was the country's preparedness for a domestic terrorist attack. She found overlap and inadequacies among the several federal agencies with jurisdiction over terrorism preparedness, and she tried to fix it.

A year and a half before 9/11, she drafted the "Preparedness Against Terrorism Act of 2000." If we had followed her far sighted advice, the Congress would have placed top priority on elevating and consolidating the federal government's anti-terrorism efforts by creating a Presidential Council on Domestic Terrorism Preparedness.

Tillie's legislation was not passed in the 106th Congress, but we soon came to realize—through the tragic events of 9/11—that her focus and her proposed reforms were vitally necessary. As a result, many of her proposed reforms were included in the Homeland Security Act, which is now law. She was truly the guardian angel of our national security.

Tillie Fowler, my friend and colleague, dedicated her life to her community and her nation. It was an honor to serve with her, and it will be an honor to carry on her work to ensure that America is always prepared, so that we may be always free.

Mr. CRENSHAW. I yield to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to add my thoughts in remembrance of our dear friend and colleague, Tillie Fowler. I pay tribute to her, her service here, the events in her life that made her who she was with respect to her family and her community. I knew her here in this place.

I first got to know Tillie through her friendship with my late husband, Congressman Walter Capps. Walter and Tillie served only 10 months together before his death in 1997, and it might have appeared that they did not have much in common, but, in fact, they did. Tillie had been elected to a district that had been represented by a Democrat for 42 years. Walter's district had been represented by Republicans for 50 years. Both Tillie and Walter understood that it was more important to try to reach bipartisan solutions than to engage in partisan politics.

☐ 2030

Even as she rose through the ranks of her party's leadership, and that has been attested to this evening, a strong and loyal leader within the Republican Conference, Tillie always tried to work across the aisle on issues that were important to her. One such issue where again she worked closely with my husband, Walter, was her support for the humanities. Like Walter, Tillie had once served as her State's humanities chair. And back in the days when funding for the National Endowment for the Humanities was in the crosshairs of congressional budget cutters, Tillie stood up to protect that program. The fact that support for the NEH is now stronger than ever in Congress is due in no small part to all of Tillie's efforts a few years ago.

She also helped to pioneer the bipartisan nature of the Congressional Caucus on Women's Issues. Here again, she tried to bring Members of both parties together to address the serious issues affecting American women, and she bravely challenged her own party leaders to moderate their relentless focus on reproductive rights.

After leaving the House, Tillie combined her military expertise with her support for women's rights when she headed up the panel to review sexual misconduct at the Air Force Academy. She also served on the panel charged with investigating prisoner abuse at Abu Ghraib. These difficult assignments demonstrated Tillie's belief that we can best support our military by uncovering the truth and ensuring that these horrible scandals never be allowed to repeat themselves.

Tillie Fowler was a very proud Republican, and her party can be honored and proud of her. But she did not put her party over her principles. During one particularly tough election that I was engaged in, my opponent announced that Tillie had endorsed and would campaign for him. But she came up to me on the floor one day and told me that it was not true. As Eleanor Clift just wrote in her heartfelt Newsweek obituary, Tillie always said, "I can't sit next to them one day and campaign against them the next. If I'm your friend, then I'm your friend."

We will all dearly miss our friend Tillie and we mourn today that there simply are not enough people like her. She will be missed, and she will always be remembered with great honor.

Mr. CRENSHAW. Mr. Speaker, I yield to the right honorable gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, as so many of the viewers of C-SPAN know by now, we are here today in great sadness but also in great joy that we celebrate a wonderful life exemplified by Tillie Fowler. We came together last week when we announced the unexpected death of Tillie Fowler, who passed away at the age of 62; but she made such a strong imprint on the lives of so many and on the lives of this House.

Tillie, as we have heard, was a fiercely loyal, dedicated public servant from our home State of Florida, a true crusader for the citizens of our State and especially for all who served in our Armed Forces, the men and women in uniform. She fought hard, especially for the women serving in the military so that they would be treated fairly, so that they would be free from sexual harassment, so they would be free from discrimination. During her four terms in Congress, Tillie became the highest-ranking woman in the House leadership.

She possessed a quiet tenacity. She had the grace and the strength to rise above partisan differences and to continuously reach across the aisle in a true spirit of unity, as we just heard from my good friend from California (Mrs. CAPPS) who really showed that in a very clear way. Tillie was an outstanding member of our Florida team. She was a true asset to our community. I feel blessed to have had the opportunity to have served in the House of Representatives with her.

I think it is most appropriate, Mr. Speaker, as we commemorate this week, which is the Stop Violence Against Women Week, that we celebrate Tillie's life and Tillie's work here in Congress, because through her tireless efforts, she worked to protect women from all types of injustices. During her short tenure in Congress, she and I worked together on a number of important women's issues, such as breast cancer research, the protection of our environment, the security of our women, so many issues that we were involved with.

All of us in the House extend our heartfelt condolences to Tillie's beloved husband, Buck; to their two beautiful daughters, Tillie and Elizabeth; and to the rest of her loving family. Our thoughts and our prayers are with all of you during this difficult time.

Thank you, Tillie, for your gentle leadership. You were a true friend to me, to our Florida community, to all whose lives you touched. You will be greatly missed. Our country is safer today because of Tillie's hard work, and the women who are serving in the U.S. Armed Forces are better protected because of your efforts, Tillie. Tillie leaves a strong legacy of service with honor, and it was my honor to call her my friend.

Mr. CRENSHAW. Mr. Speaker, I yield to the honorable gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. I thank the gentleman for yielding.

Mr. Speaker, it is with deep sadness that we accept the loss of our good friend Tillie Kidd Fowler. Shakespeare wrote: "All the world's a stage and all the men and women are merely players. Each has an entrance and an exit. One in her time may play many parts."

So it was with Tillie. Tillie was the daughter of Senator and Mrs. Culver Kidd. She was, of course, sister to Rusty. She had another sibling who now lives in Macon, Georgia. Tillie grew up in Milledgeville, and she had politics in her DNA. Her father, Culver Kidd, a Yellow Dog Democrat, served under the gold dome in Atlanta for more than 3 decades. I had the good fortune of calling Culver friend and mentor; and when I was elected to Congress in 1992, Culver called to congratulate me, but he said, "I want you to meet my daughter. She was elected, also." As soon as I got here, I had the good fortune to meet Tillie, and we became friends. Although we were on different sides of the aisle, when I had a difficult election, Tillie came over and said, how can I help? And she did help. She was very, very, very savvy, just as her father and her brother were; and she has been a true public servant.

Tillie and I shared the fact that both of us attended Emory University Law School. Both of us were selected to be among that distinguished group called the Distinguished Alumni. She and I join others who are blessed to have had our portraits hanging in the law school. Each year, about this time, we cohosted a reception for the newly elected students from the Washington, D.C. area to the Emory Law School. That reception is coming up soon.

But most importantly, Tillie was a friend to me and that friendship was because of my friendship with her father and her brother. Just a couple of weeks ago when I was in Atlanta, I ran into her brother and I inquired about Tillie, and he told me she was doing fine. Little did we know that we would be coming here tonight to say these wonderful things about Tillie because she had gone.

All the world is a stage and all the men and women are players. Tillie served in so many capacities. She was wife to Buck and mother to Tillie and Elizabeth. But through all of that, she touched our lives in so many ways. We are sad and only one who has worn the garment of bereavement can truly understand the pain that comes when one has been taken from the midst. Yet as we reflect prayerfully, our pain must turn into joy because truly all of us have been blessed to know, love and to have shared this life with such a wonderful woman as Tillie Kidd Fowler.

Mr. CRENSHAW. I yield to the honorable gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I would like to thank the gentleman from Jacksonville for leading this session in memory of our dear friend Tillie Fowler. I had the opportunity to first meet Tillie after I was elected to the House in 1992, the same year that she was. I found her to be a wonderful woman with a kind heart, but also a firm conviction who stood up strongly for her beliefs.

We found that we had many things in common. It turned out that we had a number of friends that we shared that we did not know anything about until we found each other here. My niece and her husband were dorm parents at Choate School in Connecticut where Tillie's children attended, and we shared many a story about that. She had friends in my congressional district in Lynchburg, Virginia, who were very dear to her and I found that I had friends in Florida that she knew as well.

One day I was driving through a car wash in my hometown of Roanoke, Virginia, and the car in front of me had a Tillie Fowler for Congress bumper sticker. This was right after the election in 1992. I had to stop the lady and tell her that I had just met Tillie and knew her. It turned out this was a very, very close friend of Tillie's who had moved to my district.

So it is with much sadness that I join my colleagues this evening in paying tribute to former Congresswoman Fowler, a devoted mother and wife, a public servant, a dear friend, and a woman of impeccable virtue and integrity, a truly remarkable woman. It seems as though Tillie succeeded in everything she attempted. She attended and graduated from Emory University and then Emory University Law School. After graduation she came to work as a congressional aide and then went on to serve as general counsel in the White House Office of Consumer Affairs from 1970 to 1971, after which she returned home to focus on her new family and volunteer activities. She was elected to the Jacksonville City Council in 1985 and served until 1992 when she successfully ran for Congress and served for 8 years.

In Congress, Tillie was the fifth-ranking Republican in the House of Representatives and served 6 years as the deputy conference chair. She also served on the House Committee on Armed Services where she was a strong advocate of the Navy. After serving in Congress, she continued her service to the country and served as a leader in Washington as an attorney with the Washington office of Holland & Knight.

Tillie and I both came to Congress in 1993, and we shared many stories all through the years that we served together. My sincerest sympathies are extended to Tillie's family. I hope that it comforts you to know that Tillie lived her life to the fullest and she did so with graciousness and integrity. She had, as I said, a kind heart and a firm conviction. She represented her constituents with dedication, tenacity, and fairness. For that reason, she earned the respect of her colleagues on both sides of the aisle, and she will be sincerely missed. It is my prayer that her family and the deep loss that they are suffering now will overcome that and have many, many, many fond memories of a wonderful and delightful woman who blessed all who ever knew her.

Mr. CRENSHAW. Mr. Speaker, I yield to the honorable gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I join my colleagues here tonight because we are all deeply saddened by the loss of our former colleague and dear friend, Tillie Fowler. I first met Tillie in December of 1992. We were both of the newly elected class of the 103rd Congress. It was during that incoming freshman class that we met for the first time. We were to meet in this big room. As I came through that door, I was 32 years old. I did not even know where the bathrooms were. The first person I see is this lady who is very gracious with these very large glasses with the most beautiful smile, and I knew that this had to be a Southern belle. Boy, was I right. I went over, immediately attracted to that smile, and we started talking. Then somebody called the meeting to order and Tillie and I sat down next to each other.

☐ 2045

And what a beginning of a great relationship. Ironically, we were then appointed both to the House Armed Services Committee and were assigned committee seats then right next to each other.

During our tenure on the Armed Services Committee, I came to know and appreciate and respect the loyalty, dedication and hard work of Tillie. Although Tillie never served in the military, she understood and subscribed to the very same core values that I had been inculcated with and advocated by all members of the uniformed services.

To that end, we shared the same values and beliefs: Duty, honor, courage, commitment to God, country, family, and our fellow human beings. And for that, the Armed Services reciprocated in their love toward her.

In short, Tillie Fowler's values reflected a common theme of unswerving devotion and honorable service. As members of the Committee on Armed Services, we are faced with very difficult issues that would have and that in fact had a significant impact on military readiness.

JANE HARMAN, Tillie Fowler and I worked together on the Speaker's Task Force on Gender Training, a commission that reviewed the politically sensitive issues of coed training in the military services and the issues of sexual harassment in the military and sexual assaults.

Tillie and I fought hard together in order to try to prevent the closure of the Department of the Navy's live-fire trying range in Vieques in Puerto Rico. I also supported Tillie in her belief of a second port for CVNs to replace the carrier John F. Kennedy in Jacksonville.

And when it came to developing the TRICARE for life program for the over 65 military retirees, it was Tillie that I turned to who quietly assisted me in gaining the support of the Speaker and other Congressional leaders in this program.

Through it all, Tillie repeatedly distinguished herself with a sense of justice and always sound judgment. Her resolve and tenacity were always focused on ensuring that our military forces were physically, mentally and operationally prepared for war. She was known for her superior knowledge, her ethics and both physical and moral courage.

Above else, she was a woman of integrity and great dignity. It is individuals like Tillie that give the American system of Government, indeed this legislative body, honor and respect.

My friend will be remembered in history as one of the world's iron ladies, like Margaret Thatcher, Golda Meir, Tillie Fowler and others. As a colleague, she was a confidant and a true inspiration, someone that you could always turn to in a very difficult moment.

And Tillie always seemed to say the right words. She was like a human sponge. She would soak up and be such a great listener, and then she would always convey the right words, and you would walk by feeling good about yourself that you now have a direction, and she would do that in such warm personal leadership.

I am grateful for the time that we spent together in this chamber and thankful for the memories that she will leave with me. I am a better person for having known her, and the country is a better place through her efforts.

To her husband, Buck, and her daughters, Tillie and Elizabeth, I extend my heartfelt sympathy. To my friend Tillie, I know you are in heaven; vouch for me, my dear friend, so I may see you again.

Mr. CRENSHAW. I yield now to the gentlewoman from California (Ms. MILLENDER-McDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, I, too, rise today to share a few remarks about my friend, our friend, the Honorable Tillie Fowler, who served with honor and distinction in this House. I shall remember her as someone with enormous capacity, inclusive and fiercely loyal to her friends on both sides of the aisle. Her sacred belief while serving in Congress was, I cannot sit next to them one day and campaign against them the next.

What a lady. If I am your friend, then I am your friend. As the politics around her grew more partisan and unkind through her tenure here, Tillie held her ground. She knew that, in order to get things done, she had to do away with partisan rancor. She was never reluctant to embrace an idea she felt strongly about.

She had a tiny frame, but a great heart and a giant heart. She was a good soul. Tillie wanted more women to get involved in politics and championed the issues women care so much about. She challenged us all of the time with a question: Does it matter whether women are involved in politics? Her career exemplifies that answer.

Upon entering Congress in 1992, Tillie was elected co-chairwoman of the Freshman Republican Task Force on Reform. And in her second term, she became a deputy whip for the Republicans. She was elected vice chairwoman of the House Republican Conference on the vow that she would serve no longer than 2 years in the Republican leadership.

When she left Congress in 2001, she was number five in the House leadership. Tillie served with distinction on the Armed Services Committee, which led the former Speaker, Newt Gingrich, to give her and Representative JANE HARMAN the tough assignment of investigating sexual harassment in the Army.

Her experience on defense matters was not limited to gender issues. And she earned respect as an authority on a range of essential military issues. In 1998, it was indeed my privilege to ask Tillie Fowler to join me, as we would have the first memorial wreath-laying ceremony at Arlington National Ceremony honoring women in military service from the American Revolutionary Army until the present.

In subsequent years, Tillie never missed the annual occasion to stand with us women of the House at Arlington to honor current and past servicewomen. For all of us who will gather together again this May in Arlington, Tillie's absence will be felt and regretted. But she stands among the greatest of women of this country.

I think Tillie Fowler's career is a reminder of what we need to be about, a shining example for all women, civilian or in the military, seeking opportunities to become the best that one can be, to their families, to their Nation. Tillie Fowler was that lady. She will be sorely missed. My condolences go to her husband, Buck, and her two daughters.

Mr. CRENSHAW. I yield now to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, I wish to thank the gentleman from Jacksonville for hosting such an honorable memory to Tillie Fowler.

Mr. Speaker, America lost a remarkable leader last week. The people of Florida lost a passionate and effective ally, and our brave men and women in uniform lost a stellar advocate. I lost a dear friend.

Congresswoman Tillie Fowler was much more than a role model for women who followed her into public service. Though her trail-blazing example and her indomitable spirit will always inspire us, she was much more than northwest Florida's greatest promoter. Through her service, her dedication to the people will always guide us.

She was much more than a trusted colleague, to members of both parties, and her unimpeachable standard of honor and integrity will always instruct us.

In fact, today, I was even speaking with one of her colleagues at Holland & Knight, and we said, you know, we feel like she is still here, we can still see her smile, we can still see those big glasses, we can still hear her laughter. Not often does someone leave you and you still feel them so strongly.

Tillie Fowler's contributions as a public servant, as an attorney, as a civic volunteer and, most important, as a beloved wife and mother were routinely extraordinary. Why? Because at every stage of her life, she had the courage to follow common sense and uncommon dreams.

Whether she was graduating as one of five women at Emory University Law School's class of 1967, or successfully challenging a political establishment dominated by male Democrats, Tillie Fowler never met a barrier that she could not shatter.

Yet, while fighting relentlessly for her principles for Florida and for America, she never lost her love of humanity, her charity or her grace.

Mr. Speaker, as we offer our prayers and condolences to her husband of 37 years, Buck, and her two lovely daughters, Tillie and Elizabeth, let us honor Congresswoman Tillie Fowler's memory by elevating our purpose as well as the means we choose to achieve it.

Mr. CRENSHAW. I yield now to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I, too, as a fellow Floridian would like to pay tribute tonight to my friend, Tillie Fowler.

Tillie was a role model, not just for the women who followed in her footsteps, but for all of us who attempt to represent our communities and our Nation with dignity and respect.

Through hard work and perseverance, Tillie was a true trail-blazer, one of five women in her class of 106 from Emory University's law school. She was the first female president of the Jacksonville City Council. As we recounted here tonight, in her 8 years in Congress, Tillie rose to the highest rungs of power in the United States Congress in the Republican Caucus.

But, in my opinion, what made Tillie so powerful and so special was not the positions that she held. It was the fact that she never lost sight of who she was here to serve. She never forgot where she came from. She relentlessly fought for the people she represented. She served the country. She served her community.

It was not just Tillie's resume that was impressive; it was her firm stance on the issues. When Tillie dug in, she dug in. She stood her ground. But she always treated everybody with respect. Regardless of whether they agreed with her or not, she always listened. She treated folks at home that way. She treated everybody that way, including Members of Congress.

And Tillie always kept her word. Probably one of the most difficult tests for Tillie was her decision to honor her 8-year term limit pledge. She was a person of her word. Regrettably, this Congress lost her much too soon. We have lost her much too soon on this earth.

Tip O'Neill once said, the sign of a successful politician is, from the time they start to when they finish their career, they have the same spouse, same home, same set of friends. He could have been talking about Tillie Fowler. Tillie was the same person from the day she was an adult to the day she left Congress. She never forgot who she was.

Tillie was also one of those rare Members of Congress whose service to the country and to the world only grew after she left the United States Congress. As has been recounted here tonight, she served on the Defense Policy Board Advisory Committee. She took charge of some very serious investigations about potential sexual abuse, about sexual misconduct, about prisoner abuse.

Tillie has been called, by many people here tonight and in the past and she will continue to be referred to as truly a steel magnolia. She was a powerful, delicate balance of grace and strength. She was fair in pursuing her goals, but always friendly, always warm, always caring, always time for a gentle word to a friend or colleague.

For these reasons, Floridians will always treasure, we will always appreciate, we will never forget the legacy of Tillie Fowler.

On behalf of my community, the Tampa Bay area, Tillie, thanks for your service. Thanks for being who you were. Thanks for the power of your example.

And to your husband, Buck, and to your daughters, thank you for sharing a precious amount of the too short life of your mother and your wife here with us in the United States Congress.

Mr. CRENSHAW. I yield now to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. I thank my friend and colleague from Jacksonville and the successor to Tillie Fowler's great 4th District in Florida. And I appreciate the opportunity that you have given us all to share our feelings and our remembrances of this lovely woman.

And I think how sad it is that we so often save our kindest words for those that we love and care so deeply for until it is too late.

It is an honor to pay tribute today to a great Floridian, a woman who touched so many lives, including my own, and dedicated herself to making our State and our Nation a better place.

Congresswoman Tillie Fowler was a remarkable woman. She was an inspiration to us all, and she sought to bring out the very best in each and every American. Her optimism was contagious, as she brought a sunny disposition to the greatest of tasks and backed it up with a steel will.

Tillie was a public servant, in the truest sense of the word, who not only served her community in the Sunshine State but also her Nation. In the 8 years she spent in the halls of Congress, she earned a reputation as one of the hardest-working and most effective Members of this House.

□ 2100

After leaving this House, her service continued. In fact, I think it is a testimony to her abilities that some of her greatest challenges were given to her after she had retired from the House, as through her service she continued to support a strong and modern military through her chairmanship of the Defense Policy Board and every other difficult task that the Secretary could pass her way.

We all mourn the loss of Tillie Fowler. Her distinguished leadership and grace will be dearly missed and her accomplishments and her legacy will be with us always. Tillie blessed our Nation through her hard work and her generous nature. My thoughts and prayers are with her family, her husband, Buck, and her two daughters, Tillie and Elizabeth.

May we all be worthy of the honor that she bestowed upon this House, and may we all work hard to maintain and to follow that blazing trail which she cut through for us.

Mr. CRENSHAW. Mr. Speaker, reclaiming my time, it is clear from what we have heard tonight the great esteem in which Tillie Fowler was held in this House. We have heard about her service in the community, we have heard about her service in local politics, and we have heard about her service here in the United States House of Representatives, as well as when she left this place. So I would simply say in closing that we all loved Tillie, we all will miss Tillie.

One of the things was, in spite of all the honors and accomplishments that came about in her short life, she was always just a great friend. As I said, I never had a chance to serve in this body with her because I took her place when she left, but knowing her for 35 years and watching her in the community, seeing how hard she worked, observing all the things that people have talked about tonight, it is just so clear the legacy that she leaves behind.

I can remember just a couple of occasions, once when she came to see me when she was going to run for the city council. She said, What do you think? I lived in that particular district; my brother had represented that area. I said, Tillie, it would just be magnificent if you would do that. You have been involved in the community; you have done so much. What a great service you would be. I said, You are going to be a star, I can just tell. I know you.

She became one of the first women to serve on our city council, the first Republican president of the city council, the first woman to be president of the city council. Then she went on to serve in this body. I think most people know she left in 2000 after serving for 8 years, not because she would not have been reelected overwhelmingly, but because she made a promise to the people in her district that she would only serve for four terms. It would have been very easy for her to decide that people needed her. She would have won overwhelmingly. But, true to who she was, she made a commitment and she kept it. It was as simple as that.

When I decided to run in 2000, I will never forget the night that I called Tillie to say, in a strange set of circumstances all this kind of came about, I said, I have decided to run in the seat that you are going to vacate. You could feel this sense of excitement and enthusiasm over the telephone, that somebody that she had known for 35 years, and I am honored to say she believed in me, not only just helped me in the campaign, but paved the way for me in this body, to bring me up, introduce me to her friends, her colleagues, many whom you have heard tonight, just went out of her way to go above and beyond. That is just the kind of person she was.

She did everything wholeheartedly. She came to see me the last Friday, the following Monday is when she had the stroke, but true to form, she came to see me just to visit, to talk about things. She was almost like another Representative from the fourth district. She never stopped serving the people. We talked about issues that were important, and how she could help and "here are some ideas." Always, always on the go.

So, tonight we are sad. We will miss her. She will be missed. She will be missed not only by her family, she will be missed not only by her friends, not only by the people of Florida, but she will be missed by the people of this Nation whom she so proudly served.

Mr. HASTERT. Mr. Speaker, America has lost a great public servant and a gracious lady.

When I became Speaker, Tillie Fowler was there with me at the leadership table, serving as the Republican Conference Vice-Chair.

But despite the burden of her many responsibilities, she always had time to be a friend.

She was an effective legislator because she always kept her word to her colleagues and constituents.

She rose within the Republican leadership and became one of the most powerful women in Congress. Despite her influence—she kept her word and honored her term limits pledge because she had promised her constituents she would serve no more than four terms.

After leaving Congress, she continued to devote herself to public service by serving on critical commissions related to her area of expertise in national defense.

Her selflessness and service to her community and family are the legacies she leaves behind.

The House is a better institution because of people like Tillie Fowler. We will miss her greatly.

Our thoughts and prayers go out to her husband Buck and her two daughters Elizabeth and Tillie.

Mr. RAHALL. Mr. Speaker, it is with great sadness that I discuss the life of the late Congresswoman Tillie Fowler. I knew Tillie during the eight years she served in the House of Representatives and remember vividly her strong work as a member of the House Transportation Committee. I join my colleagues in mourning her loss.

Tillie Fowler was born into a family with a tradition of leadership and service. Her father was a member of the Georgia legislature for 44 years. He urged her to go to law school because he had seen widowed women during the Depression unable to get a job and earn a decent living.

Following her graduation from law school, she worked as a House aide and as a general counsel in the White House Office of Consumer Affairs.

As Vice Chairwoman of the House Republican Conference—number 5 in House leadership—she represented her constituents well and with distinction. She was a tireless advocate for a strong national defense, which was natural for her because her district was in the midst of several naval installations. Out of Congress she sustained her interest in the Armed Forces by serving on several influential panels. As always, she brought passion and professionalism to these difficult tasks.

I had occasion to work with her as a member of the Transportation Committee. I remember her as cordial and gracious, but always intensely passionate about the needs of her constituents. These traits helped her get the nickname "Steel Magnolia."

I join my colleagues in mourning the death of Tillie Fowler. She was a strong leader and good friend to all of us. On behalf of the people of the Third District of West Virginia, I extend condolences to her husband Buck and two daughters, Tillie and Elizabeth.

Mr. MILLER of Florida. Mr. Speaker, we are here to honor the memory of a woman whose life may not have been rich in the years that we all hope and pray for, but who enriched the lives of so many. Tillie Fowler's career was filled with accomplishments, and hear calling was to serve all: her family, her hometown, her state, her country, and her God.

Many glowing words have been used to describe Tillie's attributes this past week: bright, charismatic, determined, gracious, thoughtful, kind, unrelenting. Every one of them is true. There have been few political careers quite like hers, but thanks to her pioneering spirit, many paths have been charted to follow.

Tillie was a woman of deep conviction. No issue mattered more greatly to her than the security of our nation. She cared deeply about our servicemembers, and she acted on that concern during her tenure of service on the House Armed Services Committee. Tillie's trademark steadfastness could be seen in her unfailing support for a well-trained and well-equipped military. One small part of her legacy can be seen in this time of challenge for our country, when we are calling upon the skill and bravery of our people in uniform. We're realizing the quality force that Tillie Fowler helped to build. All Americans are grateful to our military, and I know that all branches of the service are grateful to their faithful and advocate from the Sunshine State.

I don't believe that Tillie ever once took her office or her consitutents for granted. She were sincerely grateful for the chance to serve, and we saw that gratitude every day in her work ethic. Rarely has this body seen a Member who studies so tirelessly that with which she was responsible. Legislative Council once told her staff that they'd never seen a Member pore so intently over draft bill text! But this was indicative of the life of steady, consistent, and unfailing effort that she led on behalf of Jacksonville and the state of Florida. She was the embodiment of the Teddy Roosevelt quote that she favored repeating. "Far and away the best prize that life offers is the chance to work hard at work worth doing."

And to watch Tillie serve her fellow man, from her days in the Nixon White House to the halls of Congress, between and beyond, one might have thought she found even the smallest task worth doing, and that she believed she'd won that prize. Yes, she was a lady of firsts; first woman to serve as President of the Jacksonville City Council; amongst the first handful of female colleagues on the Armed Services Committee; the highest ranking woman in Congress within just six years of arriving—in this institution built on seniority and tenure of service. And her groundbreaking achievements continued as she accepted and executed great responsibility at the behest of Secretary Rumsfeld. But as Tillie Fowler walked with giants, she never lost the common touch.

That may perhaps be her greatest legacy to us all. Even as she balanced her many duties, Tillie found the time to pay tribute to our Pages from the House floor. Because of the deep, personal interest she took in the lines of her staff, they remained extremely loyal, staying with her for many years.

It's evident that her attention to detail transcended paper and pencil; Tillie offered tremendous attention to the details of people's lives. Last week's Jacksonville Times-Union guestbook is a testament; everyone from Secretary of the Navy Gordon England, to those who checked her out at the supermarket, remembered Tillie's humaneness and genuine interest. One Jacksonville resident said, "Mrs. Fowler . . . obtained information on my father's WWII service for which I will always be grateful. When she left office she made sure that the process was completed by her successor. While she impacted this nation in so many positive ways, her attention to the details of one small request gives her a special place in the hearts of my family."

We can take a lesson from this. And our contribution to Tillie's legacy should be to continue her work here in Congress. Her remarks at the 1995 National Prayer breakfast can guide us:

> For a Member of Congress, Washington can be a dangerous place, not because of crime, although that exists, but because every day we face the possibility of losing our perspective, of becoming tangled in the snares of business, partisanship and self-importance that lie all around us and which distract us from remembering why we are here. . . . In the mist of all the sound and fury it is very easy and very human to get carried away by some personal or partisan agenda and forget about the importance of actually accomplishing something constructive on behalf of the people who sent us to Washington.

It is statements like this that reflect why Tillie will be remembered not just as a conscientious public servant, but also as a human being who was unfailingly courteous and had a kind word for everyone she ever met. Regardless of party or point of view, we will always remember her with fondness and respect.

Tillie Fowler managed to fit an extraordinary amount of living and human impact in sixty-two years. She was a beloved wife, mother, sister, friend, and American patriot. Her name will live on in American history, and in the memory of all who were privileged to know her. While we mourn her passing, we take comfort in knowing that another chapter has just begun, and that this chapter will be far longer than the days she spent on this Earth.

Mr. WILSON of South Carolina. Mr. Speaker, I am honored to participate in the tributes in memory of former Congresswoman Tillie Fowler. Although she retired before I entered Congress, I was fortunate to work with her while campaigning for my predecessor, former Congressman Floyd Spence. As Spence Campaign Manager in 1998, I learned firsthand of Tillie's warm and convincing personality. Her enthusiastic endorsement of Congressman Spence made her a hero of the Second District of South Carolina and propelled Congressman Spence to tremendous victory.

Tillie was a gracious friend and diligent public servant. She once remarked that she tried to live by her father's guidance "don't try to be popular. Just do the right thing." In following his advice, she became one of the most well respected and effective members of Congress. Through her quiet tenacity and steady leadership, Tillie solved difficult problems and achieved tremendous successes. She was committed to protecting Florida's bases, helping America's military families, and enabling our men and women in uniform to successfully defend our country. As we fight the War on Terrorism today, Tillie's accomplishments are more relevant than ever.

True to her word, Tillie retired after eight years of service in the House of Representatives. She continued to serve her country as Chairman of the Defense Policy Board Advisory Committee. She was awarded the Navy's Distinguished Public Service Award and the Department of Defense Medal for Distinguished Public Service, the highest civilian awards given by the Navy and the Department of Defense.

Tillie also possessed an extraordinary sense of purpose and a profound understanding of what matters most in life. Her dedication to her family and her friends was possibly her most admirable quality. She will be greatly missed. My thoughts and prayers go out to Buck and her daughters, Elizabeth and Tillie.

Mrs. MYRICK. Mr. Speaker, I would like to honor the memory of a dear colleague. I first met Tillie Fowler when I came to Congress in 1995. Tillie always stood out as someone Members could admire. The more we worked together, the more I grew to admire her. She always took time to give advice—no matter how busy she was.

Tillie would stick to her convictions regardless of who disagreed with her. Yet, at the same time, she was also very warm and friendly. Due to these characteristics Tillie earned the nickname "Steel Magnolia," which I thought really suited her.

Tillie was a staunch supporter of strengthening the defense of our country. She was also a strong conservative who wanted government to stop interfering in people's lives. Due to her strong stances and warm personality, Tillie was chosen as one of our top Republican Leaders; a position she filled with grace and wisdom.

To those of us who knew Tillie, simple words or speeches cannot describe her. Nor can they speak enough about the woman she was. I will always remember Tillie as more than just a colleague during my years here. I will remember her as a good friend.

May God bless Tillie and her family, and may we not forget the contributions she has made to our country.

Mr. REYNOLDS. Mr. Speaker, when former U.S. Representative Tillie Fowler passed away last week, we lost an inspiration, a mentor, a patriot, and a friend. From the time she first came to Congress, Tillie Fowler was committed above all else to serving the American people. Her warm manner, unmistakable intelligence, clear understanding of defense policy, and obvious love for her country helped her quickly rise to a position of influence within the party. Despite her great responsibilities, Congresswoman Fowler remained deeply rooted in her community, and committed to those individuals she was elected to represent.

Tillie Fowler demonstrated to us all what a noble calling public service can be; and she still serves as an inspiration to many of us today, myself included. With the passing of Tillie Fowler, we truly lost one of the brightest stars the Sunshine State ever had to offer. Her legacy and influence will not be forgotten, for we are forever indebted to her for all that she was able to accomplish.

Ms. ESHOO. Mr. Speaker, I rise today to place into the RECORD a tribute to honor former Representative Tillie Kidd Fowler, who passed away unexpectedly on March 2, 2005.

Tillie was not only an extraordinary leader and a dedicated public servant, she was also a dear and loyal friend.

Tillie and I came to the Congress together in 1993, and worked together on many issues during the eight years she served her constituents in the communities of Jacksonville, Florida. Tillie was kind, intelligent and thoughtful. She put aside partisanship and politics for the good of the American people. Too few today speak with courtesy and respect when in disagreement with a colleague on important issues, but Tillie always did. These attributes earned her enormous respect among Republicans and Democrats alike, and undoubtedly played a role in her rise to Chairwoman of the House Republican Conference, placing her fifth in the Republican leadership hierarchy.

As a member of the Armed Services Committee, Tillie was a champion of a strong national defense and worked tirelessly to improve military culture in the U.S. and abroad. She continued this good work after her retirement from Congress in 2001, serving on the Defense Policy Board Advisory Committee where she aided the Secretary of Defense on strategy and policy matters. She also served on several panels to investigate allegations of discrimination and sexual misconduct at the U.S. Air Force Academy, as well as prisoner abuse in Iraq. Her work to improve our nation's military is second to none and she will be remembered for her role in eliminating intimidation, discrimination, harassment and assault from the culture of our military.

The State of Florida, our nation and those of us who are Members of Congress have lost a true friend and wonderful leader.

Mr. Speaker, I ask my colleagues to join me in honoring the extraordinary life of Tillie Fowler and in extending our deepest sympathies to her beloved husband Buck, their daughters Tillie and Elizabeth, and their entire family.

Mr. ORTIZ. Mr. Speaker, I join my colleagues today in paying special tribute to a unique patriot and a great American. Tillie Fowler was known as a "Steel Magnolia" because she was a grand class act with enormous strength of character.

Tillie and I worked together on a host of defense-related issues, including the Depot Caucus which I co-chair. In a world of Republicans and Democrats who often see only the worst in each other, Tillie stood out as a hard-nosed realist and a reliable partner for any Member of Congress who stood with her on an issue.

She didn't see party affiliation as the most important aspect of a colleague; she judged each of us individually, by how we worked on issues important to Florida, the district she represented, and to the nation.

We served together on the House Armed Services Committee, and we traveled together on behalf of the House of Representatives. She cared deeply about the national security of the United States and about her constituents in Florida.

She was a remarkable public servant; she broke the mold, becoming the first woman and first Republican to serve as council President of the Jacksonville City Council in 1985. She was a woman of her word—here in Congress and with the people she represented so well here.

When she first ran, she pledged to only serve here for 6 years. Very few members who make such a pledge actually keep it in the end. But Tillie did. She was as good as her word on any matter. She made the most of her service here, becoming the 5th ranking Republican in the House by 2000.

After she left the House, she remained actively engaged in matters of national defense. In 2001 she was appointed to the Defense Policy Advisory Board by Secretary of Defense Donald Rumsfeld. She also continued to be involved in local civic and business affairs.

She always took on the hard issues, investigating sexual assaults at our military academies and torture at prisons in Iraq . . . both difficult and thankless jobs. Tillie was a rare breed—a class act and a scrappy fighter.

Tillie was the picture of grace and compassion. Public service was genetic for her; her father was former Georgia State Sen. Culver Kidd.

I will miss my friend; I fully expected to be working with her in the upcoming BRAC deliberations this year. She was tenacious, she was gracious and she was a beautiful soul. Her family—her husband, Buck, and their daughters—will be in my thoughts and prayers.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I was deeply saddened to hear of the sudden passing of my former colleague, Tillie Fowler. My prayers and deepest regrets go out to her and her immediate family, Buck, and her two girls, Tillie Ann and Elizabeth.

Tillie and I shared a lot in common. In fact, in 1992, we came up to Washington together as members of the same class of elected representatives. This class was so dynamic, and filled with so many new and soon to be influential women members, that it was referred to as "The Year of the Woman."

One distinct adjective to describe Tillie is that she was a tremendous fighter. She struggled hard for what she believed in, and for the betterment of the people and the region she served. Above all, Tillie loved her country, and fought hard to protect the freedoms we enjoy—even the freedom to disagree. Tillie was a woman of great distinction, highly respected, and was always extremely active in her community. She served our country well, particularly in her strong support of the military, specializing in issues concerning women's roles and rights within the military. She was also a woman with strong leadership qualities and one who believed in the value of volunteerism and community service.

Even though Tillie worked on the opposite end of the political spectrum, I recognize tremendous contributions Tillie made, and influence she had within the Republican Party. In 1998 in fact, she was chosen by her colleagues within the Republican Party to be the Vice Chairman (or Chairwoman) of the Republican Conference. This honor made her the highest ranking woman in the U.S. Congress at the time she retired, in 2000. She also served for 6 years as Deputy Majority Whip in the Party, paving the way for future women to move up the political ranks here on Capitol Hill.

Moreover, when she obtained a seat on the House Armed Services Committee, she was the only Republican woman at that time on the committee. Given the tremendous influence the military plays in the city of Jacksonville, her appointment to this committee was more than critical. Upon leaving Congress, Tillie worked hard to ensure a strong U.S. military was recognized by the Secretary of the Navy and the Secretary of Defense. She went on to receive the Navy's Distinguished Public Service Award and the Department of Defense Medal for Distinguished Public Service, both of which was the highest civilian awards given by the Navy and DOD.

Additionally, I served with Tillie on the T & I committee, and crossed party lines numerous times to work together and do what was best for the city of Jacksonville and North Florida as a whole.

My heart and prayers go out to Tillie's dear family during this difficult time. They will remain in my thoughts and prayers.

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Congresswoman Tillie Fowler, our friend and former colleague who recently passed away.

Tillie Fowler was a unique individual. She was tough. She was smart. She was determined. She was gracious. She was an effective advocate for her Jacksonville-area constituents. She also was a loving wife and devoted mother, as well as a friend of mine.

Born in Georgia as the daughter of a politician, Tillie quickly distinguished herself as a force with which to be reckoned. She earned a law degree from Emory University. She became a congressional aide and White House staffer. She was elected President of the Jacksonville City Council.

Tillie won election to Congress in 1992 and did such a good job that she was unopposed in her three subsequent elections. She became the most powerful woman in Congress during her time here, rising to become Vice Chair of the House Republican Conference. She willingly retired from Congress after serving eight years, though her public service continued until the day she died. Those who knew her remember her wisdom, common sense, fairness, and gentle disposition that could disarm even the most hardened opponent.

Mr. Speaker, Tillie once said that "I'd rather have people's respect than have them like me." I think I speak for all of us when I say that she gained our love, admiration, and respect. I join our colleagues in mourning Congresswoman Tillie Fowler's passing and celebrating her life. I extend my thoughts and prayers to her husband, Buck, and her daughters, Tillie and Elizabeth.

Mr. CUNNINGHAM. Mr. Speaker, with the passing of Tillie Fowler, America has lost a great American, dedicated public servant, and friend to many.

Ms. Fowler's distinguished career in public service started as a legislative assistant to Representative Robert J. Stephens, Jr. For the next 37 years, Ms. Fowler served our Nation in many different capacities culminating in her election as a Republican representative in

Congress. I had the honor of serving with Ms. Fowler on the Armed Service Committee. I have not known a stronger supporter of national defense, those who serve in the military, and their families.

After leaving Congress, Ms. Fowler remained dedicated to our country. She has done extraordinary work helping lead the commission reviewing sexual harassment at our Nation's military academies. I am pleased that we were able to continue our professional working relationship when Tillie left Congress, and that we were still in touch this year working on mutual issues of interest for the San Diego Airport Authority.

Tillie K. Fowler was not just a colleague, she was a friend. She will truly be missed, by me and a grateful Nation.

Mr. WOLF. Mr. Speaker, I join with my colleagues today in this special order tribute to the life and achievements of our former colleague, Congresswoman Tillie Fowler, who passed away suddenly last week.

I had the privilege of serving with Tillie. She was a good person—a woman of honesty and integrity—and a remarkable public servant. She had a distinguished eight-year tenure in the House of Representatives. When she retired in 2001 after a self-imposed four-term limit, she was the highest-ranking woman in the House leadership, serving as the vice chairman of the Republican Conference. She also served for six years as a deputy majority whip.

Representing the area around Jacksonville, Florida, Tillie quickly made a mark in the House after her election in 1992. She obtained a seat on the House Armed Services Committee, the only Republican woman on the committee at that time, enabling her to represent well the military and naval installations in her northern Florida district.

She also served on the Transportation and Infrastructure Committee and chaired the Subcommittee on Oversight, Investigations and Emergency Management, from which she led an investigation of the nation's preparedness for a domestic terrorist attack. Eighteen months before 9/11, she authored legislation that would have centralized federal anti-terrorism efforts. After the 2001 terrorists attacks, many of the reforms she proposed were enacted in the creation of Department of Homeland Security.

She gained a reputation as a knowledgeable and articulate advocate for a strong U.S. military and when she retired from Congress, she received the highest civilian awards given by the U.S. Navy and the Department of Defense—the Navy's Distinguished Public Service Award and the Defense Department's Medal for Distinguished Public Service.

An attorney by profession, Tillie became a Washington-based partner in the Holland & Knight law firm after leaving Congress, but also continued her public service work. She served on the Defense Policy Advisory Committee, later chairing the panel—the first woman to head the board in its 20-year history—which advises the secretary of Defense on strategic planning matters. She also led a panel created by Congress in 2003 to investigate allegations of sexual misconduct at the U.S. Air Force Academy, and was a member of a blue-ribbon panel which advised the Defense secretary last year on issues related to the allegations of prisoner abuse by U.S. military personnel at Abu Ghraib prison in Iraq.

Tillie Fowler was a wonderful person, the beloved wife of Buck Fowler of Jacksonville and devoted mother of two daughters, Tillie Fowler of Washington, D.C., and Elizabeth Fowler of San Francisco.

We mourn her sudden passing and offer our deepest sympathies to the Fowler family and the many, many friends and colleagues in both the public and private sectors whose lives were touched and enriched by Tillie Fowler.

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to the life and legacy of the honorable Tillie Kidd Fowler. Mrs. Fowler was a distinguished member of this House from 1993 to 2000. She was a personal friend and someone who I admired greatly.

Tillie was as good a Representative as this House has seen. She was tenacious in the defense of her constituents; principled to a point; and, willing to listen to any good argument.

Raised in an era when professional women were passed over regardless of qualifications for their male counterparts, Tillie used her sharp intellect to climb to the highest levels of government and public service; and our Nation is the better for it.

Today, as we grapple with how best to defend our Nation against the threats of the 21st Century, each of us in the public arena will have to double our efforts in order to fill the knowledge void created by Tillie's absence. We all relied on her keen insights and the significance of her efforts to rebuild our Nation's military and maintain the world's most elite armed services cannot be understated.

While I could go on and on about Tillie's policy successes as a United States Representative and later as Chairwoman of the Defense Policy Board Advisory Committee, it is her work off this floor that I will miss most. When the day's work was done, Tillie had an amazing ability to cut through the clutter and remind you what matters most; to keep you focused; and, to give you a renewed sense of energy with which to tackle the issues of the day.

Just as she was in life, her memory will continue to serve as an inspiration to all of us who knew her. May God receive and keep her, and hold her family close in their days of mourning.

Mr. YOUNG of Florida. Mr. Speaker, I rise to pay tribute to a great American, Tillie Fowler, who served this House with honor and with passion for eight years.

She was not only a colleague and friend to many of us but she was an unquestioned expert on national security. Her highest priority was always taking care of our men and women who serve in uniform. She established such a strong reputation as a tireless worker for her district, our state, and our nation that she quickly rose to one of the most important leadership posts in our conference.

Even after she left this House, she continued to serve when called upon, taking on a number of difficult assignments given to her by the President and Secretary of Defense.

As much as Tillie Fowler will be remembered for her dedication to this House, I will always remember her for the respect and compassion with which she served. At a time when we talk about civility in the House, it would do us all some good to reflect on the way in which she treated all the members and staff in this body with grace and respect.

Our prayers go out on this day to Buck, Tillie's husband of 34 years, and their two daughters Tillie and Elizabeth. The news of her sudden hospitalization and quick passing was a shock to them and all of us as well.

The family can take great solace, though, as they reflect on a woman who dedicated her life to public service and who will long be remembered not only for what she accomplished but for the way in which she set about to serve others. Today indeed is a tragic day for the people of Florida, our nation and this House. We have lost a great American, a great colleague, and a great friend.

Mr. DREIER. Mr. Speaker, we were all stunned by the sudden passing of our former colleague Tillie Fowler. It was a shock that someone so young, so vibrant, so engaged could be gone so quickly. Her family, especially her husband Buck and two daughters Tillie and Elizabeth, remain in our thoughts and prayers as they deal with their tremendous loss.

As I've thought about Tillie over the past week, I remember that Tillie always seemed to know where she was going. She wasn't necessarily in a hurry, but she knew where she wanted to be, and what she needed to do. Many of my colleagues may remember the brisk pace of Tillie as she hustled between meetings and votes and other commitments. She was dainty but determined, small yet sure, focused yet always friendly.

Tillie was deeply dedicated to her work on the Armed Services Committee and to the men and women who serve our country in the military. In her mind, they deserved the best, and she was determined to see that they got it. She had the respect of members from both sides of the aisle, and especially the leadership of the military and the Pentagon for her commitment.

Today, as we find ourselves engaged in the Global War on Terror and we see all that our military has accomplished to further the cause of liberty across the Middle East, we should remember Tillie's hard work on their behalf. She deserves a tremendous amount of credit for recognizing the importance of a strong military, even in times of relative peace and prosperity. You never know when you might need it. And we need it today. Thanks to Tillie, and many other people, we have it.

Tillie Fowler will long be remembered here on Capitol Hill for her dedication, her grace, her love of this country and those who serve it. She set a shining example for all of us to follow—love your family, love your country, love your job, and know where you're going.

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to my friend and former colleague Representative Tillie Fowler.

Tillie, who was sometimes called the "Steel Magnolia," represented her district in Florida from 1992 until 2000 and was a champion for the issues important to her constituents. As a member of the House Armed Services Committee, she fought to keep military bases in her congressional district. During her tenure on the House Committee on Transportation and Infrastructure, she investigated the inadequacies in the country's preparedness for a domestic terrorist attack and was able to identify many of the shortcomings that contributed to our lack of preparedness on September 11, 2001. She also served as vice chairwoman of the House Republican Conference and was the fifth-highest member of the House leadership when she left Congress.

In 1997, she served on a congressional task force created to investigate the incidences of sexual harassment and abuse in the U.S. military, an issue on which she and I worked closely together. Two years ago, she was appointed by Secretary Rumsfeld to lead a seven-member panel created by Congress to review sexual misconduct allegations at the U.S. Air Force Academy. The panel's findings detailed much that we already knew including a failure of leadership and command and a lack of support for the victim. I strongly believe that we owe much of the progress we are now making on this issue to the efforts made by Tillie Fowler during the past ten years.

Tillie is survived by her husband Buck and her two daughters Tillie and Elizabeth. I join with my colleagues in expressing my deepest condolences. Tillie will certainly be missed.

Mr. WICKER. Mr. Speaker, I thank my colleagues from Florida for allowing me to participate in this tribute to our friend, Tillie Fowler.

I was privileged to get to know Tillie and to see how effective she was here in this body. I served with her on the Whip team, where her intelligence and leadership abilities were great assets. Tillie also had the universal respect of members of Congress in both parties because of her gentle demeanor and the way she got things done. She also enjoyed that same measure of respect from all the branches of our armed services. Tillie gained a seat on the Armed Services Committee and worked hard on issues to strengthen our military and improve the quality of life for our service personnel.

One of the newspaper stories referred to Tillie as a passionate advocate for the City of Jacksonville and for the military. There is no question about that, and she achieved success without raising her voice or pounding on the rostrum. She did it with a personal style that embodied all the characteristics of a Southern lady. Tillie was polite and courteous, always immaculately dressed, and easy to work with—yet tenacious in pursuit of her goals. Working Woman magazine once said about Tillie that she was a "diminutive Southern belle but tough as an old Marine." She said she learned that lesson from her grandmother, who said being a lady doesn't mean you can't be tough.

Tillie heeded her grandmother's advice, and it served her well throughout a career that was marked by pioneering accomplishments. She was one of only five women in her Emory University Law School graduating class. She won a seat on the Jacksonville City Council and was elected as the council's first woman president. She earned high marks for her work ethic and ability to get things done. In 1993, she brought that same energy and determination to Capitol Hill.

She already had Washington experience as a former House staffer and in the Office of Consumer Affairs at the White House. Tillie's abilities were recognized quickly and she became a leader on issues relating to our military. She also became a member of the House leadership team, serving as vice-chair of the Republican Conference.

Even after leaving Congress in 2001, Tillie was still being called on to tackle tough assignments. She chaired the commission that investigated sexual misconduct allegations at the Air Force Academy and was named to the panel looking into issues surrounding the treatment of prisoners in Iraq.

She never moved to Washington, choosing to commute back home every weekend to be close to her family and her strong Jacksonville roots. While Tillie focused much attention on the district and on issues important to Florida, her work touched lives all across our great country—especially those with ties to our military. That was evidenced by the strong outpouring of support the family received from so many Americans who appreciated Tillie's faithful service.

The House of Representatives is a better place because Tillie Fowler served here. I am honored to help pay tribute to Tillie and her remarkable career.

Mr. MICA. Mr. Speaker, along with my fellow Members of Congress, it is my honor to pay tribute to my friend and former colleague, Tillie Fowler. I extend my very deepest sympathy to Tillie's husband, Buck, to her daughters, Tillie and Elizabeth, and to Tillie's family on the great personal loss of their loved one. It was my privilege to call Tillie Fowler my colleague in Congress and know her as a friend.

Tillie always had her priorities in order. I always recall her first concern in all matters was for Buck, her husband, and her daughters. Tillie as I knew her also had a great love of our country. She ran for office to make her community, our State of Florida and our nation a better place for all. And she never stopped or hesitated in that effort.

Because of the public service of Tillie Fowler, many lives in the Jacksonville area and across our great land have been changed. Tillie and I were elected to Congress together in 1992. With Tillie's leadership the Congress was reformed, people who only had welfare as a choice had their lives changed and our nation's military found a new, strong advocate at their side. Many lives have been affected by the efforts and determination of Tillie Fowler.

It was my honor to serve with her for eight years and share borders of our Congressional Districts over the years, It was my honor to have her at my side during congressional redistricting in 2002, when I inherited a large portion of her old district and faced a formidable reelection challenge. Her support and friendship will always have a fond place in my heart and memories.

So, like many, I have lost a great friend. Unfortunately our nation has lost a great leader and patriot. We will all miss Tillie. But each day now without her, we can celebrate her life and better appreciate her many contributions that helped to make our country a better America for all.

## DEFENDING SOCIAL SECURITY

The SPEAKER pro tempore (Mr. GOHMERT). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 60 minutes as the designee of the minority leader.

Ms. BALDWIN. Mr. Speaker, I rise this evening to draw attention to some of the hundreds of letters that I receive every week from constituents who are outraged or frightened by the President's plan to privatize Social Security. Americans of all ages know that the President's private accounts are a risky change that will do nothing to alleviate Social Security's long-term financial pressures. As more details of this plan trickle out of the White House, Americans are not communicating a mandate; they are expressing outrage and fear.

Social Security is the single most successful anti-poverty program in our country's and government's history. I intend to do all that I can to make sure that this program survives this current attack, and I know that millions of Americans are joining in this effort.

I hear from those that I have the honor of representing in Wisconsin's Second Congressional District every day. They write to tell me about their profound concern with this plan, and they also write to tell me about the profound difference that Social Security has made in their lives. They write to share their fears about how privatization could jeopardize their retirement. They write to express frustration that our President has proposed a scheme that would dismantle Social Security, not strengthen it for future generations.

I have come to the floor tonight to share portions of these letters that I receive on a daily basis, and I hope that those who seek to privatize and to dismantle Social Security are listening this evening. I will also be joined by colleagues tonight who wish to share the words and stories of the constituents that they represent with the American public.

I would like to start this evening with excerpts from a few letters concerning the general importance of the Social Security program.

Ann, from Madison, writes: "I am appalled at the changes suggested for Social Security. If you have known anyone living on it entirely, the monthly amount cannot be cut at all without leaving the retiree or the disabled person in utter poverty. Private plans have been tried and failed in a number of other countries. You only have to look at the last several years to see what could happen to someone reaching retirement age in the wrong time or period. If the administration wants to experiment, let the government do it and take the risks. If this fails, are we really going to let that frail, 80-year-old for whom work is no longer an option, starve sitting on the curb?"

Mary, also from Madison, writes: "I stand behind you in your fight against privatization of Social Security. I do not believe that privatization is a good idea at all. From everything I have learned about this issue, Social Security privatization would reduce benefits because of increased overhead costs and would also transfer the risk from the government to the individual. Also that move is likely to reduce benefits."

Mary continues: "I am 31 years old, so I am a person who supposedly would be helped by the privatization of Social Security. But I don't believe it. And even if I were personally helped, I do not believe the financial risk to my fellow Americans that they would incur is worth any possible benefit I would receive."

Doug writes: "Among many other things that concern me deeply in regards to the Bush administration, it is this whole Social Security business that is going on. Inherent in the definition of the name 'security' and the principle of Social Security is the fact that it is secure and guaranteed. That fundamental right, that we pay in, that we will get out, is essential to the whole idea of the plan and the system. I think it would set a very bad precedent if that whole idea were struck down."

Marcie, from Madison, writes: "I find the changes Bush proposes for Social Security to be very scary at best. There is already an ever-growing gap between the haves and the have-nots in this country, and this will only make the situation worse. The haves already know about investing or can afford to hire someone to advise them. How many of the have-nots know much about investing or have the time or the ability to learn? If the changes go through, I hope they will at least change the name. There will be no social, all citizens contributing to the well-being of others in our society, and no security. There will no longer be a safety net for those retiring and those who are disabled."

And Marcie brings up a very important point: "Seniors are not the only people who rely on Social Security benefits. People receiving survivor benefits and disability benefits make up 31 percent of the Social Security program. Social Security is insurance, a safety net that we can all expect to benefit from when we retire, but it is also an insurance or safety net that you could benefit from before you retire. None of us aspire to benefit from the survivor or disability portions of Social Security, but they are there for all of us, just in case we need them."

Before I read some additional letter excerpts from those who have received Social Security for disability or as survivors, I would like to yield to my colleague who I thank for helping to coorganize this evening's Special Order on Social Security, my friend, the gentleman from Connecticut (Mr. LARSON).

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentlewoman, and I commend the gentlewoman from Wisconsin for truly putting this together and taking the time to make sure that all of America gets to hear what has got to be a mosaic of concern all across this country, because, like the gentlewoman and myself, several others have conducted town hall meetings and forums and have received letters of concern from our constituents all across this great country of ours. It is quite compelling when you both read the mail and you listen to the citizens of this great country speak their minds.

I was particularly struck by a gentleman from Windsor, Connecticut, who wrote me and said: "I would like to encourage you to oppose President Bush's Social Security personal accounts with every resource possible. I turned 54 this year, missing the cutoff for retaining my full promised benefit by 7 months. I am not a spend-thrift who has wasted his money over the years. In fact, I have placed at least 10 percent of my earnings in retirement savings plans since 1978. I fully fund my 401(k) and my Roth. But I have no pension, and my wife is not even eligible for a 401(k) or equivalent since she works for the Manchester School District as a tutor.

"Despite all my efforts to save, I will not have enough to retire on without the guarantee of Social Security. Why? Because I worked for five companies between 1984 and 2000 that all went out of business or left Connecticut: Heublein, Ames, Shawmut, Northeast Savings and International Paper. Each time I was forced to find another job, I lost a year of contribution to my 401(k) and another year of employer match, through no fault of my own. That adds up to quite a bit of savings that have been lost. I am putting one child through college and I have another yet to go. I have no more to save. I have always supported my family and paid my own way. I am relying on the Social Security system my employers and I have already contributed about $200,000 to, to live up to its promises. If the government of the United States can turn its back on its promises to its own citizens, of what value is it?

□ 2115

"Please, help me and every other person in my shoes."

It is this kind of poignant response that we have heard from our citizens all across the country that screams out for this Congress to take action.

One little woman in my district, part of the golden girls, her name is Gracie Vigneau, stood up and said, I understand that there are three legs to this stool. I understand the importance, having lived through the Great Depression, having fought and persevered through the Second World War, having come home and rebuilt this Nation, but I always felt that we had this special contract, that guarantee from our government, that third leg of the stool, if you will, that was the Social Security guarantee. It provided the floor, the safety net from which nobody could fall through. That was the contract that came out of the, well, the Great Depression and its aftermath, and what it did to so many people and how it ruined their lives. Yet, today, we see the problems that exist both in pensions and personal savings, which are in far greater crisis than Social Security."

And so she asks, "Why would we place any element of risk in the program that is there for our guarantee?" She said, "I will be long gone." She said, "I am concerned about my children and their children and their children's children."

This has been the most successful program in the history of this country, and it has kept so many people out of the depths of poverty. Just last week we talked about the impact that this program has had on women and how they are disproportionately disadvantaged and how crippled they would become if the so-called Bush plan were ever to go into effect.

So I commend the gentlewoman. I have other things, other letters to read as well in this dialogue that we have here this evening, this important dialogue with the American public, that they have with us placed their trust, and where we have sworn to give our very best.

I know that we are joined by the gentleman from New Jersey, and I will yield back to the gentlewoman from Wisconsin so that she may recognize another outstanding member of this caucus.

Ms. BALDWIN. Madam Speaker, I yield to the distinguished gentleman from New Jersey (Mr. HOLT), my friend and colleague.

Mr. HOLT. Madam Speaker, I thank the gentlewoman from Wisconsin and the gentleman from Connecticut for arranging this discussion.

Madam Speaker, America is all abuzz about this discussion on Social Security, and that is because it is recognized from coast to coast, from every little village to every city, as very important. It is recognized, I would say, as one of the great accomplishments of America in the past century.

One of my constituents wrote me saying, "Representative HOLT, please remind the Members of the House of Representatives how important Social Security has become for American families."

And she tells an important story that brings up a part of Social Security that we sometimes forget. The discussion often concerns retirement. But she tells the story of how her mother was widowed, and she and her two brothers were left without their father when he died in 1931. This was before Social Security was passed. "We had to return," she said, "to my mother's family home where we were reminded constantly how fortunate we were that we were from a family willing to take us in." She grew up feeling like a charity case.

But the story goes on. A couple of decades later, when her brother died young at age 38, his five children received Social Security survivor benefits until they were able to care for themselves. They stayed in their own home, went to the same school and never had to feel like charity cases.

Social Security survivor benefits, just as Social Security retirement benefits, bring with them not just money but dignity. This story, I think, highlights one of the important aspects of Social Security.

Another constituent wrote to me and said, "The President claims that placing Social Security savings into mutual funds will yield a positive result. Mutual funds still have risk. They go up and down. I have lost capital in several mutual funds. The average person is not an investment sophisticate."

Another resident of Central New Jersey writes to his representative, "It is bad enough that corporate America is trying to take away employee retirement and benefits. Now the President is talking about taking away Social Security."

Madam Speaker, they see this as taking it away something that they have earned, something they are entitled to.

Anyway, he says, "I don't want to save Social Security just for my generation, but for all generations. I believe it is the best and most needed program the government ever came up with. I believe Senator DOLE said it best when he headed a committee a couple of decades ago dealing with Social Security. When large corporations or even the State of California wanted to drop out, the Senator said, Social Security is not a tax; it is a Federal retirement plan that everyone has to be in for it to work."

I am sure my colleague from Wisconsin has had a similar situation, has had similar experiences. When I go before a group of Social Security recipients, I ask: Is there anyone here ashamed to take Social Security? And they all chuckle and say, of course not, because we have earned it, because Social Security is for everyone. And everyone knows that it is for everyone. It is not for the ones who are clever in the market. It is not for the ones who are welfare cases. It is an earned benefit that brings with it dignity in the non-wage-earning years, those years of retirement or years after the family breadwinner has died or those years when disability makes it impossible to earn wages. It brings income and dignity in all of those cases. And like my colleague, I have heard it now from thousands, and I am not exaggerating, of my constituents.

I thank the gentlewoman for arranging this discussion.

Ms. BALDWIN. Madam Speaker, I thank the gentleman for his words and also for the spotlight he has put on the words of his constituents.

I was mentioning, as the gentleman from New Jersey (Mr. HOLT) just did, about the 31 percent of all Social Security beneficiaries who are not retirees but are, in fact, disabled workers or survivors. I would like to have my colleagues hear from some additional constituents of mine who fit in that category and are advocating in that manner.

Martha from Madison writes, "I can speak to the power of Social Security professionally as well as personally. I work for an agency that assists adults with developmental disabilities. For these individuals, much, if not all, of their livelihood comes from monthly Social Security checks. Few of us could live on $58.77 a month. Their lifestyle is not extravagant, but it is possible. More personally, my family has seen the effects of Social Security."

Martha writes, "My husband became unable to work just as he was entering the prime of his life. How would a privatized plan secure my family as we raise our three children? How would a privatized plan continue to address my family's needs over the next 40 years as we age and retire? My greatest fear is that those who are most removed from poverty are in the decision-making positions. It is perhaps too easy for the President and those like him to assume that all Americans have the means to weather life's most unexpected storms."

Kathy from McFarland, Wisconsin, wrote, "I lost my daughter in July. She was 31 and left two children, ages 12 and 8. It is Social Security that is providing a safety net for my grandchildren. My daughter paid for this. My husband and I paid for this. And my son, who served in Iraq, paid for this."

Stephanie from Madison writes, "I am writing to encourage you to reject President Bush's plan to partially privatize Social Security. When my father died in 1958, my sister and I were 9 and 15 years old. My mother had never graduated from high school, so she was only able to get low-paying jobs. If it hadn't been for our survivor benefits, I don't know what we would have done. As it was, my mom's budget was very tight. People need to realize that Social Security isn't just for seniors; it also pays out survivor benefits as well as disability benefits. All of us are simply one accident or disease away from needing Social Security."

Before proceeding to other letters from my constituents, I would like to yield time to my distinguished colleague from the State of Michigan, a leader on this issue, a champion on this issue on the Committee on Ways and Means, to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Madam Speaker, I thank the gentlewoman, and congratulate her on doing this. What we are doing here tonight, I say to my colleague from Connecticut and, later on, from California, and my good colleague from New Jersey, is to read some of the letters that we have been receiving from constituents. There are so many, I thought I would read just three of them, and then let others carry on. I hope we will continue to do this, because it brings home to Washington what we hear at home and what comes from home, what comes from home.

The first letter comes from a constituent in Clinton Township, Michigan. She wrote to a colleague of mine, and under our procedures, it was transferred to our office. And it reads, "The Bush administration has placed Social Security on the top of the domestic priority list, but should it be? The 'crisis'", and that is in her quotes, "they are trying to fix has been taking in more money than it has paid out since the 1980s. If left untouched, our current system would be capable of paying full benefits until 2042 and 75 percent after that."

"If this administration wants to fix a crisis, they should begin with the national debt that" and there is a word left out I think, "that have created over the past 4 years. Increasing the deficit each year has weakened our country tremendously. Furthermore, allowing Social Security reform would cost the government between $1 trillion and $2 trillion. We live in an economy of job loss, underfunded schools, costly health care, and debt. The problems of today still need to be confronted, so why is this their focus in 2042? Reducing benefits would deprive citizens of the stability they deserve during retirement. The Bush administration is attempting to undermine the very concept of Social Security by doing so. If we allow this reform, the future of numerous citizens would be placed in jeopardy. This need to privatize Social Security is fiction, but the national debt is not." This is a wise constituent. All our constituents are wise; this is one who may be especially wise.

"Our government should be working to strengthen stability within our country, not weaken it. My suggestion to the Bush administration is this: Fix the problems you have created before addressing those of 2042. Continuing to ignore the issues of today will not ensure a better future for tomorrow."

□ 2130

It was sent, and we checked with this constituent to make sure we could use her name, Colleen Szeliga.

Let me just read a second letter that is much briefer. I think the gentlewoman from Wisconsin (Ms. BALDWIN) mentioned a letter from someone who had worked in the system. This is a brief letter from Jeanne Polisei who says the following in a letter to me: "I worked for SSA for 18 years. I know," and it is underlined, "what a great program it is. I know it has done wonders for people who would otherwise be poor. Please do all you can to keep this program as it is. Wall Street is not dependable but SSA is."

If I may take a minute to read an excerpt from a letter. I will just read an excerpt because we did not have a chance to reach this constituent, so I will not mention the name or place this fully in the RECORD. Just the heart of this letter that was written November 10, 2004. This is her handwritten letter and I will read it exactly as it is: "My daughter is on childhood benefits on her dad's work record and this is the only source of income, just as I am on widows benefits. We are both on Social Security. This has made" and I think the word me is left out "so sick with worry. What Bush wants to do is 'privatize' Social Security."

And then she goes on to say: "The late President Roosevelt set this up as a trust fund for families and their children and the disabled. This is not his money." And then I finish with this: "My husband worked hard for this money and died before his time. I pay the mortgage, the utilities, and food on the table. It is a daily struggle just to make ends meet from month to month."

So this letter and the others and the ones other Members have read and those that will be coming express so directly and poignantly what this struggle is all about. It is to indeed to save and strengthen Social Security. We are willing to step up to the plate as we were 20 years ago. What we do not want to do is to weaken and dismantle it. And these letters express why this is so important for the people of our Nation.

So carry on with more letters. We are going to keep reading the letters to get this message across as to what the diversion of monies from Social Security to private accounts would really mean for the people of this country. And I think another time we will be reading letters from younger people because they have so much at stake and would be hurt so badly by the effort of the President to take monies out of Social Security, put them into private accounts, making the shortfall worse, not less, and undercutting a program that has meant so much in terms of independence for those on Social Security and will mean so much for my children and my grandchildren.

I thank the gentlewoman very much for giving me this opportunity.

Mr. LARSON of Connecticut. Madam Speaker, I wanted to ask the leading Democrat on Social Security on the Committee on Ways and Means, the gentlewoman from Wisconsin (Ms. BALDWIN) discussed very eloquently and poignantly, as the gentlewoman pointed out in her letters, the number of people outside of the retirement benefits, but survivors benefits and also those on disability, what are the statistics on that?

Mr. LEVIN. About 30 percent of Social Security benefits go to those who are disabled and those who are family members. And the President said, if I might take another 30 seconds, that they would not be affected, the disabled. But that does not work out because what he has called a good blueprint provides for major benefits cut. And the plan, the second plan of the commission that is part of that good blueprint does affect the disabled. And if you were to have these massive cuts over time, especially hurting younger workers, for retirees and not for the disabled, it would mean deeper cuts yet for younger workers who are going to retire.

Mr. LARSON of Connecticut. So when the gentleman says the President's good blueprint will in fact weaken Social Security, that is exactly what it is doing?

Mr. LEVIN. It would not only weaken it; but one last point, it would in the end shrivel it next to nothing and mean its demise because of the cuts in benefits and what is called the clawback which would be an offset against your Social Security of what is in your private accounts and that would be for younger workers, about 70 percent of what was left in your Social Security benefits. So in the end the younger worker in most cases would end up less in both, end up with less in both than if Social Security had not been destroyed. And the Social Security part of it would be so small that it would no longer be sustainable. And that is why this privatization by diversion of Social Security monies is essentially a path to the dismantling of Social Security.

Mr. LARSON of Connecticut. Has the administration now admitted that that will not in any way, shape, manner or form close the gap that exists?

Mr. LEVIN. The privatization proposal does nothing to address the shortfall and, indeed, makes it worse.

Mr. LARSON of Connecticut. I thank the gentleman for clarifying that.

Ms. BALDWIN. I thank the gentleman for his tireless leadership on protecting our Social Security system and amplifying the voices of your constituents' very powerful letters. I would like to yield to my distinguished colleague from the State of California (Ms. WATSON).

Ms. WATSON. Madam Speaker, we held two public forums in the 33rd Congressional District in Los Angeles, California; and I would like to just quote from three of the speakers that participated.

This one is from Miss Nina Diamantle Vera, and she is worried that the proposal for private accounts would put her hard-earned retirement savings at the mercy of the stock market. She was compelled to write me a letter to warn me of the perils of private investment. And she said: "I lost $90,000 in the stock market. The privatization program will only make stockbrokers richer. It is the stupidest thing that President Bush has done." That is the quote.

The stock market is a fluctuating vehicle for savings. It goes up, but it also goes down. The administration should be working with Congress to promote personal wealth and savings through investment but not at the cost of Social Security.

Then Ms. Verdine F. Alston. Ms. Alston is an 89-year-old widow. She is concerned about the Republican proposals for Social Security. This is an American that has contributed to society for most of the 20th century. And she states: "Please stop President Bush from privatizing Social Security. I have paid into Social Security since it started and before I was to vote. I am now 89 years old and a widow. My husband has been deceased for 10 years, and his pension just expired. I am dependent solely on Social Security."

Now, it is unacceptable to pull the rug out from under our senior citizens. A proud American, Ms. Alston stressed the wisdom of a past President and said, "The very first time I voted was for President Roosevelt when I was 21 years old. Social Security is not welfare."

And according to the National Partnership For Women and Families, Social Security provides 90 percent or more of the total income for 44 percent of nonmarried women 65 and older, 66 percent of nonmarried Hispanic women 65 and older, 74 percent of nonmarried African American women 65 and over, and 35 percent of all nonmarried men 65 and older.

Now, Marvin Tavlin, who is a 90-year-old legislative chairperson for the Westside Chapter Alliance of Retired Americans, said it is important to remember that our country is made up of compassionate Americans, many of whom study the history of our great country. And during the town hall meeting that I just held in February, Mr. Tavlin asked if he could share his modern Gettysburg Address with us, and it goes like this:

"Three score and 10 years ago our fathers brought forth to this Nation a new idea, a compact between the government and the people to promote the general welfare and for the first time in our history to guarantee the Social Security of our senior citizens. We are now engaged in a great political battle testing whether the new concept can truly endure. The dedicated men and women, living and dead, who fought so long to achieve this worthy goal inspired us to carry on their tradition. It is now up to us, the living, to rededicate ourselves to the great task remaining before us, to guarantee that this renowned social program for the American people who have worked and struggled so long and so hard for their families, their communities and their country; yes, that this great social program shall never perish from the land."

We gave him great applause because I think he spoke for most Americans.

Ms. BALDWIN. Madam Speaker, I thank the gentlewoman for sharing with America the powerful words and stories of those who she proudly represents.

I am now delighted to yield to one of our new colleagues who we are so proud has joined us from the State of Missouri. We know that this gentleman has been home in his district listening to his constituents actively providing them an opportunity to speak to him and tonight to America through him. I am honored to recognize the gentleman from Missouri (Mr. CARNAHAN).

Mr. CARNAHAN. Madam Speaker, I am pleased to join in tonight and share some of my experiences over the last few weeks.

Like many of our fellow Members here in the Congress, my office has been flooded with letters about Social Security and what it has meant to people across this country by many people in my district in the St. Louis area of Missouri. I have received in my office alone over 1,000 letters from people concerned about these privatization schemes that have been talked about in Washington. I scheduled, based on those meetings, two town hall meetings. Each one had over 200 people that attended.

□ 2145

It was not just seniors. We had people there that were baby-boomers and my generation. We had young people there. We had people that were not just retirees, but people who had been survivors and people who had disabilities. They all had been beneficiaries in some way from this vital American program.

We talked about what it has meant to our country, to their families. We also talked about the success of the program, how it has been studied and mentioned as one of the most efficient programs in our government's history, only having 1.5 percent overhead. So it is a great model to look at in terms of efficiency and delivering vital services to our country.

People are very concerned about their Social Security, the real bedrock foundation of their retirement security being subjected to benefit cuts, being subjected to broker fees, being subjected to the risk of the stock market.

One of my constituents in particular stood up and shared her own personal story. She knew too well the potential risk of depending on the stock market for a guaranteed source of income. She was a 70-year-old grandmother from Arnold, Missouri, and she shared her story in front of about 200 people.

In 1999, a stockbroker had encouraged her to transfer $155,000 from a mature CD and invest it with the broker's local firm. The broker put her money into an aggressive investment account that, at her age, would not have been highly advised. Her investments now were worth only $85,000. She says that if it were not for her monthly Social Security checks she and her husband would be under great financial strain. For people like her, privatization would be a disaster.

Social Security beneficiaries, including survivors, children and those who are disabled, stand to lose the most under President Bush's plan. His proposed changes will not help preserve benefits for those who depend on them the most.

Let us strengthen Social Security, the very foundation of retirement security in this country, and if we are going to have discussions about private accounts, let us talk about those in addition to and on top of this solid foundation of Social Security.

Ms. BALDWIN. Madam Speaker, I thank the Congressman and I am very pleased that he brought up the issue of the risk that Social Security would be subject to if these private accounts were allowed to occur, and I have just a couple of letters on that point too that I wish to share.

Jack from Fort Atkinson, Wisconsin, writes me, "Tammy, thanks for your hard work to keep the promise of Social Security. This privatization plan is about the dumbest thing that Bush has come up with besides the war in Iraq. We have a privatization deal now via IRAs, and let me tell you, my wife and I lost over half of our investment in our IRA accounts after 2000. The only people that will make money in this deal are the brokers."

Another one here, Cheryl, from Madison, writes, "I have deep concerns with President Bush's proposal. By privatizing a portion of Social Security, you have added an element of risk. Some people may come out ahead, others may not. The safety net is gone. For many people Social Security will only be a small part of their retirement. These people can invest their disposable income in the many options available, IRAs, 401(k)s, et cetera. Those that are not as well off and are not able to put much away on their own should be able to count on a known amount from Social Security."

Before continuing, I would like to yield to the gentleman from Connecticut (Mr. LARSON), my colleague, who is a member of the Committee on Ways and Means and has really tackled this threat to Social Security with great vigor, and I appreciate his organizing this evening's Special Order with me.

Mr. LARSON of Connecticut. Madam Speaker, I thank the gentlewoman from Wisconsin again for her diligence and hard work in this effort and deeply appreciate the opportunity to be here this evening.

I honestly believe that Congress should do more of this. I hope that people all across this country are listening to these heartfelt responses from our constituents, and in so many ways, they are often more eloquent than any Member of the United States Congress because their needs and concerns are so heartfelt and real, and this is what I think makes this such a special evening for this Special Order.

I would just like to read one more letter that I have, with the gentlewoman's permission, and this is from a woman in Newington in my district who writes, I am very concerned about what Mr. Bush is doing to the country. I have been working for 37 years, and I have been at my current position for 28 years. From day one, I was told that I would be given a pension at the end of my tenure. Over the years, the company has changed hands and, in fact, changed leaders. Now, the pension has been changed to a cash balance. Because of this change, I will be getting about one-quarter of what I would have been getting in my pension, and now, Mr. Bush claims that under his privatization plan, Social Security benefits would go up. Yet the Congressional Budget Office says Bush's privatization plan will cut benefits by 45 percent or more for seniors. The Bush plan will reduce benefits for all seniors, even those who choose not to invest in private accounts. I am too old to build up a substantial plan and account. Have we not been traumatized enough under this man? I do not want you to vote on this plan or make such a drastic change to the system. If the politicians put a lock on it, like Mr. Gore wanted to, we most likely would not be in this situation. Mr. Bush should stop spending the money. We have the money for Iraq but not for our seniors in this country. I am asking you, please, not to vote for this.

She, like so many others we have heard tonight, I think speaks to what is their concern. Some of our colleagues on the other side have said that these are fear tactics. Hardly.

Grace Vignean again points out that we were a strong generation that persevered through the Great Depression, a Second World War, the Korean and Vietnam Wars. We raised families, rebuilt these countries. We do not scare easy. What we want is the truth. What we need, I think, is for all of us to come together with an understanding, and it is my sincere hope that our colleagues on the other side of the aisle are listening, as well as the President.

President Roosevelt said it best. He said he was concerned that they had become frozen in the ice of their own indifference. Frozen in the ice of their own indifference towards collapsing pensions and shriveled up savings that, for the most part, have to go for the care of your health. Indifference to the 45 million people in this country that are uninsured, indifference to the women and minorities whose drops off in benefits will be so dramatic.

That is why the voices of these citizens need to be heard and why this Congress needs to act in a responsible and bipartisan manner in order to continue to strengthen and preserve the most successful social program and governmental program in the history of this country.

Again, I thank the gentlewoman for providing us the opportunity to discuss these letters and the concern of our constituents.

Ms. BALDWIN. Madam Speaker, the gentleman from Connecticut (Mr. LARSON) mentioned the fear tactics that are being used.

The President, in advocating for his privatization, has made the case or attempted to that Social Security faces an impending crisis, and I just want to let the administration know I think the American public sees through this fear tactic, this scare tactic.

I just want to read one quick letter on that point from Robert from Madison in my district. As he writes, "Bush has in recent weeks been repeatedly inflating the significance of 2018 and 2042, especially the early date, so as to imply that Social Security is in imminent danger of bankruptcy and must be overhauled very soon. The sheer urgency of Bush's tone is unsettlingly consistent with his demonstrated tendency to conjure up a crisis where none exists, as he did during the run-up to the war with Iraq.

"The overblown nature of Bush's alarms over Social Security is reflected in the Social Security trustee's estimate that, even if nothing drastic is done between now and 2042, Social Security will still be able to pay retirees" almost 75 percent "of the promised amount" and "this timeline hardly suggests any crisis that necessitates pounding away at a need to overhaul Social Security" or dismantle it "now."

I would like to yield to the gentleman from New Jersey (Mr. HOLT), my colleague.

Mr. HOLT. Madam Speaker, the gentlewoman from Wisconsin raises this approach of fear tactics, and of course, it leads to the question, well, why? Why does the President, why do some of our colleagues, why are people trying to change this program that our constituents tell us over and over again has meant the difference between dignity and destitution for them? Why do they want to change a program that works so well?

The spokesman from the White House and the President himself have said that privatization is not likely to help the finances of Social Security, but then they have gone on to say, well, even if it does not, it is the right thing to do. Then we have these youngsters at some of the President's road shows around the country chanting, "Hey, hey, ho, ho, Social Security has got to go."

We begin to understand what this is about. It is to overturn a program that they find ideologically unacceptable.

Leslie from Milltown, New Jersey, says, I think we have evidence that the motivation of these politicians for proposing individualized private accounts is driven by ideology, not by a real concern for strengthening and preserving Social Security.

That ideology I think is best summed up with the phrase, you are on your own. You are on your own and you will do well in the market. You are smarter than the market and you will be fine.

Let me tell my colleagues, my constituents say over and over again, we have tried private accounts. Before 1935 you were entitled to invest as much as you wanted in private accounts to prepare for your retirement, and you know what, a majority of the elderly lived below the poverty line. That is why we have Social Security. It is a program that is, I think, one of the most successful we have had in America.

Let me just finish by saying we have had testimonials from so many of our constituents. Let me give a personal one.

My father died when I was six, without insurance, without a pension. My sister and mother and I received Social Security survivor benefits. She was teaching at a junior college on a small teacher's salary. That made an enormous difference.

When I talk about Pat from Lincroft who said Social Security for her brother's children brought dignity, whereas when her father had died before Social Security came into place, they had to live as charity cases. I know what she is talking about.

Social Security binds this country together in a way that no other program that has come out of this body has, and we should not throw it out just because of some ideological whim which is what is happening right now. That is why the country is so upset, why we are getting so much mail.

Mr. LARSON of Connecticut. Madam Speaker, if the gentlewoman would yield, on that point, we heard the gentleman from Michigan (Mr. LEVIN) discuss that earlier, that even the President's so-called privatization plan does nothing to close the gap or the shortfalls that potentially exist in Social Security if we do not act on a bipartisan basis.

So to the gentleman's point, this is all about ideology and politics and not substantively about doing what is in the best interest of the American public. I think that is what has citizens so outraged, that this seems to be from the very get-go, from whether you go back to Hoover and Landon and Friedman and Stockman, who said we must starve the beast, that beast being Social Security, that is what has American citizens outraged at this proposal. That is what has them writing thousands of letters to each and every one of us because of their deep-seated concern of where this administration is taking us, to a "me" society versus "us."

The gentleman said it very eloquently and passionately, and again, I want to thank the gentlewoman for arranging this dialogue and these letters which I hope we continue to come to the floor and discuss.

□ 2200

Ms. BALDWIN. Madam Speaker, I thank the gentleman for his comments, and I would like to thank all of my colleagues who joined me here tonight in giving voice to these very real, very human stories. These are real letters from real people, and privatization would have a real and ultimately negative effect on their lives.

I know that those who seek to dismantle the Social Security System must receive similar letters, and I sincerely hope that they pause and consider what Social Security means to Americans. It is not an arbitrary government program. Social Security is a support system, it is an insurance program, and, in many instances, Social Security is the difference between a comfortable life and a life of poverty. We must do all that we can to protect this vital safety net, this lifeline.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mrs. CAPITO (during the Special Order of Ms. BALDWIN), from the Committee on Rules, submitted a privileged report (Rept. No. 109-14) on the resolution (H. Res. 140) providing for consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Ms. PELOSI) for today on account of medical reasons.

Ms. HERSETH (at the request of Ms. PELOSI) for today and March 9 on account of a death in the family.

Mr. STUPAK (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Mr. LEACH (at the request of Mr. DELAY) for today on account of illness in the family.

Mr. RAMSTAD (at the request of Mr. DELAY) for today on account of complications from eye surgery.

Mr. TIBERI (at the request of Mr. DELAY) for March 9 until 5:30 p.m. on account of his traveling to his district with the President.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. CAPPS) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mrs. MCCARTHY, for 5 minutes, today.

Mr. KIND, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

(The following Members (at the request of Mr. DAVIS of Kentucky) to revise and extend their remarks and include extraneous material:)

Mr. JONES of North Carolina, for 5 minutes, March 9.

Mr. BURTON of Indiana, for 5 minutes, today and March 9 and 10.

Mr. DREIER, for 5 minutes, today and March 9.

Mr. GUTKNECHT, for 5 minutes, today and March 9 and 10.

Mr. POE, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today and March 9.

Mr. MORAN of Kansas, for 5 minutes, March 9.

Mr. WELDON of Florida, for 5 minutes, today.

Mr. CONAWAY, for 5 minutes, March 10.

Mr. MICA, for 5 minutes, today.

## ADJOURNMENT

Mr. LARSON of Connecticut. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 9, 2005, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1098. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration and Member Responsibility Actions (RIN: 3038-AC12) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1099. A letter from the Assistant Chief, WCB/TAPD, Federal Communication Commission, transmitting the Commission's final rule—Rural Health Care Support Mechanism [WC Docket No. 02-60] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1100. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Grayville, Illinois) [MB Docket No. 04-368; RM-11067] (Alamogordo, New Mexico) [MB Docket No. 04-369; RM-11068] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1101. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule—Improving Public Safety Communications in the 800 MHz Band [Dkt.02-55] Consolidating the 800 and 900 MHz Industrial /Land Transportation and Business Pool Channels; Amendment of Part 2 of the Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services [Dkt.00-258] Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service [RM-9498] Petition for Rule Making of UT Starcom, Inc. Concerning the Unlicensed Personal Communications Service [RM-10024] Amendment of Section 2.106 of the Rules to the Committee on Energy and Commerce.

1102. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Montana Regulatory Program [MT-024-FOR] received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1103. A letter from the Deputy Director of Budget, Department of the Interior, transmitting the Department's final rule—Payment in Lieu of Taxes (RIN: 1093-AA09) received February 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1104. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543 [Docket No. 041202338-4338-01; I.D. 011305B] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1105. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area [Docket No. 041202338-4338-01; I.D. 011305A] received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1106. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure [Docket No. 001005281-0369-02; I.D. 012105B] received February 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1107. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 Airplanes [Docket No. FAA-2004-18773; Directorate Identifier 2002-NM-312-AD; Amendment 39-13889; AD 2004-25-02] (RIN: 2120-AA64) received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1108. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Warrensburg, MO. [Docket No. FAA-2004-19333; Airspace Docket No. 04-ACE-62] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1109. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Lexington, MO. [Docket No. FAA-2004-19575; Airspace Docket No. 04-ACE-65] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1110. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Fremont, NE. [Docket No. FAA-2004-18818; Airspace Docket No. 04-ACE-44] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1111. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Burwell, NE. [Docket No. FAA-2004-18823; Airspace Docket No. 04-ACE-49] received March 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1112. A letter from the Director, Regulations Management, Office of Regulations Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Payment for Non-VA Physician and Other Health Care Professional Services Associated with Either Outpatient or Inpatient Care Provided at Non-VA Facilities (RIN: 2900-AK94) received February 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1113. A letter from the Chief, Regulations Management, Office of Regulations Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Appeals Regulations, Rules of Practice; Delegations of Authority (RIN: 2900-AL96) received February 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

1114. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Uniform Capitalization of Interest Expense in Safe Harbor and Leaseback Transactions [TD 9179] (RIN: 1545-BB62) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1115. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Real Estate Mortgage Investment Conduits [TD 9184] (RIN: 1545-BC71) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1116. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Qualified Interests [TD 9181] (RIN: 1545-BB72) received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1117. A letter from the Chair of the Board of Directors, Office of Compliance, transmitting notice of adoption of substantive regulations under Section 304(b)(3) of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C. 1384(b)(3); jointly to the Committees on House Administration and Education and the Workforce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. Supplemental report on H.R. 3. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 109–12 Pt. 2).

Mr. THOMAS: Committee on Ways and Means. H.R. 996. A bill to amend the Internal Revenue Code of 1986 to provide for the extension of highway-related taxes and trust funds, and for other purposes; with an amendment (Rept. 109–13). Referred to the Committee of the Whole House on the State of the Union.

Mrs. CAPITO: Committee on Rules. House Resolution 140. Resolution providing for consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 109–14). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. NUSSLE:

H.R. 1140. A bill to amend the Internal Revenue Code of 1986 to permit financial institutions to determine their interest expense deduction without regard to tax-exempt bonds issued to provide certain small loans for health care or educational purposes; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself, Mr. ENGEL, Mr. CHABOT, Mr. MACK, Mrs. JO ANN DAVIS of Virginia, Mr. BOOZMAN, and Ms. BERKLEY):

H.R. 1141. A bill to strengthen sanctions against the Government of Syria, to establish a program to support a transition to a democratically elected government in Syria and the restoration of sovereignty and democratic rule in Lebanon, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Financial Services, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself, Mr. CRAMER, Mr. DAVIS of Kentucky, Mrs. MCCARTHY, Mr. MCNULTY, Mr. FORBES, Mr. PAYNE, Mr. GENE GREEN of Texas, Mr. SIMMONS, Mr. CANNON, and Mr. CALVERT):

H.R. 1142. A bill to protect children from exploitive child modeling, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEINER (for himself, Ms. GINNY BROWN-WAITE of Florida, Mr. BURTON of Indiana, Mr. CARDOZA, Mr. CROWLEY, Mr. MCNULTY, and Mr. OTTER):

H.R. 1143. A bill to prohibit United States assistance for the Palestinian Authority and for programs, projects, and activities in the West Bank and Gaza, unless certain conditions are met; to the Committee on International Relations.

By Mr. ALLEN:

H.R. 1144. A bill to continue State coverage of Medicaid prescription drug coverage to Medicare dual eligible beneficiaries for 6 months while still allowing the Medicare part D benefit to be implemented as scheduled; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA (for himself, Mr. WOLF, Mr. DEFAZIO, Mrs. NAPOLITANO, Mr. SPRATT, Mr. FORD, Mr. MORAN of Virginia, Mr. CARDOZA, Mr. PAYNE, Mr. BERRY, and Mr. HINOJOSA):

H.R. 1145. A bill to require the Federal Trade Commission to study the rating system of the video game industry and assess their labeling practices to determine if such practices are unfair or deceptive; to the Committee on Energy and Commerce.

By Mr. PAUL:

H.R. 1146. A bill to end membership of the United States in the United Nations; to the Committee on International Relations.

By Mr. BACA:

H.R. 1147. A bill to provide benefits to public safety officers who die or become disabled as a result of certain injuries; to the Committee on the Judiciary.

By Ms. BORDALLO (for herself, Mr. FALEOMAVAEGA, and Mrs. CHRISTENSEN):

H.R. 1148. A bill to amend the Small Business Act to designate Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands as historically underutilized business zones (HUBZones); to the Committee on Small Business.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1149. A bill to direct the Secretary of Veterans Affairs to conduct a study of the accuracy of expiration dates on certain prescription drugs maintained by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 1150. A bill to amend the Internal Revenue Code of 1986 to provide a credit to individuals for certain long-term care expenses; to the Committee on Ways and Means.

By Mr. WELDON of Florida (for himself, Mr. STUPAK, Mr. TAYLOR of Mississippi, Mr. ORTIZ, Mr. RAHALL, Mr. MOLLOHAN, Mr. HOLDEN, Mr. LIPINSKI, Mr. MCINTYRE, Mr. PENCE, Mr. ADERHOLT, Mr. HERGER, Mr. AKIN, Mr. SAM JOHNSON of Texas, Mrs. MYRICK, Mr. FEENEY, Ms. HART, Mr. GARRETT of New Jersey, Ms. FOXX, Mr. BARTLETT of Maryland, Mr. PITTS, Mr. HOSTETTLER, Mrs. MUSGRAVE, Mr. BARRETT of South Carolina, Mr. RYUN of Kansas, Mr. ISTOOK, Mr. CHOCOLA, Mr. SODREL, Mr. SHADEGG, Mr. CANTOR, Mr. COX, Mr. TANCREDO, Mr. DOOLITTLE, Mr. SULLIVAN, Mr. GUTKNECHT, Mr. MCHENRY, Mr. SMITH of New Jersey, Mr. KING of Iowa, Mr. MILLER of Florida, Mr. CHABOT, Mr. MCCOTTER, Mr. KENNEDY of Minnesota, Mr. BILIRAKIS, Mr. SOUDER, Mr. FRANKS of Arizona, Mr. WESTMORELAND, Mr. INGLIS of South Carolina, Mr. RENZI, Mr. GREEN of Wisconsin, Mr. MICA, Mr. LINCOLN DIAZ-BALART of Florida, Mrs. JO ANN DAVIS of Virginia, Mr. CRENSHAW, Mr. KELLER, Mr. MARIO DIAZ-BALART of Florida, Mr. STEARNS, Mr. WILSON of South Carolina, Mr. HYDE, Mr. BLUNT, Mrs. BLACKBURN, Mr. FITZPATRICK of Pennsylvania, Mr. DAVIS of Kentucky, and Mr. PLATTS):

H.R. 1151. A bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes; to the Committee on the Judiciary.

By Mr. CALVERT (for himself, Mr. DINGELL, Mr. LEWIS of California, Mr. YOUNG of Alaska, Mr. THOMAS, Mr. HUNTER, Mr. CUNNINGHAM, Mrs. BONO, Mr. NUNES, and Mr. DREIER):

H.R. 1152. A bill to redesignate the dam located on the Santa Ana River as the "Victor V. Veysey Dam"; to the Committee on Transportation and Infrastructure.

By Mr. CAPUANO (for himself, Mr. ISRAEL, Mr. FRANK of Massachusetts, Mr. KANJORSKI, and Mr. CROWLEY):

H.R. 1153. A bill to extend the terrorism insurance program of the Department of the Treasury; to the Committee on Financial Services.

By Mrs. CUBIN:

H.R. 1154. A bill to provide for the retention of the name of the geologic formation known as "Devils Tower" at the Devils Tower National Monument in the State of Wyoming; to the Committee on Resources.

By Ms. DELAURO (for herself, Mr. INSLEE, Mr. WAXMAN, Mr. VAN HOLLEN, Mr. PALLONE, Mr. WEINER, Ms. LEE, Mr. ISRAEL, Mr. NEAL of Massachusetts, Mr. MARKEY, Ms. SOLIS, Mr. FARR, Mr. KILDEE, Mr. BOUCHER, Mr. MCDERMOTT, Mr. CASE, Mr. SERRANO, Mr. KUCINICH, Ms. MCCOLLUM of Minnesota, Mrs. MALONEY, Mr. HINCHEY, Mr. OLVER, Mr. HONDA, Mr. LYNCH, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Mr. SABO, Mrs. LOWEY, Mr. BLUMENAUER, Mr. BROWN of Ohio, Mr. COOPER, Mr. DEFAZIO, Mr. GRIJALVA, Mr. ROTHMAN, Mr. MCNULTY, Mr. OWENS, Mr. MICHAUD, Mr. WEXLER, Mr. CUMMINGS, Mr. EVANS, Mr. SHERMAN, Mrs. DAVIS of California, Mr. BERMAN, Mr. DAVIS of Illinois, Mrs. JONES of Ohio, Mrs. JOHNSON of Connecticut, Mr. DOYLE, Mr. COSTELLO, Mr. BAIRD, Mr. BUTTERFIELD, Mr. LANGEVIN, Mr. DOGGETT, Mrs. CAPPS, Mr. UDALL of Colorado, Mr. CLAY, Mrs. TAUSCHER, Mr. GUTIERREZ, Mr. WU, Mr. RANGEL, Mr. MORAN of Virginia, Mr. GEORGE MILLER of California, Ms. MILLENDER-MCDONALD, Mr. ANDREWS, Mr. HOLT, Mrs. MCCARTHY, Mr. RUSH, Mr. MOORE of Kansas, Mr. McGovern, Mrs. Napolitano, Mr. Allen, Mr. Ryan of Ohio, Ms. Baldwin, Mr. Conyers, Mr. Nadler, Mr. Sanders, and Mr. Payne):

H.R. 1155. A bill to provide additional protections for National Forest System lands in Alaska through the designation of wilderness areas, wilderness study areas, Land Use Designation II management areas, restoration areas, special management areas, and additional components of the national wild and scenic rivers system; to the Committee on Resources.

By Mr. GILLMOR (for himself and Mr. Gallegly):

H.R. 1156. A bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SANDERS (for himself, Mr. Otter, Ms. Jackson-Lee of Texas, Mr. Udall of New Mexico, Ms. Woolsey, Mr. Van Hollen, Mr. Holt, Ms. Watson, Ms. Lee, Mr. Inslee, Mr. Farr, Mr. Meehan, Mrs. Maloney, Mr. Moran of Virginia, Mr. Delahunt, Mr. Olver, Mr. Abercrombie, Mr. Moore of Kansas, Mr. Blumenauer, Mrs. Lowey, Mr. Markey, Mr. Kind, Mr. Serrano, Mr. McDermott, Mr. Owens, Mr. Brown of Ohio, Mr. Grijalva, Mr. Gene Green of Texas, Mr. Costello, Mr. Hinchey, Mr. Filner, Ms. Schakowsky, Mr. Neal of Massachusetts, Ms. Waters, Ms. McCollum of Minnesota, Mr. Frank of Massachusetts, Ms. Slaughter, Mr. Paul, Ms. Baldwin, Mr. Wexler, Mr. Stark, Mr. Udall of Colorado, Ms. Solis, Mr. McNulty, Ms. DeLauro, Ms. Zoe Lofgren of California, Mr. Capuano, Mr. Clay, Ms. Eshoo, Mr. Conyers, Ms. Carson, Mr. Kucinich, Mr. Allen, Mr. Lantos, Mr. Price of North Carolina, Mr. Waxman, Mr. Larson of Connecticut, Mrs. Tauscher, Mr. Engel, Mr. Doggett, Mr. Pallone, Mrs. Capps, Mr. Davis of Illinois, Mr. Boucher, Mr. Etheridge, Mr. Wynn, Mrs. Davis of California, Mr. Honda, Mr. Gutierrez, Mr. DeFazio, Mr. Larsen of Washington, Mr. Peterson of Minnesota, Mr. Payne, Mr. Pastor, Mr. Sabo, Mr. Taylor of Mississippi, Mr. Stupak, Mrs. Jones of Ohio, Mr. Kennedy of Rhode Island, Mr. Rothman, Ms. Norton, Mr. Brady of Pennsylvania, Mr. Pascrell, Mrs. McCarthy, Mr. Rush, Mr. Young of Alaska, Mr. Case, Mr. Jackson of Illinois, Mr. Clyburn, Ms. Linda T. Sánchez of California, Mr. Dingell, Mr. Davis of Florida, Mr. Bishop of New York, Mr. Oberstar, Mr. Cummings, Mr. Weiner, Mr. Hastings of Florida, Mr. McGovern, Mr. George Miller of California, Mr. Visclosky, Mr. Tierney, Mr. Nadler, Mr. Israel, Mr. Emanuel, Mr. Jefferson, Mr. Kildee, Ms. Eddie Bernice Johnson of Texas, and Ms. Kaptur):

H.R. 1157. A bill to amend the Foreign Intelligence Surveillance Act to exempt bookstores and libraries from orders requiring the production of any tangible things for certain foreign intelligence investigations, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HART (for herself and Mr. Lipinski):

H.R. 1158. A bill to reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988; to the Committee on Science.

By Mr. HEFLEY:

H.R. 1159. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Colorado Springs, Colorado, metropolitan area; to the Committee on Veterans' Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 1160. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2005, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAM JOHNSON of Texas (for himself and Mr. English of Pennsylvania):

H.R. 1161. A bill to amend the Internal Revenue Code of 1986 to provide for employer retirement savings accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself, Mr. English of Pennsylvania, and Mr. Portman):

H.R. 1162. A bill to amend the Internal Revenue Code of 1986 to provide for retirement savings accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. SAM JOHNSON of Texas (for himself and Mr. English of Pennsylvania):

H.R. 1163. A bill to amend the Internal Revenue Code of 1986 to create Lifetime Savings Accounts; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself and Mr. Goode):

H.R. 1164. A bill to guarantee the right of individuals to receive Social Security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Ways and Means.

By Mr. KANJORSKI (for himself, Mr. Murtha, Mr. Holden, Mr. Udall of Colorado, Mrs. Capito, Mr. Gonzalez, and Mr. Ney):

H.R. 1165. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to holders of bonds issued to finance land and water reclamation of abandoned mine land areas; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 1166. A bill to amend title XVIII of the Social Security Act to improve the quality of care in skilled nursing facilities under the Medicare Program through development of quality measures and changes in reimbursement; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 1167. A bill to amend the Truth in Regulating Act to make permanent the pilot project for the report on rules; to the Committee on Government Reform.

By Mr. KING of New York (for himself and Mr. Conyers):

H.R. 1168. A bill to ensure that the national instant criminal background check system provides the Federal Bureau of Investigation with information on approved firearms transfers to persons named in the Violent Gang and Terrorist Organization File; to the Committee on the Judiciary.

By Mr. LARSON of Connecticut (for himself, Mr. Abercrombie, and Mr. Taylor of Mississippi):

H.R. 1169. A bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extended active duty, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEVIN (for himself, Mrs. Miller of Michigan, and Mr. Engel):

H.R. 1170. A bill to authorize the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Kentucky:

H.R. 1171. A bill to amend the Internal Revenue Code of 1986 to clarify the small issuer exception from the tax-exempt bond arbitrage rebate requirement; to the Committee on Ways and Means.

By Ms. ZOE LOFGREN of California (for herself, Mr. Cannon, Mr. Berman, Mr. Smith of New Jersey, Mr. Conyers, and Ms. Hart):

H.R. 1172. A bill to provide for the protection of unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

By Mr. MORAN of Virginia:

H.R. 1173. A bill to amend title 49, United States Code, to allow States to regulate tow truck operations; to the Committee on Transportation and Infrastructure.

By Mr. SHAW (for himself and Mr. Pallone):

H.R. 1174. A bill to improve regional sediment management; to the Committee on Transportation and Infrastructure.

By Mr. SHIMKUS (for himself, Mr. Jackson of Illinois, and Mr. Bilirakis):

H.R. 1175. A bill to amend the Public Health Service Act with respect to the shortage of medical laboratory personnel; to the Committee on Energy and Commerce.

By Mr. SOUDER (for himself and Mr. Cantor):

H.R. 1176. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices; to the Committee on the Judiciary.

By Mr. TERRY:

H.R. 1177. A bill to amend the accountability provisions of part A of title I of the

Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mr. THOMAS (for himself, Mr. Nunes, Mr. Daniel E. Lungren of California, Mr. Radanovich, Mr. Herger, Mr. Pombo, Mr. Doolittle, Mr. Cardoza, and Mr. Costa):

H.R. 1178. A bill to create 4 new permanent judgeships for the eastern district of California; to the Committee on the Judiciary.

By Mr. HOEKSTRA:

H. Res. 138. A resolution providing amounts for the expenses of the Committee on Intelligence in the One Hundred Ninth Congress; to the Committee on House Administration.

By Mr. GINGREY:

H. Res. 139. A resolution electing a certain Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. HUNTER:

H. Res. 141. A resolution honoring the life of Enrique "Kiki" Camarena; to the Committee on the Judiciary.

By Ms. SCHAKOWSKY (for herself, Mr. Kirk, Mr. Sherman, Mr. Hastings of Florida, Mr. Van Hollen, Mr. Moran of Virginia, Mr. LaHood, Mr. Allen, Mrs. Jones of Ohio, Mr. Ackerman, Mr. Sam Johnson of Texas, Ms. Ros-Lehtinen, Mr. Cooper, Mr. Gillmor, Mr. Walden of Oregon, Ms. Carson, Mr. Peterson of Minnesota, Mr. Hall, Mr. Grijalva, Ms. McCollum of Minnesota, Mr. Wilson of South Carolina, Mr. Wynn, Mr. McNulty, Mr. McGovern, Mr. McDermott, Mr. Wu, Ms. Watson, Mr. Skelton, Ms. Loretta Sanchez of California, Mr. Reyes, Mr. Kildee, Mr. Rush, Mr. Bishop of New York, Mr. Etheridge, Mr. Moore of Kansas, Mr. Davis of Illinois, Mr. Jackson of Illinois, Mr. Hinchey, Mr. Bishop of Georgia, Mr. Payne, Mr. Gene Green of Texas, Mr. Johnson of Illinois, Mr. Visclosky, Mr. Farr, Mr. Filner, Mr. Frank of Massachusetts, Ms. Eshoo, Mr. Edwards, Mrs. Christensen, Mr. Lipinski, Mr. Bilirakis, Mr. Goode, Mr. Dent, Mr. Tanner, Mr. Kennedy of Rhode Island, Mr. Sessions, Mrs. Biggert, Mr. Shimkus, Ms. Bean, Mr. Hyde, Mr. Manzullo, Mr. Weller, Mr. Costello, Mr. Emanuel, Mr. Cuellar, Mr. Evans, Mr. Terry, and Mr. Gutierrez):

H. Res. 142. A resolution supporting the goals and ideals of a "Rotary International Day" and celebrating and honoring Rotary International on the occasion of its centennial anniversary; to the Committee on Government Reform.

By Mrs. TAUSCHER (for herself, Mr. Lantos, Ms. Granger, Mr. Osborne, Ms. Ros-Lehtinen, and Mr. Ackerman):

H. Res. 143. A resolution recognizing and commending the courage of Iraqi women candidates in the January 30, 2005, Iraqi elections; to the Committee on International Relations.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the followingtitles were introduced and severally referred, as follows:

By Mr. MARKEY:

H.R. 1179. A bill for the relief of Obain Attouoman; to the Committee on the Judiciary.

By Mr. PLATTS:

H.R. 1180. A bill for the relief of certain aliens who were aboard the Golden Venture; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 8: Mr. Murphy, Mr. Goodlatte, Mr. Beauprez, Mr. Coble, Mr. Cunningham, Mr. Aderholt, Mr. Rehberg, Mr. Knollenberg, Mr. Ney, Mr. McHenry, Ms. Foxx, Mr. Norwood, Mr. Deal of Georgia, Ms. Ginny Brown-Waite of Florida, and Mr. Sensenbrenner.

H.R. 11: Mr. Walsh, Mr. Shuster, and Mr. Moran of Kansas.

H.R. 19: Mr. Shadegg.

H.R. 21: Ms. Hooley, Mr. Israel, and Mr. Linder.

H.R. 22: Ms. Berkley, Mr. Farr, Mr. Stark, Mr. Garrett of New Jersey, Ms. Hooley, and Mr. Platts.

H.R. 25: Mr. Baker and Mr. Conaway.

H.R. 29: Mr. Shadegg.

H.R. 32: Mr. Kanjorski, Ms. Hart, Mrs. Bono, Mr. Gallegly, Mr. Fortuño, Mr. Rothman, and Mr. Chocola.

H.R. 37: Mr. Manzullo.

H.R. 42: Mr. McHenry.

H.R. 64: Mr. Marchant.

H.R. 65: Mr. Barrett of South Carolina and Mr. Peterson of Pennsylvania.

H.R. 68: Mr. Boswell, Mr. Conaway, Ms. McCollum of Minnesota, and Mr. Price of North Carolina.

H.R. 111: Mr. Young of Florida, Ms. Harman, Mr. McCaul of Texas, Mr. Barrow, Mr. Davis of Kentucky, Mr. Cannon, Mr. Filner, Mr. Burgess, Mrs. Cubin, Mr. Sweeney, and Ms. Bean.

H.R. 135: Ms. Hart, Ms. Berkley, and Mr. Goodlatte.

H.R. 136: Mr. Calvert and Mr. Tancredo.

H.R. 139: Ms. DeLauro and Mr. Lincoln Diaz-Balart of Florida.

H.R. 151: Mr. Hinojosa, Mr. Neal of Massachusetts, Ms. Lee, and Ms. Linda T. Sánchez of California.

H.R. 179: Mr. Cox.

H.R. 181: Mr. Hostettler and Mr. Terry.

H.R. 216: Mr. Renzi, Mr. Wamp, Mr. Peterson of Minnesota, and Mr. LaHood.

H.R. 282: Mr. Shaw, Ms. Loretta Sanchez of California, Mr. Mack, Ms. Bean, Mr. McHenry, and Mr. LoBiondo.

H.R. 302: Mr. Porter.

H.R. 303: Mr. Udall of Colorado, Mr. Scott of Georgia, Mr. Barrow, Mr. Larson of Connecticut, Mr. Markey, Mr. Case, Mr. McDermott, Mr. Udall of New Mexico, Mr. Stupak, Mr. Davis of Florida, Mr. Goode, Ms. Harris, Mr. Sanders, Mr. Kucinich, Mr. Schiff, Mr. Michaud, Mr. Wolf, and Mr. Matheson.

H.R. 307: Mr. Fossella, Mr. Higgins, Mr. Hinchey, Mrs. Kelly, Mr. McNulty, Mr. Meeks of New York, and Mr. Towns.

H.R. 313: Mrs. Emerson and Mr. Moran of Kansas.

H.R. 314: Mr. Burton of Indiana, Mr. Moran of Kansas, and Mr. Skelton.

H.R. 328: Mr. Tierney, Mr. Osborne, Mr. Israel, Mr. Sabo, Mr. Hinchey, Ms. Schakowsky, and Mr. Hastings of Florida.

H.R. 333: Mr. Simpson, Mrs. Capps, Mr. Payne, Mr. Frank of Massachusetts, Ms. Eshoo, and Mr. Pastor.

H.R. 354: Mr. Sullivan.

H.R. 358: Ms. Eddie Bernice Johnson of Texas, Ms. Bean, Mr. Meeks of New York, Mrs. Drake, Mr. Salazar, Mr. McNulty, Mrs. Capito, Mr. Goodlatte, Mr. Sullivan, Mr. Mollohan, Mr. Cox, and Mr. Norwood.

H.R. 370: Mr. Payne and Mr. English of Pennsylvania.

H.R. 377: Mr. Franks of Arizona, Mr. Fossella, Mrs. Drake, Mr. Gingrey, Mr. Gordon, Mr. Israel, and Mr. Cummings.

H.R. 389: Mr. Owens, Mr. Taylor of North Carolina, and Mr. Kuhl of New York.

H.R. 405: Mr. Hyde.

H.R. 406: Ms. Hart.

H.R. 408: Mr. Filner.

H.R. 420: Mr. McHenry.

H.R. 458: Mr. Edwards and Mr. Carter.

H.R. 466: Mr. McHugh and Mr. Scott of Georgia.

H.R. 490: Ms. Hart.

H.R. 499: Mrs. Lowey.

H.R. 515: Mr. Costello, Mr. Ford, Ms. Schakowsky, and Ms. Schwartz of Pennsylvania.

H.R. 524: Mr. Grijalva.

H.R. 525: Ms. Hart, Mr. DeLay, Mr. Goodlatte, Mr. Shuster, and Mr. Knollenberg.

H.R. 534: Mr. Kolbe and Mr. Kuhl of New York.

H.R. 554: Mr. Shuster, Mr. Wilson of South Carolina, Mr. Kingston, Mr. Hoekstra, and Mr. McHenry.

H.R. 556: Mr. Schiff and Mr. Cummings.

H.R. 557: Mr. Filner.

H.R. 558: Mr. Bishop of Utah, Mr. Pallone, Mr. Terry, and Mr. Rahall.

H.R. 562: Mr. Menendez.

H.R. 580: Mr. Culberson.

H.R. 583: Mr. Ruppersberger, Mr. Moran of Virginia, Mr. McCotter, Mr. Knollenberg, Mr. Wynn, and Mr. Israel.

H.R. 602: Ms. Watson, Mrs. Blackburn, Mr. Costello, Mr. Gingrey, Mrs. Musgrave, Mr. Larsen of Washington, Mr. Weiner, Mr. Wicker, and Mr. Bartlett of Maryland.

H.R. 616: Ms. Slaughter.

H.R. 623: Mr. Boustany, Mr. Peterson of Pennsylvania, and Mr. Shuster.

H.R. 650: Mr. Rogers of Michigan.

H.R. 658: Mr. Walsh.

H.R. 669: Mr. Smith of New Jersey, Mr. Norwood, Mr. Walden of Oregon, Mr. Johnson of Illinois, Mr. Barrow, Mr. Davis of Kentucky, and Mr. Stearns.

H.R. 670: Mr. Gordon.

H.R. 688: Mr. Platts.

H.R. 691: Mr. Cummings.

H.R. 711: Mr. Langevin, Mrs. McCarthy, Mr. Towns, Ms. Norton, Mr. Van Hollen, Mr. Wexler, Mr. Blumenauer, Mr. Meehan, Ms. Solis, Mr. Lantos, Mr. Holt, Ms. Lee, Mr. Conyers, and Mr. McDermott.

H.R. 712: Mr. Goodlatte.

H.R. 739: Mr. Fortuño, Mrs. Drake, Mr. Pitts, and Mr. Hall.

H.R. 740: Mr. Fortuño, Mrs. Drake, Mr. Pitts, and Mr. Hall.

H.R. 741: Mr. fortuño, Mrs. Drake, Mr. Pitts, and Mr. Hall.

H.R. 742: Mr. Fortuño, Mrs. Drake, Mr. Pitts, and Mr. Hall.

H.R. 748: Mr. Petri and Mr. Linder.

H.R. 752: Mr. Van Hollen and Mr. Olver.

H.R. 754: Mr. Issa, Mr. Weiner, Mr. Case, and Mr. McIntyre.

H.R. 759: Mr. Israel, Mr. Blumenauer, and Mrs. Lowey.

H.R. 762: Mr. Andrews, Mr. Dingell, and Mr. Miller of Florida.

H.R. 763: Mr. Andrews, Mr. Davis of Illinois, and Mr. Skelton.

H.R. 771: Mr. Meeks of New York, Ms. Slaughter, and Mr. Etheridge.

H.R. 793: Mr. Ryan of Wisconsin, Mr. Levin, Mr. Flake, Mr. Wilson of South Carolina, and Mr. Bishop of New York.

H.R. 795: Mr. Holt and Mr. Radanovich.

H.R. 798: Mr. Miller of North Carolina, Mr. Cole of Oklahoma, Mr. Ehlers, Mr. English of Pennsylvania, Mr. Weldon of Pennsylvania, Mr. Reichert, Mr. Sodrel, and Mr. Smith of Washington.

H.R. 800: Mr. Oxley, Mr. Turner, Mr. Boozman, Mr. Jenkins, Mr. Graves, Mr. Hastings of Washington, Mr. Boustany, Mr. Gilchrest, Mr. Cramer, Mr. Hall, Mr. Pitts, Mr. Wolf, Mr. Matheson, Mr. Ney, Mr. Bishop of Utah, and Mr. Hayes.

H.R. 809: Mr. Burton of Indiana, Mr. Goodlatte, Mr. Manzullo, Mr. Aderholt, Mr. Latham, and Mr. Terry.

H.R. 818: Mr. Gutierrez, Ms. Bordallo, Mr. Cummings, and Mr. Sherman.

H.R. 819: Mr. Goodlatte.

H.R. 820: Mr. Calvert.

H.R. 827: Mr. Hulshof and Mr. Kildee.

H.R. 838: Mr. Gutierrez, Mr. Conyers, Mr. Gordon, Mr. Simmons, and Ms. Eshoo.

H.R. 840: Mr. Souder.

H.R. 869: Mr. Stark, Mr. Gallegly, and Mr. Levin.

H.R. 871: Ms. Wasserman Schultz and Mr. Price of North Carolina.

H.R. 874: Mr. Carter, Mr. Cantor, Mr. Herger, and Mr. Kolbe.

H.R. 878: Mr. Kildee.

H.R. 880: Mr. Pomeroy and Mr. McIntyre.

H.R. 881: Mr. Burton of Indiana, Mr. Smith of New Jersey, Mr. Osborne, Mrs. Jo Ann Davis of Virginia, Mr. Terry, Ms. Woolsey, Mr. Clay, Mr. Michaud, Mr. Kildee, and Mr. Ryan of Ohio.

H.R. 893: Mr. Pastor and Ms. Woolsey.

H.R. 894: Mr. McGovern.

H.R. 895: Mr. Grijalva.

H.R. 896: Mr. Souder, Mr. Wolf, Mr. Kildee, Mr. Chandler, Mr. Cummings, Mr. Wynn, Mr. Brown of Ohio, Mr. Schwarz of Michigan, and Mr. Terry.

H.R. 908: Mr. Owens and Mr. Payne.

H.R. 909: Ms. Lee.

H.R. 920: Mr. Terry.

H.R. 931: Mr. McHenry and Mr. Green of Wisconsin.

H.R. 932: Mr. Lipinski.

H.R. 940: Mr. Mack.

H.R. 952: Ms. Slaughter, Mr. Lynch, Mr. Brown of Ohio, Mr. Payne, and Ms. Watson.

H.R. 970: Mrs. Napolitano, Mr. Wynn, Mr. Cardoza, and Mr. Neal of Massachusetts.

H.R. 972: Mr. Boozman, Mr. Shimkus, Mrs. Jones of Ohio, Mr. Chabot, Mr. Burton of Indiana, Mr. Wilson of South Carolina, Mrs. Maloney, Ms. Millender-McDonald, Mr. Evans, Ms. Kaptur, Ms. Watson, Mr. Abercrombie, Mr. English of Pennsylvania, Mr. Owens, Mr. McIntyre, Mr. Brown of Ohio, Ms. Harris, Mr. Foley, Ms. Corrine Brown of Florida, Mr. Berman, Ms. Roybal-Allard, Mr. Tancredo, and Mr. Franks of Arizona.

H.R. 975: Ms. DeGette, Mr. Simpson, and Mr. Calvert.

H.R. 976: Mr. Kolbe, Mrs. Jo Ann Davis of Virginia, and Mr. Bilirakis.

H.R. 983: Mr. Case.

H.R. 984: Mr. Pastor.

H.R. 986: Mr. Ford.

H.R. 997: Mr. Portman and Ms. Foxx.

H.R. 998: Mr. Case, Mr. Hulshof, Mr. Whitfield, Mr. Rogers of Michigan, and Mr. Latham.

H.R. 999: Mr. Leach, Ms. Herseth, Mr. Duncan, Mr. Hinchey, and Mr. Payne.

H.R. 1000: Mr. Tiberi, Mr. Oxley, and Mr. Lipinski.

H.R. 1001: Mr. Brady of Texas, Mr. DeLay, Mr. Sessions, Mr. Culberson, Mr. Sam Johnson of Texas, Mr. Neugebauer, Ms. Granger, Mr. Bonilla, Mr. Carter, Mr. Conaway, Mr. Marchant, and Mr. Daniel E. Lungren of California.

H.R. 1003: Mr. Gutierrez and Mr. McDermott.

H.R. 1006: Mr. Fortuño.

H.R. 1010: Mr. Paul, Mr. Fossella, and Mr. Rehberg.

H.R. 1042: Mr. Paul.

H.R. 1059: Mrs. Lowey, Mr. Rothman, Mrs. Maloney, Mr. Towns, and Mr. Grijalva.

H.R. 1080: Mr. George Miller of California, Mrs. Capps, and Mr. Kildee.

H.R. 1081: Mr. Berman.

H.R. 1092: Mr. Sessions.

H.R. 1106: Mr. Lipinski and Mr. Kildee.

H.R. 1124: Mr. Simmons and Mr. Holt.

H.R. 1131: Mr. Pallone.

H.R. 1134: Mr. Poe, Mr. Blunt, Mrs. Lowey, Mr. Akin, and Mr. Paul.

H.J. Res. 10: Ms. Herseth, and Mr. English of Pennsylvania.

H. Con. Res. 18: Mr. Ackerman and Mr. Menendez.

H. Con. Res. 32: Mr. Ackerman, Mr. Berman, Mr. King of New York, Mr. Lincoln Diaz-Balart of Florida, Mr. Lantos, Mr. Menendez, and Mr. McHenry.

H. Con. Res. 34: Mr. Issa, Mr. Larsen of Washington, and Mr. King of New York.

H. Con. Res. 40: Mr. Kildee, Ms. Watson, Mr. Lantos, Mr. Michaud, Mr. Langevin, Mr. Scott of Georgia, Mr. Oberstar, Ms. Linda T. Sánchez of California, Mr. Owens, Mr. Allen, Mr. Hastings of Florida, Mr. Hinchey, Mr. McGovern, Ms. Kilpatrick of Michigan, Mr. Brady of Pennsylvania, Mr. Conyers, Mr. Payne, Mr. Towns, Ms. DeLauro, Mr. Larsen of Washington, Mr. Engel, Mr. Farr, Mr. Clay, Mr. Nadler, Mr. Carnahan, Mr. Costello, Mr. Levin, Mr. Honda, Ms. Schakowsky, Ms. Corrine Brown of Florida, Ms. Solis, Mr. Boyd, Mr. Holt, Ms. Carson, Mr. Olver, Mr. Ross, Mr. Frank of Massachusetts, Mr. Crowley, Mr. Baca, Mr. Pascrell, Ms. Jackson-Lee of Texas, Mrs. Capps, Ms. McCollum of Minnesota, Mr. Simmons, Ms. Woolsey, Mr. Kucinich, and Mr. Pastor.

H. Con. Res. 42: Mr. Weldon of Florida, Mr. Kucinich, and Mrs. Musgrave.

H. Con. Res. 47: Ms. Linda T. Sánchez of California.

H. Con. Res. 52: Mr. Goode.

H. Con. Res. 70: Mr. Brown of Ohio, Mr. Rohrabacher, Mr. Sessions, Mr. McNulty, Mr. Mack, Mr. Souder, Mr. Norwood, Mr. Pallone, Mr. Towns, Mr. Mario Diaz-Balart of Florida, Mr. Lincoln Diaz-Balart of Florida, Mrs. Lowey, and Mr. Beauprez.

H. Con. Res. 76: Mr. Scott of Georgia, Mr. Pence, Ms. Bordallo, Mr. Rogers of Alabama, Mr. Wilson of South Carolina, Mr. Garrett of New Jersey, Mr. Hunter, Mr. Beauprez, Mr. Gene Green of Texas, and Mr. Sam Johnson of Texas.

H. Con. Res. 81: Mr. Lynch, Mr. McGovern, and Mr. Snyder.

H. Con. Res. 82: Ms. Berkley, Mr. Blumenauer, Mr. Cardoza, Ms. Watson, Ms. McCollum of Minnesota, Mr. Brown of Ohio, Mr. Sherman, Mr. McCotter, Mr. Burton of Indiana, and Mr. Pitts.

H. Con. Res. 83: Mr. Pitts, Mr. Tancredo, Mr. Souder, Mr. Capuano, Mr. Ryan of Ohio, Mr. McCotter, Mr. Green of Wisconsin, Mr. Franks of Arizona, Ms. Kilpatrick of Michigan, Mr. Lincoln Diaz-Balart of Florida, Ms. Watson, Mr. Jones of North Carolina, Mr. Moore of Kansas, Mr. Brown of Ohio, and Mr. Waxman.

H. Res. 22: Mr. McHenry and Mr. Gohmert.

H. Res. 37: Mr. Pence, Mr. Blumenauer, Mr. Issa, Ms. Harris, Mr. Kirk, Mr. Berman, Mr. Crowley, Mr. Wilson of South Carolina, and Mr. Weller.

H. Res. 38: Mr. McHenry.

H. Res. 54: Mr. King of New York and Mr. McHenry.

H. Res. 84: Mr. Goodlatte, Mr. Kirk, and Mr. Blunt.

H. Res. 85: Mr. Culberson.

H. Res. 90: Mr. Evans, Mr. Etheridge, Mr. Conyers, and Mr. Waxman.

H. Res. 99: Mr. Towns, Mr. Burton of Indiana, Mr. Nadler, Mr. McGovern, Mr. Schiff, Mr. Bishop of Georgia, Mr. Honda, Mr. Lantos, Mr. Engel, Mr. Saxton, Mr. Wilson of South Carolina, Mr. Lynch, Mr. Wexler, Mrs. Napolitano, Mr. Smith of Washington, Mr. Smith of New Jersey, Mr. Neal of Massachusetts, Mr. Ehlers, Mr. Blumenauer, Mr. Pitts, Mr. Larsen of Washington, Mrs. Miller of Michigan, Mr. Chandler, Mr. Pence, Mr. Boehlert, Mr. Barrett of South Carolina, Mr. Gallegly, Mr. Davis of Tennessee, Mr. Poe, and Mr. Nunes.

H. Res. 101: Mr. Royce, Mr. Frank of Massachusetts, Mr. Wynn, Mr. Van Hollen, Mr. Gallegly, Mr. Foley, Mr. Markey, Ms. Wasserman Schultz, Mr. Holden, and Mr. Poe.

H. Res. 108: Mr. Issa, Mr. Engel, Mr. Flake, Mr. Pitts, Mr. Chandler, Mr. Wilson of South Carolina, Mr. Cardoza, Mr. Faleomavaega, Mr. Pence, Mr. Smith of Washington, Mr. Rohrabacher, and Mr. Blumenauer.

H. Res. 119: Mr. Calvert, Mr. McKeon, and Mr. Dreier.

H. Res. 120: Mr. Inslee, Mr. Lipinski, Mr. Price of North Carolina, Ms. Slaughter, Mr. McDermott, Mr. Menendez, and Mr. Pitts.

H. Res. 131: Mrs. Jones of Ohio, Mr. Gene Green of Texas, Ms. Roybal-Allard, Mr. Doyle, Ms. Pelosi, Mr. Hoyer, Mr. Menendez, Ms. Slaughter, Mr. Murtha, Ms. DeLauro, Mr. Berman, Mr. Cardin, Mr. George Miller of California, Mr. McGovern, Mr. McDermott, Mr. Kanjorski, Mr. Butterfield, Mr. Cummings, Ms. Schakowsky, Mr. Dicks, Mr. Andrews, Mr. Chandler, Mr. Pomeroy, Mr. Udall of Colorado, Ms. Lee, Mr. Bishop of Georgia, Mr. Watt, Mrs. Lowey, Ms. Hooley, Mr. Meehan, Mr. Tanner, Mr. Abercrombie, Mr. Etheridge, Mr. Jackson of Illinois, Mr. Olver, Mr. Crowley, Mr. Neal of Massachusetts, Mr. Scott of Georgia, Mrs. Capps, and Ms. Kilpatrick of Michigan.

H. Res. 135: Mr. Leach, Mr. Burton of Indiana, Mrs. Jo Ann Davis of Virginia, Mr. Weller, Mr. Pence, Mr. Wilson of South Carolina, Mr. Wexler, Mr. Berman, Mr. Faleomavaega, Ms. Watson, Mr. Cardoza, Mr. Blumenauer, Mr. Rohrabacher, Mr. Tanner, Mr. Hastings of Washington, Mr. Hastings of Florida, Mr. Udall of New Mexico, Mr. Butterfield, Mr. Shimkus, Mrs. Tauscher, Mr. Cox, Mr. Lewis of California, Mr. Watt, Mr. Regula, Mr. Hefley, Mr. Ehlers, Mr. Oxley, Mr. Manzullo, Mr. Hoyer, Mrs. Lowey, and Mr. Pitts.

# EXTENSIONS OF REMARKS

## TRIBUTE TO MARY McCLYMONT OF INTERACTION

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to Ms. Mary E. McClymont, the current President and CEO of InterAction, the largest alliance of U.S.-based, international development and humanitarian nongovernmental organizations. InterAction's members range from large organizations like CARE, Save the Children, Catholic Relief Services, and World Vision, to smaller organizations such as the International Medical Corps which is based in my own home state of California.

After four years of tireless service to the humanitarian community, Mary is relinquishing the helm of InterAction. She will be deeply missed not only by the many NGOs that InterAction serves but also by many of us in Congress who have come to rely on her and InterAction as advocates of humanitarian, human rights, and development concerns. Her knowledge, commitment, and professionalism have established InterAction as a leading resource of information and expertise on a myriad of issues ranging from Iraq and Afghanistan to the Millennium Challenge Account.

InterAction also has grown tremendously under Mary's leadership, nearly doubling its operating budget and expanding its membership. Additionally, Mary launched the Global Partnership for Effective Assistance—a multiyear advocacy campaign to help save lives and build self-sufficiency in poor countries by increasing the amount of development and humanitarian assistance, improving the effectiveness of foreign aid, and fostering international partnerships.

Leading an organization as large and diverse as InterAction during these tumultuous times requires an individual of tremendous fortitude, integrity, and dedication. Mary undoubtedly has excelled in meeting that challenge.

Mr. Speaker, it has been a great pleasure for me and the Democratic staff of the International Relations Committee to work closely on a wide range of issues with InterAction and with Mary. I want to commend her for her outstanding service and commitment to improving the effectiveness of our nation's humanitarian and development assistance. And I want to extend our best wishes to her as she leaves the presidency of InterAction.

---

## CELEBRATING THE 90TH BIRTHDAY OF HORACE H. HEYMANN

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. ACKERMAN. Mr. Speaker, I rise today to celebrate the 90th birthday of Horace H. Heymann.

Horace was born a citizen of Germany in 1915, and grew up beneath the rising specter of Nazism. Fearing that they would become victims of the Holocaust, he and his family separated in 1932 and fled from their native country. Horace made the journey to the United States, where he found his family safe in their adopted nation.

Horace served his new homeland with fierce loyalty, enlisting in the Navy upon the United States' entry into World War II. After serving honorably in the Sea Bees Battalion, he returned to his Hollis Hills, Queens County, New York home and began his most significant work, that of raising a family.

At the age of 90, Horace is a proud father, grandfather, and United States veteran. His life is a shining example of the emblematic vision of hope that America inspires in the persecuted, and of the powerful influence a loving father has on his children and his children's children.

Mr. Speaker, on behalf of three generations of Americans, I ask my colleagues in the House of Representatives to please join me in honoring Horace H. Heymann as he celebrates his 90th birthday.

---

## IN HONOR OF GRACIA MOLINA DE PICK ON HER 75TH BIRTHDAY

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mrs. DAVIS of California. Mr. Speaker, it is with great pleasure that I rise today to congratulate Gracia Molina de Pick. Gracia celebrates her 75th birthday on March 28, 2005. I am honored to have this opportunity to pay tribute to an exceptional community leader. Gracia is a mother, a daughter, a leader, and most of all, a beloved friend.

San Diegans will honor Gracia at the Centro Cultural de la Raza's International Women's Day. Her friends, family, and supporters will join together to salute her for her selfless and steady dedication to advancing women's causes and improving our community.

Her life story is a great adventure where she fought historic socio-political battles. She battled for obtaining women's suffrage in Mexico. In the United States, she fought for women's equality and acceptance in the workplace. She worked to promote the participation of women and people of color in the democratic process.

Gracia is the people's activist. She has dedicated countless hours to improving the quality of life for women and people of color. Many leaders in San Diego will tell you that she leads by example and is quick to take people under her wing. Gracia is a proud founder of the first Chicano and Chicana studies program at Mesa Community College. In 2002, she was inducted into the San Diego Women's Hall of Fame. She is a mentor, advocate, grassroots activist, and teacher.

I have always appreciated the kind advice she has provided me over the years.

I wish to congratulate Gracia Molina de Pick for her untiring work on behalf of women, minorities, and our community at-large.

---

## HONORING THE WORDS OF JOHN JACKSON

### HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. RYAN of Ohio. Mr. Speaker, it gives me great pride to honor the words of John Jackson, a steelworker from Warren, Ohio. I am proud to claim him as my constituent.

I AM AN AMERICAN STEEL MILL

I was born over 100 years ago.
I am a true American.
I survived the depression.
I have lived through wars.
I sweated.
I poured ton after ton out for you.
When called upon I answered.
At wartime I served my country.
I served it true.
I worked 24 hours a day 7 days a week for you.
Never stopping, never slowing down.
Never asking for anything in return.
I have supplied you with the materials to build
Planes, trains, ships, cars, and whatever you asked of me.
I have helped make you the super power that you are.
I have made you feel proud, safe, secure, and superior to other nations.
I have given people their way of life.
I have taken away life from people.
Do You Know Who I Am?
I Am An American Steel Mill
I have helped you when called upon.
I have supported you through good times
And bad times.
Now I am asking you this great country of ours
Think what life would be like if I die
Think how safe, proud, secure you would feel if I die.
The cries for help are all across the country.
The same country I helped build.
The same country I helped become strong.
Please don't let me die.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Serve me as I have served you.

## IN HONOR OF PROVIDENCE HIGH SCHOOL'S 50TH ANNIVERSARY

### HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Providence High School for 50 years of outstanding dedication to education and the community.

Providence High School opened as an all girls Catholic High School in Burbank, California, in September 1955. Principal, Sister Maria Theresa, Sister Isabella, and Sister Esther administrated at the new school which then had its first class of 81 students. The first school building was completed on November 2,1955. The first class of students graduated in 1959. By 1960, the number of students swelled to 495. The staff continued to grow and formed a young, enthusiastic group who worked tirelessly to attain the highest standards, not only in the academic field, but also in athletics, music and other extracurricular activities. Identifying the need for values-based education for all young people, Providence began welcoming young men, as well as women, to the school in 1974.

Sr. Lucille Dean became the school's principal in 1986. Providence continued in the next few years to build on the tradition of excellence. Providence High School has received recognition throughout its history for its academic achievement. It was designated a Blue Ribbon School in 1997 and received accreditation from the Western Association of Schools and Colleges in 1996. In 2001, the school opened the Fritz B. Burns Student Activity Center featuring a state-of-the-art gymnasium, weight room, exercise room, boys and girls locker rooms, and conference center. Providence has a proud history of carrying out its unique mission of education. The school continually strives for academic excellence and the total development of the individual.

I ask all Members of Congress to join me today in congratulating Providence High School for 50 years of exemplary public service, and for its immense commitment to educating young people of all cultural and economic backgrounds for academic achievement, compassionate service, ethical standards, Christian leadership, global awareness, and life-long learning.

## TOM AND MARY ELLEN CODY HONORED BY JUVENILE DIABETES RESEARCH FOUNDATION AS 2005 CINCINNATIANS OF THE YEAR

### HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. PORTMAN. Mr. Speaker, I rise today to honor Tom and Mary Ellen Cody, friends and constituents who on April 30, 2005 will be named 2005 Cincinnatians of the Year by the Cincinnati Chapter of the Juvenile Diabetes Research Foundation International. Juvenile Diabetes Research Foundation International is the central resource for information about type I juvenile diabetes, and raises funds to support research to find a cure for diabetes.

Tom and Mary Ellen are being honored for their extraordinary service to the Cincinnati community. They have been active members since they moved to our area in 1982, when Tom joined Federated Department Stores, Inc. Currently, Tom is vice chair of Federated with responsibility for legal and human resources, internal audit, external affairs, and the company's philanthropic activities. Prior to joining Federated, Tom was with Pan American World Airways, Inc. He serves on the Boards of Trustees of Xavier University, Cincinnati Children's Hospital, the Cincinnati Children's Hospital Life Center, and the National Conference for Community and Justice. In addition, he is a past chair of United Way of Cincinnati and the Greater Cincinnati Chamber of Commerce Board of Trustees. A native of New York City, Tom received a B.A. from Maryknoll College and a J.D. from St. John's University School of Law.

Mary Ellen is a member of the boards of Dominican Community Services, 4Cs (Community Coordinated Child Care), Dress for Success Cincinnati, and Friends of the University of Cincinnati College—Conservatory of Music (CCM). She attended the College of Mount Saint Joseph.

The Codys have 4 children: Thomas, Jr., Mark, Anne, and Amy, and 7 grandchildren.

All of us in the greater Cincinnati area congratulate the Codys on their extraordinary community service, and on receiving this prestigious honor.

## FREEDOM FOR JOSÉ DANIEL FERRER GARCÍA

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about José Daniel Ferrer García, a political prisoner in totalitarian Cuba.

Mr. Ferrer García is the regional coordinator for the Christian Liberation Movement in the province of Santiago. He is a peaceful pro-democracy activist who believes in the cause of freedom for the men and women of Cuba. Because of his steadfast belief in human liberty, and his constant work to bring freedom to an island enslaved by the nightmare that is the Castro regime, Mr. Ferrer García has been a constant target of the dictatorship.

According to Amnesty International, Mr. Ferrer García has been harassed and detained numerous times for his pro-democracy activism. In January 2002, he was forced from a bus and beaten by the tyrant's thugs because of his activities and ideals. In March 2003, as part of Castro's heinous crackdown on peaceful pro-democracy activists, Mr. Ferrer García was arrested. Subsequently, in a sham trial, he was sentenced to 25 years in the totalitarian gulag.

While confined in the inhuman horror of Castro's gulag, Mr. Ferrer García has been the constant target of abuse. According to the Department of State's Country Reports on Human Rights Practices for 2004:

> On January 1, José Daniel Ferrer García reported serving 45 days in a punishment cell for protesting the suspension of correspondence and the delivery of food and medical supplies from his family. He did not receive food or water during the first 3 days of his confinement and slept on a cement floor. Authorities confiscated his Bible and prohibited any contact with other prisoners.

The same Country Report describes the true horrors of a punishment cell: "Prisoners sometimes were held in 'punishment cells,' which usually were located in the basement of a prison, with continuous semi dark conditions, no available water, and a hole for a toilet." This is in addition to the grotesque depravity of the gulag that also includes beatings, isolation, denial of medical treatment to detainees and sexual abuse.

Mr. Ferrer García is a brilliant example of the heroism of the Cuban people. No matter how intense the repression, no matter how horrifically brutal the consequences of a dignified struggle for liberty, the totalitarian gulags are full of men and women of all backgrounds and ages who represent the best of the Cuban nation. Thousands languish in the gulag because, like Mr. Ferrer García, they refuse to accept the tyrannical dictatorship in Cuba today.

Mr. Speaker, we must speak out and act against this abominable disregard for human rights, human dignity, and human freedom just 90 miles from our shore. My Colleagues, we must demand the immediate and unconditional release of José Daniel Ferrer García and every political prisoner in totalitarian Cuba.

## 100TH ANNIVERSARY OF THE CITY OF WEST BRANCH

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. Tomorrow, the residents of West Branch, Michigan celebrate this great milestone.

The land that is now West Branch began as a timber town in 1875, blessed with a mixture of soft and hardwoods. As many timber towns dissolved with the depleting timber supply, the early community leaders of West Branch had the foresight to replenish the forests through a conservation plan funded through a timely oil boom that contributed greatly to the economy.

Located on the Michigan's largest railroad line, West Branch is roughly halfway between the southern State line and the Mackinac Bridge. Three old Native American Chippewa Trails that convened in West Branch transformed into what is now known as highways, M–76, M–30 and M–55 making that area a major hub for the increasing transportation.

It was in 1905 that the State of Michigan recognized West Branch for 30 years of solid growth by granting them incorporation as a

City. The State further noted that the area's escalating commerce in the farm industry also attributed to the cause for incorporation. Agriculture, still today, remains the area's largest economic resource.

Through the years, the community has dramatically evolved. In the 1930s and 40s West Branch grew its recreational attractions by establishing Trout Festivals and Alpine Ski facilities as well as promoting its suitability for hunting, fishing and agriculture. In the 1950s and 60s the City focused on highway and land development that brought the most famous highway in the state, I–75, directly through their emerging community. During the 70s, 80s and 90s the city experienced an economic boom and acquired two industrial parks. One of the parks was bestowed a "smiley-face" water tower, which is now the trademark of the City. The other, eventually became home to Tolfree Memorial Hospital, West Branch Regional Medical Center and the state-of-the art Seaton Cancer Center.

The West Branch of today, with a population of 1,924, serves as the County seat for Ogemaw County. This fast growing community's expanding commerce, with its own Community Airport and bustling outdoor shopping mall contrasts the Victorian downtown that embraced its rich history during their recent streetscape enhancement.

Mr. Speaker, I can personally attest to the broadly shared opinion that West Branch is a warm and welcoming community. When the city was added to my new district after the 2000 census I held an open house for my district office there in order to get to know my new constituents. I was impressed by the thoughtful questions of the people who attended and was touched by their welcome to me as their new Representative.

Since then, I've held a healthcare forum in West Branch, visited with the West Branch Area Business and Professional Women's Club and even had the honor of throwing the first pitch at the West Branch Little League games. I continue to be very proud to represent the fine community of West Branch in Congress.

Mr. Speaker, I ask the United States House of Representatives to join me in congratulating the City of West Branch and its residents on their first 100 years and in wishing them well through the next century.

## PERSONAL EXPLANATION

**HON. LEE TERRY**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. TERRY. Mr. Speaker, on Thursday, March 3, 2005, I missed the vote on final passage of H.R. 841, the Continuity in Representation Act, rollcall 52. Because it was announced earlier that this vote would be conducted as a voice vote, I immediately left the House floor following the vote on the motion to recommit, so that I could make a flight to my District. Later in the day, I learned Ms. MILLENDER-MCDONALD demanded a recorded vote on the question of passage of the bill.

Had I been present, I would have voted "aye" on the final passage of H.R. 841.

## EXPRESSING CONCERN ABOUT CHINA'S PROPOSED ANTI-SECESSION LAW

**HON. JAMES R. LANGEVIN**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. LANGEVIN. Mr. Speaker, I rise today to express my concern about reports of China's intention to pass an anti-secession law, which appears to permit China to punish Taiwan for what it perceives to be movements toward independence or separatist sentiments. At a time when we should be encouraging greater cross-strait cooperation, this effort by the Chinese could further heighten tensions and possibly move the region toward armed conflict.

When I traveled to Taiwan last year, I saw a vibrant democracy, a strong economy, and citizens appreciative of their high standard of living and ability to enjoy basic human rights. Most importantly, I met people who want to engage in the world community. Yet, the anti-secession law would permit China to decide for itself what constitutes an independence movement in Taiwan. Such carte blanche authority would be chilling in Taiwan, which has supported civil liberties and free speech rights.

I hope that Chinese leaders will use their better judgment and abandon this ill-conceived plan. We, as Americans, must do what we can to promote peace and cooperation across the Taiwan Strait. Despite our commitments in Iraq and elsewhere, we must remain engaged in this matter. Our silence could be interpreted as tacit permission for China to escalate its rhetoric and possibly initiate action against Taiwan, with whom the U.S. has a strong relationship. We must encourage our friends in Beijing to build on their history of cooperative efforts with Taiwan, economically and culturally, to enhance their relationship. I know the people of Taiwan look forward to greater engagement with the mainland and a peaceful coexistence with their Chinese brothers and sisters.

## CELEBRATING NATIONAL PEACE CORPS WEEK

**HON. GARY L. ACKERMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. ACKERMAN. Mr. Speaker, I rise today to commemorate the 44th anniversary of the Peace Corps and to celebrate National Peace Corps Week, which ran from February 28 to March 6, 2005.

Last week, we honored Peace Corps Volunteers for their dedicated work in promoting world peace and friendship across the globe. In an era where global interdependence and camaraderie has become increasingly important, the Peace Corps plays an integral role in connecting individuals from different countries, races, and creeds.

Since the inception of the Peace Corps on March 1, 1961, over 178,000 volunteers have served in 138 countries. Currently, there are more than 7,700 Peace Corps volunteers serving in 72 countries around the world—the highest number of volunteers in the field in the past 29 years. Peace Corps volunteers are quite a diverse group, serving as teachers, information technology consultants, youth and agriculture workers, health and HIV/AIDS educators, and business advisors.

I am proud to say that the 5th Congressional District of New York currently has 12 of its own as Peace Corps volunteers. They are, in alphabetical order and followed by the countries in which they serve: Kimberly A. Beers, Dominican Republic; Ling-Yun Chen, Turkmenistan; Michael E. Garris, Armenia; Seth B. Gazes, El Salvador; Melissa Gonzalez, Costa Rica; Orlando Gonzalez, Costa Rica; Amy Y. Han, Uzbekistan; Grace E. Lee, Madagascar; Pei-Zei Lin, Burkina Faso; Erin C. McNally, Turkmenistan; Richard Z. Mo, Paraguay; Debbie Nip, Moldova.

Mr. Speaker, I ask my colleagues in the House of Representatives to please join me in honoring all of the past and present Peace Corps volunteers who selflessly serve abroad, empowering individuals in developing countries and spreading their message of world peace and friendship. These fine men and women have committed years of their lives to helping total strangers and to making our world a better and friendlier place. We salute your unselfish acts.

## RECOGNITION OF DR. DONALD F. AVERILL FOR THE HARRY BUTTIMER DISTINGUISHED ADMINISTRATOR AWARD

**HON. JOE BACA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. BACA. Mr. Speaker, I would like to give recognition to Dr. Donald F. Averill, Chancellor of the San Bernardino Community College District for receiving the Harry Buttimer Distinguished Administrative Award. It is my honor to recognize Dr. Averill's leadership, dedication, extensive educational background, and his academic and administrative merits to the faculty and students of the State of California.

Dr. Averill earned his doctoral degree in Educational Management from the University of La Verne. He has contributed great efforts to vocational education and educational development through teaching and administration. In addition to his 40 years of experience as professor and administrator, Dr. Averill has also served his tenure of service as Superintendent and President of Palo Verde College, President of the California Association of Occupational Administrators, Chair of the Occupational Education Coalition, Chair of a Legislative Oversight Committee on Contract Education, Chair of the Southern 30's Human Resources Exchange, and Chair of the Association of California Community College Administrators (ACCCA) Human Resources Commission.

Dr. Averill carries a strong commitment to public service, clearly demonstrated by his active involvement with the people and organizations of his community. He is currently involved with over 20 regional, state, and national organizations. Due to his broad knowledge in education and understanding of legislative and educational issues, Dr. Averill is frequently asked to take the lead in areas of higher education, economic development, and community college finances.

Furthermore, Dr. Averill has compiled an impressive list of community outreach, which includes his service as Co-Founder of the Orange County Technology Exchange Center, Chair of the local American Heart Association branch, Lt. Governor of Division Three for Kiwanis International, Chairman of the Board for Mary's Home, Director and Board Member of the Blythe Area Chamber of Commerce, Chairman of the Palo Verde Valley Economic Partnership, Member of the Board of Directors of the San Bernardino Area Chamber of Commerce and the Rialto Chamber of Commerce. He serves on the Board of Directors of Catholic Charities of California, the Inland Empire Economic Partnership, and the Work Incentive Board of San Bernardino County.

Dr. Averill is an outstanding awardee to receive the Harry Buttimer Distinguished Administrator Award. His leadership, commitment, loyalty, integrity, and merits all made him a perfect candidate deserving of such a great honor. The people of San Bernardino County and of the State of California thank him for his continued service.

## IN HONOR AND REMEMBRANCE OF JAMES J. FLANNERY

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of James J. Flannery, devoted family man, community leader, public servant, and friend and mentor to many.

As a former member of the Ohio House of Representatives from 1967 through 1972, Mr. Flannery served his constituents of Cleveland's Near West Side with commitment, integrity and energy. As a certified public accountant, he was instrumental in garnering statewide approval for the graduated income tax, implemented in 1971.

Mr. Flannery's life-long commitment of service to others, and dedication to the Democratic Party was handed down to him from his parents and grandparents. His father served on the Council for the City of Cleveland. For many years, Mr. Flannery's grandfather served as a Precinct Committeeman. And in 1947, Mr. Flannery's grandmother was elected as a delegate to the Democratic National Convention. They also instilled within him an unwavering work ethic. He was raised in Cleveland, graduated from St. Ed's, then enrolled at the University of Notre Dame, where he graduated in 1960. He volunteered his time and efforts on behalf of numerous causes and organizations, including St. Ed's High School and the Notre Dame Club of Cleveland, where he served as past president and trustee. In 1991, the Club honored him as their Man of the Year.

Mr. Speaker and Colleagues, please join me in honor and remembrance of James J. Flannery, beloved husband, father, grandfather, brother and friend. I offer my deepest condolences to Mr. Flannery's wife of 45 years, Judith; his children, Jim, Dan, Kelly, Mary Lou, Michele, Bryan, Judi Lynn and Eric; his sons and daughters in law, Maureen, Caroline, Rolly, Attila, Brian, Renee, Dan and Lori; his granddaughters and grandsons, and his extended family and many friends. Mr. Flannery will be deeply missed by all who knew and loved him well, yet his legacy of concern for others, generous spirit, and kind heart uplifted the lives of countless individuals and families, including my own—and his life and his legacy, framed by love of family and community, will be remembered always.

## PETER GILES HONORED FOR HIS ESTEEMED SERVICE TO THE CORPORATE, NONPROFIT AND HIGH-TECHNOLOGY COMMUNITIES IN SILICON VALLEY

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to recognize the achievements of Peter Giles, the retiring President and CEO of The Tech Museum of Innovation headquartered in San Jose, California.

Among Mr. Giles impressive accomplishments is his strong commitment to education and provocative methods that garner greater levels of understanding to those who do not have a collegiate engineering degree.

Under his leadership, The Tech has empowered 1 million educators and youth through teacher training institutes, web-based resources, field trips and various community partnerships with area schools and youth groups. His museum can also boast of the development of a signature learning approach called, "Design in Mind Learning," which provides professional development to educators and enhances curricula throughout the United States.

Mr. Giles has also committed himself to the sustainability of The Tech and the community it serves. The opening of the Tech Museum was funded by $113 million, including an unprecedented $32 million of in-kind contributions from the industry; in addition, his endowment fundraising totals $14 million currently.

The Tech is one of the top tourist attractions for anyone visiting Silicon Valley. It has earned this reputation because of the unique mix of art, culture, education, and of course, technology. In addition, The Tech has subtly, but firmly espoused its core belief that science, engineering and technology are fun—and must remain to be fun in order for our country to thrive.

The tremendous success of this jewel is due in great part to Mr. Giles' visionary leadership. During Mr. Giles' 18 years of service at The Tech, he fostered a spirit of collaboration and innovation that is the keystone of what makes Silicon Valley a truly unique locale.

Peter Giles is an amazing person. The former President of the Silicon Valley Manufacturing Group he had other, possibly more financially rewarding, career paths than the Tech. But Peter, who is a techie, a father and a visionary, has never been interested in his own aggrandizement so much as he is interested in the public good. Not only did he develop the Tech from a mere idea, he made sure that idea included our entire community. Let me give you just one example: To protect her privacy I'll just refer to "Az". This young woman started working for the Tech while in high school. Neither of her parents were college or high school grads, but Peter understood that reaching out to a community that had not been steeped in education was the Tech's most important mission. From Peter's own life, he understands how families reinforce each other.

Now "Az" has completed college and is embarked on teaching. Understanding the reach of families, her little brother is a math major at MIT.

Although Peter Giles is retiring, his legacy and contributions to Silicon Valley will remain in the hearts and minds of The Tech's supporters, contributors and patrons for many years to come; and even more importantly, in the living rooms of the homes of ordinary families, things have changed for the better.

## IN MEMORY OF ROSEMARY KENNEDY

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. BLUNT. Mr. Speaker, I rise to say a few words about the remarkable life of Rosemary Kennedy, who passed away at age 86 on January 7.

She was not the most famous member of her family. Hers was a more private life than those of her siblings. But it was not a life without public consequences and enormous benefit to those around her.

The example of her perseverance and her dignity helped to raise awareness about people living with mental disabilities—not just about their problems, but about their potential. That example inspired her sister, Eunice Kennedy Shriver, to establish the Special Olympics. It has been going strong now for 37 years. Last year, it was my honor to co-author an historic Congressional authorization for Special Olympics with my good friend STENY HOYER. It is our hope that the authorization will help this successful program to grow even more.

I am pleased that the United States Congress is now counted among those who enthusiastically support Special Olympics and recognize its unique importance in improving the lives of people with intellectual disabilities. Through the Special Olympics, Rosemary Kennedy has brought hope to millions of people around the world who either have disabilities or love someone who does.

In her eulogy for her sister, Eunice Kennedy Shriver said, "Today, in villages and cities all over the world, Rosemary's name may be little known, but her love is making a huge difference—to a mother of a special child, she is a success story. To a person struggling against misunderstanding and prejudice, she is a model of courage. To a family wondering how to stay hopeful, she is a symbol of the ultimate gift that sustains us all: love itself."

Timothy Shriver, Rosemary Kennedy's nephew and the chairman of Special Olympics, said, "All of the Shrivers and all of the Special Olympics family around the world will miss Rosemary's love and her influence on the world. Her life and her example will continue to be our daily inspiration."

That's a sentiment that I believe all of us can second.

---

## CHINESE ANTI-SECESSION LAW

### HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. MACK. Mr. Speaker, I rise today to express my strong opposition to China's proposed anti-secession law—a highly provocative measure which will further increase tensions across the Taiwan Strait.

Earlier this week, Premier Wen Jiabao spoke to the about 3000 delegates from all across China at the Great Hall of the People in Beijing. In Premier Wen's speech, he said the law reflects the "strong determination of the Chinese people to . . . never allow secessionist forces working for Taiwan independence to separate from China." The proposed law ignores reality and assumes that China and Taiwan are now unified.

The law authorizes an attack if Taiwan moves toward formal independence. Simply put, it would give China the legal authority that China has been seeking to push for reunification of Taiwan by force, if necessary. The majority of the 23 million people of Taiwan view this proposed law as hostile and unnecessary. China already has hundreds of missiles pointed at Taiwan. Passage of this law will only further already tense relations across the Strait.

The people of Taiwan live in a vibrant democracy and enjoy one of the highest standards of living in the world. Taiwan is a beacon of freedom and an engine of prosperity in eastern Asia.

Mr. Speaker, I strongly support the right of the Taiwanese people to live in a free and democratic society. This proposed law threatens Taiwan's freedom, its security, and its prosperity. During President George W. Bush's address earlier this year, he said "when you stand for liberty, we will stand with you." I urge my colleagues to stand for freedom and liberty and to stand with the people of Taiwan in its opposition to the Chinese anti-secession law.

---

## HONORING THE 44TH ANNIVERSARY OF THE PEACE CORPS

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. WOLF. Mr. Speaker, I am proud today to honor the 44th anniversary of the Peace Corps, as we concluded the celebration of National Peace Corps Week on Sunday. The Peace Corps has made great contributions over the past 44 years with 178,000 volunteers that have served in 138 countries.

I would like to thank all those who have served and recognize their service and contributions they have given to the world.

I would also like to honor those colleagues who have served in the Peace Corps. Among them are former Ohio Congressman Tony Hall, who is now U.S. Ambassador to the United Nations Food and Agriculture agencies in Rome and who served in the Peace Corps in Thailand from 1966–67. Senator CHRISTOPHER DODD from Connecticut also served as a Peace Corps volunteer from 1966–68 in the Dominican Republic.

I hope all Americans will join me in recognizing the valuable service of those who have served in the Peace Corps and their hard work in helping to portray a positive image of the United States throughout the world.

---

## HONORING THE CONTRIBUTIONS OF COMAL COUNTY COMMISSIONER JAY MILLIKIN

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the accomplishments of Comal County Commissioner Jay Millikin.

His patriotism stems from a lifetime of service to both town and country. Jay Millikin served for 24 years in the United States Air Force before becoming a City Councilman, and the eventual Mayor, of the City of Garden Ridge.

Commissioner Jay Millikin's commitment to the community is exemplified through his membership and involvement with countless environmental, transportation, and development councils and committees. His diligent efforts have served the citizens of Comal County with distinction since 1999.

Commissioner Millikin is a man that understands community needs and the value of hard work and dedication. It is important to recognize the accomplishments of Comal County Commissioners such as Jay Millikin, because they are an inspiration to many others in the community. They are the backbone of positive action in our local counties and communities.

Mr. Speaker, it is a pleasure to recognize the accomplishments of Comal County Commissioner Jay Millikin.

---

## TEXAS INDEPENDENCE DAY

### HON. MICHAEL T. McCAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. McCAUL of Texas. Mr. Speaker, March 2 marks a historic day for my home state of Texas and specifically for the people of my district living in Washington and Austin Counties. Today, Mr. Speaker we celebrate the birth of Texas and the place where our great state was born because right along the banks of the Brazos River, Texas declared its independence.

Texas Independence day marks a time when Texans and Americans of today honor and celebrate the work and sacrifices of Texans generations ago, people who valiantly claimed their freedom from Mexico and sought out their own destiny governed by the laws of a true democracy, a constitution written by the people and the colors of their flag waving over what would become the free and independent nation of Texas. And I am proud to say this historic story of freedom, independence and democracy took place in two important places in the Tenth Congressional District of Texas, the district I am proud to say I represent.

It's a history that started long before that early March day in 1836.

Between 1820 and 1836 the Mexican Government offered Americans the opportunity to live and work in what was then the land of Texas under Mexican Rule. But these Americans, living under Mexico's government quickly found the spirit of freedom lacking. Mexican leaders, at that time, presumed they could dictate economic, social, even religious life for those living in Texas. They allowed the military to interfere in civil issues, trade even legal proceedings.

The inspiring story of how the battle against this, then, anti-democratic government began in what was then, the Stephen F. Austin Colony, the first colony of Texas, now known as Austin County, Texas. It was there that the first sparks of freedom flew from the spirits of men, tired of living under an intrusive and burdensome Mexican government. It was in the Austin Colony in 1835 that Texans first established a provisional government, with the intention of writing a declaration of independence soon after. With the Mexican Army intent on destroying any move towards Texas independence, the Consultation of 1835, as it was known, adjourned without the organization needed to continue the cause for freedom.

But the want for independence from Mexico did not die in that colony. Less than a year later, many of the same delegates present at the Consultation of 1835 arrived along the Brazos River, in the Village of Washington, just north of the Austin Colony.

By the spring of 1836 the encroachments on basic freedoms had reached a point of action for many living in Mexico controlled Texas.

They were simply fed up with such unnecessary and uncontrolled interference from a greedy government. The time for action was upon them.

On March 1, 1836, 59 delegates hailing from all corners of Texas arrived at the then relatively unknown village of Washington right alongside the Brazos River.

They met inside an unfinished frame building to decide the principals they would invoke in claiming their freedom from Mexico. And as these brave men began to construct the language which would declare their independence from Mexico, they were in fact constructing a document which very well may have served as their death warrants. For while their declaration of independence shouted freedom for the Texans, it also declared Mexico unfit to govern and the Mexican Army immediately began seeking retribution for this act of defiance.

But like so many brave heroes before and after them, these 59 delegates were willing to pay the ultimate price for freedom.

It was a bloody and dramatic time for Texas. While the men along the Brazos River fought for the right words and ideals with which to claim Texas' independence, their fellow statesmen and warriors fought for their lives and freedom. For as the delegates along the Brazos River put pen to paper in writing Texas' declaration of independence men like Davey Crockett, James Bowie and William Travis fought to their deaths in fighting for Texas freedom at the Alamo.

Despite the defeat at the Alamo, the revolution continued. In 1842 Texas president, Sam Houston moved the nation's capital from Austin to the birthplace of Texas, Washington on the Brazos River.

Three years later, by an act of Congress, the United States made Texas part of the American Union, and Texas became the 28th state of the United States of America.

There can be no argument about the Lone Star State's contribution to American history, nor can there be any debate about that history's importance.

We must always remember where that history began for Texas. Just like so many Americans travel to Philadelphia to witness the buildings and symbols involved in America's Declaration of Independence, thousands of people every year make the journey to Washington on the Brazos to understand the depth of history and events involved in Texas' Independence.

For many Americans, this place has become a phrase acknowledging an event in Texas history long forgotten. But tonight we must remember Washington on the Brazos and Austin County as the places where the proud nation of Texas found life with a want for freedom and spirit for democracy.

Texas will always have a long and storied history, which we can never forget. We must continue to remember the commitment of those men who started a new book in Texas history as they wrote the nation of Texas into independence.

## INTRODUCTION OF THE INSULAR AREAS SMALL BUSINESS DEVELOPMENT ACT

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Ms. BORDALLO. Mr. Speaker, today I am introducing legislation that would provide greater access to an important tool for the development and growth of small businesses in Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands (CNMI). My legislation would expand the areas currently designated by the Small Business Administration (SBA) as Historically Underutilized Business Zones (HUBZones) to cover the insular areas in their entirety. Not only would this legislation provide an important tool for small business growth in these economically disadvantaged areas, it would correct issues of implementation related to the current one-size-fits all criteria for designating HUBZones. This criteria disadvantages small businesses in the insular areas.

Currently, only those zones in the insular areas designated by the United States Department of Housing and Urban Development as "qualified census tracts," are recognized by the SBA as HUBZones. Many additional zones in the insular areas would also be designated HUBZones under the program's "qualified 'non-metropolitan county'" criteria, as is the case in the 50 States, the District of Columbia and the Commonwealth of Puerto Rico, if not for technical issues of implementation. A principal factor of eligibility under the "qualified 'nonmetropolitan county'" criteria is a high level of unemployment in a given county. The insular areas do not subdivide into counties, nor does the Bureau of Labor Statistics collect Local Area Unemployment Statistics for Guam. Therefore, firms located in a number of financially distressed areas in these jurisdictions are deprived of the opportunity to participate in the HUBZone program, as no alternative formula is used for the "qualified 'nonmetropolitan county'" criteria in the insular areas.

The purpose of this legislation is to support economic self-sufficiency in Guam and the insular areas by helping small businesses located in these jurisdictions to effectively compete for federal contract work. Over the past several years, the SBA's HUBZone program has been one of the most successful vehicles for directing federal contracts and subcontracting dollars to locally-owned small businesses. I am confident that the expertise exists among small businesses in the insular areas to successfully meet federal contracting needs, particularly for local projects. Universal HUBZone designation throughout the insular areas would provide incentives for federal agencies to utilize local firms. Considering the relative geographic isolation and unique economic challenges encountered in these areas, and the problems associated with implementing all provisions of the law in the insular areas, it makes sense to designate the entirety of these jurisdictions as HUBZones.

I look forward to working with Mr. MANZULLO and Ms. Velázquez on this legislation.

## DENTON'S LINK BUS SYSTEM NAMED OUTSTANDING

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to commend Denton's Link bus system, located in the 26th Congressional District of Texas, for its recognition as an "Outstanding Metropolitan Transit System" for 2004 by the Texas Transportation Association.

Denton's Link won the award for increasing its ridership by more than fourfold from 2003 to 2004. With better routes and an influx of new riders from the local universities—Texas Woman's University and University of North Texas—Link has helped limit congestion on our streets. The "Outstanding Metropolitan Transit Award" is given for designing and implementing programs that demonstrate innovative concepts or effect problem-solving techniques. But a company must not only initiate these programs but also successfully implement the techniques. The Texas Transportation Association also awards transit systems that enhance safety measures, make their operating systems more efficient and improve customer service.

Denton's Link sets a wonderful model for other Texas public transit systems looking to make improvements. I am proud of the Denton public transportation system and citizens of Denton who continued to better their community through the use of Denton's Link.

## HONORING THE CONTRIBUTIONS OF GUADALUPE COUNTY COMMISSIONER JUDY COPE

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the dedication of Guadalupe County Commissioner Judy Cope for her civic service.

Judy Cope graduated from MacArthur High in San Antonio, and went on to attend the College of the Mainland, receiving a degree in criminal justice. She has put her training to work as a special investigator, compliance officer, gang issues coordinator, and concealed handgun instructor.

Commissioner Cope's experience has not been limited to law enforcement; she has held positions in various different fields. Early in her career she worked as an accountant, owned a feed and tack store, assisted with operations at her husband's construction company, and held a state real estate license for 21 years.

She now puts this tremendous diversity of experience to work for the citizens of Guadalupe County. She is a strong believer in government transparency and accountability, and she has worked hard to help the public be more involved in county government.

Mr. Speaker, Guadalupe County Commissioner Judy Cope's efforts to enforce the law, forge community ties, and open government to the public are worthy of praise, and I am proud to have this opportunity to recognize her work publicly.

## RECOGNITION OF ARMY SPECIALIST JACOB PALMATIER

### HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Army Specialist Jacob Palmatier who was recently killed in action fighting for freedom in Iraq.

Palmatier was a 29-year-old from Springfield, Illinois who served as an Army Specialist assigned to the 1st Battalion, 30th Infantry Regiment, 3rd Brigade, 3rd Infantry Division based at Fort Benning, GA. Palmatier went to Springfield's Lutheran High School and later entered Illinois College, where he graduated magna cum laude with a degree in English. He excelled in languages, learning to speak fluent Japanese as well as some Norwegian, Russian and French. He had been in Iraq for less than a month when he was killed outside of Baghdad by a roadside bomb.

Palmatier is survived by his wife Bridget of Rochester whom he married in 2003 and his parents David and Margaret Palmatier of Springfield. I am proud of the service this young man gave to our country and the service his fellow troops perform every day. Not enough can be said about Army Spc Palmatier. It is troops like him that are risking their lives day in and day out to ensure our freedom here at home and to others throughout the rest of the world. I salute him and my best wishes go out to his family and all the troops fighting to ensure freedom and democracy.

## A SPECIAL TRIBUTE TO JOHN KAUFFMAN ON THE OCCASION OF HIS RETIREMENT

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to Mr. John Kauffman, upon his retirement as the Managing Editor of the Advertiser-Tribune Newspaper in Tiffin, Ohio.

John Kauffman, like many young Americans, entered his adulthood by proudly serving his country as a member of the United States Navy. After John's enlistment, he attended and graduated from The Ohio State University where he was an integral part of the student newspaper, The Lantern.

Upon graduation, John embarked on his journalistic career at the Ypsilanti Press in Michigan and later served as Editor of the Kenton Times. Then in 1981, John accepted his current position as Managing Editor of the Advertiser-Tribune where he has provided constant leadership.

Drawing upon his past experiences, John has brought stability and journalistic integrity to a newspaper which has seen tremendous changes. As Managing Editor, John remained cognizant of the Advertiser-Tribune's rich history which can be traced to 1832 with the beginnings of the Seneca Advertiser and its predecessor, the Seneca Patriot. With this rich history in mind, John has displayed great leadership by effectively communicating the mission at hand and adapting to the ever changing world around him.

Through John's drive and leadership, the Advertiser-Tribune instituted a Sunday edition in 1989, daily publishing in 1990 and converted to a morning publishing cycle in 1992. After 23 years of distinguished service to the residents of Tiffin and Seneca County, John leaves behind the legacy of a paper inspired by dedication and compassion.

In addition to John Kauffman's commitment to the Advertiser-Tribune, he has shown an unwavering desire to be an active participant in his community. Whether it is his activity in his local church, or his participation in the League of Women Voters' candidates' night, John has continued to lead by example.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Mr. John Kauffman. Our communities are well served by having such honorable and giving citizens, like John, who care about their well being and stability. We wish John and his family all the best as we pay tribute to one of Ohio's finest citizens.

## HONORING THE ACHIEVEMENTS OF GUADALUPE COUNTY JUDGE DONALD SCHRAUB

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor County Judge Donald L. Schraub for his years of contribution to the Guadalupe County community as an educator, business professional and county judge.

Born in LaVernia, Texas, Judge Schraub graduated from LaVernia High School. He attended the University of Texas at Austin and earned a Bachelors Degree in Zoology and a Teaching Certificate.

Before becoming an elected official, Schraub committed years in education and business. Judge Schraub started as a biology teacher in Midland, Texas before returning to the Seguin Independent School District to teach Earth Science. After getting a Master's degree in Education, Schraub continued to serve the school district by becoming a school counselor.

Schraub then worked 12 years for the Wholesale Beverage Distribution Company. Following his retirement from business, Schraub returned to be a school counselor in the Nixon Independent School District.

As the current Guadalupe County Judge, Schraub has aimed to provide a stable, well balanced fiscal base for the county while insuring the needs of the taxpayer are met. In the Alamo Area Council of Governments, Judge Schraub serves on the Housing Finance, Planning and Program Development, and Rural Area Judges Committees.

In his spare time, Judge Schraub likes to hunt, fish, and go camping. Married to his wife Gloria for 16 years, Schraub and his family also enjoy attending the local Christ Lutheran Church. His family has attended the same Christ Lutheran Church for four generations.

Mr. Speaker, I am honored to have this opportunity to recognize Judge Donald L. Schraub, and to thank him for his years of public service and positive influence on both the young and old of our community.

## RECOGNIZING JESSICA POPE'S APPOINTMENT TO THE DISTRIBUTIVE EDUCATIONAL CLUBS OF AMERICA'S INTERNATIONAL TEAM

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to commend Jessica Pope of Little Elm High School, located in the 26th Congressional District of Texas, for her win of the Distributive Education Clubs of America's (DECA) state competition. Winning this competition puts her on DECA's International Team competing in Anaheim, California later this spring.

I congratulate Jessica Pope for this outstanding achievement. Jessica first had to qualify for the state competition through a series of tests and district competitions. At the state competition, Jessica excelled past the 100-question test plus a role-playing event, which Jessica completed in front of a panel of judges. Out of about 150 contestants in Jessica's event, she was named one of the top nine.

Jessica's teacher, Diana Reynolds, also deserves recognition because she urged Jessica to compete at the Distributive Education Clubs of America events. Teachers, like Ms. Reynolds, encourage our youth to perform at their highest potential helping to build a better America.

I am proud of the education system in Texas, especially our involved parents and teachers at Little Elm High School, who commit their lives and time to fostering growth in their students. Jessica is a stellar example of how our combined efforts are paying off. Congratulations to Jessica, her parents, Diana Reynolds and Little Elm High School.

## INTRODUCING THE AMERICAN SOVEREIGNTY RESTORATION ACT OF 2005

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. PAUL. Mr. Speaker, I rise today to reintroduce the American Sovereignty Restoration Act. I submitted this bill, which would end United States membership in the United Nations, in the 106th, 107th, and 108th Congresses and if anything, conditions have made its relevance and importance more evident now than ever. The United Nations assault on the sovereignty of the United States proceeds apace; it shows no signs of slowing. Mr. Speaker, since I last introduced this measure, the United Nations has been embroiled in scandal after scandal, from the Oil for Food Scandal to several recent particularly appalling sex scandals.

The United States has wasted more than 30 billion taxpayer dollars on the United Nations and has received in return only contempt from an organization that scoffs at traditional notions of limited government and sovereignty.

Indeed, even though the United States pays the lion's share of the UN budget, UN bureaucrats are still not satisfied. They want direct access to U.S. taxpayer money without the U.S. government middleman. A current example of this determination to tax American citizens is the Law of the Sea Treaty. The "International Seabed Authority" created by the Law of the Sea Treaty would have the authority to—for the first time in history—impose taxes on American businesses and citizens. This treaty may be ratified at any time by the U.S. Senate and UN taxation of Americans will become a reality.

This legislation would represent a comprehensive and complete U.S. withdrawal from the United Nations. It repeals the United Nations Participation Act of 1945 and other related laws. It directs the President to terminate U.S. participation in the United Nations, including any organ, specialized agency, commission, or other affiliated body. It requires closure of the U.S. Mission to the UN.

The legislation also prohibits the authorization of funds for the U.S. assessed or voluntary contribution to the UN; the authorization of funds for any U.S. contribution to any UN military operation; and the expenditure of funds to support the participation of U.S. armed forces as part of any UN military or peacekeeping operation. Finally, this legislation bars U.S. armed forces from serving under UN command.

The U.S. Congress, by passing H.R. 1146, and the U.S. President, by signing H.R. 1146, will heed the wise counsel of our first President, George Washington, when he advised his countrymen to "steer clear of permanent alliances with any portion of the foreign world," lest the nation's security and liberties be compromised by endless and overriding international commitments. I urge my colleagues to support this measure and I hope for its quick consideration.

In considering the recent United Nations meetings and the United States' relation to that organization and its affront to U.S. sovereignty, we would all do well to again read carefully Professor Herbert W. Titus' paper on the United Nations from which I have provided this excerpt:

It is commonly assumed that the Charter of the United Nations is a treaty. It is not. Instead, the Charter of the United Nations is a constitution. As such, it is illegitimate, having created a supranational government, deriving its powers not from the consent of the governed (the people of the United States of America and peoples of other member nations) but from the consent of the peoples' government officials who have no authority to bind either the American people nor any other nation's people to any terms of the Charter of the United Nations.

By definition, a treaty is a contract between or among independent and sovereign nations, obligatory on the signatories only when made by competent governing authorities in accordance with the powers constitutionally conferred upon them. I Kent, Commentaries on American Law 163 (1826); Burdick, The Law of the American Constitution section 34 (1922). Even the United Nations Treaty Collection states that a treaty is (1) a binding instrument creating legal rights and duties; (2) concluded by states or international organizations with treaty-making power; (3) governed by international law.

By contrast, a charter is a constitution creating a civil government for a unified nation or nations and establishing the authority of that government. Although the United Nations Treaty Collection defines a "charter" as a "constituent treaty," leading international political authorities state that—"[t]he use of the word 'Charter' [in reference to the founding document of the United Nations] . . . emphasizes the constitutional nature of this instrument." Thus, the preamble to the Charter of the United Nations declares "that the Peoples of the United Nations have resolved to combine their efforts to accomplish certain aims by certain means." The Charter of the United Nations: A Commentary 46 (B. Simma, ed.) (Oxford Univ. Press, NY: 1995) (Hereinafter U.N. Charter Commentary). Consistent with this view, leading international legal authorities declare that the law of the Charter of the United Nations which governs the authority of the United Nations General Assembly and the United Nations Security Council is "similar . . . to national constitutional law," proclaiming that "because of its status as a constitution for the world community," the Charter of the United Nations must be construed broadly, making way for "implied powers" to carry out the United Nations' "comprehensive scope of duties, especially the maintenance of international peace and security and its orientation towards international public welfare." Id. at 27

The United Nations Treaty Collection confirms the appropriateness of this "constitutional interpretive" approach to the Charter of the United Nations with its statement that the charter may be traced "back to the Magna Carta (the Great Charter) of 1215," a national constitutional document. As a constitutional document, the Magna Carta not only bound the original signatories, the English barons and the king, but all subsequent English rulers, including Parliament, conferring upon all Englishmen certain rights that five hundred years later were claimed and exercised by the English people who had colonized America.

A charter, then, is a covenant of the people and the civil rulers of a nation in perpetuity. Sources of Our Liberties 1–10 (R. Perry, ed.) (American Bar Foundation: 1978). As Article 1 of Magna Carta, puts it:

We have granted moreover to all free men of our kingdom for us and our heirs forever all liberties written below, to be had and holden by themselves and their heirs from us and our heirs.

In like manner, the Charter of the United Nations is considered to be a permanent "constitution for the universal society," and consequently, to be construed in accordance with its broad and unchanging ends but in such a way as to meet changing times and changing relations among the nations and peoples of the world. U.N. Charter Commentary at 28–44.

According to the American political and legal tradition and the universal principles of constitution making, a perpetual civil covenant or constitution, obligatory on the people "and their rulers throughout the generations, must, first, be proposed in the name of the people and, thereafter, ratified by the people's representatives elected and assembled for the sole purpose of passing on the terms of a proposed covenant. See 4 The Founders' Constitution 647–58 (P. Kurland and R. Lerner, eds.) (Univ. Chicago Press: 1985). Thus, the preamble of the Constitution of the United States of America begins with "We the People of the United States" and Article VII provides for ratification by state conventions composed of representatives of the people elected solely for that purpose. Sources of Our Liberties 408, 416, 418–21 (R. Perry, ed.) (ABA Foundation, Chicago: 1978).

Taking advantage of the universal appeal of the American constitutional tradition, the preamble of the Charter of the United Nations opens with "We the peoples of the United Nations." But, unlike the Constitution of the United States of America, the Charter of the United Nations does not call for ratification by conventions of the elected representatives of the people of the signatory nations. Rather, Article 110 of the Charter of the United Nations provides for ratification "by the signatory states in accordance with their respective constitutional processes." Such a ratification process would have been politically and legally appropriate if the charter were a mere treaty. But the Charter of the United Nations is not a treaty; it is a constitution.

First of all, Charter of the United Nations, executed as an agreement in the name of the people, legally and politically displaced previously binding agreements upon the signatory nations. Article 103 provides that "[i]n the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." Because the 1787 Constitution of the United States of America would displace the previously adopted Articles of Confederation under which the United States was being governed, the drafters recognized that only if the elected representatives of the people at a constitutional convention ratified the proposed constitution, could it be lawfully adopted as a constitution. Otherwise, the Constitution of the United States of America would be, legally and politically, a treaty which could be altered by any state's legislature as it saw fit. The Founders' Constitution, supra, at 648–52.

Second, an agreement made in the name of the people creates a perpetual union, subject to dissolution only upon proof of breach of covenant by the governing authorities whereupon the people are entitled to reconstitute a new government on such terms and for such duration as the people see fit. By contrast, an agreement made in the name of nations creates only a contractual obligation, subject to change when any signatory nation decides that the obligation is no longer advantageous or suitable. Thus, a treaty may be altered by valid statute enacted by a signatory nation, but a constitution may be altered only by a special amendatory process provided for in that document. Id. at 652.

Article V of the Constitution of the United States of America spells out that amendment process, providing two methods for adopting constitutional changes, neither of which requires unanimous consent of the states of the Union. Had the Constitution of the United States of America been a treaty, such unanimous consent would have been required. Similarly, the Charter of the United Nations may be amended without the unanimous consent of its member states. According to Article 108 of the Charter of the

United Nations, amendments may be proposed by a vote of two-thirds of the United Nations General Assembly and may become effective upon ratification by a vote of two-thirds of the members of the United Nations, including all the permanent members of the United Nations Security Council. According to Article 109 of the Charter of the United Nations, a special conference of members of the United Nations may be called "for the purpose of reviewing the present Charter" and any changes proposed by the conference may "take effect when ratified by two-thirds of the Members of the United Nations including all the permanent members of the Security Council." Once an amendment to the Charter of the United Nations is adopted then that amendment "shall come into force for all Members of the United Nations," even those nations who did not ratify the amendment, just as an amendment to the Constitution of the United States of America is effective in all of the states, even though the legislature of a state or a convention of a state refused to ratify. Such an amendment process is totally foreign to a treaty. See Id., at 575–84.

Third, the authority to enter into an agreement made in the name of the people cannot be politically or legally limited by any preexisting constitution, treaty, alliance, or instructions. An agreement made in the name of a nation, however, may not contradict the authority granted to the governing powers and, thus, is so limited. For example, the people ratified the Constitution of the United States of America notwithstanding the fact that the constitutional proposal had been made in disregard to specific instructions to amend the Articles of Confederation, not to displace them. See Sources of Our Liberties 399–403 (R. Perry ed.) (American Bar Foundation: 1972). As George Mason observed at the Constitutional Convention in 1787, "Legislatures have no power to ratify" a plan changing the form of government, only "the people" have such power. 4 The Founders' Constitution, supra, at 651.

As a direct consequence of this original power of the people to constitute a new government, the Congress under the new constitution was authorized to admit new states to join the original 13 states without submitting the admission of each state to the 13 original states. In like manner, the Charter of the United Nations, forged in the name of the "peoples" of those nations, established a new international government with independent powers to admit to membership whichever nations the United Nations governing authorities chose without submitting such admissions to each individual member nation for ratification. See Charter of the United Nations, Article 4, Section 2. No treaty could legitimately confer upon the United Nations General Assembly such powers and remain within the legal and political definition of a treaty.

By invoking the name of the "peoples of the United Nations," then, the Charter of the United Nations envisioned a new constitution creating a new civil order capable of not only imposing obligations upon the subscribing nations, but also imposing obligations directly upon the peoples of those nations. In his special contribution to the United Nations Human Development Report 2000, United Nations Secretary-General Annan made this claim crystal clear:

> Even though we are an organization of Member States, the rights and ideals the United Nations exists to protect are those of the peoples. No government has the right to hide behind national sovereignty in order to violate the human rights or fundamental freedoms of its peoples. Human Development Report 2000 31 (July 2000) [Emphasis added.]

While no previous United Nations' secretary general has been so bold, Annan's proclamation of universal jurisdiction over "human rights and fundamental freedoms" simply reflects the preamble of the Charter of the United Nations which contemplated a future in which the United Nations operates in perpetuity "to save succeeding generations from the scourge of ware . . . to reaffirm faith in fundamental human rights . . . to establish conditions under which justice . . . can be maintained, and to promote social progress and between standards of life in larger freedom." Such lofty goals and objectives are comparable to those found in the preamble to the Constitution of the United States of America: "to . . . establish Justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the Blessings of liberty to ourselves and our posterity . . ."

There is, however, one difference that must not be overlooked. The Constitution of the United States of America is a legitimate constitution, having been submitted directly to the people for ratification by their representatives elected and assembled solely for the purpose of passing on the terms of that document. The Charter of the United Nations, on the other hand, is an illegitimate constitution, having only been submitted to the Untied States Senate for ratification as a treaty. Thus, the Charter of the United Nations, not being a treaty, cannot be made the supreme law of our land by compliance with Article II, Section 2 of Constitution of the United States of America. Therefore, the Charter of the United Nations is neither politically nor legally binding upon the United States of America or upon its people.

---

## HONORING THE CONTRIBUTIONS OF COMAL COUNTY COMMISSIONER JAN KENNADY

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Jan Kennady for a lifetime of dedicated public service.

Jan Kennady served on the New Braunfels City Council from 1993–1996, and as Mayor of New Braunfels from 1996–1999. Her energy and organizational skill were a tremendous boon to New Braunfels, and she was honored by the Texas State Legislature with a resolution expressing the State's appreciation.

She has also worked for years as a volunteer leader and organizer, and has been honored with multiple awards, including 1995 Citizen of the Year, the Chamber of Commerce President's Award, the Women of Distinction Award, and the 10 Outstanding Republican Women Award. In 1998, Governor Bush appointed her to a three-year term on the Texas Commission on Volunteer and Community Service. Her work on education, senior health, and other issues has earned her the thanks of a grateful community.

Jan Kennady is a model of initiative, commitment, and talent. She has made her city, her State, and her party stronger by her service. Today, she continues to serve her fellow Texans as Comal County Commissioner. I am honored to have this opportunity to recognize Jan Kennady, and to thank her for all she has done for those people whose lives she has touched.

Mr. Speaker, I am honored to have had this opportunity to recognize the many achievements of Comal County Commissioner Jan Kennady.

---

## THE UNACCOMPANIED ALIEN CHILD PROTECTION ACT OF 2003

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Ms. ZOE LOFGREN of California. Mr. Speaker, no child should be left to fend for herself in a complex immigration system that even you and I would fear. This is why today I am again introducing the Unaccompanied Alien Child Protection Act.

It is true that in 2002 Congress transferred the care, custody, and placement of unaccompanied alien children from the Department of Justice to the Department of Health and Human Services to improve the treatment children receive when encountered at our borders. This is certainly a big step in the right direction and I commend the Department of Health and Human Services for taking important steps to improve the care and custody of these vulnerable children. But these positive actions did not end the plethora of problems unaccompanied children experience when they come into contact with our immigration authorities.

Health and Human Services inherited a system that relied upon a variety of detention facilities to house children and was given little legislative direction to implement their new responsibilities. As a result, some children from repressive regimes or abusive families continue to fend for themselves in a complex legal and sometimes punitive system, without knowledge of the English language, with no adult guidance, and with no legal counsel. Some unaccompanied children are treated in a manner that our country usually reserves for criminals, not helpless victims.

The Unaccompanied Alien Child Protection Act would not change the ultimate decision on what happens to the quest by children for permanent safe haven in America. It would ensure that while the decision-making process is underway, children are housed in a humane and civil way and that those deciding are accurately informed about the facts of each case and the law.

Consider the compelling story of Esther, a nine-year-old victim of abuse, neglect and abandonment by her parents. She escaped to the U.S. with relatives who later turned her over to immigration authorities at the age of fourteen. Esther was detained for over six months in a juvenile jail and represented by an unscrupulous attorney who failed to appear at her immigration hearing, leaving her defenseless. The immigration judge ordered Esther to leave the United States.

Well after the Homeland Security Act transferred the care and custody of unaccompanied alien children to Health and Human Services, the Associated Press reported on a ten-year-old boy from Ghana who "immigration officials, unsure of where the boy's parents were or how he boarded the plane without travel documents, sent him to a detention center . . . while they figured out what to do with him. Three years later, he [was] still in custody."

Another child, Malik Jarno, was detained in various adult and juvenile detention facilities for almost three years. It took several letters from over 50 members of Congress before Malik was released to a home for refugees as he continued proceedings to determine his immigration status.

It is the time to complete the positive steps we have already taken to more fully protect children who arrive in the U.S. with no parents or guardians to watch over them. The Unaccompanied Alien Child Protection Act will ensure minimum standards for the care and custody of unaccompanied children and require a smooth transfer of minors from the Department of Homeland Security to the Department of Health and Human Services. It will also ensure that children receive adult and legal guidance as they navigate through our complex immigration system. I urge this body to swiftly consider and pass the Unaccompanied Alien Child Protection Act.

---

## IN MEMORY OF DR. DONALD ARTHUR BROOKS

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to give tribute to Dr. Donald Arthur Brooks, from the 26th Congressional District of Texas, for his lifelong contributions to his community and to his fellow citizens. Dr. Brooks was the first African-American general surgeon in Ft. Worth and the first to be a board-certified surgeon in Texas. Dr. Brooks died on March 4th at the age of 83.

I would like to recognize and celebrate Dr. Brooks' life today. Dr. Brooks set high standard by which all American citizens should strive. Born into a financially disadvantaged family, Dr. Brooks proved himself as an exceptional student graduating near the top of his class. After receiving his Bachelor of Science at Prairie View A&M in 1941, he then served two years in the United States Army. Upon returning from active duty, Dr. Brooks saved his money and went back to school to receive his Medical Degree at Howard College of Medicine.

Dr. Brooks returned to Ft. Worth in 1957 to become the first African-American to practice general surgery. He and his brother worked side-by-side and quickly became among the best-known health care providers for the African-American community. Later, Dr. Brooks would be named Chief of Surgery at St. Joseph's Hospital. He continued to practice and was distinguished as a pioneer of his community.

When he retired from surgery in 1993, Dr. Brooks continued to provide medical service to the community by becoming a staff physician at Tarrant County Jail. Dr. Brooks became the patriarch of medical dynasty which resulted in a family tree of six doctors.

It was my honor to represent Dr. Brooks. My extend sympathies to his family and friends. May the example of this "Southern Gentleman" be a lesson to us all, that our deeds should represent us well.

---

## RECOGNIZING THE ACHIEVEMENTS OF GUADALUPE COUNTY COMMISSIONER ROGER BAENZIGER

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the work of Guadalupe County Commissioner Roger Baenziger.

Roger Baenziger is one of Guadalupe County's most loyal and accomplished native sons. He was born and raised in Seguin, attended Seguin High School and received an accounting degree from Texas Lutheran University. He returned to the community to join his father's business, Model Market, which he helped his father run for the last 30 years.

As a lifelong small businessman, Roger is uniquely aware of the importance of small business to the health of his community. He works to promote enterprise and innovation as a member of the Chamber of Commerce and the Farm Bureau, and continues to operate his own small ranch.

Roger is committed to using his position as Guadalupe County Commissioner to promote orderly growth and fiscal responsibility. As a public servant and a volunteer, he has given an enormous amount back to the community in which he was born and raised. I am proud to have this opportunity to honor his service, and to thank him for all he has done for the people of Guadalupe County.

Mr. Speaker, I am honored to have had this opportunity to recognize the many achievements of Guadalupe County Commissioner Roger Baenziger.

---

## JOINT STATEMENT BY LEADERS OF PROTESTANT DENOMINATIONS

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Ms. DELAURO. Mr. Speaker, budgets are moral documents, which reflect the values and priorities of our nation. Drawing from my own faith, the Catholic Bishops have stated, "The obligation to provide justice for all means that the poor have the single most urgent economic claim on the conscience of the nation." The more I hear this Administration's justification for the harsh decisions within their budget, the more I believe that there is no justification. This budget simply reflects the wrong values and priorities. That is why I would like to enter for today's RECORD a joint statement by the leaders of five mainline Protestant denominations representing over 20 million followers in the United States. These religious leaders today called President Bush's 2006 federal budget "unjust."

The statement is signed by: the Most Reverend Frank Griswold, Presiding Bishop of the Episcopal Church USA, the Right Reverend Mark Hanson, Presiding Bishop of the Evangelical Lutheran Church of America, the Reverend Dr. Clifton Kirkpatrick, Stated Clerk of the General Assembly, Presbyterian Church (USA), United Church of Christ General Minister and President John H. Thomas, and James Winkler, General Secretary of the General Board of Church and Society of the United Methodist Church.

JOINT STATEMENT

WASHINGTON, DC, Mar. 8, 2005.—We are preachers, and so, in explaining our opposition to the 2006 Federal Budget that President Bush has sent to Congress, it seems only fitting that we should begin with Scripture.

There was a rich man who was dressed in purple and fine linen and who feasted sumptuously every day. And at his gate lay a poor man named Lazarus, covered with sores, who longed to satify his hunger with what fell from the rich man's table; even the dogs would come and lick his sores. The poor man died and was carried away by the angels to be with Abraham. The rich man also died and was buried. In Hades, where he was being tormented, he looked up and saw Abraham far away with Lazarus by his side. He called out, "Father Abraham, have mercy on me, and send Lazarus to dip the tip of his finger in water and cool my tongue; for I am in agony in these flames"

The passage comes from 16th chapter of the Gospel according to Luke, and it contains a warning that should deeply trouble those of us who live in a wealthy nation. As the story continues, the rich man implores Abraham to raise Lazarus from the dead and send him to the house of his brothers so that they may be spared his torment.

"They have Moses and the prophets," Abraham replies. "They should listen to them." The rich man says, "No, father Abraham; but if someone goes to them from the dead, they will repent." And Abraham answers, "If they do not listen to Moses and the prophets, neither will they be convinced even if someone rises from the dead."

In telling this story, Jesus makes clear that perpetrating economic injustice is among the gravest of sins. Yet self-interest is so deeply ingrained in each one of us, he says, that we will not renounce it, even should someone rise from the dead. Jesus was right about that. It was he who rose from the dead to save us from greed and myriad other sins. Yet those who have much continue feasting, even as those who have little remain at their gates.

Like many Americans, we read our daily newspaper through the lens of faith, and when we see injustice, it is our duty to say so. The 2006 Federal Budget that President Bush has sent to Capitol Hill is unjust. It has much for the rich man and little for Lazarus. According to the White House's own numbers, this budget would move 300,000 people off food stamps in the next five years. It would cut the funds that allow 300,000 children to receive day care. It would reduce funding for Medicaid by $45 billion over the next ten years, and this at a time when 45 million Americans—the highest level on record—are already without health insurance.

These cuts would be alarming in any circumstances, but in the context of the 2006 budget, they are especially troubling. For even as it reduces aid to those in poverty, this budget showers presents on the rich. If passed in its current form, it would make permanent tax cuts that have bestowed nearly three quarters of the "relief" on one-fifth of the country. If passed in its current form, it would include whopping new cuts that would benefit, almost exclusively, those with household incomes of more than $200,000 per year. If passed in its current form, it would take Jesus' teaching on economic justice and stands it on its head.

Some contend that these cuts will stimulate the economy and improve life for all Americans, but we believe that stocking the rich man's larder is a peculiar strategy for getting Lazarus more food. Not only does this policy rest on dubious economic assumptions, but it asks the poor to pay the cost for a prosperity in which they may never share.

Some contend that works of mercy are not the business of the government but of private citizens. But in what other area of our national life do we formulate policies uninformed by our deepest values?

Some contend that with the proper support faith-based charities will step forward to fill the gap created by the government's retreat. But this flies in the face of the lessons that we, as religious leaders, have learned first hand. Our churches operate thousands of charities from the parochial to the international. Believe us when we tell you that neither we, nor our Evangelical brothers and sisters, nor our friends of other faiths have anywhere near the resources to turn back the rising tide of poverty in this country. We know that programs, whether governmental or non-profit, can change people's lives for the better. New situations challenge us to respond to new conditions and to support those who are in transition out of poverty. Sadly, the 2006 budget will send more people searching for food in cupboards that, quite frequently, are bare.

Our churches will continue their ameliorative ministries. But it is not enough for us as a Church or a society to be merciful. We must remember the admonition of the prophet Micah. "And what does the Lord require of you but to do justice, and to love mercy and to walk humbly with your God?" Micah's choice of verbs is instructive. We are not to love justice or preach justice, we are to do justice—to act, and, when necessary, to struggle.

We urge the members of our churches, of other churches and other faiths, and all whose conscience compels them to do justice to join us in opposing this budget. Write to your representatives. Write to your local newspaper. Join the organizations working to obtain justice for the 36 million Americans living below the poverty line, the 45 million without health insurance and the unknown millions struggling to keep their families from slipping into these ever increasing ranks. Together, let us pledge ourselves to creating a nation in which economic policies are infused with the spirit of the man who began his public ministry almost 2,000 years ago by proclaiming that God had anointed him "to bring good news to the poor."

Signed by:

The Most Reverend FRANK T. GRISWOLD,
*Presiding Bishop and Primate of the Episcopal Church, USA.*
The Right Reverend MARK HANSON,
*Presiding Bishop of the Evangelical Lutheran Church in America.*
The Reverend Dr. CLIFTON KIRKPATRICK,
*Stated Clerk of the General Assembly, Presbyterian Church, (U.S.A.).*
The Reverend JOHN H. THOMAS,
*General Minister and President, United Church of Christ.*
Mr. JAMES WINKLER,
*General Secretary, General Board of Church and Society, United Methodist Church.*

---

## RECOGNIZING THE ACHIEVEMENTS OF COMAL COUNTY COMMISSIONER JACK DAWSON

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the accomplishments of Commissioner Jack Dawson. Commissioner Dawson is a life-long resident of Texas and a pillar of the Comal County community.

From his first career as a computer programmer for Shell Oil to his current seat as a Comal County Commissioner, Jack Dawson has served his community with distinction.

Jack Dawson opened what is now Dawson Realty with his wife Bonnie, and he has also founded the local subdivisions first homeowners association.

Commissioner Dawson has spent his life in the service of the public. As the Board President of Canyon Lake Volunteer Fire Department, he helped to form new fire and emergency services districts for the community. He has consistently worked to improve the local communities of Comal County and the State of Texas.

Commissioner Jack Dawson has lived with his wife Bonnie Dawson in Comal County since 1976.

He is a man that understands community needs and the value of hard work.

Mr. Speaker, it is a pleasure to recognize the accomplishments of Comal County Commissioner Jack Dawson.

---

## RECOGNIZING CORPORAL BARRON SMITH AND HIS ENDLESS COMMUNITY SERVICE

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to commend Corporal Barron Smith of the Flower Mound Police Department, located in the 26th Congressional District of Texas, for his heroism in saving another man's life.

Corporal Smith, without regard to his own life, quickly leapt into a local lake after seeing a man beginning to drown. In the summer of 2004, Corporal Smith and his wife were camping at Grapevine Lake when they noticed a group of people having difficulty swimming in the lake. As two men began to go under, Corporal Smith decided to jump in with a life vest in an attempt to rescue the individuals. One man was able to swim to a buoy just as Corporal Smith reached the second man and helped him to shore.

Corporal Smith's act of bravery represents the best of "Texas' Finest." Officers like Corporal Smith are exemplary and are ideal citizens. His continuing service to his community, on-and-off duty, makes our community safer.

I am proud of the Flower Mound Police Department and especially our attentive citizens, like Corporal Smith, who commit their lives and time to protect and serve our community at any time, anywhere.

---

## HONORING THE CONTRIBUTIONS OF GUADALUPE COUNTY COMMISSIONER JIM WOLVERTON

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Guadalupe County Commissioner Jim Wolverton for the important contributions he has made to his community.

Jim Wolverton is the son of a military family, and was born in Frankfurt, Germany. He moved to Texas at the age of two, and attended Samuel Clemens High School and San Antonio Junior College.

For nine years, Jim owned an electrical contracting business, and learned important lessons about leadership and organization. He has now put those lessons to work for the citizens of Guadalupe County, to great effect.

Under his supervision, Guadalupe County has passed legislation which greatly increased the amount of money available for health care for the indigent. He increased county services such as Fire, MES, and Libraries, and supervised the construction of a new, fourteen million dollar jail facility. He has worked with the municipalities in his district to establish quality, long-term business growth, and has worked with organizations outside the county government to ensure an adequate water supply for the residents of Guadalupe County. Jim Wolverton is an intelligent and committed public servant, and the citizens of Guadalupe County are better off as a result of his work.

Mr. Speaker, I am proud to have had this opportunity to honor the contributions of Guadalupe County Commissioner Jim Wolverton.

---

## YEAR TWO OF CASTRO'S BRUTAL CRACKDOWN IN CUBA

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of democratic reformers in

Cuba, on the second anniversary of Castro's brutal crackdown of pro-democracy advocates.

Two years ago, with the world's attention riveted on Iraq, Fidel Castro ordered his feared State Security apparatus tc round up at least 75 of Cuba's bravest and brightest, prominent and lesser-known dissidents. Among these are 28 independent journalists and 40 Varela project workers. With sickening speed, these men and women were paraded before kangaroo courts and given prison sentences ranging from 6 to 28 years. 61 remain in jail.

When the Committee on International Relations met April 16, 2003 to decry this vile abrogation of justice, I stated at that time: "Even some of the most outspoken leftists, who once saw in Fidel Castro something to admire, now admit that Castro's unbridled cruelty, thirst for blood and extreme paranoia are indefensible."

I regret to report that Castro has given me no cause to reassess that statement.

What were the so-called crimes of these brave men and women? Advocating democracy . . . writing as independent journalists . . . being men and women of faith . . .

Their real offense was to dare to question the authority of a single man, Mr. Castro. The Cuban Revolution is really about Castro's vanity and pursuit of personal power. From the beginning, Castro has shot and jailed anyone—even his close friends—who has dared get in the way of his personal ambition.

Dictatorships, reflecting the whims of a despot, always subject their people to deprivations and absurdities. The Castro regime recently let a handful of its political prisoners out on "parole," citing health reasons. The regime's callousness towards ailing political prisoners is well documented.

Now, independent Cuban journalists are reporting that Cuba's prisons have been virtually emptied of medical personnel. Why? Mr. Castro decided to send them to Venezuela and other places to advance his personal expansionist agenda.

Writing in the Spanish newspaper, El Pais, Nobel prize winner Jose Sarampo, a Portuguese communist and close friend of Castro commented, "Cuba has won no heroic victory by executing these three men, but it has lost my confidence, damaged my hopes and robbed me of illusions."

Without anything that resembles due process, three alleged ferry hijackers were killed by firing squad in Cuba, while others got long jail terms.

Illusions, as Castro lover Jose Sarampo has only now begun to acknowledge, often persist despite overwhelming evidence to the contrary.

Nowhere has this been more evident than in the case of Castro's Cuba.

Despite decades of credible reports of widespread egregious violations of human rights, including the pervasive use of torture and vicious beatings of political prisoners by the Cuban government, some have clung to indefensibly foolish illusions of Castro's revolution.

Despite the fact that the Cuban government systematically denies its people the freedoms of speech, press, assembly, and association, and severely restricts workers' rights, including the right to form independent trade unions, some have, nevertheless, clung to illusion.

Despite the fact that Castro maintains an unimaginably vast network of surveillance by the thugs in his secret police and Committees for the Defense of the Revolution (CDRs)—neighbors spying on neighbors—some continue to embrace bogus perceptions—illusions about Cuba.

In his book, "Against All Hope, a Memoir of Life in Castro's Gulags" Armando Valladares, a courageous and amazing man who spent 22 years in Cuban prisons wrote:

> "The government of Cuba and defenders of the Cuban Revolution denied that incidents that I recount (in the book) ever happened. Castro sympathizers, who were more subtle, said the incidents I described were exaggerations. And there were others, well meaning, who simply could not bring themselves to believe that such horrors, crimes and torture existed in the political prisons of Cuba."
>
> "My response to those who still try to justify Castro's tyranny with the excuse that he has built schools and hospitals is this: Stalin, Hitler and Pinochet also built schools and hospitals, and like Castro, they also tortured and assassinated opponents. They built concentration and extermination camps and eradicated all liberties, committing the worst crimes against humanity."
>
> "Unbelievably, while many non-governmental organizations like Amnesty International and America's Watch have denounced the human rights situation in Cuba, there has been a continuing love affair on the part of the media and many intellectuals with Fidel Castro."

That love affair—that illusion—seemed to crash and burn with the onset of the current crackdown on dissidents. The EU took action in June 2003 by limiting high-level EU governmental visits and inviting Cuban dissidents to national day celebrations. But their memories are short. In January of this year, at the initiative of the Spanish government, the EU temporarily suspended these measures for a six-month period.

Let me mention a few of the ones who were summarily sentenced and remain in prison. Omar Rodriguez Saludes, an independent journalist known to ride his bicycle to news conferences: 27 years. Hector Palacios, one of the key figures promoting the Varela Project: 25 years. Oscar Espinosa Chepe, who wrote critical articles about the Cuban economy for the Internet: 25 years. The President of the Independent United Confederation of Cuban Workers (CUTC), Pedro Pablo Alvarez, 25 years. Journalist Raul Rivero and Ricardo Gonzalez Afonso, an editor at "De Cuba" magazine, each got 20 years. The list goes on and on.

It was a true honor to hear from Economist Morta Beatriz Rogue today, who was sentenced to 20 years in prison and released for health reasons in 2004. We salute her courage to continue the fight on behalf of those who are still in prison today.

For its part, the Bush Administration has made its deep and abiding concern for the political prisoners and the protection of elemental human rights in Cuba abundantly clear. At the time of the crackdown, former Secretary of State Colin Powell declared:

> "In recent days the Cuban government has undertaken the most significant act of political repression in decades. We call on Castro to end this despicable repression and free these prisoners of conscience. The United States and the international community will be unrelenting in our insistence that Cubans who seek peaceful change be permitted to do so."

In like manner, the Congress has consistently demanded the immediate release of all the prisoners and support of the right of the Cuban people to exercise fundamental political and civil liberties. H. Res. 179, a resolution offered by Congresswoman ROS-LEHTINEN in April 2003, passed by a vote of 414–0, 11 present. In April of 2001, I sponsored a resolution, H. Res. 91, calling on the UN Human Rights Commission in Geneva to condemn Cuba's human rights abuse and appoint a Special Rapporteur for Cuba. While it passed, there were a disturbing number of negative votes. That vote was 347–44 with 22 voting present. We have another opportunity today to move forward a resolution offered by my Colleague, Mr. MENENDEZ, to show that these prisoners are not forgotten.

Fidel Castro, his brother Raul, and numerous leaders of Cuba's dictatorship, are directly responsible for crimes against humanity past—and present. Someday these oppressors will be held to account and the people of Cuba will live in freedom.

Note on the Varela Project: Named after a 19th century anti-slavery, pro-independence priest, Felix Varela, the Varela Project was a petition to the National Assembly seeking a nationwide referendum calling for basic human rights, an amnesty for political prisoners, private enterprise and election law reform to facilitate free and fair elections. On May 10th of 2002, more than 11,000 signatures were initially submitted—easily exceeding the constitutionally prescribed 10,000. Castro, however, responded by orchestrating his own petition drive that said Cuba's socialist system could not be changed, leading the rubber stamp National Assembly to declare Cuba's socialist system "irrevocable".

---

## RECOGNIZING THE CONTRIBUTIONS OF COMAL COUNTY COMMISSIONER GREGORY PARKER

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the accomplishments of Commissioner Gregory Parker. Commissioner Parker is not only the youngest Commissioner to win a seat in Comal County, he is also the first African American elected to this office.

Commissioner Parker is a military veteran who has served his country through hard work and commitment to his values.

Like many of us, Commissioner Parker had to work his way to the top. He spent 13 years working in the technology sector, eventually earning the title of Director of Software Development at Austin Data Systems.

Commissioner Parker founded Gregory Parker Consulting in 1999, where he serves as Senior Partner and Senior Policy Analyst. It was here that Commissioner Parker distinguished himself with his commitment to the issues important to Comal County and to the State of Texas. He is a man who believes that through dedicated community research, and traditional American values, we can provide the quality of policy that our citizens deserve.

Commissioner Gregory Parker, who resides in New Braunfels, is also the hard working single father of Jean Luc Parker.

Mr. Speaker, I am pleased to have this opportunity to honor the past and future accomplishments of Commissioner Gregory Parker.

## UNITED NATIONS ORGANIZATION MISSION IN THE DEMOCRATIC REPUBLIC OF CONGO: A CASE FOR PEACEKEEPING REFORM

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. SMITH of New Jersey. Mr. Speaker, I rise to address the recent U.N. Peacekeeping scandal in the Democratic Republic of Congo.

We know that there have been disturbing allegations of sexual misconduct and exploitation of refugees by U.N. peacekeepers and civilian personnel assigned to the U.N. peacekeeping mission in the Democratic Republic of Congo. Human rights groups and the U.N.'s own internal investigations have uncovered over 150 allegations against Mission personnel. These allegations typically involve peacekeepers' sexual contact with Congolese women and girls, usually in exchange for food or small sums of money. According to the U.N., these contacts occurred with regularity, and many involved girls under the age of 18, with some as young as 11–14. Even more troubling are allegations of rape, forced prostitution, and demands of sex for jobs by U.N. civilian personnel.

Some in our audience might be thinking that apart from the more serious allegations of rape and other sexual abuse, prostitution is the world's oldest profession and that it is unrealistic to ask soldiers away from their families to abstain from sex. This attitude of "boys will be boys" is indeed common. In fact, the U.N. reported that it encountered significant and widespread resistance to its investigation, and that numerous U.N. personnel were unwilling to identify perpetrators.

The reality, however, is that this state of affairs is not just a private matter involving only the personal moral choices of the peacekeepers. Hundreds of vulnerable women and children are being re-victimized; the reputation of the United Nations is being badly damaged; and lack of internal discipline is compromising security and effectiveness of the peacekeeping operations. From any perspective, this situation is deplorable.

Let me expand on a few of these points. First, United Nations forces conducting operations under United Nations command and control are tasked with upholding international humanitarian law and have a particular duty to protect women and children from sexual assault or exploitation. Peacekeepers have a responsibility to protect the most vulnerable members of Congolese society. When the peacekeepers become the exploiters, something is dreadfully wrong.

Second, the civilian population is especially vulnerable. There are frequent outbreaks of armed violence in the eastern half of the Congo, especially in the provinces of North Kivu, South Kivu and Ituri, as the country emerges from its second war in the last ten years. The civilian population in these areas has experienced systematic acts of rape, torture, murder, and other abuse. Many of the Congolese women and girls in the camps which the peacekeepers are protecting have been orphaned and/or are victims of rape which occurred during the conflicts. Investigators found that they have experienced significant trauma which continues to affect them today.

Poverty and hunger are also significant factors contributing to the abuse. Children driven by hunger approach the peacekeepers seeking food or the smallest sums of money. Many families are cut off from their farmlands because of fear of attacks from militia, and few alternate employment options exist. According to the U.N.'s own investigation, food supplies in some camps are reportedly inadequate.

Third, the continued toleration of sexual exploitation and abuse by U.N. leaders is severely damaging the reputation and the effectiveness of the organization. All troop-contributing nations recognize the Code of Personal Conduct for Blue Helmets as binding. This Code explicitly bans any exchange of money, employment, goods or services for sex, and renders the perpetrators liable to disciplinary action for serious misconduct. In fact, the U.N. has promulgated at least five U.N. codes of conduct prohibiting sexual activity with children (persons under 18 years of age) in the Congo, and yet the practice continues unabated.

This activity is prohibited under rule four of the Code of Conduct for Blue Helmets, the MONUC code of conduct, the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse of 2003 (ST/SGB/2003/13), section seven of the Secretary-General's bulletin on observance by United Nations forces of international humanitarian law of 1999 (ST/SGB/1999/13), and new "non-fraternisation" regulations promulgated by U.N. Secretary General Kofi Annan in a letter to the U.N. Security Council on February 9th. That the abuse continues and is characterized by internal U.N. reports as "significant, widespread and on-going" appears to indicate there is rather a state of "zero-compliance with zero-tolerance" throughout the mission.

In the words of Dr. Sarah Mendelson, Senior Fellow at the Center for Strategic and International Studies, who testified in a joint issue forum before the House Armed Services Committee and the Helsinki Committee last fall, "Military misconduct is a threat to any mission. When that misconduct involves human rights abuses, it affects the credibility and reputation of peacekeepers and can enrage local populations. When those implicated are also responsible for force protection, they can compromise their main military mission. . . . Those peacekeepers who serve with honor are being tainted by the minority who purchase sex with these women and girls and by the even smaller minority who actively engage in the grave human rights abuse of trafficking."

The U.N. has struggled with similar allegations regarding peacekeeper misconduct and sexual exploitation in the past ten years in Sierra Leone, Liberia, and Guinea, as well as on the European continent in Kosovo and Bosnia. Some of the underlying issues are complex, such as how to ensure perpetrators are held accountable when no effective U.N. mechanism exists, and Member states are unwilling to prosecute. Yet other simple fixes also exist, such as the creation of an offender database, holding commanders accountable for the conduct of their troops, and banning nations from peacekeeping missions which refuse to take disciplinary action. The seeming reluctance of the U.N. to act on some of these seemingly obvious solutions raises questions about the willingness of leadership to undertake reform, and raises questions about the ability of the U.N. to police itself.

Furthermore, the United States Congress has a fiduciary obligation to do so. The United States is the world's largest donor to the peacekeeping mission in the Congo, contributing over $200 million annually, and contributes almost over a quarter of the entire peacekeeping budget of the United Nations. The Administration has asked the Congress for an additional $780 million for peacekeeping operations in the supplemental budget request.

We hope that continual Congressional efforts will spur needed change, not only in the Congo, but in the standard operating practices of U.N. peacekeeping around the world.

---

## HONORING THE CONTRIBUTIONS OF COMAL COUNTY JUDGE DANNY SCHEEL

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the dedicated public service of Comal County Judge Danny Scheel.

Judge Danny Scheel is an essential part of Comal County. He is a fifth-generation resident of the county, and has spent a distinguished career in the public sector, holding the positions of Comal County Constable and Comal County Commissioner.

He has also been active as an advocate for his community on the State level. He is a member of the Alamo Area Council of Governments, represents Comal County on the Texas Association of Regional Councils Service Board and Employee Health Benefits Board, and he is Co-Chairman of the Central Texas County Judges' Mobility Alliance.

He has been responsible for major improvements in Comal County's emergency management program. In response to the flood of 1998, he hired an Emergency Management Coordinator and established emergency procedures that helped the county cope with the flood of 2002.

Danny Scheel has been recognized as New Braunfels Citizen of the Year, A Friend of the 4–H, and was selected to interview with the Today Show during the 2002 floods.

Mr. Speaker, he has set a wonderful example of commitment to public service, and I am proud to have this opportunity to thank him.

---

## IN MEMORY OF MR. LEWIS FENTON

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. FARR. Mr. Speaker, I rise today to honor Lewis Lowry Fenton, who passed away

February 10, 2005 at the age of 79. Lewis's life long dedication to education and community service will forever remind us of the importance of kindness, dedication and outstanding civic leadership.

Born in Palo Alto, California, Lewis completed his undergraduate and law degree from Stanford University. After serving in the Army Air Corps, he partnered with his mentor, J. Hampton Hoge, and established the Hoge and Fenton Law Firm in Monterey, California. After the firm expanded, Lewis remained counsel to two firms, Fenton & Keller in Monterey and Hoge, Fenton, Jones and Appel in San Jose.

Lewis's keen interest in professional and community activities are extensive and reveal a lifetime of dedication to his career and the improvement of a long list of community organizations. In 1963 he was the president of the Monterey County Bar Association and one of the top civil litigators on the Central Coast. Amongst his many awards he was listed in both Who's Who in America and the "Best Lawyers in America". Throughout his life, Lewis showed enduring commitment to teaching law. He was a faculty member at the Hastings College of Law and the Stanford Law School.

Lewis's civic duties also made a significant impact on the Monterey community. In the Community Foundation of Monterey County, he was the President of the Board of Governors. A board member of many organizations, Lewis made a pioneering contribution to the Community Hospital of the Monterey Peninsula. He was also a founding board member of the Monterey Bay Aquarium and a founding board member of the Board of Trustees for the York School, where he devoted 50 years of extensive involvement.

Mr. Speaker, I wish to remember Lewis for his honorable career and his contribution to our society. Lewis consistently went above and beyond the roles bestowed upon him, and has left a legacy of leadership and inspiration. Our thoughts go out to his family. While he will be sorely missed, his life will continue to inspire those he touched.

## HONORING THE CONTRIBUTIONS OF GUADALUPE COUNTY COMMISSIONER CESAREO GUADARRAMA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Guadalupe County Commissioner Cesareo Guadarrama for his outstanding service to his community.

Commissioner Guadarrama is a native of Seguin, Texas. He is the owner of G3 Plumbing, and his experience in small business has given him the skill in leadership and organization that he uses on behalf of his district today.

Guadalupe County Commissioner Cesareo Guadarrama has a long history of civic volunteer activity. He has worked especially hard to help the youth and children of Seguin. He has been a part of many volunteer organizations, including Seguin Youth Services, the Guadalupe County Juvenile Citizens Advisory Council, and the Seguin Noon Lions Club. He served as Director of the Seguin Toys for Tots program, and was a member of the Seguin Independent School District Board of Trustees when it was recognized as the Outstanding School Board in the state of Texas, in 1990.

Cesareo Guadarrama's work has helped to create a brighter future for the youth of Seguin, and for all of the citizens of Guadalupe County. I applaud him for his spirit of service, and thank him for all he has done for his fellow Texans.

Mr. Speaker, I am proud to have had this opportunity to recognize the achievements of Guadalupe County Commissioner Cesareo Guadarrama.

## FOSTER CARE MENTORING ACT OF 2005

### HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 8, 2005*

Ms. MILLENDER-McDONALD. Mr. Speaker, tonight I'd like to talk about legislation that I recently introduced—The Foster Care Mentoring Act of 2005 (HR 822).

Adopting a child is a life long responsibility, but let me be frank, the way we care for our children, especially children in foster care is a direct reflection of who we are as a society.

The Administration has boldly stated that they will "Leave No Child Behind." I want to take them up on this pronouncement and extend this idea to the 523,000 children who are in foster care programs throughout this country.

These children cannot be left behind and must be given every opportunity to succeed.

The Foster Care Mentoring Act of 2005, will support the establishment, expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

Specifically The Foster Care Mentoring Act of 2005, does the following:

Provides $15 million in grants to States to develop or expand statewide academic mentoring programs for children in foster care.

Authorizes States to use this funding to help recruit, support and train volunteers to serve as a foster youth's academic and personal advisers.

Authorizes $4 million to fund a national coordination and media campaign aimed at raising public awareness of the need to get involved in the life of a child waiting for foster care placement.

Engages college and graduate students by making them eligible to have their student loans discharged up to $2,000 for every 200 hours they serve as mentors to children living in foster care. A total of $20,000 in student loans incurred by participating college or graduate students would qualify for forgiveness.

My legislation is a good first step in approaching how we can better transition children into loving, supportive homes. But we must do more.

As I stated earlier, there are over 523,000 children in foster care. One in three of these children has been in care for over 5 years. Of the 25,000 children who leave the foster care system each year, they do so without ever having the promise of a permanent family fulfilled.

This is shameful! We must do better. Children in this country need to have a stable adult they can rely on and turn to for support while growing up. Mentoring is an excellent way to meet some of these children most basic needs.

The life experiences of children in foster care put them in a precarious and vulnerable situation. Children in foster care are more susceptible to; drug addiction, depression, delinquency, and pregnancy.

What's more, the constant turnover in placements for children in foster care makes it difficult for these young people to succeed in school.

Mentoring can make a difference in the life of young people in foster care and provide a lifeline to academic success and better life skills.

Traditional mentoring programs often do not include the type of training and recruitment necessary to equip mentors with the tools they need to most effectively serve the needs of these young people. Those that do yield amazing results:

Current statistics show that for young people who are mentored; 45 percent are less likely to begin using illicit drugs; 59 percent do better academically, and 73 percent set and attain higher life achievement goals.

The need for mentors for children in foster care is clear, however, few states have programs aimed at serving the special needs of this vulnerable population. I ask my colleagues to support H.R. 822 'The Foster Care Mentoring Act of 2005.'

# SENATE—*Wednesday, March 9, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God most high, You rule forever and supervise the nations with justice. We thank You for Your grace and mercy. You are faithful to all who depend on You. Keep us from the gates that lead to ruin.

Bless our Senators; empower them to speak for justice, to love mercy, and to embrace humility. This day, give them the wisdom to plant seeds that will produce a bountiful harvest in the months ahead. Keep them in Your care and make certain that each step they take is sure.

Bless the members of each Senator's staff. Give each of us love that will follow You into a bright future. We pray in Your powerful Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, March 9, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

## SCHEDULE

Mr. McCONNELL. Mr. President, this morning, following the 60 minutes of morning business, we will resume debate on the bankruptcy legislation. Yesterday, by a vote of 69 to 31, we were able to invoke cloture on the bill; therefore, we will finish the bill this week. Once we return to the bill this morning, there will be 40 minutes of debate prior to a series of votes on four of the pending amendments. These four votes can be expected to begin at around 11:30 this morning.

We will continue to work through the pending germane amendments to see which are ready for rollcall votes. And I presume we will have another series of votes later on today. We encourage Senators who have pending amendments to review whether they really need to ask for a recorded vote on each of their amendments. Perhaps we can further limit the number of amendments that will require rollcall votes so we can finish this bill at a reasonable hour, even today.

I thank my colleagues for their hard work on the bill. We are on the cusp here, on the verge of completing another very important piece of legislation in the early part of this Congress. We would like to wrap it up today if at all possible.

Mr. President, I yield the floor.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee.

Who yields time?

The Senator from the great State of Tennessee.

Mr. ALEXANDER. Thank you, Mr. President. I ask unanimous consent to speak for up to 10 minutes in morning business.

The ACTING PRESIDENT pro tempore. The Senator is recognized for up to 10 minutes.

## MAJORITY RULE FOR CONFIRMING JUDGES

Mr. ALEXANDER. Mr. President, during the last session of Congress, Senators on the other side of the aisle blocked an up-or-down vote 20 times on 10 of President Bush's nominees for the Federal appellate courts. Filibusters were threatened against five more judicial nominees. With one possible exception, this has never happened before. The Senate has a 200-year tradition of majority rule when it comes to confirming judges. In fact, until the last session of Congress, the idea of not voting on a President's judicial nominee once it reached the floor was unthinkable.

It would be difficult to imagine a case in which passions ran higher than during the confirmation proceedings for Justice Clarence Thomas in 1991. Yet President Bush nominated Clarence Thomas in July of 1991, and 3 months later the Senate voted to confirm him, 52 to 48. There was never any discussion of blocking his nomination by blocking an up-or-down vote.

So in the spirit of compromise, I would like to, once again, offer my solution for avoiding what some in the minority call the "nuclear option" that would change Senate rules to prevent filibusters of President Bush's judicial nominees.

In an address on this floor 2 years ago, on March 17, 2003, I said I would reserve the right to vote against any judicial nominee of any President but that I would not filibuster the qualified court nominee of any President. That was before I knew whether the President would be named Bush or Kerry.

This is what I said then:

> Before I finish my remarks, I make this pledge. I may be here long enough, and I hope it is a while, before I have an opportunity to cast a vote for a nominee for a Federal judgeship that is sent over by a Democratic President, but I can pledge now how I will cast my vote. It will be the same way I appointed 50 judges when I was Governor. I look for good character. I look for good intelligence. I look for good temperament. I look for good understanding of the law and of the duties of judges. I will look to see if this nominee had the aspect of courtesy to those who come before the court. I will reserve the right to vote against some extremists, but I will assume that it is unnecessary and unethical for the nominee to try to say to me how he or she would decide a case that might come before him or her. When it comes time to vote, when we finish that whole examination, I will vote to let the majority decide.

That is what I said 2 years ago. I also said:

> In plain English, I will not vote to deny a vote to a Democratic President's judicial

> nominee just because the nominee may have views more liberal than mine. That is the way judges have always been selected. That is the way they should be selected.

Mr. President, that was my pledge 2 years ago. That is my pledge today. And if a few other Senators of both parties would individually make this same pledge to eventually allow up-or-down votes on all judicial nominees, then there would be an end to this discussion of the so-called nuclear option.

I have no doubt that changing the Senate's cloture rule by a majority vote is clearly constitutional. Some have argued that the Senate's cloture rule, which allows just 41 of us to block up-or-down votes, carries over from one Congress to the next by rule V. But no less an authority than the distinguished Senator from West Virginia, when he was majority leader, argued very persuasively and with great common sense that this is not true. He said:

> This Congress is not obliged to be bound by the dead hand of the past. The first Senate, which met in 1789, approved 19 rules by a majority vote. Those rules have changed from time to time. . . . So the Members of the Senate who met in 1789 and approved that first body of rules did not for one moment think, or believe, or pretend, that all succeeding Senates would be bound by that Senate. . . . It would be just as reasonable to say that one Congress can pass a law providing that all future laws have to be passed by two-thirds vote. Any Member of this body knows that the next Congress would not heed that law and would proceed to change it and would repeal it by majority vote.

That was the Senator from West Virginia talking. So, very simply, the Constitution provides that 51 Senators can change Senate rules to allow a majority to cut off debate on a President's nominee of an appellate court judge.

Now, that does not mean that we ought to rush to make a change in that way. To extend the analogy, nuclear weapons have been effective in world history because of the threat of their use, not because of their actual use. And that has been true here on this Senate floor.

In the debates on the adoption of Rule XXII on the Senate floor in 1917, and later modifications in 1953 to 1959, and then 1960 to 1975, the debate and eventual compromises were driven by the threat of the constitutional option, which we are discussing today.

The chairman of our Judiciary Committee, Senator ARLEN SPECTER, has said he "intends to exercise every last ounce of [his] energy to solve this problem without the nuclear option." I hope he will continue that effort.

The Senate protects the minority party's rights for a reason. In writings about early America, Alexis De Tocqueville warned that one of the potential failings of democracy would be the "tyranny of the majority." South Africa succeeded in creating a constitutional government because the new Black majority was willing to protect the minority rights of White citizens. As we watch the people of Iraq struggle to create a constitutional government, we know that a major sign of their success will be whether they are able to include and protect the rights of Sunnis who are only 20 percent of the country but who formerly dominated the country.

I can remember back when I came here as a legislative assistant to Howard Baker in the Senate in 1967, Republicans were the ones worrying about protecting minority rights then. There were 64 Democrats and 36 Republicans. And then, 10 years later, when I came back to the Senate as an aide to Senator Baker for a few months, when he was elected Republican leader, there were 38 Republicans. In 1979, when the distinguished Senator from West Virginia made his persuasive argument that a majority of the Senate could change Senate rules, there were 58 Democrats and 41 Republicans.

So just as our Republican majority should be cautious about making changes that would lessen minority rights, I would respectfully suggest that the Democratic minority should be equally cautious about provoking such a change.

One way, of course, to avoid provoking rules changes would be for the Democratic Senators who opposed the President's nominees in the last session to look them over again and reconsider their basis for opposition.

For example, I believe if some of the Senators on the other side would really study the record of Judge Charles Pickering of Mississippi, they would be impressed with his commitment to civil rights. At a time when it was hard to do, he testified against a grand wizard of the Ku Klux Klan in 1967, and did it in open court. At the same time, he put his children in public schools when many White Mississippians were putting their children in what were called "segregation academies."

Any Senator who carefully looks at the record of former Attorney General Bill Pryor of Alabama, I believe, would admire his record on civil rights. He was a law clerk for Judge John Minor Wisdom, probably the leading civil rights Federal judge of the last century. Bill Pryor showed, as attorney general, he could take a position on abortion, on prayer before football games, on reapportionment, and on displaying the Ten Commandments that were at odds with his personal views because he believed the decisions of the Supreme Court and the U.S. Constitution required it.

Both Judge Pickering and Judge Pryor have served in recess appointments and have even more of a record now to consider favorably.

But the other way to avoid a lengthy and damaging procedural battle is simply for individual Senators now to declare their willingness to support allowing an up-or-down vote of any qualified nominee for the bench by any President. This would apply to this Republican President's nominees or to some future Democratic President's nominees.

I do not know what terrible grievances in the past have caused such strong feelings on the other side causing them to take these unprecedented steps to block an up-or-down vote on nominees once the nominee gets to the floor. As I say, there is a 200-year tradition—a 200-year tradition—in this body of then moving to an up-or-down vote.

It never happened before like this. And if it continues, even though I hope it does not, it will almost certainly force a Senate rules change. I hope we don't come to that. I have suggested two ways to avoid it. I have taken a step myself to forgo some of my rights as an individual Senator as one way to help solve the problem. I hope others will do the same.

I ask unanimous consent that my remarks from March 17, 2003, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Mr. President, I am a new Senator. I am aware of the traditions of the Senate, one of which is that a new Senator is not expected to say much—at least throughout the year is not expected to say much—to begin with until they have something of importance to say. So I have not said much. I had been planning to make my first remarks on this floor next Tuesday on the issues I care most about, which are the education of our children and putting the teaching of American history and civics back in its rightful place in our schools so that our children can grow up knowing what it means to be an American. I planned on doing that next Tuesday. But I have decided to make some remarks today—earlier than expected because I am disappointed in what I have heard in the debate about Miguel Estrada.
>
> Like my friend from Missouri, I have had the opportunity to preside in the last few days. That is one of the honors that are accorded new Members of the Senate. I have been listening very carefully. My disappointment has increased with each of these 10 days as the debate has continued.
>
> I am disappointed first because I believe our friends on the other side of the aisle are being unfair to Miguel Estrada. I am most disappointed in them because I believe if the direction of this debate continues as it is going—and I heard the comments of my friend from Missouri yesterday on this same matter—if we continue in the same direction, we run the risk of permanently damaging the process by which we select Federal judges and by which we dispense justice in the United States. I am disappointed because this is not what I expected when I came to the Senate.
>
> I may be new to the Senate, but I know something about judges. I am a lawyer. I once clerked for a U.S. Attorney General. His name was Robert Kennedy. I once clerked for a great Federal appellate judge. His name was John Minor Wisdom of New Orleans. I once worked in this body 36 years ago for Senator Howard Baker, a great lawyer. I watched this body as it considered and

confirmed men and women to the Federal courts of this land. As Governor of Tennessee for 8 years, I had the responsibility of appointing—and did appoint—nearly 50 men and women to judgeships all the way from chancellorships to the supreme court.

I know pretty well the process we have followed in the Senate and in this country for the last couple of centuries.

It is fairly simple. It can be expressed in plain English. The Executive nominates, the Senate considers, and then confirms or rejects the nomination; and in doing so, what the Senators have always looked for, mainly, has been good character, good intelligence, good temperament, a good understanding of the law and the duties of a judge, and whether a nominee seems to have courtesy for those who may come before him or her. And it has always been assumed that it is unnecessary—and, in fact, it is unethical by the standards of most of the judicial canons in this country—for the nominee to try to say how he or she would decide a case that might come before him or her.

Then, after all that examination is done in the Senate, there is a vote. And under our constitutional traditions, the majority decides.

I have been listening very carefully, and that is not what is happening. The other side has simply decided that it will not allow the Senate to vote on the nomination of Miguel Estrada. In doing so, it is doing something that has never been done for a circuit court of appeals judge in our Nation's history.

In those hours that I have presided over this body in the last few days, I have been listening very carefully to see what reasons our friends on the other side could give for coming to such an extraordinary conclusion about whom I have come to learn is an extraordinary individual, Miguel Estrada.

I have been listening carefully for the answers, especially to these three questions: No. 1, what is wrong with Miguel Estrada? What is wrong with him? No. 2, why can't we vote on Miguel Estrada, after 10 days of debate? And, No. 3—most importantly—why should we change the constitutional tradition that a majority of the Senate will decide whether to confirm Miguel Estrada? Because what they are saying, really, is that he will need to get 60 votes—60 votes—instead of 51.

I have had the privilege of listening to each of their arguments. As my friend from Missouri knows, they first try one argument, and it does not go so well. Then they move to another argument, and it does not stand the light of day. And then they move to another one.

But let me tell you what I have heard as I have listened to the debate.

First, they said—it would be hard to imagine that anyone could say this with a straight face, but we had many straight faces on the other side of the aisle saying this—that he was not qualified to be a Federal appellate judge.

You do not hear that argument very much anymore because that is almost a laughable comment if it were not such a serious matter.

But let's go over this. This man isn't just qualified; if this were sports, he would be on the Olympic team, and he would be getting an award for "American Dream Story of the Year."

Here is a man who came to this country at age 17 from Honduras. He had a speech impediment. He spoke very little English. And within a short period of time, he was attending Columbia University, one of the most prestigious universities in America.

Then he went to Harvard Law School. Now, it is really hard to get into Harvard Law School. It has great competition. Everyone who is applying to a law school around the United States of America this year—and I know a great many of them—think about it. This young man, in a few years, was admitted to Harvard Law School. And not only that, he became an editor of the Harvard Law Review and graduated magna cum laude.

This is a dream resume, but it is not even over.

Then he went to the Second Circuit as a law clerk. Then he became a clerk for a Supreme Court Justice. By now he was in the top 1 percent of 1 percent of all law school students in the country, with the kind of resume for a lawyer every law firm in the country would want to hire. He has a record that almost everyone would admire.

Then he went to the Southern District of New York, one of the most competitive places, to be hired for training there.

Then he was in the Solicitor General's Office. To those who are not lawyers or who do not keep up with this sort of thing, just being in the Solicitor General's Office might not sound like such a big deal, but those are the plum positions. The way I understand that office, there are a couple of political appointees there—the Solicitor General and his Deputy—and there are about 20 career lawyers. Miguel Estrada was one of those lawyers. They are there because they are not just good, they are the best in America. They have the best resumes. They have been the clerks to the Supreme Court Justices. They are going to be the greatest lawyers. It is the most competitive position in which you can be.

And there he is, Miguel Estrada, coming here at age 17, barely speaking English, making his way into there. He worked there for the Clinton administration and the Bush administration. Then he went to one of the major law firms of America. And he has argued 15 cases before the Supreme Court of the United States.

That is an incredibly talented record. There is almost no one who has been nominated for any judgeship in our country's history who has a superior record. For anyone to have even suggested for 15 minutes that Miguel Estrada is not superbly qualified to be a member of the United States Court of Appeals—for anyone to even suggest that—it is difficult to see how one could do that with a straight face.

Little has been made about what he did in the Solicitor General's Office. I think it is worth talking about that. These talented young men and women have the job of helping the Solicitor General make decisions about what to do in cases in which the United States is a party. That means they review all the decisions that come against us, the United States of America. They are the lawyers for us, the United States of America.

They write memoranda and they write opinion and they must argue back and forth. And they must argue about every side of every issue. And our friends on the other side have come up with straight-face argument No. 2, which is that somehow Mr. Estrada, who does not even have all those memoranda, should be penalized because the U.S. Government does not want to hand those memoranda, that were exchanged back and forth between the various Solicitor General's assistants, over to the Senate.

We have never done that. There are seven living former Solicitors General of the United States, and seven—all of them—have written a letter to this body saying that has never been done, and it never should be done, for obvious reasons. If it were done, you would never have any straightforward memoranda left in that office. It protects us, the United States. And that never should even be considered to be held against Mr. Estrada.

So is he qualified? It is hard to imagine someone who is better qualified. I consider it a great privilege to come to the Senate and find a President who discovered such an extraordinary person to nominate for the Court of Appeals for the District of Columbia Circuit. Such a story should give inspiration to men and women all over America, that this is the country to which you can come, regardless of race or background or whatever your condition, and dream of being admitted to the best universities, finding the best jobs in a short period of time, and being nominated by the President of the United States for such a court.

What a wonderful story. And what an embarrassing event it is to have our friends on the other side to even take the time of this Senate trying to suggest such a person is not qualified. So let's just throw that argument away and put it in the drawer.

Since that argument did not fly, they then moved to argument No. 2, which is equally difficult to offer with a straight face, if I may respectfully say so. They said he has no judicial experience.

Now, this argument is still being made. I heard the distinguished Senator from New York, last night, in an impassioned address, right over on the other side, say he has never been a judge, and we don't know what his opinions are. Never been a judge—Miguel Estrada cannot be a judge because he has never been a judge.

Well, I am awfully glad that was not the standard that was applied to Justice Felix Frankfurter when President Roosevelt nominated him. He would never have been a judge before he was a Justice of the Supreme Court.

I am glad it was not the standard that was applied to Louis Brandeis before he was nominated to the Supreme Court. I am glad it was not the standard that was applied to Thurgood Marshall, the first African American who was ever appointed to the Supreme Court of the United States. He had never been a judge. And so should Thurgood Marshall have never been a Justice because he had never been a judge?

When I graduated from New York University Law School, the dean came to see me and said I had a chance to be a messenger down in New Orleans for a man that my dean, Bob McKay, said was one of the three or four best Federal judges in the country. His name was John Minor Wisdom, a great man and a great lawyer. He had never been a judge before President Eisenhower appointed him.

Neither had Elbert Tuttle from Atlanta or John Brown from Texas. The three of them became three of the greatest judges in the South. They presided, having been appointed by a Republican President, over the desegregation of the southern U.S. They were among the greatest judges we have ever had, and they had never been judges.

Of 108 Supreme Court Justices who have been appointed, 43 of those have never been a judge. I have a list somewhere here of judge after judge after judge. Earl Warren; Byron White; Justice Powell; Justice Rehnquist; Justice Breyer; Judge Wisdom's favorite friend on the second circuit, Henry

Friendly of New York. He had never been a judge before. Charles Clark; Jerome Frank; John Paul Stevens; Warren Burger; Harold Leventhal; Spottswood Robinson; Ruth Bader Ginsberg, who had never been a judge before she was a Justice. Does that mean she wasn't qualified to sit on this Court?

Why would the other side be taking up the time of the Senate at a time when we are concerned with war with Iraq and the economy is hurting, by making that kind of argument? They would be asked to sit down in any respectable law school in America if they gave that answer. Yet they are here in the Senate trying to persuade us that it makes a point.

In 1980, I appointed George Brown of Memphis as the first African American justice in the history of the State of Tennessee. If George Brown had to be a judge before he had become a justice, I could never have appointed an African American justice, because there were no African American judges at that time. Even today, given the paucity of Hispanics and African Americans and women who are judges, if we were to say that in order for someone to be a judge, before he or she becomes a judge, we would have a terrible, invidious discrimination against men and women who should not be discriminated against, and I am sure my friends on the other side don't want to see that happen.

So even though we have spent days arguing that Miguel Estrada should not be considered because he has never been a judge, that argument has no merit to it whatsoever. We hear it less and less now that it is on the tenth day.

Well, those two arguments didn't fly because here is a superbly qualified person. So they said he didn't answer the questions.

I just had the privilege of hearing the distinguished Senator from California and the distinguished Senator from Minnesota spend a long time talking about that, saying he hasn't answered questions. Well, Mr. President, I am not a member of the Judiciary Committee, but I know they had hearings and I know Members on the other side were in charge of the Senate when they had the hearings. I know the hearings could have gone on as long as they wanted them to because they were in charge. If I am not mistaken, the distinguished Senator from Utah was here. I believe they went on all day long. The hearings were unusually long. Miguel Estrada was there and he answered their questions. Every Senator on the committee had the opportunity to ask followup questions in writing, and two did. The Senator from Massachusetts and the Senator from Illinois did that. Mr. Estrada gave those answers in writing. He has now said to Members of the Senate that he is available for further questions. He will be glad to visit with them.

What does he have to do to answer the questions? Why is there a new standard for Miguel Estrada? Why do we say to him, for the first time, tell us your views in a particular case before we will confirm you? We have tradition rooted in history that it is even unethical to do that. I appointed 50 judges, as I said, when I was Governor. When I sat down with these judges, I didn't ask: How would you rule on TV A and the rate case, or how would you rule on partial-birth abortion, in the abortion case; or what would you do about applying the first amendment to the issue of whether to take the Ten Commandments down from the courthouse in Murfreesboro, TN, or how do you feel about prayer in the schools, or if somebody says a prayer before a football game?

I didn't do that because I didn't think it was right to ask a judge to decide a case before the case came before him, which has been the tradition in this country. We are not appointing legislators to the bench, or precinct chairmen, or think-tank chairmen, or Senators; we are appointing judges. They are supposed to look at the facts and consider the law and come to a conclusion. But they say he didn't answer the questions.

Mr. President, the only way I know to deal with that—because this side says one thing and that side says the other, and since I am not on the Judiciary Committee—is to read the questions and the answers. I wanted to see whether he was asked some questions and whether he gave some answers.

These are the questions and answers, Mr. President. This is the record of the hearing of Miguel Estrada, plus a long memorandum of questions from the Senator from Massachusetts and the Senator from Illinois that he also answered. I will not take the Senate's time to read all of the questions and answers, but since they keep saying he didn't answer the questions, let me give some examples.

The chairman of the committee says: Mr. Estrada, we have heard you have held many strongly-held beliefs. You are a zealous advocate. That is great. You know, lawyers who win cases are not the ones who say "on the one hand, this, on the other hand, that." They are zealous. But you also have to make sure, if you are going to enforce the laws, that your personal views don't take over the law. Senator Thurmond has asked every single nominee I have ever heard him speak to—Republican or Democrat—to speak to that effect. What would you say is the most important attribute of a judge, and do you possess that?

A very good question.

Answer: The most important quality for a judge, in my view, Senator Leahy, is to have an appropriate process for decisionmaking. That entails having an open mind, it entails listening to the parties, reading their briefs, going back behind the briefs and doing the legal work needed to ascertain who is right in his or her claims. In courts of appeals court where judges sit in panels of three, it is important to engage in deliberations and give ears to the views of colleagues who may have come to different conclusions. In sum, to be committed to judging as a process that is intended to give us the right answer and not a result. I can give you my level best solemn assurance that I firmly think I have those qualities, or else I would not have accepted the nomination.

"Does that include the temperament of the judge?", asked the chairman.

Mr. Estrada said: Yes, that includes the temperament of a judge. To borrow somewhat from the American Bar Association, the temperament of a judge includes whether he or she is impartial and openminded, unbiased, courteous, yet firm, and whether he will give ear to people who have come into his courtroom and who don't come in with a claim about which the judge may at first be skeptical.

The chairman said: Thank you.

I submit that is a good answer. I appointed 50 judges and I would have listened to that question. I would give him an A-plus on that.

Here is the Senator from Iowa: Before I make some comment, I want to ask three basic questions.

This is in the hearing with Mr. Estrada. This is the man who the other side says doesn't answer questions.

The Senator from Iowa: In general, Supreme Court precedents are binding on all lower Federal courts, and circuit court precedents are binding on district courts within a particular circuit. Are you committed to following the precedents of the higher courts faithfully, giving them full force and effect even if you disagree with such precedents?

Mr. Estrada: Absolutely, Senator.

How could you make a better answer than that? You could either say yes or no. He said yes.

The Senator from Iowa: What would you do if you believed the Supreme Court or court of appeals had seriously erred in rendering a decision? Would you, nevertheless, apply that decision, or would you use your own judgment on the merits, or the best judgment of the merits?

Mr. Estrada: My duty as a judge, and inclination as a person and as a lawyer of integrity would be to follow the orders of the highest court.

The Senator from Ohio: And if there were no controlling precedent dispositively concluding an issue with which you were presented in your circuit, to which sources would you turn for persuasive authority?

Mr. Estrada: When facing a problem for which there is not a decisive answer from a higher court, my cardinal rule would be to seize aid from any place I could get it. Depending on the nature of the problem, that would include related case law and other areas higher courts had dealt with that had some insights to teach with respect to the problem at hand. It could include history of the enactment, in the case of a statute, legislative history. It could include the custom and practice under any predecessor statute or document. It could include the view of academics to the extent they purport to analyze what the law is instead of prescribing what it ought to be, and, in sum, as Chief Justice Marshall once said, to attempt not to overlook anything from which aid might be derived.

I give him an A-plus for that. That was a good question, and he gave a superb answer, just the kind of answer I think an American citizen who wants to appear before an impartial court in this country would hope to hear. I do not think we want to hear: Welcome to the court, Mr./Ms. Litigant. We have here your Democratic court; we have here your Republican court. If your views are all right, you might get the right hearing. You would want a judge who said what Mr. Estrada said.

The Senator from Massachusetts, who has been extremely critical of Mr. Estrada, asked a more detailed question. Mr. President, you may be wondering why I am going into such detail when this is available to the whole world, including the Senators on the other side. The problem is perhaps someone has not bothered to offer this book to our friends on the other side because they keep coming down here while you and I are presiding day in and day out for 10 straight days and saying Mr. Estrada has not answered the questions. My suggestion is he has answered question after question, and he has done a beautiful job of answering the questions.

Let me take a few more minutes and give examples of answering questions.

The Senator from Massachusetts: Now, Mr. Estrada, you made the case before the court that the NAACP should not be granted standing to represent the members. As I look through the case, I have difficulty in understanding why you would believe the NAACP would not have standing in this kind of case when it has been so extraordinary in terms of fighting for those—this is the NAACP—

and in this case was making the case of intervention because of their concern about the youth in terms of employment, battling drugs, and also voting.

In other words, Mr. Kennedy was saying: Mr. Estrada, how can you do this when the NAACP is on the other side?

Mr. Estrada's answer: The laws that were at issue in that case, Senator Kennedy, and in an earlier case, which is how I got involved in the issue, deal with the subject of street gangs that engage in or may engage in some criminal activity. I got involved in the issue as a result of being asked by the city of Chicago—the last time I checked, the mayor of the city of Chicago was a Democrat, a good mayor, but just so I would not want anyone to think this was a partisan comment—which had passed by similar ordinance dealing with street gangs. And I was called by somebody who worked for Mayor Daley when they needed help in the Supreme Court in a case that was pending on the loitering issue. I mention that because after doing my work in that case, I got called by the attorney for the city of Annapolis, which is the case to which you are making reference. They had a somewhat similar law to the one that had been at issue in the Supreme Court. Not the same law. They were already in litigation, as you mentioned, with the NAACP. By the time he called me—this is the lawyer for the city—he had filed a motion for summary judgment making the argument that you outlined. And he had been met with the entrance into the case by a prominent DC law firm on the other side. He went to the State and local legal center and asked: Who can I turn to to help? And they sent him to me because of the work I had done in the Chicago case. Following that, I did the brief, and the point on the standing issue that you mentioned is that in both Chicago and in the Annapolis ordinance, you were dealing with types of laws that had been passed with significant substantial support from the minority communities. I have always thought that it was part of my duty as a lawyer to make sure that when people go to their elected representatives and ask for those type of laws to be passed to make the appropriate arguments that a court might accept to uphold the judgment of the democratic people. In the context of the NAACP, that was relevant to a legal issue because one of the requirements we argued for representational standing—those who might be listening may think this is awfully detailed, awfully specific, awfully long. Mr. President, that is my point. Senator Kennedy asked an appropriate and very detailed question about an issue involving street gangs in Chicago where Mayor Daley asked Mr. Estrada to help, and Mr. Estrada gave Senator Kennedy a very detailed, courteous, respectful, specific answer that has taken me 3 or 4 minutes to read, and I am not through yet.

The point is, the other side keeps saying he has not answered questions when he has answered the questions. Not only has he answered them, he has answered them in a way a superbly qualified lawyer with his background might be expected to answer.

The Senator from Alabama: Mr. Estrada, if you are confirmed in this position, and I hope you will be, how do you see the rule of law, and will you tell us, regardless of whether you agree with it or not, you will follow binding precedent?

Mr. Estrada: I will follow binding case law in every case. I don't even know that I can say whether I concur in the case or not without actually having gone through all the work of doing it from scratch. I may have a personal, moral, philosophical view on the subject matter, but I undertake to you that I would put all that aside and decide cases in accordance with the binding case law and even in accordance with the case law that is not binding but seems instructive in the area, without any influence whatsoever from any personal view that I may have about the subject matter.

What Mr. Estrada was saying to the Senator from Alabama was: Mr. Senator, with respect, I may not decide this case the way you would like for it to be decided because I will look at the case law and I will follow the case law, and I might even decide this case the way my personal view would decide it if the case law is different than my personal view. In other words, I think Mr. Estrada is giving the answer that most Americans want of their judges, regardless of what party they are in.

I will give a couple more examples, and I do this because this has gone on now 10 days. All I hear from the other side is he will not answer the questions, he is not answering the questions, when, in fact, there is a book full of questions and answers to which I believe law professors in the law school I attended would give a very high grade.

Here is the Senator from Wisconsin: With that in mind, Mr. Estrada, I would like to know your thoughts on some of the following issues. Mr. Estrada, what do you think of the Supreme Court's effort to curtail Congress' power which began with the Lopez case back in 1995, the Gun-Free School Zone Act. That was a very controversial case. I remember my own view on that. I would have voted against it, even though, obviously, I am for gun-free school zones, but almost every Senator voted for it because they did not want to sound like they were against gun-free school zones, I guess, or whatever the reason might have been, but it was a controversial issue and a hard issue to vote against.

Mr. Estrada: Yes, I know the case, Senator. As you may know, I was in the Government at the time, and I argued a companion case to Lopez that was pending at the same time and in which I took the view that the United States was urging in the Lopez case and in my case for a very expansive view of the power of Congress to pass statutes under the commerce clause and have them to be upheld by the court. Although my case, which was the companion case to Lopez, was a win for the Government on a very narrow theory, the court did reject the broad theory I was urging on the court on behalf of the Government.

In other words, Mr. Estrada was sticking up for the very people who are saying he will not answer their questions. He was there. That was his view, and he talks about it, and he answered the question: Even though I worked very hard in that case to come up with every conceivable argument for why the power of Congress would be as vast as the mind could see, and told the court so at oral argument, I understand I lost on that issue in that case as an advocate, and I will be constrained to follow the Lopez case.

Here we are, Mr. President. Mr. Estrada took a position that I would have voted against. I think he is wrong, but he really did not take a position that I would vote against him. He argued a case before the court that made the very best argument he could make, arguing two lines of opinions. What our friends on the other side are saying is, when he writes a brief or argues a case on behalf of the United States, that somehow that reflects the point of view with which they disagree. I disagree with his brief. I would not consider voting against him or anybody else based on that kind of reason, a very complete answer.

Then if I may, I will state two more. Again, I would not normally think it was necessary for me to read the questions and read the answers, except that virtually every Senator from the other side who has come in has said he has not answered the questions, so I want the American people and my colleagues to know that if they want to know whether he has answered the questions all they need to do is go to the hearing record and read the question and read the answer.

Here is a tough one from the Senator from California: Do you believe that Roe v. Wade was correctly decided?

There is no more a difficult question for a judge who comes before the Senate, because that is a terribly difficult issue about which we all have deeply held moral beliefs, and for all of us almost there is only one right way to answer the question, unless one believes that what judges are supposed to do is to interpret the law and apply the law to the facts.

Mr. Estrada's answer: My view on that judicial function, Senator FEINSTEIN, does not allow me to answer that question.

Then he goes on to explain what he meant.

I have a personal view on the subject of abortion, as I think you know. But I have not done what I think the judicial function would require me to do in order to ascertain whether the Court got it right as an original matter. I have not listened to the parties. I have not come to an actual case or a controversy with an open mind. I have not gone back and run down everything that they have cited. And the reason I have not done any of those things is that I view our system of law as one in which both me as an advocate and possibly, if I am confirmed, as judge have the job of building on the wall that is already there and not to call it into question. I have had no particular reason to go back and look at whether it was right or wrong as a matter of law, as I would if I were a judge that was hearing the case for the first time. It is there. It is the law, as has been subsequently refined by the Casey case, and I will follow it.

That is a complete answer to the most difficult question that could be asked of a nominee for a Federal judgeship.

Senator FEINSTEIN: So you believe it is settled law?

Mr. Estrada: I believe so.

As I mentioned, if I understand the committee's rules, every Senator on the committee has the ability to ask followup questions. I know when I was confirmed by the committee they asked me many followup questions and I worked hard answering the questions 10 or 12 years ago when I was in the first President Bush's Cabinet. These are serious questions and serious answers.

Here I think is a revealing question, and one which may give us some idea of why we are in the 10th day of debate on one of the most superbly qualified candidates ever nominated for the court of appeals, a man who exemplifies the American dream. The Senator from Massachusetts, Mr. Kennedy, asked this question:

Mr. Estrada, do you consider yourself a "conservative" lawyer? Why or why not? Why do you believe that you are being promoted by your supporters as a conservative judicial nominee? Do you believe that your judicial philosophy is akin to that of Justices Scalia and Thomas? Why or why not?

What Senator Kennedy is looking for is to find out is this a conservative lawyer. Is the suggestion that we may want conservative decisions or liberal decisions? I thought we wanted fair decisions, based on precedent, based on fact. I thought we wanted judges who it would be impossible for us to tell where they were coming from before they were coming.

The response from Mr. Estrada is very interesting. He said to the Senator from Massachusetts: My role as an attorney is to advocate my client's position within ethical bounds rather than promote any particular point of view, conservative or otherwise.

A-plus for that, I would say.

Mr. Estrada says: I have worked as an attorney for a variety of clients, including the United States Government, State and local governments, individuals charged with criminal activity.

Are we going to say criminal lawyers cannot be confirmed because they represented people who murdered people and that makes them murderers?

Large corporations, indigent prisoners seeking Federal habeas corpus, in those cases I have advocated a variety of positions that might be characterized as either liberal or conservative.

Remember, this is from a career employee in the U.S. Solicitor's Office in the Clinton and Bush administrations. This is Miguel Estrada: While I am grateful for the wide ranging and bipartisan support that my nomination has received, I have no knowledge of the specific reasons that might cause a particular supporter of my nomination to promote my candidacy for judicial office. As a judge I would view my job as trying to reach the correct answer to the question before me without being guided by any preconceptions or speculations as to how any other judge or justice might approach the same issue.

If all of the Senators would take the time to read Miguel Estrada's answers, some of them might end up in a textbook of appropriate answers, if they believe a judge's job is to apply precedent and consider the facts and come to a fair decision.

Miguel Estrada is qualified, and he is not just qualified, he is one of the most qualified persons ever nominated for the Federal court of appeals. If he, by his very candidacy, represents the American dream that anything is possible, coming here from Honduras at age 17 and making his way through such a distinguished series of appointments, if he has answered the questions in what I would argue is a superior way, the way most nominees would be capable of answering the questions, and I have read just a few of them—I can come back and take another 2 or 3 hours and read more because there are hours of questions and answers—and if a majority of Members of the Senate have signed a letter saying they would vote to confirm him, then why can we not vote on Miguel Estrada?

The only reason can be that our Democratic friends want to change the way judges are selected. They want to say it takes 60 votes instead of 51, and they want to say the criteria for winning those votes is to answer the questions the way they want.

That will give us a Federal judiciary filled with partisans, or an empty Federal judiciary because we will be debating night after night because we cannot agree on whom to nominate and confirm. Such a process, if carried on in subsequent Congresses, will diminish the executive. It will diminish the judiciary. It will reduce the likelihood that facts will be considered and that binding precedent will apply. In other words, it will reduce the chance that justice will be done. It will reduce respect for the courts because it will be assumed that if partisan views on the case are what it takes to get confirmed by the Senate, then partisan views are what it takes to win a case before the court.

It reminds me of the story we tell at home about the old Tennessee judge. He was in a rural county up in the mountains and the lawyers showed up for a case one morning. He said: Gentlemen, we can save a lot of time. I received a telephone call last night. I pretty well know the facts. All you need to do is give me a little memorandum on the law.

We do not want a judiciary where those who come before it believe the judges got their political instructions when they were confirmed and that there is really no need to argue the case.

So Miguel Estrada is superbly qualified. Miguel Estrada has answered question after question, and he has done it very well. A majority of the Senate has signed a letter saying they are ready to vote today to confirm Miguel Estrada, and never in our history have we denied such a vote by filibuster to a circuit court judge. It is time to vote.

Before I finish my remarks, I make this pledge. I may be here long enough, and I hope it is a while, before I have an opportunity to cast a vote for a nominee for a Federal judgeship that is sent over by a Democratic President, but I can pledge now how I will cast my vote. It will be the same way I appointed 50 judges when I was Governor. I look for good character. I look for good intelligence. I look for good temperament. I look for good understanding of the law and of the duties of judges. I will look to see if this nominee has the aspect of courtesy to those who come before the court. I will reserve the right to vote against some extremists, but I will assume that it is unnecessary and unethical for the nominee to try to say to me how he or she would decide a case that might come before him or her. When it comes time to vote, when we finish that whole examination, I will vote to let the majority decide.

In plain English, I will not vote to deny a vote to a Democratic President's judicial nominee just because the nominee may have views more liberal than mine. That is the way judges have always been selected. That is the way they should be selected.

I conclude in equally plain English, and with respect, I hope my friends on the other side of the aisle would not deny a vote to Miguel Estrada just because they suspect his views on some issues may be more conservative than theirs.

These are the most serious times for our country. Our values are being closely examined in every part of the world. Our men and women are about to be asked, it appears, to fight a war in another part of the world. How we administer our system of justice is one of the most important values they are defending. We need to constrain our partisan instincts to get them under control. We need to avoid a result that changes the way we select judges. In my view, we permanently damage our process for selecting Federal judges.

The PRESIDING OFFICER (Mr. VITTER). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before Senator ALEXANDER leaves the Chamber, I am pleased that I was late so he had to speak first and I could listen to him. His remarks were thoughtful, thought provoking, and conclusive. If Senators on the other side of the aisle will listen to what he said and think it through, they will understand that this situation is going to be resolved. If they continue to insist it be resolved their way, I believe the Senate will decide that they will change procedural rules.

Having said that, I remind those who are listening and those who have lived through very recent history that there have been some contentious nominees that we have considered in recent times and that the American people can vividly remember. Let me remind those listening: We had the nomination of Judge Carswell years past. That was a highly debated nomination. All kinds of things were said about his qualifications, his capacity. There was enough enthusiasm against him—rancor—that if the filibuster had been used and brought to fruition, he probably never would have gotten enough votes to break the filibuster. He would have been defeated that way. But that did not happen. There was an up-or-down vote, and he was defeated.

Remember recently when we thoroughly debated Clarence Thomas, how many weeks that went on; how many days the debate went on. That controversial nomination was not filibustered. There was an up-or-down vote, just as we Senators on this side of the aisle are almost begging the Democrats to let happen for current nominees. It happened in the case of Clarence Thomas and he won by two votes. It is obvious, that if those who opposed him—and they opposed him with a great deal of certainty that he should not go on the bench—would have chosen the course of today, they would have used a filibuster. Why didn't they? They didn't because historically in the Senate, traditionally in the Senate, where there is majority support for a nominee, a filibuster is not used.

Having said that, it is obvious to this Senator that somehow or another in the last 4 years there has been a new idea promulgated that the advice and consent function, which the Constitution says is our prerogative to give to Presidential nominees, allows the other side, when it has an objection to a nominee, to filibuster that nominee. There have been more filibusters in the last 4 years against judges than in all of this body's previous history. It appears that every time there is a contentious nominee, that tactic will be used. That idea was not in this body before 2000. That tactic was not used before to the same degree it is used now. It is an invitation, I say to my friends on the other side of the aisle, for the majority to decide that enough is enough.

The idea that we want to protect the minority goes both ways. Senator ALEXANDER is right. Many of us have been in the Senate on this side of the aisle when we were in the minority. I came here when we only had 38 Republicans. We were the ones crying out for protection. But we didn't filibuster Federal judgeships. We didn't filibuster district or circuit or Supreme Court nominees. That was for a number of years, not just one or two. For a number of years we were in the minority.

But the problems with requiring a super-majority is a concept that has been discussed by our Founding Fathers. Alexander Hamilton wrote:

> To give the minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser.

Obviously, that is the case. Obviously, when we look at judges and history, the Constitution talks about advice and consent and clearly requires that a majority of the Senate consent. Our rules are not the only things that talk about advice and consent. The Constitution does. Our Founding Fathers, fully aware of this Hamiltonian quote, provided in the Constitution the events when more than a majority is required.

The Constitution said to override Presidential vetoes required more than a majority; to remove Federal officers under impeachment required more than a majority; to ratify treaties required more than a majority; to expel a House or Senate member required more than a majority; and to propose constitutional amendments required more than a majority. It did not say such was required when we are exercising our advice and consent power. Had that been a situation in our governance that required a supermajority, it would have been easy for the Founding Fathers to write that in. But they did not.

From this Senator's standpoint, the other side of the aisle, which talks so much about closing down Government if they don't get their way on this, ought to think it through carefully. Closing down the Government is something that ought to be used rarely. Even the words ought to be used carefully. "Closing down the Government" could mean we are going to stop funding education. It could mean we are going to close down all the national parks. It could mean we are not going to have enough money appropriated for our military. Closing down the Government, a threat from the other side of the aisle which they think would make us change our minds about this issue, is at least a two-edged sword and probably only a one-edged sword. That sword will be: Woe to those who close down Government over issues such as this.

Recall within the last 15 years, closing down Government was a threat, I regret to say, made by and carried out by some leadership in the House. The issue was thought by them to be paramount. But the public prevailed. The public said: The paramount issue is to keep your Government open, even if your cause is one you believe wholeheartedly in. From my standpoint, the threat is sufficient for me to seriously consider using this constitutional option so that advice and consent will be majoritarian instead of requiring 60 votes in the Senate.

The reason is easy for me. The Senate as an institution—its rules, its process—is marvelous. I have been here a long time. I support it. It is set apart by free debate, by opportunity to amend. But there also is precedent in our rules. There are requirements that the Senate think carefully about what they are doing regarding as important an issue as advice and consent. Some think, that Senator from New Mexico has been here too long; he has frequently said he admires and respects the rules of the Senate and has become accustomed to them. I have frequently said, for those who don't like the rules, wait until you are here 3 or 4 years—you will think they are great. Freshmen think we ought to get things done right now; forget the rules and the procedures. But let them stay here a term, and they understand what the Senate rules mean.

Understanding all that and feeling as I do about these issues, it seems to me we cannot continue to deny a man like Miguel Estrada a seat in the judiciary when there is more than a majority of the Senate who, after hours of debate, is willing to have a vote. The other side knows that such a vote has a majority of support so they prevent a vote from occurring. You can't keep doing that and expect the majority to sit by and say: It is just the current rules, you can't change them; don't worry about it. In fact, that is a dangerous proposition.

The bell will toll. If this is continued, there will be Members such as this Senator who will end up saying: We have had enough. We are willing to abide by the same rules when we are in the minority. It will apply to both Democrats and Republicans. We know some say we will be in the minority one day. Some of us are willing to say: Let it be the case for both, and let us rule by majority vote with reference to judicial appointees.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I rise to offer an historical perspective on the very important issue of the Senate exercising its advice and consent responsibilities on judicial nominations. It has been the subject of considerable discussion, and I wanted to offer some thoughts on the subject myself. I have been around here long enough, in both the majority and the minority, to understand that a Senator may from time to time use a vote on a judicial nomination to protest the nomination or a particular course of action. But what we saw in the 108th Congress was a wholesale departure from the norms and the traditions of the Senate, whereby the use of the judicial filibuster became a commonplace device to stop the President's circuit court nominees.

For the first time in history, a minority of Senators, on a repeated, partisan, and systematic basis, has prevented the Senate as a whole from discharging its constitutional obligation to provide advice and consent on judicial nominations.

This level of obstructionism is truly unprecedented. As justification, those who support this approach have pointed to several nominees of President Clinton on whom it was necessary to file cloture. I was here during that period. I remember exactly what happened.

The fact is it was the Republican leadership in the majority who filed cloture on these very controversial Clinton nominees. This does not show that the Republican Conference was trying to prevent their consideration. Rather, Republicans, who were Members of the opposition party of the President, filed cloture to advance their consideration—to advance their consideration.

If there is any doubt, one need only look at the cloture votes on two of the most controversial Clinton nominees, Marsha Berzon and Richard Paez, and then compare those cloture votes with the votes on the nominations themselves. Doing so reveals two important points.

First, the cloture vote on these nominees was overwhelmingly in favor of ending debate—of ending debate—and proceeding to their confirmation. The cloture vote on the Berzon nomination was 86 to 13. So obviously there were 13 Senators trying to prevent Ms. Berzon from becoming a Federal judge. The cloture vote on the Paez nomination was 85 to 14. Indeed, the vast majority of the Republican Conference—in fact, a supermajority of about 70 percent of our conference—voted for cloture. These plain facts dispute the notion that the Republican Conference was filibustering the Berzon and Paez nominations.

In short, if I could be a bit poetic, a cloture vote does not a filibuster make. A cloture vote does not a filibuster make.

A second point is even more telling. Many of the very same members of our conference who voted for cloture on these nominations then turned around and voted against confirmation because we had serious concerns about the Paez and Berzon nominations. Senator LOTT, who was majority leader at the time, did that, and so did I. voted for cloture, believing that judges should not be filibustered for the purpose of ending their nomination—and then voted against the judge on the up-or-down vote to which all judges are entitled. The confirmation vote on the Berzon nomination was 64 to 34. The confirmation vote on the Paez nomination was 59 to 39. Obviously, the opponents of Paez could have killed that nominee by a filibuster if they had chosen to do so. Both times we approached the filibuster level of 41 votes. I know how to count votes, and if we had wanted to filibuster the Paez and Berzon nominations, I suspect we could have and probably stopped them both. But the Republican leadership did not whip our caucus to filibuster these two nominations. In fact, it did the opposite. To his great credit, Senator LOTT urged our colleagues not to filibuster these two nominations despite the strong opposition to them within our conference.

That is why Judge Paez and Judge Berzon have been sitting on the ninth circuit for the last 5 years. In fact, today is the fifth anniversary of their confirmation. They were confirmed on March 9, 2000. And for those who point to the Paez and Berzon nominations to try to justify their filibusters, I emphasize again we are talking about Judge Paez and Judge Berzon. So given that many of my Republican colleagues and I opposed both the Berzon and Paez nominations as shown by our votes against the nominations themselves, why did we vote for cloture? We did so because we were mindful of a longstanding Senate norm and precedent that the Senate does not filibuster judicial nominations. That is an unwritten Senate rule. Even if one strongly disagrees with the nomination, the proper course of action under Senate norms and traditions, as they have consistently been understood and applied, is not to filibuster the nominee but to vote against him or her. That is precisely what a supermajority of my conference and I did on the Paez and Berzon nominations, who were two of the most controversial—these were extraordinarily controversial judges that President Clinton had named to the ninth circuit. My Republican colleagues and I honored Senate tradition. We followed the constitutional directive set forth in article II, section 12, that the Senate as an institution as reflected by the will of the majority of its Members, render its advice and consent on the President's nominees. We put propriety over partisanship.

But that precedent has now been changed. Those norms and traditions have been upset.

Therefore, I ask my colleagues to consider the ramifications of continuing down this path of institutionalizing this use of the judicial filibuster as a tool of obstruction. For more than 200 years we have recognized the careful balance our Founding Fathers struck among our three branches of Government. Judicial filibusters pose a danger to this constitutionally required separation of powers.

I believe it is not too late to turn back. It is in the best interests of both great parties and the Senate itself that we restore the norms, traditions, and precedents of the past 200 years that have served this country so well. It is extraordinarily shortsighted. Our friends on the other side of the aisle will have the White House again one day, and the shoe will be on the other foot. They will rue the day, if this precedent is allowed to prevail, that they set this precedent. I think it is time we stood back, took a breath and thought about this institution and respected its norms and traditions.

Mr. President, I yield the floor.

## EXPRESSING THE SENSE OF THE SENATE ON TERRORIST ATTACKS AGAINST THE PEOPLE OF SPAIN

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 76, submitted earlier today by Senators LIEBERMAN, ALLEN, and DODD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 76) expressing the sense of the Senate on the anniversary of the terrorist attacks launched against the people of Spain on March 11, 2004.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements related to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 76) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 76

Whereas on March 11, 2004, terrorists associated with the al Qaeda network detonated a total of 10 bombs at 6 train stations in and around Madrid, Spain, during morning rush hour, killing 191 people and injuring 2,000 others;

Whereas like the terrorist attack on the United States on September 11, 2001, the March 11, 2004, attacks in Madrid were an attack on freedom and democracy by an international network of terrorists;

Whereas the Senate immediately condemned the attacks in Madrid, joining with the President in expressing its deepest condolences to the people of Spain and pledging to remain shoulder to shoulder with them in the fight against terrorism;

Whereas the United States Government has continued to work closely with the Spanish Government to pursue and bring to justice those who were responsible for the March 11, 2004, attacks in Madrid;

Whereas the European Union, in honor of the victims of terrorism in Spain and around the world, has designated March 11 an annual European Day of Civic and Democratic Dialogue;

Whereas the people of Spain continue to suffer from attacks by other terrorist organizations, including the Basque Fatherland and Liberty Organization (ETA);

Whereas the Club of Madrid, an independent organization of democratic former heads of state and government dedicated to strengthening democracy around the world, is convening an International Summit on Democracy, Terrorism, and Security to commemorate the anniversary of the March 11, 2004, attacks in Madrid; and

Whereas the purpose of the International Summit on Democracy, Terrorism, and Security is to build a common agenda on how the community of democratic nations can most effectively confront terrorism, in memory of victims of terrorism around the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses solidarity with the people of Spain as they commemorate the victims of the despicable acts of terrorism that took place in Madrid on March 11, 2004;

(2) condemns the March 11, 2004, attacks in Madrid and all other terrorist acts against innocent civilians;

(3) welcomes the decision of the European Union to mark the anniversary of the worst terrorist attack on European soil with a Day of Civic and Democratic Dialogue;

(4) calls upon the United States and all nations to continue to work together to identify and prosecute the perpetrators of the March 11, 2004, attacks in Madrid;

(5) welcomes the initiative of the Club of Madrid in bringing together leaders and experts from around the world to develop an agenda for fighting terrorism and strengthening democracy; and

(6) looks forward to receiving and considering the recommendations of the International Summit on Democracy, Terrorism, and Security for strengthening international cooperation against terrorism in all of its forms through democratic means.

## SUPPORTING THE PEOPLE OF LEBANON

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 77 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 77) condemning all acts of terrorism in Lebanon and calling for removal of Syrian troops from Lebanon and supporting the people of Lebanon in their quest for a truly democratic form of government.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 77) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 77

Whereas since December 29, 1979, Syria has been designated a state sponsor of terrorism by the Secretary of State;

Whereas on December 12, 2003, the President signed the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (22 U.S.C. 2151 note), which declared the sense of Congress that the Government of Syria should halt its support for terrorism and withdraw its armed forces from Lebanon, endorsed efforts to secure meaningful change in Syria, and authorized the use of sanctions against Syria if the President determines that the Government of Syria has not met the performance criteria included in that Act;

Whereas the President has imposed the sanctions mandated by that Act, which prohibit the export to Syria of items on the United States Munitions List and the Commerce Control List, and has already imposed 2 of the 6 types of sanctions authorized by that Act, by prohibiting the export to Syria of products of the United States (other than food or medicine) and prohibiting aircraft of any air carrier owned or controlled by Syria to take off from or land in the United States;

Whereas the United Nations Secretary General, Kofi Annan, recently stated that Syria continues to maintain more than 14,000 troops in Lebanon;

Whereas United Nations Security Council Resolution 1559 (September 2, 2004) calls for the withdrawal of all foreign forces from Lebanon and for the disbanding and disarmament of all armed groups in Lebanon;

Whereas on February 14, 2005, the former Prime Minister of Lebanon, Rafik Hariri, and 18 others were assassinated in an act of terrorism in Beirut, Lebanon;

Whereas the Secretary of State recalled the United States Ambassador to Syria, Margaret Scobey, following the assassination of Rafik Hariri; and

Whereas, on February 28, 2005, the Prime Minister of Lebanon, Omar Karami, resigned, dissolving Lebanon's pro-Syrian Government: Now, therefore, be it

*Resolved*, That the Senate—

(1) condemns all acts of terrorism against innocent people in Lebanon and around the world;

(2) condemns the continued presence of Syrian troops in Lebanon and calls for their immediate removal;

(3) urges the President to consider imposing additional sanctions on Syria under the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (22 U.S.C. 2151 note); and

(4) supports the people of Lebanon in their quest for a truly democratic form of government.

Mr. McCONNELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. I thank the Chair.

(The remarks of Mr. NELSON of Florida pertaining to the introduction of S. 57 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, we are in morning business on the Democratic side, as I understand it, for the next 11 minutes: is that correct?

The PRESIDING OFFICER. That is correct: 10½ minutes.

---

## SOCIAL SECURITY

Mr. DURBIN. Mr. President, the President of the United States is on the road today. He is taking his case for privatization of Social Security around the United States. It is an interesting debate. It is a good debate because it gets down to the heart of the question.

I joined with some Democratic Senate leadership—HARRY REID, BYRON DORGAN, and several other colleagues—and we went on the road last week to New York, Philadelphia, Phoenix, and Las Vegas to talk about this issue. We are engaging the American people because we believe it is an important debate.

I think we should start the debate by agreeing on some very basic points, and the first point on which we should agree is that at the end of the debate, Social Security will still be there, it will survive, and we are all committed to it. Any proposal that comes from anyone of either political party that weakens Social Security and lessens the likelihood that it will be there as a safety net for America should be summarily rejected. That is why we on the Democratic side have said we want to sit down with President Bush and the Republican leadership to make Social Security strong, but first we have to take privatization of Social Security off the table because privatization of Social Security, as the President is proposing, will weaken Social Security, it will not strengthen it. It takes trillions of dollars out of the Social Security trust fund, a trust fund that has already been raided by politicians for years. It would be devastated by taking out this much money.

The President is calling for taking the money out of the Social Security trust fund that is going to be used to pay off retirees in the years to come.

How do they make up for this? The President's White House proposes cutting the benefits for retirees as much as 50 percent. So if someone is receiving $1,200 today, had the President's plan been in effect from the beginning of Social Security, they would be receiving around $500. It is a dramatic cut the President is talking about. It would push many senior citizens into poverty, not to mention add dramatically to our national debt, a debt which is already too large, will be increased this year by our deficit spending, and a debt which is financed by foreign countries. China, Japan, Korea, and Taiwan hold America's mortgage.

President Bush's privatization plan means that mortgages will grow substantially, from about $8 trillion to at least $15 trillion by the President's calculations. That means our children, who are supposed to be benefited by this so-called privatization, will not only have to gamble their retirement in the stock market, but also face the payment of this debt. That is fundamentally unfair.

Many people have said: Why don't the Democrats come forward with a plan on Social Security? I will tell my colleagues the Democratic plan in three words: Social Security first. If any plan to strengthen Social Security does not guarantee that this safety net and the benefits people can count on for retirement will be there in the years to come, it is not a plan we should even consider. Privatization cannot meet that guarantee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, how much time is remaining on the Democratic side?

The PRESIDING OFFICER. There is 6 minutes 50 seconds remaining.

Mrs. MURRAY. Mr. President, I concur with the remarks of the Senator from Illinois about Social Security. We have heard a lot of talk on this floor. We have heard a lot of talk on the television shows and all around the country in recent weeks about Social Security. We have heard about a supposed crisis in this program, that it will be flat busted or broke, we have heard about the President's view that this social insurance program must be radically restructured, and we have heard that privatizing Social Security is the only way to go.

Now we hear that the President is embarking on a 60-stop campaign tour in an effort to sell his privatization plan to the American people. The American people are not buying this risky privatization scheme.

From the day this debate began, I have consistently said that any proposal put forward to address Social Security must meet a few basic standards. It has to preserve Social Security's guaranteed benefit. It has to preserve Social Security's protections for workers when they are disabled. It has to protect against benefit reductions, especially for women, minorities, and others, and it has to protect our budget from ever-growing deficits.

This week in the Senate we saw the first bill that purports to reform Social Security, and, unfortunately, that new legislative proposal fails my simple test in a few not-so-simple ways. First, preservation of the guaranteed benefit has to be our top priority. The bedrock of Social Security is the guaranteed benefit, and the President's plan calls for cutting benefits by one-third or more. That is a huge hit to every retiree who depends on this system. Like Bush's plan, the new Senate bill will also slash benefits. That plan has a further 7 percent reduction in benefits for early retirees relative to current law that is phased in between 2024 and 2028.

In conjunction with the two pieces of the plan that raise the retirement age, the proposal would reduce benefits for retirees—people who are retiring at 62—by 40 percent by the year 2026, by 50 percent by the year 2054, and it will reduce them by 56 percent by the year 2080. The deconstruction of the guaranteed benefit leads us further away from the real security this program provides, and this country needs to know that even though Republicans do not like to campaign on it, their plans would end the guaranteed benefit Social Security provides today.

A few weeks ago, I joined several of my female colleagues on the Senate floor to speak about how the President's plan would impact women. Unfortunately, this is not a new battle. For years, we have fought to ensure that women and minorities receive a fair shake in Social Security reform discussions. The promise of Social Security is especially important to women. Why? Because women face unique challenges when they retire. We know women make less money throughout their lifetimes, so we know when they retire they have fewer dollars to live on. Women also leave the workforce to raise their families. That is a value that we all support and endorse and want women to be able to do, but that means they have less money when they retire. Finally, women live longer. That is a fact. And they are more likely to suffer from a chronic health condition. So they, in particular, rely on the security of Social Security. With those special challenges women face, we know today Social Security keeps a lot of older women out of poverty. The benefit formulas of Social Security are tilted to give a greater rate of return for lower wage workers such as women and minorities.

Unfortunately, time and time again, we have found that these proposals will impoverish women and slash their benefits. The new plan that has been offered in the Senate is no exception. That plan will cut benefits based on a new life-expectancy requirement. The Senate Republican plan says:

> By factoring increased life expectancy into the base benefit calculation, the rate of increase in benefit payments will be slowed.

Addressing the long-term solvency of Social Security is a laudable goal, but trying to balance the books by slashing benefits for women is absolutely unacceptable. This plan would dismantle the progressive nature of Social Security benefits, leaving women with less money over a longer period of time. So if one is a woman who retires at 62 or 65 and lives to be 95, under these plans they will not be able to make it. Their Social Security benefits will be reduced, and they will not be able to live off what they retired on 30 years prior to that.

It makes no sense to reduce women's benefits. They are already limited by their lower income, and cutting them again simply because they live longer is just wrong. In fact, we should be doing all we can to ensure progressive benefits for low wage earners that are targeted to those least likely to have other retirement savings. All too often, as we know, that means women.

I know I am not going to stand for this attack on women, and I know many of my colleagues are going to stand right alongside me in this fight.

Finally, there is another important issue I will talk about today that no one on the other side of the aisle or the other side of Pennsylvania Avenue cares to talk about, and that is these Social Security plans will add trillions of dollars to an already massive Federal debt, a debt that we are just handing over to the generation coming behind us.

In traveling the country to sell his privatization plan, President Bush has been saying we have an obligation and a duty to confront problems and not pass them on to future generations. Well, many of us on both sides of the aisle agree with him. We should not create new problems for the next generation to handle. The trouble is, the President's plan actually adds to the problems of the next generation. It does nothing to solve them.

This new Republican plan, just like President Bush's, would add trillions of dollars in debt to our country's financial sheets in the next two decades alone. In fact, the Center on Budget and Policy Priorities said that the privatization proposal will create nearly $5 trillion in new debt over the next 20 years. That money is going to have to come from somewhere, and it is naive to think that huge new borrowing will not affect current retirees. It is also naive to think that massive new borrowing will not affect programs such as Medicare and Medicaid that really do need our attention. It is naive to think we will simply go along and pass on these massive new problems to our children and our grandchildren.

So once again we are left to consider privatization plans that run up massive new debt on the country's credit card while pulling money away from the Social Security system and ending the bedrock of the program—the guaranteed benefit. That is a recipe for disaster.

The President and his friends in the Senate are fixated on private accounts, even though they will do absolutely nothing to address the long-term solvency of the Social Security program.

Last week, I joined with 41 of my colleagues to ask President Bush to take this risky scheme off the table before moving forward with any Social Security reform. The letter said, in part, funding privatized accounts with Social Security dollars would not only make the program's long-term problems worse, but many believe it represents a first step towards undermining the program's fundamental goals. Therefore, so long as this proposal is on the table, we believe it will be impossible to establish the kind of cooperative bipartisan process we need to truly address the challenges facing the program many decades in the future.

We will not stand for the President's plan for social insecurity. We will continue to stand for future generations against a private solution that simply adds trillions of dollars in debt to future generations. We want to be proud of what we pass along to our children and grandchildren.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I do not know if it is appropriate at this time to ask that we return to S. 256, the pending business of the Senate.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Dorgan/Durbin amendment No. 45, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Reid (for Baucus) amendment No. 50, to amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by an vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease.

Dodd amendment No. 52, to prohibit extensions of credit to underage consumers.

Dodd amendment No. 53, to require prior notice of rate increases.

Kennedy (for Leahy/Sarbanes) amendment No. 83, to modify the definition of disinterested person in the Bankruptcy Code.

Harkin amendment No. 66, to increase the accrual period for the employee wage priority in bankruptcy.

Dodd amendment No. 67, to modify the bill to protect families.

Dodd (for Kennedy) amendment No. 68, to provide a maximum amount for a homestead exemption under State law.

Dodd (for Kennedy) amendment No. 69, to amend the definition of current monthly income.

Dodd (for Kennedy) amendment No. 70, to exempt debtors whose financial problems were caused by failure to receive alimony or child support, or both, from means testing.

Dodd (for Kennedy) amendment No. 72, to ensure that families below median income are not subjected to means test requirements.

Dodd (for Kennedy) amendment No. 71, to strike the provision relating to the presumption of luxury goods.

Dodd (for Kennedy) amendment No. 119, to amend section 502(b) of title 11, United States Code, to limit usurious claims in bankruptcy.

Akaka amendment No. 105, to limit claims in bankruptcy by certain unsecured creditors.

Feingold amendment No. 87, to amend section 104 of title 11, United States Code, to include certain provisions in the triennial inflation adjustment of dollar amounts.

Feingold amendment No. 88, to amend the plan filing and confirmation deadlines.

Feingold amendment No. 90, to amend the provision relating to fair notice given to creditors.

Feingold amendment No. 91, to amend section 303 of title 11, United States Code, with respect to the sealing and expungement of court records relating to fraudulent involuntary bankruptcy petitions.

Feingold amendment No. 92, to amend the credit counseling provision.

Feingold amendment No. 93, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 94, to clarify the application of the term disposable income.

Feingold amendment No. 95, to amend the provisions relating to the discharge of taxes under chapter 13.

Feingold amendment No. 96, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Feingold amendment No. 97, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Feingold amendment No. 98, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 99, to provide no bankruptcy protection for insolvent political committees.

Feingold amendment No. 100, to provide authority for a court to order disgorgement or other remedies relating to an agreement that is not enforceable.

Feingold amendment No. 101, to amend the definition of small business debtor.

Talent amendment No. 121, to deter corporate fraud and prevent the abuse of State self-settled trust law.

Schumer amendment No. 129 (to amendment No. 121), to limit the exemption for asset protection trusts.

Durbin amendment No. 110, to clarify that the means test does not apply to debtors below median income.

Durbin amendment No. 112, to protect disabled veterans from means testing in bankruptcy under certain circumstances.

Boxer amendment No. 62, to provide for the potential disallowance of certain claims.

The PRESIDING OFFICER. Under the previous order there will be 10 minutes of debate equally divided on each of the following amendments: amendment No. 110, Amendment No. 66, amendment No. 62, and amendment No. 67.

Mr. DURBIN. Mr. President, if you will please notify me when I have 1 minute remaining of my 5 minutes allocated, I would appreciate it.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. DURBIN. The argument behind this bankruptcy reform bill is it is not going to affect people in lower income categories. Senators on the other side of the aisle have come to the floor and said: Don't worry about this bill. Yes, it is stricter, you have to file more documents, it will cost more in legal fees, but if your income is lower than the median income and you file for bankruptcy, it does not affect you. You are exempt from it.

Senator after Senator has come to the floor and said that. I even asked Senator SESSIONS of Alabama on the floor yesterday: Is that your understanding, that if you are below median income you do not have to file all the papers for the means test? You don't have to go through some of the most harsh provisions of the bankruptcy bill? And he said yes, that was his understanding.

My amendment is very simple. It clarifies what has been said over and over again, that the means test does not apply to debtors who go into bankruptcy court whose incomes fall below the median level. It adds only two sentences to the bill. It makes it clear that those lower income debtors only have to show the court, first, the documentation already required under chapter 7, and then their monthly income. Once they show the monthly income, if it is below the median income in that area, they are exempt from the means test. That is all my amendment says.

Frankly, if colleagues on the other side of the aisle will not accept this amendment, I have to wonder whether they really believe this bill exempts lower income people. If it does not, it means everybody walking into bankruptcy court, not just those who can repay but many who have much lower salaries and incomes and cannot, is going to have to go through all of the procedural hooks and ladders set up by this S. 256. I don't think that is reasonable. It certainly is not the way this bill has been explained for the last 2 weeks. It is important that we read and recount what Senator HATCH said on February 28:

> Let me tell you at the outset, the poor are not affected by the means test. The legislation provides a safe harbor for those who fall below median income.

The Republican leader came to the floor, and here is what he said:

> This bankruptcy reform act exempts anyone who earns less than the median income in their State.

Those are the words of Senator FRIST.

Senator SESSIONS:

> I remind all of my colleagues that people who are economically distressed and have incomes below the median income already will be exempt from the means test.

If this is true, and I hope it is, there is no reason this amendment should not pass overwhelmingly, in fact by a voice vote. But if those who drew up this bill really want to put everybody through these means tests regardless of their income, even those in the lowest income categories, that is another story altogether.

We know that half the people who go to bankruptcy court today are there because of medical bills. They are people who ended up with a mountain of debt because of an illness in their family. Do you know what else? Three-fourths of those people filing for bankruptcy because of medical bills had health insurance. They thought they had protected themselves and their families. They didn't have enough health insurance or they lost their job after the diagnosis. It happens.

What we are saying is if you are in one of those terrible situations where things have gone terribly wrong for your family and you are facing bankruptcy and you are in a low-income category, for goodness' sakes, why would we heap more procedural requirements, more cost, more paperwork, more demands on the poorest among us?

This amendment says what three Republican Senators have said on the floor word for word: If you are below the median income, you do not have to fill out the papers for the means test. I hope my colleagues, those who came to the floor and said this over and over again, agree to this amendment.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DURBIN. Thank you for notifying me of that.

We are going to have several amendments this morning. Each one of these amendments tries to clarify this bill. This bill is being driven by the credit card and banking industry, you know, the same people who fill your mailbox with credit card applications you never asked for, the same people who show up at the Big Ten football game trying to peddle their credit cards to students—the same people are pushing this bill. They want folks to get deep in debt and if they file for bankruptcy never get out from under the debt—keep paying it for a lifetime: a literal debtors' prison.

If we truly want to exempt the lowest income Americans from the worst provisions and toughest provisions of this bill, I encourage all of my colleagues to support amendment No. 110.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa is recognized.

### AMENDMENT NO. 66

Mr. HARKIN. Mr. President, I call up amendment No. 66 on behalf of myself, Senators ROCKEFELLER, LEAHY, DAYTON, and KENNEDY.

The PRESIDING OFFICER. The amendment is pending.

Mr. HARKIN. The amendment is pending?

The PRESIDING OFFICER. Correct.

Mr. HARKIN. I understand under the rule I have 5 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, this is a straightforward amendment that protects the ability of workers to receive their pay, including vacation and sick pay and severance pay, when their company goes bankrupt. Under bankruptcy law, wages owed have long been given an extremely high priority, as they should be. This bill raises the cap on how much pay can be received as a high priority to $10,000. Unfortunately, however, the bill puts a time limit on this of 180 days. In other words, under the bill a worker gets this preference, gets first-in-line priority preference for getting backpay and wages but only for the last 180 days prior to the company filing for bankruptcy. My amendment simply strikes the 180-day limitation. It doesn't touch the $10,000 limit.

Why is this important? Many courts have ruled that severance pay is earned during the entire time a worker works for a company. If a worker, let's say, has worked for a company for 10 years and under the contractual agreement gets $500 per year severance pay for every year one worker worked for the company, if this worker has worked for the company for 10 years, this worker is due $5,000 in severance pay. The company goes bankrupt. He gets first in line, he gets his priority, but he can only get it for the last 180 days. So, instead of $5,000, he or she only gets $250. That is grossly unfair.

We faced a similar problem with vacation pay. Again, vacation pay has been held to accrue over a certain time period, usually 1 year. So a 1-year time period is when you accrue vacation pay. Let's say, though, that your company goes bankrupt. Let's say you have earned vacation pay for the whole year. Now you only get 180 days' credit, so you are getting about half of what you normally would get.

Last, we have the issue of when does the 180-day clock start ticking. A lot of times, a company will file for bankruptcy long after it has closed a division here or a division there or closed an operation someplace and they have laid off people. This happens a lot.

Let's say you have worked for a division in Louisiana, and the company, a national company, closed operations in that plant and they just laid you off. They have not gone bankrupt yet; they laid you off. Then 181 days later or 190 days or 200 days later the company files for bankruptcy. OK? Now that worker who worked in that division wants to get priority for back wages. I am sorry, you are out of luck. Why? Because you only get 180 days going back. You may have been laid off, but the company did not go bankrupt, so now you only get to go back 180 days, and they lose their priority. This, again, is grossly unfair.

Are there other examples where there is no time period for the collection or for getting into priority preference? I would just mention two. There is a priority for creditors of grain storage facilities. Let's say a farmer has grain in a storage facility. We are familiar with that in Iowa. This has happened many times in the past. Let's say the storage facility goes bankrupt. The farmer gets first-in-line priority to get his pay for the grain stored in that facility. There is no time limit. It could be 2 years, 3 years; there is no time limit whatsoever. But under this bill, for workers, there is a 180-day time limit.

For the child support and alimony priority—we have heard a lot of discussion about that—there is no cap and there is no time limit. For farmers on grain elevators there is a cap, but there is no time limit. For child support and alimony there is neither a cap nor a back-time limit.

This amendment is very simple. It just says, if you are a worker, if your company goes bankrupt—we leave the $10,000 cap. That is fair. That has been raised from $5,000 to $10,000. It was $5,000 under the old bill. But it does away with the 180-day time limit. It just takes off that time limit and lets workers get in the priority queue to get severance pay, vacation pay, sick pay—their back wages—when and if the company goes bankrupt.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Mr. President, if there is no one here seeking to speak on the bill, I ask unanimous consent I be allowed to proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### CONGRATULATING GOVERNOR SCHWARZENEGGER

Mr. HARKIN. Mr. President, I rise to congratulate the Governor of California, Governor Schwarzenegger, who just the other day, the day before yesterday, announced his support for a California initiative to get junk food out of our schools. I refer here to a newsclip that came out on Monday. I will read from it.

> Governor Arnold Schwarzenegger, a longtime advocate of healthier food in schools, said Sunday that all "junk food" in vending machines on California campuses should be replaced with nutritious snacks such as fresh vegetables. "I think we should use our vending machines in the schools—fill them with good food, with fresh vegetables, with milk and products that are really healthy for the body," said Schwarzenegger, speaking at the annual fitness exhibition here that bears his name."

I say: Bravo Governor Schwarzenegger. Thank you. Thank you for taking the lead on this issue. I hope other Governors will follow suit and follow his leadership.

I have been concerned about our kids' eating habits for many years now. In the 1996 farm bill, I tried to get vending machines taken out of schools. That didn't quite happen, of course. But we are still making the effort to try to get fresh fruits and vegetables to kids in school for healthier eating. More and more, we see schools making agreements with soft drink companies for exclusive contracts. You walk down the hallways in schools: Coke, Pepsi, this and that, all over the place. Kids are bombarded with this. The fact is, these kids in school are creating for themselves bad habits which, when they go into adulthood, lead to chronic diseases. So we have to start with our kids and start in the schools where vending machines and other sources of junk food have a profoundly negative impact on students' nutrition.

A recent study took a group of students who ate only USDA-approved school lunches up through the fourth grade. Then they tracked them into the fifth grade, where they gained access to school vending machines, snack bars, and other food sources. Up to the fourth grade they had only USDA-approved school lunches. In the fifth grade they got to go to vending machines and stuff like that. Guess what the study found. As fifth graders, they consumed 33 percent less fruit, 42 percent fewer vegetables, 35 percent less milk than they did as fourth graders. In addition, they ate 68 percent more deep-fried vegetables—French fries—and drank 62 percent more soft drinks and other sugary beverages. In 1 year, from fourth to fifth grade.

Our Nation spends a whopping $1.8 trillion on health care, and 75 percent of that goes to treat chronic diseases. A large share of that is preventable. If we are going to turn this situation around, if we are going to move from a current sick care system to a genuine health care system and emphasize prevention and wellness, then our schools are on the front line, and that is why what Governor Schwarzenegger did is so vitally important. Kids today face a minefield of nutritional risks from the time they get up in the morning to the time they go to sleep at night, opportunity after opportunity to eat unhealthy foods.

Guess what. They are bombarded with ads all day long. Whether it is on television, signs in their schools, they are bombarded with ads to eat junk food, drink sugary beverages.

When was the last time you saw an ad for an apple? When was the last time you saw an ad to eat fresh vegetables? No. You see ads to eat all kinds of junk food every single day. That is what our kids see.

Ninety-three percent of our teenagers exceed Government guidelines for consumption of saturated fat. One-quarter of our kids show 5 to 10 early warning signs of heart disease.

This is from the CDC. I am not making this up.

One-third of today's children will go on to develop diabetes.

This is from the Centers for Disease Control and Prevention.

Fifteen percent of America's children and teenagers are overweight. That is 3 times what it was 35 years ago. It is higher than any other industrialized country in the world.

We are placing our kids at risk in schools. They are inundated by candy, soft drinks, snacks high in sugar, salt, and fat. And to make matters even worse, physical education is being squeezed out of schools.

I saw a recent figure that on average in the United States, grade school kids get less than 1 hour of physical activity in school. We are squeezing physical activities out of school. If they are on the football team or the basketball team, or some other varsity, they are all right. But if they are not up to that standard, what physical activity is there for a kid in school today?

Lastly, I have worked on a bipartisan basis with members on the Senate Agriculture Committee and the Appropriations Committee to increase physical activities in school and get funding for fresh fruits and vegetables. We started this in the farm bill. It has been a great success, giving free fresh fruits and vegetables to kids. We found that when you give free fresh fruits and vegetables to kids in school, they eat them, it solves the hunger pain, and they study better. Guess what. They are not putting their money in the vending machines to buy junk food.

We have had 3 years of experience. We took four States and 100 schools to test this theory, and every single one of those schools has been a resounding success. Now we are up to 9 States and over 200 schools. It is growing.

I again commend Governor Schwarzenegger and hope we can get California to move ahead on that also. The Governor said they were introducing legislation to ban all junk foods in schools. I say, Congratulations, Governor Schwarzenegger. Evidently, this is being written or introduced in California to rid schools of vending machines of sodas, bad foods, and stuff such as that. I again want to congratulate the Governor of California.

He also spoke on Sunday about the "broader need for parents to pay attention to what children eat"—saying "they shouldn't feed them 1,000-calorie cheeseburgers just to avoid an argument."

Good for you, Governor.

He said:

> I know it's easy to go in that direction. I know when I come home I don't want to fight at home with my kids about what they should eat. Because there are already fights about their homework and about reading and math.
>
> You've got to make an effort. What you give a child or what you put in your body is exactly what we become. So the more garbage you put in there, the more you're going to look like a garbage disposal.

Again, I want to take the time to commend the Governor for his leadership on this issue. He is a great example of physical fitness. He is also a great example of endurance and of leadership. I hope the Governor of California will not confine himself on this issue only to California. I hope he will take his message nationwide. I hope the other States and other Governors will follow his lead on what he has done in California.

I ask unanimous consent that the articles I read from—one that appeared in the Associated Press and also the Los Angeles Times—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Associated Press, March 7, 2005]

### CALIFORNIA GOV. ARNOLD SCHWARZENEGGER SAYS HE WANTS TO BAN JUNK FOOD AT SCHOOLS

(By Erica Werner)

COLUMBUS, OH.—California Gov. Arnold Schwarzenegger wants to pump up his state's students with vegetables, fresh fruits and milk.

"First of all, we in California this year are introducing legislation that would ban all the sale of junk food in the schools," Schwarzenegger said during a question-and-answer session with fans on the final day of the Arnold Classic, the annual bodybuilding contest that bears his name. He said junk food would be pulled from school vending machines in favor of healthier foods, including fruits and vegetables.

After the session Sunday, the governor's aides said Schwarzenegger supports a bill by Democratic state Sen. Martha Escutia that would ban soft drinks at public schools.

The administration also hopes to develop a more comprehensive legislative package dealing with snack foods later in the year, said Chief of Staff Pat Clarey, although she added it might not eliminate all junk food from schools.

Topics at the question-and-answer session ranged from fitness to whether Schwarzenegger wants to be president. Several hundred fans at the Columbus Veterans Memorial auditorium were invited to ask the former world bodybuilding champion whatever they wanted.

With fellow former Mr. Olympia Franco Columbo at his side, Schwarzenegger spent about 50 minutes answering questions.

Many people asked detailed queries about workout routines. Schwarzenegger talked knowledgeably on how best to improve the deltoid muscles—numerous repetitions, tailored to the three separate deltoid muscle groups, front, middle, and back.

Schwarzenegger said he still does 30 to 45 minutes of cardio each day and lifts weights about four days a week. He said he misses doing heavy lifting, but doctors banned it after his heart surgery in 1997.

At one point, Schwarzenegger delivered what amounted to a motivational lecture after a questioner betrayed some discouragement about his own fitness potential. Schwarzenegger told him to visualize his goal, never lose sight of the vision and work toward it.

"As you know, I'm a big believer in the mind," Schwarzenegger said. "Just be positive, and kick some butt."

At the men's bodybuilding finals the night before, Schwarzenegger had called on bodybuilding to get rid of steroids, which are reportedly rampant in the sport. He got one question on the topic Sunday, from a sixth-grader.

The girl asked the governor to explain why he's said publicly he doesn't regret his own past steroid use. Schwarzenegger reiterated that at the time he took the drugs they were new to the market and weren't illegal.

People shouldn't take steroids now—"A, they are harmful for the body, and B, they are illegal," he said.

Schwarzenegger was asked whether he would consider running for president if the Constitution were amended to allow foreign-born citizens to serve in the office. As in the past, he said he's focused on governing California.

"I'm not saying no I'm not interested in it, but I'm not concentrating on it," he said.

Mr. HARKIN. Mr. President, I commend the Governor of California. I say to him that whatever we can do here on a bipartisan basis to back you up, you have our support and our encouragement. Please take your message nationwide. Don't just keep it in California.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 62

Mrs. BOXER. Mr. President, I call up my Amendment No. 62.

The PRESIDING OFFICER. The amendment is pending.

Mrs. BOXER. Mr. President, is the rule 10 minutes per side?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mrs. BOXER. Will my friend tell me when I will have 1 minute remaining?

The PRESIDING OFFICER. Absolutely.

Mrs. BOXER. Mr. President, in the next 5 minutes I want to describe this amendment. I cannot imagine anyone in the Senate voting against this amendment. Having said that, I predict that this amendment will not be agreed to because there seems to be some type of agreement going on that this bill can not change at all, in any way, shape, or form. But I want to give the Senate a chance.

When I was growing up, my mother said, If you ever borrow anything, give it back. Try not to borrow money, but if you borrow money, give it back as fast as you can.

I think all of us here understand that to be a responsible person, you have to be responsible for your debts. There is no question about that. It is not right to borrow money and then turn your back on the person who extended that credit to you, whether it is an individual or a credit card company or a bank. But in this bill there seems to be absolutely no bounds. It seems to be that the person who lent you the money has no responsibility whatsoever to be diligent about it, to be fair about it, to be reasonable about it, or, frankly, to be smart about it. And the credit card companies know they have the perfect bill coming toward them. There is absolutely no responsibility placed on them.

I ask anyone listening to this debate to think about how many credit card applications you receive in the mail in a week's time, in a month's time. Once I started saving it up. Then they started sending them to my grandson. He is 9. I was surprised they didn't send it to our cat. I suppose they would, if cats could pay interest.

But let me tell you about this particular egregious situation I am trying to fix. I think it would shock Americans to understand this. The fastest growing part of the credit card business is the young people in this country. The credit card companies entice our young people to go into debt, go into debt, and they know the sky is the limit as to what they can charge for that debt. Is it 10 percent? No. That would be low. Is it 20 percent? That would be low. There was an amendment here to cap it at 36 percent, and that failed. We are talking about taking a young person who doesn't have a clue and offering them credit cards.

If I were to ask you how many cards does the average young person have—people between 18 and 24—I would say one or two—the answer is six credit cards. This is the fastest growing group.

That is also why the credit card companies go ahead and give more and more credit cards to people who were defaulting the most. Frankly, it is because they are still making a mint. Credit card profits have gone up in the last 10 years 100 percent.

When you analyze the stories—I have read them in the Wall Street Journal—you find they are getting paid back for sure, but they are not getting the full 30-percent interest. But the poor people who are caught in this have a real problem.

Here is what the amendment says. If a credit card company issues a seventh credit card to someone below the age of 21 without a responsible party cosigning, and if that individual has a job that pays less than the poverty level, then in fact if there is a default the judge should take into consideration the facts. It is as simple as that. Why wouldn't a credit card company ask you that simple question, How many cards do you have? And, What is your income? After all, this is unsecured debt. It is not secured by anything but the person.

We are saying, if, in fact, an individual defaults, they are younger than 21, they had no cosigner, they earn below the poverty line, they already have six cards, if they wind up in bankruptcy court, the judge should consider this situation.

This is about responsibility on the part, yes, of the person who is using the card, but also on the part of the credit card companies.

I yield the floor.

### AMENDMENT NO. 67

Mr. DODD. Mr. President, I urge my colleagues to support the amendment I offered yesterday. It is an amendment designed principally to protect children and families caught in the bankruptcy situation.

Let me state again at the outset, clearly there is a need to reform the bankruptcy laws—none of us disagree with that—but it must require a sense of balance. People are moving through the bankruptcy courts, but we also need to keep in mind that families, particularly children, the innocents in this, are not going to be so disadvantaged by the process that we create a more serious problem than the bankruptcy issue suggests.

Under this bill as presently crafted, there are several areas where we could do a far better job of seeing to it that children and families are going to be protected to the extent possible, while creditors are also going to have an ability to reach assets. This bill provides too strong a straitjacket for families.

I offer four different parts in this amendment. The first modifies the means test to require greater flexibility and reasonableness in calculating a debtor's ability to pay. Under the bill you have $1,500 a year as the total amount allowed for educational expenses for children. The reality of the 21st century, putting aside parochial school education, even for a public school, $1,500 is too low a figure for the children to get the proper education they need. Our amendment raises that ceiling from $1,500 to $5,000.

Second, the amendment ensures that support payments, child support payments, alimony, if there are any resources coming from the earned income tax credit or the child tax credit, specifically money intended to support children and their needs, should not go to creditors. Those moneys ought to be kept out of the estate. Again, child support, alimony, EITC, child tax credits. The bill does not presently allow that. We specifically passed that legislation to assist poor families and families with children.

Third, the amendment enables debtors going through bankruptcy to keep personal property normally found in and around the home. The bill does list some new items that were not in the earlier versions of the bill. That is a simple reasonableness test. Rather than having a finite list, if these goods have no resale value at all, and they are used for children and used for providing for the needs of the household, they ought to be excluded. That is the third part of this amendment.

Fourth, the amendment ensures that debtors are not forced into bankruptcy court to seek to prove that food, diapers, school uniforms, and other items are luxury items. Under the present law, the bankruptcy current law allows $1,225 to be charged within 60 days of filing bankruptcy. This bill drops that number to $500 within 90 days. That is a totally unrealistic number. Anyone who has young children will tell you $500 over 90 days to provide for your children is far too low. We tried to offer a compromise, saying any charges amounting to $1,000 within 70 days. As I say, existing law is $1,225 within 60 days. The bill says $500 within 90 days. Our amendment says $1,000 within 70 days.

Lastly, as part of this amendment, if the creditors think these are luxury items, let them make the allegation in court. This bill requires these dependent women, most of them single women raising children, have to prove these are not luxury items. The burden ought to be on the opposite side of the equation.

That is what the amendment is designed to do. There are four pieces to it. It is specifically designed to offer some relief to the innocents, the children and the families who are going through this process—not to blame them or put them in an untenable situation.

This amendment is supported by a long list of organizations across the country dealing with women and children. I ask unanimous consent that list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACES, Association for Children for Enforcement of Support, Inc., American Association of University Women, American Medical Women's Association, Business and Professional Women/USA, Center for Law and Social Policy, Center for the Advancement of Public Policy, Center for the Child Care Workforce, Children NOW, Children's Defense Fund, Church Women United, Coalition of Labor Union Women (CLUW), Equal Rights Advocates, Feminist Majority, Hadassah, International Women's Insolvency & Restructuring Confederation ("IWIRC"), MANA, A National Latina Organization, National Association for Commissions for Women (NACW), National Black Women's Health Project, National Center for Youth Law, National Council of Jewish Women, National Council of Negro Women, National Organization for Women.

Mr. DODD. This bill deserves to make some changes. I hope our colleagues look closely at what is in the bill and support this amendment and see we can provide a sense of balance and relief for children and families who need some protection when they go through the bankruptcy process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The minority time is expired and the majority has 5 minutes on each of four amendments.

### AMENDMENT NO. 62

Mr. HATCH. Mr. President, let me talk about the Boxer amendment for a minute or two. The purpose of this amendment is to restrict credit availability for young adults.

Others believe that using credit cards to build a history is a laudable objective for young adults. This amendment does not distinguish between legitimate uses by young adults from other uses. It applies to any person under 21, regardless of his or her financial independence or employment situation.

Also, note that 18-year-olds can serve in the military, get married, vote, and in most States serve on juries, all without a cosigner.

This bill does address the issue of credit card debt and younger adults. Title XII of the bill provides for a study regarding the impact of the extension of credit to individuals who are claimed as dependents for Federal income tax purposes and are in college.

The same section provides other relevant credit card-related reforms that are the result of careful negotiation. These include several amendments to the Truth in Lending Act which includes creating increased disclosure requirements for credit card statements and mandating the credit card companies assist borrowers in determining how long it will take to pay off their credit card balances; requiring certain additional disclosures to borrowers buying and refinancing their homes; require additional disclosures regarding credit card so-called introductory rates; extending Truth in Lending requirements to Internet-based credit card solicitations; adding new disclosures related to the credit card late fees; and prohibiting cancellation of credit cards solely due to borrowers' failure to incur finance charges.

These are good changes, in my view, and the view of the majority of the Senate. They were all carefully negotiated over the last 8 years. We do not need to come in now and make further revision to delicate compromises such as this. I urge my colleagues to vote against the Boxer amendment. It would do more harm than any good.

### AMENDMENT NO. 67

I wish to speak against Senator DODD's amendment 67. This is an omnibus amendment. There is nothing else to call it. This late in the game, a successful amendment usually targets specific provisions in the bill for improvement. And getting agreement on one of these rifleshot amendments can be like herding cats.

Quite frankly, this is a message statement. It asks us to protect families. This is a noble goal, but it is not one served by this amendment. This amendment alters the carefully negotiated means test to permit nearly all filers to avoid a presumption of abuse. In some respects, it is redundant.

For example, it lists as expenses many things that are already covered in the IRS standards used in the bill to determine appropriate expenses. In other areas, it is excessive. For example, it increases the allowable expenditures for private school education from $1,500 to $5,000.

The worst part of this is it created a category of miscellaneous expenses. This is not just a loophole. My gosh, you could drive a truck through the opening for abuse this amendment puts through the middle of the means test, a test that has the purpose of a reduction in abusive bankruptcy filings.

I said it once, and I say it again. This means test is the heart of this bill. The means test is fair. The means test has been carefully negotiated between Democrats and Republicans over 8 years of time. I have to oppose any effort to revise the means test at this late day. I urge my colleagues to vote against this amendment.

### AMENDMENT NO. 110

I rise in opposition also to the Durbin amendment. It takes a broad swipe at the means test again. First, the very purpose of the means test is to treat genuinely impoverished filers fairly. If you are below the State median income, you are not subject to the means test. It is as simple as that. This amendment undermines the ability of a court to verify a person's income when he or she is filing for bankruptcy.

This amendment would remove the basic requirement that debtors fill out certain forms to verify their income. You have to fill out forms to get a driver's license, to get a job, to apply for a retirement plan. For example, when an individual applies for food stamps, there is a complete application process to verify income and assets before this benefit is approved. Is it too much to ask that if the Government is going to allow you to liquidate all of your debts, you at least show the court definitive proof of your income?

Instead, this amendment allows a person simply to declare that his income is below the State median income. All he has to show are "calculations or other information." In other words, take their word for it. That seems to open the door to the fraud this bill is designed to prevent.

I believe most people are honest, but inevitably there are some applicants who will take advantage of the looser requirement. As Ronald Reagan said in a different context: Trust but verify.

I urge my colleagues to vote against the Durbin amendment, as well.

### AMENDMENT NO. 66

I oppose the Harkin amendment. This was part of a problematic Rockefeller amendment we have already voted down. I respect my colleagues' dedication to the issue, but I must urge my colleagues to vote no.

I am pleased we invoked cloture yesterday by a vote of 69–31. If that is not bipartisan, I do not know what is. This bill has been in the works for 8 years now, and I hope we can soon pass it for the fifth and final time. My colleague from Wisconsin has 14 amendments pending. I also understand there are roughly another six or so Kennedy amendments and two Durbin amendments. That is 22 amendments between these Senators.

I wonder if my colleagues know how many other amendments are pending. The answer is three: one from the ranking member of the Judiciary Committee, one from Senator AKAKA, and one from Senator TALENT. What does this tell you?

I respect my colleagues from Wisconsin, Massachusetts, and Illinois, but why are they dragging out this process? Their amendments constitute roughly 88 percent of the remaining omnibus bill. I suspect that even if we accepted every one of the amendments, all three would not vote for this legislation. So this is important. I respect the right of Senators to bring up their germane amendments in postcloture situations. If they want to do it that way, they certainly can.

I oppose every one of those amendments. I think a majority of the Senators should oppose those, as well. We need to get this bill done. We know we have to keep it intact in order to get the House to take it and get it signed by the President. It is time to bring this to an end. We have been at it for 8 years and we have worked to accommodate everyone we possibly could. It has been a bipartisan vote every time, overwhelming bipartisan vote every time. By gosh, it is time to vote on this bill.

How much time remains?

The PRESIDING OFFICER. There is 13 minutes.

Mr. HATCH. Is that my time? I am prepared to yield back the remainder of my time and proceed to a vote.

Do we have the yeas and nays on all four amendments?

The PRESIDING OFFICER. We do not.

Mr. HATCH. I ask for the yeas and nays on all four amendments.

The PRESIDING OFFICER. All time is yielded back.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on all four amendments.

Mr. HATCH. I ask unanimous consent that after the first 15-minute rollcall vote the remaining three votes be 10 minutes each.

The PRESIDING OFFICER. That order has been entered.

The question is on agreeing to the amendment of the Senator from Illinois, Mr. DURBIN.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The amendment (No. 110) was rejected.

### AMENDMENT NO. 66

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the Harkin amendment No. 66. The Senator from Iowa.

Mr. HARKIN. Mr. President, this amendment basically protects workers who are able to take a priority preference in back wages, vacation pay, severance pay, and sick pay when a company goes bankrupt.

Under the bill, there is a limit of $10,000. That is fine; I do not touch that. This amendment lifts the 180 days. For example, let's say a worker has worked for a company for 10 years and they get $500 a year severance pay. The company goes bankrupt. Normally, you get $5,000, but because of the 180 days, you only get $250 for which you get a priority; otherwise, you get in line with the other creditors.

What this does is lift the 180 days. There are other examples. If a farmer today has a warehouse receipt for grain in an elevator, there is no time limit on that. They can go 2, 3, 4 years. For alimony there is no time limit. For child support, there is no time limit. There ought not be an arbitrary time limit for a worker who has backpay, sick pay, or severance pay coming. That is all this amendment does.

I cannot believe the House will not send this to the President if we adopt this amendment. Do not even try to sell that to me.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, I yield back all time and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The question is on agreeing to amendment No. 66. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Collins
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The amendment (No. 66) was rejected.

### AMENDMENT NO. 62

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on the Boxer amendment, No. 62.

Will the Chamber please be in order.

The Senator from California.

Mrs. BOXER. Here are the facts, my colleagues. The fastest growing segment of bankruptcies occurs in Americans who are 25 years and younger. The average number of credit cards a college senior has is not two, three, or four, but six. The average senior in college has six credit cards and credit card companies are marketing to our young people at rock concerts, on college campuses. We want responsibility but on all sides.

My amendment puts a modicum of responsibility on the credit card companies. It simply says a bankruptcy judge should consider an appropriate response if a credit card company has given a card to a person who is under the age of 21, has no responsible cosigner, an income below the poverty level, and the person already had six credit cards.

My friends, I hope you will not march down and vote "no" against this amendment. How can you explain at home that a credit card company would have no responsibility if they have given a seventh credit card to a person below the age of 21 who has income below the poverty level? I hope you will support the Boxer amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. McCONNELL. I yield back our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 40, nays 60, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—40

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Chafee
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—60

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The amendment (No. 62) was rejected.

Mr. McCONNELL. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. I ask unanimous consent the last vote in this series in relation to the Dodd amendment occur at 2:45 today; provided further that following that vote, the Senate proceed to vote in relation to the Kennedy amendment numbered 68; further that no amendments be in order to the amendments prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii.

AMENDMENT NO. 105

Mr. AKAKA. Madam President, I rise today to speak on my pending amendment, No. 105.

Section 106 of the bill does not allow consumers to declare personal bankruptcy in either Chapter 7 or Chapter 13, unless they receive a briefing from an approved nonprofit credit counseling agency within six months of filing. The bill also requires each consumer who receives bankruptcy protection to take a credit counseling instructional course. The credit counseling instructional course requirement is intended to provide financial education to consumers who declare bankruptcy so they can attempt to avoid future financial problems.

Approximately one-third of all credit counseling consumers enter a debt management plan. In exchange, creditors can agree to offer concessions to consumers to pay off as many of their debts as possible. These concessions can include a reduced interest rate on the amount they owe and the elimination of fees. However, most credit card companies have become increasingly unwilling to significantly reduce interest rates for consumers in credit counseling. A study by the National Consumer Law Center and the Consumer Federation of America revealed that 5 of 13 credit card issuers increased the interest rates they offered to consumers in credit counseling between 1999 and 2003.

The amendment would amend section 502(b) of the bankruptcy code to prevent unsecured creditors, primarily credit card issuers, from attempting to collect accruing interest and additional fees from consumers in credit counseling if the creditor does not have a policy of waiving interest and fees for debtors who enter a consolidated payment plan at a credit counseling agency.

Since it appears that Congress will require that consumers enter credit counseling before filing for bankruptcy, we must ensure that credit counseling is truly effective and a viable alternative to bankruptcy.

Credit card issuers, undermining the good intentions of consumers who enter into credit counseling, have sharply curtailed the concessions they offer to consumers in credit counseling, contributing to increased bankruptcy filings. According to a survey by VISA USA, 33 percent of consumers who failed to complete a debt management plan in credit counseling said they would have stayed on the plan if creditors had lowered interest rates or waived fees.

A large body of research, conducted by such entities as the Congressional Budget Office and the Federal Deposit Insurance Corporation, shows that aggressive lending practices by credit card issuers have contributed to the current high level of bankruptcies in this country. Credit card companies have an obligation to ensure that effective alternatives are readily available to the consumers they aggressively pursue.

As a show of support for the effectiveness of consumer credit counseling, especially as an alternative to bankruptcy, credit card issuers should waive the amount owed in interest and fees for consumers who enter a consolidated payment plan. Successful completion of a debt management plan benefits both creditors and consumers. For many consumers paying off their debt is not easy. My amendment will help people who are struggling to repay their obligations. I encourage all of my colleagues to support this amendment to help consumers enrolled in debt management plans to successfully repay their credits, free themselves from debt, and avoid bankruptcy.

My amendment has been endorsed by the Consumer Federation of America, U.S. Public Interest Research Group, Consumer Action, and the National Consumer Law Center.

I ask unanimous consent that a letter of support for my amendment be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSUMERS UNION,
CONSUMER FEDERATION OF AMERICA,
*March 7, 2005.*

Re support for Akaka credit counseling and payday loan amendments to bankruptcy bill.

Hon. DANIEL K. AKAKA,
*U.S. Senate, Washington, DC.*

DEAR SENATOR AKAKA: The undersigned national consumer organizations strongly support your amendments to the bankruptcy bill (S. 256) that would encourage more responsible lending by payday loan companies and keep more consumers in credit counseling and out of bankruptcy.

MAKING CREDIT COUNSELING A MORE SUCCESSFUL ALTERNATIVE TO BANKRUPTCY

S. 256 *requires* consumers to seek credit counseling within six months of filing for bankruptcy. However, the credit card companies that created credit counseling have taken steps in recent years that undermine it as a viable alternative to bankruptcy for some consumers. By slashing funding for legitimate credit counseling agencies and charging consumers in credit counseling higher interest rates than in the past, credit card companies are leaving debt choked Americans with few options other than bankruptcy.

If Congress is going to require that consumers enter credit counseling before filing for bankruptcy, it must ensure that credit counseling is truly an effective and viable alternative to bankruptcy. This amendment would stop a credit card company from attempting to collect on debts in bankruptcy unless the creditor has a policy of waiving interest rates for consumers who enter credit counseling.

Consumers who enter a credit counseling "debt management plan" agree to discontinue credit card use and to make one consolidated payment to the credit counseling agency, which then forwards the funds to the appropriate credit card company. In exchange, creditors agree to offer two key "concessions" to help consumers pay off as much of their debts as possible: a reduced interest rate on the amount they owe and the elimination of fees that have accrued.

Unfortunately, credit card companies in recent years have become increasingly unwilling to reduce interest rates for consumers in credit counseling, which has led to more bankruptcy filings. According to a study by the National Consumer Law Center and Consumer Federation of America, five of 13 major credit card issuers increased the interest rates they offered to consumers in credit counseling between 1999 and 2003. Currently, only two major credit card issuers (Wells Fargo and American Express) completely waive all interest for consumers in credit counseling. The majority of other major credit card companies charge interest rates in credit counseling above 9 percent, with issuers like Capital One, General Electric and Discover charging rates of 15 percent or more.

The increasing refusal of creditors to offer low interest rates causes more consumers to drop out of credit counseling and to declare bankruptcy. According to a survey by VISA

USA, one-third of consumers who failed to complete a debt management plan in credit counseling said they would have stayed on the plan if creditors had further lowered interest rates or waived fees. Moreover, almost half of those who dropped off the plan had or were going to declare bankruptcy.

It is ironic that the same creditors whose aggressive and reckless lending practices have contributed to the increase in bankruptcies in this country have weakened credit counseling in recent years. It is hypocritical for the credit card industry to demand that Congress give them bankruptcy relief while closing off credit counseling as an effective alternative for many consumers.

### PROHIBITING THE RECOVERY OF PREDATORY PAYDAY LOANS

This amendment would prohibit payday lenders from having a claim on these loans in bankruptcy. Lenders who entice cash-strapped consumers to write checks without money in the bank to cover them as the basis for making "payday loans" should not be allowed to use the bankruptcy courts to collect. Payday loans trap borrowers in a cycle of debt when consumers flip loans to keep their checks from bouncing.

Last year, consumers paid $6 billion to borrow $40 billion in small cash advances from over 22,000 payday loan outlets. These loans of $100 up to $1,000 are secured by personal checks or electronic access to bank accounts and must be repaid in full on the borrower's next payday. Lenders charge annual interest rates on these loans that *begin* at 390 percent, with finance charges of $15 to $30 per $100 borrowed.

Payday lending condones check-kiting as a financial management tool and encourages the unsafe use of bank accounts. Loans phased on check/debit-holding get paid before other obligations, due to the severe adverse consequences of failing to make good on a check. Some lenders threaten criminal prosecution or court martial of military consumers for failure to make good on the check used to get a payday loan. If the consumer files bankruptcy to stop the cycle of debt, some lenders then try to convince the bankruptcy court that the payday loans should not be discharged.

Consumers need comprehensive small loan protections, reasonably-priced alternatives to payday loans, and sound financial education. In the meantime, Congress should prevent any lender that entices consumers to write checks without funds on deposit or to sign away electronic access to their bank accounts from also using the bankruptcy courts to collect on their usurious loans.

If this nation is truly going to reduce bankruptcies, lenders must first exercise more responsible lending decisions and be more responsive to consumers who show a genuine interest in resolving their debt problems. We applaud you for moving to make payday and credit card lenders more accountable in their treatment of consumers.

Sincerely,

JEAN ANN FOX,
*Director of Consumer Protection, Consumer Federation of America.*
TRAVIS B. PLUNKETT,
*Legislative Director, Consumer Federation of America.*
SUSANNA MONTEZEMOLO,
*Policy Analyst, Consumers Union.*
LINDA SHERRY
*Editorial Director, Consumer Action.*
EDMUND MIERZWINSKI,
*Consumer Program Director, U.S. Public Interest Research Group.*
JOHN RAO,
*Staff Attorney, National Consumer Law Center.*

Mr. AKAKA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I would like to have the attention of the Senate to discuss my remaining amendments to the bankruptcy bill. I think my colleagues are aware that I strongly oppose this bill and that I am very disappointed in the process that has brought us to this point. I do not believe the sponsors of this bill and its supporters in the other body have dealt fairly with the proposed amendments.

I understand the Senator from Utah came to the floor earlier in the day and was complaining that I had a number of amendments and that I did not intend to vote for the bill.

I have been a legislator for 22 years. This is not an auction. Even if you are going to vote against a bill, if you have an amendment you believe will make it a better bill, it is still a worthy consideration. I was told in the committee, where I wanted to offer many of these amendments, that I should not offer them, that I should wait until the bill came to the floor to offer the amendments. So in most cases that is exactly what I did, being assured there would be a good faith response and consideration of the amendments. Well, of course, that is not what has happened to date. And I categorically reject the idea that simply because you do not think a bill is good, you do not have a proper role on the floor of the Senate in trying to improve it.

This has not been a legislative process worthy of the Senate. Members of the Judiciary Committee, as I just said, were implored to save their amendments for the floor. Then, when we got here, we were told no amendments could be accepted. It was a classic bait and switch. Negotiations have been minimal and pro forma. Extremely reasonable amendments were rejected supposedly because they were not drafted correctly, according to the sponsors, but there was no willingness to work on the language of the amendments so they could become acceptable.

One of the most disheartening examples of this way of dealing with good faith amendments was the treatment of the amendment offered by the Senator from Florida concerning identity theft. Senator NELSON simply wanted to give some special consideration to people who are forced into bankruptcy because other people—criminals, in fact—ran up debts in their names. It is awfully hard to argue with a straight face and pretty hard to claim that victims of identity theft should have to pay at least some of their debts if they have a higher than median income. The debts are not even theirs. Believe it or not, this bill might actually force someone to file for chapter 13 and make payments on debts for 5 years that were not even run up by the person filing for bankruptcy. I find this to be incredible. Unfortunately, the response from one of the bill's cosponsors was: "well, you have a good point here, but your amendment is just too broad."

In the Senate I have come to love in my 12 years here, the Senate I served in just a few years ago when we last considered the bankruptcy bill, Senators and their staffs would have sat down and they would have worked out language that was not too broad. There would have been some negotiation. In many cases an agreement would be reached. But in this debate that kind of legislating is apparently forbidden.

What is most disheartening is that so many Senators sent here to represent their constituents, to exercise their independent judgment for the good of their States and the country, have been willing to blindly follow instructions from the shadowy coalition of groups that are behind this bill—mainly the credit card industry—and vote down even the most reasonable of amendments. It is just sad when there is no debate on amendments, no discussion, no negotiation, just an edict from outside of the Senate, and the "no" votes follow every time.

Last night I offered a very important amendment concerning small businesses. I spoke for 10 or 15 minutes about the amendment and explained some new data on small business bankruptcies that I think shows these provisions are actually very wrongheaded. After what has gone on here, I, of course, didn't expect to win the amendment, but I did think we might have a debate of sorts. The sponsors of the bill didn't even bother to come down and debate. Not one Senator made a single response to my arguments. They sent an emissary to deliver the message right before the vote that the sponsors expected a "no" vote. Nonetheless, I have not given up hope that some real legislating can still take place in the waning moments of our consideration of this bill.

I have a number of amendments, 14 to be exact, pending before this body. They are entitled to receive votes before we vote on final passage. They are reasonable and modest amendments. They are not so-called message amendments. They are not intended to be poison pills or bring down the bill by causing a huge disagreement with the House. They are intended to improve the bill because this bill is now not an academic exercise, as we know. It is going to become law. It is going to be the first bankruptcy reform of any great substance since 1978. It is going to become law, probably in a matter of weeks, and it will have a real impact on real people all over this country.

Last night my staff was able to have some discussions about these amendments with staff for the sponsors. I am hopeful that some of these amendments can be accepted or negotiated. I am prepared to entertain any reasonable offer. If I feel the sponsors have made a legitimate effort to look closely at my amendments and consider them with an open mind, and if some number of those amendments are accepted, I will not seek votes on all the amendments. No one likes a vote-arama, as it has come to be known, when we vote on a bunch of amendments in a row and often people don't know what they are voting on. But we will have one if the attitude that has been on display for the last week and a half continues.

I know my bargaining position is not strong. But I hope my colleagues will look at these amendments and realize that they are modest and might actually improve the bill in a way that wouldn't offend anyone in this entire body from the point of view of their philosophy about what bankruptcy law should be. Writing laws that work is what the Senate is supposed to do. Here is an opportunity to do that.

Let me talk briefly about each of these amendments because I do not intend to call each one up individually for debate. Some of them are very simple. Let me reiterate that I am open to discussion on any of these amendments. If there is something about the drafting that could be improved, I urge the sponsors to work with me and help me perfect the amendments so they can become part of the bill in a managers' package or perhaps even by unanimous consent.

The first amendment I will discuss is amendment No. 92 which has to do with section 106 of the bill on credit counseling and education. The bill requires credit counseling and credit education for people who file for bankruptcy. Section 106 of the bill requires debtors to obtain a credit counseling briefing before filing a bankruptcy case and to take a credit education course as a condition of receiving a discharge. However, the provisions provide no recourse for debtors who have exigent circumstances that would make it actually impossible for them to take a credit education course after filing or to get credit counseling, even during the 30-day grace period the bill now allows.

Let me give a few examples. I know these cases may be rare, but they are real. There are people in this country who are homebound and do not have a telephone or Internet access. I wish there weren't, but there are. Are we going to decide in the Senate that these unfortunate citizens can never file for bankruptcy because they are in that situation? How about people who suffer from dementia caused by Alzheimer's or some other disease? They sometimes have to file for bankruptcy because of massive medical bills, and they can do so through someone who has power of attorney. Do we think anything is to be gained by requiring a debtor who is ill with a terrible, incurable disease, not even competent to sign legal papers anymore, to take a credit education course?

How about U.S. soldiers fighting in Iraq or Afghanistan or serving anywhere overseas? It is a tragedy that some of our young men and women serving their country have to file for bankruptcy, but that is actually happening right now every day. Yes, there is Internet access in Iraq, but do we want to require a soldier to sit down at a computer to take a credit counseling or credit education course while they are in Iraq in order to protect his or her family back home from financial ruin?

By the way, the Servicemembers Civil Relief Act does not address this problem. Nothing in that statute would excuse members of the military, even those on active duty serving overseas, from the credit counseling and education requirements. Our fighting men and women are already having to file for bankruptcy despite the protections of that law. My amendment creates simply a safety valve to address this problem by giving courts discretion—it just gives them discretion—to waive the credit counseling and education requirements based on a sworn statement filed by the debtor with the court.

The bill also fails to address the potentially prohibitive cost of credit education to some debtors. In contrast, section 111, which addresses credit counseling services, requires credit counseling organizations to provide counseling without regard to ability to pay the fee for such a service. My amendment borrows the same language, requiring credit education to be offered for a reasonable fee and offered to all persons without regard to ability to pay the fee.

These changes are essential to ensuring that the bankruptcy system is still an option available for those who truly need it. Let's not make these counseling and education requirements, which I think have a great deal of merit, into some kind of a trap for some unusually situated but still good-faith debtors whom the bankruptcy decision is actually designed to help. I know this issue is particularly important to Senator SESSIONS. I hope to be able to work with him to reach agreement. He and I have worked together well on this and a number of other issues in the past with the regard to the bankruptcy bill. I hope he will follow suit on this as well.

The amendment I have just discussed deals with the impact of this bill on a very few, unusual, and very hard-luck debtors. The same is true of the next amendment I want to discuss concerning current monthly income. There are actually two amendments I have filed on this topic, amendment No. 96 and amendment No. 97. I am suggesting two alternative approaches to deal with the same problem.

Section 318 requires debtors in chapter 13 whose current monthly income is over the median to file a 5-year plan rather than a 3-year plan. Requiring debtors to file a 5-year plan means it will take them longer to get back on their feet and they will end up paying more money to emerge from bankruptcy. Only those with a higher income should be subjected to this longer plan. But because of the way the income threshold is calculated in the bill, there is a great possibility of arbitrary and unfair results.

Whether this requirement applies depends on the income that debtors earn in the 6 months before bankruptcy rather than their actual income at the time of filing. In other words, the median income test is based on what you used to make, not what you make at the time of bankruptcy. To understand this problem, imagine person A has an income of $60,000 and that the State's median income is $45,000. A month before bankruptcy, she loses her job and is forced to take a job that pays only $30,000. Under the bill, her current monthly income works out to $5,000, even though she only makes $30,000 at the time of the bankruptcy and even if she never finds a higher paying job. So she would be forced into a 5-year plan, even though her real income is well below the threshold the bill's drafters apparently had in mind.

Imagine person B has an income of $40,000 before and after filing for bankruptcy. Because person B's income is below the median, she will be allowed to enter a 3-year plan even though she actually makes more than person A. So the definition of current monthly income as the average of the prior 6 months' income may not make sense in some cases.

My amendments provide two alternative ways to allow for a different and more accurate monthly income to be calculated. In addition, under my amendment, if a debtor's income decreases during the bankruptcy case to less than the median income, then a debtor who is at that time on a 5-year plan can seek to have the plan reduced to a 3-year plan.

Incidentally, the bill already provides a safety valve for calculating current monthly income in chapter 7. The court can reduce the income used for the means test if special circumstances are present. Special circumstances such as job loss or a sharp reduction in income from a home business would certainly qualify. I think it is an oversight that this was not done for chapter 13. So I hope the sponsors will simply fix this problem.

This change also needs to be made in another section of the bill where current monthly income plays a significant role: that is, in determining whether a debtor will have to use the restrictive IRS standards under the means test to figure out what living expenses will be permitted.

Again, it is unfair to someone filing in chapter 13 to make that determination based on past income rather than what the person actually makes.

This is a commonsense fix. We shouldn't import the means test to chapter 13 without allowing for special circumstances adjustments to income. Either of my amendments would bring chapter 13 in line with chapter 7 on this score.

The next amendment I want to discuss also has to do with chapter 13. There is a peculiar problem in this bill. I have often called it a bill that is at war with itself. What I mean by that is that the bill's overriding purpose—the argument that we have heard over and over on the floor in the past week 26 and a half—is to get more people to file for bankruptcy under chapter 13, which will require them to pay some of their debts over a 3- or 5-year period before getting a discharge of their remaining debts. This is what the means test is all about—getting debtors to pay some of their debts if they are able. That is chapter 13. You would think, then, that the bill's sponsors and supporters would want to make sure that chapter 13 remains a viable option for those debtors. But the bill also includes a number of provisions that make it less advantageous to file in chapter 13 and harder to complete repayment plans. That is a bill at war with itself, and I predict this bill will have very bad consequences if it is adopted as it stands. The chapter 13 bankruptcy trustees and judges have certainly told us that over and over again for the past 8 years. Apparently, no one wants to listen.

One amendment I have offered to try to undo one of the problems this bill creates for chapter 13 amendment No. 95, having to do with discharge of back taxes. Current bankruptcy law allows debtors who complete chapter 13 payment plans to discharge all taxes that were owed more than 3 years before the time of the petition. This allows debtors to look forward to someday improving their financial situation without facing a lifetime of debt repayment for old taxes. But the bill makes it less advantageous to file for bankruptcy under chapter 13 by disallowing the discharge of many of these older taxes.

Under section 707 of the bill, a standard now applicable only to chapter 7 would be applied to chapter 13. In chapter 7 cases, debtors may only discharge old taxes if they filed a tax return for those taxes at least 2 years before filing for bankruptcy. That limitation does not currently apply to chapter 13 cases. By the way, under chapter 13 today, as in chapter 7, taxes owed for the last 3 years must still be paid in full as priority debts, which enables the IRS to collect what is available from the debtor's disposable income with very low collection costs, and older taxes are paid pro rata with other creditors for duration of the plan. Society benefits at the completion of a debtor's chapter 13 payment plan when the debtor is able to rejoin the economic system as a tax-paying wage earner.

This is an important protection. Typical older tax cases involve debtors who have recently gotten back on their feet and found a job after years of economic or family displacement. The displacement is often the result of serious health or substance abuse problems, unstable employment or a marital collapse. These debtors may have drifted through many jobs over several years without keeping the W-2 or 1099 forms needed to file tax returns. Having finally found steady employment, debtors are often faced with a wage garnishment for these old taxes just at the time they are attempting to get back on level financial ground. The debtors may need to file for bankruptcy to stop the garnishment so that they will have enough money left from take-home pay to pay rent, child support, or other financial necessities.

But if old taxes cannot be discharged through a chapter 13 plan, as proposed in this bill, debtors will have no reason to try to pay what they can afford to pay through a chapter 13 plan, because they will know that at the end of the 3- to 5-year payment plan, they likely will again face an IRS garnishment for the older taxes.

My amendment addresses this problem. I should also point out that the amendment retains the bill's prohibition on the discharge of taxes for which a fraudulent return was filed. So we are talking about discharging of back taxes that are not the result of fraud, just the result of nonpayment.

The next amendment also deals with chapter 13. It is amendment No. 94, and would correct a serious drafting error in section 102(h) of the bill that threatens to unintentionally eviscerate chapter 13. Refusing to remedy this error would be disastrous for the very chapter of the code that the sponsors of this bill want to encourage people to use.

In chapter 13 cases, debtors must devote all they can afford—that is, their disposable income after living expenses—to payments under their plan. These payments go to administrative expenses, secured creditors and unsecured creditors. In fact, most chapter 13 cases filed under current law are filed in order to deal with secured debts, to prevent foreclosure on a home or repossession of a car.

As written, section 102(h) of this bill would instead require that for debtors who are below median income, all disposable income must go to unsecured creditors, and none could be used for secured debts or administrative expenses. This is an obvious drafting error, since the purpose of section 102(h), as I understand it, was simply to require debtors with income over the median income to use the IRS standards contained in the means test to determine their allowable living expenses but to leave the law unchanged for debtors below median income.

If this error is not corrected, the bill will make it impossible for debtors below median income to use chapter 13. Now some in this body may be under the mistaken impression that people who file for chapter 13 bankruptcy are well off and they will only choose that chapter if they are forced to by this bill. That is obviously not true since chapter 13 exists now and millions of people use it voluntarily. The large majority of chapter 13 filers are actually below median income. In fact, in the 1980s, one study found that about 15 percent of chapter 13 filers were actually below the poverty line. Very few people file in chapter 13 because they have large amounts they can afford to pay to unsecured creditors. They do it to protect their homes from foreclosure or their cars from repossession. While there certainly are exceptions, people who file for bankruptcy are generally poor, whether they choose chapter 7 or chapter 13.

Currently, with no means test in place, about 30 percent of bankruptcy debtors voluntarily file under chapter 13. Even the sponsors of this bill claim that only another 8–10 percent of those who now file under chapter 7 would be switched to chapter 13 if the means test were implemented. So even with the means test, the majority of chapter 13 debtors will almost certainly be below median income. That means the drafting error I have discussed is a big deal. We have to fix this problem before it becomes law.

A second problem created by this error has to do with administrative expenses in chapter 13 cases. Administrative expenses in bankruptcy include the fees of lawyers and trustees who are paid to process the case.

Section 102(h) of the bill would effectively impose a 10 percent cap on chapter 13 administrative expenses for debtors with income over the median. And it would prohibit any payments at all for administrative expenses for debtors below the median. What that means is that there will be no lawyers to handle chapter 13 cases at all. Chapter 13 will become a nullity.

This bill has contained a number of antilawyer provisions over the years, but I cannot imagine that the drafters of this bill intended to effectively prohibit attorney participation on behalf of debtors in chapter 13 cases.

My amendment will correct these drafting problems. It makes clear that the means test expense standards will be used for chapter 13 cases filed by debtors who make more than the median income. It makes sure that below median income debtors can pay their secured creditors. And it will allow administrative expenses, including attorneys' fees, to be included in the plan payments. I urge my colleagues to support this amendment if you don't want this bill to write chapter 13 out of existence.

Another of my amendments deals with a provision that bankruptcy lawyers are very concerned about. This is amendment No. 93 on debt relief agencies. The amendment is strongly supported by the American Bar Association. This amendment would exclude lawyers from the provisions dealing with "debt relief agencies" in sections 226 to 228 of the bill. As currently written, the bill would impose a number of unnecessary burdens on the attorney/client relationship in bankruptcy proceedings. Subjecting attorneys to the "debt relief agency" provisions will add little substantive protection for consumers, but require substantial amounts of extra paperwork and cost.

Requiring lawyers to call themselves "debt relief agencies" will do more to confuse the public than to protect it. I think members of the public generally understand what the word "lawyer" means, but the phrase "debt relief agency" is vague and unhelpful. It is also misleading, because there are significant differences between lawyers and nonlawyers, but both would be identifying themselves as debt relief agencies under this bill.

Only lawyers are permitted to give legal advice, to file pleadings, or to represent debtors in bankruptcy hearings. Perhaps most importantly, only lawyers are bound to confidentiality by the attorney-client privilege. These distinctions are important to consumers, but they would be obscured by the bill as written.

Furthermore, these provisions would apparently apply to any law firm that provides bankruptcy services, even if that law firm were primarily providing landlord-tenant advice—even to landlords—criminal defense services, or other unrelated services. Large firms with only one bankruptcy practitioner may be required to advertise themselves as "debt relief agencies."

I think this will be immensely confusing to consumers without any apparent benefit.

The substantive provisions on "debt relief agencies" would add little to the already existing laws and regulations governing attorney conduct. Attorneys currently have extensive duties relating to disclosures, fees, and ethical obligations. These provisions would micromanage that relationship without adding any meaningful substantive protection.

I think the intention of the bill's drafters was to prevent attorneys from tricking consumers into bankruptcy by not telling consumers from the beginning that they work on bankruptcy issues, and then sort of springing the idea of bankruptcy on the consumer. But rather than simply prohibiting this sort of unethical behavior, the bill tries to micromanage the attorney-client relationship by requiring large amounts of additional paperwork and disclosure. Extra paperwork substantially burdens the consumer and adds to the cost of bankruptcy. Given that attorney conduct is already regulated, I believe these provisions are unnecessary as applied to attorneys and provide no clear benefit.

As I mentioned, the American Bar Association strongly supports this amendment. The Federal Bar Association is also strongly in favor of it.

Mr. President, I ask unanimous consent that a letter from the Federal Bar Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL BAR ASSOCIATION,
OFFICE OF THE PRESIDENT,
*Cincinatti, OH, February 28, 2005.*

Re Attorney Liability Provisions in S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Hon. ARLEN SPECTER,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*
Hon. PATRICK LEAHY,
*Ranking Minority Member, Committee on the Judiciary U.S. Senate, Washington, DC.*

DEAR CHAIRMAN SPECTER and SENATOR LEAHY: As the Senate prepares to consider the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" (S. 256), I write to express the opposition of the Federal Bar Association to several provisions in the proposed legislation that would in our opinion inappropriately increase the potential liability and administrative burdens of bankruptcy attorneys under the Bankruptcy Code. Those provisions would require attorneys to: certify the accuracy of factual allegations in the debtor's bankruptcy petition and schedules under penalty of court sanctions (section 102); certify the ability of the debtor to make payments under a reaffirmation agreement (section 203(a)); identify and advertise themselves as "debt relief agencies" subject to a variety of regulations (sections 227–229).

The Federal Bar Association, with over 16,000 members throughout the country, is the only national association composed exclusively of attorneys in the private sector and government who practice within or before the federal courts and agencies. Our mission is to serve our nation's federal legal system. In our view, the above-referenced provisions of the proposed legislation pose a serious threat to the efficient operation of the bankruptcy laws and the bankruptcy courts. We are joined in this opinion by many state and national bar associations and bankruptcy practitioners.

The cumulative potential liability and additional administrative burden imposed upon debtor attorneys by the legislation may be expected to generate a substantial negative impact on the availability of quality legal counsel in the bankruptcy system. The above-referenced provisions will discourage many attorneys from agreeing to represent debtors and significantly increase the fees and expenses of clients. The requirement that a bankruptcy attorney certify the accuracy of factual allegations in the debtor's bankruptcy petition and schedules, for example, will essentially require the attorney to become a guarantor of the petitioner's statements. The effect of these draconian changes may be to drive many consumer bankruptcy practitioners out of this area of practice, depriving individuals of adequate legal representation and forcing them to seek less responsible alternatives such as unlicensed bankruptcy petition preparers or to file their petitions themselves. They may not even receive adequate advice regarding the necessity or advisability of filing for bankruptcy. Therefore, the attorney liability and "debt relief agency" provisions contained in the proposed bankruptcy legislation may have an adverse effect on debtors, creditors and the bankruptcy system itself. While these changes may not be intended by the advocates of the legislation, they are foreseeable.

The spirit of the above-referenced provisions can be better satisfied by the imposition of non-dischargeability sanctions upon debtors who falsify their bankruptcy schedules and tougher action by bankruptcy courts and the United States Trustee to enforce Bankruptcy Rule 9011 when misconduct by a party exists. These reforms would reduce bankruptcy fraud and abuse without unfairly harming honest debtors or the bankruptcy system.

We call upon you to support amendments that may be offered on the Senate floor that would remove the inappropriate and unnecessary sanctions and burdens described above from the proposed bankruptcy legislation.

Thank you for considering these views. If you would like more information on the PBA's views, your staff may contact our counsel for government relations, Bruce Moyer, at (301) 270–8115.

Very truly yours,
THOMAS R. SCHUCK,
*National President.*

Mr. FEINGOLD. Mr. President, another amendment I have pending is really concerned with making the bankruptcy system work better for both creditors and debtors. It is amendment No. 90, dealing with notice.

The bill contains three separate notice requirements which seem to create significantly differing procedures for notice.

The first provision requires debtors to send notice to the creditor at whatever preferred address the creditor has specified in correspondence with the debtor shortly before bankruptcy.

The second provision says that debtors and the court must send notice to the creditor at an address the creditor files in each individual case.

And the third provision says the court must send notice to an address the creditor files for all cases, with an exception if a different address is filed for an individual case.

The first requirement, that debtors send notice that bankruptcy has been filed to creditors at the creditors' preferred address, is actually unworkable and unfair and serves no apparent purpose. Debtors often do not receive correspondence within the last 90 days prior to filing for bankruptcy, and even when they do, they may not know that the correspondence is significant. Essentially, debtors might end up having their cars repossessed despite the fact that they filed for bankruptcy and repossession should be prevented by the automatic stay because they threw away what appeared to be junk mail from the creditor. And bankruptcy lawyers are forced to search through their clients' correspondence for an address or a change of address.

I think we can come up with a much more streamlined notice provision that will satisfy the interests of both creditors and debtors.

My amendment will eliminate the first notice provision of the bill and instead establish a central national registry for creditors' correspondence addresses. The registry would be available to debtor's counsel and the court on the Internet, as is already done for government creditors under the Federal Rules of Bankruptcy Procedure. The same address could be used for all notices, except when a creditor files and serves a different address for an individual case.

The bill generally provides for such a registry, and the courts are moving in that direction anyway, but the bill has two significant flaws. First, the bill is vague about whether a registry is to be maintained by each court or in a central national database, and it does not provide that the registry will be made available to the public.

Second, the bill's current language is unworkable because counsel will have to constantly check court records in every case to see if a new address was filed with the court. My amendment requires parties to use any address that has been filed more than 120 days previously with the registry. Within that 4-month period, the addresses should be updated in various software programs that bankruptcy attorneys use to find addresses, or they can recheck the registry to find if addresses have changed.

The exception to sanctions for a violation of an automatic-stay violation must also be amended so it does not include creditors who have clear actual notice of a stay. As it stands now, the bill creates a loophole that will encourage rampant abuse. For example, a debtor who filed for bankruptcy the previous week might return home from work to find her car being repossessed. The creditor might claim the debtor did not provide proper notice of the bankruptcy because notice was not sent to the correct address and therefore the creditor can proceed with the repossession, even if the debtor has her time-stamped bankruptcy petition in her hand and shows it to the repo man. It would not even work in that circumstance, which is an absurd result.

Finally, the language of the bill should be clarified so that actual notice reasonably calculated to come to the attention of a creditor or its agent is sufficient to allow sanctions for violation of the stay.

Correcting the notice provisions will protect the interest of debtors and creditors. Do we really want to leave in place a provision that is so obviously contradictory and unworkable and that could lead to a result as unjust as the example I just described? I hope not.

I also believe that creditor as well as debtor attorneys will appreciate the streamlined notice provision in my amendment and the establishment of a national registry available on the Internet.

It is my understanding the Administrative Office of the Courts does not favor the current language of the bill because it has essentially been overtaken by events. The courts are moving to electronic filing and notice registries. Keep in mind, this bill started about 8 years ago. An awful lot has happened in that time to make this much more feasible and, frankly, much more helpful to whoever is working on this, whether it be creditor representatives or debtor representatives.

My amendment is consistent with that movement. The bill is not.

One of my amendments is just a clarification of the effect of my bill and should not be controversial at all. It is amendment No. 100 on reaffirmation.

Section 524(1) allows creditors to accept payments made "before and after filing" of a reaffirmation agreement with the court. It also provides that a creditor may accept payments from a debtor under an agreement that the creditor believes in good faith to be effective.

I am concerned that these provisions could allow creditors to accept and retain payments where the reaffirmation agreement is ultimately held to be invalid.

In the late 1990s, in a celebrated case, the retailer Sears was required to disgorge literally hundreds of millions of dollars in payments made by debtors pursuant to reaffirmation agreements that were invalid because they were never filed with the court. This bill would permit acceptance of payments before a reaffirmation agreement is filed. This will leave an ambiguity that would potentially require courts to allow a creditor such as Sears to retain all those payments.

The current language in section 203 of the bill suggests that if Sears in good faith believes those invalid agreements to be legitimate, it could have retained the payments. This would undermine the integrity of the bankruptcy system, and I can see no policy justification at all for allowing creditors to retain payments made pursuant to invalid reaffirmation agreements.

This amendment would clarify that courts have the option to order the disgorgement of payments made pursuant to invalid reaffirmation agreements or to order other appropriate remedies. Again, it is simply a logical correction to an ambiguity in the bill. If it is not necessary, I would appreciate the sponsors saying so on the record so that the legislative history on this point is clear.

Finally, I hope the sponsors will consider agreeing to amendment No. 87 on inflation adjustments. As a result of the efforts of Senator GRASSLEY and my efforts, one of the provisions in this bill is a long overdue inflation adjustment to the dollar amounts in chapter 12, the chapter covering farm bankruptcies. Those dollar amounts were originally set in 1986. We increase the farm bankruptcy amounts to account for inflation since 1986 and then index them for future inflation.

Inflation has severely limited the usefulness of chapter 12 to family farmers, and I am pleased that this bill addresses that problem as well as others with chapter 12.

Virtually all the dollar amounts in the Bankruptcy Code are now subject to section 104, which provides for their adjustment every 3 years in accordance with the cost of living. But not all of them are. The reason that the family farm amounts needed to be increased so much in this bill is because they were not previously adjustable under section 104.

This bill adds a number of new sections or subsections with dollar amounts that are not indexed, including the family fisherman provision, household goods, educational savings limits, certain venue thresholds, and the applicability in chapter 13 of the additional monthly allowance for individuals over a family of four.

Again, this is just a commonsense technical issue. Almost all of the dollar values in the current bill should be added to section 104 and adjusted for inflation, just as the family farm values are, and the homestead exemption, and many others. I implore my colleagues: Do not make the same mistake that was made with respect to family farms back in the mid-1980s.

Do not set up a situation where 10 or 20 years from now some provision is clearly too low, but it cannot be fixed for 7 years while Congress works on another big revision to the Code.

I do hope the sponsors can accept this amendment. If there is an amount they have a real argument about that should not be indexed, I am willing to consider that. I removed one provision in this amendment having to do with the definition of financial participant when I heard from the Bond Market Association that that one should not be indexed. So I am willing to be reasonable, and I hope my colleagues who have worked so hard and long on this bill over the past 8 years will be reasonable as well, as this moves to final passage.

I have taken some time in going through these amendments, and perhaps people watching would say: Why is this Senator waiting until the last minute to raise these issues?

Of course, that is not the case at all. I waited patiently in the Judiciary Committee, provided these amendments well in advance in almost every case for everybody to review. I started to offer the amendments in committee and make my arguments. We received no substantive response at all in the committee on almost every amendment.

When one Senator actually could not take it anymore on the other side and offered a substantive response to my amendment, he said, I apologize to the chairman for making an argument, basically because apparently they had been instructed not to talk about these amendments.

He asked: Senator, why are you doing this? We need to get this out of committee. Why do you not wait until the floor to offer these commonsense amendments, and then we in good faith will work together to try to solve these problems?

Well, that is not what is happening. This is just a slam dunk. There is no danger anymore about considering these amendments. They got cloture. There are plenty of votes. What is the harm of fixing the bill? What is the harm of doing the right thing? What is the harm of doing our job as legislators and making sure we do not stick the entire bankruptcy community with these provisions that do not make any sense? Come on, we can do this now. It is safe to go back in the water. This is going to become law, and not a single one of my provisions will do any damage whatsoever to the fundamental intent or goals of this bill.

I do thank my colleagues for their attention in this presentation. These are highly technical issues. Some may seem minor, and some may actually be minor. I do not want to take the Senate's time on these amendments, which is why I attempted to get them considered in committee and have tried to make myself available at every instance to discuss them over the past week and a half.

I look forward to discussions over the next few hours with the managers of the bill. Perhaps we can still reach agreement that will make some of these votes unnecessary.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 51

Mr. BINGAMAN. Mr. President, I call up amendment No. 51 to the bankruptcy bill.

The PRESIDING OFFICER. Is there objection?

Without objection the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 51.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend certain provisions regarding attorney actions on behalf of debtors, and for other purposes)

On page 14, strike line 2 and all that follows through line 4 and insert the following: "tion of a party in interest, may order the".

On page 14, line 7, insert "and reasonable trustee fees based upon the trustee's time in prosecuting the motion," after "fees,".

Beginning on page 14, strike line 10 and all that follows through page 15, line 17, and insert the following:

"(ii) the court grants such motion.

"(B) Any costs and fees awarded under subparagraph (A) shall have the administrative priority described in section 507(a)(2) of this title, and such costs and fees shall be excepted from the discharge described in section 727 of this title in the current or any successor cases filed under this title.

On page 16, strike line 8 and all that follows through line 10 and insert the following: "the".

On page 28, between lines 17 and 18, insert the following:

(1) ADDITIONAL GROUND OF NONDISCHARGEABILITY.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (18) the following:

"(18A) for costs or fees imposed by a bankruptcy court under section 707(b)(4) of this title, whether imposed in the current case or a prior case filed under this title.".

On page 28, line 18, strike "(k)" and insert "(m)".

On page 59, strike lines 16 and 17 and insert the following:

"(5) The declaration shall consist of the following certification:

On page 60, strike line 4 and all that follows through line 10.

On page 182, line 4, strike **"EXPANSION"** and insert **"ENFORCEMENT"**.

On page 182, line 7, insert " fraud and abuse exist in the bankruptcy system and that in order to curb this fraud and abuse, Federal bankruptcy courts should vigorously enforce" after "that".

On page 182, line 8, strike "App.)" and insert "App.)."

On page 182, strike line 9 and all that follows through line 19.

On page 459, lines 24 and 25, strike ", even if such amount has been discharged in a prior case under this title".

Mr. BINGAMAN. Mr. President, this amendment would help to ensure that legal representation remains affordable and accessible to lower income Americans who are forced into bankruptcy.

As currently written, the bill contains provisions that would significantly increase attorney's fees and expenses related to the filing of a bankruptcy petition. Under existing law, attorneys can rely on information that a client provides regarding the extent and the value of their assets, such as the worth of a car, household furniture, and that sort of item.

In an effort to combat the perceived abuse of the bankruptcy system, this proposed bill requires an attorney to certify that the attorney has made an inquiry into the client's assertions, and it subjects the lawyers to personal liability for inaccuracies in a debtor's list of assets. Although the proponents of this provision may argue that the change will prevent abuse, I believe it is an unnecessary change that will have significant unintended consequences.

Under existing law, attorneys are already required to certify that pleadings, motions, and other materials have factual support pursuant to bankruptcy rule 9011. Attorneys are also prohibited from knowingly making any legal or factual misrepresentation to the court or assisting a client in any abuse. If we want to address misconduct by attorneys, what we need is better enforcement of those existing rules. If we want to address abuse by debtors in submitting their lists of assets, we should seek to hold those individuals responsible. My amendment would do that by making specific debts nondischargeable if the debtor lied about them in their bankruptcy schedule.

With regard to the unintended consequences of these changes, in order to protect themselves from harsh sanctions, attorneys would be forced to conduct a costly investigation into the value and the actual existence of the client's claimed assets. This would not only directly increase the attorney's expenses, it would also likely raise very significantly other costs such as malpractice insurance. The Attorneys' Liability Protections Society, Inc., which is a malpractice carrier that insures 15,000 lawyers in 27 jurisdictions around the country, has estimated that the impact of this provision could result in the immediate increase of insurance premiums for bankruptcy lawyers from 10 to 20 percent.

The bankruptcy bill contains another provision with regard to reaffirmation agreements that will also likely result in higher attorney's fees and costs.

Current law provides that debtors can reaffirm a debt and therefore keep a specific asset, as long as the attorney certifies the decision to do so is voluntary and will not create undue hardship for the debtor.

As drafted, S. 256 would require attorneys, where there is a presumption of hardship, to certify that debtors would be able to make future payments under the agreement. Attorneys are not accountants and would have to conduct extensive audits of their client's finances in order to determine if that client would be able to afford specific payments. Of course, that would drive up attorneys' fees as well.

These additional costs would negatively impact on the accessibility of legal representation and court administration in two primary ways. First, they would reduce the ability of lawyers to take on pro bono cases and would make these legal services unavailable to many indigent debtors. In my own State, the law clinic at the University of New Mexico Law School has said if the bill passes in its current form, it would likely have to stop doing bankruptcy work for indigent clients due to the additional cost and concerns related to the attorney sanction provision. Second, these costs would place additional administrative burdens on the Nation's courts by increasing the number of individuals who would be representing themselves in the court proceeding due to their inability to afford an attorney. According to the Chief Bankruptcy Judge for the District of New Mexico, cases involving pro se debtors, debtors who are representing themselves, can take up to 10 times as much time to process as cases where debtors are represented by counsel. As such, even a small increase in the number of cases being processed without counsel could create substantial administrative burdens on our bankruptcy courts.

So the amendment I have called up would do three things. First, it would replace the attorney liability language in section 102 of the bill with new language that would impose nondischargeable sanctions on debtors who lie on their bankruptcy schedules. Second, it would urge bankruptcy courts to more vigorously enforce existing rules regarding the sanctioning of attorneys where misconduct has been demonstrated. These changes would properly address abuse in the bankruptcy system by holding debtors responsible for intentional misrepresentations in listing the worth of their assets and holding attorneys responsible if they assist in any such abuse. Last, the amendment would maintain existing law with regard to the certification of reaffirmation agreements by attorneys.

I understand the need to punish attorneys for abuse of the bankruptcy process but there are ways to do this without unnecessarily driving up the cost of legal representation. This, in my view, is an amendment that is reasonable. The American Bar Association has endorsed it. I urge my colleagues to support it as well.

I have talked to various of my colleagues in the Senate. I have watched the amendments being defeated in the Senate for the last several days. I believe I am correct that every single amendment that has been offered to this bill has been defeated, many of them on pretty much a party-line vote. So it is clear to me that offering this amendment and actually requiring a vote on it will not be productive.

I do believe it is a significant issue. It is an issue that should be addressed before this bill is completed and goes to the President for signature. I hope my colleagues will consider the need to address this issue and make changes in the bill. But, because of the lack of support, at this point I will not ask for a vote on the amendment.

### AMENDMENT NO. 51 WITHDRAWN

I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, the business here in the Senate is the bankruptcy bill. I want to talk about an amendment I had offered to this legislation that does not get a vote now as a result of cloture being invoked.

The amendment I offered on behalf of myself and Senator DURBIN was offered on a timely basis and the majority decided they did not want to have a vote on the amendment. So when cloture prevailed—and I voted against cloture—this amendment fell also. As a result of that, I do not intend to vote for the underlying bill. The Senate should have voted on my amendment. It was in order. Admittedly it was nongermane to the underlying bill, but still, under the rules, it was in order for me to offer it.

The amendment was an amendment that would create a special committee to investigate contracting waste, fraud, and abuse in the country of Iraq.

We have had almost no oversight hearings here in the authorizing committees of the Senate on how money is being spent with respect to contracting in Iraq. But we have held some Democratic Policy Committee hearings and have heard from a good many whistleblowers and others about what is happening to American taxpayers' money in the country of Iraq. Let me describe some of the testimony we have heard.

This picture is perhaps the best description. At the last hearing I chaired, this person—his face is not seen in this picture, but this person standing here holding some of this money brought this photograph with him. This is $2 million. This $2 million wrapped in Saran wrap in $100 bills was provided to a contractor. The contractor was doing business in Iraq with our Government and the Coalition Provisional Authority, which was our Government as well. Our witness, who worked for the Coalition Provisional Authority, said that people were told when they needed to get paid on their contracts: Bring a bag. Just bring the bag and you get loaded with cash.

The witness said he heard there was a vault with billions of dollars in cash. At any rate, on the day this picture was taken a contractor showed up and collected $2 million in cash in a bag.

Let me describe this contractor, by the way, because there is some legal action with respect to this contractor. I will not use names, but the names were part of the hearing. It was on C-SPAN. This contractor was a firm started by two individuals, formerly in one of the branches of our service, retired, who showed up in Iraq and wanted to be a contractor. They didn't have any money. One of them, I guess, had $450, according to news reports, and they wanted to go into business. So they proposed to get a contract to provide security at an airport in Iraq.

They got the contract. They got $2 million in cash delivered to them. That is how they started the business. But their business was not necessarily on the level. A couple of their employees decided to become whistleblowers because they were so sickened by what they saw happening. The whistleblowers allege that this company was taking forklift trucks off the airport property, painting them blue, and then selling them back to the Coalition Provisional Authority—which, by the way, was us: Ambassador Bremer and us, the American taxpayer.

So this company, these two fellows running this company, were taking forklift trucks, sending them off to a warehouse to paint them, and shipping them back and reselling them to us, the American taxpayer.

The people who blew the whistle on this received death threats, they said, and were quite scared. But despite all the obvious problems, this company was given $100 million in contracts in Iraq.

Listening to the witnesses at our DPC hearings describe what was going on in Iraq, it was unbelievable. There were brand new $85,000 trucks used by contractors in Iraq. When they get a flat tire, what do they do with the truck? They leave it on the road to be torched; brand new $85,000 trucks. If something plugs up the fuel pump, they leave it; just abandon it. How about a company that decides to buy hand towels for soldiers ordered by the U.S. Army, small hand towels. The company that gets the contract to do it decided to nearly double the price of the hand towels because they wanted to put their company logo on the hand towels used by American soldiers. Or the company that orders 25 tons—yes, 50,000 pounds—of nails to be sent to Iraq for construction. The nails were the wrong size. They ordered the wrong size, and 50,000 pounds of nails are sitting on the sands of Iraq paid for by the American taxpayer.

The contractor that gets the contract to put in air conditioning units in buildings in Iraq paid for by the American taxpayer goes to a subcontractor, who goes to another neighborhood crew, and they pass all this money along, and pretty soon what was to have been air conditioners is just a couple of fans in a room, while the American taxpayer pays for air conditioners.

It is unbelievable what is happening with respect to waste, fraud, and abuse, and nobody cares. It is the American taxpayers that are taking a bath.

You can't get oversight hearings in this Senate. Do you know why? Because it would be embarrassing to the administration.

A couple of the contracts I just talked about involve Halliburton. People say when you talk about Halliburton you are going after the Vice President. Not at all. When you talk about Halliburton you are talking after the company that got giant no-bid contracts, and there is no accountability for the way the money is spent. Halliburton was charging the taxpayers for 42,000 meals a day served to U.S. soldiers. The problem is they were only feeding 14,000 soldiers a day. They were overcharging the American taxpayer by 28,000 meals a day.

Where is the accountability? Who cares about that? When is this Congress going to decide it matters?

We passed a nearly $20 billion reconstruction bill. I didn't support it. I offered the amendment to strip the $20 billion for reconstruction in Iraq. But the majority voted to authorize that spending. The reason I didn't support the funding was Iraq has the second largest reserves of oil in the world. A soldier told me they were standing in a depression in the sand one day and the soles of their shoes got black from oil. This is a country with the second largest reserves of oil in the world. It could easily securitize future oil that will be pumped from under the sands of Iraq and use that money to reconstruct Iraq. That ought not be the American taxpayers' job.

But this Senate and this Congress crafted legislation which was signed by this President that says we are going to actually send over nearly $18 billion. Twenty-billion dollars was the request. Senator WYDEN and I got an amendment passed that cut wasteful spending by $1.8 billion. But there is still over $18 billion in the spending pipeline, $15 billion of which has not yet been spent.

I talked to this fellow holding this wad of cash which he was about to put in a bag for the people who have allegedly cheated the American taxpayers. You talk to these folks, and they will tell you that passing around there is like passing an ice cube around. Pass it to three or four hands, and pretty soon you have a lot less. It melts away.

That is what is happening to the American taxpayers' money with respect to reconstruction in Iraq.

These are some of the headlines about Halliburton and those contracts with the Department of Defense: "Uncle Sam Looks into Meal Bills; Halliburton Refunds $27 million," February 3, 2004. On February 4, 2004, "Halliburton Faces Criminal Investigation; Pentagon Proving Alleged Overcharges for Iraq Fuel."

By the way, the recently retired person in the Pentagon who purchased fuel—it was his job to purchase fuel in the world and deliver it in war zones; he did it for over 30 years—testified that American taxpayers are being overcharged by a dollar a gallon in Iraq. A buck a gallon, adding up to tens of millions of dollars. The American taxpayers got hosed here. Nobody seems to care.

The question is, what do we do about all of that?

In 1941, on the eve of the Second World War, there was a Democratic Senator here in this Chamber. While there was a Democrat in the White House, that Democratic Senator got in a car and drove around the country to military bases and said there is massive waste and abuse going on, and we ought to get to the bottom of it. He convinced the Congress to create a special committee. The Senator was Harry S Truman, and the committee was eventually called the Truman Committee. They saved an estimated $15 billion by exposing waste. That was a Democratic Senator with a Democrat in the White House.

But the fact is, you can't get hearings now because we have one party that controls the White House, the House, and the Senate, and nobody wants to embarrass anybody.

It is not my intent to embarrass anybody. It is my intent to provide accountability and get to the bottom of how this money is being spent.

Remember the company that got the money shown in this picture, the one where whistleblowers had their lives threatened? The whistleblowers filed suit under the False Claims Act alleging that this company is defrauding the American taxpayer. But the United States Justice Department decided they would not intervene. Do you want to know why? The United States Justice Department said, Well, if they were defrauding something, it was the Coalition Provisional Authority in Iraq, and the Coalition Provisional Authority is not the same as the United States government. The Justice Department's position, according to an assistant U.S. Attorney, was that defrauding the United States is not the same as defrauding the United States taxpayer. The Coalition Provisional Authority in Iraq was created by an executive order, in a very specific document. To have the U.S. Justice Department take the position that defrauding the Coalition Provisional Authority—which is us—is not the same as defrauding the American taxpayer is Byzantine.

The question is, why do we not allow a vote on an amendment to create a special committee of the U.S. Senate? This would be a committee with four members selected by the majority party and three members by the minority party, with subpoena power to have the kind of investigation and the kind of oversight that the American taxpayers ought to expect of this Congress. Why don't we have a vote on that?

I offered the amendment on time, and the majority party did not wish to have a vote on it.

Perhaps if we had oversight hearings we would hear more about that which I have already heard, the American taxpayers paying $45 for cases of what I call "pop" back home, Coca-Cola or Pepsi-Cola. $45 a case; or renting SUVs for $7,500 a month; $2.65 a gallon for fuel delivered in Iraq when the just retired head of the Defense Energy Support Center testified they could have supplied it for half that price; $18.6 million of U.S. equipment missing that a company was given to manage, and now they can't find it, don't know where it is, and don't know what happened to it.

The question is, does anybody here care? If so, why would we not vote on an amendment to set up the kind of committee I would suggest?

As all of us know, we are rushing headlong to have a vote on bankruptcy. We will have that vote. But there is apparently no interest in trying to get to the bottom of these questions I asked. According to the Inspector General of the Coalition Provisional Authority, there was one Iraqi ministry that had 8,206 guards on the payroll, which was the responsibility of the CPA. The problem is there are only 602 working there; 8,206 were being paid for by the CPA, but only 602 were working. The Coalition Provisional Authority actually had possession of nearly $9 billion in funds that actually came from Iraqi oil that belonged to the Iraqi people. The inspector general says that money cannot be accounted for. Where did it go? What happened to it? When will someone start caring about those things?

I have asked a lot of questions. We have held hearings in the Democratic Policy Committee on these subjects, because the authorizing committees will not hold hearings on these subjects. I have offered an amendment in the Senate on a timely basis. Because cloture was invoked, the majority party knew they would not require Senators to vote on this amendment to this bill. But obviously, this amendment will come back. I will have the opportunity to offer it again, will offer it again, and we will vote in the Senate, provided there is any appetite at all about what is happening to the American taxpayers' money.

I have previously supported bankruptcy legislation. I had hoped to support it this time. But because I was precluded from getting a vote on an amendment that I offered on a timely basis, and because of other concerns I have with the bill, I don't intend to vote to advance this legislation. I say to my colleagues, we will vote on this amendment at another time because I will offer it again. We will find a way to force a vote in the Senate on creating a special committee to investigate this waste, fraud, and abuse.

It is unthinkable at a time when we have massive Federal budget deficits, a fiscal policy that is far off track at the same time we have massive trade deficits, the combination of which is well over $1 trillion a year, that no one seems to care much about waste. If ever I have seen an example of waste, fraud, and abuse that is sickening and disgusting, it is in this area. This Senate owes it to the American people to create a committee to investigate, if the authorizing committees in the Senate will not do their job and hold oversight hearings.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 68

Mr. KENNEDY. Mr. President, I call up amendment 68.

The PRESIDING OFFICER. The amendment is pending.

Mr. KENNEDY. Mr. President, the most disturbing thing about this supposed bankruptcy reform is the utter lack of fairness and balance in the legislation. It gets tough on working families facing financial hardship due to a health crisis, job loss caused by a plant closing or offshoring of a job, or a military callup to active duty. The laws of bankruptcy are being changed to wrest every last dollar out of these unfortunate families in order to further enrich the credit card companies.

However, the authors of this legislation look the other way when it comes to closing millionaires' loopholes and ending corporate abuse. The legislation fails to address the real crisis in corporate bankruptcy where reorganization plans often benefit the very insiders whose greed and mismanagement brought down the company at the expense of the workers, the retirees, and the creditors, and it fails to address the shocking abuse of millionaires hiding their assets in so-called asset protection trusts, placing them completely beyond the reach of creditors.

This bill also fails to deal effectively with the unlimited homestead exemptions in a few States which allow the rich to hold on to their multimillion-dollar mansions while middle-class families in other States lose their modest homes. We truly cannot allow this bill to pass without closing the millionaires' homestead loophole once and for all. It has become a national embarrassment. Millionaire deadbeats buy a huge mansion in Florida and Texas to shield their wealth from creditors. The harsh rules of bankruptcy being established by this bill will trap hard-working middle-class families, but the unlimited homestead exemption will allow rich debtors to escape.

Existing bankruptcy laws allow those in bankruptcy to protect from their creditors certain assets, the nature of which is largely determined by State law. Most States make some allowance for homes or homesteads people live in, but the allowance is a modest one, too modest, in many States, for elderly people with large equity in the homes they have lived in for most of their lives.

However, five States—the most notorious of which are Texas and Florida—have unlimited homestead exemptions. This means debtors in those States can stash away millions, even tens of millions of dollars in the States and leave their creditors with nothing.

S. 256 leaves this gaping loophole wide open. It will allow the real abusers of the bankruptcy system to file for bankruptcy and to still keep their fortunes and properties intact while leaving their creditors with nothing. S. 256 has created some minor exceptions to the homestead exemption, none of which would be applicable in many of the most egregious cases. The bill fails to deal with the problem head on of multimillionaires who abuse bankruptcy by stashing away wealth while they declare bankruptcy.

My amendment caps the amount allowed for the homestead exemption at $300,000. This is an adequate allowance for most people. The average home in the United States is $240,000, a great deal higher in many of the regions of the country and lower in some parts of the country. This $300,000 is an adequate allowance for most people and would end the exploitation of the homestead exemption to hide assets from creditors. It would add some measure of fairness and balance to a bill that sorely needs some fairness and balance.

Some of the most egregious abuses we have currently and that this legislation fails to deal with are the kinds of abuses that we have in the case of Ken Lay, the former chairman of Enron, who owns a $7 million penthouse condominium. Mr. Lay made over $200 million from Enron stock and $19 million in bonuses. Other executives received bonuses as high as $5 million. Over 5,000 employees lost their jobs, and 20,000 lost an estimated $1 billion in retirement savings. Now, Ken Lay has been able to put some $7 million in a penthouse condominium in Houston's exclusive River Oaks neighborhood with 12 rooms covering 12,800 square feet.

We are going to find there have been hard-working men and women who have had health insurance—half of all of the bankruptcies are the result of dramatic health bills. Seventy-five percent of those individuals had health insurance. And, as we have pointed out during the course of this debate, if your family is touched by cancer, you, by definition, are going to have $35,000 to $40,000, at a minimum, out-of-pocket expenses. And that, in many situations, is enough to drive a family into bankruptcy.

If you have another serious health need, it will do the same. If you have important needs for children, such as spina bifida, autism, or other kinds of significant and important children's diseases, it will run into tens of thousands of dollars.

What we have seen in our study of these bankruptcies is half of the bankruptcies are caused by these medical disasters. Yet, we are unprepared to give any kind of consideration to these hard-working people who have taken out health insurance to try to provide for their families and, through no fault of their own, have been caught up in these dramatic health care bills. They are struggling and try to avoid bankruptcy and meet their responsibilities. But once they get caught in this net that is included in the bill, they will be punished—and I say "punished"—by the provisions in this bill which are unduly harsh and I believe unduly unfair.

But not Ken Lay. Not Ken Lay. Here it is: He will be out there in his $7 million penthouse condominium in Houston's River Oaks neighborhood, with 12 rooms and covering 12,800 square feet.

Or Andrew Fastow, the former chief financial officer of Enron, who recently built a large house in River Oaks valued in the millions, his home will not be taken. He will be able to go home every night to that home and be able to live there while we are seeing the homes taken from working families whose only problem was that their family was hit by cancer or another serious illness. We are seeing their homes taken, when we see individuals who have basically violated the trust of their company and of the workers get a free ride in the form of millions of dollars.

You call that fair? You call that fair? All this amendment says is, we will have a uniform standard. We have a uniform standard in this amendment. We are going to have a uniform standard with regard to the equity in the house. We are not going to let these individuals go off and be able to shield all of their income.

We find Jeffrey Skilling, Enron's former president and chief executive officer, lives in a 15-room house in River Oaks valued at over $4 million.

WorldCom's chief financial officer, Scott Sullivan, who was charged with falsifying the books by more than $3.8 billion, recently built a 4-acre, $15 million estate in Boca Raton, FL, with an 18-seat movie theater, art gallery, and lagoon.

You are telling me we are going to protect those individuals in their homes when we have single mothers who cannot get the child support or alimony, through no fault of their own, and they are thrown into bankruptcy and in danger of losing their homes? And the cruelty is the innocent individual, more often the wife, who is not getting the alimony or child support, has a very good chance of losing her home—but not these individuals, not Dennis Kozlowski, the former CEO of Tyco International, who is said to have used $19 million from a no-interest loan from his company to pay part of the cost of a $30 million compound in Boca Raton, FL, called, ironically, Sanctuary. So $30 million he has been able to put away there.

There are hundreds of thousands of workers who have lost their jobs, lost their savings, lost their health care, lost their pensions—but he is going to be protected by this legislation. Where is the fairness in this legislation when it comes to this issue in terms of homes?

We have a law firm in hock for $100 million. Former Baseball Commissioner Bowie Kuhn moved to a mansion in Ponte Vedra Beach, FL, and immediately sought protection from the creditors. And the list goes on and on and on.

What is the current situation with regard to the homes and homesteads? Well, if you get caught up with a claim against you, and you live in any of these States—in New Jersey, in Pennsylvania, or Maryland—there is no homestead exemption. Your home, if you have the blessings to have a home, is thrown right in there, sold right off, put right on the market, and out you go.

In the State of Michigan, it is $3,500 in value. In Kentucky, it is $5,000 of value; Georgia, $5,000; South Carolina, $5,000; Ohio, $5,000; Alabama, $5,000; Virginia, $5,000, plus $500 per dependent; Tennessee, $5,000 in value, and $7,500 with your home if you are a married couple; Indiana, $7,500; Illinois, $7,500; Missouri, $8,000.

But there is no limitation for the Ken Lays, the Jeffrey Skillings, the Dennis Kozlowskis putting aside tens of millions of dollars that is going to be protected.

These families will have that amount of equity that will be protected. You can go into some other States: New York, $10,000; North Carolina, $10,000; and Wyoming, $10,000. And some States go on up to $75,000—Connecticut. In Montana it is $100,000. In my State of Massachusetts, it is $300,000. But there is no limit at all, no dollar limit—some acreage amount—in Texas. In Texas, it is 10 acres in an urban area. It can be in downtown Dallas or downtown Houston. Or it can be 200 acres in a rural area. You are protected. If you have a home on 10 acres, wherever it is in an urban area—or 200 acres in a rural area—you are not touched by this legislation. And that is true in varying degrees for the six States.

So we have to ask ourselves, why treat these six States separately and differently from all of the other States, and particularly where, in the other States, when people fall into bankruptcy, one of the first assets they are going to lose is their home.

So at the appropriate time we will have an opportunity to vote on my amendment. As I say, this amendment closes that homestead loophole but permits, notwithstanding any other provision, the maximum amount of homestead exemption that may be provided under State law shall be $300,000.

If you get a judgment against you for $400,000, they sell your home, but at least that $300,000 is enough that you may be able to get something, particularly if you are an elderly person living on an income of $1,200 or $1,500 a month, you might be able to survive.

But the idea outside of that is that you are effectively taking away the homes and putting them at risk for 44 States and permitting 6 States to effectively circumvent this legislation in a very important way. It is wrong. I hope our colleagues and friends can support our measure.

AMENDMENT NO. 70

Mr. President, I would ask that amendment be temporarily set aside, and I call up amendment No. 70.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment No. 70 is already pending.

Mr. KENNEDY. I thank the Chair.

Mr. President, this amendment is designed to protect single mothers and their children, who are forced into bankruptcy because they did not receive the child and spousal support they were entitled to, from the harsh provisions of this bankruptcy bill. Single mothers are 50 percent more likely than married people to go bankrupt and three times more likely than childless people to go bankrupt. That statistic tells a great deal about the reality of why people are in bankruptcy.

The proponents of this bill argue that people file for bankruptcy because they are spendthrifts looking to escape their financial obligations. But this stereotype is terribly wrong. The bankruptcy courts are filled with the cases of hard-working people who were pushed over the financial brink because of a family health crisis, a lost job, or a failure to receive child support. These are the people this bill would turn the screws on, looking to squeeze out a few more dollars for the credit card companies.

The amendment focuses on this last group, on single parents trying to raise their children without the financial support they were supposed to receive from the absent parent. It would exempt from the onerous means test a single parent who failed to receive child support or spousal support that she was entitled to receive pursuant to a valid court order totaling more than 35 percent of her household income within a 12-month period. No wonder such a person ended up in bankruptcy. She was never paid more than a third of the income she expected over an entire year to help raise her children, to provide for their basic needs and well-being. Under those circumstances, she had no choice but to fall back on borrowing to support her family. She was not irresponsible. What she did was unavoidable.

Few people realize the magnitude of this problem. In 2004, $95 billion in child support—$95 billion—was uncollected. Failure to receive that child support put millions of single-parent families in a deep financial hole through no fault of their own, and it is the children who suffer the most in these situations. Why on earth would we want to make things even more difficult for these families? Most single moms have to struggle to make ends meet. They are working in low-wage jobs without good benefits. Over three quarters, 78 percent, of them are concentrated in four typically low-wage occupational categories. When the economy is tough, they are often the first ones let go.

The poverty rate for single moms is nearly 40 percent as compared to 19 percent for single fathers. It is no wonder that single mothers are now more likely to go bankrupt than any other demographic group—more than the elderly, more than divorced men or married couples, more than minorities or people living in poor neighborhoods. Yet this legislation would deny traditional bankruptcy relief to many single-parent families who never received the child support they were owed. Instead, they would have to keep paying those credit card bills for another 5 years. Is that fair? I can't believe that a majority of my Senate colleagues think it is.

I am asking them to extend a little compassion to these single mothers struggling to raise their children.

The following women's and children's organizations continue to oppose this bill: The National Women's Law Center, the National Partnership for Women and Families, National Organization for Women, Parents for Children, YWCA, Business and Professional Women, the Children's Defense Fund, Voices for America's Children. They do so because of the particularly harsh provisions of this bankruptcy bill and the heavy weight it puts upon women generally and most particularly on innocent women who are being denied child support and alimony and because they, through no fault of their own, run into this kind of a financial crisis. This legislation will impose harsh provisions upon them, and they will be treated not just in bankruptcy but they will be treated with the harsh provisions that will effectively put them in indentured servitude for the next 5 years.

The National Women's Law Center, in writing to urge opposition to S. 256, says it is harsh on economically vulnerable women and their families. They point out that the bill would inflict additional hardship on over 1 million economically vulnerable women and families who are affected by the bankruptcy system each year—1 million women, the majority of whose only problem is that their husbands have failed to provide alimony and child support. And we are going to wrap them in with the spendthrifts who run amok with their credit. These are innocent individuals. We are saying that the harsher provisions of this bankruptcy law—that is going to indenture these women for 5 years; they can get judgments against them for 5 years—will exist for these families, women forced into bankruptcy because of family breakups, factors which account for 9 out of the 10 filings of women who are owed child and spousal support by men who file for bankruptcy.

It is going to be more difficult for the women to even get the alimony from their husbands who may be in bankruptcy but needing to owe alimony to their wives, because the husbands are going to be subjected to the provisions in this legislation and that is going to make the wife compete with the credit card companies. So that is going to be another burden which these individuals are going to have to face.

I hope we can find some support for this amendment because we are talking about perhaps among the most innocent group of people who will be caught in this. We have talked about single moms. We have talked about the National Guard and Reserve. We have talked about those who have been hit by the medical bankruptcy. All, through really no fault of their own or very little fault of their own, are going to be facing a very harsh future.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 69

Mr. KENNEDY. Mr. President, next I will address amendment No. 69, which I believe is pending.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, one of the extraordinary phenomenons we are facing at this time is the outsourcing of American jobs, the movement of American manufacturing jobs out of this country—by and large to the Far East but to other countries—and the growth of what we call "temps"—companies that provide temporary workers. Those temporary workers have few, if any, benefits. So, obviously, when they run into challenging health crises and more limited incomes, they are facing the dangers of bankruptcy.

That is why I am offering this amendment—to ensure that workers who have lost their jobs or who have an illness or injury that prevents them from working are not unfairly thrown into the harsh means test created by this bill. This means test puts additional burdens on the debtors already trying to get their lives and finances back together after a difficult period.

The means test applies to those debtors whose average income for the 6-month period prior to filing bankruptcy is above the median income. Some debtors forced to file for bankruptcy because they lost their jobs are already exempt because they had no income in the last 6 months, but those who lose their jobs within 6 months before the filing for bankruptcy can be fairly included in the means test based on income they are no longer earning. My amendment would correct this problem. It provides that income from any job in which the debtor is no longer employed and income from any activity in which he can no longer engage due to a medical disability will be excluded from this calculation.

Mr. President, if we look at what has been happening in the economy, particularly to those individuals who are unemployed, many of them have been looking for employment for some period of time. If we look at the numbers of unemployed workers in January 2001, it was 6 million. In February 2005, it is 8 million. We are in a period where those who are unemployed are unemployed for a longer period than at any time in recent history.

This chart shows what happens in recoveries. The recoveries before 1991—the increase in terms of the employment and recoveries beginning in 1991 are here, and our current recovery shows that it is very light in terms of the total number of jobs that are created.

This is one of the important charts, Mr. President. This has 8 million Americans competing for 3.4 million jobs. That is the economic condition for workers in this country: 8 million people are looking for 3.4 million jobs. Obviously, there are going to be many millions of Americans who are not going to be able to get those jobs. When they can't get the jobs, they don't have the unemployment compensation, and they are unable to provide for their families, what happens? They end up in bankruptcy.

We are trying to say that for those individuals—by and large individuals who have lost their jobs because of outsourcing—the best projection is that we are going to lose 3.4 million jobs: 3.4 million jobs are at risk of being shipped overseas. 540,000 jobs in 2004; 830,000 in 2005; 1.7 million in 2010; and 3.4 million in 2015. Basically, when the manufacturing jobs go overseas, individuals lose their income, or if they are able to get some income, it is as a part-time worker with no health coverage. Their income goes down dramatically. What happens to those individuals? They end up in bankruptcy through no fault of their own. These are Americans who want to work.

From 2001, we have seen 2.8 million manufacturing jobs lost; 2.8 million jobs were lost. These are the jobs with good benefits, good wages, the jobs that are the backbone of America. When you take 2.8 million of these jobs out of the market and you have 8 million people chasing 3.4 million jobs, we know there are going to be millions of American workers who are going to find increasing pressure in providing for their families. That is what is happening today.

What we are saying is, if these workers are going to be forced into bankruptcy because they have lost their jobs, they are not going to have to fall into the cruelest part of the bankruptcy. That is all we are saying. We have done this. I have been here when we had our trade adjustment assistance. We said some industries were adversely affected because of imports. We provided some consideration for those workers. We are finding out now that we are losing hundreds of thousands and millions of jobs that are being moved overseas. The result is that many of these individuals are unable to have the kind of income they need, and they are forced into bankruptcy. When they are forced into bankruptcy, we are saying that they don't go into chapter 13; they go in and meet their responsibilities and get a fresh start. They don't go into a chapter 13, which will force them to continue to pay for 5 years.

If you look at this chart, you will see that 49 of the 50 States have lost manufacturing jobs. So this reaches the whole dimension of this legislation because this legislation is national. This particular challenge is national. There is obviously a great deal more focus on this in the industrial heartland, in New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, and many of those States, and even in Massachusetts we have lost 83,000 manufacturing jobs. There are plenty of other jobs, such as in North Carolina where they lost 163,000 jobs.

So we have to ask ourselves, what happens to these individuals? We know what happens to them. We know that if they can get a job, they are going to be paid a good deal less. If they cannot, they will run out of unemployment compensation. We are not providing extended unemployment compensation, and we know that the final catch is that in this economy, the health insurance is up, college tuition is up, housing is up, and gas is up. It is forcing these individuals into bankruptcy.

All we are saying for those individuals who have lost their jobs—jobs that have gone overseas, lost manufacturing jobs—and are unable to get those jobs and are forced into bankruptcy, that they will not have the harshest provisions of bankruptcy directed upon them. We ought to show some consideration to them. These are not spendthrifts, Mr. President. These are hardworking Americans who, 5 years ago, would not be facing this particular challenge, and now they are. We ought to at least give them some consideration.

Mr. President, I think I have until 2:45.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, we in the Senate were elected to serve the people. It is our solemn duty to fight for the American people every single day, for the values they share and the priorities they care about most. Above all else, the American people expect us to stand for fairness, freedom, and opportunity. Those values are the cornerstone of the American dream. We believe that if you live right and work hard, you should be able to care for your family. You should be able to afford a comfortable home in a safe neighborhood. You should be able to put your children through school and in college. You should have time to spend with your family, practice your faith, and contribute to your community.

We also believe that when life throws you an unexpected setback, you can count on your neighbors to pitch in. If you lose your job or you fall seriously ill, we all want to help out. You should be given a second chance to pick yourself up, dust yourself off, work hard, and reclaim the American dream for you and your family. That is the American way. That is the American spirit. That is what our bankruptcy courts should be about: giving average Americans who have lived responsibly a second chance.

This bill before us turns the American dream into the American nightmare. This bankruptcy bill turns its back on our most basic values as Americans. It is not a bill of the people, by the people, or for the people. It is a bill of the credit card companies, written by the credit card companies, and for the credit card companies, and it has no place in America.

This bill is about greed. It is about the most profitable corporations in America—the credit card companies—using the Senate to enhance their profits, even more by shaking down hard-pressed Americans in bankruptcy court. It stacks the deck in favor of the credit card companies and against American families who do everything right but find themselves in bankruptcy because they lose a job, fall ill with cancer, or get divorced.

I am reminded of the words of Leviticus in the 25th chapter. It reads:

> If one of your brethren becomes poor, and falls into poverty among you, then you shall help him, like a stranger or sojourner, that he may live with you. Take no usury or interest from him; but fear your God, that your brother may live with you.
>
> You shall not lend him your money for usury, nor lend him your food at a profit.

But this bill ignores those words. It allows the credit card companies that charge outrageous interest rates, exorbitant fees, and force you into bankruptcy to still win back almost every dime in bankruptcy court against Americans who have fallen on hard times. This pillaging of the middle class must come to an end.

Today we will pass a bankruptcy bill that rewards the credit card companies at the expense of average Americans. Last month, we passed a class action bill that makes it harder for average Americans to hold big corporations accountable, and we have a President who wants to give your Social Security away to Wall Street.

Credit card companies, big corporations, Wall Street—when is this President and this Republican Congress finally going to give the American people just 1 minute to debate their issues? When are we going to make their health care more affordable so they do not have to worry every night if one of their children gets sick? When are we going to make college more affordable so parents can proudly send their children to college to build their own futures? When are we going to fight for clean water and clean air so we can raise our families in health? When are we going to compete for good jobs, not by lowering the pay but by raising our skills in the global economy? When are we going to fight for a secure retirement for Americans who have lived responsibly and worked hard all of their lives? When is the Senate finally going to stand up and fight for the American people?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 67

Mr. DODD. Mr. President, this amendment was going to be voted on, actually, earlier this morning, but there was a reason to delay it until this afternoon. I ask unanimous consent to have 1 minute to explain the amendment.

The PRESIDING OFFICER. Under the previous order, the question will be on amendment No. 67, offered by the Senator from Connecticut, Mr. DODD. Without objection, the Senator will be recognized for 1 minute.

Mr. DODD. Mr. President, this amendment is simple and straightforward. More than 1 million women in the coming year will file bankruptcy. The overwhelming majority of these women are mothers of young children. This amendment is designed to see to it that the needs of children will be met as persons go through the bankruptcy act. The credit card companies certainly have a right to receive what resources are due them, but they should not be able to trump the needs of children.

Too often in this bill, in a variety of places, that is exactly what happens. My colleague from Utah said this bill has been 8 years in the making. It would only take a couple of minutes here to try to redress some of the inequities that exist when it comes to questions of providing for the basic needs of children—educational needs, utilizing child support, the earned-income tax credit, the child tax credit, and alimony to support the needs of children.

For over 100 years, since 1903, women and children have come first in our Nation's bankruptcy laws. This will be the very first time, without this amendment being adopted, that children and families will take a backseat to the credit card industry. That is a wrong priority for our Nation.

Every major child advocacy group in this country supports this amendment. I urge my colleagues to support it. This is one exception we ought to make to get right the balance in this bill of the needs of the credit card companies with the needs of America's children and families. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment

No. 67, offered by the Senator from Connecticut, Mr. DODD, on which the yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

The PRESIDING OFFICER (Mr. MARTINEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—42

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The amendment (No. 67) was rejected.

AMENDMENT NO. 68

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, do we have an minute on each side?

The PRESIDING OFFICER. Further time requires unanimous consent.

Mr. KENNEDY. I ask unanimous consent for a minute on each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. First of all, I want to pay tribute to my friend and colleague, Senator KOHL, who has worked on this issue for many, many years. This amendment closes one of the gaping loopholes in this bill, but it is a loophole millions of dollars wide and millions of dollars deep.

Right now, because a few States have no limit on homestead, the Ken Lays, the Jeff Schillings, and the Dennis Kozlowskis in this world can hide millions of dollars or tens of millions of dollars of their assets from their creditors even after they go into bankruptcy. There isn't much fairness or balance in the bill so far, but this amendment will put a very small measure of balance in the bill by limiting the homestead exemption nationwide to $300,000.

I ask my colleagues to vote for balance and fairness, and agree to this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, this bill is all about fairness and balance. This bill, as I introduced it minus the Schumer amendment, is exactly the bill that Democratic leaders of the Judiciary Committee signed off on in the summer of 2002 when they controlled the U.S. Senate. I don't know how much more compromise you can get than that. But this amendment would gut one of the major compromises of this legislation that has evolved over that period of time going back to August 2002.

The bill's homestead compromise that we have would create a Federal cap of $125,000 on the homestead exemption, but would allow those States with higher or unlimited exemptions to take advantage of them as long as they comply with the 2-year residency requirements and a 10-year fraud reachback provision.

The bill's compromise is a good one that all parties have signed off on. The Kennedy amendment would gut it.

I ask you to kill this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—47

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Stabenow
Wyden

NAYS—53

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

The amendment (No. 68) was rejected.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, this bankruptcy reform bill before the Senate, S. 256, is a 500-page bill, which has been the dream of the credit card industry, banks, and financial institutions across America for almost 10 years. What they are trying to do in this bill is make it more difficult for someone to have their debts discharged in bankruptcy.

Now, of course, everyone understands our legal and moral obligation to pay our debts. But we recognized a long time ago that some people get into a situation where they are swamped with debt and cannot get out from under it. In the old days, they were relegated to debtors' prisons; they literally imprisoned them. In more civilized times, the decision was made to have a civil court procedure, where you could go in and have your debts released, surrendering virtually all of your assets to start over. That is happening in America today. About 1.3 million Americans go into bankruptcy court for personal bankruptcies.

The credit card industry and the banks say too many people are getting their debts discharged. So we are going to set up a new process in the bankruptcy court where we are going to ask more questions than ever and try to determine whether the person filing for bankruptcy could conceivably pay back, over the next 10 years, $165 a month. And if they can pay back $165 a month, we will not discharge their debts. They will end up walking out of court with the same debt they carried in, in most cases.

Now, for a lot of people, you would say, if you can pay back something, you ought to pay it back. But for many people, it means the debts they have incurred that they cannot pay back will be dogging them and burdening them for the rest of their natural lives. So many of us have said when you take a look at this bill, at least be sensitive to some people who go into bankruptcy court through no fault of their own.

Senator KENNEDY talked about people with medical bills, because of a medical crisis in their family. A woman goes to the doctor with a lump on her breast, and a mammogram shows it is breast cancer. She goes through extensive radiation, chemotherapy, all sorts of recovery time; she cannot go back to work, and the bills mount up sky high and complications ensue. That is nothing that she has done wrong. There is no moral failure there. If her health insurance is not good, she is left in a position where she can never, ever pay back the bills. That is not a person who should be put through a more rigorous procedure in a bankruptcy court.

Senator KENNEDY said that if you don't do anything else for that poor woman and her family, at least say at the end of the bankruptcy court hearing she will still have a home, a roof over her head. So we asked for a $150,000 homestead exemption so that a person could at least have a modest home to return to after bankruptcy from a medical illness. That amendment was rejected. Everybody on the other side of the aisle voted against it.

I offered an amendment and said, what about the men and women in uniform today, the Guard and Reserve who are being activated. They joined thinking: once a year I may have to serve my State, my country for a month or so. Now we are calling them into battle for a year, a year and a half, and no end is in sight.

What if you were a member of the Guard? You have sworn to protect this Nation. You are called into combat and leave behind your family and your business. And what if the business fails because you are gone? What if you are forced into bankruptcy? Could we not at least include language in this bill to give special consideration to the men and women in uniform who are answering their Nation's call and may face bankruptcy? I lost that amendment 58 to 38. Not a single Republican would vote in favor of that amendment.

The last amendment I am going to offer, much to the relief of my Republican colleagues, is one which asks my friends on the other side to take one last look at this issue. Instead of applying that special treatment or giving some help to all soldiers, guardsmen, and reservists who serve and may lose a business or go into family bankruptcy because they are overseas for America, I ask my colleagues on the other side of the aisle to consider this: How about disabled veterans whose indebtedness occurred primarily while they were serving America?

I have met some of these veterans at Walter Reed Hospital. They have lost limbs. They face terrible injuries. If they face a bankruptcy that occurred because of debts that happened while they were in service to our country, should we not give these disabled veterans a fighting chance in bankruptcy court? Should we not spare them the hurdles, obstacles, paperwork, and legal bills that the credit card industry is demanding for people who go to bankruptcy court? This exemption will especially help recently disabled veterans who, in addition to their physical loss, have terrible financial difficulties.

The bankruptcy bill makes petitions for debt relief under chapter 7 subject to a means test. I had a chart before. It is a long chart. Not only do you have to file all the documents to go into bankruptcy court, but this new 500-page bill lays it on you again and makes you file another ton of documents to see if maybe you could pay back $150 or $175 a month over the next 10 years.

So I am giving relief to disabled veterans. I am not going to apologize for that. A lot of us get up on the floor and praise them for what they have done. We should. For goodness' sake, they are protecting us, our families, and our homes. Is it too much to ask that we give them a break in this harsh bankruptcy bill from the worst part?

The amendment specifies the exemption applies only if "the debtor is a disabled veteran and the indebtedness occurred primarily" while they were on active duty. To qualify for this exemption, a disabled veteran must have incurred most of their indebtedness—more than 50 percent of their indebtedness—while on duty.

The Disabled Veterans of America estimates there are 2.3 million disabled veterans. According to the Department of Veterans Affairs' annual report, the average disabled veteran receives only $7,861 in disability compensation each year. That is not a lot on which to live. Sadly, this amount varies widely. Veterans in some States do much better than veterans in others. Unfortunately, my home State falls into the "others." We receive less than half on average of disability payments paid in other States.

In considering whether to support this amendment, I invite my colleagues to reflect for a moment on the physical and financial situations some of our disabled veterans face. Their hardships today, combined with their earlier service, make them twice heroes, in my book. If any group of people deserves some relief from this burdensome process, it is America's disabled veterans who suffered physical and financial devastation while they were wearing a military uniform and risking their lives for America.

I invite all my colleagues from both sides of the aisle to join me in cosponsoring this amendment and make this rather small but I think deeply worthwhile adjustment to the bankruptcy bill.

It is my understanding that Senator LEAHY will be coming to the floor momentarily, unless Senator GRASSLEY seeks recognition at this point.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this would be a good opportunity for us to consider the general environment and the reason for this legislation.

First of all, there has not been any major rewrite of the bankruptcy legislation for more than 25 years. During that period of time, there has been a dramatic change in the economy, particularly the globalization of the economy. It has brought about reasons for changing parts of the Bankruptcy Code.

We have gone from around 300,000 bankruptcies a year to a high of 1.6 million or 1.7 million bankruptcies a year. So there has been an explosion of bankruptcies. Even in the best of times there has been an explosion of bankruptcies. It has become an economic problem where the average person in America is paying an additional $550 for goods and services because somebody else did not pay their bills.

All of these things have brought about reasons for changing the Bankruptcy Code. This legislation that is 500 pages that has been referred to is not something that just has been dropped on the Congress of the United States.

First of all, at least 10 years ago, the Judiciary Committee set up a commission of experts in bankruptcy, not made up of Members of Congress, a commission of people from the private sector and from academia to study what needed to be done with the bankruptcy laws to bring them up to date with the global economy, to bring them up to date with the changes in our domestic economy, and to look at the problem of so many people filing for bankruptcy.

This commission worked several months—more than a year—to produce a product. That was the basis for the introduction of legislation in 1997. In that period of time, this bill has passed the Senate in several different Congresses and has passed the House in several different Congresses, has been worked out in conference, an agreement between the House and Senate in several different Congresses, one of those even reaching President Clinton for his signature. But it was the end of the year, and he pocket-vetoed it. We did not have a chance to reconsider that veto.

The legislation before us, as I have introduced it, and basically the legislation that is before the Senate is legislation that has been so compromised, except for the Schumer amendment—and I will not go into what the Schumer amendment is—but except for that amendment, the bill we introduced and maybe four or five technical changes that were accepted in the Judiciary Committee is the legislation that was signed off on by Democrats who had a majority in the conference committee in the year 2002 when the Democrats controlled the Senate.

Is that exactly the way that I would write this legislation? No, it is not.

There are a lot of provisions in this bill I would like to be different. But in the Congress of the United States as a whole—and particularly in the Senate where there is no limit on debate, where filibusters are possible, where the minority has rights they should have, and the only place minority rights are protected—you have to reach compromises.

I know no better compromise that I could put before the Senate than the wording of a compromise that was worked out between a Republican House and a Democratic-controlled Senate in the year 2002. That is what we have before us.

There are probably a lot of people who do not want any bankruptcy reform, but they will probably end up voting for it because this bill in different Congresses has passed by a margin of 97 to 1 on one occasion. The last time it passed the Senate, I think the vote was 85 to 12.

I think all of this is evidence of a bipartisan agreement that the bankruptcy laws need to be reformed. I do not know what more evidence I can give the American people of the way our political system works, the way the Congress works, to arrive at compromise, than the compromise that I lay before the Senate.

We recently heard from my good friend, the Senator from Illinois, the Democratic whip, that there have been many opportunities to help this group of people or that group of people or another group of people. We refer to that sort of helping this group or that group or another group as a carve-out.

My colleagues have seen amendment after amendment that was introduced to do that. We defeated that, because there ought to be uniformity of application of law across the United States, not separating something special for this group or that group or another group when it comes to justice in the bankruptcy courts. And if we added all of that up, we might not have a lot of people left who are going to be affected by what a bankruptcy judge is supposed to decide, which is justice between creditors and debtors.

In this legislation, we preserve one of the main goals of bankruptcy for the last 100 or more years, and that is the principle of a fresh start, where somebody is going to bankruptcy because they have problems that they cannot deal with, financial problems, natural disaster, divorce, medical, whatever it takes to get into financial trouble, that might not be any fault of one's own.

To make it clear that we are not after people who do not have an opportunity—when people are below the median income of their State, they are practically guaranteed a fresh start under this legislation, and if people are above the median income for their State, there is a simple process called a means test, where one puts down all of their income and assets and what they owe and through that makes a determination of whether they have the ability to repay some of their debt.

My friend from Illinois mentioned the figure of $150 or $175 that maybe over the next 10 years one would have to pay. If people have the ability to repay some of their debt, should they not have to repay some of their debt? It seems to me to be fair to those people to whom they do pay their debt.

So we preserve the principle of a fresh start, but we also establish a principle that if one has the ability to repay some their debt, they are not going to get off scot-free.

It is just not those two principles that ought to be looked at to understand whether Congress might be doing the right thing. I am not saying just an overwhelming vote in support of legislation is the only way that one ought to judge whether that legislation is justified, but surely the extent to which things are more bipartisan in the way they are done in this body ought to be some justification that certain tests of justice and fairness are being done or they would not get that kind of support, because I do not know a single Senator who for the most part is not concerned about doing right for the people of his State.

So that is the sort of consideration I hope the people of this country will give to this legislation, the need for it, the justification for it, the fairness of it, and most importantly those two principles of a fresh start for those who deserve it and the principle that if one has the ability to repay some of their debt that they are not going to get off scot-free.

The PRESIDING OFFICER. The Senator from Vermont.

### AMENDMENT NO. 83

Mr. LEAHY. Mr. President, am I correct that amendment No. 83 is pending?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President. I ask unanimous consent that Senator WARNER, the senior Senator from Virginia, be added as a cosponsor to amendment No. 83.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am joined by friends and colleagues, the senior Senator from Maryland, Mr. SARBANES, and the senior Senator from Virginia, Mr. WARNER, in offering a bipartisan amendment that will moderately preserve the current conflict-of-interest standards for investment banks. We are doing this to safeguard the integrity of the bankruptcy process.

Section 414 of the underlying bill would severely weaken the disinterested persons rule. That was an important conflict-of-interest standard. It has actually been part of the Bankruptcy Code since 1938. It has been there before I was born. We believe that the standard embodied in current law is critical to protecting the interests of investors and the public.

So our bipartisan amendment is a modest compromise. It limits the conflict-of-interest prohibition, not a total exclusion but just 5 years prior to the filing of the bankruptcy petition. In other words, a prohibition which has been the bankruptcy law forever would now be cut back just to apply in the 5 years immediately preceding the bankruptcy. I think it is a reasonable compromise.

The current disinterested persons standards are intended to ensure that professionals who advise a company in bankruptcy have no conflicts of interest, are neutral, and when we consider how huge some of these bankruptcy have been, Enron and others, we want somebody without a conflict of interest; we want somebody who can be neutral.

Since bankruptcy proceedings involve reexamining prior transactions, an investment bank that underwrote those prior transactions could not be expected to act as a neutral, disinterested party. It is almost like saying, I wrote these transactions when you went into this multimillion or multibillion-dollar bankruptcy but do not worry, I will now be the disinterested party to advise you where we go now.

I think the reason we have the current standard, the reason it has worked well for nearly 7 decades, is because it has helped maintain public confidence in the bankruptcy system.

Section 414 of the bill before us eliminates the current conflict-of-interest standard. It is a standard that prohibits investment banks that have had a close financial relationship with the debtor from playing a major role in the bankruptcy process.

I have talked to a lot of people who are far more knowledgeable on this than I, and they tell me you cannot expect that an investment bank that served as an underwriter of a bankrupt company's securities would then provide an independent assessment of that underwriting as an adviser in the bankruptcy of the company. In other words, you want to find somebody who can give you an independent, neutral assessment in bankruptcy of the underwriting. You don't go to the person who did the underwriting. Of course, they are going to say: Great job. Man, that person did a great job, whoever it was—oh, that was me? Boy, I did a great job.

The investors, especially in these huge bankruptcies, the pensioners who have suffered financial damage through the bankruptcy, deserve neutrality. They don't deserve somebody where it looks as if it is such a cozy deal there is no way they are going to recover.

If the bill is passed in its current form, the investment banks that advised or underwrote securities for companies such as Enron or WorldCom prior to bankruptcy, having advised or underwritten those securities, could then be hired to represent the interests of the defrauded creditors during the bankruptcy proceeding. Just think of this. The people who were involved in putting the creditors and the investors and the people whose pension money was in there, the people who were involved putting all their money at risk, can now be hired to represent their interest.

There is a blatant conflict of interest and that is why it has been forbidden for seven decades. Firms that had a part in those companies could then end up staying on the payroll in bankruptcy and they could make huge profits, sometimes from their own fraud.

What kind of message are we sending to those everyday Americans who invested for their kids' college or their own pensions, who suffered as a result of corporate misdeeds, if we then say that is OK, now we are going to give a whole lot of money to the people who set this mistake up in the first place?

We talked to the National Bankruptcy Review Commission. They strongly recommended that Congress keep the current conflict-of-interest standards in place. Actually, in their report they concluded:

> Strict disinterestedness standards are necessary because of the unique pressures inherent in the bankruptcy process.

These are the people who understand this better than anybody in this Chamber.

Supporters of the underlying bill have voiced their opposition to the inclusion of section 414. I wish they would listen to what a member of the Fifth Circuit Court of Appeals said, Judge Edith Jones. She is a member of the commission. She asked us to remove section 414. She said:

> If professionals who have previously been associated with the debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. . . .
>
> Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation and . . . it should be eliminated.

Again, if you have a bankruptcy of a WorldCom, an Enron, something like that, and you have all these people with the pension money in it, the kids' college funds in there, their business in there, their own retirement in there, you cannot then turn around and say we are going to let the same people decide what happens to you in bankruptcy as the people who did the things that put us into bankruptcy in the first place.

William Donaldson is the Chairman of the Securities and Exchange Commission. He wrote to us to express the opposition of the SEC to section 414 of the bill. He said:

> [We] believe that it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.

Keep that in mind. It does something further. Not only do we end up hurting the people who have to rely on the bankruptcy court being honestly run, but he also wants to keep up investor confidence. He was joined in that position by his predecessor Arthur Levitt, and by a number of nationally renowned experts. National consumer organizations have written to us to warn of the danger of weakening conflict-of-interest controls, as this bill would allow:

> If the participants in Enron's earlier financial dealings had managed the investigation, it is quite legitimate to wonder how many of these financial misdeeds would have come to light in the first place. Without existing conflict-of-interest prohibitions in place, it is possible that some of the same firms that have come under investigation by the SEC for illegal activities in the current corporate scandals might very well have been allowed to serve as "objective" advisers in this and other bankruptcy proceedings.

I ask unanimous consent a letter from the Consumer Federation of America, the Consumers Union, Consumer Action, U.S. Public Interest Research Group, and the National Consumer Law Center be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 3, 2005.

Hon. PATRICK J. LEAHY
*Ranking Member, Senate Judiciary Committee, Washington, DC.*
Hon. PAUL S. SARBANES
*Ranking Member, Senate Banking, Housing and Urban Affairs Committee, Washington, DC.*

DEAR SENATORS LEAHY AND SARBANES: The undersigned national consumer organizations strongly support your amendment to strike a little noticed provision of pending bankruptcy legislation (S. 256) that would weaken current conflict-of-interest standards in the bankruptcy code. This provision would, for the first time, allow investment bankers to offer advice in bankruptcy restructuring cases about companies with which they have had a close financial relationship prior to bankruptcy. As advocates for small investors, we applaud you for moving to eliminate this significant threat to the interests of investors, employees and pensioners.

Section 414 of pending bankruptcy legislation would loosen the current standard for "disinterested" parties that are allowed to advise bankruptcy management or trustees as they attempt to restructure debtor companies in a manner that is fair to investors and other creditors. Of the several parties that are automatically banned from offering advice because of obvious conflicts of interest, Section 414 removes only one: investment banking firms. This means that the same firms that underwrote and sold stocks and bonds for a bankrupt company—firms that in some cases may have participated in structured finance deals with the company or otherwise played a significant role in financial decisions that helped to land the company in bankruptcy—could now be allowed to offer restructuring advice to the management or trustee responsible for maintaining impartiality and representing the interests of creditors.

Corporate bankruptcy experts tell us that reexamining the financial transactions that led to bankruptcy is one of the most significant responsibilities of the post-bankruptcy management (often called debtor-in-possession, or DIP, charged with the duties of a trustee to protect all creditors and investors.) This review includes determining what role, if any, that outside advisers and financial partners played in bringing about a company's downfall. Another of DIP management's most important responsibilities is determining the best source of financing for any restructuring. An investment banking firm has obvious conflicts in both roles and is very unlikely to be an advocate for review of its own previous work or the deals in which it participated. It is quite possible, for example, that an investment banker would discourage bankruptcy management or trustees from pursuing legal claims against the banking firm for illegal activities of that firm that contributed to the bankruptcy. The landmark settlement with the leading investment banks over their stock research practices shows just how poorly these firms have handled comparable conflicts in the past.

Imagine how the public would have reacted if the investment banks that were later found to have profited enormously from structured finance deals with Enron had been hired to offer advice in the Enron bankruptcy. Indeed, if the participants in Enron's earlier financial dealings had managed the investigation, it is quite legitimate to wonder how many of these financial misdeeds would have come to light in the first place. Without existing conflict-of-interest prohibitions in place, it is possible that some of the same firms that have come under investigation by the SEC for illegal activities in the current corporate scandals might very well have been allowed to serve as "objective" advisors in this and other bankruptcy proceedings. This scenario is possible because, as you know, it often takes months or longer to unravel the role of investment banking firms in such cases, particularly cases that do not receive the media and congressional scrutiny of an Enron or Worldcom collapse.

In response to these conflict-of-interest concerns, investment banking interests offer a familiar refrain. We can offer better advice, they say, because we are intimately aware of the distressed company's financial situation. This response is eerily similar to that offered by the accounting industry, as it loudly insisted that a conflict did not exist when accountants served as both internal and external auditors or received lucrative consulting contracts from the same companies that they audited. But, if there is one lesson we should have learned from the recent corporate crime wave, it is that conflicts of interest matter. Investors paid dearly to learn that lesson. And the markets have paid through the loss of investor confidence.

Representatives of the securities industry have also contended that this provision will merely provide bankruptcy officials with the discretion to make a judgment about whether a particular investment firm should be involved in a bankruptcy case. But what if the details of an investment firm's involvement with a bankrupt firm do not come to light for months or longer, as was true in the

Enron case? By that time, a lot of damage could already have been done to investor interests, and the credibility of the process would have been hopelessly undermined.

For example, the Wall Street Journal reported on May 14, 2003 that investment firm UBS Warburg, "was far more involved in the inner workings of HealthSouth than previously disclosed and maintained an unusually close relationship with HealthSouth's embattled founder, Richard Scrushy." Yet, if Section 414 of the bankruptcy bill had been law, it is entirely possible that UBS Warburg could have been allowed to serve as "objective" advisors in the HealthSouth bankruptcy case.

Congress and the SEC have devoted considerable time and energy over the past few years to eliminating just these kind of conflicts in an effort to restore investor confidence. The SEC has made important strides, for example, in implementing the Sarbanes-Oxley corporate reform law and in cracking down on Wall Street conflicts of interest. More recently, the National Association of Securities Dealers (NASD) has been considering whether to place new limits on investment banking firms' ability to write fairness opinions for deals in which they are involved, since these firms could benefit financially if a merger or acquisition is approved. By allowing new financial conflicts, section 414 of S.256 runs completely contrary to this trend.

Investment firms that have previously advised a bankrupt company have a prima fascia conflict of interest and should continue to be automatically prohibited from offering advice in a bankruptcy restructuring case. We commend you for moving to eliminate the conflicts-of-interest that this bill would allow.

Sincerely,

BARBARA ROPER,
*Director of Investor Protection, Consumer Federation of America.*
TRAVIS B. PLUNKETT,
*Legislative Director, Consumer Federation of America.*
SUSANNA MONTEZEMOLO,
*Policy Analyst, Consumers Union.*
LINDA SHERRY,
*Editorial Director, Consumer Action.*
EDMUND MIERZWINSKI,
*Consumer Program Director, U.S. Public Interest Research Group.*
JOHN RAO,
*Staff Attorney, National Consumer Law Center.*

Mr. LEAHY. This is not the time to weaken conflict-of-interest standards. If we are doing anything, we ought to be strengthening conflict-of-interest standards. The provisions Senators SARBANES and WARNER and I seek to modify are fundamentally at odds with the work of the Congress and the SEC, fundamentally at odds with the work to restore public confidence in financial and corporate transactions. I thank them for offering this with me.

All we want to do is to make sure we increase the confidence and accountability in our public markets for millions of Americans whose economic security is threatened by corporate greed and not have the Senate put an imprimatur on the use of people with enormous conflicts of interest, especially when consumers are hurting so badly.

I see the senior Senator from Maryland. He is far more familiar with how these things have worked in these major corporations. He is the author of the Sarbanes-Oxley bill. I yield the floor to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I thank the very able Senator from Vermont, the ranking member of the Judiciary Committee. I am pleased to join with him in offering an amendment to the Bankruptcy Act. This amendment addresses a provision in the bill that would drastically weaken the conflict-of-interest protections of the Bankruptcy Code in regard to investment banks.

Section 414 of this bill makes sweeping changes in the conflict-of-interest requirements of the bankruptcy process in regard to investment banks. These changes are opposed by the Securities and Exchange Commission, by such legal experts as Judge Edith Jones of the U.S. Court of Appeals for the Fifth Circuit, Dean Nancy Rapoport of the University of Houston Law Center. They were rejected by the National Bankruptcy Review Commission of 1997.

In my view, section 414, if allowed to stay in the legislation as it is now written, would significantly raise the risk of abuse and therefore I think it is imperative that we undertake to modify the provision in the legislation. I am pleased to join with my colleague in seeking to do so.

I ask unanimous consent to have printed in the RECORD the entire letter from Chairman Donaldson, writing on behalf of the Securities and Exchange Commission to Senator LEAHY and myself in response to our letter asking for the views of the Commission.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECURITIES AND EXCHANGE COMMISSION,
*Washington, DC, May 22, 2003.*

Hon. PATRICK J. LEAHY,
*U.S. Senate,*
*Russell Senate Office Building,*
*Washington, DC.*
Hon. PAUL S. SARBANES,
*U.S. Senate,*
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATORS LEAHY AND SARBANES: Thank you for requesting the Commission's views on Section 414 of H.R. 975, which would amend the "disinterested person" definition in the conflict of interest standards of the Bankruptcy Code to remove the specific provisions covering investment bankers. On May 7, in response to a question from Senator Sarbanes at a hearing of the Senate Committee on Banking Housing and Urban Affairs on the Impact of the Global Settlement, I expressed my personal views about this amendment. Now I am pleased to convey the view of the Commission, which is that, while it may be possible to draft language that would address some of the concerns of the proponents of the amendment, Congress should proceed very cautiously before loosening any conflicts of interest restriction. While we recognize that this one-size-fits-all statutory exclusion is controversial, we believe that it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.

The current "disinterested person" requirement was adopted at least in part in response to a 1938 study by the Securities and Exchange Commission that provided extensive documentation and analysis of abuses in corporate reorganizations. The study concluded that a firm that served as underwriter for a company's securities should not advise the company about distributions to those security holders in a reorganization plan. It further found that such a firm should not advise the company about potential claims against those involved with the company prior to the bankruptcy, since this often would involve an assessment of transactions in which the firm participated. However, we should note that in the 65 years since the 1938 study was issued, bankruptcy practices and procedures have improved significantly with the addition of a dedicated bankruptcy judicial system, the establishment of the U.S. Trustee's office, and the strengthening of active creditors' committees.

We are aware of the arguments of proponents of the amendment that the current statutory exclusion is too broad because it covers firms that participated in any underwriting of the debtor, even if it was years ago and the firm has had no further involvement with the debtor. However, if the exclusion is eliminated entirely, we are concerned that the general protection in the statute—which relies on the judge, at the outset of the proceedings, to forbid those with materially adverse interests to the estate, its creditors, or its equity security holders from advising a company in bankruptcy—may well be insufficient.

We appreciate the opportunity to comment on this proposed amendment. If you or your staff need any further information, please contact my office.

Sincerely,

WILLIAM H. DONALDSON,
*Chairman.*

Mr. SARBANES. The Chairman writes:

> Now I am pleased to convey the view of the Commission, which is that, while it may be possible to draft language that would address some of the concerns of the proponents of the amendment, Congress should proceed very cautiously before loosening any conflict of interest restriction.

Chairman Donaldson, of course, noted the fragility of investor confidence and the need to be very careful in easing these conflict-of-interest provisions.

The existing provision in the law:

> . . . was adopted at least in part in response to a 1938 study by the Securities and Exchange Commission that provided extensive documentation and analysis of abuses in corporate reorganizations.
>
> The study concluded that a firm that served as underwriter for a company's securities should not advise the company about

> distributions to those security holders in a reorganization plan. It further found that such a firm should not advise the company about potential claims against those involved with the company prior to the bankruptcy, since this often would involve an assessment of transactions in which the firm participated.

We have strengthened, of course, bankruptcy practices and procedures over the years. We now have a dedicated bankruptcy judicial system, the establishment of a U.S. Trustees Office, and strengthening of active creditors committees. But, nevertheless, I think we continue to have a very real conflict-of-interest problem here.

My colleague has pointed out the letter of Judge Edith Jones of the U.S. Court of Appeals for the Fifth Circuit, a very distinguished member of the 1997 National Bankruptcy Review Commission. She pointed out that they had been asked to modify the disinterestedness standard in order to accommodate the geographic growth and increasing sophistication of professional firms of all kinds involved in Chapter 11 bankruptcy. She said they rejected that in the Commission by a lopsided majority.

These were expert people on bankruptcy law. It was the wise and prudent way to proceed when we are considering making important changes of this sort. They noted that in order to protect the integrity of the bankruptcy process, it was important to maintain this disinterestedness standard, so you don't have conflicting loyalties that may undermine the fiduciary duties of the creditors.

Furthermore, it was noted—I think this is an important point—that a standard of disinterestedness is necessary to maintain public confidence in the integrity of the bankruptcy system.

We ought not to have a situation in which allegations can be made that the conflict-of-interest situation is preventing a fair, reasoned, and objective judgment as to what ought to be done, and then they end up imputing hidden motives to the actors in the case.

It has been noted by Dean Rapoport, the Dean of the University of Houston Law Center, that one of the duties of the debtor in a bankruptcy case is to take a good, hard look at the pre-petition behavior of those who dealt with or ran the debtor to see whether that behavior contributed to the downfall of the debtor. Another duty is to see how the debtor can raise new post-petition funds in order to finance an effective reorganization. But those are two very important duties or responsibilities of the debtor in the bankruptcy case. Dean Rapoport goes on to state that both of these duties—taking a good, hard look at the pre-petition behavior of those who dealt with the debtor and also a good, hard look at how the debtor can raise new post-petition funds in order to help finance an effective reorganization—both of these duties would be compromised if the same investment bankers that were involved with the pre-petition debtor were allowed to serve as the "objective, post-petition investment bankers."

Stop and think about that for a moment. Clearly, it highlights a potential conflict of a very significant dimension.

There is an argument made that the bankruptcy court would still have to review this and could make a factual finding that there was not disinterestedness present. But she noted, and I quote, "the current standard saves the bankruptcy court from having to make time-consuming, factual findings regarding the disinterestedness of those categories which by their very nature are rife with conflicts of interest. Removing investment bankers from the exclusion list will increase the time, cost and attorneys fees for every bankruptcy case without increasing the benefits to the estate as a whole."

The final report of the National Bankruptcy Review Commission pointed out the strict disinterestedness standards are necessary because of the unique pressures in the bankruptcy process. The trustee and his professionals are required to act as a fiduciary to the estate, its creditors, and other parties in interest, and the court. The disinterestedness standard is designed to ensure that all issues relevant to the administration of the estate are properly raised and vented before the court. Therefore, we are trying to avoid a situation in which there could be a perception or an allegation of favoritism to favor one party over another, the charge that they are taking it easy on one group or group of creditors, or to refuse to pursue possible claims or avenues of inquiries because of any indirect or direct pressures.

The proponents of the provision that is in the legislation which we are seeking to modify by this amendment argue we should simply give the discretion to the bankruptcy judge to allow investment banks to serve as advisers even if those banks underwrote securities with companies that subsequently filed for bankruptcy, leaving it to him to make a determination in that regard.

The SEC in its letter to us on that point said:

> If the exclusion is eliminated entirely—

Which is what this legislation does——

> we are concerned that the general protection in the statute which relies on the judge, at the outset of the proceedings, to forbid those with materially adverse interests to the estate, its creditors, or its equity security holders from advising a company in bankruptcy—may well be insufficient.

Dean Rapoport of the University of Houston Law Center pointed out that the current disinterestedness standard saves the bankruptcy court from having to make time-consuming, factual findings regarding the disinterestedness of those categories which by their very nature are rife with conflicts of interest. Removing investment bankers from the exclusion list will increase the time, cost and attorney fees for every bankruptcy case without increasing the benefits to the estate as a whole.

The amendment seeks to address one of the arguments that has been raised by the proponents of section 414, which is that the current per se prohibition on investment banks that have underwritten securities of a company in bankruptcy remains in effect as long as those securities remain outstanding, no matter how many years ago it may have taken place. It may well have been many years prior to the bankruptcy and the investment bank involved might no longer have a close connection to the bankrupt company.

Senator LEAHY and I have modified the original amendment which we planned to offer which would simply go back to the current law prohibition, and instead in this amendment we are offering a prohibition on investment banks that have underwritten securities of a company within 5 years prior to the filing of the bankruptcy petition.

Mr. LEAHY. If the Senator will yield for a question without losing his right to the floor, I ask the Senator from Maryland, if the bill was passed in its current form, could investment banks that advised or underwrote securities for companies such as Enron or WorldCom that filed bankruptcy, which ended up defrauding investors, could they then be hired to represent the interests of the same defrauded creditors during the bankruptcy proceeding?

The way the bill is now written, without our amendment, could they then be hired to represent the interests of the defrauded creditors?

Mr. SARBANES. I was going to say that is absurd, but as far reaching as that sounds, the answer to the question is yes. That is one of the reasons the potential that results from this legislation is so far reaching.

Gretchen Morgenson, on April 6, 2003, had an article in the New York Times headlined "Advisers May Get Second Chance To Fail." She starts the article as follows:

> Do you think Salomon Smith Barney, the brokerage firm that bankrolled WorldCom and advised it on a business and financial strategy that failed rather spectacularly, should be allowed to represent the interests of the company's employees, bondholders and other creditors while WorldCom is in bankruptcy?

She goes on to say:

> If you answered no, you win a gold star for common sense and for knowing right from wrong.

We are just trying to get a "no" answer put into section 414 of this bill.

We have tried to make a reasonable and balanced modification that essentially preserves the basic conflict of interest protection but does allow this greater flexibility for investment banks that have not recently underwritten securities for the company to serve as advisers in the bankruptcy. But to simply remove the existing provision in the law altogether is to open up the possibility for abuses of major dimensions. Therefore, I very strongly support the amendment being sponsored by Senator LEAHY and by Senator WARNER.

There is no public purpose that will be served by allowing section 414 to remain in this legislation as it is currently written. In fact, to the contrary, it runs very counter to important public purposes.

Other articles of note include one by Alan Sloan in the Washington Post: "Proposed Changes In Bankruptcy Law Twist Meaning Of 'Reform' Beyond Recognition." He goes on to point out the potential implications of this change.

There is also an article by Michael Krauss in the Washington Times headed, "Bankruptcy Reform . . . With a Thorn." He goes on to say that he supports bankruptcy reform legislation but does not support section 414 of the bill because it removes from the excluded list of people not allowed to be employed in the bankruptcy the investment bankers who have had a connection with the company.

The amendment before the Senate is a reasoned and balanced proposal. We have tried to listen to the arguments being made on the other side and respond to those that we think have some merit to them without completely doing away with the "disinterestedness" standard. You have to have confidence in the integrity of the bankruptcy system. The total elimination of the investment bankers in terms of being precluded because they have a conflict of interest situation is not going to bolster consumer and creditor confidence.

I urge my colleagues to support this amendment. It is a fair and balanced amendment. It is badly needed. To fail to enact it will carry with it a tremendous risk in terms of how our bankruptcy process functions.

The PRESIDING OFFICER. The chairman of the committee, the Senator from Pennsylvania, is recognized.

Mr. SPECTER. I have secured the agreement of the managers to speak very briefly about another matter. It involves the Coal Act, which has provided benefit for many miners in Pennsylvania and throughout the country.

The Coal Act of 1992 mandated coal operators to fulfill their promise to provide their employees and families with health benefits, and those obligations could not be modified. As an original cosponsor of this legislation, along with the Senators from West Virginia, Senator ROCKEFELLER, and Senator BYRD, I am very closely aware of the effect on 14,000 retired coal miners and their dependents in Pennsylvania. Nationally, this act affects over 60,000 individuals, including every State except for Hawaii. These health benefits form a central underpinning for the medical care structure of the coalfield community.

It is a tough job being a coal miner. I have, in the course of my representation of the coal miners, gone 30-stories-deep underground, ridden in a cable car, crunched over like a corkscrew to avoid being hit by the ceiling as the cars moved in on the long wall to perform the mining operation.

The issue came forcefully home to me when I visited several hundred of the coal miners in Washington County, PA, more than a decade ago along with Richard Trumka, distinguished Pennsylvanian who had been president of the United Mine Workers and is now secretary-treasurer of the AFL–CIO. We went to court to verify this program, which is vital for the health care of these miners.

I was very surprised to see a Federal judge enter an order which said that the bankruptcy proceeding in a case captioned Horizon Natural Resources trumped the Coal Act. It is a surprise to me that that would happen under the existing law.

I know we are operating under a unanimous consent agreement where there has been a series of amendments set aside and we are in postcloture. Senator ROCKEFELLER earlier made comments about this amendment and was unable to secure agreement. In working through this bankruptcy bill we are laboring under a great many complications, a complication that if there are amendments unacceptable to the House, there will be a conference, and a conference resulted in the defeat of this bankruptcy bill several years ago.

This amendment is technically precluded at this time, but I wanted to take the floor. And I have discussed it with the distinguished chairing officer, Senator GRASSLEY, the principal proponent of the bankruptcy bill. In my capacity as chairman of the Judiciary Committee, I yielded to him because he is the principal author. We have talked about it.

I understand we are not going to be able to get this amendment through at this time for technical reasons, but I wanted the 14,000 Pennsylvania coal miners and the 60,000 coal miners nationally to know of the concern of Senator ROCKEFELLER, Senator BYRD, and others. I have not had a chance to catch Senator SANTORUM on the floor, but he has been very solicitous and very concerned about coal miners' interests. But until I speak to him specifically, I would make only the generalized comment about his concern for the coal miners.

So what I intend to do at this time, recognizing there will be a successful objection, is to send this amendment to the desk and offer this amendment to the pending bill.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendments?

Mr. GRASSLEY. Mr. President, reserving the right to object, and I will object, but I would like to take just 30 seconds to explain that there are problems with the Coal Act. They are within the jurisdiction of the Senate Finance Committee, and we ought to look at all these issues in the context of a comprehensive review and a comprehensive solution.

So I would see a piecemeal approach, as is being done now through the bankruptcy bill, as, first of all, intervening in the jurisdiction of the Finance Committee, which as chairman I should protect, and, secondly, making more difficult the comprehensive solutions that we ought to find. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, first, I thank my colleague from Iowa, with whom I have served since January 3, 1981. We came to the Senate at the same time, the sole survivors of 16 Republican Senators. I appreciate what he has said about taking a look at it.

I will be filing legislation to correct this, and I will be looking forward to the opportunity for a hearing in the Finance Committee. And I think other Senators will be joining me as well.

I understand the reasons we cannot have it in now, but let the 60,000 coal miners nationwide take heart, and the 14,000 Pennsylvania coal miners, that this is an issue which we will pursue and I think prevail on. We will ultimately win this, although not today.

Again, I thank my colleagues for letting me intervene.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

### AMENDMENT NO. 83

Mr. CRAPO. Mr. President, I stand to speak in opposition to the pending amendment. The pending amendment has been discussed as if it were seeking to stop investment banking interests who are involved in working with companies that face bankruptcy from continuing some kind of fraud or inappropriate conduct that helped to lead to the bankruptcy by prohibiting them from serving as investment bankers or investment advisers following the bankruptcy proceedings or during the pendency of the bankruptcy proceedings.

The fact is, however, section 414 of the bankruptcy bill and of the bankruptcy law does not eliminate the disinterested test for investment banks. Let me explain the way the law works at this point.

For whatever reason, when our current bankruptcy laws were put into place, a complete bar was put in place, so when a company goes into bankruptcy, its investment bankers cannot then function on behalf of the company. They cannot be appointed by the judge to continue to work as the company that works out its bankruptcy difficulties, whether it be in some kind of an ongoing bankruptcy proceeding or in a chapter 7 proceeding. Therefore, the disinterested test simply never applied because there was never any opportunity for an investment bank to serve in this role if it had had any relationship whatsoever to the company going into bankruptcy.

That posed a couple very serious problems. The first one is that investment banks that have no current relationship with the company and are possibly best suited to help them through their financial difficulties are conflicted due to having some minor role in the underwriting or some underwriting relating to the company years and years and years ago. That is under current law. What this bankruptcy reform we are trying to put through is seeking to do is to address that problem.

Similarly, investment banks that are most familiar with the issues facing a distressed company and are actually working with that company in an attempt to avoid bankruptcy are then compelled to walk away from their clients in their biggest hour of need if bankruptcy becomes necessary and the company has to make the bankruptcy filings. That is what this legislation that is being proposed is seeking to address.

The amendment would strike that and, instead of having a perpetual ban, would have a 5-year ban. Now, admittedly, the 5-year ban would solve one problem because it would make it so a company that 20, 30, 40, 50 years ago was involved in an underwriting would not be disqualified, but it still leaves disqualified all of the investment banks that may have been involved even in a bundled underwriting or in some effort to help this company in its financial dealings over the last 5 years prior to bankruptcy. It eliminates those investment banks, their expertise, and their knowledge of the failing company, from consideration in helping that company as it seeks to work through a bankruptcy.

Let me make it very clear: The proposed change in the statute does not eliminate the disinterested test. In other words, a question was posed a moment ago on the floor as to whether, in the case of Enron, an investment bank that had been involved in an underwriting for Enron could then have been appointed by the court, under the change in the law proposed here, to continue working with Enron after it went into bankruptcy proceedings. And the answer that was given on the floor was, yes, that is a possibility.

Well, first of all, the question assumes that any investment bank that had been involved with Enron was somehow involved in fraud because Enron was involved in fraud. We do not necessarily know that. But that gets to the point of what the bill we are proposing is seeking to do.

The bill maintains current bankruptcy law requirements that if an investment bank is to be appointed by the court to work with the bankrupt company, the court must make a determination that this investment bank is disinterested, that it passes the disinterested test. I would presume that if there were a participant in fraud, the court would not consider that to pass the disinterested test.

But the key point here is that what the proposal in the underlying bill seeks to accomplish is to have a judge take evidence, evaluate the issue, and make the determination of which investment bank is the best suited, passing a disinterested test, to help this company as it seeks to work through the bankruptcy issues. And there will be many cases when the best suited financial advisers are those who have a history of working with the company, of knowing the company's business, and of knowing the company's financial dealings, and being able to work with them.

In fact, in many cases, I would assume it might be a financial adviser, an investment bank that has been working with the company for the last 3 or 4 years to help them try to work through their problems, and for some reason, with what I consider to be a cookie-cutter solution being proposed by this amendment, they would be disqualified simply because they tried to help or were hired to help beforehand.

In fact, what we see here in this amendment is a chilling impact on companies going out and seeking investment bank advice before bankruptcy, if they know that bankruptcy is a possible outcome they may face, because they have a choice: Do we seek the best competent investment banking advice we can get before the bankruptcy, knowing that the bankruptcy law will prohibit us from ever having that advice if we do end up having to file or do they say: "We may have to file and, therefore, we will seek less competent advice or our second alternative so we can have our first alternative when we file bankruptcy"? Why put companies into that kind of a complex problem?

Section 414 would subject investment banks to the same disinterested test as other professionals. This is important to know. A company's legal advisers are not subjected to an automatic ban; they are subjected to a disinterested test. A company's accounting advisers are not subjected to an automatic ban; they are subjected to a disinterested test. And yet the effort here seems to say that for some reason we do not want to let the investment bank advisers be subjected to the same disinterested test. Instead, we want to presume that they are guilty of some inappropriate conduct because the company has not financially made it, and ban them from being able to work with the company once a bankruptcy filing takes place.

It is another one of those one-size-fits-all cookie cutter solutions that is coming from Washington, DC that is telling every bankruptcy judge across the country that they have no alternative in terms of their choice of who can be the investment bank advisers and supporters for a company that goes into bankruptcy, if there is any connection in the last 5 years between that investment bank and the company that had to file.

Bankruptcy courts currently review disinterestedness for all professionals, and 414 would allow judges the same discretion with investment banks as they have for attorneys and accountants. The current law has created a market, frankly, in which a small club of restructuring boutiques dominates the market for restructuring services in bankruptcy. In other words, they realize that if they even get close to a company before bankruptcy, then they won't be able to serve as a part of the restructuring effort for that company coming out of bankruptcy. So this sort of boutique business has developed where the only alternatives the judge has to turn to are those companies that specifically don't help until after the bankruptcy filing.

That is the issue we need to address. Do we want to create a system of investment bank advice for companies that are facing financial difficulties in which those companies have to make a choice as to who they will contact for support before the bankruptcy filing, knowing that whoever they choose to help them in their investment banking will be automatically prohibited from helping them if they do end up having to go into a bankruptcy?

Professionals are required to perform a firmwide review and disclose all actual and potential conflicts in their application to the court to be retained by the debtor. All parties in interest, including debtholders and shareholders, have the opportunity to make their position known before the judge.

Another important point is, somewhere in the debate that has been going on today, we heard: The judge may not know; the judge may make a mistake; the judge may not be aware of all the facts; it is going to be very expensive for the judge to have to go through and look at these investment banks to be sure that he knows whether they are culpable or whether they are simply competent investment advisors.

The fact is, the costs that are being put onto the system now by these blanket bans on investment banks are generating more costs to the restructuring process than any cost that could be generated by having the judge make a disinterested analysis. But even if the judge somehow made a mistake, even if we want to hypothesize that judges are going to make mistakes and bad actors might be allowed to be an investment bank adviser or participant in a bankruptcy, any time information becomes available to make it evident that the disinterested test was not satisfied, the judge can change that ruling and terminate the professional's engagement.

It seems to me what we need to do in our bankruptcy laws is to promote more flexibility. We need to give opportunities for all investment banks to participate with those companies in our economy, whether they be strong or facing financial difficulties, and help them to the maximum of their abilities. And if it turns out some of those companies end up having to make a bankruptcy filing, then it is important that we protect the flexibility for the bankruptcy judge to select the most qualified investment bank support to work out that bankruptcy circumstance.

That is what is in the best interest of our shareholders, in the best interest of our economy, and in the best interest of the debtor and the creditors. We must make certain that we don't allow one more very rigid Federal standard to continue to create this kind of difficulty in the bankruptcy process.

Two other points. First, all Senators have received a copy of this letter. There is a letter that was sent out which was signed by those in the industry who are involved in this, who very strongly indicate that the reform and the flexibility this bankruptcy proposal promotes should be supported. That includes the American Bankers Association, the Bond Market Association, the Financial Services Roundtable, the Futures Industry Association, and the Securities Industry Association.

Frankly, although I know Chairman Donaldson has been quoted here, I am not aware that the SEC itself has ever taken a position on this issue. If that is the case, I stand corrected.

Mr. SARBANES. Will the Senator yield on that?

Mr. CRAPO. I will yield.

Mr. SARBANES. The letter we submitted reflected the opinion of the commission. Chairman Donaldson had indicated a personal view in a hearing, and then I sent a letter asking him for the commission's view.

Mr. CRAPO. And he responded on behalf of the commission?

Mr. SARBANES. It begins: "Thank you for requesting the Commission's views on section 414 of H.R. 975."

Mr. CRAPO. I stand corrected on that.

Mr. SARBANES. In response to a question from me, he expressed his personal views. He writes:

> Now I am pleased to convey the view of the Commission . . .

Mr. CRAPO. Reclaiming my time, I stand corrected on that.

This will not be the first time, even in recent months, that I have disagreed with the SEC. Although I understand that your letter does speak for the SEC, the fact is, there is one other point I want to make. That is, as is the case with a number of the amendments we have dealt with in debate over the bankruptcy bill, which we have been trying to move forward for 8-plus years, we face a situation in which we are trying to keep this bankruptcy bill clean and not have amendments that are objectionable to the House included in it so that we again run into the problem of not being able to move the legislation. This is one of those amendments. I am confident and I have an understanding that this is one of the amendments the House would not allow and would cause us to then have to go into conference and bring down the bill.

The bottom line is, it is bad policy. We have bad policy in current law. The bill seeks to create the flexibility that will allow a judicial determination as to the best and most highly qualified and disinterested investment bank advice for companies involved in bankruptcy. We should not change the underlying bill by substituting a rigid 5-year ban prohibiting many companies that are in the best position possible to do the best good for the company that needs their help at this point from being able to serve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I want to take a moment to respond to the Senator from Idaho. I think this is important.

Elizabeth Warren, who is a distinguished professor at Harvard Law School and an expert on bankruptcy, has said there is a reason why the professionals who have worked for a business that collapses in a bankruptcy are not permitted to stay on. The company must go back after bankruptcy and reexamine its old transactions. Having the same professionals review their own work is not likely to yield the most searching inquiry.

She goes on to say about the provision in the bill: It is not a provision to ensure investor confidence or to enhance protection for employees, pensioners, or creditors of failing companies.

Let me make one other point which needs to be understood. To the extent an investment bank—and it needs to be understood that an investment bank has been viewed as integrally related to the financial arrangements of the company, similar to creditors, security holders, and insiders—advised on the creation of a company's capital structure before a bankruptcy filing, it may itself be exposed to potential liability. As it works out the deal that permits the company to emerge from bankruptcy, it may be tempted to prefer the creditors who have a potential claim against the investment bank.

Now, that is the very sort of conflict that we simply ought not to permit. We address one point made by the Senator about a connection a long time ago that is no longer relevant in the 5-year provision, and the amendment takes care of that.

Beyond that, I think we would be making a grave mistake to allow this radical change to take place. I very much hope my colleagues will support the amendment offered by Senator LEAHY, Senator WARNER, and myself.

I yield the floor.

Mr. LEAHY. Mr. President, we have had a good debate. I mentioned to the Senator from Iowa, I don't know if other people wish to speak, but I am perfectly willing to go ahead and have a vote. I know the leadership is trying to move things along and get things going. I am willing to have a vote.

Mr. GRASSLEY. I would like to speak for a short time.

Mr. President, under current law, investment banks are not allowed to compete on the same playing field as other professionals. Right now, investment banks are precluded per se, in many circumstances, from representing a debtor in a business bankruptcy if the investment bank acted as the investment banker for the company before it filed for court protection.

I think this is a draconian rule. The bill would give the bankruptcy judge the ability to determine whether an investment banker is disinterested, just as the judge determines whether other professionals are disinterested. The provision in the bill, it seems to me, is not only fair, but it will also safeguard the proceedings from any conflict of interest. Do we trust our Federal judges, or don't we, to make this determination? After all, the environment for this is in the judiciary—before judges. We happen to trust them for all other professionals involved in the bankruptcy proceedings, whether there is any conflict of interest for anyone involved. So then the question becomes, why should it be different for investment banks?

I think the provision in the bill is fine as it is. It is part of the compromise. We should allow a judge to make this determination and, thus, protect the integrity of the bankruptcy process. So I ask my colleagues to oppose this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, since we have the list of cosponsors of the pending amendment, I ask unanimous consent that the Senator from Virginia, Mr. WARNER, be removed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I checked with the majority staff and they have no objection to my seeking to be recognized for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### INDICTMENT OF RAMUSH HARADINAJ

Mr. BIDEN. Mr. President, yesterday the International Criminal Tribunal for the former Yugoslavia at the Hague, known by the acronym ICTY, indicted a fellow that I met several years ago, a guy who was very much involved in the carnage that took place at the time of the war in Kosovo. His name is Ramush Haradinaj. This is a young man who looks like he could lift an ox out of a ditch. A very hard, tough guy.

Until yesterday he happened to be the Prime Minister of Kosovo. He was indicted for war crimes in Kosovo during the period of 1998 and 1999. Mr. Haradinaj declared himself entirely innocent but resigned as Prime Minister, surrendered voluntarily, and flew to the Netherlands today to turn himself in. He also did something highly unusual in the Balkans. He issued a statement calling for calm in Kosovo.

From the creation of the Hague Tribunal a decade ago, I have supported its vitally important work. Beginning with Judge Goldstone, my staff and I have met with its chief prosecutors over the past decade. I have great respect for Carla Del Ponte, the current chief prosecutor and for the court's judges.

I am confident that Haradinaj will receive a fair trial. Without presuming to pass judgment on his innocence or guilt, though, I would like to comment—this is the first time I have ever done this—on my personal impressions of him and also to put his arrest in a larger context relating to the entire territory of the former Yugoslavia.

Let me begin with my meeting with him in Pristina in January of 2001. We discussed Kosovo's future, and he seemed genuinely to recognize that the only way forward was for the rights of the Kosovo Serbs, and of other non-Albanian minorities to be guaranteed. During that trip, I flew by helicopter to western Kosovo where I visited the Serbian Orthodox Visoki Decani Monastery, a 14th century architectural masterpiece which last year was named a UNESCO World Heritage site.

During the fighting in 1999, the Serbian Orthodox monks of this monastery had saved Kosovar Albanians from persecution by Serb forces. Again, these were Serbian Orthodox monks saving Kosovar Albanians most of them Muslims—from persecution by Serb forces.

Nevertheless, when I visited the Visoki Decani Monastery nearly 2 years later, Father Sava and other monks told me that they were in great danger. In fact, Italian KFOR armored personnel carriers were lined up in the snow just outside the monastery's stone walls as a deterrent.

Knowing that the territory around Decani is Mr. Haradinaj's political base, I sent him a confidential letter after I returned to Washington. In it I wrote that I was counting on him to personally guarantee and protect the Serbian Orthodox monastery I had just visited.

In March of 2004, serious riots against Serbs and other non-Albanian minorities broke out across Kosovo. Hundreds of homes were destroyed, and many medieval Serbian Orthodox churches and monasteries were burned to the ground. KFOR proved unable or unwilling to prevent this destruction. In fact, in several cases, the outrages occurred while European KFOR troops stood by. One of the few venerable monasteries that remained untouched was Visoki Decani. Mr. Haradinaj had kept his promise.

During the 1998–1999 war, Haradinaj was a leading commander of the Kosovo Liberation Army, the KLA. Hence, his election as Prime Minister last year was greeted with considerable skepticism. From all reports, however, in his brief tenure, he has earned nearly unanimous praise, including from the head of the U.N. mission in Kosovo, for his constructive and effective leadership. I am told that even Serbian leaders in Belgrade privately acknowledge that of all of the Kosovar political leaders, it is Haradinaj with whom they could potentially negotiate with the greatest degree of confidence.

Mr. Haradinaj's call for calm, which so far has been heeded, was based upon a realization that a repeat of the violence of March 2004 would deal a fatal blow to the Kosovars' hope that the process toward negotiations on the final status of Kosovo can begin later this year.

I have said repeatedly that self-determination by the people of Kosovo is ultimately the only realistic solution to the problem. Since more than 90 percent of the population is ethnic Albanian, as is Mr. Haradinaj, with a collective memory of extreme persecution by the Serbian government of Slobodan Milosevic, I can't imagine they would ever vote for a return to being governed by Belgrade.

On the other hand, I have coupled my advocacy of self-determination for Kosovo with the precondition that the personal safety and freedom of movement of all Kosovo Serbs, Roma, Ashkali, Egyptians, Turks, Bosniaks, Gorani, and other non-Albanian minorities are being provided and are guaranteed for the future. As yet, unfortunately, this has not occurred. Mr. Haradinaj's statesman-like actions are intended to keep Kosovo on the path toward Final Status negotiations.

In the overall post-Yugoslav context, Mr. Haradinaj's willingness after his indictment to surrender voluntarily and go to The Hague is striking. It stands in glaring contrast to the behavior of the three most infamous individuals indicted by The Hague, all of whom are still fugitives, resisting arrest: former Bosnian Serb General Ratko Mladic, former Bosnian Serb leader Radovan Karadzic, and former Croation General Ante Gotovina.

By their evasion of ICTY's indictments, all three are blocking their countries' progress toward entering Euro-Atlantic institutions, a necessary precondition for stabilizing the Western Balkans. The surrender of Mladic, who is thought to be in Serbia, is necessary for Serbia's joining NATO's Partnership for Peace and for eventual NATO and EU membership.

Karadzic's unwillingness to give himself up is blocking Partnership for Peace membership for Bosnia and Herzegovina.

Gotovina's fugitive status is holding up Croatia's promising candidacy for EU membership.

Whatever the eventual adjudication of his indictment, Ramush Haradinaj by his dignified departure and public statement has proven himself to be a patriot. The same cannot be said of Mladic, Karadzic, and Gotovina, whose selfish actions are standing in the way of much needed progress for Serbia, Bosnia and Herzegovina, and Croatia.

Whatever Mr. Haradinaj's fate, I want to publicly salute him for his personal courage, for the statesmanship he has demonstrated over the last two days, and for having kept his word by doing exactly what he told me he would do with regard to the monastery.

I wish him well. I hope justice is served. and I applaud him for his wise decision to cooperate with the Hague Tribunal.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. STEVENS. Mr. President. I ask unanimous consent that I be excused from voting for the remainder of the day.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. KENNEDY. Mr. President. those Americans who have been watching this debate on bankruptcy reform for the last 8 days must wonder what in the world is happening in the Senate this evening where we have had these prolonged quorum calls. We have had a series of votes over the course of the day. We had tentatively planned to have another series of votes on amendments at 5 o'clock this evening.

But then because of the concern of our Republican colleagues on one particular amendment, an amendment that would have addressed the provisions in the underlying legislation that repeals the conflict-of-interest provision for major banks. suddenly the quorum call goes in and there is no further action on the issue of bankruptcy.

This is absolutely amazing. Many of us have pointed out how this is special interest legislation. It was written by the credit card companies for the credit card companies. They are the principal beneficiary.

The argument for this legislation. according to the proponents. was: Look. we have a number of spendthrifts in the United States. People ought to act responsibly. This legislation will deal with it.

That was their argument. And that is an argument that those of us who have differed with this legislation would gladly accept. The percentage of spendthrifts, so to speak. is anywhere from 5 to 7 percent of the total number of people who go into bankruptcy. Those of us who have been battling this legislation for the past several days all agree, we would join up with our colleagues in a bipartisan way to address that issue. But that isn't what this bill is about.

This bill is about encumbering working families, primarily, who fall on difficult times, as we have pointed out during the debate. We have offered a series of amendments. A number of my colleagues have offered amendments. Every one of them has been defeated by our Republican colleagues.

Now in the final hours of consideration of this legislation. because one particular amendment is going to touch the banking industry and they are unsure of the votes. they effectively call off all the votes for this evening. That is what is going on here in the Senate.

If you want to put your finger on special interests. look what is happening in the Senate at this moment. We have the Sarbanes-Leahy-Warner amendment, the authors of which were prepared to vote on. But no. the Republicans say, no, we are not going to let the Senate vote on that. because they are not sure of the votes.

They are not sure of the votes. They are not sure that they have the votes to defeat that particular provision that would override a provision that is in the banking bill that repeals some conflict of interest for banking interests. Isn't that something? Doesn't that really show what this legislation is all about? Sure it does.

Why not call the roll? Why not call the roll? We have been listening about let's move the banking legislation along: let's move it along. Why do you have to take time when you are talking about what the impact of this legislation is going to be on the members of the National Guard and Reserves, who go overseas—the 20,000 that would be bankrupt this year and subject to the harsh provisions of this legislation.

And then we had a phony amendment that was accepted here that will do virtually nothing to protect them. What about the homestead exemption, which says that those who exist in five States are going to be able to squirrel tens of millions of dollars away so that if they go into bankruptcy they would be able to protect their million dollar homes? Why not have fairness across the country? Oh, no. we cannot do that because we have a delicate compromise. What is that delicate compromise they are talking about? I thought this legislation was going after spendthrifts. We agree to go after them. but when we know half of the people going into bankruptcy are going there because of health care bills that are run up, with 75 percent of those individuals covered with health insurance. but because they have a heart attack in their family or because they have a stroke in their family. or because they have a child who has spina bifida in their family, they are subject to the harsh provisions of this legislation that will virtually make them an indentured servant of the credit card companies for the next 5 years. That is what is in this bill. We have pointed that out. No, we will vote that down. We will vote down any consideration for the National Guard and any consideration for the Reserve if they happen to be individuals who may be running a family business, one or two working in a particular employment or a mom-and-pop store. and they go overseas and they are going to serve for many months, and the store bellies up. then they are subject to the harsh provisions of this. No, we are not going to give consideration to those veterans. What about those individuals? It could happen to any family—except Members of the Senate, who have very good health care. It would not happen to us. But we cannot get health care for the rest of Americans. No. that is just too bad, that they have a heart attack in their family. or a stroke. or that they have a sick child. they are going into bankruptcy. and they are going through the harsh provisions of bankruptcy that are going to make them pay for the next 5 years to 10 years $15 or $20 a week, and continue to bleed them. That is what is in this bill.

The American people are beginning to understand it. We talked about all the single women who go into bankruptcy because their ex-husbands do not pay them money for child support. Do you think we could have some understanding or some sensitivity to their particular problem? Absolutely not. No way. Let's take those spendthrifts and put it right to them. That is what this bill does. No, we cannot deal with that. What's your next amendment? Let's go on, it is getting late. Let's have time. Time. they say. What has happened here for the last 3 hours? The clock has run and they cannot figure out whether they have the votes to protect the banking industry. That is what is going on. The Republicans are trying to find out whether they have the votes to protect the banking industry, and they get all worked up when we call this special interest legislation. You have not seen special interest legislation until you see this bill.

We used to. around here, look at a piece of legislation and say. who benefits and who suffers with this? Well. it is very easy to find out here who benefits. It is the credit card companies. They are the ones who are going to be put in the catbird's seat. Their estimate in the passing of this bill—listen to me—this legislation makes the bankruptcy courts of the United States the collection agencies for the credit card industry of America. Who do you think pays for the bankruptcy courts? You do, Mr. America. Ordinary Americans pay for those bankruptcy judges and the bankruptcy courts. and they are going to be out there as a collecting agency for the credit card companies. That is what this is about.

It has been difficult to get anyone on the Republican side to understand that. Well, we voted on this some years ago. We have a changed condition from some years ago. Sure, we have the problems of bankruptcy. What about Enron and WorldCom? What about Polaroid in my own State? When they went belly up, the people not only lost their health insurance and pensions, they also lost their investments in what was called an ESOP—their requirement to invest in the companies. They all lost out on it. We are sure of one thing: Ken Lay and all of the people at Enron have big houses all sheltered away in places like River Oaks in Houston, TX. They have all those protected, tens of millions of dollars. What happened to the other people?

So we do have a problem, but this bill doesn't address it. It does nothing about WorldCom or Enron or about Polaroid and what happened to those workers. Zero. Zip. Nothing. And then, when we found out that there is another loophole where, when wealthier people know they are going into bankruptcy, they can get a clever lawyer and put their money in trust and be free from the reaches of the bankruptcy court, that was addressed. No, we are not going to change this legislation. We are concerned about these spendthrifts—whoever they are. I have been on the floor for most of the time in this debate, and I still have not heard who they are. All I heard is that we passed this several years ago, and we have to pass it again.

Well, there have been many changes since the last time we addressed this bankruptcy bill, and the major companies and corporations have basically done in the workers with their pensions, with their health insurance, with their life insurance; they have done them in, but this bill doesn't do anything about that. And then we have the issue of the use of these trusts to protect the assets of these wealthy debtors who are going into bankruptcy. But this bill doesn't do anything about that. We have the inequities where people in at least 20 or 25 States across the country, their investment in their homes will be protected up to $5,000 or $7,000, but not in Texas or Florida, where you can have tens of millions. Fair? Equitable? No, we are not going to do anything about that. No, we have not done anything about any of these issues.

What we are basically saying is that those people who have worked hard, have health insurance, and had a serious health challenge or need in their family—just enough to tip them over—is that we are not going to show them any mercy. Absolutely, no, put the wood to them. Veterans, put the wood to them. Single moms who are not getting their payments of child support and alimony, put the wood to them.

If you happen to fall below the median line, so you are outside—you would think that if you could show that your total certified income was below the median income of your State, you are supposed to be free from repaying. That is what you heard on the floor of the Senate. Yet when amendments are offered to make sure that all the other punitive provisions that are added to that—you have to go out there and enlist in some course on credit. Find a course on credit counseling. These are people who average $12,000 to $15,000 a year in terms of income—you are going to require them to take a credit course? They have to demonstrate that they graduate from that course; otherwise they will be subject to the $5 or $10 a week in terms of payment.

This bill is all about $5 billion dollars in additional profits to the credit card companies. That is what this bill is all about. Where do you think it comes from? People who have gone into bankruptcy. Who are those people? They are the people that have the heart attacks. They are the men and women whose jobs have been outsourced.

They are the mothers, single moms who are not getting paid alimony and child support. Those are the people who are being hurt, and those are the people who are hard-working Americans and who are going to have their final drops of blood drawn out of them with payments. That is this bill.

We have been saying this is a special interest bill; tonight reaffirms it. The Republicans will not vote to restore a provision in this bill that was existing law that dealt with conflicts of interest for banks. They do not want to risk a vote in the Senate tonight. Why don't they explain it? Where is their shame? Why don't they explain it to the American people? Where are they? Where are all these proponents of this wonderful bill to explain why it is so difficult for them to decide tonight? This is just seamy, just a terrible way to legislate.

We have seen these votes, as I mentioned, over time. We have seen who the vulnerable people are. We have seen who the beneficiaries are. We have pointed out what has been happening in America, across the landscape, over the last 4 or 5 years with the loss of jobs, the loss of extending unemployment compensation to people who paid into the unemployment compensation fund for a long time. The jobs are not out there. We have 8 million people who are unemployed, and there are 3.4 million jobs out there. There are going to be people who cannot work, cannot find work.

Mr. REID. Will my friend yield for a parliamentary inquiry?

Mr. KENNEDY. Yes.

Mr. REID. Would the Senator from Massachusetts want an hour of my time?

Mr. KENNEDY. I thank the Senator very much. I appreciate it.

Mr. REID. I yield the Senator from Massachusetts an hour of my time.

Mr. KENNEDY. Mr. President, I thank the Senator.

What has happened out there? We have seen the economic challenge for workers as a result of outsourcing, the mergers that have taken place, a number of them in my own State that are having a direct impact.

There are two important industries that are the fastest growing industries in America. One is the collection industry. That is right, the collection industry, the people who spend their time dialing people who owe money on credit cards. They keep dialing—talk to the principal, talk to their children, talk to them at 3 o'clock in the afternoon when the children come back from school. That industry is growing.

The second industry is part-time workers. That is what is happening. We find with part-time workers that they do not have coverage. People are ready to work. They want to work. They want these benefits. They have fought for these benefits over their lifetimes, the primary benefit being health insurance.

We find out that what has happened in the United States today is the collapse of the pension system. What we are finding today is the lowest rate of savings in 40 years. And what does this administration want to do? They want to give Social Security to Wall Street. They want to give Wall Street Social Security and privatization. They took care of the major companies with the class action bill just a week ago, and now they are ready to take care of the credit card companies. But they cannot quite make up their mind whether the vote in the Senate that would restore existing conflict-of-interest provisions, which are existing law and which, I might point out, the Securities and Exchange Commission supports—not what is in this bill, but the amendment of Senators SARBANES, LEAHY, and WARNER. They support that position. The SEC supports it because of conflict of interest. But not our Republican friends. No, they cannot make up their mind. If they add that to it, the power of the banking industry would be so strong over in the House of Representatives, they will have a stalemate, and then they will not get their goodies. They will not get their goodies. This is what has been happening.

Look at the profits of the industry that is going to benefit, the credit card industry. In 1990, 6.4; 1995, 12.9, 2000, 20; 2004, look at this, $30 billion, between 2000 and 2004. Find an industry like that in America, except maybe the Guaranteed Student Loan Program, where we have a loan guaranteed by the Federal Government and lenders make 9% on some student loans. Parents wonder why the cost of going to school at the universities are so high, because the government is padding the pockets of student loan providers with tax payer dollars. These are the profits.

Who are the people affected, as I mentioned before, during the course of this debate? We have 1.5 million bankruptcies annually and half of them are as a result of illness. Nonmedical causes, 54 percent; medical causes, 46 percent. But we are not going to show those. This bill was supposed to go after the spendthrifts. We can get the spendthrifts. We do not have to put these people through the mill. That is what this is really about.

We are here this evening waiting until the clock moves down. We are at our offices constantly wondering when we are going to start the votes. Two votes were supposed to be at 5 o'clock—one to deal with single women who are in bankruptcy because they are not being paid their alimony and child support. That was dismissed out of hand; you will have to take that to a vote. We are prepared to take it to a vote, and we will certainly continue to take it to a vote. If we are not successful on this, anyone who thinks we are going to let these issues go away just does not understand those of us who are opposed to this particular program.

We are also going to have an opportunity to vote on what has happened to so many of our American families as a result of outsourcing and how they have faced the economic challenges over recent weeks and months. More than 450,000 jobs have been outsourced. Over the next 10 years, we are expecting close to 3.4 million jobs to be outsourced, going outside the country.

We have seen what is happening in manufacturing all across this country. We all know that manufacturing jobs are the ones that have the higher pay. That has been part of the phenomenon. Do you think that concept is of any importance to the proponents of this legislation? Absolutely not. No way.

Health care prices have gone through the roof by 59 percent and the cost of prescription drugs 65 percent, and the fact we are an aging population with our parents, children, almost a third disabled who need those prescription drugs, and the prices are going up through the roof—are we giving them any consideration? Absolutely not. We do not care about the workers who have gotten shortchanged. We do not care about those who have needed prescription drugs and have been bankrupted in paying the prices.

This is the same Republican Senate that would not permit the Secretary of HHS to negotiate prices downward—do you hear me—like we do in the Veterans Administration. Here we have hundreds of thousands of people who are going bankrupt because of increases in the cost of health care and prescription drugs, and we—most of us on this side—who are opposed to these harsh provisions tried to make some difference several months ago to permit the Secretary of HHS to negotiate prices downward, as they do in the Veterans Administration. But, no, we are not going to let you do that. So that was defeated. You cannot import cheaper drugs from outside the country. You cannot get cheaper prices here. And what happens? You end up going into bankruptcy and end up with the harsh provisions of this legislation.

This legislation is not fair, it is not just, and tonight we have seen what this is all about.

The bankruptcy bill as written contains a provision, section 414, which would repeal the provision in current law on investment banks which underwrote a security of the company in bankruptcy from now serving as adviser to the bankruptcy. This is a basic conflict-of-interest prevention in current law, which this bill would repeal. It is one of the many shameful special interest provisions in this bill.

To their credit, Senators LEAHY and SARBANES offered an amendment to remove this provision and maintain the current law against conflicts of interest by the investment banks. It appears that it may have the votes to pass, so to protect the investment banks the Republicans have effectively shut down the process. There should be no doubt, when people finally vote tomorrow, what this bill is all about, who it was for. When it is a fight for the real people, then we hear from the other side saying, no, no. But when it is their friends in the banks who are threatened, it shuts down debate in the Senate.

Clearly, there is no room in the Republican agenda for the real needs of the real people, the veterans, the workers, the mothers, the children, and the widows.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I will have a little bit to say about what the distinguished Senator from Massachusetts has been talking about, but I rise in opposition to the Kennedy amendment to S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Now, it is important that colleagues on both sides of the aisle fully understand what this amendment does to our bankruptcy laws and what it does to the prospects for reform. Before I start, I will take a few minutes to remind everyone what this bill is all about. The short answer is fairness. Those who can pay their bills should pay their bills. That is the American way.

All law-abiding, bill-paying consumers pay when some do not repay their obligations. You and I and every citizen of this country is going to pay if we allow people who can pay to escape their obligations, and this bill stops the gaming.

This is not too revolutionary an idea, but to listen to some of the opponents of this legislation on the floor these last few days, one would think we are trying to square a circle.

I have been down on this floor quite a bit over the last few days and I have heard many of the arguments from the few Senators against this bill, and I emphasize the "few Senators against this bill." It sounds pretty familiar. I have been around this place for a long time and I only know one thing for sure. At the end of the day, some on the losing side will think that the underlying bill is without any merits at all and that their concerns have not been treated with the seriousness they feel they deserve.

The principal substantive argument we have heard is that this bill goes too far and too fast; we have to take it slow; we have to rethink this; this bill is too extreme, they say. For some of my colleagues across the aisle, this is the same old song we have heard now for 8 solid years that we have tried to put this bill together and it has always had huge bipartisan support. That is bipartisan support, Democrat and Republican support.

I am a bit confused by some of the arguments that have been used on some of the same old amendments and against the bill itself. Sure, there are places we could have done better in this bill, as in every other legislation. There are always things we could do better. But the votes we have gotten on this bill, on its amendments in committee, and in previous Congresses are as good an indication as we can ever have of the underlying reasonableness of these proposals.

As a long-time supporter of the bankruptcy bill, I was extremely pleased by the strong bipartisan vote we had on cloture yesterday, 69 to 31. That is not just Republicans; there are a lot of Democrats who know this bill is the answer to a lot of the problems we have in bankruptcy in our society, and who have been working with us for 8 solid years in a bipartisan fashion. But to hear some of our critics, one would think that everybody concerned, all 69 of us, are nutcakes who do not know what is going on in our society or do not care for the poor, or for the weak, or for the worker, or for the union man. Give me a break.

I am one of the few people in this body who ever held a union card. I worked for 10 years in the building construction trade unions, earned my journeyman's card as a wood, wire, and metal lather, now a carpenter today, and I am darned proud of that. I think a lot about people who are not as fortunate as we are in the Senate.

As a long-time supporter of the bankruptcy bill, I was extremely pleased by the strong bipartisan vote, 69 to 31, on cloture. That was a big bipartisan vote by any measure. This vote is in keeping with the long record of bipartisan support for this bill over the life of the legislation.

I will briefly review this history: We held our first meeting on this in a Judiciary subcommittee in 1998. I want to make sure everyone heard that right: 1998. Early on, the good-faith compromises began. To give everybody an idea, these are some of the amendments we accepted in committee over the last 7 years. We modified the homestead exemption. We modified the means test. We allowed for sanctioning of attorneys who file abusive claims. We made privacy concessions for filers. We prevented creditors from demanding repayment for debts incurred through predatory lending practices, something that has long been overdue for the poor, the weak, and the unfortunate. All of these were amendments from my Democratic colleagues. I could go through dozens of others.

Two weeks ago, the Judiciary Committee held another markup on the bankruptcy legislation. We adopted five more amendments proposed by our Democratic colleagues. If some of the amendments that have been proposed on the floor sound similar to the matters I listed, that is because they are. Taken in a vacuum, as it might sound to anyone who randomly tunes in on C–SPAN, these amendments might sound reasonable. Yet in proper context of past history and compromises, many of these amendments should be understood for what they are: more of the same.

Many of the amendments address issues we have already negotiated previously. Frequently, these amendments make this a better bill. But now after so many years of hearing the same complaints, even after we attempted to address concerns by accepting or modifying amendments, including, I repeat, five in their latest and hopefully last markup of bankruptcy reform in the Judiciary Committee, it is less than clear that some of these remaining amendments will improve this already fully vetted bill.

The five amendments adopted in the markup ran the gamut. One was a technical fix that created a more restrictive inflation adjustment plan. We decided to prevent corporate executives—that is corporate executives, by the way—from declaring bankruptcy to avoid paying fines for securities fraud. That does not sound like something that hurts the little guy. We are trying to stop this type of fraud.

We accepted three amendments from the senior Senator from Massachusetts, Mr. KENNEDY. We clarified the means test, even in an instance where we sincerely believed that the means test was already more than clear, to explain that without any debt, health and disability expenses will not be included against a filing for bankruptcy. We allowed for a trustee in cases of fraud involving persons representing the debtor. In an amendment that many think we went too far on, we even accepted a compromise version of an amendment that restricted payments to executives and businesses going through a bankruptcy. Unfortunately, this amendment may discourage senior officials from taking on the task of seeing a company through a difficult financial reorganization. The unintended consequences of this might be to further limit the ability of damaged companies to emerge from bankruptcy and to keep thousands of employees on the job. They may lose those employees. Those employees may lose their jobs if we cannot keep good, competent executives there. I think this issue deserves more attention. But we agreed to it.

I am hopeful. I have been chatting with my good friend from Massachusetts and he has indicated he thinks we might be able to resolve that problem so people will not lose their jobs. But it depends upon what he thinks, not on what I think, because I accepted the amendment in committee, as the person who was in charge of the committee at that time.

Fairness demands that we work with our colleagues in the minority but this is a two-way street. Fairness also demands that large bipartisan majorities, after they have done all they can to reach agreements with the other side, be allowed to move on. That is why we invoked cloture, so we can move on.

This bill is a case study in such accommodation. I could go through dozens and dozens more accommodations we made to the other side, and to people on this side as well. This bill first passed all the way back in the 105th Congress. Let me refer to this chart. In the 105th Congress we passed this bill 97 to 1. I don't think everybody who voted for this was an idiot, who did not care for the poor and the weak and the infirm and the downtrodden. No. We are trying to solve some of their problems. This bill passed the Senate by a 97 to 1 vote. You cannot get much more support than that. There is no denying the bipartisanship of that vote.

When we came back to the issue in the 106th Congress, we again had massive bipartisan support for this bill. The Senate passed H.R. 833 on February 2, 2000, 83 to 14. I think that was a pretty good bipartisan vote. It is virtually the same bill. Then the conference report came back and on December 7, same year, 2000, we passed this same bill 70 to 28. That was a big bipartisan vote—which was right. That bipartisan conference report was supported by Democrats and Republicans. That was vetoed with a pocket veto by President Clinton. He had a right to do that, but he pocket-vetoed it because it didn't have an abortion amendment on it.

What about the 107th Congress? Did we give up hope? I can tell you that I did not. I just could not believe, I still cannot believe that a bill with such wide support could repeatedly fail to become law. So what did we do in the 107th Congress? Let me refer to this chart. In the 107th Congress, on March 15, 2001, this bill passed again, 83 to 15, and then passed again, 82 to 16. Those are bipartisan votes. I don't think the Democrats who voted with us are idiots or did not care for the poor. I don't think they failed to acknowledge that we have to take care of those who are unfortunate in our society. They did acknowledge that it cost every family in America $400 extra because of what is going on in this system.

All in all, the full Senate has voted favorably on bankruptcy reform legislation five times. Five times, all sweeping bipartisan votes, and the bill is not yet signed into law.

If we adopt any of these amendments from people who will never vote for this bill no matter what we do—they would rather criticize it than vote for it. I can criticize aspects of this bill myself, I believe. But it is a classic working together in the best methodology that we have, to bring everybody together and get legislation done that will do a lot of good. It will cause people, who can afford to, to pay their bills, or at least pay some of their bills.

It seems to me that is the American way. We want to teach our children, our young people, that it is important to pay your bills. It is important to live up to your responsibilities.

We do a lot to make sure corporate America lives up to their responsibilities in this bill as well. The bill is not signed into law yet, but we hope we can get it through—apparently not tonight, but by tomorrow. If not tomorrow, then Friday. If not Friday, Saturday. As far as I am concerned, whatever it takes to get it done.

These reform-minded votes are not just coming from the Senate. Here is how the House voted over the years, just so everybody knows. There are 435 Members of the House. Here is how they voted: 300 to 125; 313 to 108; 306 to 108. Overwhelming bipartisan votes, because this bill is the best we can do. It will do a lot of good, to make things right in our society. With all due respect, these are not even close calls. They are consistent, bipartisan blowouts. But, to listen to the opposition, you would think this legislation is supported by only a small minority of Representatives in the House of Representatives or in the Senate. Nothing could be further from the truth.

I really do not know what else we can do. We have compromised when it was reasonable to do so. As a matter of fact, in our very first subcommittee debate on this issue we accepted an amendment from my distinguished colleague, the Senator from Illinois, that adjusted the requirements for being subject to the means test. That amendment created a safety valve for those who fall below the national median income.

This was an important amendment. This bill does not track it exactly, but our exclusion of those who fall below the State median income takes this original amendment as a guide. It materially limited the reach of the means test. It allowed a fresh start to those poor people who are drowning in a sea of debt with no way to pay it back.

I said many times during this debate and I will say it again: 80 percent of bankruptcy filers will be excluded from the means test—80 percent. They will be permitted to file chapter 11, which will completely wipe out their debts. The supposed draconian means test has results in only one half of the mere 20 percent that it even applies to. It allows those with incomes that remain above the State median income, after numerous health and education and other exceptions, to pay back some of their debt over the course of 3 or 5 years. It gives them even a break there.

When all is said and done, the means test in this bill will only result in about 1 in 10 individuals who file bankruptcy from ever having to pay some of their past debts with future earnings. So 10 percent of 100 percent will have to do some payback because they can afford to do it. It is only right. They should not saddle all America with their debts when they can afford to pay them back. But in the first markup, the man who is now the minority whip, my friend from Illinois, proposed the amendment that remains at the heart of the means test in this bill, and we accepted it.

What is amazing to me is that when my colleagues want to raise taxes they are always talking about how great the means test is. But when we want to make sure that people who can pay can pay, suddenly the means test is not a good test. You can't have it both ways. It is amazing to me. It is almost hypocrisy.

I am pleased that cloture has been invoked, giving us the opportunity to once again pass this bill. It is getting to the point where some might even forget why we initiated this legislation. We have been at it for 8 years now. Some of those who oppose the bill and are offering final postcloture amendments are flying in the face of years and years of hard work and bipartisan compromise. By the way, the ones who bring up the amendments will never vote for this bill no matter what you do, unless it is a complete cave-in, so we cannot solve the problems that are eating our country alive in bankruptcy. And they do it under the guise that they are trying to protect the weak and the infirm and those who really cannot help themselves.

Give me a break. We over here get so tired of those populist arguments. We hear them over and over and sometimes I think they think the more they yell and scream the more people must think their arguments are serious. I hope people are listening because, my gosh, after 8 years of compromising and working and bringing people together and listening to both sides and doing everything we can to accommodate, why do we have to go through all the same amendments over and over again; they have been defeated time and time again because they deserve being defeated. Yet it happens every time—they get up and act like the world is coming to an end because their populist rhetoric is not being listened to. Unfortunately, there are people out there who really believe this stuff when somebody starts yelling, screaming, and shouting on the Senate floor.

The fact is that many of these final amendments being proposed during this debate are just further adjustments of adjustments to adjustments that were already made during this process. We have made further adjustments and refinements when we found broad consensus. These amendments have been brought up postcloture.

You would think there would be a time when you admit that you have had your shot, you have had 8 years of your shot; you have had amendment after amendment, the same thing over and over again, and the amendments have been defeated. You would think sooner or later they would come to the conclusion to stop holding up the Senate and the people's business and let this bill go; we lost this bill even though we as liberals don't like it. But there are liberals who do like it because they know it is right. They know what we are trying to do here will work to the betterment of the bankruptcy laws of the country.

I would like to add that during the course of the floor debate over the last week and a half we accepted more amendments that will improve this bill.

The Senate agreed to the Sessions amendment that makes clear that bankruptcy judges must consider military and veteran status and health care costs when determining whether a portion of future income must be used to pay past debt.

The Sessions amendment addressed many of the issues presented by Senator DURBIN with respect to military personnel and veterans, and Senator KENNEDY with respect to health care costs.

We accepted the Specter amendment that made clear how bankruptcy judges will be paid through increased filing fees. This important amendment stands for responsible government and eliminates any objection to the legislation based on a budget point of order.

In addition, we adopted an important amendment by Senator LEAHY that corrects some potential problems that relate to privacy of certain personal information, including Social Security numbers.

In short, we have improved this bill on the floor in a number of important aspects. We have been open to our colleagues. We have tried to accommodate them where we can. But there are areas where we can't and have this bill became law.

I think that the cloture vote we just took is evidence of those changes to this already moderate legislation. I understand some Senators do not think they have had an adequate hearing. At the beginning of this process, I gave them my word to at least consider amendments from all sides, and I believe we have done so. This institution is rather unwieldy, though. I think anybody who watches it or thinks about it has to admit that. That is probably putting it mildly. Unfortunately, even decent arguments, if they come at the wrong time, are going to have an uphill climb.

As I said earlier, since I was first elected I have tried my best to reach out to the other side as a good-faith actor. That is no less true with this bankruptcy bill. I have listened to more proposals and voted on more amendments that I can recall, and so has Senator GRASSLEY and Senator SESSIONS and others who have worked so hard on this issue. My hope is that as we move forward the opposition remembers the bigger picture. Even those few Senators who will not vote for final passage know that this bill was made better because we have accepted their amendments over the years.

At this late date, though, it is difficult to accept many more for procedural reasons. I oppose the amendment offered by the distinguished Senator from Massachusetts for all of these substantive reasons.

Let me give a couple more substantive reasons. I accept Senator KENNEDY's argument that health care costs are the key factor in bankruptcy. I have heard that for days around here; that most people go into bankruptcy because of health care costs. Much of his argument stems from the so-called Warren study. Let me talk about the Warren study cited by Senator KENNEDY and give a response to it by the Department of Justice. Here is what the Department of Justice said. I would suggest that the Warren study has been greatly overplayed here on the floor.

They said:

> Professor Warren, a long-time opponent of bankruptcy reform, and her so-called "studies," should be approached with skepticism.
>
> Though Ms. Warren's study claims that more than half of consumer bankruptcies are medically related, the DOJ has told us that only "the conclusion that almost 50 percent of consumer bankruptcies are 'medical related' requires a broad definition and is generally not substantiated by the official documents filed by debtors."

In other words, this claim that 50 percent of the bankruptcies are caused by medical expenses is pure bull.

The means test doesn't apply to the poor or anyone without the ability to re-pay.

Anyone under the median income for their State is automatically exempt from the means test.

They can go right into chapter 7 and have every one of their debts removed; that is, the poor.

To the extent that "above median" families have ongoing medical expenses, they are permitted to use those expenses as a reason to not pay their debts. These are people above the median income level.

GAO's 1999 analysis of the expenses allowed under the means test clearly shows that the means test permits all debtors to account for health care expenses.

For people with repayment capacity and financial resources, the bankruptcy legislation prevents abuse by requiring some of their bills to repaid in exchange for not having to pay the full amount.

This is fair. If they can pay some, they ought to pay some. We shouldn't just stick the hospitals and the doctors and everybody in medical care with these unpaid debts.

I was talking to one of the large hospital chains the other day. I asked them how much uncompensated debt they had every year; in other words, medical care that you have given that you receive no compensation for. It was almost $1 billion a year that they have given in free medical care for the poor and for some who game the system. Guess who pays for that. You and I, and everybody else in the final analysis because it is going to have to come back in most cases to Medicaid and Medicare. These are Federal programs that wind up with those debts. By the way, we pay for them for a variety of reasons. We don't pay almost $1 billion to those hospitals. They don't get anything in most cases. That uncompensated debt means they are not getting paid. They are giving emergency care. That is why some hospitals are now doing away with emergency care facilities, because they can't keep doing it. People who do not pay their bills raise the cost of everything for all of us. That is OK when they can't pay their bills when they are poor. But when they can, and when they think they can just escape them by going into bankruptcy and they are capable of paying some or all of their bills, they ought to help to do it.

For people with repayment capacity and financial resources, the legislation prevents abuse by requiring some of the bills to be repaid in exchange for not having to pay the full amount.

If someone can't pay health care debts, the bill does not force them to. This bill will not force them to. If they can pay health care debts, they should repay those debts and those bills just like everybody else has.

The Sessions amendment we adopted last week addresses this problem. It simply addresses the problem.

Let me close by addressing the investment banker provision my colleague from Massachusetts has strenuously commented upon. I am not sure if strenuous is quite the word, but I will use that word here tonight. It seemed to me a little more than strenuous.

Companies in financial distress need the ability to retain good help. They need to be able to keep people on who know the company best and who will enable that company to emerge from reorganization a more healthy outfit that can continue providing for its employees and contribute to the economy.

Under current law, investment bankers alone among professionals in the business world were deemed, per se, interested persons who could not work for a company after filing for bankruptcy if they had served as banker for any outstanding security of the corporation. This bill simply extends the test, one of the materially adverse interests that applies to lawyers, accountants, and other professionals to investment bankers.

This amendment makes sense. It continues to provide the courts with discretion to exclude bankers from participation in a reorganization while giving companies more flexibility as they attempt to reorganize and save themselves.

The amendment under consideration would undo this flexibility by imposing a strict 5-year exclusion on participation by investment bankers. This makes little sense. I will be voting against the amendment. I urge my colleagues to do the same. I especially make the case that this is not special interest legislation, as my colleague says it is. This is a classic message amendment. The message we should send tomorrow is to vote "no" on this amendment. When we talk about message amendments, these are amendments that our colleagues know we cannot take for very good reasons, but they are trying to score political points with the Nation. Anyone who looks at these matters carefully and understands the law would say, let's not let these message amendments take over a good bill that can do so much good for our society. We then should vote "yes" on final passage because this is a good, balanced, bipartisan, bicameral bill.

What gets me down is I have heard these arguments for 8 solid years. Most of them do not make sense. Most of them are message arguments for political reasons by people who will never vote for this bill, basically have not helped bring this bill about, who have not cooperated in trying to bring both Houses together, who are not part of the huge bipartisan consensus on this bill, and who are trying to score political points, hoping we will never come on the floor and refute them.

I could not sit back and not come to the Senate tonight because we have to quit making political points. We ought to pass this bill so we can help this country and its people go forward in ways it should.

People who can pay their debts ought to. Companies that are doing wrong ought to pay for that. Where there is fraud, this bill will attack it.

We can go through so many good aspects of this bill. Could it be better? I have never seen a bill pass here of any magnitude that could not be improved. But we have had 8 years of improvements and this is the bill that will pass if we do not amend it. We should pass it. We should move forward from here.

Having said that, that does not mean we should not immediately start work on the next bankruptcy bill to see if there are ways we can improve even this. As this bill becomes law, we will find ways that it may not work as well as we contemplated and we ought to continually oversee this and make sure this bill works in the best interests of all Americans, that it works in the best interests of the poor, and the working people, our union men and women, people who have to make a living all over this country, and for investors and everybody else in our society. We ought to make sure we do the best we can. I assure you we will continue to try and work to continue to improve our laws in this country. That is what this body is all about.

I will briefly mention an important issue that arose from the amendment at the markup. This amendment offered by my friend from Massachusetts, Senator KENNEDY, seeks to prevent unfair and unnecessary retention bonuses to insiders in chapter 11 companies. The goal here is certainly laudable and I agree with the desire to try to do that, but it has come to light since our markup that this amendment may act to effectively prohibit responsible companies undergoing reorganization—in other words, trying to save themselves—from keeping key employees who may best be able to steer the company back into solvency.

I have a letter from the Association of Insolvency and Restructuring Advisors enumerating these concerns in further detail and I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF INSOLVENCY AND
RESTRUCTURING ADVISORS,
*March 1, 2005.*

Sen. ARLEN SPECTER,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The undersigned are financial and legal professionals who serve as the Board of Directors of the Association of Insolvency and Restructuring Advisors (AIRA). As board members we work to further the AIRA's goal of increasing industry awareness of the organization as an important educational and technical resource for professionals in business turnaround, restructuring, and bankruptcy practice, and of the Certified Insolvency and Restructuring Advisor (CIRA) designation as an assurance of expertise in this area.

We write to make you aware of serious concerns we have regarding a provision contained in S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." The provision in question effectively prohibits the use of key employee retention plans in Chapter 11 reorganizations. It was added during the Judiciary Committee mark-up of the bill and elicited little attention at the time. However, we believe this provision will cause considerable harm to a number of companies that will become subject to bankruptcy proceedings, and, most importantly, to their employees, customers, and creditors.

When a company is operating in Chapter 11, a primary responsibility of management is to maintain and grow the company's value for the benefit of all of its stakeholders. A company that is well-managed through its restructuring benefits its creditors, employees, retirees, unions and the local communities of which the company is a part. Companies that fail to successfully reorganize in Chapter 11 are liquidated. Creditors receive pennies on the dollar and employees see their jobs and retirement savings destroyed.

When companies enter Chapter 11, it is critical that they attract and retain top management talent. But Chapter 11 is also the most difficult time to attract and retain such talent. Managers of Chapter 11 companies are faced with intense scrutiny, stress, insecurity, and an enormously complex process. Compensation and incentive tools used by non-bankrupt companies such as equity compensation programs are not available to assist with attracting and retaining the type of management talent necessary to bring the company successfully through the Chapter 11 process—this is because the pre-petition equity is almost always without value. Key employee retention plans ("KERPs") have become common practice since the early 1990's and have been viewed by courts, debtors, and creditors alike as an important and useful way to help reorganization by retaining key employees.

Bankruptcy courts have agreed with this reasoning, and many judges have used their judicial discretion to approve KERPs. For a court to approve a KERP under existing law, however, a debtor must use proper business judgment in formulating the program, and the court must find the program to be reasonable and fair. Creditors have the right to object to proposed KERPs, and judges are presented with a full evidentiary record upon which to make a determination. If a KERP is not appropriate or if it is not in the best interest of the company's creditors, the judge can refuse to approve it.

In the last few years, there has been a trend, with which we agree, towards stricter judicial scrutiny of proposed KERPs by bankruptcy judges. Such a trend seems appropriate in the wake of numerous high profile bankruptcy filings where management's misconduct or mismanagement has led to the Chapter 11 filing. Judges have discretion to deny KERPs in these circumstances, and they do so when the facts and circumstances warrant.

Unfortunately, S. 256 as reported by the Senate Judiciary Committee includes an amendment authored by Senator Edward M. Kennedy (the Kennedy amendment) that places significant limits on retention bonuses and severance payments to employees of companies in Chapter 11. It would prohibit a bankruptcy judge from approving retention bonuses in every Chapter 11 case unless he or she finds that the company in question has proven that the employee has a bona fide job offer at the same or greater rate of compensation; was prepared to accept the job offer; and the services of that employee are "essential to the survival of the business". The amendment also places significant caps on the amount of such bonus and payments.

The Kennedy amendment appears to be motivated by a desire to combat KERPs in Chapter 11 cases where employee-related fraud substantially contributed to the bankruptcy of the company. Yet, by painting with such a broad brush, the Kennedy amendment will, if enacted, effectively eliminate all companies' ability to ever receive court approval for a KERP. Federal bankruptcy judges would have little or no discretion to approve KERPs. In turn, bankrupt companies would have less flexibility in trying to retain or attract necessary employees. This result will cause considerable harm to companies in bankruptcy, their employees, and their creditors.

It is apparent that the Kennedy amendment is designed to prevent abuses of the system, where creditors' employees' and retirees' monies are unnecessarily expended for the enrichment of management. Whether there currently is or is not sufficient judicial scrutiny of KERPs is a valid question, insofar as the overall bankruptcy system allows debtors a fair amount of flexibility in exercising reasonable judgment—but there must be an approach better than handcuffing the judiciary and stakeholders in bankruptcy cases by essentially precluding all use of KERPs. The proper use of KERPs requires an analysis of all facts and circumstances of the case, and not what is essentially a blanket proscription of these tools.

Senator Kennedy has advanced an important public policy discussion with his amendment. Managers who have had responsibility for driving a company into bankruptcy should not be paid a bonus to remain. Similarly, if the retention of an employee would not enhance a company's value for its stakeholders, they should not be paid a bonus to stay. Current law provides bankruptcy judges with the discretion necessary to deny a KERP in such circumstances and bankruptcy judges do deny KERP payments in these circumstances. Still, if the Congress wishes to improve the operation of current law while still safeguarding the ability of the courts to approve legitimate KERPs, we would welcome a discussion on how best to achieve that end. Unfortunately, S. 256, as reported by the Committee, goes too far and should be amended so as not to unnecessarily limit the bankruptcy court's ability to determine what is in the best interest of each individual bankruptcy estate.

Mr. Chairman, we thank you for considering our views on this important matter. We would be pleased to address any questions you or other members of the Committee on the Judiciary may have.

Sincerely,

The members of the board and management of the Association of Insolvency and Restructuring Advisors.

Soneet R. Kapila, CIRA, Kapila & Company; President, AIRA; James M. Lukenda, CIRA, Huron Consulting Group; Chairman, AIRA; Grant Newton, CIRA, Executive Director, AIRA; Daniel Armel, CIRA, Baymark Strategies LLC; Dennis Bean, CIRA, Dennis Bean & Company; Francis G. Conrad, CIRA, ARG Capital Partners LLP; Stephen Darr, CIRA, Mesirow Financial Consulting LLC; Louis DeArias, CIRA, PricewaterhouseCoopers LLP.

James Decker, CIRA, Houlihan Lokey Howard & Zukin; Mitchell Drucker, CIT Business Credit; Howard Fielstein, CIRA, Margolin Winer & Evens LLP; Philip Gund, CIR, Marotta Gund Budd & Dzera LLC; Gina Gutzeit, FTI Palladium Partners; Alan Holtz, CIRA, Giuliani Capital Advisors LLC; Margaret Hunter, CIRA, Protiviti Inc; Alan Jacobs, CIRA, AMJ Advisors LLC.

David Judd, Neilson Elggren LLP; Bernard Katz, CIRA J H Cohn LLP; Farley Lee, CIRA, Deloitte, Kenneth Lefoldt, CIRA, Lefoldt & Company; William Lenhart, CIRA, BDO Seidman LLP; Kenneth Malek, CIRA, Navigant Consulting Inc; J. Robert Medlin, CIRA, FTI Consulting Inc; Thomas Morrow, CIRA, AlixPartners LLC.

Michael Murphy, Mesirow Financial Consulting; LLC; Steven Panagos, CIRA, Kroll Zolfo Cooper LLC; David Payne, CIRA, D R Payne & Associates Inc; David Ringer, CIRA, Eisner LLP; Anthony Sasso, CIRA, Deloitte, Matthew Schwartz, CIRA, Bederson & Company LLP; Keith Shapiro, Esq. Greenberg Traurig LLP; Grant Stein, Esq., Alston & Bird LLP; Peter Stenger, CIRA, Stout Risius Ross Inc; Michael Straneva, CIRA, Ernst & Young LLP.

Mr. HATCH. We have language in this issue which would mitigate what I believe are unintended effects of this amendment. Under this modified language, all payments where "misconduct, fraud, or mismanagement" is present are prohibited. This language also keeps the burden on chapter 11 companies to prove that retention bonuses are "necessary, fair and reasonable," and "likely to enhance a successful reorganization."

This seems like a reasonable fix to me and I hope we include this language in the bill. I appreciate any help my friend from Massachusetts would give on that particular issue because if we are interested in doing what is right, this will do what is right.

Mr. KOHL. Mr. President, I am in support of the Kennedy-Kohl amendment. It would eliminate the most flagrant abuse of the bankruptcy system under current law—the unlimited homestead exemption. This exemption allows debtors in five states to purchase expensive homes and shield millions of dollars from their creditors. All too often, millionaire debtors take advantage of this loophole by buying mansions in states with unlimited exemptions like Florida and Texas, and declaring bankruptcy and yet continue to live like kings. Our measure will generously cap the homestead exemption at $300,000—that is: it permits a debtor to keep $300,000 of equity in his or her home after declaring bankruptcy.

This amendment, with even lower threshold amounts, has been adopted twice by the Senate by wide margins in the course of considering previous bankruptcy bills, in both the 106th and 107th Congresses. As a result of my efforts in the past bankruptcy debates, the underlying bill that we are debating already contains a provision on the homestead amendment that gets at the worst abusers of this loophole, including felons. In fact, it will be the first Federal law ever on the homestead exemption.

The provision included in the bill, however, while obviously better than the current law's allowance of an unlimited homestead exemption, is still not a comprehensive solution to the current abuses of the law. It would allow those who establish their residence in an unlimited homestead state more than 3 years and 4 months before a bankruptcy filing to shelter an unlimited amount of money in their residences. All it would take for a greedy or unscrupulous individual to take advantage of this provision to defraud his or her creditors is some planning and foresight. And it does nothing to stop lifelong residents of these states from taking advantage of the unlimited homestead exemption to protect their assets from creditors.

A review of a few examples in recent years show how willing disreputable debtors are to engage in such planning to hide their assets. Let me give you just a few of the many examples:

> John Porter, WorldCom's cofounder and former Chairman, bought a 10,000 square-foot ocean front estate in Palm Beach, Florida in 1998, a home featured on the cover of the November 2004 issue of Luxury Homes magazine, and now worth nearly $17 million. The IRS says he owes more than $25 million for back taxes, and he is the defendant in several multi-million dollar securities fraud lawsuits resulting from the failure of WorldCom. Porter filed for bankruptcy in May 2004. Florida's homestead exemption allows Porter to keep most of the value of the house.
>
> The former Executive Vice President of Conseco has sought to avoid repaying $65 million in loans from Conseco by selling 90% of her and her husband's assets and buying a $10 million home on Sunset Island in Miami Beach, FL.
>
> In 2001, Paul Bilzerian—a convicted felon—tried to wipe out $140 million in debts and all the while holding on to his 37,000 square foot Florida mansion worth over $5 million—with its 10 bedrooms, two libraries, double gourmet kitchen, racquetball court, indoor basketball court, movie theater, full weight and exercise rooms, and swimming pool.
>
> The owner of a failed Ohio Savings and Loan, who was convicted of securities fraud, wrote off most of $300 million in debts, but still held on to the multi-million dollar ranch he bought in Florida.
>
> Movie star Burt Reynolds wrote off over $8 million in debt through bankruptcy, but still held onto his $2.5 million Florida estate.

Sadly, those examples are just the tip of the iceberg. Several years ago, we asked the GAO to study this problem. At that time, they estimated that 400 homeowners in Florida and Texas—all with over $100,000 in home equity—profited from this unlimited exemption each year. And while they continued to live in luxury, they wrote off an estimated $120 million owed to honest creditors. This is not only wrong; it is unacceptable.

In stark contrast, in most States debtors may keep only a reasonable amount of the equity they have in their homes. For example, in my home State of Wisconsin, when a person declares bankruptcy, he or she may keep only $40,000 of the value of their home. This permits creditors access to any additional funds that could be used to repay outstanding loans, yet allows the debtor to preserve $40,000 which is more than enough for a fresh start. Most States reasonably cap their homestead exemptions at $40,000 or less.

The bankruptcy reform bill is intended to wipe out abuse by debtors who run up large bills and then use the bankruptcy laws as a method of financial planning. Our amendment does exactly that.

Unlike the compromise version currently in S. 256, this amendment completely closes this inexcusable loophole that allows too many debtors to keep their luxury homes, while their legitimate creditors—like kids owed child support, ex-spouses owed alimony, state governments, small businesses and banks—get left out in the cold.

While the unlimited homestead exemption may not be the most common abuse of the bankruptcy system, it is clearly the most egregious. If we really want to restore the stigma attached to bankruptcy, these high profile cases are the best place to start.

In both the 106th and 107th Congresses, an overwhelming number of our colleagues agreed with us and voted to cap the homestead exemption by wide margins. In the 106th Congress, this proposal was adopted in the Senate by a vote of 76–22. In the 107th Congress, a motion to table this proposal was defeated in the Senate by a vote of 60 to 39, and this amendment was then adopted by voice vote. The vote this year is exactly the same as the one in the 106th and 107th Congresses. If you were against rich debtors avoiding their creditors the last two times, then you should be against rich debtors avoiding their creditors this time.

The simple hard cap that we propose with this amendment is not only the best policy; it also sends the best message: bankruptcy is a tool of last resort, not financial planning. Even though I would prefer that this amendment include an exemption for family farmers, it does address the need to go after the worst abusers, no matter how wealthy.

In closing, we should remember that one of the central principles of the bankruptcy bill is that people who can pay part of their debts should be required to do so. But the call to reform rings hollow when the bill creates an elaborate, taxpayer funded system to squeeze an extra $100 a month out of middle class debtors and yet allows people like Burt Reynolds to declare bankruptcy, wipe out $8 million in debt, and still hold on to a $2.5 million Florida mansion. I urge my colleagues to support this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that all time be considered as expired under rule XXII with respect to the pending bill; I further ask consent that at 11 a.m. tomorrow the Senate proceed to a series of votes in relation to the following amendments; I further ask consent there be 2 minutes equally divided for debate prior to all votes in the series: Kennedy, No. 70; Kennedy, No. 69; Akaka, No. 105.

I further ask consent that on Thursday, at a time determined by the majority leader after consultation with the Democratic leader, the Senate proceed to votes in relation to the following amendments: Leahy 83; Durbin 112; Feingold 90; Feingold 92; Feingold 93; Feingold 95; Feingold 96; Schumer second-degree amendment numbered 129; Talent No. 121.

I further ask unanimous consent that amendments Nos. 87 and 91 be agreed to en bloc with the motion to reconsider laid upon the table; provided further that all other pending amendments—Nos. 45, 50, 52, 53, 72, 71, 88, 94, 97, 98, 99, 100, 101, and 119—be withdrawn and no further amendments be in order other than the possibility of a further Talent second degree which has been filed and a managers' amendment which has been cleared by both leaders.

I finally ask unanimous consent that following the disposition of the above amendments, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOTICE OF PROPOSED RULEMAKING

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be entered into the RECORD today pursuant to section 304(b)(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384 (b)(3)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 8, 2005.

Hon. TED STEVENS,
*President pro tempore, U.S. Senate, the Capitol, Washington, DC.*

DEAR SENATOR STEVENS: Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), requires that, with regard to substantive regulations under the CAA, after the Board has published a general notice of proposed rulemaking as required by subsection (b)(1), and received comments as required by subsection (b)(2), "the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal."

The Board of Directors of the Office of Compliance has adopted the proposed regulations in the Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval which accompany this transmittal letter. The Board requests that the accompanying Notice be published in both the House and Senate versions of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal. The Board also requests that Congress approve the proposed Regulations, as further specified in the accompanying Notice.

Any inquiries regarding the accompanying Notice should be addressed to William W. Thompson II, Executive Director of the Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9250, TDD 202-426-1912.

Sincerely,

SUSAN S. ROBFOGEL,
*Chair of the Board of Directors.*

# OFFICE OF COMPLIANCE

## NOTICE OF ADOPTION OF SUBSTANTIVE REGULATIONS, AND SUBMISSION FOR CONGRESSIONAL APPROVAL.

## Proposed Replacement of the Office of Compliance Regulations implementing exemptions from the overtime pay requirements under the Fair Labor Standards Act of 1938 (FLSA).

## Procedural Summary:

**Issuance of the Board's Initial Notice of Proposed Rulemaking:** On September 29, 2004, the Board of Directors of the Office of Compliance issued a **Notice of Proposed Rulemaking** in the Congressional Record at 150 Cong. Rec. S9917 (daily ed.), and at 150 Cong. Rec. H7850 (daily ed.). The Notice of Proposed Rulemaking was prompted by the promulgation by the Secretary of Labor, effective August 23, 2004, of amended regulations regarding various exemptions from the overtime pay requirements of the FLSA. ***See: Federal Register, Vol. 69, No. 79 (August 23, 2004).***

**Why did the Board propose these new Regulations?** Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section."

**What procedure followed the Board's initial September 29, 2004 Notice of Proposed Rulemaking?**

The September 29, 2004 Notice of Proposed Rulemaking included a **thirty day comment period**, which began on September 30, 2004. A number of comments to the proposed substantive regulations were received by the Office of Compliance from interested parties. The Board of Directors has reviewed the comments from interested parties, made a number of changes to the proposed substantive regulations in response to comments, and has adopted the amended regulations.

**What is the effect of the Board's "adoption" of these proposed substantive regulations?** Adoption of these substantive regulations by the Board of Directors does not complete the promulgation process. Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors issue proposed substantive regulations and publish a general notice of proposed rulemaking in the *Congressional Record* (the September 29 Notice); (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; and (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the *Congressional Record*. This **Notice of Adoption of Substantive Regulations and Submission for Congressional Approval** completes the third step described above.

**What are the next steps in the process of promulgation of these regulations?** Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: that the House of Representatives adopt the "H" version of the regulations by resolution; that the Senate adopt the "S" version of the regulations by resolution; and that the House and Senate adopt the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

**Are there regulations covering overtime exemptions currently in force under the CAA?** Yes. Unless and until the House of Representatives and the Senate adopt these regulations, all employing offices and covered employees continue to be required to follow the existing Part 541 Regulations which were proposed by the Board of Directors and adopted by the House of Representatives and the Senate.

**If adopted, will these regulations completely replace the existing Part 541 overtime exemption regulations applicable under the CAA?** Yes.

# The Board's Responses to Comments

As the result of the September 29, 2004 Notice of Proposed Regulations, and the ensuing 30 day comment period, the Office received comments from various interested parties. The Board has reviewed all comments, and has deliberated regarding the question whether comments establish "good cause" pursuant to section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), for varying the Office of Compliance proposed regulations from the Department of Labor regulations. The following discussion outlines the comments, and the Board's response to them.

**What changes from the regulations as proposed on September 29, 2004 have been made by the Board in response to comments received from interested parties?**

**Removal of private sector terminology:** Several commenters pointed out that reference to such terms as "business" and "enterprise" throughout the proposed regulations should be replaced by "employing office." The Board agreed with this suggestion in part. Certain provisions of the proposed regulations of general applicability have been amended to replace terms such as "business" or "enterprise" with the term "employing office." However, other provisions, particularly those which refer to "business operations," a term relating to ubiquitous operational functions such as accounting, auditing, procurement, personnel management and the like, or those references which are descriptive or exemplary have not been so amended, since to do so would detract from the clarity of the reference.

**Sec. 541.0:** Commenters correctly pointed out that a principal statutory authority for adoption of these regulations was not included in the proposed regulations. Therefore, a reference was added citing section 225(f)(1) of the CAA (2 U.S.C. 1361(f)(1)) as authority for the promulgation of these overtime exemption rules. Commenters also noted that the reference in the proposed regulation to "enforcement" by the Office of Compliance of the equal pay provision found at section 6(d) of the FLSA reflected an authority not given to the Office under the CAA. The Office of Compliance is authorized to administer the dispute resolution process for employee claims of a violation of the equal pay requirement at section 6(d) of the FLSA, but not to engage in its own self-initiated enforcement of the provision. Therefore, the reference to "enforcement" of section 6(d) was deleted.

**Sec. 541.1:** A commenter suggested that a reference to the existing regulation which defines the term "intern" be added to the exemption regulations. The Board concurs with the comment. Therefore, a reference was added to the definition of "intern" found at section 501.102(h) of the existing FLSA regulations of the Office of Compliance.

**Section 541.4:** Several commenters pointed out that the proposed section maintained an erroneous requirement that employing offices must comply with " . . .State or municipal laws, regulations, or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the FLSA" as applied via the CAA. The Board concurs with the comment. That requirement has been deleted from the proposed regulation.

**What changes to the proposed substantive regulations suggested by commenters were not made by the Board of Directors?** The Board of Directors reviewed all suggestions included in comments pursuant to the statutory requirement that the regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." (section 203(c)(2) of the CAA, 2 USC 1313(c)(2)). If the Board declined to adopt a suggestion, it determined that there was not good cause for such a change in implementing the FLSA.

**Alleged "irrelevant" regulations:** Commenters broadly suggested that portions of the proposed regulations which arguably do not directly concern types or categories of employment found among employees covered by the CAA should be deleted from the proposed regulations. These commenters urged that references to such employment categories as "outside salespersons," "non-Federal employees in American Samoa," "insurance claims adjusters," work in a "factory," etc. should be entirely removed. Several of these commenters also suggested that substantively distinct sets of new regulations be developed for the House of Representatives, the Senate, and the other employing offices, based upon the differences among the types of employees who work in each body or agency.

The Board of Directors has been aware since its initial preparation of these proposed regulations that many of the job classifications and types of work processes treated in Part 541 are probably not found within the Legislative Branch of the Federal Government, that there may be job categories in the Legislative Branch not directly reflected in Part 541, and that there are differences among the work forces in the several employing offices covered by the CAA. However, the Board has concluded that adding or removing exemplary and descriptive provisions from the regulations as applied to all employing offices would reflect a basic misunderstanding of the purpose and goal of the new Part 541 of 29 CFR, and of the Congressional mandate in the CAA that the Board issue regulations based upon the Secretary of Labor's regulations promulgated for the private sector (See section 203(c)(2) of the CAA, 2 USC 1313(c)(2)).

While the Labor Department's "old," i.e. pre-2004, Part 541 overtime exemption regulations included a great deal of descriptive material, it was not binding, since almost all of the descriptive portions of 29 CFR Part 541 (Subpart B) were merely "interpretive" explanatory bulletins. Thus, the 1996 Part 541 regulations adopted by the Board of Directors and promulgated by Congress under the CAA did not include any of the Labor Department's interpretive regulations, since those interpretive regulations had not been formally promulgated under the Administrative Procedures Act.

In revamping Part 541, the Secretary of Labor explained that the Labor Department intended to "eliminate this distinction between the formal 'regulations' in Subpart A and the 'interpretations' in Subpart B. . . . This proposed restructuring of Part 541 was intended to consolidate and streamline the regulatory text, . . . make the regulations easier to understand and decipher when applying them to particular factual situations, and eliminate the confusion regarding the appropriate level of deference to be given to the provisions of each subpart." (69 Fed. Reg. 22126 (4/23/04)). While the new Part 541 does not directly discuss every conceivable employment situation, it does provide a broad sample of authoritative exemplary and descriptive material for many types of employers.

The key concept for purposes of explaining the Board's decision not to delete seemingly "irrelevant" descriptive and exemplary material is the intent of the new Labor Department regulations to make the tests for exemption "easier to understand and decipher when applying them to particular factual situations." No single employer or group of employers subject to the Part 541 regulations in the private sector employs all or even most of the categories of employees referenced in Part 541. However, the new Part 541 regulations for the first time provide a wealth of authoritative exemplary and descriptive material which can assist employers and employees to discern whether a particular position or job is exempt. The usefulness of this material does not depend upon the direct applicability of each and every provision of the regulations to each and every position or job.

The Board of Directors has concluded that employing offices and employees covered by the CAA should be accorded the same opportunity to utilize the full wealth of descriptive and exemplary material in the new Part 541 regulations as has been accorded employers and employees in the private sector. Any effort to carve this integrated body of regulations into segments which only refer to employment categories presently included within each category of employing office under the CAA would not only subvert the overall integration of Part 541, but prove to be enormously difficult in implementation.

**References to "business," "enterprise," or other private sector employer categories.** Several commenters suggested that all references in the proposed regulations to private enterprise concepts be replaced by terms derived from the CAA or governmental parlance. The proposed regulations have addressed the commenters' concern through language in section 541.1, which includes the stipulation that "Employer, company, business, enterprise, or public agency each mean an "employing office" as defined in section 101(9) of the CAA, 2 USC 1301(9)." However, reference to such "private sector" concepts in descriptive or exemplary regulations have not been excised, because to do so could well blunt the clarity or usefulness of the description or example. Whether or not specific work processes or functions as described in the proposed regulations are applicable directly or by analogy to a particular "employing office" are questions of fact for CAA employing offices and covered employees, just as for all other categories of employers and employees covered by the Labor Department regulations, including State and local governments.

**Various FLSA overtime rules for "police officers" should not apply to police officers employed by the United States Capitol Police.** One commenter asserted that the new proposed regulation establishing exceptions for the application of the FLSA section 13(a)(1) exemption tests for police officers and other public safety employees at proposed section 541.3(b) should not apply to members of the United States Capitol Police in those categories because the work performed by the United States Capitol Police is not "traditional police work performed by most state and local organizations." Rather, the commenter asserted the "unique nature of the USCP work as an organization charged with providing comprehensive and fully integrated security services which includes physical security and counter-terrorism components as well as a personal protective function, all requiring full and robust participation in the intelligence community." The commenter also noted that some members of the Capitol Police perform office and non-manual work.

The Board has carefully considered the assertion that the Capitol Police force is unique among all law enforcement agencies otherwise covered by Part 541 of the Department of Labor Regulations. The Board takes administrative notice that other major law enforcement agencies, such as the Uniformed Division of the Secret Service, District of Columbia Metropolitan Police, and many other large urban police forces, and police forces charged with security of state and local government premises and officials, are charged with providing security services, counter-terrorism capabilities, personal protective services, participation in the intelligence community, and include employees who perform office and non-manual work. While the relative emphasis and extent of any one or another such function may vary among such law enforcement agencies, the Board has concluded that the United States Capitol Police operation is not unique in any or all of these dimensions of law enforcement work. Therefore, the Board has determined that there is not "good cause" for exempting the members of the United States Capitol Police from the application of section 541.3(b) of the proposed substantive regulations.

**Reference to section 13(a)(1) of the FLSA "as amended."** A commenter asserted that the phrase "as amended" in referencing section 13(a)(1) of the FLSA, 29 USC 213(a)(1), in the proposed substantive regulation is in error. The commenter asserted that the reference to laws being applied via the CAA is a "specific reference," and further asserted that canons of statutory construction therefore require that the referenced statute can only be applied as it existed as of the date of the reference. Therefore, said the commenter, subsequent amendments to CAA referenced laws such as the FLSA would not apply under the CAA. The commenter also asserted that the CAA's waiver of sovereign immunity of the United States did not include a waiver with regard to subsequent amendments to the laws applied via the CAA. In other words, the commenter argued that the statutes applied to Congress and the Legislative Branch via the CAA are "frozen" as they existed in 1995. The Board does not respond to the commenter's suggested interpretation of the CAA at this time, because section 13(a)(1) of the FLSA has not been amended since the CAA was enacted.

**Inclusion of interns for purposes of establishing supervisory status under section 541.104.** One commenter pointed out that interns (as defined in section 501.102(h) of the Office's FLSA regulations) are not "covered employees" for purposes of the CAA, but suggested that interns be counted as "employees" for purposes of application of the "direct the work of two or more other employees" test at section 541.104 of the proposed regulations. At the direction of the Board, the Office of Compliance inquired of the Department of Labor whether the Department interprets the term "employee" in regulation 541.104 to include individual workers who are not "employees" as defined under the balance of Part 541. The Labor Department responded informally that such workers are not counted as "employees" for purposes of the application of section 541.104 of the regulations. The Board has concluded that there is no good cause for varying from that practice under these proposed regulations, and has declined to include interns as "employees" for the purpose of section 541.104.

**Members of the House of Representatives and Senators are not "covered employees" for purposes of the CAA.** One commenter concluded that Members of the House of Representatives are not "covered employees." Rather than limit the response to this comment to the House of Representatives, the Board has reviewed the issue both with regard to Members of the House of Representatives and Senators. The Board has concluded that Members of the House and Senators are "covered employees" for purposes of the application of the CAA. An "employee of the House of Representatives" is defined at section 101(7) to include "an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives . . . ." 2 USC 1301(7). The pay of Members of the House is disbursed by the Chief Administrative Officer of the House of Representatives. An "'employee of the Senate' includes any employee whose pay is disbursed by the Secretary of the Senate . . . ." The pay of Senators is disbursed by the Secretary of the Senate. Therefore, both Members of the House and Senators are "covered employees" for the purposes of applicability of these proposed regulations. However, Members of the House and Senators are also clearly identified at section 541.1 of the proposed regulations as exempt "senior executives" for purposes of the application of overtime eligibility.

# Additional General Information

**Why are there separate sets of existing FLSA regulations which have been applicable since 1996 for the House of Representatives, the Senate, and the other employing offices covered by the CAA?** Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B), requires that the substantive rules of the Board of Directors of the Office of Compliance "shall consist of 3 separate bodies of regulations, which shall apply, respectively, to - (i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices." In 1996, the House of Representatives (H.Res.400) and the Senate (S.Res.242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S.Con.Res.51) the regulations applicable to other employing offices and employees.

**Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?** No. While there are some differences in other parts of the existing FLSA regulations applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding "covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . ."), the existing Part 541 regulations are substantively identical. The Board of Directors has identified no "good cause" for varying the text of these proposed new regulations. Therefore, if the proposed part 541 regulations are adopted to replace the pre-existing Part 541 regulations, the prefixes "H," "S," and "C" will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but otherwise the text of the part 541 regulations will be identical.

**How does the Board of Directors recommend that Congress approve these proposed regulations?** Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the "H" version of the regulations by resolution; the Senate adopted the "S" version of the regulations by resolution; and the House and Senate adopted the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

**Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate?** Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations have also been recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

**Are these proposed CAA regulations available to persons with disabilities in an alternate**

**format?** This Notice of Adoption of Substantive Regulations, and Submission for Congressional Approval is available on the Office of Compliance web site, www. Compliance. gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9250; TDD: 202-426-1912; FAX: 202-426-1913.

### How To Read The Proposed Amendments

**In order to make comparison of these regulations with the regulations promulgated by the Secretary of Labor, the text of the proposed regulations reproduces the text of the regulations promulgated on August 23, 2004 by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes adopted by the Board of Directors of the Office of Compliance are shown as follows:** *[[***deletions within italicized brackets*****]], and added text in italicized bold.*** **Further changes adopted by the Board in response to comments regarding the initial proposed regulations as issued on September 29, 2004 by the Board** ***are bolded, italicized, and underlined.*** **Therefore, if these regulations are approved as proposed,** ***[[bracketed text will disappear from the regulations]], and added text will remain.*** **If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix "H" appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix "S" appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix "C" appearing before each regulations section number.**

**Supplementary Information:** The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

# TEXT OF PROPOSED OVERTIME EXEMPTION REGULATIONS

as adopted by the Board of Directors of the Office of Compliance.

***NOTE: As and when approved by the House of Representatives and/or the Senate, these proposed regulations will entirely replace the current Part 541 regulations which were promulgated by the Office of Compliance and approved by the House of Representatives and the Senate in 1996. Until new Part 541 regulations are approved by the House of Representatives and/or the Senate, the 1996 regulations regarding overtime exemptions remain in full force and effect.***

***When approved by the House of Representatives for the House of Representatives, these regulations will have the prefix "H." When approved by the Senate for the Senate, these regulations will have the prefix "S." When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix "C."***

## PART 541--DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

Subpart A--General Regulations Sec.

541.0 Introductory statement.
541.1 Terms used in regulations.
541.2 Job titles insufficient.
541.3 Scope of the section 13(a)(1) exemptions.
541.4 Other laws and collective bargaining agreements.

Subpart B--Executive Employees
541.100 General rule for executive employees.
541.101 Business owner.
541.102 Management.
541.103 Department or subdivision.
541.104 Two or more other employees.
541.105 Particular weight.
541.106 Concurrent duties.

Subpart C--Administrative Employees
541.200 General rule for administrative employees.
541.201 Directly related to management or general business operations.
541.202 Discretion and independent judgment.
541.203 Administrative exemption examples.
541.204 Educational establishments.

Subpart D--Professional Employees
541.300 General rule for professional employees.
541.301 Learned professionals.
541.302 Creative professionals.
541.303 Teachers.
541.304 Practice of law or medicine.

Subpart E--Computer Employees
541.400 General rule for computer employees.
541.401 Computer manufacture and repair.
541.402 Executive and administrative computer employees.

Subpart F--Outside Sales Employees
541.500 General rule for outside sales employees.
541.501 Making sales or obtaining orders.
541.502 Away from employer's place of business.
541.503 Promotion work.
541.504 Drivers who sell.

Subpart G--Salary Requirements
541.600 Amount of salary required.
541.601 Highly compensated employees.
541.602 Salary basis.
541.603 Effect of improper deductions from salary.
541.604 Minimum guarantee plus extras.
541.605 Fee basis.
541.606 Board, lodging or other facilities.

Subpart H--Definitions And Miscellaneous Provisions
541.700 Primary duty.

541.701 Customarily and regularly.
541.702 Exempt and nonexempt work.
541.703 Directly and closely related.
541.704 Use of manuals.
541.705 Trainees.
541.706 Emergencies.
541.707 Occasional tasks.
541.708 Combination exemptions.
541.709 Motion picture producing industry.
541.710 Employees of public agencies.

Authority: 29 U.S.C. 213;[[ Public Law 101-583, 104 Stat. 2871]]; ***2 U.S.C. 203; 2 U.S.C. 304.*** [[Reorganization Plan No. 6 of 1950 (3 CFR 1945-53 Comp. p. 1004); Secretary's Order No. 4-2001 (66 FR 29656).]]

Subpart A--General Regulations

Sec. 541.0 Introductory statement. (a) Section 13(a)(1) of the Fair Labor Standards Act **(Act)**, as amended, ***and as applied pursuant to sections 203 and 225(f)(1) of the Congressional Accountability Act of 1995, 2 U.S.C. 1313 and 1361(f)(1),*** provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee*//*, [[as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.]] Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees. (b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions. (c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are **also** administered *//*and enforced*//* by the [[United States Equal Employment Opportunity Commission]] ***Office of Compliance.***

Sec. 541.1 Terms used in regulations. Act means the Fair Labor Standards Act of 1938, as amended. [[Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor

Standards Act.]] ***CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Compliance. Employee means a "covered employee" as defined in section 101 (3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2), and in section 501.102(h) of the FLSA implementing regulations of the Office of Compliance. Employer, company, business, enterprise, or public agency each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9). Senior executive includes but is not limited to a Member of the House of Representatives or a Senator***

Sec. 541.2 Job titles insufficient. A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Sec. 541.3 Scope of the section 13(a)(1) exemptions.
(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other ``blue collar'' workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt ``blue collar'' employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.
(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the ***[[***enterprise***]] employing office*** in which the employee is employed or a customarily recognized department or subdivision thereof as required under Sec. 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under Sec. 541.200.
(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under Sec. 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

Sec. 541.4 Other laws and collective bargaining agreements. The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any ***applicable*** Federal ***[[***, State or municipal***]]*** laws***[[***, regulations or ordinances***]]*** establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

Subpart B--Executive Employees

Sec. 541.100 General rule for executive employees.
(a) The term ``employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is management of the ***[[***enterprise***]] employing office*** in which the employee is employed or of a customarily recognized department or subdivision thereof; (3) Who customarily and regularly directs the work of two or more other employees; and (4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.
(b) The phrase ``salary basis" is defined at Sec. 541.602; ``board, lodging or other facilities" is defined at Sec. 541.606; ``primary duty" is defined at Sec. 541.700; and ``customarily and regularly" is defined at Sec. 541.701.

Sec. 541.101 Business owner. The term ``employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term ``management" is defined in Sec. 541.102. The requirements of Subpart

G (salary requirements) of this part do not apply to the business owners described in this section.

Sec. 541.102 Management. Generally, ``management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Sec. 541.103 Department or subdivision. (a) The phrase ``a customarily recognized department or subdivision" is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function. (b) When an ***//***enterprise***// employing office*** has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the ***//***enterprise***// employing office***. (c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization. (d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

Sec. 541.104 Two or more other employees. (a) To qualify as an exempt executive under Sec. 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase ``two or more other employees" means two full-time employees or their equivalent. One full-time and two half- time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. (b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers. (c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement. (d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

Sec. 541.105 Particular weight. To determine whether an employee's suggestions and recommendations are given ``particular weight," factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have ``particular weight" even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

Sec. 541.106 Concurrent duties.
(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of Sec. 541.100 are otherwise met. Whether an employee meets the requirements of Sec. 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in Sec. 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.
(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.
(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

Subpart C--Administrative Employees

Sec. 541.200 General rule for administrative employees.
a) The term ``employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less

than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(b) The term ``salary basis'' is defined at Sec. 541.602; ``fee basis'' is defined at Sec. 541.605; ``board, lodging or other facilities'' is defined at Sec. 541.606; and ``primary duty'' is defined at Sec. 541.700.

Sec. 541.201 Directly related to management or general business operations.

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase ``directly related to the management or general business operations'' refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the [[business]] ***employing office***, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.

(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

Sec. 541.202 Discretion and independent judgment.

(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term ``matters of significance'' refers to the level of importance or consequence of the work performed.

(b) The phrase ``discretion and independent judgment'' must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the [[business]] ***employing office***; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the [[business]] ***employing office***; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the [[company]] ***employing office*** on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term [[business]] objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the [[company]] ***employing office*** in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term ``discretion and independent judgment'' does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of [[business]] ***work*** may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also Sec. 541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a ``statistician.''

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer. Sec. 541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who ``screen" applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well- established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

Sec. 541.204 Educational establishments.

(a) The term ``employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act also includes employees: (1) Compensated for services on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and (2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term ``educational establishment'' means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term ``other educational establishment'' includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase ``performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under Sec. 541.200 or under other sections of this part, provided the requirements for such exemptions are met.

Subpart D--Professional Employees

Sec. 541.300 General rule for professional employees.

(a) The term ``employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and (2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term ``salary basis" is defined at Sec. 541.602; ``fee basis" is defined at Sec. 541.605; ``board, lodging or other facilities" is defined at Sec. 541.606; and ``primary duty" is defined at Sec. 541.700.

Sec. 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements: (1) The employee must perform work requiring advanced knowledge; (2) The advanced knowledge must be in a field of science or learning; and (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase ``work requiring advanced knowledge" means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase ``field of science or learning" includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase ``customarily acquired by a prolonged course of specialized intellectual instruction" restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word ``customarily" means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e) (1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption. (2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations. (3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption. (4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption. (5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals. (6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work. (7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption. (8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption. (9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4), (e)(8) and (e)(9) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

Sec. 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be ``in a recognized field of artistic or creative endeavor.'' This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of ``invention, imagination, originality or talent'' distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an ``animator'' of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

Sec. 541.303 Teachers.

(a) The term ``employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term ``educational establishment'' is defined in Sec. 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi- skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of Sec. 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

Sec. 541.304 Practice of law or medicine.

(a) The term ``employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also shall mean: (1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and (2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term ``physicians'' includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of Sec. 541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

Subpart E--Computer Employees

Sec. 541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1) exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, and the section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of: (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term ``salary basis'' is defined at Sec. 541.602; ``fee basis'' is defined at Sec. 541.605; ``board, lodging or other facilities'' is defined at Sec. 541.606; and ``primary duty'' is defined at Sec. 541.700.

Sec. 541.401 Computer manufacture and repair. The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in Sec. 541.400(b), are also not exempt computer professionals.

Sec. 541.402 Executive and administrative computer employees. Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

Subpart F--Outside Sales Employees

Sec. 541.500 General rule for outside sales employees. (a) The term ``employee employed in the capacity of outside salesman'' in section 13(a)(1) of the Act shall mean any employee: (1) Whose primary duty is: (i) making sales within the meaning of section 3(k) of the Act, or (ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and (2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term ``primary duty'' is defined at Sec. 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

Sec. 541.501 Making sales or obtaining orders.
(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) Obtaining orders or contracts for services or for the use of facilities.
(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that ``sale'' or ``sell'' includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.
(c) Exempt outside sales work includes not only the sales of commodities, but also ``obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer.'' Obtaining orders for ``the use of facilities'' includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.
(d) The word ``services'' extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

Sec. 541.502 Away from employer's place of business. An outside sales employee must be customarily and regularly engaged ``away from the employer's place or places of business.'' The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

Sec. 541.503 Promotion work.
(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.
(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an

exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

Sec. 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include: (1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold. (2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases. (3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods. (4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include: (1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations. (2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery. (3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

Subpart G--Salary Requirements

Sec. 541.600 Amount of salary required.
(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in Sec. 541.605.
(b) The $455 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of $910, semimonthly on a salary basis of $985.83, or monthly on a salary basis of $1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.
(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Sec. 541. 204(a)(1).
(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in Sec. 541. 400(b).
(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see Sec. 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see Sec. 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see Sec. 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Sec. 541.601 Highly compensated employees.
(a) An employee with total annual compensation of at least $100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.
(b) (1) ``Total annual compensation" must include at least $455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in Sec. 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits. (2) If an employee's total annual

compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn $80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part. (3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment. (4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under Sec. 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non- management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

Sec. 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a ``salary basis" within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions: (1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence. (2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law. (3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption. (4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines. (5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence. (6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed. (7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

Sec. 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in Sec. 541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

Sec. 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $150 per shift without violating the salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary of $650 per week who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

Sec. 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a ``fee basis'' within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a ``fee'' is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least $455 per week if the employee worked 40 hours. Thus, an artist paid $250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist $500 if 40 hours were worked.

Sec. 541.606 Board, lodging or other facilities.
(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in Sec. 541.600, ``exclusive of board, lodging or other facilities." The phrase ``exclusive of board, lodging or other facilities" means ``free and clear" or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.
(b) Regulations defining what constitutes ``board, lodging, or other facilities" are contained in 29 CFR part 531. As described in 29 CFR 531.32, the term ``other facilities" refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work. **[[*NOTE:* There is good cause for the inclusion of subsection (b): The regulations referenced in this paragraph at 29 CFR 531.29 are not substantive regulations, but are "interpretive" regulations which were not incorporated in Part 531 of the CAA regulations adopted in 1996. However, the Board of Directors has determined that, since these particular interpretive regulations are incorporated by reference in the new substantive regulations, employing offices and employees may reference these particular interpretive regulations as part of the new substantive regulations as proposed here.]]**

Subpart H--Definitions and Miscellaneous Provisions

Sec. 541.700 Primary duty.
(a) To qualify for exemption under this part, an employee's ``primary duty" must be the performance of exempt work. The term ``primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.
(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than

50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.
(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

Sec. 541.701 Customarily and regularly. The phrase ``customarily and regularly'' means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed ``customarily and regularly'' includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

Sec. 541.702 Exempt and nonexempt work. The term ``exempt work'' means all work described in Sec. 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered ``nonexempt.''

Sec. 541.703 Directly and closely related.
(a) Work that is ``directly and closely related'' to the performance of exempt work is also considered exempt work. The phrase ``directly and closely related'' means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, ``directly and closely related'' work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work ``directly and closely related'' to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not ``directly and closely related'' if the work is remotely related or completely unrelated to exempt duties.
(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work: (1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees. (2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties. (3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector. (4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a

particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non- supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work. (5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions. (6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client· after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption. (7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under Sec. 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies. (8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common- carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work. (9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants. (10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

Sec. 541.704 Use of manuals. The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

Sec. 541.705 Trainees. The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

Sec. 541.706 Emergencies.
(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.
(b) An ``emergency'' does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.
(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work: (1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive. (2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work. (3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly. (4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

Sec. 541.707 Occasional tasks. Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

Sec. 541.708 Combination exemptions. Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

Sec. 541.709 Motion picture producing industry. The requirement that the employee be paid ``on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least $695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least $695 if 6 days were worked; or (b) The employee is in a job category having a weekly base rate of at least $695 and the daily base rate is at least one-sixth of such weekly base rate.

Sec. 541.710 Employees of Public Agencies. (a) An employee of a public agency who otherwise meets the salary basis requirements of section 541.602 shall not be disqualified from exemption under sections 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because: (1) Permission for its use has not been sought or has been sought or denied; (2) Accrued leave has been exhausted; (3) The employee chooses to use leave without pay. (b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except on the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

**END**

## NATIONAL SCHOOL BREAKFAST WEEK

Mr. DURBIN. Mr. President, I rise today to commemorate National School Breakfast Week. For the past 30 years, the School Breakfast Program has provided nutritious morning meals to our Nation's neediest youth. Today, over 1 million children across the United States are malnourished, and the School Breakfast Program is a first line of defense against this growing epidemic.

The School Breakfast Program was established through the Child Nutrition Act of 1966. Despite this law, many low-income children still go without breakfast each day. Every student eligible for a free or reduced-price school lunch is also eligible for a free or reduced-price breakfast.

In my home State of Illinois, during the 2003–2004 school year, over 1 million children from lower-income families participated in the National School Lunch Program, yet only about 200,000 children received a school breakfast on an average day through the National School Breakfast Program.

This disparity is not unique to Illinois. Nationally, 43 students receive a free or reduced-price school breakfast for every 100 students that receive a school lunch. To receive a free school breakfast or lunch, a family's income must be at or below 130 percent of the poverty line, and to receive a reduced-price school breakfast or lunch, the family income must be at or below 185 percent of the poverty line.

Students who are unable to eat breakfast experience negative physical, emotional and educational effects. Children who do not eat breakfast tend to produce low math and reading scores, have trouble recalling information, and are more likely to have disciplinary and psychological problems.

On the other hand, when children eat a nutritious breakfast, like the meals provided through the National School Breakfast Program, their standardized test scores tend to increase and their memory skills improve. They are less inclined to visit the school nurse complaining of headaches and stomach pangs throughout the school day. They are also less likely to become obese later in life and are more likely to eat more fruit, drink more milk, and consume less saturated fat than students who do not eat meals provided by the school.

From 1989 to today, the number of children participating in the School Breakfast Program has doubled from around 3 million to over 6 million, and if the breakfasts were available to more children, the numbers would likely increase.

In Illinois, the State legislature and the Governor recognized the need for this vital program. On February 15, 2005, Governor Rod Blagojevich signed the Childhood Hunger Relief Act, stipulating that all schools in which at least 40 percent of the students are eligible for free or reduced-price lunches must also provide a breakfast program. This action will hopefully increase the academic as well as physical and psychological well-being of Illinois school children.

Today, I ask that we recognize States like Illinois—States that are providing school breakfasts to their neediest children. I ask that we continue to push toward higher nutritional standards throughout the United States to ensure the well-being of our Nation's youth.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT of 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last August, three gay men were violently attacked in Rehoboth Beach, DE. One victim suffered a broken jaw and was knocked unconscious by the attackers who were shouting anti-gay epithets at the victims.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## BLUE STAR FAMILIES WEEK

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to the brave men and women who serve around the world in America's Armed Forces, and to recognize what the California State Assembly has designated as Blue Star Families Week.

Blue Star Families Week is an opportunity to show that the United States and California stand behind members of the Armed Forces and their families as they serve with valor at home and abroad.

The Blue Star Flag is an official banner authorized by the Department of Defense and is given to families with loved ones serving in the Armed Forces to place in their windows as a visible sign of their family's sacrifice. Blue Star flags date back to World War I and serve as a symbol of community support and solidarity in times of war and hostility.

I am proud of the men and women of our Armed Forces that are bravely serving all over the world to protect our freedom, our democracy and our way of life. During my recent trip to Iraq I had the honor of witnessing the strong character of our troops. We owe an immeasurable debt to the families of these men and women who are willing to sacrifice their futures for our country. The Blue Star program is another way we can show how much we value their heroism and bravery.

I am pleased to take time this week to salute the brave heroes in the Armed Forces, and their loved ones, for their tremendous sacrifice and dedication.

## ADDITIONAL STATEMENTS

### TRIBUTE TO HEAD COACH TOM BRENNAN

• Mr. JEFFORDS. Mr. President, I rise today to congratulate Tom Brennan on an outstanding career as the head coach of the men's basketball team at the University of Vermont. As he departs UVM after 19 years, I wish to recognize the contribution he has made to both the University and to the State of Vermont.

Tom began his distinguished career at UVM in 1986. Within just 5 years, in 1991, he was named the America East Coach of the Year, the first of three times he would receive that honor. Throughout his tenure at UVM, Tom worked to improve the basketball program, which became one of the best in the America East under his watch. Tom also became a local favorite on the airwaves as the cohost of "Corm and the Coach," a morning radio show that makes us all appreciate just how hard life can be for Tom's opposing coaches.

In recent years, UVM basketball has been marked by enthusiastic support throughout Vermont and sold-out crowds at Patrick Gym as Tom guided the Catamounts to unprecedented success. In both 2003 and 2004, the Cats captured the America East Championship and secured a trip to the NCAA tournament. On Saturday, the Cats will play for their third straight America East Championship and third straight trip to the NCAA tournament. Tom will retire with at least 262 career victories at UVM, more than any basketball coach in school history.

Cats fans everywhere have grown to respect and admire Tom for the results he produced on the court, the integrity of the program he led, and the character of the young men he helped to shape. Patrick Gym will not be the same without Tom Brennan on the sidelines. I wish him the best as he begins the next chapter of his life.•

### TRIBUTE TO CAPT DAVID M. MORRISS

• Mr. WARNER. Mr. President, I rise today to recognize and pay tribute to

CAPT David M. Morriss, Judge Advocate General's Corps, United States Navy. Captain Morriss will retire from the Navy on March 11, 2005, having completed a distinguished 26-year career of service to our Nation.

Captain Morriss was born in Elizabethtown, TN and is a graduate of the United States Naval Academy and the University of Virginia School of Law. He also earned a Master of Laws degree from Harvard Law School.

During his military career, Captain Morriss excelled at all facets of his chosen professions of law and Naval service. As a line officer, he served both as Fire Control Officer onboard USS *Bowen*, FF–1079, and as Supporting Arms Coordinator/Assistant Operations Officer for Amphibious Squadron EIGHT. He qualified as a Surface Warfare Officer before being accepted in the law education program.

As a judge advocate, Captain Morriss has served in a variety of challenging assignments. Like many judge advocates that have come before and have followed him, Captain Morriss began his legal career as a defense counsel and legal assistance attorney at the Navy Legal Services Office, Charleston, SC. Later in his career, he was given the honor of leading young judge advocates as the commanding officer, Navy Legal Services Office National Capital Region.

As Force/Fleet Judge Advocate he provided critical legal advice for operations in the Central Command's area of operations. His keen intellect and integrity led to Captain Morriss' services as the Assistant for Legal and Legislative matters for the Vice Chief of Naval Operations. This would not be the last time Captain Morriss was asked by the Department of the Navy for his advice and counsel on legislation.

I am sure that many of my colleagues know and appreciate Captain Morriss' service as Director of Legislation in the Navy's Office of Legislative Affairs and his prior service as a Legislative Counsel in that same office. During these assignments, he directly contributed to clear and concise communication between Congress and the Departments of the Navy on a broad range of legislative matters. His talents, knowledge, and legal acumen are such that I have asked him to serve on the staff of the Senate Armed services Committee. The Navy's loss is certainly the Senate's gain, and we look forward to working with Dave Morriss for many years to come.

The Nation, the United States Navy, and the Judge Advocate General's Corps have been made better through the talent and dedication of CAPT David M. Morriss. I know all of my colleagues join me in congratulating Dave, his wife Mary Elizabeth, and sons John, Will, and Graham, on the completion of an outstanding military career.●

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 570. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1241. A communication from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Certification Requirements of Multistage Vehicles" (2127–AE27) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1242. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Availability of Information for Hazardous Materials Transported by Aircraft" (RIN2137–AD29) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1243. A communication from the Deputy Assistant Chief Counsel, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Positive Train Control" (RIN2130–AA94) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1244. A communication from the Program Analyst, Federal Aviation Administration, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gippsland Aeronautics Pty Ltd. Model GA8 Airplanes" ((RIN2120–AA64) (2005–0103)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1245. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Series Turbofan Engines" ((RIN2120–AA64) (2005–0104)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1246. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT8D–209, 217, 217A, 217C, and 219 Series Turbofan Engines" ((RIN2120–AA64) (2005–0105)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1247. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135BJ Series Airplanes" ((RIN2120–AA64) (2005–0106)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1248. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas odel MD 11 and MD 11F Airplanes Equipped with Pratt and Whitney PW4000 Series Engines" ((RIN2120–AA64) (2005–0107)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1249. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Series Airplanes Equipped with Rolls Royce Model RB211 Engines" ((RIN2120–AA64) (2005–0108)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1250. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 11 and MD 11F Airplanes" ((RIN2120–AA64) (2005–0109)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1251. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120–AA64) (2005–0110)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1252. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767–200, 300, and 300F Series Airplanes" ((RIN2120–AA64) (2005–0111)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1253. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Carrying Candidates in Elections" (RIN2120–AI12) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1254. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pacific Aerospace Corp, Ltd. Model 750XL Airplanes" ((RIN2120–AA64) (2005–0114)) received on March 8 , 2005; to the Committee on Commerce, Science, and Transportation.

EC–1255. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes; and Model 757–200 and 200CB Series Airplanes" ((RIN2120–AA64) (2005–0113)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1256. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes" ((RIN2120–AA64) (2005–0112)) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1257. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Cape Town Treaty Implementation: Opportunity to Comment on Information Collection Requirements" (RIN2120–AI48) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1258. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Redesignation of Mountainous Areas in Alaska" (RIN2120–AI44) received on March 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1259. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Removal of Quarantined Area" (APHIS Docket No. 04–106–2) received on March 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1260. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Federal Gas Valuation" (RIN1010–AD05) received on March 8, 2005; to the Committee on Energy and Natural Resources.

EC–1261. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the International Labour Conference; to the Committee on Foreign Relations.

EC–1262. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, the authorization of the wearing of the insignia of major general; to the Committee on Armed Services.

EC–1263. A communication from the Deputy Assistant Secretary of the Army (Project Planning and Review), Department of Defense, transmitting, pursuant to law, the reports of the Chief of Engineers; to the Committee on Armed Services.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 134. A bill to adjust the boundary of Redwood National Park in the State of California (Rept. No. 109–23).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 205. A bill to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers (Rept. No. 109–24).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 207. A bill to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes (Rept. No. 109–25).

By Mr. DODD, from the Committee on Energy and Natural Resources, without amendment:

S. 243. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes (Rept. No. 109–26).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 250. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Ronald Rosenfeld, of Oklahoma, to be a Director of the Federal Housing Finance Board for the remainder of the term expiring February 27, 2009.

By Mr. GRASSLEY for the Committee on Finance.

Harold Damelin, of Virginia, to be Inspector General, Department of the Treasury.

Raymond Thomas Wagner, Jr., of Missouri, to be a Member of the Internal Revenue Service Oversight Board for a term expiring September 14, 2009.

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs.

*Michael Jackson, of Virginia, to be Deputy Secretary of Homeland Security.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate. (Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Florida:

S. 570. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; read the first time.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 571. A bill to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA (for himself and Mr. DURBIN):

S. 572. A bill to amend the Homeland Security Act of 2002 to give additional biosecurity responsibilities to the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

By Mr. AKAKA (for himself and Mr. DURBIN):

S. 573. A bill to improve the response of the Federal Government to agroterrorism and agricultural diseases; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. KERRY, and Mr. KENNEDY):

S. 574. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to increase the authorization of appropriations and modify the date on which the authority of the Secretary of the Interior terminates under the Act; to the Committee on Energy and Natural Resources.

By Ms. MIKULSKI (for herself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. LEVIN):

S. 575. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for certain education expenses; to the Committee on Finance.

By Mr. BYRD:

S. 576. A bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 577. A bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. REED, and Mr. KENNEDY):

S. 578. A bill to better manage the national instant criminal background check system and terrorism matches; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mrs. CLINTON, Mr. SANTORUM, Ms. LANDRIEU, Mr. DURBIN, and Mr. ENSIGN):

S. 579. A bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself, Mr. CONRAD, Mr. STEVENS, Mr. HAGEL, and Mr. CHAFEE):

S. 580. A bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. SESSIONS):

S. 581. A bill to contain the costs of the medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. PRYOR (for himself and Mrs. LINCOLN):

S. 582. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU:

S. 583. A bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments; to the Committee on Finance.

By Mr. SALAZAR:

S. 584. A bill to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 585. A bill to better provide for compensation for certain persons injured in the course of employment at the Rocky Flats site in Colorado; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND (for himself and Mr. VITTER):

S. 586. A bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself, Mr. ALLEN, Mr. DODD, and Mr. BIDEN):

S. Res. 76. A resolution expressing the sense of the Senate on the anniversary of the deadly terrorist attacks launched against the people of Spain on March 11, 2004; considered and agreed to.

By Mr. SANTORUM (for himself, Mr. BROWNBACK, Mr. ALLEN, Mr. DEMINT, Mr. BURR, and Ms. CANTWELL):

S. Res. 77. A resolution condemning all acts of terrorism in Lebanon and calling for the removal of Syrian troops from Lebanon and supporting the people of Lebanon in their quest for a truly democratic form of government; considered and agreed to.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. Res. 78. A resolution recognizing and honoring the life of Arthur Miller; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. CORNYN, Mr. CORZINE, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mrs. FEINSTEIN, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, and Mrs. MURRAY):

S. Con. Res. 16. A concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 50

At the request of Mr. INOUYE, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 50, a bill to authorize and strengthen the National Oceanic and Atmospheric Administration's tsunami detection, forecast, warning, and mitigation program, and for other purposes.

S. 211

At the request of Mrs. DOLE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 230

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 230, a bill to improve railroad safety.

S. 233

At the request of Mr. ROBERTS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 233, a bill to increase the supply of quality child care.

S. 236

At the request of Mr. NELSON of Nebraska, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 236, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 359

At the request of Mr. CRAIG, the names of the Senator from Indiana (Mr. BAYH), the Senator from New York (Mrs. CLINTON), the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 364

At the request of Mr. INOUYE, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S . 364, a bill to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

S. 397

At the request of Mr. CRAIG, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Florida (Mr . MARTINEZ) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 414

At the request of Mr. MCCONNELL, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 414, a bill to amend the Help America Vote Act of 2002 to protect the right of Americans to vote through the prevention of voter fraud, and for other purposes.

S. 424

At the request of Mr. BOND, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 471

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 489

At the request of Mr. ALEXANDER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. 495

At the request of Mr. BROWNBACK, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 501

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 501, a bill to provide a site for the National Women's History Museum in the District of Columbia.

S. 506

At the request of Mr. DURBIN, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 513

At the request of Mr. GREGG, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Maine (Ms. SNOWE) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 537

At the request of Mr. BINGAMAN, the names of the Senator from Maine (Ms. COLLINS), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. REED) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 539

At the request of Mr. MARTINEZ, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 539, a bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

S. 544

At the request of Mr. JEFFORDS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 544, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 548

At the request of Mr. CONRAD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 551

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 551, a bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Colorado Springs, Colorado, metropolitan area.

S. RES. 31

At the request of Mr. COLEMAN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Washington (Ms. CANTWELL), the Senator from Maine (Ms. COLLINS), the Senator from North Carolina (Mrs. DOLE), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Iowa (Mr. GRASSLEY), the Senator from Georgia (Mr. ISAKSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as "National Health Center Week" in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

S. RES. 71

At the request of Mr. CRAIG, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 71, a resolution designating the week beginning March 13, 2005 as "National Safe Place Week".

AMENDMENT NO. 68

At the request of Mr. KOHL, his name was added as a cosponsor of amendment No. 68 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida:

S. 570. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; read the first time.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 570

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Advance Directives Education Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Improvement of policies related to the use and portability of advance directives.
Sec. 4. Increasing awareness of the importance of End-of-Life planning.
Sec. 5. GAO study and report on establishment of national advance directive registry.
Sec. 6. Advance directives at State department of motor vehicles.

### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Every year 2,500,000 people die in the United States. Eighty percent of those people die in institutions such as hospitals, nursing homes, and other facilities. Chronic illnesses, such as cancer and heart disease, account for 2 out of every 3 deaths.

(2) In January 2004, a study published in the Journal of the American Medical Association concluded that many people dying in institutions have unmet medical, psychological, and spiritual needs. Moreover, family members of decedents who received care at home with hospice services were more likely to report a favorable dying experience.

(3) In 1997, the Supreme Court of the United States, in its decisions in Washington v. Glucksberg and Vacco v. Quill, reaffirmed the constitutional right of competent adults to refuse unwanted medical treatment. In those cases, the Court stressed the use of advance directives as a means of safeguarding that right should those adults become incapable of deciding for themselves.

(4) A study published in 2002 estimated that the overall prevalence of advance directives is between 15 and 20 percent of the general population, despite the passage of the Patient Self-Determination Act in 1990, which requires that health care providers tell patients about advance directives.

(5) Competent adults should complete advance care plans stipulating their health care decisions in the event that they become unable to speak for themselves. Through the execution of advance directives, including living wills and durable powers of attorney for health care according to the laws of the State in which they reside, individuals can protect their right to express their wishes and have them respected.

(b) PURPOSES.—The purposes of this Act are to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

### SEC. 3. IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting "and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record" before the semicolon at the end;

(B) in subparagraph (D), by striking "and" after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.”;

(2) in paragraph (3), by striking “a written” and inserting “an”; and

(3) by adding at the end the following new paragraph:

“(5)(A) In addition to the requirements of paragraph (1), a provider of services, Medicare Advantage organization, or prepaid or eligible organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

“(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.”.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking “in the individual's medical record” and inserting “in a prominent part of the individual's current medical record”; and

(ii) by inserting “and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record” before the semicolon at the end;

(B) in subparagraph (D), by striking “and” after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.”;

(2) in paragraph (4), by striking “a written” and inserting “an”; and

(3) by adding at the end the following paragraph:

“(6)(A) In addition to the requirements of paragraph (1), a provider or organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

“(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

### SEC. 4. INCREASING AWARENESS OF THE IMPORTANCE OF END-OF-LIFE PLANNING.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

### “PART R—PROGRAMS TO INCREASE AWARENESS OF ADVANCE DIRECTIVE PLANNING ISSUES

### “SEC. 399Z–1. ADVANCE DIRECTIVE EDUCATION CAMPAIGNS AND INFORMATION CLEARINGHOUSES.

“The Secretary shall provide for the establishment of a national, toll-free, information clearinghouse as well as clearinghouses that the public may access to find out about State-specific information regarding advance directive and end-of-life decisions.”.

### SEC. 5. GAO STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

### SEC. 6. ADVANCE DIRECTIVES AT STATE DEPARTMENT OF MOTOR VEHICLES.

Each State shall establish a program of providing information on the advance directives clearinghouse established pursuant to section 399Z-1 of the Public Health Service Act to individuals who are residents of the State at such State's department of motor vehicles. Such program shall be modeled after the program of providing information regarding organ donation established at the State's department of motor vehicles, if such State has such an organ donation program.

---

By Mr. AKAKA (for himself and Mr. DURBIN):

S. 572. A bill to amend the Homeland Security Act of 2002 to give additional biosecurity responsibilities to the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

---

By Mr. AKAKA (for himself and Mr. DURBIN):

S. 573. A bill to improve the response of the Federal Government to agroterrorism and agricultural diseases; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to introduce two bills to increase the security of the Nation's agriculture and food supply: the Homeland Security Food and Agriculture Act and the Agriculture Security Assistance Act. Both measures build on legislation I sponsored in the 107th and 108th Congresses. I would like to thank my good friend, Senator DURBIN, who cosponsored my agriculture security bills last session, for continuing his support of this legislation.

The first bill, the Homeland Security Food and Agriculture Act, will enhance coordination between the Department of Homeland Security (DHS) and other Federal agencies responsible for food and agriculture security. The Agriculture Security Assistance Act will increase coordination between Federal and State, local, and tribal officials and offer financial and technical assistance to farmers, ranchers, and veterinarians to improve preparedness.

The Nation's agriculture industry represents about 13 percent of GDP and nearly 17 percent of domestic employment. Yet, this critical economic sector is not receiving adequate protection from accidental or intentional contamination that would damage our economy, and, most importantly, could cost lives. Such contamination could be devastating to states such as Hawaii which generates more than $1.9 billion in agricultural sales annually.

Just last week, the President of Interpol warned that the consequences of an attack on livestock are “substantial” and “relatively little” is being done to prevent such an attack.

The introduction of my bills coincides with the release of a report I requested from the Government Accountability Office (GAO) entitled “Much is

Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain." The report reviews the current state of agriculture security in the United States and makes recommendations. While GAO reported some accomplishments, such as conducting vulnerability assessments of agricultural products, establishing the Food and Agriculture Sector Coordinating Council, and funding two university-based Centers of Excellence to research livestock and poultry diseases, GAO found that critical vulnerabilities still exist.

Even though veterinarians may be the first to spot outbreaks of diseases, Department of Agriculture (USDA) certified veterinarians are not required to demonstrate any knowledge of foreign animal diseases. This is short sighted given how easily animal diseases can travel from country to country as we have seen with the avian flu over the past few years. It is important that veterinarians, who will be our first responders in the event of an agroterrorist attack, be able to identify symptoms of a foreign disease in U.S. livestock.

GAO also highlights USDA's inability to deploy vaccines within 24 hours of an animal disease outbreak as required by Homeland Security Presidential Directive 9 (HSPD-9). According to GAO, the vaccine for foot-and-mouth disease (FMD), which is the only animal disease vaccine that the United States stockpiles, is purchased from Britain in a concentrate form. To use the vaccine the concentrate must be sent back to Britain to be activated, which adds at least three weeks to the deployment time.

According to a scenario from Dr. Tom McGinn, formerly of the North Carolina Department of Agriculture, FMD would spread to 23 States five days after an initial outbreak and to 40 States after 30 days. By the time the vaccine is deployed, FMD could spread across the country. We cannot afford to wait three weeks to start vaccinating livestock. Why is the United States outsourcing this critical security function? USDA should either store ready-to-use vaccines in the U.S. or examine ways to activate the vaccines in this country.

Equally troubling is that over the past 2 years, the number of agricultural inspections performed by the U.S. has declined by 3.4 million since DHS took over the border inspection responsibility from USDA. Mr. Kim Mann, a spokesman from the National Association of Agriculture Employees (NAAE), expressed similar concerns at a February 10, 2005, hearing conducted by the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia (OGM). Mr. Mann testified that of the approximately 2,100 Agriculture Quarantine Inspection positions that were transferred from USDA to DHS in 2003, only about 1,300 of those positions are currently filled. According to Mr. Mann, agriculture inspectors have left DHS to return to USDA because of DHS's lack of commitment to its agriculture mission, and DHS is not filling these vacancies. I recently wrote Undersecretary for Border and Transportation Security Asa Hutchinson expressing my concern over these reports because agriculture inspections are crucial to the economy of Hawaii which is home to more endangered species than any other State.

GAO also reported a lack of communication between DHS and states regarding the development of emergency response plans, grant guidance, and best practices. States agriculture officials were given as little as three days to provide input on the National Response Plan and the National Infrastructure Protection Plan. In addition, the State Homeland Security Grant Program grant guidance puts little emphasis on agriculture as a sector eligible for assistance. In fact, agriculture only became eligible in fiscal year 04 and many states are unaware that funds can be directed towards agriculture security. In addition, State and industry officials reported that there is no mechanism to share lessons learned from exercises or real-life animal disease outbreaks.

GAO further notes that shortcomings exist in DHS's Federal coordination of national efforts to protect against agroterrorism. Federal officials claim that there is confusion in interagency working groups as to which responsibility falls with whom. DHS reportedly also has been unable to coordinate agriculture security research efforts government-wide as is required by HSPD-9. While some program staff from DHS, USDA, and Health and Human Services have engaged in preliminary discussions, there is no overall departmental coordination of policy and budget issues between the various Federal agencies.

My bills address many of the concerns raised by GAO. The Homeland Security Food and Agriculture Act will: increase communication and coordination between DHS and state, local, and tribal homeland security officials regarding agroterrorism; Ensure agriculture security is included in state, local, and regional emergency response plans; and establish a task force of state and local first responders that will work with DHS to identify best practices in the area of agriculture security.

The Agriculture Security Assistance Act will: provide financial and technical assistance to states and localities for agroterrorism preparedness and response; increase international agricultural disease surveillance and inspections of imported agricultural products; require that certified veterinarians be knowledgeable in foreign animal diseases; and require that USDA study the costs and benefits of developing a more robust animal disease vaccine stockpile.

The United States needs a coordinated approach in dealing with the possibility of an attack on our food supply, which could affect millions. While improvements have occurred since I first voiced my concerns over food and agriculture security in 2001, critical vulnerabilities remain. I urge my colleagues to join me in protecting America's breadbasket and support these vital pieces of legislation.

I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills were ordered tobe printed in the RECORD, as follows:

S. 572

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Homeland Security Food and Agriculture Act of 2005".

**SEC. 2. AGRICULTURAL BIOSECURITY.**

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

### "Subtitle J—Agricultural Biosecurity

**"SEC. 899A. DEFINITIONS.**

"In this subtitle:

"(1) AGRICULTURAL DISEASE.—The term 'agricultural disease' means an outbreak of a plant or animal disease, or a pest infestation, that requires prompt action in order to prevent injury or damage to people, plants, livestock, property, the economy, or the environment.

"(2) AGRICULTURE.—The term 'agriculture' includes—

"(A) the science and practice of an activity relating to—

"(i) food, feed, and fiber production; or

"(ii) the processing, marketing, distribution, use, or trade of food, feed, or fiber;

"(B) a social science, such as—

"(i) family and consumer science;

"(ii) nutritional science;

"(iii) food science and engineering; or

"(iv) agricultural economics; and

"(C) an environmental or natural resource science, such as—

"(i) forestry;

"(ii) wildlife science;

"(iii) fishery science;

"(iv) aquaculture;

"(v) floraculture; or

"(vi) veterinary medicine.

"(3) AGROTERRORIST ACT.—

"(A) IN GENERAL.—The term 'agroterrorist act' means the criminal act, committed with the intent described in subparagraph (B), of causing or attempting to cause damage or harm (including destruction or contamination) to—

"(i) a crop;

"(ii) livestock;

"(iii) farm or ranch equipment;

"(iv) material or property associated with agriculture; or

"(v) a person engaged in an agricultural activity.

"(B) Intent.—The term 'agroterrorist act' means an act described in subparagraph (A) that is committed with the intent to—

"(i) intimidate or coerce a civilian population; or

"(ii) influence the policy of a government by intimidation or coercion.

"(4) Biosecurity.—

"(A) In general.—The term 'biosecurity' means protection from the risk posed by a biological, chemical, or radiological agent to—

"(i) the agricultural economy;

"(ii) the environment;

"(iii) human health; or

"(iv) plant or animal health.

"(B) Inclusions.—The term 'biosecurity' includes the exclusion, eradication, and control of a biological agent that causes an agricultural disease.

"(5) Emergency response provider.—The term 'emergency response provider' includes any Federal, State, or local—

"(A) emergency public safety professional;

"(B) law enforcement officer;

"(C) emergency medical professional (including an employee of a hospital emergency facility);

"(D) veterinarian or other animal health professional; and

"(E) related personnel, agency, or authority.

"(6) Suspect location.—The term 'suspect location' means a location that, as recognized by an element of the intelligence community—

"(A) has experienced, or may experience, an agroterrorist act or an unusual disease; or

"(B) has harbored, or may harbor, a person that committed an agroterrorist act.

**"SEC. 899B. AGRICULTURAL SECURITY RESPONSIBILITIES OF THE DEPARTMENT OF HOMELAND SECURITY.**

"(a) Coordination of Food and Agricultural Security.—

"(1) In general.—The Secretary shall establish and carry out a program to protect the agriculture and food supply of the United States from agroterrorist acts.

"(2) Program inclusions.—The program established pursuant to paragraph (1) shall include provisions for—

"(A) advising and coordinating with Federal, State, local, regional, and tribal homeland security officials regarding—

"(i) preparedness for and the response to an agroterrorist act; and

"(ii) the detection, prevention, and mitigation of an agroterrorist act; and

"(B) executing the agriculture security responsibilities of the Secretary described in Homeland Security Presidential Directive 7 (December 17, 2003) and Homeland Security Presidential Directive 9 (February 3, 2004).

"(b) Responsibilities.—

"(1) Secretary.—The Secretary shall have responsibility for—

"(A) increasing communication and coordination among all Federal, State, local, regional, and tribal emergency response providers regarding biosecurity;

"(B) ensuring that each Federal, State, local, regional, and tribal emergency response provider understands and executes the role of that emergency response provider in response to an agroterrorist attack;

"(C)(i) ensuring that State, local, and tribal officials have adequate access to information and resources at the Federal level; and

"(ii) developing and implementing information-sharing procedures by which a Federal, State, local, regional, or tribal emergency response provider can share information regarding a biological threat, risk, or vulnerability;

"(D) coordinating with the Secretary of Transportation to develop guidelines for restrictions on the interstate transportation of an agricultural commodity or product in response to an agricultural disease;

"(E) coordinating with the Administrator of the Environmental Protection Agency in considering the potential environmental impact of a response by Federal, regional, State, local, and tribal emergency response providers to an agricultural disease;

"(F) working with Federal agencies (including the Department of Agriculture and other elements of the intelligence community) to improve the ability of employees of the Department of Homeland Security to identify a biological commodity or product, livestock, and any other good that is imported from a suspect location;

"(G) coordinating with the Department of State to provide the President and Federal agencies guidelines for establishing a mutual assistance agreement with another country, including an agreement—

"(i) to provide training to veterinarians, public health workers, and agriculture specialists of the United States in the identification, diagnosis, and control of foreign diseases;

"(ii) to provide resources and technical assistance personnel to a foreign government with limited resources; and

"(iii) to participate in a bilateral or multilateral training program or exercise relating to biosecurity.

"(2) Undersecretary for emergency response and preparedness.—The Undersecretary for Emergency Response and Preparedness shall have responsibility for—

"(A) not later than 180 days after the date of enactment of this subtitle, cooperating with State, local, and tribal homeland security officials to establish State, local, and regional response plans for an agricultural disease or agroterrorist act that include—

"(i) a comprehensive needs analyses to determine the appropriate investment requirements for responding to an agricultural disease or agroterrorist act;

"(ii) a potential emergency management assistance compact and any other mutual assistance agreement between neighboring States; and

"(iii) an identification of State and local laws (including regulations) and procedures that may affect the implementation of a State response plan; and

"(B) not later than 90 days after the date of enactment of this subtitle, establishing a task force consisting of State and local homeland security officials that shall—

"(i) identify the best practices for carrying out a regional or State biosecurity program;

"(ii) make available to State, local, and tribal governments a report that describes the best practices identified under clause (i); and

"(iii) design and make available information (based on the best practices identified under clause (i)) concerning training exercises for emergency response providers in the form of printed materials and electronic media to—

"(I) managers of State, local, and tribal emergency response provider organizations; and

"(II) State health and agricultural officials.

"(c) Grants To Facilitate Participation of State and Local Animal Health Care Officials.—

"(1) In general.—The Office of State and Local Coordination and Preparedness, in consultation with the Undersecretary for Emergency Response and Preparedness and the Secretary, shall establish a program under which the Secretary shall provide grants to communities to facilitate the participation of State and local animal health care officials in community emergency planning efforts.

"(2) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2006.".

S. 573

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Agricultural Security Assistance Act of 2005".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) Agricultural disease.—The term "agricultural disease" means an outbreak of a plant or animal disease, or a pest infestation, that requires prompt action in order to prevent injury or damage to people, plants, livestock, property, the economy, or the environment.

(2) Agricultural disease emergency.—The term "agricultural disease emergency" means an agricultural disease that the Secretary determines to be an emergency under—

(A) section 415 of the Plant Protection Act (7 U.S.C. 7715); or

(B) section 10407(b) of the Animal Health Protection Act (7 U.S.C. 8306(b)).

(3) Agriculture.—The term "agriculture" includes—

(A) the science and practice of activities relating to food, feed, and fiber production, processing, marketing, distribution, use, and trade;

(B) family and consumer science, nutrition, food science and engineering, agricultural economics, and other social sciences; and

(C) forestry, wildlife science, fishery science, aquaculture, floraculture, veterinary medicine, and other environmental and natural resource sciences.

(4) Agroterrorism.—The term "agroterrorism" means the commission of an agroterrorist act.

(5) Agroterrorist act.—The term "agroterrorist act" means a criminal act consisting of causing or attempting to cause damage or harm to, or destruction or contamination of, a crop, livestock, farm or ranch equipment, material or property associated with agriculture, or a person engaged in agricultural activity, that is committed with the intent—

(A) to intimidate or coerce a civilian population; or

(B) to influence the policy of a government by intimidation or coercion.

(6) Biosecurity.—

(A) In general.—The term "biosecurity" means protection from the risks posed by biological, chemical, or radiological agents to—

(i) plant or animal health;

(ii) the agricultural economy;

(iii) the environment; or

(iv) human health.

(B) Inclusions.—The term "biosecurity" includes the exclusion, eradication, and control of biological agents that cause plant or animal diseases.

(7) Indian tribe.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(9) TRIBAL GOVERNMENT.—The term "tribal government" means the governing body of an Indian tribe.

### SEC. 3. STATE AND LOCAL ASSISTANCE.

(a) STUDY.—

(1) IN GENERAL.—In consultation with the steering committee of the National Animal Health Emergency Management System and other stakeholders, the Secretary shall conduct a study to—

(A) determine the best use of epidemiologists, computer modelers, and statisticians as members of emergency response task forces that handle foreign or emerging agricultural disease emergencies; and

(B) identify the types of data that are necessary for proper modeling and analysis of agricultural disease emergencies.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report that describes the results of the study under paragraph (1) to—

(A) the Secretary of Homeland Security; and

(B) the head of any other agency involved in response planning for agricultural disease emergencies.

(b) GEOGRAPHIC INFORMATION SYSTEM GRANTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Interior, shall establish a program under which the Secretary shall provide grants to States to develop capabilities to use a geographic information system or statistical model for an epidemiological assessment in the event of an agricultural disease emergency.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $2,500,000 for fiscal year 2006; and

(B) such sums as are necessary for each subsequent fiscal year.

(c) BIOSECURITY AWARENESS AND PROGRAMS.—

(1) IN GENERAL.—The Secretary shall implement a public awareness campaign for farmers, ranchers, and other agricultural producers that emphasizes—

(A) the need for heightened biosecurity on farms; and

(B) reporting to the Department of Agriculture any agricultural disease anomaly.

(2) ON-FARM BIOSECURITY.—

(A) IN GENERAL.—Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with associations of agricultural producers and taking into consideration research conducted under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.), shall—

(i) develop guidelines—

(I) to improve monitoring of vehicles and materials entering or leaving farm or ranch operations; and

(II) to control human traffic entering or leaving farm or ranch operations; and

(ii) distribute the guidelines developed under clause (i) to agricultural producers through agricultural informational seminars and biosecurity training sessions.

(B) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There are authorized to be appropriated to carry out this paragraph—

(I) $5,000,000 for fiscal year 2006; and

(II) such sums as are necessary for each subsequent fiscal year.

(ii) INFORMATION PROGRAM.—Of the amounts made available under clause (i), the Secretary may use such sums as are necessary to establish in each State an information program to distribute the biosecurity guidelines developed under subparagraph (A)(i).

(3) BIOSECURITY GRANT PILOT PROGRAM.—

(A) INCENTIVES.—

(i) IN GENERAL.—Not later than 240 days after the date of enactment of this Act, the Secretary shall develop a pilot program to provide incentives, in the form of grants or low-interest loans, to agricultural producers to restructure farm and ranch operations (based on the biosecurity guidelines developed under paragraph (2)(A)(i)) to achieve the goals described in clause (ii).

(ii) GOALS.—The goals referred to in clause (i) are—

(I) to control access to farms and ranches by persons intending to commit agroterrorist acts;

(II) to prevent the introduction and spread of agricultural diseases; and

(III) to take other measures to ensure biosecurity.

(iii) LIMITATION.—The amount of a grant or low-interest loan provided under this paragraph shall not exceed $10,000.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(i) describes the implementation of the pilot program; and

(ii) makes recommendations for expanding the pilot program.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

(i) $5,000,000 for fiscal year 2006; and

(ii) such sums as are necessary for each of fiscal years 2007 through 2009.

### SEC. 4. REGIONAL, STATE, AND LOCAL PREPAREDNESS.

(a) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall cooperate with regional, State, and local disaster preparedness officials to include consideration of the potential environmental effects of a response activity in planning a response to an agricultural disease.

(b) DEPARTMENT OF AGRICULTURE.—The Secretary, in consultation with the Secretary of Homeland Security, shall—

(1) develop and implement procedures to provide information to, and share information among, Federal, regional, State, tribal, and local officials regarding agricultural threats, risks, and vulnerabilities; and

(2) cooperate with State agricultural officials, State and local emergency managers, representatives from State land grant colleges and research universities, agricultural producers, and agricultural trade associations to establish local response plans for agricultural diseases.

### SEC. 5. INTERAGENCY COORDINATION.

(a) AGRICULTURAL DISEASE LIAISONS.—

(1) AGRICULTURAL DISEASE MANAGEMENT LIAISON.—The Secretary of Homeland Security shall establish a senior level position within the Federal Emergency Management Agency the primary responsibility of which is to serve as a liaison for agricultural disease management between—

(A) the Department of Homeland Security; and

(B)(i) the Federal Emergency Management Agency;

(ii) the Department of Agriculture;

(iii) other Federal agencies responsible for a response to an emergency relating to an agriculture disease;

(iv) the emergency management community;

(v) State emergency and agricultural officials;

(vi) tribal governments; and

(vii) industries affected by agricultural disease.

(2) ANIMAL HEALTH CARE LIAISON.—The Secretary of Health and Human Services shall establish within the Department of Health and Human Services a senior level position the primary responsibility of which is to serve as a liaison between—

(A) the Department of Health and Human Services; and

(B)(i) the Department of Agriculture;

(ii) the animal health community;

(iii) the emergency management community;

(iv) tribal governments; and

(v) industries affected by agricultural disease.

(b) TRANSPORTATION.—

(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary and the Secretary of Homeland Security, shall—

(A) publish in the Federal Register proposed guidelines for restrictions on interstate transportation of an agricultural commodity or product in response to an agricultural disease;

(B) provide for a comment period of not less than 90 days for the proposed guidelines; and

(C) establish final guidelines, taking into consideration any comment received under subparagraph (B); and

(2) provide the guidelines described in paragraph (1) to officers and employees of—

(A) the Department of Agriculture;

(B) the Department of Transportation; and

(C) the Department of Homeland Security.

### SEC. 6. INTERNATIONAL ACTIVITIES.

(a) INTERNATIONAL AGRICULTURAL DISEASE SURVEILLANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of State and the Administrator of the Agency for International Development, shall submit to Congress a report that describes measures taken by the Secretary to—

(1) streamline the process of notification by the Secretary to Federal agencies in the event of an agricultural disease in a foreign country; and

(2) cooperate with representatives of foreign countries, international organizations, and industry to develop and implement methods of sharing information relating to international agricultural diseases and unusual agricultural activities.

(b) BILATERAL MUTUAL ASSISTANCE AGREEMENTS.—The Secretary of State, in coordination with the Secretary and the Secretary of Homeland Security, shall—

(1) enter into mutual assistance agreements with other countries to provide and receive assistance in the event of an agricultural disease, including—

(A) training for veterinarians and agriculture specialists of the United States in the identification, diagnosis, and control of foreign agricultural diseases;

(B) providing resources and personnel to a foreign government with limited resources to respond to an agricultural disease; and

(C) bilateral training programs and exercises relating to assistance provided under this paragraph; and

(2) provide funding for a program or exercise described in paragraph (1)(C).

### SEC. 7. ADDITIONAL STUDIES AND REPORTS.

(a) VACCINES.—Not later than 180 days after the date of enactment of this Act, the

Secretary shall conduct a study of, and submit to Congress a report that describes, the projected costs and benefits of developing ready-to-use vaccines against foreign animal diseases.

(b) PLANT DISEASE LABORATORY.—Not later than 270 days after the date of enactment of this Act, the Secretary shall conduct a study of, and submit to Congress a report that describes, the feasibility of establishing a national plant disease laboratory based on the model of the Centers for Disease Control and Prevention, the primary task of which is to—

(1) integrate and coordinate a nationwide system of independent plant disease diagnostic laboratories, including plant clinics maintained by land grant colleges and universities; and

(2) increase the capacity, technical infrastructure, and information-sharing capabilities of laboratories described in paragraph (1).

**SEC. 8. VETERINARIAN ACCREDITATION.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations requiring that any veterinarian accredited by the Department of Agriculture shall be trained to recognize foreign animal diseases.

**SEC. 9. REVIEW OF LEGAL AUTHORITY.**

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall conduct a review of State and local laws relating to agroterrorism and biosecurity to determine—

(1) the extent to which the laws facilitate or impede the implementation of a current or proposed response plan relating to an agricultural disease;

(2) whether an injunction issued by a State court would—

(A) delay the implementation of a Federal response plan described in paragraph (1); or

(B) affect the extent to which an agricultural disease spreads; and

(3) the types and extent of legal evidence that may be required by a State court before a response plan described in paragraph (1) may be implemented.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress a report that describes the results of the review under subsection (a) (including any recommendations of the Attorney General).

---

By Ms. MIKULSKI (for herself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. LEVIN):

S. 575. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for certain education expenses; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise to introduce the "Educational Opportunity for All Act." The core of the American Dream is getting a college education and I want to make sure that every student has access to that dream. I want to help families who are trying to send their children to college and adults who are going back to school—for their first degree or their third. This $4,000 tuition tax credit will help students who are taking one night class at a community college to update their skills or four classes at a university to get their bachelor's degree. And my tax credit is refundable so it helps families who don't owe taxes.

Our middle class families are stressed and stretched. Families in my State of Maryland are worried—they're worried about their jobs and they're terrified of losing their healthcare when costs keep ballooning. Many are holding down more than one job to make ends meet. They're racing from carpools to work and back again. But most of all, they don't know how they can afford to send their kids to college. And they want to know what we in the United States Senate are doing to help them.

That's why I want to give every family sending a child to college a $4,000 per student per year tuition tax credit. My bill would give help to those who practice self help—the families who are working and saving to send their child to college or update their own skills.

College tuition is on the rise across America. Tuition at the University of Maryland has increased by almost 40 percent since 2002. Tuition for Baltimore Community College rose by $300 in one year. The average total cost of going to a 4-year public college is $10,635 per year, including tuition, fees, room and board. University of Maryland will cost more than $15,000 for a full time undergraduate student who lives on campus.

Financial Aid isn't keeping up with these rising costs. Pell Grants cover only 40 percent of average costs at 4-year public colleges. Twenty years ago, Pell Grants covered 80 percent of average costs. Our students are graduating with so much debt it's like their first mortgage. The average undergraduate student debt from college loans is almost $19,000. College is part of the American Dream: it shouldn't be part of the American financial nightmare.

Families are looking for help. I'm sad to say, the President doesn't offer them much hope. The Republican budget has all the wrong priorities. President Bush proposed increasing the maximum Pell Grant by just $100 to $4,150. I want to double Pell Grants. Instead of easing the burden on middle class families, the Republican budget helps out big business cronies with lavish tax breaks while eating into Social Security and creating deficits as far as the eye can see.

We need to do more to help middle class families afford college. We need to immediately increase the maximum Pell Grant to $4,500 and double it over the next 6 years. We need to make sure student loans are affordable. And we need a bigger tuition tax credit for the families stuck in the middle who aren't eligible for Pell Grants but still can't afford college.

A $4,000 refundable tax credit for tuition will go a long way. It will give middle class families some relief by helping the first-time student at our 4-year institutions like University of Maryland and the mid-career student at our terrific community colleges. A $4,000 tax credit would be 60 percent of the tuition at Maryland and enough to cover the cost of tuition at most community colleges. My bill would help make college affordable for everyone.

College education is more important than ever: 40 percent of new jobs in the next 10 years will require post-secondary education. College is important to families and it's important to our economy. To compete in the global economy, we need to make sure all our children have 21st century skills for 21st century jobs. And the benefits of education help not just the individual but society as a whole.

To have a safer America and a stronger economy, we need to have a smarter America. We need to invest in our human capital to create a world class workforce. That means making a college education affordable.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed as follows:

S. 575

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Educational Opportunity for All Act of 2005".

**SEC. 2. EDUCATIONAL OPPORTUNITY FOR ALL TAX CREDIT.**

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

**"SEC. 36. EDUCATIONAL OPPORTUNITY TAX CREDIT.**

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the qualified tuition expenses paid by the taxpayer during the taxable year (for education furnished during any academic period beginning in such taxable year).

"(2) PER STUDENT LIMITATION.—The credit allowed under this section shall not exceed $4,000 with respect to any individual.

"(b) ELECTION NOT TO HAVE SECTION APPLY.—A taxpayer may elect not to have this section apply with respect to the qualified tuition expenses of an individual for any taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified tuition expenses' means tuition required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution for courses of instruction of such individual at such institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other fees or expenses unrelated to an individual's academic course of instruction.

"(D) JOB IMPROVEMENT INCLUDED.—Such term shall include tuition expenses described in subparagraph (A) with respect to any course of instruction at an eligible educational institution to acquire or improve job skills.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of the Taxpayer Relief Act of 1997, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(d) SPECIAL RULES.—

"(1) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified tuition expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS, ETC.—The amount of qualified tuition expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced by the sum of any amounts paid for the benefit of such individual which are allocable to such period as—

"(A) a qualified scholarship which is excludable from gross income under section 117,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code, and

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an eligible educational institution, which is excludable from gross income under any law of the United States.

"(3) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(A) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(B) qualified tuition expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(4) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified tuition expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any expense for which a deduction is allowed under any other provision of this chapter.

"(6) COORDINATION WITH HOPE SCHOLARSHIP AND LIFETIME LEARNING CREDITS.—The qualified tuition and related expenses with respect to an individual for whom a Hope Scholarship Credit or the Lifetime Learning Credit under section 25A is allowed for the taxable year shall not be taken into account under this section.

"(7) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(8) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(e) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of the credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.".

(b) REFUNDABILITY OF CREDIT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or enacted by the Educational Opportunity for All Act of 2005".

(c) CONFORMING AMENDMENTS.—

(1) Sections 135(d)(2)(A), 222(c)(2)(A), 529(c)(3)(B)(v)(II), and 530(d)(2)(C)(i)(II) of the Internal Revenue Code of 1986 are each amended by inserting "or section 36" after "section 25A" each place it appears.

(2) Section 6213(g)(2)(J) of such Code is amended by inserting "or section 36(d)(1)" after "expenses)".

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following:

"Sec. 36. Educational opportunity tax credit.

"Sec. 37. Overpayments of tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 2004, for education furnished in academic periods beginning after such date.

---

By Mr. BYRD:

S. 576. A bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros; to the Committee on Energy and Natural Resources.

Mr. BYRD. Mr. President, President Reagan was often fond of saying that "there's nothing better for the inside of a man than the outside of a horse." So he surely would have been proud when, on November 18, 2004, during the closing days of the 108th Congress, the Senate passed a resolution introduced by our former colleague Senator Ben Nighthorse Campbell that designated December 13, 2004, as "National Day of the Horse." The resolution encouraged the people of the United States to be mindful of the contribution of horses to the economy, history, and character of our great Nation. The resolution, S. Res. 452, included a provision that stated "horses are a vital part of the collective experience of the United States and deserve protection and compassion."

Beginning in the 1950's, public awareness was raised about the cruel and inhumane manner in which wild horses and burros were being rounded up on public lands and subsequently sent to slaughter. Velma B. Johnston, later known as Wild Horse Annie, led an effort to protect this symbol of the American West that captured the imagination of school children across the country. In 1959, which was my first year in the Senate, Congress passed legislation I was pleased to support that prohibited the use of motorized vehicles to hunt wild horses and burros on all public lands. But the bill, which came to be known as the "Wild Horse Annie Act," did not include a program for the management of wild horses and burros in the United States.

It was not until 1971 that Congress passed the Wild Free-Roaming Horse and Burro Act. The law, which I also supported, established as national policy that "wild free-roaming horses and burros shall be protected from capture, branding, harassment, and death" and that "no wild free-roaming horses or burros or their remains may be sold or transferred for consideration for processing into commercial products."

The Bureau of Land Management (BLM) and the U.S. Forest Service were tasked with enforcement of the law on public lands. Unfortunately, several reports have documented the failure by the agencies to properly manage these animals. As a result, the BLM currently has approximately 22,000 wild horses and burros in holding facilities where their feeding and care use up nearly half of the agency's budget for wild horse and burro management.

The Wild Free-Roaming Horse and Burro Act had been the law of the land until President Bush signed the FY 2005 Omnibus Appropriations bill on December 8, 2004. Included in the omnibus appropriations bill was a provision that would require the BLM to put up for public sale any wild horse taken off the range that is more than 10 years old and any horse that has been unsuccessfully offered for adoption three times. The BLM has estimated that about 8,400 mustangs out of 22,000 being kept on seven sanctuaries meet that criteria.

Surely there are actions that can be taken by the BLM to ensure the proper operation of the wild horse and burro program without resorting to the slaughter of these animals. Instead of taking the time to make the changes necessary to ensure the proper management of wild horses, this provision reaches for the butcher knife instead.

In response, my friend and colleague from West Virginia, Rep. NICK JOE RAHALL, has introduced H.R. 297, a bill that would restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros. I am pleased to join with him in his effort to overturn this egregious provision and reinstate Federal protections for one of the enduring symbols of the American frontier.

In closing, I quote from British poet Ronald Duncan's Ode to the Horse:

Where in this wide world can a man find nobility without pride, friendship without envy or beauty without vanity? Here: where grace is laced with muscle and strength by gentleness confined. He serves without servility; he has fought without enmity. There is nothing so powerful, nothing less violent; there is nothing so quick, nothing less patient. England's past has been bourne on his back. All our history is his industry. We are his heirs; he our inheritance. The Horse.

---

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 577. A bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Wisconsin, Senator FEINGOLD, in introducing legislation to prohibit health insurers from denying benefits to plan participants if they are injured while engaging in legal recreational activities like skiing, snowmobiling, or horseback riding.

Among the many rules that were issued at the end of the Clinton Administration was one that was intended to ensure non-discrimination in health coverage in the group market. This rule was issued jointly on January 8, 2001, by the Department of Labor, the Internal Revenue Service and the Health Care Financing Administration—now the Centers for Medicare and Medicaid Services—in accordance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

While I was pleased that the rule prohibits health plans and issuers from denying coverage to individuals who engage in certain types of recreational activities, such as skiing, horseback riding, snowmobiling or motorcycling, I am extremely concerned that it would allow insurers to deny health benefits for an otherwise covered injury that results from participation in these activities.

The rule states that: "While a person cannot be excluded from a plan for engaging in certain recreational activities, benefits for a particular injury can, in some cases, be excluded based on the source of the injury." A plan could, for example, include a general exclusion for injuries sustained while doing a specified list of recreational activities, even though treatment for those injuries—a broken arm for instance—would have been covered under the plan if the individual had tripped and fallen.

Because of this loophole, an individual who was injured while skiing or running could be denied health care coverage, while someone who is injured while drinking and driving a car would be protected.

This clearly is contrary to Congressional intent. One of the purposes of HIPAA was to prohibit plans and issuers from establishing eligibility rules for health coverage based on certain health-related factors, including evidence of insurability. To underscore that point, the conference report language stated that "the inclusion of evidence of insurability in the definition of health status is intended to ensure, among other things, that individuals are not excluded from health care coverage due to their participation in activities such as motorcycling, snowmobiling, all-terrain vehicle riding, horseback riding, skiing and other similar activities." The conference report also states that "this provision is meant to prohibit insurers or employers from excluding employees in a group from coverage or charging them higher premiums based on their health status and other related factors that could lead to higher health costs."

Millions of Americans participate in these legal and common recreational activities which, if practiced with appropriate precautions, do not significantly increase the likelihood of serious injury. Moreover, in enacting HIPAA, Congress simply did not intend that people would be allowed to purchase health insurance only to find out, after the fact, that they have no coverage for an injury resulting from a common recreational activity. If this rule is allowed to stand, millions of Americans will be forced to forgo recreational activities that they currently enjoy lest they have an accident and find out that they are not covered for needed care resulting from that accident.

The legislation that we are introducing today will clarify that individuals participating in activities routinely enjoyed by millions of Americans cannot be denied access to health care coverage or health benefits as a result of their activities. The bill should not be controversial. In fact, it passed the Senate by unanimous consent last November. Unfortunately, however, the House did not have time to act before the end of the Congress.

I am therefore hopeful that we will be able to move quickly on this legislation this year, and I urge all of my colleagues to join us as cosponsors.

---

By Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. REED, and Mr. KENNEDY):

S. 578. A bill to better manage the national instant criminal background check system and terrorism matches; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, we have the benefit of many resources that provide us with a wealth of information: our dedicated staffs, the agencies of the Federal Government, and the many interested citizens and groups who follow issues.

We rely every day on the information we get from all these sources. But we also rely on plain old common sense. I rise today to introduce a bill that is based on common sense.

The premise is this: if we think somebody is a terrorist or has ties to terrorism, and that person purchases a deadly weapon, we need to know about it and keep track of it.

The bill I am introducing is called the "Terrorist Apprehension Record Retention (TARR) Act." I am introducing it in response to a report that Senator BIDEN and I requested from the Government Accountability Office (GAO).

The report examined the practices of the National Instant Criminal Background Checks system (NICS) in conducting background checks of people who are on the Federal terrorist watch list and who try to purchase firearms.

The GAO found that from February 3 through June 30 of last year—a period of just five months—a total of 44 known or suspected terrorists attempted to purchase firearms. The GAO Report is available at http://www.gao.gov/new.items/d05127.pdf.

In 35 of these cases, the FBI authorized the transactions to proceed because its field agents were unable to find any disqualifying information, such as felony convictions or illegal immigrant status, within the federally prescribed three business days.

FBI officials told GAO investigators that from June through October 2004, the FBI's NICS handled an additional 14 transactions involving known or suspected terrorists. Of these 14 transactions, the FBI allowed 12 to proceed and denied 2 based on prohibiting information.

These people who are on the terrorist watch list are not even allowed to board a commercial airliner. Yet most of them were allowed to purchase firearms.

Some would say that defies common sense—but it gets worse.

After most of the people with suspected terrorist connections were allowed to purchase these deadly weapons, the FBI was forced to destroy the records of the transactions within 24 hours after the FBI had approved the sale.

These records were destroyed pursuant to the "Tiahrt Amendment" which was implemented last July.

The GAO also found that Department of Justice procedures prohibit the NICS from sharing information about gun sales to suspected terrorists with counterterrorism officials.

This restriction of information-sharing is based on the belief at DOJ that information gathered by NICS should not be used for law enforcement purposes or to fight the war against terror. This is despite the fact that FBI counterterrorism officials said that it would help them fight the war on terror if they were to routinely receive all available personal identifying information and other details from valid-match background checks of known or suspected terrorists.

So, not only are people suspected of having links to terrorism allowed to purchase deadly weapons, but then we don't even tell our counterterrorism agents about it—and we destroy the records!

This doesn't seem like common sense to me.

In fact, it seems like a policy that not only allows terrorists to acquire weapons, but then helps them cover their tracks.

In light of the findings in this report, Senators CORZINE, SCHUMER, CLINTON, FEINSTEIN, MIKULSKI, REED and KENNEDY are joining me in introducing the TARR Act, which would do two very important things.

First, the bill would require the Federal Government, specifically the NICS and FBI, to maintain for 10 years all records related to a NICS transaction involving a valid match to the VGTOF terrorist records—a suspected or known terrorist.

It is outrageous that one unit of the FBI—NICS—has information that could help us win the war against terrorism, but that information is deleted.

Second, the TARR Act would require all information related to the transactions involving a valid match to the VGTOF terrorist records must be shared with all appropriate Federal and State counterterrorism officials. Both FBI counterterrorism agents and State counterterrorism agencies should have access to this potentially valuable information. I encourage my colleagues to support this common sense legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD. I also ask unanimous consent that an article from the March 8, 2005 edition of the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 578

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Terrorist Apprehension and Record Retention Act of 2005" or the "TARR Act of 2005".

**SEC. 2. IDENTIFICATION OF TERRORISTS.**

(a) IN GENERAL.—Section 922(t) of title 18, United States Code, is amended by inserting after paragraph (6) the following:

"(7) If the national criminal background check system indicates that a person attempting to purchase a firearm or applying for a State permit to possess, acquire, or carry a firearm is identified as a known or suspected member of a terrorist organization in records maintained by the Department of Justice or the Department of Homeland Security, including the Violent Gang and Terrorist Organization File, or records maintained by the Intelligence Community, including records maintained under section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n-2)—

"(A) all information related to the prospective transaction shall automatically and immediately be transmitted to the appropriate Federal and State counterterrorism officials, including the Federal Bureau of Investigation;

"(B) the Federal Bureau of Investigation shall coordinate the response to such an event; and

"(C) all records generated in the course of the check of the national criminal background check system, including the ATF Form 4473, that are obtained by Federal and State officials shall be retained for a minimum of 10 years.".

(b) CONFORMING AMENDMENTS.—

(1) TITLE 18.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting after "transfer" the following: ", except as provided in paragraph (7)".

(2) OTHER LAW.—Section 617(a)(2) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (118 Stat. 95) is amended by inserting after "or State Law" the following: ", except for information required to be maintained by section 922(t)(7) of title 18, United States Code".

[From the New York Times, March 8, 2005]

### TERROR SUSPECTS BUYING FIREARMS, REPORT FINDS

(By Eric Lichtblau)

WASHINGTON, March 7.—Dozens of terror suspects on federal watch lists were allowed to buy firearms legally in the United States last year, according to a Congressional investigation that points up major vulnerabilities in federal gun laws.

People suspected of being members of a terrorist group are not automatically barred from legally buying a gun, and the investigation, conducted by the Government Accountability Office, indicated that people with clear links to terrorist groups had regularly taken advantage of this gap.

Since the Sept. 11 terrorist attacks, law enforcement officials and gun control groups have voiced increasing concern about the prospect of a terrorist walking into a gun shop, legally buying an assault rifle or other type of weapon and using it in an attack.

The G.A.O. study offers the first full-scale examination of the possible dangers posed by gaps in the law, Congressional officials said, and it concludes that the Federal Bureau of Investigation "could better manage" its gun-buying records in matching them against lists of suspected terrorists.

F.B.I. officials maintain that they are hamstrung by laws and policies restricting the use of gun-buying records because of concerns over the privacy rights of gun owners.

At least 44 times from February 2004 to June, people whom the F.B.I. regards as known or suspected members of terrorist groups sought permission to buy or carry a gun, the investigation found.

In all but nine cases, the F.B.I. or state authorities who handled the requests allowed the applications to proceed because a check of the would-be buyer found no automatic disqualification like being a felon, an illegal immigrant or someone deemed "mentally defective," the report found.

In the four months after the formal study ended, the authorities received an additional 14 gun applications from terror suspects, and all but 2 of those were cleared to proceed, the investigation found. In all, officials approved 47 of 58 gun applications from terror suspects over a nine-month period last year, it found.

The gun buyers came up as positive matches on a classified internal F.B.I. watch list that includes thousands of terrorist suspects, many of whom are being monitored, trailed or sought for questioning as part of terrorism investigations into Islamic-based, militia-style and other groups, official said. G.A.O. investigators were not given access to the identities of the gun buyers because of those investigations.

The report is to be released on Tuesday, and an advance copy was provided to The New York Times.

Senator Frank R. Lautenberg, Democrat of New Jersey, who requested the study, plans to introduce legislation to address the problem in part by requiring federal officials to keep records of gun purchases by terror suspects for a minimum of 10 years. Such records must now be destroyed within 24 hours as a result of a change ordered by Congress last year. Mr. Lautenberg maintains that the new policy has hindered terrorism investigations by eliminating the paper trail on gun purchases.

"Destroying these records in 24 hours is senseless and will only help terrorists cover their tracks," Mr. Lautenberg said Monday. "It's an absurd policy."

He blamed what he called the Bush administration's "twisted allegiances" to the National Rifle Association for the situation.

The N.R.A. and gun rights supporters in Congress have fought—successfully, for the most part—to limit the use of the F.B.I.'s national gun-buying database as a tool for law enforcement investigators, saying the database would amount to an illegal registry of gun owners nationwide.

The legal debate over how gun records are used became particularly contentious months after the Sept. 11 attacks, when it was disclosed that the Justice Department and John Ashcroft, then the attorney general, had blocked the F.B.I. from using the gun-buying records to match against some 1,200 suspects who were detained as part of the Sept. 11 investigation. Mr. Ashcroft maintained that using the records in a criminal investigation would violate the federal law that created the system for instant background gun checks, but Justice Department lawyers who reviewed the issue said they saw no such prohibition.

In response to the report, Mr. Lautenberg also plans to ask Attorney General Alberto R. Gonzales to assess whether people listed on the F.B.I.'s terror watch list should be automatically barred from buying a gun. Such a policy would require a change in federal law.

F.B.I. officials acknowledge shortcomings in the current approach to using gun-buying records in terror cases, but they say they are somewhat constrained by gun laws as established by Congress and interpreted by the Justice Department.

"We're in a tough position," said an F.B.I. official who spoke on condition of anonymity because the report has not been formally released. "Obviously, we want to keep guns out of the hands of terrorists, but we also have to be mindful of privacy and civil rights concerns, and we can't do anything beyond what the law allows us to do."

After initial reluctance from Mr. Ashcroft over Second Amendment concerns, the Justice Department changed its policy in February 2004 to allow the F.B.I. to do more cross-checking between gun-buying records and terrorist intelligence.

Under the new policy, millions of gun applications are run against the F.B.I.'s internal terrorist watch list, and if there is a match, bureau field agents or other counterterrorism personnel are to be contacted to determine whether they have any information about the terror suspect.

In some cases, the extra review allowed the F.B.I. to block a gun purchase by a suspected terrorist that might otherwise have proceeded because of a lag time in putting information into the database, the accountability office's report said.

In one instance last year, follow-up information provided by F.B.I. field agents revealed that someone on a terror watch list was deemed "mentally defective," even though that information had not yet made its way into the gun database. In a second case, field agents disclosed that an applicant was in the country illegally. Both applications were denied.

Even so, the report concluded that the Justice Department should clarify what information could and could not be shared between gun-buying administrators and terrorism investigators. It also concluded that the F.B.I. should keep closer track of the performance of state officials who handle gun background checks in lieu of the F.B.I.

"Given that these background checks involve known or suspected terrorists who could pose homeland security risks," the report said, "more frequent F.B.I. oversight or centralized management would help ensure that suspected terrorists who have disqualifying factors do not obtain firearms in violation of the law."

---

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mrs. CLINTON, Mr. SANTORUM, Ms. LANDRIEU, Mr. DURBIN, and Mr. ENSIGN):

S. 579. A bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children, to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President. I rise today to introduce, along with Senators BROWNBACK, CLINTON, SANTORUM, LANDRIEU, ENSIGN and DURBIN, the Children and Media Research Advancement Act, or CAMRA Act. We believe there is an urgent need to establish a federal role for targeting research on the impact of media on children. From the cradle to the grave, our children now live and develop in a world of media—a world that is increasingly digital, and a world where access is at their fingertips. This emerging digital world is well known to our children, but its effects on their development are not well understood. Young people today are spending an average of 6 and a half hours with media each day. For those who are under age 6, two hours of exposure to screen media each day is common, even for those who are under age 2. That is about as much time as children under age 6 spend playing outdoors, and it is much more time than they spend reading or being read to by their parents. How does this investment of time affect children's physical development, their cognitive development, or their moral values? Unfortunately, we still have very limited information about how media, particularly the newer interactive media, affect children's development. Why? We have not charged any Federal agency with ensuring an ongoing funding base to establish a coherent research agenda about the impact of media on children's lives. This lack of a coordinated government-sponsored effort to understand the effects of media on children's development is truly an oversight on our part, as the potential payoffs for this kind of knowledge are enormous.

Consider our current national health crisis of childhood obesity. The number of U.S. children and teenagers who are overweight has more than tripled from the 1960's through 2002. We think that media exposure is partly the cause of this epidemic. Is it? Is time spent viewing screens and its accompanying sedentary lifestyle contributing to childhood and adolescent obesity? Or is the constant bombardment of advertisements for sugar-coated cereals, snack foods, and candy that pervade children's television advertisements the culprit? How do the newer online forms of "stealth marketing", such as advergaming where food products are embedded in computer games, affect children's and adolescents' purchasing patterns? What will happen when pop-up advertisements begin to appear on children's cell phones that specifically target them for the junk food that they like best at a place where that food is easily obtainable? The answer to the obesity and media question is complex. A committee at the National Academy of Sciences is currently charged with studying the link between media advertising and childhood obesity. Will the National Academy of Sciences panel have the data they need to answer this important question? A definitive answer has the potential to save a considerable amount of money in other areas of our budget. For example, child health care costs that are linked to childhood obesity issues could be reduced by understanding and altering media diets.

Or take the Columbine incident. After two adolescent boys shot and killed some of their teachers, classmates, and then turned their guns on themselves at Columbine High School, we asked ourselves if media played some role in this tragedy. Did these boys learn to kill in part from playing first-person shooter video games like Doom where they acted as a killer? Were they rehearsing criminal activities when playing this game? We looked to the research community for an answer. In the violence and media area, Congress had passed legislation in the past so that research was conducted about the relationship between media violence and childhood aggression, and as a result, we knew more. Even though much of this data base was older and involved the link between exposure to violent television programs and childhood aggression, some answers were forthcoming about how the Columbine tragedy could have taken place. Even so, there is still a considerable amount of speculation about the more complex questions. Why did these particular boys, for example, pull the trigger in real life while others who played Doom confine their aggressive acts to the gaming context? We need to be able to answer questions about which children under what circumstances will translate game playing into real-life lethal actions. Investing in media research could potentially reduce our budgets associated with adolescent crime and delinquency as well as reduce real-life human misery and suffering.

Many of us believe that our children are becoming increasingly materialistic. Does exposure to commercial advertising and the "good life" experienced by media characters partly explain materialistic attitudes? We're not sure. Recent research using brain-mapping techniques finds that an adult who sees images of desired products demonstrates patterns of brain activation that are typically associated with reaching out with a hand. How does repeatedly seeing attractive products affect our children and their developing brains? What will happen when our children will be able to click on their television screen and go directly to sites that advertise the products that they see in their favorite programs? Or use their cell phones to pay for products that they want in the immediate environment? Exactly what kind of values are we cultivating in our children, and what role does exposure to media content play in the development of those values?

A report linked very early television viewing with later symptoms that are common in children who have attention deficit disorders. However, we don't know the direction of the relationship. Does television viewing cause attention deficits, or do children who have attention deficits find television viewing experiences more engaging than children who don't have attention problems? Or do parents whose children have difficulty sustaining attention let them watch more television to encourage more sitting and less hyperactive behavior? How will Internet experiences, particularly those where children move rapidly across different windows, influence attention patterns and attention problems? Once again, we don't know the answer. If early television exposure does disrupt the development of children's attention patterns, resulting in their placement in special education programs, actions taken to reduce screen exposure during the early years could lead to subsequent reductions in children's need for special education classes, thereby saving money while fostering children's development in positive ways.

We want no child left behind in the 21st century. Many of us believe that time spent with computers is good for our children, teaching them the skills that they will need for success in the 21st century. Are we right? How is time spent with computers different from time spent with television? What are the underlying mechanisms that facilitate or disrupt children's learning from these varying media? Can academic development be fostered by the use of interactive online programs designed to teach as they entertain? In the first six years of life, Caucasian more so than African American or Latino children have Internet access from their homes. Can our newer interactive media help ensure that no child is left behind, or will disparities in access result in leaving some behind and not others?

The questions about how media affect the development of our children are clearly important, abundant, and complex. Unfortunately, the answers to these questions are in short supply. Such gaps in our knowledge base limit our ability to make informed decisions about media policy.

We know that media are important. Over the years, we have held numerous hearings in these chambers about how exposure to media violence affects childhood aggression. We passed legislation to maximize the documented benefits of exposure to educational media, such as the Children's Television Act which requires broadcasters to provide educational and informational television programs for children. Can we foster children's moral values when they are exposed to prosocial programs that foster helping, sharing, and cooperating like those that have come into being as a result of the Children's Television Act? We acted to protect our children from unfair commercial practices by passing the Children's Online Privacy Protection Act which provides safeguards from exploitation for our youth as they explore the Internet, a popular pastime for them. Yet the Internet has provided new ways to reach children with marketing that we barely know is taking place, making our ability to protect our children all the more difficult. We worry about our children's inadvertent exposure to online pornography—about how that kind of exposure may undermine their moral values and standards of decency. In these halls of Congress, we acted to protect our children by passing the Communications Decency Act, the Child Online Protection Act, and the Children's Internet Protection Act to shield children from exposure to sexually-explicit online content that is deemed harmful to minors. While we all agree that we need to protect our children from online pornography, we know very little about how to address even the most practical of questions such as how to prevent children from falling prey to adult strangers who approach them online. There are so many areas in which our understanding is preliminary at best, particularly in those areas that involve the effects of our newer digital media.

In order to ensure that we are doing our very best for our children, the behavioral and health recommendations and public policy decisions we make should be based on objective behavioral, social, and scientific research. Yet no Federal research agency has responsibility for overseeing and setting a coherent media research agenda that can guide these policy decisions. Instead, Federal agencies fund media research in a piecemeal fashion, resulting in a patch work quilt of findings. We can do better than that.

The bill we are introducing today would remedy this problem. The CAMRA Act will provide an overarching view of media effects by establishing a program devoted to Children and Media within the National Institute of Child Health and Human Development. This program of research, to be vetted by the National Academy of Sciences, will fund and energize a coherent program of research that illuminates the role of media in children's cognitive, social, emotional, physical, and behavioral development. The research will cover all forms of electronic media, including television, movies, DVDs, interactive video games, cell phones, and the Internet, and will encourage research involving children of all ages—even babies and toddlers. The bill also calls for a report to Congress about the effectiveness of this research program in filling this void in our knowledge base. In order to accomplish these goals, we are authorizing $90 million dollars to be phased in gradually across the next five years. The cost to our budget is minimal and can well result in significant savings in other budget areas.

Our Nation values the positive, healthy development of our children. Our children live in the information age, and our country has one of the most powerful and sophisticated information technology systems in the world. While this system entertains them, it is not harmless entertainment. Media have the potential to facilitate the healthy growth of our children. They also have the potential to harm. We have a stake in finding out exactly what that role is. We have a responsibility to take action. Access to the knowledge that we need for informed decision-making requires us to make an investment: an investment in research, an investment in and for our children, an investment in our collective future. The benefits to our youth and our nation's families are immeasurable.

By passing the Children and Media Research Advancement Act, we can advance knowledge and enhance the constructive effects of media while minimizing the negative ones. We can make future media policies that are grounded in a solid knowledge base. We can be proactive, rather than reactive. In so doing, we build a better nation for our youth, fostering the kinds of values that are the backbone of this great nation of ours, and we create a better foundation to guide future media policies about the digital experiences that pervade our children's daily lives.

I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 579

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Children and Media Research Advancement Act" or the "CAMRA Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has recognized the important role of electronic media in children's lives when it passed the Children's Television Act of 1990 (Public Law 101-437) and the Telecommunications Act of 1996 (Public Law 104-104), both of which documented public concerns about how electronic media products influence children's development.

(2) Congress has held hearings over the past several decades to examine the impact of specific types of media products such as violent television, movies, and video games on children's and adolescent's health and development. These hearings and other public discussions about the role of media in children's and adolescent's development require behavioral and social science research to inform the policy deliberations.

(3) There are important gaps in our knowledge about the role of electronic media and in particular, the newer interactive digital media, in children's and adolescent's healthy development. The consequences of very early screen usage by babies and toddlers on children's cognitive growth are not yet understood, nor has a research base been established on the psychological consequences of high definition interactive media and other format differences for child and adolescent viewers.

(4) Studies have shown that children who primarily watch educational shows on television during their preschool years are significantly more successful in school 10 years later even when critical contributors to the child's environment are factored in, including their household income, parent's education, and intelligence.

(5) The early stages of childhood are a critical formative period for development. Virtually every aspect of human development is affected by the environments and experiences that one encounters during his or her early childhood years, and media exposure is an increasing part of every child's social and physical environment.

(6) As of the late 1990's, just before the National Institute of Child Health and Human Development funded 5 studies on the role of sexual messages in the media on children's and adolescent's sexual attitudes and sexual practices, a review of research in this area

found only 15 studies ever conducted in the United States on this topic, even during a time of growing concerns about HIV infection.

(7) In 2001, a National Academy of Sciences study group charged with studying Internet pornography exposure on youth found virtually no literature about how much children and adolescents were exposed to Internet pornography or how such content impacts their development.

(8) In order to develop strategies that maximize the positive and minimize the negative effects of each medium on children's physical, cognitive, social, and emotional development, it would be beneficial to develop a research program that can track the media habits of young children and their families over time using valid and reliable research methods.

(9) Research about the impact of the media on children and adolescents is not presently supported through one primary programmatic effort. The responsibility for directing the research is distributed across disparate agencies in an uncoordinated fashion, or is overlooked entirely. The lack of any centralized organization for research minimizes the value of the knowledge produced by individual studies. A more productive approach for generating valuable findings about the impact of the media on children and adolescents would be to establish a single, well-coordinated research effort with primary responsibility for directing the research agenda.

(10) Due to the paucity of research about electronic media, educators and others interested in implementing electronic media literacy initiatives do not have the evidence needed to design, implement, or assess the value of these efforts.

(b) PURPOSE.—It is the purpose of this Act to enable the National Institute of Child Health and Human Development to—

(1) examine the role and impact of electronic media in children's and adolescent's cognitive, social, emotional, physical, and behavioral development; and

(2) provide for a report to Congress containing the empirical evidence and other results produced by the research funded through grants under this Act.

### SEC. 3. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN AND ADOLESCENTS.

Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following:

### "SEC. 452H. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN AND ADOLESCENTS.

"(a) IN GENERAL.—The Director of the Institute shall enter into appropriate arrangements with the National Academy of Science in collaboration with the Institute of Medicine to establish an independent panel of experts to review, synthesize and report on research, theory, and applications in the social, behavioral, and biological sciences and to establish research priorities regarding the positive and negative roles and impact of electronic media use, including television, motion pictures, DVD's, interactive video games, and the Internet, and exposure to that content and medium on youth in the following core areas of child and adolescent development:

"(1) COGNITIVE.—The role and impact of media use and exposure in the development of children and adolescents within such cognitive areas as language development, attention span, problem solving skills (such as the ability to conduct multiple tasks or 'multitask'), visual and spatial skills, reading, and other learning abilities.

"(2) PHYSICAL.—The role and impact of media use and exposure on children's and adolescent's physical coordination, diet, exercise, sleeping and eating routines, and other areas of physical development.

"(3) SOCIO-BEHAVIORAL.—The influence of interactive media on children's and adolescent's family activities and peer relationships, including indoor and outdoor play time, interaction with parents, consumption habits, social relationships, aggression, prosocial behavior, and other patterns of development.

"(b) PILOT PROJECTS.—During the first year in which the National Academy of Sciences panel is summarizing the data and creating a comprehensive research agenda in the children and adolescents and media area under subsection (a), the Secretary shall provide for the conduct of initial pilot projects to supplement and inform the panel in its work. Such pilot projects shall consider the role of media exposure on—

"(1) cognitive and social development during infancy and early childhood; and

"(2) the development of childhood and adolescent obesity, particularly as a function of media advertising and sedentary lifestyles that may co-occur with heavy media diets.

"(c) RESEARCH PROGRAM.—Upon completion of the review under subsection (a), the Director of the National Institute of Child Health and Human Development shall develop and implement a program that funds additional research determined to be necessary by the panel under subsection (a) concerning the role and impact of electronic media in the cognitive, physical, and sociobehavioral development of children and adolescents with a particular focus on the impact of factors such as media content, format, length of exposure, age of child or adolescent, and nature of parental involvement. Such program shall include extramural and intramural research and shall support collaborative efforts to link such research to other National Institutes of Health research investigations on early child health and development.

"(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

"(1) prepare and submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

"(2) agree to use amounts received under the grant to carry out activities that establish or implement a research program relating to the effects of media on children and adolescents pursuant to guidelines developed by the Director relating to consultations with experts in the area of study.

"(e) USE OF FUNDS RELATING TO THE MEDIA'S ROLE IN THE LIFE OF A CHILD OR ADOLESCENT.—An entity shall use amounts received under a grant under this section to conduct research concerning the social, cognitive, emotional, physical, and behavioral development of children or adolescents as related to electronic mass media, including the areas of—

"(1) television;

"(2) motion pictures;

"(3) DVD's;

"(4) interactive video games;

"(5) the Internet; and

"(6) cell phones.

"(f) REPORTS.—

"(1) REPORT TO DIRECTOR.—Not later than 12 months after the date of enactment of this section, the panel under subsection (a) shall submit the report required under such subsection to the Director of the Institute.

"(2) REPORT TO CONGRESS.—Not later than December 31, 2011, the Director of the Institute shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate, and Committee on Education and the Workforce of the House of Representatives a report that—

"(A) summarizes the empirical evidence and other results produced by the research under this section in a manner that can be understood by the general public;

"(B) places the evidence in context with other evidence and knowledge generated by the scientific community that address the same or related topics; and

"(C) discusses the implications of the collective body of scientific evidence and knowledge regarding the role and impact of the media on children and adolescents, and makes recommendations on how scientific evidence and knowledge may be used to improve the healthy developmental and learning capacities of children and adolescents.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $10,000,000 for fiscal year 2006;

"(2) $15,000,000 for fiscal year 2007;

"(3) $15,000,000 for fiscal year 2008;

"(4) $25,000,000 for fiscal year 2009; and

"(5) $25,000,000 for fiscal year 2010.".

---

By Mr. SMITH (for himself, Mr. CONRAD, Mr. STEVENS, Mr. HAGEL, and Mr. CHAFEE):

S. 580. A bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the Real Estate Mortgage Investment Conduit Modernization Act. I am pleased to join my colleague and friend, Senator KENT CONRAD, in introducing this legislation to accelerate economic growth for America.

A Real Estate Mortgage Investment Conduit (REMIC) is a tax vehicle created by Congress in 1986 to support the housing market and investment in real estate by making it simpler to issue real estate backed securities.

By pooling real estate loans into mortgage backed securities, REMICs offer residential and commercial real estate borrowers access to capital that would not otherwise be available. REMICs enable commercial banks and other lenders to sell their loans in the capital markets, thereby freeing up assets for additional lending and investments. Because they contribute to the efficiency and liquidity of the U.S. real estate markets, REMICs help to minimize the costs of residential and commercial real estate borrowing and to spur real estate development and rehabilitation.

REMICs play a critical role in providing capital for residential and commercial mortgages. As of September 30, 2004, the value of single-family, multifamily and commercial-mortgage backed REMICs outstanding was $2.2

trillion. While the current volume of REMIC transactions reflects their important role in this market, certain changes to the tax code will eliminate impediments and unleash even greater potential. Current rules that govern REMICs often prevent many common loan modifications that facilitate loan administration and ensure repayment of investors.

Unfortunately, the legislation that created REMICs has not changed in nearly 20 years. Our legislation will update the REMIC provisions of the tax code. These proposed changes are simple, non-controversial, and will greatly enhance the ability of commercial real estate interests to obtain capital for financing new construction projects.

These changes would ultimately benefit the entire real estate community, including local real estate owners, builders, construction managers as well as engineering, architectural and interior design firms that provide real estate services. Firms that offer services to support real estate sales will also be assisted. The end result is that these changes would accelerate the creation of jobs and economic activity throughout the U.S., and would have a positive effect on federal and state tax revenues. By encouraging property renovations and expansions, these changes would strengthen the local property tax base in towns and cities across America.

We urge our colleagues to work with us to enact this legislation to spur economic and employment growth in real estate, the construction trades, and the building materials industry.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 580

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CERTAIN MODIFICATIONS PERMITTED TO QUALIFIED MORTGAGES HELD BY A REMIC OR A GRANTOR TRUST.**

(a) Qualified Mortgages Held by a REMIC.—

(1) In general.—Paragraph (3) of section 860G(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(C) Qualified modifications.—

"(i) In general.—An obligation shall not fail to be treated as a qualified mortgage solely because of a qualified modification of such obligation.

"(ii) Qualified modification.—For purposes of this section, the term 'qualified modification' means, with respect to any obligation, any amendment, waiver, or other modification which is treated as a disposition of such obligation under section 1001 if such amendment, waiver or other modification does not—

"(I) extend the final maturity date of the obligation,

"(II) increase the outstanding principal balance under the obligation (other than the capitalization of accrued, unpaid interest),

"(III) result in a release of an interest in real property securing the obligation such that the obligation is not principally secured by an interest in real property (determined after giving effect to the release), or

"(IV) result in an instrument or property right which is not debt for Federal income tax purposes.

"(iii) Defaults.—Under regulations prescribed by the Secretary, any amendment, waiver, or other modification of an obligation which is in default or with respect to which default is reasonably foreseeable may be treated as a qualified modification for purposes of this section.

"(iv) Defeasance with government securities.—The requirements of clause (ii)(III) shall be treated as satisfied if, after the release described in such clause, the obligation is principally secured by Government securities and the amendment, waiver, or other modification to such obligation satisfies such requirements as the Secretary may prescribe.".

(2) Exception from prohibited transaction rules.—Subparagraph (A) of section 860F(a)(2) of such Code is amended—

(A) by striking "or" at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting "or"; and

(C) by adding at the end the following new clause:

"(v) a qualified modification (as defined in section 860G(a)(3)(C)).".

(3) Conforming amendments.—

(A) Section 860G(a)(3) of such Code is amended--

(i) by redesignating clauses (i) and (ii) of subparagraph (A) as subclauses (I) and (II), respectively;

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(iii) by striking 'The term' and inserting the following:

"(A) In general.—The term"; and

(iv) by striking "For purposes of subparagraph (A)" and inserting the following:

"(B) Tenant-stockholders of cooperative housing corporations.—For purposes of subparagraph (A)(i)".

(B) Section 860G(a)(3)(A)(iv) of such Code (as redesignated by subparagraph (A)) is amended—

(i) by striking "clauses (i) and (ii) of subparagraph (A)" and inserting "subclauses (I) and (II) of clause (i)"; and

(ii) by striking "subparagraph (A) (without regard to such clauses)" and inserting "clause (i) (without regard to such subclauses)".

(b) Qualified Mortgages Held by a Grantor Trust.—Section 672 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(g) Special Rule for Certain Investment Trusts.—A grantor shall not fail to be treated as the owner of any portion of a trust under this subpart solely because such portion includes one or more obligations with respect to which a qualified modification (within the meaning of section 860G(a)(3)(C)) has been, or may be, made under the terms of such trust.".

(c) Effective Date.—The amendments made by this section shall apply to amendments, waivers, and other modifications made after the date of enactment of this Act.

---

By Ms. LANDRIEU:

S. 583. A bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, tax day is right around the corner; just over a month away. For most Americans, April 15 is rather routine. You spend several days or weeks determining the amount you owe and you pay it. But for Christina and Raymond F., two of my constituents—I will not use their last name to maintain their privacy—of Avondale, LA. this upcoming tax day is going to be anything but routine. Earlier this year, Christina and Raymond received a letter from their parish government informing them that they must add $45,000 to their gross income this year.

You see, Christina and Raymond's home is located in a flood zone. That is not unusual in Louisiana. Twenty percent of the coastal zone of my state lies below sea level, including 80 percent of our largest city New Orleans. In order to protect their home from rising waters, they applied to their local parish to get flood mitigation assistance to raise their home above the base flood elevation in their area. To qualify, they had to raise $20,000, which they did by refinancing their home, and the parish paid the remaining $45,000 through FEMA's National Flood Insurance Program. What Christina and Raymond did not realize was that at the very same time that they were having this work done on their home, the Internal Revenue Service had decided that FEMA disaster mitigation assistance should be taxable. So now, this couple is going to have to pay taxes on $45,000 even though they never saw a dime of this money.

This news hit this family like a Category 4 hurricane. When Christina called my office she thought she said she would have to sell her house in order pay the IRS. This is a family with modest means, living in a neighborhood that they describe as working class. Her husband's medical costs are astronomical—$1,400 per month for his medication alone. The house is worth about $100,000 and the mitigation work did not add a significant amount to its value according to an appraisal they received. You can imagine that under these circumstances, the taxes on an additional $45,000 would wipe them out.

In a place like Louisiana where hurricanes and floods are as much a part of life as crawfish boils and Mardi Gras, the key to our peace of mind is the National Flood Insurance Program administered by FEMA. In Louisiana, 377,000 property owners participate in the National Flood Insurance Program. It is a real Godsend to the people of my state.

In addition, the National Flood Insurance Program provides funding for property owners to flood-proof their homes through the flood mitigation grant program. FEMA distributes these grant funds to the states which then pass them along to local communities. The local communities select properties for mitigation and contract for the mitigation services. Communities use these funds to put homes on stilts, improve drainage on property, and to acquire flood proofing materials. These mitigation grants encourage property owners to take responsible steps to lessen the potential for loss of life and property damage due to future flooding. The grants also have the added benefit of saving money in the long term for the Flood Insurance program.

But the IRS has turned this valuable disaster preparedness and prevention program into a financial disaster for responsible property owners by making these payments taxable. The first time Christina and Raymond learned that this funding was taxable was when their local community sent them a letter at the beginning of this year.

All the people in my state ask for is a warning and an opportunity to protect themselves, their homes, and their loved ones from these disasters. Through the state-of-the-art systems developed by the National Weather Service, we can get a warning about a hurricane. We have sophisticated radar to track these storms as they move through the Gulf of Mexico, or up the East Coast. When a Category 4 is coming we can prepare and pray. The IRS is making us prepare and pay.

This tax is unfair, unexpected, and an unfortunate policy decision. Unfair and unexpected because no one told Christina and Raymond that they would be taxed for accepting FEMA disaster mitigation assistance. The local officials in their parish were just as surprised as the property owners were. It is unfortunate policy because in the long term, the IRS will undercut the effectiveness of using mitigation as a means of decreasing future costs to the flood insurance program. It will force people to take risks that they will not be hit by a disaster.

Today, I am introducing legislation to protect these responsible property owners from this unfair tax. My bill excludes disaster mitigation assistance from gross income. I have made it retroactive to last year in order to protect those property owners who received assistance in 2004.

I understand that a companion measure has been introduced in the House of Representatives by Congressman MARK FOLEY of Florida. It is supported by a number of House members from states with high incidents of flooding and other natural disasters, many from Louisiana. I applaud their efforts.

But this is not a regional, special-interest bill. FEMA makes mitigation grants for a variety of hazards in addition to flooding: fire, tornadoes, earthquakes, thunderstorms, dam failures, and a host of others. This is not a problem just for properties that flood. So if your citizens have used a federal disaster mitigation program to help make their properties safer, the tax man will come for them too.

It is essential that the Congress consider this legislation and pass it as soon as possible. As I said at the start of my remarks, tax day is coming. We need to act to protect responsible property owners from paying this unfair tax.

By Mr. SALAZAR:

S. 584. A bill to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 585. A bill to better provide for compensation for certain persons injured in the course of employment at the Rocky Flats site in Colorado; to the Committee on Health, Education, Labor, and Pensions.

Mr. SALAZAR. Mr. President, I rise today to introduce two pieces of legislation important to my great State of Colorado.

Last week, I introduced one bill and proudly cosponsored two others to make good on our Nation's promise to honor and care for our veterans. Today, I am introducing a bill to discharge our debt to another group of patriotic Americans who served our Nation during the cold war—our nuclear weapons workers.

Many Americans contributed to our victory over communism in the cold war, including dedicated and brave men and women working in the laboratories and factories that fashioned the nuclear weapons that helped bring the former Soviet Union to its knees. As a result of this patriotic service, many of these nuclear weapons workers contracted cancer and other disabling and fatal diseases.

In 2000, Congress recognized the sacrifices made by our nuclear weapons workers by enacting the Energy Employees Occupational Injury Compensation Act to provide benefits to nuclear weapons workers for their work-related illnesses, or to their survivors when these illnesses took their lives

But today, a combination of missing records and bureaucratic red tape prevents many nuclear weapons workers from receiving the benefits that Congress intended, including many workers who served at the Rocky Flats facility in Colorado

Through five decades, men and women worked at Rocky Flats, producing plutonium, one of the most dangerous substances in creation, and crafting it into the triggers for America's nuclear arsenal. These men and women served a critical role in a program deemed essential to our national security by a succession of Presidents and Congresses. We owe them an enormous debt of gratitude.

These men and women were exposed to radioactive elements and other toxic compounds that we are still trying to identify, in amounts that we can only guess at. We don't know what they were exposed to, how much or when. Part of the problem is that the existing science and technology did not allow us to monitor accurately. Part of the problem is that critical records have been lost or, in many cases, were never created by the government and its contractors.

Thankfully, Congress had the foresight in the Energy Employees Act to realize that some workers might not be able to prove that their cancers were caused by their work in nuclear weapons facilities, whether due to the lack of records or other problems that make it difficult or impossible to determine the dose of radiation they received.

To protect these workers, Congress designated a Special Exposure Cohort to receive benefits if they suffered from one of the specified cancers known to be linked to radiation exposure

The bill I am introducing today would extend Special Exposure Cohort status to workers employed by the Department of Energy or its contractors at Rocky Flats according to the stringent requirements of the 2000 Act

As a result of this designation, a Rocky Flats worker suffering from one of the 22 listed cancers can receive benefits despite the inadequate records maintained by the Department of Energy and its contractors

My bill is a companion bill to the bipartisan House bill introduced by my friends, Congressman MARK UDALL and Congressman BOB BEAUPREZ from Colorado. I look forward to bipartisan support in the Senate.

I am also proud to introduce a separate bill, this one to re-inject a small dose of humanity into our Federal bureaucracy.

Betty Dick is an 83-year-old woman who has spent much of the past 25 years on property within the boundaries of Rocky Mountain National Park. Over the course of those 25 years, Betty Dick has become a cherished part of the Grand Lake community. She has been a good citizen and has been happy to share her family's beautiful cabin for civic events, and she has been a good neighbor to the National Park.

But now, the National Park Service believes that it is compelled to evict Betty Dick. My bill, and a bipartisan companion bill introduced by Congressman MARK UDALL and supported by Congressman TOM TANCREDO, will authorize and instruct the Park Service to allow Mrs. Dick to spend her last few summers at her cherished Grand Lake home.

Mrs. Dick has been living on this property subject to a 25 year lease with the Park Service. Fred Dick, Betty's husband, died in 1992. Mrs. Dick knows she doesn't have too many summers left, but she would like to spend them in her home.

The Park Service is apparently concerned that it does not have the authority to extend or renew this lease or it is worried that to do so would set a bad precedent. On this, I respectfully disagree with my friends at the Park Service. I think evicting an 83-year-old woman from her family cabin would set a bad precedent.

My bill would simply require the Secretary of the Interior, as boss of the National Park Service, to enter into an agreement that will allow Betty Dick to continue to occupy her family cabin and property within Rocky Mountain National Park for the rest of her life. Mrs. Dick will continue to pay the rent that has been due under the prior lease. Mrs. Dick's children and grandchildren will have no right to occupy the property after her death, and the cabin and property will then be managed by the Park Service.

I hope we haven't reached the point where we can't find a way to play a role in helping Betty Dick spend her last summers on the land that she loves.

I ask unanimous consent that the text of these two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

## S. 584

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Betty Dick Residence Protection Act".

### SEC. 2. FINDINGS.

Congress finds that—

(1) before their divorce, Fred and Marilyn Dick, owned as tenants in common a tract of land that included the property described in section 5(b);

(2) when Fred and Marilyn Dick divorced, Marilyn Dick became the sole owner of the tract of land, but Fred Dick retained the right of first refusal to acquire the tract of land;

(3) in 1977, Marilyn Dick sold the tract to the United States for addition to Rocky Mountain National Park, but Fred Dick, asserting his right of first refusal, sued to cancel the transaction;

(4) in 1980, the lawsuit was settled through an agreement between the National Park Service, Fred Dick, and the heirs, successors, and assigns of Fred Dick;

(5) under the 1980 settlement agreement, Fred Dick and his wife, Betty Dick, were allowed to lease and occupy the 23 acres comprising the property described in section 5(b) for 25 years;

(6) Fred Dick died in 1992, but Betty Dick has continued to lease and occupy the property described in section 5(b) under the terms of the settlement agreement;

(7) Betty Dick's right to lease and occupy the property described in section 5(b) will expire on July 16, 2005, at which time Betty Dick will be 83 years old;

(8) Betty Dick wishes to continue to occupy the property for the remainder of her life and has sought to enter into a new agreement with the National Park Service that would allow her to continue to occupy the property;

(9) the National Park Service has not been willing to enter into a new agreement with Betty Dick and is demanding that she vacate the property by July 16, 2005;

(10) since 1980, Betty Dick—

(A) has consistently occupied the property described in section 5(b) as a summer residence;

(B) has made the property available for community events; and

(C) has been a good steward of the property;

(11) Betty Dick's occupancy of the property has not—

(A) been detrimental to the resources and values of Rocky Mountain National Park; or

(B) created problems for the National Park Service or the public; and

(12) under the circumstances, it is appropriate for Betty Dick to be allowed to continue her occupancy of the property described in section 5(b) for the remainder of her natural life under the terms and conditions applicable to her occupancy of the property since 1980.

### SEC. 3. PURPOSE.

The purpose of this Act is to require the Secretary of the Interior to permit the continued occupancy and use of the property described in section 5(b) by Betty Dick for the remainder of her natural life.

### SEC. 4. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the agreement between the National Park Service and Fred Dick entitled "Settlement Agreement" and dated July 17, 1980.

(2) MAP.—The term "map" means the map entitled "Betty Dick Residence and Barn" and dated January 2005.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

### SEC. 5. RIGHT OF OCCUPANCY.

(a) IN GENERAL.—The Secretary shall allow Betty Dick to continue to occupy and use the property described in subsection (b) for the remainder of the natural life of Betty Dick, subject to the requirements of this Act.

(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the land and any improvements to the land within the boundaries of Rocky Mountain National Park identified on the map as "residence", "occupancy area", and "barn".

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the occupancy and use of the property identified in subsection (b) by Betty Dick shall be subject to the same terms and conditions specified in the Agreement.

(2) PAYMENT.—In exchange for the continued use and occupancy of the property, Betty Dick shall annually pay to the Secretary an amount equal to 1/25 of the amount specified in section 3(B) of the Agreement.

(d) EFFECT.—Nothing in this Act—

(1) allows the construction of any structure on the property described in subsection (b) not in existence on November 30, 2004; or

(2) applies to the occupancy or use of the property described in subsection (b) by any person other than Betty Dick.

## S. 585

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Rocky Flats Special Exposure Cohort Act".

### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.) (hereinafter in this section referred to as the "Act") was enacted to ensure fairness and equity for the civilian men and women who, during the past 50 years, performed duties uniquely related to the nuclear weapons production and testing programs of the Department of Energy and its predecessor agencies by establishing a program that would provide efficient, uniform, and adequate compensation for beryllium-related health conditions and radiation-related health conditions.

(2) The Act provides a process for consideration of claims for compensation by individuals who were employed at relevant times at various locations, but also included provisions designating employees at certain other locations as members of a special exposure cohort whose claims are subject to a less-detailed administrative process.

(3) The Act also authorizes the President, upon recommendation of the Advisory Board on Radiation and Worker Health, to designate additional classes of employees at Department of Energy facilities as members of the special exposure cohort if the President determines that—

(A) it is not feasible to estimate with sufficient accuracy the radiation dose that the class received; and

(B) there is a reasonable likelihood that the radiation dose may have endangered the health of members of the class.

(4) It has become evident that it is not feasible to estimate with sufficient accuracy the radiation dose received by employees at the Department of Energy facility in Colorado known as the Rocky Flats site for the following reasons:

(A) Many worker exposures were unmonitored over the lifetime of the plant at the Rocky Flats site. Even in 2004, a former worker from the 1950s was monitored under the former radiation worker program of the Department of Energy and found to have a significant internal deposition that had been undetected and unrecorded for more than 50 years.

(B) No lung counter for detecting and measuring plutonium and americium in the lungs existed at Rocky Flats until the late 1960s. Without this equipment, the very insoluble oxide forms of plutonium cannot be detected, and a large number of workers had inhalation exposures that went undetected and unmeasured.

(C) Exposure to neutron radiation was not monitored until the late 1950s, and most of those measurements through 1970 have been found to be in error. In some areas of the plant the neutron doses were as much as 2 to 10 times as great as the gamma doses received by workers, but only gamma doses were recorded. The old neutron films are being re-read, but those doses have not yet been added to the workers' records or been used in the dose reconstructions for Rocky Flats workers carried out by the National Institute for Occupational Safety and Health.

(D) Radiation exposures for many workers were not measured or were missing and, as a result, the records are incomplete or estimated doses were assigned. There are many inaccuracies in the exposure records that the Institute is using to determine whether

Rocky Flats workers qualify for compensation under the Act.

(E) The model that has been used for dose reconstruction by the Institute in determining whether Rocky Flats workers qualify for compensation under the Act may be in error. The default values used for particle size and solubility of the internally deposited plutonium in workers are subject to reasonable scientific debate. Use of erroneous values could substantially underestimate the actual internal doses for claimants.

(5) Some Rocky Flats workers, despite having worked with tons of plutonium and having known exposures leading to serious health effects, have been denied compensation under the Act as a result of potentially flawed calculations based on records that are incomplete or in error as well as the use of potentially flawed models.

(6) Achieving the purposes of the Act with respect to workers at Rocky Flats is more likely to be achieved if claims by those workers are subject to the administrative procedures applicable to members of the special exposure cohort.

(b) PURPOSE.—The purpose of this Act is to revise the Energy Employees Occupational Illness Compensation Program Act so as to include certain past and present Rocky Flats workers as members of the special exposure cohort.

**SEC. 3. DEFINITION OF MEMBER OF SPECIAL EXPOSURE COHORT.**

(a) IN GENERAL.—Section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l(14)) is amended by adding at the end of paragraph (14) the following:

"(D) The employee was so employed as a Department of Energy employee or a Department of Energy contractor employee for a number of work days aggregating at least 250 work days before January 1, 2006, at the Rocky Flats site in Colorado.".

(b) REAPPLICATION.—A claim that an individual qualifies, by reason of subparagraph (D) of section 3621(14) of that Act (as added by subsection (a)), for compensation or benefits under that Act shall be considered for compensation or benefits, notwithstanding any denial of any other claim for compensation with respect to that individual.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 76—EXPRESSING THE SENSE OF THE SENATE ON THE ANNIVERSARY OF THE DEADLY TERRORIST ATTACKS LAUNCHED AGAINST THE PEOPLE OF SPAIN ON MARCH 11, 2004

Mr. LIEBERMAN (for himself, Mr. ALLEN, Mr. DODD, and Mr. BIDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 76

Whereas on March 11, 2004, terrorists associated with the al Qaeda network detonated a total of 10 bombs at 6 train stations in and around Madrid, Spain, during morning rush hour, killing 191 people and injuring 2,000 others;

Whereas like the terrorist attack on the United States on September 11, 2001, the March 11, 2004, attacks in Madrid were an attack on freedom and democracy by an international network of terrorists;

Whereas the Senate immediately condemned the attacks in Madrid, joining with the President in expressing its deepest condolences to the people of Spain and pledging to remain shoulder to shoulder with them in the fight against terrorism;

Whereas the United States Government has continued to work closely with the Spanish Government to pursue and bring to justice those who were responsible for the March 11, 2004, attacks in Madrid;

Whereas the European Union, in honor of the victims of terrorism in Spain and around the world, has designated March 11 an annual European Day of Civic and Democratic Dialogue;

Whereas the people of Spain continue to suffer from attacks by other terrorist organizations, including the Basque Fatherland and Liberty Organization (ETA);

Whereas the Club of Madrid, an independent organization of democratic former heads of state and government dedicated to strengthening democracy around the world, is convening an International Summit on Democracy, Terrorism, and Security to commemorate the anniversary of the March 11, 2004, attacks in Madrid; and

Whereas the purpose of the International Summit on Democracy, Terrorism, and Security is to build a common agenda on how the community of democratic nations can most effectively confront terrorism, in memory of victims of terrorism around the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses solidarity with the people of Spain as they commemorate the victims of the despicable acts of terrorism that took place in Madrid on March 11, 2004;

(2) condemns the March 11, 2004, attacks in Madrid and all other terrorist acts against innocent civilians;

(3) welcomes the decision of the European Union to mark the anniversary of the worst terrorist attack on European soil with a Day of Civic and Democratic Dialogue;

(4) calls upon the United States and all nations to continue to work together to identify and prosecute the perpetrators of the March 11, 2004, attacks in Madrid;

(5) welcomes the initiative of the Club of Madrid in bringing together leaders and experts from around the world to develop an agenda for fighting terrorism and strengthening democracy; and

(6) looks forward to receiving and considering the recommendations of the International Summit on Democracy, Terrorism, and Security for strengthening international cooperation against terrorism in all of its forms through democratic means.

### SENATE RESOLUTION 77—CONDEMNING ALL ACTS OF TERRORISM IN LEBANON AND CALLING FOR THE REMOVAL OF SYRIAN TROOPS FROM LEBANON AND SUPPORTING THE PEOPLE OF LEBANON IN THEIR QUEST FOR A TRULY DEMOCRATIC FORM OF GOVERNMENT

Mr. SANTORUM (for himself, Mr. BROWNBACK, Mr. ALLEN, Mr. DEMINT, Mr. BURR, and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 77

Whereas since December 29, 1979, Syria has been designated a state sponsor of terrorism by the Secretary of State;

Whereas on December 12, 2003, the President signed the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (22 U.S.C. 2151 note), which declared the sense of Congress that the Government of Syria should halt its support for terrorism and withdraw its armed forces from Lebanon, endorsed efforts to secure meaningful change in Syria, and authorized the use of sanctions against Syria if the President determines that the Government of Syria has not met the performance criteria included in that Act;

Whereas the President has imposed the sanctions mandated by that Act, which prohibit the export to Syria of items on the United States Munitions List and the Commerce Control List, and has already imposed 2 of the 6 types of sanctions authorized by that Act, by prohibiting the export to Syria of products of the United States (other than food or medicine) and prohibiting aircraft of any air carrier owned or controlled by Syria to take off from or land in the United States;

Whereas the United Nations Secretary General, Kofi Annan, recently stated that Syria continues to maintain more than 14,000 troops in Lebanon;

Whereas United Nations Security Council Resolution 1559 (September 2, 2004) calls for the withdrawal of all foreign forces from Lebanon and for the disbanding and disarmament of all armed groups in Lebanon;

Whereas on February 14, 2005, the former Prime Minister of Lebanon, Rafik Hariri, and 18 others were assassinated in an act of terrorism in Beirut, Lebanon;

Whereas the Secretary of State recalled the United States Ambassador to Syria, Margaret Scobey, following the assassination of Rafik Hariri; and

Whereas, on February 28, 2005, the Prime Minister of Lebanon, Omar Karami, resigned, dissolving Lebanon's pro-Syrian Government: Now, therefore, be it

*Resolved*, That the Senate—

(1) condemns all acts of terrorism against innocent people in Lebanon and around the world;

(2) condemns the continued presence of Syrian troops in Lebanon and calls for their immediate removal;

(3) urges the President to consider imposing additional sanctions on Syria under the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (22 U.S.C. 2151 note); and

(4) supports the people of Lebanon in their quest for a truly democratic form of government.

### SENATE RESOLUTION 78—RECOGNIZING AND HONORING THE LIFE OF ARTHUR MILLER

Mr. HATCH (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 78

Whereas the late Arthur Miller wrote some of the most revered works in the American dramatic canon including All My Sons, After the Fall, The Crucible, The Price, The American Clock, A View from the Bridge, The Ride Down Mt. Morgan, and Death of A Salesman;

Whereas Arthur Miller received the highest honors for artistic accomplishment and distinguished intellectual achievement in the humanities in this country, the Kennedy Center Honors and the National Endowment for the Humanities' Jefferson Lectureship;

Whereas Arthur Miller received every major award given to playwrights in the

United States, including the Pulitzer Prize, the Tony Award, the Drama Desk, and the Drama Critics Circle;

Whereas Arthur Miller, through his service to the Dramatists Guild of America, has fought for the freedom of American playwrights to have their works performed as they intended and given all the protection the law can afford them;

Whereas Arthur Miller, through his service to PEN, the association of Poets, Essayists and Novelists, has fought for the freedom of imprisoned writers all over the world;

Whereas Arthur Miller's plays are taught in virtually every high school and college in the United States, and his new plays have been produced on Broadway for more than half a century;

Whereas Arthur Miller wrote about the lives and longings of American working men and women with a power and clarity unparalleled in modern literature;

Whereas Arthur Miller, in writing about "little men" as his heroes were called in the beginning, proved that little men do indeed suffer tragic losses, and that to defend or regain their dignity, they will lay down their lives as nobly as any king ever did;

Whereas Arthur Miller wrote about our indestructible will to achieve our humanity, about our fear of being torn away from what and who we are in this world, and about our fear of being displaced and forgotten;

Whereas Arthur Miller has maintained his vision and claimed his victory as the preeminent man of letters in the American theater; and

Whereas Arthur Miller enjoyed a long and luminous career before he died at the age of 89 on February 10, 2005. Now, therefore, be it:

*Resolved*, That the Senate—

(1) recognizes the extraordinary contributions of the late Arthur Miller for his service to the Nation in the theater, in literature, and in his advocacy of the freedom to speak and write with conviction and courage;

(2) honors him as a great American literary pioneer; and

(3) expresses its deepest condolences upon his death to his family members and his friends.

Mr. HATCH. Mr. President, I rise today to pay tribute to the legendary playwright Arthur Miller, who passed away on February 10, 2005 at the age of 89.

Anyone who has experienced "Death of a Salesman," "A View from the Bridge," "The Crucible," or any of his innumerable masterpieces would certainly agree that Arthur Miller established himself as one of the preeminent American playwrights of our time. A literary genius may have left us, but his work will live forever, from Broadway to the local high school or college theater.

Today my colleague from Massachusetts and I submit a resolution recognizing the genius of this literary giant, a man who not only captivated our souls with his art but also motivated us to protect the freedom to speak and write with conviction and courage.

I do not want to take up the Senate's time with a long biographical or literary commentary on the life and works of Arthur Miller because I know I would inevitably fail to do justice to him. Instead, I would like to share a personal experience that demonstrated the amazing and unique qualities of this wonderful man.

As some in the Senate will remember, one of Arthur Miller's last public speaking appearances was at a hearing before the Judiciary Committee last year, at which he advocated passage of the Hatch-Kennedy Playwrights Licensing Antitrust Initiative Act.

The day of the hearing, I had the opportunity to meet privately with Mr. Miller in my Senate office. Though well into his eighties, he spoke with passion and eloquence about the critical importance of live theater and writers to social, intellectual, and political discourse in our country. He also demonstrated his delightful—and occasionally devilish—wit and prodigious intelligence, both of which he had retained in extraordinary abundance.

Although we came from very different backgrounds, and radically different political perspectives, it was an honor and a sincere pleasure to come to know—however briefly—a man of his stature, accomplishments, and surpassing intellect.

Our lives were enriched by Arthur Miller, and we—as individuals, as a people, and as a Nation—are diminished by the passing of so magnificent an American talent. He will be sorely missed, and will be remembered with reverence and affection by those—like me—whose lives he touched.

I hope that my colleagues will join me and Senator KENNEDY—who is the leading cosponsor of this resolution—in recognizing and honoring the life and accomplishments of Arthur Miller by supporting swift passage of this resolution.

I ask unanimous consent that the remarks of Arthur Miller before the Senate Judiciary Committee on April 28, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. Chairman, Members of the Committee. It is indeed an honor to appear before you today in support of S. 2349, The Playwrights Licensing Antitrust Initiative Act of 2004.

In preparing for this testimony today, I am reminded of Muriel Humphrey's admonishment to her husband: "Hubert, a speech does not need to be eternal to be immortal." I will take that advice to heart as I testify today.

It has been some time since I was last asked to testify before Congress. But, I have to tell you, today I am actually happy to appear on behalf of what I believe is truly an important topic worthy of Congressional debate and action—the future of the American theater.

I have been blessed to be lucky enough to be a successful playwright. Many of my plays, I am proud to say, have won critical acclaim—Death of a Salesman and The Crucible won a Pulitzer and a Tony award respectively.

I raise these plays, and my success, not to brag, but to emphasize an important point: I and my colleagues before you today are here not for ourselves, but for others. We are speaking on behalf of the up and coming playwrights: The Arthur Millers, the Stephen Sondheims and the Wendy Wassersteins as young playwrights. Indeed, the American theater risks losing the next generation of playwrights to other media and opportunities as the pressures on playwrights increase and their power to protect their economic and artistic interests diminish. The legislation we are advocating isn't for us, it's for them. And it's for the theater-going public.

The legislation introduced by you, Chairman Hatch and Senator Kennedy, is meant to keep the legacy of aspiring playwrights who write for the theater alive. It will help ensure that American playwrights, through the theater, can speak to the hearts and minds of the audience. That we can challenge social morays, ideology, beliefs, or simply entertain. Drama is one of civilization's greatest art forms and we must do all that we can to promote its vitality.

The American theater has undergone enormous changes over the years. From its entrepreneurial start it has become increasingly dominated by corporate interests. Sure, business is changing in virtually every sector of our economy and there is no reason that the theater should be immune from business pressures.

But, unfortunately, in the midst of these increasing pressures, only one entity does not have a seat at the bargaining table: the playwrights. The status of the playwright is difficult to discern as it has fallen under the long shadow of questionable and conflicting legal opinions. The result is that all other entities have the collective power and ability to fight for their rights. As a result, it is the playwright who gets squeezed.

The Playwrights Licensing Antitrust Initiative Act of 2004 would provide a very limited legislative fix that would allow for the standard form contract that was last negotiated in 1982 to be updated to take account of today's market realities and intellectual property protection climate. It does not force producers to hire any playwrights, but it does allow playwrights with a willing producer to protect their economic and artistic interests.

Today many new playwrights are presented with take-it-or-leave-it contracts. In their hunger to get their plays produced, many have no choice. Others, facing the economic pressures that face all-too-many people in today's economy, are abandoning their dreams of writing for the theater as they go to Hollywood or write for other media.

Some may say that this is just basic economics. But, the legislation the Chairman and Senator Kennedy have introduced is not intended to change the laws of economics. It simply says that playwrights should have a seat at the table. Failure to pass the legislation will continue the unfair bargaining situation that the playwrights find themselves in and not only will the playwright and the theater suffer, but society as a whole.

It was Senator Kennedy's brother, President Kennedy, who once said: "I look forward to an America which will reward achievement in the arts as we reward achievement in business or statecraft."

Unfortunately, under today's legal shadows, the up and coming playwrights must offer their wares at a discount.

I understand that antitrust exemptions are not easy to come by. And I believe that amending our laws should not be done at the drop of a hat.

But, where there the national interest demands that change occur, I believe it is appropriate.

Mr. Chairman. Members of the Committee. I urge your prompt approval of this legislation.

Mr. KENNEDY. Mr. President, it is my privilege to join my colleague from Utah in sponsoring this resolution to honor one of America's foremost playwrights. Arthur Miller spoke to all of us about the quiet struggles in each life and the dignity in those struggles.

Arthur Miller was a soft-spoken man whose voice was heard around the world. It was a voice of courage, insight, candor, and integrity, and the quality of the arts in America was greatly enriched by his extraordinary plays, as anyone who has had the opportunity to attend a performance of Death of a Salesman well knows. The hero of that play, Willy Loman, became an American icon—the struggling family man in lifelong pursuit of the American dream.

At one point in the first act of the play, a character says of Willy Loman,

> I don't say he's a great man. Willy Loman never made a lot of money. His name was never in the paper. He's not the finest character that ever lived. But he's a human being, and a terrible thing is happening to him. So attention must be paid. He's not to be allowed to fall into his grave like an old dog. Attention, attention must be finally paid to such a person.

That sums up much of what we do in public life. We try to help those who need our help the most. We insist that attention must be finally paid to such persons in our society, and we try to make it happen, and Arthur Miller helps us to understand why.

In his long and brilliant career, he earned wide public and critical acclaim for his work. He was honored with the Pulitzer Prize, the Drama Critics' Circle Award, and the Tony Award. He also received the Kennedy Center Honors Award for lifetime achievement as a playwright. The National Endowment for the Humanities selected him to present the prestigious Jefferson Lecture, an honor given to writers and historians of extraordinary achievement.

Arthur Miller was a gifted writer, and he was also a passionate advocate of providing greater encouragement for emerging writers in our society. Last year, he testified before the Judiciary Committee in support of the Playwright Licensing Antitrust Initiative, which would provide important new protections for the artists who actually create the plays and musicals that are such an extraordinary part of the nation's modem life.

It was the third time that Arthur Miller had testified before Congress. He had previously appeared before the infamous House Unamerican Activities Committee, and before the Senate on behalf of literary and journalistic freedoms around the world.

Senator Hatch and I were both impressed by the articulate passion of this unique American artist. I look forward to working with Senator Hatch and many other colleagues in Congress to realize the goals that Arthur Miller so eloquently described in his testimony, and encourage more creative artists in our country to write their stories and have them presented on the stages of America.

American theater is admired and respected throughout the world and we should honor those whose genius and hard work have contributed to that success.

This resolution honoring the life of Arthur Miller is an opportunity for all of us to express our appreciation for the extraordinary and eloquent gift he brought the Nation. His great works have enriched the lives of all Americans, and of theater-lovers around the world. I urge my colleagues to support this resolution.

## SENATE CONCURRENT RESOLUTION 16—CONVEYING THE SYMPATHY OF CONGRESS TO THE FAMILIES OF THE YOUNG WOMEN MURDERED IN THE STATE OF CHIHUAHUA, MEXICO, AND ENCOURAGING INCREASED UNITED STATES INVOLVEMENT IN BRINGING AN END TO THESE CRIMES

Mr. BINGAMAN (for himself, Mr. CORNYN, Mr. CORZINE, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mrs. FEINSTEIN, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, and Mrs. MURRAY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 16

Whereas the Mexican cities of Ciudad Juárez and Chihuahua have been plagued with the abduction, sexual assault, and brutal murders of more than 370 young women since 1993;

Whereas there have been at least 30 murders of women in Ciudad Juárez and the city of Chihuahua since 2004;

Whereas at least 137 of the victims were sexually assaulted prior to their murders;

Whereas more than half of the victims are women and girls between the ages of 13 and 22, and many were abducted in broad daylight in well-populated areas;

Whereas these murders have brought pain to the families and friends of the victims on both sides of the border as they struggle to cope with the loss of their loved ones;

Whereas many of the victims have yet to be positively identified;

Whereas the perpetrators of most of these heinous acts remain unknown;

Whereas the Mexican Federal Government has taken steps to prevent these abductions and murders in Ciudad Juárez, including setting up a commission to coordinate Federal and State efforts, establishing a 40-point plan, appointing a special commissioner, and appointing a special prosecutor;

Whereas the Federal special prosecutor, in her ongoing review of the Ciudad Juárez murder investigations, found evidence that over 100 police, prosecutors, forensics experts, and other State of Chihuahua justice officials failed to properly investigate the crimes, and recommended that they be held accountable for their acts of negligence, abuse of authority, and omission;

Whereas in 2003 the El Paso Field Office of the Federal Bureau of Investigation and the El Paso Police Department began providing Mexican Federal, State, and municipal law enforcement authorities with training in investigation techniques and methods;

Whereas the United States Agency for International Development has begun providing assistance to the State of Chihuahua for judicial reform;

Whereas the government of the State of Chihuahua has jurisdiction over these crimes;

Whereas the Governor and Attorney General of the State of Chihuahua have expressed willingness to collaborate with the Mexican Federal Government and United States officials in addressing these crimes;

Whereas the Department of State has provided consular services on behalf of the American citizen and her husband who were tortured into confessing to one of the murders;

Whereas Mexico is a party to the following international treaties and declarations that relate to abductions and murders: the Charter of the Organization of American States, the American Convention on Human Rights, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the United Nations Declaration on Violence Against Women, the Convention on the Rights of the Child, the Convention of Belem do Para, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on Forced Disappearance, and the United Nations Declaration on the Protection of All Persons From Enforced Disappearance; and

Whereas continuing impunity for these crimes is a threat to the rule of law in Mexico: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) condemns the ongoing abductions and murders of young women in Ciudad Juárez and the city of Chihuahua in the State of Chihuahua, Mexico, since 1993;

(2) expresses its sincerest condolences and deepest sympathy to the families of the victims of these murders;

(3) recognizes the courageous struggle of the victims' families in seeking justice for the victims;

(4) urges the President and Secretary of State to incorporate the investigative and preventative efforts of the Mexican Government in the bilateral agenda between the Governments of Mexico and the United States and to continue to express concern over these abductions and murders to the Government of Mexico;

(5) urges the President and Secretary of State to continue to express support for the efforts of the victims' families to seek justice for the victims, to express concern relating to the continued harassment of these families and the human rights defenders with whom they work, and to express concern with respect to impediments in the ability of the families to receive prompt and accurate information in their cases;

(6) supports efforts to identify unknown victims through forensic analysis, including DNA testing, conducted by independent, impartial experts who are sensitive to the special needs and concerns of the victims' families, as well as efforts to make these services available to any families who have doubts about the results of prior forensic testing;

(7) condemns the use of torture as a means of investigation into these crimes;

(8) encourages the Secretary of State to continue to include in the annual Country Report on Human Rights of the Department of State all instances of improper investigatory methods, threats against human rights activists, and the use of torture with respect to cases involving the murder and abduction of young women in the State of Chihuahua;

(9) encourages the Secretary of State to urge the Government of Mexico and the State of Chihuahua to review the cases of murdered women in which those accused or convicted of murder have credibly alleged they were tortured or forced by a state agent to confess to the crime;

(10) strongly recommends that the United States Ambassador to Mexico visit Ciudad Juárez and the city of Chihuahua for the purpose of meeting with the families of the victims, women's rights organizations, and Mexican Federal and State officials responsible for investigating these crimes and preventing future such crimes;

(11) encourages the Secretary of State to urge the Government of Mexico to ensure fair and proper judicial proceedings for the individuals who are accused of these abductions and murders and to impose appropriate punishment for those individuals subsequently determined to be guilty of such crimes;

(12) encourages the Secretary of State to urge the State of Chihuahua to hold accountable those law enforcement officials whose failure to adequately investigate the murders, whether through negligence, omission, or abuse, has led to impunity for these crimes;

(13) recognizes the special prosecutor has begun to review cases and encourages the expansion of her mission to include the city of Chihuahua;

(14) strongly supports the work of the special commissioner to prevent violence against women in Ciudad Juárez and Chihuahua City;

(15) condemns all senseless acts of violence in all parts of the world and, in particular, violence against women; and

(16) expresses the solidarity of the people of the United States with the people of Mexico in the face of these tragic and senseless acts.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 138. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 138.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 500, strike lines 7 through 11, and insert the following:

(1) by redesignating subsection (*l*) as subsection (n); and

(2) by inserting after subsection (k) the following:

"(*l*) Notwithstanding any other provision of this section, the benefits required to be provided by a last signatory operator under chapter 99 of the Internal Revenue Code of 1986, may not be terminated or modified by any court in a proceeding under this title.

"(m) If the debtor, during the 180-day period ending

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 9, 2005, at 10 a.m. to conduct a hearing on "The State of the Securities Industry."

Concurrent with the hearing, the committee intends to vote on the nomination of Mr. Ronald A. Rosenfeld, of Oklahoma, to be a director of the Federal Housing Finance Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 9, at 10 a.m.

The purpose of the hearing is to consider the nominations of Patricia Lynn Scarlett to be Deputy Secretary of the Interior and Jeffrey Clay Sell to be Deputy Secretary of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, March 9, 2005, at 9:30 a.m. to conduct a business meeting regarding S. 131, Clear Skies Act of 2005. The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session on Wednesday, March 9, 2005, at 10 a.m., to consider an original bill entitled, Personal Responsibility and Individual Development for Everyone (PRIDE) Act, and to consider favorably reporting the nominations of Harold Damelin, to be Inspector General, Department of the Treasury, Washington, DC, and, Raymond Wagner, to be a member of the Internal Revenue Service Oversight Board, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions meet in executive session during the session of the Senate on Wednesday, March 9, 2005, at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, March 9, 2005, at 10 a.m. for a hearing to consider the Department of Homeland Security's budget submission for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, March 9, 2005 at a time to be determined, to hold a business meeting to consider the nomination of Michael Jackson to be Deputy Secretary, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 9, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 147, the Native Hawaiian Government Reorganization Act, and S. 536, a bill to make technical corrections to laws relating to Native Americans, and for other purposes, to be followed immediately by an oversight hearing on Indian Trust Reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, March 9, 2005, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Veterans of Foreign Wars.

The hearing will take place in room 216 of the Hart Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 9, 2005 at 3 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities be authorized to meet during the session of the Senate on March 9, 2005, at 9:30 a.m., in open session to receive testimony on the Department of Defense Science and Technology Budget and Strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent Lauryn Douglas of my office be granted the privilege of the floor for the duration of today's proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Robert Culbertson, a fellow in Senator LIEBERMAN's office, be granted floor privileges for the introduction of the Children and Media Research Advancement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEASURE READ THE FIRST TIME—S. 570

Mr. FRIST. Mr. President, I understand there is a bill at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 570) to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

Mr. FRIST. I now ask for its second reading and, in order to place the bill on the Calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

## ORDERS FOR THURSDAY, MARCH 10, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate adjourn until 9:30 a.m. on Thursday, March 10. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with the time until 11 a.m. equally divided between the two leaders or their designees; provided that at 11 a.m. the Senate resume consideration of S. 256, the Bankruptcy Reform Act, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the Bankruptcy Reform Act. Under the previous order, upon returning to the bill at 11 a.m., the Senate will proceed to a series of stacked rollcall votes on two Kennedy amendments and the Akaka amendment to the bill. We will then have an additional series of votes a little later in the afternoon which will culminate with a vote on final passage.

I want to thank my colleagues for their work on the bill. The schedule for the completion of this bill was worked out on both sides and will allow us to finish the bill at a reasonable hour tomorrow.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:32 p.m., adjourned until Thursday, March 10, 2005, at 9:30 a.m.

# HOUSE OF REPRESENTATIVES—*Wednesday, March 9, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. MILLER of Michigan).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*March 9, 2005.*

I hereby appoint the Honorable CANDICE S. MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Reverend Mary E. Moore, Pastor of New Salem Missionary Baptist Church, Memphis, Tennessee, offered the following prayer:

O Lord, our Lord, how excellent is Thy name in all the earth. We stand here, O God, in awe of Your greatness, but most of all with gratitude in our hearts for Your multitudinous deeds of kindness.

Dear God, we thank You for the leaders of our Nation, and we ask that You bless President Bush and his family as he carries out his providential assignment. Bless not only these United States but extend Your hand of mercy the world over.

Manifest Yourself now in the attitudes, the efforts, and the oratory of each Representative. Let them be mindful to seek Your guidance in every decision to be made so that all people are benefactors of agreements made in this assembly.

Lord, we realize this is a trying time, but we are also cognizant of the fact that it is a trusting time. Now, dear God, deliver us from evil, for Thine is the kingdom, and the power, and the glory forever. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Tennessee (Mr. FORD) come forward and lead the House in the Pledge of Allegiance.

Mr. FORD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## INTRODUCTION OF THE REVEREND MARY MOORE

(Mr. FORD asked and was given permission to address the House for 1 minute.)

Mr. FORD. Madam Speaker, I thank you, and I thank my colleagues and Speaker HASTERT and the Chaplain. It is my honor to belatedly introduce to my colleagues the great pastor from the City of Memphis, Mary Moore, the pastor of New Salem Missionary Baptist Church who led us so wonderfully and graciously this morning.

Pastor Moore has distinguished herself as one of the outstanding voices of the mid-South region, a community traditionally recognized for the vibrancy of its spiritual roots. And through her ministerial duties and through her insight, Pastor Moore has emerged from the shadows of the legendary Reverend C.L. Franklin, the late great pastor of New Salem and the father of another great voice in this country, Aretha Franklin, to also take her place in Memphis history.

As a woman and a force in ministry, Pastor Moore has overcome obstacles in further advancing New Salem's role as a pillar in our city's religious community. Her tireless ability to share the sacred scriptures in a way that is applicable to our everyday lives makes her an invaluable resource for Memphis and our larger community.

I have known Pastor Moore for many years. She has been a friend and a supporter. And she proves time and time again to be a trail blazer whose resolve to effect positive change in our community is second to none.

It is an honor for me to have her today as our guest chaplain, and I know I speak on behalf of all of my colleagues, thank you, Pastor Moore, for being with us this morning.

## SOCIAL SECURITY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Madam Speaker, many people may be asking, why are we bringing the topic of Social Security to the kitchen tables of the American family?

Well, maybe it is because Social Security is a pay-as-you-go system, with today's workers paying to support today's retirees. But each year, there are more people retiring and not enough additional workers to support them. Maybe it is because, if Social Security is not updated, it will cost all of us $10 trillion, an amount just slightly larger than the entire U.S. economy today.

Maybe it is because, in the 1950s, there were 16 workers paying for every retiree. And, today, there are about three, and soon there will only be two to support each and every person on Social Security.

One thing is crystal clear. The Social Security system as we know it is broken and needs to be fixed. It amazes me that so many people from across the aisle believe that a 70-year-old program will be just fine if we leave it as is.

Madam Speaker, our current Social Security system is well past retirement age. Let us put politics behind us and provide America with solutions rather than sound bites that make the 11 o'clock news.

## ADVOCATING WELCOME HOME GI BILL

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, on March 19 we will begin our third year in Iraq. The brave men and women of our armed forces have fought proudly, and have served proudly.

After extended tours of duty, many are finally coming home to their families. Following every major war, every Congress has compensated its returning service men and women with the resources to begin their lives. Now is our chance, the 109th Congress, to honor a new generation of American heroes.

The Welcome Home GI Bill is a bold new direction in helping our veterans achieve the success they have earned and deserve. It provides health care for up to 5 years through the TRICARE program for service men and women and their families who do not have health care with their place of employment or have lost it.

The Welcome Home GI Bill includes $75,000 for college education and waives the $1,800 fee for getting that education and a down payment on their home. Most importantly, under the plan, all returning veterans, regardless of service, National Guard, State Guard, or Reservists, including our active duty,

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

get this benefit. It is what a grateful Nation should do and has always done. We do not owe these returning veterans a favor but must repay one.

### FAIRCHILD INDUSTRIAL PRODUCTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Madam Speaker, it takes determination, ingenuity and hard work to succeed in the global economy. In the Fifth District of North Carolina, I have recently seen how a growing manufacturing firm, Fairchild Industrial Products Company, is sustaining high-skilled jobs, creating new products and increasing American exports.

Fairchild has about 100 employees, and it manufactures highly engineered pneumatic controls for industrial processes. About 45 percent of its products are shipped to overseas markets. Fairchild achieves world class quality because its management really listens to the employees on the front lines through discussions on continuous quality improvement. At every company, it is crucial for managers to listen to the ideas from those who know the manufacturing process best, the employees, who day in and day out work on the assembly lines and on the shop floor.

Fairchild had suffered some setbacks in recent years, but now, with support from Allied Capital Corporation, it is growing again, paced by double-digit growth in exports. Every Fairchild product that is shipped overseas helps reduce America's trade deficit abroad and sustains high-quality jobs here at home.

Madam Speaker, the success of Fairchild shows how American manufacturing can get back on to the path toward growth. I am proud this strong North Carolina company is showing how American manufacturing can compete and win in the global economy.

### SOCIAL SECURITY PRIVATIZATION

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Madam Speaker, President Bush has invented an immediate Social Security crisis, but his privatization proposal does nothing to solve his invented crisis.

Why would President Bush propose a Social Security privatization plan that leaves the program worse off after he is done with it? Madam Speaker, the President does not want to fix the Social Security program we have had in place for the past 70 years. Instead, he wants to privatize it. He talks about creating an ownership society, but his proposal creates an on-your-own society.

Madam Speaker, for 70 years, Social Security has improved the lives of millions of Americans. Without it today, two-thirds of America's seniors would be living in poverty. Social Security gave our parents and grandparents independence. Democrats are willing to work with the President in a bipartisan fashion to address Social Security's future, but we simply refuse to support the President's privatization proposal that dismantles the independence Social Security affords our senior citizens today and our children when they retire in the future.

We will work with the Republicans on trying to deal with the Social Security problems that exist in the future, but we cannot support privatization.

### RECOGNIZING STRENGTH OF IRAQI AND AFGHAN WOMEN IN DEVELOPING DEMOCRACIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. WILSON) is recognized for 5 minutes.

Mr. WILSON of South Carolina. Madam Speaker, as a member of the Congressional Iraqi Women's Caucus, I am honored to recognize the bravery and strength of Iraqi and Afghan women today in developing democracies. In the face of great danger, the women of Iraq and Afghanistan are displaying tremendous courage.

In January, Iraqi women risked their lives to participate in Iraq's first free elections in over 50 years. After the votes were tallied, their bravery was rewarded, as over one-third of Iraq's newly elected legislators are women.

The liberation of Iraq delivered hope and a future to Iraqi women, and they are helping to turn the promises of democracy into realities for their children and grandchildren. Today, a group of Iraqi and Afghan women are visiting the halls of Congress. I am pleased to celebrate their accomplishments and encourage them to continue their work for freedom and democracy.

In conclusion, God bless our troops, and we will never forget September 11.

### LIFETIME STOP THE VIOLENCE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Madam Speaker, I rise today to recognize Lifetime Stop the Violence Week. One-third of American women report being physically or sexually abused by a husband at some point in their lives.

One critical step we can take in Congress is to reauthorize the Violence Against Women Act this year, which will add very important services for immigrant, rural, disabled and older women.

As we celebrate International Women's Day, I would like to share my concern for the violence against women worldwide, including those women in Ciudad Juarez. Approximately 400 women over the past 10 years have been murdered and sexually assaulted there. It is time for both our governments to come together and find a resolution to these heinous crimes.

Today, also, I am reintroducing a bipartisan resolution focusing on the murders of these young women in Ciudad Juarez. I hope my colleagues will join me this week in wearing their Lifetime scarves and their ties and speak out against the violence against all women throughout the world.

Yes, indeed, we are going to have visitors today from Afghanistan and Iraq, women who have been elected to office. We need to support them and ensure that freedom and democracy reign throughout the world.

☐ 1015

### SOCIAL SECURITY IS NOT BROKEN

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Madam Speaker, a large number of people are on the Hill this week from ACORN, one of the most effective grass-roots community organizations in America. The group I just met with told me one thing. They said, Tell the President if it ain't broke, don't fix it. Add to it, but do not fix it. Of course they were talking about Social Security that has been the lifeline for millions of seniors in our country since its inception.

Madam Speaker, I will just repeat what ACORN told me: If it ain't broke, don't fix it.

### TEN COMMANDMENTS EMBODY AMERICA'S RULE OF LAW

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, the Supreme Court cases, Van Orden v. Perry and McCreary County, Kentucky v. ACLU seek to remove the Ten Commandments from government property. These cases represent a concerted effort to ignore the central role and contributions of religion in American history and culture.

In 1854, Congress studied the assertions that America is a Christian Nation. They concluded, "The Founding Fathers had no fear or jealousy of religion itself nor did they wish to see us an irreligious Nation."

The Ten Commandments are a historical and cultural embodiment of America's commitment to a government based upon the rule of law. The

Ten Commandments reflect our Nation's Judeo-Christian history and our Founders' deep religious faith. That is why the Ten Commandments should continue to be displayed inside courtrooms throughout our country, including the United States Supreme Court.

---

## VIOLENCE AGAINST WOMEN

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Madam Speaker, I rise to commemorate this week as Lifetime's Violence Prevention Week and to call on this Congress to support legislation that will truly protect victims of violence and not punish them. It is time for the administration to get serious about protecting victims of abuse.

The President, quite frankly, failed in his proposed fiscal year 2006 budget. He cut funding to the Violence Against Women programs by $19 million. For public assistance recipients, the President has requested zero funding for domestic violence counseling and services.

How can he ignore the studies that find that up to 83 percent of mothers in the welfare system are victims of domestic violence. And to add insult to injury, the President proposes battered women and battered mothers with children be required to attend faith-based marriage classes or lose all of their welfare benefits.

Marrying an abuser to keep benefits is not the way to build healthy families and healthy communities. This standard of morality really hurts victims of abuse. We must reauthorize the Violence Against Women Act and the Welfare Reauthorization Act, and we must be in the business of protecting the most vulnerable and the abused. That should be our standard of morality.

---

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the day.

---

## EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES TO ESTABLISH "NATIONAL TARTAN DAY" RECOGNIZING ACHIEVEMENTS AND CONTRIBUTIONS OF SCOTTISH-AMERICANS

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 41) expressing the sense of the House of Representatives that a day should be established as "National Tartan Day" to recognize the outstanding achievements and contributions made by Scottish-Americans to the United States.

The Clerk read as follows:

### H. RES. 41

Whereas April 6 has a special significance for all Americans, and especially those Americans of Scottish descent, because the Declaration of Arbroath, the Scottish Declaration of Independence, was signed on April 6, 1320, and the American Declaration of Independence was modeled in part on that inspirational document;

Whereas this resolution honors the major role that Scottish-Americans played in the founding of the Nation, such as the fact that almost half of the signers of the Declaration of Independence were of Scottish descent, the Governors in 9 of the original 13 States were of Scottish ancestry, and Scottish-Americans successfully helped shape the Nation in its formative years and guide it through its most troubled times;

Whereas this resolution recognizes the monumental achievements and invaluable contributions made by Scottish-Americans that have led to America's preeminence in the fields of science, technology, medicine, government, politics, economics, architecture, literature, media, and visual and performing arts;

Whereas this resolution commends the more than 200 organizations throughout the United States that honor Scottish heritage, tradition, and culture, representing the hundreds of thousands of Americans of Scottish descent, residing in every State, who already have made the observance of Tartan Day on April 6 a success; and

Whereas these numerous individuals, clans, societies, clubs, and fraternal organizations do not let the great contributions of the Scottish people go unnoticed: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that a day should be established as "National Tartan Day" to recognize the outstanding achievements and contributions made by Scottish-Americans to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

### GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 41.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H. Res. 41 expresses the sense of the House of Representatives regarding "National Tartan Day." This is a resolution for which I have the privilege to be the primary Republican sponsor, and the primary sponsor on the Democratic side has been the gentleman from North Carolina (Mr. MCINTYRE). Each year, thousands of Americans of Scottish origin recognize April 6 as Tartan or Clan Day. Next month many events around the country will commemorate National Tartan Day at churches, festivals, and other social gatherings.

In March 1998, the Senate designated April 6 of each year as National Tartan Day because that is the date the Declaration of Arbroath was drafted.

The House no longer permits establishments of commemorations, but I am pleased to support National Tartan Day and salute all Americans who will observe this day.

The consideration of this resolution also provides an opportunity to review an important time in world history. In 1296, King Edward the First of England invaded Scotland. The following year, Robert the Bruce responded by leading Scots in a revolt to regain their sovereignty. Members may remember Robert the Bruce as the leader who continued the Scottish rebellion after his comrade-in-arms William Wallace's death, as portrayed in the movie "Braveheart."

After years of conflict, the outmanned Scottish soldiers, led by Robert the Bruce, who had since been crowned King of Scotland, overcame the English at the Battle of Bannockburn in 1314. This battle was the culmination of Robert's struggle for Scottish independence.

Afterwards, the Declaration of Arbroath was written and completed on April 6, 1320, most likely by the monks of Arbroath Abbey on behalf of the Scottish barons and nobles. The declaration was a letter, in Latin, sent to Pope John the 22nd because the Pope had yet to recognize Scottish independence. The declaration affirmed Scotland's determination to maintain its independence.

Ultimately, the Pope was swayed by the Scottish appeal, and King Edward, III, recognized King Robert and the independence of Scotland in 1328. The Declaration of Arbroath is undeniably the most important document in Scottish history, but it is also widely viewed as greatly influencing the American Declaration of Independence in 1776.

Members can also see Scottish-American influence throughout the history of our great Nation. Thirty-five U.S. Supreme Court justices have been of Scottish descent. Nearly half of the Secretaries of the U.S. Treasury, and one-third of the Secretaries of State have been of Scottish origin. Nine of the signers of the Declaration of Independence were directly or indirectly descended from the Scots. And nine out of 13 Governors of the newly created United States were Scot or of Scottish descent.

The 2000 census reported that almost 5 million Americans are of Scottish heritage, and 4.3 million of Scots-Irish descent.

Madam Speaker, almost everyone who settled my home area of east Tennessee was of Scottish or Scots-Irish origin. The Scots-Irish were originally the poorest people in Scotland. Then they moved to Ireland and became the poorest people there. Then the Scots-Irish moved to the United States and became the poorest people here. They seem to have a knack for it.

Scottish-Americans, however, also have a knack for working hard to preserve their ancestry and heritage. There are more than 200 organizations through the United States that honor Scottish heritage. In my district, the Scottish Society of Knoxville recently held its annual Robert Burns Night when they honored Scotland's most celebrated poet.

Each year in Gatlinburg, right outside my district, Scottish-Americans from all over the country gather for the Gatlinburg Scottish Festival Games, or better known as Highland games. Festivities include throwing the battle axe, the kilted mile, and highland wrestling. Highland games like these are held all over the Nation.

A few years ago, the airline magazine "World Traveler" of Northwest Airlines profiled my Scottish ancestry. In that interview I told them one cannot get much more Scottish than having the name Duncan, being Presbyterian, and having most of one's relatives coming from Scott County, Tennessee.

Madam Speaker, I am proud of my Scottish and Scots-Irish heritage. I am pleased to join with the gentleman from North Carolina (Mr. McINTYRE) in support of House Resolution 41. I thank him for offering this measure and urge its adoption.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. McINTYRE), the other cosponsor of this resolution.

Mr. McINTYRE. Madam Speaker, I rise today to honor all of those of Scottish ancestry who have had an impact on America in the present and the past, and we know they will in the future.

April 6, Tartan Day, is a significant day for all Americans. Since the founding of our Nation, Scottish-Americans have played a key role in the growth of the United States. Contributions made by Scottish-Americans have helped America's preeminence in the fields of science, technology, medicine, government, politics, economics, architecture, literature, the media, visual and performing arts, and yes, athletics and entertainment as well.

Tartan Day has a special significance for all of us who share Scottish heritage. Next month, the 685th anniversary of the Declaration of Arbroath, the Scottish declaration of independence, will be celebrated. The Declaration of Arbroath was signed on April 6, 1320. This declaration of independence includes these inspirational lines: "We fight not for glory, nor riches nor honors, but for freedom alone, which no good man gives up except with his life."

Since that important day, April 6 has been set aside to honor the millions of Scottish descendants who have made outstanding contributions to our great society. Over 450 years later, the American Declaration of Independence was modeled in part on that inspirational document. When our Nation was founded, almost half of the signers of America's Declaration of Independence were of Scottish descent, and nine of the Governors of the original 13 States were of Scottish ancestry. Throughout the history of our country, three-fourths of our Presidents have been of Scottish ancestry. This tells us despite the fact we are few in number, Scots tend to take seriously the words from the Declaration of Arbroath.

Many of us in the House of Representatives can claim Scottish ancestry as well, including the gentleman from Tennessee (Mr. DUNCAN), an original cosponsor of this resolution. Every day those of us of Scottish descent in this Chamber live by the words of the Declaration of Arbroath that I quoted a moment ago. We are here to advance freedom.

Today it is my honor to recognize the 685th anniversary of this historic declaration. We have friends in the gallery from the National Capital Society, St. Andrew's Society, and if they would stand. Many of them are in their Scottish dress and kilts as well. We thank them for their presence as well.

Scottish-Americans have left their mark on America as pioneers and innovators. Their contributions to the history and development of the United States are invaluable. Who are we talking about? Here are some examples of great Scottish-Americans past and present: Neil Armstrong; Alexander Graham Bell; Andrew Carnegie; Julia Child; Hugh Downs; Thomas Edison; Malcolm S. Forbes; Katherine Hepburn; Billy Graham; Washington Irving; Andrew Mellon; Samuel F.B. Morse; Grandma Moses; and with the ACC tournament coming to Washington, James Naismith; Edgar Allan Poe; Willard Scott; Robert Louis Stevenson; Elizabeth Taylor; and James McNeil Whistler, just to mention a few.

□ 1030

In fact, one in 10 of all Nobel prizes awarded have gone to people of Scottish ancestry.

Today, there are more than 200 organizations throughout the United States that honor Scottish heritage, tradition and culture, representing hundreds of thousands of Americans who are of Scottish descent. Every year, the observance of Tartan Day on April 6 is a success because of these fine organizations. There are Scottish-American clan societies, clubs, fraternal associations and individual Scottish Americans that represent literally millions of Americans nationwide.

In North Carolina, my home State, Mecklenburg County first officially observed Tartan Day in 1996. The City of Greensboro has followed suit. Tennessee and Colorado also have special days honoring Scottish heritage. The Alaska Highlanders pipe band in Anchorage has celebrated this special time as has California with proclamations issued by several cities and counties as well.

Later this month, a congressional delegation will be traveling as guests of the British government to Scotland. It will be our great honor to present this resolution to the Scottish Parliament with a declaration that the United States has officially recognized at long last the outstanding achievements and contributions made by Scots everywhere.

A Tartan provides instant recognition of family and kinship. Passing this resolution honoring Tartan Day will further emphasize the many Scottish contributions to the growth and development of our great country, the United States of America.

On behalf of all of us of Scottish descent, I urge all of my colleagues to support this resolution. Help us officially honor the contributions made by Scottish Americans by voting "yes" on H. Res. 41, a resolution recognizing National Tartan Day.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISSA). The Chair would remind all Members to refrain from making references to persons in the gallery.

Mr. DUNCAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. I thank the gentleman for yielding me this time.

Mr. Speaker, as a proud second-generation Scottish American, I join my colleagues in recognizing the tremendous contributions of Scottish Americans who immigrated to America because they hoped for a better life and all the wonderful possibilities that is America. Their ambitions, their braveness, their pioneering spirit helped build our economy, helped build our culture and, more than anything, contributed to our history.

I think it is significant to note, certainly, that one-half of the signers of the U.S. Declaration of Independence and at least 11 United States Presidents have been of Scottish ancestry. They were pioneers, of course, but they also had an ability and the desire to work hard.

Some of the great Scottish Americans include Alexander Hamilton, one of the architects of our Constitution and the first Secretary of the Treasury; John Paul Jones, the father of the United States Navy; Andrew Carnegie, one of the most successful businessmen ever, renowned for his charitable activities; Alexander Graham Bell, inventor of the telephone; Buzz Aldrin and Neil Armstrong, who both captured the imaginations of the entire world by floating above it and exploring what no person had ever explored before.

In fact, the term 'Great Scot' is meant to express oneself in the presence of something extraordinary. I think I speak for all Americans of Scottish heritage and lineage when I say that the Scots brought a spirit of freedom and rugged individualism that found fertile soil in America.

On a final note, I might add that it was the Scots, of course, who originated the game of golf, and it is well known that, less than 1 hour after golf was invented in Scotland, that the first golf joke was heard.

Mr. Speaker, Scots are usually members of a clan, from the term 'clanna' which means "group function as a family," coexisting, succeeding and overcoming as a family. Today, we pay tribute to all Scottish Americans who have strengthened our American family.

I urge all my colleagues to support this resolution.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, from time to time, it is important that we acknowledge our individual histories and the characteristics that define us as Americans. Last month, we celebrated African-American History Month. Today, I am very happy to stand with the gentleman from North Carolina (Mr. MCINTYRE) and the other 56 cosponsors of H. Res. 41. This bill recognizes the outstanding achievements and contributions made by Scottish Americans to the United States by expressing the sense of the House of Representatives that a day should be established as National Tartan Day.

Scottish Americans have played important roles in the growth and development of this Nation. Three such Scottish Americans are John Witherspoon, Andrew Carnegie and Alexander Graham Bell. John Witherspoon immigrated to the United States in order to become the sixth President of Princeton University. He was a member of the ratifying convention that made New Jersey the third State to ratify the Constitution of the United States. He also is identified with the Common Sense Philosophy, which is considered to be of importance in the development of our national life.

Andrew Carnegie came to the United States not as an educated man but as a poor immigrant. His vision and business acumen earned him a fortune in steel during the industrial revolution. Carnegie used his wealth to establish one of the largest philanthropic foundations in the United States. Much of his collected fortune was spent to establish over 2,500 public libraries and to support institutions of higher learning and public education. By the end of his life, Carnegie gave away $350 million.

Inventor Alexander Graham Bell, like Carnegie, was primarily self-educated, and he, too, accomplished much during his life. Graham is best known for inventing the telephone, though he explored the realm of communications and engaged in a great variety of scientific activities.

Almost a decade ago, Congress recognized the influential role of the Scottish community in our country by making April 6, 1997, National Tartan Day. April 6 was chosen because it commemorates the signing of the Declaration of Arbroath, which asserted Scotland's sovereignty over English territorial claims and influenced our own Declaration of Independence.

Therefore, Madam Speaker, I want to take this moment to thank the originators of this bill for their leadership and want to reiterate my strong support for H. Res. 41. Our Scottish citizens have made a tremendous impact on the development of this Nation, and all of us are proud of them.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Let me just close by, first of all, thanking the gentleman from Illinois (Mr. DAVIS) for his words and especially thanking our colleague from North Carolina (Mr. MCINTYRE) for his great leadership on this legislation. I thank you for your noting the origins of the great game of golf in Scotland. As one who loves golf, and you mentioned golf jokes, I might just tell you that when I come in from playing golf and people ask me how I did, I just tell them unbelievable, and they can take it anyway they want to then.

I think this is important legislation, and I will tell you why. There are very few countries that have as close ties as the United States and Scotland. We have mentioned many of those ties and much of that heritage here today. But until this day and until this legislation, those close ties between Scotland and the United States have not been recognized in any way by the United States House of Representatives. And so I urge my colleagues to support this very important resolution.

Mr. HASTINGS of Florida. Madam Speaker, I rise today to recognize the many achievements and contributions that Scottish-Americans have made to the United States. I have long touted the importance of immigration as a source of strength for our Nation, and I am gratified to see the Scottish-American immigrant population be recognized by this House Resolution.

Scottish-Americans have made significant contributions to American society and have played an influential role in the history of our country. Not only was Alexander Hamilton, one of our founding fathers, a Scottish-American, but at least eleven U.S. Presidents were also of Scottish descent. Among the ranks of proud Scottish-Americans were almost half of the signers of the Declaration of Independence, and two of the first Supreme Court Justices. Andrew Carnegie, one of this country's most successful entrepreneurs and philanthropists, came to this country as a poor Scottish immigrant.

To honor the contributions of Scottish immigrants, it is appropriate that Congress recognize April 6 as "National Tartan Day." The recognition by Congress that immigrants of all backgrounds contribute immeasurably to our success as a nation is a sentiment to which I could not more strongly agree.

Madam Speaker, I am pleased to recognize the achievements of the Scottish-American community. On behalf of this body, I express my support for establishing April 6 as "National Tartan Day" and congratulate the Scottish-American community on their numerous contributions to our Nation.

Mr. EMANUEL. Madam Speaker, on behalf of nearly six thousand Scottish-Americans who live in my district, I rise today as a proud cosponsor and in strong support of H. Res. 41. This bipartisan resolution supports the establishment of a 'National Tartan Day' to recognize the outstanding achievements and contributions made by Scottish-Americans throughout our nation's history.

In America's early history, many colonists pursued higher education at universities founded by Scottish settlers. Many of the non-Anglican students who were prohibited from enrolling at other institutions attended these universities where the Scottish-American ideals of universal education, religious freedom and law flourished and became significant influences on the development of our Nation.

In fact, our nation's Declaration of Independence was modeled largely on Scotland's Declaration of Independence, the Declaration of Arbroath, which was signed four and a half centuries earlier. An often overlooked fact is that nearly half the signers of our Declaration of Independence were of Scottish descent.

Throughout our Nation's history Scottish-Americans contributed to diverse areas of American life such as science, technology, medicine, government, politics, economics, architecture, literature, media, and visual and performing arts. President Woodrow Wilson and Andrew Carnegie are two examples of notable Scottish-Americans who excelled in these fields.

These contributions and achievements are celebrated by more than 200 cultural organizations throughout the United States. One of these organizations, the Illinois Saint Andrew Society serves the city and suburbs of Chicago, Illinois by honoring the culture and traditions of Scotland and Scottish-Americans.

These organizations provide a valuable service by educating all Americans about the time-honored values and ideals of the Scottish culture.

Madam Speaker, I thank the Scottish cultural organizations for documenting and promoting these contributions, and I am proud to be a cosponsor and support this important resolution.

Mr. DUNCAN. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 41.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## RECOGNIZING CONTRIBUTIONS OF UNITED STATES MARINE CORPS ON 60TH ANNIVERSARY OF BATTLE OF IWO JIMA

Mr. KLINE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 119) recognizing the contributions of the United States Marine Corps and other units of the United States Armed Forces on the occasion of the 60th anniversary of the Battle of Iwo Jima during World War II.

The Clerk read as follows:

H. RES. 119

Whereas 2005 marks the 60th anniversary of the Battle of Iwo Jima, in which the United States Marine Corps and other units of the United States Armed Forces assaulted and captured the island of Iwo Jima during World War II;

Whereas the United States success in capturing Iwo Jima was a crucial victory that provided a location for necessary airbases to eventually win World War II in the Pacific theatre;

Whereas, in recognition of the particularly hazardous battlefield conditions experienced by the Marines and other members of the United States Armed Forces on Iwo Jima, Commander in Chief of the Pacific Fleet, Fleet Admiral Chester W. Nimitz stated that "Among the men who fought on Iwo Jima, uncommon valor was a common virtue."; and

Whereas more than 70,000 Marines participated in the Battle of Iwo Jima, of whom 17,372 Marines were wounded and 5,931 Marines made the ultimate sacrifice, giving their lives to secure the cause of freedom and the United States victory in the battle: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the 60th anniversary of the Battle of Iwo Jima; and

(2) recognizes and commends the members of the United States Marine Corps and all other members of the United States Armed Forces who participated in the Battle of Iwo Jima for their sacrifice and contribution, with particular honor given to those members of the Armed Forces who gave their lives in defense of freedom during the Battle of Iwo Jima.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. KLINE) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

GENERAL LEAVE

Mr. KLINE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KLINE. Madam Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. ISSA), the original sponsor of House Resolution 119.

Mr. ISSA. Madam Speaker, today is a day on which we are reminded of how much we owe to the men and women of the Marine Corps who 60 years ago took an island in the Pacific at great personal cost of life and limb beyond that which we today could even begin to imagine. Of the 70,000 Marines who participated in the invasion of Iwo Jima, one in four were wounded, some 17,000. Of them, nearly 6,000 lost their lives. The invasion began on February 19. By February 23, we had declared that we had taken the island. But that was the beginning, not the end, of Iwo Jima. It continued for 31 more days. It was not until March 25 that the island was truly safe from foreign fighters. That battle, one of the longest for an island in the Pacific, has led to many stories, many movies, each glorifying what was one of the toughest battles of the war. Now, 60 years later, we are prepared to honor once again this unique sacrifice.

If not for the taking of Iwo Jima, the war could have gone on for months or even a year longer. If not for the taking of Iwo Jima, it was very clear that the Marines would have had to fight island after island around it for much longer. The Japanese knew this, and they defended this small island as their last hope of retaining their position in the Pacific.

I appreciate the Speaker taking this up today. I appreciate, most importantly, Members of Congress supporting H. Res. 119 to remind the men and women, the last of this generation who are still with us, that we appreciate their sacrifices of World War II and particularly to my Marines at Camp Pendleton in my district who are today deployed primarily in Iraq and serving our country once again at great risk of life.

Mr. BUTTERFIELD. Madam Speaker, I yield myself such time as I may consume.

During World War II, the island of Iwo Jima was strategically located. It contained three airstrips which had been used to stage kamikaze attacks on American ships. The island was home to three airstrips which had been used to stage kamikaze attacks. Allied generals believed that, if captured, the kamikazes would have to operate from Okinawa and Kyushu while at the same time providing American fighters airstrips close enough to Japan to escort B-29s during missions on the mainland.

Iwo Jima became the first native Japanese soil invaded by Americans in World War II, with approximately 60,000 Americans and 20,000 Japanese participating in the battle. On February 19, 1945, U.S. Marines landed on Iwo Jima at 8:59 a.m., after 10 weeks of bombing from carrier-based planes and medium bombers. A total force of 70,000 Marines were assembled for the invasion against a force of 27,000 Japanese. What followed was some of the most vicious fighting of the entire war. On an island barely 8 square miles in size, the Japanese forces constructed over 800 pillboxes and 3 miles of tunnels. The volcanic ash on the island severely complicated landings.

On February 23, 1945, Mike Strank, Harlon Block, Franklin Sousley, Ira Hayes, Rene Gagnon and John Bradley raised an American flag atop Mount Suribachi. The raising of this flag was captured forever by photographer Joe Rosenthal, and today, it stands immortalized less than 2 miles away from this Capitol.

Approximately one-third of all Marines killed in action in World War II were killed at Iwo Jima, making Iwo Jima the battle with the highest number of casualties in Marine Corps history with 7,000 killed and 13,000 wounded. Twenty-seven Congressional Medals of Honor were awarded in the battle, more than were awarded to Marines and Navy in any other battle in our country's history. After the capture of Iwo Jima, more than 30,000 American airmen's lives were saved when more than 2,400 disabled B-29 bombers were able to make emergency landings at the Iwo Jima airfield after making bombing flights over Japan.

☐ 1045

In 1968 the island was returned to Japan, and remains of Marines from the Third, Fourth and Fifth Divisions were brought back to the U.S. for burial. Today, Madam Speaker, we remember these young men and women who fought for their country and made the world safe for their children.

Madam Speaker, I commend my colleague on this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. KLINE. Madam Speaker, I am very pleased to yield 2 minutes to the distinguished gentleman from California (Mr. CALVERT).

Mr. CALVERT. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I also stand in support of House Resolution 119. My father served as a pilot of a landing craft during the Battle of Iwo Jima, and it is an honor and a pleasure to recognize the sacrifice and contributions of the United States Marine Corps and other services on the occasion of the 60th anniversary of the Battle of Iwo Jima.

I had the honor of meeting a humble hero of the Battle of Iwo Jima sometime ago back in my district when we dedicated the Medal of Honor Memorial at the Riverside National Cemetery. His name is Bob Bush, and he received the Congressional Medal of Honor for his service as a medical corpsman with the 2nd Battalion, 5th Marines, on May 2, 1945. His citation reads like a scene from a John Wayne movie, but it is all true:

"Fearlessly braving the fury of artillery, mortar, and machine-gun fire from strongly entrenched hostile positions, Bush constantly and unhesitatingly moved from one casualty to another to attend the wounded falling under the enemy's murderous barrages. As the attack passed over a ridge top, Bush was advancing to administer blood plasma to a Marine officer lying wounded on the skyline when the Japanese launched a savage counterattack. In this perilously exposed position, he resolutely maintained the flow of life-giving plasma. With the bottle held high in one hand, Bush drew his pistol with the other and fired into the enemy's ranks until his ammunition was expended. Quickly seizing his discarded carbine, he trained his fire on the Japanese charging pointblank over the hill, accounting for six of the enemy despite his own serious wounds and the loss of one eye suffered during his desperate battle in defense of the helpless man. With the hostile force finally routed, he calmly disregarded his own critical condition to complete his mission, valiantly refusing medical treatment for himself until his officer patient had been evacuated, and collapsing only after attempting to walk back to the battle aid station."

Madam Speaker, his humility is typical of those who braved the sands of Iwo Jima, and I proudly support this resolution offered by my good friend from California.

Mr. BUTTERFIELD. Madam Speaker, I yield such time as she may consume to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Madam Speaker, I rise in support of H. Res. 119, recognizing the many contributions of the United States Marine Corps and other U.S. Armed Forces on the occasion of the 60th anniversary of the Battle of Iwo Jima. I want to thank the gentleman from California (Mr. ISSA) for introducing this important resolution.

Iwo Jima stands out as one of the defining moments in the Battle of the Pacific and is one of the defining moments in the history of the United States Marine Corps. The Marines fought in World War II for over 3½ years, yet in the span of just 1 month in Iwo Jima, they suffered nearly one-third of their total deaths. This heroic sacrifice ensured the freedom and liberty that we enjoy today.

The people of Guam have a special understanding of the kind of valor and heroism demonstrated by the U.S. Marine Corps during the Battle of the Pacific in World War II, for it was the Marines who led the charge in the liberation of our own island from the Japanese occupation. The Marines, fighting in defense of freedom, brought hope to the Chamorro people of Guam in a time of great oppression and fear. Last year I joined nearly 50 Marines who took part in the liberation of Guam in laying a wreath at the Arlington National Cemetery to honor their great sacrifice and courage on behalf of our grateful people.

I will be joining the gentleman from Illinois (Mr. EVANS) and the gentleman from California (Mr. ISSA) on a trip to Iwo Jima to pay tribute to the U.S. Marines for this, the 60th anniversary of the Battle of Iwo Jima. The gentleman from Illinois (Mr. EVANS) is not able to make it to the floor to speak on this resolution as he is currently in a veterans hearing in the Senate, but I do know that he, too, is very supportive, and will include his statement for the RECORD.

Mr. KLINE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today we recognize the contributions of the United States Marine Corps, an organization which I was proud to serve for 25 years in active duty. We also honor every member of the United States Armed Forces on this the 60th anniversary of the Battle of Iwo Jima.

Sixty years ago, U.S. Marines invaded the small Pacific island of Iwo Jima. Most Americans associate this event with the powerful Pulitzer Prize-winning image of the Marines raising a flag above Mount Suribachi. What many Americans may not realize, however, is that the emblematic photo, which has become a symbol of American bravery and victory, does not capture the first flag-raising at Iwo Jima that day.

Two different groups of heroes planted American flags at Iwo Jima on Mount Suribachi on that day in February of 1945, and the achievement of both groups provided and continues to provide inspiration to defenders of freedom everywhere.

The sole survivor from either flag-raising group is Minnesota's own Charles Lindberg. On that seminal day in February, Corporal Lindberg and five fellow Marines reached the base of Mount Suribachi after several days of fighting and thousands of casualties. The next morning the battalion commander, Colonel Chandler Johnson, sent them to the summit with an American flag and orders, "If you get to the top, raise it."

And raise it they did. The flag raised by Corporal Lindberg and his fellow Marines provided an immediately recognizable image of victory and became an inspiration to all who saw it. In describing the reaction to their flag raising, Corporal Lindberg states, "Boy, then the island came alive down below. The troops started to cheer, the ships' whistles went off. It was quite a proud moment."

Perhaps sensing the significance of the moment, a commander below ordered a second group to raise a larger, more stable flag in its place. Four hours after the first flag-raising, Associated Press photographer Joe Rosenthal captured the image of the second flag-raising, which is now recognized throughout the world. The second raising and the photograph which captured it complemented the efforts of Corporal Lindberg and his fellow Marines and enabled Americans at home, as well as the world, to share the same symbol of bravery and victory with the victorious Americans on Iwo Jima.

Both of these groups deserve our gratitude, as do all the men and women who served on Iwo Jima and elsewhere during World War II. The symbol of the flag over Iwo Jima reflects the enduring triumph of freedom and democracy, the very things for which our men and women in uniform continue to fight today.

We have much to learn from the tenacity and dedication of the brave heroes of World War II, and I am grateful for this opportunity to recognize their efforts today.

And to you, Corporal Charles Lindberg, from one Marine to another, I salute you from the floor of the House of Representatives in admiration and gratitude for your courage, bravery, and valor. Semper Fi.

Madam Speaker, I reserve the balance of my time.

Mr. BUTTERFIELD. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KLINE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, there were so many of our colleagues today who intended to come down and speak on this very important subject and express their admiration and praise for those Marines on Iwo Jima 60 years ago; but as has been mentioned, some of them are involved in a joint hearing on veterans affairs and doing the work that brought them here.

I would like to thank my colleague, the gentleman from North Carolina (Mr. BUTTERFIELD), for the discussion today and urge all of my colleagues to support this resolution.

Mr. BUYER. Madam Speaker, I rise in strong support of the Iwo Jima Resolution.

For all who bear its scars, the battle for Iwo Jima still looms gargantuan, unbelievable, devouring. It is not measurable by any past battles. The battle of Iwo Jima is unique in its own setting.

First, it was the longest aerial campaign of World War II. Incredibly, this ferocious bombardment had little effect. Hardly any of the Japanese underground fortresses were touched.

Four miles long, shaped like a pork chop and covering 7½ miles, Iwo Jima had no front lines and no rear lines—every inch of the island was a battleground and a graveyard. U.S Marines—Active and Reserves, were forced to take one of the most heavily fortified objectives in military history.

Over 110,000 Marines in 880 ships took part in the operation. Over 7,000 Marines and 20,000 Japanese soldiers lost their lives fighting the fiercest Marine Corps battle of the Pacific Theater in World War II.

For America, it was the front door step to the Japanese heartland and the beginning of the end to an awful war. For the 22,000 Japanese defenders, Iwo Jima was the defense of their very hearths and homes as if it were a part of Tokyo.

The island's defenses were built and fortified over a period of several years. There were complex, subterranean levels, some two stories down.

Heavy fire made it impossible to land men in an orderly manner and confusion reigned on the beaches. From these the defenders could approach the Marines on the surface virtually anywhere, through warrens, spider holes, caves, and crevices.

Japanese soldiers were given a direct order to each kill ten Marines—and for a large part of the battle, they were meeting their quotas. Some 2,300 Marines were killed or wounded in the first 18 hours of the operation.

At great cost, the Marines would take a hill only to find the same enemy suddenly on their rear or flank positions. The enemy was nowhere and everywhere, especially at night. The Japanese were not on Iwo Jima—they were in it!

Madam Speaker, war is hell, and Iwo Jima was the devil's living room.

Historians have described the U.S. attack as "throwing human flesh against reinforced concrete." In the end, the battle was won inch-by-inch by the tenacity of the foot soldier. One in three Marines on Iwo Jima would either be killed or wounded, including 19 of 24 battalion commanders. Twenty-seven Marines and naval medical corpsmen earned the Medal of Honor—more than in any other battle in history—13 of them posthumously.

Madam Speaker, the bravery demonstrated on Iwo Jima has become the standard to which all Marines now aspire when in combat. The battle has come to define a Corps with a rich tradition and colorful history. It underlies the Marine Corps' core values of honor, courage and commitment.

Madam Speaker, I rise in strong support of this resolution.

Mr. BACA. Madam Speaker, I rise today to pay tribute to the American patriots who fought bravely and triumphantly in one of the most iconic battles in our Nation's history.

Sixty years ago, thousands of men left their homes and families to fight for our security, liberty, and democracy. They fought, not because they had to, but because they chose to—choosing to confront an enemy they could not see, in a place they did not know.

Over 450 Navy ships unloaded 75,000 American soldiers onto the tiny Pacific island of Iwo Jima and faced a blistering assault from an entrenched and virtually invisible Japanese army.

Despite the massive geographical advantage of the Japanese and the loss of almost 2,500 soldiers on the first day alone, our soldiers marched fearlessly forward to meet their hidden enemy.

After 36 day's, victory was in hand but not before 7,000 Americans and 20,000 Japanese were killed.

This image of victory over adversity is ingrained in our history through the symbolic, yet evocative image of six American servicemen planting a salvaged American flag on top of Mount Suribachi in Iwo Jima.

Though the battle lasted twice as long as expected, the commitment of our men and women in uniform to the ideals of freedom and peace never wavered. Their steadfast belief in themselves and our Nation remains a beacon of selflessness and sacrifice for all Americans.

For those who still defend our country and those who fight for the principles upon which this Nation was founded, the men and women of Iwo Jima provide an opportunity for hope.

Their actions will forever stir our hearts and rouse our belief in the human spirit. It is because of this that we will always be thankful to the soldiers of Iwo Jima.

Mr. ISSA. Madam Speaker, as 2005 marks the sixtieth year since the battle of Iwo Jima, it is appropriate that the House take this opportunity to recognize the sacrifice of the Marines who fought and died in that great battle.

Winning the battle of Iwo Jima was among the most significant victories of the U.S. Marines during World War II. In the Pacific, Iwo Jima was the critical air base from which Japan's fighters prevented American bombers from reaching their targets in mainland Japan. Because Japanese commanders understood the strategic importance of defending the island, it was protected by more than six hundred blockhouses, pillboxes and gun positions. For the Japanese, Allied control of Iwo Jima meant allowing the enemy a base from which to attack the Japanese mainland, an outcome that they were committed to preventing at all cost. After more than six months of Allied aerial bombardment of the island, on D-Day, February 19, 1945, U.S. Marines invaded Iwo Jima, raising the first American flag on Mount Suribachi 4 days later. Despite raising the flag on February 23, the bloody fighting continued for 31 more days until the last pocket of resistance was eliminated on March 25.

More than 70,000 Marines participated in the invasion of Iwo Jima. Before the battle ended 17,372 Marines were wounded and 5,931 Marines made the ultimate sacrifice in defense of freedom in securing the Allied victory. Fleet Admiral Chester W. Nimitz said, "Among the men who fought at Iwo Jima, uncommon valor was a common virtue." Our Nation owes each of the men who fought and died at Iwo Jima its deepest gratitude.

Madam Speaker, I am proud to represent the fine Marines of Marine Corps Camp Pendleton. I am privileged to serve these exceptional Americans every day and to have the opportunity to continuously witness their selfless service and constant devotion to our nation. In 3 days Members of this body will travel to Iwo Jima to participate in the formal commemoration of the battle and of the example of courage and determination set by those who fought there, which Marines today strive ever to follow. As we gather in that solemn place to reflect on the immense sacrifices made there, the House, by passing this resolution will have done its part to honor our nation's commitment to those Marines never to forget the value of their sacrifices. I urge the adoption of this resolution.

Mr. DREIER. Madam Speaker, I rise today in strong support of H. Res. 119, a bill to recognize the contributions of the United States Marine Corps and other units of the United States Armed Forces on the 60th Anniversary of the Battle of Iwo Jima. By capturing this isolated, eight square mile island in the Pacific, the men and women of our Armed Forces ensured victory in World War II. U.S. control of Iwo Jima removed the island as a staging ground for kamikaze attacks, ensured that B–29 bombers would continue to fly missions to mainland Japan and allowed U.S. planes traveling in the Pacific to use the island for emergency landings.

Despite facing 22,000 Japanese soldiers hidden in bunkers inside the hills of Iwo Jima, American soldiers successfully charged through miles of open space to capture control of the island in a little more than a month. Their sacrifices were many. Nearly one in three men were killed or wounded, making the Battle of Iwo Jima the source of one-third of all Marine deaths in World War II. In fact, three of the six men who famously raised the American flag over Mt. Suribachi died during the Battle. Yet Iwo Jima's survivors often refused to acknowledge their heroic service, often citing the friends who died beside them as the only heroes of the battle.

Admiral Chester W. Nimitz commented in 1945 that "by their victory, the 3rd, 4th and 5th Marine Divisions and other units of the Fifth Amphibious Corps have made an accounting to their country which only history will be able to value fully." Sixty years later, the United States remains free, Japan is now one of our closest allies and the grandsons and granddaughters of those who served at Iwo Jima are again defending freedom abroad with the same determination and love for their country. I am confident that the Battle of Iwo Jima will continue to be a shining example of American military success for generations to come.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today as a proud cosponsor of H. Res. 119, which recognizes the contributions of the United States Marine Corps and other units of the United States Armed Forces on the occasion of the 60th anniversary of the Battle of Iwo Jima during World War II. Truly, this great battle served as a watershed moment for the United States in World War II. After capturing Iwo Jima, the United States Armed Forces were able to have a staging ground for the aerial assault that would help defeat the Japanese Empire. However, this great victory did not come without great sacrifice. More than 70,000 Marines participated in the Battle of Iwo Jima, 17,372 Marines were wounded and 5,931 Marines made the ultimate sacrifice for this Nation in this decisive battle in war, the likes of which the world had never before seen.

Today in this body we take the time to recognize those who fought in the Battle of Iwo Jima and indeed all Americans who fought in World War II. It was Edmund Burke who once aptly stated: "The only thing necessary for the triumph of evil is for good men to do nothing." The birth of our Nation itself was due to good men who refused to submit to an unjust rule; and it is that same spirit that guided those who fought in World War II. It has been said that the generation that came back from fighting World War II was in fact the 'greatest generation' and I would be hard pressed to disagree. Our brave soldiers went across the world to far away places like Iwo Jima to save massacred peoples; they had no choice but victory. Even now, we look back in pain and imagine the horror that could have been had they not been successful. They came back from this truly global war and raised a new generation of Americans. They created the greatest middle-class ever seen in the history of the world. Their domestic success ensured a great future for our Nation, their success abroad ensured life and liberty for millions around the world.

The great memory of Iwo Jima is best personified by the picture of six American soldiers raising our national flag amidst this great battle. The picture personified the American spirit in World War II, we struggled against a powerful opponent, but we persevered and did not succumb under the relentless pressure. In the end, we won the Battle of Iwo Jima and World War II, solely through the sacrifice and great courage of our American Armed Forces. We owe them our appreciation and we owe it to them to keep the memory of their heroic actions alive for future generations of Americans.

Mr. HASTINGS of Florida. Madam Speaker, I rise in support of House Resolution 199, recognizing the contributions of the Marine Corps and the other branches of the United States Armed Forces on the occasion of the 60th anniversary of the Battle of Iwo Jima during World War II. The commemoration of these branches of the military, and most importantly the soldiers who fought in this battle, is crucial. We must take into account every day the bravery and dedication that the men and women of the Armed Forces have shown us.

The United States military sent more Marines into Iwo Jima—110,000—than in any other battle in World War II. The Air Force and Navy also played pivotal roles in securing a victory for the United States.

The 36-day battle that began on February 19, 1945 was an arduous campaign for the United States, largely due to the underground bunkers the Japanese had built. These subterranean caves allowed the Japanese to see the Marines, but the U.S. soldiers had no visual on the Japanese. After days of battle and U.S. casualties totaling over 25,000, our troops finally took control of Mount Suribachi, securing victory for the United States of America and the Allied Forces.

The image of soldiers like Mike Strank, Harlon Block, and Franklin Sousley raising our flag in glory, as portrayed by the Iwo Jima Memorial, reminds us of the perseverance and devotion to country exemplified by the Armed Forces. Because of these acts of bravery and dedication, we stand here free today.

Madam Speaker, I wish to conclude by again reiterating my support for the recognition of the Marine Corps and other branches of the Armed Forces on the 60th anniversary of the Battle of Iwo Jima. The characteristics of strength, devotion, and honor ring strong in our hearts today and always, as we recall all those who fell in one of the most important battles in U.S. history.

Mr. KLINE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and agree to the resolution, H. Res. 119.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

---

## TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mrs. CAPITO. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 140 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 140

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed two hours and 20 minutes, with two hours and 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure, including a final period of 10 minutes following consideration of the bill for amendment, and 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment shall be in order except those printed in part B of the report of the Committee on Rules or except pursuant to a subsequent order of the House. Each amendment in part B may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments in part B are waived. After disposition of the amendments in part B, the Committee shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore. The gentlewoman from West Virginia (Mrs. CAPITO) is recognized for 1 hour.

Mrs. CAPITO. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, on Tuesday, the Committee on Rules met and granted a structured rule for H.R. 3, the Transportation Equity Act: A Legacy For Users, commonly referred to as TEA-LU. This rule provides for 2 hours and 20 minutes of general debate. The rule incorporates title VIII, the Transportation Discretionary Spending Guarantee, into H.R. 3, and makes in order 10 amendments printed in part B of the Committee on Rules report.

Madam Speaker, I would like to note that this rule is the first of two rules that the Committee on Rules will be granting for H.R. 3. Several Members submitted amendments yesterday, and it is the intention of the Committee on Rules to continue its consideration of these amendments later this afternoon and provide for additional amendment debate.

Madam Speaker, the rule we have before us is a fair rule that I believe all Members should be able to support.

Madam Speaker, by its own deadline, Congress must act to reauthorize federally funded surface transportation programs before the current extension runs out on May 31, 2005. As a former member of the House Committee on Transportation and Infrastructure, I can appreciate the incredible bipartisan effort that goes into writing this legislation. I would like to applaud the efforts of the gentleman from Alaska (Chairman YOUNG) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for bringing this legislation to the floor in an expedient and bipartisan manner. I look forward to the passage of this bill and hope that our colleagues in the other body will take swift action.

Madam Speaker, the highway bill is a vitally important investment in our Nation's surface transportation system and fosters job growth across the country.

□ 1100

In fact, it is estimated that for every $1 billion spent in highway funding, 47,500 jobs are created, quite an amount.

This is very much a jobs bill for America, containing various new projects and improvements. The highway bill provides $284 billion in funding for vital programs that would impact citizens across the States, improving safety and accessibility. The legislation reauthorizes highway and motor carrier safety programs, it authorizes $3.2 billion for the National Highway and Traffic Safety Administration, which carries out highway safety programs. It authorizes $2.9 billion for the Federal Motor Carrier Safety Administration, which regulates truck safety.

The highway bill authorizes $6 billion for a new competitive grant program to fund projects of regional or national significance aiming to improve the movement of goods and people to designations beyond that immediate area.

In my district, the highway bill represents the strongest step forward ever made to replace U.S. Route 35, a two-lane basic death trap through West Virginia's Mason and Putnam Counties. U.S. Route 35 is dominated by tractor trailer and tanker trucks traveling south from Ohio or north from Interstate 64 in Charleston.

Far too often, the high volume of traffic swallows up local commuters, resulting in tragic motorist fatalities. With the passage of the highway bill, construction of a new four-lane highway appropriate to meet the demands will be built diverting traffic around dozens of residential neighborhoods.

Mr. Speaker, this is just one example from my home district. There are countless others from across the country. Mr. Speaker, I am a strong supporter of this legislation that provides for countless improvements to our Nation's surface transportation system. The numerous projects and programs authorized by this bill will improve our highway systems and the ability of our constituents to travel from State to State.

To this end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am supportive of this first rule. And I say that I am a bit concerned that it only makes in order 10 of the amendments. As explained by the gentlewoman from West Virginia (Mrs. CAPITO) we will do the rest today. And I am fervently hoping that, since all of the amendments this morning are Republicans', that this afternoon we will do the Democratic amendments.

There is one bipartisan amendment, however, that is very important, we believe, and that is the one that is being brought up by the Members in the New Jersey Delegation, that is, the Pascrell Amendment that allows States to enact anti-corruption laws curbing the practice of pay-to-play contracting and not lose their Federal highway dollars.

These laws are critical to help stop the threat of real and apparent corruption resulting from large political contributions from contractors to influence the awarding of public contracts. Surely, we can help do that.

We are currently operating under the sixth temporary extension of TEA–21, which was originally set to expire on September 30, 2003. I know that State and local transportation offices are finding it very difficult for the long-term planning that is necessary to adequately address the growing transportation needs around the country.

As we in this body have been unable to agree on how to proceed with the critical legislation for some time, the significant infrastructure problems that plague the communities are worsening each day.

In fact, today, 32 percent of all major roads in America are in poor or mediocre condition. According to a new report released last month by TRIP, a national nonprofit transportation research group, the City of Rochester, which is in my district, received a grade of F for the conditions of its roads.

And according to that report, only 43 percent of Rochester's major roads are considered to be in good condition. To put that in proper perspective for everyone, I want to point out that a desirable goal for State and local organizations that oversee road maintenance is to keep 75 percent of major roads in good condition.

And I want to share with you even a more startling statistic about my home town. More than half of the bridges in Rochester, New York are substandard condition or are structurally deficient, as they are categorized by the Department of Transportation, which means they are potentially dangerous.

In fact, the bridges throughout my entire district in western New York are in desperate need of repair. This presents a serious safety issue for all of us to be concerned about, because this problem is not unique to Rochester or western New York, but is well documented in many areas around the country.

And every day that we delay the implementation of the full highway reauthorization bill, we put Americans at risk when they travel these roadways and bridges. This is just unacceptable.

The bill we are considering today, H.R. 3, also known as TEA–LU, would reauthorize the Federal highway, public transportation, highway safety and motor carrier safety programs for 6 years, from fiscal years 2004 through 2009.

The bill's funding represents 42 percent over the amount in the long-expired highway bill, and $4.5 billion higher than the level in the 2004 House-passed version of TEA–LU.

How people and commerce move on our roadways is a concern for all Americans; it transcends party lines. And I want to thank the gentleman from Alaska (Chairman YOUNG) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO) for developing a bill that is truly a bipartisan product.

And I hope that other committees will follow their example.

This bill is not only a transportation infrastructure bill but also an economic infrastructure bill. Not only are we building roads with this legislation; we are creating jobs. And for every $1 billion invested in Federal highway and transit spending, 47,500 jobs are created or sustained. Transportation infrastructure generates up to a 6-to-1 net return on investment, and increased transportation investment also improves freight mobility. More than 67 percent of the Nation's freight moves on the highways, an annual value to the economy of more than $5 trillion, and there is no doubt that the economic impact of this transportation bill also touches our local communities.

In Niagara Falls, which I represent, we are advancing with the International Railway Station and Intermodal Transportation Center which will assist in revitalizing Main Street and also enable United States officials to efficiently inspect the Amtrak passengers who cross the U.S.-Canadian border on the New York State Empire Corridor and Amtrak's Maple Leaf Service to Toronto. The project aims to reduce the chronic delays that burden our strong trade relationship with Canada.

With record levels of trade moved across the northern border, including the bridges in my district, we must invest in our transportation infrastructure system to ensure the health of our economy, and I am pleased to see that TEA–LU provides $1.25 billion in funding for the Coordinated Border Infrastructure Program, which allocates funds to border States for highway projects that will improve the safe and efficient movement of people and goods across the border between the United States and Mexico, and the United States and Canada.

But beyond our borders, we need a reliable national transportation system to move products and services.

As the process moves forward, I encourage my colleagues to focus on meeting each State's need. An adequately funded transportation system is good for each State's economy and its quality of life. I look forward to voting for the underlying bill as the first step toward meeting the next generation of the country's needs.

Mr. Speaker, I reserve the balance of my time.

Mrs. CAPITO. Mr. Speaker, it is my honor at this time to yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of our committee.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and want to begin by congratulating my good friend from West Virginia for her management of this rule and her stellar service on the Committee on Rules as one of our newest members, and also her commitment to deal with the very important transportation needs that exist in her State. We know that that is going to be an important aspect to this legislation.

I want to speak for just a couple of minutes, and first, I want to praise my good friends, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), and the fact that we have been able to proceed in a bipartisan way in dealing with this very important issue. I see this as a very, very national question for us.

My first choice, my first choice would be to keep the Federal Government out of the issue of transportation and have the decision-making on this handled at the State and local level, have the funds handled at the State and local level. I realize that we are not there. We have an interstate system, and we have to recognize that there are very important national priorities when it comes to transportation, and that, in large part for me, relates to the issue of global trade.

We know that the United States of America is the single largest exporter and the single largest importer on the face of the earth. We have an $11 trillion economy. We know that there are all kinds of wonderfully innovative and creative new ideas and products that are emanating from the United States of America, and as we get ready to embark on what I hope will be a successful passage of the Central American Free Trade Agreement, prying open that market so that we are able to sell U.S. goods into Latin America, as we ultimately get to Ronald Reagan's vision of a free trade area of the Americas, we have to realize that, if we are going to remain the world's largest exporter and the world's largest importer, it is absolutely essential that we have an infrastructure that can handle that.

I happen to represent the southern California area, along with a great bipartisan delegation from southern California, and one of the things that we recognize is that we have the ports of Long Beach and Los Angeles, two of the busiest ports in the entire world. In fact, I like to describe southern California as the gateway to the Pacific Rim, Latin America. And as such, it is critical that products that are coming from West Virginia and Rochester, New York, and Ohio, and Texas, and other parts of the country that are headed to the Pacific Rim, it is absolutely essential that those products gain access to the ports of Long Beach and Los Angeles.

It is also very important that as we, I am happy to say, import from the Pacific Rim, allowing the single mother who has a hard time making ends meet, allowing her to have access to products that are available at Wal-Mart and Target and a wide range of other stores, we need to make sure that those products are able to get into the United States once they get to the ports of Long Beach and Los Angeles.

That is why I am very happy that, in this legislation, we deal with the important southern California infrastructure challenges that we have.

We have a big project in southern California known as the Alameda Corridor. The Alameda Corridor basically allows goods to get to and from those ports of Los Angeles and Long Beach by way of rail and truck traffic. And the original Alameda Corridor concept was a great one, which I strongly, enthusiastically embraced. It allowed these products to move to downtown Los Angeles.

One of the big challenges is the fact that as we look at moving beyond downtown Los Angeles, there is a huge, heavily-populated area to the east of downtown. In fact, one of the fastest growing areas in the United States of America is what is known as the Inland Empire. I represent a small part of that. My colleagues, the gentlemen from California (Mr. LEWIS) and (Mr. BACA), and others, represent, also the gentleman from California (Mr. CALVERT), the San Bernardino Riverside, the gentlewoman from California (Mrs. BONO), and these members have to deal with the challenge of seeing these goods move through their areas. That is why I believe that we are on the right track in this legislation as we deal with what is known as the Alameda Corridor East issue, which will allow us to focus on grade separations, which are going to be so key, and also the other transportation issues that affect southern California will again free up the interstate system, allowing for the movement of these goods.

So, for example, in the area that I represent, we have a very important project that is included known as the Gold Line Foot Hill Extension. We also have the Foot Hill Transit System in our area. Now, as we are able to see people move into these areas for mass transit, it will enhance the opportunity for us to see the very important goods move to and from the ports of Los Angeles and Long Beach.

So we see a very, very key nexus developed here that will deal with our Nation's commerce. And job creation and economic growth are critical for us. We are very pleased that we have been able to see that put into place following the implementation of President Bush's tax reduction plan, as we have looked at our goal of again opening up new markets so that we can move goods outside of our borders into other countries around the world.

So we are on the right track. This legislation is absolutely essential. So I am strongly supporting this rule which makes in order 10 amendments, a bipartisan amendment. As my friend from Boston pointed out the other day, or last night, we have Republican amendments; we in the Committee on Rules are going to be meeting later today to allow for consideration of further amendments so that we will be able to continue to work through this process tomorrow and then, we hope, finish, and, with a very strong, bipartisan vote, send this measure to the other body so that we can get it to the President's desk just as quickly as possible.

□ 1115

I again, Mr. Speaker, congratulate all of those who have been involved in this important process. I thank again my very good friend from West Virginia (Mrs. CAPITO) and my friend from Rochester, New York (Ms. SLAUGHTER), the distinguished ranking member of the Committee on Rules, for the leadership she has shown on this.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate my colleague permitting me to speak on this rule.

I am pleased to follow my friend from Southern California (Mr. DREIER), the chairman of the Committee on Rules, because of one of the areas of concern I have with this bill, and I am hopeful that there will be some amendments made in order, speak specifically to some of the problems of Southern California.

I flew over recently the Alameda Corridor and looked at the problems down there. I have supported it in the past. But the area the gentleman speaks to is currently getting back over a billion dollars a year less from the highway fund than it puts in. There are some serious imbalances currently under our system.

There is a potential that this bill may be hung up at some point over the donor/donee argument, and we will watch as this moves along through the legislative process. But there is a much more fundamental problem in the country in terms of the distribution of transportation money, and that is between our metropolitan area, like my friend from Southern California (Mr. DREIER), where there is a vast amount of money that they put in and they get back a much, much smaller portion.

Orlando, Florida, 58 cents on the dollar; Tucson, 57 cents on the dollar: Dallas, Ft. Worth, 75 cents on the dollar: this is an imbalance for the vast majority of metropolitan areas in the country.

There has been an effort to get an amendment made in order by my friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), that would require some of the CMAQ funding that is used to solve air quality problems to be spent by the States. And currently some of the States like Texas are withholding this money, not spending it on the area to solve the air quality problem which is actually the source of the money.

I am hopeful before we are through we will be able to have this rule amended, to be able to make that in order, and that we look at this overall imbalance.

I am also deeply concerned about an element that is coming forward from my friend, the gentleman from Minnesota (Mr. KENNEDY). Last year he had an amendment that is out that would restrict the ability of toll revenues just to be used for new construction. This is a horrific proposal. There is no reason to restrict State and regional areas on how they spend that money. This would allow them to spend the money to expand the road system, but not use the same money to maintain the road system. Even worse than that, it would not allow San Diego, Houston, New York, Minneapolis, or other communities which are currently doing valued pricing to continue to do this.

This is a bad idea. It is opposed by most of the State and local authorities who are going to have to live with this bill.

Now, I for one hope that we will be able to continue in the bipartisan spirit from which it came from our committee. We have the broadest coalition supporting our chairman, the gentleman from Alaska (Mr. YOUNG), assembled in the history of infrastructure that has been considered by this Congress, from the Chamber of Commerce to the environmental groups, from the bicyclists, to the asphalt folks, the Women's Federated Garden Club of America all are on board for this broad-based, bipartisan bill. I sincerely hope we do not have it hijacked by narrow special interests and that we are able to debate it fully, fairly, honestly to make it work best for the American people.

We have been in the infrastructure business for the Federal Government since the founding of the Republic. It is an important national issue. I hope we maintain it.

Mrs. CAPITO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to reiterate that this is the first rule for this bill. There will be further consideration of amendments later this afternoon and will continue into tomorrow with further consideration of additional amendments.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. McGOVERN. Mr. Speaker, I thank the ranking member for the time. Mr. Speaker, I rise today in support of H.R. 3, the Transportation Equity Act: A Legacy for Users.

TEA-LU extends Federal highway and transit programs guaranteeing nearly $284 billion over the next 6 years. This funding will provide for Federal highway aid, mass transit, and road safety programs.

I am concerned, Mr. Speaker, that the Committee on Rules did not make a single Democratic amendment in order last night. I know that the committee will be meeting again on this issue, and I hope that we can have a more open and bipartisan process.

Mr. Speaker, we need to reauthorize this funding for the sake of our crumbling infrastructure. Our transportation network requires technological improvements. Our road and bridges are in dire need of upgrades and maintenance. Our drivers and passengers deserve the best safety programs.

The number of deficient highways and bridges in our country is staggering. Nearly 30 percent of highways are structurally deficient or functionally obsolete; 600,000 bridges are considered deficient by the Federal Highway Administration standards. In my home State of Massachusetts more than half of the bridges rank below standards.

Mr. Speaker, reauthorization of TEA–21 will provide repair and maintenance that our highways and bridges so desperately need. Our highways and bridges are severely damaged each year by increased truck sizes and weights, and I plan to introduce the Safe Highways and Infrastructure Preservation Act, better known as SHIPA.

My bill would make our highways safer and prolong the life of our roads and bridges by extending the commonsense limits we already have on the interstate highways to the entire national highway system.

I am concerned about an amendment made in order by the Committee on Rules last night that grants exemptions for the size and limits of longer combination vehicles, LCVs. The amendment would grant an exemption from the LCV freeze for trucks hauling custom harvesters in Nebraska during the harvest season for wheat and soybeans. I can appreciate the needs and concerns of these farmers; but, Mr. Speaker, this amendment sets a dangerous precedent, and I encourage my colleagues to vote against it.

The underlying bill also addresses the growing problem of traffic by proposing funding for alternative modes of transportation. It authorizes $52.3 billion for mass transit and public transportation programs. By strengthening public transportation, we are able to extend services to those who need it most like the elderly and the disabled.

Allocating funding for public transportation programs is just the first step. We need to find ways to encourage people to use public transportation and mass transit. Congress needs to expand our public transportation network through increased ridership initiatives. The commuter benefit tax credit is one such initiative.

Currently, employers can offer $200 per month in pretax benefits for parking, but only $105 per month for transit or van pool benefits. This inequity has created a financial incentive for employees to drive alone to work rather than utilize public transit for van pools. As a consequence, we have seen a decrease in ridership and corresponding increase in commuter rail and transit cars.

Today I have sent to all my colleagues in the House a Dear Colleague letter that illustrates the need to equalize the commuter tax benefit with the parking benefit. This letter summarizes the costly commuter rail fares of our Nation's major transit systems, and I encourage all of my colleagues review this information, and emphasize the importance of the commuter tax benefit during debate this week.

Along with creating incentives for people to use public transportation, we need to address the issue of traffic. I want to express my appreciation to the work of the chairman and the ranking member of the Committee on Transportation and Infrastructure for including in this bill several initiatives to reduce congestion. For example, H.R. 3 requires States to obligate a portion of their annual highway formula funding to activities aimed at alleviating congestion. These initiatives will result in a reduction of automobile emissions and a corresponding increase in the efficiency of our highway system.

A significant amount of funding in H.R. 3 is dedicated to supporting transportation safety programs. Over $6 billion is authorized for programs carried out by the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration. This funding would provide for occupant protection grants, seatbelt incentive programs, motorcycle safety, driver fatigue, child booster seat initiatives, and alcohol impairment programs.

Another major problem that this bill targets is the transportation planning process. H.R. 3 consolidates the planning process for highways and public transportation projects for metropolitan areas and States. It designates the lead agency, the Transportation Department, to conduct reviews, set deadlines for public comment on projects, and resolve disputes among agencies.

The reauthorization of transportation funding needs to happen, Mr. Speaker. Reauthorization is not only necessary for our infrastructure, but also essential to our economic growth, international competitiveness, quality of life, and national security. Our transportation infrastructure is aging and the only way to keep up with the growing demand is to reauthorize our transportation systems and to make sure this bill gets completed and to the desk of the President in this Congress.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CAPITO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to reiterate the importance and congratulate not only my colleague, the gentlewoman from New York (Ms. SLAUGHTER), but the chairman of this committee, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for their terrific efforts in seeing this bill brought to the floor; and I look forward to its swift passage.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCHUGH). Pursuant to House Resolution 140 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3.

□ 1128

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The Chair designates the gentleman from New York (Mr. FOSSELLA) as chairman of the Committee of the Whole, and requests the gentleman from Illinois (Mr. KIRK) to assume the chair temporarily.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 2 hours and 20 minutes, with 2 hours and 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure, including a final period of 10 minutes following consideration of the bill for amendment, and 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

At this time, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 1 hour, and the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 5 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I rise once again in support of the Transportation Equity Act: A Legacy For Users, also known as TEA–LU.

I have been chairman of the Committee on Transportation and Infrastructure for the last 4 years. These 4 years have convinced me that we face a crisis in this country because of our inadequate, crumbling, and congested highways. We are not taking the steps today to ensure the ability to move people and freight tomorrow. Continuing to underfund and undermaintain our highways and transit systems ensures more traffic fatalities and reduces economic opportunity for our citizens.

Congestion of our highways causes over $67 billion and probably higher than that because very frankly the cost of gasoline has gone up. It costs the average driver about $2.400 a year and more than a week and a half spent stuck in traffic, actually more days than they usually get for vacations.

I introduced H.R. 3, TEA–LU, on February 9, 2005, along with my colleague, the gentleman from Minnesota (Mr. OBERSTAR), our ranking minority member, as well as our subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI), and another subcommittee ranking minority member, the gentleman from Oregon (Mr. DEFAZIO).

□ 1130

We were joined by 71 other committee members who sponsor this legislation.

H.R. 3 is substantially the same bill as H.R. 3550, which passed the House last year and which we conferenced with the Senate and, unfortunately, were unable to come to a decision. I am disappointed that the conference was not successful because of inaction of the other body. However, I am committed to getting H.R. 3 passed before our current extension expires.

The Department of Transportation and the highway, transit, highway safety, and motor carriers programs of DOT are all operating under the extension until May 31, 2005. After that date, DOT can no longer reimburse the States for the funds that the States are obligated to expend for highway, transit, and other programs covered by this legislation. My goal is to complete work on this legislation and send the bill to the President for signature before the end of May.

H.R. 3 will provide a funding level of 283, very frankly, $284 billion, in guaranteed funding over 6 years for Federal highways and transit programs, as well as highway safety and motor carrier safety programs. Fortunately, we have been able to increase the funding under H.R. 3 over last year's bill, and H.R. 3 represents a 42 percent increase in funding over TEA 21. The increased funding levels in H.R. 3 are supported by the administration.

H.R. 3 provides a new emphasis and a new program to relieve congestion, maximize roadway capacity, and remove bottlenecks.

H.R. 3 creates a new core program for the highway safety infrastructure improvements, a new high-risk rural roads safety program that promotes a number of new safety programs aimed at human factors that contribute to accidents.

H.R. 3 funds five programs designed to improve movement of freight, including funds for border infrastructure, intermodal connectors, projects of regional and national significance, and a new corridor infrastructure program.

The bill also provides funding for construction of dedicated truck lanes.

H.R. 3 continues our commitment to provide for public transportation both in our city and to man rural areas where the need is great.

Mr. Chairman, most significantly, H.R. 3 will put Americans to work by creating the kind of jobs that support families and increase our tax base. It is much-needed legislation that will move our country toward a stronger economy.

Mr. Chairman, before I close, I want to take one moment to thank all the Members and staff who have worked so hard to produce this legislation.

The gentleman from Minnesota (Mr. OBERSTAR), our Democrat ranking member, has been one of the most ardent supporters of this legislation. His contributions to this bill have resulted in a much better bill.

The chairman of the Subcommittee on Highways, Transit and Pipelines, the gentleman from Wisconsin (Mr. PETRI), has been the real workhorse on this bill. He has taken his subcommittee around the country to investigate the infrastructure needs of the United States.

We have a new subcommittee Democrat ranking member, the gentleman from Oregon (Mr. DEFAZIO). He has begun his new term with energy and enthusiasm, and I want to thank him for his contribution.

We could not have found the increases in funding without the contributions and efforts of the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and

Means. He has been a strong and steadfast supporter.

The gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget, has worked hard with me to accommodate the increases in authorizations needed to produce this legislation.

I want to thank the gentleman from Texas (Mr. DELAY), the majority leader, for his help in getting the bill scheduled so quickly in this session and for helping us find solutions to some very difficult problems.

Last, but not least, I want to thank the Speaker of the House for the countless hours he has spent working for us to keep the process moving. Without his support, we would not be here today.

Also, at this time, I want to thank the hardworking staff of the Committee on Transportation and Infrastructure who have been here for many nights and weekends drafting this legislation. The subcommittee staff who have made this happen are Graham Hill, Jim Tymon, Joyce Rose, Derek Miller, Suzanne Newhouse, Bailey Edwards, Will Bland, Sharon Barkeloo; Debbie Gephart and Patrick Mullane on the gentleman from Wisconsin's (Mr. PETRI) staff.

In addition, my chief of staff, Lloyd Jones, and chief counsel, Liz Megginson, Mark Zachares, Charles Ziegler, Fraser Verusio, as well as Debbie Callis and Kevin McColaugh.

I want to thank the gentleman from Minnesota (Mr. OBERSTAR), who is not here, but I see the gentleman from Oregon (Mr. DEFAZIO) over there. They have worked well with us. They have worked very hard. We have worked out a bill I believe that is good. His chief of staff, David Heymsfeld, and chief counsel, Ward McCarragher, as well as Kathy Zern, Art Chan, Ken House, Eric Vanschyndle, Stephanie Manning, and Kathie Dedrick of the gentleman from Oregon's (Mr. DEFAZIO) staff.

Last, but not least, I want to express my appreciation for the hard work of the legislative counsel who have made sure the proposal ended up on paper and in proper form. Our appreciation goes to David Mendelsogn, Curt Haensel, and Rosemary Gallagher.

This is a piece of legislation, Mr. Chairman, that is long overdue. It is important we pass this legislation so we can leave the legacy for users in the future.

Mr. Chairman, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

The chairman has done a good job of talking about the people who do the real work around here, which is the staff, with good direction from the Members, and the chairman of the committee and the subcommittee chairman and the direction that I and the gentleman from Minnesota (Mr. OBERSTAR) have attempted to provide in this endeavor.

This, I believe, may be the signature accomplishment of this Congress, as it goes to positive accomplishments for the economy of the United States and domestic programs.

The investment in this bill, investment of taxes, paid by the American people at the pump, we are not creating new deficit or debt here; we are spending their tax money in the way it was intended when it was collected from them when they tanked up their car or their commercial vehicle.

For every billion dollars in this bill of investment, of mitigating congestion, of repairing cracked bridges, of resurfacing highways, for transit, for every billion we spend, the President's Department of Transportation estimates that it creates about 47,000 jobs, not just direct good-wage construction jobs, but jobs that spill over to the contractors, the small businesses that subcontract, the communities where the projects take place with the spending in those communities, with improvement in the movement of freight so trucks do not have to take lengthy detours, so the just-in-time delivery can work better for American businesses, putting people to work in companies that are more competitive. All of that flows from this $284 billion investment.

In an ideal world, I would invest more and I believe that the chairman has a similar position on that, but we are constrained by current budget reality, and this is a good step to be taken by the House of Representatives; and hopefully, this will move the process out of limbo in the Senate. In the last Congress, we could have gotten this job done had the Senate followed the lead of the House. They did not. Hopefully, this time they will be more amenable to getting this bill done and getting it done long before the temporary extension expires at the end of May.

Our departments of transportation across the country need certainty. Many of them are restricted legislatively or constitutionally from obligating funds into larger projects or projects that will go more than 1 year because we are in this series of temporary extensions of the Transportation Efficiency Act as we move toward TEA–LU.

With the adoption of TEA–LU and the certainty that will come with that, we will see a whole lot of on-the-shelf, ready-to-go vital projects across America, that will put tens of thousands to work this next summer, move forward. But only if they get that certainty. It is estimated in the last year $2 billion of necessary spending, investment in roads, bridges, highways, transit projects was foregone because of this uncertainty. I mean, everyone knows we are going to make these investments, but at what level and over what period of time and with what constraints on the spending. So the States themselves need this.

In my own State, we have a tremendous problem with cracked bridges on Interstate 5, and it is interfering with international commerce and interstate commerce, and we want to move ahead; but we need the certainty of this legislation, the investment in this legislation to do that.

I see that the ranking member of the full committee has come in.

Mr. Chairman, I reserve the balance of the time on this side since I believe we will probably hear from the other side of the aisle.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. PETRI), the subcommittee chairman, who has done an outstanding job. As I mentioned in my opening statement, he has been the real workhorse on this bill.

Mr. PETRI. Mr. Chairman, I would like to say that here we go again, another transportation reauthorization bill before the House of Representatives.

Every Member of this body knows that this bill is long overdue, and I want to assure my colleagues that we struggled mightily during the last Congress to get a long-term reauthorization bill in place, but came up a bit short.

There is some good news in that the guaranteed funding in this bill is a bit higher than the bill authorized last year, and it is in line with the President's budget proposal. This $4 billion increase is largely due to the positive ethanol gas tax changes that were included in last year's corporate tax bill.

That being said, however, the fact remains that many of the challenges we faced during the 108th Congress we continue to face today. The simple fact is that we do not have the resources needed to meet our Nation's transportation needs, both infrastructure needs of our Nation as documented by the U.S. Department of Transportation, and the needs of the Members as communicated to our committee, representing needs of areas all across our Nation.

I believe that this is very shortsighted and that all of us, Republicans and Democrats alike, can and should support a strong infrastructure program that pays back so much in terms of economic development, international competitiveness, safety, mobility, and improved quality of life. A first-rate infrastructure is essential to a vibrant, growing economy; and in fact, we as a Nation are in danger of falling behind since, in real terms, our Federal investment in infrastructure is falling behind.

Our Governors, mayors, county executives, business leaders, labor and other groups all know this. The Chamber of Commerce has teamed up with a diverse group of State and local governments, business and labor groups under the Americans for Transportation Mobility coalition to highlight the importance of transportation investment to businesses and, in fact, to local communities as well.

Across this country, we have seen at the State and local level citizens voting in referenda to increase State sales taxes or issue bonds to devote more resources to transportation. They see on a daily basis how we are falling behind.

Coincidentally, today the American Society of Civil Engineers issues its 2005 report card for America's infrastructure. For transportation, the grade for roads is worsened from D+, already rather low, to D. Transit decreases from a C− to a D+.

Currently, we rely on the 18.3 cent gas tax, which has not been increased for over 10 years since 1993, and truck taxes to fuel highway and most transit spending at the Federal level. I am pleased that the bill before us takes steps to look at the next generation of financing for the building of roads and transit.

As cars become more fuel efficient or use alternative fuels or other environmentally beneficial fuels, all of which are, of course, good things that should be encouraged, we see less revenue coming in to the Highway Trust Fund. The gas tax is meant to be a surrogate for road usage and is the standard for the user-pay system of our Federal highway program, but I am afraid that we are using a 20th-century benchmark in the 21st century. H.R. 3 takes real concrete steps to move us toward modernizing and updating how we finance our Nation's roads.

The bill before us does differ from H.R. 3550 in that we have made revisions relating to the donor State issue. The "scope" issue has been addressed so that, for example, high priority projects are now once again covered under the Minimum Guarantee program, a major change from the bill last year, and other improvements have been made as well.

As it has been noted, this issue will continue to be addressed as we are in conference, and this is not the final resolution for this particular issue. This is my fifth transportation bill since joining the Committee on Transportation and Infrastructure, and this is always the most complicated issue to resolve.

While I wish the funding levels were higher, nevertheless every State will see an increase in its funding. The bill includes programs for safety: infrastructure safety on the road, work safety, motor carrier safety, and behavioral safety.

Harley Davidson is headquartered in my State, and we have several provisions addressing motorcycle safety.

□ 1145

Motorcycle safety grants are authorized, and I encourage States to look at using these and section 402 funds to address impaired driving, which is a great cause of concern.

H.R. 3 will facilitate the movement of freight around our Nation, an important element of interstate commerce and a primary Federal interest in transportation. It will allow us to meet the needs of emerging trade corridors in the post-interstate construction era and other projects that have regional national significance yet overwhelm the financial capabilities of any one State.

We retain funding for transit at the traditional split and include programs that will help States meet the mobility needs of both urban and rural communities and improve transportation services for the elderly and disabled.

Mr. Chairman, I thank my chairman for giving me the opportunity to address these issues.

Mr. DEFAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the committee and a champion of all modes of transportation.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman, the ranking member of the Subcommittee on Highways, Transit and Pipelines, for yielding me this time.

Here we are again, hopefully, to the Floor with what I fervently hope will not result in yet another extension of current law for our surface transportation program. That we do not have in place a 5-year or 6-year extension of our surface transportation programs is certainly not attributable to the Members of this Committee on Transportation and Infrastructure. Both sides of the aisle have worked vigorously, Mr. Chairman, to craft a bill that meets the needs of America's reliance upon our highway and transit systems to move people and goods efficiently and effectively in America.

The very first version of this bill was introduced in the fall of 2003, in October, at $375 billion, the investment that the Department of Transportation recommended to the Congress and to the administration that the Nation needed to invest over the next 6 years, following on TEA–21, to address the needs of pavement condition, congestion and safety across America. We took them at their word. Together, we crafted a bill that reflected the $375 billion investment, and together, we introduced that bill under the leadership of our chairman, the gentleman from Alaska.

At the time we introduced that bill, gasoline was selling at $1.34 a gallon. Today, it is well over $2.04 across the Nation. Oil will soon be selling at $60 a barrel, according to current analysts' reports, and the price of gas will go higher. We are not getting any of the benefit of that increase in pricing here in America in our highway transit programs. The dollars are going overseas.

In an age in which we are so concerned about outsourcing of American jobs to low-wage countries, the one place that jobs are not outsourced is on our highway and transit program; the highway that is built in front of your home, in your community, between communities, the transit systems that are built are built with American labor and American materials. We require American steel to go in the Federal highway program and into the transit program. We have strengthened the Buy America provisions in this legislation and that have existed since 1982.

You know, you cannot build a highway in Shanghai and put it in place in Peoria. It's put in place in America with American labor. Those are American jobs. We created 1,300,000 net new jobs in TEA–21, and with a $375 billion investment over the next 6 years, we would create 2 million net new jobs and $291 billion of total related net new economic activity in America.

But we are not here debating that bill, because the economic gurus downtown at the White House said, oh no, that is way too much. They do not understand this comes out of the Highway Trust Fund. It is a pay-as-you-go system. American drivers are paying for this system. It is the most successful initiative we have had, except for Social Security, in our whole government structure. Since 1956, the Highway Trust Fund invests your dollars with your purchase at the pump, and you drive away on good roads. It is just that simple. And this committee has been faithful and true to that principle since 1956, going on 50 years.

But when we got that message that, oh no, that is not the number, we scaled our bill back; you did not hear any partisan bickering. What you saw was bipartisan cooperation. We brought a much lower bill to the floor, the Transportation Equity Act, a Legacy for Users, TEA–LU, and we took it through this House to the conference, where it stalled again over the level of investment that we need to make in America's transportation future. And it could not be resolved all the way through and up to the election, nor in the lame duck session afterward. So we are here again to make that effort.

Now, in the committee, we have agreed on the structure of the legislation, on the way in which those dollars are going to be invested, the programs, the allocated and allotted programs, the apportioned programs, and we bring to this body good investment in the future of transportation in America.

In safety alone, we invest $6 billion in the future of safe roads in America. In 1956, when the Highway Trust Fund was created and the interstate highway program launched, the projections were, if America did not move to a much safer highway system, a divided access controlled superhighway program, we would be killing 110,000 a year on America's roads. And because of the interstate highway, we are saving well over 50,000 lives a year.

We need to do better, however, and we can and will do better with the investments we are making in this legislation. For example, the $550 million investment in rural road safety. Forty-three percent of America's fatalities occur on rural roads. In our State of Minnesota, half of those fatalities are people from the metropolitan area driving in rural Minnesota who are killed on unsafe rural roads.

We need to make the investments to improve the quality of safety on our rural road system as well as in urban-suburban areas. We do that in this legislation. We make the right investments.

We need to move this bill forward, get it through this House. Unfortunately, we are delayed. And while discussions continue and negotiations continue on a term that is a term of art, not a term of law, over the scope and the percentage return on investment each State perceives it gets back from the Federal Highway Trust Fund, I hope that will be resolved today, and we can move on with the manager's amendment and settle the issue and go to conference.

Our chairman, the gentleman from Alaska, has led us through political storms over this issue. He has been a steady hand at the helm, and I applaud his leadership and his firmness. I hope that we will resolve this matter expeditiously, bring the manager's amendment to the floor and then proceed to conference with the Senate.

This is a tight time frame. Current law expires the end of May. The Senate is not expected, the other body, forgive me, is not expected to take up their version of the bill until after the Easter recess. That would mean mid April before we even get to conference. That leaves a month or so to negotiate all the differences in policy between the two bills. I certainly do not relish the prospect of the two of us coming back to the House floor sometime in May and saying, sorry, we cannot get there, we have to have another extension of current law.

We need to move ahead now. The Sand & Gravel Institute is reporting 43 percent unemployment among their membership because States are not letting long-term contracts. The Concrete Pavement Association, the Asphalt Pavement Association are all reporting unemployment levels in excess of 40 percent among their members because States are not letting long-term contracts. We can settle that by getting this bill through the House, through conference, and to the President for signature. Even at this lower level of $284 billion, that will mean a significant advancement in the cause of transportation, in jobs, in economic vitality and productivity in America.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman from Minnesota. He has been a real ally in this legislation, and he knows how well we work together and how important to this Nation it is to pass this bill. This is a team effort within a committee that has been very, very bipartisan over the period of time that I have served on it, for the last, actually, 12 years, and even before that. This committee has a record of that, and he has continued that. I think it is crucially important for those watching this on television to know that there are committees that do work hand-in-hand together for the betterment of this Nation, and for that, I thank the gentleman.

Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I thank the gentleman from Alaska for yielding me this time and for the opportunity to address probably one of the most important pieces of legislation to be considered by this Congress, and that is our Federal policy in projects for funding transportation throughout our Nation.

Mr. Chairman, back in the 1950s, I believe it was in 1954, President Eisenhower sent Richard Nixon to Lake George, New York, for the National Governors Conference. And at that conference, Vice President Nixon proposed to the governors basically a $1 trillion interstate program, and that was when the Federal budget was somewhere in the $80 billion range. I wish that we were here today talking about a $1 trillion funding project to improve the infrastructure of our Nation.

If we look across the country, it certainly could be justified. Just in my district in Florida, from Orlando to Jacksonville, we probably have $4 billion or $5 billion in immediate project needs, and that just scratches the surface. I know traffic congestion is a problem across the Nation.

I compliment the chairman. He has had to deal with the White House, he has had to deal with varied interests. I compliment the ranking member. He has also had to deal with the fiscal constraints that we see ourselves under at this time and try to come up with a reasonable solution to funding our Nation's highway. So I thank everyone for getting us to this stage.

Now, I have not made up my mind whether I will vote for or against the final transportation and highway funding formula that we see. I say I have not made up my mind, I do support the proposal as it is brought forth here in the House today. I support it because it represents a $48.6 billion increase. That is a 27 percent increase over TEA-21, its predecessor authorizing legislation.

I support this legislation today because the House passed a $275 billion bill, and this represents $284 billion additional spending that has been agreed upon by the White House and other participants, and also a $299 billion, almost $300 billion with contract authority piece of legislation, which is more than what we had last year. In fact, it is $9 billion more for highway funds over what we voted on last year in the House of Representatives.

□ 1200

However, and here is a caveat, I still am not certain whether this is fair for Florida as a donor State, a donor State which in committee we heard that Florida received, for every dollar that it sent into the trust fund some years ago, 58 cents in return.

We have gone to 79 cents. We are now somewhere around 86 cents, that is, for every dollar we send here, we get back 86 cents. I do not know today. I do not know at this hour, and I do not when we pass the final bill what our net rate of return is. That is what I will have my eye on the ball for.

And I think that is what all of the donor States ask for. And we do not ask for anything that we are not entitled to. In fact, we would very much like to have 95 cents come back as a minimum. We will probably not get that. But all we ask for is fairness in this process.

I know at this time, and I have not seen all of the details of the manager's amendment, that there will be carved out projects of national significance; and I do support this.

But what we ask for is fairness, fairness to Florida, fairness to Illinois, fairness to Alaska, fairness to all of the States in the Union, and all of those who will benefit by this bill.

So we are going to try to support this bill. We had to sort of hold our nose and vote for the previous bill which was not as good as this piece of legislation that comes before us today

But we, the donor States, working with the gentleman from Texas (Mr. DELAY) and others from across the Nation that are also donors to this fund, want to see fairness in the final bill. So it is in everyone's interest that we move this bill now forward to conference committee.

So I urge my colleagues to look very closely at the provisions of the manager's amendment and how it affects each of their individual States. I urge you to support this legislation and that we pass this bill and move it on to conference.

Mr. DEFAZIO. Mr. Chairman, I yield myself 30 seconds. I have worked closely with my colleague from Florida and always enjoy working with him. I would be happy to go for a trillion dollars in this bill. And I think we could spend that money wisely and make the country more competitive. I can guarantee him, if we could get to a trillion dollars, we could get him back 99 cents or maybe even a dollar on a dollar.

So I am hopeful that as we move through the process we can increase the amount of money, which will allow us to accommodate States like Florida and others who need investments just like everyone else in this country.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of TEA–LU. The gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), our ranking member, have done a remarkable job. It is a credit to their leadership that we are unified in our desire to pass such a major piece of legislation.

No bill in the Congress that I know of considered this year will do more to positively affect the quality of life of every single American than this surface transportation reauthorization.

This is the key bill. I know I am not alone in wishing that we had more funds to make the capital investments to meet the ever-growing need. After decades of investments to meet an expanding Nation in a growing population, the United States transportation system is unmatched anywhere else in the world. A vital transportation sector is a major reason for our Nation's high productivity and mobility.

But we cannot accept stagnation. Without continuing to grow the program, we will fall further behind. New Jersey has some of the oldest infrastructure in the Nation. Mr. Chairman. This bill will do wonders for helping rebuild decrepit bridges and bringing commercial and commuter corridors into the 21st century.

My home State has over 1,100 people per square mile going every which way. Without increases to meet our mass transportation needs included in this legislation, we will have to macadam our living rooms to reduce congestion on our roads.

There is one provision I am disappointed is missing from the legislation. The gentlemen from New Jersey (Mr. MENENDEZ and Mr. LOBIONDO) have joined with me in crafting a bipartisan amendment to address an important clean-government issue found not only in New Jersey but across our Nation. Throughout the country, States like Connecticut are in the process of enacting pay-to-play restrictions to address the threat of real and apparent corruption resulting from large political contributions from contractors to influence the awarding of public contracts.

Unfortunately in an interpretation of the Federal law, the Federal Highway Administration is withholding Federal aid highway dollars from States which choose to clean up corruption. The Pascrell amendment would clarify the law so that the rights of States are very clear.

Our amendment allows States to enact anticorruption laws curbing the practice of pay-to-play contracting without losing their Federal aid. Federal precedent is clear on our point as well. Section 441(C) of the Federal Election Campaign Laws that prohibits campaign contributions for government contractors, this is the Federal law, in the 1990s the SEC enacted a pay-to-play ban, prohibiting contributions by bond traders. That has been upheld by the Federal courts.

I would urge the Rules Committee to protect our simple bipartisan amendment within its second rule tomorrow.

I congratulate the chairman and ranking member on advancing this legislation. As the process moves forward, we must work together to fight for a better bill, a bill which will create needed middle-class jobs.

I thank the gentleman for yielding the time.

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent to allow the Committee on Ways and Means to use their allotted time at this point.

I also ask unanimous consent that I yield my time to the gentleman from Wisconsin (Mr. PETRI) to control until I return. I have to go to another meeting.

The Acting CHAIRMAN (Mr. CARTER). In response to the gentleman's first request, the Chair will advise that the chair is able to manage the sequence in which the committees use their time as a matter of recognition.

In response to the gentleman's second request, the Chair will recognize the members of the committee who are filling the roles of chairman and ranking minority member under the governing special order of business.

The members of the Committee on Ways and Means, the gentleman from Florida (Mr. FOLEY) and the gentleman from California (Mr. THOMPSON) each control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

On behalf of the Committee on Ways and Means, I rise in support of the tax provisions that will finance H.R. 3, the Transportation Equity Act: A Legacy for Users.

H.R. 3 extends the Highway Trust Fund expenditure authority for highway projects through fiscal year 2007. This bill addresses the need to upgrade our Nation's highways and infrastructure, to improve driver safety and reduce congestion.

The American highway system is a critical component of our economic growth in terms of job creation and the movement of goods. Unless we act, funding for the Highway Trust Fund will be cut off after May 31, 2005.

Last year the House and Senate did not complete negotiations on the 6-year reauthorization of the Federal highways programs.

This left Congress with no choice but to extend the authorization on a short-term basis, which is never an ideal solution. H.R. 3 would provide $284 billion of funding for the Federal highways programs through fiscal year 2009, the same amount proposed in the administration's budget, and $5 billion more than the House approved last year.

It is my hope that the House and the Senate will reach agreement on a reauthorization bill this year so that critical transportation needs can be addressed. The tax provisions before us today do more than extend the expenditure authority of the Highway Trust Fund through fiscal year 2009. They reauthorize transfers from the Highway Trust Fund to the Aquatic Resource Trust Fund to account for fuel taxes collected from motor boat use, but it does not extend the general fund retention of motor boat fuel taxes.

It also extends the excise tax to fund the Highway Trust Fund at current levels. Mr. Chairman, these tax provisions will fund new highway projects that will strengthen local economies and create local jobs.

Mr. Chairman, I urge my colleagues to vote in favor of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise on behalf of the Committee on Ways and Means, and the committee approved the tax title to the highway reauthorization bill last week. The tax title of this bill appears to be noncontroversial.

To summarize, the tax provisions would extend current law highway-related excise taxes until 2011 and the Highway Trust Fund expenditure authorities until 2009. These provisions under current law expire in 2005.

We need more transportation funding. This is a good bill, and I commend both the chairman and the ranking member and all of those on the Committee on Transportation and Infrastructure who have worked so hard to bring this bill to the floor today. Apparently, there has been agreement among the Republican leadership that H.R. 3 provides the right level of funding for our transportation systems in the coming years. However, I believe strongly that we still need to be doing more.

I know that the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), who has done so much on this for so long, will speak strongly on the need to do more to improve and to maintain our existing transportation system and to ensure adequate infrastructure investments nationwide; and I strongly agree with the gentleman.

Our Nation's long- and short-term needs have been specific and well documented by the Department of Transportation. All that needs to be done is for this Congress to act and to provide that adequate level of funding.

Mr. Chairman, I reserve the balance of my time.

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

To quickly summarize, this bill, on behalf of the Committee on Ways and Means, provides new highway projects that will strengthen local economies and create local jobs; extends the authority to spend money from the Highway Trust Fund through September 30, 2009; provides $284 billion in needed funding for Federal highways; and extends the present law excise tax that finances Highway Trust Funds through September 30, 2011. It reauthorizes Highway Trust Fund transfers to the Aquatic Resources Trust Fund to account for fuel taxes collected for motorboat use, but it does not extend the general fund retention of motorboat fuel taxes. The administration supports the $284 billion funding level.

Mr. Chairman, I yield back the balance of my time.

Mr. THOMPSON of California. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

The Acting CHAIRMAN. The gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5½ minutes.

Mr. BLUMENAUER. Mr. Chairman, I thank the gentleman for yielding me this time.

I am pleased to rise in support of the bill. I think the Committee on Ways and Means is moving forward in a way that is reasonable with this. I personally am very pleased that the basic overall structural integrity of the bill has been maintained. It is a good bipartisan framework that builds on ISTEA. It has something for virtually every community in America.

I am particularly pleased that there is language in the bill that deals with small starts. I have had experience in my community with a street car development that is much less expensive; it is quick to build. It goes back and helps us reinvigorate the neighborhoods that were originally built around street cars decades, sometimes a century, ago. We have over 80 communities around the country that are interested in their opportunity to build a street car. The bill contains almost $1 billion over the next 5 years in projects that are termed "small start," between $25 million and $75 million. It provides for an expedited process separate from the more expensive, more complex, more cumbersome new-starts provision.

I look forward to working with members on the committee to refine and move this forward. I hope we will have strong support from both sides of the aisle in conference to make sure that this is something that survives and is further enhanced.

And before I finish on the small-starts point, I would like to express deep appreciation to Joyce Rose and to Ken House for making it possible for this language to be there and to be as effective as it is.

☐ 1215

I did want to make one brief reference to the donor-donee that my friend from Florida was talking about, that they are up to 85, 86 percent. I have some sympathy for that. But as I pointed out on this floor, the big donor-donee disparity is not between a few States that win or lose, it is between the metropolitan areas across the country that are systematically shortchanged in the allocation of transportation money. It may be that part of that is because the way that the structures go with the MPO and the flow of Federal dollars, that metropolitan areas have only a say over 6 percent of the funding flow. I see my friend from southern California. There is over a $1 billion net outflow from southern California in the metropolitan area to deal with its transportation needs. There are any number of cities in Florida that get less than 60 and 70 percent on the dollar. I see my friend from Dallas here. Her metropolitan area gets only 75 cents on the dollar. Of the 276 metropolitan areas, the vast majority of them are shortchanged, and in most instances, it is far more than the level that we are talking about between the donor and donee States.

This is something that Congress is going to have to spend some time focusing on. How do we guarantee that the needs of our metropolitan areas, where the vast majority of our population live, are met? Whether you are in a red State, a blue State, south, east, north or west, people live in these metropolitan areas; and in community after community after community, they are shortchanged. We have people come to the Floor supporting this excellent bill. I join them. And I am pleased that people are concerned to reduce the problems of congestion, of air pollution, of an inability to move freight in this country. But where is the air pollution, the congestion, the problems with freight? It is in the metropolitan areas. And unless we spend the money where it is needed, we are never going to improve the air quality, we are never going to be able to reduce the congestion that is strangling our communities. We are having a situation where it takes less time for freight to move from Portland, Oregon, or from Long Beach/LA to Chicago than it takes to move that freight through Chicago. Longer than it took to get there in the first place.

Mr. Chairman, there is no more important environmental or economic development legislation before this Congress. I like the direction that we are moving. I hope that we maintain the balance, the structure, a bipartisan effort to meet the needs of all America's communities. I hope that we are going to be looking towards the future, however, to make sure that we not only maintain that structure but we look for ways to get the money where it is most needed.

Mr. PETRI. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. GARY G. MILLER), a valued member of the committee.

Mr. GARY G. MILLER of California. Mr. Chairman, this bill has been a long time coming. I would like to commend Chairman YOUNG and Ranking Member OBERSTAR for their work together on this bill. It is amazing how two individuals from different parties can get together and share a common cause, and that is to better the transportation system within our Nation.

I would also like to commend Chairman YOUNG's staff, they have been very accessible trying to accomplish this bill, and Subcommittee Chairman PETRI. I understand your passion, and I share that with you, but I have watched you work in recent years and your motivation towards providing a better transportation system for this country.

When this country was founded, we had basically two main areas of oversight. That was to ensure interstate commerce, and protect and defend our borders. This bill ensures interstate commerce. It is definitely not the amount of money a lot of us would like to see it be. Chairman YOUNG, I know, fought very hard, and we all know what a kind and gentle man he is and an easy man to get along with, but he put that aside and was willing to be forceful, he is a forceful man by nature, and to really fight for what we believe is right and that is more money for our States.

California, as the previous speaker said, is probably the largest donor State in this Nation. Unless you go to California and you drive the freeways and you understand what working people go through, what truckers go through, the problem we face with the Alameda Corridor East which deals directly with the ports of Long Beach and Los Angeles, when that was funded originally in the mid-nineties, we funded 100 percent of the improvements from the harbors to commerce, but there was nothing done from commerce all the way through LA County, San Bernardino County, Riverside County and Orange County. The impact is incredible, and it is growing daily. How many people do you know that cannot afford to live within the communities within which they work so they have to buy in an area that is outside of their working areas, we see in California, and they spend hours each day driving back and forth to work, and it is getting worse. Unless we come up with the funds to improve our at-grade crossings for the trains, we are just going to sit there and watch trains go by. We are going to sit on the freeways and watch trucks coming back and forth from those harbors when people are trying to get back and forth to work to provide for their families.

Nothing has as great an impact on our economic development, growth patterns and quality of life as transportation. If you are going to have a good system, if you are going to have a system that is critical in keeping people moving and goods moving and cities and communities prosperous, you have to provide for the transportation needs that the American people are demanding and require.

In California, they have gone through some very difficult economic times. The State of California has been in deficit for recent years and is having to continue to cut back on their spending. One area they tend to focus on cutting back on seems to be transportation. I have never been as impacted by calls, letters and requests from my local communities, and those requests are for dollars to be able to meet the local transportation needs that they have, needs that, in the past, they have been able to accommodate themselves.

This year, in some of our communities in California, it is worse than others because we have been plagued by an incredible amount of rain, more rain than the sewers in California are able to accommodate. We have houses sliding off of hills, very severe economic problems and situations that our cities and counties have been put into. And dollars that would otherwise be placed in transportation to fulfill those needs locally are being placed to help people who are being impacted by the slides and the devastation that California has recently experienced. Then that puts the cities in a situation where they have to come back to Congress and say, we need some of our tax dollars back to be able to help move people, to repair the potholes, to improve the highways, the freeways that are impacted, the bridges that are deteriorating in California and throughout this country. We have to do something about that. That is what this bill does.

Again, I want to praise Chairman YOUNG. He has done everything he can to provide the maximum amount of dollars we can through a bill. I would like to commend our leadership, Subcommittee Chairman PETRI. I really appreciate everything he has done. The staff that are here in the room. They have always been accommodating and willing to listen to our needs, and they have always done what they can to help us. Chairman YOUNG has gone out of his way to be understanding, cooperative and basically provide the resources that we need to better the people's lives in California. I am proud to be a part of this committee and be a part of this bill. I strongly support an "aye" vote.

Mr. DEFAZIO. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), a member of the committee and a leader on transportation issues.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, let me commend the leadership of this committee and that of the Highway subcommittee for all of the hard work and bipartisan work that has gotten us to this point today. Today, this committee is sending a message to the American people that investment in the Nation's transportation system is our number one priority.

I do not have to tell you that the clock is working against the infrastructure of our country, my State and particularly my district. The longer we wait to enact a reauthorization bill, the more costly it becomes to adequately address the Nation's crumbling infrastructure. Our Nation's transportation system is the backbone of our economy and way of life, and we cannot afford to shortchange either one of those.

Late last year, the Texas Section of Civil Engineers released its 2004 infrastructure report card in which the State's infrastructure received a dismal cumulative assessment of below average. The Texas Transportation Commission can fund less than 40 percent of the worthy road and highway projects. Twelve thousand of the State's 48,000 bridges are structurally deficient. Seventeen are in my district. Congestion is on the rise in urban areas, and deterioration of air quality poses an even greater risk to the health of our residents, particularly seniors and children.

I have one amendment that was accepted but there is another one that is still in question where we really need to address congestion, urban congestion. Our constituents have spoken, and we must act. It is imperative that we commit ourselves to working together to passing a final bill today, or tomorrow, that addresses our Nation's crumbling infrastructure. This creates badly needed good-paying jobs which we need to give attention to. It addresses our congestion and poor air quality, expands inclusion of minority and women-owned businesses in Federal transportation contracting and makes donor highway funding equity close to a reality. We must get this bill through conference and to the President's desk as soon as we can.

I thank both of the leaderships, majority and minority. I support this bill and hope that we can move it along rapidly.

Mr. PETRI. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. MARIO DIAZ-BALART), a hardworking member of our committee.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, first, I would like to thank Chairman YOUNG for visiting Miami recently and spending time understanding the important transit issues that we are facing in Miami-Dade County. The most important issue at this point, as the gentleman from Alaska knows, Mr. Chairman, is allowing $100 million committed by the Florida Department of Transportation for the Miami Intermodal Center, Earlington Heights connector to be used as part of the non-Federal match towards other transit corridors in Miami-Dade County. I also want to thank the gentleman from Wisconsin for his interest, and I understand that he is also interested in even maybe going to Miami to look at that specific issue.

This provision, which would guarantee the release of the $100 million from the Florida Department of Transportation, requires legislative language that I have been working on with the gentleman from Wisconsin, also with Chairman YOUNG and their talented staffs. I understand that negotiations are continuing on this issue and will continue to be worked on in conference after the gentleman from Wisconsin has had an opportunity to visit Miami in early April.

As the gentleman knows, the $100 million from Florida DOT will only be released if such language is included. This provision has strong bipartisan support among South Florida Members. Again, while this provision is not in the bill today, it is my understanding, Mr. Chairman, that we are continuing to work on it as the process continues.

Mr. PETRI. Mr. Chairman, I have met with the gentleman from Florida (Mr. MARIO DIAZ-BALART) and spoken with him several times on the issue of legislative language that would allow $100 million from the Florida Department of Transportation for the MIC to be used as part of the non-Federal match for other transit corridors. He has expressed his strong commitment to this language. I will be traveling to Miami soon to see the project firsthand. We will continue to work on this issue during conference. I look forward to the chance to visit Miami and better understand the project and the need for this language.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman.

Mr. DEFAZIO. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. I thank the gentleman for yielding time.

Mr. Chairman, I want to thank our ranking member and chairman for all of their hard work and the chairman and the ranking member of the subcommittee. This bill has indeed been a long time coming. We all know that $283.9 billion is a lot of money but certainly not enough, but the fact is that this is a continuing process.

☐ 1230

Also, I want to express my sincere appreciation to our ranking member and our chairman and their staffs for working with me and my staff to include language in the floor manager's amendment that will expand research on critical issues in hazardous materials transportation. The hazardous materials title of the TEA-LU bill regulates hazardous materials transportation to "protect against the risks to life, property and the environment that are inherent in the transportation of hazardous materials." TEA-LU's Research Title must set a research agenda that will support the accomplishment of these objectives.

In its Special Report 283, the Transportation Research Board found that perhaps the most notable gap in America's system for ensuring the safety and security of hazardous materials transportation is the lack of research that is cost-cutting and multi-modal in application.

My provisions amend TEA-LU's Research Title to require the administrator of a newly created Pipeline and Hazardous Materials Safety Administration to research nine crosscutting issues in hazardous materials transportation not adequately addressed by existing mode-specific research programs.

Mr. Chairman, there are more than 1 million shipments per day in the United States of hazardous materials. Between 14,000 and 18,000 unintended releases of hazardous materials occur during transportation annually. Between 1994 and 2003, these incidents resulted in 210 fatalities.

Recent incidents in my district in Baltimore, in South Carolina, Texas, and South Dakota have dramatically reminded us of the danger that hazardous materials shipment can pose. In response to these findings, I introduced the Hazardous Materials Cooperative Research Act of 2005, H.R. 909, which would establish an ongoing cooperative research program for hazardous materials transportation.

While not creating this permanent hazardous materials cooperative research program, the provisions included in today's bill respond to the Transportation Research Board's report by requiring research on crosscutting topics recommended for further study. In addition, the Secretary will be required to report on the need to establish a permanent cooperative research program for hazardous materials.

I again thank the committee's leaders and their staff for working with me to begin to create a hazardous materials research program that is truly comprehensive and multi-modal in scope. I urge my colleagues to support this bill.

Mr. PETRI. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. SHUSTER), a member of the committee.

Mr. SHUSTER. Mr. Chairman, I rise today in support of H.R. 3. It has been a long time coming. I want to commend the gentleman from Alaska (Chairman YOUNG) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), as well as the subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI), and the ranking member, the gentleman from Oregon (Mr. DEFAZIO), for their efforts on behalf of our Nation's transportation system.

As a Pennsylvanian who represents a broad geographic region, I know the issue of transportation is critical to all of our constituents. I am very pleased that the legislation before us today includes many initiatives to combat congestion on our Nation's highways and further relieve bottlenecks on our roads.

H.R. 3 contains innovative real-time and intelligent transportation initiatives that allow States to monitor and improve traffic flow and enhance safety. Building on these innovative programs, I also encourage support of an amendment that will be offered by my colleague, the gentleman from Minnesota (Mr. KENNEDY), to create voluntary toll or fast lanes. Drivers who chose to use these fast lanes will be charged electronically, eliminating the toll booths that add to backups and congestion. It will allow for our States to collect the funds necessary to increase the capacity on our highways. Congestion is a tremendous drag on our economy today, and it needs to be addressed.

One concern, Mr. Chairman, I do have with this bill is the rate of return States will receive under this measure. It has been the wise practice in surface transportation reauthorization to take into account that some regions are saddled with greater needs than others and need a larger rate of return to maintain our national transportation system.

My home State of Pennsylvania is unique in that we have more miles of State highway to maintain than all of New England and New York combined. Additionally, the Commonwealth ranks third in the amount of through truck traffic that neither originates nor terminates in the State. Pennsylvania receives little benefit from such commerce traveling through our State, yet States such as Florida, which is able to get its goods to the large Northeastern markets, benefit, while we still suffer from the constant pounding and damage caused by this through traffic.

As we move forward to conference, I would encourage my colleagues to continue returning funds to States based on needs so that we can continue to have a safe and efficient national highway system.

Lastly, Mr. Chairman, I want to take a minute to address an issue that has become of increasing concern to me and many of my fellow Pennsylvanians on the committee.

In recent weeks, the Governor of our State has continued to flex funds designated for highway projects to bail out the Pittsburgh and Philadelphia transit systems to the tune of $412 million, which is roughly one-third of what Pennsylvania will receive from the Federal Government in funding next year.

Mr. Chairman, transferring funds set aside by the government for highway projects to bail out troubled transit systems is wrong. The transit system in Pittsburgh and Philadelphia has continually had problems meeting its financial responsibility, and it is out of the pockets of rural Pennsylvanians that the funding shortfalls are met.

Critical highway projects in our region are put in jeopardy when highway moneys are transferred to transit. Our highway system weaves a thread of viability through our State and between our urban areas. Quite simply, you cannot travel from Pittsburgh to Philadelphia without going through rural central Pennsylvania.

To this end, I am pleased that included in the bill is language directing the Government Accountability Office to review this transfer authority and how it is being used. I want to thank my colleagues, the gentleman from Pennsylvania (Mr. GERLACH) and the gentleman from Pennsylvania (Mr. DENT), for their support on our effort on this issue.

It is critical that Congress address this issue and examine the possible need of limiting Governors' ability to shift funds in the future. Rural Pennsylvanians, rural Americans should not have to continue to foot the bill for transit riders in the large metropolitan areas of this country.

Mr. Chairman, I want to thank the chairman again, the gentleman from Wisconsin (Chairman PETRI), and the committee staff for all their hard work and efforts in getting H.R. 3 to the floor today.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Chairman, I think this H.R. 3 legislation is a good illustration of the old phrase that politics is the art of compromise. We have heard a lot of people talk about things that they like in this bill. You will also here a lot of speakers talk about things they wish were also included in this bill. I certainly have that list myself.

But the Committee on Transportation and Infrastructure has a great tradition of coming together in this

House, and that tradition has been maintained again today. I commend the leadership on both sides of the aisle for their efforts to work together in the common interest of providing investment in basic infrastructure in this country.

This has always been an important issue for this country, but in some respects it is becoming more important now as we are in an ever-changing world with an ever-increasingly competitive global economy.

I talk about that with my constituents back home, and sometimes they do not think what investment in a road out in Utah has to do with being competitive in a global economy. Then we talk about what it takes to move products around this country and the fact that other countries around the world are so aggressive in investing in their transportation infrastructure to make their economies more efficient.

This is good economic policy for our country. It is good investment. In the short run it is good for our economy, it creates a number of good jobs, but in the long run what it does is it develops an infrastructure that gives our economy greater efficiency, greater ability to compete, greater ability for us to succeed.

Now, every Congressman can tell you a story about what is in this bill that is important to their district. That is our job. This is the people's House. We represent a congressional district, and we need to advocate for the interests of that congressional district.

The major transportation route between Salt Lake City, Utah, and Denver, Colorado, is primarily a two-lane highway called Highway 6 in Utah, subject to many fatalities, one of the most dangerous stretches of road in this country. I am please that in this legislation this highway will be designated as a high-priority corridor. That is in our interests, to make sure we invest in that, because in addition to having an efficient economy, investment in infrastructure creates more safety on our highways. That is the other good aspect of this job.

Mr. Chairman, I commend the leadership of the committee for this outstanding bipartisan bill.

Mr. PETRI. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. PETRI), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Alaska (Chairman YOUNG), and my colleagues on the Committee on Transportation and Infrastructure for their continued hard work to bring H.R. 3 to the floor. This bipartisan legislation invests in America's roadways and transportation infrastructure, bringing jobs and investment to every corner of our country.

This legislation is good news to the people of the Eighth Congressional District of North Carolina. My district includes the two urban centers of Charlotte and Fayetteville, as well as large rural areas. Obviously, these diverse segments of North Carolina require different approaches to meeting current and future transportation demands.

In 2002, I worked to launch the Comprehensive Economic Development Strategy Process in the eighth district. As part of this process, the CEDS Committee commissioned and received a report outlining some of the region's economic strengths and weaknesses. The report was approved by the Economic Development Administration.

One of the weaknesses cited was there were several areas of need regarding transportation infrastructure. Accelerating the construction of our transportation projects was particularly highlighted as one of the most likely places where improvements would translate into increased economic development and more jobs. Without easy access to areas of commerce and transport, potential for investment and increased economic development is hindered.

The legislation before this House today contains funding for many of the established CEDS goals and will jumpstart my district's directed efforts to revitalize and support the region's economy.

Increasing the number of interstate miles, especially accelerating the construction of I–73/74, I–85 through Cabarrus County and increasing the multilane connections to interstate highways is vitally important.

Upgrading many of the existing roads to multilane highways of the highest standards is another top priority. This will serve to not only increase the probability of companies investing in eighth district communities, but will also improve public safety through providing safer roads.

In the Charlotte metropolitan area, a substantial population growth is severely taxing existing infrastructure. Through the widening of existing highways and increasing investment in alternative modes of transportation, we will work to decrease congestion, pollution levels, and urban sprawl. This will positively impact quality-of-life issues and economic opportunities for those who live in and around the city of Charlotte and all of our North Carolina and Southeastern region.

Mr. Chairman, I am pleased to support this legislation today, and I urge my colleagues to vote in favor of H.R. 3.

Mr. DEFAZIO. Mr. Chairman, I yield 5 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD), an outstanding member of the committee.

Ms. MILLENDER-MCDONALD. Mr. Chairman, finally one of the most important bills, if not the most important bill, has come to this floor; and I would like to thank the gentleman from Alaska (Chairman YOUNG) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for their continued leadership in drafting a principled and balanced transportation bill, and also the subcommittee Chair, the gentleman from Wisconsin (Mr. PETRI), and the ranking member, the gentleman from Oregon (Mr. DEFAZIO), for their steadfast commitment to our Nation's transportation system.

As a senior member on the Committee on Transportation and Infrastructure, representing Los Angeles County, the most congested and impacted county in the Nation, it has been my privilege and my pleasure to work with all of them.

It has been the priority of our committee to meet the many transportation needs of our cities, our States and our businesses, both large and small, that rely on our transportation system. Governors and local governments alike are crying out for relief from the congestion that chokes our highways and slows down our economy.

Our country needs more public transportation services to help in fighting congestion. We need more new transit buses and greater investment in rail systems so that the single-occupant automobile is not the only way to get to work. From coast to coast, our great Nation needs this bill. Our communities, our businesses, and our constituents all need this bill. Traffic congestion costs American motorists some $67.5 billion a year in wasted time and fuel costs. Americans spend an additional 4.5 billion hours a year stuck in traffic.

This bill addresses the immediate needs of our communities, and our communities have spoken loud and clear: they want congestion relief. We have been asked to do more with less at $284 billion, but we have drafted an innovative bill that maximizes our resources to address our most glaring transportation needs.

I want to again thank this committee and especially the ranking member, the gentleman from Oregon (Mr. DEFAZIO); the ranking member, the gentleman from Minnesota (Mr. OBERSTAR); the former ranking member, the gentleman from Illinois (Mr. LIPINSKI); the gentleman from Alaska (Chairman YOUNG); and the gentleman from Wisconsin (Chairman PETRI) for including and supporting the projects of national and regional significance.

This new program will go a long way in relieving our Nation's transportation choke points and help reduce the congestion that plagues our communities and slows down our national economy. We desperately need programs like this to address our Nation's growth in trade.

In 1970, the amount of U.S. trade in goods totaled $83 billion a year. Today, that figure has grown to $2.29 trillion, a nearly 28-fold increase in 35 years. Over the same period, the U.S. population has grown by 40 percent and the number of registered vehicles has increased by 100 percent, yet our road capacity has increased by only 6 percent.

Mr. Chairman, we must and we can do better.

□ 1245

Think about this: In the last 35 years, we have revolutionized how we communicate and conduct commerce. We have transformed the size and scale of business in a global economy. Yet, how we get our goods and services is the one element we have not changed during that time. Our economy is evolving and our transportation infrastructure must be an integral part of this evolution.

A prime example of our economy's evolution is the emergence of just-in-time delivery, which is the way that most major businesses run and grow their businesses. Just-in-time delivery minimizes the storage costs for businesses, allowing them to keep smaller inventories, which ultimately keeps consumer prices down across the country. We must have a transportation infrastructure that meets the many demands placed upon it.

The Projects of National and Regional Significance program and funding addresses the increasing importance of moving goods safely, securely, and efficiently, as well as the mobilization of people. This program does what only a transportation reauthorization bill can do; it makes sure that our transportation infrastructure is coordinated, balanced and national in scope.

In addition, I want to thank the committee for including another provision that speaks to goods movement, and that is the designation of the I–710 as a high-priority corridor. Fifteen percent of our Nation's total commerce of inbound and outbound containerized goods move along the I–710. This is truly a high-priority corridor.

Finally, this is a jobs bill, Mr. Chairman. Every $1 invested in public transportation infrastructure provides up to $6 in economic return, and every $1 billion invested in our transportation infrastructure creates and sustains 48,000 jobs.

This is a bill that we need. We must have this bill. I ask my colleagues to vote in support of TEA–LU. This is the most important bill we will see this year.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the Resident Commissioner of the Commonwealth of Puerto Rico (Mr. FORTUÑO) for 3 minutes.

Mr. FORTUÑO. Mr. Chairman, I would like to thank the gentleman from Alaska (Chairman DON YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR), as well as the gentleman from Wisconsin (Mr. PETRI), the chairman of the subcommittee, and the gentleman from Oregon (Ranking Member Mr. DEFAZIO) for their leadership in moving this legislation so quickly through this Congress.

As the name implies, TEA–LU is a bequest of the highest degree to our Nation. TEA–LU will have a positive impact on the Nation's economy through the creation of millions of new jobs in the transportation sector and other related industries. It will bring the highway and transit systems to a higher level as we continue to travel into the 21st century.

In my district, TEA–LU means an injection of infrastructure monies needed to integrate our transportation systems and alleviate problems of traffic congestion and road safety, while spurring economic development on the island. TEA–LU will take Puerto Rico to a new level of transportation based on an integrated transportation system. Tren Urbano, the bus system, trolleys, and our ferries will all integrate to promote public transportation, reducing the problem of traffic congestion.

For Puerto Rico, TEA–LU means the completion of an important highway project that will become one of the only two highways crossing Puerto Rico from north to south. It means the completion of a highway system that will cover the perimeter of the island. It also means promoting economic development across the board. It means giving access to towns and rural communities that, without the funding made available in TEA–LU, would remain isolated. It means losing less lives to traffic accidents. It means moving Puerto Rico forward at a faster pace.

On behalf of the 4 million U.S. citizens of Puerto Rico whom I have the great honor to represent, I thank again the gentleman from Alaska (Chairman DON YOUNG) and my colleagues on the Committee on Transportation and Infrastructure for this great legacy.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BISHOP), a member of the committee.

Mr. BISHOP of New York. Mr. Chairman, I am pleased that Congress is again considering reauthorization of the transportation bill. Americans have waited too long and watched our roads and transit systems further deteriorate as Congress and the President stalemate at the expense of travelers and commuters.

Transportation spending is a win-win proposition. It creates jobs and improves safety and efficiency on our roads. While passage of this bill will go a long way towards improving our infrastructure, I, along with most of the members of our community, would have hoped for a larger bill that better reflects the Nation's need for transportation funding.

Real economic stimulus comes from real investment. And by increasing funding to a more appropriate level approaching $375 billion, the amount that the Committee on Transportation and Infrastructure originally passed, we would begin to address our immediate needs to create tens of thousands of good-paying jobs. We know that each $1 billion of Federal funds invested in infrastructure creates approximately 47,000 jobs and generates $6.2 billion in economic activity, and our economy could certainly use this type of boost.

This bill is first and foremost a jobs bill, and I would urge swift consideration of this legislation so that we do not deny tens of thousands of workers in New York and elsewhere nationwide good jobs. We especially need this boost in New York. The New York metropolitan area has some of the worst traffic in the country, despite a mass transit system that carries one-third of our Nation's transit riders.

I would also like to stress the importance of ensuring that the minimum guarantee formula stays at 90.5 percent. Our transportation policy now directs funding to the areas of the country where it is needed the most. It would be unwise to punish States with aging infrastructure and inefficient mass transit systems by cutting off their funding. There is simply no way to reach a 95 percent minimum guarantee in a $284 billion bill.

I would also like to thank my colleague, the gentleman from upstate New York (Mr. KUHL), for his amendment naming a section of Interstate 86 after Amo Houghton, a former colleague and a true gentleman.

I would like to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Ranking Member OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO) for bringing this important bill to the Floor. They and their staffs have produced the best bill possible, given the circumstances, to move our transportation system forward.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), a valued member of our committee.

Mr. COBLE. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time.

Let me start, Mr. Chairman, by using three components: vehicular congestion, infrastructure that continues to deteriorate daily, and, of course, each is directly involved with highway safety.

As my colleagues know, Mr. Chairman, I have been an avid supporter of H.R. 3, and I am pleased that this bill is able to be considered on the House Floor today. As both a member of the prior conference committee and a cosponsor of both House reauthorization bills during the last Congress, I realize that members and staff, Democrats and Republicans alike, have worked tirelessly and relentlessly to produce today the best product possible for Floor consideration and deliberation.

At a time when we have much work to do to address our Nation's critical infrastructure, and, as I said, which is currently in dire need of upgrade and repair, this legislation is also a jobs bill and is obviously a jobs creator.

Mr. Chairman, I want to thank the gentleman from Alaska (Chairman YOUNG); the subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI); our Majority Leader, our Ranking Member on the Committee on Transportation and Infrastructure, for their openness and demonstrated leadership regarding measurable progress on the donor funding situation. As a longtime supporter of the SHARE coalition, I fully realize that this remains a sensitive issue that has historically yielded divisiveness, but I am confident that this issue can be resolved appropriately.

Finally, Mr. Chairman, the highway and transit reauthorization bill is long overdue, and we must not lose sight of the big picture regarding the critical importance this legislation offers. As my constituents in North Carolina, as well as the State infrastructure planners from across the country remind me on a regular basis, we must get a suitable transportation bill passed by both bodies expeditiously, and I look forward to remaining actively involved in the legislative process to ensure that all States receive the necessary funding and important policy initiatives H.R. 3 authorizes.

As I said at the outset, Mr. Chairman, vehicular congestion. It costs taxpayers millions of dollars each year, and I do not suggest that the bill before us will automatically cure that problem, but it will certainly address it and assuage the discomfort that results therefrom.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. LARSEN), my colleague, a member of the committee and a neighbor to the north.

Mr. LARSEN of Washington. Mr. Chairman, I rise today in support of H.R. 3, the Transportation Equity Act, A Legacy For Users.

While I support this bill, it is important to note that it barely scratches the surface of America's transportation needs. Although someone claimed that the $284 billion is more than adequate, the funding in this bill is slightly more than an inflationary increase over TEA–21. We owe it to America's economy to invest in our highway and transit infrastructure to help keep freight and people moving.

As this bill moves through the House, I hope that we can secure a funding level that meets the needs of our transportation systems and that helps provide job opportunities for more Americans.

Having said that, I want to thank the chairman of the committee, the chairman of the subcommittee and the ranking members of the committee and subcommittee for their work on this bill which will help the Pacific Northwest with its critical freight corridors, border and congestion needs.

Specifically, TEA–LU doubles the funding for the Ferry Boat Discretionary program. The Puget Sound is home to the largest ferry system in the country. Washington State Ferries service 26 million passengers a year. That is more than Amtrak. These funds are vital to the Washington State Ferries' efforts to service and replace aging vessels and continue providing service to many island communities. I look forward to working with my colleagues in conference to increase these funds so that we can keep America's ferry systems afloat for years to come.

In addition, the bill includes funding for projects of national and regional significance. The Alaskan Way Viaduct in Seattle, damaged by an earthquake in February 2001, is threatening to collapse and shut off the movement of goods from ports in Washington State and locations all across the country. I hope that as we pass this bill out of the House, we can further improve this new and exciting program that targets projects with huge impacts on freight congestion.

In conclusion, I hope the final version of this legislation will continue to invest in our freight corridors and transborder infrastructure needs.

In Washington State and along the West Coast, we are seeing record levels of NAFTA and Asian-Pacific freight. Federal funds are necessary in order to keep our West Coast ports and border crossings open and flowing smoothly. These Federal funds must target and maintain the trade arteries that bring goods from Seattle and Tacoma to Chicago, New York and destinations all across the country.

We have a great start in TEA–LU. I am confident that we will only make this bill better as it progresses through Congress.

Mr. PETRI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman PETRI) and want to congratulate him for his patience and persistence and for getting H.R. 3 to the floor, again. I rise today, Mr. Chairman, in very strong support of the transportation bill and special support for something within it, and that is called the drug impaired driving legislation. It is something that is very critical for our Nation's future, along with having more roads and bridges and infrastructure.

It would probably surprise some of my colleagues to learn that for the most recent year for which we have data, almost 11 million Americans drove a car or a truck while under the influence of illegal drugs. Driving under the influence of illegal drugs, of course, caused thousands of accidents, fatalities, and property damage. Over the past decade, we have had a lot of success in getting at the problem of drunk driving. We successfully reduced the number of drunk drivers on the road by detecting and dealing with the issue. We have not done the same with regard to illegal drugs.

The nation's users of illegal drugs have faced no similar effort. They continue to drive under the influence of drugs, including cocaine, methamphetamines, marijuana and other drugs that do impair your judgment and do create these accidents and fatalities.

A more effective public policy for detection and prosecution will not only involve traffic safety and create a deterrent, but it will also get those drivers off the road. They are already violating our laws; we need to get them off the road and get them into treatment.

The Drug Impaired Driving Research and Prevention Act is bipartisan legislation I introduced last year, along with the gentleman from Nevada (Mr. PORTER), the gentleman from Michigan (Mr. LEVIN), the gentleman from Indiana (Mr. SOUDER), the gentleman from Illinois (Mr. COSTELLO), the gentleman from Ohio (Mr. LATOURETTE), the gentleman from Minnesota (Mr. RAMSTAD), and the gentleman from Ohio (Mr. HOBSON). It provides critical guidance and assistance to the States as they begin to address drug impaired driving.

It calls on the U.S. Secretary of Transportation to craft a model State drug impaired driving law. It also enhances the training of police officers and prosecutors to be able to detect, enforce and prosecute drug impaired driving laws. It also funds research to develop field tests to be able to identify drug impaired drivers, which is a critical part of this.

This legislation, Mr. Chairman, will greatly improve traffic safety and will reduce traffic fatalities as we have seen with drunk driving laws. It is time to deal with these undetected dangers on our roads and highways before more danger occurs, before more damage occurs and before more lives are lost.

I thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR) for including it in this legislation, and I congratulate the gentleman from Wisconsin (Chairman PETRI), the gentleman from Oregon (Mr. DEFAZIO), and others for bringing this legislation to the floor.

□ 1300

Mr. DEFAZIO. Mr. Chairman, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON), a senior member of the committee.

Mr. PETRI. Mr. Chairman, I yield 30 seconds to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentlemen for yielding me time. I begin by thanking the leadership of this committee, which is a real model for bipartisan leadership. They know how to get the job done. I hope the Congress finally follows suit.

Mr. Chairman, I rise to conduct a colloquy with my friend on the other side.

I want to bring the attention of the House to a transportation issue that affects every office of the Senate and the House and every Federal agency. Federal employees are the biggest users of the Metro subway and bus system, accounting for almost 50 percent of rush hour riders. Because Federal employees and the Federal presence itself are scattered throughout the region, the system is indispensable to the daily operations of the Federal Government. More than 300 Federal offices are served by Metro.

The Federal Government has encouraged ever greater use of Metro to help solve the congestion crisis on the roads of this region. Today, 150,000 military and civilian employees here get a Federal subsidy to use the system. Metro's homeland security benefit to the government was dramatically demonstrated when it moved hundreds of thousands of employees on 9/11. However, the large investment of the Federal Government in helping to build this system is at high risk because Metro riders have grown so rapidly, by one-third in just the past 8 years.

The regional delegation needs the Federal Government to do its fair share, beginning with helping to secure additional rail cars necessary to keep up with the astounding growth in ridership driven by Federal employees in the post 9/11 era. I ask that the committee work with me and regional Members from Virginia and Maryland to find ways to help the region bear the burden of expanded Federal use of the system.

Mr. PETRI. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I would respond by saying we appreciate the gentlewoman bringing this to the attention of the chairman and myself. The chairman and I will continue to work with the gentlewoman on this issue as we continue to proceed to conference.

Ms. NORTON. Mr. Chairman, I thank the gentleman.

Mr. PETRI. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding me time.

I want to commend the chairman; the subcommittee chairman; the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for their work on the environmental provisions in this bill to ensure that they could bring the best possible transportation bill to the floor.

The environmental provisions in this bill, especially those dealing with streamlining the National Historic Preservation Act, are some of the most important and challenging parts to this legislation. And I think the chairman deserves a great deal of credit for resisting the pressure to put in language weaker than what is in the bill before us.

Talking about streamlining, I know there will be those who oppose the House language in favor of the status quo. The problem with that is the status quo creates endless analyses and litigation roadblocks that reduce the purchasing power of the money collected from the gas tax. In other words, the status quo means fewer transportation projects.

I feel the need to point out that the Senate-passed bill advocates a number of natural-resource concepts that should not be included in the context of a transportation bill because they are complex and best left to the full discussion by the committees of jurisdiction. For example, there is language integrating natural-resource requirements into transportation planning without defining what those requirements are.

Another example is the language that will require the use of native plants for use of erosion control and vegetative seeding, even if non-native plants would do a better job. Costs would escalate and erosion control will suffer.

The worst example of the Senate's overreaching is the language that creates a new fund that could be used for habitat, stream, and wetlands mitigation and give priority to the mitigation projects that restore and permit habitat for Federal- or State-listed endangered plants or animals. Needless to say, projects using Federal dollars, even those flowing through the DOT that are ESA-related, are best vetted through the committees with primary jurisdiction. There is no controlling what disastrous projects done under the guise of the ESA these dollars could fund.

I am working closely with Senator INHOFE and his committee to modernize and strengthen the ESA and would not want to mistakenly hinder those efforts by including the Senate-passed language in the highway bill. I thank the chairman for his fine work, and I look forward to working with him and the rest of the members of the committee to further this bill and help to improve it.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. COSTELLO), the next-most senior member on the committee.

Mr. COSTELLO. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, first let me say thank you for a job well done to the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Oregon (Mr. DEFAZIO) for their leadership in bringing this bill to the floor today. They have labored many hours over many months in order to get us to the point where we are and without their leadership, dedication, and persistence we would not have a bill on the floor today.

Our interstate system is almost 50 years old; 32 percent of our major roads are in poor or mediocre condition; 29 percent of our bridges are structurally deficient or functionally obsolete; and 36 percent of the Nation's urban rail vehicles and maintenance facilities are in substandard or poor condition.

The bill before us today is essential, for it increases investment in our roads and bridges, allowing States and local communities to not only maintain but to improve them. Despite an uphill battle, we are here today to consider what I think is a good 6-year bill. While I would have preferred to see a bill that provided the $375 billion funding level passed by the committee last year, I support the bill before us today in hopes that we can make it even better in conference.

H.R. 3 provides almost $284 billion over 6 years, which is about a 42 percent increase from the current spending levels, with highway funding receiving 38 percent more and the transit program receiving 51 percent more. I am pleased we have a section in the bill for projects of regional and national significance. These projects are extremely important to our Nation's transportation system that otherwise could not be funded out of the normal State funding formula.

Finally, it is important that we pass this bill out of the House today and get it out of conference quickly. Each billion dollars invested in the Federal highway and transit system creates 47,500 new jobs and $6.2 billion in economic activity. Further, transportation infrastructure generates up to a six to one net on return on our investment.

Mr. Chairman, this is a good bill before us today. I thank the leadership of the committee for bringing the bill to the floor, and I urge Members to vote "yes" on passage.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT), a member of the committee.

Mr. DENT. Mr. Chairman, I appreciate the opportunity to speak on this legislation, the Transportation Equity Act: A Legacy for Users.

TEA-LU is an important piece of legislation. It is especially important to the citizens of the Commonwealth of Pennsylvania. It provides money for highways. It provides money for roadway safety. It authorizes money for road and highway congestion relief. For the millions of Pennsylvanians who depend on the Commonwealth roads for travel between work, school, home and business, this act provides the means to build better roadways and to ensure that existing thoroughfares and highways are safer, less congested, and properly maintained.

These funds are particularly important in a State like mine which has to maintain a much larger and older infrastructure than some others. The Department of Transportation in Pennsylvania maintains over 40,000 miles of highways.

Accordingly, I support the tradition of recent transportation authorizations in which funding is returned to the States on a need-based approach. In my district, the Greater Lehigh Valley of Pennsylvania and its environs, the maintenance of existing and the creation of new infrastructure are of vital importance to the well-being of the residents. Thus, as part of this bill, I have asked for an allocation of funds for a host of transportation projects including the construction of the bridge crossing the Lehigh River to connect both sides of the American Parkway in the city of Allentown, the expansion of State Route 412 from interstate 78 into the city of Bethlehem, the improvement of State Route 145 in Whitehall Township, and the construction of intermodal facilities in the cities of Easton and Allentown.

Members of the Pennsylvania delegation, myself included, all share in the conviction that highway improvements should be available to all people living in the Commonwealth. I thought we shared this goal with the Governor of my State. Recent actions by the Governor, however, have called into question this assumption.

On March 1, 2005, the Associated Press reported the Governor has decided to flex some $412 million of the approximately $1.2 billion in highway funds previously appropriated to the State. The Governor proposes to divert this money, about one-third of the total allocation, away from the highway system and over to the Southeast Pennsylvania Transportation Authority, or SEPTA, and the Port Authority of Allegheny County. These public transportation systems are drowning in a sea of debt partially of their own making, and they have been doing so for some time.

Given the foregoing, I applaud the inclusion in this bill of a provision which calls for the Government Accountability Office to determine the extent to which State government representatives, such as the Governor of my State, are appropriating large amounts of Federal highway dollars that are supposed to benefit all citizens of a State and how those officials are accounting for those dollars.

While no one objects to giving States some flexibility to the allocation of Federal highway money in order to benefit the common good, diverting these highway funds to a particular mass transit project or projects to such a significant extent is simply unacceptable to me and most Pennsylvanians.

Mr. Chairman, I support this legislation.

Mr. DEFAZIO. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. SALAZAR), a new member of the committee who has already made his mark.

Mr. SALAZAR. Mr. Chairman, I rise today in support of the Transportation Equity Act and urge swift passage of the measure. I would like to recognize the gentleman from Alaska (Mr. YOUNG) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), as well as the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Oregon (Mr. DEFAZIO), for their leadership in this historic bill.

Over the past couple of months I visited across the Third Congressional District of Colorado. From Grand Junction down to Durango and across the mountain to Pueblo, it is clear that rural America cannot afford to wait any longer.

For too long, Coloradans have put more money into the Highway Trust Fund than we have gotten out of it. As a Member of Congress, I have sworn to make sure Colorado receives its fair share of Federal tax dollars.

I am pleased with the progress that has been made on the rate-of-return issue. I thank the gentleman from Alaska (Mr. YOUNG) and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for coming up to compromise on this important issue.

This funding is necessary to invest back in our own infrastructure. Increased truck traffic from I–70 and I–25 all throughout my district has put additional strain on the infrastructure already at capacity and in need of much improvement. Many of us view TEA-LU as an investment, as a stimulus for economic development and agree that we should have a higher funding level. But the reality of the budget constraints have hit hard. Rural communities have suffered most.

This legislation is a fair solution, a compromise with the total of $284 billion in guaranteed funding, a 42-percent increase over the previous bill. With this new funding, we will create and protect millions of U.S. jobs within the transportation sector and related industries. It will allow us to direct critical resources to improve highways, roadways, and other forms of transit.

In Colorado alone, nearly 75 percent of the current interstate system was built before 1970, but our population has increased by 37 percent over the past decade, and we are projected to increase another 35 percent by the year 2020. Now is the time for us to start investing in the infrastructure that will bring and support growth.

TEA-LU is a bill that will touch people at all levels. It is about connecting communities. It is about ensuring that trade flows across this country and benefits rural communities.

I urge my colleagues to support the development of rural America and passage of this bill.

Mr. PETRI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT), a senior member of our committee.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to proudly and enthusiastically endorse this measure. I will tell you what it is all about. It is about my favorite four-letter word and you can use this in polite company: jobs.

This is essentially a jobs bill that is using taxpayer money, users' money, for wise purposes to improve our basic infrastructure transportation network within the United States.

There is not a State or a county or a jurisdiction in America that does not already have preapproved plans for worthy, and let me emphasize worthy, transportation projects; but they do not have the resources to go forward with them. This bill provides the resources.

□ 1315

Let me add as a co-leader of the Fair Coalition, along with the gentleman from New York (Mr. NADLER), my colleague, Democrat he, Republican me, working very hard in support of the basic equity that is contained in the base bill, and that is to provide resources based upon need.

There are some that would change the formula rather dramatically, and I oppose that, not just because it would not work to New York's advantage, but it would not work to the Nation's advantage.

There are some who suggest we ought to distribute aid for highways and bridges and road projects based upon the number of miles of highways in the State or the number of gallons of gasoline purchased in a given State. Well, that is not the wisest choice for a formula. That rewards conspicuous consumption. That penalizes States, like my own State of New York, and we are not the only one who wisely have thought this thing through and move large amounts of people, millions of people, through public mass transit systems.

That makes sense to me, and I am going to work very hard to preserve the basic formula in this bill, but I urge my colleagues to support it in the interest of jobs for America.

Mr. DEFAZIO. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. HOLDEN), a prominent member of the committee.

Mr. HOLDEN. Mr. Chairman, I would like to thank the gentleman for yielding me time.

I want to commend and congratulate the chairmen and the ranking members of the committee and subcommittee for their hard work on this legislation for the past 18 months.

As many speakers have said previous to me today, Mr. Chairman, we all on this committee wish we could be at our original target of $375 billion, but it is important that we pass this legislation here today, and it is very important that we get to a conference with the other body as quickly as possible.

This legislation is important to all of our districts and all of our States. As my friend from Pennsylvania said two speakers previously, Pennsylvania has specific transportation needs. Pennsylvania has more road miles to maintain than our friends in New Jersey, New York and New England combined.

In addition to that, the majority of truck traffic travelling in the Commonwealth of Pennsylvania on our interstate system, particularly on Route 80, is not traffic that begins and ends in the Commonwealth of Pennsylvania. Pennsylvania truly is the Keystone State when it comes to the economy of the northeast and of the Mid-Atlantic States. So this legislation is very important all across the country, but particularly to the Commonwealth of Pennsylvania.

So I want to again commend the chairman and the ranking member for their hard work and look forward to a conference where we have as robust an investment as possible into our highway and transit systems.

Mr. PETRI. Mr. Chairman, I reserve my time.

Mr. DEFAZIO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN), a friend and colleague and senior member of the committee.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Ranking Member OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO) for their hard work in bringing this bill to the Floor. I do want to point out, it is 17 months late.

America's transportation infrastructure is in need of significant additional funding, and we need to act fast, but knowing how much money we truly need to fund the Nation's transportation infrastructure, I hope that the other body will pass the original bill of $318 billion so that we can get the best bill possible in conference.

I appreciate the hard work and compromise involved in drafting this bill, but the current funding formula is unfair to many of the States who need transportation dollars. Transportation funding is a win-win for everyone involved. States get to improve transportation infrastructure; that creates economic development, puts people back to work and, most important, enhances safety and improves local communities.

Unfortunately, we are unable to add rail to this bill, but that does not mean that rail infrastructure is taken care of. We have dangerously underfunded rail security and are now scrambling to protect our transit passengers. We are also ignoring and underfunding high speed rail which is one of the best ways to move citizens and improve congestion on our highways.

By far, the most important thing that this bill is missing is the funding for Amtrak. How do we write a comprehensive transportation bill that does not include passenger rail? Every civilized country in the world supports passenger rail but this country. Let me correct that, 66 percent of the American people support passenger rail.

It is just this Bush administration, along with Secretary Mineta, that is ignoring the needs of transportation, our friend, Secretary Mineta. We are spending $1 billion a week in Iraq; that is $4 billion a month, but this administration is zeroing out funding for Amtrak.

Our committee needs to take passenger rail seriously and fund Amtrak at the level it is needed to provide service to thousands of citizens every day.

This bill is the first step in passing a real transportation funding bill that will meet the needs of the Nation's transportation and infrastructure and the citizens who need it, and I want to emphasize first step.

The Acting CHAIRMAN (Mr. TOM DAVIS of Virginia). The gentleman from Wisconsin (Mr. PETRI) has 13½ minutes remaining. The gentleman from Oregon (Mr. DEFAZIO) has 12 minutes remaining.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina (Mr. BROWN), a valuable member of the committee.

Mr. BROWN of South Carolina. Mr. Chairman, I thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR), the gentleman from Wisconsin (Chairman PETRI) and the gentleman from Oregon (Ranking Member DEFAZIO) for bringing this bill to the floor. I appreciate their continued leadership and the efforts to provide the necessary funds to meet the transportation infrastructure needs of this great Nation.

This bill will provide funding for projects that have been in extension funding for too long. In order for our transit needs to be addressed across the country, this bill must be passed with haste and due diligence.

The South Carolina Department of Transportation will need nearly $2 billion in total funding to construct the I-73 corridor within South Carolina. Congress has previously identified this project as a high priority corridor in the ISTEA legislation, and there is tremendous support for I-73 throughout the State. In fact, the entire South Carolina congressional delegation has included this project as one of its main transportation priorities in South Carolina.

We also know that there is strong support for the I-73/I-74 interstate system from the North Carolina delegation, as well as the States of West Virginia and Virginia.

The Grand Strand region is one of the fastest growing areas in South Carolina. Annually, more than 14 million visitors come to the Myrtle Beach coastal area. Yet, there is currently no interstate facility to serve this vital sector of the State's economy. The lack of a direct interstate link to other interstate routes near Florence creates serious traffic problems during the peak tourist season and safety concerns during times of hurricane evacuation. In fact, a study showed that it could take nearly 26 hours to evacuate the population given the current transportation infrastructure.

Without a doubt, the vitality of South Carolina's economy is directly related to the continued financial success of the tourist industry of the Grand Strand area. Inclusive of this vital highway as a Corridor of National Significance will greatly expedite the completion of this project and will benefit our districts and South Carolina by reducing congestion and providing a much-needed hurricane evacuation route, increasing the safety of motorists and improving the opportunity for needed economic development.

The I-73 corridor, Mr. Chairman, will improve the quality of life of many of my constituents as well as the millions of Americans who come to my area.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER) who is the ranking member of the Committee on Appropriations Subcommittee on Transportation, Treasury and Independent Agencies.

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong support of this legislation, and I thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR), as well as the gentleman from Wisconsin (Mr. PETRI), the subcommittee chair, and the gentleman from Oregon (Mr. DEFAZIO), the ranking member, for their excellent work.

Mr. Chairman, this legislation is critical to meeting the country's transportation infrastructure needs, but it also addresses a very serious problem that many of us who represent rural areas face, and that problem is the virtually total absence of broadband services in rural areas.

There can be no question that the availability of high speed Internet access would assist rural communities across the country to attract new employers with technology-oriented high-wage job opportunities.

The Rural Interstate Corridor Communications Study included in this legislation will examine how fiber optic cable and wireless technology can be deployed in rural areas to establish high-speed broadband service to spur economic development and to serve Intelligent Transportation Systems and homeland security applications.

This important feasibility study is a step towards increasing the access to affordable high-speed Internet services in rural areas. The goal of the study is to provide assistance in attracting technology-based companies and information-age jobs to those rural communities.

I applaud the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Ranking Member OBERSTAR) and, indeed, the whole committee for their foresight.

Mr. PETRI. Mr. Chairman, we reserve the balance of our time.

Mr. DEFAZIO. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking Democrat on the full committee.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for the time.

I have been advised that the administration has again sent a statement of administration policy drawing a line, the familiar term is drawing a line in the sand, but in the context in which we are discussing I would say a line in the asphalt or a line in the concrete. I hope it is wet concrete, that "should the obligation or net authorization levels in the final bill exceed $283.9 billion, the President's senior advisors would recommend he veto the bill."

I am not quite clear who senior advisors are. We have not heard from the Secretary of Transportation. I thought he was a senior adviser. He has not said anything about this. He has not sent any message up here. Who are these shadowy figures? What is the $283.9 billion, not 284? Is this the basement version, the discount version of transportation? So we just cannot squeak over 283.9?

That is a magical number picked out of thin air. There is no justification for this number. We can invest more. The Highway Trust Fund will support more. Do not take it on my word; I have only been doing this for 40 years, but do not take my word. Take the Congressional Budget Office. If TEA-LU provides $283.9 billion, the Highway Trust Fund balance will be $17.5 billion in 5 years. That is $7.5 billion in highway account balances and a $10 billion surplus in the transit account.

We are not being honest with the American public. We tell them: You buy the gas, you pay the tax, it goes into the trust, and we build the roads, we build the transit systems.

Now, last year, in the course of the campaign, a trucker in Missouri asked President Bush, "My family is involved in trucking here in Missouri, and I was wondering what you, as President, could do with Federal money to upgrade our highways? Our trucks are falling apart because our highways are falling apart."

The President said, "Yes. I appreciate that. We are in the midst of a discussion on a highway bill. There will be a highway bill, and just want to make sure that the highway bill honors the Highway Trust Fund. The Highway Trust Fund is set up so that we use the money from the gasoline tax and not general revenues." He understands it, "and I think it's very important that we guard that aspect of trust, keep the trust of the Trust Fund." He understands that, too.

Well, why not, Mr. President, tell your senior advisors to accept what the committee is doing, move ahead, let us get over this $283.9? Let us get to $375 billion. Let us do what is right for America as both sides of the aisle in the House and the Senate have agreed last year and again this year that is where we need to go, not building a $17 billion surplus in the Highway Trust Fund.

We are failing to keep trust with the American people. That is what this is about. This is not a partisan issue. This is trust with the American people. That Highway Trust Fund is one of the most successful investments we have made, except for Social Security, in the history of this country. It is pay-as-you-go, keep faith with the American people. No other country has anything like it, and America is productive because our roadways are productive.

When we do not keep pace, when we allow congestion to suffocate movement of people and goods, then it costs America. UPS, for every 5-minute delay, costs them $40 million nationally.

We can fix that with the right investments that this committee has fashioned, and we need to move forward with a more robust bill.

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume.

I would just observe that this is a work in progress. As my colleague knows, in the last Congress, the line was $256, now it is $283.9. So it is a work in progress.

□ 1330

And it is a recommendation of the President's advisors, it is not directly from the President. He has expressed a number of times his interest in working with us to help have a robust and affordable infrastructure investment here in our country, because we owe it to our children and to our economy to do that.

So I am hoping we can continue working on a tripartisan basis, as we have on our committee, but also with the administration and with the other body and their representatives as this process moves forward.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I appreciate that hopeful note. We are creeping in the right direction, at least.

Mr. PETRI. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE), a member of the committee.

Mr. OSBORNE. Mr. Chairman, I rise in strong support of H.R. 3. This bill is an investment in our economy. For every $1 billion invested in transportation, 47,000 jobs are created.

I appreciate the work of the chairman, the gentleman from Alaska (Mr. YOUNG), and our ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and others.

One aspect of the bill I would like to call particular attention to, that I think is so important, has to do primarily with rural America. In rural America, TEA-LU provides $590 million for a new high-risk rural road safety improvement program that targets funding for safety improvements on rural two-lane roads. And the reason this is so important is because reports indicate that nearly one-third of all fatal crashes each year are due to substandard road conditions and roadside hazards. Nearly 61 percent of all highway fatalities occur on rural roads. So this $590 million apportionment for rural road safety is critical, and I think it should save hundreds of lives each year.

Additionally, during later consideration of this bill, I will be offering an amendment that will enable the State of Nebraska to revisit, through the State legislative process, its length law for custom harvesters harvesting wheat, milo and soybeans. I hope this amendment will be added to the bill.

So I feel this is a good bill. I am a new member of the committee, and I really appreciate the work that has gone into it, the bipartisan effort. TEA-LU's passage is critical to our Nation's economy, and I urge its adoption.

Mr. DEFAZIO. Mr. Chairman, I yield myself 1 minute.

If this is to close the debate, the important message to the American people is that this is an investment that will pave their way, smooth their way to work and on their errands, in taking their kids to school, and make the kids safer going to school. It will put their friends, their neighbors and themselves to work. It will improve the efficiency of the United States economy. And these are all jobs and all investments that will be made 100 percent American, here at home in the United States of America.

I believe it resolves a lot of problems with our economy. It will put a lot of folks to work. Real jobs for real people on needed projects, investing their tax dollars in the way they were intended when they paid that tax at the pump.

As the ranking member pointed out, it could be more. If we keep full faith with the American people, we should invest that money now and not hold it back to create illusory deficit offsets. It cannot be spent on anything else but transportation infrastructure.

This is a good bill today. Hopefully, it will be a better bill tomorrow and when we come back, before the end of May with the conference from the Senate.

Mr. Chairman, I reserve the balance of my time.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from East Tennessee (Mr. DUNCAN), a valued senior member of our committee.

Mr. DUNCAN. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time, and I appreciate his recognition of my home area of East Tennessee. Native Tennesseans are more likely to tell you they are from East Tennessee or West Tennessee or Middle Tennessee than they are the State of Tennessee, and I am very proud of my section.

Mr. Chairman, I rise in strong support of this very important legislation which will improve our transportation infrastructure and create millions of jobs. Our chairman, the gentleman from Alaska (Mr. YOUNG) and subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI), as well as our ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO), all good friends of mine, are to be commended for their great leadership on this bill.

Mr. Chairman, this is the biggest jobs bill that we will vote on in this Congress. Every day, when we are travelling, we see men and women working on our highways and mass transit systems. By increasing our investment in transportation and infrastructure, we are increasing our investment in American jobs. In fact, the U.S. Department of Transportation estimates that every additional $1 billion invested by the Federal Government in transportation creates over 47,000 new jobs.

While many of us would have liked to have seen a larger bill brought to the House Floor for consideration, this legislation will do so many good things. I also want to stress the importance of maintaining and improving our system of ground transportation in this country. No member of the Committee on Transportation and Infrastructure wants to pave over every inch of this country. However, if we are going to reduce congestion, improve safety and have a system where goods can be transported to market quickly and efficiently, we are going to have to make an investment and have to make improvements in our infrastructure.

I believe the investment that this bill makes will help reduce congestion on our Nation's highways. One of our leading national magazines said recently that "congestion costs the Nation about $67 billion a year. Americans waste 3.6 billion hours and 5.7 billion gallons of gas sitting in traffic, all at an average cost of $1,160 per commuter year."

We also need to improve the safety of our roads so that we can save lives. Every 4 months, more deaths occur on our highways than have occurred in all aviation accidents since the Wright Brothers started flying over 100 years ago.

I know some people have expressed their concerns about increasing the funding for transportation and infrastructure. However, we are now spending billions of dollars on terrorism due to the actions of just 19 terrorists in 2001. I believe we should do everything we can to protect this country from terrorism, but I also believe you can go overboard on almost anything. The very respected National Journal publication has pointed out that we are thousands of times more likely to die in an automobile accident than by an act of terrorism.

We are currently spending billions and billions, hundreds of billions of dollars in other countries, through all kinds of foreign aid and activities. The funding contained in this bill comes from American highway users and should be spent here in this country. I do not have anything against helping other countries. However, I believe we can only continue to do this if we remain economically strong in this Nation. One of the keys to our economic growth in this country is to have a reliable system of transportation.

I am urging my colleagues to support this bill. If you believe in job growth, safer highways, economic stimulation, cleaner air, less congestion and a strong America, then you should vote for this bill. Mr. Chairman, this is a bill that helps the economy, it helps the environment, and it saves lives. I do not see how we could do any better than that.

Mr. DEFAZIO. Mr. Chairman, I reserve the balance of my time.

Mr. PETRI. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in strong support of H.R. 3. This is a jobs bill, a security bill and, most importantly, a lifesaving bill.

Unlike his predecessor, Chairman YOUNG has not had the luxury of a new revenue stream to address the challenge of negotiating a new formula and numerous priorities. It has been a tough job, but I applaud the Chairman's tenacity and that of the gentleman from Minnesota (Mr. OBERSTAR) and the others on the committee leading to what I think is an excellent product.

I am pleased to say that Kentucky will be receiving a fairer share and more funding to address our substantial needs, and for that, I am very grateful. I would also like to thank Chairman YOUNG for including $35 million to continue work on the Interstate 66 projects in Kentucky, a vital national east-west corridor.

The eventual and inevitable completion of I–66 will create a seamless and safer expressway from the coal beds of West Virginia to the corn fields of Missouri. I–66 will fill gaps in our national highway system and open up commerce to the Appalachian areas. Most importantly, this route will reduce the dangers of everyday travel for my constituents and the increasing number of visitors to the mountains in my district.

Finally, I want to thank the committee for continuing our commitment to the Appalachian Development Highway System. The benefits of this road development program to communities in my district cannot be understated. Communities have been reborn, businesses started, and health care received because of this investment. Over $2 billion will be invested to a commitment made to the Appalachian communities over 40 years ago, and I thank the committee for including these monies, especially for the Appalachian region.

This is a good bill, Mr. Chairman. I urge all my colleagues to support this legislation and let us get on with it.

Mr. DEFAZIO. Mr. Chairman, I yield back the balance of my time.

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume just to urge all Members to vote for this bill when it reaches final passage.

Mr. GARY G. MILLER of California. Mr. Chairman, I would like to begin by commending Chairman YOUNG, Subcommittee Chairman PETRI, and Ranking Member OBERSTAR for working tirelessly over the past several months to produce a reauthorization bill that effectively addresses America's transportation needs. As we all know, nothing has as great an impact on our economic development, growth patterns, and quality of life as transportation. A reliable and efficient transportation system is critical to keeping people and goods moving and cities and communities prosperous. Our Founding Fathers believed that the free-flow of interstate commerce was one of the important foundations of this country. In this generation, ensuring interstate commerce means making sure that goods can move along our freeway and rail systems to provide the goods and services that we need in this nation. H.R. 3, the Transportation Equity Act: A Legacy for Users (TEA–LU) will ensure that our transportation network continues to meet the demands of our nation's burgeoning economy and growing population.

As it is, congestion is choking our roadways, bridges are in dire need of restructuring, and public transportation is failing to effectively meet the needs of America's commuters. With a constrained budget in my home state of California, many of my state's communities do not have enough money to fix potholes, let alone expand capacity to keep pace with our growing population. Passage of this important bill will sustain our nation's economic growth and ensure our constituents are provided with the safest and most efficient transportation network possible.

### GOODS MOVEMENT

One of the most important aspects of TEA–LU is its attention to the infrastructure deficiencies facing our nation's freight corridors. Southern California serves as a vital conduit for transporting goods to the rest of the nation. Southern California is the largest gateway for trade in the country, with 25 percent of the nation's exports and imports flowing through our seaports and airports. People throughout the United States and the world count on shipping freight to and receiving freight from the ports of Los Angeles and Long Beach. The combined ports of Los Angeles and Long Beach are ranked as the nation's largest and the world's third largest deep-sea ports. Freight deliveries from California to the rest of the nation are expected to double by 2020.

Currently in my district, more than 50 trains per day travel from the ports through Orange County's Orangethorpe rail corridor, with rail traffic expected to increase to 135 trains per day by the year 2020. While the importance of this corridor to our nation's economy is indisputable, so too are the effects increased train traffic has had on local communities' quality of life. Traffic congestion, noise, air pollution and delays in emergency-response time are just some of the negative side effects that accompany heavy rail traffic. Our local freeways, highways, streets and railways are essentially subsidizing the transport of our nation's goods and services.

Projected rail delays will also prolong the delivery of vital goods and services to consumers across the nation. With a staggering $802 billion worth of goods shipped from California to the rest of the country each year, we simply cannot afford to ignore this issue any longer. Ensuring that these goods are transported across the country in a timely manner all depends on a fluid transportation system. Given that all of this multi-modal activity supports the national economy, Southern California's role must be recognized and supported at the national level.

### ENVIRONMENTAL STREAMLINING

We must act to ensure that we have policies and regulations conducive to swift and unencumbered project delivery. As it is, many transportation projects are unnecessarily delayed because of duplicative environmental requirements and administrative red tape. While I strongly believe that stewardship of the environment is critically important, I also believe that high-priority transportation projects must not be allowed to languish indefinitely in the federal environmental review process.

For this reason, I have submitted a proposal to allow states like California, which has a wealth of experience administering its own stringent environmental laws, the responsibility for compliance with the requirements of the National Environmental Policy Act. This would go a long way toward ensuring that transportation projects are approved in a timely manner. Moreover, I am confident that environmental protection would be maintained and even enhanced under what would be a more centralized and efficient system of implementing transportation projects. I look forward to working with the chairman and ranking member between floor consideration and conference to incorporate an environmental streamlining pilot project into TEA–LU.

The reauthorization of TEA–21 will provide communities across the nation with the money needed to effectively address their transportation needs. TEA–LU will provide California, along with the rest of America, with a framework to alleviate congestion on our roadways, enhance, and modernize our public transportation system, and repair and build upon an aging transportation infrastructure. As a member of the Transportation Committee, I look forward to working with my colleagues in Congress and the Bush Administration to pass TEA–LU and ensure that America is provided with the funds and resources needed to maintain and grow our vital transportation infrastructure.

Mr. OXLEY. Mr. Chairman, I stand in support of H.R. 3, the Transportation Equity Act: A Legacy for Users (TEA–LU).

In my congressional district, the rural highways that have served my constituents for years can no longer sustain the increased traffic levels they see every day. Many of these roads cannot meet the growing needs of the communities and economies that they serve. U.S. Route 30, the prime east-west truck route in my district, exemplifies this problem.

As the main alternative to the Ohio Turnpike and Interstate 70, Route 30 has seen huge increases in truck traffic over the years—roughly 65 percent in the last decade. This has led to a tragic number of fatal accidents on the narrow two-lane segments of this road. Obviously, the need for a four-lane upgrade has never been more crucial.

Seven years ago, as part of TEA–21, I was able to secure more than $11 million for the purchase of right-of-ways for the Route 30 modernization throughout my congressional district. Since that time, I have been honored to join my constituents at groundbreaking and ribbon-cutting ceremonies to mark continuing progress on this lifesaving project, for which they have been waiting for more than four decades. The four-lane segment between Upper Sandusky and Bucyrus opened just last December, and completion of the Bucyrus-Ontario section is expected by August of this year. As soon as next week, construction work could begin on the longest uncompleted section in the Fourth District between State Route 235 and Upper Sandusky. I'm grateful that TEA–LU will provide an additional $10 million in direct funding for Route 30 modernization to bring much needed relief to those who drive and live near this major highway.

I'm also pleased that the bill provides $2.3 million to continue U.S. Route 68 bypass construction efforts in Urbana. Nearly fifty years ago, the State of Ohio launched this project to connect Interstate 70 to U.S. Route 33 west of Columbus, purchasing significant parcels of land for the new road. Little progress has been made on it, though, hindering economic development on the west side of the city. This bill will advance the second phase of the overall project by providing needed design and right-of-way funding.

In accord with TEA–LU's expansion of rail/highway crossing safety programs, I am grateful to the Committee for including important rail grade separation projects in the reauthorization as well. In the city of Lima, the construction of new grade separations will alleviate the potential dangers that arise when stopped trains cut off an entire sector of the populace from emergency services. A similar project in Urbana will allow for the rehabilitation of the rail bridge over U.S. Route 36.

Mr. Chairman, I salute the commitment of Chairmen DON YOUNG and TOM PETRI in setting a course toward meeting our nation's growing transportation needs. I applaud the continuing hard work of STEVE LATOURETTE and BOB NEY in securing the best possible rate of return for Ohio and other donor states to the Highway Trust Fund. As we move to conference, their efforts in support of highway funding equity will help our state to complete the many vital infrastructure projects that have been on the shelf for years due to lack of funding. I also thank them and our outstanding senators, MIKE DEWINE and GEORGE VOINOVICH, for their leadership in fixing the ethanol tax penalty last year—a fix that will result in an additional $160 million in highway funds for Ohio each year. Their work is ensuring that our state and our nation have the best and most modern transportation systems in the world.

Mr. CARNAHAN. Mr. Chairman, I rise today in strong support of H.R. 3, a bill to reauthorize our Nation's highway programs.

H.R. 3 is a significant piece of legislation for our Nation. Transportation needs have an impact on every aspect of our well-being. Inadequate roadway conditions cause crashes, cause congestion, drain money from the economy, and decrease the quality of life for people across the country.

Investing in transportation creates jobs, increases business productivity, makes the roads safer for our families, and keeps this country moving. We are now into our second year without reauthorization of the Nation's transportation programs.

In my own State of Missouri, there is an average of over 1000 traffic fatalities each year. The delay in passing a bill to reauthorize our highway programs has meant missed opportunities to reduce these tragedies. Passage of H.R. 3 will allow Missouri and other states to move forward with projects to create better, safer transportation systems.

I would like to thank Chairman YOUNG and Ranking Member OBERSTAR for their leadership on this issue and for their efforts to pass a bill quickly. Their hard work will truly make a difference for transportation programs across the country.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to insert into the RECORD an exchange of letters between myself and Chairman BARTON regarding H.R. 3.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, March 3, 2005.*

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN YOUNG: I am writing with regard to H.R. 3, the Transportation Equity Act: A Legacy for Users, which was ordered reported by the Committee on Transportation and Infrastructure on March 2, 2005. As you know, the Energy and Commerce Committee has jurisdiction over matters involving air quality planning and the air quality impact of transportation projects, the Congestion Mitigation Air Quality Program, provisions involving energy production, supply and storage and other matters contained within H.R. 3 as reported.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 3. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 3 or similar legislation.

I request that you include this letter as part of the Committee's Report on H.R. 3 and in the Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

JOE BARTON,
*Chairman.*

---

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
*Washington, DC, March 3, 2005.*

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, Rayburn Building, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of March 3,2005 regarding H.R. 3, the Transportation. Equity Act: A Legacy for Users. Your assistance in expediting consideration of the bill is very much appreciated.

I agree that there are certain provisions in the bill that are of jurisdictional interest to the Committee on Energy and Commerce and I agree that by foregoing a sequential referral, the Committee on Commerce is not waving its jurisdiction. Be assured that I will support your request to be represented in the conference on those provisions in the jurisdiction of the Energy and Commerce Committee.

As you have requested, I will include this exchange of letters in the Committee report on the bill and in the Record when the bill is on the Floor. Thank you for your cooperation and your continued leadership and support in surface transportation matters.

Sincerely,

DON YOUNG,
*Chairman.*

Ms. SCHWARTZ of Pennsylvania. Mr. Chairman, I rise today in strong support of H.R. 3, the "Transportation Equity Act: A Legacy for Users."

As a former member of the Pennsylvania State Senate, I know firsthand the importance of having strong federal, state and local partnerships. By working together, we are able to better meet our responsibilities, and H.R. 3 will undoubtedly continue in this tradition—facilitating cooperation at all levels of government and helping us achieve our shared goals of improving our Nation's infrastructure, increasing safety, strengthening the economy and creating jobs.

Investments in our highway and transit infrastructure are ultimately investments in our future. We know, for instance, that for every $1 billion invested in federal and highway and transit spending, 47,500 jobs are created. These investments stimulate economic activity by reducing time wasted in traffic, allowing business to move their goods to market more efficiently and safely.

Additionally, modern, safe public infrastructure promotes private investments—both commercial and residential—and contributes to the growing vitality of the region.

I am proud to represent one of the Nation's most vibrant regions, one that is comprised of suburban and urban communities. And, there is no doubt that H.R. 3 will improve the quality of life for Pennsylvanians—reducing residents' daily commute through much-needed roadway repairs, the reconfiguration of intersections and the installation of hi-tech traffic-monitoring systems. It will also expand access to mass-transit alternatives such as regional rail and bus systems, like SEPTA, through improved park-and-ride facilities and other vital infrastructure.

By reducing roadway congestion, improving road safety, stimulating commerce and creating jobs, H.R. 3 will help southeastern Pennsylvania and the Nation continue to thrive.

My colleagues, H.R. 3 represents years of hard work, long hours and tremendous compromise. I want to thank Chairman YOUNG and OBERSTAR for working together to create a bill worthy of such strong bipartisan support.

I also want to recognize the hard work of the Transportation Committee staff, in particular Art Chan, Ken House, Jennifer Esposito, Stephanie Manning and Eric Van Schyndle. You've made this process seamless, and I am tremendously grateful for your help and guidance.

As an honored member of the Transportation Committee I want to encourage all of my colleagues to join me in supporting passage of this legislation.

Mr. SAM JOHNSON of Texas. Mr. Chairman, the highway trust fund has been losing revenue due to fraudulent use of off-road untaxed diesel fuel as taxable on-road diesel. Estimates of the losses to the highway trust fund at $1 billion annually. Congress first addressed this fraud in 1994 by requiring the Internal Revenue Service (IRS) to mark untaxed diesel fuel. The IRS began to mark the untaxed diesel fuel with red dye and saw a dramatic improvement of 22.5 percent higher collections of diesel fuel taxes in the first twelve months.

Unfortunately, criminals have figured out ways to remove the red dye from the diesel fuel and profit from the tax evasion. The IRS has been exploring exciting new nanotechnologies that can be used in conjunction with the red dye to more effectively combat this fraudulent activity.

I am concerned that the IRS has not yet employed these new technologies to improve compliance and increase revenues to the highway trust fund. I am hopeful that before this legislation is sent to the President for his signature that we will be able to find a suitable legislative solution to this problem facing the highway trust fund and all taxpayers.

Mr. PETRI. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. TOM DAVIS of Virginia). All time for general debate, except for the final period contemplated in the rule has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House Report 109–14, is adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered read.

The text of H.R. 3 as amended pursuant to House Resolution 140 is as follows:

### H.R. 3

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE, TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Transportation Equity Act: A Legacy for Users".*

*(b) SECRETARY DEFINED.—In this Act, the term "Secretary" means the Secretary of Transportation.*

*(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title, table of contents.*
*TITLE I—FEDERAL-AID HIGHWAYS*
*Subtitle A—Authorization of Programs*
*Sec. 1101. Authorizations of appropriations.*
*Sec. 1102. Obligation ceiling.*
*Sec. 1103. Apportionments.*
*Sec. 1104. Minimum guarantee.*
*Sec. 1105. Project approval and oversight.*
*Sec. 1106. Use of excess funds.*
*Sec. 1107. Temporary traffic control devices.*
*Sec. 1108. Revenue aligned budget authority.*
*Sec. 1109. Emergency relief.*
*Sec. 1110. Surface transportation program.*
*Sec. 1111. Highway use tax evasion projects.*
*Sec. 1112. Appalachian development highway system.*
*Sec. 1113. Construction of ferry boats and ferry terminal facilities.*
*Sec. 1114. Interstate maintenance discretionary.*
*Sec. 1115. Highway bridge.*
*Sec. 1116. Transportation and community and system preservation program.*
*Sec. 1117. Deployment of magnetic levitation transportation projects.*
*Sec. 1118. Recreational trails.*
*Sec. 1119. Federal lands highways.*
*Sec. 1120. Conservation measures.*
*Sec. 1121. Pedestrian and cyclist equity.*
*Sec. 1122. National commissions.*
*Sec. 1123. Adjustments for the Surface Transportation Extension Act of 2004, Part V.*
*Sec. 1124. Roadway safety.*
*Sec. 1125. Equity requirement.*
*Subtitle B—Congestion Relief*
*Sec. 1201. Motor vehicle congestion relief.*

Sec. 1202. Transportation systems management and operations.
Sec. 1203. Real-time system management information program.
Sec. 1204. Expedited national intelligent transportation systems deployment program.
Sec. 1205. Intelligent transportation systems deployment.
Sec. 1206. Environmental review of activities that support deployment of intelligent transportation systems.
Sec. 1207. State assumption of responsibilities for certain programs and projects.
Sec. 1208. HOV facilities.
Sec. 1209. Congestion pricing pilot program.
Sec. 1210. Congestion mitigation and air quality improvement program eligibility.
Sec. 1211. Special rules for State assumption of responsibilities.
Sec. 1212. Opening of Interstate ramps.

Subtitle C—Mobility and Efficiency

Sec. 1301. National corridor infrastructure improvement program.
Sec. 1302. Coordinated border infrastructure program.
Sec. 1303. Freight intermodal connectors.
Sec. 1304. Projects of national and regional significance.
Sec. 1305. Dedicated truck lanes.
Sec. 1306. Truck parking facilities.

Subtitle D—Highway Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Worker injury prevention and free flow of vehicular traffic.
Sec. 1403. High risk rural road safety improvement program.
Sec. 1404. Transfers of apportionments to safety programs.
Sec. 1405. Safety incentive grants for use of seat belts.
Sec. 1406. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
Sec. 1407. Repeat offenders for driving while intoxicated.
Sec. 1408. Repair or replacement of highway features on National Highway System.

Subtitle E—Construction and Contract Efficiencies

Sec. 1501. Design-build.
Sec. 1502. Warranty highway construction project pilot program.
Sec. 1503. Private investment study.
Sec. 1504. Highways for LIFE pilot program.

Subtitle F—Finance

Sec. 1601. Transportation Infrastructure Finance and Innovation Act.
Sec. 1602. State infrastructure banks.
Sec. 1603. Interstate System reconstruction and rehabilitation toll pilot program.
Sec. 1604. Interstate System construction toll pilot program.
Sec. 1605. Special rules relating to State infrastructure bank program.

Subtitle G—High Priority Projects

Sec. 1701. High priority projects program.
Sec. 1702. Project authorizations.

Subtitle H—Miscellaneous Provisions

Sec. 1801. Budget justification.
Sec. 1802. Motorist information.
Sec. 1803. Motorist information concerning full-service restaurants.
Sec. 1804. High priority corridors on the National Highway System.
Sec. 1805. Additions to Appalachian region.
Sec. 1806. Transportation assets and needs of Delta region.
Sec. 1807. Toll facilities workplace safety study.
Sec. 1808. Pavement marking systems demonstration projects.
Sec. 1809. Work zone safety grants.
Sec. 1810. Grant program to prohibit racial profiling.
Sec. 1811. America's Byways Resource Center.
Sec. 1812. Technical adjustment.
Sec. 1813. Road user charge evaluation pilot project.
Sec. 1814. Thomas P. "Tip" O'Neill, Jr. Tunnel.
Sec. 1815. Conforming amendment for transportation planning sections.
Sec. 1816. Distribution of metropolitan planning funds within States.
Sec. 1817. Treatment of off ramp.
Sec. 1818. Loan forgiveness.
Sec. 1819. Lead agency designation.
Sec. 1820. Use of debris from demolished bridges and overpasses.
Sec. 1821. Hubzone program.
Sec. 1822. Technical amendments to TEA 21 projects.
Sec. 1823. National Work Zone Safety Information Clearinghouse.
Sec. 1824. Transportation conformity.
Sec. 1825. Eligibility to participate in western Alaska community development quota program.
Sec. 1826. Metropolitan regional freight and passenger transportation study.
Sec. 1827. Intermodal transportation facility expansion.
Sec. 1828. Advanced truck stop electrification system.
Sec. 1829. Technology.
Sec. 1830. Extension of public transit vehicle exemption from axle weight restrictions.
Sec. 1831. Motorcyclist Advisory Council.
Sec. 1832. Sharing of monetary recoveries.
Sec. 1833. Eligibility under CMAQ.
Sec. 1834. Sense of Congress regarding Buy America.
Sec. 1835. Community enhancement study.
Sec. 1836. Transportation and local workforce investment.
Sec. 1837. Special rule for fiscal year 2004.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Authorization of appropriations.
Sec. 2002. Occupant protection incentive grants.
Sec. 2003. Alcohol-impaired driving countermeasures.
Sec. 2004. State traffic safety information system improvements.
Sec. 2005. High visibility enforcement program.
Sec. 2006. Motorcycle crash causation study.
Sec. 2007. Child safety and child booster seat incentive grants.
Sec. 2008. Motorcyclist safety.
Sec. 2009. Driver fatigue.
Sec. 2010. Authorization of appropriations for highway safety research and development.
Sec. 2011. Safety data.
Sec. 2012. Driver performance study.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

Sec. 3001. Short title; amendments to title 49, United States Code.
Sec. 3002. Policies, findings, and purposes.
Sec. 3003. Definitions.
Sec. 3004. Metropolitan planning.
Sec. 3005. Statewide planning.
Sec. 3006. Planning programs.
Sec. 3007. Private enterprise participation.
Sec. 3008. Urbanized area formula grants.
Sec. 3009. Clean fuels formula grant program.
Sec. 3010. Capital investment grants.
Sec. 3011. Formula grants for special needs of elderly individuals and individuals with disabilities.
Sec. 3012. Formula grants for other than urbanized areas.
Sec. 3013. Research, development, demonstration, and deployment projects.
Sec. 3014. Cooperative research program.
Sec. 3015. National research and technology programs.
Sec. 3016. National Transit Institute.
Sec. 3017. Job access and reverse commute formula grants.
Sec. 3018. New Freedom program.
Sec. 3019. Bus testing facility.
Sec. 3020. Bicycle facilities.
Sec. 3021. Transit in the parks pilot program.
Sec. 3022. Human resource programs.
Sec. 3023. General provisions on assistance.
Sec. 3024. Special provisions for capital projects.
Sec. 3025. Contract requirements.
Sec. 3026. Project management oversight and review.
Sec. 3027. Investigations of safety and hazards.
Sec. 3028. State safety oversight.
Sec. 3029. Controlled substances and alcohol misuse testing.
Sec. 3030. Employee protective arrangements.
Sec. 3031. Administrative procedures.
Sec. 3032. National transit database.
Sec. 3033. Apportionments based on fixed guideway factors.
Sec. 3034. Authorizations.
Sec. 3035. Over-the-road bus accessibility program.
Sec. 3036. Updated terminology.
Sec. 3037. Project authorizations for new fixed guideway capital projects.
Sec. 3038. Projects for bus and bus-related facilities.
Sec. 3039. National fuel cell bus technology development program.
Sec. 3040. High-intensity small-urbanized area formula grant program.
Sec. 3041. Allocations for national research and technology programs.
Sec. 3042. Relationship to other laws.
Sec. 3043. Cooperative procurement.
Sec. 3044. Obligation ceiling.
Sec. 3045. Adjustments for the Surface Transportation Extension Act of 2004, Part V.
Sec. 3046. Special rule for fiscal year 2004.

TITLE IV—MOTOR CARRIER TRANSPORTATION AND SAFETY

Subtitle A—Commercial Motor Vehicle Safety

Sec. 4101. Authorization of appropriations.
Sec. 4102. Motor carrier safety grants.
Sec. 4103. Border enforcement grants.
Sec. 4104. Commercial driver's license improvements.
Sec. 4105. Hobbs Act.
Sec. 4106. Penalty for denial of access to records.
Sec. 4107. Medical Review Board.
Sec. 4108. Increased penalties for out-of-service violations and false records.
Sec. 4109. Commercial vehicle information systems and networks deployment.
Sec. 4110. Safety fitness.
Sec. 4111. Pattern of safety violations by motor carrier management.
Sec. 4112. Motor carrier research and technology program.
Sec. 4113. International cooperation.
Sec. 4114. Performance and registration information System management.
Sec. 4115. Data quality improvement.
Sec. 4116. Driveaway saddlemount vehicles.
Sec. 4117. Completion of uniform carrier registration.
Sec. 4118. Registration of motor carriers and freight forwarders.
Sec. 4119. Deposit of certain civil penalties into Highway Trust Fund.
Sec. 4120. Outreach and education.
Sec. 4121. Insulin treated diabetes mellitus.
Sec. 4122. Grant program for commercial motor vehicle operators.

Sec. 4123. Commercial motor vehicle safety advisory committee.
Sec. 4124. Safety data improvement program.
Sec. 4125. Commercial driver's license information System modernization.
Sec. 4126. Maximum hours of service for operators of ground water well drilling rigs.
Sec. 4127. Safety performance history screening.
Sec. 4128. Intermodal chassis roadability rulemaking.
Sec. 4129. Substance abuse professionals.
Sec. 4130. Interstate van operations.
Sec. 4131. Hours of service for operators of utility service vehicles.
Sec. 4132. Technical corrections.
Sec. 4133. Intrastate and foreign operations of interstate motor carriers.
Sec. 4134. Operators of vehicles transporting agricultural commodities and farm supplies.
Sec. 4135. Hours of service rules for operators providing transportation to movie production sites.
Sec. 4136. Special rule for fiscal year 2004.

Subtitle B—Household Goods Transportation

Sec. 4201. Federal-State relations relating to transportation of household goods.
Sec. 4202. Arbitration requirements.
Sec. 4203. Civil Penalties relating to household goods brokers and unauthorized transportation.
Sec. 4204. Civil penalty for holding household goods hostage.
Sec. 4205. Working group for development of practices and procedures to enhance Federal-State relations.
Sec. 4206. Consumer handbook on DOT web site.
Sec. 4207. Release of household goods broker information.
Sec. 4208. Consumer complaint information.
Sec. 4209. Insurance regulations.
Sec. 4210. Estimating requirements.
Sec. 4211. Application of State consumer protection laws to certain household goods carriers.
Sec. 4212. Applicability to household goods motor carriers.
Sec. 4213. Violations of Out-of-Service Orders.
Sec. 4214. Criminal penalty for holding goods hostage.

TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

Subtitle A—Funding

Sec. 5101. Authorization of appropriations.
Sec. 5102. Obligation ceiling.
Sec. 5103. Findings.

Subtitle B—Research, Technology, and Education

Sec. 5201. Research, technology, and education.
Sec. 5202. Long-term bridge performance program; innovative bridge research and deployment program.
Sec. 5203. Surface transportation environment and planning cooperative research program.
Sec. 5204. Technology deployment.
Sec. 5205. Training and education.
Sec. 5206. Freight planning capacity building.
Sec. 5207. Advanced travel forecasting procedures program.
Sec. 5208. National cooperative freight transportation research program.
Sec. 5209. Future strategic highway research program.
Sec. 5210. Transportation safety information management system project.
Sec. 5211. Surface transportation congestion relief solutions research initiative.
Sec. 5212. Motor carrier efficiency study.
Sec. 5213. Transportation research and development strategic planning.
Sec. 5214. Limitation on remedies for future strategic highway research program.
Sec. 5215. Center for Transportation Advancement and Regional Development.

Subtitle C—University Transportation Research; Scholarship Opportunities

Sec. 5301. National university transportation centers.
Sec. 5302. University transportation research.
Sec. 5303. Transportation scholarship opportunities program.

Subtitle D—Advanced Technologies

Sec. 5401. Advanced heavy-duty vehicle technologies research program.
Sec. 5402. Commercial remote sensing products and spatial information technologies.

Subtitle E—Transportation Data and Analysis

Sec. 5501. Bureau of Transportation Statistics.
Sec. 5502. Reports of Bureau of Transportation Statistics.

Subtitle F—Intelligent Transportation Systems Research

Sec. 5601. Short title.
Sec. 5602. Goals and purposes.
Sec. 5603. General authorities and requirements.
Sec. 5604. National architecture and Standards.
Sec. 5605. Research and development.
Sec. 5606. Infrastructure development.
Sec. 5607. Road weather research and development program.
Sec. 5608. Definitions.
Sec. 5609. Rural interstate corridor communications study.
Sec. 5610. Centers for surface transportation excellence.
Sec. 5611. Repeal.
Sec. 5612. Special rule for fiscal year 2004.

TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

Sec. 6001. Transportation planning.
Sec. 6002. Efficient environmental reviews for project decisionmaking.
Sec. 6003. Policy on historic sites.
Sec. 6004. Exemption of Interstate System.
Sec. 6005. Interstate compacts.
Sec. 6006. Development of transportation plan.
Sec. 6007. Interstate agreements.
Sec. 6008. Regulations relating to transportation planning.
Sec. 6009. Special rules relating to project development procedures.

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

Sec. 7001. Amendment of title 49, United States Code.
Sec. 7002. Findings and purpose.
Sec. 7003. Definitions.
Sec. 7004. General regulatory authority.
Sec. 7005. Chemical or biological materials.
Sec. 7006. Representation and tampering.
Sec. 7007. Technical amendments.
Sec. 7008. Training of certain employees.
Sec. 7009. Registration.
Sec. 7010. Providing shipping papers.
Sec. 7011. Rail tank cars.
Sec. 7012. Unsatisfactory safety rating.
Sec. 7013. Training curriculum for the public sector.
Sec. 7014. Planning and training grants, monitoring, and review.
Sec. 7015. Special permits and exclusions.
Sec. 7016. Uniform forms and Procedures.
Sec. 7017. International uniformity of standards and requirements.
Sec. 7018. Administrative.
Sec. 7019. Enforcement.
Sec. 7020. Civil penalty.
Sec. 7021. Criminal penalty.
Sec. 7022. Preemption.
Sec. 7023. Relationship to other laws.
Sec. 7024. Judicial review.
Sec. 7025. Authorization of appropriations.
Sec. 7026. Determining amount of undeclared shipments of hazardous materials entering the United States.
Sec. 7027. Conforming amendments.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

Sec. 8001. Policy.

## TITLE I—FEDERAL-AID HIGHWAYS

### Subtitle A—Authorization of Programs

### SEC. 1101. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,323,076,000 for fiscal year 2004, $4,431,153,000 for fiscal year 2005, $4,541,932,000 for fiscal year, 2006, $4,655,480,000 for fiscal year 2007, $4,771,867,000 for fiscal year 2008, and $4,891,164,000 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title, $5,187,691,000 for fiscal year 2004, $5,317,383,000 for fiscal year 2005, $5,450,318,000 for fiscal year 2006, $5,586,576,000 for fiscal year 2007, $5,726,240,000 for fiscal year 2008, and $5,869,396,000 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title, $3,709,440,000 for fiscal year 2004, $3,802,176,000 for fiscal year 2005, $3,897,231,000 for fiscal year 2006, $3,994,661,000 for fiscal year 2007, $4,094,528,000 for fiscal year 2008, and $4,196,891,000 for fiscal year 2009.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under sections 130 and 152 of that title, $630,000,000 for fiscal year 2005, $645,000,000 for fiscal year 2006, $660,000,000 for fiscal year 2007, $680,000,000 for fiscal year 2008, and $695,000,000 for fiscal year 2009. Of such funds ⅓ per fiscal year shall be available to carry out section 130 and ⅔ shall be available to carry out section 152.

(5) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $6,052,306,000 for fiscal year 2004, $6,203,614,000 for fiscal year 2005, $6,358,704,000 for fiscal year 2006, $6,517,672,000 for fiscal year 2007, $6,680,614,000 for fiscal year 2008, and $6,847,629,000 for fiscal year 2009.

(6) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title, $1,469,846,000 for fiscal year 2004, $1,506,592,000 for fiscal year 2005, $1,544,257,000 for fiscal year 2006, $1,582,863,000 for fiscal year 2007, $1,622,435,000 for fiscal year 2008, and $1,662,996,000 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $460,000,000 for fiscal year 2004 and $470,000,000 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $53,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $100,000,000 for fiscal year 2008, and $110,000,000 for fiscal year 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of title 23, *United States Code, $325,000,000 for fiscal year 2004, $365,000,000 for fiscal year 2005, $390,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $420,000,000 for fiscal year 2008, and $420,000,000 for fiscal year 2009.*

*(B) PARK ROADS AND PARKWAYS.—For park roads and parkways roads under section 204 of that title, $170,000,000 for fiscal year 2004, $185,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $215,000,000 for fiscal year 2007, $225,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.*

*(C) PUBLIC LANDS HIGHWAY.—For public lands highway under section 204 of that title, $250,000,000 for fiscal year 2004, $260,000,000 for fiscal year 2005, $280,000,000 for fiscal year 2006, $280,000,000 for fiscal year 2007, $290,000,000 for fiscal year 2008, and $300,000,000 for fiscal year 2009.*

*(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $20,000,000 for each of fiscal years 2004 through 2009.*

*(10) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—For the national corridor infrastructure improvement program under section 1301 of this title, $600,000,000 for fiscal year 2005, $600,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, $600,000,000 for fiscal year 2008, and $600,000,000 for fiscal year 2009.*

*(11) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1302 of this title, $200,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.*

*(12) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE PROGRAM.—For the projects of national and regional significance program under section 1304 of this title, $1,100,000,000 for fiscal year 2005, $1,100,000,000 for fiscal year 2006, $1,200,000,000 for fiscal year 2007, $1,300,000,000 for fiscal year 2008, and $1,300,000,000 for fiscal year 2009.*

*(13) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 165 of title 23, United States Code, $60,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $75,000,000 for fiscal year 2006, $75,000,000 for fiscal year 2007, $75,000,000 for fiscal year 2008, and $75,000,000 for fiscal year 2009.*

*(14) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $30,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $45,000,000 for fiscal year 2006, $55,000,000 for fiscal year 2007, $55,000,000 for fiscal year 2008, and $60,000,000 for fiscal year 2009.*

*(15) CONGESTION PRICING PILOT PROGRAM.—For the congestion pricing pilot program under section 1209 of this title, $15,000,000 for fiscal year 2004, $15,000,000 for fiscal year 2005, $15,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $15,000,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.*

*(16) DEPLOYMENT OF 511 TRAVELER INFORMATION PROGRAM.—For the 511 traveler information program under section 1204(c)(7) of this title, $6,000,000 for each of fiscal years 2005 through 2009.*

*(17) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $2,496,450,000 for fiscal year 2005, $2,244,550,000 for fiscal year 2006, $2,143,250,000 for fiscal year 2007, $2,192,450,000 for fiscal year 2008, and $2,050,450,000 for fiscal year 2009.*

*(18) FREIGHT INTERMODAL CONNECTOR PROGRAM.—For the freight intermodal connector program under section 1303 of this title, $250,000,000 for fiscal year 2005, $250,000,000 for fiscal year 2006, $250,000,000 for fiscal year 2007, $250,000,000 for fiscal year 2008, and $250,000,000 for fiscal year 2009.*

*(19) HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.—For the high risk rural road safety improvement program under section 1403 of this title, $105,000,000 for fiscal year 2005, $110,000,000 for fiscal year 2006, $120,000,000 for fiscal year 2007, $125,000,000 for fiscal year 2008, and $130,000,000 for fiscal year 2009.*

*(20) HIGHWAY USE TAX EVASION PROGRAM.—For highway use tax evasion projects under section 143 of title 23, United States Code, $12,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $30,000,000 for fiscal year 2006, $20,000,000 for fiscal year 2007, $10,000,000 for fiscal year 2008, and $7,000,000 for fiscal year 2009.*

*(21) PEDESTRIAN AND CYCLIST EQUITY.—*

*(A) SAFE ROUTES TO SCHOOL PROGRAM.—For the safe routes to school program under section 1120(a) of this title, $150,000,000 for fiscal year 2005, $175,000,000 for fiscal year 2006, $175,000,000 for fiscal year 2007, $175,000,000 for fiscal year 2008, and $200,000,000 for fiscal year 2009.*

*(B) NONMOTORIZED PILOT PROGRAM.—For the nonmotorized pilot program under section 1120(b) of this title, $25,000,000 for each of fiscal years 2005 through 2009.*

*(22) DEDICATED TRUCK LANES.—For dedicated truck lanes under section 1305 of this title, $165,000,000 for each of fiscal years 2005 through 2008 and $170,000,000 for fiscal year 2009.*

*(23) HIGHWAYS FOR LIFE PROGRAM.—For the Highways for LIFE program under section 1504 of this title, $55,000,000 for fiscal year 2005 and $60,000,000 for each of fiscal years 2006 through 2009.*

*(24) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209), $115,000,000 for fiscal year 2004, $125,000,000 for fiscal year 2005, $130,000,000 for fiscal year 2006, $130,000,000 for fiscal year 2007, $140,000,000 for fiscal year 2008, and $140,000,000 for fiscal year 2009.*

*(b) DISADVANTAGED BUSINESS ENTERPRISES.—*

*(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.*

*(2) DEFINITIONS.—In this subsection, the following definitions apply:*

*(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.*

*(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.*

*(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.*

*(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.*

*(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.*

***SEC. 1102. OBLIGATION CEILING.***

*(a) GENERAL LIMITATION.—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—*

*(1) $33,643,000,000 for fiscal year 2004;*

*(2) $34,412,000,000 for fiscal year 2005;*

*(3) $36,287,100,000 for fiscal year 2006;*

*(4) $37,616,700,000 for fiscal year 2007;*

*(5) $38,876,400,000 for fiscal year 2008; and*

*(6) $40,231,500,000 for fiscal year 2009.*

*(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—*

*(1) under section 125 of title 23, United States Code;*

*(2) under section 147 of the Surface Transportation Assistance Act of 1978;*

*(3) under section 9 of the Federal-Aid Highway Act of 1981;*

*(4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;*

*(5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;*

*(6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;*

*(7) under section 157 of title 23, United States Code, as in effect on June 8, 1998;*

*(8) under section 105 of title 23, United States Code (but, for each of fiscal years 1998 through 2013), only in an amount equal to $639,000,000 per fiscal year; and*

*(9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that such obligation authority has not lapsed or been used.*

*(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary shall—*

*(1) not distribute obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;*

*(2) not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other*

than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation authority provided by subsection (a) for such fiscal year less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 14501 of title 40, United States Code (relating to Appalachian development highway system), and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall after August 1 of each of fiscal years 2004 through 2009 revise a distribution of the obligation authority made available under subsection (c) if an amount made available under this section will not be obligated during the fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year. In making the redistribution, the Secretary shall give priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (c)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for a section set forth in subsection (c)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) INCREASE IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be increased by an amount equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for such fiscal year. Any such increase shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $390,000,000 for fiscal year 2004;
(2) $395,000,000 for fiscal year 2005;
(3) $395,000,000 for fiscal year 2006;
(4) $395,000,000 for fiscal year 2007;
(5) $395,000,000 for fiscal year 2008; and
(6) $100,000,000 for fiscal year 2009.

**SEC. 1103. APPORTIONMENTS.**

(a) ADMINISTRATIVE EXPENSES.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for purposes described in paragraph (2) $390,000,000 for fiscal year 2004, $395,000,000 for fiscal year 2005, $395,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $395,000,000 for fiscal year 2008, and $400,000,000 for fiscal year 2009.

"(2) USE OF FUNDS.—The amounts authorized to be appropriated by paragraph (1) are authorized for the following purposes:

"(A) To administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(B) To make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.";

(2) in paragraph (3) by striking "sum deducted under" and inserting "amounts authorized to be appropriated by"; and

(3) in paragraph (4)—

(A) by striking "sums deducted under" and inserting "amounts authorized to be appropriated by"; and

(B) by striking "and the Federal Motor Carrier Safety Administration".

(b) NATIONAL HIGHWAY SYSTEM.—Section 104(b) of such title is amended—

(1) by striking "the deduction authorized by subsection (a) and"; and

(2) in paragraph (1)(A)—

(A) by striking "$36,400,000 for each fiscal year" and inserting "$40,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $50,000,000 for fiscal year 2007, $50,000,000 for fiscal year 2008, and $50,000,000 for fiscal year 2009"; and

(B) by striking "$18,800,000 for each of fiscal years 1998 through 2002" and inserting "$20,000,000 for fiscal year 2004 and $30,000,000 for each of fiscal years 2005 through 2009".

(c) REPORT.—Section 104(j) of title 23, United States Code, is amended by striking "submit to Congress a report" and inserting "transmit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet,".

(d) CONFORMING AMENDMENTS.—Section 104 of such title is amended—

(1) in subsection (f)(1)—

(A) by striking ", after making the deduction authorized by subsection (a) of this section,"; and

(B) by striking "remaining"; and

(2) in subsection (i) by striking "deducted" and inserting "authorized to be appropriated".

(e) PUERTO RICO HIGHWAY PROGRAM.—Section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209; 117 Stat. 1114; 118 Stat. 1149) is amended—

(1) in paragraph (1) by striking "1101(a)(15) for each of fiscal years 1998 through 2005" and inserting "1101(a)(24) for each of fiscal years 2004 through 2009 of the Transportation Equity Act: A Legacy for Users"; and

(2) in paragraph (2) by striking "1101(a)(15) of this Act" and inserting "1101(a)(24) of the Transportation Equity Act: A Legacy for Users".

**SEC. 1104. MINIMUM GUARANTEE.**

To be supplied.

**SEC. 1105. PROJECT APPROVAL AND OVERSIGHT.**

Section 106 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) OVERSIGHT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title. At a minimum, the program shall be responsive to all areas related to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

"(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the States' practices for estimating project costs, awarding contracts, and reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds under this title have sufficient accounting controls to properly manage such Federal funds. The Secretary shall periodically review the States' monitoring of subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of a State's project delivery system, which includes one or more activities that are involved in the life cycie of a project from its conception to its completion.

"(4) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds under this title have adequate project delivery systems for projects approved under this section. The Secretary shall periodically review the States' monitoring of subrecipients.

"(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law. In addition, the Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

"(i) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision in this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, or any other project in the discretion of the Secretary, shall submit to the Secretary a project management plan and an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—The project management plan shall document the procedures and processes in place to provide timely information to the project decision makers to manage effectively the scope, costs, schedules, and quality, and the Federal requirements of the project and the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—The financial plan shall be based on detailed estimates of the cost to complete the project. Annual updates shall be submitted based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(j) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the Secretary's request.".

**SEC. 1106. USE OF EXCESS FUNDS.**

Section 106 of title 23, United States Code, is further amended by adding at the end the following:

"(k) USE OF EXCESS FUNDS.—

"(1) AUDITS.—A State may audit projects funded with amounts apportioned under sections 104 and 144 to determine whether any amounts obligated for a project are excess funds.

"(2) PLANS FOR USE OF EXCESS FUNDS.—If a State determines, after conducting an audit under paragraph (1), that funds obligated for a project are excess funds, the State may develop a plan for obligating the funds for the design and construction of—

"(A) with respect to excess funds derived from the surface transportation program under section 133(d)(1), 133(d) (2), or 133(d)(3), the highway bridge replacement and rehabilitation program under section 144, the congestion mitigation and air quality improvement program under section 149, or the recreational trails program under section 206, one or more projects that are eligible for funding under that program; and

"(B) with respect to excess funds derived from any other program under this title, one or more projects that are eligible for funding those programs or the surface transportation program under section 133.

"(3) CERTIFICATION TO THE SECRETARY.—A State that has developed a plan under paragraph (2) shall transmit to the Secretary a certification that the State has conducted an audit under paragraph (1) and developed the plan in accordance with paragraph (2).

"(4) IMPLEMENTATION OF PLANS.—After transmitting a certification to the Secretary with respect to a plan under paragraph (3), the State may carry out the plan.

"(5) APPLICABILITY OF REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), excess funds used to carry out a project under this section shall be subject to the requirements of this title that are applicable to the program under which the project is carried out.

"(B) STP ALLOCATIONS.—Section 133(d) shall not apply to excess funds used to carry out a project under this section, unless such funds are derived from amounts apportioned under 104(b)(3).

"(6) EXCESS FUNDS DEFINED.—In this subsection, the term 'excess funds' means funds obligated for a project that remain available for the project after the project has been completed or canceled.".

**SEC. 1107. TEMPORARY TRAFFIC CONTROL DEVICES.**

(a) STANDARDS.—Section 109(e) of title 23, United States Code, is amended—

(1) by striking "(e) No funds" and inserting the following:

"(e) INSTALLATION OF SAFETY DEVICES.—

"(1) HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.—No funds"; and

(2) by adding at the end the following:

"(2) TEMPORARY TRAFFIC CONTROL DEVICES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.".

(b) LETTING OF CONTRACTS.—Section 112 of such title is amended—

(1) by striking subsection (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by adding at the end the following:

"(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

"(1) ISSUANCE OF REGULATIONS.—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

"(2) EFFECTS OF REGULATIONS.—Based on regulations issued under paragraph (1), a State shall—

"(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and

"(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).

"(3) LIMITATION.—Nothing in the regulations shall be construed to prohibit a State from implementing standards that are more stringent than those required under the regulations.

"(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term 'positive protective measures' means temporary traffic barriers, crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.".

**SEC. 1108. REVENUE ALIGNED BUDGET AUTHORITY.**

(a) ALLOCATION.—Section 110(a)(1) of title 23, United States Code, is amended—

(1) by striking "2000" and inserting "2006";

(2) by inserting after "such fiscal year" the following: "and the succeeding fiscal year".

(b) REDUCTION.—Section 110(a)(2) of such title is amended—

(1) by striking "2000" and inserting "2006";

(2) by striking "October 1 of the succeeding" and inserting "October 15 of such"; and

(3) by inserting after "Account)" the following: "for such fiscal year and the succeeding fiscal year".

(c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A) of such title is amended by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users".

(d) TECHNICAL AMENDMENT.—Section 110(b)(1)(A) of title 23, United States Code, is amended by striking "for" the second place it appears.

**SEC. 1109. EMERGENCY RELIEF.**

There is authorized to be appropriated for a fiscal year such sums as may be necessary for allocations by the Secretary described in subsections (a) and (b) of sections 125 of title 23, United States Code, if the total of those allocations in such fiscal year are in excess of $100,000,000.

**SEC. 1110. SURFACE TRANSPORTATION PROGRAM.**

Section 133(f)(1) of title 23, United States Code, is amended—

(1) by striking "1998 through 2000" and inserting "2004 through 2006"; and

(2) by striking "2001 through 2003" and inserting "2007 through 2009".

**SEC. 1111. HIGHWAY USE TAX EVASION PROJECTS.**

(a) ELIGIBLE ACTIVITIES.—

(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Section 143(b)(2) of title 23, United States Code, is amended by inserting before the period the following: "; except that of funds so made available for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training".

(2) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Section 143(b)(3) of such title is amended by striking "The" and inserting "Except as otherwise provided in this section, the".

(3) LIMITATION ON USE OF FUNDS.—Section 143(b)(4) of such title is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(C) by adding at the end the following:

"(H) to support efforts between States and Indian tribes to address issues related to State motor fuel taxes; and

"(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.".

(4) REPORTS.—Section 143(b) of such title is amended by adding at the end the following:

"(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the annual yield estimated for each project funded under this section.".

(b) EXCISE FUEL REPORTING SYSTEM.—

(1) IN GENERAL.—Section 143(c)(1) of such title is amended—

*(A) by striking "August 1, 1998," and inserting "90 days after the date of enactment of the Transportation Equity Act: A Legacy for Users,";*

*(B) by striking "development" and inserting "completion, operation,"; and*

*(C) by striking "an excise fuel reporting system (in this subsection referred to as 'the system')" and inserting "an excise summary terminal activity reporting system".*

*(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—Section 143(c)(2) of such title is amended—*

*(A) by striking "the system" the first place it appears and inserting "the excise summary terminal activity reporting system";*

*(B) in subparagraph (A) by striking "develop" and inserting "complete";*

*(C) by striking "and" at the end of subparagraph (B);*

*(D) by striking the period at the end of subparagraph (C) and inserting "; and"; and*

*(E) by adding at the end the following:*

*"(D) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for the completion, operation, and maintenance of the system."; and*

*(3) FUNDING PRIORITY.—Section 143(c)(3) of such title is amended to read as follows:*

*"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.".*

*(c) REGISTRATION SYSTEM AND ELECTRONIC DATABASE.—Section 143 of such title is further amended by adding at the end the following:*

*"(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.—*

*"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel.*

*"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—*

*"(A) the Internal Revenue Service shall develop and maintain the registration system through contracts;*

*"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for development, operation, and maintenance of the registration system;*

*"(C) the registration system shall be under the control of the Internal Revenue Service; and*

*"(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.*

*"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel in accordance with this subsection.*

*"(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—*

*"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the establishment, operation, and maintenance of an electronic database of heavy vehicle highway use tax payments.*

*"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—*

*"(A) the Internal Revenue Service shall establish and maintain the electronic database through contracts;*

*"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;*

*"(C) the electronic database shall be under the control of the Internal Revenue Service; and*

*"(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.*

*"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to establish, operate, and maintain an electronic database of heavy vehicle highway use tax payments in accordance with this subsection.*

*"(f) REPORTS.—Not later than March 31 and September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this section related to the excise summary terminal activity reporting system, the pipeline, vessel, and barge registration system, and the heavy vehicle use tax electronic database.".*

### SEC. 1112. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

*(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 14501 title 40, United States Code.*

*(b) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 14501 of title 40, United States Code, and such funds shall be available to construct highways and access roads under such section and shall remain available until expended.*

*(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under section 14501 of title 40" after "section 125".*

### SEC. 1113. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

*(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:*

#### ***"§ 165. Construction of ferry boats and ferry terminal facilities***

*"(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).*

*"(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.*

*"(c) AVAILABILITY OF AMOUNTS.—Amounts made available to carry out this section shall remain available until expended.*

*"(d) SET-ASIDE FOR PROJECTS ON NHS.—*

*"(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 2004 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.*

*"(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.*

*"(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.*

*"(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.*

*"(e) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.".*

*(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:*

*"165. Construction of ferry boats and ferry terminal facilities.".*

*(c) NATIONAL FERRY DATABASE.—*

*(1) ESTABLISHMENT.—The Secretary, acting through the Bureau of Transportation Statistics, shall establish and maintain a national ferry database.*

*(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful.*

*(3) UPDATE REPORT.—Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185–186).*

*(4) REQUIREMENTS.—The Secretary shall—*

*(A) compile the database not later than 1 year after the date of enactment of this Act and update the database every 2 years thereafter;*

*(B) ensure that the database is easily accessible to the public;*

*(C) make available, from the ferry boat and ferry terminal program authorized under section 165 of title 23, United States Code, not more than $500,000 for each of fiscal years 2005 through 2009 to establish the database.*

### SEC. 1114. INTERSTATE MAINTENANCE DISCRETIONARY.

*(a) IN GENERAL.—Section 118 of title 23, United States Code, is amended—*

*(1) by striking subsection (c);*

*(2) in subsection (e) by inserting "Special Rules.—" before "Funds made"; and*

*(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.*

*(b) CONFORMING AMENDMENT.—Section 103(d)(1) of such title is amended by striking "or 118(c)".*

*(c) TECHNICAL AMENDMENTS.—*

*(1) SECTION 114.—Section 114(a) of such title is amended by striking "Except as provided in section 117 of this title, such" and inserting "Such".*

*(2) SECTION 116.—Section 116(b) of such title is amended by striking "highway department" and inserting "transportation department".*

*(3) Section 120.—Section 120(e) of such title is amended in the first sentence by striking "such system" and inserting "such highway".*

*(4) Section 126.—Section 126(a) of such title is amended by inserting "under" before "section 104(b)(3)".*

*(5) Section 127.—Section 127 of such title is amended by striking "118(b)(1)" and inserting "118(b)(2)".*

*(6) Bicycle and pedestrian safety grants.—Section 1212(i) of the Transportation Equity Act for the 21st Century (112 Stat. 196–197) is amended by redesignating subparagraphs (D) and (E) as paragraphs (2) and (3), respectively, and moving such paragraphs 2 ems to the left.*

*(d) Limitation.—The amendments made by this section shall not apply to, or have any affect with respect to, funds made available under section 118 of title 23, United States Code, before the date of enactment of this section.*

*(e) Effective Date.—The amendments made by subsections (a) and (b) of this section shall take effect on September 30, 2005.*

***SEC. 1115. HIGHWAY BRIDGE.***

*(a) Scour Countermeasures.—Section 144(d) of title 23, United States Code, is amended to read as follows:*

*"(d) Applications for and Approval of Assistance.—*

*"(1) Bridge replacement or rehabilitation.—Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsections (b) and (c) shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge.*

*"(2) Preventive maintenance, scour measures, and applications of certain compositions.—Whenever any State makes application to the Secretary for assistance in painting, seismic retrofit, or preventive maintenance of, or installing scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventive maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, such structure.*

*"(3) Eligibility.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State; except that a State may carry out a project for preventive maintenance on a bridge, seismic retrofit of a bridge, or installing scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.".*

*(b) Bridge Discretionary Set-Aside.—Section 144(g)(1) of such title is amended by adding at the end the following:*

*"(D) Fiscal years 2004 through 2009.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2004 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available at the discretion of the Secretary; except that $25,000,000 shall be available only for projects for the seismic retrofit of bridges, and of which $10,000,000 shall be available only for the seismic retrofit of a bridge described in subsection (l), and except as provided in subparagraph (E).*

*"(E) Gravina access.—*

*"(i) In general.—Of the amounts authorized to be appropriated to carry out the bridge program under this paragraph, for each of the fiscal years 2005 through 2009, $10,000,000 shall be set aside from the $100,000,000 available at the discretion of the Secretary under subparagraph (D) for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.*

*"(ii) Scoring.—The project described in this subparagraph shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).".*

*(c) Off-System Bridges.—Section 144(g)(3) of such title is amended—*

*(1) by striking "15 percent" and inserting "20 percent";*

*(2) by striking "1987" and inserting "2005";*

*(3) by striking "2004" the first place it appears and all that follows through "2005," and inserting "2009 for the bridge program.";*

*(4) by inserting ", perform systematic preventive maintenance," after "paint"; and*

*(5) by inserting a comma before "to highway bridges".*

*(d) Technical Amendment.—Section 144(i) of such title is amended by striking "at the same time" and all that follows through "Congress".*

***SEC. 1116. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.***

*(a) Extension.—Section 1221(e)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 879; 118 Stat. 1149) is amended—*

*(1) by striking "1999 and" and inserting "1999,"; and*

*(2) by striking "2004" the first place it appears and all that follows through "2005" and inserting the following: ", and $25,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $35,000,000 for fiscal year 2006, $35,000,000 for fiscal year 2007, and $35,000,000 for each of fiscal years 2008 and 2009".*

*(b) Federal Share.—Section 1221(e)(2) of such Act is amended by inserting before the period at the end "; except that such funds shall not be transferable and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code".*

*(c) Planning Activities Pilot Program.—Section 1221 of such Act is amended by adding at the end the following:*

*"(f) Planning Activities Pilot Program.—*

*"(1) In general.—The Secretary shall establish a pilot program using funds set aside under paragraph (4) to support planning and public participation activities related to highway and public transportation projects.*

*"(2) Eligible activities.—Activities eligible to be carried out under the pilot program may include the following:*

*"(A) Improving data collection and analysis to improve freight movement, intermodal connections, and transportation access and efficiency for all users, including children, older individuals, individuals with disabilities, low-income individuals, and minority communities.*

*"(B) Supporting public participation by holding public meetings using an interactive workshop format facilitated by design or planning experts (or both) to consider public input at the initial stages of project development and during other phases of a project.*

*"(C) Using innovative planning or design visualization and simulation tools to improve the evaluation of alternatives and their impacts and to enhance public participation in the transportation planning process, including tools having a structure that enables modifications to scenarios and assumptions in real time.*

*"(D) Enhancing coordination among transportation, land use, workforce development, human service, economic development, and other agencies to strengthen access to job training services, daycare centers, health care facilities, senior centers, public schools, universities, and residential areas, including the use of integrated planning and service delivery, especially for transit dependent and low-income individuals.*

*"(E) Contracting with nonprofit organizations, universities, and local agencies to deliver community-oriented transportation plans and projects, including public outreach, context sensitive design, transit-oriented development, multimodal corridor investments, commuter benefits deployment, and brownfield redevelopment.*

*"(F) Measuring and reporting on the annual performance of the transportation system (or parts of) relative to State or locally-established criteria regarding—*

*"(i) maintenance and operating costs of the transportation system, vehicle miles traveled, peak-period travel times, transportation choices, and mode shares;*

*"(ii) location of housing units, jobs, medical facilities, and commercial centers to transit;*

*"(iii) improvements directed to low-income families and older individuals;*

*"(iv) transportation-related pollution emissions into the air and water;*

*"(v) land consumption; and*

*"(vi) other locally-significant factors.*

*"(G) Improving regional travel and emission modeling to examine factors not currently considered, such as induced travel and land use effects of transportation alternatives, types of vehicles owned and used by households, time-of-day of travel and linkage of trips to each other throughout the day, effects of urban design and pedestrian and bicycle environment on travel behavior, and impacts of alternatives on the distribution of benefits and burdens among various groups protected under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).*

*"(3) Federal share.—Notwithstanding subsection (e)(2), the Federal share of the cost of activities carried out under the pilot program shall be 100 percent.*

*"(4) Set aside.—The Secretary shall make available $1,500,000 of the amounts made available to carry out this section for each of fiscal years 2005 through 2009 to carry out the pilot program under this subsection.".*

***SEC. 1117. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.***

*(a) Definitions.—In this section, the following definitions apply:*

*(1) Eligible project costs.—The term "eligible project costs"—*

*(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and*

*(B) includes the costs of preconstruction planning activities.*

*(2) Full project costs.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.*

*(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.*

*(4) State.—The term "State" has the meaning such term has under section 101(a) of title 23, United States Code.*

*(b) In General.—*

*(1) Assistance for eligible projects.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.*

*(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.*

*(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.*

*(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—*

*(1) involve a segment or segments of a high-speed ground transportation corridor;*

*(2) result in an operating transportation facility that provides a revenue producing service; and*

*(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 2005 and $20,000,000 for each of fiscal years 2006 through 2009.*

*(e) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the full project costs of an eligible project shall be 80 percent, and such funds shall remain available until expended and shall not be transferable.*

### *SEC. 1118. RECREATIONAL TRAILS.*

*(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended by striking "research and technical" and all that follows through "Committee" and inserting "research, technical assistance, and training under the recreational trails program".*

*(b) PERMISSIBLE USES.—Section 206(d)(2) of such title is amended to read as follows:*

*"(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—*

*"(A) maintenance and restoration of existing recreational trails;*

*"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;*

*"(C) purchase and lease of recreational trail construction and maintenance equipment;*

*"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—*

*"(i) permissible under other law;*

*"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.) and that is in effect;*

*"(iii) approved by the administering agency of the State designated under subsection (c)(1); and*

*"(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);*

*"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;*

*"(F) assessment of trail conditions for accessibility and maintenance;*

*"(G) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and*

*"(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.".*

*(c) USE OF APPORTIONMENTS.—Section 206(d)(3) of such title is amended—*

*(1) by striking subparagraph (C);*

*(2) by redesignating subparagraph (D) as subparagraph (C); and*

*(3) in subparagraph (C) (as so redesignated) by striking "(2)(F)" and inserting "(2)(H)".*

*(d) FEDERAL SHARE.—Section 206(f) of such title is amended—*

*(1) in paragraph (1)—*

*(A) by inserting "and the Federal share of the administrative costs of a State" after "project"; and*

*(B) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120(b)";*

*(2) in paragraph (2)(A) by striking "80 percent of" and inserting "the amount determined in accordance with section 120(b) for";*

*(3) in paragraph (2)(B) by inserting "sponsoring the project" after "Federal agency";*

*(4) by striking paragraph (5);*

*(5) by redesignating paragraph (4) as paragraph (5);*

*(6) in paragraph (5) (as so redesignated) by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120(b)"; and*

*(7) by inserting after paragraph (3) the following:*

*"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—*

*"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and*

*"(B) expended on a project that is eligible for assistance under this section.".*

*(e) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—Section 206(h)(1) of such title is amended by adding at the end the following:*

*"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—The Secretary may allow pre-approval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described under subsection (d)(2) (other than subparagraph (I)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.".*

*(f) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.*

### *SEC. 1119. FEDERAL LANDS HIGHWAYS.*

*(a) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—Section 202(d)(3) of title 23, United States Code, is amended to read as follows:*

*"(3) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—*

*"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this title for a highway, road, bridge, parkway, or transit facility project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, engineering, and construction relating to such project.*

*"(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the Federal lands highway programs, the programs, functions, services, or activities involved.*

*"(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a project to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.*

*"(D) FUNDING.—The amount an Indian tribal government receives for a project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the project in accordance with the funding formula established under this subsection and such additional amount as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the project.*

*"(E) ELIGIBILITY.—An Indian tribal government may receive funding under subparagraph (A) for a project in a fiscal year if the Indian tribal government demonstrates to the satisfaction of the Secretary financial stability and financial management capability as demonstrated in the annual auditing required under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and, during the preceding fiscal year, had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency.*

*"(F) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to projects under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).*

*"(G) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such project under this section if such funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).*

*"(H) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary of Transportation or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue*

*all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.".*

*(b) Alaska Native Village Inventory.—Section 202(d)(2) of such title is amended by adding at the end the following:*

*"(E) Alaska Native Road Inventory.—*

*"(i) In general.—For fiscal year 2005 and each fiscal year thereafter, any allocation of sums authorized to be appropriated for Indian reservation roads in Alaska shall be based on an inventory of roads within the exterior boundaries of village corporation land selected pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that includes all routes previously included in such an inventory. The Secretary of Transportation and the Secretary of the Interior may include, in the inventory of roads, those proposed for inclusion by tribal village governments from among community streets within the village and those proposed primary access routes for inclusion by tribal village governments, including roads and trails between villages (including links over water), roads and trails to landfills, roads and trails to drinking water sources, roads and trails to natural resources identified for economic development, and roads and trails that provide access to intermodal termini, such as airports, harbors, or boat landings.*

*"(ii) Limitation on primary access routes.—For purposes of this subparagraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.".*

*(c) Grants for Financing Transportation Debt.—Section 202(d)(2)(A) of such title is amended by inserting before the period at the end the following: "; except that, beginning October 1, 2004, the Secretary may use up to 3 percent of such funds for making grants to Indian tribes for the purpose of financing transportation debt for individual Indian reservation roads subject to all requirements governing Federal assistance for Indian roads under this section and section 204".*

*(d) Deputy Assistant Secretary of Transportation for Tribal Government Affairs.—Section 102 of title 49, United States Code, is amended—*

*(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and*

*(2) by inserting after subsection (e) the following:*

*"(f) Deputy Assistant Secretary for Tribal Government Affairs.—The Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking related to, or has impact on, projects, programs, or funding associated with the tribal transportation program.".*

*(e) Alaska Native Village Transportation Program.—*

*(1) Establishment.—Not later than 3 months after the date of enactment of this Act, the Secretary and the Denali Commission, in coordination with the Alaska Federation of Natives, shall establish an Alaska Native Village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified by Alaska Native Villages.*

*(2) Alaska native village defined.—In this subsection, the term "Alaska Native Village" has the same meaning such term has as used by the Bureau of Indian Affairs in administering the Indian reservation road program under section 202 of title 23, United States Code.*

### *SEC. 1120. CONSERVATION MEASURES.*

*(a) Refuge Roads.—Section 204(k)(1) of title 23, United States Code, is amended—*

*(1) by striking "and" at the end of subparagraph (B);*

*(2) by redesigning subparagraph (C) as subparagraph (D);*

*(3) by inserting after subparagraph (B) the following:*

*"(C) construction, maintenance, and improvement of wildlife observation infrastructure; and"; and*

*(4) in subparagraph (D) (as so redesignated) by striking "maintenance and improvements" and inserting "construction, maintenance, and improvements".*

*(b) Forest Highways.—Of the amounts made available for public lands highways under section 1101—*

*(1) not to exceed $20,000,000 per fiscal year may be used for the maintenance of forest highways;*

*(2) not to exceed $2,500,000 per fiscal year may be used to repair culverts and bridges on forest highways to facilitate appropriate fish passage and ensure reasonable flows and to maintain and remove such culverts and bridges as appropriate; and*

*(3) not to exceed $1,000,000 per fiscal year may be used for signage identifying public hunting and fishing access.*

*(c) Wildlife Vehicle Collision Reduction Study.—*

*(1) In general.—The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as "wildlife vehicle collisions").*

*(2) Contents.—*

*(A) Areas of study.—The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.*

*(B) Methods for conducting the study.—In carrying out the study, the Secretary shall—*

*(i) conduct a thorough literature review; and*

*(ii) survey current practices of the Department of Transportation.*

*(3) Consultation.—In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.*

*(4) Report.—*

*(A) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.*

*(B) Contents.—The report shall include a description of each of the following:*

*(i) Causes of wildlife vehicle collisions.*

*(ii) Impacts of wildlife vehicle collisions.*

*(iii) Solutions to and prevention of wildlife vehicle collisions.*

*(5) Manual.—*

*(A) Development.—Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.*

*(B) Availability.—The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).*

*(C) Contents.—The manual shall include, at a minimum, the following:*

*(i) A list of best practices addressing wildlife vehicle collisions.*

*(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.*

*(iii) Recommendations for addressing wildlife vehicle collisions.*

*(iv) Guidance for developing a State action plan to address wildlife vehicle collisions*

*(6) Training.—Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals.*

### *SEC. 1121. PEDESTRIAN AND CYCLIST EQUITY.*

*(a) Safe Routes to School Program.—*

*(1) Establishment.—Subject to the requirements of this subsection, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and middle schools.*

*(2) Purposes.—The purposes of the program shall be—*

*(A) to enable and encourage children, including those with disabilities, to walk and bicycle to school;*

*(B) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and*

*(C) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.*

*(3) Apportionment of funds.—*

*(A) In general.—Subject to subparagraphs (B) and (C), amounts made available to carry out this subsection for a fiscal year shall be apportioned among the States in the ratio that—*

*(i) the total student enrollment in primary and middle schools in each State; bears to*

*(ii) the total student enrollment in primary and middle schools in all the States.*

*(B) Minimum apportionment.—No State shall receive an apportionment under this subsection for a fiscal year of less than $2,000,000.*

*(C) Set-aside.—Before apportioning amounts made available to carry out this subsection under this paragraph for a fiscal year, the Secretary shall set aside not more than 2 percent of such amounts for the administrative expenses of the Secretary in carrying out this subsection.*

*(D) Determination of student enrollments.—Determinations under this paragraph concerning student enrollments shall be made by the Secretary.*

*(4) Administration of amounts.—Amounts apportioned to a State under this subsection shall be administered by the State's department of transportation.*

*(5) Eligible recipients.—Amounts apportioned to a State under this subsection shall be used by the State to provide financial assistance to State, local, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this subsection.*

*(6) Eligible projects and activities.—*

*(A) Infrastructure-related projects.—*

*(i) In general.—Amounts apportioned to a State under this subsection may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bike to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.*

*(ii) Location of projects.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.*

*(B) Noninfrastructure-related activities.—*

*(i) In general.—In addition to projects described in subparagraph (A), amounts apportioned to a State under this subsection may be used for noninfrastructure-related activities to*

*encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.*

*(ii) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this subsection for a fiscal year shall be used for noninfrastructure-related activities under this subparagraph.*

*(C) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under this subsection for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.*

*(7) CLEARINGHOUSE.—*

*(A) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to—*

*(i) operate a national safe routes to school clearinghouse;*

*(ii) develop information and educational programs on safe routes to school; and*

*(iii) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.*

*(B) FUNDING.—The Secretary shall carry out this paragraph using amounts set aside for administrative expenses under paragraph (3)(C).*

*(8) TASK FORCE.—*

*(A) IN GENERAL.—The Secretary shall establish a national safe routes to school task force composed of leaders in health, transportation, and education, including representatives of appropriate Federal agencies, to study and develop a strategy for advancing safe routes to school programs nationwide.*

*(B) REPORT.—Not later than March 31, 2006, the Secretary shall transmit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under subparagraph (A) and information regarding the use of funds for infrastructure-related and noninfrastructure-related activities under subparagraphs (A) and (B) of paragraph (6).*

*(C) FUNDING.—The Secretary shall carry out this paragraph using amounts set aside for administrative expenses under paragraph (3)(C).*

*(9) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project or activity under this section shall be 100 percent. Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under such chapter.*

*(10) DEFINITIONS.—In this subsection, the following definitions apply:*

*(A) IN THE VICINITY OF SCHOOLS.—The term "in the vicinity of schools" means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).*

*(B) PRIMARY AND MIDDLE SCHOOLS.—The term "primary and middle schools" means schools providing education from kindergarten through eighth grade.*

*(C) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.*

*(b) NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—*

*(1) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers.*

*(2) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.*

*(3) GRANTS.—In carrying out the program, the Secretary may make grants to State, local, and regional agencies, that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this subsection. An agency that receives a grant under this subsection may suballocate grant funds to a nonprofit organization to carry out the program under this subsection.*

*(4) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project carried out under this subsection shall be 80 percent, and such funds shall not be transferable and shall remain available until expended.*

*(5) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of biking and walking, and promote better health and a cleaner environment.*

*(6) REPORTS.—The Secretary shall transmit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.*

### *SEC. 1122. NATIONAL COMMISSIONS.*

*(a) NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND.—*

*(1) ESTABLISHMENT.—There is established a National Commission on Future Revenue Sources to Support the Highway Trust Fund to conduct—*

*(A) a study evaluating alternative short-term sources of Highway Trust Fund revenue to support the requirements of section 1124; and*

*(B) a study evaluating alternative long-term sources of revenue to support the Highway Trust Fund, considering the findings, conclusions, and recommendations of a recent study by the Transportation Research Board of the National Academy of Sciences on alternatives to the fuel tax to support highway program financing and other relevant prior research.*

*(2) FUNCTIONS.—The Commission shall—*

*(A) develop recommendations to generate Highway Trust Fund revenue necessary to accomplish the requirements of section 1124;*

*(B) oversee a comprehensive investigation of alternatives to replace the fuel tax as the principal revenue source to support the Highway Trust Fund over at least the next 30 years;*

*(C) consult with the Secretary of Transportation and the Secretary of the Treasury to assure that their views concerning essential attributes of Highway Trust Fund revenue alternatives are understood;*

*(D) assure that State transportation agency views on alternative revenue sources to support State transportation improvement programs are appropriately considered and that any recommended Federal financing strategy take into account State financial requirements; and*

*(E) make specific recommendations regarding actions that need to be taken to develop alternative revenue sources to support the Highway Trust Fund and when those actions must be taken.*

*(3) SPECIFIC MATTERS TO BE ADDRESSED.—The study under paragraph (1)(B) shall address specifically—*

*(A) advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;*

*(B) the time frame within which actions must be taken to transition from the fuel tax to alternative revenue sources to support the Highway Trust Fund;*

*(C) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;*

*(D) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various aspects of the transition strategy;*

*(E) recommendations for additional research that may be needed to implement recommended alternatives; and*

*(F) the extent to which revenues should reflect the relative use of the highway system.*

*(4) MATTERS TO CONSIDER AND EVALUATE.—To the maximum extent feasible, the Commission, in conducting the study under paragraph (1)(B), shall consider and evaluate other related work that has been done by the Department of Transportation, the Department of Energy, the Transportation Research Board, and others. In developing recommendations under paragraph (2), the Commission shall consider—*

*(A) the ability to generate sufficient revenues to meet anticipated long term surface transportation financing needs;*

*(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;*

*(C) administrative costs, including enforcement, to implement each option;*

*(D) potential taxpayer privacy concerns;*

*(E) likely technological advances that could ease implementation of each option;*

*(F) the equity and economic efficiency of each option;*

*(G) the flexibility of different options to allow various pricing alternatives to be implemented; and*

*(H) potential compatibility issues with States tax mechanisms under each alternative.*

*(5) MEMBERSHIP.—*

*(A) COMPOSITION.—The Commission shall be composed of nine members of whom—*

*(i) three members shall be appointed by the Secretary;*

*(ii) two members shall be appointed by the Speaker of the House of Representatives;*

*(iii) one member shall be appointed by the minority leader of the House of Representatives;*

*(iv) two members shall be appointed by the majority leader of the Senate; and*

*(v) one member shall be appointed by the minority leader of the Senate.*

*(B) QUALIFICATIONS.—Members appointed under subparagraph (A) shall have experience in public finance, surface transportation program administration, managing organizations that use surface transportation facilities, academic research into related issues, or other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.*

*(C) TERMS.—Members shall be appointed for the life of the Commission.*

*(D) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.*

*(E) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses,*

*including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.*

*(F) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.*

*(6) STAFF.—*

*(A) IN GENERAL.—The Commission may engage the services of an appropriate organization, agency, or firm to conduct the studies under this subsection, but the Commission shall provide strategic guidance for the studies.*

*(B) DETAIL STAFF.—Upon request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Transportation to the Commission to assist the Commission in carrying out its duties under this subsection.*

*(C) COOPERATION.—The Secretary shall cooperate with the Commission in conducting the studies under this subsection, including providing the Commission with such nonconfidential data and information as necessary for conducting and completing the study.*

*(7) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Secretary shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out its responsibilities under this subsection.*

*(8) REPORTS AND RECOMMENDATIONS.—*

*(A) REVENUE ACTIONS.—Not later than September 30, 2005, the Commission shall transmit to Congress a report on revenue actions that would support the requirements of section 1124.*

*(B) ALTERNATIVE LONG-TERM SOURCES OF REVENUE.—Not later than September 30, 2006, the Commission shall transmit to Congress a report on the results of the study conducted under paragraph (1)(B), relating to alternative long-term sources of revenue to support the Highway Trust Fund, including recommendations to address the needs identified in the study.*

*(9) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under paragraph (8)(B). By such 180th day, the Commission shall deliver all records and papers of the Commission to the Archivist of the United States for deposit in the National Archives.*

*(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $1,500,000 for each of fiscal years 2005 and 2006 to carry out this subsection.*

*(11) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities carried out under this subsection shall be 100 percent, and such funds shall remain available until expended.*

*(b) DECLARATION OF POLICY REGARDING FUTURE OF THE INTERSTATE HIGHWAY SYSTEM STUDY.—Section 101(b) of title 23, United States Code, is amended by striking the last paragraph and inserting the following:*

*''It is further declared that it is in the national interest to preserve and enhance the Dwight D. Eisenhower National System of Interstate and Defense Highways to meet the Nation's needs for the 21st century. The current urban and long distance personal travel and freight movement demands have surpassed the vision of the original Interstate System and travel demand patterns are expected to change. Continued planning for and investment in the Interstate System is critical to assure it adequately meets the changing travel demands of the future. Among the foremost needs that the Interstate System must provide are safe, efficient, and reliable (1) national and interregional personal mobility, (2) flow of interstate commerce, and (3) travel movements essential for national security. To the maximum extent, actions under this title should address congestion, safety, and freight transportation to provide for a strong and vigorous national economy. The Interstate System is hereby declared to be the Nation's premiere highway system, essential for the Nation's economic vitality, national security, and general welfare. The Secretary of Transportation is directed to take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st century in accordance with this title.''.*

*(c) NATIONAL COMMISSION ON FUTURE OF INTERSTATE HIGHWAY SYSTEM.—*

*(1) ESTABLISHMENT.—There is established a National Commission on the Future of the Dwight D. Eisenhower National System of Interstate and Defense Highways (in this subsection referred to as the ''Interstate System'').*

*(2) FUNCTION.—The Commission shall—*

*(A) conduct a study of the current condition and future of the Interstate System and develop a conceptual plan with alternative approaches for the future of the Interstate System to assure that the Interstate System will continue to serve the needs of the Nation;*

*(B) assure that State transportation agency views are considered; and*

*(C) make specific recommendations regarding those design standards, Federal policies, and legislative changes that must be made to assure the national interests are served in meeting future Interstate System needs.*

*(3) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall assure that the study under this subsection specifically addresses the following:*

*(A) CURRENT CONDITION.—The current condition and performance of the Interstate System, including physical condition of bridges and pavements and operational characteristics and performance, shall be examined, relying primarily on existing data sources.*

*(B) FUTURE ASSESSMENT.—The future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year horizons.*

*(4) SPECIFIC ISSUES AND DETAILS TO ADDRESS.—The following specific issues and details shall be addressed as a part of the study under this subsection:*

*(A) DEMOGRAPHICS.—Expected demographics and business uses that impact transportation.*

*(B) USAGE.—Expected system use and effects of changing vehicle types, fleet size and weights, and traffic volumes.*

*(C) NATURAL DISASTER.—Seismic and other vulnerabilities and their potential impacts.*

*(D) DESIGN STANDARDS.—Desirable design policies and standards for future improvements, including safety improvement and additional access points.*

*(E) SYSTEM WIDE NEEDS.—Identification of both urban and rural needs.*

*(F) POTENTIAL SYSTEM EXPANSION, UPGRADES, OR OTHER CHANGES.—Deployment of advanced materials and intelligent technologies; critical multi-state rural corridors needing capacity, safety, and operational enhancements; urban and multi-state corridor additions; bypasses of major cities that ensure efficient long-haul travel; improvements to inter-modal linkages; strategies to enhance asset preservation; and implementation strategies.*

*(G) COMMUNITY VALUES.—Consideration of alternative approaches to maintaining or enhancing community values in those neighborhoods adjacent to the Interstate System.*

*(H) ENVIRONMENTAL ISSUES.—Consideration of alternative approaches to addressing environmental concerns relative to recommended alternatives.*

*(I) SYSTEM PERFORMANCE.—Evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, system operations and management.*

*(5) ALTERNATIVES.—A range of policy recommendations shall be developed as a part of the plan under this subsection to address identified future needs of the Interstate System. The alternatives shall include funding needs and potential approaches to provide those funds.*

*(6) MEMBERSHIP.—*

*(A) COMPOSITION.—The Commission shall be composed of nine members of whom—*

*(i) three members shall be appointed by the Secretary;*

*(ii) two members shall be appointed by the Speaker of the House of Representatives;*

*(iii) one member shall be appointed by the minority leader of the House of Representatives;*

*(iv) two members shall be appointed by the majority leader of the Senate; and*

*(v) one member shall be appointed by the minority leader of the Senate.*

*(B) QUALIFICATIONS.—Members appointed under subparagraph (A) shall be appointed from among individuals that have a concern for maintaining a strong role for the Interstate System in the future of the Nation and may include representatives from Federal, State, and local governments, other transportation authorities or agencies, and organizations representing surface transportation owners and operators.*

*(C) TERMS.—Members shall be appointed for the life of the Commission.*

*(D) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.*

*(E) TRAVEL EXPENSES.—Member shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.*

*(F) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.*

*(7) STAFF.—*

*(A) IN GENERAL.—The Commission may engage the services of an appropriate organization, agency, or firm to conduct the study under this subsection, but the Commission shall provide strategic guidance for the study.*

*(B) DETAIL STAFF.—Upon request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Transportation to the Commission to assist the Commission in carrying out its duties under this subsection.*

*(C) COOPERATION.—The Secretary shall cooperate with the Commission in the study, including providing the Commission with such nonconfidential data and information as necessary for conducting and completing the study.*

*(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Secretary shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out its responsibilities under this subsection.*

*(9) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2006, the Commission shall transmit to Congress a final report on the results of the study conducted under this subsection, including recommendations to address the needs identified in the study.*

*(10) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under paragraph (9). By such 180th day, the Commission shall deliver all records and papers of the Commission to the Archivist of the United States for deposit in the National Archives.*

*(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Funds (other than the Mass Transit Account) to carry out this subsection $1,000,000 for each of fiscal years 2005 and 2006.*

*(12) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities carried out under this subsection shall be 100 percent and such funds shall remain available until expended.*

### SEC. 1123. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V.

*[Reserved]*

### SEC. 1124. ROADWAY SAFETY.

*(a) ROAD SAFETY.—*

*(1) IN GENERAL.—The Secretary shall enter into an agreement to assist in the activities of a national nonprofit organization that is dedicated solely to improving public road safety—*

*(A) by improving the quality of data pertaining to public road hazards and design features that affect or increase the severity of motor vehicle crashes;*

*(B) by developing and carrying out a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes; and*

*(C) by promoting public road safety research and technology transfer activities.*

*(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2005 through 2009 to carry out this subsection.*

*(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.*

*(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—*

*(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—*

*(A) to operate a national bicycle and pedestrian clearinghouse;*

*(B) to develop information and educational programs; and*

*(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.*

*(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2004 through 2009 to carry out this subsection.*

*(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.*

### SEC. 1125. EQUITY REQUIREMENT.

*(a) GENERAL PROVISIONS.—The Secretary may not apportion before August 1, 2006, any funds for any of the programs referred to in subsection (b) for fiscal year 2006 unless, after the date of enactment of this Act, a law has been enacted that—*

*(1) increases the guaranteed rate of return pursuant to section 105 of title 23, United States Code, to 92 percent in fiscal year 2006, 93 percent in fiscal year 2007, 94 percent in fiscal year 2008, and 95 percent in fiscal year 2009; and*

*(2) requires that each State receive apportionments for such programs for each of such fiscal years that in the aggregate are at least equal to the greater of—*

*(A) the State's minimum guaranteed rate of return required under paragraph (1); and*

*(B) the State's prior fiscal year's apportioned highway funds for programs referred in subsection (b) plus an amount equal to the State's prior year apportioned funds for such programs multiplied by the percentage increase in the consumer price index during the 12-month period ending June 30 of the calendar year in which the fiscal year begins.*

*(b) APPLICABILITY.—The withholding of apportioned funds under subsection (a) shall apply to the following programs:*

*(1) The National Highway System program under section 103(b) of title 23, United States Code.*

*(2) The high priority projects program under section 117 of such title.*

*(3) The Interstate maintenance program under section 119 of such title.*

*(4) The surface transportation program under section 133 of such title.*

*(5) Metropolitan planning under chapter 52 of title 49, United States Code.*

*(6) The highway bridge replacement and rehabilitation program under section 144 of title 23, United States Code.*

*(7) The congestion mitigation and air quality improvement program under section 149 of such title.*

*(8) The recreational trails program under section 206 of such title.*

*(9) The Appalachian development highway system under subtitle IV of title 40, United States Code.*

*(10) The freight intermodal connectors program under section 1303 of this Act.*

*(11) The coordinated border infrastructure program under section 1302 of this Act.*

*(12) The high risk rural road safety improvement program under section 1403 of this Act.*

*(13) The safe routes to schools program under section 1120 of this Act.*

*(14) The minimum guarantee program under section 105 of title 23, United States Code.*

*(c) CONSIDERATION OF COMMISSION FINDINGS.—In considering a law that increases the guaranteed rate of return referred to in subsection (a), Congress should consider the findings of the report on alternative short-term sources of Highway Trust Fund revenue to be published by the National Commission on Future Revenue Sources to Support the Highway Trust Fund pursuant to section 1121 of this Act.*

## Subtitle B—Congestion Relief

### SEC. 1201. MOTOR VEHICLE CONGESTION RELIEF.

*(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:*

### "§ 139. Motor vehicle congestion relief

*"(a) IN GENERAL.—Each State that has an urbanized area with an urbanized area population of over 200,000 individuals shall obligate in each of fiscal years 2005 through 2009 a portion of the State's apportionments under section 104(b) in such fiscal year, as calculated under subsection (b), for congestion relief activities in such urbanized areas in accordance with this section.*

*"(b) CALCULATION OF AMOUNT.—The portion of a State's apportionments for a fiscal year to be obligated for congestion relief activities under subsection (a) shall be determined by multiplying—*

*"(1) the total of amounts apportioned to the State under each of paragraphs (1), (2), (3), and (4) of section 104(b) in such fiscal year; by*

*"(2) 10 percent; by*

*"(3) the percentage of the State's population residing in urbanized areas of the State with an urbanized area population of over 200,000 individuals.*

*"(c) ALLOCATION BETWEEN UNDER ONE AND UNDER THREE CONGESTION RELIEF ACTIVITIES.—Of the total amount of a State's apportionments to be obligated for congestion relief activities for a fiscal year as calculated under subsection (b)—*

*"(1) 40 percent shall be obligated for under one congestion relief activities;*

*"(2) 35 percent shall be obligated for under three congestion relief activities; and*

*"(3) 25 percent shall be obligated at the discretion of the State department of transportation for 1 or more of the following:*

*"(A) Under one congestion relief activities.*

*"(B) Under three congestion relief activities.*

*"(C) Capital costs for transit projects that are eligible for assistance under chapter 53 of title 49.*

*"(D) Demand relief projects and activities that shift demand to non-peak hours or to other modes of transportation or that reduce the overall level of demand for roads through such means as telecommuting, ridesharing, alternative work hour programs, and value pricing.*

*"(d) OBLIGATION OF AMOUNTS.—*

*"(1) IN GENERAL.—In complying with the requirements of this section, the amounts obligated by a State for congestion relief activities under subsection (a) shall be allocated among the individual programs for which funds are apportioned under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4).*

*"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to obligate proportional or equal amounts under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for any congestion relief activity under this section.*

*"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of this chapter (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project) to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for congestion relief activities under subsection (a).*

*"(f) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with this section.*

*"(g) TRANSFERS.—*

*"(1) IN GENERAL.—A State may transfer a portion of the amount that the State must obligate for under one congestion relief activities in a fiscal year under this section to the amount the State must obligate for under three congestion relief activities under this section if the State certifies to the Secretary that there are no under one congestion relief activities for which such portion can be obligated in such fiscal year and the Secretary does not disapprove such transfer within 30 days after the date of such certification.*

*"(2) LIMITATION.—The amount that a State may transfer in a fiscal year under this subsection may not reduce the amount the State must obligate for under one congestion relief activities to less than 10 percent of the total amount of the State's apportionments to be obligated for congestion relief activities for such fiscal year as calculated under subsection (b).*

*"(3) TREATMENT.—Amounts transferred by a State under this subsection for a fiscal year shall be included in the amount of the State's apportionments allocated for under three congestion relief activities for such fiscal year under subsection (c)(2).*

*"(h) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) CONGESTION RELIEF ACTIVITIES.—*

*"(A) IN GENERAL.—The term 'congestion relief activity' means any activity, project, or program that has as its primary purpose, as determined by the State transportation department, the relief of motor vehicle congestion.*

*"(B) INCLUSIONS.—Such term includes the following:*

*"(i) Relief of motor vehicle congestion through additional capacity, construction of additional lanes, improvements to interchanges, improved access to major terminals, construction of parallel roads, construction of truck only lanes, and major arterial improvements.*

*"(ii) Transportation systemwide operational improvements targeted at increasing motor vehicle travel reliability through such means as incident management programs, traffic monitoring and surveillance, and traveler information initiatives.*

*"(iii) Maximizing efficient use of existing motor vehicle travel capacity through such means as reversible lanes, coordinated traffic signalization, and managed lanes or other lane management strategies.*

*"(C) EXCLUSIONS.—Such term does not include demand relief projects and activities that shift demand to non-peak hours or to other modes of transportation or that reduce the overall level of demand for roads through such means as telecommuting, ridesharing, alternative work hour programs, and value pricing.*

*"(2) UNDER ONE CONGESTION RELIEF ACTIVITIES.—The term 'under one congestion relief activity' means a congestion relief activity that—*

*"(A) will be completed within one year after the date of commencement of onsite improvements;*

*"(B) has a total projected cost of less than $1,000,000; and*

*"(C) will improve conditions in the applicable urbanized area or is an element of the congestion management system of the applicable metropolitan planning organization.*

*"(3) UNDER THREE CONGESTION RELIEF ACTIVITIES.—The term 'under three congestion relief activities' means congestion relief activities that—*

*"(A) will be completed within 3 years after the date of commencement of onsite improvements; and*

*"(B) will improve conditions in the applicable urbanized area or is an element of the congestion management system of the applicable metropolitan planning organization.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 138 the following:*

*"139. Motor vehicle congestion relief.".*

*(c) MOTOR VEHICLE DEFINED.—Title 23, United States Code, is amended—*

*(1) in section 154(a)(2), relating to the definition of motor vehicle, by inserting "streets, roads, and" before "highways";*

*(2) by redesignating paragraph (2) of section 154(a) as paragraph (38);*

*(3) by moving such redesignated paragraph from section 154(a) to the end of section 101(a);*

*(4) by redesignating paragraphs (3) and (4) of section 154(a) as paragraphs (2) and (3), respectively;*

*(5) in section 153(i)—*

*(A) by striking paragraph (2); and*

*(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;*

*(6) in section 164(a)(4) by striking "means" and all that follows through "rail line or" and inserting "does not include"; and*

*(7) in section 405(f)—*

*(A) by striking paragraph (2); and*

*(B) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5).*

### SEC. 1202. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

*(a) DEFINITIONS.—*

*(1) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—Section 101(a)(17) of title 23, United States Code, is amended by inserting "transportation systems management and operations and" after "associated with".*

*(2) OPERATIONAL IMPROVEMENT.—Section 101(a)(18)(A)(i) of such title is amended—*

*(A) by inserting "transportation systems management and operations, including" after "for"; and*

*(B) by inserting "equipment and programs for transportation response to natural disasters," after "incident management programs,".*

*(3) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Section 101(a) of such title is further amended by adding at the end the following:*

*"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—*

*"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve the security, safety, and reliability of Federal-aid highways.*

*"(B) INCLUDED ACTIVITIES AND IMPROVEMENTS.—The term includes regional operations collaboration and coordination activities between transportation and public safety agencies and improvements such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic operations measures to improve capacity, traffic signal coordination, optimization of traffic signal timing, traffic incident management, communications equipment related to traffic incident management (including integrated, interoperable, emergency communications equipment), roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.".*

*(b) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of such title is amended—*

*(1) by redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively; and*

*(2) by adding at the end the following:*

*"(14) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, including activities for traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.".*

*(c) NATIONAL HIGHWAY SYSTEM ELIGIBILITY.—Section 103(b)(6) of such title is amended by adding at the end the following:*

*"(Q) Capital, operating, and systems maintenance costs for transportation systems management and operations.".*

*(d) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Subchapter I of chapter 1 of such title is further amended by adding at the end the following:*

### "§166. Transportation systems management and operations

*"(a) AUTHORITY.—The Secretary may—*

*"(1) encourage transportation system managers, operators, public safety officials, and transportation planners within an urbanized area, who are actively engaged in and responsible for conducting activities relating to day-to-day management, operations, public safety, and planning of transportation facilities and services, to collaborate and coordinate on a regional level in a continuous and sustained manner for improved transportation systems management and operations, including, at a minimum—*

*"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants for how the region's systems should be managed, operated, and measured;*

*"(B) sharing of information among operators, service providers, public safety officials, and the general public; and*

*"(C) guiding, in a regionally-coordinated manner, the implementation of regional transportation system management and operations initiatives, including emergency evacuation and response, traffic incident management, technology deployment, and traveler information systems delivery, in a manner consistent with and integrated into the ongoing metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, if required; and*

*"(2) encourage States to establish a system of basic real-time monitoring capability for the surface transportation system and provide the capability and means to share that data among agencies (including highway, transit, and public safety agencies), jurisdictions (including States, cities, counties, and areas represented by metropolitan planning organizations), private-sector entities, and the traveling public.*

*"(b) EXECUTION.—To support the successful execution of transportation systems management and operations activities, the Secretary may undertake the following activities:*

*"(1) Assist and cooperate with other Federal departments and agencies, State and local governments, metropolitan planning organizations, private industry representatives, and other interested parties to improve regional collaboration and real-time information sharing between transportation system managers and operators, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.*

*"(2) Issue, if necessary, new guidance or regulations for the procurement of transportation system management and operations facilities, equipment, and services, including equipment procured in preparation for natural disasters and emergencies, system hardware, software, and software integration services.".*

*(e) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:*

*"166. Transportation systems management and operations.".*

*(f) INTELLIGENT TRANSPORTATION SYSTEM PROCUREMENT POLICY.—*

*(1) STUDY.—The Secretary shall—*

*(A) conduct a study of the current policies and practices for the procurement of intelligent transportation system facilities, equipment, and services; and*

*(B) develop a conceptual plan with alternative approaches for expediting and streamlining such procurements at the State level.*

*(2) RECOMMENDATIONS.—Based on the results of the study, the Secretary shall make recommendations in the report under paragraph (4) regarding procurement standards, including recommendations regarding any changes in Federal and State statutes, regulations, and policies necessary to ensure that national interests are served in meeting future intelligent transportation system needs.*

*(3) SPECIFIC MATTERS TO BE ADDRESSED.—The study under this subsection shall specifically address the following:*

*(A) CURRENT CONDITION.—The current practices and policies relating to procurement of intelligent transportation system facilities, equipment, and services, including equipment procured in preparation for natural disasters and emergencies, system hardware, software, and software integration services.*

*(B) ASSESSMENT OF NEED FOR POLICY REFORM.—The ability of current practices and policies to achieve the successful implementation of intelligent transportation system goals and the need for national policy reform to expedite and streamline procurements necessary to meet such goals.*

*(C) Alternatives.—The range of legislative, regulatory, and policy alternatives to address identified needs and goals, including funding needs.*

*(D) Recommendations.—Recommendations regarding procurement standards, including recommendations regarding any changes in Federal and State statutes, regulations, and policies necessary for expedited and streamlined procurements.*

*(4) Report and recommendations.—Not later than March 31, 2006, the Secretary shall transmit to the appropriate committees of Congress a final report regarding the results of the study conducted under this subsection and recommendations to address the needs identified in such study.*

*(5) Initiation of rulemaking proceeding.—To the extent any recommendation made by the Secretary under this subsection may be implemented by regulation, the Secretary shall initiate a rulemaking proceeding to address such recommendation not later than the 90th day following the date of submission of the report under paragraph (4).*

*(6) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 in fiscal year 2005 to carry out this subsection.*

*(7) Applicability of title 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended.*

### SEC. 1203. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

*(a) Establishment.—*

*(1) In general.—The Secretary shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the Nation's major highways and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.*

*(2) Purposes.—The purposes of the real-time system management information program are to—*

*(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;*

*(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and*

*(C) provide the capability and means to share that data with State and local governments and the traveling public.*

*(b) National Steering Committee.—*

*(1) In general.—The Secretary shall establish a national steering committee to assist in the development of data exchange formats under subsection (c).*

*(2) Representatives.—The national steering committee shall consist of representatives of State transportation departments, metropolitan planning organizations, local governments, nonprofit entities, the private sector, and academia.*

*(3) Purpose.—The purpose of the national steering committee shall be to provide guidance regarding the content and uniformity of data exchange formats.*

*(c) Data Exchange Formats.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish data exchange formats based on recommendations of the steering committee established under subsection (b) to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems, can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.*

*(d) Regional Intelligent Transportation System Architecture.—*

*(1) Addressing information needs.—As State and local governments develop or update regional intelligent transportation system architectures, described in section 940.9 of title 23, Code of Federal Regulations, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information.*

*(2) Data exchange.—States shall incorporate the data exchange formats established by the Secretary under subsection (c) to ensure that the data provided by highway and transit monitoring systems may readily be exchanged with State and local governments and may be made available to the traveling public.*

*(e) Eligibility.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).*

*(f) Limitation on Statutory Construction.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for activities and projects under this section.*

*(g) Statewide Incident Reporting System Defined.—In this section, the term "statewide incident reporting system" means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.*

### SEC. 1204. EXPEDITED NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT PROGRAM.

*(a) Establishment.—The Secretary shall establish a comprehensive program to accelerate the integration, interoperability, and deployment of intelligent transportation systems in order to improve the performance of the surface transportation system in metropolitan and rural areas.*

*(b) Selection of Model Projects.—Under the program, the Secretary may make grants, through competitive solicitation, for projects that will serve as models to improve transportation efficiency, promote surface transportation safety (including safe freight movement), increase traffic flow (including the flow of intermodal travel at ports of entry), reduce emissions of air pollutants, improve traveler information, enhance alternative transportation modes, build on existing intelligent transportation system projects, and promote tourism.*

*(c) Other Projects, Programs, and Activities.—Under the program, the Secretary may make grants for projects, programs, and activities in metropolitan and rural areas that—*

*(1) contribute to national deployment goals and objectives outlined in the national intelligent transportation system program plan;*

*(2) promote cooperation among agencies, jurisdictions, and the private sector, as evidenced by signed memoranda of understanding that clearly define the responsibilities and relations of all parties to a partnership arrangement, including institutional relationships and financial agreements needed to support deployment of intelligent transportation systems;*

*(3) encourage private sector involvement and financial commitment to such deployment to the maximum extent practicable through innovative financial arrangements, especially public-private partnerships, including arrangements that generate revenue to offset public investment costs;*

*(4) enhance fully integrated intelligent transportation system deployment;*

*(5) create technical capacity for effective operations and maintenance of such systems;*

*(6) improve safety, mobility, geographic and regional diversity, and economic development in deployment of such systems;*

*(7) advance deployment of the 511 traveler information program; and*

*(8) advance deployment of other national systems, including a statewide incident reporting system, wireless e-911 system, and road weather information system.*

*(d) Applicability of Title 23, United States Code.—Funds authorized to be appropriated under section 1101(a)(16) of this Act shall be available for obligation to carry out subsection (c)(7) in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of projects carried out under subsection (c)(7) shall be 80 percent and such funds shall remain available until expended.*

### SEC. 1205. INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT.

*(a) Purpose.—The purpose of this section is to ensure that a minimum of $2,500,000,000 of the amounts authorized to be appropriated for the National Highway System, Interstate maintenance, surface transportation, and congestion mitigation and air quality improvement programs for fiscal years 2005 through 2009 is utilized to expand deployment of intelligent transportation systems.*

*(b) In General.—Chapter 1 of title 23, United States Code, is amended by inserting after section 149 the following:*

### "§ 150. Deployment of intelligent transportation systems

*"(a) In General.—In each of fiscal years 2005 through 2009, each State shall obligate a portion of the funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for such fiscal year, calculated under subsection (b), for projects described in subsection (c) that support deployment of intelligent transportation systems in the State.*

*"(b) Calculation of Amount.—The portion of a State's apportionments to be obligated under subsection (a) for projects described in subsection (c) in a fiscal year shall be determined by multiplying $500,000,000 by the ratio that—*

*"(1) the aggregate of amounts apportioned to the State for such fiscal year under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4); bears to*

*"(2) the aggregate of amounts apportioned to all States for such fiscal year under such sections.*

*"(c) Intelligent Transportation Systems Deployment Projects.—Projects for which funds must be obligated under this section include the following:*

*"(1) Performance.—Establishment and implementation of operations systems and services that improve performance in the areas of traffic operations, emergency response to surface transportation incidents, surface transportation incident management, weather event response management by State and local authorities, surface*

transportation network and facility management, construction and work zone management, and traffic flow information.

"(2) NETWORKS.—Conducting activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information.

"(3) SAFETY.—Implementation of intelligent transportation system technologies that improve highway safety through linkages connecting the vehicle, the infrastructure, and information to the driver.

"(4) OPERATION AND MANAGEMENT.—Provision of services necessary to ensure the efficient operation and management of intelligent transportation systems infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services.

"(5) INTERAGENCY SUPPORT.—Provision of support for institutional relationships between transportation agencies, police, emergency medical services, private emergency operators, freight operators, and shippers.

"(6) PLANNING.—Conducting cross-jurisdictional planning and deployment of regional transportation systems operations and management approaches.

"(d) OBLIGATION OF AMOUNTS.—

"(1) IN GENERAL.—In complying with the requirements of this section, the amounts obligated by a State for projects under subsection (c) that support deployment of intelligent transportation systems in such State under subsection (a) shall be allocated among the individual programs for which funds are apportioned under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4).

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to obligate proportional or equal amounts under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for any congestion relief activity under this section.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of this chapter (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project) to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects under this section.

"(f) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with this section.".

(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 149 the following:

"150. Deployment of intelligent transportation systems.".

### SEC. 1206. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.

(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act.

(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

(1) DEVELOPMENT.—The Secretary shall develop a nationwide programmatic agreement governing the review of activities that support the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation.

(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 U.S.C. 470i et seq.) and after soliciting the views of other interested parties.

(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term "intelligent transportation infrastructure and systems" means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in section 5607.

### SEC. 1207. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**"§ 167. State assumption of responsibilities for certain programs and projects**

"(a) ASSUMPTION OF SECRETARY'S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

"(1) PILOT PROGRAM.—

"(A) ESTABLISHMENT.—The Secretary may establish a pilot program under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.

"(B) FIRST 3 FISCAL YEARS.—In the first 3 fiscal years following the date of enactment of this section, the Secretary may allow up to 5 States to participate in the pilot program.

"(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary's responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decisionmaking or other actions required under any Federal law as such requirements apply to the following projects:

"(A) Projects funded under section 104(h).

"(B) Transportation enhancement activities under section 133, as such term is defined in section 101(a)(35).

"(C) Projects as defined in section 101(a)(39) and section 5607 of the Transportation Equity Act: A Legacy for Users.

"(b) AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with a State participating in the pilot program setting forth the responsibilities to be assigned under subsection (a)(2) and the terms and conditions under which the assignment is being made.

"(2) CERTIFICATION.—Before the Secretary enters into a memorandum of understanding with a State under paragraph (1), the State shall certify that the State has in effect laws (including regulations) applicable to projects carried out and funded under this title and chapter 53 of title 49 that authorize the State to carry out the responsibilities being assumed.

"(3) MAXIMUM DURATION.—A memorandum of understanding with a State under this section shall be established for an initial period of no more than 3 years and may be renewed by mutual agreement on a periodic basis for periods of not more than 3 years.

"(4) COMPLIANCE.—

"(A) IN GENERAL.—After entering into a memorandum of understanding under paragraph (1), the Secretary shall review and determine compliance by the State with the memorandum of understanding.

"(B) RENEWALS.—The Secretary shall take into account the performance of a State under the pilot program when considering renewal of a memorandum of understanding with the State under the program.

"(c) SELECTION OF STATES FOR PILOT PROGRAM.—

"(1) APPLICATION.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains such information as the Secretary may require. At a minimum, an application shall include—

"(A) a description of the projects or classes of projects for which the State seeks to assume responsibilities under subsection (a)(2); and

"(B) a certification that the State has the capability to assume such responsibilities.

"(2) PUBLIC NOTICE.—Before entering into a memorandum of understanding allowing a State to participate in the pilot program, the Secretary shall—

"(A) publish notice in the Federal Register of the Secretary's intent to allow the State to participate in the program, including a copy of the State's application to the Secretary and the terms of the proposed agreement with the State; and

"(B) provide an opportunity for public comment.

"(3) SELECTION CRITERIA.—The Secretary may approve the application of a State to assume responsibilities under the program only if—

"(A) the requirements under paragraph (2) have been met; and

"(B) the Secretary determines that the State has the capability to assume the responsibilities.

"(4) OTHER FEDERAL AGENCY VIEWS.—Before assigning to a State a responsibility of the Secretary that requires the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency.

"(d) STATE DEFINED.—With respect to the recreational trails program, the term 'State' means the State agency designated by the Governor of the State in accordance with section 206(c)(1).

"(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decisionmaking.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

"167. State assumption of responsibilities for certain programs and projects.".

### SEC. 1208. HOV FACILITIES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**"§ 168. HOV facilities**

"(a) IN GENERAL.—

"(1) AUTHORITY OF STATE AGENCIES.—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

"(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than 2 occupants per vehicle may be required for use of a HOV facility.

"(b) EXCEPTIONS.—Notwithstanding the occupancy requirements of subsection (a)(2), the following exceptions shall apply with respect to a State agency operating a HOV facility:

"(1) MOTORCYCLES AND BICYCLES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.

"(B) SAFETY EXCEPTION.—A State agency may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification. The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

"(2) PUBLIC TRANSPORTATION VEHICLES.—The State agency may allow public transportation vehicles to use the HOV facility if the agency—

"(A) establishes requirements for clearly identifying the vehicles; and

"(B) establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

"(3) HIGH OCCUPANCY TOLL VEHICLES.—The State agency may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of such vehicles pay a toll charged by the agency for use of the facility and the agency—

"(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

"(B) develops, manages, and maintains a system that will automatically collect the toll; and

"(C) establishes policies and procedures to—

"(i) manage the demand to use the facility by varying the toll amount that is charged;

"(ii) enforce violations of use of the facility; and

"(iii) permit low-income individuals to pay reduced tolls.

"(4) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

"(A) INHERENTLY LOW-EMISSION VEHICLE.—Before September 30, 2009, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations, and are labeled in accordance with section 88.312–93 of such title, to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

"(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of such vehicles pay a toll charged by the agency for use of the facility and the agency—

"(i) establishes a program that addresses the selection of vehicles under this paragraph; and

"(ii) establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

"(C) AMOUNT OF TOLLS.—Under subparagraph (B), a State agency may charge no toll or a toll that is less than tolls charged under paragraph (3).

"(c) REQUIREMENTS APPLICABLE TO TOLLS.—

"(1) IN GENERAL.—Tolls may be charged under subsections (b)(3) and (b)(4) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.

"(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under subsections (b)(3) and (b)(4) on a HOV facility on the Interstate System.

"(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under the last sentence of section 129(a)(3) with respect to toll revenues collected under subsections (b)(3) and (b)(4), the State, in the use of tolls revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

"(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

"(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under subsection (b)(3) or (b)(4) in a fiscal year shall certify to the Secretary that the agency will carry out the following responsibilities with respect to the facility in the fiscal year:

"(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that such vehicles may have on the operation of the facility and adjacent highways.

"(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

"(C) Limiting or discontinuing the use of the facility by such vehicles if the presence of such vehicles has degraded the operation of the facility.

"(2) DEGRADED FACILITY.—

"(A) IN GENERAL.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 6-month period during morning or evening weekday peak hour periods (or both).

"(B) MINIMUM AVERAGE OPERATING SPEED DEFINED.—In subparagraph (A), the term 'minimum average operating speed' means—

"(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

"(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

"(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 6 months after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of such vehicles.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) ALTERNATIVE FUEL VEHICLE.—The term 'alternative fuel vehicle' means a vehicle that operates on—

"(A) methanol, denatured ethanol, or other alcohols;

"(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

"(C) natural gas;

"(D) liquefied petroleum gas;

"(E) hydrogen;

"(F) coal derived liquid fuels;

"(G) fuels (except alcohol) derived from biological materials;

"(H) electricity (including electricity from solar energy); or

"(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

"(2) HOV FACILITY.—The term 'HOV facility' means a high occupancy vehicle facility.

"(3) LOW EMISSION AND ENERGY EFFICIENT VEHICLE.—The term 'low emission and energy-efficient vehicle' means a vehicle that—

"(A) has been certified by the Administrator of the Environmental Protection Agency as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

"(B)(i) has been certified by the Administrator to have a 45-mile-per-gallon or greater fuel economy highway rating; or

"(ii) is an alternative fuel vehicle.

"(4) PUBLIC TRANSPORTATION VEHICLE.—The term 'public transportation vehicle' means a vehicle that provides public transportation (as defined in section 5302(a) of title 49).

"(5) STATE AGENCY.—The term 'State agency', as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility and includes a State transportation department.".

(b) CONFORMING AMENDMENTS.—

(1) PROGRAM EFFICIENCIES.—Section 102 of title 23, United States Code, is amended by striking subsection (a) and redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(2) CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

"168. HOV facilities.".

(c) TECHNICAL AMENDMENT.—Section 102(b) of title 23, United States Code, as redesignated by subsection (b)(1) of this section, is amended by striking "10 years" and all that follows through "after" and inserting "10 years (or such longer period as the State requests and the Secretary determines to be reasonable) after".

### SEC. 1209. CONGESTION PRICING PILOT PROGRAM.

(a) ESTABLISHMENT.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended to read as follows:

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary may enter into cooperative agreements with State and local governments to carry out not more than 25 congestion pricing pilot projects.

"(B) PREVIOUSLY APPROVED PROJECTS.—Projects carried out under paragraph (1) shall include each project approved under this subsection before the date of enactment of the Transportation Equity Act: A Legacy for Users and under which highway tolls are being collected as of such date of enactment.".

(b) LOW-INCOME DRIVERS.—Section 1012(b)(7) of such Act is amended to read as follows:

"(7) REDUCED TOLLS FOR LOW-INCOME DRIVERS.—Any congestion pricing pilot project carried out under this subsection that involves the collection of highway tolls shall include a program to permit low-income drivers to pay a reduced toll amount.".

(c) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—At the end of section 1012(b)(8) of such Act add the following:

"(D) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 per fiscal year shall be available only for congestion pricing pilot projects that do not involve highway tolls.".

(d) CONFORMING AMENDMENTS.—Section 1012(b) of such Act is amended—

(1) in the subsection heading by striking "VALUE PRICING" and inserting "CONGESTION PRICING";

(2) in paragraph (2)—

(A) by striking "(2) Notwithstanding" and inserting the following:

"(2) FEDERAL SHARE; ELIGIBLE COSTS.—Notwithstanding";

(B) in the first sentence by striking "programs" and inserting "projects"; and

(C) in the second sentence by striking "program" and inserting "project";

(3) in paragraph (3) by striking "(3) Revenues" and inserting the following:

"(3) USE OF REVENUES.—Revenues";

(4) in paragraph (4)—

*(A) by striking "(4) Notwithstanding" and inserting the following:*

*"(4) Use of tolls on interstate system.—Notwithstanding";*

*(B) by striking "value pricing pilot program" and inserting "congestion pricing pilot project";*

*(5) in paragraph (5)—*

*(A) by striking "(5) The Secretary" and inserting the following:*

*"(5) Monitoring.—The Secretary"; and*

*(B) by striking "programs" the first and second place it appears and inserting "projects"; and*

*(6) in paragraph (6) by striking "value pricing pilot program" and inserting "congestion pricing pilot project".*

### ***SEC. 1210. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.***

*Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".*

### ***SEC. 1211. SPECIAL RULES FOR STATE ASSUMPTION OF RESPONSIBILITIES.***

*(a) Limitations.—Section 167(a) of title 23, United States Code, as added by section 1207(a) of this Act, is amended by adding at the end the following:*

*"(3) Limitations.—*

*"(A) Procedural and substantive requirements.—A State that assumes the responsibilities of the Secretary under this section shall be subject to the same procedural and substantive requirements as would apply if the responsibilities were carried out by the Secretary. When a State assumes responsibilities for carrying out a Federal law under this section, the State assents to Federal jurisdiction and shall be solely responsible and solely liable for complying with and carrying out that law instead of the Secretary.*

*"(B) Assumption of responsibilities.—Any responsibility of the Secretary not assumed by the State in a memorandum of understanding shall remain a responsibility of the Secretary.*

*"(C) Powers of other agencies.—Nothing in this section preempts or limits any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, with respect to a project.".*

*(b) Acceptance of Federal Courts Jurisdiction; Termination of Agreements.—Section 167(b) of title 23, United States Code, as added by section 1207(a) of this Act, is amended by adding at the end the following:*

*"(5) Acceptance of federal courts jurisdiction.—A memorandum of understanding with a State under this section shall include a provision under which the State consents to accept the jurisdiction of the Federal courts for the compliance; discharge, and enforcement of any responsibility of the Secretary that the State may assume under the memorandum.*

*"(6) Termination of agreements.—A memorandum of understanding with a State under this section shall include a provision authorizing the Secretary to terminate the agreement if the Secretary, after providing an opportunity for a hearing, issues a finding that the State is not in compliance with the terms of the agreement.".*

*(c) State Subject to Federal Laws.—Section 167 of title 23, United States Code, as added by section 1207(a) of this Act, is further amended by adding at the end the following:*

*"(f) State Subject to Federal Laws.—For purposes of assuming responsibilities of the Secretary under this section, a State agency entering into a memorandum of understanding under subsection (b) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), this title, and any other provision of Federal law.".*

### ***SEC. 1212. OPENING OF INTERSTATE RAMPS.***

*(a) In General.—Not later 30 days after the date of enactment of this Act, the Secretary shall open the ramp connecting Interstate Route 495 and Arena Drive in Prince George's County, Maryland, for the purpose of allowing motor vehicles to exit Interstate Route 495 in both northern and southern directions onto Arena Drive. Such ramp shall be open for 24 hours a day, every day during the calendar year.*

*(b) Fully Opening Arena Drive Ramp.—*

*(1) Study.—The Secretary shall conduct a study to determine the most appropriate method for opening the ramps for allowing motor vehicles to enter Interstate Route 495 from Arena Drive.*

*(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.*

*(c) Limitation on Statutory Construction.—Nothing in the section shall be construed as altering current traffic management protocols to the Arena Drive ramps during stadium events.*

## ***Subtitle C—Mobility and Efficiency***

### ***SEC. 1301. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.***

*(a) In General.—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section.. A State must submit an application to the Secretary in order to receive an allocation under this section.*

*(b) Selection Process.—*

*(1) Priority.—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.*

*(2) Selection factors.—In making allocations under this section, the Secretary shall consider the following factors:*

*(A) The extent to which the corridor provides a link between 2 existing segments of the Interstate System.*

*(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.*

*(C) The extent to which commercial vehicle traffic in the corridor—*

*(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and*

*(ii) is projected to increase in the future.*

*(D) The extent to which international truck-borne commodities move through the corridor.*

*(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.*

*(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.*

*(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.*

*(H) The extent of leveraging of Federal funds provided to carry out this section, including—*

*(i) use of innovative financing;*

*(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and*

*(iii) combination with other sources of Federal, State, local, or private funding.*

*(c) Period of Availability.—Funds allocated for a project to a State under this section shall remain available for obligation in that State until 6 months from the day on which they are allocated. Sums not obligated within 6 months of the day on which they are allocated shall be available to the Secretary to be allocated for other projects eligible under this section.*

*(d) Federal Share.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120(b) of title 23, United States Code.*

*(e) Applicability of Title 23.—Except as provided in subsections (c) and (d), funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.*

*(f) State Defined.—In this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.*

### ***SEC. 1302. COORDINATED BORDER INFRASTRUCTURE PROGRAM.***

*(a) General Authority.—The Secretary shall implement a coordinated border infrastructure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.*

*(b) Eligible Uses.—A State may use funds apportioned under this section only for—*

*(1) improvements in a border region to existing transportation and supporting infrastructure that facilitate cross-border motor vehicle and cargo movements;*

*(2) construction of highways and related safety and safety enforcement facilities in a border region that facilitate motor vehicle and cargo movements related to international trade;*

*(3) operational improvements in a border region, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border motor vehicle and cargo movement;*

*(4) modifications to regulatory procedures to expedite safe and efficient cross border motor vehicle and cargo movements; and*

*(5) international coordination of transportation planning, programming, and border operation with Canada and Mexico relating to expediting cross border motor vehicle and cargo movements.*

*(c) Apportionment of Funds.—On October 1 of each fiscal year, the Secretary shall apportion among border States sums authorized to be appropriated to carry out this section for such fiscal year as follows:*

*(1) 20 percent in the ratio that—*

*(A) the total number of incoming commercial trucks that pass through the land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total number of incoming commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(2) 30 percent in the ratio that—*

*(A) the total number of incoming personal motor vehicles and incoming buses that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total number of incoming personal motor vehicles and incoming buses that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(3) 25 percent in the ratio that—*

*(A) the total weight of incoming cargo by commercial trucks that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total weight of incoming cargo by commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(4) 25 percent of the ratio that—*

*(A) the total number of land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total number of land border ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(d) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent.*

*(e) DEFINITIONS.—In this section, the following definitions apply:*

*(1) BORDER REGION.—The term "border region" means any portion of a border State within 20 miles of an international land border with Canada or Mexico.*

*(2) BORDER STATE.—The term "border State" means any State that has an international land border with Canada or Mexico.*

*(3) COMMERCIAL TRUCK.—The term "commercial truck" means a commercial motor vehicle as defined in section 31301(4) (other than subparagraph (B)) of title 49, United States Code.*

*(4) MOTOR VEHICLE.—The term "motor vehicle" has the meaning such term has under section 101(a) of title 23, United States Code.*

*(5) STATE.—The term "State" has the meaning such term has in section 101(a) of such title 23.*

***SEC. 1303. FREIGHT INTERMODAL CONNECTORS.***

*(a) IN GENERAL.—*

*(1) ESTABLISHMENT.—The Secretary shall establish a freight intermodal connector program to improve productivity and improve the efficiency of the transportation of freight, while mitigating congestion in the area of freight intermodal connectors.*

*(2) PURPOSES.—The purposes of the program shall be—*

*(A) to facilitate and support intermodal freight transportation initiatives at the State and local levels in order to improve freight intermodal connectors and mitigate the impact of congestion in the area of such connectors; and*

*(B) to provide capital funding to address infrastructure and freight operational needs at freight intermodal connectors.*

*(b) STATE RESPONSIBILITIES.—Under the program, each State shall ensure that intermodal freight transportation and trade facilitation and are adequately addressed integrated into the project development process, including transportation planning, through final design and construction of freight related transportation projects.*

*(c) ELIGIBLE PROJECTS.—*

*(1) IN GENERAL.—Projects eligible for funding under this section may include the construction of and improvements to publicly owned freight intermodal connectors, the provision of access to such connectors, and operational improvements for such connectors (including capital investment for intelligent transportation systems); except that a project located within the boundaries of an intermodal freight facility shall only include highway infrastructure modifications necessary to facilitate direct intermodal access between the connector and the facility.*

*(2) SPECIAL RULE.—If a State that does not have any freight intermodal connectors within its boundaries or has only freight intermodal connectors within its boundaries that are in good condition and provide an adequate level of service, projects within the boundaries of the State that are eligible for assistance under section 103(b)(6) of title 23, United States Code, relating to the National Highway System, shall be eligible for funding under this section.*

*(d) PRIORITY.—Under the program, a State shall give priority to projects on freight intermodal connectors to the National Highway System as identified according to the criteria set forth in the report of the Department of Transportation to Congress entitled "Pulling Together: The NHS and its Connections to Major Intermodal Terminals".*

*(e) APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion among the States sums made available to carry out this section for such fiscal year as follows:*

*(1) 33.3 percent in the ratio that—*

*(A) the number of freight intermodal connectors identified in the most recent Intermodal Freight Connectors study of the Federal Highway Administration within the boundaries of a State; bears to*

*(B) the total number of such connectors within the boundaries of all the States.*

*(2) 33.3 percent in the ratio that—*

*(A) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial motor vehicles; bears to*

*(B) the total of such annual contributions by all States.*

*(3) 33.4 percent in the same ratios as funds are apportioned for the National Highway System under clauses (i), (ii), (iii), and (iv) of section 104(b)(1)(A) of title 23, United States Code.*

*(f) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent.*

*(g) UPDATE REPORT.—Not later than August 1, 2005, the Secretary shall publish an update to the report entitled "Pulling Together: the National Highway System and its Connections to Major Intermodal Terminals".*

*(h) DEFINITIONS.—In this section, the following definitions apply:*

*(1) FREIGHT INTERMODAL CONNECTORS.—The term "freight intermodal connector" means the roadway that connects to an intermodal freight facility that carries or will carry intermodal traffic.*

*(2) INTERMODAL FREIGHT FACILITY.—The term "intermodal freight facility" means a port, airport, truck-rail terminal, and pipeline-truck terminal.*

*(3) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.*

***SEC. 1304. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.***

*(a) FINDINGS.—Congress finds the following:*

*(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.*

*(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.*

*(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.*

*(4) Projects of national and regional significance have national and regional benefits; including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.*

*(5) The benefits of such projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.*

*(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.*

*(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide grants to qualified entities for projects of national and regional significance.*

*(c) DEFINITIONS.—*

*(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means the costs of—*

*(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and*

*(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.*

*(2) ELIGIBLE PROJECT.—The term "eligible project" means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.*

*(3) QUALIFIED ENTITY.—The term "qualified entity" means a State as defined in section 101(a) of title 23, United States Code.*

*(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—*

*(1) $500,000,000; or*

*(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.*

*(e) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.*

*(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—*

*(1) IN GENERAL.—The Secretary shall—*

*(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);*

*(B) conduct a national solicitation for applications; and*

*(C) award grants on a competitive basis.*

*(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—*

*(A) is based on the results of preliminary engineering;*

*(B) is justified based on the project's ability—*

*(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;*

*(ii) to reduce congestion, including impacts in the State, region, and Nation;*

*(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;*

*(iv) to otherwise enhance the national transportation system; and*

*(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and*

*(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.*

*(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—*

*(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;*

*(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.*

*(C) helps maintain or protect the environment.*

*(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.*

*(5) NON-FEDERAL FINANCIAL COMMITMENT.—*

*(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—*

*(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and*

*(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.*

*(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—*

*(i) existing financial commitments;*

*(ii) the degree to which financing sources are dedicated to the purposes proposed;*

*(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and*

*(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.*

*(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.*

*(7) PROJECT EVALUATION AND RATING.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as "highly recommended", "recommended", or "not recommended" based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).*

*(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—*

*(1) LETTER OF INTENT.—*

*(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.*

*(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.*

*(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.*

*(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.*

*(2) FULL FUNDING GRANT AGREEMENT.—*

*(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).*

*(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—*

*(i) establish the terms of participation by the United States Government in a project under this section;*

*(ii) establish the maximum amount of Government financial assistance for the project;*

*(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and*

*(iv) make timely and efficient management of the project easier according to the laws of the United States.*

*(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.*

*(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.*

*(h) GRANT REQUIREMENTS.—*

*(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code, and chapter 52 of title 49, United States Code.*

*(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.*

*(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.*

*(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.*

*(k) REPORTS.—*

*(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.*

*(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.*

*(l) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.*

***SEC. 1305. DEDICATED TRUCK LANES.***

*(a) IN GENERAL.—The Secretary shall establish and implement a pilot program to make allocations to States for the construction of projects that separate commercial truck traffic from other motor vehicle traffic. A State must submit an application to the Secretary in order to receive an allocation under this section.*

*(b) SELECTION PROCESS.—*

*(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects that provide additional capacity.*

*(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:*

*(A) The extent to which the project will improve the safe and efficient movement of freight.*

*(B) The extent to which the project provides positive separation of commercial trucks from other motor vehicle traffic.*

*(C) The extent to which the project connects an intermodal freight facility or an international port of entry to the Dwight D. Eisenhower National System of Interstate and Defense Highways by providing limited access lanes that allow commercial truck traffic to*

*enter the Interstate System at the posted speed limit.*

*(D) The extent to which the project will remove truck traffic from surface streets.*

*(E) The extent to which travel time is expected to be reduced as a result of the proposed project.*

*(F) The extent of leveraging of Federal funds provided to carry out this section, including—*

*(i) use of innovative financing;*

*(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and*

*(iii) combination with other sources of Federal, State, local, or private funding.*

*(c) Federal Share.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120(b) of title 23, United States Code.*

*(d) Applicability of Title 23.—Except as provided in subsection (d), funds made available by section 1101(a)(22) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.*

*(e) Definitions.—In this section the following definitions apply:*

*(1) Commercial truck.—The term "commercial truck" means a self-propelled or towed vehicle used on highways in commerce principally to transport cargo if the vehicle has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater.*

*(2) State.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.*

### SEC. 1306. TRUCK PARKING FACILITIES.

*(a) Establishment.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.*

*(b) Allocation of Funds.—*

*(1) In general.—The Secretary shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.*

*(2) Applications.—To be eligible for an allocation under this section, a State, metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.*

*(3) Eligible projects.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:*

*(A) Constructing safety rest areas, as defined in section 120(c) of title 23, United States Code, that include parking for commercial motor vehicles.*

*(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.*

*(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.*

*(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.*

*(E) Constructing turnouts along the National Highway System for commercial motor vehicles.*

*(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.*

*(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.*

*(4) Priority.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—*

*(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;*

*(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and*

*(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.*

*(c) Funding.—*

*(1) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.*

*(2) Contract authority.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

*(d) Report to Congress.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the pilot program.*

*(e) Federal Share.—The Federal share of the cost of a project carried out using amounts made available under this section shall be determined in accordance with sections 120(b) and 120(c) of title 23, United States Code.*

*(f) Applicability of Title 23.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.*

## Subtitle D—Highway Safety

### SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

*(a) Safety Improvement Project Defined.—Section 101(a)(30) of title 23, United States Code, is amended by inserting "installs fluorescent, yellow-green signs at pedestrian or bicycle crossings or school zones," after "call boxes,".*

*(b) Operation Lifesaver.—Section 104(d)(1) of such title is amended—*

*(1) by striking "subsection (b)(3) of this section" and inserting "section 130(f)"; and*

*(2) by striking "$500,000" and inserting "$600,000".*

*(c) Railway-Highway Crossing Hazard Elimination in High Speed Rail Corridors.—*

*(1) In general.—Section 104(d)(2) of such title is amended—*

*(A) in subparagraph (A) by striking "$5,250,000" and inserting "$7,500,000 for each of fiscal years 2004 and 2005, $10,000,000 for each of fiscal years 2006 and 2007, and $15,000,000 for each of fiscal years 2008 and 2009"; and*

*(B) in subparagraph (E)—*

*(i) by striking "Not less than $250,000 of such set-aside" and inserting "Of such set-aside, not less than $875,000 for each of fiscal years 2004 and 2005, $1,500,000 for each of fiscal years 2006 and 2007, and $2,750,000 for each of fiscal years 2008 and 2009"; and*

*(ii) by striking "per fiscal year".*

*(2) Designation of corridors.—Of the rail corridors selected by the Secretary in accordance with section 104(d)(2) of title 23, United States Code—*

*(A) the Northern New England High Speed Rail Corridor is expanded to include the train routes from Boston, Massachusetts, to Albany, New York, and from Springfield, Massachusetts, to New Haven, Connecticut; and*

*(B) the South Central Corridor is expanded to include the train route from Killeen, Texas, to Houston, Texas, via Bryan-College Station.*

*(d) Railway-Highway Crossings.—*

*(1) Funds for protective devices.—Section 130(e) of such title is amended—*

*(A) by striking "At" and inserting the following:*

*"(1) In general.—At"; and*

*(B) by adding at the end the following:*

*"(2) Special rule.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this subsection for other purposes by this section.".*

*(2) Apportionment.—Section 130(f) of such title is amended to read as follows:*

*"(f) Apportionment.—*

*"(1) Formula.—Fifty percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.*

*"(2) Minimum apportionment.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under paragraph (1).*

*"(3) Federal share.—The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.".*

*(3) Biennial report to congress.—The third sentence of section 130(g) of such title is amended by striking "not later than April 1 of each year," and inserting ", not later than April 1, 2006, and every 2 years thereafter,".*

*(4) Expenditure of funds.—Section 130 of such title is further amended by adding at the end the following:*

*"(k) Expenditure of Funds.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).".*

*(e) Surface Transportation Program.—*

*(1) In general.—Section 133(d) of such title is amended—*

*(A) by striking paragraph (1); and*

*(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and*

*(C) in paragraph (2) (as so redesignated)—*

*(i) in subparagraph (A) by striking "80 percent" and inserting "90 percent";*

*(ii) in subparagraph (B) by striking "tobe" and inserting "to be"; and*

*(iii) in subparagraph (D) by adding a period at the end.*

*(2) Conforming amendments.—*

*(A) Section 133.—Section 133(e) is amended by striking "(d)(2)" and inserting "(d)(1)" in each of paragraphs (3)(B)(i), (5)(A), and (5)(B).*

*(B) Section 126.—Section 126(b) of such title is amended—*

*(i) by striking "to the last sentence of section 133(d)(1) or";*

*(ii) by striking "section 133(d)(3)" and inserting "section 133(d)(2)"; and*

*(iii) by striking "or 133(d)(2)".*

*(f) Hazard Elimination Program.—*

*(1) Purposes.—Section 152(a)(1) of such title is amended—*

*(A) by striking "and" after "bicyclists,"; and*

*(B) by inserting after "pedestrians," the following: "and the disabled, identify roadway safety improvement needs for such locations, sections, and elements,".*

*(2) Hazards.—Section 152(a)(2)(A) of such title is amended by inserting "the disabled," after "pedestrians,".*

*(3) Approval of projects.—Section 152(b) of such title is amended by inserting before the period at the end the following: "that reduces the likelihood of crashes involving road departures,*

*intersections, pedestrians, the disabled, bicyclists, older drivers, or construction work zones''.*

*(4) EXPENDITURE OF FUNDS.—Section 152(c) of such title is amended—*

*(A) in paragraph (2) by striking ''or'' at the end;*

*(B) in paragraph (3) by striking the period at the end and inserting a semicolon; and*

*(C) by adding at the end the following:*

*''(4) police assistance for traffic and speed management in construction work zones;*

*''(5) installation of barriers between construction work zones and traffic lanes for the safety of motorists and workers;*

*''(6) installation of protective devices at railway-highway crossings; and*

*''(7) compilation and analysis of data under subsections (f) and (g) if the funds used for this purpose by a State do not exceed 2 percent of the amount apportioned to such State to carry out this section.''.*

*(5) APPORTIONMENT.—Section 152(d) of such title is amended to read as follows:*

*''(d) APPORTIONMENT.—*

*''(1) FORMULA.—Funds authorized to be appropriated to carry out this section shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A).*

*''(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under paragraph (1).*

*''(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.''.*

*(6) BIENNIAL REPORT TO CONGRESS.—*

*(A) IN GENERAL.—Section 152 of such title is amended by adding at the end the following:*

*''(i) BIENNIAL REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, and every 2 years thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the program under this section. The report shall include, at a minimum, the following:*

*''(1) A summary of State projects completed under this section categorized by the types of hazards and a statement of the cost of such projects.*

*''(2) An analysis of the effectiveness of such categories of projects in reducing the number and severity of crashes at high hazard locations.*

*''(3) An assessment of the adequacy of authorized funding for the program and State use of such funding to address the national need for such projects.*

*''(4) Recommendations for funding and program improvements to reduce the number of high hazard locations.*

*''(5) An analysis and evaluation of each State program, an identification of any State found not to be in compliance with the schedule of improvements required by subsection (a), and recommendations for future implementation of the hazard elimination program.''.*

*(B) CONFORMING AMENDMENT.—Section 152(g) of such title is amended by striking the third sentence through the last sentence.*

*(g) EFFECTIVE DATE.—The amendments made by subsections (b)(1), (d), (e), and (f) shall take effect on September 30, 2005.*

### SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

*Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high visibility garments. Such regulations may also require such other worker-safety measures for workers with those duties as the Secretary determines appropriate.*

### SEC. 1403. HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.

*(a) ESTABLISHMENT.—The Secretary shall establish and implement a high risk rural road safety improvement program in accordance with this section.*

*(b) ELIGIBLE PROJECTS.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), a State may obligate funds apportioned to it under this section only for construction and operational improvement projects on high risk rural roads and only if the primary purpose of the project is to improve highway safety on a high risk rural road.*

*(2) SPECIAL RULE.—A State may use funds apportioned to it under this section for any project approved by the Secretary under section 152 of title 23, United States Code, if the State certifies to the Secretary that it has no projects described in paragraph (1).*

*(c) STATE ALLOCATION SYSTEM.—Each State shall establish a system for allocating funds apportioned to it under this section among projects eligible for assistance under this section that have the highest benefits to highway safety. Such system may include a safety management system established by the State under section 303 of title 23, United States Code, or a survey established pursuant to section 152(a) of such title.*

*(d) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion among States sums authorized to be appropriated to carry out this section for such fiscal year as follows:*

*(1) ⅓ in the ratio that—*

*(A) each State's public road lane mileage for rural minor collectors and rural local roads; bears to*

*(B) the total public road lane mileage for rural minor collectors and rural local roads of all States.*

*(2) ⅓ in the ratio that—*

*(A) the population of areas other than urbanized areas in each State, as shown by the most recent Government decennial census of population; bears to*

*(B) the population of all areas other than urbanized areas in the United States, as shown by that census.*

*(3) ⅓ in the ratio that—*

*(A) the total vehicle miles traveled on public roads in each State; bears to*

*(B) the total number of vehicle miles traveled on public roads in all States.*

*(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent. Notwithstanding any other provision of law, projects assisted under this section shall be treated as projects on a Federal-aid system under such chapter.*

*(f) DEFINITIONS.—In this section, the following definitions apply:*

*(1) HIGH RISK RURAL ROAD.—The term ''high risk rural road'' means any roadway functionally classified as a rural major or minor collector or a rural local road—*

*(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for these functional classes of roadway; or*

*(B) which will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for these functional classes of roadway.*

*(2) STATE AND URBANIZED AREA.—The terms ''State'' and ''urbanized area'' have the meaning such terms have under section 101(a) of title 23, United States Code.*

### SEC. 1404. TRANSFERS OF APPORTIONMENTS TO SAFETY PROGRAMS.

*(a) USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.—Section 153(h) of title 23, United States Code, is amended—*

*(1) in paragraph (2)—*

*(A) in the paragraph heading by striking ''THEREAFTER.—'' and inserting ''FISCAL YEARS 1995–2004.—''; and*

*(B) by inserting ''and ending before October 1, 2004,'' after ''September 30, 1994,'';*

*(2) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;*

*(3) by inserting after paragraph (2) the following:*

*''(3) FISCAL YEAR 2005 AND THEREAFTER.—On October 1, 2004, and each October 1 thereafter, if a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer from the funds apportioned to the State on that date under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 to the apportionment of the State under section 402 an amount equal to 3 percent of the funds apportioned to the State under such subsections for fiscal year 2003.''; and*

*(4) in paragraph (5) (as so redesignated)—*

*(A) by striking ''which is determined by multiplying'' and inserting ''which, for fiscal year 2005 and each fiscal year thereafter, is determined by multiplying''; and*

*(B) in subparagraph (B) by striking ''such fiscal year'' each place it appears and inserting ''fiscal year 2003''.*

*(b) OPEN CONTAINER REQUIREMENTS.—Section 154(c) of title 23, United States Code, is amended—*

*(1) in paragraph (2)—*

*(A) in the paragraph heading by striking ''FISCAL YEARS THEREAFTER'' and inserting ''FISCAL YEAR 2004'' ; and*

*(B) by striking ''and each October 1 thereafter,'';*

*(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;*

*(3) by inserting after paragraph (2) the following:*

*''(3) FISCAL YEAR 2005 AND THEREAFTER.—On October 1, 2004, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer from the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to 3 percent of the funds apportioned to the State under such paragraphs for fiscal year 2003 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).'';*

*(4) in paragraph (5) (as so redesignated) by striking ''paragraph (3)'' and inserting ''paragraph (4)'';*

*(5) in paragraphs (4), (5), and (6) (as so redesignated) by striking ''paragraph (1) or (2)'' and inserting ''paragraph (1), (2), or (3)''; and*

*(6) in paragraph (7)(B) (as so redesignated)—*

*(A) by striking ''The amount'' and inserting ''For fiscal year 2005 and each fiscal year thereafter, the amount''; and*

*(B) in subclauses (I) and (II) of clause (ii) by striking ''the fiscal year'' and inserting ''fiscal year 2003''.*

*(c) MINIMUM PENALTIES FOR CERTAIN REPEAT OFFENDERS.—Section 164(b) of title 23, United States Code, is amended—*

(1) in paragraph (2)—

(A) in the paragraph heading by striking "AND FISCAL YEARS THEREAFTER" and inserting "FISCAL YEAR 2004" ; and

(B) by striking "and each October 1 thereafter,";

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(3) by inserting after paragraph (2) the following:

"(3) FISCAL YEAR 2005 AND THEREAFTER.—On October 1, 2004, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer from the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to 3 percent of the funds apportioned to the State under such paragraphs for fiscal year 2003 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).";

(4) in paragraph (5) (as so redesignated) by striking "paragraph (3)" and inserting "paragraph (4)";

(5) in paragraphs (4), (5), and (6) (as so redesignated) by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), or (3)"; and

(6) in paragraph (7)(B) (as so redesignated)—

(A) by striking "The amount" and inserting "For fiscal year 2005 and each fiscal year thereafter, the amount"; and

(B) in subclauses (I) and (II) of clause (ii) by striking "the fiscal year" and inserting "fiscal year 2003".

### SEC. 1405. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

Section 157(g)(1) of title 23, United States Code, is amended by striking "for fiscal year 2004" and all that follows through "2005" and inserting "and for each of fiscal years 2003, 2004, and 2005".

### SEC. 1406. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.

(a) CODIFICATION OF PENALTY.—Section 163 of title 23, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PENALTY.—

"(1) IN GENERAL.—On October 1, 2003, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold from amounts apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to the amount specified in paragraph (2).

"(2) AMOUNT TO BE WITHHELD.—If a State is subject to a penalty under paragraph (1), the Secretary shall withhold for a fiscal year from the apportionments of the State described in paragraph (1) an amount equal to a percentage of the funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) for fiscal year 2003. The percentage shall be as follows:

"(A) For fiscal year 2004, 2 percent.

"(B) For fiscal year 2005, 4 percent.

"(C) For fiscal year 2006, 6 percent.

"(D) For fiscal year 2007, and each fiscal year thereafter, 8 percent.

"(3) FAILURE TO COMPLY.—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 163(f)(1) of such title, as redesignated by subsection (a)(1) of this section, is amended by striking "for fiscal year 2004" and all that follows through "2005" and inserting "and for each of fiscal years 2004 and 2005".

(c) REPEAL.—Section 351 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (23 U.S.C. 163 note; 114 Stat. 1356A–34) is repealed.

### SEC. 1407. REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED.

Section 164(a)(5)(A) of title 23, United States Code, is amended to read as follows:

"(A) receive (i) a driver's license suspension for not less than 1 year, or (ii) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the propose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;".

### SEC. 1408. REPAIR OR REPLACEMENT OF HIGHWAY FEATURES ON NATIONAL HIGHWAY SYSTEM.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to determine the appropriate conditions under which a State when choosing to repair or replace damaged highway features on the National Highway System with State funds (rather than with available Federal financial assistance) should be required to repair or replace such features with highway features that have been tested, evaluated, and found to be acceptable under the guidelines contained in the report of the Transportation Research Board of the National Research Council entitled "NCHRP Report 350-Recommended Procedures for the Safety Performance Evaluation of Highway Features".

(b) MATTERS TO BE CONSIDERED.—The rulemaking proceeding shall cover those highway features that are covered by the guidelines referred to in subsection (a). The conditions to be considered by the Secretary in the rulemaking proceeding shall include types of highway features, cost-effectiveness, and practicality of replacement with highway features that have been found to be acceptable under such guidelines.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations regarding the conditions under which States when choosing to repair or replace damaged highway features described in subsection (a) will be required to repair or replace such features with highway features that have been tested, evaluated, and found to be acceptable as described in subsection (a).

## Subtitle E—Construction and Contract Efficiencies

### SEC. 1501. DESIGN-BUILD.

(a) QUALIFIED PROJECTS.—Section 112(b)(3)(C) of title 23, United States Code, is amended to read as follows:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.".

(b) EXPERIMENTAL PROCUREMENT.—Section 112(b)(3) of such title is further amended—

(1) by redesigning subparagraph (D) as subparagraph (G); and

(2) by inserting after subparagraph (C) the following:

"(D) EXPERIMENTAL PROCUREMENT.—As part of any experimental program carried out under this section, the Secretary shall evaluate the use of procurement procedures under this paragraph where subjective evaluation criteria account for the majority of the selection determination.

"(E) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as effecting the authority to carry out any experimental program concerning design-build contracting that is being carried out by the Secretary on the date of enactment of this subparagraph.

"(F) REPORT.—Not later than 3 years after the date of enactment of this subparagraph, the Secretary shall transmit to Congress a report on the effectiveness of design-build contracting procedures in which the majority of the selection determinations are made based on subjective criteria in accordance with subparagraph (D).".

### SEC. 1502. WARRANTY HIGHWAY CONSTRUCTION PROJECT PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a pilot program designed to encourage States to incorporate warranties in the letting of contracts for highway construction projects.

(b) MAXIMUM NUMBER OF PROJECTS.—The Secretary may allow not more than 15 projects a year to be carried out under the pilot program.

(c) FEDERAL SHARE.—The Federal share of the costs of a project under the pilot program may not exceed 90 percent.

(d) MINIMUM PROJECT COST.—The estimated total cost of a project to be carried out under the pilot program must be greater than $15,000,000.

(e) SELECTION PROCESS.—In the selection process for the pilot program, the Secretary shall select, to the extent possible, projects from several different regions of the United States in order to demonstrate the effects that different climates and traffic patterns have on warranty highway construction projects.

(f) RULEMAKING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a rule to implement the pilot program. The rule shall include the following factors for eligibility of a highway construction project to be included in the program:

(A) A requirement that the contract for the project must include a long-term limited warranty that is of a duration sufficient to ensure that—

(i) the cost to the State of the project that will be carried out is less than the estimated cost to construct the project without the warranty plus the estimated costs that would be incurred by the State and that would otherwise be covered during the proposed warranty period if a warranty were in effect; and

(ii) the estimated cost to road users during the warranty period is less than such estimated cost without a warranty.

(B) In determining the sufficient duration of a long-term limited warranty under subparagraph (A), the Secretary shall establish separate sufficient durations for different types of projects, such as initial construction, pavement resurfacing and rehabilitation, and pavement markings.

(C) A requirement that the limited warranty must address, at a minimum—

(i) the responsibilities of the warranty provider;

(ii) the responsibilities of the Department of Transportation;

(iii) the terms of the warranty, including duration and, if applicable, traffic volumes and vehicle classification; and

(iv) performance criteria to be met to determine if maintenance is required.

(2) FACTORS TO CONSIDER.—In issuing the rule, the Secretary may consider the following factors as requirements for the warranty contract for eligibility under the pilot program:

(A) A plan to account for inflation during the warranty period.

(B) The frequency of performance assessments performed.

(C) The response time for repairs.

(D) A plan for emergency repairs.

(E) Clearly set out limits of liability under the warranty, if any.

(F) Dispute resolution provisions.

(G) A severability provision.

(H) Other provisions the Secretary considers necessary for carrying out the program.

(g) SAVINGS.—Section 112 of title 23, United States Code, shall apply to the projects carried out under this section unless the Secretary determines that applying such section to such projects is inconsistent with the provisions of this section.

(h) REPORTS.—Not later than 5 years after the date of enactment of this Act and every year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report outlining activities carried out under the program and the results of the program.

### SEC. 1503. PRIVATE INVESTMENT STUDY.

(a) STUDY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive study of private investment in surface transportation infrastructure.

(b) MATTERS TO BE EVALUATED.—Under the agreement, the National Academy of Sciences shall evaluate the advantages and disadvantages of private investment in surface transportation infrastructure and the impact of such investment on the ability of State and local authorities to use innovative financing, including—

(1) preconstruction funding requirements;

(2) integration of private investment in the transportation planning process;

(3) use of toll revenues by State and local authorities;

(4) use of toll credits by State and local authorities;

(5) requirements for debt financing instruments, reimbursable expenses, and conditions on payments;

(6) limitation on fees charged at federally funded fringe and corridor parking facilities;

(7) revenues needed to provide a reasonable rate of return to private investors;

(8) costs to users of facilities due to imposition of tolls;

(9) sales-in-lease-out arrangement of transportation assets; and

(10) such other matters as the Secretary considers appropriate.

(c) REPORT.—

(1) TO SECRETARY.—Under the agreement, the National Academy of Sciences shall submit to the Secretary a report on the results of the study by such date as the Secretary may require.

(2) TO CONGRESS.—Not later than January 1, 2007, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a copy of the report of the National Academy of Sciences, together with such recommendations as the Secretary considers appropriate.

### SEC. 1504. HIGHWAYS FOR LIFE PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the "Highways for LIFE pilot program".

(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

(b) PROJECTS.—

(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

(C) meets additional criteria as determined by the Secretary.

(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

(A) an identification and description of the projects to be delivered;

(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

(D) such other information as the Secretary may require.

(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

(D) are or will be ready for construction within 12 months of approval of the project proposal; and

(E) meet such other criteria as the Secretary determines appropriate.

(5) FINANCIAL ASSISTANCE.—

(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $15,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under 1 or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary shall approve at least one project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

(c) TECHNOLOGY PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

(1) IN GENERAL.—The Secretary shall conduct a Highways for LIFE technology transfer program.

(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE pilot program. The process may include participation by representatives of State departments of transportation and other interested persons.

(f) PROJECT MONITORING AND EVALUATION.—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.

(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) STATE DEFINED.—In this section, the term "State" has the meaning such term has under section 101(a) of title 23, United States Code.

## Subtitle F—Finance

### SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "category"; and

(B) by striking "offered into the capital markets";

(2) by striking paragraph (7);

(3) by redesignating paragraphs (8) through (15) as paragraphs (7) through (14), respectively;

(4) by striking the period at the end of paragraph (8)(B) (as so redesignated) and inserting a semicolon; and

(5) in paragraph (10) (as so redesignated) by striking "bond" and inserting "credit".

(b) DETERMINATION OF ELIGIBILITY.—Section 182(a) of such title is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

"(2) APPLICATION.—A State, a local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.";

(2) in paragraph (3)(A)(i) by striking "$100,000,000" and inserting "$50,000,000";

(3) in paragraph (3)(B) by striking "$30,000,000" and inserting "$15,000,000"; and

(4) in paragraph (4)—

(A) by striking "Project financing" and inserting "The Federal credit instrument"; and

(B) by inserting before the period at the end "that also secure the project obligations".

(c) PROJECT SELECTION.—Section 182(b) of such title is amended—

(1) in paragraph (1) by striking "criteria" the second place it appears and inserting "requirements"; and

(2) in paragraph (2)(B) by inserting ", which may be the Federal credit instrument," after "obligations".

(d) SECURED LOANS.—

(1) AGREEMENTS.—Section 183(a)(1) of such title is amended—

(A) in each of subparagraphs (A) and (B) by inserting "of any project selected under section 602" after "costs"; and

(B) by striking the semicolon at the end of subparagraph (B) and all that follows through "under section 602".

(2) INVESTMENT-GRADE RATING REQUIREMENT.—Section 183(a)(4) of such title is amended—

(A) by striking "The funding" and inserting "The execution"; and

(B) by striking the first comma and all that follows through "1 rating agency".

(3) TERMS AND LIMITATIONS.—Section 183(b) of such title is amended—

(A) in paragraph (2) by inserting "the lesser of" after "exceed";

(B) in paragraph (2) by inserting "or the amount of the senior project obligations" after "costs";

(C) in paragraph (3)(A)(i) by inserting "that also secure the senior project obligations" after "sources"; and

(D) in paragraph (4) by striking "marketable".

(4) REPAYMENT.—Section 183(c) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(e) LINES OF CREDIT.—

(1) TERMS AND LIMITATIONS.—Section 184(b) of such title is amended—

(A) in paragraph (3)—

(i) by striking the first comma; and

(ii) by striking "any debt service reserve fund, and any other available reserve" and inserting "but not including reasonably required financing reserves";

(B) in paragraph (4)—

(i) by striking "marketable";

(ii) by striking "on which" and inserting "of execution of"; and

(iii) by striking "is obligated" and inserting "agreement"; and

(C) in paragraph (5)(A)(i) by inserting "that also secure the senior project obligations" after "sources"; and

(2) REPAYMENT.—Section 184(c) of such title is amended—

(A) in paragraph (2)—

(i) by striking "scheduled";

(ii) by inserting "be scheduled to" after "shall"; and

(iii) by striking "be fully repaid, with interest," and inserting "conclude, with full repayment of principal and interest,"; and

(B) by striking paragraph (3).

(f) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:

**"§ 185. Program administration**

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instrument made available under this chapter.

"(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal Government of servicing the Federal credit instrument.

"(c) SERVICES.—The Secretary may identify a financial entity to assist the Secretary in servicing a Federal credit instrument. The services—

"(1) shall act as the agent for the Secretary; and

"(2) shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of one or more expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(g) FUNDING.—Section 188 of such title is amended to read as follows:

**"§ 188. Funding**

"(a) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $130,000,000 for fiscal year 2004 and $140,000,000 for each of fiscal years 2005 through 2009 to carry out this chapter.

"(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than $3,000,000 for each of fiscal years 2004 through 2009.

"(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

"(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 2004 through 2009, principal amounts of Federal credit instruments made available under this chapter shall be limited to $2,600,000,000.".

**SEC. 1602. STATE INFRASTRUCTURE BANKS.**

(a) IN GENERAL.—Section 189 of title 23, United States Code, is amended to read as follows:

**"§ 189. State infrastructure bank program**

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) CAPITAL PROJECT.—The term 'capital project' has the meaning such term has under section 5302 of title 49, United States Code.

"(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term 'other forms of credit assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

"(3) STATE.—The term 'State' has the meaning such term has under section 401 of this title.

"(4) CAPITALIZATION.—The term 'capitalization' means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

"(5) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

"(6) LOAN.—The term 'loan' means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

"(7) GUARANTEE.—The term 'guarantee' means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

"(8) INITIAL ASSISTANCE.—The term 'initial assistance' means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

"(9) LEVERAGE.—The term 'leverage' means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

"(10) LEVERAGED.—The term 'leveraged', as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.

"(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(d) FUNDING.—

"(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

"(A) 10 percent of the funds apportioned to the State for each of fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 101(b)(4), and 144; and

"(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105.

"(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to *the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under each of such sections.*

*"(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under such subtitle.*

*"(4) CAPITAL GRANTS.—*

*"(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.*

*"(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.*

*"(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.*

*"(5) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(3) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.*

*"(6) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State's infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.*

*"(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other forms of credit assistance to a public or private entity in an amount equal to all or a part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other form of credit assistance provided for the project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds deposited into an infrastructure bank under this section may not be made in the form of a grant.*

*"(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects related to surface transportation that the Secretary determines to be appropriate.*

*"(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—*

*"(1) deposit in cash, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;*

*"(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;*

*"(3) ensure that investment income derived from funds deposited to an account of the bank are—*

*"(A) credited to the account;*

*"(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and*

*"(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;*

*"(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;*

*"(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;*

*"(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and*

*"(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.*

*"(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.*

*"(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, shall not apply to funds deposited into an infrastructure bank under this section.*

*"(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2005 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.".*

*(b) PREPARATORY AMENDMENTS.—*

*(1) SECTION 181.—Section 181 of such title is further amended—*

*(A) by striking the section designator and heading and inserting the following:*

***"§ 181. Generally applicable provisions";***

*(B) by striking "In this subchapter" and inserting "(a) DEFINITIONS.—In this chapter";*

*(C) in paragraph (5) by striking "184" and inserting "604";*

*(D) in paragraph (11) (as redesignated by section 1601(a) of this Act) by striking "183" and inserting "603"; and*

*(E) by adding at the end the following:*

*"(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.".*

*(2) SECTION 182.—Section 182(b)(2)(A)(viii) of such title is further amended by inserting "and chapter 1" after "this chapter".*

*(3) SECTION 183.—Section 183(a) of such title is further amended—*

*(A) in paragraph (1) by striking "182" and inserting "602"; and*

*(B) in paragraph (3) by striking "182(b)(2)(B)" and inserting "602(b)(2)(B)".*

*(4) SECTION 184.—Section 184 of such title is further amended—*

*(A) in subsection (a)(1) by striking "182" and inserting "602";*

*(B) in subsection (a)(3) by striking "182(b)(2)(B)" and inserting "602(b)(2)(B)"; and*

*(C) in subsection (b)(10) by striking "183" and inserting "603".*

*(5) REFERENCES IN SUBCHAPTER.—Subchapter II of chapter 1 of such title is amended by striking "this subchapter" each place it appears and inserting "this chapter".*

*(6) SUBCHAPTER HEADINGS.—Chapter 1 of such title is further amended—*

*(A) by striking "***SUBCHAPTER I—GENERAL PROVISIONS***" preceding section 101; and*

*(B) by striking "***SUBCHAPTER II—INFRASTRUCTURE FINANCE***" preceding section 181.*

*(c) CHAPTER 6.—Such title is further amended by adding at the end the following:*

### "CHAPTER 6—INFRASTRUCTURE FINANCE

*"Sec.*
*"601. Generally applicable provisions.*
*"602. Determination of eligibility and project selection.*
*"603. Secured loans.*
*"604. Lines of credit.*
*"605. Program administration.*
*"606. State and local permits.*
*"607. Regulations.*
*"608. Funding.*
*"609. State infrastructure bank program.".*

*(d) MOVING AND REDESIGNATING.—Such title is further amended—*

*(1) by redesignating sections 181 through 189 as sections 601 through 609, respectively;*

*(2) by moving such sections from chapter 1 to chapter 6 (as added by subsection (c)); and*

*(3) by inserting such sections after the analysis for chapter 6.*

*(e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAPTERS.—*

*(1) ANALYSIS FOR CHAPTER 1.—The analysis for chapter 1 of such title is amended—*

*(A) by striking the headings for subchapters I and II; and*

*(B) by striking the items relating to sections 181 through 189.*

*(2) TABLE OF CHAPTERS.—The table of chapters for such title is amended by inserting after the item relating to chapter 5 the following:*

*"6. Infrastructure Finance .................. 601".*

### SEC. 1603. INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION TOLL PILOT PROGRAM.

*(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating the facility.*

*(b) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.*

*(c) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:*

*(1) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.*

*(2) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under chapter 52 of title 49, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.*

*(3) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under the pilot*

*program is the most efficient and economical way to advance the project.*

*(4) A facility management plan that includes—*

*(A) a plan for implementing the imposition of tolls on the facility;*

*(B) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;*

*(C) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;*

*(D) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and*

*(E) such other information as the Secretary may require.*

*(d) SELECTION CRITERIA.—The Secretary may approve the application of a State under subsection (c) only if the Secretary determines that—*

*(1) the State's analysis under subsection (c)(3) is reasonable;*

*(2) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;*

*(3) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;*

*(4) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable;*

*(5) the State will develop, manage, and maintain a system that will automatically collect the tolls;*

*(6) in developing the State plan for implementing tolls on the facility, the State includes a program to permit low income drivers to pay a reduced toll amount; and*

*(7) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.*

*(e) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—*

*(1) excessive congestion;*

*(2) pavement wear; and*

*(3) an increased incidence of traffic accidents, injuries, or fatalities.*

*(f) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—*

*(1) all toll revenues received from operation of the toll facility will be used only for—*

*(A) debt service;*

*(B) reasonable return on investment of any private person financing the project; and*

*(C) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and*

*(2) regular audits will be conducted to ensure compliance with paragraph (1) and the results of such audits will be transmitted to the Secretary.*

*(g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.*

*(h) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.*

*(i) INTERSTATE SYSTEM DEFINED.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.*

*(j) REPORT.—Not later than September 30, 2011, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on traffic congestion on, pavement wear of, and incidence of accidents, injuries, and fatalities on public roads adjacent to toll facilities established under this section and section 1604.*

*(k) REPEAL.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.*

### SEC. 1604. INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.

*(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.*

*(b) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on 3 facilities on the Interstate System.*

*(c) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:*

*(1) An identification of the facility on the Interstate System proposed to be a toll facility.*

*(2) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under chapter 52 of title 49, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.*

*(3) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.*

*(4) A facility management plan that includes—*

*(A) a plan for implementing the imposition of tolls on the facility;*

*(B) a schedule and finance plan for the construction of the facility using toll revenues;*

*(C) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;*

*(D) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and*

*(E) such other information as the Secretary may require.*

*(d) SELECTION CRITERIA.—The Secretary may approve the application of a State under subsection (c) only if the Secretary determines that—*

*(1) the State's analysis under subsection (c)(3) is reasonable;*

*(2) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;*

*(3) the State plan for construction of the facility using toll revenues is reasonable;*

*(4) the State will develop, manage, and maintain a system that will automatically collect the tolls;*

*(5) in developing the State plan for implementing tolls on the facility, the State includes a program to permit low-income drivers to pay a reduced toll amount; and*

*(6) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.*

*(e) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—*

*(1) excessive congestion;*

*(2) pavement wear; and*

*(3) an increased incidence of traffic accidents, injuries, or fatalities.*

*(f) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—*

*(1) all toll revenues received from operation of the toll facility will be used only for—*

*(A) debt service;*

*(B) reasonable return on investment of any private person financing the project; and*

*(C) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and*

*(2) regular audits will be conducted to ensure compliance with paragraph (1) and the results of such audits will be transmitted to the Secretary.*

*(g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.*

*(h) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.*

*(i) INTERSTATE SYSTEM DEFINED.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.*

### SEC. 1605. SPECIAL RULES RELATING TO STATE INFRASTRUCTURE BANK PROGRAM.

*(a) INTERSTATE COMPACTS.—Section 189 of title 23, United States Code, as amended by section 1602(a) of this Act, is amended by inserting after subsection (b) the following:*

*"(c) INTERSTATE COMPACTS.—*

*"(1) IN GENERAL.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multi-State infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.*

*"(2) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.".*

*(b) APPLICABILITY OF FEDERAL LAW.—Section 189 of title 23, United States Code, as amended*

by section 1602(a) of this Act, is further amended by inserting after subsection (g) the following:

"(h) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—

"(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49), is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.".

## Subtitle G—High Priority Projects

### SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.

(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—Section 117(a) of title 23, United States Code, is amended by striking "1602 of the Transportation Equity Act for the 21st Century" and inserting "1701 of the Transportation Equity Act: A Legacy for Users".

(b) ALLOCATION PERCENTAGES.—Section 117(b) of such title is amended by striking paragraphs (1) through (6) and inserting the following:

"(1) 22.4 percent of such amount shall be available for obligation beginning in fiscal year 2005;

"(2) 20.2 percent of such amount shall be available for obligation beginning in fiscal year 2006;

"(3) 19.3 percent of such amount shall be available for obligation beginning in fiscal year 2007;

"(4) 19.7 percent of such amount shall be available for obligation beginning in fiscal year 2008; and

"(5) 18.4 percent of such amount shall be available for obligation beginning in fiscal year 2009.".

(c) FEDERAL SHARE.—Section 117(c) of such title is amended by striking "; except" and all that follows through "cost thereof".

(d) ADVANCE CONSTRUCTION.—Section 117(e) of such title is amended by striking "1602 of the Transportation Equity Act for the 21st Century" each place it appears and inserting "1701 of the Transportation Equity Act: A Legacy for Users".

(e) AVAILABILITY OF OBLIGATION LIMITATION.—Section 117(g) of such title is amended by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users".

(f) FEDERAL-STATE RELATIONSHIP.—Section 145(b) of such title is amended—

(1) by inserting after "described in" the following: "section 1702 of the Transportation Equity Act: A Legacy for Users,";

(2) by inserting after "for such projects by" the following: "section 1101(a)(17) of the Transportation Equity Act: A Legacy for Users,"; and

(3) by striking "117 of title 23, United States Code," and inserting "section 117 of this title,".

### SEC. 1702. PROJECT AUTHORIZATIONS.

Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(17) of the Transportation Equity Act: A Legacy for Users) for fiscal years 2005 through 2009 to carry out each such project:

HIGH PRIORITY PROJECTS

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1 | CA | Construct safe access to streets for bicyclists and pedestrians including crosswalks, sidewalks and traffic calming measures, Covina | $500,000 |
| 2 | CA | Develop and implement ITS master plan in Anaheim | $1,500,000 |
| 3 | TN | Improve circuitry on vehicle protection device installed at highway-RR crossing in Athens, TN | $59,000 |
| 4 | CA | Builds a pedestrian bridge from Hiller Street to the Bay Trail, Belmont | $2,450,000 |
| 5 | OH | Renovate and expand National Packard Museum and adjacent historic Packard facilities | $3,000,000 |
| 6 | IL | Land acquisition for the widening of Rt. 47 in Yorkville, IL | $1,000,000 |
| 7 | NE | Interstate 80 Interchange at Pflug Road, Sarpy County, Nebraska | $1,400,000 |
| 8 | TX | Construction of Segment #1 of Morrison Road for the City of Brownsville | $2,000,000 |
| 9 | MI | I-96 at Latson Road Interchange Improvements | $6,000,000 |
| 10 | IL | Preconstruction and Construction of IL 83 at IL 132 | $1,000,000 |
| 11 | TN | Add third lane on US-27 (State Route 29) for truck-climbing lane and realignment of roadway at Wolf Creek Road to Old US-27 north of Robbins | $6,000,000 |
| 12 | MI | Reconfiguration of US-31 from the Manistee Basquel Bridge to Lincoln Street in the city of Manistee | $750,000 |
| 13 | AR | Bentonville, Arkansas--widen and improve I-540 and SH-102 Interchange | $1,420,000 |
| 14 | WA | 1st St. Interstate 5 Interchange Project in Everett | $2,600,000 |
| 15 | CA | Reconstruct and deep-lift asphalt on various roads throughout the district in Santa Barbara County | $4,644,000 |
| 16 | OK | Improving the I-35 Interchange at Milepost 1 Near Thackerville | $2,000,000 |
| 17 | NJ | Laurel Avenue Bridge replacement in Holmdel Township | $1,000,000 |
| 18 | OH | Construct overpass over CSX Railroad on Columbia Road (State Route 252), Olmsted Falls | $460,000 |
| 19 | TN | Reconstruct and widen US-72 from south of State Route 175 to State Route 57, Shelby County | $1,000,000 |
| 20 | NY | Construct roundabout at Oregon Road-Westbrook Dr-Red Mill Road in Town of Cortlandt | $475,000 |
| 21 | IL | Construct Bike, Pedestrian Paths, Orland Hills | $400,000 |
| 22 | PA | Construct I-79/Rte 3025 missing ramps at Jackson Township, PA | $1,150,000 |
| 23 | PR | Construction of PR 833 to PR 831. PR 831 to PR 5. Bridge #667 PR 830, KM 2.40 PR 5 connector from PR 167 to intersection with PR 5 and Las Cumbres Ave | $6,000,000 |
| 24 | TX | Extension of SH349 to US 87 Relief Route in Dawson County | $2,500,000 |
| 25 | IL | Parking facility in Peoria, IL | $1,000,000 |
| 26 | IL | Construct Interchange on Interstate 255 at Dupo/Columbia | $19,000,000 |
| 27 | MN | Construction and right-of-way acquisition for interchange at TH65 and TH242 in Blaine, MN | $4,000,000 |
| 28 | CA | Huntington Beach. Remove off-ramp on I-405 at Beach Blvd. Construct fourth lane on I-405 North, at the Beach Blvd. interchange | $500,000 |
| 29 | TN | Addition of an interchange on I-40 in Roane County at Buttermilk Road and I-40 | $3,000,000 |
| 30 | NY | Purchase Three Ferries and Establish System for Ferry Service from Rockaway Peninsula to Manhattan | $15,000,000 |
| 31 | IL | Reconstruction of Mockingbird Lane and Stratford St, Granite City | $1,500,000 |
| 32 | FL | Construction a new multi-lane tunnel below the channel to link the Port of Miami on Dodge Island with I-395 on Watson Island and I-95 in Downtown Miami | $500,000 |
| 33 | MD | Rehabilitation of West Baltimore Trail and Implementation of Pedestrian Improvements Along Associated Roadways | $900,000 |
| 34 | TN | Removal and Reconfiguration of Interstate Ramps—I-240, Memphis | $3,000,000 |
| 35 | CA | Replace structurally unsafe Winters Bridge for vehicles, bicycles and pedestrians between Yolo and Solano Counties | $2,000,000 |
| 36 | IL | City of Havana, Illinois Upgrades to Broadway Street | $952,572 |
| 37 | MN | Construction of Gitchi-Gami State Trail from Cascade River to Grand Marais | $900,000 |
| 38 | LA | Develop master transportation plan for the New Orleans Regional Medical Center | $500,000 |
| 39 | VA | Final Design and Construction for improvements at I-64 and City Line Road, Virginia Beach and Chesapeake | $1,000,000 |
| 40 | MA | Replacement of Cross Street Bridge spanning flood prone Aberjona River, Winchester | $1,000,000 |
| 41 | NC | Construction of and improvement to I-73, I-74, US 220 in Montgomery and Randolph Counties, NC | $11,000,000 |
| 42 | IA | Access and enhancements to access Lake Belva Deer, Sigourney | $1,000,000 |
| 43 | CA | Roadway surface improvements, street lighting, and storm drain improvements to South Center Street from Baughman Road to State Route 78/86, Westmorland | $800,000 |
| 44 | TX | Construct two connectors between SH 288 and Beltway 8 | $5,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 45 | NY | Inplement Central NY highway grade crossing and grade separation project | $2,000,000 |
| 46 | CA | Douglas St. Improvements, El Segundo | $4,000,000 |
| 47 | MA | Reconstruction of Massachusetts Avenue including safety improvements and related pedestrian, bike way in Arlington | $2,000,000 |
| 48 | NY | Reconstruction of Rt 5,8,12 (North South Arterial) Burrstone Rd. to Oriskany Circle, City of Utica | $1,000,000 |
| 49 | OK | Construction of Norman highway-rail Grade Separation | $1,000,000 |
| 50 | PA | Construction of the Montour Trail, Great Allegheny Passage | $1,000,000 |
| 51 | CA | Route 1 San Pedro Creek Bridge replacement in Pacifica | $3,000,000 |
| 52 | MI | South Lyon, 2nd St. between Warren and Haggadorn | $125,000 |
| 53 | PA | Street improvements, Abington Township | $2,000,000 |
| 54 | IA | Study of a direct link to I 80, Pella | $500,000 |
| 55 | TN | Sweetwater, TN Improving Vehicle Efficiencies at At-Grade highway-railroad Crossings | $96,000 |
| 56 | OR | Construct bike/pedestrian path, Powers | $440,000 |
| 57 | IL | IL 6 to I-180—Phase 2 study and land acquisition | $2,000,000 |
| 58 | FL | Construct a new bridge at Indian Street, Martin County | $1,000,000 |
| 59 | GA | Improve sidewalks, upgrade lighting, and add landscaping in downtown Glennville | $500,000 |
| 60 | LA | Continue planning and construction of the New Orleans Regional Planning Commission Mississippi River trail in St. John, Plaquemines St. Bernard and St. Charles parishes | $1,900,000 |
| 61 | MO | Road widening and curb and gutter improvements on Hwy 33 in Kearney | $3,000,000 |
| 62 | TX | The SH146, Port Rd direct connectors allows traffic bypass several rail lines & traffic signals at, near intersection of SH146 and Port Rd | $13,200,000 |
| 63 | UT | Reconstruct South Moore Cut-off Road in Emery County | $4,500,000 |
| 64 | PA | Improvements to exits along Interstate 81 in Franklin County, PA—Antrim Road | $8,200,000 |
| 65 | OH | Plan and construct the Southeast Arterial Connector highway at Delaware, Ohio | $5,000,000 |
| 66 | TN | To construct transportation enhancements on a multi-faceted greenway in downtown Columbia on the Duck River | $8,000,000 |
| 67 | RI | New Interchange constructed from I-195 to Taunton and Warren Avenue in East Providence | $5,800,000 |
| 68 | NY | Town of Chester reconstruction of Walton Lake Estates subdivision and related roads | $80,000 |
| 69 | NC | Extend M.L. King Jr. Boulevard in Monroe | $2,000,000 |
| 70 | NY | Town of Fishkill Old Glenham Road (aka Washington Ave) reconstruction | $325,500 |
| 71 | PA | U.S. Route 13 Corridor Reconstruction, Redevelopment and Beautification, Bucks County | $2,000,000 |
| 72 | NY | Rochester & Southern Highway-Rail Grade Crossing Bypass, Silver Springs, New York | $1,500,000 |
| 73 | IL | Upgrade streets in the City of Rushville, IL | $1,000,000 |
| 74 | MO | Construct 2 lanes on Chouteau Trafficway from MO 210 to I-35 | $2,000,000 |
| 75 | AZ | US 60 to Gonzalez Pass | $2,000,000 |
| 76 | LA | Interstate lighting system (I 10 and LA 93) | $300,000 |
| 77 | GU | Reconstruct Hagåtña River Bridges, Municipality of Hagåtña | $6,600,000 |
| 78 | WA | SR 704 Cross-Base Highway, Spanaway Loop Road to SR 7 | $1,500,000 |
| 79 | NY | Village of Brewster Main Street and Route 6 related construction and improvements | $975,000 |
| 80 | PA | Design and construct relocation of US 11 between Ridge Hill and Hempt Roads | $5,680,000 |
| 81 | VA | Improve Route 42 (Main Street) in Bridgewater, Virginia | $500,000 |
| 82 | NY | Construction of Route 59 Palisades Interstate Parkway to Route 303 | $1,000,000 |
| 83 | IL | Improve University Drive, Macomb | $500,000 |
| 84 | CA | Adams Street Rehabilitation Project, Glendale | $388,000 |
| 85 | NY | Construct grade separation-interchange between Taconic Parkway and Pudding Street | $1,450,000 |
| 86 | IA | Construction of 100th St interchange on I 35-80, Urbandale | $1,000,000 |
| 87 | MO | Lewis and Clark Expressway | $2,000,000 |
| 88 | PA | Mercer County, PA I-79 and PA 208 Interchange Improvement Project | $2,000,000 |
| 89 | WA | Plan to relieve traffic until North-South freeway-HWY 2 | $550,000 |
| 90 | CA | San Diego River Multiuse Bicycle and Pedestrian Path | $500,000 |
| 91 | PA | Construction of the Lafayette Street extension project in Montgomery County, PA | $10,400,000 |
| 92 | NJ | Construct new ramps between I-295 and Route 42 | $5,000,000 |
| 93 | PA | Construct S.R. 29 Wal-mart to River Betterment, Eaton Tunkhannock, Wyoming County | $1,700,000 |
| 94 | WV | Construct Shawnee Parkway | $1,100,000 |
| 95 | FL | Improve pedestrian and bicycle sidewalks, lighting, and ADA ramps—Main Street, Canal Street, Miramar | $600,000 |
| 96 | MN | Reconstruct CSAH 19 from CSAH 36 to CSAH 2, Morrison County | $200,000 |
| 97 | TN | Develop trails, bike paths and recreational facilities on Bird Mountain, Morgan County for Cumberland Trail State Park | $250,000 |
| 98 | MN | Lyndale Avenue Bridge, Richfield | $13,000,000 |
| 99 | MI | Provide a bypass around the Village of Almont during M-53 reconstruction which is contiguous with Macomb County | $100,000 |
| 100 | NY | Town of Wallkill new construction road-tunnel under Rt. 17 | $1,000,000 |
| 101 | NY | Village of Cold Spring Main Street and ancillary road and sidewalk improvements | $820,000 |
| 102 | IL | West Ridge Nature Preserve, Chicago | $3,000,000 |
| 103 | TN | widen Campbell Station Road in Knoxville, TN | $1,800,000 |
| 104 | AL | Widen Hwy. 84 to 4 lanes west of I-65 from Evergreen to Monroeville and beyond to the State of AL line | $4,000,000 |
| 105 | MS | Widen State Highway 57 from I-10 through Vancleave | $5,000,000 |
| 106 | WA | Widening SR527 from 2 lanes to 5 from Bothell to Mill Creek | $1,500,000 |
| 107 | OH | Construct proposed connection SR 207, SR 104, and US 23 in Ross County | $2,000,000 |
| 108 | MI | Construct improvements to Finkbeiner Road from Patterson Road to Whitneyville Road in Barry County, and new bridge over Thornapple River | $4,400,000 |
| 109 | PA | York Road improvements from Horsham Road to Summit Avenue, Borough of Hatboro | $1,250,000 |
| 110 | OH | Intersection improvements at Highland and Bishop Roads in the City of Highland Heights, OH | $612,000 |
| 111 | WI | Reconstruct Wisconsin State Highway 21 at I-94 interchange | $3,000,000 |
| 112 | MN | Safety improvements and intersection enhancements of TH 95 and TH 169, Princeton | $1,800,000 |
| 113 | NY | Wading River Bicycle and Pedestrian Project in Riverhead | $1,200,000 |
| 114 | FL | Widen County Line Road (CR 578) from Suncoast Parkway to US41 to four lanes | $6,000,000 |
| 115 | IL | Improve Great River Road, Warsaw | $750,000 |
| 116 | NY | Yonkers, New York, Trolley Bus Acquisition | $300,000 |
| 117 | FL | Construct East Central Regional Rail Trail in Volusia County, Florida | $1,000,000 |
| 118 | MO | Y Highway US 71 to MO 58, Cass County | $2,000,000 |
| 119 | WY | WYO 59 Reconstruction | $2,000,000 |
| 120 | LA | Plan and construct bike/pedestrian crossings of Washington-Palmetto Canal in the vicinity of Xavier University, New Orleans | $4,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 121 | NC | Winston-Salem Northern Beltway, Eastern Section and Extension, NC | $5,000,000 |
| 122 | CA | Willow and Herndon Traffic Flow Improvements, City of Clovis, California | $300,000 |
| 123 | MO | US 71 at Y Highway North and Southbound Ramps | $2,000,000 |
| 124 | CA | Will add landscaping enhancements along the Ronald Reagan Freeway Route 118 for aesthetic purposes | $2,500,000 |
| 125 | NC | Widens US 29 Business Freeway Drive from South Scales St. to NC 14 in Rockingham County | $10,000,000 |
| 126 | PA | Widening, rechannelization, signalization to 2nd Ave. and Bates Street, replace Elisa Furnace bridge over Bates Street | $800,000 |
| 127 | KS | Resurfacing, grading, replacing guardrails & adding shoulders to Highway 77 in Geary Cty, to accommodate expected traffic increase | $784,000 |
| 128 | MO | Widening, curb and gutter improvements as part of Hwy 33 redevelopment project in Kearney | $3,000,000 |
| 129 | IL | Construct streetscape along Morse avenue from Clark street to Sheridan Road, Chicago | $2,000,000 |
| 130 | SC | Build extension of North Rhett Boulevard from Liberty Hall Road to US 176 in SC | $7,000,000 |
| 131 | NH | Construct and upgrade intersection of Route 3 and Franklin Industrial Drive in Franklin | $1,000,000 |
| 132 | GA | Construct Waycross East Bypass from US 84 in Pierce County, Georgia to US 1 in Ware County, Georgia | $2,200,000 |
| 133 | NY | Design and Construction of a transportation enhancement project at the Erie Canal Aqueduct in downtown Rochester | $1,500,000 |
| 134 | CA | Improvement of intersection at Balboa Blvd. and San Fernando Rd | $500,000 |
| 135 | TN | Impove Vehicle Efficiencies at highway At-Grade Railroad Crossing in Athens, TN | $99,000 |
| 136 | WI | Develop pedestrian and bike connections that link to Hank Aaron State Trail in Milwaukee | $2,100,000 |
| 137 | AK | Keystone Drive Road Improvements | $1,000,000 |
| 138 | GA | Pedestrian and streetscape improvements, Ellaville | $400,000 |
| 139 | NY | Construct and improve pedestrian access on Main Street in Hempstead | $2,000,000 |
| 140 | IL | Preconstruction activities IL 336 from Macomb to Peoria | $2,000,000 |
| 141 | OH | Purchase of right-of-ways for construction of pedestrian and bicycle improvements in the City of Aurora, OH | $500,000 |
| 142 | IL | Replacement of bridge on Harlem Avenue, The Village of River Forest | $1,000,000 |
| 143 | CA | State Route 86S and Ave 66 highway safety grade separation | $4,500,000 |
| 144 | IL | Construct Bissel Street Roadway Connector, Tri-City Regional Port District | $850,000 |
| 145 | CT | Improve Route 1 between East Avenue and Belden Avenue, Norwalk, CT | $2,000,000 |
| 146 | IA | Central IA Trail Loop, bicycle and pedestrian, Ankeny to Woodward section | $1,000,000 |
| 147 | MI | Chippewa County, Upgrade Tilson Road between M-28 South to intersection of M-48 at Rudyard | $1,000,000 |
| 148 | WA | Coal Creek Parkway Bridge Replacement, Newcastle WA | $1,000,000 |
| 149 | PA | Complete gaps in the Pittsburgh Riverfront Trail Network including the Hot Metal Bridge | $750,000 |
| 150 | TX | Construct passing lanes on Texas State Highway 16 in Atascosa County | $797,000 |
| 151 | TX | Construct street and drainage improvements to road system in Encinal | $250,000 |
| 152 | MN | Environmental assessment and right of way acquisition at US52 and CSAH24 Interchange, Cannon Falls, Goodhue Cnty, MN | $2,000,000 |
| 153 | NY | Construction for Peace Bridge Redevelopment Project, Buffalo | $10,000,000 |
| 154 | MN | Construct recreational visitor center on the Mesabi Trail, City of Virginia | $1,300,000 |
| 155 | NE | Engineering, right-of-way and construction of the 23rd Street Viaduct in Fremont, Nebraska | $400,000 |
| 156 | MN | Phase III of Devil Track Road Project, Cook County | $1,200,000 |
| 157 | ME | Relocation of southbound on-ramp to I-95 at exit 184, Bangor | $1,500,000 |
| 158 | MA | Construct access roads to Hospital Hill project in Northampton, MA | $2,000,000 |
| 159 | IN | Construct interchange for 146th St. and I-69, Hamilton County, Indiana | $3,000,000 |
| 160 | NY | Design & Construct a Bicycle and Pedestrian Walkway along the Decommissioned Putnam Rail Line | $950,000 |
| 161 | AK | False Pass Road construction from small boat harbor dock to airport and town | $3,000,000 |
| 162 | IL | Improve North Illinois St and related roads, Belleville | $6,500,000 |
| 163 | AR | Construction of I-49, Highway 71: Arkansas portion of Bella Vista Bypass | $9,000,000 |
| 164 | NM | Coors-I-40 Interchange Reconstruction, Albuquerque | $7,000,000 |
| 165 | GA | Extend the south Toccoa Bypass east of Toccoa to CR 311, four lanes for approximately 5.7 miles on new location | $2,900,000 |
| 166 | TX | Construct SH 183 from SH 360 to Belt Line Road in Irving, Texas | $2,000,000 |
| 167 | CA | Construct pedestrian, bicycle and ADA accessible boardwalks at the Pismo Beach Promenade in San Luis Obispo County | $300,000 |
| 168 | TX | SH 44 E of Alice near SH 359 to US 281, Jim Wells County | $2,000,000 |
| 169 | TX | Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements | $2,000,000 |
| 170 | PA | For design, land & ROW acquisition, & construction of a parking facility and associated activities in the City of Wilkes-Barre | $1,000,000 |
| 171 | TN | Hawkins County, Tennessee SR-31 reconstruction | $500,000 |
| 172 | WI | Reconstruct US Highway 41—STH 67 interchange (Dodge County, Wisconsin) | $650,000 |
| 173 | MA | Reconstruct Route 24/Route 140 Interchange, replace bridge and ramps, widen and extend acceleration and deceleration lanes | $14,750,000 |
| 174 | OR | Study landslides on U.S. Hwy. 20 between Cascadia and Santiam Pass to develop long-term repair strategy | $1,000,000 |
| 175 | MS | Upgrade Alex Gates Road and Walnut Road in Quitman County, and roads in Falcon, Sledge and Lambert | $1,750,000 |
| 176 | IL | Upgrades for Muller Road in the City of Washington, IL | $280,000 |
| 177 | AL | Construction of Valleydale Road Flyover, Widening and Improvements | $5,000,000 |
| 178 | MS | Upgrade roads in Beauregard (U. S. Hwy 51), Crystal Springs (U.S. Hwy 51 and I-55), and Hazelhurst (U.S. Hwy 51 and I-55), Copiah County | $1,000,000 |
| 179 | NY | Westchester County, NY Rehabilitation of June Road Town of North Salem | $650,000 |
| 180 | CA | Implement streetscape improvements on segments of Laurel Canyon Blvd. and Victory Blvd. in North Hollywood | $1,200,000 |
| 181 | OH | Construct loop road along US 23 in City of Fostoria, Seneca County | $7,700,000 |
| 182 | PA | Design, engineering, ROW acquisition, & construction of street improvements, parking, safety enhancements & roadway redesign in Nanticoke | $2,000,000 |
| 183 | LA | Improve Ralph Darden Memorial Parkway Between LA182 and Martin Luther King Road, St. Mary Parish | $350,000 |
| 184 | CA | Reconstruct segments of Hollister Avenue between San Antonio Road and State Route 154 in Santa Barbara County | $2,500,000 |
| 185 | NY | Reconstruction of Schenck Avenue from Jamaica Avenue to Flatlands Avenue, Brooklyn | $5,000,000 |
| 186 | CO | Construct Wadsworth Interchange over US 36 in Broomfield | $2,000,000 |
| 187 | NY | Enhance Battery Park Bikeway Perimeter, New York City | $2,000,000 |
| 188 | FL | I-95 Interchange in the City of Boca Raton | $14,250,000 |
| 189 | NJ | Construct Long Valley Bypass | $1,000,000 |
| 190 | MI | Alpena County, Resurface 3.51 miles of Hamilton and Wessel Roads | $640,000 |
| 191 | CA | Construct a 2.8 mile bikeway along Lambert Road from Mills Ave. to Valley Home Ave. in the City of Whittier, CA | $2,500,000 |
| 192 | TX | Hidalgo County Loop | $1,000,000 |
| 193 | ME | Improvements to Route 108 to enhance access to business park, Rumford | $1,500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 194 | NY | Installation of new turning lane from Mohansic Ave onto eastbound Route 202, & addition of new striped crosswalk | $375,000 |
| 195 | NY | Rockland County Hudson River Greenway Trail Project construction | $2,000,000 |
| 196 | TX | Construct a segment of FM 110 in San Marcos | $1,000,000 |
| 197 | TX | Big Spring, TX Construction of the Big Spring Reliever Route | $2,800,000 |
| 198 | NY | Improvements to Intermodal Transportation Facility and Construction of Waterfront Esplanade at Fort Totten | $2,800,000 |
| 199 | PA | Reconstruction and repair of Haverford Ave. Between 68th St. and Lansdowne Ave | $300,000 |
| 200 | ND | Bismarck/Mandan Liberty Memorial Bridge over the Missouri River | $30,000,000 |
| 201 | WI | City of Glendale, WI. Develop and rehabilitate exit ramps on I-43, and improvements at West Silver Spring Dr. and North Port Washington Rd | $3,000,000 |
| 202 | TX | Construction of Lake Ridge and US67 Project, Cedar Hill, TX | $3,000,000 |
| 203 | NY | Install Improvements for Pedestrian Safety in the vicinity of PS 277 | $250,000 |
| 204 | WI | Resurface USH 8 between CTH C and Monico | $1,100,000 |
| 205 | PA | South Phila. Access Rd. Design and construction of port access road from South Phila Port and intermodal facilities, Philadelphia | $3,000,000 |
| 206 | NY | Implement ITS system and apparatus to enhance citywide truck route system on Broadway to Irwin Ave between 232 to 231 in the neighborhood of Kingsbridge, NY | $100,000 |
| 207 | PA | SR 219 Purchase of Right of Way and completion of four lane extension from the Town of Somerset to the Maryland border | $15,000,000 |
| 208 | WI | Expand USH 41 between Oconto and Peshtigo, Wisconsin (Oconto and Marinette Counties, Wisconsin) | $2,000,000 |
| 209 | IA | Study for NE Beltway, Polk Co | $500,000 |
| 210 | NY | This project involves a full reconstruction of all the streets in Long Island City surrounding 11th Street | $3,400,000 |
| 211 | AZ | Upgrade and Widen SR85 to I-10 (Mileposts 120–141) | $1,500,000 |
| 212 | MS | Upgrade Dog Pen Road and Galilee Road in Holmes County, and roads in Cruger, Pickens, and Goodman | $1,000,000 |
| 213 | GA | U.S. 19/SR92 median work from Ellis RD to West Taylor ST, Griffin | $1,500,000 |
| 214 | MS | Upgrade roads at Coahoma Community College, and roads in Coahoma and Jonestown, Coahoma County | $1,500,000 |
| 215 | IN | Construction of Dixon Road from Markland Avenue to Judson Road in Kokomo, Indiana | $500,000 |
| 216 | CA | Construction of Cross Vally Connector between I-5 and SR 14 | $4,000,000 |
| 217 | MA | State Street Corridor Redevelopment Project includes street resurfacing, pedestrian walkway improvements and ornate lighting from Main Street to St. Michael's Cemetery, Springfield | $6,000,000 |
| 218 | MI | Resurfacing of Stephenson Highway in Madison Heights | $350,000 |
| 219 | CA | Soundwall construction on the 210 Freeway, Pasadena | $1,800,000 |
| 220 | GA | Streetscape-Ashburn | $250,000 |
| 221 | NY | Design, Study and Construct Ferry Terminal Facilities at Floyd Bennett Field | $1,000,000 |
| 222 | WI | Improve Superior Avenue: Interstate 43 to State Highway 32, Sheboygan County, Wisconsin | $1,000,000 |
| 223 | TX | Design and construction streetscape improvements to enhance pedestrian access, pedestrian access to bus services and facilities | $1,000,000 |
| 224 | IL | Upgrade roads, The Village of Berkeley | $1,000,000 |
| 225 | GA | Upgrade sidewalks and lighting, Wrightsville | $400,000 |
| 226 | PA | Upgrades to Bedford Route 220 at the entrance of the Bedford Business Park to Beldon Ridge intersection | $2,100,000 |
| 227 | MI | Widen Baldwin Road from Morgan to Waldon in Orion Township | $4,000,000 |
| 228 | FL | Construct Saxon Boulevard Extension, Volusia County, Florida | $2,100,000 |
| 229 | NY | Construction and rehabilitation of East and West Gates Avenues in the Village of Lindenhurst, NY | $930,000 |
| 230 | TN | Widen Interstate 240 from Interstate 55 to Interstate 40 West of Memphis, Shelby County | $1,000,000 |
| 231 | NJ | Rahway River Corridor Greenway Bicycle and Pedestrian Path, South Orange | $500,000 |
| 232 | CT | Reconstruct Pearl Harbor Memorial Bridge, New Haven | $2,000,000 |
| 233 | PA | Development of Northwest Lancaster County River Trail | $250,000 |
| 234 | CA | Widen SR89 at existing mousehole two lane RR underpass | $3,000,000 |
| 235 | LA | Construct Mississippi River Trail and Bikepath, New Orleans | $500,000 |
| 236 | NY | Utica Marsh-Reestablish Water Street | $2,650,000 |
| 237 | AR | Widen to 5 lanes, improvement, and other development to U.S. Highway 79B/Univeristy Ave. in Pine Bluff | $3,200,000 |
| 238 | WA | SR 9 & 20th St. SE Intersection Reconstruction in Snohomish County | $1,000,000 |
| 239 | OH | Streetscape and related safety improvements to US 20 in Painesville Township, OH | $350,000 |
| 240 | PA | Design, construct intersection and other upgrades on PA 24 and 124 in York County, PA | $1,000,000 |
| 241 | WA | Issaquah Historical Society, Issaquah Valley Trolley Project | $250,000 |
| 242 | IL | Construct new bridge on Illinois Prairie Path over East Branch River in Milton Township, IL | $300,000 |
| 243 | TN | Plan and construct improvements, Livingston public square | $50,000 |
| 244 | GA | Construction on US 82 from Dawson to Alabama Line | $1,000,000 |
| 245 | IA | Construct I-74 Bridge in Bettendorf, IA | $1,500,000 |
| 246 | CA | Operations and management improvements, including ITS technologies, on U.S. Highway 101 in Santa Barbara County | $1,000,000 |
| 247 | OH | Plan and construct new interchange on Interstate 71 at Big Walnut Road in Delaware County, Ohio | $5,000,000 |
| 248 | PA | Design and construct access to intermodal facility in York County | $2,000,000 |
| 249 | WA | Complete preliminary engineering and environmental analysis for SR14 through Camas and Washougal | $1,000,000 |
| 250 | UT | Construct Bingham Junction Boulevard in Midvale City | $5,000,000 |
| 251 | MD | Construct Centreville, MD spur of Queen Annes County Cross Island Trail, Centreville to US Route 301 | $382,000 |
| 252 | MN | Polk, Pennington, Marshall County 10-Ton Corridor in Northwestern Minnesota | $5,600,000 |
| 253 | CA | Quincy-Oroville Highway Rehabilitation in Plumas County | $1,000,000 |
| 254 | CA | Construct Coyote Creek Trail Project from Story Road to Montague Expressway in San Jose | $2,000,000 |
| 255 | TX | Construct Depression of Belt Line Road at I-35E Intermodal Transportation Project in Carrollton, TX | $6,000,000 |
| 256 | AL | Construct Anniston Eastern Bypass from Golden Springs Road to US Hwy 431 | $12,500,000 |
| 257 | NY | Construct transportation enhancements on greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan | $1,250,000 |
| 258 | NE | Construction of I-80-Cherry Avenue Interchange and East Bypass, Kearney, Nebraska | $8,000,000 |
| 259 | MN | Design, engineering, ROW acquisition and construction for the French Rapids Bridge, City of Brainerd | $1,000,000 |
| 260 | CA | Escondido, CA Construction of Bear Valley Parkway, East Valley Parkway | $2,000,000 |
| 261 | AR | Junction Bridge—rehabilitation & conversion from rail to pedestrian use | $800,000 |
| 262 | WA | Port of Tacoma Rd.—Construct a second left turn lane for traffic from westbound Pac. Hwy E. to Port of Tacoma Rd. and I-5 | $500,000 |
| 263 | NY | Realign Union Valley Road in Town of Carmel | $330,000 |
| 264 | MO | Roadway improvements to U.S. 67 in St. Francois County | $2,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 265 | FL | Homestead, FL Widening of SW 328 from SW 137 Ave to 152 Ave | $7,000,000 |
| 266 | CA | Reconstruct I-710 southern terminus off ramps, Long Beach | $1,000,000 |
| 267 | GA | SR 4 widen from Milledgeville Road to Government Street, Richmond County | $4,000,000 |
| 268 | TN | Develop trails, bike paths and recreational facilities on Western Slope of Black Mountain, Cumberland County for Cumberland Trail State Park | $250,000 |
| 269 | NJ | Routes 1 & 9 Secaucus Road to Broad Avenue in Hudson and Bergen Counties | $1,000,000 |
| 270 | MA | Massachusetts Avenue Reconstruction, Boston | $5,000,000 |
| 271 | NY | Improve Ashburton Ave. from the Saw Mill River Parkway to the waterfront, Yonkers | $1,500,000 |
| 272 | MN | Trail extensions to Mesabi Trail, City of Aurora | $294,745 |
| 273 | LA | I-10 Ryan Street exit ramp to include relocation and realignment of Lakeshore Drive to include portions of Front Street and or Ann Street, and to include expansion of Contraband Bayou Bridge | $5,000,000 |
| 274 | MI | Van Buren, Belleville Road widen to 5 lanes between Tyler and Ecorse | $1,100,000 |
| 275 | IA | Widening University Blvd, Clive | $1,000,000 |
| 276 | HI | Construct Waimea Bypass | $1,000,000 |
| 277 | IL | Widening two blocks of Poplar St from Park Ave to 13th Street, Williamson County | $480,000 |
| 278 | CA | Widening the highway and reconstructing off ramps on Hwy 101 between Steele Lane and Windsor, CA to reduce traffic and promote carpools | $5,000,000 |
| 279 | WA | Granite Falls Alternate Freight Route in Granite Falls | $2,930,000 |
| 280 | NY | Construction and rehabilitation of North Queens Avenue and Grand Avenue in the Village of Lindenhurst, NY | $680,000 |
| 281 | SC | Extension & Expansion of Lower Richland Roads Phase I | $1,000,000 |
| 282 | OR | Kuebler Boulevard improvements, Salem | $1,500,000 |
| 283 | NC | Upgrade US 1 in Rockingham | $10,000,000 |
| 284 | CA | Implement Southwest San Fernando Valley Road and Safety Improvements | $2,300,000 |
| 285 | VA | Upgrade DOT crossing #467662S to constant warning time devices | $201,800 |
| 286 | TX | Construct new location highway & interchanges on Inner Loop, from Global Reach to Loop 375 including the Global Reach ext., El Paso | $16,000,000 |
| 287 | CA | Rehabilitation, repair, and/or reconstruction of deficient two-lane roads that connect to Interstate 5, SR 180, SR 41 and SR 99 countywide, Fresno County | $3,500,000 |
| 288 | OH | Relocate SR 149 from 26th Street to Trough Run in Bellaire | $650,000 |
| 289 | WA | Auburn, Washington—M Street SE rehabilitation between 29th Street SE and 37th Street SE | $500,000 |
| 290 | KY | Replace Bridge over Stoner Creek, 2 Miles East of US 27 Junction, Bourbon County | $1,000,000 |
| 291 | NM | Development of Paseo del Volcan corridor located in Sandoval County from Iris Road to U.S. Highway 550 | $2,000,000 |
| 292 | OH | Stan Hywet Hall and Gardens to restore, expand, construct, and improve pedestrian paths and bike trail system | $180,000 |
| 293 | MS | Construct bicycle path, Petal | $200,000 |
| 294 | NJ | Construction of Route 206 Chester Township, NJ | $1,000,000 |
| 295 | IL | For IDOT to conduct Phase II engineering for reconstruction of 159th St-US 6-IL 7 in Will and Cook Counties | $1,000,000 |
| 296 | IL | For Will County to begin Phase II engineering and preconstruction activities for a high level bridge linking Caton Farm Road with Bruce Road | $2,000,000 |
| 297 | CA | Study of Thomas Bridge to meet future cargo and passenger traffic needs of the ports of Long Beach and Los Angeles | $2,000,000 |
| 298 | TX | US377 Hood Co., TX—From BU377H east of Granbury to the new location of FM 4 | $1,500,000 |
| 299 | IL | Construct Citywide bicycle path network, city of Evanston | $250,000 |
| 300 | CA | Mount Vernon Avenue grade separation and bridge expansion in Colton | $2,000,000 |
| 301 | NJ | Widening Routes 1 and 9, Production Way to East Lincoln Avenue, Union County | $500,000 |
| 302 | PA | Design, construct and upgrade interchange of US 15 and US 30 in Adams County | $4,000,000 |
| 303 | OH | State Route 8 Improvements in Northern Summit County | $3,000,000 |
| 304 | CO | US 50 East, State Line to Pueblo | $7,500,000 |
| 305 | IN | Widening road (along Gordon Road, Sixth Street, and West Shafer Drive) to 3-lane street, with sidewalk and improvements to existing bridge—White County/Monticello, Indiana | $10,000,000 |
| 306 | OH | Widening Pleasant Valley Bagley Road (Rte 27), Parma and Middleburg Heights | $1,000,000 |
| 307 | MA | Rehabilitation of I-95 Whittier Bridge—Amesbury and Newburyport | $2,000,000 |
| 308 | CA | Streetscape improvements at East 14th St-Mission Blvd in Alameda County | $750,000 |
| 309 | NY | Construct W. 79th St Rotunda, New York City | $2,000,000 |
| 310 | TX | Acquire Kelly Parkway Corridor Right-of-way through San Antonio | $2,000,000 |
| 311 | NC | Construct new route from US 17 to US 421 in Brunswick and New Hanover Counties | $1,000,000 |
| 312 | PA | Construct safety and capacity improvements to Route 309 and Old Packhouse Road | $250,000 |
| 313 | OR | Delta Ponds Bike/Pedestrian Path | $2,880,000 |
| 314 | FL | Hollywood US Route 1 Young Circle Safety Improvement | $2,300,000 |
| 315 | MI | Houghton County, Gravel and paving of remaining 3.2 miles in 5.5 mile stretch of Jacobsville Rd | $430,000 |
| 316 | PA | Improve access to Airport Connector from PA 283 to the terminus of the Airport Connector at State Route 230 and adjacent access roads | $500,000 |
| 317 | CA | Construct one additional all purpose lane in each direction on I 405 and provide additional capital improvements from SR 73 through the LA County line | $1,210,000 |
| 318 | IL | Improve Roads and Bridges, Cook County | $4,000,000 |
| 319 | CA | Improve traffic safety, including streetlights, from Queen to Barclay to Los Angeles River to Riverside in Elysian Valley, Los Angeles | $1,400,000 |
| 320 | MI | Construction and improvements to Western Avenue and associated streets betweeen Third Street and Terrace Street in Muskegon | $2,300,000 |
| 321 | IL | Construct Reed Station Parkway Extension to IL Rt 3, Carbondale | $2,000,000 |
| 322 | AL | Construction of Patton Island Bridge Corridor | $10,000,000 |
| 323 | MI | Highland, Clyde Road from Hickory Ridge to Strathcona | $125,000 |
| 324 | MI | Alger County, Repaving a portion of H-58 between Sullivan Creek towards Little Beaver Road | $1,600,900 |
| 325 | TX | Improvements to US 183 in Gonzales County | $500,000 |
| 326 | CA | Construct a raised landscaped median on Alondra Blvd between Clark Ave and Woodruff Ave in Bellflower | $400,000 |
| 327 | MN | Right of way acquisition for TH23 Paynesville Bypass | $2,500,000 |
| 328 | FL | Construct interchange improvements at I-75 and University Parkway | $500,000 |
| 329 | CO | For construction and architectural improvements of Wadsworth Bypass (SH121) Burlington Northern Railroad and Grandview Grade Separation | $4,000,000 |
| 330 | KS | Construction of 4-lane improvement on K-18 in Riley County, Kansas | $2,000,000 |
| 331 | NJ | Replace Rockaway Road Bridge, Randolph Tonwhsip, New Jersey | $1,000,000 |
| 332 | FL | Construction of paved road over existing unpaved roadway on SE 144th Ave from SR 100 to US 301, distance of 1.2 miles | $3,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| *No.* | *State* | *Project Description* | *Amount* |
|---|---|---|---|
| 333 | FL | Construct I-4 Frontage Rd, Volusia County, Florida | $2,000,000 |
| 334 | MD | Construction of Fringe and Corridor Parking Facility at intersection of Clinton Street and Keith Avenue in Baltimore | $4,000,000 |
| 335 | OH | Purchase of Right of Way for transportation enhancement activities in Bainbridge Township, OH | $1,440,000 |
| 336 | NJ | Rowan Boulevard Parking adjacent to Highway 322 Corridor in Glassboro Township | $1,000,556 |
| 337 | CA | Construct interchange on US 50 at Empire Ranch Road in Folsom | $1,800,000 |
| 338 | FL | Bicycle and Pedestrian Improvements in the Town of Windermere, Florida | $300,000 |
| 339 | TN | Plan and construct a bicycle and pedestrian trail, Smyrna | $3,000,000 |
| 340 | CA | Santa Anita Avenue Corridor Improvement project, Arcadia, California | $3,000,000 |
| 341 | AS | Shoreline protection and drainage mitigation for Nuuuli village roads | $1,000,000 |
| 342 | PA | Design, engineering, ROW acquisition, & construction of a connector road between Pennsylvania Rt. 93 & Pennsylvania Rt. 309 in Hazle Township | $600,000 |
| 343 | GA | South Tifton Bypass from US 82/SR 520 west to US 319/SR 35 east, Tift County | $500,000 |
| 344 | NJ | Streetscape and Traffic Improvement Project to Downtown West Orange | $1,000,000 |
| 345 | NJ | Bergen County, NJ—On Route 17, address congestion, safety, drainage, maintenance, signing, access, pedestrian circulation and transit access | $4,500,000 |
| 346 | CA | Road widening, construct bike path, lighting, and safety improvements on road leading to Hansen Dam Recreation Area, Los Angeles | $6,500,000 |
| 347 | TX | Construct additional 2 lanes to Loop 335 in Amarillo from .3 miles West of Western street to .5 miles West of Broadway | $2,000,000 |
| 348 | NY | Reconstruct a historic bridge crossing Maxwell Creek in the Town of Sodus, NY | $580,000 |
| 349 | NJ | Safety and operation improvements on Route 73 in Berlin, Voorhees and Evesham | $1,200,000 |
| 350 | NJ | Study and preliminary engineering designs for a boulevard on State Route 440 and U.S. Highway Route 1 & 9, Jersey City | $1,000,000 |
| 351 | VA | Construction of Route 17-Dominion Boulevard, Chesapeake, VA | $6,000,000 |
| 352 | LA | Installation of proper lighting standards to illuminate inbound and outbound ramps of I 10 and portions of HWY 95 | $200,000 |
| 353 | IN | Cyntheanne Rd. Interchange and Corridor Improvements, Town of Fishers, Indiana | $500,000 |
| 354 | ME | Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements | $4,000,000 |
| 355 | TN | Plan and construct a bicycle and pedestrian trail, LaVergne | $1,500,000 |
| 356 | TX | Build Arkansas Street Grade Separation in Laredo | $1,000,000 |
| 357 | CA | Construct new left turn lane at State Route 19 and Telstar in El Monte | $700,000 |
| 358 | NY | Meadow Drive Extension—North Tonawanda, New York | $2,000,000 |
| 359 | CA | Reconstruct I-880 & Coleman Avenue Interchange & implement other I-880 Corridor operational improvements in Santa Clara County | $8,000,000 |
| 360 | OR | Improve Millican, West Butte Road which connects U.S. Highway 20 with U.S. Highway 126 | $2,000,000 |
| 361 | VA | Metropolitan Washington, D.C. Regional Transportation Coordination Program | $2,000,000 |
| 362 | NY | Brooks Landing Transportation Improvements and Enhancement project, Rochester | $500,000 |
| 363 | NJ | Construct CR 538 Coles Mill Road Bridge over Scotland Run, Gloucester County | $500,000 |
| 364 | TX | Convert discontinuous two-way frontage roads to continuous one-way frontage roads on IH 30 in Texarkana, TX | $5,000,000 |
| 365 | TX | Regional bicycle routes on existing highways in Austin, TX | $1,000,000 |
| 366 | IN | Construct Interchange at I-65 and 109th Avenue, Crown Point | $7,454,219 |
| 367 | GA | Intersection improvement at Harris Drive at SR 42 | $600,000 |
| 368 | IL | Engineering and construction of the East Branch DuPage River Greenway Trail in central DuPage County, IL | $100,000 |
| 369 | NY | Rehabilitate a historic transporation-related warehouse on the Erie Canal in the Town of Lyons, NY | $600,000 |
| 370 | NY | Relocating Miller Highway W 59th-72 St. Manhattan under future expansion of Riverside Park; demolishing existing elevated road over park | $2,500,000 |
| 371 | MI | Allen Road under the CN Railroad Grade Separation, Woodhaven | $4,450,000 |
| 372 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Larksville Borough, Luzerne County | $200,000 |
| 373 | AR | Northeast Arkansas Connector (relocation of Highway 226) | $3,000,000 |
| 374 | NJ | Reconstruct Route 168 from Route 41 to 6th Avenue in Runnemede | $658,000 |
| 375 | NY | Renovation of Metropolitan Avenue center islands | $1,700,000 |
| 376 | PA | Rt 60 Millennium Park Interchange, construct new interchange on Rt 60 to provide access to new Lawrence County Industrial Park | $800,000 |
| 377 | AR | Bentonville, Arkansas—widen Arkansas Highway 102 between U.S. 71B and the west city limits | $1,500,000 |
| 378 | PA | Purchase of right-of-way, utilities and construction for Northern Access to Altoona from Interstate 99, Blair County, PA | $3,000,000 |
| 379 | CA | Construct Class I bike and pedestrian path from San Luis Obispo to Avila Beach | $400,000 |
| 380 | MN | Reconstruct CSAH 61 from south county line to TH 73, Moose Lake | $316,000 |
| 381 | AZ | Improving Lone Pine Dam Road in Navajo County | $1,500,000 |
| 382 | MI | Construct Road Improvements to North Henry St. from Vermont Ave. to Wilder Rd. Bay City | $2,700,000 |
| 383 | TX | Reconstruct I-35E Trinity River Bridge, Dallas | $15,000,000 |
| 384 | NY | Town of Greenville rehabilitation of Grahamtown Rd. & Burnt Corners Rd | $125,000 |
| 385 | NJ | Completion of Hudson River Waterfront Walkway through Stevens Institute of Technology in Hoboken | $1,000,000 |
| 386 | NC | Construct US 74 Bypass, Shelby, NC | $3,000,000 |
| 387 | WA | Tukwila Urban Access Improvement Project—address necessary improvements to Southcenter Parkway in Tukwila to relieve congestion | $1,000,000 |
| 388 | CA | Construction of a traffic signal at the intersection of Independence Avenue and Sherman Way | $125,000 |
| 389 | NH | Design and construction of intersection of Rte 101A and Rte 13 in Milford | $1,000,000 |
| 390 | NJ | Construct Rte 30—Pomona Road Intersection Improvements, Atlantic County | $5,000,000 |
| 391 | CA | I-10 and Indian Ave Interchange, Palm Springs, CA | $2,750,000 |
| 392 | NY | Reconstruction of street, sidewalks and curbs outside of Museum of Modern Art (MOMA) | $500,000 |
| 393 | KY | Right of way for and construction of Pennyrile Parkway Extension from 41A S. to I-24 | $3,200,000 |
| 394 | TN | Sevier County, Tennessee SR-66 widening | $1,750,000 |
| 395 | TN | Plan and construct interchange improvements, I-65 at Highland Road | $400,000 |
| 396 | IA | Reconstruction of NW Madrid Dr, Polk Co | $500,000 |
| 397 | NH | Relocation and Reconstruction of intersection at Route 103 and North Street in Claremont | $1,300,000 |
| 398 | IL | To construct a new 2-lane road extending 1650 feet north from intersection with University Park Drive, Edwardsville | $500,000 |
| 399 | NY | Town of Highlands reconstruction of bridge on School Street | $225,000 |
| 400 | AK | Unalaska, AK Construction of AMHW ferry terminal including approach, staging, and upland improvements | $7,500,000 |
| 401 | PA | Design and construct interchange and related improvements to I 83 Exit 4 | $3,500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 402 | OR | U.S. 101 Improvements, Bandon | $3,300,000 |
| 403 | MI | Northwestern Highway Extension projects in Oakland County | $5,000,000 |
| 404 | PA | PA Route 61 safety improvements, Leesport Borough and Ontelaunee and Muhlenburg Townships | $2,468,300 |
| 405 | OH | Improve Rt 62 (Main and Town Streets) Bridges over Scioto River, Columbus | $3,000,000 |
| 406 | AK | Planning, design, and construction of a bridge joining the Island of Gravina to the Community of Ketchikan | $3,000,000 |
| 407 | MN | U.S. Trunk Highway 14 from Waseca to Owatonna, Minnesota | $12,000,000 |
| 408 | TX | Construct Mission Trails Project Packages 4 & 5 in San Antonio | $5,500,000 |
| 409 | MS | Upgrade Roads in Carthage, Leake County | $200,000 |
| 410 | MI | Construct access road at intersection of Doerr Road and Schell Street to Develop 65-Acre of Municipal Tract of Industrial Land. Village of Cass City, Tuscola County | $26,000 |
| 411 | MS | Upgrade roads in Humphreys County Districts 1 and 5 and Isola | $850,000 |
| 412 | IN | 126th Street Project, Town of Fishers, Indiana | $1,250,000 |
| 413 | HI | Construct Puanaiko Street | $1,000,000 |
| 414 | AZ | Burro Creek section between Wikieup and the Santa Maria River | $1,000,000 |
| 415 | PA | Conduct Environmental Impact Statement study for Parkway West corridor | $1,000,000 |
| 416 | SC | Build Railroad Avenue Extension in Berkeley County, SC—SCDOT | $2,000,000 |
| 417 | MD | Construct a visitors center and related roads serving Ft. McHenry | $4,700,000 |
| 418 | OH | Construction of Gracemont Street Exchange Interstate 77—Bethlehem Township and Pike Township, Ohio | $3,000,000 |
| 419 | MI | Design, Right-of-Way and Construction of the I-196 Chicago Drive (Baldwin Street) Interchange Modificaiton, Michigan | $21,400,000 |
| 420 | CA | Folsom Blvd. Transportation Enhancements, City of Rancho Cordova | $7,000,000 |
| 421 | TN | improve streetscape and pavement repair, Monroe County, TN | $300,000 |
| 422 | TX | IH37 frontage roads in Mathis | $2,000,000 |
| 423 | WV | Construct New River Parkway | $4,500,000 |
| 424 | NY | Construct sidewalk and improvements on Broadway in the Town of Cortlandt | $330,000 |
| 425 | PA | Erie, PA Powell Avenue Bridge Replacement, Asbury Road Improvement Project | $3,000,000 |
| 426 | VA | Liberty Street Construction in Martinsville, Virginia | $1,000,000 |
| 427 | CA | Implement streetscape project on Central Avenue from 103rd Street to Watts/103rd Street Station, Watts | $3,000,000 |
| 428 | MA | Realignments and reconstruction of a section of Route 32 in Palmer to the Ware town line | $3,200,000 |
| 429 | CA | Seismic retrofit of the Golden Gate Bridge | $10,000,000 |
| 430 | CA | Upgrade and extend Commerce Avenue, City of Concord | $1,750,000 |
| 431 | MA | Somerville Roadway Improvements | $2,000,000 |
| 432 | LA | Replace Almonaster Bridge, New Orleans | $500,000 |
| 433 | IN | Upgrade Traffic Signals Phase III in the City of Muncie, Indiana | $640,000 |
| 434 | FL | Sharpes Ferry Bridge replacement in Marion County | $800,000 |
| 435 | IA | US 34 Missouri River bridge relocation and replacement | $2,500,000 |
| 436 | NY | Village of Highland Falls repaving and sidewalk construction of Oak Avenue | $150,000 |
| 437 | MN | Interchange Reconstruction at CSAH4 and US169 | $1,000,000 |
| 438 | IL | Development and construction of an interchange at Brisbin Rd and Interstate 80 | $6,000,000 |
| 439 | NE | Design, right-of-way and construction of rail-grade separations throughout Nebraska as identified by Nebraska Dept. of Roads | $15,000,000 |
| 440 | MO | Redesign & Reconstruction of the I-270 Dorsett Road Interchange Complex in the City of Maryland Heights | $2,000,000 |
| 441 | SC | Build Berlin Myers Extension in Summerville, SC | $8,000,000 |
| 442 | IN | Improve 100 South, Porter County | $1,000,000 |
| 443 | NY | Improve safety measures at the railroad grade crossings on the West Short River Line, Rockland County | $1,600,000 |
| 444 | NJ | Street Improvements and Traffic Signal Replacement in Union City Central Business District | $800,000 |
| 445 | GA | Streetscape project to replace sidewalks in downtown Forsyth | $300,000 |
| 446 | AK | Westside development Williamsport-Pile Bay Road | $5,000,000 |
| 447 | NV | Construct Interstate 15—Las Vegas Beltway Interchange | $9,000,000 |
| 448 | NY | Palisades Trailway Phase 2—Rockland County, New York | $200,000 |
| 449 | PA | Replace a Highway Rail Grade crossing in Jeanette, PA at Wegleys Road | $500,000 |
| 450 | CA | Conduct project design and environmental analysis of Heritage Bridge on Heritage Road linking Chula Vista to Otay Mesa | $2,500,000 |
| 451 | MA | Assabet River National Wildlife Refuge, MA, Design and Construction of parking areas | $500,000 |
| 452 | NY | Reconstruct Main Street in the Town of Lewisboro | $90,000 |
| 453 | MA | Study and analysis of Lowell Westford St.-Wood St. Rourke Bridge Corridor, Lowell | $600,000 |
| 454 | OR | Highway 20, Lincoln County | $7,000,000 |
| 455 | MN | Construction of 8th Street North: Stearns C.R. 120 to T.H. 15 in St. Cloud, MN | $2,000,000 |
| 456 | IL | Construction of a pedestrian sidewalk along S. Chicago Street in Geneseo, IL | $145,000 |
| 457 | OH | Construct Bike and Walking Path from West 210 St to Metroparks Fairview Park | $450,000 |
| 458 | NY | Improve Bronx River Greenway 180th St Park Link to Bronx Park | $800,000 |
| 459 | MN | City of East Grand Forks Construct 13th St SE Extension | $1,200,000 |
| 460 | NY | Improvements to Clark Pl and Cherry Ln-Rt. 6 and 6N in Putnam County | $370,000 |
| 461 | NJ | Construct Garden State Parkway Grade Separation, Cape May County | $40,000,000 |
| 462 | VA | High Knob Horse Trails—construction of horse riding trails and associated facilities in High Knob area of Jefferson National Forest | $750,000 |
| 463 | TN | Plan and construct a bicycle and pedestrian trail, Cookeville | $2,500,000 |
| 464 | UT | Provo, Utah Westside Connector from I-15 to Provo Municipal Airport | $1,000,000 |
| 465 | CA | I-5 Santa Clarita-Los Angeles Gateway Improvement Project | $1,500,000 |
| 466 | NY | Project will revitalize staircases used as streets due to steep grade of terrain in areas in which they are located, the Bronx | $1,000,000 |
| 467 | TX | Construct and rehabilitate pedestrian walkways along the Main Street Corridor to improve transit-related accessibility | $1,000,000 |
| 468 | MD | Reconstruct East North Avenue (US Route 1) in Baltimore | $3,200,000 |
| 469 | CT | Reconstructoin of Lakeville Center to improve pedestrian and vehicle safety at the intersection of Routes 41 and 44 | $895,000 |
| 470 | NY | Rehabilition of Bay Ridge 86th Street Subway Station, Brooklyn, NY | $2,000,000 |
| 471 | CA | San Gabriel Blvd Rehabilitation Project—Mission Rd to Broadway, San Gabriel | $300,000 |
| 472 | NC | To plan, design, and construct the 10th Street Connector Project in Greenville, NC | $8,000,000 |
| 473 | OH | To widen Western Reserve Road from SR 7 to Hitchcock Road, Mahoning Co | $2,500,000 |
| 474 | NY | Binghamton, Improve Front Street | $5,000,000 |
| 475 | FL | U.S. Highway 19 Bayside Segment | $2,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 476 | MI | Arenac County. Upgrade Maple Ridge Road from Briggs Road east to M-65 | $1,646,000 |
| 477 | NY | Village of Highland Falls repaving and sidewalk construction of Mearns Ave | $225,000 |
| 478 | NY | Village of Nelsonville improvements, paving & sidewalk installation to North Pearl St, Crown St, Pine St, & Wood Ave | $250,000 |
| 479 | CA | Widen Firestone Blvd between Ryerson Blvd and Stewart and Gray Road in Downey | $2,000,000 |
| 480 | CA | Construct Air Cargo Access Road to Oakland International Airport. | $900,000 |
| 481 | MD | Peer review study of conflicts between road system and light rail operations in Linthicum, MD | $100,000 |
| 482 | GA | Resurface and widen Jac-Art Road as part of the Bleckley County Development Authority project | $200,000 |
| 483 | VA | Construction of Virginia Blue Ridge Trail in Amherst County, VA | $300,000 |
| 484 | FL | Implement NE 6th Street/Sistrunk Boulevard Streetscape and Enhancement Project, City of Ft. Lauderdale | $1,000,000 |
| 485 | CA | Widen Lakewood Blvd between Telegraph Rd and Fifth St in Downey | $2,000,000 |
| 486 | TX | Widen Motor Street thoroughfare in Dallas to improve accessibility to Southwestern Medical District | $2,500,000 |
| 487 | MN | Construction of Gitchi-Gami State Trail, Lutsen Phase, CR 34 to Lockport store | $500,000 |
| 488 | PA | Widen of SR 309 through the Borough of Coopersburg to create left-turn lanes and complete the Rt. 309 Corridor Improvement Project | $3,000,000 |
| 489 | CA | Pasadena Ave/Monterey Rd Partial Grade Separation—Preliminary Engineering—Feasibility, South Pasadena | $300,000 |
| 490 | OH | Intermodal Bikeway, Independence | $500,000 |
| 491 | MO | Widen shoulder and resurface US 136 and replace 2 deficient bridges between Rock Port and Bethany, Missouri | $2,000,000 |
| 492 | FL | S.R.43 (U.S.301) Improvement Project—Ellentown to Parrish, Florida | $3,000,000 |
| 493 | GA | Bike and pedestrian paths and other transportation enhancements at Georgia Veterans Memorial Park | $800,000 |
| 494 | AK | Citywide pavement rehabilitation in City of North Pole | $1,000,000 |
| 495 | GA | Replace and upgrade sidewalks, Glenwood | $50,000 |
| 496 | NY | Bruckner blvd along Bronx River Ave, Story Ave to Soundview Park Greenway | $1,600,000 |
| 497 | GA | Widen SR 133 from Spence Field to SR 35 in Colquitt County, Georgia | $2,000,000 |
| 498 | CA | Mariposa County, CA Improve 16 roads, bridge and one bike path | $2,500,000 |
| 499 | LA | Upgrade highway-rail crossings at Madison Street, City of Gretna | $200,000 |
| 500 | PA | Two-lane Extension of Bristol Road, Bucks County | $1,000,000 |
| 501 | TN | Widen SR30 From Athens to Etowah, Tennessee | $5,758,000 |
| 502 | MI | Iosco County, Reconstruct Bissonette Road from Lorenz Road to Chambers Road | $322,500 |
| 503 | TX | Development of one-story 300-vehicle parking facility | $1,200,000 |
| 504 | WA | Design and construct improved I-182 interchange ramps at Broadmoor Blvd. in Pasco, WA | $2,000,000 |
| 505 | NY | Erie Canalway National Heritage Corridor in Lockport, NY—Transportation Enhancements | $3,250,000 |
| 506 | MI | M-6 Paul Henry Freeway trail design and construction | $2,780,000 |
| 507 | CT | Reconstruction and conversion of Union Station in North Canaan to establish a transportation museum | $1,705,000 |
| 508 | OR | Construct passing lanes on U.S. 199, Josephine County | $1,107,000 |
| 509 | CA | Scenic preservation and run-off mitigation in the Santa Monica Mountains National Recreation Area near PCH and US101 | $1,500,000 |
| 510 | IL | South Shore Drive and 67th Underpass | $1,300,000 |
| 511 | CA | Mission Boulevard / State Route 71 Interchange—Corridor Improvements | $4,200,000 |
| 512 | OR | For purchase of right of way, planning, design and construction of a highway, Newberg | $11,000,000 |
| 513 | VA | Smith River Trail—construction of trail along Smith River in Henry County | $500,000 |
| 514 | IL | Resurface Clifton Park Ave. and S. Louis Ave., Village of Evergreen | $400,000 |
| 515 | NJ | University Heights Connector for improvements to First Street in Newark from Sussex Street to West Market Street | $637,000 |
| 516 | GA | Broad Avenue Bridge: Albany | $500,000 |
| 517 | CA | Caelsbad, CA Construction of Poinsettia Lane | $2,000,000 |
| 518 | CA | Construct pedestrian enhancements on Broadway in Los Angeles | $2,500,000 |
| 519 | NJ | Construct Rt 56 Maurice River Bridge Replacement, Salem & Cumberland Counties | $2,000,000 |
| 520 | WA | Conduct route analysis for community pathway through Chehalis | $50,000 |
| 521 | WA | Construct a multi-jurisdictional non-motorized transportation project parallel to SR99 called the Interurban Trail | $2,000,000 |
| 522 | FL | Construct Downtown Bypass Roadway Connector, Lake Mary, Florida | $500,000 |
| 523 | NY | To study, design and construct transportation enhancements on the Brooklyn Waterfront Greenway in Red Hook, Greenpoint, and the Navy Yard in Brooklyn | $5,800,000 |
| 524 | NY | Update all county and town traffic signage in Wayne County, NY | $75,000 |
| 525 | CA | Construct Route 101 Auxiliary Lanes 3rd Ave in the City of San Mateo to Millbrae Ave in Millbrae | $5,000,000 |
| 526 | CA | Undertake Cordelia Hill Sky Valley transportation enhancement project, including upgrade of pedestrian and bicycle corridors, Solano County | $3,000,000 |
| 527 | MS | Construct I-20 Interchange at Hawkins Crossing, Lauderdale County | $2,000,000 |
| 528 | TN | Sevier, Jefferson, Cocke Counties, Tennessee SR-35&US411 widening | $1,750,000 |
| 529 | GA | Upgrade Safety of Bicycle and Pedestrian Access to Public Schools, Dekalb County | $3,000,000 |
| 530 | OH | Construction of Safety and related improvements on Rutlege Transfer Road in Vernon Township, OH | $120,000 |
| 531 | WI | Reconstruct USH 45 in Antigo | $2,020,000 |
| 532 | WA | SR 2/Main Street/Old Owen Road Intersection in Monroe | $480,000 |
| 533 | GA | Install landscaping and upgrade lighting on Fall Line Freeway, Reynolds | $350,000 |
| 534 | WA | Congestion relief on I-405 with added lanes from SR520-SR522 including 2 lanes each way from NE 85th-NE 124th | $1,000,000 |
| 535 | NY | Conduct NYS 5 construction study | $80,000 |
| 536 | PA | Widen lanes, add left turn lanes and update & install traffic signals at SR309, SR 4010 interchange in North Whitehall Township | $1,500,000 |
| 537 | KY | Reconstruct I-64-KY 180 Interchange, Boyd County, Kentucky | $2,000,000 |
| 538 | TX | Widen US 271 from a 2-lane facility to a 4-lane divided facility from Paris, TX to Pattonville, TX | $1,500,000 |
| 539 | TN | Carter County, Tennessee SR-362 reconstruction | $500,000 |
| 540 | OH | Construct Ohio River Trail, Anderson Township | $150,000 |
| 541 | MI | Delta County, CR 515 from US 2 and US 41 in Rapid River to County Road 446 at Days River Road-Bituminous overlay and joint repair | $320,000 |
| 542 | FL | Fund design phase for widening US 41 north of Dunnellon to four lanes | $1,000,000 |
| 543 | TN | Construction of Elizabethton Connector in Carter County, Tennessee | $500,000 |
| 544 | NJ | Newark Waterfront Pedestrian and Bicycle Access project | $1,500,000 |
| 545 | ME | Plan and construct Lewiston/Auburn Downtown Connector | $5,800,000 |
| 546 | OH | Conduct Miami St along SR Route 53 safety enhancement project to improve access to railroad crossing | $1,000,000 |
| 547 | AK | Planning, design, and construction of Juneau access roads in Juneau, Alaska | $15,000,000 |
| 548 | TN | Construction of an intersection/interchange in the City of Cleveland along I-75 | $2,400,000 |
| 549 | FL | Construct Flagler Avenue Improvements, City of Key West, Florida | $1,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 550 | CA | Rehabilitate street surface of Cedros Avenue between Burbank Blvd. and Magnolia Blvd | $43,000 |
| 551 | VA | Engineering and Right of Way to widen Route 221 in Forest, Virginia | $1,000,000 |
| 552 | NY | Install Improvements for Pedestrian Safety in the vicinity of PS 200 | $250,000 |
| 553 | TX | SH146 grade separation over Red Bluff Rd | $17,000,000 |
| 554 | TN | construction of park access road and adjacent trails at the Athens Regional Park in Athens, TN | $300,000 |
| 555 | IL | State Street Road Improvements from 43rd Street to IL Rt 157, East St. Louis | $2,945,000 |
| 556 | GA | Streetscape-Dawson | $200,000 |
| 557 | SC | Build Carolina Bays Parkway Segment from SC544 to US 17 in Myrtle Beach, SC | $3,000,000 |
| 558 | GA | US 341 US 41 SR 7 from Barnesville to SR 3, Georgia | $4,000,000 |
| 559 | OH | Reconstruct and widen State Route 82 in North Royalton | $1,000,000 |
| 560 | FL | Acquisition, engineering, and construction of West Avenue Connector Bridge, City of Miami Beach, FL | $1,500,000 |
| 561 | ME | Safety Enhancements on Routes 11, 6, and 16 for Piscataquis County Industrial Development | $400,000 |
| 562 | IL | Study, design, and construction of a designated truck route through the City of Monticello | $1,132,000 |
| 563 | CA | Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion | $2,000,000 |
| 564 | WI | Preliminary engineering for upgrading I94 between Illinois State Line and Mitchell Interchange in SE Wisconsin | $9,000,000 |
| 565 | MI | Cogshall Road Crossing Improvement and Life Safety Access Project in Holly, MI | $1,200,000 |
| 566 | MI | Ontonagon County, Improve Fed Forest Hwy 16 from M-38 to Houghton County Line | $500,000 |
| 567 | UT | Forest Street Improvements, Brigham City, UT | $2,000,000 |
| 568 | NC | I40 Union Cross Road Interchange in Forsyth County, NC | $1,000,000 |
| 569 | NJ | Construct Sea Isle Boulevard Reconstruction from Garden State Parkway to Ludlams Thoroughfare, Cape May County | $2,000,000 |
| 570 | CA | I-5 HOV Improvements from Route 134 to Route 170 | $500,000 |
| 571 | NY | Reconfiguration of intersection and redesign of traffic signal timing at Mohegan Ave and Lakeland St | $475,000 |
| 572 | CA | Shoal Creek Pedestrian Bridge (San Diego) | $1,000,000 |
| 573 | GA | Streetscape-Cordele | $250,000 |
| 574 | CA | Construct I-605 Interchange Capacity Improvements in Irwindale | $2,000,000 |
| 575 | SC | Construction of interchange at I-385 and SC 14, Exit 19, in Laurens County, South Carolina | $2,200,000 |
| 576 | NE | Design, right-of-way and construction of Nebraska Highway 35 between Norfolk and South Sioux City | $4,000,000 |
| 577 | MO | Complete impact study for North Oak Highway corridor redevelopment | $500,000 |
| 578 | MA | Design and construct the 1.5 mile East Longmeadow Redstone rail Trail bike path | $1,500,000 |
| 579 | NY | Improve bicycle and pedestrian safety on Main Street, Holbrook | $100,000 |
| 580 | CA | Tuolumne, Stanislaus and Merced Counties Upgrade existing county highway, J59 | $2,500,000 |
| 581 | FL | U.S. 19 Continuous right turn lanes in Pasco County | $7,000,000 |
| 582 | NJ | Union Boulevard Revitalization and Streetscape Enhancements, Totowa | $500,000 |
| 583 | IL | Improve roads, The Village of Westchester | $1,000,000 |
| 584 | IN | Reconstruct 45th Avenue from Colfax Street to Grant Street, Lake County | $2,700,000 |
| 585 | IN | Construct Grade Separation Underpass on Main Street in Mishawaka, Indiana | $1,000,000 |
| 586 | UT | Construct two-lane divided highway from the Atkinville Interchange to the new replacement airport access road in St. George | $4,000,000 |
| 587 | CA | Diamond Bar On-Off Ramp at Lemon Ave on SR-60 | $12,000,000 |
| 588 | NY | Harlem Hospital Parking Garage | $10,000,000 |
| 589 | MA | Downtown revitalization for Pleasant Street, Malden | $1,900,000 |
| 590 | NY | Install Improvements for Pedestrian Safety in the vicinity of Prospect Park Yeshiva | $250,000 |
| 591 | NY | Emergency vehicle preemption system at traffic signals, Smithtown | $500,000 |
| 592 | CA | Reconstruct interchange for south-bound traffic entering I-80 from Central Avenue, City of Richmond | $3,000,000 |
| 593 | KY | Reconstruct KY 393, Oldham County, Kentucky | $2,000,000 |
| 594 | CA | Reduce Orange County Congestion Program | $250,000 |
| 595 | CA | Street Closure at Chevy Chase Drive, Glendale | $800,000 |
| 596 | PA | Allegheny City Urban Runoff Mitigation-eliminate urban highway runoff and the discharge of culverted streams into municipal combined sewers | $1,000,000 |
| 597 | SC | Construct Briggs-Pearson-DeLaine Connector | $25,000,000 |
| 598 | NM | Construct an interchange on I-25 to provide access to Mesa del Sol in Albuquerque | $4,000,000 |
| 599 | OR | Short Haul Intermodal Pilot Project, Eugene | $2,500,000 |
| 600 | VA | Rivermont Ave. (Lynchburg) Bridge improvements | $1,700,000 |
| 601 | MA | Construct new interchange on I-95 between existing Route 1A ramp to the north and Route 123 ramp to the south, Attleboro | $500,000 |
| 602 | OH | Construct Waverly, Ohio South Connector from US 23 to SR 104 to SR 220 | $3,200,000 |
| 603 | VA | Craig County Trail—improvements to trail in Craig County | $150,000 |
| 604 | CO | US 160, State Highway 3 to East of the Florida River | $6,000,000 |
| 605 | AS | Village road improvements for Ta'u, Ofu, and Olosega-Sili counties in Manu'a district | $1,400,000 |
| 606 | PR | Construction of 4 lane connector serving PR 9922, PR 9939 and PR 183 | $1,950,000 |
| 607 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking, garage & roadway redesign in Duryea Borough, Luzerne County | $200,000 |
| 608 | OK | SH-33, Widen SH-33 from the Cimarron River East to US-177 Payne County, OK | $8,000,000 |
| 609 | TX | Washington Boulevard Improvements in Beaumont, Texas | $2,600,000 |
| 610 | FL | Widen Midway Road from South 25th Street to U.S. 1 in St. Lucie County | $2,000,000 |
| 611 | NY | Enhance road and transportation facilities in the vicinity of W. 65th St and Broadway, New York City | $5,000,000 |
| 612 | LA | Construct Kansas-Garrett Connector and I-20 Interchange Improvements | $5,000,000 |
| 613 | PA | Construct the SR 1058 Connector between PA 309 and the Pennsylvania Turnpike Northeast Extension in Montgomery County | $1,600,000 |
| 614 | OK | Reconstruct the Interstate 44 193rd street interchange | $3,000,000 |
| 615 | NY | Roadway improvements to Woodbury Rd at intersection with Syosset-Woodbury Rd | $2,000,000 |
| 616 | RI | Construct a handicapped accessible trail and platform at Kettle Pond Visitor Center Administrative Facility | $200,000 |
| 617 | NJ | Construct Great Swamp National Wildlife Refuge Road | $250,000 |
| 618 | CA | Grade Separation at 32nd Street between I-15 and Harbor Drive, San Diego | $1,000,000 |
| 619 | IN | Widen Old Meridian Street from 2 to 4 lanes, City of Carmel, Indiana | $1,000,000 |
| 620 | WI | Construct a bicycle/pedestrian path, City of Portage | $2,200,000 |
| 621 | VA | Widen Route 17 in Stafford | $4,000,000 |
| 622 | VA | Widen Route 820 in Bergton, Virginia | $1,200,000 |
| 623 | IL | Construction of 2 North/South Blvds. and 2 East/West Blvds. in the vicinity of Northern Illinois University | $7,500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| *No.* | *State* | *Project Description* | *Amount* |
|---|---|---|---|
| 624 | CA | Begin construction of road from US-395 west towards SR-14 | $1,000,000 |
| 625 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Old Forge Borough, Lackawanna County | $200,000 |
| 626 | PA | Improvements to Amtrak Keystone Corridor grade crossings at Irishtown Rd., New Comer Rd., and a new bridge at Ebychiques Rd | $500,000 |
| 627 | TN | Acquire and construct trail and bikeway along S. Chickamauga Creek in Chattanooga, TN | $1,600,000 |
| 628 | TX | Interchange improvements IH-30 Arlington at FM 157 (Collins Street) and Center Street | $2,000,000 |
| 629 | MO | Highway 350 Access Management Study from I435 to I470 | $1,000,000 |
| 630 | TX | Mile 6 W from US83 to SH 107, Hidalgo County | $1,000,000 |
| 631 | NJ | Pedestrian facilities and street lighting on Haddon Avenue from Albertson Avenue to Glenwood Avenue, Haddon Township | $433,000 |
| 632 | NY | Rehabilitate highway bridges—Ithaca secondary line | $2,500,000 |
| 633 | WA | Buckley, WA; New Road alignments on 112th Street Corridor | $2,000,000 |
| 634 | ID | Construct Washington Street North from Addison Avenue to Pole Line Road | $4,500,000 |
| 635 | SC | Construction of the US-15/SC-341 connector parallel to I-20, Lee County | $4,500,000 |
| 636 | PA | Construct Recreational Trail from Oil City to Rynd Farm (Venango County) | $1,000,000 |
| 637 | TX | FM 1637 from FM 3051 to FM 185, Waco | $2,000,000 |
| 638 | VA | Green Cove Station—improvements to existing Forest Service facility located at trailhead of Virginia Creeper Trail | $100,000 |
| 639 | NJ | South Essex Street Bridge Pedestrian Access Improvements, Orange | $578,000 |
| 640 | TX | FM 3391 (East Renfro St.) from I-35W to CR 602, Burleson | $1,500,000 |
| 641 | WI | Replace Wisconsin Street Bridge (STH 44) in Oshkosh, Wisconsin | $10,000,000 |
| 642 | CT | Construct Route 11 Extension and Greenway from Salem to Waterford | $16,000,000 |
| 643 | TX | Drainage Study and Engineering for US 83 in Starr County | $1,000,000 |
| 644 | TN | widen SR-62 in Knox County, TN | $6,500,000 |
| 645 | GA | Widen US 17 SR 25 from Yacht Drive to Harry Driggers Boulevard, Glynn County, Georgia | $2,000,000 |
| 646 | KY | Widen US 25 from US 421 North to KY 876, Madison County | $1,000,000 |
| 647 | GA | Widen US 280/SR 30 from east of Flint River to SR 300 Connector west of Cordele | $1,000,000 |
| 648 | MS | Upgrade roads in Gunnison, Mound Bayou, Beulah, Benoit, and Shaw, Bolivar County | $2,000,000 |
| 649 | NY | Construct and enhance Fillmore Avenue and traffic down-grade and infrastructure improvements to Humboldt Parkway, Buffalo | $1,500,000 |
| 650 | NJ | Construct Route 46 & Main Street intersection in Lodi | $2,000,000 |
| 651 | MN | Phase III construction of Trunk Highway 610-10 Minnesota | $5,000,000 |
| 652 | NM | NM 128 JCT NM 31 East to Texas State Line | $3,000,000 |
| 653 | NJ | Replacement of Prospect Avenue Culvert, City of Summit, County of Union | $400,000 |
| 654 | FL | US 441 Traffic Improvements——Road surface, road access, curb, gutter, and right of way, Miami Gardens | $900,000 |
| 655 | MN | Environmental studies and right of way acuisition for Trunk Highway 55 Corridor Protection Project | $5,000,000 |
| 656 | NY | Roadway improvements on Woodbine Avenue between 5th Avenue and Beach Avenue | $800,000 |
| 657 | NY | Saugerties, Improve downtown streets | $1,200,000 |
| 658 | IN | Widen US 31 Hamilton County, Indiana | $1,000,000 |
| 659 | GA | Build a bridge across Big Indian Creek, Perry | $1,500,000 |
| 660 | MI | Carpenter Road Reconstruction—700 feet South of Textile Road to I-94, Washtenaw County | $2,000,000 |
| 661 | IN | Resurface and widen Shelby County Indiana 400 North Phases IV and V | $500,000 |
| 662 | SC | Widen West Georgia Road from Neely Ferry Road to Fork Shoals Road | $2,000,000 |
| 663 | TX | Construct Phase II of City of Killeen SH-201 | $4,000,000 |
| 664 | MN | Interchange improvements at I-94 and CSAH 19 and at CSAH 37 in the city of Albertville, MN | $1,000,000 |
| 665 | KY | Construction of bypass between KY 55 and US 68 at Lebanon in Marion County | $1,000,000 |
| 666 | NY | Peruville Road. Creating overpass to address intersection safety issue | $2,000,000 |
| 667 | OR | Add a southbound lane to section of I-5 through Portland, OR between Delta Park and Lombard | $5,000,000 |
| 668 | MN | 10th Street Bridge Expansion in St. Cloud, MN | $1,000,000 |
| 669 | NJ | Intermodal Access Improvements to the Peninsula at Bayonne Harbor | $2,000,000 |
| 670 | TX | Nolana Loop from FM 1426 to FM 88, Hidalgo County | $2,000,000 |
| 671 | OH | Perry Park Road Improvements and Pedestrian Trail Expansion at Call Road in the Village of Perry, OH | $67,000 |
| 672 | NV | Implement Regional Transportation of Southern Nevada FAST system | $3,000,000 |
| 673 | NY | Bronx River Greenway 233rd Street Connection | $1,000,000 |
| 674 | PA | Construction of turn lanes, increase curve radius at the intersection of SR 3041 and Industrial Park Road, Somerset, Pa | $435,000 |
| 675 | FL | Planning and design for development of future highway connections to the Southwest Florida International Airport | $500,000 |
| 676 | WI | Reconstruct and rebuild St. Croix River Crossing, connecting Wisconsin State Highway 64 in Houlton, Wisconsin to Minnesota State Highway 36 in Stillwater Minnesota | $7,000,000 |
| 677 | TN | Conduct study for SR45 to SR386 Connector | $500,000 |
| 678 | IN | Reconstruct and widen Shelby County Indiana 500 East from 1200 N to US 52 | $1,000,000 |
| 679 | MO | Removal and Replacement of the Grand Avenue Bridge in the City of St. Louis | $3,500,000 |
| 680 | TX | Conduct reconstruction and managed lanes project on Airport Freeway (SH 183-SH 121) from IH 820 to the Dallas County Line | $5,000,000 |
| 681 | FL | Reconstruction of Hanford Boulevard, North Miami Beach | $2,750,000 |
| 682 | MA | Commonwealth Ave/Kenmore Sq. Roadway & Pedestrian Improvements | $5,000,000 |
| 683 | NY | Pedestrian walkway and bikeway improvements along the NYC Greenway System in Coney Island | $3,200,000 |
| 684 | PA | Restore Route 222 in Maxatawny and Richmond Townships, Berks County, PA | $2,500,000 |
| 685 | OH | Study and design of modifications to I-75 interchanges at M.L. King-Hopple, I-74, and Mitchell in Cincinnati | $1,500,000 |
| 686 | VA | Widen Route 10 to six lanes from Route 1 to Meadowville Road, Chesterfield | $1,000,000 |
| 687 | GA | Rebuild sidewalks, install sidewalks, and add speed monitoring system, Alamo | $250,000 |
| 688 | CA | Widen Wilmington Ave from 223rd street including ramp modifications, Carson | $3,000,000 |
| 689 | WI | Construct STH 32 (Claude Allouez) bridge in DePere, Wisconsin (Brown County, Wisconsin) | $500,000 |
| 690 | NY | Construction of drainage improvements and aethetic enhancements to Oak Beach Road in the Town of Babylon, NY | $430,000 |
| 691 | WI | Construct an alternative connection to divert local traffic from I-90, a major highway, and allow movement through the Gateway commercial development project | $4,000,000 |
| 692 | WA | East Marine View Drive Widening in Everett | $3,500,000 |
| 693 | OH | Construction of safety improvements at intersection of US 422 and SR 700 in Geauga County, OH | $300,000 |
| 694 | WV | Upgrade Route 10, Logan Co | $5,000,000 |
| 695 | TX | Conduct Preliminary Engineering for Funnel Project on SH 114 from BS 114L to Dallas County Line and on SH 121 from SH 360 to Dallas Co Line | $4,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 696 | NC | Install ITS on US70 Clayton Bypass | $1,000,000 |
| 697 | PA | Brighton Road Extension-add new street to N Shore roadway network to facilitate access to amphitheater | $1,000,000 |
| 698 | NJ | Broad Street Streetscape Project in Elizabeth to provide physical improvements and to enhance transportation flow and efficiency | $700,000 |
| 699 | FL | Construction of 4 lane highway around Jacksonville connecting US1 to Route 9A | $3,000,000 |
| 700 | WA | 510-507 Loop—Conduct engineering, design, and ROW acquisition for alternative route to two existing highways that bisect Yelm, WA | $2,500,000 |
| 701 | CA | Develop and implement traffic calming measures for traffic exiting the I-710 into Long Beach | $1,000,000 |
| 702 | CA | San Diego, CA Construction of the I-5 and SR-56 Connectors | $4,000,000 |
| 703 | IL | Upgrade Ridge Avenue, Evanston | $3,000,000 |
| 704 | SC | Widening and Improvements for Highway 901, York County | $2,000,000 |
| 705 | IA | Widening and Reconstruction, I 235, Des Moines | $6,500,000 |
| 706 | CA | Bay Road improvements between University Avenue to Fordham, and from Clarke Avenue to Cooley Landing. Northern access improvements between University and Illinois Avenues, East Palo Alto | $6,000,000 |
| 707 | NC | Project to widen US 501 from NC 49 in Roxboro to the VA state line with part on new location | $4,000,000 |
| 708 | NY | Congestion reduction, traffic flow improvement and intermodal transfer study at Roosevelt Avenue/74th Street in Queens | $640,000 |
| 709 | CA | Construct bicycle and pedestrian bridge between Oyster Bay Regional Park in San Leandro and Metropolitan Golf Course in Oakland | $750,000 |
| 710 | TX | For construction of Seg 5 and 6 of SH 130 from 183 to Seguin, TX | $5,000,000 |
| 711 | NJ | Construct the Airport Circle Elimination at Tilton and Delilah Roads, Atlantic County | $1,000,000 |
| 712 | KY | Construct North Somerset Bypass in Pulaski County from Nunn Parkway to KY 80 | $7,000,000 |
| 713 | NV | Construct US Highway 95—Las Vegas Beltway Interchange | $8,000,000 |
| 714 | NY | Repair and repave the north side of the Mineola train station | $150,000 |
| 715 | IL | Repair of CH 29 and reconstruction of CH 8 at interchanges with Interstate 55 at Towanda and Lexington Illinois | $1,000,000 |
| 716 | CA | Conduct a Project Study Report for new Highway 99 interchange between SR 165 and Bradbury Road, serving Turlock/Hilmar region | $500,000 |
| 717 | PA | Construction of US-22 to I-79 Section of Southern Beltway, Pittsburgh, Pennsylvania | $1,000,000 |
| 718 | MN | Construction of new highway between the bridge over Partridge River on CR 565 in Hoyt Lakes to the intersection of CSAH 21 and 70, Babbitt | $3,000,000 |
| 719 | CA | State Route 1 improvements between Soquel and Morrissey Blvd including merge lanes and the La Fonda overpass, Santa Cruz | $3,670,000 |
| 720 | WA | The West Corridor Coalition in Washington state | $500,000 |
| 721 | WA | North Sound Connecting Communities Transportation Project Planning | $1,000,000 |
| 722 | FL | West Relief Bridge Rehabilitation, Bay Harbor Islands | $1,500,000 |
| 723 | NE | Western Douglas County Trails Project, Nebraska | $5,500,000 |
| 724 | TN | Bristol, Tennessee highway-RR grade Crossing improvement—Hazelwood Street | $100,000 |
| 725 | GA | Extend East Greene Street, install street lights, utilities, and landscaping, Milledgeville | $400,000 |
| 726 | CA | Grade Separation at Vanowen and Cliveborne, Burbank | $1,000,000 |
| 727 | MA | Improve traffic signal operations, pavement markings & regulatory signage, Milton-Boston City Line | $1,500,000 |
| 728 | NY | Port Jervis, NY downtown pedestrian mall and promenade | $650,000 |
| 729 | MN | Construct Soo Line Trail from north of Bowlus to the east side of Mississippi River | $495,000 |
| 730 | WI | Construct traffic mitigation signals, signs, and other upgrades for Howard Ave, St. Francis | $400,000 |
| 731 | NH | Reconstruction of NH 11 and NH 28 Intersection in Alton | $700,000 |
| 732 | CA | Riverside Drive Improvements, Los Angeles | $400,000 |
| 733 | CA | Upgrade CA SR 4 East from the vicinity of Loveridge Road to G Street, Contra Costa County | $15,000,000 |
| 734 | TX | Widen SH 24 from a 2-lane facility to 4-lane divided facility from SH 19 to Cooper, TX | $1,500,000 |
| 735 | PA | Rail crossing signalization upgrade, Willow Street, Fleetwood, Berks | $325,400 |
| 736 | IL | 25th Avenue Grade Separation, Melrose Park | $500,000 |
| 737 | SC | Construct Hub City Connector Passage (12.5 miles of bicycle-pedestrian improvements, 176-SC 56), part of state-wide Palmetto Trail Project | $1,000,000 |
| 738 | FL | Construct US 1/SR 100 Connector, Bunnell, Florida | $2,500,000 |
| 739 | MN | Construction of Gitchi-Gami State Trail from Gooseberry Falls State Park Trail Head parking lot to 2.3 miles east | $700,000 |
| 740 | CA | Design and environmental analysis for State Route 11 connecting State Route 905 to the new East Otay Mesa Port of Entry, San Diego | $1,000,000 |
| 741 | NY | Improve North Fork Trail, Southold | $200,000 |
| 742 | HI | Interstate Route H1 Deck Repair, Airport Viaduct | $4,770,000 |
| 743 | OH | Replace Grade Separation at Eastland and Sheldon Road, Berea | $750,000 |
| 744 | WA | Widen I-5 through Lewis County | $3,500,000 |
| 745 | SC | Engineering design and construction of I-73 from the North Carolina State Line to I-95 | $10,000,000 |
| 746 | OH | Planning and construction of a bicycle trail adjacent to the I-90 and SR 615 Interchange in Lake County, OH | $2,500,000 |
| 747 | SC | Widening of Boiling Springs 9 from Rainbow Lake Rd. to SC 292 | $5,000,000 |
| 748 | IL | Construct Streetscape Project, Orland Hills | $400,000 |
| 749 | IL | Widening of Lake Cook Road ITS in Deerfield, IL | $500,000 |
| 750 | OR | Widening of Oregon Hwy 217 between Tualatin Valley Hwy and the US 26 interchange, Beaverton | $10,000,000 |
| 751 | PR | Widening of PR 111 at the intersections of PR-444 through PR-423 | $6,000,000 |
| 752 | MI | Widen M-72 from US-31 easterly 7.2 miles to Old M-72 | $2,500,000 |
| 753 | PA | Widening of Rt.22 and SR.26 in Huntingdon. Upgrades to the interchange at US RT 22 and SR26 | $3,375,000 |
| 754 | MN | Widening of US Highway 61 at Frontenac Station, MN | $800,000 |
| 755 | KS | Construction and reconstruction of four interchanges on I-435, I-35 and US-69 in Johnson Co | $4,000,000 |
| 756 | MA | Melnea Cass Blvd Reconstruction | $2,000,000 |
| 757 | NH | Improve Meredith Village Traffic Rotary | $1,000,000 |
| 758 | FL | Implement Blue Heron Boulevard Streetscape Improvements, City of Riviera Beach | $2,500,000 |
| 759 | NY | Install Improvements for Pedestrian Safety in the vicinity of PS 114 | $250,000 |
| 760 | WI | Reconstruct STH 181 between Florist Ave and North Milwaukee County Line | $4,500,000 |
| 761 | LA | Replace the Prospect Street Bridge (LA 3087), Houma | $3,000,000 |
| 762 | GA | Streetscape improvements along LaVista Road in the Northlake business district of DeKalb County, Georgia | $200,000 |
| 763 | MD | Study Greater Towson Area traffic flow and future needs | $200,000 |
| 764 | FL | Construct US 1 Improvements, Cities of Holly Hill and Ormond Beach, Florida | $400,000 |
| 765 | OH | Transportation Enhancements to the downtown area of the Village of Chagrin Falls, OH | $700,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 766 | MA | Pedestrian Walkway for the Town of Norwood | $780,000 |
| 767 | NJ | Restoration of Route 35 in Ocean County, New Jersey | $1,500,000 |
| 768 | PA | Extension of Third Street from Interstate 83 to Chestnut Street, Harrisburg | $4,800,000 |
| 769 | TX | Carlton road grade separation, Laredo, TX | $5,000,000 |
| 770 | OH | Construct connector roadway between SR13 13 and Horns Hill Road in north Newark | $250,000 |
| 771 | TN | Construct new lighting on Veterans Memorial Bridge, Loudon County, Tennessee | $250,000 |
| 772 | NY | Roadway improvements on CR3 between Ruland Rd and I-495 | $2,220,000 |
| 773 | TN | Construct State Route 385 (North and East) around the city of Memphis | $3,150,000 |
| 774 | NY | Waterloo, NY by-pass project | $7,000,000 |
| 775 | IN | Extend Everbrook Drive from SR 332 to Bethel Avenue in the City of Muncie, Indiana | $640,000 |
| 776 | TN | Construct Proposed SR397 extension from SR96 West to US 431 North to Franklin WIlliamson County | $2,225,000 |
| 777 | AK | Construct linking road from airport to port in Akutan | $1,500,000 |
| 778 | PA | Uniontown to Brownsville section of Pennsylvania Mon/Fayette Expressway | $5,000,000 |
| 779 | NY | Ashburton Avenue Reconstruction, Yonkers, New York | $1,000,000 |
| 780 | OR | Highway 22, Polk County | $1,000,000 |
| 781 | FL | I-75 Widening and Improvements in Collier and Lee County, Florida | $45,000,000 |
| 782 | WI | Pioneer Road Rail Grade Separation (Fond du Lac, Wisconsin) | $4,000,000 |
| 783 | FL | Design and construction of double-deck roadway system exiting FLL airport connecting Y.S. 1 and I-595 | $4,000,000 |
| 784 | MI | Wayne, Reconstruct one quarter of a mile stretch of Laurenwood | $125,000 |
| 785 | GA | Construct the West Cleveland Bypass from US 129SR 11 near Hope Road exteding west of Cleveland, on new and existing locations to SR75 | $2,900,000 |
| 786 | IL | Eliminate Highway-Railway crossing over US 14 and realignment of US 14, Des Plaines | $2,000,000 |
| 787 | OR | Highway 22-Cascade Highway interchange improvements, Marion County | $500,000 |
| 788 | VA | Widen Route 29 between Eaton Place and Route 123 in Fairfax City, VA | $3,000,000 |
| 789 | WI | Reroute State Hwy 11 near Burlington, WI (Kenosha County, WI) | $2,000,000 |
| 790 | IL | East Peoria, Illinois Technology Blvd. upgrades | $1,000,000 |
| 791 | DC | Metro Branch Trail Construction | $2,000,000 |
| 792 | MA | Study and design I-93 / Mystic Ave. Interchange at Assembly Sq | $500,000 |
| 793 | NM | Widening of US 491 from Navajo 9 to Colorado state border | $2,000,000 |
| 794 | FL | Construct access road to link Jacksonville International Airport to I-95 | $5,000,000 |
| 795 | FL | Widening of SR 60 from 66th Avenue to I-95 in Indian River County, FL | $1,000,000 |
| 796 | GA | Widening of SR 133: Colquitt Co./Daughtery Co | $1,000,000 |
| 797 | PA | Rail Bridge Removal and intersection improvements, Cameron and Paxton Streets, Harrisburg | $1,300,000 |
| 798 | PA | Widening of SR 1001 Section 601 in Clinton County | $1,000,000 |
| 799 | PA | Widening of Route 40 in Wharton Township, Fayette County, Pa | $2,000,000 |
| 800 | NJ | Widening of Route 1 and intersection improvements in South Brunswick | $1,000,000 |
| 801 | PA | construct PA 706 Wyalusing Bypass Bradford County, Pennsylvania | $1,000,000 |
| 802 | IL | Construct four lane extension of IL RT29 from Rochester to Taylorville | $600,000 |
| 803 | IL | Widening of Old Madison Road, St. Clair County | $2,000,000 |
| 804 | NY | Construction of Bicycle Path and Pedestrian Trail in City of Dunkirk | $500,000 |
| 805 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Plains Township, Luzerne County | $200,000 |
| 806 | CA | Replace I-880 overpass at Davis St in San Leandro | $750,000 |
| 807 | PA | DuBois-Jefferson County Airport Access Road Construction | $1,000,000 |
| 808 | GA | Streetscape project to improve accessibility and safety for pedestrians, Mount Vernon | $500,000 |
| 809 | IL | Replacement of Fullerton Avenue Bridge and Pedestrian Walkway | $4,800,000 |
| 810 | NH | Construct intersection at US 3 and Pembroke Hill Road in Pembroke | $700,000 |
| 811 | FL | A new interchange with the Pineda Causeway Extension and I-95 | $11,000,000 |
| 812 | CT | Make Improvements to Groton Bicycle and Pedestrian Trails and Facilities | $380,000 |
| 813 | MN | TH36—Stillwater Bridge; cut-and-cover approach to river crossing | $500,000 |
| 814 | NM | US 54 Reconstruction, Tularosa to Santa Rosa | $2,000,000 |
| 815 | VA | Daniel Boone Wilderness Trail Corridor—acquire site; design and construction of interpretative center, enhancement of trail corridor | $3,200,000 |
| 816 | MI | Widening of M-24 from two lanes to four lanes with a boulevard from I-69 to the county line | $1,000,000 |
| 817 | IN | Construct US231 in Spencer and Dubois Counties in Indiana | $6,000,000 |
| 818 | TN | Construct overpass at Highway 321 and Highway 11 Loudon County, Tennessee | $6,500,000 |
| 819 | SD | Improve the SD Advanced Traveler Information System | $1,400,000 |
| 820 | NV | Construct I-15 Widening—US 95—I 515 Interchange to Apex Road | $6,000,000 |
| 821 | NY | Implement ITS system and apparatus to enhance citywide truck route system on Avenue P between Coney Island Avenue and Ocean Avenue in the 9th District of New York | $100,000 |
| 822 | GA | Install sidewalks, trails, lighting, and amenities in Balls Ferry Park, Wilkinson County | $500,000 |
| 823 | CA | Construct Inland Empire Transportation Management Center in Fontana to better regulate traffic and dispatch personnel to incidents | $1,500,000 |
| 824 | IL | Reconstruct Milwaukee Avenue, including Six Corners | $17,000,000 |
| 825 | TX | Implementation and quantification of benefits of large-scale landscaping along freeways and interchanges in the Houston region | $18,496,000 |
| 826 | PA | Design, engineering, ROW acquisition & construction of a connector road between PA 115 & Interstate 81 in Luzerne County | $250,000 |
| 827 | AL | Pedestrian Improvements for Homewood, AL | $100,000 |
| 828 | TN | Plan and construct a bicycle and pedestrian trail, Gallatin | $665,000 |
| 829 | MA | Conduct design, feasibility and environmental impact studies of proposal to relocate New Bedford/Fairhaven bridge | $2,000,000 |
| 830 | IA | Iowa City, IA Construction of arterial extension project connecting Coralville to west and south Iowa City | $2,500,000 |
| 831 | NJ | Rehabilitate Route 139 in Jersey City—Portway | $2,000,000 |
| 832 | NJ | Route 605 extension to US-206 | $1,000,000 |
| 833 | OH | Widen SR 170 Calcutta | $2,500,000 |
| 834 | IA | Widening of Hwy 44, Grimes | $500,000 |
| 835 | VA | Widening of Highway 15 in Farmville, Virginia | $5,000,000 |
| 836 | MA | Design and construct intersection improvements at Memorial Park II on Roosevelt Ave from Bay St to Page Boulevard, Springfield | $1,000,000 |
| 837 | SC | Widening of Frontage Road from U.S. 72 to U.S. 56, Laurens, SC | $2,800,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 838 | NY | Mill Road: NY Rte 261 to North Avenue in the Town of Greece | $2,500,000 |
| 839 | NC | Widening of Beckford Drive, City of Henderson | $960,000 |
| 840 | NY | Realignment of Clove Road and Rt 208, access management improvements in Orange County | $1,200,000 |
| 841 | NY | City of Peeskill, NY Street Resurfacing Program—Brown Street | $52,000 |
| 842 | FL | Fund advanced Right-of-Way Acquisition along SR 52 in Pasco County, Florida | $3,700,000 |
| 843 | MA | Design, engineer, permit, and construct "Border to Boston Bikeway" rails-trails project, from Salisbury to Danvers | $1,000,000 |
| 844 | FL | Soutel Drive Road Enhancements, Jacksonville | $1,500,000 |
| 845 | NJ | Bicycle facilities in West Deptford Township | $115,000 |
| 846 | PA | Create a direct connection between State Road 29 and State Route 113 | $3,000,000 |
| 847 | MA | Design and construction of the north and southbound ramps on Interstate 91 at Exit 19 | $1,500,000 |
| 848 | IA | NW 70th Ave reconstruction, Johnston | $4,500,000 |
| 849 | NY | Town of Minisink South Plank Road | $275,000 |
| 850 | VA | Town of St. Paul—restoration of historic Hillman House to serve as trail system information center and construction of stations on trails | $150,000 |
| 851 | PA | Conduct environmental review and acquire right of way for preferred alternative to improve PA 41 | $4,000,000 |
| 852 | FL | Acquire Right-of-Way for Ludlam Trail, Miami, Florida | $750,000 |
| 853 | NY | Construct Safe Routes to Schools projects in New York City | $3,000,000 |
| 854 | CO | Construction of US 24—Tennessee Pass, Colorado | $6,000,000 |
| 855 | CA | Implement Riverside Avenue Railroad Bridge improvements, south of Interstate 10 in Rialto | $500,000 |
| 856 | MA | Longwood Ave/Urban Ring Tunnel Study | $450,000 |
| 857 | IL | Traffic Signal Coordination at US 45 at IL 132 (Grand Avenue) and IL 132 at Rollins Road and US 45 at Rollins Road | $100,000 |
| 858 | IA | US 63 improvement near New Hampton, Iowa | $8,700,000 |
| 859 | NY | Village of Unionville reconstruction of Main Street | $80,000 |
| 860 | TX | Widening from two lanes to four of SH 36 from Bellville, TX to Sealy, TX | $7,000,000 |
| 861 | KY | Comprehensive Traffic Study for intersection of Main Street and Berea College Campus, Berea | $600,000 |
| 862 | TN | Improve State Route 62 in Morgan County near US-27 in Wartburg to Petit Lane from existing two lane highway to four lanes | $2,000,000 |
| 863 | IL | Construct West Corbin Overpass over Illinois 255, Bethalto | $5,000,000 |
| 864 | OR | Improvements for intersections heavily traveled through which include Beaverton Hillsdale Hwy Scholls Ferry and Oleson, Beaverton | $250,000 |
| 865 | FL | Improvements to I-75 in the City of Pembroke Pines, Florida | $9,750,000 |
| 866 | CA | Planning, design, engineering and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego | $5,000,000 |
| 867 | CA | Construct road from Mace Blvd in Yolo County to federally supported Pacific Flyway wildlife area | $1,000,000 |
| 868 | PA | Construction of ramps on I-95 and US 322, widening of streets and intersections | $3,000,000 |
| 869 | NY | Construct and restore pedestrian and residential roadways in downtown business district in Rockville Centre | $1,000,000 |
| 870 | LA | Plan, design and construct Pointe Clair Expressway in Iberville Parish | $3,000,000 |
| 871 | MA | Construction of East Milton Parking Deck over Interstate/Rt. 93 | $1,000,000 |
| 872 | PA | Reconstruction of I-176 in Cumru and Robeson Townships, Berks County | $5,000,000 |
| 873 | MI | Resurfacing of Masonic Boulevard in Fraser | $1,160,000 |
| 874 | OH | Construct Ohio River Trail from Downtown Cincinnati, Ohio to Salem Road | $1,400,000 |
| 875 | PA | Realignment and reconstruction of SR60 interchange with US22-30 and reconstruct adjacent Tonidale-Bayer intersection | $1,000,000 |
| 876 | NY | Construtction and rehabilitation of East and West John Streets in the Village of Lindenhurst, NY | $930,000 |
| 877 | NY | Construct Northern State Parkway and Long Island Expressway access at Marcus Avenue and Lakeville Road and associated Park and Ride | $6,000,000 |
| 878 | PA | Deployment of an Intelligent Transportation System along I-476 Pa Tpke NE Ext/Pa-309 and I-76 Schuylkill Exwy in Montgomery County | $2,500,000 |
| 879 | NY | Install Improvements for Pedestrian Safety in the vicinity of PS 153 | $250,000 |
| 880 | TX | Build 36th Street Extension in San Antonio | $2,000,000 |
| 881 | CA | North Atlantic Pedestrian Bridge, Monterey Park | $600,000 |
| 882 | CA | Reconstruct Eastern Ave from Muller St to Watcher St in Bell Gardens | $1,000,000 |
| 883 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in West Pittston, Luzerne County | $200,000 |
| 884 | CA | Design Traffic Flow Improvements Azusa and Amar, City of West Covina | $1,250,000 |
| 885 | MI | Reconstruction of Nine Mile Road in Eastpointe | $1,120,000 |
| 886 | WA | Redmond, WA City-wide ITS | $1,000,000 |
| 887 | IL | Reconstruction and realignment of Baseline Rd, Montgomery, IL | $2,080,000 |
| 888 | NY | Transportation Enhancements to support Development of Erie Canal in Niagra and Orleans Counties | $750,000 |
| 889 | CO | US 160, East of Wolf Creek Pass | $7,500,000 |
| 890 | MA | Design, engineering and construction at I-93 The Junction Interchange, Andover, Tewksbury and Wilmington | $2,500,000 |
| 891 | CA | Rosemead Boulevard/Highway 19 Renovation Project, Pico Rivera | $100,000 |
| 892 | PA | Intersection improvements at PA Route 209 and Water Company Road, construction of a bridge and access enhancements to Nature and Arts Center, Upper Paxton Township | $500,000 |
| 893 | TX | Improvements to FM 1979 in Caldwell County | $300,000 |
| 894 | HI | Interstate Route H1 guard rail and shoulder improvements, Waikele Bridge to Airport Interchange, Honolulu | $3,800,000 |
| 895 | MI | M-168 Reconstruction in the village of Elberta | $2,200,000 |
| 896 | CA | Colima Road at Fullerton Road Intersection Improvements | $1,000,000 |
| 897 | OH | Design and construct Youngstown State University Roadway and Pedestrian Safety Improvements, Youngstown | $2,500,000 |
| 898 | MO | Reconstruct Interstate 44 and Highway 39 Interchange | $5,000,000 |
| 899 | WA | Complete final Columbia River crossing Environmental Impact Statement for SR35 in Klickitat County | $800,000 |
| 900 | KY | Reconstruct US 127 at Bellows Road, Mercer County | $600,000 |
| 901 | NY | Roadway and Pedestrian Improvements for Times and Duffy Squares in New York City | $2,000,000 |
| 902 | FL | Six lane expansion of State Road 200 (A1A) from Interstate 95 east to Amelia Island | $4,000,000 |
| 903 | MI | Widen and reconstruct Tienken Road in Rochester Hills from Livernois to Sheldon | $4,000,000 |
| 904 | NV | Design and Construct I-580 Meadowood Complex Improvements, Washoe County | $2,000,000 |
| 905 | NY | Town of Chester reconstruction of 13 independent town roads | $200,000 |
| 906 | NY | Implement ITS system and apparatus to enhance citywide truck route system at 9th Street and 3rd Avenue intersection in Kings County | $100,000 |
| 907 | TX | Construction of highway infrastructure to provide flood protection for Nueces County | $1,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| *No.* | *State* | *Project Description* | *Amount* |
|---|---|---|---|
| *908* | *FL* | *Widen State Road 80, Hendry County* | *$3,500,000* |
| *909* | *NE* | *Construction of the Columbus, Nebraska North Arterial Road* | *$4,500,000* |
| *910* | *KY* | *Extension of Newtown Pike from West Main Street to South Limestone Street, Lexington* | *$16,500,000* |
| *911* | *OH* | *Road construction and related improvements in the Village of Gates Mills, OH* | *$500,000* |
| *912* | *IL* | *Widening and Reconstruction of 55th Street from Holmes Avenue to Williams Street in Westmont and Clarendon Hills* | *$1,000,000* |
| *913* | *IL* | *Road upgrades for the Village of Oreana, IL* | *$884,000* |
| *914* | *ID* | *Widen Amity Road from Chestnut Street to Robinson Road in Nampa, Idaho* | *$2,000,000* |
| *915* | *TX* | *Widening FM 60 (University Drive) from SH6 to FM 158, College Station* | *$3,000,000* |
| *916* | *GA* | *Widening Cedarcrest Road from Paulding County line to Governors Towne* | *$3,150,000* |
| *917* | *CA* | *Widening Avenue 416 in Dinuba California* | *$1,500,000* |
| *918* | *MA* | *Design and construction of streetscape improvements on Main and Maywood Streets, Worcester* | *$600,000* |
| *919* | *TX* | *Extend Munn Street from Demaree Ln to Gellhorn Drive* | *$1,000,000* |
| *920* | *MN* | *City of Moorhead SE Main GSI, 34th St. and I94 Interchange and Moorhead Comprehensive Rail Safety Program* | *$3,000,000* |
| *921* | *AL* | *Widening and safety improvements to SR-216 between SR-215 and I-59, I-20* | *$3,000,000* |
| *922* | *WA* | *Improve 13.5 mile section of Klickitat bicycle and pedestrian trail between Lyle and Klickitat* | *$250,000* |
| *923* | *IL* | *Improve safety of culvert replacement on 250th Rd between 460th St and Cty Hwy 20 in Grandview Township, Edgar County, IL* | *$320,000* |
| *924* | *NY* | *Kingston, Improve uptown streets* | *$1,000,000* |
| *925* | *PA* | *Replace Blair Creek Bridg over the Little Lehigh Creek, just west of the Maple Grove Bridge, in Longswamp Township, Berks County* | *$1,600,000* |
| *926* | *CA* | *Construct highway connecting State Route 78/86 and State Route 111, Brawley* | *$9,500,000* |
| *927* | *GA* | *Widening and improvements on Colerain Road in St. Marys, Georgia* | *$1,000,000* |
| *928* | *MD* | *Implement Pedestrian and Roadway Improvements Contained in the Druid Hill Park Neighborhood Access Program in Baltimore* | *$2,000,000* |
| *929* | *AZ* | *Kabba Wash project between I-40 and Wikieup* | *$2,000,000* |
| *930* | *ME* | *Route 2 Improvements from Bethel to Gilead* | *$500,000* |
| *931* | *FL* | *Widening and Improvements for I-75 in Collier and Lee County* | *$27,000,000* |
| *932* | *TX* | *Widening 349 Dawson and Martin County* | *$2,000,000* |
| *933* | *WI* | *Widen Wisconsin State Highway 64 between Houlton and New Richmond* | *$4,000,000* |
| *934* | *IN* | *Widen Wheeling Avenue from Centennial to McGalliard Road in the City of Muncie, Indiana* | *$960,000* |
| *935* | *MN* | *Construct a bike trail along the north side of TH 11 to the Voyageurs National Park Visitor Center on Black Bay of Rainy Lake* | *$540,000* |
| *936* | *FL* | *Construct pedestrian underpass and safety improvements at SR A1A and Castillo Drive, City of St. Augustine* | *$1,600,000* |
| *937* | *CA* | *Rehabilitate street surfaces in Sherman Oaks* | *$124,000* |
| *938* | *CA* | *Repair and realignment of Brahma Dr. and Winnetka Ave* | *$300,000* |
| *939* | *NJ* | *Riverwalk in Millburn along the West Branch of the Rahway River* | *$750,000* |
| *940* | *AL* | *I-20 widening and safety improvements in St. Clair County* | *$4,000,000* |
| *941* | *TN* | *Plan and construct Rutherford County visitor's center/ transportation information hub* | *$500,000* |
| *942* | *UT* | *Streetscape a two-lane road and add turning lanes at key intersections on Santa Clara Drive in Santa Clara* | *$500,000* |
| *943* | *CA* | *US 101 Operational Improvements, San Jose* | *$5,000,000* |
| *944* | *IL* | *Upgrade traffic signal system on 87th Street, Chicago* | *$500,000* |
| *945* | *LA* | *Water Well Road Gateway Cooridor (LA 478)—Design, Right of Way, and Construction of 3.6 miles from I-49 to LA 1* | *$5,650,000* |
| *946* | *CO* | *East 104th and US85 Intersection: Study, design and construction of needed improvements to intersection* | *$1,000,000* |
| *947* | *FL* | *Widen West Virginia Drive from Floresta Drive to US 1 in St. Lucie* | *$3,000,000* |
| *948* | *ID* | *Widen US-95 in Idaho from Jct. SH-1 to Canadian Border* | *$3,000,000* |
| *949* | *IL* | *Engineering of the Willow Creek Trail Extension from Rock Cut State Park to the Long Prairie Trail* | *$200,000* |
| *950* | *CA* | *Widen Interstate 8 overpass at Dogwood Road, Imperial County* | *$2,122,500* |
| *951* | *CA* | *Improve bridge 58-7 on SR 115 that crosses the Alamo River in Holtville and also project design and environmental analysis of a new bridge over the same river* | *$1,000,000* |
| *952* | *ID* | *Widen US-95 from Worley to Mica Creek, Idaho* | *$3,000,000* |
| *953* | *MI* | *Complete the 2 segments of US-127 from Ithaca to St. Johns to a limited access freeway* | *$5,000,000* |
| *954* | *CA* | *Construct a new interchange where I-15 meets Cajalco Road in Corona, CA* | *$10,000,000* |
| *955* | *OH* | *Construct interchange at CR 80 on IR 77 near Dover* | *$5,000,000* |
| *956* | *TX* | *US 67, widening from Nolan River to West Buffalo Creek, Cleburne* | *$3,000,000* |
| *957* | *NC* | *Widen and improve I 85 through Cabarrus County from US 29—49 to 29—601* | *$8,000,000* |
| *958* | *NC* | *US401 from Raleigh to Fayetteville* | *$4,000,000* |
| *959* | *GA* | *Construct and Improve Westside Parkway, Northern Section, in Fulton County* | *$4,000,000* |
| *960* | *NY* | *City of Peeskill, NY Street Resurfacing Program. Hudson Avenue* | *$130,000* |
| *961* | *CA* | *Construction of CA 101 Auxiliary Lanes, Marsh Rd. to Santa Clara County Line* | *$2,250,000* |
| *962* | *NY* | *For the acquisition of ferry boats and ferry terminal facilities and operation of ferry service from Rockland County-Yonkers-Manhattan* | *$1,500,000* |
| *963* | *IL* | *For engineering, right-of-way acquisition and reconstruction of two existing lanes on Arsenal Road from Baseline Rd to Rt 53* | *$1,750,000* |
| *964* | *PA* | *For the Scranton City Redevelopment Authority to design, engineer, acquire ROW & construct streetscaping enhancements, paving, lighting & safety improvements, parking & roadway redesign* | *$2,500,000* |
| *965* | *FL* | *Construct landscaped sidewalks, bus lanes, pedestrian/bicycle paths, vehicular lanes, City of Plantation* | *$1,536,041* |
| *966* | *NY* | *Improve Route 17—Access Control, Elmira to Chemung* | *$2,500,000* |
| *967* | *PA* | *Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Plymouth Borough, Luzerne County* | *$200,000* |
| *968* | *ID* | *Improve SH-75 from Timmerman to Ketchum* | *$5,000,000* |
| *969* | *OR* | *Improve U.S. 97 from Modoc Point to Algoma* | *$2,000,000* |
| *970* | *SD* | *Construct an interchange on I-90 at Marion Road west of Sioux Falls* | *$1,400,000* |
| *971* | *CA* | *Realign First St between Mission Rd and Clarence St in Los Angeles* | *$1,250,000* |
| *972* | *MO* | *Relocation of Route 13 Branson West Bypass* | *$5,200,000* |
| *973* | *IL* | *Resurfacing Congress Parkway, The Illinois Department of Transportation* | *$500,000* |
| *974* | *RI* | *Establish interchange between Route 4 and Interstate 95* | *$6,000,000* |
| *975* | *TX* | *Improvements to FM 676 in Alton* | *$500,000* |
| *976* | *MA* | *Reconstruction of Goddard Memorial Drive from State Route 9 to Airport Drive, Worcester* | *$2,000,000* |
| *977* | *FL* | *Homestead, FL Widening of SW 320 Street (Mowry Drive) from Flagler Avenue to SW 187 Avenue* | *$2,500,000* |
| *978* | *CT* | *Broad Street Reconstruction Project in New Britain* | *$1,800,000* |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 979 | PA | Construct Johnsonburg Bypass | $4,400,000 |
| 980 | CT | Construct Valley Service Road Extension, North Haven | $2,000,000 |
| 981 | VA | Construction of transportation related enhancements and infrastructure of the VMFA project | $1,000,000 |
| 982 | MI | Reconstruct and Widen I-94 in Kalamazoo, MI | $14,000,000 |
| 983 | MD | Land Acquistion for Highway Mitigation in Cecil and Worcester Conties, MD | $19,500,000 |
| 984 | CA | Construct overpass on Central Ave at the railroad crossing in Newark | $750,000 |
| 985 | IL | City of Bartonville, Street widening and improvements and sidewalk improvements | $952,572 |
| 986 | OH | Construct Williamsburg, Ohio to Batavia, Ohio Hike & Bike Trail | $250,000 |
| 987 | IL | The continuation of US Route 12 from the Wisconsin state line to the intersection of Tryon Grove Road, Route 12 and Illinois State Route 31 | $3,000,000 |
| 988 | FL | US17-92 and French Ave. Roundabout, Sanford | $500,000 |
| 989 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Hanover Township, Luzerne County | $200,000 |
| 990 | MI | Reduction from 3.5 miles of travel to 1.0 miles of travel crossing over the Tittabawassee River on Meridian Road | $3,000,000 |
| 991 | ID | Widen US-95 from Top of Lewiston Hill to Moscow, Idaho | $2,000,000 |
| 992 | TX | Construct a pedestrian/bicycle trail in the Sunnyside area of Houston | $750,000 |
| 993 | TX | Construct remaining 800-foot 4-lane divided thoroughfare for Preston Rd segment between Beltway 8 and Genoa Red Bluff Rd | $1,160,000 |
| 994 | AS | Shoreline protection and drainage mitigation for Aua village roads | $1,000,000 |
| 995 | SC | Medical University of South Carolina Roadway Enhancement | $4,000,000 |
| 996 | PR | Replacement ferries on Culebra and Vieques routes | $2,000,000 |
| 997 | MI | Livonia, reconstruct Stark Rd. between Plymouth Rd. and I-96 | $1,000,000 |
| 998 | PA | PA Route 309 roadway construction and signalization improvements in Tamaqua Borough | $2,000,000 |
| 999 | MA | Union Square Roadway & Streetscape Improvements | $500,000 |
| 1000 | TX | Improvements to South McColl Road in Hidalgo County | $2,400,000 |
| 1001 | MS | Widen US Hwy 61 and improve major intersections, Natchez | $2,000,000 |
| 1002 | TX | Widen US 82 from 2-lane facility to 4-lane facility from FM 1417 in Sherman, TX to US 69 in Bells, TX | $4,000,000 |
| 1003 | TX | Widen US 79, from FM 1512 near Jewett to IH-45 to a four-lane divided highway | $2,000,000 |
| 1004 | TN | Construct shoulder and turn lane on SR 35 in Seymour, Tennessee | $1,500,000 |
| 1005 | NE | Construction of Heartland Expressway between Alliance and Minatare, NE | $7,500,000 |
| 1006 | WA | Pedestrian Sidewalk Construction in Snohomish | $175,000 |
| 1007 | TN | North Second Street Corridor Upgrade, Memphis | $2,000,000 |
| 1008 | OH | Purchase High Speed Ferries for Black River Excursion Boat Service, Lorain | $750,000 |
| 1009 | MD | MD4 at Suitland Parkway | $4,000,000 |
| 1010 | OK | Widen US 60 from approximately 2 miles east of the US 60-US 75 interchange east approximately 5.5 miles | $1,000,000 |
| 1011 | NC | Widen US 401 from Wake County to Louisburg | $3,000,000 |
| 1012 | PA | CUPSS, Pennsylvania, Urban Maglev Demonstration Test Project | $5,000,000 |
| 1013 | TX | Widen US 287 Bypass at Ennis from two to four lanes | $7,000,000 |
| 1014 | KY | Widen US 27 from KY 34 to US 150 Bypass, Garrard County and Lincoln County | $2,000,000 |
| 1015 | MN | Right of way acquisition for Mississippi River Bridge connecting I94 and US10 between US169 and TH101 | $1,000,000 |
| 1016 | WI | Rehabilitate Highway 53 between Chippewa Falls and New Auburn | $4,000,000 |
| 1017 | IL | Widen U.S. Route 67 from Macomb to Illinois 101 | $2,000,000 |
| 1018 | IL | Widen U.S. Route 51 from Pana to Vandalia | $3,000,000 |
| 1019 | IL | Widen U.S. Route 34 from U.S. 67 to Carmen Road | $4,000,000 |
| 1020 | WA | Alaskan Way Viaduct and Seawall | $14,000,000 |
| 1021 | NJ | East Coast Greenway bicycle and pedestrian path from New Brunswick to Hudson River | $1,000,000 |
| 1022 | FL | Construct bicycle and pedestrian underpass and park under I-95, Miami | $1,500,000 |
| 1023 | CA | Implement Van Nuys Road and Safety Improvements | $500,000 |
| 1024 | FL | New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, FL | $6,000,000 |
| 1025 | NY | Reconstruction of Tappan Street Bridge in Town of Newark Valley | $1,000,000 |
| 1026 | IL | Widen Rakow Road from Ackman Road to IL Rt 31 in McHenry County, Illinois | $6,400,000 |
| 1027 | IL | Widen U.S. Route 30 from Rock Falls to Round Grove, Whiteside County | $500,000 |
| 1028 | TN | Bristol, Tennessee highway-RR grade crossing improvement—Cedar Street | $50,000 |
| 1029 | IL | Perform Broadway and Sheridan Road signal interconnect project, Chicago | $1,500,000 |
| 1030 | IL | Widen U.S. Highway 30 in Whiteside County, Illinois | $1,000,000 |
| 1031 | WI | Rehabilitate existing bridge and construct new bridge on Michigan Street in Sturgeon Bay, Wisconsin | $5,000,000 |
| 1032 | ME | Replacement of the Route 201-A "covered" bridge, Norridgewock | $1,000,000 |
| 1033 | AR | Widen to four lanes, improvement, and other development to U.S. Highway 167 from LA state line north to I-530 | $5,000,000 |
| 1034 | PA | Widen the Route 412 corridor from I-76 into the City of Bethlehem | $10,000,000 |
| 1035 | HI | Construct access road for Kahului Airport | $1,000,000 |
| 1036 | IL | Improve Highway-Railroad Crossings, Galesburg | $750,000 |
| 1037 | MN | Sauk Rapids Bridge and Roadway Replacement in Sauk Rapids, MN | $6,000,000 |
| 1038 | TN | Construct Transportation and Heritage Museum in Townsend, Tennessee | $1,000,000 |
| 1039 | CA | Widen State Route 98, including storm drain developments, from Kloke Road to State Route 111, Calexico | $3,000,000 |
| 1040 | CA | Widen State Route 98 from Route 111 to State Route 7, Calexico | $5,000,000 |
| 1041 | GA | Construction of bypass around town of Hiram, from SR 92 to US 278, Paulding County, Georgia | $2,500,000 |
| 1042 | TX | Construction of the interchanges at BI20 and IH20 for JBS Parkway | $2,500,000 |
| 1043 | CA | Widen State Route 46 between Airport Road and the Shandon Rest Stop in San Luis Obispo County | $33,461,000 |
| 1044 | TN | Widen State Route 4 (US-78) from Mississippi State Line to Getwell Road (SR-176) in Memphis, Shelby County | $1,000,000 |
| 1045 | MI | Baraga County, Reconstruction of county primary road on Bayshore Drive from Haanpaa Road northerly 1.7 miles to Whirligig Road | $750,000 |
| 1046 | NY | Town of Warwick, NY walking and biking trail | $500,000 |
| 1047 | AK | Bridge over Fish Creek in Matanuska-Susitna Borough | $1,000,000 |
| 1048 | GA | GA 400 and McGinnis Ferry Road Interchange, Forsyth County, GA | $3,900,000 |
| 1049 | NY | Implement Improvements for Pedestrian Safety in Kings County | $1,000,000 |
| 1050 | NY | Reconfigure road through FDR VA Hospital to provide access to Battery Place in Town of Cortlandt | $395,000 |
| 1051 | CA | Widen State Route 262, replace two railroad overpass structures, and rebuild on and off ramps between SR 262 and Kato Rd in Fremont | $4,000,000 |
| 1052 | TN | Widen State Route 101 in Cumberland County from two lane highway to five lanes between State Routes 282 (Dunbar Road) and 392 in Crossville | $8,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| *No.* | *State* | *Project Description* | *Amount* |
|---|---|---|---|
| 1053 | FL | Widen State Road 50 in Lake County, Florida | $7,000,000 |
| 1054 | AZ | Widen SR 95 through Lake Havasu City | $2,000,000 |
| 1055 | GA | Widen SR 85 from SR 74 to County Route 126 Bernhard Road, Fayette County, Georgia | $3,000,000 |
| 1056 | CT | Construct New arterial roadway from Boston Avenue north to proposed Lake Success Business Park in Bridgeport, CT | $10,000,000 |
| 1057 | MI | M-13 Washington Avenue Streetscape Project. Phase II of High Priority Project 192 in PL 105-550. City of Saginaw | $1,500,000 |
| 1058 | TX | Improvements to FM 716 in Duval County | $1,000,000 |
| 1059 | NY | Town of Chester Surrey Meadow subdivision road improvements | $300,000 |
| 1060 | PA | Cresheim Valley Drive Revitalization project involving scenic enhancements & pedestrian safety improvements from Lincoln Drive to Navajo Street | $1,100,000 |
| 1061 | NC | Transportation Improvements at Piedmont Triad Research Park, Winston-Salem, NC | $2,000,000 |
| 1062 | MO | Upgrade and partially relocate MO Rt 141 from I-64 to Rt 340 | $2,600,000 |
| 1063 | NY | Construct Millennium Parkway in the Towns of Dunkirk and Sheridan | $10,500,000 |
| 1064 | AZ | Construct the Rio Salado Parkway to connect I-10 and Loop 202 freeways to 7th Street in downtown Phoenix | $8,000,000 |
| 1065 | TN | Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Lenoir City, TN | $104,000 |
| 1066 | NJ | Replacement of Monmouth County bridges W-7, W-8, and W-9 | $2,000,000 |
| 1067 | OK | US-54, Widen US-54 from North of Optima Northeast to Kansas State Line, Texas County, OK | $1,000,000 |
| 1068 | FL | Widen Palm Coast Parkway and I-95 interchange and overpass, Flagler County, Florida | $2,900,000 |
| 1069 | FL | Delray Beach Federal Highway pedestrian improvements SE 4th Street to NE 4th Street | $2,000,000 |
| 1070 | WI | Expand Highway 10 between Marshfield and Stevens Point | $20,000,000 |
| 1071 | NY | Install Improvements for Pedestrian Safety in the vicinity of IS 72/PS 69 | $250,000 |
| 1072 | TN | Upgrade roads for Slack Water Port facility and industrial park Lake County | $1,875,000 |
| 1073 | AK | Emergency evacuation road at Point Hope in North Slope Borough | $3,000,000 |
| 1074 | MI | Construct railroad grade separation on M-85 (Fort Street) North of Van Horn Road, Trenton | $2,000,000 |
| 1075 | IL | Land acquisition, engineering, and construction for the initial 2-lane segments of the Corridor between IL31 to IL25 and other segments of the Corridor as appropriate | $1,000,000 |
| 1076 | PA | Modernize traffic signals, complete minor roadway realignment, and improve channelization at US322 and PA10 intersection | $480,000 |
| 1077 | KS | Construction of a four-lane access controlled improvement for 4 miles on US-54/400 in Pratt County | $10,686,000 |
| 1078 | IN | Upgrade rail crossing at 93rd Avenue, St. John | $200,000 |
| 1079 | FL | Widen SR 710 by 2 lanes from Congress Avenue to US-1 | $3,000,000 |
| 1080 | GA | Widen SR 234/Gillionville Road from Eight Mile Road to Lockett Station, Dougherty County | $1,000,000 |
| 1081 | CA | Widen SR 12 to four lanes through Jamieson Canyon (between I-80 and SR 29) for safety concerns and economic growth | $5,000,000 |
| 1082 | GA | Widen SR 104 from SR 383/Belaire Road to CR 515/Cumberland Drive (including bridges) in Columbia County | $4,000,000 |
| 1083 | IN | Study Traffic on Muncie By-Pass from Centennial Avenue to McGalliard Road in the City of Muncie and Delaware County, Indiana | $120,000 |
| 1084 | FL | Construct US 17-92 improvements, Maitland, Florida | $1,500,000 |
| 1085 | CA | Widen South Main St.-Soda Bay Rd. between CR 400A (mile marker 0.0-miler marker and 0.7) and CR 502 (mile marker 0.0 and 0.9) | $3,000,000 |
| 1086 | VA | Replacement of the 635 Bridge in Orange County, VA | $500,000 |
| 1087 | TX | Construct Loop 20 in Laredo | $16,000,000 |
| 1088 | IA | Construct SE Connector/MLK Pkwy, Des Moines | $7,500,000 |
| 1089 | FL | Construction and Design of Miami River Greenway Road Improvements and 5th Street Improvements | $2,000,000 |
| 1090 | TX | Widen SH 317 from two lanes to four lane divided facility | $2,000,000 |
| 1091 | TX | Widen SH 205 from two lanes to a six lane urban divided highway from North of SH 66 to proposed SH 276 | $1,000,000 |
| 1092 | CA | Widen Santa Maria River Bridge on U.S. Highway 101 between Santa Barbara County and San Luis Obispo County | $3,400,000 |
| 1093 | CA | Widen San Fernando Road North, including streetscape projects, Sylmar | $1,060,000 |
| 1094 | PA | Central Susquehanna Valley Transportation Project US 15: $5 million for the final design | $4,100,000 |
| 1095 | NJ | Construct Rt 49 Cohansey River Bridge Replacement, Cumberland County | $3,000,000 |
| 1096 | ME | Construction and snowmobile safety accommodations for Route 116 Bridge, Medway | $4,000,000 |
| 1097 | MI | Construct pedestrian trail and bridge in Kearsley Park in Flint | $100,000 |
| 1098 | IA | Coralville, IA Implementation of final phase of Safety Improvements Project from 12th Ave to 22nd Ave | $900,000 |
| 1099 | IL | Expand and improve Illinois Route 47 Roadway from Reed Road to Kreutzer Road in Huntley, Illinois | $6,400,000 |
| 1100 | NY | Build Route 15, Pennsylvania to Presho | $10,000,000 |
| 1101 | GA | I-285 Riverside interchange reconstruction, Fulton County, Georgia | $1,500,000 |
| 1102 | MN | Construct 3 segments of Cuyuna Lakes Trails, Crow Wing County | $1,200,000 |
| 1103 | WA | Improve I-5 interchange at 134th Street in Clark County | $11,350,000 |
| 1104 | GA | Construct Pedestrian Safety Improvements on Buford Hwy (SR-13), Dekalb County | $3,000,000 |
| 1105 | DC | 11th St. Bridges, Rehabilitation of structures as well as new ramps to provide for traffic at Navy Yard, Southeast Federal Ctr., and Gateway Government Ctr | $32,000,000 |
| 1106 | MO | Improve U.S. 36 to divided four lane expressway from Macon to Route 24 | $8,000,000 |
| 1107 | VA | Mill Road Slip Ramp | $500,000 |
| 1108 | NY | Construct sidewalks and curbing on Tate Avenue in Village of Buchanan | $375,000 |
| 1109 | MI | Delta County. Widen, pulverize, improve drainage at County Rd 497 from US 2 at Nahma Junction southerly 4.75 miles to the village of Nahma | $575,000 |
| 1110 | UT | Construction of 200 North Street highway-rail graded crossing separation, Kaysville, Utah | $4,000,000 |
| 1111 | FL | Kennedy Blvd. Reconstruction, Eatonville | $2,000,000 |
| 1112 | VA | Improvements to public roadways within the campus boundaries of the Virginia Biotechnology Park, Richmond, VA | $2,000,000 |
| 1113 | VA | Install Transporation Critical Incident Mobile Data Collection Device in Charlottesville | $400,000 |
| 1114 | NY | Ithaca, Design and construct pedestrian and bicycle path | $544,000 |
| 1115 | AZ | Navajo Mountain Road on the Navajo Nation | $1,000,000 |
| 1116 | PA | Expansion of existing PA Turnpike ITS System | $4,100,000 |
| 1117 | TX | Construction of ferryboat for City of Port Aransas | $400,000 |
| 1118 | NY | Project will rehabilitate and reopen historic High Bridge, which crosses the Harlem River between Manhattan and the Bronx | $5,000,000 |
| 1119 | NJ | Route 17 Congestion Improvements and Widening, from Williams Avenue to the Garden State Parkway and Route 4 in Bergen County | $12,000,000 |
| 1120 | IN | Design and construct Tanner Creek Bridge on US50, Dearborn County Indiana | $1,240,000 |
| 1121 | NC | Environmental studies and construction of US 74 Monroe Bypass Extension | $5,000,000 |
| 1122 | OH | Construct Pedestrian Bridge from east of Dock 32 to Voinovich Park southwest corner, Cleveland | $2,140,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1123 | GA | Extension of Sugarloaf Parkway, Gwinnett County | $1,000,000 |
| 1124 | ME | Construct bicycle and pedestrian bridge over Stillwater River, Orono | $1,000,000 |
| 1125 | IL | For widening from two to four lanes, the Brookmont Boulevard Viaduct in Kankakee, IL and adjusting approach grades | $750,000 |
| 1126 | GA | I-285 SR 400 interchange reconstruction and HOV interchange, Fulton County, Georgia | $1,000,000 |
| 1127 | MN | Construct a road between Highway 332 and TH 11 including a signalized rail road crossing, Koochiching County | $300,000 |
| 1128 | MO | Hanley Road from I-64 to south of State Route 100, St. Louis County | $4,000,000 |
| 1129 | AL | Expand SR-167 from Troy, AL to Enterprise, AL | $3,000,000 |
| 1130 | MN | Construction of primary and secondary access roadways to the Duluth Air National Guard Base, City of Duluth | $4,250,000 |
| 1131 | CT | Construct high-speed rail crossing to bike and pedestrian trails—Enfield, CT | $2,300,000 |
| 1132 | TX | Expansion of Port Rd at Northbound Frontage Rd of SH146 east to intersection with Cruise Terminal Rd to 6-lane section with raised median | $7,340,000 |
| 1133 | TN | Constuct Western Bipass from Zinc Plant Road to Dotsonville Road, Montgomery County | $3,400,000 |
| 1134 | CA | Improvements to SR-67, Mapleview to Dye Road (San Diego) | $5,000,000 |
| 1135 | TN | Plan and construct a bicycle and pedestrian trail, Springfield | $250,000 |
| 1136 | TX | Expansion of Daniel McCall Dr., Lufkin, TX | $3,220,000 |
| 1137 | NY | Rehabilitate the Pines Bridge Road and Lake Avenue and Ryder Road, in Ossining, Yorktown, and New Castle | $2,765,000 |
| 1138 | CA | Construct Valley Boulevard Drainage Improvements, El Monte | $750,000 |
| 1139 | NJ | Route 82 Union County Streetscape and Intersection Improvements | $1,000,000 |
| 1140 | NY | Short Clove Road Rail Overpass, Haverstraw | $1,000,000 |
| 1141 | FL | Construct Atlantic Boulevard Improvements, Key West, Florida | $1,000,000 |
| 1142 | CA | Implement intelligent management & logistics measures to improve freight movement, Gateway Cities. | $3,000,000 |
| 1143 | WI | Expand USH 45 between CTH G and Winchester, Winnebago County, WI | $5,000,000 |
| 1144 | NY | Implement ITS system and apparatus to enhance citywide truck route system on LIE Eastbound Service Road at 74th Street to Caldwell Ave, Grand Ave from 69th Street to Flushing Ave, and Eliot Ave from 6 | $100,000 |
| 1145 | IA | Construct IA-32 Arterial from US 20 in Dubuque Co, IA to US 61 and US 151 | $19,000,000 |
| 1146 | HI | Kapolei Transportation Improvements, Island of Oahu | $1,000,000 |
| 1147 | MA | Quincy Avenue Bridge Replacement | $900,000 |
| 1148 | CA | Los Angeles Regional Diesel Emissions Reduction Program For Engine Retrofit, Gateway Cities | $500,000 |
| 1149 | IL | Reconstruct intersection of Wood Dale and Irving Park roads in DuPage County, IL | $12,300,000 |
| 1150 | GA | Social Circle bypass completion, from Stanford Road to SR 11, Social Circle | $3,000,000 |
| 1151 | GA | Streetscape Project to install sidewalks and bicycle trails, Gray | $500,000 |
| 1152 | MO | Reconstruction of the Tucker Street Bridge in the City of St. Louis | $7,000,000 |
| 1153 | PA | Bethlehem Pike improvements from Valley Green Road to South of Gordon Lane, Springfield Township | $1,000,000 |
| 1154 | GA | Construct I-75 I-575 HOV interchange, Cobb County, Georgia | $600,000 |
| 1155 | IL | Construct multi-use pedestrian path between Oakton St. and Dempster St., Skokie | $250,000 |
| 1156 | AZ | Construct link from Twin Peaks Road to I-10 and Linda Vista Blvd. including bridge over Santa Cruz River and overpass of Union Pacific Rail Road | $5,000,000 |
| 1157 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Newport Township, Luzerne County | $200,000 |
| 1158 | VA | Fries Train Station and Trail—restoration of former train station for use as visitors center and construction of trail along New River | $1,000,000 |
| 1159 | PA | Construction SR 3024, Middle Creek Bridge II, South Canaan, Wayne County | $700,000 |
| 1160 | WI | Expand USH 141 between STH 22 and STH 64 (Oconto and Marinette Counties, Wisconsin) | $2,000,000 |
| 1161 | IL | Development of a coordinated trail system, parking and trial systems in Dixon, IL | $3,200,000 |
| 1162 | PA | Installation of comprehensive signage system across 1700 acres of urban parks in Pittsburgh | $900,000 |
| 1163 | GA | Interstate 75/ Windy Hill Road Interchange | $2,000,000 |
| 1164 | NJ | Bridge replacement and SR31 widening over the Raritan Valley Line in Glen Garnder, Hampton, Hunterdon County | $1,000,000 |
| 1165 | VA | Bristol Train Station—historic preservation and rehabilitation of former Bristol, VA train station | $500,000 |
| 1166 | CO | I-25 Improvements—Douglas-Arapahoe County Line to El Paso County Line | $4,000,000 |
| 1167 | TN | Reconstruct connection with Hermitage Avenue to Cumberland River Bluff in Nashville | $500,000 |
| 1168 | IL | For Village of Lemont to construct a bridge over Chicago Ship and Sanitary Canal linking Centennial Trail to I&M Canal Trail | $100,000 |
| 1169 | OH | Construct roadway improvement along State Route 62 in Berlin | $100,000 |
| 1170 | NY | Reconstruction and improvements of University Avenue and the extension of the ARTWalk project, Rochester | $2,000,000 |
| 1171 | NH | Reconstruction and Improvements to NH Route 110 in Berlin | $2,000,000 |
| 1172 | PA | Route 6 Resurfacing from Mansfield Borough in Richmond Township to the Village of Mainesburg in Sullivan Township | $1,000,000 |
| 1173 | WA | SR 167—Right of way acquisition for a new freeway connecting SR 509 to SR 161 | $2,500,000 |
| 1174 | MD | I-70: Frederick | $3,000,000 |
| 1175 | NY | Planning and Construction of Fort Drum Connector Rd | $6,000,000 |
| 1176 | CA | Study and construct highway alternatives between Orange and Riverside Counties, directed by RCTC, working with local transp. authorities, and guided by the current MIS | $10,000,000 |
| 1177 | CA | Fresno County, CA Widen Friant Road to four lanes with class II bicycle lanes | $1,500,000 |
| 1178 | MO | Study for Highway 160 & Kansas Expressway Corridor | $2,000,000 |
| 1179 | FL | Construct Route 9B from US 1 to Route 9A (I-295) to the Duval County line | $5,000,000 |
| 1180 | PA | Design, const. widening of PA 94 from York-Adams County line to Elm Street in Hanover, PA | $3,000,000 |
| 1181 | CA | Improvement of intersection at Burbank Blvd. and Woodley Ave | $160,000 |
| 1182 | NY | I-81 Corridor Improvements in Syracuse, NY | $2,000,000 |
| 1183 | WA | Perform final interchange design and property acqusition at Fleshman Way where it crosses SR 129, that enhances safety and passenger and freight mobility and reduces congestion | $1,050,000 |
| 1184 | WA | Roosevelt Extension at Urban Avenue to Cameron Way in Mount Vernon | $4,000,000 |
| 1185 | NJ | Hazel Street reconstruction, Passaic County | $2,250,000 |
| 1186 | FL | Improvements to Eller Drive including right-of-way acquisition and construction of return loop connector | $1,000,000 |
| 1187 | MO | Study Highway 37-60 Entire Corridor | $2,500,000 |
| 1188 | TX | The District-Tyler Outer Loop 49 Construction | $5,880,000 |
| 1189 | PA | Tidal Schuylkill Riverfront project consists of an eight mile bike and pedestrian recreation trail from Locust Street to Historic Bartram's Gardens | $1,680,000 |
| 1190 | NY | Town of Fishkill reconstruct Maple Ave | $24,500 |
| 1191 | IL | For IDOT to expedite pre-construction and construction to widen I-55 from Naperville Road south to I-80 | $3,500,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1192 | UT | 200 East Minor Arterial, Logan City, Utah | $900,000 |
| 1193 | NJ | Construct I-287, I-80, Route 202 Interchange | $1,000,000 |
| 1194 | NY | Design and construction of Fulton Street from Clinton Avenue to Bedford Avenue in Brooklyn, New York | $5,600,000 |
| 1195 | TX | Port of Corpus Christi Joe Fulton International Trade Corridor for congestion and safety enhancements | $500,000 |
| 1196 | MO | Renovations and Enhancements on the Bicycle Pedestrian Facility on the Old Chain of Rocks Bridge spanning the Mississippi River | $800,000 |
| 1197 | CT | Construct Shoreline Transportation Enhancement Projects, Guilford, Branford, East Haven | $2,000,000 |
| 1198 | NJ | Highway Improvements in Liberty Corridor | $5,000,000 |
| 1199 | OH | Construct SR 104 into a 4 lane facility with a turning lane in Ross County | $6,000,000 |
| 1200 | MO | Construct 2 lanes on Hwy 45 from Hwy 9 to Graden Road in Platte County | $3,000,000 |
| 1201 | MS | Plan and Construct Highway 45 Bypass in Columbus | $4,000,000 |
| 1202 | PA | Reconstruct hwy & replace of bridge on US 422 between the Berks County Line and the Schuylkill River in Montgomery and Chester Counties | $1,500,000 |
| 1203 | FL | Construct SR 20 connection to SR 100 via CR 309-C, Putnam County, Florida | $4,300,000 |
| 1204 | OH | Road and related pedestrian improvements at SR 283 in the Village of Grand River, OH | $100,000 |
| 1205 | NY | Road infrastructure projects to improve commercial access in the Towns of Malta and Stillwater and the Village of Round Lake, Saratoga County, New York | $8,150,000 |
| 1206 | NY | Replace structurally deficient bridge over the Pocantico River, the Village of Pleasantville | $1,000,000 |
| 1207 | IL | Complete Heavy Truck Loop for DuQuoin Industrial Park | $625,000 |
| 1208 | MD | Construction and dualization of US 113 | $15,000,000 |
| 1209 | GA | Streetscape-Quitman | $200,000 |
| 1210 | NY | Town of New Windsor Toleman & Station Roads Reconstruction and area Improvements | $715,000 |
| 1211 | IL | Turning lanes to US Rt. 14 (Northwest Highway) at the Arthur Ave Union Pacific Grade in Arlington Heights | $700,000 |
| 1212 | WA | Design and construct pedestrian land bridge spanning SR14 | $1,354,000 |
| 1213 | MI | Construction of Greenways in Pittsfield Charter Township—2.5 miles to existing Ann Arbor Greenways, Pittsfield Charter Township | $299,000 |
| 1214 | CA | Golden Gate National Parks Conservancy—Plan and Implement Trails & Bikeways Plan for the Golden Gate National Recreation Area and Presidio | $5,200,000 |
| 1215 | NY | State of NY Village of Kiryas Joel sidewalk project | $750,000 |
| 1216 | OH | Tuscarawas Township, Stark County, Ohio. Improvements to Alabama Ave | $800,000 |
| 1217 | NE | Resurfacing of Bellevue Bridge, City of Bellevue, Nebraska | $500,000 |
| 1218 | CA | Upgrade and reconstruct I-580/ Vasco Road Interchange, City of Livermore | $2,500,000 |
| 1219 | TX | Build Bike Trail at Chacon Creek in Laredo | $3,300,000 |
| 1220 | UT | 3200 South Project, Nibley, Utah | $1,000,000 |
| 1221 | NJ | Expand Route 440—State Street Interchange in Perth Amboy | $5,000,000 |
| 1222 | GA | Improvement and construction of SR 40 from east of St. Marys cutoff at mile post 5.0, Charlton County to County Route 61, Camden County, Georgia | $2,000,000 |
| 1223 | PA | Erie, PA Regional upgrades to urban-rural corridors | $800,000 |
| 1224 | GA | Georgia Construct Three Greenway Trail Project, Dekalb County | $2,000,000 |
| 1225 | FL | Croos Creek Boulevard Widening | $1,000,000 |
| 1226 | MD | Implement Intelligent Transportation System in Baltimore | $500,000 |
| 1227 | OH | Construct an access road into the industrial park near SR 209 and CR 345 in Guernsey County | $800,000 |
| 1228 | CA | Improve the Rosecrans Ave and Alondra Blvd bridges over the San Gabriel River in Bellflower | $50,000 |
| 1229 | PA | Independence National Historic Park scenic enhancement and pedestrian walkways improvement project in conjunction with the park's Executive Mansion Exhibit | $4,500,000 |
| 1230 | CA | Modesto, Riverbank & Oakdale, CA Improve SR219 to 4-lanes | $2,000,000 |
| 1231 | ME | Modifications to Exit 7/I-295 and to Franklin Arterial, Portland | $3,380,000 |
| 1232 | KY | Replace Bridge and Approaches on Searcy School Road over Beaver Creek, Anderson County | $875,000 |
| 1233 | NJ | Route 22 Sustainable Corridor Plan | $5,750,000 |
| 1234 | NY | Conduct studies, if necessary, and construct the High Line Trail Project, New York City | $5,000,000 |
| 1235 | WA | Install dual left turn lanes and intersection signal modifications at SR432 and Columbia Blvd | $1,750,000 |
| 1236 | OK | Transportaion enhancements for Highway 19 from Ada to Stratford | $3,000,000 |
| 1237 | CA | Interstate 15-Base Line Road Interchange Project, Rancho Cucamonga, California | $5,000,000 |
| 1238 | SC | Build Interchange at US 17 and Bowman Road in Mount Pleasant, SC | $6,000,000 |
| 1239 | CA | Complete Monterey Bay Sanctuary Scenic Trail between Monterey and Santa Cruz counties | $6,000,000 |
| 1240 | NY | Improve Hospital Road Bridge between CR99 and CR101, Patchogue | $6,000,000 |
| 1241 | NV | Construct Martin Luther King Blvd.—Industrial Rd. Connector | $6,000,000 |
| 1242 | MI | I-96 Beck, Wixom Road Interchange, design, ROW, and construction | $1,000,000 |
| 1243 | IA | Muscatine, IA Construction of 4.2 mile multi-purpose trail from Musser Park to Weggens Road | $500,000 |
| 1244 | GA | Historic preservation of a city bus station in downtown Eastman | $134,917 |
| 1245 | TX | Construction of internal roads at Port of Brownsville to make roads safer with less wear and tear | $1,000,000 |
| 1246 | NY | NYSDOT Route 55 turning lane at Gardner Hollow Road | $400,000 |
| 1247 | TN | Plan and construct a bicycle and pedestrian trail, Lewisburg | $100,000 |
| 1248 | TX | Reconstruct Danieldale Rd from I-35E to Houston School Rd in Lancaster | $2,000,000 |
| 1249 | CT | Relocation of Edmond Road in Newtown and construction of additional turning lanes at Rte 6 and Commerce and Edmond Rds | $600,000 |
| 1250 | OH | Construction of Interchange at State Route 8 and Seasons Road, Stow, OH | $3,000,000 |
| 1251 | NJ | North Avenue-Route 1 Elizabeth Pedestrian and Bicycle Project | $75,000 |
| 1252 | AL | Pedestrian Improvements for Morris, AL | $100,000 |
| 1253 | NY | Preliminary design and environmental impact study for a collector-distributor road along I-95 from Westchester Ave. to Bartow Ave | $7,360,000 |
| 1254 | NJ | Replacement of Signals at the Intersections of Centennial Ave @ Lincoln Ave and Walnut Ave @ Lincoln Ave, Cranford, NJ | $490,000 |
| 1255 | KS | Replacement or rehabilitation of the Amelia Earhart US-59 Bridge in Atchison County, Kansas | $2,000,000 |
| 1256 | CA | San Diego, CA Interstate 15 Managed Lanes | $1,000,000 |
| 1257 | CA | Central Galt & State Route 99 Interchange and Access Improvements | $3,000,000 |
| 1258 | OH | Springfield, OH Relocation of North Street | $2,500,000 |
| 1259 | KY | Reconstruct KY 89 from Irvine Bypass to 2000 Feet North of Estill County High School, Estill County | $750,000 |
| 1260 | NY | Town of East Fishkill new construction Bypass road | $800,000 |
| 1261 | CA | Establish new grade separation at Sunset Ave in Banning | $2,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1262 | CT | Construct and Widen Stamford Rail Underpass & Road Realignment Project | $1,000,000 |
| 1263 | TN | Hamblen County, Tennessee US11E (SR34) interchange improvements | $1,000,000 |
| 1264 | IL | Implement ITS and congestion Mitigation Project on I-294 and I-90 | $4,000,000 |
| 1265 | AZ | Bridge at 59Th Ave and Glendale Ave | $2,000,000 |
| 1266 | TX | Hike and bike trail will tie into the Gellhorn Dr. project providing an improved multi-modal transportation facility | $1,000,000 |
| 1267 | OH | Jackson Township, Ohio—Hill and Dales Road widening | $2,000,000 |
| 1268 | SC | Build 701 Connector (Southern Conway Bypass) in SC | $5,000,000 |
| 1269 | MN | Reconstruct I-694 White Bear Avenue (CSAH 65) Interchange in White Bear Lake | $500,000 |
| 1270 | WI | Replace 17th Street Lift Bridge, Two Rivers, Wisconsin | $6,000,000 |
| 1271 | MA | Route 116 and Bay Road Intersection Improvements—Amherst | $4,000,000 |
| 1272 | IL | Streetscape improvements on Blue Island from 19th—21st St, Chicago | $1,000,000 |
| 1273 | TN | Construct and improves intersections in Niota, Tennessee | $100,000 |
| 1274 | CA | Upgrade Bellflower intersections at Alondra Blvd and at Rosecrans Ave in Bellflower | $350,000 |
| 1275 | NJ | Construct Riverbank Park Bike Trail, Kearny | $2,500,000 |
| 1276 | NC | Install ITS on US 52 in Forsyth County | $400,000 |
| 1277 | MD | Construction and dualization of MD 404 in Queen Anne, Talbot and Caroline Counties | $7,000,000 |
| 1278 | NY | Dutchess County, NY Replace County Bridge BIN 3358440 on DeGarmo Road CR43, Town of Poughkeepsie | $250,000 |
| 1279 | IL | Upgrade connector road from IL Rt I-255 to IL Rt 3, Sauget | $2,400,000 |
| 1280 | NJ | Reconstruction of Route 46/Route 3/Valley Rd/Notch Rd Interchange | $12,000,000 |
| 1281 | MS | Upgrade roads in Attala County District 4 (Roads 4211 and 4204), Kosciusko, Ward 3 (U.S. Hwy 16), and Ethel (U.S. Hwy 12), Attala County | $1,000,000 |
| 1282 | TX | Construction of streets in the White Heather area of Houston | $9,250,000 |
| 1283 | MS | Upgrade roads in Canton (U.S. Hwy 51, 22, 16 and I-55), Madison County | $400,000 |
| 1284 | IA | Reconstruction of the Neal Smith Trail, bicycle and pedestrian, Polk Co | $1,000,000 |
| 1285 | CA | Rehabilitate pavement on Azusa Avenue and San Gabriel Avenue in Azusa | $500,000 |
| 1286 | CA | South Bay Cities COG Coastal Corridor Transportation Initiative, Phase 3, El Segundo | $2,000,000 |
| 1287 | MS | Upgrade roads in Terry, Edwards, Utica and Bolton, Hinds County | $1,250,000 |
| 1288 | FL | US 1 six laning from St. Lucie County line to south of 4th St in Indian River County, FL | $1,000,000 |
| 1289 | MD | Expand Route 29 in Howard County | $5,000,000 |
| 1290 | WA | Issaquah SE Bypass | $5,000,000 |
| 1291 | NY | Town of Patterson Couch Road project | $75,000 |
| 1292 | MD | US 220 MD 53 North South Corridor | $1,000,000 |
| 1293 | NJ | Improvements to Clove Road and Long Hill Road in Little Falls and Upper Mountain Ave. in Montclair | $2,750,000 |
| 1294 | HI | Study of East Hawaii Alternative Road, Island of Hawaii | $200,000 |
| 1295 | FL | Town of Southwest Ranches Urban Interchange | $2,000,000 |
| 1296 | CA | Long Beach Intelligent Transportation System: Integrate functioning traffic management center that includes the port, transit, airport as well as the city's police and fire departments, Long Beach | $2,000,000 |
| 1297 | CA | Almaden Expressway Improvements between Branham Lane and Blossom Road, San Jose | $3,500,000 |
| 1298 | AR | Construct and rehabilitate University of Arkansas Technology Corridor Enhancement Project | $1,200,000 |
| 1299 | CO | US 550, New Mexico State Line to Durango | $6,000,000 |
| 1300 | TX | Construct bicycle and pedestrian trails in Houston's historic Third Ward | $750,000 |
| 1301 | NY | Village of Cold Spring Main St. sidewalk and lighting improvements | $250,000 |
| 1302 | NY | Village of Goshen Hatfield Lane reconstruction | $250,000 |
| 1303 | SC | Plan and build Interstate 73 from NC line to Myrtle Beach, SC | $10,000,000 |
| 1304 | TX | IH-35E Bridge Reconstruction over Lake Lewisville | $1,000,000 |
| 1305 | FL | Construct College Road Improvements, Key West, Florida | $500,000 |
| 1306 | NY | West Harlem Waterfront-ferry, intermodal and street improvements | $14,000,000 |
| 1307 | CA | Construct sound barriers at the I-805/S.R. 54 Interchange, National City | $850,000 |
| 1308 | NY | Road projects that develop Access to Port Byron and Erie Canal | $1,250,000 |
| 1309 | FL | West Palm Beach, Florida, Flagler Drive Reconfiguration | $1,000,000 |
| 1310 | AL | Construct extension of I-565 westward fromexisting interchange to existing Tennessee River bridges at Decatur, AL | $5,000,000 |
| 1311 | CT | Construct Farmington Canal Greenway enhancements, New Haven and Hamden | $2,500,000 |
| 1312 | GA | Replace sidewalks, upgrade lighting, and install landscaping, Helena | $400,000 |
| 1313 | IA | Upgrade US 30 Liberty Square in City of Clinton, Iowa | $9,500,000 |
| 1314 | HI | Study of Waianae Coast Emergency Access Road | $500,000 |
| 1315 | NY | Westchester County, NY Rehabilitation of Lexington Ave, Mt. Kisco | $500,000 |
| 1316 | CA | Widen and Improve County Line Road in Calimesa | $2,000,000 |
| 1317 | OH | Construct turn lane, install traffic light, and reorient traffic on SR 146 near Bussemer Lane in Muskingum County | $600,000 |
| 1318 | RI | Restore and Expand Maritime Heritage site in Bristol | $1,000,000 |
| 1319 | OH | City of Green, Ohio. Lauby Road exit improvements | $1,500,000 |
| 1320 | NY | Construct Bicycle Path in Town of Bedford | $500,000 |
| 1321 | CA | Compton Arterial Reconstruction and Improvement Program, Compton | $4,000,000 |
| 1322 | MT | Construction of S. 323 from Alzada to Ekalaka in Carter County | $12,000,000 |
| 1323 | IL | Improve Great River Road, Mercer County | $500,000 |
| 1324 | FL | Normandy Blvd. & Cassat Ave. Transportation Enhancements, Jacksonville | $500,000 |
| 1325 | OH | North Canton, OH Applegrove St. road widening | $3,000,000 |
| 1326 | MA | Design & Build Cape Cod Bike Trail, with Shining Sea Bikeway, to link core with outer Cape communities & heavily visited national sites | $4,000,000 |
| 1327 | TN | Plan and construct N. Tennessee Boulevard enhancements | $500,000 |
| 1328 | NJ | Quinn Road realignment, Clifton | $3,000,000 |
| 1329 | MO | Reconstruct Interstate 44 and Highway 65 Interchange | $16,300,000 |
| 1330 | MN | Reconstruct TH61 from Beaver Bay to Silver Bay. Construction of Gitchi-Gami Spur Trail between main trail and Silver Bay Marina along TH61 roadway segment | $6,800,000 |
| 1331 | KY | Reconstruction of KY259 in Edmonson County from Green River Bridge at Brownsville to Kyrock Elementary School | $1,000,000 |
| 1332 | LA | Construction of a merge lane at the intersection of I-10 and US 190 | $500,000 |
| 1333 | AL | Expand SR-210 (Ross Clark Circle) from US231 North to US231 South in Dothan, AL | $3,000,000 |
| 1334 | MD | Construct interchange at MD Route 355 at Montrose and Randolph Roads in Montgomery County | $2,000,000 |
| 1335 | CA | Construct new interchange and related road improvements on US101 near Airport Blvd, Salinas | $3,670,000 |
| 1336 | PA | COnstruct the French Creek Parkway in Phoenixville, PA | $5,000,000 |
| 1337 | MN | Capacity and safety improvements to TH 8, west of 306th St. to eastern city limits, Lindstrom | $7,200,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1338 | VA | Eastern Seaboard Intermodal Transportation Applications Center (ESITAC) in Hampton Roads | $1,500,000 |
| 1339 | IL | Construct underpass at intersection of Damen/Fullerton/Elston Avenues, Chicago | $5,500,000 |
| 1340 | AR | Highway 165: Railroad Overpass | $2,000,000 |
| 1341 | FL | Implement Snake Road (BIA Route 1281) Widening and Improvements | $1,000,000 |
| 1342 | CA | Construction of freeway between I-15 and US-395 | $5,000,000 |
| 1343 | OH | Lake Township, Ohio. Market Avenue-Lake Center intersections improvement | $2,200,000 |
| 1344 | CT | Construct Quinnipiac Linear Trail, Wallingford | $1,000,000 |
| 1345 | MI | Construction of a hike and bike path from Riverbends Park, 22 Mile Road, to Stony Creek Park, 25 Mile Road in Shelby Township | $500,000 |
| 1346 | IN | Reconstruct Boston Street, from State Road 2 to Bach St., Larson-Whirlpool St. in LaPorte, Indiana | $500,000 |
| 1347 | OR | Improvements to Bandon-Charleston State Scenic Tour on Randolph Road and North Bank Lane | $4,200,000 |
| 1348 | VA | Conduct study of Route 460 Corridor, Virginia | $2,000,000 |
| 1349 | NJ | Construct Sparta Stanhope Road Bridge (AKA Bridge K-07) | $1,000,000 |
| 1350 | KY | Reconstruct Turkeyfoot Road, Kenton County, Kentucky | $3,000,000 |
| 1351 | OH | Construct additional lane to alleviate traffic congestion on US 40 in and adjacent to St. Clairsville | $800,000 |
| 1352 | CO | CO 56th Avenue & Quebec Street Improvements Phase I, Denver | $6,500,000 |
| 1353 | OH | Construct Truck Bypass—Orville, Ohio | $6,004,400 |
| 1354 | PA | Conversion of Penn and Park Bridges located over Spring Run in Altoona, Pa into pedestrian bridges | $50,000 |
| 1355 | CA | Coyote Creek Trail Project—Story Road to Montague Expressway | $2,500,000 |
| 1356 | PA | Construct Cameron Street Bridge Northumberland County, Pennsylvania | $1,000,000 |
| 1357 | OH | Construct upgrade of SR 16 to 4 lanes from SR 60 to SR 16 in Coschocton County | $3,000,000 |
| 1358 | OH | Medina, Ohio. Guilford Avenue urban road collector pavement reconstruction | $1,960,000 |
| 1359 | TN | Improvements to I-40 interchange at I-240 East of Memphis (Phase II) | $3,000,000 |
| 1360 | WY | Casper Bypass: Reconstruct Old Yellowstone Hwy and 2nd St | $5,000,000 |
| 1361 | NY | Construct sidewalks and roadway improvements on Oscawana Lake Road in the Town of Putnam Valley | $600,000 |
| 1362 | LA | Engineering and right of way acquisition for I-49 Corridor | $10,000,000 |
| 1363 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Edwardsville Borough, Luzerne County | $200,000 |
| 1364 | IL | Foster Avenue at Kedzie Avenue Streetscape | $2,000,000 |
| 1365 | WV | Construct I-73/74 High Priority Corridor, Mercer Co | $11,200,000 |
| 1366 | NY | Improve Long and Short Beach Road, Southampton | $2,100,000 |
| 1367 | CA | Modify I-880 & Stevens Creek Boulevard Interchange to ease traffic congestion in San Jose | $12,000,000 |
| 1368 | NY | Improve road and streetscape along Prospect Avenue in North Hempstead | $1,000,000 |
| 1369 | CA | Palm Drive & Interstate 10 interchange project | $2,750,000 |
| 1370 | MN | Reconstruct TH 36 from expressway to freeway in North St. Paul | $6,000,000 |
| 1371 | CA | Construct I-580 Interchange Improvements in Castro Valley | $1,200,000 |
| 1372 | AL | Expand US331 from Luverne, AL to Montgomery, AL | $3,000,000 |
| 1373 | TX | Construction of highway medians, pedestrian walkways for City of South Padre Island | $500,000 |
| 1374 | NY | Construct Rt. 12 intersection between Pamela Drive-River Road-Located in the Town of Chenango | $2,400,000 |
| 1375 | IL | Construct Streetscape Project, Village of Robbins | $800,000 |
| 1376 | GA | Effingham Parkway to Connect SR119 to SR30 | $3,000,000 |
| 1377 | MD | Construct Phase 2 of the Jones Falls Trail from Baltimore Penn Station to the Maryland Science Center on the Inner Harbor | $4,000,000 |
| 1378 | IL | For Will County for engineering and right-of-way acquisition to extend 95th Street from Plainfield-Naperville Road east to Boughton Road | $500,000 |
| 1379 | PA | Construct Valley Business Park Access Road C, Bradford County | $2,700,000 |
| 1380 | LA | Improve by widening, realigning, & resurfacing 3.2 miles of LA Hwy 820 btwn LA Hwy 145 & LA Hwy 821 | $2,000,000 |
| 1381 | IN | 45th Street Improvements, Munster | $500,000 |
| 1382 | NY | Install Improvements for Pedestrian Safety in the vicinity of PS 124 | $250,000 |
| 1383 | VT | Construction and engineering for the Vermont Smugglers Notch Scenic Highway Corridor Southern Gateway and Notch Proper Facilities | $1,085,514 |
| 1384 | OH | Planning and construction of a network of recreational trails in Perry Township | $950,000 |
| 1385 | GA | Construction of the Truman Linear Park Trail-Phase II | $1,260,000 |
| 1386 | NJ | Pedestrian and bicycle facilities, and street lighting in Haddon Heights/Barrington | $750,000 |
| 1387 | CA | Reconstruct interchange at I-10 and Riverside Avenue to improve traffic in Rialto | $2,000,000 |
| 1388 | CA | Reconstruct Bloomfield Av. with medians from Carson St. to north city limits in Hawaiian Gardens | $400,000 |
| 1389 | SC | Extension of Wells Highway, Oconee County, South Carolina | $2,000,000 |
| 1390 | CA | Reconstruct Paramount Bl. with medians and improve drainage from Artesia Bl. to Candlewood St. in Long Beach | $600,000 |
| 1391 | IL | Reconstruction of 5th Street Road (FAS 569)in Logan County, IL | $952,570 |
| 1392 | WA | Reconstruction of SR99 (Aurora Ave N) between N 145th St and N 205th St | $2,000,000 |
| 1393 | NY | Page Green—Phase III—Reconstruction of 2.6 miles. Town of Virgil, Cortland County | $3,600,000 |
| 1394 | MI | Gogebic County, Reconstruct Lake Road in Ironwood from Margaret Street to Airport Road | $805,000 |
| 1395 | GU | Piti, GU Construct Cabras Island Intermodal Facility | $6,000,000 |
| 1396 | IN | Redevelop and Complete the Cardinal Greenway and Starr-Gennett Area in the City of Richmond, Indiana | $3,000,000 |
| 1397 | NY | Rehabilitate and redesign Erie Canal Museum in Syracuse, NY through the Erie Canalway National Heritage Corridor Commission | $400,000 |
| 1398 | OH | Construction of 6.25 mile bicycle project in Mahoning County | $500,000 |
| 1399 | NM | I-40/Munoz Reconstruction in the City of Gallup | $1,500,000 |
| 1400 | TX | Rehabilitate Yale Street between IH10 to IH610 | $1,000,000 |
| 1401 | CA | Reconstruct Long Beach Bl. with medians and improve drainage from Palm Av. to Tweedy Bl. in Lynwood | $3,000,000 |
| 1402 | CA | Expand carsharing pilot program to serve low- and moderate-income neighborhoods in the City and County of San Francisco | $2,000,000 |
| 1403 | FL | Implement Kennedy Boulevard corridor improvements to improve safety in Tampa | $2,500,000 |
| 1404 | MD | Construct Broadneck Peninsula Trail, Anne Arundel County, Maryland | $1,500,000 |
| 1405 | MO | Relocation and reconstruction of Rt MM from Rt 21 to Rt 30 | $15,680,000 |
| 1406 | MN | Replace three at-grade highway-railroad crossings with grade-separated crossings adjacent to Winona State University | $2,000,000 |
| 1407 | CA | Construct Traffic flow improvements Vincent and Lakes Drive, West Covina | $750,000 |
| 1408 | CA | Construction of an interchange located at the intersection of future State Route 65 and Ferrari Ranch Road-Westwood in Placer County | $3,000,000 |
| 1409 | KS | Construct highway-rail grade separation from Douglas Avenue to 17th Street North in Wichita, KS | $14,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1410 | OH | Conduct Phase II of U.S. Route 68 bypass project in Urbana | $2,300,000 |
| 1411 | GA | Construct sidewalks and install landscaping, Vienna | $500,000 |
| 1412 | TX | Extension of FM 1427 in Penitas | $700,000 |
| 1413 | MD | MD 124, Woodfield Road, from Midcounty Highway to Warfield Road | $2,000,000 |
| 1414 | CA | Rio Vista Bridge Realignment Study & Street Sign Safety Program | $700,000 |
| 1415 | CO | SH 121—Bowles Ave Intersection and Roadway Improvements, Jefferson County Colorado | $2,000,000 |
| 1416 | NY | Implement Improvements for Pedestrian Safety in Queens County | $1,000,000 |
| 1417 | NY | Repair and improve Jericho Turnpike (NYS HWY 25) and construct streetscapes along the Turnpike in New Hyde Park | $2,000,000 |
| 1418 | GA | SR 316/SR 20 interchange construction Gwinnett, County | $500,000 |
| 1419 | IL | Construct Pedestrian walkways and streetscaping projects in the Village of Western Springs | $4,210,000 |
| 1420 | WA | SR 518 corridor—Improvements to SR 518-509 interchange and addition of eastbound travel lane on a portion of the corridor | $1,000,000 |
| 1421 | CA | Development and construction of improvements to State Route 79 in the San Jacinto Valley | $3,000,000 |
| 1422 | MN | Construct roadway improvements on the Great River Road on CSAH 10 and CSAH 21, Aitkin County | $6,960,000 |
| 1423 | WA | Conduct preliminary engineering and EIS for Columbia River Crossing in WA and OR | $10,000,000 |
| 1424 | NC | Greensboro Signal System Replacement ITS Enhancement Project | $12,500,000 |
| 1425 | MN | Reconstruction of 1 mile of CR 107 from CSAH 2 to Highway 11 and 71, Koochiching County | $500,000 |
| 1426 | OH | Plain Township, Ohio. Market Avenue widening | $5,000,000 |
| 1427 | LA | Construct right of way improvements from Third St. at James St. to LA. Hwy. One at Broadway St. Acquire property at Third St. and Winn St | $2,000,000 |
| 1428 | PA | State Street Bridge Rehabilitation, Hamburg | $1,500,000 |
| 1429 | OH | Construct Flats East Bulkhead and Riverwalk: construct bulkhead and riverwalk connecting Front and Maine Ave | $4,150,000 |
| 1430 | NY | Construct/reconstruct Lincoln Road: Commercial Street to Route 31F in the Town-Village of East Rochester | $900,000 |
| 1431 | OH | Acquire land and construct Portage Bike and Hike Trail, Portage Co | $1,000,000 |
| 1432 | NC | Continued development of Cary, NC pedestrian bike paths | $1,500,000 |
| 1433 | TX | Cottonflat Road overpass at Interstate 20 | $1,500,000 |
| 1434 | NY | Improve Rt. 17M access, safety and traffic management | $750,000 |
| 1435 | OH | Safety improvements to Paris Avenue intersections and Meese Rd. and Easton St.—Nimishillen Township, Ohio | $1,500,000 |
| 1436 | CA | Alameda Corridor-East Construction Authority, San Gabriel Valley | $300,000 |
| 1437 | WA | Construct a tunnel as part of the Bremerton Pedestrian-Bremerton Transportation Center Access Improvement project | $21,000,000 |
| 1438 | NC | Expand Derita Road | $2,000,000 |
| 1439 | NJ | Hoboken Observer Highway Operational and Safety Improvements | $2,500,000 |
| 1440 | CA | Reconfigure San Fernando Road from Fletcher Drive to I-5-Fwy, Los Angeles | $7,000,000 |
| 1441 | NY | Construction of an access road, drainage improvements, and aesthetic enhancements adjacent to Ocean Parkway in the Town of Babylon, NY | $2,430,000 |
| 1442 | TX | Construct highway improvements on E. Tidwell, Ley Rd, and E. Little York Rd | $2,800,000 |
| 1443 | AZ | Construct pedestrian and bicycle overpass at McDowell Road & 35th Avenue in Phoenix | $3,000,000 |
| 1444 | TX | Reconstruct I-30 Trinity River Bridge, Dallas | $20,000,000 |
| 1445 | PA | Armstrong and Indiana County, Pennsylvania, U.S. 422 Improvements | $2,000,000 |
| 1446 | TX | Bicycle and Pedestrian Trail Network in East Austin | $9,600,000 |
| 1447 | NV | Construct I-15 Cactus Avenue | $10,000,000 |
| 1448 | AL | I-65 Widening from U.S. 31 in Alabaster (Exit 238) to AL 25 in Calera (Exit 228) | $8,000,000 |
| 1449 | NY | Improve Route 4 Streetscape and replace waterlines, Town and Village of Fort Edward, Washington County | $4,350,000 |
| 1450 | OH | Planning and construction on bike paths and trails as part of Phases III-VI in Ashtabula Metroparks Western Reserve Greenway | $1,000,000 |
| 1451 | CO | Construction of Powers Boulevard and Woodman Road interchange, Colorado Springs | $8,000,000 |
| 1452 | MN | Environmental review for TH8 upgrade, Forest Lake to Chisago City | $600,000 |
| 1453 | MD | Construct Pedestrian Bridge and Garage at Coppin State University in Baltimore | $2,100,000 |
| 1454 | MD | Historic Preservation and Traffic Improvements along Liberty Heights Ave. and in Druid Hill Park in Baltimore | $1,800,000 |
| 1455 | NC | I-85 in Vance County | $1,000,000 |
| 1456 | PA | Design and construct interchange and related improvements at I 83 Exit 19 | $6,000,000 |
| 1457 | IL | Preconstruction and Construction at IL 31 from Bull Valley Road to IL 176 | $2,420,000 |
| 1458 | MS | Replace Popps Ferry Road Bridge, Biloxi | $4,000,000 |
| 1459 | IL | Reconstruct Lakeshore Drive Overpass over Wilson avenue, Chicago | $1,500,000 |
| 1460 | AL | Pedestrian Improvements for Moody, AL | $100,000 |
| 1461 | MA | Design and construct Canal and Union Street Corridor improvements, Lawrence | $800,000 |
| 1462 | OH | Construct new two lane road to Sycamore Street in Gallia County | $1,250,000 |
| 1463 | AL | Construct interchange on Interstate 85 at Beehive Road in Auburn, AL | $500,000 |
| 1464 | ME | Improvements to the Interconnecting Trail System for bike/pedestrian trails near Baxter State Park | $500,000 |
| 1465 | TX | ROW acquisition for 87 Relief Route | $1,500,000 |
| 1466 | WA | Restore and construct historic Naches Depot and Trail project | $500,000 |
| 1467 | GA | S.R. 20 widening from I-575 to S.R. 369, Cherokee County | $1,000,000 |
| 1468 | IL | Road Construction and reconstruction in the Village of Hampshire: Keyes Ave., Industrial Drive Overlay, and Mill Avenue | $2,300,000 |
| 1469 | IL | Conduct study and design of Chicago North lakefront path expansion project | $1,000,000 |
| 1470 | MS | I-59 interchange at US 84 and SR 15, Laurel | $2,000,000 |
| 1471 | TX | Improvements to IH-35E from US 77 North of Waxahachie to US 77 South of Waxahachie | $3,000,000 |
| 1472 | MO | Scudder Road and I-170 Interchange Improvements, St. Louis County | $2,000,000 |
| 1473 | GA | Construct and Improve Cobb County Trails | $1,500,000 |
| 1474 | MS | Extend SR 590 from US 11 to SR 29 near Ellisville | $3,500,000 |
| 1475 | IN | Improve Intersection at Jackson Street and Morrison Road in the City of Muncie, Delaware County, Indiana | $560,000 |
| 1476 | CO | Construction of McCaslin Boulevard US 36 Interchange in Superior | $1,000,000 |
| 1477 | MA | Route 128 Improvements—Route 114 in Peabody to Route 62 in Danvers | $2,000,000 |
| 1478 | TX | Lubbock, Texas Construction for Marsha Sharp Freeway main lanes between Chicago and Salem Avenues | $5,600,000 |
| 1479 | NH | South Road Mitigation in Londonderry | $1,000,000 |
| 1480 | NY | Paul Road—Fisher Road Improvements, Town of Chili, Monroe County | $4,000,000 |
| 1481 | CA | Construct truck lane on Keystone Road from State Route 111 to Austin Road, Imperial County | $2,500,000 |
| 1482 | MS | Construct East Metropolitan Corridor linking I-20 at Brandon to Hwy 25 at Flowood | $5,000,000 |
| 1483 | LA | Leeville Bridge, Port Fourchon to Golden Meadow | $5,000,000 |
| 1484 | GA | National Infantry Museum Transporation Network | $3,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1485 | AL | Interchange at I-65 and Limestone County Road 24 Constuction | $1,000,000 |
| 1486 | PA | Project to realign intersection of King of Prussia Road and Upper Gulph Road to provide turning lanes and signalization | $1,649,000 |
| 1487 | MO | Construct diamond interchange at US 71 and Business 71 in Maryville | $2,000,000 |
| 1488 | SD | Construction of four-lane highway on US 79 between Maverick Junction, and the Nebraska border | $7,500,000 |
| 1489 | IL | 130th and Torrance Avenue Intersection Improvement, Chicago | $9,000,000 |
| 1490 | OK | Improvements to Hereford Lane and US69 Interchange, McAlester | $1,000,000 |
| 1491 | GA | Athens-Clarke County Bike Trail Project | $1,400,000 |
| 1492 | CT | Construct UCONN Storrs Campus-Hillside Road | $5,000,000 |
| 1493 | NM | I-25, Tramway North to Bernalillo, Reconstruction | $2,000,000 |
| 1494 | NJ | Planning for Liberty Corridor | $500,000 |
| 1495 | OR | Sellwood Bridge Replacement,—Multnomah County | $2,000,000 |
| 1496 | NM | Statewide ITS Deployment | $200,000 |
| 1497 | FL | Acquire Land and Construct the Englewood Interstate Connector in Sarasota County, Florida | $3,000,000 |
| 1498 | NY | Elevate and construct drainage improvements to Beach Road, Canal Road, and Sea Breeze Road in Massapequa, New York | $3,000,000 |
| 1499 | TX | Design and construction streetscape improvements in Midtown, enhance pedestrian access | $1,000,000 |
| 1500 | NY | Replace sidewalk along Route 9A in Hamlet of Montrose, Town of Cortlandt | $330,000 |
| 1501 | MN | Construction and widening of TH241 in the city of St. Michael, MN | $2,000,000 |
| 1502 | GA | I-75 lanes from Aviation Boulevard to SR 54, Clayton County | $1,500,000 |
| 1503 | VT | Construction and rehabilitation of the Cross Vermont Trail for the Cross Vermont Trail Association | $1,386,000 |
| 1504 | NY | Construction of a new ramp from 9A Southbound to Taconic State Parkway Southbound, Westchester County | $1,775,000 |
| 1505 | NY | Restore vehicular traffic to Main Street in Downtown Buffalo | $5,000,000 |
| 1506 | MI | Construction of 5 lane concrete pavement with curb, gutter and sewer on Romeo Plank Road from M-59 to 23 Mile Road in Macomb Township | $8,000,000 |
| 1507 | NY | Enhance road and transportation facilities in the vicinity of the Brooklyn Children's Museum | $50,000 |
| 1508 | IL | Construct and expand Northwest Illinois US Rte 20 from Freeport to Galena, IL | $3,000,000 |
| 1509 | CA | Construction of new roadway lighting on major transportation corridors in the Southwest San Fernando Valley | $1,000,000 |
| 1510 | MO | Construct Interstate flyover at Hughes Road and Liberty Drive to 76th Street. Part of Liberty Parkway Project | $18,000,000 |
| 1511 | CA | Freeway 180 Improvements Fresno | $9,500,000 |
| 1512 | NY | Construct sidewalks and curbs on Valley Road in Town of Bedford | $450,000 |
| 1513 | OK | Construction of rail crossing in Claremore at Blue Star Drive and SH66 | $2,000,000 |
| 1514 | IL | Improve U.S. Route 34 from Kewanee to Kentville Road | $500,000 |
| 1515 | IL | For Naperville Township to fund improvements to North Aurora Road | $200,000 |
| 1516 | WA | Kent—Construct a single point urban interchange (SPUI) under I-5 at South 272nd St | $1,000,000 |
| 1517 | TN | Construct Interpretive Visitor Center for the Cherokee Removal Memorial Park Trail of Tears site in Meigs County, TN | $1,000,000 |
| 1518 | GA | Create a greenway trail along the Oconee River connecting parks, preserving historic sites, and promoting economic development | $2,000,000 |
| 1519 | PA | Design, engineering, ROW acquisition, & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Dunmore Borough, Lackawanna County | $400,000 |
| 1520 | PA | Add turn lane, modify signals and install pavement markings at intersection of PA422 and PA662 in Amity Township | $2,430,000 |
| 1521 | WI | Construct bicycle/pedestrian path and facilities in the Central park area of Madison | $3,500,000 |
| 1522 | VA | Expand Route 15 29 in Culpeper, Virginia | $2,000,000 |
| 1523 | WV | Fairmont Gateway Connector System to provide an improved highway link between downtown Fairmont and I-79 in the vicinity of Fairmont | $22,000,000 |
| 1524 | OR | Construct Barber Street extension, Wilsonville | $3,000,000 |
| 1525 | FL | Four-laning SR 281 (Avalon Boulevard) in Santa Rosa County from Interstate 10 to north of CSX RR Bridge | $12,500,000 |
| 1526 | OR | Interstate 5 Interchange at City of Coburg | $9,000,000 |
| 1527 | IL | Construction of a bridge at Stearns Road in Kane County, Illinois | $2,000,000 |
| 1528 | TX | East 7th Street Improvements in Austin | $525,000 |
| 1529 | GA | Rebuild SR-10 Memorial Drive for bicycle and pedestrian safety, from Mountain Drive to Goldsmith Road, Dekalb County | $2,000,000 |
| 1530 | NJ | Provide an alternative route for traffic passing though congested SR31 corridor in Flemington NJ | $2,000,000 |
| 1531 | CA | Construction of a smart crosswalk system at the intersection of Arminta St. and Mason Ave | $50,000 |
| 1532 | WI | Reconstruct U.S. Highway 41 north of Lake Butte des Morts Bridge, Wisconsin | $15,400,000 |
| 1533 | PA | Improvements to 8th and 9th Street bridges between Pleasant Valley Blvd. and Valley View Blvd, Altoona, Pa | $490,000 |
| 1534 | LA | Construction of a direct intermodal truck access road from Interstate 210 to the City Docks of the Port of Lake Charles | $13,000,000 |
| 1535 | TX | Construct Links Hike & Bike Trail Project. 2.2 mile trail project connecting Gaylord Texan to Grapevine Mills Mall. Grapvine, TX | $500,000 |
| 1536 | GA | Construct sidewalks between Marion Middle School, City Park, and Community Center, Buena Vista | $300,000 |
| 1537 | IL | Construct a four lane connection between Rt. 13 and Rt. 45 | $1,000,000 |
| 1538 | MI | Plymouth, Haggerty Road from Plymouth Rd. to Schoolcraft Rd | $500,000 |
| 1539 | TN | Provide streetscape improvements and pavement repair, Greenback, Tennessee | $250,000 |
| 1540 | IA | Reconstruction of NE 56th St, eastern Polk Co | $1,000,000 |
| 1541 | IL | Relocate Pocket Road for Access to Racehorse Business Park, Alorton | $500,000 |
| 1542 | CT | Construct roadway on East Commerce Drive, Oxford, CT | $500,000 |
| 1543 | TN | Niota, TN Improve vehicle efficiencies at highway At-Grade Railroad Crossing | $57,000 |
| 1544 | FL | Plan and Construct 17th Street connector in the City of Sarasota, FL | $2,000,000 |
| 1545 | VT | Reconstruction and widening of U.S. Route 5 for the Town of Hartford | $1,500,000 |
| 1546 | MO | Relocate the entrance to the Shaw Nature Reserve that is being altered due to a redesign of the Gray Summit I-44 interchange project | $500,000 |
| 1547 | DC | Replace and reconstruct South Capitol Street/Frederick Douglass Memorial Bridge | $30,000,000 |
| 1548 | MI | Complete 13.8 miles of nonmotorized pedistrain Fred Meijer Heartland Trail of 30.1 miles | $2,000,000 |
| 1549 | MO | Roadway improvements on U.S. 60 from Willow Springs to the Van Buren Area | $10,000,000 |
| 1550 | UT | Construct Parley's Creek Trail | $5,000,000 |
| 1551 | ME | Construction of Calais/St. Stephen Border Crossing Project | $5,000,000 |
| 1552 | FL | Alleviate congestion at Atlantic Corridor Greenway Network, City of Miami Beach, FL | $2,000,000 |
| 1553 | MD | Construction of MD 331 Dover Bridge | $4,318,000 |
| 1554 | NY | Improve Traffic Flow on Noel Road between Church and Crossbay Boulevard Including Work Necessary to Demolish and Reconstruct the Firehouse Facility | $1,000,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1555 | PA | Construct 9th and 10th Street bridges over Norfolk Southern Tracks, Lebanon | $7,000,000 |
| 1556 | AS | Drainage mitigation in Malaeloa-Leone village roads | $1,400,000 |
| 1557 | CA | Improve I-8 off ramp at Ocotillo to the Imperial Valley College Desert Museum/Regional Traveler Visitor Center, Imperial County | $1,000,000 |
| 1558 | CA | Install new grade separation at Ranchero Road in Hesperia | $5,000,000 |
| 1559 | NY | Bartow Ave Ramp and Reconstruction at the Hutchinson Parkway | $1,600,000 |
| 1560 | FL | Airport Access Rd., Gainesville | $1,000,000 |
| 1561 | WA | Intersection project at South Access-522 beginning and ending at the UWB-CCC campus to improve access and alleviate congestion | $3,000,000 |
| 1562 | NJ | Reconstruction of CR 530 from RT 206 to CR 644. Construct shoulders, travel lanes, center turn lane, drainage improvements & traffic signal | $10,000,000 |
| 1563 | NY | Improve SCCC roads, Fallsburg | $1,500,000 |
| 1564 | CA | Add turn lane and adaptive traffic control system at intersection of San Tomas Expressway and Hamilton Avenue in Campbell | $1,600,000 |
| 1565 | CA | Interchange improvements at Rice Avenue and U.S. Highway 101 in the City of Oxnard | $3,300,000 |
| 1566 | GA | Northside Drive Multi Modal Corridor | $2,000,000 |
| 1567 | GA | Replace sidewalks, meet ADA guidelines, and install a crosswalk, McRae | $400,000 |
| 1568 | TX | Ritchie Road from FM 1695 to US 84, Waco | $3,000,000 |
| 1569 | AR | Maumelle Interchange—for third entrance into Maumelle | $500,000 |
| 1570 | CT | Construct bike/pedestrian path, Shelton | $1,000,000 |
| 1571 | MD | Rehabilitate Roadways Around East Baltimore Life Science Park in Baltimore | $5,500,000 |
| 1572 | AL | City of Vestavia Hills Pedestrian Walkway to Cross U.S. 31 | $1,000,000 |
| 1573 | IN | Replace Samuelson Road Underpass, Portage | $3,162,890 |
| 1574 | IL | Construct Commuter Parking Structure in the Central Business District in the vicinity of La Grange Road | $3,700,000 |
| 1575 | PA | Design and construct inner loop roadway around Shippensburg Boro | $500,000 |
| 1576 | WV | Construct I-73/74 High Priority Corridor, Mingo Co | $12,000,000 |
| 1577 | NY | Roadway improvements to Jackson Avenue between Jericho Turnpike and Teibrook Avenue | $2,250,000 |
| 1578 | OR | Rogue River Bikeway/Pedestrian Path, Curry County | $600,000 |
| 1579 | CA | San Gabriel Blvd Intersection Improvements at Broadway and at Las Tunas, San Gabriel | $200,000 |
| 1580 | NY | Improvements to Erie Station Road, Town of Henrietta, Monroe County | $1,000,000 |
| 1581 | IA | Sioux City, Iowa Hoeven Corridor—Outer Drive Project | $1,500,000 |
| 1582 | KY | Study & rehabilitate the I-471 corridor, Campbell County, Kentucky | $2,000,000 |
| 1583 | WA | Construct railroad overpass spanning three mile section of SR501 from MP 0 and MP 3 | $1,000,000 |
| 1584 | NY | Construction and rehabilitation of North and South Delaware Avenues in the Village of Lindenhurst, NY | $780,000 |
| 1585 | NY | Study on extending Rt. 5 to Auburn | $150,000 |
| 1586 | AL | Expand US-84 from Andalusia, AL to Enterprise, AL | $3,000,000 |
| 1587 | NJ | Susse County, NJ Safety and Operational Improvements on Route 23 in Hardyston Township and Franklin Borough | $3,800,000 |
| 1588 | PA | State Street and Mulberry Street Bridge Lighting project, Harrisburg | $4,000,000 |
| 1589 | AS | To upgrade, repair and continue construction of Ta'u harbor/ferry terminal facility on Manu'a island | $1,600,000 |
| 1590 | CA | Interstate 15 and State Route 79 South Freeway Interchange and Ramp Improvement Project | $2,000,000 |
| 1591 | OH | Road Improvements, streetscapes, and pedestrian safety additions in Ashtabula Harbor | $1,000,000 |
| 1592 | NY | Town of East Fishkill improvements to Robinson La & Lake Walton Road at NYS Route 376 | $500,000 |
| 1593 | WI | Construct a bicycle/pedestrian path, Wisconsin Dells | $2,000,000 |
| 1594 | NY | Construct improvements in Sight Distance at Road Grade and Trail Corssings in Oneida and Herkimer Counties | $200,000 |
| 1595 | NY | Repair Silver Mine Bridge in the Town of Lewisboro | $150,000 |
| 1596 | IL | River walk Reconstruction, City of Chicago | $600,000 |
| 1597 | AR | Rogers, Arkansas—Construct new interchange on I-540 near the existing Perry Road overpass | $4,400,000 |
| 1598 | IN | Design and construct Indiana Ohio River Bridges Project on I-65 and 265 | $20,000,000 |
| 1599 | RI | Transportation Enhacements at Blackstone Valley Heritage Corridor | $500,000 |
| 1600 | TX | Reconstruction of US 79 from FM 1460 to Williamson County Road 195 | $2,000,000 |
| 1601 | CA | Transportation enhancements to Children's Museum of Los Angeles | $1,200,000 |
| 1602 | IN | Construct Shelby County Indiana Shelbyville Parkway | $500,000 |
| 1603 | NY | Reconstruct the Niagara Street culvert/bridge which crosses over Two Mile Creek, City of Tonawanda | $400,000 |
| 1604 | MA | Reconstruction of Main Street and Lebanon Street in Melrose | $700,000 |
| 1605 | OH | Construct the existing IR 70 interchange at US 40, SR 331 west of St. Clairsville | $11,550,000 |
| 1606 | GA | Install traffic lights and pedestrian walkways on Highway 441 at MLK, Jr. Boulevard, Dublin | $500,000 |
| 1607 | OH | Pike County, OH Fog Road Upgrade | $1,000,000 |
| 1608 | CA | Project design, environmental assessment, and roadway construction of Lonestar Road from Alta Road to Enrico Fermi Drive San Diego County | $500,000 |
| 1609 | CA | Project Study Reports for I-105 and I-405 Interchanges at Los Angeles International Airport | $400,000 |
| 1610 | CA | Reconstruct Whittier Blvd. and improve parkway drainage from Philadelphia Av. to Five Points in Whittier | $1,700,000 |
| 1611 | NY | Rockland County Railroad Grade Crossings Safety Study | $1,400,000 |
| 1612 | TX | San Angelo Ports-to-Plains Route Loop 306 at F.M. 388 | $1,500,000 |
| 1613 | MN | City of Hutchinson School Road Underpass of TH7 and TH22 Improvements | $1,000,000 |
| 1614 | TN | construct and widen SR-33 in Monroe County, TN | $5,000,000 |
| 1615 | PA | Construct the realignment of Cool Creek Road in York County, PA | $1,000,000 |
| 1616 | NJ | Construct Waterfront Walkway from North Sinatra Drive and 12th St. south to Sinatra Drive in Hoboken | $2,000,000 |
| 1617 | TX | Add shoulders to FM 156 from Ponder, Texas to Krum, Texas | $1,000,000 |
| 1618 | NJ | Bridge replacement on Section 6V of Route 1 from Ryders Lane to Milltown Road, North Brunswick | $2,000,000 |
| 1619 | MN | Construct Two Harbors High School Trail connecting Two Harbors High School to Two Harbors City | $891,600 |
| 1620 | SC | Construct I-85 Brockman-McClimon Interchange between Greenville Spartanburg Airport and SC Highway 101 interchanges | $1,000,000 |
| 1621 | IA | Fort Madison, IA Construction of US 61 bypass around Fort Madison to create a safer and faster route | $2,500,000 |
| 1622 | PA | Germantown Avenue Revitalization with Mt. Airy USA for landscaping, scenic enhancements and pedestrian safety improvements along the heavily traveled thoroughfare | $2,320,000 |
| 1623 | NM | I-10 Reconstruction, Las Cruces to Texas State Line | $3,000,000 |
| 1624 | TX | IH 820 Widening Project | $2,000,000 |
| 1625 | IL | For Naperville Township to fund improvements to Diehl Road between Eola Road and Route 59 | $600,000 |
| 1626 | KS | Remove and Replace Topeka Blvd. Bridge over the Kansas River | $6,000,000 |
| 1627 | VA | Clifton, VA Main Street parking and sidewalk improvements | $250,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1628 | SC | Replace Milford Road Bridge, Anderson, SC | $500,000 |
| 1629 | LA | Improvements to Essen Lane at I-12; and to Perkins Rd.; and to Central Thruway; and to O'Neal Lane; an to Burbank Dr.; and to Essen Park Extension; and for LA408 study | $30,000,000 |
| 1630 | GA | Streetscape project for lighting and landscaping on Main Street along Georgia Highway 231, Davisboro | $300,000 |
| 1631 | IA | City of Council Bluffs and Pottawattamie county East Beltway Roadway and Connectors Project | $1,000,000 |
| 1632 | OR | U.S. 199/Laurel Road Intersection | $2,000,000 |
| 1633 | CA | Conduct project report study on Old River School Rd—Firestone Blvd intersection reconfiguration | $500,000 |
| 1634 | FL | Conduct study for Port of Miami Tunnel, Miami, FL | $2,000,000 |
| 1635 | NY | Ithaca, Design and construct pedestrian and bicycle path (Cayuga Waterfront Trail) | $1,200,000 |
| 1636 | NC | Rails to Trails Project, Elizabeth City | $640,000 |
| 1637 | IL | Reconstruct Lakeshore Drive overpass over Lawrence Avenue | $1,500,000 |
| 1638 | SC | Replace Murphy Road West Bridge, Anderson, SC | $235,000 |
| 1639 | CA | Resurface and construct truck lane at CA Hwy 94 and Interstate 8 interchange, Boulevard | $3,000,000 |
| 1640 | CT | Undertake road improvements associated with Coltsville Area Redevelopment, Hartford | $2,000,000 |
| 1641 | AZ | Upgrade and Re-opening of Main Street in Yuma | $1,200,000 |
| 1642 | NJ | Pedestrian facilities, street lighting and streetscaping improvements in downtown Laurel Springs | $596,324 |
| 1643 | MS | Upgrade Blue Cane Road in Tallahatchie County, and roads in Webb and Tutwiler | $750,000 |
| 1644 | OH | Upgrade circuitry on vehicle protection device at Sheldon Road rail crossing in Berea | $140,000 |
| 1645 | NY | Design and construct Upper Delaware Scenic Byway Visitor Center, Cochecton | $500,000 |
| 1646 | NY | Construct sidewalks and curbing on Westchester Avenue in Village of Buchanan | $275,000 |
| 1647 | NC | Downtown Redevelopment Project, City of Rocky Mount | $6,336,000 |
| 1648 | TX | Construction of divided four lane concrete arterial with drainage improvements—Sandy Lake Road: Denton Tap Rd to North Coppell Road | $1,000,000 |
| 1649 | IL | Preconstruction and Construction at IL 120 at Bacon Road and Cedar Lake Road | $1,365,000 |
| 1650 | GA | Revitalization project will extend and resurface the Roberta Walking Trail, Roberta | $500,000 |
| 1651 | KY | Construct Westbound Access to Mountain Parkway from Exit 18 (KY 1057), Powell County | $2,900,000 |
| 1652 | NC | Development of 2 miles of road parallel to I-95 located approximately between the I-95/NC-125 interchange and I-95/US-158 interchange | $1,500,000 |
| 1653 | CA | Engineering, right of way and construction of HOV lanes on I-580 in the Livermore Valley, California | $5,000,000 |
| 1654 | IL | Construct Streetscape Project, City of Markham | $500,000 |
| 1655 | CA | Landscape south side of the 91 fwy at Bellflower Blvd in Bellflower | $250,000 |
| 1656 | MA | Southwick and Westfield Rail Trail, Design & Construction | $5,000,000 |
| 1657 | VA | Upgrade DOT crossing #467665M to constant warning time devices | $194,600 |
| 1658 | TX | Reconstruct and add two lanes to US 287 from the Oklahoma State line to US 54 in Stratford | $3,000,000 |
| 1659 | WY | Casper West Belt Loop | $2,000,000 |
| 1660 | MN | Munger Trail extension, City of Duluth | $3,200,000 |
| 1661 | AK | Bogard/Sheldon Extension in Matanuska-Susitna Borough | $4,000,000 |
| 1662 | CA | City of Redondo Beach Esplanade Improvement Project | $1,000,000 |
| 1663 | MN | Kandiyohi and Meeker Counties Hwy 7 between TH 71 and TH 22 | $2,000,000 |
| 1664 | NJ | Construction of Rowan Boulevard from US Route 322 to Main Street, Glassboro | $600,000 |
| 1665 | CA | Conduct Study of SR 130 Realignment Project, San Joaquin County & Santa Clara County, CA | $2,000,000 |
| 1666 | CA | Passons Grade Separation in the City of Pico Rivera | $3,700,000 |
| 1667 | MD | Construct South Shore Trail, Anne Arundel County, MD | $1,000,000 |
| 1668 | NJ | Realignment of the Routes35/36 intersection in Eatontown | $2,000,000 |
| 1669 | IN | Construct Hoosier Heartland Highway in Cass and Carroll County, Indiana | $2,000,000 |
| 1670 | MI | Oscoda County, Reconstruction and surfacing of Valley Road from M-33 west to Mapes Road | $960,000 |
| 1671 | TX | Reconstruct Precinct Line Road 2-lane bridge as 4-lane bridge and widen Precinct Line Road to 4-lane roadway from SH 10 to Trammel Davis Rd | $1,000,000 |
| 1672 | CT | Reconstruct Waterfront Street Corridor, New Haven | $1,500,000 |
| 1673 | TN | Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Philadelphia, Tn | $99,000 |
| 1674 | TX | Mile 2 W from Mile 12 N to US83, Hidalgo County | $1,000,000 |
| 1675 | NY | Reconstruction of West Neck Road from Huntington-Lloyd Harbor boundary to the end of the Village-maintained road | $3,000,000 |
| 1676 | GA | Rehabilitate sidewalks and replace street lights, Swainsboro | $500,000 |
| 1677 | SC | Replace Murphy Road East Bridge, Anderson, SC | $265,000 |
| 1678 | MO | Access improvements and safety and mobility upgrades along US 7 as part of the Highway 7 Corridor Development Plan in Blue Springs | $5,000,000 |
| 1679 | OH | Construct Stearns Road Grade Separation, Olmsted Township | $3,750,000 |
| 1680 | CA | Implement Grove Avenue Corridor Interstate 10 interchange improvements in Ontario | $3,000,000 |
| 1681 | MA | Construct & Replace West Corner Bridge & Culvert, Rte 228, spanning Weir River Estuary & Straits Pond Inlet | $1,000,000 |
| 1682 | OK | Complete Reconstruction of the I-35–SH 9 West Interchange | $4,000,000 |
| 1683 | NJ | Construct Rte 50 Tuckahoe River Bridge Replacement, Cape May and Atlantic Counties | $4,000,000 |
| 1684 | NY | Rt. 12 reconstruction—Town and Village of Greene | $4,110,000 |
| 1685 | MN | Becker County CR 143 and CR 124 Improvements | $960,000 |
| 1686 | NY | Construct and extend existing pedestrian streetscape areas in Valley Stream | $1,350,000 |
| 1687 | MI | Construct Interchange at I-675 and M-13 (Washington Avenue). Northbound Exit. Phase I of Construction. City of Saginaw | $2,300,000 |
| 1688 | OH | Construct Cleveland Towpath Trail. 6-mile extension towards downtown. Cleveland | $4,000,000 |
| 1689 | FL | Construct widening of US 17 to 4 lanes from San Mateo to Volusia County line, Putnam County, Florida | $16,300,000 |
| 1690 | MD | Construct Phase 1 of the South Shore Trail in Anne Arundel County from Maryland Route 3 at Millersville Road to I-97 at Waterbury Road | $1,000,000 |
| 1691 | MI | Construction of 5 lane concrete pavement with curb, gutter and storm sewer on Van Dyke Ave. from 23 Mile Road to 26 Mile Road, Macomb Co | $2,079,500 |
| 1692 | FL | Design and construct replacement for A. Max Brewer Bridge, Titusville | $10,000,000 |
| 1693 | NY | Implement ITS system and apparatus to enhance citywide truck route system on Victory Blvd Between Travis Ave and West Shore Expressway Travis Section of SI | $100,000 |
| 1694 | MI | Purchase and implementation of various Intelligent Transportation System technologies in the Grand Rapids metro region | $12,430,000 |
| 1695 | WI | Recondition USH 45 between New London and Clintonville, Wisconsin (Waupaca County, Wisconsin) | $2,000,000 |
| 1696 | CA | Reconstruction of The Strand in the City of Manhattan Beach to improve beach access and accommodate increased pedestrian traffic | $2,000,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1697 | CA | Construction of new roadway lighting on major transportation corridors in the Northeast San Fernando Valley | $500,000 |
| 1698 | MD | Rehabilitate Hanover Street Bridge in Baltimore | $1,500,000 |
| 1699 | NY | Rehabilitation of Hornbeck Road in the Town of Poughkeepsie | $426,000 |
| 1700 | CA | Rehabilitation of Tulare County Farm to Market road system | $4,000,000 |
| 1701 | GA | Riverside Drive Streetscape Project, Macon | $500,000 |
| 1702 | GA | South Lumpkin Road Trail-Columbus | $500,000 |
| 1703 | CA | Implement Northeast San Fernando Valley Road and Safety Improvements | $200,000 |
| 1704 | NY | Big Ridge Road—Spencerport Village Line to Gillet Road in the Town of Ogden | $2,500,000 |
| 1705 | TX | Build south bound ramp from east bound I-20 to Clark Road at the southern terminus of Spur 408. Duncanville, TX | $5,000,000 |
| 1706 | MS | Plan and construct intermodal connector linking I-20 to Hwy 49, Pearl-Richland | $1,000,000 |
| 1707 | TN | Reconstruct US 64 from west of Bolivar to the Lawrence County Line in Hardemant, McNairy, Hardin, Wayne Counties | $5,225,000 |
| 1708 | PA | Improve safety of Route 145 in Whitehall Township | $2,225,000 |
| 1709 | GA | Construct Stone Mountain-Lithonia road Bike Lane and Sidewalks, Dekalb County | $1,000,000 |
| 1710 | OK | Texanna Road improvements around Lake Eufaula | $1,000,000 |
| 1711 | PR | To build an extension of PR-53 between Yabucoa and Maunabo | $5,000,000 |
| 1712 | IL | To contruct a new intersection of a public road and US Route 50 and a new street | $550,000 |
| 1713 | NC | To plan, design and construct the Northwest Corridor—Western Blvd. Project in Jacksonville, NC | $1,000,000 |
| 1714 | CT | Upgrade Mark Twain Drive, Hartford | $2,000,000 |
| 1715 | CO | CO I-70 East Multimodal Corridor (Highway Expansion), Denver | $2,500,000 |
| 1716 | MS | Upgrade roads in Indianola, Ruleville, Moorehead, Doddsville, Sunflower and Drew, Sunflower County | $2,000,000 |
| 1717 | MS | Upgrade roads in North Carrollton (U.S. Hwy 35 and 82) McCain Street, South Street, Love Street, and Colver Street, Carroll County | $400,000 |
| 1718 | NJ | Passaic-Bergen intermodal transportation deployment initiative | $10,000,000 |
| 1719 | IL | Upgrade roads, The Village of Maywood | $1,000,000 |
| 1720 | PA | Upgrade Route 30 Corridor and Airport Access | $1,000,000 |
| 1721 | GA | Upgrade sidewalks and lighting, Lyons | $500,000 |
| 1722 | CA | State Route 88—Pine Grove Corridor Improvement Project | $500,000 |
| 1723 | WA | Tacoma—Lincoln Avenue Grade Separation | $1,000,000 |
| 1724 | NY | Improve NY112 from Old Town Road to NY347 | $10,000,000 |
| 1725 | NJ | Construct I-195 Noise Barrier, Hamilton Twp, Mercer County | $750,000 |
| 1726 | AR | Highway 77 Rail Grade Separation | $1,000,000 |
| 1727 | WA | Kent, WA Willis Street BNSF Railroad Grade Separation Project | $500,000 |
| 1728 | MI | Menominee, Ogden Street Bridge rehabilitation project-replacement of deck, expansion joints, sidewalks, railing and all other joints | $200,000 |
| 1729 | VA | Pochantas Trail—development and construction of trail from Bluestone Junction to Pochantas adjacent to abandoned rail line | $500,000 |
| 1730 | NY | Suffolk County ITS arterial monitoring and performance measures | $1,500,000 |
| 1731 | LA | Conduct study for Highway 25 in Washington Parish | $500,000 |
| 1732 | IL | Construction of the 43rd Street Bicycle Pedestrian Bridge over Lake Shore Drive, City of Chicago | $600,000 |
| 1733 | NY | To design and reconstruct Nassau Avenue, improve sidewalks and include pedestrian amenities in Greenpoint, Brooklyn | $2,400,000 |
| 1734 | OH | Upgrade the I-480 and Tiedman Road interchange, Brooklyn | $500,000 |
| 1735 | NJ | Interchange improvements and bridge replacement, Route 46, Passaic County | $5,000,000 |
| 1736 | PR | Construction of community bridge at Los Lopez Sector, Quebrada Arenas Community | $500,000 |
| 1737 | IA | Construction of a Four Lane U.S. Highway 20 between Moville in Woodbury County, through Ida County and Sac County to U.S. 71 at Early, IA | $9,000,000 |
| 1738 | AZ | Paving of Navajo Route 9010—off of I-40 at Houck, AZ (Exit 348) to Pine Springs Day School | $2,000,000 |
| 1739 | OH | Red Bank Road Improvements from I-71 to Fair Lane in Eastern Hamilton County, Ohio | $3,600,000 |
| 1740 | CA | Construct earthen berm along Esperanza Road from Yorba Linda Blvd. to the west city limits to mitigate noise | $2,000,000 |
| 1741 | TX | Construct 6 mainlines from east of Mercury to east of Wallisville | $2,000,000 |
| 1742 | NY | Town of Chester Trout Brook road improvements and reconstruction | $70,000 |
| 1743 | OR | Upgrade the I-5 Fern Valley Interchange (Exit 24) | $3,000,000 |
| 1744 | CA | Construct I-80 Gilman Street interchange improvements in Berkeley | $1,500,000 |
| 1745 | NJ | Construct Vineland Boulevard and Sherman Avenue Intersection Improvements, Vineland, Cumberland County | $1,750,000 |
| 1746 | WA | Terry's Corner Park and Ride on Camano Island | $1,400,000 |
| 1747 | OR | Upgrade U.S. 101 and Utility Relocation, Gold Beach | $200,000 |
| 1748 | WI | Upgrade USH 41 from DePere to Suamico, Wisconsin (Brown County, Wisconsin) | $2,500,000 |
| 1749 | IL | Upgrade Veterans Drive in Pekin Illinois | $1,000,000 |
| 1750 | NY | Saugerties, Improve Tissle Road-Old Kings Highway intersection | $500,000 |
| 1751 | TX | Design and Construct the Cottonwood Trail pedestrian-bicycle connection | $1,000,000 |
| 1752 | NY | Rehabilitation of the Ashford Ave. bridge over I-87 in the Villages of Dobbs Ferry and Ardsley | $2,600,000 |
| 1753 | OH | Streetscape completion along US 40 in Bridgeport | $100,000 |
| 1754 | SD | Design and construct new Meridian Bridge across the Missouri River at Yankton | $4,500,000 |
| 1755 | MD | Upgrade MD 210 from MD 228 to I-495 | $5,000,000 |
| 1756 | IL | For DuPage County to construct certain segments of Southern DuPage County Regional Trail | $100,000 |
| 1757 | IA | US 20 relocated, Webster, Sac and Calhoun Counties, Iowa | $3,000,000 |
| 1758 | NJ | Construction of new access roads along Route 42/Blackhorse Pike in Washington Township | $1,000,000 |
| 1759 | CA | Highways 152—156 Intersection improvements, CA | $1,000,000 |
| 1760 | AK | Coffman Cove IFA ferry terminal | $3,200,000 |
| 1761 | MA | Acquisition, engineering design, and construction of the Assabet River Rail Trail, Acton, Hudson, Maynard, and Stow | $2,000,000 |
| 1762 | MI | Conduct Feasibility Study to Extend I-475 to US 23 in Genesee County | $800,000 |
| 1763 | TX | Construct a reliever route on US 287 South of Dumas to US 287 North of Dumas | $3,000,000 |
| 1764 | TN | construct new exit on I-75 and connect US-11, US-411, and SR-30 | $4,500,000 |
| 1765 | PA | Design, engineering, ROW acquisition & construction of street improvements, parking, safety enhancements & roadway redesign in Pittston | $1,750,000 |
| 1766 | TX | Dowlen Road Imprvements for Beaumont, Texas | $3,456,000 |
| 1767 | CA | Construct Hwy 101 bicycle-pedestrian project in Marin and Sonoma Counties from north of Atherton Ave to south of Petaluma River bridge | $500,000 |
| 1768 | TX | Construct raised median from Loop 224 to Sradley St. in Nacogdoches, TX | $3,220,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1769 | OH | Construction of bicycle trail extension in Geauga Park District in Chardon, OH | $500,000 |
| 1770 | CA | Extension of a regional Class I bikeway from the West City limits to the East City limits along leased railroad right-of-way | $400,000 |
| 1771 | AR | For rail grade separations identified by the MPO for the Little Rock/North Little Rock metropolitan area, (which may include: Edison Ave.; Springer Blvd; Hwy 89 Extension; McCain/Fairfax; Salem Road; | $10,000,000 |
| 1772 | NY | Court Street & Smith Street Shopping District Enhancements | $800,000 |
| 1773 | MA | Hampshire County Bike Paths, Design & Construction | $5,500,000 |
| 1774 | NV | Construct I-15 Starr Interchange | $10,000,000 |
| 1775 | CA | Construct full-access interchange at SR 120–McKinley Avenue, with the necessary SR120 auxiliary lanes, Manteca, CA | $4,000,000 |
| 1776 | CA | Install emergency vehicle preemption equipment along major arterials in the I-880 corridor, Alameda County | $500,000 |
| 1777 | OH | Construct a proposed relocation of US 22 and SR 93 from the current IR 70, US 40 west of Zanesville | $10,000,000 |
| 1778 | CA | Conduct Study and Construct I 205 Chrisman Road Interchange Project, Tracy, CA | $1,000,000 |
| 1779 | IL | Construction of part of a 230 mile corridor extending from I-280at Rock Island to I-270 south of Alton | $1,700,000 |
| 1780 | CA | Construction of Campus Parkway from State Route 99 to Yosemite Ave., Merced County | $500,000 |
| 1781 | MI | Construction of Superior Road Roundabout, Superior Township | $750,000 |
| 1782 | OR | Construction and preliminary engineering of a railroad crossing at the intersection of Havlik Road and Hwy 30, Scappoose | $200,000 |
| 1783 | FL | Clark Road Clover Leaf at 195, Jacksonville | $5,500,000 |
| 1784 | PA | Construct and widen PA 94 from the Adams and York County line north to Appler Road | $1,500,000 |
| 1785 | IL | For the reconstruction and realignment of 2 miles of Evergreen Ave. located west of the City of Effingham | $2,000,000 |
| 1786 | IN | Improve State Road 332 and Nebo Road Intersection in Delaware County, Indiana | $2,930,000 |
| 1787 | LA | LA 18 Widening (Avondale to US 90), Jefferson Parish, Louisiana | $800,000 |
| 1788 | WI | Construct Lake Butte des Morts Bridge, US Highway 41, Winnebago County, Wisconsin | $25,600,000 |
| 1789 | MA | North Worcester County Bike Paths, Design & Construction | $5,000,000 |
| 1790 | TX | Old Reliance Road Overpass at SH6 (Earl Rudder Freeway)—widening project in Brazos Co | $2,500,000 |
| 1791 | IA | Phase III of Main St project, Amana | $1,000,000 |
| 1792 | MN | Re-align Vadnais Boulevard at interchange of I-694/Highway 49, Ramsey County | $1,000,000 |
| 1793 | CA | Reconfigure intersection at Highways 152 and 156 in Santa Clara County | $10,650,000 |
| 1794 | KY | Construct Georgetown Northwest Bypass from US 460 West to I-75 North, Scott County | $3,000,000 |
| 1795 | AZ | Grand Canyon Greenway Trails | $1,500,000 |
| 1796 | NY | Remediate road runoff in vicinity of Peconic Estuary watershed | $1,000,000 |
| 1797 | MS | Construct I-55 Interchange at Madison-Ridgeland, Madison County | $5,000,000 |
| 1798 | OH | Construction of road improvements from Richmond Road tò new Cuyahoga Community College in Warrensville Heights, OH | $150,000 |
| 1799 | MI | Construction of the I-696 and Northwestern Highway Interchange Freeway Ramps at Franklin Road in Southfield | $2,000,000 |
| 1800 | OH | Construct access improvements to I-680 and internal roadways for Corridor of Opportunity, Mahoning Co | $2,000,000 |
| 1801 | NY | Mount Vernon Railroad Cut | $2,250,000 |
| 1802 | TX | Reconstruct and add two lanes to IH 27 from Western Street in Amarillo to Loop 335 | $3,000,000 |
| 1803 | CO | SH83-SH88 Interchange Reconstruction—Arapahoe County, CO | $4,000,000 |
| 1804 | NY | Town of Pawling Old Rt 55 | $500,000 |
| 1805 | IL | Upgrade Curtis Road in conjunction with state plan for I-57 interchange; from Duncan Rd to 1st Street in Champaign | $7,000,000 |
| 1806 | MO | Upgrade Rt. 249 [Range Line] from Rt. 171 to I-44 | $10,000,000 |
| 1807 | VA | Bland County Trails and Visitor Center—establishment of multi-use trail network, associated facilities and begin work on visitors center | $1,000,000 |
| 1808 | NH | Upgrade Sewalls Falls Road bridge over Merrimack River in Concord | $1,000,000 |
| 1809 | IL | Perform Old Orchard Road Expansion and improvement project between harms road and US 41, Cook County | $1,000,000 |
| 1810 | MN | Design engineering and ROW acquisition to reconstruct TH 95 bridge, North Branch | $1,000,000 |
| 1811 | NY | Tappan Zee Bridge to I287 Transportation Corridor | $1,000,000 |
| 1812 | CA | Upgrade and reconstruct the I-80/I-680/SR12 Interchange, Solano County | $21,000,000 |
| 1813 | MD | US 219 Oakland Bypass | $1,000,000 |
| 1814 | NC | US 221 widening from US 421 to Jefferson, NC | $2,000,000 |
| 1815 | IL | Complete 80,000lb truck route between CH2 (Burma Rd) and IL Rte 130 in Cumberland County | $3,000,000 |
| 1816 | CA | Improvement of intersection at Burbank Blvd. and Hayvenhurst Ave | $400,000 |
| 1817 | OH | Construct pedestrain bridge over I77; tunnel underneath railroad; bridge over Tuscarawas River along OH and Erie Canal in Tuscarawas County | $2,000,000 |
| 1818 | MN | Lake Street Access to I-35W, Minneapolis | $6,000,000 |
| 1819 | WI | Upgrade USH 2 in Ashland County | $4,000,000 |
| 1820 | OR | Construct an urban arterial street between NE Weidler and NE Washington on NE 102nd, Portland | $3,700,000 |
| 1821 | CA | Construct an Interchange on Highway 70 at Georgia Pacific Road in Oroville | $2,000,000 |
| 1822 | AZ | Construct or Modify Railroad Grade Separations on 6th St. and 22nd St. and Reconstruct Speedway Blvd. Underpass in Tucson | $13,300,000 |
| 1823 | FL | onstruct North Ormond Beach Business Park Interchange at I-95 between U.S. 1 and SR 40, Volusia County | $1,100,000 |
| 1824 | MN | Environmental review for improvement along the entire US 10 corridor | $1,300,000 |
| 1825 | NY | Construct visitor center, access road, and parking at Sam's Point Preserve, Ellenville | $750,000 |
| 1826 | OH | Installation of road improvements on Old State Road-SR 608 in Middlefield, OH | $100,000 |
| 1827 | WA | To replace BNSF trestle, Sammamish River bridge and reconstruct SR202/127th Pl NE and SR202/180th Ave NE intersections | $2,000,000 |
| 1828 | PA | Completion of beltway interchanges along Business Route 60 in Moon Township, Allegheny County | $1,000,000 |
| 1829 | TX | US 290 Improvements in Austin, TX | $3,000,000 |
| 1830 | CA | City of Madera, CA Improve SR99-SR145 Interchange | $2,000,000 |
| 1831 | AL | Construct a new interchange on I-65 at Cullman, AL County Road 222 | $1,000,000 |
| 1832 | VA | Improve transportation projects for Jamestown 2007 | $3,750,000 |
| 1833 | MI | Design and construction of West Michigan Regional Trail Network connector to link two trail systems together and to Grand Rapids | $3,000,000 |
| 1834 | TN | Plan and construct a bicycle and pedestrian trail including enhancements, Murfreesboro | $9,000,000 |
| 1835 | AZ | Replacement of Safford Bridge which crosses the Gila River directly north of Safford, AZ on North 8th Avenue | $3,500,000 |
| 1836 | TX | Design & construct streetscape improvements to Old Spanish Trail—SH 288 to Griggs, Griggs to Mykawa | $1,000,000 |
| 1837 | TN | For each rail-highway crossing: Improve circuitry on vehicle protection device installed at crossing in Knoxville, TN | $57,000 |
| 1838 | OH | Reconstruct Broadway Ave in Lorain | $750,000 |
| 1839 | OH | Road Widening and related improvements to SR 82 in Macedonia OH | $3,410,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1840 | MN | Reconstruct CSAH 4 and CSAH 5 ( Forest Highway 11) between CSAH 15 and TH 61. Silver Bay | $1,740,000 |
| 1841 | CA | Ramona Avenue Grade Separation. Montclair. California | $2,000,000 |
| 1842 | MN | Roadway improvements. City of Federal Dam | $1,000,000 |
| 1843 | VA | Rocky Knob Heritage Center— planning, design, site acquisition and construction for trail system and visitors center on Blue Ridge Parkway | $1,500,000 |
| 1844 | FL | Design and construct capacity and safety improvements for State Road 426-County Road 419 in Oviedo from Pine St to west of Lockwood Blvd | $2,000,000 |
| 1845 | FL | Coordinated Regional Transportation Study of US 98 from Pensacola Bay Bridge. Escambia County to Hathaway Bridge, Walton County. Florida | $1,500,000 |
| 1846 | PA | Paving and reconstruction in the townships: North and South Eldorado, North Altoona, Fairview, Juniata, East End, Pleasant Valley, South Tracks, Lyswen-Altoona, PA | $2,000,000 |
| 1847 | AK | Construct access road connection from Seward Highway to rail and airport facilities in Seward | $3,000,000 |
| 1848 | AZ | Realign Davis Road from State Route 80 to State Route 191 | $3,300,000 |
| 1849 | PA | Reesdale Street roadway reconfiguration to allow HOV access to new parking facility | $1,000,000 |
| 1850 | WA | SR 538 (College Way) and North 26th St. Signal in Mount Vernon | $175,000 |
| 1851 | TX | Acquisition of right of way and environmental preservation from I-45 to U.S. 59 for Grand Parkway | $12,000,000 |
| 1852 | ID | Reconstruct Grangemont Road (Idaho Forest Highway 67) from Orofino to Milepost 9.3 | $2,000,000 |
| 1853 | VA | Expansion of South Airport Connector Road (Clarkson Road to Charles City) | $7,000,000 |
| 1854 | NY | Design and Construction of bicycle and pedestrian facilities in the area of the Roosevelt Avenue Bridge | $480,000 |
| 1855 | NC | Construct Endor Iron Furnace Greenway enhancements from Deep River to Sanford | $1,000,000 |
| 1856 | CO | Improve and widen State Highway 44 from Colorado Boulevard to State Highway 2 | $4,000,000 |
| 1857 | FL | Fund improvement of US 301 corridor in Sumter and Marion Counties | $2,000,000 |
| 1858 | TN | complete construction and landscaping of visitor center on Cherohala Skyway in Monroe County, TN | $100,000 |
| 1859 | OR | Construction of the East Burnside Street improvements. Portland | $3,700,000 |
| 1860 | AL | Expand to 4 lanes US Highway 278 from Sulligent to Guin | $1,000,000 |
| 1861 | IL | Francis Cabrini/W. Green Homes CHA Street Construction. City of Chicago | $600,000 |
| 1862 | NY | Plan and construct bicycle path, esplanades and ferry landing along New York Bay in Sunset Park, Brooklyn | $10,000,000 |
| 1863 | PA | Construct Dubois Regional Medical Center Access Road | $600,000 |
| 1864 | NY | To design and construct safe route to school projects in Brooklyn, Queens and Manhattan, NY | $550,000 |
| 1865 | PA | US 30 corridor improvements from PA 896 to PA 897. Connects PA 41 | $3,000,000 |
| 1866 | MD | US 40 Alternate. Middletown Bypass | $5,000,000 |
| 1867 | CA | Construction of a smart crosswalk system at the intersection of Topanga Canyon Blvd. and Gault St | $50,000 |
| 1868 | WI | Expand USH 51 & STH 29 in Marathon County | $8,000,000 |
| 1869 | PA | Construct 2 flyover ramps and S Linden St ext for access to industrial sites in the cities of McKeesport and Duquesne | $7,000,000 |
| 1870 | NY | Construct 4-lane bypass roadway along US Route 6 in Lake Mohegan parallel to Strawberry Road in Yorktown ending in Town of Cortlandt Manor | $130,000 |
| 1871 | NY | Construct pedestrian walkway along Route 9A in Hudson River Park, New York City | $5,000,000 |
| 1872 | IN | Design engineering. right-of-way acquistion, and construction for the Grant County Economic Corridor | $2,000,000 |
| 1873 | MN | City of Marshall TH 23 4-Lane Extension | $3,288,000 |
| 1874 | IL | Henry Horner Homes CHA Street Construction, City of Chicago | $1,000,000 |
| 1875 | TN | Improve circuitry on vehicle protection device installed at highway-RR crossing in Knoxville, TN | $158,000 |
| 1876 | NJ | Construct Intersection at Route 46 and Little Ferry Circle in Little Ferry | $1,500,000 |
| 1877 | AR | Improve State Highway 88 (Higdon Ferry Road) in Hot Springs | $4,000,000 |
| 1878 | MD | Improve US 1. Washington Boulevard Corridor in Howard County | $1,000,000 |
| 1879 | NY | Downtown Flushing Traffic and Pedestrian Improvements | $1,000,000 |
| 1880 | FL | Arlington Expressway Access Rd., Jacksonville | $1,500,000 |
| 1881 | CO | Construct arterial on W side of Montrose to ease traffic congestion on SH 550 between Grand Avenue, N/S of city | $7,500,000 |
| 1882 | CO | North I-25: Denver to Fort Collins Colorado | $8,000,000 |
| 1883 | CA | Planning for Orange Line Mag Lev from downtown Los Angeles to central Orange County | $350,000 |
| 1884 | NJ | Rahway Streetscape Replacement Project | $500,000 |
| 1885 | CT | Reconstruct I-95/I-91 interchange and construct pedestrian walkway. New Haven | $2,000,000 |
| 1886 | VA | Blue Ridge Music Center—install lighting/steps. upgrade existing trail system and equip interpretative center with visitor information | $1,500,000 |
| 1887 | VA | Ceres Recreation Trail and Center—design and construct pedestrian/bicycle trail in community of Ceres and establish trail center | $150,000 |
| 1888 | ME | Construction of trails within the Eastern Trail Management District | $1,000,000 |
| 1889 | GA | I-75 interchanges from north of Tifton to Turner County line | $1,000,000 |
| 1890 | GA | City of Savannah. Construct bike and pedestrian paths along Heritage Rail | $200,000 |
| 1891 | FL | Implementation of the Advanced Traffic Managament System. Boca Raton. FL | $2,000,000 |
| 1892 | TX | Construct reliever route on US 287 South of Stratford to US 287 North of Stratford | $3,000,000 |
| 1893 | WI | Construct HSH 151 between CTH D and STH 175, Fond du Lac County, WI | $3,000,000 |
| 1894 | OH | Construct transportation enhancement projects. Toledo | $10,500,000 |
| 1895 | TX | Construct grade separation at US59 and SH99. Replace the proposed interim cloverleaf ramps at the intersection | $5,000,000 |
| 1896 | MS | Gateways Transportation Enhancement Project. Hancock County | $250,000 |
| 1897 | NY | Install Improvements for Pedestrian Safety in the vicinity of IS 194 | $250,000 |
| 1898 | OK | Improvements to SH412P at I-44 Interchange | $4,500,000 |
| 1899 | FL | Acquire right-of-way and construct East-West Connector from SR 37 to SR 563 in Lakeland, FL | $3,000,000 |
| 1900 | WA | Design Valley Mall Blvd for Main St to I-82 and two I-82 interchanges at Mileposts 36 and 38 in Union Gap, WA | $6,400,000 |
| 1901 | WA | Extension of Waaga Way west to Old Frontier Rd and construction of a ramp from SR3 to SR303 | $500,000 |
| 1902 | ME | Plan and construct highway access between US Route 161 and US Route 1 in Madawaska | $1,000,000 |
| 1903 | CA | Randolph St improvements between Wilmington Ave and Fishburn Ave in Huntington Park | $1,200,000 |
| 1904 | CA | Reconstruct Azusa Ave and San Gabriel Ave for two-way traffic in Azusa | $2,500,000 |
| 1905 | KS | Construction of a 1.5 mile alternate truck route in Downs. Kansas | $500,000 |
| 1906 | AL | Pedestrian Improvements for Columbiana, AL | $100,000 |
| 1907 | MN | Reconstruct CSAH 91 from the D.M. and I.R. Railroad crossing at 8th Street in Duluth to CSAH 56. St Louis County | $5,000,000 |
| 1908 | NY | Construct Wayne County, NY rails to trails initiative | $345,000 |
| 1909 | MA | Design and construct signal crossing and other safety improvements to Bicycle/ Pedestrian Path | $750,000 |
| 1910 | MI | Construction of Nonmotorized Pathway, City of Rockwood | $300,000 |
| 1911 | WA | Purchase of scenic easement at I-90 and Highway 18 | $600,000 |
| 1912 | PA | Reconstruct the SR 33, 512 interchange in the Borough of Wind Gap | $2,500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1913 | NY | Access improvements for terminal located on 12th Ave between W. 44th and W. 54th St in Manhattan | $4,000,000 |
| 1914 | IL | Completion of the Grand Illinois Trail, Cook County | $1,292,500 |
| 1915 | CA | Construct and improve medians and drainage on Imperial Highway from west border to east border of city in La Mirada | $1,700,000 |
| 1916 | CT | Construct Pomfret Pedestrian Bridge | $120,000 |
| 1917 | NV | Construct Laughlin Bullhead City Bridge | $2,000,000 |
| 1918 | PA | Design, engineering, ROW acquisition, & construction of the widening of Pennsylvania Rt. 443 Corridor in Carbon County | $1,000,000 |
| 1919 | NY | Palisades Interstate Parkway Mitigation Measures for New Square | $600,000 |
| 1920 | CA | Reconstruct and widen Del Amo Blvd to four lanes between Normandie Ave and New Hampshire Ave, Los Angeles County | $3,000,000 |
| 1921 | MN | Reconstruct Unorganized Township Road 488 from CSAH 138, Koochiching County | $1,025,000 |
| 1922 | NY | Reconstruction of Empire Boulevard | $6,400,000 |
| 1923 | PA | Reconstruction of PA 309 from Greenwood Avenue to Welsh Road | $2,500,000 |
| 1924 | TN | Construction of I-69 in Obion, Dyer, Lauderdale & Tipton Counties | $14,125,000 |
| 1925 | IL | Design, land acquistion, and construction of South Main St (IL 2) Corridor from Beltline Rd to Cedar Street in Rockford, IL | $2,000,000 |
| 1926 | OH | Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rickenbacker Airport | $12,500,000 |
| 1927 | MA | Reconstruction of Pleasant Street, Watertown | $2,000,000 |
| 1928 | MN | Lake Wobegon Trail corridor from Sauk Centre to the Stearns County line | $352,000 |
| 1929 | RI | Replace Sakonnet Bridge | $2,000,000 |
| 1930 | CA | Conduct study and construct CA State Route 239 from State Route 4 in Brentwood area to I-205 in Tracy area | $5,000,000 |
| 1931 | MA | Geometric improvements, safety enhancements and signal upgrades at Rt. 28 & Rt.106, intersection West Bridgewater | $1,500,000 |
| 1932 | WA | Fife—Widen 70th Ave. East and Valley Ave. East | $1,000,000 |
| 1933 | CA | Construct two right hand turn for Byzantine Latino Quarter transit plazas at Normandie and Pico, and Hoover and Pico, Los Angeles | $400,000 |
| 1934 | WA | I-90 Two-Way Transit-HOV Project | $4,000,000 |
| 1935 | AL | Construct Talladega Mountains Natural Resource Center—an educational center and hub for hikers, bicyclists, and automobiles | $500,000 |
| 1936 | MD | Gaithersburg, MD Extension of Teachers Way-Olde Towne Gaithersburg Revitalization | $1,400,000 |
| 1937 | IL | Intersection Reconstruction and Bridge Rehabilitation at IL 60 and Peterson Road | $2,500,000 |
| 1938 | AK | Planning, design, and EIS of Bradfield Canal Road | $2,300,000 |
| 1939 | TX | Reconstruct Clinton Dr. from Federal Rd. to N. Wayside Dr | $14,000,000 |
| 1940 | GA | Pave portions of CR 345, CR 44, and CR 45, Hancock County | $370,000 |
| 1941 | NY | Deer Avoidance System, to deter deer from milepost marker 494.5, Ripley, PA, to 304.2., Weedsport, NY along I-90 | $250,000 |
| 1942 | CA | El Camino Real Grand Blvd Initiative in San Mateo County | $3,500,000 |
| 1943 | CA | Construct Guadalupe River Trail from I-880 to Highway 237 in Santa Clara County | $7,000,000 |
| 1944 | TN | Cocke County, Tennessee SR-32 reconstruction | $500,000 |
| 1945 | IL | Construct I-80, Ridgeland Ave. Improvements, Tinley Park | $1,000,000 |
| 1946 | KY | Construct Pedestrian Mall and Streetscape Improvements, Wilmore | $3,905,000 |
| 1947 | PA | PA 23 corridor improvements from US 30 to US 322 | $2,450,000 |
| 1948 | NJ | Replacement and realignment of Amwell Road Bridge over Neshanic River | $555,000 |
| 1949 | FL | City of Wilton Manors Powerline Road Streetscape Enhancement Project | $375,000 |
| 1950 | TX | Construct SH 199 (Henderson St.) through the Trinity Uptown Project between the West Fork and Clear Fork of the Trinity River in Fort Worth | $7,000,000 |
| 1951 | IN | Construction of multi-use paths, Town of Fishers, Indiana | $250,000 |
| 1952 | OH | Construct White Pond Dr. project in Akron | $1,000,000 |
| 1953 | MN | Design and right of way acquisition for I-35E-CSAH 14 Main Street Interchange, city of Lino Lakes, Minnesota | $1,000,000 |
| 1954 | OR | Expand storage facilities in Eugene to support transportation enhancement activities throughout the state | $2,500,000 |
| 1955 | CA | Improvements to US-101 ramps between Winnetka Ave. and Van Nuys Blvd | $400,000 |
| 1956 | IN | Acquire right of way for and construct University Parkway from Upper Mt. Vernon Road to SR 66 | $3,000,000 |
| 1957 | CA | Pine Avenue extension from Route 71 to Euclid Avenue in the City of Chino, California | $8,500,000 |
| 1958 | MO | Confluence Greenway Land Acquisition for Riverfront Trail development in St. Louis | $700,000 |
| 1959 | TN | Retrofit noise abatement walls in Davidson County | $2,500,000 |
| 1960 | MA | Road Improvements between Museum Road & Forsyth Way | $4,000,000 |
| 1961 | MI | Commerce, Haggerty Road from 14 Mile to Richardson | $1,500,000 |
| 1962 | WI | Expand STH 23, County Highway OJ to US Highway 41, WI | $15,000,000 |
| 1963 | FL | Construct interchange at I-95 and Matanzas Woods Parkway, Flagler County | $1,000,000 |
| 1964 | IL | Miller Road Widening and Improvement, McHenry | $7,955,000 |
| 1965 | NC | Construct Neuse River Trail in Johnston County | $2,000,000 |
| 1966 | TX | Construct landscaping and other pedestrian amenities in segments of the Old Spanish Trail and Griggs Road rights-of-way | $2,000,000 |
| 1967 | NY | Construction of and improvements to Union Road and Walden Avenue in Cheektowaga | $1,000,000 |
| 1968 | LA | Construction of West Covington Bypass-LA 21 Widening | $4,000,000 |
| 1969 | MS | Construct Byrd Parkway Extension, Petal | $1,000,000 |
| 1970 | NY | Intermodal transportation improvements in Coney Island | $3,300,000 |
| 1971 | MN | Construct one mile of new roadway and a bridge crossing the DM&IR railroad tracks, and construct connector between CSAH 14 and CSAH 284, Proctor | $3,280,000 |
| 1972 | NH | Construct Park and Ride, Exit 5 on I-93—Londonderry, NH | $2,000,000 |
| 1973 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Exeter Borough, Luzerne County | $200,000 |
| 1974 | PA | Extension of River Road in Reading, PA to provide access to major industial and brownfields sites | $1,500,000 |
| 1975 | AK | Point MacKenzie in Matanuska-Susitna Borough plan and design road access | $1,000,000 |
| 1976 | TX | Repair 4.35 miles of Lake Ridge Parkway. Widen roadway along with 2 bridges from 4 lanes to 6 across Joe Poole Lake in Grand Prairie, TX | $6,000,000 |
| 1977 | IL | Robert Taylor Homes CHA Street Construction, City of Chicago | $550,000 |
| 1978 | OR | Rockwood Town Center for Stark Street from 190th to 197th for pedestrian, bicycle and transit facilities and safety mitigation | $1,750,000 |
| 1979 | PA | Route 89 Curve Realignment one mile north of Titusville on Route 89 | $300,000 |
| 1980 | FL | Sand Lake Road Improvements between Presidents Drive and I-4 | $6,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1981 | MI | Sault Ste. Marie, Reconstruct East Spruce Street with drainage, curb, gutter, pavement, traffic control devices | $950,000 |
| 1982 | MI | Study and construct I-96/US31-Sternberg Road area improvements | $6,000,000 |
| 1983 | PA | Provide access to HOV ramp from Reedsdale Street with traffic signals, pavement markings, lane control and fast acting gates | $2,000,000 |
| 1984 | IL | The extension of MacArthur Blvd. from Wabash to Iron Bridge Road, Springfield | $1,500,000 |
| 1985 | IL | Construct Cedar Creek Linear Park Trail, Quincy | $500,000 |
| 1986 | IN | Conduct study for US50 Corridor Improvements, Dearborn County Indiana | $300,000 |
| 1987 | IL | Design, land acquistion, and construct West State St (US Business 20) from Meridan Rd to Rockton Ave in Rockford, IL | $2,000,000 |
| 1988 | CA | The Foothill South Project, construct 16 miles of a six-lane limited access highway system | $10,000,000 |
| 1989 | MI | Construct Road Improvements to Miller Rd. from I-75 to Linden Rd. Flint Township | $3,000,000 |
| 1990 | CA | State Route 99 improvements at Sheldon Road | $4,000,000 |
| 1991 | KY | The Kentucky Multi-Highway Preservation Project | $1,600,000 |
| 1992 | NY | Town of Warwick, NY. Bridge replacement on Buttermilk Falls Rd | $175,000 |
| 1993 | TN | Improve existing two lane highway to a four lane facility along the US-412 Corridor west of Natchez Trace to US-43 at Mt. Pleasant | $5,500,000 |
| 1994 | NY | Town of Warwick, NY East Shore Road reconstruction | $800,000 |
| 1995 | FL | Traffic Reconfiguration of SR 934 and US 1 Route, Miami | $1,000,000 |
| 1996 | PA | For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania | $300,000 |
| 1997 | MI | Construct North Central Muskegon County Corridor Improvements at US31 and Russell Road | $2,300,000 |
| 1998 | OH | Reconstruct I-75/I-475 Interchange, Toledo | $3,000,000 |
| 1999 | NY | College Point 20th Avenue Streetscapes Improvements Project in Queens | $700,000 |
| 2000 | OH | Construct a 4 lane limited access road to link Newcomerstown and Cadiz | $750,000 |
| 2001 | CO | Construct trail to extend the Pequonnock Valley rail-trail through Trumbull and into Bridgeport, CT | $500,000 |
| 2002 | MS | Plan and Construct Star Landing Corridor from US 78 to US 61 | $2,000,000 |
| 2003 | TX | I Road Between Nolana Loop and FM 495 in Hidalgo County | $1,900,000 |
| 2004 | NC | North Carolina. Add passing lanes and safety improvements to US Hwy. 64 in Transylvania County | $2,000,000 |
| 2005 | TN | Improve streetscape and pavement repair, Blount County, TN | $300,000 |
| 2006 | CT | Reconstruction of State Route 111 from Purdy Hill Road to Fan Hill Road, Monroe, CT | $1,500,000 |
| 2007 | IL | Resurface Trumbull Ave. and Homan Ave., Evergreen Park | $400,000 |
| 2008 | GA | HWY 78 Corridor Improvement Gwinnett County | $500,000 |
| 2009 | TX | Construct Southwest Bypass in Georgetown, Texas, between SH29 and Ranch Road 2243 | $4,000,000 |
| 2010 | MO | To improve U.S. 54 to a four lane highway from the Osage River to MO Route KK | $1,000,000 |
| 2011 | MS | Upgrade roads in Mayersville (U.S. Hwy 14 and 1), Issaquena County | $200,000 |
| 2012 | MA | Gainsborough St & St. Botolph St. Improvements | $750,000 |
| 2013 | IN | Construct US 31 Kokomo Corridor Project for Kokomo Howard County, Indiana | $1,000,000 |
| 2014 | OH | Construction of Tri-State Outer Belt in Lawrence County | $2,000,000 |
| 2015 | PA | Completion of I-79-Kirwin Heights Interchange and construction of retaining walls, bridge and new ramps | $2,000,000 |
| 2016 | OH | Construction of the Carroll Area Interchange in Fairfield County | $3,000,000 |
| 2017 | CA | Construct the Silicon Valley Transportation Incident Management Center in San Jose | $2,500,000 |
| 2018 | CA | Design and Construction Camino Tassajara Crown Canyon to East Town Project, Danville, CA | $1,000,000 |
| 2019 | NY | Dutchess County, Replace County Bridge BIN 3343110 over Fishkill Creek, Philips Road, Town of East Fishkill | $400,000 |
| 2020 | WI | North 28th Street Phase 2 roadway safety improvements from Weeks Avenue to Hill Avenue in Superior | $1,280,000 |
| 2021 | NC | Upgrade US 74 in Columbus County | $7,000,000 |
| 2022 | MS | Upgrade US 78 to Interstated Standards from the MS-TN state line to the MS-AL state line | $4,000,000 |
| 2023 | IN | Improve Bailie Street, Kentland | $320,000 |
| 2024 | CA | Realignment of La Brea Avenue to reduce congestion | $3,640,000 |
| 2025 | IL | Resurface Elston Avenue from Milwaukee to Pulaski, Chicago | $2,000,000 |
| 2026 | TN | Sullivan, Washington Counties, Tennessee SR-75 widening | $2,000,000 |
| 2027 | GA | US 17/SR 404 Spur, Back River bridge replacement, Savannah | $4,000,000 |
| 2028 | MS | US 98 access improvements & new I-59 interchange, Lamar County | $4,000,000 |
| 2029 | VA | Construct South Airport Connector, Richmond International Airport | $500,000 |
| 2030 | NY | City of Peeskill, NY Street Resurfacing Program, Riverview Avenue | $130,000 |
| 2031 | GA | SR 400 at SR 120 Old Milton Parkway intersection improvement Fulton County Georgia | $1,000,000 |
| 2032 | MA | East Boston Haul Road Construction | $6,000,000 |
| 2033 | NY | Town of Goshen Orzeck Road reconstruction | $400,000 |
| 2034 | VA | Revitalize Main Street in Dumfries | $725,000 |
| 2035 | FL | Replace Platt Street Bridge | $3,000,000 |
| 2036 | FL | Access Rd. Streetscaping, Sanford Airport | $500,000 |
| 2037 | NY | Rockland County and City of Yonkers to Lower-Manhattan Ferry Boat project | $1,000,000 |
| 2038 | SC | Complete construction of Palmetto Parkway (I-520) Extension (Phase II) to I-20 | $6,000,000 |
| 2039 | NM | US 62-180 Reconstruction, Texas State Line to Carlsbad | $5,000,000 |
| 2040 | IL | US Rt 30 between Williams Street and IL Rt 43 for signals, turn & or deceleration lanes at 80th Ave, Wolf Rd, Lincoln Way HS and Locust St | $6,000,000 |
| 2041 | OH | Construct Orchard Lane to Factory Road Connector, Greene County | $500,000 |
| 2042 | TX | Construction of vessel impact protection system for TXDOT | $500,000 |
| 2043 | NC | Design and construction of the Airport Area Roadway Network, High Point, North Carolina | $5,000,000 |
| 2044 | VA | Repair Colorado Street bridge in Salem, Virginia | $1,500,000 |
| 2045 | CA | Project to evaluate air quality and congestion mitigation benefits of a Hybrid Utility Vehicle in Santa Barbara County | $100,000 |
| 2046 | PA | Mill Street improvements, Borough of Lansdale | $900,000 |
| 2047 | MN | Construction of County State Aid Highway 21, Scott County, MN | $3,200,000 |
| 2048 | PA | Safety improvement to Chesnuts Turn-SR 475, Fulton County, Pa | $2,600,000 |
| 2049 | TX | Two direct connectors in Houston, Texas between IH 10 and SH 99, The Grand Parkway | $5,000,000 |
| 2050 | MO | Upgrade of Rt. 71 from Pineville to Arkansas State Line | $15,000,000 |
| 2051 | CA | Improve interstates and roads part of the Inland Empire Goods Movement Gateway project in and around the former Norton Air Force Base | $25,000,000 |
| 2052 | IL | Preconstruction activities for Sangamon Valley Bicycle Trail (IL) | $500,000 |
| 2053 | MI | St. Clair County Parks is working with 13 local units to develop the 54-mile Bridge-to-Bay trail | $500,000 |
| 2054 | NJ | New Jersey Underground Railroad for preservation, enhancement and promotion of sites in New Jersey | $320,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2055 | CA | Construction of an interchange at Lammers Road and I-205, Tracy, CA | $1,000,000 |
| 2056 | MN | Right of way acquisition for St. Cloud Metro Area Project Development Studies | $3,000,000 |
| 2057 | NY | Improve CR39 from NY27 to NY27A, Suffolk County | $3,000,000 |
| 2058 | PA | Street improvements, Borough of Ambler | $650,000 |
| 2059 | KY | Reconstruction of KY61 from Greensburg in Green County to Columbia in Adair County | $1,000,000 |
| 2060 | TX | Construct Loop 12-IH 35E and SH 183 west extension to MacArthur, Irving, Texas | $1,000,000 |
| 2061 | NC | To plan, design, and construct the segment of Berkeley Blvd. from Royal Avenue to Hew Hope Rd (SR 1003) in Goldsboro, NC | $1,000,000 |
| 2062 | OH | Upgrade Manchester Rd. in Akron | $4,000,000 |
| 2063 | IL | St. Charles Road, The Village of Bellwood | $1,000,000 |
| 2064 | TN | Engineer, design & construction of connector rd from I-75 interchange across Enterprise South Industrial Park to Hwy 58 in Hamilton County | $9,000,000 |
| 2065 | TX | Construct 4 lane divided roadway along SH 71 from the Perdernales River to Bee Creek | $1,000,000 |
| 2066 | CT | I-84 Danbury Exits 1-11 Upgrade Interchanges | $1,500,000 |
| 2067 | CA | Complete the engineering design and acquire the right-of-way needed for the Arch-Sperry project in San Joaquin County | $5,000,000 |
| 2068 | UT | Increase lane capacity on bridge over Virgin River on Washington Fields Road in Washington | $3,000,000 |
| 2069 | NY | Installation of Utica Traffic Signal System | $3,000,000 |
| 2070 | NC | To construct an interchange at an existing grade separation at SR 1602 (Old Stantonsburg Rd.) and U.S. 264 Bypass in Wilson County, NC | $4,000,000 |
| 2071 | WA | US12 Burbank to Walla Walla: Construct new four lane highway for portion of US 12 | $3,300,000 |
| 2072 | TX | Construct direct connectors on US 59 Intersection of US 59, Business 59 and US 77 (previously Loop 463) | $1,500,000 |
| 2073 | OH | Structural improvements to two bridges over the Zimber Ditch between 38th St. and Whipple Ave. in Canton, Ohio | $500,000 |
| 2074 | OK | US-281, Widen US-281 from the new US-281 Spur North to Geary Canadian County, OK | $1,000,000 |
| 2075 | MI | City of Negaunee, Croix Street reconstruction-Streetscape and resurfacing from US 41 to Maas Street | $1,125,000 |
| 2076 | KS | Construct I-35 and Lone Elm Road interchange and widen I-35 from 51st St. to 59th St., Olathe | $5,000,000 |
| 2077 | MI | Integrated highway realignment and grade separations at Port Huron, MI to eliminate road blockages from NAFTA rail traffic | $500,000 |
| 2078 | OK | US-60, Widen US-60 between Bartlesville and Pawhuska, Osage County, OK | $3,000,000 |
| 2079 | WA | Construct an off-ramp from I-5 to the intersection of Alderwood Mall Blvd and Alderwood Mall Pkwy | $500,000 |
| 2080 | CA | Reduce congestion and boost economies through safer access to the coast by realigning Hwy 299 between Trinity and Shasta Counties | $5,000,000 |
| 2081 | IL | Pre-construction and construction activities on US 45/LaGrange Road from 131st Street to 179th Street | $1,000,000 |
| 2082 | AR | Van Buren, Arkansas—Widen and reconstruct Rena Road | $3,000,000 |
| 2083 | GA | Construction of infrastructure for inter-parcel access, median upgrades, lighting, and beautification along Highway 78 corridor | $6,500,000 |
| 2084 | CA | Construct Alviso Bay Trail from Gold Street in historic Alviso to San Tomas Aquino Creek in San Jose | $1,000,000 |
| 2085 | MS | Construct bicycle and trolley path, Hattiesburg | $850,000 |
| 2086 | WI | Construct a bike and pedestrian bridge across STH 100 at the 1800 block of S. 108th Street, West Allis | $300,000 |
| 2087 | IL | Increasing the height on the IL Rt. 82 Railroad Underpass in Geneseo, IL | $3,000,000 |
| 2088 | NC | US-70 Goldsboro Bypass | $1,000,000 |
| 2089 | CA | Vasco Road Safety Improvements, Contra Costa Transportation Authority and the County of Alameda Public Works, California | $1,000,000 |
| 2090 | NY | Downtown Flushing Multi-Modal Connection Project, Queens | $1,100,000 |
| 2091 | MD | Construct Safety and Operations Improvements at MLK Jr. Blvd. and W. Baltimore Street in Baltimore | $1,700,000 |
| 2092 | NY | Rehabilitate Riis Park Boardwalk | $300,000 |
| 2093 | TX | Construct 25 mile stretch of the 177-mile loop, between IH-45 south and SH-288 | $11,500,000 |
| 2094 | UT | Construction of Midvalley Highway, Tooele County, Utah | $1,000,000 |
| 2095 | WA | Improve Willapa Hills bicycle and pedestrian trail between Rainbow Falls State Park and Adna | $200,000 |
| 2096 | PA | Design and construct interchange and related improvements at I 83 Exit 18 | $6,000,000 |
| 2097 | VA | Northern Virginia Potomac Heritage National Scenic Trail | $1,000,000 |
| 2098 | NC | Construct new traffic path to receive and dispatch trucks from US 74, US 76, US 421, and US 17S | $3,000,000 |
| 2099 | OK | Construction of Midwest City Pedestrian Walkway | $1,000,000 |
| 2100 | TX | Construct parallel bridge for SH 35 over Capano Bay | $1,000,000 |
| 2101 | GA | Construct access roads on Airport Loop road in Hapeville | $2,000,000 |
| 2102 | TN | Construct 2nd Creek Greenway, Knoxville, Tennessee | $685,700 |
| 2103 | NE | Design, right-of-way and construction for the Louisville Bypass, Nebraska | $1,000,000 |
| 2104 | HI | Construct Honoapiilani Highway Realignment | $3,000,000 |
| 2105 | TN | Hamblen County, Tennessee US25E interchange improvements | $1,000,000 |
| 2106 | IL | Construction of a new bicycle-pedestrian bridge in Wayne, IL | $1,200,000 |
| 2107 | PA | David Lawrence Convention Center Phase IV-reconstruction of roadways assoc. with HQ hotel project | $1,200,000 |
| 2108 | CO | I-70 and SH58 Interchange: Reconstruction of existing ramps, building of missing ramps and ROW acquisition | $4,000,000 |
| 2109 | OH | Reconstruct U.S. Route 6 (Lake Road), Rocky River | $2,000,000 |
| 2110 | WA | Construct .6 mile span over I-5 in Thurston County to connect Chehalis Western Trail | $4,300,000 |
| 2111 | IL | Extend Frank Scott Parkway East Road to Scott AFB, St. Clair County | $2,800,000 |
| 2112 | OH | Reconfigure I-480 and Transportation Blvd. Interchange, Garfield Heights | $750,000 |
| 2113 | NY | Rehabilitation of Route 100 from Virginia Road to Westchester Community College | $1,100,000 |
| 2114 | TN | Restoration of historic L&N Depot, McMinn County, Tennessee | $20,000 |
| 2115 | SD | Resurface 10 miles of US18 from Okreek to Carter on the Rosebud Indian Reservation | $2,300,000 |
| 2116 | CA | Route 198 Expansion, from SR 99 to SR43 | $3,000,000 |
| 2117 | WA | SR 543 Interstate 5 to International Boundary Enhancement in Blaine | $2,500,000 |
| 2118 | MD | Rockville, MD Construction of Maryland Avenue and Market Street Intermodal Access Project | $4,000,000 |
| 2119 | MN | US Highway 212 expansion from Carver Cnty Rd 147 to Cologne and from Cologne to Norwood Young America | $1,000,000 |
| 2120 | VA | Vienna, VA Maple Avenue improvement project | $1,650,000 |
| 2121 | IL | Village of South Jacksonville—West Vandalia Road upgrades | $952,572 |
| 2122 | AS | Village road improvements for Launiusaelua and Ituau counties in the Central district | $3,000,000 |
| 2123 | AS | Village road improvements for Tualauta, Tualatai, Aitulagi, Fofo, and Alataua counties in the Western district | $3,000,000 |
| 2124 | FL | Destiny Rd Reconstruction, Eatonville | $1,000,000 |
| 2125 | KY | Construct New Technology Triangle Access Road, Campbell County, Kentucky | $2,000,000 |
| 2126 | NY | Town of Wawayanda reconstruction of McVeigh Road | $400,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2127 | VA | Virginia Creeper Trail—trail needs, including construction of restroom facilities at Watauga and Alvarado and parking expansion at Watauga | $850,000 |
| 2128 | CA | Construct grade separation on State College Blvd. at the Burlington Northern Santa Fe railroad, Fullerton | $14,000,000 |
| 2129 | MA | Warren Street—Blue Hill Avenue | $2,000,000 |
| 2130 | FL | Design and construct Dunn Avenue Extension, Volusia County | $2,000,000 |
| 2131 | CA | Construct operational and safety improvements to I-880 N at 29th Ave in Oakland | $2,500,000 |
| 2132 | WA | U.S. 395, North Spokane Corridor Improvements | $3,300,000 |
| 2133 | NY | Route 531 Expansion Spencerport-Brockport, 4-lane Highway is a project to extend Rt. 531 | $7,400,000 |
| 2134 | OR | Columbia Intermodal Corridor for rail congestion relief, improved intersections and access to Interstate-5 for trucks, and grade-separate road from rail, Portland | $11,150,000 |
| 2135 | OH | Interchange and related road improvements to SR 44 in Painesville, OH | $3,000,000 |
| 2136 | GA | Greene County, Georgia conversion of I-20 and Carey Station Road overpass to full interchange | $1,200,000 |
| 2137 | IL | Pioneer Parkway upgrade in Peoria—Extension from Allen Road to Route 91 | $2,000,000 |
| 2138 | MS | Construct historic bicycle path, Pascagoula | $150,000 |
| 2139 | PA | Crows Run Relocation from SR 65 to Freedom Crider Road | $2,350,000 |
| 2140 | OH | Replace the Edward N. Waldvogel Viaduct in Cincinnati | $6,000,000 |
| 2141 | NC | Construct I-540 from NC 55 South to NC 55 North | $11,000,000 |
| 2142 | NY | Roadway, streetscape, pedestrian, and parking improvements to the Buffalo Niagara Medical Campus, Buffalo | $4,000,000 |
| 2143 | VA | Upgrade DOT crossing #470515H to constant warning devices in Halifax | $150,000 |
| 2144 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Avoca Borough, Luzerne County | $200,000 |
| 2145 | WA | Bridge Modification and Interstate Highway Protection Project, Skagit River, in Skagit County | $4,000,000 |
| 2146 | TN | Construct welcome center, Macon County | $200,000 |
| 2147 | CA | Construction of new roadway lighting on major transportation corridors in the Northwest San Fernando Valley | $1,000,000 |
| 2148 | MO | Interchange design and construction for the Main Street Extension at I-55, Cape Girardeau County | $1,000,000 |
| 2149 | CA | Replace SR22 interchanges, construct HOV lanes, and lengthen bridges in Garden Gove | $6,000,000 |
| 2150 | IL | Construct I290, The Village of Oak Park | $1,000,000 |
| 2151 | RI | Rehabilitation of Bridge Number 550 In Pawtucket | $5,500,000 |
| 2152 | WA | Complete analysis, permitting and right of way procurement for I-5/SR501 Interchange replacement in Ridgefield | $500,000 |
| 2153 | CA | Design and construct new interchange at Potrero Blvd and State Route 60 in Beaumont | $2,000,000 |
| 2154 | TN | Construction of a pedestrian bridge in Alcoa, TN | $1,000,000 |
| 2155 | WV | Construct 4 lane improvements on U.S. Route 35 in Mason County | $14,000,000 |
| 2156 | OH | Construct Grade Separation at Front Street, Berea | $500,000 |
| 2157 | CA | Crenshaw Blvd. Rehabilitation, 182nd St.—190th St.; and Crenshaw Blvd. at 182nd St. Fwy on-off Ramp Capacity Enhancement, City of Torrance | $800,000 |
| 2158 | CA | Construct Interchange at Intersection of SR 44 and Stillwater Road | $8,000,000 |
| 2159 | MN | CSAH 61 improvements, City of Coleraine | $490,000 |
| 2160 | KY | Expansion to four lanes of Hwy 55 and Hwy 555 Heartland Parkway in Taylor County | $10,000,000 |
| 2161 | KS | Interchange improvement at K-7 and 55th St. in Johnson Co | $5,000,000 |
| 2162 | CA | Construct truck lane on Baughman Road from State Route 78/86 to Forrester Road, Westmorland | $550,000 |
| 2163 | AZ | Construct bridges at Aspen St., at Birch St., at Cherry St., at Bonito St., at Thorpe St | $1,500,000 |
| 2164 | CT | Construct Putnam curb cuts | $50,000 |
| 2165 | OH | Canton, OH Cleveland Ave. bridge replacement over the Nimishilen Creek | $400,000 |
| 2166 | MN | Design and right of way acquisition for I-35 and CSAH2 interchange in Forest Lake, MN | $3,000,000 |
| 2167 | PA | Complete the connection of the American Parkway between the east and west sides of the Lehigh River with bridge and interchanges | $10,000,000 |
| 2168 | PA | Design, engineering, ROW acquisition & construction of street improvements, parking & safety enhancements Main & Parsonage Streets in Pittston | $250,000 |
| 2169 | TX | Grade separation bridges at Wintergreen Rd. and Millers Ferry Rd. in Hutchins and Pleasant Run Rd. and Millers Ferry Rd. in Wilmer | $8,200,000 |
| 2170 | GA | I-20 HOV lanes from Evans Mill Road to Salem Road, Dekalb and Rockdale Counties | $1,500,000 |
| 2171 | NV | Improve Las Vegas Beltway-Airport Connector Interchange | $4,000,000 |
| 2172 | CA | Oregon-Page Mill expressway Improvements between US101 and SR 82, Palo Alto | $4,000,000 |
| 2173 | MA | Design and construct the Quinebaug River Rail Trail Bikeway | $1,000,000 |
| 2174 | CA | Park Boulevard-Harbor Drive Rail Grade Separation, San Diego | $1,000,000 |
| 2175 | MN | Paul Bunyan Trail, Walker to Bemidji segment | $700,000 |
| 2176 | CA | Construct road surface improvements, and improve road safety from Brawley Water plant to HWY 86 to 9th Street to 18th Street, Brawley | $1,400,000 |
| 2177 | TX | Improvements to FM 1017 in Hebbronville | $500,000 |
| 2178 | CA | Alameda Corridor East Gateway to America Trade Corridor Project, Highway-Railgrade separation along 35 mile corridor from Alameda Corridor (Hobart Junction) to Los Angeles/San Bernardino County Line | $15,500,000 |
| 2179 | GA | Phase III Streetscape-Columbus | $1,000,000 |
| 2180 | IL | Pre-construction and construction IL 15 over Wabash River at Mt. Carmel | $6,960,000 |
| 2181 | NY | Queens and Brooklyn County Graffiti Elimination Program including Kings Highway from Ocean Parkway to McDonald Avenue | $4,000,000 |
| 2182 | IA | Improvements at the IA 146 and I 80 interchange, Grinnell | $1,000,000 |
| 2183 | TX | Construct Grade separation at US 277 in Eagle Pass | $5,000,000 |
| 2184 | LA | Plan, design, land acquisition, and construction for improved access to I-10 and US61/River Road in St. John the Baptist and in Ascension Parish on the LA22 Corridor | $2,750,000 |
| 2185 | KS | Construction of a two-lane on a four-lane right of way bypass with controlled access on US-400 at Dodge City | $12,800,000 |
| 2186 | MN | Reconstruct CR 203 between US 10 and CSAH 1, Morrison County | $336,000 |
| 2187 | NY | Reconstruction of York Street Industrial Corridor Project, Auburn, NY | $3,500,000 |
| 2188 | NY | Construction of and improvements to Route 62 in the Village of Hamburg | $1,000,000 |
| 2189 | IN | Downtown road improvements, Indianapolis | $10,000,000 |
| 2190 | AL | Construct pedestrian urban-edge riverwalk in Montgomery, AL | $500,000 |
| 2191 | PA | Johnstown, Pennsylvania, West End bypass safety improvements | $5,000,000 |
| 2192 | CA | Construction of traffic and pedestrian safety improvements in Yucca Valley | $2,000,000 |
| 2193 | CA | 710 Freeway Study to Evaluate Technical Feasibility and Impacts of a Tunnel Alternative to Close 710 Freeway Gap | $3,000,000 |
| 2194 | CA | Greenleaf Right of Way Community Enhancement Project-design and construct bikeways, pedestrian walkways and upgrade signalization Compton | $3,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2195 | KY | Improve Prospect Street Pedestrian Access, Berea | $2,750,000 |
| 2196 | OH | Construct Crocker Stearns Connection, North Olmsted and Westlake | $700,000 |
| 2197 | NY | Construction of and improvements to Seneca Street in Buffalo | $600,000 |
| 2198 | CA | Avalon Boulevard/I-405 Interchange modification project, Carson | $4,000,000 |
| 2199 | IL | Construct Illinois Route 336 from Macomb to Peoria | $2,000,000 |
| 2200 | NC | North Carolina. Pack Sqaure Pedestrian and Roadway Improvements, Asheville | $4,000,000 |
| 2201 | PA | Provide pedestrian and water access to Convention Center from surrounding neighborhoods | $1,100,000 |
| 2202 | NY | Reconstruction of Times and Duffy Squares in New York City | $1,500,000 |
| 2203 | LA | Construction of I-10 Access Road (Crowley) | $1,100,000 |
| 2204 | NY | Repaving of I-86 in towns of Coldspring, Randolph, Allegany, and Olean; City of Olean; Village of Randolph in Cattaraugus County | $10,000,000 |
| 2205 | PA | Replace Bridge, S.R. 106, Tunkhannock Creek Bridge 2, Clifford Township, Susquehanna County | $800,000 |
| 2206 | NJ | Replace Route 7—Wittpen Bridge, Hudson County | $1,000,000 |
| 2207 | MN | Right-of-Way acquisition for 8th Street North & Pinecone Road | $4,000,000 |
| 2208 | IL | For Village of Lemont to modernize and improve the intersection of McCarthy Road, Derby Road, and Archer Avenue | $350,000 |
| 2209 | CA | Construct I-80 HOV lanes and interchange in Vallejo | $1,000,000 |
| 2210 | PA | Rail Crossing signalization upgrade, East Wesner Road, Maidencreek Twp, Berks County | $206,300 |
| 2211 | OH | Construct road projects and transportation enhancements as part of RiverScape Phase III, Montgomery County, Ohio | $4,480,000 |
| 2212 | TN | Riverside Drive Cobblestone Restoration and Walkway, Memphis | $1,000,000 |
| 2213 | TX | Road grade separation at Fairmont Parkway over Southern Pacific Rail road | $5,000,000 |
| 2214 | PA | Construct additional northbound lane on Rte 28 between Harmar and Creighton Interchange | $1,650,000 |
| 2215 | NJ | Roadway and intersection modifications on New Jersey Route 82 | $1,000,000 |
| 2216 | OH | Jackson Township, Ohio. Intersection improvements at Fulton Dr. and Wales | $2,000,000 |
| 2217 | GA | Rockdale County Veteran's Park— create park trails | $500,000 |
| 2218 | MA | Construct the Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester, MA | $2,000,000 |
| 2219 | OH | Improvements to SR 91 in City of Twinsburg, OH | $1,950,000 |
| 2220 | TX | Completion of US 77 relief route around City of Robstown | $2,000,000 |
| 2221 | NY | Improve Maple Avenue, Smithtown | $1,000,000 |
| 2222 | HI | Replace and Rehabilitate Kamehameha Highway Bridges, Island of Oahu | $1,000,000 |
| 2223 | TX | SH71 from W of FM 20 to Loop 150, Bastrop County | $2,000,000 |
| 2224 | IN | Construct US 31 Plymouth to South Bend Freeway Project in Marshall and St. Joseph Counties, Indiana | $8,000,000 |
| 2225 | LA | Plan and develop a four-lane roadway, Jeanerette to US 90 connection | $200,000 |
| 2226 | LA | Construct I-12 and LA 1088 Interchange | $3,000,000 |
| 2227 | CA | 4 lane widening/safety improvements on State Route 25 from Hollister to Gilroy | $3,660,000 |
| 2228 | NY | Comprehensive traffic congestion mitigation study of Hauppauge Industrial Park and surrounding area | $750,000 |
| 2229 | NY | Develop an identity and signage program for the Erie Canalway National Heritage Corridor | $1,000,000 |
| 2230 | CO | Dillon Drive Overpass at Interstate 25 in Pueblo | $4,000,000 |
| 2231 | NY | Improvements at highway-rail crossings along the Southern Teir Extension Railroad in Allegany, Cattaraugus, and Steuben Counties | $1,000,000 |
| 2232 | FL | Depot Ave. Enhancements, Gainesville | $6,000,000 |
| 2233 | CA | Interstate 15 and Winchester Road Interchange Project | $1,000,000 |
| 2234 | PA | Construct the Eastern Inner Loop in Centre County around State College, PA | $1,000,000 |
| 2235 | NJ | Streetscape Improvements along Berlin road between Gibbsboro Road and White Horse Road in Lindenwold Borough | $1,000,000 |
| 2236 | FL | Conduct planning and engineering for SR 70 widening in Hardee, DeSoto and Okeechobee | $2,000,000 |
| 2237 | GA | Streetscape-Albany | $500,000 |
| 2238 | GA | Streetscape-Richland | $200,000 |
| 2239 | MO | Construct four lanes for Route 5 in Camden County | $10,000,000 |
| 2240 | IL | Improve Cottage Grove intersection, South Chicago Avenue and 71st Street | $1,000,000 |
| 2241 | NY | Study, design and reconstruction of pedestrian walkways, the Bronx | $1,000,000 |
| 2242 | MS | Upgrade roads in Anguilla and Rolling Fork, Sharkey County | $750,000 |
| 2243 | TX | For center to center communication link between highway traffic transportation management centers | $1,000,000 |
| 2244 | OH | Upgrade the interchange of Interstates 270 and 71 in Franklin County, Ohio | $2,000,000 |
| 2245 | CA | US 101 Corridor Improvements—Route 280 to the Capitol-Yerba Buena Interchange | $5,000,000 |
| 2246 | CA | Rancho Vista Blvd Widening Project | $3,000,000 |
| 2247 | NJ | Newark Access Variable Message Signage System | $500,000 |
| 2248 | IA | Construct SW Connector, West Des Moines | $2,000,000 |
| 2249 | IA | US 30 reconstruction, near Tama | $4,000,000 |
| 2250 | GA | Construction of interchange on I-985 north of SR-13, Hall County Georgia | $5,000,000 |
| 2251 | MI | Marquette County, Realignment of 3200 feet of County Road 492 from US-41 north to County Road HD | $500,000 |
| 2252 | WI | Realign USH 8 near Cameron, Barron County | $2,000,000 |
| 2253 | PA | Restoration of PA422, in Berks County, including slab repair and diamond grinding | $1,000,000 |
| 2254 | CA | Monte Vista Avenue Grade Separation, Montclair, California | $2,000,000 |
| 2255 | NY | Deploy intermodal chassis ITS project in New York | $2,000,000 |
| 2256 | NY | Reconstruction of Route 590 in the Town of Irondequoit, NY | $5,000,000 |
| 2257 | NY | Design and Construction of Downtown Jamestown Connector Trail | $2,000,000 |
| 2258 | LA | Further construction to improve draining at Clearview Parkway (LA 3152) and Earhart Expressway (LA 3139) | $3,300,000 |
| 2259 | MI | Houghton County, Rehabilitate 2 piers and remove old bridge caissons for Sturgeon River Bridge | $270,000 |
| 2260 | AK | Make necessary improvements to Indian River Road in City and Borough of Sitka | $2,000,000 |
| 2261 | MN | Reconstruct CSAH 61 from Barnum to TH 210 at Carlton, and improve Munger Trail | $1,680,000 |
| 2262 | TX | Build I-30 Trinity River Bridge, Dallas, Texas | $1,000,000 |
| 2263 | AK | Realign rail track to eliminate highway-rail crossings and inprove highway safety and transit times | $5,000,000 |
| 2264 | MS | Relocate SR 44 from SR 198 to Pierce Road, Columbia | $3,500,000 |
| 2265 | AL | Interstate 565 west extension towards Decatur | $2,000,000 |
| 2266 | MO | Roadway Improvements on Rte. 21 from Hayden Road to Lake Lorraine | $5,000,000 |
| 2267 | IL | Halsted Bridge over North Branch Canal Reconstruction, City of Chicago | $600,000 |
| 2268 | VA | Town of Pound Riverwalk—construction of pedestrian riverwalk in Town of Pound | $100,000 |
| 2269 | IL | US 67 west of Jacksonville, IL Bypass to east of IL 100 | $2,000,000 |
| 2270 | NY | Village of Wappingers Falls North Mesier Ave | $750,000 |
| 2271 | AR | War Eagle Bridge Rehabilitation—Benton County, Arkansas | $640,000 |
| 2272 | WI | Build additional staircases, landscape, and other improvements to the municipal bridge at the Holton St. Viaduct in Milwaukee | $800,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2273 | TN | Washington County, Tennessee SR-36 widening | $1,000,000 |
| 2274 | MI | Westland. Ann Arbor Trail between Farmington and Merriman | $3,150,000 |
| 2275 | MI | White Lake, pave Cooley Lake Road Between Hix and Newburgh Roads | $500,000 |
| 2276 | GA | Bridge replacement on County Road 183-FAS Route 1509, Peach County | $425,000 |
| 2277 | NC | I40 I-77 Interchange in Iredell County, NC | $4,000,000 |
| 2278 | CA | Construct safe routes to school in Cherryland and Ashland | $1,000,000 |
| 2279 | CA | Install Central Ave Historic Corridor comprehensive streetscape improvements thus improving traffic, ped safety, and economic development, Los Angeles | $2,000,000 |
| 2280 | VA | Whitetop Station—completion of renovation of Whitetop Station (which serves as trailhead facility) including construction of trail | $100,000 |
| 2281 | CT | Make Improvements to Montville-Preston Mohegan Bridge | $3,000,000 |
| 2282 | IL | Widen and improve Pulaski Road, Alsip | $700,000 |
| 2283 | AK | For Completion of the Shotgun Cove Road, from Whittier, Alaska to the area of Decision Point. Alaska | $4,000,000 |
| 2284 | NY | Study and Implement Intelligent Transportation System Sensor Technology to Improve Safety at Bridges and Tunnels in Metropolitan New York City | $1,000,000 |
| 2285 | NY | Warburton avenue Bridge over Factory Lane. Hastings-on-Hudson, New York | $1,000,000 |
| 2286 | NY | Improve intersection of Old Dock and Church Street, Kings Park | $500,000 |
| 2287 | TN | Widen and improve State Route 33, Knox County, Tennessee | $6,500,000 |
| 2288 | CA | Reconstruct Paramount Bl. with medians and improve drainage from north border to south border of city in Lakewood | $1,350,000 |
| 2289 | NY | Upgrade Metro North stations in the Bronx and construct station at Yankee Stadium | $3,000,000 |
| 2290 | OH | Construct the existing industrial park road from local to state standards near Cadiz | $4,100,000 |
| 2291 | LA | Upgrade LA 28 to four lanes from LA 121 to LA 465 | $2,000,000 |
| 2292 | NY | Reconstruction of Historic Eastern Parkway | $2,400,000 |
| 2293 | CA | Widen and make ITS improvements on Paramount Blvd between Telegraph Rd and Gardendale St in Downey | $1,000,000 |
| 2294 | VA | Conduct planning and engineering for Hampton Roads Third Crossing and Interconnected Roadways | $3,000,000 |
| 2295 | IL | Widen Annie Glidden Road to five lanes with intersection improvements. DeKalb, IL | $4,000,000 |
| 2296 | CA | Widen California State Route132 from California State Route 99 west to Dakota Avenue | $18,000,000 |
| 2297 | NC | Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line | $2,000,000 |
| 2298 | TX | Widen from 4 to 6 lanes Interstate 35 East from Lake Lewisville to Loop 288 | $6,000,000 |
| 2299 | CA | Widen Haskell Avenue between Chase St. and Roscoe Blvd | $200,000 |
| 2300 | TX | Widen Hempstead Highway from 12th Street to Washington Avenue from four lanes to six lanes | $1,000,000 |
| 2301 | NH | Reconstruction and relocation of the intersection of Maple Avenue and Charleston Road in Claremont | $500,000 |
| 2302 | OH | Construct highway-rail crossing safety upgrades at 3 grade crossings in Madison Village, OH | $300,000 |
| 2303 | WA | Rebuild Yakima Valley Highway within city limits of Sunnyside, WA | $1,600,000 |
| 2304 | NY | Implement Improvements for Pedestrian Safety in New York County | $1,000,000 |
| 2305 | NY | Construction of and improvements to Main Street in the Town of Eden | $400,000 |
| 2306 | GA | SR 85 widening from Adams DR to I-75 and reconstruct the Forest Parkway interchange, Clayton County | $1,500,000 |
| 2307 | GA | Jogging, and Bicycle Trails around CSU, Columbus | $500,000 |
| 2308 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Throop Borough, Lackawanna County | $200,000 |
| 2309 | IL | Reconstruct Winter Ave, existing 1 lane RR subway, and 1 lane bridge to provide access to Winter Park in Danville | $5,400,000 |
| 2310 | OR | Construct highway and pedestrian access to Macadam Ave and street improvements as part of the South Waterfront development. Portland | $9,000,000 |
| 2311 | TX | Relocation of 10th Street near McAllen-Miller International Airport | $750,000 |
| 2312 | IL | Construct pedestrian tunnel at railroad crossing in Winfield. IL | $1,000,000 |
| 2313 | IN | Construct Margaret Avenue Safety and Capacity Enhancement Project | $3,000,000 |
| 2314 | TX | Construct Loop 574 from BU77 to I-35 in McLennan Co | $2,000,000 |
| 2315 | NY | Construction of a bicycle / pedestrian off road scenic pathway from the Niagara Falls City Line to the southerly Lewiston Town / Village Line along the Niagara Gorge, Town of Lewiston, Village of Lewi | $2,300,000 |
| 2316 | FL | Construct new bridge from West—Florida Turnpike to CR 714 to 36th Street—cross S. Fork of St. Lucie River—Indian Street to US 1 on east side | $5,000,000 |
| 2317 | WI | Recondition STH 16 from Columbus to STH 26 (Dodge County, Wisconsin) | $4,000,000 |
| 2318 | VI | Christiansted By-Pass Highway. St. Croix | $8,000,000 |
| 2319 | NY | Riverwalk in Irvington development | $200,000 |
| 2320 | OH | Road resurfacing and improvements in the Village of Bentleyville, OH | $700,000 |
| 2321 | PA | Improvements to Stella Street rail-highway crossing in Wormleysburg, PA | $750,000 |
| 2322 | CT | Construct Entrance Ramp at Route 8 Exit 11. Shelton, CT | $1,000,000 |
| 2323 | AL | Pedestrian Improvements for Leeds, AL | $100,000 |
| 2324 | WA | Federal Way Triangle—Conduct final engineering work for the reconstruction of the I-5—SR 18 interchange | $2,000,000 |
| 2325 | MI | Garden City, Reconstruct Maplewood between Inkster and Merriman | $1,225,000 |
| 2326 | OR | Lake Road Reconstruction and Safety Improvements. Milwaukie | $2,850,000 |
| 2327 | NY | Resurface Grade Crossing at Old State Road | $250,000 |
| 2328 | MN | Construction of Cedar Avenue Busway, MN | $6,000,000 |
| 2329 | IL | Resurfacing of aprrox 30 miles of roadway in Village of Oak Lawn | $7,000,000 |
| 2330 | GA | Streetscape-Thomasville | $300,000 |
| 2331 | PR | To build the missing central segment of PR-10, to complete one of only two highways crossing Puerto Rico North to South | $5,000,000 |
| 2332 | PA | To enhance existing directional markers & increase wayfinding signage infrastructure in Monroe County | $500,000 |
| 2333 | CA | Construct and repair lining in four tunnels on Kanan, Kanan Dume, and Malibu Canyon Roads between US1 and US101 | $3,000,000 |
| 2334 | GA | Sidewalk revitalization project in downtown Eastman | $500,000 |
| 2335 | TX | Port of Corpus Christi Up River Road for upgrade of roadway to and from docks & IH 37 | $500,000 |
| 2336 | GA | Construct US 411 Connector from US 41 to I-75, Bartow County, Georgia | $21,350,000 |
| 2337 | NY | Construction of US Route 219 Expressway: Sections V and VI | $8,000,000 |
| 2338 | PA | Engineering, design and construction of an extension of Park Avenue north to Lakemont Park in Altoona | $2,000,000 |
| 2339 | MN | Reconstruct I-35E from I-94 to Maryland Avenue in St. Paul | $3,500,000 |
| 2340 | CA | Construct truck ramp linking Interstate 5 to the National City Marine Cargo Terminal, National City | $1,500,000 |
| 2341 | GA | Reconstruct the interchange at Interstate 185 and Victory Drive (SR 520), Columbus, GA Victory Drive (SR 520), Columbus, GA | $1,806,000 |
| 2342 | OH | Streetscaping, bicycle trails, and related improvements to the I-90—SR 615 Interchange in Mentor, OH | $3,500,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2343 | IN | Preliminary engineering, right-of-way, and construction for Perimeter Parkway—West Lafayette/Purdue University, Indiana | $10,000,000 |
| 2344 | TN | Reconstruct Interchange 55 at Mallory Avenue, Memphis, Shelby County | $1,000,000 |
| 2345 | CA | Upgrade first responders signal pre-emption hardware, Culver City | $32,000 |
| 2346 | IN | Construction of Maplecrest Rd Extension—Allen County, Indiana | $11,000,000 |
| 2347 | MS | Upgrade roads in Arcola, Greenville, and Hollandale (U.S. Highway 61 and 18), Washington County | $1,750,000 |
| 2348 | MS | Canal Road Intermodal Connector, Gulfport | $5,000,000 |
| 2349 | PR | Construction of community bridge for Los Navarros Sector, Quebrada Arenas Community | $500,000 |
| 2350 | NY | Construct the Auburn Connector Road Corridor, Auburn, NY | $1,000,000 |
| 2351 | MA | Engineering and construction of Blackstone Valley Visitors Center at intersection of State Route 146 and Millbury Street, Worcester | $6,400,000 |
| 2352 | CA | Improve I-8 off ramp to the Desert Farming Institute, Imperial County | $1,000,000 |
| 2353 | KS | Construct bike and pedestrian path along K-10 between Douglas and Johnson Counties | $500,000 |
| 2354 | HI | Construct Bike Lanes on Kalanianaole Highway, vicinity of Makapuu to Keolu Drive | $300,000 |
| 2355 | TX | Donna/Rio Bravo International Bridge | $2,000,000 |
| 2356 | IL | Improve Sheridan Road, Evanston | $2,000,000 |
| 2357 | MD | Intercounty Connector | $4,000,000 |
| 2358 | MI | Resurfacing of Ten Mile Road in St. Clair Shores | $896,000 |
| 2359 | NY | Conduct studies to consider transportation planning and community involvement for infrastructure projects that address congestion relief in New York City | $1,000,000 |
| 2360 | MO | Construct an extension of MO 740 from U.S. 63 to the 1-70 Lake of the Woods Interchange | $2,500,000 |
| 2361 | LA | Improvements for LA 1148 in Iberville Parish; and LA/I-10 Connector Study; and improvements to LA 10/Zachary Taylor Parkway | $4,000,000 |
| 2362 | NY | Monroe County ITS project | $900,000 |
| 2363 | MO | Roadway improvement on I-44 in Phelps County Missouri | $1,000,000 |
| 2364 | MA | Rt128/95 ramp Northbound to Kendrick Street, Needham | $2,000,000 |
| 2365 | IN | Realign State Road 312, Hammond | $4,162,891 |
| 2366 | PA | Design, engineering, ROW acquisition & construction of surface improvements to the area adjacent to Exit 168 of Interstate 81 at the Wachovia Arena in Wilkes-Barre Township | $250,000 |
| 2367 | GA | SR 92 relocation from Durelee Road to SR 92 at Malone, including grade separation, Douglas County, Georgia | $8,000,000 |
| 2368 | IN | Construct I69 Evansville to Indianapolis, Indiana | $14,000,000 |
| 2369 | CA | Construct fourth bore of Caldecott Tunnel on SR 24, California | $1,000,000 |
| 2370 | TN | Construct interchange on I-40 in Wilson County | $1,000,000 |
| 2371 | IN | Construct service road parallel to I-69 in the City of Anderson, Indiana | $3,000,000 |
| 2372 | NY | Croton-on-Hudson, NY Restoration of Van Cortlandt Manor entrance road | $2,500,000 |
| 2373 | OH | Construction and repair of pedestrian walkways along Lake Shore Blvd. in Lakeline Village, OH | $289,000 |
| 2374 | MD | Reconstruct MD 32 from MD 108 to I-70 in Howard County | $2,000,000 |
| 2375 | NY | Reconstruct Streets and Sidewalks in Middle Village | $1,000,000 |
| 2376 | MI | Reconstruct two bridges over Black Creek Drain in Sanilac County | $712,500 |
| 2377 | FL | Construction of Little Venice Road, Marathon, FL | $1,000,000 |
| 2378 | CA | Make traffic and safety improvements to Atlantic Blvd in Maywood | $500,000 |
| 2379 | MN | Stearns County Bridge no. 73501 Improvements | $400,000 |
| 2380 | LA | Construct LA 16 Interchange at I-12 and improvements, and Cook Road improvements | $13,000,000 |
| 2381 | MO | Reconstruct Highway 60 and Highway 65 Interchange | $2,000,000 |
| 2382 | CO | I-70, Havana, Yosemite Street Interchange Reconstruction Project, Denver | $1,500,000 |
| 2383 | CO | Reconstruct C470-US85 Interchange | $4,000,000 |
| 2384 | VA | Reconstruction of the entranceway to Montpelier on Orange County, Virginia | $1,000,000 |
| 2385 | TN | construct and widen underpass at intersection of Boydstation, Harvey, and McFee Roads, Knox County, TN | $494,300 |
| 2386 | GA | Extend sidewalks, upgrade landscaping in downtown Hawkinsville | $500,000 |
| 2387 | OH | Conduct Sarah St along SR 18 and 101 enhancement project to calm traffic in the City of Tiffin | $2,600,000 |
| 2388 | LA | Improvements to Zachary Taylor Parkway | $2,000,000 |
| 2389 | CA | Las Tunas Drive Pedestrian Enhancement, San Gabriel | $150,000 |
| 2390 | OH | Reconstruction, widening, and bicycle improvements to Pettibone Road in the City of Solon, OH | $3,000,000 |
| 2391 | NH | Replacement of Ash Street and Pillsbury Road Bridge | $1,400,000 |
| 2392 | PA | Swamp Road Corridor Safety and Roadway Improvements, Bucks County | $1,000,000 |
| 2393 | FL | Construct St. Augustine to Palatka Rail Trail, Florida | $2,900,000 |
| 2394 | IL | Construction of a traffic circle to reduce traffic congestion, Museum Campus Chicago | $2,000,000 |
| 2395 | AL | Pedestrian Improvements for Gardendale, AL | $100,000 |
| 2396 | PA | Extension of Second Street from Race to the intersection of Lehigh and Poplar Street in the Borough of Catasauqua | $1,100,000 |
| 2397 | NE | Cuming Street Transportation Improvement Project, Omaha, Nebraska | $4,000,000 |
| 2398 | TN | Construct State Route 1 (US-70) to a four lane divided highway on new alignment from Centertown to McMinnville in Warren County | $11,500,000 |
| 2399 | CA | Improve access to I-80 at Eureka Road Interchange | $2,000,000 |
| 2400 | LA | Expand existing South Central Planning and Development Commission Intelligent Transportation System program in Houma-Thibodaux area by installing signals, sensors and systems | $1,800,000 |
| 2401 | IL | Install traffic control devices on traffic signals in Village of Oak Lawn | $240,000 |
| 2402 | CA | Interstate 15, California Oaks Road Interchange Project | $2,000,000 |
| 2403 | TX | Choate Road overpass to eliminate at-grade intersection between Choate Rd and SH146 | $9,800,000 |
| 2404 | OH | Construction of I-75 Austin Road Interchange, Montgomery County, Ohio | $7,500,000 |
| 2405 | CA | Acquire lands adjacent to US 101 as part of Southern Santa Clara County Wildlife Corridor Protection and Scenic Enhancement Project | $250,000 |
| 2406 | TX | Construct US Business 287 through the Trinity Uptown Project from 7th St. NE to 11th St. NE in Fort Worth | $7,000,000 |
| 2407 | KS | Construct K-10 and Lone Elm Road interchange, Lenexa | $5,000,000 |
| 2408 | OH | Construct connector road between SR 79 and Thornwood Drive in Licking County | $5,000,000 |
| 2409 | NH | Construct Pedestrian, Bicycle bridge in Keene | $800,000 |
| 2410 | FL | Coral Way, SR 972 Highway Beautification, Phase One, Miami, Florida | $1,000,000 |
| 2411 | TN | Develop historic preservation transportation enhancement project, Sumner Co. and surrounding counties | $135,000 |
| 2412 | NY | Develop terminal facilities for water taxi projects in New York City | $3,000,000 |
| 2413 | WI | Expand USH 151 between Dickeyville and Belmont | $2,000,000 |
| 2414 | NY | Improve bicycle and pedestrian safety, NY25, Jamesport | $300,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2415 | PA | PA Route 183 widening and ramp enhancement, Bern Township | $1,600,000 |
| 2416 | IN | Reconstruct Hoosier Heartland Highway, Wabash, Huntington and Miami County Indiana segments | $750,000 |
| 2417 | GA | Replace sidewalks, upgrade lighting, and install landscaping, Soperton | $500,000 |
| 2418 | LA | Lafayette, LA Implementation of Intelligent Transportation System | $11,000,000 |
| 2419 | NY | Conduct improvements to I87—Exit 18 Interchange | $2,500,000 |
| 2420 | IL | To construct an extension of US-51 from .9 miles south of Moweaqua to 4.6 miles south of Moweaqua | $2,000,000 |
| 2421 | IL | Upgrade roads, The Village of Hillside | $1,000,000 |
| 2422 | MS | Upgrade safety devices at Front Street rail crossing, Ellisville | $50,000 |
| 2423 | CO | US 287—Ports-to-Plains Corridor in Colorado | $3,000,000 |
| 2424 | OH | Deconstruct the Bellaire Highway Bridge which connects Bellaire, Ohio and Benwood, WV | $1,700,000 |
| 2425 | VA | Construct I-95 Interchange at Temple Ave, Colonial Heights | $5,000,000 |
| 2426 | KS | Route designation, environmental clearance, final design and right-of-way acquisition for Crawford County, KS corridor of U.S. Highway 69 | $4,000,000 |
| 2427 | CA | US-395 Realignment and Widening Project | $500,000 |
| 2428 | IL | To connect about a two-mile segment through Collinsville at two or three lanes | $1,500,000 |
| 2429 | IL | Construct Parking Facility and pedestrian walkways at 94th an S. Oak Park Ave, Oak Lawn | $200,000 |
| 2430 | UT | I-15 Freeway Reconstruction—Springville 200 South Interchange | $4,500,000 |
| 2431 | MA | Washington St. from High St. to Water St., Walpole | $2,000,000 |
| 2432 | VA | White's Mill Trail and Renovation—design and construction of recreational trail and preservation of watermill for use as visitors center | $500,000 |
| 2433 | CA | Implement San Francisco Street Improvements Program | $8,000,000 |
| 2434 | MA | Design, engineering and construction of Methuen Rotary alternative at I-93 and Routes 110 and 113, Methuen | $1,000,000 |
| 2435 | IL | Improve Mill Street, Rock Island | $500,000 |
| 2436 | PA | For the Nanticoke City Redevelopment Authority to design, acquire land, and construct a parking garage, streetscaping enhancements, paving, lighting & safety improvements, & roadway redesign in Nanti | $7,000,000 |
| 2437 | MI | Widen and reconstruct Walton Boulevard Bridge in Auburn Hills between Opdyke and Squirrel Road | $5,000,000 |
| 2438 | OR | Widen Delaura Beach Lane and add a bike lane both directions, Warrenton | $150,000 |
| 2439 | MA | Design and construct the 3 ‡ mile long Grand Trunk Trail bikeway from Sturbridge to Southbridge | $700,000 |
| 2440 | TN | Develop trails, bike paths and recreational facilities on the Crest of Black Mountain, Cumberland County for Cumberland Trail State Park | $250,000 |
| 2441 | NY | Study and Improve Traffic Flow Improvement at Atlantic Yard/ NETS Arena Development | $3,000,000 |
| 2442 | MD | Upgrade and widen MD237 from Pegg Road to MD235 | $10,000,000 |
| 2443 | PA | Main Street improvements from Broad Street to Richardson Avenue and Main Street to Madison Avenue, Borough of Lansdale | $700,000 |
| 2444 | CA | Widen Highway 101 in Marin and Sonoma Counties from Hwy 37 in Novato to Old Redwood Highway in Petaluma | $15,000,000 |
| 2445 | NY | Road and pedestrian safety improvements Main Street, Village of Patchogue | $1,400,000 |
| 2446 | UT | Widen Highway 92 from Lehi to Highland | $5,000,000 |
| 2447 | AZ | Widen I-10 to 3 lanes in each direction north of Tucson from Marana Interchange to Cortato Interchange | $1,700,000 |
| 2448 | CA | Widen I-238 between I-580 & I-880 in Alameda County | $1,000,000 |
| 2449 | VA | Widen I-66 westbound inside the Capital Beltway from the Rosslyn Tunnel to the Dulles Connector Road | $7,000,000 |
| 2450 | NC | Construction of I-74 between I-40 and US 220, High Point, North Carolina | $5,000,000 |
| 2451 | MD | Widen I-695, Baltimore Beltway, Southwest | $3,000,000 |
| 2452 | GA | Replace sidewalks, upgrade lighting in downtown Vidalia | $500,000 |
| 2453 | MN | Construct bicycle and pedestrian trails in Cuyuna Recreation Area | $700,000 |
| 2454 | HI | Construct Kapaa Bypass | $3,000,000 |
| 2455 | FL | Temple Terrace Highway Modification | $3,000,000 |
| 2456 | TN | Widen Interstate 240 from Poplar Avenue (SR-57) to near Walnut Grove Road (SR-23) East of Memphis, Shelby County | $1,000,000 |
| 2457 | IL | For the Village of Woodridge to resurface Internationale Parkway | $100,000 |
| 2458 | OR | I-5 Trade Corridor, Portland Oregon to Vancouver, Washington segment | $5,700,000 |
| 2459 | GA | Streetscape, Pedestrian Improvements in City Center, City of Clarkston | $5,000,000 |
| 2460 | KY | Widen KY 1991 from Maysville Road to Midland Trail Industrial Park, Montgomery County | $1,250,000 |
| 2461 | NC | Construct new Route from Beach Drive (SR 1104) to NC 211 in Brunswick County | $4,000,000 |
| 2462 | NJ | International Trade and Logistics Center Roadway Improvements at Exit 12 of the New Jersey Turnpike, Carteret | $1,000,000 |
| 2463 | IL | Interstate 41 and Route 176 Interchange replacement | $500,000 |
| 2464 | MA | Northern Avenue Bridge rehabilitation, Boston | $3,000,000 |
| 2465 | AK | Planning, design, and construction of Knik Arm Bridge | $3,000,000 |
| 2466 | IN | North Calumet Avenue Improvements, Valparaiso | $1,200,000 |
| 2467 | OR | I-205-Highway 213 interchange improvements | $1,000,000 |
| 2468 | TN | Improving Vehicle Efficiencies at highway At-Grade Railroad Crossing in Loudon, TN | $57,000 |
| 2469 | AZ | Construct I 10 Collector Distributor Roadway from 40th Street to Baseline Maricopa County, Arizona | $4,000,000 |
| 2470 | LA | Improvements to LA 42 in Ascension Parish; and LA 73 improvements in Ascension Parish | $10,000,000 |
| 2471 | MN | Construct Paul Bunyan trail from Mississippi River Bridge Trail to Crow Wing State Park | $775,000 |
| 2472 | MN | Construct Mesabi Trail from Grand Rapids to City of Ely | $2,700,000 |
| 2473 | GA | Install sidewalks on Highway 23 from Dykes Street to Sarah Street, Cochran | $300,000 |
| 2474 | AK | Kodiak, AK Construction of AMHW ferry terminal and approach | $7,500,000 |
| 2475 | OK | Reconstruction of SH66 from Craig and Rogers Counties to SH66 and US60 intersection | $1,000,000 |
| 2476 | CA | Enhance pedestrian environment and increase safety along Olympic Blvd between Vermont and Western Avenues, Los Angeles | $2,000,000 |
| 2477 | NY | Enhancement of the Michigan Avenue Corridor, Buffalo | $2,000,000 |
| 2478 | NJ | Kapkowski Road Area Improvements in Elizabeth | $4,500,000 |
| 2479 | CA | Construct landscape medians along Skyline Drive from Sears Avenue to 58th Street, San Diego | $1,000,000 |
| 2480 | NY | Jamaica Air Train Station Area Infrastructure Improvements | $5,000,000 |
| 2481 | MO | Construct Highway 465 to Highway 376 south from HWY 76 to HWY 376 | $6,000,000 |
| 2482 | WA | New Country Road on Whidbey Island | $1,200,000 |
| 2483 | NM | Chaco Wash Bridge and Road Improvements on Navajo Route 46 | $2,000,000 |
| 2484 | CA | Reconstruct Interstate 880-Route 92 interchange in Hayward | $1,750,000 |
| 2485 | MA | Relocate Rt. 79 in Fall River to create 4-lane urban boulevard with landscaped median and developable waterfront | $5,000,000 |
| 2486 | IL | Road extension for Highway 22 in Macon COunty, IL | $668,000 |
| 2487 | NY | Portageville Bridge—purchase existing bridge to convert to pedestrian bridge | $1,500,000 |
| 2488 | PA | Rt.422 complete preliminary engineering and four lane expansion from Ebensburg to Kittanning | $3,000,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2489 | CA | Upgrade essential road arterials, connectors, bridges and other road infrastructure improvements in the Town of Desert Hot Springs, CA | $2,000,000 |
| 2490 | KY | Construct the Heartland Parkway in Adair County | $1,200,000 |
| 2491 | NV | Horse-US-95 Interchange Project | $6,000,000 |
| 2492 | CT | Make Improvements to Plainfield Moosup Pond Road | $300,000 |
| 2493 | FL | Construction design ROW US 27 from SR 540 to SR544 & from I-4 to US 192 in Polk County, FL | $10,000,000 |
| 2494 | IA | Construction of approaches and viaduct on Edgewood Rd SW over the UP Railroad, Prairie Creek, and the CRANDIC railroad | $1,600,000 |
| 2495 | NJ | Construct Hackensack River Walkway in Bergen County | $2,000,000 |
| 2496 | TX | Hwy 80/123 Overpass at Hwy 181 in Karnes County | $300,000 |
| 2497 | NM | Improvements to U.S. Highway 87 from Clayton, NM to Raton, NM | $2,000,000 |
| 2498 | VA | Route 11 Interchange improvements in Lexington, Virginia | $1,000,000 |
| 2499 | CA | Improvements to Ben Maddox Way Bridge | $2,000,000 |
| 2500 | WA | SR 18 Widening, Maple Valley to I-90 | $7,500,000 |
| 2501 | NY | City of Beacon construction of pedestrian & Bicycle trail | $315,000 |
| 2502 | TX | FM 544, widen 2-lane roadway to 6-lane roadway from SH 121 to Dozier-Parker Road | $2,000,000 |
| 2503 | TX | Construct an alternate truck route to Interstate 35 in Buda | $500,000 |
| 2504 | NY | Improvements on the Cross Island Bridge Overpass / 212th Street and vicinity, Queens | $4,220,000 |
| 2505 | MI | Novi, Reconstruct Grand River between Novi and Haggerty | $1,000,000 |
| 2506 | SD | Resurface US Hwy 18 from Lake Andes to US Hwy 50 on Yankton Sioux Reservation | $1,200,000 |
| 2507 | PR | To revitalize Old San Juan Historic District streets | $3,000,000 |
| 2508 | WY | U.S. 85 Passing Lanes | $2,000,000 |
| 2509 | MA | Construct Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester | $2,000,000 |
| 2510 | NY | Little Falls Access: Repair and reconstruct High School and Lower School Road | $240,000 |
| 2511 | FL | Replace Columbus Drive Bridge | $4,000,000 |
| 2512 | AS | Village road improvements for Sua and Vaifanua counties in the Eastern district | $2,600,000 |
| 2513 | MI | Construction of two railroad-highway grade separations on Farm Lane north of Mount Hope Road | $2,300,000 |
| 2514 | CA | Widen Atlantic Bl bridge over the Los Angeles River in Vernon | $1,000,000 |
| 2515 | CA | Widen Bundy Drive between Wilshire and Santa Monica Boulevards in the City of Los Angeles | $4,250,000 |
| 2516 | AL | To provide four lanes on US-80, Perry County, Marengo County, and Sumter County | $14,000,000 |
| 2517 | CA | Widen Maine Avenue in Baldwin Park | $375,000 |
| 2518 | NM | Ease traffic congestion and improve intersection safety by identifying alternative alignment to US 84/285 and NM 68 through Espanola. | $2,000,000 |
| 2519 | MS | Widen MS Hwy 19 between Philadelphia and Collinsville, MS | $10,000,000 |
| 2520 | NY | Construct the Fire Island ferry terminal facility, Patchogue | $2,000,000 |
| 2521 | IL | IL 8 from East Peoria to Washington, IL | $952,570 |
| 2522 | NJ | Preliminary engineering for missing connections of NJ 23 and I-80 | $1,500,000 |
| 2523 | ME | Penobscot Riverfront Development for bicycle trails, amenities, and traffic circulation improvements, Bangor and Brewer | $2,000,000 |
| 2524 | IL | Restoration and reconstruction of the central business district street. Cambridge, IL | $1,200,000 |
| 2525 | NC | Widen NC 150 from Cherryville to Lincolnton | $1,000,000 |
| 2526 | NY | Second phase of the Grand Concourse improvements from East 166th St. to East 171st St | $10,000,000 |
| 2527 | VT | U.S. Route 7 and U.S. Route 4 road improvements for the City of Rutland | $3,560,000 |
| 2528 | IL | Improve 63rd Street, Chicago | $2,000,000 |
| 2529 | MI | Alcona County, Reconstruction of Ritchie Road from Village of Lincoln to Hubbard Lake road | $813,000 |
| 2530 | SC | Construct roadway btwn I-26 and US 1 in Lexington County. Intermodal connector from US 1 to I-26 and I-77. SC 302 and SC 602 improvements | $2,000,000 |
| 2531 | OR | Agness Road, Curry County | $1,000,000 |
| 2532 | NY | Rehabilitation of Sharon Drive in the Town of Poughkeepsie | $325,000 |
| 2533 | TX | Conduct study of I-10 and U.S. 190 with a focus on congestion relief and the need for a military & emergency relief transportation corridor | $200,000 |
| 2534 | MD | MD 85 at I270 | $6,000,000 |
| 2535 | GA | SR 36 passing lanes north of Jackson to Newton County line, Butts County, Georgia | $3,050,000 |
| 2536 | VA | I-66 and Route 29 Gainesville Interchange Project | $9,000,000 |
| 2537 | NY | Construct and extend existing pedestrian streetscape areas in Lynbrook | $1,000,000 |
| 2538 | CA | Construct traffic intersection island improvements on North side of Olympic Blvd where Irolo St. and Normandie Ave. split in Koreatown, Los Angeles | $200,000 |
| 2539 | WA | Improvements in the SR9 corridor in Snohomish County | $1,500,000 |
| 2540 | PA | Replace a highway railcrossing in Osborne Borough, PA | $2,150,000 |
| 2541 | AL | Pedestrian Improvements for Centerpoint, AL | $100,000 |
| 2542 | CA | Replace twin 2 lane bridge with single 4 lane bridge on SR 138 over Big Rock Wash | $500,000 |
| 2543 | CA | State Route 86S and Ave 50 highway safety grade separation | $1,000,000 |
| 2544 | TX | Construct Fredericksburg Road-Medical Drive grade separation in San Antonio | $3,800,000 |
| 2545 | PA | For design, engineering, ROW acquisition, & construction of a connector road between the Valmont Industrial Park & Pennsylvania Rt. 924 at Cranberry Creek | $500,000 |
| 2546 | AR | Interstates 30/440/530 Interchanges--for interchange improvements, Little Rock | $1,500,000 |
| 2547 | NJ | Rehabilitation of Benigno Boulevard from I-295 to Route 168 in Bellmawr | $400,000 |
| 2548 | PA | Preconstruction studies for improvement to US 22 | $1,000,000 |
| 2549 | IL | Establish transportation museum on Navy Pier, Chicago | $540,000 |
| 2550 | WA | Continuing construction of I 90. Spokane to Idaho State Line | $3,300,000 |
| 2551 | VA | Improve transportation infrastructure for visitors to Jamestown 2007 | $531,900 |
| 2552 | AR | Highway 67: Kiehl Avenue—Vandenberg Boulevard: rehabilitating and widening Highway 67 from four to six lanes from Kiehl Ave. to Vandenberg Blvd | $2,000,000 |
| 2553 | NY | Install Improvements for Pedestrian Safety in the vicinity of PS 81 | $250,000 |
| 2554 | GA | Memorial Drive Corridor | $2,000,000 |
| 2555 | VA | Route 11 improvements in Maurertown, Virginia | $1,000,000 |
| 2556 | PA | Street improvements, Whitemarsh Township | $1,500,000 |
| 2557 | VT | Construction of the Lamoille Valley Rail Trail for the Vermont Association of Snow Travelers | $7,268,486 |
| 2558 | CO | I-76: Colorados Northeast Gateway | $3,000,000 |
| 2559 | VA | Construct Maersk Terminal interchange in Portsmouth | $2,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2560 | GA | I-75 Welcom Project | $250,000 |
| 2561 | PA | Improve handicapped accessibility and provide pedestrian overpass in Villanova | $3,000,000 |
| 2562 | NY | Install Two Permanent Variable Message Signs (VMS) on Belt Parkway | $500,000 |
| 2563 | MI | Re-surfacing Sebewaing Road in Huron County | $416,000 |
| 2564 | IN | Complete construction of paths at Hamilton County Riverwalk, Noblesville, Indiana | $375,000 |
| 2565 | NY | Study and Implement Safety Enhancement to Avenue U from Mill Avenue to East 38th Street and Flatbush Avenue from Avenue T to Avenue V | $500,000 |
| 2566 | PA | Upgrade circuit for gates and lights at Sixth Street in Emmaus, PA USDOT crossing number 592402P to constant warning time devices | $275,000 |
| 2567 | TN | Plan and construct a bicycle and pedestrian trail, Eagleville | $200,000 |
| 2568 | NY | Improvements for pedestrian and vehicular access to Baychester Avenue and Bartow Avenue | $600,000 |
| 2569 | GA | SR 400 reconstruction from 1285 to McFarland Road, Fulton and Forsyth Counties | $1,000,000 |
| 2570 | MI | Construct pedestrian and bicycle pathway at Chippewa Landing River Park in the Village of Caro | $80,000 |
| 2571 | GA | Upgrade sidewalks, replace street lights, and landscaping, Metter | $500,000 |
| 2572 | AR | Highway 412: Baxter Co. to Ash Flat | $2,000,000 |
| 2573 | NY | Town of North Salem improvements and repaving to Hawley Road | $200,000 |
| 2574 | IA | US 20 Mississippi River Bridge and approaches, Dubuque Co. IA | $25,000,000 |
| 2575 | NY | Construct access road and exit lanes for Center for Advanced Medicine: North Shore LIJ Health System | $1,500,000 |
| 2576 | NY | Improve key intersections and highway segments along Rt. 32 between Route 17-6-NYS Thruway interchange in Harriman and Highland Mills | $750,000 |
| 2577 | CA | Widen I-5 to 10 Lanes and Improve Corridor Arterials, SR 91 to I-710 | $5,200,000 |
| 2578 | IL | For the construction of the Grand Avenue Underpass, Village of Franklin Park | $1,160,000 |
| 2579 | NY | Rehabilitation of North and South Ridge Street and Wappanocca Avenue in the Village of Rye Brook and City of Rye | $2,160,000 |
| 2580 | NY | NYSDOT Route 55 construction over Fishkill Creek and left turn lane construction | $1,400,000 |
| 2581 | AL | Alabama Hwy 36 Extension and Widening-Phase II | $1,000,000 |
| 2582 | OH | Construct Eagle Avenue Viaduct-Demolition bridge, realignment of roadway to replace bridge and reconstruction of two other bridges, Cleveland | $500,000 |
| 2583 | NV | Construct US 93 Corridor—Boulder City | $10,000,000 |
| 2584 | NY | Reconstruction of NYS 5, 8, 12, Viaduct and Rt 5A and 5S: City of Utica | $1,000,000 |
| 2585 | CT | Street and streetscape improvements along Campbell Ave., West Haven | $1,500,000 |
| 2586 | MA | Reconstruct North Washington Street Bridge to connect Boston and Charlestown | $6,000,000 |
| 2587 | MS | Upgrade roads in Fayette (U.S. Hwy 61 and 33), Jefferson County | $400,000 |
| 2588 | MN | Heritage Center at the Grand Portage National Monument | $1,400,000 |
| 2589 | NY | Redesign and reconstruction of the Putnam Rail-Trail, Bronx | $650,000 |
| 2590 | OR | Highway 34/Corvallis Bypass Intersection | $2,100,000 |
| 2591 | CA | Install traffic signal on Balboa Blvd. at Knollwood Shopping Center | $120,000 |
| 2592 | MA | Chelsea Street Bridge Reconstruction | $8,000,000 |
| 2593 | AL | Pedestrian Improvements for Northport, AL | $100,000 |
| 2594 | NV | Construct widening of US50A from Fernley to Leeteville Junction | $5,000,000 |
| 2595 | WA | Rebuild & widen Cemetery Road bridge over US Bureau of Reclamation canal near Othello, WA | $200,000 |
| 2596 | FL | Roadway construction of SW 62–SW 24 Avenue in Gainesville | $2,000,000 |
| 2597 | WA | SR 2/Kelsey Street Intersection Improvements in Monroe | $1,040,000 |
| 2598 | NY | Town of Southeast construction and repaving of town roads | $300,000 |
| 2599 | MI | Reconstruct Third Ave. from Saginaw St. to Flint River, City of Flint | $3,000,000 |
| 2600 | PA | Upgrade circuit for gates and lights at 31st Street in Allentown, PA USDOT crossing number 592410G to constant warning time devices | $275,000 |
| 2601 | NV | Construct US 95 Widening from Rainbow Blvd to Kyle Canyon | $4,750,000 |
| 2602 | IN | Improve campus streets to increase pedestrian safety and ease vehicular congestion in the City of Anderson, Indiana | $2,000,000 |
| 2603 | PA | Schaefferstown Bypass, PA Route 501, Lebanon | $1,000,000 |
| 2604 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Dupont Borough, Luzerne County | $200,000 |
| 2605 | GA | Intersection improvement at Lake Dow Road and SR 81 Harris Dr at SR 42 | $600,000 |
| 2606 | CA | Replace South Access to the Golden Gate Bridge—Doyle Drive | $6,000,000 |
| 2607 | IL | Resurface Yellow Banks Road, Franklin County | $400,000 |
| 2608 | AL | Widen CR-52 from Helena to US-31 | $15,000,000 |
| 2609 | IL | Intersection Reconstruction at US 12-IL31-Tryon Grove Road | $900,000 |
| 2610 | NY | Streetscape of Herald and Greeley Squares in New York City | $500,000 |
| 2611 | NJ | Construct Cape May and Supawna Meadows National Wildlife Refuges Roadway and Parking Improvements | $750,000 |
| 2612 | TX | Del Rio-Laughlin Air Force Base Relief Route | $4,000,000 |
| 2613 | NC | Study feasibility of widening US 221-NC 226 from Woodlawn to Spruce Pine, start planning and design, and make upgrades to improve safety | $3,000,000 |
| 2614 | NY | Transportation improvements to the Far Rockaway Business District, Queens, New York | $2,400,000 |
| 2615 | VI | Upgrade West-East Corridor through Charlotte Amalie, St. Thomas | $8,000,000 |
| 2616 | NH | Hampton Bridge Rehabilitation—Hampton, NH | $1,500,000 |
| 2617 | CA | Gale Avenue widening between Fullerton Road and Nogales Street, and Nogales Street widening at Gale Avenue | $100,000 |
| 2618 | CA | Grade Separation at Cesar Chavez Parkway and Harbor Drive, San Diego | $500,000 |
| 2619 | MO | Improve access to I-55 at River Des Peres | $10,000,000 |
| 2620 | PA | PA Route 61 enhancements, Schuylkill Haven | $10,000,000 |
| 2621 | MO | Kansas City SmartPort ITS for highways | $5,000,000 |
| 2622 | PA | City of Philadelphia in conjunction with American Cities Foundation for neighborhood transportation enhancement and pedestrian safety projects | $4,000,000 |
| 2623 | DE | Reconstructing I-95/SR-1 interchange, adding a fifth lane, and replacing toll plaza on Delaware's portion of I-95 corridor | $5,000,000 |
| 2624 | OH | Study possible road upgrades in Tuscarawas County due to flood issues based on dams in Muskingum Watershed District | $100,000 |
| 2625 | OR | Sunrise Corridor, Clackamas County | $2,850,000 |
| 2626 | CA | Construct Cabot-Camino Capistrano Bridge Project and related roadway improvements in Cities of Mission Viejo and Laguna Niguel, California | $838,690 |
| 2627 | TX | Construction of mainlanes and interchanges on SH 121 from Hillcrest to US 75 | $14,000,000 |
| 2628 | WA | Enumclaw, WA Welcome Center | $1,500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2629 | PA | Upgrade narrow existing roads, Plank, Otts, Meyers, Seitz Roads, along 1 mile corridor to 2 lane road with shoulders, improve intersections | $1,000,000 |
| 2630 | GA | Widen Old Petersburg Road-Old Evans Road from Baston Road to Washington Road, Columbia County, Georgia | $4,000,000 |
| 2631 | CA | Widen Peyton Dr. from Grand Ave. to Chino Hills Pky., construct Eucalyptus Ave. from Peyton Dr. to Galloping Hills, improve English Channel | $7,036,110 |
| 2632 | TX | New construction for the SH 349 Reliever Route beginning at the SH 191 intersection in Midland | $2,500,000 |
| 2633 | PA | Widen Route 22 between Export and Delmont | $1,450,000 |
| 2634 | CA | Construction of a traffic signal at the intersection of Hamlin St. and Corbin Ave | $125,000 |
| 2635 | NY | Design/Environmental work on the Inner Loop from Clinton Avenue to East Main Street, Rochester | $2,400,000 |
| 2636 | MO | I-35 access modification planning, city of Kearney | $1,500,000 |
| 2637 | PR | Construction of community bridge at Los Olvidados Sector, Quebrada Arenas Community | $425,000 |
| 2638 | MN | North-South Corridor with Railroad Overpass, City of Staples | $1,500,000 |
| 2639 | CA | Port of Hueneme Intermodal Access Improvement Project, including grade separation at Rice Avenue and State Route 34; widen Hueneme Road | $4,700,000 |
| 2640 | CA | Reconstruct and deep-lift asphalt on various roads throughout the district in Ventura County | $4,856,000 |
| 2641 | GA | Upgrade sidewalks, parking, street lighting, and landscaping, Claxton | $500,000 |
| 2642 | MS | Upgrade roads in Itta Bena (U.S. Hwy 82 and 7) and in vicinity of Viking Range Corp. (U.S. Hwy 7 and 49), Leflore County | $1,500,000 |
| 2643 | VA | Widen Route 262 in Augusta County | $1,000,000 |
| 2644 | CA | Forest Highway 171 Upper Skyway Improvement | $7,250,000 |
| 2645 | NV | Rehabilitate Lake Mead Parkway | $3,000,000 |
| 2646 | IL | Construct Bridge Overpass, DuSable Museum-Chicago | $1,000,000 |
| 2647 | WA | Expand size and improve safety Lewis and Clark Discovery Trailhead and Scenic Overlook | $146,000 |
| 2648 | PA | Construction of access improvement at the I79 SR 228 interchange in vicinity of Cranberry Town Center | $650,000 |
| 2649 | PA | Development of bicycle and pedestrian trails and access links along North Delaware Riverfront | $10,000,000 |
| 2650 | OH | Highway—railroad grade separation over the Norfolk Southern Rail Line for the Hines Hill Road—Milford Connector project in Hudson, Ohio | $300,000 |
| 2651 | CA | Construct crosswalk bump-outs and related streetscape improvements on Temple St between Hoover St and Glendale Blvd, Los Angeles | $400,000 |
| 2652 | NC | Improve SR1023 from US70 Business to US301 in Smithfield | $5,000,000 |
| 2653 | MA | Improvements to Mass. Ave, Andover Street, Osgood Street, Salem Street, and Johnson Street in the Old Town Center of North Andover | $1,000,000 |
| 2654 | KY | Reconstruct US 127 at US 127 South, Mercer County | $600,000 |
| 2655 | CA | Construct truck lane from Britannia Blvd. to the Otay Mesa Port of Entry, San Diego County | $4,000,000 |
| 2656 | PA | Bedford, Pa—Relocation of Old Route 220 and Sweet Road. Complete preliminary engineering, purchase right-of-way, construction | $9,000,000 |
| 2657 | GA | Design and construction of 2.2 miles of multi-use trail in the City of Douglas, Georgia | $200,000 |
| 2658 | IL | Entry Road to SIU Research Park | $1,600,000 |
| 2659 | NY | Kingston, Construct pedestrian waterfront walkway | $1,600,000 |
| 2660 | MN | Reconstruct TH 61 north of Split Rock River to Chapins Curve, bridges number 8285 and 8286, Lake County | $5,280,000 |
| 2661 | KS | Replacement of US-169 bridge in Kansas City | $8,500,000 |
| 2662 | PA | Route 313 Turning Lanes and Truck Climbing Lanes, Bucks County | $1,000,000 |
| 2663 | CA | Purchase of Rosemead Blvd ROW, Temple City | $1,000,000 |
| 2664 | NY | Reconfiguration of Bay Avenue and Polaris Street in Newark, NJ | $8,000,000 |
| 2665 | MI | Reconstruct highway under a railroad bridge, Wyoming Ave. from Eagle Pass to Michigan Avenue, Wayne County | $1,000,000 |
| 2666 | OK | Construct vehicular bridge over the Burlington Northern RR at War Bonnet Crossing, Mannford, OK | $1,000,000 |
| 2667 | UT | Construction and Rehabilitation of 13th East in Sandy City | $6,300,000 |
| 2668 | VA | Construct 3.6 miles of Interstate 73 near Martinsville | $2,000,000 |
| 2669 | WA | Maple Valley SR 169 and SR 516 improvements | $1,000,000 |
| 2670 | FL | Construct access road to entrances to Opa-Locka Airport at Opa-Locka Airport at N.W. 135th Street and N.W. 47th Avenue, including improvements to N.W. 47th Avenue with median strip, City of Opa-Locka | $2,000,000 |
| 2671 | UT | Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George | $6,000,000 |
| 2672 | OH | Bethlehem Township, Ohio. Riverland Avenue Bridge Replacement | $1,300,000 |
| 2673 | MD | MD295, BWI Access Improvements | $4,740,000 |
| 2674 | OR | Connect Boeckman Road to Tooze Road, Wilsonville | $1,000,000 |
| 2675 | LA | Construct I-20 interchanges at US 167 and Tarbutton Rd. Construct East West frontage roads along I-20 | $5,000,000 |
| 2676 | TX | FM 937 from SH164 to FM 3371, Limestone Co | $2,000,000 |
| 2677 | MO | Construct additional exit ramp access lane from I-44 to Kingshighway and enhance Shaw Ave. corridor | $4,820,000 |
| 2678 | IN | Construction of I64 Interchange, Harrison County, Indiana | $5,310,000 |
| 2679 | OH | Bridge Replacement at SR 84 and I-90 on Bishop Road in Willougby Hills, OH | $500,000 |
| 2680 | TN | Continue Shelby Avenue—Demonbreun Street project in Nashville. | $6,500,000 |
| 2681 | WI | Construct a bicycle/pedestrian path from Waunakee to Westport | $2,000,000 |
| 2682 | CT | Construct bike and pedestrian paths along Salem Greenway—Salem, CT | $100,000 |
| 2683 | TX | Construct I-635/35E Interchange in Dallas, TX | $5,500,000 |
| 2684 | CA | Hwy 199 Narrow Enhancement to reduce active slides that cause significant road closures on primary connecting route from US 101 to I-5 | $2,000,000 |
| 2685 | MD | Construction of New Interchange at MD5, MD373, and Brandywine Road | $10,000,000 |
| 2686 | GA | I-20 West from SR 5 Bill Arp to SR 6—HOV Lanes | $7,250,000 |
| 2687 | PA | Install and construct signals, calming devices and signs in Mechanicsburg and surrounding municipalities | $450,000 |
| 2688 | FL | 44th St. Extension to Golfair Blvd, Jacksonville | $1,500,000 |
| 2689 | NJ | Passaic River-Newark Bay Restoration and Pollution Abatement Project, Route 21, River Road, CR 510 | $1,000,000 |
| 2690 | CA | San Gabriel Blvd and Mission Road Intersection Improvements, San Gabriel | $200,000 |
| 2691 | NY | Rehabilitate 125th Street Corridor from Old Broadway to Marginal Street/Waterfront | $2,000,000 |
| 2692 | MI | Repair M-10 corridor from I-696 to downtown Detroit | $1,000,000 |
| 2693 | FL | Capital Circle Northwest, Tallahassee | $10,000,000 |
| 2694 | TN | Installation of Intelligent Transportation System on various major routes in Memphis | $2,000,000 |
| 2695 | MI | Planning and Engineering for The American Road, The Henry Ford Museum, Dearborn | $1,500,000 |
| 2696 | TX | Reconstruct Ella/Wheatley from Little York to West Gulf Bank | $1,250,000 |
| 2697 | NY | Implement Improvements for Pedestrian Safety in Richmond County | $1,000,000 |
| 2698 | FL | Palm Bay Parkway from Emerson Drive to US 192, Palm Bay, FL | $1,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2699 | CA | Construct the Los Angeles River bicycle and pedestrian path in the San Fernando Valley | $575,000 |
| 2700 | TX | Construct Santa Fe Trail DART LR overpass from Hill St. to Commerce St. along abandoned Santa Fe Rail right of way in Dallas | $1,400,000 |
| 2701 | CA | Construct Route 101 bicycle/pedestrian overpass at Millbrae Ave for the San Francisco Bay Trail | $1,000,000 |
| 2702 | GU | Guam Mass Transit Authority Acquisition of transit vehicles for disabled persons | $400,000 |
| 2703 | LA | New Iberia Rail Grade Separation | $2,000,000 |
| 2704 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Ashley Borough, Luzerne County | $200,000 |
| 2705 | MN | Reconstruct Grand Avenue (from Central Ave to 59 Ave W), Central Ave (from Grand Ave to I-35) and Bristol Street (from Central Ave to Grand Ave), Duluth | $750,000 |
| 2706 | TN | Plan and construct a bicycle and pedestrian trail, Cannon County | $100,000 |
| 2707 | TX | Develop, deploy and integrate municipal ITS in San Antonio | $3,200,000 |
| 2708 | TN | Jefferson, Hamblen Counties, Tennessee SR-66 relocation | $2,000,000 |
| 2709 | MD | Rehabilitate Pennington Avenue Drawbridge in Baltimore | $1,500,000 |
| 2710 | PA | Construction of I-79 to Mon-Fayette Section of Southern Beltway, Pittsburgh, Pennsylvania | $1,000,000 |
| 2711 | FL | Springfield Rd. Improvements, Jacksonville | $1,500,000 |
| 2712 | LA | Elimination of highway-rail grade crossings along Louisiana and Delta railroad | $1,000,000 |
| 2713 | CA | Conduct necessary planning and engineering and implement comprehensive Corridor Management Plan for Arroyo Seco Historic Parkway, Los Angeles | $1,400,000 |
| 2714 | FL | Plant City Traffic Management System | $2,000,000 |
| 2715 | GA | SR 347 widen-new construction from I-985 to SR 211, Hall County, Georgia | $10,000,000 |
| 2716 | WA | SR28 and SR285 Sellar Bridge Improvements: ramp & roadway network improvements at the west end and a new lane on the Sellar Bridge | $5,000,000 |
| 2717 | NY | Stabilize Poughkeepsie Railroad Bridge and construct a pedestrian walkway linking the two sides of the Hudson River, Poughkeepsie | $1,092,500 |
| 2718 | WA | International Mobility and Trade Corridor Project for Whatcom County | $1,100,000 |
| 2719 | CA | State Route 76 Road Widening, Melrose Drive to Interstate 15 | $5,000,000 |
| 2720 | NJ | Streetscape Improvements to Clements Bridge Road from Newton Avenue to New Jersey Turnpike, Barrington | $500,000 |
| 2721 | FL | Construct Eastern Connector from SR 417 to I-95, Volusia & Seminole Counties Florida | $1,000,000 |
| 2722 | GA | Construction of the McIntosh Path on SR 99, 7.15 miles between Darien, Georgia and the Sapelo Island Visitor Center | $200,000 |
| 2723 | AL | Construction of Sulphur Springs Road Bypass in City of Hoover, Alabama | $5,000,000 |
| 2724 | AZ | Pliocene Cliffs reconstruction between Wikieup and the Santa Maria River | $1,000,000 |
| 2725 | MN | Construct roadway improvements to CSAH 76, Little Falls : | $1,064,000 |
| 2726 | IN | Study alternatives along 2 miles of railroad to eliminae in-town highway-rail crossings to improve safety and reduce congestion in Delaware County | $150,000 |
| 2727 | NV | Design and construct separation of rail-highway crossings in downtown Reno | $1,000,000 |
| 2728 | NJ | Maple Shade Township Streetscape Improvements of Mill Road, Rudderow Ave., North & South Coles Ave. and Schoolhouse Lane | $1,000,000 |
| 2729 | WA | Conduct study for I-5 and SR503 interchange | $300,000 |
| 2730 | WA | Construct Webber Canyon Road realignment at I-82 Kiona-Benton interchange | $3,500,000 |
| 2731 | TX | Downtown Streetscape Improvements in Beaumont, Texas | $640,000 |
| 2732 | NY | Improve Traffic Flow on Lefferts Boulevard by Rehabilitating Facilities Surrounding LIRR/Kew Gardens Eastbound Station | $500,000 |
| 2733 | NM | Perform highway beautification to the recently reconstructed Interstate 40 Interstate 25 Interchange | $800,000 |
| 2734 | TX | Reconstruct interchange at IH 10 and FM 364, Chambers County, Texas | $1,000,000 |
| 2735 | CA | SR 52 East Improvments (San Diego) | $6,000,000 |
| 2736 | OR | Study to evaluate alternatives in support of an eventual Astoria bypass, Astoria | $250,000 |
| 2737 | GA | Commission a study and report regarding the construction and designation of a new Interstate linking Savannah, Augusta, & Knoxville | $400,000 |
| 2738 | VT | Construction of the St. Albans, Vermont intermodal connector roadway with I-89 for the City of St. Albans | $1,200,000 |
| 2739 | OR | I-5-Highway 214 interchange improvements, Woodburn | $1,000,000 |
| 2740 | OR | Construction of transportation facilities at the Tualatin River Wildlife Refuge | $800,000 |
| 2741 | WY | I-80 Rock Springs Marginal | $1,900,000 |
| 2742 | PA | Improvements to Route 11 and access to I-81 | $1,000,000 |
| 2743 | IL | Improve safety of a horizontal curve on Clarksville St. .25 mile north of 275th Road in Grandview Township, Edgar County, Illinois | $88,000 |
| 2744 | UT | Provo Reservoir Canal Trail, Utah | $1,000,000 |
| 2745 | MO | South County Riverfront Access and Trails Project, Lemay | $4,000,000 |
| 2746 | AK | Road improvements in the City of Fairbanks | $5,000,000 |
| 2747 | MD | Construct Ferry Terminal, Somerset County, Maryland | $1,000,000 |
| 2748 | MS | Plan and Construct two lanes to SR-6 from SR 342 to Alabama state line | $4,000,000 |
| 2749 | CA | Construct bypass along Hwy 101 around Willits, CA to reduce congestion, improve air quality and enhance economic lifeline of No. Coast | $5,000,000 |
| 2750 | CA | Engineering support to I-5 Joint Powers Authority to widen I-5 freeway and improve corridor arterials from I-710 to Orange County line | $150,000 |
| 2751 | LA | Kerner Bridge, Bayou Barataria | $2,100,000 |
| 2752 | WA | Renton, WA SR 167 HOV, Strander Boulevard Connection | $1,000,000 |
| 2753 | NJ | Sussex County, NJ Vernon Township, Mountain Creek Rt. 94 Traffic Calming, Ped. Safety and Traffic Congestion, Circulation Improvement | $3,000,000 |
| 2754 | PA | Linglestown Square, roadway and intersection improvements, Lower Paxton Township | $2,800,000 |
| 2755 | MD | Rehabilitate road including bridges over CSX tracks in Baltimore | $3,000,000 |
| 2756 | WA | Extend 18th Street between 87th Avenue and NE 192nd Avenue in Vancouver | $1,000,000 |
| 2757 | TX | Implement repairs on Old Pleasanton Road Bridge in Atascosa County | $403,000 |
| 2758 | CA | Hazel Avenue Improvements, U.S. Highway 50 to Madison Avenue | $3,000,000 |
| 2759 | MI | Menominee County, County Road 557 Bridge Replacement over the Big Cedar River | $280,000 |
| 2760 | OH | Massillon, Ohio. Tremont Avenue Bridge Rehabilitation | $720,000 |
| 2761 | MI | Montmorency County, Reconstruction of County Road 612 from W. County Line to County Road 491 | $800,000 |
| 2762 | CA | Conduct traffic study of proposed realignment of Nutwood Ave in Fullerton | $500,000 |
| 2763 | NM | Planning, design and construction of bikeways and walkway at the City of Santa Fe's downtown railyard redevelopment project | $2,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2764 | GA | Streetscape-Bainbridge | $250,000 |
| 2765 | PA | Construct S.R. 706 Corridor, Susquehanna County, Pennsylvania | $2,000,000 |
| 2766 | NY | Town of North Salem reconstruction and repaving of Keeler Lane | $150,000 |
| 2767 | FL | Conduct planning and engineering for US 17 widening and improvements in Hardee County, Florida | $3,000,000 |
| 2768 | IL | Traffic Signalization, Matteson | $907,500 |
| 2769 | MS | Upgrade roads in Kilmichael, Montgomery County | $400,000 |
| 2770 | NC | Upgrade US 220 to I 73 74 interstate standards in Montgomery County | $2,000,000 |
| 2771 | WA | US 2/Sultan Basin Road Improvements in Sultan | $600,000 |
| 2772 | TX | Add 2 lanes to existing facility from Victoria County Line to 1.9 Miles West of SH 35 in Port Lavaca | $1,000,000 |
| 2773 | FL | A1A Transportation Enhancements, Daytona Beach | $1,000,000 |
| 2774 | MI | City of Menominee, Resurface Hattie Street Bridge deck 250 feet from 9th avenue in Menominee to Riverside Avenue in Marinette, WI | $225,000 |
| 2775 | TN | eliminate blockage of two lanes on Gay Street in Knoxville, TN, to accomodate loading dock | $2,000,000 |
| 2776 | MI | Emmet County, Ultra thin demonstration project resurfacing of Mitchell Road from the City of Petoskey limits east to Division | $60,000 |
| 2777 | NY | Gowanus Expressway Project | $500,000 |
| 2778 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Moosic Borough, Lackawanna County | $200,000 |
| 2779 | AL | Expand to 4 lanes on US-278 from I-65 to US-231 | $3,000,000 |
| 2780 | IL | Preconstruction and construction McCarthy Road. Bell Road to US 45 and 123rd Street US 45 to 86th Avenue in Palos Park | $600,000 |
| 2781 | WY | Riverton: Reconstruct HWY 26—Main St | $1,100,000 |
| 2782 | MA | Somerville Bicycle Path Improvements—Cedar Street to Central Street | $1,000,000 |
| 2783 | MI | US 31 improvements and relocation between Holland and Grand Haven | $9,450,000 |
| 2784 | PA | Replace Messinger Street Bridge in the Borough of Bangor | $1,000,000 |
| 2785 | NY | Owego, Construct pedestrian waterfront walkway | $1,250,000 |
| 2786 | KY | Reconstruct US 127 from Hustonville Road to the Mercer County Line, Boyle County | $1,500,000 |
| 2787 | PA | Construction of an intermodal facility in Altoona, Pa | $1,500,000 |
| 2788 | CA | Design and construct access improvements in North Central Business District, Sacramento | $8,000,000 |
| 2789 | NC | Construction of the southbound lane of US 321 bridge replacement over the Catawba River | $6,000,000 |
| 2790 | FL | Grand Lagoon Bridge Replacement Project. The replacement of a two lane bridge with a four lane bridge | $6,500,000 |
| 2791 | FL | Construct SR 9B Extension, St. Johns County, Florida | $4,400,000 |
| 2792 | AL | Design and construct a 4-lane highway from Muscle Shoals, AL to I-10 | $1,000,000 |
| 2793 | IN | Improve SR 9 Greenfield Corridor, Indiana | $500,000 |
| 2794 | NJ | Interstate 280 Interchange Improvements, Harrison | $9,000,000 |
| 2795 | KY | Construct I-66 east of Somerset, Kentucky in Pulaski County to I-75 at London, Kentucky | $7,000,000 |
| 2796 | VA | Plan, Design, and Construct improvements to Virginia Beach Blvd in Virginia Beach and Norfolk | $500,000 |
| 2797 | PA | Fayette County, Pennsylvania, State Road 21 Improvements | $2,000,000 |
| 2798 | ME | Replacement of Waldo-Hancock Bridge | $16,000,000 |
| 2799 | CT | Reconstruct and widen Homer St and Chase Ave in Waterbury from Waterville Ave to Nottingham Terrace | $1,500,000 |
| 2800 | FL | Construct new east-west road from the intersection of Beeline Highway and PGA Boulevard west to Seminole Pratt Whitney Road | $1,000,000 |
| 2801 | WI | Enhance West Silver Spring Ave with lighting enhancement, crosswalk improvements, signage, landscaping, Milwaukee | $400,000 |
| 2802 | NY | Completion of 1.6 mi trail network in the Utica Marsh, NY | $124,000 |
| 2803 | TX | Construct I635-I30 Interchange, Dallas, Texas | $12,000,000 |
| 2804 | IL | Establish transportation museum on Navy Pier, Chicago | $500,000 |
| 2805 | CA | Establish I-15 Interchange at Nisqualli and Mojave River crossing in San Bernardino County | $1,500,000 |
| 2806 | MA | Massachusetts Bay Transportation Authority Secure Station, Boston | $1,000,000 |
| 2807 | FL | Construct bridges on SR710 in Palm Beach County | $2,000,000 |
| 2808 | PA | Reconstruct intersection of SR 51 and Franklin Ave, Beaver County | $2,150,000 |
| 2809 | NJ | Rehabilitation existing structure at the Bridge Street bridge over the CSX Railroad Trenton Line in Manville, NJ | $500,000 |
| 2810 | OR | Repair and recoat logging bridge over Highway 99E, Canby | $150,000 |
| 2811 | CA | San Gabriel Blvd Rehabilitation Project—Broadway to Las Tunas, San Gabriel | $200,000 |
| 2812 | CA | Signal upgrades on Avenida de las Flores, Melinda Road, Avenida de las Banderas, and Alma Aldea, Rancho Santa Margarita, California | $125,200 |
| 2813 | CA | Construct State Route 905 to connect the Otay Mesa Port of Entry to Interstate 805, San Diego | $9,000,000 |
| 2814 | MA | Crosby Drive Improvement Project | $1,000,000 |
| 2815 | WI | Construct North Shore Extension of Friendship State Trail, Calumet and Winnebago Counties, Wisconsin | $350,000 |
| 2816 | AR | Construct and rehabilitate Fayetteville Expressway Economic Development Corridor | $5,000,000 |
| 2817 | PA | Armstrong County, Pennsylvania, construction of the Freeport Bridge | $2,000,000 |
| 2818 | IL | Road extension for Redco Drive to Skyline Dr, Williamson County | $1,000,000 |
| 2819 | CA | Rosecrans Avenue and Bridge Arterial Reconstruction Project, Compton | $3,000,000 |
| 2820 | MA | Canalside Rail Trail Construction of the Canalside Rail Trail, Deerfield & Montague | $1,000,000 |
| 2821 | CA | Conduct study and construct Daggett Road, Port of Stockton, CA, Access Project | $5,000,000 |
| 2822 | WI | Construct a bicycle/pedestrian path, and two bridges across Starkweather Creek, Madison | $2,000,000 |
| 2823 | GA | Construct City of Fayetteville, Ga. School Access Bike Ped Project | $625,000 |
| 2824 | TN | Sevier County, Tennessee SR 449 extension | $500,000 |
| 2825 | GA | SR 133 south bound lane bridge replacement over the Georgia Florida Railnet line, Dougherty County | $1,000,000 |
| 2826 | CA | Construct grade separation on State Street and Cajon Boulevard along BNSF tracks in San Bernardino | $2,000,000 |
| 2827 | WA | Construct SR 9 Pedestrian Overpass in Arlington | $800,000 |
| 2828 | CA | Implement streetscape improvements along Wilbur Avenue to enhance traffic and pedestrian safety | $100,000 |
| 2829 | MD | I95, I495, MD5 Branch Avenue Metro Access | $4,000,000 |
| 2830 | TN | Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Loudon, TN | $57,000 |
| 2831 | MO | I-470, I-435 & Rt 71 Completion of Interstate realignment | $3,000,000 |
| 2832 | PA | Ridge Avenue Revitalization project in conjunction with Roxborough Dev. Corp. for scenic enhancements & pedestrian safety improvements along a heavily traveled thoroughfare | $1,000,000 |
| 2833 | PA | Corridor improvements for PA 72 from PA 283 to PA Turnpike | $600,000 |
| 2834 | AR | Construction of I-49, Highway 71: Highway 22 to Highway 71 near Jenny Lind | $5,000,000 |
| 2835 | CA | Provide landscape enhancement of an existing open culvert on Atherton Street, Long Beach | $500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2836 | NY | Rehabilitate Guy Lombardo Avenue and construct drainage improvements and new sidewalks and curb cuts in Freeport, NY | $1,000,000 |
| 2837 | IA | I 35 interchange improvements, Ankeny | $4,500,000 |
| 2838 | PA | Improve Freemansburg Avenue and its intersections at Route 33 | $2,000,000 |
| 2839 | NJ | Pedestrian facilities and street lighting on Route 551 from Route 130 to Chestnut Street, Brooklawn | $400,000 |
| 2840 | IL | I-57 and I-294 Interchange | $3,000,000 |
| 2841 | FL | New Kings Rd. Pedestrian Overpass & Enhancements, Jacksonville | $1,000,000 |
| 2842 | TX | Grimes Co., TX Bridge Improvement Project | $500,000 |
| 2843 | CA | Crenshaw Blvd. Rehabilitation, Maricopa St. to Sepulveda Blvd., City of Torrance | $1,000,000 |
| 2844 | VA | Engineering and Right of Way for Interstate 73 in Roanoke County | $1,500,000 |
| 2845 | GA | Johnson Ferry Road Glenridge Drive Widening, Abernathy Road to Hammond Drive | $2,000,000 |
| 2846 | GA | Install walkways, bridges, lighting, landscaping in Water Works Park and south along river through Ocmulgee Monument and Central City Park | $6,020,083 |
| 2847 | OH | Intersection improvements and related road improvements in the City of Chardon, OH | $612,000 |
| 2848 | WV | Construct Coalfields Expressway | $7,200,000 |
| 2849 | CA | Improve pedestrian and biking trails within East Bay Regional Park District, Contra Costa County | $1,000,000 |
| 2850 | MA | Berkshire County Bike Paths, Design & Construction | $5,000,000 |
| 2851 | MI | Ogemaw County, Overlay of Fairview Road to improve network of all-season truck routes | $369,600 |
| 2852 | VA | Old Mill Road Extension | $1,000,000 |
| 2853 | PA | Construct Campbelltown Connector, Lebanon County | $2,000,000 |
| 2854 | NJ | Construct Rt 40 Reconstruction from Rt 77 to Elmer Lake, Elmer, Salem County | $3,000,000 |
| 2855 | OH | Design and Construct Riverwalk and adjacent facilities, Warren, Trumbull Co | $1,500,000 |
| 2856 | CA | Realign SR 4 within the City of Oakley | $2,000,000 |
| 2857 | IL | Construct recreational trail from Spring Creek Forest Preserve to Greene Valley Forest Preserve in DuPage County, IL | $400,000 |
| 2858 | MN | Construct trail link between Bruce Vento Regional Trail and Mississippi River Corridor in St. Paul | $1,500,000 |
| 2859 | FL | Construct Interstate-4/ Crosstown Connector | $1,000,000 |
| 2860 | UT | Add lights to road from Halchita to Mexican Hat on Navajo Mountain | $200,000 |
| 2861 | CA | Construct off ramp at Interstate 8/Imperial Avenue Interchange, El Centro | $3,000,000 |
| 2862 | VA | Cranesnest Trail—construction of hiking, biking, horse trail from Route 83 to Cranesnest Campground | $650,000 |
| 2863 | NC | Durham and Chatham Counties, NC Completion of American Tobacco Trail | $2,000,000 |
| 2864 | TX | Austin to Manor Rail Trail, Texas | $2,000,000 |
| 2865 | PA | Eliminate existing rail line in Indian, PA to eliminate 37 at grade crossings and reconstruct the line outside the town from Glenn Lock to Middletown | $4,000,000 |
| 2866 | MN | Extend Cuyuna Range and Great River Road Trails, Aitkin | $400,000 |
| 2867 | NY | Conduct planning, engineering, and eventual construction of Rte. 5 in City of Oneida, from Seneca St. to county line | $500,000 |
| 2868 | NY | Great Neck Road Traffic Calming Project | $400,000 |
| 2869 | NJ | Design and construct new streetscape through Irvington Center | $1,000,000 |
| 2870 | IL | Construct connector road between Collinsville Rd to IL3/North 1st St, St. Clair County | $6,000,000 |
| 2871 | NJ | Carteret, NJ Ferry Service Terminal | $2,100,000 |
| 2872 | AL | Construct I10-US231 Connector from Dothan, AL to Florida | $2,000,000 |
| 2873 | OH | Bicycle Paths for the Magic Mile in Willougby, OH | $800,000 |
| 2874 | NC | Construct Interstate 73 74 in Montgomery County and Richmond County, North Carolina | $18,000,000 |
| 2875 | NY | Construct Phase II I-90 Connector ITS Laboratory in Rensselaer County | $6,000,000 |
| 2876 | NC | Design and construct Airport Area Roadway Network | $2,800,000 |
| 2877 | WA | Engineering and Construction of the Centennial Trail in Snohomish | $1,000,000 |
| 2878 | OR | I-5 Beltline Interchange | $20,000,000 |
| 2879 | IL | Extension North from Rt. 30 to Wheeler Road and Galena Boulevard extension west of Rt. 47 in Sugar Grove, IL | $4,760,000 |
| 2880 | NY | Newburgh, Improve East End Roads | $1,863,500 |
| 2881 | ME | Construction of the Kennebec River Rail Trail | $400,000 |
| 2882 | CA | Construct Bristol Street multi-modal corridor in Santa Ana | $3,000,000 |
| 2883 | CA | Construct pedestrian sidewalk enhancements in Bellflower | $500,000 |
| 2884 | KS | Improvement and expansion for 2.7 miles of K-18 in Geary County | $14,500,000 |
| 2885 | CA | I-110/SR 47/Harbor Blvd. Interchange Improvements, San Pedro | $5,000,000 |
| 2886 | MA | Oxbow National Wildlife Refuge, Design and construction of a Visitor Contact Station | $2,000,000 |
| 2887 | AL | Pedestrian Improvements for Pell City, AL | $200,000 |
| 2888 | WI | Rehabilitate Highway 51 between CTH S and USH 8 in Lincoln County | $2,000,000 |
| 2889 | OH | Rehabilitate tunnel and bridge on National Road Bikeway in St. Clairsville | $700,000 |
| 2890 | MD | Pennington Ave Drawbridge, Baltimore | $1,000,000 |
| 2891 | MA | Rehabilitation and paving of Parker River Road | $250,000 |
| 2892 | MN | Reconstruct CSAH 17 between Itasca CR 341 and the Scenic State Park entrance to improve safety and structural integrity | $3,200,000 |
| 2893 | OH | Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rickenbacker Airport | $5,000,000 |
| 2894 | PA | Relocation of PA 52 at Longwood Gardens | $1,000,000 |
| 2895 | TX | Construct Interstate 35 improvements in Buda | $1,000,000 |
| 2896 | TN | improve streetscape and signage, McMinn County, TN | $300,000 |
| 2897 | OR | Culvert Replacement, Sweet Home | $130,000 |
| 2898 | AL | AL 5 Widening in Bibb County | $3,000,000 |
| 2899 | CO | Design and build a multimodal corridor on US 36 | $5,000,000 |
| 2900 | WA | Development of highway-rail crossings in Spokane County, WA and Kootenai County, ID | $1,000,000 |
| 2901 | OH | Acquire right of way land along US 24, Lucas County | $1,000,000 |
| 2902 | IL | Improve Streets, Westchester | $150,000 |
| 2903 | NY | Enhance road and transportation facilities in the vicinity of W. 65th St and Broadway, New York City | $3,000,000 |
| 2904 | TN | Construction of Knob Creek Road in Washington County, Tennessee | $500,000 |
| 2905 | TN | Improve streetscape and pavement repair, Loudon County, TN | $300,000 |
| 2906 | CA | Improvement of intersection at Inglewood Ave and Marine Ave to reduce congestion | $3,600,000 |
| 2907 | HI | Interstate Route H1 rehabilitation, Kaahumanu Street to Kaimakani Street | $7,430,000 |
| 2908 | ID | Construct Interchange on I-84 at Ten Mile Rd, Meridian, Idaho | $2,000,000 |
| 2909 | NJ | Pedestrian facilities and street lighting on Haddon Avenue from Voorhees Township Line to Bate Avenue, Berlin Township | $347,120 |
| 2910 | WA | 267th Street NW Pedestrian Path in Stanwood | $400,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2911 | KY | Replace US 68 and US 150 Bridge over Chaplin River, Perryville | $750,000 |
| 2912 | UT | Geveva Rd-Provo Center Street, Orem 1600 North to I-15 FWY, Provo-widen from 2 to 4 lanes | $7,500,000 |
| 2913 | IL | Construction of a new roadway and grade separation of the UP West Line east of Elburn | $7,000,000 |
| 2914 | VA | Haymarket, VA. Washington Street improvements | $500,000 |
| 2915 | NJ | Improvements to implement the Readington Tewksbury Transportation Improvement District | $500,000 |
| 2916 | IL | Allow IDOT to proceed with engineering and construction of Airport-Lockport Rd and Illinois Route 126 interchanges on I-55 | $1,750,000 |
| 2917 | AR | Caraway Bridge Overpass | $7,000,000 |
| 2918 | OH | Construction of an Intermodal Facility at University Circle in the City of Cleveland | $500,000 |
| 2919 | PA | Jeannette Truck Route | $500,000 |
| 2920 | MD | MD45, Cavan to Ridgley Roads | $5,520,000 |
| 2921 | MD | MD 30 Hampstead Bypass | $1,000,000 |
| 2922 | MI | Monroe Area Highway-Railway Crossing Improvements, City of Monroe | $6,400,000 |
| 2923 | OH | Obtain right-of-way and construct the 161,37 widening project in Franklin and Licking Counties, Ohio | $2,000,000 |
| 2924 | CT | Enfield, Connecticut Make improvements to South Maple Street Bridge | $1,910,000 |
| 2925 | NY | Conduct studies, if necessary, and construct infrastructure projects for Governor's Island | $2,000,000 |
| 2926 | NY | Harlem River Park and Bikeway | $1,000,000 |
| 2927 | CT | Make Improvements to Plainfield Cemetary Road | $300,000 |
| 2928 | SC | Construct grade separation and interchange improvements at U.S. 521, Lancaster County | $1,000,000 |
| 2929 | NJ | Replacement of the Magnolia Avenue Bridge over Route 1 & 9 | $1,000,000 |
| 2930 | IL | Resurfacing and restriping Euclid Ave between Walnut Ave and Douglas Ave in Arlington Heights | $300,000 |
| 2931 | MI | Resurfacing of Frazho Road in Roseville | $1,280,000 |
| 2932 | CA | Construct 213th Street pedestrian bridge to provide safe passage for pedestrians and wheelchairs, Carson | $1,000,000 |
| 2933 | MO | Conduct impact studies for Missouri River Bridge siting in Kansas City, MO | $5,000,000 |
| 2934 | CA | Construction of Lenwood Road Grade Separation in Barstow, CA | $1,500,000 |
| 2935 | PA | Improvements to Frankford Avenue from Cottman Avenue to Harbison Avenue | $1,250,000 |
| 2936 | IN | Develop Hazeldell Road, Hamilton County, Indiana | $500,000 |
| 2937 | AK | Road Improvements and upgrades to service road areas and miscellaneous projects within Northstar Borough | $5,000,000 |
| 2938 | OH | Rehabilitation or replacement of highway-rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties | $610,000 |
| 2939 | MI | Otsego County, Resurfacing and widening of Parmater Rd | $368,000 |
| 2940 | WA | Realign West Main Street through Kelso | $2,000,000 |
| 2941 | TN | Reconstruct State Route 109 from I-40 in Wilson County to Portland in Sumner County | $1,000,000 |
| 2942 | PA | Redesigning the intersection of US322/High Street and Rosedale Ave | $1,000,000 |
| 2943 | DE | Replacement of the Indian River Inlet Bridge, Sussex County Delaware | $4,000,000 |
| 2944 | FL | Construct link from I-95 to I-10 through Clay County with terminus points SR23 to CAR739B | $3,000,000 |
| 2945 | MN | Construct ramps and new bridge over Interstate 35 at CSAH 17, and reconstruct CSAH 17 from west County Line to CSAH 30, Chisago County | $900,000 |
| 2946 | CT | Conduct multi-modal study of Route 8 corridor between Beacon Falls-Seymour town line and exit 40 | $1,000,000 |
| 2947 | AR | Hwy 65 improvements in Van Buren County, including construction of passing lanes, bridge improvements, intersection improvements and other roadway improvements | $1,200,000 |
| 2948 | AZ | Construct sidewalks along White Spar Road—Prescott, AZ | $500,000 |
| 2949 | NY | Construction of Pedestrian and Bike Trail campus access & improvements, St. Bonaventure, NY | $500,000 |
| 2950 | NY | Eastern Laurelton Area Improvements, Queens, New York | $8,600,000 |
| 2951 | NY | Bicycle and pedestrian safety improvements, Main Street, Riverhead | $1,200,000 |
| 2952 | AL | Construct County Road 83 corridor from Foley Beach Express to I-10 | $10,000,000 |
| 2953 | PA | Design and construct improvements to PA 465 from Walnut Bottom Rd. to PA 641 and at I 81 Exit 44 | $3,870,500 |
| 2954 | IL | Reconstruct and Widen Route 60 Bridge over I-94 in Lake Forest | $8,000,000 |
| 2955 | VA | Improve Downtown Staunton, Virginia, Streetscape | $1,500,000 |
| 2956 | PA | Route 322 Halls Run Upgrades from the intersection of Horsecreek Road to Mapleshade Road—Venango County | $1,700,000 |
| 2957 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Wilkes-Barre | $2,500,000 |
| 2958 | IN | SR56 Reconstruction, Aurora, Indiana | $5,120,000 |
| 2959 | MI | Study and implement transportation system alternatives in the vicinity of US31/M46 | $4,000,000 |
| 2960 | MA | Longfellow Bridge Rehabilitation | $2,500,000 |
| 2961 | IL | For Village of Bolingbrook to construct Remington Blvd. extension | $500,000 |
| 2962 | AZ | Construction of Rio Salado Pedestrian Bridge in Tempe, AZ | $3,000,000 |
| 2963 | MI | Study to determine replacement options for obsolete and structurally deteriorating bridge (Trenton-Grosse Ile Bridge) including approach roadways, Charter County of Wayne | $4,000,000 |
| 2964 | PA | Mount Joy Bridge Replacement on Route 230 | $250,000 |
| 2965 | CA | Modifies 9 traffic signals between Willow Road and Middlefield Road and Hamilton Avenue, Menlo Park | $300,000 |
| 2966 | OH | Summit County Engineer Reconstruct Access Roads to Cuyahoga Valley National Park | $500,000 |
| 2967 | OR | To study the feasibility of widening Hwy 26 from the Hwy 217 interchange to the Cornelius Pass exit | $1,000,000 |
| 2968 | GA | Athens-Clarke County Greenway Enhancement Project | $2,320,000 |
| 2969 | WA | Improve Wahkiakum County Ferry landing | $200,000 |
| 2970 | IL | Irving Park Bridge over the Chicago River | $4,000,000 |
| 2971 | MI | Design, right-of-way and construction of passing relief lanes and improvements necessary on M-55, between M-37 and M-115 | $2,200,000 |
| 2972 | NE | Design, right-of-way and construction of South and West Beltway in Lincoln, Nebraska | $3,000,000 |
| 2973 | TX | Tower 55 CMAQ Congestion and Preliminary Engineering Study | $2,000,000 |
| 2974 | NY | Town of Chester Lake, Hill Farms subdivision road improvements | $150,000 |
| 2975 | MN | Improvements on TH 169 east and west of East Two Rivers Crossing and TH 135 from Enterprise Drive to TH 169 | $2,216,000 |
| 2976 | IN | Reconstruct Standard Avenue, Whiting | $1,300,000 |
| 2977 | TX | Barron Rd. Interchange at SH6 (Earl Rudder Freeway) College Station | $3,000,000 |
| 2978 | CA | Develop conceptual master plan to improve the efficiency of transportation facilities, Covina | $215,000 |
| 2979 | PA | Transportation enhancements along the Delaware Canal between Yardley, PA and Bristol, PA | $1,000,000 |
| 2980 | VA | Upgrade DOT crossing #467661K to constant warning time devices | $171,700 |
| 2981 | UT | Add lighting on Highway 262 on the Navajo Nation in Aneth | $175,000 |
| 2982 | VA | Chestnut Mountain Road—feasibility study, design and construction start for road improvement on National Forest lands | $500,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2983 | MI | Construction of roads and trails Humbug Marsh Unit Linked Greenways System, Detroit International Wildlife Refuge | $1,100,000 |
| 2984 | TX | Construct access road connecting Port of Beaumont property on east bank of Neches River to I-10 access road east of the Neches River | $3,120,000 |
| 2985 | AR | Develop U.S. Highway 71 (I-49) to Interstate standards on new location between Mena, AR and LA state line | $3,160,000 |
| 2986 | SC | Lexington County, widen US 1 and SC 6, and improve US 1, SC 6, and US 378 | $2,000,000 |
| 2987 | IL | Midlothian Road Signalization, Lake Zurich | $600,000 |
| 2988 | VA | Glen Alton—design and construction of recreation trails, access and visitor information center | $1,000,000 |
| 2989 | MI | Expansion of Cass Avenue in Clinton Township | $9,194,000 |
| 2990 | CO | Bromley Lane and US 85 interchange feasibility study and construction of needed improvements | $1,000,000 |
| 2991 | MD | Constructing Chestertown Trail, Chestertown, MD | $300,000 |
| 2992 | IL | Eastern Peoria Bypass | $3,000,000 |
| 2993 | VA | Conduct planning and engineering for Mayo Bridge in Richmond | $2,000,000 |
| 2994 | NY | Elevation of road and construction of drainage improvements on Sequams Lane Center and Sequams Lane West in the Town of Islip, NY | $620,000 |
| 2995 | NM | Improvements to San Juan County Road 7950 | $1,000,000 |
| 2996 | WA | 116th St/Interstate 5 Interchange Reconstruction in Marysville | $1,000,000 |
| 2997 | SC | Construction of public roads at the International Center for Automotive Research and reconstruction of Fairforest Way in Greenville, South Carolina | $5,000,000 |
| 2998 | PA | Provide 4 through-lanes on PA100 by constructing two thru lanes to the east of Ludwigs Corner | $5,000,000 |
| 2999 | PA | Completion of construction of final 2 ramps of I-79 interchange with Parkway West; widening of 1 mile of Parkway West leading to ramps | $2,000,000 |
| 3000 | CA | Diamond Bar, CA Grand Avenue Rehabilitation | $1,600,000 |
| 3001 | NY | Reconfigure intersection of Ridge Street and Hallocks Mill Road & install new traffic signal | $725,000 |
| 3002 | WA | Guard Street Reconstruction Project in Friday Harbor | $800,000 |
| 3003 | CO | Roadway widening and interchange rebuilding on I-225 from I-70 to Parker Road | $4,000,000 |
| 3004 | PA | Roosevelt Boulevard improvements by the Pennsylvania Department of Transportation | $2,500,000 |
| 3005 | MN | Construct Paul Bunyan Trail Walker to Bemidji Segment | $700,000 |
| 3006 | HI | Upgrades to Farrington Highway | $1,000,000 |
| 3007 | KY | US 41A Phase II Design and Right of Way | $3,000,000 |
| 3008 | NM | US 54 Corona, Tularosa, and Vaughn Bridges Replacement and Rehabilitation | $1,000,000 |
| 3009 | OH | Construction of access road along east side of SR 8 in Summit County, OH | $1,000,000 |
| 3010 | TX | US281 from Brooks County Line to FM 3066, Brooks County | $2,000,000 |
| 3011 | FL | Construction of an interchange at Florida's Turnpike & Stirling Rd. in Broward County | $5,538,959 |
| 3012 | NY | Construction of the City of Watertown Streetscape Enhancement Project | $2,500,000 |
| 3013 | IL | Install countdown devices on pedestrian crossing signals on US Routes 12/20 and 50 in Oak Lawn | $500,000 |
| 3014 | NY | Install Improvements for Pedestrian Safety in the vicinity of St. Roberts Bellarmine | $250,000 |
| 3015 | NY | Rebuild Queens Plaza, a 250-foot wide roadway on the eastern end of the Queensborough Bridge | $8,000,000 |
| 3016 | PA | Upgrade circuit for gates and lights at Seventh Street in Emmaus, PA USDOT crossing number 592401H to constant warning time devices. | $275,000 |
| 3017 | UT | SR-158 Improvements, Pine View Dam, Weber County, Utah | $1,100,000 |
| 3018 | CA | Valley Boulevard Capacity Improvement between 710 Freeway and Marguerita Avenue, Alhambra | $2,000,000 |
| 3019 | IL | Offramp and overpass from I-57 outside of Marion and necessary connector roads | $5,000,000 |
| 3020 | AK | Construction of and improvements to roads at Alaska Pacific University | $3,000,000 |
| 3021 | SC | Upgrade of the I-95/SC 327 Interchange near Florence | $7,500,000 |
| 3022 | CA | Valley View/Stage Grade Separation Project, La Mirada and Santa Fe Springs, California | $900,000 |
| 3023 | OR | Renewal of Wooden Bridge West of Albany | $8,000,000 |
| 3024 | MI | Northville, Taft Road from 8 Mile North to city limits | $500,000 |
| 3025 | NY | Village of Pawling Rehabilitation of Grandview Ave from Lakeside to end | $100,000 |
| 3026 | SD | Regrade and resurface BIA Route #5 south of Dupree on the Cheyenne River Reservation | $1,500,000 |
| 3027 | FL | Church Street Improvements, Orlando | $13,000,000 |
| 3028 | MI | Walled Lake, Widen Maple Road, west of Decker to Welch | $125,000 |
| 3029 | AR | Washington County, Arkansas—replace and rebuild Tilly Willy Bridge | $800,000 |
| 3030 | AR | Russellville Intermodal Facility construct access roads from AR Hwy 247, purchase Right-of-Way | $2,000,000 |
| 3031 | TX | Construct IH 30 Monty Stratton Parkway Interchange in Greenville, TX | $1,000,000 |
| 3032 | PA | Design and Construction of Portzer Road Connector, Bucks County | $2,000,000 |
| 3033 | IL | For Plainfield Township Park District to construct DuPage River Bike & Pedestrian Trail linking Grand Illinois, Midewin, & I&M Canal Trails | $100,000 |
| 3034 | TX | Pedestrian Path and Sidewalk Improvements along US 83 in Rio Grande City | $500,000 |
| 3035 | MS | Upgrade roads at Tougaloo College | $500,000 |
| 3036 | IL | Washington Street Widening, Gurnee | $3,360,000 |
| 3037 | LA | Belle Chasse Tunnel | $500,000 |
| 3038 | FL | Implement Busch Boulevard corridor improvements to improve safety in Tampa | $2,500,000 |
| 3039 | MI | Construction of Pittsfield Greenways Bridge—nonmotorized bridge enhancement onto existing Bemis Road Bridge, Pittsfield Charter Township | $201,000 |
| 3040 | NC | North Carolina. Repair and improve safety features on US Hwy 19 from Maggie Valley to Cherokee | $8,000,000 |
| 3041 | NC | Northern Loop Project, City of Wilson | $1,000,000 |
| 3042 | OR | Weaver Road Extension and Bridge Project, Douglas County | $17,500,000 |
| 3043 | MI | Complete 58 miles of White Pine Trail from Grand Rapids to Cadillac | $1,500,000 |
| 3044 | NY | Elmira Congestion Mitigation | $2,000,000 |
| 3045 | IL | Improve Roads and Bridges, Cicero | $1,500,000 |
| 3046 | MI | John-Daly Road Reconstruction—2.5 miles from northern city limit to southern city limit, Inkster | $2,500,000 |
| 3047 | UT | Construct pedestrian safety project on the Navajo Nation in Montezuma Creek | $325,000 |
| 3048 | MD | Construct MD5, Hughesville Bypass | $10,000,000 |
| 3049 | OH | Repair & Construct Rock Spring Bridge, Portage County | $500,000 |
| 3050 | RI | Replace I-195 Washington Bridge Eastbound | $2,000,000 |
| 3051 | UT | Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County, UT | $4,000,000 |
| 3052 | MA | Reconstruction of Union St. and Rt. 138W, Holbrook | $1,720,000 |
| 3053 | MI | Replacement of the interchange at 44th Street and U.S. 131 in Grand Rapids | $9,000,000 |
| 3054 | OH | Construct interchange improvements at SR 46 and 82 in Howland Township, Trumbull Co | $1,000,000 |
| 3055 | GA | Widen and construct US 84 Connector Bypass from west of US 84 SR 119 west of Hinesville to US 84 SR 196 south of Flemington, Liberty County, Georgia | $2,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3056 | IL | Project is a stand-alone roadway improvement consisting of the complete reconstruction of the roadway. The Village of Forest Park | $1,000,000 |
| 3057 | MI | Jackson Freeway Modernization Project. I-94 Modernization Project from Michigan State Route 60 [M60] easterly to Sargent Road | $15,000,000 |
| 3058 | VA | Smart Travel and Traffic Management Systems in Salem and Staunton District, Virginia | $300,000 |
| 3059 | OH | Construct Great Miami River Multi-Use Trail, Miami County, Ohio | $1,270,000 |
| 3060 | DC | Rock Creek Recreational Trail study to assess feasibility of constructing recreation trail | $1,000,000 |
| 3061 | MI | Study road runoff in Little Black Creek between U.S. 31 and Seaway Drive | $400,000 |
| 3062 | CA | Conducts environmental review of proposed improvements related to the connection of Dumbarton Bridge to Highway 101 | $500,000 |
| 3063 | NY | Construction of and improvements to Union Road in West Seneca | $1,000,000 |
| 3064 | WI | Upgrade I43 between State Highway 140 and East County Line in Rock County, Wisconsin | $3,000,000 |
| 3065 | NJ | Separation of the intersection of 13th Street and the Lehigh Rail Line through bridge or tunnel in Manville, NJ | $555,000 |
| 3066 | CA | Construct parking facility and improve access to Imperial Valley Expo | $377,500 |
| 3067 | CA | Develop bicycle paths and pedestrian access to Third Avenue, Chula Vista | $300,000 |
| 3068 | IL | Upgrade County Highways 18 and 22 in conjunction with state I-57 interchange plan north of Mattoon | $2,000,000 |
| 3069 | CA | Widen & Reconfigure Sepulveda & Culver Boulevards, Culver City | $2,740,000 |
| 3070 | OH | Construct interchange or other appropriate access on IR 70 west of existing mall road exit in Belmont County | $6,935,000 |
| 3071 | AZ | Widen and expand the existing roadway and railroad overpass in the Houghton Road Corridor | $4,000,000 |
| 3072 | OK | Construction of Duncan Bypass Grade Separation | $3,000,000 |
| 3073 | SC | Pine Needles Widening & Bridge Replacement | $3,000,000 |
| 3074 | CA | Olsen Road widening and roadway improvments in Simi Valley, California | $2,000,000 |
| 3075 | GA | Streetscape project to upgrade sidewalks, lighting and streets, Jeffersonville | $500,000 |
| 3076 | NY | Implement Diamond Grinding Measures on I-95, I-278, Mosholu Parkway, I-495, Grand Central Parkway, and Richmond Parkway | $700,000 |
| 3077 | MD | Upgrade Conduit System for Traffic Signal Systems, Street Lighting, and Traffic-related Video Cameras for Baltimore | $1,300,000 |
| 3078 | WA | 5th Street/US 2 Signalization Improvements in Sultan | $100,000 |
| 3079 | WI | Implementation of recommendations contained in 2005 Safe Routes to School in Superior plan | $600,000 |
| 3080 | LA | Widen and improve LaPlaco Boulevard from Bayou Segnette to US90, Jefferson Parish | $4,000,000 |
| 3081 | NY | Realign Kirk Lake Drive in Carmel | $110,000 |
| 3082 | NY | Town of Somers road reconstruction | $500,000 |
| 3083 | OH | Upgrade grade crossing safety devices in Elyria and North Ridgeville | $952,000 |
| 3084 | MS | Widen and improve Martin Bluff Road, Gautier | $3,000,000 |
| 3085 | CA | Widen and reconstruct Washington Blvd from westerly city boundary at Vernon to I-5 Fwy at Telegraph Rd in Commerce | $3,000,000 |
| 3086 | CA | San Diego, CA Interstate 5, Sorrento Valley Road and Genesee Avenue Interchange Project | $2,000,000 |
| 3087 | OR | Widen I-5 between Portland, Oregon and Vancouver, Washington | $4,750,000 |
| 3088 | LA | North-South Corridor from Houma/Thibodaux to I-10 | $5,000,000 |
| 3089 | GA | Warren County I-20 Frontage Road | $3,000,000 |
| 3090 | KY | Widen KY 11 from US 460 to the Mt. Sterling Bypass, Montgomery County | $2,500,000 |
| 3091 | OH | Traffic and safety improvements to county roadways in Geauga County, OH | $1,070,000 |
| 3092 | CA | Develop bicycle paths and public park space adjacent to the New River, Calexico | $5,000,000 |
| 3093 | TN | Constructiion of the Foothills Parkway in the Great Smoky Mountains National Park | $7,500,000 |
| 3094 | PA | Improvements to Torresdale Avenue from Harbison Avenue to Cottman Avenue | $1,250,000 |
| 3095 | GA | Butner Road and Stonewall Tell Road, Fulton County | $1,000,000 |
| 3096 | OH | Construction of highway-rail grade separations at intersections in Lima to improve motorist and pedestrian safety | $1,250,000 |
| 3097 | OR | Siuslaw River Bridge, Florence | $4,250,000 |
| 3098 | CA | Construct Cypress Avenue over-pass to separate Interstate 10 and Union Pacific Railroad tracks in Fontana | $3,000,000 |
| 3099 | CA | Modify and reconfigure Kanan Road interchange along US101 in Agoura Hills | $5,000,000 |
| 3100 | OH | Upgrade and widen intersection for SR 14 in Washingtonville | $1,000,000 |
| 3101 | NM | Upgrade NM 434 from Mora north to Black Lake | $1,500,000 |
| 3102 | NJ | Upgrade of Turnpike/Route 440 Interchange in Bayonne | $4,000,000 |
| 3103 | LA | Widen LA 18 from Northrup Grumman/Avondale Shipyards to US 90, Jefferson Parish | $2,500,000 |
| 3104 | PA | Widen PA 896 between Strasburg Borough and US 30 | $1,000,000 |
| 3105 | MI | Eliminate major roadway on Cleary University campus and establish a new roadway | $500,000 |
| 3106 | PA | Reconstruction of 11 mile segment of the Lower Trail between Williamsport and Mt Edna, Blair County, Pa | $500,000 |
| 3107 | KY | Construction of interchange connecting US31W to I65 at mile marker 32 in Warren County | $1,000,000 |
| 3108 | AS | Drainage mitigation for Pago Pago village roads | $1,000,000 |
| 3109 | NC | Install Sugar Creek Grade Separation | $3,000,000 |
| 3110 | LA | Improvements to LA46 in St. Bernard Parish | $400,000 |
| 3111 | IN | Construct Hoham Drive Extension in Plymouth, Indiana | $500,000 |
| 3112 | OR | Construct turn lane on Gateway Boulevard, Cottage Grove | $90,000 |
| 3113 | TN | Replace Unitia Bridge in Loudon County, TN | $900,000 |
| 3114 | VA | Replacement of Robertson Bridge in Danville | $5,450,000 |
| 3115 | MA | Public Improvements to Springfield Symphony Hall | $300,000 |
| 3116 | NY | Realign Union Valley Road in Town of Carmel | $550,000 |
| 3117 | NY | Village of Pawling Improvements to Reservoir Road from State Rt 22 to Prospect St | $125,000 |
| 3118 | MS | Build connector between SR 609 and State Highway 15 near I-10, Jackson and Harrison Counties | $3,000,000 |
| 3119 | CO | I-70 West Mountain Corridor, Denver to Garfield County | $4,000,000 |
| 3120 | CA | Completion of Interstate 5 and Interstate 8 Connectors, San Diego | $6,000,000 |
| 3121 | FL | Construct US 1 interchange at CR 210, St. Johns County, Florida | $6,600,000 |
| 3122 | OH | Construct roadway improvement project along State Routes 37 and 78 through Fairfield, Perry, Morgan, Noble, Monroe Counties | $250,000 |
| 3123 | IL | Construct I-57 Bridge Overpass, City of Markham | $600,000 |
| 3124 | NJ | Design, plan and build a permanent pedestrian/bicycle path along the banks of the Elizabeth River | $500,000 |
| 3125 | NJ | Improve the US Interstate 78 Interchange at exit 15 in Franklin Township, Union Township, and Town of Clinton | $1,000,000 |
| 3126 | CA | Reconstruct Rosecrans Av. and construct bus pads from Garfield Av. to Century Bl. in Paramount | $400,000 |
| 3127 | TN | Bristol, Tennessee highway-RR crossing grade improvement—USDOT#731120J | $100,000 |
| 3128 | CO | Glenwood Springs South Bridge (new, off-system bridge) | $6,500,000 |
| 3129 | NJ | Improvements of Newark and First Streets in Hoboken | $300,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3130 | OH | Construct I-70 interchange at Burnett Road, Springfield | $1,250,000 |
| 3131 | MN | Construction of Gitchi-Gami State Trail from Silver Bay to Tettegouche State Park | $1,500,000 |
| 3132 | CA | Improvements/Widening of SR 99 from Goshen to Kingsburg in Tulare County, California | $6,200,000 |
| 3133 | CA | Design and implement Harbor Boulevard ITS in Garden Grove | $1,000,000 |
| 3134 | WI | Complete the Glacial Drumlin Trail, from Madison to Waukesha | $300,000 |
| 3135 | PA | Design and construct turn lanes, signal upgrades and improvements at PA 34 and 174 intersection | $580,000 |
| 3136 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Wright Township, Luzerne County | $200,000 |
| 3137 | PA | I-70-I-79 South Interchange Redesign and Upgrade | $2,000,000 |
| 3138 | PA | Chicora, PA Butler County, PA Rail Bridge Replacement Project | $1,200,000 |
| 3139 | CA | Improve Access Road to Beale Air Force Base (Smartville Road) | $3,750,000 |
| 3140 | CA | Interstate 215, Los Alamos Road Interchange Project | $2,000,000 |
| 3141 | NE | Missouri River Bridges between US-34, I-29 in Iowa and US-75 in Nebraska | $4,200,000 |
| 3142 | AL | Huntsville Southern Bypass planning and engineering | $3,000,000 |
| 3143 | MO | Redesign and reconstruct I-170 interchange at Ladue Rd | $400,000 |
| 3144 | NY | Construct Interstate 87 Exit 3 Airport Connector in Albany | $3,000,000 |
| 3145 | CA | Citywide traffic signal upgrades requiring the installation of hardware and software at 9 major intersections, Palo Alto | $500,000 |
| 3146 | OH | Construct replacement of Morgan Township Road 209 between SR 60 and SR 78 in Morgan County | $3,300,000 |
| 3147 | GU | Construct Route 3A Extension, Municipality of Yigo | $3,000,000 |
| 3148 | NY | Construct the Setauket/Port Jefferson Greenway Trail Project | $5,000,000 |
| 3149 | AR | Develop a railroad overpass connecting U.S. Highway 67 and U.S. Highway 371 in Prescott | $2,640,000 |
| 3150 | FL | Construct SR 312 Extension Bypass, St. Johns County, Florida | $5,300,000 |
| 3151 | GA | Construct Welcome Center, and pedestrian trail, Abbeville | $500,000 |
| 3152 | VA | Improve Erickson Avenue and Stone Spring Road connection | $750,000 |
| 3153 | TX | Reconstruct Loop 12 IH 35E and SH 183 west extension to MacArthur, Irving, Texas | $5,000,000 |
| 3154 | OR | Completion of the first of three phases of trails in the Regional Trails Program | $4,800,000 |
| 3155 | MN | Construct bridge for Paul Bunyan Trail over Excelsior Road, Baxter | $1,500,000 |
| 3156 | KY | Reconstruct US-127 at the US-127 and US-127 North Bypass, Mercer County | $600,000 |
| 3157 | CA | Rehabilitate street surface of Addison St. between Kester Ave. and Lemona Ave | $47,000 |
| 3158 | IL | City of Springfield, IL for improvements to Cockrell Lane | $952,572 |
| 3159 | OH | Repair/Construct Mill Street Bridge, Akron | $1,800,000 |
| 3160 | MI | Resurface Caseville Road in Huron County | $192,000 |
| 3161 | PA | River Trail and Esplanade Development at the Southside Riverfront Park | $750,000 |
| 3162 | IL | Construct access roads to National Great Rivers Research Center | $1,400,000 |
| 3163 | IL | Construct Roadway from Mississippi River Barge Dock to IL Rt 3-IL Rt 157, Cahokia | $1,750,000 |
| 3164 | PA | Context Sensitive Design Elements for the Market Street Bridge, Lycoming County, PA | $1,000,000 |
| 3165 | NY | Implement Pedestrian Safety Improvements on Queens Boulevard | $500,000 |
| 3166 | NV | Design and construct interchange on I-15 from mile post 117.5 to mile post 118.5 in Mesquite | $1,000,000 |
| 3167 | CA | Construct grade separations at Washington Ave & UPRR crossing east and Washington Ave & La Cadena Drive in Colton | $500,000 |
| 3168 | MD | Intercounty Connector | $6,000,000 |
| 3169 | MA | Charlemont Bridge, Route 2, Charlemont | $4,800,000 |
| 3170 | MN | CSAH 47 rehabilitation from 165th Ave to TH 25, Morrison County | $440,000 |
| 3171 | MS | Improve Old Augusta Road and construct Kaiser Road, Perry County | $3,500,000 |
| 3172 | PA | Reconstruction of US30 from PA10 to Business US30 including travel lanes, shoulders, etc | $5,000,000 |
| 3173 | NY | Route 78 (Transit Road), Genesee Street to Main Street, Towns of Amherst, Cheektowaga and Clarence in Erie County | $3,000,000 |
| 3174 | NY | Southtowns Connector—Construct improvements to NY Route 5 from Coast Guard Base to Ohio Street, including Fuhrmann Boulevard | $10,000,000 |
| 3175 | CA | SR 91 I 605 Needs Assessment Study, Whittier, CA | $16,000 |
| 3176 | GA | SR70/Fulton Industrial Boulevard widening from Camp Creek Parkway to the SCL RR, Fulton County | $1,500,000 |
| 3177 | MO | Ste. Genevieve Co., Missouri Rt. 61 bridge replacement over Establishment Creek | $1,500,000 |
| 3178 | MN | Construction of intersection at County Road 5 and TH13 in City of Burnsville | $1,000,000 |
| 3179 | GA | SR 307 overpass over Georgia Port Authority rail line, Savannah | $4,000,000 |
| 3180 | MO | Study railroad reconfiguration to eliminate highway crossings in and around Springfield, MO | $1,000,000 |
| 3181 | NC | Construct relocated NC 16 in Lincoln and Catawba Counties, NC | $1,000,000 |
| 3182 | IL | Construction of highway approaches to the Sullivan Road bridge in Aurora, IL | $1,600,000 |
| 3183 | IL | Engineering and construction of 15.1 mile Alliance trail between Lock 14 in LaSalle and Lock 2 in Bureau Junction | $1,000,000 |
| 3184 | CA | Construct parking facility and improve museum pedestrian access from trolley station, San Diego | $1,000,000 |
| 3185 | PA | Relocation and upgrade of Beaner Hallow Rd, Beaver County, PA | $1,650,000 |
| 3186 | MN | TH36-Stillwater Bridge; Acquisition of ROW | $5,000,000 |
| 3187 | IL | To construct Veterans Memorial Drive Extension. Will link Mt. Vernon on the east side of I-57 with incorporated area lying west | $1,000,000 |
| 3188 | MN | I-494 US169 Interchange Reconstruction, Twin Cities Metropolitan Area, Minnesota | $5,000,000 |
| 3189 | AL | Jackson County Industrial Park Access Road, Hollywood | $1,000,000 |
| 3190 | FL | 4 lane Archer Road from SW 62nd to SW 24th Ave., Gainesville | $3,000,000 |
| 3191 | AK | Construct access road and a bridge crossing the Naknek River terminus points in South Naknek-King Salmon Highway | $3,000,000 |
| 3192 | NY | Route 303 Orangeburg Road and Route 340 and Erie Street intersection | $1,000,000 |
| 3193 | MS | Upgrade roads in Port Gibson (U.S. Hwy 61), Claiborne County | $400,000 |
| 3194 | GA | Construct Horsestamp Road Interchange on I-95 in Camden County, Georgia | $1,000,000 |
| 3195 | MO | Upgrade Route 94 in St. Charles County from East of Harvester road to West of Mid-Rivers Drive | $11,000,000 |
| 3196 | OH | Upgrade Rt. 665 Bridge over I-71 and widen I-71 between Rt. 665 and I-270 by one lande in each direction in Grove City, OH | $5,000,000 |
| 3197 | NY | Village of Highland Falls repaving and sidewalk construction of Berry Hill Road | $75,000 |
| 3198 | PA | Westmoreland County, Pennsylvania, four lane limited access facility connecting State Road 119 to the Pennsylvania Turnpike (Sony Connector) | $2,000,000 |
| 3199 | NJ | Edison National Historic Site Traffic Improvement Project to improve traffic flow and promote safety | $240,000 |
| 3200 | IL | Construction of Eldamain Road over the Fox River | $2,500,000 |
| 3201 | CA | Construction of a traffic signal at the intersection of Oso Ave. and Vanowen St | $125,000 |
| 3202 | OR | Reroute U.S. 97 at Redmond, OR and improve the intersection fo U.S. 97 and Oregon 126 | $5,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3203 | CA | Widen & realign Cherry Avenue from 19th Street to one block south of Pacific Coast Highway, Signal Hill | $3,000,000 |
| 3204 | AR | Ft. Smith, Arkansas: Improvements to Jenny Lind Rd. and Ingersoll Rd | $6,000,000 |
| 3205 | OH | Widen Pearl Road in Strongsville | $1,000,000 |
| 3206 | CA | Interstate 5 and State Route 78 Interchange Improvements | $4,000,000 |
| 3207 | OK | Improvements to SH3 from Antlers to Broken Bow | $6,250,000 |
| 3208 | KY | Construct the Albany Bypass in Clinton County | $5,000,000 |
| 3209 | CA | Highway 74 and Interstate 215 Interchange Project | $1,000,000 |
| 3210 | SC | Improve intersection and corridor on US 278 to improve safety. Poss build frontage roads widen road & change traffic controls | $10,000,000 |
| 3211 | WA | Port of Bellingham Transportation Enhancement Projects | $2,500,000 |
| 3212 | OH | Rehabilitation of SR 53 from Miami St to North city limits including approaches to the CSX railroad bridge, City of Tiffin | $1,000,000 |
| 3213 | OH | Upgrade U.S. Route 30 between State Route 235 and Upper Sandusky in Hancock and Wyandot Counties | $10,090,000 |
| 3214 | MN | Main Street streetscape reconstruction, 2nd Street from Ash Ave. to State Hwy 2, and Grand Utley Ave from 2nd Street to 6th Street N. across State Hwy 2, Cass Lake | $1,900,000 |
| 3215 | NJ | Warren County, NJ Route 57 and County Route 519 Intersection Improvements | $2,700,000 |
| 3216 | HI | Widen Queen Kaahumanu Highway | $3,000,000 |
| 3217 | CT | Widen Route 34, Derby | $3,000,000 |
| 3218 | IN | Construction of County Road 17—Elkhart, IN | $3,000,000 |
| 3219 | PA | Widen Route 666 in Forest County | $1,000,000 |
| 3220 | CA | Upgrade Jepson Parkway at North and South Gates of Travis Air Force Base and widen Vanden Road segment, Solano County | $2,000,000 |
| 3221 | CT | Widen Route 67, Seymour | $1,000,000 |
| 3222 | PR | Widen Route 835 to provide ready access to Guaynado and facilitate housing, industrial, commercial, & recreational development | $6,000,000 |
| 3223 | CT | Widen Canal Street, Shelton, CT | $500,000 |
| 3224 | NJ | Construct CR 521-Ocean Drive & Middle Thoroughfare Bridge Replacement, Cape May County | $2,000,000 |
| 3225 | OR | I-205 widening, Clackamas County | $2,000,000 |
| 3226 | OK | Construct interchange south of I-40 along Indian Nation Turnpike near Henryetta | $250,000 |
| 3227 | MO | Complete upgrade of U.S. 40-61 to interstate status on two section, from I 70 to Lake St. Louis exit and Highway K to Highway DD | $2,000,000 |
| 3228 | TX | Abilene, TX, Dyess Air Force Base North Entry Access Project with related improvments | $5,600,000 |
| 3229 | CA | Construction and enhancements of trails in the Santa Monica Mountains National Recreation Area | $1,000,000 |
| 3230 | KY | Construct South Airfield Road, Boone County, Kentucky | $3,000,000 |
| 3231 | LA | Construction of pedestrian and bike path adjacent to Tammany Trace Rails-to-Trails Corridor | $200,000 |
| 3232 | NY | Construction of pedestrian walkways in Village of Northport | $100,000 |
| 3233 | NV | Design and Construction of I-80 interchange in Fernley | $1,000,000 |
| 3234 | OH | Eastgate Area Improvements, I-275 & SR 32, Clermont County | $3,600,000 |
| 3235 | PA | Pennsylvania Turnpike-Interstate 95 Interchange Project, Bucks County, PA | $4,000,000 |
| 3236 | GA | Commission a study & report regarding construction & desgnation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, & Natchez | $400,000 |
| 3237 | CT | Construct Shoreline Greenway Trail, Madison | $1,000,000 |
| 3238 | NE | New roads and overpasses to relieve congestion and improve traffic flow—Antelope Valley—Lincoln, NE | $3,000,000 |
| 3239 | CA | Reconstruct Atlantic Av. and improve drainage from Ardmore St. to Imperial Hwy. in South Gate | $3,250,000 |
| 3240 | SD | Construct Railroad Underpass on Hwy 35 in Pierre | $1,100,000 |
| 3241 | AR | I40-Highway 89 Interchange | $3,000,000 |
| 3242 | WA | Kent, WA Willis Street UP Railroad Grade Separation Project | $500,000 |
| 3243 | IL | Replace Interstate 74 Bridge, Moline | $4,000,000 |
| 3244 | CA | Implement SFgo Van Ness Corridor Improvements | $5,000,000 |
| 3245 | NC | Battleground Avenue Rail to Trail Project, Guilford County, NC | $1,000,000 |
| 3246 | IL | Construction of an Extension of Atkinson Road to Intersect with IL 120 and IL 137 | $6,000,000 |
| 3247 | OH | I-70, I-71 Split reconfiguration, Columbus | $5,000,000 |
| 3248 | MI | Delta County, CR 186 from M-35 at Brampton to US2 and US41-bituminous overlay with super elevation, correction, curb, and gutter | $240,000 |
| 3249 | TN | Niota, TN Improving Vehicle Effiecies at At-Grade highway-Railroad Crossings | $99,000 |
| 3250 | NY | Construct access to the NYS Thruway—Montezuma National Wildlife Reserve | $1,500,000 |
| 3251 | MN | Corridor design work, I-94 and Radio Drive, Woodbury, MN | $500,000 |
| 3252 | TN | Develop trails, bike paths and recreational facilities on Brady Mountain, Cumberland County for Cumberland Trail State Park | $250,000 |
| 3253 | WA | Access Downtown Phase II: I-405 Downtown Bellevue Circulation Improvements | $11,500,000 |
| 3254 | PA | Reconstruct PA Route 274, at PA Route11/15, Duncannon | $1,000,000 |
| 3255 | PA | Road and pedestrian improvements and reallignment, through construction, in York City NW Triangle | $1,500,000 |
| 3256 | NY | Rockland County highway railroad grade crossing safety improvements | $1,750,000 |
| 3257 | OH | Calm traffic on Greenfield St in City of Tiffin and improve intersection of Greenfield St with Routes 18 and 101 | $1,700,000 |
| 3258 | IA | Construction of NW 26th St interchange on I 35, Polk Co | $1,000,000 |
| 3259 | NY | To conduct scoping studies along proposed Northern Tier Expressway | $5,000,000 |
| 3260 | IL | Undertake Traffic Mitigation and Circulation Enhancements on 57th and Lake Shore Drive, Chicago | $2,000,000 |
| 3261 | IL | For the the construction of a highway on new alignment to create a cross town route across Godfrey | $1,250,000 |
| 3262 | MI | Construct Industrial Park Service Road and Caine Road Bridge Replacement. Village of Millington, Tuscola County | $494,000 |
| 3263 | TX | Loop 281 Mobility and Safety Improvements, Longview, TX | $1,680,000 |
| 3264 | TX | Upgrade Fulghum Road Bridge on I-45 in Dallas County (TX) to provide safety and access for expanded intermodal traffic | $3,100,000 |
| 3265 | MN | Edge of Wilderness Discovery Center, Marcell | $471,000 |
| 3266 | IN | Construction of Star Hill Road, Clark County, Indiana | $2,215,000 |
| 3267 | TN | Plan and construct a bicycle and pedestrian trail, Shelbyville | $400,000 |
| 3268 | TX | Construct Park Row bypass from Texas State Highway 6 to the Eldridge Parkway in Houston, TX | $2,000,000 |
| 3269 | CA | Implement Northwest San Fernando Valley Road and Safety Improvements | $3,056,000 |
| 3270 | KY | Construct two bridges across the Ohio River from Louisville to southern Indiana | $14,000,000 |
| 3271 | ME | Construction of the Gorham Village Bypass, Gorham | $11,220,000 |
| 3272 | OK | Reconstruction of the I-40 Crosstown Expressway from I-44 to I-35 in downtown Oklahoma City, Oklahoma | $14,000,000 |

*HIGH PRIORITY PROJECTS—Continued*

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3273 | MD | I-695, MD147 to I-695 | $4,740,000 |
| 3274 | SC | Upgrade Hwy. 21 Bypass Grade Crossings | $1,000,000 |
| 3275 | MD | Upgrade MD 175 in Anne Arundel County between MD 170 and the Baltimore Washington Parkway | $1,000,000 |
| 3276 | OK | Construct and widen six lanes on Interstate 44 from the Arkansas River extending east approximately 3.7 miles to Yale Avenue in Tulsa, OK | $10,000,000 |
| 3277 | OR | North Bend Waterfront District Boardwalk Construction | $992,000 |
| 3278 | CT | Make Improvements to North Stonington, CT Westerly, R.I. Pawcatuck River Bridge | $500,000 |
| 3279 | VA | Construct improvements at I-264 Witchduck Road interchange in Virginia Beach | $10,750,000 |
| 3280 | CA | Construct Western Placerville Interchanges on State Route 50 | $3,000,000 |
| 3281 | CT | Construction of Housatonic River Walk, Shelton, CT | $1,000,000 |
| 3282 | NY | NYS Route 5,8, 12 Interchange reconstruction: Town of New Hartford | $1,000,000 |
| 3283 | NY | Implement Improvements for Pedestrian Safety in Bronx County | $1,000,000 |
| 3284 | CA | Improve West Adams Blvd Streetscape in West Adams Historic District, Los Angeles | $200,000 |
| 3285 | CA | Improve access from I-8 and construct parking lot for the Imperial Sand Dunes Recreation Area Visitor's Center, Imperial Valley | $1,000,000 |
| 3286 | PA | Construction of low-impact, spine roadway serving the North Delaware Riverfront corridor, City of Philadelphia | $10,000,000 |
| 3287 | AL | Construct interchange on I-59 between I-59 and 49th Street in Fort Payne, AL | $3,000,000 |
| 3288 | FL | Coordinated Regional Transportation Study of US 98 from Pensacola Bay Bridge, Escambia County, to Hathaway Bridge, Walton County, Florida | $1,500,000 |
| 3289 | GA | Leesburg North Bypass from US 19 to SR 195, Lee County | $500,000 |
| 3290 | LA | Peters Road improvements in Plaquemines Parish | $1,000,000 |
| 3291 | GA | Upgrade sidewalks, lighting, landscaping from Cherry Street to Hampton Street, Industrial Park to Dooly Street, Montezuma | $500,000 |
| 3292 | NY | Intermodal transportation facility just off of the Bronx River Parkway's exit 6 | $1,000,000 |
| 3293 | GA | US 27 Reconstruction from Colquit to CR 279 | $1,000,000 |
| 3294 | TX | Loop 180 (Project code 1190-01-035) in Whitney, TX from FM 933/ FM 1713 to FM 933S of Whitney | $1,000,000 |
| 3295 | IA | US 30 widening, reconstruction in Story and Marshall Counties, Iowa | $2,300,000 |
| 3296 | TX | US 377 interchange construction (at B377 and Hwy 144) Hood Co | $1,500,000 |
| 3297 | NY | Construct and improve pedestrian streetscapes along Sunrise Highway in Freeport | $500,000 |
| 3298 | IA | Construct Principal Riverwalk, Des Moines | $4,000,000 |
| 3299 | NY | Construct access ramps to Rt. 32-6-17-CR 105 in Orange County | $8,000,000 |
| 3300 | IL | Resurface Shawnee College Road, Pulaski County | $1,250,000 |
| 3301 | MI | Canton, Pave Cherry Hill Rd. between Canton Ctr., and Haggerty | $2,000,000 |
| 3302 | AR | Springdale, AR—Improvements to Johnson Road. From Hwy 412 to I-540 through Springdale and Johnson | $7,000,000 |
| 3303 | NC | Environmental studies and construction of Garden Parkway | $5,000,000 |
| 3304 | AZ | US 60 and US 93 connection on the eastern edge of central Wickenburg | $2,000,000 |
| 3305 | GA | Construction of I-575 HOV Lanes from Sixes Road to S.R. 20, Cherokee County, Georgia | $1,000,000 |
| 3306 | WA | I-405-SR 167 interchange—rebuild the interchange and add additional lanes to relieve congestion | $2,000,000 |
| 3307 | MN | US10 corridor improvement between Blaine and St. Cloud: design and ROW acquisition | $2,500,000 |
| 3308 | CA | Walnut Grove at Broadway Intersection Capacity Enhancements, San Gabriel | $250,000 |
| 3309 | KY | Widen and Reconstruct KY 698 at Mason Gap Road, Lincoln County | $1,200,000 |
| 3310 | OR | Medford, OR to construct sidewalks and improve storm drainage and gutters for the Citys Safe Walk Plan | $1,000,000 |
| 3311 | MN | Construct a pedestrian and bicycle bridge across TH 169, Onamia | $1,097,600 |
| 3312 | NY | Improve Montauk Highway from CR46 to Barnes Road, Suffolk County | $8,000,000 |
| 3313 | CA | San Diego, CA Construction of North Coast Interstate 5 | $1,000,000 |
| 3314 | AR | Study and construction of 8th Street, in Bentonville, AR from Interstate 540, (including direct access to I-540) to SW Elm Tree Road | $3,000,000 |
| 3315 | MN | Cedar Lake Regional Trail, Minneapolis | $3,000,000 |

## Subtitle H—Miscellaneous Provisions

### SEC. 1801. BUDGET JUSTIFICATION.

The Department of Transportation and each agency therein shall submit to the Committee on Transportation and Infrastructure of the House of Representatives a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code.

### SEC. 1802. MOTORIST INFORMATION.

Section 124 of of title I of division F of the Consolidated Appropriations Act, 2004 (118 Stat. 296–297) is repealed.

### SEC. 1803. MOTORIST INFORMATION CONCERNING FULL-SERVICE RESTAURANTS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall initate a rulemaking to determine whether or not—

(1) full-service restaurants should be given priority on not more than 2 panels of the camping or attractions logo specific service signs in the Manual on Uniform Traffic Control Devices of the Department of Transportation when the food logo specific service sign is fully utilized; and

(2) full service restaurants should be given priority on not more than two panels of the food logo specific service signs in such Manual when the camping or attractions logo specific service signs are fully utilized.

### SEC. 1804. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) in paragraph (23) by inserting before the period at the end the following: "and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I–135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Saline, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I–29 in Sioux City, Iowa";

(2) by striking paragraph (34) and inserting the following:

"(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line.";

(3) by adding at the end the following:

"(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

"(47) Interstate Route 87 from the Quebec border to New York City.

"(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

"(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

"(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

"(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

"(52) The route in Arkansas running south of and parallel to Arkansas State Highway 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.

"(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

"(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.

"(55) In Texas, Interstate Route 20 from Interstate Route 35E in Dallas County, east to the *intersection of Interstate Route 635, north to the intersection of Interstate Route 30, northeast through Texarkana to Little Rock, Arkansas, Interstate Route 40 northeast from Little Rock east to the proposed Interstate Route 69 corridor.*

*"(56) In the State of Texas, the La Entrada al Pacifico Corridor consisting of the following highways and any portion of a highway in a corridor on 2 miles of either side of the center line of the highway:*

*"(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude.*

*"(B) The segment or any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude.*

*"(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20.*

*"(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385.*

*"(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10.*

*"(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.*

*"(57) United States Route 41 corridor between Interstate Route I-94 near Milwaukee and Interstate Route I–43 near Green Bay in the State of Wisconsin."; and*

*(4) by aligning paragraph (45) with paragraph (46).*

### ***SEC. 1805. ADDITIONS TO APPALACHIAN REGION.***

*(a) KENTUCKY.—Section 14102(a)(1)(C) of title 40, United States Code, is amended—*

*(1) by inserting "Nicholas," after "Morgan,"; and*

*(2) by inserting "Robertson," after "Pulaski,".*

*(b) OHIO.—Section 14102(a)(1)(H) of such title is amended—*

*(1) by inserting "Ashtabula," after "Adams,";*

*(2) by inserting "Fayette," after "Coshocton,";*

*(3) by inserting "Mahoning," after "Lawrence,"; and*

*(4) by inserting "Trumbull," after "Scioto,".*

*(c) TENNESSEE.—Section 14102(a)(1)(K) of such title is amended—*

*(1) by inserting "Giles," after "Franklin,"; and*

*(2) by inserting "Lawrence, Lewis, Lincoln," after "Knox,".*

*(d) VIRGINIA.—Section 14102(a)(1)(L) of such title is amended—*

*(1) by inserting "Henry," after "Grayson,"; and*

*(2) by inserting "Patrick," after "Montgomery,".*

### ***SEC. 1806. TRANSPORTATION ASSETS AND NEEDS OF DELTA REGION.***

*(a) AGREEMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the Delta Regional Authority (referred to in this section as the "DRA") to conduct a comprehensive study of transportation assets and needs for all modes of transportation (including passenger and freight transportation) in the 8 States comprising the Delta region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee).*

*(b) CONSULTATION.—Under the agreement, the DRA, in conducting the study, shall consult with the Department of Transportation, State transportation departments, local planning and development districts, local and regional governments, and metropolitan planning organizations.*

*(c) REPORT.—Under the agreement, the DRA, not later than 24 months after the date of entry into the agreement, shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the results of the study, together with such recommendation as the DRA considers appropriate.*

*(d) PLAN.—Under the agreement, the DRA, upon completion of the report, shall establish a regional strategic plan to implement the recommendations of the report.*

*(e) FUNDING.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for each of the fiscal years 2005 and 2006 to carry out this section.*

*(2) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1807. TOLL FACILITIES WORKPLACE SAFETY STUDY.***

*(a) IN GENERAL.—The Secretary shall conduct a study on the safety of highway toll collection facilities, including toll booths, to determine the safety of the facilities for the toll collectors who work in and around the facilities, including consideration of—*

*(1) the effect of design or construction of the facilities on the likelihood of vehicle collisions with the facilities;*

*(2) the safety of crosswalks used by toll collectors in transit to and from toll booths;*

*(3) the extent of the enforcement of speed limits in the vicinity of the facilities;*

*(4) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching the facilities;*

*(5) the use of cameras to record traffic violations in the vicinity of the facilities;*

*(6) the use of traffic control arms in the vicinity of the facilities;*

*(7) law enforcement practices and jurisdictional issues that affect safety in the vicinity of the facilities; and*

*(8) the incidence of accidents and injuries in the vicinity of toll booths.*

*(b) DATA COLLECTION.—As part of the study, the Secretary shall collect data regarding the incidence of accidents and injuries in the vicinity of highway toll collection facilities.*

*(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, together with recommendations for improving toll facilities workplace safety.*

*(d) FUNDING.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for fiscal year 2005.*

*(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1808. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.***

*(a) IN GENERAL.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic water-borne pavement markings.*

*(b) REPORT.—Not later than June 30, 2009, the Secretary shall transmit to Congress a report on the results of the demonstration projects, together with findings and recommendations on methods that will optimize the cost-benefit ratio of the use of Federal funds on pavement marking.*

*(c) FUNDING.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 per fiscal year for each of the fiscal years 2005 through 2009.*

*(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the demonstration projects shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1809. WORK ZONE SAFETY GRANTS.***

*(a) IN GENERAL.—The Secretary shall establish and implement a work zone safety grant program under which the Secretary may make grants to nonprofit organizations to provide training to prevent or reduce highway work zone injuries and fatalities.*

*(b) ELIGIBLE ACTIVITIES.—Grants may be made under the program for the following purposes:*

*(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.*

*(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.*

*(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.*

*(c) FUNDING.—*

*(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.*

*(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.*

*(d) CONSTRUCTION WORK IN ALASKA.—Section 114 of title 23, United States Code, is amended by adding at the end the following:*

*"(c) CONSTRUCTION WORK IN ALASKA.—*

*"(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.*

*"(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142*

*of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).*

*"(3) Definitions.—In this subsection, the following definitions apply:*

*"(A) Remote.—The term 'remote', as used with respect to a project, means that the project is 75 miles or more from the United States Post Office in either Fairbanks, Anchorage, Juno, or Ketchikan, Alaska, or is inaccessible by road in a 2-wheel drive vehicle.*

*"(B) Resident.—The term 'resident', as used with respect to a project, means a person living within 75 miles of the midpoint of the project for at least 12 months.".*

### ***SEC. 1810. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.***

*(a) Grants.—Subject to the requirements of this section, the Secretary shall make grants to a State that—*

*(1) (A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and*

*(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or*

*(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).*

*(b) Eligible Activities.—A grant received by a State under subsection (a) shall be used by the State—*

*(1) in the case of a State eligible under subsection (a)(1), for costs of—*

*(A) collecting and maintaining of data on traffic stops;*

*(B) evaluating the results of the data; and*

*(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and*

*(2) in the case of a State eligible under subsection (a)(2), for costs of—*

*(A) activities to comply with the requirements of subsection (a)(1); and*

*(B) any eligible activity under paragraph (1).*

*(c) Racial Profiling.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways. Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.*

*(d) Limitations.—*

*(1) Maximum amount of grants.—The total amount of grants received by a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.*

*(2) Eligibility.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.*

*(e) Authorization of Appropriations.—*

*(1) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for each of fiscal years 2005 through 2009.*

*(2) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1811. AMERICA'S BYWAYS RESOURCE CENTER.***

*(a) In General.—The Secretary shall allocate funds made available to carry out this section to the America's Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209).*

*(b) Technical Support and Education.—*

*(1) Use of funds.—The Center shall use funds allocated to the Center under this section to continue to provide technical support and conduct educational activities for the national scenic byways program established under section 162 of title 23, United States Code.*

*(2) Eligible activities.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways and All-American Roads with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.*

*(c) Authorization of Appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,500,000 for each of fiscal years 2004 through 2009.*

*(d) Applicability of Title 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be 100 percent and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1812. TECHNICAL ADJUSTMENT.***

*(a) In General.—The donee of the vessel with the Unit Identification Code number 13862 is deemed to be the owner of that vessel free and clear as of September 1, 2000.*

*(b) Federal Claims.—All Federal claims arising from the donation or use of the vessel described in subsection (a) are permanently extinguished.*

### ***SEC. 1813. ROAD USER CHARGE EVALUATION PILOT PROJECT.***

*(a) In General.—The Secretary shall carry out a national evaluation pilot project to assess how intelligent transportation system technology can be applied to assess mileage-based road user charges for the purposes of collecting revenues for the Highway Trust Fund.*

*(b) Matters to Be Evaluated.—The following matters shall be evaluated under the pilot project:*

*(1) Technical feasibility of imposing mileage-based road user charges, including cost, reliability, and security of on-board and intelligent transportation systems.*

*(2) Compatibility of technology for imposing such charges with automobile and truck design.*

*(3) Design and testing of a collection system for such charges that is secure, low cost, and easy to use.*

*(4) Methods of ensuring privacy of road users and assessing public attitudes and views of motorists who participate in field tests of the equipment and system.*

*(c) Reports.—The Secretary shall transmit annual reports on the status of the pilot project and, not later than June 30, 2009, a final report on the results of the pilot project, together with findings and recommendations, to the Secretary of the Treasury, the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Finance of the Senate.*

*(d) Authorization of Appropriation.—*

*(1) In general.—There is authorize from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2005 and 2006 and $3,500,000 for each of fiscal years 2007, 2008, and 2009.*

*(2) Contract authority.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except the Federal share of the cost of the pilot project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1814. THOMAS P. "TIP" O'NEILL, JR. TUNNEL.***

*(a) Designation.—In honor of his service to the Commonwealth of Massachusetts and the United States of America, and in recognition of his contributions toward the construction of Central Artery Tunnel project in Boston, the northbound and southbound tunnel of Interstate Route 93, located in the city of Boston, which extends north of the intersection of Interstate Route 90 and Interstate Route 93 to the Leonard P. Zakim Bunker Hill Bridge, is designated as the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".*

*(b) References.—Any reference in law, map, regulation, document, paper, or other record of the United States to the tunnel referred to in subsection (a) shall be deemed to be a reference to the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".*

### ***SEC. 1815. CONFORMING AMENDMENT FOR TRANSPORTATION PLANNING SECTIONS.***

*(a) Metropolitan Planning.—Section 134 of title 23, United States Code is amended to read as follows:*

***"§ 134. Metropolitan planning***

*"Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of chapter 52, title 49, United States Code.".*

*(b) Statewide Planning.—Section 135 of such title is amended to read as follows:*

***"§ 135. Statewide planning***

*"Statewide transportation planning programs funded under section 104(f) shall be carried out in accordance with the statewide planning provisions of chapter 52, title 49, United States Code.".*

### ***SEC. 1816. DISTRIBUTION OF METROPOLITAN PLANNING FUNDS WITHIN STATES.***

*Section 104(f)(4) of title 23, United States Code, is amended by adding at the end the following: "Such distribution of funds to metropolitan planning organizations shall be made within 30 days of the date of receipt of such funds from the Secretary.".*

### ***SEC. 1817. TREATMENT OF OFF RAMP.***

*The Harbor Boulevard off ramp from Interstate Route 405 in Costa Mesa, California, is deemed to satisfy the requirements of title 23, United States Code, that govern the approval of the placement of ramps off of a Federal-aid highway.*

### ***SEC. 1818. LOAN FORGIVENESS.***

*Debt outstanding as of the date of enactment of this Act for project number Q-DPM-0013(001) carried out under section 108(c) of title 23, United States Code, is deemed satisfied.*

### ***SEC. 1819. LEAD AGENCY DESIGNATION.***

*The public entity established under California law in 1989 to acquire rights-of-way in northwestern California to maintain surface transportation infrastructure is hereby designated as* the lead agency for the purpose of accepting Federal funds authorized under item 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2061).

### SEC. 1820. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.

The project agreement for a Federal-aid highway project shall provide that any debris from demolition of a bridge or overpass that is on the Federal-aid highway must be made available for beneficial public use by Federal, State, and local governments. Any additional cost associated with making available the debris shall be borne by the recipient of the debris.

### SEC. 1821. HUBZONE PROGRAM.

Section 3(p)(4)(B)(ii) of the Small Business Act (15 U.S.C. 632(p)(4)(B)(ii)) is amended—

(1) in subclause (I) by striking "or" at the end;

(2) in subclause (II) by striking the period at the end and inserting "; or" ; and

(3) by adding after subclause (II) the following:

"(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.".

### SEC. 1822. TECHNICAL AMENDMENTS TO TEA 21 PROJECTS.

The table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) is amended—

(1) in item number 35 by adding "and for other related purposes" after "Yard";

(2) in item number 78 by striking "Third" and all that follows through "Bridge" and inserting "Bayview Transportation Improvements Project";

(3) in item number 312 by inserting "through construction" after "engineering";

(4) in item number 800 by striking "Fairview Township" and inserting "or other projects selected by the York County, Pennsylvania MPO";

(5) in item number 820 by striking "Conduct" and all that follows through "interchange" and inserting "Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area";

(6) in item number 897 by striking "Road upgrade" and all that follows through "Hills" and inserting "Engineering and construction of a new access road to a development near Interstate 57 and 167th Street in Country Club Hills";

(7) in item number 1121 by striking "Construct" and all that follows through "Douglaston Parkway" and inserting "Provide landscaping along both sides of the Grand Central Parkway from 188th Street to 172nd Street";

(8) in item 1225 by striking "Construct SR 9 bypass" and inserting "Study, design, and construct transportation solutions for SR 9 corridor"; and

(9) in item number 1375 by striking "Preliminary" and all that follows through "Emmet County" and inserting "Petoskey area transportation needs study and trunkline preservation and safety in the Petoskey area";

(10) in item number 1392 by striking "Construct" and all that follows through "multimodal center" and inserting "Improve the ramp configuration at the I–476 PA Turnpike Landsdale Interchange"; and

(11) in item number 1447 strike "Extend" and all that follows through "Valparaiso" and insert "Design and construction of interchange at I–65 and 109th Avenue, Crown Point".

### SEC. 1823. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.

(a) GRANTS.—The Secretary shall make grants for fiscal years 2005 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2005 through 2009.

(c) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

### SEC. 1824. TRANSPORTATION CONFORMITY.

(a) CONFORMITY REDETERMINATIONS.—Section 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

"(E) The appropriate metropolitan planning organization shall redetermine conformity for existing transportation plans and programs not later than 2 years after the date on which the Administrator—

"(i) finds a motor vehicle emissions budget in a submitted implementation plan to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003); or

"(ii) approves an implementation plan under section 110(k) or promulgates an implementation plan under section 110(c) that establishes a motor vehicle emissions budget where there was no prior budget or that establishes a budget that significantly varies from any motor vehicle emissions budget in effect pursuant to an adequacy determination in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003) or as part of an implementation plan approved or promulgated under section 110.".

(b) FREQUENCY OF CONFORMITY DETERMINATION UPDATES.—Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4)) is amended follows:

(1) In subparagraph (A) by striking "one year after the date of enactment of the Clean Air Act Amendments of 1990" and inserting "one year after the date of enactment of the Transportation Equity Act: A Legacy for Users".

(2) In subparagraph (B) by amending clause (ii) to read as follows:

"(ii) provide that conformity determinations for transportation plans and programs be determined every 4 years in areas designated as nonattainment or redesignated to attainment (unless a metropolitan planning organization as designated in section 5213(b) of title 49, United States Code, elects to update a transportation plan and program more frequently or is required to determine conformity in accordance with paragraph (2)(E)).".

(c) TIME HORIZON FOR CONFORMITY DETERMINATIONS IN NONATTAINMENT AREAS.—Subsection (c) of section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding the following new paragraph at the end thereof:

"(7) TIME HORIZON FOR DETERMINATIONS.—Each conformity determination required under this section for a transportation plan under section 5213(g) of title 49 of the United States Code shall require a demonstration of conformity during the period ending on either the final year of the transportation plan or, at the election of the metropolitan planning organization and an air pollution control agency, as defined in section 302(b), if such air pollution control agency is responsible for developing plans or controlling air pollution within the area covered by the transportation plan on the later of the following dates (hereinafter in this paragraph referred to as the 'final transportation conformity date'):

"(A) The tenth year of the transportation plan.

"(B) The attainment date set forth in the applicable implementation plan for the air pollutant concerned.

"(C) The year after the completion of a regionally significant project, if the project will be programmed in the transportation improvement program or requires approval before the subsequent conformity determination.

Such conformity determination shall be accompanied by a regional emissions analysis for any years of the transportation plan that extend beyond such final conformity date. In the case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect October 1, 2003), or has approved the revision, the demonstration of conformity (at the election of the metropolitan planning organization and an air pollution control agency, as defined in section 302(b), if such air pollution control agency is responsible for developing plans or controlling pollution within the area covered by the transportation plan) and the metropolitan planning organization shall be required to extend only through the last year of the implementation plan required under section 175A(b).".

(d) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—Subsection 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the end the following new paragraph:

"(8)(A) Transportation control measures that are specified in an implementation plan may be replaced in the implementation plan with substitute transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emission reductions than the control measures to be replaced, as determined by the Administrator;

"(ii) the substitute measures utilize an emissions impact analysis that is consistent with the current methodology used for evaluating replaced control measures in the implementation plan;

"(iii) the substitute control measures are implemented not later than the date on which such emission reductions are necessary to achieve the purpose of the implementation plan;

"(iv) the substitute control measures were developed with reasonable public notice and the opportunity for comments; and

"(v) the metropolitan planning organization finds that adequate funding is included in the transportation improvement program to ensure timely implementation of the substitute control measures.

"(B) After the requirements of subparagraph (A) are met, a State may adopt the substitute measures in the applicable implementation plan within a reasonable period of time.

"(C) The substitution of a transportation control measure in accordance with this paragraph shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such substitution.

"(D) The substitution of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan, or

"(ii) a revision of the applicable implementation plan.

"(E) A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted.

"(F) Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.

Transportation control measures may be added to an implementation plan subject to subparagraphs (B), (C), and (D), on the same basis as if such measures were substitute transportation control measures if such measures do not increase emissions for which limitations have been established in an implementation plan, and such measures meet the requirements of clauses (ii), (iii), (iv), and (v) of subparagraph (A).".

(e) Lapse of Conformity.—Subsection (c) of section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding the following new paragraphs at the end thereof:

"(9) Lapse of conformity.—If a conformity determination required under this subsection for a transportation plan under section 5213(g) of title 49 of the United States Code or a transportation improvement program under section 5213(h) of title 49 of the United States Code is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.

"(10) Lapse.—The term 'lapse' means that the conformity determination for a transportation plan or transportation improvement program has expired, and thus there is no currently conforming transportation plan or transportation improvement program.".

### SEC. 1825. ELIGIBILITY TO PARTICIPATE IN WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

A community is deemed to be eligible to participate in the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) if the community—

(1) is listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on March 8, 2004; or

(2) was determined to be eligible participate in such program by the National Marine Fisheries Service on April 19, 1999.

### SEC. 1826. METROPOLITAN REGIONAL FREIGHT AND PASSENGER TRANSPORTATION STUDY.

(a) In General.—The Secretary shall enter into an agreement with a partnership comprised of 2 institutions of higher learning to study metropolitan regional freight and passenger transportation and system-wide performance utilizing an interdisciplinary technique of supply chain management, geographic information systems, and urban/suburban planning and management.

(b) Contents of Study.—The study under this section shall include, at a minimum, evaluations of—

(1) best practices for regional transportation operations and management;

(2) relationships among truck trip generation and economic activities;

(3) spatial analysis of the distribution of economic activity and transportation investments;

(4) congestion mitigation and management of air quality through the concentration of modeling and technology;

(5) supply chain management and geographic information systems; and

(6) infrastructure management and renewal.

(c) Federal Share.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) Funding.—Of the amounts made available to carry out section 1305 for each of fiscal years 2005 through 2009, $1,800,000 shall be made available to carry out this section.

### SEC. 1827. INTERMODAL TRANSPORTATION FACILITY EXPANSION.

Any Federal and non-Federal share provided for the Port of Anchorage for an intermodal transportation marine facility or for access to that facility shall be transferred to and administered by the Administrator of the Maritime Administration.

### SEC. 1828. ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.

(a) Definition.—Section 101(a) of title 23, United States Code, as amended by section 1202 of this Act, is further amended by adding at the end the following:

"(40) Advanced truck stop electrification system.—The term 'advanced truck stop electrification system' means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.".

(b) Eligibility Under STP.—Section 133(b)(6) of such title is amended by inserting ", including advanced truck stop electrification systems" before the period at the end.

### SEC. 1829. TECHNOLOGY.

States are encouraged to consider using a non-destructive technology able to detect cracks including sub-surface flaws as small as 0.005 inches in length or depth in steel bridges.

### SEC. 1830. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 106 Stat. 1552) is amended by striking "2005" and inserting "2009".

### SEC. 1831. MOTORCYCLIST ADVISORY COUNCIL.

(a) In General.—The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(1) barrier design;

(2) road design, construction, and maintenance practices; and

(3) the architecture and implementation of intelligent transportation system technologies.

(b) Composition.—The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

(1) at least—

(A) 1 member recommended by a national motorcyclist association;

(B) 1 member recommended by a national motorcycle riders foundation;

(C) 1 representative of the National Association of State Motorcycle Safety Administrators;

(D) 2 members of State motorcyclists' organizations;

(E) 1 member recommended by a national organization that represents the builders of highway infrastructure;

(F) 1 member recommended by a national association that represents the traffic safety systems industry; and

(G) 1 member of a national safety organization; and

(2) at least 1, and not more than 2, motorcyclists who are traffic system design engineers or State transportation department officials.

### SEC. 1832. SHARING OF MONETARY RECOVERIES.

Notwithstanding any other provision of law, monetary judgments accruing to the Government from judgments in Federal criminal prosecutions and civil proceedings pertaining to fraud in Federally funded highway and public transportation projects and programs shall be treated as follows:

(1) Any amount less than or equal to the single damages incurred as the result of such fraud shall be credited to the Federal account from which the funds for the project or program that is at issue in the fraud came, except to the extent that such Federal account has been credited as the result of any judgment in favor of a grant recipient.

(2) Any amount in excess of the amount credited pursuant to paragraph (1) shall be shared with the State or other recipient involved if—

(A) the State or other recipient enters into a legally binding agreement with the Secretary to use the funds for a purpose eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code, as the case may be;

(B) the amount to be shared with the State or other recipient is determined by the Attorney General, in consultation with the Secretary; and

(C) the Attorney General, in consultation with the Secretary, determines that the fraud did not occur as a result of negligent oversight or actual involvement in the fraud by the State or other recipient or any senior official of the State or other recipient.

### SEC. 1833. ELIGIBILITY UNDER CMAQ.

Section 149(b)(4) of title 23, United States Code is amended by inserting ", including advanced truck stop electrification systems," after "facility or program".

### SEC. 1834. SENSE OF CONGRESS REGARDING BUY AMERICA.

It is the sense of Congress that—

(1) the Buy America test required by section 165 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) needs to be applied to an entire bridge project and not only to component parts of such project;

(2) the law clearly states that domestic materials must be used in Federal highway projects unless there is a finding that the inclusion of domestic materials will increase the cost of the overall project by more than 25 percent;

(3) uncertainty regarding how to apply Buy America laws for major bridge projects threatens the domestic bridge industry;

(4) the Nation's unemployment rate continues to hover around 5.6 percent, steps are needed to protect American workers and the domestic bridge building industry; and

(5) the Buy American Act (41 U.S.C. 10a et seq.) was designed to ensure that, when taxpayer money is spent on direct Federal Government procurement and infrastructure projects, these expenditures stimulate United States production and job creation.

### SEC. 1835. COMMUNITY ENHANCEMENT STUDY.

(a) In General.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of such projects for communities.

(b) Contents.—The study shall address the following:

(1) The degree to which well-designed transportation projects have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities.

(2) The degree to which such projects protect and contribute to improvements in public health and safety.

(3) The degree to which such projects use inclusive public participation processes to achieve quicker, more certain, and better results.

*(4) The degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future.*

*(5) Facilitating the use of successful models or best practices in transportation investment or development to accomplish each of the following:*

*(A) Enhancement of community identity.*

*(B) Protection of public health and safety.*

*(C) Provision of a variety of choices in housing, shopping, transportation, employment, and recreation.*

*(D) Preservation and enhancement of existing infrastructure.*

*(E) Creation of a greater sense of community through public involvement.*

*(c) Report.—Not later than September 20, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.*

*(d) Administration.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization representing architects who have expertise in the design of a wide range of transportation and infrastructure projects, which include the design of buildings, public facilities, and surrounding communities.*

*(e) Authorization.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal year 2005 and fiscal year 2006 to carry out this section; except that notwithstanding section 1221(e)(2) of such Act, the Federal share of the cost of the study shall be 100 percent.*

### ***SEC. 1836. TRANSPORTATION AND LOCAL WORKFORCE INVESTMENT.***

*(a) Findings.—Congress finds the following:*

*(1) Federal-aid highway programs provide State and local governments and other recipients substantial funds for projects that produce significant employment and job-training opportunities.*

*(2) Every $1,000,000,000 in Federal infrastructure investment creates an estimated 47,500 jobs.*

*(3) Jobs in transportation construction, including apprenticeship positions, typically pay more than twice the minimum wage, and include health and other benefits.*

*(4) Transportation projects provide the impetus for job training and employment opportunities for low income individuals residing in the area in which a transportation project is planned.*

*(5) Transportation projects can offer young people, particularly those who are economically disadvantaged, the opportunity to gain productive employment.*

*(6) The Alameda Corridor, a $2,400,000,000 transportation project, is an example of a transportation project that included a local hiring provision resulting in a full 30 percent of the project jobs being filled by locally hired and trained men and women.*

*(b) Sense of Congress.—It is the sense of Congress that Federal transportation projects should facilitate and encourage the collaboration between interested persons, including State, Federal, and local governments, community colleges, apprentice programs, local high schools, and other community based organizations that have an interest in improving the job skills of low-income individuals, to help leverage scarce training and community resources and to help ensure local participation in the building of transportation projects.*

### ***SEC. 1837. SPECIAL RULE FOR FISCAL YEAR 2004.***

*In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part V (Public Law 108–310), including any amendment made by such Act, the amount referred to in such Act shall be the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.*

## ***TITLE II—HIGHWAY SAFETY***

### ***SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.***

*(a) In General.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):*

*(1) Highway safety programs.—For carrying out section 402 of title 23, United States Code, $164,027,000 for fiscal year 2004, $163,680,000 for fiscal year 2005, $229,000,000 for fiscal year 2006, $232,000,000 for fiscal year 2007, $238,000,000 for fiscal year 2008, and $245,000,000 for fiscal year 2009.*

*(2) Occupant protection incentive grants.—For carrying out section 405 of title 23, United States Code, $19,882,000 for fiscal year 2004, $19,840,000 for fiscal year 2005, $136,000,000 for fiscal year 2006, $139,000,000 for fiscal year 2007, $143,000,000 for fiscal year 2008, and $150,000,000 for fiscal year 2009.*

*(3) Alcohol-impaired driving countermeasures incentive grant program.—For carrying out section 410 of title 23, United States Code, $39,764,000 for fiscal year 2004, $39,680,000 for fiscal year 2005, $129,000,000 for fiscal year 2006, $133,000,000 for fiscal year 2007, $138,000,000 for fiscal year 2008, and $144,000,000 for fiscal year 2009.*

*(4) State traffic safety information improvements.—For carrying out section 412 of title 23, United States Code, $30,000,000 for fiscal year 2006, $35,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, and $40,000,000 for fiscal year 2009.*

*(5) National driver register.—For carrying out chapter 303 of title 49, United States Code, by the National Highway Traffic Safety Administration, $3,976,000 for fiscal year 2004, $3,968,000 for fiscal year 2005, and $4,000,000 for each of fiscal years 2006 through 2009.*

*(6) High visibility enforcement program.—For carrying out section 2005 of this title, $15,000,000 for each of fiscal years 2006 through 2009.*

*(b) Applicability of Title 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2004 through 2009 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.*

*(c) Transfers.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (2), (3), or (4) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 410, and 412 of title 23, United States Code.*

### ***SEC. 2002. OCCUPANT PROTECTION INCENTIVE GRANTS.***

*(a) General Authority.—Section 405(a) of title 23, United States Code, is amended—*

*(1) in paragraph (2) by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users";*

*(2) in paragraph (3) by striking "1997" and inserting "2003"; and*

*(3) in paragraphs (1)(A), (4)(B), and (4)(C) by inserting after "years" the following: "beginning after September 30, 2003,".*

*(b) Grant Eligibility.—Section 405(b) of title 23, United States Code, is amended by striking "A State shall become eligible" and inserting the following: "A State shall be eligible for a grant under this section if the State has a seat belt usage rate of 85 percent or greater as of the date of the grant, as determined by the Secretary. A State shall also become eligible".*

*(c) Grant Amounts.—Section 405(c) of title 23, United States Code, is amended—*

*(1) by striking "25 percent" and inserting "100 percent"; and*

*(2) by striking "1997" and inserting "2003".*

### ***SEC. 2003. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.***

*(a) General Authority.—Section 410(a) of title 23, United States Code, is amended—*

*(1) in paragraph (2) by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users";*

*(2) in paragraph (3) by striking "1997" and inserting "2003"; and*

*(3) in paragraphs (4)(A), (4)(B), and (4)(C) by inserting after "years" the following: "beginning after September 30, 2003,".*

*(b) Basic Grant A.—Section 410(b)(1) of title 23, United States Code, is amended—*

*(1) by striking "A State shall become eligible" and inserting the following: "A State shall be eligible for a grant under this paragraph if the State has an alcohol-related fatality rate per 100,000,000 vehicle miles traveled of 0.5 or less as of the date of the grant, as determined by the Secretary using the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration. A State shall also become eligible";*

*(2) by striking "at least 5 of the following" and inserting "at least 6 of the following for fiscal year 2005 and fiscal year 2006 and at least 7 of the following for each fiscal year thereafter";*

*(3) in subparagraph (A)—*

*(A) by striking "and" at the end of clause (i)(II);*

*(B) by striking the period at the end of clause (ii) and inserting a semicolon; and*

*(C) by adding at the end the following:*

*"(iii) the suspension referred to under clause (i)(I) may allow an individual to operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and*

*"(iv) the suspension and revocation referred to under clause (i)(II) may allow an individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual.";*

*(4) in subparagraph (B)—*

*(A) by striking "may include the issuance" and inserting the following:*

*"may include—*

*"(i) the issuance"; and*

*(B) by striking the period at the end and inserting "; and" and the following:*

*"(ii) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum, the following:*

*"(I) the clinical effects of alcohol;*

*"(II) methods of preventing second party sales of alcohol;*

*"(III) recognizing signs of intoxication;*

*"(IV) methods to prevent underage drinking;*

*"(V) Federal, State, and local laws that are relevant to such personnel.";*

*(5) by striking subparagraph (F) and inserting the following:*

*"(F) OUTREACH PROGRAM.—A judicial and prosecutorial education, training, and outreach program that provides information on the appropriateness and effectiveness of sentencing options."; and*

*(6) by adding at the end the following:*

*"(H) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities that have comprehensive programs for the prevention of such operations of motor vehicles.*

*"(I) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders described in subparagraph (A)(i)(II).*

*"(J) PROGRAM FOR THE IMPOUNDMENT OF VEHICLES.—A program to impound a vehicle operated by a person who is arrested for operating that vehicle while under the influence of alcohol.".*

*(c) BASIC GRANT B.—Section 410(b) of title 23, United States Code, is amended—*

*(1) by striking paragraph (2) and inserting the following:*

*"(2) BASIC GRANT B.—A State shall become eligible for a grant under this paragraph if the State—*

*"(A) has an alcohol-related fatality rate per 100,000,000 vehicle miles traveled of 0.8 or more as of the date of the grant, as determined by the Secretary using the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and*

*"(B) establishes, subject to such requirements as the Secretary may prescribe, a task force to evaluate and recommend changes to the State's drunk driving programs."; and*

*(2) in paragraph (3)—*

*(A) by striking "25 percent" and inserting "100 percent"; and*

*(B) by striking "1997" and inserting "2003".*

*(d) SUPPLEMENTAL GRANTS.—Section 410(c) of title 23, United States Code, is amended to read as follows:*

*"(c) ALLOCATION FOR BASIC GRANT B.—Not more than $20,000,000 per fiscal year of amounts made available to carry out this section shall be available for making grants under subsection (b)(2).".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 2005.*

### ***SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.***

*(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:*

#### ***"§412. State traffic safety information system improvements***

*"(a) GENERAL AUTHORITY.—*

*"(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to—*

*"(A) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;*

*"(B) evaluate the effectiveness of efforts to make such improvements;*

*"(C) link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and*

*"(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.*

*"(2) USE OF GRANTS.—A State may use a grant received under this section only to implement such programs.*

*"(3) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze State and national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall certify to the Secretary the State's adoption and use of such model data elements.*

*"(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require ensuring that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this section.*

*"(5) FEDERAL SHARE.—The Federal share of the cost of implementing in a fiscal year a program of a State pursuant to paragraph (1) shall not exceed 80 percent.*

*"(b) FIRST-YEAR GRANTS.—To be eligible for a first-year grant under this section, a State shall demonstrate to the satisfaction of the Secretary that the State has—*

*"(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and*

*"(2) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system and is approved by the highway safety data and traffic records coordinating committee and—*

*"(A) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;*

*"(B) prioritizes, based on the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities described in subsection (a)(1);*

*"(C) identifies performance-based measures by which progress toward those goals will be determined;*

*"(D) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan; and*

*"(E) includes a current report on the progress in implementing the multiyear plan that documents progress toward the specified goals.*

*"(c) SUCCEEDING-YEAR GRANTS.—*

*"(1) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—*

*"(A) submits an updated multiyear plan that meets the requirements of subsection (b)(2);*

*"(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;*

*"(C) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan;*

*"(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and*

*"(E) includes a current report on the progress in implementing the multiyear plan.*

*"(d) GRANT AMOUNTS.—*

*"(1) IN GENERAL.—The amount of a grant made to a State for a fiscal year under this section shall equal an amount determined by multiplying—*

*"(A) the amount appropriated to carry out this section for such fiscal year; by*

*"(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003.*

*"(2) MINIMUM AMOUNT.—Notwithstanding subparagraph (A)—*

*"(A) a State eligible for a first-year grant under this section shall not receive less than $300,000; and*

*"(B) a State eligible for a succeeding-year grant under this section shall not receive less than $500,000.*

*"(e) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.*

*"(f) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:*

*"412. State traffic safety information system improvements.".*

### ***SEC. 2005. HIGH VISIBILITY ENFORCEMENT PROGRAM.***

*The Secretary shall establish a program to support national impaired driving mobilization and enforcement efforts and national safety belt mobilization and enforcement, including the purchase of national paid advertisement (including production and placement) to support such efforts.*

### ***SEC. 2006. MOTORCYCLE CRASH CAUSATION STUDY.***

*(a) IN GENERAL.—Using funds made available to carry out section 403 of title 23, United States Code, the Secretary shall conduct a study of the causes of motorcycle crashes.*

*(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.*

### ***SEC. 2007. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.***

*(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to States that enact or have enacted and are enforcing a law requiring that children riding in passenger motor vehicles who are too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law (116 Stat. 2772).*

*(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for child safety seat and child booster seat programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.*

*(c) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing in a fiscal year a law adopted by a State under subsection (a) shall not exceed—*

*(1) for the first 3 fiscal years for which a State receives a grant under this section, 75 percent; and*

*(2) for the fourth fiscal year for which a State receives a grant under this section, 50 percent.*

*(d) GRANT ELIGIBILITY.—*

*(1) IN GENERAL.—A State is eligible for a grant under this section if the State has in effect and enforces a law described in subsection (a).*

*(2) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 4 fiscal years beginning after September 30, 2005.*

*(e) ELIGIBLE USES OF FUNDS.—A State may use a grant under this section only to carry out child safety seat and child booster seat programs, including the following:*

*(1) A program to educate the public concerning the proper use and installation of child safety seats and child booster seats.*

*(2) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, and educators concerning all aspects of the use of child safety seats and booster seats.*

*(3) A program to purchase and distribute child safety seats, child booster seats, and other appropriate passenger motor vehicle child restraints to families that cannot otherwise afford such seats or restraints.*

*(4) A program to support enforcement of child restraint laws.*

*(f) GRANT AMOUNT.—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.*

*(g) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 2.5 percent for the necessary costs of administering the provisions of this section.*

*(h) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) of title 23, United States Code, apply to this section.*

*(i) REPORT.—Each State to which a grant is made under this section shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated and expended and identifying the specific programs carried out with or supported by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under of chapter 4 of title 23, United States Code.*

*(j) DEFINITIONS.—In this section, the following definitions apply:*

*(1) CHILD RESTRAINT.—The term "child restraint" means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.*

*(2) CHILD SAFETY SEAT.—The term "child safety seat" has the meaning such term has in section 405(f) of title 23, United States Code.*

*(3) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning such term has in such section 405(f).*

*(4) STATE.—The term "State" has the meaning such term has in section 101 (a) of such title.*

*(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for fiscal year 2009.*

### ***SEC. 2008. MOTORCYCLIST SAFETY.***

*(a) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.*

*(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.*

*(c) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 4 fiscal years beginning after September 30, 2005.*

*(d) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State in accordance with subsection (a) shall not exceed—*

*(1) for the first 3 years for which a State receives a grant under this section, 75 percent; and*

*(2) for the fourth fiscal year for which a State receives a grant under this section, 50 percent.*

*(e) GRANT ELIGIBILITY.—*

*(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary—*

*(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2);*

*(B) for the second, third, and fourth fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2); and*

*(C) for any subsequent fiscal years for which the State will receive a grant under this section, at least 3 of the 6 criteria listed in paragraph (2).*

*(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:*

*(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists, and may include innovative training opportunities to meet unique regional needs.*

*(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.*

*(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).*

*(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.*

*(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).*

*(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are used for motorcycle training and safety programs.*

*(f) ELIGIBLE USES.—*

*(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—*

*(A) improvements to motorcyclist safety training curricula;*

*(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—*

*(i) procurement or repair of practice motorcycles;*

*(ii) instructional materials;*

*(iii) mobile training units; and*

*(iv) leasing or purchase of facilities for classroom instruction and closed-course skill training;*

*(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and*

*(D) public awareness, public service announcements, and other outreach programs to enhance motorcyclist awareness.*

*(2) SUBALLOCATIONS OF FUNDS.—An agency that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.*

*(g) DEFINITIONS.—In this section, the following definitions apply:*

*(1) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training" means a formal program of instruction that—*

*(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists; and*

*(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues.*

*(2) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—*

*(A) the presence of motorcycles on or near roadways; and*

*(B) safe driving practices that avoid injury to motorcyclists.*

*(3) MOTORCYCLIST AWARENESS PROGRAM.—The term "motorcyclist awareness program" means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues.*

*(4) STATE.—The term "State" has the same meaning such term has in section 101(a) of title 23, United States Code.*

*(h) MAXIMUM GRANT AMOUNT.—The amount of a grant made to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.*

*(i) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction by the Secretary not to exceed 5 percent for the necessary costs of administering the provisions of this section.*

*(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for fiscal year 2009.*

*(k) APPLICABILITY OF TITLE 23.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.*

### ***SEC. 2009. DRIVER FATIGUE.***

*Section 402(a) of title 23, United States Code, is amended—*

*(1) by striking "and" before "(6)"; and*

*(2) by inserting before the period the following: "; and (7) to reduce deaths and injuries resulting from persons driving motor vehicles while fatigued".*

### ***SEC. 2010. AUTHORIZATION OF APPROPRIATIONS FOR HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.***

*(a) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund*

(other than the Mass Transit Account) for carrying out section 403 of title 23, United States Code, $71,575,000 for fiscal year 2004, $71,424,000 for fiscal year 2005, and $75,000,000 for each of fiscal years 2006 through 2009.

(b) Applicability of Title 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2004 through 2009 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

### SEC. 2011. SAFETY DATA.

(a) In General.—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal years 2005 through 2009, the Secretary shall collect data and compile statistics on accidents involving motor vehicles being backed up that result in fatalities and injuries and that occur on public and nonpublic roads and residential and commercial driveways and parking facilities.

(b) Report.—Not later than January 1, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on accidents described in subsection (a), including the data collected and statistics compiled under subsection (a) and any recommendations regarding measures to be taken to reduce the number of such accidents and the resulting fatalities and injuries.

### SEC. 2012. DRIVER PERFORMANCE STUDY.

(a) In General.—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2005, the Secretary shall make $1,000,000 available to conduct a study on the risks associated with glare to oncoming drivers, including increased risks to drivers on 2-lane highways, increased risks to drivers over the age of 50, and the overall effects of glare on driver performance.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study and any recommendations regarding measures to reduce the risks associated with glare to oncoming drivers.

## TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

### SEC. 3001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

(a) Short Title.—This title may be cited as the "Federal Public Transportation Act of 2005".

(b) Amendments to Title 49, United States Code.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

### SEC. 3002. POLICIES, FINDINGS, AND PURPOSES.

(a) In General.—Section 5301(a) is amended to read as follows:

"(a) Development and Revitalization of Public Transportation Systems.—It is in the interest of the United States to foster the development and revitalization of public transportation systems that—

"(1) maximize the safe, secure, and efficient mobility of individuals;

"(2) minimize environmental impacts; and

"(3) minimize transportation-related fuel consumption and reliance on foreign oil.".

(b) Preserving the Environment.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(c) General Purposes.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "mass" the first place it appears and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5) by striking "urban mass" and inserting "public".

### SEC. 3003. DEFINITIONS.

(a) Lead-in.—Section 5302(a) is amended in the matter preceding paragraph (1) by striking "In this chapter" and inserting "Except as otherwise specifically provided, in this chapter".

(b) Capital Project.—Section 5302(a)(1) is amended—

(1) in subparagraph (G) by inserting "construction, renovation, and improvement of intercity bus stations and terminals," before "and the renovation and improvement of historic transportation facilities,";

(2) in subparagraph (G)(ii) by inserting "(other than an intercity bus station or terminal)" after "commercial revenue-producing facility";

(3) by striking "or" at the end of subparagraph (H);

(4) by striking the period at the end of subparagraph (I) and inserting a semicolon; and

(5) by adding at the end the following:

"(J) crime prevention and security—

"(i) including—

"(I) projects to refine and develop security and emergency response plans;

"(II) projects aimed at detecting chemical and biological agents in public transportation;

"(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; and

"(IV) security training for public transportation employees; but

"(ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in subclauses (III) and (IV);

"(K) establishment of a debt service reserve made up of deposits with a bondholders' trustee in a noninterest bearing account for the purpose of ensuring timely payment of principal and interest on bonds issued by a grant recipient for purposes of financing an eligible project under this chapter; or

"(L) mobility management—

"(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

"(ii) excluding operating public transportation services.".

(c) Individual With a Disability.—Section 5302(a)(5) is amended—

(1) by striking "Handicapped individual" in the heading and inserting "Individual with a disability"; and

(2) by striking "handicapped individual" and inserting "individual with a disability".

(d) Mass Transportation.—Section 5302(a)(7) is amended to read as follows:

"(7) Mass transportation.—The term 'mass transportation' means public transportation.".

(e) Public Transportation.—Section 5302(a)(10) is amended to read as follows:

"(10) Public transportation.—The term 'public transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.".

(f) Urbanized Area.—Section 5302(a)(17) is amended to read as follows:

"(17) Urbanized area.—The term 'urbanized area' means an area encompassing a population of at least 50,000 people that has been defined and designated in the latest decennial census as an urbanized area by the Secretary of Commerce.".

(g) Authority to Modify Definition.—Section 5302(b) is amended—

(1) by striking "Handicapped Individual" in the heading and inserting "Individual With a Disability"; and

(2) by striking "handicapped individual" and inserting "individual with a disability".

### SEC. 3004. METROPOLITAN PLANNING.

Section 5303 is amended to read as follows:

### "§ 5303. Metropolitan planning

"(a) In General.—Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the metropolitan planning provisions of chapter 52.

"(b) Certification.—

"(1) In general.—The Secretary shall ensure and certify that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable laws of the United States. The Secretary may make the certification only if the organization is complying with chapter 52 and other applicable requirements of laws of the United States and the organization and chief executive officer have approved a transportation improvement program for the area.

"(2) Limitation on withholding certification.—The Secretary may not withhold certification based on the policies and criteria a metropolitan planning organization or mass transportation grant recipient establishes under section 5306(a) for deciding the feasibility of private enterprise participation.".

### SEC. 3005. STATEWIDE PLANNING.

(a) In General.—Section 5304 is amended to read as follows:

### "§ 5304. Statewide planning

"Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the statewide planning provisions of chapter 52.".

(b) Conforming Amendment.—The analysis for chapter 53 is amended by striking the item relating to section 5304 and inserting the following:

"5304. Statewide planning.".

### SEC. 3006. PLANNING PROGRAMS.

(a) In General.—Section 5305 is amended to read as follows:

### "§ 5305. Planning programs

"(a) State Defined.—In this section the term 'State' means a State of the United States, the District of Columbia, and Puerto Rico.

"(b) General Authority.—

"(1) Assistance.—Under criteria to be established by the Secretary, the Secretary may provide assistance for—

"(A) the development of transportation plans and programs;

"(B) planning, engineering, designing, and evaluating a public transportation project; and

"(C) for other technical studies.

"(2) GRANTS, AGREEMENTS, AND CONTRACTS.—The Secretary may provide assistance under paragraph (1)—

"(A) by making grants to States, authorities of States, metropolitan planning organizations, and local governmental authorities; or

"(B) by making agreements with other departments, agencies, and instrumentalities of the Government.

"(3) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under paragraph (1) include the following:

"(A) Studies related to management, planning, operations, capital requirements, and economic feasibility.

"(B) Evaluating previously financed projects.

"(C) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.

"(D) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

"(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 to carry out this section and sections 5303 and 5304 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(d) METROPOLITAN PLANNING PROGRAM.—

"(1) APPORTIONMENT TO STATES.—

"(A) IN GENERAL.—The Secretary shall apportion 80 percent of the amounts made available under subsection (g)(1) among the States to carry out sections 5303 and 5306 in the ratio that—

"(i) the population of urbanized areas in each State, as shown by the latest available decennial census of population; bears to

"(ii) the total population of urbanized areas in all States, as shown by that census.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

"(2) ALLOCATION TO MPO'S.—Amounts apportioned to a State under paragraph (1) shall be made available within 30 days after allocation to metropolitan planning organizations in the State designated under this section under a formula that—

"(A) considers population of urbanized areas;

"(B) provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section;

"(C) the State develops in cooperation with the metropolitan planning organizations; and

"(D) the Secretary approves.

"(3) SUPPLEMENTAL AMOUNTS.—

"(A) IN GENERAL.—The Secretary shall apportion 20 percent of the amounts made available under subsection (g)(1) among the States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) FORMULA.—The Secretary shall apportion amounts referred to in subparagraph (A) under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 in certain urbanized areas.

"(e) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) APPORTIONMENT TO STATES.—

"(A) IN GENERAL.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out sections 5303 through 5306, 5312, 5315, and 5322 in the ratio that—

"(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

"(ii) the population of urbanized areas in all States, as shown by that census.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

"(2) SUPPLEMENTAL AMOUNTS.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

"(f) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match.

"(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(c) for fiscal years 2004 through 2009—

"(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

"(2) 17.28 percent shall be available to carry out subsection (e).

"(h) AVAILABILITY OF FUNDS.—Funds apportioned under this section in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned that remain unobligated at the end of that period shall be reapportioned among the States.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5305 and inserting the following:

"5305. Planning programs.".

### SEC. 3007. PRIVATE ENTERPRISE PARTICIPATION.

(a) SECTION HEADING.—Section 5306 is amended by striking the section heading and inserting the following:

**"§5306. Private enterprise participation in planning; relationship to other limitations".**

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5306 and inserting the following:

"5306. Private enterprise participation in planning; relationship to other limitations.".

### SEC. 3008. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h) and (k); and

(2) by redesignating subsections (i), (j), (l), (m), and (n) as subsections (h), (i), (j), (k), and (l), respectively.

(b) DEFINITIONS.—Section 5307(a)(2)(A) is amended—

(1) by striking "a person" and inserting "an entity"; and

(2) by striking "section 5305(a) of this title" and inserting "chapter 52".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) GRANTS.—The Secretary may make grants under this section for—

"(A) capital projects and associated capital maintenance items;

"(B) planning;

"(C) transit enhancements; and

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000.";

(2) in the heading to paragraph (2) by striking "FISCAL YEARS 2003 AND 2004 AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" and inserting "FISCAL YEARS 2003 THROUGH 2005";

(3) in paragraph (2)(A) by striking "fiscal years 2003" and all that follows through "2005" and inserting "fiscal years 2003, 2004, and 2005";

(4) in paragraph (3) by striking "section 5305(a) of this title" and inserting "chapter 52"; and

(5) in paragraph (3)(A) by striking "section 5303 of this title" and inserting "chapter 52".

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A) by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (H) by striking "sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(3) in subparagraph (I) by striking "and" at the end; and

(4) by adding at the end the following:

"(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

"(i) will expend one percent of the amount the recipient receives each fiscal year under this section for projects for transit enhancements, as defined in section 5302(a); and

"(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and".

(e) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended to read as follows:

"(e) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project (including associated capital maintenance items) under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

"(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

"(3) REMAINDER.—The remainder of the net project cost shall be provided—

"(A) in cash from sources other than amounts of the Government or revenues from providing public transportation (excluding revenues derived from the sale of advertising and concessions);

"(B) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

"(C) from amounts received under a service agreement with a State or local social service agency or private social service organization.".

(f) REVIEWS, AUDITS, AND EVALUATIONS.—Section 5307(h)(1)(A) (as redesignated by subsection (a) of this section) is amended by striking "shall" and inserting "may".

(g) RELATIONSHIP TO OTHER LAWS.—Section 5307(l) (as redesignated by subsection (a) of this section) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) by inserting "This chapter.—" before "Sections 5302";

(4) by adding at the end the following:

"(2) CHAPTER 15 OF TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5 any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable."; and

*(5) by aligning the left margin of paragraph (1) (as so redesignated) with paragraph (2) (as added by paragraph (4) of this subsection).*

*(h) TREATMENT.—At the end of section 5307, add the following:*

*"(m) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.".*

### SEC. 3009. CLEAN FUELS FORMULA GRANT PROGRAM.

*Section 5308 is amended to read as follows:*

***"§5308. Clean fuels formula grant program***

*"(a) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) CLEAN FUEL BUS.—The term 'clean fuel bus' means a passenger vehicle used to provide public transportation that—*

*"(A) is powered by—*

*"(i) compressed natural gas;*

*"(ii) liquefied natural gas;*

*"(iii) biodiesel fuels;*

*"(iv) batteries;*

*"(v) alcohol-based fuels;*

*"(vi) hybrid electric;*

*"(vii) fuel cell;*

*"(viii) clean diesel, to the extent allowed under this section; or*

*"(ix) other low or zero emissions technology; and*

*"(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.*

*"(2) ELIGIBLE PROJECT.—The term 'eligible project'—*

*"(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—*

*"(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;*

*"(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or*

*"(iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and*

*"(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.*

*"(3) MAINTENANCE AREA.—The term 'maintenance area' has the meaning such term has under section 101 of title 23.*

*"(4) RECIPIENT.—*

*"(A) IN GENERAL.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—*

*"(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or*

*"(ii) is a maintenance area for ozone or carbon monoxide.*

*"(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.*

*"(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.*

*"(c) APPORTIONMENT OF FUNDS.—*

*"(1) FORMULA.—The Secretary shall apportion among recipients amounts made available to carry out this section for a fiscal year. Of such amounts—*

*"(A) two-thirds shall be apportioned to recipients serving urbanized areas with a population of at least 1,000,000, of which—*

*"(i) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—*

*"(I) the number of vehicles in the bus fleet of the recipient, weighted by severity of nonattainment for the area served by the recipient; bears to*

*"(II) the total number of vehicles in the bus fleets of all such recipients, weighted by severity of nonattainment for all areas served by such recipients; and*

*"(ii) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—*

*"(I) the number of bus passenger miles (as defined in section 5336(c)) of the recipient, weighted by severity of nonattainment of the area served by the recipient; bears to*

*"(II) the total number of bus passenger miles (as defined in section 5336(c)) of all such recipients, weighted by severity of nonattainment of all areas served by such recipients; and*

*"(B) one-third shall be apportioned to recipients serving urbanized areas with a population of less than 1,000,000, of which—*

*"(i) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—*

*"(I) the number of vehicles in the bus fleet of the recipient, weighted by severity of nonattainment for the area served by the recipient; bears to*

*"(II) the total number of vehicles in the bus fleets of all such recipients, weighted by severity of nonattainment for all areas served by such recipients; and*

*"(ii) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—*

*"(I) the number of bus passenger miles (as defined in section 5336(c)) of the recipient, weighted by severity of nonattainment of the area served by the recipient; bears to*

*"(II) the total number of bus passenger miles (as defined in section 5336(c)) of all such recipients, weighted by severity of nonattainment of all areas served by such recipients.*

*"(2) WEIGHTING OF SEVERITY OF NONATTAINMENT.—*

*"(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (B), the number of buses in the bus fleet, or the number of passenger miles, shall be multiplied by a factor of—*

*"(i) 1.0 if, at the time of the apportionment, the area is a maintenance area for ozone or carbon monoxide;*

*"(ii) 1.1 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);*

*"(iii) 1.2 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under subpart 2 of such part;*

*"(iv) 1.3 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under subpart 2 of such part;*

*"(v) 1.4 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under subpart 2 of such part; or*

*"(vi) 1.5 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under subpart 2 of such part.*

*"(B) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone under subpart 2 of such part, the area was also classified under subpart 3 of such part as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the recipient, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.*

*"(d) CLEAN DIESEL BUSES.—Not more than 35 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.*

*"(e) GRANT REQUIREMENTS.—*

*"(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.*

*"(2) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.*

*"(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—*

*"(1) shall remain available to a project for 1 year after the fiscal year for which the amount is made available or appropriated; and*

*"(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.".*

### SEC. 3010. CAPITAL INVESTMENT GRANTS.

*(a) SECTION HEADING.—Section 5309 is amended by striking the section heading and inserting the following:*

***"§5309. Capital investment grants".***

*(b) LOANS FOR REAL PROPERTY INTERESTS.—Section 5309 is amended—*

*(1) in subsections (a)(1) and (a)(2) by striking "and loans";*

*(2) by striking subsections (b) and (c); and*

*(3) by redesignating subsection (d) as subsection (b).*

*(c) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—Section 5309(b) (as redesignated by subsection (b) of this section) is amended—*

*(1) by striking "Except as provided in subsections (b)(2) and (e) of the section, the" and inserting "The"; and*

*(2) by striking "or loan".*

*(d) CRITERIA AND FUNDING.—Section 5309 is amended by striking subsections (e) through (p) and inserting the following:*

*"(c) MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—*

*"(1) FULL FUNDING GRANT AGREEMENT.—A major new fixed guideway capital project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.*

*"(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the proposal is—*

*"(A) based on the results of an alternatives analysis and preliminary engineering;*

*"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, and transit supportive policies, and existing land use; and*

*"(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension.*

*"(3) CONSIDERATIONS.—*

*"(A) RESULTS OF ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a proposed project for purposes of making the finding required by paragraph (2)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.*

*"(B) PROJECT JUSTIFICATION.—In evaluating a proposed project for purposes of making the*

*finding required by paragraph (2)(B), the Secretary shall—*

*"(i) consider the direct and indirect costs of relevant alternatives;*

*"(ii) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed and recognize reductions in local infrastructure costs achieved through compact land use development;*

*"(iii) identify and consider public transportation supportive existing land use policies and future patterns and the cost of suburban sprawl;*

*"(iv) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;*

*"(v) consider population density and current transit ridership in the corridor;*

*"(vi) consider the technical capability of the grant recipient to construct the project;*

*"(vii) adjust the project justification to reflect differences in local land, construction, and operating costs; and*

*"(viii) consider other factors that the Secretary determines appropriate to carry out this chapter.*

*"(C) LOCAL FINANCIAL COMMITMENT.—In evaluating a proposed project under paragraph (2)(C), the Secretary shall require that—*

*"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;*

*"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and*

*"(iii) local resources are available to operate the overall proposed public transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing public transportation services to operate the proposed project.*

*"(D) ASSESSMENT OF LOCAL FINANCING.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—*

*"(i) existing grant commitments;*

*"(ii) the degree to which financing sources are dedicated to the purposes proposed;*

*"(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other public transportation purpose; and*

*"(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.*

*"(4) EVALUATION AND RATING OF PROJECTS.—A proposed project under this subsection may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making the findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended' based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.*

*"(5) MAJOR DEFINED.—In this section, the term 'major', as used with respect to a new fixed guideway capital project, means the Federal assistance provided or to be provided under this section for the project is $75,000,000 or more.*

*"(d) CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—*

*"(1) IN GENERAL.—Subject to the provisions of this subsection, if the Federal assistance provided or to be provided under this section with respect to a new fixed guideway capital project is less than $75,000,000, and not less than $25,000,000, the project shall be subject to the requirements in this subsection. A new fixed guideway capital project is not subject to the requirements of this subsection if the assistance provided under this section with respect to the project is less than $25,000,000.*

*"(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—*

*"(A) based on the results of planning and alternatives analysis;*

*"(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and*

*"(C) supported by an acceptable degree of local financial commitment.*

*"(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.*

*"(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—*

*"(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;*

*"(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;*

*"(C) determine the degree to which the project will have a positive effect on local economic development;*

*"(D) consider the reliability of the forecasts of costs and ridership associated with the project; and*

*"(E) consider other factors that the Secretary determines appropriate to carry out this subsection.*

*"(5) LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.*

*"(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—*

*"(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project development and construction only if—*

*"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and*

*"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.*

*"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as 'recommended' or 'not recommended' based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection.*

*"(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.*

*"(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as 'recommended' under this subsection.*

*"(9) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.*

*"(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term 'fixed guideway capital project' includes a corridor-based public transportation bus capital project if the majority of the project's corridor right-of-way is dedicated alignment for exclusive use by public transportation vehicles for all or part of the day.*

*"(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c) and (d) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005. Subsection (d) also does not apply to projects for which the Secretary has received an application for final design before such date of enactment.*

*"(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—*

*"(1) LETTERS OF INTENT.—*

*"(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.*

*"(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.*

*"(2) FULL FUNDING GRANT AGREEMENTS.—*

*"(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—*

*"(i) establish the terms of participation by the Government in a project under this section;*

*"(ii) establish the maximum amount of Government financial assistance for the project;*

*"(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and*

*"(iv) make timely and efficient management of the project easier according to the law of the United States.*

*"(B) SPECIAL FINANCIAL RULES.—*

*"(i) IN GENERAL.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.*

*"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.*

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

"(3) EARLY SYSTEM WORK AGREEMENTS.—

"(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

"(i) a full funding grant agreement for the project will be made; and

"(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

"(B) CONTENTS.—

"(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

"(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMITATION ON AMOUNTS.—

"(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(b) and 5338(h)(1) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(B) and (m)(2)(B)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

"(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements and early system work agreements under this subsection for small capital projects described in subsection (d) may be not more than the greater of the amount allocated under subsection (m)(2)(A) for such projects or an amount equivalent to the last fiscal year of funding allocated under subsection (m)(2)(A) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

"(C) INCLUSION OF CERTAIN COMMITMENTS.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

"(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

"(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(g) GOVERNMENT'S SHARE OF NET PROJECT COST.—

"(1) FEDERAL SHARE.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

"(2) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section, including paragraph (1) and subsections (c)(3)(D)(iv) and (c)(4), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

"(4) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

"(5) LIMITATION ON APPLICABILITY.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

"(h) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (g), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(i) REPORTS ON NEW STARTS.—

"(1) ANNUAL DOT REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

"(B) evaluations and ratings, as required under subsection (c), for each such project that is authorized by the Federal Public Transportation Act of 2005; and

"(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

"(2) ANNUAL GAO REVIEW.—The Comptroller General shall—

"(A) conduct an annual review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) report to Congress on the results of such review by May 31 of each year.

"(j) UNDERTAKING PROJECTS IN ADVANCE.—

"(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

"(A) the State or local governmental authority applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

"(2) FINANCING COSTS.—

"(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

"(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

"(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(3) CAPITAL PROJECT COST INDICES.—The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2).

"(k) BUS AND BUS FACILITIES PROJECTS.—In making grants under subsections (m)(1)(C) and (m)(2)(B)(iii), the Secretary shall consider the age of buses, bus fleets, related equipment, and bus-related facilities.

"(l) AVAILABILITY OF AMOUNTS.—An amount made available or appropriated under section

5338(b), 5338(g), or 5338(h) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period shall be deobligated and may be used by the Secretary for any purpose under this section.

"(m) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2004.—The total amount of funds made available by or appropriated under section 5338(b) for fiscal year 2004 shall be allocated as follows:

"(A) 40 percent for fixed guideway modernization;

"(B) 40 percent for major new fixed guideway capital projects; and

"(C) 20 percent to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

"(2) FISCAL YEARS 2005–2009.—The total amount of funds made available by section 5338(g), and appropriated under section 5338(h), for each of fiscal years 2005 through 2009 shall be allocated in the fiscal year as follows:

"(A) SMALL CAPITAL PROJECTS.—From funds appropriated under section 5338(h) for new fixed guideway capital projects described in subsection (d)—

"(i) $135,000,000 in fiscal year 2005;

"(ii) $175,000,000 in fiscal year 2006;

"(iii) $200,000,000 in fiscal year 2007;

"(iv) $200,000,000 in fiscal year 2008; and

"(v) $225,000,000 in fiscal year 2009.

"(B) REMAINDER.—After the allocation under subparagraph (A), the remainder of such total amount shall be allocated as follows:

"(i) 40 percent for fixed guideway modernization, to be derived from funds made available under section 5338(g).

"(ii) 40 percent for major new fixed capital guideway projects, to be derived from funds appropriated under section 5338(h).

"(iii) 20 percent to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, to be derived from funds made available under section 5338(g).

"(3) FUNDING FOR FERRY BOAT SYSTEMS.—Of the amounts made available under paragraphs (1)(B) and (2)(B)(ii), $10,400,000 shall be available in each of fiscal years 2004 through 2009 for new fixed guideway capital projects in Alaska or Hawaii that are for ferry boats or ferry terminal facilities or that are for approaches to ferry terminal facilities. Of the amounts made available under paragraphs (1)(C) and (2)(B)(iii), $10,000,000 shall be available in each of fiscal years 2005 through 2009 for ferry boats or ferry terminal facilities.

"(4) FUEL CELL BUS PROGRAM.—Of the amounts made available under subsections (m)(1)(C) and (m)(2)(B)(iii) for a fiscal year, the following amounts shall be set aside for the national fuel cell bus technology development program under section 3039 of the Federal Public Transportation Act of 2005:

"(A) $4,849,950 for fiscal year 2004.

"(B) $10,000,000 for fiscal year 2005.

"(C) $11,000,000 for fiscal year 2006.

"(D) $12,000,000 for fiscal year 2007.

"(E) $13,000,000 for fiscal year 2008.

"(F) $14,000,000 for fiscal year 2009.

"(n) NEW FIXED GUIDEWAY CAPITAL PROJECT DEFINED.—In this section, the term 'new fixed guideway capital project' means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.".

(e) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

"5309. Capital investment grants.".

(2) SECTION 5328.—Section 5328(a) is amended—

(A) in paragraph (2) by striking "5309(e)" and inserting "5309(c)"; and

(B) in paragraph (4) by striking "under section 5309(o)(1)" and inserting "under section 5309(i)(1)".

## SEC. 3011. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended—

(1) by striking the section heading and inserting the following:

**"§5310. Formula grants for special needs of elderly individuals and individuals with disabilities"**;

(2) by striking subsections (a) through (g) and inserting the following:

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects, and operating costs associated with public transportation capital projects, planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

"(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts of the grant to—

"(A) a private nonprofit organization if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

"(B) a governmental authority that—

"(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

"(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

"(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

"(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) APPORTIONMENT AND TRANSFERS.—

"(1) APPORTIONMENT.—

"(A) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

"(B) LOW DENSITY ADJUSTMENT.—In administering the apportionment formula under subparagraph (A)—

"(i) in the case of a State with a population density of 10 or fewer persons per square mile, the Secretary shall multiply by a factor of 2 the number of elderly individuals and individuals with disabilities in the State (as determined using the most recent decennial United States Census); and

"(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 30 persons per square mile, the Secretary shall multiply by a factor of 1.25 the number of elderly individuals and individuals with disabilities in the State (as determined using the most recent decennial United States Census).

"(2) TRANSFERS.—Any State's apportionment remaining available for obligation at the beginning of the 90-day period before the end of the period of availability of the apportionment is available to the State for transfer to supplement amounts apportioned to the State under section 5311(c) or 5336(a)(1), or both. Any funds transferred pursuant to this paragraph shall be made available only for eligible projects as described in this section.

"(c) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary; except that in the case of a State described in section 120(b)(1) of title 23, such percentage shall be increased in accordance with such section.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant under this section shall be subject to all requirements of a grant under section 5307. A grant to a subrecipient under this section shall be subject to such requirements to the extent the Secretary considers appropriate.

"(2) COORDINATION WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336(a)(1) pursuant to subsection (b)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

"(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—

"(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(4) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(e) STATE PROGRAM.—

"(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

"(2) SUBMISSION AND APPROVAL.—A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities."; and

(3) by redesignating subsections (h) through (j) as subsections (g) through (i), respectively.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:

"5310. Formula grants for special needs of elderly individuals and individuals with disabilities.".

### SEC. 3012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) RECIPIENT.—The term 'recipient' means a State that receives a Federal transit program grant directly from the Government.

"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a Federal transit program grant indirectly through a recipient.".

(b) GENERAL AUTHORITY.—Section 5311(b) is amended to read as follows:

"(b) GENERAL AUTHORITY.—

"(1) GRANTS.—Except as provided in paragraph (2), the Secretary may make grants to other than urbanized areas under this section for the following:

"(A) Public transportation capital projects.

"(B) Operating costs of equipment and facilities for use in public transportation.

"(C) Acquisition of public transportation services, including service agreements with private providers of public transportation services.

"(2) STATE PROGRAM.—

"(A) IN GENERAL.—Amounts made available to carry out this section shall be used for projects included in a State program for public transportation projects, including service agreements with private providers of public transportation.

"(B) SUBMISSION.—The program shall be submitted annually to the Secretary for approval.

"(C) APPROVAL.—The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

"(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available to carry out this section to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

"(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.".

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) IN GENERAL.—The Secretary shall apportion amounts made available to carry out this section among the States in the ratio that—

"(A) the population of other than urbanized areas in each State, as shown by the most recent Government decennial census of population; bears to

"(B) the population of all other than urbanized areas in the United States, as shown by that census.

"(2) LOW DENSITY ADJUSTMENT.—In administering the apportionment formula under paragraph (1)—

"(A) in the case of a State with a population density of 10 or fewer persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.5 the population of such other than urbanized areas (as determined using the most recent decennial United States Census); and

"(B) in the case of a State with a population density of more than 10 but equal to or fewer than 12 persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.25 the population of such other than urbanized areas (as determined using the most recent decennial United States Census).

"(3) AVAILABILITY.—The amount apportioned to a State under this subsection may be obligated by the State for 2 fiscal years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.".

(d) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) in the subsection heading by inserting ", planning," after "administration";

(2) by striking "(1) The Secretary" and inserting "The Secretary";

(3) by striking paragraph (2); and

(4) by striking "recipient" and inserting "subrecipient".

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1) by striking "after September 30, 1993,"; and

(2) in paragraph (2) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary; except that in the case of a State described in section 120(b)(1) of title 23, such percentage shall be increased in accordance with such section.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER.—The remainder of net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.".

(g) RELATIONSHIP TO OTHER LAWS.—Section 5311 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(h) CORRECTION TO CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

"5311. Formula grants for other than urbanized areas.".

### SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) in subsection (a)—

(A) by striking the first parenthetical phrase;

(B) by striking "or contracts" and inserting ", contracts, cooperative agreements, or other transactions";

(C) by striking "help reduce urban transportation needs, improve mass transportation service," and inserting "improve transportation service";

(D) by striking "urban" each place it appears; and

(E) by striking "and demonstration projects" and inserting ", demonstration or deployment projects, or evaluation of technology of national significance";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively;

(4) in subsection (b)(2) (as so redesignated) by striking "other agreements" and inserting "other transactions"; and

(5) in subsection (c)(2) (as so redesignated) by striking "public and" and inserting "public or".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 5312 is amended by striking the section heading and inserting the following:

**"§ 5312. Research, development, demonstration, and deployment projects".**

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:

"5312. Research, development, demonstration, and deployment projects.".

### SEC. 3014. COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) in subsection (a) by striking "(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d) of this title" and inserting "The amounts made available under paragraphs (1)(C)(iv) and (2)(C) of section 5338(d)";

(2) by striking subsection (b);

(3) in subsection (a)(2) by striking "(2) The" and inserting "(b) FEDERAL ASSISTANCE.—The"; and

(4) in subsection (c) by striking "subsection (a) of".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 5313 is amended by striking the section heading and inserting the following:

**"§ 5313. Cooperative research program".**

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5313 and inserting the following:

"5313. Cooperative research program.".

### SEC. 3015. NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) by striking the section heading and inserting the following:

**"§ 5314. National research and technology programs";**

(2) in subsection (a)(1)—

(A) by striking "subsections (d) and (h)(7) of section 5338 of this title" and inserting "section 5338(d)";

(B) by striking "and contracts" and inserting ", contracts, cooperative agreements, or other transactions";

(C) by striking "5303-5306,"; and

(D) by striking "5317,";

(3) in subsection (a)(2) by striking "Of the amounts" and all that follows through "$3,000,000 to" and inserting "The Secretary shall";

(4) by striking subsection (a)(4)(B);

(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

(6) in subsection (b) by striking "or contract" and all that follows through "section," and inserting ", contract, cooperative agreement, or other transaction under subsection (a) or section 5312,".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5314 and inserting the following:

"5314. National research and technology programs.".

**SEC. 3016. NATIONAL TRANSIT INSTITUTE.**

Section 5315 is amended—

(1) in subsection (a) by striking "public mass transportation" and inserting "public transportation"; and

(2) in subsection (d) by striking "mass" each place it appears.

**SEC. 3017. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.**

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

**"§5316. Job access and reverse commute formula grants**

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ACCESS TO JOBS PROJECT.—The term 'access to jobs project' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

"(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

"(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

"(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

"(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

"(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

"(3) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

"(4) REVERSE COMMUTE PROJECT.—The term 'reverse commute project' means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

"(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

"(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

"(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

"(5) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

"(6) WELFARE RECIPIENT.—The term 'welfare recipient' means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

"(b) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.

"(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(c) APPORTIONMENTS.—

"(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

"(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

"(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

"(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

"(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

"(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

"(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

"(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to

"(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.

"(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

"(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

"(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

"(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

"(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

"(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

"(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

"(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

"(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

"(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

"(e) TRANSFERS.—

"(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

"(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.

"(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

"(f) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

"(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(g) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

"(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

"(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(h) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(3) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or *agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.*

*"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.*

*"(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.*

*"(i) PROGRAM EVALUATION.—*

*"(1) COMPTROLLER GENERAL.—Beginning 1 year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—*

*"(A) conduct a study to evaluate the grant program authorized by this section; and*

*"(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).*

*"(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2005, the Secretary shall—*

*"(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and*

*"(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5315 the following:*

*"5316. Job access and reverse commute formula grants.".*

*(c) REPEAL.—Section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 387) is repealed.*

***SEC. 3018. NEW FREEDOM PROGRAM.***

*(a) IN GENERAL.—Chapter 53 is further amended by inserting after section 5316 the following:*

***"§5317. New Freedom program***

*"(a) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.*

*"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.*

*"(b) GENERAL AUTHORITY.—*

*"(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.*

*"(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.*

*"(c) APPORTIONMENTS.—*

*"(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:*

*"(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—*

*"(i) the number of individuals with disabilities in each such urbanized area; bears to*

*"(ii) the number of individuals with disabilities in all such urbanized areas.*

*"(B) 20 percent of the funds shall be apportioned among the States in the ratio that—*

*"(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to*

*"(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.*

*"(C) 20 percent of the funds shall be apportioned among the States in the ratio that—*

*"(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to*

*"(ii) the number of individuals with disabilities in other than urbanized areas in all States.*

*"(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—*

*"(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;*

*"(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and*

*"(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.*

*"(3) LOW DENSITY ADJUSTMENT.—*

*"(A) SMALLER URBANIZED AREAS.—In administering the apportionment formula under paragraph (1)(B)—*

*"(i) in the case of a State with a population density of 10 or fewer persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 2 the number of individuals with disabilities in urbanized areas of the State with a population of less than 200,000 (as determined using the most recent decennial United States Census); and*

*"(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 30 persons per square mile, the Secretary shall multiply by a factor of 1.25 the number of individuals with disabilities in urbanized areas of the State with a population of less than 200,000 (as determined using the most recent decennial United States Census).*

*"(B) OTHER THAN URBANIZED AREAS.—In administering the apportionment formula under paragraph (1)(C)—*

*"(i) in the case of a State with a population density of 10 or fewer persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.5 the number of individuals with disabilities in other than urbanized areas of the State (as determined using the most recent decennial United States Census); and*

*"(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 12 persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.25 the number of individuals with disabilities in other than urbanized areas of the State (as determined using the most recent decennial United States Census).*

*"(4) TRANSFERS.—*

*"(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.*

*"(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.*

*"(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).*

*"(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—*

*"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.*

*"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.*

*"(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.*

*"(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.*

*"(e) GRANT REQUIREMENTS.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall be subject to all the requirements of section 5307.*

*"(2) EMPLOYEE PROTECTIVE ARRANGEMENTS.—Section 5333(b) shall apply to grants under this section, except that the Secretary of Labor shall utilize, for urbanized areas with a population of less than 200,000 and for other than urbanized areas, a special warranty described in section 215.7 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the Federal Public Transportation Act of 2005), that provides a fair and equitable arrangement to protect the interest of employees.*

*"(3) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.*

*"(f) COORDINATION.—*

*"(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.*

*"(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.*

*"(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—*

*"(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and*

*"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.*

*"(g) GOVERNMENT'S SHARE OF COSTS.—*

*"(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.*

*"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.*

*"(3) REMAINDER.—The remainder of the net project costs—*

*"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and*

*"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.*

*"(4) Use of certain funds.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.*

*"(5) Limitation on operating assistance.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.".*

*(b) Conforming Amendment.—The analysis for chapter 53 is amended by inserting after the item relating to section 5316 the following:*

*"5317. New freedom program.".*

### SEC. 3019. BUS TESTING FACILITY.

*(a) In General.—Section 5318 is amended—*

*(1) by striking subsection (a) and inserting the following:*

*"(a) Facility.—The Secretary of Transportation shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.";*

*(2) in subsection (d) by striking "under section 5309(m)(1)(C) of this title" and inserting "to carry out this section"; and*

*(3) by striking subsection (e) and inserting the following:*

*"(e) Acquiring New Bus Models.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).".*

*(b) Conforming Amendment.—Section 5323(c) is repealed.*

### SEC. 3020. BICYCLE FACILITIES.

*The first sentence of section 5319 is amended—*

*(1) by striking "5309(h)," and inserting "5309(g),"; and*

*(2) by striking "and 5311" and inserting "5311, and 5320".*

### SEC. 3021. TRANSIT IN THE PARKS PILOT PROGRAM.

*(a) In General.—Section 5320 is amended to read as follows:*

**"§5320. Transit in the parks pilot program**

*"(a) Public Transportation Defined.—In this section, the term 'public transportation' means general or special transportation to the public by a conveyance that is publicly or privately owned. Such term does not include schoolbus or charter transportation but does include sightseeing transportation.*

*"(b) Establishment.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary of Transportation and the Secretary of the Interior shall enter into a memorandum of understanding to establish a transit in the parks pilot program in accordance with the requirements of this section.*

*"(c) Purpose.—The purpose of the pilot program shall be to encourage and promote the development of transportation systems described in section 5301(a) within units of the National Park System to improve visitor mobility and enjoyment (including visitors with disabilities), reduce pollution and congestion, and enhance resource protection through the use of public transportation.*

*"(d) Administration of Program.—The program shall be administered by the Secretary of Transportation, in consultation with the Secretary of the Interior.*

*"(e) Memorandum of Understanding.—*

*"(1) Planning.—The memorandum of understanding under subsection (b) shall include transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under chapter 52.*

*"(2) Programs.—The memorandum of understanding shall include descriptions of programs and activities eligible for assistance under the pilot program.*

*"(3) Exceptions.—The memorandum of understanding shall limit or modify the applicability of the provisions referred to in subsection (f) to the extent necessary to carry out the objectives of this section and to be compatible with the laws and regulations governing units of the National Park System.*

*"(f) Eligible Use of Funds.—Except as provided under subsection (e)(3), the Secretary may provide funds made available to carry out this section to the Secretary of the Interior under interagency agreements for the following purposes:*

*"(1) Planning, engineering, design, and evaluation.—Planning, engineering, design, and evaluation of public transportation projects in units of the National Park System, and for technical studies, in accordance with section 5305(b)(2).*

*"(2) Public transportation capital projects.—Public transportation capital projects (as defined in section 5302(a)(1)) for such units in accordance with all the terms and conditions to which a grant is made under subsections (a), (b), (c), and (d) of section 5307 and such other terms and conditions as are determined by the Secretary. The Secretary of the Interior shall act as the designated recipient for the purposes of subsection (a)(2) of section 5307.*

*"(3) Operating costs.—Operating costs of equipment and facilities used in public transportation for such units.*

*"(g) Government's Share of Costs.—*

*"(1) Capital projects.—The Government share of the cost of any capital project or activity under this section shall be 100 percent of the costs of the project, as determined by the Secretary.*

*"(2) Operating assistance.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.*

*"(h) Savings Clause.—Nothing in this section shall be construed as superseding, amending, modifying, or repealing any provision of law applicable to units of the National Park System.".*

*(b) Conforming Amendment.—The analysis for such chapter is further amended by striking the item relating to section 5320 and inserting the following:*

*"5320. Transit in the parks pilot program.".*

### SEC. 3022. HUMAN RESOURCE PROGRAMS.

*Section 5322 is amended—*

*(1) by inserting "(a) In General.—" before "The Secretary"; and*

*(2) by adding at the end the following:*

*"(b) Grants to Higher Learning Institutions.—*

*"(1) Authority to make grants.—The Secretary may make grants to nonprofit institutions of higher learning—*

*"(A) to conduct research and investigations into the theoretical or practical problems of public transportation; and*

*"(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages a public transportation system.*

*"(2) Research and investigations.—Research and investigations under this subsection include—*

*"(A) the design and use of public transportation systems and public roads and highways;*

*"(B) the interrelationship between various modes of urban, suburban, rural, and intercity transportation;*

*"(C) the role of transportation planning in overall urban planning;*

*"(D) public preferences in transportation;*

*"(E) the economic allocation of transportation resources; and*

*"(F) the legal, financial, engineering, and esthetic aspects of public transportation.*

*"(3) Preference.—When making a grant under this subsection, the Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to public transportation problems.*

*"(c) Fellowships.—*

*"(1) Authority to make grants.—The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the public transportation field.*

*"(2) Terms.—*

*"(A) Period of training.—A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry.*

*"(B) Selection of individuals.—The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation.*

*"(C) Amount.—A grant for a fellowship may not be more than the lesser of $65,000 or 75 percent of—*

*"(i) tuition and other charges to the fellowship recipient;*

*"(ii) additional costs incurred by the training institution and billed to the grant recipient; and*

*"(iii) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.".*

### SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE.

*(a) Interests in Property.—Section 5323(a)(1) is amended—*

*(1) in the matter preceding subparagraph (A)—*

*(A) by striking "private mass transportation company" each place it appears and inserting "private company engaged in public transportation";*

*(B) by striking "mass transportation equipment or a mass transportation facility" and inserting "a public transportation facility or equipment"; and*

*(C) by striking "mass transportation company" and inserting "public transportation company"; and*

*(2) in subparagraph (B) by striking "private mass transportation companies" and inserting "private companies engaged in public transportation".*

*(b) Notice and Public Hearing.—Section 5323(b) is amended—*

*(1) in paragraph (1)—*

*(A) by striking "(1) An application" and inserting the following:*

*"(1) Applications.—An application";*

*(B) in the matter preceding subparagraph (A) by striking "or loan"; and*

*(C) by moving subparagraphs (A) through (D) 2 ems to the right;*

*(2) in paragraph (2) by striking "(2) Notice of" and inserting the following:*

*"(2) Notice.—Notice of"; and*

*(3) by adding at the end the following:*

*"(3) ENVIRONMENTAL RECORD.—An applicant shall include in the environmental record for a project under this chapter evidence that the applicant has complied with the requirements of subparagraphs (A) through (D) of paragraph (1).".*

*(c) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—Section 5323(d) is amended—*

*(1) by striking "(1) Financial assistance" and inserting the following:*

*"(1) AGREEMENTS.—Financial assistance"; and*

*(2) by striking paragraph (2) and inserting the following:*

*"(2) VIOLATIONS.—*

*"(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.*

*"(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.*

*"(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.".*

*(d) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—Section 5323(e) is amended to read as follows:*

*"(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—*

*"(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.*

*"(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under chapter 52 is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.*

*"(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309, or both; except that such reimbursement in a fiscal year may not exceed 10 percent of the amounts made available to the recipient under section 5307 in such fiscal year.".*

*(e) SCHOOLBUS TRANSPORTATION.—Section 5323(f) is amended—*

*(1) by striking "(1) Financial assistance" and inserting the following:*

*"(1) AGREEMENTS.—Financial assistance";*

*(2) in paragraph (1) by moving subparagraphs (A), (B), and (C) 2 ems to the right; and*

*(3) by striking paragraph (2) and inserting the following:*

*"(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.".*

*(f) BUYING BUSES UNDER OTHER LAWS.—Section 5323(g) is amended by striking "103(e)(4)" each place it appears and inserting "133".*

*(g) BUY AMERICA.—*

*(1) PUBLIC INTEREST WAIVER.—Section 5323(j) is amended—*

*(A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and*

*(B) by inserting after paragraph (2) the following:*

*"(3) WRITTEN JUSTIFICATION FOR PUBLIC INTEREST WAIVER.—When issuing a waiver based on a public interest determination under paragraph (2)(A), the Secretary shall issue a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.".*

*(2) INELIGIBILITY FOR CONTRACTS.—Section 5323(j)(6) (as so redesignated) is amended by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004".*

*(3) ADMINISTRATIVE REVIEW.—Section 5323(j) is amended by adding at the end the following:*

*"(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.".*

*(4) REPEAL OF GENERAL WAIVER.—Subsections (b) and (c) of Appendix A of section 661.7 of title 49, Code of Federal Regulations, shall cease to be in effect beginning on the date of enactment of this Act.*

*(5) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a final rule on implementation of the requirements of section 5323(j) of title 49, United States Code (in this paragraph referred to as the "Buy America requirements"). The purposes of the regulations shall be as follows:*

*(A) MICROPROCESSOR WAIVER.—To clarify that any waiver from the Buy America requirements issued under section 5323(j)(2) of such title for a microprocessor, computer, or microcomputer applies only to a device used solely for the purpose of processing or storing data and does not extend to a product containing a microprocessor, computer, or microcomputer.*

*(B) DEFINITION OF END PRODUCT.—To define the term "end product" for purposes of part 661 of title 49, Code of Federal Regulations. In defining the term, the Secretary shall develop a list of representative items that are subject to the Buy America requirements, and shall address the procurement of systems under the definition to ensure that major system procurements are not used to circumvent the Buy America requirements.*

*(h) GRANT REQUIREMENTS.—Section 5323(o) is amended by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "chapter 6 (other than section 609) of title 23".*

***SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.***

*(a) IN GENERAL.—Section 5324 is amended to read as follows:*

***"§5324. Special provisions for capital projects***

*"(a) RELOCATION PROGRAM REQUIREMENTS.—Financial assistance may be provided under section 5309 only if the Secretary decides that—*

*"(1) an adequate relocation program is being carried out for families displaced by a project; and*

*"(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.*

*"(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—*

*"(1) COOPERATION AND CONSULTATION.—In carrying out the policy of section 5301(e), the Secretary shall cooperate and consult with the Secretaries of the Interior, Health and Human Services, and Housing and Urban Development and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.*

*"(2) PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEWS.—In performing environmental reviews, the Secretary shall review each transcript of a hearing submitted under section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—*

*"(A) the environmental impact of the proposal;*

*"(B) adverse environmental effects that cannot be avoided;*

*"(C) alternatives to the proposal; and*

*"(D) irreversible and irretrievable impacts on the environment.*

*"(3) APPROVAL OF APPLICATIONS FOR ASSISTANCE.—*

*"(A) FINDINGS BY THE SECRETARY.—The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the application and the transcript of any hearing held before a State or local governmental authority under section 5323(b), that—*

*"(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;*

*"(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and*

*"(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.*

*"(B) HEARING.—If a hearing has not been conducted or the Secretary decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.*

*"(C) AVAILABILITY OF FINDINGS.—The Secretary's findings under subparagraph (A) shall be made a matter of public record.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5324 and inserting the following:*

*"5324. Special provisions for capital projects.".*

***SEC. 3025. CONTRACT REQUIREMENTS.***

*(a) IN GENERAL.—Section 5325 is amended—*

*(1) by striking subsections (a) and (b) and inserting the following:*

*"(a) COMPETITION.—Recipients of Federal assistance under this chapter shall conduct all procurement transactions involving such assistance in a manner providing full and open competition, as determined by the Secretary.*

*"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—*

*"(1) PROCEDURES FOR AWARDING CONTRACT.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement of a State.*

"(2) EFFECT OF STATE LAWS.—This subsection does not apply to the extent a State has adopted, before the date of enactment of the Federal Public Transportation Act of 2005, by law a formal procedure for procuring those services.

"(3) ADMINISTRATION OF CONTRACTS.—When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies as follows:

"(A) PERFORMANCE OF AUDITS.—Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulation (part 31 of title 48, Code of Federal Regulations).

"(B) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for one-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) APPLICATION OF RATES.—Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings.

"(D) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient of funds requesting or using the cost and rate data described in paragraph (3) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency that is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances."; and

(2) by adding at the end the following:

"(d) DESIGN-BUILD SYSTEM PROJECTS.—

"(1) DEFINITION.—In this section, the term 'design-build system project' means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) FINANCIAL ASSISTANCE.—Government financial assistance under this chapter may be made available for the capital costs of a design-build system project after the recipient complies with Government requirements.

"(e) MULTIYEAR ROLLING STOCK.—

"(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

"(2) COOPERATION AMONG RECIPIENTS.—The Secretary shall allow at least 2 recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

"(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(1) based on—

"(A) initial capital costs; or

"(B) performance, standardization, life cycle costs, and other factors; or

"(2) with a party selected through a competitive procurement process.

"(g) EXAMINATION OF THE RECORDS.—Upon request, the Secretary, the Comptroller General, or a representative of the Secretary or the Comptroller General shall have access to and the right to examine and inspect all records, documents, papers, including contracts, related to a project for which a grant is made under this chapter.

"(h) GRANT PROHIBITIONS.—A grant may not be used to support a procurement that uses an exclusionary or discriminatory specification.".

(b) CONFORMING AMENDMENTS.—Section 5326, and the item relating to section 5326 in the analysis for chapter 53, are repealed.

### SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) LIMITATIONS.—Section 5327(c) is amended to read as follows:

"(c) LIMITATIONS.—

"(1) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—The Secretary may use not more than .5 percent of amounts made available for a fiscal year to carry out section 5311, not more than .75 percent of amounts made available for a fiscal year to carry out section 5307, and not more than 1 percent of amounts made available for a fiscal year to carry out section 5309 to make contracts for the following activities:

"(A) To oversee the construction of a major project.

"(B) To review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5307, 5309, and 5311.

"(C) To provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

"(2) LIMITATIONS ON APPLICABILITY.—Subsections (a), (b), and (e) do not apply to contracts under this section for activities described in paragraphs (1)(B) and (1)(C).

"(3) GOVERNMENT'S SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.".

### SEC. 3027. INVESTIGATIONS OF SAFETY AND HAZARDS.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

**"§ 5329. Investigation of safety and hazards**

"(a) IN GENERAL.—The Secretary may investigate safety and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) PLANS FOR ELIMINATING, MITIGATING, OR CORRECTING HAZARDS.—If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING FINANCIAL ASSISTANCE.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5329 and inserting the following:

"5329. Investigation of safety and hazards.".

### SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

**"§ 5330. State safety oversight**

"(a) APPLICATION.—This section applies only to—

"(1) States that have rail fixed guideway public transportation systems not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.";

(2) in subsection (d) by inserting "shall ensure uniform safety standards and enforcement and" after "affected States"; and

(3) by striking subsection (f).

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5330 and inserting the following:

"5330. State safety oversight.".

### SEC. 3029. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

(a) DEFINITIONS.—Section 5331(a)(3) is amended by striking the period at the end and inserting the following: "or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.".

(b) TECHNICAL CORRECTIONS.—Subsections (b)(1) and (g) of section 5331 are each amended by striking "or section 103(e)(4) of title 23".

(c) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

### SEC. 3030. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b)(1) is amended by striking "5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)" each place it appears and inserting "5316, 5317, 5318, 5320, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), 5338(g), and 5338(h)".

### SEC. 3031. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

(C) by adding at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by striking subsection (i);

(3) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(4) by inserting after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.";

(5) in subsection (c)(4) (as redesignated by paragraph (3) of this section)—

(A) by striking "subsections (h) and (i)" and inserting "subsection (i)"; and

(B) by striking "5323(c), 5323(e), 5324(c),"; and

(6) by adding at the end of subsection (c) (as redesignated by paragraph (3) of this section) the following:

"(5) NONREGULATORY SUBSTANTIVE POLICY STATEMENTS.—The Secretary shall provide notice and an opportunity for public comment at least 60 days before issuing any nonregulatory substantive policy statements (regardless of the form of issuance), including guidance, policy statements, and regulatory interpretations.".

### SEC. 3032. NATIONAL TRANSIT DATABASE.

(a) IN GENERAL.—Section 5335 is amended—

(1) by striking the section heading and inserting the following:

**"§ 5335. National transit database"**;

(2) by striking subsection (b); and

(3) in subsection (a)—

(A) by striking "(1) To help" and inserting "To help"; and

(B) by striking "(2) The Secretary" and inserting "(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5335 and inserting the following:

"5335. National transit database.".

### SEC. 3033. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.

(a) DISTRIBUTION.—Section 5337 is amended—

(1) by striking the section designation and all that follows before paragraph (1) of subsection (a) and inserting the following:

**"§ 5337. Apportionment based on fixed guideway factors**

"(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under sections 5338(b) and 5338(g) as follows:";

(2) in subsection (a) by striking "(e)(1)" each place it appears and inserting "(e)"; and

(3) in subsection (a) by striking "(e)(2)" each place it appears and inserting "(e)".

(b) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—Section 5337(e) is amended by striking paragraph (1) and all that follows through "(2) Other Standards.—".

(c) CONFORMING AMENDMENT.—The item relating to section 5337 in the table of sections for chapter 53 is amended to read as follows:

"5337. Apportionment based on fixed guideway factors.".

### SEC. 3034. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

**"§ 5338. Authorizations**

"(a) FORMULA GRANTS.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, and 5318 of this chapter, 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program), and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393) $3,132,304,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5308, 5310, 5311, 5316, and 5318 of this chapter, 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program), and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393) $783,076,000 for fiscal year 2004.

"(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

"(i) $4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $125,000,000 shall be available to provide job access and reverse commute formula grants under section 5316;

"(iii) $50,000,000 shall be available to provide clean fuels formula grants under section 5308;

"(iv) $8,000,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(v) $3,100,000 shall be available to carry out bus testing under section 5318;

"(vi) $93,110,751 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(vii) $297,954,404 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(viii) $3,333,364,895 shall be available to provide financial assistance for urbanized areas under section 5307, subject to section 3041(h) of the Federal Public Transportation Act of 2005.

"(2) FISCAL YEARS 2005 THROUGH 2009.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, 5318, and 5320 of this chapter, section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393), and section 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program)—

"(i) $4,133,500,000 for fiscal year 2005;

"(ii) $4,592,000,000 for fiscal year 2006;

"(iii) $4,898,000,000 for fiscal year 2007;

"(iv) $5,223,000,000 for fiscal year 2008; and

"(v) $5,570,000,000 for fiscal year 2009.

"(B) ALLOCATION OF FUNDS FOR BUS TESTING AND OVER-THE-ROAD BUS ACCESSIBILITY.—Of the aggregate of amounts made available by this paragraph for a fiscal year—

"(i) $3,100,000 shall be available to carry out section 5318; and

"(ii) $8,000,000 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS FOR CLEAN FUELS FORMULA GRANT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $75,000,000 for fiscal year 2005 and $100,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 shall be available to carry out section 5308.

"(D) ALLOCATION OF FUNDS FOR JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $150,000,000 for fiscal year 2005, $175,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $200,000,000 for fiscal year 2009 shall be available to carry out section 5316.

"(E) ALLOCATION OF FUNDS FOR NEW FREEDOM PROGRAM.—Of the aggregate of amounts made available by this paragraph, $95,000,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $105,000,000 for fiscal year 2007, $115,000,000 for fiscal year 2008, and $125,000,000 for fiscal year 2009 shall be available to carry out section 5317.

"(F) ALLOCATION OF FUNDS FOR TRANSIT IN THE PARKS PILOT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $8,000,000 for fiscal year 2005, $16,000,000 for fiscal year 2006, $16,000,000 for fiscal year 2007, $16,000,000 for fiscal year 2008, and $16,000,000 for fiscal year 2009 shall be available to carry out section 5320.

"(G) ALLOCATION OF FUNDS FOR NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $4,000,000 for fiscal year 2005, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, $8,000,000 for fiscal year 2008, and $8,000,000 for fiscal year 2009 shall be available to carry out section 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program).

"(H) ALLOCATION OF FUNDS FOR THE ALASKA RAILROAD.—Of the aggregate of amounts made available by this paragraph, $10,000,000 for fiscal year 2005, $11,000,000 for fiscal year 2006, $12,000,000 for fiscal year 2007, $13,000,000 for fiscal year 2008, and $14,000,000 for fiscal year 2009 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307.

"(I) REMAINDER.—Of the remainder of the aggregate amounts made available by this paragraph for a fiscal year after the allocations under subparagraphs (B) through (H) for such fiscal year—

"(i) 2.5 percent shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(ii) 8.0 percent shall be available to provide financial assistance for other than urbanized areas under section 5311; and

"(iii) 89.5 percent shall be available to provide financial assistance for urbanized areas under section 5307, subject to section 3041(h) of the Federal Public Transportation Act of 2005.

"(b) CAPITAL PROGRAM GRANTS IN FISCAL YEAR 2004.—

"(1) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309, $2,499,504,000 for fiscal year 2004.

"(2) FROM GENERAL FUND.—In addition to amounts made available by paragraph (1), there is authorized to be appropriated to carry out section 5309, $624,876,200 for fiscal year 2004.

"(c) PLANNING.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, and 5305, $72,660,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5303, 5304, and 5305, $18,165,000 for fiscal year 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—

"(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, and 5305—

"(i) $96,875,000 for fiscal year 2005;

"(ii) $103,325,000 for fiscal year 2006;

"(iii) $110,200,000 for fiscal year 2007;

"(iv) $117,537,500 for fiscal year 2008; and

"(v) $125,362,500 for fiscal year 2009.

"(B) ALLOCATION OF FUNDS.—Of the funds made available by this paragraph for a fiscal year—

"(i) 82.72 percent shall be available for metropolitan planning under sections 5303, 5304, and 5305 (other than 5305(e)); and

"(ii) 17.28 percent shall be available for State planning under section 5305(e).

"(d) RESEARCH.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, 5322, and 5335, $41,888,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5311(b), 5312, 5313, 5314, 5315, 5322, and 5335, $10,472,000 for fiscal year 2004.

"(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated pursuant to this paragraph for fiscal year 2004—

"(i) not less than $4,500,000 shall be available to carry out programs under the National Transit Institute under section 5315;

"(ii) not less than $3,500,000 shall be available to carry out section 5335;

"(iii) not less than $3,500,000 shall be available to carry out section 5314(a)(2); and

"(iv) not less than $8,860,000 shall be available to carry out section 5313(a).

"(2) FISCAL YEARS 2005 THROUGH 2009.—

"(A) FROM THE GENERAL FUND.—There is authorized to be appropriated to carry out sections 5312, 5313, 5314, 5315, 5322, and 5335—

"(i) $54,500,000 for fiscal year 2005;

"(ii) $57,000,000 for fiscal year 2006;

"(iii) $59,500,000 for fiscal year 2007;

"(iv) $62,000,000 for fiscal year 2008; and

"(v) $64,500,000 for fiscal year 2009.

"(B) ALLOCATION OF FUNDS.—Of the funds appropriated pursuant to this paragraph for a fiscal year—

"(i) not less than $4,500,000 shall be available to carry out programs under the National Transit Institute under section 5315;

"(ii) not less than $3,500,000 shall be available to carry out section 5335; and

"(iii) not less than $3,500,000 shall be available to carry out section 5314(a)(2).

"(C) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Of the funds appropriated pursuant to this paragraph, $9,000,000 for fiscal year 2005, $9,500,000 for fiscal year 2006, $10,000,000 for fiscal year 2007, $10,500,000 for fiscal year 2008, and $11,000,000 for fiscal year 2009 shall be available to carry out section 5313(a).

"(D) REMAINDER.—The remainder of the funds appropriated pursuant to this paragraph for a fiscal year after the allocations under subparagraphs (A) and (B) for such fiscal year shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(e) UNIVERSITY TRANSPORTATION RESEARCH.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506, $6,400,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5505 and 5506, $1,600,000 for fiscal year 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—Subject to paragraph (3), there is authorized to be appropriated to carry out sections 5505 and 5506, $8,000,000 for each of fiscal years 2005 through 2009.

"(3) FUNDING OF UNIVERSITY TRANSPORTATION CENTERS.—

"(A) IN GENERAL.—Of the amounts made available by and appropriated under paragraphs (1) and (2) $2,000,000 for each of fiscal years 2004, 2005, and 2006 shall be available for the institution identified in section 5505(j)(3)(E), as so in effect.

"(B) USE OF FUNDS.—Funds made available for the institution identified in subparagraph (A)(iii) shall be used to make grants under 5506(f)(5) for that institution

"(C) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.

"(f) ADMINISTRATION.—

"(1) FISCAL YEAR 2004.—

"(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334, $60,044,000 for fiscal year 2004.

"(B) FROM GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5334, $15,011,000 for fiscal year 2004.

"(2) FISCAL YEARS 2005 THROUGH 2009.—There are authorized to be appropriated to carry out section 5334—

"(A) $78,000,000 for fiscal year 2005;

"(B) $80,000,000 for fiscal year 2006;

"(C) $82,000,000 for fiscal year 2007;

"(D) $84,000,000 for fiscal year 2008; and

"(E) $86,000,000 for fiscal year 2009.

"(g) TRUST FUND CAPITAL PROGRAM GRANTS.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5309(m)(2)(B)(i) and 5309(m)(2)(B)(iii)—

"(1) $1,884,255,000 for fiscal year 2005;

"(2) $2,080,005,000 for fiscal year 2006;

"(3) $2,210,580,000 for fiscal year 2007;

"(4) $2,366,677,500 for fiscal year 2008; and

"(5) $2,518,882,500 for fiscal year 2009.

"(h) GENERAL FUND CAPITAL PROGRAM GRANTS.—There are authorized to be appropriated to carry out sections 5309(m)(2)(A) and 5309(m)(2)(B)(ii)—

"(1) $1,391,170,000 for fiscal year 2005;

"(2) $1,561,670,000 for fiscal year 2006;

"(3) $1,673,720,000 for fiscal year 2007;

"(4) $1,777,785,000 for fiscal year 2008; and

"(5) $1,904,255,000 for fiscal year 2009.

"(i) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(l)(A), (a)(2), (b)(1), (c)(2), (d)(1)(A), (e)(1)(A), (f)(1)(A), or (g) is a contractual obligation of the Government to pay the Government's share of the cost of the project.

"(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(l)(B), (b)(2), (c)(1)(B), (d)(1)(B), (d)(2), (e)(1)(B), (e)(2), (f)(1)(B), (f)(2), or (h) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

"(j) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a) through (h) shall remain available until expended.".

### SEC. 3035. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) IN GENERAL.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392) is amended—

(1) by striking the section heading and inserting the following:

**"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM."**;

(2) by striking subsection (e) and inserting the following:

"(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section. The Federal share of the costs for a project shall not exceed 80 percent of the project cost."; and

(3) by striking subsection (g) and inserting the following:

"(g) FUNDING.—

"(1) INTERCITY, FIXED ROUTE OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

"(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century (112 Stat. 107) is amended by striking the item relating to section 3038 and inserting the following:

"3038. Over-the-road bus accessibility program.".

### SEC. 3036. UPDATED TERMINOLOGY.

(a) AMENDMENTS TO CHAPTER 53.—Chapter 53 is amended—

(1) in the chapter heading by striking "**MASS**" and inserting "**PUBLIC**";

(2) in section 5310(h) by striking "Mass" and inserting "Public";

(3) in the subsection heading for section 5331(b) by striking "MASS" and inserting "PUBLIC"; and

(4) by striking "mass" each place it appears in such chapter before "transportation" and inserting "public", except in sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and 5323(a)(1)(B).

(b) TABLE OF CHAPTERS.—The table of chapters for subtitle III is amended in the item relating to chapter 53 by striking "**MASS**" and inserting "**PUBLIC**".

### SEC. 3037. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.

(a) EXISTING FULL FUNDING GRANT AGREEMENTS.—The following projects are authorized for final design and construction for existing full funding grant agreements in not less than the amount specified for each fiscal year:

(1) Baltimore—Central LRT Double Tracking $39,367,154 for fiscal year 2004, $28,777,920 for fiscal year 2005, and $12,655,664 for fiscal year 2006.

(2) Chicago—Chicago Transit Authority Douglas Branch Reconstruction $83,655,202 for fiscal year 2004, $84,320,000 for fiscal year 2005, and $45,825,190 for fiscal year 2006.

(3) Chicago—Chicago Transit Authority Ravenswood Expansion Project $9,841,789 for fiscal year 2004, $39,680,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $40,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, and $65,152,615 for fiscal year 2009.

(4) Cleveland—Euclid Corridor Transportation Project $10,825,967 for fiscal year 2004, $24,800,000 for fiscal year 2005, and $24,974,513 for fiscal year 2006.

(5) Dallas—North Central LRT Extension $29,684,097 for fiscal year 2004.

(6) Denver Southeast Corridor LRT $78,734,308 for fiscal year 2004, $79,360,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, and $77,192,758 for fiscal year 2008.

(7) Fort Lauderdale—Tri-Rail Commuter Rail Upgrade $18,118,733 for fiscal year 2004 and $11,318,230 for fiscal year 2005.

(8) Los Angeles—Metro Gold Line Eastside Extension $59,520,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, $80,000,000 for fiscal year 2008, and $80,000,000 for fiscal year 2009.

(9) Memphis—Medical Center Extension $9,101,281 for fiscal year 2004.

(10) Metra North Central Corridor Commuter Rail $19,177,300 for fiscal year 2004, $20,000,000 for fiscal year 2005, and $18,476,237 for fiscal year 2006.

(11) Metra South West Corridor Commuter Rail $15,000,000 for fiscal year 2004, $15,500,000 for fiscal year 2005, and $11,781,395 for fiscal year 2006.

(12) Metra Union Pacific West Line Extension $17,000,000 for fiscal year 2004, $12,000,000 for

*fiscal year 2005, and $14,285,749 for fiscal year 2006.*

*(13) Minneapolis—Hiawatha Corridor LRT $73,793,730 for fiscal year 2004 and $33,428,865 for fiscal year 2005.*

*(14) New Jersey Urban Core—Hudson-Bergen LRT MOS-2 $98,417,885 for fiscal year 2004, $99,200,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, and $53,202,995 for fiscal year 2008.*

*(15) New Jersey Urban Core—Newark-Elizabeth Rail Link MOS-1 $22,209,000 for fiscal year 2004, $316,907 for fiscal year 2005, and $1,025,169 for fiscal year 2006.*

*(16) New Orleans MOS-1 Canal Street $22,922,877 for fiscal year 2004 and $16,613,047 for fiscal year 2005.*

*(17) Phoenix—Central Phoenix/East Valley LRT $12,794,325 for fiscal year 2004, $74,400,000 for fiscal year 2005, $90,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $90,000,000 for fiscal year 2008, and $90,000,000 for fiscal year 2009.*

*(18) Pittsburgh—Stage II LRT Reconstruction $31,733,314 for fiscal year 2004 and $1,131,666 for fiscal year 2005.*

*(19) Portland—Interstate MAX LRT Extension $76,273,861 for fiscal year 2004, $23,292,160 fiscal year 2005, and $18,292,550 for fiscal year 2006.*

*(20) Salt Lake City—Medical Center $30,178,231 for fiscal year 2004 and $8,765,421 for fiscal year 2005.*

*(21) San Diego—Mission Valley East LRT Extension $63,971,625 for fiscal year 2004, $80,986,880 for fiscal year 2005, and $8,353,424 for fiscal year 2006.*

*(22) San Diego—Oceanside Escondido Rail Corridor $47,240,585 for fiscal year 2004, $54,560,000 fiscal year 2005, and $12,211,061 for fiscal year 2006.*

*(23) San Francisco—BART Extension to San Francisco Airport $98,417,890 for fiscal year 2004, $99,200,000 fiscal year 2005, and $82,655,680 for fiscal year 2006.*

*(24) San Juan—Tren Urbano $19,683,577 for fiscal year 2004, $44,263,040 fiscal year 2005, and $10,555,900 for fiscal year 2006.*

*(25) Seattle—Central Link Initial Segment LRT $73,813,414 for fiscal year 2004, $79,360,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, $70,000,000 for fiscal year 2008, and $24,028,149 for fiscal year 2009.*

*(26) Washington DC/MD—Largo Metrorail Extension $63,971,625 for fiscal year 2004 and $76,156,450 for fiscal year 2005.*

*(b) FINAL DESIGN AND CONSTRUCTION.—The following projects are authorized for final design and construction for fiscal years 2004 through 2009 under paragraphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m) of title 49, United States Code:*

*(1) Baltimore—MARC Commuter Rail Improvements.*

*(2) Boston—Silver Line BRT Phase III.*

*(3) Charlotte—South Corridor LRT.*

*(4) Dallas Area Rapid Transit—Northwest-Southeast LRT Extension.*

*(5) Delaware—Wilmington-Newark Commuter Rail Improvements.*

*(6) Denver—West Corridor LRT.*

*(7) El Paso—Rapid Transit (SMART) Starter Line.*

*(8) Harrisburg—Corridor One Commuter Rail (MOS-1).*

*(9) Kansas City, Missouri—Southtown BRT.*

*(10) Las Vegas—Resort Corridor Downtown Extension Project.*

*(11) Los Angeles MTA—Exposition LRT.*

*(12) Miami-Dade Transit—North Corridor.*

*(13) Minneapolis—North Star Corridor.*

*(14) Nashville, Tennessee Commuter Rail.*

*(15) New Britain-Hartford Busway Project.*

*(16) New Orleans—Desire Corridor Streetcar.*

*(17) New York—Long Island Railroad East Side Access Project.*

*(18) New York—Second Avenue Subway.*

*(19) Norfolk Light Rail.*

*(20) Northern Virginia—Dulles Corridor Extension to Wiehle Avenue (Phase 1).*

*(21) Orange County, California—Center Line LRT.*

*(22) Philadelphia—Schuylkill Valley Metro-Rail.*

*(23) Pittsburgh—North Shore Connector.*

*(24) Portland, Oregon—South Corridor I-205/Portland Mall LRT.*

*(25) Providence—South County Commuter Rail.*

*(26) Sacramento—South Corridor LRT Extension (Phase 2), Meadowview to Consumnes River College.*

*(27) Salt Lake City—Weber County to Salt Lake City Commuter Rail.*

*(28) San Diego—Mid-Coast Extension.*

*(29) San Francisco Muni—Third Street LRT-Phase I/II.*

*(30) Santa Clara Valley Transit Authority—Silicon Valley Rapid Transit Corridor.*

*(31) Tampa Bay—Regional Rail.*

*(32) Triangle Transit Authority, North Carolina—Regional Rail Project.*

*(33) Washington County, Oregon—Wilsonville to Beaverton Commuter Rail.*

*(34) Wasilla-Girdwood, Alaska—Commuter Rail.*

*(c) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—The following projects are authorized for alternatives analysis and preliminary engineering for fiscal years 2004 through 2009 under paragraphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m) of title 49, United States Code:*

*(1) Albuquerque—High Capacity Corridor.*

*(2) Ann Arbor/Detroit—Commuter Rail.*

*(3) Atlanta—MARTA Memorial Drive Bus Rapid Transit.*

*(4) Atlanta—GRTA I-75 Corridor, Downtown Atlanta—Cherokee County.*

*(5) Atlanta—Georgia 400 North Line Corridor Project.*

*(6) Atlanta—Belt Line C-Loop.*

*(7) Atlanta—I-20 South DeKalb-Lindbergh Corridor Project.*

*(8) Austin—San Antonio I-35 Commuter Rail.*

*(9) Austin—Rapid Bus Project.*

*(10) Austin—Regional Commuter Rail.*

*(11) Baltimore Light Rail System Extensions.*

*(12) Bernillo-Santa Fe—New Mexico Commuter Rail.*

*(13) Birmingham, Alabama—Transit Corridor.*

*(14) Boise—Downtown Circulator.*

*(15) Boston—Lechmere Transit Improvement to Somerville and Medford.*

*(16) Boston—North Shore Corridor and Blue Line Extension.*

*(17) Boston—North/South Rail Link.*

*(18) Boston—Urban Ring BRT.*

*(19) Broward County, Florida—Bus Rapid Transit.*

*(20) Central Florida Commuter Rail System.*

*(21) Central Phoenix—East Valley Corridor LRT Extensions.*

*(22) Charlotte—North Corridor Project.*

*(23) Charlotte—Northeast Corridor Project.*

*(24) Charlotte—South Corridor LRT extension to Rock Hill, South Carolina.*

*(25) Charlotte—Southeast-West Corridor Project.*

*(26) Charlotte—Center City Streetcar Project.*

*(27) Chicago—Cermack Road BRT.*

*(28) Chicago CTA—Red Line Extension.*

*(29) Chicago CTA—Chicago Transit Hub (Circle Line-Ogden Streetcar).*

*(30) Chicago CTA—Orange Line Extension (Midway Airport to Ford City).*

*(31) Chicago CTA—Southeast Service-La Salle Street Station to Baltimore Race Track.*

*(32) Chicago CTA—Yellow Line Extension (Dempster-Old Orchard).*

*(33) Chula Vista, California—Bus Rapid Transit.*

*(34) Clark County, Washington—MAX Extension.*

*(35) Cleveland-Akron-Canton (Northeast Ohio) Commuter Rail.*

*(36) Columbia, South Carolina—Light Rail.*

*(37) Contra-Costa—BART Extension.*

*(38) Corpus Christi—Downtown Rail Trolley.*

*(39) Dallas Area Rapid Transit—Dallas Central Business District.*

*(40) Dallas Area Rapid Transit—Rowlett LRT Extension.*

*(41) Dallas Area Rapid Transit—Beltline to DFW Airport.*

*(42) Dayton—Aviation Heritage Corridor Streetcar Project.*

*(43) Denton County Transportation Authority, Texas—Fixed Guideway Project.*

*(44) Denver—Gold Line Extension to Arvada.*

*(45) Denver—United States Route 36 Transit Corridor.*

*(46) Denver—North Metro Corridor to Thornton.*

*(47) Denver—East Corridor to DIA Airport.*

*(48) Denver—I-225 Transit Corridor.*

*(49) Denver—Southeast Corridor Extension to Lone-Tree/Ridgegate.*

*(50) Denver—Southwest Corridor Extension to C470/Lucent Boulevard.*

*(51) Detroit—Center City Loop.*

*(52) District of Columbia—Light Rail Starter Line.*

*(53) Fitchburg, Massachusetts—Commuter Rail Extensions and Improvements.*

*(54) Fort Lauderdale—Downtown Rail Link.*

*(55) Fort Lauderdale—Transit Project from NW 215th and 79th Streets.*

*(56) Fort Worth—Cottonbelt Commuter Rail to DFW.*

*(57) Fort Worth—Trinity Railway Express Commuter Rail Extensions.*

*(58) Galveston—Rail Trolley Extension.*

*(59) Glendale, California—Downtown Streetcar.*

*(60) Grand Rapids—Fixed Guideway Corridor Project.*

*(61) Guam—Tumon Bay-Airport Light Rail.*

*(62) Honolulu—Rapid Transit Project.*

*(63) Houston Advanced Transit Program Light Rail.*

*(64) Indianapolis—System of Metropolitan Area Rapid Transit.*

*(65) Jacksonville—East-Southwest BRT.*

*(66) Jacksonville—North-Southeast BRT.*

*(67) Kansas City, Missouri-Lawrence, Kansas—Commuter Rail.*

*(68) Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin).*

*(69) Kenosha, Wisconsin Streetcar Expansion Project.*

*(70) King County, Washington—I-405 Corridor Bus Rapid Transit.*

*(71) Lakeville, Minnesota—Cedar Avenue Corridor Bus Rapid Transit.*

*(72) Lane County, Oregon—Bus Rapid Transit, Phase 2.*

*(73) Little Rock—River Rail Streetcar Extensions.*

*(74) Little Rock—West Little Rock Commuter Rail.*

*(75) Long Island Railroad—Nassau Hub.*

*(76) Lorain-Cleveland Commuter Rail.*

*(77) LOSSAN Del Mar-San Diego—Rail Corridor Improvements.*

*(78) Lovejoy to Griffin, Georgia Commuter Rail.*

*(79) Madison and Dane Counties, Wisconsin—Transport 2020 Commuter Rail.*

*(80) Maryland—I-270 Corridor Cities Transitway.*

*(81) Maryland—Route 5 Corridor to Waldorf.*

*(82) Maryland—Silver Spring Capacity Improvements.*

*(83) Memphis—Downtown Airport Corridor.*

*(84) Memphis Regional Rail Plan.*

*(85) Memphis, Medical Center Rail Extension to Airport.*

*(86) Metra BNSF Naperville to Aurora Corridor Extension and Improvements.*

*(87) Metra South Suburban Airport Commuter Rail Extension.*

*(88) Metra SouthEast Service Line Commuter Rail.*

*(89) Metra STAR Line Inter-Suburban Commuter Rail.*

*(90) Metra UP Northwest Line Core Capacity Upgrades.*

*(91) Metra UP West Line Core Capacity Upgrades.*

*(92) Metra-West Line Extension, Elgin to Rockford.*

*(93) Miami-Dade Transit—Douglas Road Extension.*

*(94) Miami-Dade Transit—East-West Corridor.*

*(95) Miami-Dade Transit—Kendall Corridor.*

*(96) Miami-Dade Transit—Northeast Corridor.*

*(97) Miami-Dade Transit—South Dade Corridor.*

*(98) Miami-Dade Transit—Miami Intermodal Center to Earlington Heights.*

*(99) Miami—Downtown Streetcar Project.*

*(100) Middletown-South Fallsburg, New York, Passenger Rail.*

*(101) Minneapolis-St. Paul—Central Corridor Transit Project.*

*(102) Missouri/Kansas—Interstate 35 Transit Corridor.*

*(103) Monterey County, California—Commuter Rail.*

*(104) Montgomery and Prince George's Counties, Maryland—Bi-County Transitway (Purple Line).*

*(105) Nashua—Commuter Rail.*

*(106) Nashua-Manchester—Commuter Rail Extension.*

*(107) Nashville—Area Transit Corridors.*

*(108) Nashville—Southeast Rail Corridor.*

*(109) Nashville Tennessee Commuter Rail.*

*(110) Nassau and Queens Counties, New York—LIRR Main Line Third Track Project.*

*(111) New Haven, Connecticut-Hartford, Connecticut-Springfield, Massachusetts Commuter Line.*

*(112) New Jersey Trans-Hudson Midtown Corridor.*

*(113) New Jersey Transit—Northeast Corridor Trans-Hudson Commuter Rail Improvements.*

*(114) New Jersey Transit—Morris/Essex/Boonton Trans-Hudson Commuter Rail Improvements.*

*(115) New Jersey Transit—New York Susquehanna and Western RR Commuter Extension.*

*(116) New Jersey Transit—West Trenton Line Commuter Line Service Extension.*

*(117) New Jersey Urban Core.*

*(118) New Orleans—Airport-CBD Commuter Rail.*

*(119) New York—Rockaway-Brooklyn Army Terminal-Manhattan Ferry Service.*

*(120) New York—Staten Island to Manhattan High-Speed Ferry Service Extension.*

*(121) New York—Stewart Airport Rail Access.*

*(122) Newburg, New York—LRT System.*

*(123) North Carolina Piedmont Authority Regional Rail—Greensboro to Winston-Salem.*

*(124) Northern Indiana—Commuter District Line.*

*(125) Northern Indiana—West Lake Commuter Rail Link (South Shore Commuter Rail).*

*(126) Norfolk—Naval Station Corridor.*

*(127) Norfolk-Petersburg—United States Route 460 Commuter Rail Project.*

*(128) Northern Virginia—Crystal City Potomac Yards Transit.*

*(129) Northern Virginia—Columbia Pike Rapid Transit Project.*

*(130) Northern Virginia—Dulles Corridor Extension, Phase 2.*

*(131) Northern Virginia—Richmond Highway (Route 1) Rapid Transit Project.*

*(132) Orlando-Orange County, Florida—Light Rail Project.*

*(133) Philadelphia—Navy Yard Transit Extension.*

*(134) Philadelphia—52nd Street City Connector Project.*

*(135) Philadelphia—Route 100 Rapid Trolley Extension.*

*(136) Philadelphia—Broad Street Subway Line Extension.*

*(137) Pinellas Mobility Initiative Bus Rapid Transit.*

*(138) Pittsburgh—Allegheny and Armstrong Counties, Commuter Rail.*

*(139) Pittsburgh—East-West Corridor Rapid Transit.*

*(140) Pittsburgh—Martin Luther King, Jr. Busway Extension.*

*(141) Portland Streetcar Extensions.*

*(142) Provo-Orem Utah—Bus Rapid Transit.*

*(143) Quakertown-Stoney Creek, Pennsylvania—Rail Restoration.*

*(144) Raritan Valley, New Jersey—Commuter Rail.*

*(145) Reno, Nevada—Virginia Street Bus Rapid Transit Project.*

*(146) Riverside County, California—Perris Valley Line Metrolink Extension.*

*(147) Roaring Fork Valley, Colorado—Bus Rapid Transit.*

*(148) Rock Island, Illinois—Quad Cities Rapid Transit System.*

*(149) Sacramento—Regional Rail, Auburn to Oakland.*

*(150) Sacramento—Downtown/Natomas Airport Transit Corridor.*

*(151) St. Paul-Hastings—Red Rock Corridor Commuter Rail Project.*

*(152) Salt Lake City—Airport to University LRT.*

*(153) Salt Lake City—Delta Center to Gateway Intermodal Center LRT Extension.*

*(154) Salt Lake City—Draper to Sandy LRT Extension.*

*(155) Salt Lake City—TRAX Capacity Improvements.*

*(156) Salt Lake City—West Valley City LRT Extension.*

*(157) Salt Lake City—West Jordan LRT extension.*

*(158) San Antonio—Bus Rapid Transit.*

*(159) San Diego—Sprinter Rail Line Extension Project.*

*(160) San Francisco—BART Extension to Livermore.*

*(161) San Francisco—BART Extension to Oakland International Airport.*

*(162) San Francisco—MUNI Geary Boulevard Bus Rapid Transit.*

*(163) San Gabriel Valley—Gold Line Foothill Extension, Pasadena to Montclair.*

*(164) San Joaquin Regional Rail Commission Commuter Rail (Altamont Commuter Express).*

*(165) San Juan Tren Urbano—Extension from Rio Piedras to Carolina.*

*(166) San Juan—Tren Urbano Minillas Extension.*

*(167) Santa Fe—El Dorado Rail Link.*

*(168) Seattle—Monorail Project.*

*(169) Seattle—Link LRT Extensions.*

*(170) Seattle—Sound Transit Commuter Rail.*

*(171) Seattle—Sound Transit Regional Express Bus.*

*(172) Sevierville to Pigeon Ford, Tennessee—Bus Rapid Transit.*

*(173) Sonoma/Marin (SMART) Commuter Rail, California.*

*(174) South Carolina High Speed Rail Corridor.*

*(175) Southern California High Speed Regional Transit.*

*(176) St. Louis Metro Link—Scott AFB to Mid America Airport.*

*(177) St. Louis—East/West Gateway.*

*(178) St. Louis—Metro Link Northside Daniel Boone Project.*

*(179) St. Louis—Metro South Corridor.*

*(180) St. Louis—University Downtown Trolley.*

*(181) Stamford, Connecticut—Urban Transitway Phase II.*

*(182) Tampa—Bus Rapid Transit Improvements.*

*(183) Toledo, Ohio—CBD to Zoo.*

*(184) Toledo, Ohio—University Corridor.*

*(185) Trenton Trolley.*

*(186) Tri-Rail Dolphin Extension.*

*(187) Tri-Rail Florida East Coast Commuter Rail Extension.*

*(188) Tri-Rail Jupiter Extension.*

*(189) Tri-Rail Scripps Corridor Extension Project.*

*(190) Tucson—Old Pueblo Trolley Expansion.*

*(191) Vancouver—Interstate MAX Extension to Clark County, Washington.*

*(192) Virginia Beach—Bus Rapid Transit.*

*(193) Virginia Railway Express Capacity Improvements.*

*(194) Washington State Ferries and Ferry Facilities.*

*(195) Washington State—Issaquah Valley Trolley Project.*

*(196) Williamsburg-Newport News—Peninsula Rail Transit.*

*(d) Rules Relating to Funding.—*

*(1) SUBSECTION (a) PROJECTS.—*

*(A) IN GENERAL.—The Secretary is authorized to expend funds made available under section 5309(m) of title 49, United States Code, for final design and construction of projects authorized by subsection (a) as existing full funding grant agreements.*

*(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (a): $1,065,927,770 for fiscal year 2004, $1,071,034,586 for fiscal year 2005, $731,532,532 for fiscal year 2006, $490,000,000 for fiscal year 2007, $410,395,753 for fiscal year 2008, and $259,180,764 for fiscal year 2009.*

*(2) SUBSECTION (b) PROJECTS.—*

*(A) IN GENERAL.—Projects authorized by subsection (b) for final design and construction are also authorized for alternatives analysis and preliminary engineering.*

*(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (b): $30,579,750 for fiscal year 2004, $186,475,050 for fiscal year 2005, $681,268,504 for fiscal year 2006, $1,024,856,176 for fiscal year 2007, $1,199,242,825 for fiscal year 2008, and $1,465,646,690 for fiscal year 2009.*

*(C) PRIORITY.—In making funds available under subparagraph (B), the Secretary shall first make such funds available for any full funding grant agreement executed by the Secretary in fiscal year 2005 after the date of enactment of this Act and for any full funding grant agreement executed by the Secretary in the amount indicated in fiscal years 2005 through 2009 in the amount indicated in the "Schedule of Federal Funds for the Project" included in such agreement.*

*(3) SUBSECTION (c) PROJECTS.—*

*(A) IN GENERAL.—Effective October 1, 2007, projects authorized by subsection (c) for alternatives analysis and preliminary engineering are also authorized for final design and construction.*

*(B) MAXIMUM FUNDING LEVELS.—The Secretary shall make available not more than the following amounts for projects authorized by subsection (c): $95,348,480 for fiscal year 2004, $109,348,664 for fiscal year 2005, $122,852,264 for*

*fiscal year 2006, and $131,726,624 in fiscal year 2007.*

*(C) MAXIMUM FUNDING LEVELS FOR ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In fiscal years 2008 and 2009, the Secretary shall make available not more than the following amounts for projects authorized by subsection (b), and projects authorized by subsection (c), to conduct alternatives analysis and preliminary engineering activities: $139,968,572 in fiscal year 2008 and $149,984,996 in fiscal year 2009.*

*(e) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (112 Stat. 380; 105 Stat. 2122) is amended—*

*(1) by striking "associated components to and at the contiguous New Jersey Meadowlands Sports Complex)," and inserting "to and at the contiguous New Jersey Meadowlands Sports Complex), including a connection to the Hudson River Waterfront Transportation System, the Lackawanna Cutoff,"; and*

*(2) by striking "in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131)" and inserting "from Lakehurst to the Northeast Corridor or the New Jersey Coast Line".*

*(f) NEW JERSEY TRANS-HUDSON MIDTOWN CORRIDOR.—Project elements of the New Jersey Trans-Hudson Midtown Corridor advanced with 100 percent non-Federal funds shall be given consideration by the Federal Transit Administration when evaluating the local share of the project in the new starts rating process, including the purchase of bilevel rail equipment.*

### *SEC. 3038. PROJECTS FOR BUS AND BUS-RELATED FACILITIES.*

*Of the amounts made available to carry out section 5309(m)(2)(B)(iii) of title 49, United States Code, for each of fiscal years 2006 through 2008, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:*

| *Projects* | *FY 06* | *FY 07* | *FY 08* |
|---|---|---|---|
| *1. Glendale, CA Purchase of CNG Buses for Glendale Beeline Transit System* | *$147,840* | *$152,460* | *$161,700* |
| *2. Detroit Fare Collection System* | *$1,280,000* | *$1,320,000* | *$1,400,000* |
| *3. Flint, MI Construct Intermodal Hub at Bishop International Airport* | *$640,000* | *$660,000* | *$700,000* |
| *4. Des Plaines, Wauconda, Cook and Lake Counties, IL Rand Road Transit Signal Priority* | *$256,000* | *$264,000* | *$280,000* |
| *5. Indianapolis, IN Downtown transit center* | *$4,480,000* | *$4,620,000* | *$4,900,000* |
| *6. Los Angeles, CA, Construction of Intermodal Transit Center at California State University Los Angeles* | *$252,800* | *$260,700* | *$276,500* |
| *7. Columbus, OH—Central Ohio Transity Authority Paratransit Facility* | *$640,000* | *$660,000* | *$700,000* |
| *8. Silver Spring, MD Construct Silver Spring Transit Center in downtown Silver Spring* | *$1,168,000* | *$1,204,500* | *$1,277,500* |
| *9. Detroit, MI Enclosed heavy-duty maintenance facility with full operational functions for up to 300 buses* | *$1,440,000* | *$1,485,000* | *$1,575,000* |
| *10. Bronx, NY Wildlife Conservation Society intermodal transportation facility at the Bronx Zoo* | *$160,000* | *$165,000* | *$175,000* |
| *11. Construct pedestrian and bicycle amenities on Seawall Blvd Galveston, Tx* | *$960,000* | *$990,000* | *$1,050,000* |
| *12. Hoboken, NJ Rehabilitation of Hoboken Intermodal Terminal* | *$320,000* | *$330,000* | *$350,000* |
| *13. Newark, NJ Penn Station Intermodal Improvements including the rehabilitation of boarding areas* | *$320,000* | *$330,000* | *$350,000* |
| *14. Orlando, Florida—LYNX Bus Fleet Expansion Program* | *$288,000* | *$297,000* | *$315,000* |
| *15. Fairfax County, VA Richmond Highway (U.S. Route 1) Public Transportation Improvements* | *$640,000* | *$660,000* | *$700,000* |
| *16. Portland, OR Renovation of Union Station, including structural reinforcement and public safety upgrades* | *$32,000* | *$33,000* | *$35,000* |
| *17. Davis, CA Davis Multi-Modal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service* | *$320,000* | *$330,000* | *$350,000* |
| *18. Reno-Sparks, Nevada—Intermodal Transportation Terminals and Related Development* | *$1,280,000* | *$1,320,000* | *$1,400,000* |
| *19. Bar Harbor, ME Purchase new buses to enhance commuting near the Jackson Labs* | *$96,000* | *$99,000* | *$105,000* |
| *20. Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo* | *$320,000* | *$330,000* | *$350,000* |
| *21. Hingham, MA Hingham Marine Intermodal Center Improvements: Enhance public transportation infrastructure/parking* | *$2,880,000* | *$2,970,000* | *$3,150,000* |
| *22. Philadelphia, PA Philadelphia Zoo Intermodal Transportation project w/parking consolidation, pedestrian walkways, public transportation complements & landscape improvements to surface parking lots* | *$1,600,000* | *$1,650,000* | *$1,750,000* |
| *23. Construct intermodal transportation & parking facility, City of Winter Park* | *$160,000* | *$165,000* | *$175,000* |
| *24. Roma, TX Bus Facility* | *$168,000* | *$173,250* | *$183,750* |
| *25. New York City, NY First Phase Implementation of Bus Rapid Transit System* | *$320,000* | *$330,000* | *$350,000* |
| *26. Scottsdale, Arizona—Construct intermodal center* | *$640,000* | *$660,000* | *$700,000* |
| *27. Sonoma County, CA Purchase of CNG buses* | *$160,000* | *$165,000* | *$175,000* |
| *28. Camden, NJ Construction of the Camden County Intermodal Facility in Cramer Hill* | *$320,000* | *$330,000* | *$350,000* |
| *29. Sandy Hook, NJ National Park Service - Construct year-round ferry dock at Sandy Hook Unit of Gateway National Recreation Area* | *$320,000* | *$330,000* | *$350,000* |
| *30. Sevier County, Tennessee—U.S. 441. bus rapid transit* | *$80,000* | *$82,500* | *$87,500* |
| *31. St. Augustine, Florida—Intermodal Transportation and Parking Facility* | *$320,000* | *$330,000* | *$350,000* |
| *32. Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District)* | *$640,000* | *$660,000* | *$700,000* |
| *33. Warren, PA—Construct Intermodal Transportation Center and related pedestrian and landscape imporovements* | *$320,000* | *$330,000* | *$350,000* |
| *34. Toledo, OH TARTA/TARPS Passenger Intermodal Facility construction* | *$2,400,000* | *$2,475,000* | *$2,625,000* |
| *35. Union City, CA Intermodal Station, Phase 1: Modify BART station* | *$1,360,000* | *$1,402,500* | *$1,487,500* |
| *36. Los Angeles, CA Wilshire-Vermont subway station reconstruction* | *$320,000* | *$330,000* | *$350,000* |
| *37. Lancaster, PA—bus replacement* | *$304,000* | *$313,500* | *$332,500* |
| *38. Monmouth County, NJ Construction of main bus facility for Freehold Township, including a terminal and repair shop* | *$640,000* | *$660,000* | *$700,000* |
| *39. Monrovia, California—Transit Village Project* | *$960,000* | *$990,000* | *$1,050,000* |
| *40. Duluth, MN Downtown Duluth Area Transit facility improvements* | *$640,000* | *$660,000* | *$700,000* |
| *41. Brooklyn, NY New Urban Center—Broadway Junction Intermodal Center* | *$307,200* | *$316,800* | *$336,000* |
| *42. Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility* | *$640,000* | *$660,000* | *$700,000* |
| *43. Needles, California—El Garces Intermodal Facility* | *$640,000* | *$660,000* | *$700,000* |
| *44. Bridgeport, Connecticut—Greater Bridgeport Transit Authority Bus Facility* | *$160,000* | *$165,000* | *$175,000* |
| *45. Palm Springs, California— Sunline Transit bus purchase* | *$160,000* | *$165,000* | *$175,000* |
| *46. National Park Service - Design and construct 2.1-mile segment to complete Sandy Hook multi-use pathway in Sandy Hook, NJ* | *$320,000* | *$330,000* | *$350,000* |
| *47. Phoenix, AZ Construct City of Phoenix paratransit facility (Dial-a-Ride)* | *$320,000* | *$330,000* | *$350,000* |
| *48. Project provides for the engineering and construction of a transportation center in Paoli, Chester County* | *$320,000* | *$330,000* | *$350,000* |
| *49. Columbus, Georgia—Buses & Bus Facilities* | *$310,080* | *$319,770* | *$339,150* |
| *50. Cleveland, Ohio—University Circle intermodal facility* | *$2,720,000* | *$2,805,000* | *$2,975,000* |
| *51. Cleveland, OH acquisition of buses Greater Cleveland Regional Transit Authority* | *$320,000* | *$330,000* | *$350,000* |
| *52. Greensboro, North Carolina—Replacement buses* | *$1,849,600* | *$1,907,400* | *$2,023,000* |
| *53. Johnson Co., KS Bus and bus related facilities [I-35. corridor], Johnson Co. Transit* | *$640,000* | *$660,000* | *$700,000* |
| *54. City of Alameda, CA Plan, design, and construct intermodal facility* | *$640,000* | *$660,000* | *$700,000* |
| *55. New Orleans, LA Intermodal Riverfront Center* | *$160,000* | *$165,000* | *$175,000* |
| *56. Replace railroad draw bridge in Galveston, Texas* | *$160,000* | *$165,000* | *$175,000* |
| *57. Wilmington, NC Build Intermodal Center* | *$320,000* | *$330,000* | *$350,000* |
| *58. Yabucoa, Puerto Rico—Trolley buses* | *$56,000* | *$57,750* | *$61,250* |
| *59. Beverly, MA Design and Construct Beverly Depot Intermodal Transportation Center* | *$640,000* | *$660,000* | *$700,000* |
| *60. Georgia Statewide Bus Program* | *$64,000* | *$66,000* | *$70,000* |
| *61. Trenton, New Jersey—Trenton Train Station Rehabilitation* | *$400,000* | *$412,500* | *$437,500* |
| *62. Trenton, NJ Reconstruction and rehabilitation of the Trenton Train Station* | *$2,240,000* | *$2,310,000* | *$2,450,000* |
| *63. Zapata, Texas Purchase Bus vehicles* | *$80,000* | *$82,500* | *$87,500* |
| *64. Zanesville, OH—bus system signage and shelters* | *$20,800* | *$21,450* | *$22,750* |
| *65. York, Pennsylvania—Rabbit Transit facilities and communications equipment* | *$886,560* | *$914,265.* | *$969,675* |
| *66. Canby, OR bus and bus facilities* | *$48,000* | *$49,500* | *$52,500* |
| *67. New Orleans, LA Plan and construct New Orleans Union Passenger Terminal intermodal facilities* | *$320,000* | *$330,000* | *$350,000* |
| *68. Northern Neck and Middle Peninsula, Virginia—Bay Transit Multimodal Facilities* | *$1,040,000* | *$1,072,500* | *$1,137,500* |
| *69. Broward County, FL Busses & Bus Facilities* | *$2,080,000* | *$2,145,000* | *$2,275,000* |
| *70. Palm Springs, California-- Sunline Transit: CalStart-Weststart fuel cell bus program* | *$320,000* | *$330,000* | *$350,000* |
| *71. San Juan, Puerto Rico—Buses* | *$320,000* | *$330,000* | *$350,000* |
| *72. Hammond, Louisiana—Passenger intermodal facility at Southern Louisiana* | *$64,000* | *$66,000* | *$70,000* |
| *73. West Virginia Construct Beckley Intermodal Gateway pursuant to the eligibility provisions for projects listed under section 3030(d)(3) of P.L. 105-178.* | *$7,680,000* | *$7,920,000* | *$8,400,000* |
| *74. Albany-Schenectady, NY Bus Rapid Transit Improvements in NY Route 5. Corridor* | *$320,000* | *$330,000* | *$350,000* |
| *75. Alameda County, CA AC Transit Bus Rapid Transit Corridor Project* | *$160,000* | *$165,000* | *$175,000* |
| *76. Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center* | *$640,000* | *$660,000* | *$700,000* |
| *77. Niagara Falls, NY Relocation, Development, and Enhancement of Niagara Falls International Railway Station/Intermodal Transportation Center* | *$1,792,000* | *$1,848,000* | *$1,960,000* |
| *78. Utica, New York—Union Station Boehlert Center siding track improvements* | *$32,000* | *$33,000* | *$35,000* |
| *79. Ionia County, MI—Purchase and implementation of communication equipment improvements* | *$188,800* | *$194,700* | *$206,500* |
| *80. Flagler County, Florida—bus facility* | *$192,000* | *$198,000* | *$210,000* |
| *81. Easton, Pennsylvania—Design and construct Intermodal Transportation Center* | *$640,000* | *$660,000* | *$700,000* |
| *82. Yamhill County, OR For the construction of bus shelters, park and ride facilities, and a signage strategy to increase ridership* | *$35,200* | *$36,300* | *$38,500* |
| *83. Woodland, CA Yolobus operations, maintenance, administration facility expansion and improvements to increase bus service with alternative fuel buses* | *$640,000* | *$660,000* | *$700,000* |

| Projects | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 84. Sacramento, CA Construct intermodal station and related improvements | $2,240,000 | $2,310,000 | $2,450,000 |
| 85. Torrance Transit System, CA Acquisition of EPA and CARB-certified low emission replacement buses | $960,000 | $990,000 | $1,050,000 |
| 86. Burlington County, NJ—BurLink and Burlington County Transportation System vehicles and equipment | $1,280,000 | $1,320,000 | $1,400,000 |
| 87. Niles, OH Acquisition of bus operational and service equipment for Niles Trumbull Transit | $64,000 | $66,000 | $70,000 |
| 88. Rockport, MA Rockport Commuter Rail Station Improvements | $880,000 | $907,500 | $962,500 |
| 89. Cincinnati, Ohio—Metro Regional Transit Hub Network Eastern Neighborhoods | $256,000 | $264,000 | $280,000 |
| 90. Buses and bus related facilities throughout the State of Connecticut | $1,920,000 | $1,980,000 | $2,100,000 |
| 91. Columbus, GA Bus replacement | $96,000 | $99,000 | $105,000 |
| 92. Norwalk, CA Transit System Bus Procurement and Los Angeles World Airport Remote Fly-Away Facility Project | $256,000 | $264,000 | $280,000 |
| 93. Salem, OR bus and bus facilities | $640,000 | $660,000 | $700,000 |
| 94. Ilwaco, WA Procure shuttles for Lewis and Clark National Historical Park | $32,000 | $33,000 | $35,000 |
| 95. Gainesville, FL Bus Replacement | $1,280,000 | $1,320,000 | $1,400,000 |
| 96. SEPTA Montgomery County Intermodal Improvements at Glenside and Jenkintown Station Parking Garages | $1,600,000 | $1,650,000 | $1,750,000 |
| 97. Fredericksburg, Virginia—Improve and repair Fredericksburg Station | $640,000 | $660,000 | $700,000 |
| 98. Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II | $640,000 | $660,000 | $700,000 |
| 99. Gresham, Oregon Construct a new light rail station and transit plaza on Portland MAX system and serve Gresham Civic neighborhood | $448,000 | $462,000 | $490,000 |
| 100. Jersey City, NJ McGinley Square Intermodal Facility | $256,000 | $264,000 | $280,000 |
| 101. Emeryville, CA Expand & Improve Intermodal Transit Center at Amtrak Station | $320,000 | $330,000 | $350,000 |
| 102. Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station | $640,000 | $660,000 | $700,000 |
| 103. Longwood, Florida—Construct Intermodal Transportation Facility | $160,000 | $165,000 | $175,000 |
| 104. Marietta, Ohio Construction of transportation hub to accommodate regional bus traffic | $160,000 | $165,000 | $175,000 |
| 105. Akron, Ohio—West Market Street transit center and related pedestrian improvements | $208,000 | $214,500 | $227,500 |
| 106. Sandy, Oregon Transit Bus Facility | $112,000 | $115,500 | $122,500 |
| 107. Jacksonville, FL Paratransit Vehicles | $1,440,000 | $1,485,000 | $1,575,000 |
| 108. Carson, CA Purchase two tripper buses | $160,000 | $165,000 | $175,000 |
| 109. Bloomington, IN—Bus and transfer facility | $1,539,200 | $1,587,300 | $1,683,500 |
| 110. Cobb County, GA Cobb County Smart Card Technology/ Bus Facility Improvements | $320,000 | $330,000 | $350,000 |
| 111. Construct West Houston and Fort Bend County, Texas—bus transit corridor | $320,000 | $330,000 | $350,000 |
| 112. Mariposa, CA—Yosemite National Park CNG-Hydrogen transit buses and facilities | $800,000 | $825,000 | $875,000 |
| 113. Snohomish County, WA Community Transit bus purchases and facility enhancement | $960,000 | $990,000 | $1,050,000 |
| 114. Geneva, Illinois—Construct commuter parking deck for Metra Service | $1,280,000 | $1,320,000 | $1,400,000 |
| 115. Rhode Island Statewide Bus Fleet | $1,920,000 | $1,980,000 | $2,100,000 |
| 116. Pleasant Hill, CA Construct Diablo Valley College Bus Transit Center | $480,000 | $495,000 | $525,000 |
| 117. Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7. (SR 7) between Golden Glades Interchange and Glades Road | $160,000 | $165,000 | $175,000 |
| 118. Attleboro, MA Construction, engineering and site improvements at the Attleboro Intermodal Center | $640,000 | $660,000 | $700,000 |
| 119. Burbank, CA CNG Transit Vehicles Purchase for Local Transit Network Expansion | $144,000 | $148,500 | $157,500 |
| 120. Dayton Airport Intermodal Rail Feasibility Study | $240,000 | $247,500 | $262,500 |
| 121. Los Angeles, CA Improve transit shelters, sidewalks lighting and landscaping around Cedar's-Sinai Medical Center | $480,000 | $495,000 | $525,000 |
| 122. Baltimore, MD Construct Intercity Bus Intermodal Terminal | $1,600,000 | $1,650,000 | $1,750,000 |
| 123. Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300-400 space parking lot at Easton Road and Glenside Avenue | $320,000 | $330,000 | $350,000 |
| 124. Haverhill, MA Design and Construct Intermodal Transit Parking Improvements | $1,792,000 | $1,848,000 | $1,960,000 |
| 125. Palm Beach County, FL Plan and Construct Belle Glade Combined Passenger Transit Facility | $1,120,000 | $1,155,000 | $1,225,000 |
| 126. Pittsburgh, PA Clean Fuel Bus Procurement | $160,000 | $165,000 | $175,000 |
| 127. San Fernando, CA Purchase CNG buses and related equipment and construct facilities | $972,800 | $1,003,200 | $1,064,000 |
| 128. Bayamon, Puerto Rico—bus terminal | $192,000 | $198,000 | $210,000 |
| 129. Bozeman, Montana—Intermodal and Parking Facility | $640,000 | $660,000 | $700,000 |
| 130. New Brunswick, NJ Construct parking facility at the Robert Wood Johnson University Hospital and UMDNJ-Robert Wood Johnson Medical School | $640,000 | $660,000 | $700,000 |
| 131. Stonington and Mystic, Connecticut—Intermodal Center parking facility and Streetscape | $1,100,800 | $1,135,200 | $1,204,000 |
| 132. Carson, CA Purchase one bus | $80,000 | $82,500 | $87,500 |
| 133. Miami-Dade County, Florida—Transit Security System | $800,000 | $825,000 | $875,000 |
| 134. Town of Chapel Hill, NC Park and Ride Lot | $480,000 | $495,000 | $525,000 |
| 135. Wheaton, IL Pace Suburban Bus—Purchase buses | $320,000 | $330,000 | $350,000 |
| 136. Ocala and Marion County, Florida—replacement buses | $960,000 | $990,000 | $1,050,000 |
| 137. Philadelphia, PA Improvements to the existing Penn's Landing Ferry Terminal | $1,280,000 | $1,320,000 | $1,400,000 |
| 138. Long Branch, NJ Design and construct facilities for ferry service from Long Branch, NJ to New York City and other destinations | $1,280,000 | $1,320,000 | $1,400,000 |
| 139. Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service | $640,000 | $660,000 | $700,000 |
| 140. Los Angeles, CA Crenshaw Bus Rapid Transit | $2,728,960 | $2,814,240 | $2,984,800 |
| 141. South Bend, Indiana—Construct South Bend Bus Operations Center | $160,000 | $165,000 | $175,000 |
| 142. Arlington County, VA Crystal City—Potomac Yard Busway, including construction of bus shelters | $960,000 | $990,000 | $1,050,000 |
| 143. Raleigh, NC Purchase eighteen replacement buses to replace buses that have reached their useful life according to Federal Transit Administration regulations | $640,000 | $660,000 | $700,000 |
| 144. Augusta, GA Buses and Bus Facilities | $128,000 | $132,000 | $140,000 |
| 145. Santa Ana, CA Improve Santa Ana transit terminal | $320,000 | $330,000 | $350,000 |
| 146. Cooperstown, New York-- Intermodal Facility Project | $1,600,000 | $1,650,000 | $1,750,000 |
| 147. Santa Barbara, CA—Expansion of Regional Intermodal Transit Center | $96,000 | $99,000 | $105,000 |
| 148. Tampa, FL Purchase buses and construct bus facilities | $720,000 | $742,500 | $787,500 |
| 149. Hidalgo County, TX Regional Multi-Modal Center | $640,000 | $660,000 | $700,000 |
| 150. Phoenix, AZ Construct regional heavy bus maintenance facility | $320,000 | $330,000 | $350,000 |
| 151. Thurston County, WA Replace Thurston County Buses | $288,000 | $297,000 | $315,000 |
| 152. San Juan, Puerto Rico—bus security equipment | $960,000 | $990,000 | $1,050,000 |
| 153. Bryan, TX The District—Bryan Intermodel Transit Terminal and Parking Facility | $960,000 | $990,000 | $1,050,000 |
| 154. City of Greenville, NC Expansion Buses and Greenville Intermodal Center | $1,140,480 | $1,176,120 | $1,247,400 |
| 155. City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority | $720,000 | $742,500 | $787,500 |
| 156. Detroit Replacement Buses | $1,600,000 | $1,650,000 | $1,750,000 |
| 157. Bealeton, Virginia—Intermodal Station Depot Refurbishment | $88,000 | $90,750 | $96,250 |
| 158. Covina, El Monte, Baldwin Park, Upland, CA Parking and Electronic Signage Improvements | $560,000 | $577,500 | $612,500 |
| 159. Eugene, OR Lane Transit District, Vehicle Replacement | $640,000 | $660,000 | $700,000 |
| 160. Kearney, Nebraska—RYDE Transit Bus Maintenance and Storage Facility | $640,000 | $660,000 | $700,000 |
| 161. Revere, MA Intermodal transit improvements in the Wonderland station (MBTA) area | $576,000 | $594,000 | $630,000 |
| 162. Brownsville, TX Brownsville Ruban System City-Wide Transit Improvement Project | $640,000 | $660,000 | $700,000 |
| 163. Normal, Illinois—Multimodal Transportation Center | $2,240,000 | $2,310,000 | $2,450,000 |
| 164. Puerto Rico—Caribbean National Forest buses and bus facilities | $960,000 | $990,000 | $1,050,000 |
| 165. Albany, OR Rehabilitate Building At Multimodal Transit Station | $409,600 | $422,400 | $448,000 |
| 166. Bronx, NY Hebrew Home for the Aged elderly and disabled transportation support | $48,000 | $49,500 | $52,500 |
| 167. Denver, CO Denver Union Station Intermodal Center | $1,760,000 | $1,815,000 | $1,925,000 |
| 168. Elizabeth, NJ Broad Street Streetscape Improvements and Bus Shelters | $224,000 | $231,000 | $245,000 |
| 169. Delaware-- University of Delaware Fuel Cell Bus Deployment | $160,000 | $165,000 | $175,000 |
| 170. Lousiana - Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA | $320,000 | $330,000 | $350,000 |
| 171. Riverside, California-- RTA Advanced Traveler Information System | $160,000 | $165,000 | $175,000 |
| 172. Santa Monica, CA Purchase and service LNG buses for Santa Monica's Big Blue Bus to meet increased ridership needs and reduce emissions | $1,200,000 | $1,237,500 | $1,312,500 |
| 173. Ontario, CA Construct Omnitrans Transcenter | $320,000 | $330,000 | $350,000 |
| 174. Brockton, MA Bus replacement for the Brockton Area Transit Authority | $480,000 | $495,000 | $525,000 |
| 175. Molalla, OR South Clackamas Transportation District, bus purchase | $32,000 | $33,000 | $35,000 |
| 176. Boise, ID—Multi-modal facility | $1,440,000 | $1,485,000 | $1,575,000 |
| 177. Fond du Lac Reservation, MN Purchase busses | $48,000 | $49,500 | $52,500 |
| 178. Sandy City, UT Construct transit hub station and TRAX station at 9400 South | $640,000 | $660,000 | $700,000 |
| 179. Albany, OR Construct Pathway From Multimodal Transit Station to Swanson Park | $166,400 | $171,600 | $182,000 |
| 180. Tillamook, OR construction of a transit facility | $32,000 | $33,000 | $35,000 |
| 181. Trenton, NJ Development of Trenton Trolley System | $320,000 | $330,000 | $350,000 |
| 182. Utica, New York—Union Station rehabilitation and related infrastructure improvements | $160,000 | $165,000 | $175,000 |
| 183. San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route | $192,000 | $198,000 | $210,000 |
| 184. Richmond, VA Renovation and construction for Main Street Station | $352,000 | $363,000 | $385,000 |
| 185. St. Paul to Hinckley, MN Construct bus amenities along Rush Line Corridor | $480,000 | $495,000 | $525,000 |
| 186. Mattoon, Illinois—historic railroad depot restoration/intermodal center | $512,000 | $528,000 | $560,000 |

| Projects | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 187. Columbia County, OR To purchase buses | $44,800 | $46,200 | $49,000 |
| 188. Westchester County, NY Bee-Line Bus Replacement program | $80,000 | $82,500 | $87,500 |
| 189. Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service | $640,000 | $660,000 | $700,000 |
| 190. Calexico, CA Purchase new buses for the Calexico Transit System | $96,000 | $99,000 | $105,000 |
| 191. Monterey Park, CA Safety improvements at a bus stop including creation of bus loading areas and street improvements | $512,000 | $528,000 | $560,000 |
| 192. Buffalo, NY Intermodal Center Parking Facility | $320,000 | $330,000 | $350,000 |
| 193. Mukilteo, WA Multi-Modal Terminal | $1,856,000 | $1,914,000 | $2,030,000 |
| 194. Orange County Transit Authority, California—Security surveillance and monitoring equipment | $1,692,800 | $1,745,700 | $1,851,500 |
| 195. Woodland Hills, CA Los Angeles Pierce College Bus Rapid Transit Station Extension | $320,000 | $330,000 | $350,000 |
| 196. Design Downtown Carrollton Regional Multi-Modal Transit Hub Station | $640,000 | $660,000 | $700,000 |
| 197. Brooklyn, NY Brooklyn Children's Museum | $448,000 | $462,000 | $490,000 |
| 198. Cleveland, Ohio—Euclid Avenue University Hospital intermodal facility | $1,440,000 | $1,485,000 | $1,575,000 |
| 199. Las Vegas, NV Construct Central City Intermodal Transportation Terminal | $1,920,000 | $1,980,000 | $2,100,000 |
| 200. Montebello, CA Bus Lines Bus Fleet Replacement Project | $224,000 | $231,000 | $245,000 |
| 201. Philadelphia, PA Cruise Terminal Transportation Ctr. Phila. Naval Shipyard | $1,120,000 | $1,155,000 | $1,225,000 |
| 202. Cleveland, OH Construct Fare Collection System Project, Cuyahoga County | $160,000 | $165,000 | $175,000 |
| 203. Tempe, Arizona—East Valley Metro Bus Facility | $1,600,000 | $1,650,000 | $1,750,000 |
| 204. Boysville of Michigan Transportation System | $1,075,200 | $1,108,800 | $1,176,000 |
| 205. Woburn, MA Construction of an 89. space park and ride facility to be located on Magazine Hill, in the Heart of Woburn Square | $576,000 | $594,000 | $630,000 |
| 206. Sylvester, GA Intermodal Facility | $64,000 | $66,000 | $70,000 |
| 207. Culver City, CA Purchase compressed natural gas buses and expand natural gas fueling facility | $1,184,000 | $1,221,000 | $1,295,000 |
| 208. Eastern Upper Peninsula, MI Ferry Dock and Facility upgrades for Drummond Island Ferry Services | $80,000 | $82,500 | $87,500 |
| 209. Morristown, New Jersey—Intermodal Historic Station | $320,000 | $330,000 | $350,000 |
| 210. San Antonio, TX Improve VIA bus facility and purchase new buses | $2,240,000 | $2,310,000 | $2,450,000 |
| 211. Miami-Dade County, Florida—buses and bus facilities | $2,880,000 | $2,970,000 | $3,150,000 |
| 212. Glendale, CA Construction of Downtown Streetcar Project | $320,000 | $330,000 | $350,000 |
| 213. Gainesville, FL Bus Rapid Transit Study | $160,000 | $165,000 | $175,000 |
| 214. Mount Rainier, MD Intermodal and Pedestrian Project | $144,000 | $148,500 | $157,500 |
| 215. Allentown, Pennsylvania—Da Vinci Center hydrogen fuel-celled transit vehicles | $512,000 | $528,000 | $560,000 |
| 216. Wilsonville, OR South Metro Area Rapid Transit, bus and bus facilities | $80,000 | $82,500 | $87,500 |
| 217. Charlotte, NC Construct Charlotte Multimodal Station | $2,496,000 | $2,574,000 | $2,730,000 |
| 218. Enfield, Connecticut—intermodal station | $640,000 | $660,000 | $700,000 |
| 219. Chicago, IL Feasibility Study for intermodal station on the Metra Rock Island near Kennedy-King College | $96,000 | $99,000 | $105,000 |
| 220. Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality | $640,000 | $660,000 | $700,000 |
| 221. Chicago, IL Construct intermodel facility at 35th Street at Metra Red Line (Northside) | $1,600,000 | $1,650,000 | $1,750,000 |
| 222. Escondido, CA—Construct Bus Maintenance Facility | $160,000 | $165,000 | $175,000 |
| 223. Los Angeles, CA Design and construct improved transit and pedestrian linkages between Los Angeles Community College and nearby MTA rail stop and bus lines | $480,000 | $495,000 | $525,000 |
| 224. Montgomery County, MD Wheaton CBD Intermodal Access Program | $160,000 | $165,000 | $175,000 |
| 225. Allentown, Pennsylvania—Design and construct Intermodal Transportation Center | $640,000 | $660,000 | $700,000 |
| 226. Champaign, IL—Construct park and ride lot with attached daycare facility | $480,000 | $495,000 | $525,000 |
| 227. Berkeley, CA Construct Ed Roberts Campus Intermodal Transit Disability Center | $960,000 | $990,000 | $1,050,000 |
| 228. Charlotte, North Carolina—Multimodal Station | $1,280,000 | $1,320,000 | $1,400,000 |
| 229. Coconino County bus and bus facilities for the Sedona Transit System | $24,000 | $24,750 | $26,250 |
| 230. Construction of Third Bus Depot on Staten Island | $3,840,000 | $3,960,000 | $4,200,000 |
| 231. Harrison, Arkansas-- Trolley Barn | $12,800 | $13,200 | $14,000 |
| 232. Alexandria, VA Royal Street Bus Garage Replacement | $160,000 | $165,000 | $175,000 |
| 233. Intermodal Facilities in Bucks County (Croydon and Levittown Stations) | $320,000 | $330,000 | $350,000 |
| 234. Bronx, NY Jacobi Intermodal Center to North Central Bronx Hospital bus system | $160,000 | $165,000 | $175,000 |
| 235. Indianapolis, IN Construct the Ivy Tech State College Multi-Modal Facility | $1,600,000 | $1,650,000 | $1,750,000 |
| 236. Juneau, Alaska—transit bus acquisition and transit center | $480,000 | $495,000 | $525,000 |
| 237. Knoxville, Tennessee—Central Station Transit Center | $3,264,000 | $3,366,000 | $3,570,000 |
| 238. Levy County, Florida-- Purchase 2. wheel chair equipped passenger buses and related equipment | $96,000 | $99,000 | $105,000 |
| 239. Lafayette, Louisiana-- Lafayette Transit System bus replacement program | $288,000 | $297,000 | $315,000 |
| 240. Nebraska—statewide transit vehicles, facilities, and related equipment | $1,280,000 | $1,320,000 | $1,400,000 |
| 241. Cincinnati, Ohio—Costruct Uptown Crossings Joint Development Transit Project | $160,000 | $165,000 | $175,000 |
| 242. Des Moines, IA Purchase 40 foot buses | $320,000 | $330,000 | $350,000 |
| 243. New Orleans, LA Regional Planning Commission, bus and bus facilities | $160,000 | $165,000 | $175,000 |
| 244. Orange County, CA Purchase buses for rapid transit | $320,000 | $330,000 | $350,000 |
| 245. Bus to provide Yorktown internal circulator to provide transportaion throughout the Town | $59,200 | $61,050 | $64,750 |
| 246. Providence, RI Expansion of Elmwood Paratransit Maintenance Facility | $1,600,000 | $1,650,000 | $1,750,000 |
| 247. Atlanta, GA Intermodal Passenger Facility Improvements | $640,000 | $660,000 | $700,000 |
| 248. Palm Beach, FL Palm Tran AVL-APC system with smart card fareboxes | $80,000 | $82,500 | $87,500 |
| 249. Grand Rapids, MI—Purchase replacement and expansion buses | $4,688,000 | $4,834,500 | $5,127,500 |
| 250. Maywood, IL Purchase buses | $16,000 | $16,500 | $17,500 |
| 251. Redondo Beach, CA Capital Equipment procurement of 12. Compressed Natural Gas (CNG) Transit vehicles for Coastal Shuttle Services by Beach Cities Transit | $256,000 | $264,000 | $280,000 |
| 252. Rochester, New York—Renaissance Square transit center | $1,440,000 | $1,485,000 | $1,575,000 |
| 253. San Bernardino, CA Implement Santa Fe Depot improvements in San Bernardino | $160,000 | $165,000 | $175,000 |
| 254. San Joaquin, California Regional Rail—Altamont Commuter Express Corridor intermodal centers | $1,280,000 | $1,320,000 | $1,400,000 |
| 255. Albany, GA Multimodal Facility | $256,000 | $264,000 | $280,000 |
| 256. Savannah, GA Bus and Bus Facilities—Chatham Area Transit | $1,600,000 | $1,650,000 | $1,750,000 |
| 257. Newburyport, MA Design and Construct Intermodal Facility | $640,000 | $660,000 | $700,000 |
| 258. Cleveland, Ohio—Euclid Avenue and East 93rd Street intermodal facility | $2,720,000 | $2,805,000 | $2,975,000 |
| 259. St. Charles, IL—Intermodal Parking Structures | $1,440,000 | $1,485,000 | $1,575,000 |
| 260. Gardena, CA Purchase of alternative fuel buses for service expansion, on board security system and bus facility training equipment | $1,569,280 | $1,618,320 | $1,716,400 |
| 261. Thendra-Webb and Utica, New York-- install hadicap lifts in intermodal centers | $32,000 | $33,000 | $35,000 |
| 262. Union City, NJ Construct Union City Intermodal Facility | $640,000 | $660,000 | $700,000 |
| 263. Wilmar, AR Develop the Southeast Arkansas Intermodal Facility | $640,000 | $660,000 | $700,000 |
| 264. Westchester County, NY Bus replacement program | $1,200,000 | $1,237,500 | $1,312,500 |
| 265. Village of Tinley Park, Illinois, 80th Avenue Commuter Rail Station reconstruction and site enhancements | $160,000 | $165,000 | $175,000 |
| 266. Martinez, CA Intermodal Facility Restoration | $480,000 | $495,000 | $525,000 |
| 267. Middletown, CT Construct intermodal center | $480,000 | $495,000 | $525,000 |
| 268. Nashville, TN Construct a parking garage on the campus of Lipscomb University, Nashville | $640,000 | $660,000 | $700,000 |
| 269. New London, Connecticut--Intermodal Transportation Center and Streetscapes | $640,000 | $660,000 | $700,000 |
| 270. Vernon, Connecticut--Intermodal Center, Parking and Streetscapes | $2,112,000 | $2,178,000 | $2,310,000 |
| 271. Huntington, NY Replacement of three full sized transit buses with hybrid electric buses | $192,000 | $198,000 | $210,000 |
| 272. Bend, Oregon—replacement vans | $320,000 | $330,000 | $350,000 |
| 273. Boston, MA Harbor Park Pavilion & Intermodal Station | $288,000 | $297,000 | $315,000 |
| 274. Philadelphia, PA SEPTA's Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assistance to entities along rail corridor | $448,000 | $462,000 | $490,000 |
| 275. Jesup, Georgia—Train Depot intermodal center | $320,000 | $330,000 | $350,000 |
| 276. Long Beach, CA Museum of Latin American Art, Long Beach, to build intermodal park and ride facility | $640,000 | $660,000 | $700,000 |
| 277. Shreveport, LA—Intermodal Transit Facility | $1,072,000 | $1,105,500 | $1,172,500 |
| 278. Arlington County, VA Columbia Pike Bus Improvements | $1,120,000 | $1,155,000 | $1,225,000 |
| 279. Los Angeles, CA Purchase of clean fuel buses to improve bus service in South Los Angeles | $273,920 | $282,480 | $299,600 |
| 280. Lowell, MA Implementation of LRTA bus replacement plan | $320,000 | $330,000 | $350,000 |
| 281. Falls Church, VA Falls Church Intermodal Transportation Center | $640,000 | $660,000 | $700,000 |
| 282. San Diego, CA Completion of San Diego Joint Transportation Operations Center (JTOC) | $640,000 | $660,000 | $700,000 |
| 283. St. Bernard Parish, LA Intermodal facility improvements | $320,000 | $330,000 | $350,000 |
| 284. Town of Warwick, NY. Rt 94. construction of series of secondary and interior travel lanes | $27,840 | $28,710 | $30,450 |
| 285. Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA | $4,800,000 | $4,950,000 | $5,250,000 |
| 286. Richmond, CA BART Parking Structure | $1,600,000 | $1,650,000 | $1,750,000 |
| 287. San Francisco, CA Implement ITS on Muni Transit System | $960,000 | $990,000 | $1,050,000 |
| 288. Alameda County, CA AC Transit Bus Rapid Transit Corridor Project | $640,000 | $660,000 | $700,000 |
| 289. Town of Warwick, NY Bus Facility Warwick Transit System | $176,000 | $181,500 | $192,500 |
| 290. Galveston, Texas—Intermodal center and parking facility, The Strand | $1,440,000 | $1,485,000 | $1,575,000 |
| 291. Joliet, Illinois—Union Station commuter parking facility | $800,000 | $825,000 | $875,000 |

| Projects | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 292. Lake County, Ohio—Ohio Department of Transportation transit improvements | $48,000 | $49,500 | $52,500 |
| 293. Muskegon, Michigan—Muskegon Area Transit Terminal and related improvements | $640,000 | $660,000 | $700,000 |
| 294. Orlando, FL Bus Replacement | $1,280,000 | $1,320,000 | $1,400,000 |
| 295. Long Beach, CA Purchase one larger (75. passengers) and two smaller (40 passengers) ferryboats and construct related dock work to facilitate the use and accessibility of the ferryboats | $960,000 | $990,000 | $1,050,000 |
| 296. Elgin to Rockford, Illinois—Intermodal stations along planned Metra Union Pacific West Line extension alignment, including necessary alternatives analysis | $960,000 | $990,000 | $1,050,000 |
| 297. Pilot Shuttle Train Project from the Ports of Los Angeles and Long Beach to the Inland Empire | $1,600,000 | $1,650,000 | $1,750,000 |
| 298. Thomasville, GA Bus Replacement | $64,000 | $66,000 | $70,000 |
| 299. Corvallis, OR Bus Replacement | $396,800 | $409,200 | $434,000 |
| 300. Geneva, New York—Multimodal facility—construct passenger rail center | $160,000 | $165,000 | $175,000 |
| 301. Barry County, MI—Barry County Transit equipment and dispatching software | $48,000 | $49,500 | $52,500 |
| 302. Greensboro, North Carolina—Piedmont Authority for Regional Transportation Multimodal Transportation Center | $4,006,400 | $4,131,600 | $4,382,000 |
| 303. Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility | $1,600,000 | $1,650,000 | $1,750,000 |
| 304. Coconino county buses and bus facilities for Flagstaff, AZ | $24,000 | $24,750 | $26,250 |
| 305. Fund the 8.28. miles of the El Camino East-West Corridor along LA 6. from LA 485. near Robeline, LA to I-49. | $640,000 | $660,000 | $700,000 |
| 306. Jacksonville, FL Bus Replacement | $2,240,000 | $2,310,000 | $2,450,000 |
| 307. Los Angeles, CA Improve safety, mobility and access between LATTC, Metro line and nearby bus stops on Grand Ave between Washington and 23rd | $160,000 | $165,000 | $175,000 |
| 308. Miami Dade, FL N.W. 7th Avenue Transit Hub | $960,000 | $990,000 | $1,050,000 |
| 309. Elyria, OH Construct the New York Central Train Station into an intermodal transportation hub | $655,360 | $675,840 | $716,800 |
| 310. River Parishes, LA South Central Planning and Development Commission, bus and bus facilities | $320,000 | $330,000 | $350,000 |
| 311. Mammoth Lakes, California—Regional Transit Maintenance Facility | $160,000 | $165,000 | $175,000 |
| 312. Roanoke, Virginia—Improve Virginian Railway Station | $80,000 | $82,500 | $87,500 |
| 313. Solana Beach, CA—Construct Intermodal Facility | $480,000 | $495,000 | $525,000 |
| 314. San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive) | $96,000 | $99,000 | $105,000 |
| 315. Temecula, California—Intermodal Transit Facility | $160,000 | $165,000 | $175,000 |
| 316. Philadelphia, Pennsylvania—SEPTA Market Street Elevated Line parking facility | $1,280,000 | $1,320,000 | $1,400,000 |
| 317. Jamestown, NY Rehabilitation of Intermodal Facility and associated property | $640,000 | $660,000 | $700,000 |
| 318. Akron, Ohio Construct Downtown Multi-modal Transportation Center | $1,280,000 | $1,320,000 | $1,400,000 |
| 319. Detroit Bus Maintenance Facility | $2,880,000 | $2,970,000 | $3,150,000 |
| 320. Detroit, MI Bus Replacement | $2,400,000 | $2,475,000 | $2,625,000 |
| 321. Monterey Park, CA Catch Basins at Transit Stop Installation | $102,400 | $105,600 | $112,000 |
| 322. Oneonta, New York-bus replacement | $48,000 | $49,500 | $52,500 |
| 323. Lincoln County, OR bus purchase | $80,000 | $82,500 | $87,500 |
| 324. Elon, North Carolina—Piedmont Authority for Regional Transportation buses and bus facilities | $384,000 | $396,000 | $420,000 |
| 325. Grants Pass, OR Purchase Vehicles For Use By Josephine Community Transit | $54,720 | $56,430 | $59,850 |
| 326. Los Angeles, CA Install permanent irrigation system and enhanced landscaping on San Fernando Valley rapid bus transitway | $960,000 | $990,000 | $1,050,000 |
| 327. Cleveland, OH Construct East Side Transit Center | $960,000 | $990,000 | $1,050,000 |
| 328. New Jersey Transit Community Shuttle Buses | $160,000 | $165,000 | $175,000 |
| 329. Quitman, Clay, Randolph, Stewart Co., GA Bus project | $80,000 | $82,500 | $87,500 |
| 330. Framingham, MA Local Intra-Framingham Transit System enhancements | $576,000 | $594,000 | $630,000 |
| 331. Gettysburg, Pennsylvania—transit transfer center | $287,680 | $296,670 | $314,650 |
| 332. Long Beach, CA Park and Ride facility | $320,000 | $330,000 | $350,000 |
| 333. Oak Harbor, WA Multimodal Facility | $320,000 | $330,000 | $350,000 |
| 334. North Bend, Washington—Park and Ride | $256,000 | $264,000 | $280,000 |
| 335. High Point, North Carolina—Bus Terminal | $1,920,000 | $1,980,000 | $2,100,000 |
| 336. Dallas, TX Bus Passenger Facilities | $4,096,000 | $4,224,000 | $4,480,000 |
| 337. Island Transit, WA Operations Base Facilities Project | $768,000 | $792,000 | $840,000 |
| 338. Bronx, NY Intermodal facility near Exit 6. of the Bronx River Parkway | $80,000 | $82;500 | $87,500 |
| 339. East San Diego County, California—Bus Maintence Facility Expansion | $640,000 | $660,000 | $700,000 |
| 340. New Jersey Intermodal Facilities and Bus Rolling Stock | $960,000 | $990,000 | $1,050,000 |
| 341. San Gabriel Valley, CA—Park and Rides | $3,040,000 | $3,135,000 | $3,325,000 |
| 342. St. Paul, MN Union Depot Multi Modal Transit Facility | $640,000 | $660,000 | $700,000 |
| 343. Brooklyn, NY Kings County Hospital Center | $320,000 | $330,000 | $350,000 |
| 344. Gainesville, FL Bus Facility Expansion | $1,280,000 | $1,320,000 | $1,400,000 |
| 345. Kansas City, MO Bus Transit Infrastructure | $320,000 | $330,000 | $350,000 |
| 346. Phoenix, AZ Construct metro bus facility in Phoenix?s West Valley | $1,600,000 | $1,650,000 | $1,750,000 |
| 347. Eastlake, Ohio—Eastlake Stadium transit intermodal facility | $1,360,000 | $1,402,500 | $1,487,500 |
| 348. Savannah, Georgia—Water Ferry Riverwalk intermodal facilities | $640,000 | $660,000 | $700,000 |
| 349. Kent, OH Construct Kent State University Intermodal Facility serving students and the general public | $320,000 | $330,000 | $350,000 |
| 350. Milwaukee, WI Rehabilitate Intermodal transportation facility at downtown Milwaukee's Amtrak Station, increase parking for bus passengers | $1,440,000 | $1,485,000 | $1,575,000 |
| 351. Eastland, North Carolina—Community Transit Center | $640,000 | $660,000 | $700,000 |
| 352. Oakland, CA Construct streetscape & intermodal improvements at BART Station Transit Villages | $320,000 | $330,000 | $350,000 |
| 353. Suffolk County, NY Purchase four handicapped accessible vans to transport veterans to and from the VA facility in Northport | $89,600 | $92,400 | $98,000 |
| 354. Norfolk, Virginia—Final Design and Construction Southside Bus Facility | $560,000 | $577,500 | $612,500 |
| 355. Albany, GA Bus replacement | $96,000 | $99,000 | $105,000 |
| 356. Lafayette Multimodal center, Final Phase | $960,000 | $990,000 | $1,050,000 |
| 357. Athens, GA Buses and Bus Facilities | $454,400 | $468,600 | $497,000 |
| 358. Cicero, Chicago Establish Transit Signal Priority, Cicero Ave., Pace Suburban Bus | $320,000 | $330,000 | $350,000 |
| 359. Arlington County, VA Pentagon City Multimodal Improvements | $640,000 | $660,000 | $700,000 |
| 360. Richmond, VA Design and construction for a bus operations and maintenance facility for Greater Richmond Transit Company | $480,000 | $495,000 | $525,000 |
| 361. Roanoke, Virginia—Roanoke Railway and Link Passenger facility | $160,000 | $165,000 | $175,000 |
| 362. Akron, OH Construct City of Akron Commuter Bus Transit Facility | $480,000 | $495,000 | $525,000 |
| 363. Corning, New York—Transportation Center | $1,280,000 | $1,320,000 | $1,400,000 |
| 364. Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue | $320,000 | $330,000 | $350,000 |
| 365. Pace Suburban Bus, IL South Suburban BRT Mobility Network | $160,000 | $165,000 | $175,000 |
| 366. Orange County, CA Transportation Projects to Encourage Use of Transit to Reduce Congestion | $320,000 | $330,000 | $350,000 |
| 367. Palm Beach, FL 20 New Buses for Palm Tran | $480,000 | $495,000 | $525,000 |
| 368. Nassau County, NY Conduct planning and engineering for transportation system (HUB) | $2,240,000 | $2,310,000 | $2,450,000 |
| 369. Norwalk, Connecticut—Pulse Point Joint Development intermodal facility | $160,000 | $165,000 | $175,000 |
| 370. Salem, MA Design and Construct Salem Intermodal Transportation Center | $640,000 | $660,000 | $700,000 |
| 371. Las Vegas, NV Construct Las Vegas WestCare Intermodal Facility | $80,000 | $82,500 | $87,500 |
| 372. Richmond, KY Purchase buses, bus equipment, and facilities | $230,400 | $237,600 | $252,000 |
| 373. Niagara Frontier Transportation Authority, NY Replacement Buses | $320,000 | $330,000 | $350,000 |
| 374. Metro-Atlanta, GA MARTA Automated Smart-Card Fare Collection system | $320,000 | $330,000 | $350,000 |
| 375. Monterey, CA Purchase bus equipment | $320,000 | $330,000 | $350,000 |
| 376. New York City, NY Purchase Handicapped Accessible Livery Vehicles | $320,000 | $330,000 | $350,000 |
| 377. San Francisco, CA Construct San Francisco Muni Islais Creek Maintenance Facility | $1,920,000 | $1,980,000 | $2,100,000 |
| 378. Indianapolis, IN Relocate and improve intermodal transportation for pedestrian and freight access to Children's Museum of Indianapolis | $4,480,000 | $4,620,000 | $4,900,000 |
| 379. Ramapo, NY Transportation Safety Field Command Center (TSFCC) | $80,000 | $82,500 | $87,500 |
| 380. Expand Diesel Emission Reduction Program of Gateway Cities COG | $992,000 | $1,023,000 | $1,085,000 |
| 381. San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community | $1,056,000 | $1,089,000 | $1,155,000 |
| 382. San Luis Rey, California—Transit Center Project | $160,000 | $165,000 | $175,000 |
| 383. South San Francisco,CA Construction of Ferry Terminal at Oyster Point in South San Francisco to the San Francisco Bay Area Water Transit Authority | $1,600,000 | $1,650,000 | $1,750,000 |
| 384. Atlanta, GA MARTA Clean Fuel Bus Acquisition | $1,920,000 | $1,980,000 | $2,100,000 |
| 385. Construct a 400 space parking structure at the northwest corner of Main and Cherry Streets | $320,000 | $330,000 | $350,000 |
| 386. Suffolk County, NY Design and construction of intermodal transit facility in Wyandanch | $1,280,000 | $1,320,000 | $1,400,000 |
| 387. Fresno, CA—Develop program of low-emission transit vehicles | $320,000 | $330,000 | $350,000 |
| 388. Sylmar, CA Los Angeles Mission College Transit Center construction | $80,000 | $82,500 | $87,500 |
| 389. Lakewood, NJ—Ocean County Bus service and parking facilities | $800,000 | $825,000 | $875,000 |
| 390. St. Lucie County, FL Purchase Buses | $320,000 | $330,000 | $350,000 |
| 391. Hampton Roads, VA Final design and construction for a Hampton Roads Transit Southside Bus Facility | $640,000 | $660,000 | $700,000 |
| 392. Oakland, CA Construct Bay Trail between Coliseum BART station and Martin Luther King, Jr. Regional Shoreline | $288,000 | $297,000 | $315,000 |
| 393. South Amboy, NJ Construction of improvements to facilities at South Amboy Station under S Amboy, NJ Regional Intermodal Initiative | $2,560,000 | $2,640,000 | $2,800,000 |

| Projects | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 394. Hartford, CT Buses and bus-related facilities | $1,280,000 | $1,320,000 | $1,400,000 |
| 395. Ilwaco, WA Construct park and ride | $32,000 | $33,000 | $35,000 |
| 396. Burbank, CA Construction of Empire Area Transit Center near Burbank Airport | $80,000 | $82,500 | $87,500 |
| 397. Pottsville, PA Union Street Trade and Transfer Center Intermodal Facility | $640,000 | $660,000 | $700,000 |
| 398. Amador County, California—Regional Transit Center | $320,000 | $330,000 | $350,000 |
| 399. Pasadena, CA ITS Improvements | $320,000 | $330,000 | $350,000 |
| 400. South FL Region, FL Regional Universal Automated Fare Collection System (UAFC) (for bus system) | $640,000 | $660,000 | $700,000 |
| 401. South Pasadena, CA Silent Night Grade Crossing Project | $288,000 | $297,000 | $315,000 |
| 402. Tampa, FL Establish Transit Emphasis Corridor and Improvements | $240,000 | $247,500 | $262,500 |
| 403. San Francisco, CA Implement Transbay Terminal-Caltrain Downtown Extension Project | $4,480,000 | $4,620,000 | $4,900,000 |
| 404. Rock Island, IL Improve Rock Island Mass Transit District Bus Facility | $160,000 | $165,000 | $175,000 |
| 405. Las Vegas, NV Construct Boulder Highway BRT system and purchase vehicles and related equipment | $640,000 | $660,000 | $700,000 |
| 406. Moultrie, GA Intermodal facility | $96,000 | $99,000 | $105,000 |
| 407. Carson, CA Purchase one trolley-bus vehicle | $80,000 | $82,500 | $87,500 |
| 408. Brooklyn, NY SUNY Downstate Medical Center | $320,000 | $330,000 | $350,000 |
| 409. Alexandria, VA Eisenhower Avenue Intermodal Station Improvements, including purchase of buses and construction of bus shelters | $800,000 | $825,000 | $875,000 |
| 410. Long Beach, CA Purchase ten clean fuel busses | $960,000 | $990,000 | $1,050,000 |
| 411. Cleveland, OH Construction of an intermodal facility and related improvements at University Hospitals facility on Euclid Avenue | $320,000 | $330,000 | $350,000 |
| 412. Nashville, TN Construct Downtown Nashville Transit Transfer Facility | $480,000 | $495,000 | $525,000 |
| 413. Philadelphia, PA Penn's Landing water shuttle parking lot expansion and water shuttle ramp infrastructure construction | $352,000 | $363,000 | $385,000 |
| 414. Hercules, CA Intermodal Rail Station Improvements | $480,000 | $495,000 | $525,000 |

### SEC. 3039. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the "program") to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—

(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

(2) financing plan and cost share potential;

(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

(4) other criteria that the Secretary determines are necessary to carry out the program.

(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 10 years.

(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

(2) such other terms and conditions as are determined by the Secretary.

### SEC. 3040. HIGH-INTENSITY SMALL-URBANIZED AREA FORMULA GRANT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE AREA.—The term "eligible area" means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(2) PERFORMANCE CATEGORY.—The term "performance category" means each of the following:

(A) Passenger miles traveled per vehicle revenue mile.

(B) Passenger miles traveled per vehicle revenue hour.

(C) Vehicle revenue miles per capita.

(D) Vehicle revenue hours per capita.

(E) Passenger miles traveled per capita.

(F) Passengers per capita.

(b) GENERAL AUTHORITY.—In order to address the needs of small urbanized areas with unusually high levels of public transportation service, the Secretary shall make capital and operating grants under this section to eligible recipients described in subsection (d) for use in eligible areas.

(c) APPORTIONMENT.—

(1) APPORTIONMENT FORMULA.—Funds made available for grants under this section in a fiscal year shall be apportioned among eligible areas in the ratio that—

(A) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(B) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(2) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under section 5336 of title 49, United States Code.

(d) ELIGIBLE RECIPIENT.—Grant amounts apportioned to an eligible area under this section shall be made available to a public transportation agency or other governmental entity in the eligible area for obligation in the eligible area.

(e) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL GRANTS.—A grant for a capital project under this section (including associated capital maintenance items) shall be for 80 percent of the net capital costs of the project, as determined by the Secretary. The recipient may provide additional local matching amounts for such projects.

(2) OPERATING GRANTS.—A grant under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) PERIOD OF AVAILABILITY.—Funds apportioned under this section to an eligible area shall remain available for obligation in that eligible area for a period of 3 years after the last day of the fiscal year for which the funds are apportioned. Any amounts so apportioned that remain unobligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(g) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323, 5332, 5333, and 5336(e) of title 49, United States Code, apply to this section and to a grant made under this section.

(h) FUNDING.—Of the amounts made available to carry out section 5307 of title 49, United States Code, $38,000,000 for fiscal year 2005, $41,000,000 for fiscal year 2006, $44,000,000 for fiscal year 2007, $47,000,000 for fiscal year 2008, and $50,000,000 for fiscal year 2009 shall be available to carry out this section.

(i) TECHNICAL AMENDMENTS.—Section 5336 is amended—

(1) in subsection (a)—

(A) by striking "of this title" and inserting "to carry out section 5307"; and

(B) in paragraph (2) by inserting before the period at the end the following: ", except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations";

(2) in subsection (b)(1) by inserting "and the Alaska Railroad passenger operations" after "recipient";

(3) in subsection (j) by striking "a grant made under" each place it appears and inserting "a grant made with funds apportioned under"; and

(4) in subsection (k)(1) by striking "section 5302(a)(13) of this title" and inserting "section 5302(a)".

### SEC. 3041. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:

(1) SAFETY AND EMERGENCY PREPAREDNESS.—

(A) IN GENERAL.—For carrying out safety and emergency preparedness research activities consisting of technical assistance, training, and data analysis and reporting to improve public transportation system safety and security and emergency preparedness—

(i) $7,000,000 for fiscal year 2005;

(ii) $7,400,000 for fiscal year 2006;

(iii) $7,800,000 for fiscal year 2007;

(iv) $8,200,000 for fiscal year 2008; and

(v) $8,700,000 for fiscal year 2009.

(B) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—

*(i) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.*

*(ii) ALTERNATIVE ROUTES.—For each system described in clause (i) the study shall identify—*

*(I) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and*

*(II) transit routes that, if disrupted, do not have sufficient transit alternatives available.*

*(iii) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.*

*(iv) FUNDING.—Of the amounts made available under section 5338(d) of title 49, United States Code, $250,000 shall be available for each of fiscal years 2005 and 2006 to carry out this subparagraph.*

*(2) EQUIPMENT AND INFRASTRUCTURE.—For carrying out equipment and infrastructure research activities on public transportation and infrastructure technologies and methods and voluntary industry standards development—*

*(A) $5,700,000 for fiscal year 2005;*

*(B) $6,200,000 for fiscal year 2006;*

*(C) $6,550,000 for fiscal year 2007;*

*(D) $6,900,000 for fiscal year 2008; and*

*(E) $7,200,000 for fiscal year 2009.*

*(3) PUBLIC TRANSPORTATION OPERATIONS EFFICIENCY.—For carrying out public transportation operations efficiency research activities on high-performance public transportation services and other innovations in fleet operations and maintenance—*

*(A) $4,700,000 for fiscal year 2005;*

*(B) $4,900,000 for fiscal year 2006;*

*(C) $5,200,000 for fiscal year 2007;*

*(D) $5,500,000 for fiscal year 2008; and*

*(E) $5,800,000 for fiscal year 2009.*

*(4) ENERGY INDEPENDENCE AND ENVIRONMENTAL PROTECTION.—*

*(A) IN GENERAL.—For carrying out energy independence and environmental protection research activities on improved public transportation energy use and propulsion systems and public transportation oriented development—*

*(i) $3,700,000 for fiscal year 2005;*

*(ii) $3,900,000 for fiscal year 2006;*

*(iii) $4,150,000 for fiscal year 2007;*

*(iv) $4,300,000 for fiscal year 2008; and*

*(v) $4,300,000 for fiscal year 2009.*

*(B) TRANSIT-ORIENTED DEVELOPMENT CENTER.—Of the funds allocated for each of fiscal years 2005 through 2009 under subparagraph (A), not less than $1,000,000 shall be made available by the Secretary for establishment and operation of a national center for transit-oriented development—*

*(i) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;*

*(ii) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and*

*(iii) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.*

*(5) MOBILITY MANAGEMENT.—*

*(A) IN GENERAL.—For carrying out research activities on mobility management, as described in section 5302(a)(1) of title 49, United States Code—*

*(i) $7,000,000 for fiscal year 2005;*

*(ii) $7,400,000 for fiscal year 2006;*

*(iii) $7,800,000 for fiscal year 2007;*

*(iv) $8,200,000 for fiscal year 2008; and*

*(v) $8,700,000 for fiscal year 2009.*

*(B) TRANSPORTATION EQUITY RESEARCH PROGRAM.—Of the funds allocated for each of fiscal years 2005 through 2009 under subparagraph (A), not less than $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.*

*(C) COGNITIVE IMPAIRMENT STUDY.—Of the funds allocated for fiscal year 2005 under subparagraph (A), $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the capacity and resources of Oregon public transportation systems to address the needs, barriers, and desires for travel of people with cognitive impairments.*

*(6) PUBLIC TRANSPORTATION CAPACITY BUILDING.—*

*(A) IN GENERAL.—For carrying out public transportation capacity building activities consisting of workforce and industry development, the International Mass Transportation Program, and technology transfer and industry adoption activities—*

*(i) $2,400,000 for fiscal year 2005;*

*(ii) $2,500,000 for fiscal year 2006;*

*(iii) $2,600,000 for fiscal year 2007;*

*(iv) $2,700,000 for fiscal year 2008; and*

*(v) $3,000,000 for fiscal year 2009.*

*(B) TRANSIT CAREER LADDER TRAINING PROGRAM.—Of the funds allocated for each fiscal year under subparagraph (A), not less than $1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.*

*(7) STRATEGIC PLANNING AND PERFORMANCE MEASURES.—For carrying out strategic planning and performance measures consisting of policy and program development, research program planning and performance, evaluation, and industry outreach—*

*(A) $3,500,000 for fiscal year 2005;*

*(B) $3,700,000 for fiscal year 2006;*

*(C) $4,000,000 for fiscal year 2007;*

*(D) $4,200,000 for fiscal year 2008; and*

*(E) $4,300,000 for fiscal year 2009.*

*(b) REMAINDER.—After making allocations under subsection (a) of this section and section 5338(d)(2) of title 49, United States Code, the remainder of funds made available by section 5338(d)(2) of such title for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.*

### *SEC. 3042. RELATIONSHIP TO OTHER LAWS.*

*Section 5323(l) is amended to read as follows:*

*"(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, when a false or fraudulent statement or related act within the meaning of such section 1001 is made in connection with a Federal transit program.".*

### *SEC. 3043. COOPERATIVE PROCUREMENT.*

*(a) REVIEW OF COOPERATIVE PROCUREMENT; AUTHORITY TO INCREASE FEDERAL SHARE.—*

*(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall undertake a 30-day review of efforts to use cooperative procurement to determine whether benefits are sufficient to formally incorporate cooperative procurement into the mass transit program. In particular the Secretary shall review the progress made under the pilot program authorized under section 166 of division F of the Consolidated Appropriations Act, 2004 (49 U.S.C. 5397 note; 118 Stat. 309), based on experience to date in the pilot program and any available reports to Congress submitted under such section 166. The Secretary shall also consider information gathered from grantees about cooperative procurement, whether or not related to the pilot program.*

*(2) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the results of the review required under paragraph (1), including a finding of sufficient benefit or insufficient benefit and the reasons for that finding.*

### *SEC. 3044. OBLIGATION CEILING.*

*Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, shall not exceed—*

*(1) $7,266,000,000 for fiscal year 2004;*

*(2) $7,646,300,000 for fiscal year 2005;*

*(3) $8,482,000,000 for fiscal year 2006;*

*(4) $9,042,000,000 for fiscal year 2007;*

*(5) $9,639,000,000 for fiscal year 2008; and*

*(6) $10,277,000,000 for fiscal year 2009.*

### *SEC. 3045. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V.*

*(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made to a designated grant recipient under section 5338 of title 49, United States Code, for fiscal year 2005 shall be reduced by the amount apportioned to such designated recipient pursuant to section 8 of the Surface Transportation Extension Act of 2004, Part V.*

*(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 2005 to reflect the method for apportioning funds in section 5337(a) of title 49, United States Code.*

### *SEC. 3046. SPECIAL RULE FOR FISCAL YEAR 2004.*

*In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of* this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part IV (Public Law 108–280), including any amendment made by such Act, the amount referred to in such Act shall be the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.

## TITLE IV—MOTOR CARRIER TRANSPORTATION AND SAFETY

### Subtitle A—Commercial Motor Vehicle Safety

### SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.

(a) Administrative Expenses.—Section 31104 of title 49, United States Code, is amended by adding the following at the end:

"(i) Administrative Expenses.—

"(1) Authorization of Appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $173,450,000 for fiscal year 2004;
"(B) $254,849,000 for fiscal year 2005;
"(C) $215,000,000 for fiscal year 2006;
"(D) $230,000,000 for fiscal year 2007;
"(E) $234,000,000 for fiscal year 2008; and
"(F) $240,000,000 for fiscal year 2009.

"(2) Use of Funds.—The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board), the administration of the performance and registration information system management, and outreach and education; other operating expenses; and such other expenses as may from time to time become necessary to implement statutory mandates of the Administration not funded from other sources.

"(3) Period of Availability.—The amounts made available under this section shall remain available until expended.

"(4) Initial Date of Availability.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subtitle IV, part B, and subtitle VI, part B, of this title, or the provisions of title IV of the Transportation Equity Act: A Legacy for Users, shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(5) Contract Authority.—Approval by the Secretary of a grant with funds made available under paragraph (4) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) Grant Programs.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) For commercial driver's license program improvement grants under section 31313 of title 49, United States Code $26,000,000 for each of fiscal years 2006 through 2009.

(2) For border enforcement grants under section 31107 of such title—

(A) $32,000,000 for fiscal year 2006;
(B) $32,000,000 for fiscal year 2007;
(C) $32,000,000 for fiscal year 2008; and
(D) $32,000,000 for fiscal year 2009.

(3) For the performance and registration information system management grant program under section 31109 of such title—

(A) $5,000,000 for fiscal year 2006;
(B) $5,000,000 for fiscal year 2007;
(C) $6,000,000 for fiscal year 2008; and
(D) $6,000,000 for fiscal year 2009.

(4) Commercial Vehicle Information Systems and Networks Deployment.—For carrying out the commercial vehicle information systems and networks deployment program under section 4009 of this Act, $25,000,000 for each of fiscal years 2006 through 2009.

(c) Period of Availability.—The amounts made available under subsection (b) of this section shall remain available until expended.

(d) Initial Date of Availability.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (b) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(e) Contract Authority.—Approval by the Secretary of a grant with funds made available under subsection (b) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

### SEC. 4102. MOTOR CARRIER SAFETY GRANTS.

(a) State Plan Contents.—Section 31102(b)(1) of title 49, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) implements performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;";

(2) by striking subparagraph (Q) and inserting the following:

"(Q) provides that the State has established a program to ensure accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary and that the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;";

(3) by aligning subparagraph (R) with subparagraph (S);

(4) by striking "and" at the end of subparagraph (S);

(5) by striking the period at the end of subparagraph (T) and inserting a semicolon; and

(6) by adding at the end the following:

"(U) provides that the State will include in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of noncommercial motor vehicles, respectively;

"(V) provides that the State will enforce the registration requirements of section 13902 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under such section or to be operating beyond the scope of such registration; and

"(W) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors.".

(b) Use of Grants to Enforce Other Laws.—Section 31102 of such title is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Use of Grants to Enforce Other Laws.—A State may use amounts received under a grant under subsection (a)—

"(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

"(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of roadside safety inspections conducted in the State is maintained at a level at least equal to the average number conducted in the State in fiscal years 2001, 2002, and 2003; except that the State may not use more than 5 percent of the aggregate amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph."; and

(2) by adding at the end the following:

"(e) Annual Report.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate an annual report that describes the effect of activities carried out with funds from grants made under this section on commercial motor vehicle safety.".

(c) Authorization of Appropriations.—Section 31104(a) of such title is amended to read as follows:

"(a) In General.—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

"(1) $188,852,000 for fiscal year 2004;
"(2) $188,480,000 for fiscal year 2005;
"(3) $188,000,000 for fiscal year 2006;
"(4) $197,000,000 for fiscal year 2007;
"(5) $202,000,000 for fiscal year 2008; and
"(6) $209,000,000 for fiscal year 2009.".

(d) New Entrant Audits.—Section 31104(f) of such title is amended—

(1) in paragraph (1) by striking "deduction under subsection (e)" and inserting "deductions under subsection (e) and paragraphs (2) and (3)";

(2) the first sentence of paragraph (2)(A)—

(A) by striking "or"; and

(B) by inserting after "technologies" the following: ", or improve the quality and accuracy of data provided by the State";

(3) in paragraph (2)—

(A) by striking "and border activities.—" and all that follows through "5 percent" and inserting "activities.—The Secretary may designate up to 10 percent"; and

(B) by striking subparagraph (B); and

(4) by adding at the end the following:

"(3) New Entrant Audits.—The Secretary may deduct up to $15,000,000 of the amounts available under subsection (a) for a fiscal year for audits of new entrant motor carriers under section 31144(g).".

(e) Technical Amendments.—Sections 31102(b)(3) and 31103(a) of such title are amended by striking "(1)(D)" and inserting "(1)(E)".

### SEC. 4103. BORDER ENFORCEMENT GRANTS.

(a) In General.—Chapter 311 of title 49, United States Code, is amended—

(1) by striking the heading for subchapter I and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY
AND STATE GRANTS"; and

(2) by striking section 31107 and inserting the following:

### "§31107. Border enforcement grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant in a fiscal year to a State that shares a land border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of the Transportation Equity Act: A Legacy for Users.

"(c) GOVERNMENTS SHARE OF COSTS.—The Secretary shall reimburse a State under a grant made under this section an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(d) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are available to the Secretary for reallocation under this section.".

(b) CONFORMING AMENDMENTS.—

(1) ITEM RELATING TO SUBCHAPTER I.—The analysis for such chapter is amended by striking the item relating to subchapter I and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS".

(2) ITEM RELATING TO SECTION 31107.—The analysis for such chapter is amended by striking the item relating to section 31107 and inserting the following:

"31107. Border enforcement grants.".

### SEC. 4104. COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.

(a) STATE GRANTS.—Chapter 313 of title 49, United States Code, is amended by inserting after section 31312 the following:

### "§31313. Grants for commercial driver's license program improvements

"(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENTS.—

"(1) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a State in a fiscal year—

"(A) to comply with the requirements of section 31311; and

"(B) in the case of a State that is in substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program.

"(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—A State may use grants under paragraphs (1)(A) and (1)(B) only for expenses directly related to its compliance with section 31311; except that a grant under paragraph (1)(B) may be used for improving implementation of the State's commercial driver's license program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings.

"(3) APPLICATION.—In order to receive a grant under this section, a State must submit an application for such grant that is in such form, and contains such information, as the Secretary may require. The application shall include the State's assessment of its commercial drivers license program.

"(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for the State's commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of the Transportation Equity Act: A Legacy for Users.

"(5) GOVERNMENT SHARE.—The Secretary shall reimburse a State under a grant made under this subsection an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in complying with section 31311 and improving its implementation of its commercial driver's license program. In determining such costs, the Secretary shall include in-kind contributions by the State. Amounts required to be expended by the State under paragraph (4) may not be included as part of the non-Federal share of such costs.

"(b) HIGH-PRIORITY ACTIVITIES.—

"(1) GRANTS FOR NATIONAL CONCERNS.—The Secretary may make a grant to a State agency, local government, or other person for 100 percent of the costs of research, development, demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances.

"(2) FUNDING.—The Secretary may deduct up to 10 percent of the amounts made available to carry out this section for a fiscal year to make grants under this subsection.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31312 the following:

"31313. Grants for commercial driver's license program improvements.".

(c) AMOUNTS WITHHELD.—Subsections (a) and (b) of section 31314 of such title are each amended by inserting "up to" after "withhold".

### SEC. 4105. HOBBS ACT.

(a) JURISDICTION OF COURT OF APPEALS OVER COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS AND MOTOR CARRIER SAFETY.—Section 2342(3)(A) of title 28, United States Code, is amended by inserting before "of title 49" the following: ", subchapter III of chapter 311, chapter 313, or chapter 315".

(b) JUDICIAL REVIEW.—Section 351(a) of title 49, United States Code, is amended by striking "Federal Highway Administration" and inserting "Federal Motor Carrier Safety Administration".

(c) AUTHORITY TO CARRY OUT CERTAIN TRANSFERRED DUTIES AND POWERS.—Section 352 of title 49, United States Code, is amended by striking "Federal Highway Administration" and inserting "Federal Motor Carrier Safety Administration".

### SEC. 4106. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b) of title 49, United States Code, is amended—

(1) by striking "(b)(1)(A) If the Secretary" and inserting the following:

"(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

"(1) NOTICE.—

"(A) IN GENERAL.—If the Secretary"; and

(2) by adding at the end of paragraph (2) the following:

"(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or part B of subtitle VI who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property in accordance with section 504(c), 5121(c), or 14122(b) shall be liable to the United States for a civil penalty not to exceed $1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property shall constitute a separate offense; except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph shall be construed as amending or superseding any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.".

### SEC. 4107. MEDICAL REVIEW BOARD.

Section 113 of title 49, United States Code, is amended by adding at the end the following:

"(j) MEDICAL REVIEW BOARD.—

"(1) ESTABLISHMENT AND FUNCTION.—The Administrator shall establish a Medical Review Board as an advisory committee to provide the Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

"(2) COMPOSITION.—The Medical Review Board shall consist of 5 members appointed for a term not to exceed 3 years by the Secretary from medical institutions and private medical practice. The membership shall reflect expertise in a variety of medical specialties relevant to the functions of the Administration.".

### SEC. 4108. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) RECORDKEEPING AND REPORTING VIOLATIONS.—Section 521(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i) by striking "$500" and inserting "$1,000"; and

(2) by striking "$5,000" each place it appears and inserting "$10,000".

(b) VIOLATIONS OF OUT-OF-SERVICE ORDERS.—Section 31310(i)(2) of title 49, United States Code, is amended—

(1) by striking "Not later than December 18, 1992, the" and inserting "The";

(2) in subparagraph (A)—

(A) by striking "90 days" and inserting "180 days"; and

(B) by striking "$1,000" and inserting "$2,500";

(3) in subparagraph (B)—

(A) by striking "one year" and inserting "2 years"; and

(B) by striking "$1,000; and" and inserting "$5,000;"; and

(4) in subparagraph (C) by striking "$10,000." and inserting "$25,000; and".

### SEC. 4109. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

*(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, commercial driver, and carrier-specific information systems and networks.*

*(c) CORE DEPLOYMENT GRANTS.—*

*(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.*

*(2) AMOUNT OF GRANTS.—The maximum aggregate amount the Secretary may grant to a State for the core deployment of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed $2,500,000.*

*(3) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.*

*(d) EXPANDED DEPLOYMENT GRANTS.—*

*(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.*

*(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.*

*(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.*

*(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.*

*(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—*

*(1) shall have a commercial vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of core capabilities;*

*(2) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—*

*(A) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and*

*(B) promote interoperability and efficiency to the extent practicable; and*

*(3) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.*

*(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.*

*(g) DEFINITIONS.—In this section, the following definitions apply:*

*(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—*

*(A) improve the safety of commercial motor vehicle operations;*

*(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;*

*(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;*

*(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and*

*(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.*

*(2) COMMERCIAL MOTOR VEHICLE OPERATIONS.—The term "commercial motor vehicle operations"—*

*(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and*

*(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.*

*(3) CORE DEPLOYMENT.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:*

*(A) Safety information exchange to—*

*(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;*

*(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and*

*(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.*

*(B) Interstate credentials administration to—*

*(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling, oversize vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;*

*(ii) connect to such plan and agreement clearinghouses; and*

*(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.*

*(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.*

*(4) EXPANDED DEPLOYMENT.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.*

*(h) REPEAL.—Section 5209 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 460–461) is repealed.*

### *SEC. 4110. SAFETY FITNESS.*

*(a) IN GENERAL.—Section 31144(a) of title 49, United States Code, is amended to read as follows:*

*"(a) IN GENERAL.—The Secretary shall—*

*"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;*

*"(2) periodically update such safety fitness determinations;*

*"(3) make such final safety fitness determinations readily available to the public; and*

*"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".*

*(b) PROHIBITED TRANSPORTATION.—The first subsection (c) of such section 31144 is amended by adding at the end the following:*

*"(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".*

*(c) DETERMINATION OF UNFITNESS BY A STATE.—Such section 31144 is further amended—*

*(1) by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively;*

*(2) by inserting after the first subsection (c) the following:*

*"(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives a grant under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit."; and*

*(3) in subsection (g) (as redesignated by paragraph (1) of this subsection) by adding at the end the following:*

*"(5) GRANTS FOR AUDITS.—From amounts deducted under section 31104(f)(3), the Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States or local governments.*

*"(6) DOT AUDITS.—If the Secretary determines that a State or local government is unable to use government employees to conduct new entrant motor carrier audits, the Secretary may utilize the funds deducted under section 31104(f)(3) to conduct such audits in areas under the jurisdiction of such State or local government.".*

### *SEC. 4111. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.*

*(a) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 of title 49, United States Code, is amended—*

*(1) by inserting "(a) IN GENERAL.—" before "Each"; and*

*(2) by adding at the end the following:*

*"(b) PATTERN OF NONCOMPLIANCE.—If the Secretary finds that an officer of a motor carrier*

engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, while serving as an officer of any motor carrier, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905.

"(c) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsection (b).

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTOR CARRIER.—The term 'motor carrier' has the meaning such term has under section 13102.

"(2) OFFICER.—The term 'officer' means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of a motor carrier.".

(b) CROSS REFERENCE.—Section 13902(a)(1)(B) of title 49, United States Code, is amended to read as follows:

"(B)(i) any safety regulations imposed by the Secretary;

"(ii) the duties of employers and employees established by the Secretary under section 31135; and

"(iii) the safety fitness requirements established by the Secretary under section 31144; and".

### SEC. 4112. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 of title 49, United States Code, is amended to read as follows:

### "§31108. Motor carrier research and technology program

"(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish and carry out a motor carrier research and technology program.

"(2) MULTIYEAR PLAN.—The program must include a multi-year research plan that focuses on nonredundant innovative research.

"(3) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out under the program research, development, technology, and technology transfer activities with respect to—

"(A) the causes of accidents, injuries, and fatalities involving commercial motor vehicles;

"(B) means of reducing the number and severity of accidents, injuries, and fatalities involving commercial motor vehicles;

"(C) improving commercial motor vehicle and motor carrier safety, and industry efficiency, through technological improvement;

"(D) improving technology used by enforcement officers when conducting roadside inspections and compliance reviews to increase efficiency and information transfers; and

"(E) increasing the safety and security of hazardous materials transportation.

"(4) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

"(5) TRAINING.—The Secretary may use the funds made available to carry out this section for training or education of commercial motor vehicle safety personnel, including training in accident reconstruction and detection of controlled substances or other contraband and stolen cargo or vehicles.

"(6) PROCEDURES.—The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(7) DEVELOPMENT AND PROMOTION OF USE OF PRODUCTS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

"(B) Federal laboratories.

"(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3) COST SHARING.—

"(A) FEDERAL SHARE.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent; except that, if there is substantial public interest or benefit associated with any such activity, the Secretary may approve a greater Federal share.

"(B) TREATMENT OF DIRECTLY INCURRED NON-FEDERAL COSTS.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 of such title is amended by striking the item relating to section 31108 and inserting the following:

"31108. Motor carrier research and technology program.".

### SEC. 4113. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

### "§31161. International cooperation

"The Secretary of Transportation is authorized to use funds made available by section 31104(i) to participate and cooperate in international activities to enhance motor carrier, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"31161. International cooperation.".

### SEC. 4114. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) DESIGN AND CONDITIONS FOR PARTICIPATION.—Section 31106(b) of title 49, United States Code, is amended by striking paragraphs (2), (3), and (4) and inserting the following:

"(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

"(B) possess or seek the authority to deny, suspend, or revoke commercial motor vehicle registrations based on the issuance of an operations out-of-service order by the Secretary.".

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) IN GENERAL.—Subchapter I of chapter 311 of title 49, United States Code, is further amended by adding at the end the following:

### "§31109. Performance and registration information system management

"(a) IN GENERAL.—The Secretary of Transportation may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

"31109. Performance and registration information system management.".

### SEC. 4115. DATA QUALITY IMPROVEMENT.

Section 31106(a)(3) of title 49, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(3) by adding at the end the following:

"(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives; and

"(G) establish and implement a national motor carrier safety data correction system.".

### SEC. 4116. DRIVEAWAY SADDLEMOUNT VEHICLES.

(a) DEFINITION.—Section 31111(a) of tile 49, United States Code, is amended by adding at the end of the following:

"(4) DRIVE-AWAY SADDLEMOUNT WITH FULLMOUNT VEHICLE TRANSPORTER COMBINATION.—The term 'drive-away saddlemount with fullmount vehicle transporter combination' means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it.".

(b) GENERAL LIMITATIONS.—Section 31111(b)(1) of such title is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following:

"(D) imposes a vehicle length limitation of not less than or more than 97 feet on a driveaway saddlemount with fullmount vehicle transporter combinations;".

### SEC. 4117. COMPLETION OF UNIFORM CARRIER REGISTRATION.

(a) IN GENERAL.—Section 14504 of title 49, United States Code, and the item relating to such section in analysis for chapter 145 of such title, are repealed.

(b) CONFORMING AMENDMENTS.—Section 13908 of such title is amended—

(1) in subsection (a) by striking "the single State registration system under section 14504,";

(2) in subsection (b)—

(A) by striking paragraphs (2) and (3); and

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively;

(3) by striking subsection (d); and

(4) by striking "(e) DEADLINE FOR CONCLUSION; MODIFICATION.—" and all that follows through "1996," and inserting the following:

"(d) DEADLINE FOR COMPLETION.—Not later than 1 year after the date of enactment of the Transportation Equity Act: A Legacy for Users.".

### SEC. 4118. REGISTRATION OF MOTOR CARRIERS AND FREIGHT FORWARDERS.

(a) DEFINITIONS RELATING TO MOTOR CARRIERS.—Paragraphs (6), (7), (12), and (13) of section 13102 of title 49, United States Code, are each amended by striking "motor vehicle" and inserting "commercial motor vehicle (as defined in section 31132)".

(b) FREIGHT FORWARDERS.—Section 13903(a) of title 49, United States Code, is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) HOUSEHOLD GOODS.—The Secretary";

(2) by inserting "of household goods" after "freight forwarder"; and

(3) by adding at the end the following:

"(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.".

### SEC. 4119. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO HIGHWAY TRUST FUND.

Sections 31138(d)(5) and 31139(f)(5) of title 49, United States Code, are each amended by striking "Treasury as miscellaneous receipts" and inserting "Highway Trust Fund (other than the Mass Transit Account)".

### SEC. 4120. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.

(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

(c) FEDERAL SHARE.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section.

(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration, and $3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2005, 2006, 2007, 2008, and 2009 to carry out this section.

### SEC. 4121. INSULIN TREATED DIABETES MELLITUS.

(a) NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—The Secretary may not require individuals with insulin-treated diabetes mellitus who are applying for an exemption from the physical qualification standards to have experience operating commercial motor vehicles while using insulin in order to be exempted from the physical qualification standards to operate a commercial motor vehicle in interstate commerce.

(b) MINIMUM PERIOD OF INSULIN USE.—Subject to subsection (a), the Secretary shall require individuals with insulin-treated diabetes mellitus to have a minimum period of insulin use to demonstrate stable control of diabetes before operating a commercial motor vehicle in interstate commerce. For individuals who have been newly diagnosed with type 1 diabetes, the minimum period of insulin use may not exceed 2 months, unless directed by the treating physician. For individuals who have type 2 diabetes and are converting to insulin use, the minimum period of insulin use may not exceed 1 month, unless directed by the treating physician.

(c) LIMITATIONS.—Insulin-treated individuals may not be held by the Secretary to a higher standard of physical qualification in order to operate a commercial motor vehicle in interstate commerce than other individuals applying to operate, or operating, a commercial motor vehicle in interstate commerce; except to the extent that limited operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary.

### SEC. 4122. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) ESTABLISHMENT.—The Secretary shall establish a grant program for training operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicle.

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009 to carry out this section.

### SEC. 4123. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary shall establish a commercial motor vehicle safety advisory committee to provide advice and recommendations to the Secretary on commercial motor vehicle safety regulations and other matters relating to activities and functions of the Federal Motor Carrier Safety Administration.

(b) COMPOSITION.—The members of the advisory committee shall be appointed by the Secretary and shall include representatives of the motor carrier industry, drivers, safety advocates, manufacturers, safety enforcement officials, law enforcement agencies of border States, and other individuals affected by rulemakings under consideration by the Department of Transportation. Representatives of a single interest group may not constitute a majority of the members of the advisory committee.

(c) TERMINATION DATE.—The advisory committee shall remain in effect until September 30, 2009.

### SEC. 4124. SAFETY DATA IMPROVEMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.

(b) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—

(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;

(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and

(3) identified performance-based measures to determine progress toward those goals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for each of fiscal years 2006 through 2009.

(d) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent and such funds shall remain available until expended.

(e) BIENNIAL REPORT.—Not later 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of the program carried out under this section, together with any recommendations the Secretary determines appropriate.

### SEC. 4125. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.

(a) GENERAL AUTHORITY.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize its commercial driver's license information system in accordance with subsection (c) if the State is in substantial compliance with the requirements of section 31311 of title 49, United States Code, and this section, as determined by the Secretary. The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.

(b) MODERNIZATION PLAN.—No later than 120 days after the date of enactment of this Act, the Secretary shall publish a comprehensive national plan to modernize the commercial driver's license information system. The plan shall be developed in consultation with representatives of the motor carrier industry, State safety enforcement agencies, and State licensing agencies designated by the Secretary.

*(c) USE OF GRANT.—A State may use a grant under this section only to implement improvements that are consistent with the modernization plan developed by the Secretary.*

*(d) PILOT PROGRAM.—*

*(1) IN GENERAL.—The Secretary may conduct with grants under this section a 3-year pilot program in no more than 3 States to evaluate a system for sharing driver's license information on all commercial and noncommercial driver's licenses issued in each participating State.*

*(2) FUNDING.—The Secretary may use no more than 50 percent of the funds available to carry out this section for the pilot program in any fiscal year.*

*(3) REPORT.—Not later than 1 year after the last day of the pilot program, the Secretary shall transmit to Congress a report on the results of the pilot program.*

*(e) GOVERNMENT SHARE.—A grant under this section to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in implementing the modernization program developed by the Secretary. In determining these costs, the Secretary shall include in-kind contributions of the State.*

*(f) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—*

*(1) $7,000,000 for fiscal year 2006;*

*(2) $7,000,000 for fiscal year 2007;*

*(3) $8,000,000 for fiscal year 2008; and*

*(4) $8,000,000 for fiscal year 2009.*

*(g) CONTRACT AUTHORITY AND AVAILABILITY.—*

*(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (f) shall remain available until expended.*

*(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (f) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.*

*(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (f) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.*

### *SEC. 4126. MAXIMUM HOURS OF SERVICE FOR OPERATORS OF GROUND WATER WELL DRILLING RIGS.*

*Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat 613) is amended by adding at the end the following: "Except as required in section 395.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such vehicle.".*

### *SEC. 4127. SAFETY PERFORMANCE HISTORY SCREENING.*

*(a) IN GENERAL.—The Secretary shall provide persons conducting preemployment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:*

*(1) Commercial motor vehicle accident reports.*

*(2) Inspection reports that contain no driver-related safety violations.*

*(3) Serious driver-related safety violation inspection reports.*

*(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—*

*(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;*

*(2) ensure that such person will not conduct a screening without the operator-applicant's written consent;*

*(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and*

*(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.*

*(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator's crash and serious safety violation inspection history as a preemployment condition. Use of the process shall not be mandatory and may only be used during the preemployment assessment of an operator-applicant.*

*(d) SERIOUS OPERATOR-RELATED SAFETY VIOLATION DEFINED.—In this section, the term "serious operator-related violation" means a violation by an operator of a commercial motor vehicle (as defined in section 31102 of title 49, United States Code) that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.*

### *SEC. 4128. INTERMODAL CHASSIS ROADABILITY RULE-MAKING.*

*(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers are safe.*

*(b) MOTOR CARRIER SAFETY REGULATIONS.—The regulations under this section shall be issued as part of the Federal motor carrier safety regulations of the Department of Transportation.*

*(c) CONTENTS.—The regulations issued under this section shall include, at a minimum—*

*(1) a requirement to identify providers of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;*

*(2) a requirement to match such intermodal equipment readily to the intermodal equipment provider through a unique identifying number;*

*(3) a requirement to ensure that each intermodal equipment provider maintains a system of maintenance and repair records for such equipment;*

*(4) a requirement to evaluate the compliance of intermodal equipment providers with the applicable Federal motor carrier safety regulations;*

*(5) a provision that—*

*(A) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and*

*(B) prohibits intermodal equipment providers from placing intermodal equipment on the public highways if such providers are found to pose an imminent hazard;*

*(6) a process by which motor carriers and agents of motor carriers may petition the Federal Motor Carrier Safety Administration to undertake an investigation of a noncompliant intermodal equipment provider; and*

*(7) an inspection and audit program of intermodal equipment providers.*

*(d) DEADLINE FOR RULEMAKING PROCEEDING.—The regulations under this section shall be issued pursuant to a rulemaking proceeding initiated not later than 90 days after the date of enactment of this Act.*

*(e) DEFINITIONS.—In this section, the following definitions apply:*

*(1) INTERMODAL EQUIPMENT.—The term "intermodal equipment" means equipment that is commonly used in the intermodal transportation of freight over public highways in interstate commerce (as defined in section 31132 of title 49, United States Code), including trailers, chassis, and any associated devices.*

*(2) INTERMODAL EQUIPMENT PROVIDER.—The term "intermodal equipment provider" means any person with any legal right, title, or interest in intermodal equipment that interchanges such equipment to a motor carrier.*

*(3) INTERCHANGE.—The term "interchange" means the act of providing intermodal equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider. Such term does not include the leasing of equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.*

*(f) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—Section 31136 of title 49, United States Code, is amended by adding at the end the following:*

*"(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary, or an employee of the Department of Transportation designated by the Secretary, may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials to inspect intermodal equipment.".*

*(g) JURISDICTION OVER EQUIPMENT PROVIDERS.—Section 31132(1) of such title is amended by inserting after "towed vehicle" the following: "(including intermodal equipment, including trailers, chassis and associated devices, commonly used for the transportation of intermodal freight via highway)".*

### *SEC. 4129. SUBSTANCE ABUSE PROFESSIONALS.*

*The Secretary shall conduct a rulemaking to permit State licensed or certified mental health counselors or addiction specialists certified by the American Academy of Health Care Providers in the Addictive Disorders to act as substance abuse professionals under subpart O of part 40 of title 49, Code of Federal Regulations.*

### *SEC. 4130. INTERSTATE VAN OPERATIONS.*

*The Federal motor carrier safety regulations (other than regulations relating to commercial drivers license and drug and alcohol testing requirements) shall apply to all interstate operations of commercial motor vehicles used to transport between 9 and 15 passengers (including the driver), regardless of the distance traveled.*

### *SEC. 4131. HOURS OF SERVICE FOR OPERATORS OF UTILITY SERVICE VEHICLES.*

*Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended—*

*(1) in subsection (a) by striking paragraph (4) and inserting the following:*

*"(4) OPERATORS OF UTILITY SERVICE VEHICLES.—*

*"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations shall not apply to a driver of a utility service vehicle.*

*"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.".*

*(2) in subsection (b) by striking "Nothing" and inserting "Except as provided in subsection (a)(4), nothing"; and*

*(3) in the first sentence of subsection (c) by striking "paragraph (2)" and inserting "an exemption under paragraph (2) or (4)".*

### *SEC. 4132. TECHNICAL CORRECTIONS.*

*(a) INTERMODAL TRANSPORTATION ADVISORY BOARD.—Section 5502(b) of title 49, United States Code, is amended—*

*(1) by striking "and" at the end of paragraph (4);*

*(2) by striking the period at the end of paragraph (5) and inserting "; and"; and*

*(3) by adding at the end the following:*

*"(6) the Federal Motor Carrier Safety Administration.".*

*(b) REFERENCE TO AGENCY.—Section 31502(e) of such title is amended—*

*(1) in paragraph (2) by striking "Regional Director of the Federal Highway Administration" and inserting "Field Administrator of the Federal Motor Carrier Safety Administration"; and*

*(2) in paragraph (3) by striking "Regional Director" and inserting "Field Administrator".*

### *SEC. 4133. INTRASTATE AND FOREIGN OPERATIONS OF INTERSTATE MOTOR CARRIERS.*

*Section 31144(a) of title 49, United States Code, is amended to read as follows:*

*"(a) IN GENERAL.—The Secretary shall—*

*"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident and safety inspection record of an owner or operator during operations—*

*"(A) in interstate commerce in the United States;*

*"(B) in a State that affects interstate commerce in the United States; and*

*"(C) in Canada or Mexico if the owner or operator also conducts operations in the United States;*

*"(2) periodically update such safety fitness determinations;*

*"(3) make such final safety fitness determinations readily available to the public; and*

*"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".*

### *SEC. 4134. OPERATORS OF VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.*

*(a) AGRICULTURAL EXEMPTION.—Section 345(a)(1) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended to read as follows:*

*"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.".*

*(b) DEFINITIONS.—Section 345(e) of such Act (109 Stat. 614) is amended by adding at the end the following:*

*"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means products grown on and harvested from the land during the planting and harvesting seasons within each State, as determined by the State.*

*"(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term 'farm supplies for agricultural purposes' means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.".*

### *SEC. 4135. HOURS OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION TO MOVIE PRODUCTION SITES.*

*Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under such sections on April 27, 2003.*

### *SEC. 4136. SPECIAL RULE FOR FISCAL YEAR 2004.*

*In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part IV (Public Law 108–280), including any amendment made by such Act, the amount referred to in such Act shall be the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.*

## *Subtitle B—Household Goods Transportation*

### *SEC. 4201. FEDERAL-STATE RELATIONS RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.*

*(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) of title 49, United States Code, is amended by inserting "intrastate" before "transportation".*

*(b) ENFORCEMENT OF CONSUMER PROTECTION WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—Chapter 145 of such title is amended by adding at the end the following:*

#### *"§ 14506. Enforcement of Federal regulations by State attorneys general*

*"(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of a resident of the State in an appropriate district court of the United States to enforce a regulation or order of the Secretary or Board—*

*"(1) to protect an individual shipper of household goods if such regulation or order governs the delivery of the shipper's household goods; or*

*"(2) to impose a civil penalty under section 14915 whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by—*

*"(A) a carrier or broker providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 who is committing repeat violations of section 14915; or*

*"(B) a foreign motor carrier providing transportation of household goods who is registered under section 13902 and who is committing repeat violations of section 14915.*

*"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—*

*"(1) as preventing an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence;*

*"(2) as prohibiting a State official from proceeding in State court to enforce a criminal statute of the State;*

*"(3) as authorizing a State or political subdivision of a State to bring an enforcement action under a consumer protection law, regulation, or other provision of the State relating to interstate transportation of household goods (as defined in section 13102(10)(A)) with respect to an activity that is inconsistent with Federal laws and regulations relating to interstate transportation of household goods; or*

*"(4) as authorizing a State, as parens patriae, to bring a class civil action on behalf of its residents to enforce a regulation or order of the Secretary or Board.*

*"(c) ACTIONS BY THE SECRETARY OR BOARD.—Whenever a civil action has been instituted by or on behalf of the Secretary or Board for violation of section 14915, no State may, during the pendency of such action, institute a civil action under subsection (a) against any defendant named in the complaint relating to such violation.*

*"(d) VENUE; SERVICE OF PROCESS.—Any civil action to be brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.".*

*(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:*

*"14506. Enforcement of Federal regulations by State attorneys general.".*

### *SEC. 4202. ARBITRATION REQUIREMENTS.*

*(a) OFFERING SHIPPERS ARBITRATION.—Section 14708(a) of title 49, United States Code, is amended by inserting before the period at the end the following: "and to determine whether carrier charges, in addition to those collected at delivery, must be paid by the shipper for transportation and services related to the transportation of household goods".*

*(b) THRESHOLD FOR BINDING ARBITRATION.—Section 14708(b)(6) of such title is amended by striking "$5,000" each place it appears and inserting "$10,000".*

*(c) DEADLINE FOR DECISION.—Section 14708(b)(8) of such title is amended—*

*(1) by striking "and"; and*

*(2) by inserting after "for damages" the following: ", and an order requiring the payment of additional carrier charges".*

*(d) ATTORNEY'S FEES TO SHIPPERS.—Section 14708(d)(3) of such title is amended—*

*(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and*

*(2) by inserting before subparagraph (B) (as so redesignated) the following:*

*"(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;".*

### *SEC. 4203. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION.*

*Section 14901(d) of title 49, United States Code, is amended—*

*(1) by striking "If a carrier" and inserting the following:*

*"(1) IN GENERAL.—If a carrier"; and*

*(2) by adding at the end the following:*

*"(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.*

*"(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered*

*under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".*

### *SEC. 4204. CIVIL PENALTY FOR HOLDING HOUSEHOLD GOODS HOSTAGE.*

*(a) IN GENERAL.—Chapter 149 of title 49, United States Code, is amended by adding at the end the following:*

***"§14915. Holding household goods hostage***

*"(a) HOLDING HOUSEHOLD GOODS HOSTAGE DEFINED.—For purposes of this section, the term 'holding household goods hostage' means the knowing and willful refusal to relinquish possession of a shipment of household goods described in section 13102(10)(A) upon payment of not more than 100 percent of a binding estimate (or, in the case of a nonbinding estimate, not more than 110 percent of the estimated charges for such shipment).*

*"(b) CIVIL PENALTY.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than $10,000 for each violation. If such person is a carrier or broker, the Secretary may suspend for a period of not less than 6 months the registration of such carrier or broker under chapter 139.".*

*(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:*

*"14915. Holding household goods hostage.".*

### *SEC. 4205. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.*

*(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and of making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.*

*(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods.*

*(c) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a).*

*(d) TERMINATION DATE.—The working group shall remain in effect until September 30, 2009.*

### *SEC. 4206. CONSUMER HANDBOOK ON DOT WEB SITE.*

*Not later than 1 year after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that publication ESA 03005 of the Federal Motor Carrier Safety Administration entitled "Your Rights and Responsibilities When You Move", is prominently displayed, and available in language that is readily understandable by the general public, on the Web site of the Department of Transportation.*

### *SEC. 4207. RELEASE OF HOUSEHOLD GOODS BROKER INFORMATION.*

*Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a broker that is subject to such regulations to provide shippers with the following information whenever they have contact with a shipper or potential shipper:*

*(1) The Department of Transportation number of the broker.*

*(2) The ESA 03005 publication referred to in section 4206 of this Act.*

*(3) A list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.*

### *SEC. 4208. CONSUMER COMPLAINT INFORMATION.*

*(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—*

*(1) establish a system for filing and logging consumer complaints relating to motor carriers providing transportation of household goods and for compiling complaint information gathered by the Department of Transportation and the States with regard to such carriers, a database of the complaints, and a procedure for the public to have access to aggregated information and for carriers to challenge duplicate or fraudulent information in the database; and*

*(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—*

*(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;*

*(B) the number and general category of complaints lodged by consumers with the carrier;*

*(C) the number of claims filed with the carrier for loss and damage in excess of $500;*

*(D) the number of such claims resolved during the reporting period;*

*(E) the number of such claims declined in the reporting period; and*

*(F) the number of such claims that are pending at the close of the reporting period.*

*(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program.*

### *SEC. 4209. INSURANCE REGULATIONS.*

*(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall undertake a review of the current Federal regulations regarding insurance coverage provided by motor carriers providing transportation of household goods and revise such regulations in order to provide enhanced protection for shippers in the case of loss or damage as determined necessary.*

*(b) DETERMINATIONS.—The review shall include, but not be limited to, a determination of—*

*(1) whether the current regulations provide adequate protection for shippers;*

*(2) whether an individual shipper should purchase insurance as opposed to the carrier; and*

*(3) whether there are abuses of the current regulations that leave the shipper unprotected in loss and damage claims.*

### *SEC. 4210. ESTIMATING REQUIREMENTS.*

*Section 14104(b)(1) of title 49, United States Code, is amended to read as follows:*

*"(1) REQUIRED TO BE IN WRITING.—*

*"(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.*

*"(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.*

*"(C) ESTIMATE.—*

*"(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding.*

*"(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.*

*"(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.".*

### *SEC. 4211. APPLICATION OF STATE CONSUMER PROTECTION LAWS TO CERTAIN HOUSEHOLD GOODS CARRIERS.*

*(a) STUDY.—The Comptroller General shall conduct a study on the current consumer protection authorities and actions of the Department of Transportation and the impact on shippers and carriers of household goods involved in interstate transportation of allowing State attorneys general to apply State consumer protection laws to such transportation.*

*(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Comptroller General shall consider, at a minimum—*

*(1) the level of consumer protection being provided to consumers through Federal household goods regulations and how household goods regulations relating to consumer protection compare to regulations relating to consumer protection for other modes of transportation regulated by the Department of Transportation;*

*(2) the history and background of State enforcement of State consumer protection laws on household goods carriers providing intrastate transportation and what effects such laws have on the ability of intrastate household goods carriers to operate;*

*(3) what operational impacts, if any, would result on household goods carriers engaged in interstate commerce being subject to the State consumer protection laws; and*

*(4) the potential for States to regulate rates or other business operations if State consumer protection laws applied to interstate household goods movements.*

*(c) CONSULTATION.—In conducting the study, the Comptroller General shall consult with the Secretary, State attorneys general, consumer protection agencies, and the household goods industry.*

*(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee of Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on the results of the study.*

### *SEC. 4212. APPLICABILITY TO HOUSEHOLD GOODS MOTOR CARRIERS.*

*(a) IN GENERAL.—The provisions of title 49, United States Code, and this Act (including any amendments made by this Act) relating to the transportation of household goods shall only apply to household goods motor carriers.*

*(b) HOUSEHOLD GOODS MOTOR CARRIER DEFINED.—In this section, the term "household goods motor carrier" means a motor carrier as defined in section 13102(12) of title 49, United States Code, which, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services: binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items, and loading and unloading at personal residences.*

### SEC. 4213. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

*Section 31310(i)(2) of title 49, United States Code, is amended by adding at the end the following:*

*"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.".*

### SEC. 4214. CRIMINAL PENALTY FOR HOLDING GOODS HOSTAGE .

*Section 14915 of title 49, United States Code, as added by section 4204 of this Act is amended by adding at the end the following:*

*"(c) Criminal Penalty.—A motor carrier that has been convicted of knowingly and willfully holding household goods hostage by falsifying documents or demanding the payment of charges for services that were not performed or were not necessary in the safe and adequate movement of a shipment of household goods shall be fined under title 18, or imprisoned not more than 2 years, or both.".*

## TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

### Subtitle A—Funding

### SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

*(a) In General.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):*

*(1) Surface transportation research, development, and deployment program.—To carry out sections 502, 503, 506, 507, 509, and 510 of title 23, United States Code, and sections 5207, 5210, 5211, and 5402 of this title—*

*(A) $169,000,000 for fiscal year 2004;*
*(B) $239,500,000 for fiscal year 2005;*
*(C) $239,500,000 for fiscal year 2006;*
*(D) $239,500,000 for fiscal year 2007;*
*(E) $239,500,000 for fiscal year 2008; and*
*(F) $239,500,000 for fiscal year 2009.*

*(2) Training and education.—To carry out section 504 of title 23, United States Code, and section 5211 of this Act, $24,500,000 for fiscal year 2004 and $33,500,000 for each of fiscal years 2005 through 2009.*

*(3) Bureau of transportation statistics.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $31,000,000 for fiscal year 2004 and $33,000,000 for each of fiscal years 2005 through 2009.*

*(4) University transportation research.—To carry out sections 5505 and 5506 of title 49, United States Code, $54,500,000 for fiscal year 2004 and $71,000,000 for each of fiscal years 2005 through 2009.*

*(5) Intelligent transportation systems (ITS) research.—To carry out subtitle F of this title, $115,000,000 for each of fiscal years 2004 through 2009.*

*(6) ITS deployment.—To carry out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (112 Stat. 458; 112 Stat. 460), $100,000,000 for fiscal years 2004 and 2005.*

*(b) Applicability of Title 23, United States Code.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project or activity carried out using such funds shall be 50 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.*

### SEC. 5102. OBLIGATION CEILING.

*Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by sections 5101(a) and 5401 of this Act shall not exceed $483,000,000 for fiscal year 2004, $484,000,000 for fiscal year 2005, $485,000,000 for fiscal year 2006, $485,000,000 for fiscal year 2007, $486,000,000 for fiscal year 2008, and $487,000,000 for fiscal year 2009.*

### SEC. 5103. FINDINGS.

*Congress finds the following:*

*(1) Research and development are critical to developing and maintaining a transportation system that meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.*

*(2) Federally sponsored surface transportation research and development has produced many successes. The development of rumble strips has increased safety; research on materials has increased the lifespan of pavements, saving money and reducing the disruption caused by construction; and Geographic Information Systems have improved the management and efficiency of transit fleets.*

*(3) Despite these important successes, the Federal surface transportation research and development investment represents less than one percent of overall government spending on surface transportation.*

*(4) While Congress increased funding for overall transportation programs by about 40 percent in the Transportation Equity Act for the 21st Century, funding for transportation research and development remained relatively flat.*

*(5) The Federal investment in research and development should be balanced between short-term applied and long-term fundamental research and development. The investment should also cover a wide range of research areas, including research on materials and construction, research on operations, research on transportation trends and human factors, and research addressing the institutional barriers to deployment of new technologies.*

*(6) Therefore, Congress finds that it is in the United States interest to increase the Federal investment in transportation research and development, and to conduct research in critical research gaps, in order to ensure that the transportation system meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.*

### Subtitle B—Research, Technology, and Education

### SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.

*(a) Research, Technology, and Education.—Title 23, United States Code, is amended—*

*(1) in the table of chapters by striking the item relating to chapter 5 and inserting the following:*

*"5. RESEARCH, TECHNOLOGY, AND EDUCATION .............................. 501".*

*(2) by striking the heading for chapter 5 and inserting the following:*

### "CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION".

*(b) Statement of Principles Governing Research and Technology Investments.—Section 502 of such title is amended—*

*(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and*

*(2) by inserting before subsection (b) (as so redesignated) the following:*

*"(a) Basic Principles Governing Research and Technology Investments.—*

*"(1) Coverage.—Surface transportation research and technology development shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, and technical support.*

*"(2) Federal responsibility.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—*

*"(A) is of national significance;*

*"(B) supports research in which there is a clear public benefit and private sector investment is less than optimal;*

*"(C) supports a Federal stewardship role in assuring that State and local governments use national resources efficiently; or*

*"(D) presents the best means to support Federal policy goals compared to other policy alternatives.*

*"(3) Role.—Consistent with these Federal responsibilities, the Secretary shall—*

*"(A) conduct research;*

*"(B) support and facilitate research and technology transfer activities by State highway agencies;*

*"(C) share results of completed research; and*

*"(D) support and facilitate technology and innovation deployment.*

*"(4) Program content.—A surface transportation research program shall include—*

*"(A) fundamental, long-term highway research;*

*"(B) research aimed at significant highway research gaps and emerging issues with national implications; and*

*"(C) research related to policy and planning.*

*"(5) Stakeholder input.—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.*

*"(6) Competition and peer review.—Except as otherwise provided in this Act, the Secretary shall award all grants, contracts, and cooperative agreements for research and development under this Act based on open competition and peer review of proposals.*

*"(7) Performance review and evaluation.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based. All evaluations shall be made readily available to the public.".*

*(c) Procurement for Research, Development, and Technology Transfer Activities.—Section 502(b)(3) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:*

*"(3) Cooperation, grants, and contracts.—The Secretary may carry out research, development, and technology transfer activities related to transportation—*

*"(A) independently;*

*"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or*

*"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with one or more of the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, any other person.".*

*(d) Transportation Pooled Fund Program.—Section 502(b) of such title (as redesignated by subsection (b) of this section), is amended by adding at the end the following:*

"(6) POOLED FUNDING.—

"(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

"(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, grants, and other transactions as agent for all participating parties in carrying out such research, development, or technology transfer.".

(e) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of such title is further amended—

(1) in subsection (b)(1)(B) (as redesignated by subsection (b) of this section) by inserting "transportation system management and operations," after "operation,".

(2) in subsection (d)(5)(C) (as redesignated by subsection (b) of this section) by inserting "system management and" after "transportation"; and

(3) by inserting at the end of subsection (d) (as redesignated by subsection (b) of this section) the following:

"(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase transportation system reliability.

"(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.

"(14) Research, development, and technology transfer related to asset management.".

(f) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c)(2) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other transactions to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, and their agents to conduct joint transportation research and technology efforts.".

(g) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502(e) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(e) EXPLORATORY ADVANCED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that involves and draws upon basic research results to provide a better understanding of problems and develop innovative solutions. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.

"(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

"(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

"(B) Assessment of the effects of transportation decisions on human health.

"(C) Development of surrogate measures of safety.

"(D) Environmental research.

"(E) Data acquisition techniques for system condition and performance monitoring.

"(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decision-making.".

(h) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502(f) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

"(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall complete the 20-year long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on June 8, 1998).

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(B) analyze the data obtained under subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future pavement technology needs.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $10,000,000 for fiscal year 2004 and $21,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(f) of title 23, United States Code.

(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

"(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

"(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

"(A) the conduct of highway research and development related to new highway technology;

"(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and

"(C) the development of innovative highway products and practices.".

(j) UNIVERSITY FUNDING.—Except as otherwise provided in this title and any amendments made by this title, the Secretary may not provide financial assistance to a university under section 5101 unless the university is selected to receive such funds through a competitive process that incorporates merit-based peer review and the selection is based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

**SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.**

(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

"(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate test bridges;

"(B) analyze the data obtained under subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future bridge technology needs.".

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(j) of title 23, United States Code.

(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503(b)(1) of such title is amended to read as follows:

"(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.".

(2) GOALS.—Section 503(b)(2) of such title is amended to read as follows:

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective, innovative highway bridge applications;

"(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

"(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(E) the development of highway bridges and structures that will withstand natural disasters;

"(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods;

"(G) the effective transfer of resulting information and technology; and

"(H) the development of improved methods to detect bridge scour and economical bridge foundation designs that will withstand bridge scour.".

(3) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $20,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503(b) of title 23, United States Code; and

(B) HIGH PERFORMANCE CONCRETE BRIDGE TECHNOLOGY RESEARCH AND DEPLOYMENT.—The Secretary shall obligate $2,000,000 of the amount described in subparagraph (A) for each of fiscal years 2004 through 2009 to conduct research and deploy technology related to high-performance concrete bridges.

**SEC. 5203. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.**

(a) IN GENERAL.—Section 507 of title 23, United States Code, is amended to read as follows:

***"§507. Surface Transportation environment and planning cooperative research program***

"(a) ESTABLISHMENT.—The Secretary shall establish and carry out a collaborative, public-private surface transportation environment and planning cooperative research program.

"(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to carry out administrative and management activities relating to the governance of the surface transportation environment and planning cooperative research program.

"(c) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a committee that will be responsible for program oversight and project selection.

"(2) MEMBERSHIP.—The members of the committee shall be appointed by the Secretary and shall be composed of—

"(A) representatives of State, regional, and local transportation agencies, including transit agencies;

"(B) representatives of State environmental agencies and other environmental organizations;

"(C) representatives of the transportation private sector;

"(D) transportation and environmental scientists and engineers; and

"(E) representatives of the Federal Highway Administration, Federal Transit Administration, Environmental Protection Agency, United States Fish and Wildlife Service, Corps of Engineers, American Association of State Highway and Transportation Officials, and American Public Transportation Association, who shall serve in an ex officio capacity.

"(3) BALANCE.—The majority of the committee's voting members shall be representatives of government transportation agencies.

"(4) MEETINGS.—The National Academy of Sciences shall convene meetings of the committee.

"(d) GOVERNANCE.—The program established under this section shall include the following administrative and management elements:

"(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall carry out and periodically update research and development called for in the Transportation Research Board Special Report 268, entitled 'Surface Transportation Environmental Research: A Long-Term Strategy' and published in 2002, as described in subsection (e). The national research agenda shall include a multiyear strategic plan.

"(2) INVOLVEMENT.—Interested parties may—

"(A) submit research proposals;

"(B) participate in merit reviews of research proposals and peer reviews of research products; and

"(C) receive research results.

"(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award under the program research contracts and grants through open competition and merit review conducted on a regular basis.

"(4) EVALUATION OF RESEARCH.—

"(A) PEER REVIEW.—Research contracts and grants may allow peer review of the research results.

"(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis.

"(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, World Wide Web, and publications for the general public.

"(e) CONTENTS.—The national research agenda for the program required under subsection (d)(1) shall include research in the following areas for the purposes described:

"(1) HUMAN HEALTH.—Human health to establish the links between transportation activities and human health; substantiate the linkages between exposure to concentration levels, emissions, and health impacts; examine the potential health impacts from the implementation and operation of transportation infrastructure and services; develop strategies for avoidance and reduction of these impacts; and develop strategies to understand the economic value of health improvements and for incorporating health considerations into valuation methods.

"(2) ECOLOGY AND NATURAL SYSTEMS.—Ecology and natural systems to measure transportation's short- and long-term impact on natural systems; develop ecologically based performance measures; develop insight into both the spatial and temporal issues associated with transportation and natural systems; study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health; develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and develop ecologically based performance techniques to evaluate the success of highway project mitigation and enhancement measures.

"(3) ENVIRONMENTAL AND SOCIOECONOMIC RELATIONSHIPS.—Environmental and socioeconomic relationships to understand differences in mobility, access, travel behavior, and travel preferences across socioeconomic groups; develop improved planning approaches that better reflect and respond to community needs; improve evaluation methods for examining the incidence of benefits and costs; examine the differential impacts of current methods of finance and explore alternatives; understand the socioeconomic implications of emerging land development patterns and new transportation technologies; develop cost-effective applications of technology that improve the equity of the transport system; and develop improved methods for community involvement, collaborative planning, and conflict resolution.

"(4) EMERGING TECHNOLOGIES.—Emerging technologies to assist in the transition to environmentally benign fuels and vehicles for passengers and freight; develop responses to and demand for new technologies that could offer improved environmental performance; identify possible applications of intelligent transportation systems technologies for environmental benefit; develop policy instruments that would encourage the development of beneficial new technologies in a cost-effective manner; and respond to the impact of new technologies.

"(5) LAND USE.—Land use to assess land consumption trends and contributing factors of transportation investment, housing policies, school quality, and consumer preferences; incorporate impacts of transportation investments on location decision and land use; identify the costs and benefits of current development patterns and their transportation implications; determine the effect of the built environment on people's willingness to walk, drive, or take public transportation; determine the roles of public policy and institutional arrangements in current and prospective land use and transportation choices; and develop improved data, methods, and processes for considering land use, transportation, and the environment in an integrated, systematic fashion.

"(6) PLANNING AND PERFORMANCE MEASURES.—Planning and performance measures to improve understanding of travel needs and preferences; improve planning methods for system analysis, forecasting, and decisionmaking; expand information on consumer choice processes and travel and activity patterns for both local and long-distance trips and both passenger and freight transportation analysis of social, environmental, and economic benefits and cost of various transport options; develop tools for measuring and forecasting complex transportation decisions for all modes and users; and develop performance measures and policy analysis approaches that can be used to determine effectiveness.

"(7) OTHER RESEARCH AREAS.—Other research areas to identify and address the emerging and future surface transportation research needs related to planning and environment.

"(f) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

"(g) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized to be appropriated to carry out this section, the National Academy of Sciences may seek and accept additional funding sources to carry out this section from public and private entities capable of attracting and accepting funding from the Department of Transportation, Environmental Protection Agency, Department of Energy, United States Fish and Wildlife Service, and other Federal environmental agencies, States, local governments, nonprofit foundations, and the private sector.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 507 and inserting the following:

"507. Surface transportation environment and planning cooperative research program.".

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 507 of title 23, United States Code.

**SEC. 5204. TECHNOLOGY DEPLOYMENT.**

(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

(1) in the subsection heading by striking "INITIATIVES AND PARTNERSHIPS";

(2) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.";

(3) by striking paragraph (7) and inserting the following:

"(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.

"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2)."; and

(4) by striking paragraph (8) and inserting the following:

"(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (7) is made available to State and local transportation departments and other interested parties as specified by the Secretary.".

(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503 of such title is further amended by adding at the end the following:

*"(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.*

*"(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—*

*"(A) the deployment of new, cost-effective, innovative designs, materials, recycled materials (including taconite tailings and foundry sand), and practices to extend pavement life and performance and to improve customer satisfaction;*

*"(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;*

*"(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;*

*"(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;*

*"(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;*

*"(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;*

*"(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and*

*"(H) the development of designs and materials to reduce storm water runoff.*

*"(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate not less than $2,000,000 for fiscal year 2004 and $6,000,000 for each of fiscal years 2005 through 2009 from funds made available to carry out this subsection to conduct research to improve asphalt pavement, concrete pavement, and aggregates used in highways on the National Highway System.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(c) of title 23, United States Code.*

*(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—*

*(1) IN GENERAL.—Section 503 of such title is further amended by adding the following:*

*"(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.*

*"(2) GOALS.—The goals of the program shall include—*

*"(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and*

*"(B) the deployment of best practices in training, management, design, and planning.*

*"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—*

*"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.*

*"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).*

*"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(d) of title 23, United States Code.*

*(d) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of such title is further amended by adding at the end the following:*

*"(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.".*

*(e) WOOD COMPOSITE MATERIALS DEMONSTRATION PROJECT.—*

*(1) FUNDING.—Of the funds made available to carry out section 5101(a)(1), $1,000,000 shall be made available by the Secretary for each of fiscal years 2005 and 2006 for conducting a demonstration of the durability and potential effectiveness of wood composite materials in multimodal transportation facilities.*

*(2) FEDERAL SHARE.—The Federal share of the cost of the demonstration under paragraph (1) shall be 100 percent.*

### ***SEC. 5205. TRAINING AND EDUCATION.***

*(a) NATIONAL HIGHWAY INSTITUTE.—*

*(1) IN GENERAL.—Section 504(a)(3) of title 23, United States Code, is amended to read as follows:*

*"(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures in areas, including surface transportation, environmental mitigation, compliance, stewardship, and streamlining, acquisition of rights-of-way, relocation assistance, engineering, safety, transportation system management and operations, construction, maintenance, contract administration, inspection, and highway finance.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $8,000,000 for fiscal year 2004 and $8,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(a) of title 23, United States Code.*

*(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—*

*(1) IN GENERAL.—Section 504(b) of such title is amended by adding at the end the following:*

*"(3) FEDERAL SHARE.—*

*"(A) GRANTS.—A grant under this subsection may be used to pay up to 50 percent of local technical assistance program costs. Funds available for technology transfer and training purposes under this title and title 49 may be used to cover the remaining 50 percent of the program costs.*

*"(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $12,000,000 for fiscal year 2004 and $14,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of title 23, United States Code.*

*(c) EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—Of the amounts made available by section 5101(a)(2) of this Act, $2,000,000 for fiscal year 2004 and $2,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of title 23, United States Code.*

*(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—*

*(1) IN GENERAL.—Section 504 of title 23, United States Code, is further amended by adding at the end the following new subsection:*

*"(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.*

*"(2) AUTHORIZED ACTIVITIES.—The Secretary shall award grants under this subsection on the basis of competitive, peer review. Grants awarded under this subsection may be used for enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—*

*"(A) internships that offer students experience in the transportation field;*

*"(B) programs that allow students to spend time observing scientists and engineers in the transportation field; and*

*"(C) developing relevant curriculum that uses examples and problems related to transportation.*

*"(3) APPLICATION AND REVIEW PROCEDURES.—*

*"(A) IN GENERAL.—An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used and a description of how the funds will be used to serve the purposes described in paragraph (2).*

*"(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.*

*"(C) ELIGIBILITY.—Local education agencies and State education agencies, which may partner with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.*

*"(4) DEFINITIONS.—For purposes of this subsection—*

*"(A) the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);*

*"(B) the term 'local educational agency' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and*

*"(C) the term 'State educational agency' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $500,000 for 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(d) of title 23, United States Code.*

*(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504 of such title is further amended by adding at the end the following:*

"(e) Surface Transportation Workforce Development, Training, and Education.—

"(1) Funding.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e) for surface transportation workforce development, training and education, including—

"(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

"(B) employee professional development;

"(C) student internships;

"(D) university or community college support; and

"(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers.

"(2) Federal share.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.

"(3) Surface transportation workforce development, training, and education defined.—In this subsection, the term 'surface transportation workforce development, training, and education' means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including activities for women and minorities.".

(f) Transportation Education Development Pilot Program.—Section 504 of such title is further amended by inserting after subsection (e) the following:

"(f) Transportation Education Development Pilot Program.—

"(1) Establishment.—The Secretary shall establish a program to make grants to institutions of higher education that in partnership with industry or State Departments of Transportation will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.

"(2) Selection of grant recipients.—In selecting applications for awards under this subsection, the Secretary shall consider—

"(A) the degree to which the new curricula or education program meets the specific needs of a segment of the transportation industry, States, or regions;

"(B) providing for practical experience and on-the-job training;

"(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;

"(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;

"(E) programs or curricula in nontraditional departments which train professionals for work in the transportation field, such as materials, information technology, environmental science, urban planning, and industrial technology; and

"(F) industry or a State's Department of Transportation commitment to the program.

"(3) Funding.—Of the amounts made available by section 5101(a)(2) of this Act, $1,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out this subsection.

"(4) Limitations.—The amount of a grant under this subsection shall not exceed $250,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal no more than 75 percent of a grantee's program costs.".

(g) Definitions and Declaration of Policy.—Section 101(a)(3) of such title is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(3) by adding at the end the following:

"(I) surface transportation workforce development, training, and education.".

(h) Transportation Technology Innovations.—

(1) Fundamental properties of asphalts and modified asphalts.—The Secretary shall continue to carry out section 5117(b)(5) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

(2) Transportation, economic, and land use system.—The Secretary shall continue to carry out section 5117(b)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

(3) Funding.—Of the amounts made available for each of fiscal years 2004 through 2009 by section 5101(a)(1) of this Act, $3,000,000 shall be available to carry out paragraph (1) and $1,000,000 shall be available to carry out paragraph (2).

(4) Use of rights-of-way.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(A) by redesignating subparagraphs (E) through (G) as subparagraphs (F) through (H), respectively; and

(B) by inserting after subparagraph (D) the following:

"(E) Use of rights-of-way.—

"(i) In general.—An intelligent transportation system project described in paragraph (3), and an intelligent transportation system project described in paragraph (6), that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund (other than the Mass Transit Account) shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which funds from the Highway Trust Fund (other than the Mass Transit Account) have been used for planning, design, construction, or maintenance if the Secretary determines that such use is in the public interest.

"(ii) Limitation on statutory construction.—Nothing in this subparagraph shall be construed to affect the authority of a State, or political subdivision of a State, to regulate highway safety.".

## SEC. 5206. FREIGHT PLANNING CAPACITY BUILDING.

(a) In General.—Section 504 of title 23, United States Code, is further amended by adding at the end the following:

"(g) Freight Capacity Building Program.—

"(1) Establishment.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

"(A) better target investments in freight transportation systems to maintain efficiency and productivity; and

"(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.

"(2) Agreements.—The Secretary shall enter into agreements to support and carry out administrative and management activities relating to the governance of the freight planning capacity initiative.

"(3) Stakeholder involvement.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

"(4) Eligible activities.—The freight planning capacity building initiative shall include research, training, and education in the following areas:

"(A) The identification and dissemination of best practices in freight transportation.

"(B) Providing opportunities for freight transportation staff to engage in peer exchange.

"(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.

"(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.

"(E) Facilitating relationship building between governmental and private entities involved in freight transportation.

"(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental excellence in connection with long-range multimodal transportation planning and project implementation.

"(5) Funding.—

"(A) Federal share.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

"(B) Use of non-federal funds.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, Federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.".

(b) Funding.—Of the amounts made available by section 5101(a)(2) of this Act, $1,500,000 for fiscal year 2004 and $5,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(f) of title 23, United States Code.

## SEC. 5207. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) Continuation and Acceleration of TRANSIMS Deployment.—The Secretary shall accelerate the deployment of the advanced transportation model known as the "Transportation Analysis Simulation System" (in this section referred to as "TRANSIMS"), developed by the Los Alamos National Laboratory. The program shall assist State departments of transportation and metropolitan planning organizations in the implementation of TRANSIMS, develop methods for TRANSIMS applications to transportation planning and air quality analysis, and provide training and technical assistance for the implementation of TRANSIMS. The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

(b) Eligible Activities.—The Secretary shall use funds made available by section 5101(a)(1) to—

(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;

(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support metropolitan and statewide transportation planning, including integrating highway and transit

*operational considerations into the transportation Planning process; and*

*(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.*

*(c) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).*

*(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2004 and $3,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out this section.*

### SEC. 5208. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.

*(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:*

**"§509. National cooperative freight Transportation research program**

*"(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.*

*"(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.*

*"(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.*

*"(d) GOVERNANCE.—The national cooperative freight transportation research program established under this section shall include the following administrative and management elements:*

*"(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall recommend a national research agenda for the program. The agenda shall include a multiyear strategic plan.*

*"(2) INVOLVEMENT.—Interested parties may—*

*"(A) submit research proposals to the advisory committee;*

*"(B) participate in merit reviews of research proposals and peer reviews of research products; and*

*"(C) receive research results.*

*"(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award research contracts and grants under the program through open competition and merit review conducted on a regular basis.*

*"(4) EVALUATION OF RESEARCH.—*

*"(A) PEER REVIEW.—Research contracts and grants under the program may allow peer review of the research results.*

*"(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of research contracts and grants.*

*"(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, World Wide Web, publications for the general public, and other appropriate means.*

*"(e) CONTENTS.—The national research agenda required under subsection (d)(1) shall include research in the following areas:*

*"(1) Techniques for estimating and quantifying public benefits derived from freight transportation projects.*

*"(2) Alternative approaches to calculating the contribution of truck and rail traffic to congestion on specific highway segments.*

*"(3) The feasibility of consolidating origins and destinations for freight movement.*

*"(4) Methods for incorporating estimates of international trade into landside transportation planning.*

*"(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.*

*"(6) Development of physical and policy alternatives for separating car and truck traffic.*

*"(7) Ways to synchronize infrastructure improvements with freight transportation demand.*

*"(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.*

*"(9) Other research areas to identify and address the emerging and future research needs related to freight transportation by all modes.*

*"(f) FUNDING.—*

*"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.*

*"(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.".*

*(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:*

*"509. National cooperative freight transportation research program.".*

*(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,500,000 for fiscal year 2004 and $4,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 509 of title 23, United States Code.*

### SEC. 5209. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

*(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:*

**"§510. Future strategic highway research program**

*"(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.*

*"(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this subsection as the Secretary determines are appropriate.*

*"(c) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available for the fiscal year in which such funds are made available and the 3 succeeding fiscal years.*

*"(d) PROGRAM PRIORITIES.—*

*"(1) PROGRAM ELEMENTS.—The program established under this section shall be based on the National Research Council Special Report 260, entitled 'Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Life' and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20–58. The research program shall include an analysis of the following:*

*"(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.*

*"(B) Driving behavior and likely crash causal factors to support improved countermeasures.*

*"(C) Reducing highway congestion due to nonrecurring congestion.*

*"(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.*

*"(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.*

*"(e) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—*

*"(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;*

*"(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;*

*"(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and*

*"(4) there is no duplication of research effort between the program and any other research effort of the Department.*

*"(f) REPORT ON IMPLEMENTATION OF RESULTS.—*

*"(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.*

*"(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—*

*"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);*

*"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;*

*"(C) an estimate of costs of implementation of those results; and*

*"(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.*

*"(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—*

*"(A) the Federal Highway Administration;*

*"(B) the National Highway Traffic Safety Administration; and*

*"(C) the American Association of State Highway and Transportation Officials.*

*"(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.*

*"(h) FUNDING.—*

*"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100*

percent, and such funds shall remain available until expended.

"(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.".

(b) PROGRAMMATIC EVALUATIONS.—Within 3 years after the first research and development project grants, cooperative agreements, or contracts are awarded under section 510 of title 23, United States Code, the Comptroller General shall review the program under such section, and recommend improvements. The review shall assess the degree to which projects funded under such section have addressed the research and development topics identified in the Transportation Research Board Special Report 260, including identifying those topics which have not yet been addressed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is further amended by adding at the end the following:

"510. Future strategic highway research program.".

(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $17,000,000 for fiscal year 2004, $60,000,000 for fiscal year 2005, and $63,000,000 for each of fiscal years 2006 through 2009, shall be available to carry out section 510 of title 23, United States Code.

### SEC. 5210. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as "TSIMS").

(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

(c) FUNDING.—

(1) FEDERAL CONTRIBUTION.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2004 and $3,000,000 for fiscal year 2005 shall be available to carry out the TSIMS project under this section.

(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies.

### SEC. 5211. SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Secretary, acting through the Federal Highway Administration, shall establish a surface transportation congestion solutions research initiative consisting of 2 independent research programs described in subsections (b)(1) and (b)(2) and designed to develop information to assist State transportation departments and metropolitan planning organizations measure and address surface transportation congestion problems.

(b) SURFACE TRANSPORTATION CONGESTION SOLUTIONS RESEARCH PROGRAM.—

(1) IMPROVED SURFACE TRANSPORTATION CONGESTION MANAGEMENT SYSTEM MEASURES.—The purposes of the first research program established under this section shall be—

(A) to examine the effectiveness of surface transportation congestion management systems since enactment of the Intermodal Surface Transportation Assistance Act of 1991 (Public Law 102–240);

(B) to identify best case examples of locally designed reporting methods and incorporate such methods in research on national models for developing and recommending improved surface transportation congestion measurement and reporting; and

(C) to incorporate such methods in the development of national models and methods to monitor, measure, and report surface transportation congestion information.

(2) ANALYTICAL TECHNIQUES FOR ACTION ON SURFACE TRANSPORTATION CONGESTION.—The purposes of the second research program established under this section shall be—

(A) to analyze the effectiveness of procedures used by State transportation departments and metropolitan planning organizations to assess surface transportation congestion problems and communicate those problems to decisionmakers; and

(B) to identify methods to ensure that the results of surface transportation congestion analyses will lead to the targeting of funding for programs, projects, or services with demonstrated effectiveness in reducing travel delay, congestion, and system unreliability.

(c) TECHNICAL ASSISTANCE AND TRAINING.—In fiscal year 2006, the Secretary, acting through the Federal Highway Administration, shall develop a technical assistance and training program to disseminate the results of the surface transportation congestion solutions research initiative for the purpose of assisting State transportation departments and local transportation agencies with improving their approaches to surface transportation congestion measurement, analysis, and project programming.

(d) FUNDING.—Of the amounts made available by sections 5101(a)(1) of this Act, $4,000,000 for fiscal year 2004 and $11,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out subsections (a) and (b). Of the amounts made available by section 5101(a)(2), $500,000 for fiscal year 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out subsection (c).

### SEC. 5212. MOTOR CARRIER EFFICIENCY STUDY.

(a) IN GENERAL.—The Secretary, in coordination with the motor carrier and wireless technology industry, shall conduct a study to—

(1) identify inefficiencies in the transportation of freight;

(2) evaluate the safety, productivity, and reduced cost improvements that may be achieved through the use of wireless technologies to address the inefficiencies identified in paragraph (1); and

(3) conduct, as appropriate, field tests demonstrating the technologies identified in paragraph (2).

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) Fuel monitoring and management systems.

(2) Radio frequency identification technology.

(3) Electronic manifest systems.

(4) Cargo theft prevention.

(c) FEDERAL SHARE.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section.

(e) FUNDING.—From funds made available under section 5101(a)(1), the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2005 through 2009 to carry out this section.

### SEC. 5213. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

(a) AMENDMENT.—Section 508 of title 23, United States Code, is amended to read as follows:

**"§ 508. Transportation research and development strategic planning**

"(a) IN GENERAL.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.

"(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—

"(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

"(i) reducing congestion and improving mobility;

"(ii) promoting safety;

"(iii) promoting security;

"(iv) protecting and enhancing the environment;

"(v) preserving the existing transportation system; and

"(vi) improving the durability and extending the life of transportation infrastructure;

"(B) for each purpose, list the primary research and development topics that the Department intends to pursue to accomplish that purpose, which may include the fundamental research in the physical and natural sciences, applied research, technology development, and social science research intended for each topic; and

"(C) for each research and development topic, describe—

"(i) the anticipated annual funding levels for the period covered by the strategic plan; and

"(ii) the additional information the Department expects to gain at the end of the period covered by the strategic plan as a result of the research and development in that topic area.

"(3) CONSIDERATIONS.—In developing the strategic plan, the Secretary shall ensure that the plan—

"(A) reflects input from a wide range of stakeholders;

"(B) includes and integrates the research and development programs of all the Department's operating administrations, including aviation, transit, rail, and maritime; and

"(C) takes into account how research and development by other Federal, State, private sector, and not-for-profit institutions contributes to the achievement of the purposes identified under paragraph (2)(A), and avoids unnecessary duplication with these efforts.

"(4) PERFORMANCE PLANS AND REPORTS.—In reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—

"(A) a summary of the Federal transportation research and development activities for the previous fiscal year in each topic area;

"(B) the amount of funding spent in each topic area;

"(C) a description of the extent to which the research and development is meeting the expectations set forth in paragraph (2)(C)(ii); and

"(D) any amendments to the strategic plan.

"(b) The Secretary shall submit to Congress an annual report, along with the President's annual budget request, describing the amount spent in the last completed fiscal year on transportation research and development and the amount proposed in the current budget for transportation research and development.

"(c) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—

"(1) strategic plan under section 508;

"(2) performance plan required under section 1115 of title 31; and

"(3) program performance report required under section 1116 of title 31.

with respect to transportation research and development.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item related to section 508 and inserting the following:

''508. Transportation research and development strategic planning.''.

### SEC. 5214. LIMITATION ON REMEDIES FOR FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Section 510 of title 23, United States Code, as added by section 5209 of this Act, is amended by inserting after subsection (f) the following:

''(g) LIMITATION OF REMEDIES.—

''(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.

''(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

''(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

''(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds made available to carry out this section for making payments under this paragraph.''.

### SEC. 5215. CENTER FOR TRANSPORTATION ADVANCEMENT AND REGIONAL DEVELOPMENT.

(a) ESTABLISHMENT.—The Secretary shall establish a Center for Transportation Advancement and Regional Development to assist, through training, education and research, in the comprehensive development of small metropolitan and rural regional transportation systems that are responsive to the needs of businesses and local communities.

(b) ACTIVITIES.—In carrying out this section, the Center shall—

(1) provide training, information and professional resources for small metropolitan and rural regions to pursue innovative strategies to expand the capabilities, capacity and effectiveness of a region's transportation network, including activities related to freight projects, transit system upgrades, roadways and bridges, and intermodal transfer facilities and operations;

(2) assist local officials, rural transportation and economic development planners, officials from State departments of transportation and economic development, business leaders and other stakeholders in developing public-private partnerships to enhance their transportation systems; and

(3) promote the leveraging of regional transportation planning with regional economic and business development planning to assure that appropriate transportation systems are created.

(c) PROGRAM ADMINISTRATION.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national association of regional economic development and transportation professionals with a focus on small metropolitan and rural regions.

## Subtitle C—University Transportation Research; Scholarship Opportunities

### SEC. 5301. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

**''§ 5505. National university transportation centers**

''(a) IN GENERAL.—

''(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

''(2) ROLE OF CENTERS.—The role of each center shall be to advance significantly transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

''(b) APPLICABILITY OF REQUIREMENTS.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

''(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.—In this section, the term 'eligible nonprofit institution of higher learning' means each of the lead institutions identified in subsections (j)(4)(A), (j)(4)(B), and (j)(4)(F) of section 5505 as in effect on the day before the date of enactment of the Transportation Equity Act: A Legacy for Users, the university referred to in section 704 of Public Law 103–206 (107 Stat. 2447), and the university that, as of the day before such date of enactment, is the lead institution for the regional university transportation center for region 5 of the Standard Federal Regional Boundary System.

''(d) GRANTS.—In each of fiscal years 2004 through 2009, the Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount not to exceed $3,500,000.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5505 and inserting the following:

''5505. National university transportation centers.''.

### SEC. 5302. UNIVERSITY TRANSPORTATION RESEARCH.

(a) IN GENERAL.—Section 5506 of title 49, United States Code, is amended to read as follows:

**''§ 5506. University transportation research**

''(a) IN GENERAL.—The Secretary of Transportation shall make grants under this section to nonprofit institutions of higher learning to establish and operate university transportation centers.

''(b) OBJECTIVES.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

''(1) RESEARCH.—Basic and applied research, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

''(2) EDUCATION.—An education program relating to transportation that includes multidisciplinary course work and participation in research.

''(3) TECHNOLOGY TRANSFER.—An ongoing program of technology transfer that makes transportation research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

''(c) REGIONAL, TIER I, AND TIER II CENTERS.—

''(1) IN GENERAL.—For each of fiscal years 2004 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

''(A) 10 regional university transportation centers; and

''(B) 10 Tier I university transportation centers.

''(2) TIER II CENTERS.—For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 10 Tier II university transportation centers.

''(3) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

''(4) LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

''(d) COMPETITIVE SELECTION PROCESS.—

''(1) APPLICATIONS.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

''(2) GENERAL SELECTION CRITERIA.—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of the following:

''(A) The demonstrated research and extension resources available to the recipient to carry out this section.

''(B) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

''(C) The recipient's demonstrated commitment of at least $400,000 each year in regularly budgeted institutional amounts to support ongoing transportation research and education programs.

''(D) The recipient's demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

''(E) The strategic plan the recipient proposes to carry out under the grant.

''(e) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

"(1) Competition.—Not later than August 31, 2005, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

"(2) Selection criteria.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

"(A) the criteria described in subsection (d)(2);

"(B) the location of the center within the Federal region to be served; and

"(C) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has a well-established, nationally recognized program in transportation research and education, as evidenced by—

"(i) not less than $2,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years;

"(ii) not less than 10 graduate degrees awarded in professional fields closely related to highways and public transportation for year for each of the preceding 5 years; and

"(iii) not less than 5 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 50 refereed journal publications on highway or public transportation research during the preceding 5 years.

"(3) Grant recipients.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a regional university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) Special rule for fiscal years 2004 and 2005.—For each of fiscal years 2004 and 2005, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grants by the Secretary under this section in July 1999 to operate regional university transportation centers.

"(5) Amount of grants.—For each of fiscal years 2004 through 2009, a grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a regional university transportation center shall not exceed $3,500,000.

"(f) Tier I University Transportation Centers.—

"(1) Competition.—Not later than March 31, 2006, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier I university transportation centers referred to in subsection (c)(1)(B).

"(2) Selection criteria.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

"(A) the criteria described in subsection (d)(2); and

"(B) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has an established, recognized program in transportation research and education, as evidenced by—

"(i) not less than $1,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years or not less than $6,000,000 in such expenditures during the 5 preceding years;

"(ii) not less than 5 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

"(iii) not less than 3 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.

"(3) Grant recipients.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a Tier I university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) Special rule for fiscal years 2004, 2005, and 2006.—For each of fiscal years 2004, 2005, and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grant awards by the Secretary under this section in May 2002 to operate university transportation centers (other than regional centers).

"(5) Amount of grants.—A grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a Tier I university transportation center shall not exceed $1,000,000 for fiscal year 2004 and $1,500,000 for each of fiscal years 2005 through 2009.

"(g) Tier II University Transportation Centers.—

"(1) Competition.—Not later than 60 days after the date of enactment of the Transportation Equity Act: A Legacy for Users, not later than March 31, 2008, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier II university transportation centers referred to in subsection (c)(2).

"(2) Selection criteria.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of the criteria described in subsection (f)(2).

"(3) Grant recipients.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall—

"(A) in the case of the competition to be completed not later than 60 days after the date of enactment of the Transportation Equity Act: A Legacy for Users, make a grant to the recipient to establish and operate a Tier II university transportation center in each of fiscal years 2005 through 2008; and

"(B) in the case of each subsequent competition, make a grant to the recipient to establish and operate a Tier II university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) Amount of grants.—For each of fiscal years 2005 through 2009, a grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a Tier II university transportation center shall not exceed $1,000,000.

"(h) Support of National Strategy for Surface Transportation Research.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support the national strategy for surface transportation research, as identified by—

"(1) the report of the National Highway Research and Technology Partnership entitled 'Highway Research and Technology: The Need for Greater Investment', dated April 2002; and

"(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

"(i) Maintenance of Effort.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

"(j) Federal Share.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent of such costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

"(k) Program Coordination.—

"(1) Coordination.—The Secretary shall coordinate the research, education, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse to disseminate the results of the research.

"(2) Annual review and evaluation.—At least annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate programs of grant recipients.

"(3) Management and oversight.—The Secretary shall expend $1,500,000 for each of fiscal years 2005 through 2009 from amounts made available to carry out this section to carry out management and oversight of the centers receiving assistance under this section.

"(l) Program Administration.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

"(m) Limitation on Availability of Funds.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5506 and inserting the following:

"5506. University transportation research.".

### SEC. 5303. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

(a) In General.—

(1) Establishment of program.—The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

(2) Partnership.—The Secretary may establish the program in partnership with appropriate nongovernmental institutions.

(b) Participation and Funding.—An operating administration of the Department of Transportation and the Office of Inspector General may participate in the scholarship program. Notwithstanding any other provision of law, the Secretary may use funds available to an operating administration or from the Office of Inspector General of the Department of Transportation for the purpose of carrying out this section.

## Subtitle D—Advanced Technologies

### SEC. 5401. ADVANCED HEAVY-DUTY VEHICLE TECHNOLOGIES RESEARCH PROGRAM.

(a) In General.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

### *"§5507. Advanced heavy-duty vehicle technologies research program*

*"(a) IN GENERAL.—The Secretary of Transportation shall conduct research, development, demonstration, and testing to integrate emerging advanced heavy-duty vehicle technologies in order to provide seamless, safe, secure, and efficient transportation and to benefit the environment.*

*"(b) CONSULTATION.—To ensure the activities performed pursuant to this section achieve the maximum benefit, the Secretary of Transportation shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and other relevant Federal agencies on research, development, and demonstration activities authorized under this section related to advanced heavy-duty vehicle technologies.*

*"(c) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may make grants to, and enter into cooperative agreements and other transactions with, Federal and other public agencies (including State and local governments) and persons to carry out subsection (a).*

*"(d) COST SHARING.—At least 50 percent of the funding for projects carried out under this section must be provided by non-Federal sources.*

*"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out subsection (a) $1,000,000 for fiscal year 2004 and $3,000,000 for each of fiscal years 2005 through 2009.*

*"(f) CONTRACT AUTHORITY.—The funds authorized to be appropriated by subsection (e) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any limitation on obligations imposed on funds made available to carry out title V of the Transportation Equity Act: A Legacy for Users.".*

*(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by adding at the end the following:*

*"5507. Advanced heavy-duty vehicle technologies research program.".*

### *SEC. 5402. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.*

*(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.*

*(b) PROGRAM.—*

*(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.*

*(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).*

*(c) COOPERATION.—The Secretary shall carry out this section in cooperation with the commercial remote sensing program of the National Aeronautics and Space Administration and a consortium of university research centers.*

*(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $3,000,000 for fiscal year 2004 and $9,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out this section.*

## *Subtitle E—Transportation Data and Analysis*

### *SEC. 5501. BUREAU OF TRANSPORTATION STATISTICS.*

*Section 111 of title 49, United States Code, is amended to read as follows:*

### *"§111. Bureau of Transportation Statistics*

*"(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration a Bureau of Transportation Statistics.*

*"(b) DIRECTOR.—*

*"(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary.*

*"(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.*

*"(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics, and shall be responsible for carrying out the following duties:*

*"(1) PROVIDING DATA, STATISTICS, AND ANALYSIS TO TRANSPORTATION DECISIONMAKERS.—Ensuring that the statistics compiled under paragraph (5) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.*

*"(2) COORDINATING COLLECTION OF INFORMATION.—Working with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.*

*"(3) DATA MODERNIZATION.—Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.*

*"(4) ENCOURAGING DATA STANDARDIZATION.—Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.*

*"(5) COMPILING TRANSPORTATION STATISTICS.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—*

*"(A) productivity in various parts of the transportation sector;*

*"(B) traffic flows for all modes of transportation;*

*"(C) other elements of the Intermodal Transportation Database established under subsection (g);*

*"(D) travel times and measures of congestion;*

*"(E) vehicle weights and other vehicle characteristics;*

*"(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode, and goods movement;*

*"(G) transportation costs for passenger travel and goods movement;*

*"(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;*

*"(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;*

*"(J) safety and security for travelers, vehicles, and transportation systems;*

*"(K) consequences of transportation for the human and natural environment;*

*"(L) the extent, connectivity, and condition of the transportation system, building on the National Transportation Atlas Database developed under subsection (g); and*

*"(M) transportation-related variables that influence the domestic economy and global competitiveness.*

*"(6) NATIONAL SPATIAL DATA INFRASTRUCTURE.—Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.*

*"(7) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (5) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis. The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993, and the amendments made by such Act, and shall carry out such other reviews of the sources and reliability of other data collected or statistical information published by the heads of the operating administrations of the Department as shall be requested by the Secretary.*

*"(8) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.*

*"(d) INFORMATION NEEDS ASSESSMENT.—*

*"(1) IN GENERAL.—Within 60 days after the date of the enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall enter into an arrangement with the National Research Council to develop and publish a National Transportation Information Needs Assessment (referred to in this subsection as the 'Assessment'). The Assessment shall be transmitted to the Secretary and the Congress not later than 24 months after such arrangement is entered into.*

*"(2) CONTENT.—The Assessment shall—*

*"(A) identify, in priority order, transportation data that is not being collected by the Bureau, Department of Transportation operating administrations, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local level and to fulfill the requirements of subsection (c)(5);*

*"(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is a higher priority than data currently being collected;*

*"(C) identify any data the Bureau or other Federal, State, and local entities is collecting that is not needed;*

*"(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, and local entities should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and*

*"(E) estimate the cost of implementing any recommendations.*

*"(3) CONSULTATION.—In developing the Assessment, the National Research Council shall consult with the Department's Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.*

*"(4) REPORT TO CONGRESS.—Not later than 6 months after the National Research Council*

*transmits the Assessment under paragraph (1), the Secretary shall transmit a report to Congress that describes—*

*"(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);*

*"(B) how the Department plans to stop collecting data identified under paragraph (2)(C);*

*"(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);*

*"(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;*

*"(E) any findings of the Assessment under paragraph (1) with which the Secretary disagrees, and why; and*

*"(F) any proposed statutory changes needed to implement the findings of the Assessment under paragraph (1).*

*"(e) INTERMODAL TRANSPORTATION DATA BASE.—*

*"(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.*

*"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.*

*"(3) CONTENTS.—The data base shall include—*

*"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;*

*"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;*

*"(C) information on the location and connectivity of transportation facilities and services; and*

*"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.*

*"(f) NATIONAL TRANSPORTATION LIBRARY.—*

*"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.*

*"(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(8).*

*"(3) COORDINATION.—The Director shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).*

*"(g) NATIONAL TRANSPORTATION ATLAS DATA BASE.—*

*"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—*

*"(A) transportation networks;*

*"(B) flows of people, goods, vehicles, and craft over the networks; and*

*"(C) social, economic, and environmental conditions that affect or are affected by the networks.*

*"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.*

*"(h) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of his or her knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to make available records or statistics in his or her official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; but if he or she willfully gives a false answer to such a question, he or she shall be fined not more than $10,000.*

*"(i) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—*

*"(1) investigation of the subjects specified in subsection (c)(5) and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;*

*"(2) demonstration programs by States, local governments, and metropolitan planning organizations to harmonize data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;*

*"(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (f); and*

*"(4) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (g) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.*

*"(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—*

*"(1) to authorize the Bureau to require any other department or agency to collect data; or*

*"(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.*

*"(k) PROHIBITION ON CERTAIN DISCLOSURES.—*

*"(1) IN GENERAL.—An officer, employee or contractor of the Bureau may not—*

*"(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;*

*"(B) use the information provided under subsection (c) for a nonstatistical purpose; or*

*"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).*

*"(3) INFORMING RESPONDENT OF USE OF DATA.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.*

*"(l) TRANSPORTATION STATISTICS ANNUAL REPORT.—The Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(5), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.*

*"(m) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency except information—*

*"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or*

*"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.*

*"(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.*

*"(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—*

*"(1) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.*

*"(2) FUNCTION.—It shall be the function of the Advisory Council established under this subsection to—*

*"(A) advise the Director of the Bureau of Transportation Statistics on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau of Transportation Statistics and the Department of Transportation;*

*"(B) provide input to and review the report to Congress under subsection (d)(4); and*

*"(C) advise the Director on methods to encourage harmonization and interoperability of transportation data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.*

*"(3) MEMBERSHIP.—The Advisory Council established under this subsection shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have experience in transportation safety. At least 1 member shall be a senior official of a State department of transportation. Members shall include representation of a cross-section of transportation community stakeholders.*

*"(4) TERMS OF APPOINTMENT.—(A) Except as provided in subparagraph (B), members shall be appointed to staggered terms not to exceed 3 years. A member may be renominated for one additional 3-year term.*

*"(B) Members serving on the Advisory Council on Transportation Statistics as of the date of enactment of the Transportation Equity Act: A Legacy for Users shall serve until the end of their appointed terms.*

*"(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the Advisory Council established under this subsection, except that section 14 of such Act shall not apply to such Advisory Council.".*

### ***SEC. 5502. REPORTS OF BUREAU OF TRANSPORTATION STATISTICS.***

*Section 111(k) of title 49, United States Code, as amended by section 5501 of this Act, is amended by inserting after paragraph (1) the following:*

*"(2) COPIES OF REPORTS.—*

*"(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)*

with the Bureau or retained by an individual respondent.

"(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

"(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.".

## Subtitle F—Intelligent Transportation Systems Research

### SEC. 5601. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 2005".

### SEC. 5602. GOALS AND PURPOSES.

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles as well as improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of a vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems.

### SEC. 5603. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to section 555 of title 5, United States Code.

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a metropolitan planning organization;

(E) a private sector user of intelligent transportation system technologies;

(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

(G) an academic researcher who is a civil engineer;

(H) an academic researcher who is a social scientist with expertise in transportation issues;

(I) a representative from a not-for-profit group representing the intelligent transportation system industry;

(J) a representative from a public interest group concerned with safety;

(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

(L) members with expertise in planning, safety, and operations.

(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.

(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and, if not, to determine the barriers to deployment; and

(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress, a report including—

(A) all recommendations made by the Advisory Committee during the preceding calendar year;

(B) an explanation of how the Secretary has implemented those recommendations; and

(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) REPORTING.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

### SEC. 5604. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—

*(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.*

*(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.*

*(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.*

*(4) USE OF EXPERT PANEL.—*

*(A) DESIGNATION.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).*

*(B) NONAPPLICABILITY OF ADVISORY COMMITTEE ACT.—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).*

*(C) DEADLINE FOR RECOMMENDATION.—No later than September 30, 2006, the expert panel shall provide the Secretary with a recommendation relating to such standards development.*

*(b) PROVISIONAL STANDARDS.—*

*(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.*

*(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.*

*(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—*

*(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).*

*(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—*

*(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or*

*(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act if the Secretary determines that the upgrade or expansion—*

*(i) would not adversely affect the goals or purposes of this subtitle;*

*(ii) is carried out before the end of the useful life of such system; and*

*(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).*

*(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.*

***SEC. 5605. RESEARCH AND DEVELOPMENT.***

*(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.*

*(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—*

*(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;*

*(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;*

*(3) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and*

*(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.*

*(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.*

***SEC. 5606. INFRASTRUCTURE DEVELOPMENT.***

*Funds made available to carry out this subtitle for operational tests—*

*(1) shall be used primarily for the development of intelligent transportation system infrastructure; and*

*(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.*

***SEC. 5607. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary shall establish a road weather research and development program to—*

*(1) maximize use of available road weather information and technologies;*

*(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and*

*(3) promote technology transfer of effective road weather scientific and technological advances.*

*(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.*

*(c) CONTENTS.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled "A Research Agenda for Improving Road Weather Services". Such research and development includes—*

*(1) integrating existing observational networks and data management systems for road weather applications;*

*(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;*

*(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and*

*(4) integrating road weather technologies into an information infrastructure.*

*(d) ACTIVITIES.—In carrying out this section, the Secretary shall—*

*(1) enable efficient technology transfer;*

*(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and*

*(3) coordinate with transportation weather research programs in other modes, such as aviation.*

*(e) FUNDING.—*

*(1) IN GENERAL.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.*

*(2) FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.—Of the amounts made available by section 5101(a)(5), $4,000,000 shall be available to carry out this section for each of fiscal years 2004 through 2009.*

***SEC. 5608. DEFINITIONS.***

*In this subtitle, the following definitions apply:*

*(1) INCIDENT.—The term "incident" means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.*

*(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.*

*(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term "intelligent transportation system" means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.*

*(4) NATIONAL ARCHITECTURE.—The term "national architecture" means the common framework for interoperability that defines—*

*(A) the functions associated with intelligent transportation system user services;*

*(B) the physical entities or subsystems within which the functions reside;*

*(C) the data interfaces and information flows between physical subsystems; and*

*(D) the communications requirements associated with the information flows.*

*(5) PROJECT.—The term "project" means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.*

*(6) STANDARD.—The term "standard" means a document that—*

*(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and*

*(B) may support the national architecture and promote—*

*(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and*

*(ii) interoperability among intelligent transportation system technologies implemented throughout the States.*

*(7) STATE.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.*

*(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term "transportation systems management and operations" has the meaning given the term under section 101(a) of such title.*

***SEC. 5609. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.***

*(a) STUDY.—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate*

State, regional, and local officials, shall conduct a study on feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for improved communications services to rural communities along such corridors.

(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall identify—

(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System route corridors and to connecting such infrastructure to the rural communities along such corridors;

(2) the effective geographic range of such infrastructure;

(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;

(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;

(5) rural broadband access points for such infrastructure;

(6) areas of environmental conflict with such installation;

(7) real estate ownership issues relating to such installation;

(8) preliminary design for placement of fiber optic cable and wireless towers;

(9) monetary value of the rights-of-way necessary for such installation;

(10) applicability and transferability of the benefits of such installation to other rural corridors; and

(11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.

(c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—

(1) Interstate Route I–90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;

(2) Interstate Route I–20 through Alabama, Mississippi, and northern Louisiana;

(3) Interstate Route I–91 through Vermont, New Hampshire, and Massachusetts; and

(4) any other rural corridor the Secretary considers appropriate.

(d) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.

(e) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall transmit to Congress a report on the results of the study, including any recommendations of the Secretary.

(f) FUNDING.—Of the amounts made available under section 5101(a)(5), $1,000,000 shall be available for fiscal year 2005, and $2,000,000 for fiscal year 2006, to carry out this section.

### SEC. 5610. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish 3 centers for surface transportation excellence.

(b) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, rural safety, and project finance.

(c) ROLE OF CENTERS.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 3 centers as follows:

(1) ENVIRONMENTAL EXCELLENCE.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

(2) RURAL SAFETY.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation practitioners and policy-makers.

(3) PROJECT FINANCE.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state of the art financing methods to advance projects and leverage funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts made available under section 5101(a)(1), the Secretary shall make available $2,000,000 for each of fiscal years 2004 through 2009 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

(A) 40 percent to establish the Center for Environmental Excellence.

(B) 30 percent to establish the Center for Excellence in Rural Safety.

(C) 30 percent to establish the Center for Excellence in Project Finance.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

(e) PROGRAM ADMINISTRATION.—

(1) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under this section shall be selected on a competitive basis, to the maximum extent practicable.

(2) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan that describes—

(A) the activities to be undertaken; and

(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.

### SEC. 5611. REPEAL.

Subtitle C of title V of The Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 452–463) is repealed.

### SEC. 5612. SPECIAL RULE FOR FISCAL YEAR 2004.

In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part V (Public Law 108–310), including any amendment made by such Act, the amount referred to in such Act shall be the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.

## TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

### SEC. 6001. TRANSPORTATION PLANNING.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by inserting after chapter 51 the following:

## "CHAPTER 52—TRANSPORTATION PLANNING AND PROJECT DELIVERY

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"5201. Definitions.

"SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

"5211. Policy.
"5212. Definitions.
"5213. Metropolitan transportation planning.
"5214. Statewide transportation planning.

"SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING

"5251. Definitions and applicability.
"5252. Project development procedures.

### "SUBCHAPTER A—GENERAL PROVISIONS

**"§ 5201. Definitions**

"In this chapter, the following definitions apply:

"(1) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, and Puerto Rico.

### "SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

**"§ 5211. Policy**

"(a) IN GENERAL.—It is in the national interest to—

"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in sections 5213(f) and 5214(d).

"(b) COMMON TRANSPORTATION PLANNING PROGRAM.—This subchapter provides a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

**"§ 5212. Definitions**

"(a) APPLICABILITY BY REFERENCE.—Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 are applicable to this subchapter.

"(b) ADDITIONAL DEFINITIONS.—In this subchapter, the following definitions apply:

"(1) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5213(c).

"(2) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization created as a result of the designation process in section 5213(b).

"(3) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means a geographic area outside designated metropolitan planning areas.

"(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

*"(5) TIP.—The term 'TIP' means a transportation improvement program developed by a metropolitan planning organization under section 5213.*

*"(6) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.*

***"§ 5213. Metropolitan transportation planning***

*"(a) GENERAL REQUIREMENTS.—*

*"(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in section 5211, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.*

*"(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.*

*"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.*

*"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—*

*"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—*

*"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or*

*"(B) in accordance with procedures established by applicable State or local law.*

*"(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—*

*"(A) local elected officials;*

*"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and*

*"(C) appropriate State officials.*

*"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—*

*"(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and*

*"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.*

*"(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).*

*"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.*

*"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.*

*"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—*

*"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.*

*"(2) INCLUDED AREA.—Each metropolitan planning area—*

*"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and*

*"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.*

*"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.*

*"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of this paragraph, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).*

*"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—*

*"(A) shall be established in the manner described in subsection (b)(1);*

*"(B) shall encompass the areas described in paragraph (2)(A);*

*"(C) may encompass the areas described in paragraph (2)(B); and*

*"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.*

*"(d) COORDINATION IN MULTISTATE AREAS.—*

*"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.*

*"(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—*

*"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.*

*"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement funded from the Highway Trust Fund or authorized under chapter 53 is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.*

*"(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with those officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—*

*"(A) recipients of assistance under chapter 53;*

*"(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and*

*"(C) recipients of assistance under section 204 of title 23.*

*"(f) SCOPE OF PLANNING PROCESS.—*

*"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address the following factors as they relate to the performance of the metropolitan area transportation systems:*

*"(A) Support of the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.*

*"(B) Increases in the safety and security of the transportation system for motorized and nonmotorized users.*

*"(C) Increases in the accessibility and mobility of people and for freight.*

*"(D) Protection and enhancement of the environment, promotion of energy conservation, improvement of the quality of life, and promotion of consistency between transportation improvements and State and local planned growth and economic development patterns.*

*"(E) Enhancement of the integration and connectivity of the transportation system, across and between modes, for people and freight.*

*"(F) Promotion of efficient system management and operation.*

*"(G) Emphasis on the preservation of the existing transportation system.*

*"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.*

*"(g) DEVELOPMENT OF TRANSPORTATION PLAN.—*

*"(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:*

*"(A) An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization*

shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

“(B) A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(C) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

“(D) Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

“(E) Proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan, in a manner that the Secretary deems appropriate.

“(5) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).

“(h) METROPOLITAN TIP.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

“(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of the disabled, representatives of users of pedestrian walkways and bicycle facilities, and other interested parties with a reasonable opportunity to comment on the proposed TIP.

“(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

“(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

“(i) demonstrates how the TIP can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

“(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

“(D) CONGESTION RELIEF ACTIVITIES.—The TIP shall include a listing of congestion relief activities to be carried out to meet the requirements of section 139 of title 23, categorized as either under one or under three congestion relief activities.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—All projects proposed for funding under chapter 2 of title 23 shall be identified individually in the TIP.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of the disabled, representatives of users of pedestrian walkways and bicycle facilities, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

“(i) by—

“(I) in the case of projects under title 23, the State; and

“(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

“(i) TRANSPORTATION MANAGEMENT AREAS.—

“(1) IDENTIFICATION AND DESIGNATION.—

“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

“(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

“(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 through the use of travel demand reduction and operational management strategies and shall identify a sufficient number of congestion relief activities under section 139 of title 23 to meet the requirements of such section. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.

*"(4) Selection of Projects.—*

*"(A) In General.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.*

*"(B) National Highway System Projects.—Projects, carried out within the boundaries of a metropolitan planning area serving a transportation management area, on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.*

*"(5) Certification.—*

*"(A) In General.—The Secretary shall—*

*"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and*

*"(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.*

*"(B) Requirements for Certification.—The Secretary may make the certification under subparagraph (A) if—*

*"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and*

*"(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.*

*"(C) Effect of Failure to Certify.—*

*"(i) Withholding of Project Funds.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under title 23 and chapter 53.*

*"(ii) Restoration of Withheld Funds.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.*

*"(D) Review of Certification.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.*

*"(j) Abbreviated Plans for Certain Areas.—*

*"(1) In General.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.*

*"(2) Nonattainment Areas.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).*

*"(k) Additional Requirements for Certain Nonattainment Areas.—*

*"(1) In General.—Notwithstanding any other provisions of title 23 or chapter 53, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.*

*"(2) Applicability.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).*

*"(l) Limitation on Statutory Construction.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53.*

*"(m) Funding.—*

*"(1) Set-asides.—Funds set aside under section 104(f) of title 23 or section 5305(h) shall be available to carry out this section.*

*"(2) Other funding.—Funds made available under section 5338(c) shall be available to carry out this section.*

*"(n) Continuation of Current Review Practice.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.*

### ***"§5214. Statewide transportation planning***

*"(a) General Requirements.—*

*"(1) Development of Plans and Programs.—To accomplish the objectives stated in section 5211, each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State subject to section 5213. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.*

*"(2) Contents.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.*

*"(3) Process of Development.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5211, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.*

*"(b) Coordination With Metropolitan Planning; State Implementation Plan.—A State shall—*

*"(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5213 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and*

*"(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).*

*"(d) Scope of Planning Process.—*

*"(1) In General.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—*

*"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;*

*"(B) increase the safety and security of the transportation system for motorized and nonmotorized users;*

*"(C) increase the accessibility and mobility of people and freight;*

*"(D) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;*

*"(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;*

*"(F) promote efficient system management and operation; and*

*"(G) emphasize the preservation of the existing transportation system.*

*"(2) Failure to Consider Factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.*

*"(e) Additional Requirements.—In carrying out planning under this section, each State shall consider, at a minimum—*

*"(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;*

*"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and*

*"(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.*

*"(f) Long-Range Statewide Transportation Plan.—*

*"(1) Development.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.*

*"(2) Consultation with Governments.—*

*"(A) Metropolitan Areas.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5213.*

*"(B) Nonmetropolitan Areas.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.*

*"(C) Indian Tribal Areas.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.*

"(3) Participation by interested parties.—In developing the statewide transportation plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(4) Financial plan.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(5) Selection of projects from illustrative list.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

"(6) Existing system.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(g) Statewide Transportation Improvement Program.—

"(1) Development.—Each State shall develop a statewide transportation improvement program for all areas of the State.

"(2) Consultation with governments.—

"(A) Metropolitan areas.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5213.

"(B) Nonmetropolitan areas.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

"(C) Indian tribal areas.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) Participation by interested parties.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(4) Included projects.—

"(A) In general.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) Projects under chapter 2 of title 23.—All projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(C) Consistency with statewide transportation plan.—Each project shall be—

"(i) consistent with the statewide transportation plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) Requirement of anticipated full funding.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(E) Financial plan.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(F) Selection of projects from illustrative list.—

"(i) No required selection.—Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

"(ii) Required action by the Secretary.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E) for inclusion in an approved transportation improvement program.

"(G) Priorities.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by title 23 and chapter 53.

"(H) Prioritization of congestion relief activities.—The transportation improvement program shall reflect the priorities for congestion relief activities included in the metropolitan transportation plan to meet the requirements of section 139 of title 23.

"(5) Project selection for areas of less than 50,000 population.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or under sections 5310, 5311, 5316, and 5317 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

"(6) Transportation improvement program approval.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

"(7) Planning finding.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5213.

"(8) Modifications to project priority.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

"(h) Funding.—

"(1) Set-aside.—Funds set aside pursuant to section 104(i) of title 23 shall be available to carry out this section.

"(2) Other funding.—Funds made available under section 5338(c) shall be available to carry out this section.

"(i) Treatment of Certain State Laws as Congestion Management Processes.—For purposes of this section and section 5213, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under section 5213(i)(3) if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5213, as appropriate.

"(j) Continuation of Current Review Practice.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.".

(b) Conforming Amendment.—The analysis for such subtitle is amended by inserting the following after the item relating to chapter 51:

"52. Transportation planning and project delivery. .......................... 5201".

### SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) Policy and Purpose.—

(1) Policy.—The Enlibra principles, as initially developed by the Western Governors Association and adopted by the National Governors Association, represent a sound basis for interaction among the Federal, State, local governments, and Indian tribes on environmental matters and should be followed in the development of highway construction and public transit improvements. These principles are as follows:

(A) Assign responsibilities at the right level.

(B) Use collaborative processes to break down barriers and find solutions.

(C) Move to a performance-based system.

(D) Separate subjective choices from objective data gathering.

(E) Pursue economic incentives whenever appropriate.

(F) Ensure environmental understanding.

(G) Make sure environmental decisions are fully informed.

*(H) Use appropriate geographic boundaries for environmental problems.*

*(2) PURPOSE.—The purpose of this section is to reduce delays in the delivery of highway construction and public transportation capital projects arising from the environmental review process, while continuing to ensure the protection of the human and natural environment.*

*(b) PROJECT DEVELOPMENT PROCEDURES.—Chapter 52 of title 49, United States Code, as added by section 6001(a) of this Act, is amended by adding at the end the following:*

### *“SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING*

### ***“§ 5251. Definitions and applicability***

*“(a) DEFINITIONS.—In this section, the following definitions apply:*

*“(1) AGENCY.—The term ‘agency’ means any agency, department, or other unit of Federal, State, local, or Indian tribal government.*

*“(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ‘environmental impact statement’ means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*“(3) ENVIRONMENTAL REVIEW PROCESS.—*

*“(A) IN GENERAL.—The term ‘environmental review process’ means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*“(B) INCLUSIONS.—The term includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*“(4) LEAD AGENCY.—The term ‘lead agency’ means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.*

*“(5) MULTIMODAL PROJECT.—The term ‘multimodal project’ means a project funded, in whole or in part, under title 23 or chapter 53 and involving the participation of more than one Department of Transportation administration or agency.*

*“(6) PROJECT.—The term ‘project’ means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.*

*“(7) PROJECT SPONSOR.—The term ‘project sponsor’ means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.*

*“(8) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ means any statewide agency of a State with responsibility for one or more modes of transportation.*

*“(b) APPLICABILITY.—This subchapter is applicable to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). This subchapter may be applied, to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act. Any authorities granted in this subchapter may be exercised for a project, class of projects, or program of projects.*

### ***“§ 5252. Project development procedures***

*“(a) LEAD AGENCIES.—*

*“(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project.*

*“(2) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under title 23 or chapter 53 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.*

*“(3) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.*

*“(4) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.*

*“(b) PARTICIPATING AGENCIES.—*

*“(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.*

*“(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.*

*“(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—*

*“(A) has no jurisdiction or authority with respect to the project;*

*“(B) has no expertise or information relevant to the project; and*

*“(C) does not intend to submit comments on the project.*

*“(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—*

*“(A) supports a proposed project; or*

*“(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.*

*“(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a ‘cooperating agency’ under the regulations contained in part 1500 of title 40, Code of Federal Regulations.*

*“(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.*

*“(c) PROJECT INITIATION.—*

*“(1) IN GENERAL.—The project sponsor shall initiate the environmental review process for a project by submitting an initiation notice to the Secretary.*

*“(2) CONTENTS OF NOTICE.—The initiation notice shall include, at a minimum, a brief description of the type of work, termini, length, and general location of the proposed project, together with a statement of any Federal approvals anticipated to be needed for the project.*

*“(d) PURPOSE AND NEED.—*

*“(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.*

*“(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.*

*“(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—*

*“(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;*

*“(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and*

*“(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.*

*“(e) ALTERNATIVES ANALYSIS.—*

*“(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.*

*“(2) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.*

*“(3) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.*

*“(4) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.*

*“(f) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:*

*“(1) For comments by agencies and the public on a draft environmental impact statement, a period of no more than 60 days from the date of public availability of such document, unless—*

*“(A) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or*

*“(B) the deadline is extended by the lead agency for good cause.*

*“(2) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—*

*“(A) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or*

*“(B) the deadline is extended by the lead agency for good cause.*

"(g) ISSUE IDENTIFICATION AND RESOLUTION.—

"(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

"(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

"(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

"(4) ISSUE RESOLUTION.—Whenever issues of concern are identified or at any time upon request of a project sponsor, the lead agency shall promptly convene a meeting with the relevant participating agencies. If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all Federal agencies involved in the meeting and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and shall publish such notification in the Federal Register.

"(h) PARTICIPATION OF STATE AGENCIES.—For any project eligible for assistance under title 23 or chapter 53, a State may require, under procedures established by State law, that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State agency's participation would not be in the public interest. A State participating in the review process must require all State agencies with jurisdiction to be subject to and comply with the review process to the same extent as a Federal agency.

"(i) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

"(1) IN GENERAL.—For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under title 23 or chapter 53, the Secretary may approve a request by the State to provide funds so made available to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the project. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery. Such activities may include dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements. The Secretary may also use funds made available under section 204 of title 23 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

"(2) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

"(3) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.".

(c) EXISTING ENVIRONMENTAL REVIEW PROCESSES.—Nothing in this section shall be deemed to affect any existing environmental review process approved by the Secretary.

**SEC. 6003. POLICY ON HISTORIC SITES.**

(a) TITLE 49.—Section 303 of title 49, United States Code, is amended by adding at the end the following:

"(d) SPECIAL RULES FOR HISTORIC SITES.—

"(1) IN GENERAL.—The requirements of this section are deemed to be satisfied in any case in which the treatment of a historic site has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the agreement includes a determination that the program or project will not have an adverse effect on the historic site.

"(2) LIMITATION ON APPLICABILITY.—This subsection does not apply in any case in which the Advisory Council on Historic Preservation determines, concurrent with or prior to the conclusion of section 106 consultation, that allowing section 106 compliance to satisfy the requirements of this section would be inconsistent with the objectives of the National Historic Preservation Act. The Council shall make such a determination if petitioned to do so by a section 106 consulting party, unless the Council affirmatively finds that the views of the requesting party have been adequately considered and that section 106 compliance will adequately protect historic properties.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) SECTION 106 CONSULTATION.—The term 'section 106 consultation' means the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

"(B) ADVERSE EFFECT.—The term 'adverse effect' means altering, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.".

(b) TITLE 23.—Section 138 of title 23, United States Code is amended—

(1) by inserting "(a) Policy.—" before "It is"; and

(2) by striking "In carrying" and inserting the following:

"(c) STUDIES.—In carrying"; and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following:

"(b) SPECIAL RULES FOR HISTORIC SITES.—

"(1) IN GENERAL.—The requirements of this section are deemed to be satisfied in any case in which the treatment of a historic site has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the agreement includes a determination that the program or project will not have an adverse effect on the historic site.

"(2) LIMITATION ON APPLICABILITY.—This subsection does not apply in any case in which the Advisory Council on Historic Preservation determines, concurrent with or prior to the conclusion of section 106 consultation, that allowing section 106 compliance to satisfy the requirements of this section would be inconsistent with the objectives of the National Historic Preservation Act. The Council shall make such a determination if petitioned to do so by a section 106 consulting party, unless the Council affirmatively finds that the views of the requesting party have been adequately considered and that section 106 compliance will adequately protect historic properties.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) SECTION 106 CONSULTATION.—The term 'section 106 consultation' means the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

"(B) ADVERSE EFFECT.—The term 'adverse effect' means altering, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.".

**SEC. 6004. EXEMPTION OF INTERSTATE SYSTEM.**

Section 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C), a portion of the Interstate System that possesses an independent feature of historic significance (such as a historic bridge or a highly significant engineering feature) that is listed on, or eligible for listing on, the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.

"(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f).".

**SEC. 6005. INTERSTATE COMPACTS.**

Section 5213(d), as inserted by section 6001(a) of this Act, is amended by inserting after paragraph (1) the following:

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of

State and local governments under this section and section 5214.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and under chapter 53, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(4) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.".

### SEC. 6006. DEVELOPMENT OF TRANSPORTATION PLAN.

Section 5213(g), as inserted by section 6001(a) of this Act, is amended by inserting before paragraph (2) the following:

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

"(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 4 years unless the metropolitan planning organization elects to update more frequently.".

### SEC. 6007. INTERSTATE AGREEMENTS.

Section 5214, as inserted by section 6001(a) of this Act, is amended by inserting after subsection (b) the following:

"(c) INTERSTATE AGREEMENTS.—

"(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(2) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.".

### SEC. 6008. REGULATIONS RELATING TO TRANSPORTATION PLANNING.

Not later than 18 months after the date of enactment of this Act, the Secretary shall issue regulations that are consistent with the provisions of subchapter B of chapter 52 of title 49, United States Code, that relate to the Clean Air Act.

### SEC. 6009. SPECIAL RULES RELATING TO PROJECT DEVELOPMENT PROCEDURES.

Section 5252 of title 49, United States Code, as inserted by section 6001(a) of this Act, is amended by adding at the end the following:

"(j) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

"(1) JUDICIAL REVIEW.—Except as set forth under subsection (k), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States.

"(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

"(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

"(A) any practice of seeking, considering, or responding to public comment; or

"(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

"(k) LIMITATIONS ON CLAIMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 90 days after the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

"(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of such action.".

## TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

### SEC. 7001. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

### SEC. 7002. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds with respect to hazardous materials transportation that—

(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe and efficient manner;

(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

(4) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple regulatory requirements;

(5) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable;

(6) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable; and

(7) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.

(b) PURPOSE.—The text of section 5101 is amended to read as follows: "The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

### SEC. 7003. DEFINITIONS.

Section 5102 is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(C) by inserting at the end the following:

"(C) on a United States registered aircraft.";

(2) in paragraph (8) by striking "national response team" each place it appears and inserting "National Response Team";

(3) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively; and

(4) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation.".

### SEC. 7004. GENERAL REGULATORY AUTHORITY.

(a) TECHNICAL AMENDMENTS.—Section 5103(a) is amended—

(1) by striking "etiologic agent," and inserting "infectious substance,"; and

(2) by striking "poison," and inserting "toxic,".

(b) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended—

(1) in clause (i) by striking "transporting" and inserting "that transports";

(2) in clause (ii)—

*(A) by striking "causing" and inserting "that causes"; and*

*(B) by striking "or" at the end; and*

*(3) by striking clause (iii) and inserting the following:*

*"(iii) that designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package or container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;*

*"(iv) that prepares or accepts hazardous material for transportation in commerce;*

*"(v) that is responsible for the safety of transporting hazardous material in commerce;*

*"(vi) that certifies compliance with any requirement of this chapter; or*

*"(vii) that misrepresents whether the person is engaged in any of the activities described in this subparagraph; and".*

*(c) TECHNICAL AMENDMENT.—Section 5103(b) is amended—*

*(1) by moving subparagraph (C) from the end of paragraph (1) and inserting it after paragraph (2);*

*(2) by redesignating such subparagraph as paragraph (3); and*

*(3) by moving such paragraph (3) 2 ems to the left.*

### SEC. 7005. CHEMICAL OR BIOLOGICAL MATERIALS.

*Section 5103a(c) is amended—*

*(1) in paragraph (2) by striking "this subsection" and inserting "paragraph (1)"; and*

*(2) by adding at the end the following:*

*"(3) STANDARDS.—The Secretary shall prescribe by regulation uniform standards (including standards used to disqualify applicants) governing—*

*"(A) the collection by States of background information authorized by paragraph (1);*

*"(B) the collection, transmission, and review of background information; and*

*"(C) the notification of an applicant of the results of the background check.*

*"(4) FEES.—A State may impose and collect an appropriate fee to carry out paragraph (1) consistent with section 5125(f).*

*"(5) OPERATORS REGISTERED IN MEXICO AND CANADA.—No operator of a commercial motor vehicle (as defined in section 31101) licensed in Mexico or Canada may operate in the United States a commercial motor vehicle transporting hazardous material until the operator has undergone a background records check similar to the background records check required of operators of commercial motor vehicles licensed in the United States to transport hazardous materials.".*

### SEC. 7006. REPRESENTATION AND TAMPERING.

*(a) REPRESENTATION.—Section 5104(a) is amended—*

*(1) by striking "A person" and inserting "No person";*

*(2) in paragraph (1) by striking "only if" and all that follows through "meets" and inserting "if it does not conform to"; and*

*(3) in paragraph (2) by striking "only if" and inserting "unless".*

*(b) TAMPERING.—Section 5104(b) is amended by striking "A person may not" and inserting "No person may".*

### SEC. 7007. TECHNICAL AMENDMENTS.

*(a) ELIMINATION OF COMPLETED STUDY.—Section 5105 is amended—*

*(1) by striking subsection (d); and*

*(2) by redesignating subsection (e) as subsection (d).*

*(b) CLASSIFICATION OF EXPLOSIVES.—Section 5108(a)(1)(B) is amended by striking "class A or B" and inserting "Division 1.1, 1.2, or 1.3".*

### SEC. 7008. TRAINING OF CERTAIN EMPLOYEES.

*Section 5107 is amended—*

*(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;*

*(2) in subsection (g)(2) (as so redesignated) by striking "sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title" and inserting "section 5106"; and*

*(3) by inserting after subsection (e) the following:*

*"(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness/familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.".*

### SEC. 7009. REGISTRATION.

*(a) PERSONS REQUIRED TO FILE.—Section 5108(a) is amended—*

*(1) in paragraph (2)(B) by striking "manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing" and inserting "designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing"; and*

*(2) by aligning the left margin of paragraph (4) with the left margin of paragraph (3).*

*(b) FILING SCHEDULE.—Section 5108(c) is amended—*

*(1) by striking the subsection heading and inserting "FILING SCHEDULE"; and*

*(2) in paragraph (1)—*

*(A) by striking "must file the first" and inserting "shall file that";*

*(B) by striking "not later than March 31, 1992" and inserting "in accordance with regulations issued by the Secretary"; and*

*(C) by striking the second sentence.*

*(c) FEES.—Section 5108(g) is amended—*

*(1) in paragraph (1) by striking "may" and inserting "shall";*

*(2) in paragraph (2)(A) by striking "$5,000" and inserting "$3,000"; and*

*(3) by adding at the end the following:*

*"(3) FEES ON EXEMPT PERSONS.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the cost of the Secretary in processing registration statements filed by such persons.".*

*(d) RELATIONSHIP TO OTHER LAWS.—Section 5108(i)(2)(B) is amended by inserting ", Indian tribe," after "State" the first place it appears.*

*(e) HAZMAT REGISTRATION NOTIFICATION.—As soon as practicable, the Pipelines and Hazardous Materials Safety Administrator of the Department of Transportation shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.*

### SEC. 7010. PROVIDING SHIPPING PAPERS.

*Section 5110 is amended—*

*(1) in subsection (a) by striking "under subsection (b) of this section" and inserting "by regulation"; and*

*(2) in subsection (e) by striking "1 year" and inserting "2 years after the date of preparation of the shipping paper".*

### SEC. 7011. RAIL TANK CARS.

*Section 5111, and the item relating to such section in the analysis for chapter 51, are repealed.*

### SEC. 7012. UNSATISFACTORY SAFETY RATING.

*The text of section 5113 is amended to read as follows: "A person who violates section 31144(c)(3) shall be subject to the penalties in sections 5123 and 5124.".*

### SEC. 7013. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

*(a) REQUIREMENTS.—Section 5115(b)(1)(C) is amended by striking "under other United States Government grant programs, including those" and inserting "with Federal financial assistance, including programs".*

*(b) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—Section 5115(c)(3) is amended by inserting before the period at the end the following: "and such other voluntary consensus standard-setting organizations as the Secretary determines appropriate".*

*(c) DISTRIBUTION AND PUBLICATION.—Section 5115(d) is amended—*

*(1) in the matter preceding paragraph (1) by striking "national response team" and inserting "National Response Team";*

*(2) in paragraph (1) by striking "Director of the Federal Emergency Management Agency" and inserting "Secretary"; and*

*(3) in paragraph (2)—*

*(A) by inserting "and distribute" after "publish"; and*

*(B) by striking "programs that uses" and all that follows before the period at the end and inserting "programs and courses developed under this section".*

### SEC. 7014. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.

*(a) FACTORS TO CONSIDER IN DETERMINING NEEDS.—Section 5116(b)(4) is amended—*

*(1) by striking "and" at the end of subparagraph (D);*

*(2) by redesignating subparagraph (E) as subparagraph (F); and*

*(3) by inserting after subparagraph (D) the following:*

*"(E) the report submitted by the State to the Secretary under section 5125(f)(2); and".*

*(b) COMPLIANCE WITH CERTAIN LAW.—Section 5116(c) is amended—*

*(1) by inserting "or Indian tribe" after "a State";*

*(2) by inserting "or Indian tribe" after "the State" the first place it appears; and*

*(3) by inserting "(1) the State or Indian tribe is complying with all applicable requirements of this chapter (including section 5125(f)), and (2) in the case of a State," after "certifies that".*

*(c) GOVERNMENT'S SHARE OF COSTS.—Section 5116(e) is amended by striking the second sentence and inserting the following: "Amounts received by the State or tribe under subsections (a)(1) and (b)(1) are not part of the non-Government share under this subsection.".*

*(d) MONITORING AND TECHNICAL ASSISTANCE.—Section 5116(f) is amended—*

*(1) in the first sentence—*

*(A) by striking "Secretaries of Transportation and Energy," and inserting "Secretary of Energy, Director of the Federal Emergency Management Agency,"; and*

*(B) by striking "Director of the Federal Emergency Management Agency shall" and inserting "Secretary of Transportation shall"; and*

*(2) in the second sentence—*

*(A) by striking "the Secretaries, Administrator, and Directors each shall" and inserting "the Secretary shall"; and*

*(B) by striking "national response team" and inserting "National Response Team".*

*(e) DELEGATION OF AUTHORITY.—Section 5116(g) is amended by striking "Government grant programs" and inserting "Federal financial assistance".*

*(f) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—Section 5116(i) is amended—*

*(1) by striking the subsection heading and inserting "HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—";*

*(2) in the matter preceding paragraph (1)—*

*(A) by inserting ", to be known as the 'Hazardous Materials Emergency Preparedness Fund'," after "account in the Treasury"; and*

*(B) by striking "section 5108(g)(2)(A) of this title" and all that follows before the period at the end of the first sentence and inserting "this chapter";*

(3) by striking "and" at the end of paragraph (2);

(4) by redesignating paragraph (3) as paragraph (4); and

(5) by inserting after paragraph (2) the following:

"(3) to publish and distribute the Emergency Response Guidebook; and".

(g) REPORTS.—In section 5116(k)—

(1) by striking the first sentence and inserting the following: "The Secretary shall submit to Congress and make available to the public annually a report on the allocation and uses of planning grants under subsection (a), training grants under subsection (b), and grants under subsection (j) and under section 5107."; and

(2) in the second sentence by striking "Such report" and inserting "The report".

**SEC. 7015. SPECIAL PERMITS AND EXCLUSIONS.**

(a) SECTION HEADING.—

(1) IN GENERAL.—Section 5117 is amended by striking the section number and heading and inserting the following:

**"§5117. Special permits and exclusions"**.

(2) CONFORMING AMENDMENT.—The item relating to section 5117 in the analysis for chapter 51 is amended to read as follows:

"5117. Special permits and exclusions.".

(b) SUBSECTION HEADING.—The heading for subsection (a) of section 5117 is amended by striking "EXEMPT" and inserting "ISSUE SPECIAL PERMITS".

(c) AUTHORITY TO ISSUE SPECIAL PERMITS.—Section 5117(a)(1) is amended—

(1) by striking "an exemption" and inserting ", modify, or terminate a special permit authorizing a variance"; and

(2) by striking "transporting, or causing to be transported, hazardous material" and inserting "performing a function regulated by the Secretary under section 5103(b)(1)".

(d) PERIOD OF SPECIAL PERMIT.—Section 5117(a)(2) is amended to read as follows:

"(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application for an additional period of not more than 4 years or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.".

(e) APPLICATIONS.—Sections 5117(b) is amended—

(1) by striking "an exemption" each place it appears and inserting "a special permit"; and

(2) by striking "the exemption" and inserting "the special permit".

(f) DEALING WITH APPLICATIONS PROMPTLY.—Section 5117(c) is amended by striking "the exemption" each place it appears and inserting "the special permit".

(g) LIMITATION ON AUTHORITY.—Section 5117(e) is amended—

(1) by striking "an exemption" and inserting "a special permit"; and

(2) by striking "be exempt" and inserting "be granted a variance".

**SEC. 7016. UNIFORM FORMS AND PROCEDURES.**

Section 5119 is amended to read as follows:

**"§5119. Uniform forms and procedures**

"(a) ESTABLISHMENT OF WORKING GROUP.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

"(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to establish uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

"(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

"(d) PROCEDURE.—The Secretary shall develop a procedure by which the working group shall harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

"(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

"(f) REGULATIONS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate.

"(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).".

**SEC. 7017. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.**

(a) CONSULTATION.—Section 5120(b) is amended by inserting "and requirements" after "standards".

(b) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—Section 5120(c) is amended—

(1) in paragraph (1) by inserting "or requirement" after "standard" each place it appears; and

(2) in paragraph (2)—

(A) by inserting "standard or" before "requirement" each place it appears; and

(B) by striking "included in a standard".

**SEC. 7018. ADMINISTRATIVE.**

(a) GENERAL AUTHORITY.—Section 5121(a) is amended—

(1) in the first sentence by inserting "conduct tests," after "investigate,";

(2) in the second sentence by striking "After" and inserting "Except as provided in subsections (c) and (d), after"; and

(3) by striking "regulation prescribed" and inserting "regulation, order, special permit, or approval issued".

(b) RECORDS, REPORTS, AND INFORMATION.—Section 5121(b) is amended—

(1) in paragraph (1) by inserting "and property" after "records"; and

(2) in paragraph (2)—

(A) by inserting "property," after "records,";

(B) by inserting "for inspection" after "available"; and

(C) by striking "requests" and inserting "undertakes an investigation or makes a request".

(c) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121(c) is amended to read as follows:

"(c) INSPECTIONS AND INVESTIGATIONS.—

"(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

"(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

"(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

"(D) may gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

"(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and

"(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection.

"(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials when requested.

"(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

"(A) in the safe resumption of transportation of the package concerned; or

"(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.".

(d) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (c) the following:

"(d) EMERGENCY ORDERS.—

"(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue an emergency order, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) WRITTEN ORDERS.—An emergency order issued under paragraph (1) shall be in writing, describe the violation, condition, or practice that is causing the imminent hazard, and state the restrictions, prohibitions, recalls, or out-of-service orders issued. The emergency order also shall describe the standards and procedures for obtaining relief from the order.

"(3) OPPORTUNITY FOR REVIEW.—After issuing an emergency order under paragraph (1), the Secretary shall provide an opportunity for review of the order under section 554 of title 5 if a petition for review is filed within 20 calendar days after the date of issuance of the order.

"(4) EXPIRATION OF EFFECTIVENESS OF EMERGENCY ORDER.—If a petition for review is filed for an order and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the order shall cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

"(e) REGULATIONS.—

"(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).

"(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.".

(e) REPORT.—Section 5121(g) (as redesignated by subsection (d)(1) of this section) is amended—

(1) in the matter preceding paragraph (1) by striking "submit to the President for transmittal to the Congress" and inserting "transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate"; and

(2) in paragraph (4) by inserting "relating to a function regulated by the Secretary under section 5103(b)(1)" after "activities".

(f) REPEAL OF OBSOLETE PROVISION.—Section 5118, and the item relating to such section in the analysis for chapter 51, are repealed.

### SEC. 7019. ENFORCEMENT.

(a) GENERAL.—Section 5122(a) is amended by striking the second sentence and inserting "The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123.".

(b) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is amended by striking "or ameliorate the" and inserting "or mitigate the".

### SEC. 7020. CIVIL PENALTY.

(a) PENALTY.—Section 5123(a) is amended—

(1) in paragraph (1)—

(A) by striking "regulation prescribed or order issued" and inserting "regulation, order, special permit, or approval issued"; and

(B) by striking "$25,000" and inserting "$50,000";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person or substantial destruction of property, the Secretary may increase the amount of the civil penalty for such violation to not more than $100,000.".

(b) HEARING REQUIREMENT.—Section 5123(b) is amended by striking "regulation prescribed" and inserting "regulation, order, special permit, or approval issued".

(c) CIVIL ACTIONS TO COLLECT.—Section 5123(d) is amended by adding at the end the following: "In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.".

(d) COMPROMISE.—Section 5123(e) is amended by striking "before referral to the Attorney General".

### SEC. 7021. CRIMINAL PENALTY.

Section 5124 is amended to read as follows:

**"§5124. Criminal penalty**

"(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.

"(b) KNOWING VIOLATIONS.—For purposes of this section—

"(1) a person acts knowingly when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

"(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.

"(c) WILLFUL VIOLATIONS.—For purposes of this section, a person acts willfully when—

"(1) the person has knowledge of the facts giving rise to the violation; and

"(2) the person has knowledge that the conduct was unlawful.

"(d) RECKLESS VIOLATIONS.—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person's conduct.".

### SEC. 7022. PREEMPTION.

(a) DUAL COMPLIANCE AND OBSTACLE TESTS.—Section 5125(a) is amended by striking the subsection heading and inserting "DUAL COMPLIANCE AND OBSTACLE TESTS.—".

(b) SUBSTANTIVE DIFFERENCES.—The second sentence of section 5125(b)(2) is amended by striking "after November 16, 1990".

(c) DECISIONS ON PREEMPTION.—The third sentence of section 5125(d)(1) is amended by inserting "and publish in the Federal Register" after "issue".

(d) INDEPENDENT APPLICATION OF EACH STANDARD.—Section 5125 is amended by inserting after subsection (f), as redesignated by section 7024(a)(2) of this Act, the following:

"(g) INDEPENDENT APPLICATION OF EACH STANDARD.—Subsections (b), (c)(1), (d), and (g) are independent in their application to a requirement of any State, political subdivision of a State, or Indian tribe and shall be reviewed independently.".

### SEC. 7023. RELATIONSHIP TO OTHER LAWS.

Section 5126(a) is amended by striking "must comply" and inserting "shall comply".

### SEC. 7024. JUDICIAL REVIEW.

(a) REPEAL.—Section 5125 is amended—

(1) by striking subsection (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) in subsection (f) (as so redesignated) by moving paragraph (2) (including subparagraphs (A) through (D)) 2 ems to the left.

(b) JUDICIAL REVIEW.—Chapter 51 is amended by redesignating section 5127 as section 5128 and by inserting after section 5126 the following:

**"§5127. Judicial review**

"(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.
"5128. Authorization of appropriations.".

### SEC. 7025. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 (as redesignated by section 7024) is amended to read as follows:

**"§5128. Authorizations of appropriations**

"(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2005, $27,000,000.

"(2) For fiscal year 2006, $29,000,000.

"(3) For fiscal year 2007, $30,000,000.

"(b) EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2007 the following:

"(1) To carry out section 5115, $200,000.

"(2) To carry out section 5116(a), $8,000,000.

"(3) To carry out section 5116(b), $13,800,000.

"(4) To carry out section 5116(f), $150,000.

"(5) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), $500,000.

"(6) To pay administrative expenses in accordance with section 5116(i)(4), $150,000.

"(7) To carry out section 5116(j), $1,000,000.

"(c) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) $4,000,000 for each of fiscal years 2005 through 2007.

"(d) UNIFORM FORMS AND PROCEDURES.—There is authorized to be appropriated to the Secretary for making grants to States participating in the working group established under section 5119 $1,000,000 for each of the fiscal years 2005 and 2006.

"(e) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

"(f) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

"(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.".

### SEC. 7026. DETERMINING AMOUNT OF UNDECLARED SHIPMENTS OF HAZARDOUS MATERIALS ENTERING THE UNITED STATES.

(a) STUDY.—The Comptroller General shall conduct a study to propose methods of determining the amount of undeclared shipments of hazardous materials (as defined in section 5101 of title 49, United States Code) entering the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

### SEC. 7027. CONFORMING AMENDMENTS.

Chapter 51 is amended by striking "Secretary of Transportation" each place it appears (other *than the second place it appears in section 5108(g)(2)(C), the first place it appears in section 5115(a), and in sections 5116(g), 5116(i), and 5120(a)) and inserting "Secretary".*

Strike title VIII of the bill and insert the following:

### *TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE*

### *SEC. 8101. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES.*

*(a) LIMITS.—(1) Redesignate paragraphs (2) through (9) of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 as paragraphs (7) through (14), respectively, and strike paragraph (1) of such section 251(c) and insert the following new paragraphs:*

*"(1) with respect to fiscal year 2004—*

*"(A) for the highway category: $28,052,000,000 in outlays;*

*"(B) for the mass transit category: $1,436,000,000 in new budget authority and $6,271,000,000 in outlays;*

*"(2) with respect to fiscal year 2005—*

*"(A) for the highway category: $34,215,000,000 in outlays;*

*"(B) for the mass transit category: $1,531,670,000 in new budget authority and $6,844,000,000 in outlays;*

*"(3) with respect to fiscal year 2006—*

*"(A) for the highway category: $36,814,000,000 in outlays;*

*"(B) for the mass transit category: $1,706,670,000 in new budget authority and $5,978,000,000 in outlays;*

*"(4) with respect to fiscal year 2007—*

*"(A) for the highway category: $38,428,000,000 in outlays;*

*"(B) for the mass transit category: $1,823,220,000 in new budget authority and $7,456,000,000 in outlays;*

*"(5) with respect to fiscal year 2008—*

*"(A) for the highway category: $39,815,000,000 in outlays;*

*"(B) for the mass transit category: $1,931,785,000 in new budget authority and $8,263,000,000 in outlays;*

*"(6) with respect to fiscal year 2009—*

*"(A) for the highway category: $40,880,000,000 in outlays;*

*"(B) for the mass transit category: $2,062,755,000 in new budget authority and $8,817,000,000 in outlays;*

*"(b) DEFINITIONS.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—*

*"(1) in subparagraph (B), by striking "the Transportation Equity Act for the 21st Century and all that follows through the colon and inserting: "the Transportation Equity Act: A Legacy for Users:"; and*

*"(2) in subparagraph (C), by—*

*"(A) inserting '(and successor accounts)' after 'budget accounts'; and*

*"(B) striking 'the Transportation Equity Act for the 21st Century' and all that follows thereafter through the colon and inserting 'the Transportation Equity Act: A Legacy for Users or for which appropriations are provided pursuant to authorizations contained in that Act:'; and"*

### *SEC. 8102. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING WITH REVENUES.*

*Subparagraphs (B) through (E) of section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:*

*"(B) ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall make adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).*

*"(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.*

*"(bb) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of receipts for that year.*

*"(cc) OMB shall add one-half of the sum of the amount calculated under items (aa) and (bb) to the obligation limitations set forth in the section 8103 of the Transportation Equity Act: A Legacy for Users and, using current estimates, calculate the outlay change resulting from the change in obligations for the budget year and the first outyear and the outlays flowing therefrom through subsequent fiscal years. After making the calculations under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year and the first outyear by adding one-half of the sum of the amount calculated under items (aa) and (bb) to each such year.*

*"(II) The estimated level of highway receipts for the purposes of this clause are—*

*"(aa) for fiscal year 2004, $29,172,000,000;*

*"(bb) for fiscal year 2005, $33,898,000,000;*

*"(cc) for fiscal year 2006, $35,393,000,000;*

*"(dd) for fiscal year 2007, $36,615,000,000;*

*"(ee) for fiscal year 2008, $37,770,000,000; and*

*"(ff) for fiscal year 2009, $38,857,000,000.*

*"(III) In this clause, the term 'highway receipts' means the governmental receipts credited to the highway account of the Highway Trust Fund.*

*"(C) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2007, 2008, or 2009, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—*

*"(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus*

*"(ii) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.*

*"(D)(i) When OMB and CBO submit their final sequester report for fiscal year 2006, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2007 through 2010 from obligations at the levels specified in section 8103 of the Transportation Equity Act: A Legacy for Users using current assumptions.*

*"(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2008, 2009, or 2010, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).*

*"(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.".*

### *SEC. 8103. LEVEL OF OBLIGATION LIMITATIONS.*

*(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—*

*(1) for fiscal year 2004, $34,309,000,000;*

*(2) for fiscal year 2005, $35,160,000,000;*

*(3) for fiscal year 2006, $37,417,000,000;*

*(4) for fiscal year 2007, $38,787,000,000;*

*(5) for fiscal year 2008, $40,077,000,000; and*

*(6) for fiscal year 2009, $41,467,000,000.*

*(b) MASS TRANSIT CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—*

*(1) for fiscal year 2004, $7,265,900,000;*

*(2) for fiscal year 2005, $7,646,300,000;*

*(3) for fiscal year 2006, $8,482,000,000;*

*(4) for fiscal year 2007, $9,042,000,000;*

*(5) for fiscal year 2008, $9,639,000,000; and*

*(6) for fiscal year 2009, $10,277,000,000.*

*For purposes of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.*

### *SEC. 8104. ENFORCEMENT OF GUARANTEE.*

*Clause 3 of rule XXI of the Rules of the House of Representatives is amended—*

*(1) by striking "Transportation Equity Act for the 21st Century" and inserting "Transportation Equity Act: A Legacy for Users"; and*

*(2) by adding at the end the following: "For purposes of this clause, any obligation limitation relating to surface transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 1702 of the Transportation Equity Act: A Legacy for Users shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within State program allocations.".*

### *SEC. 8105. TRANSFER OF FEDERAL TRANSIT ADMINISTRATIVE EXPENSES.*

*For purposes of clauses 2 and 3 of rule XXI of the House of Representatives, it shall be in order to transfer funds, in amounts specified in annual appropriation Acts to carry out the Transportation Equity Act: A Legacy for Users (including the amendments made by that Act), from the Federal Transit Administration's administrative expenses account to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.*

The Acting CHAIRMAN. No further amendment is in order except those printed in part B of the report or pursuant to a subsequent order of the House. Each amendment printed in part B may be offered only in the order printed in the report, by a member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in part B of House Report 109–14.

AMENDMENT NO. 1 OFFERED BY MR. BOOZMAN

Mr. BOOZMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BOOZMAN:

After section 4134, insert the following (and redesignate, and conform the table of contents, of the bill accordingly):

### SEC. 4132. BREAKS DURING DAILY TOUR OF DUTY.

Section 31502 of title 49, United States Code, is amended by adding at the end the following:

"(f) BREAKS DURING DAILY TOUR OF DUTY.—Notwithstanding any other provision of law, an operator of a property carrying commercial motor vehicle shall be permitted to operate such vehicle and perform other workrelated activities at the end of the 14th hour from the time the driver begins duty, for a period of time for which the driver has been off duty during the 14-hour period, not to exceed a total of 16 hours.

"(g) NO COERCION.—No person shall require or coerce a motor carrier or its employees to record falsely their duty status as off-duty for any activity defined by the Secretary as on-duty. ".

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from Arkansas (Mr. BOOZMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Chairman, I yield myself such time as I may consume.

First, Mr. Chairman, I would like to thank the Chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), for making my amendment in order.

I would also like to express my pride as a member of the Committee on Transportation and Infrastructure, and I greatly appreciate the leadership of Chairman YOUNG and the gentleman from Minnesota (Mr. OBERSTAR). Mr. Chairman, I think the American public wants more than anything to see us working together, and I truly do appreciate the example this committee has demonstrated in that regard.

The other thing I would like to do is thank the staff. I am in the process of an amendment that would give the truckers an additional 2 hours of break time. I think I almost need to do an amendment that would give the staff a couple of hours of break time for the last 2 weeks. So we really do appreciate them.

Mr. Chairman, I represent the Third District of Arkansas and probably have more trucking companies and truck drivers in that district than any other part of America. In visiting with my trucking companies and visiting with the drivers, they have indicated under the current hours of service rule there were times they felt it would be beneficial if they could go off the clock and occasionally take a break.

Today, when I arrived at work, and I have as tough a schedule as anybody anyplace today, yet I have the ability, if I want to go and visit with somebody and take 30 minutes, drink a cup of coffee, take a nap, do things like that, I have the ability to do that and make it up later. Our truckers do not have that ability.

The Federal Motor Carriers have had over 300 complaints lodged in that regard. So what we are trying to do is provide an amendment that gives the truckers the ability to take up to 2 hours of off-duty time during the day. The rest times are optional, voluntary. The driver does not have to take the rest time unless he wants to. In fact, I have included specific language in the amendment which protects the drivers and preserves the time for them. It is apparent that the industry at this point has become very complex. It is difficult. One size does not fit all, and that is really what we are trying to alleviate.

Last year, I offered an amendment to basically say, let us go back to the old hours of service rule because of the difficulties we were having. During the markup last year, I spoke with Chairman YOUNG and Ranking Member OBERSTAR, and in the course of that discussion I brought up the fact that the drivers, again, do not have the flexibility, they do not have the ability to take a break when they want to once the clock starts.

Ranking Member OBERSTAR, in the course of the discussion, understood that that was a problem. So what I did was to try to craft a rule that would come back to address that problem. I understand, though, that there are concerns that still exist with the amendment. So I visited with the ranking member's staff. I visited with Annette Sandberg, the administrator of the Federal Motor Carriers, trying again to further refine this thing so we can answer all of the problems that have come about.

□ 1345

I want to compliment Ms. Sandberg. She is in a very difficult situation. She and her staff are working very hard to get this resolved. Hopefully, we will be able to do that in the near future.

One thing I have been disappointed in, an effort to give drivers the ability to go off the clock when they feel like they need to, heavy traffic, for whatever reason. And something that has come about is I have been targeted, Wal-Mart is being targeted. I happen to represent them, and am very proud in doing that, and yet the reality is over 40 organizations are supporting this amendment, most of them key-voting this amendment. And the reality is also hundreds of thousands of truckers are also in support. I think the amendment is very worthwhile.

Again, I would like to work with the gentleman from Minnesota (Mr. OBERSTAR), work with the Federal motor carriers, the drivers, all of the parties involved in the industry, so we can get in a situation where we can rectify it and give the truckers the flexibility that they greatly need.

Mr. BACA. Mr. Chairman, let's be clear—the Boozman amendment will force truck drivers to work longer hours, with less rest, putting all of us at risk.

This amendment is about one thing—increasing the workday for truck drivers from 14 to 16 hours. Those 16 hours are twice the length of the average American's workday. We do not need more tired truck drivers on the road.

I represent one of the largest trucking communities in this country. The Inland Empire in California is the trucking hub of all of Southern California. Let me share with you what I know.

Every truck stop in Southern California, and I suspect the rest of the Nation, is full of stay-awake and other legal caffeine pills for overworked and sleepy truck drivers. Truck drivers also quietly grumble that they are increasingly forced to carry larger loads, over longer distances, with shorter deadlines.

This amendment is not about flexibility; it is about rolling back safety so a few companies can increase profits.

Do you know anyone who works a 14-hour day who'd rather change that to 16 hours? Who, in their right mind, really wants to show up for work at 7 a.m. and leave at 11 p.m.? What about the families and their children? What about time to sleep?

The Boozman amendment is a bad idea that will endanger our families on the road and decrease the quality of life for truck drivers.

I urge my colleagues to oppose this amendment.

Ms. DELAURO. Mr. Chairman, I rise to oppose the Boozman amendment. This amendment is an unwise attempt by special interests to interfere in an ongoing regulatory and legal process. It is designed to further erode safety on America's highways while rewarding companies such as Wal Mart.

In April 2003 the Transportation Department promulgated a rule that gives truckers substantially more time on the road. Among other features, the rule allows truck drivers to log as many as 14 consecutive hours driving. This is an unsafe schedule, and it is little wonder that the truckers and highway safety advocates were united in their opposition to this rule. It is also little wonder that the D.C. Court of Appeals found the rule "arbitrary and capricious because the agency neglected to consider a statutorily mandated factor—the impact of the rule on the health of drivers." As a result, DOT is now reviewing this rule in a public, transparent proceeding.

Now we are considering an amendment that would eliminate the one safety enhancement included in that 2003 rule. This amendment would allow truckers to deduct meal time and other short "break periods" from their time on the road, essentially allowing them to drive 16 consecutive hours. And once again, the truck drivers and highway safety advocates are united in their opposition.

The legal effect of this amendment is simply to lengthen the work day for truckers and shorten their rest time, without providing any improvement for safety. In fact, all the amendment does is create a loophole to extend the workday of short-haul truckers—not provide them with the opportunity for real rest.

Mr. Chairman, I support the underlying legislation, in part because one of the goals of the Interstate Highway System is to improve safety on our roads. This amendment goes in the opposite direction, and I therefore oppose its adoption.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to oppose the amendment as offered by the gentleman from Arkansas and urge my colleagues to defeat it on the grounds of protecting public safety. The gentleman's amendment seeks to extend the on-duty time of truck drivers from 14 hours to 16 hours per day.

Our unions, the Transportation Trades Department, the AFL–CIO, and the Commercial

Vehicle Safety Alliance all concur on rejection of this irresponsible and irrational proposal. This amendment is, at the very least, premature and overboard given the fact that current transportation rules on the books allow employers and employees to allocate a 16-hour on-duty period every seven days. Hence, this amendment is not necessary.

More importantly, this amendment threatens the safety of millions of drivers. Under existing rules, a driver may be behind the wheel continuously for up to 11 hours over a 14-hour on-duty period. This amendment would extend this period by 2 hours. Coupled with up to 2 hours of break time, a truck driver could be behind the wheel for up to 16 hours, which increases the probability of having fatigued drivers on the road.

The Boozman Amendment would exacerbate the already high number of truck accidents attributed to driver fatigue. Truck driver fatigue has been identified as a significant cause of major crashes by the National Transportation Safety Board. In 2003, 4,986 people were killed in truck crashes and more than 122,000 were injured at a cost of $24 billion.

For the reasons stated above, Mr. Chairman, I reject this amendment and ask that my colleagues do the same.

Mr. BOOZMAN. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The Acting CHAIRMAN (Mr. TOM DAVIS of Virginia). Without objection, the amendment is withdrawn.

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in part B of House Report 109–14.

### AMENDMENT NO. 2 OFFERED BY MR. CONAWAY

Mr. CONAWAY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CONAWAY:

At the end of subtitle A of title IV of the bill, insert the following (and conform the table of contents of the bill accordingly):

**SEC. 4137. HOUR OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION OF OIL AND GAS EQUIPMENT AND MACHINERY.**

Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle used exclusively in servicing the field operations of the natural gas and oil industry shall be those in effect under such sections on April 27, 2003.

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from Texas (Mr. CONAWAY) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Chairman, I yield myself such time as I may consume.

This amendment would reduce the regulatory burden on the good men and women of this country who are exploring for oil and natural gas.

The hours-of-service rules that this would impact really have to do with long-haul truckers, men and women who feed their families by driving trucks from one side of the country to the other. Oil and gas operators are getting caught up with this rule, and it is an unnecessary regulatory burden on them that does not add to the safety of our highways.

In general what happens, these truck drivers will leave the yards in the morning, go to a location where an oil and gas well is being drilled or completion is being done on oil and gas wells, or workover units are being worked. While driving commercial vehicles, they are typically tractors pulling either specialized trailers that perform some special function on the well, or they are driving a self-contained unit that has some special function once it gets to location.

These locations are generally within a short driving distance where these men and women are typically spending the night in their own home and getting up the next morning and going to work. The rules, as they apply to oil and gas truck drivers, are causing some undue burdens in that if they get caught on location, as operations typically happen, it is not as efficient as they need to be: they are there longer than normal circumstances. Because of these rules, they cannot drive back home that night. The operator or the service company has got to hire transportation to drive out to location and pick them up and bring them home. Or even worse, they are required to spend the night overnight on location in a circumstance where they were not necessarily expecting that because of this regulation.

So with this amendment, we have the opportunity to lessen the regulatory burden on an industry that is vital to our national security. As crude oil prices reach $55 a barrel, natural gas prices are high, we obviously do not want to burden this industry any more than is necessary.

I spent 7 years in Texas writing regulations for the accounting industry. Regulations ought to control what is going on and protect what needs to be protected, but they ought to be done in a way that is cost efficient and effective for those who have to comply with the regulations.

This amendment would allow oil and gas operations exclusively to conduct their safety programs under the rule in place before the hours-of-service rules came in effect in January of 2004.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in very deep-seated feeling of opposition to this amendment. It has nothing to do with the gentleman, the offerer; but these series of attempts to undermine hours of service in the trucking sector, we went through a very extensive debate several years ago to create the Federal Motor Carrier Safety Administration. The idea was to establish within the Department of Transportation an entity whose role would be to examine the evidence in all of the many sectors of the economy, evaluate the needs for safety and then publish rules, not one rule but rules that would address each separate sector of the driving public on the economic side of driving.

The initial rules published by the Motor Carrier Safety Administration were very complex, very difficult to understand, and raised a great deal of animosity. They went back and redid the rule; and now because some sector did not get their way in the rule-making process, they are coming to the Congress saying, fix it by law.

Look at what this proposal will do. Under the previous rule, truck drivers had only 8 hours off duty. But look at that 8 hours. We had extensive hearings on this subject. A driver comes home from his or her job, gets a shower, something to eat, maybe spends a little time with his or her family. When I was a student in college, I roomed at a house where the breadwinner was a long-distance truck driver. I saw this happening before my eyes. I see it happening to families throughout any congressional district. I have talked with those on the road. You get a little bit of time with family members, and maybe they get 5 hours of rest, and then they are back on the job again.

Unlike the inner-city bus drivers who work on regular schedules, a wide sector of the truck-driving public have irregular hours. They can work backward rotating shifts, 7 to 3 one week, 3 to 11, 11 to 7; and they never get consistent sleep. The human body has not changed in 50,000 years. We still need adequate rest.

The Department of Transportation has conducted numerous studies of fatigue among pilots, among locomotive engineers, among truck drivers, among bus operators, and found in every case they are not getting sufficient rest.

As each one of these cases comes up, it is we just have a little different situation here. Look under this amendment. A driver could start work at 8 in the morning and work until midnight with only 2 hours off, and then be expected to be back to work at 8 the next morning. It is not in the public interest. I do not care what the truck driver wants, to make a few extra bucks or get the time-and-a-half for overtime; that is not in the public interest. Somebody is going to die as a result of driver fatigue. We should not allow this chipping away at safety.

Mr. Chairman, I reserve the balance of my time.

Mr. CONAWAY. Mr. Chairman, I yield myself such time as I may consume.

With all due respect to my colleague on the other side, that is not what this is about. This is about reducing a regulatory burden on an industry without demonstrated evidence that this, in fact, does what we all want, and that is safe drivers on our highways.

This issue of driver fatigue, a bit tongue-in-cheek, but there may be those who say this body in session at 2 a.m. in the morning is a greater public safety risk than the truck drivers in the oil and gas business. We are talking about mom and pop organizations who are these service companies that are burdened with this regulation. We are also talking about the very largest oil field service companies that are burdened by it.

To a person, they are interested in safety. They do not want to run their trucks in an unsafe manner. They have immense liabilities if that happens. They have as great or greater interest in safe, alert truck drivers than we certainly do in Congress. This industry is burdened by regulation that is not proven to increase safety with respect to oil and gas operations. It is simply an added layer of regulation that I believe is unnecessary. This amendment would unburden that very important industry in our country.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

The legal effect of the gentleman's amendment, whether he understands it or has been wisely counseled, is exactly as I described it. A worker can start at 8 in the morning, work until midnight, have 2 hours off, and be called back at 8 the next morning. That is the legal effect of the words of this amendment. It is not in the public interest to put drivers on the road with so little sleep. That is what this is all about, about safety on our highways. Five thousand people a year die because of car-truck crashes, and more than half of those truck-car crashes are as a result of driver fatigue, truck driver fatigue. We must not exacerbate the problem, and we should defeat this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time has been yielded back.

The question is on the amendment offered by the gentleman from Texas (Mr. CONAWAY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. CONAWAY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. CONAWAY) will be postponed.

It is now in order to consider amendment No. 3 printed in part B of House Report 109–14.

### AMENDMENT NO. 3 OFFERED BY MR. KUHL OF NEW YORK

Mr. KUHL of New York. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. KUHL of New York:

In section 4134 of the bill, strike "100 air mile" and insert "150 air mile".

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from New York (Mr. KUHL) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. KUHL).

Mr. KUHL of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we all realize and want to make sure that when our crops are harvested that they do not spoil before they actually get processed.

The Transportation Reauthorization Act recognizes this potential problem and attempts to address it. H.R. 3 addresses this issue and has moved to try to resolve it. It would allow for an exemption for maximum driving and on-duty time for drivers of motor carriers transferring our food supplies at the time of planting or harvest for a 100-air mile radius to the distribution point or the source of commodities.

In my district, a very large, rural district, it is larger than 6,000 square miles which is larger than the State of Connecticut, many of the processing centers for agricultural goods fall right outside the 100-mile radius, but fall within a 150-air mile radius, so my amendment does something very simple. It simply raises that 100-mile air radius to 150-air miles, which will take care of the problem of having grapes which are a very, very precious commodity in my area being able to be processed on time and in a way which will not be deleterious to the final product. I hope Members will support my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. This is another example of chipping away at hours of service. We have already had a discussion in the course of debate on the previous amendment. We already have provided for exemptions for the agricultural community. Our committee held hearings, acknowledged the concerns, listened to the views of people on both sides of the issue, and we have included in the bill an exemption for the agricultural community with an exemption of a 100-air mile radius.

□ 1400

Now, I do not know what the argument is for a little bit more or a few more miles. There has not been any case made of what this dividing line is. In fact, 100 miles is a fairly arbitrary number in itself.

But, it may relate to the time it takes to drive 100 miles. That used to be the rule in railroading; that after 100 miles, the locomotive engineer was off duty and could get some rest. Well, maybe that is the issue here.

The fact is, we have made an adjustment in the context of this bill, and we recognize that there are unique seasonal considerations in the agricultural sector, and we have provided for that in this legislation. There is no need for this amendment. It is an excessive chipping away at safety.

I would just suggest to the gentleman, since we have already made an adjustment in H.R. 3, the underlying bill for the agricultural sector, that if the gentleman would be willing to withdraw the amendment, not press it to a vote, that we would then have the flexibility to work continuously, perhaps even as we get to the manager's amendment or as we get into conference to further hear the gentleman and his concerns and resolve them. I would make that offer to the gentleman.

Mr. KUHL of New York. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for that and give him my word and the chairman my word that we will work together and understand his concerns better, in more depth, and find a way to come to a resolution.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in Part B of House Report 109–14.

### AMENDMENT NO. 4 OFFERED BY MR. MORAN OF KANSAS

Mr. MORAN of Kansas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MORAN of Kansas:

Redesignate section 4134(b) as section 4134(c) and insert after section 4134(a) the following:

(b) REVIEW BY THE SECRETARY.—Section 345(c) of such Act (109 Stat. 613) is amended by striking "other than paragraph (2)" and inserting "other than paragraph (1) or (2) of such subsection".

In section 4134(c) (as redesignated by this amendment) strike the matter proposed to be inserted as a quoted paragraph (7) and insert the following:

"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471)and insects)."

The CHAIRMAN. Pursuant to House Resolution 140, the gentleman from Kansas (Mr. MORAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

The amendment I offer this afternoon also is an hours of service amendment, although perhaps the most narrow of the amendments offered today.

The existing law allows for an hours of service exemption for agricultural products during the time of harvest and planting. The amendment I offer simply clarifies two things. One, it defines what an agricultural commodity is, and basically would make clear that the definition includes livestock, milk and other farm products.

It does not include any products of agricultural products. So this is clearly about peanuts, not about peanut butter. It is about cotton; it is not about t-shirts. This exemption has been in existence for the last decade, as I understand, and in the desire to make more clear the definition, I offer this amendment.

This amendment will clear up the confusion that exists and will prevent FMCSA from arbitrarily eliminating agricultural commodities from the exemption in the future.

Other than these changes, the agricultural exemption remains the same. It is seasonal, applying only during designated months as designated and determined by the States to meet critical agricultural transportation needs.

This language is included in the base bill. The bill that I strongly support includes the language about hours of service exemption for agriculture commodities. The amendment I offer today does the two things I just mentioned: Clarifies what the definition of an agricultural product is, and indicates that the Secretary of Transportation cannot eat away at this amendment in its provision in its rulemaking authorities.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Now, in contrast to the previous amendment, which is somewhat technical and which I do believe we can work out an understanding as we come to a deeper grasp of the concerns of the offeror of the previous amendment, this is not a simple technical correction. This is a serious assault on the motor carrier safety rule. It goes beyond simply seasonal exemptions.

As we worked our way through the bill last year and again this year, we came to agreements on this hours of service issue. And we worked out language in H.R. 3 that provides exemption for 28,000 carriers. The pending amendment would include live animals, live fish, animal feed, products of animal origin, meat, fish, seafood, tobacco products, meat, logs, livestock, lumber products, processed food, beverages, 42,000 exemptions. 42,000 carriers who no longer would have to abide by the hours of services rules, within a 100 air-mile radius.

There is no justification for that. This is a quantitative and dangerously quantitative departure from the committee agreement, and must not be accepted.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

I obviously respect the opinion of the gentleman from Minnesota, who has long experience in regard to transportation, particularly hours of service issues. I am surprised somewhat by the characterization. He and I characterize my amendment differently. It is my understanding that the hours of service exemption for agricultural commodities, including the ones that are described specifically in my amendment, have been in place for a long period of time and only in 2002 did confusion arise with the issuance of a guidance from the Department of Transportation in regard to the definition of agricultural commodities.

Again, I would emphasize that this is designed to make clear that all agricultural commodities, not those that are just specifically named in the past, would be eligible. The crisis that an agricultural hauler, a trucker, has in getting agricultural commodities to market is the same regardless of which crop it is. I believe this amendment simply makes clear what has been the practice in the past and also makes certain that this rule-making authority is not utilized to eliminate the exemption in the future.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from Kansas is a very distinguished and decent and a well-thinking member of our committee. He has offered many thoughtful amendments. We have on the committee worked together to respect the unique needs in agriculture during planting time, harvest time, within a reasonable distance of the point of production and endpoint of distribution. The purpose of the language in the committee bill was to ensure that products grown and harvested get from the farm to market in timely fashion. I understand that. I have got large sectors of my congressional district that are intensely agricultural. We want that corn and soybeans to get to market in timely fashion. But in yielding a yard to the industry, they now want the whole ball field. The amendment goes way beyond what we understood. They are including processed products, processed foods, beverages. I asked the Department of Transportation Motor Carrier Safety Administration to tell me what is included, how many additional carriers? Forty-two thousand. What is the driving record of the carriers who would be covered by this amendment? They say they have a crash rate 20 percent higher than current agriculture exemption carriers. If we just limited this to the current agricultural sector provided in the exemption in our bill, we are fine with that, but this goes far beyond what is reasonable and responsible, whether intentioned or unintentioned. It is an assault upon safety in the form presented. I cannot accept it. We might find a way to work additionally with dropping out some of these pieces as we go forward in the manager's amendment or in conference, but in its current form, unless the gentleman chooses to withdraw it, I cannot accept it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. MORAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Kansas (Mr. MORAN) will be postponed.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 2 offered by the gentleman from Texas (Mr. CONAWAY) and amendment No. 4 offered by the gentleman from Kansas (Mr. MORAN).

The Chair will reduce to 5 minutes the time for the second electronic vote.

### AMENDMENT NO. 2 OFFERED BY MR. CONAWAY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. CONAWAY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 226, not voting 9, as follows:

[Roll No. 56]

AYES—198

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCrery
McHenry
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Moore (KS)
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Udall (CO)
Udall (NM)
Walden (OR)
Wamp
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)

NOES—226

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Coble
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Platts
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Reynolds
Rogers (AL)
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Baird
Clay
Herseth
Hobson
Jackson-Lee (TX)
Ramstad
Rothman
Stupak
Tiberi

□ 1441

Mr. DICKS, Mr. GERLACH, Ms. SCHWARTZ of Pennsylvania, and Messrs. HINOJOSA, PASTOR, DAVIS of Tennessee, McCOTTER, SMITH of New Jersey, YOUNG of Florida, and Mrs. MILLER of Michigan, Mrs. JOHNSON of Connecticut, Mr. CUELLAR and Mr. ORTIZ changed their vote from "aye" to "no."

Mr. SAXTON, Mrs. BONO, and Mr. MARIO DIAZ-BALART of Florida changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 4 OFFERED BY MR. MORAN OF KANSAS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Kansas (Mr. MORAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 257, noes 167, not voting 9, as follows:

[Roll No. 57]

AYES—257

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCrery
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy

Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Turner
Udall (CO)
Udall (NM)
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (FL)

NOES—167

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Chandler
Cleaver
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
English (PA)
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hart
Hastings (FL)
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Price (NC)
Rahall
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Solis
Stark
Strickland
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—9

Baird
Clay
Herseth
Hobson
Jackson-Lee (TX)
Ramstad
Rothman
Stupak
Tiberi

□ 1451

Mrs. MILLER of Michigan and Mr. EDWARDS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in part B of House Report 109–14.

### AMENDMENT NO. 5 OFFERED BY MR. KUHL OF NEW YORK

Mr. KUHL of New York. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. KUHL of New York:

At the end of title I of the bill, insert the following (and conform the table of contents of the bill accordingly):

**SEC. 1838. AMO HOUGHTON BYPASS.**

(a) FINDINGS.—Congress finds the following:

(1) Amo Houghton first served his country when he volunteered for military service during World War II and served as a Private First Class in the United States Marine Corps;

(2) Amo Houghton earned a bachelor's degree from Harvard University and a master's degree from the Harvard School of Business;

(3) Amo Houghton was Chief Executive Officer of Corning, Incorporated, before running for Congress and is remembered fondly for his tremendous efforts to rebuild the city of Corning, New York, and the Chemung Valley in the aftermath of Hurricane Agnes and the devastating flood of 1972;

(4) Amo Houghton spent his energy and time at Corning, Incorporated, Congress, and even after Congress working to build up the economy of the Southern Tier, Finger Lakes, and Rochester region of New York;

(5) Amo Houghton worked tirelessly with others to fund the building projects that brought New York State Route 17 to the necessary standards to be designated as Interstate Route 86;

(6) one of the major projects required to upgrade New York State Route 17 to Interstate standards and at the same time eliminate a glaring problem and safety hazard was the construction of the bypass route around the city of Corning, New York;

(7) Amo Houghton was a champion of many economic, trade, and health issues during his service on the Ways and Means Committee of the House of Representatives, including numerous tax simplification measures and successful House and Senate passage of the Clean Diamond Trade Act (Public Law 108–19) which was signed into law by President George W. Bush;

(8) Amo Houghton was an active player on the world stage as a member of the International Relations Committee of the House of Representatives through his Chairmanships of the Canada-United States Interparliamentary Group, the Asia-Pacific Parliamentary Forum, the Oxford Forum, and the United States-Japan Economic Agenda Forum and Vice Chairmanship of the Africa Subcommittee of the International Relations Committee;

(9) Amo Houghton served in many other capacities for the good of Congress, including his work as a founding member of the Bipartisan Retreat Committee of the House of Representatives, the Members and Family Room Committee of the House of Representatives, and as Co-Chairman of the Faith and Politics Institute; and

(10) among his colleagues in Congress, Amo Houghton will always be remembered as a man of principle, statesmanship, moderation, bipartisanship, and civility.

(b) DESIGNATION.—The Secretary of Transportation shall work with the State of New York to ensure that the segment of Interstate Route 86 between its interchange with New York State Route 15 in the vicinity of Painted Post, New York, and its interchange with New York State Route 352 in the vicinity of Corning, New York, is known and designated as the "Amo Houghton Bypass".

The CHAIRMAN. Pursuant to House Resolution 140, the gentleman from New York (Mr. KUHL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. KUHL).

Mr. KUHL of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I was kind of hopeful that the gentleman from Minnesota would be here because I know that he opposed the previous amendment I offered on the floor, and I thought that this was perhaps one of those amendments that he would join with me in supporting.

This amendment would name part of Interstate I–86 in Upstate New York around the community called Corning, New York, which is currently known as the Corning Bypass, after my predecessor, the former gentleman from New York, Congressman Amo Houghton, who retired from Congress just this last year.

The amendment is identical to H.R. 795, a bill I introduced along with 108 co-sponsors in this House to name that section of I–86 the Amo Houghton Bypass.

Amo was elected, as many of you may know, to represent the 34th Congressional District way back in 1986, and was sworn in as a Member of the 100th class and then reelected to each succeeding Congress.

Amo was known to just about everyone in this Chamber as a man of principle, statesmanship, patriotism, moderation, bipartisanship, and perhaps most notably civility.

It will surprise no one that Amo was a Boy Scout as a child. He then started his lifelong career in the public service by volunteering as a Marine during World War II. Amo followed in the footsteps of many Houghtons by pursuing a bachelor's degree and MBA from Harvard University. After Harvard, Amo joined the family business, Corning Glassworks in Corning, New York, now known as Corning, Incorporated. Amo eventually rose to the head of the company as chairman and CEO, and under his leadership the company invented and invested in fiber optics technology, among other technological breakthroughs.

Amo is fondly remembered in the city of Corning for his assistance in the community after the devastating flood of 1972 caused by Hurricane Agnes. Through Amo's help and leadership, the company stayed in Corning and helped rebuild the community to be what it is today. Amo has spent continuous time and energy in helping to bring people together to think about ways to improve the upstate economy and certainly the economy in this country and the world.

One of Amo's first and most important projects after being elected to Congress in 1986 was fighting for the money to construct Route 17, the Corning Bypass, a project that alleviated massive safety problems in the city and also a tremendous amount of congestion.

This project and Amo's other efforts to complete the twining of the roads in Chautauqua County to Pennsylvania paved the way to Route 17 being designated as Interstate 86 today.

In Congress, Amo was a champion of tax, of trade, of health issues and served on the House Committee on Ways and Means. He was involved in numerous international issues and projects through his service on the House Committee on International Relations. He also served on the House Committee on the Budget.

Amo deeply cared for his colleagues here in the House, and he sends his regards as I make this statement to you today, as having just talked with him a couple days ago.

As evident certainly are his efforts to form the Bipartisan Retreat Committee, his service on Members and the Family Room Committee, and as cochair of the Faith and Politics Institute with our colleague, the gentleman from Georgia (Mr. LEWIS). Naming this bypass the Houghton Bypass is but a small tribute to a great man, but it will serve as a permanent honor to this Congressman, to Amo Houghton, and to his tireless service to the community and to the Nation.

Mr. Chairman, I urge my colleagues to support this amendment. This is a right and fitting thing to do.

Mr. Chairman, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I claim the time in opposition to this amendment, but do not oppose the amendment.

The CHAIRMAN. Without objection, the gentleman from Oregon (Mr. DEFAZIO) will control the time.

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I came to Congress at the same time as Amo Houghton. I think Congress is diminished by his departure. He was a gentleman. He was a rare spirit who was willing to stand up for what he thought was right even when he had to confront leaders on the other side, whether it was his own party or leaders on our side of the aisle. He spoke from his conscience and I think represented his district well.

I just had the pleasure and opportunity to be with him again last weekend with the gentleman from Georgia (Mr. LEWIS) to do the reenactment of the March For Bloody Sunday over the Pettus Bridge; and as usual, Amo was there in heart and spirit, and it was wonderful to see him again. So I am wholeheartedly in support of this; and I think everyone will be in support of that.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me time. I thank my colleague for putting in this amendment.

The gentleman from New York (Mr. KUHL) used the word "civility" and I think that word describes Amo Houghton. If there were 435 Amo Houghtons in Congress, Congress would be enriched by that fact. He knew the spirit of bipartisanship. He knew the spirit of collegiality. I do not think I have met a nicer individual in my entire life than Amo.

Amo was one of the richest men in Congress, if not the richest; and you would never know it. If you did not know it, you would never know it. He was such a humble person. He was such a good person and a kind person and always had a good word, always had a smile, always did what was right. A couple of times I was paired to supposedly debate him on national TV, and both times it really turned into a lovefest because we agreed on so many of the issues and so many of the things, that it almost seemed as if we had staged the event. But indeed because Amo was such a good person, it was so easy to agree with him and so easy to do things for him.

It is very, very nice to have things named after you when you are still around to see them. And I am so happy that we are doing this so Amo understands just a small little bit of how well thought of he is and how much we care about him. I want to thank my colleague from New York (Mr. KUHL). Anything that is named after Amo, you can count me in to say a few good words because Amo is truly a special person and he deserves this great honor.

Mr. KUHL of New York. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for introducing this amendment. I gladly accept the amendment. I am a little concerned, though, about having this bypass named after Amo Houghton. As such a gentleman and one so civil and always so friendly, I do not like to see a bypass get congested because they will start saying that Amo Houghton Bypass is all congested and does not work any more. So I hope it is big enough and new enough so that traffic will always flow through it.

It is an honor to name this after him, and I repeat all the words that all the Members have said about Amo.

Mr. DEFAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I too rise in support of the amendment.

Amo Houghton was a true gentleman of the House, of great depth and charm. He helped make this a better institution in the finest tradition of Congress. Amo made our lives richer, his State a better place, and our Nation stronger.

I support the amendment, but I would say my only suggestion for improving it would be if it had somehow added the name of Priscilla Dewey Houghton, an outstanding citizen in her own right, Amo's wife and helpmate and monster bicyclist.

It is my pleasure to support the amendment, and I hope that this will be a reflection for Amo of all that he has meant to us.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the Kuhl Amendment to TEA–LU which would seek to name a portion of Interstate 86 in upstate New York, in the vicinity of the City of Corning, the "Amo Houghton Bypass", after Former Congressman Amo Houghton who retired from Congress in 2004 after serving 18 years. It has always been my practice to honor my colleagues past and present who have made a real difference for their constituents and I can think of no more fitting way to honor Amo Houghton than to accept this amendment.

Amo Houghton committed his life to public service and nowhere is this more apparent than in Corning, NY. Amo Houghton came from a renowned family where he was the third generation to be in public office. He volunteered for the Armed Forces in World War II and served as a Private First Class in the United States Marine Corps. After honorably serving his nation he went on to earn a bachelor's degree from Harvard University and a master's degree from the Harvard School of Business. Then after reaching the heights of academia, he loyally returned home to Corning to work as an executive at Corning, Incorporated.

Upon winning his seat in Congress in 1987, he worked tirelessly to improve the Southern Tier, Finger Lakes, and Rochester region of New York. One of his major transportation projects was to fund the building projects that brought New York State Route 17 to the necessary standards to be designated as Interstate Route 86. Today we seek to name the juncture of that same Interstate and Amo Houghton's beloved town of Corning in his honor. In my belief, a man can receive no greater honor than to say that he served others and truly that description fits Amo Houghton. He was a soldier and a public servant and we seek to name this stretch of road in his honor to recognize his achievements.

□ 1500

Mr. KUHL of New York. Mr. Chairman, if there are not any Members who wish to speak, I yield back the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. ISSA). The question is on the amendment offered by the gentleman from New York (Mr. KUHL).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in part B of House Report 109–14.

### AMENDMENT NO. 6 OFFERED BY MR. OSBORNE

Mr. OSBORNE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. OSBORNE:

At the end of subtitle A of title IV of the bill, insert the following (and conform the table of contents accordingly):

**SEC. 4137. NEBRASKA CUSTOM HARVESTERS LENGTH EXEMPTION.**

Section 31112(c) of title 49, United States Code, is amended by adding at the end the following:

"(5) Nebraska may allow the operation of commercial vehicle combinations of not to exceed 81 feet, 6 inches that are used only for harvesting wheat, soybeans, and milo on a contract basis for agricultural producers during the harvest months for such crops as defined by the State of Nebraska.".

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 5 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I yield myself such time as I may consume.

In 1991, the ISTEA Act froze truckload and length limits at existing levels at the State level. Nebraska's length limit at that time was 65 feet. Unfortunately, or fortunately, in Oklahoma, Kansas, Colorado, Wyoming, North Dakota, South Dakota, and Montana, all surrounding States, the length limit was 80 feet-plus.

Over the last 14 years, custom harvest equipment has grown larger, and so the average length of the custom harvest load is about 80 feet. The custom harvest starts usually in Oklahoma, goes through Kansas, Colorado, Nebraska, the Dakotas, on up into Canada; and so the problem is that these loads start out at a length of 80 feet.

When they hit the Nebraska border, the trailer is dropped off, and at that point we bring the combine into Nebraska. Then the truck has to go back and pick up the trailer, the header, go back to the site, and that hopscotch maneuver continues all across the State. If they have 10 different polices where they are going to harvest, they have to make 10 different dual hauls, and this happens all the way up to South Dakota. The average custom harvester is traveling an extra 3, 4, sometimes 500 miles doubling up, trying to get his equipment across the State of Nebraska.

What we are asking here is an amendment that requests that the State of Nebraska be given authority to change the State statute lengthening loads from 65 to 81.5 feet. We think this is reasonable. This is only for custom harvesters, harvesting only wheat, milo or soybeans, and this applies only during harvest season. It would be roughly the month of July and the month of October. This would save fuel. It will lessen traffic, reduce harvest expense, reduce driving time, labor, and also would be a safety factor.

This particular amendment is supported by the U.S. Custom Harvesters, National Grain Sorghum Producers, and the National Association of Wheat Growers. It affects not just the State of Nebraska but a whole corridor from Oklahoma on up into Canada and affects the whole industry. We hope very much that this would be looked upon favorably.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the statements made by the distinguished gentleman from Nebraska, very thoughtful presentation; but I just remind colleagues that when Congress enacted ISTEA in 1991, the legislation froze size and weight of large trucks, commercial motor vehicles. That is almost 14 years in the gentleman's State. CMVs can operate at a length of 65 feet. This amendment would raise it to 81 feet 6 inches.

The original rationale was to allow custom harvesters, those who have unique requirements, unique needs. I represent an agricultural area among the great diversity of my district, and there we do not have wheat but do have soybeans and corn. The idea was to allow the harvester to pull a combine and header, that is in the words of the amendment, exclusively in harvesting the wheat.

Now we see his amendment and it creeps, wheat, soybeans and milo. Each of these crops has different harvest times. So, if the length exemption is adopted, we will have these exemptions in place for much of the year.

They have had 14 years of working with this. This is the first time the issue has come before the committee. I do not understand what the need is except that they want to do it, but the language would allow these vehicles to operate basically on any route in Nebraska with a State or U.S. Route shield language. That is serious. That is placing serious safety problems on the Nation's roadway.

Try to pass one of those vehicles in a VW or Ford Pinto, if you still have one, or any other small vehicle. It is nerve-wracking and dangerous. I have tried it and I do not think it is safe; and as the figures show, 5,000 people a year die in car-truck crashes. We should not open the floodgates for rollback of a critical safety provision now in the regulatory process.

Mr. Chairman, I reserve the balance of my time.

Mr. OSBORNE. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the comments. What this amendment would do would be to give the State of Nebraska an opportunity to extend its length limits. It does not mandate it. It simply gives them the opportunity. It is also important to point out that this is as tight as we can make it.

The gentleman mentioned that the length of time would be much of the year. It would actually be the month of July, which is when most all wheat harvest occurs, and also the month of October, which would be for sorghum or milo and also some soybeans.

As far as safety is concerned, if it is unsafe in Nebraska, we have got all of the surrounding States, roughly 10 States, that have the length limit of 80 feet. So what is happening now is we are having to decouple the trailer, leave half of it at the Kansas border and then we double up. So we are causing twice the traffic across the State of Nebraska. We have to go back, get the header, take it to the field. Then we leave the header there, go to the next place, drop the combine off, go back and get the header. So what we think we are doing here is we are using way more fuel, causing more traffic. It is more of a safety problem, and we think that this really affects the whole industry.

As far as crashes are concerned, there were 4,699 large-truck crashes in 2003, and only 294 of those crashes involved the larger rigs. So we do not think this is a significant factor. We think it would be safer, and we know it would be cheaper.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I have the right to close. I am the only speaker. If the gentleman wishes to conclude his amendment, I will make the closing remarks.

Mr. OSBORNE. Mr. Chairman, I yield back my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

It is true that other States have the right to operate longer-length vehicles. They were grandfathered in in 1991. I like being a grandfather but of very small children, not of very large trucks. Had I been in the leadership position in 1991, I did oppose it, I did object to it, but I was not in a leadership position to stop it, and we would have stopped it.

This is not a good move. This is not in the public interest. The adjoining States ought not to have longer vehicles; and if this amendment is done, then we might as well just throw the motor carrier safety rules away and let everybody drive longer vehicles, heavier vehicles at any time of the year and see further endangerment of safety on the roadways.

This well-intentioned amendment, it is certainly initiated by farmers who feel they are going to be able to move their goods to market at lower cost, more efficiently, but at great risk to life and to the public safety.

So I urge Members to vote "no" on the amendment.

Mr. Chairman, I yield back the balance of my time.

Ms. HERSETH. Mr. Chairman, I rise today to express my support to an amendment to H.R. 3, the Transportation Equity Act: a Legacy for Users, offered by my colleague, Representative TOM OSBORNE of Nebraska.

The Osborne Amendment would allow the State of Nebraska the opportunity to revisit a state statute restricting length of vehicles used by custom harvesters during harvest season. The length law in Nebraska has been frozen at 65 feet since 1991. Unfortunately, this restriction does not accommodate much of today's modern custom harvesting equipment which often exceeds this length.

Existing laws in surrounding western states currently permit truck length approximately 15 feet longer than in Nebraska. My home state of South Dakota permits commercial vehicle combinations up to 81 feet, 6 inches in length. This inconsistency in state laws creates a significant obstacle for harvesters, who travel from south to north each year, and must reconfigure their equipment in order to legally transport it through the state of Nebraska into neighboring states. This is a slow, expensive, and unnecessary process.

The Osborne Amendment would enable the State of Nebraska to alleviate much of the burden on custom harvesters during harvest time by creating greater uniformity in length laws throughout western agricultural states. Increasing the efficiency by which custom harvesters travel throughout the Midwest will benefit both producers and consumers and I am pleased to voice my support for this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. OSBORNE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. OSBORNE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Nebraska (Mr. OSBORNE) will be postponed.

It is now in order to consider amendment No. 7 printed in part B of House Report 109-14.

### AMENDMENT NO. 7 OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. Cox:

Redesignate section 4136 as section 4137 and insert after section 4135 the following (and conform the table of contents accordingly):

**SEC. 4136. STATE LAWS RELATING TO VEHICLE TOWING.**

Nothing in section 14501(c) of title 49, United States Code, shall be construed to prevent a State from requiring that, in the case of vehicles towed from private property without the consent of the owner or operator of the vehicle, towing companies have prior written authorization from the property owner or lessee (or an employee or agent thereof), or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from California (Mr. COX) and the gentleman from Virginia (Mr. MORAN) each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Before I address the substance of this amendment, I want to thank the distinguished gentleman from Virginia, the co-author of this amendment, for working so diligently over the last several days to craft the language we are debating on the floor today. He has been at the forefront of bringing the issue of consumer protection in towing, which is what this amendment is about, to the attention of the Congress.

The legislation that he introduced last Congress, which he has reintroduced as H.R. 1173 in the 109th Congress, properly has focused attention on a program that is frustrating local government officials and police personnel charged with protecting public safety and especially our constituents, ordinary citizens.

I would especially like to thank the chairman and the professional staff of the Committee on Transportation and Infrastructure who bent over backwards to work with us to put together this good amendment. The gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Ranking Member OBERSTAR), the gentleman from Wisconsin (Chairman PETRI), and the gentleman from Oregon (Ranking Member DEFAZIO) all provided us with excellent support in crafting this amendment.

More than anyone, I should like to thank Bob McDonell, the chief of police in the city of Newport Beach, California. He has been vigilant in seeking reform to protect the citizens of California from what we have come to know as predatory towing.

For several years, Chief McDonell has worked to build public awareness about this issue. He educated me about this issue and about the current state of the law, and he offered the suggestions for reform that are the subject of this amendment today. Chief McDonell and other law enforcement personnel in Orange County have had to deal with road tow truck operators who are ripping off ordinary consumers by exploiting a loophole in Federal law.

In California, in particular, a ruling from the 9th Circuit Court of Appeals in 2000 has called into question two provisions of our State law that are designed to help local communities protect public safety by ensuring that tow truck operators who tow vehicles parked on private property do so with both the written authorization of the owner of the property on which the trespass is occurring and with the owner or an agent of the owner being present at the time of the tow. These important safeguards protect the rights of property owners to remove trespassing vehicles, and they also ensure that the decisions are clearly made with the knowledge and participation of the private property owners.

Although there is a decision of the California Supreme Court upholding these provisions of California law, the conflict between the State and Federal decisions has left the practical effect of the law in limbo. It has made the law essentially unenforceable.

This problem, Mr. Chairman, was put in stark relief just last week when the Orange County district attorney's office announced that they would not prosecute a tow truck operator who was in such a hurry to tow a vehicle before the owner returned that he towed a car with a sleeping 4-year-old child in the back seat.

☐ 1515

According to the story in the Orange County Register, the deputy district attorney said that the Ninth Circuit decision was hampering her prosecution saying, "The towing companies are able to flagrantly violate the California Vehicle Code, and we cannot prosecute that until the Federal law is changed."

What we have the opportunity to do with this amendment is to make the necessary change. The problem is not just in Orange County; it is in northern Virginia where the co-author resides. It is in many communities across the country. A few bad apples in the towing industry are wreaking havoc, endangering citizens and compromising public safety.

The vast majority of tow truck operators and their companies are good public citizens. They work hard. And they work cooperatively with private property owners. They assist law enforcement. The reputation of these good citizens in this industry everywhere is soiled by the actions of a few rogue operators who are able to operate outside the law.

This amendment is merely designed to allow States to ensure that the bad apples come back within the reach of the law and that the confusion that has been prompted by the courts in California, the Federal court, which has compromised our State's ability to protect its citizens, is clarified.

I know that this amendment does not resolve all of the problems that the coauthor, the gentleman from Virginia (Mr. MORAN) has with predatory towers, and I look forward to working with him and the Committee on Transportation and Infrastructure on this issue further as we head to conference should this amendment be accepted.

As we consider whether any further refinements are needed, however, we must be mindful that, in the main, deregulation has been a huge success for the industry and for consumers. So in our desire to ensure that States can properly carry out their Constitutional function to protect public safety and to protect consumers, we need to be careful that we not return to the status quo ante which would expose the industry and consumers to a miasma of confusing and conflicting State, county and municipal ordinances that neither protect public safety nor our pocketbooks and, instead, breed inefficiency and lead to increased costs for consumers.

I look forward to working with the gentleman from Virginia (Mr. MORAN) and the Committee on Transportation and Infrastructure to ensure that the proper balance is maintained.

Mr. Chairman, I reserve the balance of my time.

Mr. MORAN of Virginia. Mr. Chairman, I rise in support of the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from Virginia (Mr. MORAN) will control the time in opposition and is recognized for 5 minutes.

There was no objection.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

I want to first express my appreciation to the gentleman from California (Mr. COX). He is a friend and colleague, but most importantly, when his constituents have a very serious concern, he has shown he effectively addresses the concerns of his constituents in California. And I appreciate his crafting this amendment. It is somewhat different from the amendment that I had in a bill, but it is certainly consistent.

What gives rise to the need for this amendment is what happened back in 1994, when the Tow Truck Operators Association slipped in language in the Federal Aviation Administration Authorization that claimed that towing was interstate in nature and, thus, can only be regulated by the Federal Government, which fell under the Interstate Commerce Commission.

Then, in the next year, in 1995, the Congress passed the Interstate Commerce Commission Termination Act, and thus, there was no one to regulate towing at the Federal level.

Now, as the gentleman from California (Mr. COX) very rightly says, most towing companies do not need regulation. They do a good job. You know, they do what they are supposed to do; they are decent people.

Unfortunately, when you have an unregulated situation, you do have a few bad apples, as the gentleman from California (Mr. COX) has said.

And they will take advantage of that situation and act in an abusive manner. That is why I want to thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), our wonderful ranking member, for letting us bring this amendment to the floor.

It does involve transportation. It is appropriate to be included here. And, you know, nobody is trying to take too heavy a hand on any sector of the industry. But, the fact is there have been abuses.

In Arlington County alone, many of my colleagues live in Arlington County, they have had 280 cases of abusive victimization of people that have been sent to the courts in just the last 2 years. Now, a lot of this stuff, you know, it does not need to happen. You do not need to damage a car when you tow it, letting it drag along the street.

You do not need to treat people abusively, particularly young single women who have their car towed and have to go to a remote, dark place and have to have a hundred dollars in cash instead of being able to write out a check or show a credit card.

There have been abuses. And there have been abuses in Los Angeles. Mr. COX cited the case, what tow truck operator in their right mind, who in their right mind would tow a car with a baby in the car seat, the mother goes frantic, and the baby is towed to some tow truck lot.

Those are the kinds of abuses that we need to eliminate. And that is why the Cox amendment makes the owner of the property responsible. If the States choose, they can require that the owner be present when the vehicle is towed. That makes a lot of sense.

If it does not work, the gentleman from California (Mr. COX) has agreed, we will pursue this further, until we give reasonable regulatory authority to States and localities. I think this is simply a commonsense amendment. I want to thank a former colleague, Mr. Bereuter; the gentlewoman from New York (Ms. SLAUGHTER); the gentleman from Nebraska (Mr. TERRY); they were cosponsors of the legislation.

And I look forward to working with the gentleman from California (Mr. COX) and the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Alaska (Mr. YOUNG) the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Oregon (Mr. DEFAZIO).

You know, we will come up ultimately with the kind of regulatory authority that States need to bring this under control. But, we are not after all of the towing companies. Most of the towing companies are doing the right thing, and they are behaving as we would under that situation. It is just there are some abuses. We need some regulatory authority to bring them under control.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. Mr. Chairman, I would love to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the Cox-Moran amendment that does protect owners of motor vehicles from predatory towing practices as both gentlemen have explained.

Mr. MORAN of Virginia. Reclaiming my time, Mr. Chairman, may I ask how much time is remaining?

The Acting CHAIRMAN. The gentleman from Virginia has 30 seconds remaining.

Mr. MORAN of Virginia. Mr. Chairman, in the 30 seconds remaining, I want to talk about one other point on a related issue, rather than take up the committee's time later in the day.

I want to thank the chairman and the ranking member for the report language that addresses teen driver traffic accidents. It is good language. We are going to conduct a study on what we ought to be doing with regard to teenagers being responsible for such a high percentage of fatal crashes. It has gone from 6.6 percent to almost 15 percent now.

We are going to get a report to the committee to come up with some model driving school curricula and graduated licensing requirements. That makes a lot of sense, and it is good report language.

Again, I want to thank the gentleman from California (Mr. COX) for bringing this amendment up and for the committee for entertaining it, and I trust that it will pass, hopefully, unanimously.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to offer support for the amendment that has been offered jointly by the Gentlemen from New York and California. This amendment would allow states to legislate to require towtruck operators, when they have cause to remove a vehicle from private property without consent of the vehicle owner or operator, to (1) have written permission from the owner (or lessee, or the employer or agent thereof) of the private property authorizing the nonconsensual tow; and (2) tow from private property only if the owner (or lessee, employee, or agent thereof) of the property is present.

This amendment speaks to states' rights and the ability of states to occupy a field of legislation that is completely within constitutional limits. State property law properly deals with the problems contemplated by the underlying legislation, H.R. 3 as it pertains to license to enter private property for purpose of towing.

The Cox/Moran amendment is a narrower response to the nationwide challenges of predatory tow truck operators than H.R. 1173, the State and Local Predatory Towing Enforcement Act, a stand-alone bill sponsored by Rep. MORAN. This National League of Cities (NLC)-supported bill would clarify the permissible scope of state and local regulatory authority over tow truck operations to protect consumers against predatory operators.

Under current federal law, state and local governments are prohibited from enacting or enforcing laws relating to the "price, route or service" of tow truck operations, except for public safety and the pricing of non-consensual tows. 49 USC § 14501(3)(1)(2). An amendment to a 1994 federal law, the Federal Aviation Administration Authorization Act, classified tow truck operators as "interstate carriers" that are exempt from state and local regulation.

One year later, Congress eliminated the federal commission that oversaw interstate carriers, essentially freeing the tow truck industry from regulation. This loophole in federal law prohibits state and local governments from enacting consumer protections against predatory tow truck operations.

The federal loophole chills the ability of municipalities from adopting consumer protection ordinances requiring tow truck operators to accept credit card payments because such an ordinance could face legal challenge as falling outside the exception to regulate only for safety or price.

Without congressional action, the courts are the only forum to decide the limits of regulatory authority over the tow truck industry. While the Supreme Court upheld state and local authority to regulate this industry for public safety, the Court declined to address what specific types of regulation would qualify. City of Columbus v. Ours Garage and Wrecker Service, 536 U.S. 424 (2002). Subsequent decisions at the federal and state court levels in cases between tow companies and municipalities have generated conflicts about the specific reach of valid regulation.

The Cox/Moran amendment helps to clarify the specific types of regulation state and local governments may enact. Without legislative clarification, the courts will continue to be the forum to resolve disputes and, without judicial consensus, this would only create more uncertainty. Absent a uniform national policy direction, consumers will continue to lose. Given the current Administration's initiative to curtail plaintiffs' ability to have their meritorious claims heard, this amendment amounts to an effort to protect innocent consumers and property owners.

Mr. Chairman, for the reasons mentioned above, I support the gentlemen's amendment an urge my colleagues to do the same.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. COX).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in part B of House Report 109-14.

### AMENDMENT NO. 8 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. KENNEDY of Minnesota:

Strike section 1209 of the bill and insert the following:

**SEC. 1209. CONGESTION PRICING PILOT PROGRAM.**

(a) Section 129 of title 23, United States Code, is amended by adding at the end the following:

"(e) CONGESTION PRICING PILOT PROGRAM.—

"(1) DEFINITIONS.—In this subsection the following definitions apply:

"(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this subsection that collects tolls;

"(ii) a facility in existence on the date of enactment of this subsection that serves high occupancy vehicle lanes; and

"(iii) a facility constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds).

"(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) ESTABLISHMENT.—Notwithstanding sections 129 and 301, the Secretary may permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion; or

"(B) to reduce emissions in a nonattainment area or maintenance area.

"(3) LIMITATION ON USE OF REVENUES.—

"(A) IN GENERAL.—All toll revenues received under paragraph (2) shall be used by a State or public authority for—

"(i) debt service;

"(ii) a reasonable return on investment of any private financing;

"(iii) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); and

"(iv) highway projects eligible for Federal assistance under this title if the Secretary certifies that the necessary costs under clauses (i), (ii), and (iii) have been satisfied.

"(B) REQUIREMENTS.—

"(i) VARIABLE PRICE REQUIREMENT.—The Secretary shall require, for each facility that charges tolls under this subsection, that the tolls vary in price according to time of day, as appropriate to manage congestion or improve air quality.

"(ii) HOV PASSENGER REQUIREMENTS.—A State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection, provided the State complies with the requirements under section 1208 of the Transportation Equity Act: A Legacy for Users.

"(iii) REASONABLE RATE REQUIREMENT.—Variations in the toll rate between different classes of vehicles for a facility under this section shall be reasonable, as determined by the Secretary.

"(C) AGREEMENT.—

"(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State or public authority shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State or public authority to discontinue the variable tolling program under this subsection for the facility.

"(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State or public authority shall provide to the Secretary—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(f) AUTOMATION.—A facility created or modified under this section shall use an electronic toll collection system that uses a transponder or other means to specify an account for the purposes of collecting a toll as a vehicle passes through the collection facility.

"(g) INTEROPERABILITY.—

"(1) RULE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

"(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(ii) take into account the use of transponders currently deployed within an appropriate geographical area of travel and the transponders likely to be in use within the next 5 years; and

"(iii) seek to minimize additional costs and maximize convenience to users of the toll facility and to the toll facility owner or operator.

"(2) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under paragraph (1)(A), as appropriate.".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any existing project associated with a value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

Strike paragraph (3) of section 1603(c) of the bill and insert the following:

(3) An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by this Act (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

Strike subsection (a) of section 1603 of the bill and insert the following:

(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls.

After section 1603(c)(4)(C) of the bill, insert the following (and redesignate any subsequent subparagraphs accordingly):

(D) an agreement for public disclosure of revenues generated and operating expenditures.

Strike paragraph (1) of section 1603(d) of the bill and insert the following:

(1) the State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

Strike section 1604 of the bill and insert the following (and conform the table of contents accordingly):

**SEC. 1604. FAST LANES.**

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by adding at the end the following:

**"§ 169. FAST fees**

"(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System FAST lanes program under which the Secretary, notwithstanding sections 129 and 301, shall permit a State, or a public or private entity designated by a State, to collect fees to finance the construction or expansion of an interstate highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, support, and other structures necessary for construction or expansion) on the Interstate System.

"(b) ELIGIBILITY.—To be eligible to participate in the program, a State shall submit to the Secretary for approval an application that contains—

"(1) an identification of the additional lanes (including any necessary bridge, support, and other structures) to be constructed on the Interstate System under the program;

"(2) in the case of 1 or more additional lanes that affect a metropolitan area, an assurance that the metropolitan planning organization established under section 134 for the area has been consulted during the planning process concerning the placement and amount of fees on the FAST lanes; and

"(3) a facility management plan that includes—

"(A) a plan for implementing the imposition of fees on the additional lanes;

"(B) a schedule and finance plan for construction, operation, and maintenance of the additional lanes using revenues from fees (and, as necessary to supplement those revenues, revenues from other sources); and

"(C) a description of the public or private entities that will be responsible for implementation and administration of the program.

"(c) REQUIREMENTS.—The Secretary shall approve the application of a State for participation in the program after the Secretary determines that, in addition to meeting the requirements of subsection (b), the State has entered into an agreement with the Secretary that provides that—

"(1) fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology;

"(2) all revenues from fees received from operation of FAST lanes shall be used only for—

"(A) debt service relating to the investment in FAST lanes;

"(B) reasonable return on investment of any private entity financing the project, as determined by the State;

"(C) any costs necessary for the improvement, and proper operation and maintenance (including reconstruction, resurfacing, restoration, and rehabilitation), of FAST lanes and existing lanes, if the improvement—

"(i) is necessary to integrate existing lanes with the FAST lanes;

"(ii) is necessary for the construction of an interchange (including an on- or off-ramp) from the FAST lane to connect the FAST lane to—

"(I) an existing FAST lane;

"(II) the Interstate System; or

"(III) a highway; and

"(iii) is carried out before the date on which fees for use of FAST lanes cease to be collected in accordance with paragraph (6); or

"(D) the establishment by the State of a reserve account to be used only for long-term maintenance and operation of the FAST lanes;

"(3) fees may be collected only on and for the use of FAST lanes, and may not be collected on or for the use of existing lanes;

"(4) use of FAST lanes shall be voluntary;

"(5) revenues from fees received from operation of FAST lanes may not be used for any other project (except for establishment of a reserve account described in paragraph (2)(D) or as otherwise provided in this section);

"(6) on completion of the project, and on completion of the use of fees to satisfy the requirements for use of revenue described in paragraph (2), no additional fees shall be collected; and

"(7)(A) to ensure compliance with paragraphs (1) through (5), annual audits shall be conducted for each year during which fees are collected on FAST lanes; and

"(B) the results of each audit shall be submitted to the Secretary.

"(d) APPORTIONMENT.—

"(1) IN GENERAL.—Revenues collected from FAST lanes shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(2) NO EFFECT ON STATE EXPENDITURE OF FUNDS.—Nothing in this section affects the expenditure by any State of funds apportioned under this chapter.

"(e) DEFINITION.—For purposes of this section, the term 'FAST lane' means a interstate highway or interstate highway lane, financed, at least in part, through the collection of fees, that is added to the Interstate System to reduce traffic congestion.".

(b) CONFORMING AMENDMENT.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, as amended by section 1208 of the bill, is amended by inserting after the item relating to section 168 the following:

"169. FAST fees.".

(2) Section 301 of title 23, United States Code, is amended by inserting after "tunnels," the following: "and except as provided in section 169,".

At the end of title I of the bill, insert the following (and conform the table of contents of the bill accordingly):

**SEC. 1838. FREEDOM FROM TOLLS.**

Section 301 of title 23, United States Code, is amended by inserting before the comma the following: "and section 169".

At the end of title III of the bill, insert the following (and conform the table of contents of the bill accordingly):

**SEC. 3047. CONGRESSIONAL INTENT REGARDING TRANSIT INVOLVEMENT.**

It is the intention of Congress to work with the States and the private sector to include bus rapid transit when adding FAST capacity to the Interstate System

At the end of section 1105 of the bill strike the end quotation marks and the last period and insert the following:

"(k) TOLL FEASIBILITY.—The Secretary shall select and conduct a study on a project under this title that is intended to increase capacity, and that has an estimated total cost of at least $50,000,000, to determine whether—

"(1) a toll facility for the project is feasible; and

"(2) privatizing the construction, operation, and maintenance of the toll facility is financially advisable (while retaining legal and administrative control of the portion of the applicable Interstate route).".

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

This amendment addresses the big issues surrounding this year's road bill. How do we meet expanding capacity? How do we do so without increasing taxes or expanding the deficit? How do we address an over reliance on the gas tax? The degree to which the FAST Act, introduced by myself and the gentleman from Washington (Mr. SMITH), attracted strong bipartisan support reflects the success in addressing these issues; by expanding capacity, by removing an outdated prohibition against charging fees on the interstate, and preserving the trust of the driving public by doing so only if the fees are charged on new lanes, so we have new concrete or tar; charge electronically, so there are no toll booths; and the fees go away when construction and maintenance costs have been provided for.

The use of these optional lanes would be optional to drivers, and the program is optional for States to use and does not impact their funding allocations. It is estimated that the FAST provisions could provide $50 billion in additional capacity over the road bill period without increasing taxes or expanding the deficit.

The FAST Act had 73 bipartisan cosponsors. Both the conservative Heritage Foundation and the new Democrat Progressive Policy Institute have written favorably about it. I appreciate the Chairman's efforts to reflect FAST concepts in H.R. 3. I have been very open with him about my intent to offer this amendment, but the concerns we have with H.R. 3 are that it is drafted so that it limits the ability to increase capacity by limiting its FAST-like section to only three projects and, in that way, gives States far less flexibility than they deserve. It limits the ability to increase capacity by limiting its FAST-lane section to only three projects, as I said; allows tolls to be charged on existing lanes in both 1209, in sections 1603 and 1604; and allows those tolls to be charged indefinitely under those programs. It allows revenues under these programs to be diverted to a variety of nonuser purposes.

Long-term FAST-style fee lanes can be a major solution to relieving congestion, but only if we preserve the trust of the driving public. The provisions included in TEA-LU could lead to the same distrust and resistance that has resulted in every recent State referendum on increases in gas tax being defeated. When used with FAST-style protections, it has been accepted by drivers, as witnessed by the Minneapolis, Minnesota Star Tribune poll showing 69 in support of FAST.

Frankly, many States around the country are using FAST. This amendment authorizes variable congestion tolls on existing roads and on newly-constructed lanes, and I would just recommend to my colleagues that we adopt this capacity-expanding, State-empowering, maintaining-the-trust-of-the-driving-public amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition, and yield myself such time as I may consume.

Mr. Chairman, the gentleman is certainly well-intentioned in his purpose of adding to our fund of surface transportation capacity, but this is the wrong way to do it. Toll is spelled T-A-X. And this proposition is opposed by AASHTO, by tolling authorities, and by various environmental organizations.

Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy. I want to make clear that I personally am open to the possibility of having more flexibility within the transportation fund: Value pricing and tolling have a role. They have had a role since the beginning of our freeway system. But this amendment is not the FAST-lane bill that the gentleman from Minnesota (Mr. KENNEDY) introduced last year.

Despite the rhetoric that it is supported by every major highway user group, his amendment is opposed by almost every highway user group, including AASHTO. My colleague from Minnesota pointed out AGC, APTA, AMPO, and the International Bridge and Tunnel Turnpike Authority. They oppose this amendment.

Actually, there is correspondence that I will enter into the record that was actually signed against this from the Reason Foundation, Robert Poole.

Now, why is that? Well, first of all, there are a number of areas right now that this would severely restrict the ability of State DOTs and local governments to develop pricing systems that meet their local needs. No reason to do that. Almost every community currently using HOT lanes or value pricing has a portion of the revenue dedicated to transit and corridor improvements.

In fact, it has been proven time and time again that the support for value pricing actually increases if people can have a balanced approach. This is not balanced and the public does not support tolling on facilities without an equity element.

In fact, the Kennedy amendment assumes, or it asserts, and I talked to him again about this today, that it is not a problem for people to continue on. Well, in San Diego, New York, even Minneapolis, in his own State, where they are currently using HOT lanes, they would be restricted in the use of their revenues and could no longer use any of these funds to pay for transit investment in their corridor. That is why the local governments, transit agencies, AASHTO and road builders oppose this amendments.

Why would we dictate to them how they are going to design their use of toll revenues?

☐ 1530

And adding a lane to a bridge or to a freeway is not just a single lane. If we are going to deal with congestion, which our chairman and the ranking member are concerned with, we need to do this in a comprehensive fashion. The adoption of this amendment will prohibit that. It limits it very narrowly, takes away the resources from people that have it, it prevents value pricing in any broader context.

Most fundamentally, there is no good reason to deny the flexibility to deal comprehensibly and comprehensively with our transportation needs. As a supporter of the use of tolls and value pricing where it is appropriate, where local governments want it, there is no reason why we should adopt this amendment and restrict provisions under the existing law. I think our chairman and the ranking member have proposed ways to explore moving forward, and we ought to reject this amendment.

Mr. Chairman, I include for the Record the letter I referred to earlier.

### AASHTO, Environmental Defense Oppose Tolling Measure That Lacks Flexibility

The American Association of State Highway and Transportation Officials (AASHTO), which represents state transportation departments, today joined with the group Environmental Defense, the construction industry, and other organizations to strongly oppose an amendment that would cripple state and local ability to use tolling to meet transportation needs and manage traffic problems.

Rep. Mark Kennedy (R–MN) proposes the amendment to H.R. 3, the highway and transit reauthorization bill expected to come to the House floor tomorrow. The proposed amendment would further restrict states' and localities' current tolling authority, restrict tolling on Interstates, limit tolling as a revenue option, and eliminate funding for promising non-highway transportation market incentive pilot projects that help reduce traffic and pollution.

"We agree with the President that these decisions need to be made on a state and local level," said AASHTO Executive Director John Horsley.

"While AASHTO and Environmental Defense have frequently differed on highway-related issues," Horsley said, "the limitations inherent in Rep. Kennedy's tolling bill would needlessly restrict an important revenue and traffic-management tool available to state departments of transportation, as they seek to close the gap between pressing transportation needs and available resources," Horsley said.

Tolling is being explored in several states, including New York, California, and Texas, in combination with debt financing as a way to advance sorely needed transportation infrastructure projects. Horsley explained that AASHTO's members believe state transportation officials should have the ability to determine, on a case-by-case basis, where tolling would be most productive and what projects should be financed using toll revenues.

As submitted Tuesday afternoon to the Rules Committee, the Kennedy legislation would allow for new tolls to be levied only to fund additional lane construction or to convert high-occupancy vehicle (HOV) lanes to high-occupancy toll (HOT) lanes. If used for new construction, tolls newly imposed under the amendment would have to be lifted once debt-service was paid and a reserve fund for maintenance and operations had been established.

The Kennedy amendment continues to restrict toll revenues for highway use only, denying agencies the opportunity to fund new improved transit.

"The Kennedy amendment would reverse a growing trend in which states are experimenting with tolls to cut congestion and air pollution," said Michael Replogle, Transportation Director for Environmental Defense. "San Diego is using tolls on the I–15 corridor to pay for new express-bus services. New York uses tolls to raise hundreds of millions of dollars for bridges, tunnels and rapid rail transit. Congress should give states the freedom to use these tools to cut congestion and pollution and boost access—not take the tools away."

"Properly placed transit projects remove a great deal of traffic from overcrowded roads," Horsley noted. "We need to be able to address the nation's transportation needs in a holistic, multi-modal way, not piecemeal."

Replogle said his group supports "accountability and transparency for toll-road projects to mitigate their environmental impacts and traffic growth. We can minimize new pavement by doing more to price and manage the pavement we've already got," Replogle said.

Although AASHTO and Environmental Defense have found common ground on the Kennedy language, Horsley noted that they remain of two minds about a variety of issues within the larger reauthorization bill, H.R. 3, being moved by House transportation leaders.

The Kennedy approach to date has drawn the opposition of the Tolling Coalition, which includes AASHTO, the American Road and Transportation Builders Association (ARTBA), the Associated General Contractors (AGC), the American Council of Engineering Companies (ACEC), the National Asphalt Pavement Association (NAPA), the National Stone, Sand and Gravel Association, the International Bridge, Tunnel & Turnpike Authority (IBTTA) and the National Council for Public-Private Partnerships.

Other members of the Tolling Coalition include Koch Performance Roads Inc., Peter Kiewit and Sons, Nossaman Guthner Knox Elliott LLP, Parsons Brinckerhoff, the Bay Area Council, the Ybarra Group, Ashland Inc., Secretary of Transportation Whittington Clement of the Commonwealth of Virginia, the Colorado Department of Transportation, the Texas Department of Transportation, the Maryland Department of Transportation, Gabriel Roth, and Robert W. Poole of the Reason Public Policy Institute.

Environmental Defense, a nonprofit dedicated to breakthrough solutions to environmental The Kennedy amendment has drawn opposition as well from the Value Pricing Futures Group, a coalition that includes Environmental Defense, a 400,000 member nonprofit group dedicated to innovative solutions to environmental problems, and many other groups. These include the American Public Transportation Association, the Port Authority of New York & New Jersey, the Miami-Dade Expressway Authority, the Georgia State Road and Tollway Authority, the San Diego Association of Governments, Portland Metro in Oregon, the Alameda County Congestion Management Agency, Wilbur Smith Associates, and the Surface Transportation Policy Project.

Also, the Natural Resources Defense Council, the Regional Plan Association, the Tri-State Transportation Campaign, the American Planning Association, the American Society of Landscape Architects, the Independent Institute, the Central Parking System of Orange County, California, HNTB Corp., Transportation Innovations, Inc., UrbanTrans Consultants, City CarShare, the International Downtown Association, TIME/to Improve Municipal Efficiency, Cofiroute USA, the Resource Systems Group, CRSPE, Inc. of Cape Coral, Florida, Smart Growth America, Friends of the Earth, Transportation Alternatives of New York City, the Union of Concerned Scientists, the Center for Neighborhood Technology in Chicago, the Oregon Environmental Council, CYCLE-SAFE, INC. of Grand Rapids, Michigan, the Thunderhead Alliance, the Vermont Bicycle & Pedestrian Coalition and Lee County Commissioner John Albion of Florida.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

When I listen to the gentleman from Oregon, I am always trying to figure out whether we are on the same page or on a different page because I would agree we need to give States more flexibility.

First of all, Mr. Poole pulled his name off the letter the gentleman referred to when they saw the actual wording on our amendment.

Second, value pricing would have more use. I am convinced, at the end of the 6-year road period under our amendment than under the existing language. We allow value pricing on existing toll roads. We allow value pricing on HOV to HOT conversions under our amendment, different than last year. And we would allow value pricing, congestion pricing on all new FAST lanes which we do not limit to three as the very highly restrictive draft put forth by the committee, but would allow an unlimited amount using value pricing if States so wish because we grant them that flexibility if it meets those simple criteria to honor the trust of the driving public.

I appreciate very much the good work that AASHTO does, but I have never really viewed them as a highway-user organization; they are a highway building and constructing organization.

Those that are supporting the Kennedy-Smith amendment is the Highway Users Association, is the American Truckers Association which makes this their top priority, is the 108,000 small business owner-operator individual drivers of America, is AAA. All of those are the preeminent highway users, as well as it is supported by those that believe we ought to be fiscally responsible and we ought to honor the trust of the driving public, whether we are talking about Americans for Tax Reform, National Taxpayers Union, Citizens Against Government Waste, and many others.

Mr. Chairman, this is pro-capacity, and this is pro-give-States-flexibility, and this is to make sure that we add more construction and add more capacity to our lanes.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Alaska (Chairman YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I reluctantly but strongly rise in opposition to this amendment. I have to tell Members that the people have contacted me, every State department of transportation because it does not give them flexibility. I thought that is what the gentleman was trying to do. They say it does not do that.

We have American Road Builders, Transportation Construction Coalition, State highway and transportation officials, and Public Transportation Association all opposing the amendment. That tells me something.

I am one that happens to believe in toll roads, contrary to my good friend, but this amendment takes away States rights to expand, including Texas. Last year our majority leader was supportive of the amendment, and now he informs me that he opposes the amendment because the State department of transportation says it will hamstring what they have been able to do.

I would love to work with the gentleman to try to figure this out. I think we are on the right track as far as tolls, but this amendment restricts instead of giving flexibility, and in doing so, takes away States' ability to leave in the tolling concept and maintain.

That is one of our biggest problems, we have not in fact put the money in maintenance. If we were to put a toll road in under this provision, and under his provision they take the tolling out when the road is paid for, who do Members think is going to pay for the toll road later on down the line? They will be back to Congress saying we need the money to maintain the road paid for by a toll.

My argument is there is no such thing as a free road. The roads have to be paid for after they are paid for to maintain them so they can be used. So, again, I respect the gentleman's work and his belief and effort, but to have this amendment take away the flexibility and have it opposed by every VDOT, we know something is wrong with the amendment as drafted. Again, I thank the gentleman for yielding, and I wish the gentleman would continue to work with us to work to solve this problem.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

I respect the leadership of the chairman and his commitment to work to try to figure out whether we can have tolls be part of the solution in a fiscally responsible way. I would suggest it is not every DOT that is opposing it. Minnesota is supporting it. With regard to Texas, all eight projects in Texas have allowed that they are working on doing this.

Our amendment allows more capacity because instead of restricting FAST-type lanes to only three projects around the country, there can be an unlimited number in place around the country. This frankly gives more capacity, not less. Katie Freeway, for example, is one of those that allows. Highway Interstate 69 that they are trying to build is allowed. There may be some misinformation that is being spread on this.

I would also like to address some of the information that may have come from the committee suggesting this is an anti-tolling amendment. This is a responsible expansion of fee-type lanes being built and would allow for more than the underlying amendment. This does give, maybe in different ways than the committee drafted, but more flexibility to the States. It also allows more lanes to be built.

If the goal is to put tolls on existing lanes, which we restrict further in this amendment, there is ability to put more tolls in existing lanes in the committee draft. But if the question is whether we can put more tolls on new expansion of highway capacity, there is unquestionably greater flexibility offered under this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I just received a call from the Texas Department of Transportation. They are very much opposed to this amendment. I want to clarify that because the call just came in. We do need the flexibility, but they want the flexibility to remain with the State rather than authorizing something here.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I rise to oppose this amendment. Our State department of transportation is very opposed to the language in the Kennedy amendment and would ask that the House defeat this amendment and use the language that is in the main bill.

In Texas, we have such a unique problem because we have such a large geographic footprint, second only to Alaska. Yet at the same time, we receive nowhere near the Federal funding the State of Alaska receives. As a consequence, we are constantly behind and constantly looking for ways to finance necessary and needed road projects in my State.

We have farm-to-market roads and State highways in my State that carry traffic, burdens of traffic they were never intended to carry, and they cannot be financed with the gas tax alone. We need the flexibility to take the money from a toll road and move it to a near neighbor, near-time project, which I understand that this amendment would prohibit.

Finally, we cannot allow the sunsetting of the tolls on a toll project. The prototype for that was the Dallas-Fort Worth Turnpike 30 years ago. That was a 1960s solution, and we have a 21st-century problem.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

First of all, there was a statement of opposition from the State of Texas without really seeing our amendment, and so I have a call in and have not yet had a return call from the commissioner in Texas. We would be happy to work with them to make sure they have the flexibility they need. This provides more flexibility. I would agree with the chairman, we want to be having an expansion of construction using these types of lanes, which is what we are for. But a big part of the disagreement is whether we want to put a toll on existing lanes and just make it more painful to drive, or whether we want to actually build and add construction and add capacity and use fee-type revenues to help facilitate that expansion, which this unquestionably would add significantly more of. I encourage support of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, let me be clear, the Florida Secretary of Transportation is in town today, along with Commissioner Lazaro, and they are both opposed to this amendment.

The U.S. Department of Transportation has said that we need to invest $375 billion just to keep up with the needs of this Nation's transportation infrastructure. Yet we have a bill on the floor today at $284 billion. Obviously, this is not enough of an investment we need to keep up with our transportation system.

This amendment will tie the hands of the State departments of transportation and would deny them the flexibility they need to fund important projects in their State. My home State of Florida is experiencing tremendous population growth, and we use tolls to cover many of the high costs related to maintaining an adequate transportation system. Without these additional revenues, there is no question that current improvement projects will not be funded. In other words, no tolls, no roads.

The current tolling provisions in this bill were carefully worked out in a bipartisan manner and were developed to allow States the flexibility to build new roads, reduce congestion, and invest in transit. We authorize this major transportation bill every 6 years so we can make major investments in infrastructure and improve the national transportation system, but the Kennedy amendment does the opposite. It takes money from the States and limits their ability to creatively finance major projects. In closing, no tolls, no roads.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

I would just respond, I agree with the gentlewoman. We ought to be giving more capacity to the States. Our amendment provides that, estimated by a study done by Mr. Poole, of, I would say, $50 billion. So we are turning away, by opposing this amendment, the $50 billion it could generate.

This is really a debate about whether we want to toll existing lanes and just bring in more revenue, or whether we want to add capacity. The Kennedy amendment adds more capacity.

In closing, I would just reiterate to try to clarify some of the factual errors that have potentially been espoused on behalf of this amendment. First of all, we do not affect existing tollways in the least. We do not effect the HOV to HOT conversions. We allow the three projects that were currently in law to allow new expansions, conversion of existing lanes to tolls. But beyond that, we put a limit so we stop the further expansion of just putting tolls on existing lanes, and we unquestionably provide far more authority than the underlying bill to add new lanes, new tar, and new concrete because the existing bill only limits it to three projects where there is an unlimited amount of increased projects funded by fees, providing they are new lanes charged electronically so there are no toll booths, and fees go away when it is paid for.

Again, I plead with Members to look at the underlying facts of the bill and look at the ones that are supported by highway users across the board and look at the ones supported by those looking for responsible government.

□ 1545

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

Again, I urge my colleagues to resist the siren call of tolls. It all sounds so simple: We will add more lanes; we will add more concrete and asphalt if all you will let us do is impose a toll on it.

The very first tolling facility in the western world, apart from that in ancient India, was King Edward III in England who allowed one of his knights the authority to build a bridge over the Thames in exchange for charging a fee to cross that bridge. It was to be temporary to cover the cost of the bridge. Four hundred years later, the British Parliament removed the toll from that bridge.

Tolls just do not go away. Once you put them on, they are there forever. To toll the interstate that we have already paid for is an insult to the drivers of this country. This is the wrong thing to do. We have provided reasonable tolling in this bill that is pending before us. It is sensible, but to go in this direction would impose tolls on those who can least afford it, would have widespread tolling on the interstate for which we have already paid. It does not guarantee that States will not contract away their right to build other roads in proximity to toll roads as happened in California. They got sued by the tolling authority.

This is the wrong thing to do. We have got a reasonable bill. What we really need, and I would invite my dear friend and good colleague from Minnesota, support the $375 billion bill that this committee introduced. That is the way to get more concrete and asphalt poured on America's roadways. Defeat the tolling amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Minnesota because of its direct and detrimental effect on the State of Texas. The amendment seeks to "streamline" tolling authority to charge tolls on new lands and dedicate toll revenues to user fee purposes, and restrict the authority to convert existing non-toll Interstate Highway lanes into tolled roads and then indefinitely toll those roads.

This amendment is an overboard proposal to address a smaller problem. Overall, it will diminish existing state jurisdiction, tolling authority, decisions regarding the time limit on tolls, and the use of toll revenues. Specifically, the Kennedy Amendment would hinder the State's ability to obtain financing for the expansion of the Katy Freeway because of the undue burden that it would levy.

Toll credits are a significant resource for transit providers because they can use them in lieu of obtaining a federal match—thereby greatly expediting the development of major projects that serve the communities. This amendment will cripple the value of the toll credit program.

Without the revenue from toll credits, Texas will have less funding for the reduction of congestion and the improvement of air quality. In reducing an otherwise viable revenue stream, this amendment would restrict local governments like Houston from choosing the best tool to respond to local conditions and priorities.

In addition, this proposal would prohibit the tolling of new interstates, including the I–69 Corridor, which lacks an alternate source of financing. The City of Houston already suffers from congestion and poor air quality.

Mr. Chairman, I oppose this amendment and urge my colleagues to join me.

The Acting CHAIRMAN (Mr. ISSA). The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. KENNEDY of Minnesota. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) will be postponed.

The Chair understands the amendment No. 9 will not be offered at this time.

It is now in order to consider amendment No. 10 printed in part B of House Report 109–14.

### AMENDMENT NO. 10 OFFERED BY MR. GRAVES

Mr. GRAVES. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. GRAVES:

At the end of subtitle D of title I, add the following (and conform the table of contents accordingly):

**SEC. 14___. RENTED OR LEASED MOTOR VEHICLES.**

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

**"§ 30106. Rented or leased motor vehicle safety and responsibility**

"(a) IN GENERAL.—An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, orpossession of the vehicle during the period of the rental or lease, if—

"(1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and

"(2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

"(b) FINANCIAL RESPONSIBILITY LAWS.—Nothing in this section supersedes the law of any State or political subdivision thereof—

"(1) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or

"(2) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure to meet the financial responsibility or liability insurance requirements under State law.

"(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action, or the conduct that caused the harm, occurred before such date of enactment.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) AFFILIATE.—The term "affiliate" means a person other than the owner that directly or indirectly controls, is controlled by, or is under common control with the owner. In the preceding sentence, the term "control" means the power to direct the management and policies of a person whether through ownership of voting securities or otherwise.

"(2) OWNER.—The term 'owner' means a person who is—

"(A) a record or beneficial owner, holder of title, lessor, or lessee of a motor vehicle;

"(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

"(C) a lessor, lessee, or a bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession thereof, under a lease, bailment, or otherwise.

"(3) PERSON.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 30105 the following:

"30106. Rented or leased motor vehicle safety and responsibility.".

The Acting CHAIRMAN. Pursuant to House Resolution 140, the gentleman from Missouri (Mr. GRAVES) and the gentleman from Oregon (Mr. DEFAZIO) each will control 10 minutes.

The Chair recognizes the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am here today to correct an inequity in the car and truck renting and leasing industry. By reforming vicarious liability to establish a national standard that all but a small handful of States already follow, we will restore fair competition to the car and truck renting and leasing industry and lower costs and increase choices for all consumers.

Currently, a small number of States impose vicarious liability or limitless liability without fault, on companies and their affiliates simply because they own a vehicle involved in an accident. Whether or not the vehicle was at fault is completely irrelevant in these situations. These vicarious liability lawsuits cost consumers nationwide over $100 million annually.

Vicarious liability laws apply where the accident occurs. It does not matter where the car or truck was rented or leased. Since companies cannot prevent their vehicles from being driven to a vicarious liability State, they cannot prevent their exposure to these laws and must raise their rates accordingly. These higher costs have driven many small companies out of business, reducing the consumer choice and competition that keeps costs down.

While this amendment seeks to level the playing field, I want to emphasize, I want to be very clear about this, that this provision will not allow car and truck renting and leasing companies to escape liability if they are at fault. Accident victims will continue to be compensated according to individual State law.

This is supported by the NFIB. It is supported by the U.S. Chamber of Commerce and the Alliance of Automobile Manufacturers. I ask my colleagues to support this commonsense reform measure to level the playing field so that consumers are protected.

Mr. Chairman, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. NADLER).

Mr. NADLER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri (Mr. GRAVES) regarding vicarious liability for rental car companies. This amendment, if passed, would nullify the laws of 15 States and the District of Columbia and would have the disastrous effect of allowing rental car companies to lease vehicles to uninsured drivers with no recourse for innocent victims should an accident occur. Fifteen States and the District of Columbia allow rental car companies the freedom to lease cars to whomever they choose whether or not the customer has his or her own insurance. In exchange for this right, the companies are required by the State laws to assume responsibility when uninsured drivers cause injury and are financially unable to compensate the people they injure or kill. If the gentleman from Missouri's amendment were to pass, the innocent victim would have no recourse, no insurance company to sue.

This trade-off is in the best interest of both the States and the rental car companies. For example, my own State of New York is one of the most active rental car markets in the country. In New York City, many, many people do not own cars. Therefore, they do not have automobile insurance. If companies were allowed to rent cars only to insured drivers, and that is the natural result should this amendment pass, these States would allow companies to rent only to insured drivers, many New York residents would effectively have no access to rental cars and the rental car market would decline.

This situation is not unique to New York. Anybody, Republican or Democrat, who is from Arizona, Connecticut, Delaware, Iowa, Maine, Nevada, New York, Rhode Island, the District of Columbia, California, Florida, Idaho, Michigan, Minnesota, Oklahoma, and Wisconsin should not vote for this amendment, Republican or Democrat, unless you want to say to your State legislators: We are going to preempt the law of New York, of California, of Florida, wherever, because we know better. Many of these States are big tourism States. By holding rental car companies responsible for the out-of-state drivers who rent cars while vacationing, these States protect their own residents from negligent out-of-state drivers. Vicarious liability laws also protect innocent Americans from negligent foreign drivers. If a foreigner rents a car in New York City or Los Angeles, runs over a pedestrian and her child, and then flees the country, the injured family would be left with no remedy should this amendment pass. In fact, the Graves amendment would probably shift responsibility away from wrongdoers and onto taxpayers. That is not something we ought to do.

There is nothing wrong, Mr. Chairman, with a State deciding, a State making its own decision. We believe in that here, supposedly. There is nothing wrong with a State deciding that it is in the best interests of the people of that State for uninsured drivers to be able to rent cars, but to require the car rental companies to take vicarious liability so that we do not shift the burden of paying for an accident to the pedestrian, the innocent victim or to the hospital or to the taxpayers, it is a perfectly reasonable thing to do. And 15 States and the District of Columbia have done it. Why should Congress usurp the States' power to make this decision for themselves? What is the overriding Federal interest in preempting State laws on this subject?

Rental car companies reap lots of profits in these States. Any expense that results to them from these State laws, such as any insurance policy the rental car company itself has to carry to cover its liability, is simply passed on to the rental car drivers as a cost of doing business. If we are going to preempt State vicarious liability laws, we could require that any uninsured drivers must purchase insurance themselves from the rental car company, but no such requirement is included in this amendment.

To pass this amendment is to say that we are going to obviate the policy choices of these States and shift the burden of any accidents to innocent victims of accidents in those States. We should not do it. The States should decide this question as they have. I urge my colleagues to oppose this amendment.

Mr. GRAVES. Mr. Chairman, I yield myself 30 seconds.

Quickly, Mr. Chairman, there are no uninsured rental vehicles on the road. Every single rental vehicle out there has to meet the State's minimum requirements for insurance. There is recourse. States put drivers on the road. Rental vehicle companies put cars on the road. They should be responsible for their equipment. Drivers should be responsible for themselves. But there is no uninsured rental vehicles on the road today.

Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Missouri (Mr. BLUNT), the majority whip.

Mr. BLUNT. Mr. Chairman, I want to commend my colleague from Missouri for his work on this important issue. Even well-intentioned laws do not always make good sense and this is one of those times. Find me an American who believes that a driver who rents a car and causes an accident is not in the wrong, and the rental company is. You might be able to find that on the Floor of the House. I do not think you can find that out there where this passes the commonsense test with Americans.

Holding rental and leasing companies responsible for the actions of their renters drives up the cost of renting a vehicle for all consumers. As was just pointed out, this insurance that is added to protect the company is added to every single person that rents a car, those very same people that the gentleman from Missouri pointed out already have to show proof of their own insurance. This arbitrary regulation costs small and large companies more than $100 million each year. In turn, small companies are getting run out of this business, and also this limits choices and competition for the customers when that happens.

The gentleman from Missouri's amendment will establish a fair national standard for liability: A rental or leasing company will only be liable in instances where the company is negligent or at fault. I think we can all agree, Mr. Chairman, that it makes good sense and will help limit the cost of renting cars to consumers. I ask my colleagues to support this important reform.

Mr. DEFAZIO. Mr. Chairman, I yield myself 30 seconds.

The gentleman would preempt States' rights which is, I do not believe, a position that Congress should be taking, but he said, don't worry, those States require some sort of minimum of insurance and people would be covered. If people would be covered, then why is the potential liability or the actual liability as according to the previous speaker so large to those companies? It must mean that the levels of insurance are pretty inadequate. If they had adequate insurance or if they were required to carry adequate insurance, then this might be a supportable position, but to defer to the States who might have inadequate insurance and then leave potential injured persons hanging out there and preempt the States, I think, is unconscionable for this Congress.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Oregon for yielding me this time, and I want to commend him and the ranking subcommittee member, the gentleman from New York (Mr. NADLER), for their excellent work in rebutting the notion offered by the gentleman from Missouri (Mr. GRAVES) about protecting the rental car industry and the leasing industry. That is what this is. Because what is wrong with requiring that the rental and leasing car companies assume responsibility when uninsured drivers they rent to cause injury and cannot compensate the victim? This is another one of a long line of issues, legal, in which we reduce the supports of the citizen and make them more open and more vulnerable. If a driver harms an individual and cannot compensate for their injury, the rental company should do so. What is wrong with that? Vicarious liability guarantees that the victims are not left to shoulder the costs of injuries caused by negligent rental car drivers and companies.

Take the case of the gentleman from New York (Mr. NADLER). New York City. I have been in cabs where we have wrecks downtown in Manhattan. Car rental is a very dangerous activity. For us not to require this backup from the car rental industry would be a travesty. And so I am hoping that we will just do something for the consumers. By the way, Members, that is what you have in your district, consumers of a product that need a little insurance backup when necessary. And to knock that out in the cavalier manner that is being proposed is preposterous.

I rise in strong opposition to the amendment offered by Mr. GRAVES of Missouri. This provision is nothing more than a special interest sham designed to unfairly and unjustifiably protect the very profitable car rental and leasing industry and harm innocent bystanders.

Vicarious liability protects innocent bystanders from injuries caused by irresponsible drivers of rented cars. In exchange for the right to rent or lease to whomever the car companies chooses, fifteen states, including my own state of Michigan, require that rental and leasing car companies assume the responsibility when uninsured drivers cause injury and cannot compensate the victim. Thus, when a car rental company allows an uninsured driver to drive a rental vehicle, they do so, understanding the risk created by that action. If a driver harms an individual and cannot compensate for the injury, the rental company should do so. Vicarious liability guarantees that victims are not left to shoulder the cost of their injuries caused by negligent rental car drivers and companies that put these uninsured drivers on the road.

New York City is a case in point. It has one of the most active car rental markets in the country and a huge number of uninsured drivers that rent cars due to the car ownership rates in NYC. New York has forbidden car rental companies to ask their customers if they own auto insurance, in order to allow the largest number of people access to rented cars. Since New York has made the policy decision to mandate car rental companies to rent to uninsured drivers, New York needs vicarious liability to protect innocent bystanders who are injured by these uninsured drivers. Eliminating vicarious liability would be disastrous for the citizens of New York, leaving injured people to shoulder their own costs of injuries unforeseen and prevent.

It is also important to note that the issue of preempting state liability is under the jurisdiction of the Committee on the Judiciary, of which I am the Ranking Member, and no hearings have been held to examine the appropriateness of the language which would be included in the legislation should the amendment pass. It is irresponsible to allow this provision to be debated on the House floor without a committee of jurisdiction's careful review.

I also object to the retroactive and unfair nature of the amendment. As a matter of equity, it is unfair to change the rules of litigation in the middle of the game. If a victim brings a lawsuit based on a particular set of laws and principles, it is simply unfair to alter those rules and principles after the fact. In addition to suffering a harm, the plaintiff may have expended significant time and resources in the litigation, and it is inequitable for Congress to unilaterally dismiss that claim without providing the harmed party with his or her day in court.

Additionally, the principles of federalism dictate that in all but the most exceptional cases, tort law should be left to the states. Tort law has traditionally been handled by the state legislative and court systems under a framework established by our founders. In fact, there are fifteen states that are ably handling this issue of vicarious liability. Congress should not depart from its long tradition of letting courts decide new cases before considering stepping in to alter the law where it believes the results are contrary to the public interest.

This amendment has no other purpose than to protect big rental and leasing companies at the expense of accident victims. I am appalled at the effort to leave innocent bystanders without recourse and believe this amendment has no place in this Transportation Reauthorization legislation that is before us today. I strongly urge my colleagues to oppose this amendment and vote no.

Mr. GRAVES. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, vicarious liability does not protect against uninsured drivers. It simply provides higher compensation based solely on the fact that the individual owns the vehicle. We are not absolving these companies of liability if they are at fault. What we are doing is eliminating vicarious liability simply because they own the vehicle.

Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Virginia (Mr. BOUCHER) who is a cosponsor of this legislation.

☐ 1600

Mr. BOUCHER. Mr. Chairman, I thank the gentleman for yielding me time, and I am pleased to join him in offering this amendment today and to urge its adoption in the committee. It will eliminate antiquated vicarious liability statutes and, at the same time, benefit the consumers who rent automobiles.

Vicarious liability laws for rental cars in a handful of States drive up costs for consumers nationwide by an average of $100 million annually. These laws allow unlimited damages against companies that rent vehicles solely because the company owns the vehicle that is involved in the accident, not because the company has done anything wrong. These companies are not negligent, they are not at fault, they could have done nothing to have prevented the accident.

Consumers pay $100 million annually resulting from these unfair laws because companies must bill the costs of these arbitrary damage awards into their rental and lease rates. Regardless of where a car or truck rental company is headquartered or where the vehicle is rented or leased, the company is subject to vicarious liability when its vehicle is driven to a vicarious liability State and is then involved in an accident. Therefore, the laws of a mere handful of States are driving up the rental rates for rental consumers nationwide.

The amendment offered by the gentleman from Missouri (Mr. GRAVES), which I am pleased to cosponsor, will eliminate these unwarranted vicarious liability laws and broadly benefit the renters of automobiles nationwide. I commend the gentleman for introducing the amendment, and I urge its adoption in the committee.

Mr. DEFAZIO. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would just address a question to the gentleman. You say they are already covered. Well, if someone rents a car in a State that has 10/20 insurance, $10,000/$20,000, and they drive next door to a State that has $100,000/$300,000 and they have an accident, I guess you only get 10/20. So you are saying it only affects these States. It would affect all States, if you remove this liability as they cross State lines.

Mr. Chairman, I would yield on the gentleman's own time to answer that question, if he would.

Mr. GRAVES. Mr. Chairman, I yield 1½ minutes to my friend, the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Missouri for yielding me time, and I do support the Graves-Boucher amendment.

This commonsense amendment would prevent car and truck rental companies from being held liable for injury and property damage in situations where they are not at fault. Currently, some States allow vehicle rental companies to be held vicariously liable. This means they are held responsible even when they are not at fault.

When a company rents a car or truck and has no way to foresee or prevent an accident, they should not be held liable simply because they have deep pockets. The Graves-Boucher amendment would create a national standard, providing that vehicle rental companies can only be held liable in situations where they have actually been negligent. This amendment in no way lets companies off the hook when they have been negligent.

Mr. Chairman, I support the Graves-Boucher amendment because it requires the legal system to treat vehicle rental companies fairly.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, this is a very specious argument that we have before us. The rental company has insurance, so that makes everything fine, except that the amendment relieves the rental company of the liability on their insurance, except in the case of negligence. That does not make any sense whatever.

If I have a vehicle and allow someone else to use that vehicle and that person has an accident, I am the one that is liable. Why should a car rental company be any different than the individual? The answer is they have got a good lobby and they are lobbying for this amendment. They are lobbying to free themselves of responsibility and liability. That is not right.

States have different rules. What is wrong with respecting State rules? States have adopted a policy that has concluded that without the kind of protection the gentleman would like to remove, harm to innocent children, harm to bystanders, would go totally uncompensated, even if the rental car company leased the vehicle to an obvious drug abuser or to someone who has a history of a very bad driving record.

That is wrong. We should not be in the business of wholesale removal of liability for responsibility.

Mr. GRAVES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, think about the statement that the opposition makes, that this amendment releases the rental industry except in the case of negligence. Think about that for just a minute. They should be liable in the case of negligence. They should not be liable for the action of their drivers.

The fact of the matter is, there are no uninsured vehicles on the road. In the case of an individual's car, you have a choice of who you are going to loan that car to. A rental company has to rent to a qualified driver. If they have a driver's license and they meet the State's minimum requirements, they have to rent to them.

Mr. Chairman, it is frustrating when there is so much misinformation out there about bills like this. There are three points that I want to make and I want to be very clear on.

Just remember, rental car companies do not put drivers on the road. States do. Rental car companies put cars on the road. They should not be liable for the action of the drivers. They should be liable for the their negligence or for their equipment, but they should not be liable for the action of their drivers.

Second, there are no uninsured rental vehicles on the road today. Those vehicles, before they can even be registered, have to meet the State's minimum requirements for insurance. That is up to the States. Let the States deal with that, just as what was pointed out. But there are no uninsured rental vehicles on the roads today. There is compensation or means for compensation to folks out there who might be harmed.

The third thing, and let us be very, very clear on this, this proposal would not exempt rental and leasing companies from the liability involved with their equipment. They are still liable and should be liable for negligence when it deals with their equipment, but they should not be liable for the actions of drivers. If you rent a vehicle in a non-vicarious liability State and drive it into a State such as New York, they are liable, unlimited liability, just because they own the car. That is not right.

Mr. Chairman, I urge adoption of this and hope my colleagues can support me.

Mr. DeFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again the gentleman did not answer my question. Rent a car in a 10/20 State, drive it into a 100/300 State, that car is essentially not insured for the purposes of that State.

Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the gentleman from Missouri says why should a company that rents a car to an individual, the company is not negligent, the individual is negligent, why should they be liable for the results of his or her negligence?

The answer is that is up to the State legislature. The State legislature may prefer that the person who must pay the medical bills should be the insurance company of the lessor company, rather than the innocent victim who is walking along with her baby stroller. We want people to be protected. There are cars that are insured to $10,000 and $20,000, they drive into a State with a high cost of living, with a high cost of medical care, that requires of its own domestic drivers $100,000 and $300,000, and there is no guarantee.

So the real answer is why should not New York or California or these other States be able to say we want to protect our citizens against non-resident drivers who are negligent, against foreign tourists from France who are negligent.

The real question is, should the insurance company bear the risk, the insurance company of the lessor company bear the risk, or should the woman with the baby stroller bear the risk? If I were running for the State legislature, I would say the insurance company. Here I say it is up to the legislature, not to us. Vote against this amendment.

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Missouri (Mr. GRAVES).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Missouri (Mr. GRAVES) will be postponed.

The point of no quorum is considered withdrawn.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment offered by Mr. OSBORNE of Nebraska; amendment offered by Mr. KENNEDY of Minnesota; and amendment offered by Mr. GRAVES of Missouri.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

### AMENDMENT NO. 6 OFFERED BY MR. OSBORNE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 6, printed in part B of House Report 109-14, offered by the gentleman from Nebraska (Mr. OSBORNE), on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 184, not voting 13, as follows:

[Roll No. 58]

AYES—236

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Etheridge
Everett
Feeney
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Musgrave
Myrick

Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Sanders
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Turner
Udall (CO)
Upton
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Waxman
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (FL)

### NOES—184

Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (NY)
Blumenauer
Boehlert
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Coble
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Gillmor
Green (WI)
Green, Al
Grijalva
Gutierrez
Harman
Hefley
Higgins
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kildee
Kilpatrick (MI)
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Maloney
Markey
Matheson
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Petri
Price (NC)
Rahall
Rangel
Reyes
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sherman
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu
Wynn
Young (AK)

### NOT VOTING—13

Baird
Clay
Gibbons
Herseth
Hinchey
Hobson
Jackson-Lee (TX)
Payne
Ramstad
Rothman
Royce
Stupak
Tiberi

☐ 1639

Messrs. RANGEL, RUPPERSBERGER, TOWNS, JEFFERSON, and Mr. TOM DAVIS of Virginia changed their vote from "aye" to "no."

Messrs. REYNOLDS, GARY G. MILLER of California, WAXMAN, and Mrs. BONO changed their vote from "no" to "aye"

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 8 OFFERED BY MR. KENNEDY OF MINNESOTA.

The Acting CHAIRMAN (Mr. LaHood). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. Kennedy) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 155, noes 265, not voting 13, as follows:

[Roll No. 59]

### AYES—155

Aderholt
Akin
Alexander
Andrews
Barrett (SC)
Bass
Beauprez
Blackburn
Blunt
Boehlert
Boehner
Bonner
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brown (SC)
Burton (IN)
Buyer
Cannon
Cantor
Cardoza
Chabot
Coble
Cole (OK)
Cooper
Cox
Cramer
Crenshaw
Cubin
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Drake
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Fossella
Foxx
Franks (AZ)
Garrett (NJ)
Gillmor
Gingrey
Goode
Gordon
Green (WI)
Gutknecht
Harris
Hastings (WA)
Hayes
Hayworth
Hensarling
Hinojosa
Hoekstra
Hostettler
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
LoBiondo
Mack
Manzullo
McCaul (TX)
McCotter
McHenry
McHugh
McMorris
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Mollohan
Moore (KS)
Moran (KS)
Musgrave
Neugebauer
Ney
Northup
Norwood
Nussle
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Portman
Pryce (OH)
Putnam
Rahall
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Thornberry
Upton
Wamp
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (FL)

### NOES—265

Abercrombie
Ackerman
Allen
Baca
Bachus
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Bonilla
Bono
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chandler
Chocola
Cleaver
Clyburn
Conaway
Conyers
Costa
Costello
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Doolittle
Doyle
Dreier
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gohmert
Gonzalez
Goodlatte
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (FL)
Hefley
Herger
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kirk
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Maloney
Marchant
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McCrery
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (WI)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pelosi
Peterson (MN)
Petri
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Radanovich
Rangel
Regula
Reichert
Rogers (MI)
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Skelton
Slaughter
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Tauscher
Taylor (MS)

Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weller
Westmoreland
Wexler
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—13

Baird
Bishop (UT)
Clay
Gibbons
Herseth
Hobson
Jackson-Lee (TX)
Jefferson
Payne
Ramstad
Rothman
Stupak
Tiberi

☐ 1649

Mr. SCOTT of Georgia changed his vote from "aye" to "no."

Messrs. BASS, MCHUGH, BOEHLERT, DOGGETT, and MOORE of Kansas, and Mrs. MUSGRAVE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### PERSONAL EXPLANATION

Mr. GIBBONS. Mr. Chairman, I rise today to explain how I would have voted on March 9, 2005 during rollcall votes No. 58 and No. 59 in the first session of the 109th Congress. The first vote was on the Osborne Amendment to H.R. 3, the Transportation Equity Act—A Legacy for Users, the second vote was on the Kennedy Amendment to H.R. 3.

I would have voted "yes" on both these rollcall votes.

I was unable to cast these votes because I was serving as the Master of Ceremonies at the dedication of Nevada's Sarah Winnemucca statue in the rotunda of the U.S. Capitol.

### AMENDMENT NO. 10 OFFERED BY MR. GRAVES

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Missouri (Mr. GRAVES) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 218, noes 201, not voting 15, as follows:

[Roll No. 60]

AYES—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, M.
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Kolbe
Kuhl (NY)
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tanner
Taylor (NC)
Thornberry
Tiahrt
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf

NOES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Cleaver
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Flake
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jefferson
Jenkins
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Knollenberg
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Manzullo
Markey
Marshall
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rogers (AL)
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tancredo
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Baird
Bishop (UT)
Clay
DeGette
Herseth
Hobson
Jackson-Lee (TX)
Payne
Ramstad
Rothman
Saxton
Simmons
Stupak
Thomas
Tiberi

☐ 1658

Mr. WELDON of Florida changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. SIMMONS. Mr. Chairman, on rollcall No. 60, I was unavoidably detained. Had I been present, I would have vote "aye."

The Acting CHAIRMAN. No further amendment being in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

---

## PERMISSION FOR MEMBER TO INSERT EXCHANGE OF LETTERS DURING CONSIDERATION OF H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent to insert into the RECORD an exchange of letters regarding myself and the gentleman from Texas (Chairman BARTON) regarding H.R. 3.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

---

□ 1700

## GENERAL LEAVE

Mr. NUNES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3.

The SPEAKER pro tempore (Mr. DENT). Is there objection to the request of the gentleman from California?

There was no objection.

---

## LEGISLATION ADDRESSING THE SCHIAVO CASE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. PITTS. Mr. Speaker, as a result of a judge's decision, next week, March 18, Terry Schiavo is scheduled to have her feeding tube removed, thus sentencing her to a very slow, painful death from starvation and dehydration.

Mr. Speaker, I will submit for the RECORD the entire statement of Terry's attorney. It is a moving account of her visit with Terry. Here is a brief excerpt, "From the moment we entered the room, my impression was that Terry was very purposeful and interactive. She seemed very curious about the presence of strangers in her room. When she heard their voices, particularly her mother's voice, Terry instantly turned her head towards them and smiled. Terry established eye contact with her family, particularly her mother, who spent the most time with her during our visit."

Obviously, she is not comatose. I hope that Congress will expeditiously consider the legislation introduced by the gentleman from Florida (Mr. WELDON) to address her type of case so that she does not have to die a very painful death, in accordance with this judge's decision.

### A VISIT WITH TERRI SCHIAVO

(By Attorney Barbara Weller)

This past Christmas Eve day, 2004, I went to visit Terri Schiavo with her parents, Bob and Mary Schindler, her sister, her niece, and Attorney David Gibbs III. The visit took place at the Woodside Hospice for about 45 minutes just before noon.

When I knew I was going to visit Terri with her parents, I had no idea what to expect. I was prepared for the possibility that the Schindlers love their daughter and sister so much that they might imagine behaviors by Terri that aren't actually evident to others. The media and Mr. Schiavo clearly give the impression that Terri is in a coma or comatose state and engages only in non-purposeful and reflexive movements and responses. I am a mother and a grandmother, as well as one of the Schindlers' attorneys, and I could understand how parents might imagine behavior and purposeful activity that is not really there. I was prepared to be as objective as I could be during this visit and not to be disappointed at anything I saw or experienced.

I was truly surprised at what I saw from the moment we entered the little room where Terri is confined. The room is a little wider than the width of two single beds and about as long as the average bedroom, with plenty of room for us to stand at the foot of her bed. Terri is on the first floor and there is a lovely view to the outside grounds of the facility. The room is entered by a short hallway, however, and there is no way for Terri to see out into the hallway or for anyone in the hallway to observe Terri.

From the moment we entered the room, my impression was that Terri was very purposeful and interactive and she seemed very curious about the presence of obvious strangers in her room. Terri was not in bed, but was in her chair, which has a lounge chair appearance and elevates her head at about a 30-degree angle. She was dressed and washed, her hair combed, and she was covered with a holiday blanket. There were no tubes of any kind attached to her body. She was completely free of any restraints that would have indicated any type of artificial life support. Not even her feeding tube was attached and functioning when we entered, as she is not fed 24 hours a day.

The thing that surprised me the most about Terri as I took my turn to greet her by the side of her chair was how beautiful she is. I would have expected to see someone with a sallow and gray complexion and a sick looking countenance. Instead, I saw a very pretty woman with a peaches and cream complexion and a lovely smile, which she even politely extended to me as I introduced myself to her. I was amazed that someone who had not been outside for so many years and who received such minimal health care could look so beautiful. She appeared to have an inner light radiating from her face. I was truly taken aback by her beauty, particularly under the adverse circumstances in which she has found herself for so many years.

Terri's parents, sister, and niece went immediately to greet Terri when we entered the room and stood in turn directly beside her head, stroking her face, kissing her and talking quietly with her. When she heard their voices, and particularly her mother's voice, Terri instantly turned her head towards them and smiled. Terri established eye contact with her family, particularly with her mother, who spent the most time with her during our visit. It was obvious that she recognized the voices in the room with the exception of one. Although her mother was talking to her at the time, she obviously had heard a new voice and exhibited a curious demeanor. Attorney Gibbs was having a conversation near the door with Terri's sister. His voice is very deep and resonant and Terri obviously picked it up. Her eyes widened as if to say, "What's that new sound I hear?" She scanned the room with her eyes, even turning her head in his direction, until she found Attorney Gibbs and the location of the new voice and her eyes rested momentarily in his direction. She then returned to interacting with her mother.

When her mother was close to her, Terri's whole face lit up. She smiled. She looked directly at her mother and she made all sorts of happy sounds. When her mother talked to her, Terri was quiet and obviously listening. When she stopped, Terri started vocalizing. The vocalizations seemed to be a pattern, not merely random or reflexive at all. There is definitely a pattern of Terri having a conversation with her mother as best she can manage. Initially, she used the vocalization of "uh'uh" but without seeming to mean it as a way of saying "no", just as a repeated speech pattern. She then began to make purposeful grunts in response to her mother's conversation. She made the same sorts of sound with her father and sister, but not to the same extent or as delightedly as with her mother. She made no verbal response to her niece or to Attorney Gibbs and myself, but she did appear to pay attention to our words to her.

The whole experience was rather moving. Terri definitely has a personality. Her whole demeanor definitely changes when her mother speaks with her. She lights up and appears to be delighted at the interaction. She has an entirely different reaction to her father who jokes with her and has several standing jokes that he uses when he enters and exits her presence. She appears to merely "tolerate" her father, as a child does when she says "stop" but really means, "this is fun." When her father greets her, he always does the same thing. He says, "here comes the hug" and hugs her. He then says, "you know what's coming next—the kiss." Her father has a scratchy mustache and both times when he went through this little joke routine with her, she laughed in a way she did not do with anyone else. When her father is ready to plant the kiss on her cheek, she immediately makes a face her family calls the "lemon face." She puckers her lips, screws up her whole face, and turns away from him, as if making ready for the scratchy assault on her cheek that she knows is coming. She did the exact same thing both times that her father initiated this little routine joke between the two of them.

The interactions with her family and our appearance in her room appeared to require some effort and exertion from Terri. From time to time, she would close her eyes as if to rest. This happened primarily when no one was paying particular attention to her, but we were talking among ourselves. After a few minutes or when one of the visitors approached her and started to talk directly to her again, Terri would open her eyes and begin her grunting sounds again in response to their conversations. Although I approached her, leaned close and stroked her arms and spoke to her, she did not verbally respond to me.

Terri's hands are curled up around little soft cylinders that help her not to injure herself. I understand that these contractures are likely very painful, although there was a time when Terri was receiving simple motion therapy when her hands and arms relaxed and were no longer as constricted. When the therapy was discontinued by order of her guardian and the court, the contractures returned. These contractures would apparently be avoidable if Terri were given the simple range of motion therapy she previously received. It is very sad to observe firsthand these conditions that make her life more difficult, but that would be correctable with little effort.

When we were preparing to leave, the interactions with Terri changed. First, she went through the joke routine with her father and the "lemon face." When her niece said goodbye to her, Terri did not react. Nor did she react to me or to Attorney Gibbs when we said our goodbyes to her. When her sister went to her to say goodbye, Terri's verbalizations changed dramatically. Instead of the happy grunting and "uh uh" sounds she had been making throughout the visit, her verbalizations at these goodbyes changed to a very low and different sound that appeared to come from deep in her throat and was almost like a growl. She first made the sound when her sister said goodbye and then, amazingly to me, she made exactly the same sound when her mother said goodbye to her. It seemed Terri was visibly upset that they were leaving. She almost appeared to be trying to cling to them, although this impression came only from her changed facial expression and sounds, since her hands cannot move. It appeared like she did not want to be alone and knew they were leaving. It was definitely apparent in the short time I was there that her emotions changed—it was apparent when she was happy and enjoying herself, when she was amused, when she was resting from her exertion to communicate, and when she was sad at her guests leaving. It was readily apparent and surprising that her mood changed so often in a short 45-minute visit.

I was pleasantly surprised to observe Terri's purposeful and varied behaviors with the various members of her family and with Attorney Gibbs and myself. I never imagined Terri would be so active, curious, and purposeful. She watched people intently, obviously was attempting to communicate with each one in various ways and with various facial expressions and sounds. She was definitely not in a coma, not even close. This visit certainly shed more light for me on why the Schindlers are fighting so hard to protect her, to get her medical care and rehabilitative assistance, and to spend all they have to protect her life.

I realize that Terri has good days and bad days. There are obviously days when she does not interact with her family, as they had previously told us. There are also apparently days when Terri is even more interactive and responsive to them than she was on the day I visited. Since this visit I am more convinced than ever that the Schindlers are not just parents who refuse to let go of their daughter. There really is a lot going on with their daughter and potentially, it seemed obvious to me, Terri could improve even more with appropriate care and 24 hour a day love that can only come from a dedicated family. As I watched her, my foremost thought was that on the next day, Christmas, Terri should not have been confined to her small room in a hospice center, nice as that room was, but that she should have been gathered around the Christmas dinner table enjoying the holiday with her family.

## INTERNATIONAL WOMEN'S DAY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, how appropriate as we stand and acknowledge International Women's Week and realize that maybe 20 years or 30 years ago there would not be a Lifetime television channel that would emphasize the issues to educate not only Americans but also the world. This is Stop Violence Against Women Week, and I stand to acknowledge the great strides women in Afghanistan and Iraq have made, as cochair of the Afghanistan Caucus; and I acknowledge violence still peppers and perpetrates itself around the Nation.

In my State of Texas, nearly 2 million Texans, almost 13 percent of the State population, have been sexually assaulted. In Texas, every 2 minutes someone is sexually assaulted, and two women are killed each week by their intimate partner. It is time to stop the violence.

This week I will also emphasize my bill, Good Time Release Act of 2005, that speaks to the early release of prisoners. And I want to address the treatment of women in our Nation's prisons, women who have not perpetrated violent acts. I also stand and acknowledge violence against women in Sudan, women who are raped, brutalized, and torn away from their children. We must stand up to this kind of violence. It is not only in America; it is around the world.

Marian Wright Edelman, president of the Children's Defense Fund, said, "Justice is not cheap. Justice is not quick. It is not ever finally achieved."

Mr. Speaker, we must fight for the liberation of women around the world.

I would like to thank Lifetime Television and their commitment to "Stop Violence Against Women." Their generous support has made the celebration of International Women's Day possible.

Yesterday was International Women's Day, and it was brought to my attention that in light of all these celebrations of how far women have come over the decades, it would be naïve for us to stand here and believe that we have eradicated gender based violence. Statistics keep coming in, showing that the problem is widespread for both sexual and domestic violence, and victims fear reporting the crimes to proper authorities.

In my state of Texas, nearly 2 million adult Texans, almost 13 percent of the state population, have been sexually assaulted. In Texas, every two minutes, someone is sexually assaulted and two women are killed each week by their intimate partner.

Approximately 31 percent of sexual assault victims reported that a family member also has been sexually assaulted. We must raise awareness about how we as a society can take care of the victims of such crimes. An estimate of 82 percent of rapes and sexual assaults go unreported because of shame, fear, hurt and anger. Nearly 80 percent of those raped know the person who raped them.

Family and friends not only help their loved one deal with the effects of an assault, and must manage their own feelings about the victimization of someone they care about. The impact of such a traumatic experience is severe. Thirty percent of rape victims contemplate suicide, and 13 percent attempt to take their own life.

I have worked with formidable organizations such as Texans Against Sexual Assault, who work to bring voices to women who have been victims of sexual crimes, and help them along an emotional recovery. Also, the Texas Council on Family Violence, which has connected more than 15,000 Texas victims of domestic violence with emergency shelter and protection.

I am proud to be here, and grateful to these organizations and their hard work. But this does not start here. Sexual assault and violence affects all racial and ethnic groups. These victims are our selves, our families, neighbors and coworkers. Together we must take a stand and work together for women's rights. We must work on building a brighter future, and make gender based violence a thing of the past. One day or week or month is not enough to do it all, but it's a beginning. Marian Wright Edelman, the founder and President of the Children's Defense Fund said, "Justice is not cheap. Justice is not quick. It is not ever finally achieved."

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I read from a story today in The Washington Post, page A8, "Senator Lindsey Graham, Republican, South Carolina, who has spent weeks attempting to recruit Democratic support for a plan to restructure Social Security, said yesterday that Republicans 'made a strategic mistake' by initially focusing on a proposal to create individual investment accounts," and, as he says, "We've now got this huge fight over a sideshow. It's always been a sideshow, but we sold it as the main event."

What he is talking about is that, as the President himself has admitted, the privatization of Social Security is and has nothing to do with fixing potential future financing problems in Social Security. It is a battle, in fact, if it was won under the President's terms, that would divert income from Social Security and, in fact, accelerate its financial problems from 40 years in the future to a mere 10 or 20 years in the future.

Senator GRAHAM, Republican from South Carolina, has come to the conclusion that, as many of us have been saying on this side of the aisle, we should fix Social Security first, then engage in a debate over how best to encourage or assist Americans in having more private resources through IRAs, 401(k)s or other sorts of devices for their retirement.

The basic vision of the founders of Social Security still holds: President Roosevelt said that he wanted to have a program that was not a dole; that had its own source of funding that would be guaranteed, and it would be earned. Earned. And that is what Social Security is, an earned guaranteed benefit that not only covers people in retirement as long as they might live, unlike many other plans and programs out there, like the privatized accounts, but it also provides for survivor benefits in case of untimely death to a spouse and/or surviving children. It also provides for a disability benefit.

The proponents of privatization, in addition to not fixing potential financing problems for Social Security, have not dealt with the issues of survivor benefits or disability benefits. They cannot. There is no way to do it under privatized accounts.

You opt into a private, so-called opt, because people would be coerced into these because otherwise they would see dramatically reduced benefits and they would try to bet money to win back under this plan, but they would, say, at age 18, you opt in and you do really well for 6 years. You are working as hard as you can. You put away the maximum amount per year. Then you become totally disabled at age 24, and you have $12,000, if you did really, really, really well in your investments in your privatized account. There it is, $12,000, you are totally disabled, have a good life.

That is not going to work. So they have not dealt with that issue. They say, oh, those people would still get their regular benefits. Well, if they are still going to get their regular benefits, but you are diverting all this money from the program, then the problems of Social Security become yet worse again.

So Senator GRAHAM has finally hit on something, and hopefully other Republicans will come to the same realization. We have not just been saying, no, we do not want to improve the lot of people in their retirement years; and, no, we do not want to help facilitate people to save more toward their retirement. Because FDR envisioned the one guaranteed leg, the earned benefit of Social Security in addition to private pensions in a different savings. Private pensions are going away, so we need to help people save more, invest more and have more to supplement a guaranteed earned benefit of Social Security that is secure.

That is what this debate has been about. Finally, there is some realization on that side of the aisle that private accounts, in addition to taking the future financing of Social Security and putting it more in jeopardy, are a sideshow, as Senator GRAHAM, Republican from South Carolina, has said, to the real issue of, are we going to take steps to guarantee that Social Security will be there not only for this generation and the near generation of retirees, as the President would do, but for all future generations.

We can do that easily. There are a number of ways to get there, one which I have proposed in past Congresses is to lift the cap on earnings. We say, look, if someone earns $25 million a year, they should pay the same percent of their income into Social Security as someone who earns $40,000 a year. If a person earns $40,000 a year, who works for wages and salary, pays 6.2 percent into Social Security; the person who earns $25,000 a year pays about a thousandth of one percent of their income into Social Security; they finish paying social security taxes on the second or third day of the year at that wage rate. That is not fair. It is not right. If they paid on all of their earnings, and their employer, some big multinational corporation paid on all their earnings, Social Security would be secure forever. In fact, we could lower the tax rate on everybody who earns less than $94,000 a year.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to take the time of the gentlewoman from California (Ms. WOOLSEY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## IRAQ SUPPLEMENTAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, as Congress prepares to debate another $80 billion war supplemental next week, I call on my Republican colleagues to join Democrats in including amendments that would finally begin to hold the Bush administration accountable for the billions of dollars of taxpayers' money being sent to Iraq. The $81 billion the administration is now asking for comes on top of an additional $200 billion already spent in Iraq since the beginning of the war 2 years ago.

Mr. Speaker, it was not supposed to be this way. The Bush administration never leveled with the American people about the type of sacrifices they would have to make in order to fight this war. You will remember that, before the war, President Bush and his war cabinet said the sacrifices would be minimal. In fact, the Bush administration told this very House that Iraq could pay for its own reconstruction.

Two years ago this month, Defense Secretary Rumsfeld and his Deputy Secretary Wolfowitz testified before the House Committee on Appropriations on the minimal American funds that would be needed to reconstruct Iraq. Secretary Rumsfeld told the Committee on Appropriations, and I quote, "I don't believe the United States has the responsibility for reconstruction, in a sense. Reconstruction funds can come from those various sources I mentioned: frozen assets, oil revenues and a variety of other things."

Mr. Speaker, the Bush administration either deceived this Congress and the American people or woefully underestimated the cost of the Iraq war. Either way, Congress should hold them accountable for their mistakes, and that simply is not happening. Congress should also be demanding that Secretary Rumsfeld explain where the $200 billion already appropriated has been spent.

Unfortunately, Republicans have abdicated their oversight responsibility and are giving the Bush administration a free ride on the enormous miscalculations we have all witnessed in the Iraq war.

Mr. Speaker, during World War II, then Senator Harry Truman created a war investigating committee charged with exposing any fraud or mismanagement in our Nation's war efforts in both the Pacific and the Atlantic. Truman was a Democratic Senator serving in a Democratic Senate majority overseeing the Democratic administration of President Franklin Roosevelt. Truman never worried about the fact he was investigating a president from his own party. He refused to allow politics to get in the way of good government. And, as a result, his investigation saved the American taxpayer more than $15 million.

Now, that is a lot of money in 1940, but it is also a lot of money today. I wonder just how much more money we could save the American taxpayers if congressional Republicans took their oversight responsibility for the war seriously?

One Republican, the gentleman from Iowa (Mr. LEACH), sees the real need for a committee like the one Senator Truman created more than 60 years ago. He and the gentleman from Massachusetts (Mr. TIERNEY) introduced House Resolution 116, which creates a select committee to investigate both the awarding and carrying out of contracts in our continued war efforts in Iraq.

For more than a year, I have been strongly advocating for the creation of such an investigative committee, and today, I also became a cosponsor of this legislation that I hope we can include in the Iraq supplemental next week.

Mr. Speaker, every Member of Congress should want to vote for this legislation. After all, one of our main functions in the legislative branch is to oversee exactly where the executive branch is spending funds we appropriate. As Senator Truman demonstrated during World War II, this has absolutely nothing to do with party politics. Instead, it has everything to do with ensuring that the administration is not wasting the American taxpayers' money.

I still cannot understand why congressional Republicans, with the one exception of the gentleman from Iowa (Mr. LEACH), are so afraid of overseeing the administration's funding of the war in Iraq. I am hopeful that Republicans will finally remember why they were sent to Washington and join us in creating this investigative committee. It is high time we look at the potential for war profiteering and abuse of these contracts and the money we are spending in Iraq.

We need to have oversight. We need to have accountability. It does not matter that there happens to be a war. It does not matter that it happens that we have a Republican president and a Republican Congress. We should all join together on a bipartisan basis to ensure there is accountability for this money before we proceed in spending any more of it.

## ORDER OF BUSINESS

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to take my time out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, we hear a lot of talk about Social Security and what is the right word to use. Is it a crisis? Is it just a problem? Is there no problem with a system awash in cash that perhaps just needs some minor adjustments down the road?

Well, Mr. Speaker, I do believe there is a crisis, or at least a serious problem that is looming. There is no question we are held captive by our demographics. In order for our Social Security System to work, we need large numbers of young people to pay into the system. We also need people on retirement to not live very long after they retire. But the reality is our birth rates in this country are down, and our retirees are living longer lives.

Both situations are arguably good news, but they do portend a serious situation for our Social Security System. I would draw attention to this graphic. This was produced by the Congressional Research Service. It is not a partisan chart. But here is the year I was born, 1950, and we have a little over 16 workers working away to support every retiree. Fast forward, and here we are in 2005. We have three workers working to support every retiree. But as we move down the line, we go to two workers to support every retiree.

Now, Mr. Speaker, make no mistake about it, I believe very strongly in the American economy. And I would bet on the American economy over and above any economy in the world. And I just bet we can make those two workers a lot more productive in those out years, in 2040 and 2050. But I do not know if we can make them productive enough for two workers to support one retiree. I think we have to look at some other things.

A lot of people talk about the trust fund, and, gosh, there is just money in the trust fund, and we will spend that money on retirees when the time comes. Again, I will go to the Congressional Research Service, and this is a graph produced by them just a few weeks ago. It is on the Web site. Anybody can go access it that wants to. Well, this shows the money in the trust fund. And again, you will see that there is a great deal of money coming in, and it is projected to increase. But we reach a point, looks to be about 2028, when the money starts coming down, and it comes down very rapidly.

☐ 1715

This includes paying back the money that is in the trust fund that was borrowed. This includes monetizing the Social Security debt which in and of itself can be pretty painful for the markets when that time comes.

Mr. Speaker, there is a question of fairness here because 12 percent of the country's payroll pays into the Social Security system and does not really pay a fair rate of return. It pays by anyone's estimate 1.14, 1.19 percent interest. What Albert Einstein, probably the finest mind of the last century, described as the miracle of compound interest, this miracle is being denied to American workers.

The old axiom states we tax what you do not want, but surely we want jobs for tomorrow's American. Increasing the payroll tax is really not a solution that I can accept. So what are the solutions? What about cutting benefits as suggested by one of the other speakers. I did not come to Congress to cut benefits on Social Security. We could raise taxes, but I do not want to do that. Taxes on jobs are going to drive jobs overseas. We already create a punitive environment in this country for the creation of new jobs with our legal system, cost of health care, and our Social Security payroll tax. I do not think we need to contribute to that, and this Congress should make a pledge that it will not contribute to driving jobs overseas by increasing the payroll tax.

I have already alluded to growth in the economy, and I believe in this country and I believe our economy will grow, but I do not know that we can count on that to cover all of the projected problems with the shortfall in the Social Security fund. So that leaves one lever left to pull, and that lever is getting a fair rate of return on the money that is invested in the Social Security system.

The problem is if we leave that money for us in Congress, and I have only been here for 2 years, but I know what other Members know, if we leave that money in Congress, we will spend it. We will spend it so quickly, we will not even know we have spent it. And when it comes time to pay the interest, we will write an IOU to pay the other IOUs we have in that filing cabinet in West Virginia.

The only way to protect the Social Security funds is to put them in accounts controlled by individuals where we cannot get at it. A question always comes how are we going to pay for this. We are already paying a great deal of money into the Social Security funds. We are paying a surplus into the Social Security system. So why not take that money in surplus, invest it and earn a fair rate of return on that investment.

There is debt that is owed to the Social Security system. That debt will some day have to be monetized. That money continues to grow as we pay the interest on it and as we continue to borrow from those funds. Why do we not just borrow the money? The obligation is already there. Let us refinance it like any American family would refinance a mortgage if they were trying to work their way out of a difficult financial situation. Refinance the money, make it real debt with a real interest rate. I think the markets would take a great deal of comfort in that. Markets do not like uncertainty, and I do not think in 10 or 15 years' time they are going to like the uncertainty when we monetize the debt that we owe the Social Security system.

So let us recognize it up front, call it what it is, it is a loan, we borrowed it, let us set a fair interest rate on it, and pledge to pay it back and set up a repayment schedule that we can all live with.

So the current obligation is already present. Let us finance the transition with that debt and convert an unknown obligation into bonded indebtedness and give the markets some measure of comfort that we in Congress recognize the problem and know what we are doing to alleviate the problem.

Mr. Speaker, it has been 70 years since Social Security was founded. Here in this House, let me just give a quote: "It is proposed that the Federal Government assume one-half of the cost of the old age pension plan which ultimately ought to be supplanted by self-supporting annuity plans." These words were spoken in this House in a joint address before Congress by President Franklin Roosevelt in 1935. I think he had it right, and I think it is time for us to work on that.

## HONORING DR. JOSEPH M. STOWELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, today I rise to acknowledge and commemorate the accomplishments of Dr. Joseph M. Stowell, the outgoing president of the Moody Bible Institute. It is with great pleasure that I rise to honor Dr. Stowell for his 18 years of dedicated servitude to the Moody Bible Institute.

Mr. Speaker, the Bible says in the Book of Mathew 20 and 27: "And whosoever will be chief among you, let him be servant."

Mr. Speaker, by his steadfast commitment to his ministry, I believe Dr. Stowell is servanthood personified.

Dr. Stowell, devoted husband and a committed family man, is a man known for his compassionate leadership style. In fact, his love for his students and belief in their capacity to make a difference in the life of the community and for Christ have been the hallmark of his tenure as president.

Under his leadership and by the grace of God, various Moody Bible Institute ministries have been strengthened. These ministries have focused on methods that embraced the diversities in the body of Christ, including color, caste, and class distinctions; and has sharply focused attention to the ministry needs of urban centers.

In addition, the MBI graduate school has made significant strides with a Master of Divinity program and other academic majors that are designed to prepare students for ministry in a changing and diverse world. Dr. Stowell's most recent contributions at MBI led to a restructuring of its many ministries to emphasize the unique contributions of the work of Christ through education, broadcasting, and publishing. His leadership did not just stop there. In 2001 the Distance Learning Center launched Moody Online which now has students enrolled throughout 28 countries. And over the past 18 years, MBI Broadcasting Network has expanded from 11 to 33 owned and operated radio stations which broadcast the award-winning radio ministry known as "Proclaim."

Mr. Speaker, Dr. Stowell has authored many books, including the recent Gold Medallion-winning book entitled, "The Trouble with Jesus." Dr. Stowell has earned tremendous respect from all people who know him. His unique leadership style, his love for the ministry, and his faithfulness in spreading the gospel of Christ was admired by the faculty, students, and others in ministry and in the community. Without question, Dr. Joseph Stowell was one of the most effective presidents in the history of Moody Bible Institute.

Mr. Speaker, there is an old adage that states: "When you start to benefit more than the people you serve, you are no longer a servant," and I submit today that Dr. Joseph Stowell has exemplified genuine servanthood and he has impacted the lives of those around him more than he will ever know.

He has now been called to his next season of servanthood to advance the cause of Christ, and he leaves Moody Bible Institute with a tremendous legacy. So today, I rise to recognize and commend the legacy of true servanthood which will never be forgotten. I commend Dr. Joseph Stowell.

## SAFETY FOR AMERICANS FROM NUCLEAR WEAPONS TESTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

Mr. MATHESON. Mr. Speaker, today I reintroduce legislation that I first introduced in the last Congress called the Safety for Americans From Nuclear Weapons Testing Act. Let me tell a brief story that has brought me to introducing this legislation.

From 1951 to 1992, over 1,000 tests were conducted at the Nevada test site. At the time, the government told people in this country that the tests were safe. What we know now is the government lied. In fact, only testing took place when the winds blew the fallout in the least populated direction from the test site, which happened to be southern Utah. These findings were discovered in the 1970s when my father, who was Governor of Utah at the time, received more and more information about the high cancer rates in southern Utah. He got documents declassified at the Pentagon showing that the government knew there was risk with the testing and only did the testing when the fallout was blowing in the least populated direction.

Now, history is pretty clear. We know that the government knew people were at risk. We know the government lied to our citizens, and we know that thousands of people have died of cancer from the fallout from nuclear weapons testing, and yet the last test was in 1992. So why are we talking about this today? We are talking about this because the Federal Government is taking steps to resume nuclear testing.

One thing Members may hear about nuclear testing is the dangerous ones were above ground. Now we do tests underground. The picture next to me took place in 1970. It was an underground nuclear weapons test, the Baneberry Shot it is called. In this picture, we see debris 10,000 feet in the air above the valley floor of the test site.

The DOE's own data shows that underground testing does not contain the fallout. In fact, fallout is emitted into the atmosphere.

This is not just a southern Utah issue or a Western issue. In fact, the National Cancer Institute completed a study looking at concentrations of iodine 131, the isotope that causes thyroid cancer, and looked at how this was dispersed across the country from the testing. And from the Nevada test site going north and east. Members can see it has crossed the country, and even some counties in upstate New York and Vermont received higher concentrations of fallout than some counties close to the test site. So this is indeed an issue of national importance and national scope.

I have introduced legislation that I think is very responsible in terms of ensuring safety before any nuclear weapons testing can take place again. This legislation calls for a full environmental review, an environmental impact statement, before testing can happen so we can establish all of the health and safety risks and how they can be addressed before testing can happen. That has never been done before.

It also calls for setting up an extensive nationwide monitoring system so we can detect any radiation and fallout from the testing. It will not just be a government-run system; we will have a second monitoring system run by independent third parties through our university system to ensure that we understand the truths about what is going on with nuclear testing and exposure to radiation.

I think this is a responsible step. We cannot go down the path again of nuclear weapons testing. If Members do not think that we face the potential for nuclear weapons testing, let me repeat a quote from an article in the February 15, 2005, Salt Lake Tribune. The article discusses Energy Secretary Samuel Bodman's testimony before the Senate Committee on Armed Services. Bodman said the administration remains convinced the "readiness posture" of the nuclear proving ground must be enhanced. He said, "We will continue our efforts to maintain the ability to conduct underground nuclear testing and complete the transition to the 18-month readiness posture that is mandated by Congress."

Two new kinds of nuclear weapons have been discussed for development. If we are going to develop those nuclear weapons, I fear they are going to be tested. The Department of Energy has projected over half a bill dollars of expenditure over the next 5 years for testing of this new type of nuclear weapon.

If we are going to go down that path, which I do not think we ought to go down for a number of reasons, we surely ought to ensure safety if any nuclear weapons are going to be tested. That is why this legislation I have introduced is a responsible approach. Everyone in America ought to want to make sure that we ensure safety, and do not blanket this country with cancer-causing fallout, as happened once before.

□ 1730

I encourage all of my colleagues to join me in support of this legislation.

I would just like to close by mentioning I have supporters of this bill that include the National Association of Atomic Veterans, Physicians for Social Responsibility, the National Association of Radiation Survivors, the Intermountain Pediatric Society, the Utah Medical Association and the Utah State legislature. I encourage my colleagues to join me in cosponsoring this bill. I hope we bring it to speedy action on the floor.

## EXCHANGE OF SPECIAL ORDER TIME

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from California (Ms. MILLENDER-MCDONALD).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

## PETROLEUM PRICES AND PRICES AT THE GAS PUMP

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, here we go again. According to Reuters news agency today, oil prices held just below record highs on Wednesday as fund buying continued to dominate the market even though the United States Government said crude oil stocks had risen to their highest level for 8 months.

Looks like the Saudi campaign promised to keep prices low before the election has now come to pass. Now that we are past the inauguration, oil prices are going through the roof.

Today, U.S. light crude rose 11 cents to $54.70, within a dollar of record highs hit last October. Oil prices are up, the dollar is down, and our economy is sputtering. And the demand for oil is just about to increase with summer and vacations coming on.

The stock market fell by more than 100 points today based on investors' fears about these rising oil prices. The price at the pump has also gone up significantly in the last few weeks if you have not noticed. According to the U.S. Department of Energy, the average price at the pump this week is $1.99, up seven cents from the end of February and a 26-cent increase from 1 year ago. What a down draft on economic growth that is. In fact, the gas price increase is up 15 percent. That is more than five times the rate of inflation.

Ohio's gasoline price at the pump today is 11½ cents up from the last week of February. Currently, Ohioans are paying over $2.05 for their gasoline and the upward trend is not going to stop there. We in the Midwest are facing the highest increases in gasoline prices in the last year, with an increase of over 32 cents a gallon. That is over four cents higher than any other region of the country. Residents in Cleveland are paying today more than $2.07 a gallon, an increase of over 12 cents from the last week of February and over 33 cents per gallon from a year ago.

What is truly dangerous and tragic about this trend is our continued dependence on imported sources of oil. It means that our Nation is strategically vulnerable to disruptions in those with over half of the petroleum we use imported. That is why, when I asked Secretary Donald Rumsfeld this week when he was before our defense committee what he was doing as the Secretary of the largest Cabinet agency in the government of the United States to help lead America to a new energy era, I was very surprised to hear his answer, which I quote from the record: The Department of Defense has no authority to do anything about oil. Needless to say, we don't get funds appropriated by this committee for doing things that relate to reducing our Nation's dependency on oil.

I was shocked at his answer since we were considering the supplemental appropriation bill this week for the Defense Department, and just in the supplemental, there is over $1.411 billion related to unforeseen fuel price increases, for fuel delivery costs. For instance, the Defense Logistics Agency is going to pay $742,300,000 more just in the supplemental; the Marine Corps, $311,380,000; and the list goes on and on. Indeed, the Institute of Local Self-Reliance, in a report done just a few years ago, says that in any fiscal year, our government spends over $100 billion just allowing oil to flow into this country. We are not inventing any new energy sources. We are just becoming more dependent every day.

Imagine an America that was energy independent again and where energy independence rose to be a real national priority. Biofuels that our farmers can grow could displace a huge amount of imported petroleum in the short term. Not 10 years from now, but within 3 years, we could displace 25 percent of what we currently burn in our tanks with ethanol-based fuel and biodiesel-based fuel and other derivatives. Yet the Bush administration, is it trying to move America in a more independent direction? No. They are cutting their support for biofuels, the minimal amount of research and development dollars in the Department of Agriculture, by over $100 million this year alone. Grain-based ethanol and grain-based biodiesel truly can help America wheel her way to a new energy future.

The American people need a new Declaration of Independence. We need to cut the umbilical cord to Saudi Arabia and the Middle East and every other undemocratic regime around this earth to which we are attached because of our oil dependence. There is no better time than now to begin. I just wish someone in the Bush administration was paying attention to the gouging going on at the pumps across this country and the fact that Americans cannot buy biodiesel and ethanol even when they want it and when Detroit is manufacturing cars that can use it.

Ask yourself, who has got a lockout at the pumps across this country? Freedom for America in the 21st century should mean freedom from dependence on imported petroleum.

## AMTRAK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 60 minutes as the designee of the minority leader.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I am pretty excited about the fact that we are going to spend an hour discussing Amtrak. I do not think anybody in this country knows more about transportation and transportation infrastructure and the needs of transportation than the gentleman from Minnesota (Mr. OBERSTAR). I have asked him to give us kind of a broad background, bringing us up to date as to how we arrived where we are as far as Amtrak is concerned in this country. And then we will go to the other speakers.

I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentlewoman for yielding but, more importantly, I commend her and acknowledge her courageous leadership in being such a strong and consistent advocate for passenger rail service as our senior member and ranking member on the Subcommittee on Railroads on the Committee on Transportation and Infrastructure.

America is a third world country when it comes to passenger rail service. That abysmal condition did not happen by accident. It happened by design. The slow, inexorable process of deterioration of rail passenger service began in the 1960s when the freight railroads, which were also carrying passengers and carrying U.S. mail on the railroad post office, the RPO overnight distribution service, began to combine with the United States Postal Service to terminate the RPOs because their passenger rail service was not profitable unless mail service was included in the revenue stream. So the RPO would work the mail overnight and drop it off along the route. They would pick up passengers and carry them to their ultimate destination, but if the U.S. Postal Service would drop the RPO, that line, that segment of service, would then be unprofitable. And then they could apply, the railroads, to the Interstate Commerce Commission for discontinuance on economic grounds of unprofitability.

I witnessed that process happening in our State of Minnesota and in my congressional district when I was then administrative assistant to my predecessor in Congress. By the time I was elected to Congress, passenger rail service had disappeared. The railroads shed all of their so-called unprofitable lines in cooperation with the U.S. Postal Service, and the Federal Government then to ensure that there would be a vestige of passenger rail service in America took over, accepted the liability and the responsibility of carrying on with passenger rail and set up the Amtrak Corporation, American Rail Passenger Service Corporation.

But what did they get, Amtrak? They got the remnants, rundown rail cars, rundown locomotives. They got the rail service through the worst sections, the industrial, rundown, in many cases abandoned industrial sections of America's cities, not the very attractive segments of rail passenger, not the High Sierras and the beautiful western routes. They got on the east coast and the center of America and urban centers, the places passengers did not want to see, that they could avoid with their automobiles. And slowly Amtrak had to plead and beg and wheedle and cajole for funds to invest in upgrading the track, upgrading the passenger cars, upgrading the locomotives to continue these vestiges of service, both long haul and short haul.

The problem with rail passenger service in America is that Amtrak never received the investment dollars it needed to remake the entire passenger rail system. In France, President De Gaulle convened a meeting of his cabinet in 1968 and proposed that the cabinet approve funding for a study of and recommendation for a completely new high speed rail passenger service. The report came back 6 months later. The Cabinet was convened again and the report presented; the cost, $12 billion in today's dollars. Every one of the ministers said, oh, that will hurt defense. It will hurt health. It will hurt education. Charles De Gaulle asked one question: Does any other country in the world have high speed, 185-mile-an-hour rail passenger service? And the answer was no. De Gaulle said: Then France will be the first.

That is what I call political will. That is what it took to launch this investment. And now you have the TGV, Tres Grande Vitesse, that goes from Paris to Lyon, 288 miles, in 2 hours and 1 minute. When I was a student in Europe in college, I took that train. It took 4½ hours. Today, it is 2 hours and 1 minute. When I traveled from Paris to Brussels to begin my studies at the College of Europe, it was a 6-hour trip. Today, it is a 45-minute trip.

Two hundred sixty-four million people ride the Shinkansen high speed train in Japan at 186 miles an hour. They have had one accident. A portion of land subsidence occurred; no fatalities, in 30-plus years.

They have had one accident with the TGV. No fatalities. We have the ICE in Germany. We have the Talgo in Spain. We have high speed train service in Italy. And in America, the world's number one economy, the best we can do is, for a few miles, 125 miles an hour on Amtrak in the Northeast Corridor? That is wrong.

We need to make the investment in this passenger rail service. All it takes is political will. This administration has demonstrated, rather than stand up for and invest in rail passenger service, strengthen America's cities, take short haul aviation out of our skies, serve those routes of 300 miles or less with high speed passenger rail; they want to disinvest, drive Amtrak into bankruptcy, wash their hands of the issue and walk away from it. That is wrong. That keeps America as a third world country.

□ 1745

We got there by accident. We can get out of this problem by design, by responsible investment in the future of rail passenger service. Others will talk about the infamous September 11 when 5,240 aircraft, commercial airplanes came out of the skies, and all of the radar screens of our aircraft control system went dark. Amtrak was operating.

We must not wait for another tragedy to shut down an important segment of transportation and come to the realization we should have been investing in Amtrak. I salute the gentlewoman from Florida (Ms. CORRINE BROWN) for her commitment, for her dedication, for raising this issue, taking this time to bring to the American public the need for investment in Amtrak.

Ms. CORRINE BROWN of Florida. Would you answer just one question for me before you leave. Can you let me know whether there is any form of transportation that pays for itself?

You know, we have been raising this issue about aviation, and, you know, we put billions of dollars, I forget how many billions into aviation, and we talk about our transportation bill, we have it on the floor today, and we are putting it in.

But is there any mode of transportation in the whole world that pays for itself?

Mr. OBERSTAR. Mr. Speaker, transportation is a public service. It is a means of moving people and goods in the public interest. And every industrialized nation in the world supports, with public funds, their public transportation.

Let us not fool ourselves. The freight railroads would like to say, oh, we do not use public funds. But to get the freight railroads started in America, the United States Government gave them land. Every other section of land from the Mississippi River to the West Coast, the Pacific Ocean to build their railroads.

Without that land and the rights to the minerals and the lumber on that property, they would not have been able to build these railroads. They are still living off the profitability of the land that they were given in the public interest to serve the public interest.

And the same with aviation. Yes, there is a passenger ticket tax that pays for a great deal of our airport improvement program, air traffic control system; but the public funds pay for at least 15 percent of air traffic controllers' costs, pays for the research and development and new ideas in aviation.

And our highway and transit system, the passengers do not pay for every mile of road construction or every new bridge construction. A good deal of that comes out of public funds, either at the county, State, or city level.

And maritime just as well. Our maritime freight shipping operations are supported by the operating differential subsidy and construction differential subsidy programs to which we have committed well over $12 billion over the years that I have served in the Congress.

So the gentlewoman's point is well taken. Transportation is a service in the public interest, and the public should give it a reasonable level of investment and support.

Ms. CORRINE BROWN of Florida. Mr. Speaker, now the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I thank the gentlewoman from Florida (Ms. CORRINE BROWN) for providing this special hour on Amtrak and having this very vital discussion about Amtrak's solvency and its future and its employees.

And I certainly thank the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure, for that insightful overall perspective, historical perspective, of rail in the United States of America and abroad.

It is my pleasure to be here tonight with my very dear friend, the gentlewoman from Florida (Ms. CORRINE BROWN), and to thank her very much for leading the fight to retain Amtrak and its employees.

Amtrak continues to demonstrate its value as a critical public resource, unequivocally worthy of our Federal funds. The past 3 years have been among the most successful in Amtrak's 30-year history, 34-year history.

Despite an overall turndown in the travel industry that has resulted in financial disaster for our airlines, Amtrak has been making great strides in efficiency while becoming an increasingly popular choice for consumers. It remains a vital component of our Nation's infrastructure, providing an invaluable public service unmatched by any other means of transportation.

Since 2002, our rail system has gone through an exceptional period of financial and operating stability. Amtrak has established new accounting and financial reporting systems, trimmed mail and express rail operations, truncated long distance routes and cut expenses while raising ridership and engaging in the large-scale repair and restoration of an aged fleet.

Last year, the 240 employees of Beech Grove, Indiana, which is in my district, a heavy maintenance facility, repaired and returned to service 15 wrecked Superliners and locomotives.

And as all of us recall the 9/11 fiasco, consumers turned to Amtrak to continue their commuting to work and other ways. When Amtrak was established by an act of Congress in 1970 to take over for the money-losing private passenger rail systems in America, then Secretary of Transportation John Volpe predicted that Amtrak could turn a profit, but only if the Federal Government provided enough capital to produce high-speed trains and profitable corridors.

What better investment could Congress make to ensure the preservation of 22,000 jobs of the Amtrak employees and to preserve the vital services for consumers around the country who rely daily on Amtrak services.

According to the Congressional Research Service, Amtrak's fastest train, the Acela, averages 86 miles per hour in the New York to Washington corridor. And I am telling you, if I lived in New York or New Jersey, my transportation would be Amtrak. I love it. I love to ride Amtrak back and forth to New York and to New Jersey, and I am sure the other passengers do too.

So it is my strongest, strongest request and hope that Congress will do what it should do in terms of maintaining Amtrak and funding it at the proper levels so that it can remain efficient and solvent for many years to come.

And I want to again thank the ranking member, the gentlewoman from Florida (Ms. CORRINE BROWN), for her leadership in this regard, a very vital service for the United States of America.

Ms. CORRINE BROWN of Florida. Mr. Speaker, now I would bring up the gentleman from California (Mr. COSTA). He is new to the Congress, but not new to the fight as far as passenger rail is concerned. He has a history that precedes him in the legislature in California.

Mr. COSTA. Mr. Speaker, I thank the Congresswoman from Florida for her vision and for her leadership and ensuring that the people of America understand what is at stake today in the President's proposal to cut funding for Amtrak, which I believe, Mr. Speaker and Members, is unfair and lacking in vision.

I would like to confine my comments to focusing not only on the impact nationally as it relates to a true intermodal transportation system, but also that in the 21st Century, if we in fact are going to provide the services necessary to move goods and services and people throughout our great country, we have to have a true intermodal 21st-century system of transportation, one that allows connectivity of our cities, of our States, to ensure that we handle the growth necessary to continue to improve the economy.

And that is why the President's proposal in his budget is unfair and it is lacking in vision. We saw on 9/11 the impact when our air service across the country was virtually grounded, and how dependent we are upon our daily rail service as it relates to not just intercity travel but our commuter service as well, in which Amtrak provides a tremendous amount of service in terms of our cities for commuter purposes.

And what we saw was a greater reliance in which the northeast corridor exceeded the amount of passenger daily usage of our air transportation for months and months and months as we attempted to reconstruct our service.

Mr. Speaker and Members, let me give you the California perspective. Amtrak operates an average of 70 inner-city trains in California alone, over 200 commuter trains per day in California. In 2004, Amtrak serviced over 9.3 million people in California, providing service in 70 California cities.

It employs over 3,589 California residents. On top of that, when you look at the top five busiest corridors in Amtrak across the country, three of them, three of them are in California. Number two, the Pacific Surfliner provides service for over 2.3 million riders in California and it increases annually, 7.6 percent last year over 2003.

The number third busiest corridor in the Nation is the capital corridor, from San Jose to Sacramento to Auburn. It provided over 1.1 million riders last year for over a 2.3 percent increase over 2003.

And number five, the San Joaquin services, which I have been involved with for many years from Bakersfield, Oakland, Sacramento provides service to over 700,000 riders annually.

And when you take into account the cutbacks in regional airline service for mid-sized and smaller communities, in many cases this is the only public transportation service people have on a regional basis.

When you add to the commuter trains that operate in California that combined carry over 66,000 commuter ridership daily in the Bay Area and Los Angeles and San Diego and Oceanside areas, you understand how important it is to California.

As a matter of fact, California has the second highest ridership in the Nation, second only to New York. In addition to that, our State provides, and I have been involved as was mentioned earlier, when I have served in the State Legislature over $70 million a year to enhance the existing Amtrak service.

California does more than any State in the Union to provide additional funds to improve our inner-city and commuter service. When you look at it over the last 15 years, California has provided $1.5 billion to improve and upgrade our services. Amtrak in return during that same 15-year period has provided over $400 million to upgrade and to improve our services.

The bottom line is we estimate in California alone in the next 20 years that we are going to have a 300 percent growth in our inner-city service and commuter service in California to sustain the population growth that is estimated to be another 15 to 17 million people.

And we are going to depend mightily on an intermodal transportation system that combines the best of our air service along with our rail service, along with our roads. And therefore it is fitting and appropriate this afternoon that we have this discussion, and I want to again thank the gentlewoman from Florida (Ms. CORRINE BROWN) for setting this time aside.

We all know, if we study our Nation's history, that every mode of transportation going back to the 18th century has been subsidized in one form or another.

☐ 1800

The canal system that first began to connect our States, the Erie Canal and the other canals, was what? The Federal Government helped finance that for the purpose of promoting interstate trade and commerce, and we continued into the 18th and 19th centuries. The great emancipator, President Lincoln, in the middle of the perhaps most difficult time in America's history, the great Civil War, when inflation was running rampant and deficits were huge, decided to build the Transcontinental Railroad.

In the 20th century, we have seen the expansion in our interstate freeway system that has been subsidized by Federal, State and local revenues. Every port and harbor in America today has some form of local, State or Federal funding.

All modes of our transportation historically for three centuries have had a subsidization to what? Promote trade, commerce and move our people around. So, therefore, when we take that in light of our history and where we are today and where we want to be in the 21st century, it is absolutely essential that we be promoting and expanding our intercity rail service throughout the Nation to ensure that, in the 21st Century, Americans have the proper type of intermodal transportation system that is reflective of the world's number one economy.

For all of those reasons, Mr. Speaker, I urge the Congress to act appropriately and to ensure that we properly fund our Amtrak service throughout America today.

Ms. CORRINE BROWN of Florida. Mr. Speaker, would you believe that 66 percent of the American people support Amtrak? Not 66 percent from the Red States or the Blue States, but 66 percent of the American people.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. CUMMINGS), a member of the Committee on Transportation and Infrastructure and a leader in this country on transportation and infrastructure.

Mr. CUMMINGS. Mr. Speaker, I thank the gentlewoman, first of all, for having this special order this evening. I also thank her for her leadership as the ranking member of the Subcommittee on Railroads of our Committee on Transportation and Infrastructure. I feel very fortunate to be a part of that subcommittee, and I thank her for her vigilance and constantly standing up for people who need a voice.

Certainly, there is no question about it this evening, Mr. Speaker, that there are a number of people that, just this morning and this evening, as a matter of fact, are crowded on trains trying to get home, many of them having worked all day, glad to be able to sit down and relax as they ride home in an efficient and fast system of which Amtrak has structured itself and made available to them.

The interesting thing that we face is that, so often, when we have good things going for us and they are working, sometimes folk like to tinker with them. And when they tinker with them, quite often they lose a lot of their effectiveness, and a lot of times they are thrown off the track.

But the fact is that here we have a case where the President basically, by his actions, and I know he says otherwise, puts this very important system, this system that I just spoke about, that so many people take advantage of, and certainly those in my district do, is about to take it and put it in a situation which would make it almost impossible to operate.

So it is: I rise today to join my colleagues on both sides of the aisle in again expressing our strong support for Amtrak, our national intercity passenger rail service. Regrettably, this expression of support is necessary because the President has proposed eliminating Federal assistance for Amtrak from the fiscal 2006 budget, contrary to what the public wants, as our ranking member just stated, with over 60 percent saying they want to see Amtrak supported, and they certainly want to see Amtrak survive.

The simple fact of the matter is that the elimination of Federal aid to Amtrak will send the system into bankruptcy, where the service could be liquidated. Liquidation of Amtrak is simply not in our national interest. As a matter of fact, if we did not have Amtrak, we would have to invent it. The fiscal 2006 budget passed by Congress must include Federal aid for Amtrak at a level to support the system's continued operation.

Unfortunately, the President's proposal to eliminate Federal funding for Amtrak is not a new one. Particularly during the last 5 years, Amtrak has repeatedly faced threatened shutdowns and proposed elimination of its operating subsidy. These threats have done nothing to improve Amtrak's service but have created continued uncertainty among Amtrak's 25 million annual passengers and 20,000 employees.

I believe that it is time that we bring to a close the prolonged debate about national passenger rail service in which we have been engaged in recent years by recommitting ourselves to Amtrak and to the value of national passenger rail service.

Over the past 30 years, intercity passenger rail service provided by Amtrak has become essential to ensuring mobility in every corner of our Nation. Amtrak provides its 25 million intercity passengers with access to more than 500 stations in 46 States, including access to more than 100 cities that have no commercial air service.

Amtrak also provides mobility to many segments of our population who might not otherwise be able to travel. According to the results of a study outlined in a 2004 Congressional Research Service report, approximately 42 percent of Amtrak's ridership is drawn from households with incomes less than $50,000, while 16 percent of its riders do not own their own cars.

In creating Amtrak, Congress and the Nation made a commitment to the value of maintaining a national passenger rail service. It is long past time for Congress to clearly define the nature of this commitment and to honor this commitment by providing sufficient and reliable funding to Amtrak to enable it to succeed as a transportation service.

Our commitment must be a national commitment to national rail service. Congress must not shift the responsibility for funding our national intercity passenger rail service to the individual States which cannot afford to meet it and which cannot guide a truly national, seamless, intercity passenger rail service.

In examining how Amtrak can be strengthened, Congress must look broadly at all aspects of Amtrak service, including its relationship with freight railroads, and we must establish clear objectives for Amtrak that emphasize excellent national service. Congress must also demand that Amtrak respond to our investment by developing and implementing a workable plan to provide the most efficient and cost-effective service possible. Such a plan must include appropriate benchmarks for measuring progress. And Congress must be vigilant in demanding accountability from that system.

Finally, America has had an intercity passenger rail service for more than 150 years, and this service remains an essential component of our transportation network. I urge the Congress to renew our commitment to intercity passenger rail service and to move past the annual struggle over Amtrak by creating a reliable funding stream and to embark on a concerted effort to enable this service to realize its full potential.

One hundred and fifty years of rail service, the fact is that, now, that same service is under our watch, and so it is up to each of us, each one of us and the President, to ensure that that service lasts for another 150 years, so that when generations yet unborn look back at what we did in 2005, they can say that we sent a powerful message to the future, and that is that we cared about Amtrak and that we cared about the passenger who simply wants to move from one place to another to have the very, very best lives that they can.

With that, I again thank the gentlewoman for her vigilance and leadership.

Ms. CORRINE BROWN of Florida. Mr. Speaker, reclaiming my time, may I ask the gentleman one question before he leaves?

I know that the gentleman comes from Baltimore, which is a big city, and many people look at the big city and know that we need Amtrak. But would the gentleman believe that 109 small cities do not have any other form of transportation? They do not have bus service, nor do they have air service.

Mr. CUMMINGS. Mr. Speaker, if the gentlewoman would yield further, I often ride from Baltimore up to Connecticut on Amtrak, and I see some of the little small stops that we stop at. The stations are very small, but the fact is that people get on the train and people get off the train. And I say to myself, I wonder what they would do if we did not have that kind of service? That is the kind of sensitivity that we have and that we must maintain. Then we have got to take our beliefs and make sure we turn them into action.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I thank the gentleman.

Mr. Speaker, it is now my pleasure to yield to the gentleman from New York (Mr. BISHOP), also a leader on the Committee on Transportation and Infrastructure.

Mr. BISHOP of New York. Mr. Speaker, I thank the gentlewoman. Let me start by thanking the gentlewoman from Florida (Ms. CORRINE BROWN) for organizing this time this evening and particularly for her leadership on this and so many other issues of great importance to our Nation.

Mr. Speaker, I rise tonight in support of Amtrak, America's national rail system. As a personal beneficiary of the service that Amtrak provides and as someone who represents a congressional district that counts on safe, reliable rail service, I am a strong supporter of providing this vital industry the funding necessary to continue operations.

A healthy Amtrak is an integral part of New York and the Nation's economy and transportation systems. Amtrak offers riders a cost-effective way to travel throughout the country. It has over 2,000 employees, serves over 500 stations in 46 States and owns and operates over 700 miles of shared track throughout the country.

These numbers tell the story. Amtrak is a major industry helping to support families and towns throughout the country, and it requires our support now.

The administration budget proposal to eliminate funding for Amtrak flies in the face of common sense and the President's stated goal of sensibly growing this Nation's economy. The events of September 11, 2001, showed us America's reliance on the rail system and Amtrak in particular. As planes sat grounded everywhere, goods, services and people continued to move, thanks in large part to Amtrak.

The President's budget proposal indicates that with regard to passenger rail, we have not learned enough from that terrible day. There is hardly a more clear example of misguided priorities at the Federal level. Current plans will force a major employer to shut its doors, move people out of secure employment and cripple a transportation system that serves millions of people. We need to abandon this approach that will end national rail service and, instead, look for ways to improve upon our existing structure of supporting rail lines.

Abandoning Amtrak will destroy a system that has never been supported adequately. In comparison to the rest of the world, we rank a miserable 25th on the list of countries that provide commuter rail funding. The U.S. is outpaced by countries like Estonia, Belgium and Slovenia.

It is no wonder that we are debating investment in Amtrak. We have never provided the adequate assistance that would allow Amtrak to operate at full capacity, thereby providing no baseline for comparison now that the President is proposing to eliminate the program.

Over 30 years ago, Amtrak replaced a faltering private rail system failing to provide adequate services. Now, 30 years later, we are attempting to replace an existing public passenger rail system with some undefined private system by stripping funding for a struggling but improving system that America supports. We should not continue this cycle, and I urge my colleagues to oppose this proposal, as it represents an unclear approach to a very serious issue.

Congress continues to focus on funding other transportation modes over Amtrak to the detriment of the rail industry. Amtrak's level of funding represents only 2 percent of the U.S. Department of Transportation's nearly $60 billion budget; whereas over 50 percent of the Department's spending went for highways, and nearly $20 billion went for air travel.

☐ 1815

The fact is that America relies on Amtrak to move people. Commuter rail systems would be faced with major roadblocks and possible route elimination if Amtrak lost funding. So we are not just talking about an effect on Amtrak's customers alone. Over 850,000 commuters a day rely on Amtrak or its infrastructure to get to and from work, and it simply makes no sense to eliminate funding for a program that benefits nearly 1 million commuters a day.

Mr. Speaker, I urge all of my colleagues to fight for the continued operation of Amtrak by advocating for a budget providing $1.8 billion for fiscal year 2006. I thank the gentlewoman from Florida (Ms. CORRINE BROWN) for her leadership on this issue.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I have a question for the gentleman: Can he repeat how much we are proposing to spend this year on Amtrak?

Mr. BISHOP of New York. The President's budget proposes zero.

Ms. CORRINE BROWN of Florida. Zero.

Mr. BISHOP of New York. And what we need is a budget of at least $1.8 billion.

Ms. CORRINE BROWN of Florida. Mr. Speaker, $1.8 billion. Would the gentleman believe that we are spending $1 billion a week in Iraq, $4 billion a month in Iraq, and with $3 billion, it would completely fund the Amtrak system and bring it up to date. The people that pay the bill are getting the short end of the stick.

Mr. BISHOP of New York. Indeed they are. This country has a long history of finding the money to support things that it considers to be a priority, and we simply need to come together and say that this kind of passenger rail service is a priority.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I would like to yield to the delegate from the District of Columbia who is a leader on the Committee on Transportation and Infrastructure and has been on that committee ever since I have been here in Congress for over 12 years, and I know longer, but certainly is the voice for transportation, not just in the District, but in the country.

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding and for her kind words. Yes, I have been on this committee for 14 years, and I am very pleased to see the gentlewoman become the new leader of the Subcommittee on Railroads and already, in this and other ways, is offering excellent leadership. The gentlewoman is going to be tested, because she faces a crisis like no Chair of that committee has faced, with possible loss all together of Amtrak; and I congratulate her for taking hold and having no fear, but then the gentlewoman is known to be fearless.

Mr. Speaker, it is unthinkable that in the post-9/11 era we are leaving large parts of our country with little or no transportation. It began with the airlines, deregulation in the 1980s and, in order to accomplish that, some good things came from it, but some not-so-good things came from it, because they had to pull out of many markets that are not unprofitable, given the deregulation. Even before 9/11, all the airlines were, as it were, in the hospital. Every last one of them, union controlled or not, of large airlines is now in intensive care, to be polite about how badly off they are. So much for the airlines already not serving huge blocks of the country.

West Coast communities and communities in the South are now up in arms as Greyhound is about to pull out of those communities. Because when the Federal Government took over Amtrak, we closed down half of Amtrak. So all they had was Greyhound, and now Greyhound is gone. Yet, I am on the Select Committee on Homeland Security working on security. It looks like there is no way to get out of many communities in the United States of America.

As the gentlewoman from Florida (Ms. CORRINE BROWN) knows, we just passed a major transportation bill, finally. Yet, we are systematically starving transportation in our country, and if I can say that about bus and airlines because, after all, they are subsidized.

Ms. CORRINE BROWN of Florida. Mr. Speaker, would the gentlewoman yield?

Ms. NORTON. I am pleased to yield to the gentlewoman from Florida.

Ms. CORRINE BROWN of Florida. We are working on the bill; hopefully, we will pass it tomorrow. But I want to point out, we are looking at a bill that is $284 billion, and our Department of Transportation indicated that we needed $375 billion. So we are way behind. This is because this Bush administration does not support the investments that we really need to make in transportation, and that is why we are 17 months behind passing a transportation bill that the country and all of the Governors, the local communities, the private sector, they all need this investment, because our infrastructure in the United States is falling apart.

Ms. NORTON. Well, I thank the gentlewoman, and I thank her for reminding us that we have not even passed this bill yet; we are supposed to get to that tomorrow. And we are 17 months late in passing this, and there is much to complain about with this bill. Even though the buses have dedicated funding through the highways and the airlines have dedicated funding through the airports, there is no dedicated funding for rail. How did rail get left out?

We are trying to be a great power on the cheap, because I never heard of a great power that did not have first-class rail service. We understand that apparently about airlines; that is why we subsidize the airlines. Particularly in the post-9/11 era, I can tell my colleagues that after the terrible tragedy at the Pentagon, there was really only one way to get out of the District of Columbia. They closed Reagan National Airport for 2 weeks. I do not know how the gentlewoman got home to Jacksonville, because she sure did not get home out of this jurisdiction.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will yield, our local Coast Guard came to Washington and carried the Florida delegation home.

Ms. NORTON. Amazing.

Ms. CORRINE BROWN of Florida. And it took all day, because the group was stationed out of Jacksonville, so we flew from here to Miami, then we went to Fort Lauderdale, Orlando, then to Jacksonville. That was the only way we could get out of the city.

But let me mention to the gentlewoman from the District of Columbia, after September 11, there was another plane that went down in New York. I do not know whether you remember that; it went down in Queens.

Ms. NORTON. Yes.

Ms. CORRINE BROWN of Florida. I was in New York at that time. I had checked out of the hotel, and the hotel would not let us back in. We did not know what was going on. And everything shut down, like the gentlewoman said. The airport shut down; the bridges shut down. There was no way out of the city.

I went to the Amtrak station and there I saw several Members of the Senate and the House, and that is how we were able to get out of New York City and get back into Washington, D.C. It is a safety issue. Why would the richest country in the world even consider not having a rail transportation to move people in time of crisis.

Ms. NORTON. The gentlewoman has documented the point I think dramatically, even involving the Members of this body. We cannot afford to leave major cities of the United States dependent on one form of transportation. That is how the Capital of the United States was left. We just heard the gentlewoman from Florida talk about New York being left in the same way. Who would, as the gentlewoman says, want to even risk that?

We are not alone, Madam Chair. Under the gentlewoman's leadership, we are already seeing action in the other body. I was pleased to see that Senator CONRAD BURNS all the way out in Montana is talking about Amtrak and about saving Amtrak. Six Republicans have already joined him. There is going to be a huge bipartisan effort here. I think we are going to be successful, because there is no recourse. There is no alternative to making sure that we have a national railroad.

The worst part of what the administration is doing is trying to deliberately force Amtrak into bankruptcy.

Ms. CORRINE BROWN of Florida. Mr. Speaker, if the gentlewoman will yield, it is truly hard to believe how an administration could state that it is their goal to put an industry out of business and put them in bankruptcy. To me, it is just a clear example that we have gotten our priorities wrong.

I think that this debate should not be between Democrats and Republicans, House and Senate. I think this debate, I think it is very important for the American people to weigh in on why they think it is important. One of the things that I think has been a failure is that we have not been able to convey the importance of rail service in this country.

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for making that point, because I hope we do not have to lose it before people understand how much they need it. The notion of bankruptcy, well, there is a bankruptcy of policy, if bankruptcy is all one can think about for a public service that the country cannot do without.

We know that bankruptcy has not done anything for the airlines. We have had several airlines go into bankruptcy. They go, they come out, but because they are a public service, they have to go a certain number of places. And guess what? They need some kind of subsidy, and they certainly have gotten some, even though we have required them to operate as businesses.

We used to require the railroads to operate as businesses; but beginning in 1971, the Congress understood that the business model did not work for railroads. It does not work for railroads anywhere in the United States. Yet that is what we have here: bankruptcy. Because policy is being determined by ideology, the ideology that says that if the private sector cannot do it, then maybe we do not need it, and that is why the gentlewoman's point is so important.

Somebody needs to get up and tell the Congress and tell the administration that they do need it. It is not ideology that should decide whether the Nation is going to have railroads; it is old fashioned American pragmatism. We took them over, eliminating half of the lines in 1971, because the private sector said, hey, there is no profit in this. What makes us think there is profit in it now, when even we do not want to give a subsidy that would be required of us as a public body.

I want to alert Members here. They may think that we are talking about the Amtrak that they see here every day; you know, the Amtrak that goes to Pennsylvania Railroad, the Amtrak of Union Station. I am talking about the Amtrak that exists in 46 States. I say to the gentlewoman. That is the Amtrak I am talking about. The Amtrak that affects each and every Member of the House and Senate. I think we ought to alert Members what we are really talking about. We are talking about the national network that we call Amtrak that, in fact, serves the entire United States. If Amtrak were an airline, it would be the eighth largest airline in the United States.

The thing that most gets me about what it is that the administration apparently says it wants to do, and here I am quoting what Secretary Norm Mineta said when the President's budget came over here, that they want to change funding responsibilities to the States on a 50–50 match. Give me a break. Hey, if the Federal Government cannot stand these costs, are we serious that the States, which are now facing huge Medicaid costs, huge shifts of the Federal budget to them, huge effects of the tax cuts, are going to now be able to pick up Amtrak and keep it going?

This is a scandal and a scandal that we must break before it goes any further. If they think that this is like the ordinary bankruptcy where a company comes in and picks up the pieces on the cheap, yes, you can pick up the pieces on the cheap, but can you run a railroad. I think what we now know is that you cannot run a railroad without subsidy.

We will not be the first country in the world to run it without subsidy, and the reason they talk about 50–50 with the States is they know that the private sector cannot run it without a subsidy, so they want to shift the costs of the subsidy to the private sector. Watch out, everybody in the House. They are coming your way, and we have to keep the costs where the tax base is broadest, here in the House, not on the tax bases of each and every State which are having a hard enough time keeping their own transportation going.

☐ 1830

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to be clear that there is no mode of transportation, including rail, that pays for itself, not only here in the United States but nowhere in the world. Public transportation is just that. We subsidize every forming of transportation.

I really welcome this debate because I think we have been nickeling and diming Amtrak to death, and now we need to put up or shut up. And I think the American people, where 66 percent, not from the blue States and the red States, but 66 percent of the American people said that they want passenger rail in this country.

Ms. NORTON. I think that is an awfully important point to make. With that supermajority it does not seem to me that the administration can succeed in eliminating Amtrak if we do our work here in the Congress. They talk about leaving the commuter rail lines there. Well, it is interesting to hear the railroad administration say that they are unable and unqualified to help operate those rail lines. I am not sure what the administration is after there. Of course, those are the parts of Amtrak that people use to get back and forth to work.

This is not very well thought out. It seems to me, if you took about 5 minutes thinking about it, you would have to come up with another solution. In fact, let us assume that I think the best way to come to grips with what the administration is seeking to do, let us assume that they got their way and somehow or another they went into bankruptcy and some company came and picked it up on the cheap, nothing resembling the present coverage could possibly survive. I mean, some private person, because you have a bottom line, you have stockholders, would do what you got to do, and he would pick off the most profitable, there is a tiny part that is profitable maybe between Boston and New York and say, the rest of you are on your own. You would have one corridor or so railroad. Nothing resembling the kind of coverage that we have now would be possible.

I do want to point out something because as a lawyer, I got interested when I learned something from my staff. I said, wait a minute, I have to look into this. There are so many impossible missions we have given Amtrak. They have modernized and done a very good job of doing that.

Ms. CORRINE BROWN of Florida. I want to point out ridership on Amtrak is up 1 million passengers. People are using the services. You lawyers do this, suppose this. Well, let me just say, my position is what happens when failure is not an option. We cannot fail the American people on this issue. This issue is bigger than us. This is bigger than the Congress. This is about the future of America. It is about post–9/11 and whether or not we are going to provide the safety that the American people need. We are talking about homeland security. This is homeland security.

We have got to make sure that we can move people and not just invest in operations, but we need to invest in safety, and not just for Amtrak but for all of the systems. Because look what happened in Madrid when the Amtrak was bombed. I mean, those are the kinds of things that we need to be looking into. How can we make sure the system is safe for the ridership?

This administration is short-minded. They have their priorities backwards in many areas. And certainly, I feel that, I guess when you get a 53 percent mandate, you got it going on. But as far as I am concerned, the American people need to understand, and I think it is our job to help educate them on the importance of Amtrak and give them a method that they can communicate to us and let us know that Amtrak is important.

With that, I am proposing that we do a series of whistle stops throughout the country. I think the Members need to get out into the districts, ride the train, and talk to the people that are doing that ridership. And we are working on that, and we are organizing that. And I hope that the gentlewoman will participate because I think that the best thing to do is to have townhall meetings where the people can give us direct input.

This is the people's House, and we represent the people of the United States, and we are closer to them. We have to come before them every 2 years. And so I think this would be one avenue with those whistle stops, to get out and talk to the American people and hear what they have to say about Amtrak.

My hour is up. I am going to close by just saying, what do you do when failure is not an option? Failure is not an option when it comes to Amtrak. We must have Amtrak passenger rail service in this country.

The current funding issues concerning Amtrak brings up a fundamental question of where this Nation stands on public transportation. We have an opportunity to improve a system that serves our need for passenger rail service, or we can let it fall apart, and leave this country's travelers and businesses with absolutely no alternative form of public transportation.

Without the funding Amtrak needs to keep operating, we will soon see people that rely on Amtrak to get them to work each day, waiting for a train that isn't coming.

We continue to subsidize highways and aviation, but when it comes to our passenger rail system, we refuse to provide the money Amtrak needs to survive.

This issue is so much bigger than just transportation. This is about safety and national security. Not only should we be giving Amtrak the money it needs to continue providing service, we should be providing security money to upgrade their tracks and improve safety and security measures in the entire rail system.

Once again we see the Bush Administrations paying for its failed policies by cutting funds to vital public services and jeopardizing more American jobs. This Administration sees nothing wrong with taking money from the hard working Amtrak employees who work day and night to provide top quality service to their passengers. These folks are trying to make a living for their families, and they don't deserve this shabby treatment from the President.

It's time for this Administration to step up to the plate and make a decision about Amtrak based on what's best for the traveling public, not what's best for the right wing of the Republican party and the bean counters at OMB.

I represent Central Florida, which depends on tourism for its economy, and we need people to be able to get to the state to enjoy it. Ever since September 11th, more and more people are turning from the airlines to Amtrak, and they deserve safe and dependable service.

And this is just one example of Amtrak's impact on my state. Amtrak runs four long-distance trains through Florida, employs 990 residents with wages totaling over $43 million, and purchase over $13 million in goods and services last year alone. And they are doing the same thing in every state they run in.

Some people think that the solution to the problem is to privatize the system. If we privatize, we will see the same thing we saw when we deregulated the airline industry. Only the lucrative routes would be maintained, and routes to Rural locations will be expensive and few.

I was in New York shortly after September 11th when the plane leaving JFK airport crashed into the Bronx. I, along with many of my colleagues in both the House and Senate took Amtrak back to Washington. I realized once again just how important AMTRAK is to the American people, and how important it is for this nation to have alternative modes of Transportation.

This isn't about fiscal policy, this is about providing a safe and reliable public transportation system that the citizens of this Nation need and deserve.

Amtrak was created by Congress in 1970 to take over the money-losing passenger rail service previously operated by private freight railroad companies in the United States.

More than half of all rail passenger routes were eliminated when Amtrak began service on May 1, 1971.

Although Amtrak's route system has remained essentially the same size, it represents a mere skeleton of what was once the United States' passenger rail network.

During the period from Amtrak's inception through 2003, the federal government has spent $1.89 trillion on air and highway modes. In the same time frame, Amtrak received just over $30 billion in federal subsidies.

While the United States once had a passenger rail system that was the envy of the world, a lack of capital investment has stalled the advancement of corridor development throughout the country.

Dependent upon an annual federal appropriation, Amtrak's national network is constantly threatened by under-investment, lack of a clearly articulated federal rail policy, and an uncertain future.

Amtrak operates a nationwide rail network, serving over 500 stations in 46 states on

22,000 miles of track with approximately 20,000 employees.

During FY 2004, Amtrak carried just over 25 million passengers, representing an increase of over 4 percent compared to FY 2003.

In addition to operating 300 daily intercity trains, approximately 850,000 commuters each day depend on operating agreements with Amtrak, Amtrak-owned infrastructure, or shared operations.

Amtrak's Northeast Corridor is the heaviest traveled railroad in North America, with over 1,700 trains operating over some portion of the Washington-Boston route each day.

Compared to domestic airlines in FY 2002, Amtrak ranks 8th in ridership with a market share of 4.6 percent and 1st in passengers per frequency.

In FY 2004, Amtrak generated approximately $2.06 billion in revenues and incurred approximately $3.18 billion in expenses, covering 65 percent of its operating costs, on par with Canada, Spain and France. No passenger railroad system in the world operates without some form of public subsidy.

Outside the Northeast Corridor, five other corridors carry over one half million people annually. These corridors are: San Diego-Los Angeles-San Luis Obispo; San Jose-Oakland-Sacramento-Auburn; New York-Albany-Buffalo; Oakland-Fresno-Bakersfield; and Vancouver-Seattle-Portland-Eugene.

Amtrak owned property includes 2,141 railroad cars, 425 locomotives, 20 high-speed Acela train sets, a 97 mile segment of 95 mph track in Michigan, a 62 mile segment from New Haven, CT to Springfield, MA, 104 miles of 90 mph track in Pennsylvania, and 363 miles of the Northeast Corridor connecting Washington, Philadelphia, New York and Boston; the busiest passenger line in the country.

All transportation in the United States is directly or indirectly subsidized. Unlike aviation, highways and transit, there is no dedicated fund for investing in passenger rail development. These other modes all operate on predominantly federally owned or federally assisted infrastructure, and rely on government-supported security, research, and traffic controllers.

In FY04, the United States Department of Transportation's $59 billion budget included $34 billion for highways, $14 billion to the FAA, and $1.217 billion for Amtrak.

Amtrak's FY 2004 appropriation of $1.217 billion represented 2 percent of the Department of Transportation's $59 billion budget.

Countries with well-developed passenger rail networks but much smaller populations such as Germany and Japan invest $3–4 billion annually on passenger rail, representing over 20 percent of their total transportation spending.

In 2000, Canada announced a dedicated source of capital for five years to fund new equipment, modernize infrastructure, and improve its existing passenger railroad network. Canada's system is ⅓ the size of Amtrak's and has ⅙ the ridership.

The State of California has invested approximately $100 million per year in passenger rail over the past 10 years and its state-supported trains carried 4.25 million passengers in FY 2004, representing approximately 17 percent of Amtrak's national total. These trains are consistently achieving double-digit ridership growth, proving that investment in passenger rail will reap benefits.

Amtrak's corridor services operate over a 6,000-mile route system and serve 23 states, primarily in the Northeast, Midwest and along the Pacific Coast. With the exception of some trains operating between Boston and Washington, which cover their direct operating costs but not the corridor's significant capital costs, none of Amtrak's corridor or state routes covers all of their expenses from fare box revenues.

Outside the Northeast Corridor, five other corridors carry over one half million people annually. These corridors are: San Diego-Los Angeles-San Luis Obispo; San Jose-Oakland-Sacramento-Auburn; New York-Albany-Buffalo; Oakland-Fresno-Bakersfield; and Vancouver-Seattle-Portland-Eugene.

Thirteen states provide operating support for 20 different routes, with payments totaling over $135 million in FY 2004. Many states, including California, Illinois, Oregon, New York, and Washington recognize the benefits of investing in corridor development, and have spent substantial state funds to improve services with positive ridership results.

Currently, Amtrak operates the high-speed Acela Express service, which travels in the Northeast Corridor between New York and Washington in approximately 2 hours 45 minutes, and Boston and New York in approximately 3 hours, 20 minutes. Amtrak now carries 50 percent of the air/rail market between New York and Washington, and 39 percent of the market share between Boston and New York. This is up from 36 percent between New York and Washington and 18 percent between Boston and New York before Acela Express was introduced. This demonstrates travelers will increasingly use a reliable, trip-time competitive alternative to the congestion that is otherwise choking our cities.

Corridors in which states have invested funds to improve trip times and frequencies include the Pacific Surfliners in California and the Cascades Service in the Pacific Northwest. These corridors have multiple frequencies and the potential to become higher-speed rail corridors once infrastructure improvements can be made.

The State of California has invested approximately $100 million per year in passenger rail over the past 10 years and its state-supported trains carried 4.25 million passengers in FY 2004, representing approximately 17 percent of Amtrak's national total. These trains are consistently achieving double-digit ridership growth, proving that investment in passenger rail will reap benefits.

The route through the Northern part of the country, the Empire Builder, which carried over 437,000 passengers last year, is the only public transportation service in many communities in North Dakota, Montana and Northeastern Washington. For most of the states along the Empire Builder, tourism serves as a major economic engine. A recent study identifying the economic contributions of the Empire Builder demonstrated nearly $14 million in annual economic benefits to the state of Montana alone.

Long-distance trains also provide transportation during periods of severe weather conditions or emergencies that stall other modes of transportation. This was demonstrated after the September 11 terrorist attacks that grounded air travel. Additionally, these trains provide a strong economic benefit for the states and communities that they serve.

The majority of passengers on the long-distance trains do not travel between the endpoints, but rather to any combination of city pairs. For example, the Southwest Chief, which travels from Chicago to Los Angeles via Kansas City, has 33 stops, creating 528 possible trip combinations.

Most of Amtrak's expenditures are due to the immense capital needs of its infrastructure, particularly the Northeast Corridor, not the operating costs of the long distance trains. These operating cost figures should be cited with caution.

Critics often refer to the "loss per passenger" of the tong distance trains. However, each long distance train passenger is the equivalent of five short distance train passengers because of the greater distances traveled. More importantly, these "loss per passenger" figures often include not only the "avoidable" costs of operating individual long distance trains (such as the cost of diesel fuel) but all of the shared costs that Amtrak incurs for the benefit of both long-distance and corridor trains (such as the cost of mechanical facilities, Amtrak's computer systems, and stations like Los Angeles Union Station). Including shared costs produces inflated and misleading "loss" figures, since these costs will not go away if long distance trains are eliminated.

Eliminating all long distance trains would produce negligible cost savings in the first few years because of the requirement that Amtrak pay labor protection to impacted employees. When these payments ended after five years, the savings would still be minimal: around $300 million annually.

Eliminating individual long distance trains produce even fewer savings: most of the shared costs of Amtrak's long distance network, such as the costs of maintenance facilities that serve multiple long distance trains, would remain. Additionally, Amtrak continues to make changes to its long-distance trains that will improve revenue and finances for the system.

Amtrak recently exited from the mail and express business, resulting in shorter and more convenient schedules, with reduced labor costs. The repair of wreck-damaged equipment continues and will allow Amtrak to increase capacity, and therefore revenues, on long distance trains, which often sell out. These changes should help further reduce the losses of long-distance trains.

Amtrak's right to operate passenger trains over freight railroads comes from the Rail Passenger Service Act. This act states that: Amtrak has the right to access all rail lines in the U.S. to operate intercity passenger trains and; Amtrak trains have dispatching preference over freight trains.

With the exception of trains over the Northeast Corridor between Washington, DC, and Boston, MA, Amtrak trains operate over tracks owned and managed by the nation's freight railroad companies.

In the past, congestion on these freight routes has caused delays for Amtrak trains, however, this past summer has seen significant delays and inconveniences to Amtrak's passengers across the country.

Amtrak's 5-year Strategic Plan, which was approved by its Board of Directors on June 10, 2004, specifies that approximately $1.8 billion will be required for fiscal year 2006.

According to a recent report by the Congressional Research Service, both the now defunct Amtrak Reform Council and the DOT–IG acknowledge the need for at least $1.5 billion in capital and operating support.

Seeking no funds for direct Amtrak expenses and ceding control of the railroad to a bankruptcy trustee, whose legal responsibility is to Amtrak's creditors, represents a drastic and unrealistic turnaround in the Administration's policy.

Since David Gunn's arrival, Amtrak Total Ridership has increased by 11.6 percent. The number of intercity trains operated have increased by 21.4 percent. The number of trains on the NEC has increased by 29.2 percent while others have increased by 17.3 percent.

Ridership on the NEC is 10 percent and other corridor trains, like the Pacific Surfliner, Capitals and San Juaquins in California and the Cascades in Oregon and Washington have increased by 27 percent driving a 12 percent increase in ticket revenue.

Americans have chosen it as their form of travel in record numbers. In the 3 years post September 11th, Amtrak has proven its value to the nation and has increased its ridership steadily.

Last year, Amtrak carried 25 million passengers, up from the previous year's record. When given the option, travelers choose Amtrak over other, less convenient forms of travel. In FY04 the air-rail market from DC to New York was split 50 percent to 50 percent, Los Angeles to San Diego was 30 percent to 70 percent and Portland to Seattle was 30 percent to 61 percent.

David Gunn has made real progress reforming the railroad since taking the helm in May of 2002. Over the last 30 months he has decreased the workforce by more than 22 percent, removing unnecessary layers on management, increased train service and operation, eliminated and realigned routes for greater efficiency and implemented more internal reforms than any of its previous CEOs.

In fact, Amtrak's core operating expenses are lower today than they were when he took over. David Gunn has made real reforms and has proven to be the right person to continue fixing the problems that have plagued Amtrak over the years.

## HEALTH CARE

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, tonight, as part of the Republican Health Care Public Affairs Team, my co-chair, the gentleman from Pennsylvania (Mr. MURPHY), and I are here with a couple of our colleagues to talk about, over the next hour, one of the most important things to the people of this great country, and that is health care and our health care system.

We have a great system, without question, probably the greatest health care system on Earth. But we are not going to just stand up here during this next hour or as we go forward with our Health Care Public Affairs Team and on a monthly basis, talk about different health care issues that are so important to this Nation and pat ourselves on the back. We are not going to do that. We are going to talk about some problems that exist.

Tonight, we are going to focus primarily on the civil justice system and trying to solve a problem in regard to medical liability insurance and the lack of access to care. But there are so many other issues that we will be talking about as we go forward in this series of 1–hour discussions with our colleagues, Mr. Speaker. Things like Medicaid. Obviously, we have got a serious problem with Medicaid. We need to reform that system, and the President talked about many of these things in his State of the Union address. We addressed, of course, Medicare modernization and the prescription drug act last year. In fact, December of 2003 is when that bill was signed by President Bush.

But we will continue to focus on Medicare in realizing that it is not a perfect system. It is a good system. It has served our people well, but it is not perfect.

Then, of course, the issue of the uninsured, some 43 million in this country. Many of them, Mr. Speaker, have jobs. They work. They are not unemployed, but they are underemployed and, in many cases, are not insured at all. They do not have the opportunity to purchase health insurance. Maybe it is not even offered by their employer, or if it is, they cannot afford to purchase that insurance. And my colleague, the co-chairman of this Republican Health Care Public Affairs Team who is with us tonight, will be speaking in just a few minutes. We will be talking about, also, just the issue of electronic medical record keeping and how important that is to reduce the number of errors, medical errors that we know cause far too many injuries and, yes, in some cases, loss of life in this country. The gentleman from Pennsylvania (Mr. MURPHY) will talk about that.

The main emphasis tonight, of course, as I stated, Mr. Speaker, will be to talk about this issue of medical liability and why it is causing such anguish in our country and resulting in the lack of timely and necessary access to health care.

I am often asked, I am a physician Member, I think, Mr. Speaker, you know that, and my colleagues are aware of that. I came to this body after practicing OB-GYN medicine in my district, the 11th district of Georgia, the City of Marietta, Cobb County of Georgia, where I delivered over 5,200 babies. And it was tough to give up that practice. But without question, I was beginning to feel a lot of stress, a lot of anxiety, frustration in my medical practice as I watched those medical liability insurance premiums just continue to skyrocket and get up to the point where it was awfully difficult to be able to afford that.

So this is really what a lot of my colleagues are going through. I have also had people back in the district say, now, I think you have a lot of doctors and a lot of health care providers in the Congress now. Did we not elect a few more? In fact, we did in this 109th Congress. We grew our numbers a little bit, Mr. Speaker. We went from a grand total of seven M.D.'s to ten in the House, and of course, we have a number of other health care providers, be they nurses or dentists or pharmacists or psychologists, but it is still a small number.

When we look at 435 Members, and maybe we have something less than 20 who have a background in health care, in the health care professions, and on the Senate side, we increased our number over there by 100 percent this time. We went from one to two. And, of course, I am speaking of the majority leader of the Senate, Dr. FRIST, and also, now, Senator COBURN from the great State of Oklahoma.

But we are determined to talk about this health care issue and make sure the American people know that, while we might not be large in numbers, we are going to discuss these issues. We are going to do it on a regular basis.

The Republican hour tonight, of which we are managing, we are going to get this issue in front of our colleagues, in front of the public and let them know that we care about this. It is a tremendously important issue, and it should not be partisan.

When you think about it, health care, when you have a patient, you never ask them if they are a Republican or a Democrat. And believe you me, they do not ask their doctor either. President Reagan joked about that when he was shot and went to the hospital and looked up just before they put him to sleep, looked up at the anesthesiologist and said, I sure hope we got some good Republicans in here. But truly, we have, as I say, there are ten M.D.'s in the House, three on the Democratic side, seven on the Republican side. But we are not going to let this be a partisan issue.

We are going to just talk to our colleagues and make sure that everybody understands that we need to do this for the good of the country and not for the good of a party or, in particular, not with our vision, our focus on the next election.

The issue of medical liability and the crisis that we are in, Mr. Speaker, I would like to call attention to this first slide that we have that shows the United States of America and the number of States that are either in crisis in regard to this issue or they are getting darn close.

I know that my colleagues on the other side of the aisle do not like the word crisis. And we are talking about another issue, of course, in regard to that, but let us say a serious, a very serious problem. But I think indeed a crisis.

In my State of Georgia, along with about 13 others depicted here in red, indeed a State in crisis, and something like 25 other States depicted in yellow, showing serious problems in regard to this issue. In fact, there is just only a handful of States, maybe less than six or eight, that are not either in crisis or near crisis. And what do I mean by that?

If you think about the fact that, when people go to the emergency room with an injured child, and maybe it is a head injury, maybe that child is unconscious, they at that point do not need a family practitioner. They do not need an OB-GYN. They do not need an oral surgeon. They need a neurosurgeon. They need someone who can immediately assess the condition of that child and if there is a serious head injury. And certainly, if the child is unconscious, that is very likely.

If there is no neurosurgeon there that can act in a very timely manner and in some instances get that child to surgery, the damage that can be done is irreparable damage and it cannot be undone.

□ 1845

So we know that we have physicians like neurosurgeons, and I mentioned my specialty, OB-GYN. Doctors who are involved in high-risk specialties are the ones that are getting absolutely killed by runaway medical liability premiums and that constant threat. They are willing, through compassion and love of their profession and their patients, to take on those tough cases, those high-risk obstetrical cases.

I will use the word "toxemia." I am sure most of my colleagues, Mr. Speaker, do not know what that is, but all of the OB-GYNs certainly know what I am talking about, a life-threatening complication of pregnancy. If a doctor is not available to treat that condition, these people could not only lose their child but they could lose their lives. So we have some real serious problems, and I think it is just time to talk about it.

I am very thankful that my State, as I showed my colleagues on the first slide, is one of the 13 or so that is in crisis, did during this session of their General Assembly just pass a really good, a significant piece of tort reform legislation that I think is going to bring some relief. When I say bring some relief, I am not hardly even talking about the doctor's income. I am talking about keeping them in practice, keeping them performing those cases, seeing those patients that are high risk, rather than hanging up that stethoscope and trading it in for a fishing rod or whatever, because they just no longer can stay in practice under that environment. So it is a huge, huge problem.

Let me just talk about why we at the Federal level. I said Georgia passed tort reform. Florida did, Texas did, California of course gave us the model of tort reform back in 1978, the bill called MICRA, which stabilized malpractice insurance premiums so that doctors did not leave California, did not stop their practices, continued to see those high-risk patients, without these premiums going just totally through the roof, and it worked and it worked because of one thing primarily and that is a cap, a cap of $250,000 on noneconomic damages, so-called pain and suffering.

It has nothing to do whatsoever with economic damages. It is just to say that without a cap that number could be infinity. It could be tens of millions of dollars, and that is wrong and that is what is driving those rates up so high. That is the model that was passed in Georgia, and that is basically what we are trying to do here in the Congress.

My colleagues might say, well, just let the States take care of it; why worry about it at the Federal level. Well, many of the States, in fact most of the States, have not taken care of this.

There are a lot of reasons why you may think that we cannot get tort reform. The trial lawyer lobby is a very strong lobby. There is no question about it. We have passed tort reform legislation, the Health Act of 2003. We passed it again here in this body, Mr. Speaker, last year in 2004; and now we have reintroduced it in the 109th in 2005, and we will pass it again. We will pass it again in this body with bipartisan support; but when it gets to the other Chamber, it has been just almost impossible.

Again, I mean, it should not be a partisan issue, but for some reason it always seems to be, and I continue to have hopes. I am not going to give up on the other body. I think that, Mr. Speaker, we have got some different faces over there this year, and I have always said to my doctor friends that say, well, what can we do, and I say to them, if you cannot change their minds, you need to change their faces. Fortunately, Mr. Speaker, in this last election cycle we changed a few faces, and indeed, we elected another doctor to the United States Senate and I mentioned Dr. COBURN earlier.

So I continue, hope springs eternal, but we want to continue to make sure that we tell our colleagues about this and make sure the American people understand how serious a problem this is.

At the Federal level, and let me just frame it just for a minute, the amount of money that is spent on health care, I just want to focus my colleagues on this particular chart.

Nearly 45 percent of all mandatory spending is on health care. Let me say that again: nearly 45 percent of all mandatory spending is spent on health care. This pie chart, this part over here, 55 percent is nonhealth care mandatory spending; but when you talk about those numbers and I can just throw out a few, $176 billion, this is fiscal year 2004, and these numbers continue to grow. Medicaid spending, $176 billion; State children's health insurance program, the CHIP program, $5 billion; Social Security disability, $73 billion, that is 6 percent; Medicare, $297 billion, 24 percent of mandatory Federal health care spending. No small numbers.

The Federal outlay for health care continues to rise. Nearly one-third of all Federal spending goes toward health care, nearly one-third, and just look at this slide. I would like my colleagues to pay close attention to this.

Starting in 1965 going forward to 2004, the percent of total Federal outlays, this is total Federal outlays, not just mandatory but also discretionary, 1965, Federal health care spending as a percent of our budget, 2.6 percent; 2004, all the way to the right, 29 percent.

We have a problem, and we have to solve it at the Federal level.

I hope that my colleagues can appreciate the magnitude of this, and I am very, very pleased to be, as I said at the outset, co-chairing the Republican Health Care Public Affairs Committee as we bring these issues, like the need for medical liability reform, before my colleagues. My co-chairman on this committee is the gentleman from Pennsylvania (Mr. MURPHY).

We appreciate him being with us tonight, and at this time I would like to turn it over to him and let us hear about some of those issues of concern in regard to medical errors and what we can do about that.

Mr. MURPHY. Mr. Speaker, I thank the good doctor from Georgia for yielding.

What I would like to do is lay out a couple of issues here and also turn it over to a couple of other colleagues who are here tonight and review some of these issues of why it is so important, and I thank the gentleman for pointing out some of the issues of the Federal outlay of health care.

The Federal spending for health care, it is so important to note that it is growing immensely, that it has grown and continues to grow, that the numbers out there, about 45 percent of mandatory spending, is in the area of health care, and it is probably going to climb to 49. By "mandatory" we mean spending and these are not necessarily the things we vote on and change every year but other outlays that take place.

I want to point out as we are going towards this that as we are talking about such things that are brought up about liability, and tort reform issues are so important, that part of what we also have to pay attention to is patient safety.

I would like to bring up a couple of points, and one of these is the issue, the Institute of Medicine in a landmark study in 1999 pointed out, this study was called "To Err is Human," stated that over 7,000 people die every year from medication errors alone with 44,000 to 98,000 deaths every year from medical errors in hospital practices. Now, this touched off a great concern across the Nation. The government and many efforts, President Bush and then-Secretary Tommy Thompson started investigations to see what happened, why this was so. A great deal of research and other efforts took place in hospitals and physician offices and medical schools across the country to find out what this is about.

What stood out, however, is even more alarming: that we really do not know how many of these deaths occur every year because they typically may not get reported. This has led to a situation where many health care providers simply do not talk about the problem because they fear legal retribution. In other words, hospitals, we should have them tracking all errors, all suspected errors, and in every case, lead to a program within that hospital and with health care practice in every level of that hospital to review what that was for. Many times the concerns could be if those records were kept there or if they were reviewed this will simply be another source of suits.

What we have to be moving for in this Nation is a goal of zero medical errors, zero patient errors. Anything beyond that I believe is too high. It is too high of a cost for our Nation's health care facilities, and we should not embrace a goal of 1 percent or 2 percent or 3 percent.

Imagine a situation here if a factory had a goal of perhaps reducing their safety errors and injuries to their workers down to this 3 percent or 1 percent of the workers, how many injuries that would be, how many lost work days, how many deaths that would be. Would you want to go to a hospital that had a goal of perhaps only 98 percent or 99 percent success? Certainly, every one of us in the health care field wants to aim towards 100 percent success, and given the chart that we saw before about the great increases in health care spending in the Federal Government, it is very important that we look at controlling health care spending, Mr. Speaker, not just from the idea of accounting moves to cut down on some of those rates but also making some major changes in what we are paying for, not just who is paying.

Let me touch off on a couple of areas here before I turn it back over. One is the Pittsburgh Regional Health Care Initiative reported that the United States has the world's second highest methasone-resistant staphylococcus rates with more than 50 percent of these infections resistant to antibiotics. They also went on to say that the Pittsburgh Regional Health Care Initiative reported that these hospital-acquired infections affect 5 to 10 percent of all patients, or about 2 million, per year who are admitted to acute care facilities at a cost overall in this Nation of $4.5 billion. Many of these infections could have been prevented by simply having physicians wash their hands, using anti-bacterial scrubs; and I will use other techniques here to make sure we had a system that was working better.

Now, the reason I bring these up, they seem almost too simple, but there are a couple of areas we recognize as we are moving towards the issue of medical liability reform. I want to make it clear here to our colleagues, we are not just excluding that, not just saying this is not just an issue of caps on punitive damages. This is not just a legal issue. This is one that we need to recognize as a Congress and as a Federal Government embracing truly changes in how we handle errors.

Many hospitals and doctors are concerned about this, but we also see that there are recommendations for open and meaningful communication with health professionals about medical errors. It should be open to discussions of what takes place. I believe the Federal Government can be a major factor in moving these forward; and as we continue on this evening, I will be coming up with more examples.

At this point, I would like to turn it back to my colleague, the gentleman from Georgia (Mr. GINGREY), to proceed as we go through this evening and look at other ways that this liability crisis is affecting our Nation and how patient safety needs to work hand in hand with working to reduce some of these liability issues, and that will be something that not only keeps more doctors practicing but quite frankly will save a lot of money and save a lot of lives.

Mr. GINGREY. Mr. Speaker, I thank my colleague from Pennsylvania for bringing those points to us, because what is important for our colleagues to know is that while physicians in this country, health care providers are in a crisis situation, as we said at the outset, because of the need to practice defensive medicine, inability to pay for liability premiums that have gone through the roof, what Dr. MURPHY, my co-chair, has brought to us is to say physician, health care provider, heal thyself, heal thyself.

□ 1900

And that is important. We cannot say that we are not going to do things to try to make sure that there are less errors and less accidents. People must know that we are determined to reduce those medical errors that the gentleman from Pennsylvania was talking about.

I am very pleased to introduce the next Member, my colleague from Georgia. We talked at the outset about the number of physicians in the House and the fact that we picked up a few. While it was indeed, Mr. Speaker, a great pleasure to me that one of those three new Members in this body is not only a colleague from Georgia but also a colleague from my own County of Cobb and represents the district that adjoins mine. We both have a part, a significant part of Cobb County.

The gentleman from Georgia (Mr. PRICE), Representative PRICE, Congressman PRICE is an orthopedic surgeon, one of my great mentors when I was a member of the Georgia Assembly, so I am very proud to introduce him tonight. He is going to talk about some of the unique problems in regard to physician workforce in our great State of Georgia.

Mr. PRICE of Georgia. Mr. Speaker, I thank my colleague, and it really is a pleasure to join him and the gentleman from Pennsylvania and others who are talking about something that is so incredibly important to every single American, and that is their health.

I know we are talking about patient safety, but I want to put a little different spin on patient safety. I want to put it in a little different light. Because I know, as my colleagues do, that if you cannot find a hospital that is open or if you cannot find a doctor's office, then you cannot be safe in your health care. So I want to talk a little bit about the access to health care and what is the dynamic going on that is limiting drastically, drastically, the access that so many individuals in our great State, but also our Nation as well, have to health care.

I want to point out some of this information just to start: Georgia is no different than the vast majority of States in this Nation, and this report came recently from the Georgia Board of Physician Workforce. What that workforce does is it reviews the entire State and looks at where doctors are practicing, where hospitals are open, how many beds they have and the like, and how capable they are of delivering the care that is needed by our citizens.

What they found recently is that 11 Georgia hospitals have closed since 1999. Eleven hospitals have closed. Ones does not think about that happening. If it is in your community, though, it is an incredibly important thing for not just the economic vitality of your community but for the health and well-being of your citizens.

Four percent of Georgia physicians will leave the State or quit medical practice in the coming year. This was asking, what is going to happen to your practice over this next year? Four percent. A remarkable number. And 11 percent of Georgia physicians will stop taking emergency room coverage.

Now, I believe that the crux of the liability crisis that has been talked about tonight and that, I think, is very real and incredibly important, but it is not important because of the amount of money that physicians have to pay for their malpractice insurance. It is important because, when that cost goes up, this is the consequence: Hospitals close; doctors quit doing certain procedures because they cannot afford the insurance to cover that, or they simply close their office. And when that happens, what is the real result? The real result is that patients cannot have access to the kind of quality care that they need and that they deserve.

So I want to touch on a few very specific issues that are certainly true in our State, and I know them to be true around the Nation because, as I mentioned, Georgia is not any different than any other State.

We have a number of different specialties that are more at risk than others, but any time you upset or kind of break that chain of quality care that is being delivered to a patient, any time a patient cannot get the specialists they need or the kind of doctor they need, then that individual, that patient's health care is compromised. They are not as safe in their health care. So I want to talk about a few specialists that I know who are having significant problems, and I will point out what they are no longer doing or are not able to do because of the liability crisis.

For example, in our State, nearly 40 percent, nearly 40 percent of the radiologists in our State are no longer performing high-risk procedures. So you say, well, what is a high-risk procedure? Must be something that endangers the patient's life; right, immediately? Well, in fact, that is not the case. For radiologists, mammograms are high-risk procedures. Mammograms are high-risk procedures. Something that is a preventive health care measure is a high-risk procedure.

Now, why is that? The reason is that the technology that goes into performing a mammogram and reading a mammogram is not perfect. There is about a 10 percent error rate. If you get the best radiologist in the world reading mammograms, that individual will only be correct in his or her interpretation about 90 percent of the time, which means there is about a 10 percent error rate because of the limitation of the test itself.

Now, that means if a radiologist is performing 25 or 30 mammograms in a given day, two or three of those interpretations is not going to be correct. And so the radiologist, 40 percent of the radiologists nearly in our State, and I know it is true around the Nation as well, have said, look, I cannot expose my family to that liability, and the only thing I can do from a personal standpoint is say, I am sorry, I cannot do mammograms any longer.

Now, what does that mean? It does not necessarily limit that individual's livelihood significantly, but what it does mean for that community is that the women of that community no longer have access to appropriate preventive health care in the form of a mammogram. And it is not just true of radiologists, though I think you get the connection between when the cost of insurance goes up, that the important thing is not the cost of the insurance to the physician; the important thing is that we are limiting access to quality care for patients.

A pathologist is another classic example. Pap smears that pathologists interpret, many of them, it is approaching again that same number, 30 to 40 percent of pathologists will no longer interpret Pap smears. Because, again, that error rate, that inherent error rate because of the limitation of the technology itself, does not allow them to interpret that with the reliability that is appropriate or that does not expose them to significant problems or significant liability.

So they say, well, the only option that I have is to no longer read Pap smears. Again, what is the consequence of that? It is that women no longer have somebody who is able to perform that preventive test for them.

I know that neurosurgeons were mentioned earlier, and I want to talk a bit about that because it is an extremely important issue. My district is all northern suburban Atlanta. I have a number of hospitals in my district. It is a grand place to live. It is a great place to work and play, and it has wonderful health care provided to it, except that there are hospitals within my district and very, very close to me in the center of Atlanta or around the environs of Atlanta, who no longer have the emergency room coverage 24 hours a day, 7 days a week of a neurosurgeon. Now, the consequences of that is not that it hurts the hospital; the consequence is that it harms patients.

I believe that the amount of safety for patients that is being compromised because of the liability crisis that we have is not even being measured because it is not recordable. I will use an example that I know to be true.

There was a gentleman in his mid–40s who fell and hit his head. So he went to the hospital. He drove himself to the emergency room. And when he was in the emergency room, his clinical course or his health status deteriorated, and he became unconscious. The hospital did not have a neurosurgeon on call that night because of the liability crisis. So what is the hospital to do? They have to put him in an ambulance and move him to a hospital that has a neurosurgeon available.

The problem in this case is that that individual died on the way to the hospital. On the way to that second hospital. Now, this is a healthy gentleman who just had a fall. He had a significant injury, obviously, but the treatment for that injury is what is called a burr hole, which means you relieve the pressure on the brain where the bleeding is. And the vast majority of individuals not only survive; they recover 100 percent.

That individual's safety, health and life were compromised because of the liability crisis that we have in this Nation. That death will never be recorded as one that fits any of the statistics that people are talking about because it will be attributed to a traumatic fall. It will not be attributed to a liability crisis. Nowhere on that record will you find that the original hospital did not have a neurosurgeon available.

So these are the consequences of the incredible liability crisis that we have right now. Again, the problem is not that doctors are having to pay too much; the problem is that patients are losing their access to quality care.

Let me just review a couple of these slides, and then I would look forward to hearing some of the comments again from my colleagues. I mentioned this Georgia Board of Physician Workforce study that they did. This shows that 17.8 percent of Georgia physicians will stop providing high-risk procedures. You know what a high-risk procedure is for an OB doctor? Delivering a baby. Delivering a baby is a high-risk procedure. And so 17.8 percent of Georgia physicians will stop that, again, not because they forgot how to deliver a baby; not because they forgot how to perform the procedure or to read the tests, but because they cannot do it with the current liability crisis. We talked about the issue of radiologists as well.

The consequence of that is that more than 10 percent of the obstetricians in the State of Georgia, more than 10 percent, quit delivering babies over the last 18 months. That is a huge, huge consequence, which, again, is a decrease in the quality of care that is available to patients all across our State and, frankly, all across our Nation.

Let me close with just three very specific examples. A good friend of mine, and my colleague from Georgia knows him as well, Frank Kelly, an orthopedic surgeon who practiced for 25 years. He is in the prime of his career. He ought to be able to practice for another 10 or 15 year. A very, very highly-qualified orthopedic surgeon in the middle of our State who quit practice. Quit practice.

The reason was not that he did not have a passion for it any more. The reason was not that he had forgotten what he was supposed to do when he came to office. The reason was the liability crisis in our Nation.

Another example. Atlanta pediatric neurosurgeon, and we only have eight in the State, left the State last March, left the State because of the liability crisis.

Again, in Marietta, where my colleague and I, where we both share adjacent districts, a 52-year-old general surgeon we both know well, performed 80 surgeries a month. That is the level of his practice. That is how qualified he was and how much the patients and citizens of our districts love him. He, at 52 years old, again, this is somebody who ought to be in the prime of his career and providing excellent high-quality care to citizens in our districts, had to quit the practice of medicine because of the incredible liability crisis. And that is an individual who had no claims; had never been sued. But because of the increasing liability crisis and the increase in cost, he was no longer able to do that.

I simply want to close by just thanking the gentleman from Pennsylvania (Mr. MURPHY) and my colleague, the gentleman from Georgia (Mr. GINGREY), for their wonderful leadership on this issue, the patient safety issue, which encompasses so many things. I hope we continue to talk about it and make certain that we work with our colleagues and push them just as hard as we can on both sides of the aisle and on both sides of the Capitol to solve this problem.

Mr. MURPHY. Mr. Speaker, I thank the doctor from Georgia for his comments. It is very important, the point that he made, which is that the issue of health care, when you do not have health care providers practicing, is really something that leads to many problems and, quite sadly, deaths.

One of the statistics that I quoted before from the Institute of Medicine is a study done a few years ago that threw out some broadbased numbers; somewhere between 44,000 and 100,000 people die a year from medical errors. This study has come under some question, but it is one that is often quoted by attorneys when they bring up the concern for why one needs to focus on lawsuits in order to try and change these.

Some have said that no patient has ever been cured by a lawsuit. And certainly, even if it is just one, that is too many, but I would like to call upon our colleague now, the gentleman from Texas (Mr. BURGESS), who oftentimes refers to himself as a country doctor from Texas. He has delivered many babies in his OB-GYN practice, and so I wonder if he, as he begins to talk, whether he can talk about making sure we have more accurate approaches to tracking and understanding errors as a means of improving on patient safety.

□ 1915

Mr. BURGESS. Mr. Speaker, I am pleased to comment on that. For a number of years, ever since the Institute of Medicine study came out, and I bought the book and read through it, I felt that their study methods were significantly flawed.

While I agree with their premise that if there is one death from medical errors, that is too many, the book is worth reading if only to look through the very tortured methods that they went through to come up with the number at the end of 98,000 deaths a year. They look at two hospital wards, one back in 1984, one in 1992; and from these two wards extrapolated the data that they have.

In fact, there was a significant reduction in medical errors between 1984 and 1992, and that never got really much in the way of any headlines, but they go through this very tortured analysis; and at the end they say since we are not sure that we are underestimating the figure, they doubled it. That gives Members some idea of the scientific rigor with which they approached the task.

Again I agree one death is too many, and we need to be moving toward a system that is a no-fault system. We strive for error-free medicine in a world that is sometimes all too human.

But I also feel compelled to talk about the good news. We have heard a lot of information and how serious the situation is across the country, and it is serious. I do not mean to diminish that, but there are some good news items out, and I would like to share them with this House. I am especially thankful to the Georgia medical delegation that has allowed me to appear on stage with them.

The State of Texas, which is so often a leader in so many areas across the country, 18 months ago dealt with the crisis in medical liability insurance by passing a State law that allowed for caps on noneconomic damages in medical liability suits. It was patterned after the Medical Injury Compensation Reform Act of 1975 done in California that we have all talked about here as a standard that we should aspire to. Our Texas law updated that for the 21st century.

There is a cap of $250,000 on the doctor for noneconomic damages, not for real damages, but for noneconomic damages capped at $250,000. The hospital is capped at $250,000, and a third health care entity, a nursing home or hospital, is capped at $250,000. That is a significant change from the California cap of only $250,000 that was passed back in 1975.

What have the results been in the State of Texas since this constitutional amendment passed? The results are worthy of our study here. The first thing is when I was running for Congress in 2002, we had medical insurers fleeing the State. We went from 17 to two in a very short period of time.

Just like the stories we heard earlier, as I was campaigning for this office, a young woman who is about 40 came up to me and said, I have lost my insurance coverage because my insurer left the State, and now I cannot practice my specialty of radiology. I cannot get insurance anywhere, so I am now a stay-at-home mom. What a travesty. She had gone to a State school, so the citizens of Texas essentially paid for her education. She came to her peak earning years, her peak power, and her profession is taken away from her, and not because as the gentleman from Georgia (Mr. PRICE) pointed out, not because she forgot how to read a chest X-ray, but because she could not get insurance coverage.

This system has changed with the passage of the Texas liability reform law. What the Texas Department of Insurance has seen since the law was passed in September 2003 is that we have now reacquired I believe it is up to 14 liability insurers. We have gone from 17 down to two, we are back up to 14, but the most important thing is those insurers have come back into the State without the type of rate increases that have occurred in neighboring States. Insurers have come back into the State of Texas, but they did not up their premiums like they did in Oklahoma, and that is a terribly significant event.

The other thing that we have seen is Texas Medical Liability Trust, my old insurer of record, immediately cut its rates by 12 percent after the constitutional amendment passed. There was some discussion as to whether or not this rate reduction would hold, but in fact this year they have put on top of that an additional 5 percent rate reduction for a total of 17 percent in rate reductions. Again, remember what we are talking about here is not cheaper insurance for doctors; what we are talking about is permitting doctors to stay in the practice of medicine because, after all, patients cannot have access to a health care system if they do not have access to a physician somewhere along the line.

The other unintended benefit from passing caps in the State of Texas has been what hospitals who self-insure, the benefits they have seen. The Christus health care system down in South Texas reported in the Dallas Morning News almost a year ago, so very shortly after these caps went into effect, that they had achieved savings of $22 million in the 6 months after this law, this constitutional amendment was first passed. That means $22 million going into nurses' salaries, capital expansion. The types of things you want your community hospital to be doing, they were allowed to participate in, again, because of the savings brought about by simply instituting a series of caps on noneconomic damages, those awards that are for pain and suffering in medical liability suits.

The other thing that has happened which is pretty good news for Texas doctors is the number of suits have plummeted. That has been truly a significant breathing spell for the past 18 months for physicians of a State who were significantly beleaguered.

I am frequently asked, if Texas has done such a good job of solving the problem, why do you care about doing something on a national scale. I do care because it is important. As a Member of Congress, I have been privileged to travel around the country. Two years ago with the Committee on Transportation and the Infrastructure, I visited the Alaskan National Wildlife Refuge. On the way home, we stopped in Nome, Alaska. We had a chamber of commerce lunch there. When they found out there was a doctor who was a Congressman, all of the medical staff at their local hospital came out to talk with me.

What they wanted to talk about is are you going to be able to do anything about medical liability rates, because we cannot afford the insurance rates for an anesthesiologist at our hospital. I said, My gosh, how do you practice without an anesthesiologist?

And they said, We do the best we can.

I asked what kind of doctor he is, and the doctor said, I am an OB/GYN just like you.

I said, Wait a minute, how do you practice obstetrics without an anesthesiologist? What do you do for a C-section?

He said, We arrange for an airplane and get the mother transferred to Anchorage.

Mr. Speaker, that is an hour and a half by air, assuming the weather is okay; and they sometimes have bad weather in Nome, Alaska. I fail to see how we are advancing the cause of patient safety by allowing this situation to continue.

The gentleman from Georgia (Mr. GINGREY) eloquently pointed out how much of our Federal budget goes for health care, and this is a key point on why we need to involve ourselves with a national solution to this problem.

A 1996 study done out in Stanford, California, estimated that the cost of defensive medicine within the Medicare system is in excess of $30 billion a year. That is in 1996, almost 10 years ago. I bet those numbers are higher today if someone were to rerun those numbers. That is the crux of the problem. We are talking about an amount of money that would almost pay for our prescription drug benefit that we are squandering on the practice of defensive medicine because our doctors are afraid that they are going to be pulled into court and they want to be sure their cases look good when presented on the stand. That is why this is so critical for us on a national level.

Mr. Speaker, I thank the doctors for putting this together. I certainly want to thank Georgia for their indulgence in allowing a non-Georgia physician to appear out here tonight. It has been a pleasure to be here. I thank you for doing this.

Mr. GINGREY. Mr. Speaker, we thank the gentleman from Texas (Mr. BURGESS) for the doctor's timely remarks, and appreciate the gentleman being here with us.

Again, I point out the fact that even though they have some relief in Texas and now we have a little relief, good legislation in Georgia, why are we so concerned. He said it so well, and that is as I had pointed out earlier in the hour that the total percentage of nonmandatory spending in this country that goes to health care, Federal dollars is like 45 percent.

I remember during the most recent Presidential campaign, I do not know which one of the three debates, I think maybe the last one, the President talked about this, talked about the issue of needing to do something about medical liability insurance rates and his opponent, Senator KERRY, said the insurance premiums for physicians so they can continue to practice is a minuscule amount. President Bush was so correct when he said, yes, that is a big cost per individual physician; but in the overall picture it is not a big cost, but the cost, of course, as the gentleman from Texas pointed out, is all of the tests and procedures, the defensive medicine that is being practiced. That is why we cannot sustain that and we need to do something about it. It is not just the cost, as my co-chair talked about during his time, and I want to have further discussion about that. It is a safety issue. It is very definitely a safety issue.

Mr. Speaker, I would like to ask the gentleman from Pennsylvania (Mr. MURPHY) if he would continue to discuss that with us a little bit.

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for continuing to bring up these points. I want to talk about a couple of things and have you comment as a member of the medical profession.

First, I want to point out that this is an issue that the Federal Government should be driving. The Federal Government is the largest purchaser of health care in our Nation, even among very large companies that may have hundreds of thousands of employees and retirees spending billions of dollars on health care. Looking at our chart again, 45 percent of mandatory spending that the Federal Government spent on health care, it is expected to climb to 49 percent, and this chart here shows the Federal outlays are climbing over time.

That being the case, if we are dealing with liability issues, it is inseparable from patient safety. There are a couple of issues that President Bush has offered to be moving forward, and they are ones which I am hoping all of us can embrace. The President has included $125 million in this year's budget to help meet the goal of ensuring that most Americans have electronic medical records within the next 10 years.

Patient records are usually kept on record on paper. I know when I worked in hospitals, if we needed to call upon a patient's file, sometimes that would take a good deal of time. Whether it was half an hour or hours, that could have an effect on some of the decisions. I ask the gentleman to describe the cumbersome system in terms of what we are trying to move away from.

Mr. GINGREY. Mr. Speaker, the gentleman is so correct. I would hope, and I think that some of my colleagues probably did a little bit better job in keeping accurate records and neat charts, even though I learned to write and my penmanship was developed by the Catholic nuns at a very strict parochial school, but what the gentleman from Pennsylvania (Mr. MURPHY) is talking about is you have a chart, it is in the office. The doctor sees a patient maybe a couple of times a year over a long period of time. The chart gets thicker and thicker. Sheets are put in, not tabbed, they are out of order. The doctor may not know even when the patient was last seen if they are not a good historian.

□ 1930

The gentleman from Pennsylvania talked about this earlier, about medical errors. The gentleman from Texas mentioned it, and I think the gentleman from Georgia, too; that the Institute of Medicine statistics, hopefully they are not accurate, because that is an astronomical number of deaths and injuries that they say occur each year because of medical errors. But as the gentleman pointed out, even one is too many. A lot of it is because of this sloppy medical recordkeeping. So, yes, it is definitely a problem and needs some immediate attention.

Mr. MURPHY. What the President has proposed here is to make some changes to entice hospitals throughout the Nation and from medical practice to go towards electronic medical records. Let me try and describe that for our colleagues. This is a system which could be kept in place within the hospital itself, so that, any time a physician needed to access, or any medical provider within that hospital network, needed to access the patient's file, they could call upon this. Think about all the times you have been to see the doctor and you have to fill in the history sheet all over again and your address. You hope you remember all the places you have gone and all of the medication you have been on and all the illnesses you have had, but chances are, for the most part, a person cannot. In fact, some studies have looked at that, just looking at some of the paper charts that occur, that there are omissions and doctors acknowledge that because there are omissions in there, if they had further information, they would have made some different recommendations for tests, for diagnoses and that, in turns, saves money. Electronic medical records are a way of keeping this. Some have even proposed having either on a card or a patient may have some other device which could be plugged into a computer when they go to visit the doctor or the hospital, they can update those records. But the whole thing is really keeping these secure and confidential.

I know the University of Pittsburgh Medical Center, for example, is investing literally hundreds of millions of dollars in this. Information Weekly magazine rated them as the top medical center in the Nation in terms of making this move into electronic medical records. I am not sure if the gentleman from Georgia has seen one of these at work, but I am wondering perhaps if he could describe what happens and changing from that paper-dependent system which is very time consuming, requires a great deal of time for the doctor to keep track of what is in there as well as research those, what happens when you move towards an electronic medical records system and what that does for patient safety.

Mr. GINGREY. The point of all of that is that you know with that electronic medical recordkeeping, you can be anywhere in the world literally, a patient, if we have a way with a swipe card or maybe a radio frequency identification card which would look very much like a typical credit card, about the same size and thickness, but an individual would have a particular code that was unique to him or her and would have access through a very secure fire wall system to their medical records anywhere in the world, so that if you were in another country, on vacation, and this happens a lot, far too often, when a person gets sick, has a heart attack, in an automobile accident, in a remote place, the language is not the same, the communication is poor and the treatment is just not adequate. So when we get to that point, and we are there, I know the gentleman has talked about some systems. I have talked to a lot of people who are developing these cards. The President has talked about the need to go to a system like that. We have talked tonight about medical liability reform and needing to give our healthcare providers some relief so they can continue to practice medicine and our patients have access to that great health care system, but we have also spent a good bit of time tonight saying that we understand that, as I pointed out earlier in my statement, physician, heal thyself. We know there are some problems. I think one of the biggest problems in regard to the error rate is this issue, as the gentleman from Pennsylvania points out, of poor medical recordkeeping, the traditional system, the 20th century recordkeeping, if you will. It is time to make these changes. The technology is there. We need to incentivize. My colleague from Pennsylvania asked the question, what can we do in our individual office, how can we get doctors, either individuals or groups, to go to that kind of a system? It is going to be costly. That is going to be a disincentive, I think, for a lot of them to do that. But we need to move toward a system of reimbursement, maybe under the Medicare or Medicaid program, Federal match and 100 percent pay on Medicare. We need to be able to incentivize individual doctors and groups to go to this system.

Mr. MURPHY. The gentleman also well knows that doing these kinds of things saves money. The Center For Information Technology leadership estimated that, if we move towards electronic health records, it could save about $78 billion a year, or 5 percent of the Nation's total annual healthcare cost. And in a time when so many businesses have seen their health care costs climbing, sometimes up into the double-digit amounts per year, it can do a great deal.

I know we only have a few minutes left, but one other thing just to whet the appetite with which we will need to come back to at another time is electronic prescribing. No offense to the good doctor, but very often, it is tough for someone to read a physician's handwriting. This can also lead to errors. Pharmacists estimate about 140 million times a year they will have to call back the physician because they may not understand the medication; they may question the dose. The pharmacist may be aware of other medication that patient is on, but the physician may not be aware. They may be aware of other allergies or reactions. Electronic prescribing, however, is another tool where doctors, at the moment they write the prescription, they can access that prescribing information. I wonder if the gentleman could comment on the importance of that.

Mr. GINGREY. There is no question about how important that is, because, as the gentleman from Pennsylvania pointed out, when you cannot even read the prescription, it is bad enough, but in many instances, a doctor is not going to know. Maybe the particular patient is sick in the emergency room, high fever, not at their best mentally, they are not going to be able to relate that information. That is why these cards are going to be so important so that, when you write that prescription, even if your penmanship is absolutely perfect, you need to make sure that you are not giving them a medication that would react with maybe two or three other things that they are on and could cause a serious problem.

Tonight, as we wrap up, and I am so thankful to be doing this with my cochair, the gentleman from Pennsylvania, and we will continue to bring subjects, healthcare issues, probably do an hour like this on a monthly basis, this team of Members, Republican Members, who are either healthcare providers or extremely interested in this issue for the good of the Nation.

In closing, I want to make sure that my colleagues understand that most healthcare providers, if a patient is injured because of someone practicing below the standard of care, then we want them to recover. It is not about taking away anybody's right to a redress of grievances. I look forward to the discussion with my colleagues next month.

## THE NATIONAL ECONOMY

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I want to begin by congratulating the gentleman from Georgia (Mr. GINGREY) and the gentleman from Pennsylvania (Mr. MURPHY) for their fine work focusing on the very important health care needs that exist and the challenges that the American people have in obtaining quality health care.

I want to take just a few minutes to talk about an issue which was very critical and important in last fall's campaign, and I want to talk about some of the wild inaccuracies that came to the forefront during that campaign. That is, the claims that were made about the U.S. economy. Our supposedly Depression-like economy that was not producing any new jobs was the most prevalent issue that came to the fore during last fall's campaign. We all heard it over and over and over again, the charge that President Bush was the first President since Herbert Hoover to preside over a net job loss. It became something of a mantra for our friends on the other side of the aisle throughout the campaign, the first President since Herbert Hoover to preside over a net job loss.

Now that the frenzy of the campaign season is behind us, I hope that we can take a calm and very rational look at the actual facts. The basis for the Herbert Hoover comparison, Mr. Speaker, was the Bureau of Labor Statistics payroll job survey, a fitting association since it is a Depression-era survey. That payroll job survey was established at the time of the Depression, and it was based on a Depression-era economy.

But let us assume for one moment that the payroll survey presents a complete and accurate picture of job creation in our economy. What does that picture look like over the past 4 years? It shows a period of job loss that followed a stock market bubble bursting, an economic recession, horrible, horrible terrorist attacks, and a series of major corporate scandals. Following this period of losses came a recovery that was sluggish at first, and then picked up rapidly, eventually creating 2.2 million jobs in calendar year 2004. And the net job losses? The Herbert Hoover workforce? It never ever happened. Despite the series of massive blows to our economy in the early part of this decade, despite an ongoing war on terror, despite sluggish growth in many of our biggest trading partner nations, President Bush presided over 4 years of net job creation, 119,000 jobs to be exact. But those 119,000 payroll jobs are only a small slice of the overwhelmingly positive news about our economy.

This Depression-era job survey is a little out of its league in our very fast-paced 21st century economy. While it counts payroll jobs in long-established businesses, it misses many of the types of jobs that are increasingly common in an economy based on innovation and entrepreneurship. Today's independent contractors, consultants, small business owners and LLC partners account for one-third of new job creation. But they are not reflected in that payroll number, that Depression-era structure that is used for counting payroll jobs.

By contrast, the Bureau of Labor Statistics' survey of households goes directly to individuals. All types of workers, regardless of how they are employed or how their jobs were created, are covered by the household survey. Consequently, the picture it portrays of our economy over the past 4 years is far more complete than what the payroll survey conveys. By surveying the entire workforce, it demonstrates that President Bush presided over the creation of 2.5 million new jobs in his first term. Again, he did this throughout incredibly tumultuous and difficult times.

The household survey figure of 2.5 million new jobs is much more in line with other economic indicators that highlight just how absurd that Herbert Hoover claim actually is. In 2004, gross domestic product growth, the broadest measure of economic health, grew by 4.4 percent, the fastest pace since the bubble burst in 1999. Fourth quarter GDP growth was recently revised significantly upward, from 3.1 percent to 3.8 percent, based on news that exports were even stronger than had originally been thought. Business investment has also been revised upward, from 14.9 to a very robust 18 percent. And for the first time since 1994, non-high-tech business investment outpaced high tech investment, demonstrating that our economic vitality is widespread.

Mr. Speaker, the President may have inherited very difficult economic circumstances, but thanks to his pro-growth policies, particularly his trade agenda and the 2003 tax cuts which were embraced by this Congress, 2005 is looking like a much better year than 2001. After 4 years of the Bush economy, unemployment is low. Stocks are rising as the Dow marches towards that 11,000 mark. Inflation is in check while interest rates have remained low, and family wealth is at an all-time high.

Mr. Speaker, does it even need to be said that this is not a Herbert Hoover economy? Does one of the strongest economies in the developed world really have to defend itself against Great Depression Era comparisons? I believe that the facts speak for themselves. The George W. Bush economy has proven to be strong, vital and resilient. I am looking forward to 4 more years of prosperity and new opportunity for all Americans.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2128

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. COLE of Oklahoma) at 9 o'clock and 28 minutes p.m.

## REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mrs. CAPITO, from the Committee on Rules, submitted a privileged report (Rept. No. 109–15) on the resolution (H. Res. 144) providing for further consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of official business.

Mr. HOBSON (at the request of Mr. DELAY) for today on account of official business.

Mr. RAMSTAD (at the request of Mr. DELAY) for today and the balance of the week on account of complications from eye surgery.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DEFAZIO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. NUNES) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of New Jersey, for 5 minutes, March 10.

Mr. FLAKE, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, March 10.

## ADJOURNMENT

Mrs. CAPITO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Thursday, March 10, 2005, at 10 a.m.

## NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
*Washington, DC, March 8, 2005.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), requires that, with regard to substantive regulations under the CAA, after the Board has published a general notice of proposed rulemaking as required by subsection (b)(1), and received comments as required by subsection (b)(2), "the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal."

The Board of Directors of the Office of Compliance has adopted the proposed regulations in the Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval which accompany this transmittal letter. The Board requests that the accompanying Notice be published in both the House and Senate versions of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal. The Board also requests that Congress approve the proposed Regulations, as further specified in the accompanying Notice.

Any inquiries regarding the accompanying Notice should be addressed to William W. Thompson II, Executive Director of the Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, DC 20540; 202-724-9250, TDD 202-426-1912.

Sincerely,

SUSAN S. ROBFOGEL,
*Chair of the Board of Directors.*

# OFFICE OF COMPLIANCE

## NOTICE OF ADOPTION OF SUBSTANTIVE REGULATIONS, AND SUBMISSION FOR CONGRESSIONAL APPROVAL.

## Proposed Replacement of the Office of Compliance Regulations implementing exemptions from the overtime pay requirements under the Fair Labor Standards Act of 1938 (FLSA).

## Procedural Summary:

**Issuance of the Board's Initial Notice of Proposed Rulemaking:** On September 29, 2004, the Board of Directors of the Office of Compliance issued a **Notice of Proposed Rulemaking** in the Congressional Record at 150 Cong. Rec. S9917 (daily ed.), and at 150 Cong. Rec. H7850 (daily ed.). The Notice of Proposed Rulemaking was prompted by the promulgation by the Secretary of Labor, effective August 23, 2004, of amended regulations regarding various exemptions from the overtime pay requirements of the FLSA. ***See: Federal Register, Vol. 69, No. 79 (August 23, 2004).***

**Why did the Board propose these new Regulations?** Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section."

**What procedure followed the Board's initial September 29, 2004 Notice of Proposed Rulemaking?**
The September 29, 2004 Notice of Proposed Rulemaking included a **thirty day comment period**, which began on September 30, 2004. A number of comments to the proposed substantive regulations were received by the Office of Compliance from interested parties. The Board of Directors has reviewed the comments from interested parties, made a number of changes to the proposed substantive regulations in response to comments, and has adopted the amended regulations.

**What is the effect of the Board's "adoption" of these proposed substantive regulations?** Adoption of these substantive regulations by the Board of Directors does not complete the promulgation process. Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors issue proposed substantive regulations and publish a general notice of proposed rulemaking in the *Congressional Record* (the September 29 Notice); (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; and (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the *Congressional Record*. This **Notice of Adoption of Substantive Regulations and Submission for Congressional Approval** completes the third step described above.

**What are the next steps in the process of promulgation of these regulations?** Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: that the House of Representatives adopt the "H" version of the regulations by resolution; that the Senate adopt the "S" version of the regulations by resolution; and that the House and Senate adopt the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

**Are there regulations covering overtime exemptions currently in force under the CAA?** Yes. Unless and until the House of Representatives and the Senate adopt these regulations, all employing offices and covered employees continue to be required to follow the existing Part 541 Regulations which were proposed by the Board of Directors and adopted by the House of Representatives and the Senate.

**If adopted, will these regulations completely replace the existing Part 541 overtime exemption regulations applicable under the CAA?** Yes.

# The Board's Responses to Comments

As the result of the September 29, 2004 Notice of Proposed Regulations, and the ensuing 30 day comment period, the Office received comments from various interested parties. The Board has reviewed all comments, and has deliberated regarding the question whether comments establish "good cause" pursuant to section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), for varying the Office of Compliance proposed regulations from the Department of Labor regulations. The following discussion outlines the comments, and the Board's response to them.

**What changes from the regulations as proposed on September 29, 2004 have been made by the Board in response to comments received from interested parties?**

**Removal of private sector terminology:** Several commenters pointed out that reference to such terms as "business" and "enterprise" throughout the proposed regulations should be replaced by "employing office." The Board agreed with this suggestion in part. Certain provisions of the proposed regulations of general applicability have been amended to replace terms such as "business" or "enterprise" with the term "employing office." However, other provisions, particularly those which refer to "business operations," a term relating to ubiquitous operational functions such as accounting, auditing, procurement, personnel management and the like, or those references which are descriptive or exemplary have not been so amended, since to do so would detract from the clarity of the reference.

**Sec. 541.0:** Commenters correctly pointed out that a principal statutory authority for adoption of these regulations was not included in the proposed regulations. Therefore, a reference was added citing section 225(f)(1) of the CAA (2 U.S.C. 1361(f)(1)) as authority for the promulgation of these overtime exemption rules. Commenters also noted that the reference in the proposed regulation to "enforcement" by the Office of Compliance of the equal pay provision found at section 6(d) of the FLSA reflected an authority not given to the Office under the CAA. The Office of Compliance is authorized to administer the dispute resolution process for employee claims of a violation of the equal pay requirement at section 6(d) of the FLSA, but not to engage in its own self-initiated enforcement of the provision. Therefore, the reference to "enforcement" of section 6(d) was deleted.

**Sec. 541.1:** A commenter suggested that a reference to the existing regulation which defines the term "intern" be added to the exemption regulations. The Board concurs with the comment. Therefore, a reference was added to the definition of "intern" found at section 501.102(h) of the existing FLSA regulations of the Office of Compliance.

**Section 541.4:** Several commenters pointed out that the proposed section maintained an erroneous requirement that employing offices must comply with " . . .State or municipal laws, regulations, or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the FLSA" as applied via the CAA. The Board concurs with the comment. That requirement has been deleted from the proposed regulation.

**What changes to the proposed substantive regulations suggested by commenters were not made by the Board of Directors?** The Board of Directors reviewed all suggestions included in comments pursuant to the statutory requirement that the regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." (section 203(c)(2) of the CAA, 2 USC 1313(c)(2)). If the Board declined to adopt a suggestion, it determined that there was not good cause for such a change in implementing the FLSA.

**Alleged "irrelevant" regulations:** Commenters broadly suggested that portions of the proposed regulations which arguably do not directly concern types or categories of employment found among employees covered by the CAA should be deleted from the proposed regulations. These commenters urged that references to such employment categories as "outside salespersons," "non-Federal employees in American Samoa," "insurance claims adjusters," work in a "factory," etc. should be entirely removed. Several of these commenters also suggested that substantively distinct sets of new regulations be developed for the House of Representatives, the Senate, and the other employing offices, based upon the differences among the types of employees who work in each body or agency.

The Board of Directors has been aware since its initial preparation of these proposed regulations that many of the job classifications and types of work processes treated in Part 541 are probably not found within the Legislative Branch of the Federal Government, that there may be job categories in the Legislative Branch not directly reflected in Part 541, and that there are differences among the work forces in the several employing offices covered by the CAA. However, the Board has concluded that adding or removing exemplary and descriptive provisions from the regulations as applied to all employing offices would reflect a basic misunderstanding of the purpose and goal of the new Part 541 of 29 CFR, and of the Congressional mandate in the CAA that the Board issue regulations based upon the Secretary of Labor's regulations promulgated for the private sector (See section 203(c)(2) of the CAA, 2 USC 1313(c)(2)).

While the Labor Department's "old," i.e. pre-2004, Part 541 overtime exemption regulations included a great deal of descriptive material, it was not binding, since almost all of the descriptive portions of 29 CFR Part 541 (Subpart B) were merely "interpretive" explanatory bulletins. Thus, the 1996 Part 541 regulations adopted by the Board of Directors and promulgated by Congress under the CAA did not include any of the Labor Department's interpretive regulations, since those interpretive regulations had not been formally promulgated under the Administrative Procedures Act.

In revamping Part 541, the Secretary of Labor explained that the Labor Department intended to "eliminate this distinction between the formal 'regulations' in Subpart A and the 'interpretations' in Subpart B. . . . This proposed restructuring of Part 541 was intended to consolidate and streamline the regulatory text, . . . make the regulations easier to understand and decipher when applying them to particular factual situations, and eliminate the confusion regarding the appropriate level of deference to be given to the provisions of each subpart." (69 Fed. Reg. 22126 (4/23/04)). While the new Part 541 does not directly discuss every conceivable employment situation, it does provide a broad sample of authoritative exemplary and descriptive material for many types of employers.

The key concept for purposes of explaining the Board's decision not to delete seemingly "irrelevant" descriptive and exemplary material is the intent of the new Labor Department regulations to make the tests for exemption "easier to understand and decipher when applying them to particular factual situations." No single employer or group of employers subject to the Part 541 regulations in the private sector employs all or even most of the categories of employees referenced in Part 541. However, the new Part 541 regulations for the first time provide a wealth of authoritative exemplary and descriptive material which can assist employers and employees to discern whether a particular position or job is exempt. The usefulness of this material does not depend upon the direct applicability of each and every provision of the regulations to each and every position or job.

The Board of Directors has concluded that employing offices and employees covered by the CAA should be accorded the same opportunity to utilize the full wealth of descriptive and exemplary material in the new Part 541 regulations as has been accorded employers and employees in the private sector. Any effort to carve this integrated body of regulations into segments which only refer to employment categories presently included within each category of employing office under the CAA would not only subvert the overall integration of Part 541, but prove to be enormously difficult in implementation.

**References to "business," "enterprise," or other private sector employer categories.** Several commenters suggested that all references in the proposed regulations to private enterprise concepts be replaced by terms derived from the CAA or governmental parlance. The proposed regulations have addressed the commenters' concern through language in section 541.1, which includes the stipulation that "Employer, company, business, enterprise, or public agency each mean an "employing office" as defined in section 101(9) of the CAA, 2 USC 1301(9)." However, reference to such "private sector" concepts in descriptive or exemplary regulations have not been excised, because to do so could well blunt the clarity or usefulness of the description or example. Whether or not specific work processes or functions as described in the proposed regulations are applicable directly or by analogy to a particular "employing office" are questions of fact for CAA employing offices and covered employees, just as for all other categories of employers and employees covered by the Labor Department regulations, including State and local governments.

**Various FLSA overtime rules for "police officers" should not apply to police officers employed by the United States Capitol Police.** One commenter asserted that the new proposed regulation establishing exceptions for the application of the FLSA section 13(a)(1) exemption tests for police officers and other public safety employees at proposed section 541.3(b) should not apply to members of the United States Capitol Police in those categories because the work performed by the United States Capitol Police is not "traditional police work performed by most state and local organizations." Rather, the commenter asserted the "unique nature of the USCP work as an organization charged with providing comprehensive and fully integrated security services which includes physical security and counter-terrorism components as well as a personal protective function, all requiring full and robust participation in the intelligence community." The commenter also noted that some members of the Capitol Police perform office and non-manual work.

The Board has carefully considered the assertion that the Capitol Police force is unique among all law enforcement agencies otherwise covered by Part 541 of the Department of Labor Regulations. The Board takes administrative notice that other major law enforcement agencies, such as the Uniformed Division of the Secret Service, District of Columbia Metropolitan Police, and many other large urban police forces, and police forces charged with security of state and local government premises and officials, are charged with providing security services, counter-terrorism capabilities, personal protective services, participation in the intelligence community, and include employees who perform office and non-manual work. While the relative emphasis and extent of any one or another such function may vary among such law enforcement agencies, the Board has concluded that the United States Capitol Police operation is not unique in any or all of these dimensions of law enforcement work. Therefore, the Board has determined that there is not "good cause" for exempting the members of the United States Capitol Police from the application of section 541.3(b) of the proposed substantive regulations.

**Reference to section 13(a)(1) of the FLSA "as amended."** A commenter asserted that the phrase "as amended" in referencing section 13(a)(1) of the FLSA, 29 USC 213(a)(1), in the proposed substantive regulation is in error. The commenter asserted that the reference to laws being applied via the CAA is a "specific reference," and further asserted that canons of statutory construction therefore require that the referenced statute can only be applied as it existed as of the date of the reference. Therefore, said the commenter, subsequent amendments to CAA referenced laws such as the FLSA would not apply under the CAA. The commenter also asserted that the CAA's waiver of sovereign immunity of the United States did not include a waiver with regard to subsequent amendments to the laws applied via the CAA. In other words, the commenter argued that the statutes applied to Congress and the Legislative Branch via the CAA are "frozen" as they existed in 1995. The Board does not respond to the commenter's suggested interpretation of the CAA at this time, because section 13(a)(1) of the FLSA has not been amended since the CAA was enacted.

**Inclusion of interns for purposes of establishing supervisory status under section 541.104.** One commenter pointed out that interns (as defined in section 501.102(h) of the Office's FLSA regulations) are not "covered employees" for purposes of the CAA, but suggested that interns be counted as "employees" for purposes of application of the "direct the work of two or more other employees" test at section 541.104 of the proposed regulations. At the direction of the Board, the Office of Compliance inquired of the Department of Labor whether the Department interprets the term "employee" in regulation 541.104 to include individual workers who are not "employees" as defined under the balance of Part 541. The Labor Department responded informally that such workers are not counted as "employees" for purposes of the application of section 541.104 of the regulations. The Board has concluded that there is no good cause for varying from that practice under these proposed regulations, and has declined to include interns as "employees" for the purpose of section 541.104.

**Members of the House of Representatives and Senators are not "covered employees" for purposes of the CAA.** One commenter concluded that Members of the House of Representatives are not "covered employees." Rather than limit the response to this comment to the House of Representatives, the Board has reviewed the issue both with regard to Members of the House of Representatives and Senators. The Board has concluded that Members of the House and Senators are "covered employees" for purposes of the application of the CAA. An "employee of the House of Representatives" is defined at section 101(7) to include "an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives . . . ." 2 USC 1301(7). The pay of Members of the House is disbursed by the Chief Administrative Officer of the House of Representatives. An "'employee of the Senate' includes any employee whose pay is disbursed by the Secretary of the Senate . . . ." The pay of Senators is disbursed by the Secretary of the Senate. Therefore, both Members of the House and Senators are "covered employees" for the purposes of applicability of these proposed regulations. However, Members of the House and Senators are also clearly identified at section 541.1 of the proposed regulations as exempt "senior executives" for purposes of the application of overtime eligibility.

# Additional General Information

**Why are there separate sets of existing FLSA regulations which have been applicable since 1996 for the House of Representatives, the Senate, and the other employing offices covered by the CAA?** Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B), requires that the substantive rules of the Board of Directors of the Office of Compliance "shall consist of 3 separate bodies of regulations, which shall apply, respectively, to - (i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices." In 1996, the House of Representatives (H.Res.400) and the Senate (S.Res.242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S.Con.Res.51) the regulations applicable to other employing offices and employees.

**Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?** No. While there are some differences in other parts of the existing FLSA regulations applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding "covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . ."), the existing Part 541 regulations are substantively identical. The Board of Directors has identified no "good cause" for varying the text of these proposed new regulations. Therefore, if the proposed part 541 regulations are adopted to replace the pre-existing Part 541 regulations, the prefixes "H," "S," and "C" will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but otherwise the text of the part 541 regulations will be identical.

**How does the Board of Directors recommend that Congress approve these proposed regulations?** Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the "H" version of the regulations by resolution; the Senate adopted the "S" version of the regulations by resolution; and the House and Senate adopted the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

**Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate?** Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations have also been recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

**Are these proposed CAA regulations available to persons with disabilities in an alternate**

**format?** This Notice of Adoption of Substantive Regulations, and Submission for Congressional Approval is available on the Office of Compliance web site, www. Compliance. gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9250; TDD: 202-426-1912; FAX: 202-426-1913.

### How To Read The Proposed Amendments

**In order to make comparison of these regulations with the regulations promulgated by the Secretary of Labor, the text of the proposed regulations reproduces the text of the regulations promulgated on August 23, 2004 by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes adopted by the Board of Directors of the Office of Compliance are shown as follows:** ***[[*****deletions within italicized brackets*****]], and added text in italicized bold.*** **Further changes adopted by the Board in response to comments regarding the initial proposed regulations as issued on September 29, 2004 by the Board** ***are bolded, italicized, and underlined.*** **Therefore, if these regulations are approved as proposed,** ***[[bracketed text will disappear from the regulations]], and added text will remain.*** **If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix "H" appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix "S" appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix "C" appearing before each regulations section number.**

**Supplementary Information:** The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

# TEXT OF PROPOSED OVERTIME EXEMPTION REGULATIONS

as adopted by the Board of Directors of the Office of Compliance.

***NOTE: As and when approved by the House of Representatives and/or the Senate, these proposed regulations will entirely replace the current Part 541 regulations which were promulgated by the Office of Compliance and approved by the House of Representatives and the Senate in 1996. Until new Part 541 regulations are approved by the House of Representatives and/or the Senate, the 1996 regulations regarding overtime exemptions remain in full force and effect.***

***When approved by the House of Representatives for the House of Representatives, these regulations will have the prefix "H." When approved by the Senate for the Senate, these regulations will have the prefix "S." When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix "C."***

## PART 541--DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

Subpart A--General Regulations Sec.
541.0 Introductory statement.
541.1 Terms used in regulations.
541.2 Job titles insufficient.
541.3 Scope of the section 13(a)(1) exemptions.
541.4 Other laws and collective bargaining agreements.

Subpart B--Executive Employees
541.100 General rule for executive employees.
541.101 Business owner.
541.102 Management.
541.103 Department or subdivision.
541.104 Two or more other employees.
541.105 Particular weight.
541.106 Concurrent duties.

Subpart C--Administrative Employees
541.200 General rule for administrative employees.
541.201 Directly related to management or general business operations.
541.202 Discretion and independent judgment.
541.203 Administrative exemption examples.
541.204 Educational establishments.

Subpart D--Professional Employees
541.300 General rule for professional employees.
541.301 Learned professionals.
541.302 Creative professionals.
541.303 Teachers.
541.304 Practice of law or medicine.

Subpart E--Computer Employees
541.400 General rule for computer employees.
541.401 Computer manufacture and repair.
541.402 Executive and administrative computer employees.

Subpart F--Outside Sales Employees
541.500 General rule for outside sales employees.
541.501 Making sales or obtaining orders.
541.502 Away from employer's place of business.
541.503 Promotion work.
541.504 Drivers who sell.

Subpart G--Salary Requirements
541.600 Amount of salary required.
541.601 Highly compensated employees.
541.602 Salary basis.
541.603 Effect of improper deductions from salary.
541.604 Minimum guarantee plus extras.
541.605 Fee basis.
541.606 Board, lodging or other facilities.

Subpart H--Definitions And Miscellaneous Provisions
541.700 Primary duty.

541.701 Customarily and regularly.
541.702 Exempt and nonexempt work.
541.703 Directly and closely related.
541.704 Use of manuals.
541.705 Trainees.
541.706 Emergencies.
541.707 Occasional tasks.
541.708 Combination exemptions.
541.709 Motion picture producing industry.
541.710 Employees of public agencies.

Authority: 29 U.S.C. 213;[[ Public Law 101-583, 104 Stat. 2871]]; ***2 U.S.C. 203; 2 U.S.C. 304.*** [[Reorganization Plan No. 6 of 1950 (3 CFR 1945-53 Comp. p. 1004); Secretary's Order No. 4-2001 (66 FR 29656).]]

Subpart A--General Regulations
Sec. 541.0 Introductory statement. (a) Section 13(a)(1) of the Fair Labor Standards Act (**Act**), as amended, ***and as applied pursuant to sections 203 and 225(f)(1) of the Congressional Accountability Act of 1995, 2 U.S.C. 1313 and 1361(f)(1)***, provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee***.//***, [[as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.]] Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees. (b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions. (c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are **also** administered ***//***and enforced***//*** by the [[United States Equal Employment Opportunity Commission]] ***Office of Compliance.***

Sec. 541.1 Terms used in regulations. Act means the Fair Labor Standards Act of 1938, as amended. [[Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor

Standards Act.]] ***CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Compliance. Employee means a "covered employee" as defined in section 101 (3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2), and in section 501.102(h) of the FLSA implementing regulations of the Office of Compliance. Employer, company, business, enterprise, or public agency each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9). Senior executive includes but is not limited to a Member of the House of Representatives or a Senator***

Sec. 541.2 Job titles insufficient. A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Sec. 541.3 Scope of the section 13(a)(1) exemptions.
(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other ``blue collar'' workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt ``blue collar'' employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.
(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the *[[*enterprise***]] employing office*** in which the employee is employed or a customarily recognized department or subdivision thereof as required under Sec. 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under Sec. 541.200.
(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under Sec. 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

Sec. 541.4 Other laws and collective bargaining agreements. The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any ***applicable*** Federal *[[*, State or municipal*]]* laws*[[*, regulations or ordinances*]]* establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

Subpart B--Executive Employees

Sec. 541.100 General rule for executive employees.
(a) The term ``employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is management of the *[[*enterprise*]]* ***employing office*** in which the employee is employed or of a customarily recognized department or subdivision thereof; (3) Who customarily and regularly directs the work of two or more other employees; and (4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.
(b) The phrase ``salary basis" is defined at Sec. 541.602; ``board, lodging or other facilities" is defined at Sec. 541.606; ``primary duty" is defined at Sec. 541.700; and ``customarily and regularly" is defined at Sec. 541.701.

Sec. 541.101 Business owner. The term ``employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term ``management" is defined in Sec. 541.102. The requirements of Subpart

G (salary requirements) of this part do not apply to the business owners described in this section.

Sec. 541.102 Management. Generally, ``management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Sec. 541.103 Department or subdivision. (a) The phrase ``a customarily recognized department or subdivision" is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function. (b) When an //enterprise// ***employing office*** has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the //enterprise// ***employing office***. (c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization. (d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

Sec. 541.104 Two or more other employees. (a) To qualify as an exempt executive under Sec. 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase ``two or more other employees" means two full-time employees or their equivalent. One full-time and two half- time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. (b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers. (c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement. (d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

Sec. 541.105 Particular weight. To determine whether an employee's suggestions and recommendations are given ``particular weight," factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have ``particular weight" even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

Sec. 541.106 Concurrent duties.
(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of Sec. 541.100 are otherwise met. Whether an employee meets the requirements of Sec. 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in Sec. 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.
(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.
(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

Subpart C--Administrative Employees

Sec. 541.200 General rule for administrative employees.
a) The term ``employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less

than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.
(b) The term ``salary basis" is defined at Sec. 541.602; ``fee basis" is defined at Sec. 541.605; ``board, lodging or other facilities" is defined at Sec. 541.606; and ``primary duty" is defined at Sec. 541.700.

Sec. 541.201 Directly related to management or general business operations.
(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase ``directly related to the management or general business operations" refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the *[[*business*]]* ***employing office***, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.
(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.
(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

Sec. 541.202 Discretion and independent judgment.
(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term ``matters of significance" refers to the level of importance or consequence of the work performed.
(b) The phrase ``discretion and independent judgment" must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the *[[*business*]]* ***employing office***; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of

a particular segment of the [[business]] ***employing office***; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the [[company]] ***employing office*** on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term [[business]] objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the [[company]] ***employing office*** in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term ``discretion and independent judgment'' does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of [[business]] ***work*** may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also Sec. 541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a ``statistician.''

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer. Sec. 541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who ``screen'' applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well- established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

Sec. 541.204 Educational establishments.

(a) The term ``employee employed in a bona fide administrative capacity'' in section 13(a)(1) of the Act also includes employees: (1) Compensated for services on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and (2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term ``educational establishment'' means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term ``other educational establishment'' includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase ``performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under Sec. 541.200 or under other sections of this part, provided the requirements for such exemptions are met.

Subpart D--Professional Employees

Sec. 541.300 General rule for professional employees.

(a) The term ``employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and (2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term ``salary basis" is defined at Sec. 541.602; ``fee basis" is defined at Sec. 541.605; ``board, lodging or other facilities" is defined at Sec. 541.606; and ``primary duty" is defined at Sec. 541.700.

Sec. 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements: (1) The employee must perform work requiring advanced knowledge; (2) The advanced knowledge must be in a field of science or learning; and (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase ``work requiring advanced knowledge" means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase ``field of science or learning'' includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase ``customarily acquired by a prolonged course of specialized intellectual instruction'' restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word ``customarily'' means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e) (1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption. (2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations. (3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption. (4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption. (5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals. (6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work. (7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption. (8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption. (9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4), (e)(8) and (e)(9) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

Sec. 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be ``in a recognized field of artistic or creative endeavor." This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of ``invention, imagination, originality or talent'' distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an ``animator'' of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

Sec. 541.303 Teachers.

(a) The term ``employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term ``educational establishment'' is defined in Sec. 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi- skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of Sec. 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

Sec. 541.304 Practice of law or medicine.

(a) The term ``employee employed in a bona fide professional capacity'' in section 13(a)(1) of the Act also shall mean: (1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and (2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term ``physicians'' includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of Sec. 541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

Subpart E--Computer Employees

Sec. 541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1) exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, and the section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of: (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term ``salary basis'' is defined at Sec. 541.602; ``fee basis'' is defined at Sec. 541.605; ``board, lodging or other facilities'' is defined at Sec. 541.606; and ``primary duty'' is defined at Sec. 541.700.

Sec. 541.401 Computer manufacture and repair. The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in Sec. 541.400(b), are also not exempt computer professionals.

Sec. 541.402 Executive and administrative computer employees. Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

Subpart F--Outside Sales Employees

Sec. 541.500 General rule for outside sales employees. (a) The term ``employee employed in the capacity of outside salesman'' in section 13(a)(1) of the Act shall mean any employee: (1) Whose primary duty is: (i) making sales within the meaning of section 3(k) of the Act, or (ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and (2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term ``primary duty'' is defined at Sec. 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

Sec. 541.501 Making sales or obtaining orders.
(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) Obtaining orders or contracts for services or for the use of facilities.
(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that ``sale" or ``sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.
(c) Exempt outside sales work includes not only the sales of commodities, but also ``obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer." Obtaining orders for ``the use of facilities" includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.
(d) The word ``services" extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

Sec. 541.502 Away from employer's place of business. An outside sales employee must be customarily and regularly engaged ``away from the employer's place or places of business." The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

Sec. 541.503 Promotion work.
(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.
(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an

exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

Sec. 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include: (1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold. (2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases. (3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods. (4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include: (1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations. (2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery. (3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

Subpart G--Salary Requirements

Sec. 541.600 Amount of salary required.
(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in Sec. 541.605.
(b) The $455 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of $910, semimonthly on a salary basis of $985.83, or monthly on a salary basis of $1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.
(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Sec. 541. 204(a)(1).
(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in Sec. 541. 400(b).
(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see Sec. 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see Sec. 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see Sec. 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Sec. 541.601 Highly compensated employees.
(a) An employee with total annual compensation of at least $100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.
(b) (1) ``Total annual compensation" must include at least $455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in Sec. 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits. (2) If an employee's total annual

compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn $80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part. (3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment. (4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under Sec. 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non- management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

Sec. 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a ``salary basis'' within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions: (1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence. (2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law. (3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption. (4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines. (5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence. (6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed. (7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

Sec. 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in Sec. 541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

Sec. 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $150 per shift without violating the salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary of $650 per week who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

Sec. 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a ``fee basis'' within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a ``fee'' is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least $455 per week if the employee worked 40 hours. Thus, an artist paid $250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist $500 if 40 hours were worked.

Sec. 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in Sec. 541.600, ``exclusive of board, lodging or other facilities." The phrase ``exclusive of board, lodging or other facilities" means ``free and clear" or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes ``board, lodging, or other facilities" are contained in 29 CFR part 531. As described in 29 CFR 531.32, the term ``other facilities" refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work. **[[*NOTE:* There is good cause for the inclusion of subsection (b): The regulations referenced in this paragraph at 29 CFR 531.29 are not substantive regulations, but are "interpretive" regulations which were not incorporated in Part 531 of the CAA regulations adopted in 1996. However, the Board of Directors has determined that, since these particular interpretive regulations are incorporated by reference in the new substantive regulations, employing offices and employees may reference these particular interpretive regulations as part of the new substantive regulations as proposed here.]]**

Subpart H--Definitions and Miscellaneous Provisions

Sec. 541.700 Primary duty.

(a) To qualify for exemption under this part, an employee's ``primary duty" must be the performance of exempt work. The term ``primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than

50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.
(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

Sec. 541.701 Customarily and regularly. The phrase ``customarily and regularly'' means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed ``customarily and regularly'' includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

Sec. 541.702 Exempt and nonexempt work. The term ``exempt work'' means all work described in Sec. 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered ``nonexempt.''

Sec. 541.703 Directly and closely related.
(a) Work that is ``directly and closely related'' to the performance of exempt work is also considered exempt work. The phrase ``directly and closely related'' means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, ``directly and closely related'' work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work ``directly and closely related'' to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not ``directly and closely related'' if the work is remotely related or completely unrelated to exempt duties.
(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work: (1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees. (2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties. (3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector. (4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a

particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non- supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work. (5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions. (6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client· after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption. (7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under Sec. 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies. (8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common- carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work. (9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants. (10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

Sec. 541.704 Use of manuals. The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

Sec. 541.705 Trainees. The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

Sec. 541.706 Emergencies.
(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.
(b) An ``emergency'' does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.
(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work: (1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive. (2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work. (3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly. (4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

Sec. 541.707 Occasional tasks. Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

Sec. 541.708 Combination exemptions. Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

Sec. 541.709 Motion picture producing industry. The requirement that the employee be paid ``on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least $695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least $695 if 6 days were worked; or (b) The employee is in a job category having a weekly base rate of at least $695 and the daily base rate is at least one-sixth of such weekly base rate.

Sec. 541.710 Employees of Public Agencies. (a) An employee of a public agency who otherwise meets the salary basis requirements of section 541.602 shall not be disqualified from exemption under sections 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because: (1) Permission for its use has not been sought or has been sought or denied; (2) Accrued leave has been exhausted; (3) The employee chooses to use leave without pay.
(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except on the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

END

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1118. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Spring Viremia of Carp; Payment of Indemnity [Docket No. 02-091-2] received February 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. CAPITO: Committee on Rules. House Resolution 144. Resolution providing for further consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 109-15). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. CUBIN:

H.R. 1181. A bill to amend the Mineral Leasing Act to set forth procedures for the reinstatement of leases terminated due to unforeseeable circumstances; to the Committee on Resources.

By Mr. MILLER of North Carolina (for himself, Mr. WATT, and Mr. FRANK of Massachusetts):

H.R. 1182. A bill to amend the Truth in Lending Act to impose restrictions and limitations on high-cost mortgages, to revise the permissible fees and charges on certain loans made, to prohibit unfair or deceptive lending practices, and to provide for public education and counseling about predatory lenders, and for other purposes; to the Committee on Financial Services.

By Mr. RAHALL:

H.R. 1183. A bill to require the Secretary of the Interior to provide public access to Navassa National Wildlife Refuge and Desecheo National Wildlife Refuge; to the Committee on Resources.

By Mr. FRANK of Massachusetts (for himself, Mr. WAXMAN, Mr. OWENS, Mr. MARKEY, Mr. PAYNE, Mr. HINCHEY, Mr. LANTOS, Ms. LEE, Mr. BROWN of Ohio, Mr. CUMMINGS, Ms. ZOE LOFGREN of California, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. FILNER, Ms. SCHAKOWSKY, Mr. FARR, Mr. VAN HOLLEN, Mr. MCDERMOTT, Ms. WATSON, Mr. OLVER, Mr. ABERCROMBIE, Mr. WEXLER, Mr. CLYBURN, Ms. SLAUGHTER, Mr. MCGOVERN, Mr. CAPUANO, Ms. CARSON, Ms. VELÁZQUEZ, Ms. ESHOO, Mr. STARK, Mr. KUCINICH, Mr. MATHESON, Mr. GUTIERREZ, Mr. GRIJALVA, Mr. ISRAEL, Mr. TIERNEY, Mr. DAVIS of Illinois, Mr. ALLEN, Mr. TOWNS, Ms. WATERS, Mr. CONYERS, Mr. WATT, Mr. NEAL of Massachusetts, Ms. LINDA T. SÁNCHEZ of California, Ms. BALDWIN, Mrs. JONES of Ohio, Ms. JACKSON-LEE of Texas, Mr. RANGEL, Mr. BERMAN, Mr. NADLER, and Ms. NORTON):

H.R. 1184. A bill to amend the Higher Education Act of 1965 to repeal the provisions prohibiting persons convicted of drug offenses from receiving student financial assistance; to the Committee on Education and the Workforce.

By Mr. BACHUS (for himself, Ms. HOOLEY, Mr. OXLEY, Mr. FRANK of Massachusetts, Mr. GILLMOR, Mr. KANJORSKI, Ms. PRYCE of Ohio, Mr. LEACH, Mrs. MALONEY, Mr. JONES of North Carolina, Mr. MOORE of Kansas, Mr. RYUN of Kansas, Mr. ISRAEL, Mr. NEY, Mr. TIBERI, Mrs. BIGGERT, Mr. GUTIERREZ, Mr. DAVIS of Alabama, Mr. HINOJOSA, Mr. KING of New York, Mrs. MCCARTHY, Mr. LATOURETTE, Mr. MANZULLO, Mr. NEUGEBAUER, Mr. FORD, Mr. TOWNS, Mr. RENZI, Mr. CLAY, Mr. GARY G. MILLER of California, Mr. MCHENRY, and Mr. BARTLETT of Maryland):

H.R. 1185. A bill to reform the Federal deposit insurance system, and for other purposes; to the Committee on Financial Services.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. MCCRERY, Mr. HULSHOF, Mr. CULBERSON, Mr. SIMMONS, Mr. MCCAUL of Texas, Mr. SHAW, Mr. GILLMOR, Mr. KING of New York, Mr. FOSSELLA, Mr. HOSTETTLER, Mr. BAKER, Mr. PAUL, Mr. BEAUPREZ, Mr. NORWOOD, Ms. HART, Mr. SENSENBRENNER, and Mr. SAM JOHNSON of Texas):

H.R. 1186. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 1187. A bill to authorize the extension of the supplemental security income program to American Samoa; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 1188. A bill to amend title 10, United States Code, to support disabled veterans by extending military commissary and exchange store privileges to such veterans and their dependents and by authorizing space-available travel on military aircraft for such veterans and their dependents; to the Committee on Armed Services.

By Mr. GREEN of Wisconsin:

H.R. 1189. A bill to amend title 18, United States Code, to punish the placing of sexual explicit photographs on the Internet without the permission of the persons photographed; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 1190. A bill to direct the Secretary of the Interior to conduct a feasibility study to design and construct a four reservoir intertie system for the purposes of improving the water storage opportunities, water supply reliability, and water yield of San Vicente, El Capitan, Murray, and Loveland Reservoirs in San Diego County, California in consultation and cooperation with the City of San Diego and the Sweetwater Authority, and for other purposes; to the Committee on Resources.

By Mr. INSLEE (for himself, Mr. EHLERS, Mr. BOEHLERT, Mr. PALLONE, Mr. WELDON of Pennsylvania, and Mr. ALLEN):

H.R. 1191. A bill to establish a National Marine Scholarship Program to recruit and prepare graduate students for careers in the fields of marine science, and for other purposes; to the Committee on Science.

By Mr. LAHOOD (for himself, Mr. RAHALL, Mr. SHIMKUS, Mr. HASTERT, Mr. EMANUEL, Mr. ENGLISH of Pennsylvania, Mr. LIPINSKI, Mr. ISSA; Mr. SOUDER, Ms. SLAUGHTER, Mr. EVANS, Mr. JACKSON of Illinois, Mr. GUTIERREZ, Mr. HYDE, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, Mr. KIRK, Mr. WELLER, Mr. COSTELLO, Mrs. BIGGERT, Mr. JOHNSON of Illinois, Mr. MANZULLO, Mr. RUSH, and Ms. BEAN):

H.R. 1192. A bill to establish the Abraham Lincoln National Heritage Area, and for other purposes; to the Committee on Resources.

By Mrs. MALONEY (for herself, Mr. WEINER, Mr. CUMMINGS, Ms. LEE, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, Ms. WOOLSEY, Ms. ZOE LOFGREN of California, Mr. GONZALEZ, Mr. SANDERS, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1193. A bill to amend the Hate Crime Statistics Act to require the Attorney General to acquire data about crimes that manifest evidence of prejudice based on gender; to the Committee on the Judiciary.

By Mr. MATHESON (for himself, Ms. BERKLEY, and Mr. SPRATT):

H.R. 1194. A bill to protect public health and safety, should the testing of nuclear weapons by the United States be resumed; to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MCCARTHY:

H.R. 1195. A bill to increase public safety and reduce the threat to domestic security by including persons who may be prevented from boarding an aircraft in the National Instant Criminal Background Check System, and for other purposes; to the Committee on the Judiciary.

By Mr. ORTIZ (for himself, Mr. BONILLA, Mr. HINOJOSA, Mr. GENE GREEN of Texas, Mr. DOGGETT, and Ms. JACKSON-LEE of Texas):

H.R. 1196. A bill to improve the security clearance process along the United States-Mexico border, to increase the number of detention beds, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OSBORNE:

H.R. 1197. A bill to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Resources.

By Mr. PETERSON of Minnesota:

H.R. 1198. A bill to amend title 38, United States Code, to provide a presumption of service connection for certain specified diseases and disabilities in the case of veterans who were exposed during military service to carbon tetrachloride; to the Committee on Veterans' Affairs.

By Mr. RENZI:

H.R. 1199. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Resources.

By Mr. MCDERMOTT (for himself, Mr. RANGEL, Mr. STARK, Mr. GEORGE MILLER of California, Mr. HINCHEY, Mr.

Dicks, Ms. Woolsey, Mr. Farr, Mr. Weiner, Mr. Rush, Mr. Brown of Ohio, Mr. Kucinich, Mr. Pallone, Ms. Schakowsky, Ms. Lee, Mr. Conyers, Ms. Carson, Ms. Millender-McDonald, Mr. Olver, Mr. Payne, Mr. Berman, Mr. Grijalva, Mrs. Christensen, Ms. Baldwin, Mr. Towns, Mr. Tierney, Mr. Thompson of Mississippi, Mr. Sanders, and Ms. Linda T. Sánchez of California):

H.R. 1200. A bill to provide for health care for every American and to control the cost and enhance the quality of the health care system; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself, Mr. Doolittle, and Mr. Barton of Texas):

H.R. 1201. A bill to amend the Federal Trade Commission Act to provide that the advertising or sale of a mislabeled copy-protected music disc is an unfair method of competition and an unfair and deceptive act or practice, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Wisconsin:

H.R. 1202. A bill to suspend temporarily the duty on unidirectional (cardioid) electret condenser microphone modules for use in motor vehicles; to the Committee on Ways and Means.

By Ms. LORETTA SANCHEZ of California:

H.R. 1203. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to define and punish stalking by persons subject to that chapter; to the Committee on Armed Services.

By Mr. SHAYS (for himself, Mrs. Maloney, Mr. Payne, Mr. Rush, Mr. Brown of Ohio, Mrs. Napolitano, Mr. Nadler, Mr. McDermott, Mr. Kildee, Mr. Case, Mrs. Davis of California, Mr. Pallone, Mr. Blumenauer, Mr. Berman, Mr. Cummings, Mr. Honda, Mr. Clay, Mr. Holt, Mr. Farr, Mr. Inslee, Mr. Capuano, Mr. Chandler, Mr. Gilchrest, Mr. Smith of New Jersey, Mrs. Capps, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Ms. Hooley, Mr. Emanuel, Mr. Holden, Ms. Pelosi, Mr. Stark, Mr. Grijalva, Mr. Ferguson, Mr. Kucinich, Mr. Ney, Mr. Moore of Kansas, Mr. Allen, Mr. Fattah, Mr. Becerra, and Mr. Thompson of California):

H.R. 1204. A bill to designate as wilderness, wild and scenic rivers, national park and preserve study areas, wild land recovery areas, and biological connecting corridors certain public lands in the States of Idaho, Montana, Oregon, Washington, and Wyoming, and for other purposes; to the Committee on Resources.

By Mr. SIMMONS (for himself and Mr. Neal of Massachusetts):

H.R. 1205. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to extend the authorization for that corridor, and for other purposes; to the Committee on Resources.

By Mr. SIMPSON:

H.R. 1206. A bill to amend the Higher Education Act of 1965 to exclude veterans education benefits under the Montgomery GI Bill for purposes of determining need analysis for grants to students in attendance at institutions of higher learning; to the Committee on Education and the Workforce.

By Mr. SIMPSON:

H.R. 1207. A bill to amend title 38, United States Code, to provide additional work-study opportunities for eligible veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. SLAUGHTER (for herself and Mr. Duncan):

H.R. 1208. A bill to amend the Consumer Credit Protection Act to prevent credit card issuers from taking unfair advantage of full-time, traditional-aged, college students, to protect parents of traditional college student credit card holders, and for other purposes; to the Committee on Financial Services.

By Mr. TOWNS:

H.R. 1209. A bill to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building"; to the Committee on Government Reform.

By Mr. WEINER (for himself, Ms. Carson, Mr. Case, Mr. Clay, Mr. Conyers, Mr. Cummings, Mr. Grijalva, Mr. Hastings of Florida, Mrs. Jones of Ohio, Mr. Marshall, Mr. Owens, Mr. Pallone, Mr. Payne, Mr. Strickland, and Mr. Wexler):

H.R. 1210. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to extend energy assistance to households headed by certain senior citizens; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAYNE (for himself, Mr. Cummings, Mr. Davis of Illinois, Mr. Grijalva, Ms. Eddie Bernice Johnson of Texas, Mr. Brady of Pennsylvania, Mrs. Jones of Ohio, Ms. Carson, Mr. Rangel, Mr. Jackson of Illinois, Ms. Kilpatrick of Michigan, Ms. Millender-McDonald, Ms. Norton, Mr. Sanders, Mr. Owens, Mr. Bishop of Georgia, Mr. Lewis of Georgia, Ms. Corrine Brown of Florida, Ms. Watson, Mr. Lantos, Ms. Lee, Ms. Schakowsky, Ms. McCollum of Minnesota, Mr. Meeks of New York, Mr. Hastings of Florida, Mr. Blumenauer, Mr. Wynn, Mr. Pitts, Mr. Evans, Mr. Tancredo, Mr. Faleomavaega, and Mr. Brown of Ohio):

H. Con. Res. 88. Concurrent resolution remembering the victims of the genocide that occurred in 1994 in Rwanda and pledging to work to ensure that such an atrocity does not take place again; to the Committee on International Relations.

By Mr. RYAN of Ohio (for himself, Mr. Turner, Mr. Inslee, Mr. Ford, Mr. Grijalva, Ms. McCollum of Minnesota, Mr. Conyers, Ms. Kilpatrick of Michigan, Mr. McGovern, Mr. Oberstar, Mr. Towns, Mr. Kucinich, Mr. Waxman, Mr. Kennedy of Rhode Island, Mr. Tiberi, Mr. Lantos, Mr. Price of North Carolina, Mr. Gillmor, Mr. Weldon of Pennsylvania, Mr. Evans, Mrs. Jones of Ohio, Mr. Payne, Mr. Brown of Ohio, Ms. Kaptur, and Mr. Strickland):

H. Con. Res. 89. Concurrent resolution honoring the life of Sister Dorothy Stang; to the Committee on International Relations.

By Ms. SOLIS (for herself, Ms. Ginny Brown-Waite of Florida, Mrs. Capps, Ms. Ros-Lehtinen, Mr. Ramstad, Mr. Reyes, and Mr. Lantos):

H. Con. Res. 90. Concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes; to the Committee on International Relations.

By Mr. OSBORNE (for himself, Ms. Roybal-Allard, Mr. Van Hollen, Mr. Case, Mr. Wolf, and Mr. Bartlett of Maryland):

H. Res. 145. A resolution expressing the sense of the House of Representatives that the National Collegiate Athletic Association (NCAA) should affirm its commitment to a policy of discouraging alcohol use among underage students by ending all alcohol advertising during radio and television broadcasts of collegiate sporting events; to the Committee on Education and the Workforce.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII.

Mr. McKEON introduced a bill (H.R. 1211) for the relief of Ana Maria Moncayo-Gigax; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. Gene Green of Texas, Mr. Ackerman, Mr. Fattah, Mr. Weiner, Mr. Crowley, Mr. Van Hollen, Mr. Jackson of Illinois, Mr. Wilson of South Carolina, and Mr. Rangel.

H.R. 22: Mr. Cardoza and Mr. Smith of Washington.

H.R. 29: Mr. Edwards.

H.R. 34: Mr. Fossella, Mr. Ryun of Kansas, Mrs. Tauscher, Mr. Israel, Mr. Marshall, Mr. Gonzalez, Mr. Langevin, Mr. Akin, Mrs. Miller of Michigan, and Ms. McKinney.

H.R. 72: Mr. McHenry.

H.R. 97: Mr. McGovern and Mrs. Christensen.

H.R. 147: Mr. Miller of North Carolina, Mr. Westmoreland, Mr. Lewis of Georgia, Mr. Gutierrez, Mrs. Tauscher, Mrs. Kelly, Ms. Baldwin, Mr. Matheson, Mr. Melancon, and Mr. Gohmert.

H.R. 198: Mrs. Jo Ann Davis of Virginia, Mrs. Lowey, and Mr. Marshall.

H.R. 200: Mr. Shays.

H.R. 213: Mr. Brown of Ohio.

H.R. 269: Mr. Hoekstra.

H.R. 297: Mr. Nadler, Mr. Olver, Mr. Larsen of Washington, Mr. Grijalva, Mr. Hinchey, Mr. Engel, and Mr. Sweeney.

H.R. 325: Mr. Cleaver.

H.R. 331: Mr. Menendez and Mr. Weller.

H.R. 354: Mr. Gene Green of Texas.

H.R. 358: Ms. Pelosi, Mr. Green of Wisconsin, Mr. Barrett of South Carolina, Mr. Bonner, Ms. Harris, Mr. Franks of Arizona, Mr. Jenkins, and Mr. Tancredo.

H.R. 376: Mr. Berman, Mr. Barrow, Mr. Goodlatte, Ms. Schwartz of Pennsylvania, Mr. Waxman, and Mr. Sanders.

H.R. 389: Mrs. Biggert, Mr. Conyers, and Mr. McNulty.

H.R. 416: Mr. CHANDLER, Mr. UDALL of Colorado, and Mr. GILCHREST.

H.R. 421: Mrs. CHRISTENSEN.

H.R. 448: Mr. PAUL and Mr. CULBERSON.

H.R. 459: Ms. SOLIS.

H.R. 474: Mr. HINCHEY.

H.R. 475: Mr. MEEHAN, Mr. TIERNEY, and Mr. NADLER.

H.R. 500: Mr. PENCE, Mr. HALL, Mr. SOUDER, Mr. WESTMORELAND, Mr. COBLE, Mr. CULBERSON, Mr. CRENSHAW, Mrs. BONO, Ms. FOXX, Mr. CARTER, and Mr. FORBES.

H.R. 524: Ms. WOOLSEY.

H.R. 536: Mr. SKELTON.

H.R. 552: Mr. MCHENRY and Mr. PETRI.

H.R. 566: Mr. PAYNE.

H.R. 577: Mr. TERRY and Mr. ANDREWS.

H.R. 581: Mr. FORTUÑO, and Mr. RYAN of Wisconsin.

H.R. 601: Ms. SLAUGHTER.

H.R. 606: Mrs. CAPPS, Mr. SCHIFF, MRS. DAVIS of California, Ms. ROYBAL-ALLARD, and Mr. MEEKS of New York.

H.R. 625: Mr. GORDON and Mr. SIMMONS.

H.R. 626: Mr. RAMSTAD, Mr. FOLEY, and Mr. ROGERS of Michigan.

H.R. 634: Mrs. JOHNSON of Connecticut.

H.R. 668: Ms. BORDALLO and Mr. MCNULTY.

H.R. 685: Mr. UPTON, Mr. KNOLLENBERG, Mrs. MILLER of Michigan, Mr. WILSON of South Carolina, Mrs. NORTHRUP, Mr. HOEKSTRA, Mr. CASE, and Mr. SOUDER.

H.R. 697: Ms. WOOLSEY.

H.R. 699: Mr. WYNN, Mr. LANTOS, and Mr. SCHIFF.

H.R. 737: Mr. MCDERMOTT, Mr. BROWN of Ohio, Mr. OWENS, Mr. GRIJALVA, Mr. HONDA, and Ms. Lee.

H.R. 772: Mr. GORDON, Mr. MOORE of Kansas, Mr. BOSWELL, Mr. CUMMINGS, Mr. CASE, Mr. BLUMENAUER, and Mr. SALAZAR.

H.R. 793: Mr. HOYER, Mr. BEAUPREZ, Mr. BAKER, Mrs. LOWEY, and Mr. NUNES.

H.R. 809: Mr. FOLEY, Mr. GARY G. MILLER of California, and Mr. BLUNT.

H.R. 810: Mrs. JOHNSON of Connecticut, Mr. SHAW, Mr. BARROW, Mr. SCOTT of Georgia, and Mr. MEEKS of New York.

H.R. 825: Mr. CANNON.

H.R. 827: Mr. BUYER, Ms. LEE, and Mr. ORTIZ.

H.R. 844: Mr. CUELLAR and Mrs. CHRISTENSEN.

H.R. 892: Mr. FOLEY, Mr. MURPHY, and Mr. MILLER of Florida.

H.R. 893: Ms. LINDA T. SÁNCHEZ of California.

H.R. 897: Mr. HOEKSTRA.

H.R. 900: Mr. GONZALEZ and Ms. ZOE LOFGREN of California.

H.R. 911: Mr. SESSIONS, Mr. DAVIS of Kentucky, and Mr. MORAN of Kansas.

H.R. 925: Mr. ISSA, Mr. JENKINS, Mr. DOOLITTLE, Mr. SHAYS, Mr. TANCREDO, and Mr. JONES of North Carolina.

H.R. 930: Mr. ROSS, Mr. BOUCHER, Mr. ROGERS of Alabama, Mr. HAYES, Mr. FORD, Mr. WILSON of South Carolina, Mr. MARSHALL, Mr. GORDON, Mr. GOODE, and Mrs. BIGGERT.

H.R. 937: Ms. CARSON, Ms. SLAUGHTER, Mr. OWENS, Mr. JACKSON of Illinois, Mr. SCOTT of Georgia, Mr. GEORGE MILLER of California, Mr. LANTOS, Ms. NORTON, Mr. TOWNS, Mr. RANGEL, Mr. SCOTT of Virginia, Mr. BUTTERFIELD, Mr. CUMMINGS, Mr. LEWIS of Georgia, Mrs. JONES of Ohio, Ms. WOOLSEY, Mr. PAYNE, Mr. CLYBURN, Ms. WATERS, Mr. WYNN, and Mr. MEEK of Florida.

H.R. 940: Mr. KNOLLENBERG.

H.R. 970: Ms. WATSON.

H.R. 972: Mr. CUMMINGS, Mrs. JO ANN DAVIS of Virginia, Mr. MEEKS of New York, Mr. GUTIERREZ, Mr. MCGOVERN, Mr. MCNULTY, Mr. DOGGETT, and Mrs. NAPOLITANO.

H.R. 983: Mr. TIERNEY and Mr. FILNER.

H.R. 987: Mr. PAYNE, Mr. HINCHEY, and Mr. SERRANO.

H.R. 997: Mr. KUHL of New York, Mr. ISSA, and Mr. TIBERI.

H.R. 1000: Mr. JACKSON of Illinois and Mr. CLAY.

H.R. 1001: Mr. HENSARLING, Mr. GOHMERT, Mr. PAUL, and Mr. BURGESS.

H.R. 1010: Mr. BISHOP of Georgia.

H.R. 1029: Ms. LINDA T. SÁNCHEZ OF CALIFORNIA.

H.R. 1059: Mr. FILNER and Mr. KOLBE.

H.R. 1082: Mr. LUCAS, Mr. ISTOOK, and Mr. COLE of Oklahoma.

H.R. 1103: Mr. BERMAN and Ms. WOOLSEY.

H.R. 1114: Mr. BLUNT and Mr. HALL.

H.R. 1131: Mr. SENSENBRENNER.

H.R. 1134: Mr. GARY G. MILLER of California and Mr. HAYWORTH.

H.R. 1139: Mrs. BONO and Mr. ROGERS of Michigan.

H.R. 1140: Mr. SENSENBRENNER.

H.R. 1142: Mr. POMEROY and Ms. HARRIS.

H.R. 1155: Mr. LEVIN and Mr. DAVIS of Florida.

H.R. 1157: Mrs. CHRISTENSEN.

H. Con. Res. 34: Mr. SHERMAN.

H. Con. Res. 41: Mr. PALLONE, Mr. FORD, Mr. CONYERS, Mr. PLATTS, Mr. KUCINICH, Mr. WEINER, Ms. MCCOLLUM of Minnesota, Mr. PETERSON of Pennsylvania, Mr. SANDERS, Mr. KENNEDY of Rhode Island, Mr. SIMMONS, Mr. LEVIN, Mr. KILDEE, Mr. FOLEY, Ms. LINDA T. SÁNCHEZ of California, and Mr. KENNEDY of Minnesota.

H. Con. Res. 50: Mr. GARRETT of New Jersey and Ms. FOXX.

H. Con. Res. 61: Ms. HART and Mr. COSTELLO.

H. Con. Res. 70: Mr. WU, Mr. BURTON of Indiana, Mr. ROGERS of Alabama, Mr. TANCREDO, Mr. AL GREEN of Texas, Mr. HOSTETTLER, Mr. GINGREY, and Ms. ROS-LEHTINEN.

H. Con. Res. 83: Mr. GARRETT of New Jersey, Mr. POE, Mr. ROTHMAN, and Mr. PASCRELL.

H. Res. 84: Mr. RAMSTAD.

H. Res. 90: Ms. WOOLSEY and Ms. SOLIS.

H. Res. 97: Mr. BLUNT, Mr. SAM JOHNSON of Texas, Mr. TANCREDO, Mr. PAUL, Ms. FOXX, Mr. NEUGEBAUER, and Mr. CAMP.

H. Res. 99: Mr. ISSA and Ms. SOLIS.

H. Res. 101: Mr. BURTON of Indiana, Mr. SHERMAN, Mr. SOUDER, Ms. HARRIS, Mr. HERGER, and Mr. BEAUPREZ.

H. Res. 127: Mr. BECERRA, Ms. WASSERMAN SCHULTZ, Ms. KAPTUR, Mr. RANGEL, Mr. PASTOR, Mr. MCGOVERN, and Mr. GRIJALVA.

H. Res. 131: Mr. UDALL of New Mexico, Mr. CAPUANO, Mr. THOMPSON of Mississippi, Mr. MORAN of Virginia, Ms. ZOE LOFGREN of California, Mr. MCNULTY, Mr. STUPAK, Mr. LARSON of Connecticut, Mr. RYAN of Ohio, Mr. BAIRD, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MCCARTHY, Mr. FARR, Mr. WYNN, Mr. HOLT, Mr. RAHALL, Mr. BLUMENAUER, Mr. DELAHUNT, Mr. BECERRA, Mr. PASTOR, Mr. ORTIZ, Mrs. TAUSCHER, Mr. PASCRELL, Ms. SOLIS, Mr. OBERSTAR, Mr. PAYNE, Mr. BISHOP of New York, Mr. DINGELL, Mr. KILDEE, Mr. BRADY of Pennsylvania, Mr. SCOTT of Virginia, Mr. ENGEL, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. BOUCHER, Mr. FRANK of Massachusetts, Mr. BACA, Mr. EVANS, Mr. WAXMAN, Ms. WOOLSEY, Mr. TOWNS, Mr. SNYDER, Mr. GRIJALVA, Mr. TAYLOR of Mississippi, Mrs. MALONEY, Mr. HONDA, Mr. MILLER of North Carolina, Mr. CASE, Mr. VAN HOLLEN, Mr. SCHIFF, Mr. LANTOS, Mr. DEFAZIO, Mr. CLEAVER, Mr. DOGGETT, Mr. HINCHEY, and Mr. SHAYS.

H. Res. 132: Mr. DOGGETT.

H. Res. 135: Mr. MOORE of Kansas.

# EXTENSIONS OF REMARKS

## HONORING THE CONTRIBUTIONS OF LAREDO INDEPENDENT SCHOOL DISTRICT PRESIDENT DENNIS CANTU

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the distinguished public service of Laredo Independent School Board President Dennis Cantu.

Dr. Cantu grew up in Texas, graduating from J. W. Nixon High School. He majored in Biology at Baylor University in Waco, and received his Doctorate in Medicine from Baylor College of Medicine in Houston at the age of 23. He specialized in internal medicine, and is currently a Board Certified Internist who practices at Laredo Medical Center and Doctor's Hospital.

Dr. Cantu continues to serve the community as Medical Director of the Laredo Fire Department Paramedics. He was recently honored for his enormous contribution to the health and safety of Laredo when one of the Laredo schools was renamed the Dr. Dennis D. Cantu Health Science Magnet School in his honor.

Dennis Cantu is now serving his fifth term as President of the Laredo Independent School District Board of Trustees. He has been a trustee for 15 years, and has previously held the posts of Secretary and Vice President. Dennis Cantu is an invaluable resource for Laredo, Texas, and a tireless advocate for the health and education of his fellow citizens.

Mr. Speaker, I am proud to have this opportunity to recognize Laredo Independence School District Board President Dennis Cantu, and to thank him for his service.

## CONGRATULATING NIAGARA UNIVERSITY MEN'S BASKETBALL TEAM

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. SLAUGHTER. Mr. Speaker, I rise today to congratulate the Niagara University Men's Basketball Team on winning the 2005 Metro Atlantic Athletic Conference (MAAC) Tournament on March 7, 2005. Their win by a score of 81–59 over Rider University clinched the Purple Eagles' second NCAA Tournament berth, the first appearance since 1970.

After heartbreaking losses in the conference title game two out of the last three years, the Purple Eagles showed their perseverance to break through to the "big dance." The accomplishments of Juan Mendez, who was the MAAC player of the year and named tournament MVP, and all-tournament teammates Lorenzo Miles and David Brookshad are impressive, but each member of the team needs to be congratulated for this title game win.

However, a team is only as successful as its leader, and Coach Joe Mihalich, now in his seventh season at Niagara University, exemplifies everything that is good about college athletics. He demands accountability from his players both on and off the court, and is a strong role model for the entire University community. Under Mihalich's guidance, the Purple Eagles have won three of the past seven MAAC regular-season titles, advanced to the MAAC Championship game three times, and has posted seven-straight winning seasons. Along the way, Mihalich quietly has collected the second-most wins in school history and was the first Niagara coach to reach 100 wins in just his sixth season at the helm.

Mr. Speaker, I cannot be prouder of the Niagara University's Purple Eagles, and I wish to commend University President Father Joseph Levesque, the coaching staff and players, and students at Niagara University for this championship season. I will be eagerly watching the team's first round game in the NCAA tournament as they proudly represent Niagara University on the national stage.

## HAITI

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. LEE. Mr. Speaker, I rise to open the CBC Special Order on Haiti.

Haiti should be in the hearts and minds of all who support justice, democracy, and freedom.

Until Haiti knows peace, we who are here tonight, "the conscious of the Congress" will remain duty-bound to bring our neighbors struggles to light.

This week commemorates the one-year anniversary of Haiti's 33rd coup d'etat.

As we reflect on the internationally orchestrated ousting of President Jean Bertrand, I am convinced now more than ever that President Bush undercut the potential for a diplomatic solution to last year's violent revolt and overthrow of democratically elected President, Jean Bertrand Aristide.

One year later, the result of the coup has left Haiti a breeding ground of the morally corrupt.

Drug dealers, thugs and brutal militia men who have taken the lives of hundreds of Haitians, raped and tortured women and children, and filled the coffers of the Haitian rich and elite who support and sponsor their terror now rule the country.

The interim Haitian Government has even gone so far as to reward these thugs with positions in government and label them "freedom fighters".

Today, Tom Griffin, renowned human rights activist, addressed the CBC Haiti Task Force and gave us a first-hand account of the human rights abuse and climate of destruction in Haiti.

He showed us gruesome pictures and reviewed the abysmal human rights report from his November trip.

The pictures show the battered-bloody bodies left in the street. A morgue full of hundreds of nameless, silenced voices that died at the hands of Haitian National police.

Babies who have no chance at life—because there is no food, no clean water, and no hope for the future—were placed in cardboard boxes.

Where were the U.N. troops?

Mr. Griffin's report was based on only 10 days in Haiti show but a glimpse of what the conditions are in Haiti. What about Haitians who have had to live in this corrupt-police state since Aristide's departure?

Who will Haitians call on for safety and protection? For basic electricity, health care, food and water?

They can't call on their elected officials, because they weren't elected—they were installed.

And who is to blame for the removal of democracy and Haiti's transformation toward hopelessness?

Mr. Speaker, the current state of affairs in Haiti is the product of this Administration's doing.

By refusing to work bilaterally with the Government of Haiti and President Aristide, by embargoing aid and humanitarian assistance to the government, by funding and encouraging opposition groups, thugs, rebels and the like, not to work with Aristide toward a political settlement, and by bullying the CARICOM countries to turn a blind eye to their fellow member state; the Bush Administration contributed to the current political instability and provided the environment for a coup d'etat to occur.

Mr. Speaker, I believe the issue of Haiti is simply an issue of democracy, and the Bush Administration has been instrumental in toppling a democratically-elected government. Step by step they have worked to undermine President Aristide, for example:

1. First, the Administration propped up Haitian opposition leaders; allowing political obstructionists to refuse and reject any plan for peace and democratic elections since the passage of OAS Resolution 822, and ultimately stonewall the elections process by rejecting the Catholic Bishops Plan, the CARICOM Plan, and finally the International Peace Plan.

2. Second, the Administration funded civil society and political opposition parties with USAID funding and arming paramilitary and military factions in the Dominican Republic where Guy Phillipe and other insurgents began their recent assault on democracy.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

3. Lastly, the Administration hindered the instant support of peacekeepers and bullied the international community into blocking peacekeeping support that would have secured Haiti and protected "then" President Aristide.

The Bush Administration must never again pre-empt democracy but instead allow the Haitian people, and the Caribbean community to set the course for Haiti.

When the Administration was questioned regarding their involvement in Haiti, they justified their actions by critiquing President Aristide's effectiveness as a President.

Mr. Speaker, I myself have had many issues with the policies of President Bush. And I have always questioned the flaws of the 2000 elections that brought this Administration to office, but I refuse to believe any AMERICAN who believes in democracy would allow another country to help overthrow our government.

We do not teach people to violently overthrow our U.S. government, and we must not teach other people in the international community, particularly Haiti, to participate in activities that taint the hope for democracy by use of violence.

Mr. Speaker, this is a sad week for Haiti, the United States, and moreover democracy.

It is our moral obligation to find out the truth about this coup d'etat and cast light on the alleged covert activities of the Bush Administration.

It is time to stop the political pillaging of the country and begin saving Haitian lives for the future stability of the country.

Members of this Congress must condemn the continued violence and murders of Haitians, and call on the Bush Administration, OAS, and the U.N. to fully support democracy, the release of political prisoners like Yvonne Neptune, and disarm the thugs and rebels who continue to stifle democracy and create an environment of fear, intimidation, and anarchy.

We must press the transitional government, the OAS and the international community to respect the regional leadership of CARICOM.

And finally, we must push the United Nations to develop a special court in Haiti to try those who are most responsible for crimes against humanity instead of rewarding them with offices in the new government.

I call on the Bush Administration to do what is right for the Haitian people. I have introduced The TRUTH Act, or H.R. 945, which would commit President Bush and his administration to tell the truth about Haiti, and the Administration's involvement in President Aristide's ousting.

It is TRUE, that the Administration has, in essence, carried out a form of 'regime change,' a different form than it took in Iraq, but still regime change, and we must bring their actions to light.

Shame on President Bush and the international community that is silent as thousands of young Haitian poor men, women and children are murdered in the streets and stripped of their chance for democracy, peace, and a basic decent life.

Mr. Speaker, Haiti boils down to democracy, fairness, and freedom, concepts that the Bush Administration must learn to respect and uphold.

---

## HONORING THE CONTRIBUTIONS OF LAREDO INDEPENDENT SCHOOL DISTRICT SUPERINTENDENT SYLVIA BRUNI

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important of contributions of Laredo Independent School District Superintendent Sylvia Bruni.

Ms. Bruni graduated from Incarnate Word College in San Antonio, with a Bachelor of Science Degree in English, Spanish, and Education. She became a high school English teacher, and taught at the United Independent School District for 17 years.

In addition to providing an education for others, Sylvia Bruni has served as an example herself of the importance of continuing education throughout life. While teaching at the United ISD, she received her Master of Science in Education from Laredo State University. She also completed programs certifying her as a professional reading specialist, professional supervisor, professional mid-management administrator, and superintendent.

Ms. Bruni has held a variety of prestigious posts in Texas education. She was principal at Salinas Elementary School, Director of Curriculum and Instruction at the United ISD, as a faculty member at Laredo Community College, and as Director for the Office of Special Programs at Texas A&M International University. She held the post of Director of Research, Planning, and Development before being named Superintendent of the Laredo Independent School District.

These activities, along with her commitment to community volunteerism, have earned Ms. Bruni a variety of awards, including Laredo Community College Top 50 Distinguished Alumni and Laredo Morning Times "Laredoan of the Year.".

Mr. Speaker, I am proud to add my name to the long list of people who have congratulated Sylvia Bruni on her competent and dedicated service, and her enormous contribution to the state of education in Southwest Texas.

---

## COMMEMORATING THE 20TH ANNIVERSARY OF THE WOMEN'S CENTER OF NORTHERN VIRGINIA AND WASHINGTON, DC—ANNUAL LEADERSHIP CONFERENCE

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to congratulate The Women's Center of Northern Virginia and Washington, DC on the 20th anniversary of its Annual Leadership Conference.

The Women's Center has been a resource for women in the workplace from its beginnings. The first Conference in 1985 was titled "On the Job Issues for Working Women." Held at the Vienna Community Center, the conference addressed four related areas of professional development: career strategy; development of management skills; networking and mentoring; and work relationships. It was at this event that the Center's hallmark program, The Information and Career Advisory Network (ICAN) was introduced. ICAN makes a customized network of professionals available to each of its participants. As the number of women in management positions grew, so, too, did the scope of the Annual Conference. Recent titles included "The Global Community of Women," "The Economic Equity of Women," "Caregiving in a Time of Change," and "Women Leaders, Changing the Dynamic." With this year's Conference, "Women in Leadership: Your Success Portfolio," the Women's Center continues its legacy of relevance and diversity by addressing the multiple definitions of and opportunities for leadership now available to women.

As the scope and size of the Annual Leadership Conference grew, so did the services of The Women's Center. Founded as a counseling and educational organization in 1974, the Center now offers a wide range of services and programs addressing the psychological, career, financial and legal issues of women and families. Counseling services, including group therapy and support groups, are now offered to women, couples, families and children. The Center's Information and Referral Service, which acts as a resource gateway for local human service issues, handles about 25,000 calls a year.

In closing, Mr. Speaker, I congratulate The Women's Center on its comprehensive range of services and unique contribution to the community. On the occasion of this 20th Annual Leadership Conference, I ask my colleagues to join me in acknowledging this outstanding and distinguished organization.

---

## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. GALLEGLY. Mr. Speaker, on Thursday, March 3, 2005, I had left the chamber after the voice vote on the final passage of H.R. 841, the Continuity in Representation Act, thinking that congressional business had ended for the day. I did not know that subsequently the vote was vacated and a rollcall vote was called. At that time I was on my way to Dulles Airport to fly back to my congressional district. If I had been present, I would have voted "aye" on final passage (rollcall vote 52).

---

## HONORING THE CONTRIBUTIONS OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD PRESIDENT JOHN M. BRUCE

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of United

Independent School District Board of Trustees President John Bruce in Laredo, TX in my Congressional District.

John Bruce is the President of the U.I.S.D. Board of Trustees. Bruce decided to make a run for elected office because he did not agree with some of the decisions the Board was making. Armed with that motivation, he ran for and was elected to the board in May 2002. "It's been a challenging and interesting experience," Bruce said. "I've met a lot of fine people."

John Bruce is the Director of the Laredo Job Corps, an education training facility. As Center Director of Laredo Job Corps, Bruce oversees an organization with an annual budget of $5,500,000. Bruce is also a certified commissioned peace officer and a licensed law enforcement instructor. He is a certified k–9 trainer, a member of the Sheriff's Department SWAT team, and is a former Special Forces Operations officer in the U.S. Army Reserve.

Bruce ran on the platform of safety in our schools. He initiated the K–9 Patrol Program in UISD to help curtail drug and gang activity at district campuses. Job Corps recently donated two K–9s, which saved the district nearly $12,000.

Bruce has a Bachelor of Arts degree in journalism and history from Texas A & I University in Kingsville. He is also a licensed customs broker. Bruce has held numerous positions in several civic and community organizations. He was a member of the 2001 UISD Blue Ribbon Committee, he was vice president of the United High School Booster Club, and Bruce also serves as an advisor to Explorer Post 437. He is a member of the Laredo Masonic Lodge, the Laredo Shriners, and the Elks Lodge.

Mr. Speaker, I am proud to have this opportunity to recognize United Independent School District Board President John M. Bruce.

## TRIBUTE TO ELENA ANUZIS

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. McCOTTER. Mr. Speaker, last week, the State of Michigan and Detroit area community lost a member whose life was characterized by an altruistic commitment to her fellow human beings.

As the youngest daughter of a mill owner and a loving mother, Elena Anuzis was born in Lithuania in 1920, where she grew up in a peaceful country home with three sisters and a brother. But shortly after she married Ceslovas Anuzis, their peaceful life together was ravaged by World War II and the Soviet Union's subsequent occupation of their nation. Fearful for their lives, Elena and Ceslovas fled their country and traveled to the United States, specifically to Michigan, where they settled in Detroit and raised their four children—Ausra, Gailute, Saulius and Andrius.

Elena, along with her husband, is honored by the state of Israel as "Righteous Among the Nations," an honor bestowed to individuals who risked their lives to rescue Jews from the holocaust. Although their means were meager, they were willing to shelter Hasia Green-Gaslevitz, sent to them by a Catholic Nun from a nearby monastery. There is evidence the couple helped others. They rescued two Jewish girls from the Vilna Ghetto and found shelter for them at the home of a pharmacist in Lyda. They also provided false documentation for other Ghetto escapees.

Mr. Speaker, every day Americans live extraordinary lives, and Elena Anuzis exemplifies their quiet courage and sublime virtue. She triumphed over momentous trials and tribulations and, despite witnessing the horrors of inhumanity, she never ceased espying, eyeing and elevating the best in everyone; and, in essence and act, generously giving of her heart and soul to her fellow human beings. Let us then all pause to honor Elena; and extend our deepest condolences to her loved ones.

## CELEBRATING THE 90TH BIRTHDAY OF LCDR ISRAEL G. "TEX" SEEGER, USNR (RET.)

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. ACKERMAN. Mr. Speaker, I rise today to celebrate the 90th birthday of Israel G. "Tex" Seeger and to honor his great contributions to the United States. Tex turns 90 on March 21, 2005, and he will celebrate this momentous occasion on March 26, 2005 at a special dinner with family and friends.

Tex's courage and brave dedication have made our country and the great State of New York extremely proud. Tex volunteered for the United States Navy on June 30, 1941. After graduating second in a class of 500, from the U.S. Navy V–7 Midshipman Training Program, Tex was awarded an officer's sword for achieving the highest grade in engineering for deck midshipmen. Tex began his service as Deck Division Officer and Boat Group Commander aboard the USS *Edward Rutledge*, an attack transport, during the invasion of North Africa. He then went on to serve as Operations Officer aboard the USS *Harry Lee*, another attack transport, during the invasion of Sicily, Tarawa, Kwajelein, and New Guinea.

In May of 1944, Tex was one of 50 Naval Officers selected to take the Preparatory Staff Course at the Naval War College. Following his graduation, Tex served as Operations Officer and Flag Secretary on the Staff of Rear Admiral Oscar C. Badger, where his duties included preparing contingency operation plans for the Fast Battleship Striking Force, the Divisionary Bombardment on the southern coast of Okinawa prior to the invasion at Naha, and the shore bombardments carried out on the Japanese islands of Hokkaido and Honshu. Tex also established the Pacific Fleet Headquarters at the Yokosuka Naval Base Administration Building, where an impressive flag raising ceremony for Admiral Nimitz took place on August 30, 1945.

On September 30, 1945, Tex was separated from the Navy and subsequently received the citation and award of the Bronze Star Medal from Admiral Halsey. On January 1, 1949, Tex was promoted to the permanent rank of Lieutenant Commander, and he was retired in that rank in 1954.

Tex continued his commitment to service through his role as Judge Advocate and as a Director of the U.S. Navy League, New York Council. Tex currently resides in Manhasset, New York, and although he claims to be semi-retired, he is still an active member of the New York bar and is engaged in the practice of law in New York.

Mr. Speaker, I commend Israel G. "Tex" Seeger for his years of dedicated service to this country. Tex's integrity, bravery, and stature have certainly made a significant impression on the great many lives he has touched. In recognition of this, I ask my colleagues in the House of Representatives to please join me in honoring Israel G. "Tex" Seeger as he celebrates his 90th birthday.

## HONORING THE CONTRIBUTIONS OF LAREDO INDEPENDENT SCHOOL DISTRICT BOARD MEMBER GEORGE M. BECKELHYMER

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the contributions of Laredo Independent School District Board Member George M. Beckelhymer, of my Congressional District in Laredo, Texas.

Mr. Beckelhymer graduated from the University of Texas at Austin, earning his bachelor's degree in radio, television, and film. After graduation he decided to venture into the business world, and he became part owner of L. Bufalo Pawn Shop.

In May 2002 he was elected to District 4 of the LISD Board of Trustees, and currently serves as Secretary of the Board. His District includes Sanchez/Ochoa Elementary, Alma Pierce Elementary, K. Tarver Elementary, and J.W. Nixon High School. Mr. Beckelhymer believes in working together with all of the appointed Trustees to create a good working environment between faculty, parents, and children.

Mr. Beckelhymer enjoys working for the community, and is an active member of the Citizens Environmental Advisory Committee in the City of Laredo. Beckelhymer hopes to ensure that all students receive the best quality education to prepare them for the future, and he is proud that he is able to help the community move in a positive direction.

Mr. Speaker, I am proud to have had the opportunity to honor Laredo Independent School District Board Member George M. Beckelhymer.

## PERSONAL EXPLANATION

### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CLEAVER. Mr. Speaker, on Tuesday March 8, 2005, I was unable to cast my vote on H. Res. 133 and H. Res. 122. Had I been present, I would have voted "yea" on rollcall 53, 54, and 55.

---

## THE WALNUT CANYON STUDY ACT OF 2005

### HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. RENZI. Mr. Speaker, I rise today to introduce the Walnut Canyon Study Act of 2005.

The Walnut Canyon National Monument was originally designated by Presidential proclamation on November 30, 1915, to protect Sinaguan cliff dwellings. Since the original designation, the Walnut Canyon National Monument has been expanded to include 3,580 acres to protect additional ruins adjacent to the Monument.

In the past few years, several groups have proposed expanding the Monument with surrounding Forest Service land and designating this expanded area as a National Park. To further explore the options of the Walnut Canyon National Monument and potential inclusion of this expanded area, along with Senator MCCAIN, I have introduced the Walnut Canyon Study Act.

The Walnut Canyon Study Act of 2005 directs the Secretary of the Interior and the Secretary of Agrculture to jointly conduct a study on the management of certain land adjacent to the Walnut Canyon National Monument.

Coconino County and the City of Flagstaff have both passed resolutions supporting further review and study of the management options for the Walnut Canyon National Monument. In both resolutions, support for maintaining certain public uses in the Monument was relayed, as well as the need for the protection of the resources in the Monument.

Mr. Speaker, this legislation provides for public input into any recommendation that is forwarded by the Secretary of the Interior and the Secretary of Agriculture. Within the study, the legislation requires the Secretaries to look at the management objectives of the Forest Service and the National Park Service, as well as the opportunities for maintaining existing public uses, such as grazing, hunting, mountain biking, rock climbing and additional forms of recreation.

Mr. Speaker, I urge my colleagues to support the Walnut Canyon Study Act of 2005. My intent in introducing this legislation is to help resolve the question of future management of the Walnut Canyon National Monument.

---

## HONORING THE POLK COUNTY ENTERPRISE ON THEIR 100TH ANNIVERSARY

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. BRADY of Texas. Mr. Speaker, I rise today, to honor and congratulate the Polk County Enterprise on their centennial anniversary, which they are celebrating throughout this year. The Polk County Enterprise has been a faithful banner of news and source of record for generations of residents in East Texas. From a humble founding by young entrepreneur Will West in the fall of 1904 the Polk County Enterprise and its parent company Polk County Publishing has grown to a circulation of over 60,000 including seven weekly and bi-weekly newspapers, three shoppers, and two job-printing operations.

Throughout its 100 year history, the paper has had only 16 publishers. Mr. Alvin Holley, the current publisher of the Polk County Enterprise has served in his post for the last thirty years—the longest of any publisher at the Enterprise. I am pleased to report he has no plans to retire anytime soon.

Mr. Holley got his start in the newspaper business as a paperboy for the Corsicana Daily Sun. The papers sold for a nickel each, Holley's profit was two cents per paper. That may not seem like much by today's standards—but back then a movie show cost only nine cents.

Mr. Holley stayed in the newspaper business—and after high school worked in the newspaper's business office and occasionally was assigned news stories. He was named the advertising manager in 1963 and served there until 1972 when he took a position with the Polk County Enterprise. Two short years later, Holley bought the Enterprise and remains its publisher to this day.

Mr. Holley credits his paper's success to the employees that keep the presses running. In a recent interview, Holley estimated that the combined years of service of current employees exceeds 430 years and that the average length of service is 14 years. That says a lot.

The men and women of the Polk County Enterprise and Polk County Publishing Company not only love what they do for a living, but also obviously love their community.

From the days of Linotype to today's high speed desk top computers, the Polk County Enterprise has covered all of the happenings in East Texas.

With a loyal staff and publisher who is just as likely to be caught working at the news desk or delivery bays as he is his private office—I am confident the Enterprise has many more exciting years in store.

Mr. Speaker, our nation's hometown community newspapers have been the trusted source of news Americans have depended on since our nation's earliest beginnings. The Polk County Enterprise has a proud legacy and it is an honor to represent the communities they serve in the U.S. House of Representatives. I urge you to join me in congratulating the Polk County Enterprise on their 100th anniversary.

---

## RECOGNIZING THE DEDICATION OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD MEMBER JUAN ROBERTO RAMIREZ

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of United Independent School District Board Member Juan Roberto Ramirez in Laredo, TX in my Congressional District.

Juan Roberto Ramirez is the Secretary on the United I.S.D. Board of Trustees. Even though Ramirez is the District 6 representative, he says his goal is to serve the District as a whole and give the students the best education programs possible. "Let's not forget that we work united for what is best for our children," Ramirez said.

Ramirez is a retired U.S. Customs Agent. He is a veteran of the Vietnam conflict, serving his country in the U.S. Army. After graduating from high school, Ramirez attended Laredo Community College and earned a degree in Business Administration. He is also a graduate of the Federal Law Enforcement Academy. Presently, Ramirez works full-time as a Career Advisor for the Laredo Job Corps, is a self-employed businessman, and a notary public. Ramirez served as Vice-Chairman for the Webb County Appraisal District Board of Directors from May of 2002 to July of 2004.

Ramirez is grateful for being elected and he feels honored by the confidence the voters have in him. He promises to work hard for his constituents. "I have an open door to hear everyone's concerns," Ramirez said. "It's an extraordinary experience to be able to work for the kids in the district, to be part of a team that makes decisions for kids and staff." Ramirez says it's a thrill to be part of the Board, "it's a great honor to work for my District."

Mr. Speaker, I am proud to have this opportunity to recognize the contributions of United Independent School District Board Member Juan R. Ramirez.

---

## TRIBUTE TO CATHY FINK AND MARCY MARXER

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise to commend two of my constituents, Cathy Fink and Marcy Marxer. For the second year in a row Fink and Marxer, residents of Kensington, Maryland, won a GRAMMY® for Best Musical Album for Children. Their winning album is entitled "cELLAbration: A Tribute to Ella Jenkins."

The album celebrates the music of Ella Jenkins, "The First Lady of Children's Music" and the winner of the 2004 GRAMMY® Lifetime Achievement Award. The project was a gift to Ella Jenkins in honor of her 80th birthday.

Fink and Marxer won their first GRAMMY® last year for "Bon Appetit! Musical Food Fun," and every album they have released since 1997 has been nominated for this prestigious honor.

As a Member of Congress, I have worked to address the need for broad support for music education and to assure that every child has access to the benefits of active participation in music. I believe that music education is imperative to our children's growth and well-being. During their 21-year musical career, Fink and Marxer have inspired children with their gift of music.

I applaud Cathy Fink and Marcy Marxer and wish them continued success in the years ahead.

## MARCH IS NATIONAL KIDNEY MONTH

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. McDERMOTT. Mr. Speaker, as co-chair of the Congressional Kidney Caucus, I want to make everyone aware that March is National Kidney Month. A growing epidemic, diabetes has a significant impact on kidney disease. Diabetes is the single leading cause of kidney failure in the U.S. today.

Approximately 17 million people living in America, or more than 6 percent of the population, have diabetes. Because a cure for diabetic kidney disease has not yet been found, treatment involves controlling the disorder and slowing its progression to kidney failure. Recent research has shown that the presence of high blood pressure may be the most important predictor of which diabetics will develop chronic kidney disease.

Therefore, the detection and control of high blood pressure are very important in diabetic patients. March is National Kidney Month and the Kidney Caucus in partnership with the National Kidney Foundation is urging all those at-risk for kidney disease, including diabetics, to get checked out by their doctor.

Treatment to prevent diabetic kidney disease should begin early, even before kidney damage develops. To accomplish this, experts must make diabetic patients aware of the severity of this disease and its symptoms, and must educate diabetics on ways to control the disease.

## HONORING THE CONTRIBUTIONS OF LAREDO INDEPENDENT SCHOOL DISTRICT JORGE LUIS RODRIGUEZ

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Laredo Independent School District Board Member Jorge Luis Rodriguez for a lifetime of distinguished public service.

Jorge Luis Rodriguez has always been interested in education, and has been a member of the Laredo ISD School Board since May 2000. He is the School Board Trustee for District 2 which oversees Dovalina Elementary school, Macdonell Elementary School and Daiches Elementary School.

LISD Board Member Jorge Luis Rodriguez is a credit and an inspiration to his community and a tremendous resource to his county. He believes in helping the children of his community strive to be the best individuals they can be, by giving them a quality education. He instills in the children the value of hard work and determination, and has been able to implicate many positive changes for students, parents, and LISD faculty.

Rodriguez is grateful for being elected and thanks his constituents by working hard and earning their confidence. He is currently employed in construction management and automotive sales.

Mr. Speaker, I am honored to have had this opportunity to recognize the many achievements of Laredo Independent School District Board Member Jorge Luis Rodriguez.

## INTRODUCTION OF HATE CRIMES STATISTICS IMPROVEMENT ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mrs. MALONEY. Mr. Speaker, today I join my colleagues, Representatives WEINER, CUMMINGS, BARBARA LEE, GUTIERREZ, GEORGE MILLER, WOOLSEY, LOFGREN, GONZALES, SANDERS, and LINDA SÁNCHEZ in introducing the Hate Crimes Statistics Improvement Act.

The Hate Crimes Statistics Improvement Act will ensure that hate crimes motivated by gender are accounted for by the FBI and local law enforcement agencies. With accurate data, local communities can identify gender-based hate crimes in their area and chart their progress toward eliminating them. Moreover, the inclusion of gender will send a strong message that gender-based hate crimes will not be tolerated.

In states with gender-based hate crimes laws, prosecutors typically must present concrete evidence that the criminal act was committed due to gender bias. Obviously, not all crimes against women are gender-based crimes, and prosecutors should have discretion in identifying what constitutes a gender-based hate crime. The process of discussing these differences will improve the understanding of all hate crimes by law enforcement personnel and will improve reporting of these tragic crimes.

I urge my colleagues to support this important legislation that will help reduce hate crimes against women.

## PERSONAL EXPLANATION

### HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. MOORE of Wisconsin. Mr. Speaker, on rollcall Nos. 53, 54 and 55, question before the House on March 8, 2005 I did not cast votes due to inclement weather wherein my flight to Washington, D.C. was cancelled. My alternate transportation did not convey me here in a timely manner. Had I been present I would have vote "aye" on rollcalls 53, 54 and 55.

## ON THE RETIREMENT OF JOHN FIELDS STOVALL

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. THOMAS. Mr. Speaker, I rise today to celebrate the retirement of a distinguished constituent and good friend, John Fields Stovall. John has worked as General Counsel for the Kern County Water Agency in my district for more than sixteen years, earning the respect of his peers for his thoughtful, effective work on behalf of California water interests.

John has lived most of his life in Bakersfield, California, beginning at the age of ten. He graduated from Bakersfield High School and subsequently Bakersfield College, where he studied pre-pharmacy. John moved to the University of California at Los Angeles, where he graduated in 1970 with a Bachelor of Arts degree in Psychology.

Before beginning his career in water issues, John first worked for the Food and Drug Administration as an Investigator and received his J.D. degree, with honors, from Loyola Law School. John worked for several law firms, including the respected Lebeau, Thelen and Lampe. While working at Lebeau, Thelen and Lampe, John met his wife, the former Jan Blocher, and began legal work on water rights issues. He took that experience with him to the Kern County Water Agency in 1989, when he joined the Agency as General Counsel.

John has successfully shepherded the Agency through many legal challenges and opportunities, including the organization of the Kern Water Bank. His work to ensure continued favorable operation of the State Water Project has helped to provide consistent water supplies for thousands of Kern County residents and farmers. It was a pleasure to work closely with John in our efforts to reauthorize the federal portion of the California Bay-Delta Program. In recent years, he studied for and successfully received his Doctorate from the highly-respected Peter F. Drucker Graduate School of Management at Claremont Graduate University.

In his personal life, John is active in the local community. He participates in the Bakersfield Chamber of Commerce's Government Review Council and the Bakersfield Breakfast Rotary Club. He supports local students as a competition judge for high school mock trial competitions, and is an active member of the Kern County Republican Party.

While John's full-time career at Kern County Water Agency is coming to an end, I am sure that he and Jan will continue to be valuable and active members of our community in Bakersfield. On behalf of Kern County residents who recognize the necessity and value of reliable water supplies, I thank John for his service and wish him and Jan the best as they begin the next stage of their lives.

## RECOGNIZING THE CONTRIBUTIONS OF UNITED INDEPENDENT SCHOOL DISTRICT SUPERINTENDENT ROBERTO SANTOS

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize United Independence School District Superintendent Roberto Santos for his many contributions to education in the City of Laredo.

Roberto Santos has been a longtime advocate for education in the State of Texas. He received his BA from St. Edward's University in Austin, and completed his Masters in Education at the University of Texas—Pan American campus.

Beginning in 1966 as a teacher at Laredo Independent School District, he worked his way up through successive positions in the educational system. He worked as Director of Human Resources, Assistant Superintendent for Support Services, and finally Superintendent of the entire United Independent School District, serving the students of Laredo.

Roberto Santos has also enriched the community through his work as a businessman. He began as an auto salesman in 1975, and has been owner or part owner of two businesses, Santos Auto Sales and Homeland Mobile Homes.

On top of all this, he has given his time and energy to a multitude of volunteer organizations. He served as President of the Texas Association of School Personnel Administrators and the Kiwanis Club, and served on the boards of the United Way, Laredo Community College, the Laredo South Girls Little League, and the City of Laredo Parks and Recreation. At each step, Roberto Santos has given of himself to make Laredo stronger, and to ensure a quality education for its children.

Mr. Speaker, United Independent School District Superintendent Roberto J. Santos' life is a model of community involvement, and I am pleased to have this opportunity to publicly thank him.

---

## CONGRATULATING BRIGADIER GENERAL WILLIAM TERPELUK

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. ENGEL. Mr. Speaker, I rise today to congratulate Brigadier General William Terpeluk who completes his term as Deputy Commander for the 77th Regional Readiness Command this month and thank him for his service to our nation. General Terpeluk served in this position from 31 March 2001–30 March 2005. He was Deputy Commander during 9–11 and through the War on Terror. He moves on in his military career later this month.

The 77th Regional Readiness Command is located in Fort Totten, New York. It is headquartered in Bayside, Queens, New York at historic Fort Totten, where the Reserve Command has been since 1968.

Brigadier General Terpeluk is an Infantry Officer who received his commission as a Second Lieutenant through the Reserve Officer Training Corps Program in 1974 from the Virginia Military Institute. After completing the Infantry Course at Fort Benning, Georgia, he served on Active Duty as the Executive Officer, Company E, 3d Battalion, 3d Basic Combat Training Brigade, Fort Dix, NJ.

His next assignment was as the Assistant Brigade S–1, 3d Basic Combat Training Brigade, Fort Dix, NJ. Brigadier General Terpeluk was then assigned to Korea where he functioned as the Executive Officer, HHC, 1st Battalion (M), 31st Infantry and Rifle Platoon Leader, Company B, 1st Battalion (M), 31st Infantry, Camp Casey, as well as Support Platoon Leader, 1st Battalion (M), 31st Infantry, Camp Howze, Korea.

In October of 1978, Brigadier General Terpeluk transitioned to the United States Army Reserve as the Executive Officer, and later as the Commander, of Company B, 1st Battalion (M), 315th Infantry, 157th Separate Infantry Brigade (M), Bristol, PA. Between February 1982 to May 86 he served as the Aide-de-Camp and Headquarters Commandant, Hqs, 79th United States Army Reserve Command, Willow Grove, PA. From May 86 to January 1993, Brigadier General Terpeluk served as the Executive Officer and Commander, 4074th Reception Battalion, 76th Division (Training), Willow Grove, PA. From January 1993 to July 94, he served as the Chief of Staff, I57th Separate Infantry Brigade (M), Horsham, PA.

After a year on Active Duty to complete the United States Army War College, Brigadier General Terpeluk returned to the Army Reserve as the Commander of the 1079th Garrison Support Unit from 1995 to 1997. Between 1997 to 2001, he performed as the Commander, 2d Brigade, 78th Division and the Assistant Chief of Staff, G3, for the 78th Division. On March 31, 2001, Brigadier General Terpeluk was assigned as the Deputy Commander of the 77th Regional Support Command.

Brigadier General Terpeluk's military awards include the Meritorious Service Medal with 3 Oak Leaf Clusters, the Army Commendation Medal with 2 Oak Leaf Clusters, the Army Achievement Medal with 1 Oak Leaf Cluster, the Army Reserve Components Achievement Medal with Silver Oak Leaf Cluster, the National Defense Service Medal, the Armed Forces Reserve Medal with Silver Hourglass, the Army Service Ribbon and the Overseas Service Ribbons.

In his civilian capacity, Brigadier General Terpeluk is a Laboratory Manager for Merck Research Laboratories.

Again, Mr. Speaker, I want to thank General Terpeluk for his dedication and service to the United States Army and this great Nation. For over thirty-years, General Terpeluk has worn the uniform and sworn to protect the United States from all threats. His service can never fully be repaid, so I offer him my thanks, and the thanks of all my colleagues in the United States House of Representatives and wish him well and Godspeed in his future.

---

## HONORING GEORGE ASTE FOR HIS MANY YEARS OF SERVICE TO THE AVIATION INDUSTRY

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to George Aste, and to commend him for his dedication to the U.S. and international aviation industry. George Aste has been a leading figure in aviation for more than 40 years. He has held senior positions at United Airlines and Trans World Airlines, has advised American Airlines, and has participated in many U.S. international aviation matters for the last three decades.

The Air Transport Association recently acknowledged Mr. Aste for his exemplary service to the U.S. aviation industry. I would like to include ATA's resolution honoring Mr. Aste for his many years of dedication and leadership for the RECORD.

Be it hereby Resolved that the Air Transport Association Board of Directors commend George Aste for a lifetime commitment to the goals of commercial aviation both domestically and internationally.

For over forty years George Aste has been a leading figure in U.S. Aviation, holding executive positions at United Airlines and Trans World Airlines, continuing as a senior advisor to American Airlines.

He has participated in virtually all major U.S. international aviation matters for the last three decades.

Over the years, Mr. Aste has worked closely with U.S. Government agencies, as well as the U.S. Congress and State, City and local government officials throughout the country. He also dealt directly with many foreign government officials on international aviation matters.

Mr. Aste has dedicated much of his long illustrious career to the expansion and liberalization of international operations for U.S. air carriers.

Throughout, Mr. Aste has earned the respect of his colleagues for his extraordinary knowledge, unswerving honesty and boundless good cheer.

Therefore, the Air Transport Association wishes to commend and congratulate George Aste for his dedication to furthering U.S. Commercial aviation.

---

## TRIBUTE TO THE GOLD FAMILY

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CANTOR. Mr. Speaker, I rise today to congratulate Melinda and Merrill Gold on the birth of their twin daughters, Eliana Paige and Molly Gabrielle. Born February 12, 2005, Eliana and Molly are named in loving memory of their great grandmothers Ita Akerman and Mollie Freedman. Mr. Speaker, I hope you will join me in wishing the Gold family great happiness and joy in the coming years.

## HONORING THE CONTRIBUTIONS OF LAREDO INDEPENDENT SCHOOL DISTRICT PARLIAMENTARIAN JESUS GUERRA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor Laredo Independent School District Parliamentarian Jesus J. Guerra for his honorable service to his country, his state, and his home town of Laredo, Texas.

Jesus Guerra attended Laredo Junior College, Mount View College in Dallas, and the University of Texas at Arlington. He is a lifelong civil servant: he was an employee of the U.S. Postal Service, and rose to the rank of Assistant Superintendent of Operations and Postmaster for Zapata, Texas before his retirement.

He is also a military veteran; he served in the United States Air Force from 1961 through 1970, and received an honorable discharge.

Jesus Guerra has continued to enrich his community in a variety of ways: he is a member of the City of Laredo Cable commission, a softball coach, and a catechist at St. Vincent and Santo Nino churches. He received the Community Service award from the Federal Bureau of Investigations, and was one of the first Hispanics to receive this high honor.

Jesus Guerra continues to reside in Laredo with his wife, Estella, with whom he has six children. He has been a member of the Laredo ISD Board of Trustees since 2001. Jesus Guerra has led a life of exemplary service as a postal worker, a soldier, a volunteer, and an education advocate.

Mr. Speaker, I am pleased to have this opportunity to congratulate him on his accomplishments, and to thank him formally for all he has done.

---

## INTRODUCTION OF LEGISLATION TO BENEFIT THE U.S. AUTOMOTIVE INDUSTRY AND PROVIDE JOBS FOR WISCONSIN'S MANUFACTURING SECTOR

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today to introduce legislation that will benefit the U.S. automotive industry and help provide jobs for Wisconsin's manufacturing sector. Wisconsin has seen a net loss of more than 71,000 manufacturing jobs over the last five years, which is very troubling for a state with the second highest number of manufacturing employees per capita in the nation. Although the economy has improved significantly since mid-2003, many of our lost manufacturing jobs have not been recovered. Congress must continue to work to help our manufacturers remain competitive in the global marketplace.

Johnson Controls, Inc. (JCI), a Fortune 500 company headquartered in Milwaukee, Wisconsin, employs 2,500 workers in the state and thousands more throughout the country. As the world's largest producer of automotive interiors, JCI works to develop and produce seating systems, instrument panels, door systems, overhead systems, and automotive electronics. They are a leader in the production of electronic telecommunications systems for vehicles and have developed innovative voice recognition systems that are used by the major manufacturers in the U.S. automotive industry.

The microphones covered in this legislation are a key component of JCI's electronic telecommunications systems, However, they are not produced domestically and JCI must import them subject to a 4.9 percent tariff rate. By temporarily eliminating this tariff, this bill will reduce JCI's production costs and help them remain competitive against international competition. In addition, this bill will benefit U.S. automotive manufacturers who rely on JCI for their telecommunications systems, consumers who will pay reduced prices for these products, and hard-working Americans who are employed in the manufacturing industry.

I look forward to working with my colleagues in Congress to pass this legislation and help U.S. manufacturing.

---

## RECOGNIZING 225TH ANNIVERSARY OF THE PRESBYTERIAN CONGREGATION IN GEORGETOWN

### HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. BLUNT. Mr. Speaker, I rise today to honor the Presbyterian Congregation in Georgetown, which is celebrating 225 years of distinguished history on March 16, 2005. On the Sundays when I'm in Washington, I often attend this church and I'm always reminded of its unique heritage.

The church's history is deeply connected with the history of the Nation. It started with a small group of worshipers in 1760 who were organized into a church in 1780 under the eminent Stephen Bloomer Balch, pupil of religious leader John Witherspoon and soldier of the Revolution. It is the first Presbyterian Church in what is now modern-day Washington, DC, and remains the oldest church in the city of any denomination with an unbroken ministry. Men and women of every denomination worshiped there, including many leaders of the young republic.

The first, and for many years the only, Protestant church building in Georgetown was erected by its congregation in 1782. Additions were made in 1794 with Thomas Jefferson listed among the contributors. A rare charter, still in effect, was granted in 1806 to "the Presbyterian Congregation in George Town" by an act of Congress signed by President Jefferson. In 1810, the church's seal, with its seven stars and Bible, was given to the church by the superintendent of the United States Mint. In 1821, President Monroe laid the cornerstone for the beautiful Bridge Street building which was moved fifty years later to its present site, with President Grant laying the cornerstone at that location. This is the same building in which the congregation now worships.

The Presbyterian Congregation in Georgetown has always been a pioneer in the religious and cultural life of the community. In 1781, Dr. Balch became headmaster of the Columbian Academy to which George Washington sent his nephews and wards. Later, a school for girls was founded. The first book published in the District of Columbia was written by Dr. Balch, and he helped to found the first public library. As an outgrowth of the church's ministry, Episcopal, Methodist, and Presbyterian churches were established in Washington and Maryland.

The church's bell tolled all day when President Washington died. George Washington Parke Custis, the grandson of Martha Washington and father-in-law of Robert E. Lee, delivered an oration on the defeat of Napoleon from the church's pulpit. Memorial services for President William Henry Harrison were conducted there. During the Civil War, its building was used as a hospital for both Union and Confederate soldiers, including casualties after the Second Battle of Manassas and the Battle of Fredericksburg. In these and many ways, the church has been identified with the history of the nation it has sought to serve.

The church's ministry remains vibrant today. The congregation is thankful for the recent arrival of its new pastor, the Reverend Doctor Richard L. Sheffield. Under his dynamic leadership and with God's grace, I'm certain that the church will continue to play an important role in the Washington community.

Mr. Speaker, I ask my colleagues in the United States House of Representatives to join me in honoring the Presbyterian Congregation in Georgetown on its 225th anniversary. It is both an honor and a pleasure to salute such a long-standing institution that has played such an important role in the history of our Nation.

---

## NATIONAL MANUFACTURING WEEK

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of our nation's great manufacturing base. My colleague Rep. GILLMOR introduced important legislation, H. Res. 16, to support National Manufacturing Week, congratulate manufacturers and their employees for their contributions growth and innovation, and recognize the challenges facing the manufacturing sector. I join him in applauding America's manufacturers.

I especially want to highlight aviation manufacturing, the manufacturing sector predominant in my district, where Wichita is known as the Air Capital of the World. Wichita is home to 4 major aircraft manufacturers, numerous suppliers and other support industries. I am very proud of all the men and women today and in years past who have brought that distinction to our great city.

According to the General Aviation Manufacturers Association, General Aviation manufacturing contributed over $6 billion to the U.S.

economy in 2004, exporting nearly $1.5 billion. Approximately 80 percent of the world's GA aircraft is manufactured in the United States. The total U.S. aerospace manufacturing industry exports $58.5 billion in products—the largest net export segment of all U.S. industry.

General Aviation Manufacturers directly employ nearly 169,000 workers around the country. Aircraft manufacturing workers are the highest-paid, highest-skilled workers in the manufacturing sector. They earn an average wage of $47,700 annually—35 percent more than the U.S. average.

In addition, for every aviation manufacturing job created in the U.S., three additional jobs are created in other industries. In 2002, the last year for which we have complete numbers, the total impact of civil aviation on the U.S. economy exceeded $900 billion and 11 million jobs. This amounts to 9 percent of the U.S. GDP. General Aviation contributes approximately $102 billion (or 12 percent of the total civil aviation contribution) and 1.3 million jobs.

General Aviation manufacturers make aircraft for fire-fighting, law enforcement, scientific research, search and rescue, and agriculture. Currently General Aviation and aerospace employees are working on the future of flight: advances in propulsion, including quiet supersonic flight, new energy sources including hydrogen, and integrating satellite technology for navigational and safe flight purposes.

Manufacturing employees across America are building our future as I speak. I ask my colleagues to join me in applauding their hard work, and to commit to ensuring that our manufacturing base thrives for generations to come.

## HONORING THE CONTRIBUTIONS OF LAREDO INDEPENDENT SCHOOL DISTRICT BOARD MEMBER JOHN PETER MONTALVO

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Laredo Independent School District Board Member John Peter Montalvo for a lifetime of distinguished public service.

Mr. Montalvo was elected to the Laredo Independent School District Board of Trustees in May 2000. He is a retired employee of the U.S. Postal Service and former City of Laredo council member. He has contributed much of his time and efforts toward social causes.

He has worked with numerous capital improvement projects which included housing rehabilitation, street paving and recreational parks. He also has initiated many health-related programs for low income citizens of his district.

As the school board representative for District 3 he serves the parents and children of Bruni, Tarver, and J.C. Martin Elementary school, but believes in serving the community as a whole to give the children the best opportunities possible. Montalvo is an inspiration to all in his community, through his lifetime service to education and the children of Laredo.

Mr. Speaker, I am proud to have had this opportunity to recognize the dedication of Laredo Independent School District Board Member John Peter Montalvo, and I thank you for this time.

## HONORING THE 175TH ANNIVERSARY OF THE WOODBURY CHURCH OF CHRIST

### HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. GORDON. Mr. Speaker, I rise today to recognize the 175th year of existence of the Woodbury Church of Christ. The Middle Tennessee congregation will celebrate the church's 175th anniversary during festivities slated for March 13–16.

The Woodbury Church of Christ began in 1830 when Tolbert Fanning baptized Elizabeth Gowan, wife of Dr. W.D. Gowan, in the Stones River. In 1836, William West donated the property upon which the first church was erected in 1842. A new building was built on the same site in 1889. It still stands today.

In 1868, the Woodbury Church of Christ reported 100 members. Today, the Church has 850 members. Minister Herb Alsup has served the Church for more than 27 years. He is helped by Junior Associate Minister Al Bugg Jr.; Missions Outreach Minister Howard Swann; Youth Minister Tim Knox; elders Lannie Burger, Clayton Glenn and Ray LeFevers; and deacons Mark Bailey, Mike Bailey, Dale Bush, Mike Corley, Mark Elkins, Bob Fuller, Jimmy Merryman, Boyd Pitts, Jeff Reed and Greg Rogers.

The Woodbury Church of Christ helps the community's needy through its outreach center, which provides clothing and food, and other benevolent work. The congregation's mission program is very active, having started three churches in the past five years. The new churches are Bright Angel Church of Christ in Las Vegas, Nevada; Emerald Beach Church of Christ in Panama City Beach, Florida; and Cleveland Church of Christ in Cleveland, Georgia. The Woodbury Church of Christ also supports churches and ministers in 10 foreign countries and nine other cities in the United States.

Woodbury is a better place because of the work of the Woodbury Church of Christ and its congregation. I am sure the church will continue to make a positive difference in the community for the next 175 years, and I congratulate the congregation and Minister Herb Alsup for all the good work they have done.

## COLLEGE STUDENT CREDIT CARD PROTECTION ACT

### HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. SLAUGHTER. Mr. Speaker, while we prepare to debate in the next few weeks a bill that will make it more difficult for personal bankruptcy filers to escape their debts, I rise today to speak about young people in this regard. We have seen a 50 percent rise in bankruptcy filings in the past 10 years among young people.

I am reintroducing legislation today to address the growing problem of rising credit card debt among college students in the United States, a leading cause of bankruptcies filings among young people.

In 2001, Nellie Mae conducted a study that found college students, on average are graduating with six credit cards in their wallets. In 2001, their credit card debt average was $2,327, and graduating seniors had a combined college loan and credit debt of $20,402 each.

Semester after semester, students open their mail boxes to find envelopes notifying them that they are preapproved for credit cards. When they check their e-mail, there are more credit card offers. When they answer the phone in their dorm room, there are more offers.

Credit card companies pay college students generously to stand outside dining halls, dorms, and academic buildings and encourage their fellow students to apply for credits cards. With each completed application, the student applicant receives free gifts, from t-shirts to indoor basketball hoops, and the credit card company receives another interest paying customer. Walk on a college campus from move-in day on, and getting inundated with credit card applications is unavoidable.

I have heard personal stories from my district about college students overwhelmed by credit card debt. One junior in college has amassed a whopping $14,000 of credit card debt. And Victoria's Secret still gave her a credit card with a $2,500 limit.

One of my staffers was approved for a credit card when she was in college after misspelling her name on the application, giving an incorrect address, wrong phone number, and wrong social security number. Clearly, credit card companies are not paying attention to whom they are giving credit cards, much less if the applicants can afford to pay the balance. This must stop!

College graduation should be a time of excitement and new beginnings; a time when students can watch the skills they have learned in college manifest into successful careers and happy lives.

Instead of endless possibilities, students are burdened with endless debt. Studies show that over half of college students feel burdened by debt when they graduate. According to the Federal Trade Commission, by the time college students graduate, one in eight will have charged their way to more than $7,000 of credit card debt. Studies also show that the likelihood of homeownership decreases as student debt increases. It is heartbreaking to me that young college students could jeopardize the possibilities of their future due to easy access to lines of credit that are not based on any income or creditworthiness requirements.

Why are we making it so easy for our young people to amass such outrageous amounts of debt that can only lead to personal ruin?

That is why I, along with Representative DUNCAN, my friend from Tennessee, have reintroduced the College Student Credit Card

Protection Act. The bill will take important steps toward reducing, and eliminating, credit card debts to college students by requiring credit card companies to determine whether a student applicant has the financial means to payoff a credit card balance before they are approved. It would restrict the credit limit to minimum balances if the student has no independent income, and require parental approval for credit limit increases in the event that a parent cosigns the account.

Mr. Speaker, I thank you for this opportunity to address this critical issue facing our young people, and I urge this House to consider and pass this bill quickly.

Mr. Speaker, it is time to stem this problem, because the policy implications of thousands of young people filing bankruptcy are dire.

## HAITI'S HEALTH NEEDS/NEW PARTNERSHIP FOR HAITI ACT

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. LEE. Mr. Speaker, Haiti not only needs immediate democracy but it also needs an immediate health intervention.

Today in Haiti less than 45 percent of Haitians have access to safe water and access to sanitation.

Seventy-six percent of Haiti's children under the age of five are underweight, or suffer from stunted growth and 63 percent of Haitians are undernourished.

Eighty percent of the population lives in abject poverty and the unemployment rate is estimated to be nearly 90 percent.

Ninety percent of all HIV/AIDS cases in the Caribbean.

As we combat global HIV/AIDS, malaria and tuberculosis, maternal and child mortality, and many other life threatening diseases, we must address the long-term effect of dilapidated physical and health infrastructure and abject poverty throughout the world, including in Haiti.

If the United States believes in helping families across the globe be healthy, happy and free—then now is the time to step up in our own backyard and support a comprehensive health approach to positively impact our neighbors in Haiti.

One way of attacking the varied diseases that leave thousands devastated in Haiti is working with a democratic Haitian government to rebuild the health infrastructure.

I recently introduced the New Partnership for Haiti Act of 2005, or H.R. 945 would offer a comprehensive plan for future engagement between the U.S. and Haitian Government.

This legislation partners Haitians and Americans together to produce environmentally sound strategies for rebuilding Haiti.

Its major provisions are aimed at developing basic sanitation, water, and other health infrastructures in Haiti.

The New Partnership for Haiti Act would bring the U.S. Army Corp of Engineers to train and educate Haitians on how to rebuild, pave, and maintain roads to provide access to rural and urban areas to health clinics. It will commission environmental impact studies for these projects, focusing on long term, environmentally sound solutions—not short term remedies.

Haiti needs assistance in addressing its long-term health infrastructure development.

The most basic of these needed development challenges is water. How can Haiti begin to combat its enormous health problems without basic clean and safe water?

Well Mr. Speaker, Haiti's water quality is life-threatening. In a study released in May of 2003, Haiti ranked last in the world for water quality.

The New Partnership for Haiti Act will provide funds and expertise through USAID to partner with Haiti on rebuilding of sanitation, water purification projects, and education for Haitians on how to maintain these systems themselves in the future.

This bill will help Haitians build and maintain safer, quality sewage systems and safe water delivery for both urban and rural communities.

The New Partnership for Haiti Act will start a pilot program for American Health Professionals and also Engineers who are interested in going to Haiti and helping with the development process.

It is my hope that a transfer of knowledge from U.S. professionals in the fields of health and engineering to Haitians will ensure long term development and guarantee the success of the programs similar to the success of the Global Fund and other international initiatives.

By widening the knowledge base of non-governmental organizations and professionals in Haiti, the U.S. will take advantage of a unique opportunity and obligation towards Haiti's future.

We worked together to get the humanitarian loans, which had been held up by the Inter-American Development Bank officially released on May 9, 2003.

We will continue to push for the full release of these loans and the potential for future humanitarian grants through the IDB.

I also believe we must move forward on establishing a health infrastructure for efficient delivery of these health and social sector funds.

Haiti has numerous health and social issues that are difficult to approach because of the undemocratically, installed Interim Government of Haiti; however, we must be forward thinking and prepare for Haiti's democratic future.

Preparing now will open the doors to safe, healthy clinics, reducing child and maternal mortality, combating HIV/AIDS with drugs and comprehensive treatment and nationwide sewage, sanitation, and clean water.

## TRIBUTE TO BISHOP ROBERT J. CARLSON

### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to The Most Reverend Robert J. Carlson on his installation as the fifth bishop of the Diocese of Saginaw.

During this penitential and traditionally solemn season of Lent, this is by contrast a day of celebration and reason to give thanks for God's many blessings.

We are thankful that the Holy Father, Pope John Paul II, led Bishop Carlson to Saginaw, and we are grateful to Bishop Carlson for saying yes to that call.

God has chosen Bishop Carlson to come to Saginaw. By giving us a new bishop, God has revealed a powerful sign that we are not alone in this journey. As we prepare for the Easter celebration, we pray that God will act through Bishop Carlson to change our hearts and help us be more faithful servants.

Bishop Carlson has been a strong advocate for the underserved. We are called to serve the poor and defend the weak from the strong. In that respect, I also appreciate Bishop Carlson's strong support for life, from the beginning until its natural end. We hope that Bishop Carlson's example of faith in God will inspire not just Catholics but people of all faiths and even non-religious backgrounds to seek the Truth.

As the members of the community of believers in Saginaw, we offer our prayers and congratulations to Bishop Carlson as he starts his ministry in mid-Michigan.

For the many Catholics I represent in Michigan's Fourth Congressional District, may God lead and guide you and the Saginaw Diocese to do His will.

## HONORING DOCTOR DENNIS W. ROWE FOR RECEIVING THE BLACK ENGINEER OF THE YEAR AWARD FOR PROFESSIONAL ACHIEVEMENT

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Dr. Dennis W. Rowe for receiving the Black Engineer of the Year Award for professional achievement.

Dr. Rowe has mentored many children through the Reach For Tomorrow, Inc. (RFT) program. In 2000, Dr. Rowe took initiative to establish the RFT program in Prince William County, Virginia. Since the program's inception, he has worked diligently with county officials in order to obtain necessary funding for their efforts.

Through the RFT program, Dr. Rowe enables students to realize the practical applications of the subjects they are learning as well as the impact of scholastic achievement. Students spend a week in the summer focusing on career exploration, which includes time at college campuses where students are given "hands on" experiences in the areas of science and engineering.

Dr. Rowe encourages students to improve in three specific areas: attitude, achievement and attendance. As a result of their RTF experience, most students show a significant shift in their attitudes toward education. Dr. Rowe also encourages students to develop a resume during their high school years which highlights their participation in extracurricular activities. In addition, he encourages students to give back to their surrounding community.

Dr. Rowe has touched the lives of numerous students and educators. He should be honored and commended for his dedication to the RFT program and the surrounding community. Through his instruction and guidance, Dr. Rowe has enabled students to realize their potential and become successful adults.

Mr. Speaker, in closing, I would like to extend my heartfelt thanks to Dr. Rowe for his years of service and dedication to the Northern Virginia community. His contributions and efforts are noted and greatly appreciated.

---

## HONORING THE DEDICATION OF UNITED INDEPENDENT SCHOOL DISTRICT BOARD MEMBER JUAN A. MOLINA, JR.

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contribution of United Independent School District Board Member Juan A. Molina, Jr. in Laredo, TX in my Congressional District.

Juan A. Molina, Jr. is the newest member to join the United ISD Board of Trustees. Molina was elected to the district four seat on May 15, 2004. Molina will serve parents and students attending L.B. Johnson H.S., United South H.S., Los Obispos M.S., United South M.S., the new Centeno Elementary, Perez Elementary, Prada Elementary, Roosevelt Elementary, Ruiz Elementary, and Salinas Elementary.

Molina serves on the school district's Student Expulsion Appeals Committee. UISD also has two board members who represent the district's property value interests on the Webb County Appraisal District's (five-member Board of Directors), Juan A. Molina, Jr. is one of two UISD representatives.

Molina was born, raised, and educated in Laredo. He spent his after school hours working part-time in his family's business. He is a 1988 graduate of Nixon High School. After obtaining a computer programming and business management degree from Computer Business Management Systems, Molina went to work with his father for six years. He eventually purchased the business from his father in 1994. Under his leadership, the business has prospered and has expanded into new fields. Molina is the owner of South Texas Neon Signs.

Molina is married and has three children who attend UISD schools. "I am involved in my children's education through participation in the school PTC' s and as a Site Based Decision Making Committee member of two schools. I am also a Cub Scout Master because I believe in our kids and want to see a better future for them." Molina has gone through special training sessions to provide Laredo Boy Scouts with more camping and outdoor learning opportunities. His new training has allowed him to direct an adventure weekend and assist in another. He helped organize and direct a scout show and "Spookery" at Camp Huisache. Molina plays an active role in the Perez Elementary Boy Scout Color Guard. In addition, he was. also a little league assistant coach for two years. He is involved with his church as a choir member, and as an active participant in the annual fund-raising Jamaica.

Mr. Speaker, I am proud to have this opportunity to recognize the contributions of United Independent School District Juan A. Molina, Jr.

---

## CONGRESS MUST ACT TO PREVENT VIOLENCE AGAINST WOMEN

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. PELOSI. Mr. Speaker, for more than 10 years, the Violence Against Women Act (VAWA) has helped protect women in this country from violence, abuse, sexual assault, and sexual predators. This landmark piece of legislation was achieved in part by the bipartisan efforts of the Congressional Caucus on Women's Issues, of which I am proud to be a member.

VAWA has provided improved access to services and resources for victims of violence and their families. It has made a real difference in the lives of women and children, who no longer suffer in silence.

Community programs funded through VAWA aid law enforcement officers and prosecutors, encourage arrest policies, stem domestic violence and child abuse, establish and operate training programs for victim advocates and counselors, and train probation and parole officers who work with released sex offenders. VAWA has also led to the creation of battered women's shelters, rape prevention and education programs, the reduction of sexual abuse of runaway and homeless street youth, and community programs on domestic violence.

Despite the success of this legislation, we still have much work to do.

One out of every four women will experience domestic violence during her lifetime. Equally alarming is that women ages 16 to 24 experience the highest per capita rates of intimate partner violence.

VAWA is up for reauthorization in this Congress. We must come together to put forward a bill that strengthens and improves our efforts to combat violence against women, including doing more for violence prevention. An essential component of prevention must be to increase outreach to young people.

We must also encourage adequate funding of VAWA initiatives. Unfortunately, each year we fall further behind in fulfilling the promises made in the authorization of VAWA. This year alone the Bush budget is more than $163 million short of the goal.

As we recognize the vital role of the Violence Against Women Act, I urge my colleagues to reauthorize VAWA in a bipartisan way and to dedicate the necessary resources to fulfill its mission.

---

## COMBATING HUMAN TRAFFICKING: ACHIEVING ZERO TOLERANCE

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. SMITH of New Jersey. Mr. Speaker, I rise to speak regarding U.S. efforts to combat human trafficking.

The U.S. Government now estimates that 600,000 to 800,000 women, children and men are bought and sold across international borders each year and exploited through forced labor or commercial sex exploitation, and potentially millions more are trafficked internally within the borders of countries. Eighty percent of the victims are women and girls. An estimated 14,500 to 17,500 foreign citizens are trafficked into the United States each year.

As Chairman of the Subcommittee on International Operations and Human Rights in the late 1990s, I led an effort to end the scourge of trafficking by sponsoring the Trafficking Victims Protection Act (TVPA), P.L. 106–386, which was signed into law in December 2000. In 2003, I sponsored a reauthorization of that Act which also became law.

These two pieces of legislation created a comprehensive framework for combating trafficking in persons abroad, as well as the trafficking of foreign nationals into the United States. As a result, our government has been a leader in addressing this human rights violation and encouraging other governments to do the same. When I held the first hearing on trafficking, back in 1999, only a handful of countries had laws explicitly prohibiting the practice of human trafficking. Individuals who engaged in this exploitation did so without fear of legal repercussions. Victims of trafficking were treated as criminals and illegal immigrants—governments did not offer them assistance to escape the slavery-like conditions in which they were trapped, and few NGOs were equipped to offer survivors of trafficking the restorative care needed to heal physically, mentally and spiritually from the trauma they experienced. Little was being done to prevent others from being exploited in the same way.

The situation today is remarkably improved. Since taking office, the Bush Administration has devoted more than $295 million to combat trafficking in more than 120 countries. Across the globe, governments are taking action to prevent trafficking, to prosecute the exploiters, and to give hope and restoration to those victimized by trafficking. As Ambassador Miller testified to Congress last summer, between 2003 and 2004, twenty-four countries enacted new laws to combat trafficking. Dozens more were in the process of drafting or passing such laws. Moreover, nearly 8,000 traffickers were prosecuted worldwide and 2,800 were convicted. Shelters have been set up for victims. NGOs and faith communities have reached out to help heal survivors of trafficking.

In order to support the ongoing efforts that have made these gains possible, on February 17, I introduced, along with this Subcommittee's Ranking Member, Rep. DONALD PAYNE, and eight other original co-sponsors, the Trafficking Victims Protection Reauthorization Act of 2005, H.R. 972. This bill would reauthorize appropriations for anti-trafficking programs here and abroad. The bill also offers solutions to a number of specific scenarios in which trafficking is a problem, but which our experience has shown could benefit from additional initiatives. Our witnesses at today's hearing will focus on some of these issues and I will mention just a few here.

For example, drawing lessons from the aftermath of war in the Balkans a decade ago, and the devastating tsunami in South Asia a mere few months ago, foreign policy and humanitarian aid professionals increasingly recognize the heightened vulnerability of indigenous populations in crisis situations to many forms of violence, including trafficking for sexual and labor exploitation. Traffickers also recognize this vulnerability. This bill would focus governmental efforts, particularly by the State Department, the U.S. Agency for International Development, and the Department of Defense, to develop trafficking prevention strategies for post-conflict and humanitarian emergency situations—strategies which do not currently exist in sufficient form.

The bill would also take further steps to ensure that U.S. Government personnel and contractors are held accountable for involvement with acts of trafficking in persons while abroad on behalf of the U.S. Government. Although few would dispute that the involvement of U.S. personnel, including members of the U.S. Armed Forces, with trafficking in persons in any form is inconsistent with U.S. laws and policies and undermines the credibility and mission of U.S. Government programs in foreign countries, there remain loopholes in U.S. laws which allow such acts to go unpunished. This bill closes those loopholes by expanding U.S. criminal jurisdiction for serious offenses to all U.S. Government contractors abroad—jurisdiction which already exists with respect to contractors supporting Department of Defense missions abroad—and by making federal criminal laws against sex and labor trafficking applicable to members of the Armed Forces. The bill would also direct the Secretary of Defense to designate a director of anti-trafficking policies to guide DOD's efforts to faithfully implement policies against trafficking.

The bill would take on the outrageous situation of peacekeepers, humanitarian aid workers, and international organizations' personnel, being complicit in trafficking and sexual exploitation. On March 2nd, I chaired a hearing in this Subcommittee that examined the evidence of gross sexual misconduct and exploitation of refugees and vulnerable people by U.N. peacekeepers and civilian personnel assigned to the U.N. peacekeeping mission in the Democratic Republic of Congo. Human rights groups and the U.N.'s own internal investigations have U.N. covered over 150 allegations against Mission personnel involving sexual contact with Congolese women and girls, usually in exchange for food or small sums of money, as well as allegations of rape, forced prostitution, and demands of sex for jobs. However, to date, there has not been one successful prosecution of U.N. civilian or military personnel, either in the Congo or elsewhere.

The scandal with the U.N. Mission in the Congo is but the latest in a long list of allegations against international peacekeeping personnel involving sex trafficking and other forms of sexual exploitation that extends back at least a decade. The involvement of peacekeepers in trafficking or sexual exploitation is not just a private matter involving only personal moral choices. Hundreds of vulnerable women and children are being re-victimized; the reputation of the United Nations is being badly damaged; and lack of internal discipline is compromising security and effectiveness of the peacekeeping operations.

To his credit, U.N. Secretary General Kofi Annan has promulgated a "zero tolerance" policy on sexual exploitation by peacekeepers. In June 2004, NATO also adopted an anti-trafficking policy. But words alone do not protect women and children from abuse. H.R. 972 would require that the Secretary of State certify prior to endorsing an international peacekeeping mission that the international organization has taken measures to prevent and, as necessary, hold accountable peacekeepers in the mission who are involved with trafficking or sexual exploitation. The bill would also require that the annual Trafficking in Persons Report include information on steps taken by international organizations to eliminate involvement of the organizations' personnel in trafficking.

The bill also continues to improve upon the provision of assistance to foreign victims in the United States by improving trafficking victims' access to information about federally funded victim services programs and facilitating access to counsel for victims. The bill would also establish a guardian ad litem program for child trafficking victims of trafficking.

H.R. 972 also recognizes that trafficking in persons occurs within the borders of single countries, including the United States. According to the State Department, if the number of people trafficked internally within countries is added to the estimate, the total number of trafficking victims annually would be in the range of 2,000,000 to 4,000,000. Although outside the jurisdiction of this subcommittee, I would just mention that the bill addresses the trafficking of American citizens and nationals within the United States—which the bill defines as "domestic trafficking." Although there are no precise statistics on the numbers of United States citizens or nationals who have been victimized through trafficking, researchers at the University of Pennsylvania have estimated that 100,000 to 300,000 children in the United States are at risk for commercial sexual exploitation, including trafficking, at any given time.

Despite the willingness of most governments today to address international trafficking, few have recognized the existence of internal trafficking within their own borders. By addressing internal trafficking in a bill that also addresses international trafficking, the United States will again lead by example in showing that internal trafficking victims must not be dismissed by the law enforcement community as prostitutes or juvenile delinquents. This bill would begin to shift the paradigm—much as we have done so successfully in the international arena—to view these exploited souls for what they really are—victims of crime and sexually exploited children.

---

## HONORING THE 50TH ANNIVERSARY OF THE TOWN OF SOUTH PALM BEACH

### HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. SHAW. Mr. Speaker, I rise today to recognize the 50th anniversary of the founding of the Town of South Palm Beach, Florida. Since 1992, I have had the distinct pleasure to represent the residents of this lovely community, and would like to share with you some of the town's attributes and history.

Located in Palm Beach County, the Town of South Palm Beach is nestled in one of Florida's many barrier islands. Rich in natural beauty, South Palm Beach shares its eastern border with the Atlantic Ocean, and its western border with the Florida Intracoastal Waterway.

The town's colorful history dates back to 1948, when two Finnish brothers from New York, Amos and Anton Askila, settled in the area. Enamored with South Florida's beauty, the Askila brothers set out for Tallahassee in 1955 to obtain a charter for the town. At the time, there were only 6 full time residents, including the Askila brothers, Robert Coletti, James Sloan and Mr. and Mrs. George Woods. The Askila brothers successfully incorporated the town during their 1955 trip to Tallahassee and, that same year, Mr. George Woods was elected as South Palm Beach's first mayor.

Today, reflecting on 50 years of history since the town's incorporation, it is clear that future generations of South Floridians have much for which to be thankful. Over the years, South Palm Beach's residents have worked diligently to preserve its residential character, friendly atmosphere and overall high quality of life. I also know that South Palm Beach's nearly 3,000 residents are working hard every day to carry on this tradition, ensuring that South Palm Beach continues to serve as a model community for other towns throughout Florida.

On behalf of Florida's 22nd Congressional District, in honor of the town's 50th anniversary celebration, I wish to recognize and commend the Town of South Palm Beach for its longstanding commitment to excellence in South Florida.

---

## INTRODUCTION OF BIPARTISAN RESOLUTION ON JUÁREZ

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Ms. SOLIS. Mr. Speaker, I rise today to introduce this bipartisan resolution with my colleagues Ms. GINNY BROWN-WAITE of Florida, Mrs. CAPPS, Ms. ROS-LEHTINEN, Mr. RAMSTAD, Mr. REYES, and Mr. LANTOS.

Since 1993, over 400 mutilated bodies have been found in the desert of Ciudad Juárez and the city of Chihuahua. We are deeply concerned about the murders and violence against women that have occurred and condemn these horrific acts of violence.

This Resolution expresses our deepest sympathy to the families of the women killed in the State of Chihuahua, Mexico; requests that the Mexican government's investigative and preventative efforts be incorporated into the bilateral agenda between Mexico and the United States; urges the President and Secretary of State to express concern for the harassment of the families and support for the victims' families as they seek justice; and condemns the use of torture as a means of investigation into these crimes. It also urges the State of Chihuahua to ensure fair and proper judicial proceedings for the individuals accused of these murders, which is critical in eradicating these injustices. The resolution also expresses the solidarity of the people of the United States with the people of Mexico in the face of these tragic and senseless acts.

## THE WALNUT CANYON STUDY ACT OF 2005

### HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 9, 2005*

Mr. RENZI. Mr. Speaker, I rise today to introduce the Walnut Canyon Study Act of 2005.

The Walnut Canyon National Monument was originally designated by Presidential proclamation on November 30, 1915, to protect Sinaguan cliff dwellings. Since the original designation, the Walnut Canyon National Monument has been expanded to include 3,580 acres to protect additional ruins adjacent to the Monument.

In the past few years, several groups have proposed expanding the Monument with surrounding Forest Service land and designating this expanded area as a National Park. To further explore the options of the Walnut Canyon National Monument and potential inclusion of this expanded area, along with Senator MCCAIN, I have introduced the Walnut Canyon Study Act.

The Walnut Canyon Study Act of 2005 directs the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the management of certain land adjacent to the Walnut Canyon National Monument.

Coconino County and the City of Flagstaff have both passed resolutions supporting further review and study of the management options for the Walnut Canyon National Monument. In both resolutions, support for maintaining certain public uses in the Monument was relayed, as well as the need for the protection of the resources in the Monument.

Mr. Speaker, this legislation provides for public input into any recommendation that is forwarded by the Secretary of the Interior and the Secretary of Agriculture. Within the study, the legislation requires the Secretaries to look at the management objectives of the Forest Service and the National Park Service, as well as the opportunities for maintaining existing public uses, such as grazing, hunting, mountain biking, rock climbing and additional forms of recreation.

Mr. Speaker, I urge my colleagues to support the Walnut Canyon Study Act of 2005. My intent in introducing this legislation is to help resolve the question of future management of the Walnut Canyon National Monument.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 10, 2005 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### MARCH 11

9:30 a.m.

Foreign Relations

To hold hearings to examine the nominations of R. Nicholas Burns, of Massachusetts, to be an Under Secretary of State, C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State, and John B. Bellinger, of Virginia, to be Legal Adviser of the Department of State.

SD-419

#### MARCH 14

2:30 p.m.

Judiciary

Immigration, Border Security and Citizenship Subcommittee

Terrorism, Technology and Homeland Security Subcommittee

To hold hearings to examine strengthening enforcement and border security, focusing on the 9/11 Commission staff report on terrorist travel.

SD-226

#### MARCH 15

9:30 a.m.

Armed Services

To resume hearings to examine military strategy and operational requirements from combatant commanders in review of the Defense Authorization Request for fiscal year 2006.

SD-106

Foreign Relations

To hold hearings to examine the nominations of John Thomas Schieffer, of Texas, to be Ambassador to Japan, Joseph R. DeTrani, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for the Six Party Talks, and Howard J. Krongard, of New Jersey, to be Inspector General, Department of State.

SD-419

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Labor.

SD-124

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine school nutrition programs.

SH-216

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold oversight hearings to examine ensuring the success of the National Security Personnel System, focusing on the proposed regulations jointly published by the Department of Defense and Office of Personnel Management for the National Security Personnel System.

SD-342

Judiciary

Terrorism, Technology and Homeland Security Subcommittee

To hold hearings to examine the OPEN Government Act of 2005 relating to openness in government and freedom of information.

SD-226

Aging

To hold hearings to examine exploring the economics of retirement.

SD-562

2:30 p.m.

Judiciary

To hold hearings to examine the SBC/ATT and Verizon/MCI mergers relating to remaking the telecommunications industry.

SD-226

Appropriations

Military Construction Subcommittee

To hold hearings to examine Department of Veterans Affairs budget overview.

SD-138

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 175, to establish the Bleeding Kansas and Enduring Struggle for Freedom National Heritage Area, S. 322, to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, S. 323, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and S. 429, to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

SD-366

#### MARCH 16

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Health and Human Services.

SD-138

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2 p.m.
Appropriations
Military Construction Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Army and Air Force.
SD–138

3 p.m.
Judiciary
Constitution, Civil Rights and Property Rights Subcommittee
To hold hearings to examine obscenity prosecution and the constitution.
SD–226

MARCH 17

9:30 a.m.
Armed Services
To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed hearing in SH–219.
SD–106

10 a.m.
Commerce, Science, and Transportation
Oceans, Fisheries and Coast Guard Subcommittee
To hold hearings to examine the President's proposed budget request for fiscal year 2006 for the Coast Guard Operational Readiness/Mission Balance.
SR–253

Veterans' Affairs
To hold hearings to examine the report entitled, "Back from the Battlefield: Are we providing the proper care for America's Wounded Warriors?".
SR–418

APRIL 14

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.
345 CHOB

APRIL 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.
345 CHOB

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

## CANCELLATIONS

MARCH 16

3:30 p.m.
Foreign Relations
To hold hearings to examine the nomination of Howard J. Krongard, of New Jersey, to be Inspector General, Department of State.
SD–419

# HOUSE OF REPRESENTATIVES—*Thursday, March 10, 2005*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, You have compassion for the sinner as a parent has compassion for children. When we look over our lives or our work on behalf of Your people, we know we are held accountable. But You do not treat us only as sinners nor repay us according to our faults. Your love is more penetrating.

For now we are only Your creatures and will soon return to the dust from which we were made. In You is the fullness of life and redemption, so we praise You and thank You, Lord, for Your countless blessings.

Now we have the opportunity to express our gratitude for Your great mercy toward us, and show similar compassion for our brothers and sisters in most need of help and understanding.

By their decisions, in all of their efforts to govern, reveal Congress as fellow servants aware of the weakness in our nature who can trace in themselves and others common fault lines.

It is You who truly rule the conscience of the Nation, for You alone read human hearts now and forever.

Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## THE JOURNAL

The SPEAKER. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 39, answered "present" 1, not voting 28, as follows:

[Roll No. 61]

YEAS—365

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Conyers
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Harris
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Sullivan
Sweeney
Tanner
Tauscher

---

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—39

Baldwin
Brady (PA)
Capuano
Cooper
Costello
Davis (TN)
English (PA)
Filner
Gibbons
Gutknecht
Hart
Hastings (FL)
Hefley
Holt
Kennedy (MN)
Kucinich
Larsen (WA)
Latham
Lewis (GA)
LoBiondo
Marshall
McDermott
McGovern
McNulty
Oberstar
Olver
Peterson (MN)
Ryan (OH)
Sabo
Schakowsky
Strickland
Taylor (MS)
Thompson (CA)
Udall (CO)
Udall (NM)
Waters
Weller
Wicker
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—28

Bachus
Baird
Cardoza
Clay
Cole (OK)
Conaway
Cox
Cummings
Delahunt
DeLay
Fattah
Fossella
Hyde
Jefferson
McHenry
McHugh
Northup
Norwood
Oxley
Payne
Ramstad
Rogers (AL)
Sanders
Scott (GA)
Stupak
Thompson (MS)
Tierney
Wexler

☐ 1028

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. COLE of Oklahoma. Mr. Speaker, on March 10, 2005, I was unavoidably detained due to a prior obligation.

I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: Roll No. 61: "Yea" (on approving the Journal agreed to by the yeas and nays).

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives.

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, March 9, 2005.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a facsimile copy of the Certificate of Election received from the Honorable Cathy Mitchell, Acting Secretary of State, State of California, indicating that, according to the semi-final official returns of the Special Election held March 8, 2005, the Honorable Doris Matsui was elected Representative in Congress for the Fifth Congressional District, State of California.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
*Clerk.*

Attachment.

CERTIFICATE OF ELECTION, STATE OF CALIFORNIA, OFFICE OF THE SECRETARY OF STATE.

*March 9, 2005.*

I, Cathy Mitchell, Acting Secretary of State of the State of California, hereby certify:

That according to the semi-final official canvass filed in my office, the person whose name is hereinafter set forth was duly elected at the March 8, 2005 Special Primary Election as a Member of the United States House of Representatives, representing the State of California for the remainder of a two-year term that began on the 3rd day of January, 2005;

That set opposite the name is the congressional district from which she was elected and the name of the county comprising or forming said district, with the name of any county entirely within or comprising the district shown in capital letters.

Member-elect: Doris Matsui.

District: Fifth.

County: Sacramento.

IN WITNESS WHEREOF I hereunto set my hand and affix the Great Seal of the State of California this 9th day of March, 2005.

CATHY MITCHELL,
*Acting Secretary of State.*

## SWEARING IN OF THE HONORABLE DORIS O. MATSUI, OF CALIFORNIA, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Representative-elect and the Members of the California delegation present themselves in the well.

Will the Representative-elect from California (Ms. MATSUI) come forward and raise her right hand.

Ms. MATSUI appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are now a Member of the 109th Congress.

## INTRODUCTION OF REPRESENTATIVE DORIS O. MATSUI

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, as dean of the California congressional delegation, it is my distinct honor to introduce the newest Member of the House of Representatives, the Honorable DORIS MATSUI.

She was elected Tuesday, leading a field of 11 candidates with more than 69 percent of the vote, and I think that is just spectacular.

Just very quickly, DORIS was raised in the small Central Valley town of Dinuba, California. She has pursued a life of public service and civic leadership ever since. She was deputy assistant to President Bill Clinton. She has put service to her community and Nation foremost in her career and has a deep commitment to improving people's lives.

She worked to give voice to concerns of children, the elderly and equality for women and minorities. As a member of President Clinton's transition team and during her tenure at the White House, she played a key role in developing important policy initiatives. She increased the number of public school teachers, expanded health care for children and made college more affordable.

Appointed by President Clinton to chair the Nonprofit Liaison Group, she worked to coordinate the efforts of the Federal Government and nonprofit organizations. She serves as a trustee of the Woodrow Wilson Center which seeks to bring scholars and public policymakers together on major public and international issues.

She has been an advocate for professional international exchange programs between the United States and 140 nations.

☐ 1030

In all DORIS' efforts, she had a strong partner in Bob, who would be proud to see her carry on the Matsui tradition of public service. We welcome the Matsui family, DORIS' son Brian; his wife, Amy; and granddaughter Anna.

Both sides of the aisle have their own dean. I think the other one may be somewhat older than I am, but he is still the dean; and it is my distinct pleasure to yield to the Honorable JERRY LEWIS, the dean of the Republican delegation from California.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate my colleague from California yielding me a moment. DORIS knows that Bob and I were very, very dear friends. We came to the Congress together. At that time we talked a lot about our hometown, for the Matsui family knows that Arlene and I consider in many ways Sacramento to be really our second home. It was our privilege to spend a decade there working in the legislature on behalf of public affairs; and the reputation of the Matsui family went well ahead of their service here. Bob served as a member of the board of supervisors and was a fabulous local leader.

In turn, his tragic loss was a shock to all of us, but clearly the voice expressed by that vote by the people in that district that surrounds and includes Sacramento is a reflection of the fact that their people know and deeply believe that DORIS is the person to reflect the view and the future that Bob would have for the country.

DORIS, I want you to know that we do not just welcome you to the family today but it is very important for you and I to know that we will continue to work together on behalf of California and our second home; and, indeed, there are wonderful things as well as great things in the future that need to be done.

So welcome, God bless you, Godspeed.

Mr. STARK. And now, Mr. Speaker, with a final note that the California Democratic delegation of 33 members is now 55 percent nonmale, I want to introduce our newest Member, the Honorable DORIS MATSUI.

## MAIDEN SPEECH BY THE HONORABLE DORIS O. MATSUI

(Ms. MATSUI asked and was given permission to address the House for 1 minute.)

Ms. MATSUI. Speaker HASTERT, Leader PELOSI, Chairman LEWIS and Mr. STARK, thank you very much and all the distinguished Members and friends here for welcoming me here today.

As I look around this Chamber, I see so many of you who have been my friends throughout these years. And now today I have the honor of calling you my colleagues. The last time I was here in this Chamber was December 23. Obviously, the House was out of session then. But Bob was so excited because he was going to bring Anna on the floor to witness his swearing in for his 14th term. So that morning of the 23rd we decided to do a practice run, and we brought Anna here on the floor of this awe-inspiring Chamber to get her used to it. After that, we went back to his office and we just happened to take a picture of Anna sitting on her grandfather's lap behind a desk with the Capitol behind. The next day, Bob fell ill and was hospitalized. And he tried so hard to get well, because he wanted to be here with his colleagues and with Anna.

As you all know, he loved this body. He loved coming to work here. And he loved all of you. But he did not win that battle. In the days since, I spent a lot of time talking with the people of Sacramento, and I have come to appreciate even more what Bob maintained all along, that his commitment to equality, his dedication to ensuring dignity to the elderly, his work to make Sacramento even a better place to live and work and to raise a family, and his driving desire to make America stronger for each successive generation, those things were not about him at all. They were about us. They were about our future.

And so I take this oath today with a heart both heavy and hopeful that we can all work together to build that better future. The challenges facing the people of Sacramento did not end with my husband's service. I know that Bob made all of you aware, in some cases painfully aware, how important the issue of flood control is to Sacramento. For many, many years, probably a couple of decades, my husband bent your ears on that. You will not be surprised to hear that that pain in your ear is not going to go away until we get it done.

This is truly the people's House, and that is why Bob loved it so. And I realize as I was talking and listening to the people of Sacramento how important it is to connect with the people. As I was talking with them in the grocery stores and the coffee shops, at the service stations, I heard from many people. Bob's high school teacher came up to me one day and said, DORIS, please, please make sure that Social Security is secure. I ran into a young mother at the grocery store who stopped me as I was picking up a can of peas and said, Mrs. MATSUI, I lost my husband a year ago, and I need those Social Security benefits for my son and myself.

When I was in a coffee shop, a young man rolled over to me and said, Mrs. MATSUI, I really need those disability benefits, because I don't want to have to depend on my parents. I talked to the hardware store owner and I listened really hard because he wants to provide health care benefits for his employees, but finds it to be very difficult.

Social Security, health care, the war in Iraq, these are all local issues. We happen to talk about them here, but they are all local issues. And on these issues and so many more, I look forward to working with all of you to find common ground and achieve common good.

I mentioned earlier the photo of Anna sitting on her grandfather's lap. One of our other family treasures is a photo of Brian here at age 6 witnessing his father's first swearing in. He sat right there. He is sitting there now. He is sitting there with his own daughter, Anna. Seeing him there and seeing Anna is a reminder that despite tragedy and heartbreak, life indeed does go on. And I know that somewhere Bob is looking down and smiling, knowing that Anna was here on the floor having watched her grandmother being sworn in.

Life does go on. And so it is with Bob's example and Anna's inspiration of future generations and with the hopes and dreams of the people of Sacramento, I take this honor and I have taken this oath to join you today as a colleague. And I truly, truly appreciate being here.

Thank you so very much.

## PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, MARCH 11, 2005, TO FILE PRIVILEGED REPORT ON EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL, 2005

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight, March 11, 2005, to file a privileged report, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from California?

Mr. OBEY. Mr. Speaker, reserving the right to object, I would just ask the gentleman if he could explain what the schedule is for consideration of the bill both in the Rules Committee and on the floor, and I yield to the gentleman from California for that purpose.

Mr. LEWIS of California. Mr. Speaker, I thank my colleague for yielding. I would be happy to try to respond. At this moment it is my anticipation that we will be in the Rules Committee on Monday next in the evening, sometime in the late day, I suppose; and hopefully we will be on the floor on Tuesday. If not on Tuesday, Wednesday.

Mr. OBEY. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Under clause 1 of rule XXI, points of order are reserved.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 one-minute requests on each side.

## CHILD MODELING WEB SITE BAN

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I want to bring to your attention an underground industry preying on our children, and that is exploitive child modeling Web sites. These Web sites contain images of young girls as young as 4 years of age wearing only their underwear, tiny bathing suits or other suggestive clothing, posing in sexually provocative ways. In most cases, these Web sites are nothing more than child pornography hiding under the guise of child modeling. These Web sites do not sell products, they do not sell services, and they serve our young people on a platter for America's most depraved. These

Web sites are nothing more than a fix for pedophiles.

Let us be clear. These are not Web sites used for the modeling industry. No child has been hired as a bona fide model. They are only used to exploit these children.

☐ 1045

In fact, these web sites are nothing more than gateways to child and adult pornography.

I have recently introduced legislation that would ban these sites once and for all, the Child Modeling Exploitation Act. This bill will not harm legitimate modeling nor families from being able to post photos of their families on the Internet, but the legislation has been carefully crafted to prevent exploiters from being able to use our children as sexual objects for money.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 623

Mr. ROSS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 623.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

## ENDING THE CYCLE OF VIOLENCE AGAINST WOMEN

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, this week marks Stop Violence Against Women Week. I rise to show my support for victims of domestic violence. I grew up in a large family. I am the sixth of seven children, and my family has always supported me. Nothing can replace the strength you draw from those that you love and trust. Tragically, it is even more devastating if family members or significant others violate this trust and become abusive.

Domestic violence is an enormous problem in this country, one that deserves immediate attention. According to the American College of Emergency Physicians, domestic violence is the largest cause of injury to women between the ages of 15 and 44 in the United States, more than car accidents, muggings and rapes combined.

Each year, between 2 million and 4 million women are battered, and 2,000 of those women will die from their injuries. Nearly one-third of American women will experience intimate partner violence in their lifetime.

We can no longer afford to ignore this issue. This year is especially important because 2005 marks the tenth anniversary of the Violence Against Women Act. Later this year, VAWA will come up for reauthorization. I urge my colleagues to do their part to support VAWA and support the efforts of women's advocates and to end the cycle of violence.

## STRENGTHENING HEMOPHILIA RESEARCH

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, as a physician and an orthopedic surgeon for over 20 years, I have seen hemophilia countless times. What is hemophilia? It is a hereditary disease which makes it so blood does not clot. Small wounds and punctures are usually not a problem, but larger wounds or uncontrolled internal bleeding can result in pain, swelling, permanent damage or even death.

The CDC has a program, Prevention's Hereditary Blood Disorders. And it serves as the frontline for treatment for bleeding and clotting disorders with a national network of over 140 hemophilia treatment centers.

Study after study has shown that these centers work extremely well. Mortality and morbidity rates have declined by 40 percent.

Mr. Speaker, these hemophilia treatment centers are vital for patients and for the medical community. They have a strong record of success that has a foundation of over 30 years of experience, and it continues to grow every day. We need to do everything we can to make certain that Americans continue to receive this access to quality care.

## MAKING RESPONSIBLE DECISIONS REGARDING SOCIAL SECURITY

(Mr. CHANDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, as many of you may know, the President is in my home State of Kentucky today talking about the need to reform Social Security. He is trying to convince Americans that the program is in crisis and that privatization is the only way to make sure Social Security remains strong.

What the President is not telling the public is that privatization may cause families all across America to lose their retirement savings on the stock market.

When I think of Social Security, I think of Samuel Insko from Lancaster, Kentucky, who voted for the President but now believes that the President has turned his back on America. He worked all his life in Kentucky until one day he was injured and could no longer work.

Social Security saved him. He says he would be homeless and broke without Social Security. Privatization would harm Samuel Insko as well as all of our children and grandchildren, who would be saddled with trillions of dollars in debt.

The President is trying to mortgage away our future by proposing a plan that would add $4.8 trillion to our national debt over the next 20 years. If we want America to remain prosperous, we need to make responsible decisions that do not tie the hands of future generations.

## SAVE TERRI SCHIAVO

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, we live in an age where some take life for granted. Today, some would stand by and let Terri Schiavo starve to death. They do not believe her life is worth saving. But listen to a quote from her attorney who visited with her.

"When her mother was close to her, Terri's whole face lit up. She smiled. She looked directly at her mother and made all sorts of happy sounds. When her mother talked to her, Terri was quiet and obviously listening. When she stopped, Terri started vocalizing. The vocalizations seemed to be a pattern, not merely random or reflexive at all. There is definitely a pattern of Terri having a conversation with her mother as best she can manage."

Terri Schiavo is alive. She responds to people. She breathes on her own. Her heart beats on its own. All she needs is a feeding tube.

If we allow a judge to order her to die, what are we saying about life? Those with disabilities, even severe disabilities, have a right to life, just like everyone else in this Chamber.

We need to save Terri Schiavo and pass legislation immediately to save her life.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 21

Mr. BACA. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 21.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## U.S. SHOULD NOT SUPPORT HEZBOLLAH ROLE IN LEBANON

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, today, on the front page of the New York Times, there is a story that says "U.S. Called Ready to See Hezbollah in Lebanon Role. A Sharp Policy Reversal."

The article states, "After years of campaigning against Hezbollah, the radical Shiite Muslim party in Lebanon, as a terrorist pariah, the Bush administration is grudgingly going along with efforts by France and the UN to steer the party into the Lebanese political mainstream, administration officials say."

Administration officials say, what a mistake. What a mistake to deal with terrorists. President Bush has repeatedly said that we should not deal with terrorists. There are no good terrorists. There are no good terrorists. All terrorists are bad. Hezbollah has American blood on its hands. It killed more than 200 U.S. Marines in Beirut in 1983 and is responsible for hundreds and hundreds of killings of Israeli citizens.

Resolution 1559 of the UN Security Council which passed a few months ago, sponsored by the U.S. and France, says that Syria should get out of Lebanon, that all militias, including Hezbollah, should be disarmed.

Why are we changing policy now? We should not deal with terrorists. We should not compromise with terrorists. Hezbollah is a terrorist organization. We are moving in this body to pass a resolution calling on the Europeans to label Hezbollah as a terrorist organization, to dry up their funds.

Terrorists should not be dealt with. The administration is making a mistake.

## SPREAD OF DEMOCRACY

(Mr. DAVIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

■ Mr. DAVIS of Kentucky. Mr. Speaker, I truly believe that the hunger for freedom is a deep yearning in the hearts of all people. Freedom from oppressive regimes, freedom from living in fear, and freedom from an invasive hatred that turns neighbor against neighbor.

We watched 8 million Iraqis risk their lives to vote for their own government, and we witnessed Palestinians choose a course of diplomacy with Israel rather than continuing a course of terror. In Lebanon, we are seeing the seeds of liberty being sown as people take to the streets seeking the power to control their own lives.

Democracies are not born overnight. For our own security and future, we must be resolved in our support for people who want a governing structure rooted in personal liberty and that compliments their own country's culture. I take heart in believing that we are pursuing the right course of action as I remember the brave faces of Iraqis smiling behind a purple finger raised in defiance of terror, oppression and hatred.

## PAYING TOO MUCH INTEREST ON FEDERAL SPENDING

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, it is official. Last night, the House Budget Committee passed a budget which will, in a few short years, require us to spend more money on interest payments to bond holders than we spend on domestic government in the United States of America.

Let me be precise. We will be spending more on budget interest to bond holders, many of whom are foreign, than we spend on domestic nondefense discretionary spending in this country. This will happen by the year 2009.

What a tragedy. We are spending more money on bond holders than we are on our own citizens. It took 204 years to have this happen. The other party will not even allow a recorded vote on this issue so that we can see how people stand on that issue.

I urge all of my colleagues to support the Blue Dog reform package. It is tough against the deficit. To some of our Republican friends, if you want to reduce these deficits, get on that bill.

## WORKFORCE ESSENTIALS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today, I rise to recognize and congratulate Workforce Essentials in Clarksville, Tennessee, for its innovation and its attentiveness to the needs of the area it serves.

In Clarksville, we have a great program that is in place. It is an initiative called an Army of One Plus One. The program is attuned to the needs of the areas veterans, military spouses and retirees. Their good work was recognized last Friday night by the National Association of Work Force Partnerships as this year's recipient of the Theodore E. Small award, which recognizes the successful implementation of the program, which is a partnership with the 101st Airborne at Ft. Campbell and alongside the Tennessee Department of Labor, the U.S. Department of Labor, and the U.S. Department of Defense by identifying the military as a primary sector of the workforce. The spouses of soldiers, the veterans and the entire community have benefitted from this partnership.

The CEO of Workforce Essentials, Ross Jackson and his great team plus the outstanding team at Ft. Campbell, led by General Turner and Colonel Ruggley, are to be commended for providing their great work.

## DOMESTIC VIOLENCE

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise today to recognize Lifetime's Stop the Violence Week and highlight the epidemic of domestic violence in our Nation; 85 percent of the victims are women. But only half of them report an injury. And of these, only a few percent even seek out medical assistance.

Domestic violence is a serious health concern but for too long has been treated solely as a criminal issue. So I will soon reintroduce the Domestic Violence Screening Treatment and Prevention Act. This bill would train health professionals to assess victims for signs of abuse and prepare them for intervention if needed.

Routine screening by a physician or a nurse could unlock options for thousands of women. Mr. Speaker, Congress must ensure domestic violence screening is common medical practice, in every doctor's office in every State.

Routine screening will enable early detection of domestic violence before it becomes life threatening. So I urge my colleagues not to ignore this nationwide epidemic. And let us work hard to institute a public health protocol for addressing this major epidemic in our society today.

## SOCIAL SECURITY AND THE REPUBLICAN BUDGET

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, on every issue our Nation faces it is our responsibility to ensure that the policies we pursue are consistent with the values that we cherish. The Bush Administration's 2006 budget fails in every respect. It is fiscally reckless, adding trillions of dollars to the deficit over the next 10 years.

It is morally irresponsible in funding for key homeland security, veterans benefits, health care and educational programs. And despite the fact that the President has called privatizing Social Security his top domestic priority this year, his budget includes no details on this plan.

Mr. Speaker, this money that it is going to take to institute his plan could be money going to education, going to health care, going to address the infrastructure of our Nation.

So the President's plan clearly needs help. And his failure to provide a clear and honest accounting of the difficult tradeoffs between increases in debt, benefits cuts and tax increases shows a failure in leadership.

☐ 1100

## DENOUNCING VIOLENCE AGAINST WOMEN AND SUPPORTING VITAL SOCIAL SECURITY BENEFITS FOR WOMEN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rose earlier this week to again join with my colleagues to announce our mutual stand against violence against women. Sexual assault, violence against women takes away their dignity and their human dignity; and all of us demand that kind of respect.

So as I stand here today, I ask America as well to recognize the negative impact that the present posture on Social Security will have on America's women. Because many of them are head of household, many of them demand and depend upon the requirement or the retirement benefits that come through the Social Security program. Social Security privatization, as planned now, will cost more than $4 trillion in the first 20 years, according to independent experts. There is no mention of such cost in the pending budget.

The Republican plan undermines retirement security for all Americans by cutting guaranteed benefits by more than 40 percent. In fact, the average retiree would lose $152,000 in benefits under the privatization plan. Women benefit from the survivors benefit, but many times they have lost their spouse.

Let us not take away the human dignity from American women. Let us stand against violence and stand for the sovereignty of Social Security.

## CORPORATE TAX CUTS AND LAYOFFS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, we are now running structural deficits on average of a little over $400 billion a year. In 4 short years, we have added $2 trillion to the Nation's debt and have a continuing plan to do that.

How did we get here? Partly as a result of last year's corporate tax cut bill which spent $150 billion on an $8 billion problem. Today's Wall Street Journal reports how this legislation has led to greater job loss. That is an interesting economic strategy, given it intended to create jobs.

For instance, Colgate-Palmolive said that while the corporate tax bill will allow it to repatriate half a billion dollars in profits, the company will actually shut down a third of its factories and lay off 4,400 employees.

Sun Microsystems, $1 billion in new profits during the so-called corporate tax "holiday," will be repatriated, but plans to lay off 3,600 employees.

DuPont Photomasks is repatriating $24 million, but laying off 100 employees, while expanding its Singapore factory at the same time.

While the corporate suites enjoy the fruits of this tax cut, Americans are left with less jobs and more of a burden for the Nation's debt: $30,000 for every man, woman, and child.

Mr. Speaker, thanks to the corporate tax cut bill, we can expect that share of the debt to keep growing for Americans.

## PRESIDENT'S SOCIAL SECURITY PRIVATIZATION PLAN UNDERMINES RETIREES' NEST EGGS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, today we are reminded in the press that it is 5 years since the bubble burst on the NASDAQ stock market. It has been 5 years; and those people who invested in that market, in those index funds, have recovered 60 percent, or is still 60 percent below where it was in 2000.

For those people who thought they are going to retire on their 401(k)s who were invested in the market at that point, we have all heard the stories when we return to our districts that their spouses are going to continue to work, that they are going to postpone for a year; they are not going to be able to retire like they thought they were.

This does not mean we should not invest in the market; it simply means we should not take $15 trillion out of Social Security and undermine the guarantee that it provides to those workers, those very same workers, in many instances, who, in their corporate 401(k)s have lost almost 40 percent, if they stayed there today, of their retirement nest egg. That nest egg ought to be preserved, and the President should not be allowed to undermine that nest egg by taking $15 trillion out of Social Security.

## KEEPING SOCIAL SECURITY SECURE FOR THE FUTURE

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, President Bush and congressional Republicans have yet to offer a plan that makes Social Security solvent beyond the year 2052. As far as I am concerned, until the Bush administration takes its privatization plan off the table, we cannot work together to address Social Security solvency.

Even one of our Republican colleagues, Senator LINDSEY GRAHAM, has admitted that privatization is not a plan that will fix Social Security. On Tuesday he said, "We now have this huge fight over a sideshow. It has always been a sideshow, but we sold it as the main event." That is a Republican Senator calling the President's plan a sideshow.

Mr. Speaker, it is a sideshow because it does nothing to strengthen Social Security. Democrats are willing to work with Republicans to extend solvency beyond 2052, but we cannot do that until Republicans are serious about extending solvency and rejecting privatization.

Democrats want to keep Social Security secure for the future. When that is the Republican goal, we can finally begin to work together in a bipartisan fashion.

## TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mrs. CAPITO. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 144 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 144

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. No further general debate (except for the final period contemplated in House Resolution 140) shall be in order. No further amendment to the bill, as amended, shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of the final period of debate, the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from West Virginia (Mrs. CAPITO) is recognized for 1 hour.

Mrs. CAPITO. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, on Wednesday, the Committee on Rules met and granted a structured rule for further consideration of H.R. 3, the Transportation Equity Act: A Legacy For Users, more commonly referred to as TEA-LU. This rule provides for no further general debate, except for the final period of 10 minutes contemplated in the House Resolution 140. Finally, the rule makes in order the 12 amendments printed in the Committee on Rules report and provides for one motion to recommit, with or without instructions. Mr. Speaker, the rule we have before us is a fair rule, and I believe all Members should be able to support it.

Mr. Speaker, since October 1, 2003, Federal surface transportation programs have been forced to operate on a basis of a short-term extension. We are approaching the end of the most recent extension, which will expire on May 31, 2005. Our Nation's highways desperately need the assurance and stability of a 5-year reauthorization provided by H.R. 3.

As a former member of the House Committee on Transportation and Infrastructure, I can appreciate the incredible bipartisan effort that has gone into writing this legislation. I would like to applaud the efforts of the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR) for bringing this legislation to the floor in an expedient and bipartisan manner.

I look forward to the passage of this bill and hope that our colleagues in the other body will take swift action.

The highway bill is a vitally important investment in our Nation's surface transportation system and fosters job growth across the country. In fact, it is estimated that for every $1 trillion in highway funding, 47,500 jobs are created. The highway bill provides $284 billion in funding for vital programs that will impact citizens across the States, improving safety and accessibility.

In my district, the highway bill represents the strongest step forward ever to replace U.S. Route 35, a 2-lane death trap through West Virginia's Mason and Putnam counties. U.S. Route 35 is dominated by tractor trailers and tanker trucks traveling south from Ohio and north from Interstate 64 in Charleston. Far too often, the high volume of traffic swallows up local commuters, resulting in tragic motorist fatalities.

With the passage of the highway bill, construction of a new 4-lane appropriate to meet the demand will be built, diverting traffic around dozens of residential neighborhoods. Mr. Speaker, this is just one example from my home district, and there are countless others from across the country.

Mr. Speaker, I am a strong supporter of this legislation, which provides for countless improvements in the Nation's surface transportation system. The numerous projects and programs authorized by this bill will improve our highway systems and the ability of our constituents to travel from State to State. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentlewoman from West Virginia (Mrs. CAPITO) for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, I am supporting this rule, despite the fact that it does restrict the amendment process; and while an open rule is generally preferable, this rule does allow the House to consider and vote on some important amendments, especially the Pascrell-Menendez-LoBiondo anti-corruption amendment.

The first rule provided for general debate on H.R. 3 and made in order nine Republican amendments, and one that was bipartisan. This rule makes in order 10 Republican amendments, including a manager's amendment by the gentleman from Alaska (Chairman YOUNG) that was drafted in consultation with the Committee on Transportation and Infrastructure Democrats and is supported by the gentleman from Minnesota (Ranking Member OBERSTAR).

I want to again applaud the Committee on Transportation and Infrastructure for working together in a truly bipartisan fashion in drafting our Nation's massive highway and transit authorization legislation.

Mr. Speaker, H.R. 3 is an all-too-rare example of bipartisanship in this body. Negotiations were undertaken, compromises were made on both sides, and the diverse transportation needs of all regions of the Nation were carefully considered. The final product truly represented the priorities of all sides involved, regardless of political affiliation. The American people have been well-served by the process, and that is what they deserve.

The rule also makes in order two of the five Democratic amendments that were submitted to the Committee on Rules. The first one is by the gentleman from California (Mr. HONDA) and would allow basic grant funds to be used for DWI courts seeking to change the behavior of alcohol or drug-dependent offenders arrested while driving or while impaired.

I am particularly pleased that the second Democratic amendment, the anti-graft and anti-corruption amendment by the gentlemen from New Jersey (Mr. PASCRELL), (Mr. MENENDEZ) and (Mr. LOBIONDO), is included in this rule. Their vital amendment will allow States to enact anti-corruption laws, curbing the practice of pay-to-play contracting, without losing their Federal aid highway dollars. These laws are critical to help stop the threat of real and apparent corruption resulting from large political contributions from contractors to influence the awarding of public contracts.

As ludicrous as it seems, the Federal Highway Administration last year ruled that a State of New Jersey executive order limiting the size of political contributions from government contractors to State candidates violated Federal competitive bidding requirements. Had New Jersey not suspended this portion of the executive order, that State would have lost its Federal highway funding. So unless this amendment is adopted, States will not be able to stop contractors from contributing to the campaigns of those who may ultimately award these contracts.

I cannot imagine why anyone in this House would want such seemingly unethical activity to continue. Ethics and integrity are among the most cherished of American values. We, the representatives of the people, have a responsibility to lead by example. I fully support the Pascrell-Menendez-LoBiondo amendment and challenge my colleagues, Republican and Democrat alike, to join with me in taking a stand for ethics. Highway contractors in America should not have to bribe their way to win Federal contracts. We have the power and the responsibility to end this today. Vote for this amendment.

Once again, Mr. Speaker, I want to make it clear that I support H.R. 3 to reauthorize our Nation's transportation programs. The Committee on Transportation and Infrastructure has put together a fair, bipartisan bill that will improve our Nation's highways and transit systems.

Mr. Speaker, I reserve the balance of my time.

Mrs. CAPITO. Mr. Speaker, it is my honor to yield such time as he may consume to the gentleman from California (Mr. LEWIS), the distinguished chairman of the Committee on Appropriations.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate the gentlewoman being so generous with the time available. It is a great privilege to work with the Committee on Rules on this very important issue that we have been trying to finalize here in the House for a couple of years.

□ 1115

I rise in very strong support of H.R. 39, Transportation Equity Act: A Legacy For Users, known as TEA-LU. I want to commend the gentleman from Alaska (Mr. YOUNG) and his ranking member, the gentleman from Minnesota (Mr. OBERSTAR) for the effort they put into this package. It is a bill that reflects much of the balance of the needs of the Members of the House.

As the gentleman from Alaska (Mr. YOUNG) will recall, I have spent a lot of time working with Members of this committee from the first day I walked into the Congress. Years ago, my first committee assignment was to the Committee on Public Works, which is the heart of this work itself. The chairman believes that a key to a successful 6-year transportation bill involves the revenue of the bill itself.

Indeed, I understand that the chairman has worked rather intently to find mechanisms whereby we can be assured that enough money is available to meet the many demands across the country, including such things as indexing the gas tax, a proposal that I myself was involved in many years ago in the State legislature.

It is a fact that the demands for transportation systems that work are a primary national concern. The major lacking regarding that is money availability. So I am very much appreciative of the chairman's difficulties. I appreciate the gentleman from Alaska's (Mr. YOUNG) efforts to meet the enormous demands from the Members across the country. My colleague from West Virginia (Mrs. CAPITO) mentioned an item, a highway transportation item, that is very critical to her constituency, the people of West Virginia. That can be replicated across the country. Almost every district faces these challenges.

I do, as I speak to the challenge, express also some concern about the guarantee within this bill that essentially would suggest where we fall short of money under current circumstances, additional funding will come by way, or likely come by way, of the general funds.

As all of the Members know, we are working intently this year to move our appropriations bills ahead of schedule and indeed under budget. As we go about that, there are a lot of pressures on our dollar availability as relates to the general fund.

So I really rise to express concern about things like the following: The funding floors mandated in TEA-LU would require discretionary appropriations of about $1.7 billion from the general fund for 2006. Because those funds remain short, obviously, such a conflict will create difficulty in moving forward with the regular appropriations process.

In addition to the mass transit difficulty that is obvious to anybody who will but look, the highway category of TEA-LU guarantees $37.4 billion in highway budget resources. This is $1.6 billion over the President's request of $35.9 billion. As you can see, we have great difficulty moving our way through this process and making sense out of the budget, too. It is my intention to work very closely with the chairman and the ranking member to make sure that these challenges are handled in a way that meets all of our needs.

In turn, I look forward to working with members of the committee and the House to try to be responsive to challenges they face relative to transportation as well.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise in support of the rule and want to thank my colleagues on the Committee on Rules for placing in order the Pascrell/Menendez/LoBiondo amendment which would protect New Jersey's ability to combat the influence money plays in the contracting process and also to reaffirm States' rights. As far as I am concerned, this is also a States' rights issue and the ability of States to pass legislation that would deal with the corruption issues.

I think you should know, Mr. Speaker, that the buzz word in our State these days in New Jersey is "pay to play." Pay to play simply means awarding lucrative government contracts to those who have given large political contributions. Unfortunately, it has become almost a way of life that people get contracts by giving large campaign contributions to politicians.

I do not have to tell anyone here why that becomes a problem. It does not basically allow the best contract to go forward, the most efficient, the lowest bid, the one that is in the best interest of the public.

It also wastes tax dollars. There have been numerous reports in the media in New Jersey about how tax dollars are wasted essentially when pay to play is in effect because it means that money that could have been perhaps used better for other educational or other government functions is, in effect, wasted in the pay to play process.

So what has happened in New Jersey is that New Jersey has been seeking a way to essentially eliminate pay to play.

Shortly before his resignation, our former governor Jim McGreevy, issued an executive order banning pay to play and his successor Governor Dick Cody has worked with the legislature to make the ban a permanent law. Again, this would be a vital step towards cleaning up the influence money plays in the contracting process in New Jersey. The problem though is that the rigid contracting rules of the Federal Government are putting a serious crimp on our State's attempts to foster good government.

The Federal Highway Administration requires that all contracts go to the lowest bidder, and they have said that the New Jersey pay to play ban would violate that rule. I know that the gentleman from Massachusetts (Mr. McGOVERN) on the Committee on Rules explained that that is patently absurd. There is no reason why the Federal Government should block a State's ability to combat political influence, in this case, potentially withholding $1 billion in transportation funding that is critical to our Nation's most densely populated State.

I have always had an opinion from a State's rights point of view that, if a State wants to go further, in this case, our State trying to go further to eliminate corruption and the potential for political influence, there is no reason why the Federal Government should stand in the way of that. That does not make any sense.

I should also tell my colleagues that, before you think that the New Jersey delegation is just doing this as a parochial issue on the highway bill, you should look to your own State. The Highway Administration's rules could potentially block similar efforts pending in Connecticut and could effect existing anti-corruption laws in Kentucky, South Carolina, Ohio and West Virginia. This is not a New Jersey specific problem. This is something that the Highway Administration could potentially block in a number of other States.

So I think, for all these reasons, this amendment makes sense. Again, I want to thank the Committee on Rules for putting the amendment in order. I want to thank particularly my colleagues, the gentleman from New Jersey (Mr. PASCRELL), the gentleman from New Jersey (Mr. MENENDEZ) and the gentleman from New Jersey (Mr. LOBIONDO) for sponsoring this amendment. But I should say, every one of the Members of the New Jersey delegation on a bipartisan basis does support this and is joining us in our effort to preserve States' rights and stand up for good government.

Mrs. CAPITO. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 8 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the Chair of our Democratic Caucus.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in support of the rule and the transportation bill that our distinguished committee leadership worked for so long and so hard to bring to the Floor this week. I commend them on a tremendous job in crafting a bill that works within such title fiscal constraints, yet still manages to focus on so many of our transportation priorities. I want to particularly thank the Committee on Rules for making the Pascrell/Menendez/LoBiondo pay to play reform amendment in order.

I appreciate the hard work of the distinguished ranking member, the gentlewoman from New York (Ms. SLAUGHTER), who has been a strong supporter of our amendment. I want to thank the gentleman from Massachusetts (Mr.

MCGOVERN) for his strong comments in support of the amendment as well.

Like many here, I had hoped that there would be a lot more money in this bill. As a member of the Committee on Transportation and Infrastructure, I know how important transportation investment is for the good of the Nation as a whole. As the representative of the 13th District of New Jersey, which is densely packed with almost every transportation mode imaginable, I know firsthand how important this investment is for the well-being of the people in our community because transportation is more than about getting from one place to another.

The money we spend in this bill will create jobs, stimulate new businesses, revitalize neighborhoods, reduce congestion, clean our air and make us more secure. That is why I am disappointed that we have been forced to adhere to an unnecessary low level of funding the administration has forced upon us.

Those of us in the New Jersey-New York metropolitan area learned on September 11 how important it is to have a multiplicity of transportation modes. When the bridges and tunnels out of Manhattan were closed, it was ferries that allowed people to evacuate the city to New Jersey. When the airports were closed, it was rail service that allowed people to travel across the country. September 11 showed us that the national security value of making a strong investment in multiple modes of transportation is necessary.

Those of us from New Jersey know particularly well how desperately we need the money in this bill. We are the most densely populated State in the Nation with very old highways that are desperately in need of repair; 71 percent of our major roads are in either poor or mediocre condition. Over 36 percent of our highway bridges are either structurally deficient or functionally obsolete, far above the national average. And despite being the fifth smallest State, we are the 11th most traveled on our highways.

These miles take a toll on our environment. Every county in the State has unhealthy levels of ozone, and over half of the counties have dangerous levels of airborne soot. By providing enhanced funding for public transportation and other pollution control measures, this bill will help to clean our air.

One of the other problems we have in New Jersey is with pay to play. That is a process by which contributions, often very large contributions, are offered to politicians and State officials with the hope of being able to gain a government contract. It is in my mind a very corrupting practice and severely undermines the trust and credibility of the government.

What my colleagues and I from New Jersey are trying to do is change the nature of that process. Now, this is not merely an issue for New Jersey. This is an issue for any State that hopes it can strike a blow for clean government by limiting such a corrupting influence. And the issue is simply about the right of any State, of any State, to take the steps it needs to maintain the trust of its people. Nothing in what we are trying to do would force any State to enact a pay to play reform law. Nothing in our amendment would alter the competitive bidding process one bit.

The amendment strictly conforms to the ideals behind the current Federal highway contracting statute which is to ensure fairness and integrity in the awarding of public contracts.

I for one am surprised that we even need this amendment at all. For 50 years, Section 441(c) of Title 2 in the U.S. Code has banned political contributions from Federal contractors. The Federal government clearly recognizes the corrupting influence of pay to play and has taken steps to control it, steps that the Federal Highway Administration now says that New Jersey is not allowed to take on its own.

Clearly, the Federal Government recognizes that there are situations where merely looking for the lowest bidder is not the best way to serve the public interest.

The Securities and Exchange Commission has also enacted its own pay to play protection regulation, Rule G-37, which is even stronger than the Federal statute in Section 441. Brokers and municipal security dealers are forbidden from making political contributions to any official who issues municipal securities for 2 years before any business can be transacted. The rule was challenged and upheld in Federal court. Clearly, the SEC recognized and the courts agreed that restricting campaign contributions by people who are looking to do business with government is in the public interest and helps maintain the public trust.

I have heard some arguments that the problem with this amendment is that it would open the flood gates. Once we add a restriction about campaign contributions to highway contracting, this argument goes, we will not know where to stop. I strongly disagree.

First of all, New Jersey's Pay to Play Reform Act is not a highway issue. It only became one when the Federal Highway Administration, which is apparently not very concerned with Section 441 of the Federal law, decided to make it one by withholding New Jersey's highway financing.

Second, we already put a number of restrictions on highway contracting and procurement in Federal law. We give, for example, priority to minority-owned businesses, veteran-owned businesses, women-owned businesses, businesses owned by Native Americans or the disabled. We do these things because they are right to do and because they serve a social good. Limiting campaign contributions by prospective contractors is also a social good. It preserves the integrity of the government. It preserves the trust of the public in the contracting process. And it will very likely save the government money by lowering the cost of contracts.

Mr. Speaker, this amendment is simple. It is straightforward, and it is fair. It is also bipartisan and supported by a broad range of good government groups, such as Common Cause, the Center of Civic Responsibility, and Democracy 21.

I urge my colleagues, when it comes time, to pass the Pascrell/Menendez/LoBiondo amendments and the underlying bill so we can protect the rights of the States and allow them to combat corruption as they see fit. This will apply only to those States that, number one, choose to have such legislation for their States, and it will only apply to office holders in their States of a State nature.

I do not think the Federal Government should be telling the States that they cannot do that to preserve the trust and integrity of the contracting process in their States.

Mr. Speaker, I thank the gentleman for his gracious amount of time.

□ 1130

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding me time; and I rise in strong support of the amendment offered by the gentlemen from New Jersey (Mr. PASCRELL), (Mr. MENENDEZ), and (Mr. LOBIONDO). The gentleman from New Jersey (Mr. MENENDEZ) and before him my other colleagues from Massachusetts have stated, I think clearly, what is at stake here.

New Jerseyans were surprised to learn that the Federal Highway Administration recently withheld $260 million in highway funds because New Jersey had taken the very important step, I think the landmark step, to protect the integrity of contracts. Pay-to-play had become something that clearly had to be stopped, and the effort to bring integrity in public contracts by limiting political contributions is something that New Jersey is not only within its rights to do, but is something that should serve as a model for the Nation.

New Jerseyans were surprised to find that the highway administration ruled that New Jersey could not do that or else they would take the highway funds away.

This amendment would clarify the propriety of New Jersey's action. It would preserve the ability of States to protect the integrity of public contracts, and it is not just New Jersey.

As the gentlewoman has heard, it would be, I think, to the benefit of West Virginia and a number of other States.

There are plenty of precedents, as the gentleman from New Jersey (Mr. MENENDEZ) has pointed out, to support the adoption of this amendment. The SEC, the Securities and Exchange Commission, currently has what we call a pay-to-play ban in place prohibiting contribution by bond traders, and that has been upheld in the courts.

So this amendment makes sense. It is entirely proper. It would benefit many States, and it would make clear that it is not the role of the Federal Highway Administration to decide what is and what is not ethical political procedure.

Furthermore, as my colleague, the gentleman from New Jersey (Mr. MENENDEZ), has pointed out, this would probably save money. There is too much money allocated in contracts for reasons that are not based entirely on cost and efficiency.

So I strongly urge the support of the Pascrell-Menendez-LoBiondo amendment.

Mrs. CAPITO. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, in a letter that went from Suzanne Novak on behalf of the Brennan Center for Justice at NYU to the gentleman from Alaska (Mr. YOUNG), the honorary chairman of the Committee on Transportation and Infrastructure, and the gentleman from Minnesota (Mr. OBERSTAR), ranking member, she wrote in that letter in support of the Federal Government supporting States and being very specific about the bidding laws in contracting to respond to the collusion or the possibilities of collusion that have existed. I can assure my colleagues, not only in the State of New Jersey.

She wrote this: "Several recent scandals regarding government contracting in New Jersey prompted New Jersey to establish a criterion of responsibility for government contracting which prohibited the State from contracting with an entity that has contributed to a candidate for or holder of the office of Governor, or to any State or county political party committee, within certain time frames. The executive "order of the Governor" "explicitly stated that 'the growing infusion of funds donated by business entities into the political process at all level of government has generated widespread cynicism among the public that special interest groups are "buying" favors from elected officeholders.'"

Mr. Speaker, the courts have recognized that contributions from government contractors present a severe risk of engendering corruption, the appearance of corruption and, thus, have generally upheld pay-to-play contribution bans, and this is what this amendment is all about. It is a bipartisan amendment to reform government, to help government clean up its act. We have similar laws on the Federal books about contracting and bidding. We want to remove cynicism from the public about when the government does business that there is proper conditions that will be implemented to make sure that it is done according to the law.

Blount v. the SEC was a perfect example. The Securities and Exchange Commission made it very clear that if you were going to do some bonding work, that if you give a political contribution to the entity beforehand, that is rather suspect. So let us remove that possibility. There is no doubt, if we do not allow the States to do what the Federal Government has on the books, how are we going to justify that?

This is a win-win situation. Neither party is the source of corruption and neither party is privy to virtue; let us accept that. Let us also accept that this is a bipartisan amendment, introduced in good faith, so that each of the parties, if you will, look good. Not only talk the talk but take that extra step to clean up their own acts. How can we in this House not permit or allow each of the States to provide for cleaner governments?

This is reality. The Federal law, the court cases have backed up this effort. There is no reason under the sun. This is bipartisan. It will help both parties and it will reduce the cynicism that exists in many, many areas of the public.

So, Mr. Speaker, this great H.R. 3, the Transportation Equity Act, we have worked on it a long time. I have saluted both the Chair, as well as the ranking member. I have not heard one cogent argument as to why we should not pass and allow States to reform their own act and clean up their own acts.

One criticism I heard is that this is going to open up a Pandora's box. The Federal Government has rules on the books already. Are we going to tell the Federal Government, you have opened up a Pandora's box because you are trying to implement clean-government rules? That is absurd. Give me one legal reason why this amendment should not only be in order, which it is, but it should not be both sides of the aisle supportive. Give me one good legal reason.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume, and we have no further requests for time.

So let me just again say that while I wish the funding level of this bill were higher, TEA-LU is a good bill. It is a tribute to the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Ranking Member OBERSTAR). I urge my colleagues to support it. We also will support the rule.

Mr. Speaker, I yield back my time.

Mrs. CAPITO. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank my colleague, the gentleman from Massachusetts, and I would like to reiterate as well that this legislation is crucial to the continued growth of our economy. We are creating jobs and improving the ability of current workers to commute to their places of employment, among a myriad of other transportation issues.

I look forward to the strong bipartisan support of this legislation. I urge a "yes" vote on the rule and the underlying legislation.

Mr. ANDREWS. Mr. Speaker, I would like to take this opportunity to express my support for the rule, H. Res. 144, to the TEA–LU, H.R. 3, bill, which makes in order the Pascrell/Menendez/LoBiondo Pay-to-Play amendment. The consideration of this amendment is crucial to restoring the integrity of New Jersey's government and to protecting federal funds allocated to the State.

New Jersey government and politics are long overdue for a cleansing. For too long, New Jersey taxpayers have paid a corruption tax—the cost of decisions made to benefit campaign donors rather than taxpayers. At the present time, the New Jersey legislature is attempting to restore its integrity by barring companies, who have made political contributions to a state government or political party official, from receiving state contracts worth more than $17,500. This is a critical component of the State's reform package and must be enacted and maintained for genuine change to occur in New Jersey.

Standing in the way of New Jersey's cleansing is the US Department of Transportation, USDOT, who has cited concerns that our State's pay-to-play reform would illegally stifle competition for government contracts. New Jersey has challenged the USDOT's decision in the court. Currently, the case is pending.

To weed out the corruption that has plagued our State and resulted in our citizens mistrust of their government, the Pascrell/Menendez/LoBiondo amendment is essential. Consideration and subsequently the passage of this amendment are imperative for New Jersey to attain real ethical reform.

Again, I commend the Rules Committee for declaring the Pascrell/Menendez/LoBiondo Pay-to-Play amendment in order today and urge its adoption.

Mrs. CAPITO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

The SPEAKER pro tempore (Mrs. CAPITO). Pursuant to House Resolution 144 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3.

□ 1140

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. BASS (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 9, 2005, all amendments pursuant to House Resolution 140 had been disposed of.

Pursuant to House Resolution 144, no further general debate, except for the final period contemplated in House Resolution 140, is in order.

Pursuant to House Resolution 144, no further amendment to the bill, as amended, shall be in order except those printed in House Report 109–15. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in part B of House Report 109–15.

### AMENDMENT NO. 1 OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. YOUNG of Alaska:

In item number 1176 of such table contained in section 1702, strike “$10,000,000” and insert “$4,000,000”.

In item number 2455 of such table, strike “$3,000,000” and insert “$2,000,000”.

In item number 852 of such table, strike “$750,000” and insert “$500,000”.

In item number 865 of such table, strike “$9,750,000” and insert “$7,500,000”.

In item number 1222 of such table, strike “$2,000,000” and insert “$1,000,000”.

In item number 497 of such table, strike “$2,000,000” and insert “$1,000,000”.

In item number 2083 of such table, strike “$6,500,000” and insert “$6,000,000.”

In item number 1041 of such table, strike “$2,500,000” and insert “$2,000,000”.

In item number 1048 of such table, strike “$3,900,000” and insert “$3,000,000”.

In item number 2737 of such table, strike “$400,000” and insert “$100,000”.

In item number 3236 of such table, strike “$400,000” and insert “$100,000”.

In item number 2250 of such table, strike “$5,000,000” and insert “$4,000,000”.

In item number 2336 of such table, strike “$21,350,000” and insert “$20,000,000”.

In item number 419 of such table, strike “$21,400,000” and insert “$18,400,000”.

In item number 2938 of such table, strike “$610,000” and insert “$360,000”.

In item number 749 of such table, strike “$500,000” and insert “$540,000”.

In item number 1211 of such table, strike “$700,000” and insert “$1,100,000”.

In item number 2463 of such table, strike “$500,000” and insert “$1,010,000”.

In item number 2930 of such table, strike “$300,000” and insert “$350,000”.

In item number 2954 of such table, strike “$8,000,000” and insert “$9,000,000”.

In item number 3196 of such table, strike “lande” and insert “lane” and strike “5,000,000” and insert “14,000,000”.

In item number 3012 of such table, strike “$2,500,000” and insert “$3,000,000”.

In item number 1175 of such table, strike “$6,000,000” and insert “$6,500,000”.

In item number 3259 of such table, strike “$5,000,000” and insert “$6,000,000”.

In item number 1530 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item number 1948 of such table, strike “$555,000” and insert “$1,055,000”.

In item number 2809 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 3065 of such table, strike “$555,000” and insert “$1,055,000”.

In item number 3276 of such table, strike “$10,000,000” and insert “$11,000,000”.

In item number 1010 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item number 549 of such table, strike “$1,000,000” and insert “$1,010,000”.

In item number 1552 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item number 1258 of such table, strike “$2,500,000” insert “$3,450,000”.

In item number 1926 of such table, strike “$12,500,000” insert “$15,000,000”.

In item number 2016 of such table, strike “$3,000,000” insert “$4,500,000”.

In item number 3107 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item number 1331 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 665 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 1121 of such table, strike “$5,000,000” insert “$6,000,000”.

In item number 3303 of such table, strike “$5,000,000” insert “$6,000,000”.

In item number 347 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 1123 of such table, strike “$1,000,000” and insert “$3,000,000”.

In item number 256 of such table, strike “12,500,000” and insert “$27,000,000”.

In item number 1935 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 2190 of such table, strike “$500,000” and insert “$1,500,000”.

In item number 1013 of such table, strike “$7,000,000” and insert “$8,000,000”.

In item number 1471 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item number 619 of such table, strike “$1,000,000” and insert “$1,125,000”.

In item number 2416 of such table, strike “$750,000” and insert “$1,000,000”.

In item number 2936 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 353 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 661 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 581 of such table, strike “$7,000,000” and insert “$7,200,000”.

In item number 2714 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 1225 of such table, strike “Croos Creek Boulevard Widening” and insert “Cross Creek Boulevard Widening” and strike “$1,000,000” and insert “$1,800,000”.

In item number 2558 of such table, strike “$3,000,000” and insert “$6,000,000”.

In item number 2423 of such table, strike “$3,000,000” and insert “$6,000,000”.

In item number 538 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 734 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 3031 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 1002 of such table, strike “$4,000,000” and insert “$4,500,000”.

In item number 2428 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 3261 of such table, strike “$1,250,000” and insert “$1,750,000”.

In item number 1537 of such table, strike the project description and insert “Construct a four lane connection between Rt. 13 and Rt. 45 and upgrades to Netty Green Road in Saline Co Illinois” and strike “$1,000,000” and insert “$2,000,000”.

In item number 1779 of such table, strike the project description and insert “Construction of part of a 230 mile corridor US 67 near Jerseyville and Carrolton, Illinois”.

In item number 1066 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 767 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 1725 of such table, strike “$750,000” and insert “$2,500,000”.

In item number 1427 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 1380 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 1062 of such table, strike “$2,600,000” and insert “$3,600,000”.

In item number 3195 of such table, strike “$11,000,000” and insert “$12,000,000”.

In item number 329 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 3003 of such table, strike “$4,000,000” and insert “$9,000,000”.

In item number 2108 of such table, strike “$4,000,000” and insert “$9,000,000”.

In item number 835 of such table, strike “$5,000,000” and insert “$5,700,000”.

In item number 3114 of such table, strike “$5,450,000” and insert “$6,150,000”.

In item number 2668 of such table, strike “$2,000,000” and insert “$2,600,000”.

In item number 3206 of such table, strike “$4,000,000” and insert “$5,000,000”.

In item number 2233 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item number 177 of such table, strike “Construction of Valleydale Road Flyover, Widening and Improvements” and insert “Construction of Valeydale Road Flyover and widening and improvements from US 31 to I-65 (Shelby County Rd 17 ” and strike “$5,000,000” and insert “$6,000,000”.

In item number 940 of such table, strike “$4,000,000” and insert “$5,000,000”.

In item number 2887 of such table, strike “$200,000” and insert “$250,000”.

In item number 2323 of such table, strike “$100,000” and insert “$150,000”.

In item number 827 of such table, strike “$100,000” and insert “$300,000”.

In item number 2593 of such table, strike “$100,000” and insert “$200,000”.

In item number 2395 of such table, strike “$100,000” and insert “$500,000”.

In item number 2541 of such table, strike “$100,000” and insert “$500,000”.

In item number 1572 of such table, strike “$1,000,000” and insert “$700,000”.

In item number 2608 of such table, strike the project description and insert “CR 52 from US 31 (Pelham) and continuation of CR 52 in Jefferson County, known as Morgan Road, to I–459, including proposed Highway 261 bypass around old town Helena” and strike “$15,000,000” and insert “$10,000,000”.

In item number 1787 of such table, strike “LA” and insert “AL”, strike the project description and insert “Birmingham Northern Beltline”, and strike “$800,000” and insert “$10,000,000”.

In item number 2943 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 2623 of such table, strike “$5,000,000” and insert “$5,500,000”.

In item number 1621 of such table, strike “$2,500,000” and insert “$3,400,000”.

In item number 1098 of such table, strike “$900,000” and insert “$2,000,000”.

In item number 3272 of such table, strike “14,000,000” and insert “20,000,000”.

In item number 1174 of such table, strike “$3,000,000” and insert “$2,000,000”.

In item number 2534 of such table, strike “$6,000,000” and insert “$5,000,000”.

In item number 2128 of such table, strike “$14,000,000” and insert “$16,000,000”.

In item number 3051 of such table, strike “$4,000,000” and insert “$4,500,000”.

In item number 567 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item number 3017 of such table, strike “$1,100,000” and insert “$2,100,000”.

In item number 2735 of such table, strike “$6,000,000” and insert “$7,500,000”.

In item number 572 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 663 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 2942 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 132 of such table, strike “$2,200,000” and insert “$3,200,000”.

In item number 3055 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 1607 of such table, strike “$1,000,000” insert “$1,200,000”.

In item number 874 of such table, strike “$1,400,000” insert “$2,000,000”.

In item number 986 of such table, strike “$250,000” insert “$300,000”.

In item number 1739 of such table, strike “$3,600,000” insert “$3,900,000”.

In item number 3234 of such table, strike “$3,600,000” insert “$4,200,000”.

In item number 540 of such table, strike “$150,000” insert “$275,000”.

In item number 3132 of such table, strike “$6,200,000” and insert “$8,200,000”.

In item number 1094 of such table, strike “$4,100,000” and insert “$6,100,000”.

In item number 49 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item number 1506 of such table, strike “$8,000,000” and insert “$10,000,000”.

In item number 407 of such table, strike “$12,000,000” and insert “$14,000,000”.

In item number 1899 of such table, strike “$3,000,000” and insert “$5,000,000”.

In item number 1166 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 2022 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 1061 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 2277 of such table, strike “$4,000,000” and insert “$5,000,000”.

In item number 171 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 543 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 1944 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 2824 of such table, strike “$500,000” and insert “$1,000,000”.

In item number 104 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 1851 of such table, strike “$12,000,000” and insert “$14,000,000”.

In item number 15 of such table, strike “$4,644,000” and insert “$5,000,000”.

In item number 124 of such table, strike “$2,500,000” and insert “$2,900,000”.

In item number 2640 of such table, strike “$4,856,000” and insert “$6,000,000”.

In item number 3074 of such table, strike “$2,000,000” and insert “$2,100,000”.

In item number 1737 of such table, strike “$9,000,000” and insert “$10,000,000”.

In item number 1581 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 1631 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 88 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 425 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item number 1223 of such table, strike “$800,000” and insert “$1,600,000”.

In item number 585 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item number 1346 of such table, strike “$500,000” and insert “$750,000”.

In item number 1669 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item number 2224 of such table, strike “$8,000,000” and insert “$11,000,000”.

In item number 702 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item number 636 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 807 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 1172 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 2234 of such table, strike “$1,000,000” and insert “$500,000”.

In item number 3164 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 3219 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item number 2962 of such table, strike “Construct” and insert “Design and construction”.

In item number 2469 of such table, strike “Construction” and insert “Design, right of way acquisition, and construction”.

In item number 2140 of such table, strike “$6,000,000” and insert “$10,000,000”.

In item number 1106 of such table, strike “$8,000,000” and insert “$10,000,000”.

In item number 652 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item number 814 of such table, strike “2,000,000” and insert “$3,000,000”.

In item number 2944 of such table, strike “$3,000,000” and insert “$5,000,000”.

In item number 434 of such table, strike “$800,000” and insert “$2,800,000”.

In item number 345 of such table, strike “$4,500,000” and insert “$5,500,000”.

In item number 1587 of such table, strike “$3,800,000” and insert “$4,300,000”.

In item number 2753 of such table, strike “$3,000,000” and insert “$3,500,000”.

In item number 330 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item number 1255 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item number 1626 of such table, strike “$6,000,000” and insert “$7,000,000”.

In item number 3218 of such table, strike “$3,000,000” and insert “$5,000,000”.

In item number 1031 of such table, strike “$5,000,000” and insert “$7,000,000”.

In item number 1242 of such table, strike “$1,000,000” and insert “$3,000,000”.

In item number 403 of such table, strike “$5,000,000” and insert “$9,100,000”.

In item number 903 of such table, strike “$4,000,000” and insert “$13,500,000”.

In item number 1617 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item number 2298 of such table, strike “$6,000,000” and insert “$7,000,000”.

In item number 2072 of such table, strike “$1,500,000” and insert “$4,000,000”.

In item number 876 of such table, strike “$930,000” and insert “$1,045,000”.

In item number 229 of such table, strike “$930,000” and insert “$1,020,000”.

In item number 1584 of such table, strike “$780,000” and insert “$870,000”.

In item number 280 of such table, strike “$680,000” and insert “$770,000”.

In item number 1441 of such table, strike “$2,430,000” and insert “$2,695,000”.

In item number 690 of such table, strike “$430,000” and insert “$510,000”.

In item number 2994 of such table, strike “$620,000” and insert “$695,000”.

In item number 2836 of such table, strike “$1,000,000” and insert “$1,195,000”.

In item number 2575 of such table, strike “$1,500,000” and insert “$2,500,000”.

In item number 1101 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 2845 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item number 2340 of such table, strike “$1,500,000” and insert “$3,000,000”.

In item number 3203 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item number 786 of such table, strike “Eliminate Highway-Railway crossing over US 14 and realignment of US 14, Des Plaines” and insert “Reconstruct Highway-Railway crossing over US 14 and realignment of US 14, Des Plaines”.

In item number 2813 of such table, strike “$9,000,000” and insert “$15,000,000”.

In item number 1547 of such table, strike “$30,000,000” and insert “$50,000,000”.

In item number 640 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item number 1771, of such table, strike “For rail grade separations identified by the MPO for the Little Rock/North Little Rock metropolitan area, (which may include: Edison Ave.; Springer Blvd; Hwy 89 Extension; McCain/Fairfax; Salem Road” and insert “For rail grade separations identified by the MPO for the Little Rock/North Little Rock metropolitan area, (which may include: Edison Ave.; Springer Blvd; Hwy 89 Extension; McCain/Fairfax; Salem Road; J.P. Wright Loop; South Loop; Geyer Springs Rd)”.

In item number 596 of such table, strike “Allegheny City Urban Runoff Mitigation-eliminate urban highway runoff and the discharge of culverted streams into municipal combined sewers” and insert “Allegheny County Urban Runoff Mitigation-eliminate urban highway runoff and the discharge of culverted streams into municipal combined sewers”.

In item number 1197 of such table, strike “Construct Shoreline Transportation Enhancement Projects, Guilford, Branford, East Haven” and insert “Construct Shoreline Greenway Trail, Guilford, Branford, East Haven”.

In item number 1741 of such table, strike “Construct 6 mainlines from east of Mercury to east of Wallisville” and insert “US 90—Construct 6 mainlines from east of Mercury to east of Wallisville”.

In item number 2272 of such table, strike “Build additional staircases, landscape, and other improvements to the municipal bridge at the Holton St. Viaduct in Milwaukee” and insert “Build additional staircases, landscape, and other improvements to the marsupial bridge at the Holton St. Viaduct in Milwaukee”.

In item number 3037 of such table, strike “Belle Chasse Tunnel” and insert “Replacement Bridge for Tunnel, Belle Chasse”.

In item number 2751 of such table, strike “Kerner Bridge” and insert “Kerner Ferry Bridge, Jefferson Parish”.

In item number 2405 of such table, strike "Acquire lands adjacent to US 101 as part of Southern Santa Clara County Wildlife Corridor Protection and Scenic Enhancement Project" and insert "Acquire lands for mitigation adjacent to US 101 as part of Southern Santa Clara County Wildlife Corridor Protection and Scenic Enhancement Project" and strike "$250,000" and insert "$500,000".

In item number 42 of such table, strike "Access and enhancements to access Lake Belva Deer, Sigourney" and insert "Access and transportation enhancements to access Lake Belva Deer, Sigourney" and strike "$1,000,000" and insert "$2,000,000".

In item number 1429 of such table, strike "$4,150,000" and insert "$4,650,000".

In item number 1245 of such table, strike "$1,000,000" and insert "$2,500,000".

In item number 2220 of such table, strike "$2,000,000" and insert "$3,000,000".

In item number 116 of such table, strike "NY" and insert "WA" and strike "Yonkers, New York, Trolley Bus Acquisition" and insert "SR 518 3rd lane construction, King County" and strike "$300,000" and insert "$2,000,000".

In item number 2042 of such table, strike "Construction of vessel impact protection system for TXDOT" and insert "Construct a bridge impact protection system for TxDOT".

In item number 169 of such table, strike "TX" and insert "AR" and strike "Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements" and insert "Conway Western Loop—for engineering, rights-of-way, relocations, and continued planning and design" and strike "$2,000,000" and insert "$500,000".

In item number 2552 of such table, strike "$2,000,000" and insert "$3,700,000".

In item number 2947 of such table, strike "$1,200,000" and insert "$1,500,000".

In item number 261 of such table, strike "$800,000" and insert "$1,600,000".

In item number 1569 of such table, strike "$500,000" and insert "$1,000,000".

In item number 588 of such table, strike "Harlem Hospital Parking Garage" and insert "Transportation parking facility serving the Harlem Hospital Complex".

In item number 2860 of such table, strike "Add lights to road from Halchita to Mexican Hat on Navajo Mountain" and insert "Add lights to road from Halchita to Mexican Hat in the Navajo Nation".

In item number 1674 of such table, strike "Mile 2 W from Mile 12 N to US 83, Hidalgo County" and insert "Reconstruct Mile 2 W from Mile 12 N to US 83, Hidalgo County".

In item number 630 of such table, strike "Mile 6 W from US 83 to SH 107, Hidalgo County" and insert "Reconstruct Mile 6 W from US 83 to SH 107, Hidalgo County".

In item number 257 of such table, strike "Construct transportation enhancements on greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan" and insert "Construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan".

In item number 1862 of such table, strike "Plan and construct bicycle path, esplanades and ferry landing along New York Bay in Sunset Park, Brooklyn" and insert "Plan and construct greenway, bicycle path, esplanades and ferry landing along New York Bay in Sunset Park, Brooklyn".

In item number 523 of such table, strike "To study, design and construct transportation enhancements on the Brooklyn Waterfront Greenway in Red Hook, Greenpoint, and the Navy Yard in Brooklyn" and insert "To study, design and construct the Brooklyn Waterfront Greenway in Red Hook, Greenpoint, and the Navy Yard in Brooklyn" and strike "$5,000,000" and insert "$8,250,000".

In item number 2565 of such table, strike "Study and Implement Enhancement to Avenue U from Mill Avenue to East 38th Street and Flatbush Avenue from Avenue T to Avenue V" and insert "Study and Implement Traffic and Pedestrian Safety Enhancements to Gerritsen Beach, Brooklyn".

In item number 2315 of such table, strike "Construction of a bicycle / pedestrian off road scenic pathway from the Niagara Falls City Line to the southerly Lewiston Town / Village Line along the Niagara Gorge, Town of Lewiston, Village of Lewi" and insert "Construction of a bicycle / pedestrian off road scenic pathway from the Niagara Falls City Line to the southerly Lewiston Town / Village Line along the Niagara Gorge, Town of Lewiston, Village of Lewiston, Niagara County" and strike "$1,250,000" and insert "$2,750,000".

In item number 1144 of such table, strike "Implement ITS system and apparatus to enhance citywide truck route system on LIE Eastbound Service Road at 74th Street to Caldwell Ave, Grand Ave from 69th Street to Flushing Ave, and Eliot Ave from 6" and insert "Implement ITS system and apparatus to enhance citywide truck route system on LIE Eastbound Service Road at 74th Street to Caldwell Ave, Grand Ave from 69th Street to Flushing Ave, and Eliot Ave from 69th Street to Woodhaven Blvd".

In item number 2575 of such table, strike "$1,500,000" and insert "$2,500,000".

In item number 2436 of such table, strike "For the Nanticoke City Redevelopment Authority to design, acquire land, and construct a parking garage, streetscaping enhancements, paving, lighting & safety improvements, & roadway redesign in Nanti" and insert "For the Nanticoke City Redevelopment Authority to design, acquire land, and construct a parking garage, streetscaping enhancements, paving, lighting and safety improvements, and roadway redesign in Nanticoke".

In item number 128 of such table, strike "WIDENING, CURB AND GUTTER IMPROVEMENTS AS PART OF HWY 33 REDEVELOPMENT PROJECT IN KEARNEY" and insert "Widening, curb and gutter improvements on Hwy 92 as part of Hwy 33 Redevleopment Project in Kearney".

In item number 491 of such table, strike "$2,000,000" and insert "$3,000,000".

In item number 1510 of such table, strike "$18,000,000" and insert "$19,000,000".

In item number 1865 of such table, strike "$3,000,000" and insert "$3,250,000".

In item number 851 of such table, strike "$4,000,000" and insert "$4,200,000".

In item number 1947 of such table, strike "$2,450,000" and insert "$3,000,000".

In item number 3104 of such table, strike "$1,000,000" and insert "$1,200,000".

In item number 2833 of such table, strike "$600,000" and insert "$1,000,000".

In item number 2964 of such table, strike "$250,000" and insert "$450,000".

In item number 2894 of such table, strike "$1,000,000" and insert "$1,200,000".

In item number 1136 of such table, strike "$3,200,000" and insert "$2,750,000".

In item number 1188 of such table, strike "$5,880,000" and insert "$6,480,000".

In item number 1768 of such table, strike "$3,220,000" and insert "$3,350,000".

In item number 3263 of such table, strike "$1,680,000" and insert "$3,420,000".

In item number 2807 of such table, strike "$2,000,000" and insert "$2,500,000".

In item number 1176 of such table, strike "$10,000,000" and insert "$4,000,000".

In item number 2916 of such table, strike "$1,750,000" and insert "$2,000,000".

In item number 912 of such table, strike "$1,000,000" and insert "$1,500,000".

In item number 1625 of such table, strike "$600,000" and insert "$800,000".

In item number 2780 of such table, strike "$600,000" and insert "$892,000".

In item number 2457 of such table, strike "$100,000" and insert "$108,000".

In item number 811 of such table, strike "$11,000,000" and insert "$13,000,000".

In item number 164 of such table, strike "$7,000,000" and insert "$17,000,000".

In item number 598 of such table, strike "$4,000,000" and insert "$6,000,000".

In item number 1493 of such table, strike "$2,000,000" and insert "$3,000,000".

In item number 1496 of such table, strike "$200,000" and insert "$2,000,000".

In item number 3279 of such table, strike "$10,750,000" and insert "$11,750,000".

In item number 2796 of such table, strike "Plan, Design, and Construct improvements to Virginia Beach Blvd in Virginia Beach and Norfolk" and insert "Preliminary Engineer, Design, and Construct improvements to Virginia Beach Blvd in Virginia Beach and Norfolk".

In item number 717 of such table, strike "$1,000,000" and insert "$1,500,000".

In item number 875 of such table, strike "$1,000,000" and insert "$2,000,000".

In item number 2710 of such table, strike "$1,000,000" and insert "$1,500,000".

In item number 860 of such table, strike "$7,000,000" and insert "$9,000,000".

In item number 1451 of such table, strike "$8,000,000" and insert "$10,000,000".

In item number 264 of such table, strike "$2,000,000" and insert "$4,000,000".

In item number 294 of such table, strike "$1,000,000" and insert "$2,000,000".

In item number 1233 of such table, strike "$5,750,000" and insert "$3,000,000".

In item number 234 of such table, strike "$3,000,000" and insert "$3,534,680".

In item number 1821 of such table, strike "$2,000,000" and insert "$2,535,000".

In item number 3178 of such table, strike "$1,000,000" and insert "$3,000,000".

In item number 216 of such table, strike "$4,000,000" and insert "$5,000,000".

In item number 2246 of such table, strike "$3,000,000" and insert "$3,500,000".

In item number 465 of such table, strike "$1,500,000" and insert "$2,000,000".

In item number 710 of such table, insert "right-of-way acquisition and" before "construction" and strike "$5,000,000" and insert "$6,000,000".

In item number 2065 of such table, strike "$1,000,000" and insert "$2,000,000".

In item number 3096 of such table, strike "$1,250,000" and insert "$3,250,000".

In item number 2371 of such table, strike "$3,000,000" and insert "$4,000,000".

In item number 1786 of such table, strike "$2,930,000" and insert "$3,000,000".

In item number 576 of such table, strike "$4,000,000" and insert "$9,500,000".

In item number 3238 of such table, strike "$3,000,000" and insert "$9,000,000".

In item number 2972 of such table, strike "$3,000,000" and insert "$4,000,000".

In item number 2103 of such table, strike "$1,000,000" and insert "$2,500,000".

In item number 7 of such table, strike "$1,400,000" and insert "$2,000,000".

In item number 155 of such table, strike "$400,000" and insert "$500,000".

In item number 1397 of such table, strike "$400,000" and insert "$500,000".

In item number 524 of such table, strike "$75,000" and insert "$275,000".

In item number 2256 of such table, strike "$5,000,000" and insert "$6,200,000".

In item number 2744 of such table, strike "$1,000,000" and insert "$3,000,000".

In item number 472 of such table, strike "$8,000,000" and insert "$9,000,000".

In item number 1713 of such table, strike "To plan, design and construct the Northwest Corridor—Western Blvd. Project in Jacksonville, NC" and insert "To plan, design, and construct the Northwest Corridor—Western Blvd. Project in Jacksonville, NC" and strike "$1,000,000" and insert "$2,000,000".

In item number 2789 of such table, strike "$6,000,000" and insert "$6,800,000".

In item number 2613 of such table, strike "$3,000,000" and insert "$3,500,000".

In item number 3181 of such table, strike "$1,000,000" and insert "$1,700,000".

In item number 305 of such table, strike "$10,000,000" and insert "$14,400,000".

In item number 2343 of such table, strike "$10,000,000" and insert "$5,600,000".

In item number 1950 of such table, strike "$7,000,000" and insert "$8,000,000".

In item number 2406 of such table, strike "$7,000,000" and insert "$8,000,000".

In item number 963 of such table, strike "$1,750,000" and insert "$2,125,000".

In item number 1125 of such table, strike "$750,000" and insert "$1,000,000".

In item number 2040 of such table, strike "US Rt 30 between Williams St and IL Rt 43 for signals, turn & or deceleration lanes at 80th Ave, Wolf Rd, LincolnWay HS and Locust St" and insert "For US Rt 30 intersection signals, turn & deceleration lanes btwn Williams St & IL Rt 43 incl. 80th Ave, Wolf Rd, LincolnWay HS & Locust St" and strike "$6,000,000" and insert "$7,000,000".

In item number 2397 of such table, strike "$4,000,000" and insert "$4,500,000".

In item number 723 of such table, strike "$5,500,000" and insert "$7,000,000".

In item number 1024 of such table, strike "$6,000,000" and insert "$8,000,000".

In item number 1087 of such table, strike "$16,000,000" and insert "$2,000,000".

In item number 2612 of such table, strike "$4,000,000" and insert "$16,000,000".

In item number 2872 of such table, strike "$2,000,000" and insert "$3,000,000".

In item number 1333 of such table, strike "$3,000,000" and insert "$4,000,000".

In item number 3235 of such table, strike "$4,000,000" and insert "$10,000,000".

In item number 71 of such table, strike "$3,000,000" and insert "$5,000,000".

In item number 2392 of such table, strike "$1,000,000" and insert "$3,000,000".

In item number 2979 of such table, strike "$1,000,000" and insert "$3,000,000".

In item number 2662 of such table, strike "$1,000,000" and insert "$2,000,000".

In item number 500 of such table, strike "$1,000,000" and insert "$2,000,000".

In item number 2548 of such table, strike "Preconstruction studies for improvement to US 22." and insert "Preconstruction studies for improvement to US 22 from Irving Street to Mickley Road.".

In item number 1779 of such table, strike "Construction of part of a 230 mile corridor extending from I-280 at Rock Island to I-270 south of Alton" and insert "Construction of part of a 230 mile corridor of US 67 near Jerseyville and Carrollton, Illinois".

In item number 1893 of such table, strike "Construct HSH 151" and insert "Construct USH 151".

In item number 1342 of such table, strike "Construction of freeway between I-15 and US 395" and insert "Construction of new freeway between I-15 and US 395, including new interchange at I-15".

In item 1470 of such table, strike "$2,000,000" and insert "$5,000,000".

In item 1688 of such table, strike "$4,000,000" and insert "$5,000,000".

In item 1734 of such table, strike "$500,000" and insert "$1,000,000".

In item 457 of such table, strike "$450,000" and insert "$250,000".

In item 490 of such table, strike "$500,000" and insert "$2,500,000".

In item 2196 of such table, strike "$700,000" and insert "$900,000".

In item 2664 of such table, strike "NY" and insert "NJ".

In item 2412 of such table, strike "$3,000,000" and insert "$5,000,000".

In item 210 of such table, strike "$3,400,000" and insert "$2,400,000".

In item 3233 of such table, strike "$1,000,000" and insert "$2,000,000".

In item 1552 of such table, strike "$2,000,000" and insert "$3,000,000".

In item 560 of such table, strike "$1,500,000" and insert "$1,000,000".

In item 825 of such table, strike "$18,496,000" and insert "$34,984,000".

In item 1525 of such table, strike "$12,500,000" and insert "$14,500,000".

In item 1845 of such table, strike "Walton County" and insert "Bay County".

In item 3288 of such table, strike "Walton County" and insert "Bay County".

In item 2044 of such table, strike "$1,250,000" and insert "$1,500,000".

In item 551 of such table, strike "$1,000,000" and insert "$1,250,000".

In item 622 of such table, strike "$1,200,000" and insert "$1,550,000".

In item 600 of such table, strike "$1,700,000" and insert "$2,200,000".

In item 3058 of such table, strike "$300,000" and insert "$500,000".

In item 2391 of such table, strike "$1,400,000" and insert "$1,900,000".

In item 1479 of such table, strike "$1,000,000" and insert "$1,500,000".

In item 1112 of such table, strike "$2,000,000" and insert "$3,000,000".

In item number 1853 of such table, strike "$7,000,000" and insert "$7,800,000".

In item number 2803 of such table, strike "$12,000,000" and insert "$15,000,000".

In item number 1787 of such table, strike the program description and insert "LA, US 190 (LA 22 to Little Bayou Castine) Widening" and strike "$800,000" and insert "$1,000,000".

In item number 2071 of such table, strike "$3,300,000" and insert "$4,300,000".

In item number 2132 of such table, strike "$3,300,000" and insert "$5,800,000".

In item number 3057 of such table, strike "$15,000,000" and insert "$16,000,000".

In item number 1835 of such table, strike "$3,500,000" and insert "$7,000,000".

In item number 2163 of such table, strike "$1,500,000" and insert "$3,000,000".

In item number 1738 of such table, strike "$2,000,000" and insert "$3,500,000".

In item number 381 of such table, strike "$1,500,000" and insert "$2,000,000".

In item number 75 of such table, strike "$2,000,000" and insert "$3,500,000".

In item number 1795 of such table, strike "$1,500,000" and insert "$3,000,000".

In item number 2948 of such table, strike "$500,000" and insert "$1,500,000".

In item number 642 of such table, strike "Greenway" and insert "bicycle and pedestrian path".

In item 1898 of such table, strike "Improvements to SH412P at I-44 Interchange" and insert "Improvements to SH412P at 412 interchange".

In item 1754 of such table, strike "$4,500,000" and insert "$6,000,000".

In item 1488 of such table, strike "$7,500,000" and insert "$8,000,000".

In item 970 of such table, strike "$1,400,000" and insert "$7,000,000".

In item 3240 of such table, strike "Construct Railroad Underpass on Hwy 35 in Pierre" and insert "Construct Railroad Underpass on Hwy 34 in Pierre".

In item 819 of such table, strike "$1,400,000" and insert "$1,000,000".

In item 3026 of such table, strike "Regrade and resurface BIA Route #5 south of Dupree on the Cheyenne River Reservation" and insert "Pave and curb Cheyenne River Tribe Route 900, 'Chinatown' in Eagle Butte".

In item 2080 of such table, strike "$5,000,000" and insert "$7,000,000".

In item 2749 of such table, strike "$5,000,000" and insert "$7,000,000".

In item 1081 of such table, strike "$5,000,000" and insert "$8,000,000".

In item 278 of such table, strike "$5,000,000" and insert "$7,000,000".

In item 1085 of such table, strike "$3,000,000" and insert "$4,000,000".

In item 3013 of such table, strike "Install countdown devices on pedestrian crossing signals on US Routes 12/20 and 50 in Oak Lawn" and insert "Improve Streets, Merrionette Park".

In item 1128 of such table, strike "$4,000,000" and insert "$10,000,000".

In item 1405 of such table, strike "$15,680,000" and insert "$17,180,000".

In item 889 of such table, strike "$7,500,000" and insert "$15,000,000".

In item 450 of such table, strike "$2,500,000" and insert "$3,500,000".

In item 2819 of such table, strike "$3,000,000" and insert "$4,000,000".

In item 2194 of such table, strike "$3,000,000" and insert "$4,000,000".

In item 688 of such table, strike "$3,000,000" and insert "$5,000,000".

In item 2198 of such table, strike "$4,000,000" and insert "$6,000,000".

In item 2835 of such table, strike "$500,000" and insert "$1,500,000".

In item 266 of such table, strike "$1,000,000" and insert "$3,000,000."

In item 701 of such table, strike "$1,000,000" and insert "$2,000,000".

In item 1296 of such table, strike "$2,000,000" and insert "$3,000,000".

In item 427 of such table, strike "$3,000,000" and insert "$4,000,000".

In item 1993 of such table, strike "$5,500,000" and insert "$10,000,000".

In item 862 of such table, strike "$2,000,000" and insert "$4,500,000".

In item 3027 of such table, strike "$13,000,000" and insert "$15,000,000".

In item 1560 of such table, strike "$1,000,000" and insert "$2,000,000".

In item 259 of such table, strike "Design, engineering, ROW acquisition and construction for the French Rapids Bridge, City of Brainerd" and insert "Corridor study, EIS, and ROW acquisition for a future highway and bridge over the Mississippi River, City of Brainerd".

In item 2348 of such table, strike "$5,000,000" and insert "$8,000,000".

In item 1458 of such table, strike "$4,000,000" and insert "$5,000,000".

In item 105 of such table, strike “$5,000,000” and insert “$6,000,000”.

In item 2028 of such table, strike “$4,000,000” and insert “$5,000,000”.

In item 1474 of such table, strike “$3,500,000” and insert “$4,000,000”.

In item 2264 of such table, strike “$3,500,000” and insert “$4,000,000”.

In item 2917 of such table, strike “$7,000,000” and insert “$9,000,000”.

In item 2189 of such table, strike “$10,000,000” and insert “$22,500,000”.

In item 3211 of such table, strike “$2,500,000” and insert “$9,500,000”.

In item 721 of such table, strike “$1,000,000” and insert “$1,200,000”.

In item 2996 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item 14 of such table, strike “$2,600,000” and insert “$4,850,000”.

In item 2827 of such table, strike “$800,000” and insert “$1,100,000”.

In item 2718 of such table, strike “$1,100,000” and insert “$1,300,000”.

In item 2910 of such table, strike “$400,000” and insert “$600,000”.

In item 2671 of such table, strike “$6,000,000” and insert “$8,250,000”.

In item 586 of such table, strike “$4,000,000” and insert “$6,000,000”.

In item 942 of such table, strike “$500,000” and insert “$1,250,000”.

In item 2667 of such table, strike “$6,300,000” and insert “$7,000,000”.

In item 250 of such table, strike “$5,000,000” and insert “$7,000,000”.

In item 1115 of such table, strike “$1,000,000” and insert “$1,300,000”.

In item 63 of such table, strike “$4,500,000” and insert “$7,500,000”.

In item 2446 of such table, strike “$5,000,000” and insert “$5,500,000”.

In item 447 of such table, strike “$9,000,000” and insert “$10,250,000”.

In item 2671 of such table, strike “$6,000,000” and insert “$5,750,000”.

In item 3300 of such table, strike “$1,250,000” and insert “$1,268,245”.

In item 744 of such table, strike “$3,500,000” and insert “$5,350,000”.

In item 672 of such table, strike “$3,000,000” and insert “$5,000,000”.

In item 713 of such table, strike “$8,000,000” and insert “$10,000,000”.

In item 820 of such table, strike “$6,000,000” and insert “$8,000,000”.

In item 1241 of such table, strike “$6,000,000” and insert “$8,000,000”.

In item 2601 of such table, strike “$4,750,000” and insert “$8,000,000”.

In item 1541 of such table, strike “$500,000” and insert “$900,000”.

In item 555 of such table, strike “$2,945,000” and insert “$3,850,000”.

In item 3163 of such table, strike “$1,750,000” and insert “$2,000,000”.

In item 144 of such table, strike “$850,000” and insert “$1,000,000”.

In item 3162 of such table, strike “$1,400,000” and insert “$1,410,000”.

In item 31 of such table, strike “$1,500,000” and insert “$2,000,000”.

In item 321 of such table, strike “$2,000,000” and insert “$2,068,755”.

In item 2658 of such table, strike “$1,600,000” and insert “$1,636,000”.

In item 162 of such table, strike “$6,500,000” and insert “$6,937,000”.

In item 2076 of such table, strike “construct I–35 and Lone Elm Road interchange and widen I–35 from 51st St. to 59th St., Olathe” and insert “Construct I–35 and Lone Elm Road interchange and widen I–35 from 151st St. to 159th St., Olathe”.

In item number 2465 of such table, strike “$3,000,000” and insert “$200,000,000”.

In item number 406 of such table, strike “$3,000,000” and insert “$125,000,000”.

In item number 1938 of such table, strike “$2,300,000” and insert “$7,000,000”.

In item number 1760 of such table, insert “or IFA vessel debt repayment for MV Prince of Wales Ferry” after “ferry terminal”.

In item number 1847 of such table, strike “Construct access road connection from Seward Highway to rail and airport facilities in Seward” and insert “Ferry infrastructure at Seward Marine Center”.

In item 2945 of such table, strike “$900,000” and insert “$7,020,744”.

In item 2892 of such table, strike “Reconstruct CSAH 17 between Itasca CR 341 and the Scenic State Park entrance to improve safety and structural integrity” and insert “Reconstruct CSAH 7 between Itasca CR 341 and the Scenic State Park entrance to improve safety and structural integrity”.

In item 316 of such table, strike “$500,000” and insert “$1,000,000”.

In item 768 of such table, strike “$4,800,000” and insert “$5,000,000”.

In item 2415 of such table, strike “$1,600,000” and insert “$2,000,000”.

In item 797 of such table, strike “$1,300,000” and insert “$1,400,000”.

In item 404 of such table, strike “$2,468,300” and insert “$3,000,000”.

In item 892 of such table, strike “$500,000” and insert “$750,000”.

In item 2754 of such table, strike “$2,800,000” and insert “$3,000,000”.

In item 2603 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item 1555 of such table, strike “$7,000,000” and insert “$8,000,000”.

In item 2853 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item 3298 of such table, strike “$4,000,000” and insert “$5,000,000”.

In item 1088 of such table, strike “$7,500,000” and insert “$9,000,000”.

In item 705 of such table, strike “$6,500,000” and insert “$10,900,000”.

In item 2837 of such table, strike “$4,500,000” and insert “$5,000,000”.

In item 848 of such table, strike “$4,500,000” and insert “$5,000,000”.

In item 834 of such table, strike “$500,000” and insert “$1,000,000”.

In item 396 of such table, strike “$500,000” and insert “$1,000,000”.

In item 1284 of such table, strike “$1,000,000” and insert “$3,600,000”.

In item 1812 of such table, strike “$21,000,000” and “$21,850,000”.

In item 733 of such table, strike “$15,000,000” and insert “$20,000,000”.

In item 3220 of such table, strike “$2,000,000” and insert “$4,000,000”.

In item 430 of such table, strike “$1,750,000” and insert “$2,000,000”.

In item 592 of such table, strike “$3,000,000” and insert “$3,900,000”.

In item 2369 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item 3174 of such table, strike “$10,000,000” and insert “$10,700,000”.

In item 1551 of such table, strike “$5,000,000” and insert “$8,500,000”.

In item 1032 of such table, strike “$1,000,000” and insert “$4,000,000”.

In item 930 of such table, strike “$500,000” and insert “$2,500,000”.

In item 910 of such table, strike “$16,500,000” and insert “$20,000,000”.

In item 1946 of such table, strike “Construct Pedestrian Mall and Streetscape Improvements, Wilmore” and insert “Construct Pedestrian Mall and Streetscape Improvements on Lexington, College, Walnut and Gilespie Sts, Wilmore”.

In item 2451 of such table, strike “3,000,000” and insert “$4,400,000”.

In item 1571 of such table, strike “$5,500,000” and insert “$8,500,000”.

In item 1226 of such table, strike “$500,000” and insert “$1,400,000”.

In item 2091 of such table, strike “$1,700,000” and insert “$2,500,000”.

In item 1453 of such table, strike “$2,100,000” and insert “$3,000,000”.

In item 1454 of such table, strike “$1,800,000” and insert “$1,900,000”.

In item 468 of such table, strike “$3,200,000” and insert “$5,000,000”.

In item 2374 of such table, strike “$2,000,000” and insert “$3,800,000”.

In item 1289 of such table, strike “$5,000,000” and insert “$6,800,000”.

In item 1864 of such table, strike “$550,000” and insert “$2,100,000”.

In item 231 of such table, strike “$500,000” and insert “$1,500,000”.

In item 1718 of such table, strike “$10,000,000” and insert “$15,000,000”.

In item 1185 of such table, strike “$2,250,000” and insert “$4,000,000”.

In item 1293 of such table, strike “$2,750,000” and insert “$3,500,000”.

In item 822 of such table, strike “$500,000” and insert “$1,250,000”.

In item 1444 of such table, strike “$20,000,000” and insert “$25,000,000”.

In item 486 of such table, strike “$2,500,000”” and insert “$5,500,000”.

In item 2700 of such table, strike “$1,400,000” and insert “$2,400,000”.

In item 359 of such table, strike “$8,000,000” and insert “$10,000,000”.

In item 1793 of such table, strike “$10,650,000” and insert “$13,900,000”.

In item 1943 of such table, strike “$7,000,000” and insert “$8,000,000”.

In item 2017, of such table, strike “$2,500,000” and insert “$8,000,000”.

In item 254 of such table, strike “$2,000,000” and insert “$2,500,000”.

In item 2685 of such table, strike “$10,000,000” and insert “$15,000,000”.

In item 2442 of such table, strike “$10,000,000” and insert “$15,000,000”.

In item 2443 of such table, strike “$700,000” and insert “$800,000”.

In item 878 of such table, strike “$2,500,000” and insert “$4,000,000”.

In item 3004 of such table, strike “$2,500,000” and insert “$4,000,000”.

In item 1583 of such table, strike “Construct railroad overpass spanning three mile section of SR501 from MP 0 and MP 3” and insert “Improve NE 10th Avenue in Vancouver”.

In item 1423 of such table, strike “$10,000,000” and insert “$12,854,000”.

In item 2756 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item 744 of such table, strike “$3,500,000” and insert “$4,500,000”.

In item 1212 of such table, strike “$1,354,000” and insert “$2,000,000”.

In item 2095 of such table, strike “Improve Willapa Hills bicycle and pedestrian trail between Rainbow Falls State Park and Adna” and insert “Improve Willapa Hills bicycle and pedestrian trail between Chehalis and Pacific County” and strike “$200,000” and insert “$700,000”.

In such table, strike item 922.

In item 2152 of such table, strike “$500,000” and insert “$600,000”.

In item 2969 of such table, strike “$200,000” and insert “$250,000”.

In item 2110 of such table, strike “$4,300,000” and insert “$5,000,000”.

In item 1103 of such table, strike “$11,350,000” and insert “$12,000,000”.

In item 249 of such table, strike “$1,000,000” and insert “$3,000,000”.

In item 2925 of such table, strike “$2,000,000” and insert “$4,000,000”.

In item 901 of such table, strike “$2,000,000” and insert “$4,000,000”.

In item 1970 of such table, strike “$3,300,000” and insert “$4,000,000”.

In item 2359 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item 853 of such table, strike “$3,000,000” and insert “$3,500,000”.

In item 1871 of such table, strike “$5,000,000” and insert “$7,000,000”.

In item 429 of such table, strike “$10,000,000” and insert “$11,000,000”.

In item 3244 of such table, strike “$5,000,000” and insert “$7,000,000”.

In item 2606 of such table, strike “$6,000,000” and insert “$10,000,000”.

In item 1214 of such table, strike “$5,200,000” and insert “$6,200,000”.

In item 2794 of such table, strike “$9,000,000” and insert “$10,000,000”.

In item 2478 of such table, strike “$4,500,000” and insert “$5,700,000”.

In item 2462 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item 1198 of such table, strike “Highway Improvements in Liberty Corridor” and insert “Transportation Improvements in Liberty Corridor”.

In item 759 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of PS 114” and insert “Install Improvements for Pedestrian Safety including in the vicinity of PS Q114”.

In item 552 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of PS 200” and insert “Install Improvements for Pedestrian Safety including in the vicinity of PS Q200”.

In item 1382 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of PS 124” and insert “Install Improvements for Pedestrian Safety including in the vicinity of PS K124”.

In item 203 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of PS 277” and insert “Install Improvements for Pedestrian Safety including in the vicinity of PS K277”.

In item 2553 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of PS 81” and insert “Install Improvements for Pedestrian Safety including in the vicinity of PS X81”.

In item 1897 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of IS 194” and insert “Install Improvements for Pedestrian Safety including in the vicinity of IS X194”.

In item 1071 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of IS 72/PS 69” and insert “Install Improvements for Pedestrian Safety including in the vicinity of IS R72/PS R69”.

In item 879 of such table, strike “Install Improvements for Pedestrian Safety in the vicinity of PS 153” and insert “Install Improvements for Pedestrian Safety including in the vicinity of PS Q153”.

In item 1507 of such table, strike “$50,000” and insert “$550,000”.

In item 2181 of such table, strike “Queens and Brooklyn County Graffiti Elimination Program including Kings Highway from Ocean Parkway to McDonald Avenue” and insert “Queens, Bronx, and Kings, and Richmond County Graffiti Elimination Program including Kings Highway from Ocean Parkway to McDonald Avenue” and strike “$4,000,000” and insert “$6,250,000”.

In item 2092 of such table, strike “$300,000” and insert “$1,300,000”.

In item 221 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item 2129 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item 2592 of such table, strike “$8,000,000” and insert “$10,000,000”.

In item 2960 of such table, strike “$2,500,000” and insert “$5,000,000”.

In item 756 of such table, strike “$2,000,000” and insert “$2,700,000”.

In item 431 of such table, strike “$2,000,000” and insert “$2,300,000”.

In item 2012 of such table, strike “$750,000” and insert “$1,000,000”.

In item 1147 of such table, strike “$900,000” and insert “$1,000,000”.

In item 2134 of such table, strike “$11,150,000” and insert “$12,000,000”.

In item 2625 of such table, strike “$2,850,000” and insert “$4,000,000”.

In item 3154 of such table, strike “$4,800,000” and insert “$6,000,000”.

In item 1495 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item 1978 of such table, strike “$1,750,000” and insert “$3,000,000”.

In item 2326 of such table, strike “$2,850,000” and insert “$5,000,000”.

In item 3087 of such table, strike “$4,750,000” and insert “$5,000,000”.

In item 2458 of such table, strike “$5,700,000” and insert “$6,000,000”.

In item 1859 of such table, strike “$3,700,000” and insert “$5,700,000”.

In item 1820 of such table, strike “$3,700,000” and insert “$4,700,000”.

In item 2531 of such table, strike “$1,000,000” and insert “$2,000,000”.

In item 563 of such table, strike “Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion” and insert “Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion, City of Hawthorne”.

In item 2024 of such table, strike “Realignment of La Brea Avenue to reduce congestion” and insert “Realignment of La Brea Avenue to reduce congestion, City of Inglewood”.

In item 2906 of such table, strike “Improvement of intersection at Inglewood Ave and Marine Ave to reduce congestion” and insert “Improvement of intersection at Inglewood Ave and Marine Ave to reduce congestion, City of Lawndale”.

In item 1892 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item 2040 of such table, strike the project description and insert “For US Rt. 30 intersection signals, turn and declaration lanes between Williams St. and IL Rt 43 incl. 80th Ave., Wolf Rd, Lincoln Way HS and Locust St”, and also strike “$6,000,000” and insert “$7,000,000”.

In item 2410 of such table, strike “$1,000,000” and insert “$1,500,000”.

In item 2789 of such table, strike “$3,000,000” and insert “$3,500,000”.

In item 110 of such table, strike “Intersection improvements at Highland and Bishop Roads in the City of Highland Heights, OH” and insert “Construct Highland Road pedestrian path and intersection improvements at Highland and Bishop Roads in the City of Highland Heights, OH”.

In item 2893 of such table, strike “$5,000,000” and insert “$6,500,000”.

In item 3247 of such table, strike “$5,000,000” and insert “$8,000,000”.

In item 405 of such table, strike “$3,000,000” and insert “$6,500,000”.

In item 1026 of such table, strike “$6,4000,000” and insert “$7,150,000”.

In item 1034 of such table, strike “I–76” and insert “I–78”.

In item 1099 of such table, strike “$6,400,000” and insert “$7,150,000”.

In item 1149 of such table, strike “$12,300,000” and insert “$14,300,000”.

In item 1156 of such table, strike “$5,000,000” and insert “$6,000,000”.

In item 1246 of such table, strike “$400,000” and insert “$500,000”.

In item 1320 of such table, strike “$500,000” and insert “$650,000”.

In item 1332 of such table, strike “I–10” and insert “I–49”.

In item 1348 of such table, strike “$2,000,000” and insert “$5,000,000”.

In item 1385 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item 1478 of such table, strike “$5,600,000” and insert “$15,550,000”.

In item 1508 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item 1548 of such table, strike “$2,000,000” and insert “$2,700,000”.

In item 181 of such table, strike “$7,700,000” and insert “$8,700,000”.

In item 1832 of such table, strike “$3,750,000” and insert “$4,250,000”.

In item 194 of such table, strike “$375,000” and insert “$425,000”.

In item 2004 of such table, strike “$2,000,000” and insert “$3,000,000”.

In item 2038 of such table, strike “$6,000,000” and insert “$7,000,000”.

In item 207 of such table, strike “$15,000,000” and insert “$17,000,000”.

In item 2126 of such table, strike “$400,000” and insert “$500,000”.

In item 2139 of such table, strike “$2,350,000” and insert “$3,850,000”.

In item 2211 of such table, strike “$4,480,000” and insert “$6,480,000”.

In item 2231 of such table, strike “Teir” and insert “Tier”.

In item 2303 of such table, strike “Rebuild Yakima Highway within city limits of Sunnyside, WA” and insert “Cultural & Interpretive Center (Hanford Reach National Monument) facility, Richland, WA”.

In item 2425 of such table, strike “$5,000,000” and insert “$2,000,000”.

In item 2580 of such table, strike “$1,400,000” and insert “$1,500,000”.

In item 2627 of such table, strike “$14,000,000” and insert “$16,000,000”.

In item 2656 of such table, strike “$9,000,000” and insert “$9,750,000”.

In item 2795 of such table, strike “Construct I–66 east of Somerset, Kentucky in Pulaski County to I–75 at London, Kentucky” and insert “Construct Northern Bypass of Somerset, KY and I–66 from the Cumberland Parkway west of Somerset, KY to I–75 south of London, KY” and strike “$7,000,000” and insert “$35,000,000”.

In item 2984 of such table, strike “$3,120,000” and insert “$1,800,000”.

In item 2997 of such table, strike “$5,000,000” and insert “$6,000,000”.

In item 3001 of such table, strike “$725,000” and insert “$750,000”.

In item 3007 of such table, strike “$3,000,000” and insert “$4,000,000”.

In item 3034 of such table, strike “$1,500,000” and insert “$2,800,000”.

In item 3040 of such table, strike “$8,000,000” and insert “$18,000,000”.

In item 3071 of such table, strike “$4,000,000” and insert “$5,000,000”.

In item 3141 of such table, strike “$4,200,000” and insert “$3,500,000”.

In item 3166 of such table, strike "from mile post 117.5 to milepost 118.5".

In item 317 of such table, strike "$1,210,000" and insert "$3,210,000".

In item 3208 of such table, strike "$5,000,000" and insert "$6,000,000".

In item 3228 of such table, strike "$5,600,000" and insert "$13,900,000".

In item 3236 of such table, strike "$400,000" and insert "$100,000".

In item 3270 of such table, strike "$14,000,000" and insert "$35,000,000".

In item 351 of such table, strike "$6,000,000" and insert "$8,000,000".

In item 470 of such table, strike "NY", "Rehabilitation of Bay Ridge 86th Street Subway Station, Brooklyn, NY", and strike "$2,000,000" and insert "SC", "Widen 8 miles of S-83 (Hardscrabble Road) from intersection with SC Route 555 (Farrow Road) to Road S–54 (Langford Road)", and "$2,000,000".

In item 571 of such table, strike "$475,000" and insert "$500,000".

In item 621 of such table, strike "$4,000,000" and insert "$5,000,000".

In item 712 of such table, strike "KY", "Construct North Somerset Bypass in Pulaski County from Nunn Parkway to KY80", and strike "$7,000,000" and insert "CA", "The Alameda Corridor SR 47 Port Access Expressway design funding", and "$5,000,000".

In item 747 of such table, strike "$5,000,000" and insert "$6,000,000".

In item 789 of such table, strike "$2,000,000" and insert "$4,000,000" and strike "Reroute State Hwy 11 near Burlington, WI (Kenosha County, WI)" and insert "Reroute State Hwy 11 near Burlington, WI (Walworth and Racine Counties, WI)".

In item 982 of such table, strike "$14,000,000" and insert "$16,000,000".

Strike all the text of item 1438 of such table and insert "NC", "Eliminate highway-railway crossings in the city of Fayetteville, NC", and "$1,000,000".

Strike all the text of item 3138 and insert "KS", "Elimination of highway-railway crossings at the city of Pittsburg Port Authority to increase safety and reduce congestion", and "$5,730,000".

Strike the contents of item number 2733 and insert "FL", "Construct reliever road to SR A–1–A in the City of Deerfield Beach beginning at A–1–A/Hillsboro Blvd. and ending at A–1–A/N.E. 2nd Street" and "$1,000,000" in the respective columns.

Strike the contents of item number 1487 and insert "FL", "Widen State Road 80, Hendry County", and "$1,000,000", in the respective columns.

Strike the contents of item 1217 and insert "IL", "Transportation Enhancement and road improvements necessary for Downtown Plaza improvements in Jacksonville, IL", and "$952,572" in the respective columns.

Strike the contents of item 470 and insert "GA", "The Carrollton Greenbelt Project, City of Carrollton, Georgia", and "$350,000" in the respective columns.

In item 2155 of such table, strike "$14,000,000" and insert "$44,250,000".

In item 1810 of such table, strike "$1,000,000" and insert "$7,120,745".

In item 1969 of such table, strike "$1,000,000" and insert "$1,500,000".

In item 2181 of such table, strike "$4,000,000" and insert "$6,250,000".

In item number 3202 of such table, strike "$5,000,000" and insert "$7,000,000".

In item number 978 of such table, strike "$1,800,000" and insert "$2,500,000".

In item number 1249 of such table, strike "$600,000" and insert "$2,000,000".

In item number 2066 of such table, strike "$1,500,000" and insert "$3,400,000".

In item number 2799 of such table, strike "$1,500,000" and insert "$2,000,000".

In item number 2244 of such table, strike "$2,000,000" and insert "$4,000,000".

In item number 685 of such table, strike "$1,500,000" and insert "$3,000,000".

In item number 370 of such table, strike "; demolishing existing elevated road over park".

In item 2974 of such table, strike the first comma and insert a comma after "Chester".

In item 2019 of such table, strike the project description and dollar amount and insert "Traffic mitigation on Bridge Street and Maple Avenue, Florida, NY" and "$150,000", respectively.

In item 1278 of such table, strike the project description and dollar amount and insert "Land acquisition and improvements on Louisa Street, Peekskill, NY", "$925,000", respectively.

In item 1870 of such table, strike the project description and dollar amount and insert "Improvements and upgrades on Main Street, Beekman, NY", and "$200,000", respectively.

In item 2652 of such table, strike "Improve SR1023 from US 70 Business to US 301 in Smithfield" and insert "Improve SR 1923 from US 70 Business to US 301 Smithfield".

In item 1311 of such table, strike "Construct Farmington Canal Greenway enhancements, New Haven and Hamden" and insert "Construct Farmington Canal Greenway, City of New Haven and Hamden".

In item 1672 of such table, strike "Reconstruct Waterfront Street Corridor, New Haven" and insert "Reconstruct Waterfront Street Corridor, City of New Haven".

In item 1570 of such table, strike "Construct bike/pedestrian path, Shelton" and insert "Construct Housatonic Riverwalk, Shelton".

In item 2135 of such table, strike "$3,000,000" and insert "$2,000,000".

In item 1250 of such table, strike "$3,000,000" and insert "$1,500,000".

In item 3314 of such table, strike "$3,000,000" and insert "$37,000,000".

In item 2158 of such table, strike "$8,000,000" and insert "$5,000,000".

In item 864 of such table, strike "Improvements for intersections heavily traveled through which include Beaverton Hillsdale Hwy Scholls Ferry and Oleson, Beaverton" and insert "I–5/99W connector".

At the end of such table, add the following:

High Priority Projects

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3316 | TX | Reconstruct Union Pacific Railroad bridge over widened Business US 287 | $1,000,000 |
| 3317 | AK | Anchorage Traffic Congestion Relief | $10,000,000 |
| 3318 | VA | Expansion of Battlefield Parkway from East Market Street at Route 7 to Sycolin Road, S.E. | $2,000,000 |
| 3319 | OR | Construction of the I–84, US 395 Stanfield Interchange Improvement Project | $2,000,000 |
| 3320 | IN | Design and reconstruct residential streets in the City of Muncie, Indiana | $930,000 |
| 3321 | CA | Improvement of Main Street – Shenandoah Road/SR-49 Intersection, Plymouth | $1,000,000 |
| 3322 | SD | Design and construct new Meridian Bridge across the Missouri River south of Yankton, South Dakota. | $4,000,000 |
| 3323 | AK | Earthwork and roadway construction Gravina Access Project | $48,000,000 |
| 3324 | GA | Improvement and construction of SR 40 from east of St. Marys cutoff at mile post 5.0, Charlton County to County Route 61, Camden County, Georgia | $1,000,000 |
| 3325 | NJ | Route 22 Sustainable Corridor Plan | $3,750,000 |
| 3326 | OR | Hood River, OR, Frontage Road Crossing Project | $500,000 |
| 3327 | GA | Construct and Improve Westside Parkway, Northern Section, in Fulton County | $2,000,000 |
| 3328 | CNMI | Planning design and construction of East Coast Highway/Route 36, Saipan | $12,000,000 |
| 3329 | GA | Widen SR 133 from Spence Field to SR 35 in Colquitt County, Georgia | $1,000,000 |
| 3330 | FL | West Palm Beach, Florida, Flagler Drive Reconfiguration | $1,000,000 |
| 3331 | FL | Implement Snake Road (BIA Route 1281) Widening and Improvements | $1,000,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3332 | NY | Reconstruction of Portland Ave. from Rochester City line to Titus Ave in Irondequoit, NY | $3,000,000 |
| 3333 | FL | Alleviate congestion at Atlantic Corridor Greenway Network, City of Miami Beach, FL | $500,000 |
| 3334 | NM | Development of the Paseo del Volcan corridor equally split between Sandoval County from Iris Road to US Highway 550 and the I-40 Paseo del Vulcan Interchange | $2,000,000 |
| 3335 | WA | SR 704 Cross-Base Highway, Spanaway Loop Road to SR 7 | $5,000,000 |
| 3336 | CA | Restoration of Victoria Avenue in the City of Riverside, CA | $500,000 |
| 3337 | MN | I-494 Lane Addition | $2,000,000 |
| 3338 | GA | Uptown Jogging, Bicycle, Trolley Trail, Columbus Georgia | $500,000 |
| 3339 | CA | Study and construct highway alternatives between Orange and Riverside Counties, directed by RCTC, working with local transp. authorities, and guided by the current MIS | $15,750,000 |
| 3340 | OH | Rehabilitation or replacement of highway-rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties | $300,000 |
| 3341 | FL | Improvements to I–75 in the City of Pembroke Pines, Florida | $2,250,000 |
| 3342 | LA | Construction of new interchange Causeway at Earhart-LA 3139 | $1,800,000 |
| 3343 | GA | Construction of infrastructure for inter-parcel access, median upgrades, lighting, and beautification along Highway 78 corridor | $500,000 |
| 3344 | MI | Design, Right-of-Way and Construction of the I-196 Chicago Drive (Baldwin Street) Interchange Modificaiton, Michigan | $3,000,000 |
| 3345 | VA | I-66 and Route 29 Gainesville Interchange Project | $7,000,000 |
| 3346 | FL | SR 688 Ulmerton Road Widening (Lake Seminole Bypass Canal to El Centro Ranchero) | $10,000,000 |
| 3347 | OK | Navajoe Gateway Improvements Project, U.S. 62 in Altus, OK | $1,000,000 |
| 3348 | NV | Construction of Carson City Freeway | $1,000,000 |
| 3349 | TN | Upgrade lights and gates and motion sensor controlling circuitry at the highway rail grade crossing located on Wenasoga Road/FAS 8224, Middleton, TN | $200,000 |
| 3350 | WV | Construct connector road from north end of RHL Boulevard to State Route 601 (Jefferson Road) | $750,000 |
| 3351 | NY | Construct Siena College campus perimeter road, Loudonville, NY | $1,000,000 |
| 3352 | AL | Construct additional lanes on SR 77 from Southside, Alabama to Green Valley Road | $1,700,000 |
| 3353 | TX | Environmental mitigation related to the SH 195 project and related improvements in Williamson County that had adverse effects on the Karst cave system | $2,000,000 |
| 3354 | AL | The City of Calera, Alabama—Northern Bypass Segment (U.S. Highway 31 to Alabama State Highway 25) | $6,800,000 |
| 3355 | WA | Construct a single point urban interchange (SPUI) under I–5 at South 272nd St | $1,350,000 |
| 3356 | IN | Reconstruct bridges at County Roads 200E and 300E in LaPorte County, Indiana | $500,000 |
| 3357 | MI | Widen and Reconstruct Walton Blvd in Auburn Hills from Opdyke to Squirrel Rd | $7,400,000 |
| 3358 | GA | Commission a study and report regarding the construction and designation of a new Interstate linking Savannah, Augusta, & Knoxville | $300,000 |
| 3359 | TX | Construct pedestrian and bicycle amenities on Seawall Blvd Galveston, Tx | $3,000,000 |
| 3360 | CA | Pedestrian Beach Trail in San Clemente, CA | $1,000,000 |
| 3361 | TX | US 90—Construct 6 mainlanes from east of Mercury to east of Wallisville | $2,000,000 |
| 3362 | PA | Construct highway safety and capacity improvements to improve the access to the KidsPeace Broadway Campus | $900,000 |
| 3363 | GA | GA 400 and McGinnis Ferry Road Interchange, Forsyth County, GA | $900,000 |
| 3364 | GA | Construction of bypass around town of Hiram, from SR 92 to US 278, Paulding County, Georgia | $500,000 |
| 3365 | GA | Construct US 411 Connector from US 41 to I–75, Bartow County, Georgia | $1,000,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3366 | TX | Construct access road connecting Port of Beaumont property on east bank of Neches River to I–10 access road east of the Neches River | $1,320,000 |
| 3367 | MD | US 220/MD 53 North-South Corridor | $1,000,000 |
| 3368 | FL | Acquire Right-of-Way for Ludlam Trail, Miami, Florida | $250,000 |
| 3369 | NY | Construct Northern State Parkway and LIE access at Marcus Ave. and Lakeville Rd. and associated Park and Ride. | $1,700,000 |
| 3370 | PA | Construct interim US 422 improvements at Valley Forge river crossing | $1,000,000 |
| 3371 | NY | Design and construction of Renaissance Square in Rochester, NY | $2,000,000 |
| 3372 | AL | Alabama Hwy 36 Extension and Widening—Phase II | $300,000 |
| 3373 | PA | Northfield site roadway extension from Rte 60 to Industrial Park near the Pittsburgh International Airport | $500,000 |
| 3374 | OH | Plan and construct pedestrian trail along the Ohio and Erie Canal Towpath Trail in downtown Akron, OH | $950,000 |
| 3375 | TX | Reconstruct I–30 Trinity River Bridge—Dallas, TX | $34,000,000 |
| 3376 | TX | Reconstruct I–30 Trinity River Bridge—Dallas, TX | $1,000,000 |
| 3377 | GA | Construction of interchange on I–985 north of SR–13, Hall County Georgia | $1,000,000 |
| 3378 | TX | Construction of circulation roadway at Galveston cruise ship terminal | $1,500,000 |
| 3379 | FL | Temple Terrace Highway Modification | $1,000,000 |
| 3380 | WY | Burma Rd: Extension from I–90 to Lakeway Rd | $2,000,000 |
| 3381 | NJ | Construct Western Blvd. extension from Northern Blvd to S.H. Rt. 9, Ocean County, NJ | $4,000,000 |
| 3382 | FL | Powerline Rearvision motor carrier backover motor carrier safety research | $100,000 |
| 3383 | NH | Environmental mitigation at Sybiak Farm in Londonderry to offset effects of I–93 improvements | $1,500,000 |
| 3384 | MI | East Grand River Improvements, Brighton Township, Michigan | $2,000,000 |
| 3385 | KY | Replace Brent Spence Bridge, Kenton County, Kentucky | $2,000,000 |
| 3386 | TX | Construction of projects that relieve congestion in and around the Texas Medical Center complex | $12,000,000 |
| 3387 | CA | Hazel Avenue ITS Improvements, Folsom Blvd. to Placer County | $500,000 |
| 3388 | FL | SR 688 Ulmerton Road widening (west of 38th street to west of I275) | $10,000,000 |
| 3389 | NH | Environmental mitigation at Crystal Lake in Manchester to offset effects of I–93 improvements | $1,900,000 |
| 3390 | VA | Widening I–95 between rte 123 and Fairfax County Parkway | $1,000,000 |
| 3391 | PA | Armstrong County, PA Slatelick Interchange for PA 28 at SR 3017 | $2,400,000 |
| 3392 | OK | Reconstruct the I–44-Ft. Still Key Gate Interchange | $1,000,000 |
| 3393 | GA | Greene County, Georgia conversion of I–20 and Carey Station Road overpass to full interchange | $2,000,000 |
| 3394 | OH | Upgrade overpass and interchange at US 24 and SR 66 in the City of Defiance | $1,000,000 |
| 3395 | NE | Interstate 80 Interchange at Pflug Road, Sarpy County, Nebraska | $1,000,000 |
| 3396 | FL | Conduct planning and engineering for SR70 widening in Hardee, DeSoto and Okeechobee Counties | $500,000 |
| 3397 | VA | Cathodic Bridge Protection for Veterans Memorial Bridge and the Berkely Bridge in the Commonwealth of Virginia | $700,000 |
| 3398 | IN | Reconstruct McClung Road from State Road 39 to Park Street in LaPorte, Indiana | $750,000 |
| 3399 | OH | Riversouth Street Network Improvements in Columbus | $3,000,000 |
| 3400 | GA | National Infantry Museum Transportation Network, Georgia | $3,750,000 |
| 3401 | AK | Wideband multimedia mobile emergency communications pilot project Wasilla, Alaska | $5,000,000 |
| 3402 | MD | Widen road and improve interchanges of I–81 from south of I–70 to north of Halfway Boulevard | $1,000,000 |
| 3403 | TX | Expansion of US 385 4 lane divide south of Crane to McCarney | $2,000,000 |
| 3404 | VA | Old Mill Road Extension | $1,000,000 |
| 3405 | GA | Commission a study & report regarding construction & desgnation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, & Natchez | $300,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3406 | CO | Improvements on US 36 corridor from I–25 to Boulder. Improvements include interchange and overpass reconstruction | $2,000,000 |
| 3407 | AZ | Design and construct bridge and roadway approaches across Tonto Creek at Sheeps Crossing south of Payson, AZ | $3,000,000 |
| 3408 | NE | Missouri River Bridges between US 34, I–29 in Iowa and US 75 in Nebraska | $2,500,000 |
| 3409 | NY | Reconstruct—Orangeport Road from NYS Rte 31 to Slayton Settlement Road—Niagara County, NY | $850,000 |
| 3410 | TN | Construct sound-walls between I–65 and Harding Place in Davidson County | $830,000 |
| 3411 | ID | Reconstruct and Realign SH–55 in Idaho between Mileposts 94 and 102 | $2,000,000 |
| 3412 | FL | Pinellas Countywide Intelligent Transportation System—phase 2 | $10,000,000 |
| 3413 | OK | Realignment of US 287 around Boise City, OK | $1,000,000 |
| 3414 | FL | Replace Heckscher Drive (SR 105) Bridge across Broward River | $2,000,000 |
| 3415 | TX | FM 156 Road Relocation at Alliance Airport, Texas | $1,000,000 |
| 3416 | TX | Upgrade Caesar Chavez Boulevard from San Antonio Street to Brazos Street | $3,000,000 |
| 3417 | FL | Coral Way, SR 972 Highway Beautification, Phase One, Miami, Florida | $500,000 |
| 3418 | OR | Cascade Locks Marine Park Underpass to address necessary improvements | $500,000 |
| 3419 | NY | Reconstruction of East Genesee Street connective corridor to Syracuse University in Syracuse, NY | $3,500,000 |
| 3420 | IL | For Cook County to reconstruct and widen 127th Street between Smith Road and State Street in Lemont | $450,000 |
| 3421 | TN | Widen I–65 from SR–840 to SR–96, including interchange modification at Goose Creek Bypass, Williamson County | $970,000 |
| 3422 | CA | Auburn Boulevard Improvements, City of Citrus Heights | $500,000 |
| 3423 | LA | Bossier Parish Congestion Relief | $3,000,000 |
| 3424 | LA | Fund the 8.28 miles of the El Camino East-West Corridor along LA 6 from LA 485 near Robeline, LA to I–49 | $2,000,000 |
| 3425 | FL | Bryan Dairy Road improvements from Starkey Road to 72nd Street | $4,000,000 |
| 3426 | GA | Buckhead Community Improvements to rehabilitate State Road141, including lane straightening, addition of median, installation of left turn bays at two intersections, addition of bicycle lanes, sidewalks, clear zones and landscape buffers | $1,000,000 |
| 3427 | VA | Purchase specialized tunnel fire safety equipment, Hampton Roads | $800,000 |
| 3428 | MI | Holmes Road Reconstruction—From Prospect Road to Michigan Avenue, Charter Township of Ypsilanti | $2,000,000 |
| 3429 | TN | Construct a system of greenways in Nashville—Davidson County | $1,000,000 |
| 3430 | UT | Improve pedestrian and traffic safety in Holladay | $2,000,000 |
| 3431 | OH | Construction of road improvements from Richmond Road to Cuyahoga Community College, Warrensville Heights | $1,350,000 |
| 3432 | OH | Construct road with access to memorial Shoreway, Cleveland | $1,000,000 |
| 3433 | TX | North Cameron County East-West Railroad Relocation Project | $100,000 |
| 3434 | OR | Construct Pathway From Multimodal Transit Station to Swanson Park, Albany | $520,000 |
| 3435 | NY | Transportation Initiative to provide for a parking facility, in the vicinity of the Manhattan College Community | $750,000 |
| 3436 | NY | Phase II Corning Preserve Transportation Enhancement Project | $6,000,000 |
| 3437 | NY | Study of Goods movement through I–278 in New York City and New Jersey | $1,500,000 |
| 3438 | NY | Study and Implement Traffic Improvements to the area surrounding the Stillwell Avenue train station | $1,000,000 |
| 3439 | CA | Expand Diesel Emission Reduction Program of Gateway Cities COG | $3,100,000 |
| 3440 | TX | Construct pedestrian walkway on Houston Texas' Main Street Corridor | $1,000,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3441 | CA | Sacramento County, California—Watt Avenue Multimodal Mobility Improvements, Kiefer Boulevard to Fair Oaks Boulevard. | $4,000,000 |
| 3442 | NJ | Passaic River—Newark Bay Restoration and Pollution Abatement Project, Route 21 | $400,000 |
| 3443 | NJ | Downtown West Orange streetscape and traffic improvement program. | $300,000 |
| 3444 | NY | High-Speed EZ pass at the New Rochelle Toll Plaza, New Rochelle | $1,000,000 |
| 3445 | TX | Access to Regional Multi-Modal Center—FM 1016 and SH 115 | $2,000,000 |
| 3446 | AR | For acquisition and construction of an alternate transportation (pedestrian/bicycle) trail from East Little Rock to Pinnacle Mountain State Park | $200,000 |
| 3447 | MN | Construct 4th Street overpass grade separation crossing a BNSF Rail Road, City of Carlton | $199,794 |
| 3448 | TX | North Rail Relocation Project, Harlingen | $2,000,000 |
| 3449 | MN | Construct Pfeifer Road, remove 10 foot raised crossing, Twin Lakes Township | $251,717 |
| 3450 | MS | Safety improvements and to widen Hardy Street at the intersection of US 49 in Hattiesburg | $800,000 |
| 3451 | OH | Reconstruction of U.S. Route 20 and Ohio Route 113 (Center Ridge Road), Rocky River | $500,000 |
| 3452 | MN | Safety improvements to TH 169 between Virginia and Winton | $23,400,000 |
| 3453 | VA | Construct access road and roadway improvements to Chessie development site. | $1,300,000 |
| 3454 | NC | Acquisition of rail corridors for use as bicycle and pedestrian trails, Durham | $2,000,000 |
| 3455 | MN | TH 61 Reconstruction from 2.7 miles to 6.2 miles north of Tofte | $10,067,000 |
| 3456 | MN | Phase II/part II—CSAH 15 to East of Scenic Highway 7 (1.2 miles) | $2,840,000 |
| 3457 | MN | Reconstruction with some rehabilitation of roadway with storm water sewer system construction from eastern boundary of the Bois Forte Indian Reservation and ending at "T" intersection of roadway (3.5 miles) | $1,000,000 |
| 3458 | MS | Widen 4th Street in Hattiesburg | $3,200,000 |
| 3459 | NJ | Study of safe and efficient commercial multi-modal transportation systems serving the East Coast Port Complex. | $500,000 |
| 3460 | IL | Improve roads and enhance area in the vicinity of S. Archer Avenue and Midway Airport, Chicago | $1,000,000 |
| 3461 | IL | Construct Leon Pass overpass, Hodgkins | $800,000 |
| 3462 | IL | Undertake Streetscaping project on Harlem Avenue initiating from 71st Street to I-80, Cook County | $4,000,000 |
| 3463 | IL | Construct bike path, parking facility, and related transportation enhancement projects, North Riverside | $2,000,000 |
| 3464 | IL | Upgrade Roads, Summit | $800,000 |
| 3465 | IL | Undertake streetscaping on Ridgeland Avenue, Oak Park Avenue, and 26th Street, Berwyn | $800,000 |
| 3466 | IL | Construct bike/pedestrian path and related facilities in Spring Rock Park, Western Springs | $600,000 |
| 3467 | SD | Extend the Sioux Falls Bike Trail to the Great Bear Recreation Area | $1,200,000 |
| 3468 | SD | Redesign T corner on BIA #2 5 miles SW of Kyle on the Pine Ridge Reservation | $750,000 |
| 3469 | SD | Extend bike trail in Pine Ridge to the SuAnne Big Crow Boys & Girls Center | $250,000 |
| 3470 | SD | Extend bicycle trail system in Aberdeen | $8,000,000 |
| 3471 | GA | City of Moultrie Streetscape Improvements, Phase III | $750,000 |
| 3472 | GA | Restore and renovate for historic preservation and museum the 1906 AB&A Railroad Building, Fitzgerald | $500,000 |
| 3473 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Ocilla. | $500,000 |
| 3474 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Newton County. | $750,000 |
| 3475 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Monticello. | $500,000 |
| 3476 | GA | City of Sylvester Bicycle and Pedestrian Project. | $500,000 |
| 3477 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Tifton. | $750,000 |
| 3478 | GA | Improve sidewalks and curbs on Wheeler Avenue and Carlos Avenues, Ashburn. | $500,000 |
| 3479 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Jackson. | $500,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3480 | CA | Construct traffic circle in San Ysidro at the intersection of Via de San Ysidro and West San Ysidro Boulevard, San Diego | $300,000 |
| 3481 | CA | Construct and resurface unimproved roads in the Children's Village Ranch and improve access from Children's Village Ranch to Lake Morena Drive, San Diego County | $1,000,000 |
| 3482 | CA | Project design and environmental assessment of widening and improving the interchange at "H" Street and I–5, Chula Vista, Chula Vista | $2,700,000 |
| 3483 | FL | Jacksonville International Airport Access Rd. to I–95, Jacksonville | $2,000,000 |
| 3484 | FL | Mathews Bridge Replacement, Jacksonville | $1,000,000 |
| 3485 | FL | Hecksher Bridge Replacement, Jacksonville | $1,000,000 |
| 3486 | FL | NE 3 Ave to NE 8th Ave Rd Reconstruction, Gainesville | $1,000,000 |
| 3487 | FL | University Ave to NE 8 Avenue Rd Reconstruction, Gainesville | $2,000,000 |
| 3488 | KY | Central Kentucky Multi Highway Preservation Project | $2,300,000 |
| 3489 | WV | Construct East Beckley Bypass, including $500,000 for preliminary engineering and design of the Shady Spring connector (Route 3/Airport Road) | $5,000,000 |
| 3490 | WV | Construct I–73/74 High Priority Corridor, Wayne Co. | $5,000,000 |
| 3491 | KY | Construct Kidville Road (KY 974) Interchange at the Mountain Parkway, Clark County | $1,700,000 |
| 3492 | NY | Construction and improvements to Ridge Road, Lackawanna | $500,000 |
| 3493 | CA | Construction at I–580 and California SR 84 (Isabel Avenue) Interchange | $2,500,000 |
| 3494 | NY | Construction of and improvements to Amherst Street, Buffalo | $200,000 |
| 3495 | NY | Construction of and improvements to Grant Street, Buffalo | $200,000 |
| 3496 | NY | Construction of and improvements to Hertel Avenue, Buffalo | $200,000 |
| 3497 | NY | Construction of and improvements to Hopkins Street, Buffalo | $200,000 |
| 3498 | NY | Construction of and improvements to Main Street in the Town of Aurora | $500,000 |
| 3499 | NY | Construction of and improvements to McKinley Parkway, Buffalo | $500,000 |
| 3500 | NY | Construction of and improvements to Route 5 in the Town of Hamburg | $500,000 |
| 3501 | NY | Construction of and improvements to South Park Avenue and Lake Avenue in the Village of Blasdell | $500,000 |
| 3502 | NY | Construction of and improvements to South Park Avenue, Buffalo | $200,000 |
| 3503 | NY | Construction of Bicycle Path and Pedestrian Trail in City of Buffalo | $800,000 |
| 3504 | NY | Construction, redesign, and improvements to Fargo Street in Buffalo | $2,000,000 |
| 3505 | TN | Improve existing two lane highway to a five lane facility on State Route 53 from South of I–24 to Near Parks Creek Road, Coffee County | $5,500,000 |
| 3506 | ME | Improve portions of Route 116 between Lincoln and Medway to bring road up to modern standard | $3,500,000 |
| 3507 | ME | Improve portions of Route 26 between Bethel and Oxford | $1,000,000 |
| 3508 | NY | Road improvements and signage in City of Lackawanna | $500,000 |
| 3509 | NJ | Belmont Ave Gateway Community Enhancement Project, Haledon | $500,000 |
| 3510 | TX | Conduct feasibility study for an off ramp on I–30 on to Hall Street for direct access to Baylor University Medical Center in Dallas. | $1,000,000 |
| 3511 | NJ | Livingston Pedestrian Streetscape Project along Mt. Pleasant and Livingston Avenues | $900,000 |
| 3512 | MD | MD4 at Suitland Parkway | $5,000,000 |
| 3513 | NJ | Pompton Lakes Downtown Streetscape | $1,000,000 |
| 3514 | PA | Street improvements along North Broad Street, Hatfield Borough | $125,000 |
| 3515 | PA | Street improvements to Old York Road, Jenkintown Borough | $1,000,000 |
| 3516 | PA | Street improvements to Ridge Pike and Joshua Road, Whitemarsh Township | $800,000 |
| 3517 | PA | Street improvements to Skippack Pike (Rte 73), Whitpain Township | $600,000 |
| 3518 | PA | Street Improvements, Upper Dublin Township | $1,500,000 |
| 3519 | PA | Street Improvements, Upper Gwynedd Township | $375,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3520 | VA | Construct access road and roadway improvements to Chessie development site, Clifton Forge | $1,300,000 |
| 3521 | WA | Fruitdale and McGarigle Arterial Improvements Project in Sedro Woolley, Washington | $950,000 |
| 3522 | MS | Improve Ridge Road, Pearl River County | $1,000,000 |
| 3523 | MS | Port Bienville Intermodal Connector, Hancock County | $3,000,000 |
| 3524 | WA | Realign Airport Road/Springhetti Ave./Marsh Road in Snohomish County, Washington. | $400,000 |
| 3525 | LA | Widen I–10 in New Orleans | $2,800,000 |
| 3526 | UT | Widen Redwood Road from Saratoga Springs to Bangerter Highway in Utah County | $1,000,000 |
| 3527 | VA | Widen Rolfe Highway from near the intersection of Rolfe Highway and Point Pleasant Road to the Surry ferry landing approach bridge | $500,000 |
| 3528 | VA | Construct access road and roadway improvements to Chessie development site, Clifton Forge | $1,300,000 |
| 3529 | WA | Fruitdale and McGarigle Arterial Improvements Project in Sedro Woolley, Washington | $950,000 |
| 3530 | MS | Improve Ridge Road, Pearl River County | $1,000,000 |
| 3531 | MS | Port Bienville Intermodal Connector, Hancock County | $3,000,000 |
| 3532 | WA | Realign Airport Road/Springhetti Ave./Marsh Road in Snohomish County, Washington. | $400,000 |
| 3533 | LA | Widen I–10 in New Orleans | $2,800,000 |
| 3534 | UT | Widen Redwood Road from Saratoga Springs to Bangerter Highway in Utah County | $1,000,000 |
| 3535 | VA | Widen Rolfe Highway from near the intersection of Rolfe Highway and Point Pleasant Road to the Surry ferry landing approach bridge | $500,000 |
| 3536 | MA | Cambridge Bicycle Path Improvements | $1,000,000 |
| 3537 | OR | Capitalize Oregon Transportation Infrastructure Bank | $3,998,000 |
| 3538 | MA | Chelsea Roadway Improvements | $2,000,000 |
| 3539 | NY | Congestion reduction measures in Richmond County | $2,000,000.00 |
| 3540 | NJ | Construct Hudson River Waterfront Walkway over Long Slip Canal—Hoboken and Jersey City | $1,000,000 |
| 3541 | CA | Construct Illinois Street Bridge/Amador Street Connection and Improvements, San Francisco | $4,000,000 |
| 3542 | NY | Construct multi-modal facility in the vicinity of Brooklyn Childrens Museum | $300,000.00 |
| 3543 | NJ | Construct Parking Facility at McGinley Square in Jersey City | $1,050,000 |
| 3544 | OR | Construction of access road including sidewalks, bike lanes and railroad crossing from Highway 99W to industrial zoned property, Corvallis | $814,000 |
| 3545 | NY | Continuation of the public awareness program to the subcontracting entity which was funded under Section 1212(b) of PL 105–178 about infrastructure in Lower Manhattan. | $500,000.00 |
| 3546 | OR | Continue bridge repair project authorized under P.L. 105–178, Coos Bay | $8,000,000 |
| 3547 | NJ | Expand TRANSCOM Regional ITS System in NJ, NY, and CT | $1,000,000 |
| 3548 | OR | Extend Willamette Valley Scenic Bikeway into Lane and Douglas Counties. | $1,000,000 |
| 3549 | NY | Graffiti Elimination Program in Riverdale neighborhood of Bronx County | $500,000.00 |
| 3550 | NY | Graffiti Elimination Program on Smith Street in Kings County | $500,000.00 |
| 3551 | OR | Great Street Trail Connection, Eugene | $900,000 |
| 3552 | NJ | Hudson County Fire & Rescue Department, North Bergen: Transportation Critical Incident Mobile Data Collection Device | $1,200,000 |
| 3553 | NJ | Hudson County Pedestrian Safety Improvements | $1,000,000 |
| 3554 | OR | Hwy. 199 Safety Improvements, Josephine County | $3,104,000 |
| 3555 | OR | Hwy. 99E/Geary Street Safety Improvements, Albany | $1,002,000 |
| 3556 | NY | Implement Improvements for Pedestrian Safety in Riverdale neighborhood of Bronx County | $1,000,000.00 |
| 3557 | WA | Improve Mill Plain Blvd between SE 172nd and SE 192nd in Vancouver | $1,250,000 |
| 3558 | WA | Improve signage along scenic highways in Clark, Skamania and Pacific counties | $150,000 |
| 3559 | OR | ITS Improvements to TripCheck, Oregon | $1,200,000 |
| 3560 | NJ | Jersey City 6th Street Viaduct Pedestrian and Bicycle Pathway Project | $2,000,000 |
| 3561 | OR | Middle Fork Willamette River Path, Springfield | $3,000,000 |
| 3562 | OR | OR 42 Hoover Hill Passing Lane, Winston | $1,495,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3563 | OR | Pedestrian improvements including boardwalk extension and sidewalk construction, Port of Brookings Harbor | $600,000 |
| 3564 | NJ | Port Reading—Improvements to air quality through reduction of engine idling behind Rosewood Lane | $800,000 |
| 3565 | OR | Purchase communications equipment related to traffic incident management in Linn, Benton, Lane, Douglas, Coos, Curry and Josephine Counties. | $10,000,000 |
| 3566 | MA | Reconstruction of the I–95/Rte. 20 Interchange in Waltham | $1,300,000 |
| 3567 | NJ | Route 440 Rehabilitation and Boulevard Creation Project in Jersey City | $1,250,000 |
| 3568 | MA | Rutherford Avenue Improvements, Boston | $1,000,000 |
| 3569 | GA | SR 10/Peters Street/Olympic Drive interchange, Athens | $3,000,000 |
| 3570 | NY | Study and Improve Traffic Flow Around a New Stadium in Willets Point, Queens | $3,000,000.00 |
| 3571 | OR | To construct and enhance bikeway between Hood River and McCord Creek. | $1,000,000 |
| 3572 | NY | To construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan. | $1,500,000.00 |
| 3573 | OR | Transportation enhancements at Eugene Depot, Eugene | $1,000,000 |
| 3574 | OR | U.S. 101 Slide Repair, Curry County | $5,800,000 |
| 3575 | OR | U.S. Hwy. 20 and Airport Road Intersection Improvements, Lebanon | $837,000 |
| 3576 | IL | Upgrade 31st Street and Golfview Rd intersection and construct parking facilities, Brookfield | $1,500,000.00 |
| 3577 | NJ | Weehawken Baldwin Avenue Improvements | $2,000,000 |
| 3578 | WA | Widen SR 503 through Woodland | $1,000,000 |
| 3579 | OR | Widen to three lanes and add urban features to OR 42 from Lookingglass Creek to Glenhart, Winston | $3,250,000 |
| 3580 | NY | Bicycle and pedestrian safety improvements, Main Street, Riverhead | $1,200,000 |
| 3581 | IL | Construct extension of Queeny Avenue from IL Rt 3 to Hog Haven Road, St. Clair County | $750,000 |
| 3582 | NY | Construct improvements to NY Route 5 from Coast Guard Base to Ohio Street, including Fuhrmann Boulevard | $1,000,000 |
| 3583 | IL | Extend and Construct Concrete Corridor between IL Rt 13 to IL Rt 15, Centreville | $1,000,000 |
| 3584 | NY | Implement a roadway evacuation study for the South Shore of Long Island, Mastic | $1,000,000 |
| 3585 | NY | Improve Brooksite Dr. from NY 25/25A to Rt. 347, Smithtown | $900,000 |
| 3586 | NY | Improve Clover Ln. from Bay Ave to Bay Rd, hamlet of Brookhaven | $270,000 |
| 3587 | NY | Improve CR 80, Montauk Highway, Village of Patchogue | $600,000 |
| 3588 | NY | Improve Dare Rd from Old Town Rd to Rt. 25, Selden | $440,000 |
| 3589 | NY | Improve Hospital Road Bridge between CR99 and CR101, Patchogue | $690,000 |
| 3590 | NY | Improve intersection of Old Dock and Church Street, Kings Park | $120,000 |
| 3591 | NY | Improve Maple Avenue in Smithtown | $150,000 |
| 3592 | NY | Improve Old Town Rd from Rt 347 to Slattery Rd, Setauket | $420,000 |
| 3593 | NY | Improve Old Willets Path from NY 454 to Rabro Dr., Smithtown | $1,500,000 |
| 3594 | NY | Improve Pipe Stave Hollow Rd. to Harbor Beach Rd., Miller Place | $250,000 |
| 3595 | IL | Reconstruction and Improvement of North Lincoln Ave, O'Fallon | $1,970,000 |
| 3596 | IL | Reconstruction of 20th Street, Granite City | $1,500,000 |
| 3597 | IL | Road Alignment from Caseyville Road to Sullivan Drive, Swansea | $1,125,000 |
| 3598 | NY | Road Improvements Hamlet of Medford, Town of Brookhaven | $500,000 |
| 3599 | NY | Road improvements, Hamlet of Gordon Heights, Town of Brookhaven | $430,000 |
| 3600 | NY | Road improvements, Village of Patchogue | $1,500,000 |
| 3601 | NY | Roadway improvements, hamlet of Mastic Beach | $400,000 |
| 3602 | IL | Widening Fullerton Road from Metrolink to IL Rt 159, Swansea | $880,000 |
| 3603 | NY | WLIU Public Radio Emergency and Evacuation Transportation Information Initiative, Southampton | $1,130,000 |

High Priority Projects—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3604 | UT | Reconstruct 500 West, including pedestrian and bicycle access, in Moab | $250,000 |
| 3605 | PA | Construct improvements to Chambers Hill Road and Lindle Road (S.R. 441) at its intersections with Interstate 283 and Eisenhower Boulevard | $1,000,000 |
| 3606 | PA | Construct Regional Trail, Muhlenberg Township | $750,000 |
| 3607 | PA | Rail Crossing signalization upgrade, Bowers Road, Lyons Station, Berks County | $206,300 |
| 3608 | PA | Rail Crossing signalization upgrade at Hill Road, Township of Blandon, County of Berks | $206,300 |
| 3609 | PA | Safety improvements at Liberty Street intersection with PA Route 61 in W. Brunswick and N. Manheim Twp., Schuylkill County | $1,905,700 |
| 3610 | PA | Replace Stossertown Bridge (Main Street) over West Creek in Branch Township, Schuylkill County | $500,000 |
| 3611 | PA | Replace bridge over Little Mahantongo Creek at intersection of Hepler and Valley Roads in Upper Mahantongo Twp., Schuylkill County | $250,000 |
| 3612 | PA | Replace Union Street Bridge over Middle Creek in the borough of Tremont, Schuvlkill County | $500,000 |
| 3613 | PA | Replace Burd St. Bridge over Amtrak and Norfolk Southern railroad tracks in the Borough of Royalton, Dauphin County | $500,000 |
| 3614 | PA | Hummelstown Borough, PA for intersection and pedestrian realignment and drainage. | $2,000,000 |
| 3615 | MN | City of Moorhead Southeast Main GSI 34th Street and I–94 interchange" | $2,000,000 |
| 3616 | MN | Paynesville Highway 23 Bypass | $2,000,000 |
| 3617 | AR | Construction of I–530 between Pine Bluff and Wilmer | $40,000,000 |
| 3618 | NY | Conduct study to develop regional transit strategy in Herkimer and Oneida counties | $100,000 |
| 3619 | NY | Improve Town weatherization capabilities on Tucker Drive, Poughkeepsie, NY | $250,000 |
| 3620 | NY | Bedell Road improvements, Poughkeepsie, NY | $130,000 |
| 3621 | NY | Land acquisition and improvements on Main Street, Beacon, NY | $500,000 |
| 3622 | NY | Construction of sidewalks in Sugar Loaf | $100,000 |
| 3623 | CT | I-84 Expressway Reconstruction from Waterbury to Southbury | $1,500,000 |
| 3624 | DC | Road and trail reconstruction and drainage improvements (APHCC) | $600,000 |
| 3625 | GA | Central Hall Recreation and Multi-Use Trail, Hall County, GA | $2,000,000 |
| 3626 | OH | Land acquisition for construction of pedestrian and bicycle trails at Mentor Marsh in Ohio | $700,000 |
| 3627 | OH | Design and construct road enhancements Andrews Road and Lakeshore Blvd in Mentor on-the-Lake, OH | $300,000 |
| 3628 | OH | Design and construct road enhancements Cleveland Port Authority in Cleveland, Ohio | $2,500,000 |
| 3629 | LA | Red River National Wildlife Refuge Visitor Center | $3,000,000 |
| 3630 | TN | For the advancement of project development activities for SR–33 from Knox County Line to SR–61 at Maynardville, TN | $2,000,000 |
| 3631 | CA | To convert a railroad bridge into a highway bridge spanning over the Feather River between Yuba City and Marysville | $5,000,000 |

In item 49 of the table contained in section 3038 of the bill, strike "Hidalgo County, TX Regional Multi-Modal Center" and insert "Yonkers, NY Trolley Bus Acquisition" and strike "$640,000", "660,000", and "$700,000" and insert "$96,000", "$99,000", and "$105,000", respectively.

In item 380 of such table, strike "Expand Diesel Emission Reduction Program of Gateway Cities COG" and insert "Columbiana County, OH Construct Intermodal Facility" and strike "$992,000", "$1,023,000", and "$1,085,000" and insert "$1,600,000", "$1,650,000", and "$1,750,000", respectively.

In item 162 of such table, strike "Brownsville, TX Brownsville Ruban System City-Wide Transit Improvement Project" and insert "Brownsville, TX Brownsville Urban System City-Wide Transit Improvement Project" and strike "$640,000", "$660,000", and "$700,000" and insert "$800,000", "825,000", and "$875,000", respectively.

In item 179 of such table, strike "Albany, OR Construct Pathway From Multimodal Transit Station to Swanson Park" and insert "Cleveland, OH Construct passenger intermodal center near Dock 32" and strike "$166,400", "$171,600", and "$182,000" and insert "$275,200", "$283,800", and "$301,000", respectively.

In item 379 of such table, strike "Ramapo, NY Transportation Safety Field Command Center (TSFCC)" and insert "Ramapo, NY Transportation Safety Field Bus".

In item 197 of such table, strike "Brooklyn, NY Brooklyn Children's Museum" and insert "Brooklyn, NY Construct a multi-modal transportation facility".

In item 343 of such table, strike "Brooklyn, NY Kings County Hospital Center" and insert "Kings County, NY Construct a multi-modal transportation facility".

In item 408 of such table, strike "Brooklyn, NY SUNY Downstate Medical Center" and insert "Brooklyn, NY Construct a multi-modal transportation facility in the vicinity of Downstate Medical Center".

In item 163 of such table, strike "$2,240,000", "$2,310,000", and "$2,450,000" and insert "$1,600,000", "$1,650,000", and "$1,750,000".

In item number 351 of such table, amend the project description to read as follows: "Charlotte North Carolina—Eastland Community Transit Center".

In item 341 of such table, insert "Foothill Transit" before "Park".

In item 296 of such table, strike "$960,000", "$990,000", and "$1,050,000" and insert "$160,000", "$165,000", and "$175,000", respectively.

In item 7 of such table, strike "$640,000", "$660,000", and "$700,000" and insert "$1,920,000", "$1,980,000", and "$2,100,000", respectively.

In item 97 of such table, strike "$640,000", "$660,000", and "$700,000" and insert "$800,000", "$825,000", and "$875,000", respectively.

In item 69 of such table, strike "$2,080,000", "$2,145,000", and "$2,275,000" and insert "$2,320,000", "$2,392,500", and "$2,537,500", respectively.

In item 211 of such table, strike "$2,880,000", "$2,970,000", and "$3,150,000" and insert "$1,600,000", "$1,650,000", and "$1,750,000", respectively.

In item 133 of such table, strike "$800,000" for fiscal year 2006 and insert "$1,290,000".

In item 378 of such table, strike "and freight access" .

In item 389 of such table, strike "$800,000", "$825,000", and "$875,000" and insert "$960,000", "$990,000", and "$1,050,000", respectively.

In item 61 of such table, strike "$400,000", "$412,500", and "$437,500" and insert "$480,000", "$495,000", and "$525,000", respectively.

In item 89 of such table, strike "$256,000", "$264,000", and "$280,000" and insert "$296,000", "$305,250", and "$323,750", respectively.

In item 33 of such table, strike "$320,000", "$330,000", and "$350,000" and insert "$480,000", "$495,000", and "$525,000", respectively.

In item 141 of such table, strike "$160,000", "$165,000", and "$175,000" and insert "$320,000", "$330,000", and "$350,000", respectively.

In item 26 of such table,—

(1) strike "Construct" and insert "Plan, design, and construct" ; and

(2) strike "$640,000", "$660,000", and "$700,000" and insert "$800,000", "$825,000", and "$875,000", respectively.

In item 203 of such table,—

(1) insert "Construct" before "East Valley Metro Bus Facility"; and

(2) strike "$1,600,000", "$1,650,000", and "$1,750,000" and insert "$2,080,000", "$2,145,000", and "$2,275,000", respectively.

In item 241 of such table, strike "$160,000", "$165,000", and "$175,000" and insert "$960,000", "$990,000", and "$1,050,000", respectively.

In item 129 of such table, strike "$640,000", "$660,000", and "$700,000" and insert "$1,280,000", "$1,320,000", and "$1,400,000", respectively.

In item 265 of such table, strike "$160,000", "$165,000", and "$175,000" and insert "$256,000", "$264,000", and "$280,000", respectively.

In item 291 of such table, strike "$800,000", "$825,000", and "$875,000", and insert "$920,000", "$948,750", and "$1,006,250", respectively.

In item 385 of such table, insert "Norristown, PA-" at the beginning of the project description.

In item 72 of such table, strike "Hammond, Louisiana-Passenger Intermodal facility at Southern University" and insert "Hammond, Louisiana—Passenger Intermodal facility at Southeastern University".

In item 233 of such table, strike "$320,000", "$330,000", and "$350,000" and insert "$960,000", "$990,000", and "$1,050,000", respectively.

In item 111 of such table, strike "$320,000,""$330,000", and "$350,000" and insert "$640,000", "$660,000", and "$700,000", respectively.

In item number 11 of such table, strike the project description and dollar amounts and insert "Development of Gold Country Stage Transit Transfer Center, Nevada County, CA" and "$297,702", "$307,006", and "$325,612", respectively.

In item number 56 of such table, strike the project description and dollar amounts and insert "Brooklyn, NY—Rehabilition of Bay Ridge 86th Street Subway Station" and "$1,280,000", "$1,320,000", and "$1,400,000", respectively.

In item number 305 of such table, strike the project description and dollar amounts and insert "Roanoke, Virginia— Intermodal Facility" and "$64,000", "$66,000", and "$70,000", respectively.

In item 168 of such table, strike "Elizabeth, NJ Broad Street Streetscape Improvements and Bus Shelters" and insert "Eugene, OR Lane Transit District, Bus Rapid Transit Progressive Corridor Enhancements", and strike "$224,000","$231,000", and "$245,000" and insert "$960,000", "$990,000", and "$1,050,000" .

In item 100 of such table, strike the project description and dollar amounts and insert "State of Wisconsin buses and bus facilities" and "$5,120,000", "$5,280,000", and "$5,600,000", respectively.

In item 12 of such table, strike "$320,000", "$330,000", "$350,000" and insert "$576,000", "$594,000", and "$630,000".

In item 273 of such table, strike "$288,000", "$297,000", and "$315,000" and insert "$400,000", "$412,500", and "$437,500", respectively.

In item 106 of such table, strike "$112,000", "$115,500", and "$122,500" and insert "$224,000", "$231,000", and "$245,000", respectively.

In item 304 of the such table, strike "$75,000" and insert "$2,500,000".

In item 229 of the such table, strike "$75,000" and insert "$1,000,000".

In item 284 of the such table, strike the project description and dollar amounts and insert "Cornwall, NY—Purchase Bus" and the following dollar amounts, respectively: "$27,840", "$28,710", and "$30,450".

In item 163 of such table, strike "Normal, Illinois—Multimodal Transportation Center" and insert "Normal, Illinois—Multimodal Transportation Center, including facilities for adjacent public and nonprofit uses".

At the end of such table, add the following:

| Project | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 415. Purchase Buses and construct bus facilities in Broward County, FL. | $480,000 | $495,000 | $525,000 |
| 416. Improve marine intermodal facilities in Ketchikan. | $8,000,000 | $8,250,000 | $8,750,000 |
| 417. Indianapolis, Indiana—Childrens Museum Intermodal Center. | $320,000 | $330,000 | $350,000 |
| 418. Windham, New Hampshire—Construction of Park and Ride Bus facility at Exit 3. | $1,184,000 | $1,221,000 | $1,295,000 |
| 419. Brooklyn, NY—Rehabilition of Bay Ridge 86th Street Subway Station. | $640,000 | $660,000 | $700,000 |
| 420. Purchase Buses and construct bus facilities in Broward County, FL. | $640,000 | $660,000 | $700,000 |
| 421. Bayamon, Puerto Rico—Purchase of Trolley Cars. | $272,000 | $280,500 | $297,500 |
| 422. C Street Expanded bus facility and intermodal parking garage, Anchorage, AK. | $1,600,000 | $1,650,000 | $1,750,000 |
| 423. Morris Thompson Cultural and Visitors Center intermodal parking facility, Fairbanks, AK. | $800,000 | $825,000 | $875,000 |
| 424. Sharon, PA—Bus Facility Construction | $160,000 | $165,000 | $175,000 |
| 425. CITC Non-profit Services Center intermodal parking facility, Anchorage, AK. | $960,000 | $990,000 | $1,050,000 |
| 426. Abilene, TX Vehicle replacement and facility improvements for transit system. | $128,000 | $132,000 | $140,000 |
| 427. Alaska Native Medical Center intermodal parking facility. | $1,600,000 | $1,650,000 | $1,750,000 |
| 428. Butler, PA—Multimodal Transit Center Construction. | $320,000 | $330,000 | $350,000 |
| 429. Normal, Illinois—Multimodal Transportation Center. | $640,000 | $660,000 | $700,000 |
| 430. Rochester, New York—Renaissance Square transit center. | $640,000 | $660,000 | $700,000 |

| Project | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 431. Erie, PA—EMTA Vehicle Acquisition ... | $640,000 | $660,000 | $700,000 |
| 432. Miami-Dade County, Florida—buses and bus facilities. | $1,280,000 | $1,320,000 | $1,400,000 |
| 433. Centralia, Illinois—South Central Mass Transit District Improvements. | $128,000 | $132,000 | $140,000 |
| 434. Roanoke, VA—Bus restoration in the City of Roanoke. | $80,000 | $82,500 | $87,500 |
| 435. Denver, Colorado—Regional Transportation District Bus Replacement. | $640,000 | $660,000 | $700,000 |
| 436. Intermodal facility improvements at the Port of Anchorage. | $8,000,000 | $8.250,000 | $8.750,000 |
| 437. American Village/Montevallo construction of closed loop Access Road, bus lanes and parking facility. | $96,000 | $99,000 | $105,000 |
| 438. Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements. | $800,000 | $825,000 | $875,000 |
| 439. Central Florida Commuter Rail intermodal facilities. | $1,600,000 | $1,650,000 | $1,750,000 |
| 440. Ames, Iowa—Expansion of CyRide Bus Maintenance Facility. | $640,000 | $660,000 | $700,000 |

In section 1101 of the bill, strike subsection (a) and insert the following:

(a) IN GENERAL.—The following sums are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,323,076,000 for fiscal year 2004, $4,486,153,000 for fiscal year 2005, $4,601,932,000 for fiscal year, 2006, $4,715,480,000 for fiscal year 2007, $4,831,867,000 for fiscal year 2008, and $4,951,164,000 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title, $5,187,691,000 for fiscal year 2004, $5,557,383,000 for fiscal year 2005, $5,705,318,000 for fiscal year 2006, $5,831,576,000 for fiscal year 2007, $5,971,240,000 for fiscal year 2008, and $6,111,396,000 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title, $3,709,440,000 for fiscal year 2004, $3,942,176,000 for fiscal year 2005, $4,037,231,000 for fiscal year 2006, $4,134,661,000 for fiscal year 2007, $4,234,528,000 for fiscal year 2008, and $4,336,891,000 for fiscal year 2009.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under sections 130 and 152 of that title, $630,000,000 for fiscal year 2005, $645,000,000 for fiscal year 2006, $660,000,000 for fiscal year 2007, $680,000,000 for fiscal year 2008, and $695,000,000 for fiscal year 2009. Of such funds ⅓ per fiscal year shall be available to carry out section 130 and ⅔ shall be available to carry out section 152.

(5) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $6,052,306,000 for fiscal year 2004, $6,950,614,000 for fiscal year 2005, $6,788,704,000 for fiscal year 2006, $6,947,672,000 for fiscal year 2007, $7,110,614,000 for fiscal year 2008, and $7,282,629,000 for fiscal year 2009.

(6) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title, $1,469,846,000 for fiscal year 2004, $1,521,592,000 for fiscal year 2005, $1,559,257,000 for fiscal year 2006, $1,597,863,000 for fiscal year 2007, $1,637,435,000 for fiscal year 2008, and $1,677,996,000 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $460,000,000 for fiscal year 2004 and $470,000,000 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $53,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $100,000,000 for fiscal year 2008, and $110,000,000 for fiscal year 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of title 23, United States Code, $325,000,000 for fiscal year 2004, $365,000,000 for fiscal year 2005, $390,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $420,000,000 for fiscal year 2008, and $420,000,000 for fiscal year 2009.

(B) PARK ROADS AND PARKWAYS.—For park roads and parkways roads under section 204 of that title, $170,000,000 for fiscal year 2004, $185,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $215,000,000 for fiscal year 2007, $225,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

(C) PUBLIC LANDS HIGHWAY.—For public lands highway under section 204 of that title, $250,000,000 for fiscal year 2004, $260,000,000 for fiscal year 2005, $280,000,000 for fiscal year 2006, $280,000,000 for fiscal year 2007, $290,000,000 for fiscal year 2008, and $300,000,000 for fiscal year 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $20,000,000 for each of fiscal years 2004 through 2009.

(10) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—For the national corridor infrastructure improvement program under section 1301 of this title, $600,000,000 for fiscal year 2005, $600,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, $600,000,000 for fiscal year 2008, and $600,000,000 for fiscal year 2009.

(11) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1302 of this title, $200,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

(12) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE PROGRAM.—For the projects of national and regional significance program under section 1304 of this title, $1,100,000,000 for fiscal year 2005, $1,100,000,000 for fiscal year 2006, $1,200,000,000 for fiscal year 2007, $1,300,000,000 for fiscal year 2008, and $1,300,000,000 for fiscal year 2009.

(13) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $30,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $45,000,000 for fiscal year 2006, $55,000,000 for fiscal year 2007, $55,000,000 for fiscal year 2008, and $60,000,000 for fiscal year 2009.

(14) DEPLOYMENT OF 511 TRAVELER INFORMATION PROGRAM.—For the 511 traveler information program under section 1204(c)(7) of this title, $6,000,000 for each of fiscal years 2005 through 2009.

(15) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $2,496,450,000 for fiscal year 2005, $2,244,550,000 for fiscal year 2006, $2,143,250,000 for fiscal year 2007, $2,192,450,000 for fiscal year 2008, and $2,050,450,000 for fiscal year 2009.

(16) FREIGHT INTERMODAL CONNECTOR PROGRAM.—For the freight intermodal connector program under section 1303 of this title, $421,000,000 for fiscal year 2005, $421,000,000 for fiscal year 2006, $421,000,000 for fiscal year 2007, $421,000,000 for fiscal year 2008, and $426,000,000 for fiscal year 2009.

(17) HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.—For the high risk rural road safety improvement program under section 1403 of this title, $105,000,000 for fiscal year 2005, $110,000,000 for fiscal year 2006, $120,000,000 for fiscal year 2007, $125,000,000 for fiscal year 2008, and $130,000,000 for fiscal year 2009.

(18) PEDESTRIAN AND CYCLIST EQUITY—SAFE ROUTES TO SCHOOL PROGRAM.—For the safe routes to school program under section 1120(a) of this title, $175,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

In section 1103(a)(1) of the bill, strike the matter proposed to be inserted as section 104(a)(1) of title 23, United States Code, and insert the following:

"(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133 for a fiscal year, the Secretary shall deduct $390,000,000 for fiscal year 2004, $365,000,000 for fiscal year 2005, $395,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $395,000,000 for fiscal year 2008, and $400,000,000 for fiscal year 2009.

In the matter proposed to be inserted as section 104(a)(2) of title 23, United States

Code, by section 1103(a)(1) of the bill, strike "authorized to be appropriated" and insert "deducted".

In section 1103(a) of the bill—

(1) insert "and" after the semicolon at the end of paragraph (1); and

(2) strike paragraphs (2) and (3) and insert the following:

(2) in paragraph (4) by striking "and the Federal Motor Carrier Safety Administration".

In section 1103(d) of the bill—

(1) redesignate paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) insert before paragraph (2) (as so redesignated) the following:

(1) in subsection (b) by striking "set-aside authorized by subsection (f) " and inserting "set-asides authorized by subsections (f) and (m)";

In section 1103 of the bill—

(1) redesignate subsections (d) and (e) as subsections (e) and (f) respectively; and

(2) insert after subsection (c) the following:

(d) Set-Asides.—Section 104 of such title is amended by adding at the end the following:

"(m) Set-Asides.—

"(1) Highway use tax evasion program.—Whenever an apportionment is made of the sums made available for expenditure on the National Highway System under section 103 for a fiscal year, the Secretary shall set aside for highway use tax evasion projects under section 143 of this title $12,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $30,000,000 for fiscal year 2006, $20,000,000 for fiscal year 2007, $10,000,000 for fiscal year 2008, and $7,000,000 for fiscal year 2009.

"(2) Commonwealth of Puerto Rico highway program.—Whenever an apportionment is made of the sums made available for expenditure on the National Highway System under section 103 for a fiscal year, the Secretary shall set aside for the Commonwealth of Puerto Rico highway program under section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209), $115,000,000 for fiscal year 2004, $125,000,000 for fiscal year 2005, $130,000,000 for fiscal year 2006, $130,000,000 for fiscal year 2007, $140,000,000 for fiscal year 2008, and $140,000,000 for fiscal year 2009.

"(3) Deployment of magnetic levitation transportation projects.—Whenever an apportionment is made of the sums made available for expenditure on the National Highway System under section 103 for a fiscal year, the Secretary shall set aside for carrying out section 1117 of the Transportation Equity Act: A Legacy for Users, relating to deployment of magnetic levitation transportation projects, $15,000,000 for fiscal year 2005 and $20,000,000 for each of fiscal years 2006 through 2009.

"(4) Congestion pricing pilot program.—Whenever an apportionment is made of the sums made available for expenditure on the congestion mitigation and air quality improvement program under section 149 for a fiscal year, the Secretary shall set aside for the congestion pricing pilot program under section 1209 of the Transportation Equity Act: A Legacy for Users $15,000,000 for fiscal year 2004, $15,000,000 for fiscal year 2005, $15,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $15,000,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.

"(5) Highways for life program.—Whenever an apportionment is made of the sums made available for expenditure on the Interstate maintenance program under section 119 for a fiscal year, the Secretary shall set aside for the Highways for LIFE program under section 1504 of the Transportation Equity Act: A Legacy for Users $55,000,000 for fiscal year 2005 and $60,000,000 for each of fiscal years 2006 through 2009.

"(6) Construction of ferry boats and ferry terminal facilities.—Whenever an apportionment is made of the sums made available for expenditure on the National Highway System under section 103 for a fiscal year, the Secretary shall set aside for construction of ferry boats and ferry terminal facilities under section 165 of this title $60,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $75,000,000 for fiscal year 2006, $75,000,000 for fiscal year 2007, $75,000,000 for fiscal year 2008, and $75,000,000 for fiscal year 2009.

"(7) ITS deployment.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133 for a fiscal year, the Secretary shall set aside for carrying out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (112 Stat. 458; 112 Stat. 460), $100,000,000 for each of fiscal years 2004 and 2005.

"(8) Safety incentive grants for use of seat belts.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133 for a fiscal year, the Secretary shall set aside for safety incentive grants for use of seat belts under section 157 of this title $112,000,000 for each of fiscal years 2004 and 2005.

"(9) Safety incentives to prevent operation of motor vehicles by intoxicated persons.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133 for a fiscal year, the Secretary shall set aside for safety incentives to prevent operation of motor vehicles by intoxicated persons under section 163 of this title $110,000,000 for each of fiscal years 2004 and 2005.

"(10) Transportation and community and system preservation program.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133 for a fiscal year, the Secretary shall set aside for the transportation and community and system preservation program under section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note) $25,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $35,000,000 for fiscal year 2006, $35,000,000 for fiscal year 2007, and $35,000,000 for each of fiscal years 2008 and 2009.".

In section 1103 of the bill, strike subsection (f) (as so redesignated), relating to the Puerto Rico highway program, and insert the following:

(f) Puerto Rico Highway Program.—Section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209; 117 Stat. 1114; 118 Stat. 1149) is amended—

(1) in paragraph (1) by striking "authorized by section 1101(a)(15) for each of fiscal years 1998 through 2005" and inserting "set aside by section 104(m)(2) of title 23, United States Code, for each of fiscal years 2004 through 2009"; and

(2) in paragraph (2) by striking "made available by section 1101(a)(15) of this Act" and inserting "set aside by section 104(m)(2) of title 23, United States Code,".

Strike section 1104 of the bill and insert the following:

**SEC. 1104. MINIMUM GUARANTEE.**

(a) General Rule.—Section 105(a) of title 23, United States Code, is amended—

(1) by striking "1998 through 2003" and inserting "2004 through 2009";

(2) by striking "and recreational trails" and inserting "recreational trails, coordinated border infrastructure, freight intermodal connectors, safe routes to school, highway safety improvement, and high risk rural road safety improvement"; and

(3) by inserting "(other than subsection (g))" after "under this section".

(b) Treatment of Funds.—Section 105(c)(1) of such title is amended—

(1) by striking "$2,800,000,000" and inserting "$2,870,000,000 in fiscal year 2004, $2,941,750,000 in fiscal year 2005, $3,015,293,750 in fiscal year 2006, $3,090,676,094 in fiscal year 2007, $3,167,942,996 in fiscal year 2008, and $3,247,141,571 in fiscal year 2009"; and

(2) by striking "and recreational trails" each place it appears and inserting "recreational trails, coordinated border infrastructure, freight intermodal connectors, safe routes to school, highway safety improvement, and high risk rural road safety improvement".

(c) Authorization.—Section 105(d) of such title is amended by striking "1998 through 2003" and inserting "2004 through 2009".

(d) Special Rule.—Section 105(e) of such title is amended to read as follows:

"(e) Special Rule.—Notwithstanding any other provision of this section, if, in any of fiscal years 2004 through 2009, the highest quotient obtained by dividing—

"(1) a State's percentage share of the total apportionments for such fiscal year for programs referred to in subsection (a) (other than minimum guarantee), by

"(2) the percentage for such State listed in subsection (b),

is greater than 1.3, the Secretary shall allocate to the State with the highest quotient the minimum apportionment specified in subsection (a). The apportionments for the programs referred to in subsection (a) for the State with the highest quotient, estimated tax payments to the Highway Trust Fund attributable to highway users referred to in subsection (f) for such State, and percentage referred to in subsection (b) for such State shall be excluded from the computations required in subsection (f).".

(e) Guaranteed Specified Return.—Section 105(f) of such title is amended—

(1) in the subsection heading by striking "of 90.5" and inserting "Specified"; and

(2) in paragraph (1) by striking "1999 through 2003" and inserting "2004 through 2009".

(f) Equity Adjustment.—Section 105 of such title is further amended by adding at the end the following:

"(g) Equity Adjustment.—

"(1) In general.—For each of fiscal years 2004 through 2009, after making the allocations under subsection (a), the Secretary shall allocate among the States additional amounts sufficient to ensure that no State receives an allocation under this subsection and subsection (a) that in the aggregate is less than the amount the State would have received under subsection (a) had high priority projects not been included among the list of programs referred to in subsection (a). Any such additional allocations shall be excluded from the computations required in subsection (f).

"(2) Rate of return.—For each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that, for the aggregate of funds distributed under subsection (a), paragraph (1) of this subsection, and this paragraph, the rate of return, as defined in subsection (f)(1), is not less than 90.5. The special rule in subsection (e) shall not apply to the calculation made under this paragraph.".

(g) Conforming Amendments.—

(1) Section 131.—Section 131(m) of title 23, United States Code, is amended by striking "in accordance with the program of projects approval process of section 105" and inserting "in accordance with the approval process of section 106".

(2) Section 140.—Section 140 of such title is amended—

(A) in subsection (a) by striking "programs for projects as provided for in subsection (a) of section 105 of this title" and inserting "project under this chapter"; and

(B) in subsection (c) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)".

(h) Scope Adjustment.—

(1) Determination of set-aside.—Before allocating funds provided to carry out the program under section 1301 of this Act, the Secretary shall set aside an amount sufficient to ensure that the quotient obtained by dividing—

(A) the sum of—

(i) the amounts authorized for the programs identified in section 105(a) of title 23, United States Code,

(ii) the amounts authorized under section 105(g) of such title, and

(iii) the amount apportioned under this section, by

(B) the total contract authority authorized for the Federal-aid highway program,

equals 0.926.

(2) Apportionment of funds.—The amount set aside under paragraph (1) shall be added to the amount authorized for the Surface Transportation Program under Section 104(b)(3)(a) of title 23 U.S. Code and shall be included in the calculation of minimum guarantee under section 105(a) of such title.

(3) Restoration.—The Secretary shall make available such sums as may be necessary to restore to the funds made available to carry out the program under section 1301 an amount equal to the amount set aside under paragraph (1).

(4) Authorization of appropriations.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this subsection.

(5) Applicability of title 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

In section 1115 of the bill, after subsection (c) insert the following (and redesignate subsection (d) as subsection (e)):

(d) Set-Aside for Transportation Infrastructure Finance and Innovation Act.—Section 144(g) of such title is amended by adding at the end the following:

"(4) Transportation infrastructure finance and innovation act.—Whenever an apportionment is made under subsection (e) of the sums made available for carrying out the bridge program under this section for a fiscal year, the Secretary shall set aside $130,000,000 for fiscal year 2004 and $140,000,000 for each of fiscal years 2005 through 2009 to carry out chapter 6 of title 23, United States Code.".

In section 1116 of the bill, strike subsection (a) and redesignate subsequent subsections accordingly.

In section 1116(a) (as so redesignated), strike "of such Act" and insert "of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 879; 118 Stat. 1149)".

In section 1117 of the bill, strike subsections (d) and (e).

In section 1121(a)(3)(A) of the bill, strike "and (C)" and insert ", (C), and (D)".

In section 1121(a)(3)(C) of the bill, strike the subparagraph designation and heading and insert the following:

(C) Set-aside for administrative expenses.—

In section 1121(a)(3) of the bill, after subparagraph (C), insert the following (and redesignate the subsequent subparagraph accordingly):

(D) Set-aside for nonmotorized pilot program.—Before apportioning amounts made available to carry out this subsection under this paragraph and the set-aside under subparagraph (C) for a fiscal year, the Secretary shall set aside for the nonmotorized pilot program under subsection (b) of this section $25,000,000 for each of fiscal years 2005 through 2009.

In section 1121(b) of the bill, strike paragraph (4) and redesignate the subsequent paragraphs accordingly.

In section 1303(e) of the bill, before ", the Secretary" insert "after the deductions under subsection (i)".

At the end of section 1303 of the bill, insert the following:

(i) Deductions.—

(1) Freight intermodal distribution pilot grant program.—Whenever an apportionment is made of the sums made available for carrying out this section for a fiscal year, the Secretary shall deduct $6,000,000 for each of fiscal years 2005 through 2009 for the freight intermodal distribution pilot grant program under section 1307 of this Act.

(2) Dedicated truck lanes.—Whenever an apportionment is made of the sums made available for carrying out this section for a fiscal year, the Secretary shall deduct for dedicated truck lanes under section 1305 of this title $165,000,000 for each of fiscal years 2005 through 2008 and $170,000,000 for fiscal year 2009.

In section 1305 of the bill—

(1) in subsection (e) insert a comma after "In this section";

(2) strike subsection (d); and

(3) redesignate subsection (e) as subsection (d).

Strike section 1405 of the bill and insert the following:

**SEC. 1405. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.**

Section 157(g) of title 23, United States Code, is amended—

(1) in paragraph (1) by inserting "and" after "2002,";

(2) in paragraph (1) by striking "2003," and all that follows through "2005" and inserting "2003";

(3) in paragraph (2) by inserting "or set aside for fiscal year 2004 or 2005 under section 104(m)(8)" after "paragraph (1)";

(4) in paragraph (3)(B) by striking "2005" and inserting "2003"; and

(5) in paragraph (3)(B) by inserting "or the amounts set aside for any of fiscal years 2004 and 2005 under section 104(m)(8)" after "paragraph (1)".

In section 1601(g) of the bill, strike the matter proposed to be inserted as section 188 of title 23, United States Code, and insert the following:

**"§ 188. Special rules**

"(a) Availability.—Amounts made available to carry out this chapter shall remain available until expended.

"(b) Administrative Costs.—From funds made available to carry out this chapter, the Secretary may use, for the administration of this subchapter, not more than $3,000,000 for each of fiscal years 2004 through 2009.

"(c) Limitations on Credit Amounts.—For each of fiscal years 2004 through 2009, principal amounts of Federal credit instruments made available under this chapter shall be limited to $2,600,000,000.".

In section 1406 of the bill, strike subsection (b) and insert the following:

(b) Authorization of Appropriations.—Section 163(f)(1) of such title, as redesignated by subsection (a)(1) of this section, is amended—

(1) by inserting "and" after "2002,"; and

(2) by striking ", $110,000,000 for fiscal year 2004" and all that follows through "2005".

In section 1406 of the bill, add at the end the following:

(d) Conforming Amendment.—Section 163(f)(2) of such title, as redesignated by subsection (a)(1) of this section, is amended by inserting after "by this subsection" the following: "and the funds set aside to carry out this section".

In section 1602(c) of the bill, strike the item relating to section 608 (relating to funding) and insert the following:

"608. Special rules.

In each of sections 1102(c)(4) and 1102(c)(5) of the bill, insert after "paragraph (3)" the following: "or 0.932 in any case in which such ratio is less than 0.932 (except that the higher ratio shall not apply to the program under section 14501 of title 40, United States Code)".

In section 1114(a) of the bill, redesignate paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and insert before paragraph (2) (as so redesignated) the following:

(1) in subsection (c)(1) by striking "2003" and inserting "2005";

In section 1114 of the bill, strike subsection (e) and insert the following:

(e) Effective Date.—The amendments made by paragraphs (2) through (4) of subsection (a) and by subsection (b) shall take effect on September 30, 2005.

In the matter proposed to be inserted as section 202(d)(3) of title 23, United States Code, by section 1119(a) of the bill, insert after subparagraph (C) the following (and redesignate subsequent subparagraphs accordingly):

"(D) Secretary as signatory.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribe or tribal government to carry out a highway, road, bridge, parkway, or transit project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

In section 1119 of the bill, redesignate subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively, and insert after subsection (b) the following:

(c) BIA Administrative Expenses.—Section 202(d)(2) of such title is further amended by adding at the end the following:

"(F) Administrative expenses.—Of the funds authorized to be appropriated for Indian reservation roads, $27,000,000 for fiscal year 2006, $28,000,000 for fiscal year 2007, $29,000,000 for fiscal year 2008, and $30,000,000 for fiscal year 2009 may be used by the Secretary of the Interior for program management oversight and project-related administrative expenses.".

(d) Bridge Preconstruction Activities Eligibility.—Section 202(d)(4)(B) of such title is amended by adding at the end the following: "Of the amount reserved under this paragraph for a fiscal year, not more than 15 percent may be used for preconstruction activities, such as engineering and design.".

At the end of subtitle C of title I of the bill, insert the folllowing (and conform the table of contents of the bill):

### SEC. 1307. FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.

(a) In General.—The Secretary shall establish and implement a freight intermodal distribution pilot grant program.

(b) Purposes.—The purposes of the program established under subsection (a) shall be—

(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

(c) Selection Process.—

(1) Applications.—A State shall submit an application to the Secretary containing such information as the Secretary may require to receive funding under this section.

(2) Priority.—In selecting projects to be funded under the pilot program, the Secretary shall give priority to projects that will—

(A) reduce congestion into and out of international ports located on the west coast of the United States;

(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

(d) Eligible Projects.—Funds made available under this section shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership. Such projects may include developing and constructing intermodal freight distribution and transfer facilities at inland ports.

(e) Treatment of Projects.—Notwithstanding any other provision of law, projects assisted under this section shall be treated as projects on a Federal-aid system under such chapter.

In section 1809 of the bill, strike subsection (d) and insert the following:

(d) Construction Work in Alaska.—Section 114 of title 23, United States Code, is amended by adding at the end of the following:

"(c) Construction Work in Alaska.—

"(1) In general.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.

"(2) Lodging.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).

"(3) Per diem.—

"(A) In general.—Contractors are encouraged to use commercial facilities and lodges on remote projects, but, if such facilities are not available, per diem in lieu of room and lodging may be paid on remote Federal highway projects at a basic rate of $75.00 per day or part thereof the worker is employed on the project. If the contractor provides or furnishes room and lodging or pays a per diem, the cost of the amount shall not be considered a part of wages, but shall be excluded therefrom.

"(B) Secretary of labor.—Such per diem rate shall be adopted by the Secretary of Labor for all applicable remote Federal highway projects in Alaska.

"(C) Exception.—Per diem shall not be allowed on any of the following remote projects for the construction of a highway or portion of a highway located on a Federal-aid system:

"(i) West of Livengood on the Elliot Highway.

"(ii) Mile 0 on the Dalton Highway to the North Slope of Alaska; north of Mile 20 on the Taylor Highway.

"(iii) East of Chicken on the Top of the World Highway and south of Tetlin Junction to the Alaska Canadian border.

"(4) Definitions.—In this subsection, the following definitions apply:

"(A) Remote.—The term 'remote', as used with respect to a project, means that the project is 65 miles or more from the United States Post Office in either Fairbanks or Anchorage, Alaska, or is inaccessible by road in a 2-wheel drive vehicle.

"(B) Resident.—The term 'resident', as used with respect to a project, means a person living within 65 miles of the midpoint of the project for at least 12 consecutive months prior to the award of the project.".

In section 1822(8) strike "and" the last place it appears.

In section 1822 of the bill, after paragraph (3), insert the following:

(4) in item number 566 by striking "Prunedale Bypass" and inserting "improvements to Prunedale";

(5) in item number 744 by striking "Preliminary" and all that follows through "Fitchburg" and inserting "Design, construction or reconstruction, and right of way acquisition for roadway improvements along the Route 12 corridor in Leominster and Fitchburg to enhance access from Route 2 to North Leominster and downtown Fitchburg";

Redesignate subsequent paragraphs of section 1822 accordingly.

At the end of title I of the bill, insert the following (and conform the table of contents accordingly):

### SEC. 1838. INCLUSION OF CERTAIN ROUTE SEGMENTS ON THE INTERSTATE SYSTEM.

Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 118 Stat. 293) is amended—

(1) in subparagraph (A) by striking "and subsection (c)(45)" and inserting "subsection (c)(45), and subsection (c)(57)"; and

(2) by adding the following at the end of subparagraph (B)(i): "The route referred to in subsection (c)(57) is designated as Interstate Route I-41.".

### SEC. 1839. RESCISSION OF UNOBLIGATED BALANCES.

(a) In General.—On September 30, 2009, $12,000,000,000 of the unobligated balances of funds apportioned before such date to the States for the Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation (other than the STP set-aside programs), metropolitan planning, minimum guarantee, Appalachian development highway system, recreational trails, safe routes to school, freight intermodal connectors, coordinated border infrastructure, high risk rural road, and highway safety improvement programs, and each of the STP set-aside programs, is rescinded.

(b) Allocation Among States.—The Secretary shall determine each State's share of the amount to be rescinded by subsection (a) on September 30, 2009, by multiplying $12,000,000,000 by the ratio of the aggregate amount apportioned to such State for fiscal years 2004 through 2009 for all the programs referred to in subsection (a) to the aggregate amount apportioned to all States for such fiscal years for those programs.

(c) Calculations.—To determine the allocation of the amount to be rescinded for a State under subsection (b) among the programs referred to in subsection (a), the Secretary shall make the following calculations:

(1) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate amount of unobligated funds available to the State on September 30, 2009, for each such program bears to the aggregate amount of unobligated funds available to the State on September 30, 2009, for all such programs.

(2) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate of the amount apportioned to the State for each such program for fiscal years 2004 through 2009 bears to the aggregate amount apportioned to the State for all such programs for fiscal years 2004 through 2009.

(d) Allocation Among Programs.—

(1) In general.—The Secretary, in consultation with the State, shall rescind for the State from each program referred to in subsection (a) the amount determined for the program under subsection (c)(1).

(2) Special rule.—

(A) Restoration of funds for covered programs.—If the rescission calculated under subsection (c)(1) for a covered program exceeds the amount calculated for the covered program under subsection (c)(2), the State shall immediately restore to the apportionment account for the covered program from the unobligated balances of programs referred to in subsection (a) (other than covered programs) the amount of funds required so that the net rescission from the covered program does not exceed the amount calculated for the covered program under subsection (c)(2).

(B) Treatment of restored funds.—Any funds restored under subparagraph (A) shall be deemed to be the funds that were rescinded for the purposes of obligation.

(3) Covered program defined.—In paragraph (2), the term "covered program" means a program authorized under sections 130 and 152 of title 23, United States Code, paragraph (1), (2), or (3) of section 133(d) of that title, section 144 of that title, section 149 of that title, or section 1121(a) of this Act.

(e) Treatment of Safety Programs.—In making calculations under subsections (c)(1), (c)(2), and (d)(2), the Secretary shall treat the STP set-aside program for safety programs and the highway safety improvement program as a single program.

(f) STP Set-Aside Program Defined.—In this section, the term "STP set-aside program" means the amount set aside under section 133(d) of title 23, United States Code, for each of the safety programs, transportation enhancement activities, and division between urbanized areas of over 200,000 population and other areas.

At the end of title II of the bill, insert the following:

### SEC. 2013. DRUG IMPAIRED DRIVING ENFORCEMENT.

(a) Short Title.—This section may be cited as the "Drug Impaired Driving Research and Prevention Act".

(b) Definitions.—In this section, the following definitions apply:

(1) Controlled substance.—The term "controlled substance" includes substances

listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812(e)).

(2) DRUG RECOGNITION EXPERT.—The term "drug recognition expert" means an individual trained in a specific evaluation procedure that enables the person to determine whether an individual is under the influence of drugs and then to determine the type of drug causing the observable impairment.

(c) MODEL STATUTE.—

(1) IN GENERAL.—The Secretary shall develop a model statute for States relating to drug impaired driving.

(2) CONTENTS.—The model statute shall include—

(A) threshold levels of impairment for a controlled substance;

(B) practicable methods for detecting the presence of controlled substances; and

(C) penalties for drug impaired driving.

(3) RECOMMENDATIONS.—The model statute shall be based on the recommendations contained in the report submitted under subsection (f).

(4) DATE.—The model statute should be provided to States no later than 1 year after submission of the report contained in subsection (f).

(d) RESEARCH AND DEVELOPMENT.—Section 403(b) of title 23, United States Code, is amended by adding at the end the following:

"(5) New technology to detect drug use.

"(6) Research and development to improve testing technology, including toxicology lab resources and field test mechanisms to enable States to process toxicology evidence in a more timely manner.

"(7) Determining per se unlawful impairment levels for controlled substances and the compound effects of alcohol and controlled substances on impairment to facilitate enforcement of per se drug impaired driving laws. Research under this paragraph shall be carried out in collaboration with the National Institute on Drug Abuse of the National Institutes of Health.".

(e) DUTIES.—The Administrator of the National Highway Traffic Safety Administration shall—

(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and

(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.

(f) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the National Institutes of Health shall submit to the Secretary and to Congress a report on the problem of drug-impaired driving.

(2) CONTENTS.—The report shall include—

(A) a description of the extent of the problem of driving under the influence of an illegal drug in each State and any available information relating thereto, including a description of any laws relating to the problem of driving under the influence of an illegal drug;

(B) an assessment of the status of drug impaired driving laws in the United States;

(C) a review of the compound effects of alcohol and controlled substances on impairment;

(D) the role of drugs as a causal factor in traffic crashes;

(E) an assessment of new research and technologies developed in the area of drug detection for drug-impaired driving enforcement, including noninvasive methods of detection;

(F) recommendations for addressing the problem of driving under the influence of an illegal drug, including recommendations on levels of impairment;

(G) a State-by-State review of drug recognition expert programs and recommendations for enhancing those programs through the training and utilization of drug recognition experts; and

(H) recommendations for developing a model statute relating to drug-impaired driving.

(g) FUNDING.—Out of amounts appropriated to carry out section 403 of title 23, United States Code, for fiscal years 2006 through 2009, the Secretary shall use $1,200,000 per fiscal year to carry out this section.

### SEC. 2014. TRANSPORTATION OF SCHOOL-CHILDREN.

The third sentence of section 402(a) of title 23, United States Code, is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period at the end the following: ", and (7) to prevent use of any motor vehicle designed to transport between 9 and 15 passengers (including the driver) for the transportation of children to and from school and events related to school".

### SEC. 2015. RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.

(a) IN GENERAL.—From funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2006, the Secretary shall make $1,000,000 available to conduct a pilot program for optimizing Emergency Medical Services (EMS) in a rural State.

(b) COLLECTING DATA.—The pilot program shall focus on collecting geo-coded data for highway accidents and resulting injuries, analyzing data to develop injury patterns and distributions, and improving placement and management of EMS resources and personnel.

(c) SELECTION.—The Secretary shall enter into an agreement with the State of Alaska to conduct the pilot program.

(d) REPORT.—Not later than 12 months after the completion of the pilot program, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot program and recommendations for application to other rural States.

### SEC. 2016. STATE APPORTIONMENTS.

Section 402(c) of the title 23, United States Code, is amended by striking "The annual apportionment to each State shall not be less than one-half of 1 per centum" and insert "The annual apportionment to each State shall not be less than three-quarters of 1 percent".

In the matter proposed to be inserted as section 5308(d) of title 49, United States Code, by section 3009 of the bill, strike "35" and insert "25".

In the first sentence of the matter proposed to be inserted as section 5309(d)(1) of title 49, United States Code, by section 3010(d) of the bill, after "$25,000,000," insert the following: "and the total estimated net capital cost of the project is less than $200,000,000,".

In the matter proposed to be inserted as section 5317(c)(3)(A)(i) of title 49, United States Code, by section 3018(a) of the bill, strike "in other than urbanized areas of the State".

In section 3023(g)(5), strike the subparagraph designation and heading for subparagraph (B) and insert the following:

(B) DEFINITIONS.—

In section 3023(g)(5)(B)—

(1) strike "the term" the first place it appears and insert "the terms";

(2) insert ", 'negotiated procurement', and 'contractor'" before "for purposes of"; and

(3) strike "the term" the second place it appears and insert "the terms".

At the end of section 3023(g)(5), insert the following:

(C) POST-AWARD WAIVERS.—To permit a grantee to request a non-availability waiver from the Buy America requirements under section 661.7c of title 49, Code of Federal Regulations, after contract award in any case in which the contractor has made a certification of compliance with the requirements in good faith.

(D) CERTIFICATION UNDER NEGOTIATED PROCUREMENT PROCESS.—In any case in which a negotiated procurement process is used, compliance with the Buy America requirements shall be determined on the basis of the certification submitted with the final offer.

At the end of section 3023, add the following:

(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) is amended—

(1) by striking "(including clean fuel or alternative fuel vehicle-related equipment)"; and .

(1) by inserting "or facilities" after "equipment" each place it occurs.

(j) ALTERNATIVE FUELING FACILITIES.—Section 5323 is futher amended by adding at the end the following:

"(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of Federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

"(1) the incidental use does not interfere with the recipient's public transportation operations;

"(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

"(3) the recipient uses revenues received from the incidental use in excess of costs for eligible projects under this chapter; and

"(4) private entities pay all applicable excise taxes on fuel.".

At the end of the matter proposed to be inserted in section 5325 of title 49, United States Code, by section 3025(a)(1) of the bill, strike the closing quotation marks and the final period and insert the following:

"(i) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter. ".

In section 3037(a)(10), strike "$20,000,000" and insert "$24,084,000".

In section 3037(a)(22), strike "$12,211,061" and insert "$12,651,061".

After section 3037(b)(13), insert the following:

(  ) Nashua—Commuter Rail.

In section 3037(b)(21), strike "Center Line LRT" and insert "Rapid Transit Project".

Redesignate the paragraphs in section 3037(b) accordingly.

In section 3037(c), before paragraph (1) insert the following:

(  ) Alameda, California—Fixed Guideway Corridor Project.

Strike section 3037(c)(7) and insert the following:

(____) Atlanta—West Line I-20 Corridor Project.

In section 3037(c)(10), strike "Regional" and insert "Urban".

In section 3037(c)(11), strike "Baltimore Light Rail System Extensions" and insert "Baltimore—Red Line Transit Project".

After section 3037(c)(11), insert the following:

(___) Baltimore—Green Line Transit Project.

(___) Baton Rouge—Bus Rapid Transit.

After section 3037(c)(18), insert the following:

(___) Bridgeport, Connecticut—Bridgeport Intermodal Facility.

In section 3037(c)(25), strike "-West".

After section 3037(c)(25), insert the following:

( ) Charlotte—West Corridor Project.

After section 3037(c)(53), insert the following:

( ) Florence-Myrtle Beach-Charleston, South Carolina—High Speed Rail Corridor.

After section 3037(c)(61), insert the following:

( ) Harrisburg, Pennsylvania—Corridor One MOS-2 (East Mechanicsburg to Carlisle).

( ) Henderson-Las Vegas-North Las Vegas—Regional Fixed Guideway Project.

After section 3037(c)(101), insert the following:

(___) Minneapolis-St. Paul-Hinckley, Minnesota—Rush Line Corridor.

Strike section 3037(c)(105).

After section 3037(c)(110), insert the following:

( ) New Bedford-Fall River, Massachusetts—Commuter Rail Extension.

After section 3037(c)(148), insert the following:

( ) Sacramento—Downtown Streetcar Project.

After section 3037(c)(154), insert the following:

(___) Salt Lake-Provo—Commuter Rail Extension.

After section 3037(c)(158), insert the following:

( ) San Diego—San Diego Imperial County Mag-Lev Rail Airport Corridor Project.

Strike section 3037(c)(174).

After section 3037(c)(180), insert the following:

(___) Stamford, Connecticut—Boston Post Road Intermodal Center and Capacity Expansion Project.

Redesignate the paragraphs in section 3037(c) accordingly.

After section 3042, insert the following (and redesignate subsequent sections and conform the table of contents accordingly):

### SEC. 3043. FORGIVENESS OF GRANT AGREEMENT.

Notwithstanding any other provision of law (including any regulation), any outstanding balances on the following grant agreements made to the Lane County Transit District, Oregon, do not have to be repaid:

(1) Federal Contract Number OR-03-0087.

(1) Federal Contract Number OR-90-X094.

In section 4113(a) of the bill, before the closing quotation marks, insert the following:

### "§ 31162. Operators registered in Mexico and Canada

"No operator of a commercial motor vehicle (as defined in section 31101) licensed in Mexico or Canada may operate in the United States a commercial motor vehicle transporting hazardous material until the operator has undergone a background records check similar to the background records check required of operators of commercial motor vehicles licensed in the United States to transport hazardous materials.

In section 4113(b) of the bill, insert before the closing quotation marks the following:

"31162. Operators registered in Mexico and Canada.

In section 4129 of the bill, strike "State licensed" and all that follows through the final period at the end and insert: "State licensed or certified Mental Health counselors, State licensed or certified marriage and family therapists, or addiction specialists certified by the American Academy of Health Care Providers in the Addictive Disorders to act as substance abuse professionals under subpart O of part 40 of title 49, Code of Federal Regulations.".

Strike section 4130 and insert the following:

### SEC. 4130. INTERSTATE VAN OPERATIONS.

The Federal motor carrier safety regulations that apply to Interstate operations of commercial motor vehicles designed to transport between 9 and 15 passengers (including the driver) shall apply to all Interstate operations of such carriers regardless of the distance traveled.

At the end of subtitle A of title IV of the bill, insert the following:

### SEC. 4137. TRUCKLOAD FUEL SURCHARGE.

(a) In General.—Chapter 137 of title 49, United States Code, is amended by adding at the end the following:

### "§ 13714. Fuel surcharge

"(a) Requirement for Fuel Surcharge.—Any contract or agreement, providing for truckload transportation or service involving a motor carrier, broker, or freight forwarder subject to jurisdiction under chapter 135 of this title that regularly provides such transportation or service, shall include a requirement that the payer of transportation charges pay a fuel surcharge that is no less than the amount of the Increased Cost of Fuel as determined under subsection (c).

"(b) Implementation.—The surcharge required by subsection (a)—

"(1) shall apply during any period in which the Current Diesel Fuel Price surpasses, by $0.05 per gallon of diesel fuel, the Benchmark Price determined under subsection (c);

"(2) shall expire when the Current Diesel Fuel Price equals or is less than $0.05 above the Benchmark Price set forth in subsection (c);

"(3) shall be calculated on the date the applicable shipment is physically tendered to the motor carrier, broker, or freight forwarder;

"(4) shall be itemized separately on the invoices of the motor carrier, broker, or freight forwarder;

"(5) shall be paid to the motor carrier, broker, or freight forwarder by the payer of transportation charges;

"(6) shall not apply to any transportation contract or agreement, in effect on the date of enactment of this section, that provides for a fuel cost adjustment or surcharge; and

"(7) may be expressed on a mileage basis, as a percentage of the freight charge, or in any other manner the motor carrier, broker, or freight forwarder elects.

"(c) Calculation of Increased Cost of Fuel.—

"(1) Increased cost of fuel.—For purposes of this section, the Increased Cost of Fuel shall be the amount determined by subtracting the Benchmark Price from the Current Diesel Fuel Price and then multiplying the difference by the number of gallons of diesel fuel used in the transportation or service provided.

"(2) Benchmark price.—For purposes of this section, the following apply:

"(A) Initial price.—For the period beginning on the date of enactment of this section and ending immediately before the effective date of the first adjusted Benchmark Price under subparagraph (B), the Benchmark Price shall be $1.10 per gallon of diesel fuel.

"(B) Subsequent adjustments.—During each calendar year subsequent to the calendar year of enactment of this section, the Secretary of Transportation shall adjust the Benchmark Price by the percentage change in the previous calendar year's Annual Truckload Producer Price Index as determined by the Department of Labor and shall publish that adjusted Benchmark Price in the Federal Register. The effective date of each adjusted Benchmark Price shall be the first day of the month following the date of such publication.

"(3) Current diesel fuel price.—For purposes of this section, the Current Diesel Fuel Price shall—

"(A) be the latest weekly average price for retail on-highway diesel fuel published by the Energy Information Administration for the Petroleum Administration for Defense district or subdistrict where a shipment is physically tendered to the motor carrier, broker, or freight forwarder; and

"(B) take effect the midnight after the weekly average price is published.

"(4) Amount of fuel used.—In calculating the number of gallons of diesel fuel used in providing transportation or service under paragraph (1)—

"(A) it shall be assumed that a gallon of diesel fuel is used for each 5 miles of transportation; and

"(B) the mileage of the transportation or service provided shall be the number of miles as determined under the 'Defense Table of Official Distances' issued by the Surface Deployment and Distribution Command, Department of Defense or under any applicable mileage guide established under section 13703(a)(1)(D).

"(d) Limitation on Authority.—Notwithstanding any other provision of this part, any action to enforce this section may only be brought by the motor carrier, broker, or freight forwarder that provided the transportation services against the payor of the transportation charges or by the payor of the transportation charges against the motor carrier, broker, of freight forwarder that provided the transportation services. In such action, a court shall have the authority to determine whether a fuel surcharge required under this section has been assessed or paid. A court shall not have the authority in such action to review any other charges imposed by the provider of the transportation services. Notwithstanding the publication of the Benchmark Price under subsection (c)(2), neither the Secretary of Transportation nor the Surface Transportation Board shall have regulatory or enforcement authority relating to provisions of this section.

"(e) Definitions.—In this section, the following definitions apply:

"(1) Payer of transportation charges.—The term 'payer of transportation charges' means any person who pays for the transportation or service involved.

"(2) Person responsible for paying for fuel.—The term 'person responsible for paying for fuel' means any person who bears the cost of fuel used for the transportation or service involved.".

(b) Clerical Amendment.—The analysis for such chapter is amended by adding at the end the following:

"13714. Fuel surcharge.".

(c) Conforming Amendment.—Section 14102 of title 49, United States Code is amended by adding at the end the following:

"(c) Mandatory Pass-Through to Cost Bearer.—

"(1) IN GENERAL.—A motor carrier, broker, or freight forwarder providing transportation or service using fuel not paid for by it—

"(A) shall pass through to the person responsible for paying for fuel any fuel surcharge or adjustment required pursuant to section 13714 or provided for in a transportation contract or agreement at the same time payment for the transportation or service is made to the person responsible for paying for fuel;

"(B) shall disclose in writing to the person responsible for paying for fuel the amount of all freight rates, charges, and fuel surcharges applicable to that transportation or service; and

"(C) may not reduce, for the purpose of adjusting for or avoiding the pass-through of a fuel surcharge, nonfuel related compensatory transportation payments to the person responsible for paying for fuel.

"(2) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of this part, the person responsible for paying for fuel may bring an action to enforce this subsection under section 14704 against the motor carrier, freight forwarder, or broker providing the transportation services with vehicles not owned by it or with fuel not paid for by it. Neither the Secretary of Transportation nor the Surface Transportation Board shall have regulatory or enforcement authority relating to provisions of this subsection.".

In the matter proposed to be inserted as section 507 of title 23, United States Code, by section 5203 of the bill—

(1) in subsection (e)(2) strike "and develop" and insert "develop";

(2) in subsection (e)(2) insert "; expand research and thinking on the uses for and vegetation of transportation corridors in the United States; expand research efforts aimed at understanding wildlife movement near corridors, roadkill rates, and road-barrier effects and at developing efficient mitigation designs for road crossing by animals; catalyze research on the effects of corridors and traffic on adjoining land, including traffic disturbance and the spread of invasive species; conduct further research on means of restoring natural hydrologic and sediment flows and distributions in the vicinity of roads; expand research on transportation's effects on water quality, aquatic ecosystems, and fish in various bodies of water and on ecologically effective solutions; support, expand, and initiate research on the ecological effects of air pollutants from roads and vehicles at the roadside, neighborhood, regional, and global levels; develop road-network models and approaches for reducing habitat fragmentation, population extinction, wildlife-corridor, and remote-area impacts; foster collaborative landscape-wide environmental analyses by engineers, ecologists, and planners, with an emphasis on combining ecological solutions with other societal objectives; and stimulate research on understanding public preferences for improvements in natural systems of both short- and long-term significance to society" after "enhancement measures";

(3) in subsection (e)(3) strike "and develop" and insert "develop";

(4) in subsection (e)(3) insert "; develop operational definitions and indicators for environmental justice and social equity as the concepts pertain to transportation; develop and demonstrate methods that can be used to display the incidence of transportation project and program effects, both beneficial and adverse, and develop improved methods for evaluating costs and benefits when they are not evenly distributed, including environmental and social justice impact criteria in system performance measures used in transportation planning and investment decisions; continue and expand studies on the comparative costs of transportation and the effects of different development patterns, particularly for economically disadvantaged communities; and develop and test new methods for integrating public involvement into transportation analysis and decision-making, and examine the implications of emerging citizen coalitions for environmental and social justice" after "conflict resolution";

(5) in subsection (e)(4) strike "and" the last place it appears;

(6) in subsection (e)(4) insert "; and analyze user response to and future demand for environmentally beneficial vehicles, fuels, and mobility services, such as the demand for and use of new environmentally beneficial vehicles and fuels" after "new technologies";

(7) in subsection (e)(5) strike "and develop" and insert "develop";

(8) in subsection (e)(5) insert "; continue and expand research on the impacts of transportation facilities; and assess and compare alternative transportation and land use strategies, such as models for regional cooperation" after "systematic fashion";

(9) in subsection (e)(6) strike "and develop" and insert "develop"; and

(10) in subsection (e)(6) insert "; develop a more effective understanding of the perceptions and priorities of the transportation system's customers (users and taxpayers); develop a more effective understanding of the nature of personal travel, as well as associated trends and decision processes; develop a more effective understanding of the nature of commercial travel and the freight industry, as well as associated trends and decision processes, including key trends such as e-commerce and e-freight; develop a more effective understanding of the role of transportation services and facilities in the economy; develop techniques for identifying community aspirations and crafting community and regional visions related to transportation planning; develop tools that incorporate the complex dynamics of travel behavior, and develop the reliable data sets needed for these models; and develop methods and institutional structures for integrating transportation planning, programming, design, and operation" after "determine effectiveness".

At the end of section 5204 of the bill, insert the following:

(f) TURNER-FAIRBANK FACILITY.—Of the funds made available to carry out section 5101(a)(1), $1,000,000 shall be made available by the Secretary for each of fiscal years 2005 through 2008 to provide for physical demonstrations of the ongoing work at the Turner-Fairbanks facility with respect to ultra-high performance concrete with ductility.

In section 5205(h)(3) of the bill, strike "$3,000,000" and insert "$3,500,000".

At the end of section 5215 of the bill, insert the following:

(d) AUTHORIZATION.—From the amounts made available in section 5101(a)(1), $500,000 shall be available for each of fiscal years 2005 through 2009 to carry out this section.

In section 5251(a) of title 49, United States Code, as proposed to be added by section 6002 of the bill, strike "section" and insert "subchapter".

At the end of subtitle B of title V of the bill, insert the following (and conform the table of contents of the bill accordingly):

### SEC. 5216. HAZARDOUS MATERIALS RESEARCH PROJECTS.

(a) IN GENERAL.—The Administrator of the Pipeline and Hazardous Materials Safety Administration shall enter into a contract with the National Academy of Sciences to carry out the 9 research projects called for in the 2005 Special Report 283 of the Transportation Research Board entitled "Cooperative Research for Hazardous Materials Transportation: Defining the Need, Converging on Solutions". In carrying out the research projects, the National Academy of Sciences shall consult with the Administrator.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the need to establish a cooperative research program on hazardous materials transportation.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out this section.

At the end of subtitle D of title V of the bill, insert the following:

### SEC. 5403. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note) is amended—

(1) in subparagraph (B)(i)—

(A) by striking "Build an" and inserting "Build or integrate an";

(B) by striking "$2,000,000" and inserting "$2,500,000";

(C) by striking "300,000 and that" and inserting a comma; and

(D) by inserting before the period at the end the following: ", and includes major transportation corridors serving that metropolitan area";

(2) in subparagraph (C)(ii) by striking "by July 1, 2002" and inserting "by 6 months after the date of enactment of the Transportation Equity Act: A Legacy for Users"; and

(3) in subparagraph (E) by striking clause (ii) and inserting the following:

"(ii) The term 'follow-on deployment areas' means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Burlington, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis- St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia."; ".

In title VII of the bill, strike section 7005. Redesignate subsequent sections of title VII, and conform the table of contents, accordingly.

In section 7009(e), strike "Pipelines" and insert "Pipeline".

At the end of title VII of the bill, insert the following:

### SEC. 7028. NATIONAL FIRST RESPONDER TRANSPORTATION INCIDENT RESPONSE SYSTEM.

(a) IN GENERAL.—The Secretary shall provide funding to the Operation Respond Institute to design, build, and operate a seamless first responder hazardous materials incident detection, preparedness, and response system.

(b) EXPANSION.—This system shall include an expansion of the Operation Respond Emergency Information System (OREIS).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $2,500,000 for each of fiscal years 2005 through 2007.

### SEC. 7029. COMMON CARRIER PIPELINE SYSTEM.

(a) STUDY.—The Secretary shall conduct a study of the economic, environmental, and homeland security advantages and disadvantages of operating a common carrier pipeline system in the States of Texas, Louisiana, Mississippi, and Alabama for the transportation of aromatic chemicals.

(b) EVALUATION.—In conducting the study, the Secretary shall evaluate the appropriateness of different Federal incentives for the construction and operation of such a pipeline system, including loan guarantees, other types of financial assistance, and various types of tax incentives.

(c) REPORT.—Not later than December 31, 2005, the Secretary shall transmit to Congress a report on the results of the study, including recommendations, if any, for legislation.

At the end of the bill, add the following (and conform the table of contents of the bill accordingly):

## TITLE IX—RAIL PROVISIONS

### SEC. 9101. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

(a) CORRIDOR DEVELOPMENT.—

(1) AMENDMENTS.—Section 26101 of title 49, United States Code, is amended—

(A) in the section heading, by striking "**planning**" and inserting "**development**";

(B) in the heading of subsection (a), by striking "PLANNING" and inserting "DEVELOPMENT";

(C) by striking "corridor planning" each place it appears and inserting "corridor development";

(D) in subsection (b)(1)—

(i) by inserting ", or if it is an activity described in subparagraph (M)" after "high-speed rail improvements";

(ii) by striking "and" at the end of subparagraph (K);

(iii) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(M) the acquisition of locomotives, rolling stock, track, and signal equipment."; and

(E) in subsection (c)(2), by striking "planning" and inserting "development".

(2) CONFORMING AMENDMENT.—The item relating to section 26101 in the table of sections of chapter 261 of title 49, United States Code, is amended by striking "planning" and inserting "development".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 26104 of title 49, United States Code, is amended to read as follows:

**"§ 26104. Authorization of appropriations**

"(a) FISCAL YEARS 2006 THROUGH 2013.—There are authorized to be appropriated to the Secretary—

"(1) $70,000,000 for carrying out section 26101; and

"(2) $30,000,000 for carrying out section 26102,

for each of the fiscal years 2006 through 2013.

"(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.".

## TITLE X—TAX PROVISIONS

### SEC. 10001. SHORT TITLE.

This title may be cited as the "Highway Reauthorization Tax Act of 2005".

### SEC. 10002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUNDS.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking "2005" each place it appears and inserting "2011":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1) (relating to certain alcohol fuels).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(f) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions of such Code are each amended by striking "2005" and inserting "2011":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(h) (relating to termination of exemptions for highway use tax).

(c) EXTENSION OF DEPOSITS INTO TRUST FUNDS.—

(1) IN GENERAL.—Paragraphs (1) and (2) of subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 of such Code (relating to the Highway Trust Fund) are each amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) of such Code are each amended by striking "2005" and inserting "2011".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(i) by striking "2003" and inserting "2009", and

(ii) by striking "2004" each place it appears and inserting "2010".

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUNDS.—

(1) HIGHWAY TRUST FUND.—

(A) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) of such Code is amended—

(i) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (J),

(iii) by striking the period at the end of subparagraph (K) and inserting ", or",

(iv) by inserting after subparagraph (K) the following new subparagraph:

"(L) authorized to be paid out of the Highway Trust Fund under the Transportation Equity Act: A Legacy for Users.", and

(v) in the matter after subparagraph (L), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Transportation Equity Act: A Legacy for Users".

(B) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(i) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (H),

(iii) by inserting "or" at the end of subparagraph (I),

(iv) by inserting after subparagraph (I) the following new subparagraph:

"(J) Transportation Equity Act: A Legacy for Users.", and

(v) in the matter after subparagraph (J), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Transportation Equity Act: A Legacy for Users".

(C) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking "June 1, 2005" and inserting "October 1, 2009".

(2) AQUATIC RESOURCES TRUST FUND.—

(A) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of such Code is amended by striking "Surface Transportation Extension Act of 2004, Part V" each place it appears and inserting "Transportation Equity Act: A Legacy for Users".

(B) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(i) by striking "June 1, 2005" and inserting "October 1, 2009", and

(ii) by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Transportation Equity Act: A Legacy for Users".

(C) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking "June 1, 2005" and inserting "October 1, 2009".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

### SEC. 10003. TECHNICAL CORRECTIONS REGARDING HIGHWAY-RELATED TAXES.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Section 6427 of such Code is amended—

(1) by striking subsection (f), and

(2) by striking subsection (o) and redesignating subsection (p) as subsection (o).

(b) AMENDMENTS RELATED TO SECTION 853 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Subparagraph (C) of section 4081(a)(2) of the Internal Revenue Code of 1986 is amended by striking "for use in commercial aviation" and inserting "for use in commercial aviation by a person registered for such use under section 4101".

(2) So much of paragraph (2) of section 4081(d) of such Code as precedes subparagraph (A) is amended to read as follows:

"(2) AVIATION FUELS.—The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Alaska (Mr. YOUNG) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

This is a bipartisan amendment, submitted by the gentleman from Minnesota (Mr. OBERSTAR) and me, and I urge the passage of the amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I support the manager's amendment. It is a delicate balance which we have reached, and we need to pass it now.

Mr. EHLERS. Chairman YOUNG and Ranking Member OBERSTAR have done an impressive job moving the transportation reauthorization so quickly in the 109th Congress. With this summer's construction season nearly upon us, it is critical that we enact a strong transportation bill prior to the current extension's expiration—May 31, 2005. It's just as critical that this legislation be fair for all States. That's why I've supported efforts to increase the rate-of-return in the minimum guarantee to 95 percent.

Keeping the scope of programs covered by TEA 21's Minimum Guarantee calculation at the TEA 21 level of 92.6 percent is an essential part of achieving improved highway funding equity.

Keeping the scope in TEA–LU consistent with current law will provide more funding to my State's core programs and help address the funding inequities for donor States.

I am pleased that the Manager's Amendment includes a new distribution formula that brings the scope of programs covered by the Minimum Guarantee closer to current law under TEA 21. Michigan and other donor States need to prevent going backwards on scope and to improve our rate of return to 95 percent.

I thank Chairman YOUNG for his cooperation with donor States on this issue. I hope to work with my colleagues to improve the rate-of-return when we get to conference with the Senate. For my State, we're depending on a higher rate of return as well as the scope improvements we're making today.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to commend Chairman YOUNG and Ranking Member OBERSTAR, as well as the Subcommittee leadership for their hard work in crafting the underlying legislation. However, I offer my support for the Manager's Amendment that seeks to incorporate very important initiatives that were contained in some of the amendments that were made in order by the Committee on Rules.

While the underlying bill before us proposes to provide $620 million for some 175 high priority projects in the State of Texas, there remain issues that will pose significant problems for Houston and for Texas unless this body offers its commitment to address in the future.

Toll credits are a significant resource for transit providers because they can use them in lieu of obtaining a Federal match—thereby greatly expediting the development of major projects that serve the communities. This amendment will cripple the value of the toll credit program.

Without the revenue from toll credits, Texas will have less funding for the reduction of congestion and the improvement of air quality. In reducing an otherwise viable revenue stream, this amendment would restrict local governments like Houston from choosing the best tool to respond to local conditions and priorities. I would have voted against the amendment that would prohibit the tolling of new interstates, including the I–69 Corridor, which lacks an alternate source of financing.

I ask that the Committee on Transportation and Infrastructure continue its efforts to provide funds to complete the Interstate 69 Corridor. The termination of the Interstate Program in 1995 left no mechanism to finish the nation's few remaining incomplete Interstates such as I–69. Currently, there is no program to fund major projects which benefit the nation as a whole but whose costs exceed states' apportioned funds. Based on these needs, I ask my colleagues to include the National Corridor Infrastructure Improvement Program and the Projects of National and Regional Significance provisions in the bill underlying today. Furthermore, I ask that the Committee include them at a funding level equal to those included in H.R. 3550.

The Manager's Amendment proposes key technical and program improvements to the underlying bill language. In particular, I support the changes to the calculation of "Revenue Aligned Budget Authority" (RABA"; reestablishment of budgetary firewalls for highways and transit programs; reauthorization of the Swift Rail Act at $100 million per year (title IX of the bill); and extension of revenue provisions approved by the Ways and Means Committee.

Moreover, I support the improvements to the bill proposed in the Manager's amendment. In particular, due to the tremendous bipartisan efforts of my colleagues, the amendment now includes language to guarantee that TEA 21's 90.5 percent Minimum Guarantee is protected, with a scope defined as no less than 92.6 percent of the highway program funds in the bill. This is a significant improvement over the bill passed by the House last year. I thank the distinguished Majority Leader for his work in ensuring that this measure will protect these provisions, allowing the House to move into conference in a stronger negotiating position toward achieving a higher MG above 90.5 percent. The Manager's Amendment makes this a better bill for Houstonians and for Texans.

I would like to offer my support for the amendment offered by Mr. DAVIS of Virginia that will ensure that tolls are applied equally to all users of toll facilities. This amendment would eliminate language in the underlying bill that requires lower tolls to be charged to low income drivers. Since the administration of differential tolls may be challenging for our existing and future toll authorities, this amendment will make important adjustments to the underlying bill.

Secondly, I support the Burgess Amendment, which would change the calculation for transportation development credits to ensure that Texas and other states with toll facilities are able to take full advantage of these credits for the benefit of our transit, highway, and highway safety programs. This proposal is vital to the provision of a pro rata calculation of the credits so that we are not penalized for using Federal dollars in our transportation development projects. I support this amendment and ask that my colleagues join me as the Gentleman brings this proposal to the floor.

Furthermore, I support the proposal of Mr. PITTS that would provide a temporary transition period for transit entities (including three in Texas) that, under the most recent Census, are now subject to the over 200,000 population prohibition on the use of transit formula dollars for operating expenses. The Pitts amendment would allow those small transit entities in this new situation to use up to 50 percent of their formula funds for operating expenses for FYs 2005 through 2007 and up to 25 percent of the formula funds for operating expenses in FYs 2008 and 2009.

In addition, I join my colleague from Texas, Mr. BARTON in the initiative of his amendment to require studies and assessments of risks to human health or the environment to use sound and objective scientific practices.

Mr. Chairman, for the foregoing reasons, I support the Manager's Amendment and urge my colleagues to do the same.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–15.

☐ 1145

### AMENDMENT NO. 2 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. BASS). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. TOM DAVIS of Virginia:

Page 138, at the end of line 16, insert "and".

Page 138, line 18, strike "; and" and insert a period.

Page 138, strike lines 19 and 20.

Page 145, strike line 24 and all that follows through line 5 on page 146.

Page 146, line 6, strike "(c)" and insert "(b)".

Page 146, line 15, strike "(d)" and insert "(c)".

Page 235, at the end of line 14, insert "and".

Page 235, strike lines 15 through 18.

Page 235, line 19, strike "(7)" and insert "(6)".

Page 240, at the end of line 9, insert "and".

Page 240, strike lines 10 through 13.

Page 240, line 14, strike "(6)" and insert "(5)".

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Virginia (Mr. TOM DAVIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me address my friends on the other side, because they are aware of our traffic problems in Northern Virginia where we have tried to get infusions of money to take care of the second-largest traffic jams in the country, and we have arrived at something called the HOT lanes, these high-occupancy toll lanes that we are looking at for a public-private cooperation that we would use along the Beltway and possibly I-66.

This is a partnership. The Federal Government will fund part of it, but there is just not enough money in the highway bill, or at least we have not been able to get enough money out of the highway bill, if the gentleman would help on that there would be no need for this amendment, to build these extra lanes. We have the private sector coming in and building the lanes, and then the users do the tolls on the lanes, and that is how we lay asphalt. Because there is not enough money at the State, local, and Federal levels to lay enough asphalt on these lanes; and so we are using tolls in some of these areas.

The current bill contains several provisions that make it difficult for us to collect tolls on the interstate highway without trying to decide how much money people make, and there is almost a means testing into who uses them. It is very, very difficult to determine how much you are going to collect to get your bonds, what percent are low income and what percent are high income, and so we basically knock that out of the current language in this legislation.

I support the provisions that allow the high-occupancy tolls, but I am concerned about the requirement for States to establish procedures to permit low-income individuals to pay reduced tolls. These are user fees. These are not taxes. This requirement would impose unmanageable requirements on those States who would otherwise like to make use of these tolling provisions, and in our case it is the only way we can lay down new pavement.

The Commonwealth of Virginia now seeks to use toll provisions to finance several important projects, including widening of the Capital Beltway, adding HOT lanes to I–95, and adding dedicated truck lanes on I–81 in the Shenandoah Valley. The Capital Beltway HOT lane proposal, which would greatly benefit my constituents, as an example, is a public-private partnership. In addition, the I–81 partnership is another example. These partnerships are increasingly important as Virginia and, I think, other States in the Union grapple with massive infrastructure needs that are not met, even though this bill will help toward our final results.

In this instance, the ability of tolls on a HOT lane to pay for construction has been determined by cost-benefit analysis, which would be skewed by some users not paying the full toll. As we look for these public-private partnerships to take over construction of some road projects, it is important not to set a precedent for eliminating or reducing tolls which could affect bond financing.

In addition, the cost of a bureaucracy to administer a reduced-toll program would add tremendously to the cost of operating a toll facility and I believe would provide a strong disincentive for private investment. The existence of automated tolling technologies does not address the issue. The most fundamental question is how the Department of Transportation would determine the income. It seems to me this would be extraordinarily problematic and would make tolling an impractical option.

Tolls are user fees, not taxes. There are currently no tolling facilities in the country that provide an income-based discount. Furthermore, no other highway-user expenses are regulated by the Federal Government to require discounts based on income: not the gas tax, not the price of automobiles, and not the price of auto insurance. Why do we single out tolls?

Finally, I want to make clear that while I do not think that income-based tolling is a viable solution, my amendment would not stop anybody from doing it. The Governor of Virginia does not think it is practical, but the Governor of another State might have another view, and that flexibility would remain in this legislation if my amendment passes.

Frankly, I would be interested in seeing how a State might implement income-based tolling. But this provision would amount to a considerable mandate upon the States, a mandate I do not believe we should add to their already full plate with growing transportation infrastructure needs. This just takes some of the flexibilities we are trying to employ outside the box now off the table.

So, Mr. Chairman, I would hope the House would adopt this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, how much time remains for the gentleman from Virginia?

The Acting CHAIRMAN. The gentleman from Virginia (Mr. TOM DAVIS) has 1 minute remaining.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition to the gentleman's amendment, and I yield myself 4 minutes.

We have waited patiently for the gentleman to arrive, and recognize that he has, like all of us, many demands on his time. I am glad the gentleman is here to offer his amendment, and we understand the problems in this committee of Northern Virginia, which the gentleman so ably represents.

In the fashioning of TEA–21, along with the gentleman's Senator, Senator WARNER, and former Chairman Shuster, we supported the Wilson Bridge, which all of America contributed out of the Highway Trust Fund over $900 million. This is the only bridge of its kind in the country to get that kind of special consideration. We recognize, and I have watched the growth of toll facilities in the Dulles access corridor. I understand those problems that this growth-bedeviled area has had to cope with.

However, there is a very serious problem here of low-income people living in an area distant from the job. My daughter worked at Jubilee Jobs in the Adams-Morgan area in D.C. placing people who came out of homeless shelters, people who had just been released from prison, people who, through, in many cases, no fault of their own, had just fallen through the welfare safety net. There were a number of jobs available for those people out at Dulles Airport, but they could not afford to drive. There is no public transportation for them to take to get out to Dulles Airport to match the person with the job. Their jobs went unanswered and people went jobless because of the cost of transportation.

In Chicago, Chicago experienced white flight to the suburbs. The suburbs needed people to perform work in stores, in homes, in facilities, hospitals, and nursing homes; but the workers were in the city. Chicago initiated a welfare-to-work program to provide compensation for those who would still live in their neighborhoods in the city, but provide the jobs in the suburbs. For every thousand jobs in the suburbs a $10 million economic benefit resulted.

Now, Chicago could set up a very simple process of matching the welfare workers, the welfare-level workers to the jobs and provide assistance to them. So can Virginia. So can other States. There is no need to say, oh, there is going to be a huge bureaucracy created. It is a very simple process. A person comes in and shows their immediate basis and applies for the assistance, applies for whatever designation is required, the FAST pass or the designation to get through the toll facility. It does not cost anything additional. And if there is a derogation of dollars to the toll facility, then the State in the public interest can make that up.

All we are saying in the legislation pending is that low-income people pay a higher percentage of their household income for transportation than other income groups, and tolling facilities should not drive people out of the job marketplace.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. MORAN), my colleague and friend from Northern Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I support this amendment. Governor Warner of Virginia has contacted us in support of Mr. DAVIS's amendment because he does not see how exempting low-income people from having to pay is enforceable.

I fully agree with the gentleman from Minnesota (Mr. OBERSTAR), my very good friend, that we do not want to put people in situations that they cannot afford, particularly the working class that we are trying to provide adequate transportation for, so that they can get to work in a timely manner.

In so many of our States, however, I certainly know in Northern Virginia, we do not have a way to move anybody unless we can figure out some more innovative way, and these HOT lanes do seem to give us the means to provide more transportation access. And I do not see how it is enforceable to do what the gentleman from Minnesota wants to do.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself the balance of my time.

Let me say to my friend, if you really want to help poor people, build additional lanes of traffic and get some of the traffic off the road so they can get onto the conventional lanes. That is what this does.

This is the only way we have found to lay new pavement in Northern Virginia, unless we can come up with billions more dollars that we cannot get into this bill. Poor people would still be able to use existing roads to get there. This will divert traffic that is currently on those roads into other lanes as well.

I agree with the gentleman in terms of the impact that this has on low-income families, but I think the current language is not the way to do it; and I kindly ask for favorable consideration of my amendment.

□ 1200

Mr. OBERSTAR. Mr. Chairman, the language in the bill just directs States to establish a program and procedures. All you have to do is issue a pass to the individuals based on their qualification as a low-income person and use the pass to get through the tolling facility. That is all we are saying.

Otherwise, those toll facilities produce Lexus lanes, produce Mercedes and Hummer lanes, who will whiz through while the poor folk cannot afford to get through. I know from personal experience. I have traveled around this country to areas where we have those problems, either some communities have responded by investing in transit systems so that low-income people, as in Sacramento, 3,200 low-income persons were able to use their transit system to get to jobs.

You are not doing that in Northern Virginia for various reasons. I concur with what the gentleman says, another $90 billion invested in transportation, as this committee introduced the bill in its original form, would take care of this problem. But we must insist on the committee position and defeat the gentleman's amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to strongly oppose the Davis of Virginia amendment to TEA–LU, which would remove the requirement that toll rates on high occupancy toll lanes be differentiated for low income drivers. I find it unfortunate that Members of this body would offer amendments to this legislation that effectively say that lower income individuals are on the same financial footing as those who are in upper income brackets.

The fact is that we as Americans have decided that those who make less, share less of the burden to bring revenue into our local, State, and Federal government. Indeed, we all know that we are taxed based on our income and value of our possessions. In the same vein, tolls that will go towards paying for public transportation projects, should have some variability based on the income of drivers. This principle is applied throughout our economic practices and it is a fair principle because we recognize that unduly burdening lower income individuals will only weaken our national economy.

The fact is that lower income Americans depend on their automobiles the same way higher income Americans do. Lower income Americans often need their cars to reach jobs they can't otherwise reach through public transportation. They use their cars to transport their families and take part in commerce that would otherwise be unavailable to them without their own private transportation. However, if we insist on making lower income drivers pay the same tolls as higher income drivers then we make the cost of transportation more prohibitive for lower income Americans. These drivers already have to deal with the soaring costs of fuel and the high premiums they pay to maintain car insurance. If we also burden them with high tolls then we will keep them from achieving their potential and we can only hurt our overall society that benefits from lower unemployment and increased commerce.

I urge the Members of this body to reject this amendment because it only seeks to create a larger burden upon lower income Americans. We must all be given a chance to achieve the American Dream and this dream is made harder for too many lower class Americans when we unfairly raise the level of their tolls.

The Acting CHAIRMAN (Mr. BASS). The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) will be postponed.

The point of no quorum is considered withdrawn.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 3 printed in Part B of House Report 109–15.

### AMENDMENT NO. 3 OFFERED BY MR. BURGESS

Mr. BURGESS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BURGESS:

At the end of subtitle H of title I of the bill, add the following (and conform the table of contents of the bill accordingly):

**SECTION 1838. TRANSPORTATION DEVELOPMENT CREDITS.**

Section 120(j)(1) of title 23, United States Code; is amended—

(1) by striking "A State" and inserting the following:

"(A) IN GENERAL.—A State"; and

(2) by striking the last sentence and inserting the following:

"(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds.

"(C) FEDERAL FUNDS DEFINED.— In this paragraph, the term 'Federal funds' does not include loans of Federal funds or other financial assistance that must be repaid to the Government.".

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Texas (Mr. BURGESS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. BURGESS.)

Mr. BURGESS. Mr. Chairman, I yield myself such time as I may consume.

The amendment that I offer today addresses an important issue of fairness, flexibility and opportunity according to how we finance our Nation's transportation systems.

I believe that States should be credited for their non-Federal investment in revenue-generating transportation facilities to address their regional transportation needs. As of 2003, 20 States have applied to the Federal Highway Administration for Federal credits based on their toll revenue as authorized under Section 120(J) of Title 23 of the United States Code.

This program allows States to accumulate these Federal credits in recognition of their non-Federal investment in local transportation facilities. In the past 10 years, some $14 billion in Section 120(j) credits have been accumulated by these States. The accumulation of these Federal credits reflects the level of commitment that States and localities nationwide are making to find non-Federal solutions to their growing transportation needs.

The creation of this program in the 1991 ISTEA legislation recognizes the importance of these efforts. The use of non-Federal revenues for needed transportation facilities is not a new concept. States and localities for decades have turned to revenue-generating forms of project financing to address their tremendous transportation financing needs.

Especially today, given the tight fiscal situation that many States and localities face, the use of transportation facilities that pay for themselves without additional Federal funding is essential. This amendment changes the calculation of the section 120(j) credits to reflect the proportionate State and local investments in revenue-generating transportation facilities.

Why is this important, and why do we need to make this change in the bill today? In my home State of Texas, we have entered into a new era of transportation project development, delivery and financing. With the introduction of new State and local transportation financing tools, Texas will be able to accelerate projects that have been needed for years, leveraging transportation funds that are currently available to finance additional projects today rather than tomorrow and decades in the future.

These new tools allow my home State to include new financing partners, like the private sector and new regional mobility authorities in solving Texas' transportation challenges.

In order to take full advantage of these new tools, we must make the most effective use of our available transportation dollars, both local, State and Federal. To that end, we expect to use some Federal funds in nearly every major transportation mobility project that we build. However, the current system is untenable. For instance, a State may use 99 percent of non-Federal funds on a needed transportation project, but under the current credit calculation that State cannot receive any credit for that investment because of the use of 1 percent Federal funds in the project.

This is an unfair penalty. It must be changed to properly recognize the local and State share of investments in meeting our transportation needs.

Currently, 20 States are using 120(j) credits to finance needed transportation projects. Ohio uses toll credits to match GARVEE bonds on projects and shares with local government for both highway and transit projects.

New Jersey has used approximately $860 million of $1.9 billion in approved toll credits for approved highway projects.

Florida is using many credits on Federal aid projects so that most of its Federal highway programs are 100 percent Federally funded. Projects include the new Everglades Parkway, the Pinellas County Bayway, Beeline East Expressway and the Sunshine Skyway.

Kentucky will use toll credit as a match on the Federal highway projects releasing about 100 million per year.

Mr. BURGESS. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition. How much time remains for the gentleman from Texas?

The Acting CHAIRMAN. The gentleman from Texas has 1 minute.

Mr. OBERSTAR. Mr. Chairman, I yield myself 4 minutes.

This amendment really crosses the line on tolling. I have always believed tolls are a bad idea, but if a State wants to do that and citizens want to subject themselves to toll facilities, that is their business.

But on the interstate highway system, we have a very effective financing mechanism through the Highway Trust Fund and through the national highway system. Again, the Highway Trust Fund supports construction of needed transportation facilities.

But to mix Federal funds with tolls is anathema to the idea of a publicly supported transportation system through our Highway Trust Fund and the user fee.

I could understand if the gentleman from Texas (Mr. BURGESS) were advocating and others were advocating tolls and toll-only facilities. But to cross the line and mix Highway Trust Fund dollars with toll funds to encourage building of toll facilities to indirect competition with toll-free highways, just does not make any sense at all.

In fact, there is an example in the State of California where a toll operator persuaded the State legislature to enact authority to build a toll facility but then prohibited the public sector from building additional capacity in the same corridor in the adjoining public roadway.

The toll was built; it did not work. It was on the verge of bankruptcy. At the same time, the State was ready to build additional lanes on the public facility. The toll operator took the State to court and prevailed against building the publicly-free facility, so the State wound up buying the toll facility and building additional lanes.

Mr. Chairman, I reserve the balance of my time.

Mr. BURGESS. Mr. Chairman, I yield 45 seconds to the gentleman from Texas (Mr. MARCHANT) and state that this amendment does nothing of the sort as to what happened in California.

Mr. MARCHANT. Mr. Chairman, I thank the gentleman from Texas (Mr. BURGESS) for introducing this amendment and for the gentleman's hard work over the last 2 years on transportation issues in Texas.

Under current law, even if $1 of Federal money is spent towards a State toll project, no transportation development credits will be accrued by the State. In other words, not only does the Federal Government punish States for investing in toll facilities, it also prevents them from using transportation development credits which would have been accumulated for the use and purchase of transit capital such as buses and transit cars.

The United States has a 50-year-old highway system put under enormous strain by our population. Combine that with the fact that there is simply not enough money to go around for highways and transit programs, and there is a large gap between our country's transportation needs and that which can be provided under current funding. I urge my colleagues to support this amendment.

Mr. BURGESS. Mr. Chairman, I urge my colleagues to vote for this amendment, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

To push the idea of toll facilities in the direction of merging Federal highway trust fund dollars with toll dollars is just anathema to the whole concept of a publicly supported transportation network. We should not allow this type of initiative in tolling.

If Members want to have tolls, do it the old-fashioned way and use the toll dollars and create Lexus lanes and create Mercedes lanes, but do not use the public dollars to merge with the toll facility dollars and create a severe disparity and discrimination against publicly built toll facilities.

Remember the California example: that is what will happen here. We will have others of that nature. I urge a "no" vote on this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, the amendment before us is about increasing financial flexibility.

Toll credits allow the expenditure of non-federal funds on one project to serve as the match on another project.

The benefit of having toll credits is to enable various transportation projects to exchange a toll credit for non-federal share of a project's cost.

This measure does not render a good house keeping seal of approval on tolls, but it does recognize that States like Texas, that are experiencing significant increases in population and diminishing roadway capacity, are able to better leverage their transportation dollars.

I have heard from my State, and others that utilize tolling, repeatedly, on how this toll credit development will better equip them in addressing challenges now and in the long run.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BURGESS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BURGESS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. BURGESS) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 109-15.

AMENDMENT NO. 4 OFFERED BY MR. BURGESS

Mr. BURGESS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BURGESS:

Strike section 1501 of the bill, and insert the following (and conform the table of contents of the bill accordingly):

**SECTION 1501. DESIGN-BUILD CONTRACTING.**

(a) IN GENERAL.—Section 112(b)(3) of title 23, United States Code, is amended to read as follows:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL..—A State transportation department or local transportation agency may use design-build contracts for development of projects under this chapter and may award such contracts using any procurement process permitted by applicable State and local law.

"(B) LIMITATION ON WORK TO BE PERFORMED UNDER DESIGN-BUILD CONTRACTS.—Construction of permanent improvements shall not commence under a design-build contract awarded under this paragraph before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(C) SCOPE OF WORK.—The scope of the contractor's work under a design-build contract awarded under this paragraph may include assistance in the environmental review process for the project, including preparation of environmental impact assessments and analyses, if such work is performed under the direction of, and subject to oversight by, the State transportation department or local transportation agency and the State transportation department or local transportation agency conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary.

"(D) PROJECT APPROVAL.—A design-build contract may be awarded under this paragraph prior to compliance with section 102 of the National Environmental Policy Act of 1969, only—

"(i) upon request by the State transportation department or local transportation agency;

"(ii) with the concurrence of the Secretary in issuance of the procurement documents and any amendments thereto and in award of the contract and any amendments thereto; and

"(iii) if project approval will be provided after compliance with section 102 of the National Environmental Policy Act of 1969.

"(E) EFFECT OF CONCURRENCE.—Concurrence by the Secretary under subparagraph (D) shall be considered a preliminary action that does not affect the environment.

"(F) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term "design-build contract" means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.".

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations that amend the regulations issued under section 1307(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 112 note). The regulations—

(1) shall allow a State transportation department or local transportation agency to use any procurement process permitted by applicable State and local law in awarding design-build contracts, including allowing unsolicited proposals, negotiated procurements, and multiple requests for final proposals; except that the Secretary may require reasonable justification to be provided for any sole source procurement; and

(2) may include "best practices" guidelines;

(3) shall not preclude State transportation departments and local transportation agencies from allowing proposers to include alternative technical concepts in their "base" proposals;

(4) shall not preclude State transportation departments and local transportation agencies from issuing a request for proposals document, proceeding with award of a design-build contract, or issuing a notice to proceed with preliminary design work under such a contract prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) if the design-build contractor is not authorized to proceed with construction of permanent improvements prior to such compliance; and

(5) shall provide guidelines regarding procedures to be followed by the State transportation department or local transportation agency in their direction of and oversight over any environmental impact assessments or analyses for the project which are to be prepared by the contractor or its affiliates.

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Texas (Mr. BURGESS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I intend to ask unanimous consent to withdraw this amendment, but before I do, I would like to engage the gentleman from Alaska (Chairman YOUNG) in a brief colloquy on this issue.

Mr. Chairman, in 1998 Congress passed TEA-21. And as enacted, TEA-21 contained congressional intent and guidance language to the United States Department of Transportation to implement design-build contracting rules. But, Mr. Chairman, the final rules did not mirror Congress' intent in the slightest.

H.R. 3, as introduced and passed by the committee, included section 1501 on design-build, and I thank the chairman, the ranking member, and the committee staff for recognizing the level of importance that design-build holds in the reauthorization debate. However, the language currently in the bill does not repair conflicts in the law.

My concern is that the Federal Government has been slow to respond to initiatives at the State level that advance those goals. Current Federal rules dampen the efficiency of design-build with a complicated procurement process, taking the wind out of the sails of innovation.

Federal processes still favor a consecutive approach to project development, requiring separate environmental review, design and construction contracts. This causes unnecessary delay, added cost and reduced efficiencies in delivering critical transportation projects.

I want to work with the committee in conference to repair the design-build law so States can benefit from its intended efficiency.

Mr. Chairman, the gentleman from Alaska has visited my State, and I am grateful for that. The gentleman has heard from our constituents and our commissioners and our governor. This is necessary to take our work to the next level. Sure we talk about changing funding formulas, but that alone is not enough to satisfy everyone, and we all know that. All I am asking for is a chance to show that we can be innovative in using the limited funds that we receive.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BURGESS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I agree with the goals of the gentleman from Texas, and I look forward to working with the gentleman's entire delegation to meet these goals in conference.

Mr. BURGESS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 1215

The Acting CHAIRMAN (Mr. ADERHOLT). It is now in order to consider amendment No. 5 printed in House Report 109-15.

AMENDMENT NO. 5 OFFERED BY MR. ISSA

Mr. ISSA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ISSA:

At the end of section 1208 of the bill, insert the following:

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the States should provide additional incentives (including the use of high occupancy vehicle lanes on State and Interstate highways) for the purchase and use of hybrid and other fuel efficient vehicles, which have been proven to minimize air emissions and decrease consumption of fossil fuels.

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from California (Mr. ISSA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Chairman, I yield myself such time as I may consume. I am hopeful and believe that there will be no opposition to this well-crafted, narrowly crafted amendment to this legislation.

I want to thank Chairman YOUNG and the members of the committee who helped make this a very good amendment. This amendment, Mr. Chairman, seeks to empower our States when they have excess capacity in their HOV lanes to use that capacity to encourage and promote the superlow-emissions hybrid vehicles that are just emerging on our highways today. California and other States have passed laws in anticipation of our doing our job to allow this. I believe that it will promote superlow emissions, higher-efficiency vehicles for a period of only 4 years to give this an opportunity.

I would urge all of our colleagues to bear in mind that when we authorized HOV lanes, we did so for two purposes: one was to reduce congestion; the other was to save fuel. Hybrid vehicles do an excellent job of saving fuel. I urge my colleagues to vote for this amendment.

Mr. CARNAHAN. Mr. Chairman, I rise today in support of the Issa amendment.

Quite simply, the increased use of fuel efficient vehicles is a boon to our country.

Hybrid vehicles benefit our environment. Our cities and towns are being choked by smog. The increased use of hybrid vehicles would reduce this problem.

Hybrid vehicles also benefit our economy. The Ford Escape Hybrid is assembled in my home State of Missouri. Sales for the Escape hybrid have been so strong that this plant cannot keep up with demand. This plant provides thousands of good paying jobs here in the United States.

I assure you that is you ask the workers in that plant if they support increased incentives for the purchase of hybrid vehicles, their answer would be a resounding "yes."

Finally, vehicles that reduce our use of gasoline mean greater energy security for our country, and less U.S. dollars going to countries with hostile regimes.

The increased use of hybrid vehicles is truly a win-win-win situation and I urge my colleagues to support this amendment.

Mr. ISSA. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ISSA).

The amendment was agreed to.

VACATING PRIOR PROCEEDINGS ON AMENDMENT NO. 3 OFFERED BY MR. BURGESS

Mr. OBERSTAR. Mr. Chairman, I ask unanimous consent that the proceedings by which the request for a recorded vote on the amendment offered by the gentleman from Texas (Mr. BURGESS) was considered be vacated and the vote be put anew.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BURGESS).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109–15.

AMENDMENT NO. 6 OFFERED BY MR. PASCRELL

Mr. PASCRELL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. PASCRELL:

After section 1108 of the bill, insert the following (and redesignate subsequent sections, and conform the table of contents, of the bill accordingly):

**SEC. 1109. PAY TO PLAY REFORM.**

Section 112 of title 23, United States Code, is amended by adding at the end the following:

"(h) CONSTRUCTION.—Nothing in this section may be construed to prohibit a State from enacting a law or issuing an order that limits the amount of money an individual, who is doing business with a State agency for a Federal-aid highway project, may contribute to a political campaign.".

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from New Jersey (Mr. PASCRELL) and the gentleman from Wisconsin (Mr. PETRI) each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I yield myself such time as I may consume.

The so-called "pay-to-play" restrictions, Mr. Chairman, enacted in many States like Connecticut, New Jersey, Pennsylvania, Illinois, South Carolina, Kentucky and West Virginia, for instance, there is a threat which is real; and whether it is real or whether it is apparent, we need to stamp out corruption. We have come to an agreement in the State of New Jersey. We have come to bipartisan support of an attempt by both sides of the aisle to end corruption as not only we know it because neither party is privy to virtue, neither State is privy to corruption.

What we are trying to do here is look at what is the result of large political contributions from contractors who try to influence the awarding of public contracts. Mr. Chairman, there is Federal precedent for this, and I would venture to say that we all in this Chamber should be reading what that precedent is. This does not open up a Pandora's box. This is simply providing States the ability to clean up their own act, to reform their own government, and to give those people an opportunity to bid in a more apparent, transparent process.

Mr. Chairman, the Federal Highway Administration argued that the New Jersey order violated section 112 of title XXIII, a provision dealing with bid-letting. This amendment intends to support what New Jersey has attempted to do to open up the bid process, not to close it down, not to shrink it, but rather to expand it so that there is more transparency.

Why should the Federal Government stop those States who want to end the process of corruption in their contract-letting? Why should this Federal Government, which has our own rules, the SEC was a perfect example of this just a few years ago, that if you are going to contribute, then you need to stay out of the process of bidding. This passed in the New Jersey Assembly 78–0. It passed in the New Jersey Senate 34–0. It is bipartisan.

Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. LOBIONDO. Mr. Chairman, I would like to thank the gentleman from New Jersey (Mr. PASCRELL) who has worked very hard on this issue and I have joined with him. I appreciate the work that he has done.

Let me say in starting that the vast majority of contractors in my State, in the State of New Jersey, are hardworking, ethical people who do good work and do the right thing. The real problem we have in New Jersey is that some public officials more interested in helping themselves than working to improve transportation infrastructure in the State have influenced the situation.

The good news is that Trenton is finally trying to do something about it. The legislature has enacted reforms, as the gentleman from New Jersey (Mr. PASCRELL) has discussed on this particular issue. I wish the State had provided the Federal Highway Authority with the cost savings they say exist, as I understand that that may have solved the problem and we maybe would not have had to do this today. Unfortunately, that is in the past; and we have to deal with the situation as it is.

I am strongly supporting this amendment and will join with the gentleman from New Jersey (Mr. PASCRELL) in voting for this amendment, because New Jersey desperately needs every penny of Federal highway and transit dollars and should not be penalized for trying to do the right thing. That is what it is all about: New Jersey is trying to do the right thing.

Mr. PASCRELL. Mr. Chairman, reclaiming my time, the Pascrell-Menendez-LoBiondo amendment only impacts States that choose to pass a pay-to-play reform law. This is a win-win for both sides. I cannot emphasize that enough. How many times have we come to this Chamber when we try to get it over on the other side? That is natural in politics.

This is a win-win for both sides, not only in New Jersey but throughout the country. I ask for the support of this body. I think this is good legislation, I think the amendment makes sense, and it is backed up by Federal law.

Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, three quick points. This does not require any State to do anything. It simply allows a State to perform a reform in the context of contracting. We recognize this already under Federal law in section 441 of the Federal highway bill. The SEC has done the same type of thing in its context. No State should be prohibited from enacting reforms as it relates to improving the integrity of public contracting in their State. It will not apply to any Federal officeholder, but it will allow States ultimately to pursue reforms in the context of contracting and the integrity of its process.

We should support the amendment.

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think what we are seeing here is certainly a very well-meaning amendment designed to correct a problem in the State of New Jersey; but if it is adopted, what we will find is the law of unintended consequences coming into play.

We have a Federal framework. The goal of that framework is to have competitive bidding and to end up getting the lowest qualified bid to save the taxpayer money and get the work done. Many of these projects cross State lines. Contractors work all over the United States. If we start allowing each State to come up with different bidding procedures and qualifications that contractors have to meet in order to participate in the bidding, it is inevitably going to add to paperwork and end up resulting in higher-cost construction across our country and less for the hard-earned tax dollars that are spent on transportation here in the United States.

We are not arguing there may not be a problem in New Jersey. We are not arguing that it should be cleaned up. We are eager to work with the Members from New Jersey to try to have hearings or to promote investigations, do what we can to help clean up the situation in New Jersey, but not at the expense of weakening the system of competitive bidding nationwide that is designed to promote as efficient a procurement process as possible.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. PASCRELL).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 109–15.

### AMENDMENT NO. 7 OFFERED BY MR. ROGERS OF MICHIGAN

Mr. ROGERS of Michigan. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. ROGERS of Michigan:

At the end of title II of the bill insert the following (and conform the table of contents accordingly):

**SECTION 2013. SAFE INTERSECTIONS.**

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

**"§ 39. Traffic signal preemption transmitters**

"(a) OFFENSES.—

"(1) SALE.—A person who knowingly sells a traffic signal preemption transmitter in or affecting interstate or foreign commerce to a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, shall, notwithstanding section 3571(b) of title 18, United States Code, be fined according to this title, imprisoned not more than 1 year, or both.

"(2) USE.—A person who makes unauthorized use of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined according to this title, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any mechanism that can change or alter a traffic signal's phase time or sequence.

"(2) UNAUTHORIZED USE.—The term 'unauthorized use' means use of a traffic signal preemption transmitter by a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity. The term 'unauthorized use' does not apply to use of a traffic signal preemption transmitter for classroom or instructional purposes.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Michigan (Mr. MIKE ROGERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the committee today for taking up this very important piece of legislation. It may be innocuous in the grand scheme of this important bill that we are about to pass, setting the transportation needs for the rest of America, but we have a growing problem that this amendment will address, traffic preemption devices. They are devices that will change the signal as you are driving in your car remotely from your vehicle. Currently used by law enforcement and emergency vehicle services to conduct their business and get to the place they need to in the most safe manner possible, it is now being offered on the Internet and other places and getting in the hands of those who would seek to do harm.

One can imagine in the hands of a bank robber trying to escape, changing the light scheme on his way out of town. One can imagine the frustrated congestion that someone might engage in Washington, D.C. or any other large city, the convenience of just pushing the button and changing the light. One can imagine a terrorist act and what harm and devastation they could cause to emergency vehicle response to their ability to get in and to get out of a place quickly.

☐ 1230

The dangers of this are real, the dangers are growing. This amendment would simply apply some common sense and make it illegal for those who are selling this on the Internet, for those who are in possession of this, who should not be. I think it is crucial.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Michigan. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I just want to compliment the gentleman for being an alert legislator. Technology creates new possibilities for mischief as well as for good. The gentleman has spotted a problem, and we thank the gentleman for calling it to our attention. We support the amendment, and I believe it will be adopted without opposition.

Mr. ROGERS of Michigan. Mr. Chairman, reclaiming my time, I thank the chairman for working with us on this.

I do want to thank the Committee on Transportation and Infrastructure and the Committee on the Judiciary for working with us, the Committee on Rules, and Senator DEWINE for working with me on this amendment and offering the same in the Senate.

I also want to thank my staff member, Heather Keiser, who has been passionate about traffic safety and working on intelligent technology systems. She has been passionately involved in these types of activities, who actually raised the flag and said this is a problem and it needs to be fixed for the safety and security of our local Americans and our local emergency service personnel. I thank her as well. She is getting ready to leave this week, so this is a great way for her to go out on such a high note, I think, making an important difference.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. ADERHOLT). The question is on the amendment offered by the gentleman from Michigan (Mr. ROGERS).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 8 printed in House Report 109–15.

### AMENDMENT NO. 8 OFFERED BY MR. PITTS

Mr. PITTS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. PITTS:

In the matter proposed to be inserted as paragraph (1) of section 5307(b) of title 49, United States Code, by section 3008(c)(1) of the bill—

(1) strike "and" at the end of subparagraph (C); and

(2) strike the period at the end of subparagraph (D) and insert "; and" and the following:

"(E)(i) in the case of fiscal years 2005 through 2007, 50 percent of the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of more than 200,000 if the transit system with respect to which the grant is being made operates in an urbanized area that exceeded 200,000 in population according to the 2000 Census; or

"(ii) in the case of fiscal years 2008 and 2009, 25 percent of the operating cost referred to in clause (i).

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Pennsylvania (Mr. PITTS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, under current law, when an urbanized area exceeds 200,000 in population, the transit system serving the area not only receives less Federal transit funding, but also loses their flexibility to use Federal transit funds to meet unique local transit needs.

The 2000 Census was the first census carried out under this law, and we are now seeing the consequences of this law, which uses an arbitrary and outdated threshold that was really first established and used in the 1950s.

Today it is hurting our Nation's most thriving communities. Fifty-two small transit systems across the Nation and the communities they serve face a financial crisis that they are not equipped to handle. That means more than 11 million people across the country will have their public transit service affected.

These systems will have to cut routes and raise fares in the hope of making ends meet. But for most, even that will not be enough. This will hurt passengers who rely on transit, workers who need to get to their jobs, elderly who need to get to the grocery store or pharmacy and, in my district, particularly the Amish, who rely on transit because it is against their religion to owns cars.

We need to give these transit systems time to find alternative funding solutions at the State and local levels. My amendment allows these small transit systems, only 52 of them, to have flexibility in using 50 percent of their Federal transit funds through the year 2007 and then reduces that 25 percent for 2008 and 2009.

This is the least we can do for these systems that are servicing some of the healthiest growing communities across the country.

Two systems in my districts, Red Rose Transit and BARTA in Reading are facing a financial crisis because of this law. We should not punish healthy systems in growing communities.

Mr. Chairman, I appreciate the chairman's support for holding these systems harmless over the past couple of years. However, due to the uncertainty surrounding this year and the transportation programs throughout the country, these small systems have not been able to find local solutions. We need more time, and I urge Members to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the gentleman from Pennsylvania has made a very strong case for the issue which he presents with this amendment, and we in the committee have worked with the gentleman and his staff to allow transit systems in urbanized areas to retain flexibility in the use of Federal transit formula funds, and I thought we had worked out throughout the development of TEA–LU the extension that the gentleman was seeking to extend the period of flexibility for urbanized areas to use Federal funds for operating assistance through this year, which is half the time before the next census.

More than 50 urbanized areas have been eligible to use their transit grants for operating expenses, but apparently the gentleman wants to go further than we agreed in our internal deliberations and discussions, and I think that it goes beyond the agreement that we reached in committee. For that reason, I cannot support it.

Mr. Chairman, I reserve the balance of my time.

Mr. PITTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the extensions we have had are only 6 months at a time. We have had a couple of those. We would like to extend to the end of the authorization period.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Chairman, I rise in support of this amendment, which will help small transit systems maintain flexibility in the use of their Federal money. I would like to thank the gentleman from Pennsylvania for his leadership on this issue, which is particularly important to my constituents in Lubbock, Texas.

I want to repeat, this amendment does not increase funding for transit systems. Rather, it gives them some flexibility to manage those transit systems in the most efficient and effective ways.

Under the current law, once an urbanized area exceeds 200,000 people in population, it loses that flexibility. What impact that is going to have on my constituents in Lubbock, Texas, is my transit system has had to try to scale back the hours of operation, particularly some on Saturday. Saturday is when a lot of families need to get to the doctor and need to go buy groceries. But quite honestly, also for people who live in my district who are employed, that have to get to work on Saturdays.

So what we need to do is have these communities work with their transit systems and look for alternative ways to fund transit in the future. We need to give them some time and the flexibility they need to do that.

Mr. Chairman, I urge Members to support this amendment.

Mr. PITTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say, again, this is not asking for more money; it is flexibility, and it is a phased-down flexibility to soften the blow on the small transit system and provide them more time to find alternative solutions to the funding crises they face. There are some 52 systems, many represented by Members from the other side of the aisle.

I urge support for the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, certainly there is a concern among those metropolitan areas whose population has grown significantly since the 2000 Census, and they are seeking more flexibility for the use of funds on their Federal transit formula grant to use those dollars for operating assistance. But to extend the flexibility beyond the 5 years, as we have provided in TEA–LU, would undermine the statutory formulas.

It might benefit some areas, the pending amendment might benefit some areas, but would inflict a fairness issue upon other areas, to indicate that statutory formula that we use to apportion funds using most recent census data is no longer applicable for a certain area.

The amendment as offered would create confusion and would create unfairness among users, among other transit systems across the country.

Mr. PITTS. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. PITTS. Mr. Chairman, as a point of clarification, it is my understanding that what is in TEA-LU only extends the flexibility to 2005. What mine does is just extends it to end of the authorization.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, that is correct. I said that at the very outset. I made it very clear we extended it through 2005. That was our understanding. That is what I thought was the agreement we reached and the compromise, that we would go through 2005. Then you just have a few more years until the next census, and then the issue would be resolved for all of the country and not just a few areas.

So I urge defeat of the amendment.

Mr. McGOVERN. Mr. Chairman, I rise today in support of the amendment proposed by Mr. PITTS of Pennsylvania. The Pitts amendment protects smaller transit systems' flexibility in utilizing Federal transit funds. Unlike current law, which punishes these transit systems and communities, the Pitts amendment extends flexibility by providing additional time to seek State and local solutions to the funding problems they face.

Transit systems across the country are severely restricted by the current regulation. In my district in Massachusetts, the Southeast Regional Transit Authority is being constrained by this regulation, making it impossible for them to meet local needs of the city of Fall River.

Current law punishes smaller transit systems and the communities they serve simply because they are thriving. These smaller transit systems rely on budget flexibility and cannot make major revisions overnight. On October 1, 2005, these systems will lose all flexibility. The Pitts amendment extends their flexibility by phasing out their funding options over a 5-year period. That's a good idea. I urge my colleagues to join me in supporting this important amendment.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PITTS).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. PETRI. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. PITTS) will be postponed.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 9 printed in House Report 109-15.

### AMENDMENT NO. 9 OFFERED BY MR. HONDA

Mr. HONDA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. HONDA:

In subparagraph (I) that is proposed to be added at the end of section 410(b)(1) of title 23, United States Code, by section 2003(b)(6) of the bill, insert after "(A)(i)(ii)" the following: ", including a program of the court system (such as a driving while intoxicated court) for the purpose of changing the behavior of alcohol or drug dependent offenders arrested for driving while impaired.".

The Acting CHAIRMAN. Pursuant to H. Res. 144, the gentleman from California (Mr. HONDA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the gentleman from Michigan (Mr. EHLERS) and I offer a simple but important amendment that will make explicit the eligibility of DWI Courts for basic grant funds under section 2003 of H.R. 3, TEA-LU. Section 2003 authorizes funds for Alcohol-Impaired Driving Countermeasures.

In the year 2003, approximately 17,400 Americans were killed in alcohol-related accidents across this country. These deaths constitute 40 percent of all traffic-related facilities. Make no mistake; drunk driving is a public health crisis, and DWI Courts, which are on the front lines of the national efforts to curb drunk driving, offer a proven method of reducing recidivism rates among DWI offenders.

Unlike traditional court systems, DWI Courts hold offenders to the highest level of accountability, while providing long-term intensive treatment and compliance monitoring to address the root cause of the DWI, alcohol abuse.

DWI Courts are so successful because they draw on a diverse range of professionals, governmental agencies and community organizations. Each DWI Court judge heads a team of prosecutors, defense attorneys, probation officers, law enforcement representatives and alcohol treatment professionals. They work in concert with each other and governmental community organizations to ensure that DWI offenders get the punishment they deserve and the treatment and services they need to be responsible members of our society. Evidence suggests that these DWI Courts are working.

Unfortunately, too few DWI Courts are taking advantage of Federal transportation dollars and section 2003 of H.R. 3 does not clearly authorize use of grant funds for these courts. Our amendment will clear up any confusion in this regard and encourage additional jurisdictions to establish their own DWI Courts.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. HONDA. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I would just like to commend the gentleman for this amendment and for making the law clear about these courts. They have been an effective program.

We support the amendment, and thank the gentleman for his contribution.

Mr. EHLERS. Mr. Chairman, I rise in support of the Honda/Ehlers amendment.

The purpose of this amendment is simply to clarify and make explicit that DWI courts are eligible for funding under the Alcohol-Impaired Driving Countermeasures section of the bill.

It has become clear that the traditional process is not working for repeat drunk driving offenders. Punishment that is unaccompanied by treatment and accountability is an ineffective deterrent for the repeat DWI offender. The outcome for the offender is continued dependence on alcohol; the outcome for communities is the continued threat of drivers under the influence of drugs and alcohol.

DWI/Drug Courts are distinct court systems dedicated to changing the behavior of alcohol/drug dependent offenders arrested for DWI. The goal of DWI/Drug Courts is to protect public safety by attacking the root cause of DWI: alcohol and other drug abuse.

DWI/Drug Courts utilize all criminal justice stateholders (prosecutors, defense attorneys, probation, law enforcement, and others) along with alcohol/drug treatment professionals. This group of professionals comprises a "DWI/Drug Courts Team," which is usually accountable to the DWI/Drug Court judge who heads the team. The DWI/Drug Court Team uses a team-oriented approach to systematically change participant behavior. This approach includes identification and referral of participants early in the legal process to a full continuum of drug/alcohol treatment and other rehabilitative services. These courts have been very successful in Michigan, where approximately one-third of all DWI courts are located.

A five-year study conducted on the Lansing, MI DUI/Drug Court demonstrates a 13 percent recidivism rate for graduates of the DUI/Drug Court program versus 35 percent for a comparison group. Unfortunately, funding and resources are often an obstacle to starting DWI courts.

Adopotion of this amendment will deliver a clear and unmistakable message to the American people that Congress will take the necessary steps to stop drunk driving. It will send the clear and unmistakable message that we support the valuable work being done by DWI/Drug Courts.

Clarifying that DWI courts are eligible for funding will encourage more state and local courts to pursue these comprehensive, treatment-driven programs. I encourage my colleagues to support the Honda amendment.

Mr. HONDA. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HONDA).

The amendment was agreed to.

☐ 1245

The Acting CHAIRMAN (Mr. ADERHOLT). It is now in order to consider amendment No. 10 printed in House Report 109-15.

AMENDMENT NO. 10 OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. BARTON of Texas:

Before the closing quotation marks at the end of the matter proposed to be inserted as section 507 of title 23, United States Code, by section 5203 of the bill, insert the following:

(h) SOUND AND OBJECTIVE SCIENTIFIC PRACTICES.—

(1) IN GENERAL.—Assessments of risks to human health or the environment and research conducted under this section shall use sound and objective scientific practices. Assessments of risks to human health or the environment conducted under this section, where such an assessment concerns the evaluation of multiple studies, shall consider the best available science, and shall include a description of the weight of the scientific evidence.

(2) FEDERAL AGENCIES.—Federal agencies using studies funded under this section to conduct an assessment of risks to human health or the environment shall use sound and objective scientific practices in assessing risks, shall consider the best available science, and shall include a description of the weight of the scientific evidence.

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Texas (Mr. BARTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

I offer this amendment to make sure that the so-called scientific studies performed under the provisions of the bill are, in fact, based on science and not on anyone's view or preconceived notions of what science should be.

For too long, documents and studies performed on risk assessments on health and the environment have been produced that do not really reflect science, but rather a given policy bias mixed with elements of science. That document is then paraded forward, as if it were a true risk assessment.

I want to make sure that when the Federal Government asks for a risk assessment, that the response is based on sound and objective scientific practices. I also want to ensure that the assessor of those risks to human health and the environment consider the best available scientific information.

These types of requirements are not new. These are the same types of requirements we have enacted in law for the purpose of the Safe Water Drinking Act: and not surprisingly, those principles have worked very well.

With this amendment, we will also follow a related recommendation with the 1997 recommendation of the President's Commission on Risk Assessment and Risk Management. Specifically, the amendment asks assessors of risks to provide a description of the weight of the evidence concerning a given risk. In other words, when a new risk to our health or the environment is claimed in a study, those responsible for releasing the study must describe their understanding of what best science tells us about that risk.

The bill before us today contains a section providing for the Surface Transportation Environment and Planning Cooperative Research program. This section, among other items, addresses risk assessments of public health and the environment. These subject matters are within the jurisdiction of the Committee on Energy and Commerce. I want to ensure that these provisions reflect the congressional desire for sound science.

I want to thank the gentleman from New York (Chairman BOEHLERT) of the Committee on Science for his work and assistance in the base text of the language and also for his and his staff's assistance in working out the language of this amendment.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition to the amendment.

Mr. Chairman, how much time remains of the gentleman from Texas?

The Acting CHAIRMAN. The gentleman from Texas has 3 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, on the face of it, who could object to sound science, objective science? That is what science should be. But the thrust of this amendment is not in the words of the amendment. They are not going to get us to that point. The language says, in considering assessment of risks to human health and the environment, such an assessment, where an assessment concerns the evaluation of multiple studies, shall include the best available science and description of the weight of the scientific evidence. And further on, in subsection 2, a description of the weight. That is not objectivity. That is totally subjective. To start considering the weight of scientific evidence, that is not a scientific term in and of itself.

So I am all for science and for good science, but this language is going to obfuscate the evaluation of risks and open the door of opportunity for more lawsuits over what is meant by weight, multiple studies, available science. I think this goes directly in the opposite direction of the purpose of the gentleman from Texas.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

I want to make a brief comment and then recognize the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science. When the gentleman from Minnesota asked who could object to this, we know the answer. The good gentleman from Minnesota, my good friend objects to it. So that answers that question.

I would point out that the gentleman from Alaska (Chairman YOUNG) supports this, and the gentleman from New York (Chairman BOEHLERT) supports this, and the President's Council on Risk Assessment supports this language. It is language that is in current law for the Safe Water Drinking Act. So there are a number of eminent groups and individuals that do support it.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I rise in support of this amendment which relates to language that originated in the Committee on Science. The language of the amendment was negotiated between the Committee on Science and the Committee on Energy and Commerce. I, frankly, do not think that this amendment is especially necessary, but I feel comfortable with the language.

The language we worked out does not allow any political interference with science, nor does it set any new standards for science. It does not raise any legal hurdles for scientists or agencies. It is a simple statement of what we expect from scientific research and the use of that research, particularly risk assessments.

What we expect is what any scientist would expect, which is that the researchers strive for objectivity and use the best available scientific practices, and that when the literature review is done for a risk assessment, that that review look at the best available science and that it describe where the weight of the scientific evidence is.

It is pretty hard to imagine a case where that would not be done, which is why I do not think the amendment is of any urgency; but I think the language we worked out with the gentleman from Texas (Chairman BARTON) is fair and balanced and limited; and therefore I support it.

Mr. OBERSTAR. Mr. Chairman, can I inquire of the Chairman how much time remains on the side of the gentleman from Texas.

The Acting CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 1½ minutes to the gentleman from Tennessee (Mr. GORDON).

Mr. GORDON. First of all, Mr. Chairman, let me point out that the scope of this amendment exceeds the jurisdictional boundaries of the underlying bill. In fact, it exceeds the jurisdictional boundaries of the Committee on Transportation and Infrastructure.

It appears to amend all laws administered by all Federal agencies that may use information from this program in a human health or environmental assessment. This is a poor precedent to establish.

If we have concerns about Federal agencies using high-quality scientific information, we should address those concerns through oversight and legislation done in our respective committees in a manner tailored to fit the individual agencies where the laws were administered.

This amendment will do nothing to improve the quality of science produced by this program or ensure the proper use by the Federal agencies. For that reason, I would ask that this amendment be defeated.

Mr. BARTON of Texas. Mr. Chairman, I believe I have the right to close, and I am ready to close if the gentleman from Minnesota is ready.

Mr. OBERSTAR. Mr. Chairman, our side has the right to close. I await the arguments on the part of the gentleman from Texas.

The Acting CHAIRMAN. The gentleman from Minnesota has the right to close.

Mr. BARTON of Texas. I thought the author of the amendment had the right to close.

The Acting CHAIRMAN. The manager in opposition has the right to close.

Mr. BARTON of Texas. Mr. Chairman, I yield myself the remaining time.

My first response to my good friend, the gentleman from Tennessee (Mr. GORDON), who is a member of both the Committee on Science and the Committee on Energy and Commerce, is that he is right that this amendment exceeds the jurisdiction of the Committee on Transportation and Infrastructure. That is why it was offered by the chairman of the Committee on Energy and Commerce, because it does not exceed the jurisdiction of the committee that I chair and has been worked out in conjunction with the chairman of the Committee on Transportation and Infrastructure and the chairman of the Committee on Science. So if you put us all in the same tent collectively, it does not exceed the jurisdiction.

The language that we are using is language that was put forward initially by a Presidential commission under President Clinton's administration in the mid-1990s, and it is their language that we are incorporating into the amendment. So this is not some subterfuge to use Republican language or conservative language; it is language that was originally adopted and supported by President Clinton in his administration.

All we are trying to do with this amendment is make sure that as various projects come forward and we need to do investigations and risk assessments, that it be done based on sound scientific principles. I think that is an issue that both sides can agree upon, and I would urge a "yes" vote on the amendment.

In my view, the CMAQ program—like any use of tax dollars—should be applied as cost effectively as possible to achieve appropriate Federal policy goals.

A recent study suggests some CMAQ uses—such as building bike paths—do little to relieve either congestion or air pollution, which are the policy goals of CMAQ. The Transportation Research Board study estimates that bike paths funded with CMAQ money cost the taxpayer on average $80,000 per ton of pollution removed. If this study is correct, in my view, CMAQ dollars can and should be better spent.

New technologies have recently proven very cost effective in reducing pollution. For example, diesel retrofit and anti-idling technologies are having positive results around the Nation. Retrofit technologies—which are being used in the President's Clean School Bus program are much like the catalytic converter on your car. These devices are capable of removing 80 to 90 percent of the pollutants from the exhaust of a diesel engine. The increased use of these technologies in other sectors of the economy should be encouraged.

Any steps we can take to clarify that CMAQ money can be spent to deploy a new crop of technologies including retrofits and anti-idling devices that are highly effective at reducing emissions from diesel engines makes good sense. Our states are scrambling to find ways to deal with the new EPA designations without jeopardizing economic development. Using CMAQ funds more wisely may help us out a great deal.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I believe this would become the lawyers' full employment act, and the other side of the aisle is not usually avidly supporting the lawyers, because this is so vague, a description of the weight of scientific evidence. How would we weigh it? Do we weigh it physically? Do we weigh it on a molecular basis? What is the weight?

I expect that this would lead to lengthy and contentious litigation at great expense to the taxpayers and basically inhibit government agencies from using the best available science. It is too vague. It should be defeated.

Mr. OBERSTAR. Mr. Chairman, how much time do I have remaining?

The Acting CHAIRMAN. The gentleman from Minnesota has 2 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield myself the remaining time.

Let me first make it clear that the language of this amendment was not worked out with staff on our side, nor by the majority staff. I represent on this issue the bipartisan position of the committee in opposition.

We have seen the dangers of manipulated science. The tobacco industry produced study after study trashing the impact of smoking and secondhand smoke, only to be overturned in case after case and by Federal Government health agencies. This year, we have seen the dangers of industry-funded studies on Vioxx and Celebrex, and those two drugs have been withdrawn. Was that done on the basis of weight of evidence? Such a vague and subjective standard.

Mr. Chairman, the National Academy of Sciences is the authority that we frequently turn to in the Committee on Transportation and Infrastructure and in the transportation community. They oversee transportation environmental research. They, the National Academy of Sciences, truly are the gold standard. They do not play around the edges with such vague terms as "weight of evidence." They evaluate the evidence. They make scientific judgments. They come to good science-based conclusions. That is where we ought to go; and if the gentleman were serious about this issue of getting very objective scientific evidence to bear on environmental issues of health or environment, subject it to review of the National Academy of Sciences. That would be standard enough for us. We would let it ride at that. But as it stands, I must oppose the amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BARTON).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. BARTON) will be postponed.

It is now in order to consider amendment No. 11 printed in House Report 109–15.

### AMENDMENT NO. 11 OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. SHADEGG:

At the end of subtitle A of title I, add the following (and conform the table of contents of the bill accordingly):

**SEC. 1126. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.**

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i) by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or particulate matter (in this paragraph referred to as 'PM–2.5 or PM–10')" ;

(B) by striking clause (i) and inserting the following:

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi) by striking "or" after the semicolon;

(D) in clause (vii)—

(i) by striking "area as described in section 149(b) for ozone" and inserting "area for ozone (as described in section 149(b)) or for PM–2.5 or PM–10"; and

(ii) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated as nonattainment under the PM–2.5 or PM–10 standard.";

(2) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(4) by inserting after subparagraph (C) the following:

"(D) ADDITIONAL ADJUSTMENT FOR PM–2.5 OR PM–10 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both, as described in section 149(b), any county within the area was also designated under the PM–2.5 or PM–10 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.".

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Arizona (Mr. SHADEGG) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

□ 1300

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment seeks to address a significant air quality issue facing many of our communities and our constituents.

Our Nation faces a serious air quality problem with tiny particles of dust and chemicals otherwise known as particulate matter. Particulate matter is a health hazard because people breathe it in and the human respiratory system cannot filter the particles out because they are so small.

Thirty States have areas with particulate matter problems and over 100 million Americans live in communities facing this issue. Many scientific studies have linked the breathing of particulate matter to a series of health problems, including aggravated asthma, chronic bronchitis, decreased lung function and also premature death.

Particulate matter is also the major cause of haze and reduced visibility in many parts of the country. That is precisely the reason why Congress required communities to achieve air quality standards for these small particulate matters under the Clean Air Act.

The EPA has accordingly established two standards for particulate matter. One is PM–10, which is a fairly fine particulate matter, and the second is PM–2.5 which is extremely fine particulate matter. Both are produced by vehicles driving on both paved and unpaved roads, and neither PM–10 nor PM–2.5 can be filtered out by the human respiratory system.

Current law allows States to use funds provided through the Congestion Management Air Quality Improvement program, known as CMAQ, to achieve compliance with particulate matter. However, the current allocation formula for funding under that law does not make any reference to or include particulate matter. This leads to significant funding shortfalls with regard to dealing with particulate matter problems.

My amendment seeks to correct this inequity by adding both the EPA standards for particulate matter for PM–10 and PM–2.5 to this allocation formula. The language is essential because it will greatly aid areas with particulate matter pollution problems in meeting the air quality standards, particularly the emissions of these pollutants from roads.

Measures which States and counties are required by law to take to deal with particulate matter problems include purchasing specially designed street sweepers; curbing, paving and stabilizing the shoulders of paved roads; paving, vegetating and chemically stabilizing access points and unpaved roads; the timing of traffic lights; and using unformulated gasoline.

Again, this is a serious issue facing our communities. It directly affects my constituents and those of many of my fellow colleagues.

My amendment would make the CMAQ program more equitable in its allocation of resources and would recognize the significant air quality concern which is currently overlooked in the programs' funding formula.

I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Arizona (Mr. SHADEGG) raises a very serious matter, modifying the Congestion Management and Air Quality Improvement provisions in current law and the formula.

The manner in which the gentleman proposes to do this is a little more complicated than I think is appropriate to resolve in amendment form on the floor. But I, in cooperation with the chairman of the full committee, believe we can work this out with the gentleman from Arizona (Mr. SHADEGG) as we proceed to conference.

If the gentleman is inclined to withdraw the amendment, having given a very thoughtful discussion of it, I believe as we did last year in the effort to reach a bill which we ultimately did not, not for this reason but for other reasons, that we can work this matter out.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, as we have discussed, this is an issue which I raised last year and on which the gentleman graciously agreed to address, both the gentleman and the full committee chairman, in the conference.

It is a complicated issue. When we dealt with this issue last year, one of these two pollutants had been included in the bill on the Senate side; the other had not. So our concern was to make sure that, if we dealt with one, we should deal with both because some States are confronted by a problem by one of those, and some States are confronted by a problem with the other. Quite frankly, some States have both. But I am prepared at the right point in time to withdraw the amendment based on my understanding from both the full committee chairman and the ranking member that this is an issue which can be addressed. It is indeed a more complicated issue than can be dealt with in a floor amendment and it can be addressed in conference. And based on the assurances I received I am more than willing to do that.

I am not anxious to do it now because I have one gentleman who would like to speak to the issue, but once he has had a chance to do so I will be happy to proceed as agreed.

Mr. OBERSTAR. Mr. Chairman, I assure the gentleman that we will reach in every good faith a resolution to this matter.

Mr. Chairman, I reserve the balance of my time.

Mr. SHADEGG. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Chairman, I thank the gentleman from Arizona (Mr. SHADEGG) for yielding me time.

Mr. Speaker, I rise in support of the gentleman's amendment. I believe that the Federal government and the Congress need to be part of the solution to cities around the country that are in non-attainment status.

This amendment is a good step in providing relief for cities such as Columbus, Georgia, in Muskogee County, part of my 11th Congressional District, that only recently has been designated non-attainment, and it is non-attainment of this PM-2.5 that the gentleman from Arizona (Mr. SHADEGG) was just talking about, these tiny 2.5 or below microparticulate matter.

We can save for another day, I guess, the debate over particulate matter non-attainment and whether cities such as Columbus should be designated as such. But today, I would like to say thank you to the gentleman from Arizona (Mr. SHADEGG) for offering this amendment that will allow funding to be provided to these cities.

I understand the gentleman may withdraw the amendment. I appreciate the ranking member being willing to work with him on trying to resolve this. But on behalf of the people of Muskogee County and the City Columbus and Phoenix City, Alabama, as well, I think this is a good idea and I commend the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I affirm my willingness to work with the gentleman and the chairman to resolve this matter as we proceed to conference on withdrawal of the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SHADEGG. Mr. Chairman, based on the representations of both the chairman of the committee and the ranking member, their gracious willingness to work on this issue as it moves to conference and their acknowledgment that it is a serious concern, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN (Mr. HEFLEY). Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment number 12 printed in House Report 109–15.

AMENDMENT NO. 12 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. FLAKE:

At the end of section 1103 of the bill, add the following:

(e) SUBTRACTION OF EARMARKS FROM SURFACE TRANSPORTATION PROGRAM FUNDING.—Section 104(b)(3) of title 23, United States Code, is amended—

(1) in subparagraph (B) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (C)"; and

(2) by adding at the end the following:

"(C) SUBTRACTION OF EARMARKS.—

"(i) IN GENERAL.—Amounts to be apportioned to a State under subparagraph (A) for each of fiscal years 2004 through 2009 shall be reduced by the aggregate amount made available to the State (and recipients in the State) out of the Highway Trust Fund for that fiscal year for projects described in sections 1702, 3037, and 3038 of the Transportation Equity Act: A Legacy for Users.

"(ii) EFFECT ON MINIMUM GUARANTEE.—In determining a State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) for purposes of section 105 for a fiscal year, the Secretary shall treat amounts subtracted under clause (i) for that fiscal year as amounts apportioned to the State for the surface transportation program for that fiscal year.

"(iii) REAPPORTIONMENT.—Amounts subtracted from a State for a fiscal year under this subparagraph shall be reapportioned among the States under the formula in subparagraph (A).".

The Acting CHAIRMAN. Pursuant to House Resolution 144, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in years past, I have offered this amendment as well. My concern with the highway bill is that there are so many earmarks totaling over $11 million in last year's bill and somewhere similar this year that those earmarks come off the top, and it decreases the amount of money made available to Arizona in the end.

My amendment would fund the earmarks under the line, meaning that the earmarks would come out of a State's formula, not off the top, meaning that my formula in Arizona would be diminished for earmarks in Vermont or Alaska or another State.

My amendment, I should point out, would neither strike nor prevent Members from securing earmarks for their district. It would, however, put the discussion for State priorities where it belongs, at the State levels or among State delegations. Members of my delegation from Arizona, for example, could get together and say we are not convinced that our State Department of Transportation is putting the right priority on this area or this area, or, politically, they are ignoring my district, for example. Those are decisions that could be made there; but other States should not be penalized by our earmarks. And that is what has happened in years past. I just want to make sure that it does not.

I would like to ask the chairman or the ranking minority member if they are willing, after offering this amendment, my understanding is that the manager's amendment actually contains language to fund earmarks below the line and do much of what my amendment intended to do.

My concern is that the criteria for earmarks that will still be funded above the line may be a little too loose and that, in the end, those earmarks will end up coming out of my State's formula as well.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment gets to the guts of the bill that we are presenting to the House today. A similar amendment, maybe even the exact language of this amendment, was overwhelmingly defeated last year by a vote of 367 to 60. The intent of the amendment is simply to reduce a State's apportionment under the Surface Transportation Program dollar for dollar by the authorizations that Members of that State receive for highways and transit high-priority projects and require the Secretary to use a revised apportionment that includes the offset in determining the State's rate of return.

The amendment punishes States that do well in high-priority projects and transit new starts and redistributes those dollars elsewhere. That is contrary to the entire intent of this legislation. Members should have a say in the distribution of the dollars under this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my understanding of the gentleman from Minnesota (Mr. OBERSTAR), if he will clarify, my understanding is that the manager's amendment did contain language to actually fund the earmarks below the line, meaning that they actually will and much of this amendment is actually contained in the bill already. Is that not the case? Because if so, there is no way we can come anywhere close to reaching the 92.6 that has been, if not guaranteed, bandied about.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, we reached a delicate balance in extensive negotiation between the majority and minority, between the leadership in a formula that is spelled out in the manager's amendment that accomplishes the goal in real terms of achieving 92.6 percent return for all States.

Mr. FLAKE. Reclaiming my time, if the chairman would chair, my understanding is, and if the gentleman would clarify, that the guts of this amendment is already contained in the manager's amendment. If that is the case, then I am willing to consider withdrawing. But what I want to make sure is that the earmarks that are still funded, and according to news reports this morning, earmarks will still be funded above the line that are regional in nature or regional in national significance. I just want to make sure there is criteria for those that will not start pulling other earmarks above the line, therefore diminishing the amount of return that my State gets.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I do not believe the gentleman's State will get any less money under what we propose. It will be at 92.6, and the problem with this amendment is that it is the Flake amendment and that is the number one problem. I will tell you very frankly, after stressing that we worked very closely with the leadership, with everybody trying to reach a solution with the amount of dollars we have and still in fact take care of those Members that believe in fact they should have a say about some monies that go into their State and where it goes. The idea that collectively you will sit down with your fellow Members and you will arrive at a decision and you have got two senators over there, you can forget it because that is not going to happen. And this is the one time Members themselves have an opportunity to make a decision for the State in their district.

California, in which I believe has 52 Congressman now. I have some areas that have never got a nickel of Federal monies because of Caltrain who spends it all in the larger populated areas. That is the unfortunate fact of life. Because the Department of Transportation is not always right on the transportation needs for individual districts, and this is the House of the people. And if I thought for one moment that any of these dollars were spent for anything other than transportation, I would be frankly against it. But every dollar being spent is for transportation. And this is the one time every 6 years that there is an opportunity to, in fact, advance for each of the Members' district, and if you do not choose to do that, that is your prerogative. But to have other Members to be deprived of that opportunity, I think, is inappropriate.

□ 1315

The gentleman and I have discussed this amendment for quite a while, and I can just about assure him I have committed to the donor States that we would be able to, in fact, reach that 92.6, and it will be in the final version of the bill when it goes to the President's desk.

The Acting CHAIRMAN (Mr. HEFLEY). The gentleman's time has expired.

Mr. OBERSTAR. Mr. Chairman, how much time remains on my side?

The Acting CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) has 4 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

The chairman of the full committee has explained the issue very well. The point of inviting Members to submit for designation by the committee projects of great significance within their districts acknowledges the reality that not all wisdom in investing transportation dollars resides in State DOTs.

That is why the Federal Highway Administration does not make these decisions. The dollars go from the Highway Trust Fund through the Federal Highway Administration out to the States to make decisions and when a road or a bridge is not built or improved, or a transit system investment is not made, our constituents come to us, Members of Congress, you are out there in Washington, you vote on this legislation, you vote for the Highway Trust Fund, you set up the policies by which those dollars are invested, and we are not getting the investment that we need. So they come to us, and it is for us to serve as a correction to State DOTs, and that is what we do in this process.

Now, in including Member high-priority projects in the minimum guarantee, we have reached the 92.6 percent return on equity to the States, resolving the issue and the problem the gentleman from Arizona has raised.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, in all due respects to my good colleague from Arizona, I would appreciate it if he would withdraw the amendment. We know what he is trying to do, and I have told the leadership we are going to get to where he wants to go. If my colleague insists on a vote, I will reluctantly have to vigorously oppose it.

So I would like to make a suggestion. Discretion is the better part of valor.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I do, with the understanding that we do reach the 92.6 and understanding that we can only do that if we include earmarks under the line. Frankly, if my colleagues do the math, that is the only way we can. That is why I was pleased to see that the manager's amendment did contain that provision.

My concern is, and the gentleman from Alaska, my good friend, did mention that every dollar goes toward transportation. It is simply not the case. I read the bill last night, and some of it, some of it, but I did not have to read all of it.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I think the gentleman has made his case. Our side has made the case, and we have the right to close, and I assure the gentleman from Arizona that the interests of the State of Arizona are well cared for in this legislation and of all the States and the agreement that is embodied in the manager's amendment was reached at the very highest levels of policy within this body and on the majority side, and we have to reject the gentleman's amendment, and I would, in fact, urge him to withdraw the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. HEFLEY). Does the gentleman from Arizona (Mr. FLAKE) withdraw the amendment?

Mr. FLAKE. I have the right to close. I do have a minute to close.

The Acting CHAIRMAN. The gentleman's time has expired.

Mr. FLAKE. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

### VACATING DEMAND FOR RECORDED VOTE ON AMENDMENT NO. 10 OFFERED BY MR. BARTON OF TEXAS

Mr. OBERSTAR. Mr. Chairman, I ask unanimous consent to vacate the proceedings by which a recorded vote was requested on the Barton amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Acting CHAIRMAN. Without objection, the request for a recorded vote is vacated and the amendment is adopted pursuant to the voice vote announced by the Chair.

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCHUGH) having assumed the chair, Mr. HEFLEY, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

## MODIFICATIONS TO AMENDMENT NO. 1 OFFERED BY MR. YOUNG OF ALASKA TO H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3 in the Committee of the Whole pursuant to House Resolution 144, the first amendment printed in House Report 109–15 be considered to have been adopted with the modifications I have placed at the desk.

The SPEAKER pro tempore. The Clerk will report the modifications.

The Clerk read as follows:

Modifications to amendment No. 1 offered by Mr. YOUNG of Alaska:

In the first paragraph on page 25 of the amendment, strike "and strike '$1,250,000' " and all that follows through " '$2,750,000' ".

On page 69 of the manager's amendment, after the amendment relating to item 864 of the table contained in section 1702 of the bill, insert the following:

In item number 492 of such table, strike "$3,000,000" and insert "$4,000,000".

In item number 498 of such table, strike "$2,500,000" and insert "$3,500,000".

In item number 1830 of such table, strike "$2,000,000" and insert "$3,000,000".

In item number 2767 of such table, strike "$3,000,000" and insert "$4,000,000".

In item number 3442 of such table, strike "$400,000" and insert "$500,000".

In item number 3443 of such table, strike "$300,000" and insert "$1,500,000".

In item number 968 of such table, strike "$5,000,000" and insert "$7,000,000".

In item number 508 of such table, strike "$1,107,000" and insert "$1,827,000".

In item number 1632 of such table, strike "$2,000,000" and insert "$2,880,000".

On page 89 of the manager's amendment, at the end of such table add the following:

HIGH PRIORITY PROJECTS

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3632 | CA | Reconstruct SR 1 from Westport to Marshall | $9,000,000 |
| 3633 | IL | Highway Construction on RT 1 between RT 14 and RT 9 | $9,000,000 |
| 3634 | IL | SR 127 from Raymond to Unity | $9,000,000 |
| 3635 | CA | Improvements to US 101 | $11,000,000 |
| 3636 | IA | Construct Rt 20 from Rockway City to Epworth | $5,000,000 |
| 3637 | CA | I-8 from San Diego to Kama | $8,000,000 |
| 3638 | CA | I-15 from Escondido to Barstow | $12,000,000 |
| 3639 | CA | Widening and improvements to RT 14 from RT 126 to RT 178 | $9,525,000 |
| 3640 | IL | Bicycle and Pedestrian improvements in Georgetown and Middletown | $6,000,000 |
| 3641 | AZ | Safety Improvements to I-10 from SR 60 to Route 83 | $11,000,000 |
| 3642 | KS | Northwest Bypass between K96 and 119th Street West | $2,000,000 |
| 3643 | CA | Safety improvements to SR 99 | $12,000,000 |
| 3644 | IL | Construct I–70 from Greenville to Marshall | $9,000,000 |
| 3645 | CA | I-40 from Barstow to Needles | $9,000,000 |
| 3646 | AZ | Improvements on I–40 from Kingston to Navajo | $8,000,000 |
| 3647 | AZ | ITS related improvements on Interstates in AZ | $6,000,000 |
| 3648 | IA | Rehabilitate US 680 from SR59 to Des Moines | $5,000,000 |
| 3649 | CA | Resurfacing and Reconstruction of US 395 from RT 18 to RT 168 | $12,000,000 |
| 3650 | IL | Improve I–74 from Colona to Mahomet | $8,000,000 |
| 3651 | CA | Safety improvements to I-5 from Santa Clarita to Haron | $11,000,000 |
| 3652 | IL | US 67 highway safety improvements from Godfey to Viola | $10,000,000 |
| 3653 | OH | Safety improvements to US 35 from Jamestown to Winchester | $8,000,000 |
| 3654 | CA | Construct Transportation Enhancements on SR 1 between RT 246 and RT 192 | $8,000,000 |
| 3655 | IL | Reconstruct I–57 from Frankfurt to Masoon | $9,000,000 |
| 3656 | CA | ITS improvements to reduce congestion on I 405 from RT 118 to RT 36 | $10,575,000 |
| 3657 | IL | Construction on I–80 from Geneseo to Joliet | $9,000,000 |
| 3658 | IA | Safety enhancements along Rt 30 from Carroll to Dewitt | $4,000,000 |
| 3659 | IL | Reconstruction on RT 40 from US 52 to RT 90 | $8,000,000 |
| 3660 | IL | Safety related improvements on RT 100 from US 136 to RT 16 | $9,000,000 |
| 3661 | IL | Construct I–55 from Bolingbrook to Gardner | $10,000,000 |
| 3662 | AZ | Construction of Route 77 from Route 277 to Route 80 | $9,000,000 |
| 3663 | OH | Reconstruction of I–71 from Cincinnati to Columbus | $8,000,000 |
| 3664 | IL | Make safety improvements to I–94 from Chesterton to Deerfield | $9,000,000 |
| 3665 | IL | Acquire land for Environmental Mitigation to preserver wildlife habitate connectivity along US 51 from RT 161 to RT 10 | $8,000,000 |
| 3666 | CA | Construct I–80 from Truckee to Fairfield | $8,000,000 |
| 3667 | NC | Construct highway widening and safety improvements on Rt 301 between Rt 125 and Little River | $5,000,000 |
| 3668 | SC | Construction of operational improvements and purchase of ITS infrastructure on the I–26 corridor | $6,500,000 |
| 3669 | MI | Highway beautification of Rt 52 between Tr 46 and Fairfield | $4,000,000 |
| 3670 | TX | Resurfacing and Reconstruction on Rt 19 between Rt 71 and Rt 7 | $5,000,000 |
| 3671 | IN | Highway-rail crossing safety related improvements on Rt 37 between US 35 and US 50 | $7,000,000 |

HIGH PRIORITY PROJECTS—Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3672 | AZ | Pave remaining stretch of the Turquoise Trail, BIA Route 4, which is a north-south road that joins AZ HW 160 in the north to AZ HW 264 in the south portion of BIA Route 4 | $2,000,000 |
| 3673 | AK | Improve marine intermodal facilities in Ketchikan | $25,000,000 |
| 3674 | DC | Highway improvements to improve access to the Kennedy Center | $5,000,000 |
| 3675 | MN | Construction of four lanes on Hwy 53 between Virginia and Cook and construction of two passing lanes between Cook and International Falls | $7,000,000 |
| 3676 | OR | McKenzie highway enhancements, Lane and Linn Counties | $3,100,000 |

In item 159 of the table contained in section 3038, strike "$640,000" and insert "$960,000", strike "$660,000" and insert "$990,000", and strike "$700,000" and insert "$1,050,000".

On page 98 of the manager's amendment, at the end of the table of projects for bus and bus-related facilities, add the following:

| Project | FY 06 | FY 07 | FY 08 |
|---|---|---|---|
| 441. St. Paul, MN Intermodal Center | $1,440,000 | $1,485,000 | $1,575,000 |
| 442. Albany, OR North Albany park and ride | $256,000 | $264,000 | $280,000 |
| 443. Portland, OR Tri Met bus replacement | $384,000 | $396,000 | $420,000 |

On page 158 of the manager's amendment, strike subparagraph (C) of section 5403(1) that is proposed to be added at the end of subtitle D of title V by the manager's amendment and insert the following:

(C) by striking "300,000 and that" and inserting "300,000,"; and

Mr. YOUNG of Alaska (during the reading). Mr. Speaker, I ask unanimous consent that the modifications be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Alaska?

There was no objection.

## MAKING FINAL PERIOD OF GENERAL DEBATE PURSUANT TO HOUSE RESOLUTION 144 IN ORDER PRIOR TO DISPOSITION OF AMENDMENTS TO H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3 in the Committee of the Whole, pursuant to House Resolution 144, the final period of general debate may be in order before the disposition of amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

## TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore. Pursuant to House Resolution 144 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3.

□ 1322

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. HEFLEY (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 12 by the gentleman from Arizona (Mr. FLAKE) had been disposed of.

Pursuant to the order of the House of today, it is now in order to conduct a period of final debate on the bill.

The gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 5 minutes.

Does the gentleman from Oregon (Mr. DEFAZIO) claim the time?

Mr. DEFAZIO. Mr. Chairman, I claim the time on behalf of the gentleman from Minnesota (Mr. OBERSTAR) as the subcommittee ranking member.

The Acting CHAIRMAN. The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume, and I further yield to the gentleman from South Carolina (Mr. SPRATT) for a colloquy.

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from South Carolina (Mr. CLYBURN) and I had an amendment that we filed yesterday to forgive the debt owed by the Pee Dee Regional Transit Authority to the Federal Transit Administration. We are not going to bring this amendment up for a vote, but I would like to engage my colleague, the gentleman from Alaska (Chairman YOUNG) in particular, in a colloquy on this issue if agreeable.

Mr. Chairman, the Pee Dee Regional Transit Authority, PDRTA, is responsible for transportation and transit services in an area which encompasses 20 percent of South Carolina, more than 5,300 square miles in some of the most poorest, most rural areas of our State.

In the year 2000, the Federal Transit Administration's triennial review found that PDTRA had incorrectly used revenues from contract services as local match for operating assistance grants. The PDRTA finance director at that time determined that PDRTA owed an amount of $895,083 to the FTA, although this number has not been verified by audit by the FTA.

PDTRA has completely replaced their management, reformed their business practices, and begun quarterly payments on the debt of around $20,500. With an overall budget of $3.5 million, these quarterly payments have crippled their ability to expand services and to improve access to jobs and medical facilities in this underserved region.

For this reason, the regional administrator of the FTA expressed in a January 31, 2001, e-mail to me that he supports PDTRA's efforts to obtain debt forgiveness. The gentleman from South Carolina (Mr. CLYBURN) and I both support the regional PDTRA administrator's position in favor of debt forgiveness. I am just asking the chairman and ranking member for help in trying to resolve this matter in conference.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, the regional transit authorities are important to transportation in rural areas. I would be happy to discuss this matter further with the gentleman from South Carolina (Mr. CLYBURN) and the gentleman to determine whether we can help with the problems in South Carolina.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, like the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Mr. OBERSTAR) and I believe strongly in the importance of regional transit authorities and will work with the gentlemen from South Carolina (Mr. CLYBURN) and (Mr. SPRATT) to find an agreeable solution to this issue in conference.

Mr. SPRATT. Mr. Chairman, if the gentleman would further yield, I thank both gentlemen and look forward to working on this issue as the conference committee begins its deliberations. I thank the gentleman very much for this opportunity.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I yield myself 2 minutes.

Again, I want to thank the chairman of the full committee, chairman of the subcommittee, ranking member, the gentleman from Minnesota (Mr. OBERSTAR), the staff members, the leadership in the House, everyone who has contributed to what I think is an extraordinary product in this bill.

This bill is going to make vital investment in the crumbling infrastructure of the country to refurbish it, maintain it, improve it. It is going to anticipate growth needs and congestion. It is going to contribute to the growth of our economy. It is going to put tens of thousands, hundreds of thousands of people to work, and we do all this without borrowing any money, creating anymore deficit or debt. That is the most extraordinary thing about this bill and the most notable achievement.

We, unlike many other Federal programs, have an investment that is totally paid for by the taxpayers and will be of tremendous benefit to those same taxpayers. The money will be spent in the manner in which it was intended when it was collected from individuals and from commercial drivers at the pump, and this will be, I believe, the signature domestic legislation of this Congress in terms of the positive impact on the economy of our country.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I echo the words of my good friend, the gentleman from Oregon (Mr. DEFAZIO) and, of course, the gentleman from Minnesota (Mr. OBERSTAR), the ranking member.

I would also like to not only thank my staff but everybody who has dealt with me for the past 4 years on this legislation. This is a very frustrating position to be in when the cash flow is not really what we wanted it to be and yet trying to achieve what is necessary for this country, and that is a good infrastructure system.

I am convinced that we will be revisiting this issue when this bill is on the President's desk in the years coming because we have a real challenge in this great Nation of ours. We have heard it time and again about how people are delayed and how product is delayed and how our bridges are crumbling, our roads are crumbling. These are not myths. These are actual facts. It was testified before us that we actually need probably $500 billion to make sure this country keeps moving, to be competitive with that competitive China.

So this is just a small step forward, and I will agree with my friend from Oregon; I do believe this will be the premier domestic legislation that we will pass that will affect more lives immediately than any other piece of legislation we will have before this body in the next 14 months.

I am proud of the fact that we have been able to do this in a bipartisan fashion. I am proud of the fact that we have been able to, in fact, craft this bill, and there has been lots of cooks in this kitchen, but we have managed to bring everybody together, and I think come out with a very, not think, I know, a very good product in TEA–LU.

Now, we are going to go to the Senate after I hope everybody votes for this legislation. We will go to the Senate. God willing, they will move something, and we will have this bill done before the first of June.

□ 1330

And for that I thank each Member of this House, for participating in the process and showing the public how this House can work together to produce a product for the benefit of this Nation.

Mr. Chairman, I yield back the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I yield the balance of my time to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member.

Mr. OBERSTAR. Mr. Chairman, the gentleman from Alaska (Mr. YOUNG), our chairman, expressed it very well. We are on the brink of a new era in transportation, with a substantially increased investment in transportation. It is and will be, as the title of this bill describes, transportation equity and a legacy for users, a legacy of a substantially increased investment in surface transportation; highways, bridges, and safety, over $6 billion, over the next years of this legislation.

There is substantial investment in transit, the fastest growing segment of transportation over the last 5 years, adding 1 million new riders a day in transit systems. New innovations, truck lanes that the chairman has strongly advocated will be part of this legislation: increased funding for ferry service, to take more pressure off our roads. The environmental provisions of this provision are far-reaching, forward-looking, and visionary. We have a good beginning on this legacy for users of our transportation system, properly named.

In coming to this point, I, of course, want to thank our chairman, as I have done at the outset, for his leadership and standing firmly for the $375 billion we truly ought to be investing in transportation, but with the opener we have the opportunity to come back and do this again. And also thank you to the chairman of the subcommittee, the gentleman from Wisconsin (Mr. PETRI), and my very good friend and partner, the gentleman from Oregon (Mr. DEFAZIO), who is our ranking member on the Subcommittee on Highways, Transit & Pipelines.

Also our committee staff on both sides have worked tirelessly and selflessly toward this objective: Dave Heymsfeld, Ward McCarragher, Kathie Zern, Dara Schlieker, and Jen Walsh.

Ken House, Art Chan, Stephanie Manning, and Eric Van Schyndle, who spent an enormous amount of time on the Member high-priority projects. Beth Goldstein, and from the staff of the gentleman from Oregon (Mr. DEFAZIO) Kathie Dedrick.

We have also had unsúng heroes and heroines: our unpaid interns Lauren Reed and Homer Carlisle.

The Legislative Counsel's office: Dave Mendelsohn, who I have known for years and who is a fount of knowledge on the crafting of the right legislative language; Curt Haensel and Rosemary Gallagher.

And Susan Binder and Ross Chrichton from the Federal Highway Administration.

That old African adage that it takes a village to raise a family, well, it really took a village of staff, of Members, of support, of participation by the leadership to produce this child, this Transportation Equity Act, this Legacy For Users. Let us move forward to make this the Transportation Century.

Mr. HASTERT. Mr. Chairman, I rise today in support of H.R. 3.

I'm glad this day has finally come. This is one of the most important bills this Congress can pass.

I designated this Highway and Transit Reauthorization as H.R. 3 because of its importance as the economic growth and jobs bill for this legislative year.

It's estimated for every $1 billion we spend on road construction, nearly 48,000 jobs are created.

But it's more than just jobs. We need an adequate infrastructure to move people and the materials they make efficiently.

With more than 67 percent of the Nation's freight moving on highways, economists believe that our ability to compete internationally is tied to the quality of our infrastructure.

In an era of just-in-time delivery and an increasingly global economy it is unacceptable that traffic congestion currently affects 33 percent of all travel on America's major roadways; leading to 3.6 billion hours of delay each year.

I congratulate Chairman YOUNG and the Transportation and Infrastructure Committee for producing a bill that addresses this Nation's need for a transportation system suited to the 21st century's economy.

Further, Chairman YOUNG and the Committee have written a fiscally responsible bill at a $283.9 billion funding level that fits within our budget and that the President can sign.

Given the demands of the infrastructure needs and the delicate balance that must be maintained among competing interests for highway and transit funds, this is no small accomplishment.

Today, the House of Representatives will prove that it is possible to pass a fiscally responsible Highway bill.

It is now up to the other body to quickly match our effort and get into conference so this legislation can be enacted into law before this year's construction season passes for States in the North.

The time is over for any further delay in reauthorizing these vital infrastructure programs.

For 2 years, uncertainty and delay over establishing multi-year funding levels has hampered our and the States' ability to plan for and build transportation systems.

In conclusion, I want to thank Chairman YOUNG, Ranking Member OBERSTAR and the members of the Transportation and Infrastructure Committee for producing this legislation.

To quote our Majority Leader TOM DELAY—who was also instrumental in getting us to this point—it is time to "get it done."

Mr. CROWLEY. Mr. Chairman, I rise today in strong support of this legislation.

I would like to commend the efforts of Chairman YOUNG and Ranking Member OBERSTAR as well as Subcommittee Chairman PETRI and Ranking Member DEFAZIO for their tireless efforts on crafting a strong bipartisan bill.

As we all know, this legislation has been a long time coming and I would like to extend my gratitude to these four men for the work they have done to produce such a strong bipartisan bill.

In today's current environment in the House, it is really a testament of how Chairman YOUNG and Mr. OBERSTAR run the committee and put the needs of United States infrastructure before partisan issues.

This is one of the most important pieces of legislation for me because of the benefits it will provide to my district.

Without the leadership of Mr. YOUNG, OBERSTAR, PETRI, and DEFAZIO and the incredible staff they have on the Transportation and Infrastructure Committee our Congressional Districts would still be waiting for the much needed funding to repair and improve of roadways.

I would like to thank you on behalf of my constituents for all the work you have done.

Mr. GERLACH. Mr. Chairman, I rise in support of H.R. 3 and commend Chairman YOUNG and Ranking Member OBERSTAR for their hard work in bringing this bill to the floor. As a Member of the House Transportation and Infrastructure Committee, I am proud of the work of our committee and am hopeful that we can enact TEA–LU quickly to give out State departments of transportation the stability and resources they need to plan for, design and build important highway and transit projects.

I would also like to highlight a few issues that I look forward to working with the chairman and ranking member on as this bill moves forward.

First, I strongly support a provision that was included in S. 1072, the Senate's version of the reauthorization in the 108th Congress. This provision, section 1620 of S. 1072, would provide a 2 percent set aside of funds to be used to address stormwater mitigation. If included in H.R. 3, the provision would bring over $29 million back to Pennsylvania to help address some of the major stormwater runoff problems. Stormwater runoff is a significant source of water pollution, untreated sewage overflows, beach closings and flooding. I believe addressing this need with specific funding in the bill to correct runoff problems associated with existing highways is good policy. Many of the communities in my own district have to deal with the impacts of runoff from highways and roads, yet have no funding to do so. This provision would correct this problem and give local communities access to much-needed funding for stormwater mitigation.

Second, I have worked with my colleagues on the Transportation and Infrastructure Committee from Pennsylvania to address a problem that has recently come to our attention regarding "flexing" of Federal highway dollars to shore up the operating budgets of Pennsylvania's transit agencies. I hope that the chairman will continue to work with us to see that our concerns are taken into account. While I certainly understand the ongoing crisis confronting SEPTA and the Commonwealth of Pennsylvania's other transit agencies, and hence believe the flexing of Federal highway dollars may provide an appropriate, short-term answer to the agency's budgetary problems, I likewise believe that any agreed-to flexing plan should be contingent upon an agreed-to repayment of these much-needed dollars within a short and fixed time period. These highway dollars are absolutely critical to the continued improvement of our region's road infrastructure. While the Pennsylvania Legislature and Governor Rendell continue to work toward a permanent solution to mass transit funding, the need to provide transit agencies with a "hand up" with these dollars may be appropriate. But that assistance should only be provided if the Commonwealth agrees to return these dollars to the effected MPOs within a specified time period to ensure the use of these dollars for the initial purposes for which the appropriations were made by the Federal Government. Further, I would like to see a plan in place to assure that the projects delayed by the flexing action are fast-tracked once the flexed dollars are returned.

Mr. Chairman, providing flexibility to our metropolitan planning organizations is a laudable goal, but these Federal dollars were never intended to plug holes in the operating budgets of transit agencies, I therefore ask the chairman and members of the committee to work with us to achieve an acceptable solution.

Finally, in the section 307 of the National Highway System Designation Act of 1995, there was included a provision that prohibited states from imposing arbitrary overhead rate caps. Section 307 did have its desired effect, most States are following common overhead and auditing procedures that promote quality design work. The problem is that section 307 provided states a window of opportunity to opt out of the Federal Highway Administration FHWA, overhead and auditing procedures by adopting State laws establishing alternative procedures. Thirteen States have taken advantage of this opt out and passed law to impose arbitrary overhead rate caps.

As a result, Congress cannot be assured that the most qualified firms are being selected for working on Federal-aid design projects. At the same time, many of these States require their own audits with their own procedures, instead of accepting the uniform audit procedures used by most of their peers. This places unnecessary burdens on engineering firms and diverts time, staff and focus away from the technical aspect of the project.

Section 1703 of S. 1072, the Senate version of the highway reauthorization in the 108th Congress, included a permanent fix for this problem and I hope that the provision finds its way into the final bill.

Again, I would like to commend Chairman YOUNG and Ranking Member OBERSTAR for their commitment to our Nation's highways and transit systems. I am proud to support H.R. 3 and urge all my colleagues to support the bill as well.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to commend Chairman YOUNG and Ranking Member OBERSTAR, as well as the subcommittee leadership for their hard work in crafting the underlying legislation. However, I offer my support for the manager's amendment that seeks to incorporate very important initiatives that were contained in some of the amendments that were made in order by the Committee on Rules.

While the underlying bill before us proposes to provide $620 million for some 175 high priority projects in the State of Texas, there remain issues that will pose significant problems for Houston and for Texas unless this body offers its commitment to address in the future.

Toll credits are a significant resource for transit providers because they can use them in lieu of obtaining a Federal match—thereby greatly expediting the development of major projects that serve the communities. This amendment will cripple the value of the toll credit program.

Without the revenue from toll credits, Texas will have less funding for the reduction of congestion and the improvement of air quality. In reducing an otherwise viable revenue stream, this amendment would restrict local governments like Houston from choosing the best tool to respond to local conditions and priorities. I would have voted against the amendment that would prohibit the tolling of new interstates, including the I–69 Corridor, which lacks an alternate source of financing.

I ask that the Committee on Transportation and Infrastructure continue its efforts to provide funds to complete the Interstate 69 Corridor. The termination of the Interstate Program in 1995 left no mechanism to finish the Nation's few remaining incomplete Interstates such as I–69. Currently, there is no program to fund major projects which benefit the Nation as a whole but whose costs exceed States' apportioned funds. Based on these needs, I ask my colleagues to include the National Corridor Infrastructure Improvement Program and the Projects of National and Regional Significance provisions in the bill underlying today. Furthermore, I ask that the committee include them at a funding level equal to those included in H.R. 3550.

The Greater Houston area is subdivided into 6 counties: Chambers, Fort Bend, Liberty, Montgomery, Waller, and my District, Harris. Harris County contains the city of Houston and the largest concentration of people. In the year 2000, approximately 3.5 million people lived in Harris County alone—by far the most populous area. Over the next 20 years, the population of the Houston region will continue to grow.

The historic Fourth Ward in Houston is long overdue for major transportation improvements. Within the underlying bill we have before us today are projects that propose to make critical improvements to the Main Street Corridor. The Fourth Ward emerged as Houston's most prominent African-American neighborhood when thousands of freed slaves flooded into the city after emancipation. These newcomers settled on the fringes of the Third, Fifth, and Fourth wards. The Freedmentown area north of San Felipe and the streets west of downtown not only attracted the largest number of the new black residents but also housed the first black churches, schools, and political organizations. Several factors combined to facilitate the subsequent growth of the Fourth Ward's black community. I would ask that my colleagues take these requests under strong consideration after passage and leading into the conference report.

Improvements to Houston's and Texas' infrastructure will be the priority for me and for my colleagues. Statistically, Houstonians travel more miles per day than there are miles between the earth and the sun. The distance between the earth and the sun is about 93 million miles. Houstonians drive about 156 million miles per day.

The manager's amendment proposes key technical and program improvements to the underlying bill language. In particular, I support the changes to the calculation of "Revenue Aligned Budget Authority," RABA; re-establishment of budgetary firewalls for highways and transit programs; reauthorization of the Swift Rail Act at $100 million per year, title IX of the bill; and extension of revenue provisions approved by the Ways and Means Committee.

Moreover, I support the improvements to the bill proposed in the manager's amendment. In particular, due to the tremendous bipartisan efforts of my colleagues, the amendment now includes language to guarantee that TEA 21's 90.5 percent minimum guarantee is protected, with a scope defined as no less than 92.6 percent of the highway program funds in the bill. This is a significant improvement over the bill passed by the House last year. I thank the distinguished majority leader for his work in ensuring that this measure will protect these provisions, allowing the House to move into conference in a stronger negotiating position toward achieving a higher MG above 90.5 percent. The manager's amendment makes this a better bill for Houstonians and for Texans.

I would like to offer my support for the amendment offered by Mr. DAVIS of Virginia that will ensure that tolls are applied equally to all users of toll facilities. This amendment would eliminate language in the underlying bill that requires lower tolls to be charged to low income drivers. Since the administration of differential tolls may be challenging for our existing and future toll authorities, this amendment will make important adjustments to the underlying bill.

Secondly, I support the Burgess amendment, which would change the calculation for transportation development credits to ensure that Texas and other States with toll facilities are able to take full advantage of these credits for the benefit of our transit, highway, and highway safety programs. This proposal is vital to the provision of a pro rata calculation of the credits so that we are not penalized for using Federal dollars in our transportation development projects. I support this amendment and ask that my colleagues join me as the Gentleman brings this proposal to the floor.

Furthermore, I support the proposal of Mr. PITTS that would provide a temporary transition period for transit entities, including three in Texas, that, under the most recent census, are now subject to the over 200,000 population prohibition on the use of transit formula dollars for operating expenses. The Pitts amendment would allow those small transit entities in this new situation to use up to 50 percent of their formula funds for operating expenses for fiscal years 2005 through 2007 and up to 25 percent of the formula funds for operating expenses in fiscal years 2008 and 2009.

In addition, I join my colleague from Texas, Mr. BARTON in the initiative of his amendment to require studies and assessments of risks to human health or the environment to use sound and objective scientific practices.

Due to the short time allotment given to the floor debate on this measure, I was unable to engage the distinguished ranking member from Minnesota in a colloquy. I wanted to discuss two very specific and very significant issues that relate not only to Houston, but to Texas and many other States that have developing infrastructure and economic cores.

I would have asked the ranking member for his assistance in maintaining the issues that I underscore here as priorities as he and his fellow conferees move closer to finalizing negotiations on this measure. These issues speak to (1) the need for increased transit-related funding in future authorizing and appropriating measures, and (2) the need to maintain Federal oversight of the way in which States and localities regulate the flow of interstate traffic. The Metropolitan Transit Authority of Harris County, METRO, is the agency charged with the public transportation and transit needs. METRO has worked over the past 2 years to create a long-range plan for mass transit in the Houston area. After having worked with the community to receive input, the METRO board of directors adopted a blue-print for its long-range plan called "METRO Solutions."

The METRO Solutions plan includes: (1) 50 percent increase in METRO's bus service, including approximately 44 new local, signature express, express, and Park & Ride bus routes, (2) nine new Transit Centers and nine new Park & Ride lots, as well as expansion and upgrading existing facilities, (3) expansion of the METRO Rail line and commuter line components, including an overall plan with 72.8 miles of rail, and (4) extension of the payments to local governments for street and other mobility improvements for five additional years, 2010–2014. Texas has a transportation code and it is authorized to act in this field of local government through METRO.

I believe that long-term and comprehensive projects such as that of Houston METRO should be given full Federal support? I would add that the authorization process should allow for innovative financing options to allow projects such as METRO's Advance Transit Plan, ATP, and METRO Solutions.

I would ask that the appropriators and authorizers remain open-minded in crafting measures such as H.R. 3 to the transit needs that exist in areas like Houston, the fourth largest city in the Nation. The distinguished majority leader has been cited as advocating the need for more innovative financing to build infrastructure and to foster economic activity.

Given the situation that Houston METRO and other similar entities face with administrative delays that stem from a very lengthy funding process, I ask that our colleagues follow the leadership of the majority leader from Texas.

We should go to conference and continue to work with the committee to maintain the need for innovative financing for major transit infrastructure.

We should remain committed to maintaining the need for financing options for transit projects that promise to foster economic activity as a priority. Also, with respect to the issue of the need to maintain Federal oversight of the way in which States and localities regulate the flow of interstate traffic, a program called "SAFE Clear" has been initiated in the city of Houston and is in the city ordinance.

I congratulate the mayor and city council on the vigorous work that its Office of Mobility has done to improve transportation throughout the city of Houston and remain eager to collaborate with them to facilitate this endeavor from the Federal level.

However, I must make my colleagues aware that, through feedback that I have received from my constituents, the program has disproportionately affected certain groups of motorists, particularly those of lower socio-economic status and those who are or who primarily transport the elderly. While the proposed improvements to the ordinance that provide a "free tow" could serve our goals well, motorists who do not qualify for a "free tow" will possibly suffer from the disparate effects of the ordinance complained of by constituents.

I ask that the Transportation Conference ensure that provisions are included in this measure and measures in the future that maintain Federal oversight over the regulation of interstate travel. The potentially disparate overall effect of the ordinance merits further analysis, research, and oversight.

I hope we will continue to provide oversight over programs such as this through the legislation that is crafted in committee.

Mr. Chairman, for the foregoing reasons, I support the drafters of this legislation for their efforts to fund priority projects and urge my colleagues to do the same.

Mr. WEINER. Mr. Chairman, I rise today to thank the leadership of the Transportation and Infrastructure Committee for their hard work shepherding through TEA–LU, a bill that I will support despite its flaws. The Department of Transportation studied the Nation's infrastructure and prescribed a $375 billion solution. In the 108th Congress, I joined the leadership in endorsing the original version of this bill, which filled that prescription. Unfortunately, the administration is unwilling to come up with the support necessary to ensure that we are able to maintain and improve the Nation's infrastructure, and threatened to veto any bill that authorized more than $283.9 billion. As a result, we are today considering a bill that does not do nearly enough to improve the quality of life for individuals living in New York City and around the country. I look forward to working with the Committee leadership to see that this bill is improved in conference.

Mr. Chairman, as this bill moves to conference, I want to highlight four issues that are of particular import to me and my constituents. It is my hope that the conferees will include these improvements in the conference report.

First, this bill should ensure that resources are devoted by formula to states that require improvements. The minimum guarantee program shifts funding from states that have the greatest need—like New York—to other States. Each year, New York provides $20 billion more to Washington than it gets back. New Yorkers ought not be punished for our efforts to conserve fuel, as any expansion of the minimum guarantee program would do.

Second, this bill shortchanges New York on transit funding. Despite having almost half of the Nation's transit ridership, New York's share of transit funding leaves much to be desired. Transit funding should better reflect need.

Third, I hope that conferees will ensure that States starved for a consistent funding stream for ferries and waterborne transportation can count on funding from the Ferry Boat Discretionary Fund. I am acutely aware of how much a guaranteed stream of funding would mean to improve both congestion and homeland security all across the country, and particularly in New York City, where roads are clogged on a normal day, and ferry transportation would provide not only congestion relief but another way to ensure escape from Manhattan in the case of a terrorist attack. At a minimum, New York should receive $5 million per year. I hope conferees will work with me and other Members who represent districts that would benefit from a guaranteed ferry funding stream.

Fourth, I hope that conferees will work with me to ensure that the generous funding we have provided for Senior transportation in this bill is put to its best use. I believe that establishing a center for best practices and a technical assistance center, would provide an enormous service to this nation's elderly population.

Nevertheless, Chairman YOUNG, Mr. OBERSTAR, Chairman PETRI, and Mr. DEFAZIO deserve the thanks and appreciation of every Member of this House for their tireless effort to ensure that the Nation's surface transportation systems receive the resources required to keep America moving.

In particular, I would like to thank both the Democratic and Republican staff of the Transportation Committee, both of whom worked tirelessly on this piece of legislation, and who deserve the entire House's thanks. In particular, I would like to thank Ken House, Clyde Woodle, Eric Vanschyndle, Ward McCarragher, Kathleen Zern, David Heymsfeld, Dara Schleiker, and Sheila Lockwood of Mr. OBERSTAR's staff. Additionally, I would like to thank Jim Tymon of Mr. YOUNG's staff for his willingness to work with me on the issue of Ferry Transportation.

I would also like to thank Tom Kearney, Tom Herritt and their colleagues at the Albany Office of the Federal Highway Administration, Nancy Ross, Fred Neveu, Ron Epstein and their colleagues at the New York State Department of Transportation, and Andra Horsch and David Woloch and their colleagues at the New York City Department of Transportation.

Ms. LEE. Mr. Chairman, I rise in support of H.R. 3, the Transportation Equity Act: A Legacy for Users.

Mr. Speaker, TEA–LU represents the Federal government's ongoing commitment to improving our Nation's entire transportation system for the benefit of everyone.

Our taxes pay for this infrastructure, and this infrastructure is the lifeblood of the commerce that fuels our Nation. The profits of every single business are dependent on this transportation network, and in turn, are dependent on our willingness to pay the taxes that fund this network.

The very existence of our roads, our highways, our rail lines, our ports and our airports is testament to the critical role of the Federal government as the embodiment of our collective responsibility.

It's the elegantly simple idea that by paying your taxes you improve the quality of life of every person in this country and lay the foundation for a strong economy that benefits everyone.

Federal, State and local governments, corporations, small businesses, individuals—all of us have a responsibility to contribute our share. It is our right to use this infrastructure, but it is also our duty to maintain and improve it for the future.

While we plan for the future, the benefits are real, now.

In my district this bill will provide funding to a number of worthwhile projects that will improve the quality of life for my constituents, the State of California and the entire Nation.

One project in particular that I'm very proud of is the Ed Roberts Campus. This state of the art project makes it easier for people with disabilities to get around. It links eight disability organizations to create a multi-tenant facility that will serve as an intermodal transit center as well as a transportation information and travel-training center for people with disabilities.

The Ed Roberts Campus will play a major role in assisting and teaching people with disabilities to live their lives independently. And because it will be located above the Ashby BART station in Berkeley, its reach will stretch throughout the entire Bay Area, simultaneously serving as a model for urban independent living throughout the Nation.

I'm proud to support the Ed Roberts Campus, and I'm happy to announce that $3 million will go towards it through TEA–LU.

Another set of projects that I'm also very proud of are the transit oriented developments planned in the City of Oakland and the City of Emeryville. Transit oriented development is a relatively new concept that joins housing, business, public transportation and recreational areas into one liveable community.

We have been on the cutting edge of transit oriented development in my district from the very beginning. And last year's successful opening of the Fruitvale Transit Village in Oakland has served as a model for other transit oriented development projects in the Bay Area and throughout the country.

I'm happy to announce that TEA–LU will directly provide another $2 million for such projects in Oakland and Emeryville.

Another issue of concern and an area where this bill makes an immediate impact for my constituents is the construction of sidewalks in several unincorporated areas in Ashland and Cherryland in my district.

Even though sidewalks are often taken for granted—for a child, the simple act of walking to school can be treacherous without them. Thanks to TEA–LU, we will have another $1 million to construct those sidewalks and keep these kids safe in many neglected parts of my district.

The funding in TEA–LU for these and other projects is incredibly important to me and my constituents. But the truth is we need much more funding and not just in my district, but throughout the country.

Our transportation system is aging. The growth and sprawl of many of our cities has strained transportation networks throughout the country, and placed a greater burden on our environment.

I commend my colleagues on the Transportation and Infrastructure Committee for trying to address these problems through TEA–LU. But the President must also do his part and support more funding.

Make no mistake, this is not just about transportation. This is about jobs. This is about the health of our environment, and the health of our economy.

Every state, every city, and every member is invested in this piece of legislation, because this bill makes an investment in America.

The decisions we make today will affect the health of our nation for decades to come. And I hope that the President listens to us and makes the right one.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise in support of the hard work of my colleagues, Chairman DON YOUNG, Ranking Member JIM OBERSTAR, Chairman TOM PETRI, and Ranking Member PETE DEFAZIO.

This legislation will help our nation keep up with its ever growing transportation needs, but I want to add that it does fall short.

It falls short because we have not indexed the gas tax or added the small increases necessary to allow the country to successfully grow.

The Department of Transportation estimated that it will take at least $350 billion to keep up with our transportation needs, but the Administration has drawn a line in the sand at $289 billion.

I would ask the President to look back at Texas, where the Republican leadership is now seriously considering indexing the Texas state gas tax, as I proposed many years ago in the state legislature.

The gas tax is the easiest tax to defend for a politician, because the benefit to drivers is obvious, and if you don't use your car or truck on the roads, you don't have to pay it.

Now we forced into a situation where every new highway in America will be tolled, something my middle and low-income commuters and professional truck drivers vigorously oppose.

So I support this legislation, but I also support the re-opener provision that allows us to consider a gas tax index proposal in the future.

I also support further efforts in conference to increase the scope of the minimum guarantee and increase the rate of return on that minimum guarantee. Texas deserves at least 95 percent of the gas tax revenue that we pay into the system.

I support the efforts of the Majority Leader to improve our rate of return, but I also encourage him to study what his colleagues, including the Speaker of the Texas House, are considering for the state gas tax.

This legislation also included two projects of critical importance to my area in Houston, the reconstruction of Clinton Dr. near the Port of Houston and the construction of US90 from the Beltway into Loop 610.

Clinton Dr. is currently in a state of disrepair causing safety concerns and the constant maintenance work is a drain on local resources.

US90 will provide much needed mobility for Northeast Harris County, by completing a project that has been on the books for many years. Development along this corridor will be encouraged and greatly improve the area.

I want to thank Congressman Ted Poe for working with us on the US90 project, which will also benefit his constituents by providing another route into central Houston and by relieving traffic on I–10 east and US 59 North.

Mr. Chairman, I encourage my colleagues to vote for the bill.

Mr. YOUNG of Alaska. Mr. Chairman, I insert into the Record an exchange of letters between myself and Chairman Pombo regarding H.R. 3.

House of Representatives,
Committee on Resources,
*Washington, DC, March 9, 2005.*
Hon. Don Young, Chairman,
*Committee on Transportation, and Infrastructure, Rayburn HOB Washington, DC.*

Dear Mr. Chairman: I have reviewed the text of H.R. 3, the Transportation Equity Act: A Legacy for Users, as ordered reported from the Committee on Transportation and Infrastructure on March 2, 2005. I believe that the Committee on Resources has a substantial jurisdictional interest in many provisions of this important legislation including streamlining of procedures under the National Environmental Policy Act and resolving confusion on highway construction and section 106 of the National Historic Preservation Act

Further, this Committee maintains jurisdictional interests in provisions affecting recreational trails, highways on federal public lands (including national parks, Indian lands and public domain forest lands), the National Scenic Byways Program, projects to benefit wildlife, highway safety as it applies to Indian country.

Recognizing that this historic bill is scheduled to be considered by the House of Representatives this week, and noting the strong spirit of cooperation and coordination your staff has shown mine in the development of this bill, I will forego seeking a sequential referral of H.R. 3 to the Committee on Resources. Waiving the Committee on Resources' right to a referral in this case does not waive the Committee's jurisdiction over any provision in H.R. 3 or similar provisions in other bills. In addition, I ask that you support my request to have the Committee on Resources represented on the conference on this bill, if a conference is necessary. Finally, I ask that you include this letter in the Congressional Record during consideration of the bill.

Following your mark-up of H.R. 3, I want to acknowledge your efforts on the bill's environmental provisions, many of which touch upon Committee on Resources jurisdiction. I commend your efforts to streamline the environmental review process under the National Environmental Protection Act as well as Section 4(f) procedures. However, I do have serious concerns about the provision dealing with the pilot program for mass transit in National Parks. This provision address issues that lie squarely within the jurisdiction of the Committee on Resources and should be addressed in that context. Moreover, the bill passed last year by the Senate, S. 1075, contained a number of troubling provisions that I feel should not be included in any version of transportation legislation. These provisions include language relating to the Endangered Species Act and programs to address invasive species. Thank you for not including these provisions in your bill.

I appreciate your leadership and cooperation on this bill and I look forward to working with you to see that H.R. 3 is enacted into law soon.

Sincerely,
Richard W. Pombo,
*Chairman.*

---

House of Representatives, Committee on Transportation and Infrastructure,
*Washington, DC, March 10, 2005.*
*Hon.* Richard W. Pombo, Chairman,
*Committee on Resources, Longworth HOB, House of Representatives, Washington, DC 20515*

Dear Mr. Chairman: Thank you for your letter of March 9, 2005, regarding H.R. 3, the Transportation Equity Act: A Legacy for Users. Your assistance in expediting consideration of the bill is very much appreciated.

I agree that there are provisions in the bill that are of jurisdictional interest to the Committee on Resources and I agree that by foregoing a sequential referral the Committee on Resources is not waiving its jurisdiction.

I would be pleased to support the representation of your Committee in any conference on H.R. 3 on matters within the jurisdiction of the Committee on Resources. And, as you have requested, I will include this exchange of letters in the Record. Thank you for your cooperation and your continued leadership and support in surface transportation matters.

Sincerely,
Don Young,
*Chairman.*

Mr. SIMMONS. Mr. Chairman, I rise today in support of the "Transportation Equity Act: A Legacy for Users," a vitally important bill that will provide much-needed federal resources to improve the highways and infrastructure in all fifty States.

Highway and transit spending is a critical investment in national security and essential to our country's economic welfare and way of life. This is especially relevant at a time when our economy is losing more than $78 billion annually due to highway congestion. Mr. Speaker, Americans waste more than 3.6 billion hours in traffic delays, and thousands of Americans die each year due to substandard road conditions.

Further, this highway bill will create millions of quality, high-paying jobs across America and thousands in my home state of Connecticut. At a time when too many Americans are either unemployed or "underemployed," such construction and infrastructure work will contribute significantly to the quality of life for many working families.

I look forward to a healthy debate on the details of this bill, but there is no question that the overall benefits of this bill will be felt by every American family. When they use our improved and safer highways to get to work, school, church, vacation, or just home, Americans will appreciate the investment we will make with passage today of this legislation.

I know that my constituents in Connecticut's Second District will especially appreciate the investment made under this bill. The measure we will pass today includes $45 million for high priority projects for towns across the Second District. Whether it is the resources to finally get construction of Route 11 moving, to build Vernon's intermodal center, to make improvements to Enfield's South Maple Street bridge, or any of the other projects included, TEA–LU delivers for eastern Connecticut.

Mr. Chairman, in 1956 the 84th Congress passed and President Eisenhower signed into law the Federal Aid Highway Act to promote and invest in the interstate highway system. This law created jobs, stimulated the economy, led to new revenues that reduced our Nation's debt, and brought life-changing improvements to the way Americans lived, worked, and played.

Nearly 50 years later, we must follow the same vision and courage that President Eisenhower and the Congress displayed then and once again invest in America by passing legislation to improve our Nation's highways and infrastructure.

Mr. KUHL of New York. Mr. Chairman, I rise today to encourage my senior colleagues in the upcoming conference on the highway bill to agree to a provision which will appear in the Senate highway bill to more cost effectively use funding under the Congestion Mitigation and Air Quality Improvement Program—the so-called CMAQ program.

CMAQ is a program which has been used in the past to fund air quality improvements. It's a good program, but I think we can make it a lot better. Here's how.

Congress asked the National Research Council of the National Academy of Sciences to examine the cost-effectiveness of the CMAQ program. The Council reported that CMAQ funding could be used more cost effectively in the future to reduce pollution caused by fine particulate matter. This pollution is the most serious threat to human health. It has also been found to be 10 to 20 times more damaging to human health than other pollutants, like ozone, that have been historically the focus of CMAQ. And, EPA has found that excessive amounts of fine particulate matter are causing air quality problems for over 100 million people throughout the country.

The Senate amendment recognizes this reality and rebalances CMAQ toward the use of technologies which will reduce fine particulate matter. This change will focus CMAQ on the right issue. And, as importantly, it will result in a far more cost-effective use of limited government resources. The National Research Council found in its study commissioned by Congress that CMAQ is currently being used to fund projects that cost as much as $252,000 per ton of pollution reduction. In the future, CMAQ can be spent on diesel retrofit technologies, made in my district, which can reduce pollution for a maximum of $5,300 per ton—nearly a 50 times improvement in cost effectiveness. In fact, diesel retrofits, in many circumstances, are the most cost-effective way to use CMAQ funding.

In light of these facts, I strongly urge my senior colleagues who will be involved in the upcoming conference on the highway bill to adopt the Senate amendment to use CMAQ to fund the installation of diesel retrofit devices on heavy duty diesel vehicles used on construction sites. This amendment was included in last year's Senate bill and, from what I understand, will very likely be included in Chairman INHOFE's bill for consideration in his Committee next week. And, significantly, the Administration strongly endorsed the amendment during the debate over the highway bill last year.

Reduction of fine particulate matter emitted by heavy duty diesel vehicles has been a centerpiece of the President's environmental policy. He spoke about this during the Presidential debate. And, in his FY06 budget, he proposed the appropriation of $25 million to deploy diesel retrofit technology on a range of heavy duty vehicles from school buses to dump trucks.

Mr. Chairman, I am very proud to promote the use of diesel retrofit technology because it was invented in my district by Corning Incorporated. As many of my colleagues know, Corning was founded by the great, great grandfather of our distinguished former colleague, Amo Houghton. Under the Houghton family leadership, Corning has been a technology leader. In fact, it will receive the Technology Medal of Honor next week by President Bush for its invention of the core element of a catalytic converter. Diesel retrofit technology was built on this core invention.

In closing, Mr. Chairman, I strongly urge the leadership to accept the Senate amendment in conference, because it will lead to the most cost-effective use of CMAQ, because it will advance the use of technology to clean up the biggest threat in the environment to human health, and because it is a centerpiece of the President's environmental policy.

Mr. KIND. Mr. Chairman, I rise in support of H.R. 3, the Transportation Equity Act. I want to acknowledge the work of the Transportation Committee on this complex bill and especially thank my friend and colleague from Wisconsin, Mr. PETRI, for his leadership on the legislation; the Wisconsin delegation is lucky to have such a strong advocate for our citizens.

We all know that transportation bills are jobs bills, and now is certainly the time that we need more jobs throughout the country. I consistently hear from constituents who are searching for work; who have sent out dozens of résumés and updated their skills but remain unemployed. Each billion dollars spent on highway funding creates not only safer and better roads: it also creates an estimated 47,500 new jobs. An investment in highway funding is an investment for steady work for those in Wisconsin and around the nation.

Furthermore, I am pleased that the bill recognizes the importance of funding crucial highways and bridges in Wisconsin's Third Congressional District. Specifically, the inclusion of funding for the Stillwater Bridge, which connects Houlton, Wisconsin, and Stillwater, Minnesota, is great news for those of us who have been working on this project for years. The bridge is only one example of an important project that will provide the nation with safer roads, shorter commutes, and better jobs.

Finally, I would like to recognize the important conservation provisions that are retained in H.R. 3. These provisions include funding for refuge road maintenance, recreational trails and forest roads, as well as funding to facilitate fish passage. It also includes new money for signs to identify hunting and fishing areas accessible to the public. One of the most important provisions is authorization to facilitate a study to help reduce the growing number of highway accidents involving wildlife. I urge my colleagues to support the bill.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of H.R. 3, the Transportation Equity Act: A Legacy for Users (TEA–LU). I commend Chairman DON YOUNG and Ranking Member JIM OBERSTAR of the Committee on Transportation for their leadership in drafting this legislation and I thank them for supporting my request to set aside $16 million for high priority projects in American Samoa.

This funding is in addition to American Samoa's annual federal highway funds and will be used for village road improvements, drainage mitigation, shoreline protection and upgrades and repairs of the Ta'u ferry terminal facility.

In consultation with the Honorable Togiola Tulafono, Governor of American Samoa, we have set aside $10 million for village road improvements in the Eastern, Western, Central and Manu'a districts of American Samoa.

In consultation with Senator Tuaolo Fruean and High Paramount Chief Mauga and members of the Pago Pago council of chiefs, we have set aside $1 million for drainage mitigation for Pago Pago village roads.

In consultation with Senator Tago Suilefaiga, Representative Fagasoaia Lealaitafea and Representative Mary Taufete'e and members of the Nuuli council of chiefs, we have set aside $1 million for shoreline protection and drainage mitigation for Nuuli village roads.

In consultation with Senator Faiivae Galea'i, Senator Lualemaga Faoa and members of the Leone and Malaeloa councils of chiefs, we have set aside $1.4 million for drainage mitigation for Malaeloa-Leone village roads.

In consultation with Senator Liufau Sonoma and Representative Paopao Fiaui, we have set aside $1 million for shoreline protection and drainage mitigation in Aua village.

In consultation with Senator Faamausili Pola and members of the Ta'u village council of chiefs, we have set aside $1.6 million to upgrade and repair the Ta'u harbor facility.

Like other insular areas, American Samoa will continue to receive its annual share of federal dollars provided by the Territorial Highway Program. The Territorial Highway Program includes American Samoa, Guam, the Virgin Islands and CNMI. Based on population, area, road mileage, or any combination of these factors, each Territory receives a portion of the funds allocated to the Territorial Highway Program.

To assure that American Samoa is treated equitably, I have worked closely with Chairman YOUNG and Ranking Member OBERSTAR to make sure that the administrative formula for apportionment is closely reviewed. It is my understanding that the Federal Highway Administration has not reviewed its administrative formula for ten years and I thank Chairman YOUNG and Ranking Member OBERSTAR for their commitment to revisit this issue.

Again, I commend the Chairman and Ranking Member for their leadership and for supporting my efforts to make sure that American Samoa's needs are addressed in this historic and important initiative. Without reservation, I urge my colleagues to vote yes on H.R. 3.

Mr. BOUCHER. Mr. Chairman, I rise today to express my strong support for the most effective use of the Congestion Mitigation and Air Quality program. H.R. 3, contains provisions which enable the continuation of CMAQ; however, these provisions do not include language included in the bill by the Senate in the last Congress which would alter CMAQ to ensure that new technologies which improve air quality are eligible for the funding. For example, diesel retrofits and anti-idling technologies are being used to achieve positive environmental results around the nation. Diesel retrofits, which operate much like the catalytic converter on a car, remove between 80 and 90 percent of pollutants from the exhaust stream of a diesel engine.

Because such technologies can remove pollution at a relatively low cost—approximately $5,000 per ton of pollution removed—they would be an appropriate addition to the CMAQ program. Last year the Senate added to its version of the transportation bill a provision which would begin to focus CMAQ on more cost-effective applications including deployment of diesel retrofits and anti-idling technologies, to reduce the emissions caused by construction equipment. That provision will likely be included by the Senate again this year, and the Administration has endorsed the provision.

Use of new technologies such as diesel retrofits and anti-idling technologies could make significant improvements to the CMAQ program and reduce pollution in many areas, and I urge my colleagues to favorably consider adopting such provisions as this legislation moves forward.

Mr. SHERMAN. Mr. Chairman, I rise to express my support for language in H.R. 3 which would permit states to exempt certain hybrid vehicles from high occupancy vehicle regulations.

The legislation provides that alternative fuel vehicles as well as vehicles that achieve a highway fuel economy rating of 45 miles per gallon or greater may be exempted from HOV requirements through September 29, 2009.

I would like to insert into the record a memo prepared at my request by the Congressional Research Service which analyzes the HOV provisions of H.R. 3 with respect to the treatment of hybrid vehicles.

It is important to note that based on my conversations with the authors of this legislation as well as this memo, the language of H.R. 3 would permit states the flexibility regulate when and where hybrid vehicles would be exempt from HOV regulations within the state.

Mr. Speaker, I believe it is important that the States have the flexibility to regulate the hybrid use of HOV lanes within their state—both in terms of where hybrids will be permitted in HOV lanes and when they may be permitted. The language in H.R. 3 seems to achieve this purpose.

CONGRESSIONAL RESEARCH SERVICE,
*Washington, DC, March 9, 2005.*

Hon. BRAD SHERMAN.

HYBRID VEHICLE ACCESS TO HOV LANES UNDER H.R. 3

As you requested, this memorandum provides an analysis of the high occupancy vehicle (HOV) provisions in the Transportation Equity Act: A Legacy for Users (H.R. 3), as reported in the House. Specifically, you asked about the treatment of hybrid vehicles in H.R. 3.

Section 1208 of the bill adds a new Section 168 to Title 23 of the United States Code. Section 18(b)(4) would allow—but not require—states to exempt "low emission and energy efficient vehicles" from HOV requirements through September 29, 2009. The bill does not specifically address hybrid vehicles; instead, the bill provides that alternative fuel vehicles as well as vehicles that achieve a highway fuel economy rating of 45 miles per gallon or greater may be exempted. Eligible vehicles must also meet the new Tier 2 light vehicle emissions standards, and must be certified by the Environmental Protection Agency. It should be noted that a state must actively establish a program to exempt vehicles—the exemption is not automatic.

Further, you asked whether states would have the authority to exempt vehicles from specific HOV lanes at specific times, or whether the state would be required to exempt vehicles from all HOV lanes. The section on vehicle exemptions states that "the State agency may allow vehicles certified as low emission and energy-efficient vehicles . . . to use the HOV facility . . ." In this and several other subsections, the bill refers to an "HOV facility" in the singular. The Federal Highway Administration treats every separate section of highway as a separate "HOV facility." For example, in Virginia the HOV lanes outside of the Capital Beltway in Interstate 66, the lanes inside of the beltway on I-66, and the lanes on I-95/I-395 are all treated as separate facilities. The restrictions on time and minimum occupancy differ for all three facilities. Because of these distinctions, it appears that states could choose to exempt vehicles from one facility (i.e. highway) and not another.

What is less clear is whether states could designate specific lanes (within a facility) and times. The bill requires states to "establishes procedures for enforcing the restrictions on the use of the facility by such vehicles." This would seem to grant the state latitude in determining when and where low emission and energy efficient vehicles could be exempted from the HOV restrictions. However, allowing compliant vehicles exemptions at some times but not others—or in some lanes but not others—would add a level of complexity to the enforcement of HOV restrictions. It therefore seems an open question whether states would choose to exempt compliant vehicles from restrictions on all state HOV facilities, or on specific facilities without specifying which lanes could be used or at what time.

It should be noted that H.R. 3, as introduced, would have required states to charge tolls for all vehicles exempted from the HOV restrictions. The version as reported allows such tolls, but does not require them. It should also be noted that states would be required to limit or discontinue the exemptions, if they were found to decrease traffic flow along the HOV lanes.

Sincerely,

BRAD YACOBUCCI,
*Specialist in Energy Policy Resources, Sciences and Industry Division.*

Mr. RAHALL. Mr. Chairman, I rise today to voice my support for the transportation bill currently before us. TEA-LU was crafted as the result of bipartisan compromise, which is the tradition of the Transportation Committee.

I congratulate Chairman DON YOUNG, Ranking Member OBERSTAR, Chairman TOM PETRI and Ranking Member PETER DEFAZIO for bringing this bill to the floor. I also congratulate the staffs on both sides of the aisle for their hard work.

While I know I speak for many of us who would have preferred an increased funding level—more in line with the needs of our country this bill serves as a good first step as we move to reauthorize TEA-21.

Investment in transportation is one of the wisest decisions this Congress can make. For every $1 billion spend on infrastructure, 47,500 new jobs are created. That is certainly welcome news in my home state of West Virginia.

Transportation funding also spurs economic growth and development. Goods and services are delivered more quickly and efficiently, which benefits both the producer and the consumer.

In West Virginia, we have tied transportation investment to technology and tourism. New and improved roads allow for the tourism industry to thrive and the seeds of enhanced technology to be planted. In sum, transportation investment is a win-win for southern West Virginia.

As a member of the Committee, I know how hard our Chairmen and Ranking Members have worked to bring this bill to the floor. I urge my colleagues to support the underlying bill.

Mr. Chairman, I yield back the balance of my time.

### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN (Mr. LAHOOD). Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: an amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) and an amendment offered by the gentleman from Pennsylvania (Mr. PITTS).

The Chair will reduce to 5 minutes the time for the second electronic vote.

### AMENDMENT NO. 2 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 201, not voting 9, as follows:

[Roll No. 62]

AYES—224

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nunes
Nussle
Osborne
Otter
Oxley

Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

### NOES—201

Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gingrey
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Shimkus
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn
Young (AK)

### NOT VOTING—9

Baird
DeLay
Evans
Herger
Northup
Ramstad
Rogers (AL)
Stupak
Weldon (PA)

☐ 1403

Messrs. GRIJALVA, ACKERMAN, and BUTTERFIELD, Ms. ESHOO and Mr. McINTYRE changed their vote from "aye" to "no."

Messrs. SHAW, LEWIS of Kentucky, LEWIS of California, BROWN of South Carolina, OTTER, SHUSTER, KINGSTON, McKEON, ABERCROMBIE, SNYDER, and OSBORNE, Mrs. WILSON of New Mexico, and Mrs. JOHNSON of Connecticut, changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. WELDON of Pennsylvania. Mr. Chairman today, I was requested to testify before the U.S. China Commission. Therefore, on rollcall vote 62 for H.R. 3, I was not recorded to vote. Had I been recorded, I would have voted "aye" for the amendment.

### AMENDMENT NO. 8 OFFERED BY MR. PITTS

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. PITTS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 228, noes 197, not voting 9, as follows:

[Roll No. 63]

### AYES—228

Aderholt
Akin
Alexander
Baca
Baker
Baldwin
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (GA)
Bishop (UT)
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Buyer
Cantor
Cardin
Carnahan
Carter
Chabot
Chocola
Clay
Cleaver
Coble
Cole (OK)
Cooper
Costa
Cramer
Crenshaw
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Delahunt
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Drake
Duncan
Edwards
Emerson
Engel
English (PA)
Etheridge
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hensarling
Herger
Hinojosa
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Kolbe
LaHood
Latham
Leach
Lewis (GA)
Lewis (KY)
Linder
Lowey
Lucas
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
McCaul (TX)
McCotter
McGovern
McHenry
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Melancon
Mica
Miller (FL)
Miller (NC)
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Musgrave
Myrick
Neal (MA)
Neugebauer
Nunes
Nussle
Olver
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Price (NC)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ruppersberger
Ryan (WI)
Ryun (KS)
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Simmons
Skelton
Smith (TX)
Souder
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (MS)
Terry
Thornberry
Tiahrt
Tierney
Turner
Udall (CO)
Udall (NM)
Wamp
Watson
Watt
Weldon (FL)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

### NOES—197

Abercrombie
Ackerman
Allen
Andrews
Bachus
Barrett (SC)
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (NY)
Blackburn
Blumenauer
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (SC)
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardoza
Carson
Case
Castle
Chandler
Clyburn
Conaway
Conyers
Costello
Cox
Crowley
Cubin
Cummings
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doolittle
Doyle
Dreier
Ehlers
Emanuel
Eshoo
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Gallegly
Gilchrest
Gordon
Grijalva
Gutierrez
Harman
Hastings (WA)
Hefley
Herseth
Higgins
Hinchey
Hobson
Hoekstra
Holt
Honda
Inglis (SC)
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Knollenberg
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lungren, Daniel E.
Matheson
Matsui
McCarthy
McCollum (MN)
McCrery
McDermott
McHugh
McNulty
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano

Ney
Norwood
Oberstar
Obey
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Petri
Pickering
Pomeroy
Pryce (OH)
Rahall
Rangel
Reichert
Rogers (KY)
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Sensenbrenner
Serrano
Shaw
Sherman
Simpson
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Strickland
Tanner
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Towns
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Waters
Waxman
Weiner
Wexler
Wicker
Wilson (SC)
Young (AK)

NOT VOTING—9

Baird
DeLay
Evans
Northup
Ramstad
Rogers (AL)
Slaughter
Stupak
Weldon (PA)

☐ 1411

Mr. BISHOP of Georgia changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. WELDON of Pennsylvania. Mr. Chairman, today, I was requested to testify before the U.S. China Commission. Therefore, on rollcall vote 63 for H.R. 3, I was not recorded to vote. Had I been recorded, I would have voted "aye" for the amendment.

The Acting CHAIRMAN. There being no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, the Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, pursuant to House Resolution 144, he reported the bill, as amended pursuant to House Resolution 140, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HIGGINS

Mr. HIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HIGGINS. Mr. Speaker, I am opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Higgins moves to recommit the bill H.R. 3 to the Committee on Transportation and Infrastructure and the Committee on Ways and Means with instructions to report the same back to the House promptly with the following amendments:

(1) To increase funding for the highway, highway safety, transit, motor carrier safety, and highway research programs to a total of not less than $318,000,000,000 of budget authority and $301,000,000,000 of guaranteed funding.

(2) To distribute this increased funding to the States through the core highway and transit formula programs for State and local highway and transit infrastructure investments.

(3) To offset this increased infrastructure investment by raising $34,000,000,000 over the next five years by eliminating the current tax incentives for companies to move jobs and operations offshore.

The SPEAKER pro tempore. The gentleman from New York (Mr. HIGGINS) is recognized for 5 minutes.

Mr. HIGGINS. Mr. Speaker, our Chamber is in its final moments of consideration of this landmark bill which proposes $284 billion worth of Federal investments in transportation infrastructure across this Nation.

This measure represents so much to each of our districts. It is the embodiment of roads and transit systems that will be either newly built or rehabilitated to aid safe and efficient travel. It will spark an abundance of economic development and create millions of jobs specifically to carry out this transportation work.

I have been grateful for the opportunity during my first few weeks as a Member of this body to work alongside Chairman YOUNG and Ranking Member OBERSTAR on this legislation which will do so much for western New York. But I believe that before we submit to final passage of the bill, we must first acknowledge the fact that we should and can do more.

The President has signaled that he will support a transportation bill that spends no more than $284 billion in guaranteed funding over 6 years. This number is simply arbitrary and could easily be increased, a fact that was demonstrated by the other body's version of transportation reauthorization last year.

☐ 1415

My motion demonstrates one way in which we can match their level of guaranteed funding, $318 billion, for even more transportation, economic and safety initiatives within this measure.

Specifically, this motion proposes to close a number of offshore loopholes that are enabling American companies to move jobs abroad, avoiding paying U.S. taxes in the process. In closing these loopholes, we are raising an additional $34 billion, not from an increase in the gasoline tax, but instead by abolishing unfair tax shelters that are strangling job creation and growth in our country.

Seventy-two members of the other body voted to federally fund our transportation expenditures at $318 billion last year. If we can find a way to match that funding without raising the gasoline tax, without falling deeper into deficit, then I for one believe it is our responsibility to pursue that option.

This motion to recommit would mean $34 billion more in Federal infrastructure investments, as well as the final eradication of a number of unfair tax shelters that are weakening economic development efforts throughout our Nation. The motion would bring 100,000 additional jobs to my own State of New York, and countless more to the rest of the country. I hope that I may count on my colleagues to support this important measure.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Alaska is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the motion to recommit. I want to remind my fellow colleagues that this is a very well-crafted, bipartisan effort and this would disrupt what I would say is a great chariot that is going to go off on to the horizon and become law.

Mr. Speaker, I oppose the motion.

Mr. Speaker, I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank my chairman for yielding me this brief period of time.

Mr. Speaker, I would say to the gentleman from New York (Mr. HIGGINS), welcome to the House.

Under the motion to recommit, if in fact "promptly" is included in the first paragraph, it means that this is not a motion to recommit.

I was just waiting for the gentleman, because he is probably the one that told the gentleman to do this.

On "promptly," it kills the bill. So all of the statements the gentleman made about the jobs that were going to come to western New York and the dollar amounts that the gentleman is putting in the bill have no standing whatsoever, because by including "promptly" in the motion to recommit, the gentleman is in fact killing the bill.

In addition, the gentleman said that he wanted to try to match the Senate's amount of $318 billion last year. The reason we did not have a highway bill last year was because the Senate was at $318 billion. In the conference, we urged the Senate to agree at $283.9 billion. The conference failed. This year the Senate is at $283.9 billion; the House is at $283.9 billion. We actually have a chance to get a highway bill.

But probably the most interesting and ironic part of the gentleman's motion to recommit, notwithstanding the fact it has no application, is the fact that the Highway Trust Fund is actually a user's fee; that people who use the highways raise the money to help build the highways. And the gentleman is looking to raise the additional money for the user-fee Highway Trust Fund from those companies who have left the country. So they are not using the highways, but the gentleman wants to have them pay.

So if the gentleman wants to work a motion to recommit that actually can work and that you can actually raise money and you can actually get it from people who use the Highway Trust Fund, I look forward to working with the gentleman. But if this is the effort conceived and delivered on the other side, I would urge my colleagues to vote this down, because if you really want a highway bill this year, the vote on the motion to recommit is "no." If you really do want to kill it once again and give the gentleman from Alaska (Chairman YOUNG) an opportunity to work yet again in another Congress, you will vote yes on this ill-conceived motion to recommit.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HIGGINS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 190, noes 235, not voting 10, as follows:

[Roll No. 64]

AYES—190

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—235

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Baird
DeLay
Evans
Northup
Ramstad
Rogers (AL)
Sabo
Slaughter
Stupak
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1441

Mr. BOREN changed his vote from "aye" to "no."

Messrs. HASTINGS of Florida, TANNER, WYNN, and MURTHA, and Ms. BEAN changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 9, not voting 9, as follows:

[Roll No. 65]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis

Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—9

Boehner
Castle
Flake
Otter
Paul
Sensenbrenner
Shadegg
Thornberry
Young (FL)

NOT VOTING—9

Baird
DeLay
Evans
Jones (NC)
Northup
Ramstad
Rogers (AL)
Slaughter
Stupak

☐ 1451

So the bill was passed.

The result of the vote was above recorded.

The motion to reconsider was laid on the table.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other necessary technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Alaska?

There was no objection.

## GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Wanda Evans, one of his secretaries.

## LEGISLATIVE PROGRAM

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I take this time to ask the gentleman from California (Mr. DREIER) about the schedule for next week.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, as Members have noticed, we have completed our legislative work for the week, and the House will convene on Monday at 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. Any votes on those measures that are debated on Monday will be taken at 6:30 p.m. on Monday.

On Tuesday and the balance of the week, the House will convene at 10 a.m.; it is important to know that it is 10 a.m. on Tuesday, for legislative business. We expect to consider two bills under a rule, the Emergency Wartime Supplemental and the Budget Resolution for Fiscal Year 2006.

Finally, I would like to remind all Members that next week is a 5-day work week. We will have votes on Monday, and it will be a very, very active week as we head into the recess. We may work some late nights next week. It is quite possible that there will be votes; Members should expect them on Friday as we head into the spring district work period.

Mr. LEWIS of Georgia. Mr. Speaker, I would like for my friend, the gentleman from California (Mr. DREIER), if he could, to be a little more definite about next Friday.

Mr. DREIER. As the gentleman knows, we have these two critically important measures that need to be considered next week, the supplemental appropriations bill, which is a very high priority to ensure that our men and women in uniform in Iraq have the resources necessary to complete their very important job over there. We all know there is strong bipartisan support for our troops. And of course, making sure that we complete the important budget resolution.

In light of the fact that we have those two priorities that need to be addressed next week, I am saying I think it is quite possible that Members could anticipate votes on Friday.

Mr. LEWIS of Georgia. Is the gentleman telling us that the supplemental appropriations will come up next Tuesday?

Mr. DREIER. I would say we anticipate that we will see the supplemental bill considered before we consider the budget resolution. And the Committee on Rules is planning to meet Monday evening for consideration of the supplemental appropriation bill. We cannot say with absolute certainty when exactly it will come up, but it is the first thing scheduled legislatively beyond the measures that we will consider under suspension of the rules. I think it is quite possible it will be on Tuesday.

Mr. LEWIS of Georgia. What kind of rule will we have? Will it be an open rule or a restricted rule?

Mr. DREIER. I am privileged to serve as chairman of the Committee on Rules, but it is impossible for me at this juncture to predict exactly what this 13-member committee that spends hours deliberating over major public policy issues will do at the end of the day on this. I can assure the gentleman it will be a fair and balanced rule. But I will oppose putting it out unless it is a fair and balanced rule that allows for consideration of very important measures.

I know my colleague joins me in wanting to ensure that we get the resources necessary to our men and women in uniform who are having such great success in Iraq. I thank the gentleman for yielding.

Mr. LEWIS of Georgia. I ask my friend from California which day would he expect us to consider the budget and what type of rule would he anticipate for considering the budget?

Mr. DREIER. I am happy to say that, again, that we anticipate that the first major measure of the week that we will consider, following suspensions, will be the supplemental appropriations bill. And the budget itself will likely be considered in the Committee on Rules on Tuesday evening. And again, I cannot predict exactly what shape the rule will take. In fact, when we are completed here, I will be making an announcement for the deadline for consideration of amendments. I will tell the gentleman, as in the past, the Committee on Rules has had a tendency, and I hope to continue that pattern, for actually showing preference for substitute packages that would be offered by Members. And we want to encourage Members who would like to offer budget substitutes to get those to us just as quickly as we possibly can.

Again, it is difficult to say at this moment exactly what that rule will consist of.

Mr. LEWIS of Georgia. If we have consideration of the rule on Tuesday, what day does the gentleman expect the budget to come to the Floor?

Mr. DREIER. Well, again, the supplemental appropriations bill is the first item that we will be working on, and then it will be some time later in the week. Obviously, if we do as I suspect, the Committee on Rules will make in order different substitutes; we will need to have time for that. So it will be later in the week next week. So I cannot tell the gentleman exactly what day it will be, but it will be into the week. And again, quite possibly, it could extend until Friday.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Ms. LEWIS of Georgia. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, I would ask if my friend from California expects the rule to be on the floor Wednesday of next week?

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I am happy to say to the distinguished ranking minority member of the Committee on the Budget that it is our plan to consider the rule on the budget in the Committee on Rules probably late Tuesday afternoon. So depending on exactly what happens time-wise on consideration of the supplemental appropriations bill, it is quite possible that we could begin work on this on Wednesday, but I am not absolutely certain at this juncture what day it would be.

Mr. SPRATT. Mr. Speaker, will the deadline for filing proposed substitutes or amendments be 5 o'clock on Monday?

Mr. DREIER. Mr. Speaker, I would say that it is our intention in light of the fact that we are discussing this Thursday afternoon that the announcement that I plan to make when we complete this colloquy is that we will ask for the amendments to the budget to be submitted to the Committee on Rules by 10 a.m. on Tuesday which will allow us to meet Tuesday afternoon. So I would encourage, we are now before 3 o'clock on Thursday; I would encourage Members to begin looking at budget substitutes that they may want to offer and fashion those.

I understand it will be tomorrow before they have access to the full text, but I would encourage them tomorrow and over the weekend and on Monday to assemble those substitutes or proposed amendments that they would have, and our deadline is intended to be 10 o'clock on Tuesday morning.

Mr. SPRATT. Mr. Speaker, I thank the gentleman very much.

Mr. LEWIS of Georgia. Mr. Speaker, I thank my friend from California (Mr. DREIER) for being so helpful in providing us the information.

---

## ANNOUNCEMENT BY COMMITTEE ON RULES ON AMENDMENT PROCESS FOR CONSIDERATION OF CONCURRENT RESOLUTION ON BUDGET FOR FISCAL YEAR 2006

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of March 14 to grant a rule which could limit the amendment process for the concurrent resolution on the budget for fiscal year 2006. Any Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules to room H-312 of the Capitol no later than 10 a.m. on Tuesday, March 15.

As in past years, the Committee on Rules intends to give priority to amendments offered as complete substitutes.

Members are advised that the text of the concurrent resolution as ordered reported by the Committee on the Budget should be available on the Web sites of both the Committee on the Budget and the Committee on Rules tomorrow, Friday, March 11.

Members should use the Office of Legislative Counsel and the Congressional Budget Office to ensure that their substitute amendments are properly drafted and scored and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

---

## ADJOURNMENT TO MONDAY, MARCH 14, 2005

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. DENT). Is there objection to the request of the gentleman from California?

There was no objection.

---

## HOUR OF MEETING ON TUESDAY, MARCH 15, 2005

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 14, 2005, it adjourn to meet at 9 a.m. on Tuesday, March 15, 2005, for morning hour debates as though after May 16, 2005, thereafter to resume its session at 10 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

---

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## EXPRESSING SYMPATHY AND CONDOLENCES TO THE FAMILIES OF VICTIMS OF THE MADRID TERRORIST ATTACKS OF MARCH 11, 2004

Mr. McCOTTER. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 99) expressing the condolences of the House of Representatives to the families of the victims of the terrorist attacks in Madrid that occurred one year ago, on March 11, 2004, and expressing deepest sympathy to the individuals injured in those attacks and to the people of the Kingdom of Spain, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 99

Whereas on March 11, 2004, 10 coordinated bomb explosions at the Atocha, Santa Eugenia, and El Pozo del Tio Raimundo stations and aboard a commuter train occurred during the morning rush hour in Madrid;

Whereas 191 individuals were killed and more than 1,800 individuals were wounded in these horrific terrorist attacks;

Whereas these terrorist bombing attacks were the deadliest in Europe since the bombing of Pan Am Flight 103 in 1988;

Whereas these attacks constitute the worst acts of terrorism ever experienced in Spanish history;

Whereas Spain's investigation into the Basque Fatherland and Liberty terrorist organization, also known as Euzkadi Ta Askatasuma (ETA), has made progress in the Global War on Terrorism;

Whereas the leaders of Spain have worked vigorously to identify and capture terrorists who attempt to find sanctuary in Spain;

Whereas the atrocious acts of violence committed on March 11, 2004, in Madrid show yet again that terrorism knows no borders;

Whereas the United States and Spain are committed to continuing to strengthen the relationship between the United States and Europe;

Whereas Spain is an advocate for the ideals of freedom and democracy; and

Whereas the people of the United States stand together with the people of Spain to remember those individuals who lost their lives on the one year anniversary of these horrific terrorist attacks: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses its condolences to the families of the individuals killed in the terrorist bombing attacks in Madrid that occurred on March 11, 2004, and expresses its deepest sympathy to the individuals injured in such attacks and to the people of the Kingdom of Spain on the one year anniversary of the attacks;

(2) condemns the terrorist attacks that occurred on March 11, 2004, and all acts of terror worldwide; and

(3) expresses its solidarity with Spain and all other countries that have been attacked during the Global War on Terrorism.

Ms. BERKLEY. Mr. Speaker, this Friday marks the one-year anniversary of the tragic train bombing in Madrid, Spain.

The resolution I have introduced with Mr. MCCOTTER expresses the condolences of the House of Representatives to the families of individuals killed in the bombing. It also expresses solidarity with Spain and all other countries that have been attacked during the Global War on Terrorism.

These bombings were the worst acts of terrorism ever experienced in Spanish history—killing 191 individuals and injuring almost 2,000. They also marked the deadliest terrorist attacks in Europe since the 1988 bombing of Pan Am Flight 103.

Much like our own September 11th, the March 11 attacks were senseless acts of violence perpetrated by terrorists against innocent civilians. This was nothing more than an attack against freedom and democracy—perpetrated by cowards bent on turmoil and destruction.

While we have had our differences with the government of Spain over the last year—it is important that Congress reiterate its support with the people of Spain. The war on terrorism is a global conflict that knows no boundaries and does not distinguish between civilian and soldier. We have experienced its destruction first-hand, and we must stand in unity with others who have also felt this tragedy.

The relationship between the United States and Spain remains strong, and Spain remains an important ally in the war on terrorism. The Madrid bombings were a direct attack on this peace-loving government and its democratic principles.

I am deeply saddened by this senseless loss of life, and join my colleagues in expressing our most sincere condolences to the victims, their families and the people and government of the Kingdom of Spain.

The resolution was agreed to.

### AMENDMENT TO PREAMBLE OFFERED BY MR. MC COTTER

Mr. McCOTTER. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to preamble offered by Mr. MCCOTTER:

Strike the preamble and insert in lieu thereof:

Whereas on March 11, 2004, terrorists affiliated with Al Qaeda coordinated 10 bomb explosions at the Atocha, Santa Eugenia, and El Pozo del Tio Raimundo stations and aboard a commuter train during the morning rush hour in Madrid;

Whereas 191 individuals were killed and more than 1,800 individuals were wounded in these horrific terrorist attacks;

Whereas these terrorist bombing attacks were the deadliest in Europe since the bombing of Pan Am Flight 103 in 1988;

Whereas these attacks constitute the worst acts of terrorism ever experienced in Spanish history;

Whereas Spain's investigation into the Basque Fatherland and Liberty terrorist organization, also known as Euzkadi Ta Askatasuma (ETA), has made progress in the Global War on Terrorism;

Whereas the leaders of Spain have worked vigorously to identify and capture terrorists who attempt to find sanctuary in Spain;

Whereas the Club de Madrid, an independent organization of democratic former heads of state and government dedicated to strengthening democracy around the world, is convening an international summit on democracy, terrorism, and security under the High Patronage of His Majesty the King of Spain to commemorate the one year anniversary of the terrorist attacks in Madrid;

Whereas the atrocious acts of violence committed on March 11, 2004, in Madrid show yet again that terrorism knows no borders;

Whereas the United States and Spain are committed to continuing to strengthen the relationship between the United States and Europe;

Whereas Spain is an advocate for the ideals of freedom and democracy; and

Whereas the people of the United States stand together with the people of Spain to remember those individuals who lost their lives on the one year anniversary of these horrific terrorist attacks: Now, therefore, be it

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

☐ 1500

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DENT). Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentlewoman from California (Ms. MATSUI), the whole number of the House is adjusted to 435.

## APPOINTMENT OF MEMBER TO BOARD OF TRUSTEES OF GALLAUDET UNIVERSITY

The SPEAKER pro tempore. Pursuant to 20 U.S.C. 4303, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Trustees of Gallaudet University:

Mr. LAHOOD, Illinois.

## PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL SATURDAY, MARCH 12, 2005, TO FILE A PRIVILEGED REPORT TO ACCOMPANY A CONCURRENT RESOLUTION ON THE BUDGET

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until 4 p.m. on March 12, 2005, to file a privileged report to accompany a concurrent resolution on the budget.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

## STOP VIOLENCE AGAINST WOMEN

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, violent acts in this Nation and around the world must end. Since the passage of the Violence Against Women Act, or VAWA, in 1994, the United States has systematically addressed abuse and violence against women, and we have to continue that tradition: but it appears we have just begun.

Around the world, at least one woman in every three has been beaten, coerced into sex or otherwise abused in her lifetime. Most often the abuser is a member of her own family. Women have the right to feel safe in their own homes and on the streets, and law enforcement and health officials must be equipped to deal with the special needs of these tragic situations.

The Violence Against Women Act has been the essential part of strengthening a support system for abused women in our country. Mr. Speaker, that is why I urge my colleagues to support the reauthorization of VAWA in this Congress so we can continue making the lives of all women safer, healthier, and happier.

## RESTORE FUNDING FOR EVEN START

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute.)

Mr. CUNNINGHAM. Mr. Speaker, I support the President in almost every area. But in his budget, as in last time, they took out an education program called Even Start. Former Member Bill Goodling pushed Even Start, because in Leave No Child Behind an important factor of that is encouraging and working with parents to work with their children to make sure that they are not left behind.

Unlike a lot of large government programs which are dependent on individual areas and leaders that run it, Even Start, across the board, has been extremely successful. We need to eliminate a lot of duplicative programs in education, but let us not eliminate the good ones: and let us support Even Start in this House.

And I would hope in the House we restore that education program.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## ORDER OF BUSINESS

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

## INTRODUCTION OF THE GENETIC INFORMATION NONDISCRIMINATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

Mrs. BIGGERT. Mr. Speaker, I rise today to introduce the Genetic Information Nondiscrimination Act. Before I begin, I want to thank my cosponsor, the gentlewoman from New York (Ms. SLAUGHTER). No one has worked harder on this issue and has fought more to bring it more to the forefront.

Back in 1993, this House passed H. Con. Res. 110, recognizing the sequencing of the human genome as one of the most significant accomplishments of the pass 100 years. It most certainly is. Thanks to this accomplishment, researchers now know more than ever how the human body works.

Thanks to genetic testing made possible by this discovery, individuals can, for the first time, know their risks for developing one of more than 1,000 genetic disorders.

Why would anyone want this bad news. Well, if you know you or someone in your family is going to get sick, you can plan accordingly. You can incorporate healthy habits to lessen the impact of the condition. For example, a woman who carries a gene known as BCRA, has a much higher risk of developing breast cancer than the rest of the population.

If these women knew ahead of time that they were at greater risk, they would be more likely to eat better, stop smoking, have annual mammograms and take other steps to lower the likelihood of cancer. It also gives individuals and families the chance to mentally and financially prepare themselves for whatever condition they may later develop.

The problem is that individuals are not taking advantage of this opportunity. And why not? Well, they are concerned that their genetic information will be used by health insurers to deny them coverage and by potential employers to deny them employment.

To put it bluntly, we will never unlock the true promise and benefits of sequencing the human genetic code if Americans are too paranoid to get tested.

Currently, Federal and State laws offer only a patchwork of protection against the misuse of genetic information. In addition, some States have enacted legislation on discrimination in health insurance and/or genetic discrimination in the workplace. Despite the presence of these State laws, only comprehensive Federal legislation can guarantee everyone in the United States protection from genetic discrimination.

That is why I, along with the gentlewoman from New York (Ms. SLAUGHTER), the gentleman from Ohio (Mr. NEY), and the gentlewoman from California (Ms. ESHOO), have introduced this legislation. No one should be afraid to take advantage of the latest science to protect their health or that of their families. It is exactly the same bill that our colleagues in the Senate passed without objection, and it is strongly supported by the administration.

The bill provides commonsense protections for both consumers and companies. It contains protections against frivolous lawsuits with unlimited damages, but at the same time ensures that an individual's private, personal genetic information cannot be used against them. For example, employers cannot fire someone because they are more likely to develop a genetic disorder. Nor can they require employees to undergo genetic testing. At the same time, employers cannot be sued simply because of so-called "water cooler gossip" about an individual's condition that may or may not be true.

Under this bill, health insurance companies cannot deny coverage or charge a higher premium to a healthy individual based solely on genetic disposition to a disease or a disorder. Health insurance is expensive and hard enough to get for many Americans. Let us not make it more expensive based on factors beyond an individual's control.

As technology rapidly changes, so must Federal law. We must now act to protect our Federal investment in the human genome project. If individuals do not take advantage of the opportunities genetic research provides, we do not fully realize the return on our investment. This bill would allow them to do just that.

I am proud to introduce this legislation. I thank my colleagues who have worked so hard on it already: the gentlewoman from New York (Ms. SLAUGHTER), the gentleman from Ohio (Mr. NEY), and the gentlewoman from California (Ms. ESHOO). I urge my colleagues to support this commonsense and much-needed legislation.

## CRACKING DOWN ON GANGS THAT TERRORIZE OUR COMMUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, last month I introduced with the gentlewoman from California (Mrs. BONO) the

Gang Prevention and Effective Deterrence Act of 2005, a comprehensive bill to increase gang prosecution and prevention efforts. Our legislation is virtually identical to the Feinstein-Hatch bill that was reported out of the Senate Judiciary Committee in the 108th Congress and has since been reintroduced.

The number of gangs continues to grow in communities across the country with substantial increases in the numbers of cities and counties with gang problems between the mid-1980s and the mid-1990s. Since my days as a Federal prosecutor in California, I have been increasingly concerned with the growing public safety threat posed by organized street gangs, and I have also seen the destructive impact that street gangs continue to have on families, on our youth, and on our communities.

In 2002, it was estimated that youth gangs were active in over 2,300 major cities across America, with a total of over 21,000 gangs and over 730,000 gang members. Gang activity is still, regrettably, on the rise.

The gang problem is no longer a local issue but a national one, requiring a national strategy. Our legislation is designed to facilitate this strategy by bringing together Federal, State, and local law enforcement, providing them with new tools to combat gang violence, making available new funds to keep kids out of gangs to begin with.

Street gangs are increasingly focusing on running full-service criminal enterprises in the neighborhoods where they reside, terrorizing those who live in the community. Some have shown increasing levels of sophistication, exhibiting characteristics common to organized crime, and will likely continue to expand their criminal enterprises in new ways and places throughout the country. This requires new and creative ways of attacking the problem.

In 2002, the city of L.A. announced that it would begin to go after gangs in the same way law enforcement brought down traditional organized crime figures, using the Federal racketeering statute RICO to its full capacity. These racketeering laws, however, were designed to prosecute organized crime with Mafia-style organizations in mind. The Gang Prevention and Effective Deterrence Act would create a similar tool, but tailored specifically to violent street gangs by criminalizing violent crimes in furtherance or in aid of criminal street gangs.

The most lucrative criminal enterprise for street gangs has been the retail distribution of illicit narcotics. Our legislation would attack this problem by making murder and other violent crimes committed in connection with drug trafficking a Federal crime.

Street gangs also engage in a host of other criminal endeavors. Gangs are responsible for a large portion of the violent offenses, and the use of firearms is a major feature of gang violence, with gang members far more likely than other delinquents to carry guns and to use them.

Our legislation increases penalties for criminal use of firearms in crimes of violence and drug trafficking. The bill also allows for the detention of persons charged with firearms offenses who have been previously convicted of crimes of violence or serious drug offenses.

Unfortunately, gangs have strong links to the youth in our country. The FBI reported that 819 juvenile gang killings occurred in 2003, up from 580 in 1999; and law enforcement reports the problem is getting worse.

Our youth are being held hostage by gangs. Gang involvement takes a heavy toll on adolescent development and life-course experiences.

In order to prosecute an entire gang, it is sometimes necessary to prosecute multiple defendants in the same case, including juvenile gang members. Our bill proposes a limited reform of the juvenile justice system to facilitate Federal prosecution of 16- and 17-year-old gang members who commit serious acts of violence.

Our legislation also provides more resources to bolster the fight against gangs and attack the problem at its roots, with $650 million over 5 years to support Federal, State, and local law enforcement efforts, as well as intervention and prevention programs for at-risk youth.

Mr. Speaker, the time to crack down on the gang epidemic in our country is now, and I urge my colleagues to join the gentlewoman from California (Mrs. BONO) and me in this effort by cosponsoring this important legislation.

---

□ 1515

## PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise again today to talk about the issue of prescription drugs and the price that Americans pay relative to the rest of the industrialized world.

Now, I understand that we are a blessed country, and I understand that in many respects we as Americans should shoulder more of the burden than, for example, the people in Sub-Saharan Africa. But I do not think Americans ought to have to subsidize the starving Swiss.

Let me just show this chart, Mr. Speaker. These numbers are very recent in terms of the comparisons of what we pay in the United States for name-brand prescription drugs and what the people in Germany pay for the same drugs. Let me cite some of these examples:

Nexium. The next purple pill. It is advertised at every level in the United States. A 30-day supply in Rochester, Minnesota, is $145.33. That same drug at the Metropolitan Pharmacy in Frankfurt, Germany, is $60.25. Exactly the same drug.

Look at this list. These are the most commonly prescribed drugs in the United States. Dropping down to Zocor, Zocor is a commonly prescribed drug that reduces cholesterol, particularly for people who have had heart problems. In fact, we have a number of our colleagues here in Congress who take Zocor.

The interesting thing is if you buy that drug at the pharmacy in Rochester, Minnesota, it is $85.39 for a 30-day supply. If you buy that drug in Frankfurt, Germany, it is $23.83.

What makes that even more interesting is that if you are a Federal employee, if you are a Member of Congress, there is now a $30 copay on that drug. So in other words, even a Member of Congress pays $30, when any German consumer can walk into a local pharmacy and buy it for $23.80.

The interesting thing is if you total up these commonly prescribed drugs, in Germany those drugs will cost you $455.57 American. If you buy them here in the United States it is $1,040.04. That is a 128 percent difference.

What makes this even worse, Members, is that the differences between what we pay in the United States and what they pay in Germany has actually gotten worse over the last year, and that is at a time when the value of the dollar has declined by more than 20 percent. The differentials should have gotten less.

I also want to call Members' attention to an article that appeared today in the Chicago Tribune, and it will be on my Web site as soon as my people can get it on the Web site. It tells what the FDA is now doing. They are, apparently, targeting a program started by the Illinois legislature and their Governor, Governor Rod Blagojevich, a former colleague of ours, that allows Illinois seniors and others to buy prescription drugs from preapproved Web sites in Canada. The savings there average over 50 percent.

Apparently, the FDA is now intercepting these packages. They are literally saying that those drugs are illegal simply because they came from Canada. Well, in my view, that is an extension of what the law actually says, and I do not think the FDA has that power. Worse yet, they may have opened a door here now to a class action lawsuit that this administration is going to rue the day that this door was opened.

This is a very high-risk strategy for this administration. First, they are clearly putting the health of many

Americans at risk by seizing prescription drugs en route to patients. Second, it underscores the hypocrisy between agencies. The FDA on one hand is demanding absolute safety for prescription drugs from Canada, notwithstanding the fact that there is no evidence of any danger to the public health. Meanwhile, another agency is fighting to reopen the border for Canadian beef when worldwide 150 people, including one American, have died from Mad Cow Disease. Apparently, the U.S. cattlemen do not enjoy the same political clout as the pharmaceutical industry.

Finally, they have opened the door, as I said, to a class action suit. Several top lawyers have told me they are drooling at the prospect of getting a case into Federal Court. By using discovery powers, they could uncover documents and information terribly damaging to the administration and the pharmaceutical industry. It is altogether likely that the courts will stop the FDA from treating law-abiding citizens in the United States like common criminals.

The law is vague, but congressional intent is clear: the FDA is wrong in the law, it is wrong on safety, and the courts and Congress can now make that crystal clear.

Mr. Speaker, I submit for the RECORD the article from the Chicago Tribune to which I earlier referred:

### U.S. BLOCKS DRUGS SENT FROM CANADA

(By John Chase and Christi Parsons)

The Bush administration has begun selectively seizing prescription drugs imported under a program created by Gov. Rod Blagojevich, ratcheting up pressure to stop a practice that the governor says will save money for consumers but regulators contend is unsafe and illegal.

The Canadian firm that manages Blagojevich's I-SaveRx initiative says the federal Food and Drug Administration in the first two weeks of February blocked more than one-fourth of the foreign drug shipments it mailed to consumers in Illinois and four other states that participate in the governor's plan.

"I won't say the FDA has targeted I-SaveRx, but that's an unbelievable coincidence," said G. Anthony Howard, president and CEO of Ontario based CanaRx Services Inc.

Operators of other Canadian pharmacies that ship drugs to U.S. consumers also said they have noticed an upsurge in seizures in recent weeks.

The FDA has long opposed drug imports yet has done little to stop them. But the reports could signal an aggressive new phase by regulators in their battle to stop Americans from getting their prescriptions from abroad. Officials involved with Blagojevich's program also fear the sporadic seizures may be designed to deter customers for I-SaveRx by creating uncertainty over whether ordered drugs will actually arrive.

In the past, "the FDA has said, 'If it is for personal use, we'll allow them to go into the country,'" said Howard. "Now they're seizing their medication and not allowing it to go through."

The FDA and Blagojevich have been battling since 2003 over his push to end restrictions on drug imports from Canada and Europe, where prescriptions cost less because of price controls.

The Bush administration opposes importation because it says it cannot guarantee the safety of medicine from other nations, but Blagojevich and others argue that much of the medicine is manufactured overseas and the only difference is the price. Pushing the importation issue, they argue, will force drug companies to lower the cost of drugs in the U.S.

William Hubbard, the FDA's associate commissioner of policy and planning, denied the agency was targeting the program. Though he said the agency considers all of I-SaveRx's shipments illegal, the FDA is focused on seizing drugs from overseas that can easily be counterfeited, such as the cholesterol-lowering drug Lipitor.

"The inspectors' instructions are to open and inspect these foreign shipments when they have the time and capacity to do it," he said.

#### FAILED FLU VACCINE PURCHASE

Blagojevich's run-ins with the FDA have extended beyond I-SaveRx.

Last fall, shortly before the November election, he announced that he had purchased millions of dollars in European-made flu vaccine to help ease shortages expected because of the sudden closure of a plant that was to have produced half the U.S. supply.

His maneuver backfired, however, because the FDA dragged its feet on approving the imports. The flu season remained mild and vaccine shortages never got as bad as feared.

Blagojevich launched I-SaveRx in October and sold it as a way for all 12 million Illinois residents to save money on their medicine. Since then, Wisconsin, Kansas, Missouri and Vermont have also joined, potentially opening the door to millions more consumers.

But the drug seizure controversy has highlighted how few people have opted to use the program despite its promise of great savings.

Howard said the total number of shipments seized for customers in the I-SaveRx states in the first two weeks of February was 54, and that represented 26 percent of all shipments sent to customers of the program during that time frame.

Since the October start, consumers in the five states have ordered just 4,700 prescriptions.

Blagojevich spokeswoman Abby Ottenhoff downplayed the number of seizures by the FDA, describing them as "minuscule" when viewed in the context of the number of shipments made since the program started.

"This is not extraordinary that this would happen at some level," she said. "The program has overwhelmingly been working smoothly. In a few instances where shipments weren't received, they were re-sent at no cost to the consumer."

#### THEY HAD MY MEDICINE

One of those seniors who missed a shipment was Robert Wuerth, a 79-year-old retiree from Arlington Heights.

Wuerth had been expecting a three-month supply of Lipitor to arrive in the mail, but instead he got a letter from the FDA informing him that it had sent the medicine back to Canada.

"I couldn't believe it," said Wuerth, who is recovering from three heart procedures. "I just got this letter telling me they had my medicine."

Wuerth said he was lucky he still had medicine left when he learned of the seizure and had time to call CanaRx and ask for a new shipment, which he said is $80 less than U.S. prices.

Not only did the FDA let that one through, but when it came it bore two labels. One read that it had been rejected for delivery. On top of that was another that said it had been released for delivery.

Officials with CanaRx fear the FDA might be picking on I-SaveRx to embarrass Blagojevich. But officials with other Canadian pharmacies said they too have noticed a considerable upsurge in the number of seizures of their imports, mostly at airports in Los Angeles and Chicago.

Randy Stephanchew, vice president of standards for the Canadian International Pharmacy Association, which is unaffiliated with the I-SaveRx program, said more than 50 shipments from his Winnipeg pharmacy in recent weeks have been detained from customers in California because they were considered an "unapproved, misbranded drug."

A former official with Health Canada, the Canadian government's equivalent to the FDA, Stephanchew said the FDA has long held a policy permitting individual American citizens to import drugs from foreign countries.

## EXCHANGE OF SPECIAL ORDER TIME

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from California (Mr. GEORGE MILLER).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## PAKISTANI RAPE VICTIM AND SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, tonight I want to tell the story of Mukhtar Mai, a Pakistani woman who was gang-raped by four men at the direction of the local village council. She committed no crime whatsoever, not a single violation of any kind: yet she was punished by allowing neighboring men to rape her.

Why did the village council encourage the gang rape of Mukhtar Mai? They say it is because her brother was accused of having sex with an older woman from a more prominent family. So the family's punishment was through Miss Mai. But even worse is that the accusation that Mukhtar's brother had sex with an older woman was not true. The accusation was floated to cover up the fact that her brother was actually sexually assaulted by a group of men.

Everyone in the world should be offended by these horrific acts. Mukhtar is a 33-year-old schoolteacher dedicated to educating her nation's children, and she was viciously attacked as punishment for a crime that her brother was accused of, but never committed. Sadly, Mukhtar is not alone. Extreme violence against women happens every day in countries around the world. Most Pakistani women, I am told, in a situation like this, would choose to quietly accept their unfair fate because of fear from the powerful influence of their tribal leaders.

Mukhtar was not silenced. She bravely spoke out after the rape. Her brave voice attracted the attention of media outlets all around the world. In embarrassment, the Pakistani Government reacted to public pressure by promising to swiftly punish her attackers, and a court soon tried and jailed the six men who were involved in the rape.

Unfortunately, the story gets even worse after that. These men, this week, who are all close neighbors of Mukhtar, were actually released from prison. Citing a lack of evidence, a higher court overturned the original convictions of five of the six men. With the five released, Mukhtar fears her life is in danger. Mr. Speaker, who would not be afraid, especially when the men live so close, especially when one woman went against her village traditions and spoke out and challenged her rapists and her accusers, acting bravely, not cowering and not accepting the shame of such an injustice?

This is an important story for several reasons. First, anyone who cares about the fair treatment of human beings around the world should be concerned that women are being treated this way anywhere. Also, we know there is an important link between the fair treatment of women and global security and development. In fact, the more equitably a country treats its female population, the more stable that country tends to be.

Studies in developing countries have demonstrated that the higher level of girls' enrollment in school, the less crime and violence occur in that country. The question is: Why does the United States provide millions of dollars every year to a country like Pakistan that allows this type of brutality to occur?

Last year alone, the United States provided $300 million in foreign military financing for Pakistan, a country, according to the Council on Foreign Relations, that has provided covert support for terrorist organizations that are active in Pakistan's mountainous regions, making it almost impossible to track the activities of groups like al Qaeda.

We need to pursue a smarter national security policy if we want to get serious about ending terrorism and encouraging democracy. We need what I call SMART Security, which is a Sensible Multilateral American Response to Terrorism for the 21st century.

Instead of providing millions of dollars in military support for countries that endorse and encourage terrorism, SMART security would spend the same dollars on educational opportunities in countries like Pakistan, especially for women and girls, in order to help encourage gender equality and economic stability. The return on our dollar will be far greater when spent on books and schools instead of guns and bombs.

Let us adopt the SMART security policy when it comes to dealing with countries like Pakistan, because SMART security will make America safer in the long run, and it will help millions of brave women like Mukhtar Mai.

---

## FREDERICKSBURG, TEXAS, HIGH SCHOOL AEROSPACE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CONAWAY) is recognized for 5 minutes.

Mr. CONAWAY. Mr. Speaker, the newsprint, the television media, and I notice even in this House, as in a couple of speakers ago, we are constantly bombarded with stories of the youth in our communities, in our cities, in our towns that are doing bad things, young men and women who are making some bad choices, and some of them very grievous and extremely bad choices. They get an awful lot of the air time on television and in newsprint.

I am standing before you today, Mr. Speaker, to point out a group of young men and women in Fredericksburg, Texas, who are, I think, at the absolute other end of the spectrum from those who we typically see in our newspapers.

I want to talk briefly this afternoon about the Fredericksburg High School Aerospace Program. This is a voluntary program, an elective program that students in Fredericksburg High School can participate in. Their mission each year is pretty straightforward. The first day of class the teacher writes the problem on the board, and then they have to solve it. They will spend the entire year solving that problem.

The problem that Mr. Williams, the founding father of this program, gives his class, their mission, is to put a 35-pound scientific experiment 100,000 feet into the air. And that is it. This group of young men and women then begin to break up into teams, teams that will help do the design. There will be young men and women who may be good at physics and other math skills; there will be teams that are good at marketing and they will be out trying to scrounge and acquire the necessary information and materials to solve the problem each step of the way.

There is no text book. These young men and women are solving this particular problem from scratch. Mr. Williams is there to keep them between the white lines, but he is also there to let them make mistakes. As they go down paths that do not solve the problem, they learn from those mistakes and then go back to the drawing board, so to speak, to accomplish their mission.

SAT scores at Fredericksburg High School have risen 200 points as a result, in their minds, as a result of this cross-disciplinary process that goes on within this particular classroom. Also, these young men and women, 80 percent of them go on to engineering degrees in colleges.

I am not sure of the exact statistics, but China is producing a staggering number of engineers greater than we are in this country, and that ought to give us all pause for concern. If America wants to remain competitive in whatever arena, look at the advantages all these engineers being trained in China will give them over us, as we produce fewer engineers, should give each of us pause on a variety of levels.

These young men and women go on to school to further their careers. They work in teams. They learn to use skills and techniques and processes that serve them well in the real world by working in groups, small groups and large groups, to accomplish this program. They design this vehicle from nose cone to nozzle, including the propulsion systems.

Now, once they have the design done, they then build the rocket. They build the 35-pound test module that they are going to send 100,000 feet into the air. They build it from scratch. They do all the electrical work; they do all of the construction work that they can. They then begin to look for contributions from companies that might be in this business or in allied businesses, looking for the nozzle parts, looking for the parts of the nose cone, the fuel systems, and those kinds of things, because they do not have money that goes with this. This is all part of the program of living in the real world, looking at problems and trying to figure out how to solve them.

Some of the accomplishments of the Fredericksburg High School and this team is the first high school to break the sound barrier with their rocket.

☐ 1530

They are also the high school that has launched the largest, fastest vehicle to the highest altitude at a Federal missile range, White Sands Missile Range outside Alamogordo. That is a top accomplishment for a group of high school students.

This program, in its seventh or eighth year, is being developed in a manner that will allow it to be replicated in other high schools across the Nation, providing an opportunity to incent and interest our young men and women in positive programs doing things and doing those things well.

Mr. Speaker, I rise today to point this out to my colleagues here in the House. I hope that the good citizens throughout the 11th Congressional District of Texas and throughout the

United States will recognize these accomplishments, will look for their own communities to say: We have some kids that are as bright and as smart as the kids in Fredericksburg, Texas; I wonder why we cannot beat their record, why we cannot put a 35-pound payload 100,000 feet into the air and recover it intact. It is a great accomplishment that is going on in Fredericksburg, Texas. This is a great opportunity to recognize the wonderful things being done by these students, in contrast to all the bad things that we hear in the press.

## ORDER OF BUSINESS

Mr. ENGEL. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## LEBANON AND SYRIA LIBERATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, for too long Syria has heard yes from the world. It has sponsored terrorism, and the world answered: Yes. It has built up an arsenal of weapons of mass destruction, and the world answered: Yes. And it has stolen from Lebanon its sovereignty and political independence, and, once again, the world answered: Yes.

This week, we are here to tell Syria: No. For over a generation, the world stood silently as the occupation set deep roots in Lebanon, while hundreds of people were murdered by Syrian-supported terrorists like Hezbollah all over the world, and a dangerous stockpile of chemical weapons was developed. Anger grew as guerillas entered Iraq from Syria to kill innocent Iraqis and American soldiers, but it was left to the United States Congress to grab the bull by the horns and devise a policy to free Lebanon and confront Syria.

The Syria Accountability Act and Lebanese Sovereignty Restoration Act, which I wrote, was signed into law in December 2003 and told Syria that things had changed. Until Syria got out of Lebanon, halted its support for terror, ended weapons of mass destruction programs and stanched the flow of extremists into Iraq, it would face sanctions.

Last fall, the United Nations followed our lead. They demanded in U.N. Security Council Resolution 1559 that Syria completely leave Lebanon, and Hezbollah be dismantled. But still, Syria remains in Lebanon, and the terror machine operates from the Damascus sanctuary.

It is remarkable, but it has taken the murder of a former prime minister of Lebanon and mass protests by Lebanese aspiring for democracy for the world to take on the Syria challenge. The Cedar Revolution which has been launched by Lebanese people calling for Syria to leave Lebanon is something that really make us proud.

So this week, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and I introduced a new bill. This is the natural follow-up to the Syria Accountability and Lebanese Sovereignty Restoration Act. The legislation is called LA SYRIA LA, which means in Arabic, No Syria No. It says that until Damascus gets completely out of Lebanon, stops supporting terrorist groups and ends it weapons of mass destruction programs, the Lebanese and Syria Liberation Act, LA SYRIA LA, codifies existing sanctions against Syria and imposes American sanctions on countries and companies which provide destabilizing weapons to Syria. In other words, third countries will have sanctions against them if they provide destabilizing weapons to Syria. It calls for a State Department report to Congress on Syrian activities, provides for American assistance to pro-democracy and human rights groups in Syria and Lebanon and instructs our government to oppose Syrian bids for U.N. leadership positions and international loans to Syria.

So, today, we stand with the Lebanese people who wish to take back their people by saying no to the Syrian occupiers. We stand with the world and the President of the United States, who is saying no to the Syrian occupation, and we align ourselves with the forces of Lebanese democracy which will deliver the ultimate no to Syria through power of the ballot box, not the barrel of the gun.

Now I must say, today, the newspapers reported that in a sharp policy reversal, the Bush administration is now ready to see Hezbollah in a role in Lebanon at the urging of France. I am sorry to hear, that, if it is true, is ill-advised, and I urged the administration to never acquiesce to terrorist organizations like Hezbollah. Hezbollah is in the same category as al Qaeda, and the President has said time and time again that there are no good terrorists, only bad terrorists, and we cannot compromise with terrorism. I hope this is not the fact. We should not deal with Hezbollah. Hezbollah killed 243 Marines, U.S. Marines, 20 some odd years ago in Beirut and has killed countless number of Israeli citizens by being allowed to conduct a proxy off of Syria against Israel in South Lebanon.

Resolution 1559 of the U.N. Security Council which we sponsored says that Hezbollah and all terrorist organizations in Lebanon must be dismantled and that the Syrians must get out of Lebanon. I urge the administration to stick to its guns on that and never recognize Hezbollah as anything more than a terrorist group.

## ORDER OF BUSINESS

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

## HONORING THE FAMILY OF EVA BOWMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized for 5 minutes.

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor Eva Bowman and her late husband, Ralph, for their commitment to education and, specifically, for their commitment to the Wray School District located on the eastern plains of Colorado.

The Bowmans' dedication to and involvement in the school districts of East Yuma County spans five generations. As a young girl, Eva rode her horse to school southeast of Wray. That schoolhouse was made of sod. It was heated using wood and cow chips. She graduated from Laird High School. Her father, Fred Peterson, was also active in education and served as a member of the Starnes County School Board at the turn of the last century. Ralph attended the nearby East Beecher Island County School, but had to quit after the eighth grade in order to work on the farm.

Because he was not able to finish his education, Ralph felt it was very important for his children and his grandchildren to receive a good education. All three of the Bowman children graduated from Wray High School. The ten Bowman grandchildren and 21 great grandchildren all attend or have graduated from the schools within East Yuma County. By the time the Bowmans' youngest great granddaughter completes her schooling, their family will be celebrating well over 100 years of education within these wonderful educational institutions.

As an additional testament to their devotion, Eva recently donated $200,000 to the Wray School District wind turbine project on behalf of her late husband, Ralph, and her children, Jean Brophy, Geraldine Baird, and Jack Bowman. Upon completion, the wind turbine project will make Wray the first school district in Colorado to own a renewable energy source.

Recently, when her loving grandson Michael was talking to his grandmother, they commented on the technological changes Eva has experienced during her life. Michael praised his grandmother for her excitement about life, and she said, "I am not afraid to die; I just wish I could keep on living so I can see what happens next." That epitomizes the kind of woman Eva Bowman is.

Mr. Speaker, it is people of optimism, perseverance, and commitment to education, like Eva and Ralph, that make America the strong, innovative country that it is today. We owe the Bowmans a heart of gratitude for setting such a positive example for all of us to follow.

## THE FAILURE OF CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, this is the face of CAFTA. This photo was taken by Reuters News Service yesterday in Guatemala as police forces used tear gas and water cannons to beat back hundreds of demonstrators who had united to speak out against the Central American Free Trade Agreement, CAFTA. This is the face of CAFTA.

More than 25,000 letters have been signed by workers in Guatemala begging their Congress not to rush through this bad trade agreement. Throughout the developing world, from Guatemala to every other developing country, workers do not share in the wealth they create. Nike workers in Vietnam cannot afford the shoes they make. Disney workers in Costa Rica cannot buy the toys for their children. Motorola workers in Malaysia are unable to purchase the cell phones.

The North American Free Trade Agreement promised to create a thriving middle class in Mexico, to raise wages and lift people out of poverty. A dozen years later, there is no middle class realizing their dreams. Instead, there is a fallen minimum wage and the ongoing nightmare of abject poverty despite the backbreaking work and deplorable working conditions.

Now President Bush wants to expand this failed trade agreement with CAFTA, the Central America Free Trade Agreement, a dysfunctional cousin of NAFTA, involving five Central American countries: Costa Rica, Nicaragua, El Salvador, Honduras and Guatemala. CAFTA nations are not only among the world's poorest countries; they are also among its smallest economies. With a $62 billion combined economic output, about that of Columbus, Ohio, these countries can hardly serve as a growth engine for the $10 trillion U.S. economy. CAFTA is more about access to cheap labor and exporting American jobs than exporting American goods.

Trade pacts like NAFTA and CAFTA enable companies to exploit cheap labor in other countries, then import their products back to the U.S. under favorable terms. As a result, our country, especially my State of Ohio, bleed manufacturing jobs and run unprecedented trade deficits.

Gregory Mankiw, the President's former chief economist, portrays the exporting of jobs as inevitable and desirable, saying, "When a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically."

Mr. Speaker, I would say to Mr. Mankiw that what really makes sense is a trade policy that lifts workers up in rich and poor countries alike while respecting human rights and democratic principles.

Proof that CAFTA is a legacy of failed trade policies is evidenced in Congress' own inaction. Since 2001, Congress typically votes within 8 weeks, about 60 days, of President Bush signing a trade agreement. Nearly 300 days have elapsed since President Bush signed the Central American Free Trade Agreement. That delay is proof that CAFTA is a failure and further proof of CAFTA's failure can be seen in this photo when police have turned on their own protesting public, people who are exercising their rights simply to petition their Congress and ask that they not pass this trade agreement.

And yet, the U.S. continues to push for more of the same, more trade agreements that ship jobs overseas, more trade agreements that neglect essential environmental standards, more trade agreements that keep foreign workers in poverty.

Madness, Mr. Speaker, is repeating the same action over and over and expecting a different result. The United States, with its unrivaled purchasing power and our enormous economic clout, we are in a unique position to help empower poor workers in the developing world while promoting prosperity at home. When the world's poorest people can buy American products rather than just make them, then we will know that our trade policies are finally working.

□ 1545

## RU–486: BABY POISON THAT ALSO KILLS WOMEN

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, RU–486 is baby poison, and now we know it is also fatal to women. RU–486 is a powerful pesticide that was developed to kill human beings, not cure them. It targets unborn children for elimination as if they were cancers or viruses and hurts the women who take it. The fact that pro-abortion groups led the charge to water down the FDA's safety measures on RU–486 and now have been silent in the death of Holly Patterson is an indictment against them. They care more about abortion than they do women. These groups have actually chosen to subjugate women's lives and health to the insatiable desire for legal abortion at any time and for any reason. They have chosen abortion over women, but our current FDA should not continue to side with these extreme organizations such as Planned Parenthood. The FDA should be concerned more about health than they are with the bottom line of what the abortion industry is making.

That is why I so strongly support Holly's Law, a bill authored by the Senator from South Carolina (Mr. DEMINT) and the gentleman from Maryland (Mr. BARTLETT). I was very glad to join the gentleman from Maryland today at a press conference promoting this important legislation. As a father, my heart goes out to the Pattersons in their grief over the loss of their daughter. RU–486 killed Holly Patterson, and the approval of this terrible drug during the Clinton administration was done in the name of political expediency instead of patient health.

Let me just say briefly, Mr. Speaker, that the FDA violated Federal law and their own standards in approving RU–486. They approved it without the submission of data from adequate and well-controlled clinical trials. They created a final approval regimen for the use of RU–486 that does not reflect safeguards employed in the clinical trials on which FDA relied. They approved RU–486 using the expedited subpart H process which is only supposed to be used to approve drugs to treat serious or life-threatening illnesses. Unless you construe the killing of an unborn child, boy or girl, to be a disease or an illness, subpart H should have never been used.

In violation of their own pediatric rule, they never tested the drug on adolescents, even though it is being used by adolescents. They have failed to impose and enforce restrictions on the use of RU–486 commensurate with the risk that it poses to women, and women are dying. They failed to require the Population Council to honor in full its post-approval safety study commitments, and let us not forget that this drug is being manufactured in the People's Republic of China.

It is important to keep in mind that with RU–486, we are talking about calibrating a poison designed to kill one person without causing harm or without killing another. The purpose of RU–486 is to chemically poison, this is the purpose of it, another human being. That it is dangerous physically and mentally and should never be sold to young people as a solution to their problems ought to be self-evident. Abortion, Mr. Speaker, is violence against children. We can do better for women. It is not in their interest that their children be killed with these powerful poisons.

I would just say finally, Mr. Speaker, that the longer this poison is on the market, administered to young people by groups like Planned Parenthood, the more unborn boys and girls and women who take it will be at risk of death and injury.

Let us not forget, as well, that Planned Parenthood is an organization that annually performs about 240,000 abortions. They make an enormous amount of money from the abortions that they provide, either surgically or chemically; and this is now another tool in their arsenal against unborn children. They ought to be known as Child Abuse, Incorporated for the large number of children that they have killed and continue to kill with U.S. subsidies both at the Federal and the State level.

Mr. Speaker, again we call on the FDA. It is time to take this drug, this chemical poisoning of unborn children that is so dangerous to women, off the market.

---

## NATIONAL ANTHEM PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, this morning on the west lawn of this fine building, the Capitol of the United States, I participated in the National Anthem Project. Sponsored by the National Association For Music Education and supported by its honorary Chair, First Lady Laura Bush, as well as Jeep, Chrysler, Save America's Treasures, the Girl Scouts of America, the NBA, the U.S. Conference of Mayors, the National Education Association, the American Legion and many, many more, this 3-year project will get America singing our national anthem again, the "Star-Spangled Banner," proudly and strongly singing it again and will help people understand the important role that music classes play in teaching our culture.

During the most forgotten American war, the War of 1812, some say the second American revolution, between the United States and England, the British invaded the United States and they torched this city, Washington, consuming numerous public buildings, including the White House and this Capitol, leaving it, as they said, in a most magnificent ruin.

Next on their list was the city of Baltimore, not far from here. They attempted to attack Baltimore by sea. American forces under the command of Colonel George Armistead defended Baltimore in the harbor with Fort McHenry standing in the way of the British and Baltimore, and they thwarted this destruction by the British.

A young lawyer on a British ship trying to seek the release of a friend watched this 25-hour British naval bombardment of Fort McHenry throughout the night, and the next morning he saw the largest United States flag he had ever seen flying at dawn and inspired this young lawyer by the name of Francis Scott Key to write the words that later became our national anthem. He watched the flag fly as the British ships left the harbor in defeat.

Yet, Mr. Speaker, the lyrics to the "Star-Spangled Banner" that we have officially called our national anthem for 75 years are foreign to many of our citizens. According to a Harris poll, fewer than 30 percent of American children can sing this patriotic song. This is somewhat tragic. We must revive America's heritage starting by equipping our Nation's music teachers with the resources they need to preserve our tradition in freedom, freedom in song.

Unfortunately, when budget cuts are made in the area of education, music classes in schools across the country are the first to be asphyxiated. But considering that so much of our history is chronicled through songs, songs like the "Star-Spangled Banner," and that three out of four Americans cite music class in their public school as the primary place they learn about American history, how can we let this trend continue? Are we going to deprive future generations of Americans the vibrant spirit of our land?

Cicero, the Roman orator, author, and politician, once said: "Not to know what has been transacted in former times is always to remain a child. If no use is made of the labors of the past, the world must remain always in the infancy of knowledge." And even though he warned us about the tragedy of this apathy of history, we have deserted our commitment to the far-reaching study of civics, civics education and American history in these United States. We must ask ourselves how many of our students can identify such names as John Paul Jones, Susan B. Anthony, Paul Revere, and Nathan Hale.

To answer this question, we have to examine where a number of the curricula in our Nation's classrooms begin the American tale. Now, in many American classrooms they do not start American history with the American Revolution. They start it with World War II to the present. They just do not have enough time, according to educators. So how can we blame our young children who become our young leaders if they do not know our history?

Moreover, according to the Fordham Institute, which seeks to focus on effective education reforms, few history teachers ever learn much history themselves. More than half of high school history teachers did not major or even minor in history in college. As a result, teachers charged with imparting information to young Americans about the history of their country and the history of the world rely on the textbooks available to them, often textbooks that the teachers themselves had little to do with selecting or reading. At some places in the United States we still use coaches to teach history.

Mr. Speaker, this state of affairs is why I am proud to support campaigns like the National Anthem Project and encourage my fellow Americans to help us regain our appreciation for this legacy. Luckily, I come from Texas where the knowledge of our State's history is not neglected, but hallowed. In fact, State standards mandate the study of Texas history first in the fourth grade and then more comprehensively in the seventh grade. Lone Star students among other topics learn about the Texas Revolution, the establishment of the Republic of Texas, and subsequent annexation to the United States.

As my colleague Senator ROBERT BYRD has said, "An American student regardless of his race, religion or gender must know the history of the land to which they pledge allegiance. They should be taught about the Founding Fathers of this Nation, the battles they fought, the ideals that they championed, and the influences they have made throughout the world. They should be taught about our Nation's failures, our mistakes, our inequities. Without this knowledge, they cannot appreciate the hard-won freedoms that are our birthright."

So, Mr. Speaker, to reclaim and be the home of the brave and the land of the free, as our "Star-Spangled Banner" recites, we must learn our history, know our history, teach our history to our kids and be proud of our history; and we must get America singing about the United States of America.

---

## TRANSPORTATION REAUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the last 2 days were a whirlwind, but I am not going to criticize the speed in which we moved at this time, 2005, to move TEA–21. Why? Because we have been trying for almost a session to pass a transportation reauthorization bill that really provides jobs and mobility to America. So I rise today to applaud both Chairman YOUNG and Ranking Member OBERSTAR for the very complicated and complex legislation that was passed trying to embrace all of America: rural, urban, suburban, all of the hamlets and counties and large cities and small cities, all of the true aspects of mobility in this Nation.

I heard this morning on one of our networks, our cable networks, that in order to address the question of an energy shortage besides the fact that I come from Texas and we are known, my particular district, for being the energy capital of the world, but I think good common sense, no matter where you come from, would suggest that mobility is an important part of energy conservation, and mobility dealing with trains and transit systems, buses that are more conservation, if you will, sensitive, electrical cars, hybrids, all of those are on the table and I am glad to say that as we look toward the energy bill, we will be looking at those issues; but the transportation bill addresses them as well.

Let me cite, Mr. Speaker, a few of the concerns that I have and also a few of the accolades. Let me first of all say that I believe that we are a United States of America, small States and large States. I happen to come from a donor State. That means that we send more money to the Federal Government than we get back. It is not a question of selfishness. It is a question of spreading the wealth across the United States per person. I am glad to note that this good sense of the United States House came together to increase the donor State return so that Texas gets more money on its return as it is investing in the United States Government while not hurting the smaller States. That is the donor State equity, and I would say that we as members of the Texas delegation and other large States were willing to work with the leadership to make this happen.

Might I also say that I am disappointed in all of the amendments that came about on the toll roads. These are roads that you pay to go on. I know if I look at most of my constituents, they wish we did not have toll roads. But I certainly think it is unfair if a local jurisdiction decides to provide some sort of relief for low-income workers, many of whom are driving the 1990, 1980 vintage cars, maybe some of you have those cars, and are day laborers or hourly workers and really cannot afford to get to work. They have no mass transit which we are trying to promote. They cannot get to work. That was passed and I hope it is taken out in conference where local jurisdictions can give relief, meaning a lower rate, to those low-income workers who are driving cars who are trying to get to work. Would you not rather have them working than to be on the public benefit, if you will, because they cannot get to work?

That brings me as well, Mr. Speaker, to a provision in my constituency that is called the Safe Clear program. It means that you are automatically moved off a freeway in my jurisdiction in Houston without any option to call any relatives or to move in another direction. It is an automatic tow. We had an enormous crisis and many of these tolls are on interstate highways. I hope that we will have the monitoring of this program, though it has been fixed by city council and they have tried to work with the State, they were concerned, but the United States Government Department of Transportation should be monitoring what we call the Safe Clear program in Houston, Texas, in order to avoid what we call impeding of interstate commerce.

Let me also cite a very important issue in my district and that is Metro. That is our mass transit that has been struggling for 20 years to get on the books.

□ 1600

We finally got over 50 percent.

Many of you in your communities may be facing this. You want mass transit, and two people do not, and those two people have been holding it up. That is what has been happening in Houston, Texas. I would beg of the Department of Transportation not to be engaged in politics, that is what you are engaged in, and expedite the approval process so that people who want to get on mass transit in jurisdictions like Houston, Texas, and maybe other parts of the Nation, can get an expedited approval so they can move forward with the dollars and get people out of their cars and into effective mass transit.

Our metro system now, with only 7.5 miles, has some 30,000 riders per day. It connects the Medical Center and students to downtown Houston. It is imperative that we work on that.

Again, I want to applaud those who brought a resolution to the donor problem, and I want to likewise be mindful of the fact that as we move towards this bill, let us take out the poison pills, those provisions such as not allowing some individual relief, let us take out the poison pill of not allowing local toll jurisdictions to use their profitable dollars to invest in other mobility projects.

This is a good bill, but we need oversight, and we certainly need to move those transit projects forward that are sitting and waiting on the FTA's desk.

---

## ENSURING TRANSPORTATION EARMARKS STAY BELOW THE LINE

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, I rise today to talk about the transportation bill. I offered an amendment earlier today, and time constraints prohibited me from really explaining the amendment, what I was seeking to do and the problem with the bill as it currently is or may become once it gets through conference.

During debate on the bill, the chairman of the committee said that every earmark in the bill was related and being spent on transportation. He actually stated that every dollar in the bill was for transportation.

I am holding here some 200 pages of earmarks, over 3,300, about 30 per page here. Let me just give you an example of some of them, and you can decide for yourself whether or not they are related to transportation.

You the taxpayer are spending $3 million in the bill to renovate and expand the National Packard Museum and adjacent Packard facilities in Warren, Ohio.

You the taxpayer are spending $7,268,486 for the Vermont Association of Snow Travelers to build a snowmobile trail in Vermont.

You the taxpayer are spending $750,000 to construct horse riding trails in the Jefferson National Forest.

This is in the transportation bill, mind you, all dollars that are supposed to be spent exclusively on transportation.

You the taxpayer are spending $540,000 to establish a transportation museum on Navy Pier.

How about $3.2 million to acquire site, design and construction of an interpretive center, whatever that is, and enhancement of trail corridor for the Daniel Boone Trail Wilderness Corridor?

How about $1.7 million for reconstruction and conversion of Union Station to establish a transportation museum?

On and on and on it goes. Here is the last one, not the last, but another one: $1 million you are spending to fund reconstruction of the home of James Madison in Orange, Virginia. Now, one might argue that, when a visitor is visiting the home of James Madison, he is not on the road, and therefore, he is freeing up available space for the other motorists. Perhaps that relates to transportation. I am stretching here, but they must be stretching for spending our taxpayer dollars that way. But certainly, I think the taxpayer is owed a better explanation than that.

The problem with the transportation bill, to add insult to injury, is that, too often, these earmarks in other States come out of your State's formula. Arizona is a donor State; we give far more than we get back from the Federal Government, and too frequently, these earmarks traditionally have been taken out of our formula. An earmark for $7 million for a snowmobile trail in Vermont comes out of Arizona's formula, because Arizona is a donor State. It is simply not right.

In this bill, the amendment I offered, I withdrew it, because my amendment was largely included in the manager's amendment, meaning that earmarks will now be under the line, meaning they will be counted against a State's formula. So, theoretically, an earmark in Vermont will not come out of Arizona's formula.

I worry about that, however. I worry if that will hold in the end when this bill gets through conference, because if we have that kind of criteria for earmarks in the bill itself, then the criteria which identifies programs of regional and national significance, programs and earmarks that are above the line that will not come out of a State's formula, if they are as loosey goosey as these criteria by which we claim these earmarks are related to transportation, the regular high priority earmarks, then we are going to see our formula dollars taken once again and spent on earmarks where they should not be.

Obviously, Mr. Speaker, what we need is a turn-back bill. It is estimated that it would cost about 3 cents, rather than the 18.4 cents we are currently spending per gallon to maintain the interstate highway system. Instead, we are sending all 18.4 cents to Washington. Some of it makes it back. What does come back, comes back with mandates and stipulations that decrease the value of those dollars that we actually do receive back. It is no wonder that the roads and the infrastructure in this country are suffering so badly.

We need that turn-back bill. I have introduced it; it is awaiting action. In the meantime, certainly, we need to instruct and plead with the conferees on this bill to ensure that earmarks stay below the line, meaning, you can take all the earmarks you want, but they come out of your State's formula, not everyone else's. I urge the conferees to do this.

## THE PIRATES OF EMINENT DOMAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, a couple of weeks ago, the U.S. Supreme Court heard oral arguments in the case of Kelo v. City of New London, a Connecticut eminent domain case which I think is one of the most important cases it will hear certainly during this term of court and for the future of this Nation.

Nationally syndicated columnist Jeff Jacoby wrote a column about this on February 28, and he quoted Scott Bullock of the Institute for Justice. Listen to what Scott Bullock said, "Every home, church or corner store would produce more jobs and tax revenue if it were a Costco or a shopping mall. If State and local governments can force a property owner to surrender his land so it can be given to a new owner who will put it to a more lucrative use, no home or shop in America will ever be safe again."

Jeff Jacoby asks, "But can government kick people out of their homes or businesses simply to make way for new development?"

No one gets concerned about the taking of property unless it is their property being taken. But this is getting to a very dangerous point in this country today. The whole history of eminent domain has been in large part taking land from the poor for the use and benefit of the rich and our government bureaucrats.

Government at all levels in this country now owns or controls half the land and continuously wants more. You can never satisfy government's appetite for money or land. On top of this, government at all levels is continually putting more and more restrictions on the land that remains in private ownership. If this trend continues, Mr. Speaker, housing prices will continue to skyrocket. New homes will be built on much smaller pieces of land, and more young families will be crowded into high-rise apartments or townhouses. A very important part of the American dream, home ownership, will slowly fade away for many young people.

Huge parts of East Tennessee, my home area, have been taken over the years from poor or lower-income families who would be rich today if they still had their land.

Columnist Thomas Sowell recently wrote about what he called the "misuse of the power of eminent domain" and how government was taking property from working class people. Columnist Sowell said this, "Those who are constantly denouncing greed almost never apply that term to what the government does, no matter how unconscionable it may be, as the routine misuse of eminent domain has become with its Robin-Hood-in-reverse redistribution of wealth."

Many people do not realize how important private property is to our freedom and our prosperity. As I said a few minutes ago, the Federal Government now owns or controls over 30 percent of the land and State, and local governments and quasi-governmental entities now own another 20 percent. Half the land is in some type of public ownership, and government at all levels keeps taking more and more and putting more and more restrictions on the land that is still private.

Richard W. Rahn, a senior fellow at the Discovery Institute, wrote recently, "Government-owned land is removed from the tax base, so it not only costs everyone to maintain it, but the government also loses tax revenue. When land is removed from private use by government ownership or unreasonable use restrictions, it reduces the supply of land, thus driving up housing prices."

Because of government taking or restricting use of land, more and more people are being forced on to smaller and smaller areas or developments. You can never satisfy government's appetite for land or money, and we desperately need to elect more people at all levels who will pledge to stop taking private property.

As I have said, it is just impossible to satisfy government's appetite for land, and over the last 40 years or so, governments at all levels have been taking private property at a very alarming rate.

Private property is an extremely important element for both our freedom and our prosperity. It used to be that eminent domain was used mainly to take private property for public use. Now, according to a column in the nonpartisan National Journal, condemning private property for private use is a booming national business. The magazine gave several examples, including the taking of Randy Bailey's 27-year-old brake shop in Mesa, Arizona, for a new chain store.

This is happening in thousands of places all over the Nation. Jonathan Rauch wrote in the National Journal, "In the last decade, it has become common for city leaders to define blighted as not developed as nicely as we would prefer or not developed by the people we would prefer. But property is held sacrosanct in America not to protect the rich and powerful, who always make out all right, but to protect the poor from the predations of the rich and powerful."

He quoted in his column an official of the Institute for Justice, a law firm trying to protect private property owners, as saying "this is now a major nationwide problem."

Once again, I will say, I hope we elect more people to Federal, State and local offices who will stop taking so much private property. It sounds good for a politician to create a park, but then when that land is taken off the tax rolls, the taxes for everybody else have to keep going up. We are doing this at a very, very alarming rate, and we need to at least cut back on this.

We cannot take care of all the national parks and State parks and local parks that we have in this country today, and we need to stop taking more, or we are going to ruin our economy, and we are going to take away an important part of the freedom that we have in this Nation.

## SUPREME COURT NOT FOLLOWING PRECEDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, there have been times in this Nation's history when the United States Supreme Court was composed of distinguished jurists who were extremely cautious to avoid inserting the justices' will or desires in place of legitimate decisions and legitimate legislation. That, sadly, is no longer the case.

One of the cornerstones of an effective judicial system is fair and impartial judges and juries. At the top of that system, we have come to the point in our history when a majority of the court has come to think of themselves as error free. However, even considering oneself faultless is an inexcusable fault for a court, any court, but most especially the U.S. Supreme Court.

One does not have to be a judge or a chief justice, as I was, to know that a fundamental principle of the United States common law has been that prior court decisions have priority and control the same situation. It is called following precedent. A huge problem for all of us is that this Supreme Court cannot follow precedent.

For example, this very court ruled only 15 years ago that the sentencing guidelines were constitutional and must be followed. Now they have completely disregarded their very own precedent, even though it was their own.

Additionally, these judges, who consider themselves jurists, act in some ways like the worst form of renegades. They have disregarded the Constitution and its precedents and instead follow the fleeting whims of a daydreaming child. They cite changing opinions and evolving opinions; not about law that they have researched, oh, no; about various feelings of the general public in America that they have somehow vicariously perceived.

But even that is not all. No. Certain judges of this highest human court in the land have been reciting opinion polls, not based on legally or factually based or scientifically recognized computer protocols or data or scientifically derived information. No, these are based on their feelings of what is going on.

□ 1615

Here the U.S. Supreme Court sets itself up as the final arbiter of what is or is not accurate polling. The trouble with this is, no court, especially an appellate court, is ever supposed to have been a witness in the case it is trying. Apparently, however, the Supreme Court is the expert pollster for all who come near. Every other expert is required to be cross-examined. It is called being allowed to confront the witnesses against a party. This Court, however, places itself above such fundamental notions, even when the polling the Supreme Court has done consists figuratively of wetting its finger and sticking it into the air to try to discern which way the wind is blowing.

Though the Court has become a witness, an investigator, a pollster, a wind gauge, the Supreme Court denies the fundamental right of the parties to have due process and question the witnesses against it. The Supreme Court allows itself to go out and poll and investigate or report behind the scenes without anyone knowing. It hides behind the Constitution at the very time it is depriving the parties of their rights under the same document.

As Congressmen, we are out in our districts constantly talking, questioning, never forgetting that a constant campaign is ongoing. A good Congressman knows what his district thinks. So how dare you, Supreme Court, try to sit in Washington and lecture us on what is or is not the will of the American people. We listen to the people. We go home, and we live with the people. We get e-mails and calls and letters and visits from the people, and we do not hide in an ivory tower.

How dare you tell us about the changing will of the people. You are the last to have any idea of what the real people's attitudes are. You go try running to get elected back to the Supreme Court, and then you can come talk to us about the changing opinions in America. If you ever had to run for office, you would find out ever so quickly just what the opinion and will of the American people are.

At a recent session of the Supreme Court in which the parties argued their respective positions, one Justice, in a bit of high-brow effort to sound both intellectual and computer literate said, as I understood him, that he had been on the Internet looking for more facts about the case or about the 17 monuments involved in that case. He is so far removed from the legal profession that he does not even realize how morally wrong he is acting, or he has such great contempt for the need of a fair and partial judiciary that he is killing it and its former credibility.

Such a judge should remove himself and allow only those who are not self-made witnesses to rule. If any juror in a local case or a judge in a local case were to go out and investigate the facts of the case, the case would be thrown out. There would be a mistrial. It is one thing for a judge to investigate the law of precedent or legislative history; it is quite another for him to be a fact witness. Shame on you.

In the Supreme Court's decision regarding juvenile eligibility for the death penalty, the Court showed not only that it could not follow precedent, it could not even follow its own precedent of the same Court. The majority of judges have caused the system to be so out of whack that it flips its own rulings to and fro in a whimsical sort of destruction of civilized and constitutional jurisprudence. People must have stability through court decisions, yet we are forced to have one whose constant reversals of itself remind one more of the policy shifts of a nation that has a coup every year or so than a nation of laws. This particular Nation deserves much better for its educated people.

It should also be noted by any jurist worth his or her salt that when a court continuously cites changing opinions of the populous or a national consensus, or an evolving national standard, it is saying that the issue at hand is clearly one for the legislature. It is the legislature that has to decide issues that are based on the will or the consensus of the people, and not the judiciary.

So here is a rule of thumb: if you find yourself as a court sometime trying to discern the will of the people internationally or nationally, then leave it alone. It is not your business. It is the business of the legislature.

If part of the problem is that our Justices attend too many national conferences, then perhaps we should legislate against them attending any conferences outside the country whose Constitution they are sworn to follow. After all, when they cite international opinion that was not in existence at the time the Constitution was written, they are going beyond the legislative history. They are legislating themselves. If they want to do that, they should do as some of us who were judges have done in Congress: we left the bench and we ran for the legislature to have that opportunity.

You want to deal with the Ten Commandments? Well, you took an oath to defend the Constitution. Try the commandment that says "thou shalt not lie."

When our highest Court seeks international opinion on what is right or wrong, it should ask itself where international opinion was when the Nazis were killing millions of people. It should ask itself where was the international opinion when Saddam Hussein was killing thousands of his own people. Some of the sources of this international opinion they rely on were selling equipment and supplies to Saddam Hussein as he murdered people.

Friends, I have not mentioned the propriety or impropriety of the actual outcomes of these recent Supreme Court decisions, but I call to account the disgustingly subjective and arbitrary process that has been guiding this Supreme Court. The majority on the Supreme Court has figuratively been a bunch of emperors with no clothes. The few judges left on the court with judgment must find it difficult working with a bunch of naked self-crowned autocrats.

In England, devoted patriots are fond of saying, "God save the Queen." In America, it is time for devoted Americans to say and to pray in earnest, "God save us from this Supreme Court," and then remove those who have ceased being judges and have become the worst nightmares of our Founding Fathers.

## CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–15)

The SPEAKER pro tempore (Mr. DENT) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice stating that the Iran emergency declared on March 15, 1995, is to continue in effect beyond March 15, 2005, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 12, 2004 (69 FR 12051).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 10, 2005*.

## REFORMING SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for 60 minutes as the designee of the majority leader.

Mr. BEAUPREZ. Mr. Speaker, I rise today to address this House and the people of the United States of America on a very, very timely subject: Social Security and, more specifically, the opportunity to reform Social Security. Now, recently, the President, President Bush, has been given a whole lot of credit, or blame, whichever your perspective may be, for even bringing this issue to the forefront of the American people and to this body.

I have the pleasure of serving on the Committee on Ways and Means of this House of Representatives; and, of course, it is going to be the obligation of the Committee on Ways and Means to deal with this issue and try to bring some consensus to the subject of how we might reform, fix, strengthen Social Security, an institution that has served generations of America very, very well, going back to the era of just post the Great Depression when my parents were just about to enter the working environment themselves as young adults.

So we do this with some degree of trepidation, but we also do it with a considerable sense of obligation to our children; in my case, a grandson now, knowing that an entitlement program such as Social Security that is especially critical to the survival, and I say that word advisedly, survival of so many of our senior citizens and especially the lower-income members of our senior citizen population who absolutely rely on Social Security for their very sustenance, we should pass that benefit, that promise of America on to our children's generation and all generations to come. That is not an easy challenge, as we are going to talk about in the time I have had allotted to me tonight.

Now, as I said at the beginning, at the outset, President Bush seems to get a tremendous amount of credit these days for bringing this to our attention. If the truth be known, President Bush was not the first one to point this out. In fact, if we go back to the very beginning, Franklin Roosevelt himself, often called the Father of Social Security, told us then that the plan put in place, the plan we are still on, was but a starting point, was but a beginning; that it would not be sustainable, nor adequate, forever; that at some point in the future, he even used the word "annuity," an annuity would have to be created, a prefunded liability, a prefunded liability set aside to augment Social Security, because Social Security was never going to be adequate for the entire challenge in front of us.

Now, in addition, and much more recently than Franklin Roosevelt, our last President, the 42nd President of the United States, Bill Clinton, recognized the challenge in front of us and the obligation in front of us to reform Social Security. Now, President Clinton, as this poster to my left says, President Clinton in his State of the Union address in January 1998 said: "We will hold a White House conference on Social Security in December. And one year from now, we will convene the leaders of Congress to craft historic, bipartisan legislation to achieve a landmark for our generation: a Social Security system that is strong in the 21st century." Bill Clinton.

President Clinton appointed that commission, and it was headed by Democrat Senator Daniel Patrick Moynihan.

President Clinton, just a month later, in February of 1998 also had these words to say at an address at nearby Georgetown University: So that all of these achievements, these achievements meaning the economic achievements, our increasing social coherence and cohesion, our increasing efforts to reduce poverty among our youngest children, all of them, all of them are threatened by the looming fiscal crisis in Social Security. President Clinton said that.

Now, recently, very recently, President Bush has been attacked for even suggesting that there is a problem, perhaps even a crisis with Social Security. I submit to my colleagues again that President Clinton certainly thought that there was, and I say to my colleagues I certainly think that there is as well. We will talk about that in the next little while.

How was Social Security established? Well, again, when my parents were young adults back in the mid- to late 1930s, coming out of the Depression, I am sure that in this very same Chamber, Members of the House of Representatives, led by a directive from President Roosevelt, felt an obligation to some of our seniors that were struggling; and coming out of the Depression, I am quite certain times truly were tough.

And this great Nation wanted to be there for those that needed us the most and had every right to ask for a bit of a helping hand so that they might have dignity in their last days. So Social Security became the program to provide just a little bit of support to maintain that dignity as people lived out their last days.

When it was established in the beginning, there was but a 2 percent tax placed on the first $3,000 of income a worker had. Now, there are a couple of other little details that are of fairly great significance. Back when it was established, for every beneficiary, every individual who received a Social Security benefit, there was about 42, 43 workers that paid the tax that created the immediate revenue to provide the benefit to that one worker, about a 42 to 1 ratio.

By 1950, shortly after I was born, demographics had changed and there were but 16 workers to pay for one beneficiary.

□ 1630

Even today, we have barely three workers paying for one beneficiary. And by the time my children approach their retirement, there will be barely two workers to pay for one beneficiary.

Now a couple of other little details, and fairly significant and important details, is back in the beginning when Social Security was established, the retirement age, the age when one was eligible for benefits was established at 65. Now, today, we think that that is pretty generous, makes sense. That is when people typically retire, a little bit earlier, a little bit later, about 65.

But, of course, the interesting little fact back in the late 1930s was that the average life expectancy was only about 60. So most people, before they even reached the age of 65, the eligible age for the benefit, had passed on.

Those that did survive typically did not live nearly as long as we all live today; thankfully, I certainly plan to. So there were not as many living in retirement, and they were not living nearly as long.

Today, of course, life expectancy is closer to 80. There is a whole lot more of us and, again, far fewer people paying that benefit.

That really is the essence of the challenge in front of us. Some would have you believe that this is some great debate about public policy differences, very different views of the world, maybe the left spectrum, the right spectrum of the political debate going on here. I do not think it is.

Frankly, I think it is pretty much a case of arithmetic. The numbers are in front of us. And the challenge is a result of the changing demographics.

There are a couple of other things that I think we need to have in front of us in our minds as we approach this debate, just simple little facts. Now, this chart shows current time, 2004, current year, last year; and the revenue that comes into the system, into Social Security, is marked on this line.

You will note that the zero indicates the break-even point. In other words, this is the benefits; this is over time. And right now indicated in black is the surplus. So we have more money coming into the system than there is going out. That is a good situation. You can pay your bills if you are running your house that way. That is a great opportunity.

But, very shortly, things are going to start to change. You will notice, in 2008, about right here, instead of a growing surplus, the line goes the other direction and continues in that direction. Why does that happen? Because in 2008, the very first of the baby boomers, those born in 1946, turn 62. And under the current system, you are eligible for early retirement at age 62 and start drawing benefits. In other words, you change from being a payor into the system to a payee, receiving the benefits.

And current statistics tell us that about 55 percent of our people opt for early retirement. So with that big wash of baby boomers coming at us here very shortly in 2007, the whole workforce, the whole demographic is about to change on us, to where we begin that decline of a growing surplus of revenue, more revenue coming into the system than we have benefits going out.

And we begin the decline. In 2018, the actuaries tell us at Social Security, this point, revenue actually is less than revenue coming into the system, is less than the obligation of the benefit. Now, many say that, you know, what is that problem? Is it a problem? Is it a crisis? Well, I do not know about the world you all live in, but in my household, when your expenses exceed your income, it is a crisis. And there seems to be a huge debate going on out there, is it a problem? Is it a crisis? Is it bankrupt? Is it insolvent? I submit to you, when you do not have enough money to pay the bills, you have got a real problem on your hands, and that is what we are facing very, very shortly.

In addition to that, I want to stay in kind of current time frame here, at this point, at 2008, when those first baby boomers start to retire, here is the other impact we are going to have to deal with right here in this chamber, the United States House of Representatives, in charge of the revenue and the paying of the bills for the United States of America right here.

We know we are in a deficit situation today. I submit to you that all Members on both sides of the aisle in this chamber, Democrat, Republicans alike, are concerned about our deficit spending. Think about this, folks: When we begin this decline, yes, that surplus as indicated in black, we have been living on that for a long, long time. We have been paying the bills of this great Nation: We have been paying for our veterans benefits; we have been paying for Medicare; we have been paying for education; we have been doing the great projects of this great Nation, the United States of America.

We have been running the country on that. Now, we will talk some more later about whether that is good or bad public policy, but it is a fact of life and Democratic administrations, Republican administrations, Democratic Members of the House when they were in the majority, Republican Members of the House when they were in the majority, have done exactly the same thing.

And here is why: Because if we did not use that to pay the bills, we are either going to have to drastically reduce the bills we pay, in other words cut programs, or we are going to have to go borrow even more money. It has got to come from someplace. And it has been coming from that black part of this graph.

So as that decline begins, as that line starts to turn down, and we have less of a growing surplus, we have got to go get the rest of the money to run this Government from some place.

And as you can see, the part that is in red, we not only lose the surplus, we start getting into a situation where fairly rapidly, this is just 2002 right here, by 2040, which is about the time, one side or the other, where my four kids are going to be retiring, by about 2040, we have got a serious problem on our hands. This is the deficiency between the money coming into Social Security from taxes and the benefit going out.

That is not the total obligation; that is just the deficit, just the deficit on an annual basis between the money coming into the system and the money going out. And, again, in addition to that, we do not have, at this point, any given year, we will not have the benefit of this surplus that we have been living on until now to pay the additional bills of this country.

Well, some say, go to the bonds, go to the trust fund, the Social Security Trust Fund. Give me just a minute on that. This is the way it works. And again, this is not devious. This is not some scheme that this administration or this majority cooked up. This is the way the system has worked for a long time.

Republicans, Democrats, this administration, that administration, this is how it works. By law, when you have got a surplus, the Government is obligated to sell those bonds; basically sell them to themselves because we write them. They are a special bond; they are not a bond like you take out on the street corner and sell to individuals or pension funds or even other nations. We sell them to ourselves.

It has been referred to as an IOU, and in fairness, I think that is a pretty good analogy, because the Federal Government is saying we are going to take this money, we are going to pay all of the other bills, and that is why it is gone. But as evidence that it is a debt back to ourselves, the Federal Government, we are going to write a bond, a loan, if you will. We are going to sign it, U.S. Government promises to pay the United States Government so many billion dollars and trillions of dollars, and it earns interest.

So we think, well, that is great. Let us just go to that drawer in West Virginia, open it up and cash in those bonds, and we will pay all of those with those bonds, will we not? Where do we get the cash to redeem the bonds? From the tax revenue that comes into the United States Treasury year after year. And, folks, we have been using that money. We will use that money in the future to pay all of the other bills of the Federal Government. It is a classic take it from the right hand and put it into the left.

Now, that may seem like a subtlety, it is not a subtlety. It is a very important fact to remember. Yes, there are bonds, and yes, I guess, technically in a way, there is a trust fund. But it is the Federal Government, the U.S. Government, promising itself that it will pay itself back with its own money from the taxpayers, with interest.

Some choose to look at this thing in complete isolation of every other part of the Federal Government and say, oh, no, we can go out to 75 years. And if you do the math and are a little bit generous in your assumptions and you take all of the money that will come into the system and all of the bonds that will be created and add to that the interest earned, you can pay the bills.

And you can for quite a while. Not forever, but for quite a while. But, what happens is you dry up almost all of the rest of the government to do it. Because that deficit has to come from some place. And by taking the cash to close that deficit from all other programs and services in this country, most of which are on a growth curve themselves, by the way, you might sustain Social Security for a while longer, but at what price?

That is what we are dealing with in this chamber, and we are going to have some tough choices to make. I am joined in this Special Order by a good friend of mine, a new colleague from the great State of Texas (Mr. CONAWAY).

And the gentleman from Texas (Mr. CONAWAY) comes to this chamber, as many do, with considerable credentials himself, having had more than just a little bit of experience in the financial world. And it is a pleasure to have you with me tonight on this very important subject.

Mr. CONAWAY. Mr. Speaker, I thank the gentleman for those kind remarks. And I actually chose the office that you vacated, so that, as my initial start in this chamber, I would have the good vibrations that you left behind on your good start in this body.

I want to make a few points, some of which play off of the ones that you have already made. Unfortunately, we got off on what I think is the wrong foot when we began to call this situation a crisis. We in America have a relatively short attention span, and crisis means something is going to happen in the next 15 minutes or certainly by tomorrow. So that was probably an ill word to use, and we spent an inordinate amount of time arguing over that word.

I am a CPA by background, 30-plus years of business experience. And as I look at what I believe to be the very compelling arguments and facts that you present, then that leads me to believe that we do have something we ought to deal with, and that we ought to deal with that today and not continue to put that off.

Now, is the time to fix this problem. You have already mentioned that, each year that we delay in this fix, it adds an additional $600 billion of unfunded benefits and liabilities to our problem.

So, in your family, my family, my business, the clients that I have, if we had circumstances where we had cash flow deficits and I went to the Chairman and the CEO and I said, you know you are going to bring in less money than you are spending this year, do not worry about it, it will be okay, let us just do not fix it, wait 3 or 4 years from now.

□ 1645

Well, that is nonsense. Nobody does that in the real world, and we should not be about doing that here in Congress.

So I think the facts compel us to see the problem, see the issue that needs to be done and also compel us to say, we should be the ones who fix it. If you agree with the facts that we have a system that is no longer sustainable, there is a great adage that I picked up in one of the briefings that we had early in November that said, things that cannot be sustained will not be sustained. It is a pretty straightforward statement. That is exactly what we have here. We have something that will not sustain itself.

When it originally came into being in 1935, it could clearly sustain itself. The more callous of some would look at that system and say, that is nothing more than a pyramid scheme where you collect from all these people and give it out to a few.

In this instance, it is a legitimized pyramid scheme, but as every pyramid scheme in history it runs out of gas. The facts compel us to say that this system that we have got is running out of gas.

We hear the phrase PAYGO bandied about this body and in committees a great deal with some passion and disdain. This was an original PAYGO system, pay as you go. The monies you bring in are paid out to beneficiaries. I do not think it applies to Social Security and here is why. PAYGO means in this circumstances you pay, and if I am retired, I go. PAYGO ought to mean the folks incurring the bills ought to pay the bills. So I do not think the term PAYGO really applies to Social Security.

The next thing is once you have this issue in front of us, let us take a step back and put ourselves back 75 years ago when it was conceived and the leadership at that point in time, the wonderful leadership it was, clearly thought a lifetime benefit, a Social Security stream of cash flow that you cannot outlive, was an important public policy arrangement.

I do not hear anybody on either side of the aisle hinting that this is not still really a good public policy for our country to have. I have counseled many clients who as they approach retirement age one of the first questions they ask is, am I going to outlive my money? I have got all this put away that I have saved and scrimped and foregone purchases and have put this money away. Am I going to outlive that?

Well, the wonderful thing about Social Security is you have got the security of knowing you simply cannot outlive this lifetime benefit. So if we are compelled to fix it, and I think we are compelled to keep it, if it is good public policy for my mom and dad and for me, then I would argue that it ought to be good public policy for my grandchildren and my children, just like the gentleman has talked about his children as well. So I think we are coming to some things we can all agree on as we begin to move toward how do we come about this conclusion of fixing whatever is in front of us.

I have six wonderful grandchildren. God has blessed me immensely with four wonderful children and two daughters-in-law and a son-in-law and six magnificently wonderful grandchildren. It would never ever occur to me to gather those six little critters up, take them down to my local bank and say, Mr. Banker, I want to borrow a lot of money. And I want to spend that money over the rest of my life time, and I want my six grandkids to sign that note. And when they grow up they will pay off what granddad spent.

If you individualize what we are really doing every single day in this country, there is not a grandparent on Earth I do not believe who would do that, who would obligate their individual grandchildren for some individual debts that they might incur. So if it is not good public policy on an individual grandparent-to-grandchild basis, then it really should not be good public policy on a corporate basis to do this very exact same thing.

We are a Nation at war, and we have these wonderful stories coming back from men and women and the sacrifices they are making on behalf of liberty, on behalf of freedom, spreading freedom around this world. They are answering a call to duty, a call to country, a call to honor that is magnificent on every level. But there are a select few, there are a lot of them, but in comparison to Americans there are a select few.

We ought to look at that example and say, given the sacrifices they are making, given their role that they are playing, is there some similar role that we can play? Is there some similar duty, some similar responsibility to country that we ought to be obligated, we ought to be taking on or shouldering; and in my mind this is clearly it. I cannot think of a better place to start on the financial problems that face this country than solving this problem.

Now, once you get the groundwork laid for the problem, once you get the groundwork laid that it is a process and a public policy we ought to keep in place, once you get in place that we ought to be the ones that fix it, then you begin to start what I think is a very thoughtful, logical, step-by-step process of coming about how to do that.

The President has laid out personal savings accounts as a piece of the solution. All of us collectively are going throughout our districts, looking at our men and women, the voters of the United States: if you have some ideas that will work on fixing Social Security, let us get those on the table. Let us get that into the mix as we try to coalesce around a solution that collectively, both sides of this aisle, a vast majority of both sides of this aisle, can gather around. Because the big public policy moves in this country happen when we collectively agree.

If we have to vote 232 to 203 on this deal, we do not have the right answer. We want an answer that is broad-based support throughout both sides of this aisle. And I appeal to my colleagues on the other side of the aisle that whatever this solution looks like, I assure you it is not wearing a jersey that has an elephant on it or a donkey on it. This solution just has the jersey of what is best for America, what is best to continue the promises made to my mom and dad. We will work to put the security back in Social Security for my grandchildren as well.

A couple of other points and then I will turn back to the gentleman. The black area that the gentleman is talking about, when I am out and about in my town hall meetings, one of the misconceptions that permeates them is that there is something wrong with having used the Social Security surpluses the way we have done it. Lyndon Johnson started it with a unified budget in 1969, I think, so we have had this for quite a while, both parties in charge of the White House and both parties in charge of the Congress. So we have been at this a long, long time.

We also have a push-back in what is called the transition costs. How do we pay for this transition? How do we pay for this fix? One of the things I would like to put forward, and I think it would resonate with many, is let us start today and capture that surplus.

Now, it is an accounting gimmick, and I use that phrase cautiously because what that will require us to do is rather than us borrow the money for the general fund from the Social Security trust fund and spend it, if we capture that money as a quote/unquote down payment on the transition costs, a down payment on the fix, then we will be required if we continue to spend the same levels of monies that we are going to spend the next years to 2018, we will have to go into that market and borrow that money from the public and borrow that money from the Chinese or the Japanese or other investors to fund the operations.

While it may be more form than substance, it may be a cornerstone of an idea that the folks can say, okay, that I understand. We are no longer spending the Social Security surplus. We are capturing that for a down payment of the transition costs. And maybe that is an idea that can be folded into the overall fix that will help the Americans rally around whatever this fix may be.

Let me speak finally about that red section. That red section there for the most part is unfunded liabilities, unfunded promises that this country has made. We owe that money to somebody. So if we collectively said, we are going to stop Social Security, we are only going to pay off the benefits that we accrued, we will still have this staggering deficit of unfunded promises that we have made.

As I campaigned and talked in town hall meetings, I heard the comment that Social Security is a contract with ourselves, and we are not going to breach that contract. Breaching that contract will be reneging on those promises and affecting benefits for the current beneficiaries who are counting on the cash flow for a lifetime, the lifetime benefits. If you are on benefits right now that will not change. If you are within a certain number of years that we can collectively agree on retirement this is not about you. This fix is not about you.

This fix is about our grandchildren and our children as they begin to approach that. So when we talk about borrowing money, we have already borrowed that red money. It is just not on our balance sheet. The Federal Government's financial statements are rather poor, speaking as an accountant, a CPA. If somebody had to sign the Federal Government's financial statements with the same liabilities that major publicly traded companies' CFOs sign, we would put them in jail. That liability is ours. We have made those promises. They are out there. They are on the quote/unquote U.S. Government balance sheet, or ought to be; but they are there.

It is not a matter of borrowing new money. It is figuring out how do we fund an obligation that we will keep, we have obligated ourselves to. The bill just has not come due yet.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman because I think he has made one of the key points in this whole debate and one that, frankly, frustrates me a little bit having been a community banker before I came to this Chamber. We do not hear enough talk about the difference between a funded and unfunded liability. And I completely agree with the gentleman. The promise has been made. The liability is on our books. I know we do not show it that way. We do not draw up the balance sheet of the United States of America quite the way that the private sector is familiar with seeing balance sheets drawn up. But the liability is there.

The gentleman is here in this Chamber just like I am, and I have told people that I cannot in my wildest dreams comprehend that there is going to be some future Congress that will say, oh, well, we have a problem. We are a little short on cash. We are just going to whack your benefits, because I think most of us like our heads attached to our shoulders. If we whack benefits, we would get our head lopped off, and probably should.

The gentleman is absolutely correct, and I commend him again. The liability is ours. The promise has been made. The challenge in front of us is to come up with the most fiscally responsible way of funding, paying for that liability.

Mr. CONAWAY. Mr. Speaker, one other point. Not only the liability for the promises that have been made but also the promises we intend to make to our grandchildren, a lifetime benefit for each and every one of those, a benefit that they cannot outlive. It was good public policy in 1935. It is good public policy in 2005. It ought to be good public policy in 2035 when my sons and daughters begin to retire.

I want to misquote Ronald Reagan in one of his inaugural speeches talking about the problems this country faces that in terms of solution, if not us, who? And if not now, when?

I thank the gentleman for allowing me to share his time this afternoon.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman. I believe he has brought some clarity to the issue.

The gentleman mentioned a point that needs to be made over and over again, that is, for current retirees, the seniors that are out there I hope listening to what we are saying this evening on the floor here at the House, seniors today, current beneficiaries have absolutely nothing to worry about. We have got the money there. We can pay the bills. They are going to keep getting their checks. Nobody is talking about even touching them. Quite the opposite, making sure that they are not touched, not damaged in the least. We are not taking a thing away. And near-term retirees, like me, I am 56. I certainly do not want anybody messing with the benefit that I hope to have there and expect to have there and will be there, because the money is there.

The gentleman is absolutely right. It is about our kids, in my case my one grandchild so far. I am working on more. I am dropping those hints, and the gentleman's six and future generations as well.

I think one of the challenges in front of us, and I have certainly heard this on my committee work on the Committee on Ways and Means from the Social Security actuaries. Yesterday we had the Comptroller General in front of us, David Walker, and he said, you guys can play with it a little here, you can play with it a little bit there by making subtle changes, and you can push out a little farther, you can extend the edge of the cliff, but you are not going to solve it unless you are bold.

We have to reform the system.

Mr. CONAWAY. Let me make a comment. The gentleman talked about when the collective surplus is paid off to beneficiaries, and it is estimated that it is somewhere in the 2042 range, beneficiaries on that date under today's law with us doing nothing else will suffer a 25 percent haircut immediately in their benefits. That is out there. That is in current law. That ought to be on the minds of all the folks who think about benefits.

Today's beneficiaries, it is not likely that many of them will live to 2042; but we will keep those promises. But 2042-ish there are immediate cuts. I would like to get that fact on the table.

□ 1700

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman. In fact, he recalls for me testimony made by, again, the Comptroller General, David Walker, just yesterday. This is the Comptroller General of the United States of America, in front of the Committee on Ways and Means, just yesterday; he pointed out that, even right now, 2004, if we wanted to just fix, now by fixing the system, let me define that, make it sustainable forever, perpetually sustainable, do not have to go back and do it again, keep it on the same path for benefits, same path for payroll taxes as we now have, to get it to the point where you do not start getting in the red again, way out there; to make it sustainable today, we would either have to reduce benefits 13 percent or increase taxes 15. That is for permanent sustainability, if you only play with those two factors.

Now, if you go out to 2018, that is this year right here, where we expect the line to cross and start the growing deficit cash deficits in the system, that increases. Of course, it has to have a bigger fix, 16 percent benefit cut or an 18 percent tax increase, and the gentleman is absolutely right, that the numbers that he gave us, if we wait till 2042, which is the year I believe that the CBO, Congressional Budget Office, says that is when we run out of dough, that is when all the bonds are used up, interest on the bonds. We are done. We have got to rely now just on the payroll taxes that come in on a daily, monthly basis to pay whatever benefits.

Benefits immediately would drop, he said, about 30 percent, my colleague I think said 27, or increase taxes 43 percent. We cannot go down that path, and I liken it to, this is just too much common sense, and once in a while, it actually applies in this chamber.

If your roof is leaking, when you notice that first drip, it is a little more prudent to go up on your roof and patch that roof when it is leaking just a little bit. It is cheaper. It is quicker than to wait until the entire roof collapses on you. Well, we can wait, and many are suggesting just exactly that. What is the hurry? What is the hurry?

As my colleague pointed out, these are not numbers we have somehow created. These are from the actuaries. For every year we wait, it costs us $600 billion. Why is that? Because we are trading a year like this, especially on the front end, for a year like that on the back end, $600 billion.

Now, how much is $600 billion? Well, that is about one-and-a-half times what we spend in the United States of America on our Defense budget every year. It is a lot of money, and I submit we cannot go there.

I am joined by another colleague of mine, the gentleman from North Carolina (Mr. MCHENRY). Did I get that right?

Mr. MCHENRY. Mr. Speaker, that is right.

Mr. BEAUPREZ. North Carolina, PATRICK MCHENRY, a great name and a proud name.

Mr. MCHENRY. Almost as good as BOB BEAUPREZ.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for being with me, and he brings a slightly different perspective being I think maybe the youngest Member.

Mr. MCHENRY. In fact, I am.

Mr. BEAUPREZ. Congratulations, youngest Member of this chamber. So maybe an even fresher perspective to this issue of Social Security reform, and with that, I will yield to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Mr. Speaker, I thank the gentleman so much for yielding and for hosting this discussion about the issues that we are facing as a country and I believe the most pressing issue we are facing in terms of our economic outlook and our ability to help those that are at or near the poverty level, especially those seniors. I thank him for affording me the opportunity to talk about Social Security.

Social Security is America's most trusted Federal program. My colleagues know this, I know this. I would submit that the American people are beginning to realize how vital this program is, and certainly, the gentleman from Colorado (Mr. BEAUPREZ) knows this, but my constituents in western North Carolina know this distinctly.

In fact, my grandmother, my Granny Gooch, in fact, knows this issue as well. My grandmother would be quite offended if I mentioned on the Floor of this chamber how old she is, so I will just submit she is retired, and with that, I will be able to go home at Christmastime and enjoy my grandmother's cookies, but she receives her Social Security payment each month, and she depends on this.

As an elected official in the United States, I do not want to take away my Granny Gooch's benefit, and this Congress will not do that. Mr. Speaker, you would not know this from the Democrats' attacks on the President's proposal. You would not know this by the ideas that we are talking about in this Congress and over on the other side of this wonderful Capitol Building. Social Security is broken, and it needs to be fixed. This is not a matter of opinion. This is a fact.

We need to strengthen it for future generations so that it will remain a viable and sustainable government program. We must guarantee the promised benefits for current and nearly-retireds. I think that is a vital part of every reform proposal that has been offered this year in this Congress. We must guarantee a government safety net to ensure a retirement benefit. None of my colleagues disagree with this. Those on the other side of the aisle who will deny that reform is even needed will, in fact, agree that we must at least provide a safety net. My colleagues over here on this side, even the most conservative, would agree that we must guarantee a safety net.

We are going to do that as a Congress, but many of my Democrat opponents on the other side on this issue, they will not even take a second look at the problem. They believe it is such a great hot button political issue that they can demagogue it to win the next election, and this Republican Congress is taking on the challenge that Social Security is presenting to our budget, that it is presenting to our seniors and that it presents to all generations in America.

We are going to make sure it is a sustainable program, and we will make sure that it is viable for generations to come. We are not going to use it as a political issue. We are going to do the right thing. We are going to act to make sure that we can fix this issue and make it a sustainable program.

Demonizing the issue does not achieve results. Anyone who proposes a reform plan has an obligation to step forward and do what is right. Anyone who is in Congress has an obligation to do what is right on this pressing issue of the day, and right now, Social Security taxes take more money in than the system pays out in benefits. That is true, but that is not the case going forward.

In a few years, we will be paying out more in benefits than the Social Security system arrives at or receives from the American people, and going forward, we have enormous deficits that the gentleman from Colorado (Mr. BEAUPREZ) has shown on charts here earlier today, and by 2042, which just, in fact, happens to be the date that I am eligible for Social Security, the system goes bust. It will only be able to pay about 60 to 70 percent of the benefits pledged and guaranteed or it will necessitate such a crippling tax increase that this country has never seen before the likes of it.

Look at the facts. We are going through a demographic shift in this Nation. We are an aging Nation. When the program began, there were about 40 workers per one retiree when Social Security was implemented. By the 1950s, it was roughly 16 workers per one retiree. Today, we have roughly 3.3 workers per one retiree. Clearly, we have an issue with being able to sustain Social Security because of the changing demographics in our country. Therefore, reform is necessary because of our shift in demographics.

These are the facts. They are hard facts. They are real. They are undeniable facts. Social Security is a broken system that needs to be fixed, and our Republican Congress is going to take on this issue.

My colleagues on the other side of the aisle on the left would say that it is a great political issue. They would like to see it for years to come so that they can try to win elections on this issue, this problem. But to help strengthen Social Security, the President has proposed, and I support, allowing younger workers such as myself to invest a small portion of their payroll taxes, take that small portion and invest it in Social Security personal accounts, diversified bond and stock funds, safe investments, tried and true investments here in the United States of America and, in fact, in the world market.

These safe investments will allow every worker to build up a significant nest egg for when they retire. Right now, the returns a person gets on Social Security are about one-and-a-half percentage points on what you invest in Social Security, less than two percent even under the best cases. With bonds and stocks, diversified bond funds and stock funds, taxpayers could get a return of 5 percent, 7 percent, 10 percent. Even the worst returns the stock market has produced on a large scale over the course of 20 years has been about 4 percent. Certainly, it is a better deal than the current Social Security system.

Look beyond that. Those that have personal accounts will be able to pass on a nest egg to their children and grandchildren once they pass on. Right now, if you were to die just one month after you retired, you would collect only a check from Social Security after paying in for 40 or 50 years into the system, and what would your spouse, what would your child receive? Certainly not much. I think we have a higher obligation here in the United States, and personal accounts would allow that nest egg to be passed on from generation to generation.

That is why I support personal accounts, Mr. Speaker. They are safe. They are smart. They fix the Social Security system, not just for the next few years, but for generations to come, and they strengthen the Social Security program in the Federal Government.

Look, I support five guiding principles for reforming Social Security. First, we must guarantee promised benefits for those that are at or near retirement age. They played by the rules. They have paid into the system. We have that obligation, that moral obligation, I believe, as a country to help those that are close to retirement age.

Second, workers should have the choice to put a portion of their payroll taxes in prudent diversified investments. These are safe personal accounts that the government will not be able to take away like they could take away a Social Security benefit. There would be a property right to these things.

Third, workers should own their accounts, not the government. Property rights are sacred in this country, and I believe that these personal accounts should have a right as private property so that you could actually pass that on to future generations.

Fourth, the government should provide a safety net to ensure a minimum retirement guarantee. Folks cannot gamble their retirement accounts in Vegas, I will tell you that much, and there will always be a benefit for every worker.

Finally, there should be no payroll tax increase involved with any effort to reform Social Security nor should we subject new income to the Social Security tax, to the payroll tax. Tax hikes are not reform. They are pawning any and all problems with the program on to the backs of younger workers such as myself.

Social Security is one of the government's most trusted programs. We are going to maintain that commitment, and we need to make sure it is there not just for me but for my Granny Gooch; not just for me but my children that I hope to have; for my grandchildren; for future generations. But to do that, we need to have serious reforms. We need to have a real discussion and dialogue on the problems of Social Security and the best ways of fixing this program for permanent solvency.

Sweden and Britain have personal accounts. Countries around the world have personal accounts. So the U.S. is not leading on this. We can look to other areas in the world that have been successful in this way. We can look at 401(k) accounts that have been widely successful across this Nation. We can look at thrift savings accounts that all Federal employees have that have been so successful, that have changed retirement security in this Nation.

I believe that we should look at prudent ways to fix this problem because of the generational shift we have in this country, because of the demographic shift we have in this country. We have an obligation to do this.

□ 1715

Mr. Speaker, this Congress must act. We must act now to ensure that we have a viable Social Security system for years to come. That is what my constituents in western North Carolina want; that is what the American people want. They want us to not demagogue this issue, but look at real reforms that have a substantive effect, that have a lasting impact.

On a final note, Mr. Speaker, we have to first say to those at or near retirement age, this is not about you. We are going to maintain our commitment to you. You are going to get the same Social Security benefit that we have pledged to you; but at the same time we have to ask those that are at or near retirement age, what do you want to leave to your children? What do you want to leave to your grandchildren? What kind of America do you want to leave them? Do you want a better, brighter day for them, or do you want to sink them into a failing program, like Social Security? Do you want to leave America a better place than it is today?

I submit to my colleague that the American people appreciate that. Those that are receiving Social Security checks today do in fact want to help their children and grandchildren get into a better system for Social Security than they were able to benefit from. It is not about current retirees' checks they are receiving. This debate is not about them. It is for those that are younger in this Nation, those under 55 that could benefit from this program, that could benefit from this program.

In fact, as a 29-year-old, I believe this is a wonderful opportunity for my generation to actually have great personal savings, a nest egg, a better, brighter future for our country and for our families.

Mr. Speaker, I thank my colleague for hosting this Special Order on Social Security. I think the gentleman's constituents as well as mine appreciate the fact that we are willing to talk about the problems we are facing and yet offer substantive solutions. This is not easy lifting, so I thank my colleague for his leadership on this issue.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for joining me, and my colleague puts in very good context the challenges in front of us.

I think it is important to note that right now, recognizing the substance of the problem in front of us, but especially listening, and listening certainly to Members in this Chamber, this body, the people in this town, but, more importantly, listening to America for those good solutions is what we ought to be about.

A couple of things I have already picked up on. In the last few weeks. I have had the pleasure. I guess it was a pleasure, although it was a stark message, of hearing the Deputy Commissioner of the Social Security Administration testify in front of our Committee on Ways and Means, Mr. James Lockhart. Mr. Lockhart was the first one during this new Congress to actually look us right in the eye and say "Social Security, as it currently exists, is unsustainable."

Now, there are a whole lot of words thrown out around here: problem, crisis, bankrupt, insolvency, all that stuff. But when the Deputy Commissioner of the program says it is unsustainable, I get that word. I also understand that over time, as I pointed out earlier in this hour, it started out with a 2 percent tax on the first $3,000, and it has been tweaked a little as we go.

Along the way, the tax that the employer pays was implemented. And many people think, well, that is great, it is not mine. I submit, though, that if you are the worker, that is coming out of the personnel costs that that company, your employer, is allocating because he thinks it is an expense for having you as a worker. It is now 12.4 percent of not $3,000, but $90,000. So it has grown.

Some are saying let us just tweak it again. We are not going to put it on a path of sustainability by another relatively subtle adjustment, subtle in some people's minds.

Now, more recently, in fact yesterday, David Walker, the Comptroller General of the United States of America, had this to say. Some picked up on but a few words of what he had to say, but I will give the first several sentences: "Although the Social Security System is not in crisis," and at least one of the major papers in this town had a headline that said "Walker Says Social Security System Is Not in Crisis," and stopped there. But here is what he said: "Although the Social Security system is not in crisis, it faces a serious solvency and sustainability challenge that is growing as time passes. If we do nothing until 2042," and that is suggested, "achieving actuarial balance would require a 30 percent reduction in benefits or a 43 percent increase in payroll taxes for just the period of 2042 to 2078." And then once again you are back in the soup. You have got a problem in front of you there. All we do is defer into the future if we do not fix it now.

"Furthermore," he says, "Social Security's problems are a subject of grave fiscal challenge facing our Nation. Absent changes in budget policy, the Nation will ultimately have to choose among escalating Federal deficits and debt, huge tax increases and/or dramatic budget cuts." Pretty stark words. "As the General Accounting Office's long-term budget simulation shows, substantive reform of Social Security and our major Federal health programs is critical to saving our Nation's fiscal future. Taking action soon would serve to reduce the magnitude of the changes needed to ensure that Social Security is solvent, sustainable, and secure for current and future generations."

I submit to you, Mr. Speaker, that is the challenge in front of us: "Take action soon to reduce the magnitude of the changes needed to ensure that Social Security is solvent, sustainable, and secure for current and future generations."

Last week, and I will close with this, Federal Reserve Chairman Alan Greenspan had this to say: "In my view, a retirement system with a significant personal accounts component would provide a more credible means of ensuring that the program actually adds to the overall saving and, in turn, boosts the Nation's capital stock."

We are beginning to develop consensus. This is a huge heavy lift, but it is a lift that is necessary, as Mr. Walker said yesterday, "to ensure that Social Security is solvent, sustainable, and secure for current and future generations of Americans."

---

## SOCIAL SECURITY REFORM

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, once again it is a pleasure to address the House. Also, I want to thank our Democratic leader, the gentlewoman from California (Ms. PELOSI), for allowing us to have this time.

Week after week, as you know, the 30-something Working Group comes to the floor on issues that are facing Americans, not only young Americans but all Americans, since we are a country that has very strong family values and that believes in making sure that the next generation has better opportunities than the generation before them.

We come to the floor to not only share information but to share good information, information that can be shared with others. We also let not only Members of this House, but Members of the other body know where we got the information from: real accounts, not just fiction. I know some Members come to the floor well intended to share good information, but it is questionable as to where it came from.

We are going to talk a lot about Social Security during this 30-something hour, and we are also going to address and commend some of the groups that are out there fighting the good fight, sharing with young Americans about many of the issues that are facing them. It is important that we do so, so that they will be able to make accurate decisions and will be able to speak to their Members of Congress about what they should do as it relates to Social Security.

This afternoon, Mr. Speaker, I am again honored to have my colleague, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who I have had the opportunity to serve with over the last 10 years in the Florida legislature and now here in Congress. Our colleague, the gentleman from Ohio (Mr. RYAN), is not here with us, and I will give him a hard time about that; but he had to leave, and so being from Florida, it is certainly appropriate for us to be here with so many Social Security recipients in our State. And even those individuals that are living in other parts of the country will no doubt eventually make it to Florida and become our constituents one day.

Mr. Speaker, it is an honor to yield to my colleague at this time.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank my colleague for yielding to me, and it is an honor to be here once again with him. It has been my distinct pleasure to serve with my colleague in various capacities over the last 10 years, and particularly because we represent a State that would be so impacted by whatever the vague outlines of the President's suggestion, for lack of a better term. Because what has been truly unfortunate about the President's concept is that that is all it has become. It has just been a concept.

We are trying to help people understand that the President, although he has been stumping the country promoting his concept, his concept has never amounted to legislation. He has not asked any Member of Congress to file legislation. We have not seen a bill; therefore, we have no specific details. And coming from the State that we do, which is one of the States whose residents would be the most significantly impacted by the devastating results of his proposal on Social Security, we have spent quite a bit of time trying to educate our constituents about the dire ramifications.

Given our generation and the impact ultimately that the President's outline would have on them, we need to continue to spend time doing what we have been doing, which is trying to spread the word and make people aware that, despite what they may have heard in the previous hour, we are on a fact-disseminating mission. We need to get the word out and make people understand that there is a lot of fiction and a lot of trumped-up reality that has been disseminated.

We need to help people understand that while there is a problem with Social Security, we need to be responsible and take the time that is required, that is our responsibility to take, to get it right. It is not a crisis.

The year 2042 is what has been clearly acknowledged as the earliest that we have to be concerned about there being a cut in benefits. And while we absolutely do not think we should reach that point, in 2042, since this is the 30-something Working Group, I will be 75 years old. In 2052, which is the more likely scenario, given the dim economic picture they have painted and given our economic history, it is unlikely that in 2042 there would even be a problem yet. I will be 85 years old.

The reason that is important, as my colleague knows when he talks to his friends and when I talk to my friends, people who are listening out there, people our age think Social Security will not be there for them. They really do. And with the facts, they will understand that it will be there for them well beyond their retirement years. We need to be responsible and take some time to make the changes necessary and not yank the rug out from under our generation or our children's generation. We need to make sure we can preserve the Social Security safety net.

So, Mr. Speaker, I am glad to join my colleague this afternoon because we have a lot of educating to do.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I am so excited to be here and to be able to share information, not only with our charts but about what is happening.

This is about future generations, but it also is about the present Social Security recipients. Right now we have 48 million Americans receiving Social Security, and 48 percent of those individuals would be in poverty if they did not receive that Social Security benefit. This is serious business. This is not a numbers game. It is not an opportunity for this body or the majority side or the minority side or the President or what have you to give the American people the Potomac Two Step. We cannot allow that to happen. This is the very fiber of American values, as we value our older people and as we value our generations to come.

If I can, Mr. Speaker, I want to take a few moments to talk about the reason why we have to be credible here on this floor. Now, once again, like I did last week, I want to commend not only the Democratic leadership, the gentlewoman from California (Ms. PELOSI); the gentleman from Maryland (Mr. HOYER); the gentleman from New Jersey (Mr. MENENDEZ), chairman of the House Democratic Caucus; and Vice Chair of the caucus, the gentleman from South Carolina (Mr. CLYBURN), for being so stalwart and being out there and willing to be the hood ornaments of righteousness on this issue.

□ 1730

When you are a hood ornament, nine times out of ten, you are going to get some bugs in your teeth. I used to be a State trooper, so I know about hood ornaments.

But for us to do Social Security, it needs to be a true bipartisan effort. Where does the rub come in? I think where the rub comes in here is the majority side is saying we have to have these private accounts. Even the President had to admit that private accounts will not resolve the Social Security issue.

Social Security is not in the stage of crisis. Let me say that again, because we have folks who are flying around and burning jet fuel at taxpayers' expense, on C-SPAN more than the House is on C-SPAN, and the other body, talking about a crisis.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, what could happen is our colleagues on the other side of the aisle just spent an hour talking about how there is a crisis, and we need to address it. It could appear as though we are engaging in a debate of, yes there is, no there is not. Let me just show the folks at home who is saying and agreeing there is not a crisis.

The other day, the Comptroller General, David Walker, testified in front of the Committee on Ways and Means, which is the committee with main jurisdiction over this issue. He said, while the program faces no immediate financial crisis, he did say that time is working against us, and the longer we wait, the further you put off solving this problem, the more difficult it is going to be. He did acknowledge in full public view, the Comptroller General of the United States, that the program faces no immediate financial crisis.

Now, I would not think that the Comptroller General would deliberately contradict the President unless he wanted to make sure that he stuck to what is factual versus hyperbole. We have been truly committed to disseminating facts and not just blowing this problem out of proportion to get to our political goal. That is what the other side has been doing.

Mr. MEEK of Florida. Mr. Speaker, taking from the words of the gentlewoman from California (Ms. PELOSI), we want to strengthen Social Security. We want to do it in a bipartisan way and without slashing benefits and making sure that we do not have private accounts that will make the Social Security challenge even worse. We will point that out as we move along.

Once the President stops insisting on privatization of Social Security, we can have a real dialogue and move forward and make sure we can deal with the long-term challenges.

I mentioned earlier about the 38 million Americans that are recipients, and the average benefit is $955. That is a lot of money to many Americans. This is not money that they just showed up and said, I have not worked and I want Social Security benefits. These are individuals who have worked every day of their lives, invested in Social Security and want to make sure that is the guaranteed American benefit that they are going to receive at the end of their working years, and rightfully so.

What the private accounts are doing and what they should do is do what we did when President Reagan was president and Tip O'Neill was Speaker of this House. They got together on a bipartisan basis and came up with a solution for Social Security. That is what we are going to have to do. We cannot have an OK Corral with one at one end of the street and one at the other and then figure out who can say what the most, even if it is inaccurate, playing the political game, because Americans will lose in the long run.

Let us talk a little bit, and I want to share a little bit about the credibility of inaccurate information. That is contradicting to say the credibility of inaccurate information, but it is important that Americans understand that if they are going to take something as fact, it is important that they have some sort of reference to go to because a lot of things have been said in this Chamber.

I mentioned last week, dealing with the whole Medicare prescription drug debate, and I commend some of my colleagues on the other side of the aisle who stood against the powers that be and said no. I will not vote for this give-away to some of the strongest lobbyists in this town, that we are going to give them a gift and not be able to give a gift to seniors that we should give them. That we will not, I will not continue to borrow money on a high interest credit card, and I have to get my credit card going again because I had a blown-up copy of the Federal debt, that we are not going to do it.

When we started dealing with the prescription drug issue, everyone was running around saying we needed to deal with prescription drugs. On the Democratic side we said, yes; finally, we can get together and do something on a bipartisan basis. During that debate, the administration said the prescription drug bill will cost $350 billion. That is without giving the government negotiating power with the pharmaceutical companies to bring the cost down, that is just having the pharmaceutical companies set the price.

Then the administration shared with us that it would be $400 billion. That is a lot of money; okay. We were able to not only pass the bill, and many of us voted against it because we knew the numbers were not correct and we could not get price negotiations in to bring the cost of prescription drugs down for everyday Americans. Sure enough, after the debate, we received information that it would be $530 billion. That is a lot of money. I am talking about future generations and what they have to pay on the debt.

Then a couple of weeks ago, the cost went up to $727 billion. I will tell Members that is very, very wrong as it relates to inaccurate information that we have received from not only the President but from the majority side.

Before I move to the next point of accurate versus inaccurate, Social Security, Democrats have literally given flesh and blood for Social Security. This is something that we have fought for because we believe in not only the American worker but making sure that when we tell Americans that we are going to do something, that we are going to stand up to that responsibility. Private accounts are private accounts. They are private. It is privatization of Social Security, and it is not just the gentleman from Florida (Mr. MEEK) and the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) saying that there will be issues if we take this private account gamble, but there are others that have come out against what the President is talking, this philosophy which is not a plan which we will address later. The gentlewoman has a chart to explain further what we are talking about.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, it is important to continue along the vein that we have. These are not manufactured facts by the gentleman from Florida (Mr. MEEK) and the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

If we look at this chart that shows how the debt would increase under the President's budget proposal if this plan goes forward, this is the portion of the debt from 2004 through 2015 that each American would be responsible for. It starts at $4.395 in 2004 and goes up to $10.500. This is gross income per family of four, and this is CBO numbers. This reflects the CBO's estimate of the President's budget that he has recently proposed. We are already in pretty dire straits when it comes to the deficit. The deficit, when divided amongst every American and each family, this is what it translates to over time. This is what it means to a family of four in real burden.

So if Members think about the real burden that a family of four takes on in adding to the debt because the proposal that the President has put forward grossly increases the deficit. I want to take this chart down and go to the next chart, in order to privatize Social Security and make the transition to private accounts, that would cost $1.4 trillion in borrowing in the first 10 years of the plan.

That obviously will endanger the economy. It makes us further indebted to foreign nations and sends essentially the decision making about our economic future to China and Japan as opposed to remaining here in Washington, D.C., where we think most Americans would obviously prefer it to be. It raises taxes on our children and grandchildren over time because that number goes from $4.300 in debt per family of four to more than $10,000 per family of four.

Going past 10 years, it costs another $3.5 trillion. The Republican Social Security privatization plan adds further to our debt. Here is the $1.4 trillion in the next 10 years and an additional $3.5 trillion over the 10 years after that. That adds additional debt in the first 10 years, and this shows the current debt that we have.

We have got to make sure that we become once and for all fiscally responsible. We have a goal to remain committed to the preservation and solvency of Social Security because we have been, as Democrats, supportive of creating, sustaining and improving Social Security since 1935. The proof is in the pudding. The proof is in where the votes have been, and the votes have been in terms of sustaining Social Security's future, on the Democratic side of the aisle.

Mr. MEEK of Florida. Mr. Speaker, the Congressional Budget Office has given us a lot of good information for us to be able to share with the American people about what is actually happening with this debate.

I also want to say that the President and some Members on the majority side bought into the philosophy to hit the road. I am glad they are joining us because over 80 percent of the Democratic Caucus has gone out and had town hall meetings not only in their districts but throughout the country.

A little later on, I would like to talk about a town hall meeting that I am having. I will be in the Capitol tomorrow, and at noon, I will be online. I will give that information later. I will talk about how you can become a part of a town hall meeting and send questions in. We have received 20 questions already, and we have not even gotten online yet.

The President said in Columbus, Ohio, today, This is a debt to the future generations of Americans, and unless we do something about it, we will not be able to pay for it without wrecking the economy. This is what he said in Ohio, and I am glad we have a savvy reporter from the Associated Press that understands the plan as we understand the plan here in Congress.

Under this plan, retirees and workers 55 and over will receive current benefits without changes. Younger workers would get a lower guaranteed government benefit at retirement than current retirees will receive right now on the assumption that their personal account earnings would make up at least a part of the difference. Under the administration's philosophy, younger workers who decide against the private accounts would also face cuts of their guaranteed government benefit.

Some Republicans have been skittish about the issue, fearing political backlash, and I will say congressional Democrats are virtually unanimous in opposition to this philosophy.

☐ 1745

I just want to say that as we start talking about cutting back on benefits, what the majority side is doing, they are saying even if you do not want to be a part of the private accounts, because you hear all this thing about options and choices, that even if you do not want to be a part of it, your benefits are going to be cut anyway. I do not understand it.

Then some folks say, well, where is the Democratic plan? I would say, where is the majority side plan? There is no plan. There is not a piece of legislation. Nothing has been binding and sent to the Hill. Nothing at all.

I want to show this chart to the Members because we need to make sure that we remind some individuals here about what has been going on with this debate on Social Security and private accounts. We have been time after time, and I say "we." House Democrats and some good Republicans on the other side of the aisle. I just want to say again, there are some in the majority caucus that have taken a stand against the administration and the majority side in saying no.

After the Medicare prescription drug issue, it is embarrassing. If you voted for the Medicare prescription drug plan, you are embarrassed. If you are a fiscal conservative, you have a bag over your head, because you are saying, I can't believe I voted for that. I can't believe that not only did I increase the debt, that we are knocking on the Bank of China to pay down on the debt, God forbid if they said, guess what, we don't want to buy any more of your bonds, we are in trouble.

This is a time of war. This is a time when we are trying to protect the homeland. And as I see the administration out there running around, saying, I guess if we burn enough jet fuel and go around and talk to people, maybe they will start believing that there is a crisis.

The crisis is the Federal debt. The crisis is the fact that 45 million Americans working, not those that are sitting at home cracking their toes saying the job situation looks sad, these individuals are going in every day to work, and they do not have health care. That is a crisis. A crisis is our men and women in Iraq and Afghanistan and in the horn of Africa that are fighting terrorism. That is a crisis. A crisis is these military families, especially for the Army, that have been deployed some 12, 15 months, and they are trying to make ends meet. That is a crisis.

I think maybe, just maybe, and I am not here with hypotheticals, but I am just saying maybe this whole thing about Social Security private accounts may just be, I will run that way when the issues are this way. And I think, or I know, that the American people are a lot smarter than some people may think they are as it relates to having a grasp on this issue of Social Security.

The reason why we do not have a bill and the reason why the President has not come up with a plan and the reason why the majority side has not proposed a plan, because the American people are not with privatization of Social Security.

I know the gentlewoman wants to say something, but I just have to make this point because this is about fact, not fiction. I think it is important. I think we have an obligation as the Democratic 30-something Working Group empowered by our leadership to come to this floor to have an hour on this floor every week is not only an honor for us but an honor for every young American that is out there and also for every parent and grandparent that is saying that I want my children to have a better opportunity than what they have had.

Let us talk about what the President is doing now. In 1978, he said he wanted to privatize Social Security, that he would like to see it happen.

In 2000, during the campaign, then Governor Bush said that he wanted to privatize Social Security.

Then when he became President Bush, he appointed a commission to develop a privatization plan for him. In December of 2001, that commission gave the President three options for privatization of Social Security.

From December 2001 to 2004, the President and the administration and the majority side were silent on Social Security. For this to be a perceived crisis that the majority side is talking about and that the President is talking about, to be silent over all of that time and say nothing.

In 2004, while running for reelection, the President again talked about private accounts and saying they are a solution for Social Security's long-term financial imbalance.

Days after the 2004 election, the President said that he had political capital and wanted to use it to push privatization of Social Security through the Congress right away.

In January of this year, press accounts claimed that the White House would have a privatization plan to Congress by late February. This is March now, or early March. I am going to tell the Members right now, I do not think that we are going to see one. In the budget that was submitted at the beginning of February, there was actually no reference to this crisis that the President speaks of in his budget. No reference. Meanwhile, we have the President flying all around the country, this is a crisis, they are using words like "bankrupt," and nothing in the budget. I cannot understand that. It goes against what you should do in a crisis. And now the press is saying that they are not clear if the President is going to offer a plan.

I know it took me a little while to say all of that, but I want to make sure when individuals in the majority side start to talk about, well, where is the Democratic plan, I will tell you, we have been waiting years for the Republican plan. Years. Our plan is already enshrined in Social Security. The reason why it is going to be solvent for another 47 years is not because the majority side, the Republican side, has said we love and we want Social Security for years and years to come. It is because Democrats demanded that Americans that did everything that we told them to do, work hard, support your country, raise your children and at the end of those years, you will receive your benefits, even if you pass away, 17 percent of the individuals that are receiving these benefits are young people that are receiving survivor benefits. And so this is not a gray and silver hair, this is not a silver hair-blue hair issue. This is an American issue.

Ms. WASSERMAN SCHULTZ. To add insult to injury, if we are going to spend time talking about private accounts and that really seems to be the way the President has shaped this debate, that is the issue around which the President has shaped this debate, what is unbelievable is that private accounts by anyone's admission do not even solve the problem. Private accounts do not shore up Social Security, they do not improve its solvency, they do not solve the 2042 problem. They just create private accounts and privatize Social Security and pull the rug out from under people's future retirement security. That is all they do.

Just so that we can stick to the facts and not hyperbole. I will highlight the gentleman from New York (Mr. RANGEL), our ranking member on Ways and Means. The other day, he spoke to Mr. Walker and asked him about private accounts and his opinion. Mr. Walker, the Comptroller, said that as a carveout, and this was in front of the House Committee on Ways and Means, personal accounts financed with payroll taxes could worsen the program's financial stability. He said if it was designed as a supplement to traditional benefits, as an add-on, that personal accounts would not cause a problem. And, essentially, the gentleman from Michigan (Mr. LEVIN) said, well, what the President proposed was a carveout. That is clearly not acceptable under the Comptroller General's concept.

By the President's own experts' admission, Social Security is not in crisis, Social Security is solvent until at least 2042; and then what is unfortunate is the hyperbole, because our colleague from North Carolina, who was spending some time on the floor a little while ago talking about their view, his view, on Social Security referred to the solvency issue and said that out in 2042 that Social Security would be flat busted, I think was the term he used while I was listening to his debate. That is absolutely incorrect. Flat busted. My definition of flat busted means no money, gone, cannot provide any benefits at all. Then he, a few minutes later, said, well, it would provide 60 to 70 percent of benefits.

The reality is that the factual numbers from the Social Security Administration itself, from the trustees who manage the Social Security trust fund, they say that at the earliest in 2042, Social Security would pay 80 percent of benefits if we do nothing, which you and I and others continue and the leader and the whip and the chairman of the caucus continue to stress, we are not suggesting that we do nothing. We are suggesting that if we are going to focus on this problem, that we call it a problem and not a crisis, couch it the way it is, and let us come together in a bipartisan fashion and sit down and hash out solutions.

Our point is why spend time wringing our hands, gnashing our teeth, and stressing out our constituents who are really concerned about whether or not Social Security is going to be there for them talking about privatizing Social Security which is the vast majority of what we are spending our time talking about when it does not even solve the problem. That is the bottom line.

When I had my town hall meetings, Democrats have held more than 300 town hall meetings, like the gentleman said, more than 80 percent of our colleagues in the caucus have had town hall meetings, there have literally been more than 300 of those. At so many of those, senior citizens, our wonderful senior citizens who literally we all stand on their shoulders today, you and I especially, our generation has been able to achieve what we have been able to achieve by standing on their shoulders.

People ask, why do seniors care about this issue? The President has said, people 55 and over are not going to have to worry about it. They care because they care about their grandchildren. They also care because they have a healthy dose of skepticism. What they lived through in their lifetimes has taught them not to take everything at face value. And they understand that when you have such a gargantuan, mammoth change to a system as large as Social Security, there is no way that you can trust that people who are 55 and older will not have to worry.

They also understand that they need to be concerned about their children and their grandchildren. That same AP story that the gentleman quoted a little while ago focused on the President and what he has said about this issue. The President commented on people 55 and older. At the same time he was saying they would not need to be concerned about his plan, he also said grandmothers and grandfathers need to be worried about their grandchildren when it comes to Social Security. So at least the President acknowledges that people 55 and older have a legitimate reason to be concerned about this. We have got to make sure that we continue to disseminate the facts and not engage in the hyperbole that the Republicans have been.

Mr. MEEK of Florida. I can tell the gentlewoman, I was here in the 108th Congress. I know some of the things that have been said not only on this floor but also some of the information we have received from the administration. I think the American people have witnessed this information, too, for it to not be accurate, especially when it comes down to numbers.

There are Members of the other body of this Congress, the other Chamber, they are concerned. They are not willing to take a gamble. They are not willing to throw the dice. It is not a crap game. This is Social Security. I want to be able to share not only with the Members but the people here in this Chamber that the rules that are set out by this House, Democrats, we are in the minority. We do not agenda the meetings, we cannot agenda the meetings, we cannot bring bills to the floor because we are not in control of the Rules Committee. The gentleman from New York (Mr. RANGEL), our ranking member on Ways and Means, cannot call a Ways and Means Committee hearing to question the administration on the philosophy of privatization of Social Security since there is no plan.

So I want to make sure that people understand, because there is desperation on the other side of the aisle for those that are participating with the administration in this game of a crisis of Social Security. And when you are in crisis, you start saying things that will sensationalize the situation. And the inaccurate information that is out there, and I am not using the generalization of saying the Republican Caucus, because there are some good Republicans. They are standing there. They are standing by their constituents. They are saying, no, this is not clear. I don't see how this benefits my constituents, young or old. With all due respect to the President, I am not saying that he is giving us wrong information; I am saying he is giving us inaccurate information.

☐ 1800

It is what you say. When you say words like "bankrupt," that means no money. That means it is done.

Listen, if the gentlewoman and I were the only Americans paying into the Social Security system, it would not be bankrupt. So I am just trying to break it down, because the President came in here and said, if you are over 55, you do not need to worry.

Now, I am going to tell you, we are one America, and I do not know of any parent, and I am so glad that my mother and my father, God bless his soul, he has passed on now, they did not say, "I am okay, son. You need to fend for yourself. I have mine, you get yours." That is not the American way.

We will come to this Floor until the microphones no longer work as not only Democrats but some Republicans that are willing to stand up against this crisis philosophy that is wrong; 47 years of benefits not being cut, and even after 47 years, 80 percent of the benefits will be honored. So I commend them.

I want to say to the gentlewoman that our leader, the gentlewoman from California (Ms. PELOSI), the Democratic Leader has been on the road. She is speaking to young people. She is speaking to students at the universities, talking about Social Security and why it is important and what we want to do and how we want to work with the majority side.

I will tell you, when we work together, good things happen. I have been here. I have witnessed good things happening when people sit at the table. But it is very rare, I must add. And if given the opportunity to lead this House in the majority, our leadership will provide the right formula or will write the right prescription, if I could say that, to make sure that we work in a bipartisan way.

We have some e-mails we have to read from last week. Also, I want to be able to share, the 30-something online town hall meeting will be tomorrow at noon. You can go to the 30-something website to find out the details. Democratic.leader.house.gov/30something. That is Democratic.leader.house.gov/30something. That is the site.

At our website, you can also check out the Social Security time line that I shared with you. I want to make sure the Members have this information, Democrat or Republican, I want them to have it, because I want to be able to make sure that the facts are out there. Everything that we share here, it is not fiction. It is not Star Trek. It is actually factual.

You will see the President's Social Security time line, of how long the majority side has been talking about private accounts, and this is one I guess of value or something, talking points on young people and Social Security. Also linked to the web page of the gentlewoman from California (Ms. PELOSI) Social Security and young people are clips from the past 30-something hours.

We want to give people information, and we are so glad we are interactive, because we are hearing from people.

I also would say, again, that is tomorrow at noon, the 30-something town hall meeting. We will be online to answer your questions, and the site is Democratic.leader.house.gov/30something.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, if the gentleman will yield, I want to get to some of the e-mails we received since the last hour. I want to highlight an e-mail we got from a young woman, someone who just passed 30-something, she just turned 40, so she is just outside of our generational span here, but she said this about privatization and private accounts: "I am very uncomfortable with the idea of using private accounts for Social Security. My mutual fund lost half of its value and, at the rate it is earning, will take another 5 to 8 years to get to the rate of my deposit. My stocks, bonds and annuities lost, but not as big, but they haven't really earned in about 5 years. My IRAs earned at about 3 percent. Everyone else I know, from my retired father to my peers to my kids who have mutual funds in their names for college funds, have been burned by the private financial sector. In addition, I know people whose employers have defaulted on pension plans."

This is the type of risk that we would be subjecting people's retirement security to if we transition to private accounts. That is what people are afraid of.

There is not so much confidence in investing in the stock market. When I had my town hall meetings, and I had three of them, I asked people to raise their hands, and I had more than 200 at two of mine, and 500 or more at all three combined, and I asked people at each town hall meeting for a show of hands, how many of them would feel comfortable in their own ability to make investment decisions or their children's or grandchildren's ability to make investment decisions to ensure that they would have as much money as Social Security would provide for them when they got to their retirement. And literally, at my first town hall meeting, three people raised their hand; at my second town hall meeting, two people raised their hand; and no one raised their hand at the third one.

People do not want to throw their retirement security to the wind. They do not want to subject it to the whims of the stock market. Social Security is not supposed to be a gamble, like investment in the stock market is. You go in with your eyes open when you invest in the stock market. You know you may lose your money.

That is not what Social Security was designed to do. Social Security was designed to provide you with security, not designed to stress you out for the rest of your life and have you pray on your knees every night that you made the right decision and your money is going to be there for you when you retire.

Twenty percent of women who are single and retired and collecting Social Security have Social Security as their only source of income. That number is only going to go up because, as we all know, given our age, our generation has not been the generation of savers. Our generation has not squirreled money away under the mattress or in savings accounts. They do not have a significant nest egg.

The President is trying to say that this could be their nest egg. The only trick is, if you move to private accounts, he does not really talk too much in his town hall meetings about how there is going to be a commensurate cut in Social Security benefits. You do not get both under his plan.

Mr. MEEK of Florida. Mr. Speaker, under his philosophy.

Ms. WASSERMAN SCHULTZ. His outline.

Mr. MEEK of Florida. Because there is no plan. I am sorry.

Ms. WASSERMAN SCHULTZ. That is okay. I thank the gentleman. He is right, I was giving him too much credit. You do not get both. You get at least a 46 percent cut in your benefits in the Social Security benefits that you would have gotten if you move to a private account.

I want to give some information to our younger peers about what it would mean. Risky private accounts do not make up for the 46 percent cut in benefits that President Bush has proposed. A 20-year-old who enters the workforce this year would lose about $152,000 over their working lifetime in Social Security benefits under the Bush plan.

Social Security provides disability insurance, which we have not talked too much about yet. I had a man who suffers from MS come to one of my town hall meetings. He could barely speak because it has affected his voice. He can no longer work. He collects Social Security. We need to remind people of people who are survivors, who are collecting survivors benefits, their families, people on disability.

Mr. MEEK of Florida. Explain survivor benefits, if you will, to make sure everyone understands.

Ms. WASSERMAN SCHULTZ. Absolutely. A third of Social Security goes to people who are survivors of Social Security recipients. The Social Security recipient in their family has passed on. That person's dependents who remain alive collect that person's Social Security benefits.

There are young children and widows who are sustained through their life, who are able to remain in their house, who are able to send their children to school and leave the legacy that their deceased parent would have wanted for them, because Social Security is in place.

If you shift to private accounts, the President's outline does not help people on disability or survivors or their families because they cannot work, because they do not have a way to invest in private accounts, because they do not collect a salary. So we are going to essentially leave them out in the cold.

For a worker in her mid-20s with a spouse and two children, and there are millions of families like that across this country, Social Security provides the equivalent of a $350,000 disability insurance policy. Most people that I know cannot afford to go out and buy one of those on the private market. That is the type of thing that Social Security provides.

Suppose, God forbid, a young parent dies suddenly. Social Security provides for the children who are left behind. The survivors benefits will replace as much as 80 percent of the earnings for a 25-year-old average wage worker who dies leaving two young children and a spouse. For that parent, Social Security survivors benefits are the equivalent to a $403,000 life insurance policy.

That is what Social Security means to real people who suffer through these unexpected tragedies every single day.

We need to fix Social Security. We acknowledge that there are problems. We do not think that we should get to 2042 and have there only be 80 percent benefits paid. We believe in shoring up Social Security, but we believe in doing it responsibly, and we are not going to come to the table and negotiate on a risky privatization plan which does not solve the problem, which adds to our national debt, makes us more reliant on foreign nations and their economic decisions and leaves the future of our generation twisting in the wind, hoping that they will have benefits that would probably go away if this is the direction we are going in.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time. I thank the gentlewoman. The more we can talk about Social Security and what is being presently given to Americans, like survivor and disability benefits, I am glad that the gentlewoman really talked about that, because a 20-year-old, it is a three out of ten chance they have of dying or becoming disabled before retirement age. That is important. That is why I say this is an American issue, Mr. Speaker, and not just a small issue.

I have an issue of dealing with one generation or another. We will not pit generations against each other, not on this Floor. The reason this bill has not come to the Floor yet or a plan has not been placed on the table yet or Members are not falling over each other on the majority side saying "let's do something, let's do something," is because if they bring a privatization account to this floor or to the other body, that I believe many of them will be making a career decision, because I believe the American people will say. I do not believe because the President and some Members of the majority side said we have to do this because the ball is rolling, because we started the ball rolling by saying that Social Security is going to come to an end tomorrow, we have to finish rolling the ball.

Well, let me tell you, Social Security is not prescription drugs. Social Security is not other plans that the administration has put out there. Social Security is in our communities, in our neighborhoods, a part of our values as a country, a part of family values, knowing that if a parent will pass on, knowing their children will not be left with nothing. They know this, because they have Social Security.

I want to just commend some of the groups, and I want the Members to know, that are in the fight of sharing good information out there with the American people. I want to thank the Center for American Progress. I want to also thank the NEA; A. Phillip Randolph Institute; the Alliance of Retired Americans; the American Association of University Women; also the African American Episcopal Church; also the American Baptist Churches of USA; the AFL-CIO; the Association of Community Organizations for Reform Now. We want to thank the Campaign for American's Future; also The Center For Budget and Policy Priorities; the Center For Economic Policy and Research; the Children's Defense Fund; the Coalition of Black Trade Unions; the Coalition of Human Needs; College Democrats of America; Congressional Black Caucus Foundation; Consortium of Citizens with Disabilities; the Economic Policy Institute; the Labor Council for Latin American Advancement; also the League of Rural Voters; The League of United Latin American Citizens; and The Links, Inc. Also, we would like to thank the NAACP and several other organizations.

We also need to point out the great job that Rock the Vote is doing. They are out there sharing good information.

□ 1815

They have a Web site, www.rockthevote.com; and I think it is important that Americans spend time, and I want to commend those groups, those that were mentioned and those that were not mentioned, for the hard work that they are doing out there in holding up the flag and making sure that people understand exactly what is at stake here, making sure that they are out there. They may not be, I say to the gentlewoman, they may not be on the evening news; they may not be at the top of the hour on any of these cable networks that are out there, but they are out there. And they are making sure that we hold this Congress honest in saying that, no, you will not give us the one-two step, you will not fake right, go left, you will not do that.

So that is the reason why we do not have a bill. That is the reason why the President has not put forth a plan, because the American people are so educated on this issue and will continue to be educated on this issue.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I want to remain true to my gender, and I have done this every week since I have been participating in the 30-something group. I have an 18-month-old who I want to take to Mommy and Me in the morning, so I am going to go home in a minute and catch my flight so I can do that.

The reason that I am saying that is that I am one of three women younger than 40 in the Congress, out of 435 Members. There are a unique set of issues that women face when compared to men. The privatization outline that the President has suggested really puts women in a dire situation. For example, in 2003, the average monthly Social Security benefit for a woman was only $798, which is $241 less than the average man's monthly retirement. Women's earnings were 76 percent relative to men in 2003, which is down from 77 percent in 2002.

Women who reach retirement age live on average at least 3 years longer than men, so this is going to be their problem 3 years longer than men. Social Security is the only source of retirement income for one in three unmarried, retired women. Without Social Security, 52 percent of white women, 65 percent of African American women, and 61 percent of Hispanic women would live in poverty upon retirement. It provides more than half of the total income for widows and single women.

We have got to make sure that Social Security provides for all of us. We have got to make sure that we get the facts out as it relates to this problem. Not crisis, but problem. And we in the 30-something group, the members of our generation are going to continue to help educate, as we go around the country on the campus tours that we are planning, as we work with Rock the Vote and the myriad of organizations that the gentleman has detailed. The Older Women's League also is on that list in being in opposition to the President's outline.

It is our responsibility to ensure that when the baton is handed to our generation, that we commit to carrying it forth and run up those stairs like they do in the Olympics and light the torch so that we can make sure that we preserve the safety net that was created back in 1935.

It is always a pleasure to be here with the gentleman, and I look forward to continuing our fact-disseminating mission.

Mr. MEEK of Florida. Mr. Speaker, I know that we are wearing something similar here. Can the gentlewoman tell us a little bit about what we are promoting here?

Ms. WASSERMAN SCHULTZ. Absolutely. The Speaker is also wearing the tie. During this week, the Lifetime Network has promoted the issue of violence against women and highlighted the issue of violence against women on their Web site and on their network. We have all been wearing and have been asked to wear this tie and scarf to highlight domestic violence and the tragedy of domestic violence so that we can make sure that we can fight domestic violence in every corner of this country.

So I am pleased that the men and women of the Congress on both sides of the aisle have been committed to this and we are standing in solidarity with the women who have been victims of domestic violence.

Mr. MEEK of Florida. Mr. Speaker, that is so very, very important; and I thank the gentlewoman for explaining what we are doing. Some Members that were sick this week might have thought we have a new uniform or something, that we all have to wear the same colors.

Mr. Speaker, I want to not only thank the Members for listening to our 30-something hour; but we also want to share in closing, especially here on the Democratic side, that we want to strengthen Social Security without slashing benefits that Americans have earned. Private accounts make the Social Security challenge worse. They force massive benefit cuts and increase the national debt. Once the President stops insisting on privatization accounts, we can work together on making sure that we keep the promise to Social Security recipients and future recipients.

I also want to add that Social Security is an American success story that safeguards Americans' independence and economic security when they get older. Also, Social Security faces a long-term challenge, but not a crisis. A challenge, but not a crisis. I want to make sure that I put emphasis on that. Americans have earned their Social Security benefits, and it would violate their trust and penalize Americans who have paid into Social Security all of their lives to go to private accounts. Here on this side of the aisle, Democrats will preserve the Social Security promise that we made long ago.

Mr. Speaker, I also want to once again, before I close, commend not only my colleagues in Florida on the other side of the aisle who are not with the philosophy of some Members of the majority and the President as it relates to this Social Security scheme of privatization. I want to commend all of my Democratic colleagues for standing in solidarity in making sure that Social Security is promised for future generations and the present generation.

Mr. Speaker, it is always an honor to come to the floor and address the Members of this House.

---

## OWNERSHIP INSPIRES A VITAL AMERICAN ECONOMY

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. DREIER) is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, one of the hallmarks of our vibrant and growing economy is our continuing quest to give Americans more opportunities to become part of our ownership society. I am going to respond to some of the things that have been said by my colleagues on the other side of the aisle, but I think it is important to note that opportunity and ownership is what we are about.

We are very proud of the fact that we have lowered barriers so that the rate of homeownership now stands at a record 69 percent; nearly 70 percent of the American people own their own homes. And as a percentage, it is continuing to grow dramatically in the minority community.

We have encouraged personal savings and investment through tax relief so families are better able to plan for their own future; and I will say that the comments of my colleagues who were just before us aside, we are working very hard to bring voluntary, and I underscore the word voluntary, Mr. Speaker, personal retirement accounts to younger workers so that they can better control their own financial destiny. Our past and future success depends on the ability of every person to realize the American Dream of being an owner.

Now, last summer the President had a great statement on this issue of ownership, Mr. Speaker. He said, if you own something, you have a vital stake in the future of our country. The more ownership there is in America, the more vitality there is in America, and the more people have a vital stake in the future of this country. I think the President was right on target with that.

Nowhere is that statement on the issue of ownership and vitality more true than in California's Silicon Valley, where broad-based employee stock options spurred the innovation and ingenuity that led the economic boon that we saw in that technology sector during the 1990s and is still in the process of coming back today. It was in the emerging technology industry that the idea of using employee ownership to attract talented workers flourished.

Small laboratories of ideas with little capital could not afford to pay lucrative salaries to get highly skilled workers. So many of these ideas emerged from basements and garages and, obviously, high salaries were not an option for many of those who were creating new and innovative ideas that improve our quality of life. Instead of lucrative salaries, which they could not offer, instead they used the hope, the hope, not the guarantee, but the hope of success to incentivize smart workers to take risks on new ideas. And with that notion, the high-tech, knowledge-based economy took off.

It took off dramatically. It produced a thriving and innovative economy over the past decade and a half that has generated millions of jobs, dramatically raised our standard of living, and made the United States of America the global leader in technology and service-oriented industries that it is today.

This happened because, as we all know, when you have a stake in the future of an idea, a company, or a home, you are going to work more productively and more creatively to ensure its success.

Now, Mr. Speaker, a good analogy is the mindset of the homeowner. Most of us who own homes recognize the value of taking good care of that investment, our home. If we protect them from damage, maintain their upkeep and improve their appearance, we think we have a good chance of making a profit on that investment. But all of us can admit that when we were renters, when we did not have a stake in maintaining or increasing a property's value, the level of commitment to improve that property was obviously quite low. There was zero motivation for us to do that.

Like the homeowner, Mr. Speaker, the employee-owner wants to see as high a return as possible from his time and effort on the job. That motivates him to contribute more of his sweat equity to the company. That increases the value of the company to him personally, and it increases the value of the company for all shareholders. That tool for creating that risk-taking mentality and giving corporate ownership is the employee stock option.

Today's stock options have allowed 14 million American workers to become corporate owners through broad-based stock option plans. Companies with broad-based plans give stock options to over 50 percent of their employees, many giving an even higher percentage. These owners are not wealthy people. In fact, Mr. Speaker, this is an incredible figure, 79 percent of all U.S. workers who hold stock options earn less than $75,000 a year. Again, I will say that, when we hear stock options as being criticized because they are something that has been abused, and high-paid, million-dollar executives get it, actually the numbers are 79 percent of stock options are held by Americans who earn less than $75,000 a year. The majority of these owners, 93 percent, to be exact, are lower- and middle-income workers who have converted their labor into financial rewards. It has allowed them to send kids to college, prepare for retirement, and put down payments on their homes.

But the ability of rank-and-file workers to remain a part of our ownership society through stock options is tragically in jeopardy. When the Financial Accounting Standards Board issued its mandatory expensing accounting standard last December, it caused many companies to curtail and, in some cases, eliminate the use of broad-based stock option plans. This is before the standard has taken effect. That means as a result of the Financial Accounting Standard Board's action, a proven ownership tool for millions of Americans and their families will come to an end. That is what is on the horizon. That not only limits opportunities for workers; it is without a doubt going to negatively impact the future of our knowledge-based economy.

The entire basis of our success in the last part of the 20th century rested on individuals taking risks. Those risk-takers have built some of the most innovative job-creating companies in America, and stock options have been the major ingredient for their success. But we do not want to stop there. We obviously want to see that type of entrepreneurial behavior continue into the 21st century. Our economy depends on the ability of future small companies to turn ideas into product or service.

□ 1830

And in so doing, we see the creation of jobs and wealth. We hope they will then grow into bigger companies and create even more jobs and greater prosperity.

It is incredibly ironic that, at the very point in time, when maintaining our global competitive edge is so critically important for us in our future, we are severing the ability of America's innovators to use what has been a key tool for our success. It has been so successful, and this is just incredible, Mr. Speaker, this whole notion has been so successful, that our global competitor, the People's Republic of China, the People's Republic of China, has incorporated stock options into its 5-year economic plan to base its technology industry on.

So why in the world are we doing the this? Why are we taking away an ownership opportunity for skilled workers and their families and hampering our future economic growth? The answer is plain and very obvious. There are those at the Financial Accounting Standards Board, those in the traditional business community and those in the media who simply do not like stock options as a business management tool.

They seized on the aftermath of the Enron scandal and the public's legitimate hunger to curb corporate excess, and it is understandable. We obviously want to end corporate excess and the kind of abuse that we have seen. But they seized on that to stifle the use of broadbased employee stock options through the accounting standards setting process.

Even though stock option expensing never would have prevented the corporate abuse at Enron, nor were broadbased stock option plans involved in that scandal at all.

So in the name of accurate corporate reporting for investors, the Financial Accounting Standards Board stumbled down the paths toward its faulty December-issued standard. But, before I delve into that standard itself, Mr. Speaker, I wanted to address this idea that stock option expensing will curb excess at the top.

Mr. Speaker, many expensing proponents argue that forcing companies to expense will reign in excessive compensation through stock option grants and ensure that CEOs will be unable to manipulate stock options. That argument is false for two reasons: First, we have proof that the Financial Accounting Standards Board accounting standard won't hurt CEOs and senior executives who will be able to figure out how to compensate themselves, but it will, in fact, eliminate a valuable ownership opportunity for rank-and-file workers.

Listen to this sample of a recent press item: Now this was reported just a week or two ago by Reuters, on February 28. They said, and I quote, Pfizer, one of the great innovative companies in this country, obviously, in dealing with the area of health care, Pfizer said in its filing with the Security and Exchange Commission that "in response to new accounting rules requiring employee stock options to be expensed, it plans in 2005 to reduce the number of options granted, 'except to those of most senior Pfizer management.'"

Now, on February 19, the New York Times reported that the Time Warner Company, one of our great companies in this country, they said in the New York Times piece, that Time Warner "would no longer grant stock options to most employees, citing new accounting rules, new financial reporting standards which will require companies to treat stock options as expenses, 'make it prohibitively expensive' to continue the practice for all of their employees."

So the Times also reported research and industry survey data estimates, the estimates that show at least 40 percent of publicly held companies are reconsidering broadbased option plans. And it goes on to say, and I quote, "and as many as a third may discontinue them in the next few years." May discontinue them. A third of them may discontinue them in the next few years.

Second, Mr. Speaker, senior managers who cook the books and abuse stock options are breaking the law. Accounting standards will not stop someone intent on engaging in criminal behavior. Individuals will simply find other ways to achieve his goal.

Now, let us turn to the standard itself. Interestingly, the Financial Accounting Standards Board proclaimed its intention to come up with a mandatory expensing standard, a standard that would ensure accurate corporate reporting and transparent information for investors. Again, I underscore the last, transparent information for investors.

In 2003 testimony before the House Financial Services Subcommittee on Capital Markets, the chairman of the Financial Accounting Standards Board, Bob Herz, stated the Board's intention to improve the financial accounting and reporting of stock options. He specifically noted the need to address, and I quote, "the noncomparability and, thus, the potential lack of transparency created by the alternative accounting treatments presently available for reporting stock options."

So Mr. Herz talked about the need for greater transparency. Now, Mr. Speaker, unfortunately for investors, this standard will do everything but. This standard that they promulgated in December, set to take effect in June, will do everything but bring clarity, comparability and accuracy to corporate financial statements. It is, in fact, going to provide investors with misleading information.

The Financial Accounting Standards Board's standard requires companies to make gross assumptions based on highly volatile factors and produce one number that will represent the so-called cost of employee stock options.

We are talking about stock options that have never been exercised by the employee, may never be exercised, and are not tradable in open capital markets where value could be determined. The standard recommends that companies should use either the Black-Scholes or the binomial methods of accounting or an alternative method derived by their experts for calculating the value of the expense.

Now, Mr. Speaker, it is instructive that the inventor of the binomial method stated last year that his method does not work for fixed price employee stock options and should not be used.

Now, Mr. Speaker, the President's former National Economic Council Advisor, Larry Lindsey, led an expert panel in a study of Financial Accounting Standard Board's mandatory expensing standards that they promulgated last December. In its report to the Securities and Exchange Commission last month, the Lindsey panel found that the two valuation models are inherently flawed when used for employee stock options.

And, in fact, in a letter that was sent to the Chairman of the Securities and Exchange Commission, Mr. Donaldson, the Lindsey panel members conclude, and I quote, "if the rule were to be implemented as is and on the current time line, the quality of information available to the public regarding employee stock options would be inadequate and potentially misleading." And again that is the Lindsey panel report.

And this is the letter that was sent to the Securities and Exchange Commission. They said it would be inadequate and potentially misleading. Those are the regulations that have been promulgated by FASB.

They went on to state that "the investing public would not be able to compare the impact of stock option plans across companies because the recommended models produce such wide results with different plausible sets of assumptions."

Now, that is a pretty compelling indictment on what has been put forward, Mr. Speaker. What happened to the FASB's determination to give investors, as I said just a moment ago, accurate, comparable and transparent information?

Let me go back to what Chairman Herz said the Board wanted to address, the noncomparability and thus the potential lack of transparency created by the alternative accounting treatment presently available for reporting stock options. But the Financial Accounting Standards Board is not helping investors with the new expensing standard.

They are actually hurting investors. The new rule set to take effect this June will actually lead to just plain wrong numbers on corporate financial statements. So much for creating transparency for our investors, which is what the FASB Chairman said was the goal. And instead of implementing one method for calculating option expensing, they have perpetuated what they had previously viewed as problematic, alternative accounting treatments.

With this standard, companies will have a choice between two bad valuation models, or be able to pick one all on their own. How can investors compare numbers with companies who choose their own method of calculation? The fallacy of the Financial Accounting Standards Board's expensing standard could not be more transparent.

You do not have to be an accountant to understand that stock options are never a corporate expense. They are a right given to employees to, at some point down the road, buy shares of the company's stock at a fixed price at a set period of time. They cost a company absolutely nothing.

As the Lindsey panel noted, it disagrees with the premise that employee stock options, and I quote from the Lindsey panel report, are "a net cost to the firm and that this cost can be measured precisely and reliably."

So they point to the fact that it is not a net cost to the firm, and it is also specious to believe that they can be measured precisely and reliably.

But, Mr. Speaker, I will acknowledge stock options do dilute the value of shared held by existing shareholders of a company. So while there is no cost to the company, there is in fact a cost to the shareholder in the form of what is called share dilution.

That said, it is clear to me that there are problems with how stock options are reported in financial statements today. Let my say that again. I do believe that, today, we do have problems in the way that stock options are actually reported. That said, it is clear that there are problems of how they are reported in those financial statements.

Investors really do need accurate, comparable and meaningful information about how those broadbased plans affect the companies. Expensing provides none of this information. By contrast, uniform disclosure requirements would be what we need to actually help the shareholders. It is critically important that we do share that goal with Mr. Hertz, but his plan is not the way to deal with the issue of transparency.

We believe that we have a better solution. That is why we must stand on the side of investors and implement rules that will give meaningful information and make it public. The Lindsey report supports mandating increased disclosures. And, Mr. Speaker, that is exactly what this House has gone on record doing.

My distinguished colleague, the gentlelady from California (Ms. ESHOO) from the other side of the aisle and other Democrats have introduced supporting legislation.

Mr. Speaker, the gentlewoman from California (Ms. ESHOO) and many of our colleagues have introduced last month a strongly bipartisan bill which would require that the Securities and Exchange Commission implement uniform disclosures so that we can get at that issue of transparency.

Specifically in our bill, Mr. Speaker, at a minimum, companies would have to include in their footnotes a plain English discussion of share value dilution. They would have to expand disclosure of the dilutive effect of options on the company's earnings per share number. And all stock information would have to be placed prominently in a way that allows investors to easily compare information among different companies.

Finally, to ensure that stock options for executives are transparent, companies would have to provide a summary of stock options granted to the top five most highly compensated executives in that company.

This is the kind of information that will help investors clearly understand the impact of employee stock options on share value. On the completely opposite side is the Financial Accounting Standards Boards actions, which will actually do harm. Not only will it result in misleading expensing numbers, it will remove the current disclosures used by companies that do offer broadbased stock option plans.

So the useful information we currently see in financial statements will disappear after this standard takes effect. Literally, investors will have nothing to go on but a flawed and unreliable number mandated by our Nation's accounting standards board.

That is indeed disturbing for those who care about the integrity of our financial markets.

Although this change in accounting treatment may be arcane to many in the real world, the new rule will hurt the risk takers who are creating jobs and wealth in this country and improving the standard of living and quality of life for so many people with creative, innovative ideas.

☐ 1845

It will hit particularly hard the small businesses, skilled workers, and entrepreneurs who form the backbone of America's infrastructure. No matter what high-growth sector of the economy you look at, you will find that the common thread to its success has been employee stock options. Without that motivating incentive, would-be entrepreneurs and existing innovative companies will be less likely to take risks and transform new ideas into industry.

Now, I and many of my colleagues, as I said, have co-sponsored our bill, H.R. 913; and we believe that we need to stand on the side of investors and the partners and the workers in our Nation's ownership society. FASB, the Financial Accounting Standards Board, has issued its mandatory expensing rule. That part is done. But the SEC and the administration have an opportunity to finally provide investors with improved information and at the same time prevent the FASB from killing off stock options for rank-and-file workers.

Mr. Speaker, I sincerely hope that the Securities and Exchange Commission will pay heed to our concerns when they provide guidance on the FASB rule later this month. They need to listen to the 312 House Members of the 108th Congress who supported legislation that we worked on with our colleagues, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) from the Committee on Financial Services. We were able to reach, working together, a legislative compromise that again enjoyed Democrat and Republican support; 312 Members of that bill effectively addressed concerns about executive compensation and protected rank-and-file corporate ownership.

Mr. Speaker, preserving broad-based plans and enhancing stock option disclosures are key to continuing the pro-growth, pro-ownership society and economy that Congress and this administration have worked so diligently to achieve.

Mr. Speaker, I call on the Securities and Exchange Commission to take action to prevent the Financial Accounting Standards Board's misguided standards from harming workers and investors. America's 21st century expansion and growth that we are all pursuing and encouraging so vigorously, we should realize that it will hinge in large part on this decision that will be made. So I hope very much that they make the correct decision so that we can continue to see our economy thrive.

## APPOINTMENT OF MEMBERS TO THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The SPEAKER pro tempore (Mr. DENT). Pursuant to sections 5580 and 5581 of the Revised Statutes (20 U.S.C. 42–43), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Regents of the Smithsonian Institution:

Mr. REGULA of Ohio,
Mr. SAM JOHNSON of Texas,
Mr. BECERRA of California.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CUELLAR, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, today.

Mr. NEY, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today.

Mrs. MUSGRAVE, for 5 minutes, today.

Mr. POE, for 5 minutes, today.

Mr. FLAKE, for 5 minutes, today.

Mr. CUNNINGHAM, for 5 minutes, March 15.

Mr. DUNCAN, for 5 minutes, today.

Mr. GOHMERT, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, March 14.

## ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, March 14, 2005, at 12:30 p.m., for morning hour debates.

## OATH OF OFFICE—MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 109th Congress, pursuant to the provisions of 2 U.S.C. 25:

Doris O. Matsui
California 5th

## OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Rodney Alexander, Thomas H. Allen, Robert E. Andrews, Joe Baca Spencer Bachus, Brian Baird, Richard H. Baker, Tammy Baldwin, J. Gresham Barrett, John Barrow, Roscoe G. Bartlett, Joe Barton, Charles F. Bass, Melissa L. Bean, Bob Beauprez, Xavier Becerra, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Michael Bilirakis, Rob Bishop, Sanford D. Bishop, Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, Sherwood Boehlert, John A. Boehner, Henry Bonilla, Jo Bonner, Mary Bono, John Boozman, Madeleine Z. Bordallo, Dan Boren, Leonard L. Boswell, Rick Boucher, Charles W. Boustany, Jr., Allen Boyd, Jeb Bradley, Kevin Brady, Robert A. Brady, Corrine Brown, Sherrod Brown, Henry E. Brown, Jr., Ginny Brown-Waite, Michael C. Burgess, Dan Burton, G. K. Butterfield, Steve Buyer, Ken Calvert, Dave Camp, Chris Cannon, Eric Cantor, Shelley Moore Capito, Lois Capps, Michael E. Capuano, Benjamin L. Cardin, Dennis A. Cardoza, Russ Carnahan, Julia Carson, John R. Carter, Ed Case, Michael N. Castle, Steve Chabot, Ben Chandler, Chris Chocola, Donna M. Christensen, Wm. Lacy Clay, Emanuel Cleaver, James E. Clyburn, Howard Coble, Tom Cole, K. Michael Conaway, John Conyers, Jr., Jim Cooper, Jim Costa, Jerry F. Costello, Christopher Cox, Robert E. (Bud) Cramer, Jr., Ander Crenshaw, Joseph Crowley, Barbara Cubin, Henry Cuellar, John Abney Culberson, Elijah E. Cummings, Randy "Duke" Cunningham, Artur Davis, Geoff Davis, Jim Davis, Jo Ann Davis, Lincoln Davis, Tom Davis, Susan A. Davis, Danny K. Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Tom DeLay, Charles W. Dent, Lincoln Diaz-Balart, Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, John T. Doolittle, Michael F. Doyle, Thelma D. Drake, David Dreier, John J. Duncan, Jr., Chet Edwards, Vernon J. Ehlers, Rahm Emanuel, Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Lane Evans, Terry Everett, Eni F. H. Faleomavaega, Sam Farr, Chaka Fattah, Tom Feeney, Mike Ferguson, Bob Filner, Michael G. Fitzpatrick, Jeff Flake, Mark Foley, J. Randy Forbes, Harold E. Ford, Jr., Jeff Fortenberry, Luis G. Fortuño, Vito Fossella, Virginia Foxx, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Elton Gallegly, Scott Garrett, Jim Gerlach, Jim Gibbons, Wayne T. Gilchrest, Paul E. Gillmor, Phil Gingrey, Louie Gohmert, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Kay Granger, Sam Graves, Al Green, Gene Green, Mark Green, Raúl M. Grijalva, Luis V. Gutierrez, Gil Gutknecht, Ralph M. Hall, Jane Harman, Katherine Harris, Melissa A. Hart, J. Dennis Hastert, Doc Hastings, Alcee L. Hastings, Robin Hayes, J. D. Hayworth, Joel Hefley, Jeb Hensarling, Wally Herger, Stephanie Herseth, Brian Higgins, Maurice D. Hinchey, Rubén Hinojosa, David L. Hobson, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, John N. Hostettler, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Henry J. Hyde, Bob Inglis, Jay Inslee, Steve Israel, Darrell E. Issa, Ernest J. Istook, Jr., Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Jefferson, William L. Jenkins, Bobby Jindal, Sam Johnson, Eddie Bernice Johnson, Nancy L. Johnson, Timothy V. Johnson, Walter B. Jones, Stephanie Tubbs Jones, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Sue W. Kelly, Patrick J. Kennedy, Mark R. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Steve King, Peter T. King, Jack Kingston, Mark Steven Kirk, John Kline, Joe Knollenberg, Jim Kolbe, John R. "Randy" Kuhl, Jr., Ray LaHood, James R. Langevin, Tom Lantos, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, James A. Leach, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, Daniel Lipinski, Frank A. LoBiondo, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Daniel E. Lungren, Stephen F. Lynch, Connie Mack, Carolyn B. Maloney, Donald A. Manzullo, Kenny Marchant, Edward J. Markey, Jim Marshall, Jim Matheson, Doris O. Matsui, Carolyn McCarthy, Michael T. McCaul, Betty McCollum, Thaddeus G. McCotter, Jim McCrery, James P. McGovern, Patrick T. McHenry, John M. McHugh, Mike McIntyre, Howard P. "Buck" McKeon, Cynthia McKinney, Cathy McMorris, Michael R. McNulty, Martin T. Meehan, Kendrick B. Meek, Gregory W. Meeks, Charlie Melancon, Robert Menendez, John L. Mica, Michael H. Michaud, Juanita Millender-McDonald, Brad Miller, Jeff Miller, Gary G. Miller, Candice S. Miller, Alan B. Mollohan, Dennis Moore, Gwen Moore, Jerry Moran, James P. Moran, Tim Murphy, John P. Murtha, Marilyn N. Musgrave, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, Randy Neugebauer, Robert W. Ney, Anne M. Northup, Eleanor Holmes Norton, Charlie Norwood, Devin Nunes, Jim Nussle, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Tom Osborne, C. L. "Butch" Otter, Major R. Owens, Michael G. Oxley, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Stevan Pearce, Nancy Pelosi, Mike Pence, Collin C. Peterson, John E. Peterson, Thomas E. Petri, Charles W. "Chip" Pickering, Joseph R. Pitts, Todd Russell Platts, Ted Poe, Richard W. Pombo, Earl Pomeroy, Jon C. Porter, Rob Portman, Tom Price, David E. Price, Deborah Pryce, Adam H. Putnam, George Radanovich, Nick J. Rahall, II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, David G. Reichert, Rick Renzi, Silvestre Reyes, Thomas M. Reynolds, Harold Rogers, Mike Rogers, Dana Rohrabacher, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C. A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Tim Ryan, Jim Ryun, Martin Olav Sabo, John T. Salazar, Loretta Sanchez, Linda T. Sánchez, Bernard Sanders, Jim Saxton, Janice D. Schakowsky, Adam B. Schiff, Allyson Y. Schwartz, John J. H. "Joe" Schwarz, David Scott, Robert C. Scott, F. James Sensenbrenner, Jr., José; E. Serrano, Pete Sessions, John B. Shadegg, E. Clay Shaw, Jr., Christopher Shays, Brad Sherman, Don Sherwood, John Shimkus, Bill Shuster, Rob Simmons, Michael K. Simpson, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Christopher H. Smith, Lamar S. Smith, Vic Snyder, Michael E. Sodrel, Hilda L. Solis, Mark E. Souder, John M. Spratt, Jr., Cliff Stearns, Ted Strickland, Bart Stupak, John Sullivan, John E. Sweeney, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, Gene Taylor, Charles H. Taylor, Lee Terry, William M. Thomas, Mike Thompson, Bennie G. Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Edolphus Towns, Michael R. Turner, Mark Udall, Tom Udall, Fred Upton, Chris Van Hollen, Nydia M. Velázquez, Peter J. Visclosky, Greg Walden, James T. Walsh, Zach Wamp, Debbie Wasserman Schultz, Maxine Waters, Diane E. Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Curt Weldon, Dave Weldon, Jerry Weller, Lynn A. Westmoreland, Robert Wexler, Ed Whitfield, Roger F. Wicker, Heather Wilson, Joe Wilson, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, Don Young, C. W. Bill Young.

---

## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the second quarter of 2004 and the fourth quarter of 2004, pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KEVIN FROMER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 11 AND APR. 20, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Kevin Fromer | 4/11 | 4/13 | Spain | | 465.00 | | | | | | 465.00 |
| | 4/14 | 4/16 | Italy | | 462.00 | | | | | | 462.00 |
| | 4/17 | 4/19 | Croatia | | 435.00 | | | | | | 435.00 |
| | 4/19 | 4/20 | Ireland | | 157.00 | | | | | | 157.00 |
| Committee total | | | | | 1,519.00 | | | | | | 1,519.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KEVIN FROMER, Jan. 4, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. MARK ANDERSON, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 22 AND NOV. 27, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Mark Anderson | 11/22 | 11/27 | Czech Rep. | | 1,530.00 | | 4,250.00 | | | | 5,780.00 |
| Committee total | | | | | 1,530.00 | | 4,250.00 | | | | 5,780.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MARK ANDERSON, Dec. 15, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. APRIL FOSTER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 30 AND DEC. 7, 2004

| Name of Member or employee | Date |  | Country | Per diem [1] |  | Transportation |  | Other purposes |  | Total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Arrival | Departure |  | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| April Foster | 12/1 | 12/3 | Germany |  | 686.00 |  |  |  |  |  | 686.00 |
|  | 12/3 | 12/5 | Poland |  | 566.00 |  |  |  |  |  | 566.00 |
|  | 12/5 | 12/7 | Italy |  | 874.00 |  |  |  |  |  | 874.00 |
|  |  |  |  |  |  |  | 2020.80 |  |  |  | 2020.80 |
| Committee total |  |  |  |  | 2,126.00 |  | 2,020.80 |  |  |  | 4146.80 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

APRIL FOSTER, Jan. 7, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. KRISTEN COLE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 3 AND DEC. 12, 2004

| Name of Member or employee | Date |  | Country | Per diem [1] |  | Transportation |  | Other purposes |  | Total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Arrival | Departure |  | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Kristen Cole | 12/03 | 12/12 | Ethiopia |  | 591.00 |  | 7,300.00 |  | 1,070.00 |  | 8,961.00 |
| Committee total |  |  |  |  | 591.00 |  | 7,300.00 |  | 1,070.00 |  | 8,961.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTY COLE, Dec. 29, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date |  | Country | Per diem [1] |  | Transportation |  | Other purposes |  | Total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Arrival | Departure |  | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Janice Helwig | 7/1 | 8/1 | Austria |  | 8,533.00 |  |  |  |  |  | 8,553.00 |
| Chadwick Gore |  | 7/13 | USA |  |  |  | 4,544.00 |  |  |  | 4,544.00 |
|  | 7/14 | 7/17 | Austria |  | 790.00 |  |  |  |  |  | 790.00 |
| Janice Helwig |  | 7/25 | Austria |  |  |  | 957.00 |  |  |  | 957.00 |
|  | 7/25 | 7/27 | Albania |  | 387.00 |  |  |  |  |  | 387.00 |
| Janice Helwig |  | 8/13 | USA |  |  |  | 4,557.00 |  |  |  | 4,557.00 |
|  | 8/14 | 9/30 | Austria |  | 12,561.00 |  |  |  |  |  | 12,561.00 |
| Elizabeth Pryor |  | 9/5 | USA |  |  |  | 4,537.00 |  |  |  | 4,537.00 |
|  | 9/6 | 9/10 | Austria |  | 1,020.00 |  |  |  |  |  | 1,020.00 |
| Janice Helwig |  | 9/12 | Austria |  |  |  | 546.00 |  |  |  | 546.00 |
|  | 9/12 | 9/15 | Belgium |  | 924.00 |  |  |  |  |  | 924.00 |
| Knox Thames |  | 9/11 | USA |  |  |  | 5,701.00 |  |  |  | 5,701.00 |
|  | 9/12 | 9/17 |  | 1,797.00 |  |  |  |  |  |  | 1,797.00 |
| Janice Helwig |  | 9/22 | Austria |  |  |  | 1,251.00 |  |  |  | 1,251.00 |
|  | 9/22 | 9/25 | Finland |  | 885.00 |  |  |  |  |  | 885.00 |
| Maureen Walsh |  | 9/22 | USA |  |  |  | 5,678.00 |  |  |  | 5,678.00 |
|  | 9/23 | 9/25 | Finland |  | 578.00 |  |  |  |  |  | 578.00 |
|  | 9/25 | 10/2 | Greece |  | 1,247.00 |  |  |  |  |  | 1,247.00 |
| Chadwick Gore |  | 9/27 | USA |  |  |  | 5,633.00 |  |  |  | 5,633.00 |
|  | 9/28 | 10/3 | Greece |  | 1,163.00 |  |  |  |  |  | 1,163.00 |
| Committee total |  |  |  |  | 29,905 |  | 33,404 |  |  |  | 63,309 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHRISTOPHER H. SMITH, Chairman, Nov. 1, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date |  | Country | Per diem [1] |  | Transportation |  | Other purposes |  | Total |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Arrival | Departure |  | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Elizabeth Pryor |  | 9/28 | USA |  |  |  | 5,567.00 |  |  |  | 5,567.00 |
|  | 9/29 | 10/1 | Switzerland |  | 534.00 |  |  |  |  |  | 534.000 |
|  | 10/1 | 10/3 | France |  | 318.00 |  |  |  |  |  | 318.00 |
|  | 10/1 | 10/3 | France |  | 318.00 |  |  |  |  |  | 318.00 |
|  | 10/3 | 10/7 | Poland |  | 844.00 |  |  |  |  |  | 844.00 |
| Janice Helwig | 10/1 | 12/20 | Austria |  | 19,957.00 |  |  |  |  |  | 19,957.00 |
| Erika Schlager |  | 10/2 | USA |  |  |  | 4,867.00 |  |  |  | 4,867.00 |
|  | 10/3 | 10/16 | Poland |  | 3,043.00 |  |  |  |  |  | 3,043.00 |
| Michael Ochs |  | 10/12 | USA |  |  |  | 4,625.00 |  |  |  | 4,625.00 |
|  | 10/3 | 10/10 | Poland |  | 1,532.00 |  |  |  |  |  | 1,532.00 |
| Janice Helwig |  | 10/3 | Austria |  |  |  | 1,197.00 |  |  |  | 1,197.00 |
|  | 10/3 | 10/16 | Poland |  | 2,973.00 |  |  |  |  |  | 2,973.00 |
| Dorothy Douglas Traft |  | 10/3 | USA |  |  |  | 4,739.00 |  |  |  | 4,739.00 |
|  | 10/4 | 10/9 | Poland |  | 1,200.00 |  |  |  |  |  | 1,200.00 |
| Ronald J. McNamara |  | 10/10 | USA |  |  |  | 5,685.00 |  |  |  | 5,685.00 |
|  | 10/11 | 10/14 | Poland |  | 831.00 |  |  |  |  |  | 831.00 |
|  | 10/14 | 10/19 | Belarus |  | 886.00 |  |  |  |  |  | 886.00 |
| Orest Deychakiwsky |  | 10/14 | USA |  |  |  | 5,685.00 |  |  |  | 5,685.00 |
|  | 10/15 | 10/19 | Belarus |  | 700.00 |  |  |  |  |  | 700.00 |
| H. Knox Thames |  | 11/3 | USA |  |  |  | 5,903.00 |  |  |  | 5,903.00 |

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 11/4 | 11/6 | Austria | | 510.00 | | | | | | 510.00 |
| Janice Helwig | | 11/4 | Austria | | | | 780.00 | | | | 780.00 |
| | 11/4 | 11/6 | Croatia | | 436.00 | | | | | | 436.00 |
| Marlene Kaufmann | | 11/6 | USA | | | | 6,114.00 | | | | 6,114.00 |
| | 11/07 | 11/10 | Italy | | 788.00 | | | | | | 788.00 |
| | 11/10 | 11/14 | Bulgaria | | 779.00 | | | | | | 779.00 |
| | 11/14 | 11/17 | Romania | | 684.00 | | | | | | 684.00 |
| | 11/17 | 11/20 | Austria | | 709.00 | | | | | | 709.00 |
| Chadwick Gore | | 11/14 | USA | | | | 5,977.00 | | | | 5,977.00 |
| | 11/15 | 11/21 | Egypt | | 1,100.00 | | | | | | 1,100.00 |
| Elizabeth Pryor | | 11/15 | USA | | | | 4,795.00 | | | | 4,795.00 |
| | 11/16 | 11/21 | Egypt | | 863.00 | | 490.00 | | | | 1,353.00 |
| | 11/21 | 11/22 | Austria | | 389.00 | | | | | | 389.00 |
| Ronald J. McNamara | | 11/17 | USA | | | | 5,912.00 | | | | 5,912.00 |
| | 11/18 | 11/23 | Ukraine | | 977.00 | | | | | | 977.00 |
| Orest Deychakiwsky | | 11/17 | USA | | | | 5,912.00 | | | | 5,912.00 |
| | 11/18 | 11/23 | Ukraine | | 1,031.00 | | | | | | 1,031.00 |
| Michael Ochs | | 11/17 | USA | | | | 5,967.00 | | | | 5,967.00 |
| | 11/18 | 11/22 | Ukraine | | 563.00 | | | | | | 563.00 |
| | 11/22 | 11/23 | Poland | | 368.00 | | | | | | 368.00 |
| John Finerty | | 11/17 | USA | | | | 5,918.00 | | | | 5,918.00 |
| | 11/18 | 11/22 | Ukraine | | 522.00 | | | | | | 522.00 |
| | 11/22 | 11/23 | Austria | | 255.00 | | | | | | 255.00 |
| Janice Helwig | | 12/3 | Austria | | | | 562.00 | | | | 562.00 |
| | 12/3 | 12/8 | Bulgaria | | 901.00 | | | | | | 901.00 |
| Dorothy Douglas Taft | | 12/4 | USA | | | | 1,375.00 | | | | 1,375.00 |
| | 12/5 | 12/10 | Bulgaria | | 1,137.00 | | | | | | 1,137.00 |
| Elizabeth Pryor | | 12/4 | USA | | | | 6,101.00 | | | | 6,101.00 |
| | 12/5 | 12/8 | Bulgaria | | 579.00 | | | | | | 579.00 |
| | 12/8 | 12/10 | Austria | | 542.00 | | | | | | 542.00 |
| Orest Deychakiwsky | | 12/23 | USA | | | | 5,745.00 | | | | 5,745.00 |
| | 12/24 | 12/28 | Ukraine | | 1,028.00 | | | | | | 1,028.00 |
| Committee total | | | | | 46.979 | | 93.916 | | | | 140.895 |

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHRISTOPHER H. SMITH, Chairman, Jan. 31, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HOUSE NATO PARLIAMENTARY ASSEMBLY MEETING IN ITALY AND GREECE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 7 AND NOV. 17, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Michael Bilirakis | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3.583.00 |
| Hon. Paul Gillmor | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3.583.00 |
| Hon. John Tanner | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3.583.00 |
| Hon. David Price | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Hon. Vernon Ehlers | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Hon. Jo Ann Emerson | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Hon. John Shimkus | 11/13 | 11/16 | Italy | | 1,350.00 | | (3) 3,400.20 | | | | 4,750.20 |
| Hon. Ellen Tauscher | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Hon. Dennis Moore | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Hon. Thomas Tancredo | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3.583.00 |
| Hon. Tom Udall | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3.583.00 |
| Hon. John Boozman | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3.583.00 |
| Mw. Kathy Becker | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Ms. Carol Doherty | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) 3,325.00 | | | | 5,575.00 |
| Dr. Paul Gallis | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/17 | Italy | | 2,700.00 | | 2,631.68 | | | | 6.664.68 |
| Dr. Kay King | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/17 | Italy | | 2,700.00 | | 2,631.00 | | | | 6,664.68 |
| Dr. Robert King | 11/11 | 11/16 | Italy | | 1,180.00 | | 348.10 | | | 1,528.10 | |
| Ms. Carol Lawrence | 11/7 | 11/11 | Greece | | 1,333.00 | (3) | | | | | |
| | 11/11 | 11/17 | Italy | | 2,700.00 | | 2,631.68 | | | | 6,664.68 |
| Mr. John Lis | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/17 | Italy | | 2,700.00 | | 2,631.68 | | | | 6,664.68 |
| Mr. Vincent Morelli | 11/11 | 11/17 | Italy | | 2,700.00 | | 888.27 | | | | 3,588.27 |
| Ms. Susan Olson | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/17 | Italy | | 2,700.00 | | 3,222.68 | | | | 7,255.68 |
| Ms. Marilyn Owen | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | (3) | | | | 3,583.00 |
| Mr. Patrick Prisco | 11/11 | 11/17 | Italy | | 2,700.00 | | 5,240.68 | | | | 7,940.68 |
| Ms. Christy Stefadouros | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/16 | Italy | | 2,250.00 | | | | | | 3,583.00 |
| Mr. Mark Wellman | 11/7 | 11/11 | Greece | | 1,333.00 | | (3) | | | | |
| | 11/11 | 11/17 | Italy | | 2,700.00 | | 2,631.68 | | | | 6,664.68 |
| Mr. Guido Zucconi | 11/11 | 11/17 | Italy | | 2,700.00 | | 5,628.25 | | | | 8,328.25 |
| Delegation Expenses: | | | | | | | | | | | |
| Representational Functions | | | | | | | | | 11,634.45 | | 11,634.45 |
| Miscellaneous | | | | | | | | | 807.90 | | 807.90 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HOUSE NATO PARLIAMENTARY ASSEMBLY MEETING IN ITALY AND GREECE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 7 AND NOV. 17, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Committee total | | | | | 87,240.00 | | 35,211.58 | | 12,442.35 | | 134,893.93 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

MICHAEL BILIRAKIS, Chairman, Dec. 21, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LUXEMBOURG, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 29 AND DEC. 3, 2004

| Name of Member or employee | Date (mm/dd/yy) | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Martha Morrison | 11/30 | 12/03 | Luxembourg | | 1,107.00 | | 6,105.82 | | | | 7,212.82 |
| Don Kellaher | 11/30 | 12/03 | Luxembourg | | 1,107.00 | | 6,105.82 | | | | 7,212.82 |
| Committee total | | | | | 2,214.00 | | 12,211.64 | | | | 14,425.64 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. DENNIS HASTERT, Chairman, Dec. 6, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO TURKEY, GERMANY, LUXEMBOURG, SICILY, AND CRETE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 9 AND DEC. 19, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Speaker J. Dennis Hastert | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. John D. Dingell | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. Jerry Lewis | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. Sherwood Boehlert | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. Mark E. Souder | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. John Boozman | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. Ander Crenshaw | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Scott Palmer | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Chris Walker | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Kevin Fromer | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Sam Lancaster | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Ms. Kathryn Lehman | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Andrew Shore | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Richard Frandsen | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Ms. Martha Morrison | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Adm. John F. Eisold | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Hon. Wilson Livingood | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Mr. Dwight Comedy | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Ms. Brenda Becker | 12/10 | 12/11 | Turkey | | 338.00 | | (3) | | | | 338.00 |
| Speaker J. Dennis Hastert | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. John D. Dingell | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. Jerry Lewis | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. Sherwood Boehlert | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. Mark E. Souder | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. John Boozman | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. Ander Crenshaw | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Scott Palmer | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Chris Walker | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Kevin Fromer | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Sam Lancaster | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Ms. Kathryn Lehman | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Andrew Shore | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Richard Frandsen | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Ms Martha Morrison | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Adm John F. Eisold | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Hon. Wilson Livingood | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Mr. Dwight Comedy | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Ms. Brenda Becker | 12/11 | 12/13 | Greece | | 577.23 | | (3) | | | | 577.23 |
| Speaker J. Dennis Hastert | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. John D. Dingell | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. Jerry Lewis | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. Sherwood Boehlert | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. Mark E. Souder | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. John Boozman | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. Ander Crenshaw | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Scott Palmer | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Chris Walker | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Kevin Fromer | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Sam Lancaster | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Ms. Kathryn Lehman | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Andrew Shore | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Richard Frandsen | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Ms. Martha Morrison | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Adm. John F. Eisold | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. Wilson Livingood | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Mr. Dwight Comedy | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Ms. Brenda Becker | 12/13 | 12/15 | Germany | | 934 | | (3) | | | | 934 |
| Hon. John B. Shadegg | 12/13 | 12/15 | Germany | | 934 | | 3,738.70 | | | | 4,672.70 |
| Speaker J. Dennis Hastert | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Hon. John D. Dingell | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Hon. Jerry Lewis | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Hon. Sherwood Boehlert | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Hon. Mark E. Souder | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO TURKEY, GERMANY, LUXEMBOURG, SICILY, AND CRETE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 9 AND DEC. 19, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. John Boozman | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Hon. Ander Crenshaw | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Mr. Scott Palmer | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Chris Walker | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Kevin Fromer | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Sam Lancaster | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Ms. Kathryn Lehman | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Andrew Shore | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Richard Frandsen | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Ms. Martha Morrison | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Hon. John Shadegg | 12/15 | 12/17 | Luxembourg | | 1,239.24 | | (3) | | | | 1,239.24 |
| Adm. John F. Eisold | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Hon. Wilson Livingood | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Dwight Comedy | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Ms. Brenda Becker | 12/15 | 12/17 | Luxembourg | | 1,168.52 | | (3) | | | | 1,168.52 |
| Mr. Donald Kellaher | 12/13 | 12/17 | Luxembourg | | 1,405.47 | | 3,103.68 | | | | 4,509.15 |
| Speaker J. Dennis Hastert | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. John D. Dingell | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. Jerry Lewis | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. Sherwood Boehlert | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. Mark E. Souder | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. John Boozman | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. Ander Crenshaw | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Scott Palmer | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Chris Walker | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Kevin Fromer | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Sam Lancaster | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Ms. Kathryn Lehman | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Andrew Shore | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Richard Frandsen | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Ms. Martha Morrison | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Adm. John F. Eisold | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. Wilson Livingood | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Dwight Comedy | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Ms. Brenda Becker | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Hon. John B. Shadegg | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Mr. Don Kellaher | 12/17 | 12/19 | Sicily | | 690 | | (3) | | | | 690 |
| Committee total | | | | | 75,901.00 | | 6,842.38 | | | | 82,743.38 |

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

(3) Military air transportation.

J. DENNIS HASTERT, Chairman, Jan. 10, 2005

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Frank Wolf | 6/26 | 6/30* | Sudan | | 78.00** | | | | | | 78.00 |
| Commercial Airfare | | | | | | | 7,742.34 | | | | 7,742.34 |
| *Orig. 7/1. **Returned $400 in unused per diem | | | | | | | | | | | |
| Christine R. Kojac | 6/27 | 6/30 | South Korea | | 810.00 | | | | | | 810.00 |
| | 6/30 | 7/3 | China | | 658.00 | | | | | | 658.00 |
| Commercial Airfare | | | | | | | 6,350.36 | | | | 6,350.36 |
| Hon. C.W. Bill Young | 7/16 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| Hon. Rodney P. Frelinghuysen | 7/16 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| Hon. Bud Cramer | 7/16 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| Douglas Gregory | 7/16 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| David Jolly | 7/16 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| Harry Glenn | 7/16 | 7/19 | United Kingdom | | 555.00 | | (3) | | | | 555.00 |
| Carol Murphy | 7/24 | 7/27 | Germany | | 585.00 | | | | | | 585.00 |
| | 7/27 | 7/28 | Italy | | 196.00 | | | | | | 196.00 |
| | 7/28 | 7/30 | Spain | | 545.00 | | | | | | 545.00 |
| Commercial Airfare | | | | | | | 4601.92 | | | | 4601.92 |
| Walter Hearne | 7/24 | 7/27 | Germany | | 585.00 | | | | | | 585.00 |
| | 7/27 | 7/28 | Italy | | 196.00 | | | | | | 196.00 |
| | 7/28 | 7/30 | Spain | | 545.00 | | | | | | 545.00 |
| Commercial Airfare | | | | | | | 4601.92 | | | | 4601.92 |
| Hon. Zach Wamp | 7/27 | 7/29 | Tanzania | | 785.92 | | | | | | 785.92 |
| | 7/29 | 8/3 | South Africa | | 1,438.70 | | (3) | | | | 1,438.70 |
| John T. Blazey II | 7/25 | 7/26 | Thailand | | 232.00 | | | | | | 232.00 |
| | 7/26 | 7/29 | Nepal | | 714.00 | | | | | | 714.00 |
| | 7/29 | 8/1 | Bhutan | | 438.00 | | | | | | 438.00 |
| | 8/1 | 8/2 | Nepal | | 238.00 | | | | | | 238.00 |
| | 8/2 | 8/3 | Thailand | | 232.00 | | | | | | 232.00 |
| | 8/3 | 8/5 | Cambodia | | 566.00 | | | | | | 566.00 |
| | 8/5 | 8/7 | Vietnam | | 426.00 | | | | | | 426.00 |
| | | | | | | | | | 68.43 | | 68.43 |
| Commercial Airfare | | | | | | | 6,495.20 | | | | 6,495.20 |
| Therese McAuliffe | 7/25 | 7/26 | Thailand | | 232.00 | | | | | | 232.00 |
| | 7/26 | 7/29 | Nepal | | 714.00 | | | | | | 714.00 |
| | 7/29 | 8/1 | Bhutan | | 438.00 | | | | | | 438.00 |
| | 8/1 | 8/2 | Nepal | | 238.00 | | | | | | 238.00 |
| | 8/2 | 8/3 | Thailand | | 232.00 | | | | | | 232.00 |
| | 8/3 | 8/5 | Cambodia | | 566.00 | | | | | | 566.00 |
| | 8/5 | 8/7 | Vietnam | | 426.00 | | | | | | 426.00 |
| | | | | | | | | | 68.43 | | 68.43 |
| Commercial Airfare | | | | | | | 6,495.20 | | | | 6,495.20 |
| John Scofield | 8/1 | 8/3 | Thailand | | 464.00 | | | | | | 464.00 |
| | 8/3 | 8/5 | Cambodia | | 566.00 | | | | | | 566.00 |
| | 8/5 | 8/7 | Vietnam | | 426.00 | | | | | | 426.00 |
| | | | | | | | | | 68.43 | | 68.43 |
| Commercial Airfare | | | | | | | 5,564.08 | | | 5,564.08 | |
| Robert Blair | 7/25 | 7/26 | Thailand | | 232.00 | | | | | | 232.00 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 7/26 | 7/29 | Nepal | | 618.00 | | | | | | 618.00 |
| | 7/29 | 8/1 | Bhutan | | 438.00 | | | | | | 438.00 |
| | 8/1 | 8/2 | Nepal | | 238.00 | | | | | | 238.00 |
| | 8/2 | 8/3 | Thailand | | 232.00 | | | | | | 232.00 |
| | 8/3 | 8/5 | Cambodia | | 566.00 | | | | | | 566.00 |
| | 8/5 | 8/7 | Vietnam | | 426.00 | | | | | | 426.00 |
| | | | | | | | | | 68.43 | | 68.43 |
| Commercial Airfare | | | | | | | 6,495.20 | | | | 6,495.20 |
| John T. Blazey II | 8/10 | 8/17 | China | | 1,726.00 | | | | | | 1,726.00 |
| | 8/17 | 8/18 | Japan | | 408.00 | | | | | | 408.00 |
| Commercial Airfare | | | | | | | 6,322.35 | | | | 6,322.35 |
| Tom Forhan | 7/24 | 7/27 | Germany | | 585.00 | | | | | | 585.00 |
| | 7/27 | 7/28 | Italy | | 196.00 | | | | | | 196.00 |
| | 7/28 | 7/30 | Spain | | 545.00 | | | | | | 545.00 |
| Commercial Airfare | | | | | | | 4,601.92 | | | | 4,601.92 |
| Hon. Marion Berry | 8/10 | 8/12 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 8/11 | 8/11 | Iraq | | 0.00 | | | | | | 0.00 |
| | 8/12 | 8/13 | Germany | | 203.00 | | | | | | 203.00 |
| Jeff Ashford | 8/10 | 8/15 | Canada | | 1,242.00 | | | | | | 1,242.00 |
| Commercial Airfare | | | | | | | 674.91 | | | | 674.91 |
| John Shank | 8/10 | 8/12 | Guatemala | | 548.00 | | | | | | 548.00 |
| | 8/12 | 8/14 | Nicaragua | | 452.00 | | | | | | 452.00 |
| Commercial Airfare | | | | | | | 2,873.50 | | | | 2,873.50 |
| Hon. Charles Taylor | 8/8 | 8/13 | Italy | | 2,436.87 | | | | | | 2,436.87 |
| Commercial Airfare | | | | | | | 6,313.95 | | | | 6,313.95 |
| Chester Lee Turner III | 8/7 | 8/14 | Italy | | 3,428.16 | | | | | | 3,428.16 |
| Commercial Airfare | | | | | | | 5,600.15 | | | | 5,600.15 |
| Rodney Bent | 8/15 | 8/18 | Colombia | | 836.00 | | | | | | 836.00 |
| | 8/18 | 8/22 | Ecuador | | 714.00 | | | | | | 714.00 |
| Commercial Airfare | | | | | | | 2,481.67 | | | | 2,481.67 |
| Hon. James P. Moran | 8/5 | 8/7 | Korea | | 652.00 | | (3) | | | | 652.00 |
| | 8/7 | 8/9 | China | | 554.00 | | (3) | | | | 554.00 |
| | 8/9 | 8/10 | Hong Kong | | 379.00 | | (3) | | | | 379.00 |
| | 8/10 | 8/11 | Vietnam | | 193.00 | | (3) | | | | 193.00 |
| | 8/12 | 8/14 | Australia | | 776.00 | | (3) | | | | 776.00 |
| Mark W. Murray | 8/10 | 8/12 | Guatemala | | 548.00 | | | | | | 548.00 |
| | 8/12 | 8/14 | Nicaragua | | 452.00 | | | | | | 452.00 |
| | 8/14 | 8/18 | Colombia | | 1,100.00 | | | | | | 1,100.00 |
| Commercial Airfare | | | | | | | 2,897.28 | | | | 2,897.28 |
| Hon. David L. Hobson | 8/24 | 8/30 | France | | 2,652.00 | | (3) | | | | 2,652.00 |
| | | | | | | | (3) | | 303.00 | | 303.00 |
| Hon. Jon Murtha | 8/24 | 8/30 | France | | 2,652.00 | | (3) | | | | 2,652.00 |
| | | | | | | | | | 303.00 | | 303.00 |
| Kevin Roper | 8/24 | 8/24 | France | | 392.00 | | | | | | 392.00 |
| Commercial Airfare | | | | | | | 2,997.54 | | | | 2,997.54 |
| Hon. David Obey | 8/26 | 8/31 | France | | 442.00 | | (3) | | | | 442.00 |
| David Morrison | 8/24 | 8/30 | France | | 2,652.00 | | (3) | | | | 2,652.00 |
| | | | | | | | | | 303.00 | | 303.00 |
| Michael Stephens | 8/24 | 8/31 | France | | 442.00 | | (3) | | | | 442.00 |
| James W. Dyer | 8/3 | 8/4 | Austria | | 248.00 | | | | | | 248.00 |
| | 8/4 | 8/5 | Albania | | 205.00 | | | | | | 205.00 |
| | 8/5 | 8/6 | Italy | | 420.00 | | | | | | 420.00 |
| | 8/6 | 8/8 | Spain | | 318.00 | | | | | | 318.00 |
| Commercial Airfare | | | | | | | 7,702.98 | | | | 7,702.98 |
| Leslie Albright | 8/3 | 8/4 | Austria | | 248.00 | | | | | | 248.00 |
| | 8/4 | 8/5 | Albania | | 205.00 | | | | | | 205.00 |
| | 8/5 | 8/6 | Italy | | 420.00 | | | | | | 420.00 |
| | 8/6 | 8/8 | Spain | | 318.00 | | | | | | 318.00 |
| Commercial Airfare | | | | | | | 7,758.95 | | | | 7,758.95 |
| Christine R. Kojac | 8/18 | 8/20 | France | | 1,050.00 | | | | | | 1,050.00 |
| | 8/20 | 8/21 | Algeria | | 256.00 | | | | | | 256.00 |
| | 8/21 | 8/22 | Spain | | 0.00 | | | | | | 0.00 |
| | 8/22 | 8/23 | Morocco | | 882.00 | | | | | | 882.00 |
| | 8/23 | 8/24 | W. Sahara | | 0.00 | | | | | | 0.00 |
| | 8/24 | 8/26 | Morocco | | 0.00 | | | | | | 0.00 |
| | 8/26 | 8/29 | Tunisia | | 450.00 | | | | | | 450.00 |
| | 8/29 | 8/31 | Libya | | 692.00 | | | | | | 692.00 |
| | 8/31 | 9/1 | Malta | | 251.00 | | | | | | 251.00 |
| | | | | | | | | | 129.00 | | 129.00 |
| Commercial Airfare | | | | | | | 9,524.99 | | | | 9,524.99 |
| Jennifer Miller | 8/18 | 8/20 | France | | 1,050.00 | | | | | | 1,050.00 |
| | 8/20 | 8/21 | Algeria | | 256.00 | | | | | | 256.00 |
| | 8/21 | 8/22 | Spain | | 0.00 | | | | | | 0.00 |
| | 8/22 | 8/23 | Morocco | | 882.00 | | | | | | 882.00 |
| | 8/23 | 8/24 | W. Sahara | | 0.00 | | | | | | 0.00 |
| | 8/24 | 8/26 | Morocco | | 0.00 | | | | | | 0.00 |
| | 8/26 | 8/29 | Tunisia | | 450.00 | | | | | | 450.00 |
| | 8/29 | 8/31 | Libya | | 692.00 | | | | | | 692.00 |
| | 8/31 | 9/1 | Malta | | 251.00 | | | | | | 251.00 |
| | | | | | | | | | 129.00 | | 129.00 |
| Commercial Airfare | | | | | | | 9,524.99 | | | | 9,524.99 |
| Sarah Young | 8/21 | 8/25 | Germany | | 1,000.00 | | | | | | 1,000.00 |
| | 8/25 | 8/29 | Italy | | 1,000.00 | | | | | | 1,000.00 |
| | 8/30 | 9/1 | Spain | | 1,000.00 | | | | | | 1,000.00 |
| Commercial Airfare | | | | | | | 5,796.93 | | | | 5,796.93 |
| Train | | | | | | | 40.00 | | | | 40.00 |
| Robert Blair | 8/21 | 8/26 | Sudan | | 1,340.00 | | | | | | 1,340.00 |
| | 8/26 | 8/26 | Kenya | | 135.00 | | | | | | 135.00 |
| | 8/27 | 9/1 | Chad | | 769.00 | | | | | | 769.00 |
| | | | | | | | | | 138.00 | | 138.00 |
| Commercial Airfare | | | | | | | 8,973.72 | | | | 8,973.72 |
| Hon. Jim Kolbe | 9/16 | 9/19 | Sudan | | 912.00 | | | | | | 912.00 |
| | 9/19 | 9/21 | Egypt | | 434.00 | | | | | | 434.00 |
| Commercial Airfare | | | | | | | 7,748.27 | | | | 7,748.27 |
| Hon. Jessie Jackson, Jr. | 9/16 | 9/19 | Sudan | | 912.00 | | | | | | 912.00 |
| | 9/19 | 9/21 | Egypt | | 434.00 | | | | | | 434.00 |
| Commercial Airfare | | | | | | | 7,748.27 | | | | 7,748.27 |
| Robert Blair | 9/16 | 9/19 | Sudan | | 912.00 | | | | | | 912.00 |
| | 9/19 | 9/21 | Egypt | | 434.00 | | | | | | 434.00 |
| Commercial Airfare | | | | | | | 7,748.27 | | | | 7,748.27 |
| John Shank | 9/18 | 9/21 | Egypt | | 650.00 | | | | | | 650.00 |

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Commercial Airfare | | | | | | | 5,929.27 | | | | 5,929.27 |
| Hon. Ernest J. Istook, Jr. | 9/24 | 9/27 | Jordan | | 714.00 | | (3) | | | | 714.00 |
| | 9/27 | 9/28 | France | | 176.00 | | (3) | | | | 176.00 |
| Committee total | | | | | 67,698.65 | | 161,606.13 | | 1,578.72 | | 230,883.50 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
(3) Military air transportation.

C.W. BILL YOUNG, Chairman, Oct. 26, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, OFFICE OF SURVEYS AND INVESTIGATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Jack G. Downing | 9/1 | 9/5 | China | | 850.50 | | 7,766.42 | | 431.82 | | 9,048.74 |
| | 9/5 | 9/7 | China | | 658.00 | | | | | | 658.00 |
| | 9/7 | 9/9 | Thailand | | 318.50 | | | | | | 318.50 |
| | 9/9 | 9/10 | Thailand | | 169.50 | | | | | | 169.50 |
| | 9/11 | 9/11 | Japan | | 140.50 | | | | | | 140.50 |
| Steve Nixon | 9/1 | 9/5 | China | | 850.50 | | 7,766.42 | | 278.62 | | 8,895.54 |
| | 9/5 | 9/7 | China | | 658.00 | | | | | | 658.00 |
| | 9/7 | 9/9 | Thailand | | 318.50 | | | | | | 318.50 |
| | 9/9 | 9/10 | Thailand | | 169.50 | | | | | | 169.50 |
| | 9/11 | 9/11 | Japan | | 210.75 | | | | | | 210.75 |
| Charles J. Semich | 9/1 | 9/5 | China | | 850.50 | | 7,766.42 | | 293.70 | | 8,910.62 |
| | 9/5 | 9/7 | China | | 658.00 | | | | | | 658.00 |
| | 9/7 | 9/9 | Thailand | | 318.50 | | | | | | 318.50 |
| | 9/9 | 9/10 | Thailand | | 169.50 | | | | | | 169.50 |
| | 9/11 | 9/11 | Japan | | 210.75 | | | | | | 210.75 |
| L. Michael Welch | 9/1 | 9/5 | China | | 850.50 | | 6,581.75 | | 227.53 | | 7,659.78 |
| | 9/5 | 9/7 | China | | 740.25 | | | | | | 740.25 |
| Committee total | | | | | 8,142.25 | | 29,881.01 | | 1,231.67 | | 39,254.93 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL YOUNG.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Tom Osborne | 09/23 | 09/28 | Iraq, Jordan & France | | 890.00 | | (3) | | NA | | 890.00 |
| Committee total | | | | | 890.00 | | | | | | 890.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JOHN A. BOEHNER, Chairman, Nov. 23, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HOMELAND SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Jennifer Dunn | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Hon. Frank Lucas | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Hon. Carolyn McCarthy | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Tom DiLenge | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Deron McElroy | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Julie Sund | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Carla Buckner | 8/3 | 8/6 | London, United Kingdom | | 1,828.00 | | (3) | | | | 3,975.00 |
| | 8/6 | 8/7 | Belfast, United Kingdom | | 746.00 | | (3) | | | | |
| | 8/7 | 8/9 | Ireland | | 1,401.00 | | (3) | | | | |
| Committee total | | | | | 27,825.00 | | | | | | 27,825.00 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

CHRISTOPHER COX, Chairman, Nov. 1, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Rich Beutel | 07/24 | 08/01 | China | | | | 7,221.00 | (3) 460.00 | 1,756.00 | | 8,977.00 |
| Tom Bezas | 07/24 | 08/01 | China | | | | 6,676.00 | (3) 217.00 | 2,382.00 | | 9,058.00 |
| Phil Eskeland | 07/24 | 08/01 | China | | | | 7,221.00 | (3) 605.00 | 1,585.00 | | 8,806.00 |
| Bradley Knox | 07/24 | 08/01 | China | | | | 7,221.00 | (3) 617.00 | 1,496.00 | | 8,717.00 |
| Tom Loo | 07/24 | 08/01 | China | | | | 7,221.00 | (3) 475.00 | 1,834.00 | | 9,055.00 |
| Matthew Szymanski | 07/24 | 08/01 | China | | | | 7,221.00 | (3) 460.00 | 1,717.00 | | 8,938.00 |
| W. Patrick Wilson | 07/24 | 08/01 | China | | | | 7,221.00 | (3) 497.00 | 1,746.00 | | 8,967.00 |
| Committee total | | | | | | | 50,002.00 | 3,331.00 | 12,516.00 | | 62,538.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
[3] Returned.

DONALD A. MANZULLO, Chairman, Jan. 7, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Ed Case | 11/29 | 12/9 | Hong Kong | | 1,137.00 | | (3) | | | | 1,137.00 |
| Committee total | | | | | 1,137.00 | | | | | | 1,137.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent, if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB GOODLATTE, Chairman, Jan. 26, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. John E. Sweeney | 10/18 | 10/19 | Jordan | | 259.10 | | (3) | | | | 259.10 |
| | 10/19 | 10/19 | Iraq | | | | (3) | | | | |
| | 10/19 | 10/20 | Jordan | | 360.00 | | (3) | | | | 360.00 |
| | 10/20 | 10/21 | France | | 238.00 | | (3) | | | | 238.00 |
| Rodney Bent | 10/24 | 10/28 | Jordan | | 752.00 | | | | | | 752.00 |
| | | | | | | | [4] 6,975.00 | | | | 6,975.00 |
| Elizabeth Dawson | 10/22 | 10/26 | United Kingdom | | 1,828.00 | | | | | | 1,828.00 |
| | 10/26 | 10/28 | The Netherlands | | 774.00 | | | | | | 774.00 |
| | 10/28 | 10/31 | Belgium | | 1,131.00 | | | | | | 1,131.00 |
| | | | | | | | [5] 6,450.99 | | | | 6,450.99 |
| Chester Lee Turner III | 10/22 | 10/26 | United Kingdom | | 1,828.00 | | | | | | 1,828.00 |
| | 10/26 | 10/28 | The Netherlands | | 774.00 | | | | | | 774.00 |
| | 10/28 | 10/31 | Belgium | | 1,131.00 | | | | | | 1,131.00 |
| | | | | | | | [5] 6,450.99 | | | | 6,450.99 |
| James W. Dyer | 10/26 | 10/28 | Switzerland | | 866.00 | | | | | | 866.00 |
| | 10/28 | 10/29 | France | | 884.00 | | | | | | 884.00 |
| | | | | | | | [5] 6,158.37 | | | | 6,158.37 |
| John Shank | 10/26 | 10/28 | Switzerland | | 866.00 | | | | | | 866.00 |
| | 10/28 | 10/29 | France | | 442.00 | | | | | | 442.00 |
| | | | | | | | [5] 6,158.37 | | | | 6,158.37 |
| Loretta Beaumont | 10/28 | 11/01 | Mexico | | 1,150.00 | | | | | | 1,150.00 |
| | | | | | | | [4] 1,138.63 | | | | 1,138.63 |
| Beverly Aimaro Pheto | 11/07 | 11/09 | United Kingdom | | 914.00 | | | | | | 914.00 |
| | 11/09 | 11/11 | Italy | | 864.00 | | | | | | 864.00 |
| | 11/11 | 11/12 | Poland | | 333.00 | | | | | | 333.00 |
| | 11/12 | 11/12 | Netherland | | | | | | | | |
| | 11/12 | 11/13 | Ireland | | 327.00 | | | | | | 327.00 |
| | | | | | | | [4] 6,225.37 | | | | 6,225.37 |
| Leslie Albright | 11/8 | 11/10 | United Kingdom | | 507.00 | | | | | | 507.00 |
| | 11/11 | 11/14 | Morocco | | 263.00 | | | | | | 263.00 |
| | | | | | | | [4] 8,165.73 | | | | 8,165.73 |
| Sarah Young | 10/19 | 10/20 | Italy | | 487.00 | | | | | | 487.00 |
| | 10/20 | 10/24 | Egypt | | 1,025.00 | | | | | | 1,025.00 |
| | 10/24 | 10/28 | Kenya | | 1,231.00 | | | | | | 1,231.00 |
| | | | | | | | [4] 6,811.00 | | | | 6,811.00 |
| Dale Oak | 10/19 | 10/20 | Italy | | 487.00 | | | | | | 487.00 |
| | 10/20 | 10/24 | Egypt | | 1,025.00 | | | | | | 1,025.00 |
| | 10/24 | 10/28 | Kenya | | 1,231.00 | | | | | | 1,231.00 |
| | | | | | | | [4] 6,811.00 | | | | 6,811.00 |
| Richard E. Efford | 11/06 | 11/10 | Austria | | 1,356.00 | | | | | | 1,356.00 |
| | | | | | | | [4] 5,916.21 | | | | 5,916.21 |
| John Blazey II | 11/06 | 11/10 | Austria | | 1,356.00 | | | | | | 1,356.00 |
| | | | | | | | | | | | 5,961.21 |
| Leigha Shaw | 11/06 | 11/10 | Austria | | 1,356.00 | | | | | | 1,356.00 |
| | | | | | | | [4] 5,916.21 | | | | 5,916.21 |
| Paul Terry | 11/18 | 11/23 | Korea | | 1,308.00 | | | | | | 1,308.00 |
| | | | | | | | [4] 4,303.85 | | | | 4,303.85 |
| Hon. David Hobson | 11/23 | 11/25 | Austria | | 979.00 | | (3) | | | | 979.00 |
| | 11/25 | 11/25 | Kosovo | | (3) | | | | | | |
| | 11/25 | 11/27 | Austria | | 1,468.50 | | (3) | | | | 1,468.50 |
| | 11/27 | 11/27 | Greece | | | | (3) | | | | |
| | 11/27 | 11/28 | Austria | | 489.50 | | (3) | | | | 489.50 |
| Hon. Peter Visclosky | 11/23 | 11/25 | Austria | | 979.00 | | (3) | | | | 979.00 |
| | 11/25 | 11/25 | Kosovo | | | | (3) | | | | |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 11/25 | 11/27 | Austria | | 1,468.50 | | (3) | | | | 1,468.50 |
| | 11/27 | 11/27 | Greece | | | | (3) | | | | |
| | 11/27 | 11/28 | Austria | | 489.50 | | (3) | | | | 489.50 |
| Scott Burnison | 11/23 | 11/25 | Austria | | 736.67 | | (3) | | | | 736.67 |
| | 11/25 | 11/25 | Kosovo | | | | (3) | | | | |
| | 11/25 | 11/27 | Austria | | 1,104.99 | | (3) | | | | 1,104.99 |
| | 11/27 | 11/27 | Greece | | | | (3) | | | | |
| | 11/27 | 11/28 | Austria | | 368.34 | | (3) | | | | 368.34 |
| John Blazey II | 11/23 | 11/25 | Austria | | 736.67 | | (3) | | | | 736.67 |
| | 11/25 | 11/25 | Kosovo | | | | (3) | | | | |
| | 11/25 | 11/27 | Austria | | 1,104.99 | | (3) | | | | 1,104.99 |
| | 11/27 | 11/27 | Greece | | | | (3) | | | | |
| | 11/27 | 11/28 | Austria | | 368.34 | | (3) | | | | 368.34 |
| Debbie Weatherly | 11/23 | 11/25 | Austria | | 736.67 | | (3) | | | | 736.67 |
| | 11/25 | 11/25 | Kosovo | | | | (3) | | | | |
| | 11/25 | 11/27 | Austria | | 1,104.99 | | (3) | | | | 1,104.99 |
| | 11/27 | 11/27 | Greece | | | | (3) | | | | |
| | 11/27 | 11/28 | Austria | | 368.34 | | (3) | | | | 368.34 |
| Jeff Ashford | 11/07 | 11/09 | United Kingdom | | 914.00 | | | | | | 914.00 |
| | 11/09 | 11/11 | Italy | | 864.00 | | | | | | 864.00 |
| | 11/11 | 11/12 | Poland | | 333.00 | | | | | | 333.00 |
| | 11/12 | 11/12 | Ireland | | 327.00 | | | | | | 327.00 |
| | | | | | | | [5]6,288.37 | | | | 6,288.37 |
| Hon. C.W. Bill Young | 11/06 | 11/10 | Italy | | 808.00 | | (3) | | | | 808.00 |
| | 11/10 | 11/11 | Spain | | 134.00 | | (3) | | | | 134.00 |
| | | | | | | | (3) | | | | |
| David Jolly | 11/06 | 11/10 | Italy | | 808.00 | | | | | | 808.00 |
| | 11/10 | 11/11 | Spain | | 134.00 | | | | | | 134.00 |
| | | | | | | | (3) | | | | |
| Douglas Gregory | 11/06 | 11/10 | Italy | | 808.00 | | (3) | | | | 808.00 |
| | 11/10 | 11/11 | Spain | | 134.00 | | (3) | | | | 134.00 |
| James W. Dyer | 11/05 | 11/06 | United Arab Emirates | | 258.00 | | (3) | | | | 258.00 |
| | 11/06 | 11/07 | Iraq | | 61.00 | | (3) | | | | 61.00 |
| | 11/07 | 11/08 | Kuwait | | 394.00 | | (3) | | | | 394.00 |
| | 11/08 | 11/09 | Pakistan | | 263.00 | | (3) | | | | 263.00 |
| | 11/09 | 11/10 | Afghanistan | | 90.00 | | (3) | | | | 90.00 |
| | 11/10 | 11/11 | Germany | | 369.00 | | (3) | | | | 369.00 |
| Stephaanie Gupta | 12/12 | 12/15 | Spain | | 1,046.00 | | | | | | 1,046.00 |
| | 12/15 | 12/17 | United Kingdom | | 881.50 | | | | | | 881.50 |
| | | | | | | | [4]5,528.00 | | | | 5,528.00 |
| Jeff Ashford | 12/12 | 12/15 | Spain | | 1,046.00 | | | | | | 1,046.00 |
| | 12/15 | 12/18 | United Kingdom | | 1,288.50 | | | | | | 1,288.50 |
| | | | | | | | [4]5,567.00 | | | | 5,567.00 |
| Tom McLemore | 12/12 | 12/15 | Spain | | 1,046.00 | | | | | | 1,046.00 |
| | 12/15 | 12/18 | United Kingdom | | 1,288.50 | | | | | | 1,288.50 |
| | | | | | | | [4]5,564.00 | | | | 5,564.00 |
| Hon. Jim Kolbe | 12/19 | 12/20 | Iceland | | 128.00 | | (3) | | | | 128.00 |
| | 12/21 | 12/22 | Afghanistan | | 90.00 | | (3) | | | | 90.00 |
| | 12/22 | 12/25 | Jordan | | 762.00 | | (3) | | | | 762.00 |
| | 12/25 | 12/27 | Ukraine | | 509.00 | | (3) | | | | 509.00 |
| Hon. Charles Taylor | 12/19 | 12/20 | Iceland | | 128.00 | | (3) | | | | 128.00 |
| | 12/21 | 12/22 | Afghaanistan | | 90.00 | | (3) | | | | 90.00 |
| | 12/22 | 12/25 | Jordan | | 762.00 | | (3) | | | | 762.00 |
| | 12/25 | 12/27 | Ukraine | | 509.00 | | (3) | | | | 509.00 |
| John G. Shank | 12/19 | 12/20 | Iceland | | 128.00 | | | | | | 128.00 |
| | 12/21 | 12/22 | Afghanistan | | 90.00 | | | | | | 90.00 |
| | 12/22 | 12/23 | Jordan | | 254.00 | | | | | | 254.00 |
| | | | | | | | [4]2,888.92 | | | | 2,888.92 |
| Hon. Jessie Jackson | 12/01 | 12/04 | China | | 1,137.00 | | (3) | | | | 1,137.00 |
| Carol Murphy | 12/01 | 12/05 | Japan | | 1,327.00 | | | | | | 1,327.00 |
| | 12/06 | 12/08 | Guam | | 475.62 | | | | | | 475.62 |
| | 12/08 | 12/12 | Korea | | 1,164.00 | | | | | | 1,164.00 |
| | | | | | | | | | 16.00 | | 16.00 |
| | | | | | | | | [4]8,263.55 | | | 8,263.55 |
| Walter Hearne | 12/01 | 12/05 | Japan | | 1,327.00 | | | | | | 1,327.00 |
| | 12/06 | 12/08 | Guam | | 624.43 | | | | | | 624.43 |
| | 12/08 | 12/12 | Korea | | 1,164.00 | | | | | | 1,164.00 |
| | | | | | | | | [4]8,263.55 | | | 8,263.55 |
| Robert Bonner | 12/13 | 12/15 | Spain | | 867.50 | | | | | | 867.50 |
| | 12/15 | 12/18 | United Kingdom | | 1,221.00 | | | | | | 1,221.00 |
| | | | | | | | | | 8.00 | | 8.00 |
| | | | | | | | | [4]5,496.00 | | | 5,496.00 |
| Hon. Maurice Hinchey | 12/16 | 12/18 | Austria | | 642.00 | | (3) | | | | 642.00 |
| | 12/18 | 12/20 | Ukraine | | 599.50 | | (3) | | | | 599.50 |
| | 12/20 | 12/21 | Ireland | | 486.00 | | (3) | | | | 486.00 |
| Hon. Marcy Kaptur | 12/16 | 12/18 | Austria | | 642.00 | | (3) | | | | 642.00 |
| | 12/18 | 12/20 | Ukraine | | 599.50 | | (3) | | | | 599.50 |
| | 12/20 | 12/21 | Ireland | | 486.00 | | (3) | | | | 486.00 |
| Committee total | | | | | 69,365.15 | | 131,257.32 | | 24.00 | | 200,646.47 |

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

(3) Military air transportation.

[4] Commercial air transportation.

[5] Commercial air & rail transportation.

JERRY LEWIS, Chairman, Jan. 31, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, OFFICE OF SURVEYS AND INVESTIGATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JERRY LEWIS, Chairman, Jan. 31, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Visit to Ireland, Iraq, Jordan and France, October 18–21, 2004: | | | | | | | | | | | |
| Hon. John M. McHugh | 10/18 | 10/19 | Ireland | | 309.80 | | | | | | 309.80 |
| | 10/19 | 10/19 | Iraq | | | | | | | | |
| | 10/19 | 10/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 10/20 | 10/21 | France | | 238.00 | | | | | | 238.00 |
| Hon. Rick Larsen | 10/18 | 10/19 | Ireland | | 309.80 | | | | | | 309.80 |
| | 10/19 | 10/19 | Iraq | | | | | | | | |
| | 10/19 | 10/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 10/20 | 10/21 | France | | 238.00 | | | | | | 238.00 |
| Hon. John D. Chapla | 10/18 | 10/19 | Ireland | | 309.80 | | | | | | 309.80 |
| | 10/19 | 10/19 | Iraq | | | | | | | | |
| | 10/19 | 10/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 10/20 | 10/21 | France | | 238.00 | | | | | | 238.00 |
| Mr. Jeffrey A. Green | 10/18 | 10/19 | Ireland | | 309.80 | | | | | | 309.80 |
| | 10/19 | 10/19 | Iraq | | | | | | | | |
| | 10/19 | 10/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 10/20 | 10/21 | France | | 238.00 | | | | | | 238.00 |
| Mr. Paul Arcangeli | 10/18 | 10/19 | Ireland | | 309.80 | | | | | | 309.80 |
| | 10/19 | 10/19 | Iraq | | | | | | | | |
| | 10/19 | 10/20 | Jordan | | 238.00 | | | | | | 238.00 |
| | 10/20 | 10/21 | France | | 238.00 | | | | | | 238.00 |
| Visit to the United Kingdom, November 2–6, 2004: | | | | | | | | | | | |
| Hon. Curt Weldon | 11/3 | 11/5 | United Kingdom | | 914.00 | | | | | | 914.00 |
| Commercial airfare | | | | | | | 3,602.26 | | | | 3,602.26 |
| Visit to Cuba, November 23, 2004: | | | | | | | | | | | |
| Mr. Hugh N. Johnston, Jr. | 11/23 | 11/23 | Cuba | | 5.13 | | | | | | 5.13 |
| Mr. Eric R. Sterner | 11/23 | 11/23 | Cuba | | 5.13 | | | | | | 5.13 |
| Mr. Jeffrey A. Green | 11/23 | 11/23 | Cuba | | 5.13 | | | | | | 5.13 |
| Ms. Erin C. Conaton | 11/23 | 11/23 | Cuba | | 5.13 | | | | | | 5.13 |
| Visit to Austria, Kosovo and Greece with Codel Hobson, November 23–28, 2004: | | | | | | | | | | | |
| Hon. Mike Turner | 11/23 | 11/28 | Austria | | 2,351.00 | | | | | | 2.351.00 |
| | 11/25 | 11/25 | Kosovo | | | | | | | | |
| | 11/27 | 11/27 | Greece | | | | | | | | |
| Visit to Belgium and Luxembourg, December 15–19, 2004: | | | | | | | | | | | |
| Hon. Joe Wilson | 12/16 | 12/16 | Belgium | | | | | | | | |
| | 12/16 | 12/19 | Luxembourg | | 1,457.39 | | | | | | 1,457.39 |
| | 12/17 | 12/17 | Belgian | | | | | | | | |
| | 12/17 | 12/17 | Germany | | | | | | | | |
| | 12/18 | 12/18 | Belgium | | | | | | | | |
| | 12/19 | 12/19 | Belgium | | | | | | | | |
| Commercial transportation | | | | | | | 5,905.55 | | | | 5,905.55 |
| Hon. Mike McIntyre | 12/13 | 12/16 | Belgium | | | | | | | | |
| | 12/16 | 12/19 | Luxembourg | | 1,457.39 | | | | | | 1,457.39 |
| | 12/17 | 12/17 | Germany | | | | | | | | |
| | 12/17 | 12/17 | Belgium | | | | | | | | |
| | 12/18 | 12/18 | Belgium | | | | | | | | |
| | 12/19 | 12/19 | Belgium | | | | | | | | |
| Commercial transportation | | | | | | | 5,905.55 | | | | 5,905.55 |
| Hon. Madeleine Bordallo | 12/16 | 12/16 | Belgium | | | | | | | | |
| | 12/16 | 12/19 | Luxembourg | | 1,457.39 | | | | | | 1,457.39 |
| | 12/17 | 12/17 | Germany | | | | | | | | |
| | 12/17 | 12/17 | Belgium | | | | | | | | |
| | 12/18 | 12/18 | Belgium | | | | | | | | |
| | 12/19 | 12/19 | Belgium | | | | | | | | |
| Commercial transportation | | | | | | | 5,905.55 | | | | 5,905.55 |
| Mr. Robert S. Rangel | 12/16 | 12/16 | Belgium | | | | | | | | |
| | 12/16 | 12/19 | Luxembourg | | 1,457.39 | | | | | | 1,457.39 |
| | 12/17 | 12/17 | Germany | | | | | | | | |
| | 12/17 | 12/17 | Belgium | | | | | | | | |
| | 12/18 | 12/18 | Belgium | | | | | | | | |
| | 12/19 | 12/19 | Belgium | | | | | | | | |
| Commercial transportation | | | | | | | 5,905.55 | | | | 5,905.55 |
| Mr. Henry J. Schweiter | 12/16 | 12/16 | Belgium | | | | | | | | |
| | 12/16 | 12/19 | Luxembourg | | 1,457.39 | | | | | | 1,457.39 |
| | 12/17 | 12/17 | Germany | | | | | | | | |
| | 12/17 | 12/17 | Belgium | | | | | | | | |
| | 12/18 | 12/18 | Belgium | | | | | | | | |
| | 12/19 | 12/19 | Belgium | | | | | | | | |
| Commercial transportation | | | | | | | 5,905.55 | | | | 5,905.55 |
| Delegation Expenses | 12/16 | 12/19 | Luxembourg | | | | 3,633.00 | | 12,446.18 | | 16,079.18 |
| Visit to Austria, the Ukraine and Ireland with Codel Rohrabacher, December 16–21, 2004: | | | | | | | | | | | |
| Hon. Roscoe G. Bartlett | 12/16 | 12/18 | Austria | | 642.00 | | | | | | 642.00 |
| | 12/18 | 12/20 | Ukraine | | 599.50 | | | | | | 599.50 |
| | 12/20 | 12/21 | Ireland | | 486.00 | | | | | | 486.00 |
| Visit to Uzbekistan, Afghanistan, Jordan, Iraq, and the Ukraine with Codel Kolbe, December 19–27, 2004: | | | | | | | | | | | |
| Hon. Susan Davis | 12/19 | 12/20 | Iceland | | 128.00 | | | | | | 128.00 |
| | 12/21 | 12/22 | Afghanistan | | 90.00 | | | | | | 90.00 |
| | 12/22 | 12/25 | Jordan | | 762.00 | | | | | | 762.00 |
| | 12/24 | 12/24 | Iraq | | | | | | | | |
| | 12/25 | 12/25 | Iraq | | | | | | | | |
| | 12/25 | 12/27 | Ukraine | | 509.00 | | | | | | 509.00 |
| Hon. Loretta Sanchez | 12/19 | 12/20 | Iceland | | 128.00 | | | | | | 128.00 |
| | 12/21 | 12/22 | Afghanistan | | 90.00 | | | | | | 90.00 |
| | 12/22 | 12/25 | Jordan | | 762.00 | | | | | | 762.00 |
| Commercial transportation | | | | | | | 2,408.63 | | | | 2,408.63 |
| Committee total | | | | | 18,697.97 | | 39.171.64 | | 12.446.18 | | 70,315.79 |

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DUNCAN HUNTER, Chairman, Jan. 28, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☑

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM NUSSLE, Chairman, Jan. 12, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Joe Barton | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Hon. Fred Upton | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Hon. George Radanovich | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Bud Albright | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Mark Menezes | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Mark Paoletta | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Ryan Thompson | 9/17 | 9/20 | Kuwait | | 1,182.00 | | | | | | 1,182.00 |
| | 9/20 | 9/21 | Germany | | 253.00 | | | | | | 253.00 |
| Committee total | | | | | 9,792.00 | | | | | | 9,792.00 |

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOE BARTON, Chairman, Oct. 20, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICHAEL G. OXLEY, Chairman, Jan. 27, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Marc Wheat | 12/25 | 12/28 | Bogota | | 675.00 | | 2,149.04 | | | | |
| | 12/28 | 12/29 | Venezula | | 233.00 | | | | | | |
| Nicholas Coleman | 12/25 | 10/28 | Bogota | | 675.00 | | 1,959.50 | | | | |
| Margaret Schulte | 11/8 | 11/12 | United Kingdom | | 1,283.00 | | 6,082.26 | | | | |
| Anne Marie Turner | 11/8 | 11/12 | United Kingdom | | 1,255.00 | | 6,082.26 | | | | |
| Tom Davis | 11/8 | 11/12 | United Kingdom | | 2,160.00 | | 4,166.32 | | | | |
| Joshua Sharfstein | 11/8 | 11/12 | United Kingdom | | 1,558.83 | | 6,081.91 | | | | |
| Naomi Seller | 11/8 | 11/12 | United Kingdom | | 1,558.83 | | 6,081.91 | | | | |
| Jaime Hjort | 12/1 | 12/5 | France | | 1,100.00 | | 6,197.06 | | | | |
| Marsha Blackburn | 11/19 | 11/20 | London | | 729.00 | | 8,375.56 | | | | |
| | 11/20 | 11/23 | Pakistan | | 526.00 | | | | | | |
| Alexandria Teitz | 12/11 | 12/16 | Argentina | | 1,540.00 | | 8,444.00 | | | | |
| Greg Dotson | 12/11 | 12/21 | Argentina | | 1,540.00 | | 6,633.00 | | | | |
| Dennis Kucinich | 12/16 | 12/17 | Argentina | | 350.00 | | 5,809.00 | | | | |
| Committee total | | | | | 11,753.66 | | 47,175.82 | | | | 83,245.48 |

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM DAVIS, Chairman, Jan. 27, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HOMELAND SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Sheila Jackson Lee | 10/11 | 10/12 | Qatar | | 327.00 | | (3) | | | | 338.00 |
| | 10/12 | 10/13 | Iraq | | 61.00 | | (3) | | | | |
| Brian White | 12/5 | 12/7 | UK | | 914 | | [4] 6517.34 | | | | 9,384.34 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HOMELAND SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| | 12/7 | 12/8 | Netherlands | | 417.00 | | | | | | |
| | 12/8 | 12/11 | France | | 1,386.00 | | | [5]120.00 | | | |
| Allen Thompson | 12/6 | 12/7 | UK | | 914 | | [4]6517.34 | | | | 9,654.34 |
| | 12/7 | 12/8 | Netherlands | | 417.00 | | | | | | |
| | 12/8 | 12/11 | France | 1,386.00 | | | [5]120.00 | | | | |
| Cong. Curt Weldon | 12/13 | 12/15 | Serbia and Montenegro | | 861.00 | | 6,344.15 | | | | 7,205.15 |
| Committee total | | | | | 6,683.00 | | 19,618.33 | | | | 26,301.83 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Commercial air transportation—round trip.
[5] Train.

CHRISTOPHER COX, Chairman, Jan. 25, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Ney | 12/9/ | 12/10 | Lebanon | | 486.00 | | 7,050.00 | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Chris Otillio | 12/09 | 12/10 | Lebanon | | 486.00 | | | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Chris Krueger | 12/09 | 12/10 | Lebanon | | 486.00 | | 7,050.00 | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Brian Walsh | 12/09 | 12/10 | Lebanon | | 486.00 | | 7,050.00 | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| George Shevlin | 12/09 | 12/10 | Lebanon | | 486.00 | | 7,050.00 | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Tom Hicks | 12/09 | 12/10 | Lebanon | | 486.00 | | 7,050.00 | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Beth Bellizzi | 12/09 | 12/10 | Lebanon | | 486.00 | | | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Connie Goode | 12/09 | 12/10 | Lebanon | | 486.00 | | 7,050.00 | | 76.50 | | 9,308.50 |
| | 12/11 | 12/13 | Turkey | | 828.00 | | | | | | |
| | 12/14 | 12/17 | Egypt | | 868.00 | | | | | | |
| Committee total | | | | | | | | | | | |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT W. NEY, Chairman, Jan. 24, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 6 AND SEPT. 4, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Patrick Murray | 7/06 | 7/08 | Europe | | 998.70 | | | | | | |
| | 7/09 | 7/09 | Europe | | 457.00 | | | | | | |
| | 7/08 | 7/10 | Europe | | 762.00 | | | | | | |
| | | | | | | | [4]8,168.24 | | | | |
| Joseph Jakub | 7/06 | 7/08 | Europe | | 998.70 | | | | | | |
| | | | | | | | [4]6,724.74 | | | | |
| Dave Barth | 8/31 | 9/01 | South Africa | | 237.00 | | | | | | |
| | 8/31 | 9/01 | South Africa | | 293.00 | | | | | | |
| | 9/01 | 9/04 | Europe | | 850.00 | | | | | | |
| | | | | | | | [4]8,567.67 | | | | |
| Hon. Collin Peterson | 8/26 | 8/30 | South America | | 1,280.00 | | | | | | |
| | | | | | | | [4]4,738.00 | | | | |
| Hon. Robert E. (Bud) Cramer | 8/07 | 8/09 | Australia | | 612.00 | | | | | | |
| | 18/09 | 8/14 | Australia | | 3,046.00 | | | | | | |
| | 8/14 | 8/18 | Asia | | 1,460.00 | | | | | | |
| | 8/18 | 8/20 | Asia | | 515.00 | | | | | | |
| | 8/21 | 8/22 | Asia | | 332.00 | | | | | | |
| | 8/22 | 8/23 | Europe | | 560.00 | | | | | | |
| | | | | | | | (3) | | | | |
| Hon. Jane Harman | 9/16 | 9/17 | South America | | 308.00 | | | | | | |
| Hon. Rush Holt | 8/08 | 8/10 | Middle East | | 476.00 | | | | | | |
| | 8/10 | 8/12 | Middle East | | 678.00 | | | | | | |
| | 8/12 | 8/13 | Middle East | | | | | | | | |
| | 8/13 | 8/14 | Middle East | | 268.00 | | | | | | |
| | 8/14 | 8/15 | Europe | | 380.00 | | | | | | |
| | | | | | | | (3) | | | | |
| | | | | | | | | | | | 42,708.65 |
| Committee total | | | | | | | | | | | |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air Transportation.
[4] Commercial air transportation.

PETER HOEKSTRA, Chairman, Nov. 29, 2004

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 1, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| David Abramowitz | 12/9 | 12/10 | Pakistan | | 596.46 | | | | | | 596.46 |
| | 12/10 | 12/12 | Afghanistan | | 56.00 | | | | | | 56.00 |
| | 12/12 | 12/13 | Uzbekistan | | 168.00 | | | | | | 168.00 |
| | 12/13 | 12/14 | Germany | | 302.00 | | | | | | 302.00 |
| | 12/9 | 12/14 | | | | | [4] 8,129.76 | | | | 8,129.76 |
| Hon. Gary Ackerman | 11/7 | 11/9 | Egypt | | 434.00 | | | | [5] 766.25 | | 1,200.25 |
| | 11/9 | 11/10 | Syria | | 256.00 | | | | | | 256.00 |
| | 11/10 | 11/11 | Jordan | | 238.00 | | | | | | 238.00 |
| | 11/11 | 11/15 | Israel | | 1,356.00 | | | | | | 1,356.00 |
| | 11/7 | 11/15 | | | | | [4] 9,024.69 | | | | 9,024.69 |
| David Adams | 12/17 | 11/9 | Egypt | | 434.00 | | | | | | 434.00 |
| | 11/9 | 11/10 | Syria | | 256.00 | | | | | | 256.00 |
| | 11/10 | 11/11 | Jordan | | 238.00 | | | | | | 238.00 |
| | 11/11 | 11/15 | Israel | | 1,3560.00 | | | | | | 1,356.00 |
| | 11/7 | 11/15 | | | | | [4] 4,889.19 | | | | 4,889.19 |
| Lara Alameh | 11/7 | 11/9 | Egypt | | 434.00 | | | | | | 434.00 |
| | 11/9 | 11/10 | Syria | | 256.00 | | | | | | 256.00 |
| | 11/10 | 11/11 | Jordan | | 238.00 | | | | | | 238.00 |
| | 11/11 | 11/15 | Israel | | 1,695.00 | | | | | | 1,695.00 |
| | 11/7 | 11/15 | | | | | [4] 8,973.24 | | | | 8,973.24 |
| Douglas Anderson | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Hon. Cass Ballenger | 10/25 | 10/28 | Colombia | | 318.00 | | | | | | 318.00 |
| | 10/28 | 10/29 | Venezuela | | 283.00 | | | | | | 283.00 |
| | 10/25 | 10/29 | | | | | [4] 2,281.04 | | | | 2,281.04 |
| Ted Brennan | 10/25 | 10/28 | Columbia | | 475.00 | | | | | | 475.00 |
| | 10/28 | 10/29 | Venezuela | | 233.00 | | | | | | 233.00 |
| | 10/25 | 10/29 | | | | | [4] 2,360.04 | | | | 2,360.04 |
| Hon. Steven Chabot | 12/9 | 12/11 | Taiwan | | 545.00 | | | | | | 545.00 |
| | 12/11 | 12/12 | Cambodia | | 203.00 | | | | | | 203.00 |
| | 12/12 | 12/17 | Vietnam | | 935.00 | | | | | | 935.00 |
| | 12/9 | 12/17 | | | | | [4] 8,578.67 | | | | 8,578.67 |
| Joan Condon | 11/7 | 11/8 | Italy | | 487.00 | | | | | | 487.00 |
| | 11/8 | 11/10 | Libya | | 1,038.00 | | | | | | 1,038.00 |
| | 11/7 | 11/10 | | | | | [4] 7,104.10 | | | | 7,104.10 |
| | 12/2 | 12/8 | Kenya | | 1,173.00 | | 9,072.18 | | | | 10,245.18 |
| Jeffrey Cox | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Ted Dagne | 12/8 | 12/10 | Chad | | 590.00 | | | | | | 590.00 |
| | 12/10 | 12/13 | Ethiopia | | 756.00 | | | | | | 756.00 |
| | 12/13 | 12/15 | Kenya | | 590.00 | | | | | | 590.00 |
| | 12/8 | 12/15 | | | | | [4] 11,370.84 | | | | 11,370.84 |
| Hon. Eni Faleomavaega | 11/23 | 11/26 | New Zealand | | 978.80 | | 8,165.25 | | [4] 89.51 | | 9,233.56 |
| | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| | 12/7 | 12/12 | French Polynesia | | | | 5,813.10 | | | | 5,813.10 |
| Jim Farr | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| David Fite | 10/27 | 10/31 | France | | 1,358.00 | | 6,179.60 | | | | 7,537.60 |
| Hon. Jeff Flake | 12/9 | 12/10 | Pakistan | | 777.00 | | | | | | 777.00 |
| | 12/10 | 12/12 | Afghanistan | | 90.00 | | | | | | 90.00 |
| | 12/12 | 12/13 | Uzbekistan | | 228.00 | | | | | | 228.00 |
| | 12/9 | 12/13 | | | | | [4] 8,177.88 | | | | 8,177.88 |
| Gregg Galivn | 12/8 | 12/10 | Chad | | 590.00 | | | | | | 590.00 |
| | 12/10 | 12/13 | Ethiopia | | 500.00 | | | | | | 500.00 |
| | 12/13 | 12/15 | Kenya | | 534.00 | | | | | | 534.00 |
| | 12/8 | 12/15 | | | | | [4] 9,509.84 | | | | 9,509.84 |
| Kirsti Garlock | 12/2 | 12/7 | Kenya | | 1,173.00 | | 9,072.88 | | | | 10,245.88 |
| Kristen Gilley | 12/2 | 12/7 | Kenya | | 438.00 | | 9,072.18 | | | | 9,510.18 |
| Dennis Halpin | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Hon. Henry Hyde | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Jonathan Katz | 11/30 | 12/2 | Serbia | | 525.00 | | 5,817.51 | | | | 6,342.51 |
| David Killion | 11/30 | 12/1 | Germany | | 359.00 | | | | | | 359.00 |
| | 12/1 | 12/3 | United Kingdom | | 814.00 | | | | | | 814.00 |
| | 11/30 | 12/3 | | | | | [4] 6,200.01 | | | | 6,200.01 |
| Kay King | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Hon. Peter King | 10/18 | 10/19 | Ireland | | 157.00 | | | | | | 157.00 |
| | 10/19 | 10/20 | Jordan | | 360.00 | | | | | | 360.00 |
| | 10/20 | 10/21 | France | | 65.00 | | (3) | | | | 65.00 |
| Robert King | 11/5 | 11/7 | Italy | | 1,461.00 | | | | | | 1,461.00 |
| | 11/8 | 11/11 | Libya | | 1,384.00 | | | | | | 1,384.00 |
| | 11/5 | 11/11 | | | | | [4] 3,773.85 | | | | 3,773.85 |
| | 12/1 | 12/4 | Hong Kong SAR | | 530.79 | | (3) | | | | 530.79 |
| Sheila Klein | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Hon. Thomas Lantos | 11/5 | 11/7 | Italy | | 630.00 | | | | | | 630.00 |
| | 11/7 | 11/10 | Libya | | 1,038.00 | | | | | | 1,038.00 |
| | 11/10 | 11/13 | Hungary | | 366.00 | | | | | | 366.00 |
| | 11/5 | 11/13 | | | | | [4] 9,515.24 | | | | 9,515.24 |
| Caleb McCarry | 10/25 | 10/28 | Colombia | | 575.00 | | | | | | 575.00 |
| | 10/28 | 10/29 | Venezuela | | 248.00 | | | | | | 248.00 |
| | 10/25 | 10/29 | | | | | [4] 2,360.04 | | | | 2,360.04 |
| | 12/1 | 12/3 | Colombia | | 112.00 | | 2,671.50 | | | | 2,783.50 |
| James McCormick | 10/25 | 10/25 | Nepal | | 65.00 | | | | | | 65.00 |
| | 10/25 | 10/27 | India | | 464.00 | | | | | | 464.00 |
| | 10/27 | 10/28 | Sri Lanka | | 226.00 | | | | | | 226.00 |
| | 10/29 | 10/31 | Thailand | | 464.00 | | | | | | 464.00 |
| | 10/25 | 10/31 | | | | | [4] 7,642.12 | | | | 7,642.12 |
| Hon. Thaddeus McCotter | 10/18 | 10/19 | Ireland | | 157.00 | | | | | | 157.00 |
| | 10/19 | 10/20 | Jordan | | 360.00 | | | | | | 360.00 |
| | 10/20 | 10/21 | France | | 65.00 | | (3) | | | | 65.00 |
| John Mackey | 10/17 | 10/21 | Peru | | 748.00 | | | | | | 748.00 |
| | 10/21 | 10/27 | Colombia | | 1,050.00 | | | | | | 1,050.00 |
| | 10/17 | 10/27 | | | | | [4] 3,111.50 | | | | 3,111.50 |
| | 12/1 | 12/5 | Colombia | | 700.00 | | 2,339.50 | | | | 2,339.50 |
| Alan Makovsky | 11/5 | 11/7 | Italy | | 1,461.00 | | | | | | 1,461.00 |
| | 11/7 | 11/10 | Libya | | 1,038.00 | | | | | | 1,038.00 |
| | 11/10 | 11/13 | Belgium | | 1,131.00 | | | | | | 1,131.00 |
| | 11/5 | 11/13 | | | | | [4] 7,030.23 | | | | 7,030.23 |
| Thomas Mooney | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Paul Sanz Oostburg | 12/1 | 12/4 | Colombia | | 470.00 | | 2,249.50 | | | | 2,719.50 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 1, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Brenda Ortman | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Hon. Donald Payne | 12/8 | 12/10 | Chad | | 590.00 | | | | | | 590.00 |
| | 12/10 | 12/13 | Ethiopia | | 756.00 | | | | | | 756.00 |
| | 12/13 | 12/15 | Kenya | | 590.00 | | | | | | 590.00 |
| | 12/8 | 12/15 | | | | | [4]8,810.34 | | | | 8,810.34 |
| | 12/19 | 12/20 | Iceland | | 128.00 | | | | | | 128.00 |
| | 12/20 | 12/22 | Afghanistan | | 90.00 | | | | | | 90.00 |
| | 12/22 | 12/25 | Jordan | | 762.00 | | | | | | 762.00 |
| | 12/25 | 12/27 | Ukraine | | 509.00 | | (3) | | | | 509.00 |
| Hon. Mike Pence | 12/9 | 12/10 | Pakistan | | 777.00 | | | | | | 777.00 |
| | 12/10 | 12/12 | Afghanistan | | 90.00 | | | | | | 90.00 |
| | 12/12 | 12/13 | Uzbekistan | | 228.00 | | | | | | 228.00 |
| | 12/13 | 12/14 | Germany | | 382.00 | | | | | | 382.00 |
| | 12/9 | 12/14 | | | | | [4]7,730.32 | | | | 7,730.32 |
| Patrick Prisco | 11/30 | 12/2 | Serbia | | 525.00 | | 7,218.71 | | | | 7,743.71 |
| Gregg Rickman | 11/30 | 12/1 | Germany | | 299.00 | | | | | | 299.00 |
| | 12/1 | 12/3 | United Kingdom | | 814.00 | | | | | | 814.00 |
| | 11/30 | 12/3 | | | | | [4]6,613.01 | | | | 6,613.01 |
| John Walker Roberts | 12/9 | 12/16 | Austria | | 963.00 | | | | | | 963.00 |
| Hon. Dana Rohrabacher | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | | | | | 1,137.00 |
| | 12/16 | 12/18 | Austria | | 642.00 | | | | | | 642.00 |
| | 12/18 | 12/20 | Ukraine | | 599.50 | | | | | | 599.50 |
| | 12/20 | 12/21 | Ireland | | 486.00 | | (3) | | | | 486.00 |
| Jonathan Scharfen | 12/9 | 12/10 | Pakistan | | 677.00 | | | | | | 677.00 |
| | 12/11 | 12/12 | Afghanistan | | 40.00 | | | | | | 40.00 |
| | 12/12 | 12/13 | Uzbekistan | | 228.00 | | | | | | 228.00 |
| | 12/13 | 12/14 | Germany | | 332.00 | | | | | | 332.00 |
| | 12/9 | 12/14 | | | | | [4]7,730.00 | | | | 7,730.00 |
| Hon. Adam Schiff | 12/17 | 12/18 | Austria | | 321.00 | | | | | | 321.00 |
| | 12/18 | 12/20 | Ukraine | | 599.00 | | | | | | 599.00 |
| | 12/20 | 12/21 | Ireland | | 180.00 | | 4,015.68 | | | | 4,195.68 |
| Doug Seay | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| | 12/16 | 12/18 | Austria | | 642.00 | | | | | | 642.00 |
| | 12/18 | 12/20 | Ukraine | | 599.50 | | | | | | 599.50 |
| | 12/20 | 12/21 | Ireland | | 486.00 | | (3) | | | | 486.00 |
| Sam Stratman | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Hon. Robert Wexler | 11/30 | 12/2 | Serbia | | 525.00 | | 5,817.51 | | | | 6,342.51 |
| Judy Wolverton | 12/1 | 12/4 | Hong Kong SAR | | 1,137.00 | | (3) | | | | 1,137.00 |
| Committee total | | | | | 69,408.05 | | 228,421.05 | | 855.76 | | 298,684.86 |

---

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
(3) Military air transportation.
[4] Roundtrip airfare.
[5] Indicates delegation costs.

HENRY HYDE, Chairman, Jan. 28, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Doug Crandall | 10/1 | 10/3 | Canada | | 600.00 | | 692.78 | | | | 1,292.78 |
| Richard Pombo | 10/10 | 10/15 | Thailand | | 927.96 | | 5,274.50 | | 270.75 | | 6,473.21 |
| Todd Willens | 10/7 | 10/17 | Thailand | | 1,967.91 | | 7,481.92 | | | | 9,449.83 |
| Kurt Christensen | 12/12 | 12/19 | Argentina | | 1,550.00 | | 1,052.00 | | | | 2,602.00 |
| Committee totals | | | | | 5,045.87 | | 14,501.20 | | 270.75 | | 19,817.82 |

---

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD POMBO, Chairman, Jan. 31, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Brad Smith | 12/19 | 12/20 | Iceland | | 128.00 | (3) | | | | | 128.00 |
| | 12/21 | 12/22 | Afghanistan | | 90.00 | (3) | | | | | 90.00 |
| | 12/22 | 12/25 | Jordan | | 762.00 | (3) | | | | | 762.00 |
| | 12/25 | 12/27 | Ukraine | | 509.00 | (3) | | | | | 509.00 |
| Committee total | | | | | 1,489.00 | | | | | | 1,489.00 |

---

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DAVID DREIER, Chairman, Jan. 25, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Mike Quear | 12/1 | 12/4 | France | | 1,110.00 | | 2,040.41 | | | | 3,150.41 |

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Eric Webster | 11/30 | 12/4 | France | | 1,110.00 | | 762.45 | | | | 1,872.45 |
| Kathryn Clay | 12/9 | 12/18 | Argentina | | 999.00 | | 6,233.00 | | | | 7,232.00 |
| John Mimikaus | 12/14 | 12/17 | Argentina | | 922.80 | | 5,176.00 | | | | 6,098.80 |
| Christal Sheppard | 12/10 | 12/16 | Argentina | | 308.00 | | 6,633.00 | | | | 6,941.00 |
| Committe total | | | | | 4,449.80 | | 20,845.86 | | | | 25,294.66 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SHERWOOD BOEHLERT, Chairman, Jan. 18, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the quarter of the calendar year noted above, please check the box at right to indicate and return. ☒

JOEL HEFLEY, Chairman, Jan. 31, 2005.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 4 AND NOV. 27, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |
| Hon. Bill Thomas | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Hon. Nancy Johnson | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Hon. Phil English | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Hon. Ron Lewis | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Hon. Michael McNulty | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/11 | Cyprus | | | | (3) | | | | |
| Ms. Angela Ellard | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Ms. Mary Sue Englund | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Ms. Stephanie Henning | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Ms. Stephanie Lester | 11/04 | 11/06 | Tunisia | | 450.00 | | (3) | | | | 450.00 |
| | 11/06 | 11/08 | Jordan | | 476.00 | | (3) | | | | 476.00 |
| | 11/08 | 11/09 | Oman | | 290.00 | | (3) | | | | 290.00 |
| | 11/09 | 11/11 | Egypt | | 595.50 | | (3) | | | | 595.50 |
| | 11/11 | 11/12 | Cyprus | | | | (3) | | | | |
| Hon. Mark Foley | 11/21 | 11/24 | Czechoslovakia | | 918.00 | | 5,699.80 | | | | 6,617.80 |
| Hon. Stephanie Tubbs-Jones | 11/23 | 11/25 | Austria | | 340.00 | | (3) | | | | 340.00 |
| | 11/25 | 11/25 | Kosovo | | 170.00 | | (3) | | | | 170.00 |
| | 11/25 | 11/27 | Austria | | 340.00 | | (3) | | | | 340.00 |
| | 11/27 | 11/27 | Greece | | 170.00 | | (3) | | | | 170.00 |
| Committee total | | | | | 1,938.00 | | 5,699.80 | | | | 7,637.80 |

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

BILL THOMAS, Chairman, Jan. 28, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON PRINTING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the quarter of the calendar year noted above, please check the box at right to indicate and return. ☑

ROBERT W. NEY, Chairman, Jan. 21, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN Oct. 1 AND Dec. 31, 2004

| Name of Member or employee | Date | | Country | Per diem[1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] |

HOUSE COMMITTEES

Please Note: If there were no expenditures during the quarter of the calendar year noted above, please check the box at right to indicate and return. ☑

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLES E. GRASSLEY, Chairman, Jan. 16, 2005.

---

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1119. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Terrance T. Etnyre, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1120. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Vice Admiral Robert F. Willard, United States Navy, to wear the insignia of the grade of admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1121. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Karl W. Eikenberry, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1122. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Thomas B. Goslin, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

1123. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report on Future Combat System (FCS) information, pursuant to Public Law 108-375, section 211; to the Committee on Armed Services.

1124. A letter from the Secretary, Department of Commerce, transmitting the annual report for FY 2004 of the Department's Bureau of Industry and Security (BIS); to the Committee on International Relations.

1125. A letter from the Chief Scout Executive and President, Boy Scouts of America, transmitting the Boy Scouts of America's 2004 Report to the Nation, pursuant to 36 U.S.C. 28; to the Committee on the Judiciary.

1126. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine-Neches Canal, Sabine River, Orange, TX [COTP Port Arthur-04-016] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1127. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny River Marker 0.0 to Mile Marker 0.4, Pittsburgh, PA. [COTP Pittsburgh-04-030] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1128. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; The Bridgewater Channel, Between London Bridge and the Lake Havasu State Park. [COTP San Diego 04-033] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1129. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 766.9 to Mile 767.1, Pepin, WI [COTP St. Louis-04-032] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1130. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 179.2 to Mile 180.0, St. Louis, MO [COTP St. Louis-04-041] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1131. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 179.2 to Mile 180.0, St. Louis, MO [COTP St. Louis-04-042] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1132. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile 852.2 to Mile 852.8, Minneapolis, MN [COTP St. Louis-04-043] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1133. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Minnesota River Mile Marker 3.3 to Mile Marker 3.7, Minneapolis, MN [COTP St. Louis-04-046] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1134. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulation; Tampa Bay, FL. [COTP TAMPA 04-107] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1135. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone for Albert Whitted Air Show; Tampa Bay, FL [COTP Tampa 04-113] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1136. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulation; Tampa Bay, FL [COTP TAMPA 04-117] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1137. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine River to Sabine-Neches Canal, Orange, TX [COTP Port Arthur-04-017] (RIN: 1625-AA00) received February 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1138. A letter from the Principal Deputy Under Secretary for Policy, Department of Defense, transmitting a report on progress in Kosovo toward achieving militarily significant benchmarks during the period July 1 to

December 31, 2004, pursuant to Public Law 106—398, section 1212(c); jointly to the Committees on Armed Services, International Relations, and Appropriations.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. WELLER (for himself and Mr. CARDIN):

H.R. 1212. A bill to amend the Internal Revenue Code of 1986 to provide tax credits for making energy efficiency improvements to existing homes and for constructing new energy efficient homes; to the Committee on Ways and Means.

By Mr. HYDE (for himself and Mr. BURTON of Indiana):

H.R. 1213. A bill to authorize appropriations for fiscal year 2006 for voluntary contributions on a grant basis to the Organization of American States (OAS) to establish a Center for Caribbean Basin Trade and to establish a skills-based training program for Caribbean Basin countries; to the Committee on International Relations.

By Mrs. MALONEY (for herself, Mr. SHAYS, Ms. WATSON, Mr. LANGEVIN, Mr. VAN HOLLEN, Mr. PALLONE, Ms. SLAUGHTER, Ms. LEE, Mr. McDERMOTT, Mr. TOWNS, Mr. GEORGE MILLER of California, Mr. DeFAZIO, Ms. SOLIS, Mr. WAXMAN, Mr. MICHAUD, Mr. BISHOP of New York, Ms. McCOLLUM of Minnesota, Mr. GUTIERREZ, Ms. WATERS, Mrs. DAVIS of California, Mr. NADLER, Mr. LANTOS, Mr. WEXLER, Mr. OWENS, Mr. PAYNE, Mr. FARR, Mr. PRICE of North Carolina, Mr. GRIJALVA, Ms. HARMAN, Mr. ALLEN, Mr. ROTHMAN, Mrs. CAPPS, Mr. BERMAN, Mrs. McCARTHY, Mr. BROWN of Ohio, Mr. WU, Ms. LINDA T. SÁNCHEZ of California, Mr. MEEKS of New York, Ms. WOOLSEY, Mr. MORAN of Virginia, Mr. PASCRELL, Mr. CROWLEY, and Ms. JACKSON-LEE of Texas):

H.R. 1214. A bill to require that the recommended national protocol for sexual assault medical forensic examinations include a recommendation that rape victims be offered information about emergency contraceptives to prevent pregnancy; to the Committee on the Judiciary.

By Mr. GINGREY (for himself, Mr. MARSHALL, Mr. EHLERS, Mr. BOEHLERT, Mr. FILNER, Mr. ROHRABACHER, Mr. McHUGH, Mr. HASTINGS of Washington, and Mr. SIMMONS):

H.R. 1215. A bill to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes; to the Committee on Science.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. DAVIS of Alabama, Mr. BISHOP of Georgia, Mr. SOUDER, Mr. COBLE, Mr. VISCLOSKY, Mr. HOLDEN, Mr. HAYES, Mr. ROHRABACHER, Mr. CASE, Mr. RYAN of Ohio, Mr. McHUGH, Mr. TAYLOR of Mississippi, Mr. KENNEDY of Minnesota, Mr. BARRETT of South Carolina, Mr. JONES of North Carolina, Mr. BERRY, Mr. DOYLE, Mr. REYNOLDS, Mr. DeFAZIO, Mr. STUPAK, Mr. LIPINSKI, Ms. HART, Mr. RUPPERSBERGER, Mr. BROWN of Ohio, Mr. BROWN of South Carolina, Mrs. CAPITO, Mr. MOLLOHAN, Mr. REGULA, Mr. NEY, and Mr. GERLACH):

H.R. 1216. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Ways and Means.

By Mr. McGOVERN (for himself, Mr. NUSSLE, Mr. OLVER, Mr. LaHOOD, Mr. SERRANO, Mr. PETRI, Mr. PAYNE, Mr. BOEHLERT, Mrs. LOWEY, Mr. PAUL, Mr. LANTOS, Ms. BALDWIN, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Mr. KIND, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. SANDERS, Mr. DELAHUNT, Mr. LYNCH, Mr. UDALL of New Mexico, Mrs. MALONEY, Mr. RUSH, Ms. LEE, Mr. OBERSTAR, Mr. McDERMOTT, Mr. HOLT, Mr. MOORE of Kansas, Ms. WATSON, Mr. DAVIS of Illinois, Mr. CONYERS, Mr. DeFAZIO, Mr. HINCHEY, Mr. DICKS, Mr. HINOJOSA, Mr. ENGEL, Mr. ABERCROMBIE, Mr. MARKEY, Mr. LARSON of Connecticut, Mr. WYNN, Mr. PALLONE, Mr. GUTIERREZ, Mr. LEWIS of Georgia, Mr. MEEHAN, Mr. ROTHMAN, Mr. EVANS, Mrs. McCARTHY, Mr. ALLEN, Ms. WATERS, Ms. McKINNEY, Mr. BLUMENAUER, Mr. FARR, Mr. McNULTY, Mr. CUMMINGS, Mrs. CAPPS, Ms. MOORE of Wisconsin, Mr. SABO, Ms. ZOE LOFGREN of California, Mr. PRICE of North Carolina, Mr. KUCINICH, Ms. SLAUGHTER, Mr. CLAY, Mr. VAN HOLLEN, Mr. DOGGETT, Ms. McCOLLUM of Minnesota, Mrs. JONES of Ohio, Mr. JACKSON of Illinois, Mr. WEINER, Mr. ISRAEL, Mr. GENE GREEN of Texas, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mr. COSTELLO, Mr. KILDEE, Mr. EMANUEL, Mrs. BIGGERT, Mr. GEORGE MILLER of California, Mr. UDALL of Colorado, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 1217. A bill to suspend the authority for the Western Hemisphere Institute for Security Cooperation (the successor institution to the United States Army School of the Americas) in the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. McGOVERN (for himself, Mr. LANTOS, Mr. DOYLE, Mr. McDERMOTT, Mr. ETHERIDGE, Mr. PAYNE, Mr. SCHIFF, Mr. CONYERS, Mr. OWENS, Mrs. CAPPS, Ms. WATSON, Mr. SERRANO, Mrs. MALONEY, Mr. GEORGE MILLER of California, Ms. SOLIS, Ms. LEE, Mr. WOLF, Mr. PLATTS, and Mr. KIRK):

H.R. 1218. A bill to amend titles 23 and 49, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GOODLATTE (for himself, Mr. NORWOOD, Mr. CARTER, Mr. TANCREDO, Mr. BARRETT of South Carolina, Mr. GALLEGLY, Mr. KING of Iowa, Mrs. JO ANN DAVIS of Virginia, Mr. SMITH of Texas, and Mr. GRAVES):

H.R. 1219. A bill to amend the Immigration and Nationality Act to eliminate the diversity immigrant program; to the Committee on the Judiciary.

By Mr. BUYER (for himself, Mr. EVANS, Mr. MILLER of Florida, and Ms. BERKLEY):

H.R. 1220. A bill to increase, effective as of December 1, 2005, the rates of disablity compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WELLER:

H.R. 1221. A bill to suspend temporarily the duty on certain rubber or plastic footwear; to the Committee on Ways and Means.

By Ms. SCHAKOWSKY (for herself, Mrs. CHRISTENSEN, Mr. CONYERS, Ms. DeLAURO, Mr. FILNER, Mr. HINCHEY, Mr. HOLDEN, Mr. KUCINICH, Mrs. McCARTHY, Mr. MORAN of Virginia, Mr. OBERSTAR, Mr. OWENS, Mr. RANGEL, Mr. STARK, Ms. WOOLSEY, and Ms. ROYBAL-ALLARD):

H.R. 1222. A bill to amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOLEY (for himself, Mr. CRAMER, Mr. McNULTY, Mr. GENE GREEN of Texas, and Mr. KOLBE):

H.R. 1223. A bill to ensure that appropriate State social services officers have the authority to access certain Federal databases for the purpose of carrying out checks in cases of child abuse and neglect and cases of missing children, and for other purposes; to the Committee on the Judiciary.

By Mrs. KELLY (for herself, Mr. KANJORSKI, Ms. VELÁZQUEZ, Mrs. MALONEY, Mr. SHERMAN, Mr. HINOJOSA, and Mr. MANZULLO):

H.R. 1224. A bill to repeal the prohibition on the payment of interest on demand deposits, and for other purposes; to the Committee on Financial Services.

By Mr. CONYERS (for himself and Mr. SHAYS):

H.R. 1225. A bill to better manage the national instant criminal background check system and terrorism matches; to the Committee on the Judiciary.

By Mr. BACHUS (for himself, Mrs. MALONEY, Mr. OXLEY, Mr. FRANK of Massachusetts, Ms. PRYCE of Ohio, Mr. BAKER, Ms. VELÁZQUEZ, Mr. CAPUANO, Mr. KANJORSKI, Mr. JONES of North Carolina, Mrs. BIGGERT, Mr. FITZPATRICK of Pennsylvania, Mr. GERLACH, Mr. GILLMOR, Mr. GUTIERREZ, Mr. FORD, Mr. LEACH, Mr. CASTLE, Mr. RYUN of Kansas, Mr. CROWLEY, Mr. PAUL, Mr. NEUGEBAUER, Mr. MANZULLO, Ms. GINNY BROWN-WAITE of Florida, and Mr. CLAY):

H.R. 1226. A bill to establish a mechanism for developing uniform United States positions on issues before the Basel Committee on Banking Supervision at the Bank for International Settlements, to require a review on the most recent recommendation of the Basel Committee for an accord on capital standards, and for other purposes; to the Committee on Financial Services.

By Mrs. BIGGERT (for herself, Ms. SLAUGHTER, Mr. NEY, Ms. ESHOO, Mr. NORWOOD, Mr. DINGELL, Mr. HYDE, Mr. GEORGE MILLER of California, Mrs. JOHNSON of Connecticut, Mr. RANGEL, Mr. GILLMOR, Mr. OWENS, Mrs. MYRICK, Mr. GORDON, Mr. FERGUSON, Mr. GENE GREEN of Texas, Mr. REGULA, Mr. STRICKLAND, Mr. WOLF, Mrs. CAPPS, Mr. WAMP, Mr. ALLEN, Mr. RAMSTAD, Mr. DAVIS of Florida, Ms. GRANGER, Mr. THOMPSON of California, Mr. PLATTS, Mr. LEWIS of Georgia, Mrs. JO ANN DAVIS of Virginia, Mr. BERRY, Mrs. CAPITO, Mr.

VAN HOLLEN, Mr. SAXTON, Mr. MICHAUD, Mr. BOEHLERT, Mrs. MALONEY, Mr. SHAYS, and Mr. KIND):

H.R. 1227. A bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS:

H.R. 1228. A bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT (for himself, Mr. COOPER, Mrs. BLACKBURN, Mr. CHABOT, Mr. DAVIS of Tennessee, Mr. DELAY, Mr. FORD, Mr. FRANKS of Arizona, Mr. GORDON, Mr. JONES of North Carolina, Mr. MATHESON, Mr. TANNER, Mr. WAMP, and Mr. WESTMORELAND):

H.R. 1229. A bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes; to the Committee on the Judiciary.

By Mr. BLUNT:

H.R. 1230. A bill to extend trade benefits to certain tents imported into the United States; to the Committee on Ways and Means.

By Mr. COLE of Oklahoma:

H.R. 1231. A bill to amend the Internal Revenue Code of 1986 to restore and make permanent the exclusion from gross income for amounts received under qualified group legal services plans and to repeal the limitation on the amount of the exclusion; to the Committee on Ways and Means.

By Mrs. CUBIN:

H.R. 1232. A bill to amend the Federal Land Policy and Management Act of 1976 to provide death and disability benefits for aerial firefighters who work on a contract basis for the Forest Service or an agency of the Department of the Interior and suffer death or disability in the line of duty, and for other purposes; to the Committee on Resources, and in addition to the Committees on Agriculture, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LINCOLN DIAZ-BALART of Florida (for himself, Mr. WAXMAN, Mr. MARIO DIAZ-BALART of Florida, Ms. ROS-LEHTINEN, Ms. SOLIS, and Mr. RANGEL):

H.R. 1233. A bill to amend titles XIX and XXI of the Social Security Act to permit States the option of coverage of legal immigrants under the Medicaid Program and the State children's health insurance program (SCHIP); to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Mr. STARK, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. EMANUEL, Mr. ALLEN, Ms. BALDWIN, Ms. BERKLEY, Ms. BORDALLO, Mr. BROWN of Ohio, Ms. CARSON, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. FATTAH, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. KUCINICH, Ms. LEE, Mrs. MALONEY, Ms. NORTON, Mr. OWENS, Mr. RYAN of Ohio, Mr. SANDERS, Ms. SLAUGHTER, Ms. SOLIS, Mr. TIERNEY, Mrs. JONES of Ohio, Mr. WAXMAN, and Ms. WOOLSEY):

H.R. 1234. A bill to amend the Internal Revenue Code of 1986 to require greater transparency of corporate tax accounting measures, to facilitate analysis of financial statements, to permit inspection of true corporate tax liability and understand the tax strategies undertaken by corporations, to discourage abusive tax sheltering activities, and to restore investor confidence in publicly traded corporations; to the Committee on Ways and Means.

By Mr. FLAKE (for himself, Mr. BISHOP of Utah, Mr. CANNON, Mr. DUNCAN, Mrs. CUBIN, Mr. OTTER, Mrs. MUSGRAVE, Mr. SIMPSON, Mr. TANCREDO, and Mr. DOOLITTLE):

H.R. 1235. A bill to limit the authority of the Secretary of Agriculture and the Secretary of the Interior to acquire land located in a State in which 25 percent or more of all land in the State is already owned by the United States, and for other purposes; to the Committee on Resources.

By Mr. GIBBONS (for himself, Mr. PORTER, and Ms. BERKLEY):

H.R. 1236. A bill to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the "Mayor Tony Armstrong Memorial Post Office"; to the Committee on Government Reform.

By Ms. HART:

H.R. 1237. A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida (for himself, Ms. SLAUGHTER, Mr. SANDERS, Mr. OWENS, Mr. STARK, Mr. CUMMINGS, Ms. WASSERMAN SCHULTZ, Mrs. CHRISTENSEN, Mr. LEWIS of Georgia, Mr. CONYERS, Ms. JACKSON-LEE of Texas, Mr. BUTTERFIELD, Mr. MEEK of Florida, Ms. NORTON, Mr. WEXLER, Mr. CLAY, Mr. MICHAUD, and Mr. PAYNE):

H.R. 1238. A bill to express the sense of the Congress with respect to the price and terms of credit used to pay large medical bills, to amend the Truth in Lending Act with respect to credit card issuers obligations for credit extended to pay medical expenses under certain circumstances, and for other purposes; to the Committee on Financial Services.

By Mr. HAYES:

H.R. 1239. A bill to require notice of exceptions applied by the Department of Defense to certain requirements to procure items made in the United States; to the Committee on Armed Services.

By Mr. HEFLEY (for himself and Mr. ALLEN):

H.R. 1240. A bill to establish a Federal Interagency Committee on Emergency Medical Services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOEKSTRA (for himself, Mr. SOUDER, Mr. EHLERS, Mr. MCCOTTER, Mr. DICKS, Mr. GARY G. MILLER of California, Mr. CHABOT, Mr. MCHUGH, Mr. AKIN, Ms. VELÁZQUEZ, Mr. BAIRD, Mr. RUPPERSBERGER, Mr. LARSEN of Washington, Mr. DAVIS of Illinois, Mr. FRANKS of Arizona, Mr. KIND, Mr. MANZULLO, Mr. UPTON, Mr. KNOLLENBERG, Mr. ROGERS of Michigan, Mr. FORD, Mr. PLATTS, and Mr. CALVERT):

H.R. 1241. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain systems installed in nonresidential buildings; to the Committee on Ways and Means.

By Mr. HOLT (for himself, Mr. WILSON of South Carolina, and Mr. EVANS):

H.R. 1242. A bill to establish the American Veterans Congressional Internship Program; to the Committee on House Administration.

By Mr. HOSTETTLER (for himself, Mr. JONES of North Carolina, Mr. SESSIONS, Mr. WICKER, Mr. DOOLITTLE, Mr. WAMP, Mr. BURGESS, Mr. GOODE, Mr. SOUDER, Mr. GINGREY, Mr. PENCE, Mr. BARRETT of South Carolina, Mr. HALL, Mr. WILSON of South Carolina, Mr. CANNON, Mr. ADERHOLT, Mr. BARTLETT of Maryland, Mr. BRADLEY of New Hampshire, Mr. MCHENRY, Mr. FOLEY, Mrs. CUBIN, Mr. CANTOR, Mrs. MUSGRAVE, Mr. WESTMORELAND, Mr. BURTON of Indiana, Mr. OTTER, Mr. LEWIS of Kentucky, Ms. GINNY BROWN-WAITE of Florida, Mr. SODREL, and Mr. ALEXANDER):

H.R. 1243. A bill to amend title 18 of the United States Code to provide for reciprocity in regard to the manner in which nonresidents of a State may carry certain concealed firearms in that State; to the Committee on the Judiciary.

By Mr. ISRAEL:

H.R. 1244. A bill to amend title 10, United States Code, to provide health care coverage for spouses and children of members of the uniformed services on active duty through the Federal Employees Health Benefits program; to the Committee on Armed Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself, Mr. LEVIN, Ms. GRANGER, Ms. DELAURO, Mrs. BONO, Mr. CANTOR, Mr. WILSON of South Carolina, Ms. HARRIS, Mr. HALL, Mr. BURTON of Indiana, Mr. CUMMINGS, Mrs. DAVIS of California, Ms. HARMAN, Mr. DELAHUNT, Mr. EMANUEL, Mr. HINCHEY, Mr. HOLT, Mr. JEFFERSON, Mr. KILDEE, Mr. KUCINICH, Mr. LYNCH, Mrs. MCCARTHY, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINTYRE, Mr. MCNULTY, Mr. MEEHAN, Mr. MORAN of Virginia, Mr. OLVER, Mr. PALLONE, Mr. PAYNE, Mr. PLATTS, Mr. TIERNEY, Mr. TOWNS, Mr. WOLF, Ms. WOOLSEY, Mr. CAPUANO, Mr. ALLEN, Mr. MEEKS of New York, Mr. ABERCROMBIE, Ms. SCHAKOWSKY, Mrs. CHRISTENSEN, Mr. CALVERT, Mr. VAN HOLLEN, Mr. MOORE of Kansas, Mr. LANTOS, Mr. DAVIS of Illinois, Mr. POMBO, Mr. GALLEGLY, Mr. LUCAS, Mr. LEWIS of California, Mr. BACHUS, Mr. CRAMER, Mr. MCCOTTER, Mr. LEWIS of Georgia, Mr. STARK, Mr. WAXMAN, Mr. GINGREY, Mr. MENENDEZ, Ms. FOXX, Ms. BORDALLO, Ms. GINNY BROWN-WAITE of Florida, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Ms. KAPTUR, Mr. HASTINGS of Washington, Mr. BOSWELL, Ms. CARSON, Mr. HONDA, Mr. SANDERS, Mrs. MILLER of Michigan, Mr. WEXLER, Mr. LaTOURETTE, Mr. TANCREDO, Mr. TOM DAVIS of Virginia, Mr. LEACH, Mr. ROHRABACHER, Mrs. TAUSCHER, Mr. PRICE of North Carolina, Mr. McDERMOTT, Mrs. JO ANN DAVIS of Virginia, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. ROS-LEHTINEN, Ms. KILPATRICK of Michigan, Mr. NEAL of Massachusetts, Ms. ZOE LOFGREN of California, and Mr. STUPAK):

H.R. 1245. A bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Ms. PRYCE of Ohio, Mr. BROWN of Ohio, Mr. BACHUS, Ms. BALDWIN, Mrs. BONO, Ms. ESHOO, Mr. HALL, Mr. HULSHOF, Mr. RUSH, Mr. SESSIONS, Mr. SHAYS, Mr. SHIMKUS, Mr. SIMMONS, Ms. SOLIS, and Mr. WAXMAN):

H.R. 1246. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program; to the Committee on Energy and Commerce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. NORWOOD, Mr. PENCE, and Mr. MARCHANT):

H.R. 1247. A bill to amend the National Labor Relations Act to ensure that certain prevailing parties receive attorneys' fees; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. NORWOOD, Mr. PENCE, Mr. HENSARLING, Mr. KING of Iowa, and Mr. MARCHANT):

H.R. 1248. A bill to amend the National Labor Relations Act to prevent government agencies from requiring or prohibiting employers in the construction industry to enter into agreements with labor organizations; to the Committee on Education and the Workforce.

By Mr. KILDEE (for himself, Mr. NEY, Mr. ALLEN, Mr. BERMAN, Mr. BONNER, Mr. CHANDLER, Mr. CONYERS, Mr. CROWLEY, Mr. DICKS, Mr. ENGLISH of Pennsylvania, Mr. FARR, Mr. GENE GREEN of Texas, Mr. GREEN of Wisconsin, Mr. GRIJALVA, Mr. HOLDEN, Mr. HOLT, Mr. INSLEE, Mr. KENNEDY of Minnesota, Mr. KING of New York, Mr. LARSEN of Washington, Ms. ZOE LOFGREN of California, Ms. McCOLLUM of Minnesota, Mr. McDERMOTT, Mr. McHUGH, Mr. McNULTY, Mr. GEORGE MILLER of California, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. SABO, Mr. SHAYS, Mr. SHERMAN, Mr. SHIMKUS, Mr. SIMMONS, Ms. SLAUGHTER, Ms. SOLIS, Mrs. TAUSCHER, Mr. TIERNEY, Mr. VAN HOLLEN, Mr. WAXMAN, Mr. WELDON of Pennsylvania, Mr. WEXLER, Ms. WOOLSEY, Mr. PETERSON of Minnesota, Ms. WATSON, Mr. WEINER, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, and Mr. KUHL of New York):

H.R. 1249. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Education and the Workforce.

By Mr. KOLBE (for himself, Mr. RENZI, Mr. GRIJALVA, Mr. PASTOR, Mr. HAYWORTH, Mr. FRANKS of Arizona, Mr. SHADEGG, and Mr. FLAKE):

H.R. 1250. A bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; to the Committee on Resources.

By Mrs. LOWEY (for herself, Mr. McNULTY, Mr. CARDOZA, Mrs. MALONEY, Mr. CUMMINGS, Mrs. McCARTHY, Mr. PALLONE, Ms. LEE, Ms. HARMAN, Mr. CASE, Ms. McCOLLUM of Minnesota, Mr. KILDEE, Mr. McINTYRE, Mr. SANDERS, Ms. NORTON, Mr. KUCINICH, Ms. WATSON, Mr. OWENS, Mr. THOMPSON of Mississippi, Mr. GENE GREEN of Texas, Mr. WEINER, Mr. ETHERIDGE, Mr. CROWLEY, Mr. WEXLER, Mr. LANGEVIN, Mr. DeFAZIO, and Mr. LEWIS of Georgia):

H.R. 1251. A bill to provide grants and other support to achieve communications interoperability in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. McCARTHY (for herself, Mr. RANGEL, Mr. OWENS, Mr. GRIJALVA, Mr. KILDEE, Mr. TOWNS, Mr. ISRAEL, Mr. KING of New York, Mr. STARK, Mr. PAYNE, Ms. MILLENDER-McDONALD, Mr. STRICKLAND, Mr. ANDREWS, Ms. WOOLSEY, Mr. DAVIS of Illinois, Mr. GEORGE MILLER of California, and Mr. BISHOP of New York):

H.R. 1252. A bill to amend the Public Health Service Act to provide for a program of screenings and education regarding children with sudden cardiac arrhythmia syndromes; to the Committee on Energy and Commerce.

By Mrs. MUSGRAVE:

H.R. 1253. A bill to extend a certain high priority corridor in the States of Colorado, Nebraska, South Dakota, and Wyoming; to the Committee on Transportation and Infrastructure.

By Mr. PETERSON of Minnesota (for himself, Ms. KAPTUR, Mr. ROSS, and Mr. FRANK of Massachusetts):

H.R. 1254. A bill to amend the Animal Health Protection Act to require the establishment of an electronic nationwide livestock identification system, to prevent the unauthorized release of information collected under the system, to promote an objective review of Department of Agriculture responses to livestock disease outbreaks, and for other purposes; to the Committee on Agriculture.

By Mr. PETERSON of Minnesota:

H.R. 1255. A bill to amend the Internal Revenue Code of 1986 to extend the tax incentives for biodiesel; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 1256. A bill to amend the Animal Health Protection Act to exempt certain animal identification information from disclosure under the Freedom of Information Act; to the Committee on Agriculture, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH (for himself, Mr. BLUNT, Mr. CARDOZA, Mr. WHITFIELD, Mr. SHIMKUS, Mr. HERGER, Mr. FOLEY, Mr. KINGSTON, Mr. ISSA, Mrs. EMERSON, Mr. BERRY, Mr. BISHOP of Georgia, Mr. SIMPSON, Mr. OTTER, Mr. DOOLITTLE, Mr. COSTA, Mr. POMBO, and Mr. JONES of North Carolina):

H.R. 1257. A bill to amend the Clean Air Act to authorize critical use exemption amounts for methy bromide as identified by the United States State Department for the years 2006 and 2007, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RAMSTAD:

H.R. 1258. A bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself, Mr. HASTINGS of Florida, Mr. FILNER, Mr. BRADY of Pennsylvania, Mr. OWENS, Ms. CARSON, Mr. TOWNS, Ms. CORRINE BROWN of Florida, Mr. CUMMINGS, Mr. PAYNE, Mr. SCHIFF, Mr. MEEKS of New York, and Mrs. CHRISTENSEN):

H.R. 1259. A bill to authorize the President to award a gold medal on behalf of the Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces; to the Committee on Financial Services.

By Mr. REYNOLDS (for himself, Mr. SANDERS, Mr. McHUGH, Mr. OBEY, Mr. BLUNT, Mr. HINCHEY, Mr. WALSH, Mrs. JOHNSON of Connecticut, Mr. McNULTY, Mr. BARTLETT of Maryland, Mr. McGOVERN, Mr. ENGLISH of Pennsylvania, Mr. BOEHLERT, Mr. TOWNS, Mr. ETHERIDGE, Ms. SLAUGHTER, Mr. OLVER, Mr. HIGGINS, Mr. SIMMONS, Mr. SKELTON, Mr. SWEENEY, Mr. KUHL of New York, Mr. NADLER, and Mr. HOLDEN):

H.R. 1260. A bill to amend the Farm Security and Rural Investment Act of 2002 to extend contracts for national dairy market loss payments through fiscal year 2007, to increase the payment quantity authorized under such contracts, and for other purposes; to the Committee on Agriculture.

By Mr. RYUN of Kansas:

H.R. 1261. A bill to amend the National Trails System Act to improve the efficiency and fairness of acquiring railroad rights-of-way for interim use as public trails by applying the procedures applicable to other Federal real estate acquisitions; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. MARKEY, and Mr. BURGESS):

H.R. 1262. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 1263. A bill to protect and enhance consumer privacy, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TERRY (for himself, Mrs. CAPPS, and Mrs. MALONEY):

H.R. 1264. A bill to amend title XIX of the Social Security Act to provide funds to States to enable them to increase the wages paid to targeted direct support professionals in providing services to individuals with disabilities under the Medicaid program; to the Committee on Energy and Commerce.

By Mr. UDALL of Colorado:

H.R. 1265. A bill to provide a source of funding for the reclamation of abandoned hardrock mines, and for other purposes; to the Committee on Resources.

By Mr. UDALL of Colorado (for himself and Mr. SALAZAR):

H.R. 1266. A bill to facilitate the reclamation of abandoned hardrock mines, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ISRAEL:

H. Con. Res. 91. Concurrent resolution requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi; to the Committee on Government Reform.

By Mr. PRICE of North Carolina:

H. Con. Res. 92. Concurrent resolution supporting the designation, during spring 2006, of National Horticultural Therapy Week in order to improve the quality of life for all and increase opportunities for each individual positively connect with the natural world; to the Committee on Government Reform.

By Mr. REYES.

H. Con. Res. 93. Concurrent resolution expressing the sense of the Congress that the Department of Justice should halt efforts to block compensation for torture inflicted by the Government of Iraq on American prisoners of war during the 1991 Gulf War; to the Committee on the Judiciary.

By Mr. TANCREDO:

H. Con. Res. 94. Concurrent resolution commending Paul Rusesabagina for his courage and bravery in saving hundreds of lives from the genocide in Rwanda, and for other purposes; to the Committee on International Relations.

By Mr. JINDAL (for himself and Mr. BOUSTANY):

H. Res. 146. A resolution expressing support for prayer at school board meetings; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEY (for himself, Ms. MILLENDER-McDONALD, Mr. EHLERS, Mr. DOOLITTLE, Mrs. MILLER of Michigan, and Mr. REYNOLDS):

H. Res. 147. A resolution electing members to the Joint Committee on Printing and the Joint Committee of Congress on the Library; to the Committee on House Administration.

By Mrs. BIGGERT (for herself and Mr. HINOJOSA):

H. Res. 148. A resolution supporting the goals and ideals of Financial Literacy Month, and for other purposes; to the Committee on Government Reform.

By Mr. ROYCE (for himself and Mr. HONDA):

H. Res. 149. A resolution honoring the life and contributions of the late Dr. John B. Tsu for his dedication and service to the United States of America through many high-level boards and commissions and for his service on behalf of the Asian Pacific American community; to the Committee on Education and the Workforce.

By Mr. UDALL of Colorado:

H. Res. 150. A resolution recognizing the goals and ideals of a National Time Out Day to support the universal protocol, developed by the Joint Commission on Accreditation of Healthcare Organizations, for preventing errors in the operating room, and for other purposes; to the Committee on Energy and Commerce.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. PENCE introduced a bill (H.R. 1267) for the relief of Fatuka Kaikumba Flake; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. GILLMOR, Mr. LINCOLN DIAZ-BALART of Flordia, and Mr. JINDAL.

H.R. 13: Mr. RAMSTAD, Mrs. BONO, Mr. FORTUÑO, and Mr. MORAN of Kansas.

H.R. 21: Ms. ROYBAL-ALLARD, Ms. CARSON, Mr. MEEKS of New York, Mr. MARKEY, and Mr. MURTHA.

H.R. 22: Mr. HIGGINS and Mrs. CUBIN.

H.R. 23: Mr. ROTHMAN, Ms. WOOLSEY, Mr. SOUDER, Mr. JEFFERSON, Mr. BOSWELL, Mr. DUNCAN, Mrs. JONES of Ohio, Mr. STARK, Mr. BARROW, Mr. TERRY, Mr. CARDIN, Ms. BERKLEY, Mr. PORTER, and Mr. ACKERMAN.

H.R. 34: Mr. FILNER, Mr. THORNBERRY, and Mr. LoBIONDO.

H.R. 49: Mr. DeFAZIO.

H.R. 63: Mr. GONZALEZ, Mr. BROWN of Ohio, Ms. ZOE LOFGREN of California, Mr. UDALL of New Mexico, Mr. LANTOS, Mr. McDERMOTT, Ms. SCHAKOWSKY, Mr. WEXLER, Mrs. MALONEY, Mr. STRICKLAND, Mr. LEVIN, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 68: Mr. WEINER.

H.R. 110: Mr. GRIJALVA and Mr. ANDREWS.

H.R. 115: Mr. DAVIS of Florida, Mr. PALLONE, Mrs. MALONEY, Mr. ACKERMAN, Mrs. DAVIS of California, Mr. COOPER, Ms. DeLAURO, and Ms. WOOLSEY.

H.R. 127: Mr. OWENS and Mr. RUSH.

H.R. 128: Mr. MEEKS of New York, Ms. WATERS, Mr. RANGEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FORD, Ms. WOOLSEY, and Mr. BROWN of Ohio.

H.R. 206: Ms. LEE, Mr. WEINER, and Ms. SLAUGHTER.

H.R. 213: Mr. PALLONE.

H.R. 216: Mr. TIAHRT, Mr. FORBES, Mr. AKIN, Mr. SMITH of New Jersey, and Mr. RYUN of Kansas.

H.R. 230: Mr. SESSIONS.

H.R. 239: Mr. SESSIONS.

H.R. 282: Mr. SENSENBRENNER and Mr. COLE of Oklahoma.

H.R. 303: Mr. SMITH of Washington, Mrs. McCARTHY, Ms. GINNY BROWN-WAITE of Florida, Mr. BISHOP of Utah, Mr. STRICKLAND, Mr. KILDEE, and Mr. CUELLAR.

H.R. 305: Ms. HART and Mr. McHENRY.

H.R. 311: Mr. PAYNE and Mr. BROWN of Ohio.

H.R. 312: Mr. ETHERIDGE and Ms. HARMAN.

H.R. 354: Mr. OBERSTAR.

H.R. 458: Ms. MOORE of Wisconsin.

H.R. 503: Ms. WATSON, Mr. BARTLETT of Maryland, Mr. GRIJALVA, Ms. LEE, Mr. FOLEY, Mr. OLVER, Mr. PAYNE, Ms. BALDWIN, and Mrs. NAPOLITANO.

H.R. 514: Mr. SIMMONS.

H.R. 524: Mr. KUCINICH.

H.R. 525: Mr. ADERHOLT and Mr. BONNER.

H.R. 531: Mr. MICHAUD.

H.R. 533: Mr. SERRANO.

H.R. 550: Ms. WATSON, Mr. STUPAK, Mr. FORD, and Ms. DeLAURO.

H.R. 556: Mr. WAXMAN.

H.R. 558: Ms. McCOLLUM of Minnesota.

H.R. 559: Mr. KENNEDY of Rhode Island, Mr. PAYNE, and Mr. ALLEN.

H.R. 592: Ms. HART and Mr. PAYNE.

H.R. 595: Ms. CORRINE BROWN of Florida, and Mrs. JOHNSON of Connecticut.

H.R. 602: Ms. LINDA T. SÁNCHEZ of California, and Mr. PICKERING.

H.R. 623: Mr. PORTER.

H.R. 624: Ms. WOOLSEY, Ms. BERKLEY, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 653: Ms. JACKSON-LEE of Texas, Ms. KAPTUR, Mr. CAPUANO, Mr. BLUMENAUER, Mr. CARDOZA, and Ms. McKINNEY.

H.R. 668: Mr. KUCINICH and Mr. LEWIS of Georgia.

H.R. 691: Mr. GORDON.

H.R. 703: Mr. GOODLATTE and Mr. McHENRY.

H.R. 719: Mr. TERRY, Mr. GRIJALVA, Mr. KUHL of New York, Mr. KIND, Mr. TIBERI, Mr. BOOZMAN, and Mrs. EMERSON.

H.R. 721: Mr. THORNBERRY, Mr. McCAUL of Texas, Mr. GREEN of Wisconsin, and Mr. SOUDER.

H.R. 731: Mr. GIBBONS.

H.R. 739: Mr. PRICE of Georgia and Mr. MARCHANT.

H.R. 740: Mr. MARCHANT and Mr. PRICE of North Carolina.

H.R. 741: Mr. PRICE of Georgia and Mr. MARCHANT.

H.R. 742: Mr. MARCHANT and Mr. PRICE of North Carolina.

H.R. 748: Mr. CAMP and Mr. BONILLA.

H.R. 750: Mr. WELLER and Mr. TANCREDO.

H.R. 765: Mr. GUTIERREZ, Mr. ROSS, Mr. PENCE, Mr. BROWN of South Carolina, Mr. CANNON, and Mr. MANZULLO.

H.R. 768: Mr. SIMMONS, Mr. NADLER, Mr. CARNAHAN, and Mr. TIERNEY.

H.R. 771: Mr. LEWIS of Georgia.

H.R. 783: Mr. McINTYRE, Mr. CALVERT, Mr. RYAN of Wisconsin, Mr. EDWARDS, and Mr. FILNER.

H.R. 785: Mr. UPTON.

H.R. 788: Mr. HEFLEY.

H.R. 791: Mr. HINCHEY, Mr. SANDERS, and Mr. KENNEDY of Rhode Island.

H.R. 793: Mr. MICHAUD and Ms. BEAN.

H.R. 800: Mr. DeLAY, Mr. PORTER, Mr. KING of Iowa, Mr. PRICE of Georgia, Mr. COSTELLO, Mr. BARROW, Mr. MELANCON, Mr. NEUGEBAUER, Mr. HUNTER, Mr. CAMP, Mr. MOLLOHAN, and Mr. BISHOP of Georgia.

H.R. 809: Mr. SAM JOHNSON of Texas, Mr. RAMSTAD, Mr. LUCAS, and Mr. NORWOOD.

H.R. 812: Mrs. CHRISTENSEN.

H.R. 815: Mr. BARRETT of South Carolina.

H.R. 817: Mr. HOBSON, Mr. OLVER, Mr. WU, Mrs. DAVIS of California, Mr. KIRK, and Ms. BERKLEY.

H.R. 819: Mr. TERRY and Mr. KUHL of New York.

H.R. 824: Mr. GENE GREEN of Texas, Mr. MCNULTY, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. MOORE of Kansas, Mr. CONYERS, Mr. COOPER, Mr. HIGGINS, Mr. PALLONE, Mrs. MALONEY, Mr. BISHOP of Georgia, Mr. BACA, Ms. SLAUGHTER, Mr. EMANUEL, Mr. MCGOVERN, Mr. CUMMINGS, Mr. GONZALEZ, and Mr. LEWIS of Georgia.

H.R. 838: Mr. MEEHAN, Mr. SERRANO, Ms. CARSON, and Ms. ZOE LOFGREN of California.

H.R. 839: Mr. UDALL of Colorado, Mr. HONDA, Mr. BAIRD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. SLAUGHTER, Ms. WATSON, Mr. CASE, and Mr. INSLEE.

H.R. 844: Mr. RYAN of Ohio.

H.R. 859: Ms. HART and Mr. KUHL of New York.

H.R. 870: Mr. MCGOVERN, Ms. WOOLSEY, and Mr. KUCINICH.

H.R. 871: Mr. CARNAHAN and Mr. UDALL of New Mexico.

H.R. 874: Mr. MARCHANT and Mr. PRICE of Georgia.

H.R. 878: Mr. DAVIS of Florida, Ms. WOOLSEY, and Mr. WEINER.

H.R. 880: Mr. MILLER of Florida and Mr. TOWNS.

H.R. 881: Mr. SANDERS, Mr. WALSH, Mrs. MCCARTHY, Mr. ROYCE, Mr. HYDE, Mrs. CHRISTENSEN, Mr. PAYNE, Mr. RYUN of Kansas, Mr. RENZI, Mr. HINCHEY, Mr. WELLER, Mr. MILLER of Florida, and Mr. CROWLEY.

H.R. 896: Mr. LEWIS of Georgia.

H.R. 908: Mrs. CHRISTENSEN.

H.R. 913: Mr. SMITH of Washington, Ms. PELOSI, and Mr. BLUMENAUER.

H.R. 917: Ms. HERSETH, Mr. DUNCAN, Mr. PAUL, and Mr. HINCHEY.

H.R. 923: Mr. FRANK of Massachusetts and Mr. ALEXANDER.

H.R. 928: Mr. FILNER, Mr. OWENS, and Mr. BERMAN.

H.R. 934: Mr. NADLER, Mr. SALAZAR, and Mr. SHIMKUS.

H.R. 944: Mr. HALL and Mr. PAYNE.

H.R. 952: Mr. TOWNS and Ms. KAPTUR.

H.R. 968: Mr. PETERSON of Minnesota, Mr. PLATTS, Mrs. JO ANN DAVIS of Virginia, Mr. NORWOOD, and Mr. DEFAZIO.

H.R. 972: Mr. CROWLEY, Mr. GENE GREEN of Texas, Mr. SOUDER, and Mr. KUCINICH.

H.R. 997: Mr. BROWN of South Carolina.

H.R. 1001: Mr. HINOJOSA, Mr. POE, Mr. GENE GREEN of Texas, Mr. AL GREEN of Texas, Mr. BARTON of Texas, and Mr. THORNBERRY.

H.R. 1002: Mr. KUCINICH, Mr. MCNULTY, Mr. OWENS, Mr. DOGGETT, Ms. ZOE LOFGREN of California, Mrs. CHRISTENSEN, Mr. EMANUEL, Mr. BOEHLERT, and Mr. PASTOR.

H.R. 1010: Mr. CLAY.

H.R. 1039: Mr. ACKERMAN.

H.R. 1053: Mr. BARTLETT of Maryland.

H.R. 1063: Mr. MILLER of Florida, Mr. KUHL of New York, Mr. KENNEDY of Minnesota, and Ms. HARRIS.

H.R. 1073: Mr. MCKEON.

H.R. 1074: Mr. GINGREY, Mrs. MYRICK, and Mr. MCKEON.

H.R. 1075: Mr. GINGREY, Mrs. MYRICK, and Mr. MCKEON.

H.R. 1078: Mr. KILDEE.

H.R. 1079: Mr. HOSTETTLER, Mr. NEUGEBAUER, and Mr. MANZULLO.

H.R. 1080: Ms. WOOLSEY.

H.R. 1081: Mr. KENNEDY of Rhode Island.

H.R. 1100: Mr. MCKEON, Mr. FRANKS of Arizona, Mr. SHUSTER, Mr. TERRY, Mr. FORBES, and Mr. MANZULLO.

H.R. 1106: Mr. SANDERS and Ms. KAPTUR.

H.R. 1107: Mr. BROWN of Ohio, Mr. MCINTYRE, Mr. SANDERS, Mr. PALLONE, Mr. GORDON, Ms. HARMAN, and Ms. SLAUGHTER.

H.R. 1134: Mr. MURPHY.

H.R. 1139: Mr. HINCHEY.

H.R. 1145: Mr. GENE GREEN of Texas, Ms. WOOLSEY, Mr. OSBORNE, Mr. PLATTS, Mr. PASTOR, and Mr. MCINTYRE.

H.R. 1151: Mr. BOUSTANY, Mr. FORTENBERRY, Mr. NEUGEBAUER, Mr. GOHMERT, Mr. DEAL of Georgia, Mr. GINGREY, Mr. WHITFIELD, Mr. NORWOOD, Mr. LATHAM, Mr. CANNON, Mr. BROWN of South Carolina, Ms. HARRIS, Mr. LYNCH, Mr. ROHRABACHER, Mr. DUNCAN, Mr. CAMP, Mr. KLINE, Mr. COLE of Oklahoma, Mr. GOODE, Mr. WELDON of Pennsylvania, Mr. PETERSON of Pennsylvania, Mr. MURPHY, Mr. KING of New York, Mr. PRICE of Georgia, Mr. HUNTER, Mr. MCHUGH, Mr. PETERSON of Minnesota, Mr. SHIMKUS, Mr. JACKSON of Illinois, Mr. BACHUS, Mr. SKELTON, Mr. CARTER, Mr. LEWIS of Kentucky, Mr. HALL, Mr. REGULA, Mr. BURTON of Indiana, Mr. COSTELLO, Mr. PUTNAM, Mr. SHUSTER, and Mrs. MCCARTHY.

H.R. 1155: Mr. LARSON of Connecticut.

H.R. 1157: Mr. MICHAUD.

H.R. 1185: Mr. ADERHOLT and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1189: Mr. GILLMORE.

H.R. 1210: Ms. SLAUGHTER.

H.J. Res. 10: Mr. SIMPSON, Mr. LAHOOD, and Mr. MICHAUD.

H.J. Res. 23: Ms. DELAURO.

H. Con. Res. 10: Mr. SHAYS, Ms. WOOLSEY, Mr. KUHL of New York, and Mr. HINCHEY.

H. Con. Res. 18: Mr. POE.

H. Con. Res. 47: Mr. SERRANO.

H. Con. Res. 52: Mr. OTTER.

H. Con. Res. 57: Mr. GONZALEZ and Mr. LEWIS of Georgia.

H. Con. Res. 70: Mr. ANDREWS, Mr. SCOTT of Georgia, and Mr. BARTLETT of Maryland.

H. Con. Res. 76: Mr. FORBES, Mr. SOUDER, Mr. JONES of North Carolina, Ms. HARRIS, Mr. MCGOVERN, and Mr. MCNULTY.

H. Con. Res. 81: Mr. SHERMAN.

H. Con. Res. 83: Mr. ANDREWS and Mr. SHAYS.

H. Con. Res. 85: Mr. PLATTS, Mr. TAYLOR of Mississippi, and Mr. MORAN of Virginia.

H. Res. 37: Mr. SCHIFF, Mr. RAHALL, Mr. BURTON of Indiana, and Mr. MCCOTTER.

H. Res. 61: Mr. LEWIS of Georgia.

H. Res. 84: Mr. PENCE.

H. Res. 90: Ms. HARMAN, Mr. FRANK of Massachusetts, and Mr. LEWIS of Georgia.

H. Res. 101: Mr. DOOLITTLE, Ms. HARMAN, Mr. ANDREWS, Mr. LARSON of Connecticut, and Mr. WAXMAN.

H. Res. 108: Mr. SHERMAN and Mr. PRICE of North Carolina.

H. Res. 116: Ms. MCCOLLUM of Minnesota, Mr. DEFAZIO, Mr. BLUMENAUER, Mr. PALLONE, and Ms. KAPTUR.

H. Res. 120: Mr. AL GREEN of Texas and Mr. LARSEN of Washington.

H. Res. 131: Mr. SMITH of Washington, Mr. PRICE of North Carolina, Mrs. DAVIS of California, Ms. BERKLEY, Ms. HARMAN, Mr. KIND, Ms. WATSON, Mr. COOPER, Mr. LANGEVIN, Mr. CARDOZA, Mr. HASTINGS of Florida, Mr. SHERMAN, Mr. MCINTYRE, Mr. JEFFERSON, Mr. LARSEN of Washington, Ms. HERSETH, Mr. BOSWELL, and Mr. MOORE of Kansas.

H. Res. 135: Ms. KAPTUR, Mr. SKELTON, Mr. BOEHLERT, Mr. SENSENBRENNER, Mr. SHERMAN, Ms. HARRIS, Mr. KUHL of New York, Mr. BOEHNER, Mr. YOUNG of Alaska, Mr. PASTOR, Mr. GORDON, and Ms. ROS-LEHTINEN.

H. Res. 137: Mr. KUHL of New York, Mr. DOOLITTLE, Mr. MCGOVERN, Mr. LAHOOD, and Ms. HERSETH.

H. Res. 145: Mr. RAMSTAD.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 21: Mr. BACA.

H.R. 623: Mr. ROSS.

# SENATE—*Thursday, March 10, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain John K. Jenkins, Sr., Pastor at First Baptist Church of Glenarden, Landover, MD.

## PRAYER

The guest Chaplain offered the following prayer:

Shall we pray.

Heavenly Father, I come before Your presence to thank You and praise You for this day. I thank You for Your goodness and Your mercy. I thank You for Your grace and love that You have extended to us every day.

Father, I come to You today to thank You for the honor and privilege of living in this great and marvelous country. I thank You for our freedom and for the ability to worship You and serve You freely. We do not consider it lightly that You have given us this opportunity, and we thank You.

I cry out to You this day, Heavenly Father, for our Nation—for the people of this country. I cry out for the mothers and fathers. I pray for their children. I cry out for our school systems, police departments, government agencies and businesses. Please allow this Nation to be one that will honor You and Your ways.

Lord, I beseech Your throne this day on behalf of these prominent leaders of our Nation. Give them Your truth and Your direction. Give them Your wisdom and Your power. I pray for each of these Senators and their families—their spouses and their children. I pray for the people whom these men and women represent. I ask that You meet their needs and prove Yourself strong to each of them.

Finally, Father, I close this prayer by giving You thanks and praise for what You have already done, for what You are doing, and for what You are going to do. I thank You now and I pray this prayer in the Mighty Name of my resurrected Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 10, 2005.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning, we will have morning business until 11 a.m. At 11 o'clock, we will resume the bankruptcy legislation and immediately proceed to three consecutive rollcall votes. Those votes are on the Kennedy amendments Nos. 70 and 69, and the Akaka amendment No. 105. Under the order from last night, we will then have another series or two of stacked votes throughout the day in order to finish the bill.

We will vote on final passage of the bankruptcy bill later today. It is going to be a very busy day, with many rollcall votes over the course of today. Therefore, I encourage all Members to remain close to the floor. We will limit all votes, after the first in the series, to 10 minutes in length. I encourage my colleagues to stay nearby so that we do not have to extend this limit. It is always difficult, and we always have excuses as people come in a few minutes late, but on a day like today we need—we will; not need—we will finish this bill. We will have a lot of votes over the course of today. We have to have all of our colleagues understand that they need to come and vote, and vote on time.

Over the course of the day, we will consider the bankruptcy bill. It is a bill we have worked on for not just the last 2 weeks solidly but really for the last about 7 years or 8 years, almost in the same form that is being addressed today. It has been talked about, has been discussed, has been debated, and has been modified.

Later today, we will have a great victory again for the American people in passing the bill that I expect will pass with overwhelming bipartisan support. The issues that we are talking about are not Democrat issues or Republican issues; they really are American issues. Today, people will be able to look back over the course of the last 2 weeks, and really this whole 109th Congress, and say that we are doing what the American people want, what they deserve; that is, to govern with meaningful solutions to the very real challenges, the very real problems in people's lives, whether it is in Tennessee or Florida or Nevada or California, all over this country. So I am very pleased with the activity on the floor of the Senate.

Over the course of the day, the Budget Committee will also be marking up the budget proposal. Once that markup is completed, we will bring that to the floor. I would very much like to be able to start that bill, if at all possible, tomorrow. Under the rules of the Senate, after that bill comes to the floor, we will spend 50 hours on that bill, and we will have a number of votes.

Once again, historically, or in the recent past, we have had amendment after amendment after amendment. The Democratic leader and I have, over the last week, been engaged in discussions on how we can help the managers of that bill limit the amendments to those amendments that really are important and substantive and to have a good discussion between us and between the managers, among all the Senators, so we can coordinate how to bring those amendments to the floor and have them voted upon so that we do not, at the end of the day, or at the end of that 50 hours, have 30, 40, 50, 60, 70, 80, 90 amendments, which we have seen in the past. It is not necessary.

If we can work together over the course of the next 8 or 9 days, I believe we can take what can be very chaotic on the floor and give it some definition and make it clear to people we want their ideas heard, we want them debated within the 50 hours, we want to have them voted upon, but we can do it in a way that brings order out of this sometimes chaotic process.

With that, Mr. President, I will yield the floor, looking forward to a very full day. We will be in session tomorrow. I would think—and I will have more to say a little bit later, but in talking to the Democratic leader, if we can complete the budget today in committee, and I believe we can, and if we complete this bankruptcy bill, which we will, then I would think we probably would not have to have rollcall votes tomorrow. We will be in session tomorrow. I put both of those "ifs" in there because we have to move forward and accomplish the business before us. If we were unable to finish those two things, we would have to be in tomorrow with rollcall votes.

But our goal is to complete the markup on the budget and complete the bankruptcy bill today. I would like to do it in the late afternoon. If not, we will go into the evening until we complete both.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the time equally divided between the leaders or their designees.

The Senator from Massachusetts.

## BANKRUPTCY REFORM

Mr. KENNEDY. I yield myself such time as I might use.

Mr. President, I speak now in morning business because at 11 o'clock we will have a continuation of votes in the Senate on the bankruptcy bill. Then we will have a series of votes later on in the afternoon, with a time to be designated by the leadership. Then we will move to final passage. There would not be otherwise an opportunity to express my views about the bankruptcy bill in general and on a number of the items we have debated and on which we have failed to persuade the majority of our colleagues. I want to reference those in my remarks this morning.

America at its best is when we are united in common cause and a unified purpose. We came together to overcome the Great Depression. We came together to fight two world wars against tyranny. We came together in the Cold War years to contain and defeat Communism. We came together to fight polio, to explore the heavens, and to create a secure retirement for our seniors. We came together after much struggle to expand the circle of opportunity in America for civil rights, voting rights, disability rights, and women's rights. We came together on 9/11 as a nation determined to fight terrorism and defend our land.

As Americans, we know how to come together to achieve great goals, to make stronger our communities, our families, our economy, our schools, and our nation. That is the America I believe in. That is the America I fight for every day. An America where we are joined arm in arm to advance the cause of opportunity, freedom, and fairness for all of our people.

But this legislation breaks the bond that unites America, the bond that makes our country strong. It says the concerns of low and middle-income families don't matter. They no longer have a voice in the United States Senate. What matters are the special interests. This bill sacrifices the hopes and dreams of average Americans to the rampant greed of the credit card industry. It turns the United States Senate into a collection agency for the credit card companies, reaching the long arm of the law into the pocketbooks of average Americans who have reached the end of their economic rope.

That is wrong. That is not what we should be doing here. We have a responsibility to the people to fight for them and their needs, not to do the bidding of the almighty credit card companies.

A lot of people are going to be pained with this bill. Make no mistake. The idea that this bill is focused on spendthrifts is laughable when the other side admits that the most we have in terms of spendthrifts is maybe 10 percent of the total of those who go into bankruptcy, and most of the bankruptcy attorneys say it is anywhere from 5 to 7 percent. We are picking up all these individuals who are going to be forced to pay and be treated more harshly with this bill than they otherwise would be under the regular Bankruptcy Act.

Our bankruptcy laws are intended to give families a second chance. As Americans, we believe that if you work hard, live responsibly, but fall on hard times, our bankruptcy laws should be there to help you get back on your feet. If you get sick and face a mountain of medical bills, if you face divorce and no longer have two incomes to support your family, if your job gets sent overseas, then Americans believe you should have an opportunity to rebuild your lives.

These are the principal causes for bankruptcy. We know that more children drop out of college every single year, not academically, but because of the cost of student loans. They can't pay them. We have been through this during the course of the debate. If you have a heart attack, if you are diagnosed with cancer, even if you have health insurance, you basically have overwhelming bills and more often than not get thrown into bankruptcy. If you get divorced—as we will have a chance to vote on—200,000 women don't receive alimony and don't receive child support, these are hard-working Americans who are going to get thrown into bankruptcy. And rather than be let out so that they will have a new chance and a new opportunity in life because they have done nothing wrong, they are going to be tied up and paying the credit card companies for the next 5 years. That is the way this bill works.

This bill changes everything. It takes dozens and dozens of bankruptcy rules and rewrites every single one of them in favor of the credit card industry. Yesterday, we witnessed the powerful grip of this industry over the Republican Party. The Republicans defeated amendment after amendment after amendment after amendment that tried to give average Americans a fair chance when they face the credit card company lawyers in bankruptcy court. But when it appeared that a special interest loophole for the financial services industry threatened to be closed by the Leahy-Sarbanes-Warner amendment, the Republicans shut down the Senate.

It is not as if the credit card industry is suffering. As we can see from this chart, the profits are in the billions of dollars: $6.4 billion 1990; $12.9 billion in 1995; $20.5 billion in 2000; and they expect as a result of this bill that it will be 5 billion more dollars in profits. That is what this bill will mean. Over who? Over the families going into bankruptcy because of a heart attack, a stroke, children who have spina bifida, over women who are not getting paid alimony or child support, over those workers whose jobs have been shipped overseas trying hard to pick up another job and can't keep up with the payments and go into bankruptcy. Those are the people who are suffering. But when it came to an issue involving the financial services industry, our Republican leadership closed the Senate down last night.

In the 8 years that this bill has been before the Senate, credit card profits have jumped 163 percent from $11.5 billion a year to more than $30 billion a year.

We hear the proponents of this legislation say: Look, we have had this legislation before us for 8 years. We have a problem. We have to deal with the problem. A problem, with these kinds of profits?

We have a problem with health care coverage for Americans. We have a problem with the cost of health care. We have a challenge in supporting our schools and our local communities. That is what is on the minds of Americans. Here we are in the Senate, taking 2 weeks of our time in order to look out for the credit card companies and make sure there are going to be greater profits for a single industry. That is the priority of the Republican leadership, rather than dealing with the root causes of so many of those who will be dragged into bankruptcy and made indentured servants to the credit card industry for the next 5 years. It does not make sense. These are the wrong priorities, the wrong values.

Middle class families are facing tough times with incomes falling, health costs out of control, college tuition through the roof, and now gasoline prices rising once again.

But this bill says that what's going on in your life every day doesn't matter.

You may be a member of the Guard or the Reserve called to Iraq and your business failed because you were away serving your country. In fact, 40 percent of those called up say they lost income, and over 19,000 soldiers declared bankruptcy just last year. They sacrificed their lives in Iraq and their financial security here at home, but the credit card companies will honor their service by squeezing every last dime out of our veterans in bankruptcy court.

Here is a letter from the Military Officers Association of America:

> On behalf of the nearly 370,000 members of the Military Officers Association . . . I am writing to request your support for the protection of servicemembers, veterans, and military survivors from the increased bankruptcy penalties.

They have it right, "increased bankruptcy penalties." And this was written after Senators accepted the Sessions amendment which is just eye dressing.

> Our association is sensitive that overseas contingencies disrupt the lives and finances of servicemembers and their families. This is particularly true of the mobilized Guard and Reserve members. Those who are self-employed, or who took significant pay cuts from their civilian occupations, have been placed at increased risk of facing bankruptcy because of their service and sacrifice for our Nation. Survivors of members killed on active duty also may find themselves at increased financial risk. Many have left service rather than be subject to similar recalls in the future, and we are already concerned about the implications of this for long-term retention and readiness.
>
> MOAA does not believe this is the time to impose new financial strictures . . .

There it is. Nonetheless, we have gone ahead and done that. Democrats tried to correct this problem, to put some balance and fairness in the bill. Senator DURBIN offered an amendment to protect those who protect us, but our Republican friends said no. Every single Republican in the United States Senate voted for more credit card profits and against our service men and women.

You may be a cancer survivor, but you can't survive the $35,000 in medical bills that your insurance company won't pay, and you lost another $20,000 for all the months you couldn't work and had to use your credit cards to pay the mortgage, cover the car payments, pay the utilities, and buy the groceries. You're doing everything you can to pay down your debt. You have taken out a second mortgage. You have cashed in your retirement savings. Your family is sharing one car.

But that doesn't matter. Under this bill, the profits of the credit card companies are more important than your recovery from cancer. Tough words; tough bill.

Democrats fought to correct this problem. I offered an amendment to give responsible Americans who fall on hard times due to illness or injury a fair chance in bankruptcy court. But the Republicans voted against these Americans in favor of the credit card companies.

You may be a single mother trying to raise your family, juggle your job and school, and rely on alimony and child support to pay the bills. But more than 200,000 women owed alimony or child support are forced into bankruptcy every year.

Democrats are addressing this problem, too. Republicans have a chance to vote for single mothers later this morning. We have a chance to say to women across America, who are taking responsibility every single day for their children, but have a deadbeat dad who won't do his part, that we're on your side. We believe it's more important for you to get back on your feet than for the credit card companies to have greater profits.

Maybe your job was one of the 2.8 million manufacturing jobs that have been shipped overseas in the past 4 years. You found a new job, but it pays only half as much. But under this bill, it doesn't matter. In bankruptcy court you will still have to keep paying the exorbitant interest payments to the credit card companies as if you still had your old, better paying job.

It doesn't matter that you have worked hard and lived responsibly all your life.

It doesn't matter that you were willing to take a lower paying job because you wanted to be a contributing member of society.

It doesn't matter that you clip grocery coupons every week to try to preserve the money you set aside to put your children through college.

It doesn't matter that you gave up your vacation to pay for repairs to your leaky roof.

It doesn't matter that your lost job means you had to move your elderly parents into a cheaper nursing home to try to avoid bankruptcy.

It doesn't matter. You can sacrifice and cut corners and put aside hopes and plans and dreams. But all that matters in this bill is for the credit card companies to have more and more profits.

We'll have a chance to vote on this question later this morning, too. But I have a feeling that Republicans are going to say no to the needs of Americans whose jobs have been outsourced overseas, just as they have said no to Iraq veterans, to single mothers, to children, and to seniors.

We should be working to unite the country to achieve great goals again. Why are we not debating those issues here on the floor of the Senate, instead of trying to get more profits for the credit card industry—perhaps the most profitable industry in America—at the expense of the mothers, children, veterans of Iraq, those who have serious health care bills, and those whose jobs have been shipped overseas. We should be battling for them. We should be battling to improve our schools and make college more affordable. We should be strengthening our economy and training our workers to compete against globalization. We should be fighting to keep our country safe from terrorism.

This bill makes these goals more difficult to achieve. It divides America by rewarding the most powerful special interests at the expense of low and middle-income families. A Republican supporter of the bill said yesterday that this bill was "fair and balanced." Where is the fairness? Where is the balance?

It does nothing to fix the millionaires' mansion loophole that allows millionaires to go into bankruptcy and still keep their massive estates. You may lose your home, but they get to keep their palaces under this bill. Where was the effort on the other side—talking about a fair and balanced bill—to try to do something about that? All they could do was whip up their own membership in order to defeat that amendment to have one standard for all Americans. That is what I thought we were about as a country one standard—not a dual standard for wealthy millionaires that can hide the tens of millions of dollars in their mansions and palaces in a handful of States.

It does nothing to help the thousands upon thousands of employees and retirees of companies like Enron and WorldCom and Polaroid, who are left out, twisting in the wind, after a bankruptcy process that lets the responsible corporate executives go free. They go free. These employees lose their pensions, their health insurance, their retirement, and their investments, as they did at Polaroid. Is there anything in this bill to try to help those individuals, many of whom worked a lifetime for these companies? Absolutely not. They are fair game. After these individuals, the Ebbers, the Skillings, Enron, and the rest, robbed those companies, they are sitting in their mansions now in Houston; but these other individuals will be dragged into bankruptcy court if they get a serious illness or sickness, or if they run into family problems.

Fair and balanced? No way, Mr. President. The Republicans and the credit card companies may get their way, and the American people may lose this round; but the fight is never over until we have assured fairness and freedom and opportunity for every one of our citizens. That is our pledge as Democrats today and tomorrow and in the future. That is why I hope our colleagues will vote no.

I will mention a few further items. One is from the Children's Defense Fund, who care about children. We tried to point out some of the other groups that will be affected. Here is a letter from the Children's Defense Fund. I will read excerpts of it. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> CHILDREN'S DEFENSE FUND,
> *Washington, DC, March 1, 2005.*
>
> Re: oppose S. 256, the Bankruptcy Act of 2005.
>
> DEAR SENATOR: The Children's Defense Fund is writing to urge you to oppose S. 256, a bankruptcy bill that would hurt many Americans facing financial problems due to job loss, divorce, child-rearing, lack of medical insurance, or predatory lending practices. This bill would inflict hardship on more than one million economically vulnerable women and families who are affected by the bankruptcy system each year. Medical emergency, job loss or family breakups are factors which account for nine out of ten filings.
>
> The bill would also hurt women who are owed child or spousal support by men who file for bankruptcy. The bill will make it more difficult for mothers to collect support because credit card companies and other commercial creditors will have greater claims to the debtor's resources during and after bankruptcy. Being first among unsecured creditors in Chapter 7 bankruptcy is meaningless when over 95 percent of debtors have no resources to pay unsecured creditors. In Chapter 13, the bill would require larger payments to be made to many commercial creditors, resulting in smaller payments of past-due child support over a longer period of time, increasing the risk that child support debts will not be paid in full. And after the bankruptcy is over, more debts owed to commercial creditors will survive—and mothers and children owed support are not a match for the collection departments of the commercial credit industry.
>
> S. 256 contains a number of provisions which would have a severe impact on families trying to regain their economic stability through the bankruptcy process. S. 256 would make it harder for women to access the bankruptcy system. Low and moderate income families are not protected from many of the bill's harsh provisions. Parents who desperately need to preserve their homes from foreclosure or prevent their families from being evicted, or keep a car to get to work, would find it more difficult to do so. And, when the bankruptcy process was over, parents already facing economic disadvantage would find it harder to focus their income on reasonable and necessary support for dependent children because many more debts would survive.
>
> Passage of the bankruptcy bill would make it harder for families struck by financial misfortune to get back on track. It would benefit the very profitable credit card industry at the expense of the modest-income families who represent the great majority of those who declare bankruptcy. Congress should not enact reform that puts women and children at greater risk. The bill is profoundly unfair and unbalanced. Unless there are major changes to S. 256, we urge you to oppose it.
>
> Very truly yours,
> DEBORAH CUTLER-ORTIZ,
> *Director of Family Income and Jobs,*
> *Children's Defense Fund.*

Mr. KENNEDY. In part, the letter says:

> This bill would inflict hardship on more than 1 million economically vulnerable women and families who are affected by the bankruptcy system each year.
>
> . . . and after the bankruptcy is over, more and more debts owed to the commercial creditors will survive—and mothers and children owed support are not a match for the collection departments of the commercial credit industry.

There it is. The credit card companies and the mothers will be scrambling over the nickels and dimes that might be left. Guess who is going to win out? That is the fairness and balance that has been put in here. That is why the Children's Defense Fund is strongly opposed to this.

The National Women's Law Center wrote:

> This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy.

It will make it "harder for women to meet their children's needs after bankruptcy because many more debts would survive."

Finally, the Alliance for Retired Americans wrote:

> The fastest growing group of Americans filing for bankruptcy are those over 65. This unfortunate situation has been caused by skyrocketing health costs that can drain a lifetime of savings in a very short period of time. In addition, many older Americans have seen their pensions and retirement savings disappear as well. The result has been that many older Americans cannot enjoy the security in their retirement through no fault of their own. And they end up in bankruptcy.
>
> This legislation before the Senate actually increases the burden on older Americans who undergo financially difficult times through health care costs or loss of retirement income.

This administration wants to privatize Social Security. This is what they say. That is why they are opposed to it. Those who represent the children are opposed to it. The ones in the military are opposed to it. Those who represent workers are opposed to it. Those who represent women are opposed to it. The one group that is for it is the credit card companies. Take your choice. I know how I will decide.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Utah.

Mr. HATCH. Madam President, the crisis created by the unprecedented use of filibusters to defeat judicial nominations must be solved while preserving two important Senate traditions. On the one hand, extended debate is an important part of how the United States Senate conducts its legislative business. On the other hand, we have traditionally given judicial nominations reaching the Senate floor a final confirmation decision. Two years ago, this latter tradition was attacked when the filibuster was used for the first time to defeat majority supported judicial nominations. Mr. President, these are two different and important traditions and each must be preserved.

Solving this crisis by restoring Senate tradition is not a partisan step, but is in the interest of the Senate as an institution. Both Republicans and Democrats should follow the same standard, no matter which party occupies the White House or runs the Senate. Neither Democrats nor Republicans should have to go through this vicious cycle of filibusters against qualified judicial nominees.

Let me first clarify once again the situation in which we find ourselves. Before 2003, no majority supported judicial nomination had been defeated by a filibuster. Under our Rule XXII, we did vote on motions to end debate on judicial nominations, though we did so just 15 times in 35 years. Simply taking a cloture vote, however, does not mean a filibuster is underway. In fact, some of those cloture votes were used deliberately to prevent filibusters, clearing the procedural path and guaranteeing an up or down confirmation vote. Some have been used for floor management purposes. We did so even on very controversial nominations, such as President Clinton's choices of Richard Paez and Marsha Berzon for the U.S. Court of Appeals for the Ninth Circuit.

Before 2003, only one judicial nomination on which cloture was not invoked was not confirmed. Opposition to cloture on the controversial 1968 nomination of Abe Fortas to be Chief Justice was evenly bipartisan and showed that the nominee lacked clear majority support. At the nominee's request, President Lyndon Johnson withdrew the nomination the next day. Senator Robert Griffin, from Michigan, who led opposition to the nomination, personally told me that there never was an intention to use the filibuster to defeat the Fortas nomination. There was no need, since the votes were there to defeat the nomination outright. Lyndon Johnson knew it and that is why they withdrew the nomination rather than be embarrassed by the bipartisan vote of both parties against the nominee.

Before 2003, if the Senate rejected a judicial nomination that reached the Senate floor, we did so by voting it down; filibusters did not prevent a final vote in order to keep a nomination from confirmation. The break with that tradition came in 2003. During the 108th Congress alone, we voted on motions to end debate on judicial nominations 20 times. Each vote failed, and opposition to cloture was completely partisan. None of those nominees was confirmed, though each had clear bipartisan majority support.

Those who want to end this Senate tradition of giving judicial nominations reaching the Senate floor an up or down vote fear they will lose if we follow that tradition. To them, the end of defeating President Bush's judicial nominations justifies the means of destroying Senate tradition. Being honest about it would reveal how such partisan strategies are politicizing the judicial appointment process, so they try to make other arguments.

They claim Republicans filibustered President Clinton's judicial nominations, but each of his judicial nominees on whom we took a cloture vote is today a sitting Federal judge.

They claim they don't filibuster very often, which is beside the point if using the filibuster against judicial nominations violates constitutional principles and departs from Senate tradition. There have already been enough judicial nomination filibusters to give President Bush the lowest appeals court confirmation rate of any president since Franklin Roosevelt.

Or they claim they filibuster only nominees who are out of some kind of mainstream. It is difficult to know what that charge really means, especially since the American Bar Association—which Democrats once considered the gold standard—has found them qualified. Senators may, of course, vote against a judicial nominee for any reason they wish, but we should stop pretending that out of the mainstream is anything more than a prediction that the nominee may not always rule the way liberal interest groups want. Considering the stream in which many of those groups swim, I'm not so sure this isn't a compliment. If the mainstream really mattered, though, these filibusters would never have started. Newspaper editorials opposing filibusters of judicial nominations outnumber those supporting them by at least six-to-one.

Madam President, I ask unanimous consent that some representative editorials from mainstream newspapers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 13, 2003]

### THE POLITICS OF FILIBUSTERS

Where's Jimmy Stewart when you need him? Two historic filibusters are currently under way in the Senate—one's been going on for months—but next to no one outside the Beltway has noticed.

Senate business proceeds as usual, the Members get to sleep in their own beds at night, and Miguel Estrada and Priscilla Owen's names come up only when repeated motions to close debate and bring their judicial nominations to a vote are defeated. Hollywood is not remaking "Mr. Smith Goes to Washington." All of which is exactly the way Democrats want it: They can defeat two Bush judges, and more down the road, without paying a political price.

So one can hardly blame Majority Leader Bill Frist for trying to shine a little light on the problem. The Democrats are imposing an extraordinary new standard for confirming judges—not a simple majority of 51 votes but a super-majority of 60, the number required to shut off debate. Both filibustered nominees have the support of a bipartisan majority, yet they are being denied the confirmation votes to which they are entitled under the advice-and-consent clause of the U.S. Constitution.

Mr. Frist's proposed solution is to change the procedure under which debate ends and a vote is taken, a process known as "cloture." He would amend Senate Rule XXII so that the number of votes needed to end a filibuster would fall from 60 to 57 to 54 to 51 on successive votes. This would preserve the essential purpose of the filibuster—which is to give the minority a chance to make their case—but not let them abuse the system by holding confirmable nominees hostage forever.

Georgia Democrat Zell Miller made an even more ambitious reform proposal on this page in March, when he called for new cloture rules for nominations and legislation—not just nominations, as Mr. Frist proposes. Mr. Miller's proposal was in turn based on one in 1995 by Democrats Tom Harkin and Joseph Lieberman.

That last one had the support of none other than Tom Daschle, who said at the time that "Democracy means majority rule, not minority gridlock." Mr. Daschle hewed to a different principle on Sunday, when he told NBC's "Meet the Press" that Mr. Estrada and Judge Owen are "exceptions to the rule" that every nominee deserves an up or down vote in the Senate. Apparently he doesn't believe the Constitution should be applied equally to every American.

Under current practice no Senate rule, including the 60-vote cloture rule, can be changed except by a two-thirds majority. Which is where things get interesting, constitutionally speaking. Many legal scholars—liberal and conservative—argue that Rule XXII is unconstitutional because it binds future Senates to rules made by a past Senate. "It is an ancient principle of Anglo-American law that one legislature cannot bind a succeeding legislature," Steven Calabresi of Northwestern Law School, told the Senate last week.

Catholic University's Douglas Kmiec made a similar point on this page in March, and Lloyd Cutler, White House Counsel to Presidents Carter and Clinton, wrote in 1993 that "the Senate rule requiring a super-majority vote to cut off debate is unconstitutional." Vice Presidents Nixon, Humphrey and Rockefeller, while presiding over the Senate, have all held that Senate rules can be changed by a simple majority.

If the current Senate did that with Rule XXII—obtain a majority vote to change the cloture rules for nominations—Vice President Cheney would presumably agree. That would leave the Democrats with the option of going to court, where the Supreme Court could take the case or, more likely, decide it was a political dispute best left to the Senate to resolve. The President's nominees would be seated.

We've said it before, but it's worth repeating that the Democrats' judicial filibusters are unprecedented in Senate history. Filibustering nominations wasn't even permitted until 1949 and the sole judicial nominee stopped by a filibuster was Abe Fortas, LBJ's nominee for Supreme Court Chief Justice, who faced charges of corruption. Meanwhile, the Democrats are just warming up. A third appeals-court filibuster looks likely this spring, and a Supreme Court filibuster could be next if there's a vacancy this summer.

The system for confirming judges is clearly broken. Democrats are playing politics with Senate rules, but they now profess shock and outrage that Republicans want to play politics too and reform the filibuster rules being abused. Sounds to us as if Republicans are on to something.

---

[From the Wheeling News Register
Intelligencer, Sept. 8, 2003]

### TIME FOR FILIBUSTER RULES TO CHANGE

Miguel Estrada, whose nomination to the U.S. Court of Appeals was bottled up by hyper-partisan Democratic opposition for more than two years, decided to get on with his life and withdrew himself from the nomination process.

It should not have shocked Republicans to see their liberal colleagues play hardball on judicial nominations. Democrats have been doing it since the Reagan administration. Teddy Kennedy and friends undoubtedly are astonished to encounter a GOP Senate leadership so feckless that it has allowed them to get away with imposing an extra-constitutional 60-vote supermajority requirement on judicial nominations, by using the filibuster technique to stall a vote on Estrada. It takes 60 votes to end a filibuster, and Senate leaders no less than seven times mounted "cloture" votes to "end debate," each time coming up short.

But they never forced Democrats to take to the Senate floor to expound at length about their opposition to Estrada or any of the several other nominees now subject to powder-puff filibusters. All a senator need do these days is threaten a "filibuster," and—presto!—60 votes are required to accomplish anything. The "filibustering" senators need not worry about actually having to publicly defend their position on the Senate floor.

Yes, long gone are the scenes from Frank Capra films in which senators lose their voices trying to keep the floor to maintain filibusters.

While Republicans have control of the Senate, they should put an end to this practice that allows the will of the minority to prevail without any effort being put into it.

The practical effect of GOP leaders allowing the minority to so easily impose a 60-vote supermajority means there's a new set of litmus tests for the courts: No judge may be confirmed unless he or she agrees with the Senate's left wing.

Now that there's nomination blood in the water, Republicans can expect a lot more bare-knuckle torpedoing of President Bush's judicial nominees unless Republicans are willing to actually get a little political dirt under their fingernails. And maybe even—gasp!—sacrifice an all-nighter on the Senate floor by making the "filibusterers" actually filibuster. If they want it badly enough, they should have to work for it.

---

[From the Grand Forks Herald, Mar. 13, 2003]

### CALL END TO FILIBUSTER

(By Tom Dennis)

Our View: Don't set a new constitutional standard of demanding a supermajority vote.

North Dakota's congressional delegation has to walk a political tightrope. Sens. Kent Conrad and Byron Dorgan and Rep. Earl Pomeroy are Democrats, while North Dakota itself trends heavily Republican. The GOP's supermajorities in both houses of the state Legislature, plus the fact that voters chose Republicans for president in 1992, 1996 and 2000, illustrate this.

But the delegation not only has walked that tightrope, it has done handstands and even an occasional flip. All three members are masters of wrangling federal dollars for North Dakota projects. Furthermore, they've chosen their party-line issues with care, voting with the Democrats on the budget but showing more independence on some social and environmental issues.

The Miguel Estrada filibuster in the Senate, however, may change that perception.

Because the filibuster is as nakedly partisan as an issue gets.

Estrada is President Bush's candidate for the District of Columbia Circuit Court of Appeals. He's a Harvard Law School graduate who clerked for a Supreme Court justice, worked in the U.S. Solicitor General's office, argued cases in front of the Supreme Court, earned the top ranking of "well qualified" from the American Bar Association—and didn't speak English when he immigrated to the United States from Honduras, to boot.

Fifty-five senators (including four Democrats) support his nomination. But the other 45 Senators won't let it come to the floor for a vote. They've invoked a filibuster. They say they're doing it because Estrada hasn't answered enough questions, but that's patently false. Senators know as much or more about Estrada as they have about most nominees. Furthermore, when given the chance to ask Estrada more questions in writing, not one Democratic senator took the administration up on its offer.

No, the transparent reason for the filibuster is that Estrada's a conservative Hispanic lawyer who has a shot at being named to the U.S. Supreme Court.

And for the left wing of the Democratic party, that's do-or-die unacceptable.

Conrad and Dorgan should distance themselves from this scorched-earth tactic. The Constitution gives the president the power to appoint "with the Advice and Consent of the Senate . . . Judges of the supreme Court and all other Officers of the United States." It does so in the same paragraph in which it lists a special power demanding a two-thirds majority Senate vote—namely, the power to ratify treaties.

The Founding Fathers could have held judicial confirmations to that higher standard. But they didn't. Clearly, they intended judges to be confirmed by a simple Senate majority. Just as clearly, 200 years of Senate practice call for the same thing.

The GOP won its Senate majority fair and square. The filibustering Democrats smack of being spoilers when they obstruct majority rule, especially because their objection in this case is not based on truth, justice or the American way, but on politics.

Fifty-five duly elected United States senators are willing to give Estrada the nod. That's enough.

Let his nomination come to the floor, and call the vote.

---

[From the Buffalo News (New York), Mar. 19, 2003]

### Let's Change Rules That Hang Up Judicial Nominees

Senate rules are an important part of American political tradition, worthy of respect. Ditto for the constitutional process by which the Senate confirms federal judges. The abuse of one must not be allowed to undermine the other. But that is precisely what is happening. No matter which party controls the Senate gavel, when it comes to confirming judges, those in power too often behave reprehensibly.

Senators grandstand and play games. They distort nominees' records and views, misrepresent their positions and malign them with words like "extremist." It is no wonder there is such a high number of judicial vacancies at the federal level. . . .

The system is flat broken. And, finally, last week, thank goodness, someone said so. President Bush is justifiably upset at how Democrats have abused the filibuster to thwart the nomination of Miguel Estrada. . . .

Now the president proposes something drastic: amend the Senate rule book to require that, no matter which party controls the White House or Senate, all federal judicial nominees get an up-or-down vote. The practical application would be to eliminate the filibuster with regard to judicial nominees. Wow. It's not every day the president wants to tinker with Senate tradition. . . . Thank goodness.

But the status quo is unacceptable. If Democrats have other ideas, let's hear them. If not, Americans should push the Senate to embrace Bush's suggestion. . . .

---

[Las Vegas Review Journal, June 20, 2003]

### Advice and Consent

Has the fact that presidents of the United States appoint the justices of the U.S. Supreme Court now become such an obscure factoid that it's about to be relegated to an answer in the new edition of "Trivial Pursuit"?

Apparently the Democrats think so.

Since the nation's founding document says the president "shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court," Democratic Sen. Patrick K. Leahy of Vermont, on behalf of fellow Senate Judiciary Committee member Charles E. Schumer of New York and others, wrote to the president on June 11, offering to help Mr. Bush choose his next high court "nominee or nominees." There is speculation that one or more member of the current court may step down after the current term.

The offer sounds conciliatory on its face—after all, wouldn't it be better for everyone to get together and choose a consensus candidate beforehand, rather than subject a string of nominees to hostile questioning and ultimate rejection on political grounds?

The "advice and consent" clause might indeed lend itself to such a novel reading—if the Senate were overwhelmingly held by a party diametrically opposed to the president's philosophical leanings.

But if this has never been the procedure in times when the government was thus implacably divided, why on earth should it be adopted now? It's not as though Sens. Leahy, Schumer and Barbara Boxer of California represent the majority in the U.S. Senate. In fact, their current efforts to bottle up Mr. Bush's fully qualified appellate court nominees appear desperate and divisive precisely because most of those nominees would be quickly confirmed if an open vote were allowed on the Senate floor—precisely as the founders intended.

Rather, a small minority of these aging warhorses of the failed policies of Lyndon Johnson's Great Society now use the arcane and Byzantine rules of the Senate to keep those nominations from coming to the floor.

"I am astounded by those letters. Does Charles Schumer think he is the president?" law professor John Eastman told The Los Angeles Times.

Of course, there's a knife concealed in the folds of the Democrats' proffered "gift." The implication is that—if they are not given this extraordinary power to hand the president their own list of suitably liberal nominees, or to strike names of known constitutionalists off any list the president may have in hand—they might even filibuster a nomination to the Supreme Court.

Wisely, Mr. Bush has now called that bluff.

White House counsel Alberto R. Gonzales replied in a letter to Senate Democrats Wednesday that, "If a Supreme Court vacancy arises during his presidency, President Bush will nominate an individual of high integrity, intellect and experience," whereupon "the Senate will have an opportunity to assess the president's nominee and ... to vote up or down."

Will the last ponderous graybacks of the New Dealers' aging herd squander their remaining political capital attempting a last hurrah—lining up for a first-in-history filibuster designed to prevent the entire Senate from voting on the confirmation of a chief justice? It would be interesting to watch them try.

---

[From the San Diego Union Tribune, Sept. 8, 2003]

### Battle Over Judges—With Estrada Out, Senate Must End Turmoil

The battle between Democrats and Republicans in the Senate over President Bush's judicial nominees may be the stuff of interesting politics. But while this continuing controversy makes for a potentially potent campaign issue, it makes for bad government. After last week's withdrawal of Miguel Estrada for consideration to the U.S. Circuit Court of Appeals, antagonism in the Senate is only likely to grow.

Estrada, nominated to the appeals court more than two years ago, had become the focal point of the controversy because Democratic senators had used the filibuster seven times to block votes by the full Senate on his nomination. If the Senate had been allowed to vote on Estrada's nomination, a majority would have confirmed him. But under Senate rules, 60 votes are needed to break a filibuster in the 100-member chamber. The motions to end the filibuster never received more than 55 votes.

In addition to Estrada, Democrats have blocked the nominations of Alabama Attorney General William Pryor to the 11th U.S. Circuit Court of Appeals, which sits in Atlanta, and of Texas Supreme Court Justice Priscilla Owens to the 5th Circuit, which sits in New Orleans. Other filibusters are likely, including one over Bush's appointment of Los Angeles Judge Carolyn Kuhl to the 9th Circuit Court of Appeals, which covers California and other Western states and territories.

But while Republicans put forth strong and justifiable arguments over Democratic abuse of the filibuster, which allows a minority to thwart the will of the majority, antagonism over judicial nominees did not start with President Bush's nominees. While one could go back to President Reagan's 1987 nomination of Robert Bork to the U.S. Supreme Court and his ultimate rejection by a Democratic Senate, the real battle started during the Clinton administration. During those years, even single senators, using a "blue slip," could block nominees. At least two nominees to the court on which Estrada was to sit were blocked in this manner.

Overall, nominees during the first three years of the Bush administration and the first three years of the Clinton administration have been confirmed at about the same rate. So far, the Senate has confirmed 145 of Bush's appointments, 27 of them to the appeals courts, even though the discourse has grown more strident.

In the interest of good government, a few senators have talked of possible compromise, but nothing workable has yet been put forward. Any compromise obviously would have to involve the White House, and so far both the administration and senators from each party are standing their ground.

But what's at stake here is the independence of the federal judiciary and the public's respect for that branch's interpretation of the laws Congress passes and the president signs. If the Senate continues to fight over nominees, and nominees are viewed as more political, there is a danger that the public perception of judges who are eventually seated could be tarnished. That would be disastrous for our system of law and order. For this reason, and for others, both sides must end this rancor.

Mr. HATCH. These may be their reasons, but there are no excuses. At the mere suggestion of abandoning the Senate's tradition regarding judicial nominations when President Clinton was in office, former Democratic Leader Tom Daschle said, "I find it simply baffling that a Senator would vote against even voting on a judicial nomination." That should be our response today as Senators on both sides of the floor.

Last week here on the Senate floor, the distinguished Senator from West Virginia made his case against returning to Senate tradition regarding judicial nominations. I respect him. I have a lot of regard for him, but I have to confess I was surprised that someone with such knowledge of the traditions and rules of this body would appear so willing to abandon tradition.

He equated the filibuster with the Senate itself. He equated filibustering judicial nominations with filibustering legislation and concluded that returning to our tradition regarding judicial nominations would be an attack on the Senate somehow. I would like to address each of these elements because I do not believe they can withstand fair scrutiny.

First, my friend from West Virginia argued that the Senate was designed from its very inception as a place of absolutely unfettered and completely unlimited debate. As such, he argues, any limitation of debate strikes at the very heart of the institution itself. Yet in the second volume of his own history of the Senate, he writes on page 115:

> It is apparent that the Senate in the First Congress disapproved of unlimited debate.

The original rule IV prohibiting a Senator from speaking more than twice in any one debate on the same day without leave of the Senate remains in only slightly modified form as our rule XIX today. Even more significantly, rule VIII in the first Senate provided for a majority to proceed to a vote by calling the previous question.

Coupled with the Founders' expressed commitment to majority rule, these facts demonstrate that even with regard to legislation, the possibility of preventing final action through extended debate was not created by original design. It arose by default through dropping that previous question rule in 1806.

It would still be decades before Senators who sought to protect the institution of slavery would discover they could use this procedural loophole to their advantage and, of course, the filibuster was born. Its twin, however, was a parallel and ongoing effort at filibuster reform by which we have actively sought properly to balance the minority's right to debate and the majority's right to decide. The solution we seek today is part of that ongoing effort.

The Senator from West Virginia next equated filibusters of judicial nominations with filibusters of legislation. His policy arguments in favor of the filibuster, however, apply only to the legislative process. He said, for example, that without the filibuster "there exists no leverage with which to bargain for the offering of an amendment. All force to effect compromise between the parties will be lost."

I note that in previous debates about filibuster reform, such as in 1975, Democrats, such as the senior Senator from Massachusetts, Mr. KENNEDY, offered this very same argument against the filibuster. Still, this notion obviously applies where the Senate either fashions or effects legislation, but it is irrelevant to nominations.

The Senator from West Virginia has long been this Chamber's leading expert on our history and procedure. For that I compliment him. For this reason, though, I was disappointed that he would fail to make such an important distinction between legislative and judicial nomination filibusters, a distinction based on both historical fact and constitutional principle. In other words, there is a difference between the legislative calendar and the executive calendar in the Senate.

The Senator from West Virginia is not the first in the debate over these new judicial nomination filibusters failing to make this critical distinction. Other Democratic Senators, for example, want to use the cup-and-saucer analogy by which George Washington allegedly described pouring hot action from the House cup to cool in the deliberation of the Senate saucer.

As Jeffrey Toobin's recent analysis in the New Yorker magazine points out, however, not only is this story probably apocryphal, but the supposed exchange between Washington and Jefferson specifically focused on, you got it, legislation. In fact, that is the only context in which it makes any sense. If they said it at all, they were talking about the relationship between the two Houses within the legislative branch, not the relationship between the legislative and executive branches.

The distinction between legislative and judicial filibusters is a matter of historical fact. Every example offered last week by my friend from West Virginia involved legislation. He opened and closed his speech by evoking scenes from the classic film "Mr. Smith Goes to Washington." I went back and checked the script. Senator Jefferson Smith in that movie, played by the great Jimmy Stewart, filibustered an appropriations bill. That is legislation.

The example the Senator from West Virginia said was most relevant—President Franklin Roosevelt's proposal to reorganize the judiciary—was also, you got it, legislation. That example is actually not relevant at all, however, because that 1937 legislation was not defeated by a filibuster. The most definitive study of President Roosevelt's plan by Mary McKenna concludes that it did not have majority support in the Senate at all. There was no need for a filibuster. Rather than the majority being stymied in its attempt to pass the bill, the majority—and an overwhelming majority at that—sent it back to committee.

To my knowledge, no Senators are today calling for an end to the legislative filibuster as a group of Democratic Senators did a decade ago. Nine of them, led by the Senator from Iowa, TOM HARKIN, and the Senator from Connecticut, JOSEPH LIEBERMAN, serve in this body today. They argued back then that all filibusters, including those of legislation, unconstitutionally infringe on majority rule. The two Senators from Massachusetts, EDWARD KENNEDY and JOHN KERRY, along with the Senator from California, BARBARA BOXER, the Senator from New Jersey, FRANK LAUTENBERG, the Senator from Maryland, PAUL SARBANES, the Senator from New Mexico, JEFF BINGAMAN, and the Senator from Wisconsin, RUSS FEINGOLD, voted against tabling that proposal.

I find it simply baffling that Senators who once supported abolishing the Senate tradition of legislative filibusters would today support establishing a tradition of judicial nomination filibusters—in other words, filibusters of nominees by the President on the executive calendar, not the legislative calendar.

Ignoring the distinction between legislative and judicial nomination filibusters is necessary for the argument of the Senator from West Virginia, as evidenced when he asked:

> If we restrain debate on judges today, what will be next?

Yet for more than a century, filibusters of legislation coexisted nicely with our tradition of giving up-or-down votes to judicial nominations that reach the Senate floor.

Our experience under the current version of rule XXII shows that these two traditions can peacefully coexist. That rule, by the way, was born in 1917 after a filibuster of legislation. We have had the current version of rule XXII since 1975. From 1975 to 2002, the 94th Congress through the 107th Congress, only 3 percent of cloture votes were judicial nominations; 85 percent of those cloture votes passed, and all nominations subject to cloture votes were confirmed.

During the 108th Congress, 49 percent of cloture votes were on traditional nominations. None of them passed, and none of the nominations were confirmed.

I must say, with all due respect to my dear friend from West Virginia, that using the filibuster to defeat majority-supported judicial nominations has not been part of even modern Senate practice, let alone historic Senate tradition.

Let me repeat that. Using the filibuster to defeat majority-supported judicial nominations has not been part of even modern Senate practice, let alone historic Senate tradition.

In his op-ed piece in the Washington Post last week, the Senator from West Virginia ignored our tradition regarding judicial nominations in another way. He argued that by preventing a confirmation vote through a filibuster, the Senate had formally rejected these judicial nominations. How can it be a rejection of judicial nominations when a majority of Senators supports confirmation of each one of those people? Each nominee on whom cloture was not invoked remained on the Senate's executive calendar. Our own rule XXXI states that nominations that are "neither confirmed nor rejected" shall be returned to the President. Each of those filibustered nominations was, indeed, returned to the President when the 108th Congress adjourned. By definition, common sense, and our own rules, that means they were not rejected. My friend from West Virginia cannot on the one hand claim these nominations were rejected but on the other hand claim that these filibusters are about deliberation and debate.

Legislative and judicial nomination filibusters are different as a matter of historical fact because they are different as a matter of constitutional principle. Legislation belongs to the legislative branch under article I of our Constitution, while nomination and appointment belong to the President under article II. In Federalist No. 65, Alexander Hamilton wrote that the President would be the "principal agent" in appointments. The Senate has an important role of advice and consent that checks the President's appointment power, but we do not control the executive process any more than the President controls the legislative process. We recognize the difference between legislative and executive business when we leave legislative session and proceed to executive session to address nominations we have placed on the executive calendar. My friend from West Virginia, I think, ignored those differences.

Interacting with the executive branch is simply not the same as interacting within the legislative branch. And thus it would seem almost self-evident that procedures we use regarding our authority over legislation might not be appropriate when we affect the President's authority over appointments. We must preserve our tradition that recognizes this constitutional distinction between the executive and legislative branches, between our role of advice and consent on judicial appointments, and our authority over legislation.

The Senator from West Virginia, in my opinion, used an unfortunate analogy in attacking those who would return the Senate to its confirmation tradition regarding judicial nominations. Others, such as the Anti-Defamation League, have strongly objected to his reference to Hitler's Nazi regime for various reasons. My point here is not that. It is different. I object to his claim that returning to our tradition regarding judicial nominations would be an example of "how men with motives and a majority can manipulate law to cruel and unjust ends." There is nothing cruel or unjust about the Senate returning to our traditional advice and consent role regarding judicial nominations.

The Constitution gives the Senate the authority to determine our procedural rules. It was pursuant to that authority that the Senate dropped the previous question rule in 1806, adopted a cloture rule in 1917, and amended that rule several times since.

It was also pursuant to that authority that the Senator from West Virginia aggressively used various strategies to change Senate procedures when he served as majority leader of this body. This includes approaches currently under discussion, such as seeking a ruling from the Senate's Presiding Officer. Though the Senator from West Virginia last week said such an approach would abandon the "cloak of legality," it would simply be following a procedural path that he himself blazed. I was here for part of that.

The Senator from West Virginia said this approach "seeks to alter the rules by sidestepping the rules, thus making the impermissible the rule."

Yet the Senate operates on the basis of parliamentary precedents and traditions, as well as by our standing rules, a history my friend from West Virginia helped shape and has been recognized as helping shape those rules.

In 1977, for example, the Senator from West Virginia made a point of order that once cloture has been invoked, the Presiding Officer must rule dilatory amendments out of order. One Senator criticized this strategy as trying to change Senate rules by majority vote during the heat of the debate. That criticism sounds an awful lot like the criticism the Senator from West Virginia leveled last week against those who might take the same approach today. Nonetheless, the strategy succeeded when the full Senate tabled an appeal of the Presiding Officer's ruling in favor of the distinguished Senator from West Virginia.

In 1979, the Senator from West Virginia introduced Senate Resolution 9 to make various changes to rule XXII. He argued that notwithstanding rule XXII's cloture requirement for rules changes, a simple majority could change Senate rules at the beginning of a new Congress. He was right. The current Senate, he argued, is not bound by the dead hand of the past Senate. He threatened that if the Senate did not come to a time agreement for considering his resolution, he would attempt to proceed by seeking a parliamentary ruling.

Also in 1979, the Senator from West Virginia made a point of order that the Presiding Officer, rather than the Senate, as required under our rule XVI, ruled nongermane certain amendments to appropriations bills.

As in 1977, that strategy worked when the Senate tabled an appeal of the Presiding Officer's ruling in favor of the Senator from West Virginia. In 1980, the Senator from West Virginia also secured a helpful parliamentary precedent but from a different procedural direction. He wanted to achieve confirmation for an individual nominee on the Executive calendar.

At that time, while a motion to go into executive session was not debatable, a subsequent motion to proceed to a specific item on the Executive calendar was debatable. On March 5, 1980, the Senator from West Virginia made a single motion for the Senate both to go into executive session and to proceed to a specific nomination. When the Presiding Officer sustained a point of order against this motion, one Senator criticized this attempt to change procedure by majority vote. Nonetheless, the Senator from West Virginia appealed the Presiding Officer's ruling, which was his right to do, and the Senate overturned, supporting the distinguished Senator's majority rule change.

This strategy might be described by some, using the Senator from West Virginia's words last week, as altering the rules by sidestepping the rules. It certainly limited what he now insists would be unfettered and unlimited debate.

In 1987, the Senator from West Virginia secured a parliamentary precedent that obviously dilatory requests by Senators to be excused during a rollcall vote were out of order. This applied the same strategy he had used in 1977, getting the Presiding Officer to rule dilatory tactics out of order, in a new context. Each of these examples has similarities and differences with the current situation.

I offer this detail only to demonstrate that Senate procedures have been changed through parliamentary rulings as well as by formal amendments to the rules themselves. As my friend from West Virginia has demonstrated by pursuing each of these strategies himself, the Senate can exercise its constitutional authority to determine its procedural rules either way.

He may certainly believe that the changes he sought were warranted while the change we may seek today is not. That is his right, and he can express that right in debate by voting against such a change. But that difference of opinion does not make his attempts to limit debate, even on legislation, right and just while any attempt to do so today on judicial nominations cruel and unjust.

We departed from our tradition of giving judicial nominations reaching the Senate floor an up-or-down vote only 2 years ago. The result has been the Senate's inability to do its constitutional duty of providing advice and consent regarding judicial nominations. We were able to give advice, I presume, but with regard to these 10 nominees we were never able to give consent or not consent, whichever the case may be. And that is done by a vote up and down. It demonstrates that the confirmation process is, in the words of the Washington Post, "steadily degrading."

Returning to that tradition of giving up-or-down votes for judicial nominations will not in the long run mean either party will always get its way. Both the executive branch and the Senate do change partisan hands from time to time. This standard, this tradition, knows no party and guarantees no partisan advantage. It applies no matter which party occupies the White House or which party controls the Senate. It would bind Republicans as well as Democrats and preserve our institutional traditions. I hope and believe, however, that restoring this tradition will, despite some Senators' threats to blow up the Senate, help restore some comity and good will to this body.

Returning to that tradition, which recognizes the difference between our authority over legislation and the President's authority over appointments, is not an attack on the Senate; rather, it affirms our traditions and the Senate's unique place in our system of separated powers. Returning to it both respects the President's authority over appointments and asserts the Senate's role of advice and consent, not just advice but consent as well.

A majority of Senators have been deprived of the right to give or not give consent by these irresponsible filibusters of judicial nominations on the Executive calendar. The deviation we have seen from that tradition, wherein a filibuster prevents confirmation of nominees with majority support, undermines the President's authority and distorts the Senate's role. Preserving both of our traditions—extended debate regarding legislation and up-or-down votes on judicial nominations reaching the Senate floor—will restore the proper balance.

There is nobody in this body who respects the distinguished Senator from West Virginia more than I do. I hope we can resolve these matters so both parties are bound by the correct tradition that we are not going to filibuster executive branch nominees and we will both preserve the right to filibuster over the matters we totally control on the legislative calendar. I would fight to my death to preserve rule XXII on legislation because I have also been in the minority from time to time, and it was the only way we could stop some things which would have been just terrible for this country. But there is a difference between the legislative calendar and the Executive calendar.

I respect my colleague from West Virginia. I can truthfully say I love him because he has been a strong force around here for years, but I hope he will look at some of these examples I have given and some of these thoughts I have and help us stop this impasse that is occurring in the Senate, not by preferring one party over the other but by binding both parties to treat Presidential nominations with the respect they deserve.

I have to say I never quite concentrated on this enough until these judicial nominations were filibustered in 2003 and 2004. I myself am to blame for not having thoroughly studied this until these problems arose, but I have now studied it. I believe it would be far better for our Senate to get rid of these animosities and threats to have nuclear warfare and bind both the Republicans and the Democrats in the Senate to do what is right, to give a vote up or down, so that we can not only give advise but consent as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, what is the time that I have under the order?

The PRESIDING OFFICER. The minority controls 14 minutes.

Mr. BYRD. Madam President, I ask unanimous consent that my time may be extended to a total of 35 minutes and that the final 5 minutes be under the control of the distinguished Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

## FREEDOM

Mr. BYRD. Madam President, freedom is a fragile thing and never more than one generation away from extinction. It is not ours by inheritance; it must be fought for and defended constantly by each generation, for it comes only once to a people. Those who have known freedom and then lost it have never known it again. These words come from the lips of former President Ronald Reagan.

I rise today to discuss freedom, not the grandiose worldwide "freedom talk" one hears so much about. No. Not far-flung foreign policy goals, but, rather, my concern today is preserving our freedoms right in our own backyard at home.

Freedom, like a good garden, needs constant tending. One must watch for the worms in the wood. As Wendell Phillips, the abolitionist, orator, and the columnist, once said, "eternal vigilance is the price of liberty." One must pay the price if one wants the blessing.

In a culture where sports metaphors are more common public parlance than historical analogies, our unique form of government, carefully restraining powers while protecting rights, presents a special challenge to maintain. The "winning is everything" philosophy so beloved by Americans may, without careful balance, obscure the goal of justice for all that must be the aim of a representative democracy. Demeaning minority views, characterizing opposition as obstructionist—these are first steps down the dark alley of subjugating rights.

Majorities can prevail by numerical force. They do not need protection from minorities. Yet some would have us believe that minority voices threaten the larger public good in the case of Presidential judicial appointments. The opposite is true. It is minorities who are most in jeopardy without fairness from the Federal bench. I am talking about those who are in the minority. The persecuted, the disadvantaged, the poor, the downtrodden—these are the very citizens who need the strong protection of an unbiased legal system.

Appointees to the Federal bench should be scrutinized for traces of ideological rigidity or allegiance to political movements which could cloud impartial judgment. I for one do not favor activist judges of any stripe. I do not think the proper role for a judge is to make new law from the bench. My own preference is usually for strict constitutionalists. Conservative judges can hold activist views, just as can liberal judges. Such labels tell us very little. What we should strive for on the Federal bench is blind justice; that is, justice absent a political agenda.

Judicial appointments must never be a sure thing for the bench simply because they please the majority party, whether that majority is Democratic or Republican. Federal judges enjoy life tenure. Remember that. Federal judges enjoy life tenure, making decisions of huge importance to the lives and the livelihoods of our citizens. Are they accountable to anyone? No. They are accountable to no one, and no President can fire them. No President can say: Go home, you are sick today.

It is ridiculous to suggest that mere superiority of numbers in the Senate should alone guarantee confirmation to a Federal judgeship. Such a claim reduces the constitutional advice and consent function of the Senate to a pro forma rubberstamping of Presidential judicial appointments whenever the President's party controls the Senate. We are talking about a separate branch of the Federal Government. We are talking about a separate branch of the Federal Government here, which wields tremendous power.

There is no God-given right to a seat on the Federal bench—no God-given right. There is no God-given right to a seat on the Federal bench. Should a minority have only the recourse of delay to defeat a judicial candidate of concern, that minority is well within its rights to filibuster. In fact, the minority would be derelict in their duty if they did not filibuster. There is no shortage of candidates for the Federal bench, no shortage. Another name can always be offered. Our aim should be to select excellent judges acceptable across a wide spectrum of political views.

There was a time in this country when men and women of opposite political parties could reason together to achieve such goals. There was a time when the concerns of honorable men and women serving in this Senate received the respect of fellow Members of the Senate, even though they were in the minority. Now I am very sorry to observe the Senate and the country are so polarized—so polarized, so politicized—that nearly all dissent is discarded as obstructionist and politically motivated. "Get out of the way" is the cry. "Get out of the way, get out of the way" is the cry. Few take the time to consider other views.

If 41 Members of the Senate have objections to any judicial candidate, perhaps those objections should be heeded. Those are 41 Members. Perhaps that nominee should not serve. Forty-one Members, representing at the very least the people of 21 States, at the very, very least. Perhaps the minority is right. Perhaps the minority is right.

Senate service often reminds me of a game of "red rover." We line up like two opposing camps and run as hard as we can at each other to score points. The talk show mavens keep the fires fanned, and through the din, honest discourse is nearly impossible. I worry. Oh, yes, I worry about a country whose major political pastime is not in finding compromise but, rather, in seeking conflict. The people are not well served. The courage to speak out about one's convictions is in scarcer and scarcer supply. Where, oh, where are the 21st century's profiles in courage?

President John F. Kennedy's Pulitzer Prize-winning book "Profiles in Courage" lionized public servants who did not fear to stand alone, like Senator George Norris of Nebraska. From 1806 to 1917, there was no ability to invoke cloture in the Senate. Why 1806? Because that was when the rule was dropped from the Senate rules asking for the previous question, which would shut off debate. Therefore, it was really from 1789 to 1917 that there was no ability to invoke cloture in the Senate. But, in 1917, a cloture rule passed after a filibuster by 12 determined Senators who opposed U.S. intervention in World War I. That debate began when President Wilson asked Congress for the authority to arm U.S. merchant ships against Germany. The House of Representatives passed Wilson's bill, the "Armed Ship" bill, by a vote of 403 to 13. But a handful of determined Senators who opposed U.S. intervention in World War I, including Republican George W. Norris of Nebraska, launched a filibuster with far-reaching consequences.

George Norris's filibuster killed President Wilson's bill, though Wilson resurrected its contents by Executive order shortly after the filibuster ended.

I was born during the administration of Woodrow Wilson.

Nebraskans and, in essence, all States, the entire nation, were consumed with rage at George Norris because of public disclosure that Germany had promised Mexico several United States States if Mexico would align itself with Germany in war against the United States.

Well, there was a huge din, a huge outcry. The New York Times called Norris and others "perverse and disloyal obstructionists." Does that recall anything of present-day vintage to Senators? The New York Times called Norris and others "perverse and disloyal obstructionists" and editorialized that:

> . . . the odium of treasonable purpose will rest upon their names forevermore. The Hartford Courant called them "political tramps." The New York Sun called them "a group of moral perverts." The Providence Journal called their action "little short of treason" and the Portland Free Press said they should be "driven from public life."

Senator George W. Norris, the Nebraskan from the heart of America, suffered merciless abuse, vicious invective and public scorn, tarred by public sentiment, savaged by a strident press and the grip of a public filled with hate of Germany and the start of World War I. Yet he was and is an American hero. George Norris was "fearful of the broad grant of authority" that President Wilson sought to go to war, and resentful of the manner in which that authority was being "steamrolled" through the Congress.

Oh, how history repeats itself. How history repeats itself.

In Senator Norris's words:

> I will not, even at the behest of a unanimous constituency, violate my oath of office by voting in favor of a proposition that means the surrender by Congress of its sole right to declare war. . . . I am, however, so firmly convinced of the righteousness of my course that I believe if the intelligence and patriotic citizenship of the country can only have an opportunity to hear both sides of the question, all the money in Christendom and all the political machinery that wealth can congregate will not be able to defeat the principle of government for which our forefathers fought.

That was George Norris speaking.

When George Norris went home to explain why he had filibustered in the face of universal criticism, he sought an open meeting in Lincoln, NE.

"I had expected an unfriendly audience," Norris wrote. "And," he said, "it was with some fear that I stepped forward. When I stepped out on the stage, there was a deathlike silence."

Senator Norris began, President Kennedy tells us, by stating simply: "I have come home to tell you the truth."

After more than an hour, the crowd in Lincoln, NE, Kennedy wrote, roared its approval.

Many have written extensively and with legitimate fear of what could happen if men without the courage of their convictions simply sat back and let themselves be swept away by a powerful majority, including George Orwell, writing of the horrors of power run rampant, of a world run by "thought police" who seek to control not just information but the speech and thoughts of every individual citizen. In "1984" Orwell recorded what life would be like under the thumb of Big Brother, with no autonomy of thought or speech.

George Orwell's fictional warning against Big Brother should encourage us all to ponder, to cherish and to protect our precious freedom—our precious freedom to think and speak freely. And the means to that end is protecting the right to dissent. Orwell said of liberty:

> If liberty means anything at all, it means the right to tell people what they do not want to hear.

That right will be in jeopardy if a misguided attempt to eliminate the filibuster succeeds.

Robert Caro, winner of the Pulitzer Prize for his renowned book about Lyndon B. Johnson, made Orwell's point in a letter to the Senate Rules Committee in June 2003.

> Many times in America's history the right of extended debate has been used to defend causes with which I profoundly disagree. Nonetheless, great care should be taken in

> placing new restrictions on that right. Senators who are considering doing so should understand that they will be taking a step that has significant implications for the balance of powers created under the Constitution, and also for another fundamental concern in a democracy: the balance between majority and minority rights.

Caro stressed that the Framers gave the Senate strong protections from transient public passions or executive pressures and that the Constitutional Convention kept the Senate small so that it would have, in Madison's words:

> [less propensity] to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions.

Madison believed:

> . . . there are more instances of the abridgement of freedoms of the people by gradual and silent encroachment of those in power than by violent and sudden usurpations.

Madison was right. The loss of freedom will not come as a thunderclap. I say again, the loss of freedom will not come as a thunderclap from Heaven. Rather, if it goes away, it will slip silently away from us, little by little, like so many grains of sand sliding softly through an hourglass.

The curbing of speech in the Senate on judicial nominations will most certainly evolve to an eventual elimination of the right of extended debate. And that will spur intimidation and the steady withering of dissent. An eagerness to win—win elections, win every judicial nomination, overpower enemies, real or imagined, with brute force—holds the poison seeds of destruction of free speech and the decimation of minority rights.

The ultimate perpetrator of tyranny in this world is the urge by the powerful to prevail at any cost. A free forum where the minority can rise to loudly call a halt to the ambitions of an overzealous majority must be maintained. We must never surrender that forum—this forum—the Senate, to the tyranny of any majority.

When Aaron Burr said farewell to the Senate, he urged the Senate to do away with the Senate rule that would close debate on the previous question. That previous question has seldom been used in the short time. And in 1806, the Senate carried out the will of Aaron Burr.

> This house is a sanctuary; a citadel of law, of order and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution—

This Constitution.

> —and if the Constitution be destined ever to perish by the sacrilegious hands of demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

On March 2, 1805, Aaron Burr stated that prophetic warning.

The so-called nuclear option, if successful, will begin the slow and agonizing death spiral of freedom, speech, and dissent, and it will be witnessed on this floor.

I yield the floor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ENSIGN). There is 9 minutes 40 seconds remaining in total to the minority.

Mr. BYRD. I thank the Chair. I believe Senator CARPER is on his way. He wishes to have 5 minutes under the order following my remarks.

The PRESIDING OFFICER. The Senator from Delaware.

## JUDICIAL NOMINATIONS

Mr. CARPER. Mr. President, I came to the floor today to talk about bankruptcy reform and the need to enact legislation dealing with bankruptcy reform. Before I do that, given the comments of our esteemed leaders, Senator BYRD and Senator HATCH, I feel compelled to say something first with respect to judicial nominations.

This 109th Congress, in my view, has begun with much promise. We have taken steps to begin to restore a sense of balance in our legal systems—the system of civil justice to make sure that little people harmed by big companies have a chance to band together and be made whole, and at the same time make sure that companies defended in class action lawsuits have a fair trial in a court where the deck is not stacked against them.

We are on the verge of passing significant and needed bankruptcy reform legislation. A conference on energy policy is taking place that will reduce our dependence on foreign oil, which has the promise also of increasing our reliance on renewable forms of energy and cleaning up our air, reducing sulfur dioxide emissions, nitrogen dioxide, mercury, and even carbon dioxide.

We have just reported out of the Finance Committee legislation that will better ensure that work pays more than welfare to help people make that transition from welfare to work. We are close to consensus on overhauling our postal system and taking the 1970s model created under the leadership of Senator STEVENS—who has joined us on the floor—to bring that into the 21st century.

There is much promise. There is much that can be done and ought to be done.

I fear that we are approaching a precipice that we may fall off—both parties, Democrats and Republicans—which is going to render us unable to achieve what I think would be a very fruitful session in this Congress. Reason must prevail here. Democrats will not always be in the minority; the Republicans will not always be in the majority; Republicans will not always hold the White House. We have to figure out some way to work through our divisions on the nomination of judges.

It is sort of ironic in the first term of President Bush's administration that 95 percent of his nominees were approved, compared to President Clinton's success rate of about 80 percent over the 8 years he served.

We need to be able to establish a system of checks and balances. We don't want to be obstructionists; we don't want one party to basically call the shots in the executive and legislative branches, and stack the decks in our courts.

I encourage our leaders, as I have done privately, Senator REID and Senator FRIST, to sit down—if they have done it, to do so again—and have a heart to heart.

I urge colleagues on both sides of the aisle who want this place to work, who want us to do the people's business, to work and find a way out of this bind.

## BANKRUPTCY REFORM

Mr. CARPER. Mr. President, I want to take a few minutes to talk about bankruptcy reform legislation.

Much has been said about the bill that is before us. Let me say a few things as well.

Two years ago, roughly 83 Senators voted in favor of an overhaul of our Nation's bankruptcy laws. As you may know, under current law, people who do not have the ability to pay their debts can go into chapter 7 and their debts are largely forgiven. They may have to turn over some of their assets. That is chapter 7. If the court of bankruptcy believes a family has the ability to repay some of their debts, they go into chapter 13, if a payment schedule is worked out.

Concerns have been raised, justifiably, over the last decade or more that some people who have the ability to repay don't; they simply run up their debts and walk away from those obligations, and, frankly, leave the rest of us having to pay more interest on the consumer debt we acquire and to pay more for the goods and services we buy.

Bankruptcy laws exist for a good purpose. People do have disasters that come into their lives; marriages end, serious health problems occur, and people lose jobs. For those reasons, we have bankruptcy laws. Most people who file for bankruptcy are not trying to defraud anybody. They have a genuine emergency, or a huge problem in their life, and they need the protection of the bankruptcy court. That is why we have those laws.

There is a principle, whether you are for this bill or not, that I think we can all agree on. That principle is simply this: If a person or a family has the ability to repay a portion or all of their debts, if they have that financial wherewithal, they should repay a portion or all of their debts. If a family doesn't have that wherewithal to pay or begin repaying their debt, they should be accorded protection of the bankruptcy court. That is it; it is that simple.

The legislation we have before us is an effort to try to codify that principle, and to improve on the system today where too many people, frankly, have abused that system.

Much has been said about credit card banks and putting credit cards in the hands of people, encouraging them to use them. I have heard from my credit card banks. They would like to see this legislation adopted. I have heard more from my credit unions in Delaware than I have from the credit card banks, saying there is a problem and it is one that we need to address.

I want to consider for a moment what will happen, or continue to happen, if we don't enact this legislation.

No. 1, some people who ought to be repaying a portion of their debts do not.

No. 2, the folks who ought to be receiving childcare from parents who are not anxious to meet that obligation will not receive that childcare payment. Their biological parent will file for bankruptcy in an effort to avoid making that childcare payment, or to make an alimony payment. In fact, the way the current law is structured, when somebody is in a position to start paying their responsibilities or obligations, legal fees come ahead of childcare and come ahead of alimony. That is wrong.

Today, under current law, a wealthy individual in a State such as Florida or Texas can go out, if they are a millionaire, and take those millions of dollars and invest that money in real estate, a huge house, property, and land in the State, file for bankruptcy, and basically protect all of their assets which they own because of a provision in Florida and Texas law. Homestead exemptions exist in other States as well. People can put money in trusts today and tomorrow file for bankruptcy and know that all the millions of dollars they put in those trusts can be protected from bankruptcy. That is wrong.

With the legislation we have before us, someone has to figure out that 2½ years ahead of time people are going to want to file for bankruptcy and be smart enough to put the money into a home, or an estate, or into a trust—not something you can do today—and file for bankruptcy tomorrow; or this year and file for bankruptcy next year or the next 2 or 3 years, or 3½ years. It is a much better approach. I, frankly, would like to see a cap on the homestead exemption. I voted for one yesterday. It didn't prevail. It should have.

What is in this current bill is a heck of a lot better than it is in the law that exists today. Here is how this bill would work. For people whose median family income is under 100 percent of median family income, those families for the most part will be able to file for bankruptcy and go into chapter 7 bankruptcy without a whole lot of fuss.

What is median family income? In my State, it is about $72,000. Nationally, median family income is about $65,000 for a family of four. It varies from there. It can be as low as $48,000 or $49,000 for a family of four in Mississippi, up to $80,000 in States such as Connecticut and others. But it is a range from the high forties to the low eighties for median family income.

For folks whose income is below 100 percent of median family income, they go into chapter 7 pretty much without a lot of dispute. However, for those families whose income is above median income, above $72,000, they would have to go through a means test. That is not a bad thing to do.

The PRESIDING OFFICER. The Senator's time has expired.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 26, which the clerk will report.

The legislation clerk read as follows:

A bill (S. 26) to amend title II of the United States Code, and for other purposes.

Pending:

Kennedy (for Leahy/Sarbanes) amendment No. 83, to modify the definition of disinterested person in the Bankruptcy Code.

Dodd (for Kennedy) amendment No. 69, to amend the definition of current monthly income.

Dodd (for Kennedy) amendment No. 70, to exempt debtors whose financial problems were caused by failure to receive alimony or child support, or both, from means testing.

Akaka amendment No. 105, to limit claims in bankruptcy by certain unsecured creditors.

Feingold amendment No. 90, to amend the provision relating to fair notice given to creditors.

Feingold amendment No. 92, to amend the credit counseling provision.

Feingold amendment No. 93, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 95, to amend the provisions relating to the discharge of taxes under chapter 13.

Feingold amendment No. 96, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Talent amendment No. 121, to deter corporate fraud and prevent the abuse of State self-settled trust law.

Schumer amendment No. 129 (to Amendment No. 121), to limit the exemption for asset protection trusts.

Durbin amendment No. 112, to protect disabled veterans from means testing in bankruptcy under certain circumstances.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on amendment No. 70.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I want to talk about the most vulnerable people who go into bankruptcy; they are single women with children. There is $95 million a year in unpaid alimony and child support. When these women marry—or divorced women end up in bankruptcy, they end up in the harsh provisions of this legislation. That is wrong. These are people who are trying. They are working hard. They are playing by the rules, and they wouldn't be in bankruptcy if their husbands had paid. Why we ought to treat them harshly as this bill does is wrong.

This amendment which I have introduced with the Senator from Connecticut, Senator DODD, makes sure that we are going to treat them fairly under this provision.

I hope the Senate will accept it.

I yield 30 seconds to the Senator.

Mr. DODD. Mr. President, I thank the Senator from Massachusetts. He makes a point. Next year, more than 1 million single women will file for bankruptcy in the United States. Most of them are women with children, significant numbers of children. This is far too harsh for this constituency.

We urge adoption of the Kennedy amendment. It is only right and only fair and ought to be done to provide relief to these people under the bankruptcy system.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand the vote is about to start. I yield back all of our time.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to Kennedy amendment No. 70.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—41

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd

Cantwell
Chafee
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Clinton

The amendment (No. 70) was rejected.

### AMENDMENT NO. 69

The PRESIDING OFFICER. There will now be 2 minutes of debate on Kennedy amendment No. 69.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the next 2 votes be 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, workers in this country have hit a perfect storm with the decline in manufacturing, the outsourcing of jobs, and the increasing of part-time work. This has fallen disproportionately on African Americans and Latinos. The unemployment rate for Latinos has increased by 40 percent in recent years. It has increased by 31 percent with African Americans. If you are a Latino homeowner, you are 250 percent more likely than White homeowners to go into bankruptcy. African-American homeowners are 690 percent more likely to go into bankruptcy.

All this amendment says is that those individuals can still go into bankruptcy, but they will not be caught up in the harsher provisions of this bankruptcy act. It would be enormously unfair, unjust, and discriminatory. That is what this amendment does.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. I yield back the time on this side.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to Kennedy amendment No. 69.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—41

Akaka
Baucus
Bayh
Biden
Boxer
Byrd
Cantwell
Carper
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Alexander
Allard
Allen
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Clinton

The amendment (No. 69) was rejected.

### AMENDMENT NO. 105

The PRESIDING OFFICER (Mr. GRAHAM). There will now be 2 minutes of debate equally divided on the Akaka amendment No. 105.

The Senator from Hawaii.

Mr. AKAKA. Mr. President, the bankruptcy bill does not allow consumers to declare personal bankruptcy, in either chapter 7 or chapter 13, unless they receive a briefing from an approved nonprofit credit counseling agency within 6 months of filing for bankruptcy.

About one-third of all credit counseling consumers enter into a debt management plan. In exchange, creditors can agree to offer concessions to consumers to pay off as many of their debts as possible. However, most credit card companies have become increasingly unwilling to significantly reduce interest rates for consumers in credit counseling.

My amendment would prevent unsecured creditors, primarily credit card issuers, from attempting to collect accruing interest and additional fees from consumers in credit counseling.

As a show of support for the effectiveness of sound consumer credit counseling, especially as an alternative to bankruptcy, credit card issuers should waive the amount owned in interest and fees for consumers who enter a consolidated payment plan. Successful completion of a debt management plan benefits both creditors and consumers. For many consumers, paying off debt is not easy, and my amendment seeks to help these struggling individuals.

I encourage my colleagues to support this amendment to help consumers enrolled in debt management plans to successfully repay their creditors, free themselves from debt, and avoid bankruptcy.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the amendment of the Senator from Hawaii is dressed up as a credit counseling amendment, but it would cause havoc in our modern consumer credit system. It requires that a lender stop charging interest on the outstanding debt of any bankrupt debtor who participates in a debt management program. The practical result is that lenders are forced to either waive further payments on an extension of credit or have the debt discharged in bankruptcy. This will not be good for the consumer, the borrower.

This is a sweeping change in modern banking practices. We have had no hearings in the Senate Banking Committee. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER. The question is on agreeing to Akaka amendment No. 105.

Mr. AKAKA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER (Mr. MARTINEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—38

Akaka
Bayh
Boxer
Byrd
Cantwell
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—61

Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Clinton

The amendment (No. 105) was rejected.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. TALENT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent the Senate now stand in a period for morning business until 2 p.m., with the time equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent to be permitted to speak in morning business up to 25 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SOUTHEAST ASIA

Mr. BOND. Mr. President, in past weeks I have come to the floor to report on the tremendous job that America and other allies did in assisting relief from the devastating tsunami that struck in Indonesia, Malaysia, and Thailand last December. Later I spoke about the very promising development of broad-based support for moderate Islam among leaders in Southeast Asia. The constructive work being done there is an extremely important counter to the Wahabiism strain of Islam teaching which subverts the teaching of a peaceful religion to promote terrorist attacks on any and all who are regarded as infidels. In addition, Hadhari, or "civilization" Islam, preaches fair and equal treatment for women and tolerance of views of other religions.

As former President Richard Nixon detailed in one of his last books before his death, developing strong and supportive relationships with moderate Islamic countries is of critical interest to the United States. He had warned of the dangers of radical Islam teachings even before we experienced the overseas terrorist attacks against Americans in the 1990s, culminating in the massive attacks of September 11, 2001, on our homeland.

In this area, former President Nixon was prescient, and laid out an important principle for us to follow today. With Southeast Asia and its large Muslim population as the second front in the war on terror, we have the opportunity through constructive engagement to help those countries win their wars on terrorism without the need for massive military actions such as we have undertaken in Afghanistan and Iraq to root out governments that harbor terrorists.

As President Bush said in his State of the Union speech, fostering and encouraging the development of democratic, free societies throughout the world is not only an humanitarium imperative for us, it is also in our own security interest because free governments, democratically elected, as much less likely to engage in aggressive military action against their neighbors, and threaten peace and security in the world. In addition, with the proper diplomatic, economic, and strategic support, we can help those governments as they fight to eliminate the threat of terrorist activities within their borders.

In a region previously dominated by monarchies, communist rule, and autocratic governments, democracy is making strides in Southeast Asia. As in all evolutions of democratic societies, the progress is not without its stumbles, its reverses, and occasionally undesirable results from the democratic process. Southeast Asia still has significant problem areas where democracy and human rights are not flourishing. As Natan Sharansky has said in his book The Case for Democracy, and in his presentation to Senators here in the Capitol on February 9th, the difference between a free society and a fear society can be measured by the town square test. Can a citizen go to the town square and express opposition and criticism of the government without fear of reprisal?

Southeast Asia has glaring examples of the fear society, which is the opposite of the free society in Sharansky's terms. Communist North Vietnam has shown some interest in economic development and some tolerance of free markets, but it is far from a free society. According to the measurements of Freedom House—which views political and civil freedoms—other countries regarded as not free are Laos, Cambodia, and Brunei. The worst offender in the Freedom House rankings, and in my own view, is the state of Myanmar, which we previously knew as Burma. That country has gained international attention for its arrest, imprisonment, and abuse of Aung San Suu Kyi, that country's leading political opposition leader.

Most recently, Thailand—among the most free and open societies in all of Asia—overwhelmingly re-elected the government of Prime Minister Thaksin Shinawantra, a very successful business man with strong managerial skills. Personally, I was relieved to see that apparently there was no weight given to his opponent's charges that I personally had lobbied Thaksin and convinced him to allow the introduction of biotechnology through genetically modified food products into Thailand. In truth, on my visits to Thailand with world renowned plant biotechnology leader, Dr. Roger Beachy of the Danforth Plant Science Center in Saint Louis, Missouri, we and our Ambassador discussed with the Prime Minister making available the resources of our bio-technology regulatory agencies in the U.S. so that Thai scientists and officials would have the technical capacity to make judgments for themselves about the safety of proposed biotechnology plantings and GMO food products, which hold tremendous promise to cure crop and plant disease in Southeast Asia, to feed the countries throughout the world and perhaps deliver vital vaccines to less developed countries.

In Indonesia, the voters have elected a new President Susilo Bambang Yudhoyono who is committed to operating a corruption-free government, dedicated to recognition of human rights, free markets, and civilian control of the military with full protections for the civilian population. It is worth noting that the President, popularly known as SBY, participated in the last International Military Education and Training program—IMET—with our military at Fort Leavenworth, KS before Congress effectively cut off IMET participation for Indonesia military leaders. He also received a Masters' Degree from Webster University in Kansas City, MO. In Malaysia, the newly-elected Prime Minister Abdullah Badawi—of whom I spoke previously—noting his support for Hadhari Islam, has taken steps to rid his government of the favoritism and corruption of the previous administration, which sapped the economic growth potential of that very prosperous country.

In the Philippines, popularly-elected President Gloria Arroyo is facing challenges within her own government, but she has been democratically elected and brought major change in the life of that country following the corruption and abuses of Ferdinand Marcos.

Singapore has a new Prime Minister, Lee Hsien-Long, who is the son of the long-time ruling figure in Singapore, Lee Kuan Yew, now known as the Minister Mentor. Although some have charged that it is highly unlikely that the people of Singapore could choose a candidate not associated with the Ruling Party. I believe that Singapore would pass Natan Sharansky's test of a free society rather than a fear society on the town forum test. In addition, Singapore has been one of our staunchest allies strategically, economically, and in the war on terrorism. When the United States military forces were booted out of the Philippines, Singapore responded by developing a deepwater port where our large warships could dock and refuel and resupply. They moved very swiftly to crack down on terror rings including the very dangerous Jemaah Islamiyah, JI, when they discovered threats against United States and Australia Embassies in that country. In addition, we have recently completed the first Free Trade Agreement in Asia with the Singaporeans.

In addition to supporting democracies and free societies and fighting terrorism, the United States has a very significant strategic interest in Southeast Asia. As many leaders in that region have told me, privately, they are concerned that the United States active engagement and association with those countries is essential to stop China from extending hegemony over the region. China has made many moves recently economically to gain control over the markets of Southeast Asia with offers of free trade and other inducements. In addition, China has flexed its muscle in the region by military maneuvers in the South China Sea to lay claim potentially to the significant petroleum reserves in that area.

States of Southeast Asia, notably Indonesia, Singapore, and Malaysia, control the important Malacca Straits through which one quarter of all the shipping in the world passes, and one half of the petroleum products carried by ocean-going vessels pass.

The Southeast Asia nations which have been generally supportive of the United States stand in contrast to the People's Republic of China, which has long opposed our efforts against terrorism and may be engaging in proliferation of nuclear and missile technology. The influence of China can be seen already in support for lifting United Nations sanctions and the Arms Embargo of China. There are many who feel that China may be building military capability which could be a threat to world peace and security as well as to the United States—all the more reason to prevent excessive China influence or control in Southeast Asia.

In addition to our strategic interests, Southeast Asia is a very important economic trading partner for the United States. Malaysia is our tenth largest export market and ASEAN has passed Japan and is now the United States' third largest trading partner; two-way trade stands at $120 billion. In 2003 United States exports to Singapore were $19 billion, to Malaysia over $17 billion. Although Thailand with $6.8 billion imports from the United States, the Philippines with $5.4 billion, and Indonesia with $2.8 billion, are relatively smaller, they also offer opportunities with economic progress to be much more significant trading partners with us.

Farmers in Missouri and throughout the Midwest felt the severe pain of the collapse of the Southeast Asia markets in 1997 and in 1998. Our previous $12 billion a year agricultural exports in the mid-1990s dropped to almost nothing during that period. The impact of that on farm prices in the agricultural heartland was extremely harsh. Farmers suffered significant losses of income, and rural communities dependent upon agriculture felt the pain, everywhere from equipment dealers to retails stores. Missouri farmers have been very relieved to see the economies, and, thus, the demand for agricultural products recover in the ASEAN region.

At the same time we have good economic ties with the region the United States has image problems that cannot be ignored. The problems with the United States start with its support for Israel in its battle with the Palestinians and its invasion of Afghanistan and Iraq. This has brought great concern in Muslim countries and the former Malaysian Prime Minister, Mahathir Mohammed—the first Muslim to come to his United States Embassy to register his sympathies after the September 11, 2001 attack—became an even harsher critic of the United States when we took the battle against terrorism to Afghanistan and then to Iraq. Previously, I and other members of the Senate, had heard him deliver in the mid-1990s stinging criticism of the United States and other peoples with light skin—especially Jews—for currency manipulation which he felt had brought on the collapse of the Thai baht which triggered the Asian economic collapse and problems with his currency in Malaysia.

There is also the inevitable reaction against a very large and powerful country when we have a presence in the region such as we did during the tsunami relief efforts. At the time we deployed our aircraft carrier strike force with the helicopters and marine copter ship with troops to the region, a very good friend of America in the region told me the United States needed to "tiptoe" coming into the region. I noted to him it was difficult to tiptoe when you have to bring an aircraft carrier strike force with helicopters into a region to provide the airlift and the personnel needed for vital relief. I noted his concerns and passed them along to our forces who did leave as soon as the mission was completed.

Our friend also suggested the U.N. should play a larger role or at least be perceived as playing a larger role. Upon investigation I learned that might be rather difficult. The first appearances of the U.N. officials in the region were to hold news a conference to criticize the United States for doing nothing. As we would say back home, they came with big hats but no cattle.

Some 17 days after the tsunami, the first U.N. operation, a World Health Organization medical team, showed up and our airlift transported him to the site where they set up operations. The fact remains that the United States and allied governments in the region and volunteer forces were the ones who arrived at a critically important time to save the lives of perhaps tens of thousands who lived through the tsunami but were threatened by death and disease or starvation.

Within 6 days of the tsunami, Navy and Marine helicopters were delivering lifesaving food, water, and medical attention to isolated areas all along the west coast of northern Sumatra.

I might also say there is a perceived racist undertone and some resentment of the United States. As I mentioned, in 1996 I was part of a Senatorial delegation attending the Asia Pacific dialog conference in Malaysia. Unfortunately, we had to sit through a 25-minute attack by Prime Minister Mahathir who placed the problems of his country at the feet of Jews, Americans, and other Caucasians who he said did not care about brown-skinned people—obviously, a very unpleasant message. At least one of my colleagues vowed he would never travel halfway around the world again to hear such accusations.

The larger problem, of course, in the Muslim region has been the United States support of Israel and the conduct of the wars in Afghanistan and Iraq where many are concerned that the United States is conducting war on Islam, not on radical terrorists. These concerns have been partially and somewhat temporarily relieved by the extraordinary tsunami relief effort, but the scholars in the region, people whose judgment I respect, think this improvement will not last long without significant continuing efforts.

As I have said, the most obvious problem we have with Indonesia has been a congressionally imposed restriction on military assistance in Indonesia. These restrictions were first imposed in response to abuses by the Indonesian military, TNI, during the 1990s in brutally repressing the unrest in East Timor, leading to the establishment of a separate state in East Timor. Subsequent human rights abuses occurred in other areas under the authoritarian rule of President Suharto. But with a newly elected President SBY, who is working to gain control over the military and install appropriate respect for human rights and civilian control of the military, the time has come, in my view, to assist in that effort by reestablishing full participation for the Indonesian military and our International Military Education and Training Program.

Secretary Rice has taken the first step by clearing the way for resumption of full IMET participation by Indonesia. "IMET for Indonesia is in the United States' interests," Secretary Rice said to the Committee on Foreign Affairs. I agree. I look forward to working with her and this body to expand the opportunity for IMET training.

Not only, however, are we missing an opportunity to help Indonesia on its path to appropriately constrain military force, the sanctions have raised strong reactions from democratically elected members of the Indonesia parliament. Defense Minister Sudarsono stated that if the United States does not change its position, Indonesia would look elsewhere for assistance and alliance. Some members of parliament urged him not to solicit or accept the United States' assistance, but their position, fortunately, still does not appear to be the controlling view in the Government of Indonesia.

Some opponents of increased IMET participation for Indonesia are charging that the TNI was responsible for murders of Americans at the Tamika Mine. Our FBI, our own U.S. FBI, was deployed to the area and conducted an investigation in conjunction with the Indonesian forces. The FBI has concluded that the murders were committed by an Indonesian separatist who thought he was killing TNI members. That individual is still being sought, and we hope he will be brought to justice in the near future.

Obviously, I think that expanding military-to-military relations with Indonesia is the first and most important and obvious step we can take to improve relations. Beyond that, however, there is work to be done to work more closely with our friends in southeast Asia in providing technical assistance and tsunami relief efforts to help rebuild water infrastructure and other needed facilities.

Another tremendous concern is itself a compelling reason for the United States to pursue an active foreign policy with Indonesia; that is, the threat to democracy from political groups that may espouse an extreme form of Islam. After the fall of the Suharto regime, an authoritarian government, the people of Indonesia have embraced democracy. In Congress, Indonesia does not get the credit it deserves for moving so quickly down the path of democratic government.

With the election of President SBY, Indonesia just experienced its fourth peaceful democratic transfer of power. Voter participation in Indonesia, approximately 80 percent, should be the envy of us in the United States. However, the voice of extreme Islam is working through the political system, through activists and politically oriented groups, to spread their influence. Their presence is small but growing. In 2004, 79 percent of their voters cast their vote for a secular party, but that is down from 84 percent in 1999.

There are groups such as the Justice and Prosperity Party that is growing by taking a hard line against the corruption of the past administration, and it has participated in tsunami relief and other charitable activities. The party is gaining influence among those in Indonesia. But there are also elements in the party in the past who have expressed a desire for an Islamic State and feel that Islam suffered a setback as well as Indonesia suffering an economic setback during the secular dictatorship of Suharto in the ensuing years.

There is a danger of the spread of radical Islam, whether it be in the madrasas or the political arena, the anti-western strain of this intolerant form of Islam, or other activities. I believe, as I have outlined previously, there are courageous and determined people in Indonesia fighting to ensure the future of the country as a democracy and one that values the principle of freedom known in secular government. We must remain engaged so their struggle prevails.

The bigger picture requires active engagement with Southeast Asian countries seeking the path of democracy, human rights, and economic freedom. In my view, the best forms of assistance we can provide are economic participation by American companies in the region and educational exchanges. These were actually identified by the U.S. Agency for International Development Woods Report of the early 1990s which said that economic investment, trade, and education were the most effective ways of strengthening the relations and building the economies of developing countries. I believe that report was accurate, and I think it is the path for our participation in Southeast Asia.

For example, in my recent visit to Malaysia, many leaders we spoke to were concerned that fewer Malaysian students are now studying in the United States than in the past. I believe this educational exchange is extremely valuable for us as well as for students. I hope we can encourage more American colleges and educational foundations to increase their support for educational exchanges.

As noted above, however, I believe we must deal with military restrictions and use our IMET programs and other collaborative efforts as a means of assisting Indonesia, as well as other countries in the area, to work in a constructive fashion with our military in observing human rights and civilian control in that country. Not only is it in the interest of the people in Southeast Asia, I believe it is in our economic interest, our strategic interest, and in our interest in fighting the war against terrorism.

## CHINA'S ENACTMENT OF ANTISECESSION LAW

Mr. BOND. Mr. President, the Peoples Republic of China recently enacted an antisecession or antiseparation law, the intent of which may believe would restrict the Taiwanese people's freedom of speech and allow the Chinese Government to use force to annex Taiwan if China suspects separatist speech making or any other separatist activities on the island. This law has caused a tremendous uproar in Taiwan. Taiwan's foreign minister and chairman of Taiwan's Mainland Affairs Council have both denounced the law as a unilateral act on the part of China. It will cause tensions in the Taiwan Strait to rise and may have serious consequences for future Taiwan-China relations.

I agree with the assessment that China is seeking to change unilaterally the status quo in the Taiwan Strait. China seems to have abandoned any attempt at future dialogue between the two sides and seeks to impose this law on the 23 million people of Taiwan. Chinese assumptions are that Taiwan and China are now already unified and that China has jurisdiction over Taiwan, especially the authority to serve penalty and punishment to Taiwanese people and their leaders. China has ignored the fact that Taiwan and China have been two separate political entities since 1949 and neither has jurisdiction over the other. China, therefore, has no right to carry out punishment to Taiwanese people and leaders whenever China sees fit.

Predictably, Taiwanese people are outraged by the latest Chinese act and ask the international community to oppose China's new law. So far, with a wait-and-see attitude, the international community has remained quiet on the subject. It is important that we not appease China.

Inaction of the international community will send a dangerous signal and will further encourage China to indulge in its political rhetoric and war-like actions. We must single out the dangers inherent in China's new law, whose enactment will totally discourage the Taiwanese people from seeking a peaceful solution to the Taiwan issue. Now is not the time to empower China to prepare for military conflicts across the Taiwan Strait, just as the EU stands to do by lifting the Chinese Arms Embargo.

In this era of global terrorism and natural catastrophes, war is the last thing we would like to see in the Asia-Pacific region. I urge all Americans and the international community to oppose China's enactment of the antisecession law, and I plead with both Chinese and Taiwanese leaders not to resort to any extreme measures and not to make a bad situation worse. Both sides should allow tempers to cool and keep dialogues open.

May the Lunar New Year bring good will to the Chinese and Taiwanese peoples and may they continue to maintain peace and stability in the Taiwan Strait.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, it is my understanding we are in morning business until 2 o'clock.

The PRESIDING OFFICER. Yes, we are.

## BANKRUPTCY REFORM

Mr. DURBIN. Mr. President, for those who do not follow the debate in the Senate very closely, this 500-page bill has been the subject of our debate and discussion for the last 2 weeks. It is likely to be concluded today with a vote, and the vote is likely to be in favor of this legislation.

It is about bankruptcy law. It is something everyone dreads the thought of, that you would reach a point in life where you have more debts than assets, and finally say: I have to go to court and ask for help.

But bankruptcy is an institution created by Western civilized society to respond to a terrible injustice. There was a time in this world when if you were deeply in debt, you ended up deeply in jail—debtors' prison—put in an unconscionable situation where you could not pay your bills and, once in prison, did not have any place to turn.

We decided that in a more civilized society we would acknowledge the fact that through misfortune or miscalculation some people reach a point where they do not have enough money to pay their bills. And if they are prepared to go into a bankruptcy court, file extensive documentation to establish their debt and their assets, the court may consider discharging them in bankruptcy. As a result of that discharge, people lose most of what they have on Earth, but also walk away from their debts and have a chance for a fresh start, for a new day.

That is something that has been in the law for a long time. The law has been amended over the years. We have chapter 7, where you walk out of the bankruptcy court with your debts behind you. Chapter 13 is where an individual tries to repay, says to the court: I don't want to be found to be bankrupt. I am willing to work out with my creditors a repayment schedule. That is what chapter 13 does. So you try to take a limited amount of money and pay it out over a period of time.

For years and years the credit card companies and big banks have said: We want to change this law. Too many people are going to bankruptcy court. The numbers range from 1.3 million to 1.5 million each year, but there is no doubt the numbers are going up.

The credit industry argues: Too many people are in bankruptcy court, and as a consequence, we should limit the opportunity for bankruptcy. So for almost 10 years they have been pushing for this bill—year after year after year. Today their prayers will be answered. This bill will pass the Senate. It will glide right through the House of Representatives and be signed by the President in a hurry. What it will mean is that many of the people walking into bankruptcy court are now going to face new hurdles, new obstacles, new paperwork, new legal costs to file for bankruptcy, and at the end of the day many of them will not have their debts erased. Many of them will find they have to continue to keep paying on those debts for a long period of time.

It concerns me because we ought to ask the most basic question: Why are more people filing for bankruptcy? Is it the fashionable thing to do? I do not think so. Years ago, a member of my staff and her husband had a bad business experience. When she came to tell me they were going to file for bankruptcy, she was in tears. She was not happy about that at all.

People I have known who have gone through bankruptcy are not proudly announcing to their friends: Well, I had a great day in bankruptcy court. These are people who are a little embarrassed, a little ashamed of what they had to go through. They certainly did not want this to happen.

And why do people end up in that predicament? Well, for a lot of reasons. If you look at the No. 1 reason people give for why they go to bankruptcy court today, it is because of medical bills. And that stands to reason. The cost of medical care in America has gone up dramatically year after year. If you are not prepared for a major illness in your family, you might face major bills that you will never be able to repay. Sometimes the hospital or doctor will write it off and say: I know I am never going to collect it, and that is the end of the story. But sometimes they will not.

Sometimes the bills just keep coming in and the bill collectors keep calling and the harassment on individuals and their families increases to a point where some people say: That is it. I can't do it. I will never be able to pay off this debt. And they go into bankruptcy court.

So here we are in a nation with a health care crisis, in a nation where each day fewer people have health insurance, a nation where each day the cost of health care is going up, a nation where businesses are struggling to keep health insurance on the owners of the business and their employees, where labor unions are at their wit's end about how to provide the basic benefit package and still increase take-home pay, here we are in a certifiable American crisis when it comes to health care. And what is the response of your Government? To deal with the problem? No, we are going to deal with the victims.

The victims of today's health care crisis will now go into bankruptcy court and face a mountain of paperwork they have to fill out. If they don't do it right or they fall into the categories in this bill, they are not going to have their debts discharged. They are going to walk out of that court as deeply in debt as when they walked in.

The credit card industry says it is only fair because all these people going to bankruptcy court evidence some moral failure in America. There is just something wrong today with people and their values.

Excuse me, but being preached to by the credit card industry about moral values is a little tough to swallow. This is the same industry that in 2003 made record profits. All that plastic we carry in our wallets, they are making a bundle off those credit cards—so much so that they will inundate anyone who is up and taking nourishment with more credit card solicitations. Go home tonight and look in the mailbox. Maybe it won't be tonight. Trust me, by tomorrow there will be another solicitation for another credit card. And you think to yourself: Am I that important that they keep coming to me and offering me a credit card? The answer is, sadly, no. They are ready to offer credit cards to anything moving.

In my office one of my attorneys has a little boy who is 3½ years old. Tyler must be a pretty special little baby. He got his first credit card solicitation at the age of 3½. I told that story in Rockford, IL, last week, and one of my business friends said: I have you on that one. My 9-month-old daughter received a solicitation.

So here is this industry dumping credit cards on America, oblivious to whether the people who are receiving them are good credit risks, hoping you will sign up for that credit card, hoping you will pay 16 percent, 20 percent interest, hoping you will make the minimum monthly payment so they will eat you alive with interest payments, and ready to accept the possibility that they guessed wrong, ready to accept the possibility that you won't be able to pay your bills. They will write that off, or at least they did until this bill came along. Now they want that credit card debt to trail you for a lifetime. That is what this bill is all about.

You say to yourself: Is it a moral failure in America that has led to more bankruptcies? No, it is the lack of health insurance; it is the fact that people who worked hard and thought they had the world by the tail end up seeing their jobs outsourced when they are 55 years old and have nowhere to turn. Those are the realities of what leads people to bankruptcy court.

This bill says an awful lot about the Senate of the United States. It is the second most important bill of the Republican leadership. Did they bring us a bill to deal with the health care crisis? No. Did they bring us a bill to deal with all the jobs being outsourced in America, the Tax Code that creates rewards and incentives to send jobs overseas? No. Did they deal with a bill to fund our schools? Remember that Federal mandate called No Child Left Behind, that unfunded mandate President Bush and the Republicans in Congress refused to fund? Did they offer a bill to help struggling schools? No.

What did they come with? They came with the granddaddy of special interest bills, this 500-page gift to the credit industry in America. So we offered some amendments. We said: If there is going to be a real debate, let's have real choices.

The first amendment I offered said I am going to give you a category of bankrupt people I think should get a break from the terrible provisions in this bill. The category is the people we salute every night on the news, who many of us give speeches praising, who our thoughts and prayers are with every day—the men and women in uniform serving America. These are men and women who a year and a half ago had a nice little restaurant or a nice little business and went to their Guard meetings once a month and then were activated and, once activated, found out it wasn't for 30 days, it was for 18 months. While they were gone, their little business disintegrated, and now they face bankruptcy. Where was the moral failure of these soldiers? Where was the moral failure of the guardsmen and reservists who volunteered to go overseas and fight for my freedom and my home? I don't see any moral failure there.

When we brought the amendment to the floor and said, give these servicemen a break, by a vote of 58 to 38, with every Republican voting against it, that amendment was defeated by the same Congress that gives all of these stirring speeches about how much we love the men and women in uniform. Where were they when the men and women in uniform needed a vote on this bill? They were AWOL, that is where they were.

Senator KENNEDY said: What about the family in medical crisis? Should we not say to them at the end of the day, if you go through bankruptcy court, we will protect your home? We will give you a home to go to, and not an expensive home, a $150,000 home. You can buy a nice small home in Springfield, IL, for $150,000. You get up to Chicago or Washington or Boston or New York or Los Angeles, where does $150,000 take you? Not very far. But Senator KENNEDY said: If it is a medical crisis that brought them to bankruptcy, shouldn't at the end of the day they have a roof over their heads? Rejected—another virtual partisan rollcall. The credit card industry said: No exceptions.

Bill Nelson of Florida said: What if they steal your identity, run up all these bills, take you to court, and you are trying to discharge bills you didn't even enter into? Shouldn't you get a break then if they have stolen your identity? No, rejected. The credit card industry said: Go to court; fight it out in court with your lawyer. We are not going to give you that break.

I am going to offer an amendment, my last amendment, to the relief of many on the Republican side. I know they are tired of my amendments and tired of hearing me. I am about to lose my voice, so maybe it is time to end the debate. But the last amendment is their last chance. Here is what the last amendment says: If you are a disabled veteran and if the debts that brought you to bankruptcy were primarily incurred while you served in the active military, we are going to give you a break in bankruptcy court.

Who are the men and women I am talking about? Come to Bethesda, come to Walter Reed, and I will introduce you to them. These are guardsmen and reservists, active military, marines, soldiers from our Army, sailors who have now gone overseas and who have lost a leg or an arm or both hands or suffered a head injury. These are people who gave everything we could ask of them for this country. What profiles in courage they are. When I go out there, I am just amazed. They are fighting to get that prosthetic limb, fighting to get back on their feet. Most of them more than anything want to go back and fight with their units, but they are headed home. Some of them are headed home to a financial situation that is going to be another challenge to them. Some of them won't be able to get through it. They are going to file for bankruptcy. They are going to ask to maybe put those bitter memories of the war behind them and to put their debts behind them and give them a chance to start their lives again.

My last appeal to the Republican side of the aisle, which has steadfastly stood in ranks for the credit card industry and has been unwilling to stand for our men and women in uniform, is this: For the disabled veterans, those who incurred debts while they were at war, can you give them a break?

That is the last amendment I am going to offer. I am glad to have the disabled veterans organization of America supporting this amendment. I was happy to have all the military groups and families supporting my earlier amendment. I hope those who are following this debate on both sides of the aisle will consider those families who are affected. They have considered the credit card industry. There is a great deal of sympathy for the credit industry in the Senate. Our heart goes out to these poor people, the credit card industry swamping us with cards making billions of dollars. What can we do to help?

How about a 500-page bill, they say? Any time soon? Sure. It will be the second item on the Senate agenda. We will make sure we get this big present out of the way so you can put it on your list of accomplishments in Congress this year. For the people who will end up in bankruptcy court, most of whom never wanted to be there, the nightmare just got worse. What you are going to face because of this bill is a lot more in terms of obstacles, paperwork, and costs.

Instead of dealing with the problems that force people into bankruptcy, we are going to punish the victims. That is the priority of this Congress. It doesn't speak very well for why we are here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. The Senator is correct.

## OUR NATION'S FISCAL SITUATION

Mr. VOINOVICH. Mr. President, I rise to tell my colleagues that our Nation's fiscal situation is bad and likely to get worse. On an apples-to-apples basis, today's projected 10-year deficit is $500 billion deeper than CBO's September 2004 report.

When plausible assumptions about the path of current tax and spending policies are used, the official baseline deficit of $855 billion balloons to a deficit of $5.8 trillion. Even with a strong economy, annual deficits are likely to hover between $400 and $500 billion for the next 5 years. After that, the combination of tax cut extensions and growing entitlement costs threatens an upward spiral of deficits and debt that cannot be sustained.

But even this sobering assessment of Federal finances may be overly optimistic. Assuming continued, but declining, spending for the global war on terrorism increases the 10-year deficit by $418 billion—we read yesterday where the Secretary of Defense and General Myers said there is no real prediction about how long we are going to have to spend money in Iraq—assuming that discretionary spending keeps pace with economic growth (rather than inflation) increases the 10-year deficit by

$1.4 trillion; even assuming that expiring tax cuts are only extended for 5 years increases the deficit by $306 billion; assuming continuation of recent adjustments in the alternative minimum tax (AMT) increases the deficit by $642 billion, freezing appropriations, including defense, the war on terrorism and homeland security, would save $1.3 trillion. However, if combined with the extension of tax cuts and continued AMT relief, the budget would still remain in deficit every year, totaling $2.2 trillion over the next decade.

We must also remember that current Medicare payment increases for doctors and hospital expire at the end of 2005. The American Medical Association, AMA, reports that physicians would see a 31 percent decrease in payments from 2006–2013. If we do not act, senior citizens will face serious problems obtaining health care; but it will cost tens of billions to continue reimbursing doctors and hospitals at the current rate.

The fiscal policy decisions we make in the 109th Congress will largely determine whether the U.S. economy and the Federal Government will generate the financial resources to meet these challenges or whether we will force our children to choose between massive tax increases or draconian cuts in public services.

I am not exaggerating when I use the term "draconian cuts in public services." President Bush submitted a budget that proposes to substantially reduce or eliminate more than 150 government programs. In its annual "Budget Options" report, the Congressional Budget Office identifies 285 government programs that may need to be reduced, eliminated or substantially modified in order to control future spending. Federal budget analysts are already warning that current trends in Federal spending for health care, education, income security and even national defense simply cannot be sustained for much longer.

I will never forget meeting with Dan Crippen before he left CBO, and him telling me that by 2030, almost all of the GDP we are now spending at this time will be used to pay for Medicare, Medicaid, and Social Security, leaving no money for anything else but that.

I recognize that some of my colleagues consider any government program wasteful spending and would willingly enact all the proposals suggested by both President Bush and the CBO.

Nevertheless, back on planet Earth, mayors, county commissioners, governors and yes, even Senators, are expected to provide at least basic public services, as well as maintain a social safety net, enhance economic development, promote civic improvements and even support cultural enrichment.

Realistically, we are not going to eliminate economic development programs such as Community Development Block Grants as President Bush has proposed. Nor are we going to seriously consider CBO's suggestion to narrow the eligibility for VA disability compensation to only pay for disabilities related to military service. Everyone in this body knows that very few of these proposals are new. Some of them were first suggested by President Reagan 25 years ago. Congress has had ample opportunity to consider all of them and has never shown a willingness to enact any of them.

The bitter truth is that regardless of which party is in control, Congress has never shown an appetite for fiscal restraint. We are always much more likely to spend like drunken sailors than to save our constituents' money the way we would save our own.

I believe the reason we have never been able to control our appetite for spending is that most Members of Congress and the public simply do not understand the long term implications of short term spending decisions. Our constituents consistently ask for increased spending on existing programs as well as money for new programs. Congress almost always says yes to these requests because the true cost of these is so well hidden, they seem like minor investments for major public benefits. Unfortunately, the truth is that long after any public benefit has faded, our children and grandchildren will still be paying the bills for our generosity.

It is time to recognize that we are in a fiscal hole and to stop digging. The sooner we get started, the better. Prompt action will reduce the need for drastic steps and give individuals more time to adjust to any changes. It will also allow the miracle of compounding to start working for us rather than against us. Perhaps most important, prompt action will help us to avoid a dangerous upward spiral of debt and inflation that would ultimately harm every American.

We can begin by insisting on truth and transparency in government financial reporting. More than 200 years ago, Thomas Jefferson wrote to his Secretary of the Treasury, "We might hope to see the finances of the Union as clear and intelligible as a merchant's books so that every member of Congress, and every man of any mind in the Union, should be able to comprehend them, to investigate abuses, and consequently to control them." Today, consistent and accurate financial information can seem as elusive as it was in Jefferson's time. But these fiscal risks can be managed only if they are properly accounted for and publicly disclosed.

That is why I have introduced the "Truth in Budgeting Act." This bill has three simple goals.

First, it will help guarantee that Congress, the President and the American people have the information necessary to make intelligent decisions regarding our long term financial commitments.

Second, it will force Congress to focus more attention on the long term obligations instead of short term cash flows.

Finally, it will provide Congress the time to make fiscal policy with due deliberation rather than unseemly haste.

In order to guarantee that Congress, the President and the American people fully understand out long term liabilities, this legislation will require the Federal Government to gradually shift to accrual accounting for insurance programs; require CBO and the Joint Committee on Taxation to compute and report the change in Federal interest expense associated with any legislative action, and require the President to submit an annual report to Congress on the fiscal exposure the Federal Government faces including debt, financial liabilities, financial commitments, financial contingencies and other exposures. GAO would then be required to report to Congress on the extent and quality of the liability exposures presented by the administration.

I sincerely believe this knowledge will fundamentally change attitudes about Government spending. When my constituents come to me asking for this or that new spending program, I always tell them how much we will have to borrow to pay for the program they want and as "Is this really worth imposing that kind of debt on our grandchildren?" In almost every instance, their answer is "NO." The American people do not want to saddle their children and grandchildren with unsustainable bills; but they do not always clearly recognize the long term costs of some very attractive programs. When we fully explain these costs, our constituents will usually choose fiscal prudence.

My legislation will force Congress to focus more attention on long term obligations rather than short term cash flows by extending discretionary spending caps and the PAYGO rules for five years; creating a new Budget Act point of order requiring supermajority roll call votes to put Congress on record when it circumvents discretionary spending caps or PAYGO rules; putting more teeth in the annual budget resolution by directing the Budget Committee to set 302(b) levels and make efforts to exceed 302(b) levels subject to a 60-vote point of order—that will be a difficult one to get through with our appropriators, I am sure—and requiring CBO and the Joint Committee on Taxation to assess whether the budgetary consequences of legislation beyond the existing 10-year budget window are significantly greater than the cost inside the window. In other words, we pass things, and then we do not talk about what exposure we are going to have 10 years down the road. In the event that CBO or the Joint Committee on Taxation concludes the costs in real terms of legislation in the second decade after enactment would be more than 50 percent greater than in the first decade, it would be required to note this fact in cost estimates, and a point of order would lie against legislation causing these changes in outlays or revenues. This would mean Senators would have to acknowledge with a recorded vote the fact that they have been informed about outyear effects of their spending decisions.

I recognize these provisions are no substitute for genuine commitment to fiscal discipline. Discretionary spending caps and pay-go rules were in place between 1997 and 2002, but Congress still managed to spend money, as I referred to earlier, like drunken sailors. Nevertheless, it is important to require rollcall votes when we attempt to bust the budget and, under the right circumstances, they can be very effective.

Over the past 2 years, there have been 79 attempts to waive the Congressional Budget Act and increase spending. All but two of them were defeated. If these attempts at fiscal irresponsibility had been successful, Federal spending over the next 10 years could have increased by more than $1.5 trillion.

Also, my bill will give Congress the time it needs to properly deliberate financial decisions by moving the Federal Government to a biennial budget process. There are 21 States, including my own, that use biennial budgeting. In Ohio, we supplemented the biennial budget with a second annual budget review. The biennial process provides time for deliberation and, more importantly, effective oversight.

CBO reports that last year, Congress appropriated over $170 billion for 167 programs that had expired authorizations. Do you hear me: 167 programs, $170 billion, and the authorizations had expired. This is not the fault of the appropriators. No one expects them not to fund veterans health care or other critical programs due to expired authorization. It is the fault of a process that simply does not leave us enough time to adequately review and reauthorize important Government programs. We need to give ourselves time to do the job right, and biennial budgeting will help get us there.

According to the best information I have, our agencies today in the Federal Government spend about 60 percent of their time every year on the budget and appropriations. There is no time for congressional oversight because of the fact that we have these annual budget marathons we go through. I am hoping—working with Senator DOMENICI and other Members of this body—that we can bring the 2-year budget issue to the floor of the Senate and once and for all put it into law.

The Truth in Budgeting Act I have introduced will provide Congress and the American people important financial management tools. Like any other set of tools, they are only as useful as the skill and dedication of the craftsman using them. However, just as a carpenter or auto mechanic is more productive when working with quality equipment, Congress can be more effective if we provide ourselves with better quality information.

Finally, before I close, I want to share my concerns regarding Federal revenues. Many of my colleagues would like to extend until 2010 all or some of the tax cuts enacted in 2001 and 2003. Moreover, they propose to extend these tax cuts without offsetting the revenues lost to the Federal Government. The various proposals could increase the 5-year deficit by at least $90 billion and possibly as much as $306 billion. This is unacceptable.

Personally, I do not see a need to extend these tax cuts at this time. Now is the time for patience, not haste.

Most of the current tax provisions do not expire until 2010, and even the reduced rates on dividends and capital gains do not expire until 2008. I have consulted with experts such as Alan Greenspan and Pete Peterson who agree the stimulative effect of these cuts helped the economic recovery but also agreed we should pay for extending them with offsets. It is time to pay for them with offsets.

We do not know yet the impact of Federal revenues if we do Social Security reform. We still do not know the full cost of the prescription drug benefits we approved in the 108th Congress. Nevertheless, all of us must concede that most experts agree that if we keep going the way we are, spending for Medicare, Medicaid, and Social Security will greatly exceed 18 percent of GDP, as I mentioned, by the year 2030.

We still do not know the full cost of the ongoing war on terror at home and particularly overseas. I predict we will be committed not just to Iraq and Afghanistan but to Kosovo and Bosnia for a long time, which will increase our national security costs dramatically.

I have spent time with our reservists who have returned home, and many of them say their equipment is in bad shape because of the war. There are so many uncertainties in dealing with our national security that we ought to be careful about reducing our revenues.

We will not know the strength of the duration of the current economic recovery for at least another year, but I will say this: We recently learned that last year we had GDP growth of 4.4 percent. That is the best we have had since 1999. There is no question that we are back on track. And the real issue is, do we need to continue to stimulate the economy with the tax reductions we passed in 2001 and 2003, particularly 2003 when we felt we needed to give the economy a front-end loaded stimulus that would make sure we would see an upturn.

We will not know until 2008 or 2009 how Federal revenues will be impacted by baby boomers becoming eligible for early retirement. Most experts expect slower economic growth and slower growth in Federal revenues. It is a real question, with the retirement of our baby boomers: Will we have the workforce we need to keep economic growth moving forward?

Finally, and perhaps more important, the President's Commission on fundamental tax reform will not complete its work until July. Once they send their report to Treasury Secretary Snow, he may very well recommend sweeping tax reform proposals for us to consider in 2006. It makes little sense to me to rush into making current tax policy permanent only to redo all our work in less than 18 months.

Under these circumstances, it seems more prudent to wait until next year before extending tax cuts enacted in the 2001 or 2003 tax reform bills. However, if my colleagues absolutely insist on extending these tax cuts, then we should at least offset their costs by reducing spending or increasing revenues elsewhere in the budget. In other words, the budget resolution is going to be calling for something like $70 billion or $80 billion of tax cuts that will be handled in reconciliation, which basically says they can be passed by the Senate with 51 votes.

My suggestion is, just eliminate them from the budget resolution. If extending the lower tax on dividends or extending the lower tax on capital gains is something in the best interest of the American people, then let's require 60 votes to get that done, just as we did last year when we did not have the continuation of three tax cuts for marriage penalty, lower marginal rates, and for the child tax credit. We did not have a budget. We did not have reconciliation language, but we extended those three because it was the feeling of this body and the House that they were needed to continue to respond to the needs of the American people.

My basic yardstick for Government spending, including tax cuts, has always been is it necessary and is it affordable? I believe the tax cuts in 2001, 2003, and 2004 were both. Nevertheless, we face a different situation today, and I will no longer support tax cuts until they are fully offset. The Nation's gross domestic product grew by over 4 percent in 2003 and 2004. Unemployment has dropped from 6.6 percent to 5.2 percent, and new jobs have been created every month for the last 21 months. Even Alan Greenspan at the Federal Reserve has noticed the turnaround and started to raise interest rates. The tax cut medicine worked, and it is time to stop before we overdose on too much of a good thing. I know some people want to make our recent tax cuts permanent, but I cannot support doing so at this time.

Any additional tinkering with the Tax Code should only be done as part of a comprehensive reform package designed to return Federal revenues to their 60-year average of 18 percent of the economy.

In closing, I tell my colleagues and constituents that I valued my status last year, while I was running for reelection, as a deficit hawk. I have always placed fiscal responsibility at the top of my agenda and never supported spending or tax cuts unless I thought they were necessary and affordable.

The legislation I have introduced will help us more effectively determine what fiscal policies really are necessary and affordable. I encourage Senators to support this legislation. I also encourage them to show patience regarding making the tax cuts permanent. With all the uncertainties facing us, it does not make sense to deal with the issue now.

I will finish with these words: One of the requirements I have used during my political career to decide whether we should do something is the issue of fairness. How in the world can we ask the American people to flat fund domestic discretionary spending, deal with the problem of Medicaid and many of these other issues, and at the same time say to them, and by the way, we are going to extend these tax cuts we have had? It does not make sense. It is not fair. It is not right. It is not acceptable.

I am hoping that my colleagues understand that to put ourselves in the position where we are going to have probably one of the most stingy budgets we have had since I have been in the Senate, at the same time we cannot continue these tax cuts and extend them or, for that matter, make them permanent.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. VOINOVICH. Mr. President, I ask unanimous consent that at 2 p.m. today the Senate proceed to votes in relation to the next two amendments; provided further that all votes after the first be limited to 10 minutes each. The amendments are Leahy amendment No. 83 and Durbin amendment No. 112.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. VOINOVICH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

Mr. LEAHY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand there will be a vote on the Leahy-Sarbanes amendment at 2 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

### AMENDMENT NO. 83

Mr. LEAHY. Mr. President, this amendment Senator SARBANES and I have pending is going to moderately preserve the current conflict-of-interest standards for investment banks. They might safeguard the integrity of the bankruptcy process. Senators understand that well before I was born we have had in bankruptcy law provisions to cover conflicts of interest of investment bankers. For some reason this was taken out in the pending legislation. The pending legislation would eliminate the now 67-year-old conflict-of-interest standards that prohibit investment banks which served as underwriters of a company's securities from playing a major advisory role in the company's bankruptcy process.

In other words, it means if you had an investment bank that advised or underwrote securities for WorldCom or Enron at a time when, as we now know, they were cooking the books—they were the ones who advised them how to do this before bankruptcy—then they could be hired to represent the interests of the defrauded creditors during the bankruptcy proceeding.

It is kind of the fox guarding the chicken coop. You advise one of these companies how to cook the books, make a lot of money—it is going to defraud a lot of people—but if the bubble breaks and you go into bankruptcy and the people who have been defrauded try to get a little bit of money back—try to get back some of the money they are owed, even though it is going to be cents on the dollar, people who had their pensions built into this, had their retirement built into this—you could have the very same investment banker saying, "We will represent you. We are the guys who got you in the problem in the first place, where you lost all your pension and the money you are owed, but we will help you get it back."

It is ironic that firms that had a part in the company's deception could stay on the payroll in bankruptcy and profit handsomely from their own fraud.

For 67 years we said, wisely: Enough. You can't do that. Nobody seemed to have a problem with it, but for some reason, that prohibition was dropped here. I have to ask what kind of message are we sending to investors and pensioners who are suffering from corporate misdeeds and ensuing bankruptcies if we allow this to happen. They deserve better.

What we have suggested, what a lot of people seem to support, is: All right, we won't put the total blanket prohibition in, but we will at least say that if you were involved within 5 years of this bankruptcy you cannot come back and handle the rights of the creditors. In other words, if you are the one who lost all the money of the creditors, you lost all the money of the pensioners, you lost all the money of the investors, you are not the one who is going to come back in and say now you can pay us to get back what little bit is left.

The National Bankruptcy Review Commission, agreeing with us, strongly recommended that Congress keep the current conflict-of-interest standards in place. They said:

> Strict disinterestedness standards are necessary because of the unique pressures inherent in the bankruptcy process.

Of course there are. Of course there are pressures. The larger the bankruptcy, the greater the pressures. Which assets do you sell? Which assets do you keep? Which assets should go to the creditors? What we want to do is monitor section 414. I would like to go back to the blanket prohibition, but we said at least make it 5 years. In fact, Fifth Circuit Court of Appeals Judge Edith Jones, well respected, very conservative member of the Fifth Circuit and member of the Bankruptcy Commission, urged Congress to remove section 414. She said:

> If professionals who have previously been associated with the debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. Strict disinterestedness, required by current law, eliminates such conflicts or potential conflicts. . . . Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation and should be eliminated.

Then the chairman of the Securities and Exchange Commission wrote to us. He said, speaking for the Commission:

> We believe that it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.

Think of what he said. A lot of investors, since Enron and WorldCom, have lost confidence. If we perpetuate the things that perpetuate that lack of confidence, loss of confidence, then shame on us. We can easily go in with a very commonsense exclusion of conflicts of interest.

How can any one of us go back and say to our constituents: We were in favor of keeping the people who advised and got the enormous bankruptcy in the first place. Now we are in favor of putting them in to guard what little bit of assets the creditors and the investors might have. Try to explain that to somebody who is trying to recover because they relied on what these same people had said and now they are trying to recover their life savings, or trying to recover their business which itself may go bankrupt because of money owed them. Try to convince them that we are trying to protect you by letting the same people who made this mess now be responsible for getting payment to you.

The amendment Senator SARBANES and I offer is a modest compromise. We limit it to 5 years before the bankruptcy. It only applies in the 5 years immediately preceding the bankruptcy. It doesn't say you are precluded forever, as current law does. But it says you are precluded if you were involved within 5 years of this collapse. Then you are not going to be involved in getting people back their money.

With Enron and WorldCom and others, this is the last time in the world that the Senate should weaken conflict-of-interest standards. Certainly the investors and the public are not going to like it. What we are trying to do, we are trying to get us back in line with the SEC and others, to restore public confidence in financial transactions with greater accountability and increased investor protection.

As I said earlier, I will yield to the distinguished senior Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I again commend my able colleague from Vermont for coming forward with this amendment. I am very pleased to join with him in cosponsoring it, and I urge its adoption upon our colleagues.

First, I want to underscore, the Senator from Vermont has tried very hard to work out a very reasonable proposal. The existing law prohibits the investment bankers from playing any part in the bankruptcy, if a company for which they were an investment banker goes into bankruptcy.

They can't come along and then become an adviser to the bankrupt company. The rationale for that is strong because often the investment bankers, because of their own activity, need to be examined and reviewed, and they may be held accountable.

The argument has been made: Well, suppose they were the investment banker 20 years ago and they have not had a connection with this company since. Why should they be precluded from possibly being taken on in the bankruptcy? Recognizing that argument, Senator LEAHY's proposal has a 5-year ban period. In other words, if you have been the investment banker in the last 5 years, you can't then be engaged when the company goes bankrupt. The investment bankers are intimately involved in the financial structure of the company. Often, they can be held liable in one way or another for what has taken place. Certainly there is the appearance of impropriety if the very people who were the investment bankers to this company in the recent period, and they then go bankrupt, and they are taken on subsequent to bankruptcy.

Only a while back, Gretchen Morgenson, writing in the New York Times—I ask unanimous consent that the statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. SARBANES. She said:

> Do you think Solomon Smith Barney, the brokerage firm that bankrolled WorldCom and advised it on a business and financial strategy that failed rather spectacularly, should be allowed to represent the interests of the company's employees, bondholders and other creditors while WorldCom is in bankruptcy?

She said:

> If you answered no, you win a gold star for common sense and for knowing right from wrong.

Elizabeth Warren, a very distinguished professor at Harvard Law School, commenting about this problem—I understand that financial firms are eager to earn money from bankruptcy advice. There is often very big money to be made. They have been lobbying this issue very hard. This doesn't preclude any investment banker, just the ones who have been providing advice to the company leading up to the company's failure, with the Leahy modified amendment, just in the 5-year period prior to the bankruptcy.

Elizabeth Warren says:

> There is reason why the professionals who have worked for a business that collapses into bankruptcy are not permitted to stay on. The company must go back after bankruptcy and reexamine its old transactions. Having the same professionals review their own work is not likely to yield the most searching inquiry.

Obviously, having the same professionals review their own work is not likely to yield the most searching inquiry.

Arthur Levitt, former Chairman of the SEC, said:

> I haven't read a single argument made by the investment banks that would persuade me that the prohibition should be changed. What we are talking about is a significant potential conflict of interest, and I think it is outrageous that investment banks would even try to go down this road.

This prohibition has existed in law ever since 1938, which has been reaffirmed by the Bankruptcy Study Commission, by all the experts in the field, those who have no vested interest in the outcome, who come objective, people who are in favor of modifying the bankruptcy law, people not in favor of it, but they all come together and agree on this issue.

Professor Warren said:

> It is not a provision to ensure investor confidence, or to enhance protection for employees, pensioners, or creditors of failing companies. This is a provision to enrich an already wealthy interest group, nothing more.

It needs to be understood that an investor bank that advised on the creation of a company's capital structure before a bankrupt filing may itself be exposed to potential liability. If it is brought in to work out the deal that permits the company to emerge from bankruptcy, you are opening the door that they may be tempted to prefer the creditors who have a potential claim against the investment bank. Don't open this stable door.

The Leahy proposal is an extraordinarily reasonable proposal. It actually is more accommodating than what the experts are telling us because the experts want to continue the complete ban which exists in current law. But what Senator LEAHY has done in this proposal—this is a 5-year ban. If you are earlier than the 5 years, you can be considered, but if you are within the 5-year period, it is not going to be permitted because we don't want to run the risk of the inherent conflict of interest which would exist in that situation. When a company goes bankrupt, you need a fresh look at what is going on, and you won't get that from the same investment bankers who represented the company before.

This is the point that has been made by the Securities and Exchange Commission. In fact, as Chairman Donaldson expressed his personal view at a hearing—Senator LEAHY and I wrote to him, and he conveyed to us the view of the Commission, saying how cautiously Congress should proceed before loosening any conflict of interest restrictions.

He noted that they were aware of the arguments of proponents of the amendment that the current statutory exclusion is too broad because it covers firms that participated even if it was years ago and the firms have no further involvement with the debtor. However, if the exclusion is eliminated entirely, we are concerned that the general protection in the statute would be insufficient. It may well be insufficient. That is the problem.

I plead with my colleagues, given what we have been through and given what investors have suffered across the country, given the effort now to eliminate these conflicts of interest, don't open this major door to a very severe potential conflict of interest, and the way that we are going to do that is to support the Leahy amendment.

I urge it upon my colleagues.

Mr. WARNER. Mr. President, I rise today in support of Leahy amendment No. 83 to the bankruptcy reform bill. This amendment offers a commonsense solution to a thorny issue in current bankruptcy law.

While I am a strong supporter of the underlying bankruptcy reform bill, and look forward to voting for its final passage, I am concerned about section 414, which amends the disinterested person definition in the conflict of interest standards of the Bankruptcy Code.

Under current law, a firm that serves as an underwriter for a company's securities may be barred absolutely from advising that company in a bankruptcy reorganization. The existing law is probably an over-broad response to the fear of potential abuse. For example, there is little potential for abuse in bankruptcy if an investment bank underwrote securities for a company 50 years ago, and had not done so since.

Section 414 in this bankruptcy reform bill essentially does away with the current ban, and gives bankruptcy judges the discretion to determine whether the investment bank has a material adverse interest. If the judge decides that no such adverse interest exists, then the bank would be able to advise the debtor company, even if some of the bank's advice helped contribute to the bankruptcy in the first place.

In my view, while the current law is over-broad, section 414 swings the pendulum too far the other way. I agree with the Chairman of the Securities and Exchange Commission, William Donaldson, who recently wrote to Members of the Senate on behalf of the SEC. Chairman Donaldson noted that the SEC believes that "it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile."

Given the number of high-profile corporate bankruptcies over the past few years, it is paramount that we completely avoid the slightest appearance of impropriety in these bankruptcies. In my view, the Leahy amendment achieves that goal, and strikes a solid middle ground in this important debate.

On the one hand, the amendment does not attempt to reinstate the overly broad current law. On the other hand, the amendment recognizes that it is important for Congress to set out some uniform policy in this area rather than leaving it up to hundreds of individual bankruptcy judges.

Instead, the Leahy amendment imposes a reasonable 5-year waiting period under which an investment bank that underwrote securities for a company would be precluded from advising that same company in bankruptcy.

In my view, this amendment would protect against any possibility of abuse, would safeguard against the appearance of impropriety, and would not unduly harm investment banks from rightfully participating in the bankruptcy process.

Mr. LEAHY. Mr. President, am I correct that the yeas and nays have been ordered?

The PRESIDING OFFICER (Mr. CHAMBLISS). The yeas and nays have been ordered. There is 2 minutes equally divided prior to the vote.

Who seeks time?

Mr. CRAIG. Mr. President, I think this side is prepared to yield back the time.

Mr. LEAHY. Mr. President, I think both Senator SARBANES and I have made our case. We just want to eliminate this blatant conflict of interest.

We yield back our time.

The PRESIDING OFFICER. Time has been yielded.

The question is on agreeing to amendment No. 83.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—44

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Collins
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Voinovich
Warner
Wyden

NAYS—55

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter

NOT VOTING—1

Clinton

The amendment (No. 83) was rejected.

AMENDMENT NO. 112

The PRESIDING OFFICER. Under the previous order, the next vote will be on Durbin amendment No. 112. There are 2 minutes equally divided. Who seeks time?

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, this amendment will exempt from the bankruptcy bill's means test those disabled veterans whose indebtedness occurred primarily during a period of military service. They have given us their arms, their legs, very important parts of their lives.

After 2 weeks of debate, after scores of amendments that have failed, I ask my colleagues, just once, in the consideration of this bill, whether they will take into their consideration those who, because of misfortunes they could not control, have had their lives seriously changed. We need to honor these veterans who have given so much to America.

If the Senate owes a great debt to the credit card industry, don't we owe a greater debt to these brave soldiers? I ask you to vote aye.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I agree with the Senator from Illinois. I think the Congress agrees with him, the House agrees with him. I ask the Senate to support the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced — yeas 99, nays 0, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—1

Clinton

The amendment (No. 112) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 129

Mr. McCONNELL. Mr. President, I ask unanimous consent that we now proceed to a vote in relation to the Schumer amendment No. 129 with all other provisions of the agreement still in place.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCONNELL. We can expect two more votes right now, first on the Schumer amendment and then on the underlying Talent amendment. Then there will be a break before we have another series of votes.

I yield the floor.

The PRESIDING OFFICER. There are 2 minutes equally divided. Who seeks time?

The Senator from New York.

Mr. SCHUMER. Mr. President, I will address both the Schumer second-degree amendment and the underlying Talent amendment. This all relates to the millionaire's loophole.

Mr. TALENT. Will the Senator yield for a second? Does the Senator want to ask unanimous consent to have 4 minutes at once here, which we talked about before?

Mr. SCHUMER. I think that is what the Chair called for. Am I right?

The PRESIDING OFFICER. That is correct.

Mr. TALENT. So it is 4 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. It is 4 minutes equally divided, 2 minutes on each side.

Mr. SCHUMER. Mr. President, we have debated this before when I offered an amendment to close the millionaire's loophole. My colleagues may recall the millionaire's loophole will allow a millionaire to shield his or her assets in a certain type of trust. It would not be susceptible to bankruptcy. The millionaire could then declare bankruptcy, shed his debts, and still have the assets in the trust. It is an egregious abuse.

Unfortunately, my amendment was voted down. My friend from Missouri has offered an amendment that frankly keeps the status quo. I understand many on the other side are sort of pained that they had to vote against this amendment, but let me tell colleagues what the Talent amendment does.

It requires a showing of intent to defraud in order to not shield the assets. Well, give me a break. Or as my kids would say: Hello.

Which millionaire is going to hire a lawyer and say, make sure you leave a paper trail so they can prove intent? Of course, one cannot prove intent, particularly if the actual intent is to hide the assets.

So in all due respect to my good friend from Missouri, this amendment is simply a subterfuge. Make no mistake about it, the Talent amendment will not rectify the millionaire's loophole, will not provide cover for people who seek cover. If we want to correct the Talent amendment, vote for the Schumer second-degree to Talent, which eliminates the intent requirement.

One more point. Aside from the intent issue——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHUMER. I guess there are no more points.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Utah.

Mr. HATCH. Mr. President, one can have self-settled trusts. What the amendment of the distinguished Senator from New York does is do away with essentially all self-settled trusts. Frankly, Senator SCHUMER's amendment is so broad that it covers all settled trusts, not just fraud.

The amendment of the distinguished Senator from Missouri covers fraud, and he does it in the appropriate way, a legal way, the way it should be done.

I yield the remainder of my time to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. I thank the Senator from Utah.

Very briefly, we should not allow criminals to hide their assets and avoid paying their bills. This amendment makes certain that dishonest people can't hide their assets, especially if they have caused others to lose their jobs, retirement pensions, health care benefits and, in some cases, their life savings.

One of the reasons the economy plunged into a recession a few years back was because of corporate fraud. And those crimes caused companies to fail, eliminating thousands of jobs. It is fundamentally unfair to allow these crooks to abuse the trust laws of certain States to hide their wealth.

My amendment is simple. It closes the asset protection trust loophole by empowering bankruptcy courts to go back 10 years to take away fraudulent transfers that criminals have sheltered away in an attempt to avoid paying back their debts.

Here is a little background on the problem. Asset protection trusts are trusts that a person forms to shield assets for his or her own benefit.

Although the law has historically allowed property owners to create trusts for others, courts have historically refused to permit someone to tie up his or her own property in such a way that he or she can still enjoy it but prevent his or her creditors from ever reaching it.

My amendment states clearly that these trusts cannot be used in bankruptcy to allow a person to shelter their assets to avoid repaying their debts because of a judgment in criminal, civil, or bankruptcy court.

In addition, my amendment closes the loophole that the New York Times wrote a good article about. That article noted how difficult it is to determine how much money these crooks have sheltered into these asset protection trusts. Some estimate that criminals have stashed away billions of dollars in these types of trusts.

This amendment allows victims to go after any resource transferred into the trust by a corporate criminal over the previous 10 years. Current laws says that if a corporate executive is convicted of a crime, victims can only go after resources transferred into these trusts over the last year. The bankruptcy bill, without my amendment, would have made it only 2 years.

But, that is still not enough time to go after the criminals who set up these asset protection trusts.

There is a gap of several years where criminals could have put billions in assets into these trusts and the Federal and State bankruptcy courts might not be able to touch them. My amendment closes the loophole for criminals.

I urge my colleagues to support this amendment—it simply cracks down on criminals.

I yield back my time.

Mr. SCHUMER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. COLEMAN). Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 129 to amendment No. 121.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Chafee
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid

Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—56

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Clinton

The amendment (No. 129) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

### ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following the next vote the Senate proceed to consideration of Calendar No. 39. S. 250, the Vocational and Technical Education Act; provided that the committee-reported substitute amendment be agreed to, there be 30 minutes for debate equally divided between the chairman and ranking member, no other amendments be in order, and that following the debate, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill first in the next series of votes with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

### VOTE ON AMENDMENT 121

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the Talent amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 121. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—73

Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—26

Akaka
Bayh
Boxer
Carper
Durbin
Feingold
Feinstein
Inouye
Jeffords
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Obama
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—1

Clinton

The amendment (No. 121) was agreed to.

---

## CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the clerk will report the next bill by title.

The bill clerk read as follows:

A bill (S. 250) to amend the Carl D. Perkins Education and Technical Education Act of 1998 to improve the Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike part shown in black brackets and insert part shown in italic.)

S. 250

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

[(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Career and Technical Education Improvement Act of 2005".

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents.
[Sec. 2. References.
[Sec. 3. Purpose.
[Sec. 4. Definitions.
[Sec. 5. Transition provisions.
[Sec. 6. Limitation.
[Sec. 7. Authorization of appropriations.

[TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

[Sec. 101. Career and technical education assistance to the States.
[Sec. 102. Reservations and State allotment.
[Sec. 103. Within State allocation.
[Sec. 104. Accountability.
[Sec. 105. National activities.
[Sec. 106. Assistance for the outlying areas.
[Sec. 107. Native American program.
[Sec. 108. Tribally controlled postsecondary career and technical institutions.
[Sec. 109. Occupational and employment information.
[Sec. 110. State administration.
[Sec. 111. State plan.
[Sec. 112. Improvement plans.
[Sec. 113. State leadership activities.
[Sec. 114. Distribution of funds to secondary school programs.
[Sec. 115. Distribution of funds for postsecondary career and technical education programs.
[Sec. 116. Special rules for career and technical education.
[Sec. 117. Local plan for career and technical education programs.
[Sec. 118. Local uses of funds.
[Sec. 119. Tech-Prep education.

[TITLE II—GENERAL PROVISIONS

[Sec. 201. Redesignation of title.
[Sec. 202. Fiscal requirements.
[Sec. 203. Voluntary selection and participation.
[Sec. 204. Limitation for certain students.
[Sec. 205. Authorization of Secretary; participation of private school personnel.
[Sec. 206. Student assistance and other Federal programs.
[Sec. 207. Table of contents.

**[SEC. 2. REFERENCES.**

[Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

**[SEC. 3. PURPOSE.**

[Section 2 (20 U.S.C. 2301) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career";

[(2) in paragraph (1), by striking "standards" and inserting "and technical standards, and to assist students in meeting such standards, especially in preparation for high skill, high wage, or high demand occupations in emerging or established professions";

[(3) in paragraph (2), by inserting "challenging" after "integrate";

[(4) in paragraph (3), by striking "and" after the semicolon;

[(5) in paragraph (4)—

[(A) by inserting "conducting and" before "disseminating national";

[(B) by inserting "disseminating information on best practices," after "national research,"; and

[(C) by striking the period at the end and inserting a semicolon; and

[(6) by adding at the end the following:

["(5) promoting leadership and professional development at the State and local levels, and developing research and best practices for improving the quality of career and technical education teachers, faculty, principals, administrators, and counselors;

["(6) supporting partnerships among secondary schools, postsecondary institutions, area career technical centers, business and industry, professional associations, and intermediaries; and

["(7) developing a highly skilled workforce needed to keep America competitive in the global economy in conjunction with other Federal education and training programs, including workforce investment programs, that provide lifelong learning for the workforce of today and tomorrow.".

**[SEC. 4. DEFINITIONS.**

[Section 3 (20 U.S.C. 2302) is amended—

[(1) in paragraph (2), by inserting ", including employment statistics and information relating to national, regional, and local labor market areas, as provided pursuant to section 118, and career ladder information, where appropriate" after "to enter";

[(2) in paragraph (3)—

[(A) in the paragraph heading, by striking "VOCATIONAL" and inserting "CAREER"; and

[(B) by striking "vocational" each place the term appears and inserting "career";

[(3) by striking paragraph (4);

[(4) by redesignating paragraphs (5) through (30) as paragraphs (10) through (35), respectively;

[(5) by inserting after paragraph (3) the following:

["(4) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment, approved annually by the relevant administrators of the secondary and postsecondary institutions, to a program that is designed to provide students with a nonduplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree, and linked through credit transfer agreements.

["(5) CAREER AND TECHNICAL EDUCATION.—The term 'career and technical education' means organized educational activities that—

["(A) offer a sequence of courses (which may include technical learning experiences) that—

["(i) provides individuals with the challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers in emerging and established professions; and

["(ii) may lead to technical skill proficiency, a credential, a certificate, or a degree; and

["(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, of an individual.

["(6) CAREER AND TECHNICAL EDUCATION STUDENT.—The term 'career and technical education student' means a student who enrolls in a clearly defined sequence of career and technical education courses leading to attainment of technical skill proficiency, a credential, a certificate, or a degree.

["(7) CAREER AND TECHNICAL STUDENT ORGANIZATION.—

["(A) IN GENERAL.—The term 'career and technical student organization' means an organization for individuals enrolled in a career and technical education program that engages in career and technical education activities as an integral part of the instructional program.

["(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in career and technical education at the local level.

["(8) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve guidance and counseling with respect to career options, financial aid, and postsecondary options.

["(9) CAREER PATHWAY.—The term 'career pathway' means a coordinated and nonduplicative sequence of courses (which may include technical learning experiences) and associated credits that—

["(A) shall identify both secondary and postsecondary education elements;

["(B) shall include challenging academic and career and technical education content;

["(C) may include the opportunity for secondary students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary credits; and

["(D) may culminate in technical skill proficiency, a credential, a certificate, or a degree.";

[(6) in paragraph (10) (as redesignated by paragraph (4) of this section), by striking "5206" and inserting "5210";

[(7) by redesignating paragraphs (11) through (35) (as redesignated by paragraph (4) of this section) as paragraphs (12) through (36), respectively;

[(8) by inserting after paragraph (10) (as redesignated by paragraph (4) of this section) the following:

["(11) COMMUNITY COLLEGE.—The term 'community college'—

["(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a baccalaureate degree; and

["(B) includes tribally controlled colleges or universities.";

[(9) in paragraph (12) (as redesignated by paragraph (7) of this section)—

[(A) by striking "method of instruction" and inserting "method"; and

[(B) by striking "vocational" and inserting "career";

[(10) by redesignating paragraphs (13) through (36) (as redesignated by paragraph (7) of this section) as paragraphs (14) through (37), respectively;

[(11) by inserting after paragraph (12) the following:

["(13) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that under this Act such subjects included in such term shall be only those subjects in a secondary school context.";

[(12) in paragraph (16) (as redesignated by paragraph (10) of this section), by striking "vocational" both places the term appears and inserting "career";

[(13) in paragraph (17) (as redesignated by paragraph (10) of this section)—

[(A) in subparagraph (A), by striking "an institution of higher education" and inserting "a public or nonprofit private institution of higher education that offers career and technical education courses that lead to technical skill proficiency, an industry-recognized credential, a certificate, or a degree"; and

[(B) in subparagraph (C), by striking "vocational" and inserting "career";

[(14) in paragraph (18)(A) (as redesignated by paragraph (10) of this section), by striking "agency, an area vocational" and inserting "agency (including a public charter school that operates as a local educational agency), an area career";

[(15) by redesignating paragraphs (20) through (37) (as redesignated by paragraph (10) of this section) as paragraphs (21) through (38), respectively;

[(16) by inserting after paragraph (19) (as redesignated by paragraph (10) of this section) the following:

["(20) GRADUATION AND CAREER PLAN.—The term 'graduation and career plan' means a written plan for a secondary career and technical education student, that—

["(A) is developed with career guidance and academic counseling or other professional staff, and in consultation with parents, not later than in the first year of secondary school or upon enrollment in career and technical education;

["(B) is reviewed annually and modified as needed;

["(C) includes relevant information on—

["(i) secondary school requirements for graduating with a diploma;

["(ii) postsecondary education admission requirements; and

["(iii) high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions, and labor market indicators; and

["(D) states the student's secondary school graduation goals, postsecondary education and training, or employment goals, and identifies 1 or more career pathways that correspond to the goals.";

[(17) in paragraph (25) (as redesignated by paragraph (15) of this section)—

[(A) in the paragraph heading, by striking "TRAINING AND EMPLOYMENT" and inserting "FIELDS"; and

[(B) by striking "training and employment" and inserting "fields";

[(18) in paragraph (26) (as redesignated by paragraph (15) of this section), by striking "the Commonwealth" and all that follows through the period and inserting "and the Commonwealth of the Northern Mariana Islands.";

[(19) by redesignating paragraphs (31) through (38) (as redesignated by paragraph (15) of this section) as paragraphs (32) through (39), respectively;

[(20) by inserting after paragraph (30) (as redesignated by paragraph (15) of this section) the following:

["(31) SELF-SUFFICIENCY.—The term 'self-sufficiency' means a standard that is adopted, calculated, or commissioned by a local area or State, and which adjusts for local factors, in specifying the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.";

[(21) in paragraph (32) (as redesignated by paragraph (19) of this section)—

[(A) in subparagraph (C), by striking "training and employment" and inserting "fields"; and

[(B) in subparagraph (F), by striking "individuals with other barriers to educational achievement, including";

[(22) in paragraph (34) (as redesignated by paragraph (19) of this section) by striking ", and instructional aids and devices" and inserting "instructional aids, and work supports";

[(23) by striking paragraph (35) (as redesignated by paragraph (19) of this section) and inserting the following:

["(35) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

["(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

["(B) integrates academic and career and technical education instruction, and utilizes work-based and worksite learning where appropriate and available;

["(C) provides technical preparation in a career field, including high skill, high wage, or high demand occupations;

["(D) builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction, in a coherent sequence of courses;

[“(E) leads to technical skill proficiency, a credential, a certificate, or a degree, in a specific career field;

[“(F) leads to placement in appropriate employment or to further education; and

[“(G) utilizes career pathways, to the extent practicable.”;

[(24) in paragraph (37) (as redesignated by paragraph (19) of this section)—

[(A) in the paragraph heading, by striking “VOCATIONAL” and inserting “CAREER”;

[(B) in the matter preceding subparagraph [(A)—

[(i) by striking “vocational” and inserting “career”;

[(ii) by striking “paragraph (2)” and inserting “subsection (a)(2)”; and

[(iii) by striking “paragraph (5)(A)” and inserting “subsection (a)(5)”; and

[(C) in subparagraph (F), by striking “vocational” and inserting “career”; and

[(25) by striking paragraphs (38) and (39) (as redesignated by paragraph (19) of this section).

### [SEC. 5. TRANSITION PROVISIONS.

[Section 4 (20 U.S.C. 2303) is amended by striking “the Carl D. Perkins Vocational and Applied Technology Education Act” and all that follows through the period and inserting “this Act, as this Act was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. Each eligible agency shall be assured a full fiscal year for transition to plan for and implement the requirements of this Act.”.

### [SEC. 6. LIMITATION.

[Section 6 (20 U.S.C. 2305) is amended by striking the second sentence.

### [SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

[Section 8 (20 U.S.C. 2307) is amended—

[(1) by striking “title II” and inserting “part D of title I”; and

[(2) by striking “1999 through 2003” and inserting “2006 through 2011”.

## [TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

### [SEC. 101. CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES.

[Title I (20 U.S.C. 2321 et seq.) is amended by striking the title heading and inserting the following:

## [“TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES”.

### [SEC. 102. RESERVATIONS AND STATE ALLOTMENT.

[Section 111(a) (20 U.S.C. 2321(a)) is amended—

[(1) in paragraph (1)(C), by striking “2001 through 2003,” and inserting “2006 through 2011, not more than”;

[(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “paragraph (1)” and inserting “paragraph (1), that are not allotted under paragraph (5),”;

[(3) in paragraph (3)—

[(A) in subparagraph (B), by striking “(or in the case” and all that follows through “1998)”; and

[(B) in subparagraph (C)—

[(i) in clause (i)(I), by striking “(or in the case” and all that follows through “1998)”; and

[(ii) in clause (ii)(II), by striking “(or in the case” and all that follows through “1998)”; and

[(4) by adding at the end the following:

[“(5) FORMULA FOR AMOUNTS IN EXCESS OF THE FISCAL YEAR 2005 FUNDING LEVEL.—

[“(A) IN GENERAL.—For any fiscal year for which the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) exceeds the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) for fiscal year 2005, such excess amount shall be allotted to the States according to the formula under subparagraphs (A) through (D) of paragraph (2).

[“(B) MINIMUM ALLOTMENT.—

[“(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), no State shall receive for a fiscal year under this paragraph less than ½ of 1 percent of the excess amount described in subparagraph (A).

[“(ii) REQUIREMENT.—No State, by reason of the application of clause (i), shall be allotted under this paragraph for a fiscal year more than the amount determined by multiplying—

[“(I) the number of individuals in the State counted under paragraph (2); by

[“(II) 185 percent of the national average per pupil payment made with the excess amount described in subparagraph (A) for that year.”.

### [SEC. 103. WITHIN STATE ALLOCATION.

[Section 112 (20 U.S.C. 2322) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by adding “and” after the semicolon; and

[(B) by striking paragraphs (2) and (3) and inserting the following:

[“(2) not more than 15 percent for—

[“(A) State leadership activities described in section 124, of which—

[“(i) an amount determined by the eligible agency shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

[“(ii) not less than $60,000 shall be available for services that prepare individuals for nontraditional fields; and

[“(B) administration of the State plan, which may be used for the costs of—

[“(i) developing the State plan;

[“(ii) reviewing the local plans;

[“(iii) monitoring and evaluating program effectiveness;

[“(iv) assuring compliance with all applicable Federal laws;

[“(v) providing technical assistance; and

[“(vi) supporting and developing State data systems relevant to the provisions of this Act.”;

[(2) in subsection (b), by striking “subsection (a)(3)” both places the term appears and inserting “subsection (a)(2)(B)”; and

[(3) by striking subsection (c) and inserting the following:

[“(c) RESERVE.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may—

[“(1) award grants to eligible recipients, or consortia of eligible recipients, for career and technical education activities described in section 135 in—

[“(A) rural areas; or

[“(B) areas with high percentages or high numbers of career and technical education students;

[“(2) reserve funds, with the approval of participating eligible recipients, for—

[“(A) innovative statewide initiatives that demonstrate benefits for eligible recipients, which may include—

[“(i) developing and implementing technical assessments;

[“(ii) improving the professional development of career and technical education teachers, faculty, principals, and administrators; and

[“(iii) establishing, enhancing, and supporting systems for accountability data collection or reporting purposes; or

[“(B) the development and implementation of career pathways or career clusters; and

[“(3) carry out activities described in paragraphs (1) and (2).”.

### [SEC. 104. ACCOUNTABILITY.

[Section 113 (20 U.S.C. 2323) is amended—

[(1) by striking “vocational” each place the term appears and inserting “career”;

[(2) in subsection (a)—

[(A) by striking “a State performance accountability system” and inserting “and support State and local performance accountability systems”; and

[(B) by inserting “and its eligible recipients” after “of the State”;

[(3) in subsection (b)—

[(A) in paragraph (1)—

[(i) in subparagraph (A), by striking “paragraph (2)(A)” and inserting “subparagraphs (A) and (B) of paragraph (2)”; and

[(ii) in subparagraph (B), by striking “(2)(B)” and inserting “(2)(C)”;

[(B) in paragraph (2)—

[(i) by striking subparagraph (A) and inserting the following:

[“(A) CORE INDICATORS OF PERFORMANCE FOR SECONDARY CAREER AND TECHNICAL EDUCATION STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for secondary career and technical education students that include, at a minimum, measures of each of the following:

[“(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.

[“(ii) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and measured by the academic assessments described in section 1111(b)(3) of such Act, consistent with State requirements.

[“(iii) Student rates of attainment of—

[“(I) a secondary school diploma;

[“(II) the recognized equivalent of a secondary school diploma;

[“(III) technical skill proficiency;

[“(IV) a credential;

[“(V) a certificate; and

[“(VI) a degree.

[“(iv) Placement in postsecondary education, military service, apprenticeship programs, or employment.

[“(v) Student participation in, and completion of, career and technical education programs that lead to employment in nontraditional fields.”;

[(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

[(iii) by inserting after subparagraph (A) the following:

[“(B) CORE INDICATORS OF PERFORMANCE FOR POSTSECONDARY CAREER AND TECHNICAL STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for postsecondary career and technical education students that include, at a minimum, measures of each of the following:

[“(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.

[“(ii) Student attainment of technical skill proficiency, a credential, a certificate, or a degree, or retention in postsecondary education, including transfer to a baccalaureate degree program.

["(iii) Placement in military service, apprenticeship programs, or employment.

["(iv) Student participation in, and completion of, career and technical education programs that lead to employment in nontraditional fields.

["(v) Increase in earnings, where available.";

[(iv) in subparagraph (C) (as redesignated by clause (ii) of this subparagraph), by striking "the title." and inserting "this title, such as attainment of self-sufficiency.";

[(v) in subparagraph (D) (as redesignated by clause (ii) of this subparagraph), by inserting "career and technical education" after "developed State";

[(vi) in subparagraph (E) (as redesignated by clause (ii) of this subparagraph)—

[(I) by striking "this paragraph" and inserting "subparagraphs (A) and (B)"; and

[(II) by striking "recipients." and inserting "recipients, and shall meet the requirements of this section."; and

[(vii) by adding at the end the following:

"[(F) ALIGNMENT OF PERFORMANCE INDICATORS.—In the course of identifying core indicators of performance and additional indicators of performance, States shall, to the greatest extent possible, define the indicators so that substantially similar information gathered for other State and Federal programs, or any other purpose, is used to meet the requirements of this section.";

[(C) in paragraph (3)—

[(i) in the paragraph heading, by striking "LEVELS" and inserting "STATE LEVELS";

[(ii) in subparagraph (A)—

[(I) in clause (i)—

[(aa) by striking "paragraph (2)(A)" and inserting "subparagraphs (A) and (B) of paragraph (2)";

[(bb) by inserting "after taking into account the local adjusted levels of performance and" after "eligible agency,"; and

[(cc) by striking subclause (II) and inserting the following:

["(II) require the eligible recipients to make continuous and significant improvement in career and technical achievement of career and technical education students, including special populations.";

[(II) in clause (v)—

[(aa) in the clause heading, by striking "3RD, 4TH, AND 5TH" and inserting "SUBSEQUENT";

[(bb) by striking "third program year" and inserting "third and fifth program years"; and

[(cc) by striking "third, fourth, and fifth" and inserting "corresponding subsequent";

[(III) in clause (vi)(II), by inserting "and significant" after "continuous"; and

[(IV) in clause (vii), by striking "or (vi)" and inserting "or (v)"; and

[(iii) in subparagraph (B), by striking "(2)(B)" and inserting "(2)(C)"; and

[(D) by adding at the end the following:

["(4) LOCAL LEVELS OF PERFORMANCE.—

["(A) LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

["(i) IN GENERAL.—Each eligible recipient shall accept the State adjusted levels of performance established under paragraph (3) as local adjusted levels of performance, or negotiate with the State to reach agreement on new local adjusted levels of performance, for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

["(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

["(II) require the eligible recipient to make continuous and significant improvement in career and technical achievement of career and technical education students.

["(ii) IDENTIFICATION IN THE LOCAL PLAN.—Each eligible recipient shall identify, in the local plan submitted under section 134, levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan.

["(iii) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The eligible agency and each eligible recipient shall reach agreement on the eligible recipient's levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan, taking into account the levels identified in the local plan under clause (ii) and the factors described in clause (v). The levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan prior to the approval of such plan.

["(iv) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR SUBSEQUENT YEARS.—Prior to the third and fifth program years covered by the local plan, the eligible agency and each eligible recipient shall reach agreement on the local adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the local plan, taking into account the factors described in clause (v). The local adjusted levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan.

["(v) FACTORS.—The agreement described in clause (iii) or (iv) shall take into account—

["(I) how the levels of performance involved compare with the local adjusted levels of performance established for other eligible recipients, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

["(II) the extent to which the local adjusted levels of performance involved promote continuous and significant improvement on the core indicators of performance by the eligible recipient.

["(vi) REVISIONS.—If unanticipated circumstances arise with respect to an eligible recipient resulting in a significant change in the factor described in clause (v)(II), the eligible recipient may request that the local adjusted levels of performance agreed to under clause (iii) or (iv) be revised. The eligible agency shall issue objective criteria and methods for making such revisions.

["(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible recipient may identify, in the local plan, local levels of performance for any additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the local levels of performance for purposes of this title.

["(C) REPORT.—Each eligible recipient that receives an allocation under section 131 shall publicly report, on an annual basis, its progress in achieving the local adjusted levels of performance on the core indicators of performance."; and

[(4) by striking subsection (c)(1)(B) and inserting:

["(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance disaggregated for postsecondary institutions, by special populations, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual.".

### [SEC. 105. NATIONAL ACTIVITIES.

[Section 114 (20 U.S.C. 2324) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career";

[(2) in subsection (a)(1), by striking ", including an analysis of performance data regarding special populations" and inserting ", including an analysis of performance data that is disaggregated for postsecondary institutions, by special populations, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual";

[(3) in subsection (c)—

[(A) by striking paragraph (2) and inserting the following:

["(2) INDEPENDENT ADVISORY PANEL.—

["(A) IN GENERAL.—The Secretary shall appoint an independent advisory panel to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed and the methodology of the studies involved to ensure that the assessment adheres to the highest standards of quality.

["(B) MEMBERS.—The advisory panel shall consist of—

["(i) educators, principals, and administrators (including State directors of career and technical education), with expertise in the integration of academic and career and technical education;

["(ii) experts in evaluation, research, and assessment;

["(iii) representatives of labor organizations and businesses, including small businesses;

["(iv) parents;

["(v) career guidance and academic counseling professionals; and

["(vi) other individuals and intermediaries with relevant expertise.

["(C) INDEPENDENT ANALYSIS.—The advisory panel shall transmit to the Secretary and to the relevant committees of Congress an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3).

["(D) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this paragraph.";

[(B) in paragraph (3)—

[(i) by striking subparagraph (A) and inserting the following:

["(A) IN GENERAL.—From amounts made available under subsection (d), the Secretary shall provide for the conduct of an independent evaluation and assessment of career and technical education programs under this Act, including the implementation of the

Carl D. Perkins Career and Technical Education Improvement Act of 2005, to the extent practicable, through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.";

[(ii) in subparagraph (B)—

[(I) by striking clause (iii) and inserting the following:

["(iii) the preparation and qualifications of teachers and faculty of career and technical education, as well as shortages of such teachers and faculty;";

[(II) by striking clause (v) and inserting the following:

["(v) academic and career and technical education achievement and employment outcomes of career and technical education students, including analyses of—

["(I) the number of career and technical education students and tech-prep students who meet the State adjusted levels of performance established under section 113;

["(II) the extent and success of integration of challenging academic and career and technical education for students participating in career and technical education programs;

["(III) the extent to which career and technical education programs prepare students, including special populations, for subsequent employment in high skill, high wage occupations, or participation in postsecondary education; and

["(IV) the number of career and technical education students receiving a high school diploma;";

[(III) in clause (vi), by inserting ", and career and technical education students' preparation for employment" after "programs"; and

[(IV) in clause (viii), by inserting "and local" after "State" both places such term appears; and

[(iii) in subparagraph (C)—

[(I) in clause (i)—

[(aa) by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress"; and

[(bb) by striking "2002" both places it appears and inserting "2009"; and

[(II) in clause (ii), by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress";

[(C) in paragraph (4)(B), by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress";

[(D) in paragraph (5)—

[(i) in subparagraph (A)—

[(I) in the matter preceding clause (i), by striking "higher education" and all that follows through "centers" and inserting "higher education offering comprehensive graduate programs in career and technical education that shall be the primary recipient and shall collaborate with a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies, to establish a national research center";

[(II) in clause (i)—

[(aa) by inserting "and evaluation" after "to carry out research"; and

[(bb) by inserting ", including special populations," after "participants";

[(III) by redesignating clauses (ii), (iii), and (iv), as clauses (iii), (iv), and (v), respectively;

[(IV) by inserting after clause (i) the following:

["(ii) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the needs of employers in high skill, high wage business and industry, including evaluation and scientifically based research of—

["(I) collaboration between career and technical education programs and business and industry;

["(II) academic and technical skills required to respond to the challenge of a global economy and rapid technological changes; and

["(III) technical knowledge and skills required to respond to needs of a regional or sectoral workforce, including small business;";

[(V) in clause (iii) (as redesignated by subclause (III) of this clause), by inserting "that are integrated with challenging academic instruction" before ", including"; and

[(VI) by striking clause (iv) (as redesignated by subclause (III) of this clause) and inserting the following:

["(iv) to carry out scientifically based research, where appropriate, that can be used to improve preparation and professional development of teachers, faculty, principals, and administrators and student learning in the career and technical education classroom, including—

["(I) effective in-service and pre-service teacher and faculty education that assists career and technical education programs in—

["(aa) integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

["(bb) promoting technical education aligned with industry-based standards and certifications to meet regional industry needs;

["(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on career and technical education skills, State academic standards, and related materials; and

["(III) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and";

[(ii) in subparagraph (B)—

[(I) by striking "or centers" both places the term appears; and

[(II) by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress";

[(iii) in subparagraph (C), by striking "or centers"; and

[(iv) by adding at the end the following:

["(D) INDEPENDENT GOVERNING BOARD.—

["(i) IN GENERAL.—An institution of higher education that desires a grant, contract, or cooperative agreement under this paragraph shall identify, in its application, an independent governing board for the center established pursuant to this paragraph.

["(ii) MEMBERS.—The independent governing board shall consist of the following:

["(I) Two representatives of secondary career and technical education.

["(II) Two representatives of postsecondary career and technical education.

["(III) Two representatives of eligible agencies.

["(IV) Two representatives of business and industry.

["(V) Two representatives of career and technical teacher preparation institutions.

["(VI) Two nationally recognized researchers in the field of career and technical education.

["(iii) COORDINATION.—The independent governing board shall ensure that the research and dissemination activities carried out by the center are coordinated with the research activities carried out by the Secretary.";

[(E) in paragraph (6)(B)(ii), by striking "or centers"; and

[(F) by striking paragraph (8); and

[(4) by adding at the end the following:

["(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.".

### [SEC. 106. ASSISTANCE FOR THE OUTLYING AREAS.

[Section 115 (20 U.S.C. 2325) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career";

[(2) in subsection (b)—

[(A) in the matter preceding paragraph (1), by striking "the Republic of the Marshall Islands, the Federated States of Micronesia,";

[(B) in paragraph (1), by striking "training and retraining;" and inserting "preparation;";

[(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

[(D) by inserting after paragraph (1) the following:

["(2) professional development for teachers, faculty, principals, and administrators;"; and

[(3) in subsection (d)—

[(A) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia, and"; and

[(B) by striking "2001" and inserting "2007".

### [SEC. 107. NATIVE AMERICAN PROGRAM.

[Section 116 (20 U.S.C. 2326) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career";

[(2) in subsection (a)(5), by adding a period at the end;

[(3) in subsection (b)—

[(A) in paragraph (1), by striking "(d)" and inserting "(c)"; and

[(B) in paragraph (2), by striking "(other than in subsection (i))";

[(4) in subsection (d), by striking "section an" and inserting "section, an";

[(5) in subsection (e), by striking "paragraph" and inserting "section"; and

[(6) in subsection (h), by striking "which are recognized by the Governor of the State of Hawaii".

### [SEC. 108. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.

[Section 117 (20 U.S.C. 2327) is amended—

[(1) by striking the section heading and inserting the following:

**["SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.";**

[(2) by striking "vocational" each place the term appears and inserting "career";

[(3) in subsection (g)—

[(A) in paragraph (1), by striking "The Secretary" and inserting "On an annual basis, the Secretary";

[(B) in paragraph (2)(B), by striking "2000" and inserting "2007"; and

[(C) in paragraph (3)(C), by striking "beginning" and all that follows through the period and inserting "beginning on the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005.";

[(4) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

[(5) by inserting after subsection (g) the following:

["(h) APPEALS.—

["(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide a tribally controlled postsecondary career and technical institution with a hearing on the record before an administrative law judge with respect to the following determinations:

["(A) A determination that such institution is not eligible for a grant under this section.

["(B) A determination regarding the calculation of the amount of a grant awarded under this section.

["(2) PROCEDURE FOR APPEAL.—To appeal a determination described in paragraph (1), a tribally controlled postsecondary career and technical institution shall—

["(A) in the case of an appeal based on a determination that such institution is not eligible for a grant under this section, file a notice of appeal with the Secretary not later than 30 days after receipt of such determination; and

["(B) in the case of an appeal based on a determination regarding the calculation of the amount of a grant awarded under this section—

["(i) file a notice of appeal with the Secretary not later than 30 days after receipt of the Secretary's notification of the grant amount; and

["(ii) identify the amount of funding that gives rise to such appeal.

["(3) WITHHOLDING OF AMOUNT.—If a tribally controlled postsecondary career and technical institution appeals a determination described in paragraph (1), the Secretary shall withhold the amount in dispute from the award of grant funds under this section until such time as the administrative law judge has issued a written decision on the appeal."; and

[(6) by striking subsection (j) (as redesignated by paragraph (4) of this section) and inserting the following:

["(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.".

### [SEC. 109. OCCUPATIONAL AND EMPLOYMENT INFORMATION.

[Section 118 (20 U.S.C. 2328) is amended—

[(1) in subsection (a)—

[(A) in the matter preceding paragraph (1), by striking "(f)" and inserting "(g)";

[(B) in paragraph (1)—

[(i) in subparagraph (A), by striking "(b)" both places it appears and inserting "(c)";

[(ii) in subparagraph (B), by striking "(b)" and inserting "(c)"; and

[(iii) in subparagraph (C), by striking "(b)" and inserting "(c)"; and

[(C) in paragraph (2), by striking "(b)" both places it appears and inserting "(c)";

[(2) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively;

[(3) by inserting after subsection (a) the following:

["(b) STATE APPLICATION.—

["(1) IN GENERAL.—Each State desiring assistance under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 122, in such manner, and accompanied by such additional information, as the Secretary may reasonably require.

["(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

["(A) a description of how the State entity designated in subsection (c) will provide information based on labor market trends to inform program development; and

["(B) information about the academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965.";

[(4) in subsection (c) (as redesignated by paragraph (2) of this section)—

[(A) in paragraph (1), by striking "individuals" and all that follows through the semicolon and inserting "students and parents, including postsecondary education and training, including preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging or established professions;";

[(B) in paragraph (2), by inserting "academic and career and technical" after "relate";

[(C) by striking paragraph (3) and inserting the following:

["(3) to equip teachers, faculty, administrators, and counselors with the knowledge, skills, and occupational information needed to assist parents and all students, especially special populations underrepresented in certain careers, with career exploration, educational opportunities, education financing, and exposure to high skill, high wage, or high demand occupations and nontraditional fields;";

[(D) in paragraph (4), by striking "such entities;" and inserting "such entities, with an emphasis on high skill, high wage, or high demand occupations in emerging or established professions;";

[(E) in paragraph (5), by striking "and" after the semicolon;

[(F) in paragraph (6), by striking the period and inserting "; and"; and

[(G) by adding at the end the following:

["(7) to provide information, if available, for each occupation, on—

["(A) the average earnings of an individual in the occupation at entry level and after 5 years of employment;

["(B) the expected lifetime earnings; and

["(C) the expected future demand for the occupation, based on employment projections.";

[(5) in subsection (d)(1) (as redesignated by paragraph (2) of this section), by striking "(b)" both places it appears and inserting "(c)";

[(6) in subsection (e)(1) (as redesignated by paragraph (2) of this section), by striking "(b)" and inserting "(c)";

[(7) in subsection (f)(1) (as redesignated by paragraph (2) of this section), by striking "an identification" and inserting "a description"; and

[(8) in subsection (g) (as redesignated by paragraph (2) of this section), by striking "1999 through 2003" and inserting "2006 through 2011".

### [SEC. 110. STATE ADMINISTRATION.

[Section 121 (20 U.S.C. 2341) is amended—

[(1) by redesignating subsection (a)(2) as subsection (b) and indenting appropriately;

[(2) by redesignating subparagraphs (A) through (D) of subsection (a)(1) as paragraphs (1) through (4), respectively, and indenting appropriately;

[(3) by redesignating clauses (i) and (ii) of paragraph (4) (as redesignated by paragraph (2) of this section) as subparagraphs (A) and (B), respectively, and indenting appropriately;

[(4) by striking the following:

["(a) ELIGIBLE AGENCY RESPONSIBILITIES.—

["(1) IN GENERAL.—The responsibilities" and inserting the following:

["(a) ELIGIBLE AGENCY RESPONSIBILITIES.—The responsibilities";

[(5) in subsection (a)(1) (as redesignated by paragraph (2) of this section), by striking "training and employment" and inserting "fields";

[(6) in subsection (a)(2) (as redesignated by paragraph (2) of this section)—

[(A) by inserting "teacher and faculty preparation programs," after "teachers,"; and

[(B) by inserting "all types and sizes of" after "representatives of"; and

[(7) in subsection (b) (as redesignated by paragraph (1) of this section), by striking "paragraph (1)" and inserting "subsection (a)".

### [SEC. 111. STATE PLAN.

[Section 122 (20 U.S.C. 2342) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career";

[(2) in subsection (a)—

[(A) in paragraph (1)—

[(i) by striking "5" and inserting "6"; and

[(ii) by adding at the end the following: "Each eligible agency may submit a transition plan during the first full year of implementation of this Act after the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. The transition plan shall fulfill the eligible agency's State plan submission obligation under this section."; and

[(B) in paragraph (2)(B), by striking "5 year State plan" and inserting "6-year period";

[(3) by striking subsection (b)(1) and inserting the following:

["(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, eligible recipients, parents, students, the State tech-prep coordinator and representatives of tech-prep consortia (if applicable), interested community members (including parent and community organizations), representatives of special populations, representatives of business (including small business) and industry, and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.";

[(4) by striking subsection (c) and inserting the following:

["(c) PLAN CONTENTS.—The State plan shall include information that—

["(1) describes the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

["(A) how the eligible agency will support eligible recipients in developing or implementing career pathways for career and technical education content areas that are designed to meet relevant workforce needs, including how the eligible agency will—

["(i) support eligible recipients in developing articulation agreements between secondary and postsecondary institutions;

["(ii) support eligible recipients in using labor market information to identify career pathways that prepare individuals for high skill, high wage, or high demand occupations;

["(iii) make available information about career pathways offered by eligible recipients; and

["(iv) consult with business and industry and use industry-recognized standards and assessments, if appropriate;

["(B) the secondary and postsecondary career and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality technology in career and technical education programs;

[“(C) the criteria that will be used by the eligible agency to approve eligible recipients for funds under this title, including criteria to assess the extent to which the local plan will—

[“(i) promote higher levels of academic achievement;

[“(ii) promote higher levels of technical skill attainment; and

[“(iii) identify and address workforce needs;

[“(D) how programs at the secondary level will prepare career and technical education students, including special populations to graduate from high school with a diploma;

[“(E) how such programs will prepare career and technical education students, including special populations, both academically and technically, for opportunities in postsecondary education or entry into high skill, high wage, or high demand occupations in emerging or established occupations, and how participating students will be made aware of such opportunities; and

[“(F) how funds will be used to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations that are aligned with business needs and industry standards, as appropriate—

[“(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

[“(ii) at the postsecondary level that are relevant and challenging;

[“(2) describes how career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors will be provided comprehensive initial preparation and professional development, including through programs and activities that—

[“(A) promote the integration of challenging academic and career and technical education curriculum development, including opportunities for teachers to jointly develop and implement curriculum and pedagogical strategies with appropriate academic teachers;

[“(B) increase the academic and career and technical education knowledge of career and technical education teachers and faculty;

[“(C) are high-quality, sustained, intensive, focused on instruction, directly related to industry standards, and includes structured induction and mentoring components for new personnel, with an emphasis on identifying and addressing the needs of local businesses, including small businesses;

[“(D) ensure an increasing number of career and technical education teachers and faculty meet teacher certification and licensing requirements reflecting the needs of their subject area or areas;

[“(E) equip them with the knowledge and skills needed to work with and improve instruction for special populations;

[“(F) assist in accessing and utilizing data, including labor market indicators, student achievement, and assessments;

[“(G) enhance the leadership capacity of principals and administrators;

[“(H) are integrated with professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965; and

[“(I) include strategies to expose all career and technical education students to comprehensive information regarding career options that lead to high skill, high wage, or high demand occupations and nontraditional fields;

[“(3) describes efforts to improve—

[“(A) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and

[“(B) the transition to teaching from business and industry, including small business;

[“(4) describes efforts to improve the capacity of programs and faculty at postsecondary institutions to effectively prepare career and technical education personnel, including, as appropriate, through electronically delivered distance education, and articulation agreements between 2-year technical programs and postsecondary education programs;

[“(5) describes how the eligible agency will actively involve parents, academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, local businesses (including small- and medium-sized businesses and business intermediaries), and labor organizations in the planning, development, implementation, and evaluation of such career and technical education programs;

[“(6) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

[“(A) among secondary school career and technical education, or postsecondary and adult career and technical education, or both, including the rationale for such allocation; and

[“(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

[“(7) describes how the eligible agency will—

[“(A) use funds to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations—

[“(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

[“(ii) at the postsecondary level that are challenging and aligned with business needs and industry standards, as appropriate;

[“(B) improve the academic and technical skills of students participating in career and technical education programs, including strengthening the academic, and career and technical, components of career and technical education programs through the integration of academics with career and technical education to ensure learning in the core academic subjects and career and technical education subjects, and provide students with strong experience in, and understanding of, all aspects of an industry;

[“(C) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students; and

[“(D) encourage secondary school students who participate in such career and technical education programs to enroll in challenging courses in core academic subjects;

[“(8) describes how the eligible agency will annually evaluate the effectiveness of such career and technical education programs, and describes, to the extent practicable, how the eligible agency is coordinating such programs to promote relevant lifelong learning and ensure nonduplication with other existing Federal programs;

[“(9) describes the eligible agency's program strategies for special populations, including a description of how individuals who are members of the special populations—

[“(A) will be provided with equal access to activities assisted under this title;

[“(B) will not be discriminated against on the basis of their status as members of the special populations; and

[“(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage, or high demand occupations;

[“(10) how the eligible agency will collaborate in developing the State plan with—

[“(A) the entity within the State with responsibility for elementary and secondary education;

[“(B) the entity within the State with responsibility for public institutions engaged in postsecondary education;

[“(C) State institutions such as State correctional institutions and institutions that serve individuals with disabilities; and

[“(D) all other relevant State agencies with responsibility for career and technical education and training and workforce development;

[“(11) describes what steps the eligible agency will take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

[“(12) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;

[“(13) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

[“(14) describes how the eligible agency will measure and report data relating to students participating in and completing career and technical education within specific career clusters in order to adequately measure the progress of the students, including special populations, at—

[“(A) the secondary level, disaggregated by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual; and

[“(B) the postsecondary level, disaggregated by special populations and the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual;

[“(15) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

[“(16) describes how the eligible agency will provide local educational agencies, area career and technical education schools, and eligible institutions in the State with technical assistance;

[“(17) describes how career and technical education relates to State and regional occupational opportunities;

[“(18) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

[“(19) describes how funds will be used to promote preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions;

[“(20) describes how funds will be used to serve individuals in State correctional institutions;

[“(21) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

[“(22) contains the description and information specified in sections 112(b)(8) and 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(8) and 2841(c)) concerning the provision of services only for postsecondary students and school dropouts.”;

[(5) by striking subsection (d) and inserting the following:

[“(d) Plan Options.—

[“(1) Single plan.—The eligible agency may fulfill the plan or application submission requirements of this section, section 118(b), and section 141(c) by submitting a single State plan. In such plan, the eligible agency may allow eligible recipients to fulfill the plan or application submission requirements of section 134 and subsections (a) and (b) of section 143 by submitting a single local plan.

[“(2) Plan submitted as part of 501 plan.—The eligible agency may submit the plan required under this section as part of the plan submitted under section 501 of the Workforce Investment Act of 1998 (20 U.S.C. 9271), provided that the plan submitted pursuant to the requirement of this section meets the requirements of this Act.”; and

[(6) by striking subsection (f).

### [SEC. 112. IMPROVEMENT PLANS.

[Section 123 (20 U.S.C. 2343) is amended to read as follows:

### [“SEC. 123. IMPROVEMENT PLANS.

[“(a) State Program Improvement Plan.—

[“(1) Plan.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with the appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under paragraph (3).

[“(2) Technical assistance.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.

[“(3) Failure.—

[“(A) In general.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet the State adjusted levels of performance for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this title.

[“(B) Waiver for exceptional circumstances.—The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in financial resources of the State.

[“(4) Funds resulting from reduced allotments.—

[“(A) In general.—The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purposes of this Act.

[“(B) Redistribution.—If the Secretary cannot satisfactorily use funds withheld under paragraph (3), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (3) shall be redistributed to other eligible agencies in accordance with section 111.

[“(b) Local Program Improvement.—

[“(1) Local evaluation.—Each eligible agency shall evaluate annually, using the local adjusted levels of performance described in section 113(b)(4), the career and technical education activities of each eligible recipient receiving funds under this title.

[“(2) Plan.—

[“(A) In general.—If, after reviewing the evaluation, the eligible agency determines that an eligible recipient is not making substantial progress in achieving the local adjusted levels of performance, the eligible agency shall—

[“(i) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies, including the performance of special populations;

[“(ii) enter into an improvement plan with an eligible recipient based on the results of the assessment, for the first program year succeeding the program year in which the eligible recipient failed to meet the local adjusted levels of performance, which plan shall demonstrate how the local performance deficiencies will be corrected and include instructional and other programmatic innovations of demonstrated effectiveness, and, where necessary, strategies for appropriate staffing and professional development; and

[“(iii) conduct regular evaluations of the progress being made toward reaching the local adjusted levels of performance, as described in section 113(b)(4), and progress on implementing the improvement plan.

[“(B) Consultation.—The eligible agency shall conduct the activities described in subparagraph (A) in consultation with teachers, principals, administrators, faculty, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

[“(3) Technical assistance.—If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 134, or is not making substantial progress in meeting the purpose of this Act, based on the local adjusted levels of performance, the eligible agency shall provide technical assistance to the eligible recipient to assist the eligible recipient in carrying out the improvement activities consistent with the requirements of this Act. An eligible recipient, in collaboration with the eligible agency, may request that the Secretary provide additional technical assistance.

[“(4) Failure.—

[“(A) In general.—If an eligible recipient fails to meet the local adjusted levels of performance as described in section 113(b)(4) and has not implemented an improvement plan as described in paragraph (2), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (2), or has failed to meet more than 1 of the local adjusted levels of performance for 2 or more consecutive years, the eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion of, the eligible recipient's allotment under this title.

[“(B) Waiver for exceptional circumstances.—The eligible agency may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as organizational structure, or a natural disaster or a precipitous and unforeseen decline in financial resources of the eligible recipient.

[“(5) Funds resulting from reduced allotments.—The eligible agency shall use funds withheld under paragraph (4) to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purpose of this Act.”.

### [SEC. 113. STATE LEADERSHIP ACTIVITIES.

[Section 124 (20 U.S.C. 2344) is amended—

[(1) by striking “vocational” each place the term appears and inserting “career”;

[(2) in subsection (a), by striking “112(a)(2)” and inserting “112(a)(2)(A)”;

[(3) in subsection (b)—

[(A) in paragraph (1), by striking “further learning” and all that follows through the semicolon and inserting “further education, further training, or for high skill, high wage, or high demand occupations;”;

[(B) in paragraph (2), by striking subparagraphs (A) through (C) and inserting the following:

[“(A) training of career and technical education teachers, faculty, principals, career guidance and academic counselors, and administrators to use technology, including distance learning;

[“(B) encouraging schools to work with technology industries to offer voluntary internships and mentoring programs; or

[“(C) encouraging lifelong learning, including through partnerships that may involve institutions of higher education, organizations providing career and technical education, businesses, and communications entities;”;

[(C) by striking paragraph (3) and inserting the following:

[“(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 122 and—

["(A) provide in-service and pre-service training in career and technical education programs and techniques, effective teaching skills based on promising practices and, where available and appropriate, scientifically based research, and effective practices to improve parental and community involvement;

["(B) improve student achievement in order to meet the State adjusted levels of performance established under section 113;

["(C) support education programs for teachers and faculty of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students to ensure that such personnel—

["(i) stay current with the needs, expectations, and methods of industry;

["(ii) can effectively develop challenging, integrated academic and career and technical education curriculum jointly with academic teachers, to the extent practicable; and

["(iii) develop a higher level of academic and industry knowledge and skills in career and technical education; and

["(D) are integrated with the teacher certification or licensing and professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965;";

[(D) in paragraph (4), by striking "support for" and inserting "supporting";

[(E) in paragraph (5), by striking "nontraditional training and employment" and inserting "nontraditional fields in emerging and established professions, and other activities that expose students, including special populations, to high skill, high wage occupations";

[(F) in paragraph (6)—

[(i) by inserting "intermediaries," after "labor organizations,"; and

[(ii) by inserting ", or complete career pathways, as described in section 122(c)(1)(A)" after "skills";

[(G) in paragraph (7), by striking "and" after the semicolon;

[(H) in paragraph (8), by striking "wage careers." and inserting "wage, or high demand occupations; and"; and

[(I) by adding at the end the following:

["(9) technical assistance for eligible recipients.";

[(4) by striking subsection (c) and inserting the following:

["(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

["(1) improvement of career guidance and academic counseling programs that assist students in making informed academic, and career and technical education, decisions, including encouraging secondary and postsecondary students to graduate with a diploma or degree, and expose students to high skill, high wage occupations and nontraditional fields in emerging and established professions;

["(2) establishment of agreements, including articulation agreements, between secondary and postsecondary career and technical education programs in order to provide postsecondary education and training opportunities for students participating in such career and technical education programs, such as tech-prep programs;

["(3) support for career and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

["(4) support for public charter schools operating secondary career and technical education programs;

["(5) support for career and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

["(6) support for family and consumer sciences programs;

["(7) support for partnerships between education and business or business intermediaries, including cooperative education and adjunct faculty arrangements at the secondary and postsecondary levels;

["(8) support to improve or develop new career and technical education courses and initiatives, including career clusters, career academies, and distance learning, that prepare individuals academically and technically for high skill, high wage, or high demand occupations;

["(9) awarding incentive grants to eligible recipients for exemplary performance in carrying out programs under this Act, which awards shall be based on local performance indicators, as described in section 113, in accordance with previously publicly disclosed priorities;

["(10) providing career and technical education programs for adults and school dropouts to complete their secondary school education;

["(11) providing assistance to individuals, who have participated in services and activities under this title, in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

["(12) developing valid and reliable assessments of technical skills that are integrated with industry certification assessments where available;

["(13) developing and enhancing data systems to collect and analyze data on secondary and postsecondary academic and employment outcomes;

["(14) improving—

["(A) the recruitment and retention of career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

["(B) the transition to teaching from business and industry, including small business; and

["(15) adopting, calculating, or commissioning a self-sufficiency standard."; and

[(5) in subsection (d), by striking "112(a)(2)" and inserting "112(a)(2)(A)".

### [SEC. 114. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

[Section 131 (20 U.S.C. 2351) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career";

[(2) by striking subsection (a);

[(3) by redesignating subsections (b) through (i) as subsections (a) through (h), respectively;

[(4) in subsection (a) (as redesignated by paragraph (3) of this section)—

[(A) in the subsection heading, by striking "SPECIAL DISTRIBUTION RULES FOR SUCCEEDING FISCAL YEARS" and inserting "DISTRIBUTION RULES"; and

[(B) by striking "for fiscal year 2000 and succeeding fiscal years";

[(5) in subsection (b) (as redesignated by paragraph (3) of this section)—

[(A) by striking "subsection (b)" and inserting "subsection (a)"; and

[(B) in paragraph (1), by striking "9902(2))" and inserting "9902(2)))";

[(6) in subsection (e) (as redesignated by paragraph (3) of this section), in the subsection heading, by striking "VOCATIONAL" and inserting "CAREER"; and

[(7) in subsection (g) (as redesignated by paragraph (3) of this section), by striking "subsections (a), (b), (c), and (d)" and inserting "subsections (a), (b), and (c)".

### [SEC. 115. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.

[Section 132 (20 U.S.C. 2352) is amended by striking the section heading and inserting the following:

### ["SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.".

### [SEC. 116. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.

[Section 133 (20 U.S.C. 2353) is amended—

[(1) by striking the section heading and inserting the following:

### ["SEC. 133. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.";

[and

[(2) by striking "vocational" each place such term appears and inserting "career".

### [SEC. 117. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.

[Section 134 (20 U.S.C. 2354) is amended—

[(1) by striking the section heading and inserting the following:

### ["SEC. 134. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.";

[and

[(2) in subsection (b), by striking paragraphs (1) through (10) and inserting the following:

["(1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;

["(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;

["(3) describe how the eligible recipient will—

["(A) offer the appropriate courses of not less than 1 of the career pathways described in section 122(c)(1)(A);

["(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of challenging academics with career and technical education programs through a coherent sequence of courses to ensure learning in the core academic subjects, and career and technical education subjects;

["(C) provide students with strong experience in and understanding of all aspects of an industry; and

["(D) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

["(4) describe how comprehensive professional development will be provided that is consistent with section 122;

["(5) describe how parents, students, academic and career and technical education teachers, faculty, principals, administrators, career guidance and academic counselors, representatives of tech-prep consortia (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in, understanding, the requirements of this title, including career pathways;

["(6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;

["(7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;

["(8) describe how the eligible recipient—

["(A) will review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

["(B) will provide programs that are designed to enable the special populations to meet the local adjusted levels of performance and prepare for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency;

["(9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;

["(10) describe how funds will be used to promote preparation for nontraditional fields;

["(11) describe how career guidance and academic counseling will be provided to all career and technical education students; and

["(12) describe efforts to improve the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession, and the transition to teaching from business and industry.".

**[SEC. 118. LOCAL USES OF FUNDS.**

[Section 135 (20 U.S.C. 2355) is amended—

[(1) in subsection (a), by striking "vocational" and inserting "career";

[(2) in subsection (b)—

[(A) in the matter preceding paragraph (1), by striking "vocational" and inserting "career"; and

[(B) by striking paragraphs (1) through (8) and inserting the following:

["(1) strengthen the academic and career and technical education skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career pathways described in section 122(c)(1)(A), to ensure learning in the core academic subjects and career and technical education subjects;

["(2) link secondary career and technical education and postsecondary career and technical education, including by—

["(A) offering the relevant elements of not less than 1 career pathway described in section 122(c)(1)(A);

["(B) developing and supporting articulation agreements between secondary and postsecondary institutions; or

["(C) supporting tech-prep programs and consortia;

["(3) provide students with strong experience in and understanding of all aspects of an industry;

["(4) develop, improve, or expand the use of technology in career and technical education, which may include—

["(A) training of career and technical education teachers, faculty, principals, and administrators to use technology, including distance learning; or

["(B) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs;

["(5) provide professional development programs that are consistent with section 122 to secondary and postsecondary teachers, faculty, principals, administrators, and career guidance and academic counselors who are involved in integrated career and technical education programs, including—

["(A) in-service and pre-service training—

["(i) in career and technical education programs and techniques;

["(ii) in effective integration of challenging academic and career and technical education jointly with academic teachers, to the extent practicable;

["(iii) in effective teaching skills based on research that includes promising practices; and

["(iv) in effective practices to improve parental and community involvement;

["(B) support of education programs that provide information on all aspects of an industry;

["(C) internship programs that provide relevant business experience; and

["(D) programs dedicated to the effective use of instructional technology;

["(6) develop and implement evaluations of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

["(7) initiate, improve, expand, and modernize quality career and technical education programs, including relevant technology;

["(8) provide services and activities that are of sufficient size, scope, and quality to be effective; and

["(9) provide activities to prepare special populations, including single parents and displaced homemakers, for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency."; and

[(3) in subsection (c)—

[(A) in paragraph (1), by striking "vocational" and inserting "career"; and

[(B) by striking paragraphs (2) through (15) and inserting the following:

["(2) to provide career guidance and academic counseling that is based on current labor market indicators, as provided pursuant to section 118, for students participating in career and technical education programs that—

["(A) improves graduation rates and provides information on postsecondary and career options for secondary students, which activities may include the use of graduation and career plans; and

["(B) provides assistance for postsecondary students, including for adult students who are changing careers or updating skills;

["(3) for partnerships between the eligible recipient and businesses, including small businesses and business intermediaries, including for—

["(A) work-related experience for students, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to career and technical education programs;

["(B) adjunct faculty arrangements at the secondary and postsecondary levels; and

["(C) industry experience for teachers and faculty;

["(4) to provide programs for special populations;

["(5) to assist career and technical student organizations;

["(6) for mentoring and support services;

["(7) for leasing, purchasing, upgrading, or adapting instructional equipment;

["(8) for teacher preparation programs that address the integration of academic and career and technical education and that assist individuals who are interested in becoming career and technical education teachers and faculty, including individuals with experience in business and industry;

["(9) to develop and expand postsecondary program offerings at times and in formats that are convenient and accessible for working students, including through the use of distance education;

["(10) for improving or developing new career and technical education courses, including development of new career pathways;

["(11) to develop and support small, personalized career-themed learning communities;

["(12) to provide support for family and consumer sciences programs;

["(13) to provide career and technical education programs for adults and school dropouts to complete their secondary school education or upgrade their technical skills;

["(14) to provide assistance to individuals who have participated in services and activities under this title in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

["(15) to support activities in nontraditional fields, such as mentoring and outreach; and

["(16) to support other career and technical education activities that are consistent with the purpose of this Act.".

**[SEC. 119. TECH-PREP EDUCATION.**

[(a) REDESIGNATION.—Title II (20 U.S.C. 2371 et seq.) is amended—

[(1) by striking the title heading and inserting the following:

**["PART D—TECH-PREP EDUCATION";**

[(2) by striking sections 201, 202, 206, and 207; and

[(3) by redesignating sections 203, 204, 205, and 208, as sections 141, 142, 143, and 144, respectively.

[(b) STATE ALLOTMENT AND APPLICATION.—Section 141 (as redesignated by subsection (a) of this section) is amended—

[(1) in subsection (a), by striking "section 206" and inserting "section 144"; and

[(2) by striking subsection (c) and inserting the following:

["(c) STATE APPLICATION.—Each eligible agency desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall describe how activities under this part will be coordinated, to the extent practicable, with activities described in section 122.".

[(c) TECH-PREP EDUCATION.—Section 142 (as redesignated by subsection (a) of this section) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1)—

[(i) by striking "section 203" and inserting "section 141";

[(ii) by striking "title" and inserting "part";

[(iii) by striking "vocational" both places the term appears and inserting "career"; and

[(iv) in subparagraph (A), by inserting ", educational service agency," after "intermediate educational agency"; and

[(B) in paragraph (2)—

[(i) in subparagraph (A), by striking "and";

[(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

[(iii) by adding at the end the following:

["(C) employers, including small businesses, or business intermediaries; and

["(D) labor organizations.";

[(2) in subsection (c)—

[(A) by striking paragraph (2) and inserting the following:

["(2) consist of not less than 2 years of secondary school with a common core of technical skills and core academic subjects preceding graduation and 2 years or more of higher education, or an apprenticeship program of not less than 2 years following secondary instruction, designed to lead to technical skill proficiency, a credential, a certificate, or a degree, in a specific career field;";

[(B) in paragraph (3)(B), by inserting "including through the use of articulation agreements, and" after "career fields,";

[(C) by striking paragraph (4) and inserting the following:

["(4) include in-service professional development for teachers, faculty, principals, and administrators that—

["(A) supports effective implementation of tech-prep programs;

["(B) supports joint training in the tech-prep consortium;

["(C) supports the needs, expectations, and methods of business and all aspects of an industry;

["(D) supports the use of contextual and applied curricula, instruction, and assessment;

["(E) supports the use and application of technology; and

["(F) assists in accessing and utilizing data, including labor market indicators, achievement, and assessments;";

[(D) in paragraph (5)—

[(i) by striking "training" and inserting "professional development";

[(ii) in subparagraph (B), by inserting ", which may include through the use of graduation and career plans" after "programs";

[(iii) in subparagraph (D), by striking "and";

[(iv) in subparagraph (E), by inserting "and" after the semicolon; and

[(v) by adding at the end the following:

["(F) provide comprehensive career guidance and academic counseling to participating students, including special populations;";

[(E) in paragraph (6)—

[(i) by inserting "(including pre-apprenticeship programs)" after "programs"; and

[(ii) by striking "and" after the semicolon;

[(F) in paragraph (7), by striking the period at the end and inserting "; and"; and

[(G) by adding at the end the following:

["(8) coordinate with activities conducted under this title."; and

[(3) in subsection (d)—

[(A) in paragraph (2), by striking "and" after the semicolon;

[(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

[(C) by adding at the end the following:

["(4) improve career guidance and academic counseling for participating students through the development and implementation of graduation and career plans; and

["(5) develop curriculum that supports effective transitions between secondary and postsecondary career and technical education programs.".

[(d) CONSORTIUM APPLICATIONS.—Section 143 (as redesignated by subsection (a) of this section) is amended—

[(1) in subsection (a), by striking "title" and inserting "part";

[(2) in subsection (b)—

[(A) by striking "5" and inserting "6"; and

[(B) by striking "title" and inserting "part";

[(3) in subsection (d)—

[(A) in paragraph (1), by inserting "or advanced" after "baccalaureate";

[(B) by striking paragraph (4) and inserting the following:

["(4) provide education and training in areas or skills, including emerging technology, in which there are significant workforce shortages based on the data provided by the entity in the State under section 118;";

[(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

[(D) by adding at the end the following:

["(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C."; and

[(4) in subsection (e), by striking "title" and inserting "part".

[(e) AUTHORIZATION OF APPROPRIATIONS.—Section 144 (as redesignated by subsection (a) of this section) is amended—

[(1) by striking "title (other than section 207)" and inserting "part"; and

[(2) by striking "1999 and each of the 4" and inserting "2006 and each of the 5".

## [TITLE II—GENERAL PROVISIONS

### [SEC. 201. REDESIGNATION OF TITLE.

[(a) FEDERAL ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 311 through 318 as sections 211 through 218, respectively.

[(b) STATE ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 321 through 325 as sections 221 through 225, respectively.

[(c) TITLE HEADING.—The title heading of title III (20 U.S.C. 2391 et seq.) is amended to read as follows:

**["TITLE II—GENERAL PROVISIONS".**

### [SEC. 202. FISCAL REQUIREMENTS.

[Section 211 (as redesignated by section 201 of this Act) is amended—

[(1) by striking "vocational" each place the term appears and inserting "career"; and

[(2) in subsection (b)—

[(A) by striking paragraph (1) and inserting the following:

["(1) DETERMINATION.—

["(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for career and technical education programs or tech-prep programs unless the Secretary determines that the average fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the 3 fiscal years preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs, for the 3 fiscal years preceding the fiscal year for which the determination is made.

["(B) COMPUTATION.—In computing the average fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

["(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for career and technical education programs under this Act for a fiscal year is less than the amount made available for career and technical education programs under this Act for the preceding fiscal year, then the average fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the 3 preceding fiscal years shall be decreased by the same percentage as the percentage decrease in the amount so made available."; and

[(B) in paragraph (2), by striking "fiscal effort" both places the term appears and inserting "average fiscal effort".

### [SEC. 203. VOLUNTARY SELECTION AND PARTICIPATION.

[Section 214 (as redesignated by section 201 of this Act) is amended by striking "vocational" both places the term appears and inserting "career".

### [SEC. 204. LIMITATION FOR CERTAIN STUDENTS.

[Section 215 (as redesignated by section 201 of this Act) is amended by striking "vocational" and inserting "career".

### [SEC. 205. AUTHORIZATION OF SECRETARY; PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.

[Part A of title II (as redesignated by section 201 of this Act) is amended—

[(1) by striking section 217;

[(2) by redesignating section 218 as section 217; and

[(3) in section 217 (as redesignated by paragraph (2) of this section)—

[(A) by inserting "principals," after "for vocational and technical education teachers,";

[(B) by inserting "principals," after "of vocational and technical education teachers,"; and

[(C) by striking "vocational" each place the term appears and inserting "career".

### [SEC. 206. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

[Section 225(c) (as redesignated by section 201 of this Act) is amended—

[(1) in the subsection heading, by striking "VOCATIONAL" and inserting "CAREER"; and

[(2) by striking "vocational" both places the term appears and inserting "career".

### [SEC. 207. TABLE OF CONTENTS.

[Section 1(b) (20 U.S.C. 2301 note) is amended to read as follows:

["(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

["Sec. 1. Short title; table of contents.
["Sec. 2. Purpose.
["Sec. 3. Definitions.
["Sec. 4. Transition provisions.
["Sec. 5. Privacy.
["Sec. 6. Limitation.
["Sec. 7. Special rule.
["Sec. 8. Authorization of appropriations.

["TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

["PART A—ALLOTMENT AND ALLOCATION

["Sec. 111. Reservations and State allotment.
["Sec. 112. Within State allocation.

["Sec. 113. Accountability.
["Sec. 114. National activities.
["Sec. 115. Assistance for the outlying areas.
["Sec. 116. Native American program.
["Sec. 117. Tribally controlled postsecondary career and technical institutions.
["Sec. 118. Occupational and employment information.

["PART B—STATE PROVISIONS

["Sec. 121. State administration.
["Sec. 122. State plan.
["Sec. 123. Improvement plans.
["Sec. 124. State leadership activities.

["PART C—LOCAL PROVISIONS

["Sec. 131. Distribution of funds to secondary school programs.
["Sec. 132. Distribution of funds for postsecondary career and technical education programs.
["Sec. 133. Special rules for career and technical education.
["Sec. 134. Local plan for career and technical education programs.
["Sec. 135. Local uses of funds.

["PART D—TECH-PREP EDUCATION

["Sec. 141. State allotment and application.
["Sec. 142. Tech-prep education.
["Sec. 143. Consortium applications.
["Sec. 144. Authorization of appropriations.

["TITLE II—GENERAL PROVISIONS

["PART A—FEDERAL ADMINISTRATIVE PROVISIONS

["Sec. 211. Fiscal requirements.
["Sec. 212. Authority to make payments.
["Sec. 213. Construction.
["Sec. 214. Voluntary selection and participation.
["Sec. 215. Limitation for certain students.
["Sec. 216. Federal laws guaranteeing civil rights.
["Sec. 217. Participation of private school personnel.

["PART B—STATE ADMINISTRATIVE PROVISIONS

["Sec. 221. Joint funding.
["Sec. 222. Prohibition on use of funds to induce out-of-State relocation of businesses.
["Sec. 223. State administrative costs.
["Sec. 224. Limitation on Federal regulations.
["Sec. 225. Student assistance and other Federal programs.".

### ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Career and Technical Education Improvement Act of 2005".*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

*Sec. 1. Short title; table of contents.*
*Sec. 2. References.*
*Sec. 3. Purpose.*
*Sec. 4. Definitions.*
*Sec. 5. Transition provisions.*
*Sec. 6. Limitation.*
*Sec. 7. Authorization of appropriations.*

*TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES*

*Sec. 101. Career and technical education assistance to the States.*
*Sec. 102. Reservations and State allotment.*
*Sec. 103. Within State allocation.*
*Sec. 104. Accountability.*
*Sec. 105. National activities.*
*Sec. 106. Assistance for the outlying areas.*
*Sec. 107. Native American program.*
*Sec. 108. Tribally controlled postsecondary career and technical institutions.*
*Sec. 109. Occupational and employment information.*
*Sec. 110. State administration.*
*Sec. 111. State plan.*
*Sec. 112. Improvement plans.*
*Sec. 113. State leadership activities.*
*Sec. 114. Distribution of funds to secondary school programs.*
*Sec. 115. Distribution of funds for postsecondary career and technical education programs.*
*Sec. 116. Special rules for career and technical education.*
*Sec. 117. Local plan for career and technical education programs.*
*Sec. 118. Local uses of funds.*
*Sec. 119. Tech-Prep education.*

*TITLE II—GENERAL PROVISIONS*

*Sec. 201. Redesignation of title.*
*Sec. 202. Fiscal requirements.*
*Sec. 203. Voluntary selection and participation.*
*Sec. 204. Limitation for certain students.*
*Sec. 205. Authorization of Secretary; participation of private school personnel.*
*Sec. 206. Student assistance and other Federal programs.*
*Sec. 207. Table of contents.*

### ***SEC. 2. REFERENCES.***

*Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).*

### ***SEC. 3. PURPOSE.***

*Section 2 (20 U.S.C. 2301) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) in paragraph (1), by striking "standards" and inserting "and technical standards, and to assist students in meeting such standards, including student academic achievement standards, especially in preparation for high skill, high wage, or high demand occupations in emerging or established professions";*

*(3) in paragraph (2), by inserting "challenging" after "integrate";*

*(4) in paragraph (3), by striking "and" after the semicolon;*

*(5) in paragraph (4)—*

*(A) by inserting "conducting and" before "disseminating national";*

*(B) by inserting "disseminating information on best practices," after "national research,"; and*

*(C) by striking the period at the end and inserting a semicolon; and*

*(6) by adding at the end the following:*

*"(5) promoting leadership, initial preparation, and professional development at the State and local levels, and developing research and best practices for improving the quality of career and technical education teachers, faculty, principals, administrators, and counselors;*

*"(6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career technical centers, local workforce investment boards, business and industry, professional associations, and intermediaries; and*

*"(7) developing a highly skilled workforce needed to keep America competitive in the global economy in conjunction with other Federal education and training programs, including workforce investment programs, that provide lifelong learning for the workforce of today and tomorrow.".*

### ***SEC. 4. DEFINITIONS.***

*Section 3 (20 U.S.C. 2302) is amended—*

*(1) by striking paragraphs (29) and (30);*

*(2) by redesignating paragraphs (5), (6), (7) through (12), (13) through (16), (17) through (22), and (23) through (28), as paragraphs (10), (12), (14) through (19), (21) through (24), (26) through (31), and (33) through (38), respectively;*

*(3) in paragraph (2), by inserting ", including employment statistics and information relating to national, regional, and local labor market areas, as provided pursuant to section 118, and career ladder information, where appropriate" after "to enter";*

*(4) in paragraph (3)—*

*(A) in the paragraph heading, by striking "VOCATIONAL" and inserting "CAREER"; and*

*(B) by striking "vocational" each place the term appears and inserting "career";*

*(5) by striking paragraph (4) and inserting the following:*

*"(4) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment—*

*"(A) that is approved annually by the relevant administrators of—*

*"(i) a secondary institution and a postsecondary educational institution; or*

*"(ii) a sub-baccalaureate degree granting postsecondary educational institution and a baccalaureate degree granting postsecondary educational institution; and*

*"(B) to a program that is designed to provide students with a nonduplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree, and linked through credit transfer agreements.";*

*(6) by inserting after paragraph (4) (as amended by paragraph (5)) the following:*

*"(5) CAREER AND TECHNICAL EDUCATION.—The term 'career and technical education' means organized educational activities that—*

*"(A) offer a sequence of courses (which may include work-based learning experiences) that—*

*"(i) provides individuals with the challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers in emerging and established professions; and*

*"(ii) may lead to technical skill proficiency, a credential, a certificate, or a degree; and*

*"(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.*

*"(6) CAREER AND TECHNICAL EDUCATION STUDENT.—The term 'career and technical education student' means a student who enrolls in a clearly defined sequence of career and technical education courses (which may include work-based learning experiences) leading to attainment of technical skill proficiency, a credential, a certificate, or a degree.*

*"(7) CAREER AND TECHNICAL STUDENT ORGANIZATION.—*

*"(A) IN GENERAL.—The term 'career and technical student organization' means an organization for individuals enrolled in a career and technical education program that engages in career and technical education activities as an integral part of the instructional program.*

*"(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in career and technical education at the local level.*

*"(8) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve*

*guidance and counseling with respect to career options, including baccalaureate degree programs, financial aid, and postsecondary options.*

*"(9) CAREER PATHWAY.—The term 'career pathway' means a coordinated and nonduplicative sequence of courses (which may include work-based learning experiences) and associated credits that—*

*"(A) shall identify both secondary and postsecondary education elements;*

*"(B) shall include challenging academic and career and technical education content that adequately prepares students to pursue the postsecondary education element identified under subparagraph (A);*

*"(C) may include the opportunity for secondary students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary credits; and*

*"(D) culminates in technical skill proficiency, an industry-recognized credential, a certificate, a degree, or completion of a recognized apprenticeship program.";*

*(7) in paragraph (10) (as redesignated by paragraph (2)), by striking "5206" and inserting "5210";*

*(8) by inserting after paragraph (10) (as redesignated by paragraph (2)) the following:*

*"(11) COMMUNITY COLLEGE.—The term 'community college'—*

*"(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a baccalaureate degree; and*

*"(B) includes tribally controlled colleges or universities.";*

*(9) in paragraph (12) (as redesignated by paragraph (2))—*

*(A) by striking "method of instruction" and inserting "method"; and*

*(B) by striking "vocational" and inserting "career";*

*(10) by inserting after paragraph (12) (as redesignated by paragraph (2) and amended by paragraph (9)) the following:*

*"(13) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that under this Act such subjects included in such term shall be only those subjects in a secondary school context.";*

*(11) in paragraph (16) (as redesignated by paragraph (2)), by striking "vocational" both places the term appears and inserting "career";*

*(12) in paragraph (17) (as redesignated by paragraph (2))—*

*(A) in subparagraph (A), by striking "an institution of higher education" and inserting "a public or nonprofit private institution of higher education that offers career and technical education courses that lead to technical skill proficiency, an industry-recognized credential, a certificate, or a degree"; and*

*(B) in subparagraph (C), by striking "vocational" and inserting "career";*

*(13) in paragraph (18)(A) (as redesignated by paragraph (2)), by striking "agency, an area vocational" and inserting "agency (including a public charter school that operates as a local educational agency), an area career";*

*(14) by inserting after paragraph (19) (as redesignated by paragraph (2)) the following:*

*"(20) GRADUATION AND CAREER PLAN.—The term 'graduation and career plan' means a written plan for a secondary career and technical education student, that—*

*"(A) is developed with career guidance and academic counseling or other professional staff, and in consultation with parents, not later than in the first year of secondary school or upon enrollment in career and technical education;*

*"(B) is reviewed annually and modified as needed;*

*"(C) includes relevant information on—*

*"(i) secondary school requirements for graduating with a diploma;*

*"(ii) postsecondary education admission requirements; and*

*"(iii) high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions, and labor market indicators; and*

*"(D) states the student's secondary school graduation goals, postsecondary education and training, or employment goals, and identifies 1 or more career pathways that correspond to the goals.";*

*(15) by inserting after paragraph (24) (as redesignated by paragraph (2)) the following:*

*"(25) LOCAL WORKFORCE INVESTMENT BOARD.—The term 'local workforce investment board' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832).";*

*(16) in paragraph (26) (as redesignated by paragraph (2))—*

*(A) in the paragraph heading, by striking "TRAINING AND EMPLOYMENT" and inserting "FIELDS"; and*

*(B) by striking "training and employment" and inserting "fields";*

*(17) in paragraph (27) (as redesignated by paragraph (2)), by striking "the Commonwealth" and all that follows through the period and inserting "and the Commonwealth of the Northern Mariana Islands.";*

*(18) by inserting after paragraph (31) (as redesignated by paragraph (2)) the following:*

*"(32) SELF-SUFFICIENCY.—The term 'self-sufficiency' means a standard that is adopted, calculated, or commissioned by a local area or State, and which adjusts for local factors, in specifying the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.";*

*(19) in paragraph (33) (as redesignated by paragraph (2))—*

*(A) in subparagraph (C), by striking "training and employment" and inserting "fields"; and*

*(B) in subparagraph (F), by striking "individuals with other barriers to educational achievement, including";*

*(20) in paragraph (35) (as redesignated by paragraph (2)) by striking ", and instructional aids and devices" and inserting "instructional aids, and work supports";*

*(21) by striking paragraph (36) (as redesignated by paragraph (2)) and inserting the following:*

*"(36) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—*

*"(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;*

*"(B) integrates academic and career and technical education instruction, and utilizes work-based and worksite learning where appropriate and available;*

*"(C) provides technical preparation in a career field, including high skill, high wage, or high demand occupations;*

*"(D) builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction, in a coherent sequence of courses (which may include work-based learning experiences);*

*"(E) leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree, in a specific career field;*

*"(F) leads to placement in high skill, high wage employment or to further education; and*

*"(G) utilizes career pathways, to the extent practicable."; and*

*(22) in paragraph (38) (as redesignated by paragraph (2))—*

*(A) in the paragraph heading, by striking "VOCATIONAL" and inserting "CAREER";*

*(B) in the matter preceding subparagraph (A)—*

*(i) by striking "vocational" and inserting "career";*

*(ii) by striking "paragraph (2)" and inserting "subsection (a)(2)"; and*

*(iii) by striking "paragraph (5)(A)" and inserting "subsection (a)(5)"; and*

*(C) in subparagraph (F), by striking "vocational" and inserting "career".*

### *SEC. 5. TRANSITION PROVISIONS.*

*Section 4 (20 U.S.C. 2303) is amended by striking "the Carl D. Perkins Vocational and Applied Technology Education Act" and all that follows through the period and inserting "this Act, as this Act was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. Each eligible agency shall be assured a full fiscal year for transition to plan for and implement the requirements of this Act.".*

### *SEC. 6. LIMITATION.*

*Section 6 (20 U.S.C. 2305) is amended by striking the second sentence.*

### *SEC. 7. AUTHORIZATION OF APPROPRIATIONS.*

*Section 8 (20 U.S.C. 2307) is amended—*

*(1) by striking "title II" and inserting "part D of title I"; and*

*(2) by striking "1999 through 2003" and inserting "2006 through 2011".*

## *TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES*

### *SEC. 101. CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES.*

*Title I (20 U.S.C. 2321 et seq.) is amended by striking the title heading and inserting the following:*

## *"TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES".*

### *SEC. 102. RESERVATIONS AND STATE ALLOTMENT.*

*Section 111(a) (20 U.S.C. 2321(a)) is amended—*

*(1) in paragraph (1)(C), by striking "2001 through 2003," and inserting "2006 through 2011,"; and*

*(2) by striking paragraphs (3) and (4) and inserting the following:*

*"(3) MINIMUM ALLOTMENT.—Subject to paragraph (4), no State, other than the United States Virgin Islands, shall receive for a fiscal year under this subsection less than* $\frac{1}{2}$ *of 1 percent of the amount appropriated under section 8 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.*

*"(4) HOLD HARMLESS.—*

*"(A) FISCAL YEARS 2006 THROUGH 2008.—Notwithstanding paragraph (3), no State shall receive an allotment under this section for each of the fiscal years 2006 through 2008 that is less than the allotment the State received under this part (as this part was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005) for fiscal year 2005.*

*"(B) FISCAL YEARS 2009 THROUGH 2011.—Notwithstanding paragraph (3), no State shall receive an allotment under this section for each of the fiscal years 2009 through 2011 that is less than 95 percent of the allotment the State received under this section for the preceding fiscal year.*

*"(C) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the*

*requirements of subparagraph (A) or (B), the payments to all States under such subparagraph shall be ratably reduced.".*

### ***SEC. 103. WITHIN STATE ALLOCATION.***

*Section 112 (20 U.S.C. 2322) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1), by adding "and" after the semicolon; and*

*(B) by striking paragraphs (2) and (3) and inserting the following:*

*"(2) not more than 15 percent or $750,000, whichever is greater, for—*

*"(A) State leadership activities described in section 124, of which—*

*"(i) an amount determined by the eligible agency shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and*

*"(ii) not less than $60,000 shall be available for services that prepare individuals for nontraditional fields; and*

*"(B) administration of the State plan, which may be used for the costs of—*

*"(i) developing the State plan;*

*"(ii) reviewing the local plans;*

*"(iii) monitoring and evaluating program effectiveness;*

*"(iv) assuring compliance with all applicable Federal laws;*

*"(v) providing technical assistance; and*

*"(vi) supporting and developing State data systems relevant to the provisions of this Act.";*

*(2) in subsection (b), by striking "subsection (a)(3)" both places the term appears and inserting "subsection (a)(2)(B)"; and*

*(3) by striking subsection (c) and inserting the following:*

*"(c) RESERVE.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may—*

*"(1) award grants to eligible recipients, or consortia of eligible recipients, for career and technical education activities described in section 135 in—*

*"(A) rural areas; or*

*"(B) areas with high percentages or high numbers of career and technical education students;*

*"(2) reserve funds, with the approval of participating eligible recipients, for—*

*"(A) innovative statewide initiatives that demonstrate benefits for eligible recipients, which may include—*

*"(i) developing and implementing technical assessments;*

*"(ii) improving the initial preparation and professional development of career and technical education teachers, faculty, principals, administrators, and counselors; and*

*"(iii) establishing, enhancing, and supporting systems for accountability data collection or reporting purposes; or*

*"(B) the development and implementation of career pathways or career clusters; and*

*"(3) carry out activities described in paragraphs (1) and (2).".*

### ***SEC. 104. ACCOUNTABILITY.***

*Section 113 (20 U.S.C. 2323) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) in subsection (a)—*

*(A) by striking "a State performance accountability system" and inserting "and support State and local performance accountability systems"; and*

*(B) by inserting "and its eligible recipients" after "of the State";*

*(3) in subsection (b)—*

*(A) in paragraph (1)—*

*(i) in subparagraph (A), by striking "paragraph (2)(A)" and inserting "subparagraphs (A) and (B) of paragraph (2)"; and*

*(ii) in subparagraph (B), by striking "(2)(B)" and inserting "(2)(C)";*

*(B) in paragraph (2)—*

*(i) by striking subparagraph (A) and inserting the following:*

*"(A) CORE INDICATORS OF PERFORMANCE FOR SECONDARY CAREER AND TECHNICAL EDUCATION STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for secondary career and technical education students that include, at a minimum, measures of each of the following:*

*"(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.*

*"(ii) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and measured by the academic assessments described in section 1111(b)(3) of such Act, consistent with State requirements.*

*"(iii) Student rates of attainment of—*

*"(I) a secondary school diploma;*

*"(II) the recognized equivalent of a secondary school diploma;*

*"(III) technical skill proficiency;*

*"(IV) an industry-recognized credential;*

*"(V) a certificate; and*

*"(VI) a degree.*

*"(iv) Placement in postsecondary education, military service, apprenticeship programs, or employment.*

*"(v) Student participation in, and completion of, career and technical education programs that lead to employment or self-employment in nontraditional fields.";*

*(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;*

*(iii) by inserting after subparagraph (A) the following:*

*"(B) CORE INDICATORS OF PERFORMANCE FOR POSTSECONDARY CAREER AND TECHNICAL STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for postsecondary career and technical education students that include, at a minimum, measures of each of the following:*

*"(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.*

*"(ii) Student attainment of technical skill proficiency, an industry-recognized credential, a certificate, or a degree, or retention in postsecondary education, including transfer to a baccalaureate degree program.*

*"(iii) Placement in military service, apprenticeship programs, or employment.*

*"(iv) Student participation in, and completion of, career and technical education programs that lead to employment or self-employment in—*

*"(I) nontraditional fields; and*

*"(II) high skill, high wage, high demand occupations or professions.*

*"(v) Increase in earnings, where available.";*

*(iv) in subparagraph (C) (as redesignated by clause (ii) of this subparagraph), by striking "the title." and inserting "this title, such as attainment of self-sufficiency.";*

*(v) in subparagraph (D) (as redesignated by clause (ii) of this subparagraph), by inserting "career and technical education" after "developed State";*

*(vi) in subparagraph (E) (as redesignated by clause (ii) of this subparagraph)—*

*(I) by striking "this paragraph" and inserting "subparagraphs (A) and (B)";*

*(II) by striking "solely"; and*

*(III) by striking "recipients." and inserting "recipients, and shall meet the requirements of this section."; and*

*(vii) by adding at the end the following:*

*"(F) ALIGNMENT OF PERFORMANCE INDICATORS.—In the course of identifying core indicators of performance and additional indicators of performance, States shall, to the greatest extent possible, define the indicators so that substantially similar information gathered for other State and Federal programs, or any other purpose, is used to meet the requirements of this section.";*

*(C) in paragraph (3)—*

*(i) in the paragraph heading, by striking "LEVELS" and inserting "STATE LEVELS";*

*(ii) in subparagraph (A)—*

*(I) in clause (i)—*

*(aa) by striking "paragraph (2)(A)" and inserting "subparagraphs (A) and (B) of paragraph (2)";*

*(bb) by inserting "after taking into account the local adjusted levels of performance and" after "eligible agency,"; and*

*(cc) by striking subclause (II) and inserting the following:*

*"(II) require the eligible recipients to make continuous and significant improvement in career and technical achievement of career and technical education students, including special populations.";*

*(II) in clause (v)—*

*(aa) in the clause heading, by striking "3RD, 4TH, AND 5TH" and inserting "SUBSEQUENT";*

*(bb) by striking "third program year" and inserting "third and fifth program years"; and*

*(cc) by striking "third, fourth, and fifth" and inserting "corresponding subsequent";*

*(III) in clause (vi)(II), by inserting "and significant" after "continuous"; and*

*(IV) in clause (vii), by striking "or (vi)" and inserting "or (v)"; and*

*(iii) in subparagraph (B), by striking "(2)(B)" and inserting "(2)(C)"; and*

*(D) by adding at the end the following:*

*"(4) LOCAL LEVELS OF PERFORMANCE.—*

*"(A) LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—*

*"(i) IN GENERAL.—Each eligible recipient shall agree to accept the State adjusted levels of performance established under paragraph (3) as local adjusted levels of performance, or negotiate with the State to reach agreement on new local adjusted levels of performance, for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—*

*"(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and*

*"(II) require the eligible recipient to make continuous and significant improvement in career and technical achievement of career and technical education students.*

*"(ii) IDENTIFICATION IN THE LOCAL PLAN.—Each eligible recipient shall identify, in the local plan submitted under section 134, levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan.*

*"(iii) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The eligible agency and each eligible recipient shall reach agreement, as described in clause (i), on the eligible recipient's levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan, taking into account the levels identified in the local plan under clause (ii) and the factors described in clause (v). The levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan prior to the approval of such plan.*

*"(iv) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR SUBSEQUENT YEARS.—Prior to the third and fifth program years covered by the local plan, the eligible agency and each eligible recipient shall reach agreement on the local adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the local plan, taking into account the factors described in clause (v). The local adjusted levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan.*

*"(v) FACTORS.—The agreement described in clause (iii) or (iv) shall take into account—*

*"(I) how the levels of performance involved compare with the local adjusted levels of performance established for other eligible recipients, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and*

*"(II) the extent to which the local adjusted levels of performance involved promote continuous and significant improvement on the core indicators of performance by the eligible recipient.*

*"(vi) REVISIONS.—If unanticipated circumstances arise with respect to an eligible recipient resulting in a significant change in the factor described in clause (v)(II), the eligible recipient may request that the local adjusted levels of performance agreed to under clause (iii) or (iv) be revised. The eligible agency shall issue objective criteria and methods for making such revisions.*

*"(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible recipient may identify, in the local plan, local levels of performance for any additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the local levels of performance for purposes of this title.*

*"(C) REPORT.—Each eligible recipient that receives an allocation under section 131 shall publicly report, on an annual basis, its progress in achieving the local adjusted levels of performance on the core indicators of performance."; and*

*(4) by striking subsection (c)(1)(B) and inserting:*

*"(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance disaggregated for postsecondary institutions, by special populations and gender, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual.".*

### ***SEC. 105. NATIONAL ACTIVITIES.***

*Section 114 (20 U.S.C. 2324) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) in subsection (a)(1), by striking ", including an analysis of performance data regarding special populations" and inserting ", including an analysis of performance data that is disaggregated for postsecondary institutions, by special populations, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual";*

*(3) in subsection (c)—*

*(A) by striking paragraph (2) and inserting the following:*

*"(2) INDEPENDENT ADVISORY PANEL.—*

*"(A) IN GENERAL.—The Secretary shall appoint an independent advisory panel to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed and the methodology of the studies involved to ensure that the assessment adheres to the highest standards of quality.*

*"(B) MEMBERS.—The advisory panel shall consist of—*

*"(i) educators, principals, administrators, and chief executives (including State directors of career and technical education), with expertise in the integration of academic and career and technical education;*

*"(ii) experts in evaluation, research, and assessment;*

*"(iii) representatives of labor organizations and businesses, including small businesses, economic development entities, and State workforce investment boards established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821) or local workforce investment boards;*

*"(iv) parents;*

*"(v) career guidance and academic counseling professionals; and*

*"(vi) other individuals and intermediaries with relevant expertise.*

*"(C) INDEPENDENT ANALYSIS.—The advisory panel shall transmit to the Secretary and to the relevant committees of Congress an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3).*

*"(D) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this paragraph.";*

*(B) in paragraph (3)—*

*(i) by striking subparagraph (A) and inserting the following:*

*"(A) IN GENERAL.—From amounts made available under subsection (d), the Secretary shall provide for the conduct of an independent evaluation and assessment of career and technical education programs under this Act, including the implementation of the Carl D. Perkins Career and Technical Education Improvement Act of 2005, to the extent practicable, through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.";*

*(ii) in subparagraph (B)—*

*(I) by striking clause (iii) and inserting the following:*

*"(iii) the preparation and qualifications of teachers and faculty of career and technical education, as well as shortages of such teachers and faculty;";*

*(II) by striking clause (v) and inserting the following:*

*"(v) academic and career and technical education achievement and employment outcomes of career and technical education students, including analyses of—*

*"(I) the number of career and technical education students and tech-prep students who meet the State adjusted levels of performance established under section 113;*

*"(II) the extent and success of integration of challenging academic and career and technical education for students participating in career and technical education programs;*

*"(III) the extent to which career and technical education programs prepare students, including special populations, for subsequent employment in high skill, high wage occupations, or participation in postsecondary education; and*

*"(IV) the number of career and technical education students receiving a high school diploma;";*

*(III) in clause (vi), by inserting ", and career and technical education students' preparation for employment" after "programs"; and*

*(IV) in clause (viii), by inserting "and local" after "State" both places such term appears; and*

*(iii) in subparagraph (C)—*

*(I) in clause (i)—*

*(aa) by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress"; and*

*(bb) by striking "2002" both places it appears and inserting "2009"; and*

*(II) in clause (ii), by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress";*

*(C) in paragraph (4)(B), by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress";*

*(D) in paragraph (5)—*

*(i) in subparagraph (A)—*

*(I) in the matter preceding clause (i), by striking "higher education" and all that follows through "centers" and inserting "higher education offering comprehensive graduate programs in career and technical education that shall be the primary recipient and shall collaborate with a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies, to establish a national research center";*

*(II) in clause (i)—*

*(aa) by inserting "and evaluation" after "to carry out research"; and*

*(bb) by inserting ", including special populations," after "participants";*

*(III) by redesignating clauses (ii), (iii), and (iv), as clauses (iii), (iv), and (v), respectively;*

*(IV) by inserting after clause (i) the following:*

*"(ii) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the needs of employers in high skill, high wage business and industry, including evaluation and scientifically based research of—*

*"(I) collaboration between career and technical education programs and business and industry;*

*"(II) academic and technical skills required to respond to the challenge of a global economy and rapid technological changes; and*

*"(III) technical knowledge and skills required to respond to needs of a regional or sectoral workforce, including small business;";*

*(V) in clause (iii) (as redesignated by subclause (III) of this clause), by inserting "that are integrated with challenging academic instruction" before ", including"; and*

*(VI) by striking clause (iv) (as redesignated by subclause (III) of this clause) and inserting the following:*

*"(iv) to carry out scientifically based research, where appropriate, that can be used to improve preparation and professional development of teachers, faculty, principals, and administrators and student learning in the career and technical education classroom, including—*

*"(I) effective in-service and pre-service teacher and faculty education that assists career and technical education programs in—*

*"(aa) integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and*

*"(bb) promoting technical education aligned with industry-based standards and certifications to meet regional industry needs;*

*"(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on career and technical education skills, State academic standards, and related materials; and*

*"(III) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and";*

*(ii) in subparagraph (B)—*

*(I) by striking "or centers" both places the term appears; and*

*(II) by striking "Committee on Education" and all that follows through "Senate" and inserting "relevant committees of Congress";*

*(iii) in subparagraph (C), by striking "or centers"; and*

*(iv) by adding at the end the following:*

*"(D) INDEPENDENT GOVERNING BOARD.—*

*"(i) IN GENERAL.—An institution of higher education that desires a grant, contract, or cooperative agreement under this paragraph shall identify, in its application, an independent governing board for the center established pursuant to this paragraph.*

*"(ii) MEMBERS.—The independent governing board shall consist of the following:*

*"(I) Two representatives of secondary career and technical education.*

*"(II) Two representatives of postsecondary career and technical education.*

*"(III) Two representatives of eligible agencies.*

*"(IV) Two representatives of business and industry.*

*"(V) Two representatives of career and technical teacher preparation institutions.*

*"(VI) Two nationally recognized researchers in the field of career and technical education.*

*"(iii) COORDINATION.—The independent governing board shall ensure that the research and dissemination activities carried out by the center are coordinated with the research activities carried out by the Secretary.";*

*(E) in paragraph (6)(B)(ii), by striking "or centers"; and*

*(F) by striking paragraph (8); and*

*(4) by adding at the end the following:*

*"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.".*

### *SEC. 106. ASSISTANCE FOR THE OUTLYING AREAS.*

*Section 115 (20 U.S.C. 2325) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) in subsection (b)—*

*(A) in the matter preceding paragraph (1), by striking "the Republic of the Marshall Islands, the Federated States of Micronesia,";*

*(B) in paragraph (1), by striking "training and retraining;" and inserting "preparation;";*

*(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and*

*(D) by inserting after paragraph (1) the following:*

*"(2) professional development for teachers, faculty, principals, and administrators;"; and*

*(3) in subsection (d)—*

*(A) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia, and"; and*

*(B) by striking "2001" and inserting "2007".*

### *SEC. 107. NATIVE AMERICAN PROGRAM.*

*Section 116 (20 U.S.C. 2326) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) in subsection (a)(5), by adding a period at the end;*

*(3) in subsection (b)—*

*(A) in paragraph (1), by striking "(d)" and inserting "(c)"; and*

*(B) in paragraph (2), by striking "(other than in subsection (i))";*

*(4) in subsection (d), by striking "section an" and inserting "section, an";*

*(5) in subsection (e), by striking "paragraph" and inserting "section"; and*

*(6) in subsection (h), by striking "which are recognized by the Governor of the State of Hawaii".*

### *SEC. 108. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.*

*Section 117 (20 U.S.C. 2327) is amended—*

*(1) by striking the section heading and inserting the following:*

***"SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.";***

*(2) by striking "vocational" each place the term appears and inserting "career";*

*(3) in subsection (g)—*

*(A) in paragraph (1), by striking "The Secretary" and inserting "On an annual basis, the Secretary";*

*(B) in paragraph (2)(B), by striking "2000" and inserting "2007"; and*

*(C) in paragraph (3)(C), by striking "beginning" and all that follows through the period and inserting "beginning on the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005.";*

*(4) by redesignating subsections (h) and (i) as subsections (j) and (k), respectively;*

*(5) by inserting after subsection (g) the following:*

*"(h) APPEALS.—*

*"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide a tribally controlled postsecondary career and technical institution with a hearing on the record before an administrative law judge with respect to the following determinations:*

*"(A) A determination that such institution is not eligible for a grant under this section.*

*"(B) A determination regarding the calculation of the amount of a grant awarded under this section.*

*"(2) PROCEDURE FOR APPEAL.—To appeal a determination described in paragraph (1), a tribally controlled postsecondary career and technical institution shall—*

*"(A) in the case of an appeal based on a determination that such institution is not eligible for a grant under this section, file a notice of appeal with the Secretary not later than 30 days after receipt of such determination; and*

*"(B) in the case of an appeal based on a determination regarding the calculation of the amount of a grant awarded under this section—*

*"(i) file a notice of appeal with the Secretary not later than 30 days after receipt of the Secretary's notification of the grant amount; and*

*"(ii) identify the amount of funding that gives rise to such appeal.*

*"(3) WITHHOLDING OF AMOUNT.—If a tribally controlled postsecondary career and technical institution appeals a determination described in paragraph (1), the Secretary shall withhold the amount in dispute from the award of grant funds under this section until such time as the administrative law judge has issued a written decision on the appeal.*

*"(i) RESTRICTED INDIRECT COST.—Notwithstanding any other provision of law, the Secretary shall not request the use of a restricted indirect cost rate for grants awarded under this section."; and*

*(6) by striking subsection (k) (as redesignated by paragraph (4) of this section) and inserting the following:*

*"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.".*

### *SEC. 109. OCCUPATIONAL AND EMPLOYMENT INFORMATION.*

*Section 118 (20 U.S.C. 2328) is amended—*

*(1) in subsection (a)—*

*(A) in the matter preceding paragraph (1), by striking "(f)" and inserting "(g)";*

*(B) in paragraph (1)—*

*(i) in subparagraph (A), by striking "(b)" both places it appears and inserting "(c)";*

*(ii) in subparagraph (B), by striking "(b)" and inserting "(c)"; and*

*(iii) in subparagraph (C), by striking "(b)" and inserting "(c)"; and*

*(C) in paragraph (2), by striking "(b)" both places it appears and inserting "(c)";*

*(2) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively;*

*(3) by inserting after subsection (a) the following:*

*"(b) STATE APPLICATION.—*

*"(1) IN GENERAL.—Each State desiring assistance under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 122, in such manner, and accompanied by such additional information, as the Secretary may reasonably require.*

*"(2) CONTENTS.—Each application submitted under paragraph (1) shall include—*

*"(A) a description of how the State entity designated in subsection (c) will provide information based on labor market trends to inform program development; and*

*"(B) information about the academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965.";*

*(4) in subsection (c) (as redesignated by paragraph (2) of this section)—*

*(A) in paragraph (1), by striking "individuals" and all that follows through the semicolon and inserting "students and parents, including postsecondary education and training, including academic and technical preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging or established professions;";*

*(B) in paragraph (2), by inserting "academic and career and technical" after "relate";*

*(C) by striking paragraph (3) and inserting the following:*

*"(3) to equip teachers, faculty, administrators, and counselors with the knowledge, skills, and occupational information needed to assist parents and all students, especially special populations underrepresented in certain careers, with career exploration, educational opportunities, education financing, and exposure to high skill, high wage, or high demand occupations and nontraditional fields, including occupations and fields requiring a baccalaureate degree;";*

*(D) in paragraph (4), by striking "such entities;" and inserting "such entities, with an emphasis on high skill, high wage, or high demand occupations in emerging or established professions;";*

*(E) in paragraph (5), by striking "and" after the semicolon;*

*(F) in paragraph (6), by striking the period and inserting "; and"; and*

*(G) by adding at the end the following:*

*"(7) to provide information, if available, for each occupation, on—*

*"(A) the average earnings of an individual in the occupation at entry level and after 5 years of employment;*

*"(B) the expected lifetime earnings; and*

*"(C) the expected future demand for the occupation, based on employment projections.";*

*(5) in subsection (d)(1) (as redesignated by paragraph (2) of this section), by striking "(b)" both places it appears and inserting "(c)";*

*(6) in subsection (e)(1) (as redesignated by paragraph (2) of this section), by striking "(b)" and inserting "(c)";*

*(7) in subsection (f)(1) (as redesignated by paragraph (2) of this section), by striking "an identification" and inserting "a description"; and*

*(8) in subsection (g) (as redesignated by paragraph (2) of this section), by striking "1999 through 2003" and inserting "2006 through 2011".*

### ***SEC. 110. STATE ADMINISTRATION.***

*Section 121 (20 U.S.C. 2341) is amended—*

*(1) by redesignating subsection (a)(2) as subsection (b) and indenting appropriately;*

*(2) by redesignating subparagraphs (A) through (D) of subsection (a)(1) as paragraphs (1) through (4), respectively, and indenting appropriately;*

*(3) by redesignating clauses (i) and (ii) of paragraph (4) (as redesignated by paragraph (2) of this section) as subparagraphs (A) and (B), respectively, and indenting appropriately;*

*(4) by striking the following:*

*"(a) ELIGIBLE AGENCY RESPONSIBILITIES.—*

*"(1) IN GENERAL.—The responsibilities" and inserting the following:*

*"(a) ELIGIBLE AGENCY RESPONSIBILITIES.—The responsibilities";*

*(5) in subsection (a)(1) (as redesignated by paragraph (2) of this section), by striking "training and employment" and inserting "fields";*

*(6) in subsection (a)(2) (as redesignated by paragraph (2) of this section)—*

*(A) by inserting "teacher and faculty preparation programs," after "teachers,"; and*

*(B) by inserting "all types and sizes of" after "representatives of"; and*

*(7) in subsection (b) (as redesignated by paragraph (1) of this section), by striking "paragraph (1)" and inserting "subsection (a)".*

### ***SEC. 111. STATE PLAN.***

*Section 122 (20 U.S.C. 2342) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) in subsection (a)—*

*(A) in paragraph (1)—*

*(i) by striking "5" and inserting "6"; and*

*(ii) by adding at the end the following: "Each eligible agency may submit a transition plan during the first full year of implementation of this Act after the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. The transition plan shall fulfill the eligible agency's State plan submission obligation under this section."; and*

*(B) in paragraph (2)(B), by striking "5 year State plan" and inserting "6-year period";*

*(3) by striking subsection (b)(1) and inserting the following:*

*"(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, eligible recipients, parents, students, the State tech-prep coordinator and representatives of tech-prep consortia (if applicable), the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)) and carried out by one-stop partners, the State workforce investment board, interested community members (including parent and community organizations), representatives of special populations, representatives of business and industry (including representatives of small business and economic development entities), and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.";*

*(4) by striking subsection (c) and inserting the following:*

*"(c) PLAN CONTENTS.—The State plan shall include information that—*

*"(1) describes the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—*

*"(A) how the eligible agency will support eligible recipients in developing or implementing career pathways for career and technical education content areas that are designed to meet relevant workforce needs, including how the eligible agency will—*

*"(i) support eligible recipients in developing articulation agreements between secondary and postsecondary institutions;*

*"(ii) support eligible recipients in using labor market information to identify career pathways that prepare individuals for high skill, high wage, or high demand occupations;*

*"(iii) make available information about career pathways offered by eligible recipients; and*

*"(iv) consult with business and industry and use industry-recognized standards and assessments, if appropriate;*

*"(B) the secondary and postsecondary career and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality technology in career and technical education programs;*

*"(C) the criteria that will be used by the eligible agency to approve eligible recipients for funds under this title, including criteria to assess the extent to which the local plan will—*

*"(i) promote higher levels of academic achievement;*

*"(ii) promote higher levels of technical skill attainment; and*

*"(iii) identify and address workforce needs;*

*"(D) how programs at the secondary level will prepare career and technical education students, including special populations to graduate from high school with a diploma;*

*"(E) how such programs will prepare career and technical education students, including special populations, both academically and technically, for opportunities in postsecondary education or entry into high skill, high wage, or high demand occupations in emerging or established occupations, and how participating students will be made aware of such opportunities; and*

*"(F) how funds will be used to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations that are aligned with business needs and industry standards, as appropriate—*

*"(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and*

*"(ii) at the postsecondary level that are relevant and challenging;*

*"(2) describes how career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors will be provided comprehensive initial preparation and professional development, including through programs and activities that—*

*"(A) promote the integration of challenging academic curricula and career and technical education curricula, including opportunities for teachers to jointly develop and implement curriculum and pedagogical strategies with appropriate academic teachers;*

*"(B) increase the academic and career and technical education knowledge of career and technical education teachers and faculty;*

*"(C) are high-quality, sustained, intensive, focused on instruction, directly related to industry standards, and includes structured induction and mentoring components for new personnel, with an emphasis on identifying and addressing the needs of local businesses, including small businesses;*

*"(D) ensure an increasing number of career and technical education teachers and faculty meet teacher certification and licensing requirements reflecting the needs of their subject area or areas;*

*"(E) equip career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors with the knowledge and skills needed to work with and improve instruction for special populations;*

*"(F) assist in accessing and utilizing data, including labor market indicators, student achievement, and assessments;*

*"(G) enhance the leadership capacity of principals and administrators;*

*"(H) are integrated with professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965; and*

*"(I) include strategies to expose all career and technical education students to comprehensive information regarding career options that lead to high skill, high wage, or high demand occupations and nontraditional fields;*

*"(3) describes efforts to improve—*

*"(A) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and*

*"(B) the transition to teaching from business and industry, including small business;*

*"(4) describes efforts to improve the capacity of programs and faculty at postsecondary institutions to effectively prepare career and technical education personnel, including, as appropriate, through electronically delivered distance education, and articulation agreements between 2-year technical programs and postsecondary education programs;*

*"(5) describes efforts to facilitate the transition of sub-baccalaureate career and technical education students into baccalaureate degree programs, including—*

*"(A) statewide articulation agreements between sub-baccalaureate career and technical education programs and baccalaureate degree programs;*

*"(B) postsecondary dual and concurrent enrollment programs;*

*"(C) academic and financial aid counseling; and*

*"(D) other initiatives to encourage the pursuit of a baccalaureate degree and to overcome barriers to participation in baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;*

*"(6) describes how the eligible agency will actively involve parents, academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, local businesses (including small- and medium-sized businesses and business intermediaries), State workforce investment boards, local workforce investment boards, economic development entities, and labor organizations in the planning, development, implementation, and evaluation of such career and technical education programs;*

*"(7) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—*

*"(A) among secondary school career and technical education, or postsecondary and adult career and technical education, or both, including the rationale for such allocation; and*

*"(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;*

*"(8) describes how the eligible agency will—*

*"(A) use funds to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations—*

*"(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and*

*"(ii) at the postsecondary level that are challenging and aligned with business needs and industry standards, as appropriate;*

*"(B) improve the academic and technical skills of students participating in career and technical education programs, including strengthening the academic, and career and technical, components of career and technical education programs through the integration of academics with career and technical education to ensure learning in the core academic subjects and career and technical education subjects, and provide students with strong experience in, and understanding of, all aspects of an industry;*

*"(C) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students; and*

*"(D) encourage secondary school students who participate in such career and technical education programs to enroll in challenging courses in core academic subjects;*

*"(9) describes how the eligible agency will annually evaluate the effectiveness of such career and technical education programs, and describes, to the extent practicable, how the eligible agency is coordinating such programs to promote relevant lifelong learning and ensure nonduplication with other existing Federal programs;*

*"(10) describes the eligible agency's program strategies for special populations, including a description of how individuals who are members of the special populations—*

*"(A) will be provided with equal access to activities assisted under this title;*

*"(B) will not be discriminated against on the basis of their status as members of the special populations; and*

*"(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage, or high demand occupations;*

*"(11) how the eligible agency will collaborate in developing the State plan with—*

*"(A) the entity within the State with responsibility for elementary and secondary education;*

*"(B) the entity within the State with responsibility for public institutions engaged in postsecondary education;*

*"(C) State institutions such as State correctional institutions and institutions that serve individuals with disabilities; and*

*"(D) all other relevant State agencies with responsibility for career and technical education and training investment, and economic and workforce development;*

*"(12) describes what steps the eligible agency will take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;*

*"(13) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;*

*"(14) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;*

*"(15) describes how the eligible agency will measure and report data relating to students participating in and completing career and technical education within specific career clusters in order to adequately measure the progress of the students, including special populations, at—*

*"(A) the secondary level, disaggregated by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual; and*

*"(B) the postsecondary level, disaggregated by special populations, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual;*

*"(16) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;*

*"(17) describes how the eligible agency will provide local educational agencies, area career and technical education schools, and eligible institutions in the State with technical assistance;*

*"(18) describes how career and technical education relates to State and regional occupational opportunities;*

*"(19) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education and workforce investment programs;*

*"(20) describes how funds will be used to promote preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions;*

*"(21) describes how funds will be used to serve individuals in State correctional institutions;*

*"(22) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and*

*"(23) contains the description and information specified in sections 112(b)(8) and 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(8) and 2841(c)) concerning the provision of services only for postsecondary students and school dropouts.";*

*(5) by striking subsection (d) and inserting the following:*

*"(d) PLAN OPTIONS.—*

*"(1) SINGLE PLAN.—The eligible agency may fulfill the plan or application submission requirements of this section, section 118(b), and section 141(c) by submitting a single State plan. In such plan, the eligible agency may allow eligible recipients to fulfill the plan or application submission requirements of section 134 and subsections (a) and (b) of section 143 by submitting a single local plan.*

*"(2) PLAN SUBMITTED AS PART OF 501 PLAN.—The eligible agency may submit the plan required under this section as part of the plan submitted under section 501 of the Workforce Investment Act of 1998 (20 U.S.C. 9271), if the plan submitted pursuant to the requirement of this section meets the requirements of this Act."; and*

*(6) by striking subsection (f).*

***SEC. 112. IMPROVEMENT PLANS.***

*Section 123 (20 U.S.C. 2343) is amended to read as follows:*

***"SEC. 123. IMPROVEMENT PLANS.***

*"(a) STATE PROGRAM IMPROVEMENT PLAN.—*

*"(1) PLAN.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with the appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under paragraph (3).*

*"(2) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.*

*"(3) FAILURE.—*

*"(A) IN GENERAL.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet more than 1 of the State adjusted levels of performance for the same performance indicator for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this title.*

*"(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in financial resources of the State.*

*"(4) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—*

*"(A) IN GENERAL.—The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purposes of this Act.*

*"(B) REDISTRIBUTION.—If the Secretary cannot satisfactorily use funds withheld under paragraph (3), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (3) shall be redistributed to other eligible agencies in accordance with section 111.*

*"(b) LOCAL PROGRAM IMPROVEMENT.—*

*"(1) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the local adjusted levels of performance described in section 113(b)(4), the career and technical education activities of each eligible recipient receiving funds under this title.*

*"(2) PLAN.—*

*"(A) IN GENERAL.—If, after reviewing the evaluation, the eligible agency determines that an eligible recipient is not making substantial progress in achieving the local adjusted levels of performance, the eligible agency shall—*

*"(i) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies, including the performance of special populations;*

*"(ii) enter into an improvement plan with an eligible recipient based on the results of the assessment, for the first program year succeeding the program year in which the eligible recipient failed to meet the local adjusted levels of performance, which plan shall demonstrate how the local performance deficiencies will be corrected and include instructional and other programmatic innovations of demonstrated effectiveness, and, where necessary, strategies for appropriate staffing and professional development; and*

*"(iii) conduct regular evaluations of the progress being made toward reaching the local adjusted levels of performance, as described in*

section 113(b)(4), and progress on implementing the improvement plan.

"(B) CONSULTATION.—The eligible agency shall conduct the activities described in subparagraph (A) in consultation with teachers, principals, administrators, faculty, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

"(3) TECHNICAL ASSISTANCE.—If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 134, or is not making substantial progress in meeting the purpose of this Act, based on the local adjusted levels of performance, the eligible agency shall provide technical assistance to the eligible recipient to assist the eligible recipient in carrying out the improvement activities consistent with the requirements of this Act. An eligible recipient, in collaboration with the eligible agency, may request that the Secretary provide additional technical assistance.

"(4) FAILURE.—

"(A) IN GENERAL.—If an eligible recipient fails to meet the local adjusted levels of performance as described in section 113(b)(4) and has not implemented an improvement plan as described in paragraph (2), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (2), or has failed to meet more than 1 of the local adjusted levels of performance for the same performance indicator for 2 or more consecutive years, the eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion of, the eligible recipient's allotment under this title.

"(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The eligible agency may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as organizational structure, or a natural disaster or a precipitous and unforeseen decline in financial resources of the eligible recipient.

"(5) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The eligible agency shall use funds withheld under paragraph (4) to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purpose of this Act.".

### SEC. 113. STATE LEADERSHIP ACTIVITIES.

Section 124 (20 U.S.C. 2344) is amended—

(1) by striking "vocational" each place the term appears and inserting "career";

(2) in subsection (a), by striking "112(a)(2)" and inserting "112(a)(2)(A)";

(3) in subsection (b)—

(A) in paragraph (1), by striking "further learning" and all that follows through the semicolon and inserting "further education, further training, or for high skill, high wage, or high demand occupations;";

(B) in paragraph (2), by striking subparagraphs (A) through (C) and inserting the following:

"(A) training of career and technical education teachers, faculty, principals, career guidance and academic counselors, and administrators to use technology, including distance learning;

"(B) encouraging schools to work with technology industries to offer voluntary internships and mentoring programs; or

"(C) encouraging lifelong learning, including through partnerships that may involve institutions of higher education, organizations providing career and technical education, businesses, workforce investment entities, and communications entities;";

(C) by striking paragraph (3) and inserting the following:

"(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 122 and—

"(A) provide in-service and pre-service training in career and technical education programs and techniques, effective teaching skills based on promising practices and, where available and appropriate, scientifically based research, and effective practices to improve parental and community involvement;

"(B) improve student achievement in order to meet the State adjusted levels of performance established under section 113;

"(C) support education programs for teachers and faculty of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students to ensure that such personnel—

"(i) stay current with the needs, expectations, and methods of industry;

"(ii) can effectively develop challenging, integrated academic and career and technical education curriculum jointly with academic teachers, to the extent practicable; and

"(iii) develop a higher level of academic and industry knowledge and skills in career and technical education; and

"(D) are integrated with the teacher certification or licensing and professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965;";

(D) in paragraph (4), by striking "support for" and inserting "supporting";

(E) in paragraph (5), by striking "nontraditional training and employment" and inserting "nontraditional fields in emerging and established professions, and other activities that expose students, including special populations, to high skill, high wage occupations";

(F) in paragraph (6)—

(i) by inserting "intermediaries," after "labor organizations,"; and

(ii) by inserting ", or complete career pathways, as described in section 122(c)(1)(A)" after "skills";

(G) in paragraph (7), by striking "and" after the semicolon;

(H) in paragraph (8), by striking "wage careers." and inserting "wage, or high demand occupations; and"; and

(I) by adding at the end the following:

"(9) technical assistance for eligible recipients.";

(4) by striking subsection (c) and inserting the following:

"(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

"(1) improvement of career guidance and academic counseling programs that assist students in making informed academic, and career and technical education, decisions, including encouraging secondary and postsecondary students to graduate with a diploma or degree, and expose students to high skill, high wage occupations and nontraditional fields in emerging and established professions;

"(2) establishment of agreements, including articulation agreements, between secondary and postsecondary career and technical education programs in order to provide postsecondary education and training opportunities for students participating in such career and technical education programs, such as tech-prep programs;

"(3) support for initiatives to facilitate the transition of sub-baccalaureate career and technical education students into baccalaureate degree programs, including—

"(A) statewide articulation agreements between sub-baccalaureate degree granting career and technical postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

"(B) postsecondary dual and concurrent enrollment programs;

"(C) academic and financial aid counseling; and

"(D) other initiatives—

"(i) to encourage the pursuit of a baccalaureate degree; and

"(ii) to overcome barriers to participation in baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

"(4) support for career and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

"(5) support for public charter schools operating secondary career and technical education programs;

"(6) support for career and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

"(7) support for family and consumer sciences programs;

"(8) support for partnerships between education and business or business intermediaries, including cooperative education and adjunct faculty arrangements at the secondary and postsecondary levels;

"(9) support to improve or develop new career and technical education courses and initiatives, including career clusters, career academies, and distance learning, that prepare individuals academically and technically for high skill, high wage, or high demand occupations;

"(10) awarding incentive grants to eligible recipients for exemplary performance in carrying out programs under this Act, which awards shall be based on local performance indicators, as described in section 113, in accordance with previously publicly disclosed priorities;

"(11) providing career and technical education programs for adults and school dropouts to complete their secondary school education, in coordination, to the extent practicable, with activities authorized under title II of the Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.);

"(12) providing assistance to individuals, who have participated in services and activities under this title, in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(13) developing valid and reliable assessments of technical skills that are integrated with industry certification assessments where available;

"(14) developing and enhancing data systems to collect and analyze data on secondary and postsecondary academic and employment outcomes;

"(15) improving—

"(A) the recruitment and retention of career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

"(B) the transition to teaching from business and industry, including small business; and

"(16) adopting, calculating, or commissioning a self-sufficiency standard."; and

(5) in subsection (d), by striking "112(a)(2)" and inserting "112(a)(2)(A)".

### SEC. 114. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

Section 131 (20 U.S.C. 2351) is amended—

*(1) by striking "vocational" each place the term appears and inserting "career";*

*(2) by striking subsection (a);*

*(3) by redesignating subsections (b) through (i) as subsections (a) through (h), respectively;*

*(4) in subsection (a) (as redesignated by paragraph (3) of this section)—*

*(A) in the subsection heading, by striking "Special Distribution Rules for Succeeding Fiscal Years" and inserting "Distribution Rules"; and*

*(B) by striking "for fiscal year 2000 and succeeding fiscal years";*

*(5) in subsection (b) (as redesignated by paragraph (3) of this section)—*

*(A) by striking "subsection (b)" and inserting "subsection (a)"; and*

*(B) in paragraph (1), by striking "9902(2))" and inserting "9902(2)))";*

*(6) in subsection (e) (as redesignated by paragraph (3) of this section), in the subsection heading, by striking "Vocational" and inserting "Career"; and*

*(7) in subsection (g) (as redesignated by paragraph (3) of this section), by striking "subsections (a), (b), (c), and (d)" and inserting "subsections (a), (b), and (c)".*

### *SEC. 115. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.*

*Section 132 (20 U.S.C. 2352) is amended—*

*(1) by striking the section heading and inserting the following:*

***"SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.";***

*and*

*(2) in subsection (a)—*

*(A) in paragraph (1), by inserting "for career and technical education programs leading to a technical skill proficiency, an industry-recognized credential, a certificate, or an associate's degree" before the period; and*

*(B) in paragraph (2), by inserting "leading to a technical skill proficiency, an industry-recognized credential, a certificate, or an associate's degree and" after "enrolled in programs".*

### *SEC. 116. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.*

*Section 133 (20 U.S.C. 2353) is amended—*

*(1) by striking the section heading and inserting the following:*

***"SEC. 133. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.";***

*and*

*(2) by striking "vocational" each place such term appears and inserting "career".*

### *SEC. 117. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.*

*Section 134 (20 U.S.C. 2354) is amended—*

*(1) by striking the section heading and inserting the following:*

***"SEC. 134. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.";***

*(2) in subsection (a), by inserting "and workforce investment" after "such other educational"; and*

*(3) in subsection (b), by striking paragraphs (1) through (10) and inserting the following:*

*"(1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;*

*"(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;*

*"(3) describe how the eligible recipient will—*

*"(A) offer the appropriate courses of not less than 1 of the career pathways described in section 122(c)(1)(A);*

*"(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of challenging academics with career and technical education programs through a coherent sequence of courses to ensure learning in the core academic subjects, and career and technical education subjects;*

*"(C) provide students with strong experience in and understanding of all aspects of an industry; and*

*"(D) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;*

*"(4) describe how comprehensive professional development will be provided that is consistent with section 122;*

*"(5) describe how parents, students, academic and career and technical education teachers, faculty, principals, administrators, career guidance and academic counselors, representatives of tech-prep consortia (if applicable), representatives of the local workforce investment board (if applicable), representatives of the local economic development entity (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in, understanding, the requirements of this title, including career pathways;*

*"(6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;*

*"(7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;*

*"(8) describe how the eligible recipient—*

*"(A) will review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and*

*"(B) will provide programs that are designed to enable the special populations to meet the local adjusted levels of performance and prepare for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency;*

*"(9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;*

*"(10) describe how funds will be used to promote preparation for nontraditional fields;*

*"(11) describe how career guidance and academic counseling will be provided to all career and technical education students, including linkages to the information and services available through the one-stop delivery system established under section 121 of the Workforce Investment Act of 1998 (29 U.S.C. 2841), as appropriate; and*

*"(12) describe efforts to improve the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession, and the transition to teaching from business and industry.".*

### *SEC. 118. LOCAL USES OF FUNDS.*

*Section 135 (20 U.S.C. 2355) is amended—*

*(1) in subsection (a), by striking "vocational" and inserting "career";*

*(2) in subsection (b)—*

*(A) in the matter preceding paragraph (1), by striking "vocational" and inserting "career"; and*

*(B) by striking paragraphs (1) through (8) and inserting the following:*

*"(1) strengthen the academic and career and technical education skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career pathways described in section 122(c)(1)(A), to ensure learning in the core academic subjects and career and technical education subjects;*

*"(2) link secondary career and technical education and postsecondary career and technical education, including by—*

*"(A) offering the relevant elements of not less than 1 career pathway described in section 122(c)(1)(A);*

*"(B) developing and supporting articulation agreements between secondary and postsecondary institutions; or*

*"(C) supporting tech-prep programs and consortia;*

*"(3) provide students with strong experience in and understanding of all aspects of an industry;*

*"(4) develop, improve, or expand the use of technology in career and technical education, which may include—*

*"(A) training of career and technical education teachers, faculty, principals, and administrators to use technology, including distance learning; or*

*"(B) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs;*

*"(5) provide professional development programs that are consistent with section 122 to secondary and postsecondary teachers, faculty, principals, administrators, and career guidance and academic counselors who are involved in integrated career and technical education programs, including—*

*"(A) in-service and pre-service training—*

*"(i) in career and technical education programs and techniques;*

*"(ii) in effective integration of challenging academic and career and technical education jointly with academic teachers, to the extent practicable;*

*"(iii) in effective teaching skills based on research that includes promising practices; and*

*"(iv) in effective practices to improve parental and community involvement;*

*"(B) support of education programs that provide information on all aspects of an industry;*

*"(C) internship programs that provide relevant business experience; and*

*"(D) programs dedicated to the effective use of instructional technology;*

*"(6) develop and implement evaluations of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;*

*"(7) initiate, improve, expand, and modernize quality career and technical education programs, including relevant technology;*

*"(8) provide services and activities that are of sufficient size, scope, and quality to be effective; and*

*"(9) provide activities to prepare special populations, including single parents and displaced homemakers (if enrolled in the program), for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency."; and*

*(3) in subsection (c)—*

*(A) in paragraph (1), by striking "vocational" and inserting "career"; and*

*(B) by striking paragraphs (2) through (15) and inserting the following:*

*"(2) to provide career guidance and academic counseling that is based on current labor market indicators, as provided pursuant to section 118, for students participating in career and technical education programs that—*

*"(A) improves graduation rates and provides information on postsecondary and career options, including baccalaureate degree programs, for secondary students, which activities may include the use of graduation and career plans; and*

*"(B) provides assistance for postsecondary students, including for adult students who are changing careers or updating skills;*

*"(3) for partnerships between or among the eligible recipient and a business (including a small business or business intermediary), a local workforce investment board, or a local economic development entity, including for—*

*"(A) work-related experience for students, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to career and technical education programs;*

*"(B) adjunct faculty arrangements at the secondary and postsecondary levels; and*

*"(C) industry experience for teachers and faculty;*

*"(4) to provide programs for special populations;*

*"(5) to assist career and technical student organizations;*

*"(6) for mentoring and support services;*

*"(7) for leasing, purchasing, upgrading, or adapting instructional equipment, including support for library resources, such as business journals, publications, and other related resources designed to strengthen and support academic and technical skill achievement;*

*"(8) for teacher preparation programs that address the integration of academic and career and technical education and that assist individuals who are interested in becoming career and technical education teachers and faculty, including individuals with experience in business and industry;*

*"(9) to develop and expand postsecondary program offerings at times and in formats that are convenient and accessible for working students, including through the use of distance education;*

*"(10) to develop initiatives that facilitate the transition of sub-baccalaureate career and technical education students into baccalaureate degree programs, including—*

*"(A) articulation agreements between sub-baccalaureate degree granting career and technical education postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;*

*"(B) postsecondary dual and concurrent enrollment programs;*

*"(C) academic and financial aid counseling for sub-baccalaureate career and technical education students that inform the students of the opportunities for pursuing a baccalaureate degree and advise the students on how to meet any transfer requirements; and*

*"(D) other initiatives—*

*"(i) to encourage the pursuit of a baccalaureate degree; and*

*"(ii) to overcome barriers to enrollment in and completion of baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;*

*"(11) for improving or developing new career and technical education courses, including entrepreneurship and development of new career pathways;*

*"(12) to develop and support small, personalized career-themed learning communities;*

*"(13) to provide support for family and consumer sciences programs;*

*"(14) to provide career and technical education programs for adults and school dropouts to complete their secondary school education or upgrade their technical skills;*

*"(15) to provide assistance to individuals who have participated in services and activities under this title in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);*

*"(16) to support activities in nontraditional fields, such as mentoring and outreach; and*

*"(17) to support other career and technical education activities that are consistent with the purpose of this Act.".*

### SEC. 119. TECH-PREP EDUCATION.

*(a) REDESIGNATION.—Title II (20 U.S.C. 2371 et seq.) is amended—*

*(1) by striking the title heading and inserting the following:*

***"PART D—TECH-PREP EDUCATION";***

*(2) by striking sections 201, 202, 206, and 207; and*

*(3) by redesignating sections 203, 204, 205, and 208, as sections 141, 142, 143, and 144, respectively.*

*(b) STATE ALLOTMENT AND APPLICATION.—Section 141 (as redesignated by subsection (a) of this section) is amended—*

*(1) in subsection (a), by striking "section 206" and inserting "section 144"; and*

*(2) by striking subsection (c) and inserting the following:*

*"(c) STATE APPLICATION.—Each eligible agency desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall describe how activities under this part will be coordinated, to the extent practicable, with activities described in section 122.".*

*(c) TECH-PREP EDUCATION.—Section 142 (as redesignated by subsection (a) of this section) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1)—*

*(i) by striking "section 203" and inserting "section 141";*

*(ii) by striking "title" and inserting "part";*

*(iii) by striking "vocational" both places the term appears and inserting "career"; and*

*(iv) in subparagraph (A), by inserting ", educational service agency," after "intermediate educational agency"; and*

*(B) in paragraph (2)—*

*(i) in subparagraph (A), by striking "and";*

*(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and*

*(iii) by adding at the end the following:*

*"(C) employers, including small businesses, or business intermediaries; and*

*"(D) labor organizations.";*

*(2) in subsection (c)—*

*(A) by striking paragraph (2) and inserting the following:*

*"(2) consist of not less than 2 years of secondary school with a common core of technical skills and core academic subjects preceding graduation and 2 years or more of higher education, or an apprenticeship program of not less than 2 years following secondary instruction, designed to lead to technical skill proficiency, a credential, a certificate, or a degree, in a specific career field;";*

*(B) in paragraph (3)(B), by inserting "including through the use of articulation agreements, and" after "career fields,";*

*(C) by striking paragraph (4) and inserting the following:*

*"(4) include in-service professional development for teachers, faculty, principals, and administrators that—*

*"(A) supports effective implementation of tech-prep programs;*

*"(B) supports joint training in the tech-prep consortium;*

*"(C) supports the needs, expectations, and methods of business and all aspects of an industry;*

*"(D) supports the use of contextual and applied curricula, instruction, and assessment;*

*"(E) supports the use and application of technology; and*

*"(F) assists in accessing and utilizing data, including labor market indicators, achievement, and assessments;";*

*(D) in paragraph (5)—*

*(i) by striking "training" and inserting "professional development";*

*(ii) in subparagraph (B), by inserting ", which may include through the use of graduation and career plans" after "programs";*

*(iii) in subparagraph (D), by striking "and";*

*(iv) in subparagraph (E), by inserting "and" after the semicolon; and*

*(v) by adding at the end the following:*

*"(F) provide comprehensive career guidance and academic counseling to participating students, including special populations;";*

*(E) in paragraph (6)—*

*(i) by inserting "(including pre-apprenticeship programs)" after "programs"; and*

*(ii) by striking "and" after the semicolon;*

*(F) in paragraph (7), by striking the period at the end and inserting "; and"; and*

*(G) by adding at the end the following:*

*"(8) coordinate with activities conducted under this title."; and*

*(3) in subsection (d)—*

*(A) in paragraph (2), by striking "and" after the semicolon;*

*(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and*

*(C) by adding at the end the following:*

*"(4) improve career guidance and academic counseling for participating students through the development and implementation of graduation and career plans; and*

*"(5) develop curriculum that supports effective transitions between secondary and postsecondary career and technical education programs.".*

*(d) CONSORTIUM APPLICATIONS.—Section 143 (as redesignated by subsection (a) of this section) is amended—*

*(1) in subsection (a), by striking "title" and inserting "part";*

*(2) in subsection (b)—*

*(A) by striking "5" and inserting "6"; and*

*(B) by striking "title" and inserting "part";*

*(3) in subsection (d)—*

*(A) in paragraph (1), by inserting "or advanced" after "baccalaureate";*

*(B) by striking paragraph (4) and inserting the following:*

*"(4) provide education and training in areas or skills, including emerging technology, in which there are significant workforce shortages based on the data provided by the entity in the State under section 118;";*

*(C) in paragraph (5), by striking the period at the end and inserting "; and"; and*

*(D) by adding at the end the following:*

*"(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C."; and*

*(4) in subsection (e), by striking "title" and inserting "part".*

*(e) AUTHORIZATION OF APPROPRIATIONS.—Section 144 (as redesignated by subsection (a) of this section) is amended—*

*(1) by striking "title (other than section 207)" and inserting "part"; and*

*(2) by striking "1999 and each of the 4" and inserting "2006 and each of the 5".*

## TITLE II—GENERAL PROVISIONS

### SEC. 201. REDESIGNATION OF TITLE.

*(a) FEDERAL ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by*

*redesignating sections 311 through 318 as sections 211 through 218, respectively.*

*(b) STATE ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 321 through 325 as sections 221 through 225, respectively.*

*(c) TITLE HEADING.—The title heading of title III (20 U.S.C. 2391 et seq.) is amended to read as follows:*

### *"TITLE II—GENERAL PROVISIONS".*

### *SEC. 202. FISCAL REQUIREMENTS.*

*Section 211 (as redesignated by section 201 of this Act) is amended—*

*(1) by striking "vocational" each place the term appears and inserting "career"; and*

*(2) in subsection (b)—*

*(A) by striking paragraph (1) and inserting the following:*

*"(1) DETERMINATION.—*

*"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for activities authorized under title I unless the Secretary determines that the average fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the 3 fiscal years preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs, for the 3 fiscal years preceding the fiscal year for which the determination is made.*

*"(B) COMPUTATION.—In computing the average fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.*

*"(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for career and technical education programs under this Act for a fiscal year is less than the amount made available for career and technical education programs under this Act for the preceding fiscal year, then the average fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the 3 preceding fiscal years shall be decreased by the same percentage as the percentage decrease in the amount so made available."; and*

*(B) in paragraph (2), by striking "fiscal effort" both places the term appears and inserting "average fiscal effort".*

### *SEC. 203. VOLUNTARY SELECTION AND PARTICIPATION.*

*Section 214 (as redesignated by section 201 of this Act) is amended by striking "vocational" both places the term appears and inserting "career".*

### *SEC. 204. LIMITATION FOR CERTAIN STUDENTS.*

*Section 215 (as redesignated by section 201 of this Act) is amended by striking "vocational" and inserting "career".*

### *SEC. 205. AUTHORIZATION OF SECRETARY; PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.*

*Part A of title II (as redesignated by section 201 of this Act) is amended—*

*(1) by striking section 217;*

*(2) by redesignating section 218 as section 217; and*

*(3) in section 217 (as redesignated by paragraph (2) of this section)—*

*(A) by inserting "principals," after "for vocational and technical education teachers,";*

*(B) by inserting "principals," after "of vocational and technical education teachers,"; and*

*(C) by striking "vocational" each place the term appears and inserting "career".*

### *SEC. 206. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.*

*Section 225(c) (as redesignated by section 201 of this Act) is amended—*

*(1) in the subsection heading, by striking "VOCATIONAL" and inserting "CAREER"; and*

*(2) by striking "vocational" both places the term appears and inserting "career".*

### *SEC. 207. TABLE OF CONTENTS.*

*Section 1(b) (20 U.S.C. 2301 note) is amended to read as follows:*

*"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:.*

*"Sec. 1. Short title; table of contents.*
*"Sec. 2. Purpose.*
*"Sec. 3. Definitions.*
*"Sec. 4. Transition provisions.*
*"Sec. 5. Privacy.*
*"Sec. 6. Limitation.*
*"Sec. 7. Special rule.*
*"Sec. 8. Authorization of appropriations.*

*"TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES*

*"PART A—ALLOTMENT AND ALLOCATION*

*"Sec. 111. Reservations and State allotment.*
*"Sec. 112. Within State allocation.*
*"Sec. 113. Accountability.*
*"Sec. 114. National activities.*
*"Sec. 115. Assistance for the outlying areas.*
*"Sec. 116. Native American program.*
*"Sec. 117. Tribally controlled postsecondary career and technical institutions.*
*"Sec. 118. Occupational and employment information.*

*"PART B—STATE PROVISIONS*

*"Sec. 121. State administration.*
*"Sec. 122. State plan.*
*"Sec. 123. Improvement plans.*
*"Sec. 124. State leadership activities.*

*"PART C—LOCAL PROVISIONS*

*"Sec. 131. Distribution of funds to secondary school programs.*
*"Sec. 132. Distribution of funds for postsecondary career and technical education programs.*
*"Sec. 133. Special rules for career and technical education.*
*"Sec. 134. Local plan for career and technical education programs.*
*"Sec. 135. Local uses of funds.*

*"PART D—TECH-PREP EDUCATION*

*"Sec. 141. State allotment and application.*
*"Sec. 142. Tech-prep education.*
*"Sec. 143. Consortium applications.*
*"Sec. 144. Authorization of appropriations.*

*"TITLE II—GENERAL PROVISIONS*

*"PART A—FEDERAL ADMINISTRATIVE PROVISIONS*

*"Sec. 211. Fiscal requirements.*
*"Sec. 212. Authority to make payments.*
*"Sec. 213. Construction.*
*"Sec. 214. Voluntary selection and participation.*
*"Sec. 215. Limitation for certain students.*
*"Sec. 216. Federal laws guaranteeing civil rights.*
*"Sec. 217. Participation of private school personnel.*

*"PART B—STATE ADMINISTRATIVE PROVISIONS*

*"Sec. 221. Joint funding.*
*"Sec. 222. Prohibition on use of funds to induce out-of-State relocation of businesses.*
*"Sec. 223. State administrative costs.*
*"Sec. 224. Limitation on Federal regulations.*
*"Sec. 225. Student assistance and other Federal programs.".*

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senate for considering this bill at this moment. It is a bill that has wide bipartisan support. I thank Senator KENNEDY and all of the members of the Health, Education, Labor, and Pensions Committee and all of the staff members who have worked on this bill. It has been a tremendous bipartisan effort to make sure that we will have as many people able to enter the workforce with good skills as possible and to make an improvement in the way high schools operate.

I thank a number of Senators for being cosponsors: Senators GREGG, ALEXANDER, DODD, JEFFORDS, MURRAY, HARKIN, MIKULSKI, CLINTON, REED, BINGAMAN, SESSIONS, BURNS, THOMAS, ISAKSON, and ROBERTS. Of course, those are in addition to the two main sponsors, Senator KENNEDY and myself.

We are pleased to have a bipartisan effort, one that strengthens and improves the Federal program designed to support career and technical education. I am pleased the Senate is able to consider this legislation at this time.

This legislation was reported favorably by the Health, Education, Labor, and Pensions Committee yesterday morning and it was by unanimous vote. I am encouraged by the wide range of support in the committee and outside, and there are good reasons for that. The program adds emphasis to academic instruction. It provides career training. It is already at work in all of the schools and is making some great inroads. And those will be much better with these changes.

I have to mention a couple of examples of the ways this is working in Wyoming. In Casper, WY right now, the community college and the school district are working on plans to create a hybrid career and technical education center which will help students earn credit toward a college degree, learn relevant job skills, and meet State academic standards all through a single sequence of courses. The legislation encourages more schools to begin innovative programs such as the one developed in Casper.

The second reason the legislation is important is because it will help ensure that we are preparing students for tomorrow's workforce. We are in the midst of a skills revolution. Students going to school probably will not go to work for a single company and work there 30 years and then retire. The statistics show that they will probably have 14 different careers—not 14 different jobs, 14 different careers. Many of them won't even have been invented now. It is very important that we have a flexible learning environment that will allow them to cope with these changes.

I also wanted to mention a program in Rock Springs, WY. Ted Schroeder, a career and technical education teacher, has demonstrated firsthand the success that comes from connecting career and technical education to the needs of business. In response to complaints heard from local businesses about the need for students with stronger accounting skills, Ted went looking for a program that could help train his students with the skills requested by the businesses. I am very pleased that it was accounting, too. We could use a couple more accountants in the Senate.

Working with local teachers and school leaders, Ted began a computer-based accounting program at the high school in Rock Springs and has been enrolling students successfully for the past few years. Some of the students are now moving on to community college. Some have moved into the workforce where they are successfully meeting a need for the business community and for their own lives.

A final reason, too, for this being important legislation is that it provides a foundation for the redesign of Federal education policy.

I have a letter from the Secretary of Education that asks some questions that we have answers for based on the work we did putting this bill together. I ask unanimous consent that her letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF EDUCATION,
*Washington, DC, March 9, 2005.*

Hon. MICHAEL B. ENZI,
*Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express my strong opposition to S. 250, the Carl D. Perkins Career and Technical Education Improvement Act of 2005, which would reauthorize the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins Act). The Perkins Act is currently the primary Federal funding source for educational programs in high schools. Unfortunately, in its current form, the bill does little to address the urgent challenge that has been highlighted by both President Bush and the nation's governors to reform our Nation's high schools.

Given the changing dynamic of the workforce, all students, including those in vocational and technical education programs, need to complete high school with a high level of academic skills and be prepared to participate in the globally competitive workforce. Unfortunately, recent results from the National Assessment of Educational Progress (NAEP) demonstrate that, while achievement for our Nation's fourth- and eighth-graders is on the rise, scores for twelfth-graders have declined in both reading and mathematics. Currently just 68 out of every 100 ninth-graders will graduate from high school on time, and two-thirds of students leave high school without the skills to succeed in college. Clearly, our high schools are not getting the job done for America's students. With governors and educators just beginning to consider various reform options, the President's High School Initiative is essential to foster nationwide efforts to transform our high schools.

As you are aware, the President's fiscal year 2006 budget request proposed to eliminate funding for the Vocational Education State Grants and National programs, authorized by the Perkins Act. Career and technical education programs, at their best, can provide students with both strong academic and advanced technical skills, in a "real-world" context that can hold up against the best schools and colleges, both in the United States and internationally. However, under the Program Assessment Rating Tool (PART) process, the Vocational Education State Grants program, by far the largest component of the Perkins Act, was rated ineffective because it has produced little evidence of improved outcomes for students despite decades of Federal investment. On the most recent NAEP assessments, less than 10 percent of vocational students scored at or above proficiency in mathematics (2000) and only 29 percent scored at or above proficiency in reading (1998). In its final report to Congress in June 2004, the National Assessment of Vocational Education (NAVE) found no evidence that high school vocational courses themselves contribute to academic achievement or college enrollment. Also, the NAVE did find that high school students, on average, earn more credits in vocational education (4.2) than in math (3.5) or science (3.2). In addition, the most telling data come from employers—according to a February 2005 Achieve, Inc. survey, employers estimate that 39 percent of high school graduates who have no further education are not prepared for their current job and 45 percent are unprepared for advancement.

As a result of these findings, and the widely recognized need for a more comprehensive approach to the improvement of high school education, the President instead proposes that these funds be redirected to support a new High School Initiative to improve achievement and narrow achievement gaps at the high school level. This proposed initiative will give educators greater flexibility to design and implement programs that best meet the needs of all students, including career and technical education students. The fiscal year 2006 budget also includes funds to improve access to community colleges and to expand the training programs administered by those institutions.

Enactment of S. 250 in its current form would continue to reauthorize, with little change, the very programs that have been ineffective in improving the quality of education of our Nation's career and technical education students. It would be irresponsible to continue an investment in a program that does not improve the education of students at the high school level.

The Perkins Act requires fundamental changes to its mission and focus. While the Administration still supports a redirection of Perkins funds, any extension of the Perkins Act should, at the very least:

Promote a stronger academic foundation by ensuring that all career and technical education (CTE) students receiving services under the Perkins Act have access to a rigorous academic curriculum to prepare them to enter college or the workforce. CTE students should have a smooth transition to a postsecondary education program leading to a technical certificate, an associate or baccalaureate degree, an apprenticeship, or a job. This change will support the findings of the American Diploma Project, which concluded, "successful preparation for both postsecondary education and employment requires learning the same rigorous English and mathematics content and skills. No longer do students planning to go to work after high school need a different and less rigorous curriculum than those planning to go to college."

Require that, by school year 2009–2010, students participating in Perkins Act programs be tested annually in three high school grades in reading/language arts and math in order to assess their progress in meeting State standards. The President's FY 2006 budget proposed funding for high school assessments so that principals and teachers have new tools and data to meet the needs of individual students and strengthen high school accountability.

Give the Secretary adequate authority to establish common measures to assess program performance and to ensure that data provided by the States are valid and reliable. In the bill's current form, State performance measures would not have to be valid or reliable indicators of what they purport to measure. It is thus inequitable to sanction eligible recipients, as the bill allows, for failure to meet performance levels if the performance measures themselves do not meet basic standards of validity and reliability.

Provide the Secretary authority to negotiate specific performance measures and targets, in percentage form, with each State. Currently, the bill would permit States to continue using previously developed performance measures and would limit the role of the Secretary to reaching agreement on the percentage or numbers of students who attain the State-adjusted levels of performance.

The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

MARGARET SPELLINGS.

This legislation reflects a bipartisan effort to strengthen and improve Federal programs designed to support career and technical education. I am very pleased to have introduced this bill with my friend and colleague from Massachusetts, Senator KENNEDY.

This legislation was reported favorably by the Senate Health, Education, Labor and Pensions Committee yesterday morning by a unanimous vote. I am encouraged by the wide range of support for this legislation as we move forward in the legislative process.

This legislation is important for three reasons. The 1st reason is the added emphasis on academic instruction. I commend the President and the Governors for raising the issue of high school reform, and I believe this legislation is an important part of that process. Improving and strengthening the academic focus of the Perkins Act is part of a much larger effort to ensure that today's students will be ready for tomorrow's reality, whether it is in college or the workplace.

In 1998, when Congress last reauthorized the Perkins program, additional emphasis on student academic achievement was incorporated into the bill. That emphasis was critical, and the results have been demonstrated in the program. More Perkins students are performing better on national reading and math assessments than ever before.

According to a recent study of Arizona career and technical education students, students in career and technical training courses were more likely to meet State math proficiency levels than students not enrolled in technical training courses. That's good, because today's jobs are requiring stronger academic preparation than ever before, especially in math and science.

We are also facing a significant problem in terms of today's students completing high school. Many college instructors and employers agree that public high school graduates are not prepared for college-level classes or to advance beyond entry level jobs.

Only 68 percent of the students entering the ninth grade 4 years ago are expected to graduate this year; and, that for minority students this number hovers around 50 percent. In addition, we continue to experience an overall drop out rate of 11 percent per year.

Another recent study, conducted by the Organization for Economic Cooperation and Development, shows that American students are lagging behind the international average in math proficiency. Another study by this same group has pointed out that American high school students are less likely to complete high school than their peers in other countries. In that study, the United States ranked sixteenth out of twenty nations studied in terms of graduation rates.

The legislation we are now considering emphasizes high school completion by making academic courses more relevant. According to the National Assessment of Vocational Education, released last year, career and technical education students are three times more likely to apply academic skills to job related tasks than students in academic courses.

Making learning relevant is one of the best ways to ensure students stay interested in their coursework, while also preparing them for college or the workforce.

The National Governors Association recently held an education summit here in Washington, DC, to discuss the issue of high school reform and how we can do a better job of graduating students on time with the knowledge and skills they need to succeed in life. According to their report, high school is now the front line in America's battle to remain competitive on the increasingly competitive international economic stage.

In the bill we are now considering, we have made academic achievement one of several core indicators of performance for programs receiving funds from this act. As states are elevating their expectations for students under No Child Left Behind, we anticipate that career and technical education students will benefit from those same high expectations. We believe that career and technical education programs should be able to take credit for helping students improve their academic achievement in core subject areas, like reading, math, and science.

This legislation also emphasizes the connection to postsecondary education. Many of today's high schools students are entering college behind the curve before they even start. Twenty-eight percent of college students are taking some remedial education courses before graduating. We need to make sure that more high school students are receiving the instruction they need before they leave high school in order to be successful in college.

The impact of the need for remedial academic instruction has dramatic consequences. As many as three in four students requiring remedial reading instruction will not complete a postsecondary degree program. Over 60 percent of students requiring remedial math education will not complete a postsecondary degree.

The Perkins program can help address the "wasted senior year" by helping to improve student academic achievement. It does that by linking learning to relevant applications and tasks. Students that are excited about learning will always do better, and a great way to get students excited about learning is to show them how they will use some the skills they're learning.

For many students, understanding how they will use the skills they learn can mean the difference between completing a high school degree and dropping out. For others, it means greater investment in their studies than they might otherwise have.

The Perkins program can support students in high school by providing strong academic courses linked through a career pathway that will help reduce the need for remedial education.

The Perkins program is in a unique position to help prevent the need for additional remedial education at the postsecondary level. Because the program provides funds to both secondary and postsecondary schools, programs are more coordinated, and students have broader exposure to postsecondary education before leaving high school. A number of programs enabling students to earn concurrent credits for high school and college are springing up within the Perkins program, helping students prepare for college and reduce their time to graduation from a postsecondary degree certificate or degree program.

In Casper, WY, right now, the community college and the school district are working on plans to create a hybrid career and technical education center, which will help students earn credit toward a college degree, learn relevant job skills, and meet state academic standards, all through a single sequence of courses. This legislation encourages more schools to begin innovative programs like the one being developed in Casper.

The second reason this legislation is important is because it will help ensure we are preparing students for tomorrow's workforce. We are in the midst of a skills revolution. It is estimated that today's students leaving high school or college will have fourteen different careers in their lifetimes. It is also estimated that the top 10 jobs ten years from now haven't been invented yet. The question that faces all of us, put simply, is "got skills?"

We must equip our workers with the skills the technology-driven economy demands. We need to prepare our students for tomorrow's economy in order to remain competitive in the global marketplace. China is graduating four times as many engineers as the United States, and there is no way for us to catch up in terms of raw numbers of graduates. The only way we can compete is to graduate students with the highest quality academic and technical skills. If we are going to support a strong economy, we need to ensure our students have the high quality skills they need to succeed in postsecondary education and the workforce.

Earlier this week on the Senate floor we discussed the need for skills training and its impact on wages. I made a speech to the effect that the problem we are facing is one of minimum skills—not minimum wages. The effect may be low wages, but the cause is low skills. We need to address those workers who have few, if any, of the skills they need to compete for a better job and command higher wages. We need to start thinking in terms of skills, the kinds of skills that will help students support themselves and their families in the future.

Research suggests that high school dropouts have an unemployment rate two times higher than high school graduates, and three times higher than college graduates. Over time, the earning differential between high school and college graduates has increased as well. In 1980, college graduates earned fifty percent more during their lifetime than high school graduates. Today this differential has increased to 100 percent and continues to expand.

The Perkins program helps students learn and develop the skills they need to compete in the workforce. In the bill before us, we've emphasized the need to prepare students for placement in high skill, high wage, or high demand occupations. These are the types of jobs that will ensure a stronger future for students and will help them become self-sufficient.

Eighty percent of the jobs created over the next ten years will require some postsecondary education. However, the majority of those jobs will require less than a four year degree. This is a critical issue, and we need to start now to meet the needs of the future workforce. I believe that a stronger, more effective Perkins program is an important way to address this issue.

As you can see on this chart, by 2010 we face a projected skilled worker shortage of 5.3 million workers. That's 5.3 million American jobs that can't be filled because our workers don't have the right skills. That is why career and technical education funds are so critical to the supply of skilled labor in this country. These are precisely the types of careers for which the Perkins program is preparing students. Career and technical programs in this country are preparing engineers, health care professionals, information technology workers, trade, industry, and business leaders, and a host of other careers.

One of the most critical improvements we've made to the Perkins program in this bill is to strengthen the connection of career and technical education programs to the needs of businesses. If we are going to help fill the growing need for skilled workers, we need to ensure Perkins programs are coordinating their instruction with current practices in industry and the needs of the local workforce.

In Rock Springs, WY, Ted Schroeder, a career and technical education teacher, has demonstrated firsthand the success that comes from connecting career and technical education to the needs of business. In response to complaints heard from local businesses about the need for students with stronger accounting skills, Ted went looking for a program that could help train his students with the skills requested by the businesses.

Working with local school leaders, Ted began a computer-based accounting program at the high school in Rock Springs and has been enrolling students successfully for the past few years. Some of those students are now moving on to community college or the workforce.

That's the type of relevant instruction that we need to encourage and that we are encouraging through this bill. I would expect that the students performing well in that accounting class are also performing well on state math assessments in Wyoming.

The final reason that this legislation is important is because it provides a foundation for the redesign of federal education policy. We need to structure Federal education policies that provide students and adult learners have access to lifelong education opportunities. In this 21st century economy, learning never ends, and school is never out.

The Perkins Act is one part of a "three-legged stool" of federal education and training programs, all of which we will be considering this year. The other two key pieces of this approach are the Workforce Investment Act, and the Higher Education Act.

If we are going to stay competitive, Federal education programs need to help support seamless transitions from education to the workforce, throughout life, from preschool through postsecondary education and beyond. The bill we are considering takes the first step in that direction by emphasizing the connection between academic and technical education and the workforce and postsecondary education. The Workforce Investment Act and the Higher Education Act will be the next critical steps in ensuring that American students are prepared for today and tomorrow's careers, many which haven't been invented yet.

Today's students are more and more likely to return to school throughout their lives for additional training. Some estimates suggest that as many as 75 percent of today's workers will need additional training just to stay current with their jobs. The modern college student reflects this trend perfectly. Today's average college student is likely to be older than 24, independent, and more likely to be female.

That snapshot reflects the reality that today's college students are there for training and technical skills acquisition more than anything else. Postsecondary education is one of the fastest means to advancement in today's economy. With a postsecondary education, workers are more likely to keep their jobs and take advantage of opportunities to grow and advance in the workforce, or transition to another occupation as the workforce changes.

Federal policy needs to reflect the 21st century reality that we are in the midst of a jobs revolution. We are going to experience dramatic changes in the workforce over the next ten to fifteen years, and we need to start now if we are going to adapt Federal education and training policy to meet the coming crisis of too few workers with too few skills.

I am grateful for the work of my colleagues and the distinguished ranking member of the committee on this legislation. We were able to move this bill quickly through committee, and now to the floor, because we were able to work in a bipartisan manner to reauthorize a program that the members of the Health, Education, Labor and Pensions Committee feel is an important part of the federal education and training system.

I hope that we will be able to proceed quickly to conference with the House. I know they marked up their legislation yesterday as well, and I expect they will also proceed quickly to floor consideration.

We look forward to working with the House to conference this bill and send it to President for signature this spring.

I am hopeful we will be able to complete action on this bill quickly and send it to the President for signature, so that we can begin work on the Workforce Investment Act and the Higher Education Act, the next critical pieces of a comprehensive approach to federal education and training initiatives—and lifelong educational opportunities.

Mr. President, S. 250 makes significant changes in the Perkins program. It does so to further emphasize a stronger academic focus in career and technical education so students are ready for the workforce and for college. The bill requires better articulation between high school and college career and technical programs. It requires States to develop career pathways that incorporate challenging academic courses and requires that information about academic preparation for the workforce be provided for all students, not just career and technical education students.

The bill also links the accountability between the Perkins program to rigorous and challenging academic standards under the No Child Left Behind Act. The bill is consistent with the goals outlined by the American Diploma Project which suggests students need stronger academic preparation regardless of whether the next step is college or the workforce. Today's students need to be ready for the next step in life, whether it is the workforce or college. That is why the Senate bill emphasizes both academic and technical achievement that leads to postsecondary education or a high skill, high wage, or high demand occupation, perhaps all three incorporated in one.

The bill incorporates the assessments required under No Child Left Behind and maintains the same requirement for all high school students rather than applying an uneven standard for Perkins and non-Perkins students. The Perkins program is not a substitute for comprehensive high school reform because it doesn't reach all high school students. It is an important part of that effort, however.

The Senate bill provides much stronger accountability than even the No Child Left Behind Act. Not only does it require that students meet academic standards, but it also requires schools to report on students moving on to college, receiving postsecondary credit, earning an industry-recognized credential, certificate, or a degree. It even wants to know if they got a job.

The bill also emphasizes stronger ties between high schools and colleges so students can begin to prepare themselves for the next step in their education. It also strengthens connections between schools and employers so students who don't go to college will be ready for the workforce. The bill requires that information is provided to students so they know how their academic course work will prepare them for work and college in the future.

The bill also requires accountability systems to be based on either industry-recognized credentials or other standardized secondary and postsecondary performance indicators, such as completion of a postsecondary degree or certificate program. It requires participating schools to report on indicators that are nationally understood. In many instances we have followed the Department's request that indicators be made consistent between programs, which we have done.

The bill draws extensively from No Child Left Behind, the Workforce Investment Act, and the Adult and Basic Education Act, incorporating many common requirements into this bill. The Senate bill provides an opportunity for the Secretary to work with States to develop performance measures. The bill allows States to use percentages or numbers to determine performance standards. The performance indicators are negotiated at the State level with the Secretary, and the goal ought to be helping States improve their Perkins program by meeting performance indicators regardless of whether they are expressed in number or percentage forms.

We have covered a lot of ground in this bill, aspects that haven't been included before, aspects that will improve provisions, that which will help the students focus on getting jobs. We think this is a bill that America needs, and we want to get it to them quickly. We appreciate the efforts of the Senate to get it brought up quickly and to get it passed so we can get it into conference and get this great piece of legislation active this spring.

I would particularly like to thank staff of the Senate Committee on Health, Education, Labor and Pensions who have worked to successfully bring this bill forward. I want to thank Beth Buehlmann, Scott Fleming, and Courtney Brown from my own staff; Jane Oates, Carmel Martin, and Liz Maher from Senator KENNEDY's staff. I'd also like to thank the other staff members who worked diligently on this legislation.

I yield to my ranking member, Senator KENNEDY.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first of all, I join all of our colleagues on this side of the aisle who have the good opportunity to work on the Health, Education, Labor, and Pensions Committee in commending our friend and chairman, Senator ENZI, for his good work in bringing this legislation out of our committee yesterday and being able to arrange for us to have a chance to consider it on the floor this afternoon.

This legislation is enormously important to more than 70,000 students in my State and to millions of students all across the country. To a great extent, we are here because of the chairman's determination and persistence in ensuring that our committee meets its responsibilities on this legislation, as he has on others as well.

I will just mention that we also passed out of committee the Child Care Development Block Grant Program, with which my friend and colleague, Senator DODD, has had so much to do. It will make a large difference in terms of child care for families. Also, there are some important protections, in terms of the FDA, on the whole issue of contact lenses. And then there is a very important piece of legislation dealing with the improvement of patient safety, to reduce the incidents of events that adversely affect patient safety. We are waiting to work out some minor details. That is an enormously important piece of legislation. This has been a very full agenda so far this year.

We have been on the floor over the last 6 or 7 days talking about a piece of legislation that has divided this institution. Today, we are strongly together on a matter that will make a great deal of difference to young people and old people alike.

Our chairman pointed out the importance of acquiring skills, retaining skills, and lifelong learning in the United States today. Especially in this age of globalization, we want every one of our citizens to have the learning and the skills essential to the continuing strength of our modern economy.

Investing in our education system, continuing education, continuing training, and the acquiring of skills is essential in terms of our national security as well. It is not always thought of in those terms, but it clearly is. This legislation, which has been upgraded in the course of this Congress, is essential for equipping millions of Americans with the skills they need to compete in the global economy.

It is a lifeline to many of those young people. With the changes we have made in this bill, and with a number of changes that have been made at the State level, we have the assurance that these young people are going to get a first-class education.

I ask my colleagues to look at this chart behind me. In my State of Massachusetts, we have some 78,000 students who are involved in vocational education. Years ago, vocational education simply meant an extra class in shop in many schools. That is not the case now. The kinds of skills these young people are getting are enormously sophisticated, complex, and incredibly important, as our whole economy has become that way. There are more than 74,000 students in career and technical education programs who passed what we call the MCAS test, our State assessment exam. We have over 74,000 career and technical education students who passed the test out of 78,376. That is 95 percent. That percentage is extraordinary.

The MCAS test is a difficult test. The extraordinary thing about Massachusetts—if I can take 10 more seconds on this—is that the State publishes the MCAS test, and makes public the items on the test each year. So every parent and school teacher, and people around the country, know the quality of the test itself and know the demands that this puts on young people. What these results demonstrate is that these young people are acquiring skills and also developing very, very important academic skills in their career and technical programs.

Now, look at this chart, which says, "What does the Perkins program mean in Massachusetts?" We have students in Brockton who received onsite clinical training in health care facilities. In New Bedford, a city that has suffered tremendously with the outsourcing of manufacturing jobs, the regional school has begun an engineering program. The program partners with 2- and 4-year colleges, Texas Instruments, and Bose. Students will be able to earn $22,000 directly after high school and far more when they go on to earn their college degree. All Massachusetts community colleges have instructional support staff and a major source of funding for adaptive equipment for students with disabilities who are enrolled in technical education programs.

Now, this chart shows the positive placement rates of five vocational schools in Massachusetts—all are over 90 percent. We have shown the academic rates and accomplishments of career and technical education students. The bottom line is, when we are looking for accountability and results, we should look at the placement rates for these young students. It is 98 percent at Assabet Valley Regional Vocational School in Marlborough. At Worcester Vocational High, it is 96 percent. At Northeast Metropolitan Vocational in Wakefield, it is 95 percent. At New Bedford Regional Technical, 90 to 95 percent of the graduates go on to the workforce or postsecondary education. This is true also at Upper Cape Cod Tech, at 90 percent.

I want to mention a couple of stories. I will mention one other very significant, impressive result of a technical school. At Shawsheen Technical High School, we have 600 eighth-grade students vying for 320 seats in the program. A third of the students are in special education. Yet, the school has a 100 percent pass rate on the Statewide student assessment exam. That is an extraordinary outcome.

These are outcomes we can see, and they make a difference for young students who need special education. At Shawsheen Tech, special education students have an outstanding rate of passing the Statewide student assessment exams. Learning academic skills in an applied context is responsible for this success. Ninety-seven percent of the graduates go on to immediate employment in their field or continue their education.

Let me mention a couple of other interesting facts about this extraordinary school. Shawsheen has developed an intensive Licensed Practical Nurses program for adults. Students serve in clinical rotations on alternate weekends at one of the great medical centers, the Leahy Clinic, which my family has benefitted from for three generations—it is a first-rate clinic in Massachusetts. These students are able to gain jobs in this very prestigious and important clinic. Fifty percent of the students enrolled in this program are minority students. Sixty percent are Pell recipients. The first 3 classes of 40 students each had a 90 percent retention rate and a 98 percent pass rate for the program completers, and their average starting salary is more than $23 an hour.

These are extraordinary outcomes. Let me mention one other example. Kerry is a student at Middlesex Community College in the dental hygiene program. She is the mother of two preschool-age children and struggled at several different colleges because of a learning disability. At Middlesex she receives support and accommodation from disability support services and works closely with a disability support specialist. That specialist's salary is paid for with Perkins funding. There we have a tie of special needs students into these well-organized, structured programs, and the outcome has been a very important success. Kerry's success in school is due to the fact that she receives Perkins funding.

The story really is in the outcome. I see my friend from Rhode Island. He knows and values the importance of vocational training because of the excellent programs in the State of Rhode Island. In our region of the country, training programs have made an enormous contribution to the industrial and commercial success of so many of our industries. This program has played a very important role. It has been upgraded and improved from an academic point of view, from a training point of view, from the expectations of results, of working with businesses to give new emphasis to the kinds of specialities which are in short supply, and we have benefitted from broad participation.

Chairman ENZI pointed out the very good work of the various communities that have given valuable help and assistance to us and the incredible staff of all the Members on both sides of the aisle. We have approached this legislation with an attitude of how we can make it better, how we can improve on it, and the lessons we have learned in the past that are going to strengthen this program.

This is an important program that makes a real difference in the lives of people. I know the President has some reservations about this program and does not support Perkins in his budget. We take important steps in this bill to strengthen the program and address a number of the concerns the President has.

With that in mind, we are very hopeful we will continue to have the support of our colleagues in the Senate.

I again thank Senator ENZI for his hard work. As we are finding out, he and his staff have welcomed ideas and suggestions. He does not always say yes, but he does not always say no. It has been a real pleasure to work with him. We on our side are in very strong support of this legislation. We believe it is a stronger bill than exists at the current time. We believe it will help in critical areas for young people and old people—continuing education and the adult education programs.

This legislation is about acquiring skills—skills, skills, skills, skills—which we all understand is absolutely essential if this country is going to continue to be the leader of the free world economically and from a national security point of view.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Massachusetts for his outstanding comments, and I appreciate the charts he had giving real-life examples of some things happening in his State. I can tell you that those are happening throughout the Nation.

The issue our committee is concerned about is the high dropout rate in high schools in the United States. Mr. President, 68 percent of the kids who start as freshmen will not graduate. They will drop out of the program at some time. For minorities, it is considerably higher. We are trying to figure out some way to keep them more interested in school, keep them on a learning program, which they will have to be for the rest of their lives if they are going to have high-quality jobs. We believe this bill is the first leg of a three-legged stool that will provide that. We will have other bills we will be bringing along at a later time.

I thank our fellow Senators for their indulgence in allowing us to bring this bill up. I look forward to getting it through the Senate.

Mr. BINGAMAN. Mr. President, I rise today to speak in support of a critical piece of legislation, the reauthorization of the Carl D. Perkins Vocational and Technical Education Act. More than ever, we need rigorous, relevant career and technical education programs to help students prepare for postsecondary education and to address the shortage of highly skilled workers necessary to meet the demands of the contemporary workforce. A skilled and flexible workforce is essential to building a strong and dynamic economy and to maintaining our country's ability to compete in a global economy.

According to a recent U.S. Chamber of Commerce survey, 75 percent of employers report severe difficulties when trying to hire qualified workers, with 40 percent of job applicants having poor skills. Further, a survey by the National Association of Manufacturers found that 80 percent of manufacturers experience a shortage of qualified workers. Most troubling, as many as 3.3 million jobs may be sent overseas in the next 15 years, resulting in American workers losing $136 billion in wages.

With this reality, it is vitally important to support S. 250, the Carl D. Perkins Career and Technical Education, CTE, Improvement Act of 2005. This legislation promotes a rigorous curriculum, innovative learning environments, and relevant coursework and training, thus ensuring students receive the education and training necessary to develop a highly skilled workforce. Strong career and technical education programs are essential in addressing this shortage of highly skilled workers and in preserving American jobs.

Career and technical education must be academically rigorous and enhance students' critical thinking and applied skills. Accordingly, this bill makes a number of significant improvements to ensure that CTE students participate in a rigorous and challenging curriculum, and realize positive educational and employment outcomes.

For example, the bill integrates challenging academic and technical standards, aligned with No Child Left Behind and nationally-recognized industry standards, into CTE instruction. The bill also strengthens educational and career pathways for students beyond high school and makes significant strides in building alliances among high schools, 2- and 4-year colleges, business and industry, and community organizations. Further, the bill expands career guidance and academic counseling services to ensure that students have a career plan and career objectives.

Well-prepared CTE teachers and good professional development are essential components of an effective, rigorous CTE curriculum. CTE teachers must possess the knowledge and skills to teach effectively. Hence, this bill dedicates resources to promoting the leadership, initial preparation, and professional development of career and technical education teachers to foster effective practices.

Mr. President, this bill is designed to improve student educational and employment outcomes, including their technical and workplace knowledge and skills. But, we must be able to measure how well CTE programs are meeting the needs of its students. Accordingly, the legislation will require states to identify core indicators of performance that include measures of student achievement on technical assessments and attainment of career and technical skill proficiencies.

Thus, it is essential to develop valid and reliable assessments of technical and career competencies that are aligned with national industry standards and integrate industry certification assessments, if available and appropriate. To address this need for high-quality technical assessments, this bill permits State leadership funds to be used to develop valid and reliable assessments of technical skills that are integrated with industry certification assessments where available.

Yet, increasing academic and technical rigor alone is not enough to prepare students to enter into and compete in the 21st century workforce. The learning environment students experience also heavily impacts academic performance and student outcomes. When smaller learning communities are in place, students benefit greatly: they experience a greater sense of belonging to their schools and they have fewer discipline, crime, violence, and substance abuse problems.

I would like to highlight two high schools in my home State of New Mexico which demonstrate some of the best practices of rigorous and innovative career and technical education. Rio Rancho High School, in partnership with Intel Corporation, has served as a model example of how academic rigor, hands-on-learning, strong professional development, defined career pathways, and robust alliances are elements of a successful, quality CTE program. Rio Rancho has created academies of study for all students, which allow students to: pursue career pathways to postsecondary education and beyond; take core courses geared toward interests, skills, and competitive careers; form partnerships with instructors; and become part of a smaller learning community within the larger high school. The academies allow students to explore personal strengths and interests in relationship to career planning and job markets. Accordingly, Rio Rancho has been designated as a Microsoft Center of Innovation and Time Magazine has called Rio Rancho one of the ten most innovative career and technical schools in the nation.

Another great example of innovative career and technical education can be found at Albuquerque High School. In just a couple of years, the career academies at Albuquerque High School have demonstrated very positive student outcomes. The first students in Albuquerque's Academy of Advanced Technology have lower dropout rates and improved academic achievement.

Accordingly, this legislation recognizes that smaller learning communities are a critical educational investment and thus allows local funds to be used to support and develop personalized career themed learning communities. As Rio Rancho and Albuquerque High Schools demonstrate, rigorous career and technical education and smaller learning environments enhance students' achievement and motivation to learn.

Mr. President, this country is facing a crisis. Only 68 percent of our Nation's students are graduating high school with a regular diploma in four years. We must devote more attention and resources to increase graduation rates and promote dropout prevention. Providing quality career and technical education is one crucial way to increase graduation rates. CTE programs provide students with relevance, and are themselves a form of dropout prevention. In fact, quality CTE programs result in positive educational and employment outcomes for students. Effective career and technical education results in increased school attendance, reduced high school dropout rates, increased entry into post-secondary education and greater access to high-tech careers.

Accordingly, we must improve our ability to measure the effectiveness of career and technical education programs. High-quality data systems are essential to collect and analyze information regarding educational and employment outcomes and to inform the development of effective career and technical education programs. The data reported, however, must be complete, accurate, and reliable. Yet present data and data systems are too often incapable of meeting the requirements of career and technical education programs, of states, and of this Act. Accordingly, the bill includes several new provisions for data collection, utilization, and analysis, including provisions which allow the State allocation to be used to support and develop State data systems, and State leadership funds to be used to develop and enhance data systems to collect and analyze data on postsecondary and employment outcomes.

Effective career and technical education programs are necessary to build a strong and dynamic economy and to maintain a competitive American workforce. This legislation evinces some of the best principles of strong, effective career and technical education. Mr. President, I fully support Senate passage of S. 250.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mrs. CLINTON. Mr. President, I am pleased to rise in support of the Carl D. Perkins Vocation and Technical Education Improvement Act. I am proud to be a cosponsor of this legislation and am extremely pleased that this bill was written in a bipartisan fashion. I thank Senator ENZI, Senator KENNEDY, and their staff members, Scott Fleming, Ilyse Schulman, and Jane Oates, for working so hard on this legislation. I sincerely hope that we continue in this spirit of bipartisanship in the HELP Committee.

The bill before us today recognizes the important role of career and technical education for preparing today's workforce and rejects the Bush administration's proposal to eliminate the Perkins program, a proposal that would cost New York approximately $65 million a year. The bill before us today is evidence of a strong bipartisan commitment to maintaining and strengthening the program.

It is an often overlooked fact that the Perkins program is the largest Federal investments in our Nation's high schools. Over 66 percent of all public high schools have at least one vocational and technical education program and 96 percent of high school students in this country will take at least one vocational or technical course while they are in high school.

The Perkins program also plays a key role in postsecondary education. According to the National Center for Education Statistics, nearly 38 percent of all degree-seeking undergraduates are pursuing vocational careers. These programs play a key role in educating our workforce, and census data consistently shows that people with higher educational attainment have higher median incomes. Nearly 75 percent of employers say they have a very hard time when trying to hire qualified workers, according to a 2002 survey by the U.S. Chamber of Commerce.

In New York, the demand for business career and technical education programs in New York increased by 44 percent between the 2002 to 2003 school year and the 2003 to 2004 school year. In New York City, there was a 211 percent increase in enrollment in the approved business program and a 55 percent increase in the technology and communications programs. And the vast majority of these students are succeeding academically. Eighty-five percent of New York students that completed a career and technical education program passed all of the required regent's exams.

The Perkins program is extremely important—not just for the numbers of students it serves but for the communities that benefit from a better prepared workforce as a result of these programs. This is why for the last 3 years I have spearheaded a letter to the Senate Appropriations Committee requesting additional funding for Perkins. I also offered an amendment to the budget resolution in 2003 to protect the Perkins programs from cuts because I was deeply concerned that President Bush's proposal to slash the Perkins program by 25 percent would be reflected in the Senate's budget.

The Carl D. Perkins Vocation and Technical Education Improvement Act will go a long way towards strengthening vocational and technical education in New York and across the country. Among other things, it will provide for comprehensive professional development for career and technical education teachers, increase States' flexibility to meet their unique needs, and align secondary and postsecondary indicators with those established in other programs to ultimately reduce paperwork.

I am particularly pleased that this bill also improves programs and services for women and girls pursuing nontraditional occupations. Last fall, at a HELP Committee hearing on vocational education, an inspiring woman from New York, Angela Olszewski, testified about how important it is that we support and encourage women and girls in their pursuit of non-traditional, traditionally "male" careers—in technology, math, science, and the construction and building trades. Unfortunately, women are still significantly underrepresented in these fields. For example, we know that while the number of women carpenters has tripled since 1972, they still only represent 1.7 percent of all carpenters. You can say the same about many other high-skill, high-wage trades.

Many of these skilled trades industries are experiencing a significant labor shortage and experts expect these shortages to get worse over the next two decades as many workers retire. If women were to enter these professions, most of which are unionized and pay a livable paycheck and benefits, women would increase their earnings and standard of living for their families. For example, a journey-level electrician will make over $1,000,000 more than a typical cashier in a 30-year career.

This bill requires States to measure students' participation and completion in career and technical programs in nontraditional fields and to disaggregate their data on performance by gender and race. In addition, programs will be required to prepare special populations for high skill, high wage occupations that will lead to self-sufficiency. These important provisions will go a long way toward helping more women follow in Angela's footsteps.

Finally, I am pleased that the bill maintains Tech Prep as a separate program, rejecting the Bush administration proposal to eliminate it. Innovative Tech Prep programs in New York have made a real difference in the lives of students. For example, the Syracuse City Health Center Tech Prep program reduced the achievement gap between ethnic groups, white vs. non-white—to 2.8 percent. And at least 65 percent of students in the Syracuse City Health Careers Tech Prep program enroll in health-related professions, where New York has a critical shortage, after high school. In New York State, the average age of nurses is 47 and 80 percent of current nurses will reach retirement age within 10 years.

For all of these reasons, I am thrilled that we are passing this legislation today.●

Ms. MIKULSKI. Mr. President, I rise in support of the Carl D. Perkins Vocational and Technical Education Improvement Act of 2005. To compete in this global economy, we need to make sure our students have 21st century skills for 21st century jobs. Vocational and technical education is an extremely important part of this effort. The Perkins Act, which provides $1.3 billion to help train more than 10 million Americans across the country, is a vital investment in our nation's high schools, community colleges, and our students.

The Carl D. Perkins Career and Technical program gives a boost to America's workforce development system by providing funds to schools that teach technical skills ranging from auto shop to computer programming. The Perkins Act also supports practical career programs and links between secondary and post-secondary education, helping students to move up the opportunity ladder and prepare them for high-skill, high-wage jobs. Students who have completed Perkins-supported programs are better prepared not only for higher education but for the workplace.

The President has proposed eliminating funding for all vocational and technical education programs. This is the wrong way to go. If Perkins was eliminated, high schools, technical schools, and community colleges in every state would suffer. In Maryland, our schools would lose almost $19 million. Last year, we had more than 150,000 students enrolled in career and technical programs in Maryland. In the United States, 97 percent of high school students take at least one career and technical education course. One-third of college students are involved in career and technical programs. And almost 40 million adults attend short-term occupational training. If these schools had to close their doors or shut down their vocational programs, where would these students go to learn the skills they need to get good paying jobs?

Vocational and technical education provides students across the country with opportunities to develop academic and technical skills that are critical for economic and workforce development. It is our job in the United States Senate to make sure these opportunities are there for the people who need them and to invest in our human capital to create a world class workforce. That is why I strongly support this bipartisan bill and I oppose any cuts to the Perkins Vocational and Technical Education programs.

Mr. DURBIN. Mr. President, I rise in support of the Carl D. Perkins Vocational and Technical Education program.

By the year 2010, 80 percent of all jobs in the Nation will require secondary and postsecondary education and training as a prerequisite for a job that supports a middle-class lifestyle. The Perkins Vocational and Technical Education program provides business and industry with the skilled workers they need to compete in the 21st century economy and provides a future of hope for those workers.

Unfortunately, President Bush has proposed eliminating Federal funding for these programs in his fiscal year 2006 budget. This would have a tremendous negative impact across the nation and especially in Illinois, which is receiving $49.6 million dollars in fiscal year 2005 for these programs. In fact, in Illinois, 3 out of 5 high school students are enrolled in Vocational and Technical Education annually, representing more than 348,000 students.

The Senate's strong support for this legislation today demonstrates that the Bush administration is out of touch with regular people and the state of our economy. We need to create more good jobs in America; that's what vocation education programs do.

For example, we need more teachers. Stacy J. attended Capital Area Career center and went on to graduate from Lincoln Land Community College and from there to the University of Illinois Springfield. She earned a Bachelor's in Psychology and an elementary teaching certificate and now works for the Springfield School District. Her path was largely funded by the Carl D. Perkins Vocational and Technical Education program.

We need car specialists. Nick O. graduated from the welding program at Capital Area Career Center and now works for Ray Evernham Motorsports in research and development and as a tire specialist. Again, Nick took advantage of the Perkins program.

We need electricians, x-ray technicians, dental assistants, and plumbers. Justin K. is an apprentice plumber in Springfield after completed the Perkins program at the Capital Career Center.

We need nurses, carpenters, and firefighters. Andy, Josh and Dustin studied Fire Science at the Kishwaukee Education Consortium.

Because we need these people, we need the Carl D. Perkins Vocational and Technical Education program.

Of course, we also need our students to graduate. Another Perkins program student, Jessica G., began her career as a co-op student from Limestone Community College. She works for the RSM McGladrey Network and is now one course away from earning her masters of business administration. One of the most spectacular attributes of the Perkins program is the increase in the probability of graduation. Participation in a career and technical program raises the probability of graduation by 15 percentage points for those who registered for at least one course and nearly 28 percentage points for those who completed a career and technical program.

The school-based programs supported through the Perkins program provide a foundation for our Nation's workforce development system, by teaching technical skills based on industry standards and workplace skills and employability skills common to all occupations. This program is the single largest Federal investment in the nation's high schools.

We want our students to succeed in their education. This means we need the Carl D. Perkins Vocational and Technical Education program. Research proves students engaged in Perkins-supported programs are better prepared to transition into post-secondary education and the workplace. Students who complete a rigorous academic core coupled with a career concentration have test scores that equal or exceed college prep students. These dual concentrators are more likely to pursue postsecondary education, have a higher grade point average in college and are less likely to drop out in the first year. Fifty-two per cent of all career and technical education students enroll in college.

I strongly support this legislation and commend Chairman ENZI and Senator KENNEDY for their leadership in ensuring that the Carl D. Perkins Vocational and Technical Education program continues.

Mr. BURNS. Mr. President, I rise to speak on behalf of the Carl D. Perkins Career and Technical Education Improvement Act. This bill reauthorizes the Carl D. Perkins Vocational and Technical Education Act of 1998 and supports a key goal for this country's future: to ensure America's students have the knowledge and skills to be competitive in today's global economy. Specifically, this legislation supports the creation of stronger partnerships between high schools, colleges, and businesses to allow for career and technical education programs to better meet the needs of the workforce, including small businesses. Also, S. 250 provides for the creation of outlines for logical sequences of courses, including high school and college courses, that will lead to an industry recognized credential, certificate, or postsecondary degree. Furthermore, this measure promotes activities to improve the recruitment and retention of career and technical education teachers, including those underrepresented in the profession.

As a former member of the organization previously known as Future Farmers of America FFA, I am proud of Montana's highly successful vocational education programs. Montana has over 500 approved career and technical education programs and more than 800 certified teachers in agriculture, business, marketing, family and consumer sciences, industrial technology, and health occupations. Over 160 Montana high schools participate in the Federal Carl D. Perkins and State career and technical education grant programs in order to support and improve their career and technical education programs. These valuable programs prepare Montana K-12 students for a variety of careers and post secondary education programs.

I will continue my strong support of vocational education programs and look forward to working with the leadership as the Senate examines education programs during the 109th Congress.

Mrs. FEINSTEIN. Mr. President, I rise today to support the reauthorization of the Perkins Career and Technical Education Improvement Act of 2005.

This bill is critically important to ensure that students are entering the workforce with the academic, vocational, and technical skills they will need to be successful in today's job market.

According to 2003 U.S. Census data, only 27 percent of Americans have a college degree. Therefore, vocational education programs are necessary to provide occupational training to the majority of high school students who do not go on to earn a bachelor's degree.

Without adequate vocational and technical training programs, these individuals have few career options. Unfortunately, high schools currently offer fewer vocational education classes than in the past, due to funding shortages.

There are many ways in which Perkins funds are used, and I would like to share a few examples of how these dollars are utilized in my State of California which typically receives approximately 11 percent of Federal funding for vocational education through Perkins.

The Fresno Unified School District uses about $1 million in Perkins money to fund vocational education classes in areas such as introductory business, computers, and multimedia for students in grades 7-10.

Perkins funding also helps to pay for 10 resource center facilitators who assist students in researching colleges and registering for entrance exams.

The Los Angeles Unified School District receives Perkins funds to build career and technical education, CTE, programs. With these funds, the district has created 15 "industry clusters," each of which contains a specific career pathway. These industry clusters range from agriculture to the arts to engineering to medical technology.

I understand the importance of Federal support for vocational and technical education, and I will continue to do all I can to ensure that all students have access to the educational opportunities that will allow them to become productive and successful adults.

Mr. GREGG. Mr. President, I am pleased to support S. 250, the Carl D. Perkins Career and Technical Education Improvement Act of 2005. The product of a true bipartisan effort, this bill reauthorizes and strengthens the federal investment in career and technical education programs, which touch students of all ages in communities across the Nation.

I commend Senator Enzi for his extraordinary leadership on this issue. His dedication to creating opportunities for lifelong learning and ensuring that students of all ages have the skills they need to succeed in higher education and in the workforce is reflected throughout this bill.

Nearly every student in America enrolls in at least one career and technical education class during high school, and millions of adults update their skills at the postsecondary level each year. Career and technical education provides increasingly rigorous, relevant learning that prepares students for success in postsecondary education and in a wide array of occupations. Given that a majority of jobs created over the next decade will require skills that only a relative few workers currently possess, it is important that we provide opportunities for students and workers to gain the skills they need to secure and succeed in these jobs.

In many communities, including those in my own State of New Hampshire, innovative career and technical education programs are helping to fill pressing workforce needs, including in fast growing fields like technology and health care. High school students in health science programs may earn CPR and, first aid certifications and gain valuable clinical experience in hospitals and nursing homes, as well as enroll in certified nursing assistant programs. Through Project Running Start, high school students can earn community college credit in a variety of disciplines. New Hampshire Community Technical College in Nashua offers programs ranging from an FAA-approved aviation technology program to a telecommunications program in partnership with Verizon. Such opportunities at both the secondary and postsecondary level are constantly expanding, offering students more options than ever before.

Career and technical education programs are also helping alleviate shortages of skilled workers in certain industries, such as the automotive industry. The Automotive Youth Educational Systems program, which operates in New Hampshire and 44 other States, is widely regarded as a successful education and business partnership, and has been praised by both the Department of Labor and the Department of Education. The AYES program affords high school juniors and seniors the opportunity to gain valuable experience as interns working alongside skilled auto technicians who serve as mentors. Upon graduation, this work experience then translates into high-skill, high-wage, high-demand jobs for students.

The Carl D. Perkins Career and Technical Education Improvement Act of 2005 would strengthen career and technical education programs in a number of ways. Among the improvements are stronger accountability provisions, increased flexibility for States, and greater emphasis on the integration of academic and technical course content, on connecting programs with business and industry to ensure that students gain relevant skills, and on building pathways from secondary to postsecondary programs and the workforce. All of these efforts will help ensure that students acquire the tools and knowledge necessary to acquire and excel in high-skill, high wage occupations.

S. 250, which I am pleased to cosponsor, stands as an example of what is possible when we work in a bipartisan way in good faith. I would like to thank Senator KENNEDY and my colleagues on the other side of the aisle for their commitment to career and technical education and for helping move the reauthorization process forward.

This bill was also crafted with significant input and support from the career and technical education community, which helped us refine and improve the legislation. The result is a work product of which we can all be proud. I look forward to the bill's final passage.

Mr. REED. Mr. President, I am pleased to be a cosponsor of the Carl D. Perkins Career and Technical Education Improvement Act. By passing this legislation today, the Senate recognizes the critical need to maintain the Perkins program—the Federal Government's single biggest investment in our nation's high schools.

The Carl D. Perkins Career and Technical Education Act provides a vital link between students and the high-skilled workforce American business depends on to thrive. It funds rigorous and challenging career and technical education programs that give more than 10 million Americans the opportunity to attain the specific skills needed to successfully embark on careers and undertake further education.

The President's decision to eliminate this program in his fiscal year 2006 budget proposal is exceedingly shortsighted. It would aggravate the skills gap that employers already face and cost our country in future competitiveness, productivity, and innovation. The President seeks to eliminate a $1.3 billion investment, $6.4 million of which would be a loss to my state, Rhode Island.

Instead, the Senate's action today will help ensure this program's continued success.

I am especially pleased that this legislation contains provisions I authored to address the needs expressed to me by educators in Rhode Island. As I have in other education reauthorization bills, I worked to strengthen professional development programs for career and technical educators, principals, administrators, and counselors. I also ensured the legislation gives states more flexibility in their use of funding and in implementing innovative statewide initiatives. In addition, I added language to ensure schools can offer students the benefit of real-world internships and other work-based learning experiences to enhance their skills.

These and other provisions in the bill will strengthen the Perkins Act. I sincerely hope that we will maintain the same cooperative and bipartisan spirit as we work toward final passage of this bill.

Mr. KENNEDY. Mr. President, I commend my friend, Chairman ENZI, for his bipartisan leadership on this legislation and his effective work in bringing it before the full Senate today.

One of our highest priorities in Congress is to expand educational opportunities for every American. Especially in this age of globalization, we want every one of our citizens to have the learning and the skills essential to the continuing strength of our modern economy. We want them to fulfill their hopes and dreams, to raise healthy families, and contribute to their communities. We will be a fairer and stronger America when every citizen takes part and contributes.

We know that in today's global economy, every person counts more than ever. We cannot afford to leave out anyone. We must equip our citizens to compete in the global economy—not by lowering their pay and sending their jobs overseas, but by increasing their skills.

The legislation before us today will strengthen our commitment to a vital aspect of that mission, by equipping millions of young Americans with the skills they need through career and technical education.

There was a time in many schools when vocational education meant simply an extra class in shop. But today in Massachusetts, and many other states, we see the vital role that vocational education—now appropriately called career and technical education—can have in transforming the lives of students and workers, and in strengthening our economy.

Career and technical students are high school students who want to link their learning to a career. They are students who want a real world application of their high school education. They are students who earn college credits or earn industry-recognized credentials and pass state licensing exams while still in high school. Career and technical education today is designed to prepare and train students for 21st century jobs.

Career and technical education students go on to higher education—almost two-thirds of all high school graduates of career and technical programs enter college or another form of postsecondary education.

In addition, through its educational programs at the postsecondary level, the Perkins Act also serves adults who are seeking critical training to be competitive in the job market. Whether we are talking about new immigrants, struggling adults, or women who are seeking employment outside the home for the first time, these are adults who need specially designed programs.

In Massachusetts, career and technical education serves more than 70,000 students. Through Perkins funding, high school programs in partnership with community colleges and local businesses, provide students with the academic and technical skills they need to continue their education or to compete for high-skill, high-wage jobs immediately. The outcomes of these programs are extraordinary. Last year, 95 percent of career and technical education students in Massachusetts passed our state assessment—the MCAS exams.

The Perkins program has worked to reduce the gender imbalance in earnings by emphasizing the importance of eliminating discrimination and actively recruiting students for non-traditional employment. The segregation of certain demographic groups into low-wage industries can and should be corrected as soon as possible through education. The program sets aside specific dollars for the collection and dissemination of occupational and employment information. Providing the most complete and up-to-date information is essential if counselors are to help their students make good decisions about course selection and career choice.

To be competitive in today's economy, we need a renaissance in math, in science, and in technical skills. Technology and innovation are essential for America's economic strength and competitiveness in the future. The Tech Prep program in this bill addresses these needs by creating programs that integrate technology skills based on employer needs. At Springfield Technical Community College in Massachusetts, students can enroll in the Diagnostic Medical Imaging Program. They take rigorous math and science courses that prepare them to use today's newest technology.

It has always been a priority for our committee to see that all students have the opportunity for high quality educational opportunities. Ensuring strong career and technical programs is an essential part of reaching that goal. In the legislation before us today, we were able to address critical issues for the continued growth of this program—the integration of academic and technical education, the use of funds for secondary and post-secondary programs, and the importance of the Tech Prep programs that form the bridge between the high school and college programs.

Our bill also builds on existing provisions designed to ensure that students, parents and teachers have the information they need to select the courses that will give them the best options for obtaining a good job or continuing with their education after high school.

This bill also addresses the unique professional development needs of Career and Technical Education teachers. Every day, we see rapid pace of change in industry. Cell phones and computers can become obsolete in a year. Teachers need to see the changing aspects of the industries that they teach about in the classroom, so that their students of all ages can receive the best possible training. Local schools and districts must provide opportunities for these teachers to spend time with the industries they are teaching about. They are preparing the next workforce generation, and their knowledge base must be state of the art.

In Massachusetts, Perkins grants fund a wide variety of important programs. Students in Brockton have received onsite clinical training in health care facilities.

In New Bedford, a city that has suffered tremendously with the outsourcing of manufacturing jobs, the regional technical school has begun an engineering program in partnership with 2 and 4-year colleges, Texas Instruments and Bose.

Graduates will be able to earn $22,000 a year directly after high school, and far more when they go on to earn their college degree.

At Shawsheen Technical High School, six hundred 8th grade students are vying for 320 seats in the program. A third of the students are special education, yet the school has a 100 percent pass rate on the statewide student assessment exams. Learning academic skills in an applied context is responsible for this success. Ninety-seven percent of the graduates go on to immediate employment in their field or continue their education.

Responding to the critical shortage in the nursing profession, Shawsheen has developed an intensive Licensed Practical Nurses program for adults. Classes are held for 10 months, four nights a week from 5:30 to 10 p.m. Students serve in clinical rotations on alternate weekends at the Lahey Clinic. The program has become an entry to a good career for many low-income adults; 50 percent of those enrolled are minority students and 60 percent are Pell recipients. The first three classes of 40 students each have had a 90 percent retention rate, a 98 percent pass rate for program completers and a 100 percent placement rate in the Merrimack Valley and the graduates are in jobs with an average starting salary of $23 an hour.

In addition, because of Perkins grants, all Massachusetts community colleges have instructional support staff and major funding for adaptive equipment for students with disabilities enrolled in technical education.

None of this would be possible without Perkins dollars.

Again, I commend Chairman ENZI and his staff for all their good work. Special thanks go to Scott Fleming and Beth Buehlmann with Senator ENZI, Kelly Scott with Senator GREGG, Meredith Davis with Senator FRIST, Kristin Bannerman with Senator ALEXANDER, Jenny Hanson with Senator BURR, Bradford Swann and Glee Smith with Senator ISAKSON, Lindsay Morris with Senator DEWINE, Lindsay Lovlien with Senator ENSIGN, Juliann Andreen with Senator HATCH, Prim Formby with Senator SESSIONS, Jennifer Swenson with Senator ROBERTS, Dana Lewis with Senator REID, Mary Ellen McGuire with Senator DODD, Laura Prebeck with Senator HARKIN, Dvora Lovinger with Senator MIKULSKI, Sherry Kaiman with Senator JEFFORDS, Michael Yudin with Senator BINGAMAN, Jamie Fasteau with Senator MURRAY, Catherine Brown with Senator CLINTON, Kristen Romero and Amy Gaynor from Legislative Counsel, and Carmel Martin and Liz Maher of my staff.

And I want particularly to express my appreciation to Jane Oates who had principle responsibility for this bill for my staff. I am grateful for her important contributions and insights on this legislation.

I thank our Chairman, Senator ENZI, for moving this bill so quickly through our Committee and am pleased we are able to move it to final passage today. I urge my colleagues to support it.

Mr. DODD. Mr. President, I am here today in support of a bipartisan bill that would reauthorize the Perkins Vocational and Technical Education Act. Few issues are as critically important to the future of the country as the competitiveness of our workforce. This bill will help to ensure America's economic dominance for years to come.

Essential to strengthening the workforce, the Carl D. Perkins Career and Technical Education Improvement Act not only prepares youth and adults for the careers of today, it prepares them for the careers of tomorrow. For that reason, it is the first line of defense in ensuring America's competitive advantage in a global economy.

We have heard a lot lately about American students losing their competitive edge. In math and science our fourth graders are among the best in the world but by their senior year of high school, they score near the bottom of all industrialized nations. Our college dropout rate is one of the highest in the world. The United States has dropped from first to fifth in the percentage of young adults with a college degree. Singapore has displaced the United States as the top economy in information technology competitiveness. And, the number of patents awarded to Americans is declining. Clearly, all of this is having an effect on our global competitiveness.

The problem is further compounded by the fact that our universities are facing intense competition in higher education and are slipping in their ability to attract the world's best students. Yesterday, the Council of Graduate Schools released a study showing that foreign applications to graduate schools are down 6 percent. These are individuals that contribute to the cutting-edge research American universities and corporations have long been known for.

Do we need to increase our efforts to attract these students back? Yes. Do we also need to do everything we can to increase our competitiveness from within? Yes. The bill before us will help us to do that.

The bill before us does a number of important things. First and foremost, it emphasizes accountability and improved results. Second, it improves monitoring and enforcement. Third, it disaggregates performance goals and report information by special populations so no one falls through the cracks. And fourth, it strengthens the ties between industry, high schools, and higher education by ensuring that teachers are well trained, that students are academically ready for college, and that high schools are training students for the actual needs of their communities.

The premise of the bill is that high schools, industry and higher education need to work together to provide our workforce with the skills that they need in order to achieve and compete in the 21st century. This bill works to ensure that American students are not just getting a world-class education, but the best education in the world.

I would be remiss in my remarks if I did not mention the President's proposed elimination of the Perkin's program in his fiscal year 2006 budget. And, I would be remiss if I did not commend the leadership of Senator ENZI, our committee chair, in bringing this bill forward despite the President's plan. Senator ENZI's unwavering commitment in this area is unparalleled. I hope that the administration understands that our decision to make this the first major piece of education legislation that we take up this Congress is reflective of our unwavering commitment to career and technical education. We will not let this program fall by the wayside. Perkins will not be eliminated.

We often hear the pledge that we will leave no child behind. May I suggest that we also make every effort to ensure that we leave no career and technical education student behind? Passage of these important provisions today will go a long way toward ensuring that career and vocational education students are not left behind in the classroom, that they are being held to high academic standards, that their teachers are provided with the training they need to keep up to date with the latest industry needs, and that high schools, industry and higher education work seamlessly together to provide our workforce with the skills that they need to maintain America's economic dominance in the 21st century.

Career and vocational programs are an essential part of keeping students in school and helping our Nation train its workforce. I am confident that this bill will go a long way in helping another generation of Americans succeed, and, in doing so, strengthen our economy.

Mr. KENNEDY. Mr. President, I will be glad to yield back my time.

Mr. ENZI. I yield back my time.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the committee substitute is adopted and the bill will be read a third time.

The committee amendment, in the nature of a substitute, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ENZI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent that the next series of votes begin at 4:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. For the information of my colleagues, the next vote, which will begin at 4:30 p.m., will be on passage of the Perkins vocational education bill which was just debated, to be followed by a series of rollcall votes on the remaining amendments to the bankruptcy bill, to be followed by final passage. That means there could be up to seven rollcall votes in this next series of consecutive rollcall votes. Once again, we urge Members to stay close to the Chamber during these votes to avoid missing any.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

Mr. HATCH. Mr. President, I rise today to speak in favor of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and to thank all of the people who made this bill possible. This bankruptcy bill has been a long time coming. We all know how bankruptcy claims have skyrocketed since the last major bankruptcy reform bill in 1978. We all know about the abuses of the system.

Well, that is about to change for the better. This bill is about fairness and accountability. We have made some important changes in this legislation. This bill contains a debtor's bill of rights with new protections that prevent bad actors from preying upon the uninformed.

The bill also includes new consumer protections under the Truth in Lending Act, such as new required disclosures regarding minimum monthly payments and introductory rates for credit cards. It protects consumers from unscrupulous creditors, with new penalties on creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

S. 256 provides for protection of educational savings accounts, and it gives equal protection for retirement savings in bankruptcy. It helps women and children by providing a comprehensive set of protections for child and domestic support throughout the bankruptcy process.

This legislation dramatically revises the reaffirmation agreement provisions of the Code. It imposes critical disclosure requirements that will put a stop to abusive practices. It makes the provisions relating to farmers in chapter 12 permanent and broadens its provisions. It cleans up the law governing complex exchanges and thereby reduces systemic risk in our marketplace. It acts to stop abuse.

When this bill hit the floor on Monday, February 28, I mentioned that we were in the last leg of a legislative marathon. The finish line is finally in sight. I am pleased to have been a part of this process and I am even more pleased we are able to pass this important legislation, and I anticipate that it will pass shortly. This bill has been a long time in development. I am proud of what we have been able to accomplish. Today it seems it is finally going to cross the finish line, and it is well worth it.

This bill may not lead to a severe reduction in the number of bankruptcies. I believe, though, that it will reduce the number of fraudulent and abusive filings and help educate consumers to keep their financial houses in order. This is always an important goal. No responsible society can long countenance the open flouting and abuse of its laws.

This bill, with its means test, will discourage such abusive filings by restricting access to chapter 7 liquidation by those with relatively high incomes. We should all stand behind a law that requires people with the ability to repay their debts to actually repay those debts.

Most of our debate on this bill has focused around the means test. There is no doubt that this will discourage some bankruptcy filings, but I also hope our credit counseling provisions will work to persuade even some low-income debtors that there is another way out.

Right now, too many are only hearing one part of the story: Declare bankruptcy. Liquidate your debts. Some attorneys pushing this line, however, leave out the part about the years of ruined credit that result, the inability to get a car loan or a house loan. My hope is our modest credit counseling provisions will persuade some people to stay out of bankruptcy and meet their obligations, do what is right, and keep their credit alive.

While a great majority of Senators support this bill, I know not all of my colleagues are pleased. Last night my friend from Massachusetts, Senator KENNEDY, again voiced his strong opposition to this legislation. This was probably clear from my response. I vehemently disagree with his opinions about this bill, but I hope he understands that we are trying our best.

Could we have done better? I have no doubt about that, not for a second, but I also know this bill has benefitted from some of Senator KENNEDY's suggestions over the years. We have not ignored him, and I hope he understands we appreciate his participation.

I also understand some of my colleagues feel that they may not have been treated fairly in this process. My desire throughout this process, and the desire of my colleagues who supported this bill, was always to act as an honest broker who took the suggestions of the other side with appropriate seriousness. I understand the frustration from some on the other side at the inability to get amendments agreed to or considered on the floor, but I hope they in turn can understand that we have tried our best on this side to balance all of the competing interests in this body while also trying to get this very important bill done.

In particular, I think we could have done a better job of working through the technical amendments offered by Senator FEINGOLD. Truth be told, I do not think all of these amendments were merely technical amendments. Be that it as it may, Senator FEINGOLD had a right to submit his amendments at the committee and then on the floor. Perhaps the consideration of the Feingold amendments would have been more complete if we had all focused on these proposals earlier in this debate. I fully respect the right of the distinguished Senator from Wisconsin to offer his amendments, even if we know he is opposing the underlying bill, which he always has. Getting all the parties on board is an uphill climb.

I was given the assignment by Chairman SPECTER to try to get this bill reported by the last recess. We accomplished that goal. In that process, I know Senator FEINGOLD feels he did not get a fair hearing in the committee. I hope the final outcome today persuades him otherwise.

For my part, I instructed my staff to meet with the staff of the distinguished Senator from Wisconsin after the markup. Our staffs met on a number of subsequent occasions. We were able to work out several agreements. Frankly, I was sympathetic to several features of other of his amendments. As we all recognize, proposing an amendment is much easier than getting an agreement on an amendment. I want him to know that we tried.

In discussions with the sponsor of the bill, Senator GRASSLEY, the chairman of the Judiciary Committee, Senator SPECTER, our leadership, Senator SESSIONS, who has played a significant role on this bill and others, we had to make a number of determinations over what amendments to support and what to exclude from the bill. These were not easy decisions, and sometimes they had to be made in conjunction with leaders in the House of Representatives, which is not unusual. We do try to work with them, if we can. In this case, I think we have been working with them.

We could not accept all of Senator FEINGOLD's amendments. I think he probably knows that, too. Our staffs made the effort to work through both the substance and the politics of the issues, and these consultations have borne some fruit. That is important to state, because I do not want my colleague to feel badly or feel he has not been treated fairly. I wish we could have found still more common ground, but after consulting with and facilitating consultations between Senator FEINGOLD's staff and my staff and other Senate staff, we at least made some progress.

I thank and congratulate Senator GRASSLEY, the prime sponsor of this bill over the last 8 years. He has worked extraordinarily hard on this bill. It has been a long time in coming. My hat, as usual, is off to him. Senator SESSIONS is another Senator whose hard work made this possible. We all appreciate his work in the committee and on the floor during the last few weeks.

I would also thank the majority leader, Senator FRIST, and the majority whip, Senator MCCONNELL, and the chairman of the Judiciary Committee for their efforts on behalf of this legislation. Chairman SPECTER has been here working hard for the people of Pennsylvania only days after his cancer treatments, and that is not easy to do, and certainly not easy since he has a continuation of those treatments. He is a heroic figure, in my eyes, for the way he has handled himself in this very difficult time.

I must also thank Chairman SHELBY, and Senator SARBANES of the Banking Committee. We all know how vital the Banking Committee was to this process. We could not have gotten this done without their help.

I believe that several Senators from across the aisle deserve recognition as well. I want to once again thank the Minority Leader, Senator REID, and the Minority Whip, Senator DURBIN, for helping to move this bill through the Senate.

Senators BIDEN and CARPER have worked tirelessly for years on this legislation, and they have taken some tough votes to get it done. Senator NELSON from Nebraska has also shown great resolve and deserves recognition for his efforts, particularly with respect to the provisions affecting farmers. Senator JOHNSON has also been committed to this legislation and I thank him.

No thank you list would be complete without the Senator from Vermont. My dear friend Senator LEAHY and I have not always agreed on every aspect of this legislation, but we have worked hard to make it better. Senator LEAHY developed two important amendments that were accepted. Similarly, Senator FEINGOLD—who has been an ardent opponent of this legislation—has nevertheless dedicated himself to improving it. I have enjoyed working with him, and several other Democratic members of the Judiciary Committee over the years—including Senators FEINSTEIN, KOHL, KENNEDY, SCHUMER and DURBIN—to get this bill done.

I would also like to take a moment to thank all of the staff who worked so hard to make this happen. I know that several of them—on both sides of the aisle—have not seen their significant others in weeks. We owe them a great debt of gratitude. If my colleagues would permit me, I would like to name a few of them.

I think the record should reflect that Rene Augustine, a former counsel now at home with her new-born child, and Makan Delrahim and Manus Cooney, both former Judiciary Committee Chief Counsels, worked for years on this legislation and it would not have been possible but for their efforts. Similarly, John McMickle, a former staffer of Senator GRASSLEY who worked on this bill while he was in the Senate, has taken an enormous amount of time away from his young children to help on this project.

For staff who still work here, I think that Senator GRASSLEY's chief counsel, Rita Lari-Jochum, should be singled out for her hard work and dedication to this bill. She has helped manage this process over the last several weeks, and she has done a fantastic job. Similarly, Mike O'Neill, Judiciary Committee Chief Counsel, and Harold Kim, Chief Civil Counsel, have done an outstanding job—as have the whole Judiciary team. There are several new counsels in that office that were thrown into the crucible in their starting weeks. First with class action, and now with bankruptcy. The record should reflect the professionalism and excellence with which Ivy Johnson, Tim Strachan, Ryan Triplette, Hannibal Kemmerer, and Nathan Morris have conducted themselves. They are a fantastic group.

In Senator SESSIONS office, no one could overlook his chief counsel, William Smith, or his deputy chief counsel Cindy Hayden. Amy Blakenship and Wendy Fleming also with Senator SESSIONS, did a great job as well. They all did wonderful job.

In the Majority Leader and Majority Whip's office, Eric Ueland, Sharon Soderstrom, and Allen Hicks led the team. John Abegg in Senator MCCONNELL's office, proud father of a baby girl born on the day this bill hit the floor, nevertheless managed to get the job done. Kyle Simmons, Brian Lewis, and Malloy McDaniel all worked vigorously to plan and manage the strategy and votes on amendments. Steven Duffield and his team at the R.P.C. has also provided timely and accurate information on the bill on a daily, and when needed, hourly, basis.

As my colleagues all know, the Banking Committee played an important role in this process. Senator SHELBY is fortunate to have people like Kathy Casey, Doug Nappi and Mark Oesterle working for him.

I would also like to thank the House Judiciary Committee staff—they have been an invaluable resource and we would not have been able to get this done without them. As always, Phil Kiko provided a steady hand steering important legislation. Susan Jensen is a treasure trove of information and she has devoted herself to this endeavor. Stephanie Moore and Perry Applebaum of Representative CONYER's office, I am sure will help the legislation move through the House.

The hardworking people in the legislative counsel's office have also undertaken a Herculean effort and flourished in the process. I believe that 125 amendments were filed on this bill, and that does not include the 50 or so that we had in Committee. That is a lot of drafting of complex legislation and we all owe Bill Jensen, Matt McGhie and Amy Gaynor our thanks for their contributions during this long trip. I would add Bob Schiff of Senator FEINGOLD'S staff, who worked to make this a better bill. It is a pleasure to work with him and he is someone we respect. I wish we could have done more for him and his great boss. We have done the best we can.

Finally, on my own staff, Bruce Artim, Kevin O'Scannlain, Perry Barber and Brendan Dunn all worked very hard on this legislation.

My personal executive assistant, Ruth Montoya, has put up with an awful lot over these last few weeks, and I appreciate her as well as my chief of staff Trish Knight, and Susan Cobb and the many others who literally have worked so hard to help me over these last several weeks—frankly, over the last many years. I know there are many others I have not been able to recognize, and they should all know what a wonderful job I believe they have done. I believe we have an important achievement with this bill, and I think it is only a matter of time until we get this bill passed on the floor, which will be a good end.

Mr. President, the bankruptcy legislation cures some abuses in the Bankruptcy Code regarding executory contracts and unexpired leases.

One provision, Section 404(a) of the bill, amends Section 365(d)(4) of the Bankruptcy Code. Presently, Section 365(d)(4) provides a retail debtor 60 days to decide whether to assume or reject its lease. A bankruptcy judge may extend this deadline for cause—and therein is the problem. Some experts believe that too many bankruptcy judges have allowed this exception essentially to eliminate any notion of a reasonable and firm deadline on a retail debtor's decision to assume or reject a lease. Some bankruptcy judges have been extending this deadline for months and years, often to the date of confirmation of a plan.

This situation can be troublesome. For example, a shopping center operator is a compelled creditor. It has little if any choice but to continue to provide space and services to the debtor in bankruptcy Yet, the current Code permits a retail debtor as long as years to decide what it will do with its leases. Coupled with the increased use of bankruptcy by retail chains, the Bankruptcy Code is seen by some to be tipped unfairly against the shopping center operator.

Some stores curtail their operations or go dark, and still the lessor cannot regain control of its space.

This legislation, like the conference report in the last two Congresses, acts to curb this abuse. It imposes a firm deadline on a retail debtor's decision to assume or reject a lease. It permits a bankruptcy trustee to assume or reject a lease on a date which is the earlier of the date of confirmation of a plan or the date which is 120 days after the date of the order for relief. A further extension of time may be granted, within the 120 day period, for an additional 90 days, for cause, upon motion of the trustee or lessor. Any subsequent extension can only be granted by the judge upon the prior written consent of the lessor: either by the lessor's motion for an extension, or by a motion of the trustee, provided that the trustee has the prior written approval of the lessor. This is important. We are limiting the bankruptcy judges' discretion to grant extensions of the time for the retail debtor to decide whether to assume or reject a lease after a maximum possible period of 210 days from the date of entry of the order of relief. Beyond that maximum period, there is no authority in the judge to grant further time unless the lessor has agreed in writing to the extension.

Retail debtors filing for bankruptcy will undoubtedly factor into their plans this new deadline. Most retail chains undertake a careful review of their financial condition and business outlook before they file for bankruptcy. They will already have an understanding of which leases are ones they wish to assume and which ones they wish to dispose of. The legislation gives them an additional 120 days to decide on what to do with their leases, once they file for bankruptcy. Beyond that 120 day time period, an additional 90 days can be granted for cause. A further extension may be negotiated by the retail debtor and the lessor if circumstances warrant, and any such extension can be granted by a judge only with prior written consent of the lessor. Further, a lessor's prior written approval of one such extension does not constitute approval for any further extensions—each such extension beyond the 210-day period requires the lessor's prior written approval.

The bill in Section 404(b) also amends Section 365(f)(1) of the Bankruptcy Code to make sure that all of the provisions of Section 365(b) of the code are adhered to and that 365(f) of the code does not override Section 365(b).

This addresses another problem under the Bankruptcy Code. The bill helps clarify that an owner should be able to retain control over the mix of retail uses in a shopping center. When an owner enters into a use clause with a retail tenant forbidding assignments of the lease for a use different than that specified in the lease, that clause should be honored. Congress has so intended already, but bankruptcy judges have sometimes ignored the law.

Congress made clear, in Section 365(b)(1) and 365(f)(2)(B), that the trustee may assume or assign an executory contract or unexpired lease of the debtor, only if the trustee gives adequate assurance of future performance under the contract or lease.

In Section 365(b)(3), Congress provided that for purposes of the Bankruptcy Code:

> adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—
>
> (A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;
>
> (B) that any percentage rent due under such lease will not decline substantially;
>
> (C) that assumption or assignment of such lease is subject to all provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and
>
> (D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

Congress added these provisions to the Code in recognition that a shopping center should be allowed to protect its own integrity as an ongoing business enterprise, notwithstanding the bankruptcy of some of its retail tenants. A shopping center operator, for example, must be given broad leeway to determine the mix of retail tenants it leases to. Congress decided that use or similar restrictions in a retail lease, which the retailer cannot evade under nonbankruptcy law, should not be evaded in bankruptcy.

It is my understanding that some bankruptcy judges have not followed this Congressional mandate. Under another provision of the Code, Section 365(f), a number of bankruptcy judges have misconstrued the Code and allowed the assignment of a lease even though terms of the lease are not being followed. This appears to ignore Section 365(b)(3).

For example, if a shopping center's lease with an educational retailer requires that the premises shall be used solely for the purpose of conducting the retail sale of educational items, as the lease in the *In re Simon Property Group, LP* v. *Learningsmith, Inc.* (D. Mass. 2000) case provided, then the lessor has a right to insist on adherence to this use clause, even if the retailer files for bankruptcy. The clause is fully enforceable if the retailer is not in a bankruptcy proceeding, and the retailer or the bankruptcy trustee or judge should not be able to evade it in bankruptcy. Otherwise, the shopping centers operator could lose control over the nature of its business.

In the Learningsmith case, the judge allowed the assignment of the lease to a candle retailer because it offered more money than an educational store to buy the lease, in contravention of Section 365(b)(3) of the Code. As a result, the lessor lost control over the nature of its very business, operating a particular mix of retail stores. If other retailers file for bankruptcy in that shopping center, the same result can occur.

In the past, courts have disagreed about whether Section 365(f) overrides the provisions of Section 365(b)(3). For example, in the case of *In re Rickles Home Ctrs., Inc.*, 240 B.R. (D. Del. 1999), appeal dismissed, 209 F.3d 291 (3d Cir.), cert. denied, 531 U.S. 873 (2000), the judge disregarded the use clause and allowed a lease sale to go through to a non-conforming user. However, in *In re Trak Auto Corp.*, 367 F.3d 237 (4th Cir. 2004), an appellate court held that a use clause must be strictly enforced under Section 365(b)(3) on sale of the lease, notwithstanding Section 365(f). This legislation provides the necessary clarity by amending Section 365(f)(1) to help make clear it operates subject to all provisions of Section 365(b).

I note that Section 365(d)(4) of the Bankruptcy Code applies to cases under any chapter of Title 11. Language to that effect in the current Code's Section 365(d)(4) is deleted because it is repetitive of Sections 103(a) and 901 of the Code, which already make clear that provisions like Section 365(d)(4) apply to all cases under Title 11.

This bill creates new legal protections for a large class of retirement savings in bankruptcy. This measure has widespread support from a long list of groups, ranging from the American Association of Retired Persons, to the Small Business Council of America and the National Council on Teacher Retirement.

Let me take this opportunity to point out that the assets of some pension plans already are protected from bankruptcy proceedings. The United States Supreme Court has ruled in Patterson v. Shumate, reported at 504 U.S. 753 (1992), that assets of pension plans which have, and are required by law to have, anti-alienation provisions, are excluded from bankruptcy estates.

Let me be absolutely clear that this provision is not intended in any way to diminish the protections offered under existing law and under the United States Supreme Court's decision in Patterson v. Shumate, but rather, is intended to provide protection to other retirement plans and accounts not currently protected.

Mr. President, this has been a battle, there is no question about it, like all hotly contested issues are. But I think virtually everybody has contributed, and we have had some tough times on the floor. We have had even some bad feelings from time to time. But we have been at this for 8 solid, difficult years. It is unfortunate we could not work out more amendments, also, but we couldn't and still have this bill pass, hopefully for the last time. We worked in good faith to try to do that.

For those who feel they have not been treated as fairly as I would certainly have wanted to treat them or I feel I have treated them and others as well have treated them, we feel bad about that and hope they will forgive us for not being able to make some of the changes that perhaps we would have made had this been the first year of this bill and we didn't have the difficulty of meeting the suggestions of our friends over in the other body.

We think they have done a terrific job. The people in the House of Representatives are tremendous leaders, from Chairman SENSENBRENNER right on through the whole Judiciary Committee and, of course, the leadership over in the House as well and others who are not on the Judiciary Committee but are concerned about this very important bill. They work closely with us. It is difficult for them and it is difficult for us, but that is the way these two bodies ought to work together, and this bill is a perfect illustration of what can happen if good people can get together, compromise on some of these issues that can be compromised, and yet stand firmly so we can pass legislation like this that will benefit the whole country.

In my final remarks, let me recognize the efforts of Ed Pagano and Bruce Cohen of Senator LEAHY's office and Jim Flug and Jeff Teitz of Senator KENNEDY's office for all the hard work they have done over the years on this issue as well. It is a pleasure to work with staff on the Judiciary Committee. They are bright. They are articulate. They are brilliant, as a matter of fact. That is what you want in Judiciary Committee staffers. I wish those on the minority side would not be nearly as tough as they are, but I respect them for being that way.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. (Mr. VITTER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—1

Clinton

The bill (S. 250), as amended, was passed.

## BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

### AMENDMENT NO. 90

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, on the Feingold amendment No. 90.

Mr. FRIST. Mr. President, for the information of my colleagues, in consultation with the Democratic leader, we would like to have all of the remaining votes be 10-minute votes. We are going to be enforcing it strictly, so we have a reason to keep moving along. We ask that everybody, once we start voting shortly, stay in the Chamber and continue to vote. We will have 10-minute votes for the remainder of the evening.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, if we have a brief quorum call, I believe we may be able to eliminate the need for some of the votes.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. FEINGOLD. Mr. President, I appreciate the fact that we have had some opportunity to make a few modest modifications at the end of this process. Obviously, I hoped for more, but I do thank the Senator from Utah, Mr. HATCH, the Senator from Alabama, Mr. SESSIONS, the Senator from Iowa, Mr. GRASSLEY, and the Senator from Pennsylvania, Senator SPECTER, who are working on a number of changes and accepting a couple of amendments so we can move this process through. The result will be that the next five votes on my amendments will not be necessary, if this agreement is made. So I hope that causes the unanimous consent agreement to go through.

### AMENDMENTS NOS. 90, 93, 95, AND 96 WITHDRAWN

### AMENDMENT NO. 92, AS MODIFIED

### AMENDMENT NO. 87, AS MODIFIED

I ask unanimous consent that my amendments No. 90, No. 93, No. 95, and No. 96 be withdrawn; that my amendment No. 92, as modified and as at the desk, be adopted; and that a modification of my amendment No. 87 which was agreed to last night be accepted as well.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 92) as modified, was agreed to, as follows:

Credit Counseling Amendment:

(1) On page 34, after line 25, insert—

"(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1)";

(2) On page 42, line 15, strike "and"; and

(3) On page 43, between lines 3 and 4, insert the following:

"(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee."

(4) On page 35, line 12, insert "who is a person described in section 109(h)(4) or" after the word "debtor."

(5) On page 36, line 9, insert "who is a person described in section 109(h)(4) or" after the word "debtor."

The amendment (No. 87) as modified, was agreed to, as follows:

On page 445, strike lines 10 through 13, and insert the following:

**SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.**

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting "101(19A)," after "101(18)," each place it appears;

(2) by inserting "522(f)(3) and (f)(4)," after "522(d)," each place it appears;

(3) by inserting "541(b), 547(c)(9)," after "523(a)(2)(C)," each place it appears;

(4) in pagagraph (1), by striking "and 1325(b)(3)" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28"; and

(5) in paragraph (2), by striking "and 1325(b)(3) of this title" and inserting "1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28".

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I checked with the leader on our side, and I hope it is all right with the Republican leader. I have no amendment relating to the bill. I would like to proceed as if in morning business until anyone has an opportunity to move on the bill, and I will cease and desist at that moment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. BIDEN are printed in today's RECORD under "Morning Business.")

(The remarks of Mr. BIDEN pertaining to the submission of S. Con. Res. 17 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER (Mr. THUNE). The Senator from Tennessee.

Mr. FRIST. Mr. President, for the information of our colleagues, we are about to have the last vote of the evening which is final passage of bankruptcy legislation. I thank all Members for their hard work today in the Chamber, as well as the Budget Committee and their efforts on the budget resolution. They made huge progress today. We will start on the budget Monday morning. We expect amendments during Monday's session. Therefore, we do expect the next vote to be Monday evening at 5:30.

### CREDIT CARD COMPANY DISCLOSURES

Mr. VOINOVICH. Mr. President, I would like to express my concerns about certain practices of the credit card industry. I am especially concerned about the disclosures credit card companies make to their customers. While I am pleased that the bankruptcy reform bill includes new disclosure obligations for credit card companies, I would like to see the Banking Committee examine the credit card industry and consider the need for further reform of the regulations governing the credit card industry.

Mr. SHELBY. Mr. President, through the course of the debate on the bankruptcy reform bill, it has become clear there are many Senators who have concerns about the numerous aspects of the credit card industry. I want to point out that I am aware of the Senator from Ohio's concerns in particular. I want to indicate for the RECORD that I recognize these concerns and to note that I have had a longstanding interest in exploring these matters more deeply. Therefore, I am willing to commit to holding hearings in the Banking Committee later this year to examine the credit card industry and the need to reform credit card regulations. I believe the ranking member also shares my interest in holding hearings.

Mr. SARBANES. I share the Chairman's and your interest in holding hearings on the credit card industry and would hope that we might hear from all those Senators who have expressed an interest and may wish to testify before the committee.

Mr. VOINOVICH. Mr. President, I would like to thank the chairman and ranking member of the Banking Committee for their acknowledgment of my concerns. I also appreciate their interest in this matter and believe that these are serious issues that merit further attention. I look forward to working with the chairman and ranking member in examining these issues associated with practices in the credit card industry.

Mrs. CLINTON. Mr. President, while I strongly believe that Congress should act to fix the problems in our bankruptcy system, I also believe that this bill is misguided and deeply flawed.

This bankruptcy bill fundamentally fails to accord with the traditional purposes of bankruptcy, which recognize that we are all better off when hardworking people who have suffered financial catastrophe get a "fresh start" and a second chance to become productive and contributing members of society. With the passage of this legislation, which makes obtaining this fresh start more expensive and more difficult, we are ensuring that many responsible Americans will continue to be buried under mountains of debt, and unable to take back control and responsibility for their lives.

Our Nation's bankruptcy law developed out of a recognition that the world can be a competitive, often unforgiving place. Bankruptcy reform should therefore be directed toward creating a civil society in which valuing individual responsibility is not incompatible with admitting the enduring truth that sometimes bad things happen to responsible, hardworking people. Sometimes, conscientious Americans need help and support against forces that are too big for them to stand against alone. It should be about making sure that both large corporations and individual citizens are held to the same standards of responsibility and accountability.

This bill is flawed in a number of ways. But I want to begin by commenting on one of its most distressing elements. As many people know. I have long been concerned about the burdens placed on America's families by a lack of health care insurance and by rising healthcare costs. In this bill, the Senate had an opportunity to take one important step to help citizens driven to the point of bankruptcy by unavoidable medical problems. Instead, the Senate rejected this opportunity to lighten the load on Americans dealing with the twin blows of medical and financial difficulties.

The Senate's failure to act is all the more striking to me today, because I must submit this statement into the RECORD while attending to a medical situation in my own family. Fortunately. my family is well-insured, and we are not in danger of losing that coverage. I am deeply aware and profoundly grateful for the good fortune we enjoy in having access to quality medical care in the face of significant medical needs.

And I know that many American families are not so lucky. Indeed, among those Americans whose illnesses led to bankruptcy, 75.7 percent of them had insurance at the onset of the illness. Employees with serious long-term illnesses often lose their jobs, which means they also lose their health insurance.

Medical bankruptcy has skyrocketed in recent decades. In 1981, only 8 percent of personal bankruptcy filings were due to a serious medical problem. By contrast, a recent study by researchers from Harvard Law School and Harvard Medical School found that half of personal bankruptcies filed in this country are now due to medical expenses.

In this bill, the majority simply refuses to acknowledge this current crisis of medical bankruptcy. It refuses to acknowledge that sometimes medical disaster strikes. "Life Happens." The family breadwinner is struck down by illness, and the entire family's financial future veers toward collapse.

This is not a rare occurrence: we all know people who have endured hardships like medical emergencies that break the bank, layoffs, or vanishing pension plans. These are the people the bankruptcy laws are designed to protect. They are facing hardships because of forces outside of their control.

I support real reform that would hold accountable people driven into bankruptcy because of their own irresponsibility. But the evidence shows that the vast majority of chapter 7 bankruptcy filers are not spendthrifts who have run up ther—it cards buying luxury goods. And this bill primarily targets the vast majority of chapter 7 bankruptcy filers who have lived responsibly but are nonetheless facing financial ruin because of the unavoidable vicissitudes of life.

The world has changed since this bill was first considered in 2001. During the past 4 years, workers have sustained unprecedented job losses, endured termination of pension plans, and faced wage cuts and elimination of health care and other benefits as a result of their employer's bankruptcy.

Many of these bankruptcies have been the direct result of wrongdoing by corporate mismanagement. The people who take the biggest hit when big companies go bankrupt aren't the top executives, but the ordinary employees whose pensions and healthcare coverage disappear overnight.

In the last 4 years, the global economy has become relentless. Workers are living with more employment insecurity, and many have to retrain midcareer to adjust to the changing dynamics of the American economy.

We are now a nation at war. And at a time when they are carrying the burden of sending loved ones off to war, military families have become the victims of payday loans charged at 400 percent interest, insurance scams, and other forms of financial chicanery that leave them economically devastated.

Yet this bill does nothing to help these responsible Americans who suddenly find themselves in dire financial straits. In fact, it makes things harder for these individuals to find refuge in bankruptcy. Why is the majority committed to making things harder?

Many of my colleagues on this side of the aisle have asked this question and have received no real answer. So the bottom line is that this bill's proponents, while touting the need for bankruptcy reform and accountability, are willing to address only part of the problem, dealing only with the most vulnerable in our society, and leaving the reform of corporate bankruptcies on the sidelines, requiring no additional accountability with respect to our Nation's companies.

A number of my colleagues in the minority offered amendments in an effort to address many of these changed circumstances, but amendment after amendment was rejected. I simply cannot understand why the Republican majority gave instructions to its caucus to oppose any and all amendments, no matter how reasonable they were or the circumstances they were designed to address.

I find even more disturbing the fact that the majority refused to more appropriately address the special needs of our troops in the context of this legislation. I am baffled by the majority's rejection of Senator DURBIN's "G.I. Protection Amendment," which I was proud to co-sponsor, and which was also supported by the Military Officers Association of America, the Air Force Sergeants Association, the National Association for the Uniformed Services, and the Enlisted Association of the National Guard of the United States, among other organizations. I can't understand why the entire Senate didn't cosponsor this amendment to better protect our men and women in uniform and their families. It is troubling and incomprehensible to me that most of my colleagues would refuse to vote for it.

And while refusing to support an amendment that would have helped military families in a meaningful way, the majority of the Senate had no problem rejecting an amendment that was designed to make it harder for millionaires to hide their assets from creditors, even after filing for bankruptcy.

Even though there appears to be a near universal recognition that the bankruptcy law contains a major loophole, one that enables wealthier Americans who file for bankruptcy to shield their assets through what are called "asset protection trusts," a majority of the Senate rejected a meaningful amendment to close that loophole.

To make matters even worse, yesterday the Senate, again led by the Republican leadership, rejected an amendment offered by Senator KENNEDY, which would have outlawed unlimited homestead exemptions. This would have prevented the wealthiest Americans from avoiding responsibility by hiding their assets from creditors.

The Senate also rejected an amendment that was intended to reinsert language that had been in the legislation the Senate passed in 2001, which would have prevented the discharge in bankruptcy of all liability for willful violation of protective orders and violent protests of providers of lawful services, such as reproductive health services.

Even though this language was in the 2001 Senate-passed bill, it is conspicuously absent from the bankruptcy bill that the Senate is now considering 4 years later.

In other words, bill proponents, led by the Republican leadership, have called for additional significant financial accountability, but not if you are a corporate entity, not if you are wealthy, and not if you are an organization that a court has found to have violated the law and infringed upon the rights of others.

Almost without exception, the majority has voted across the board against these and other amendments, apparently under strict orders from the Republican leadership to oppose any and all amendments, regardless of whether the amendments were designed to help our troops, to remove loopholes for millionaires, to help families facing medical and financial crisis. This is the antithesis of the American and family values that many of my colleagues so like to talk about.

This legislation, especially after refusal, after refusal, after refusal to support amendments to improve it, is unfair and unjust.

In short, the legislation that the Senate is voting on today, could have, with more careful and good-faith consideration, been a vehicle in which we could have thoughtfully addressed abuses in the bankruptcy process by both consumers and corporations. Unfortunately, the Senate leadership chose to go down a different road.

Because of unforeseen and unavoidable circumstances. I will not be present when the Senate votes on final passage of this bill today. But were I able to be here, I would vote no, because this bill is clearly not in the best interests of the American people.

Mr. BIDEN. Mr. President, several years ago, when we were considering this legislation, I spoke here on the Senate floor about some important provisions that I think have been overlooked in our discussions. In my remarks today I will repeat what I said back then, in March of 2001.

We have heard a lot in recent days about how this bill lacks compassion—specifically, that it will hurt women and children who depend on alimony and child support.

Critics claim that by making sure that more money is paid back to other creditors, this bill will make it harder for women and children to get what is coming to them.

I am particularly proud of my record of protecting women and children during my career in the Senate. That record includes the Violence Against Women Act to protect women threatened by domestic violence.

I am here again today to show that, contrary to a lot of the rhetoric that has been tossed around, this bill actually improves the situation of women and children who depend on child support. It specifically targets the problems they face under the current bankruptcy system into a virtual extension of the current national family support collection system.

There may be other aspects of this legislation that we can debate: the balance between creditors and debtors, between different kinds of creditors, or between different kinds of debtors. But on the question of child support and alimony, there should be no dispute.

Because this bill strengthens the collection of alimony. Period.

Over the many years we have discussed this bill, it has earned the support of the National Child Support Enforcement Association, which represents over 60.000 child support professionals.

It has earned the support of the National Association of Attorneys General, which has sent a letter of support personally signed by twenty-seven State attorneys general.

Over the years, the child support protections in this legislation were endorsed by the Attorney General of the State of Vermont.

The Attorney General of Minnesota endorsed them, too, along with the Attorneys General from Illinois, from Massachusetts, and from California, Montana, North Carolina, Michigan, Maryland, Iowa, Hawaii, and Washington.

The child support and alimony protections in S. 256 are so far superior to current law that the National District Attorneys Association, representing more than 7,000 local prosecutors, have endorsed them.

In addition to those national associations, those protections have earned the support of: the California Family Support Council, whose 2.500 enforcement professionals are responsible for carrying out the Federal child support program in California;

The Western Interstate Child Support Enforcement Council, composed of child support professionals from the private and public sectors west of the Mississippi River;

The California District Attorneys Association, consisting of elected district attorneys from each of every one of California's 58 counties and over 2,500 deputy district attorneys; and finally,

The Corporation Counsel of the City of New York. Yes, even New York City loves this bill.

Why has this legislation earned such overwhelming support from the professionals out in the field and in the trenches who, ever single day, seek and enforce child support orders?

One reason is the hard work of Phillip Strauss, who, speaking for the National Child Support and Enforcement Association, has represented the concerns of child support professionals in testimony before our committee over the years we have debated bankruptcy reform. From his personal experience with the problems women and children face under current bankruptcy law, he brought together his fellow enforcement officials to draft the provisions I am here to discuss.

As Mr. Strauss and his colleagues have told us, right now the treatment of child support and alimony in bankruptcy is a mess, and this bill fixes it.

When a deadbeat dad files for bankruptcy under the current system, what happens to mom and the kids?

Well, if the dad is actually making the payments, those payments stop. That's right, the payments stop cold. Mom then has to find a lawyer or a government advocate, take time off of work, and go to bankruptcy court to try to get those payments started again. And when she goes to court, her claim may not be heard that day, so she'll have to return again and again . . . or if she's late, she'll miss her day in court.

What else happens under current law? When dad's bill collectors show up in bankruptcy court, mom has to fight with them over dad's assets. There's a good chance that mom not only needs her payments started again, but she is due past support—support payments dad never made last month, last year. She needs him to pay her back for all the payments he failed to make.

And in asserting her claim, she is not the "Number 1" collector in line. Under current law, she is Number 7. That's right—Not So Lucky Number 7. The current Code permits other bill collectors to beat her in the race to get at dad's assets. The current law handicaps her at the starting line. She is forced to wage a fight to make sure she and the kids receive their due.

And what happens after she fights it out with the bill collectors? Well, under the current system, she might be lucky and get every dollar due. But, she may only get a portion of what is due or she may not get one red cent.

That's not right. If a bankrupt household is a sinking ship, then women and children should be protected first. This is what the current law fails to do, but it is what this bill does: it puts women and children first.

S. 256 dictates that even if he files for bankruptcy, dad must continue making those support payments that mom needs to feed and clothe her children. Under this bill, women and children will continue to receive their support payments during bankruptcy, while everybody else, from the credit card bank to the department store, waits for the bankruptcy judge's final order and plan.

That alone would be a major improvement over current law. But that is just the beginning of the advances of this bill over current law.

This bill makes mom "Number 1" and places her ahead of all the bill collectors on her past-due claim. No other bill collector—not the credit card company, not the car loan company, not the student lenders—can jump ahead of a mother and her children. Every other bill collector must stand in line behind the family.

What is so great about the continuation of payments and making mom "Number 1"? As a practical matter, she doesn't have to find room in her hectic schedule to make appearances in a federal bankruptcy court—an intimidating place for most people. She can go to work without interrupting her day. She can complete her errands and pick up her kids after school. Under the bill, she will be automatically first in line on her claims and she will continue to receive her payments during bankruptcy.

When we pass this bill, she does not have to work her way through the bankruptcy system. The system will work for her, not against her.

That's the beauty of this bill: It is self-executing. The provisions to be added to the Bankruptcy Code will function automatically. This is vital. Unrepresented women will not be harmed by the process, as they are under the current Code.

Today, under current law, these women have to get an attorney and go to court to assert their claims.

In addition, under this bill, family support will never be dischargeable. It must be paid in full. All of it.

This is important because, under the curren, domestic debts may not be paid in full or at all . . . believe it or not. Right now, a deadbeat father can file for bankruptcy and come out without paying one penny of support. While his slate is wiped clean, a mother and her children go without. When this bill passes and the President signs it, the law will hold the deadbeat dad's feet to the fire: he will pay, he will pay in full.

There are other important ways that this bill will remove real obstacles to justice that exist in current bankruptcy law.

This bill not only lifts the stay on support payments during bankruptcy, but it adds that, when a wife-beater files for bankruptcy, a domestic violence restraining order against him must remain in effect. It cannot be stayed. And the woman who needs a restraining order against him can still get one.

I have here an order from a family court in my home state of Delaware. A woman went to the court and requested a restraining order against her abuser, who had already filed for bankruptcy. Incredibly, the judge found, under the current Bankruptcy Code, that a proceeding for a domestic abuse restraining order is automatically stayed "by operation of law."

That's right. We have judges out there right now who look at today's Bankruptcy Code, and they find that filing for bankruptcy stops all proceedings. They find that we have failed to write an exception for proceedings like those for domestic violence. They find their hands are tied.

Then they send a woman in fear for her life off to a federal bankruptcy court to lift the Code's automatic stay by filing a special motion. Unbelievable.

If you think this is fair, if you prefer this state of affairs, then I guess you will vote against this bill. Personally, I am proud of this bill, and I wish that those who are fabricating wild claims about it would stop. If they have their way, the women and children in this country who depend on alimony and child support will be robbed of real protections. That would be a crime.

Under current law, more than just child support and—alimony are stopped in their tracks by the filing of bankruptcy. That automatic stay, as it is called, stops a lot of other proceedings that could provide real help to women and children.

This legislation changes that. It lifts the stay on a number of methods that family support officials use to go after deadbeat dads, who today can hide behind the bankruptcy system. Unlike current law, this bill would permit reporting the deadbeat's overdue support payments to a consumer reporting agency. Under current law, it would permit restrictions on a deadbeat dad's driving, professional, or recreational licenses. It would permit family support collection officials to intercept his tax refunds.

The legislation also clarifies the definition of support payments, ending conflicting bankruptcy decisions by different courts that today question what support payments actually are.

Most significantly, though, this bill prevents a father from completing bankruptcy unless he has paid all his support obligations due after he filed for bankruptcy.

Let's think about this. Under current law, a father filed for bankruptcy and can complete bankruptcy under a plan that relieves him of his past-due domestic obligations. Under the bill, however, this scenario will become obsolete. A father will never complete bankruptcy until he is paid up. He must pay.

Moreover, the bill protects mom during a bankruptcy plan. Once a father is under a bankruptcy plan and he fails to make his support payments, a mother can march to the bankruptcy court and ask the court to dismiss his plan. The court will call dad back in to explain himself. He doesn't want to make payments during his bankruptcy plan? Fine, he can be thrown out of bankruptcy, and find himself back at square one.

Some claim that this bill lacks compassion. Well, right now, women who want child support orders or who already have orders but fail to enforce them slip through the cracks. If we pass this bill, the Bankruptcy Code will empower women with the information they need.

Section 219 of the bill requires the U.S. Bankruptcy Trustee to notify a woman of her rights to use the services of her state child support enforcement agency and gives her the agency's address and phone number. Better yet, the Trustee likewise notifies the agency independently of the woman's claim. This is striking.

Women who need help will get the information they need, because the bankruptcy system is charged with reaching out to family support professionals—acting under federal family support collection law—and putting them at the service of the women and children who need them.

This last item needs stressing, Mr. President, because so much has been made about what will happen after someone who owes family support payments comes out of bankruptcy. The claim is that other "more powerful" creditors will push women and children aside and strip the dad bare before he can make payments to his family.

That makes for a moving story, Mr. President, but it is fiction, not fact.

This legislation requires the bankruptcy Trustee to notify both the woman and the family support collection professionals about the dad's release from bankruptcy, his last known address, the name and address of his employer, and a list naming all the bill collectors who will still be collecting from dad.

This section helps mothers both during and after bankruptcy.

The new notification process will help a mother and the support enforcement agencies keep track of a father, where he is working, and what other bills he is required to pay.

Because of this monitoring, which would be put in place by the bankruptcy system under this bill, mothers and collection agencies can more easily go to court and get that portion of a father's wages that now really belongs to them. Dad may complete his bankruptcy plan, but his obligations do not stop.

These new protections guarantee that family support claims of women and children,will always receive "Number 1" priority—during and after bankruptcy. The process for obtaining a portion of a father's wages—through a wage attachment—gives priority to domestic support orders over orders held by bill collectors, including credit card companies.

That money is taken out of his paycheck before he even sees it. He can't be forced by "powerful creditors" to choose between them and his alimony or child support. Those payments are automatic. Again, the picture of greedy bill collectors rushing to the front of the line makes for dramatic storytelling. But it is only that—storytelling.

The legislation builds on the existing Federal Child Support Enforcement Program, that exists to help women of all walks of life receive their support payments. By tying Federal dollars to federal standards, current law requires state and local support enforcement agencies to enforce national standards.

A couple of the requirements under Federal family support law are: first, that immediate wage withholding should be included in all child support orders; and second, that the withholding of child support obligations be given top priority over every other legal process under State law against the same wages.

Therefore, after bankruptcy, when a mother and the bill collectors walk into court to make claims against the father's wages, the mother is again "Number 1" in priority and those bill collectors fall in line behind her.

In response to some of my colleagues concerns—concerns that I would certainly share if I listened to some of the claims out there—I looked for ways to make the system even tighter.

I found out that the only way to do that was to require a wage attachment, whether the woman wanted one or not. Maybe she wants nothing to do with an abusive husband. Maybe she is afraid for him to know her address. We have to leave that decision up to her, but she will get all the help we can give to help her know her rights.

As I said, I looked for ways to make this bill stronger in support of women and children who depend on support payments, and I simply couldn't find any.

Even if a father does not earn wages, then support enforcement agencies have many tools to use to ensure that the mother and her children are paid. A support enforcement agency can intercept taxes and unemployment benefits, revoke driver's, professional and recreational licenses (like those used for fishing, hunting, and boating), deny passports, and institute criminal and contempt actions.

That is why, even compared to any imaginary "powerful creditor" you might be able to conjure up, mothers and children have real, tangible protections and resources at their disposal to bring a first priority claim against a father's wages after bankruptcy.

Finally, let me conclude where I began: with the enthusiasm for this legislation that we have heard from the folks in the trenches.

Here is what the National Association of Attorneys General has asserted: the bill "improve[s] the treatment of domestic support obligations" and when the current Code's "obstacles are removed, as this legislation seeks to accomplish, we believe that our State and local support offices will continue to be able to collect these monies effectively, regardless of whether other lower-priority creditors remain."

As I mentioned before, the Association's letter was personally signed by the State Attorneys General from twenty-seven States, including the—State Attorneys General from Vermont, Minnesota, Illinois, Massachusetts, California, North Carolina, Michigan, Montana, Maryland, Iowa, Hawaii, and Washington.

The National District Attorneys Association, with more than 7,000 local prosecutors in their membership, does "not believe that after bankruptcy it would be more difficult to collect support simply because credit card debts are not discharged. To the contrary, support collectors have vastly more effective, and meaningful, collection remedies before a bankruptcy case is filed, or after the case is completed, than any other financial institution . . . It is under the current law, during bankruptcy, that support collectors have the greatest difficulty because they are in competition with all other creditors for bankruptcy estate assets and because their most effective collections remedies have been stayed . . . This legislation provides a major improvement to the problems facing child support creditors in bankruptcy proceedings."

I support the reform that the enforcement professionals call for, from New York City to California, from Minnesota to Vermont, from Massachusetts to Michigan. I want to save women and children from having to fight their way through a broken bankruptcy system. I want to make the system work for them, not against them.

A vote against this bill is a vote in favor of the current broken system. A vote for this bill is a vote to protect family support payments in bankruptcy.

That is why I support this bill.

Mr. DORGAN. Mr. President, I know that the Senate is about to pass a bankruptcy reform bill, and that this bill will be signed into law. And it is with some regret that I say that I will not vote for it.

I do believe that there have been cases of abuse of our bankruptcy system, and that some reform is needed. Nobody likes to hear of wealthy people who walk away from their debts because they can game the system. That's not fair to financial institutions, and perhaps more importantly, it's not fair to Americans who pay their debts in full.

I voted for a bankruptcy reform bill twice in the past, most recently in 2001. That bill passed in the Senate with significant bipartisan consensus, and I had hoped that it would be signed into law. But the House of Representatives refused to compromise with the Senate, and ultimately the bill failed.

This time around, I would have liked to have reached another bipartisan consensus. However, the bipartisan spirit seems to have broken down.

My colleagues on the Democratic side offered a number of amendments that were reasonable, common-sense tweaks to the bill, to reflect changes in our country since the last time the bankruptcy bill was considered.

There have been hundreds of thousands of National Guard and reserve troops called up because of the conflicts in Afghanistan and Iraq. They have left behind their jobs, their businesses, and their families. When they find themselves in bankruptcy, why not allow them some consideration? My colleague from Illinois, Senator DURBIN, offered an amendment that would have done precisely that, but it was voted down on a largely partisan vote.

Or how about victims of identity theft? In the last few years, identity theft has become a plague on law-abiding citizens. My colleague from Florida, Senator NELSON, offered a most reasonable amendment, which simply said that if someone is forced into bankruptcy because of identity theft, he should receive some consideration. That amendment was also voted down along partisan lines.

Or how about Americans who suffered major medical problems and were driven into bankruptcy? A very recent Harvard Medical School study found that about half of all people that have been driven to bankruptcy have suffered a major medical problem. Many of these people have lost their homes. So Senator KENNEDY offered an amendment that would have allowed such Americans to keep their home—not a mansion, mind you, but a modest home, while they try to get back on their feet. But this amendment also was shot down.

We have not heard good arguments for why these amendments should have failed. The majority party have really only had one argument: that they want to avoid displeasing the House of Representatives, and don't dare modify the Senate bill even with modest, reasonable amendments.

Well, I am just not going to support a bill that turns its back on service members and veterans, or on hard-working people that just happen to have had a medical crisis, and have been driven into bankruptcy not because they are gaming the system, but because of circumstances beyond their control.

One other point. This bankruptcy bill was supposed to be about preventing cheating in the bankruptcy system. Well, I offered an amendment, along with Senator DURBIN, that would have dealt with a different kind of cheating: the fraud, waste, and abuse that has been rampant in many of the reconstruction contracts in Iraq. My amendment said, let's appoint a bipartisan special committee of the Senate to investigate these abuses. But that amendment did not even get a vote.

In 1941, a Senator from Missouri by the name of Harry S Truman heard allegations of wasteful and fraudulent spending in the preparations for World War II. He thought this waste and fraud could undermine the war effort, so he drove around the country, visiting military bases. And when he came back, he called for the creation of a special committee. That committee, which came to be known as the Truman Committee, saved the U.S. government an estimated $15 billion—and that's in 1940s dollars.

That was a case of a Democrat calling for investigations of contracts handled by a Democratic Administration. But for Harry Truman, this wasn't about politics—it was about looking out for the U.S. taxpayer, and not squandering resources that were meant for the war effort.

We need a Truman Committee again, because the majority party is not calling for oversight hearings on these contracting abuses in Iraq. My amendment would have created a bipartisan special committee to do just that. But it did not even get a vote, because the majority party rested on a technicality in Senate rules to deny a vote.

Under these circumstances, I am, regretfully, not going to vote for the bankruptcy bill.

Ms. MIKULSKI. Mr. President, today I rise to oppose S. 256, the Bankruptcy Reform Bill. This bill is unfair to the little guy—to families who are struggling to overcome medical bills, unemployment, or divorce and find themselves forced to declare bankruptcy. Under the guise of reform it makes it tougher on families who have done the right thing. That's not what we should be doing in the United States Senate. Our job is to make sure we are protecting middle-class Americans and small businesses who are the lifeblood of our economy, not hurting them. While some of the reforms of the bill are good steps it goes too far to favor credit card companies and corporations over working families.

This bill creates such strict standards that many of our nation's most vulnerable families are treated unfairly when they are forced to file bankruptcy because of the loss of a job, the high cost of health care or a divorce. This bill does nothing to address the problems these individuals are having, the problems that have driven them to bankruptcy and it provides virtually no discretion for courts dealing with these bankruptcy claims.

I have supported bankruptcy reform legislation in the past—but it was not this bill and it was not this process. This bill was rushed through Committee with the promise that amendments would be considered on the floor, that there would be debate and an opportunity to improve the bill. Yet, none of the amendments were truly considered, most were opposed by Republicans marching in lock step to defeat every amendment to the existing bill. In short, there was no real opportunity to improve the bill. What came to the floor leaves the floor virtually unchanged and truly unfair to many of our citizens who are forced to file bankruptcy because of unforeseen circumstances like job loss, divorce or medical costs.

Half of all families filing for bankruptcy have faced illness or high medical costs. Medical costs, especially for seniors, are one of the fastest growing causes of bankruptcy. These are not folks who use their credit cards to buy fancy suits, designer wares or other luxury goods. They are paying for the basic necessities of their lives with their credit cards. They are putting their food, clothing and medical bills on the credit cards. Nearly 9 out of 10 people file bankruptcy because of health care problems, job loss or divorce. These individuals don't want to file bankruptcy—in fact, they have tried to avoid bankruptcy. That's why they pay those medical bills with credit cards when they simply can't afford any other way. Or they skip going to the doctor all together because they know have no means to pay. And what happens—they get sicker, incur greater costs for catastrophic care and that sends them spiraling further into debt and forcing many into bankruptcy.

We ought to be doing something to help those individuals—not creating a law that will make matters worse. The Senate should be on the side of those Americans who are facing hard times and hard decisions. We should be addressing the lack of health care and working to ensure that we are creating good, high paying jobs.

I am opposing this version of the Bankruptcy Reform Bill because it creates needless and unfair hoops for these individuals to jump through and the rigid means test puts those in real need of relief at a disadvantage. It imposes new burdens on families already overburdened by the debt they must shoulder. Certainly we all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury goods, new cars and the like, only to then declare bankruptcy, should be held accountable. Many of us can remember a mother or father who taught us about debt, taught us the dangers of getting into debt and to be responsible for paying all our debts back. But we need to be fair in how we calculate who can pay. And we need to make sure that the provisions are not so rigid that they allow courts no discretion to take into account the circumstances that lead to the bankruptcy.

The legislation that the Senate considers today is different from past versions that I have supported. There is obviously the removal of the Schumer amendment which held those who block access to abortion clinics accountable for the court judgments that they have incurred. But it also gives women, single parents, families and those living in poverty less opportunity to overcome their hardships and get a fresh start. This bill punishes people, assumes that all those filing for bankruptcy have purposefully created their debt problems, imposes a strict standard that does not take into account the circumstances surrounding the bankruptcy and the real means of individuals to pay their debt back. That's not fair, it's not right, and it makes life tougher on working families. I urge my colleagues to join me in standing up for women, children and working families by opposing this bill.

Mr. REED. Mr. President, today I share my concern over S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and urge my colleagues to vote against this flawed legislation. This legislation provides a misguided and uneven approach to combating bankruptcy abuse, especially because it leaves so many causes of bankruptcy unaddressed.

Most provisions in this bill were written years ago and do not target abuses which have recently gained public attention. When this bill was originally drafted, corporate fraud at Enron and elsewhere had not yet come to light. The executives at these corporations had not yet been caught enjoying huge personal gains at the expense of shareholders and employees only to later file for bankruptcy. This bill does not fully address these types of bankruptcy abuses, and unfortunately efforts to close these loopholes failed.

At the time this bill was drafted, companies were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. In fact, the number of senior citizens in bankruptcy tripled from 1992 to 2001, representing the largest increase of any group. Today, nearly a million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation and their benefits reduced; this is a substantial increase from when the bill was drafted. I am disappointed that this body not only voted against the Feingold amendment that would have helped elderly Americans protect their houses, but also against the Rockefeller amendment to improve employees' claim for owed wages and benefits. The Rockefeller amendment would have also required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy.

The bill adds a means test, which supporters of the bill say will significantly reduce abuse. The nonpartisan American Bankruptcy Institute found that over 96 percent of families seeking to go into chapter 7 bankruptcy would be judged as unable to pay under the new means test. However, the means test would likely deter qualifying families from filing for bankruptcy due to the addition of regulatory requirements and legal costs.

I am not opposed to sensible bankruptcy law reform, but this is a reverse Robin Hood—squeeze the down-on-their-luck middle class and impoverished Americans and give the proceeds to the financial services industry. Contrary to the claims of creditors, many of these families simply cannot pay. About half of families going into bankruptcy have had their utilities or phone shut off, and 60 percent went without medical care. One in five families that are bankrupt because of medical bills went without food. Surveys have shown that many of them want to repay their bills but are unable to, and they must ultimately file for bankruptcy to stop the harassment of collection agents.

This bill does nothing to prevent bankruptcy by targeting its causes. We should work to ensure adequate worker compensation, lower the high cost of health care, improve financial education, and stem predatory lending.

Our middle class is increasingly squeezed. Median family income has been relatively stagnant, rising by only 12 percent in constant dollars from 1978 to 2003. This increase has not kept up with families' sharply increasing costs. Health care costs have risen by 327 percent in constant dollars from 1988 to 2004. The real cost of tuition at a four year public university increased by 646 percent from 1978 to 2003. Child care costs have risen by 35 percent more than inflation from 1986 to 2003.

With less disposable income, families are less able to make it through difficult financial times and can be devastated by a single unexpected event. It saddens me that many of my colleagues in the majority voted against Senator KENNEDY's amendment to raise the minimum wage for the first time in eight years. This measure could have meant the difference to countless Americans between being able to pay their bills and having to file for bankruptcy.

Indeed, according to a new Harvard Law School study, illness or high medical costs cause half of personal bankruptcies. Certainly this is sure to affect the 45 million uninsured Americans, up from 30 million in 1978. It also has a traumatic effect on those who do have health insurance, one-third of whom lost it while they were sick. Yet again, I believe it was a mistake for this body to have killed an amendment to offer protections to patients with high medical bills.

We also continue to see some banks cross the line into predatory lending practices. We must continue to find a balance between providing access to credit and capital and protecting individuals from predatory lending. Unfortunately, as many of my colleagues have pointed out, members of our Armed Forces have become a top target of these unsavory practices. Senator DURBIN's G.I. protection amendment would have extended protections to military members who have been forced into bankruptcy because of income loss connected to their service. It would also have protected them from predatory "pay day" loans. Unfortunately, this amendment was voted down.

For all of these reasons, I intend to vote against this flawed legislation, and I urge my colleagues to do the same.

Mr. LAUTENBERG. Mr. President, we are now into our second week of debate on this bill, but in fact, we have been talking about it for 8 years, since it was originally introduced.

During that time, personal bankruptcies in our Nation have surged, while the profits of credit card companies have soared.

We had an opportunity to pass a good bill that would have curbed real abuses of bankruptcy, while protecting consumers who fall on hard times because of a medical catastrophe, divorce or the loss of a job. Instead, the majority rejected dozens of amendments that would have protected the homes of senior citizens, and required credit card companies to level with consumers about how much they would really pay in interest and penalties.

Now we are left with a bill that punishes consumers and lines the pockets of the credit card companies, a bill that protects the mansions of multimillionaires who file for bankruptcy protection but makes it easier for landlords to evict tenants from their homes if they are forced into bankruptcy, and, a bill that makes no distinction between a family struck by catastrophic illness, and a spendthrift who maxes out his credit cards on a shopping spree.

I mentioned catastrophic illness because half of all bankruptcies today are the result of medical debts. Most families who are driven into bankruptcy by a medical problem probably think it can never happen to them because they have health insurance. But it can happen to anyone, and it does.

Three-fourths of the people who file for bankruptcy because of medical debts have health insurance when the medical problem begins.

But eventually their insurance runs out or certain treatments are not covered. And the next thing they know, they are facing financial ruin.

Bankruptcy also hits families that have been torn apart by divorce. On Sunday, the Washington Post published a front-page article about this bill.

The article described how a woman who was left alone by her husband to raise three children had fallen behind on her credit card payments. Even though she worked a second job and paid $2,000 a month to the credit card companies, her debt continued to pile up because of exorbitant late fees and interest rates. This woman was almost an indentured servant to her credit card companies, struggling to pay off a debt that could never be satisfied.

This is not an isolated incident. The trend in the credit card industry today was described by one expert as a "fee feeding frenzy."

Credit card companies collected almost $15 billion in penalty fees last year—nearly 10 times the $1.7 billion they collected in 1996.

Penalty fees have become so important to the bottom line that some banks refer to customers who pay their bills on time as "deadbeats," because they cannot be hit with exorbitant penalties.

It has become commonplace for credit card companies to jack up the interest rates of customers who are slightly late with their payments—in some cases, by no more than one day.

Credit companies already charge late fees of up to $39 for every late payment. Piling a higher interest rate on top of that late fee is like double jeopardy, and that is not fair to consumers.

There are many reasons why a consumer might be a day or two late in making a credit card payment. Maybe a child got sick and had to see a doctor, and his mom was too busy taking him to the hospital to worry about a credit card payment. Maybe a car broke down, and it had to be fixed so a worker could get to their job. Maybe the mail was a little slow that week.

Whatever the reason, a consumer should not be unfairly and harshly punished for one late payment.

At the very least, credit card companies should give consumers fair warning before hiking their interest rates. If there is a problem, the consumer should have a chance to correct it before their rate can be increased.

But the credit card companies are not interested in fairness. In fact, they actually hope customers will be late with a payment so they can be hit with penalty fees.

To that end, they engage in "bait and switch" tactics to lure consumers with low rates, then automatically jack those rates up the first time a payment is a day late.

One example of this is the Capital One Platinum MasterCard.

Customers going to the Capital One Web site to apply for a credit card will find the following ad, which touts "a great low rate"—an "8.9 percent fixed APR."

This ad is pretty prominent. As you can see, the type is large and easy to read, and there is a nice picture.

On an entirely separate Web page, buried in pages of fine print, Capital One discloses that:

> All your APRs may increase to a default rate of up to 25.9% ANNUAL PERCENTAGE RATE if you default under this Card Agreement because you fail to make a payment to us when due, you exceed your credit line or your payment is returned for any reason. Default APRs will be effective . . . immediately.

In other words, despite advertising a "fixed" rate of 8.9 percent, Capital One can almost triple a customer's rate to a whopping 25.9 percent—just for sending one payment one day late.

The cost of this rate hike to a customer with a balance of $5,000 would be as much as $880 in interest payments over the following year. That is simply too harsh of a penalty for sending one payment one day late.

This is the dire situation in which many consumers find themselves. Even though they make payments every month, and don't charge any new purchases to their credit card, they fall deeper and deeper into debt. Eventually, seeing no other way out, some of these people declare bankruptcy.

Many States have passed laws to protect consumers from unscrupulous penalties and rate increases. Unfortunately, these laws cannot be enforced, as courts have ruled that the banks are bound by the laws of the States where they are located, not where their customers reside.

As a result, credit card companies have flocked to States with weak consumer protections, creating a "race to the bottom."

With this bill, we had an opportunity to put a stop to that, and end the unscrupulous gouging of consumers. By giving consumers a chance to correct problems before they were hit with higher interest rates, we could have prevented many bankruptcies. Unfortunately, we have squandered that opportunity.

This bill does nothing to address the roots of the bankruptcy problem in our country today. And it does nothing to help consumers. For that reason, I must vote against S. 256.

Mrs. MURRAY. Mr. President, today I voted against a bankruptcy bill that puts credit card companies and politics ahead of ordinary Americans. Rather than providing balanced reform, this bill punishes those who have fallen on hard times—particularly our military families and those who are struggling under the weight of soaring medical bills.

I have heard from residents across Washington State that the cost of medical care is forcing them into bankruptcy. In fact, a report last summer by the Working for Health Coalition found that half of Washington State bankruptcies were due to rising health care costs. Most of these families are working and more than half have health insurance, but the growing cost of health care is so overwhelming it pushes them into bankruptcy. A national study last month found that 61 percent of bankruptcy filers did not seek the medical care they needed. These families deserve help, but instead this bill punishes them for circumstances beyond their control.

This bill also fails to adequately protect our military families, particularly our Guard and Reserve members. These patriotic families have had to struggle with half their normal income during long—and often extended—deployments. Many have seen their businesses collapse at home while they have served overseas. I have met with Washington State Guard and Reserve families and have seen how they are struggling to meet the financial burdens of long deployments. They deserve a lifeline, not more paperwork, legal fees, and threats from collection agencies. The Senate had an opportunity to protect our soldiers through Senator DURBIN's amendment, but that was rejected for a Republican amendment that falls far short. Our military families deserve better.

If Republicans had been willing to make the bill less punitive toward ordinary Americans, they would have adopted a number of reasonable amendments in committee and on the Senate floor, but they refused. For example, Republicans blocked an amendment that would have protected workers and retirees if their company files for bankruptcy. Republicans also voted down amendments to ensure the elderly don't lose their homes and to discourage predatory lending. And they even failed to protect people who have had their identities stolen by criminals who then run up huge credit card bills. These are all examples of how Republicans are protecting corporate interests at the expense of vulnerable individuals.

This bankruptcy bill also stacks the deck against women and children. For example, this bill will make it harder for single mothers to collect the past-due child support they and their children are owed.

I am also disappointed that the Senate rejected the Schumer amendment, which would have assured that those who commit violent crimes at reproductive-health facilities against women and doctors do not escape paying their debts and fines by declaring bankruptcy.

Looking at the big picture, this bill fits a pattern of Republican proposals that turn the tide against average Americans. Last month, Republicans tipped the scales of justice against working families by limiting their ability to seek compensation for a death or injury caused by a company's negligence. On Monday, Republicans rejected a proposal to raise the minimum wage. Taken together, these actions will make life harder for working families and represent a dangerous trend that threatens average Americans.

In the past, I have voted for bankruptcy reform legislation, but today families find themselves in a much different place financially because of the costs of healthcare and military service. Congress should not punish them for things beyond their control with this unbalanced, unfair bill. American families deserve reform, not retribution.

Mr. LEVIN. Mr. President, I cannot vote for this legislation, although I support bankruptcy reform. It is clear that some people abuse the bankruptcy system. However, this bill would make it more difficult for individuals and families who have suffered genuine medical and financial misfortune to get a fresh start. Nearly half of all of those studied in a recent research effort by Harvard Law School said that illness or medical bills drove them to bankruptcy and nine out of ten have faced health problems, job loss, divorce or separation. A letter to the Chairman and ranking member of the Judiciary Committee, signed by nearly a hundred bipartisan bankruptcy law professors from law schools across the country, said, "The bill is deeply flawed, and will harm small business, the elderly, and families with children."

I have in the past supported reasonable bankruptcy legislation. The legislation which is before the Senate today could have been greatly improved by a number of reasonable Democratic amendments which have been offered over the last several days. However, the Republican majority has largely, on a party-line basis, rejected all amendments out of hand.

I am disappointed that we did not add some reasonable flexibility measures to the "means test." The purpose of the means test is to prevent consumers who can afford to repay some of their debts, from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test. For example, the Senate defeated an amendment that would have exempted members of the armed services, veterans, and spouses of service members who die while in military service from application of the "means test" provisions of the bill. This would have helped them if their family or their business goes into bankruptcy. That amendment was defeated. Further, an amendment offered by Senator KENNEDY that would have exempted from the means test debtors whose severe medical expenses have caused the financial hardship was also defeated. Senator CORZINE also offered an amendment that would have exempted economically distressed caregivers from the means test, but that amendment was also defeated by a largely party line vote. The Republican majority even rejected Senator NELSON's common sense amendment that would have exempted victims of identity theft from the means test.

Further, the Senate defeated amendments that would have protected the homes of our elderly and people forced into bankruptcy after a medical crisis.

I am also disappointed that the Senate defeated several amendments that would have closed loopholes used by wealthy individuals seeking bankruptcy protection.

The Senate had an opportunity to close an increasingly popular loophole where the very wealthy shield millions of dollars before declaring bankruptcy by setting up so-called asset protection trusts. Senator SCHUMER proposed an amendment to put an end to this abuse of the tax system by limiting the use of these trusts to shield assets only up to $125,000. The amendment was defeated 39 to 56.

The Republicans also rejected an amendment offered by Senator DURBIN to curtail the abusive practices of executives at companies like Enron and WorldCom who received millions of dollars in compensation shortly before the companies filed for bankruptcy protection. The chamber also defeated an amendment proposed by Senator

AKAKA that would have provided credit card users with information to assist them in making more informed choices about their credit card use and repayment. This amendment would have helped consumers understand the consequences of their financial decisions, such as making only minimum payments, so that they can avoid the kind of financial pitfalls that lead to bankruptcy. Sadly, this amendment was also rejected.

The Schumer amendment, which in the past has been strongly supported on a bipartisan basis by the Senate, was stripped from the bill this year. The amendment, which provides that debts arising from violence and threats of violence could not be discharged in bankruptcy proceedings, should have been adopted by the Senate.

We do need bankruptcy reform, and I wish that the Senate had taken this opportunity to pass equitable reform. This bill does not achieve that goal and therefore I cannot support it.

Mr. GRASSLEY. Mr. President, I rise to urge my colleagues to vote for final passage of the bankruptcy reform bill. I have been working on this piece of legislation for a long time, and I am pleased to see that we are nearing the end. This bipartisan bill has been maligned by many, and I want to set the record straight. What we are trying to do is fix a bankruptcy system that has gone awry, where individuals who have the ability to repay their debts don't do so, and the rest of us are left holding the bag.

What we have tried to do with this bill is inject some fairness into the system, whereby people who have assets and the ability to repay back their debts go into a chapter 13 repayment plan, and people who do not have any means and no ability to repay go into chapter 7. We've kept the safety net of full chapter 7 bankruptcy discharge for those who truly need it, and channeled others that can pay their creditors into a repayment plan.

This is done through a means test, which is fair and flexible enough to take into account all the unique circumstances a debtor and his family face. The means test takes into account all reasonable and necessary expenses for a debtor and his family. We provide for a court to consider "special circumstances", so that a debtor can show that he doesn't have the ability to repay, and should stay in chapter 7. The bill excludes from the means test poor people, those individuals who are below the median income. So if individuals can pay and they really don't have the ability to pay, they will continue to have their debts fully discharged in chapter 7 bankruptcy, while those who do have assets cannot hide them from their creditors and escape repayment.

Let me mention a couple of things this bill does not do. This bill doesn't put the credit card companies first or leaves hard working families out to dry, as some of the bill's detractors have claimed. In fact, the bill helps women and children and improves their situation when someone files for bankruptcy because it provides new priorities and tools so that child support and alimony will be collected before other creditors. We move child support up in priority, up to number one from number seven in line, and that means that they will be paid before a lot of other creditors, including the credit card companies. The bill makes staying current on child support a condition of discharge. We provide that debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony.

Domestic support obligations are automatically non-dischargeable, without the costs of litigation. The bill also makes payment of child support arrears a condition of plan confirmation. The bill provides better notice and more information to facilitate child support collection, and tracking down deadbeat parents. Further, the bill protects the name of a debtor's minor children from public disclosure in a bankruptcy case.

This bill also doesn't help credit card companies and other lenders take advantage of honest consumers, as some have alleged. In fact, the bankruptcy bill contains some new real and significant consumer protections. The bill requires credit card companies to make new disclosures that benefit customers and prohibits deceptive advertising of low introductory rates. It requires credit card companies to provide key information about how much money people owe and how long it will take to payoff their credit card debt by only making a minimum payment. The bill requires lenders to prominently disclose when late fees will be imposed, the date on which introductory or teaser rates will expire, and what the permanent rate will be after that time. The bill also prohibits lenders from canceling an account because the consumer pays the balance in full each month to avoid finance charges.

The bill also provides that consumers will be given a toll-free number to call where they can get information about how long it will take to payoff their own credit card balances if they only make minimum payments on their balance. This will educate consumers about their financial situations. In addition, the bill allows for more judicial oversight of reaffirmation agreements, to protect consumers from being pressured into onerous agreements.

The bankruptcy bill also includes a debtor's bill of rights to prevent bankruptcy mills from preying upon those who are uninformed of their rights. The bill provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill provides for penalties on creditors who fail to properly credit plan payments in bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. Finally, the bill contains credit counseling programs to help consumers avoid the cycle of indebtedness.

So with the bankruptcy bill, we've tried to close loopholes in the system and eliminate abuses. We've created new consumer protections. We've made chapter 12 permanent. We've made sure that financial markets are not subject to risk. Although the bill doesn't contain everything I would have liked to include, it is a good start to putting an end to the abuses.

It has been a long haul, but I think we are finally seeing this bill through to the end. And there are many people that I'd like to thank because they've been instrumental in getting us to this point. I've been quite busy lately as chairman of the Finance Committee, working on social security, medicare and tax reform. I take that responsibility very seriously. Because of Finance Committee markup and hearing conflicts, I have had to rely on my colleagues to manage this bill on the floor. But the job has been in very good hands.

In particular, I appreciate Senator HATCH and the diligence that he has shown towards this bill. On more than one occasion, he made sure that the bankruptcy bill made it through the committee process so that we could have it considered on the floor. He has stepped up to the plate many a time to manage the bill, work on compromises, and keep the engines running. Senator HATCH is a good friend and colleague, and I respect his perseverance as well as his legal expertise. I'm glad to see that all his hard work during the years has finally come to fruition. Senator HATCH has been a true stalwart through the years, and I thank him for his dedication to bankruptcy reform. I also want to thank his able staff, Perry Barber, Kevin O'Scanlin and Bruce Artim for all their help on this bill.

I especially want to thank Senator SESSIONS for being a tireless champion of bankruptcy reform here in the Senate. I have relied on his intellect and legal prowess for the last eight years that we've been working on this bill. I believe that Senator SESSIONS has brought a unique perspective to the bankruptcy bill with his dedication to eliminating abuses in the bankruptcy process. He is a firm believer that if you borrow money, you have to pay it back. So I truly am thankful for all the work that Senator SESSIONS has done, especially in managing this bill on the floor. He is one sharp lawyer, and I am honored to have him as my friend. I also want to thank his staff for their excellent work, in particular his talented Chief Counsel William Smith, Cindy Hayden, Amy Blankenship and Wendy Fleming.

I want to thank Chairman SPECTER for placing this bill at the top of the agenda in the Judiciary Committee, and for moving it so quickly and ably in this Congress. His staff, Harold Kim, Mike O'Neill, Ivy Johnson, Hannibal Kemmerer, Tim Strachan, Brendan Dunn and Ryan Triplette have been extremely helpful in getting the job done. I want to thank Majority Leader FRIST and his staff, Allen Hicks, Eric Ueland, Sharon Soderstrom and Dave Schiappa, as well as Senator MCCONNELL and his staff, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis.

I would be remiss if I didn't thank our friends on the House side, and in particular Chairman SENSENBRENNER and his staff, Phil Kiko, Susan Jensen and Ray Smietanka. Chairman SENSENBRENNER has really been a leader on bankruptcy reform, and a true driving force behind this legislation. I look forward to additional collaborations with him.

In addition, I want to thank Senator CARPER, Senator NELSON, Senator BIDEN and Senator JOHNSON. This is truly a bipartisan bill, and it couldn't have gotten done without their help.

Finally, I thank my own staff, my Finance Committee Chief of Staff and Legislative Director Kolan Davis and my Judiciary Committee Chief Counsel Rita Lari Jochum, for their hard work on the bill. I also want to thank my former staffer John McMickle, for his expertise and advice on this important piece of legislation. Good staff is hard to find, and I am proud to say that my staff is probably the best in town.

Mr. NELSON of Nebraska. Mr. President, today, I am pleased to see the passage of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This bill has been under consideration in Congress since before I was elected to the Senate. Since my arrival, I have been a proponent of the goals it strives to attain to ensure that abuse of America's bankruptcy laws is curtailed and that Americans who find themselves in unanticipated financial duress and have legitimate reasons to seek bankruptcy protections will have the opportunity to do so.

The goal of the bill is to prevent certain abuses of the bankruptcy system. It includes more than five hundred pages of new and reformed law, but key provisions include the following.

First and foremost, the bill will curb abuse of the bankruptcy system by implementing a means test to ensure that those who can afford to repay some portion of their unsecured debts are required to do so. Bankruptcy petitioners with relatively high incomes could be required to file under chapter 13 instead of chapter 7, and repay some of their debt out of future income. The means test takes into account the petitioner's income, debt burden, and allowable living expenses, which can vary significantly according to the debtor's place of residence and particular circumstances. Filers who cannot afford to repay at least $6,000 will be given unfettered access to chapter 7 liquidation proceedings.

The bill has a safeguard that will allow judges to consider extenuating circumstances in each bankruptcy case. After determining this means test calculation, the judge can then take any "special circumstances" into consideration before making a decision to shift the debtor into chapter 13. This will allow judges to consider cases where catastrophic illnesses or other unexpected financial calamities that have impacted a family or individual to the point where their debts are too heavy a load to carry. This provision made many of the amendments considered on this bill redundant.

The bill implements an important safeguard for family farmers by making permanent the extension of chapter 12 bankruptcy rules. Chapter 12 has expired every year, necessitating the need for an extension. Last year, Senator GRASSLEY and I worked in a bipartisan fashion to secure the chapter 12 extension. The bill also bumps the exemption level for family farmers from $1.5 million to nearly $3.24 million, which will be adjusted periodically for inflation.

The bill includes an important provision to safeguard our children. It contains provisions that strengthen the ability of women and children to collect child support and marital dissolution obligations. This provision will enable some families to continue to provide for the needs of their children.

Consumers also benefit from protection measures in this bill. By requiring new minimum payment and introductory rate disclosures for credit cards, consumers will be protected from surprise fees and unexpected rate fluctuation. It also contains a 'debtor's bill of rights' requiring that bankruptcy attorneys and petition preparers disclose their services and fees for those services to consumers.

It is important to note that no American will be denied access to the bankruptcy system under these reforms. However, those trying to shield their assets while abandoning their financial responsibilities will find it much more difficult to abuse the system and leave their debts for other Americans to cover through higher interest rates and fees.

As I mentioned earlier, there were many amendments to this bill offered for consideration. As I considered each of these amendments, I measured the intended impact of each amendment on the bill. In voting against many of the amendments I did so knowing that the groups of individuals singled out by the amendments, such as veterans, individuals with chronic health problems, or military personnel, were already adequately protected in the underlying bill.

I carefully considered each amendment offered to the bill on a case by case basis to determine if the amendment improved the bill. Because I believe the bill already covered most of the issues presented in the amendments, it was my determination than many of the amendments did not improve the bill and thus, I voted against them.

Again, this bill includes a safeguard for judges to consider "special circumstances" like medical bills, deployment to war and other circumstances. In addition to this safeguard, I supported an amendment to the bill that clarified the circumstances that might be considered by a judge. That language provided specific examples a judge might consider including "a serious medical condition or a call to order to active duty in the armed forces." I voted for this amendment because it provided an improvement, in the form of clarity on special circumstances.

It is important that creditors, retailers, and small businesses who in good faith provide people with credit do not bare the brunt of the cost when debtors find themselves unable to pay. It is also critical that we protect consumers who have found themselves in unanticipated situations where their inability to meet their debts is beyond their control. And it is important to safeguard consumers against predatory lending practices.

I worked hard to find the correct balance among these competing goals on this bill and feel that the Senate did a good job in accomplishing that overriding principal. I am pleased to support this bill because I believe it provides needed improvements to our bankruptcy protection laws that will benefit every American.

Mr. AKAKA. Mr. President, I am in opposition to the bankruptcy legislation.

The financial services industry has become increasingly complex with new technology, products, and services. However, this dated legislation has not had significant changes made to it since the 107th Congress.

Predatory lending has surged since the initial development of this bankruptcy legislation. In the early 1990s, there were fewer than 200 payday lenders nationwide. Now, there are more than 20,000. Payday lenders made 100 million loans in 2003. These loans represent more than $40 billion. Most alarmingly, according to the Consumer Federation of America, interest rates on these loans begin at 390 percent.

Yet, Congress has failed to act to prevent the exploitation of working families that are short on cash due to unexpected medical expenses or other needs. I am afraid that the passage of this legislation will further reduce the risk for predatory lenders, and as a result, they will aggressively market their products even more. We must act to protect consumers from these unscrupulous lenders. I remain committed to restricting all forms of predatory lending, including payday loans, and to providing consumers with alternative affordable short-term loans.

Access to credit has increased significantly and household debt has skyrocketed as a result. Revolving debt, mostly compromised of credit card debt, has risen from $54 billion in January 1980 to more than $780 billion in November 2004. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt. This legislation tightens the grip that creditors have on consumers, but it fails to restrict the aggressive marketing practices of credit card companies.

In addition, this bankruptcy bill fails to provide adequate, timely, and meaningful disclosures for consumers. As we make it more difficult for consumers to discharge their debts in bankruptcy, we have a responsibility to provide additional information so that consumers can make better informed decisions. S. 256 includes a requirement that credit card issuers provide a generic warning about the consequences of only making the minimum payment. This provision fails to provide the detailed information for consumers on their billing statements that my amendment would have provided. My amendment would have given consumers the detailed personalized information necessary for them to make better informed choices about their credit card use and repayment. It would have required companies to inform consumers of how many years and months it would take to repay their entire balance and the total cost in interest and principal, if the consumer makes only the minimum payment. The amendment would also have required consumers to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months. Finally, my amendment would have required that creditors establish a toll-free number so that consumers can access trustworthy credit counselors. Unfortunately, this amendment was defeated.

I appreciate the willingness of the Chairman of the Banking Committee, Senator SHELBY, to continue to work with me on this very important consumer awareness issue.

I also proposed an amendment that would have required credit card companies to make concessions to individuals in debt management plans so that credit counseling could be a viable alternative to bankruptcy. Unfortunately, that amendment was also defeated.

I fear that this bill will end up significantly harming families that have suffered financially due to illnesses, the loss of a job, or the death of a loved one. I supported other reasonable amendments intended to protect low-income families, the elderly, and other vulnerable populations from this overly restrictive legislation. However, these amendments also failed.

Instead of making improvements to the legislation, an old, outdated bill has been approved by the Senate. It is low-income working families that will be hardest hit by this anti-consumer legislation. After passage of this legislation, we will need to take additional steps to prevent further exploitation of consumers by unscrupulous lenders and to improve relevant and useful information about credit to consumers. I will continue to fight to protect working families from predatory lenders and overly aggressive creditors.

Mr. KERRY. Mr. President, I strongly believe that reform of our bankruptcy laws is necessary. Too often, bankruptcy is used as an economic tool to avoid responsibility for unsound decisions and reckless spending.

Last year Americans paid interest on about $690 billion in revolving debt. Most of that debt is credit card debt. According to a Consumer Federation of America study, the average household carries between $10,000 and $12,000 in credit card debt and has nine credit cards. Consumers pay an average interest rate of 12.4 percent or approximately $85 billion annually in credit card debt interest.

Let me point out that during both the 105th and 106th Congress, I supported legislation to reform bankruptcy laws and end the abuse of the system.

However, I am unable to support the Bankruptcy Reform Act before us today because I believe it is unfair and unbalanced, does far too little to help consumers and curb creditor abuses, and includes an inflexible "means test" that will harm many debtors who are genuinely in need of the protections and the "fresh start" that bankruptcy is intended to provide.

The Bankruptcy Code currently offers two alternatives for individuals: chapter 7, under which a debtor's assets are sold and the proceeds are divided among creditors, and chapter 13, under which debtors who have a regular income develop a repayment plan for a portion of the debt. In many cases, debtors filing under chapter 13 repay a greater proportion of their debt than those filing under chapter 7.

The Bankruptcy Reform bill creates a "means test" that will make it more difficult for individuals earning above the median income level to erase debts under chapter 7, forcing them to file under chapter 13, which would require them to repay a greater portion of their debt. I believe that those who can afford to repay a greater portion of their debts during the bankruptcy process should be required to do so.

A narrowly targeted reform bill designed to reduce abuse of the system would provide bankruptcy judges with the discretion to dismiss or convert a case to chapter 7, but would not mandate it. It would have provided creditors the opportunity to ask for a dismissal or conversion without putting the burden on every filer to prove that he or she deserves the protections of chapter 7.

However, the "means test" included in the bill is inflexible, and it provides no room for a bankruptcy judge to determine whether the circumstances that led to the debtor's financial situation warrant treatment under chapter 7. A parent with a sick child bankrupted by medical bills is treated the same way as a reckless spender who ran up debt on luxury items. That's simply not right.

Again and again, Senators offered amendments that sought to increase the flexibility of the "means test" and offered other changes to improve many aspects of this legislation. Unfortunately, in almost every case, these amendments were defeated.

The Senate voted against giving any relief to families forced into bankruptcy by devastating health care costs. One million men and women each year turn to bankruptcy protections in the aftermath of a serious medical problem—and three-quarters of them have health insurance. Senator KENNEDY offered amendments to exempt from the means test debtors who have incurred large medical expenses and other reasonable considerations. Both his amendments were defeated.

The Senate voted against relief for children caught up in their parents' bankruptcy. And it voted against relief to help military families who are struggling with the burdens in Iraq and around the world.

The Senate defeated critical consumer protections that would simply give consumers more information and might help end some of the abusive and deceptive practices of some credit card companies. The industry pushes out an incredible 5 billion solicitations every year. Under current regulations companies can change interest rates at almost any time. They market aggressively and, I believe for some, deceptively. Only last year, the Office of the Comptroller of the Currency issued an advisory letter warning national banks that engaged in deceptive credit card marketing and account management practices that they would face compliance and reputation risks.

Remarkably the bill does protect the wealthiest Americans by allowing them to continue hiding their assets from creditors during bankruptcy and never making good on their debt. Senator SCHUMER offered an amendment to eliminate and end this abuse, and it was defeated. And it does not stop corporate executives from looting their companies and leaving workers, stockholders, and creditors holding the bag. How can we target middle-class families and ignore the wealthiest Americans as they hide their assets?

This bill is needlessly punitive to families. It is as if we have gone out of our way to harm and not help them. For example, when a debtor receives a bankruptcy discharge, the legislation sets up new classes of nondischargeable debt that will compete for payment along with child and family support. Senator DODD offered an amendment to enable parents to better meet the needs of their children during bankruptcy. Unfortunately, it was defeated. The credit card companies beat the kids on that vote.

This bill is not only detrimental to consumers, but it also hurts our small businesses. This effort to reform our bankruptcy laws will make it more difficult for entrepreneurs to start a small business and imposes additional regulations and reporting requirements on small businesses who file for bankruptcy.

I believe we must do everything possible to ensure the viability of small businesses and to assist in fostering entrepreneurship in our economy. Regulatory and procedural burdens should be lowered for small business wherever possible. However, the bill fails to meet this challenge. Instead, this legislation promotes additional red tape and a government bureaucracy. It imposes new technical and burdensome reporting requirements that are more stringent on small businesses that file for bankruptcy than they are on big business. Further, the bill will provide creditors with greatly enhanced powers to force small businesses to liquidate their assets.

Any big business would have difficulty complying with these new burdensome reporting requirements. But think of the difficulties an entrepreneur or a mom-and-pop grocery store will have in complying with this dizzying array of new and complex requirements. These small businesses are the most likely to need, but least likely to be able to afford, the assistance of a lawyer or an accountant to comply with these new requirements. I cosponsored an amendment offered by Senator FEINGOLD to strike many of the small business provisions in the bill because they would increase reporting requirements on small businesses and make it easier for creditors to force liquidations of small business during the bankruptcy process. Unfortunately, that amendment was not adopted.

I am pleased that an amendment sponsored by Senator COLLINS and myself which will extend chapter 12 bankruptcy protections to our family fishermen, has been included in the bill. The small, family-owned fishing businesses are in serious trouble. We are making progress in rebuilding stocks; however, the cost of this progress has been carried by fishermen working Georges Bank and the Gulf of Maine. The Collins-Kerry amendment will help ensure that fishermen have the flexibility under chapter 12 of the Bankruptcy Code to wait out the rebuilding of our commercial fish stocks without back tracking on our conservation gains to date. It will help preserve the rich New England fishing heritage in Massachusetts.

Despite some provisions, which I do believe improve the system, overall this bill does not provide bankruptcy reform. Inexcusably, this bill helps creditors without helping consumers. It will let the very rich continue to hide money in homes and trusts. It gives no relief to families hit by medical bills or other financial hardship. It even puts credit card companies ahead of children when debt is allocated to creditors. I will vote no.

Mr. SESSIONS. Mr. President, today, for me, marks the culmination of 8 long years of hard work, and I am glad we have finally reached this point, where we will not only pass this bill, but the House will do so as well and the President will sign it into law. I believe that we have eliminated some abuses with this bill. I wish we could have accomplished more, but we could not let the perfect be the enemy of the good. Let me say to my colleagues, that there are some issues like homestead and asset trusts that will come back, and I look forward to working on those, but make not mistake about it, this is a good bill and I am excited to see it pass.

The policy questions we have been addressing are these:

(1) whether bankruptcy is a necessary and permitted way to recover from overburdening debt; and

(2) when is bankruptcy being abused and used as an escape valve for individuals capable of repaying some, if not all, of their debt.

The goal of this bill has never been to create additional burdens for those who have over-extended themselves for one reason or another, but to help them achieve financial responsibility after bankruptcy, so that they can avoid similar setbacks in the future.

It is clear to me that when you have statements from debtors that they are using bankruptcy to "[take] advantage of one of the opportunities the Government offers," that the responsibility for slowing down the 1.6 millions consumer bankruptcy filings per year lies with Congress.

As we approached this bill, our goal was not to punish those who legitimately need the fresh start that bankruptcy offers. However, our goal was to disallow people from filing bankruptcy simply for the sake of taking advantage of a financial opportunity provided by the government. People who can afford to pay all or a part of their debts over a limited period of time should not get off Scot free.

Let me just for a moment, talk about the concept of bankruptcy. The term derived from the medieval Italian phrase "broken bench." Merchants would sell their wares in the marketplace from benches. If the merchant ever reached a point where he could not pay his debts, his creditors would seize all of his wares and divide it among themselves. They did not stop with the seizing of wares, however. The creditors would break the merchants' bench, to bankrupt the merchant from reopening.

Our goal under this legislation was not and we did not "break the bench." Instead of trying to prevent merchants or individuals from having a second opportunity, we accomplished just the opposite. People who need a fresh start under this bill will get one. The people who can pay some of their debts back will have to do that. Let me just highlight a few of the benefits in this bill.

First, S. 256 requires that individuals receive credit counseling prior to filing for bankruptcy. This counseling will help an individual decide if bankruptcy is the appropriate mechanism to remove debt and will help the individual understand what filing bankruptcy actually means. In many instances, the deceptive and fraudulent advertising practices of bankruptcy mills lure consumers into bankruptcy unnecessarily. Debtors should know that there are many ways to get back on their feet financially—such as entering into voluntary repayment arrangements.

To curb the practice of preying upon debtors, S. 256 establishes the Debtor's Bill of Rights. The Bill of Rights requires that debt relief organizations disclose the nature of the services they offer, explain the alternatives to filing bankruptcy, disclose the rights and obligations of debtors who file for bankruptcy, and explain the consequences of filing for bankruptcy.

Second, S. 256 establishes a means test to help determine whether people are capable of paying back a meaningful portion of their debts. This test might help the debtor avoid a Chapter 7 filing, where creditors will liquidate the individuals assets and where the debtor will have a very hard time getting creditors to extend credit to them in the future. If a debtor files under Chapter 13 and learns how to manage money under a structured repayment plan that requires some discipline, the debtor learns financial responsibility and should be able to avoid future financial turmoil. Chapter 13 bankruptcies allow debtors to keep their assets and pay back a portion of their debts over a 5 year period. In exchange, the remaining portions of their debt are discharged and the debtor gets a fresh start.

Third, S. 256 creates new protections for consumers, especially in the area of credit cards. We require credit card companies to disclose the dangers of making only a minimum payment and we prohibit deceptive practices like advertising low introductory rates—rates used to bait and switch the credit card holder. We also require that a toll-free number be provided to consumers, where they can obtain information on how long it will take to payoff their credit card balances.

The consumer benefits of this bill are enormous. Instead of breaking the bench, this bill promotes financial responsibility. The bill vastly improves the current situation in bankruptcy for certain categories of individuals. For example, it provides special benefits to women and children, through child support and alimony, and provides parents the ability to deduct expenses such as school tuition. Make no mistake about it, while the bill provides some increased protection for unsecured creditors, it provides more protection for consumers. Logically, there is absolutely no reason to oppose it.

Mr. President, over time, many people have worked on this bill, and I would just like to take a moment to express my appreciation for their work.

First, it has been an honor to work closely with Senators GRASSLEY and HATCH to make this legislation a reality. I appreciate both of them so much and I believe they both have done yeomen's work on this bill. I thank Senator FRIST for making this bill one of his top priorities and I appreciate the leadership of Senator MCCONNELL.

I think it is appropriate that we take just a moment to express appreciation to some people who gave extraordinary effort to make this successful conclusion.

First, I note that in my office it has taken three chief counsels to get through this bill. I appreciate the hard work of Kristi Lee, my first Chief Counsel and currently a magistrate judge in the Southern District of Alabama. She did an outstanding job on this bill during the first years that this legislation was in the Senate. I also appreciate the work of my former Chief Counsel Ed Haden, who is currently doing appellate litigation at one of Alabama's outstanding law firms, Balch and Bingham. While I also appreciate the work of my current Chief Counsel, William Smith, and legislative counsels Amy Blankenship and Wendy Fleming for their efforts in this endeavor, my Deputy Chief Counsel Cindy Hayden has really given an extraordinary effort on this bill.

These fine staffers have worked night and day for two weeks to guide this bill to passage. William Smith has given every ounce of his strength to successful passage. He deserves particular praise.

Additionally, I appreciate the work of Lloyd Peeples, a former counsel of mine who has clerked for a bankruptcy judge and now serves as an AUSA in the Northern District of Alabama. He provided invaluable assistance on this bill.

Sean Costello, a former counsel of mine who now works for the Office of Justice Programs at the Department of Justice, provided outstanding work to help make this bill a reality.

Brad Harris, a former counsel of mine who now works for the Burr and Forman firm in Birmingham, never failed in working long hours and providing key assistance in seeing this bill through.

And finally, Brent Herrin, my former counsel who worked hard on cram down and other issues, did outstanding work. Brent practices tax law for the Deloitte Touche firm in Atlanta.

For eight years, these lawyers have all worked on this legislation. I know they are happy to see it come to a conclusion. I am too.

In the past I have thanked the former staffers from other offices that have worked on this bill, I will not name them individually today, save John McMickle who served Senator GRASSLEY and played a major role in helping to craft this bill. John believes in the underlying principles in this bill and I appreciate his work.

I also want to thank Rita Lari Jochum, Senator GRASSLEY's current Chief Counsel. I have seen very few staffers with her drive and dedication and she is to be commended for her efforts on this bill. Her good demeanor has been a source of calm in the storm.

I appreciate the work Perry Barber, Brendan Dunn, Kevin O'Scannlain, and Bruce Artim of Senator HATCH's staff, and the work of Harold Kim, Ivy Johnson, Tim Strachman, Mike O'Neill, Hannibal Kemmerer and Ryan Triplette of Senator SPECTER's staff.

I must also thank Dave Schiappa, Allen Hicks, Eric Ueland, Sharon Soderstrom, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis from the Leadership staffs of Senators FRIST and MCCONNELL, all who have provided tremendous assistance along the way in shaping this bill into its final form.

Mr. President, I also want to thank Chairman SENSENBRENNER and his staff for their remarkable work in getting this bill done. Phil Kilko and Susan Jensen did outstanding work on this bill.

I thank the senior Senator from Alabama, Senator SHELBY, for his work on this bill. He guarded his banking jurisdiction like a roaring lion.

This is a great day, Mr. President. I thank the Chair and yield the floor.

Mr. FRIST. Mr. President, the Senate will soon vote on final passage of the bankruptcy reform bill. This bill constitutes the most sweeping overhaul of bankruptcy law in 25 years. Like class action, bankruptcy reform curbs abuse of the legal system. I am hopeful that it will pass with a strong bipartisan vote.

Bankruptcy reform has long been in the works. Similar bills have passed the Senate in the 105th, the 106th, and 107th Congresses. Today, in the 109th we will finally deliver a package that restores fairness and personal responsibility to the bankruptcy system.

The House has agreed to take up the legislation, pass it quickly, and send it to the President for his signature.

I thank my colleagues for their hard work and leadership. In particular, I would like to thank: Senator MCCONNELL, a good friend and counselor, who has made sure that we have the votes on every amendment and who has helped secure final passage; Senator GRASSLEY, the bill's lead sponsor, who has been a tireless advocate for bankruptcy reform for nearly a decade; Chairman SPECTER, who skillfully led the bill through Committee; Senator HATCH, who, as a floor manager, has led on the substance of each and every amendment; and Senator SESSIONS, who has led debate on the floor again and again, and who lent his expertise to explain the finer points of the law.

Like class action, the bankruptcy reform bill is another example of bipartisan cooperation. Nearly every vote on every amendment has been bipartisan. Our work has been a great example of how thoughtful, bipartisan negotiation can deliver meaningful solutions for the American people.

America has always been a place for second chances. As Americans, we value innovation, reinvention and risk taking. It's part of our national DNA, part of why we are so spectacularly successful. It's also why America has long supported generous bankruptcy law. We recognize that sometimes people get in over their head, or are hit with an unexpected set back, and they need a fresh start, a second chance.

Congress has passed, and courts have upheld, Federal bankruptcy laws for over 100 years. The Constitution gives Congress the express power to "establish uniform laws on the subject of bankruptcies throughout the United States."

As the Supreme Court has stated, "One of the primary purposes of the Bankruptcy Act is to give debtors a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt."

Unfortunately, however, the system has veered away from its original positive intent. In the past two decades, bankruptcies have skyrocketed—actually accelerating during the economic boom years of the 80's and 90's.

Last year, we reached an historic high of over 1.6 million filings per year. The total number of bankruptcies more than doubled during the 1980's and then doubled again from 1990 to 2003. Personal bankruptcies outnumber business bankruptcies by a multiple of more than 45.

We all pay the price for these bankruptcy filings. Every bill you and I pay includes a hidden "bankruptcy tax" of $400 per year per household. That tax is figured into in every phone bill, electrical bill, mortgage payment, furniture purchase, or car loan we pay.

For many people, bankruptcy has become a first step rather than a last resort. Opportunistic debtors who have the means to repay use the law to evade personal responsibility. In some cases, they even plan their bankruptcy, buying a mortgage and running up credit cards and then declaring they're broke.

With this bill, we are putting an end to the abuse. Wealthy debtors who have the means to pay some, or all, of their debt will be required to do so.

The bankruptcy bill establishes a means test based on a simple, fair principle: those who have the means should repay their debts. The legislation specifically exempts from consideration anyone who earns less than the median income in their state. It allows every filer to show "special circumstances" if they cannot handle a repayment plan.

And it makes clear that active duty military, low income Veterans, and debtors with serious medical conditions are protected by these safe harbor provisions.

But for those individuals who are abusing the system, they will no longer be able to hide behind the law. Nor will they be able to duck their family responsibilities. These new reforms make child support a high priority.

Most people who get into financial trouble want to do the right thing. They want to make good on their obligations and pay what they owe. But they are in over their head and need a fresh start. This legislation will not affect the vast majority of these filers. What it will do is close loopholes that have let unscrupulous debtors slip through.

Today's impending vote is a victory for fairness, compassion and common sense. It took eight years, but we are finally here.

I applaud my colleagues for their leadership. Together with class action reform, we are returning fairness and common sense to the legal system.

When the legal system gets off track, it affects us all, consumers, creators, and innovators alike. Jobs are lost. Prices go up. We pay in big and small ways. By reforming the system, we strengthen our ability to grow. We keep America moving forward.

I look forward to tackling other lawsuit abuse issues including gun manufacturer liability, medical liability, and asbestos reform. I am hopeful that we will continue to work together delivering meaningful solutions to the American people.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—74

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kohl
Kyl
Landrieu
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—25

Akaka
Boxer
Cantwell
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Obama
Reed
Rockefeller
Sarbanes
Schumer
Wyden

NOT VOTING—1

Clinton

The bill (S. 256), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. HATCH. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### INTERNATIONAL JUSTICE

Mr. BIDEN. Mr. President, I rise for two purposes. The first is to draw attention to a recent program at the Supreme Court on the work of Justice Robert Jackson and Thomas Dodd, the father of Senator CHRISTOPHER J. DODD, dealing with the International Military Tribunals at Nuremberg. I was happy to read the remarks of my colleague, Senator DODD, at the event, and I was interested to find that many of the conclusions he draws from his father's experiences remain essential to our conduct of international justice today—and, unfortunately, they are all too often forgotten.

I would first echo the remarks made by Senator DODD and salute the extraordinary work performed by Justice Robert Jackson and Thomas Dodd in their roles as the U.S. Chief Prosecutor and Deputy Prosecutor, respectively, at Nuremberg over 50 years ago.

The Nuremberg Tribunal taught us many lessons: that even in the depths of war, justice is not blind; that those who practice terror, oppression, hatred, and mass murder will be punished. Perhaps equally important, however, was the notion that they should also be afforded a trial. Indeed, the United States committed itself to overcoming the passions of the moment and reaffirming the rule of law. I believe this action set an important precedent that is still applicable today.

Critically, the Tribunal also helped record the horrific crimes of the Nazi regime so the whole world would see the brutality and understand the depravity of those unimaginable acts.

Unfortunately, crimes against humanity have occurred since the Nuremberg Tribunals, and they continue to occur today in places such as Darfur in Sudan. I believe that it is again necessary to remind ourselves of the important lessons learned over 50 years ago when Justice Robert Jackson and then Thomas Dodd—soon to be Senator Thomas Dodd—brought before the world the evidence of Nazi atrocities and said, "This cannot stand."

I ask unanimous consent that the remarks of Senator DODD at the Supreme Court on February 15, 2005, entitled, "Justice Served, Lessons Learned: Robert Jackson, Thomas Dodd and the Nuremberg Trials," be printed in the RECORD following my comments here today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. Mr. President, I encourage my colleagues to take the time to read this speech and consider this important message and its application today.

### EXHIBIT 1

### JUSTICE SERVED, LESSONS LEARNED: ROBERT JACKSON, THOMAS DODD, AND THE NUREMBERG TRIALS

It's a privilege to be with you in the Supreme Court Chamber, where cases that have changed the course of our nation's history have been argued and decided.

As a United States Senator, it's not often that I make my way across the street to this building and to this branch of government.

Two years ago, I was here to observe oral argument in Nevada Department of Human Resources v. Hibbs. That case considered the constitutionality of the Family and Medical Leave Act. I was interested because I authored the Family and Medical Leave Act in the Senate.

The bill had survived two Presidential vetoes and had taken seven years to become law. But in this institution, these facts were of little consequence. Nothing is quite as humbling as Justices deciding whether or not to strike down a law you labored over for years. I was relieved when the Court, by a margin of 6 to 3, upheld the Act.

But that visit, and others I've made over the years, prompted me to think about the differences between the Senate and the Supreme Court.

Senators show up to work in suits; Justices wear robes.

Senators are under the constant scrutiny of television cameras; Justices have somehow managed to keep them out of this Chamber.

And, of course, Senators have to run for reelection every six years; Justices of the Supreme Court have the best job security in the world.

So it's understandable why no fewer than 13 United States Senators later served on the Supreme Court. That number includes three Chief Justices—Salmon Portland Chase, Edward Douglass White, and Oliver Ellsworth of Connecticut.

I tried to comfort myself by finding what I assumed would be an equally long list of Justices who resigned their seats on the Court for the honor and privilege of serving in the U.S. Senate. But that list was exactly one name long.

That lone individual, I discovered, was David Davis, U.S. Supreme Court Justice, and later Senator from Illinois. He was appointed to the Court by Abraham Lincoln in 1862, and served here for 15 years before resigning in 1877 when he was elected a Senator by the Illinois state legislature.

It should be noted, though, that the U.S. Senate wasn't his first choice. He was a candidate for the presidential nomination five years earlier in 1872. He sought the nomination of what was then known as the "Liberal Republican" party. Some might suggest it was that characteristic that would make him most unique today.

I'd like to recognize, of course, Justice Souter, who has joined us this evening. And though he isn't here today, I'd also like to recognize Chief Justice Rehnquist.

Justice Rehnquist is a wonderful student of history who has done so much to educate our nation and the world about this unique institution. And as I'm sure many of you know, from 1952 to 1953 he served as a law clerk for Justice Robert Jackson.

Last month I had the honor of participating in the inauguration of President Bush. I don't think anyone watching the ceremony on that day could fail to be moved by the courage and fortitude displayed by Chief Justice Rehnquist. I think I speak for everyone here, and countless others, as well, in wishing him well this evening.

I'd like to thank Barrett Prettyman of the Supreme Court Historical Society for his kind introduction, and I'd like to thank Professor John Barrett for his historical notes as well.

I'd also like to thank Greg Peterson of the Robert H. Jackson Center for his remarks, and for the invitation to speak to you this evening. And I'd like to welcome members of the Jackson family who have joined us this evening.

If Nuremberg was the most profound experience that influenced my father's life, there were few individuals whose words and ideas carried greater weight with my father than those of Robert H. Jackson.

Justice Jackson was truly an extraordinary man whose life's journey took him from a farmhouse in upstate New York, to the U.S. Department of Justice, where he served as Solicitor General and Attorney General, to the Supreme Court, to a courtroom in Nuremberg, Germany. Following Nuremberg, he returned to this very chamber where, less than five months before he passed away, he and his eight colleagues voted to end racial segregation in schools across our land.

Robert Jackson graduated from neither college nor law school.

And prior to his appointment to the Supreme Court, he had never served as a judge. Yet he became one of the most respected jurists of his time, one known for his thoughtfulness, his fairness, his courage, and his eloquently-written opinions. He was an ardent defender of the freedoms articulated in our nation's Bill of Rights.

Of particular relevance today, Justice Jackson defended these freedoms even during times of war, and even when he was at odds with many of his fellow justices. He was one of only three justices to dissent in Korematsu v. United States, which allowed the detention of Japanese-Americans in internment camps during World War II—a decision we now regard as a stain on our nation's historical commitment to freedom and justice.

Most of all, Justice Jackson was committed to promoting and enforcing the rule of law, not only here in the United States but around the globe, as well.

Having witnessed the horrors of Nazi Germany, he had a deep and abiding belief that the law is humanity's strongest and noblest weapon against tyranny and oppression.

We gather here this evening two days after the 113th anniversary of Justice Jackson's birth, and just a few months after the 50th anniversary of his passing on October 9, 1954.

It's fitting, as well, that we assemble here two weeks after the 60th anniversary of the liberation of Auschwitz.

More than any other events, the liberation of Auschwitz and the Nuremberg trials were the two events that laid bare before the entire world the horrors committed by the Nazi regime.

At liberation, the Western world saw, for the very first time, the gas chambers, the cattle cars, and the crematoria. They saw gruesome piles of corpses, and the emaciated few who had survived the largest and deadliest of Hitler's death camps. At Nuremberg, the war and the Final Solution were painstakingly and meticulously documented and recorded so the existence of these horrific events would never, ever be in doubt.

With each passing day, there remain fewer and fewer of those who can personally bear witness to the atrocities of the Nazi regime. As a result, our generation's responsibility becomes even greater—to ensure that the lessons we learned six decades ago do not fade away into the mist of history.

This responsibility was one that my father took very, very seriously—and it was reflected in how he raised his six children. From a very early age, he would tell us about Adolf Hitler and Heinrich Himmler, and describe places like Auschwitz, Buchenwald, and Dachau.

My father believed firmly that the value of the Nuremberg experience would not only be in the individual sentences meted out to the named defendants—but, in a larger sense, in the legacy the trial would leave to future generations.

In hindsight, some might think it was inevitable that nations like ours would judge criminals like the Nazis according to the rule of law. In reality, there was great debate, both here in the United States and among our allies, over how to handle the Nazi leaders.

We know today that as many as four Supreme Court Justices, and many others including the powerful Senator from Ohio, Robert Taft, felt that the trials at Nuremberg would be a case of ex post facto judgment, and would therefore be illegal under our own Constitution. The Chief Justice at the time, Harlan Stone, called Nuremberg a "high-grade lynching party."

A great many in our nation and around the world advocated a different treatment for captured Nazi officials—one that had long been practiced by nations victorious in war: summary execution. Winston Churchill was said to have supported such a policy.

Why, so the argument went, should we show any mercy to these criminals—men who were responsible for the ruthless slaughter of six million Jews, and five million other innocent men, women, and children?

Men who razed to the ground entire villages and towns and massacred those who lived in them.

Men who launched an aggressive war that eventually claimed over 54 million lives, and turned the European continent into a mass graveyard.

The argument was a compelling one. But a different one would win the day. That case was the one advocated by men like Justice Robert Jackson and a young lawyer named Thomas Dodd. These two and others believed that the best way to judge these crimes against humanity, and to deter future crimes, would be a fair, legal trial.

They insisted on the rule of law, rather than the rule of the mob.

And so in the summer of 1945, Justice Jackson assembled not a team of executioners, but a team of legal professionals who would meticulously use the Nazis' own documents, records, and testimony to prove their guilt. My father was one of the men he chose to be on that team.

During his fifteen months at Nuremberg, my father wrote daily letters to my mother. These beautifully written letters always began with the words "Grace, my dearest one." They fill up this volume I hold in my hand—and a second volume of equal length.

I had no idea that these letters even existed until the early 1990's. Before reading these letters I, arranged them in chronological order. I finally completed this long process in the summer of 1995.

Without any prior awareness, you can imagine my shock when on the evening of July 28, 1995, I sat down to begin reading the letters and realized that the first letter to my mother was written on July 28, 1945—50 years earlier, to the day.

My father arrived in Europe on that day with mixed feelings. He knew that he had an opportunity to be part of a historic occasion. But he was reluctant to leave my mother and their children. I was only a year old at the time—and a very active child according to my mother. Sometimes I wonder if I was the reason my father decided to go to Nuremberg.

Ultimately, the decision was made to see the job through. As he explained it, "Sometimes a man knows his duty, his responsibility so clearly, so surely, he cannot hesitate—he dare not refuse it. Even great pain and other sacrifices seem unimportant in such a situation. The pain is no less for this knowledge—but the pain has a purpose at least."

He threw himself into a job he expected would last only a few months. In July 1945, this 38-year-old attorney had no idea that he would be promoted from staff counsel to trial counsel, then to senior trial counsel, and then to Executive Trial Counsel—the deputy prosecutor for the United States.

The Nuremberg trials themselves were an absolutely massive undertaking, with so many questions that had to be answered:

Who would be the judges?

Who would be the lawyers?

Would the defendants be tried together or separately?

Would the trials be conducted under American or European legal customs?

Would they be military or civilian trials?

And perhaps the most pressing practical question: Where would the trials be held?

My father, like many, expressed reservations about holding the trial in Nuremberg. The city, he said, was "probably the worst in Germany" in terms of destruction. He suggested that Heidelberg, which had survived the war essentially intact, would have been a better alternative.

But for reasons of principle—if not practicality—he knew that Nuremberg was the right choice. It was, after all, Nuremberg where the Nazis met on September 10, 1935 to codify into law their regime of oppression, terror, and hatred. And so it was totally fitting that in Nuremberg, these Nazis were brought to justice.

My father's ambivalent outlook towards his participation in the trial changed dramatically on August 14th, 1945. On that day, he and his fellow prosecutors began interrogating prisoners. He described it as "a day I shall never forget," and the day that followed as "the most fascinating day of my life."

From August through November 1945, my father spent much of his time face to face with some of the most vital cogs in Hitler's murderous Nazi machine. William Keitel. Hans Frank. Rudolph Hess. Hermann Goering. One by one, each of them would do his best to deflect blame and to deny. My father remarked that "It would be relieving to hear one of them admit some blame for something. They blame everything on the dead or missing."

Throughout the course of the investigation and trial, my father became one of Justice Jackson's closest associates—and one of his closest friends, as well.

There's no question that my father viewed Justice Jackson as much more than a professional colleague. "I am proud of my association with him," he wrote, "and even more proud of his friendship."

My father admired Jackson greatly for his keen intellect, his quiet dignity, and for his steadfast dedication to seeing the trial through to the end. In a letter he wrote to Justice Jackson's son on the occasion of the Justice's passing in 1954, my father called him "one of a very few great men whom I have been privileged to meet in my lifetime."

I will not go into much detail discussing the proceedings of the trial itself. Much of the trial was actually fairly tedious. For the most part, anyone expecting tearful admissions of guilt was sorely disappointed.

My father, for his part, presented several aspects of the prosecution's case, including those on concentration camps, on economic oppression, and on slave labor. He cross-examined numerous witnesses, including six of the defendants. Four of those defendants were ultimately sentenced to death. The other two served lengthy terms in prison.

For my father, though, Nuremberg was about much more than the defendants, the evidence, and the sentences. It was about the opportunity, as he put it, "to write a record that will mark a new point in man's relation with man."

My father returned from Nuremberg with a deep commitment to the rule of law and its role in upholding the basic human rights and human dignity of every man, woman, and child.

That commitment is the reason why—as a Congressman and a Senator—he was such a staunch supporter of the civil rights movement. It's the reason he was such an ardent opponent of Communism. And it is the reason why he embraced bold new efforts to eliminate poverty in our nation and throughout the world.

My father also left Nuremberg as an ardent believer in the need to create and use law to preserve and promote human dignity.

Nuremberg was essentially a trial without precedent. As I mentioned earlier, when Justice Jackson and others were developing the guidelines for the Nuremberg trials, there was a great deal of debate and disagreement over the legality of the proceedings.

Justice Jackson spent a great deal of time arguing why, in fact, there was legal precedent in international law for the crime of waging aggressive war.

But beyond those legal arguments, there was another, far more fundamental point—a point that Robert Jackson and my father shared. That the crimes committed by the Nazis were so heinous, so unthinkable, that they violated the basic rules by which all of humanity must abide.

As Justice Jackson said in his opening statement, "The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated."

This idea of a natural law, rooted in basic standards and norms of human behavior, was a powerful argument in favor of the Nuremberg trials. Perhaps no document embodies the idea that such basic standards exist more than our own Declaration of Independence, which affirms that "all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these rights are life, liberty, and the pursuit of happiness."

Natural law was a concept for which my father was a strenuous advocate. I can remember a story he told me about a paper he wrote at Yale for a professor of his, Harold Lasky, a renowned socialist. In the paper, my father argued passionately in favor of natural law theory. When he got the paper back, a note was written on the front page: "I disagree with everything you have written. A Plus."

The Nuremberg trials' lasting legacy, my father believed, would be in international institutions that could punish crimes against humanity, and more importantly, deter those crimes in the future.

As he put it, "By a declaration of criminality against these organizations, this tribunal will put on notice not only the people of Germany, but the people of the whole world. Mankind will know that no crime will go unpunished because it was committed in the name of a political party or a state; that no crime will be passed by because it is too big; that no criminals will avoid punishment because there are too many."

Regrettably, my father's and Robert Jackson's vision has not yet been fully realized.

Over the last six decades, we have not witnessed the level of horrific destruction and carnage perpetrated by the Nazis. But we have seen, time and again, terrible crimes against humanity in places like Cambodia, Iraq, Bosnia, Rwanda, and today in the Darfur province of the Sudan.

Tragically, many of the individuals involved in these crimes—people like Joseph Stalin, Pol Pot, and Idi Amin—were never brought to justice. In some of these cases, the world did eventually create tribunals—but always, like Nuremberg, temporary, ad hoc courts that were established after the fact.

To truly be called effective, a court must not simply punish the guilty, then disband. It must serve as a permanent reminder to any potential criminals that they, too, will be held accountable. Such a court can not only punish crimes—it can deter them.

In my view, there is only one kind of institution that can ensure the kind of accountability that can prevent future war crimes—and that is a permanent court empowered to indict, prosecute, and judge international criminals.

After many, many years of effort, the International Criminal Court came into existence on July 1, 2002. Unfortunately, rather than lend its support to this effort, the United States has walked away from it.

I'm aware that there are complex issues that need to be resolved regarding our nation and the International Criminal Court. But I strongly believe that our nation's interests, and the world's interests, would be far better served if we worked to address those issues rather than abandoning the entire process.

What, after all, does it say about a nation that prides itself in upholding freedom, justice, and human rights when it simply disengages itself from an institution whose goal is to promote those values? And what does it say about an institution's power to bring criminals to justice when the most powerful nation in the world refuses to play a part?

The tragic events in Darfur today represent exactly the kind of situation in which people like my father and Robert Jackson envisioned international courts playing a prominent role. It is my hope that the current administration will see the Darfur genocide as an opportunity to participate in this institution in some way, rather than simply standing on the sidelines. Otherwise, the cry of "never again" will ring tragically hollow.

There is another legacy of Nuremberg that is just as powerful as its role in the development of international law. As I mentioned earlier, the decision to hold a trial at Nuremberg—rather than summary executions—was not an easy choice.

We rejected the certainty of executions for the uncertainty of a trial. We turned away from violence that was certainly within our ability, and, many would argue, within our right.

But what we learned is that our nation became stronger, and more respected, because we took the course that we did.

At the heart of that decision was the idea that this nation will not tailor its eternal principles to the conflict of the moment—and the recognition that if we did, we would be walking in the very footsteps of the enemies we despised.

This is a principle I believe we would all do well to remember today.

This past year, we all were horrified at the images and stories of abuse of prisoners held in places like Abu Ghraib in Iraq and Guantanamo Bay, Cuba.

The abuse itself was shocking. In my view, though, even more troubling are the comments on this issue that we've heard from some who occupy positions of great power in our government.

Legal justifications for the use of torture by American troops;

For turning over individuals to other nations known to torture detainees;

And, perhaps most egregiously, legal justifications that would explicitly exempt any executive branch official from prosecution for torture "if they are carrying out the President's Commander-in-Chief powers."

Sixty years ago at Nuremberg, the United States and our allies considered the defense "I was just following orders" to be so cowardly that it was prohibited under the rules of the trial.

Perversely, there are some who consider that defense acceptable for Americans today.

The proponents of these rationalizations tell us that we are living in different times.

That we are facing enemies who show blatant disregard for human life, and whose organizations transcend international borders.

As a result, the argument goes, we must re-evaluate certain conventions and practices that we have long respected.

I wonder how men like Robert Jackson and my father would respond to these arguments. Would they be swayed by them? Would they be persuaded somehow that the followers of Osama bin Laden and Saddam Hussein are fundamentally different from the despicable and depraved defendants who swore allegiance to Adolf Hitler?

Would these men, who prosecuted the Nazis based on testimony and documentary evidence, be heartened by the argument that the best responses we can muster against evil today are attack dogs and water-boarding?

I truly, truly think not. On the contrary, I believe that Robert Jackson and my father would be tremendously disappointed and saddened at some of the actions taken by Americans on behalf of our nation—and by some of the official legal arguments made in support of those actions.

I believe that Robert Jackson and Thomas Dodd would see these actions as a reflection of a government that has turned away from the lessons of history and stepped back from the very values of due process and equal justice that we expect of others worldwide.

Is the threat of international terrorism a dangerous one? Unquestionably. But we cannot allow that danger to compromise bedrock principles which have stood since the birth of our nation—values like the right to be free from torture or from indefinite detention without a charge.

We enshrined these values in our Constitution not simply because we believe Americans are entitled to them. We did so because they affirm a basic sense of human dignity in each and every man and woman. And because we, as a nation, are committed to upholding that dignity—even if others do not.

If we cavalierly toss aside those values in response to a particular enemy or threat, it is not our enemies, but we who will pay the ultimate price.

As Justice Jackson said at Nuremberg, "we must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well."

A century and a half ago, in his second State of the Union address, Abraham Lincoln said that in giving or denying freedom to slaves, "We shall nobly save or meanly lose the last, best hope of earth."

The issue then was how our nation treats the enslaved. Sixty years ago, the question was how to treat Nazi war criminals. Today, we face the same choice with regard to the way we treat international terrorists.

If we heed the example set at Nuremberg by people like Robert Jackson and Thomas Dodd, if we treat our enemies according to our standards—not theirs—we feed the flame of liberty and justice that has rightly led our nation on its journey for these past two and a quarter centuries.

And we set a shining and lasting example for a true global community—one grounded in the principles of justice, freedom, and peace.

And we live up to the great memory of Robert Jackson and of a young counsel named Thomas Dodd.

## HONORING OUR ARMED FORCES

### TRIBUTE TO SPECIALIST SETH GARCEAU

Mr. GRASSLEY. Mr. President, today I rise in remembrance of a fellow Iowan who has fallen in service to his country in Iraq. Specialist Seth Garceau died on the 4th of March after being seriously injured by a roadside explosive on the 27th of February. A member of the Iowa Army National Guard Company A, 224th Engineer Battalion, Specialist Garceau is survived by a mother, Lori, a father, Rick, and a sister, Tess.

Seth Garceau grew up in Oelwein, IA, and enlisted in the Iowa Army National Guard in 2000 while he was still in high school. Seth graduated from Oelwein High School in 2001 and was mobilized for Operation Iraqi Freedom in 2004. Officials announced on the 5th of February that Specialist Garceau will be promoted posthumously to the rank of Sergeant.

Former President Calvin Coolidge once said, "No person was ever honored for what he received. Honor has been the reward for what he gave." Seth Garceau has given his life, that greatest of gifts, and for that, we shall forever honor him. I offer my most sincere sympathy to his family and friends who have felt this loss most deeply. May we always remember Seth with respect and admiration. For his life and the sacrifice he made, he deserves no less.

## RULES OF PROCEDURE—COMMERCE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, the Committee on Commerce, Science, and Transportation has adopted rules governing its procedures for the 109th Congress. Pursuant to Rules XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator INOUYE, I ask unanimous consent that a copy of the Committee Rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### RULES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

### I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis,

other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

### II. QUORUMS

1. A majority of members which shall include at least one minority member shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

### III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

### IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

### V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

### VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last week, a man pleaded guilty to aggravated manslaughter for killing a 15-year-old girl at a bus stop. Sakia Gunn, the victim, and four other girls were standing outside a bus stop when the assailant approached the girls with an invitation to a party. The girls responded that they were lesbians and were not interested in going. The assailant began making homophobic insults at the girls and stabbed Sakia Gunn.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ACCOUNTABILITY FOR THE ABUSE OF FOREIGN DETAINEES

Mr. LEAHY. Mr. President, with this new session of Congress and the President's new term we are presented with new opportunities for change. Congress and the President have embraced these opportunities on many issues—new cabinet officials have been confirmed and a renewed effort is underway by the administration to repair strained international relationships. Unfortunately, on one important front there has been no change: The administration continues to stonewall on the prisoner abuse scandal and Congress continues to abdicate its oversight responsibility on this issue.

Ignoring this problem will not make it go away. Even without a comprehensive, independent investigation into the abuse of detainees, we continue to learn more about this scandal from press reports and the court-ordered release of Government documents in response to Freedom of Information Act (FOIA) litigation.

The latest set of documents made public through the FOIA case reveal not only more incidents of abuse, but also indicate that soldiers in Afghanistan destroyed evidence of detainee mistreatment. One file documents the Army's investigation into the discovery of a compact disk during an office clean-up in Afghanistan in July 2004. The disk contained photos of U.S. soldiers pointing their handguns and rifles at the heads of bound and hooded detainees. Many of the soldiers questioned about these photos said they were "joking around" and that they wanted to have some good pictures to show their friends back home. If the roles were reversed and it was American POWs being used as photo props with weapons pointed at their heads, we would be rightly outraged by this conduct.

While the photos on this disk are disturbing in their own right, the circumstances surrounding this investigation are even more troubling. Unlike the photos from Abu Ghraib, these photos were not investigated because of an American soldier, in an act of conscious, gave the photos to a superior officer. These new photos were discovered by accident. The subsequent investigation into the photos revealed that soldiers in the unit were told by their superiors to delete similar photos of abuse to prevent their disclosure.

New details have also emerged about one of the infamous Abu Ghraib photos. Many will remember the photo of Manadel al-Jimadi's corpse packed in ice with Specialist Charles Graner posing over the body and giving the "thumbs-up" sign. We have known for months that this was a homicide, but a recent news report provides additional details about al-Jimadi's death. Al-Jimadi, one of the CIA's ghost detainees at Abu Ghraib, was secretly held at the prison. The International Committee of the Red Cross was denied access to him in violation of the Geneva Conventions. Now, press reports indicate that he died in a position known as "Palestinian hanging." This barbaric practice entails cuffing the detainee's hands behind his back and suspending him from the wrists.

President Bush condemned Saddam Hussein for similar practices; the President should be as outraged when these acts are committed by American personnel.

Meanwhile, the media continues to reveal details about the administration's use of extraordinary rendition to transfer terrorism suspects in U.S. custody to the custody of countries where they are likely to be tortured. A recent article in The New Yorker, titled "Outsourcing Torture," provides disturbing details about how the administration embraced the use of renditions after the attacks on September 11. The article cites three instances where the U.S. transferred suspected militants from Afghanistan to Uzbekistan. Although the fate of these men is not known, Uzbekistan is known to use interrogation methods such as partially boiling a detainee's hand or arm.

The State Department recently released its annual human rights report. The report criticized several countries for employing interrogation techniques that the State Department considered to be torture, yet are similar to techniques approved in 2002 by Secretary Rumsfeld. How can we criticize these countries for using techniques that our own Defense Secretary approved? How can our State Department denounce countries for engaging in torture while the CIA secretly transfers detainees to the very same countries? President Bush said that U.S. personnel do not engage in torture, but transferring detainees to other countries where they will be tortured does not absolve our government of responsibility. By outsourcing torture to these countries, we diminish our own values as a nation and lose our credibility as an advocate of human rights around the world.

Even without further government action, this scandal is not going to go away. It is time for us to lead the investigation, rather than wait to read about the latest discovery of abuse in the newspaper. As I have said before, there needs to be a thorough, independent investigation of the actions of those involved, from the people who committed abuses to the officials who set these policies in motion. The investigations completed thus far provide additional insight into how the prison abuses occurred, but their narrow mandates prevented them from addressing critical issues.

For example, an executive summary of the long-expected report on interrogation policy by Admiral Albert T. Church was released today. The full report, which is classified, reportedly criticizes the Pentagon for a failure of oversight, yet finds no direct evidence that high level officials ordered the mistreatment of detainees. The executive summary contains only a brief reference to the role of contractors in interrogations, and affirms that numerous contracts have been awarded in an ad hoc fashion and without central coordination. The role of contractors is an area sorely in need of a comprehensive investigation.

Similarly, the unclassified summary leaves many questions unanswered about Department of Defense (DOD) interaction with the CIA. It confirms that approximately 30 detainees were kept "off the books" in Iraq. The summary admits that DOD assisted the intelligence agencies with detainee transfers and supported interrogations by "other government agencies"—which is government-speak for the CIA—at DOD facilities. What is missing from the Church report, however, is a full exploration of the role of the CIA in detention, rendition, and interrogation. The Agency apparently cooperated with the Church investigation, but provided information on activities only in Iraq, and not on any of the other nations or facilities where the CIA is holding and interrogating detainees.

A very important piece of information came out of today's hearing on the Church report, however. In his testimony before the Armed Services Committee, Admiral Church was asked by Senator KENNEDY about unclassified paragraphs of the full report that discuss early meetings of the DOD working group on interrogations. That working group produced a memo that tracked very closely the infamous August 2002 Justice Department torture memo. The Justice memo claimed that for an action to rise to the level of torture it must result in pain equivalent to the type associated with organ failure or even death.

Apparently, the working group was briefed by Justice Department lawyers who presented the Justice memo's legal analysis as controlling. According to Senator KENNEDY's exchange with Admiral Church, members of the working group protested. They believed that interrogation policy should follow the Geneva Conventions. Admiral Church confirmed that the working group was overruled by the Pentagon's Office of General Counsel, which insisted on using the torture memo as the legal foundation for interrogation techniques. Specifically, Admiral Church admitted, the working group was overruled by William J. Haynes, General Counsel of the Department of Defense, whom the President has nominated to a lifetime appointment as a Federal Circuit Court judge. And still, given all of this information, the Pentagon claims that abuses did not stem from policies generated from the highest levels of this administration.

Only a truly independent entity can comprehensively investigate the policy decisions that were made at the top and the abuses that followed in the field. There will always be scandals and tragedies in a nation's history. What makes America unique is that we do not hide from these issues; we investigate them, learn from our mistakes, and make sure they do not happen again. I have no doubt that an independent investigation into the abuse of detainees will be painful, but it is also a necessary step to moving forward.

## 44TH ANNIVERSARY OF THE PEACE CORPS

Mr. OBAMA. Mr. President, as the Peace Corps celebrates its 44th anniversary this month, I would like to take this opportunity to commend its many wonderful volunteers, past and present, and the remarkable work they do. I am very pleased to report that three universities in Illinois—the University of Illinois at Champaign-Urbana, Northwestern University, and the University of Chicago—are three of the top Peace Corps-volunteer producing colleges and universities in the country. There are currently 295 volunteers from Illinois working in countries around the world, and I am tremendously proud of the service provided by each and every one of them.

The work of the Peace Corps in promoting mutual understanding between our country and the rest of the world has never been more relevant than it is today. The Peace Corps began in 1961 under President John F. Kennedy as a unique experiment in humanitarian service and cultural exchange and has grown to become one of the most widely respected American institutions in the world. Since the founding of the Peace Corps, over 178,000 volunteers have served in 138 countries.

Peace Corps volunteers share their knowledge, skills, and enthusiasm by serving as health educators, youth and agricultural workers, teachers, and business advisors. Of the 7,700 volunteers currently serving, over 3,100 are working on HIV/AIDS education and prevention projects, and I commend them on their critically important work on this global crisis.

I also would like to honor past volunteers who have helped to build this wonderful program into what it is today, who have empowered and given voice to individuals and communities in developing countries around the world. Individually and collectively, Peace Corps volunteers represent the very best of our great country, and I am proud to salute them on their 44th anniversary.

## CONCURRENT RESOLUTION ON DEATHS OF WOMEN IN THE STATE OF CHIHUAHUA, MEXICO

Mr. BINGAMAN. Mr. President, I rise today to speak on behalf of a concurrent resolution I submitted yesterday which conveys the deepest sympathy of the Senate to the families of the young women who have been tragically murdered in Ciudad Juarez and throughout the state of Chihuahua, and urges the Governments of Mexico and the United States to work together to address this issue. This is an issue that has not only affected the people of Mexico but has long troubled the border communities across the entire Southwest region.

Last Congress, I submitted a similar version of this resolution in conjunction with Representative HILDA SOLIS in the House of Representatives, and I am pleased that Senators CORNYN, CORZINE, DURBIN, ENSIGN, FEINGOLD, FEINSTEIN, LANDRIEU, LEAHY, LEVIN, MIKULSKI, and MURRAY, have joined me in resubmitting this resolution.

This last Tuesday was International Womens' Day, and I believe that as we mark the achievements women have made, we must also recognize the challenges that remain. Stopping violence against women is one such challenge that we face. It is far too prevalent in our country and around the world, and we must do all we can to bring it to an end.

Since 1993, bodies of young women began appearing in the deserts outside the city of Juarez, Mexico, marking the beginning of a horrendous epidemic that has plagued the United States-Mexico border region for more than 10 years. Since then, more than 370 women have been killed. Many of the young women were abducted in broad daylight in well-populated areas, held captive for several days, and subjected to physical violence, humiliation, and sexual torture before having their mutilated bodies discovered days, or sometimes years, later in deserted areas. Since 2004, at least 30 women have been killed in the city of Juarez in Chihuahua.

On May 28, 2004, 14-year-old Luisa Rocio Chavez was found murdered in the state of Chihuahua after disappearing the previous morning on her way home from the store. She had been raped and strangled to death, and her body was found partially clothed. And before that, on April 26, 2004, a 33-year-old factory worker, Teresa Torbellin, was found after being beaten to death and dragged through bushes and desert, eventually being dumped in a deserted area outside the city. Like these deaths, nearly all of the cases remain unsolved. In fact, many of the bodies of victims have yet to be positively identified. One can only imagine how much pain and suffering this has caused the families and friends of these young women. I want to make sure these deaths are never forgotten, and that the Governments on both sides of the border continue to give this issue the attention it so rightly deserves.

Human rights groups have reported that in many cases bodies have been misidentified, evidence contaminated or lost, key witnesses not properly interviewed, and autopsies inadequately performed. And there have been serious allegations of instances of individuals being tortured into confessing to these horrible crimes. In one such case, an American citizen, Cynthia Kiecker, and her husband Ulises Perzabal were accused of killing a young woman and reportedly tortured into confessing. I am pleased that they have since been released.

President Vicente Fox has taken steps to address this issue by setting up the Commission to Prevent and Eradicate Violence Against Women, which is responsible for coordinating federal and state efforts in preventing violence of women in Ciudad Juarez and Chihuahua, and appointing a special prosecutor for punishing those responsible for the murders in Ciuad Juarez. The federal prosecutor, Maria Lopez Urbina, has reviewed over 200 cases and cited 130 Chihuahua public servants for negligence and malfeasance. I am encouraged that the new governor of Chihuahua, Jose Reyes Baeza Terrazass, has indicated a willingness to take steps to resole these murders.

I also want to recognize the efforts of Commissioner Guadalupe Morfin Otero, who has done some good work in investigating the issues surrounding these deaths. The Mexican Federal Government has also established a DNA database to help better identify the victims. While obtaining independent verification of victims' remains an outstanding issue, the creation of this database is a positive step in the right direction.

Although I am pleased that President Fox has taken the initiative on these fronts, I continue to believe that there needs to be a more coordinated effort on the part of the Mexican and U.S. Governments. That is why I have submitted this vitally important resolution. I stand ready to assist in any way I can, and I believe that the U.S. Government should be prepared to do so as well. The U.S. Agency for International Development has begun providing assistance to the state of Chihuahua for judicial reform, and I hope that the Mexican and U.S. Governments can work together on other initiatives as well. This resolution isn't meant to be a condemnation of Mexico. It is meant to express that the U.S. Congress stands with the victims of this violence and is willing to take constructive steps to assist in preventing these murders in the future.

Specicially, this resolution would condemn the abductions and murders of young women in the state of Chihuahua, Mexico, express the sincerest condolences and deepest sympathy of the Senate to the families of the young women, and urge a continued multilateral effort on the part of the Governments of Mexico and the United States to address this issue.

To this end, it would urge the Governments of Mexico and the United States to support steps that would allow families to positively identify the remains of the victims, and encourage the Secretary of States to continue to facilitate U.S. participation in such efforts.

It would also encourage the Secretary of State to urge the Mexican Government to ensure fair and proper judicial proceedings for the individuals accused of these abductions and murders, and to impose appropriate punishment for those individuals found guilty of such crimes. Additionally, it would condemn threats against human rights activists and the use of torture as a means of investigation.

Lastly, this resolution would condemn all senseless acts of violence against women across the world and express the solidarity of the people of the United States with the people of Mexico in the face of these tragic and senseless acts.

This problem can't be ignored. We have the chance to help end the suffering of these innocent families, and I hope the Senate will join me in supporting this resolution.

---

## THE TIBETAN DAY OF COMMEMORATION

Mrs. FEINSTEIN. Mr. President, Today I rise to commemorate the 46th Anniversary of the Tibetan Uprising of 1959.

It is my sincere hope that both the Chinese government and the Tibetan leaders might use this opportunity to reflect on the importance of pursuing a viable, long-term solution that provides the Tibetan people the right to enjoy religious, cultural, and social autonomy as part of the People's Republic of China.

This anniversary marks a sad, but important day in the history of the Tibetan people.

In 1951, two years after the People's Liberation Army first entered Tibet, Chinese government representatives and Tibetan leaders signed what has been called the 17 Point Agreement.

This agreement, among other things, included the promise of Tibetan religious, cultural, and social autonomy, and preserved the institution of the Dalai Lama.

Sadly, the Chinese government failed to uphold these promises and attempted to force "revolutionary socialist reforms" upon the Tibet people and leadership. This ultimately culminated in the 1959 Lhasa Uprising which saw tens of thousands of Tibetans killed and forced the Dalai Lama and many others to flee to India.

Today human rights abuses continue against Tibetans wishing to practice their religion or promote their unique cultural and historical identity. Hundreds have been imprisoned in Tibet, and tens of thousands more have had to flee their homeland.

Nevertheless, the Dalai Lama remains steadfast in his desire to find a long-lasting and viable solution that will provide freedom and autonomy for the Tibetan people without pursuing independence.

In a speech today to mark this 46th anniversary, he stated:

> We remain fully committed to the Middle Way Approach of not seeking independence for Tibet and are willing to remain within the People's Republic of China.

He also praised the economic progress and development that has taken place in Tibet over the past 40 years, including the new railroad link that will begin operation this year.

I have personally worked for well over two decades to try and bring both the Chinese government and Tibetan leadership together in a spirit of cooperation and dialogue to overcome the differences that have impeded progress on a solution for Tibet. And after many conversations with the Dalai Lama, I am fully convinced that he is sincere in his promise not to pursue a separate path for Tibet.

To that end, several times over the years I have carried messages from the Dalai Lama to Beijing and communicated regularly with Jiang Zemin and other Chinese officials on the importance of establishing dialogue on the Tibet issue.

I have also been pleased to see that discussions between the Dalai Lama's envoys and Chinese officials have resumed and that a third round of meetings took place last September in Beijing.

It is my hope that both sides will build upon these meetings and that President Hu, with his knowledge and understanding of the Tibetan people, will come to appreciate the international goodwill that would be fostered by his willingness to meet with the Dalai Lama and pursue a reasonable solution to the Tibet issue.

Despite the slow pace of progress over the years, I remain confident that if the Chinese leadership will only sit down with the Dalai Lama and listen openly to his views, that a sustainable solution providing for the preservation of the distinctive identity, religious and cultural heritage for the Tibetan people can be found.

## ADDITIONAL STATEMENTS

### AMERICAN CULINARY FEDERATION'S SOUTHEASTERN REGIONAL CONFERENCE

• Mr. ALLEN. Mr. President, I am pleased today to recognize a group of Americans who are constantly seeking to improve upon their skills and pursue excellence in their passion and vocation.

Beginning today, chefs, cooks, students and foodservice professionals from Southeastern America will gather in Roanoke, VA for a 4-day conference hosted by the American Culinary Federation's Southwestern Virginia Chapter. The event serves as an invaluable opportunity for these culinarians to share their immense skill and knowledge with others in their profession. It provides a chance for these culinary artists to create new relationships and foster old ones, and for senior and master chefs to inspire the aspiring junior chefs.

The conference will honor a number of individuals for excellence in their trade, with the following distinctions being awarded: chef of the year award, pastry chef of the year award, and student member of the year award. These individuals will then compete at the national conference of the American Culinary Federation to receive the national award in each division.

In addition to the work the American Culinary Federation does to promote the art of cooking and to enhance the dining experience for those who indulge in a meal prepared by these talented individuals, the ACF also works hard to fight childhood hunger across the nation by providing nutrition-based education programs to children in preschool through grade five. Chefs work to increase the awareness of childhood hunger and poverty, and help to train food-relief agencies.

I am pleased that the Southwestern Virginia Chapter of the American Culinary Federation will host such a talented and compassionate group of Americans in the great town of Roanoke. I wish them continued success in their culinary endeavors.•

### TRIBUTE TO THE FIRST BAPTIST CHURCH OF KANSAS CITY, MISSOURI, ON ITS 150TH ANNIVERSARY

• Mr. BOND. Mr. President, it is with great pleasure that I congratulate the First Baptist Church of Kansas City, MO, on its 150th anniversary.

The First Baptist Church has had a long and proud history, coinciding with the history of Kansas City. The church was organized on April 21, 1855, by a group of 10 men and women in the small settlement along the Missouri River incorporated as the City of Kansas. The first pastor was the Reverend R.S. Thomas. In 1859 the congregation completed its first building at Eighth and May Streets in downtown Kansas City.

In 1880, a new church building was completed on the southwest corner of Twelfth and Baltimore, later the side of the Hotel Muehlebach. The growth of the congregation and the city dictated relocation of the church in the early 1900s. A new site was chosen at Linwood Boulevard and Park Avenue while a West Side Branch of the church was established at Thirteenth and Broadway to serve the needs of downtown residents. Both buildings were dedicated in 1909. From 1909 and 1942, First Baptist Church ministered in two very different locations. After our country's entry in World War II, changing conditions and needs brought the decision to end the West Side ministry. The property was sold to the Salvation Army.

In 1960, the congregation voted to establish a branch church in the southern part of Kansas City. The new colonial-style church building was completed in 1963 at the northwest corner of Wornall Road and Red Bridge Road. There have since been two additions to the original structure. The First Baptist Church of Kansas City was once again ministering at two locations within the city. In 1982, the Linwood Boulevard building was sold to the Metropolitan Missionary Baptist Church. Since that time, the church's single location has been at Red Bridge and Wornall.

Throughout its 150 years, First Baptist Church of Kansas City, MO, has striven to maintain its concern for and involvement in the entire Kansas City community. Its pastors and members have often assumed leadership positions in civic affairs, especially during a time when Kansas City was fighting to end political corruption within the local government and later when Kansas City worked to bring an end to discrimination in public facilities and housing.

The First Baptist Church of Kansas City has strongly supported the home mission and foreign mission programs of their denomination. Many of their members have served in foreign mission fields, including two who are presently working in Hong Kong. The church has always been involved in ecumenical relationships with other churches, other denominations and other faiths in their community, in our nation, and throughout the world by their membership in the Baptist World Alliance.

I commend the congregation of First Baptist Church of Kansas City on their commitment to maintain high standards of worship, music, and fellowship. I am pleased to join with the Kansas City community and the State of Missouri in congratulating the congregation and wishing them continued growth and success for the next 150 years.•

### REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice stating that the Iran emergency declared on March 15, 1995, is to continue in effect beyond March 15, 2005, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on March 12, 2004 (69 FR 12051).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 10, 2005.*

NOTICE—CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and acquisition of weapons of mass destruction and the means to deliver them. On May 6, 1995, the President issued Executive Order 12959 imposing more comprehensive sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

Because the actions and policies of the Government of Iran continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2005. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 2004. This notice shall be published in the Federal Register and transmitted to the Congress.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 10, 2005.*

## MESSAGE FROM THE HOUSE

At 2:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 22 U.S.C. 276d, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Canada-United States Interparliamentary Group: Mr. MANZULLO of Illinois, Chairman and Mr. MCCOTTER of Michigan, Vice Chairman.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 570. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 99. A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming (Rept. No. 109-27).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 152. A bill to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes (Rept. No. 109-28).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 176. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska (Rept. No. 109-29).

S. 231. A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes (Rept. No. 109-30).

S. 232. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes (Rept. No. 109-31).

S. 244. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming (Rept. No. 109-32).

S. 264. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii (Rept. No. 109-33).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 272. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 109-34).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 600. An original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes (Rept. No. 109-35).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nomination of Vincent M. Weber to be Captain.

Coast Guard nominations beginning with John C. Adams and ending with Andrew H. Zuckerman, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Coast Guard nominations beginning with Robert M. Keith and ending with Daniel E. Ward, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2005.

National Oceanic and Atmospheric Administration nominations beginning with James D. Rathbun and ending with Andrew P. Seaman, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 2005.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DAYTON:

S. 587. A bill to amend title 40, United States Code, to require that automobiles and light trucks manufactured after model year 2006 be able to operate on a fuel mixture that is at least 85 percent ethanol, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 588. A bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; to the Committee on Energy and Natural Resources.

By Mr. CORNYN (for himself and Mr. LEAHY):

S. 589. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself and Mr. REID):

S. 590. A bill to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the "Mayor Tony Armstrong Memorial Post Office"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. THOMAS (for himself, Mr. CRAIG, Mr. ENZI, Mr. STEVENS, and Mr. BURNS):

S. 591. A bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself, Mr. HAGEL, Mr. ENZI, and Mr. NELSON of Nebraska):

S. 592. A bill to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. BAYH, Mr. BURR, Mr. SANTORUM, Mr. SCHUMER, Mr. DEWINE, Mr. DURBIN, Mrs. DOLE, Mr. BYRD, Ms. MIKULSKI, Mr. GRAHAM, Mr. LIEBERMAN, Mr. PRYOR, Mrs. LINCOLN, Mr. ROCKEFELLER, Mr. BAUCUS, and Mr. LOTT):

S. 593. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Finance.

By Mr. SPECTER:

S. 594. A bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself, Mr. BAUCUS, Mr. SMITH, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 595. A bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

By Mr. THOMAS:

S. 596. A bill to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from wholesale electric competition and restore investor confidence in the electric industry; to the Committee on Energy and Natural Resources.

By Mr. BAYH:

S. 597. A bill for the relief of Fatuka Kaikumba Flake; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 598. A bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing; to the Committee on Indian Affairs.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 599. A bill to provide duty-free treatment for certain tuna; to the Committee on Finance.

By Mr. LUGAR:

S. 600. An original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. CONRAD:

S. 601. A bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. BOND, Mrs. CLINTON, Mr. WARNER, Ms. COLLINS, Mr. KENNEDY, Mr. WYDEN, Mr. SARBANES, Mr. JOHNSON, Mr. NELSON of Florida, Ms. LANDRIEU, Ms. STABENOW, Mrs. LINCOLN, Mr. KERRY, Mr. LAUTENBERG, Mr. DAYTON, Mr. KOHL, Mr. LEAHY, Mr. DURBIN, Mrs. BOXER, Mr. DODD, Mr. TALENT, Mr. LIEBERMAN, Mrs. DOLE, Mr. HAGEL, Mr. LUGAR, Mr. COLEMAN, Mrs. MURRAY, Mr. HARKIN, Ms. CANTWELL, Mr. BAYH, and Mr. ROCKEFELLER):

S. 602. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. Res. 79. A resolution expressing the sense of the Senate in marking the dedication on March 15, 2005, of the expanded museum complex at Yad Vashem, the Holocaust Martyrs and Heroes Remembrance Authority in Israel, in furtherance of Yad Vashem's mission to document the history of the Jewish people during the Holocaust, to preserve the memory and story of each of the victims, impart the legacy of the Holocaust to future generations, and recognize the Righteous Among the Nations; considered and agreed to.

By Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Mr. SARBANES, and Mrs. CLINTON):

S. Res. 80. A resolution honoring the life of Fern Holland and expressing the deepest condolences of the Senate to her family on their loss; considered and agreed to.

By Mr. BURNS (for himself, Mr. THOMAS, and Mr. ENZI):

S. Res. 81. A resolution recognizing the contribution of Chris LeDoux to country music; considered and agreed to.

By Mr. BIDEN (for himself, Mr. CORZINE, Mr. FEINGOLD, Mr. DODD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. OBAMA, and Mrs. BOXER):

S. Con. Res. 17. A concurrent resolution calling on the North Atlantic Treaty Organization to assess the potential effectiveness of and requirements for a NATO-enforced no-fly zone in the Darfur region of Sudan; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 8

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 13

At the request of Mr. AKAKA, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 13, a bill to amend titles 10 and 38, United States Code, to expand and enhance health care, mental health, transition, and disability benefits for veterans, and for other purposes.

S. 32

At the request of Mr. DAYTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 32, a bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extend active duty, and for other purposes.

S. 132

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 147

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 151

At the request of Mr. PRYOR, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 238

At the request of Mr. HAGEL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 238, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income interest received on loans secured by agricultural real property.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 250

At the request of Mr. ENZI, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Connecticut (Mr. DODD), the Senator from Vermont (Mr. JEFFORDS), the Senator from Washington (Mrs. MURRAY), the Senator from Iowa (Mr. HARKIN), the Senator from Maryland (Ms.

MIKULSKI), the Senator from New York (Mrs. CLINTON), the Senator from Rhode Island (Mr. REED), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Alabama (Mr. SESSIONS), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. THOMAS), the Senator from Georgia (Mr. ISAKSON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 250, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

At the request of Mr. KENNEDY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 250, supra.

At the request of Mr. TALENT, his name was added as a cosponsor of S. 250, supra.

S. 263

At the request of Mr. AKAKA, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 263, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 268

At the request of Mr. HARKIN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Minnesota (Mr. DAYTON), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Mississippi (Mr. LOTT), the Senator from Arkansas (Mr. PRYOR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 325

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 325, a bill to amend title 23, United States Code, to establish programs to facilitate international and interstate trade.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 354

At the request of Mr. ENSIGN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 354, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 397

At the request of Mr. CRAIG, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 399

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 399, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet, and for other purposes.

S. 401

At the request of Mr. HARKIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 401, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 403

At the request of Mr. ENSIGN, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 467

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 489

At the request of Mr. ALEXANDER, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. 495

At the request of Mr. CORZINE, the names of the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Nebraska (Mr. NELSON), the Senator from Minnesota (Mr. DAYTON), the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 515

At the request of Mr. BYRD, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 516

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 516, a bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes.

S. 528

At the request of Mr. HARKIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 528, a bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

S. 586

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 586, a bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

S. RES. 69

At the request of Mr. LUGAR, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 69, a resolution expressing the sense of the Senate about the actions of Russia regarding Georgia and Moldova.

### S. RES. 71

At the request of Mr. CRAIG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 71, a resolution designating the week beginning March 13, 2005 as "National Safe Place Week".

### AMENDMENT NO. 70

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 70 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

### AMENDMENT NO. 112

At the request of Mr. INOUYE, his name was added as a cosponsor of amendment No. 112 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. KYL):

S. 588. A bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; to the Committee on Energy and Natural Resources.

Mr. McCAIN. Mr. President, I am pleased to be joined today by Senator KYL in introducing the Arizona Trail Feasibility Study Act. This bill would authorize the Secretaries of Agriculture and Interior to conduct a joint study to determine the feasibility of designating the Arizona Trail as a National Scenic or National Historic Trail. A companion bill is being introduced today in the House of Representatives by Representative KOLBE and rest of the Arizona delegation.

Since 1968, when the National Trails System Act was established, Congress has designated 20 national trails. This legislation is the first step in the process of national trail designation for the Arizona Trail. If the study concludes that designating the Arizona Trail as a part of the national trail system if feasible, subsequent legislation can be introduced to designate the Arizona Trail as either a National Scenic Trail or National Historic Trail.

The Arizona Trail is a beautifully diverse stretch of public lands, mountains, canyons, deserts, forests, historic sites, and communities. The Trail begins at the Coronado National Memorial on the U.S.-Mexico border and ends in the Bureau of Land Management's Arizona Strip District on the Utah border. In between these two points, the Trail winds through some of the most rugged, spectacular scenery in the Western United States.

For the past 10 years, over 16 Federal, State, and local agencies, as well as community and business organizations, have worked to form a partnership to create, develop, and manage the Arizona Trail. Designating the Arizona Trail as a national trail would help streamline the management of the Trail to ensure that this pristine stretch of diverse land is preserved for future generations to enjoy.

The corridor for the Arizona Trail encompasses the wide range of ecological diversity in the State, and incorporates a host of existing trails into one continuous trail. The Arizona Trail extends through seven ecological life zones including such legendary landmarks as the Sonoran Desert and the Grand Canyon. It connects the unique lowland desert flora and fauna in Saguaro National Park and the pine-covered San Francisco Peaks, Arizona's highest mountains at 12,633 feet in elevation. In fact, the Trail route is so topographically diverse that a person can hike from the Sonoran Desert to Alpine forests in one day. The Trail also takes travelers through ranching, mining, agricultural, and developed urban areas, as well as remote and pristine wildlands.

With over 700 miles of the 800-mile trail already completed, the Arizona Trail is a boon to recreationists. The Arizona State Parks recently released data showing that two-thirds of Arizonans consider themselves trail users. Millions of visitors also use Arizona's trails each year. In one of the fastest-growing states in the U.S., the designation of the Arizona Trail as a National Scenic or National Historic Trail would ensure the preservation of a corridor of open space for hikers, mountain bicyclists, cross-country skiers, snowshoers, eco-tourists, equestrians, and joggers.

I commend the Arizona Trail Association for taking the lead in building a coalition of partners to bring the Arizona Trail from its inception to a nearly completed, multiple-use, non-motorized, long-distance trail. Trail enthusiasts look forward to the completion of the Arizona Trail. Its designation as a national trail would help to protect the natural, cultural, and historic resources it contains for the public to use and enjoy.

I urge my colleagues to support the passage of this legislation.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN in introducing the Arizona Trail Feasibility Study Act. This bill would authorize the Secretaries of Agriculture and the Interior to conduct a joint study to determine the feasibility and desirability of designating the Arizona Trail as a National Scenic or Historic Trail. A companion bill is being introduced today in the House of Representatives by Representative KOLBE on behalf of the entire Arizona delegation.

In 1968, Congress established the National Trails System to promote the preservation of historical resources and outdoor areas. National scenic and national historic trails may be designated only by an act of Congress. The first step toward national trail designation is the feasibility study process, which this legislation authorizes. When a study recommends a trail for designation, subsequent legislation will be introduced to bring it into the National Trails System.

The Arizona Trail is highly deserving of consideration for national designation. The trail is a roller coaster ride through the wide range of ecological diversity in the State. The Trail corridor begins at the Coronado National Memorial on the U.S. Mexico Border, and winds some 800 miles, ending on the Bureau of Land Management's Arizona Strip District on the Utah Border. As it connects these two points, it invites recreationists to explore the State's most renowned mountains, canyons, deserts and forests, including the Grand Canyon and the Sonora Desert. This trail is unique in that it was developed to maximize the incorporation of already existing public trails into one continuous trail, to showcase some of the most spectacular scenery in the West.

The trail is a partnership of over 16 Federal, State and local agencies, as well as numerous community and business organizations and countless volunteers, to develop and sustain it as a recreational resource for future generations. Authorizing this study and ultimately designating the Arizona Trail as a national trail will help streamline its management, boost tourism and recreation, and preserve a magnificent natural, cultural, and historical experience of the American West.

By Mr. CORNYN (for himself and Mr. LEAHY):

S. 589. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, on February 16, shortly before the President's Day recess in February, the Senator from Vermont and I introduced the OPEN Government Act of 2005—bipartisan legislation to promote accountability, accessibility, and openness in government, principally by strengthening and enhancing the Federal law commonly known as the Freedom of Information Act.

When I served as Attorney General of Texas, it was my responsibility to enforce Texas's open government laws. I am pleased to report that Texas is known for having one of the strongest set of open government laws in our Nation. And ever since that experience, I have long believed that our federal government could use "a little Texas sunshine." I am thus especially enthusiastic about the OPEN Government Act, because that legislation attempts to incorporate some of the most important principles and elements of Texas law into the federal Freedom of Information Act.

Today, I am pleased to join the Senator from Vermont again, to commence another bipartisan effort to reinforce our national commitment to freedom of information and openness in government. Indeed, this is an especially appropriate time to promote this important cause, because starting this Sunday, America will observe the first-ever national Sunshine Week—a celebration of our nation's founding principles and commitment to freedom of information and openness in government. It is also long past due. It has been nearly a decade since Congress has approved major reforms to the Freedom of Information Act. Moreover, a Senate Judiciary subcommittee hearing that the Senator from Vermont and I will lead next Tuesday morning to examine our open government laws will be the first such hearing since 1992.

The Faster FOIA Act of 2005 would establish an advisory Commission on Freedom of Information Act Processing Delays. The Commission would be charged with reporting to Congress and the President its recommendations for steps that should be taken to reduce delays in the administration of the Freedom of Information Act.

The Commission would be comprised of 16 members. Twelve of them would be appointed by members of Congress—three by the chairman of the Senate Judiciary Committee, three by the chairman of the House Government Reform Committee, and three each by the ranking minority member of the two committees. These four members of Congress would each be required to appoint at least one member to the Commission with experience submitting FOIA requests on behalf of nonprofit research or educational organizations or news media organizations, and at least one member with experience in academic research in the fields of library science, information management, or public access to Government information. The remaining four positions on the Commission would be held by designees of the Attorney General, the Director of the Office of Management and Budget, the Archivist of the United States, and the Comptroller General.

The Commission would be responsible for producing a study to identify methods to reduce delays in the processing of FOIA requests and to ensure the efficient and equitable administration of FOIA throughout the Federal Government. The Commission would also be charged with examining whether the system for charging fees and granting fee waivers under FOIA should be reformed in order to reduce delays in processing fee requests. The report would be due no later than one year after the date of enactment of this Act, and would include recommendations for legislative and administrative action to enhance FOIA performance. The Commission would expire thirty days after the submission of the report.

The Faster FOIA Act is important legislation to strengthen openness in our Federal Government, and I am pleased to join with the Senator from Vermont once again in furtherance of this cause.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 589

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMMISSION ON FREEDOM OF INFORMATION ACT PROCESSING DELAYS.**

(a) SHORT TITLE.—This Act may be cited as the "Faster FOIA Act of 2005".

(b) ESTABLISHMENT.—There is established the Commission on Freedom of Information Act Processing Delays (in this Act referred to as the "Commission") for the purpose of conducting a study relating to methods to help reduce delays in processing requests submitted to Federal agencies under section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act").

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 16 members of whom—

(A) 3 shall be appointed by the chairman of the Committee on the Judiciary of the Senate;

(B) 3 shall be appointed by the ranking member of the Committee on the Judiciary of the Senate;

(C) 3 shall be appointed by the chairman of the Committee on Government Reform of the House of Representatives;

(D) 3 shall be appointed by the ranking member of the Committee on Government Reform of the House of Representatives;

(E) 1 shall be appointed by the Attorney General of the United States;

(F) 1 shall be appointed by the Director of the Office of Management and Budget;

(G) 1 shall be appointed by the Archivist of the United States; and

(H) 1 shall be appointed by the Comptroller General of the United States.

(2) QUALIFICATIONS OF CONGRESSIONAL APPOINTEES.—Of the 3 appointees under each of subparagraphs (A), (B), (C), and (D) of paragraph (1)—

(A) at least 1 shall have experience in submitting requests under section 552 of title 5, United States Code, to Federal agencies, such as on behalf of nonprofit research or educational organizations or news media organizations; and

(B) at least 1 shall have experience in academic research in the fields of library science, information management, or public access to Government information.

(d) STUDY.—The Commission shall conduct a study to—

(1) identify methods that—

(A) will help reduce delays in the processing of requests submitted to Federal agencies under section 552 of title 5, United States Code; and

(B) ensure the efficient and equitable administration of that section throughout the Federal Government; and

(2) examine whether the system for charging fees and granting waivers of fees under section 552 of title 5, United States Code, needs to be reformed in order to reduce delays in processing requests.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to Congress and the President containing the results of the study under this section, which shall include—

(1) a description of the methods identified by the study;

(2) the conclusions and recommendations of the Commission regarding—

(A) each method identified; and

(B) the charging of fees and granting of waivers of fees; and

(3) recommendations for legislative or administrative actions to implement the conclusions of the Commission.

(f) STAFF AND ADMINISTRATIVE SUPPORT SERVICES.—The Comptroller General of the United States shall provide to the Commission such staff and administrative support services, including research assistance at the request of the Commission, as necessary for the Commission to perform its functions efficiently and in accordance with this section.

(g) INFORMATION.—To the extent permitted by law, the heads of executive agencies, the Government Accountability Office, and the Congressional Research Service shall provide to the Commission such information as the Commission may require to carry out its functions.

(h) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation for services performed for the Commission.

(i) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(k) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (e).

Mr. LEAHY. Mr. President, I am pleased to join my colleague from Texas, Senator JOHN CORNYN, in introducing what is our second cooperative action in this Congress to improve the implementation of the Freedom of Information Act, or FOIA. This bill, called the "Faster FOIA Act of 2005," responds to commonly voiced concerns of FOIA requestors over agency delay in processing requests.

I want to express my appreciation to all of the FOIA officers and other Federal employees who work hard to process FOIA requests quickly and efficiently. I know that many simple requests are filled within a few days, and I understand that complex requests dealing with national security issues can take time for declassification, redaction, or release, as appropriate.

There are, nonetheless, significant delays at many agencies. In 2003, a nongovernmental organization, the National Security Archive, looked into just how long some FOIA requests are left unfulfilled. The group found that the oldest requests dated back to the late 1980s, before the collapse of the Soviet Union. The oldest of these was a request to the FBI for information on the Bureau's activities at the University of California. First filed in November 1987, this request was partially fulfilled in 1996 after extensive litigation. According to the National Security Archive, the documents that were released revealed "unlawful FBI intelligence activities and the efforts to cover up such conduct." After a 2002 article in the San Francisco Chronicle, and inquiries from Senator FEINSTEIN, the Bureau acknowledged that there were at least 17,000 pages of records that still had not been produced. Since then, some data has been released, but the requestor recently told me that he believes more than 15,000 pages remain outstanding.

This is an extreme case, but delays are commonplace. Sometimes slowdowns are caused by poorly managed or decentralized data systems that result in an agency not knowing what documents are located where. Other times, components within a single agency do not effectively communicate with one another, so that no one can say whether a request has been filled or not. Finally, we have heard anecdotal evidence of certain agencies engaging in protracted disputes over fee waivers sought by FOIA requestors. I have worked closely with the Government Accountability Office over the past few years to obtain detailed analysis of how fees are collected and how fee waiver requests are processed. The analysts at GAO have looked long and hard at these issues. I am grateful for their efforts and look forward to the results of their study later this year.

One of the problems faced by GAO, and anyone else who has looked into agency delay, is the lack of comprehensive reporting data. We address this problem in our companion bill, S.94, the Open Government Act, by calling for more detailed reporting from agencies on FOIA processing.

These issues deserve a closer look in the short term, however. In this bill, we propose to establish a commission to review agency delay and to make recommendations for reducing impediments to the efficient processing of requests. The Commission would also examine whether the system for charging fees and granting waivers should be modified.

The Commission would be made up of government and non-governmental representatives with a broad range of experience in both submitting and handling FOIA requests, in information science, and in the development of government information policy.

I understand that many requests are complex and that the resources devoted to agency FOIA processing are often lacking. Our companion bill, S. 394, the Open Government Act, addresses this issue by establishing a FOIA ombudsman requiring the Office of Personnel Management to examine how FOIA can be better implemented at the agency level. If the Commission finds that limited resources are a significant factor in slowing down the fulfillment of requests, then Congress should address the issue by increasing funding levels for FOIA processing.

I want to thank the Senator from Texas for his diligent work and flexibility in crafting a Commission structure that is balanced and fair, and that will bring extraordinary expertise to solving these nettlesome problems. I urge all of our colleagues to support the Faster FOIA Act, which has the potential to help agencies and requestors alike in the service of open government.

---

By Ms. COLLINS (for herself, Mr. BAYH, Mr. BURR, Mr. SANTORUM, Mr. SCHUMER, Mr. DEWINE, Mr. DURBIN, Mrs. DOLE, Mr. BYRD, Ms. MIKULSKI, Mr. GRAHAM, Mr. LIEBERMAN, Mr. PRYOR, Mrs. LINCOLN, Mr. ROCKEFELLER, Mr. BAUCUS, and Mr. LOTT):

S. 593. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Finance.

Ms. COLLINS. Mr. President, our Nation's manufacturers and their employees can compete against the best in the world, but they cannot compete against nations that provide huge subsidies and other unfair advantages to their producers. I hear from manufacturers in my State time and time again whose efforts to compete successfully in the global economy simply cannot overcome the practices of illegal pricing and subsidies of nations such as China. The results of these unfair practices are lost jobs, shuttered factories, and decimated communities.

Consider this one example. The American residential wood furniture industry has experienced devastating losses due to surges of unfairly priced furniture imports from China. According to the U.S. Bureau of Labor, 34,700 jobs, or 28 percent of the workforce, have been lost in the U.S. furniture industry since 2000. One furniture manufacturer in Maine, Moosehead Manufacturing, was forced to eliminate a quarter of its employees due to the unfair market conditions it faces.

Unfairly priced imports from China are a leading cause in these job losses. China's wooden bedroom furniture exports to the U.S., which amounted to just $169 million in 1999, reached an estimated $1.2 billion in 2003. By subsidizing investments in furniture manufacturing facilities, China is exploiting the U.S. market to the benefit of its producers and putting our employees at an unfair advantage.

This is why I am introducing the "Stopping Overseas Subsidies Act," a bill I introduced in the 108th Congress. I am pleased to be joined by my good friend and colleague from Indiana, Senator BAYH, who has worked closely with me on this legislation. This bill revises current trade remedy laws to ensure that U.S. countervailing duty laws apply to imports from non-market economies, such as China.

Our Nation's trade remedy laws are intended to give American industries and their employees relief from the effects of illegal trade practices. Unfortunately, some countries in the world choose to cheat instead of compete fairly. In these cases, U.S. industries can file petitions under U.S. trade remedy laws for relief. Under current Commerce Department practice, however, U.S. industries competing with these unfairly advantaged foreign producers can file an anti-subsidy petitions against any market economy—such as Canada or Chile—but not against a non-market economy such as China. As a result, those countries, such as China, that subsidize their industries the most heavily and cause the most injury to U.S. industries and workers are exempt from the reach of American anti-subsidy laws.

It is time that this was changed. It is simply not fair to prevent U.S. industries from seeking redress from these unfair trade practices because our trade remedy laws are outdated.

Over the past two decades, there have been significant economic changes in many of the countries classified as non-market economies. This is particularly true in China, one of our largest trading partners and the country with which the United States currently runs its largest trade deficit.

Beginning in the early 1980's and continuing today, China has undertaken major economic reforms. Today, China's economy is not completely state-controlled. Government price controls on a wide range of products have been eliminated. Many enterprises and even entire industries have been allowed to operate and compete in an economic system that has elements of a free market. And, of course, China has taken steps toward fully integrating into the global trading system by joining the World Trade Organization and by working toward the establishment of a modern commercial, financial, legal, and regulatory infrastructure.

The problem is not China's economic liberalization and modernization. The problem is this: now that China has the capacity to be a key international economic player, the country has repeatedly refused to comply with standard international trading rules and practices. And these violations include the use of subsidies and other economic incentives that are designed to give its producers an unfair competitive advantage.

Perhaps the most glaring subsidy comes in the form of currency manipulation. By keeping the Chinese yuan pegged to the U.S. dollar at artificially low levels, the Chinese undervalue the prices of their exports. Not only does this practice provide their producers with a price advantage, but also it violates International Monetary Fund and WTO rules. The Chinese government also reimburses many enterprises for their operating losses and provides loans to uncreditworthy companies.

Currently, U.S. industries have no direct recourse to combat these unfair practices. They instead must rely upon government-to-government negotiations or on the dispute settlement processes of international organizations such as the WTO. While these channels might eventually lead to relief, it usually takes years to see results—and by that time, that industry could already be decimated.

Unfair market conditions cannot continue to cause our manufacturers to hemorrhage jobs. No state understands this more than my home state of Maine. According to a recent study by the National Association of Manufacturers, on a percentage basis, Maine lost more manufacturing jobs in the previous three years than any other state. This is why organizations such as the Maine Forest Products Council and the Maine Wood Products Association have strongly endorsed my proposal.

The Stopping Overseas Subsidies bill is a bipartisan, bicameral bill that has a broad range of support across many industries and geographical areas. A companion bill is being introduced today in the House by Representatives Phil English of Pennsylvania and Artur Davis of Alabama. Last year, the Senate bill had eighteen cosponsors.

I am proud that over twenty organizations and a number of private companies, representing a range of industries, have endorsed this bill. Some of these organizations include: The American Forest & Paper Association, the National Council of Textile Organizations, the Printing Industries of America, the Steel Manufacturers Association, and the Catfish Farmers of America. Of particular note, the National Association of Manufacturers has endorsed this bill and has listed it as one of its top trade agenda items in 2005.

In addition, the United States Economic and Security Review Commission, a bipartisan organization established by Congress in 2000 to provide recommendations to Congress on the relationship between the United States and China, has endorsed the goals of this bill. In its annual report to Congress in June 2004, the Commission stated, "U.S. policy currently prevents application of countervailing duty laws to nonmarket economy countries such as China. This limits the ability of the United States to combat China's extensive use of subsidies that give Chinese companies an unfair competitive advantage. The Commission recommends that Congress urge the Department of Commerce to make countervailing duty laws application to nonmarket economies. If Commerce does not do so, Congress should pass legislation to achieve the same effect."

U.S. industries don't want protection—they want fair competition. Illegal subsidies distort fair competition, regardless of the economic system in which they are used. Our legislation simply levels the playing field by allowing anti-subsidy petitions to be brought against non-market economies in addition to market economies.

Countries such as China want to have all the benefits of engaging in international trading institutions and systems and continue to cheat on the system with no penalties. It is time these countries were held to the same standards as other countries around the world. I ask you to join me in supporting the SOS bill to ensure that all countries are held accountable for their trade practices.

---

By Mr. SPECTER:

S. 594. A bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, yesterday during consideration of the Bankruptcy Reform Act of 2005, I offered an amendment regarding a serious matter involving the guaranteed health benefits of retired coal miners and their families. Unfortunately due to an objection to the unanimous consent request for consideration of my amendment, it was not considered. Therefore, to continue my efforts on behalf of our Nation's coal miners, I have elected today to introduce the Retired Coal Miner Health Benefits Preservation Act.

This legislation would reaffirm the commitment stipulated in the Coal Act of 1992, which guaranteed health benefits to retired coal miners and their families and would clarify the lack of authority of the bankruptcy court to modify or terminate statutory obligations required under Section 9711 of the Coal Act. This legislation is a direct response to a recent bankruptcy court proceeding in which the court determined it had the authority under Section 1114 of the Bankruptcy Code to modify the level of benefits required to be provided under Section 9711 of the Coal Act.

The Coal Act of 1992 mandated coal operators to fulfill their promise to provide their employees and families health benefits and those obligations could not be modified. As an original cosponsor to this legislation, I am intimately aware of its effect on the 14,000 retired coal miners and their dependents in Pennsylvania. Nationally, this Act effects over 60,000 individuals including every State except for Hawaii. These health benefits form a central underpinning for the medical care structure of the coal field communities. The promise of the Coal Act applied to a fixed pool of coal miners that was closed as of 1994.

Additionally, I want to note that there may be some speculation raised by my colleagues in reference to the recent bankruptcy of Horizon Natural Resources. In this particular bankruptcy proceeding, the court concluded that Section 1114 trumped the Coal Act, which is simply not the case. This or other statutory obligations cannot be undermined by the bankruptcy court. Congress intended that Section 1114 be a statutory obligation and not a contractual obligation. Therefore, this egregious court decision unfortunately trumps the true intent of the Coal Act.

Finally, I am aware that my colleague, Senator ROCKEFELLER, offered legislation in the 108th Congress to address this issue and I commend him for it. Today, I am continuing his prodigious work by introducing this legislation which reinforces what Congress intended, which was not to obstruct the statutory requirements of the Coal Act. I urge my colleagues to strongly support this legislation.

---

By Mr. SANTORUM (for himself, Mr. BAUCUS, Mr. SMITH, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 595. A bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join Senator BAUCUS in the reintroduction of the Encouraging Work Act of 2005. The Work Opportunity Tax Credit (WOTC) and Welfare-to-Work Tax Credit (W-t-W) are tax incentives that encourage employers to hire public assistance recipients and other individuals with barriers to employment. The combination of Welfare Reform passed by Congress in 1996 and the assistance to employers found in the WOTC and W-t-W has enabled expanded opportunity for many Americans. Yet more can be done. We were pleased that the Senate JOBS bill passed last year included a permanent WOTC/W-t-W provision along with helpful reforms largely supported by the Administration. Unfortunately, it was only extended in another tax relief bill. Without action by Congress WOTC and W-t-W will expire on January 1, 2006.

Under present law, WOTC provides a 40 percent tax credit on the first $6,000 of wages for those working at least 400 hours, or a partial credit of 25 percent for those working 120-399 hours. W-t-W provides a 35 percent tax credit on the first $10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first $10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2,700,000 previously dependent persons to find jobs.

WOTC and W-t-W eligibility is limited to: 1. Recipients of Temporary Assistance to Needy Families (TANF) in 9 of the 18 months ending on the hiring date; 2. individuals receiving Supplemental Security Income (SSI) benefits; 3. disabled individuals with vocational rehabilitation referrals; 4. veterans on food stamps; 5. individuals in households receiving food stamp benefits; 6. qualified summer youth employees; 7. low-income ex-felons; and 8. individuals age 18–24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously dependent on public assistance programs. These credits are both a hiring incentive—offsetting some of the higher costs of recruiting, hiring, and retaining public assistance recipients and other low-skilled individuals—and a retention incentive, providing a higher reward for those who stay longer on the job.

After eight years of experience with these programs, their value has been well demonstrated. In 2001, the GAO issued a report that indicated that employers have significantly changed their hiring practices because of WOTC. With the resources provided by WOTC, employers have provided job mentors, lengthened training periods, engaged in recruiting outreach, and listed jobs or requested referrals from public agencies or partnerships. WOTC and W-t-W have become a true public-private partnership in which the Department of Labor, the Internal Revenue Service, the states, and employers have forged excellent working relationships.

But the challenges for employers and those looking for better opportunities are real. The job skills of eligible persons leaving welfare are sometimes limited, and the costs of recruiting, training, and supervising low-skilled individuals cause many employers to look elsewhere for employees. WOTC and W-t-W are proven incentives for encouraging employers to seek employees from the targeted groups. Despite the considerable success of WOTC and W-t-W, many vulnerable individuals still need a boost in finding employment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers.

Combine WOTC and W-t-W. The Administration's FY 2006 budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees and $6,000 for other target groups ($3,000 for summer youth). In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Eliminate Requirement to Determine Family Income for Ex-Felons. Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the six months preceding the hiring date are eligible for WOTC. The Administration's FY 2006 budget proposes to eliminate the family income attribution rule.

Permanent Extension of WOTC and W-t-W. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Raise the WOTC age eligibility ceiling from 24 to 39 years of age for members of food stamp households and "high-risk youth" living in enterprise zones or renewal communities. Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the "food stamp category" would greatly improve the job prospects for many absentee fathers and other "at risk" males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

WOTC and W-t-W are also key elements of welfare reform. Employers in the retail, health care, hotel, financial services, and food industries have incorporated this program into their hiring practices and through these programs, more than 2,700,000 previously dependent persons have found work. A recent report issued by the New York State Department of Labor bears this out in economic terms. Comparing the cost of WOTC credits, taken by New York state employers during the period 1996–2003 (for a total of $192.59 million), with savings achieved through closed welfare cases and reductions in vocational rehabilitation programs and jail spending (for a total of $199.89 million), the State of New York concluded that WOTC provided net benefits to the taxpayers even without taking into account the additional economic benefits resulting from the addition of new wages.

In that regard, the New York State analysis concluded that the roughly $90 million in wages paid to WOTC workers since 1996 generated roughly $225 million in increased economic activity. Perhaps even more importantly, the study found that roughly fifty-eight percent of the TANF recipients who entered private sector employment with the assistance of WOTC stayed off welfare. I mention the New York State study because it is the first of its kind; however, I am certain that similar conclusions would be reached in the Commonwealth of Pennsylvania or any of the other forty-eight states and the District of Columbia. These programs work and do so at a net savings to taxpayers. In fact, over a 7-year period there were more than 110,000 certifications for both WOTC and W-t-W in Pennsylvania, alone enabling many to leave welfare and find private sector work. The legislation is supported by hundreds of employers throughout Pennsylvania and around the country. WOTC and W-t-W have received high praise as well from the federal government. A 2001 GAO study concluded that employers have significantly changed their hiring practices because of WOTC by providing job mentors, longer training periods, and significant recruiting outreach efforts.

WOTC and W-t-W are not traditional government jobs programs. Instead they are precisely the type of program that we should champion in a time when we need to be fiscally responsible. These are efficient and low cost public-private partnerships that have as their goal to provide a means by which individuals can transition from welfare to a lifetime of work and dignity.

The Work Opportunity Credit and Welfare-to-Work Credit have been successful in moving traditionally hard-to-employ persons off welfare and into the workforce, where they contribute to our economy. However, employer participation in these important programs can be increased, particularly among small and medium-sized employers. This is due to the complexity of the credits and the fact that they are both only temporary provisions of the tax code subject to renewal every year or two. Small, medium, and even some large employers find it difficult to justify developing the necessary infrastructure to administer and participate in these programs when their continued existence beyond one or two years is constantly in question.

This legislation will remedy this problem by combining WOTC and W-t-W into one, more easily administered tax credit, and by making it a permanent part of the tax code. Many organizations including the National Council of Chain Restaurants, National Retail Federation, Food Marketing Institute, National Association of Convenience Stores, National Restaurant Association, American Hotel & Lodging Association, National Roofing Contractors Association, National Association of Chain Drug Stores, American Nursery and Landscape Association, and the American Health Care Association support this legislaiton. Representatives JERRY WELLER R–IL, CHARLES RANGEL D–NY, and PHIL ENGLISH R–PA are introducing identical legislation in the House of Representatives. I urge my colleagues to join us in supporting this legislation.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator SANTORUM, in introducing legislation to permanently extend and improve upon the Work Opportunity and the Welfare-to-Work tax credits. Last year, I was pleased to successfully add a permanent a extension of these credits to the Senate passed JOBS bill, which combined the credits and made certain improvements. When the expiring tax provisions were considered last year as part of the Working Families Tax Relief bill, I offered an amendment to combine both credits and make them permanent. While this provision was not retained in conference, I was successful in securing an extension of the current program through December 31, 2005. This extension expires at the end of this year so immediate action is needed to make these credits permanent and make several reforms in the programs to improve their effectiveness. These recurring lapses and extensions make administration of this credit burdensome both for the taxpaying employer, who cannot keep track of who is or isn't qualified, and for the IRS, which needs to ensure taxpayers are complying with the ever-shifting law.

Over the past decade, the Work Opportunity Tax Credit, WOTC, and the Welfare-to Work, W-t-W, have helped over 2.2 million public assistance dependent individuals enter the workforce. Both of these important programs are scheduled to expire on December 31, 2005. These hiring tax incentives have clearly demonstrated their effectiveness in helping to level the job selection playing field for low-skilled individuals by providing employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment, and this is particularly critical during periods of high unemployment. The weak economy and rising unemployment give employers many more hiring options because of the larger pool of experienced laid-off workers. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals who reach their welfare eligibility ceiling.

Because of the costs involved in setting up and administering a WOTC/W-t-W program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy applicants. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

WOTC provides employers with a graduated tax credit equal to 25-percent of the first $6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first $6,000 in wages for those working over 400 hours. The W-t-W tax credit is geared toward long-term welfare recipients and provides a 35-percent tax credit on the first $10,000 in wages during the first year of employment and a 50-percent credit on the first $10,000 for those who stay on the job a second year.

In my own State of Montana, many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC/W-t-W program, however, are low-income families, under the Food Stamp Program, the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, programs, and also low-income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during an 18-month period, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC/TANF recipients, and 52 U.S. veterans.

The bill we are introducing provides for a permanent program extension of the two credits. After a decade of experience with WOTC and W-t-W, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

The bill also includes a proposal to simplify the programs by combining them into one credit and making the rules for computing the combined credits simpler. This would be accomplished by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees. In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. Because of the program's eligibility criteria, over 80 percent of those hired are women leaving welfare. Since men are not eligible for TANF benefits unless they are parenting their kids, the fathers of children on welfare receive little help in finding work, even though they often face barriers to work just as women on welfare do. We propose to help absentee fathers find work and provide the resources to assume their family responsibilities by opening up WOTC eligibility to anyone 39 years old or younger in families receiving food stamps or residing in enterprise zones or empowerment communities. Raising the eligibility limits in these two categories will extend eligibility to hundreds of thousands of at-risk men.

I urge my colleagues to support this important piece of legislation.

---

By Mr. THOMAS:

S. 596. A bill to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from wholesale electric competition and restore investor confidence in the electric industry; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, today, I rise to introduce the "Electric Transmission and Reliability Enhancement Act of 2005". It is my intention to build on the competitive wholesale open access policies adopted by the Congress in the 1992 Energy Policy Act. My legislation would extend and improve these open, non-discriminatory access policies; remove antiquated federal statutory barriers that stand in the way of competitive wholesale markets; encourage increased investment in our transmission system and establish enforceable reliability standards to help ensure the continued reliability of the interstate transmission system.

The Congress has been debating how to update the antiquated statutory and regulatory framework governing the electric industry for over eight years. We repeatedly have tried and failed to enact legislation that would provide the right economic signals and regulatory certainty necessary for industry and wholesale market modernization. The loser in all of this has been the consumer, who has been denied the full benefits that access provides to fairly priced, reliable supplies of power. I have come to the conclusion that if we are to legislate successfully, we will have to pare down our wish list to the bare essentials plus those issues necessary for the electric industry to attract the capital it needs to keep our lights on and ensure that customers pay no more for their power than is fair and necessary.

It seems clear that if truly competitive wholesale markets are to exist, there is a need to ensure that all industry participants play by the same rules. While the Federal Energy Regulatory Commission has tried to ensure this, the Commission's tools are limited. Only Congress can give FERC the tools it needs to ensure that all industry participants in competitive wholesale markets play by the same rules.

Under present federal law FERC has no jurisdiction or authority over transmission facilities owned by public power agencies, municipalities and cooperatives. In the West these types of entities own a substantial portion, perhaps as much as half of the interstate electric transmission system. As a matter of fact, in the Western Electric Coordinating Council, an area that encompasses all or part of 11 Western states and parts of Canada, non-FERC jurisdictional facilities account for 52 percent of transmission miles.

My legislation would permit FERC to require certain nonregulated utilities to offer transmission service at comparable rates to those they charge themselves, and on terms and conditions comparable to those applicable to jurisdictional public utilities. Currently nonregulated transmitting utilities would not be subject to the full panoply of FERC regulation under this provision. Instead, a "light handed" form of regulation would apply and small nonregulated entities, such as those that sell less than 4,000,000 MW/h per year, would be entirely exempt from these nondiscrimination requirements.

It also seems clear that the Public Utility Holding Company Act is hindering necessary restructuring of the industry and the deployment of capital into an industry that desperately needs it. Investors are deterred simply because they do not want to deal with the PUHCA rules and restrictions. If repealed, utility securities will continue to be regulated by the SEC, FERC and most state commissions. Mergers and acquisitions of jurisdictional assets would still require FERC and state commission approval and review by the Department of Justice, DOJ, and the Federal Trade Commission, FTC. FERC and state commissions would still be able to monitor rates and prevent cross-subsidies.

Despite State progress in administering the Public Utility Regulatory Policies Act of 1978, it is clear that PURPA continues to provide special privileges to certain favored generators at the expense of utilities and their customers. Like PUHCA, PURPA is no longer needed in today's competitive wholesale markets. My legislation prospectively eliminates the mandatory purchase and sell obligations of PURPA.

Over the years the grid has been well protected through voluntary standards established by the North American Electric Reliability Council. NERC's voluntary reliability standards—which are not enforceable—have generally been complied with by the electric power industry. But with the opening of the wholesale power market to competition, our transmission grid is being used in ways for which it was not designed. New system strains are also being created by the break-up of vertically integrated utilities and by the emergence of new market structures and participants. The results of these changes have been an increase in the number and severity of violations of NERC's voluntary rules.

My legislation converts the existing NERC voluntary reliability system into a mandatory reliability system. A North America-wide organization would have the authority to establish and enforce reliability standards, and take into account regional differences. The new reliability organization will be run by market participants, and will be overseen by the FERC in the U.S. The organization will be made up of representatives of everyone who is affected—residential, commercial and industrial consumers; State public utility commissions; independent power producers; electric utilities and others. There is no question that we need a new system to safeguard the integrity of our electric grid. My legislation would do this, using language that was agreed upon in the last Congress by House and Senate conferees for the energy bill.

During the last energy debate, efforts were made to address some of the more egregious behavior and attempted market manipulation by certain entities through legislation. While this area is obviously very complex, we need to address this issue if regulatory gaps truly do exist. I realize my attempt might not be perfect, but I wanted to initiate discussion on this very important topic if in fact regulatory agencies do need additional authority to police and monitor the industry.

My legislation will provide more information on prices of electricity and transmission availability, outlaw the practice of round trip trading and prohibit reporting of false information for the purpose of manipulating price indices. In addition I've included authority the FERC has requested and that would increase civil and criminal penalties for violation of the Federal Power Act and accelerate the refund effective date to the date of filing of a complaint.

In the end it's about the consumer. It is my hope and vision that this legislation will produce a more reliable and efficient transmission system and that these improvements will result in more dependable and affordable electricity for all consumers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 596

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Electric Transmission and Reliability Enhancement Act of 2005".

## TITLE I—TRANSMISSION IMPROVEMENT

**SEC. 101. OPEN NON-DISCRIMINATORY ACCESS.**

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

"OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

"SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

"(2) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

"(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year;

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(d) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(e) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(f) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(g) For purposes of this subsection, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

"(2) is either an entity described in section 201(f) or a rural electric cooperative.".

### SEC. 102. FEDERAL AGENCY COORDINATION.

The Department of Energy shall be the lead agency for conducting environmental review (for purposes of the National Environmental Policy Act of 1969) of the establishment and modification of electric power transmission corridors across federal lands. The Secretary of Energy shall coordinate with Federal agencies, including Federal land management agencies, to ensure the timely completion of environmental reviews pertaining to such corridors and may set deadlines for the completion of such reviews. For purposes of this section, the term "Federal land management agencies" means the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, and the Department of Defense. For purposes of this section, "Federal lands" means all lands owned by the United States except lands in the National Park System or the national wilderness preservation system, or such other lands as the President may designate.

### SEC. 103. PRIORITY FOR RIGHTS-OF-WAY ACROSS FEDERAL LANDS.

Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding the following new subsection at the end thereof:

"(e) In administering the provisions of this title, the Secretary of the Interior and the Secretary of Agriculture shall each give a priority to applications for rights of way for electric power transmission corridors.".

### SEC. 104. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting the following new section at the end thereof:

### "SEC. 215. ELECTRIC RELIABILITY.

"(a) Definitions.—For purposes of this section—

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) Jurisdiction and Applicability.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) Certification.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization (ERO). The Commission may certify one such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system;

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(d) Reliability Standards.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

"(C) the ordered change becomes effective under this part. If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e) Enforcement.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the Electric Reliability Organization files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the Electric Reliability Organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the Electric Reliability Organization for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall establish regulations directing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by an independent, balanced stakeholder, or combination independent and balanced stakeholder board;

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) CHANGES IN ELECTRICITY RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the Electric Reliability Organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the Electric Reliability Organization in the United States and Canada or Mexico.

"(i) SAVINGS PROVISIONS.—(1) The Electric Reliability Organization shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the Electric Reliability Organization or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the Electric Reliability Organization.

"(5) The Commission, after consultation with the Electric Reliability Organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.".

## TITLE II—ELIMINATION OF COMPETITIVE BARRIERS

## Subtitle A—Provisions Regarding the Public Utility Holding Company Act of 1935

### SEC. 201. DEFINITIONS.

For the purposes of this subtitle:

(1) The term "affiliate" of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term "associate company" of a company means any company in the same holding company system with such company.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) the term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term "holding company system" means a holding company, together with its subsidiary companies.

(10) The term "jurisdictional rates" means rates established by the Commission for the

transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term "person" means an individual or company.

(13) The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term "public utility company" means an electric utility company or a gas utility company.

(15) The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

### SEC. 202. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a and following) is repealed, effective 12 months after the date of enactment of this Act.

### SEC. 203. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

### SEC. 204. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

### SEC. 205. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Commission shall promulgate a final rule to exempt from the requirements of section 203 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility company, the Commission shall exempt such person or transaction from the requirements of section 203.

### SEC. 206. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company, public utility, or natural gas company from an associate company.

### SEC. 207. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

### SEC. 208. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

### SEC. 209. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

### SEC. 210. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a and following) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 and following) (including section 8 of that 1 Act).

### SEC. 211. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this Act, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

### SEC. 212. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

### SEC. 213. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this Act.

### SEC. 214. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

## Subtitle B—Provisions Regarding The Public Utility Regulatory Policies Act of 1978

### SEC. 215. PROSPECTIVE REPEAL OF SECTION 210.

(a) NEW CONTRACTS.—After the date of enactment of this Act, no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electric energy or capacity pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3).

(b) EXISTING RIGHTS AND REMEDIES NOT AFFECTED.—Nothing in this Act affects the rights or remedies of any party with respect to the purchase or sale of electric energy or capacity from or to a facility determined to be a qualifying small power production facility or a qualifying cogeneration facility under section 210 of the Public Utility Regulatory Policies Act of 1978 pursuant to any contract or obligation to purchase or to sell electric energy or capacity in effect on the date of enactment of this Act, including the right to recover the costs of purchasing such electric energy or capacity.

### SEC. 216. RECOVERY OF COSTS.

In order to assure recovery by electric utilities purchasing electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this Act, of all costs associated with such purchases, the Commission shall promulgate and enforce such regulations as may be required to assure that no such electric utility shall be required directly or indirectly to absorb the costs associated with such purchases from a qualifying facility. Such regulations shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C. 791a-825r).

### SEC. 217. DEFINITIONS.

For purposes of this subtitle, the terms "Commission", "electric utility", "qualifying cogeneration facility", and "qualifying small power production facility", shall have the same meanings as provided in the Public Utility Regulatory Policies Act of 1978, and the term "qualifying facility" shall mean either a qualifying small production facility or a qualifying cogeneration facility as defined in such Act.

## TITLE III—MARKET TRANSPARENCY, ANTI-MANIPULATION AND ENFORCEMENT

### Subtitle A—Market Transparency, Anti-Manipulation And Enforcement

### SEC. 301. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is amended by adding after section 215 as added by this Act the following:

"SEC. 216. MARKET TRANSPARENCY RULES.

"(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide statistical information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

"(b) INFORMATION REQUIRED.—The Commission shall require—

"(1) each regional transmission organization or, where no regional transmission organization is operating, each transmitting utility to provide information about the available capacity of transmission facilities operated by the organization or transmitting utility; and

"(2) each regional transmission organization or broker or exchange to provide aggregate information about the amount and price of physical sales of electric energy at wholesale in interstate commerce it transacts.

"(c) DEFINITION.—For purposes of this section, the term 'broker or exchange' means an entity that matches offers to sell and offers to buy physical sales of wholesale electric energy in interstate commerce.

"(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market."

### SEC. 302. MARKET MANIPULATION.

(a) Part II of the Federal Power Act is amended by adding after section 216 as added by this Act the following:

### "SEC. 217. PROHIBITION ON FILING FALSE INFORMATION.

"It shall be a violation of this Act for any person willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person knew to be false at the time of the reporting, to any governmental or nongovernmental entity and with the intent to manipulate the data being compiled by such entity."

### "SEC. 218. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—It shall be a violation of this Act for any person willfully and knowingly to enter into any contract or other arrangement to execute a "round-trip trade" for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION OF ROUND-TRIP TRADE.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices."

### SEC. 303. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting "electric utility," after "Any person,"; and

(2) inserting "transmitting utility," after "licensee" each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting "or transmitting utility" after "any person" in the first sentence

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting "electric utility," after "Any person," in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 8250) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "five years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and (3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A ol the Federal Power Act (16 U.S.C. 8250–1) is amended—

(1) in subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

### Subtitle B—Refund Effective Date

### SEC. 304. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence 28 and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint";

(2) striking "60 days after" in the third sentence and inserting "of";

(3) striking "expiration of such 60-day period" in the third sentence and inserting "publication date"; and

(4) striking the fifth sentence and inserting in lieu thereof: "If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision."

---

By Mr. INOUYE:

S. 598. A bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill to reauthorize Title VIII of the Native American Housing Assistance and Self-Determination Act. Title VIII provides authority for the appropriation of funds for the construction of low-income housing for Native Hawaiians and further provides authority for access to loan guarantees associated with the construction of housing to serve Native Hawaiians.

Three studies have documented the acute housing needs of Native Hawaiians—which include the highest rates of overcrowding and homelessness in the State of Hawaii. Those same studies indicate that inadequate housing rates for Native Hawaiians are amongst the highest in the Nation.

The reauthorization of Title VIII will support the continuation of efforts to assure that the native people of Hawaii may one day have access to housing opportunities that are comparable to those now enjoyed by other Americans.

I would ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 598

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. REAUTHORIZATION.

Section 824 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4243) is amended by striking "fiscal years" and all that follows and inserting "fiscal years 2006 through 2009".

By Mr. CONRAD:

S. 601. A bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing legislation to correct an injustice in the Internal Revenue Code that is negatively affecting our troops.

I recently received an e-mail from an active-duty Airman who expressed his dismay that he has been told the law requires him to withdraw the money he had contributed to an IRA previously in the year. Here is what he told me:

> I am an active-duty member of the military who has been deployed so much that I have not paid taxes for more than a year now. I also had been contributing to a Roth-IRA. I've been told by tax professionals that I will have to withdraw my contributions because I do not show a taxable income. I've been deployed and put in harm's way many times last year and I am not allowed legally to contribute to an IRA like any other average American.
>
> This is an injustice to the soldiers that work so hard under hard conditions. There are thousands of soldiers that are going to be told to take their IRA contributions out since they have been deployed twelve months. This is a slap in the face for those soldiers who have put themselves in danger.

This injustice results from an unintended, but undeniably unjust, interaction between combat pay and IRA rules. Under IRA contribution rules, you can only contribute to a tax-favored retirement account if you have taxable income for the year. Military personnel deployed for a full calendar year or more, however, may have no taxable income because their earnings while serving in a combat zone are excluded from taxation. These troops are therefore prohibited by law from contributing income to an IRA because, technically, they have not earned taxable income.

This is indeed an injustice. This is no way to treat the men and women who have been deployed to combat zones in Iraq and Afghanistan for long periods of time. Rather than discouraging our troops from saving for retirement, we should take steps to ensure that they have the same access to tax-favored retirement savings programs as the rest of us.

I ask my colleagues to join me in correcting this injustice. The bill I am introducing today simply amends the Internal Revenue Code to allow our dedicated military service men and women to contribute to IRAs, regardless of their deployment status.

My bill presents an opportunity for the United States Senate to support retirement savings and our brave military personnel. This is a win-win for all involved. I hope my colleagues will join me in correcting this injustice and send this bill to the President for his quick signature.

By Ms. MIKULSKI (for herself, Mr. BOND, Mrs. CLINTON, Mr. WARNER, Ms. COLLINS, Mr. KENNEDY, Mr. WYDEN, Mr. SARBANES, Mr. JOHNSON, Mr. NELSON of Florida, Ms. LANDRIEU, Ms. STABENOW, Mrs. LINCOLN, Mr. KERRY, Mr. LAUTENBERG, Mr. DAYTON, Mr. KOHL, Mr. LEAHY, Mr. DURBIN, Mrs. BOXER, Mr. DODD, Mr. TALENT, Mr. LIEBERMAN, Mrs. DOLE, Mr. HAGEL, Mr. LUGAR, Mr. COLEMAN, Mrs. MURRAY, Mr. HARKIN, Ms. CANTWELL, Mr. BAYH, and Mr. ROCKEFELLER):

S. 602. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to speak of the life, leadership and the truly remarkable legacy of the 40th President of the United States, Ronald Reagan.

President Reagan was a great communicator with a powerful message. He preached the gospel of hope, freedom and opportunity not just for America but for the world. Reagan was a genuinely optimistic person who brought that spirit of optimism and hope to the American people and to enslaved peoples around the world. He was a man who took disappointment and moved on. He was a man of unfailing good humor, care and thoughtfulness. Even people who disagreed with his policies across the board could not help but like him.

In the U.S., his policies encouraged the return of more tax dollars to average Americans and unfettered entrepreneurship to create jobs and build the economy. Reagan's strong military opposition to the Soviet Union helped bring down the walls that harbored communism and tyranny throughout Eastern Europe and much of the world.

In a letter to the American people in 1994 Ronald Reagan announced he was one of the millions of Americans with Alzheimer's disease. One of the most courageous things Ronald and Nancy Reagan did was to announce publicly that he had Alzheimer's disease. Through their courage and commitment, the former President and his wife, Nancy, changed the face of Alzheimer's disease by increasing public awareness of the disease and of the need for research into its causes and prevention.

In honor of Ronald Reagan, today my colleague Senator MIKULSKI and I are introducing the Ronald Reagan Alzheimer's Breakthrough Act. This bill will increase research for Alzheimer's and increase assistance to Alzheimer patients and their families. This bill will serve as a living tribute to President Reagan and will: 1. Double funding for Alzheimer's Research at the National Institute of Health; 2. increase funding for the National Family Caregiver Support Program from $153 million to $250 million; 3. reauthorize the Alzheimer's Demonstration Grant Program that provides grants to states to fill in gaps in Alzheimer's services such as respite care, home health care, and day care; 4. authorize $1 million for the Safe Return Program to assist in the identification and safe, timely return of individuals with Alzheimer's disease and related dementias who wander off from their caregivers; 5. establish a public education campaign to educate members of the public about prevention techniques that can "maintain their brain" as they age, based on the current research being undertaken by NIH; 6. establish a $3,000 tax credit for caregivers to help with the high health costs of caring for a loved one at home; and 7. encourage families to prepare for their long term needs by providing an above-the-line tax deduction for the purchase of long term care insurance.

Ironically it was President Reagan who drew national attention to Alzheimer's for the very first time when he launched a national campaign against Alzheimer's disease some 22 years ago.

In 1983 President Reagan proclaimed November as National Alzheimer's Disease Month. In his proclamation President Reagan said "the emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves special attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat it successfully. Right now, research is the only hope for victims and families."

Today, approximately 4.5 million Americans have Alzheimer's, with annual costs for this disease estimated to exceed $100 billion. Today there are more than 4.5 million people in the United States with Alzheimer's, and that number is expected to grow by 70 percent by 2030 as baby boomers age.

In my home State of Missouri, alone, there are over 110,000 people with Alzheimer's disease. Based on population growth, unless science finds a way to prevent or delay the onset of this disease, that number will increase to over 130,000 by 2025—that is an 18 percent increase.

In large part due to President Reagan, there has been enormous progress in Alzheimer research—95 percent of what we know we discovered during the past 15 years. There is real potential for major breakthroughs in the next 10 years. Baby boomers could be the first generation to face a future without Alzheimer's disease if we act now to achieve breakthroughs in science.

President and Mrs. Reagan have been leading advocates in the fight against

Alzheimer's for more than 20 years, and millions of Americans have been helped by their dedication, compassion and effort to support caregivers, raise public awareness about Alzheimer's disease and increase of nation's commitment to Alzheimer's research.

This bill will serve as a living tribute to President Reagan and will offer hope to all those suffering from the disease today. As we celebrate the life and legacy of Ronald Reagan, we are inspired by his legendary optimism and hope, and today we move forward to confront this expanding public health crisis with renewed vigor, passion, and compassion.

Ms. COLLINS. Mr. President, as the Senate co-chair of the Bipartisan Task Force on Alzheimer's Disease, I am pleased to join Senators BOND and MIKULSKI in introducing the Ronald Reagan Alzheimer's Breakthrough Act of 2005.

Alzheimer's is a devastating disease that takes a tremendous personal and economic toll on both the individual and the family. As someone whose family has experienced the pain of Alzheimer's, I know that there is no more helpless feeling than to watch the progression of this dreadful disease. It is an agonizing experience to look into the eyes of a loved one only to receive a confused look in return.

Ronald Reagan had a profound effect on our Nation in many ways during his Presidency. But what many of us will remember most is the grace and dignity with which he and his wife Nancy faced the final battle against Alzheimer's—the one campaign they knew he wouldn't win.

Ironically, it was President Reagan who first drew national attention to Alzheimer's disease when he launched a national campaign against the disease some 22 years ago. In 1983, President Reagan proclaimed November as National Alzheimer's Disease Month. In his proclamation, President Reagan said: "The emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat it successfully. Right now, research is the only hope for victims and their families."

An estimated 4.5 million Americans have Alzheimer's disease, more than double the number in 1980. Moreover, Alzheimer's disease costs the United States more than $100 billion a year, primarily in nursing home and other long-term care costs. This figure will only increase exponentially as the baby boom generation ages. As the baby boomers move into the years of highest risk for Alzheimer's disease, a strong and sustained research effort is our best tool to slow down the progression and prevent the onset of this terrible disease.

Our investments in Alzheimer's disease research have begun to pay dividends. Effective treatments for Alzheimer's disease and a possible vaccine are tantalizingly within our grasp. Moreover, if scientists can find a way to delay the onset of this devastating disease for even five years, our Nation will save at least $50 billion in annual health and long-term care costs and an incalculable amount in human suffering.

If we are to keep up the momentum we have established, we must increase our investment in Alzheimer's disease research. Millions of Americans, including the families of Alzheimer patients, are profoundly grateful for our historic accomplishment of doubling funding for biomedical research at the National Institutes of Health. We have made tremendous progress, but more must be done. The bill we are introducing today therefore doubles the authorization levels for Alzheimer's research at the NIH from the current funding level of $700 million to $1.4 million.

In addition to increasing funding for research, our bill provides much needed support for Alzheimer's patients and their families by increasing funding for the National Family Caregiver Support Program and by providing a tax credit of up to $3,000 to help families meet the costs of caring for a loved one with long-term care needs.

The Ronald Reagan Alzheimer's Breakthrough Act of 2005 will serve as a living tribute to President Reagan and will offer hope to all of those suffering from the disease today. It is now time for Congress to pick up the banner and pass this important legislation, and I urge all of my colleagues to sign on as cosponsors.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 79—EXPRESSING THE SENSE OF THE SENATE IN MARKING THE DEDICATION ON MARCH 15, 2005, OF THE EXPANDED MUSEUM COMPLEX AT YAD VASHEM, THE HOLOCAUST MARTYRS AND HEROES REMEMBRANCE AUTHORITY IN ISRAEL, IN FURTHERANCE OF YAD VASHEM'S MISSION TO DOCUMENT THE HISTORY OF THE JEWISH PEOPLE DURING THE HOLOCAUST, TO PRESERVE THE MEMORY AND STORY OF EACH OF THE VICTIMS, IMPART THE LEGACY OF THE HOLOCAUST TO FUTURE GENERATIONS, AND RECOGNIZE THE RIGHTEOUS AMONG THE NATIONS

Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 79

Whereas 6,000,000 Jews were slaughtered in the Holocaust solely because of the faith into which they were born;

Whereas the Holocaust is seared into the world's memory as the quintessential expression of the evil of anti-Semitism;

Whereas Yad Vashem has become the world's university devoted to exposing the evil of anti-Semitism;

Whereas Yad Vashem's archives contain the largest and most comprehensive repository of material on the Holocaust in the world, containing 62,000,000 pages of documents, nearly 267,500 photographs, thousands of films and videotaped testimonies of survivors, and the Righteous Among the Nations (non-Jews who risked their lives to save Jewish people during the Holocaust), all accessible to the public;

Whereas those archives are the witness to both inexplicable acts of cruelty and daily acts of courage;

Whereas the history of the Holocaust, as embodied at Yad Vashem, represents the depths to which humanity can descend and the heights to which it can soar;

Whereas to ensure that Holocaust commemorations in future generations among both Jews and non-Jews have relevance and meaning, Yad Vashem has undertaken an extraordinary expansion of its facilities;

Whereas the centerpiece of this expansion is the new Holocaust History Museum building designed by world-renowned architect Moshe Safdie;

Whereas a central role in bringing the Holocaust History Museum to fruition was played by Holocaust survivor Joseph Wilf of New Jersey and his family;

Whereas through this new museum, Yad Vashem honors the lives of the victims and the Righteous Among the Nations in perpetuity;

Whereas the unique buildings and archives of Yad Vashem ensure that we, our children, and their children will never forget; and

Whereas the Israeli Knesset established Yad Vashem in 1953, founded on the biblical injunction set forth in Isaiah, chapter 56, verse 5: "And to them will I give in my house and within my walls a memorial and a name (a 'yad vashem') . . . an everlasting name which shall not perish," and, for more than 50 years, Yad Vashem has steadfastly fulfilled this purpose: Now, therefore, be it

*Resolved*, That the Senate recognizes—

(1) Yad Vashem as a trustee of the World's conscience, so that the meaning of "never again" becomes the living foundation of our collective humanity; and

(2) that March 15, 2005, the date of the dedication of Yad Vashem's expanded facilities, is a date of historical significance that will be remembered as such by future generations.

### SENATE RESOLUTION 80—HONORING THE LIFE OF FERN HOLLAND AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HER FAMILY ON THEIR LOSS

Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Mr. SARBANES, and Mrs. CLINTON) submitted the following resolution, which was considered and agreed to:

S. RES. 80

Whereas the Senate remembers with great sadness the murder of Fern Holland near the

Iraqi city of Karbala at the age of 33 on March 9, 2004;

Whereas Fern Holland, born in Bluejacket, Oklahoma, on August 5, 1970, lived her life committed to creating the most equal and just global society possible;

Whereas Fern Holland graduated with honors in psychology at Oklahoma University and actively sought to help the world through caring for children dying of nuclear-related diseases in Russia and teaching kids in a squatter camp in South Africa;

Whereas in the spring of 2000, Fern Holland worked for the Peace Corps as a human rights legal advisor in West Africa;

Whereas in 2003, Fern Holland went to investigate alleged human rights violations for the American Refugee Committee at a refugee camp in Guinea where she established a legal clinic to seek justice for victims of human rights violations, and which, at the time of her death in 2004, had handled 118 cases on behalf of victims of human rights violations;

Whereas in May 2003, Fern Holland went to Iraq as a United States Agency for International Development employee to work for women's rights;

Whereas in Iraq, Fern Holland organized human rights groups, opened 6 women's centers in south Baghdad, and acted as a strong advocate for Iraqi women's rights;

Whereas after Fern Holland's death, leading feminists from the National Organization for Women, the Feminist Majority Foundation, and the National Council of Women's Organizations issued statements praising her work;

Whereas residents of the refugee camp in Guinea renamed the legal clinic Fern Holland established the "Fern Holland Legal Aid Clinic of Nzerekore";

Whereas the high school Fern Holland attended in Miami, Florida observed a moment of silence and then discussed a memorial to honor her;

Whereas the Cherokee Nation honored Fern Holland by passing a resolution saying she "died as a warrior";

Whereas Fern Holland was posthumously named a Heroic Oklahoman on April 7, 2004, by Governor Brad Henry; and

Whereas Fern Holland devoted her brief life to promoting her belief in basic human rights and the rule of law: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that, in Fern Holland, the World has lost one of its most devoted and hard working human rights activists;

(2) honors Fern Holland in her extreme dedication to making the world a better place; and

(3) expresses its deep and heartfelt condolences to the family of Fern Holland on their loss.

## SENATE RESOLUTION 81—RECOGNIZING THE CONTRIBUTION OF CHRIS LEDOUX TO COUNTRY MUSIC

Mr. BURNS (for himself, Mr. THOMAS, and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 81

Whereas Chris LeDoux, a former rodeo world champion in bareback riding and country music star, died on March 9, 2005;

Whereas Chris LeDoux was born in Biloxi, Mississippi, in 1948;

Whereas Chris LeDoux won the Wyoming State Rodeo Championship in high school, continued riding in college, earning a rodeo scholarship, and rode professionally, winning the bareback championship at the National Rodeo Finals;

Whereas Chris LeDoux made important contributions to the country music community, through songs such as "Whatcha Gonna Do With a Cowboy" and "Much Too Young to Feel this Damn Old";

Whereas Chris LeDoux worked with well-known artists throughout his career, such as Garth Brooks and Charlie Daniels: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the contribution of Chris LeDoux to country music;

(2) has heard with profound sorrow and deep regret of the death of Chris LeDoux; and

(3) directs the Secretary of the Senate transmit enrolled copies of this resolution to the House of Representatives and the family of Chris LeDoux.

## SENATE CONCURRENT RESOLUTION 17—CALLING ON THE NORTH ATLANTIC TREATY ORGANIZATION TO ASSESS THE POTENTIAL EFFECTIVENESS OF AND REQUIREMENTS FOR A NATO-ENFORCED NO-FLY ZONE IN THE DARFUR REGION OF SUDAN

Mr. BIDEN (for himself, Mr. CORZINE, Mr. FEINGOLD, Mr. DODD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. OBAMA, and Mrs. BOXER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 17

Whereas the Government of Sudan continues to commit crimes against humanity and engage in genocidal acts in the Darfur region of Sudan;

Whereas the signing of the Comprehensive Peace Agreement between the government in Khartoum and the Sudanese People's Liberation Army on January 9, 2005, has not resulted in an improvement of the security situation in Darfur;

Whereas, on January 26, 2005, the Government of Sudan bombed the village of Rahad Kabolong in the state of North Darfur, killing an estimated 100 people;

Whereas, in February of 2005, the African Union reported that the security situation in Darfur had deteriorated over the course of the previous four months;

Whereas, in March 2005, Doctors Without Borders issued a report that stated that rape of women in Darfur continues unabated;

Whereas United Nations officials have stated that at least 70,000 people have died due to violence and insecurity in Darfur, but that the total is likely higher;

Whereas, according to the United Nations, the number of people internally displaced due to the conflict in Darfur has risen over the past year to nearly 1,850,000, and over 200,000 people are refugees in neighboring Chad;

Whereas aid organizations believe that approximately 1,000 people per day are dying as a direct and indirect result of the conflict in Darfur;

Whereas neither the mandate nor the troop strength of the African Union Mission in Sudan is adequate to protect civilians in that country; and

Whereas all members of the international community must participate in efforts to stop genocide, war crimes, and crimes against humanity in Darfur: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) strongly condemns the continued attacks on civilians in Darfur;

(2) calls on all parties to abide by the terms of the April 8, 2004, N'Djamena ceasefire agreement;

(3) calls on the Government of Sudan to immediately withdraw all military aircraft from the region and disarm the janjaweed militias;

(4) commends the Africa Union Mission in Sudan for its actions to date in monitoring the implementation of the N'Djamena ceasefire agreement in Darfur;

(5) urges the President to immediately direct the United States Permanent Representative to the North Atlantic Treaty Organization to propose in the North Atlantic Council that NATO assess and report to members on the potential effectiveness of and requirements for a NATO-enforced no-fly zone across the Darfur region of Sudan; and

(6) calls upon NATO allies to support the dispatch of such an assessment mission.

Mr. BIDEN. Mr. President, the second reason I rise is literally a coincidental but important offshoot of what Christopher Dodd, Senator DODD's father, did at the Nuremberg Trials. What they did—he and Justice Jackson—was they understood that you could uncover, deal with, and expose to the world atrocities humanity commits upon humanity and at the same time do it under the rule of law, give people a fair trial, actually abide by what we say we stand for.

All of us are aware of the genocide now taking place in the Darfur region of Sudan. We passed a resolution last July which called Khartoum's abuses in Darfur genocide, which is what they were, what they are, and what they continue to be. The then-Secretary of State Colin Powell made the same assessment in testimony before the Senate Foreign Relations Committee in September of 2004.

The President of the United States, President Bush, signed legislation imposing sanctions on Khartoum for the actions in Darfur this past December. With the signing of the North-South Peace Agreement on January 9, administration officials believed the situation in Darfur would improve. Unfortunately, they have only gotten worse.

The Government of Sudan and its proxy militia continue to attack civilians with impunity. An estimated 100 people were killed in an aerial bombardment in Sudan at the end of January.

In February, the African Union officials reported that the security situation in Darfur had deteriorated over the past 4 months and said that the government and its allied militias were primarily to blame.

This month, Doctors Without Borders has reported that rape continues as a routine practice, routinely used as a weapon against the women in the region with no sign of abating.

The insecurity continues to hamper aid efforts, and on March 6, the United Nations forbade its workers from traveling to certain areas—the latest in a series of security measures put in place after aid workers were kidnapped and then killed. Aid organizations report that as many as 1,000 people a day are dying because of the lack of access to food and medicine.

All told, violence and insecurity have resulted in at least 70,000 deaths, although some believe the total to be much higher. The number of internally displaced persons has risen to nearly 2 million people. There are over 200,000 refugees in Chad alone. The current registration being conducted reveal that there are far more than the 20,0000 refugees in neighboring Chad.

The African Union Force in Darfur has made a noticeable difference in the areas they are able to reach, but it does not have the size, the mandate, or the capability to protect civilians in Darfur. AU monitors have come under fire from government allied forces and, in some instances, have been prevented from investigating allegations of cease-fire violations.

The AU faces a serious lack of capacity both at the headquarters level and at the level of member states. Out of a mandated 3,000 troops, fewer than 2,000 are on the ground. And even at full strength, 3,000 soldiers is not enough to prevent further abuse of civilians and to investigate cease-fire allegations in the area the size of France.

It is evident to me that the administration—our administration—needs to devote some focused time and attention to addressing the genocide in Darfur. Our current policy has not turned the tide. We need to redouble our efforts and bring an end to the genocide in Darfur. The question will be 5 years from now to all of us: Where were we? Where were we? What did we do when this genocide unfolded? There will be another Academy Award-nominated movie about the god-awful genocide that is taking place, the routine rape, the systematic elimination of a whole people.

Today, I sent a letter to the President of the United States urging him to instruct our permanent representative at the NATO alliance, the so-called NAC, the North Atlantic Council, to propose that NATO assess and report immediately to members on the potential effectiveness of and requirements for a NATO-enforced no-fly zone across Darfur in the region of the Sudan. The reason I sent the letter is I am absolutely certain of what NATO will say. They are fully, totally capable of enforcing a no-fly zone out of Chad. The French could do it now.

I have been one who has been critical of this administration. I apologize for discussing this in the middle of a bill we have been working on for a long time but, literally, events are overtaking us.

I am confident that NATO will point out they are fully physically capable of taking and imposing a no-fly zone in the region. That will be significant. My friend from New Jersey has been a leader on this subject and this issue. He has been banging us about the head to do more. He has a much more expansive proposal, which I support, than what I am proposing today.

I have stood in this Senate and defended our European allies against some of the broader allegations in the Bush allegation, but I must say today, I am tired of our French friends and others bleeding all over us about the plight of the people in Iraq, the plight of the people in other parts of the world, when it is fully within their capability right now that France could do this all by itself. Right now. They have the wherewithal, they have the aircraft, they are positioned, and they very much want to make sure that they are recognized as a major player in Africa.

I am, quite frankly, more than disappointed—appalled—for all their talk that they are not acting at all. That does not relieve us of responsibility. The fact that another nation has the capacity and has a history that would warrant it taking the action that needs to be taken now, and does not, does not free us of an obligation.

Today's Washington Post editorial page says that enforcing the no-fly zone in Darfur would require "one squadron of 12 to 18 fighter aircraft backed up by 4 AWAC planes," and cites a retired Air Force general as their source for believing such. Let's find out whether they are right. I believe they are. I have no reason to doubt that this Air Force general has talked not only to them but to others. But let's make it official. Let's do an assessment. Let's force the NAC to make an assessment now. I believe they will come back with exactly what I have just stated—a squadron, backed up by AWAC, that will be able to take out those gunships that are being used now to decimate entire villages.

As I said, my friend from New Jersey witnessed—I don't think he witnessed the actual gunships in action, but he witnessed the results. Let's find out now so we cannot kid around with ourselves, so we do not do what we are doing today, what we were doing last week and last month. We think this is an awful occurrence; we condemn it; but it is beyond our capacity to effect an outcome.

That is what they said to me in 1993 in Bosnia. That is what they said in 1997 in Kosovo. That is what we didn't do in Rwanda. This is time to act. It is within our capacity to do so. I believe it is totally consistent with the President's call for freedom, totally consistent with the President's Inaugural speech, which I applaud, totally consistent with what I believe and hope is in his heart, to be able to stop this kind of action.

The question is, why propose sending the NATO mission to Darfur? A NATO mission will do three things. First, it will provide immediate security for the people of Darfur by preventing area bombardment on the ground by the government of Sudan. Second, it will bolster the ability of the African force on the ground by discouraging attacks in the AU personnel and helicopters. Finally, it will send an unequivocal message to the international community that we will no longer tolerate Khartoum's actions.

Some may say, Why aren't you going to the U.N.? This is a point I want to make again and again, one I made back in 1993, 1995, 1997 and 1998. When that body does not act responsibly and when there is a genocide underway, it is fully within our rights—and I will argue our obligation—to act, hopefully, with others, with the strongest alliance in the history of the modern world, NATO. But even if they don't, we have a right, for I would argue and I say that which I am not supposed to say: If you engage in genocide, the world should reach a conclusion that you forfeit your sovereignty. You forfeit your sovereignty if you engage in genocide. That should be a principle we should state loudly and clearly. That warrants, if the capacity exists, the use of whatever action is possible to stop the genocide.

I realize we have 12 divisions, 10 of which are coming or going to Iraq. But we are not talking about a division here. We don't need a division here. We are going to look back and find a squadron of aircraft, possibly several thousand American forces. That is what I would do, by the way. I think we should put ground forces in as well, but I am not asking that. All I am asking is, quite frankly, prick NATO's conscience and have them give us an honest assessment of what would, in fact, be required to enforce a no-fly zone.

I send a resolution to the desk. I apologize I have not circulated this, but I know my colleague from New Jersey, as I say, has been heard on this and wants to be added. I know Senator DURBIN does.

I ask unanimous consent it remain open for the remainder of the day for me to be able to add cosponsors on both sides.

I thank the Chair and my colleagues for their indulgence.

Mr. FEINGOLD. I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 139. Mr. MCCONNELL (for Mr. CRAIG) proposed an amendment to the resolution S.

Res. 71, designating the week beginning March 13, 2005 as "National Safe Place Week".

SA 140. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 328, to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000; which was referred to the Committee on Foreign Relations.

## TEXT OF AMENDMENTS

**SA 139.** Mr. McCONNELL (for Mr. CRAIG) proposed an amendment to the resolution S. Res. 71, designating the week beginning March 13, 2005, "National Safety Place Week"; as follows:

In Section (2), strike "requests that the President issue a proclamation calling" and replace with "calls".

**SA 140.** Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 328, to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000; which was referred to the Committee on Foreign Relations; as follows:

At the appropriate place, insert the following:

**SEC. . PRESIDENTIAL CERTIFICATION.**

Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not take effect until the President certifies to Congress that Cuba has released or properly accounted for political prisoners being held in Cuba, including the following individuals:

(1) Dr. Oscar Elias Biscet.
(2) Horacio Julio Pina Borrego.
(3) Osvaldo Alfonso Valdes.
(4) Ricardo Gonzalez Alfonso.
(5) Pedro Pablo Alvarez Ramos.
(6) Julio C. Galvez Rodriguez.
(7) Edel Jose Garcia Diaz.
(8) Marcelo Cano Rodriguez.
(9) Angel Moya Acosta.
(10) Manuel Vazquez Portal.
(11) Adolfo Fernandez Sainz.
(12) Carmelo Diaz Fernandez.
(13) Nelson Molinet Espino.
(14) Eduardo Diaz Fleitas.
(15) Fidel Suarez Cruz.
(16) Jorge Olivera Castillo.
(17) Orlando Fundora Alvarez.
(18) Roberto de Miranda Hernandez.
(19) Efren Fernandez Fernandez.
(20) Victor Rolando Arroyo Carmona.
(21) Orlando Zapata Tamayo.
(22) Oscar Espinosa Chepe.
(23) Hector Maseda Gutierrez.
(24) Majail Barzaga Lugo.
(25) Nelson Aguiar Ramirez.
(26) Antonio Diaz Sanchez.
(27) Regis Iglesias Ramirez.
(28) Martha Beatriz Roque Cabello.
(29) Hector Palacios Ruiz.
(30) Marcelo Lopez Banobre.
(31) Alfredo Felipe Fuentes.
(32) Hector Raul Valle Hernandez.
(33) Guido Sigler Amaya.
(34) Miguel Sigler Amaya.
(35) Felix Navarro Rodriguez.
(36) Librado Linares Garcia.
(37) Lester Gonzalez Penton.
(38) Omar Pernet Hernandez.
(39) Antonio A. Villarreal Acosta.
(40) Pedro Arguelles Moran.
(41) Alejandro Gonzalez Raga.
(42) Mario Enrique Mayo Hernandez.
(43) Dr. Jose Luis Garcia Paneque.
(44) Alfredo Dominguez Batista.
(45) Reynaldo Labrada Pena.
(46) Julio Antonio Valdes Guevara.
(47) Jose Ramon Gabriel Castillo.
(48) Luis Milan Fernandez.
(49) Alexis Rodriguez Fernandez.
(50) Leonel Grave de Peralta.
(51) Juan Carlos Herrera Acosta.
(52) Rafael Mollet Leyva.
(53) Arnaldo Ramos Lausurique.
(54) Raul RIvero Castaneda.
(55) Migueal Valdes Tamayo.
(56) Miguel Valdes Tamayo.
(57) Miguel Galvan Gutierrez.
(58) Jose Miguel Martinez Hernandez.
(59) Jose Ubaldo Izquierdo Hernandez.
(60) Ariel Sigler Amaya.
(61) Ivan Hernandez Carillo.
(62) Diosdado Gonzalez Marrero.
(63) Margarito Broche Espinosa.
(64) Arturo Perez de Alejo.
(65) Omar Ruiz Hernandez.
(66) Blas Giraldo Reyes Rodriguez.
(67) Pablo Pacheco Avila.
(68) Alfredo Pulido Lopez.
(69) Normando Harandez Gonzalez.
(70) Jorge Luis Gonzalez Tanquero.
(71) Luis Enrique Ferrer Garcia.
(72) Prospero Gainza Aguero.
(73) Cruz Delia Aguilar Mora.
(74) Claro Sanchez Altarriba.
(75) Jose Daniel Ferrer Garcia.
(76) Ricardo Silva Gual.
(77) Jesus Mustafa Felipe.
(78) Manueal Ubias Gonzalez.
(79) Fabio Prieto Llorente.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, March 10, 2005. The purpose of this hearing will be to consider the reauthorization of the Commodity Futures Trading Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2005, at 9:30 a.m., in open session to receive testimony on the review of Department of Defense detention operations and detainee interrogation techniques.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 10, 2005, at 2:30 p.m., to conduct a hearing on "Identity Theft: Recent Developments Involving the Security of Sensitive Consumer Information".

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 10, 2005, at 10 a.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 10, 2005, at 11 a.m. in Senate Dirksen Office Building Room 226. The agenda is attached.

### AGENDA

*I. Nominations*

William G. Myers, III, to be U.S. Circuit Judge for the Ninth Circuit.

*II. Legislation*

Asbestos Legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. McCONNELL. Mr. President, I ask unanimous consent that at 10 a.m. on Monday, the Senate proceed to the consideration of the budget resolution; provided further that when the Senate begins the consideration of the resolution on Monday there will be a total of 45 hours remaining on that resolution, with 22 hours controlled by the majority and 23 controlled by the minority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, as in executive session, I ask unanimous consent that when the nomination for the Assistant Secretary for Civil Works is received by the Senate, it be referred to the Committee on Armed Services; provided that when the Committee on Armed Services reports the nomination it be referred to the Committee on Environment and Public Works for a period of 20 days of session; provided further that if the Committee on Environment and Public Works does not report the nomination within those 20 days, the committee be discharged from further consideration of the nomination and the nomination be placed on the Calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INHOFE. This order is a joint request by the chairmen and ranking members of the Committee on Armed

Services and the Committee on Environment and Public Works. As Chairman of the Environment and Public Works Committee, and as a member of the Armed Services Committee, I want to thank Chairman WARNER and Senator LEVIN for working together with Senator JEFFORDS and myself on this order.

Mr. WARNER. I thank Chairman INHOFE and as Chairman of the Committee on Armed Services, I am pleased to join him and our Committees' ranking members in supporting this order. I note that the issues for which the Assistant Secretary of the Army for Civil Works is responsible fall within the jurisdiction of both the Armed Services Committee and the Committee on Environment and Public Works.

Since the attacks of September 11, 2001, the Assistant Secretary of the Army for Civil Works has played an increasingly important role within the Department of Defense and the Department of the Army for homeland defense and homeland security. The Army protects and supports the American people in the event of natural and man-made disasters and emergencies. Army programs provide public works and engineering assistance to protect human life, reduce suffering, and mitigate damage, and Army response activities supplement State and local efforts. The Assistant Secretary of the Army for Civil Works also has responsibilities, in concert with the Chief of Staff of the Army, in directing the foreign activities of the U.S. Army Corps of Engineers and formulating and overseeing the budget of the Arlington National Cemetery, matters of great concern to the Armed Services Committee.

I note, as well, that there are matters under the Assistant Secretary of the Army for Civil Works' purview which are of concern to the Committee on Environment and Public Works. Army programs for conservation and development of national water resources, including flood control, navigation, and shore protection, come to mind. Consequently, I fully support this initiative noting that the order is identical to orders by the Senate in the 107th and 108th Congress.

Mr. JEFFORDS. I too support this order and I want to thank my colleagues on both the EPW Committee and Armed Services for working together on this joint request.

Mr. LEVIN. I want to thank my colleagues and I am pleased to join them in supporting this joint request.

## EXECUTIVE CALENDAR

### NOMINATION OF MICHAEL JACKSON, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of the following nomination on the Executive Calendar, No. 23, Michael Jackson, to be Deputy Secretary of Homeland Security.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination be printed in the RECORD; further, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

NOMINATIONS

DEPARTMENT OF HOMELAND SECURITY

Michael Jackson, of Virginia, to be Deputy Secretary of Homeland Security.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## MEASURE PLACED ON THE CALENDAR—S. 570

Mr. MCCONNELL. I understand that there is a bill at the desk that is due a second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 570) to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

Mr. MCCONNELL. In order to place the bill on the Calendar under the provisions of rule XIV, I would object to further proceedings.

The PRESIDING OFFICER. The objection is heard. The bill will be placed on the Calendar.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Delaware, Mr. BIDEN, as Vice Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 109th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Connecticut, Mr. DODD, as Vice Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 109th Congress.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 106–567, as amended by Public Law 108–458 (Section 1102), appoints the following individual to serve as a member of the Public Interest Declassification Board: Joan Vail Grimson of Virginia.

## ACTIONS OF RUSSIA REGARDING GEORGIA AND MOLDOVA

Mr. MCCONNELL. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 69.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 69) expressing the sense of the Senate about the actions of Russia regarding Georgia and Moldova.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 69) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 69

Whereas the Organization for Security and Cooperation in Europe (OSCE) evolved from the Conference on Security and Cooperation in Europe (CSCE), which was established in 1975, and the official change of its name from CSCE to OSCE became effective on January 1, 1995;

Whereas the OSCE is the largest regional security organization in the world with 55 participating States from Europe, Central Asia, and North America;

Whereas the 1975 Helsinki Final Act, the 1990 Charter of Paris, and the 1999 Charter for European Security adopted in Istanbul are the principal documents of OSCE, defining a steadily evolving and maturing set of political commitments based on a broad understanding of security;

Whereas the OSCE is active in early warning, conflict prevention, crisis management, and post-conflict rehabilitation;

Whereas Russia and Georgia agreed at the 1999 OSCE Summit in Istanbul on specific steps regarding the withdrawal from Georgia of Russian forces, including military equipment limited by the Treaty on Conventional Armed Forces in Europe (CFE), and committed to resolve other key issues relating to the status and duration of the Russian military presence in Georgia;

Whereas Russia has completed some of the withdrawal from Georgia of military equipment limited by the CFE Treaty in excess of agreed levels, but has yet to agree with Georgia on the status of Russian forces at the Gudauata base and the duration of the Russian presence at the Akhalkalaki and Batumi bases;

Whereas Russia completed the withdrawal from Moldova of its declared military equipment limited by the CFE Treaty, but has yet to withdraw all its military forces from Moldova, as Russia committed to do at the 1999 OSCE Summit in Istanbul;

Whereas Russia made virtually no progress in 2004 toward its commitment to withdraw its military forces from Moldova;

Whereas Moldova has called for a genuinely international peacekeeping force to replace the Russian forces, and insists on the implementation by Russia of its commitment to withdraw its remaining military forces from Moldova;

Whereas Secretary of State Colin Powell stated at the December 2004 OSCE Ministerial in Sofia, Bulgaria, that "Russia's commitments to withdraw its military forces from Moldova, and to agree with Georgia on the duration of the Russian military presence there, remain unfulfilled. A core principle of the CFE Treaty is host country agreement to the stationing of forces. The United States remains committed to moving ahead with ratification of the Adapted CFE Treaty, but we will only do so after all the Istanbul commitments on Georgia and Moldova have been met. And we stand ready to assist with reasonable costs associated with the implementation of those commitments.";

Whereas since June 2004, Russia has called for the closure of the OSCE Border Monitoring Operation (BMO), the sole source of objective reporting on border crossings along the border between Georgia and with the Russian republics of Chechnya, Dagestan, and Ingushetia;

Whereas OSCE border monitors took up their mission in Georgia in May 2000, and prior to the failure to extend the mandate for the BMO in December 2004, OSCE border monitors, who are unarmed, were deployed at nine locations along that border;

Whereas the current rotation of the BMO includes 65 border monitors from 23 countries, including Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, the Czech Republic, Estonia, Finland, France, Hungary, Ireland, Lithuania, Macedonia, Moldova, Poland, Romania, Russia, Slovakia, Turkey, Ukraine, the United Kingdom, and the United States;

Whereas at the December 2004 OSCE Ministerial, Russia blocked renewal of the mandate for the BMO in Georgia;

Whereas Russia has stated that the BMO has accomplished nothing, but it has in fact accomplished a great deal, including observing 746 unarmed and 61 armed border crossings in 2004 and serving as a counterweight to inflammatory press reports;

Whereas in response to Russian complaints about the cost-effectiveness of the BMO, the OSCE agreed in December 2004 to cut the number of monitors and thereby reduce the cost of the BMO by almost half;

Whereas the BMO began shutting down on January 1, 2005;

Whereas the staff of the BMO is now dismantling facilities and is not performing its mission;

Whereas the shutdown of the BMO will become irreversible in the second half of March 2005 and is currently scheduled to be completed by May 2005;

Whereas the United States has reiterated its disappointment over the failure of the Permanent Council of the OSCE to reach consensus on renewing the mandate of the BMO, despite request of Georgia, the host country of the BMO, that the OSCE continue the border monitoring operation, and the consensus of all states but one to extend the mandate for the BMO; and

Whereas United States Ambassador to the United States Mission to the OSCE, Stephan M. Minikes, said in a statement to the OSCE Permanent Council in Vienna on January 19, 2005, that "we believe that the closure of the BMO would remove a key source of peaceful relations and of objective reporting on events at the sensitive border and increase the likelihood of heightened Russia-Georgia tensions.": Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the United States should—

(1) urge Russia to live up to its commitments at the 1999 Organization for Security and Cooperation in Europe (OSCE) Summit in Istanbul regarding Georgia and Moldova;

(2) in cooperation with its European allies, maintain strong diplomatic pressure to permit the OSCE Border Monitoring Operation (BMO) in Georgia to continue; and

(3) if the BMO ceases to exist, seek, in cooperation with its European allies, an international presence to monitor objectively border crossings along the border between Georgia and the Russian republics of Chechnya, Dagestan, and Ingushetia.

## NATIONAL SAFE PLACE WEEK

Mr. McCONNELL. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to consider S. Res. 71.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 71) designating the week beginning March 13, 2005 as National Safe Place Week.

The PRESIDING OFFICER. Is there objection?

The Senator from Illinois.

Mr. DURBIN. I will not object, but I ask unanimous consent to be added as a cosponsor to this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the Craig amendment be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 139) was agreed to as follows:

AMENDMENT NO. 139

(Purpose: to strike the request for a Presidential proclamation in the National Safe Place Week resolution)

In Section (2), strike "requests that the President issue a proclamation calling" and replace with "calls".

The resolution (S. Res. 71), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 71

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and nonprofit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 41 states and more than 14,000 locations have established Safe Place programs;

Whereas more than 75,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week of March 13 through March 19, 2005 as "National Safe Place Week" and

(2) calls upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

## EXPANDED MUSEUM COMPLEX AT YAD VASHEM

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 79 submitted earlier today by Senators CORZINE and LAUTENBERG.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 79) expressing the sense of the Senate in marking the dedication on March 15, 2005, of the expanded museum complex at Yad Vashem, the Holocaust Martyrs and Heroes Remembrance Authority in Israel, in furtherance of Yad Vashem's mission to document the history of the Jewish people during the Holocaust, to preserve the memory and story of each of the victims, impart the legacy of the Holocaust to future generations, and recognize the Righteous Among the Nations.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 79) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 79

Whereas 6,000,000 Jews were slaughtered in the Holocaust solely because of the faith into which they were born;

Whereas the Holocaust is seared into the world's memory as the quintessential expression of the evil of anti-Semitism;

Whereas Yad Vashem has become the world's university devoted to exposing the evil of anti-Semitism;

Whereas Yad Vashem's archives contain the largest and most comprehensive repository of material on the Holocaust in the world, containing 62,000,000 pages of documents, nearly 267,500 photographs, thousands of films and videotaped testimonies of survivors, and the Righteous Among the Nations (non-Jews who risked their lives to save Jewish people during the Holocaust), all accessible to the public;

Whereas those archives are the witness to both inexplicable acts of cruelty and daily acts of courage;

Whereas the history of the Holocaust, as embodied at Yad Vashem, represents the depths to which humanity can descend and the heights to which it can soar;

Whereas to ensure that Holocaust commemorations in future generations among both Jews and non-Jews have relevance and meaning, Yad Vashem has undertaken an extraordinary expansion of its facilities;

Whereas the centerpiece of this expansion is the new Holocaust History Museum building designed by world-renowned architect Moshe Safdie;

Whereas a central role in bringing the Holocaust History Museum to fruition was played by Holocaust survivor Joseph Wilf of New Jersey and his family;

Whereas through this new museum, Yad Vashem honors the lives of the victims and the Righteous Among the Nations in perpetuity;

Whereas the unique buildings and archives of Yad Vashem ensure that we, our children, and their children will never forget; and

Whereas the Israeli Knesset established Yad Vashem in 1953, founded on the biblical injunction set forth in Isaiah, chapter 56, verse 5: "And to them will I give in my house and within my walls a memorial and a name (a 'yad vashem') . . . an everlasting name which shall not perish," and, for more than 50 years, Yad Vashem has steadfastly fulfilled this purpose: Now, therefore, be it

*Resolved*, That the Senate recognizes—

(1) Yad Vashem as a trustee of the World's conscience, so that the meaning of "never again" becomes the living foundation of our collective humanity; and

(2) that March 15, 2005, the date of the dedication of Yad Vashem's expanded facilities, is a date of historical significance that will be remembered as such by future generations.

## HONORING THE LIFE OF FERN HOLLAND

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 80, submitted earlier today by Senators LANDRIEU and MURKOWSKI.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 80) honoring the life of Fern Holland and expressing the deepest condolences of the Senate to her family on their loss.

There being no objection, the Senate proceeded to consider the resolution.

Ms. LANDRIEU. Mr. President, I rise today to mark the anniversary of the death of a young woman whose courage and willingness to help others should inspire us all. Fern Holland, who was murdered near the Iraqi city of Karbala at the age of 33 a year ago today, lived her life to create the most equal and just global society obtainable. In light of International Women's Day, which was yesterday, I think it is only fitting that we honor the life of someone who led the fight to protect women throughout the world. Fern Holland realized the importance of helping others early in her life, which is exemplified by the path she chose.

There are hundreds of people whose lives have been touched by Fern Holland and I believe her legacy will live long beyond her years on Earth. In the January before her death Holland wrote in an e-mail to her former boss, Tulsa lawyer Stephen Rodolf. "I love the work and if I die, know that I'm doing precisely what I want to be doing—working to organize and educate human rights activists and women's groups.

I urge my colleagues to remember Fern Holland when they have lost the strength to continue to work for the good of all people. We must diligently work to sustain the passion Fern Holland possessed. As a living memorial to her, I challenge each of my colleagues to continue to work for a better future for all people, particularly those without their own voice. I would like to extend my deepest sympathy to her family who are feeling this loss more than anyone else.

I urge my colleagues to support this resolution and use this day as a time to remember Fern Holland's extraordinary life and to use her example to recommit ourselves to the better good of all people.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 80) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 80

Whereas the Senate remembers with great sadness the murder of Fern Holland near the Iraqi city of Karbala at the age of 33 on March 9, 2004;

Whereas Fern Holland, born in Bluejacket, Oklahoma, on August 5, 1970, lived her life committed to creating the most equal and just global society possible;

Whereas Fern Holland graduated with honors in psychology at Oklahoma University and actively sought to help the world through caring for children dying of nuclear-related diseases in Russia and teaching kids in a squatter camp in South Africa;

Whereas in the spring of 2000, Fern Holland worked for the Peace Corps as a human rights legal advisor in West Africa;

Whereas in 2003, Fern Holland went to investigate alleged human rights violations for the American Refugee Committee at a refugee camp in Guinea where she established a legal clinic to seek justice for victims of human rights violations, and which, at the time of her death in 2004, had handled 118 cases on behalf of victims of human rights violations;

Whereas in May 2003, Fern Holland went to Iraq as a United States Agency for International Development employee to work for women's rights;

Whereas in Iraq, Fern Holland organized human rights groups, opened 6 women's centers in south Baghdad, and acted as a strong advocate for Iraqi women's rights;

Whereas after Fern Holland's death, leading feminists issued statements praising her work;

Whereas residents of the refugee camp in Guinea renamed the legal clinic Fern Holland established the "Fern Holland Legal Aid Clinic of Nzerekore";

Whereas the high school Fern Holland attended in Miami, Florida observed a moment of silence and then discussed a memorial to honor her;

Whereas the Cherokee Nation honored Fern Holland by passing a resolution saying she "died as a warrior";

Whereas Fern Holland was posthumously named a Heroic Oklahoman on April 7, 2004, by Governor Brad Henry; and

Whereas Fern Holland devoted her brief life to promoting her belief in basic human rights and the rule of law: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that, in Fern Holland, the World has lost one of its most devoted and hard working human rights activists;

(2) honors Fern Holland in her extreme dedication to making the world a better place; and

(3) expresses its deep and heartfelt condolences to the family of Fern Holland on their loss.

## RECOGNIZING CONTRIBUTION OF CHRIS LEDOUX TO COUNTRY MUSIC

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 81, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 81) recognizing the contribution of Chris LeDoux to country music.

There being no objection, the Senate proceeded to consider the resolution.

Mr. THOMAS. Mr. President, I rise today to pay tribute to the life and memory of a great singer/songwriter, rodeo champion and true cowboy, Chris LeDoux. Sadly, Chris passed away on March 9 at the age of 56 in Casper, WY.

Chris was a loyal son, devoted husband and loving father. As a member of an air force family, Chris lived in many places throughout his childhood. He finally found his home in Wyoming while a sophomore in high school. In 1972, he married his lovely wife Peggy in Kaycee, WY, where he eventually built his ranch and fathered five wonderful children.

Chris was a cowboy through and through. He began riding in junior rodeos when he was only 13. He tried his hand at several rodeo events, but before too long, it became apparent he was best on bareback broncs. After winning the Wyoming State High School Bareback Riding Championship and the National Intercollegiate Bareback Riding Championship, he joined the rodeo circuit full time. This choice brought many injuries and tough days on the road, but all his hard work paid off in December of 1976 when he won the world championship title for bareback bronc riding at the National Rodeo Finals in Oklahoma City.

While on the rodeo circuit, Chris wrote songs about cowboys and the rodeo life he was leading. His songs were filled with both his love of music and his love of the West. In past interviews, Chris expressed that next to family, freedom was his most valued asset.

Just as he cherished the freedom of his western life, Chris was adamant about his musical freedom. He was determined to produce music in his own way rather than be "owned by a big company." By 1989, Chris had released 22 albums, mostly cassette tapes produced by his parents that he sold at concerts and rodeos. That same year, Garth Brooks had a hit with, "Much Too Young," which included a line about "a worn-out tape of Chris LeDoux." Chris soon became the country star he was always meant to be.

Chris LeDoux was not only a world class entertainer, he was a friend. My wife Susan fondly recalls his great love for his family and his warm smile. He will be greatly missed by his family, friends and his loyal fans.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 81) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 81

Whereas Chris LeDoux, a former rodeo world champion in bareback riding and country music star, died on March 9, 2005;

Whereas Chris LeDoux was born in Biloxi, Mississippi, in 1948;

Whereas Chris LeDoux won the Wyoming State Rodeo Championship in high school, continued riding in college, earning a rodeo scholarship, and rode professionally, winning the bareback championship at the National Rodeo Finals;

Whereas Chris LeDoux made important contributions to the country music community, through songs such as "Whatcha Gonna Do With a Cowboy" and "Much Too Young to Feel this Damn Old";

Whereas Chris LeDoux worked with well-known artists throughout his career, such as Garth Brooks and Charlie Daniels: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the contribution of Chris LeDoux to country music;

(2) has heard with profound sorrow and deep regret of the death of Chris LeDoux; and

(3) directs the Secretary of the Senate transmit enrolled copies of this resolution to the House of Representatives and the family of Chris LeDoux.

## ORDERS FOR FRIDAY, MARCH 11, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes is business today, it adjourn until 9:30 a.m. tomorrow, Friday, March 11. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. McCONNELL. Mr. President, for the benefit of our colleagues, tomorrow the Senate will be in a period of morning business. As I announced earlier, there will be no rollcall votes during tomorrow's session. The next vote will occur Monday afternoon around 5:30 p.m.

A few moments ago, we completed action on the bankruptcy bill. I want to particularly thank all of our colleagues for the work on the bill and, in particular, Senator GRASSLEY, Senator HATCH, Senator SESSIONS, and others on both sides of the aisle who have been working on this legislation for, lo, these many years—7 or 8 years, I was told by Senator BIDEN a while ago.

Next week, we will be considering the budget resolution. We will have long, long evening sessions, and many, many rollcall votes throughout the week.

I ask, on behalf of myself and the majority leader, for Senators to make themselves available throughout the week. And I particularly want to emphasize that next Friday, the end of the week, could be a long day. I want to let all Members know there is an overwhelming likelihood that Friday will be a full day. Members should expect to be here throughout the day next Friday. We will go up into the evening. It will be an unusual Friday. We don't have many of those in the course of a year. But next Friday will be an unusual Friday, and people should make plans accordingly.

Mr. DURBIN. Mr. President, if the Senator will yield, I would like to say on behalf of those who didn't support the bankruptcy bill that, in all fairness, I think it was a spirited and a very positive debate, during the course of the debate for over 2 weeks. But that really boiled down to about 6 or 7 days. We entertained 30 amendments to the bankruptcy bill. Not one amendment went on extraordinarily long. Members took a limited amount of time, expressed themselves, debated quickly and thoroughly, and voted.

I hope that we can continue to follow that model. I think, as I have said, we got perilously close to debate in the U.S. Senate, which hardly ever happens around here. I hope that we can continue along those lines in the future.

I thank the Senator from Kentucky for yielding.

Mr. McCONNELL. Mr. President, if I could just say to my friend, I couldn't agree more. I think the debate was handled very nicely. Members got an opportunity to have their say, to get their votes, and the Senate has done itself proud. In spite of the mixed views about the outcome, the Senate did itself proud with the first two bills this year, and I hope it is a good recipe for the future.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:53 p.m., adjourned until Friday, March 11, 2005, at 9:30 a.m.

## CONFIRMATION

Executive nomination confirmed by the Senate Thursday, March 10, 2005:

### DEPARTMENT OF HOMELAND SECURITY

MICHAEL JACKSON, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

# EXTENSIONS OF REMARKS

## RECOGNIZING THE CONTRIBUTIONS OF JOHNNY GIBSON TO EXPLORING AND SHARING THE BEAUTY OF WEST TENNESSEE

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TANNER. Mr. Speaker, I rise today to recognize Johnny Gibson, a renowned wilderness guide, a cherished member of our community and my friend.

Johnny began his life of service when he joined the Marines on July 12, 1941, at the age of seventeen. He served his country in the Pacific for four and a half years, and after this tour of duty, he returned to school to earn a high school diploma and begin working for the Tennessee Highway Department. A lifetime hunter and fisher, Mr. Gibson soon realized his true passion was in the outdoors, and he followed his calling to become the most famous wilderness guide in our area.

Johnny dedicated his life to introducing people to the enchanting wildlife and beauty of the West Tennessee countryside. Some of his patrons have included country music stars, such as Ricky Shelton, Hank Williams Jr., and Little Jimmy Dickens, and political leaders like Walter Mondale and Al Gore. His years as a guide behind him, he is now dedicated to spending time with his wife of 43 years, Jane, their five children and ten grandchildren.

Mr. Speaker, I ask that you join me today in recognizing the exceptional service of my friend, Mr. Johnny Gibson.

---

## IMMIGRATION, CITIZENSHIP, AND NATIONAL SECURITY: THE SILENT INVASION

### HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TANCREDO. Mr. Speaker, I would like to submit the foreword to an article I authored in the Fall 2004 special migration issue of Mediterranean Quarterly.

PEOPLE ON THE MOVE: THE SECURITY, SOCIAL, AND ECONOMIC IMPLICATIONS OF MIGRATION

FOREWORD

The long cycles of history are revealing to those who study them but may harbor surprises for those who choose to ignore them. The editors of Mediterranean Quarterly, cognizant of lessons learned or ignored, decided to take a closer look at a pattern of history that seems to be at the core of current global instability: the mass migration of people in search of basic means of survival, or just survival from brutal rulers.

On an annual basis, approximately 100 million people either attempt to or actually do leave their place of birth, often not knowing where they will end up. More than 10 million illegal immigrants have entered the United States since the last "amnesty" in 1986, and the flow continues despite the promises of the North American Free Trade Agreement. Close to 1 million Albanians, almost one-fourth of the country's population, have sought refuge in neighboring countries since the collapse of their country's communist regime. Tens of thousands of Turks leave their country annually in search of work in Western Europe and endure the consequences of cultural discrimination. More tragically, young women from the poorest components of the former Soviet Empire have vanished into the jungle of human trafficking and become commodities in an ugly form of trade that is managed by the new barons of a dangerous underworld. Recent statistics assembled by Greek authorities estimate that seventeen thousand women are being exploited by sex merchants in the Balkans alone. Albanian mafia lords, in association with their former enemies and with links all the way to Afghanistan, control lucrative drug, gun, and human-smuggling operations across national borders with relative impunity. And as in times past, the Mediterranean Sea has become the crossroads of people on the move and the stage on which human tragedy unfolds almost on a daily basis.

Human cargoes float from island to island in the eastern Aegean, with boat crews waiting for the opportunity to dump these people on dry land, after having extracted the last ounce of resources from their helpless victims. On the African shores of Gibraltar, thousands of Africans patiently wait for the first opportunity to cross the narrow stretch of water and set foot on European soil. Egyptians, Iraqis, Pakistanis, Filipinos, and Bangladeshis have landed on Italian, Greek, French, and Spanish shores over the years. They bring along their poverty, their energies, and their hopes. They also bring social, political, and now security concerns.

More than a dozen scholars, policy makers, and political leaders present diverse views on this critical issue in these pages. The lead essay, on the security implications of illegal migration for the United States, is written by Congressman Tom Tancredo, Republican of Colorado, and the unfolding drama of African refugees is provided by Francis M. Deng, United Nations representative for internally displaced persons. Rochelle Gershuni, head of Israel's Ministry of Justice, addresses sex exploitation and human trafficking and its consequences for her country. Scholars of diverse origins and viewpoints deal with migration issues in Spain, Egypt, Turkey, and Greece and the South-North migration in the United States and Canada. Naturally, we do not pretend that we provide a complete picture of a huge historical phenomenon, but we do hope to spark a debate on the social, policy, security, and economic implications caused by "people on the move."

Historical patterns show that mass population movements have altered cultures, demolished empires, given birth to new ones, and ultimately compelled humankind to organize itself into nation-states, with sovereignty determining their national characters. Now the nation-state that saw its birth in the Treaty of Westphalia is in retreat as an organizing concept of human events. Multiculturalism, globalization, poverty, and the North-South global economic divide have altered the patterns of civilization to a degree unprecedented since the eastern tribes overwhelmed the Roman Empire and the Ottomans reached the gates of Vienna.

The advanced industrial democracies, the ultimate destination of people on the move, have shown a lack of vision about the implications of mass movements of people in search of a livelihood. In their pursuit of high profits with cheap labor in the shortest time, they have adopted immigration policies that no longer facilitate the orderly integration of cultures and the peaceful evolution of new forms of ethnic identity. Instead of inviting potential citizens seeking a better life, the industrial nations have institutionalized the transplantation of ethnic communities and have set in motion a process for their own national balkanization.

The essays included in this special issue of Mediterranean Quarterly (with more to follow in future issues) examine problems caused by migration both in countries of destination and countries of origin. It behooves the first to examine their social policies and the latter to come to grips with their inability to match national resources with their peoples' needs. By selectively examining problems on both sides of the divide, the editors hope to spark a debate that will be grounded on the reality that a silent invasion is under way that could, if left unattended, transform world politics and foment global turmoil for generations to come.

---

## PERSONAL EXPLANATION

### HON. MELISSA L. BEAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Ms. BEAN. Mr. Speaker, on March 8, 2005, having been unavoidably detained due to congressional business related to my work on the Financial Services Committee, I was unable to vote on Approving the Journal (Rollcall No. 53), H. Res. 133 (Rollcall No. 54), and H. Res. 122 (Rollcall No. 55). Had I been present, I would have voted "aye" on all three measures considered before the House.

---

## RECOGNIZING THE ACCOMPLISHMENTS OF WEBB COUNTY SHERIFF RICK FLORES

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Webb County Sheriff Rick Flores for a lifetime of dedication to law enforcement.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Rick Flores is an excellent example of a Sheriff who understands the needs of his community. Sheriff Flores spent six years working for the District Attorney's Domestic Violence Unit. A dedicated public servant, Mr. Flores has experience in providing crisis intervention and counseling for local families.

Sheriff Flores is a man who believes in the value of community involvement and intervention. He has been the recipient of numerous awards, including the Webb County Domestic Violence Coalition's "Breaking the Cycle" Award and his induction into the National Future Leaders Hall of Fame by the Hispanic Association of Colleges and Universities.

Sheriff Flores believes that an informed public is better equipped for preventing crime in our streets and neighborhoods. He has organized numerous events and workshops helping to educate Webb County citizens on pressing issues such as drug abuse, sexual assault and teen violence. Rick Flores is an example of proactive law enforcement in our communities.

Mr. Speaker, it is my pleasure to honor the achievements of Webb County Sheriff Rick Flores.

---

## A TRIBUTE TO MABEL MUNIZ-SARDUY

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TOWNS. Mr. Speaker, I rise in honor of Mabel Muniz-Sarduy who has dedicated her professional career to educating our children.

Mabel has been a student, community resident, teacher, Parent Coordinator, Assistant Principal and now Principal at P.S. 86 in the Bushwick community. As a student she attended the schools in District 32. As a community resident, she has been a youth leader and president of her block association.

Mabel has a Bachelor's Degree in Communication Arts from Hunter College, a Masters Degree in Reading from Hunter College as well as a professional diploma from Long Island University in Administration.

She began her professional career as a teacher at Saint Martin's of Tours, and then as a teacher at P.S. 86. Next, Mabel moved from the classroom to administration as a Parent Coordinator, an Assistant Principal at P.S. 106, and to her current position as the Principal at P.S. 86.

Mabel strives every day to empower and create a positive image for the community she loves. She is a firm believer that through education you can change your life and impact many others. Holding high expectations, she continues to strive to make sure that our students, educators, parents and community residents are involved in the progress of our students. She is married with two beautiful boys, Rafael and Jeremy.

Mr. Speaker, Mabel Muniz-Sarduy has ably served her community by dedicating her career to educating our students and thereby improving the lives of many New York City residents.

---

## CHINA'S ANTI-SECESSION LAW

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize China's National People Congress current meeting in Beijing. One of the most controversial bills under consideration is the Anti-secession Law targeted at Taiwan. If enacted, the law will give Chinese leaders the authority to annex Taiwan by force if Taiwanese leaders are found promoting Taiwan independence. This law is very unfriendly to Taiwan and I understand it has aroused public outcry and protests throughout Taiwan.

Understandably the leaders and people of Taiwan are disturbed by this proposed law. It is their position that Taiwan has never been part of the People's Republic of China. They also feel there is no legal basis or justification for China's territorial claims. I believe the people of Taiwan value a free and democratic way of life and they would like to co-exist with the Chinese people on the mainland peacefully. The economic and cultural relations between Taiwan and China should be developed on the principles of peace, faith, trust and mutual respect.

The proposed law represents a unilateral change of the status quo in the Taiwan Strait and threatens regional peace and security. Taiwan President Chen Shui-bian has said that he is willing to dialogue with the Chinese leaders and discuss issues of mutual interest including eventual reunification of Taiwan and China. Both Taiwan and China desire peace and co-existence, and they should be able to work out their differences without enacting this new law.

Mr. Speaker, I join my colleagues in urging the Chinese leaders not to enact the Anti-secession law.

---

## HONORING PAUL VI CATHOLIC HIGH SCHOOL BASEBALL TEAM

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor the Paul VI Catholic High School Baseball Team on their 2004 Virginia Independent Schools Baseball Association State Baseball Championship victory.

The Paul VI Panthers of Fairfax County, Virginia won the 2004 Virginia Independent Schools Baseball Association State Baseball Championship by defeating Bishop O'Connell High School 5–0 in the state title championship game. The Virginia Independent Schools Baseball Association sponsors the highest level championship among all private schools in the Commonwealth of Virginia.

The Paul VI Panthers, runners-up in the Washington Catholic Athletic Conference South Division, qualified for the state title game by defeating Bishop Sullivan High School 12–2 in the state playoffs. The Panthers then went on to qualify for the state title game by defeating St. Stephen's High School 5–3. The Paul VI Panthers completed the season with a strong 17–12 record.

The following team members are recognized for their leadership, teamwork and sportsmanship throughout the entire season: Seniors—Ryne Bromley, Dan Cinalli, Sean Fitzgerald, Mike Geraghty, T.J. Guinan, Jose Herrera, Carl Kaczmarek and Jeff Manthe. Juniors—Ricky Blazquez, Scott Eastment, Chuck Evans, Alex Gregory, Justus Hogge, Trey McMenamin, Will Naylor, J.T. Richardson, and Brian Short. Sophomores—Robert Lamas, Zach Miller, Brett Moore, John Polcari, John Ralston and Scott Walsh. Student Manager—Cam Dugger. Head Coach—Billy Emerson and assistants Dave Beach, Tad Davidovich, Jeff Nolan and Tony Salgado.

The Panthers baseball team displayed exemplary sportsmanship throughout the regular season as well as postseason tournaments.

Mr. Speaker, in closing, I would like to congratulate the baseball team on its successful season. I call upon my colleagues to join me in applauding Paul VI High School for their outstanding and continued success.

---

## TRIBUTE TO THE WOMEN'S CLUB OF LYONS ON ITS 50TH ANNIVERSARY

### HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to an outstanding organization in my district, the Women's Club of Lyons on its 50th Anniversary celebration this year.

For five decades, the Women's Club of Lyons has promoted civic responsibility, philanthropy and friendship throughout its community. Chartered in April 1955, the Women's Club aims to encourage its members to become civic minded and socially active with charitable causes and community awareness and development.

From its early days, the Women's Club has branched out into other charitable endeavors, including funding Girl Scouts, Boy Scouts, Little League, American Cancer Society, Lyons Food Pantry, youth programs with the Lyons Recreation Department, the Ronald McDonald House, the Constance Morris home for battered women, the Wives and Children Fund of the New York Policemen and Firemen's fund after 9/11, and the Stars and Stripes fund, as well as many other charitable causes.

However, the club still maintains much of its original character as a place for women to form the bonds of friendship and camaraderie through its social activities and monthly meetings which feature speakers discussing important issues of the day.

Mr. Speaker, I congratulate the Western Springs Women's Club and all of its members, past and present, on its 50 years of service to its community.

## COMMENDING BERNARD RYAN FOR EXEMPLARY CIVIC INVOLVEMENT

---

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. HIGGINS. Mr. Speaker, I rise today to call your attention to Mr. Bernard ("Bernie") Ryan of the City of Buffalo who has been selected by the United Irish-American Association to lead The Buffalo St. Patrick's Day Parade on March 13, 2005 as this year's Grand Marshal.

First held on March 17, 1913, the Buffalo St. Patrick's Day Parade pays tribute to the patron Saint of Ireland and after a short interruption from 1917–1935, the parade has been held every year since 1935, with the exception of the World War II years (1942–1945).

Buffalo, New York, like many other communities throughout the United States, has a large Irish American population and the St. Patrick's Day parade offers Irish Americans along with people from all ethnic backgrounds, an opportunity to celebrate one component of our rich and diverse cultural heritage.

Every year, thousands of people flock to Delaware Avenue in Downtown Buffalo to cheer on fellow citizens, Irish dancers, bands, and civic organizations who march in honor of St. Patrick.

The UIAA's election of Bernie Ryan as this year's Grand Marshal marks a proud moment for Bernie and his family, wife Karen and children Kathleen and Bernard Jay as Bernie embarks upon this once in a lifetime journey.

Four generations have worn the top hat and carried the blackthorn that belonged to Mike Quinn, Buffalo's first grand marshal of the St. Patrick's Day Parade back in 1913.

Bernie Ryan joins the ranks of other distinguished grand marshals and is honored for a lifetime of exemplary civic involvement.

Bernard served in the U.S. Army on a tour of duty in Vietnam. Upon return, he dedicated himself to family, work and community. He has had a 35 year career at Freezer Queen Foods where he has risen to the position of Controller. He is an active parishioner at St. Martin's Church in South Buffalo where neighborhoods are distinguished not by streets but by the parish to which you belong.

Bernie has always been particularly involved with various Irish organizations. Whether with the Irish Dancing School with whom his daughter Katie was a student, as a Board Member of the Gaelic American Athletic Association or as a member of the Parade Committee, Bernie's presence and commitment is unwavering.

Bernie is proud of his heritage and understands the importance of preserving our unique history as a community. I am proud to call Bernie Ryan my friend and I am pleased to honor him today.

---

## IN MEMORY OF PRIVATE LANDON S. GILES

---

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. ROSS. Mr. Speaker, I rise today to honor the life of Private Landon S. Giles, who died on February 26, 2005, in Iraq. Landon was just 19 years old and from Arkadelphia, Arkansas. I wish to recognize his life and achievements.

Landon graduated from Arkadelphia High School in May 2004, and left for the army the very next month to serve as an indirect fire infantryman. Landon was assigned to the Army's 6th Squadron, 8th Cav. Reg., 4th Bde., 3rd Inf. Div. based at Ft. Stewart, Georgia.

Landon had a thirst for playing sports and seeking new adventures. He played football in Junior High School, soccer at Arkadelphia High School, he loved to ski and snowboard, he played in local youth league baseball programs, and became a certified scuba diver at the age of 12. He went deep-sea fishing off the coast of Australia, surfed in Hawaii, rode an elephant through parts of Thailand, and even went on a jungle safari.

Joining the army and fighting for his country in Iraq, his family says, was Landon's next life adventure. While his family did not want him to go, there was no stopping Landon once his heart and mind seized upon an idea. He told his sister, Jenny, it was better for him to go than for a man with a wife and children. Landon heard news reports about the human rights violations occurring in Iraq and wanted to help people who were unable to help themselves.

Landon gave his life to serve our country and will forever be remembered as a brother, son, hero, and friend. My deepest condolences go out to his mother, Kim Giles; his father, Alan; two sisters, Jo Ann and Jennifer; stepmother, Cynthia Kay Giles; two stepsisters, Angela and Alana Giles; and a stepbrother, Geremy Giles. I know Landon was proud of his service to the U.S. Army and to our country. He will be missed by his family, fellow soldiers, and all those who knew and counted him as a friend.

---

## IN OPPOSITION TO THE CERTIFICATION OF IMET FOR INDONESIA

---

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in opposition to the certification of International Military Education and Training (IMET) for Indonesia by Secretary Rice. Since 2004, Foreign Operations Appropriations legislation has indicated that the Secretary of State must determine if Indonesia is eligible to receive IMET funds. According to the law, what determines eligibility is the cooperation of the Indonesian government and armed forces with the Federal Bureau of Investigation's investigation into the August 31, 2002 murders of two American citizens and one Indonesian citizen in Timika, Indonesia. Last year, then-Deputy Secretary of State Armitage defined "cooperation" in the Freeport killings as seeing the case through to "its exhaustion."

Yet the present Secretary of State has indicated that she has certified IMET for Indonesia, despite the fact that the Indonesian authorities have not "cooperated" by any definition of the term. In July 2004, when U.S. investigators notified Indonesian police that they were willing to return to Indonesia to assist in apprehending the only person thus far indicted by a U.S. grand jury, Anthonius Wamang, it took the Indonesian police well over 6 months to respond. Furthermore, Indonesian authorities have not indicted or apprehended Wamang or anyone else. For the first 6 months after the indictment was unsealed in June 2004, Indonesian police did not inform U.S. investigators as to what they were doing in the investigation.

The cooperation—or lack thereof—of the Indonesian government and armed forces with the FBI investigation is further complicated by the initial Indonesian police report, as well as NGO and media investigations, which pointed to Indonesian military involvement in the attack. Wamang also admitted ties to the notorious Special Forces Kopassus in a video interview broadcast in Australia.

Providing IMET now will remove the key U.S. leverage to assure justice is done in the Timika case, on the eve of the return of the FBI team to Indonesia.

Congress prohibited full IMET for Indonesia for years because of its extremely poor human rights record. Indonesia has yet to fulfill these previous conditions on IMET, and human rights violations, especially in Aceh and West Papua, continue.

Furthermore, there has been no justice for war crimes and crimes against humanity committed in 1999 in East Timor. The few Indonesian trials were a whitewash; not one Indonesian officer has been held accountable. Indonesia refuses to extradite anyone, including senior military officers, indicted in a separate and credible UN-East Timor justice process. On top of that, there are increasing reports of militia infiltration into East Timor from Indonesia.

The Indonesian armed forces—TNI—are massively corrupt and have direct ties to terrorist groups. The TNI engages in drug running, illegal logging, extortion of U.S. and other domestic and foreign firms, and human trafficking, among others. A number of Islamic jihadist militia that have terrorized and killed thousands within Indonesia collaborate with and are even empowered by the TNI. The TNI operates a shadow government extending from the central government down to the village level. It continues to resist subordination to civilian authority and is a threat to democracy in Indonesia.

While the amount of money for IMET may be small, it has tremendous symbolic value. The Indonesian military will view any restoration of IMET as an endorsement of business as usual, not as a reward for extremely limited reforms.

## RECOGNIZING THE CONTRIBUTIONS OF BEXAR COUNTY COMMISSIONER TOMMY ADKISSON

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the outstanding contributions of Bexar County Commissioner of Precinct 4 Tommy Adkisson.

Born and raised in San Antonio, Texas Commissioner Adkisson earned his law degree, and returned to San Antonio to practice civil law. Commissioner Adkisson's hard work did not go unnoticed; he was named one of the "Top Ten" Legislators by the family law section of the Texas State Bar.

In 1981, he began his political career when he was elected as State Representative of District 57, and he won the District 119 seat in 1985. His career excelled even furthered when he was elected Bexar County Commissioner in 1998.

As County Commissioner he has brought great value to his District, most notably bringing the SBC Center to Precinct 4. He is known for working well with the citizens of the community. While working with the community of Kirby and Gardendale he was able to purchase needed equipment and provide meal assistance for the elderly. He also worked with the citizens of Converse to create the 1st Emergency Service District in Bexar County. Along with his many accomplishments as a public servant, he is also a dedicated husband to his wife Karen.

Mr. Speaker, I am proud to have had this opportunity to recognize the many contributions of Bexar County Commissioner Tommy Adkisson.

## COMMENDING AUGSBURG COLLEGE ON ITS 9TH NCAA DIVISION III NATIONAL TITLE

### HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SABO. Mr. Speaker, it is my distinct pleasure to commend Augsburg College on its ninth NCAA Division III national title in school history this weekend at the NCAA Division III National Wrestling Championships.

Augsburg was ranked number one nationally all season long, qualified wrestlers in all 10 weight classes, had five top-seeded wrestlers and finished with a national-record-tying 10 All-Americans.

Augsburg's Division III program is one of only four remaining in the state. Its legacy of championships may perhaps be one of the reasons why the NCAA Division Championships were hosted this year in Minnesota for the first time.

The team's winning point total is the most ever for Augsburg at the national championship tournament. It is also the second-highest point total for any championship team in Division III history, accumulating 162.0 points, outdistancing second-place Wartburg (Iowa) with 104.5 points and breaking Wartburg's two-year hold on the national crown.

Coach Jeff Swenson is in his 23rd season at Augsburg. When asked about the program's success, he says the key is keeping it simple: getting rest, training hard and doing everything right. I believe this approach speaks volumes about the program and about the college as well.

Mr. Speaker, Coach Jeff Swenson and the Augsburg student athletes are to be lauded for their pursuit of excellence. I'm certain that their commitment and discipline has reaped rewards of many kinds—one being the title victory.

## INTRODUCTION OF BEST HELP FOR RAPE VICTIMS ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mrs. MALONEY. Mr. Speaker, today I introduce an important piece of legislation that will help rape victims across the country avoid unwanted pregnancy, the Best Help for Rape Victims Act.

Recently, the Department of Justice has issued its first-ever medical guidelines for treating sexual-assault victims, the National Protocol for Sexual Assault Medical Forensic Examination. While otherwise a thorough step-by-step medical treatment guide, the Justice Department omitted any mention of the option of Emergency Contraception, ignoring a crucial opportunity to provide vital and time-sensitive healthcare to victims of rape and sexual assault.

Of the 300,000 women who are sexually assaulted each year, an estimated 25,000 will become pregnant as a result. If Emergency Contraception was regularly offered to rape victims, its 89 percent success rate could avert up to 22,000 unplanned pregnancies every year—many of which may ultimately be terminated in abortion.

The Best Help for Rape Victims Act would address this problem by simply requiring the Department of Justice to include language in the Protocol stating that a victim of sexual assault who is at risk of pregnancy be offered information about Emergency Contraception, and if requested, provide Emergency Contraception to the victim on site.

The vast majority of Americans believe we should be doing everything we can to help rape victims recover from sexual attacks, not withholding important health information from them, and certainly not making fathers out of rapists. Unfortunately, since the Justice Department apparently has a different set of values, we must pass the "Best Help for Rape Victims Act" to protect the health and rights of victims of sexual assault by ensuring that they receive all available information and the best medical care available.

## A PROCLAMATION RECOGNIZING DOCTOR CARL J. GREEVER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. NEY. Mr. Speaker:

Whereas, Dr. Carl J. Greever has provided outstanding service and contributions while serving as the Coroner of Jackson County and the Medical Director of the Jackson County Health Department; and

Whereas, Dr. Carl J. Greever served his community through a family practice from 1962 to 2002 and served as the Health Commissioner from 1974 to 1998; and

Whereas, Dr. Carl J. Greever has served his community with dignity and excellent medical care and has been an integral part of the community; and

Whereas, the Jackson County Commissioners proclaimed January 21, 2005, as Dr. Carl J. Greever Day.

Therefore, I join with Dr. Greever's family, friends, the residents of Jackson County, and the entire 18th Congressional District of Ohio in commending Dr. Carl J. Greever for his exceptional work and years of service, and wish him the very best in his future endeavors.

## RECOGNITION OF SCOTT G. KAUFMAN

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CROWLEY. Mr. Speaker, I rise today in recognition of my friend, Scott G. Kaufman, who will celebrate his 40th birthday on March 16, 2005.

Scott, a graduate from CUNY Law School in Queens, has lived a successful life serving his community with great honor. Scott, shortly after graduating Law School, became an Assistant District Attorney with the Queens District Attorney's office in 1994. A few years later, Scott took a position with the Surrogate's office and handled a myriad of estate matters in the district.

Soon after, Scott ventured out and became a solo practitioner before rejoining his classmate and friend, Sean Crowley, in the law firm Crowley & Crowley LLP, in 2001.

While tending to his very impressive career, Scott met the lovely Guila Haddad. Before long, Scott was impressing Guila with his famous Rigatoni Alla Vodka and Fileto d' Pomodoro. Nine years later, Scott and Guila are married and have two beautiful children, Jacob and Isabel. With so many accomplishments in his life, he has yet one more to celebrate—his 40th birthday.

Again, Mr. Speaker, I congratulate Scott, a husband, father, and my friend, on the occasion of his 40th birthday.

## IN MEMORY OF WING FAT

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. COSTA. Mr. Speaker, I rise today to pay tribute to a personal friend and close confidante of mine and many of my colleagues. Sadly, on Friday, February 25, 2005 Wing Fat passed away in Sacramento, where he made his home for over half a century.

Wing Fat was born in Canton, China in 1925. He joined his father in America when he was ten years old. In his youth, Mr. Fat attended California State University of Sacramento and served in the United States Air Force.

In 1939, Mr. Fat's father, Frank Fat, opened up his restaurant at 806 L St. in Sacramento. Mr. Fat worked his way up from dishwasher and floor scrubber eventually taking over as restaurant owner and main host, when his father passed away in 1997.

Mr. Fat will be remembered as one of the most well-liked and well-respected members of the Sacramento community. Over the years, the Fat family garnered a large following among Sacramento politicians for their impeccable hospitality and strict discretion. For decades, national and state leaders from both political parties pursued good public policy and practiced the art of politics, all while enjoying the wonderful establishment that Wing and his family made famous throughout California. As such, the family restaurant became a nexus of power as witness to many high-powered negotiations. In his own way, Wing Fat made a difference in improving the lives of Californians, and on a personal note, I counted Wing among my dear friends.

However, Mr. Fat's legacy will also thrive by his involvement in various civic and cultural organizations. In particular, a $1 million donation to the Sacramento Asian Sports Foundation from Mr. Fat and his wife, Chee, last November made possible the start of construction of the Laguna West complex, scheduled to begin this month. This summer, a group of young basketball players will travel to Japan as part of the Foundation's cultural exchange program—a testament to the power and commitment of civic leaders, like Mr. Fat.

My prayers and condolences are with the entire Fat family, who will continue to be a source of inspiration and leadership in the Sacramento community. My fellow colleagues please join me in honoring the memory of Mr. Wing Fat, a true friend to generations of California politicians.

## INTRODUCTION OF THE GREEN CHEMISTRY RESEARCH AND DEVELOPMENT ACT OF 2005

### HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. GINGREY. Mr. Speaker, today, I rise to introduce an important piece of legislation, H.R. 1215, "The Green Chemistry Research and Development Act of 2005." When I introduced this legislation during the 108th Congress as H.R. 3970, many of my colleagues wondered, what is green chemistry? So again I will start with a brief explanation. Chemical manufacturing is the source of many products upon which we depend such as medicines, plastics, fuels, and fabrics. However, chemical manufacturing has at times resulted in harm to the environment and human health. The goal of green chemistry is to minimize or, ideally, to eliminate this potential harm. It is defined as chemistry and chemical engineering that designs chemical products and processes that reduce or eliminate the use or generation of hazardous substances while producing high quality products through a safe and effective manufacturing process. By factoring the elimination of hazardous byproducts into the design of products and processes, chemists can design chemicals to be safe, just as they can design them to have other properties, such as color or texture.

Many private sector industries have recognized the potential of green chemistry. Along with its inherent human health and environmental advantages, green chemistry can offer many economic advantages. Since the costs of separating waste from products, complying with regulations, disposing of hazardous wastes and liability protection can be large, preventing pollution and waste in the first place is often cheaper than mitigating and cleaning it up later.

In my home state of Georgia, Shaw Industries, Inc. is showing tremendous returns on their investment in green chemistry. Shaw produces carpet tile from their EcoWorx™ compound, which is made from non-toxic starting materials. The carpet tiles are fully recyclable, and Shaw has started to receive the first generation of carpet tiles, introduced in 1999, back in the factory for recycling. Shaw has found that the cost of collection, transportation, and recycling is less than making new carpet tiles from virgin raw materials. Even before Shaw recycled a single carpet tile, they benefited from their investment in green manufacturing. By switching from traditional carpet tile backing to EcoWorx™, Shaw cut the energy needed to produce carpet tiles in half.

Green chemistry offers other advantages in the areas of worker safety and public safety. For example, many chemical processes are conducted at extreme temperature and/or pressure, two conditions that present a risk for workers. Also, many chemical processes involve toxic substances. Green chemistry aims to design processes that can be conducted at or near room temperature and pressure, and that use benign materials. Both of these steps improve working conditions for employees. Chemical factories also pose a potential threat to public safety because of the possibility of an accidental release of toxic materials into the surrounding communities. Green chemistry seeks to replace these toxic substances with safe ones, which would not pose a threat to the public if accidentally released.

Yet despite all of the promise of green chemistry, the Federal government invests very little in this area. The most notable effort is a small grant program run jointly by the Environmental Protection Agency (EPA) and the National Science Foundation (NSF). Green chemistry research in this program is funded at about $4 million per year. The Department of Energy (DOE) and National Institute for Standards and Technology (NIST) also do a small amount of green chemistry research, however the Federal investment in green chemistry is minimal as compared to the overall investment in chemistry. In addition, each of these agencies has an important role to play in developing green chemistry technologies and facilitating their adoption, however, right now, there is little coordination among agencies.

The Green Chemistry Research and Development Act of 2005 establishes an interagency research and development (R&D) program to promote and coordinate Federal green chemistry research, development, demonstration, education and technology transfer activities. The Program would support R&D grants, including grants for university-industry partnerships, support green chemistry research at Federal labs, promote education at the undergraduate and graduate levels, and collect and disseminate information about green chemistry. NSF and EPA would lead an Interagency Working Group to coordinate these activities. The Working Group would also include DOE and NIST, as well as any other agency the President designates. The program is authorized at $33 million in FY06 rising to $38 million in FY08 from sums otherwise authorized to be appropriated. This bill does not authorize the expenditure of new money.

This bill provides modest and prudent funding in an area that deserves greater Federal attention. During the 108th Congress, H.R. 3970 passed the House on April 21, 2004 with a strong bipartisan vote of 402–14. I expect similar support this Congress in the House and am pleased to report that Senator SNOWE and Senator ROCKEFELLER plan on introducing identical legislation in the Senate very soon. I look forward to working with my colleagues in the House and the Senate, as well as with the Administration, and all other interested stakeholders to enact this important legislation.

## HONORING THE 60TH ANNIVERSARY OF THE OREGON DEPARTMENT OF VETERANS' AFFAIRS

### HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Ms. HOOLEY. Mr. Speaker, as soldiers returned home after defeating the tyrannical and oppressive Axis Powers in World War II, the Oregon State Legislature responded to a citizen mandate in creating a new agency to oversee services to veterans, their dependents and survivors. This agency was charged with the sacred duty of caring for Oregon's sons and daughters, husbands and wives, who made the ultimate sacrifice in risking—and sometimes forfeiting—their lives for the cause of freedom.

This month marks the 60th anniversary of the Oregon Department of Veterans' Affairs creation. During that time, the ODVA has assisted Oregon's veterans and their loved ones in obtaining education, securing both service-connected and non-service related disability and survivor benefits, providing home loans with favorable interest rates, enabling appropriate medical care, and generally improving the quality of life for Oregon's veterans.

I rise today to thank the ODVA and its employees for the important service they provide to our state. I am heartened by the ODVA's sixty year record of accomplishment and I look forward to many more years of service to Oregon and its community of veterans.

---

## BLACK HISTORY TRIBUTE TO TOMIE ZEAN TURNER GREEN

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize outstanding African Americans of the 2nd Congressional District of Mississippi, and their contribution to Black History. The 23 counties of the 2nd District are well represented from both a local and national perspective.

Americans have recognized black history annually since 1926, first as "Negro History Week" and later as "Black History Month." In fact, black history had barely begun to be studied—or even documented—when the tradition originated. Although blacks have been in America as far back as colonial times, it was not until the 20th century that they gained a presence in our history books.

Though scarcely documented in history books, if at all, the crucial role African Americans have played in the development of our nation must not be overlooked.

I would like to recognize Judge Tomie Zean Turner Green of Hinds County. Educated in Jackson Public Schools, upon completing the 11th grade at Jim Hill School, Judge Green entered Tougaloo College where she obtained her Bachelor of Arts degree. She earned a Master of Science degree from Jackson State University, and a Doctor of Jurisprudence from the Mississippi College School of Law.

Judge Green served in the Mississippi House of Representatives from 1992–1998 and served as the Vice Chair of Ethics and as sub-chair of the Judiciary A committee. She also served on the Elections, Insurance, the Managed Care and Local & Private Legislation, Constitution and Investigation of State Offices committees. In 1999, Judge Green took the oath of office to become the first woman elected to the Hinds County Circuit Court. Since that time Judge Green has increased the accessibility and efficiency to the court by shifting judicial operations. Since she took the bench, Judge Green has served on the Judiciary Advisory Committee on Rules, and the Supreme Court's Committee on Media and the Courts.

Judge Green is best noted for in Hinds County for her sponsorship and support of the several laws such as the Municipal Public Hazard Law; Illegal Acts on Premises Law; the Professional Licensure and Child Welfare and Child Support Enforcement Act, etc. Additionally, Judge Green has sought legislation to insure fairness for workers injured while on the job; raise the age for minors to legally possess a handgun from 18 to 21 years of age; to build and fund a stadium for Jackson State University; to establish a law school at Jackson State University; and to increase the opportunity and participation of minorities in state contracts for goods and services.

In addition to her dedication and commitment to her career, Judge Green has also expressed the same to her community. Judge Green is currently a member of the St. Peter Baptist Church of Jackson, MS. She is a member of the Magnolia Bar Association, Mississippi Bar Association, the Federal Bar Association, the Hinds County Bar Association, Phi Alpha Delta Legal Fraternity. Other memberships have included: Zeta Phi Beta Sorority, Inc. Phi Kappa Phi Honor Society, the NAACP, Southern Christian Leadership Conference (SCLC), MS League of Women Voters, American Association of University Women and Central Mississippi Coalition of 100 Black Women.

I take great pride in recognizing and paying tribute to this outstanding African American of the 2nd Congressional District of Mississippi who deserves mention, not only in the month of February but year round.

---

## TRIBUTE TO DAVID LEE BUCKNAM

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to the hard work of David Lee Bucknam, a dedicated public servant in Colorado who recently passed away.

Mr. Bucknam, who was 60 when he died November 22, 2004, spent 24 years directing the inactive-mine reclamation program of the Colorado Division of Mineral and Geology (Division), sealing abandoned mines and restoring the soil and water they contaminated.

Earlier today, I introduced two bills designed to address the barriers hampering the cleanup of abandoned hardrock mines in Colorado and throughout the west. The introduction of these bills reminded me of Mr. Bucknam and others like him who worked hard to protect the public and promote wise environmental stewardship. Mr. Bucknam worked with me and my staff on this legislation I am introducing today and I would like to take this opportunity to express my posthumous appreciation for his assistance and for all the work he did for Colorado.

Mr. Bucknam was born in Brockport, New York in 1944 and arrived in Lakewood, Colorado when he was 10. He became an avid and skilled mountaineer and skier, getting an early start in the Denver Junior Group of the Colorado Mountain Club in his teens. In the "Juniors" he headed climbing trips and outings, taught mountaineering skills to other teens and adults, and shared his love of the outdoors. He continued to climb throughout the western United States, in the Himalayas, in Canada and in Mexico.

Mr. Bucknam taught junior high history and geography for several years, worked for the Colorado Land Use Commission and then for over 24 years with the Colorado Department of Natural Resources. He retired as Director of the Office of Active and Inactive Mines, and when asked what he did, he always smiled and said he "closed up old mines". Under his leadership, Colorado's Inactive Mine Reclamation Program and the Colorado Mine Safety and Training program were nationally recognized. He was a mentor and role-model for many of the employees in the Department. His competence and dedication—coupled with his compassion for his co-workers and his leadership on national issues—made a lasting impact not only on the Division, but the state and the nation as well. In 1990 he served as president of the National Association of Abandoned Mined Land Programs and continued to provide leadership to the Association by serving on several national committees.

During his tenure at the Division, he helped secure access to about 400 abandoned mines a year out of an estimated 20,000 in the state in order to address the problems they created and reclaim the surrounding land and water. He also helped work on the endless problem of underground coal fires, of which at least 29 subterranean fires still smolder in coal seams throughout Colorado.

Mr. Bucknam's love of the outdoors, his service to his state and community, and his work on addressing the legacy of mining activity are all worthy of recognition. My staff and I wish to express our thoughts and wishes to his family and coworkers.

---

## CELEBRATING THE ACHIEVEMENTS OF RICHARD "HEATWAVE" BERLER

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize the accomplishments and contributions of Richard Berler of Laredo, TX.

Better known as "Heatwave", Mr. Berler is the chief meteorologist at KGNS–TV in Laredo, TX. This past Monday, February 14th, Berler, 51, celebrated 25 years of reporting and predicting the weather at the station.

Having started at a time when weather forecasts were not considered a serious part of the News, Berler has taken his job to a higher level and positively affected the local community.

Originally from Westport, Connecticut, Berler was first attracted to Laredo for its unique climate. Having always studied climate patterns for a hobby, Berler found it fascinating when he learnt about Laredo hitting 100 degrees as early as the month of February. Laredo is unique for its semiarid and subtropical climate, and it occasionally gets hot dry air from the Mexican Plateau.

After attending college at Florida State University and then working for a small station in Minnesota, Berler found an opening at KGNS in Laredo and jumped at the opportunity. Almost immediately after working, Berler became a meteorologist, taking his own atmospheric readings before every newscast to improve the accuracy of his predictions. He quickly acquired the name "Heatwave" for his enthusiasm and commitment to the weather news. In his 25 years, he has witnessed and reported record highs of 103 °F in February, 105 °F in March, and 110 °F in April.

Mr. Speaker, Heatwave has become an icon as far as the weather is concerned and people look up to him in the community. I thank him for his contributions, and congratulate him on his 25th anniversary at KGNS.

## RECOGNIZING THE "TOWARD A SUSTAINABLE BRONX" 2004 CONFERENCE

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SERRANO. Mr. Speaker, I rise today to acknowledge the efforts of a number of Bronx-based organizations to organize a major energy and environmental symposium in the Bronx. This event, sponsored by the Center for Sustainable Energy at Bronx Community College and the Bronx Initiative for Energy and the Environment at The Bronx Overall Economic Development Corporation, will broaden the audience for, and awareness of, renewable and alternative energy technologies.

For many years, the South Bronx has suffered from high levels of pollution, which have led to public health problems in the area. For instance, asthma rates among children are 250 percent higher than in the rest of New York City. The South Bronx can benefit greatly from the use of energy-efficient and clean fuel technologies. Many businesses, developers, and other stakeholders, however, are unaware of both what they can do and where they can go to find these tools. This symposium will answer those questions, and help make the South Bronx a healthier and more environmentally sound place to live.

Mr. Speaker, the importance of this conference cannot be understated. This conference is an opportunity to promote technologies that can improve the energy efficiency of our buildings, prepare our students for the workforce through education and training, and promote practices that will help to strengthen our economy. I am confident that this conference will lead to greater community participation in efforts to improve the quality of life in the Bronx.

I would like to thank the President of Bronx Community College, Dr. Carolyn Grubbs Williams for her leadership on these issues. I also congratulate the Center for Sustainable Energy, the Bronx Initiative for Energy and the Environment, and the Bronx River Research Group for their efforts in making this conference a reality. Lastly, I would like to thank the many other partnership organizations involved in the project, including: Rebuild America program at the U.S. Department of Energy, New York Power Authority, New York State Energy Research & Development Authority, New York City Energy $mart Communities, and several Bronx-based businesses.

I hope my colleagues will join me in congratulating all the parties involved for their dedication to these important environmental and public health issues, and in wishing them continued success in the years to come.

## A TRIBUTE TO STEPHANIE ARNO

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TOWNS. Mr. Speaker, I rise in honor of Stephanie Arno for her commitment to public service and her church.

Stephanie is one of five children born and reared in the East New York neighborhood of Brooklyn. She was educated in the New York City public schools. She obtained her Bachelor of Arts in Political Science from the University Center of New York at Binghamton and her Master of Arts in Political Science from Brooklyn College.

Employed with the New York City Department of Probation for the past 16 years, Stephanie began her career as a Probation Officer Trainee in the Kings Adult Investigation Unit. She rose through the ranks to become Borough Director of her present assignment, Manhattan Alternative to Detention (MATD), Family Court Division.

In 2002, one of Stephanie's noteworthy accomplishments is being the first President and founding member of the New York City Probation Guardians Association, Inc. In 2004, Stephanie was re-elected as President of the New York City Probation Guardians Association, Inc. The Probation Guardians Association, Inc. is a fraternal association for all African-Americans employed in NYC's Probation Department.

A member of the Greater Allen Cathedral of New York, AME, her favorite scripture is from Isaiah 54:2–3, "Enlarge the place of your tent, stretch your tent curtains wide, do not hold back; lengthen your cords; strengthen your stakes. For you will spread out to the right and to the left; your descendants will dispossess nations and settle in their desolate cities". [NIV]

The legacy of Stephanie Arno is to be known as someone who understands that every child who proclaims to be a "hard rock" is actually a gem so let us mine our future with delicate hands.

Mr. Speaker, Stephanie Arno has dedicated her professional career to public service through her work in the criminal justice system. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

## TRIBUTE TO CEDARS-SINAI MEDICAL CENTER

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. BERMAN. Mr. Speaker, I rise to pay tribute to Cedars-Sinai Medical Center—one of the premier hospitals in the world—for providing the highest quality of health care to hundreds of thousands of people, for its innovative medical research and for its dedicated work in supporting, housing and developing the Louis Warschaw Prostate Cancer Center.

Cedars is one of the largest non-profit academic medical centers in the Western United States. It has more than 1,800 physicians in all medical specialties, more than 8,000 employees and 200 volunteers. The physicians are leaders in basic and clinical research. They teach over 245 residents and fellows in 60 graduate medical education programs.

For the fifth straight two-year period, Cedars-Sinai has been named Southern California's gold standard in health care. In National Research Corporation's 2004 Healthcare Market Guide survey, Los Angeles area residents named Cedars-Sinai the "Most Preferred Hospital for All Health Needs." Cedars-Sinai is internationally renowned for its diagnostics and treatment capabilities and its broad spectrum of programs and breakthroughs in biomedical research and superlative medical education. It ranks among the top 10 non-university hospitals in the nation for its research activities.

The Warschaw family, one of Los Angeles' most prominent, turned to Cedars-Sinai to establish the Louis Warschaw Prostate Cancer Center with the mission of advancing the fight against prostate cancer. They did this in honor of their beloved husband and father, Louis Warschaw, who died from this disease.

Prostate cancer is the most commonly diagnosed non-skin cancer in the United States. One in six American men will develop prostate cancer in the course of his lifetime. Each year more than 220,000 men are diagnosed with prostate cancer and about 28,000 die from the disease. It is the second leading cause of cancer death in men and requires the heavy firepower that Cedars-Sinai can muster.

Patients at Cedars-Sinai Medical Center and the Louis Warschaw Prostate Cancer Center receive the best medical care possible and access to emerging therapies through its research programs. These programs rely on integrated prostate cancer clinical trials and a research lab that supports pre-clinical and clinical drug studies. In addition to receiving the most technologically advanced care, patients take comfort in knowing that experts from a range of disciplines work together to optimize their treatment.

The Louis Warschaw Prostate Cancer Center's medical ontologists and urologists are nationally recognized experts in prostate cancer. They include: Dr. Stuart Holden, Medical Director for the Center; Dr. David B. Agus, Research Director; Dr. Mitchell E. Gross, Assistant Research Director and Dr. Christopher Nu, Urologic Surgeon. They collaborate with other leading specialists throughout the country, exchanging research and clinical insights and have helped the Center earn its stellar reputation.

Cedars-Sinai's multi-faceted team of medical professionals combat the threat of cancer by bringing together experts in surgery, radiology, radiation therapy, oncology and pathology. The Louis Warschaw Prostate Cancer Center, the Samuel Oschin Comprehensive Cancer Institute, the Women's Cancer Research Institute, the Maxine Dunitz

Neurosurgical Institute, the Saul and Joyce Brandman Breast Center, the Gene Therapeutics Research Institute, and the divisions of the Medical, Surgical, Gynecologic, and Pediatric Oncology, all work together with clinical departments across specialties that include medicine, surgery, genetics, gynecology, pediatrics, psychiatry, imaging, radiation therapy, pathology, and the Cedars-Sinai Outpatient Cancer Center. The results of this high level of coordination and cooperation have made Cedars-Sinai into the incredible institute it is today. I am proud that Cedars is located in Los Angeles and I am thankful for the great work it does.

Mr. Speaker, I ask my distinguished colleagues to join me in saluting the Cedars-Sinai Medical Center, and the Warschaw family for founding the Louis Warschaw Prostate Cancer Center—one of the Nation's leading research and prostate cancer treatment facilities.

---

## IN COMMEMORATION OF TIBETAN UPRISING DAY

**HON. STEVEN R. ROTHMAN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. ROTHMAN. Mr. Speaker, I rise today to join with my colleagues and Tibetan communities around the world to commemorate Tibetan Uprising Day, and to draw attention to the continued serious human rights abuses committed by the People's Republic of China.

On March 10, 1959, in reaction to rumors that the Chinese were planning to kill or kidnap the Dalai Lama, thousands of Tibetan refugees courageously surrounded the Dalai Lama's compound and began calling for the Chinese to leave Tibet. This marked the beginning of the "Lhasa Uprising." On March 17, 1959, fearing that Chinese troops would massacre the thousands of refugees who were refusing orders to disperse, the Dalai Lama disguised himself and took flight to India. Forty-eight hours later, believing the Dalai Lama was still inside, Chinese troops began shelling his compound and other targets in Lhasa, killing thousands of mostly unarmed civilians. Chinese statistics estimate that 87,000 Tibetans from all parts of Tibet were killed, arrested, or deported to labor camps during the 1959 Uprising. Only a small number of the thousands who fled to India survived Chinese military attacks, malnutrition, cold and disease.

Over the past 46 years, Tibetans inside Tibet and in exile around the world have bravely fought against tremendous odds to preserve their religious identity, culture, and history. It is estimated that 1.5 million Tibetans have died as a result of Chinese occupation since 1949 and 6000 monasteries, temples, and other cultural buildings were destroyed. And today, Tibetans, including monks and nuns, are continually persecuted for practicing their religion, and voicing their support for His Holiness the Dalai Lama. In fact, five Tibetan monks were jailed by Chinese authorities in February of this year for allegedly publishing politically sensitive poems, and were given sentences of two to three years.

The U.S. government has continually supported Tibetan self-determination, and I am proud of the dedication of the U.S. Congress to drawing attention to the gross human rights abuses committed by the People's Republic of China against the Tibetan people. We must continue to support the dialogue between His Holiness the Dalai Lama and the government of China, and remain committed to a peaceful resolution to this tragic conflict, keeping in mind our shared values of freedom of religion, freedom of speech, and freedom from tyranny.

I commend to you the statement written by His Holiness the Dalai Lama in commemoration of Tibetan Uprising Day, and I am honored to submit the statement in its entirety for the RECORD.

### THE STATEMENT OF HIS HOLINESS THE DALAI LAMA ON THE 46TH ANNIVERSARY OF THE TIBETAN NATIONAL UPRISING DAY

On the occasion of the 46th anniversary of the Tibetan People's Uprising, I convey my warm greetings to my fellow Tibetans in Tibet and in exile and to our friends around the world.

During these more than four decades great changes have taken place in Tibet. There has been a great deal of economic progress along with development in infrastructure. The Golmud-Lhasa railway link that is being built is a case in point. However, during the same period much has been written by independent journalists and travelers to Tibet about the real situation in Tibet and not what they have been shown. Most of them portray a very different picture than what the Chinese government claims, clearly criticizing China about the lack of human rights, religious freedom and self-rule in Tibet. What has actually happened and is still happening is that since the establishment of the Tibet Autonomous Region the real authority has been solely held by Chinese leaders. As for the Tibetan people, they have been facing suspicions and growing restrictions. The lack of true ethnic equality and harmony based on trust, and the absence of genuine stability in Tibet clearly shows that things are not well in Tibet and that basically there is a problem.

Prominent and respected Tibetan leaders in Tibet have spoken out on this from time to time and even suffered because of their courageous acts. In the early 1960s, the late Panchen Lama outlined the sufferings and aspirations of the Tibetan people in his petition to the Chinese leaders. Baba Phuntsok Wangyal, one of the foremost Tibetan communist leaders, in his recent biography published in English dwells at length on the need to meet the interests of the Tibetan people. In fact, it is clear that most senior Tibetan officials in Tibet deep in their hearts are extremely dissatisfied.

This year the Chinese government will mark the 40th anniversary of the establishment of the Tibet Autonomous Region. There will be much fanfare and many commemorative events to celebrate the occasion but these will be meaningless when they do not reflect the ground realities. For example, the Great Leap Forward and the Cultural Revolution were celebrated with great pomp as real achievements at the time they took place.

China has made tremendous economic progress during the past more than two decades. China today is not what it was twenty or thirty years ago. Much has changed in China. As a result she has become a major player in the world and China rightly deserves this position. It is a big nation with a huge population and a rich and ancient civilization. However, China's image is tarnished by her human rights records, undemocratic actions, the lack of the rule of law and the unequal implementation of autonomy rights regarding minorities, including the Tibetans. All these are a cause for more suspicion and distrust from the outside world. Internally, they are an obstacle to unity and stability that are of utmost importance to the leaders of the People's Republic of China. In my view, it is important that as China becomes a powerful and respectable nation she should be able to adopt a reasonable policy with confidence.

The world in general, of which China is a part, is changing for the better. In recent times there is definitely a greater awareness and appreciation for peace, non-violence, democracy, justice and environmental protection. The recent unprecedented response from governments and individuals across the world to the tsunami disaster victims reaffirms that the world is truly interdependent and the importance of universal responsibility.

My involvement in the affairs of Tibet is not for the purpose of claiming certain personal rights or political position for myself not attempting to stake claims for the Tibetan administration in exile. In 1992 in a formal announcement I stated clearly that when we return to Tibet with a certain degree of freedom I will not hold any office in the Tibetan government or any other political position and that the present Tibetan administration in exile will be dissolved. Moreover, the Tibetans working in Tibet should carry on the main responsibility of administering Tibet.

I once again want to reassure the Chinese authorities that as long as I am responsible for the affairs of Tibet we remain fully committed to the Middle Way Approach of not seeking independence for Tibet and are willing to remain within the People's Republic of China. I am convinced that in the long run such an approach is of benefit to the Tibetan people for their material progress. It is encouraging that there is support from various parts of the world for this approach as being reasonable, realistic and of mutual benefit to the Chinese and Tibetans. I am particularly encouraged by the recognition and support that has come from certain quarters of the intellectual circle from within China.

I am happy with our renewed contacts with the Chinese leadership and that the third round of meetings last September shows that gradually our interactions are improving. Now that our elected political leadership is shouldering more responsibility in Tibetan affairs, I have advised them to look into the issues raised by the Chinese side during our third round of talks and to take steps to address or clarify them as needed. We remain hopeful that eventually we will be able to develop the necessary trust and resolve this long-standing issue to our mutual benefit.

Finally, I would like to take this opportunity to express the Tibetan people's gratitude and appreciation to the people and Government of India for their steadfast sympathy and support. I very much feel a part of this nation not only because of the centuries-old religious and cultural ties that India and Tibet enjoyed but also because I and most of the Tibetans in exile lived in India for the past 45 years.

I offer my prayers to the brave men and women of Tibet who gave their lives for the cause of Tibetan freedom.

THE DALAI LAMA,
*March 10, 2005.*

## GENETIC RESEARCH

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. NEY. Mr. Speaker, over the past 15 years this body has provided almost $3 billion for genetic research and the sequencing of the human genetic code.

This project, known as the Human Genome Project, has led to more information about diseases and a better understanding of our genetic makeup.

Advances in genetics have already led to the discovery of genetic markers for heart disease, Alzheimer's, Parkinson's, many cases of breast cancer, and a wide variety of other diseases. Along with these discoveries, scientists and healthcare professionals are developing new diagnostics which allow for early treatment, personalized medicine, new cures, and targeted preventative medicine.

Currently, there are over 15,500 recognized genetic disorders which affect 13 million Americans. Just two years after the completion of the Human Genome Project, laboratories are offering 1,042 different genetic tests, almost 700 of which are used for diagnostic purposes.

On average, most Americans have six potential harmful genetic mutations and the coming years hold tremendous promise as a flood of new tests and treatments reach the marketplace. Unfortunately, these new abilities to predict and manage disease also provide opportunities for the misuse of this information. Should individuals and their families run a risk of losing insurance policies and jobs, many may choose not to take advantage of these new healthcare technologies.

Without appropriate protections, this perceived threat could stop Americans from learning about their individual healthcare risks and taking steps which could prevent life threatening conditions later in life.

For these reasons, I am pleased to support the Genetic Information Nondiscrimination Act of 2005 which was introduced today by Congresswoman JUDY BIGGERT. This legislation would provide the protections needed to insure that the use of genetic information continues to advance medical treatments and improve our nation's health by prohibiting the improper use of genetic information in employment and health insurance. I look forward to working with my Colleagues on this important issue.

---

## THE 46TH ANNIVERSARY OF TIBETAN NATIONAL UPRISING DAY

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Ms. PELOSI. Mr. Speaker, today is the 46th Anniversary of Tibetan National Uprising Day. We honor the many brave Tibetans who sacrificed their lives fighting for freedom, and we demand that the Chinese government release all prisoners of conscience including Tenzin Delek Rinpoche and the 11th Panchen Lama. I am proud that my constituents in San Francisco organize a peace rally and march commemorating this day every year.

When China's People's Liberation Army invaded Tibet in 1949, Tibet was an independent state. The Chinese government imposed an agreement on Tibet recognizing Tibet's autonomy over its internal affairs. But, as the Chinese government consolidated their control, they repeatedly violated the treaty and open resistance to Chinese repression grew.

On March 10, 1959, the people of Lhasa assembled together and called for the Chinese to leave Tibet, thus marking the beginning of the uprising. The Chinese crackdown was harsh. An estimated 87,000 Tibetans were killed, arrested, or deported to labor camps.

In the years since the People's Uprising, more than 1 million Tibetans have been killed and more than 6,000 monasteries and irreplaceable jewels of Tibetan culture have been destroyed. We know that Tibetans are routinely imprisoned and tortured for nonviolently expressing their views. Beatings, prolonged exposure to extreme heat and cold, electroshock, sleep and food deprivation, and forced labor are among the techniques used to torture Tibetan political prisoners.

Last month, the U.S. State Department published its annual "Country Reports on Human Rights." The section on Tibet states that "[Chinese] authorities continued to commit serious human rights abuses, including extra-judicial killing, torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetans for peacefully expressing their political or religious views."

The Chinese government has not won the hearts and minds of the Tibetan people. Tibetans are as devoted to their traditional beliefs as ever, and the bond between His Holiness the Dalai Lama and the Tibetan people is fundamental and unbreakable. Attempts to drive a wedge between the Dalai Lama and the Tibetan people have failed and have been counterproductive for the Chinese government.

His Holiness the Dalai Lama is the key to peace and stability in Tibet. Envoys of the Dalai Lama have traveled to China and Tibet three times in recent years to continue discussions with Chinese authorities on a permanent negotiated settlement. While open dialogue is a positive first step, it is time for the Chinese government to follow through with substance and not just process. It is time for China to take a step forward into a modern, open and free society.

The survival of the Tibetan identity is an issue of urgent U.S. and international concern. If we are not committed to meeting the challenge of Tibet then we cannot be consistent when we talk about human rights in any other place in the world.

As we honor the brave and heroic Tibetan people, we must heed the guidance of His Holiness the Dalai Lama. He is a constant reminder that the crisis in Tibet is a challenge to the conscience of the world. We have not forgotten the people of Tibet in their struggle. Troops can crush a protest, but they can never extinguish the flame of freedom that burns in every human heart.

---

## PAUL AND JEAN AMOS PERFORMANCE STUDIO DEDICATION AT WSRE–TV

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. MILLER of Florida. Mr. Speaker, it was a pleasure to celebrate a significant milestone in WSRE–TV's history last week as they dedicated their new performance studio in honor of Paul and Jean Amos.

Public television provides valuable commercial-free educational, informational, and cultural programming for communities all across the country. Here in our own backyard, WSRE–TV does a wonderful job of fulfilling the programming needs and interests of the Emerald Coast. As a local viewer and supporter I believe they keep residents connected with the local community, the Nation, and the world in a way that no other outlet can or does.

As we celebrated the dedication of the Jean and Paul Amos performance studio, we recognized that WSRE transcends the typical operation of a public television station. Very few PBS stations around the country can accommodate their viewers within their physical structure. This performance studio is perfect to host forums and engage the public in direct participation to discuss issues important to the community. In keeping with WSRE's mission, former General Manager Allan Pizzato had the foresight to construct this facility to bring the community into WSRE, so it could truly act as a mirror reflecting the interests of the community.

Public broadcasting stations are transforming their mission in order to fulfill the niche of the community and the broadcast world. Just like the Internet is not just used for data gathering, but is now used as a telephone service, cable companies are now offering high speed Internet, and telephone companies are starting to offer cable. Just as these service providers strive to keep up with growing demands, public television stations must do the same.

Years ago, WSRE recognized the need for change and responded quickly. PBS as an organization continues to provide the core base of educational programming and services, but WSRE–TV takes that service to another level. They understand that with cable's niche program offerings that the role of public broadcasting must become more comprehensive, expanding into community outreach programs such as reading services for the blind, educational offerings and instructional courses transmitted over multi-casted digital channels, educational outreach activities such as the national teacher training institute to provide professional development for teachers, and also services that provide resources for daycare providers to help prepare children for school.

Telecommunications is rapidly changing every day. The possibilities are truly limitless. It gives me tremendous pride, both personally and as a member of the Congressional Public Broadcasting Caucus, to know that my public television station is not only keeping up; it's going above and beyond the basic services required of it.

Under Sandy Cesaretti Ray's dynamic leadership and ingenuity, WSRE–TV continues to achieve its mission, bringing high quality services to its viewers. The panhandle is very fortunate to have had such quality leadership here over the past 35 years. Playing such an important part in the life of our community, I want to thank them for their commitment to excellence, and my sincere gratitude to the Amoses for their generous, heartfelt gift.

## TIBET: 46TH ANNIVERSARY OF TIBETAN UPRISING DAY

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. WOLF. Mr. Speaker, today is the 46th anniversary of the Tibetans who died opposing the Chinese occupation, and all Tibetans who suffered due to their religious, political or cultural beliefs or activities.

In 1949 communist China invaded Tibet. The Tibetan people rose up to revolt against Communist rule. In 1959 thousands of Tibetan refugees surrounded the compound of His Holiness the Dalai Lama out of fear he would be killed. In order to try to save his people the Dalai Lama fled to India. His people stayed and were attacked by the Chinese. Thousands of unarmed civilians were killed. During the 1959 uprising an estimated 87,000 Tibetans were killed, arrested, or deported to labor camps.

The harsh brutality still exists in Tibet today. The People's Republic of China does not tolerate Tibetan freedom in any form. Each year thousands of innocent people are imprisoned or put to death under a system plagued with corruption and secrecy. Many Buddhist monks and nuns are in detention for peacefully exercising their right to free expression, association and religion.

I have visited Tibet and I was shocked and saddened by the repression of the Tibetan people. They live in fear that they will be killed, will disappear or will be tortured for expressing their political and religious beliefs. The Chinese government routinely refuses to allow independent international human rights monitors, including the United Nations, to conduct an investigation into the human rights situation in Tibet.

As co-chair of the Congressional Human Rights Caucus, I had the honor of meeting His Holiness the Dalai Lama in 2003. He is a man of great wisdom and vision who has the sole purpose for his people and his country to live free from oppression. He has worked for more than 40 years to promote self-determination for the Tibetan people. The United States stands with him and supports a negotiated settlement through dialogue.

Mr. Speaker, this day is to remind the world that the Tibetan people have been denied freedom for more than half a century. The clock is ticking for Tibet. I know one day we will be able to celebrate the anniversary of Tibetan Freedom Day.

## INTRODUCTION OF H.R. 1220, VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2005

### HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. BUYER. Mr. Speaker, I am proud to introduce H.R. 1220, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005.

Veterans' Affairs Committee Ranking Member LANE EVANS, as well as JEFF MILLER of Florida and SHELLEY BERKLEY, Chairman and Ranking Member of the Subcommittee on Disability Assistance and Memorial Affairs, respectively, join me as original cosponsors of the bill.

H.R. 1220 would provide a cost-of-living adjustment to veterans' benefits effective December 1, 2005. This would positively affect more than 2.9 million service-connected veterans and survivors of service-connected veterans. Additionally, the bill codifies the current disability compensation and dependency and indemnity compensation (DIC) rates.

The VA Committee periodically reviews the service-connected disability compensation and DIC programs to ensure that the benefits provide reasonable and adequate compensation for disabled veterans and their families. Based on this review, Congress acts annually to provide a cost-of-living adjustment in compensation and DIC benefits.

Mr. Speaker, Congress has consistently provided increases in these rates for every fiscal year since 1976. The adjustment in cost-of-living is reflective of the economic changes annually. This is especially important to those veterans living on a fixed income. The Administration's fiscal year 2006 budget submission includes funding for a projected 2.3 percent increase.

In support of our veterans, I urge my colleagues to support this bill.

## HONORING THE CONTRIBUTIONS OF BEXAR COUNTY COMMISSIONER LYLE LARSEN

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the contributions made to the 28th district by Bexar County Commissioner Lyle Larsen.

Commissioner Larsen's career has been highlighted by numerous political appointments beginning in 1991 when he was elected to the San Antonio City Council, and held this position until 1995. In 1996 he was elected by the constituents of Bexar County Precinct 3 to the seat of County Commissioner, which he holds to this day. In 2000 he was appointed by then Governor George W. Bush to the Texas Juvenile Probation Commission.

Bexar County Commissioner Lyle Larsen has fiercely worked with fellow county officials to improve the operation of Bexar County, by monitoring the procedures of department heads. As a member of the Commissioners Court he faces the demanding job of overseeing budgetary, tax, and revenue decisions for positions that are not regulated by elected officials.

It requires an immense knowledge of County Government to be able to govern such a vast territory, and Commissioner Larsen has demonstrated that he can quite eloquently oversee and govern Bexar County.

Commissioner Larsen has not only worked as a diligent officer for Bexar County residents, but has also made notable contributions during his time in public office, especially his work in criminal and juvenile area.

Mr. Speaker, I am proud to have had this opportunity to recognize the dedication and hard work of Bexar County Commissioner Lyle Larsen.

## IN MEMORY OF MR. JOHN CRIVELLO

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. FARR. Mr. Speaker, I rise today to honor John "Bricky" Crivello, who passed away at his home on March 4, 2005. All of us who knew John's lifelong devotion to fishermen's' rights, his friends and family, and any official who had a say in the matter, will be remembered within the Monterey community.

Born in Monterey, CA in 1911, Bricky played football, baseball, basketball, golf and track at Monterey High School. During this period he was nicknamed "Bricky" because of his red hair—a name that would remain with him for the next 70 years. After high school Bricky was a fisherman for a short time, but soon joined the Monterey fishing industry. For more than 60 years, he worked as the business agent for the local branch of the International Fisherman's Union.

He was an advocate for more than 900 local fisherman during the industry's boom of the 1940's and 1950's. Although the industry shrank, Bricky remained working in the industry through his 80s. Because he represented hundreds of fisherman, many political candidates seeking support and votes visited John's small Monterey office on the wharf.

Bricky worked with my father, the late Senator Fred Farr to draft and advocate legislation that allowed California's fisherman to collect unemployment benefits. This was one of Bricky's proudest achievements. A proud Italian-American, John also supported the predominantly Italian-American fishing community. He was instrumental in establishing and getting approval from the City of Monterey to have the bocce ball courts created which are still in use today.

Bricky was endearingly referred to within his community as a "character". He was a friend to everyone and very dedicated to his work and fishermen's rights. He was always talking about the plight of the fishermen never having enough money to make it, needing more tonnage and unemployment. Everyone within the community loved Bricky.

Mr. Speaker, I wish to remember Bricky for his honor, humanity, and love for Monterey Bay and its people. John consistently was helpful and loyal as a friend, husband, father and advocate. Our thoughts go out to his family, Kathryn Alkire, John Crivello, and JoAnn Crivello. He was a good friend to me, taking the time to talk about the old days, about my father, and about his love for golfing at Rancho Cañada. I will miss him greatly, but know his life will continue to inspire those he touched.

## PEACE CORPS: A MODEL FOR HOPE

### HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. LEACH. Mr. Speaker, I would like to take a moment to recognize that last week was National Peace Corps Week and to applaud the thousands of Americans who have represented the U.S. since 1961 in the Peace Corps in 138 countries. Emblematic of the idealism of America are the 15 volunteers from my district in Southeast Iowa who are currently serving on four continents, in desert villages, mountain towns and city centers from Ukraine to Panama and Morocco.

A Peace Corps volunteer is charged with three missions: the first is to help the people of host countries in meeting their need for trained professionals; the second is to help promote understanding of America around the world; and the third is to help expand American understanding of other peoples and countries.

Thus, the job of the Peace Corps volunteer is not over when their assignment is completed. Volunteers maintain a duty to share their grasp of the people, the language and the culture of the countries in which they served.

Not long ago, in a speech at Yale University, the first Peace Corps Director, Sargent Shriver, declared that he wanted to add a fourth goal: to "bind all human beings together in a common cause to assure peace and survival for all."

No mission is more altruistic; nor more consequential. Geopolitical realists might consider such majesty of purpose to be naive. Actually, there is no rational alternative in a world where history has known few generations unaffected by the strife of war; where the creation of weapons of mass destruction has increased the vulnerability of the human race. As Einstein noted, splitting the atom has changed everything except our way of thinking. It is the capacity to think that, at its best, characterizes mankind, but, at its least impressive, has yet to be harnessed in such a way as to give confidence that modern man can live with modern technology.

It is in the context of concern for the common fate of all mankind the Peace Corps stands out as the singular institution in American society that provides a model for hope and a cause for optimism.

## INTRODUCTON OF LEGISLATION MAKING AERIAL FIREFIGHTERS ELIGIBLE FOR FEDERAL DEATH BENEFITS

### HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mrs. CUBIN. Mr. Speaker, in April 1997, John Hirth of Buffalo, Wyoming, and his copilot lost their lives when their air tanker crashed near Blandburg, Pennsylvania. They were on a firefighting mission for a government agency, the Pennsylvania Bureau of Forestry.

At the time, John was making an aerial scouting of the fire, referred to as a dry run. Fire conditions were gusty, and turbulent wind patterns resulted from the fire itself.

Immediately after dropping the fire retardant, their tanker encountered smoke which affected visibility.

Just as the air tanker flew out of the smoke, its right wing hit an oak tree which stood above the tree line. The aircraft rolled 90 degrees left and flew into the mountainside a quarter mile from the initial tree strike, exploding on impact and instantly killing John and his copilot.

In the mid-1990s, John tried to obtain life insurance through various agencies. He was turned down due to his occupation as an aerial firefighter.

At the time of his death, the business still had to meet payments on the 1997 fire contract operation (which included liability insurance, contract-paid pilots, fuel, oil, parts, etc.), as well as on a second tanker and one sprayer aircraft.

The financial loss from this crash was so devastating that his wife, Connie, did not have the money to pay for her husband's funeral.

While this is heartbreaking to us, it is a very stark reality that many families face when aerial firefighters are lost in the line of duty.

The fact is that the vast majority of those pilots lost were serving under a government contract at the time. They were providing aerial fire suppression services for the government when they lost their lives.

My reason for being here today is to correct a provision in law that is blatantly unfair.

I am re-introducing legislation that will provide some financial security to aerial firefighters and their families.

This legislation recognizes all pilots and crew involved in aerial fire suppression as public safety officers. In doing so, the bill makes these deserving individuals eligible for death benefits under the Public Safety Officers' Benefits Program, also known as PSOB.

Under current law, aerial firefighters who are under contract with the government are not afforded these benefits simply because they work for private companies that contract with the government.

However, without these contract pilots and crew, the federal government would not have the capabilities to deal with wild land fires.

This legislation is a matter of common sense. Aerial firefighters are public safety officers in every sense of the word. With dedication and enthusiasm, they protect our natural resources, our communities, and often our very lives.

Every day, when our men and women in the Armed Forces go out to do their job, they say to us, "I am willing to risk my life for you today." Our local police officers say it as well and, yes my friends, so too do aerial firefighters.

John Hirth was the primary wage earner in his air tanker business and his family. If PSOB had been available to them at the time of John' s death, the financial hardships endured by his wife could have been minimized.

It is time we start giving back to aerial firefighters because, if we don't, we will be losing a valuable resource. With no aerial firefighters to protect our natural resources, where will we turn?

I don't think any of us want to face that question, so let's make sure we don't. Please support this legislation. It is the right thing to do.

## INTRODUCTION OF THE TERRORIST APPREHENSION RECORD RETENTION ACT OF 2005

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CONYERS. Mr. Speaker, today I am introducing the bipartisan "Terrorist Apprehension Record Retention Act of 2005" or "TARR Act," legislation designed to make it much easier for State and Federal counterterrorism officials to track known or suspected members of a terrorist organization who attempt to purchase dangerous firearms here in the U.S. I am joined by Representative CHRISTOPHER SHAYS of Connecticut.

According to a recently released Government Accountability Office ("GAO") report, over the course of a nine-month span last year, a total of fifty-six (56) firearm purchase attempts were made by individuals designated as known or suspected terrorists by the Federal Government. In forty-seven (47) of those cases, State and Federal authorities were forced to permit such transactions to proceed because officials were unable to find any disqualifying information (such as a prior felony conviction or court-determined 'mental defect') in the individual applicant's background. Under current law, neither suspected nor actual membership in a terrorist organization is a sufficient ground, in and of itself, to prevent such a purchase from taking place.

Even more troubling than this apparent loophole in our current system of gun laws is the confusion which ensued after such transactions occurred. The GAO specifically determined that, in such instances, the Department of Justice's information-sharing procedures failed to adequately "address the specific types of information from NICS transactions that can or should be provided to Federal counterterrorism officials or the sources from which such information can be obtained."

The TARR Act seeks to correct this problem by making two simple, yet important, changes in current law. First, the bill would require all information regarding such transactions to be shared with all appropriate counterterrorism officials at the State and Federal level. Secondly, it would impose a ten year retention requirement on any records related to those transactions. In sum, the bill proposes two modest changes which—in the long run—will go along way towards keeping our homeland truly secure.

I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

## BLACK HISTORY TRIBUTE TO GERTRUDE A. YOUNG

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. THOMPSON of Mississipi. Mr. Speaker, I would like to recognize outstanding African Americans of the 2nd Congressional District of Mississippi, and their contribution to Black History. The 23 counties of the 2nd District are well represented from both a local and national perspective.

Americans have recognized black history annually since 1926, first as "Negro History Week" and later as "Black History Month." In fact, black history had barely begun to be studied—or even documented—when the tradition originated. Although blacks have been in America as far back as colonial times, it was not until the 20th century that they gained a presence in our history books.

Though scarcely documented in history books, if at all, the crucial role African Americans have played in the development of our Nation must not be overlooked.

I would like to recognize Gertrude Anderson Young of Warren County. Mrs. Young was born to the late Mr. Wanzie Anderson and Josephine Anderson.

Mrs. Young is a 1973 honor graduate of North Vicksburg High School, a 1976 honor graduate of Mississippi Valley State University where she received a degree in Nursing, a 1983 Hinds Community College honor graduate, and 1999 honor graduate of Alcorn State University.

Mrs. Young has worked as a Registered Nurse for 20 years. Mrs. Young is noted in Warren County for creating a 24-hour hotline and weekly radio program for teens called "Talk to Me". In addition, she was elected as the first woman to serve as Warren County Election Commissioner of District 3. Presently, she is a published writer and she serves as the City of Vicksburg's first female elected official as North Ward Alderman and Mayor Pro-Tem.

Mrs. Young is the 1996 recipient of the State's Child Advocate of the Year award and the Fannie Lou Hamer award. She was inducted into the 2001–2003 Who's Who Among American Women. Mrs. Young is a member of Mt. Carmel Missionary Baptist Church where she serves as an Associate Minister. She is the former president of the Mississippi Black Caucus of Local Elected Official (MBC–LEO) and she is a member of numerous local, State, and Federal boards and organizations including Delta Sigma Theta Sorority, Inc.

I take great pride in recognizing and paying tribute to this outstanding African American of the 2nd Congressional District of Mississippi who deserves mention, not only in the month of February but year round.

## APPRECIATION FOR ALEC FRENCH'S SERVICE ON THE JUDICIARY COMMITTEE STAFF

### HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SENSENBRENNER. Mr. Speaker, today Mr. CONYERS, Mr. SMITH of Texas, Mr. BERMAN, and I would like to commend and thank Alec French for his tremendous contribution as Minority Counsel to the Judiciary Subcommittee on Courts, the Internet, and Intellectual Property. During his five years of service to the Subcommittee, Alec was well-liked by the Members and his colleagues on both sides of the aisle. We are sad to see him leave our staff.

Without our system of copyright, trademark, and patent protection for innovations, consumers would not be able to enjoy movies, music, or new technology. Over the last five years, Alec was an invaluable member of our team and he played a crucial role in helping us to protect creative works and to establish the parameters of intellectual property rights. At the same time, Alec made sure that we listened to the needs of all parties involved, namely copyright owners and copyright users, so that decisions of policy were balanced appropriately.

Because of Alec's service, Congress was able to pass into law several bills on these issues, including the Satellite Home Viewer Extension and Reauthorization Act of 2004, Copyright Royalty and Distribution Reform Act of 2004, the Intellectual Property Protection and Courts Amendments Act of 2004, and the Small Webcaster Settlement Act of 2002. He also shepherded numerous bills that passed the House, including the United States Patent and Trademark Fee Modernization Act of 2004, the Piracy Deterrence and Education Act of 2004, Internet Freedom and Broadband Deployment Act of 2001, Patent and Trademark Office Authorization Act of 2002, Intellectual Property and High Technology Technical Amendments Act of 2001, and Madrid Protocol Implementation Act.

Alec also was instrumental in working with our third branch of the government, the Judiciary. He helped protect the privacy of judges and their staffs, made sure that judges were compensated fairly, and ensured that the courts would have the resources they need to continue serving the American public.

We thank Alec for his exceptional service to Congress and wish him the very best in his future endeavors.

## THE INTRODUCTION OF THE "SECURITY AND FAIRNESS ENHANCEMENT (SAFE) FOR AMERICA ACT"

### HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce the "Security and Fairness Enhancement (SAFE) for America Act." This much-needed legislation eliminates the controversial visa lottery program, through which 50,000 aliens are chosen at random to come and live permanently in the United States based on pure luck. The visa lottery program threatens national security, results in the unfair administration of our nation's immigration laws, and encourages a cottage industry for fraudulent opportunists.

Because winners of the visa lottery are chosen at random, the visa lottery program presents a serious national security threat. A perfect example of the system gone awry is the case of Hesham Mohamed Ali Hedayet, the Egyptian national who killed two and wounded three during a shooting spree at Los Angeles International Airport in July of 2002. He was allowed to apply for lawful permanent resident status in 1997 because of his wife's status as a visa lottery winner.

The State Department's Inspector General has even weighed in on the national security threat posed by the visa lottery program. In a report issued in September of 2003, the Office of Inspector General stated that the visa lottery program contains "significant threats to national security from entry of hostile intelligence officers, criminals, and terrorists into the United States as permanent residents." Even if improvements were made to the visa lottery program, nothing would prevent terrorist organizations or foreign intelligence agencies from having members apply for the program who do not have criminal backgrounds. These types of organized efforts would never be detected, even if significant background checks and counter-fraud measures were enacted within the program.

Usually, immigrant visas are issued to foreign nationals that have existing connections with family members lawfully residing in the United States or with U.S. employers. These types of relationships help ensure that immigrants entering our country have a stake in continuing America's success and have needed skills to contribute to our nation's economy. However, under the visa lottery program, visas are awarded to immigrants at random without meeting such criteria.

In addition, the visa lottery program is unfair to immigrants who comply with the United States' immigration laws. The visa lottery program does not expressly prohibit illegal aliens from applying to receive visas through the program. Thus, the program treats foreign nationals that comply with our laws the same as those that blatantly violate our laws. In addition, most family-sponsored immigrants currently face a wait of years to obtain visas, yet the lottery program pushes 50,000 random immigrants with no particular family ties, job skills or education ahead of these family and employer-sponsored immigrants each year with relatively no wait. This sends the wrong message to those who wish to enter our great country and to the international community as a whole.

Furthermore, the visa lottery program is wrought with fraud. A report released by the Center for Immigration Studies states that it is commonplace for foreign nationals to apply for the lottery program multiple times using many different aliases. In addition, the visa lottery program has spawned a cottage industry featuring sponsors in the U.S. who falsely promise success to applicants in exchange for large sums of money. Ill-informed foreign nationals are willing to pay top dollar for the "guarantee" of lawful permanent resident status in the U.S.

The State Department's Office of Inspector General confirms these allegations of widespread fraud in its September report. Specifically, the report states that the visa lottery program is "subject to widespread abuse" and that "identity fraud is endemic, and fraudulent documents are commonplace." Furthermore, the report also reveals that the State Department found that 364,000 duplicate applications were detected in the 2003 visa lottery alone.

In addition, the visa lottery program is also by its very nature discriminatory. The complex formula for assigning visas under the program arbitrarily disqualifies natives from countries that send more than 50,000 immigrants to the U.S. within a five-year period, which excludes nationals from countries such as Mexico, Canada, China and others.

The visa lottery program represents what is wrong with our country's immigration system. My legislation would eliminate the visa lottery program. The removal of this controversial program will help ensure our nation's security, make the administration of our immigration laws more consistent and fair, and help reduce immigration fraud and opportunism.

---

## FREEDOM FOR ANTONIO RAMÓN DÍAZ SÁNCHEZ

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Antonio Ramón Díaz Sánchez, a prisoner of conscience in totalitarian Cuba.

Mr. Díaz Sánchez is an electrician by profession. He is also a member of the Christian Liberation Movement. Mr. Díaz Sánchez is a peaceful activist in the cause of liberty who desires to exercise his basic human rights. Unfortunately, the nightmare that is the Castro regime continues to violently oppress the men and women of Cuba, including those that bravely illuminate the atrocities committed against the Cuban people for the world to see.

Unfortunately, in March 2003, as part of the dictatorship's heinous crackdown on peaceful, pro-democracy activists, Mr. Díaz Sánchez was arrested. Simply because of his courageous pro-democracy activities, Mr. Diaz Sánchez was subjected to a sham trial where he was sentenced to 14 years in the totalitarian gulag.

According to Amnesty International, Mr. Díaz Sánchez has continued to advocate for freedom and justice while locked in the hellish squalor of Castro's gulag. He has participated in two hunger strikes to draw attention to the depravity of the conditions that political prisoners are subjected to in the gulag: including denial of medical attention, beatings, and severe malnutrition. He has courageously risked harm to himself in order to bring a semblance of humane treatment to those confined in the horror that is the totalitarian gulag.

Mr. Speaker, Mr. Ramón Díaz Sánchez, is an electrician who now shines a light of dignity and courage on the abominable disregard for human rights, human dignity, and human freedom just 90 miles from our shore. My Colleagues, we must demand the immediate and unconditional release of Antonio Ramón Díaz Sánchez,, and every political prisoner in totalitarian Cuba.

---

## RULING IN PADILLA CASE: A PROPER CHECK ON ATTEMPTED DENIAL OF DUE PROCESS

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. UDALL of Colorado. Mr. Speaker, terrorism must be fought, but we must resist the temptation to answer the extremism of terrorists with denials of the very principles the terrorists are attacking.

That is why many of us have been so concerned about the way the Administration has dealt with two American citizens they identified as "enemy combatants."

Last year, the Supreme Court ruled that one, Yaser Hamdi, must be tried or released. But it found a technical reason to avoid a similar decision regarding the other, saying that the case had been brought in the wrong district court.

Now the case has been renewed in the correct district court, and has brought a ruling that an editorial in the Rocky Mountain News says "dealt, one hopes, a fatal blow to the assertion of an unchecked presidential power to jail a citizen indefinitely and with no access to due process."

I share that hope.

For the information of our colleagues, here is the complete text of the editorial:

[From the Rocky Mountain News, Mar. 2, 2005]

JUSTICE, FINALLY, FOR JOSÉ PADILLA

The most egregious assertion of power in the Bush administration's war on terror was the president's right to jail any American indefinitely without trial. The president merely had to designate that person an "enemy combatant." That unwelcome unilateral expansion of presidential prerogatives was used only twice—on Yaser Esam Hamdi, a U.S.-born Saudi; and José Padilla, an American petty criminal.

Hamdi was captured in Afghanistan in 2001, sent to Guantanamo Bay, Cuba, and then shipped to a Navy brig when the feds learned he could claim U.S. citizenship. Last June, the Supreme Court ruled that the administration had to either try him or release him, and even though Hamdi, now 24, was presumably so dangerous that he had to spend over two years in solitary, the administration tamely sent him back to his parents in Saudi Arabia on the grounds that he no longer had any information to give.

Padilla, now 34, wasn't so lucky. Even though an appeals court had ruled that Padilla, too, should be tried or released, the Supreme Court said his case should have been filed in South Carolina instead of New York. Now a federal judge in South Carolina, Henry Floyd, has ruled and dealt, one hopes, a fatal blow to the assertion of an unchecked presidential power to jail a citizen indefinitely and with no access to due process—a judge, lawyer, habeas corpus, charges, a trial, all the basic constitutional safeguards.

"The court finds that the president has no power, neither express nor implied, neither constitutional nor statutory, to hold petitioner as an enemy combatant," Floyd wrote.

Well said.

---

## HONORING SALVADOR A. MERCADO'S SERVICE TO THE DEPARTMENT OF TRANSPORTATION

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor a citizen of the 28th District of Texas, Salvador A. Mercado, and his 28 years of service to the Department of Transportation.

In 1972 Salvador began his career with the Department of Transportation in Laredo, Texas. He then decided to further his education by attending the University of Texas at Austin, earning a degree in civil engineering. After he received his degree, he was able to move up at the Department of Transportation, and eventually became deputy district engineer.

During his time at the Transportation Department Salvador was able to apply his attention to detail to help establish Transportation Gateway, one of the 18t urban centers of its kind.

His professional demeanor assisted him as he made the critical decision of recruiting 20 engineering assistants for the district.

District safety has always been a main concern of Salvador's, and he has established different programs such as "El Protector," Spring Break rest stops, South Texas Fiber Optics Loop System, a Haz-Mat Task Force, traffic safety booths at local festivals, and the initiation of Construction Career Days to aid the community.

Salvador's willingness to work has not been overlooked by his peers; in 1996 he received the Gilchrist Award which honors outstanding achievement in Highway Engineering. This award is so prestigious that Salvador is only the second Hispanic engineer to ever be presented with this award.

Upon retirement Salvador will begin working in the private sector and I'm convinced will play an imperative role in whatever venture he decides to pursue.

Mr. Speaker, I am proud to have had this opportunity to recognize the many contributions of Salvador A. Mercado.

## TRIBUTE TO MR. HANS HAGEMAN

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SERRANO. Mr. Speaker, during this month dedicated to the celebration of Black History, I rise to pay tribute to Mr. Hans Hageman, an outstanding individual who has dedicated most of his life to helping children in East Harlem, NY.

Hans is the Executive Director of the Boys and Girls Harbor, Inc., a 67 year old multiservice youth organization located in East Harlem. The Harbor's mission is to empower children and their families to become full, productive participants in society through education, cultural awareness and social services.

A lifelong East Harlem resident, Hans is a graduate of the Collegiate School for Boys, Princeton University, Columbia University Law School, and the U.S. Army 101st Airmobile Air Assault School. As former Chief Counsel for the Neighborhood Defender Service of Harlem, he worked on solutions addressing long term and entrenched problems facing the East Harlem Community. Frustrated by the familiar faces he saw coming through the system, he realized that to truly impact the social pathology in East Harlem, he must reach out to the children of the community and help guide them before they fell victim to the cycles of poverty, violence and crime.

This strong belief motivated him to return to Exodus House, one of the nation's first residential drug rehabilitation centers, with a 30 year history of serving the East Harlem Community which was founded by his parents Reverend Dr. Lynn and Mrs. Leola Hageman. In September of 1993 Hans and his brother Ivan opened the East Harlem School at Exodus House, an independent intermediate school on the Exodus House site designed to more fully address the needs of at risk children and their families.

Hans has also served as Minority Chief Counsel and Staff Director to the U.S. Senate Subcommittee on the Constitution and as an Assistant District Attorney in the Office of Special Narcotics Prosecution of New York's County District Attorneys Office.

Hans is the recipient of the 2001 Essence Award; the Robin Hood Foundation's Hero Award; the East-Harlem Urban Center's Community Service Award; the Black Princeton Alumni Community Service Award and numerous others.

Mr. Speaker, this past week we bid farewell to Ossie Davis, a great American who was a strong voice for social justice and human dignity. Ossie, who got his start in Harlem, may be best remembered for the moving Eulogy he delivered at the funeral of Malcolm X. In speaking of Malcolm's relationship to Harlem he said: "For Harlem has ever been gracious to those who have loved her, have fought her and have defended her honor . . ."

During this month devoted to the celebration of Black history I want to pay tribute not only to these two great sons of Harlem but also to those who continue to work on behalf of those who are voiceless. In that spirit I ask my colleagues to join me in honoring another son of Harlem who continues to love her, fight her and defend her honor, Mr. Hans Hageman.

---

## A TRIBUTE TO PATRICIA ANN JONES-WYNN

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TOWNS. Mr. Speaker, I rise in honor of Patricia Ann Jones-Wynn in recognition of her strong commitment to her family, church and community.

Patricia, the oldest of eight children born to the late Willoughby and Maranda R. Jones, hails from Hamilton, North Carolina. She graduated with honors from West Martin High School in Oak City, North Carolina. Pat holds a Bachelor of Science degree in Secretarial Science, with a minor in Library Science from North Carolina Central University in Durham, North Carolina.

Upon graduation from college in 1962, Patricia relocated to Brooklyn, New York where she married Ernest W. Wynn, her childhood sweetheart. In Brooklyn, she commenced her professional career as a secretary for the Brooklyn Tuberculosis Association. Following the birth of her first child, Patricia embarked on the more challenging and rewarding career of a full time homemaker. In 1965 she gave birth to her second child.

In 1973, with her children older and less dependent on her, Pat resumed her professional career by taking a position as the Administrative Assistant to Dr. William A. Jones, Pastor of Bethany Baptist Church in Brooklyn, New York. In this capacity, she not only performed secretarial and administrative duties, but she was also the coordinator of the church newsletter. Her duties also required extensive national and international travel. Pat continues to be an active, contributing member of the Bethany Baptist Church congregation. She is a member of the Bethany Choir, the North Carolina Club and the Scholarship Council where she is an aggressive fund-raiser for the graduating high school students.

Upon leaving Bethany as an employee, she began work as a Principal Administrative Assistant for the Health and Hospital Corporation at Woodhull Hospital. Later, she secured employment with Paul J. Cooper Center for Human Services, (a human resource organization that works with the mentally challenged) where she worked until her retirement as Secretary to the CEO. Pat is a member of the Vannguard Independent Democratic Association and works each year with the Board of Elections.

For Patricia's family and friend, she is a mentor, a confidant and one who is always there in a time of need. On her daily walks, she visits the sick and shut-in members of her congregation and community. She has cared for sick and terminally ill relatives and friends in her home and is committed to her mission to follow God's call to "serve."

Patricia has been married to Deacon Ernest Wynn for 42 years and is the mother of two children, Kalin Lamont and Kecia Nadine, mother-in-law to Stacey Patrice and grandmother to Anastasia and Maya.

Mr. Speaker, Patricia Ann Jones-Wynn has chosen to dedicate herself to her family, church and community in all the choices she has made throughout her life. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

---

## THE RONALD REAGAN ALZHEIMER'S BREAKTHROUGH ACT OF 2005

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SMITH of New Jersey. Mr. Speaker, as Co-Chairman of the Bipartisan Alzheimer's Disease Congressional Task Force, I rise today to introduce multi-faceted legislation to boost the federal commitment to Alzheimer's research and help patients and family members currently struggling with the disease.

This wide-ranging legislation attacks the problem of Alzheimer's disease on every front, and includes proposals to double our nation's biomedical research on Alzheimer's, improve clinical practice and training for promising gerontologists, enhance patient education, expand innovative state Alzheimer's caregiver support programs, and increase training for law enforcement officials who interact with dementia-afflicted patients.

As some of my colleagues know, I was first elected to Congress in 1980, when President Ronald Reagan was elected to his first term as President. The legislation is named for our former President who died last year after a long struggle with Alzheimer's disease.

I believe that it is fitting and appropriate that this important legislation be dedicated to the most famous Alzheimer's patient and one of our greatest Presidents. Throughout his remarkable life, President Reagan endured many hardships including an assassination attempt and a bout with cancer. His terminal struggle with Alzheimer's disease has greatly increased awareness of the disease, and the importance of developing breakthrough therapies to help patients and families affected by it.

I am joined in introducing the legislation today by Rep. ED MARKEY (D–MA), who serves as my Co-Chairman of the Alzheimer's Disease Congressional Task Force that the two of us founded in June 1999. The Task Force includes approximately 190 members. Also joining the effort is physician and Congressman MIKE BURGESS (R–TX), Chairman of the Republican House Policy Committee's Subcommittee on Health, and who serves on the Energy and Commerce Committee, where the legislation will be referred. In the Senate, a companion measure was introduced today by Senator BOND (R–MO) and BARBARA MIKULSKI (D–MD).

The Alzheimer's Association, which is the largest worldwide research, advocacy, and research support organization devoted to helping Alzheimer's patients, has strongly endorsed the "Ronald Reagan Alzheimer's Breakthrough Act" and worked closely with both House and Senate sponsors when drafting it.

The centerpiece of the bill seeks to double funding for ethical biomedical research on Alzheimer's disease at the National Institutes of Health (NIH) from $700 million to $1.4 billion. We believe that funding is needed to meet the demand of numerous unfunded studies that could lead to a breakthrough.

Recent increases in Congressional funding for Alzheimer's research has put us at the cusp of some amazing breakthroughs. The level of scientific interest in dementia research has grown significantly as understanding of the disease process improves. But the main NIH institute doing the research has reported that only 15 percent of scientifically merit-worthy grant applications are being funded. This means that 85 percent of qualified grant proposals—studies that could hold the key to delaying the symptoms or curing the disease—are not being systematically explored. A few years ago, we were funding 25 percent of the worthwhile grants. This is a completely unacceptable state of affairs, and our legislation seeks to remedy this problem.

I want to emphasize to my colleagues that an up-front investment in research will not only help improve the quality of life for millions of Americans, but will also help save the federal government hundreds of billions of dollars in Medicare and Medicaid spending over the next half-century.

In addition to doubling our investment in Alzheimer's research at the NIH, the Smith-Markey-Burgess legislation also supports a number of other important Alzheimer's-related initiatives. These include:

Establishing an Alzheimer's disease prevention initiative.

Expanding and improving clinical research on Alzheimer's disease.

Systematic research on Alzheimer's disease care.

National summit on Alzheimer's disease.

Education and assistance for caregivers and their families.

Grants to expand needed respite care programs.

A public education campaign.

Improving Project Safe Return to help locate Alzheimer's patients who become disoriented and wander from their home.

In conclusion, the Ronald Reagan Alzheimer's Breakthrough Act offers a comprehensive approach for treating current Alzheimer's patients and researching potential cures to reduce the number of those who will struggle with this disease in the future. We will be working overtime to secure passage of this critical legislation. I urge my colleagues to join with me in cosponsoring it.

## CONGRATULATING THE WINNETKA PARK DISTRICT

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. KIRK. Mr. Speaker, I rise today to congratulate the Winnetka Park District on 100 years of service to our community.

In 1904, a group of concerned citizens wanted to restore a piece of land in front of the village train station, which had been strewn with debris from the local livery stable. This small band of citizens came together and collected the $8,548.30 needed to purchase what is now Station Park.

From those humble beginnings, the Winnetka Park District has developed into 28 park sites that represent more than 244 acres of land. The lands under the control of the Park District include some of the most beautiful shoreline of Lake Michigan. And from the initial investment of $8,548.30, the district now boasts a $9 million annual operating budget.

Through these 100 years, with the needs and desires of the public in mind, the Winnetka Park District has added new facilities to meet the continually growing population. Now, nearly 14,500 citizens enjoy the Park District's facilities, which include an 18-hole championship golf course plus a par-3 course, the first indoor tennis facilities in the Chicago area, platform tennis courts, an indoor ice arena, two outdoor rinks, four public beaches, a skate park, and a 142-acre expanse of playfield.

The Winnetka Park District also runs hundreds of recreation programs, from day camps, to athletics, to classes. The district plans special events throughout the year, and thousands partake annually in skating, tennis and golf lessons.

For one hundred years the Winnetka Park District worked to provide a balance of quality recreational and leisure opportunities to a growing community, while protecting the natural resources and open spaces for the benefit of future generations. I hope that the next hundred years is as successful.

## IN MEMORY OF JIMMY RIDDLE

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to give tribute to Jimmy Riddle, from the 26th Congressional District of Texas, for his contributions to his community, country and other nations. Mr. Riddle was working for SOC–SMG, which disposes of munitions in Iraq, when an explosive was detonated within his convoy, which took his life and that of a co-worker. Mr. Riddle was 53 years old.

I would like to recognize and celebrate Mr. Riddle's life today. Jimmy Riddle consistently served others throughout his life. He joined the Marine Corps while in college and was stationed in Japan shortly after the Vietnam War. After serving for our country, Mr. Riddle became an officer for both the Sulphur Springs and Carollton Police Departments in Texas.

In addition to his career, he spent considerable time with his family and promoted the ideals of being a servant to his children. As a result, his son Chris joined the U.S. Navy. Recently, Mr. Riddle was working as a defense contractor in Bosnia during which time he was able to see his son Chris for the first time in two years. Shortly after this meeting, Chris was killed by a drunk driver. Always looking to serve others, Mr. Riddle joined the SOC–SMG and went to Iraq. Just as in Bosnia, Afghanistan and Qatar, the people in Iraq appreciated Mr. Riddle and respected him for his kindheartedness and devotion to helping others.

It was my honor to represent Jimmy. I extend my deepest sympathies to his family and friends. He was best described by his fellow workers as an "unsung hero."

## HONORING THE ACCOMPLISHED BASKETWEAVER, MRS. SUE COLEMAN

### HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. GIBBONS. Mr. Speaker, I rise today to recognize the accomplishments of a truly remarkable woman, Sue Coleman. Mrs. Coleman is a member of the Washo nation on the Dresslerville Reservation in my home state of Nevada. Mrs. Coleman is nationally known as a master in the art of basket weaving. Her art is not only known in Nevada, but throughout the nation.

Mrs. Coleman comes from a long line of distinguished basket weavers. She learned the art of weaving through her mother, Theresa Smokey Jackson. Together with her mother, Mrs. Coleman gathered willow, stripped, cleaned and made thread by splitting the willows in three sections with their teeth. With the wisdom and guidance of her mother, Mrs. Coleman has a very diverse portfolio of artistic designs. These include; cradleboards, round baskets, burden baskets, seed beaters and winnowing trays all of which are true weaves of the Washo tradition.

Mrs. Coleman has received many prestigious awards for her art, and has won over forty first place ribbons for her baskets in many western art competitions. In 2002, she was awarded the prestigious Governor's Arts Award for Excellence in Folk Arts. She is also part of the committee that is organizing the Folklife Festival that will be held on the National Mall in 2006. In addition to her many other roles, Mrs. Coleman has the honor to be part of the committee for the Smithsonian Museum's "Carriers of Culture: Contemporary Native Baskets". One of her hand-crafted baskets is even part of the Smithsonian's permanent collection and will be included in a travel exhibit that will feature the finest baskets made by Native Americans.

Mr. Speaker, prior to the passing of her mother, Mrs. Coleman promised that she would continue the tradition that they enjoyed together and pass weaving along to future generations, so that this wonderful art will never be forgotten. It is clear that with her with passion and dedication to this rich cultural art that she will continue to honor her mother's wishes. I am proud to have this opportunity to acknowledge her work.

## RECOGNIZING THE ACHIEVEMENTS OF THE STUDENT COUNCIL OF CRANSTON HIGH SCHOOL WEST WITH REGARD TO "THE FEINSTEIN YOUTH HUNGER BRIGADE PROGRAM"

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. LANGEVIN. Mr. Speaker, I rise today to commend the Student Council of Cranston High School West for their participation for the third consecutive year in "The Feinstein Youth Hunger Brigade Program." Through this yearlong community service project, these students will raise awareness of hunger in Rhode Island by distributing a newsletter to elected officials and by collecting and distributing non-perishable food items to a local agency of their choice. The students have chosen St. Vincent de Paul's Emergency Food Center to be the beneficiary of this year's donations.

Already, the students of Cranston High School West have far exceeded the goals they initially set. Originally planning to collect an impressive 2,260 items for donation, the students worked together to collect an astounding 3,163 non-perishable food items throughout the course of their first food drive in December. The students are currently working on a second drive set to take place in April. They hope to surpass their previous record during this spring's drive.

The non-perishables that the students have delivered to St. Vincent de Paul are crucial to the fight against hunger in Rhode Island. Many of our local shelters and food centers find themselves continually dependent upon the goodwill of students like those at Cranston High School West to be able to provide for those in need. The contributions by this very generous group of students will certainly put St. Vincent de Paul in a position to meet the needs of those less fortunate in the community.

I am thrilled and honored to recognize these individuals today. It is through the efforts of students like those at Cranston High School West that we not only fight the current hunger epidemic, but provide hope for the future as well. The students at Cranston High School West have nobly taken on a serious problem in their community and are facing it head on. I am confident that these students will serve as an inspiration for other Rhode Island young people and that leaves me optimistic about the future fight against hunger.

Thank you, Mr. Speaker, and I hope our colleagues will join me in commending the Student Council of Cranston High School West.

---

## PEACE CORPS: A MODEL FOR HOPE

### HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. LEACH. Mr. Speaker, I would like to take a moment to recognize that last week was National Peace Corps Week and to applaud the thousands of Americans who have represented the U.S. since 1961 in the Peace Corps in 138 countries. Emblematic of the idealism of America are the 15 volunteers from my district in Southeast Iowa who are currently serving on four continents, in desert villages, mountain towns and city centers from Ukraine to Panama and Morocco.

A Peace Corps volunteer is charged with three missions: the first is to help the people of host countries in meeting their need for trained professionals; the second is to help promote understanding of America around the world; and the third is to help expand American understanding of other peoples and countries.

Thus, the job of the Peace Corps volunteer is not over when their assignment is completed. Volunteers maintain a duty to share their grasp of the people, the language and the culture of the countries in which they served.

Not long ago, in a speech at Yale University, the first Peace Corps Director, Sargent Shriver, declared that he wanted to add a fourth goal: to "bind all human beings together in a common cause to assure peace and survival for all"

No mission is more altruistic; nor more consequential. Geopolitical realists might consider such majesty of purpose to be naive. Actually, there is no rational alternative in a world where history has known few generations unaffected by the strife of war; where the creation of weapons of mass destruction has increased the vulnerability of the human race. As Einstein noted, splitting the atom has changed everything except our way of thinking. It is the capacity to think that, at its best, characterizes mankind, but, at its least impressive, has yet to be harnessed in such a way as to give confidence that modem man can live with modern technology.

In this context of concern for the common fate of all mankind, the Peace Corps stands out as the singular institution in American society that provides a model for hope and a cause for optimism.

---

## INTRODUCING THE MEDICAL BILLS INTEREST RATE RELIEF ACT OF 2005

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Medical Bills Interest Rate Relief Act, a bill to protect Americans from going bankrupt due to high medical costs. Many families and individuals are forced deep into debt by the combination of large medical bills and excessively high interest rates.

The journal Health Affairs recently reported that over two million people are financially ruined by health care costs every year, and these debtors are 42 percent more likely than other debtors to experience lapses in coverage. In fact, many of those bankrupted are middle class and have insurance, and so do not qualify for additional assistance.

A constituent of mine from Margate, Florida was faced with just this situation. He was unable to fully meet the repayment schedule demanded by the hospital. Because he had insurance, he was also unable to qualify for further assistance. The hospital reported him to his credit bureau, which then raised his interest rate to an astronomical level, pushing his financial stability to the very edge of bankruptcy.

My constituent is currently selling his home in order to avoid bankruptcy. This is simply unfair. My constituent did not overspend on luxury gifts, buy a fancy car, or take extended vacations. Instead, his family was slammed by an unpredictable and unpreventable medical catastrophe that was no fault of their own. There should be a level of protection for them and the millions of other Americans who struggle to make ends meet.

Mr. Speaker, credit card issuers tie interest rates to the timely repayment of debt. But many Americans, such as my constituent, are faced with sudden, extremely high medical expenses that simply cannot be repaid within the same constraints as ordinary expenses. Thus, their credit card interest rates may rise dramatically, resulting in an even more burdensome financial situation.

My legislation alleviates this problem by requiring credit card companies to maintain the lowest interest rates possible for persons repaying medical care costs, based on the customers' previous credit rating prior to incurring those costs. My bill further protects patients and families by prohibiting hospitals from reporting for 5 years patients who cannot meet the mandated repayment schedule, provided that those patients demonstrate good faith by maintaining a repayment of 20 percent of their medical expenses. This ensures that patients receive some level of protection from imminent financial disaster while hospitals are also assured of recovering debt.

The extraordinarily high cost of medical care is an enormous burden on American families. Unfortunately, many medical expenses are unforeseen, and the expenses associated with emergency catastrophic care can literally destroy a family's finances. Our constituents should never have to choose between the health and life of a loved one and the financial constraints of medical care.

I urge my colleagues to support this bill to protect all Americans from the crushing burden of medical costs.

---

## HONORING THE EXCEPTIONAL COURAGE OF BEN MOYER

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor an incredible citizen of the 28th district of Texas. Ben Moyer of Seguin, Texas demonstrated exceptional courage when he saved a man's life last June.

Ben Moyer a senior at Seguin High School in Seguin, TX, has been swimming for most of his life. Last summer while he was working at the local water park Schlitterbahn of Texas, Ben jumped into a dangerous section of the Comal River and pulled a man to safety.

Ben did not even notice the injury he had sustained when his foot was caught in some rocks; he simply pulled it free and continued with his mission. It was not until after he pulled the man to safety that he realized that he had broken his own leg in this heroic deed.

Ben was aware of the dangers that would come with being a deep water lifeguard, but credited his Boy Scout life guarding classes and Schlitterbahn training classes with enabling him with the skills necessary for this rescue.

This notable act of courage demonstrates Ben's desire to help others, which will come in handy for Ben's aspirations to enter the Naval Academy in Annapolis after graduation. And to eventually reach his goal of flying helicopters.

Mr. Speaker, I am glad I had this opportunity to recognize the act of bravery and determination of Ben Moyer.

## CELEBRATION OF NATIONAL PEACE CORP WEEK

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUMMINGS. Mr. Speaker, I rise today to honor the 44th Anniversary of the Peace Corp and to also recognize National Peace Corp Week, which was officially celebrated February 28 to March 6, 2005.

Mr. Speaker, in 1961, President John F. Kennedy courageously challenged American citizens during his inauguration speech to "ask not what America will do for you, but what together we can do for the freedom of man." This, along with a speech then Senator Kennedy gave in October 1960 to the graduating students of the University of Michigan, daring them to be agents of peace and freedom by living and working abroad, became the guiding principles of what the Peace Corp has become today.

In countries where poverty is rampant and development lacking, American volunteers, through the work of the Peace Corp, have helped bring medicine to the sick, education to the illiterate, and skills training to the poor. American Peace Corp volunteers accomplish this by living two years of their lives away from their family, away from their loved ones among the people who need their help the most. They are there in the morning, when the farm needs irrigation; during the day, when the children need guidance; and at night, when the community comes together to share the day's experiences. They are there not only as volunteers, but also as advocates and friends.

Mr. Speaker, because of these dedicated and compassionate young men and women and because of their desire to promote equality and knowledge among those less fortunate, the volunteers of the Peace Corp have helped to build a positive image of America around the world, even during some of the most trying times in our nation's foreign policies. As ambassadors of American ideals, they have allowed nations around the globe to gain a better understanding of our country, and have in turn taught us about the cultures and practices of other nations.

As current Peace Corp volunteers, scattered over 72 countries, carry on the legacy of those before them, I stand here today to applaud all the progress and achievements the Peace Corp has accomplished to date.

On the 44th Anniversary of this uniquely American institution, I urge the volunteers of the Peace Corp to remember their responsibility to the world and to the nation they represent. I urge them to maintain the idealism that brought them to countries such as Albania, Niger, El Salvador, Uzbekistan, and East Timor. And in return, I ask my colleagues to help promote the same ideals of peace and freedom within our Nation.

Let us not forget the poor and the unfortunate inside and outside our borders, let us not forget the underprivileged, and let us continue to fight for equality for all.

## CELEBRATING THE 100TH ANNIVERSARY OF ROTARY INTERNATIONAL

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. ACKERMAN. Mr. Speaker, I rise today to celebrate the 100th anniversary of Rotary International, the world's first service club, and to mark the 52nd year of the Rotary Club of Great Neck.

Since their establishment on February 23, 1905, by Paul P. Harris, the members of Rotary International have been completely dedicated to fulfilling the goal of their motto: service above self. Over the past 100 years, Rotarians have been providing humanitarian services in communities, workplaces, and throughout the world. In doing so, Rotarians have developed numerous community service projects that assist communities in responding to the critical issues they face, including hunger, poverty, illiteracy, vocational and career development, the environment, and protecting at risk children.

The popularity of Rotary International has quickly spread throughout the world, with clubs forming across the United States and on six continents. Currently, there are approximately 1.2 million Rotarians who belong to more than 31,000 Rotary clubs in 166 different countries.

The Rotary Club of Great Neck was chartered in 1953, and since then their members have been very active in local and international humanitarian projects. Each November, the Rotary Club of Great Neck holds a Thanksgiving Turkey Drive, where volunteers pack more than 26 tons of food into complete Thanksgiving dinners and distribute them to needy families in the New York metropolitan area. The Great Neck club is also very active in the Gift of Life Program, which provides life saving open-heart surgery to needy children across the world, at no cost to them or their families. Great Neck Rotarians also work with and mentor local students on a weekly basis, teaching them about the joys of giving back to the community and assisting the students with their own service projects.

Mr. Speaker, I commend Rotary International, the Rotary Club of Great Neck, and Rotarians across the world for their continued and dedicated service. These fine men and women selflessly volunteer their time to help make our world a better place, and their contributions are immeasurable. I ask my colleagues in the House of Representatives to please join me in honoring Rotary International as they celebrate their 100th anniversary.

## THE SCIENCE OF FREEZING'S BENEFITS FOR FOOD SAFETY

### HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. OTTER. Mr. Speaker, I rise today in the hope that a scientific review article may spur research that could benefit public health. Specifically, Douglas L. Archer, Ph.D. authored a paper titled, "Freezing: An underutilized food safety technology?" which was published in the January 15, 2004, International Journal of Food Microbiology.

The article has attracted attention over the past year, including a presentation today by Dr. Archer for the House Frozen Food Caucus, of which I am co-chairman. I would like to submit for the record the abstract of Dr. Archer's article, and emphasize its conclusion: "Through research, it seems possible that freezing may in the future be used to reliably reduce populations of food-borne pathogens as well as to preserve foods."

Mr. Speaker, I call this article and this opportunity for improving public health to the attention of my colleagues and to the research community.

[From the International Journal of Food Microbiology, 2004]

FREEZING: AN UNDERUTILIZED FOOD SAFETY TECHNOLOGY?

(By Douglas L. Archer)

Freezing is an ancient technology for preserving foods. Freezing halts the activities of spoilage microorganisms in and on foods and can preserve some microorganisms for long periods of time. Frozen foods have an excellent overall safety record. The few outbreaks of food-borne illness associated with frozen foods indicate that some, but not all human pathogens are killed by commercial freezing processes. Freezing kills microorganisms by physical and chemical effects and possibly through induced genetic changes. Research is needed to better understand the physical and chemical interactions of various food matrices with the microbial cell during freezing and holding at frozen temperatures. The literature suggests that many pathogenic microorganisms may be sublethally injured by freezing, so research should be done to determine how to prevent injured cells from resuscitating and becoming infectious. Studies on the genetics of microbial stress suggest that the induction of resistance to specific stresses may be counteracted by, for example, simple chemicals. Research is needed to better understand how resistance to the lethal enact of freezing is induced in human pathogens and means by which it can be counteracted in specific foods. Through research, it seems possible that freezing may in the future be used to reliably reduce populations of food-borne pathogens as well as to preserve foods.

## HARRIET TUBMAN'S BIRTHDAY

### HON. CYNTHIA McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Ms. McKINNEY. Mr. Speaker, as the bells of freedom toll around the globe, it seems appropriate to honor one of America's noble freedom fighters. And so today, in recognition of the memory and continuing legacy of a true founder of American freedom, I am introducing a resolution to designate March 10, 1990, as "Harriet Tubman Day."

Harriet Tubman was born on the eastern shore of Maryland around 1820 and escaped from slavery in 1849. Her freedom, however, was not the beginning of her fight. Even as a child slave, she battled against slavery and injustice. One day, she was ordered by an overseer to help him tie up another slave who was to be beaten. She defied that order and allowed the fellow slave to escape. But in the process, Harriet Tubman paid a high price for her defiance and her convictions. She was inflicted with a wound so severe that it would cause health problems for the rest of her life. The beating was not the first, nor would it be the last. But despite that cruel scar and despite the deep scars of slavery, Harriet Tubman still pursued. With a vigor difficult to image, she pursued her seemingly distant dreams and the buried promise of freedom.

Her own freedom was not good enough, though—others were still enslaved. A year after her own escape, Harriet Tubman became a conductor on the underground railroad. She was so successful—she alone led about 300 slaves to freedom—that a bounty, with a horrifying sentence of torture until death, was offered for her capture. Yet, she continued to travel the route of the underground railroad, telling fellow conductor Thomas Garrett that she "ventured only where God sent: and bragging years later that she had "never run off track or lost a passenger." Time and time again whenever Harriet Tubman encountered unbeatable odds or insurmountable obstacles, she beat them and surmounted them, forging a path of service, spirit, and strength for all of us to follow.

Through her service—as a conductor on the underground railroad, as a soldier and a tender of soldiers, and as a speaker for those who could not speak for themselves—Harriet Tubman gave hope to countless slaves who referred to her as their "Moses" and who, because of her, realized that they would one day be led from oppression to the promised land of freedom. Through her strength—a strength that compelled her to risk her own freedom so that others could experience it—Harriet Tubman provided an inspiration of liberty, justice and opportunity that serves us still. The service, spirit and strength of Harriet Tubman represents in timeless eloquence much of what is best in us, as Americans and as human beings.

Mr. President, slavery was the darkest chapter in American history. But, out of the darkness of persecution in South Africa came the light of Nelson Mandela. And, out of the darkness of slavery in America came the light of Harriet Tubman.

Today, that light is kept alive by the Harriet Tubman Historical Society, located in my hometown of Wilmington, DE. Harriet Tubman Day is the brainchild of its executive director, Vivian Abdur-Rahim. The widespread support this commemorative has receive around the country—19 states and several citizens have already endorsed it—is a result of Vivian's tireless tenacity. She has made a tremendous investment toward establishing this day of recognition and tribute, and I am proud to ask the Senate to add its support to such a worthy and important effort.

---

## CONGRATULATING PILOT STEVE FOSSETT AND THE COMMUNITY OF SALINA, KS

### HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. MORAN of Kansas. Mr. Speaker, I rise today to honor Mr. Steve Fossett, pilot of the Virgin Atlantic GlobalFlyer, and all those who assisted him during his successful world record-setting flight around the world last week.

Steve Fossett flew the first solo, non-stop, non-refueled aerial circumnavigation of the globe in a jet aircraft, completing the record-setting flight in 67 hours and one minute, with an average speed of nearly 300 miles per hour. This feat began on Monday, February 28, 2005, and ended Wednesday, March 3, 2005, at the renowned "America's Fuel Stop," the Salina Municipal Airport, Kansas, USA. With aviation pioneers like Earhart, Beech and Cessna to its credit, it is only fitting that today's modern aviation pioneer chose Kansas as the location to set his world record.

Mr. Fossett is an accomplished adventurer, having set numerous world records in aviation and sailing. In fact, Mr. Fossett owns the world record for the number of world records held, with a total of 62, to date. Collaborating with Sir Richard Branson, famed British entrepreneur and founder of the Virgin Group of companies, he embarked on this around-the-world voyage, aiming to set world records in speed around the world without stopping or refueling, distance over a close circuit without landing, and distance without landing. The Virgin Atlantic GlobalFlyer, the plane Mr. Fossett flew for this trek, was specially designed to be lightweight, aerodynamic, and fuel-efficient.

Mr. Fossett encountered several obstacles during his flight, including the failure of his plane's navigation system and the discovery of a fuel shortage. However, his perseverance and determination to succeed, despite the challenges, have earned him yet another notation in the record books.

I am also proud of those who assisted Mr. Fossett and the Virgin Atlantic GlobalFlyer, especially the talented and dedicated staff of Dr. Dennis Kuhlman, Dean of the College of Technology and Aviation at Kansas State University at Salina. K-State at Salina is one of the top aviation schools in the nation, boasting excellent facilities for student use, which also helped to attract Mr. Fossett. The efforts of K-State at Salina to train aviation mechanics and pilots are helping to ensure safe air transportation into the next generation.

In addition, I extend sincere congratulations to the Salina Airport Authority Board of Directors, Mr. Tim Rogers, Executive Director, and the many fine airport staff members. While the airport's 12,300 ft. runway was a significant factor in the site selection for this historic attempt, it didn't hurt that the Salina Airport Authority has established expertise in the areas of airfield security, ground handling, equipment and media services.

Other significant contributors to the mission were the Salina Area Chamber of Commerce, led by Mr. Gerald Cook, President/CEO, and staff; and, the City of Salina, Mr. Monte Shadwick, Mayor; Mr. Dennis Kissinger, City Manager, and staff. This was truly a collaborative effort, of magnificent proportions, befitting a record-setting feat.

I join the world in congratulating Steve Fossett and honoring the contributions of the greater Salina community on a job well done.

---

## HONORING BOB LANIER

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. EMANUEL. Mr. Speaker, I rise today in order to recognize the 80th birthday of Bob Lanier, former Mayor of Houston and a dedicated public servant. Bob may not have entered politics until after his 66th birthday, but he certainly made up for lost time in the 14 years that followed.

Bob had a distinguished career before he ran for Mayor of Houston. He served in the Navy during World War II, graduated from the University of Texas Law School with high honors, and chaired the Texas Highway Commission and Houston's Metropolitan Transit Authority.

Bob has been the recipient of several prestigious awards, including the Hubert Humphrey Civil Rights Award, the Bond Market Association's Distinguished Public Service Award, and a place in the Texas Transportation Hall of Honor.

Respected and admired by Americans on both sides of the aisle, Bob served the people of Houston exceptionally well during his three terms. They returned him to office in 1993 with over 91 percent of the vote, and he left office with a remarkable 78 percent approval rating.

Within his first 90 days in office, "Mayor Bob," as he was affectionately known, added 655 police officers, leading to a dramatic reduction in the city's crime rate. He was also known for revitalizing several areas of Houston, transforming them into vibrant engines of the city's economy.

Further, he made tremendous strides in environmental preservation. He and his wonderful wife Elyse won two national awards for clean up and beautification of the city. President Clinton summed up Bob's contributions to the city when he said, "He was a magnificent mayor."

Bob received many accolades during his six years as mayor, but perhaps most fitting was when Texas Monthly named him one of three top Texas mayors of the 20th century.

Bob and Elyse are enjoying their retirement, and I am sure that their seven children and ten grandchildren will be a big part of helping them continue to enjoy it.

Mr. Speaker, I wish Bob a very happy 80th birthday, and I hope that I can share in the celebration of many happy returns.

---

## REGARDING INTRODUCTION OF A HOUSE RESOLUTION RECOGNIZING THE GOALS AND IDEAS OF NATIONAL TIME OUT DAY

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing a House resolution recognizing the goals and ideas of the National Time Out Day, which the Association of periOperative Registered Nurses (AORN) and over 50 other health care organizations are celebrating on June 22, 2005 to promote the adoption of a new protocol for preventing medical errors in the operating room.

The number of individuals who are affected by medical errors is astounding. In 2000, the Institute of Medicine released a report entitled "To Err is Human: Building a Safer Health System." The report revealed that between 44,000 and 98,000 hospitalized people in the U.S. die each year due to medical errors, and thousands of others suffer injury or illness as a result of preventable errors. To address this problem, the Joint Commission on Accreditation of Healthcare Organizations has developed a universal protocol which calls for surgical teams to call a "time out" before surgeries begin in order to verify the patient's identity, the procedure to be performed, and the site of the procedure. The Joint Commission has required nurses, surgeons and hospitals throughout the country to adopt this protocol effective July 1, 2004, in order to curb the alarming number of deaths and injuries due to medical errors.

AORN has created an Internet website and distributed 55,000 tool kits to healthcare professionals to help them implement the universal protocol, and they are celebrating National Time Out Day on June 23 to promote the protocol and its adoption. National Time Out Day has been endorsed by a distinguished group of healthcare organizations, including the American College of Surgeons, the American Society of Anesthesiologists, the American Hospital Association, and the American Society for Healthcare Risk Management.

Mr. Speaker, ultimately, this issue is about health care access and patient safety. I think it is important for Congress to recognize and congratulate perioperative nurses and representatives of surgical teams for working together to reduce medical errors and to ensure the improved health and safety of surgical patients. Fewer medical errors will result in better outcomes for patients, fewer medical malpractice suits, which in turn will help keep malpractice insurance rates and health care premiums down. I urge the House to adopt the resolution.

---

## HONORING THE EXEMPLARY WORK OF EDDIE AGUILAR

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the exemplary work of Eddie Aguilar of Seguin, Texas for his dedication and commitment to community service. Eddie Aguilar has made the people of my Congressional district proud, by tirelessly dedicating his time to many non-profit organizations.

Mr. Aguilar is a self-proclaimed "full-time volunteer," since his retirement from military service. He has been an active volunteer with the Salvation Army, The Cranny, and the Guadalupe Family Violence Shelter. The life lessons that Eddie gained while he served two years in the United States Army, and fifteen years as a U.S. Marine have aided him when he volunteered his help during times of disaster; such as floods and fires that have affected his community.

Eddie also holds the position as disaster relief coordinator with the Salvation Army, and he formally served as a board member of the Guadalupe Family Violence Shelter and The Cranny. His work with the women's shelter and various children's groups has not gone overlooked.

Mr. Aguilar was honored by the Seguin community when Councilwoman Jo Anne Sutherland nominated him for the 2004 Time Warner Hometown hero award, many of his family and friends were in attendance when he accepted this award during a banquet in San Antonio, Texas. Honorees of this award are considered to be among the best of the community, and it is an opportunity to honor the area's un-sung heroes.

Aguilar takes no credit for his work, and praises his 78-year-old mother as being his constant inspiration. He recognizes his mother with instilling in him the belief of making a difference in someone's life and to think of others well-being ahead of his own.

I believe Mr. Aguilar has the qualities that make up a great citizen of Seguin. He demonstrates great dedication to community service, and I am further impressed by the little credit he wishes to receive for his work.

Mr. Speaker, I'm proud I have had this opportunity to recognize the noble service of Eddie Aguilar.

---

## A PROCLAMATION IN MEMORY OF JOHN K. FINLEY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family, friends, and community of Mayor John K. Finley; and

Whereas, Mayor Finley was a father, counselor, leader, friend, and mentor to thousands and will be deeply missed. His achievements and example will be always remembered; and

Whereas, Mayor Finley was a member of the West Virginia Fire Association, Ohio Fire Chief Association, and the Ohio Firemen's Association. He was the longest active member of the M&M Volunteer Fire Department; and

Whereas, Mayor Finley was a charter member and Elder of the Church of the Gospel Ministry in McConnelsville, and also a former member of the First Presbyterian Church of McConnelsville, where he served as Sunday School superintendent and treasurer; and

Whereas, Mayor Finley lived his life as a servant of the people as mayor and councilman of McConnelsville for more than 31 years, during which, his proudest accomplishments were the establishment of the Hawk Missile Site, the McConnelsville Swimming Pool, and updating McConnelsville's water and sewer systems; and

Whereas, the understanding and caring to which he gave to others will stand as a monument to a truly fine person. His life and dedication gave joy to all who knew him.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family, friends, and colleagues of Mayor John Finley.

---

## TRIBUTE TO MR. TED JEFFERSON

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SERRANO. Mr. Speaker, I rise during this month devoted to the celebration of Black History to pay tribute to Mr. Ted Jefferson, an outstanding individual who has been actively involved in my community for more than 40 years.

For the past 18 years, Ted has served as the Executive Director of the Bronx Shepards Restoration Corporation. He has been a leading force in the Bronx in providing affordable housing through rehabilitation or new construction.

The Bronx Shepard's Organization offers home ownership opportunities to first time home buyers, a weatherization program with an annual budget of over 1.5 million dollars and a variety of other programs that are of direct benefit to residents of the Bronx community. An example of Ted's leadership was the construction of the Daniel Nickerson Arms building, a home for the frail and elderly. He led Bronx Shepards in developing what began as a vision into what now stands as a model of how the government, the private sector and the local community can overcome insurmountable odds when working together.

Ted has also served the community as a volunteer with the Morris Heights Neighborhood Improvement Association, the Webster Action Committee, Community Board #13, Community Board #6, the Twin Parks Association, the Community Advisory Board of the Local Initiative Support Corporation and the Bronx Borough President's transition team. He is presently a member of the board of the Marcella Brown Foundation and the President of Black United Leadership in the Bronx.

Ted's philosophy is to develop a vision for the Bronx in which all of its residents have the opportunity to enhance their quality of life through the development of educational, social, economic and housing opportunities.

Mr. Speaker, during Black History Month we honor individuals such as Harriett Tubman, and Rosa Parks; African Americans who sacrificed their own well-being so that all Americans could have the opportunity to enjoy the inalienable rights of life, liberty and the pursuit of happiness. Today I want to honor not only these great Americans but also those who in the spirit of selflessness, continue to help others achieve a better life. I ask that my colleagues join me in paying tribute to Mr. Ted Jefferson for his outstanding service to the people of my community.

---

## TRIBUTE TO CAPTAIN BUSTER EDWARDS

### HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to an outstanding South Carolinian who has dedicated his life to protecting our nation's citizens. It is with great pleasure that I commend South Carolina's State Law Enforcement Division (SLED) Captain Buster Edwards as he retires from a second career in public service.

Captain Edwards was born in North Charleston, South Carolina and has returned to his native area, now making his home in Summerville. As a young 17-year-old graduate of Chicora High School, Captain Edwards joined the United States Marine Corps. After five months of Basic Training he was sent to South Vietnam where he served as an infantry soldier from November 1967 to June 1969. He was awarded two Purple Hearts for wounds he received during his tour.

Upon returning to the States, Captain Edwards spent another 20 years in the Marine Corps serving at Camp Pendleton, Camp Lejeune, and Twentynine Palms. While on active duty, he furthered his education eventually earning a Bachelor's Degree in Political Science from the College of Charleston. He retired from the Marine Corps in 1987.

After his first career serving in the military, Captain Edwards sought to use his talents in law enforcement. He began his second career with SLED as a latent fingerprint technician in the forensic laboratory. Captain Edwards steadily rose through the ranks from lab technician to Field Agent, Lieutenant, and finally Captain. In this last position, he served as the Special Agent-in-Charge overseeing SLED's operations in the Low Country Region of South Carolina. On February 18, 2005, Captain Edwards retired from this second career to focus on his personal passions in life.

Captain Edwards is an active member of Wesley United Methodist Church in Ladson, South Carolina, and helps organize crime prevention and awareness activities in his community. Captain Edwards has received several awards from the United Negro College Fund for his ongoing volunteer work to raise money for college scholarships. And has been very helpful to me as a member of my 6th Congressional District Advisory Committee that helps select the nominees I recommend to the U.S. Military Academies each year.

Captain Edwards has two adult children, three grandchildren, and a son-in-law and daughter-in-law.

Mr. Speaker, I ask you and my colleagues to join me today in recognizing the accomplishments of Captain Buster Edwards and congratulating him upon his retirement. His selfless dedication on behalf of his state and his country deserve commendation.

---

## HONORING THE PUBLIC SERVICE OF ROBERT P. HENRY

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to honor a man whose 35 years of public service to the City of Los Angeles serves as an example to us all. I would like to acknowledge this outstanding gentleman whose reputation for hard work, enthusiasm, and diligence is well deserved.

Since beginning his career in 1970 Mr. Henry has worn many different "hats" within the Harbor Department. In each role he demonstrated an exceptional degree of competency and innovation.

In 1982, Mr. Henry established the Harbor Department's first word processing center. This groundbreaking project provided typing support to the entire department. Mr. Henry's visionary thinking and leadership is evident in his taking on the task of bringing the popular Red Cars back to the Los Angeles area. Years of research, regulations, and endless paperwork culminated in the 2003 successful launch of the Port of Los Angeles Waterfront Red Car Line, which carries hundreds of happy passengers each week.

Mr. Henry's commitment to the City of Los Angeles goes beyond his years of dedicated service in the Harbor Department. Throughout his career he also found the time for community work, donating hundreds of hours to make recordings for the blind and dyslexic. Mr. Henry set a high standard for stellar public service to the Harbor Department, the city, and his fellow citizens. His family, neighbors, and indeed the entire community of Los Angeles are all enriched by his years of dedication and service.

Therefore, Mr. Speaker, it is with pleasure that I take this opportunity to express my thanks, and that of a grateful city, to Robert P. Henry for 35 years of dedication and public service.

---

## A TRIBUTE TO AILEEN ROSA-ARROYO

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TOWNS. Mr. Speaker, I rise in honor of Aileen Rosa-Arroyo who has dedicated her career to educating our children from toddler to adulthood.

Aileen was born in Brooklyn, New York on November 9, 1962 and is the daughter of Judith Valentin and Gilberto Rosa. She is happily married to Miguel Angel Arroyo, Jr. of Long Beach, N.Y. and is the proud mother of three beautiful children, Alexandra, 14, Isabella Angelica 3 and Christopher Michael who is 10 months old. They reside with their children in Island Park, New York and are surrounded by loving and doting grandparents, Miguel and Lily Arroyo.

Early in her education, Aileen distinguished herself as an excellent student. Graduating from the elite Mary Louis Academy in Jamaica Estates, New York, she majored in English, Spanish and Music. She was then awarded a four-year scholarship for academic excellence to St. John's University, where she studied Communication Arts & Sciences, and did an internship at a television station in production and sales. Her graduate work is in Early Childhood & Elementary Education, completing a Master's Degree in Education and post-graduate work in Bilingual Education and English as a Second Language from Long Island University. Understanding the need for role models in a position of leadership in the educational field and in her community, she then went on to do her second Master's Degree in Supervision and Administration at The College of New Rochelle.

Aileen is the Director of Education & Administration of one of the largest child-care facilities in the City of New York, The Grand St. Settlement Child & Family Center located in the Bushwick section of Brooklyn. The facility services toddlers, pre-school and school-age children and has Head Start and Universal Pre-K Programs. She is an accomplished educator, holding NYS Permanent Licenses and Permanent Certifications in Supervision & Administration, Early Childhood & Elementary Education, Bilingual Education and Teachers of English to Speakers of Other Languages. Her experience spans from pre-k to college, having worked as a teacher in the NYC and Long Island public schools for over 15 years and as a professor at both Touro and Boricua Colleges.

Aileen has always been an active leader in our community. She has been honored three times with the Caritas Citation for Community Service and The American Legion Award for Community Service. She has received numerous decorations from the New York City Police Department for Dedicated Service, and the New York State Senate has presented her two citations for Community Service and Outstanding Leadership. The University of The State of New York has bestowed upon her Recognition for Professional Achievement. She is a member of the American Federation of School Administrators, the Council of Administrators & Supervisors, the New York State Association for Bilingual Educators, and Phi Delta Kappa Education Fraternity. Aileen has organized and implemented educational and training programs for children, teens and parents, and staff development for colleagues. She has spent her life giving to others. Her role as an outstanding educator and community leader impacts the lives of many in a positive fashion.

Mr. Speaker, Aileen Rosa-Arroyo has been a leader in her community by ensuring that every member of her community has the opportunity to be educated and succeed. As such, she is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

---

## RECOGNITION OF DR. KENNETH L. SAUNDERS, SR.

### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. PALLONE. Mr. Speaker, I rise today to recognize the achievements of a dedicated member of my community, Dr. Kenneth L. Saunders, Sr. Next month, Dr. Saunders will be celebrating his 16th pastoral anniversary at the North Stelton A.M.E. Church. He has emerged over the years as a community leader as well as a dedicated member of his congregation. Under his committed administration, the congregation at North Stelton has more than doubled.

In addition to serving his community through the church, Dr. Saunders works as State Parole Board Commissioner, Chaplain of the local police department, and New Brunswick Theological Seminary Trustee. He has received numerous accolades including Senatorial commendation, the humanitarian of the year award from the Rutgers University School of Medicine and Dentistry, and the Martin Luther King, Jr. award from the local chapter of the NAACP.

Dr. Saunders is also devoted to his family life. He has been married to Sister Shirley Harris Saunders for 25 years and is the proud father of Kenneth L. Saunders, Jr. The efforts of Dr. Saunders in the community and the church have benefited many citizens throughout his career.

I ask my colleagues in the United States House of Representatives to join me in recognizing the outstanding accomplishments of Dr. Kenneth L. Saunders, Sr., an exemplary citizen that I am proud to represent here in Congress.

---

## AN EXCERPT FROM DR. ARNOLD S. RELMAN'S NEW REPUBLIC ARTICLE: "THE HEALTH OF NATIONS"

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. STARK. Mr. Speaker, I rise today to recognize an excellent article recently published in the New Republic. It has been apparent for years that free market solutions will do nothing to ameliorate the healthcare crisis in our nation. This article, authored by Arnold S. Relman, M.D., the former editor of the New England Journal of Medicine, shows us exactly why market forces hinder, not help our attempts to reform the system.

In his article, Dr. Relman explains how free market approaches—focused on consumer driven health care and individually purchased high deductible health plans—will only exacerbate the problem of the uninsured. The only thing that is empowered by these solutions is blatant discrimination against the sick and poor who will not have affordable access to care. We already have 45 million uninsured in this country, and according to Dr. Relman that number will only continue to grow if we continue down this dangerous path.

Dr. Relman proposes a solution that isn't politically popular but would fix the myriad problems in our current system. It starts with a "tax-supported national budget for the delivery of a defined and comprehensive set of essential services to all citizens at a price we can afford." This universal system would rely on networks of not-for-profit providers supplying all the care covered under the national plan. A new federal agency would administer the plan, generating huge economies of scale and reducing spending by billions. This is the only real solution to our current crisis, and I commend Dr. Relman for taking a tough stand on this difficult issue.

It is with pleasure that I submit the attached excerpts from the article, "The Health of Nations," for inclusion in the CONGRESSIONAL RECORD. The article originally appeared in the March 7, 2005 edition of the New Republic.

[From the New Republic, March 7, 2005]

EXCERPTS FROM: THE HEALTH OF NATIONS

(By Arnold S. Relman)

In this past election season, our dysfunctional and extravagantly expensive health care system was pushed off the front pages by concerns about the candidates, the fight against terrorism, and the war in Iraq. And yet the health system's problems will not go away; sooner or later we will have to solve them or face disastrous consequences. Over the past four decades (starting just before the arrival of Medicare and Medicaid), both the system itself and ideas about how it should be reformed have changed a lot, but an equitable, efficient, and affordable arrangement still eludes us.

During the past four decades our health policies have failed to meet national needs because they have been heavily influenced by the delusion that medical care is essentially a business. This delusion stubbornly persists, and current proposals for a more "consumer-driven" health system are likely to make our predicament even worse. I wish to examine these proposals and to explain why I think they are fundamentally flawed. A different kind of approach could solve our problems, but it would mean a major reform of the entire system, not only the way it is financed and insured, but also how physicians are organized in practice and how they are paid. Since such a reform would threaten the financial interests of investors, insurers, and many vendors and providers of health services, the short-term political prospects for such reform are not very good. But I am convinced that a complete overhaul is inevitable, because in the long run nothing else is likely to work . . .

. . . In 1963, a seminal analysis of the medical care system as a market was published in the American Economic Review by the distinguished economist Kenneth J. Arrow. He argued that the medical care system was set apart from other markets by several special characteristics, including these: a demand for service that was irregular and unpredictable, and was often associated with what he called an "assault on personal integrity" (because it tended to arise from serious illness or injury); a supply of services that did not simply respond to the desires of buyers, but was mainly shaped by the professional judgment of physicians about the medical needs of patients (Arrow pointed out that doctors differ from vendors of most other services because they are expected to place a primary concern for the patient's welfare above considerations of profit); a limitation on the entry of providers into the market, resulting from the high costs, the restrictions, and the exacting standards of medical education and professional licensure; a relative insensitivity to prices; and a near absence of price competition.

But perhaps the most important of Arrow's insights was the recognition of what he called the "uncertainty" inherent in medical services. By this he meant the great asymmetry of information between provider and buyer concerning the need for, and the probable consequences of, a medical service or a course of medical action. Since patients usually know little about the technical aspects of medicine and are often sick and frightened, they cannot independently choose their own medical services the way that consumers choose most services in the usual market. As a result, patients must trust physicians to choose what services they need, not just to provide the services. To protect the interests of patients in such circumstances, Arrow contended, society has had to rely on non-market mechanisms (such as professional educational requirements and state licensure) rather than on the discipline of the market and the choices of informed buyers.

Of course, another conclusion could have been drawn from Arrow's analysis (though he apparently did not draw it). It is that medical care is not really a "market" at all in the classical economic sense, and therefore that the basic theories of economics are not relevant to the discussion of the first principles of health care. But our society assumes that market economics applies to virtually all human activity involving the exchange of goods or services for money, and this dogma is rarely questioned. Most economists would acknowledge that medical care is an imperfect or idiosyncratic market, but still they believe that it is a market, and that it should therefore obey economic predictions . . .

. . . In 1980, in The New England Journal of Medicine, I described this changing face of American health care as the "new medicalindustrial complex." The term was derived, of course, from the language that President Eisenhower had used ("military-industrial complex") when warning the nation, as he was retiring, about the growing influence of arms manufacturers over American political and economic policies. Referring to Arrow's analysis, I suggested that market-driven health care would simply add to the explosion of medical expenditures and the growing problems of inequity and variable quality. I was also worried that this uncontrolled industrial transformation would undermine the professional values of physicians, which are surely an essential ingredient of any decent medical care system. Financial incentives were replacing the service ethic of doctors and hospitals, as the providers of care began to compete for market share and larger income. Yet competition on the basis of the price and quality of services—an essential characteristic of most free markets—was little in evidence, demonstrating again the truth of Arrow's argument that the medical care market was different . . .

. . . In an increasingly profit-driven and entrepreneurial medical market, piecework payment for specialized outpatient services stimulated an even greater fragmentation of medical care and a greater use of individually billable items of outpatient technological service. Less attention was given to the continuity and the integration of care, and to preventive medicine. Decreased payments to primary-care physicians and increased pressure on them to see more patients reduced the time that they spent with each patient. As a consequence of all these developments, the quality of primary care suffered, and the difference between the quality of average medical care and the best medical care widened, even as per capita expenditures rose and the number of uninsured and underinsured patients increased. This quality "gap" was the subject of a major report in 2001 from the Institute of Medicine of the National Academy of Sciences, which described the many deficiencies in the way patients were being treated and suggested how their medical care could be improved. Unfortunately, the experts preparing the report were not asked to consider how the system itself might be restructured to facilitate the needed improvements.

And so we now live with a seriously defective medical care system, based more heavily on market incentives than the health care regime of any other country in the world. The commercial tone is set by investor-owned insurance companies (the major share of the private insurance market), investor-owned hospitals (about 15 percent of all community hospitals), and investor-owned ambulatory-care facilities and nursing homes (the great majority of both these markets). The behavior of many of the so-called "not-for-profit" health care facilities is not much different from that of their investor-owned competitors, because they have to survive in the same unforgiving marketplace, which is indifferent to the social values that originally motivated most health care institutions. As for American physicians, their attitude toward their profession has also been changed by the new medical marketplace. To a degree greater than anywhere else in the world, our doctors think of themselves as competitive business people. As such, they own or invest in diagnostic and therapeutic facilities (including specialty hospitals), they form investor-owned medical groups, and they advertise their services to the public . . .

. . . Our failure to address the glaring deficiencies and inequities in our health care system is nothing to be proud of. A growing number of people are losing their private health insurance. There are now more than 45 million Americans without coverage. Much of this is due to the loss of good jobs, but high costs are also a significant factor. The financial burdens of those who are insured increase steadily, as hard-pressed employers reduce covered benefits and increase the fraction of insurance costs being shifted to beneficiaries. Rising health costs are threatening the financial stability and competitiveness of many American businesses, and are discouraging the hiring of new full-time workers. The government is also shifting insurance costs to Medicare beneficiaries, as exemplified by the recent large increase in the premium charged for coverage of outpatient medical services and physicians' care ("Part B").

What really astonishes me is that so many conservative business and health policy experts continue to hold an unshakable faith in a market solution for our system's major problems. They believe that market forces have not been allowed to contain costs or to improve access and quality because of government regulation, and because of badly designed insurance that prevents consumers from playing an appropriate role. They think that the consumers of medical care in both public and private insurance systems have not had enough influence on the supply of services and have not been sufficiently involved in price negotiations with providers. These days the "free market" is held to be the solution to most social and economic problems, and it is commonly believed that in health care the most important missing ingredient of a free market is the traditional consumer who has the incentive and the ability to bargain for the desired price and quality of services. So it shouldn't be surprising that the idea for improving our health care system that is currently most popular is so called "consumer-driven health care," or CDHC.

The term "consumer-driven health care" is used to mean a market for medical care in which patients, as the "consumers" of medical services, would have a lot more responsibility for choosing those services and would share more of the costs. In the most fully developed proposals, providers of medical care (physicians, hospitals, clinics, and so on) would compete for patients on the basis of quality, price, and convenience—not simply for market share, as they do now. Patients, like consumers in any service market, would have access to all the information they need to make their own health care choices. They would choose and own their insurance plans. They would select not only their health care providers, but also the particular medical services they want. Since they would share more of the costs, they would have an incentive to make prudent choices and to demand higher quality. The net result, it is claimed, would be a better, less expensive health care system . . .

. . . The assumption of the CDHC system is that such a plan would moderate health care inflation by encouraging patients to become more prudent consumers of elective and non-catastrophic health services, because they would be spending money they otherwise could invest in their savings account. It is also assumed that in competing for business, the providers of medical care would try to make their services more attractive to patients by improving quality and convenience, as well as by moderating their prices . . .

. . . There are compelling reasons, I think, to predict that they will not. For a start, high-deductible insurance is not likely to produce reductions in expenditures, except among low- and modest income families, who would feel financial pressure to cut their doctor visits and their use of other medical services. There is good experimental evidence that high deductibles have such selective effects, which expose the most vulnerable patients to greater health risks. Higher earning beneficiaries would not feel such pressure and would continue to use all medical services freely. Whatever reductions in total expenditures might occur would be achieved largely through reducing services to those with lower earnings. Adjusting the size of the deductible in approved plans to the income of the beneficiaries might ameliorate that injustice, but it would add to administrative costs and would be virtually impossible to do properly—given the difficulties in making fair assessments of financial need.

If people were allowed to select whatever insurance plan they wanted, the inequity would probably increase in another way. Healthy, young families would choose the least expensive plans with the highest allowable deductible, and those with health problems would be forced to choose plans with the lowest allowable deductibles but higher premiums. The premiums or the required copayments of the latter plans would spiral upward because of the greater use of services by sicker beneficiaries, so it would become even harder for those with the greatest need for insurance to afford coverage. In this way, one of the most important values of insurance—the sharing of risks over a broad population base—would be lost. Adjusting the contribution of employer or government to the health status of the beneficiaries has been suggested as a means of avoiding this problem, but the relatively primitive state of the art of risk adjustment and the difficulty in applying it to families make this solution unlikely. It also would add greatly to administrative costs . . .

. . . The CDHC plans that are now being advocated by believers in the magic of markets shift to patients not only a large part of the responsibility for being their own doctors, but also the burden of paying more of the cost—and that burden would be heaviest on the poorest and sickest of our citizens. This is surely a denial of the ethical principle underlying universal coverage and the sharing of costs. But the major payers, government and employers, are no longer willing or able to shoulder health care's rising costs, and so they are promoting CDHC. They may justify their views by arguing that it makes sense to shift more of the costs to patients because patients are in the best position to put the brakes on health cost inflation. This might be a reasonable argument if medical care were like other services in other markets—but it is not.

For all these reasons, then, "consumer-driven" plans are unrealistic and unfair, and they are not likely to be politically viable in the long run. There is some understandable support for the idea that individuals should be more responsible for the cost of elective or optional medical services, but most people believe that the availability of needed services should not depend on ability to pay. We are a wealthy society, and decency requires that we make equitable arrangements to ensure at least minimally adequate health care for all—a goal that is beyond the scope of market forces. . . .

. . . When that time comes, we should be prepared to replace a failed market-based system with a better one that can deliver the health care we need. What kind of system might that be? The question cannot be confidently answered in any detail before the market-based system has run its course, and before there has been some preliminary experience with non-market-based models—perhaps at first in a few states. Still, a few general principles and objectives can be proposed now, based on what we have learned from our experience during the past four decades and on what we know about the essential nature of medical care.

First, since we cannot rely on the free play of markets to control costs or guarantee universal coverage, we should establish a tax-supported national budget for the delivery of a defined and comprehensive set of essential services to all citizens at a price we can afford. Employers should pay an appropriate part of the tax for their employees. These services should include both acute and long-term care, and they should be exclusively reimbursed through a single-payer national insurance plan, with other elective and non-essential services paid out of pocket or through privately purchased insurance. No services covered by the national plan should also be covered by private insurance plans, but the latter could insure services, such as "aesthetic" plastic surgery and private hospital rooms, that would not be covered by the national plan. There should be no billing by providers and no piecework payment in the single-payer plan, thus eliminating the huge business costs and the colossal hassle of the present billing and payment systems in multiple public and private insurance plans.

Second, not-for-profit, prepaid multi-specialty groups of physicians should provide all necessary medical care on the approved list of insured services. The physicians in the groups should be paid salaries from a pool of money that would be a defined percentage of the total patient income received by the group from the central payer. The groups should be privately managed but publicly accountable for the quality of their services, and they should be expected to use standardized information technology that could be integrated into a national data system. They should be indemnified against losses due to adverse selection or other costs beyond their control, assisted with start-up and technology expenses, and exempted from anti-trust restrictions. They should compete for patients on the basis of the quality of their services. All groups should be open to all citizens, although the number of members for a given-sized group should be regulated to ensure an appropriate ratio of doctors to patients.

Third, patients should be free to choose their own physician group and to switch membership at specified intervals, but everyone must be included in the national plan and belong to a group—including politicians. (Lawmakers are unlikely to neglect the needs of a health care system that provides care for themselves and their families.)

Physicians should be free to join any group that wanted them and to change their affiliation, but they should not provide services outside the national system that are covered by the latter.

Fourth, all health care facilities (whether privately or publicly owned) that provide services covered by the central insurance plan should be not-for-profit, and should compete on the basis of national quality standards for patients referred by the physicians in the medical practice groups. Facilities should be paid, and monitored for their performance, by the central plan. They should have no financial alliances with the physicians or the management of the medical groups. Teaching facilities should be separately funded by the national plan and be paid for their extra costs, including education. Budgets in all facilities should include salaries for full- and part-time clinicians providing essential services.

Fifth, the health care system should be overseen by a National Health Care Agency, which should be a public-private hybrid resembling the Federal Reserve System. It should be independently responsible for managing its budget and establishing administrative policy, but should report to a congressional oversight committee and to the public. It is essential that the plan be sufficiently independent of congressional and administration management to be protected from political manipulation and annual budgetary struggles. . .

. . . Our present medical care system lacks the structure and incentives to improve the quality of care. A not-for-profit system of salaried physicians, who work together in groups that have no financial incentive to do more or less than is medically appropriate, who compete with other medical groups only on the basis of quality and their attractiveness to patients, and whose results are publicly accountable, could be expected to deliver the kind of health care we need. The quality of care would also be improved by a system of competing not-for-profit facilities that are held to national standards.

As for access and equity, the plan outlined here would guarantee universal coverage for all essential services and would allow employers and individuals to share in the costs through an earmarked and graduated tax. The government would be expected to pay the costs of today's uninsured, as well as the contributions it now makes to government insurance programs. Given the large savings expected in this system, the change in net costs to government should be minimal. . .

. . . A real solution to our crisis will not be found until the public, the medical profession, and the government reject the prevailing delusion that health care is best left to market forces. Kenneth Arrow had it right in 1963 when he said that we need to depend on "non-market" mechanisms to make our health care system work properly. Once it is acknowledged that the market is inherently unable to deliver the kind of health care system we need, we can begin to develop the "nonmarket" arrangements for the system we want. This time the medical profession and the public it is supposed to serve will have to be involved in the effort. It will be difficult, but it will not be impossible.

---

## CHINA'S ANTI-SECESSION LAW

## HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. HINCHEY. Mr. Speaker, I rise today to bring to my colleagues attention an anti-secession bill that is currently under consideration in The People's Republic of China's National People's Congress Standing Committee. Although the language of the draft of this law has not been made public, many Taiwanese are troubled. They are concerned that if such legislation is passed it may lead to future military action against them if Taipei does not succumb to Beijing's One China principle. This proposal should concern the United States because of our commitment to help preserve a democratic Taiwan.

However, Beijing should be commended for its recent conciliatory gestures that appear aimed at lowering tensions across the Taiwan Strait. These include the first non-stop, cross-strait charter flights between the mainland and Taiwan for the February Lunar New Year holiday and the dispatch of two senior Chinese officials to the funeral of Koo Chen-fu who headed Taiwan's Straits Exchange Foundation. Yet the impending law could prove counterproductive to these actions in several ways.

The proposed law could result in China taking military action against Taiwan if it appears to Beijing that Taiwan is moving toward independence. Most Taiwanese would like to peacefully co-exist with the mainland, if creative ways to do so can be negotiated between Beijing and Taipei.

The status of hundreds of thousands of Taiwanese living in China could also become uncertain as a result of this legislation. Some have questioned whether this means that statements interpreted as supporting Taiwan could be the legal basis for charges of treason or other criminal actions—a scenario causing deep concern in the Taiwanese business community on the mainland.

Furthermore, the law has received a negative reaction from the citizens of Taiwan and could lead to increasing support for the very independence moves it seeks to deter. This legislation will not encourage negotiations that are needed to attain a peaceful resolution to tensions in the Taiwan Strait.

President Bush clearly stated that the basic tenets of his foreign policy will be the expansion of democracy and freedom across the globe. It is my hope that the Bush Administration will encourage China not to pass the proposed antisecession law.

---

## A PROCLAMATION HONORING MR. CLIFF McKARNS ON HIS 85TH BIRTHDAY

## HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. NEY. Mr. Speaker:

Whereas, Cliff McKarns was born on February 19, 1920, and is celebrating his 85th birthday; and

Whereas, Cliff McKarns, a World War II Veteran who is to be commended for his great service to our nation; and

Whereas, Cliff McKarns is a retired farmer and employee of Summitville Tile in Summitville, Ohio; and

Whereas, Cliff McKarns is loved and appreciated by all his family members.

Therefore, I join with the family of Mr. Cliff McKarns and the residents of the entire 18th Congressional District of Ohio in wishing Mr. Cliff McKarns a very happy 85th birthday.

---

## HONORING THE CONTRIBUTIONS OF BEXAR COUNTY COMMISSIONER PAUL ELIZONDO

## HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Bexar County Commissioner Paul Elizondo for a lifetime of distinguished public service.

Paul Elizondo began public life as a music teacher in the Edgewood and San Antonio public school districts. He was a member of a wide variety of professional organizations, including the National Education Association, the Texas Classroom Teachers Association, and the Music Educators National Conference.

He was first elected to the State House of Representatives in 1978, and served for four years, working on the Public Education, State Affairs, and Constitutional Amendments committees. In 1983, he made the transition to county service. He was elected Commissioner for Precinct 2, and has been serving San Antonio as a Bexar County Commissioner for over 20 years.

He has been involved in a wide variety of community organizations, including the Center for Health Care Services, the Metropolitan Planning Organization, the Private Industry Council, and the National Council of Community Mental Health centers. An energetic public servant, a veteran of the United States Marine Corps, and a beloved teacher he is an inspiration to the community.

Mr. Speaker, Bexar County Commissioner Paul Elizondo is a credit to his community and a tremendous resource to his county.

---

## H. RES. 16, NATIONAL MANUFACTURING WEEK

## HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. KIND. Mr. Speaker, I rise to speak favorably on House Resolution 16, supporting the goals of National Manufacturing Week, congratulating manufacturers and their employees for their contributions to growth and innovation, and recognizing the challenges facing the manufacturing sector.

The American manufacturing industry has been a key to our economic success in the past, and will continue to be a key to our economic success in the future. As a member of the Congressional Manufacturing Task Force, I have focused on how the federal government can most effectively help small and medium sized manufacturers compete and grow in western Wisconsin and throughout the country. Through good investments and smart practices, the federal government can better assist American companies and help our nation keep its economic edge.

We need to invest in proven programs that help small and medium sized businesses, such as the Manufacturing Extension Partnership (MEP). The MEP provides our manufacturers with the tools to compete in a competitive marketplace. It increases our country's manufacturing productivity and competitiveness, resulting in expanded economic activity and an enhanced tax base. It aids in the creation and retention of well-paying manufacturing jobs for American workers, and it is vital to our nation's small manufacturers. That is why I have supported level funding of $109 million for the MEP in FY 2006.

Mr. Speaker, I fully support House Resolution 16, supporting the goals of National Manufacturing Week, and I congratulate American manufacturers for their contributions to our economic success.

---

## HOW WE CAN HELP AFRICA

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. RANGEL. Mr. Speaker, the plight of Sub-Saharan Africa is one that has concerned our country for some time now. Africa faces many challenges that potentially threaten long-term stability, including the world's most serious HIV/AIDS pandemic, widespread rural and urban poverty, and civil and ethnic conflict. In constant dollar terms, incomes in Africa are only about $100 higher than in 1960.

With so many problems facing the continent, many Americans may wonder what they themselves can do to help. This question was addressed in a recent news release from Julius E. Coles, President of Africare. Africare is the oldest and largest African-American organization dedicated to African development. While his organization oversees the distribution of millions of dollars to projects across Africa, Mr. Coles has offered in this release some simple steps that average Americans can take in the effort to help Africa. In short, he advocates that Americans get to know Africa—its history, people, food, languages, music, and current events.

In so doing they will be gaining the knowledge and understanding necessary to advocate effectively for Africa to their elected officials. With large African communities in most cities, Americans have ample opportunity to get to know Africa without even leaving home. Americans should also begin to invest in companies and ventures that engage in sustainable and mutually beneficial investment in Africa, or take the extra step to buy products made in Africa.

In addition, Americans should remember to donate to reputable charity and nonprofit organizations that operate in Africa. As governmental capacity in most African nations is lacking, the non-profit sector serves an important role in providing assistance to those in need. Again I thank Mr. Coles for his release, it clearly reminds us that we all can help Africa, we need only take the first simple step.

[From Africare, Feb. 25, 2005]

### 10 WAYS YOU CAN HELP AFRICA

(By Julius E. Coles)

WASHINGTON, DC.—I have worked with Africa for nearly 40 years; and as a result, I am often approached by people here in the United States who want to help the people of Africa but who also feel overwhelmed. It may be the continent's vastsize that intimidates, or the depth of some of its challenges, or the media reports that highlight Africa's problems but minimize the progress that has been made. "Can I really make a difference?" people ask. "Yes," I always tell them, "you can."

As I write these words, Black History Month is nearing its end. We have celebrated the achievements of our African-American community and honored our hereditary roots in Africa. Now, I propose that we Americans continue the celebration by committing ourselves to help Africa year-round. What follows are 10 ways in which you—an individual, a family, a member of a social or civic group, a small business, a church, a school—can do just that.

Read. The more you know about Africa, the better you can motivate others to help. Read a survey of African history since the dawn of humankind more than 200,000 years ago. Read a book about black African leaders, from the Kushite pharaohs of ancient Egypt to the giants of 20th century independence (Nelson Mandela of South Africa, Leopold Senghor of Senegal, Jomo Kenyatta of Kenya, Kwame Nkrumah of Ghana, Haile Selassie of Ethiopia and more). Follow African current events on Web sites like AllAfrica (allafrica.com), BBC News (newsbbc.co.uk/2/hi/afiica) and CNN (www.cnn.com/WORLD/africa/archive).

Teach, learn. If you're a teacher, plan a lesson or special project about Africa. If you're a parent, look for a fun "African experience" your family can share. If you're a student, do a research paper on Africa or start an Africa Club with your friends. If your school has African students, have a special assembly and ask them to speak.

Write. Voice your views and perspectives on Africa-related issues. Write a letter to your senator, member of congress, or state or local government official. Share your concerns with companies engaged in Africa. Author a guest editorial for your community or school newspaper, or a posting to your favorite Internet message board.

Speak. If you've traveled or worked in Africa, give a talk to a group you belong to. If you've never been to Africa, arrange for an African immigrant who lives in your community to speak.

Travel. If you have the means, visit Africa. Consider a group trip: traveling in groups can add to the fun as well as reduce the costs (group discounts are often substantial); As much as possible, do business with African vendors for transport, lodging and tours. While in Africa, absorb the beautiful scenery and cultural sites—but also take the time to meet local people, learn about their lives and understand the development challenges that they face. Finally, stay connected, and committed, once you return home. For example, if you visited a drought-prone country, involve your friends in raising funds for water wells.

See, hear, eat . . . enjoy! African culture is accessible in most American cities. You can see an African film (Afrique-sur-Seine, The Gods Must Be Crazy) or a film about Africa (Hotel Rwanda, The Lost Boys of the Sudan, Cry Freedom). Attend a performance of African music or dance. Visit an African art museum. Eat at an African restaurant. Enjoy and appreciate the incredible variety of cultures that are "African" and share those enthusiasms with others.

Meet. Almost every city and many smaller communities in the United States are home to first-generation Africans. Find opportunities to meet your African neighbors, to learn from them and to invite their participation in local organizations. Reach out especially to new arrivals, who might welcome your help finding housing and jobs and generally adjusting to American life.

Invest. You may be in a position to invest in an African business or to join a group of investors with African interests (there are growing numbers of African investment funds you might want to explore). On the other hand, even the simple act of buying African art in an American store helps to support the artists and their families in Africa. Depending on where you work, you might also engage your employer in African investment or trade.

Donate. Make a charitable donation to one of the many reputable organizations assisting Africa. Your gift may be large or small.

Usually you can give online. You can support special projects or offer to help "where needed most" in Africa. You can give individually; you can organize a fund raiser; you can give in your workplace.

Share. Send this article to 10 people, and ask each to send it on to 10 more—and encourage all recipients to help Africa this year in one of the nine other ways presented above.

---

## HIS HOLINESS THE DALAI LAMA ON TIBETAN UPRISING DAY

### HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. KIRK. Mr. Speaker, I request the attached copy of the annual statement of His Holiness the Dalai Lama marking March 10, 2005 as the 46th anniversary of the Tibetan Uprising of 1959 be included in the CONGRESSIONAL RECORD.

On March 10, 1959, the people of the Tibetan capital of Lhasa surrounded the home of the Dalai Lama in a brave effort to protect him from the Peoples' Liberation Army's guns that were trained on his compound from across the river. These Tibetans refused to leave even after the Chinese artillery fire began falling. On March 17, 1959, the Dalai Lama fled into exile in a futile effort to protect them; thousands died during the Chinese assault on the city, and thousands more died as the PLA moved to suppress a nationwide uprising against their increasingly repressive occupation of Tibet.

Despite China's history of aggression and brutality, the Dalai Lama has worked for more than forty years to promote Tibetan self-determination through non-violent means. I am proud that the U.S. Congress is a beacon of support for the Tibetan struggle. As the lead sponsor of the Tibetan Policy Act of 2002, I was pleased to see the Congress come together recently in support of a strong U.S. policy on Tibet.

The Dalai Lama's release of his annual March 10 statement today highlights key points regarding for the Tibetan people and the world. Four decades of Chinese-led economic and social changes in Tibet have not primarily benefitted the Tibetan people. There continues to be instability in Tibet not because of "splittist activities", but because of a profound lack of human rights, religious freedom and self-rule on the ground in Tibet. China itself has made tremendous economic progress during the past twenty or thirty years, but China's image in the world remains tarnished by her human rights records, undemocratic actions, the lack of the rule of law and the unequal implementation of autonomy rights regarding minorities. The renewed contact between the Tibetan and Chinese leadership, including the third round of meetings last September, are resulting in gradually improving interactions. It is my hope the future will continue to see improvements in the dialog.

THE STATEMENT OF HIS HOLINESS THE DALAI LAMA ON THE 46TH ANNIVERSARY OF THE TIBETAN NATIONAL UPRISING DAY

On the occasion of the 46th anniversary of the Tibetan People's Uprising, I convey my warm greetings to my fellow Tibetans in Tibet and in exile and to our friends around the world.

During these more than four decades great changes have taken place in Tibet. There has been a great deal of economic progress along with development in infrastructure. The Golmud-Lhasa railway link that is being built is a case in point. However, during the same period much has been written by independent journalists and travelers to Tibet about the real situation in Tibet and not what they have been shown. Most of them portray a very different picture than what the Chinese government claims, clearly criticizing China about the lack of human rights, religious freedom and self-rule in Tibet. What has actually happened and is still happening is that since the establishment of the Tibet Autonomous Region the real authority has been solely held by Chinese leaders. As for the Tibetan people, they have been facing suspicions and growing restrictions. The lack of true ethnic equality and harmony based on trust, and the absence of genuine stability in Tibet clearly shows that things are not well in Tibet and that basically there is a problem.

Prominent and respected Tibetan leaders in Tibet have spoken out on this from time to time and even suffered because of their courageous acts. In the early 1960s, the late Panchen Lama outlined the sufferings and aspirations of the Tibetan people in his petition to the Chinese leaders. Baba Phuntsok Wangyal, one of the foremost Tibetan communist leaders, in his recent biography published in English dwells at length on the need to meet the interests of the Tibetan people. In fact, it is clear that most senior Tibetan officials in Tibet deep in their hearts are extremely dissatisfied.

This year the Chinese government will mark the 40th anniversary of the establishment of the Tibet Autonomous Region. There will be much fanfare and many commemorative events to celebrate the occasion but these will be meaningless when they do not reflect the ground realities. For example, the Great Leap Forward and the Cultural Revolution were celebrated with great pomp as real achievements at the time they took place.

China has made tremendous economic progress during the past more than two decades. China today is not what it was twenty or thirty years ago. Much has changed in China. As a result she has become a major player in the world and China rightly deserves this position. It is a big nation with a huge population and a rich and ancient civilization. However, China's image is tarnished by her human rights records, undemocratic actions, the lack of the rule of law and the unequal implementation of autonomy rights regarding minorities, including the Tibetans. All these are a cause for more suspicion and distrust from the outside world. Internally, they are an obstacle to unity and stability that are of utmost importance to the leaders of the People's Republic of China. In my view, it is important that as China becomes a powerful and respectable nation she should be able to adopt a reasonable policy with confidence.

The world in general, of which China is a part, is changing for the better. In recent times there is definitely a greater awareness and appreciation for peace, non-violence, democracy, justice and environmental protection. The recent unprecedented response from governments and individuals across the world to the tsunami disaster victims reaffirms that the world is truly interdependent and the importance of universal responsibility.

My involvement in the affairs of Tibet is not for the purpose of claiming certain personal rights or political position for myself nor attempting to stake claims for the Tibetan administration in exile. In 1992 in a formal announcement I stated clearly that when we return to Tibet with a certain degree of freedom I will not hold any office in the Tibetan government or any other political position and that the present Tibetan administration in exile will be dissolved. Moreover, the Tibetans working in Tibet should carry on the main responsibility of administering Tibet.

I once again want to reassure the Chinese authorities that as long as I am responsible for the affairs of Tibet we remain fully committed to the Middle Way Approach of not seeking independence for Tibet and are willing to remain within the People's Republic of China. I am convinced that in the long run such an approach is of benefit to the Tibetan people for their material progress. It is encouraging that there is support from various parts of the world for this approach as being reasonable, realistic and of mutual benefit to the Chinese and Tibetans. I am particularly encouraged by the recognition and support that has come from certain quarters of the intellectual circle from within China.

I am happy with our renewed contacts with the Chinese leadership and that the third round of meetings last September shows that gradually our interactions are improving. Now that our elected political leadership is shouldering more responsibility in Tibetan affairs, I have advised them to look into the issues raised by the Chinese side during our third round of talks and to take steps to address or clarify them as needed. We remain hopeful that eventually we will be able to develop the necessary trust and resolve this long-standing issue to our mutual benefit.

Finally, I would like to take this opportunity to express the Tibetan people's gratitude and appreciation to the people and Government of India for their steadfast sympathy and support. I very much feel a part of this nation not only because of the centuries-old religious and cultural ties that India and Tibet enjoyed but also because I and most of the Tibetans in exile lived in India for the past 45 years.

I offer my prayers to the brave men and women of Tibet who gave their lives for the cause of Tibetan freedom.

---

## TRIBUTE TO MS. CATHY STROUD

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SERRANO. Mr. Speaker, I rise during this month dedicated to the celebration of Black History to pay tribute to Ms. Cathy Stroud, an outstanding woman who has dedicatd her life to empowering others.

Cathy was born in New Bern, North Carolina. She attended J.T. Barber High School and received her bachelors degree from Livingston College. For the past 18 years she has served as the Tenant Association president for her building. In this role she works as a liaison between tenants and management helping to resolve disputes that may arise between the two.

Committed to uplifting the people of her community, Cathy serves as Executive Director of River Watch Inc., a neighborhood network center, which is committed to developing and implementing educational and training programs to empower residents of the Bronx. She also directs a youth activity center that provides homework assistance, fun activities and trips for community youth.

A widowed mother of three, grandmother of seven and adopted grandmother of four, Cathy still finds the time and energy to serve as the New York State Committeewoman of the 77 AD and be an active church official at Refuge Temple Annex.

Mr. Speaker, during this month of February in which we celebrate Black History it is important that we give extra praise and recognition to African American women, who overcame not only racial discrimination but gender discrimination as well. Strong women such as Mary McCloud Bethune, Sojourner Truth and Harriet Tubman, who was also known as Moses on the account that she led so many of her people to freedom. I believe that we have an obligation to continue not only to recognize these strong influential women for the many contributions they have made to American society but also to recognize the women of today who overcome oppression in order to lead the people of their community from the bondage of despair. In that spirit, I ask that my colleagues join me in honoring Ms. Cathy Stroud.

## HONORING JAMES O. PEOPLES, JR.

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of Foss Avenue Baptist Church, in my hometown of Flint, Michigan, to honor James O. Peoples, Jr., for 48 years of dedicated service as the Church's Director of Music. On Sunday, March 13, 2005, the congregation of Foss Avenue will recognize Mr. Peoples' accomplishments during a celebration, which will include a musical program and reception, to be held at the church.

James Peoples, Jr. has been blessed with a natural talent and passion for music. His obvious abilities were refined as he studied Management and Music at C.S. Mott Community College, and later Music Theory at Cook Conservatory of Music. James's education did not end there, as he spent 11 years under the direction of various professionals in a wide array of styles including opera, classical, and lyrical melodies and harmony.

Since 1956, Mr. Peoples has performed the Lord's work as Director of Music for Foss Avenue Baptist Church. As Director, he has managed over 200 voices and staff, and recorded three albums. In addition, from 1987 to 1992, he served simultaneously as Director of Music for the Wolverine State Baptist Convention and Musical Director of the National Baptist Convention. Mr. Peoples has also acted as Director of the Flint Symphony Orchestra.

Mr. Peoples is best noted for his work with anthems, hymns and spiritual arrangements. He has conducted music workshops throughout the state, and in March 2003, he was recognized as Music Director of the Year by the Wolverine Baptist Convention Women's Auxiliary. Aside from being an outstanding leader and role model, Mr. Peoples is also a loving husband, father, grandfather, and great-grandfather.

Mr. Speaker, Psalms 66:1–2 says: "Make a joyful noise unto God, all ye lands: Sing forth the honor of his name: make his praise glorious." For 48 years, the members of Foss Avenue Baptist Church have indeed made a joyful noise, and it is because of people like James Peoples, Jr. I ask my colleagues in the 109th Congress to please join me in honoring Mr. Peoples' contributions to spreading the Lord's word.

## SMYRNA BAPTIST CHURCH

### HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. BOEHLERT. Mr. Speaker, I rise to congratulate the parish of Smyrna Baptist Church on their 200 years of history. Located in Chenango County, New York, the Smyrna Baptist Church has become not only a religious institution, but also a historical institution in Central New York.

Founded on the 22nd day of December 1804, by Joseph Tobey, Joel Ellis, Samuel Barber, and others, the Church began as a group dedicated to prayer, meeting in the personal residences of Church members. As the parish expanded, their need for a larger meeting place led them to assemble in the town schoolhouse. And finally to serve its ever-growing congregation, the Church purchased a piece of property in 1837 where it has remained for the past 167 years.

I congratulate the Smyrna Baptist Church on their 200th Anniversary and their continued role in the community. I also congratulate Pastor Dale Sanders, under whose leadership and spiritual guidance, the Church celebrates this momentous occasion.

## SECURITY AND EXCHANGE COMMISSION HAS DUTY TO DELAY MANDATORY EXPENSING OF STOCK OPTIONS

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CANTOR. Mr. Speaker, today we are facing a problem that if gone unchecked will have a detrimental effect on business's ability to create jobs and opportunity. In June, small and large companies will be subject to mandatory expensing of their stock options as required by the Financial Accounting Standards Board. If businesses are forced to adhere to this untested and risky expensing method, it could hamper our growing economy at a time when it is crucial to sustain growth and create jobs, not stop it.

It is important that businesses continue to be able to use this valuable tool to attract employees to the market. Expensing of stock options will cause a blow to small business's investment and innovation. It will harm a market that uses stock options as a tool to recruit high quality employees to small firms. These innovators would be lost to larger, more established companies.

Stock options serve as a tool to drive innovation and creativity by linking company success to employee success. The Security and Exchange Commission has the duty to delay this plan until the valuation methods can be improved; I urge them to do so.

## IN MEMORY OF DEACON MOSES SUMMERVILLE

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. ROSS. Mr. Speaker, I rise today to honor the life and legacy of a devoted and well-respected Arkansan, Deacon Moses Summerville.

A native of Portland, Arkansas and the youngest of 12 children, Deacon Summerville married the late Lenora Vaughn on December 16, 1940. After accepting a job with the Crossett Lumber Company, Deacon Summerville and his young family moved to Crossett. Deacon Summerville quickly became involved with the First Baptist Church; later changing his membership to the young New Bethel Missionary Baptist Church, where he served as Deacon and Trustee.

As a young child, Deacon Summerville had an avid interest in vocal music. He became involved with the music ministry at New Bethel Missionary Baptist Church and started singing bass in the Senior Choir, later becoming director of the choir. Deacon Summerville founded the Keystone Gospel Singers, and the group sung on stage with many famous quartet groups including the Staple Sisters. Deacon Summerville also taught music through the Southeast Arkansas District Association using the shape-note music notation for vocal music, and was honored by the American Quartet Convention in Alabama for his music ability.

In addition to music, Deacon Summerville had a profound interest in the welfare of Ashley County. A hunter and gardener at a time when most people raised vegetables out of necessity, Deacon Summerville devoted both time and effort to supplement the meals of many local residents. He raised fresh vegetables in his garden, and for years brought home many squirrels, rabbits and coons to Sunday Fried Chicken Dinners.

I extend my deepest and sincere sympathies to Deacon Summerville's five children, Ruby, Annie Pearl, Willie T., Sarah, and Bertha Sue, his friends, and colleagues. I will continue to keep Deacon Summerville and his family in my thoughts and prayers.

## COMMENDING SALLY SMITH FOR EXEMPLARY COMMUNITY SERVICE AND SERVICE AS CHAIR OF THE CHAUTAUQUA COUNTY DEMOCRATIC COMMITTEE

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. HIGGINS. Mr. Speaker, I rise today to commend the exemplary public service of Sally Smith, a resident of the Chautauqua County town of Pomfret, upon the occasion of her retirement as Chair of the Chautauqua County Democratic Committee.

Sally's dedication to public service has been manifest, and her commitment to the residents of her town and her county has been outstanding.

Sally served for many years as an employee at Fredonia State College. During that time, Sally served as Director of the Region 6 Political Action Committee for the Civil Service Employees Association (CSEA). At the same time, Sally served as Chair of her hometown Democratic Party committee.

In January 2003, after her election as First Vice Chair of the Chautauqua County Democratic Committee, Sally was elevated to Chair after the resignation of the incumbent, being elected to that position in full in June of that year. She was re-elected Chair in September 2004.

Sally's tenure as Chair has by all objective analysis been a rousing success. Sally oversaw the re-election of the Chautauqua County Legislature's Democratic Majority in 2003, an election which also saw success for Democrats at every local level, from village trustees to county legislators. In 2004, Sally was part of a coalition of party leaders that helped elect a Democrat to Congress from Chautauqua County for the first time since 1984, which was the last election for Congress won by former Representative Stan Lundine of Jamestown.

Sally has never forgotten her roots as the leader of a rural county. In April 2004, Sally and the Chautauqua County Democrats hosted the New York State Democratic Rural Conference in Jamestown, putting the statewide spotlight on Jamestown and Chautauqua County. Later that year, when Senator JOHN EDWARDS of North Carolina visited the world-renowned Chautauqua Institution to prepare for his the Vice Presidential debate, Sally and other Democrats—many of whom had never participated locally before—organized a Democratic march and rally at Fredonia State College in support of the Democratic ticket.

On a strictly personal level, it has been nothing short of a delight to work with Sally. A consummate professional a someone with a steadfast affection and connection to both her community as well as the Democratic Party, my time in working with Sally Smith has always been characterized by her support for working men and women in Western New York, about the dignity and her refusal to allow her community to be taken for granted.

Her work on behalf of her community has been without fanfare, but has been tremendously effective.

Now in her retired years, Sally and her husband Dan want to enjoy more personal time with friends and family, prompting her to resign her post as Chair, turning over the reins to another great Democrat, Chautauqua County Legislature Chairman Keith Ahlstrom. As Sally leaves active service as County Chair—but remains as Pomfret Town Chair—we must pause to consider the contributions she has made, not just to the Democratic Party in general, but to the people of her community, her county and to western New York as well. Chautauqua County is a better place because of Sally Smith's commitment to public service, and I am proud, Mr. Speaker, to have an opportunity to honor her today.

---

## HONORING THE CONTRIBUTIONS OF SAN ANTONIO MAYOR ED GARZA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor the distinguished public service of San Antonio Mayor Ed Garza.

A native of San Antonic, Garza is a graduate of Thomas Jefferson High School, and still lives in the same historic Woodlawn Lake neighborhood where he grew up. He attended the University of Texas at Austin and Texas A&M University, where he received a Bachelor's degree in Landscape Architecture. He has retained his connection with Texas' colleges, serving as an adjunct professor at the University of Texas at San Antonio and at St. Mary's University.

Mr. Garza has had a tremendously productive career in public service. He served two terms as District 7 Representative on the San Antonio City Council, where he focused on economic, urban, and human development. He was elected Mayor of San Antonio, and reelected in 2003.

Following the attacks of September 11, Mayor Garza collaborated with other local elected officials to create one of the nation's first comprehensive city-county antiterrorism plans, leading CNN to recognize San Antonio as the second most prepared city in the country, after New York. He has worked to ensure that San Antonio remains a defense leader, and to constantly reform city government to make it more efficient and responsive.

Mayor Garza has volunteered his time to advocate for health and fitness in San Antonio. He has helped raise awareness for organizations such as the American Diabetes Association and the Cystic Fibrosis foundation, and has raised money for the Cancer Therapy and Research Center and the San Antonio Children's Shelter.

Mr. Speaker, Ed Garza is an exemplary public servant. His work has made San Antonio safer, healthier, more efficient and more prosperous. I am proud to have the chance to thank him here today for all he has done for his fellow Texans.

---

## A PROCLAMATION RECOGNIZING COMMANDER GRADY JAY WILLIAMS

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. NEY. Mr. Speaker:

Whereas, Commander Williams is a life member of the Sons of AMVETS Squadron 95; and

Whereas, Commander Williams has held all offices at the local level and was instrumental in projects such as Adopt a Highway, Christmas Baskets for the needy, and the 'Thank a Vet' program; and

Whereas, Commander Williams also served as the Sons of AMVETS 12th District as 1st Vice Membership and Commander, during which time he developed a positive rapport with veterans' facilities in Ohio and worked with the program 'Robes for Vets,' which places a warm bathrobe for each veteran in each of the Veterans Affairs facilities in Ohio; and

Whereas, Commander Williams is a loving husband to his wife, Cindy, and father to his children, Britney, Sarah, and Cassie.

Therefore, I join with the residents of the entire 18th Congressional District in commending Commander Grady Jay Williams for his unwavering service to the Sons of AMVETS.

---

## A TRIBUTE TO THE GIRL SCOUTS OF WHISPERING OAKS COUNCIL WOMEN OF DISTINCTION: KAY LLEWELLYN, REBECCA JOWORSKI CORTEZ, THERESE SCHEY

### HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to three outstanding women in my district whose contributions to their communities have been recognized by an outstanding organization in my district.

Kay Llewellyn, Rebecca Joworski Cortez and Therese Schey were named Women of Distinction by the Girl Scouts of Whispering Oaks Council. This prestigious award, bestowed annually for the past 12 years, recognizes three community, business and educational leaders who are role models for young women.

Ms. Llewellyn has taught sixth grade at Pleasantdale Middle School in Burr Ridge for 23 years, specializing in science instruction. She has also counseled young women from less advantaged backgrounds to help them establish educational and career goals. Her advice to young women is simple, yet timeless: "Being true to yourself and your beliefs and morals is never easy. But in the end that's what makes one a stronger person."

Ms. Cortez is a graphic designer with the world renowned Field Museum and has worked with several Chicago museums and the Brookfield Zoo in my District. She has volunteered extensively at Forest Road School in

La Grange Park, especially with sixth grade art classes in developing an annual Art Legacy Project. She believes that "Young women today—and young men, for that matter—need to value themselves and be aware of their self-worth. They need to respect themselves and have the courage to walk away from wrong choices."

Ms. Schey represents the highest level of community service. She has lent her time and talents to several organizations including: the American Legion Robert E. Coulter Post Ladies Auxiliary; the Girl Scouts; the Countryside Women's Club; the Parent and Community Network; and she coordinated a drive to supply American troops in Iraq with a few comfort items, like sun block. Ms. Schey also finds time to serve as a part-time director of the St. Cletus School After Care Program. She tells young women that "You need to have faith, confidence and trust in yourself. Keep yourself informed by reading, use of the Internet and staying aware of what is going on around you."

Mr. Speaker, I salute these three Women of Distinction, and give them my best wishes for continued success as role models for our young people.

## PERSONAL EXPLANATION

### HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Ms. HERSETH. Mr. Speaker, I regret that I was unable to participate in votes on the floor of the House of Representatives on March 8 and 9, 2005. I was absent to attend the funeral of a relative back in South Dakota. I submit this statement today to establish for the record how I would have voted had I been present for these votes.

On March 8, 2005, the House of Representatives held three votes.

The first vote held was on approval of House Journal. Had I been present, I would have voted "yea" on that question.

The second vote was on a motion to suspend the rules and agree to the H.R. 133, a resolution providing funds for continuing expenses of standing and select committees of the House of Representatives during the month of April, 2005. Had I been present, I would have voted "yea" on that question.

The final vote was on motion to suspend the rules and agree to the H.R. 122, a resolution expressing the sense of the House of Representatives regarding the study of languages and supporting the designation of a Year of Languages. Had I been present, I would have voted "yea" on that question.

On March 9, 2005, the House of Representatives held five votes.

The first vote held was roll No. 56 on an amendment by Mr. CONAWAY which would have exempted commercial motor vehicle operators working in field operations for the natural gas and oil industry from Federal hours-of-service rules. Had I been present, I would have voted "yea" on that question.

The second vote held was roll No. 57, on an amendment by Mr. MORAN of Kansas to expand the types of agricultural commodities covered by the bill's exemption from the 2003 hours-of-service regulations to include livestock, food, feed, fiber and other farm products. Had I been present, I would have voted "yea" on that question.

The third vote held was roll No. 58, on an amendment by Mr. OSBORNE of Nebraska that would grant the State of Nebraska the authority to harmonize its vehicle length limits with those of surrounding states during the grain harvest season. I strongly support this amendment and, had I been present, I would have voted "yea" on that question.

The fourth vote was roll No. 59, on an amendment by Mr. KENNEDY of Minnesota that would have prevented States and localities from collecting tolls on exiting highways. Had I been present, I would have voted "yea" on that question.

The fifth vote was roll No. 60, on an amendment by Mr. GRAVES that would have eliminated "vicarious liability" language under certain State laws for motor vehicle rental and leasing companies. Had I been present, I would have voted "nay" on that question.

## COMMEMORATING THE 20TH ANNIVERSARY OF THE WOMEN'S CENTER OF NORTHERN VIRGINIA AND WASHINGTON, DC—ANNUAL LEADERSHIP CONFERENCE

### HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to congratulate The Women's Center of Northern Virginia and Washington DC on the 20th anniversary of its Annual Leadership Conference.

The Women's Center, which celebrated its 30th anniversary last year, has been a resource for women in the workplace from its beginnings. The Center's first conference in 1985 was titled "On the Job Issues for Working Women." Held at the Vienna Community Center, the conference addressed four related areas of professional development: career strategy; development of management skills; networking and mentoring; and work relationships. It was at this event that the Center's hallmark program, The Information and Career Advisory Network (ICAN) was introduced. ICAN makes a customized network of professionals available to each of its participants. As the number of women in management positions grew, so, too, did the scope of the Annual Conference. Recent titles included "The Global Community of Women," "The Economic Equity of Women," "Caregiving in a Time of Change," and "Women Leaders, Changing the Dynamic." With this year's Conference, "Women in Leadership: Your Success Portfolio," the Women's Center continues its legacy of relevance and diversity by addressing the multiple definitions of and opportunities for leadership now available to women.

As the scope and size of the Annual Leadership Conference grew, so did the services of The Women's Center. Founded as a counseling and educational organization in 1974, the Center now offers a wide range of services and programs addressing the psychological, career, financial and legal issues of women and families. Counseling services, including group therapy and support groups, are now offered to women, couples, families and children. The Center's Information and Referral Service, which acts as a resource gateway for local human service issues, handles about 25,000 calls a year. The Center provides over 50,000 hours of direct client services annually, with approximately 75% at reduced or no fee.

In 2004 The Women's Center was named Non-profit Organization of the Year by the Vienna-Tysons Regional Chamber of Commerce.

Also in 2004 The Women's Center opened an appropriations-funded, Washington, DC location. This location focuses on psychotherapy/counseling and career-related services. Bilingual, reduced and no-fee services are provided to clients through partnerships with 12 social and human service agencies located throughout the District. The Women's Center is currently serving as the central support organization of the DC Cash Campaign, an initiative providing free tax preparation and asset-building services to the residents of Wards 5, 7 and 8 in the District.

In closing, Mr. Speaker, I congratulate The Women's Center on its comprehensive range of services and unique contribution to the community. On the occasion of this 20th Annual Leadership Conference, I ask my colleagues to join me in acknowledging this outstanding and distinguished organization.

## BLACK HISTORY TRIBUTE TO AURELIA JONES-TAYLOR

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize outstanding African Americans of the 2nd Congressional District of Mississippi, and their contribution to Black History. The 23 counties of the 2nd District are well represented from both a local and national perspective.

Americans have recognized Black History annually since 1926, first as "Negro History Week" and later as "Black History Month." In fact, Black History had barely begun to be studied—or even documented—when the tradition originated. Although blacks have been in America as far back as colonial times, it was not until the 20th century that they gained a presence in our history books.

Though scarcely documented in history books, if at all, the crucial role African Americans have played in the development of our Nation must not be overlooked.

I would like to recognize Aurelia Jones-Taylor of Coahoma County. In 1989, Ms. Taylor met the challenge to journey to Clarksdale, Coahoma County, MS to assume the position of Executive Director for the Aaron E. Henry Community Health Services Center, Inc. after completion of her training for a community health center director at John-Hopkins University in Baltimore, Maryland.

Upon her arrival, the center, founded in 1979, was operating on a $190,000 grant. It had lost several Federal grants, the books were in bad shape, many of the staff had left and there were numbers of other administrative problems. The Clarksdale office had closed, only leaving the Tunica office functioning with limited services on limited funding. Ms. Taylor's first task was to build a strong, cooperative management team with good skills. Secondly, she had to develop proposals and write grants to fund the diverse programs needed to serve the community.

Today, the Aaron E. Henry Community Health Services Center, Inc., operates clinically in six counties from 10 sites (to include school-based clinics and a mobile medical unit) with over 150 employees on a $10M budget. Among those facilities are two new structures—one erected in 1995 in Tunica, MS—approximately 5,900 square feet and the newest facility in Clarksdale, MS—approximately 12,000 square feet.

In addition, Aurelia has built a rural general public transportation program under the name Delta Area Rural Transit System in seven rural Northwest MS Delta counties generating over 207,000 trips per year. These services include employee work routes, TANF eligible work-activity services, elderly and disabled human needs services, healthcare non-emergency transit, mental health work activity, shopping and other social services needs.

I take great pride in recognizing and paying tribute to this outstanding African American of the 2nd Congressional District of Mississippi who deserves mention, not only in the month of February but year round.

---

## BILLS TO ASSIST ABANDONED HARDROCK MINES RECLAMATION

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. UDALL of Colorado. Mr. Speaker, today I am again introducing legislation designed to help promote the cleanup of abandoned and inactive hardrock mines that are a menace to the environment and public health throughout the country, but especially in the west. I introduced a bill aimed at that result in the 107th Congress, and in the 108th introduced a revised version that incorporated a number of changes developed in consultation with interested parties, including representatives of the Western Governors' Association, the hardrock mining industry, and environmental groups.

Today, I am introducing two separate but complementary bills that together include the provisions of the bill I introduced in the 108th Congress. This two-bill approach reflects the fact that while the Resources Committee has jurisdiction over the proposed funding legislation, the provisions dealing with liability fall within the responsibility of the Transportation and Infrastructure Committee. In other words, while the one-bill approach had the virtue of being comprehensive, the two-bill approach may facilitate Congressional action. But it remains the fact that both bills are equally necessary for a complete response to the problem.

The background: For over one hundred years, miners and prospectors have searched for and developed valuable "hardrock" minerals—gold, silver, copper, molybdenum, and others. Hardrock mining has played a key role in the history of Colorado and other states, and the resulting mineral wealth has been an important aspect of our economy and the development of essential products. However, as all westerners know, this history has too often been marked by a series of "boom" times followed by a "bust" when mines were no longer profitable. When these busts came, too often the miners would abandon their workings and move on, seeking riches over the next mountain. The resulting legacy of unsafe open mine shafts and acid mine drainages can be seen throughout the country and especially on the western public lands where mineral development was encouraged to help settle our region.

The problems: The problems caused by abandoned and inactive mines are very real and very large—including acidic water draining from old tunnels, heavy metals leaching into streams killing fish and tainting water supplies, open vertical mine shafts, dangerous highwalls, large open pits, waste rock piles that are unsightly and dangerous, and hazardous dilapidated structures.

And, unfortunately, many of our current environmental laws, designed to mitigate the impact from operating hardrock mines, are of limited effectiveness when applied to abandoned and inactive mines. As a result, many of these old mines go on polluting streams and rivers and potentially risking the health of people who live nearby or downstream.

Obstacles to cleanups: Right now there are two serious obstacles to progress. One is a serious lack of funds for cleaning up sites for which no private person or entity can be held liable. The other obstacle is legal. While the Clean Water Act is one of the most effective and important of our environmental laws, as applied it can mean that someone undertaking to clean up an abandoned or inactive mine will be exposed to the same liability that would apply to a party responsible for creating the site's problems in the first place. As a result, would-be "good Samaritans" understandably have been unwilling to volunteer their services to clean up abandoned and inactive mines.

Unless these fiscal and legal obstacles are overcome, often the only route to clean up abandoned mines will be to place them on the nation's Superfund list. Colorado has experience with that approach, so Coloradans know that while it can be effective it also has shortcomings. For one thing, just being placed on the Superfund list does not guarantee prompt cleanup. The site will have to get in line behind other listed sites and await the availability of financial resources. In addition, as many communities within or near Superfund sites know, listing an area on the Superfund list can create concerns about stigmatizing an area and potentially harming nearby property values.

We need to develop an alternative approach that will mean we are not left only with the options of doing nothing or creating additional Superfund sites—because while in some cases the Superfund approach may make the most sense, in many others there could be a more direct and effective way to remedy the problem.

Western Governors want action: The Governors of our western States have recognized the need for action to address this serious problem. The Western Governors' Association has several times adopted resolutions on the subject, such as the one of June, 2004 entitled "Cleaning Up Abandoned Mines" sponsored by Governor Bill Owens of Colorado along with Governor Bill Richardson of New Mexico and Governor Kenny Guinn of Nevada.

Outline of the two bills: My two bills are based directly on those recommendations by the Western Governors. One addresses the lack of resources, while the other deals with the liability risks to those doing cleanups.

Bill to provide funds for cleanups: To help fund cleanup projects, one bill—entitled the "Abandoned Hardrock Mines Reclamation Funding Act"—would create a reclamation fund paid for by a modest fee applied to existing hardrock mining operations. The fund would be used by the Secretary of the Interior to assist projects to reclaim and restore lands and waters adversely affected by abandoned or inactive hardrock mines.

A similar method already exists to fund cleanup of abandoned coal mines. The Surface Mining Control and Reclamation Act of 1977 (SMCRA) provides for fees on coal production. Those fees are deposited into the Abandoned Mine Reclamation Fund and used to fund reclamation of sites that had been mined for coal and then abandoned before enactment of SMCRA. Similarly, my bill provides for fees on mineral production from producing hardrock mines.

In developing this bill, I have followed the lead of a 1999 resolution of the Western Governors Association. That resolution notes that "While society has benefited broadly from the metal mining industry, problems created by some abandoned mine lands [are] a significant national concern. . . [and] industry can play an important role in the resolution of these problems through funding mechanisms" as well as in other ways.

In accord with that suggestion, the bill provides for fees on producing hardrock mines on federal lands or lands that were federal before issuance of a mining-law patent. Fees would be paid to the Secretary of the Interior and would be deposited in a new Abandoned Minerals Mine Reclamation Fund in the U.S. Treasury. Money in that fund would earn interest and would be available for reclamation of abandoned hardrock mines and associated sites.

In developing the bill, I decided that a one-fee-fits-all approach would not be fair. Instead, the bill provides for only modest fees and a sliding scale based on the ability of mines to pay.

Mines Exempt From Fees—To begin with, the bill would entirely exempt mines with gross proceeds of less than $500,000 per year. That means many—probably most—small operations, such as Alaskan prospectors working individual placer claims, will not be liable for any fees.

Calculation of Fees—For more lucrative mines, fees would be based on the ratio of net proceeds to gross proceeds. If a mine's net proceeds were under 10% of gross proceeds, the fee would be 2 percent of the net proceeds. For mines with net proceeds of at least 10 percent but less than 18 percent of gross proceeds, the fee would be 2.5 percent of net proceeds. Mines where the net proceeds were at least 18 percent but less than 26 percent of gross proceeds would pay a fee of 3 percent of net proceeds. If the net proceeds were at least 26 percent but less than 34 percent of gross proceeds, the fee would be 3.5 percent of net proceeds. Where the net proceeds were at least 34 percent but less than 42 percent of gross proceeds the fee would be 4 percent of net proceeds. Mines with net proceeds equal to at least 42 percent but less than 50 percent of gross proceeds would pay a fee of 4.5 percent of net proceeds. And mines whose net proceeds were 50 percent or more of the gross proceeds would pay a fee of 5 percent of the net proceeds.

For the purpose of calculating these fees, the bill defines gross proceeds as the value of any extracted hardrock minerals that are sold, exchanged for good or services, exported ready for use or sale, or initially used in manufacture or service. Net proceeds are defined as how much of the gross proceeds remain after deducting the costs of mine development; mineral extraction; transporting minerals for smelting or similar processing; mineral processing; marketing and delivery to customers; maintenance and repairs of machinery and facilities; depreciation; insurance on mine facilities and equipment; insurance for employees; and royalties and taxes.

Based on Nevada Model—This way of calculating fees resembles one used by Nevada, which collects similar production-based fees from mines in that state. However, the fees in my bill are more moderate than those set by the Nevada law in one important respect—Nevada imposes its maximum fee rate on all mines with net proceeds of $5 million or more, regardless of the ratio between those net proceeds and the gross proceeds. My bill does not do that—instead, all of its fees are based on the ratio. In other words, under my bill a mine with earnings (i.e., net proceeds) of more than $5 million per year still might pay the minimum fee if those earnings were less than 10 percent of the gross proceeds.

Offset Provision—Under current law, the United States does not receive royalties from production of hardrock minerals from federal lands. Over the years, there have been frequent proposals to establish royalties for hardrock production, in order to provide a greater return to the American people. I think there are strong arguments in favor of such an approach. Accordingly, this bill would require the Secretary of the Interior to reduce payments under this title so as to offset any royalties hardrock producers may pay in the future pursuant to changes in current law. This is intended to avoid the chance that implementation of a royalty would result in inequitable treatment of a producer covered by both the royalty and Title I of this bill.

Estimated Proceeds From Fees and Use of Fund—There are not sufficient data available to say exactly how much money the fees would bring into the new reclamation fund each year. However, the United States Geological Survey does have information about the number of operating copper and gold mines and the State of Nevada has data about the money raised by their similar fee system. By extrapolating from those data, it is possible to estimate that the fees provided for in my bill would generate about $40 million annually for the Abandoned Minerals Mine Reclamation Fund.

Funds in the new reclamation fund would be available for appropriation for grants to States to complete inventories of abandoned hardrock mine sites, as mentioned above. A state with sites covered by the bill could receive a grant of up to $2 million annually for this purpose. In addition, money from the fund would be available for cleanup work at eligible sites.

To be eligible, a site would have to be within a state subject to operation of the general mining laws that has completed its statewide inventory. Within those states, eligible sites would be those—(1) where former hardrock-mining activities had permanently ceased as of the date of the bill's enactment; (2) that are not on the National Priorities List under the Superfund law; (3) for which there are no identifiable owners or operators; and (4) that lack sufficient minerals to make further mining, remining, or reprocessing of minerals economically feasible. Sites designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 or subject to planned or ongoing response or natural resource damage action under the Superfund law would not be eligible for cleanup funding from the new reclamation fund.

The Interior Department could use money from the fund to do cleanup work itself or could authorize use of the money for cleanup work by a holder of one of the new "good Samaritan" permits provided for in the other bill I am introducing today. Among eligible sites, priorities for funding would be based on the presence and severity of threats to public health, safety, general welfare, or property from the effects of past mining and the improvement that cleanup work could make in restoration of degraded water and other resources. The first priority would be for sites where effects of past mining pose an extreme danger. After that, priorities would be sites where past mining has resulted in adverse effects (but not extreme danger) and then those where past mining has not led to equally serious consequences but where cleanup work would have a beneficial effect.

Further, the bill recognizes that in Colorado and other states there are often concentrations of abandoned mining sites that vary in the severity of their threat to the public health and the environment but that can and should be dealt with in a comprehensive manner. Therefore, it provides that sites of varying priority should be dealt with at the same time when feasible and appropriate.

Bill to provide protection for "Good Samaritans": To help encourage the efforts of "good Samaritans," the second bill—entitled the "Abandoned Hardrock Mines Reclamation Facilitation Act"—would create a new program under the Clean Water Act under which qualifying individuals and entities could obtain permits to conduct cleanups of abandoned or inactive hardrock mines.

These permits would give some liability protection to those volunteering to clean up these sites, while also requiring the permit holders to meet certain requirements.

The bill specifies who can secure these permits, what would be required by way of a cleanup plan, and the extent of liability exposure. Notably, unlike regular Clean Water Act point-source ("NPDES") permits, these new permits would not require meeting specific standards for specific pollutants and would not impose liabilities for monitoring or long-term maintenance and operations. These permits would terminate upon completion of cleanup, if a regular Clean Water Act permit is issued for the same site, or if a permit holder encounters unforeseen conditions beyond the holder's control. I think this would encourage efforts to fix problems like those at the Pennsylvania Mine.

Together, these two bills can help address problems that have frustrated federal and state agencies throughout the country. As population growth continues near these old mines, more and more risks to public health and safety are likely to occur. We simply must begin to address this issue—not only to improve the environment, but also to ensure that our water supplies are safe and usable.

## TRIBUTE TO MR. SHAUN BELLE

### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. SERRANO. Mr. Speaker, I rise during this month devoted to the celebration of Black History to pay tribute to Mr. Shaun Belle, an outstanding individual who continues to be a great asset to the people of my community.

Shaun is the president and CEO of the Mount Hope Housing Company, a community organization that develops and manages affordable housing as well as provides sustainable programs such as youth services, employment and job training for youth, real estate development, and family asset building.

Shaun has held several key financial and management positions in various corporations and previously served as Chief Financial Officer for Mount Hope and its affiliate corporations. He is actively involved in community revitalization and redevelopment in the Tri-State area. In addition to his leadership at Mt. Hope, Shaun serves as chairman of Comprehensive Community Revitalization Inc.; Board Treasurer for The Institute for Urban Family Health; Board Director of the Primary Care Development Corporation and he is a former board member of the Bronx Area Health Education Center.

Shaun holds degrees in Economics and Business Management from Howard University and is a graduate of the Columbia University Institute for Non-Profit Management. He is also a graduate of the Harvard Business School's Executive Education Program.

Throughout his career Shaun has helped to revitalize not only dilapidated areas of the Bronx but also the lives of people in those areas. As a direct result of his efforts more young people in the Bronx have the necessary skills to hold a job and more parents are able to provide better lives for their families.

Mr. Speaker, during the month of February it has been our tradition as a nation to honor the achievements and contributions of legendary African Americans such as Dr. King, Robert Smalls, and Dr. Carver; leaders who dedicated their lives to uplifting not only their people but their nation as well. I believe that it is important that we continue not only to recognize these great Americans but also to pay homage to those who continue in their footsteps today, dedicating their lives to uplifting this nation. In that spirit I ask my colleagues to join me in honoring Mr. Shaun Belle for his outstanding service to the people of my community.

## A PROCLAMATION HONORING SEAN WYATT DILLON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. NEY. Mr. Speaker:

Whereas, Matthew and Elizabeth Dillon are celebrating the arrival of their son, Sean Wyatt Dillon; and

Whereas, Sean Wyatt Dillon was born on January 6, 2005 and weighed eight pounds and two ounces; and

Whereas, Matthew and Elizabeth Dillon are proud to welcome their new son into their home; and

Whereas, Sean Wyatt Dillon will be a blessed addition to his family, bringing love, joy, and happiness for many years to come.

Therefore, I join with Members of Congress and Congressional Staff in celebrating with Matthew and Elizabeth Dillon the birth of Sean Wyatt Dillon.

## HONORING THE ACHIEVEMENTS OF BEXAR COUNTY TAX ASSESSOR-COLLECTOR SYLVIA S. ROMO

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 10, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to recognize Sylvia S. Romo for her extraordinary accomplishments in business and her exemplary record of public service.

Sylvia Romo was the first woman to be elected to the Office of the Tax Assessor-Collector of Bexar County. She is the first Latina elected to any countywide executive post. Her commitment, expertise, and innovation resulted in a better and more responsive tax system for her constituents.

Sylvia Romo distinguished herself during two terms in the Texas House of Representatives. She was the first freshman member of the body to pass a major constitutional amendment, and one of only three women ever to serve on the prestigious Ways and Means Committee. She authored more than 92 bills, and worked tirelessly to promote business growth and to protect the interests of women and disadvantaged businesses.

Ms. Romo is an inspiring business leader in her community. A graduate of the University of Texas at San Antonio, she worked for more than 20 years as a certified public accountant. She is now the President of her own accounting firm, Sylvia Romo and Associates, Ltd, which has been recognized for excellence by state and local business organizations.

She served as an advisor to the President's Advisory Committee on Women's Business Ownership, and was named one of the Top Women of the Decade in the United States by the Business and Professional Women's Foundation of New York City.

Mr. Speaker, a lifelong San Antonio resident and mother of four sons, Ms. Romo is truly one of the outstanding members of her community. She has been a great friend to the people of San Antonio, and a shining example of what one woman's intelligence, generosity, and dedication can accomplish.